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Correlation Table

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Rule 2: Definitions	Rule 2: Definitions
Rule 3: Suspension of These Rules; Suspension of an Appeal	Rule 3: Suspension of rules Rule 9.1: Suspension of Appeal and Revestment of Jurisdiction in the Superior Court
Rule 4: Filing Documents with an Appellate Court; Format; Service	Rule 4: Filings and Service
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Rule 5: Computing and Modifying Deadlines	Rule 5: Computation; Shortening or Extension of Time
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Rule 7: Stay of Proceedings to Enforce a Judgment	Rule 7: Stay of Proceedings to Enforce a Judgment
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Rule 10: Appeals in Expedited Election Matters	Rule 8.1: Appeals in Expedited Election Matters
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Rule 12: Notice Regarding Filing Fees and Deadlines; Case Management Statement in Division One	Rule 12: Notice to Appellant to Pay Fee and File Opening Brief; Docketing the Appeal; Filing of the Record; Docketing Statements
Rule 13: Content of Briefs	Rule 13: Briefs
Rule 13.1: Appendix	None
Rule 14: Length and Form of Briefs	Rule 14: Form, Size, and Length of Briefs
Rule 15: Due Dates; Filing and Service of Briefs	Rule 15: Filing of Briefs
Rule 16: Amicus Curiae	Rule 16: Amicus Curiae
Rule 17: Supplemental Citation of Legal Authority	Rule 17: Supplemental Citation of Legal Authority
Rule 18: Oral Argument in the Court of Appeals	Rule 18: Oral Argument
Rule 19: Petition for Transfer to the Supreme Court	Rule 19: Petition for Transfer to Supreme Court
Rule 20: Notice of Decisions and Orders	Rule 20: Notice of Decisions and Orders
Rule 21: Attorneys’ Fees and Costs	Rule 21: Costs and Attorneys’ Fees
Rule 22: Motion for Reconsideration	Rule 22: Motion for Reconsideration
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Rule 30: AZ Appellate Settlement Conference Program	Rule 30: AZ Appellate Settlement Conference Program
Rule 31: Notice of Settlement	Rule 31: Notice of Settlement
Rule 32: Websites and Forms	None

Prefatory Comment to the 2015 Amendments

The 2015 amendments make extensive changes to the Arizona Rules of Civil Appellate Procedure (“ARCAP”).

These rules were “restyled” with informative titles and subheadings that make a rule or a section easier to locate. Restyling also makes the rules easier to understand by using clearer language and, if possible, plain English. The restyled rules avoid long sentences, ambiguous terminology (such as the word “shall”), and legal jargon. These restyled rules also use consistent formatting conventions and terminology.

The amended rules also contain substantive changes. Some of these changes are in rules involving electronic filing, or in provisions concerning the preparation and transmittal of the record on appeal. Several of the amended rules borrow language from their counterparts in the Federal Rules of Appellate Procedure.

The wording of an amended rule may be very different, or only slightly different, from the rule that it replaces. The intent of these differences is to make the ARCAP more functional, and easier to understand and use. Prior case law continues to be authoritative, unless it would be inappropriate because of a new requirement or provision in these amended rules.

The amended rules incorporate substantive matters contained within comments to the former ARCAP, and these rules therefore delete almost all of those comments. Appellate litigants may continue to refer to comments to pre-2015 versions of the ARCAP to the extent those comments still apply to these amended rules, and if they are pertinent to a particular point or issue.

PART I: GENERAL PROVISIONS

Rule 1. Title and Application

(a) Title. These are the Arizona Rules of Civil Appellate Procedure. A rule may be cited as “ARCAP 00.”

(b) Scope. These Rules govern procedures in civil appeals to the Arizona Court of Appeals and the Arizona Supreme Court, as well as appeals and special actions governed by other rules that expressly incorporate the provisions of these Rules.

(c) Construction. These Rules should be used and interpreted to achieve the just, speedy, and inexpensive resolution of appeals.

(d) Who May Appeal. Any party aggrieved by a judgment may appeal as provided under Arizona law and by these Rules.

Comment to Rule 1

For further guidance as to jurisdiction of the appellate courts, see A.R.S. § 12-120.21 (jurisdiction and venue of the Court of Appeals); A.R.S. § 12-2101 (judgments and orders that may be appealed); and A.R.S. § 12-2101.01 (appeals from arbitration awards).

Rule 2. Definitions

Terms used in these Rules have the following meanings. A term defined in the singular includes the plural.

“Appeal” is a case in an appellate court, other than a special action.

“Appellate clerk” means the clerk of an appellate court in which a case is pending.

“Appellate court” means the Arizona Supreme Court and the Arizona Court of Appeals, Divisions One and Two.

“Appellant” is a party that commences an appeal. An appellant also may be a cross-appellee.

“Appellee” is a party that responds to an appeal. An appellee also may be a cross-appellant.

“Decision” is a written disposition of an appeal, as provided in Rule 28.

“Judgment” is an appealable order. A judgment may be identified as a “judgment,” or it may be identified as an “order,” a “decree,” or by another term. “Entry” of a judgment occurs when it is filed by the superior court clerk.

“Motion” is a written request made by a party, other than in an appellate brief, for entry of a court order or for other relief.

“Party” is a person whose name is in the judgment that is the subject of an appeal.

“Person” is an individual, a business organization, or any other private or public entity.

“Stipulation” means a signed written agreement that parties file with a court.

Rule 3. Suspension of These Rules; Suspension of an Appeal

(a) Suspension of Rules. On its own or on a party’s motion, an appellate court – to expedite its decision or for other good cause – may in a particular case suspend any provision of these Rules, except as otherwise provided in Rule 5(b), and may order such proceedings as the court directs.

(b) Suspension of an Appeal. An appellate court for good cause may suspend an appeal and re-vest jurisdiction in the superior court to allow the superior court to consider and determine specified matters. The appellate court's order suspending an appeal may include other terms and conditions, such as a date certain for automatic reinstatement of the appeal.

Rule 4. Filing Documents with an Appellate Court; Format; Service

(a) Caption. The first page of every document filed with an appellate court must contain a caption. The caption must contain the information shown in:

- (1) Form 4, for briefs.
- (2) Form 3, for other documents.

(b) Document Format. Unless an appellate court allows otherwise, every document that a party files with an appellate court, other than a document contained in an appendix to a brief or filed as an attachment to a motion, must be prepared as follows:

- (1) Generally.** The text of every document must be black on a plain white background. Each printed page of a document must be 8 ½ by 11 inches.
- (2) Type and Font Size.** Every typed document must use an easily readable 14-point font. Appellate courts prefer proportionally spaced serif fonts, such as Times New Roman, Bookman, Garamond, or Book Antiqua, and discourage monospaced or sans serif fonts such as Arial, Helvetica, Courier, or Calibri.
- (3) Handwritten Documents.** Appellate courts strongly encourage parties to file documents that are typed and prepared on a computer. A handwritten document must be printed and legible and may not include cursive writing or script. Appellate websites identified in Rule 32(a) may contain additional requirements for handwritten documents.

(4) Line Spacing. Text must be double-spaced, but headings, quotations, and footnotes may be single-spaced. A single-spaced quotation must be indented on the left and right sides.

(5) Headings and Emphasis. Headings must be underlined, or be in italics or bold font. Underline, italics, or bold font also may be used for emphasis.

(6) Case Names. Case names and citation signals must be in italics.

(7) Margins and Page Numbers. All margins must be at least 1 inch, and, except for the first page, the bottom margin must include a page number.

(8) Footnotes. Footnotes must be in 14-point font. Footnotes must not appear in the space required for the bottom margin.

(9) Word Limits. A document must average no more than 280 words per page, including footnotes and quotations. Word limits specified in Rules 14(a), 22(e) and 23(h) do not include the cover page, the caption, the table of contents, the table of citations, paragraph numbers appearing at the beginning of each paragraph (if any), the date and signature block, a certificate of service, a certificate of compliance, or any appendix.

(10) Paper Filings. Documents filed pursuant to Rule 4.1 must be on white, opaque and unglazed paper; and text must appear on only one side of each piece of paper in the document.

(c) Document Signatures. The party filing a document must sign it, but if an attorney represents the party, the attorney must sign the document on behalf of that party. Rule 4.2(f) contains requirements for electronic signatures.

(d) Filing with an Appellate Clerk. A party must file documents with the clerk of the appropriate appellate court. An appellate clerk will refuse to file a document if a required fee is not paid, or if the document fails to meet the requirements of an appellate court's electronic filing system. The appellate clerk otherwise may not refuse to accept a document because it does not comply with these Rules, but in such circumstances an appellate court may enter an appropriate order, such as an order striking the document, requiring corrective action, or imposing a sanction. If a party timely submits a document for filing in an incorrect appellate court or appellate division, the appellate clerk must deliver that document to the appropriate appellate court or appellate division, and the recipient appellate court will consider the filing timely.

(e) Methods of Filing. A party must file documents electronically as provided by Rule 4.2, unless Rule 4.1 permits that party to file in paper.

(f) Service of All Documents Required; Manner of Service. Every person filing a document with an appellate court must serve a copy of the document on all other parties to the appeal, and on any amicus curiae. A party may serve documents by any means authorized by Rule 5(c) of the Arizona Rules of Civil Procedure.

(g) Certificate of Service. Every document filed with an appellate clerk must be accompanied by a certificate of service that identifies the name or names of the person or persons served with the document, and the date and manner of service. The party, attorney for the party, or an agent of the party that served the document must sign the certificate of service, and may use an electronic signature as provided by Rule 4.2(f)(1). The filing party may file the certificate as a separate document, or, if filed in paper or if allowed by the electronic filing system, the certificate may appear at the end of a document, or as an attachment. An appellate clerk must permit a party to file a document without a certificate of service, but the party must file the certificate within the following 5 days.

