

To: District 7 Attorneys

From: Court Administration

Re: (a) Changes to Iowa Court Rules: Civil Trial Setting Conferences and Civil Time Standards for Case Processing;
(b) Practice Tips and Instructions for Using Revised Trial Scheduling Order

Iowa Court Rule 1.906 (Civil Trial-Setting Conference) and Chapter 23 of the Iowa Court Rules (Time Standards for Case Processing) have been amended effective September 1, 2008. The rules can be found at:

http://www.iowacourts.gov/Court_Rules_and_Forms/Recent_Amendments_New_Rules/

(If you cannot open this link, go to www.iowacourts.gov; select the Court Rules and Forms tab on the left, and then subcategory Recent Amendments & New Rules; open the items "Chapter 23" and "Rule 1.906").

This memo summarizes the changes to the rules and trial scheduling practices for civil cases filed on or after September 1, 2008.

Rule 1.906. Within 90 days of case filing, Court Administration will send a notice of trial setting conference (TSC) to all parties not in default. The TSC must be held within 150 days of case filing. The *parties* are responsible for obtaining a trial setting conference within 150 days of filing. Although Court Administration will make a good faith effort to schedule a trial setting conference in every civil case within 150 days of filing, some cases will be missed due to technical or human error. An attorney's failure to receive notice shall not be grounds to avoid involuntary dismissal.

Practice tip:

Attorneys should tickle every civil case for 90 days after filing. An attorney who has not received a Notice of Civil Trial-Setting Conference should affirmatively call Court Administration and request a TSC.

Chapter 23 (Time Standards for Case Processing). NOTE: this discussion deals only with time standards in most civil cases. Chapter 23 has separate time standards for estates and juvenile cases which are not discussed in this memo.

The previous Chapter 23 time standards for civil cases covered the period from case filing to case disposition. The new standards cover the period from case filing to trial commencement date.

There are two separate sets of civil time standards:

1. Rule 23.2(1) basic time standards. The rule is set out below. As stated, Court Administration *must* set the initial trial date within these "shorter" time standards. Court Administration has no authority to schedule the initial trial date outside of these standards:

23.2(1) Court administration shall schedule cases to commence trial within the following time standards:

- a. Indictable Criminal 6 months
- b. Simple Misdemeanors 4 months
- c. Torts (all except
“complex civil”) 18 months
- d. Complex Civil. 24 months
- e. Other Law & Equity 12 months
- f. Domestic -- Dissolution & Modification . . 9 months
- g. Domestic Abuse 2 months
- h. Domestic -- All Other 6 months
- i. Small Claims & Infractions. 4 months

2. Rule 23.2(2) extended time standards. The rule is set out below. As stated, if a party shows good cause for exceeding the trial time standards in rule 23.2(1), a court may order an extension of the time for trial to commence using the prescribed expanded set of time guidelines.

23.2(2) If a party shows good cause for exceeding the trial time standards in rule 23.2(1), a court may order an extension of the time for trial to commence using the standards below as guidelines:

- a. Indictable Criminal 12 months
- b. Simple Misdemeanors 6 months
- c. Torts (all except “complex civil”) 24 months
- d. Complex Civil 36 months
- e. Other Law & Equity 18 months
- f. Domestic -- Dissolution & Modification . . 15 months
- g. Domestic Abuse 4 months
- h. Domestic -- All Other 12 months
- i. Small Claims & Infractions. 8 months

For non-domestic civil cases, the amended Rule replaces the previous Trial Setting Conference Memorandum with a longer (4-page) Trial Scheduling Order. The new mandatory Order is included in Chapter 23. For domestic cases (dissolution of marriage, modifications, paternity,

custody, etc.), District 7 will continue to use the current (1-page) Trial Setting Conference Memorandum.

Unless other dates are set by the parties, the revised Trial Scheduling Order includes default deadlines as follows for non-domestic civil cases:

EVENT	DEADLINE
FILING OF PRIOR CRIMINAL TRANSCRIPTS AND AGENCY RECORDS	30 DAYS FROM DATE OF TSC ORDER
PLEADINGS CLOSED	60 DAYS BEFORE TRIAL
DEPOSITIONS COMPLETED	60 DAYS BEFORE TRIAL
FILING OF ALL MOTIONS (INCLUDING SUMMARY JUDGMENT, EXCLUDING MOTIONS IN LIMINE)	60 DAYS BEFORE TRIAL
DISCOVERY: WRITTEN	90 DAYS BEFORE TRIAL
DESIGNATING EXPERTS	
EXPERT: PLAINTIFF	210 DAYS BEFORE TRIAL
EXPERT: DEFENDANT/THIRD PARTY PLAINTIFF	150 DAYS BEFORE TRIAL
EXPERT: THIRD-PARTY DEFENDANT/OTHERS/REBUTTAL	90 DAYS BEFORE TRIAL

Practice tips:

1. Please remember that Court Administration *must* schedule the initial trial date within the basic time standards set forth in Rule 23.2(1). Especially for a busy trial attorney, this may result in a trial date outside of his or her usual scheduling preferences or practices. Such attorneys should prepare for the trial scheduling conference by having a predetermined list of “most favorable” dates for trial that are within the 23.2(1) standards, even if such dates are not ideal.
2. During Scott County in-person trial setting conferences, some attorneys fill in the trial and settlement conference dates and present the form to Court Administration staff. Attorneys and Court Administration staff must insure that trial is scheduled within the 23.2(1) time standards.
3. If counsel and/or self-represented parties cannot agree on a trial date within the 23.2(1) time standards, Court Administration must nonetheless set a date within those standards. Dissatisfied litigants may file a motion under 23.2(1) asking the court to find “good cause” for exceeding the 23.2(1) time standards and enter an order extending the trial date using 23.2(2) standards as guidelines.
4. If the default deadlines listed above are not satisfactory, the attorneys and/or self-represented parties will be asked to fill in alternative dates in the spaces provided.
5. Numbered paragraph 6 in the Trial Scheduling Order includes a section on discovery of electronically stored information. If such discovery is anticipated, the parties should prepare a written agreement and bring it to the trial setting conference marked Exhibit A.
6. Numbered paragraph 8 (Pre-Trial Submissions) in the Trial Scheduling Order lists certain items which are to be delivered to the Trial Judge or to Court Administration. Do **not** check either option. A judge is ordinarily not assigned to a case until one or two days

before trial. Only rarely is a judge specially assigned to hear a case. Court administration does not want to be the repository or keeper of such pre-trial submissions. Counsel and/or self-represented parties should insure that such pre-trial submissions are in the file maintained by the clerk and thus ready for the trial judge.

Thank you for your assistance as we implement these Rules changes.

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