CHAPTER 1
RULES OF CIVIL PROCEDURE

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DIVISION II
ACTIONS, JOINDER OF ACTIONS, AND PARTIES

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[New Rule]

G. EXPEDITED CIVIL ACTIONS

Rule 1.281 Expedited civil actions

1.281(1) *General provisions*.

a. Eligible actions. Rule 1.281 governs "expedited civil actions" in which the sole relief sought is a money judgment and in which all claims (other than compulsory counterclaims) for all damages by or against any one party total $75,000 or less, including damages of any kind, penalties, prefiling interest, and attorney fees, but excluding prejudgment interest accrued after the filing date, postjudgment interest, and costs.

b. Excluded actions. Rule 1.281 does not apply to small claims or domestic relations cases.

c. Electing expedited procedures. Eligible plaintiffs can elect to proceed as an expedited civil action by certifying that the sole relief sought is a money judgment and that all claims (other than compulsory counterclaims) for all damages by or against any one party total $75,000 or less, including damages of any kind, penalties, prefiling interest, and attorney fees, but excluding prejudgment interest accrued after the filing date, postjudgment interest, and costs. The certification must be on a form approved by the supreme court and signed by all plaintiffs and their attorneys if represented. The certification is not admissible to prove a plaintiff's damages in the expedited civil action or in any other proceeding.

d. Iowa Rules of Civil Procedure otherwise apply. Except as otherwise specifically provided by this rule, the Iowa Rules of Civil Procedure are applicable to expedited civil actions. Iowa Court Rule 23.5—Form 3: Trial Scheduling and Discovery Plan for Expedited Civil Action must be used for expedited civil actions in lieu of Form 2 of rule 23.5.

e. Limitation on damages. Except as provided in rule 1.281(1)(*f*), a party proceeding under rule 1.281 may not recover a judgment in excess of $75,000, nor may a judgment be entered against a party in excess of $75,000, excluding prejudgment interest that accrues after the filing date, postjudgment interest, and costs. The jury, if any, must not be informed of the $75,000 limitation. If the jury returns a verdict for damages in excess of $75,000 for or against a party,

the court may not enter judgment on that verdict in excess of $75,000, exclusive of prejudgment interest that accrues after the filing date, postjudgment interest, and costs.

f. Stipulated expedited civil action. In a civil action not eligible under rule 1.281(1)(*a*) and not excluded by rule 1.281(1)(*b*), the parties may request to proceed as an expedited civil action upon the parties' filing of a Joint Motion to Proceed as an Expedited Civil Action. If the court grants the parties' motion, and unless the parties have otherwise agreed, the parties will not be bound by the $75,000 limitation on judgments in rule 1.281(1)(*e*). The parties may enter into additional stipulations regarding damages and attorney fees. Unless otherwise ordered, the joint motion and any stipulations must not be disclosed to the jury.

g. Termination of expedited civil action. Upon timely application of any party, the court may terminate application of this rule and enter such orders as are appropriate under the circumstances if:

(1) The moving party makes a specific showing of substantially changed circumstances sufficient to render the application of this rule unfair; or

(2) A party has in good faith filed a compulsory counterclaim that seeks relief other than that allowed under rule 1.281(1)(*a*).

h. Permissive counterclaims. Permissive counterclaims are subject to the $75,000 limitation on damages under rule 1.281(1)(*e*), unless the court severs the permissive counterclaim.

i. Side. As used throughout rule 1.281, the term "side" refers to all the litigants with generally common interests in the litigation.

Comment:

Rule 1.281(1)(*a*). The rule provides that absent stipulation, a single party in an expedited civil action cannot recover more than $75,000 or be liable for more than $75,000. A single party could obtain a damage verdict in excess of $75,000, so long as the final judgment in the proceeding in favor of that party (after apportionment of fault and offsets for any settlements and exclusive of prejudgment interest, postjudgment interest, and costs) does not exceed $75,000.

