

Memorandum

To: Iowa Supreme Court
From: Ed Cook, Legislative Service Bureau
Date: 9/16/98
Subject: Iowa Court Rules Renumbering Project - Addendum to July memo

I. General Overview.

Thank you for your prompt consideration and response to my memo dated July 17, 1998. I certainly appreciate your considered attention to this renumbering project and remain willing to provide you with as much information as you need to assist you in making a decision concerning the renumbering proposal. I am certainly available to the court or any of the bar association subcommittees tasked with reviewing this proposal so please don't hesitate to give me a call if any questions arise.

II. Replacement Pages.

As you requested, I have redone several portions of the rules to reflect the changes to the court rules since July 1997. The replacement pages are attached to this memorandum. To differentiate the replacement pages with the original notebook pages, the new pages contain in the page heading the word "redo". The following is a list of the changes made.

Iowa Rules of Civil Procedure - Chapter 1.

✓ Replace all of chapter 1 in the notebook and replace it with the attached replacement pages.

The entire document was redone to eliminate the strikes and underscores reflective of the October 1997 changes. Now, the strikes and underscores in the redone version of the rules reflect only those changes that I made.

Iowa Rules of Criminal Procedure - Chapter 2.

No replacement pages needed for these changes.

The two amendments to current Iowa R. Crim. P. 30 are to forms which were not completely reproduced in the notebook. As such, no change to the current notebook is needed.

Iowa Rules of Appellate Procedure - Chapter 4.

Replace pages ✓1 through 4, ✓21 through 24, and 37 through 38 with the applicable replacement pages. ✓

Replacement pages 1 through 4 reflect the change to current Rule of App. Pro. 1. Replacement pages 21 through 24 reflect the changes

to current Rule of App. Pro. 15. Replacement pages 37 through 38 reflect the change to current Rule of App. Pro. 32.

✓ **Small Claims - Chapter 7.**

Replace the entire chapter in the notebook with replacement pages 1 through 6.

This reflects the change that added a small claims form for combined FED and money judgment actions.

Domestic abuse - Chapter 10.

✓ Replace the entire chapter in the notebook with replacement pages 1 through 18.

This reflects the changes made to the domestic abuse forms.

✓ **Bar Admission - Chapter 21.**

Replace pages 3 through 4 with replacement pages 3 through 4.

This reflects the change to Iowa court rule 102(a)(8).

Code of Professional Responsibility - Chapter 22.

✓ Replace the entire chapter in the notebook with replacement pages 1 through 88.

This reflects the court's order moving the definitions to the beginning and relocating the comments to DR 2-111. In addition, I gave the preamble, preliminary statement, and definitions a unique rule number and I reordered the definitions alphabetically.

✓ **Grievance Procedure Rules - Chapter 25.**

Replace pages 23-24 with replacement pages 23-24

This change reflects the modification to the Board of Ethics complaint form.

✓ **Unauthorized Practice of Law - Chapter 27.**

Replace the entire chapter in the notebook with replacement pages 1 through 4.

This change reflects the change to Iowa court rule 114.

✓ **Judicial Administration - Chapter 41.**

Replace pages 23 - 30 with replacement pages 23 - 31.

This change reflects the changes to Iowa Court Rule 218 and the appendix to that rule.

III. Additional Comments concerning Civil Procedure Changes.

I noticed several instances where the words "these rules" appeared wherein it was not clear whether it applied to all of

the rules of civil procedure or a particular part or division of the rules. In most cases, I merely changed it to "the rules in this chapter" except where a contrary intent seemed obvious. The following rules were ones where it seemed that the reference to "these rules" might be to a particular part of the rules but I was not sure: 1.402; 1.441; 1.503.

I also added the word "former" prior to references to the current numbering scheme in the comments to several rules made by the court as a result of the January 1998 changes.

Another issue for the court to consider in regards to the civil procedure rules is what to do with the comments to the rules made as a result of the January 1998 changes. Questions I can think of are: How long does the court intend to keep these comments within the body of the rules? What would the court suggest be done if one of the commented rules is amended in the future: amend the comment, delete the comment, leave as is? I certainly understand the usefulness of the comments for the bar in explaining the changes but it seems like some thought should be given as to a long range plan for the use of the comments. One possibility would be, I suppose, to combine all the comments into one rule that could be added at the end of the rules; at a minimum, though, I think the date of the order making the comments should be included.

IV. Historical References.

Our office has no objection to keeping the historical references in the rules. Since a conversion table identifying the old and new rule numbers would be included in any new edition of the court rules, we would suggest that a reference in every rule to the court order that approved the renumbering would not be necessary; those rules with wording changes should probably have a reference, however. In any event, given the rather inconsistent manner in which the historical references are currently made, i.e., by year, date of court order, effective date, combination thereof, etc., the court might want to give some thought to developing a consistent way of making historical references in the future. A possibility could be to number the court orders in some fashion, such as 98-1, e.g., for the first order of 1998, so as to allow some differentiation if several different orders are entered on the same day.