(h) Service on Attorney or Guardian Ad Litem. Attorneys and guardians ad litem in the superior court will be deemed attorneys and guardians ad litem of the same parties in the appellate court until there has been a substitution or court-authorized withdrawal. These attorneys or guardians ad litem must be served with all notices, briefs, and documents required by these Rules until there is a substitution or court-authorized withdrawal, and until all other parties are properly notified of the substitution or authorized withdrawal.

(i) Distribution of Court Documents by the Court Clerk. An appellate clerk must distribute to all parties to the appeal copies of court notices and other documents prepared by the appellate court in connection with the appeal. The superior court clerk must distribute to all parties to the appeal copies of court notices and other documents prepared by the superior court in connection with an appeal. An appellate clerk may distribute these documents electronically under Rule 4.2(h), or by United States postal mail.

Rule 4.1. Paper Filing

(a) Filing in Paper. A document is filed “in paper” when it is filed in actual paper form rather than through an appellate court’s electronic filing portal.

(b) When Required. A document, a portion of a document or an exhibit must be filed in paper with an appellate court if it:

- (1) Was filed in the superior court under seal or in a sealed case;
- (2) Is filed with a motion that the appellate court seal the document;
- (3) Is filed in a proceeding requesting an order under A.R.S. § 36-2152 (Parental Consent Waiver Proceedings) and Supreme Court Rule 102; or
- (4) Constitutes an application or supplemental application for waiver or deferral of any court fee or court cost under A.R.S. § 12-302, including any document that accompanies an application or supplement.

(c) When Allowed. The following persons may file in paper in an appellate court:

- (1) A self-represented party;

(2) A party that the court has determined is eligible for a deferral or waiver of court fees and costs under A.R.S. § 12-302, if the party provides to an appellate clerk a copy of the order granting the deferral or waiver of court fees;

(3) An attorney employed by an approved legal services organization representing a party that is unable to pay the applicable fee for electronic filing in a civil case. The Administrative Office of the Courts (“AOC”) will provide the Chief Justice, the Chief Judges of the Court of Appeals, and the appellate clerks with a list of legal services organizations approved under Rule 38, Rules of the Supreme Court of Arizona, and it will provide an updated list upon the addition or removal of an organization; or

(4) A party that for good cause obtains an exception from the appellate court to file paper documents.

A person permitted to file in paper may file documents electronically.

(d) Filings; Number of Copies. In an appellate court, a party must file an original and one copy of any paper document, including a separate appendix, a petition for review, or a petition for transfer. A party must file an original and six copies of a brief filed under seal, and an original and one copy of any other document, including an exhibit, filed under seal.

(e) Method of Filing. A party may file a paper document by either delivering it or mailing it to the appellate clerk. Whether delivered or mailed, a document other than a brief is deemed filed when it is accepted for filing by the appellate clerk. Rule 15 governs filing paper briefs by mail.

Rule 4.2. Electronic Filing

(a) Generally. A party filing a document electronically must ensure that the filing complies with the provisions of this Rule, and that the document is complete and readable.

(b) Portal. An attorney or party must properly register on an appellate court’s electronic filing portal before electronically filing a document. The portal may require payment of a fee in conjunction with an electronic filing.

(c) Format. A document filed electronically that contains text must be in searchable .pdf, .odt, or .docx format. A document may not exceed the size limits required by the portal, but it may be broken up into multiple documents to accommodate such a limit. A filer may scan and file a document that requires a notary if the scan contains the notary’s original signature and stamp or seal. A party may file an official record of a court or government body if the scanned copy contains the court or body’s official stamp or seal of authenticity. A party may satisfy a court rule that requires the attachment of a document or exhibit by electronically attaching within the same submission either a scanned image or an electronic copy in an approved format.

(d) Bookmarks. A document filed electronically with the appellate clerk may include bookmarks, and appellate courts encourage their use. A bookmark is a linked reference to

another page within the same document. A document reference that is incapable of bookmarking may be made accessible by a hyperlink.

(e) Hyperlinks. A document filed electronically with the appellate clerk may include hyperlinks, and appellate courts encourage their use. A hyperlink is an electronic link in a document to another document, or to a website. Material that is not in the official court record does not become part of the official record merely because it is made accessible by a hyperlink.

(f) Signature and Authorization.

(1) Signature. All electronic filings must be signed. A person may sign an electronic document by placing the symbol “/s/” on the signature line above the person’s name. An electronic signature has the same force and effect as an ink signature on paper.

(2) Authorization. The appellate court will treat a filing that uses a person’s registration information as a filing made or authorized by that person.

(3) Filings by Multiple Parties. A person electronically filing a document containing more than one signature – such as a stipulation – may sign on behalf of other parties only if the person has actual authority to do so. The person may indicate such authority either by attaching a scanned document confirming that authority and containing the signatures of the other persons who have authority to consent for such parties; or, after obtaining the parties’ consent, inserting “/s/ (name) with permission” as the electronic signature of any non-filing party.

(g) Time of Filing. An electronically filed document will be deemed filed on the date and time that it is received by the appellate clerk, as shown on an email notification from the portal or as displayed within the portal.

(h) Electronic Distribution by an Appellate Clerk. An appellate clerk may electronically distribute appellate court documents to a party’s or person’s attorney of record. An appellate clerk may also electronically distribute documents to a self-represented party that has filed Form 5, which provides that party’s email address and the party’s written consent to electronic distribution at that email address. Electronic distribution of documents by the appellate clerk is complete when the documents are sent by an appellate clerk to the email address provided to the appellate clerk.

Rule 5. Computing and Modifying Deadlines

(a) Computing Time. Rules 6(a) and 6(e) of the Arizona Rules of Civil Procedure govern the computation of any time period set by these Rules, a court order, or an applicable statute.

(b) Modifying Deadlines. A party wishing to modify a deadline in the appellate court must obtain an appellate court order authorizing a modified deadline. An appellate court for good cause may shorten or extend the time for doing any act required by these Rules, a court order, or an applicable statute. But neither an appellate court nor a superior court may extend the time for filing a notice of appeal, except as provided by Rule 9(f).

Comment to Rule 5

Consistent with Rule 6(e) of the Arizona Rules of Civil Procedure, 5 calendar days are not added to the prescribed time when the appellate clerk distributes a document prepared by the appellate court.

Rule 6. Motions

(a) Generally. A party may apply for an order or other relief by filing a motion. The motion must be in the form required by Rule 4. A motion must state with particularity the basis for any requested order or other relief. Any party may file a response to a motion within 10 days after service of the motion. The moving party may file a reply memorandum within 5 days after service of a response. The reply must be strictly confined to rebuttal of points made in the response. A motion stating facts that are not in the record, or of which the appellate court may not take judicial notice, must be supported by an affidavit, declaration or other satisfactory evidence establishing those facts.

(b) Motions for Procedural Orders.

(1) Availability and Content. A procedural order is one that does not substantially affect the rights of the parties or the ultimate disposition of the appeal.

(A) Timing. An appellate court may rule on a motion for a procedural order, including a motion for an extension of time, at any time, without awaiting a response from another party.

(B) Statement. A motion for a procedural order must include a statement by the moving party of whether the other parties consent to, or object to, the entry of the order that is sought; or must explain the reasons why the moving party was unable to contact the other parties before filing the motion.

(C) Caption. The caption of a motion for procedural order must include the words, "Motion for Procedural Order."

(2) Ruling and Later Review. A single judge of the appellate court may act on a motion for a procedural order. An appellate court also may authorize its clerk or other appellate court personnel to act on specified types of procedural motions. A party adversely affected by the entry of a procedural order may file a motion within 15 days of the entry of the order requesting vacation or modification of the order. An appellate court on its own motion may review any action on a procedural motion by a single judge, an appellate clerk, or other appellate court personnel.

PART II: APPEAL FROM A JUDGMENT

Rule 7. Stay of Proceedings to Enforce a Judgment

(a) Supersedeas Bond. A supersedeas bond is a bond filed in the superior court, as provided by this Rule and by applicable statutes, which stays enforcement of, or execution on, a judgment while an appeal is pending.

The appellant may file a supersedeas bond before or after filing a notice of appeal. An appellant may not obtain a supersedeas bond to stay an award of custody of children or the payment of spousal maintenance or child support. A judgment against the State or agency or a political subdivision of the State is stayed as provided by Rule 62(g) of the Arizona Rules of Civil Procedure. “Appellant” when used in this Rule 7 includes a cross-appellant.

(1) Setting the Bond by Stipulation or Motion. The amount of the bond may be determined by stipulation or motion. Filing a motion for a supersedeas bond under this Rule temporarily stays enforcement of, or execution on, the judgment, with the same effect as described in Rule 7(b), until the superior court has set the bond amount and provided appropriate time for posting the bond. However, until a bond is posted, a party may record a judgment. The superior court will promptly hold a hearing on a motion to set bond. The superior court may enter any further order, in lieu of or in addition to the bond, which may be appropriate to preserve the status quo or the effectiveness of the judgment.

(2) Setting the Amount of the Bond Ex Parte. The superior court may determine the amount of the bond ex parte if the appellant submits a motion with an affidavit:

(A) Stating that the appellant has made a good faith attempt to obtain a stipulation from the other parties; and

(B) Describing the appellant’s efforts, if any, to give notice, or the reasons why it is not feasible under the circumstances to give the other parties an opportunity to be heard before the setting of bond.

(3) Amount of the Bond. The amount of the bond must be the lowest of the following:

(A) The total amount of damages awarded, excluding punitive damages;

(B) Fifty per cent of the appellant's net worth; or

(C) Twenty-five million dollars.

The appellant must prove net worth by a preponderance of the evidence.

(4) Exceptions.

(A) Notwithstanding Rule 7(a)(3), the superior court may require an appellant to post a bond in an amount up to the full amount of the judgment if an appellee

proves by clear and convincing evidence that the appellant is intentionally dissipating assets outside the ordinary course of business to avoid payment of a judgment.

