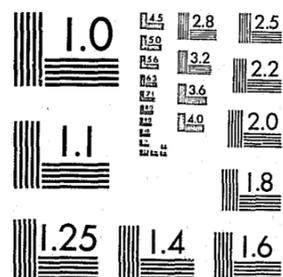


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National Institute of Justice
United States Department of Justice
Washington, D. C. 20531

THE IOWA COURT SYSTEM

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National Institute of Justice

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Distribution of Powers

The powers of the government of Iowa shall be divided into three separate departments — the Legislative, the Executive, and the Judicial: and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any function appertaining to either of the others

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The Judicial power shall be vested in a Supreme Court, District Courts, and such other Courts, inferior to the Supreme Court, as the General Assembly may, from time to time, establish.

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Cover: This drawing of the Marshall County Courthouse appears courtesy of the artist, William Wagner of Des Moines.

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ACQUISITIONS

Introduction

It is sound practice in an orderly society, business or government to designate one group with final authority to settle disputes. In our state this group is called the Supreme Court of Iowa. This court of last resort *decides* what the law is, *defines* what the law is if that is unclear and *applies* the law to the particular facts of each case it reviews. The rulings or opinions of the supreme court guide trial court judges handling similar cases. Since 1977 the Iowa Court of Appeals has assisted the supreme court in its job by applying settled law in individual disputes.

This booklet is a brief introduction to Iowa's two appellate courts, its trial court system and the men and women who serve you in the judicial branch.

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History of the Courts

Your courts have their roots in the judiciary established when Iowa became a territory on June 12, 1838. The territorial supreme court consisted of a chief justice and two associate justices. Each justice was appointed by the President of the United States with the consent of the Senate for a four-year term. The justices held court once a year in the seat of the government. When the supreme court was not in session, they acted as district or trial court judges, each justice being responsible for one of three judicial districts in Iowa. The court also furnished the legislature with suggested bills, which served as the foundation for a code of law.

December 28, 1846 Iowa became a state. The Constitution provided for the selection of a chief justice and two associates by a joint vote of both houses of the General Assembly. The 1857 Constitution called for the popular election of judges. Candidates ran for judicial office on political party tickets. In 1911 Iowa began using nonpartisan elections to select judges, but that method was abandoned in 1917 as candidates resumed political party labels.

There was no guarantee the most politically popular lawyer would be the best judge. Sometimes the more qualified judicial candidate belonged to the minority party. The size, wealth and organization of political parties was more influential in determining who would administer justice than the intelligence, experience or demeanor of the candidates.

In 1962 the people of Iowa approved an amendment to their constitution which abolished political judicial elections. Since then judges have been selected according to their merit or ability. The amendment created judicial nominating commissions.

Judicial Selection

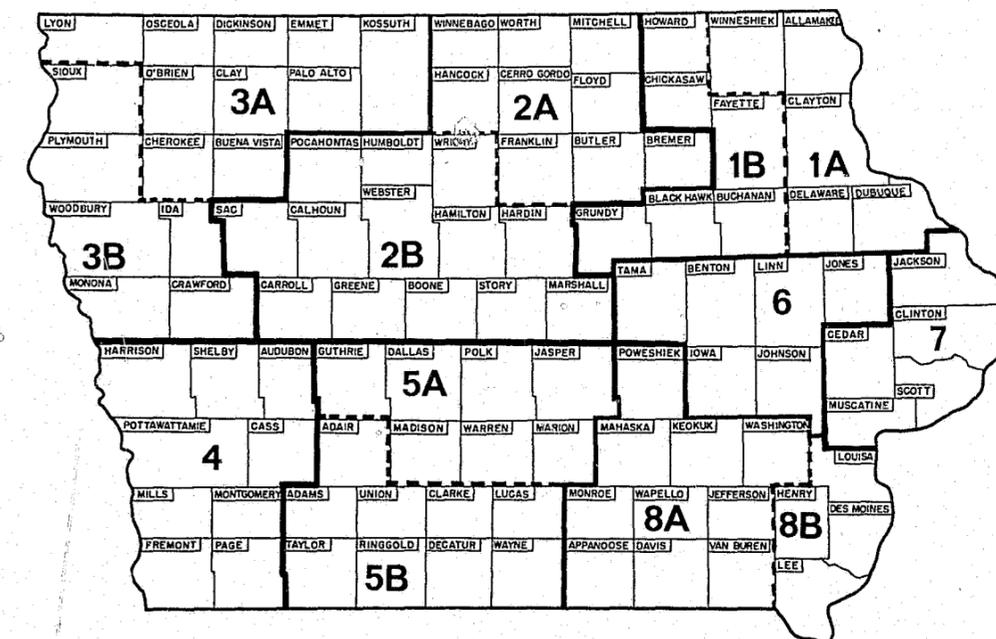
The **State Judicial Nominating Commission** is comprised of an equal number of lawyers and laypersons and one justice. The lawyer members are elected by their colleagues. The laypersons are appointed by the Governor, subject to confirmation by the Iowa Senate. The justice with the most years of service on the supreme court, other than the chief justice, is chairman. When an appellate judge resigns or retires, the commission begins its work. Notice of the vacancy is circulated. Attorneys and judges who want to be considered submit extensive applications about their educational and professional experi-

