

CHAPTER 6
RULES OF APPELLATE PROCEDURE

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DIVISION I

CASE INITIATION: CIVIL AND CRIMINAL; PARTIES AND ATTORNEYS;
PROTECTED INFORMATION; CONFIDENTIAL MATERIALS

Rule 6.1 Mandatory use of the Iowa Judicial Branch Electronic Document Management System (EDMS) for appellate cases.

6.1(1) *Mandatory electronic filing.* All attorneys authorized to practice law in Iowa, all attorneys admitted pro hac vice, *see* Iowa Ct. R. 31.14, and all self-represented parties must register under Iowa Rule of Electronic Procedure 16.304(1) to use EDMS. If an attorney or self-represented party has previously registered for electronic filing at the district or appellate court level, no additional registration is required. Registered filers must electronically submit all documents to be filed with the court unless otherwise required or authorized by these rules.

6.1(2) *Applicability of Iowa Rules of Electronic Procedure.* The Iowa Rules of Electronic Procedure, including rules pertaining to the protection of personal privacy, apply in appellate court cases, except for rules 16.101, 16.301, 16.302(2), and 16.303(4).

6.1(3) *Exceptions from electronic filing requirements.*

a. Submission of single filing. For good cause, the clerk of the supreme court may authorize a filer to submit a document for filing by nonelectronic means.

b. All filings for case on appeal. Upon a motion showing that exceptional circumstances make it unreasonable for a party to file documents electronically, the supreme court may excuse the party from electronic filing for purposes of the party's case on appeal.

c. District court exception. If a district court excused a party from electronic filing for the duration of the case in the underlying action, *see* Iowa R. Elec. P. 16.302(2)(c)–(d), a copy of the district court order granting the exception must be attached to the party's request to be excused from electronic filing requirements for the case on appeal.

d. Abortion notification appeals. Abortion notification appeals may be filed electronically or nonelectronically without court authorization.

e. Nonelectronic filings by certain confined persons. A person confined pursuant to governmental authority, including but not limited to a person who is incarcerated or civilly committed, is excused from registering to file electronically without court authorization.

f. Paper case files. Except as otherwise provided by court rules, *see, e.g.*, Iowa R. Elec. P. 16.313(1), or as the supreme court directs, the clerk of the supreme court will not maintain paper case files in appeals initiated on or after February 1, 2016.

[Court Order November 18, 2016, effective March 1, 2017]

Rules 6.2 to 6.10 Reserved.

Rule 6.11 Clerk of the supreme court. In complying with these rules, the clerk of the supreme court may act through deputies.

Rules 6.12 to 6.100 Reserved.

Rule 6.101 Time for appealing final orders and judgments appealable as a matter of right.

6.101(1) *Time for filing notice of appeal from final orders and judgments.*

a. Termination of parental rights and child in need of assistance proceedings under Iowa Code chapter 232. A notice of appeal from a final order or judgment entered in Iowa Code chapter 232 termination of parental rights or child in need of assistance proceedings must be filed in the district court and an informational copy with the supreme court within 15 days after the filing of the order or judgment. However, if a motion is timely filed under Iowa Rule of Civil Procedure 1.904(2) or 1.1007, the notice of appeal must be filed within 15 days after the filing of the ruling on such motion.

b. All other cases. A notice of appeal must be filed in the district court and an informational copy with the supreme court within 30 days after the filing of the final order or judgment. However, if a motion is timely filed under Iowa Rule of Civil Procedure 1.904(2) or 1.1007, the notice of appeal must be filed within 30 days after the filing of the ruling on such motion.

c. Timely filing of motion defined. For purposes of rule 6.101(1)(a)–(b), a motion is considered timely if it is filed by the applicable deadline and the motion asks the court to reconsider, enlarge, or amend the court’s order, ruling, judgment, or decree. Whether a motion is proper or not does not affect its timeliness. However, a motion will not be considered timely if the same party has previously filed a motion to reconsider, enlarge, or amend the court’s order, ruling, judgment, or decree, unless the court has modified its order, ruling, judgment, or decree and the subsequent motion is directed only at the modification.

d. Orders on partial dispositions. An order disposing of some but not all of the parties or issues in an action may be appealed within the time for appealing from the judgment that finally disposes of all remaining parties and issues to an action, even if the parties’ interests or the issues are severable.

Comment: Rule 6.101(1)(c). Rule 6.101(1)(c) is intended to supersede prior caselaw that held a timely rule 1.904(2) motion must also have been “proper” to extend the time for appeal. *See, e.g., Hedlund v. State*, 875 N.W.2d 720, 725 (Iowa 2016). To avoid controversies over whether a rule 1.904(2) motion tolls the time for appeal, rule 6.101 authorizes any timely rule 1.904(2) motion to extend the appeal deadline, subject to an exception for successive motions.

Under rule 6.101(1)(c), the timely filing of a rule 1.904(2) motion extends

the deadline for filing a notice of appeal or an application for interlocutory appeal. See Iowa Rs. App. P. 6.101(1)(b), 6.104(1)(c). However, the rule does not address whether a rule 1.904(2) motion preserves error for purposes of appeal as to evidence or arguments raised for the first time in that motion. See, e.g., *Tenney v. Atl. Assocs.*, 594 N.W.2d 11, 14 (Iowa 1999). The rule does not affect prior caselaw concerning a court's inherent authority to reconsider. See *Iowa Elec. Light & Power Co. v. Lagle*, 430 N.W.2d 393, 395–96 (Iowa 1988).

[Court Order November 18, 2016, effective March 1, 2017]

6.101(2) *Time for filing notice of cross-appeal.*

a. Termination of parental rights and child in need of assistance proceedings under Iowa Code chapter 232. In Iowa Code chapter 232 termination of parental rights and child in need of assistance proceedings, any notice of cross-appeal must be filed in the district court and an informational copy with the supreme court within the 15-day limit for filing a notice of appeal, or within 10 days after the filing of a notice of appeal, whichever is later.

b. All other cases. In all other appeals, any notice of cross-appeal must be filed in the district court and an informational copy with the supreme court within the 30-day limit for filing a notice of appeal, or within 10 days after the filing of a notice of appeal, whichever is later.

6.101(3) *Appeal taken before order or judgment filed.* An appeal taken from an order or judgment of the district court is considered timely even though taken before the order or judgment has been filed by the clerk of the district court, if the order or judgment is filed within 30 days after the date on which the notice of appeal is filed.

6.101(4) *Tolling of filing deadline by timely service.* The time for filing a notice of appeal is tolled when the notice is served, provided the notice is filed with the clerk of the district court within a reasonable time. See Iowa R. Civ. P. 1.442(4).

6.101(5) *Extension when clerk of district court fails to notify.* The supreme court may extend the time for filing a notice of appeal if it determines the clerk of the district court failed to notify the prospective appellant of entry of the appealable final order or judgment.

a. A motion for an extension of time must be filed with the clerk of the supreme court and served on all parties and the clerk of the district court no later than 60 days after expiration of the original appeal deadline as prescribed in rule 6.101(1)(a)–(b). The motion and any resistance must be supported by copies of relevant portions of the record and by affidavits.

b. Any extension granted will not exceed 30 days after the date of the order granting the motion.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.102 Initiation of appeal from final orders or judgments.

6.102(1) *Appeal from final orders or judgments in termination of parental rights and child in need of assistance proceedings under Iowa Code chapter 232.*

a. Notice of appeal. An appeal from a final order or judgment in a termination of parental rights or a child in need of assistance proceeding under Iowa Code chapter 232 is initiated by filing the notice of appeal with the clerk of the district court where the order or judgment was entered within the time provided in rule 6.101(1)(a).

(1) The notice of appeal cannot be filed unless signed by both the appellant and the appellant's counsel. The notice of appeal must follow the requirements of Iowa Rule of Electronic Procedure 16.305(5)(c)(1) for filing documents containing two or more signatures.

(2) The appellant's signature must be an original or an unaltered digitized signature. See Iowa R. Elec. P. 16.201(35).

b. Contents of notice of appeal. The notice of appeal must specify the parties taking the appeal and the decree, judgment, order, or part of the decree, judgment, or order appealed from. The notice must substantially comply with rule 6.1401—Form 4: *Notice of Appeal (Cross-Appeal) (Child in Need of Assistance and Termination Cases)*.

c. Special service of notice of appeal. The notice of appeal must be served on any court reporter who reported a proceeding that is the subject of the appeal in the manner stated in rule 6.702(4) and on the attorney general in the manner stated in Iowa Rule of Civil Procedure 1.442(2). The notice of appeal must include a certificate of service in the form prescribed in Iowa Rule of Civil Procedure 1.442(7).

d. Informational copy. An informational copy of the notice of appeal must be filed with the clerk of the supreme court.

e. Petition on appeal. An appeal in a termination of parental rights or a child in need of assistance proceeding will be dismissed unless a petition on appeal is timely filed as set forth in rule 6.201(1)(b).

6.102(2) *Appeal from final orders appealable as matter of right in all other cases.* An appeal from a final order appealable as a matter of right in all cases, other than termination of parental rights and child in need of assistance proceedings under Iowa Code chapter 232, is taken by filing a notice of appeal within the time provided in rule 6.101(1)(b) with the clerk of the district court where the final order was entered. The notice of appeal must be signed by either the appellant's counsel or the appellant.

a. Contents of notice of appeal. The notice of appeal must specify the parties taking the appeal and the decree, judgment, order, or part of the decree, judgment, or order appealed from. The notice must substantially comply with rule 6.1401—Form 1: *Notice of Appeal*.

b. Special service of notice of appeal.

(1) The notice of appeal must be served on any court reporter who reported a proceeding that is the subject of the appeal in the manner stated

in rule 6.702(4).

(2) If the State is a party to the case, the notice of appeal must also be served on the attorney general in the manner stated in Iowa Rule of Civil Procedure 1.442(2).

(3) The notice of appeal must include a certificate of service in the form prescribed in Iowa Rule of Civil Procedure 1.442(7).

c. Informational copy. An informational copy of the notice of appeal must be filed with the clerk of the supreme court.

6.102(3) Filing fee. Within 7 days of filing the notice of appeal, the appellant must pay to the clerk of the supreme court a filing fee or file a motion to waive or defer the fee as provided in rule 6.703.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; Court Order February 16, 2017, temporarily effective March 1, 2017, permanently effective April 17, 2017; Court Order July 20, 2017, temporarily effective July 20, 2017, permanently effective September 18, 2017]

Rule 6.103 Review of final orders and judgments.

6.103(1) Final order and judgment defined. All final orders and judgments of the district court involving the merits or materially affecting the final decision of the case may be appealed to the supreme court, except as provided in this rule, rule 6.105, and Iowa Code sections 814.5 and 814.6.

a. An order granting or denying a new trial is a final order.

b. An order setting aside a default judgment in an action for dissolution of marriage or annulment is a final order.

c. An order setting aside a default judgment in any other action is not a final order.

6.103(2) Appeal from final judgment of sentence following guilty plea pursuant to Iowa Code section 814.6(1)(a)(3).

a. Jurisdictional statement. In an appeal from a judgment of sentence following a guilty plea, the appellant's brief must include a concise statement that either (1) explains that the appellant pleaded guilty to a class "A" felony, or (2) demonstrates the grounds that establish "good cause" for purposes of Iowa Code section 814.6(1)(a)(3). The jurisdictional statement must follow the requirements prescribed in rule 6.903(2)(a)(7).

b. Appellee's response, consideration, and ruling. If the appellee is dissatisfied with the appellant's jurisdictional statement, the appellee may include in the appellee's brief a jurisdictional statement that conforms to rule 6.903(3) or the appellee may file a motion to dismiss for lack of good cause in the manner provided under rule 6.1006.

c. Motions to withdraw for lack of good cause. If court-appointed counsel for the appellant cannot in good conscience make an argument establishing good cause, counsel may file a motion to withdraw pursuant

to rule 6.1005(2).

6.103(3) *Attorney fee order entered after final judgment.* A final order or judgment on an application for attorney fees entered after the final order or judgment in the underlying action is separately appealable. The district court retains jurisdiction to consider an application for attorney fees notwithstanding the appeal of a final order or judgment in the action. If the final order or judgment in the underlying case is also appealed, the party appealing the attorney fee order or judgment must file a motion to consolidate the two appeals.

6.103(4) *Interlocutory ruling or order included in appeal of final order or judgment.* No interlocutory ruling or order may be appealed until after the final order or judgment is entered except as provided in rule 6.104. Error in an interlocutory order is not waived by pleading over or proceeding to trial. If no appeal was taken from an interlocutory ruling or order or a final adjudication in the district court under Iowa Rule of Civil Procedure 1.444 that substantially affected the rights of the complaining party, the appellant may challenge such order or final adjudication on appeal of the final order or judgment.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.104 Review of interlocutory rulings or orders.

6.104(1) *Application for interlocutory appeal.*

a. Applicability. Any party aggrieved by an interlocutory ruling or order of the district court may apply to the supreme court for permission to appeal in advance of final judgment.

b. Time for filing in termination of parental rights and child in need of assistance proceedings.

(1) An application for interlocutory appeal in an Iowa Code chapter 232 termination of parental rights or child in need of assistance proceeding must be filed within 15 days after entry of the challenged ruling or order. However, if a motion is timely filed under Iowa Rule of Civil Procedure 1.904(2), the application must be filed within 15 days after the entry of the ruling on such motion.

(2) The application for interlocutory appeal cannot be filed unless signed by both the applicant and the applicant's counsel. An application for interlocutory appeal must follow the requirements of Iowa Rule of Electronic Procedure 16.305(5)(c)(1) for filing documents containing two or more signatures. The appellant's signature must be an original or an unaltered digitized signature. See Iowa R. Elec. P. 16.201(35).

(3) If the application is granted, the appellant must file a petition on appeal as set forth in rule 6.201(1)(b). The failure to file a timely petition on appeal will result in dismissal of the interlocutory appeal.

c. Time for filing in all other cases An application for interlocutory appeal must be filed within 30 days after entry of the challenged ruling or order. However, if a motion is timely filed under Iowa Rule of Civil Procedure

1.904(2), the application must be filed within 30 days after filing of the ruling on such motion.

d. Extension when clerk of district court fails to notify. The supreme court may extend the time for filing an application for interlocutory appeal if it determines the clerk of the district court failed to notify the prospective appellant of entry of the challenged ruling or order.

(1) A motion for an extension of time must be filed with the clerk of the supreme court and an informational copy filed with the clerk of the district court no later than 60 days after the expiration of the time for filing an application for interlocutory appeal. The motion and any resistance must be supported by copies of relevant portions of the record and by affidavits.

(2) An extension granted under this rule will not exceed 30 days after the date of the order granting the motion.

d. Special service of application. If the State is a party, the application must be served on the attorney general in the manner stated in Iowa Rule of Civil Procedure 1.442(2).

e. Content and form of application. The application must follow the content and form requirements of rules 6.1002(1) and 6.1007. In addition, the applicant must state with particularity the substantial rights affected by the challenged ruling or order, how the ruling or order will materially affect the final decision, and how a determination of its correctness before trial on the merits will better serve the interests of justice. The date of any impending hearing, trial, or matter needing immediate attention of the court must be prominently displayed beneath the title of the application.

f. Filing fee. The applicant must pay a filing fee to the clerk of the supreme court or file a motion to waive or defer the fee as provided in rules 6.703(2)(a) and 6.703(2)(b).

g. Filing of application does not stay district court proceedings. Filing of an application for interlocutory appeal does not stay district court proceedings. The applicant may apply to the district court for a continuance or a stay of proceedings or to the supreme court for a stay of proceedings. Any application for a stay order from the supreme court must state the dates of any proceedings to be stayed and why a stay is necessary.

6.104(2) *Resistance; consideration; ruling.* The application may be resisted and will be considered in the same manner provided for motions in rule 6.1002. The supreme court may grant permission to appeal on finding the challenged ruling or order involves substantial rights and will materially affect the final decision and that a determination of its correctness before trial on the merits will better serve the interests of justice. An order granting an appeal under this rule will stay further proceedings in the court below, may require bond, and may expedite the time for briefing and submission.

6.104(3) *Procedure after order granting application.* The clerk of the

supreme court will promptly transmit a copy of the order granting the interlocutory appeal to all counsel of record, all parties not represented by counsel, the clerk of the district court, and the attorney general if the State is a party in the manner stated in Iowa Rule of Civil Procedure 1.442(2). The appellant must file and serve the combined certificate required by rule 6.804(1) within 7 days after the filing date of the order granting the interlocutory appeal or court appointment of new appellate counsel, whichever is later. See Iowa R. App. P. 6.702(4).