Rule 1.281(1)(*c*). Rule 1.1901 provides the Expedited Civil Action Certificate for eligible plaintiffs to complete.

Rule 1.281(1)(*g*). If the judgment in an expedited civil action is reversed and remanded on appeal, the case remains subject to rule 1.281 on remand, unless the trial court, upon motion, terminates the expedited civil action pursuant to this provision.

1.281(2) *Discovery in expedited civil actions*.

a. Discovery period. Except upon agreement of the parties or leave of court granted upon a showing of good cause, all discovery must be completed no later than 60 days before trial.

b. Initial disclosures. Expedited civil actions are subject to the initial disclosure requirements of rule 1.500(1).

c. Limited and simplified discovery procedures. Except upon agreement of the parties or leave of court granted upon a showing of good cause, discovery in expedited civil actions is subject to the following additional limitations:

(1) *Interrogatories to parties*. Subject to rule 1.509(4), each side may serve no more than ten interrogatories on any other side.

(2) *Production of documents*. In addition to document disclosures required under rule 1.500(1)(*a*), each side may serve no more than 10 requests for production on any other side under rule 1.512.

(3) *Requests for admission*. Each side may serve no more than 10 requests for admission on any other side under rule 1.510. This limit does not apply to requests for admission of the genuineness of documents that the party intends to offer into evidence at trial.

(4) *Depositions upon oral examination*.

1. *Parties*. One deposition of each party may be taken. With regard to corporations, partnerships, voluntary associations, or any other groups or entities named as a party, one representative deponent may be deposed.

2. *Other deponents*. Each side may take the deposition of up to two nonparties.

d. Number of expert witnesses. Each side is entitled to one retained expert, except upon agreement of the parties or leave of court granted upon a showing of good cause.

e. Motion for leave of court. A motion for leave of court to modify the limitations provided in rule 1.281(2) must be in writing and must set forth the proposed additional discovery and the reasons establishing good cause for its use.

1.281(3) *Motions*.

a. Motions to dismiss. Any party may file any motion permitted by rule 1.421. Unless the court orders a stay, the filing of a motion to dismiss will not eliminate or postpone otherwise applicable pleading or disclosure requirements.

b. Motions for summary judgment.

(1) *Limited grounds*. Motions for summary judgment under rule 1.981 may be made in an expedited civil action only upon the following grounds:

1. To collect on an open account or other liquidated debt.
2. To establish an obligation to indemnify.
3. To assert an immunity defense.
4. Failure to comply with Iowa Code section 668.11 or other deadline for disclosure.
5. Failure to provide notice or exhaust remedies as required by law.
6. To raise any other matter constituting an avoidance or affirmative defense.

(2) *Limited number*. Each party may file no more than one motion for summary judgment under rule 1.981. The motion may include more than one ground authorized under rule 1.281(3)(*b*)(1).

(3) *Deadline*. Motions for summary judgment under rule 1.981 must be filed no later than 90 days before trial.

Comment:

Rule 1.281(3)(*b*)(1)(4). If a case requires expert testimony, failure to timely designate an expert or to make a timely expert disclosure could be a permissible ground for summary judgment under this rule.

1.281(4) *Procedure for expedited trials*.

a. *Demand for jury trial*. Any party who desires a jury trial of any issue triable of right by a jury must file and serve upon the other parties a demand for jury trial pursuant to rule 1.902. Otherwise, expedited civil actions will be tried to the court.

b. *Trial setting*. The court shall set the expedited civil action for trial on a date certain, which will be a firm date except that the court may later reschedule the trial for another date during the same week. Unless the court otherwise orders for good cause shown, expedited civil actions must be tried within one year of filing.