(B) The superior court also may lower the bond amount to an amount that will not cause an appellant substantial economic harm if the appellant proves by clear and convincing evidence that the appellant is likely to suffer substantial economic harm if required to post a bond in the amount set under Rule 7(a)(3).

(C) In determining the amount of the bond, the superior court may consider whether there is other security for the judgment, or whether the sheriff or the court has custody of any property in controversy.

(5) Objections to the Bond. The appellant must serve a copy of the bond on the other parties before filing the bond with the superior court clerk. Any party may file objections within 5 days after the appellant serves a copy of the bond, specifying reasons why the bond is erroneous or defective, or why the surety is unqualified. If the court made an ex parte determination of the bond amount, a party other than the appellant also may object to the sufficiency of the amount. A party waives any errors, defects, or insufficiencies in a supersedeas bond that are not specified in timely filed objections. If no party has timely objected, the appellant may file the bond with the superior court clerk. Otherwise, the superior court will hold a hearing within 10 days after service of objections. The appellant may file the bond with the superior court clerk after the hearing on those objections, as allowed by the superior court.

(6) Notice of Filing. The superior court clerk will distribute a notice to all other parties if the appellant files a supersedeas bond.

(b) Effect of a Stay. If an appellant files a supersedeas bond as stipulated or as ordered by the superior court, and if the appellant has complied with all other conditions imposed by the superior court, then this Rule automatically stays enforcement of, and execution on, the judgment and all proceedings related to the execution on the judgment. If the superior court has already issued an order allowing execution on the judgment, the superior court clerk will promptly give notice to the sheriff and will recall the execution, and there may not be any further execution on the judgment pending the appeal's resolution. If another party has recorded a judgment lien before the filing of a supersedeas bond, that party must promptly record a release of the lien.

(c) Power of an Appellate Court to Enter a Stay, an Injunction, or Other Order. This Rule does not limit the power of an appellate court, or of an appellate judge or justice, to stay proceedings during the pendency of an appeal. A party requesting a stay from an appellate court under this Rule must first request the stay in the superior court. An appellate court or an appellate judge or justice also may suspend, modify, restore, or grant an injunction during the pendency of an appeal; may enter any order appropriate to preserve the status quo; and may enter any order to preserve the effectiveness of the decision that the appellate court will enter.

(d) Judgment Against a Surety. A surety that provides a supersedeas bond under this Rule submits to the jurisdiction of the superior court. The surety irrevocably appoints the superior

court clerk as the surety's agent on whom a party may serve any documents affecting the surety's liability on the bond. A party may enforce the surety's liability by motion and is not required to file an independent action against the surety. The party seeking enforcement must serve the superior court clerk with the motion and any notice of the motion required by the superior court, and the clerk must then promptly mail or otherwise distribute copies to the surety if the clerk knows the surety's address.

Rule 8. Appeal and Cross-Appeal – How Taken

(a) Filing a Notice of Appeal. A party to a judgment of the superior court may take an appeal by filing a notice of appeal with the clerk of the superior court that entered the judgment. The party must file the notice of appeal within the time provided by Rule 9(a).

(b) Filing a Notice of Cross-Appeal. A party to a judgment of the superior court may take a cross-appeal by filing a notice of cross-appeal with the clerk of the superior court that entered the judgment. The party must file the notice of cross-appeal within the time provided by Rule 9(b).

(c) Content of the Notice of Appeal or Cross-Appeal. The notice of appeal or cross-appeal must:

- (1) Include the caption of the case and the superior court case number;
- (2) Identify the party or parties taking the appeal or cross-appeal;
- (3) Designate the judgment or portion of the judgment from which the party is appealing;
- (4) Identify the court to which the party is appealing; and
- (5) Be signed by the attorney for the party that is taking the appeal or cross-appeal, or by the party if the party has no attorney.

Form 1 is a form for the notice of appeal or notice of cross-appeal.

(d) Appellate Court Jurisdiction. Failure of an appellant or cross-appellant to perform an act other than the timely filing a notice of appeal or cross-appeal does not affect the appellate court's jurisdiction, but the failure may be grounds for other appropriate appellate court action, including dismissal of the appeal or cross-appeal.

(e) Payment of Filing Fee. An appealing party must pay the required statutory filing fee to the superior court clerk when filing a notice of appeal or a notice of cross-appeal, unless the party is exempt or a superior court judge has waived or deferred the fee.

(f) Judgment for Jury Fees. A notice of appeal from a judgment also serves as an appeal from any related judgment for jury fees, regardless of whether the notice designates the judgment for jury fees.

(g) Joint or Consolidated Appeals or Cross-Appeals. Two or more parties may join in an appeal or cross-appeal from a judgment if they have similar interests and a joinder is practicable. They may join in an appeal or cross-appeal by filing a joint notice of appeal or cross-appeal, and they may then proceed as a single appellant or cross-appellant. On its own, on motion, or by stipulation, an appellate court also may consolidate multiple appeals.

(h) Superior Court Clerk's Distribution of a Notice of Appeal or Cross-Appeal. Upon the filing of a notice of appeal or cross-appeal, the superior court clerk must promptly distribute a copy of the notice on every party to the superior court judgment. The superior court clerk's notice of distribution must include the filing date of the notice of appeal or cross-appeal, the names of the parties provided with the clerk's notice, and the date and manner of distribution. The death of a party or of an attorney for a party will not affect the sufficiency of distribution of the superior court clerk's notice.

Rule 9. Appeal and Cross-Appeal – When Taken

(a) Time for Filing a Notice of Appeal. To appeal a judgment, a party must file a notice of appeal under Rule 8 no later than 30 days after entry of the judgment from which the appeal is taken, except as otherwise provided in this Rule or unless the law provides a different time.

(b) Time for Filing a Notice of Cross-Appeal. Except as otherwise provided in this Rule, to cross-appeal a judgment a party must file a notice of cross-appeal under Rule 8 no later than 20 days after appellant's filing of a notice of appeal, or 30 days after entry of the judgment from which the appeal is taken, whichever is later.

(c) Filing Before Entry of Judgment. A notice of appeal or cross-appeal filed after the superior court announces an order or other form of decision– but before entry of the resulting judgment that will be appealable – is treated as filed on the date of and after the entry of the judgment.

(d) Extension of Time on Death of a Party. If a party dies during the time the party is entitled to take an appeal or cross-appeal, the party's personal representative may file a notice of appeal or cross-appeal within 90 days after the party's death.

(e) Effect of Post-Judgment Motion on Notice of Appeal; Amended Notice of Appeal.

(1) If a party timely and properly files with the superior court clerk any of the following motions, the time to file an appeal or cross-appeal for all parties begins to run from the entry by the superior court clerk of a signed written order disposing of the last such remaining motion:

(A) For judgment under Rule 50(b) of the Arizona Rules of Civil Procedure;

(B) To amend or make additional factual findings under Rule 52(b) of the Arizona Rules of Civil Procedure or Rule 82(B) of the Arizona Rules of Family Law Procedure, whether or not granting the motion would alter the judgment;

(C) To alter or amend the judgment under Rule 59(1) of the Arizona Rules of Civil Procedure or Rule 84 of the Arizona Rules of Family Law Procedure;

(D) For new trial under Rule 59(a) of the Arizona Rules of Civil Procedure or Rule 83(A) of the Arizona Rules of Family Law Procedure; or

(E) For relief under Rule 60 of the Arizona Rules of Civil Procedure or Rule 85 of the Arizona Rules of Family Law Procedure, if the motion is filed no later than 15 days after entry of the judgment.

(2) If a party files a notice of appeal before the timely filing of one of the motions identified in Rule 9(e)(1) or if a notice of appeal is filed during the pendency of such a motion, the appellant must notify the appellate court of the pending motion or motions when the appellate court assigns a case number under Rule 12(a). Upon the appellate court's receipt of such notice, the appeal will be suspended until the last such motion is decided. The appellant also must notify the appellate court when all such motions have been decided, and the appeal will be reinstated as of the entry of the order disposing of the last remaining motion.

(3) A party intending to appeal one or more of the orders regarding the motions listed in Rule 9(e)(1) must file a notice of appeal, a notice of cross-appeal, or an amended notice of appeal under Rule 8 within the time prescribed by Rule 9, measured from the entry of the order disposing of the last such remaining motion.

(f) Reopening the Time to File an Appeal for Lack of Notice of Entry of Judgment. The superior court may on motion reopen the time for filing a notice of appeal for a period of 14 days after entry of its order granting the motion to reopen, but only if all of the following conditions are satisfied:

(1) The court finds that the moving party did not receive notice under Rule 58(e) of the Arizona Rules of Civil Procedure, or Rule 81(D) of the Arizona Rules of Family Law Procedure, of entry of the judgment or order that the party seeks to appeal within 21 days after entry;

(2) The motion is filed within 30 days after the expiration of the time for appeal, or within 7 days of receipt of the notice of entry of the judgment or order, whichever is earlier; and

(3) The court finds that no party would be prejudiced.

Rule 10. Appeals in Expedited Election Matters

(a) Scope. This Rule governs appeals in election matters designated by statute for expedited appellate review. Other provisions of these Rules apply to expedited election appeals to the extent they are not inconsistent with this Rule, or to the extent that this Rule does not expressly vary those other provisions.

(b) Filing a Notice of Appeal in the Superior Court. A party may appeal from a superior court judgment by filing a notice of appeal within the accelerated time provided by the applicable statute. A notice of appeal filed after the superior court announces an order or other form of decision – but before entry of the resulting judgment that will be appealable – is treated as filed on the date of and after the entry of the judgment. The party must file the notice of appeal in the superior court in the county in which the proceeding occurred, and the notice must contain all of the information required by Rule 8(c).

(c) Filing a Copy of the Notice of Appeal with the Appellate Court. Within one business day after filing the notice of appeal in the superior court, the appellant must file with the appropriate appellate clerk:

- (1) A copy of the notice of appeal that shows the stamped date of its filing in the superior court;
- (2) A statement designating the case as an “Expedited Election Matter” and providing the names and contact information, including email addresses if available, of counsel for each party and of any self-represented parties; and
- (3) A copy of the superior court's judgment that the appellant is appealing.