ence. The commissioners interview the candidates, then nominate three lawyers or judges qualified for the job. This list of nominees is presented to the Governor, who must appoint one of the three nominees.

The procedure for selecting district judges is similar. In each of thirteen judicial election districts there is a **District Judicial Nominating Commission**. These regional commissions have eleven members. The senior judge in years of service acts as chairman. As with the state commission, equal numbers of lawyers and laypersons are members. The Governor must choose between two attorneys, district associate judges or judicial magistrates nominated to fill each vacant judgeship.

To ensure that no one has too much influence in the selection of judges, the Iowa Constitution limits nominating commissioners to one six-year term.

The Judicial Districts of Iowa



The term of office for justices is eight years. Court of appeals and district judges serve six-year terms. However, newly appointed judicial officers do not automatically serve a full term. Initially, all judges are on probation. The voters decide in retention elections whether the Governor's appointees will enjoy a full term on the bench.

As explained on page 11, there are two other types of judicial officers, district associate judges and judicial magistrates. The term of these officials is four and two years, respectively. In each county there is a **Judicial Magistrate Appointing Commission**, composed of one district judge, two attorneys and three residents who are not attorneys. The commission appoints judicial magistrates every two years or as vacancies develop. The commission nominates three lawyers qualified to be a district associate judge. But the district judges of the judicial election district actually make the appointment.

District associate judges stand for retention every four years. Like other judges, they are subject to the **Judicial Qualifications Commission**. This seven-person group, four of whom must be nonlawyers, investigates charges of improper, unethical or illegal conduct by judges. Upon the advice of the commission, the supreme court may retire judges for disability or remove them from office.

Judicial magistrates are not part of this judicial discipline system, nor do they stand for retention. However, they are subject to the supervision of their chief judge.

Retention Elections

Judges stand for retention at the first general election after serving one full year on the bench. If retained, a judge begins a full term the following January 1. All judges stand for retention in the November election just before the end of their terms. The special ballot asks voters whether a particular judge or justice should remain in office. A simple majority of "yes" votes is needed. This retention election process insulates judges from partisan politics and the politics of the moment, while maintaining the public's right to remove from office someone believed not suited for the job. In fact, Iowans have voted out of office three district associate judges, one in 1974 and two in 1978.