c. *Pretrial submissions*. In addition to the pretrial submissions required by rules 1.500(3) and 23.5—Form 3(8), the parties must file one jointly proposed set of jury instructions and verdict forms. If a jury instruction or verdict form is controverted, each side must include its specific objections, supporting authority, and, if desired, a proposed alternative instruction or verdict form for the court's approval, denial, or modification. Both stipulated and alternative proposed jury instructions and verdict forms must be set forth in one document that is filed electronically in word processing format with the court.

d. *Expedited civil jury trial*. Unless otherwise ordered, the jury in an expedited civil jury trial will consist of six persons selected from a panel of twelve prospective jurors. Each side must strike three prospective jurors. If the expedited civil jury is unable to reach a unanimous verdict after deliberating for a period of not less than three hours, the verdict can be rendered by a five-juror majority. Where there are more than two sides, the court in its discretion may authorize and fix an additional number of jurors to be impaneled and strikes to be exercised.

e. *Expedited nonjury trial*. The court trying an expedited civil action without a jury may, in its discretion, dispense with findings of fact and conclusions of law and instead render judgment on a general verdict, special verdicts, or answers to interrogatories that are accompanied by relevant legal instructions that would be used if the action were being tried to a jury. In such cases, the parties must comply with the pretrial submission requirements of rule 1.281(4)(*c*). When the court follows this procedure, parties must make their record with respect to objections to or requests for instructions, special verdicts, and answers to interrogatories as in a jury trial. Posttrial motions will be permitted as in a jury trial except that the court may, in lieu of ordering a new trial, enter new verdicts or answers to interrogatories on the existing trial record.

f. Time limit for trial. Expedited civil actions should ordinarily be submitted to the jury or the court within two business days from the commencement of trial. Unless the court allows additional time for good cause shown, each side is allowed no more than six hours to complete jury selection, opening statements, presentation of evidence, examination and cross-examination of witnesses, and closing arguments. Time spent on objections, bench conferences, and challenges for cause to a juror is not included in the time limit.

g. Evidence.

(1) *Stipulations*. Parties should stipulate to factual and evidentiary matters to the greatest extent possible.

(2) *Documentary evidence admissible without custodian certification or testimony*. The court may overrule objections based on authenticity and hearsay to the admission of a document, notwithstanding the absence of testimony or certification from a custodian or other qualified witness, if:

1. The party offering the document gives notice to all other parties of the party's intention to offer the document into evidence at least 90 days in advance of trial. The notice must be given to all parties together with a copy of any document intended to be offered.

2. The document on its face appears to be what the proponent claims it is.

3. The document on its face appears not to be hearsay or appears to fall within a hearsay exception set forth in Iowa Rule of Evidence 5.803(3), 5.803(4), 5.803(6), 5.803(7), 5.803(8), 5.803(9), 5.803(10), 5.803(11), 5.803(12), 5.803(13), 5.803(14), 5.803(15), 5.803(16), 5.803(17), or 5.803(22).

4. The objecting party has not raised a substantial question as to the authenticity or trustworthiness of the document.

5. Nothing in rule 1.281(4)(*g*)(2) affects the operation of other Iowa Rules of Evidence such as rules 5.402, 5.403, and 5.404.

6. Nothing in rule 1.281(4)(*g*)(2) authorizes admission of a document that contains hearsay within hearsay, unless the court determines from the face of the document that each part of the combined statements conforms with an exception to the hearsay rule set forth in rule 1.281(4)(*g*)(2)(3).

7. Any authenticity or hearsay objections to a document as to which notice has been provided under rule 1.281(4)(*g*)(2)(1) must be made within 30 days after receipt of the notice.

(3) *Health Care Provider Statement in Lieu of Testimony.*

1. The report of any treating health care provider concerning the claimant may be used in lieu of deposition or in-court testimony of the health care provider, provided that the report offered into evidence is on the Health Care Provider Statement in Lieu of Testimony form adopted by the supreme court, and is signed by the health care provider making the report.

2. A Health Care Provider Statement in Lieu of Testimony must be accompanied by a certification from counsel for claimant listing all communications between counsel and the health care provider.