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; Court Order July 20, 2017, temporarily effective July 20, 2017, permanently effective September 18, 2017]

Rule 6.105 Review of small claims actions. Except where the action involves an interest in real estate, a case originally tried as a small claims action may not be appealed to the supreme court. Any appeal must be made to the district court as prescribed by Iowa Code section 631.13. An action originally tried as a small claim may be reviewed by the supreme court only as provided in Iowa Code section 631.16 and rule 6.106.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.106 Discretionary review.

6.106(1) *Application for discretionary review.*

a. Applicability. An application for discretionary review may be filed with the clerk of the supreme court to review certain orders specified by statute that are not subject to appeal as a matter of right.

b. Time for filing. An application for discretionary review must be filed within 30 days after entry of the challenged ruling, order, or judgment of the district court. However, if a motion is timely filed under Iowa Rule of Civil Procedure 1.904(2), the application must be filed within 30 days after entry of the ruling on such motion.

c. Extension where clerk of district court fails to notify. The supreme court may extend the time for filing an application for discretionary review if it determines the clerk of the district court failed to notify the applicant of entry of the ruling, order, or judgment.

(1) A motion for an extension of time must be filed with the clerk of the supreme court and an informational copy filed with the clerk of the district court no later than 60 days after expiration of the time for filing an application for discretionary review. The motion and any resistance must be supported by affidavit and copies of relevant portions of the record.

(2) An extension granted under this rule may not exceed 30 days after the date of the order granting the motion.

d. Special service of application. If the State is a party, the application must be served on the attorney general in the manner stated in Iowa Rule of Civil Procedure 1.442(2).

e. Content and form of application. The application must follow the content and form requirements of rules 6.1002(1) and 6.1007. In addition,

the application must state with particularity the grounds upon which discretionary review should be granted. The date of any impending hearing, trial, or matter needing immediate attention of the court must be prominently displayed beneath the title of the application.

f. Filing fee. The applicant must pay a filing fee to the clerk of the supreme court or file a motion to waive or defer the fee as provided in rules 6.703(2)(a) and 6.703(2)(b).

g. Filing of application does not stay district court proceedings. Filing an application for discretionary review does not stay district court proceedings. The applicant may apply to the district court for a continuance or a stay of proceedings or to the supreme court for a stay of proceedings. Any application for a stay order from the supreme court must set forth the dates of any proceedings to be stayed and why a stay is necessary.

6.106(2) Resistance; consideration; ruling. The application may be resisted and will be considered in the same manner provided for motions in rule 6.1002. The supreme court may grant discretionary review upon a determination that (1) substantial justice has not been accorded the applicant, (2) the grounds set forth in rule 6.104(1)(e) for an interlocutory appeal exist, or (3) the grounds prescribed in any statute allowing discretionary review exist. An order allowing discretionary review under this rule may stay further proceedings below, may require bond, and may expedite the time for briefing and submission.

6.106(3) Procedure after order granting application. The clerk of the supreme court will promptly transmit a copy of the order granting discretionary review to the attorneys of record, any parties not represented by counsel, the clerk of the district court, and the attorney general if the State is a party in the manner stated in Iowa Rule of Civil Procedure 1.442(2). The appellant must file and serve the combined certificate required by rule 6.804(1) within 7 days after the filing date of the order granting discretionary review or appointment of new appellate counsel, whichever is later. *See* Iowa R. App. P. 6.702(4). Further proceedings shall be had pursuant to the rules of appellate procedure.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; July 20, 2017]

Rule 6.107 Original certiorari proceedings.

6.107(1) Petition for writ of certiorari.

a. Applicability. Any party claiming a district judge, a district associate judge, an associate juvenile judge, or an associate probate judge exceeded the judge's jurisdiction or otherwise acted illegally may commence an original certiorari action in the supreme court by filing a petition for writ of certiorari with the clerk of the supreme court as provided in these rules.

b. Time for filing. A petition for writ of certiorari must be filed within 30 days after entry of the challenged decision. However, if a motion is timely filed under Iowa Rule of Civil Procedure 1.904(2) or 1.1007, the petition

must be filed within 30 days after entry of the ruling on such motion.

c. Extension when clerk of district court fails to notify. The supreme court may extend the time for filing a petition for writ of certiorari if it determines the clerk of the district court failed to notify the prospective party of entry of the challenged decision.

(1) A motion for an extension of time must be filed with the clerk of the supreme court and an informational copy filed with the clerk of the district court no later than 60 days after expiration of the time for filing a petition for writ of certiorari.

(2) The motion and any resistance must be supported by affidavit and copies of relevant portions of the record.

(3) An extension granted under this rule may not exceed 30 days after the date of the order granting the motion.

d. Special service of petition on attorney general. If the State is a party, the petition must be served on the attorney general in the manner stated in Iowa Rule of Civil Procedure 1.442(2).

e. Content and form of petition.

(1) The caption of the petition must name the challenging party as the plaintiff and the district court, not the judge, as the defendant.

(2) The date of any impending hearing, trial, or matter needing immediate attention of the court must be prominently displayed beneath the title of the petition.

(3) The petition must follow the content and form requirements of rules 6.1002(1) and 6.1007.

(4) The petition must state whether the plaintiff raised the issue in the district court, identify the interest of the plaintiff in the challenged decision, and state the grounds that justify issuance of the writ.

f. Filing fee. The plaintiff must pay a filing fee to the clerk of the supreme court or file a motion to waive or defer the fee as provided in rules 6.703(2)(a) and 6.703(2)(b).

g. Filing of petition does not stay district court proceedings. Filing a petition for writ of certiorari does not stay the district court proceedings. The plaintiff may apply to the district court for a continuance or a stay of proceedings or to the supreme court for a stay of proceedings. Any application to the supreme court for a stay order must state the dates of any proceedings to be stayed and why a stay is necessary.

Comment: Rule 6.107(1). This rule is not intended to affect prior caselaw concerning the supreme court's constitutional authority to review decisions rendered by other judicial tribunals. *See, e.g., State v. Davis*, 493 N.W.2d 820, 822 (Iowa 1992).

6.107(2) Resistance; consideration; ruling. A petition for writ of certiorari may be resisted and will be considered in the same manner

provided for motions in rule 6.1002. An order granting the petition may stay further proceedings below, may require bond, and may expedite the time for briefing and submission. The clerk of the supreme court will promptly transmit a copy of the ruling on the petition to the attorneys of record, any parties not represented by counsel, the clerk of the district court, and the attorney general if the State is a party in the manner stated in Iowa Rule of Civil Procedure 1.442(2).

6.107(3) *Issuance of writ.* If the petition for writ of certiorari is granted, the clerk of the supreme court must issue a writ under its seal. The original writ must be transmitted to the clerk of the district court, which will constitute service on the district court.

6.107(4) *Procedure after order granting petition.* The plaintiff must file and serve the combined certificate required by rule 6.804(1) within 7 days after the filing date of the order granting the petition or appointment of new appellate counsel, whichever is later. *See* Iowa R. App. P. 6.702(4). Further proceedings will be had pursuant to the rules of appellate procedure. The appellate rules applicable to appellants apply to plaintiffs and those applicable to appellees apply to defendants.

6.107(5) *Representation of district court.* Parties before the district court other than the certiorari plaintiff must defend the district court and make all filings required of the defendant under these rules unless permitted to withdraw by the supreme court.

a. A party required to defend the district court under this rule may file an application to withdraw stating (1) whether the applicant raised the issue addressed in the challenged decision in the district court, (2) the interest or lack of interest of the applicant in the challenged decision, and (3) the grounds justifying withdrawal.

b. The application to withdraw must be served on the district court by filing the application with the clerk of the district court and on the attorney general if the State is a party in the manner stated in Iowa Rule of Civil Procedure 1.442(2).

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; July 20, 2017]

Rule 6.108 Appeals authorized by statute or rule. When a statute or rule authorizes an appeal as a matter of right, other than from a final order or judgement, appeal is taken by filing a notice of appeal as provided in rule 6.102, except that the notice must also specify the statute or rule providing the right to appeal.

Comment: Rule 6.108. Examples include appeals involving qualified immunity under Iowa Code section 670.4A(4), appeals involving arbitration under Iowa Code section 679A.17, and appeals involving class certification under Iowa Rule of Civil Procedure 1.264(3).

Rule 6.109 Review of expungement matters.

6.109(1) *Certiorari proceeding.* Review of decisions on expungement

applications will be by certiorari pursuant to rule 6.107. The appellate case will be deemed confidential and subject to rule 6.153.

6.109(2) *Protected and confidential information.* The caption of the petition must name the challenging party as the plaintiff and name the district court, not the judge, as the defendant. Names, including the name of the plaintiff, dates of birth, the criminal case number, and other identifying information must be treated as protected and confidential information pursuant to rule 6.153(2)(b) and must not be included in the briefs or opinions. If the challenging party is not the State, the plaintiff must be referred to as “J. Doe.”

6.109(3) *Certificate of confidentiality.* Any filings that necessarily contain identifying information, including any materials that contain references to underlying district court criminal case numbers, must contain a certificate of confidentiality in accordance with rule 6.153(2) and be designated as confidential by the filer when electronically filing the document.

Rules 6.110 to 6.150 Reserved.

Rule 6.151 Proper form of review.

6.151(1) *General rule.* If any case is initiated by a notice of appeal, an application for interlocutory appeal, an application for discretionary review, or a petition for writ of certiorari and the appellate court determines another form of review was the proper one, the case will not be dismissed, but will proceed as though the proper form of review had been requested.

6.151(2) *Appellate court may request further action.* The appellate court may treat the documents upon which the action was initiated as seeking the proper form of review and, in appropriate cases, may order the parties to file jurisdictional statements or file documents supporting the proper form of discretionary review.

6.151(3) *Opposition.* This rule does not preclude opposing parties from filing a motion to challenge the form of review.

6.151(4) *Timing.* This rule does not extend the time for initiating a case. [Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.152 Parties and attorneys on appeal; caption; substitution of parties; withdrawal of counsel.

6.152(1) *Parties on appeal.* The party who files a notice of appeal is the appellant, and the opposing party is the appellee. If opposing parties seek to appeal, the party who first files a notice of appeal is the appellant/cross-appellee, and the other party is the appellee/cross-appellant, unless the parties otherwise agree or the supreme court otherwise orders upon motion of any party.

6.152(2) *Caption on appeal.* The appeal must be captioned under the title of the action in the district court, with the parties identified as appellant and appellee. Parties not involved in the appeal may be omitted

from the caption. If the title does not contain the name of the appellant, the appellant's name must be added to the caption.

6.152(3) *Substitution of party.* If substitution of a party is sought for any reason, including those stated in Iowa Rules of Civil Procedure 1.221, 1.222, 1.223, 1.224, and 1.226, the person seeking the substitution must file a motion for substitution of party with the clerk of the supreme court.

6.152(4) *Attorneys and guardians ad litem.* The attorneys and guardians ad litem of record in the district court will be the attorneys and guardians ad litem in the appellate court, unless others are retained or appointed and notice is given to the parties and the clerk of the supreme court. However, the representation of an attorney appointed for a minor child or children pursuant to Iowa Code section 598.12 ends when an appeal is taken, unless the district court appoints the attorney or a successor for the appeal.

6.152(5) *Withdrawal of attorney.* An attorney may not withdraw from representation of a party before an appellate court without permission of that court unless another attorney has appeared or simultaneously appears for the party. A motion for permission to withdraw as counsel for a party must show service of the motion on the party and must include the party's address, telephone number, and any available email address. Before court-appointed trial counsel for a criminal defendant may withdraw, the court file must contain proof counsel has completed counsel's duties under Iowa Rule of Criminal Procedure 2.29(5).
[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.153 Protected information; confidential materials and cases; briefs not confidential.

6.153(1) *Protected information.*

a. When a party files any document that contains protected information as defined in Iowa Rule of Civil Procedure 1.422(1) or Iowa Rule of Electronic Procedure 16.602 or a reproduction, quotation, or extensive paraphrase of material that contains protected information, the party must omit or redact that information from the document in the manner provided by Iowa Rule of Civil Procedure 1.422(1) or Iowa Rule of Electronic Procedure 16.605.

b. When a party files any document that contains information that may be omitted or redacted under Iowa Rule of Civil Procedure 1.422(2) or a reproduction, quotation, or extensive paraphrase of material that contains such information, the party may omit or redact that information from the document in the manner provided by Iowa Rule of Civil Procedure 1.422(2).

c. The omission or redaction of protected information is not required if the document is certified as confidential under rule 6.153(2).

6.153(2) *Party certification of confidential and protected material or cases.*

a. Confidential and protected material. When a party files any document, except a brief, that contains material or a reproduction, quotation, or extensive paraphrase of material that is declared confidential by any statute or court rule or to which access is restricted by court order, the party must certify the document's confidential nature by including a certificate of confidentiality as the first page of the document. The certificate page should substantially comply with rule 6.1401—Form 11: *Certificate of Confidentiality*, and include the caption of the case; certificate of confidentiality, which includes the applicable statute, rule, or court order; and signature of the party or counsel. When filing a document that contains a certificate of confidentiality, the filer must note that fact in the appropriate place on the electronic cover sheet. See Iowa R. Elec. P. 16.201(7).

b. Confidential and protected cases. When a party files any document, except a brief, in a case declared confidential by statute or court rule or to which access is restricted by court order, the party need not certify the document's confidential nature. Briefs filed in a confidential or restricted-access case must comply with the personal privacy protection provisions in division VI of the Iowa Rules of Electronic Procedure. See Iowa R. Elec. P. 16.601(1).

6.153(3) *Clerk to maintain confidentiality.* Upon the clerk of the supreme court's receipt of a notice, motion, district court record, portion of district court record, or other document that has been certified by a party or the clerk of the district court as confidential, the clerk of the supreme court will maintain its confidentiality. If the confidential designation is not warranted, the appropriate appellate court will direct the clerk of the supreme court to file the document as a public record. Confidential documents may be inspected only by persons authorized by statute, rule, or court order to inspect such documents.

6.153(4) *Responsibility of filer.* It is the responsibility of the filing party to ensure that confidential or protected information is properly redacted, omitted, or certified as confidential. For purposes of this rule, a pro se party is the filing party of a pro se document. It is not the responsibility of the clerk of the supreme court to review filings to determine whether appropriate redactions, omissions, or certifications have been made; to redact or remove confidential or protected information from court filings; or to certify or restrict access to confidential or protected information on the clerk's own initiative. Failure of the filing party to ensure that confidential or protected information is properly redacted, omitted, or certified as confidential may subject the filing party to sanctions by the court.

6.153(5) *Briefs not confidential.*

a. Briefs filed with the clerk of the supreme court are not confidential. A brief may not contain a reproduction, quotation, or extensive paraphrase of material that is declared by any statute or rule of the supreme court to be confidential. Instead, a brief may include general statements of fact

supported by references pursuant to rule 6.904(4) to pages or parts of the record that are confidential.

b. Briefs in a case declared confidential by any statute or rule of the supreme court are not confidential and must refer to the parties in the caption and text by initials or other nonidentifying description. When a victim's name is deemed confidential by law, a brief must refer to the victim by initials or other nonidentifying description.

[Court Order October 31, 2008, effective January 1, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017; July 20, 2017]

Rules 6.154 to 6.200 Reserved.

DIVISION II

TERMINATION OF PARENTAL RIGHTS AND CHILD IN NEED OF ASSISTANCE APPEALS UNDER IOWA CODE CHAPTER 232

Rule 6.201 Petition on appeal in termination of parental rights and child in need of assistance proceedings under Iowa Code chapter 232.

6.201(1) *Petition on appeal.*

a. Trial counsel's obligation to prepare petition. The appellant's trial counsel must prepare the petition on appeal. Trial counsel may be relieved of this obligation by the district court only upon a showing of extraordinary circumstances.

b. Time for filing petition on appeal. A petition on appeal must be filed with the clerk of the supreme court within 15 days after the filing of the notice of appeal with the clerk of the district court or within 15 days after the filing of an order granting an interlocutory appeal. The time for filing a petition on appeal will not be extended.

c. Length; form; cover page. The petition on appeal may not exceed 20 pages, excluding the attachments required by rule 6.201(1)(e), and must be in the form prescribed by rule 6.1007. The cover page must contain:

- (1) The caption of the case.
- (2) The title of the document: "Petition on Appeal".
- (3) The name of the court and judge whose decision is under review.
- (4) The name, address, telephone number, and email address of counsel representing the appellant.

d. Contents of petition. The petition on appeal must substantially comply with rule 6.1401—Form 5: *Petition on Appeal (Cross-Appeal) (Child in Need of Assistance and Termination Cases)*.

e. Attachments to petition.