If a case originates outside the county in which the appellate clerk’s office is located, an appellant that is filing in paper pursuant to Rule 4.1 may satisfy this requirement by sending these documents by facsimile or electronic mail to the appellate clerk; and by filing a paper copy of the documents with the appellate clerk not later than the second business day after filing the notice of appeal in the superior court.

(d) Determining the Appropriate Appellate Court.

(1) Appeal to the Supreme Court. A party must appeal a judgment in an expedited election case involving candidate nomination petitions directly to the Supreme Court. A direct appeal to the Supreme Court also may be made in an expedited election case if the judgment involves a statewide initiative or referendum, the issue on appeal is of substantial statewide importance, and the issue otherwise would become moot before Supreme Court review.

(2) Appeal to the Court of Appeals. A party must appeal to the Court of Appeals a judgment in an expedited election case involving a recall; a county, city, or town initiative or referendum; or a statewide initiative or referendum that does not meet the criteria for appealing directly to the Supreme Court.

(e) Fees. The appellant must pay a filing fee to the appellate clerk when filing a copy of the notice of appeal under Rule 10(c). If the case originates outside the county in which the appellate clerk’s office is located, an appellant that is filing in paper pursuant to Rule 4.1 may pay the filing fee when the appellant transmits the paper copy of the documents required under Rule 10(c). The appellee must pay any required fees upon the appellee’s first appearance in the appellate court.

(f) Preparation of Record on Appeal.

(1) Index. The superior court clerk must prepare an index of the record and transmit it to the appellate court within 5 business days of the filing date of the notice of appeal.

(2) Transcripts; Stipulated Record. The appellant must promptly ask the court reporter to expedite the preparation of any transcripts necessary for determination of the appeal. No later than one business day after filing the notice of appeal in the superior court, the appellant must notify every other party of the portions of the transcript that the appellant intends to include in the record. If any other party considers a transcript of other portions of the proceedings to be necessary, the other party must notify the appellant and the court reporter within one business day of the additional portions of the transcripts to be included. The party that orders a transcript must make payment arrangements with the court reporter, and must promptly file the transcript with the appellate court upon receipt. If necessary, the appellant may request the appellate court to order expedited preparation of the record. In lieu of transcripts, the parties may agree on a stipulated record and submit copies of the stipulated record to the appellate court.

(g) Scheduling Conference. Simultaneously with filing the copy of the notice of appeal in the appellate court as required by Rule 10(c), the appellant must file a written request that the appellate court set an initial telephonic scheduling conference to determine a schedule for expedited proceedings. The parties must be prepared to address the following topics at the initial scheduling conference:

- (1)** Any pending deadlines that might affect the schedule for briefing or disposition of the appeal, such as the deadline for printing ballots or a publicity pamphlet, or the date of the election;
- (2)** Any request for a court order to facilitate the timely preparation of the record on appeal;
- (3)** Any request to transfer the case to the Court of Appeals or to the Supreme Court;
- (4)** The nature and number of issues on appeal;
- (5)** Deadlines for submission of the parties' briefs;
- (6)** The format of pleadings and documents that the parties may file on appeal, including proposed word limits and whether briefing should be in the form prescribed by Rule 13; and
- (7)** Whether the court should schedule oral argument.

(h) Electronic Filing and Service Requirement. Parties to an expedited election appeal are required to file documents electronically, as provided by Rule 4.2, unless the party has an exception allowing the filing of a paper document under Rule 4.1. A party that serves documents on another party by mail in an expedited election appeal must also serve the documents by electronic means, including email or facsimile, or as agreed to by the parties. If the party on

whom service is to be made does not have access to email or facsimile, then service must be by hand delivery or as the appellate court otherwise directs.

(i) Motion for Reconsideration. A party that seeks reconsideration of an appellate court decision in any expedited election case under this Rule must file a motion for reconsideration within 5 calendar days after the filing of the decision. This motion is otherwise subject to the requirements of Rule 22.

(j) Petition for Review.

(1) Petition Deadline. To file a petition for review in any expedited election case governed by this Rule, a party must file the petition with the Supreme Court clerk within 10 calendar days after either entry of a decision, or entry of the final disposition by the Court of Appeals on a motion for reconsideration, whichever is later. The petitioner must serve a copy of the petition and any appendices on all parties that have appeared in the Court of Appeals.

(2) Cross-petition Deadline. A party may file a cross-petition for review with the Supreme Court clerk within 10 calendar days after service of a petition for review. The cross-petitioner must serve a copy of the cross-petition and any appendices on all parties that have appeared in the Court of Appeals.

(3) Response Deadline. Any party's response to a petition or cross-petition for review must be filed within 10 calendar days after service of the petition or cross-petition.

(4) Form. The petition, cross-petition, and responses must comply with the form, length, and content requirements provided by Rule 23.

(5) Supplemental Briefs; Oral Argument. If the Supreme Court grants review but its order does not provide for filing supplemental briefs or for oral argument, a party may file a request to allow one or both of these within 5 calendar days after entry of the order.

Comment to Rule 10

(1) This rule applies only to election-related cases designated by statute for expedited consideration on appeal, such as those arising under A.R.S. § 16-351(A) (candidate nomination petitions); A.R.S. § 19-208.04 (recall); A.R.S. § 19-122 (initiative and referendum petitions); and A.R.S. § 19-141 (initiative and referendum in counties, cities, and towns). Cases that do not involve a specific statutory provision requiring expedited proceedings are governed by other provisions of these Rules or the Rules of Procedure for Special Actions. Any effort to expedite an appeal in such cases requires a motion for expedited consideration under Rule 6 of these Rules or an appellate special action under Rule 7 of the Rules of Procedure for Special Action. In such cases, counsel are encouraged to consider following the practices codified by subsections (c), (d) and (f) of this Rule.

(2) Under A.R.S. § 16-351(A), a notice of appeal in a nomination petition case must be filed not later than 5 calendar days after the superior court enters final judgment. See *Bohart v. Hanna*, 213 Ariz. 480, 143 P.3d 1021 (2006) (party appealing a decision concerning a nomination

petition must file the notice of appeal within 5 calendar days); *Klebba v. Carpenter*, 213 Ariz. 91, 139 P.3d 609 (2006) (party appealing a decision concerning a nomination petition must obtain a written, signed judgment from the superior court within the 10-day period imposed by A.R.S. § 16-351(A)). Under A.R.S. § 19-122, a notice of appeal in mandamus cases involving initiatives and referenda must be filed not later than 10 days after the superior court enters final judgment. Under A.R.S. § 19-208.04, a notice of appeal in a recall case must be filed not later than 10 days after the superior court enters final judgment.

(3) Appeals in election matters involving a county, city, or town initiative or referendum should be taken to the Court of Appeals. See *Fleischman v. Protect Our City*, 214 Ariz. 406, 407-08 ¶ 7, 153 P.3d 1035, 1036–37 (2007). A party to the appeal may move pursuant to Rule 19 to transfer the case to the Supreme Court. Any such motion should be accompanied by a request for expedited consideration and should explain why transfer is appropriate.

(4) This Rule provides for expedited motions for reconsideration and petitions for review, but parties remain responsible for requesting more expedited handling of their case if necessary to have the motion or petition considered before any election, ballot printing, or other deadline. Such requests should be made by motion under Rule 6 of these Rules or under Rule 7 of the Rules of Procedure for Special Actions.

Rule 11. The Record on Appeal

(a) Composition. The record on appeal consists of:

(1) The official record, which includes documents, exhibits, and minute entries; transcripts filed in the superior court before the effective date of the filing of a notice of appeal, a notice of cross-appeal, or an amended notice of appeal; other items filed with the superior court; and the index prepared under Rule 11.1(a).

(2) Transcripts of oral proceedings in the superior court that the parties ordered, or other narratives prepared under this Rule and that are not otherwise contained within the official record.

(b) Transcripts of Oral Proceedings. A transcript of an oral proceeding in the superior court may be prepared by a certified court reporter or by an authorized transcriber. A party that wants the record on appeal to include a transcript of an oral proceeding that was not previously filed as a part of the official record must order the transcript as follows:

(1) Certified Transcript. If a certified court reporter attended a proceeding in the superior court, a party must order a certified transcript of proceedings directly from that reporter.

(2) Authorized Transcription. If the superior court created only an audio or audio-video recording of the proceeding, a party must order a certified transcript of the proceeding directly from an authorized transcriber. The superior court will furnish the transcriber with a copy of the designated electronic recording upon receipt of a notice

from the transcriber that the transcriber has reached a satisfactory arrangement for payment. All parties to the appeal must cooperate with the transcriber by providing information that is necessary to facilitate transcription.

(c) Appellant's Duty to Order Transcripts and Other Parties' Transcript Designations.

(1) What to Order.

(A) The appellant must order transcripts of superior court proceedings not already in the official record that the appellant deems necessary for proper consideration of the issues on appeal.

(B) If the appellant will contend on appeal that a judgment, finding or conclusion, is unsupported by the evidence or is contrary to the evidence, the appellant must include in the record transcripts of all proceedings containing evidence relevant to that judgment, finding or conclusion.

(C) A complete transcript of superior court proceedings does not need to include juror qualifications, jury impaneling, opening statements, or argument of counsel to the jury, unless appellant will raise an issue concerning one of those proceedings.

(2) When to Order. The appellant must order transcripts directly from a certified court reporter or an authorized transcriber within 10 days after filing the notice of appeal, or within 10 days after entry of an order disposing of the last timely remaining motion under Rule 9(e), whichever is later.