3. Unless otherwise stipulated or ordered by the court, a copy of the completed health care provider statement must be served on all parties at least 150 days in advance of trial. Any objections to the health care provider statement, including an objection that the statement is incomplete or does not otherwise comply with rule 1.281(4)(*g*)(3), must be made within 30 days after receipt of the statement. For good cause shown, the court may issue such orders regarding the health care provider statement as justice may require, including an order permitting a health care provider to supplement the statement.

4. Any party against whom a health care provider statement may be used has the right, at the party's own initial expense, to cross-examine by deposition the health care provider signing the report, and the deposition may be used at trial.

Comment:

Rule 1.281(4)(*b*). The parties may stipulate to a reasonable time beyond the one-year time limit in order to accommodate scheduling conflicts. The court, however, may set the expedited civil action for trial within the one-year period absent party consent.

Rule 1.281(4)(*e*). The rule is intended to conserve judicial time and resources by giving the court discretion to dispense with findings of fact and conclusions of law and instead render a verdict as if the court were sitting as a "jury of one." The use of jury instructions and a verdict form in lieu of findings of fact and conclusions of law permits appellate review of the court's ruling. The cross-reference to rule 1.281(4)(*c*) clarifies that the parties must submit jointly one proposed set of jury instructions and a verdict form to the court trying the case without a jury. And, as also required by rule 1.281(4)(*c*), the parties must timely note objections to the final form of jury instructions and verdict form used by the court. Rule 1.904(2), governing motions to enlarge or amend findings and conclusions, does not apply in expedited nonjury trials in which the court dispenses with findings and conclusions.

Rule 1.281(4)(*g*)(2). The rule streamlines the presentation of records at trial, such as medical and business records, by allowing admission without a sponsoring witness to establish authenticity and the elements of a hearsay exception. This rule authorizes the court to review and admit the record on its face subject to other objections, such as relevance, upon a determination that the record appears to be genuine and appears not to be hearsay or to fall within one of several enumerated hearsay exceptions, such as statements for purpose of medical diagnosis or treatment, records of regularly conducted activity, or public records and reports (rules 5.803(4), 5.803(6), and 5.803(8)). If the record appears genuine and appears to qualify for one of the enumerated hearsay exceptions, the burden shifts to the other side to raise a substantial question as to its authenticity or trustworthiness. Rule 1.281(4)(*g*)(2) may only be used if the proponent of the record has given notice to other parties sufficiently in advance of trial of its intent to rely on this rule, while serving a copy of the record. *See* rule 1.281(4)(*g*)(2)(1).

Rule 1.281(4)(*g*)(3)(1). The rule permits a party to admit the out-of-court declaration of a health care provider in lieu of the health care provider's in-court testimony. It prohibits hearsay objections based solely on the fact that the health care provider has not testified at trial or in a deposition subject to cross-examination.

Rule 1.281(4)(*g*)(3)(3). Any party may object to all or part of the Health Care Provider Statement in Lieu of Testimony, including the proponent of the statement. The rule provides that the court must rule on any objection to the health care provider statement sufficiently in advance of trial so as to give the proponent an opportunity to rectify any deficiencies in the statement. In ruling on such objections, the court has discretion to determine matters such as whether the health care provider has provided actual medical treatment for the patient, whether the health care provider has substantially answered the questions on the statement, or whether to redact any portion of the statement.

1.281(5) *Settlement conference; alternative dispute resolution*. Unless the parties have agreed to engage in alternative dispute resolution or are required to do so by contract or statute,

the court may not, by order or local rule, require the parties to engage in a settlement conference or in any other form of alternative dispute resolution.

1.281(6) *Claim preclusion; issue preclusion.* Judgments or orders in an expedited civil action may not be relied upon to establish claim preclusion or issue preclusion unless the party seeking to rely on a judgment or order for preclusive effect was either a party or in privity with a party in the expedited civil action.