(1) In an appeal from an order or judgment in a child in need of assistance proceeding, the appellant must attach to the petition on appeal a copy of:

1. The order or judgment from which the appeal is taken.
2. Any ruling on a motion for new trial under Iowa Rule of Civil Procedure 1.1004 or a motion under Iowa Rule of Civil Procedure 1.904(2).

(2) In an appeal from an order terminating parental rights or dismissing the termination petition, the appellant must attach to the petition on appeal a copy of:

1. The petition for termination of parental rights and any amendments to the petition.
2. The order or judgment terminating parental rights or dismissing the termination petition.
3. Any ruling on a motion for new trial under Iowa Rule of Civil Procedure 1.1004 or a motion under Iowa Rule of Civil Procedure 1.904(2).

(3) In an appeal from a post termination order, the appellant must attach to the petition on appeal a copy of:

1. The order or judgment terminating parental rights.
2. Any ruling on a motion for new trial under Iowa Rule of Civil Procedure 1.1004 or a motion under Iowa Rule of Civil Procedure 1.904(2).
3. Any motion requesting posttermination relief.
4. Any resistance to the request for posttermination relief.
5. The posttermination order from which the appeal is taken.

6.201(2) *Joinder disallowed.* A party may not join in a petition on appeal that another party files separately.

6.201(3) *Consequence of failure to file timely petition on appeal.* If the petition on appeal is not filed with the clerk of the supreme court within 15 days after the filing of a notice of appeal or within 15 days after the filing of an order granting an interlocutory appeal, the supreme court will dismiss the appeal, and the clerk will immediately issue procedendo. [Court Order October 31, 2008, effective January 1, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017; July 20, 2017]

Rule 6.202 Response to petition on appeal in termination of parental rights and child in need of assistance proceedings under Iowa Code chapter 232.

6.202(1) *When response required.* A response to the petition on appeal is optional unless the appellee has filed a notice of cross-appeal, in which case a response is required. The required response must address the claims of error alleged in the petition on appeal and separately state the grounds for the cross-appeal. Any response, optional or required, must substantially comply with rule 6.1401—Form 6: *Response to Petition on Appeal (Cross-Appeal)*.

6.202(2) *Time for filing response to petition on appeal.* A response to a

petition on appeal must be filed with the clerk of the supreme court within 15 days after service of the petition.

6.202(3) *Length; form; cover page.* Any response, optional or required, to the petition on appeal may not exceed 20 pages, and must be in the form prescribed by rule 6.1007. The cover page must contain:

- a. The caption of the case.
- b. The title of the document: “Response to Petition on Appeal.”
- c. The name of the court and judge whose decision is under review.
- d. The name, address, telephone number, and email address of counsel representing the appellee.

[Court Order October 31, 2008, effective January 1, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017; July 20, 2017]

Rule 6.203 Reply to issues raised in cross-appeal. If a notice of cross-appeal is filed, the appellant may file a reply to the cross-appeal within 7 days after service of the appellee’s response. An appellant may not file a reply if the appellee has not filed a notice of cross-appeal.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.204 Filing fee and transmission of the record. Within 7 days after filing the notice of appeal, the appellant must pay the filing fee as provided in rule 6.703(1) or request waiver or deferral of the fee pursuant to rule 6.703(2). Within 30 days after the filing of the notice of appeal, the appellant must request the clerk of the district court to transmit the record to the clerk of the supreme court and file an informational copy with the clerk of the supreme court. The clerk of the district court must certify the record and its confidential nature.

6.204(1) *Record on appeal in child in need of assistance proceedings.* In appeals from child in need of assistance proceedings, the record on appeal will include:

- a. The child in need of assistance court file, including all exhibits.
- b. Any transcript of a hearing or hearings resulting in the order from which an appeal has been taken.

6.204(2) *Record on appeal in termination of parental rights proceedings.* In appeals from termination of parental rights proceedings, the record on appeal includes:

- a. The termination of parental rights court file, including all exhibits.
- b. Those portions of the child in need of assistance court file either received as exhibits or judicially noticed in the termination proceeding.
- c. The transcript of the termination of parental rights hearing.

6.204(3) *Record on appeal of posttermination rulings in termination of parental rights proceedings.* In appeals from posttermination rulings in termination of parental rights proceedings, the record on appeal includes:

- a. The termination of parental rights court file, including all exhibits.
 - b. Any motion, resistance, or transcript relevant to the posttermination order from which the appeal is taken.
- [Court Order October 31, 2008, effective January 1, 2009; July 20, 2017]

Rule 6.205 Disposition.

6.205(1) *Ruling.* After reviewing the petition on appeal, any response, any reply, and the record, the appellate court may request supplemental briefing, affirm or reverse the district court’s order or judgment, or remand the case.

6.205(2) *Further review.* If the court of appeals affirms or reverses the district court’s order or judgment or remands the case, further review pursuant to the shortened timeline in rule 6.1103 may be sought.

[Court Order October 31, 2008, effective January 1, 2009]

Rules 6.206 to 6.300 Reserved.

DIVISION III
CERTIFIED QUESTIONS OF LAW

Rule 6.301 Procedure for certification of questions of law. The procedure for answering and certifying questions of law will be as provided in the Uniform Certification of Questions of Law Act, Iowa Code chapter 684A, and the rules of appellate procedure.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.302 Initiation of certification proceedings.

6.302(1) *Certification order.*

a. *Filing.* The certification order prepared by the certifying court must be forwarded by the clerk of the certifying court under its official seal to the clerk of the supreme court, who will file the order and assign a number to the matter. The clerk of the supreme court will notify the certifying court that the certification order has been received.

b. *Contents.* The certification order must contain all of the following:

- (1) The information required by Iowa Code section 684A.3.
- (2) The names and addresses of the interested parties or their counsel, if they are represented by counsel.
- (3) The party, if any, requesting submission of a certified question.
- (4) A designation of the party to file the first brief, if the question is certified on the court’s own motion.

c. *Service on attorney general.* When the constitutionality of an act of the general assembly is drawn into question in a certification proceeding to which the State of Iowa or an officer, agency, or employee thereof is not a party, the certifying court must serve the certification order on the attorney general.

6.302(2) Record. The certifying court must attach to its certification order a copy of the portions of the record deemed necessary for a full understanding of the question. If the entire record is not included, the supreme court may order that a copy of any portion of the remaining record be filed with the clerk of the supreme court.

6.302(3) Parties. The party requesting certification or, if none, the party who is to file the first brief, will be considered the appellant and must make all filings required of the appellant under these rules.

6.302(4) Filing fee. A filing fee must be paid to the clerk of the supreme court, as provided in rule 6.703(1)(f), unless otherwise waived or deferred as provided in rule 6.703(2).

[Court Order October 31, 2008, effective January 1, 2009; July 20, 2017]

Rule 6.303 Briefing.

6.303(1) Form of briefs. Briefs must be prepared in the manner and form specified in rules 6.903 and 6.904.

6.303(2) Filing deadlines. All briefs must be filed within the expedited times prescribed by rule 6.902(2).

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.304 Disposition.

6.304(1) Opinion. Upon the filing of an opinion on a certified question, the clerk of the supreme court must comply with Iowa Code section 684A.7.

6.304(2) Costs and fees. Printing costs, if any, must be certified by the parties as provided in rule 6.903(1)(j). Upon the filing of the supreme court's opinion, the clerk of the supreme court must prepare and transmit to the clerk of the certifying court a bill of costs listing the filing fee and reasonable printing costs and the parties who paid them. The clerk of the certifying court will be responsible for collecting and apportioning the fee and costs pursuant to Iowa Code section 684A.5.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.305 State as amicus curiae. When the constitutionality of an act of the general assembly is drawn into question in a certification proceeding to which the State of Iowa or an officer, agency, or employee thereof is not a party, the attorney general will be permitted to file an amicus curiae brief on behalf of the State, as provided in rule 6.906, regarding the constitutionality of the act.

[Court Order October 31, 2008, effective January 1, 2009]

Rules 6.306 to 6.400 Reserved.

DIVISION IV
ABORTION NOTIFICATION APPEALS

Rule 6.401 Procedure in abortion notification appeals.

6.401(1) *Notice of appeal.* A pregnant minor may appeal from a district court order denying a petition for waiver of notification regarding abortion.

a. The notice of appeal must be filed within 24 hours of issuance of the district court order.

b. The notice of appeal must be filed with the clerk of the district court where the order was entered and may be filed in person, by facsimile transmission, or electronically. A list of the clerk of the district court's facsimile numbers can be found at <https://www.iowacourts.gov/iowa-courts/court-directory/>. The notice must also be filed with the clerk of the supreme court and may be filed in person, by facsimile transmission at (515) 348-4707, or electronically.

c. The notice of appeal must contain the date the petition was filed. A notice of appeal is filed for purposes of this rule when it is date and time stamped if filed in person or when it is received if transmitted by facsimile or electronically.

6.401(2) *Procedure on appeal.*

a. Within 48 hours after the filing of a notice of appeal, the court reporter must file the original of the completed transcript with the clerk of the supreme court. The reporter must also file a certificate with the clerk of the district court stating the date the transcript was filed in the supreme court.

b. Within 48 hours after the filing of a notice of appeal, the clerk of the district court must transmit to the supreme court any relevant district court documents, including the district court decision.

c. The minor must file a written argument supporting her appeal with the clerk of the supreme court within 48 hours of filing the notice of appeal with the district court. The written argument must include a statement designating the method by which the minor chooses to receive notice of the supreme court's final decision.

6.401(3) *Decision on appeal.* The appeal will be considered by a three-justice panel of the supreme court.

a. The appeal will be considered without oral argument unless the supreme court or a justice thereof orders otherwise.

b. A single justice may conduct a hearing, but a majority of the three-justice panel must issue any decision on the appeal.

c. The court will consider the appeal de novo and enter its decision as soon as is reasonably possible. In no event will the court's decision be made later than 10 calendar days from the day after filing of the petition for waiver in the district court, or the 10 calendar days plus the period of time granted by the district court for any extension under Iowa Court Rule 8.27.

d. The court's decision may be entered by order or opinion, and may simply state that the district court's order is affirmed or reversed. Any

decision affirming the denial of waiver of notification will inform the minor of her right to request appointment of a therapist by the district court on remand.

e. Notwithstanding any other rule, the panel's decision is not subject to review or rehearing.

f. The clerk of the supreme court will promptly issue procedendo once an order or opinion is filed.

g. The minor will be notified of the final decision in the manner designated in the written argument submitted to the court.

6.401(4) Confidentiality. Notwithstanding any other rule or statute, all documents filed in the appeal and the supreme court's docket are confidential. Any hearing held on an appeal under this rule is confidential.

a. The minor may use the same pseudonym that she used in the juvenile court proceedings.

b. Identifying information, including address, parents' names, or social security number must not appear on any court documents.

c. All documents must contain the juvenile court docket number for identification purposes.

d. The only persons who may have access to the court documents and admission to any hearing are supreme court justices, court staff who must have access to the records for administrative purposes, the minor, her attorney, her guardian ad litem, and any person designated in writing by the minor, her attorney, or her guardian ad litem to have such access or admission. In no case may the minor's parents have access to her documents or admission to any hearing.

6.401(5) Computation of time. For the purpose of this rule, any duty of filing or issuance of a decision or order that falls on a Saturday, Sunday, or legal holiday is extended to 9 a.m. on the next business day. [Court Order October 31, 2008, effective January 1, 2009; November 1, 2016, effective March 1, 2017]

Rules 6.402 to 6.500 Reserved.

DIVISION V

OTHER PROCEEDINGS

Rule 6.501 Procedure in other proceedings. Unless otherwise ordered, the procedure in all other proceedings in the appellate courts, such as an action to invoke the supreme court's original jurisdiction, will comply with the rules of appellate procedure to the fullest extent not inconsistent with specific constitutional or statutory provisions authorizing the proceeding. [Court Order October 31, 2008, effective January 1, 2009]

Rules 6.502 to 6.600 Reserved.

DIVISION VI

STAYING DISTRICT COURT JUDGMENTS AND PROCEEDINGS

Rule 6.601 Supersedeas bond.

6.601(1) *Requirement of bond and effect on judgment.* Except upon supreme court order or upon district court order entered pursuant to rule 6.601(3), no appeal stays proceedings under a judgment or order unless the appellant executes a bond with sureties, filed with and approved by the district court or the clerk of the district court where the judgment or order was entered. Initiation of appeal will not stay, vacate, or affect the judgment or order appealed from; but the district court or the clerk of the district court will issue a written order requiring the appellee and all others to stay proceedings under it or such part of it as has been appealed from when the supersedeas bond is filed and approved.

6.601(2) *Condition and amount of bond.*

a. The conditions of such bond will be that the appellant must satisfy and perform the judgment if affirmed, or any judgment or order, not exceeding in amount or value the obligation of the judgment or order appealed from, which an appellate court may render or order to be rendered by the district court, and also all costs and damages adjudged against the appellant on the appeal, and all rents from or damage to property during the pendency of the appeal of which the appellee is deprived by reason of the appeal.

b. If the judgment or order appealed from is for money, the bond must not exceed 110% of the amount of the money judgment, unless the district court otherwise sets the bond at a higher amount pursuant to Iowa Code section 625A.9(2)(a). The bond must not exceed the maximum amount set forth in Iowa Code section 625A.9(2)(b). In all other cases, the bond must be an amount sufficient to hold the appellee harmless from the consequences of the appeal, but in no event less than \$1,000.

6.601(3) *Bond by State or political subdivision.* Upon motion and for good cause shown, the district court may stay all proceedings under the order or judgment being appealed and permit the State or any of its political subdivisions to appeal a judgment or order to the supreme court without the filing of a supersedeas bond.

6.601(4) *Form of bond.* A supersedeas bond secured by cash, a certificate of deposit, or government security in a form and in an amount approved by the clerk of the district court may be filed in lieu of other form of bond. If a cash bond is filed, the cash must be deposited at interest with the interest earnings being paid into the general fund of the State in accordance with Iowa Code section 602.8103(5). The cash bond will be disbursed pursuant to court order upon the district court's receipt of the procedendo.

6.601(5) *Child custody.* A supersedeas bond filed pursuant to this rule does not stay an order, judgment, decree, or portion thereof affecting the custody of a child. Requests for stays involving child custody are governed

by rule 6.604.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.602 Sufficiency of bond. If any party to an appeal is aggrieved by the clerk of district court's approval of, or refusal to approve, a supersedeas bond tendered by the appellant, the party may apply to the district court, on at least 3 days notice to the adverse party, to review the clerk's action. Pending such hearing, the district court may recall or stay all proceedings under the order or judgment appealed from. On such hearing, the district court will determine the sufficiency of the bond, and if the clerk has not approved the bond, the district court will, by order, fix its conditions and determine the sufficiency of the security; or if the district court determines that a bond approved by the clerk is insufficient in security or defective in form, it will discharge the bond and fix a time for filing a new one.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.603 Judgment on bond. If an appellate court affirms the judgment appealed from, it may, on motion of the appellee, enter judgment against the appellant and the sureties on the supersedeas bond for the amount of the judgment, with damages and costs, or it may remand the cause to the district court for the determination of such damages and costs and entry of judgment on the bond.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.604 Stays involving child custody.

6.604(1) Application. A supersedeas bond filed pursuant to rule 6.601 will not stay an order, judgment, decree, or portion thereof affecting the custody of a child. Upon application in a pending appeal, the appellate court may, in its discretion, stay any district court order, judgment, decree, or portion thereof affecting the custody of a child and provide for the custody of the child during the pendency of the appeal.

6.604(2) Resistance. An application for a stay pending appeal of any order, judgment, or decree affecting the custody of a child may be resisted and will be ruled upon as provided in rule 6.1002, unless otherwise ordered. Pending consideration of the application for stay, the appellate court may immediately order a temporary stay pursuant to rule 6.1002(4).

6.604(3) Considerations in granting stay. The best interests of the child is the primary consideration in deciding whether to grant the application for a stay. The best interests of the child likewise is paramount in determining where to place custody of the child during the pendency of the appeal. Additional considerations include, but are not limited to, the following factors when they appear:

- a. The circumstances giving rise to the adjudication being appealed.
- b. The safety and protection of the child.
- c. The safety and protection of the community and the likelihood of serious violence.