(3) Notice of Transcript Order and Statement of Issues on Appeal. Within 15 days after filing the notice of appeal, or within 15 days after entry of an order disposing of the last timely remaining motion under Rule 9(e), whichever is later, the appellant must file in the superior court and serve on the other parties the following:

(A) A notice of transcript order that states whether appellant has ordered a complete transcript of superior court proceedings, or which identifies the proceedings for which the appellant has ordered transcripts under Rule 11(c)(1). If the appellant is not ordering any transcripts, the notice must disclose that fact; and

(B) If the appellant orders less than a complete transcript of superior court proceedings, **a statement of the issues** that the appellant intends to raise on appeal.

(4) Designation of Additional Transcripts; Notice of Intention; Response.

(A) Designation of Additional Transcripts. If another party considers a transcript of a proceeding necessary for proper consideration of the issues on appeal, and if the appellant has not ordered the transcript, the other party must file in the superior court, and serve on the appellant and all other parties, a designation

of the additional transcript as part of the record on appeal. This designation must be filed and served within 10 days after service of the appellant's notice and statement under Rule 11(c)(3).

(B) Notice of Intention. If the appellant does not intend to order a transcript designated by another party, the appellant must file in the superior court and serve on the other parties a notice stating that intention. This notice must be filed and served within 5 days after the service of a designation under Rule 11(c)(4)(A). If the appellant does not timely file and serve such a notice of intention, the appellant must order the transcript designated by the other party.

(C) Response to a Notice of Intention. If the appellant files and serves a notice of intention under Rule 11(c)(4)(B) stating that appellant will not order a transcript, the party that designated the transcript must respond within 5 days by:

(i) Filing and serving a notice withdrawing the designation;

(ii) Ordering the designated transcript, and making arrangements for payment under Rule 11(c)(5); or

(iii) Filing a motion in the superior court for an order that would require the appellant to order, and to pay for, the designated transcript. The superior court may enter such an order upon a finding that it is in the interests of justice.

(5) Payment. When ordering transcripts, a party must make satisfactory arrangements with the certified court reporter or authorized transcriber for timely paying the cost of the transcripts the party has ordered.

(6) Cross-Appellant. When used in this Rule 11(c), the term "appellant" includes a cross-appellant.

(d) Narrative Statement. If no transcript of oral proceedings is available, the appellant may prepare and file a narrative statement of the evidence or proceedings from the best available means, including the appellant's recollection. The appellant must file the narrative statement in the superior court within 30 days after filing the notice of appeal, and must serve it on the other parties. Any other party may file objections or proposed amendments to the narrative statement within 10 days after service. If the appellant does not file such a narrative statement within the specified time, any other party may prepare, file, and serve such a narrative statement, and the appellant may file objections or proposed amendments to that statement within 10 days after service. After considering a narrative statement and any objections or proposed amendments, the superior court judge will settle and approve the narrative statement and the superior court clerk will include it in the record transmitted to the appellate court under Rule 11.1.

(e) Agreed Statement. Instead of providing a transcript of oral proceedings to the appellate court, the parties may prepare an agreed statement that contains the evidence or proceedings that are essential to a decision of the issues presented by the appeal, and submit the statement to the

superior court for settlement and approval. The agreed statement must include a statement of the issues the appellant and any cross-appellant intends to present on the appeal. The parties must file the agreed statement in the superior court within 30 days after filing the notice of appeal. The superior court judge may make any additions and corrections he or she considers necessary to the issues presented by the appeal. The superior court clerk will then include the agreed statement, as corrected and modified by the judge, in the record transmitted to the appellate court under Rule 11.1.

(f) Video or Audio Recording. On motion, the appellate court may allow a party to file a video or audio recording of superior court proceedings in lieu of a transcript. The party must file the motion within 30 days after the assignment of an appellate case number under Rule 12(a). The appellate court may specify the format of the recording. Any such recording may include multiple proceedings, but the recording must clearly identify the beginning and end of each proceeding. The entire recording may not exceed 30 minutes in length unless otherwise authorized by an appellate court. The filing party is responsible for ordering and paying for the recording and copies, and must serve all other parties with a copy of the recording.

(g) Correction or Modification of the Record.

(1) If anything material to either party is omitted from or misstated in the record by error or accident, the omission or misstatement may be corrected and a supplemental record may be certified and forwarded:

(A) On stipulation of the parties; or

(B) By the superior court before or after the record has been forwarded.

(2) If any difference arises about whether the record accurately discloses what occurred in the superior court, the difference must be submitted to and settled by the superior court and the record conformed accordingly.

(3) The parties must present all other questions as to the form and content of the record to the appellate court.

(4) The appellate court may order the parties to correct an omission or misstatement in the record.

(h) Multiple Appeals from the Same Judgment. If multiple parties take appeals from the same judgment, the parties must prepare (or request the preparation of) a single certified transcript, authorized transcription, narrative statement or agreed statement containing all the matters designated or agreed on by the parties, without duplication.

Rule 11.1. Transmitting the Record to the Appellate Court

(a) Official Documents; Index. After a party files a notice of appeal, the superior court clerk must prepare a numerical index of the documents in the superior court's file (the "*index*"). The superior court clerk must transmit the index to the appellate court as provided in Rule 11.1(b),

and after the appellate court accepts the transmission, the superior court clerk must promptly distribute a copy of the index to every party to the superior court judgment.

(b) Electronic Transmission by the Superior Court Clerk. Within 30 days after the filing of a notice of appeal, the superior court clerk must electronically transmit to the appellate clerk:

- (1) All documents filed in the superior court before the effective date of the filing of the notice of appeal, a notice of cross-appeal, or an amended notice of appeal, including minute entries, notices of appeal and cross-appeal, and the index;
- (2) Every exhibit in paper, electronic, or photographic form, unless relieved by the appellate court of an obligation to do so, or unless the size or bulk of an exhibit makes transmission cumbersome; and
- (3) Any other items requested by the appellate clerk.

If the superior court clerk is unable to transmit all or any items electronically within the time set forth in this Rule, the superior court clerk must notify the appellate clerk and the parties to the appeal, and indicate when it anticipates transmitting the record. The superior court clerk must also provide a list of any items, including exhibits, which are not transmitted. The appellate court may order the superior court clerk to transmit the electronic record, or a portion of the record, at an earlier time, or it may order physical transmission of the entire record or portions of the record under Rule 11.1(c). At any time during the appeal, the appellate court may direct the superior court clerk by an order or written request to transmit portions of the record that were not included in previous transmissions.

(c) Physical Transmission by the Superior Court Clerk. The superior court clerk must notify the appellate clerk and the parties to the appeal of any items in the superior court's record of a size, bulk, or condition that makes their electronic transmission impractical. If any of those items are necessary for a determination of issues raised on appeal, the appellate court on motion, or on its own, may order that the superior court clerk transmit to the appellate court any or all of these items in physical form. Alternatively, the parties may stipulate to the method of transmitting the item.

(d) Delivery and Filing of Transcripts.

(1) Delivery and Filing. Within 30 days after the date of a party's order, and if the ordering party has made payment, the court reporter or authorized transcriber must provide the ordering party with a certified electronic transcript, or with a certified paper transcript if requested by the ordering party. Within 5 days after receipt of a certified transcript, the ordering party must file it with the appellate clerk.

(2) Extension of Time. If a reporter or transcriber cannot provide a transcript within 30 days after the transcript order, the ordering party may request the appellate clerk to grant additional time to complete it. Under Rule 15(e)(1), unavailability of a transcript may be a basis for an extension of time to file a brief.

(3) Service on Other Parties. Within 5 days after receipt of a certified transcript from the reporter or transcriber, the ordering party must serve a copy of the transcript on all other parties. The ordering party must serve the transcript in either electronic or paper format, as requested by the other parties, and must make appropriate arrangements with the reporter or transcriber to facilitate another party's request for delivery of a transcript in either electronic or paper formats.

(4) Additional Transcripts. A party may file a motion with the appellate court at any time before the appeal is at issue under Rule 15(b) for inclusion in the record on appeal of any additional transcripts of superior court proceedings.

Rule 12. Notice Regarding Filing Fee and Deadlines; Case Management Statement in Division One

(a) Assignment of Appellate Case Number. The appellate clerk will assign the appeal an appellate case number no later than 10 days after the receipt of those items listed in Rule 11.1(b). The appellate clerk will enter the appeal under the title of the action that the case had in the superior court. If the title does not contain the names of the parties to the appeal, the appellate clerk will modify the title. The appellate clerk will designate the parties as appellants, appellees, cross-appellants, or cross-appellees, as they will appear in the appellate court.

(b) Notice of Appellant's Duties. The appellate clerk will notify the parties to the appeal after assigning an appellate case number under Rule 12(a). The appellate clerk's initial notice to the parties will direct the appellant to:

- (1) Pay an appellate filing fee within 10 days after distribution of the initial notice;
- (2) File the opening brief within 60 days after distribution of the initial notice.

(c) Notice of Appellee's and Cross-Appellant's Duties. Upon receipt of the appellant's filing fee, the appellate clerk will notify the parties of that payment and by a second notice will direct the appellee and any cross-appellant to:

- (1) Pay the appropriate appellate filing fee within 10 days after distribution of the second notice; and
- (2) File an answering brief or a combined answering brief and cross-appeal opening brief within 40 days after service of the opening brief.

(d) Case Management Statement in Division One.

(1) Filing and Service. In Division One, an appellant must complete and file a case management statement with the appellate clerk within 20 days after distribution of the appellate clerk's initial notice under Rule 12(b). A cross-appellant in Division One must file a case management statement within 30 days after the appellate clerk's second notice under Rule 12(c). An appellee in Division One that is not a cross-appellant is not required to file a case management statement, but may within 30 days after distribution of

the appellate clerk's second notice file a statement to clarify, correct, or supplement an appellant's case management statement. A party that files a case management statement must serve the statement on all other parties as provided by Rule 4(f).

(2) Form. A form for a case management statement is available on the website maintained by Division One of the Court of Appeals, and in the office of the appellate clerk of that division.

(e) Sanctions for a Failure to Pay a Filing Fee.