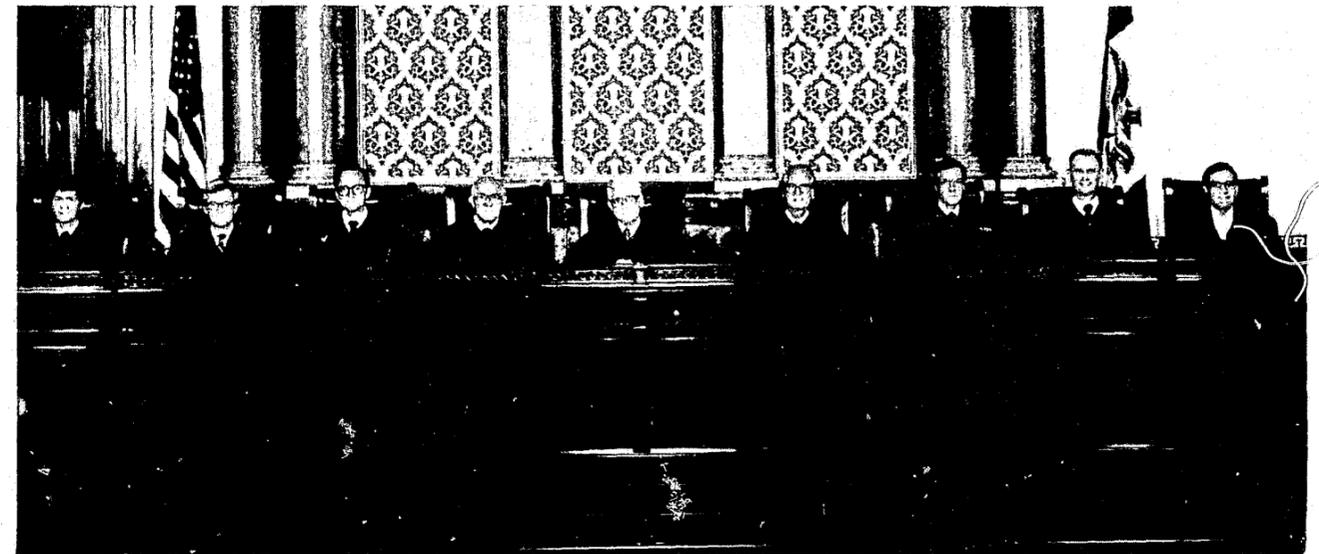
Within the limits of Iowa's mandatory retirement act, judges may serve as long as they enjoy periodic voter approval. Judges appointed before July 1, 1965 must retire at age 75. Judges appointed since then are required by law to retire at age 72.

Judicial Administration

The duties of the **Supreme Court of Iowa** entail many administrative functions. These responsibilities include supervising the trial court system through chief judges. With the approval of the supreme court, the chief justice appoints a chief judge for each of the eight judicial districts. During a two-year term the chief judge oversees all judges, judicial magistrates and court employees within his or her district. Chief judges fix the time and place of court sessions and assign judges to handle cases. However, chief judges are prohibited from directing or influencing the decision of a judge or magistrate in a particular case.

The eight chief judges also serve on the **Iowa Judicial Council** along with the chief judge of the court of appeals and the chief justice. The council considers all court administrative rules, directives and regulations necessary to operate the judicial system.

Supervising Iowa lawyers and judges is another duty of the supreme court. The court determines rules for the admission (or licensing) and discipline of lawyers. Attorneys and laypersons who serve on the



Tradition directs that justices sit at the supreme court bench according to seniority. The Chief Justice sits in the middle. To his right is the justice with the most years of service on the court. The most recently appointed jurist sits to the far left of the Chief Justice.

Board of Law Examiners test would-be lawyers and check their credentials. A similar board certifies **shorthand or court reporters**. These men and women record every word spoken at a hearing or trial and produce a transcript for use by lawyers and judges when a case is appealed.

Two groups of lawyers assist the court in regulating the conduct of Iowa attorneys. The **Professional Ethics and Conduct Committee** investigates charges of illegal and unethical conduct by lawyers. When complaints appear to be warranted, they are referred to the **Grievance Commission**, which may recommend that the court reprimand a lawyer or suspend or revoke his or her license.

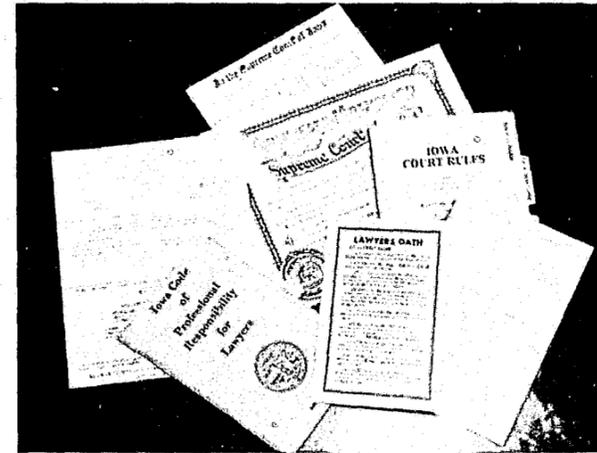
In all professions there are a few people who are careless or dishonest. The court's **Client Security Commission** manages a fund to reimburse clients whose lawyers have lost or stolen money entrusted to them. To ensure lawyers and judges stay current with new developments in the law, the court requires continuing legal education. The **Commission on Continuing Legal Education** approves CLE programs and sponsors and reviews reports from individual attorneys. Each year lawyers and judges must contribute to the client security fund and attend 15 hours of legal instruction in order to keep their licenses. Iowa lawyers were among the first in the nation to adopt these extra obligations to safeguard the public.