- d. The need to quickly begin treatment or rehabilitation of the child.
- e. The likelihood of the child fleeing or being removed from the jurisdiction during the pendency of the appeal or not appearing at further court proceedings.
- f. The availability of custody placement alternatives.
- g. The child's family ties, employment, school attendance, character, length of residence in the community, and juvenile court record.
- h. The likelihood of a reversal of the district court order, judgment, or decree on appeal.

6.604(4) Burden. The applicant seeking the stay order has the burden of showing that such a stay or alternative custody placement of the child pending appeal is in the child's best interests.
[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rules 6.605 to 6.700 Reserved.

DIVISION VII

FILING, SERVICE, AND FEES

Rule 6.701 Filing.

6.701(1) Filing with clerk of supreme court. Documents required or permitted to be filed in the supreme court or in the court of appeals must be filed with the clerk of the supreme court. All documents required to be served upon a party must be filed with the court before or at the time of service or within a reasonable time thereafter. Whenever these rules require a filing with the supreme court or its clerk within a certain time, the time requirement is tolled once service is made, provided the actual filing is done within a reasonable time thereafter. Documents received by the clerk of the supreme court without a certificate of service are deemed filed when received by the clerk.

6.701(2) Emailing or faxing documents does not constitute electronic filing. Emailing or faxing a document to the clerk of the supreme court or to an appellate court will not generate a file stamp or a notice of electronic filing and will not result in the filing of the document. See Iowa Rs. Elec. P. 16.201(23), 16.306. Documents transmitted to the clerk of the supreme court or to an appellate court by fax or email will only be filed if the party is authorized to submit the document in that manner under rule 6.1(3). Documents transmitted by fax or email may only be transmitted pursuant to a prior arrangement with the clerk of the supreme court. Failure to comply with the submission requirements may result in the imposition of sanctions: the document transmitted may be stricken or deemed not filed, the appeal or review may be dismissed, or other appropriate action may be taken. Faxed documents are subject to a fee of \$3 per page, excluding the cover page.

[Court Order October 31, 2008, effective January 1, 2009; June 29, 2009;

November 18, 2016, effective March 1, 2017]

Rule 6.702 Service.

6.702(1) *Filer's duty to ensure service.* Documents filed with the clerk of the supreme court must be served on all other parties to the appeal or review and on any nonparty required to be served by these rules unless the appropriate appellate court orders otherwise. The filer must ensure that all required service is accomplished pursuant to Iowa Rules of Electronic Procedure 16.315 and 16.319(1)(c).

6.702(2) *Electronic service on registered filers.* Filed documents are electronically served pursuant to Iowa Rule of Electronic Procedure 16.315(1). Electronic service is not effective if the filer learns that the notice of electronic filing was not transmitted to a party.

6.702(3) *Service of paper copies on nonregistered parties.* The filer must serve nonregistered or excused filers and not-yet-registered filers in paper pursuant to Iowa Rule of Electronic Procedure 16.315(2). A certificate of service must be filed for all documents not served by EDMS pursuant to Iowa Rule of Electronic Procedure 16.316.

6.702(4) *Service on court reporters.* Required service on a court reporter must be made by email, mail, fax, or hand-delivery.

6.702(5) *Additional time after service.* Whenever a party is required or permitted to do an act within a prescribed period after service of a document upon that party and the document is served by mail, email, or fax transmission, 3 days will be added to the prescribed period. Such additional time is not applicable when the deadline runs from entry or filing of a judgment, order, decree, or opinion.

[Court Order November 18, 2016, effective March 1, 2017]

Rule 6.703 Filing fees and copies.

6.703(1) *Filing fees.*

a. Appeal or cross-appeal from final order or judgment. The fee for filing a notice of appeal from a final order or judgment is \$150. The appellant must pay the fee to the clerk of the supreme court within 7 days after filing the notice of appeal. If any party files a notice of cross-appeal, the fee is \$150. The cross-appellant must pay the fee to the clerk of the supreme court within 7 days after filing the notice of cross-appeal. If the appropriate appellate court determines the appeal or cross-appeal is not from a final order or judgment, the clerk will not refund any part of the filing fee.

b. Application for interlocutory appeal. The fee for filing an application for interlocutory appeal is \$100. The applicant must pay the fee to the clerk of the supreme court at the time the application is filed. If the application is granted, the applicant must pay an additional \$50 fee within 7 days after the order granting the application is filed.

c. Application for discretionary review. The fee for filing an application for discretionary review is \$100. The appellant must pay the fee to the clerk of the supreme court at the time the application is filed. If the

application is granted, the appellant must pay an additional \$50 fee within 7 days after the order granting the application is filed.

d. Petition for writ of certiorari. The fee for filing a petition for writ of certiorari is \$100. The certiorari plaintiff must pay the fee to the clerk of the supreme court at the time the petition is filed. If the petition is granted, the plaintiff must pay an additional \$50 fee within 7 days after the order granting the petition is filed.

e. Original proceeding other than certiorari. The fee for filing an original proceeding other than certiorari is \$150. The initiating party must pay the fee to the clerk of the supreme court at the time the proceeding is filed.

f. Certified questions of law. The fee for filing a certification order is \$150. The appellant must advance the fee to the clerk of the supreme court within 7 days after the certification order is filed. Costs will ultimately be apportioned pursuant to rule 6.304(2).

g. Application for further review. The fee for filing an application to the supreme court for further review of a decision of the court of appeals is \$75. The applicant must pay the fee to the clerk of the supreme court at the time of filing the application for further review.

6.703(2) Waiver or deferral of filing fees.

a. Waiver of filing fees.

(1) *State as filing party.* If the State of Iowa is the filing party, the clerk of the supreme court will waive any filing fees.

(2) *Abortion notification appeals.* In appeals from abortion notification proceedings the clerk of the supreme court will waive any filing fees.

(3) *Criminal defendant as filing party.* If a criminal defendant is the filing party and there has been a district court finding of indigency, the clerk of the supreme court will waive any filing fees upon the defendant's motion. The defendant's motion to waive the filing fee must be accompanied by a copy of the district court order finding the defendant indigent. If a criminal defendant is the filing party and the appellate defender's office has been appointed to represent the defendant, the clerk will waive any filing fees without motion.

(4) *Postconviction applicant as filing party.* If an applicant under Iowa Code section 822.9 is the filing party and there has been a district court finding of indigency, the clerk of the supreme court will waive any filing fees upon the applicant's motion. The applicant's motion to waive the filing fee must be accompanied by a copy of the district court order finding the applicant indigent. If the appellate defender's office has been appointed to represent the postconviction-relief applicant, the clerk will waive the filing fees without motion.

(5) *Waiver of filing fee authorized by other rule or statute.* If waiver of the filing fee is otherwise authorized by a rule or statute, the clerk of the supreme court will waive the filing fee upon motion. The motion must state the applicable rule or statute that authorizes waiver of the filing fee.

b. Deferral of filing fee. If a rule, statute, or court order authorizes a party to defer payment of a filing fee, the clerk of the supreme court will enter an order deferring the fee upon motion. The motion must state the applicable rule or statute or attach the court order that authorizes deferral of the filing fee.

6.703(3) Copies. The fee for providing paper copies of documents is 50¢ for each page. An additional fee of \$10 applies for a certified copy of a document.

[Court Order October 31, 2008, effective January 1, 2009; December 18, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017]

Rules 6.704 to 6.800 Reserved.

DIVISION VIII **RECORD ON APPEAL**

Rule 6.801 Composition of record on appeal. Only the following constitute the record on appeal:

a. Original documents and exhibits filed in the district court case from which the appeal is taken.

b. Transcript of proceedings, if any.

c. Court calendar entries prepared by the clerk of the district court.

d. Documents from related cases when judicial notice was taken of the specific document or file.

e. Documents or filings from other cases when required by law, including Iowa Code section 822.6A involving claims of postconviction relief.

[Court Order October 31, 2008, effective January 1, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017]

Rule 6.802 Transmission of record.

6.802(1) Transmission of notice of appeal. The clerk of the district court will electronically transmit certified copies of the notice of appeal and the notice of cross-appeal, if any, in the district court proceeding to the clerk of the supreme court, any court reporter who reported a proceeding that is the subject of the appeal, and the attorney general in juvenile cases and other cases in which the State is an interested party whether or not the attorney general has appeared in the district court. Transmission must be completed within 4 days after the filing of the notice of appeal or the notice of cross-appeal, if any.

6.802(2) Transmission of record on appeal.

a. Termination of parental rights and child in need of assistance proceedings under Iowa Code chapter 232. If the appeal is from a termination of parental rights or a child in need of assistance proceeding under Iowa Code chapter 232, the appellant must file a request with the clerk of the district court to transmit to the clerk of the supreme court any

remaining record within 30 days after the filing of the notice of appeal.

b. All other cases. No later than 14 days after all briefs have been filed or the time periods for filing them have expired, the appellant must file a request with the clerk of the district court to transmit the record to the clerk of the supreme court and file an informational copy with the clerk of the supreme court.

c. Nonelectronic documents or exhibits.

(1) Any nonelectronic document or exhibit that may reasonably be maintained electronically must be converted to an electronic document and transmitted to the clerk of the supreme court electronically.

(2) Physical media such as CDs, DVDs, or USB drives containing electronic documents or exhibits that cannot be maintained by EDMS must be transmitted to the clerk of the supreme court with the record. Nonelectronic exhibits of unusual bulk or weight will not be transmitted by the clerk of the district court unless a party or the clerk of the supreme court requests transmission. A party must make advance arrangements with the clerk of the district court for the transmission and the clerk of the supreme court for the receipt of exhibits of unusual bulk or weight.

6.802(3) *Request to transmit record in rule 6.1005 cases.* At the time of filing a motion to withdraw pursuant to rule 6.1005(3), counsel must file a request with the clerk of the district court to transmit the record to the clerk of the supreme court. *See rule 6.1005(5).*

6.802(4) *Certification of confidential record.* Whenever the clerk of the district court transmits a district court record or any portion of the record that is declared by any statute or rule of the supreme court to be confidential, the clerk of the district court must certify its confidential nature.

6.802(5) *Portions of record not transmitted.* Any parts of the record not transmitted to the clerk of the supreme court will, on request of an appellate court or any party, be transmitted by the clerk of the district court to the clerk of the supreme court.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.803 Transcripts.

6.803(1) *Ordering transcripts of district court proceedings.* It is the appellant's responsibility to ensure that the transcripts of any district court proceeding needed for resolution of the appeal are included in the record. If the appellant intends to argue on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the record on appeal must include a transcript of all evidence relevant to such finding or conclusion. Any relevant evidence presented before the district court in a reported or recorded proceeding that has not previously been both transcribed and filed in the district court record must be ordered in the combined certificate. *See rule 6.804.* If a transcript is needed from

a recorded hearing, the appellant must also file an application for a transcript of an electronically recorded court proceeding and appointment of a transcriptionist in the district court within 7 days of the filing of the notice of appeal.

Comment: Rule 6.803(1). A written transcript from an electronic recording of a court proceeding, when produced by a transcriptionist appointed by the court or district court administrator, is the official transcript of the court proceeding. An application for a transcript of an electronically recorded court proceeding and appointment of a transcriptionist may be found at the Iowa Judicial Branch website at: <https://www.iowacourts.gov/for-the-public/court-forms/>.

6.803(2) *Form of transcript.* The following transcript format requirements must be followed whether the transcript is produced in printed or electronic format.

a. Page layout. A page of transcript must consist of no fewer than 25 lines per page of type on document pages 8 1/2 by 11 inches in size. Margins must be 1 1/8 inches on each side and 1 inch on the top and bottom. Pages must be numbered consecutively in the upper right-hand corner. If the transcript for a proceeding consists of multiple volumes, the volumes must not be consecutively paginated.

b. Font. A monospaced typeface may not contain more than 10 characters per inch. Font size must be 12-point.

c. Question-and-answer form. Questions and answers must each begin a new line of transcript. Indentations for speakers or paragraphs may not be more than 10 spaces from the left-hand margin. Testimony of a new witness may be started on a new page where the prior witness's testimony ends below the center of the preceding page. On any page containing witness testimony, the name of the witness and the designation of questioning (direct, cross, etc.) must appear in the margin at the top of each page of testimony.

d. Index. Transcripts must include an index of witnesses and exhibits at the beginning of each volume of the transcript.

e. Condensed transcripts not permitted. Condensed transcripts, which include multiple pages of transcript on a single page, may not be submitted.

f. Format of electronic transcripts. Electronic transcripts must be prepared to be text searchable and comply with Iowa Rule of Electronic Procedure 16.402.

6.803(3) *Filing transcript and certificate of filing.*

a. The reporter will file the transcript with the clerk of the district court. The reporter will also prepare and file with the clerk of the supreme court a reporter's certificate of filing the transcript. The certificate must contain the case caption, the date the transcript was ordered, the name of the attorney or other person ordering the transcript, and the date it was filed

with the district court.

b. The transcript and the reporter's certificate of filing the transcript must be filed within the following number of days from service of the combined certificate:

(1) Guilty pleas and sentencing: 20 days.

(2) Child in need of assistance and termination of parental rights proceedings under chapter 232: 30 days.

(3) All other cases: 40 days.

c. If a reporter cannot file the transcript and certificate of filing the transcript in the time allowed under this rule, the reporter must file with the clerk of the supreme court an application for extension of time and serve a copy on all counsel of record, any unrepresented parties, and the chief judge of the judicial district. The application must include the estimated date of completion, the approximate page length of the transcript, and the grounds for requesting the extension.

6.803(4) *Charges for transcription.* Pursuant to Iowa Code section 602.3202, the maximum compensation of reporters for transcribing their official notes will be as provided in Iowa Court Rule 22.28.

6.803(5) *Payment for transcript.* The ordering party must make satisfactory arrangements with the reporter for payment of the transcript costs. The cost of the transcript will be taxed by court order in the district court.

6.803(6) *Issuance of briefing notice.* The clerk of the supreme court will issue a notice of briefing deadline when all transcripts ordered for the appeal have been filed.

[Court Order October 31, 2008, effective January 1, 2009; March 9, 2009; November 18, 2016, effective March 1, 2017; December 6, 2016, effective March 1, 2017]

Rule 6.804 Combined certificate.

6.804(1) *Duty of appellant to file combined certificate.* In all cases, the appellant must complete the combined certificate form found in rule 6.1401—Form 2: *Combined Certificate*. The combined certificate must be separately filed with both the clerk of the district court and the clerk of the supreme court within 7 days after filing the notice of appeal or appointment of new appellate counsel, whichever is later. The appellant must serve the combined certificate on each court reporter from whom a transcript was ordered. Service on a court reporter must be made by email, mail, fax, or hand-delivery. Iowa R. App. P. 6.702(4).

6.804(2) *Certification of ordering transcript.* If a report of the evidence or proceedings at a hearing or trial was made and is available and the appellant deems some or all of that report necessary for inclusion in the record on appeal, the appellant must certify in the combined certificate that the transcript has been ordered. This certification will be deemed a professional statement by the person signing it that the transcript has

been ordered in good faith, that no arrangements have been made or suggested to delay the preparation of the transcript, and that payment for the transcript will be made in accordance with these rules.

6.804(3) *Appellant's designation of parts of transcript ordered.* Unless all of the proceedings are to be transcribed, the appellant must describe in the combined certificate the parts of the proceedings ordered transcribed and state the issues the appellant intends to present on appeal.

6.804(4) *Statement that expedited deadlines apply.* The appellant must indicate in the combined certificate whether the expedited deadlines of rule 6.902 apply.[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.805 Appellee's designation of additional parts of transcript.

6.805(1) *Appellee's designation.* If the appellee deems a transcript of other parts of the proceedings is necessary, the appellee must separately file a designation of additional parts to be transcribed with both the clerk of the district court and the clerk of the supreme court and must serve the designation on each court reporter within 10 days after service of the combined certificate. The appellee may request permission to file a separate designation of additional parts to be transcribed beyond the 10-day period upon a showing of good cause for being unable to meet the 10-day requirement.

6.805(2) *Disputes regarding transcription.* The parties are encouraged to agree on which parts of the proceedings are to be transcribed. Any disputes concerning which parts of the proceedings are to be transcribed and which party is to advance payment to the reporter for transcription are to be submitted to the district court. If, within 4 days of the appellee's designation of additional parts, the appellant fails or refuses to order such parts, the appellee must either order the parts or apply to the district court to compel the appellant to do so.