(1) Obligation to Pay. Parties must pay the appellate filing fee fixed by law to the appellate clerk within the time provided in Rules 12(b) and 12(c), unless the appellate court has extended the time for paying the filing fee, the party is exempt from paying the fee, or a court order has waived the fee.

(2) Sanctions for Nonpayment. If an appellant fails to timely pay a required appellate filing fee, the appellate court may dismiss the appeal after providing notice to the parties. Alternatively, the appellate court may treat the appeal as abandoned, subject to reinstatement if a motion for such relief is granted and the required fee is paid. If an appellee fails to timely pay a required appellate filing fee, the appellate court may deem the case submitted solely on the record and the appellant's opening brief.

(3) Cross-Appeal. If an appellate court dismisses an appeal under this Rule, or otherwise deems the appeal abandoned, and a cross-appellant fails to timely pay a required appellate filing fee, the appellate court may deem the entire appeal abandoned.

PART III: APPELLATE BRIEFS

Rule 13. Content of Briefs

(a) Appellant's Opening Brief. An appellant's opening brief must set forth under the following headings and in the following order all of the items listed below, except for items (3) and (10), which are optional.

(1) A "table of contents" with page references. If the brief is filed electronically, and if feasible, the table of contents should include bookmarks to sections of the brief described in items (2) through (10) below.

(2) A "table of citations" that must alphabetically arrange and index the cases, statutes and other authorities cited in the brief, and which must refer to the pages of the brief on which each citation appears.

(3) A short "introduction."

(4) A "statement of the case" that must concisely state the nature of the case, the course of the proceedings, the disposition in the court from which the appeal is taken, and the

basis of the appellate court's jurisdiction. The statement must include appropriate references to the record.

(5) A “**statement of facts**” that are relevant to the issues presented for review, with appropriate references to the record. A party may combine a statement of facts with the statement of the case.

(6) A “**statement of the issues**” presented for review. The statement of issues presented for review includes every subsidiary issue fairly comprised within the statement.

(7) An “**argument**” that must contain:

(A) Appellant’s contentions with supporting reasons for each contention, and with citations of legal authorities and appropriate references to the portions of the record on which the appellant relies. The argument may include a summary.

(B) For each issue, references to the record on appeal where the issue was raised and ruled on, and the applicable standard of appellate review with citation to supporting legal authority. If a ruling challenged on appeal is one that required a party’s objection at trial to preserve a right of review, for example, a failure to admit or to exclude evidence or the giving of or refusal to give a jury instruction, appellant must include a reference to the record where the objection and ruling are located.

(8) A “**notice under Rule 21(a)**,” if applicable, that the party intends to claim attorneys’ fees.

(9) A short “**conclusion**” stating the precise relief sought.

(10) An “**appendix**,” as provided in Rule 13.1.

(b) Appellee’s Answering Brief.

(1) **Generally.** The appellee’s answering brief must follow the requirements of Rule 13(a), except that it does not need to include a statement of the case, a statement of facts, or a statement of the issues, unless the appellee finds the appellant’s statements to be insufficient or incorrect.

(2) **Scope of Issues.** The appellee’s answering brief may include in the statement of issues presented for review and discuss in the argument any issue that was properly presented in the superior court without the need for a cross-appeal, and the appellate court may affirm the judgment based on any such grounds. An appellate court, however, may modify a judgment to enlarge the rights of the appellee or reduce the rights of the appellant only if the appellee has filed a notice of cross-appeal.

(c) **Reply Brief.** If the appellant files a reply brief, it must be strictly confined to the rebuttal of points made in the appellee’s answering brief. A party may file additional briefs other than a reply only with the appellate court’s permission.

(d) References to the Record. In any brief, references to evidence or other parts of the record must include a citation to the index, exhibit, or page of a certified transcript, authorized transcription, narrative statement, or agreed-upon statement where such evidence or other material appears. In Division One, a brief may cite to a document in the appendix in lieu of citing to the record, but only if the table of contents of the appendix complies with the requirements of Rule 13.1(c)(1). If a party refers to a video or audio recording, the party must provide specific, time-coded references to the relevant portions of the recording.

(e) References to Parties. In briefs and at oral argument, parties should minimize use of the terms “appellant” and “appellee.” For clarity, briefs should use the parties' actual names or the designations used in the superior court or agency proceeding, or such descriptive terms as “the employee,” “the injured person,” “the taxpayer,” “the buyer.”

(f) References to Case Law. Citation of Arizona case law must be to the volume, page number and, if available, the paragraph number, of the official Arizona reporters. Citation of non-Arizona case law must be to the volume and page number of applicable regional or federal reporters.

(g) Briefs in Cases Involving Cross-Appeals. If a cross-appeal has been filed, the combined briefs under Rule 15(a)(4) must include in a statement those issues that are presented in the cross-appeal.

(h) Briefs Involving Multiple Appellants or Appellees. In cases involving more than one appellant or more than one appellee, including consolidated cases, multiple parties may join in a single brief, or an appellant or appellee may adopt by reference any part of the brief of another party. Parties having contentions in common must make a good faith effort to join in a single brief. If there is a contention common to other parties, the filing party must make a good faith effort to adopt by reference the pertinent part of the previously filed brief of another party. The parties in a joint appeal under Rule 8(g) must file a joint brief.

(i) Briefs of Amicus Curiae or Intervenor. An intervenor is a person not a party to a judgment that the appellate court allows to participate as a party in an appeal under Rule 24 of the Arizona Rules of Civil Procedure, and is subject to any requirements that the court may set. A brief of amicus curiae or an intervenor must comply with Rule 13(a)(1), (2), (7), (8), (9) and (10). A brief of amicus curiae must also comply with the requirements of Rule 16.

Rule 13.1. Appendix

(a) Applicability. A party may file an appendix with the party’s brief in the Arizona Supreme Court and in Division One of the Court of Appeals. A party’s appendix in the Arizona Supreme Court or Division One must be filed by the same method – paper or electronic – as the party’s brief. An electronically filed brief in Division Two of the Court of Appeals must include electronic links when citing to the record on appeal and the brief must not include an appendix, as provided in Division Two’s policy and as set forth on its website. A party may file a paper appendix in Division Two only if filing a paper brief.

(b) Content of the Appendix. The appendix should include only those portions of the record and legal authorities that are cited in the briefs and that are essential to decide an issue on appeal.

(c) Table of Contents. If there is more than a single item in the appendix, the appendix must begin with a table of contents that identifies each item included in the appendix. The table of contents must identify items in both of the following ways.

(1) Location in the Record: If applicable, the table of contents must identify where each item is located in the record – by item number in the clerk’s index (see Rule 11.1(a)), by transcript date, or by exhibit number, as appropriate.

(2) Location in the Appendix: The table of contents also must identify the item’s location in the appendix by page number, or by volume and page number.

(d) Appendix Filed Electronically. A party that files a brief electronically may file a separate appendix or may file a combined brief and appendix as a single document, with the appendix following the brief. A combined filing may not exceed the size limits of the filing portal.

(1) Page Numbering. The pages in an appendix must be numbered sequentially. An appendix page number should match the electronic page number of the viewing software. If a party files a combined brief and appendix, the first page of the appendix must include a number sequential to the last page of the brief. For a separately filed appendix, the numbers should start with the cover page of the appendix.

(2) Multiple Volumes. If a separate appendix is more than one volume, page numbering should restart for each volume and include an identifier that distinguishes each volume (e.g., APPV1-001, APPV2-001).

(3) Bookmarks and Hyperlinks. Each item in the appendix table of contents must include a bookmark or hyperlink to the item in the appendix. If feasible, a combined brief and appendix filed as a single document must contain bookmarks or hyperlinks to items in the appendix when these items are cited in the brief.

(e) Appendix Filed in Paper.

(1) Page Numbering. Pages of the appendix must be numbered sequentially, beginning with the appendix cover page.

(2) Combined Filing. A party that files a brief in paper form may file a combined brief and appendix. If combined, the appendix must be located after the brief, and a blank page of distinctive color must separate the last page of the brief from the first page of the appendix.

(3) Separate Filing. A party filing a paper appendix that is not combined with the brief must securely bind the appendix (for example, the pages of the appendix may be clipped or banded), but the binding must not use adhesives. The Supreme Court and Division One discourage the use of devices such as staples or two-pronged fasteners that perforate the pages of the appendix.

Rule 14. Length and Form of Briefs

(a) Length of Briefs.

(1) Opening Briefs and Answering Briefs must not exceed 14,000 words.

(2) Reply Briefs must not exceed 7,000 words.

(3) Combined Briefs Involving a Cross-Appeal. The length of each separate portion in combined briefs involving a cross-appeal must not exceed the number of words that each of the separate briefs may contain.

(4) Amicus Curiae Briefs or Responses to Amicus Curiae Briefs must not exceed 12,000 words.

(5) Certificate of Compliance. Every brief must be accompanied by a certificate that confirms compliance with the above word limit. Form 2 is a template certificate of compliance. A party preparing a certificate of compliance may rely on the word count of the word processing system used to prepare the brief if it counts the required words including any footnotes.

(b) Form. Paper and electronic briefs must comply with the format requirements of Rule 4(a) – (c). The first page of a brief must include a caption that is substantially the same as shown in Form 4.

(c) Briefs Filed in Paper. A party permitted to file a brief in paper must adhere to the following requirements:

(1) A party must securely bind the brief (for example, the pages of the brief may be clipped or banded), but the binding must not use adhesives. The Supreme Court and Division One discourage the use of devices such as staples or two-pronged fasteners that perforate the pages of the brief.

(2) The brief must have a separate cover page that contains the caption.

Rule 15. Due Dates; Filing and Service of Briefs

(a) Time for Filing a Brief.

(1) Opening Brief. The appellant must file an opening brief within 60 days after the appellate clerk mails or otherwise distributes an initial notice under Rule 12(b). If an appellant does not timely file an opening brief, the appellate court on motion of a party or on its own motion may dismiss the appeal.