The court is responsible for rules of practice and procedure. These rules assist lawyers, judges and litigants (people who sue or are sued in court) in the handling of civil and criminal cases, probate actions, appeals and other legal matters. Attorneys with expertise in these areas volunteer to help the court by drafting proposed rules or reviewing the effect of rules suggested by others.

Since 1971, the supreme court has been assisted by a **State Court Administrator**. Under the direction of the justices, the court administrator manages the budget and personnel of the judicial department and implements policies set by the court. The administrator also compiles statistical data on the number and types of cases in the trial and appellate courts so problems can be prevented or corrected.

The **Judicial Coordinating Committee**, a group of judges, lawyers and citizens from nonlegal fields, help the supreme court and state court administrator devise programs to assist court officers and employees in serving you better, more efficiently.

The **Clerk of the Supreme Court** serves both the supreme court and the court of appeals. The clerk docket and monitors all cases and records and files opinions and orders of the appellate courts. The clerk's duties also include gathering legal briefs and pertinent trial court papers, collecting court fees, opening and closing court sessions and administering the Iowa bar examination.



The licensing, regulation and discipline of Iowa attorneys is a continuing, constitutional duty of the supreme court.



The clerk's office, the backbone of the appellate judicial system, handles millions of papers each year as it prepares cases for appellate review.

The Appellate Courts

Historically, as the workload of the supreme court increased, many structural changes were made to increase productivity. The membership was increased over the years from three to the current nine justices, as established in 1929. In 1973 the supreme court divided itself into two rotating five-member panels. The court hears cases in panels or **divisions** in all but the most complex or controversial cases. In these situations the court sits **en banc**, which means all nine justices hear and decide the matter.

Despite these changes, the increasing number of appeals made it more and more difficult for the court to deliver justice timely and effectively. In 1976 the General Assembly established the **Iowa Court of Appeals**. This five-judge court helped reduce a serious backlog of appellate cases which had plagued the supreme court for years.

The court of appeals usually applies well-settled law in cases where there are disputes about the facts. For example, this court hears many cases involving criminal and family law issues such as illegal search and seizure and child custody.

The Justices of the Supreme Court of Iowa



Chief Justice W. Ward Reynoldson was born May 17, 1920 at St. Edward, Nebraska and was graduated from the State Teachers College at Wayne, Nebraska in 1942. After four years in the U.S. Navy (1942-46), Justice Reynoldson earned a juris doctor degree from the University of Iowa Law School in 1948. He practiced law at Osceola, Iowa in 1948-71 and served as Clarke County Attorney for four years (1953-57). Justice Reynoldson was appointed to the supreme court May 1, 1971 and has been chief justice since August 3, 1978.



Justice Clay LeGrand was born February 26, 1911, at St. Louis, Missouri. He attended St. Ambrose College in Davenport, Iowa in 1928-31 and was graduated from The Catholic University of American Law School, Washington, D.C. in 1934. He engaged in a general law practice at Davenport until being appointed a district judge in 1957. Justice LeGrand served as a district judge until his appointment to the supreme court July 5, 1967.



Justice Harvey Uhlenhopp was born June 23, 1915 in Butler County, Iowa. He received his undergraduate education at Grinnell College and earned a law degree from the University of Iowa College of Law. Justice Uhlenhopp practiced law from 1939 until 1943 when he began his three-year military service. In 1946 he resumed practicing law until his 1953 appointment to the district court. In addition to his private law practice, Justice Uhlenhopp served as Franklin County Attorney (1947-50) and as a member of the Iowa General Assembly (1951-52). He was appointed to the supreme court March 4, 1970.