6.805(3) *Supplemental certificate.* Within 7 days after the appellee has served a designation of additional parts of the proceedings requested to be transcribed, the party ordering the additional proceedings must use the supplemental certificate found in rule 6.1401—Form 3: *Supplemental Certificate* to order the additional proceedings transcribed, serve it on each court reporter, and file it with both the clerk of the district court and the clerk of the supreme court.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.806 Proceedings when the transcript is unavailable.

6.806(1) *Statement of the evidence or proceedings.* A statement of the evidence or proceedings may be prepared to create a record of a hearing or trial for which a transcript is unavailable if a party deems it necessary to complete the record on appeal. The statement must be prepared from the best available means, including the parties' recollection. The statement

must be filed with the clerk of the district court within 20 days after the filing of the notice of appeal or within 10 days after the party discovers the transcript of a proceeding is unavailable.

6.806(2) *Objections to statement of evidence or proceedings.* The opposing party may file with the clerk of the district court objections or proposed amendments to the statement of the evidence or proceedings within 10 days after service of the statement.

6.806(3) *District court approval of the statement of evidence or proceedings.* The statement of the evidence or proceedings and any objections or proposed amendments thereof must be submitted to the district court for settlement and approval. After considering the statement, any objections or proposed amendments, and its own recollections, the district court may conduct a hearing and compel any necessary persons to appear as witnesses, and may approve, reject, or revise the statement as it deems necessary to ensure the correctness and completeness of the record. The statement as settled and approved must be filed with the clerk of the district court and the clerk of the supreme court.

[Court Order October 31, 2008, effective January 1, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017]

Rule 6.807 Correction or modification of the record. If any difference arises as to whether the record truly discloses what occurred in the district court, commission, agency, or other tribunal, a request to settle the difference must be submitted to and resolved by that court, commission, agency or other tribunal and the record made to conform to the truth.

6.807(1) If that court, commission, agency, or other tribunal determines that anything a party deems necessary was omitted from the record by error or accident or is misstated, such error or omission must be corrected in the record on appeal. Such correction may be made by stipulation of the parties or by the district court, commission, agency, or other tribunal.

6.807(2) If the correction is made after the record has been transmitted to the supreme court, a supplemental record must be certified and transmitted.

6.807(3) A copy of any request to correct or modify the record must be filed with the clerk of the supreme court.

6.807(4) All other questions as to the form and content of the record must be presented to the supreme court, unless the questions arise after the case has been transferred to the court of appeals, in which event, they must be presented to that court.

[Court Order October 31, 2008, effective January 1, 2009; March 9, 2009]

Rules 6.808 to 6.900 Reserved.

DIVISION IX BRIEFS

Rule 6.901 Filing and service of briefs and amendments.

6.901(1) *Time for filing briefs.* Except for cases expedited under rule 6.902, the following filing deadlines apply:

a. Appellant's brief. The appellant's brief must be filed within 50 days after the date the clerk of the supreme court gives the notice of the briefing deadline required under rule 6.803(6).

b. Appellee's brief. Within 30 days after service of the appellant's brief, the appellee must file either a brief, a written statement under rule 6.903(3) waiving the brief, or a combined appellee's/cross-appellant's brief pursuant to rule 6.903(6).

c. Reply briefs. If a cross-appeal has not been filed, the appellant may file a reply brief within 21 days after service of the appellee's brief. If a cross-appeal has been filed, the appellant/cross-appellee must respond within 21 days after service of the appellee/cross-appellant's brief by filing either a reply brief or a statement waiving any further brief. If the appellant/cross-appellee files a reply brief, the appellee/cross-appellant may file a reply brief within 14 days after service of the appellant's/cross-appellee's reply brief.

6.901(2) *Request to modify roles and briefing schedule.* If the parties' interests differ from traditional appellant-appellee roles, a party may request the clerk of the supreme court to realign the parties or modify the briefing schedule.

6.901(3) *Notice to the attorney general.* When the constitutionality of an act of the general assembly is drawn into question in an appeal or other proceeding to which the State of Iowa or an officer, agency, or employee thereof is not a party in an official capacity, the party raising the constitutional issue must, within 3 days after filing the party's brief, provide the attorney general with written notice containing the supreme court case number, a reference to rule 6.901(3) identifying the act called into question, and the contact information of the attorney(s) of record. The notice to the attorney general may be provided by regular mail or as directed by the attorney general. An informational copy of the notice must be filed with the clerk of the supreme court within 3 days after the filing of the party's brief.

6.901(4) *Counsel's duty to serve brief on respondent committed under Iowa Code chapter 229A.* In addition to the service requirements of rule 6.702, appellate counsel for a respondent committed under Iowa Code chapter 229A must serve a copy of counsel's brief upon the respondent. Counsel must indicate such service in the certificate of service on the brief. The certificate of service must include the address at which the respondent was served.

6.901(5) *Pro se supplemental briefs by respondents committed under Iowa Code chapter 229A.*

a. Filing of supplemental brief.

(1) Any respondent committed under Iowa Code chapter 229A may

submit a pro se supplemental brief to the clerk of the supreme court within 15 days after service of the brief filed by respondent's counsel.

(2) Any pro se supplemental brief submitted beyond this period by a properly served respondent will not be considered by the court and no response by the State will be allowed.

(3) The pro se supplemental brief may not exceed more than one-half of the length limitations for a required brief specified in rule 6.903(1)(i) unless otherwise ordered by the court for good cause shown.

(4) A pro se supplemental brief may be filed by the pro se filer or by the pro se filer's counsel.

b. Pro se as appellant.

(1) If the respondent is the appellant, the State's brief must be filed within 30 days after service of the pro se supplemental brief, and the State must serve a copy of its brief upon the appellant.

(2) Within the time provided for the appellant's counsel to file a reply brief, the appellant may also file a pro se supplemental reply brief. The pro se supplemental reply brief may not exceed more than one-half of the length limitations for a reply brief specified in rule 6.903(1)(i) unless otherwise ordered by the court for good cause shown.

c. State as appellant. If the State is the appellant, the State must serve and file a reply brief, if any, within 21 days after service of the pro se supplemental brief.

d. Counsel's duty to ensure filing and service of supplemental briefs. Counsel for the respondent must ensure that pro se supplemental briefs have been electronically filed and ensure that service has been accomplished pursuant to rule 6.702.

6.901(6) *Other supplemental briefs.* If the appellate court concludes supplemental briefs from the parties will assist the court in deciding any issue in the case, it may file an order stating the issue or issues to be addressed, the length of such brief, and the schedule for filing them.

6.901(7) *Multiple adverse parties.* In the event of multiple appellants, the deadline to file a responding appellee's brief will run from the date of service of the last appellant's brief filed. In the event of multiple appellees, the deadline to file any reply brief will run from the date of service of the last timely served appellee's brief, the last statement waiving a brief, or the date of expiration of time for such service.

6.901(8) *Amendments.*

a. An appellant's opening brief may be amended once within 15 days after service of the brief, provided no brief has been served in response to it. The time for serving and filing of the appellee's brief will be measured from the date of service of the amendment to the appellant's brief.

b. An appellee's brief may be amended once within 10 days after service, provided no brief has been served in reply to it. The time for serving and

filing the appellant's reply brief will be measured from the date of service of the amendment to the appellee's brief.

c. A reply brief may be amended once within 7 days after it is served.

d. Any other amendments to the briefs may be made only with leave of the appropriate appellate court. An amendment may be conditionally filed with a motion for leave.

6.901(9) *Deadlines shortened by order.* The supreme court may shorten the periods for serving and filing briefs.

[Court Order October 31, 2008, effective January 1, 2009; March 9, 2009; November 18, 2016, effective March 1, 2017; July 20, 2017]

Rule 6.902 Cases involving expedited times for filing briefs.

6.902(1) *Expedited cases.* The following cases are expedited on appeal:

a. Child custody, physical care, or visitation.

b. Adoption.

c. Termination of parental rights proceedings under Iowa Code chapter 600A.

d. Child in need of assistance or termination of parental rights proceedings under Iowa Code chapter 232 when full briefing has been granted.

e. Criminal proceedings in which an appeal is taken from a judgment and sentence entered upon a guilty plea or from a sentence or resentencing order only.

f. Juvenile proceedings affecting child placement.

g. Lawyer disciplinary matters.

h. Involuntary commitments of mentally ill persons under Iowa Code chapter 229.

i. Involuntary commitments of persons with substance-related disorders under Iowa Code chapter 125.

j. Certified questions under Iowa Code chapter 684A.

6.902(2) *Filing deadlines.*

a. The time for serving and filing briefs, other than reply briefs, is reduced by one-half of the time provided in rule 6.901(1).

b. Reply briefs, except an appellee/cross-appellant's reply brief, must be served and filed not more than 15 days after service or expiration of the time for service of the appellee's brief.

c. An appellee/cross-appellant's reply brief must be served and filed not more than 7 days after service of the appellant's/cross-appellee's reply brief.

d. The court will not grant extensions of time in which to comply with the expedited deadlines except upon a showing of the most unusual and

compelling circumstances.

6.902(3) Priority. Each case subject to rule 6.902 will be given the highest priority at all stages of the appellate process. These appeals will be accorded submission precedence over other civil cases.

6.902(4) Transcripts. Court reporters must give priority to transcription of proceedings in these cases.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.903 Briefs.

6.903(1) Form of briefs.

a. Reproduction. A brief must show clear black text on a white background. A brief filed in paper may be reproduced by any process that yields a clear black image on white paper. The paper must be opaque and unglazed. Briefs filed in paper must comply with Iowa Rule Electronic Procedure 16.303.

b. Images. Charts, diagrams, graphs, photographs, or other images may be included in a brief; however, images depicting a person are not permitted without leave of the appellate court. Images that contain information considered confidential or protected by statute, rule, or court order may not be included in a brief. To the extent practicable, text in charts, diagrams, or graphs should follow the requirements in rule 6.903(1)(g).

c. Form of front covers. The front covers of briefs must contain:

(1) The name of the court, any district court number, and the appellate number of the case.

(2) The caption on appeal. See rule 6.152(2).

(3) The nature of the proceeding (e.g., appeal, certiorari) and the name of the court and judge, agency, or board whose decision is under review.

(4) The title of the document (e.g., Brief for Appellant).

(5) The name, address, telephone number, and email address of counsel or the self-represented party filing the brief.

d. Searchable .pdfs. Every brief must be filed as a searchable .pdf document.

e. Document size; line spacing; margins. The brief must be an 8 1/2 by 11 inch document. The text must be double-spaced, but quotations more than 50 words long may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins must be 1 inch on all sides.

f. Page numbering. Page numbers must be located at the bottom center of each page. The pages must be numbered consecutively using Arabic whole numbers. The cover page must be numbered as page one. Any blank pages must be numbered. Roman numerals may not be used as page numbers. Page numbers must match the digital page numbers of the electronic document.

g. Typeface. Either a proportionally spaced or a monospaced typeface may be used.

(1) A proportionally spaced typeface must include serifs, but sans-serif type may be used in headings and captions. A proportionally spaced typeface must be 14-point or larger for all text, including footnotes. Examples of proportionally spaced typeface with serifs that can be used in the body of a brief are Baskerville Old Face, Bookman Old Style, Cambria, Century Schoolbook, Garamond, Georgia, or Times New Roman.

(2) A monospaced typeface may not contain more than 10 1/2 characters per inch for all text, including footnotes. Examples of monospaced typeface that can be used in the body of a brief are Courier 12-point and Consolas 12-point.

h. Type styles. A brief must be set in a plain style. Italics or boldface may be used for emphasis. Case names must be italicized or underlined.

i. Length. The maximum length of a brief is determined by whether it is printed or handwritten.

(1) *Proportionally spaced typeface.* A brief using proportionally spaced typeface may contain no more than 13,000 words. A reply brief may contain no more than half of the type volume specified for a brief. Headings, footnotes, and quotations count toward the word limitation. Captions, tables of contents, tables of authorities, statements of the issues, signature blocks, and certificates do not count toward the word limitation.

(2) *Monospaced typeface.* A brief using a monospaced typeface it may contain no more than 1,300 lines of text. A reply brief may contain no more than half of the type volume specified for a brief. Headings, footnotes, and quotations count toward the line limitation. Captions, tables of contents, tables of authorities, statements of the issues, signature blocks, and certificates do not count toward the line limitation.

(3) *Handwritten briefs.* A that is handwritten may not exceed 50 pages. Reply briefs may not exceed 25 pages. Headings, footnotes, and quotations count toward the page limitation. Captions, tables of contents, tables of authorities, statements of the issues, signature blocks, and certificates do not count toward the page limitation.

(4) *Certificate of compliance.* A brief submitted under rule 6.903(1)(i)(1) or 6.903(2) must include a certificate of compliance using rule 6.1401—Form 7: *Certificate of Compliance with Typeface Requirements and Type-Volume Limitation for Briefs.*

j. Printing or duplicating taxed as costs. To the extent reasonable, the costs of printing or duplicating a brief may be taxed in the appellate court as costs. Reasonable printing or duplicating costs may not exceed actual costs or \$1 per page, whichever is lower, unless otherwise ordered by the appropriate appellate court. The costs of any printing or duplication not required by these rules may not be taxed as costs.

Comment: Rule 6.903(1)(b). Parties may include images useful to the appellate courts, such as boundary-dispute maps, accident-reconstruction diagrams, and particularly relevant photographs. Parties are discouraged from including or seeking leave to include gratuitous or inflammatory images, such as autopsy photos, photos depicting injuries or bodily fluids, and other images that unnecessarily invade the privacy of a party or other person.

6.903(2) *Appellant’s brief.*

a. Contents. The appellant’s brief must contain all of the following under appropriate headings and in the following order:

(1) *Table of contents.* A table of contents containing page references.

(2) *Table of authorities.* A table of authorities containing a list of cases alphabetically arranged, statutes, and other authorities cited with references to all pages of the brief where they are cited.

(3) *Statement of the issues presented for review.* A statement of the issues presented for review. Each issue must be numbered and stated separately in the same order as presented in the argument.

(4) *Routing statement.* A routing statement indicating whether the case should be retained by the supreme court or transferred to the court of appeals with reference to the applicable criteria in rule 6.1101.

(5) *Nature of the case.* The nature of the case is a brief statement indicating what the appellant is appealing, the type of case being appealed, and the disposition of the case in the district court. If a defendant appeals from a criminal conviction, the statement must include the crimes for which the defendant was convicted and the sentence imposed. All portions of the statement must be supported by appropriate references to the record in accordance with rule 6.904(4).

(6) *Statement of the facts.* A statement of the facts reciting the facts relevant to the issues presented for review. Each statement must be supported by specific references to the record in accordance with rules 6.904(4).

(7) *Jurisdictional statement.* In an appeal from a final judgment of sentence following a guilty plea, a jurisdictional statement is required that must include a concise statement that either (1) explains that the appellant pleaded guilty to a class “A” felony, or (2) demonstrates the grounds that establish “good cause” for purposes of Iowa Code section 814.6(1)(a)(3). The appellant must include citations to the authorities relied on to invoke the supreme court’s jurisdiction and references to the pertinent parts of the record in accordance with rule 6.904(4).

(8) *Argument section.* An argument section structured so that each issue raised on appeal is addressed in a separately numbered division. Each division must include all of the following in the following order:

1. A statement addressing how the issue was preserved for appellate review, with references to the places in the record where the issue was

raised and decided in the district court. Filing a notice of appeal does not preserve an issue for appeal, and citing to the notice does not satisfy this requirement.

2. A statement addressing the scope and standard of appellate review (e.g., *de novo*, correction of errors at law, abuse of discretion), citing relevant authority.

3. An argument containing the appellant's contentions and the reasons for them with citations to the authorities relied on and references to the pertinent parts of the record in accordance with rule 6.904(4). No authorities or argument may be incorporated into the brief by reference to another document. Failure to cite authority in support of an issue may be deemed waiver of that issue.

(9) *Conclusion*. A conclusion stating the precise relief being sought.

(10) *Request for oral or nonoral submission*. A request to submit the case with or without oral argument. The request may include a statement explaining why oral argument should or should not be granted.

(11) *Certificate of cost*. A certificate of cost is required only for briefs filed in paper form. The amount actually paid for printing or duplicating paper copies of briefs in final form required by these rules must be certified by the attorney.

b. Attachments.