(2) Answering Brief. The appellee must file an answering brief within 40 days after service of the appellant's brief. If the appellee does not timely file an answering brief, the

appellate court may deem the appeal submitted for decision based on the opening brief and the record.

(3) Reply Brief. The appellant may file a reply brief within 20 days after service of the answering brief. In lieu of filing a reply brief, the appellant may file a notice that the appellant will not be filing a reply brief.

(4) Combined Brief on Cross-Appeal. A cross-appealing party must file a combined answering brief on appeal and opening brief on cross-appeal within 40 days after service of the appellant's opening brief. The appellant/cross-appellee must then file a combined reply brief on appeal and answering brief on cross-appeal within 40 days after service of the combined answering brief on appeal/opening brief on cross-appeal.

(5) Reply Brief on Cross-Appeal. The cross-appellant may file a reply brief within 20 days after service of the cross-appellee's combined brief. The reply brief must address only matters raised by the answering brief on cross-appeal. In lieu of filing a reply brief, the cross-appellant may file a notice that the cross-appellant will not be filing a reply brief.

(6) Amicus Curiae Brief. An amicus curiae must file its brief in the time provided by Rule 16.

(7) Response to Amicus Curiae Brief. A party may respond to an amicus curiae brief. If amicus curiae files a brief with the consent of the parties, or if a government entity or agency files an amicus curiae brief, a party has 20 days after service of the brief to file a response. If the appellate court grants a motion for leave to file an amicus curiae brief that has been lodged with the appellate court, a party has 20 days from entry of that order to file a response.

(8) Intervenor's Brief. An intervenor must file a brief within the time specified in the appellate court's order permitting intervention.

(b) "At Issue." The appeal will be deemed to be "at issue" when the final reply brief is filed or is due, whichever is earlier.

(c) Manner of Filing Briefs.

(1) Electronic Filing. Subject to an exception under Rule 4.1, a party must file a brief electronically. Electronic filing of a brief is timely only if the appellate clerk actually receives it within the time allowed for filing.

(2) Paper Filing. A party may file a paper brief only if Rule 4.1 permits it. The filing of a paper brief is timely if:

(A) The filing party places the brief in the United States Postal Service mail within the time allowed for filing;

(B) The filing party delivers the brief to a third-party commercial carrier within the time allowed for filing, for the carrier's delivery to the appellate clerk within 3 calendar days; or

(C) The filing party hand-delivers the brief to the appellate clerk within the time allowed for filing.

(d) Service of Briefs. A party must serve a brief and any separate appendix to the brief on all other parties to the appeal, as provided by Rule 4(f). The party serving the brief, and any separate appendix, must file a certificate of service with the appellate clerk, as provided by Rule 4(g). If a brief is filed under Rule 15(c)(2)(A) or (B), the certificate must also include the date it was delivered to the commercial carrier or placed in the United States Postal Service mail. If a brief is filed under Rule 15(c)(2)(C), the certificate must include the date of delivery to the clerk. The filing party must serve this certificate on all other parties. A party that files a paper brief or separate paper appendix must serve two copies of the brief and appendix on every separately represented party. If a party files an electronic brief or appendix that includes bookmarks or hyperlinks, the party must serve on all other parties to the appeal an electronic copy of the brief or appendix that contains the same functioning bookmarks or hyperlinks.

(e) Extension of Time to File a Brief.

(1) Transcript Unavailability. If a party moves to extend the time for filing a brief based on unavailability of a transcript, the party's motion must:

(A) Certify that the party timely ordered and made payment arrangements for a transcript under Rule 11;

(B) Provide the reason for the reporter's or transcriber's inability to have the transcript completed; and

(C) State the reporter's or transcriber's estimated date of completing and filing the transcript.

If the appellate court grants the motion to extend time based on the unavailability of a transcript, it will extend the time for filing the brief to 30 days after the estimated filing date of the transcript.

(2) Extensions for Other Reasons. A party's motion or the parties' stipulation to extend the time for filing a brief for any reason other than the unavailability of a transcript must comply with Rule 5(b) or Rule 6(b), as applicable.

Rule 16. Amicus Curiae

(a) Generally. Amicus curiae is not a party to the appeal, and must be independent of any party to the appeal. Counsel for a party may not author an amicus curiae brief in whole or in part.

(b) Requirements for Filing.

(1) Allowance. An applicant may file a brief as amicus curiae only if:

(A) The brief is filed with the written consent of the parties and states that on the cover;

(B) The applicant is the State of Arizona or an officer or agency of the State of Arizona, or is an Arizona county, city, or town; or

(C) The applicant submits the brief with permission of the appellate court granted by motion. An appellate court may allow an amicus curiae brief if:

(i) A party has incompetent representation or no representation at all;

(ii) Amicus curiae has an interest in another case that the decision in the present case may affect; or

(iii) Amicus curiae can provide information, perspective, or argument that can help the appellate court beyond the help that the parties' lawyers provide.

(2) Motion to File. If an applicant files a motion to file a brief as amicus curiae, the applicant must lodge the brief with the motion. The motion must identify the interest of the applicant, state that the applicant has read the relevant brief, petition or motion, and state the reasons why the appellate court's acceptance of applicant's brief as amicus curiae would be desirable.

(3) Disclosure of Sponsor. Amicus curiae's brief must clearly identify the group or organization sponsoring the brief and the interests of the sponsoring entity in the outcome of the appeal. The brief must also identify persons or entities, other than members of the sponsoring group or organization, which provided financial resources for the preparation of the brief.

(4) Other Requirements. Except as otherwise provided by these Rules, briefs filed by amicus curiae, and other documents filed by amicus curiae, must comply with the form, formatting, filing, certification of compliance, and service requirements applicable to briefs and other documents filed by the parties.

(c) Time to File or Submit Amicus Curiae Briefs in the Court of Appeals. A person filing a brief as amicus curiae in the Court of Appeals in a case that is not a special action must file the brief, or lodge the brief with a motion, within 21 days after the deadline for filing the final reply brief.

(d) Time to File Amicus Briefs in the Supreme Court. An applicant seeking to file a brief as amicus curiae in the Supreme Court must file the brief as provided by this Rule.

(1) Briefs Filed Before a Decision by the Supreme Court to Grant Review. Unless otherwise ordered by the Supreme Court, applicants may file (or, if by motion, lodge) amicus curiae briefs in support of a petition for review or a response to a petition for review no later than 21 days after the filing of the response to the petition for review. Amicus curiae briefs must comply with the form and length requirements of Rule 23(h) exclusive of any appendix.

(2) Briefs Filed After the Supreme Court Grants Review. After the Supreme Court has granted review, and unless otherwise ordered, amicus curiae may file (or, if by motion, lodge) a brief no later than 10 days after the date ordered by the Court for the parties to file supplemental briefs in its order granting review. Amicus curiae briefs must not exceed the word or page limitation imposed for the parties' supplemental briefs.

(e) Petitions for Review. Amicus curiae may participate in a petition for review as provided by this Rule and by Rule 23.

Rule 17. Supplemental Citation of Legal Authority

(a) When Appropriate. Pertinent and significant legal authority may come to the attention of a party after the party has filed a brief, or after the appellate court has heard oral argument but before entering its decision. In these circumstances, the party may supplement legal authority that the party previously presented in the party's briefing by filing with the appellate court a supplemental citation of legal authority.

(b) Form. A supplemental citation of legal authority must clearly identify the page numbers of the party's brief that the party intends to supplement, and the relevant pages of the supplemental authority. The party must further state concisely, and without argument, the legal proposition supported by a supplemental citation.

PART IV: APPELLATE COURT PROCEDURES AND DECISIONS

Rule 18. Oral Argument in the Court of Appeals

(a) Request for Oral Argument. The Court of Appeals may schedule a case for oral argument if a party files a separate request for oral argument no later than 10 days after the due date for the final reply brief, or no later than 10 days after the date the appellant or cross-appellant actually files the final reply brief, whichever is earlier. A party that believes the Court of Appeals should allow extended oral argument must state the reasons as part of the request. If the Court of Appeals grants a request for oral argument, or if the Court of Appeals orders oral argument on its own initiative, the Court of Appeals clerk will notify the parties of the time and place for oral

argument, and the allocation of time for each side. The Court of Appeals clerk will provide the notice at least 20 days before the date set for oral argument.

(b) Factors. Notwithstanding a party's request under Rule 18(a), the Court of Appeals may decide an appeal without oral argument if it determines that:

- (1) The appeal is frivolous;
- (2) The Court of Appeals has recently decided in another case the dispositive issues presented; or
- (3) The briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the decisional process.

The Court of Appeals clerk must give the parties prompt written notice if the Court of Appeals determines the case will be submitted without the requested oral argument.

(c) Amicus Curiae. Amicus curiae may participate in the oral argument only on motion and with the Court of Appeals' permission.

Rule 19. Petition for Transfer

(a) Grounds for Transfer. The Supreme Court may permit the transfer of an appeal pending in the Court of Appeals to the Supreme Court if:

- (1) The appeal requests that a decision of the Supreme Court be overruled or qualified;
- (2) There are conflicting Court of Appeals decisions concerning an issue on appeal; or
- (3) Other extraordinary circumstances justify transfer.

(b) Transfer on Petition of a Party. A party to a case that is pending before the Court of Appeals may request the Supreme Court to transfer the case by filing a petition with the Supreme Court clerk on or before the date the appeal is at issue under Rule 15(b).

(c) Transfer on Petition by the Court of Appeals. The chief judge of the division of the Court of Appeals in which the appeal is pending may request transfer of the case by filing a petition with the Supreme Court at any time after the appeal is at issue under Rule 15(b).

(d) Form of a Petition. A petition filed under Rule 19(b) or (c) must be no more than 1400 words, must be in the form required by Rule 4(a) – (c), and must concisely explain why the Supreme Court should take jurisdiction of the case. The petitioner must serve a copy of the petition on each of the parties.