Justice K. David Harris was born July 29, 1927 at Jefferson, Iowa. He was graduated from the College of Liberal Arts and the College of Law at the University of Iowa. During World War II Justice Harris served with the Seventh Infantry Division of the Army in the Pacific Theatre. After admission to the bar he practiced law at Jefferson, Iowa (1951-62). In 1959-62 Justice Harris served as County Attorney of Greene County. He was appointed judge of the district court in 1962 and served on the trial court bench until his 1972 appointment to the supreme court.



Justice Mark McCormick was born April 13, 1933 at Fort Dodge, Iowa and was graduated from Villanova University in 1955. After serving in the U.S. Navy (1955-58), Justice McCormick attended Georgetown University Law School, where he earned a degree in 1960. In 1960-61 he was a law clerk for Chief Judge Harvey Johnsen of the U.S. Eighth Circuit Court of Appeals. Following his clerkship, Justice McCormick practiced law in Fort Dodge until his 1968 appointment to the district court. He was appointed supreme court justice April 3, 1972. He has taught at the National Judicial College and is currently participating in a University of Virginia program for appellate judges which leads to a graduate degree in the judicial process.



Justice Robert G. Allbee was born December 14, 1928 in Muscatine, Iowa. He attended Grinnell College and was graduated from Colorado College at Colorado Springs in 1952. In 1955 Justice Allbee earned a juris doctor degree from Drake University Law School. That year he entered law practice with a Des Moines firm, where he remained until being appointed district judge in 1975. In 1976 Justice Allbee was appointed to the Iowa Court of Appeals. His colleagues selected him as the first chief judge of that court. He served in this capacity until beginning his service on the supreme court in July 1978.



Justice Arthur A. McGiverin was born November 10, 1928 at Iowa City, Iowa. He served in the U.S. Army from 1946-48 and 1951-53. He attended the University of Iowa, earning an undergraduate degree in 1951 and a law degree in 1956. Following his graduation from law school, Justice McGiverin practiced law in Ottumwa with the law firm of Barnes, Schlegel, and McGiverin. He served as a district judge from 1965 until 1978, when he was appointed to the supreme court.



Justice Jerry L. Larson was born May 17, 1936 at Harlan, Iowa. He received his undergraduate and law degree from the University of Iowa in 1958 and 1960, respectively. Justice Larson was a law clerk for Judge M. D. Van Oosterhout of the U.S. Eighth Circuit Court of Appeals and began practicing law in 1961. During this time he served as County Attorney of Shelby County (1965-70). In 1975 Justice Larson became a district judge, a position he held until his September 1978 appointment to the supreme court.



Justice Louis W. Schultz was born March 24, 1927 in Deep River, Iowa. He attended Central College in Pella, Iowa and received a LL.B. degree in 1949 from Drake University Law School. A Navy veteran of World War II, he practiced law in Marengo for more than 15 years. Iowa County Attorney from 1960 through 1968, he served as a district judge for nine years beginning in 1971. A past president of the Iowa Judges Association, he was appointed to the supreme court August 19, 1980.

The Judges of the Iowa Court of Appeals



Chief Judge Leo Oxberger was born July 2, 1930 at Des Moines, Iowa. He attended Drake University, earning an undergraduate degree in 1954 and a law degree in 1957. Judge Oxberger practiced law from 1957 until 1969, when he was appointed district judge. He served in this capacity until his 1976 appointment to the court of appeals. His colleagues elected him chief judge in 1978.



Judge James H. Carter was born January 18, 1935 in Waverly, Iowa and was graduated from the University of Iowa in 1956. He received his law degree from that university in 1960. Judge Carter was a law clerk to U.S. District Court Judge Henry N. Graven for two years before practicing law with Shuttleworth & Ingersoll law firm in Cedar Rapids for eleven years. He served as a district judge for three years prior to his September 1976 appointment to the court of appeals.



Judge Bruce M. Snell, Jr. was born August 18, 1929 at Ida Grove, Iowa and was graduated from Grinnell College in 1951. A U.S. Army veteran, he attended the University of Iowa Law School, receiving his juris doctor degree in 1956. In 1956-57 Judge Snell served as a law clerk to Judge Henry N. Graven, U.S. District Court for the Northern District of Iowa. For four years he was an Iowa Assistant Attorney General (1961-65). He was appointed judge of the court of appeals in September 1976.