(1) The appellant must attach to the brief a file-stamped copy of the written judgment(s), order(s), or decision(s) being appealed. Transcripts of oral rulings may not be attached to the brief; parties must cite to the relevant transcript of oral rulings in their brief pursuant to rule 6.904(4).

1. For appeals from administrative agency actions, the appellant must attach the written rulings from each stage of the agency proceeding in addition to the district court's final judgment, order, or decision.

2. For appeals in criminal cases, the appellant must attach the final judgment of sentence in addition to any specific written order(s) or decision(s) being appealed.

3. For appeals from a ruling on a motion for new trial under Iowa Rule of Civil Procedure 1.1004 or a motion under Iowa Rule of Civil Procedure 1.904(2), the appellant must attach both the judgment, order, or decision that was the subject of the motion and the written ruling on the motion.

4. Attachments containing protected information as defined in Iowa Rule of Civil Procedure 1.422(1) or Iowa Rule of Electronic Procedure 16.602 or a reproduction, quotation, or extensive paraphrase of material that contains protected information must be identified as "confidential" when attached via the EDMS electronic attachment function and must comply with the certificate of confidentiality provisions in rule 6.153(2)(a).

Comment: Rule 6.903(2)(a)(8)(3). Under rule 6.903(2)(a)(8)(3), an issue may be deemed waived by failure to cite applicable authority in support

of an argument. If a party intends to raise a state constitutional issue independent of a federal constitutional issue, ordinarily the party should make a separate argument supported by citation to authority to avoid waiving the issue under rule 6.903(2)(a)(8)(3).

6.903(3) *Appellee's brief.* The appellee must file a brief or a statement waiving the appellee's brief. If the appellee files a brief, the brief must conform to the requirements of rule 6.903(2), except that the nature of the case, statement of the facts, and jurisdictional statement for an appeal from a final judgment of sentence following a guilty plea pursuant to Iowa Code section 814.6(1)(a)(3) need not be included unless the appellee is dissatisfied with the appellant's statements. Each division of the appellee's argument must begin with a discussion of whether the appellee agrees with the appellant's statements on error preservation, scope of review, and standard of review.

6.903(4) *Appellant's reply brief.* The appellant may file a brief in reply to the brief of the appellee. Issues may not be asserted for the first time in the reply brief. The reply brief does not need to contain the sections required by rule 6.903(2)(a)(4)–(7), 6.903(2)(a)(8)(1)–(2), and 6.903(2)(a)(10). The reply brief must otherwise comply with rule 6.903(2)(a). Unless a cross-appeal is filed, no further briefs may be filed without leave of the appropriate appellate court.

6.903(5) *Briefs in cross-appeals.* The brief of the appellee/cross-appellant must respond to the brief of the appellant and then address the issues raised in the cross-appeal. The cross-appellant's brief must include the attachments required by rule 6.903(2)(b) unless the cross-appeal is from an order attached to the appellant's brief. The appellant/cross-appellee must file a reply brief responding to the issues presented by the cross-appeal or a statement waiving the reply brief. The appellee/cross-appellant may file a reply brief responding to the appellant/cross-appellee's reply brief, which must be limited to the cross-appeal and may not assert any issues for the first time.

6.903(6) *Multiple appellants or appellees.* In a case involving a cross-appeal, an appellee who has not filed a cross-appeal must file a brief that either responds to or waives response to the issues raised in the appellant's brief, and then addresses the issues raised in the cross-appeal. The appellant must then file either a brief that addresses the appeal or cross-appeal issues, or a statement waiving any responsive brief. If the appellant files a brief that addresses the cross-appeal issues, the appellee may file a reply brief limited to those issues.

[Court Order October 31, 2008, effective January 1, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017]

Rule 6.904 References in briefs.

6.904(1) *To the parties.* Briefs should minimize references to parties by such designations as “appellant” and “appellee” and should use the actual names of the parties or descriptive terms such as “the plaintiff,” “the defendant,” “the employee,” “the injured person,” “the taxpayer,” or “the

decedent.”

6.904(2) To legal authorities.

a. Cases.

(1) When citing cases, parties must use a Bluebook-type citation format that includes the parties’ names, the volume and page number of the national reporter, a pin cite to the specific page of the opinion supporting the proposition for which the case is cited, the court issuing the decision, and the year it was filed. Citations to Iowa cases must be to the North Western Reporter unless not reported therein, in which case the citation must be to the official reporter. E.g., ___ N.W.2d ___, ___ (Iowa ___); ___ N.W.2d ___, ___ (Iowa Ct. App. ___); ___ U.S. ___, ___(___).

(2) *Unpublished opinions or decisions.* Unpublished opinions or decisions of a court or agency do not constitute controlling legal authority, but they may be cited as providing persuasive reasoning.

1. When citing an unpublished opinion or decision, a party must use a Bluebook-type citation format and include the docket number and a citation to a readily accessible electronic database, such as Westlaw or LexisNexis, if available. E.g., *Smith v. Smith*, No. _____, ___ WL _____, at *___ (Iowa Ct. App. ___ __, ___).

2. If a party cites an unpublished opinion or decision that is not available in a readily accessible electronic database, such as Westlaw or LexisNexis, the party must file and serve as an attachment a copy of that opinion or decision with the brief or other paper in which it is cited. Iowa R. Elec. P. 16.311.

b. Iowa Court Rules. When citing the Iowa Court Rules, parties must use the following references:

(1) “Iowa R. Civ. P.”; “Iowa R. Crim. P.”; “Iowa R. Evid.”; “Iowa R. App. P.”; “Iowa R. Remote P.”; “Iowa R. Elec. P.”; “Iowa R. of Prof’l Conduct”; and “Iowa Code of Judicial Conduct” when citing those rules.

(2) “Iowa Ct. R.” when citing all other rules.

c. Other authorities. When citing other authorities, parties must use a Bluebook-type citation format. References must be made as follows:

(1) Citations to codes must include the section number and date.

(2) Citations to treatises, textbooks, and encyclopedias must include the edition and the section or page number as applicable.

(3) Citations to all other authorities must include page numbers.

d. Internal cross-references. Use of “supra” and “infra” is not permitted.

6.904(3) To legal propositions. The following propositions are deemed so well established that authorities need not be cited in support of them:

a. Findings of fact in a law action are binding upon the appellate court if supported by substantial evidence.

b. In considering the propriety of a motion for directed verdict, the court views the evidence in the light most favorable to the party against whom the motion was made.

c. In ruling upon motions for new trial, the district court has a broad but not unlimited discretion in determining whether the verdict effectuates substantial justice between the parties.

d. The court is less likely to interfere with the grant of a new trial than with its denial.

e. Ordinarily, the burden of proof on an issue is upon the party who would suffer loss if the issue were not established.

f. In civil cases, the burden of proof is measured by the test of preponderance of the evidence.

g. In equity cases, especially when considering the credibility of witnesses, the appellate court gives weight to the fact-findings of the district court, but is not bound by them.

h. The party who so alleges must, unless otherwise provided by statute, prove negligence by a preponderance of the evidence.

i. A motorist upon a public highway has a right to assume that others using the road will obey the law, including statutes, rules of the road, and necessity for due care, at least until the motorist knows or in the exercise of due care should have known otherwise.

j. Generally questions of negligence and contributory negligence are for the jury; it is only in exceptional cases that they may be decided as matters of law.

k. Reformation of written instruments may be granted only upon clear, satisfactory, and convincing evidence of fraud, deceit, duress, or mutual mistake.

l. Written instruments affecting real estate may be set aside only upon evidence that is clear, satisfactory, and convincing.

m. In construing statutes, the court searches for the legislative intent as shown by what the legislature said, rather than what it should or might have said.

n. In child custody cases, the first and governing consideration of the courts is the best interests of the child.

o. Direct evidence and circumstantial evidence are equally probative.

p. Even when the facts are not in dispute or contradicted, if reasonable minds might draw different inferences from them a jury question is engendered.

6.904(4) *To the record.*

a. Record citations in briefs.

(1) *Citation format.* Briefs must contain a citation to the record for each

material statement of fact and case proceeding that identifies the particular part of the record by docket number, title of document (intelligible abbreviations may be used), reference to the specific pages of the record including the original page and line numbers for citations to a transcript, and the filing date. E.g., D0023, M. New Trial at 5 (5/26/2020).

(2) *Multiple district court cases.* In an appeal involving review of more than one district court docket, the citation to the record must also include the district court docket number. E.g., D0002 (CVCV307586), M.S.J. at 7 (5/26/2020).

(3) *District court attachments to filings.* If an attachment to a document does not have its own docket number, a citation to the attachment must refer to the docket number of the document in addition to the title of the attachment. E.g., Attachment to D0543, Exh. 3 at 5 (3/31/2007).

b. Abbreviations. Subsequent citations to the same filing from the district court may be abbreviated by reference to the docket number and the corresponding page number. E.g., D0307 at 5.

6.904(5) *Hyperlinks and other electronic navigational aids.* Hyperlinks and other electronic navigational aids may be included in an electronically filed document as an aid to the court and the parties subject to the limitations of Iowa Rule of Electronic Procedure 16.312. A party may not use hyperlinks or other navigational aids to circumvent any page limitations set by these rules.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.905 Reserved.

Comment: Former rule 6.905. The appendix process has been eliminated and has been replaced with the requirement to attach to the appellant's brief the orders and judgments being appealed as provided in rule 6.903(2)(b).

In exceptional cases, if a party believes that an appendix will assist the reviewing court, then that party may file a motion seeking leave of court to file an appendix. The motion must comply with rule 6.1001 and state the reasons leave of court is being requested. If granted, the requesting party may file an appendix with the brief.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.906 Brief of amicus curiae.

6.906(1) *Appeal.*

a. An amicus curiae brief may be filed only by leave of the appropriate appellate court granted on motion, at the request of the appropriate appellate court, or when accompanied by the written consent of all parties. The United States and Iowa Attorney General may file an amicus curiae brief without leave of the appellate court or consent of the parties.

b. A motion for leave must identify the interest of the applicant and state

the reasons an amicus curiae brief would assist the court in resolving issues preserved for appellate review in the case.

c. The brief may be conditionally filed with a motion for leave. The brief may not be included as an attachment to the motion but must be filed as a separate document.

d. An amicus curiae brief must be filed no later than 7 days after the brief of the party to be supported is filed, or if in support of no party, no later than 7 days after the appellant's brief. The appropriate appellate court may extend the deadline for the brief only upon an affirmative showing of good cause, specifying the period within which an opposing party may respond.

e. Amicus curiae who wish to participate in oral argument must file a motion requesting leave to participate with the appropriate appellate court within 30 days after filing of the brief. The motion must state whether counsel for the party with whom the amicus curiae is aligned has agreed to share oral argument time, and if there is no such agreement or if the amicus curiae is not aligned with a party, the motion must state with particularity the reasons why the amicus curiae should be given oral argument time and the amount of time requested.

6.906(2) *Further review.*

a. Amicus curiae briefs may not be filed in support of, or in resistance to, an application for further review of a decision of the court of appeals.

b. If the supreme court grants further review, an amicus curiae brief may be filed upon leave of the supreme court granted on motion, at the request of the supreme court, or when accompanied by the written consent of all parties. The United States and Iowa Attorney General may file an amicus curiae brief without leave of the appellate court or consent of the parties.

c. A motion for leave to file an amicus curiae brief must be filed within 30 days of the supreme court's order granting further review, and no response to the motion will be allowed unless requested by the court. The motion must identify the interest of the applicant, state the reasons an amicus curiae brief would assist the court in resolving issues preserved for appellate review in the case, and be accompanied by the proposed amicus curiae brief. The brief may not be included as an attachment to the motion but must be filed as a separate document.

d. An amicus brief not requiring leave of court must be filed within 30 days of the supreme court's order granting further review.

e. Parties may file a response to the amicus curiae brief within 15 days of the court's order granting the motion, or within 15 days of the filing of an amicus curiae brief by the United States or the Iowa Attorney General.

f. Amicus curiae who wish to participate in oral argument must file a motion requesting leave to participate with the supreme court at the time of the filing of the brief or, if a brief has already been filed under 6.906(1), within 14 days of the order granting further review. The motion must state

whether counsel for the party with whom the amicus curiae is aligned has agreed to share oral argument time, and if there is no such agreement or if the amicus curiae is not aligned with a party, the motion must state with particularity the reasons why the amicus curiae should be given oral argument time and the amount of time requested.

g. The deadlines for filing of an amicus brief under rule 6.906(2) will not delay submission of the case on further review.

6.906(3) *Rehearing.* Amicus curiae briefs may not be filed in support of, or in resistance to, a petition for rehearing of an opinion of the court of appeals or the supreme court.

6.906(4) *Form of amicus curiae brief.* An amicus curiae brief may not exceed more than one-half of the length limitations for a required brief specified in rule 6.903(1)(i). An amicus curiae brief must comply with the format requirements of rule 6.903(1). An amicus curiae brief need not comply with rules 6.903(2) and 6.903(3) but must include all of the following:

a. A table of contents with page references.

b. A table of authorities containing cases alphabetically arranged, statutes, and other authorities cited, with references to all pages of the brief where they are cited.

c. A concise statement of the identity of the amicus curiae and the interest in the case.

d. A statement that indicates whether a party's counsel authored the brief in whole or in part, indicates whether a party or party's counsel contributed money to fund the preparation or submission of the brief, and identifies any other person who contributed money to fund the preparation or submission of the brief.

e. An argument.

f. A certificate of compliance, if required by rule 6.903(1)(i)(4).

6.906(5) *Criteria for allowing amicus curiae brief.* An appellate court has broad discretion in determining whether to allow an amicus curiae brief. The court will base its decision on whether the brief will assist the court in resolving the issues preserved for appellate review in the case. In reaching its decision, the court will consider various factors, including those set forth below.

a. The court will ordinarily grant a motion for leave to file an amicus curiae brief if any of the following factors is present:

(1) The proposed amicus brief supports the position of an unrepresented party or party who has not received adequate representation.

(2) The proposed amicus curiae has a direct interest in another case that may be materially affected by the outcome of the present case.

(3) The proposed amicus curiae has a unique perspective or information

that will assist the court in assessing the ramifications of any decision rendered in the present case.

b. The court will ordinarily deny a motion for leave to file an amicus curiae brief if any of the following factors is present:

(1) The proposed amicus curiae brief will merely reiterate the arguments of the party whose position the brief supports.

(2) The proposed amicus curiae brief appears to be an attempt to expand the number of briefing pages available to the party whose position the brief supports.

(3) The proposed amicus curiae brief attempts to raise issues that were not preserved for appellate review.

(4) The proposed amicus curiae brief would place an undue burden on the opposing party.

c. The court may also strike an amicus curiae brief filed with the consent of all parties if it appears the brief would not be allowed under the criteria of rule 6.906(5).

[Court Order October 31, 2008, effective January 1, 2009; November 19, 2016, effective March 1, 2017; July 20, 2017]

Rule 6.907 Scope of review. In equity cases review is de novo. In all other cases the appellate courts constitute courts for correction of errors at law. Findings of fact in jury-waived cases have the effect of a special verdict.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.908 Oral and nonoral submission; notice of additional authorities.

6.908(1) Requests for oral argument. A party requesting oral argument must do so in the party's brief as provided in rule 6.903(2)(a)(10). Oral argument will ordinarily not be granted if it is not requested in the brief except by order of the appropriate appellate court.

6.908(2) Denial of oral argument. The appropriate appellate court will deny a request for oral argument if oral argument is unlikely to be of assistance to the court.

6.908(3) Grant of oral argument. If oral argument is granted, the court will set the time allotted for oral argument and notify the parties. Oral argument may be conducted in person, by video conference, by telephone, or a combination thereof at the appropriate appellate court's discretion.

6.908(4) Issues raised but not argued. Issues properly raised in the briefs will not be waived as a consequence of failing to address them during oral argument.

6.908(5) Additional authorities. After briefs are filed, a party may file a notice of additional authorities not cited in the briefs. The notice must include a citation for each additional authority. A concise parenthetical accompanying each citation explaining the relevance of the additional

authority may be included. No further argument may be included in the notice. If the case is set for oral argument, the party must ensure that all opposing parties are served with the notice at least 7 days in advance of oral argument unless the authorities were not in existence prior to that time.

6.908(6) *Use of exhibits and demonstrative aids during oral argument.* If a party intends to display exhibits or any other demonstrative aids during oral argument, the party must ensure that all opposing parties are served a copy of the exhibit or aid no later than 7 days prior to the oral argument. No such exhibit or aid may be used in oral argument unless a sufficient number of copies for the court is given to the bailiff when a party checks in for oral argument and it is practical to do so.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rules 6.909 to 6.1000 Reserved.