Judge Allen L. Donielson was born May 22, 1927 at Maquoketa, Iowa. He attended the University of Dubuque and the University of Iowa. In 1945-46, Judge Donielson served in the U.S. Navy. He later was graduated from Drake University Law School (1952). After admission to the bar, he practiced law in Des Moines and served as U.S. Attorney for the Southern District of Iowa from 1969 until 1976. Judge Donielson was appointed to the court of appeals in November 1976. Since 1978 he has served on the Drake University Board of Trustees.



Judge Janet A. Johnson was born March 10, 1940 in Adair County, Iowa and was graduated with honors from the University of Illinois at Chicago Circle in 1968. She attended Drake University Law School and received her degree with honors in 1972. Judge Johnson was a member of the Drake University Law School faculty from 1973-78. She was also a member of the Iowa Board of Parole (1975-78), serving as chairperson in 1977-78. Judge Johnson practiced law part-time before being appointed to the court of appeals in 1978. She is the first woman to serve on an appellate court in Iowa.

The Trial Court System

Some states have a variety of specialized courts with jurisdiction or authority to handle only one or two types of cases, e.g., juvenile, criminal, tax or probate. Iowa has a unified trial court system called the **Iowa District Court**. Within the Iowa District Court, there are four types of judicial officers: senior judges, district judges, district associate judges and judicial magistrates.

Senior judges are retired supreme court, court of appeals, district or district associate judges who elect to serve for up to 13 weeks a year. No salary is paid to a senior judge, but his or her retirement benefits are increased if the legislature authorizes a pay raise for active judges. A senior judge may hear only those types of cases which he or she had jurisdiction to hear while an active judge.

District judges possess general trial court jurisdiction. They have authority to hear traffic offenses, multimillion dollar contract suits and everything in between, and to dissolve marriages or order an end to a strike.

District associate judges can handle indictable misdemeanors, civil suits for money judgments up to \$3,000 and juvenile cases, when designated as a juvenile judge, plus all the matters judicial magistrates can hear. Like district judges, district associate judges have jurisdiction throughout an entire judicial district.

On the other hand, **judicial magistrates** have jurisdiction only within their county of residence. Magistrates are part-time judicial officers who need not be lawyers; less than half are. All other judicial officers must be licensed Iowa attorneys. Judicial magistrates can preside at hearings involving small claims of up to \$1,000 and landlord/tenant disputes. They have jurisdiction over preliminary hearings, search and arrest warrant applications and simple misdemeanors, which include traffic offenses.

All judicial officers are empowered to perform marriage ceremonies.

Clerks of the district court and their deputies assist judicial officers by storing and keeping track of the millions of pleadings, motions and orders generated each year in law suits. Although currently elected county officials, district court clerks are an essential part of the state judicial system.

District court administrators, among other things, help the chief judges schedule cases to avoid conflicts and maximize the time of judges, lawyers, litigants, witnesses and jurors. **Juvenile probation officers** work with judges encountering children who are delinquent or in need of assistance or supervision.

By handling the important details of processing cases, court clerks, district court administrators and juvenile probation officers free judges for other work.

The time a judicial officer spends on the bench conducting hearings and trials is a small portion of his or her workday. For example, judicial magistrates prepare periodic administrative and financial reports concerning all the judicial business they handle. District and district associate judges read pleadings and briefs filed by lawyers, meet with lawyers to settle or streamline cases, conduct research and write orders and decisions. Appellate judges must familiarize themselves with the extensive records and exhibits (sometimes boxes full) of the cases before them. In addition to deciding appeals and writing opinions, justices have considerable administrative duties.

Judicial officers are called on to speak to civic and other groups, officiate at weddings or serve on committees working to improve the administration of justice.

How a Trial is Conducted

The procedure at a hearing on a small claim is simpler, less formal than traditional court practice. In cases involving small claims or nonpayment of rent, for example, it is likely that neither party to the lawsuit will be represented by a lawyer. After they swear or affirm to testify honestly, the parties and their witnesses are examined or questioned by the judicial magistrate (or judge sitting as a magistrate) "in such a way as to bring out the truth." There is no jury in small civil cases, so the magistrate determines the facts, then applies the law.

Small civil cases may be appealed to a district judge, who reviews the case **on the record**. This means the judge reviews the notes of the magistrate or reads a transcript or listens to a tape recording of the hearing. The parties do not try their case a second time.