DIVISION X

WRITS, MOTIONS, AND OTHER DOCUMENTS

Rule 6.1001 Writs and process.

6.1001(1) *Writs and process, supreme court.* The supreme court will issue all writs and process necessary for the exercise and enforcement of its appellate jurisdiction and in furtherance of its supervisory and administrative control over all lower courts and judicial officers. The supreme court may enforce its mandates by fine and imprisonment, and imprisonment may be continued until the mandate is obeyed.

6.1001(2) *Writs and process; court of appeals.* The court of appeals will issue writs and other process necessary for the exercise and enforcement of its jurisdiction, but only in cases that have been transferred to the court of appeals by the supreme court.

6.1001(3) *Resistance and consideration.* Any request for relief under rule 6.1001 may be resisted, and the court will be consider it in the same manner as rule 6.1002 provides for motions.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1002 Motions.

6.1002(1) *Motions in supreme court and court of appeals.* All motions and supporting documents on appeal must be filed with the clerk of the supreme court as provided in rule 6.701 and served as provided in rule 6.702. A motion must:

a. Prominently display beneath the title of the motion the date of any impending hearing, trial, or matter needing immediate attention of the court. If the filing requires expedited consideration, the filing party must state the circumstances in the special filing instructions to the clerk of the supreme court on the electronic cover sheet, *see* Iowa R. Elec. P. 16.306(1), including the date of any impending district court trial or hearing.

b. Include any materials required by a specific provision of these rules governing such motion.

c. Be accompanied by a copy of any ruling from which a party seeks appellate review.

d. State with particularity the grounds on which it is based, including citations to relevant authorities.

e. Set forth the order or precise relief sought.

f. Be supported by other relevant portions of the record. The supporting documents to a motion must be electronically attached to the motion. See Iowa R. Elec. P. 16.311. Such attachments may not exceed 25 pages unless otherwise ordered by the appellate court. Any application for the inclusion of attachments exceeding the 25-page limit may not include such attachments.

6.1002(2) *Resistance; reply to resistance.* All resistances, replies, and any supporting documents must be filed with the clerk of the supreme court as provided in rule 6.701 and served as provided in rule 6.702. Unless the appropriate appellate court orders otherwise, any party may file a resistance to a motion within 14 days after service of the motion. A reply to the resistance may be filed within 3 days after the service of the resistance. However, the appropriate appellate court may act upon the motion prior to the expiration of the time to file a reply to the resistance. A resistance or a reply to the resistance may be supported by other relevant portions of the record, but such attachments may not exceed 25 pages unless otherwise ordered by an appellate court. Any application for the inclusion of attachments exceeding the 25-page limitation may not include such attachments.

6.1002(3) *Additional filings; hearings.* The court may require additional filings and may set any motion for hearing.

6.1002(4) *Motions for procedural or temporary orders.* Notwithstanding rule 6.1002(2), motions for procedural orders, including any motion under rule 6.1003(2), and motions for temporary orders in which it appears that rights would be lost or greatly impaired by delay, may be ruled upon at any time without awaiting a resistance. Any party adversely affected by such ruling may request review of the ruling within 10 days.

6.1002(5) *Authority of a single justice or senior judge of supreme court to entertain motions.*

a. In addition to any authority expressly conferred by rule or by statute, a single justice or senior judge of the supreme court may entertain any motion in an appeal or original proceeding in the supreme court and grant or deny any relief that may properly be sought by motion, except that a single justice or senior judge of the supreme court may not dismiss, affirm, reverse, or otherwise resolve an appeal or original proceeding.

b. An order entered by a single justice or senior judge of the supreme court may be reviewed by a quorum of the supreme court upon motion of

an adversely affected party filed within 10 days after the date of filing of the challenged order or upon the court's own motion.

6.1002(6) *Authority of court of appeals and its judges to entertain motions.*

a. The court of appeals and its judges may entertain motions only in appeals that the supreme court has transferred to that court. In such appeals, a single judge or senior judge of the court of appeals may entertain any motion and grant or deny any relief that may properly be sought by motion, except that a single judge may not dismiss, affirm, reverse, or otherwise resolve an appeal.

b. An order entered by a single judge or senior judge of the court of appeals may be reviewed by a quorum of the court of appeals upon motion of an adversely affected party filed within 10 days after the date of filing of the challenged order or upon the court's own motion.

6.1002(7) *Authority of the clerk of the supreme court to entertain motions for procedural orders.*

a. The clerk of the supreme court is authorized, subject to the control and direction of the supreme court, to take appropriate action for the supreme court on motions for procedural orders upon which the court, pursuant to rule 6.1002(4), could rule without awaiting a resistance. The clerk may grant a motion only for good cause shown and when the prejudice to the nonmoving party is not great. Good cause for an extension includes, but is not limited to, illness of counsel, unavailability of counsel due to unusual and compelling circumstances, unavailability of a necessary transcript or other portion of the record due to circumstances beyond the control of counsel, or a reasonably good possibility of settlement within the time as extended.

b. An order of the clerk of the supreme court entered pursuant to rule 6.1002(7) may be reviewed by the appropriate appellate court upon motion of an adversely affected party filed within 10 days after the date of filing of the challenged order or upon the court's own motion.

6.1002(8) *Authority of the clerk of the supreme court to set motions for consideration.* The clerk of the supreme court is authorized, subject to the control and direction of the supreme court, to set any motion pending in the supreme court for consideration and set the time allowed for resistance to the motion.

6.1002(9) *Filing deadlines not extended.* The filing of a motion will not stay a filing deadline unless otherwise provided by these rules or order of the appropriate appellate court.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.1003 Motions to shorten or extend deadlines.

6.1003(1) *Jurisdictional deadlines.*

a. Notices of appeal. The supreme court may not extend the deadline for

filing a notice of appeal except as provided in rule 6.101(5).

b. Applications for interlocutory appeal. The supreme court may not extend the deadline for filing an application for interlocutory appeal except as provided in rule 6.104(1)(b)(3).

c. Applications for discretionary review. The supreme court may not extend the deadline for filing an application for discretionary review except as provided in rule 6.106(1)(b).

d. Petitions for writ of certiorari. The supreme court may not extend the deadline for filing a petition for writ of certiorari except as provided in rule 6.107(1)(b).

e. Applications for further review. The court of appeals may not extend the deadline for filing an application for further review except as provided in Iowa Code section 602.4102(5). The supreme court may not extend the deadline for filing an application for further review.

6.1003(2) All other deadlines. The appropriate appellate court may upon its own motion or upon motion of a party for good cause shorten or extend a nonjurisdictional deadline set by these rules or by an order of the court. In cases where the expedited deadlines of rule 6.902 apply, the motion must so state. Good cause for an extension includes, but is not limited to, illness of counsel, unavailability of counsel due to unusual and compelling circumstances, unavailability of a necessary transcript or other portion of the record due to circumstances beyond the control of counsel, or a reasonably good possibility of settlement within the time as extended. [Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1004 Limited remands. The appropriate appellate court may on its own motion or on motion of a party remand a pending appeal to the district court, which will have jurisdiction to proceed as the appellate court directs. Jurisdiction of the appeal otherwise remains with the remanding appellate court. A motion for limited remand must be filed as soon as the grounds for the motion become apparent. [Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1005 Frivolous appeals; withdrawal of counsel.

6.1005(1) Applicability. The procedures in this rule apply when court-appointed counsel moves to withdraw on the grounds that the appeal is frivolous or good cause cannot be established for an appeal from a guilty plea to a crime other than a class “A” felony pursuant to Iowa Code section 814.6(1)(a)(3). These withdrawal procedures cannot be used in termination of parental rights or child in need of assistance appeals under Iowa Code chapter 232, in direct criminal appeals following a trial, or in appeals from the denial of an application for postconviction relief following a reported evidentiary hearing on that application, unless the application was ultimately denied based upon the statute of limitations, law of the case, or res judicata principles.

6.1005(2) Motion to withdraw from direct appeal of guilty plea to a crime

other than a class “A” felony subject to Iowa Code section 814.6(1)(a)(3) for lack of good cause. If, after a diligent investigation of the entire record, the appellant’s counsel is convinced the appellant cannot make an argument establishing good cause to appeal from a guilty plea to a crime other than a class “A” felony to satisfy the requirements of Iowa Code section 814.6(1)(a)(3), counsel may file a motion to withdraw. The motion must be accompanied by the following:

a. A brief that explains why good cause cannot be established.

(1) The brief must, at a minimum, discuss with proper citation to the record:

1. Whether the appellant was adequately advised of the right to file a motion in arrest of judgment and whether the appellant waived that right.

2. Whether the sentencing proceedings substantially complied with the rules of criminal procedure.

3. Whether the appellant received a sentence that was mandatory or agreed to as part of a plea bargain.

4. Whether the State complied with its obligations under any plea agreement.

5. Whether the sentence was authorized by the Iowa Code, caselaw, or the rules of criminal procedure. The brief must contain specific citations to the sections of the Iowa Code, the Iowa Court Rules, and caselaw that are applicable to the determination of whether the sentence imposed was within the statutory limits and compare those sections to the sentence imposed.

(2) The brief must also address any other issues that might arguably establish good cause.

(3) Counsel on direct appeal from a criminal proceeding is not required to review potential claims of ineffective assistance of counsel. *See* Iowa Code § 814.7.

b. A copy of the rule 6.1005(6) notice.

c. A certificate showing service of the motion, brief, and notice upon the client.

6.1005(3) *Motion to withdraw from all other cases.* In all other applicable circumstances, if, after a diligent investigation of the entire record, court-appointed counsel is convinced the appeal is frivolous and that counsel cannot, in good conscience, proceed with the appeal, counsel may file a motion to withdraw. The motion must be accompanied by:

a. A brief referring to anything in the record that might arguably support the appeal.

(1) If the appeal is from a guilty plea to a class “A” felony or sentence, the brief must, at a minimum, address with proper citation to the record:

1. Whether a factual basis existed for each and every element of the

crime, whether the plea and sentencing proceedings substantially complied with the rules of criminal procedure.

2. Whether the State complied with its obligations under any plea agreement.

3. Whether the sentence was authorized by the Iowa Code, caselaw, or the rules of criminal procedure. The brief must contain specific citations to the sections of the Iowa Code and the Iowa Court Rules that are applicable to the determination of whether the sentence imposed was within the statutory limits and compare those sections to the sentence imposed.

(2) The brief must also contain citations to the record establishing each of the elements of the crime and establishing compliance with the rules of criminal procedure and the Iowa Code.

(3) Counsel on direct appeal from a criminal proceeding is not required to review potential claims of ineffective assistance of counsel. *See* Iowa Code § 814.7.

b. A copy of the rule 6.1005(6) notice.

c. A certificate showing service of the motion, brief, and notice upon the client.

6.1005(4) *Format of motion and brief.* A motion and brief filed pursuant to rule 6.1005 must be in the form specified in rule 6.1007, and must contain citations to authorities relied on and references to the pertinent parts of the record.

6.1005(5) *Request to transmit record.* At the time of filing the motion to withdraw under rule 6.1005(3), counsel must file a request with the clerk of the district court to transmit the record to the clerk of the supreme court.

6.1005(6) *Written notice to client.* Counsel must notify the client in writing of counsel's conclusion that good cause cannot be established under rule 6.1005(2) or that the appeal is frivolous under rule 6.1005(3) and that counsel is filing a motion to withdraw. The notice must be accompanied by a copy of counsel's motion and brief. The notice must advise the client that:

a. If the client agrees with counsel's decision and does not desire to proceed with the appeal, the client must within 30 days from service of the motion and brief clearly and expressly communicate such desire, in writing, to the supreme court.

b. If the client desires to proceed with the appeal, the client must within 30 days communicate that fact to the supreme court, raising any issues the client wants to pursue.

c. If the client fails to file a response to counsel's assertion that the appeal is frivolous under section 6.1005(3) with the supreme court, such failure could result in the waiver of the client's claims in any subsequent

postconviction-relief action.

6.1005(7) *Dismissal upon client's agreement.* When a client communicates to the court the client's agreement with counsel's decision, the appeal will be promptly dismissed.

6.1005(8) *Supreme court review.*

a. In considering a rule 6.1005(2) motion to withdraw from an appeal of a guilty plea to a crime other than a class "A" felony subject to Iowa Code section 814.6(1)(a)(3) for lack of good cause, if the supreme court finds the appeal lacks good cause, it will grant counsel's motion to withdraw and dismiss the appeal for lack of appellate jurisdiction. If, however, the supreme court finds good cause exists or arguably exists, it will deny counsel's motion and may remand the matter to the district court for appointment of new counsel.

b. In considering a rule 6.1005 (3) motion to withdraw from a frivolous appeal in all other cases, the supreme court will, after a full examination of the record, decide whether the appeal is wholly frivolous. If it finds the appeal is frivolous, it may grant counsel's motion to withdraw and dismiss the appeal. If, however, the supreme court finds the legal points to be arguable on their merits and therefore not frivolous, it will deny counsel's motion and may remand the matter to the district court for appointment of new counsel.

6.1005(9) *Extension of times.* The filing of a motion to withdraw pursuant to rule 6.1005 will extend the times for further proceedings on appeal until the court rules on the motion.

[Court Order October 31, 2008, effective January 1, 2009; May 21, 2012; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017]

Rule 6.1006 Motions to dismiss, affirm, or reverse.

6.1006(1) *Motions to dismiss.*

a. Contents and time for filing.

(1) An appellee may file a motion to dismiss an appeal based upon the appellant's failure to comply with an appellate filing deadline established by an appellate rule or court order, the appellant's filing of a document that fails to substantially comply with the appellate rules or a court order, or an allegation that the appropriate appellate court lacks jurisdiction or authority to address the case.

(2) The motion must state with particularity the grounds justifying dismissal and, if applicable, must specify the prejudice to the appellee's interests.

(3) The motion must comply with the requirements of rule 6.1002(1).

(4) A motion to dismiss should ordinarily be filed within a reasonable time after the grounds supporting the motion become apparent.

(5) Except for instances in which the court allegedly lacks jurisdiction or

authority over the case, the motion to dismiss should be used sparingly.

(6) A motion to dismiss will usually be granted only if the alleged infractions are repeated or significant and have resulted in prejudice to another party or the administration of justice.

b. Ruling. The appropriate appellate court may rule on the motion to dismiss or may order the motion submitted with the appeal. One justice, judge, or senior judge may order submission with the appeal or deny, but only a quorum of the appropriate appellate court may grant, a motion to dismiss. An order dismissing an appeal for failure to prosecute must direct the clerk of the supreme court to forward certified copies of the docket and the order of dismissal to the Iowa Supreme Court Attorney Disciplinary Board unless the appellant was unrepresented. If counsel was court appointed, the clerk must also forward certified copies of those documents to the State Public Defender.

c. Motions to reinstate appeal. Within 10 days after issuance of the dismissal order an appellant may file a motion to reinstate an appeal dismissed under this rule. The motion must set forth the grounds for reinstatement and may be resisted. The appropriate appellate court may, in its discretion, and must upon a showing that such dismissal was the result of oversight, mistake, or other reasonable cause, reinstate the appeal. One justice, judge, or senior judge may deny, but only a quorum of the appropriate appellate court may grant, a motion to reinstate an appeal.

6.1006(2) *Motions to affirm.* The appellee may file a motion with the appropriate appellate court to affirm the order or judgment on appeal on the ground that the issues raised by the appeal are frivolous. The motion should ordinarily be served and filed within the time provided for service of the appellee's brief. However, if the motion is based on an allegation that the result in the case is controlled by an indistinguishable recently published decision of an appellate court, the motion may be filed when the grounds for affirmance become apparent. The appellee may not file a motion to affirm prior to the filing of appellant's brief. The motion must comply with the requirements of rule 6.1002(1). One justice, judge, or senior judge may deny, but only a quorum of the appropriate appellate court may grant, a motion to affirm.

6.1006(3) *Motions to reverse.* Any party may file a motion with the appropriate appellate court to summarily reverse the order or judgment on appeal on the grounds the result is controlled by an indistinguishable recently published decision of an appellate court or where error has been confessed. The motion must comply with the requirements of rule 6.1002(1). One justice, judge, or senior judge may overrule, but only a quorum of the appropriate appellate court may sustain, a motion to reverse.

6.1006(4) *Excluding time.* The time between the service of a motion to dismiss, affirm, or reverse and an order overruling the motion or ordering its submission with the appeal will be excluded in measuring the time

within which subsequent acts required by these rules must be done.
[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.1007 Format and contents of motions and other filings.

6.1007(1) *Format.* Motions and other related filings must show clear black text or images on a white background on an 8 1/2 by 11 inch document. If filed in paper, they may be reproduced by any process that yields a clear black image on white paper. The paper must be opaque and unglazed. Unless handwritten, the text must be double-spaced, but quotations more than 50 words long may be indented and single-spaced. Margins must be one inch on all sides. Page numbers must be located at the bottom center of each page. Typeface must conform to rule 6.903(1)(g). Paper filings must comply with Iowa Rule of Electronic Procedure 16.303.

6.1007(2) *Contents.* A motion or other similar filing addressed to an appellate court must contain a caption setting forth the name of the court, the title of the case, the file number, a brief descriptive title indicating the purpose of the filing, and the name, address, telephone number, and email address of counsel or self-represented party.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rules 6.1008 to 6.1100 Reserved.

DIVISION XI

TRANSFER, SUBMISSION, AND FURTHER REVIEW

Rule 6.1101 Transfer of cases to the court of appeals.

6.1101(1) *Transfer.* The supreme court may by order, on its own motion, transfer to the court of appeals for decision any case filed in the supreme court except a case in which the Iowa Constitution or statutes grant exclusive jurisdiction to the supreme court.

6.1101(2) *Criteria for retention.* The supreme court ordinarily will retain the following types of cases:

a. Cases presenting substantial constitutional questions as to the validity of a statute, ordinance, or court or administrative rule.

b. Cases presenting substantial issues in which there appears to be a conflict between a published decision of the court of appeals or supreme court.

c. Cases presenting substantial issues of first impression.

d. Cases presenting fundamental and urgent issues of broad public importance requiring prompt or ultimate determination by the supreme court.

e. Cases involving lawyer discipline.

f. Cases presenting substantial questions of enunciating or changing

legal principles.

6.1101(3) *Criteria for transfer.* The supreme court ordinarily will transfer to the court of appeals the following types of cases:

a. Cases presenting the application of existing legal principles.

b. Cases presenting issues that are appropriate for summary disposition.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1102 Order of submission and transfer.

6.1102(1) *Submission.* Appeals will be submitted to the supreme court or transferred to the court of appeals substantially in the order they are made ready for submission except when earlier submission is mandated by statute, rule, or order of the supreme court.

6.1102(2) *Early submission or transfer.* If an appeal involves questions of public importance or rights that are likely to be lost or greatly impaired by delay, the supreme court may upon the motion of a party or on the court's own motion order the submission or transfer of the case in advance of the time at which it would otherwise be submitted or transferred.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1103 Application to the supreme court for further review of a court of appeals decision.

6.1103(1) *Application for further review.*

a. Time for filing.

(1) An application for further review in an appeal from an Iowa Code chapter 232 child in need of assistance or termination of parental rights proceeding must be filed within 10 days following the filing of the court of appeals decision.

(2) In all other cases, an application for further review must be filed within 20 days following the filing of the court of appeals decision.

(3) The court of appeals must extend the time for filing an application if the court determines that a failure to timely file an application was due to the clerk of the supreme court's failure to notify the prospective applicant of the filing of the decision.

b. Grounds. Further review by the supreme court is not a matter of right, but of judicial discretion. An application for further review will not be granted in normal circumstances. The following, although neither controlling nor fully measuring the supreme court's discretion, indicate the character of the reasons the supreme court considers:

(1) The court of appeals has entered a decision in conflict with a decision of the supreme court or the court of appeals on an important matter.

(2) The court of appeals has decided a substantial question of constitutional law or an important question of law that has not been, but should be, settled by the supreme court.

(3) The court of appeals has decided a case where there is an important question of changing legal principles.

(4) The case presents an issue of broad public importance that the supreme court should ultimately determine.

c. Form. An application for further review must be a single document in the form prescribed by rule 6.903(1). An application for further review must contain all of the following under appropriate headings in the following order:

(1) *Questions presented for review.* The application must contain questions presented for review expressed concisely in relation to the circumstances of the case without unnecessary detail. The questions should be short and not argumentative or repetitive. The questions must be set out on the first page following the cover and no other information may appear on that page.

(2) *Table of contents.* The application must contain a table of contents including page references.

(3) *Statement supporting further review.* The application must contain a direct and concise statement of the reasons why the case warrants further review. The statement must not be limited to a recitation of rule 6.1103(1)(b) but should identify the specific issue of importance and any purported prior conflicting authority. For example, if the claim is that the court of appeals decision is in conflict with a decision of the supreme court or the court of appeals on an important matter, the party must cite to the case in conflict.

(4) *Brief.* The application must contain a brief in support of the request for further review including all contentions and legal authorities in support of the application. No authorities or argument may be incorporated into the application by reference to another document; however, citations to the district court record are permitted.

(5) *Decision of court of appeals.* The application must contain or be accompanied by a copy of the court of appeals decision showing the date of its filing.

(6) *Other attachments.* The only materials that may be attached to or filed with an application, other than the court of appeals decision, are relevant materials from the district court record not exceeding 10 pages, district court orders, and administrative agency rulings. The district court order must be attached if the court of appeals affirmed the decision of the district court under rule 6.1203, Iowa Court Rule 21.26, or Iowa Code section 602.5106(1).

d. Discretion of supreme court on further review. On further review the supreme court may review any or all of the issues raised in the original appeal or limit its review to just those issues brought to the court's attention by the application for further review.

e. Filing fee. The applicant must pay to the clerk of the supreme court a

filing fee or file a motion to waive or defer the fee as provided in rules 6.703(1)(g) and 6.703(2).

6.1103(2) *Resistance to application for further review.*

a. When allowed; time for filing. A resistance to an application for further review is not permitted in an Iowa Code chapter 232 child in need of assistance or termination of parental rights proceeding unless requested by the supreme court.

b. In all other cases, a party may file a resistance within 10 days after service of the application.

c. Form. A resistance to an application must be in the form prescribed by rule 6.903(1). The resistance must be a single document including all contentions and legal authorities in opposition to the application. No authorities or argument may be incorporated into the resistance by reference to another document; however, citations to district court record are permitted. The only materials that may be attached to or filed with a resistance are relevant materials from the district court record not exceeding 10 pages, district court orders, and administrative agency rulings.

6.1103(3) *Replies to resistance to application for further review.* Replies to a resistance to an application for further review are not allowed.

6.1103(4) *Cover of application for further review or resistance to application.* The cover of the application for further review or resistance to the application must contain the following:

- a.* The name of the court and the appellate number of the case.
- b.* The caption of the case. See rule 6.152(2).
- c.* The date of filing of the court of appeals decision.
- d.* The title of the document.
- e.* The name, address, telephone number, and email address of counsel or self-represented party.

6.1103(5) *Length of application for further review or resistance to application.*

a. The application for further review or resistance to the application may not exceed two-fifths of the length limitations for a required brief specified in rule 6.903(1)(i) exclusive of the court of appeals decision, table of contents, table of authorities, relevant materials from the district court record, district court orders, and administrative agency decisions.

b. An application for further review or resistance to the application must include a certificate of compliance using rule 6.1401—Form 10: *Certificate of Compliance with Typeface Requirements and Type-Volume Limitation for an Application for Further Review or a Resistance to an Application for Further Review.*

6.1103(6) *Supplemental briefs.* If an application for further review is

granted, the supreme court may require the parties to file supplemental briefs on all or some of the issues to be reviewed.

6.1103(7) *Procedendo.* When an application for further review is denied by the supreme court, the clerk of the supreme court will immediately issue procedendo.

[Court Order October 31, 2008, effective January 1, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017; February 23, 2017, effective March 1, 2017; July 20, 2017]

Rules 6.1104 to 6.1200 Reserved.

DIVISION XII DISPOSITION OF APPEALS

Rule 6.1201 Voluntary dismissals.

6.1201(1) *Dismissal of appeal.* An appeal may be voluntarily dismissed by the party who filed the appeal at any time before a decision is filed by either the supreme court or the court of appeals.

6.1201(2) *Dismissal of cross-appeal.* A cross-appeal may be voluntarily dismissed by the party who filed the cross-appeal at any time before a decision is filed by either the supreme court or court of appeals.

6.1201(3) *Effect of dismissal.* The clerk of the supreme court will promptly issue procedendo upon the filing of a voluntary dismissal unless another party's appeal or cross-appeal remains pending under the same appellate docket number. If only a cross-appeal remains pending following the dismissal, the cross-appeal becomes the primary appeal, and the cross-appellant will assume the role of the appellant. The issuance of procedendo constitutes a final adjudication with prejudice. A voluntary dismissal of a direct appeal from a criminal case does not preclude the subsequent consideration of a claim for ineffective assistance of counsel in an action for postconviction relief pursuant to Iowa Code chapter 822. [Court Order October 31, 2008, effective January 1, 2009; May 21, 2012]

Rule 6.1202 Failure to comply with appellate deadlines and appellate court orders; consequences and penalties.

6.1202(1) *Notice of default.*

a. For appellant's failure to comply. When an appellant fails to comply with an appellate deadline, the clerk of the supreme court will issue a notice stating that the appeal may be dismissed unless the appellant cures the default by performing the overdue action within 15 days of issuance of the notice. If the appellant fails to cure the default, the supreme court may enter an order dismissing the appeal.

b. For appellee's failure to comply. When an appellee fails to meet the deadline for filing a brief or statement waiving the appellee's brief, the clerk of the supreme court will issue a notice stating that the appellee is not allowed to participate in oral argument unless the appellee remedies the

default by filing the overdue brief within 15 days of issuance of the notice.

6.1202(2) *Penalty assessed to attorney.* When a default notice is sent to a party's attorney for failing to comply with an appellate deadline, the attorney will be assessed a penalty of \$150 by the clerk of the supreme court for each violation. The attorney must pay the penalty individually and it may not be charged to the client. If the penalty is not paid within 15 days, the attorney may be ordered to show cause why the attorney should not be found in contempt of court.

6.1202(3) *Notice of dismissal due to attorney's failure to comply.* Following dismissal of an appeal for failure to comply with an appellate deadline where the appellant was represented by an attorney, the clerk of the supreme court will forward certified copies of the docket, the notice of default that resulted in dismissal, and the order of dismissal to the Iowa Supreme Court Attorney Disciplinary Board. In cases where the attorney was court appointed, the clerk will also forward certified copies of those documents to the State Public Defender.

6.1202(4) *Dismissal on appellate court's motion.* An appeal may be dismissed, with or without notice of default, upon the motion of the appropriate appellate court.

6.1202(5) *Motion to reinstate appeal.* Within 10 days after issuance of a dismissal order, the appellant may file a motion to reinstate the dismissed appeal. The motion must set forth the grounds for reinstatement and may be resisted. The appropriate appellate court may, in its discretion, and must upon a showing that such dismissal was the result of oversight, mistake, or other reasonable cause, reinstate the appeal. One justice, judge, or senior judge may deny, but only a quorum of the appropriate appellate court may grant, a motion to reinstate an appeal.

6.1202(6) *Failure to follow or respond to appellate court order.* When a party to an appeal fails to follow or respond to an appellate court order, the appropriate appellate court may dismiss the appeal or impose a penalty. If a monetary penalty is imposed on a party's attorney, the attorney must pay the penalty individually and it may not be charged to the client. If such penalties are not paid within 15 days, the attorney may be ordered to show cause why the attorney should not be found in contempt of court.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.1203 Affirmed or enforced without opinion. A judgment or order may be affirmed or enforced without opinion if the appropriate appellate court concludes the questions presented are not of sufficient importance to justify an opinion, an opinion would not have precedential value, and any of the following circumstances exists: (1) the judgment of the district court is correct, (2) the evidence in support of a jury verdict is sufficient, (3) the order of an administrative agency is supported by substantial evidence, or (4) no error of law appears.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1204 Petition for rehearing in the court of appeals.

6.1204(1) *Filing does not toll further review deadline.* The filing of a petition for rehearing with the court of appeals does not toll the 20-day period provided in Iowa Code section 602.4102(4) for filing an application for further review of a court of appeals decision with the supreme court. Nothing in these rules prohibits any party from filing both a petition for rehearing with the court of appeals and an application for further review with the supreme court.

6.1204(2) *Time for filing.* A petition for rehearing must be filed within 7 days after the filing of the court of appeals decision.

6.1204(3) *Content.* The petition must state with particularity the points of law or fact that in the opinion of the petitioner the court of appeals has overlooked or misapprehended.

6.1204(4) *Response.* No response to a petition for rehearing will be received unless requested by the court of appeals.

6.1204(5) *Action by court of appeals.*

a. Oral argument in support of a petition for rehearing not permitted.

b. If the petition for rehearing is not expressly granted or denied by the court of appeals within 7 days after the petition is filed, the petition will be deemed denied. Upon request of the court of appeals within the 7-day period, the supreme court may grant an extension not to exceed 7 days for the court of appeals to rule upon the petition.

c. If the petition for rehearing is granted, the decision of the court of appeals is vacated and the court of appeals retains jurisdiction of the case. The court of appeals may dispose of the case with or without oral argument, order resubmission, or enter any other appropriate order. The decision after rehearing will be subject to further review as provided in Iowa Code section 602.4102(4).

6.1204(6) *Stay of pending application of further review.* Upon motion of a party or request of the court of appeals, the supreme court may stay any pending application for further review for consecutive periods of up to 30 days during the pendency of a petition for rehearing.

6.1204(7) *Form of petition.* The petition for rehearing must be in the form prescribed by rule 6.903(1). Except by permission of the court of appeals, a petition for rehearing may not exceed one-fifth of the length limitations for a required brief specified in rule 6.903(1)(i).

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.1205 Petition for rehearing in the supreme court.

6.1205(1) *Time for filing.* A petition for rehearing must be filed within 14 days after the filing of the supreme court opinion unless the time is shortened or enlarged by order of that court. A party may not file a petition

for rehearing from an order denying an application for further review.

6.1205(2) *Content and form of petition for rehearing.* The petition must state with particularity the points of law or fact that in the opinion of the petitioner the supreme court has overlooked or misapprehended. The petition must be in the form prescribed by rule 6.903(1). Except by permission of the supreme court, a petition for rehearing may not exceed one-fifth of the length limitations for a required brief specified in rule 6.903(1)(i).

6.1205(3) *Response.* A response to a petition for rehearing is not permitted unless requested by the supreme court, but a petition for rehearing will ordinarily not be granted in the absence of such a request.

6.1205(4) *No oral argument.* Oral argument in support of a petition for rehearing is not permitted.

6.1205(5) *Supreme court action.* If a petition for rehearing is granted, the supreme court may make a final disposition of the case with or without oral argument, order resubmission, or enter any other appropriate order. The supreme court may deny the rehearing but simultaneously amend the opinion.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.1206 Remands. When a judgment is reversed for error in overruling a motion and granting the motion would have terminated the case in favor of the appellant, the appropriate appellate court may enter or direct the district court to enter final judgment as if such motion had been initially granted. However, if it appears from the record that the material facts were not fully developed at the trial or if in the opinion of the appropriate appellate court the ends of justice will be served, a new trial will be awarded on all or part of the case.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1207 Costs. All appellate fees and costs will be taxed to the unsuccessful party unless the appropriate appellate court orders otherwise.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1208 Procedendo.

6.1208(1) *Procedendo from supreme court action.* Unless the supreme court orders otherwise, procedendo may not issue until:

a. Twenty-one days after the supreme court opinion is filed, or while a properly filed petition for rehearing or application for extension of time to file a petition for rehearing is pending.

b. Twenty-one days after an order is filed that both denies a petition for rehearing and amends the original opinion.

c. Seventeen days after an order dismissing the appeal is filed, or while a properly filed motion requesting the dismissal be set aside is pending.

6.1208(2) *Procedendo from court of appeals action.* Unless the court of appeals orders otherwise, procedendo may not issue until:

a. Seventeen days after an opinion is filed in a chapter 232 termination of parental rights or child in need of assistance case, or while an application for further review is pending.

b. Twenty-seven days after an opinion is filed in all other cases, or while an application for further review is pending.

[Court Order October 31, 2008, effective January 1, 2009; March 9, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.1209 Quarterly publication. A list indicating the disposition of all decisions rendered by the supreme court per curiam or under rule 6.1203 will be published quarterly in the North Western Reporter, except for such of those decisions as the supreme court specially orders to be published in the regular manner.

[Court Order October 31, 2008, effective January 1, 2009]