A person charged with a simple misdemeanor may demand a jury trial before a judicial magistrate. On appeal, his or her case would be **tried anew** before a district judge and a second jury.

Whether rulings by judicial magistrates and district associate judges can be appealed to the supreme court is a matter of **discretionary review**. The supreme court can, but is not required to, hear appeals in cases involving petty offenses and less than \$3,000.

With few exceptions, parties have the right to appeal all other final decisions to the supreme court, including cases involving real estate interests worth less than \$3,000.

In many types of cases, litigants have the right to a trial by jury. The jury's duty is to determine the facts, what really happened, after hearing all the evidence and testimony. To help the jurors reach a verdict, e.g., that Mr. Brown should be paid \$5,000 for damages caused by Mrs. Smith, the judge instructs the jury on the law. For example, the judge might tell the jury what legal obligation Mrs. Smith had to Mr. Brown, so the jurors can decide whether Mrs. Smith broke her promise or neglected her duty to Mr. Brown.

IN THE IOWA DISTRICT COURT FOR AND IN POLK COUNTY		
Mr. Brown,)	Docket No. 1234
Plaintiff)	
v.)	STAGES OF A TYPICAL
Mrs. Smith,)	DISTRICT COURT CIVIL
Defendant)	ACTION
1. Plaintiff files petition, a claim for relief, in district court clerk's office to bring lawsuit.		
2. Petition is served on defendant.		
3. Defendant files answer or other pleading denying liability, stating defenses.		
4. Interrogatories and depositions (oral and written questions) may be used by the parties to discover relevant facts.		
5. Parties may file a variety of pretrial motions.		
6. Negotiations to settle the lawsuit before trial are typical.		

Brown v. Smith Page 2	
STAGES OF A TYPICAL DISTRICT COURT CIVIL ACTION	
7. At a pretrial conference the parties may agree to narrow the issues for trial and to stipulate to (admit as true) certain facts and documents.	
8. At trial a jury receives evidence and testimony, finds the facts and reaches a verdict. When a jury is not demanded or available the judge's opinion includes findings of fact and conclusions of law.	
9. Posttrial motions may be filed.	
10. The "losing party" may file a notice of appeal with the supreme court clerk, which triggers the appellate procedure described on page 14 of this booklet.	

How an Appeal is Processed

The court of appeals and supreme court convene one week each month in Des Moines to receive and consider appeals. The courts hear oral argument at this time. **Law clerks** help judges prepare for oral argument and for writing an opinion by researching old cases and spotting ones on point.

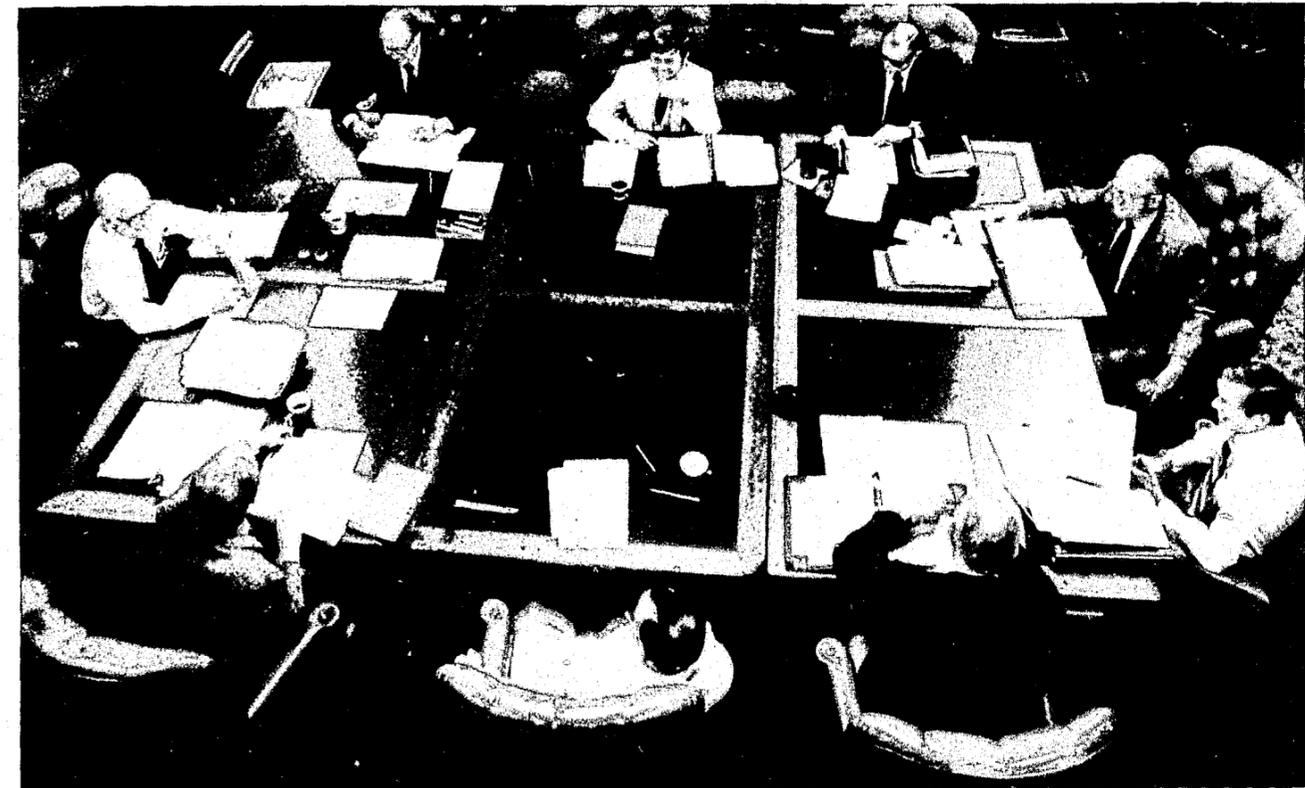
After the case is submitted, one of the judges or justices drafts a proposed **opinion**. This is circulated among the others on the court or panel. At a later court session, the judges discuss and vote on the proposed opinion. If a majority supports the ruling, it is filed about one week later. If one or more judges or justices disagree with the proposed opinion, a **dissent** is written. Ultimately, a majority opinion, with or without a dissent, is filed in the supreme court clerk's office.

A party not satisfied with a court of appeals ruling may apply to the supreme court for **further review**. Very few of these applications are granted. The case is submitted much like any other appeal, but this time the supreme court takes note of the rulings of both the trial and appellate courts.

Most of the opinions filed by the supreme court are bound in law books called **reporters**. These opinions become the case law or precedent of Iowa, which will be argued to and considered by future courts. The primary job of the court of appeals is to decide many appeals as quickly and fairly as possible. Most of these decisions affect relatively few people, as they do not develop new principles but apply well-settled law. Consequently, most court of appeals decisions are not published, which means they have no value as precedent. However, the court of appeals publishes those opinions which concern, for example, a legal issue not previously decided by the supreme court.

A party to a law suit who is unhappy with a ruling may file an appeal with the supreme court. A word-for-word **transcript** of the trial or hearing is typed. The litigants or their attorneys select the most important parts of the transcript, add copies of pertinent papers and orders filed with and by the trial court, then submit this to the supreme court clerk as the **appendix**.

The parties also prepare written **briefs** which recount the facts and focus attention upon the issues they wish the court to decide. In these briefs and at oral argument, if any, attorneys highlight previous court opinions, called **precedent**, and argue why they should be applied, disregarded or overruled.



At this conference table, the justices debate and vote on proposed opinions. The words they use, not just the conclusions they reach, are crucial.

The appellate court must base its opinion only on the **record**, matters raised and considered in the trial court proceedings. It does not hear additional testimony from witnesses, consider new evidence or call a new jury. Likewise, the court answers only those questions or issues put to it.

Screening attorneys write a case statement which identifies issues and recommends the case be retained by the supreme court or transferred to the court of appeals. A panel of justices reviews the recommendation and enters an appropriate order.

Conclusion

This brief introduction to Iowa's court system may have prompted more questions than it answered. If you would like to know more about your courts and the people who make them work, contact your county clerk, local bar association or the supreme court. Clerks of court and supreme court staff are not permitted to give you legal advice about particular matters, but they can explain basic court procedure or refer you to someone who can provide additional assistance.

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