(e) Response to Petition. A party may file a response to a petition to transfer within 5 days after service of the petition. The length of a response and its form must be the same as required for a petition under Rule 19(d).

(f) Transfer on Motion of the Supreme Court. On its own motion, the Supreme Court may order the transfer of a case pending before the Court of Appeals to the Supreme Court. It may also transfer a case filed in the Supreme Court to the Court of Appeals.

(g) No Additional Fees. An appellate court will not charge additional fees for transfers under this Rule.

Rule 20. Notice of Decisions and Orders

When an appellate court enters a decision or an order, the appellate clerk must promptly notify all parties by mail or electronic distribution. The notice must state the date the appellate court filed the decision or order, and the appellate clerk must include with the notice a copy of the decision or order or a hyperlink to the decision or order. The appellate clerk must note the date of mailing or electronic distribution in the appellate court's docket.

Rule 21. Attorneys' Fees and Costs

(a) Claim for Attorneys' Fees. A party that intends to claim attorneys' fees incurred on appeal or on review must give notice of such intention in the time and manner set forth in this Rule.

(1) Notice Required. A party claiming attorneys' fees must do so in an opening or an answering brief on appeal. Any party claiming attorneys' fees on a petition for review or a cross-petition for review must do so in the petition or cross-petition or in the response to a petition or cross-petition.

(2) Content of Notice. A claim for fees under this Rule must specifically state the statute, rule, decisional law, contract, or other authority for an award of attorneys' fees. If a party fails to comply with this requirement, the appellate court may decline to award fees on that basis. This Rule only establishes the procedure for claiming attorneys' fees and does not create any substantive right to them.

(b) Statement of Attorneys' Fees and Costs; Timing; Objections.

(1) Timing. Within 10 days after the appellate clerk has given notice of a decision or order that grants a claim for fees, a party claiming attorneys' fees or costs must file in the appellate court an itemized and verified statement of attorneys' fees and costs on appeal or review.

(2) Attorneys' Fees. The statement must include any factors relevant to a decision to award fees and the determination of a reasonable fee. The itemized statement of fees must include the following:

(A) The dates on which each person for whom fees are claimed performed services;

(B) The time each person expended for each task on each date;

(C) A description of the service;

(D) The identity of the person performing the service; and

(E) Whether the fee is fixed or contingent, and if hourly, the applicable rate for each person.

(3) Costs. The statement must itemize taxable costs. The cost of preparing paper briefs must not exceed the sum of two dollars per page.

(4) Objections and Determination. Objections to the statement of attorneys' fees and costs must be filed within 10 days after service of the statement. If no objections are timely filed, the appellate court may award attorneys' fees and costs. If objections are timely filed, the requesting party may reply within 5 days after service. The appellate court will then determine the amount of attorneys' fees and costs without further hearing or argument.

(c) Pending Petition for Review. The Court of Appeals retains jurisdiction to rule on a timely filed statement of attorneys' fees or taxable costs notwithstanding the filing of a petition for review. If the Court of Appeals awards attorneys' fees or costs after the filing of a petition for review, a party that timely objected to the statement may file with the Supreme Court within 10 days of entry of the award a motion to review the party's objections to the award when considering the petition. The motion must include a copy of the order of the Court of Appeals granting fees or costs. The party in whose favor the Court of Appeals awarded attorneys' fees or costs may file a response within 10 days after service of that motion.

(d) Vacation, Reversal, Modification, or Affirmation. If the Supreme Court vacates, reverses, modifies, or affirms the Court of Appeals' decision, a party entitled to attorneys' fees and costs may file in the Supreme Court a statement of attorneys' fees and costs incurred in the Supreme Court and in the Court of Appeals. The statement must meet the requirements of Rule 21(a) and (b). Any objections or reply must be filed within the times stated in Rule 21(b)(4). The Supreme Court clerk or the Supreme Court may determine the amounts of fees and costs, or the Supreme Court may remand the case to the Court of Appeals for that purpose.

(e) Mandate. The appellate clerk must include in the mandate separate statements of the amount of attorneys' fees and costs awarded on appeal. The mandate must include the amounts of attorneys' fees and costs awarded in the Supreme Court and in the Court of Appeals.

Rule 22. Motion for Reconsideration

(a) Purpose and Necessity. A motion for reconsideration requests an appellate court to consider whether its decision contained erroneous determinations of fact or law. A party need not file a motion for reconsideration in the Court of Appeals before filing a petition for review under Rule 23.

(b) Required Showing. A motion for reconsideration must state with particularity the points of law or fact that the party believes the appellate court has overlooked or misunderstood, or any changes in legal circumstances that may entitle the party to relief.

(c) Filing. A party desiring reconsideration of a decision must file a motion for reconsideration in the appellate court within 15 days after the appellate court enters its decision. A motion to extend this deadline must be filed in the appellate court that issued the decision. A party may amend a motion for reconsideration only with the appellate court's permission.

(d) Response. A party may not file a response to a motion for reconsideration unless requested by the appellate court to do so, but the appellate court will not grant the motion without requesting the opposing party to file a response.

(e) Form and Length. A motion for reconsideration or a response to a motion for reconsideration must comply with the provisions of Rule 4(a)–(c). A motion for reconsideration or response to a motion for reconsideration may not exceed 3,500 words. A certificate of compliance, as provided in Form 2, must accompany a motion for reconsideration or a response. A party preparing this certificate may rely on the word count of the processing system used to prepare the motion or response.

(f) Motions Not Permitted. Unless permitted by specific appellate court order, no party may file a motion for reconsideration of an order denying a motion for reconsideration, of an order denying a petition for review, or of an order declining to accept jurisdiction of a petition for special action.

Rule 23. Petition for Review

(a) Purpose. A petition for review asks the Supreme Court to review a decision of the Court of Appeals.

(b) Place and Time for Filing.

(1) Place for Filing. Any petition for review, cross-petition for review, response to a petition for review or cross-petition for review, or motion to extend the time for filing any of these documents, must be filed with the Supreme Court clerk.

(2) Timing. A party must file a petition for review within 30 days after the Court of Appeals enters its decision, unless a party files a timely motion for reconsideration in the Court of Appeals, and in that event, a party must file a petition for review within 15 days after the final disposition of the motion. A party may file a cross-petition for review within 15 days after service of a petition for review, or within 30 days after the Court of Appeals enters its decision, whichever is later.

(c) Stay Pending Motion for Reconsideration. A petition for review is automatically stayed if the petition is filed before the Court of Appeals decides a timely filed motion for reconsideration. The stay remains in effect until the Court of Appeals clerk notifies the parties and the Supreme Court clerk that the Court of Appeals has denied that motion. The time for filing a response to

the petition for review, or a cross-petition, is computed as if the filing of that petition occurred on the date the stay is lifted, as described in the preceding sentence.

If the Court of Appeals grants a motion for reconsideration, the stay remains in effect until the Court of Appeals has made a final disposition. If a petition or cross-petition becomes moot because of the final disposition of a motion for reconsideration by the Court of Appeals, the petitioner or cross-petitioner must promptly file a written notice with the Supreme Court clerk to this effect.

(d) Contents. A copy of the Court of Appeals' decision must accompany the petition. If the Court of Appeals' decision is an order declining to accept jurisdiction of a special action, a copy of the superior court's decision that was the subject of the special action must accompany the petition. In addition, the petition or cross-petition must contain concise statements of the following:

(1) The issues that were decided by the Court of Appeals that the petitioner is presenting for Supreme Court review. The petition must also list, separately and without argument, additional issues presented to, but not decided by, the Court of Appeals that the Supreme Court may need to decide if review is granted.

(2) The facts material to a consideration of the issues presented to the Supreme Court for review, with appropriate references to the record on appeal. No evidentiary matter should be included if it is not material to proper consideration of the issues. If evidentiary matter is material, the party must include a reference to the record where that evidence appears, as provided in Rule 13(d).

(3) The reasons the petition should be granted, which may include, among others, that no Arizona decision controls the point of law in question, that a decision of the Supreme Court should be overruled or qualified, that there are conflicting decisions by the Court of Appeals, or that important issues of law have been incorrectly decided.

(4) If the party claims attorneys' fees on appeal, the party must include the information required by Rule 21(a)(1) and (2).

(e) Appendix.

(1) **Necessity.** If there are documents in the record on appeal that are necessary for determination of the issues raised by the petition or cross-petition, the petitioner and cross-petitioner must file with the petition or cross-petition an appendix that contains only those documents.

(2) **Form.** An appendix must comply with the requirements of Rule 13.1.

(f) Service. The petitioner or cross-petitioner must serve a copy of the petition or cross-petition and any appendix in the manner provided by Rule 4(f) on all parties that have appeared in the Court of Appeals.

(g) Response.

(1) Timing and Necessity. A party may respond to a petition or cross-petition by filing the response with the Supreme Court clerk within 30 days after service of the petition or cross-petition. A party's failure to file a response to a petition or cross-petition will not be treated as an admission that the Supreme Court should grant the petition or cross-petition.

(2) Additional Issues. A response must list, separately and without argument, any additional issues not listed by the petitioner that the parties presented to the Court of Appeals, which that court did not decide and which the Supreme Court may need to decide if it grants review.

(3) Appendix. The response may include an appendix as provided in Rule 23(e), but the appendix to the response may only include documents that were not within the appendix to the petition or cross-petition.

(4) Reply. The petitioner or cross-petitioner may not file a reply unless the Supreme Court enters an order specifically authorizing it, and then the petitioner or cross-petitioner must file the reply within the time set by that order.

(h) Form and Length of Petition, Cross-Petition, and Responses.

(1) The caption of the petition must designate the parties as designated in the caption of filings in the Court of Appeals. The requirements of Rules 4(a)–(c) apply to a petition, a cross-petition, and a response to a petition or cross-petition.

(2) A petition, a cross-petition, or response to a petition or cross-petition must not exceed 3,500 words. A cross-petition combined with a response to a petition may not exceed 6,000 words.

(3) A petition, a cross-petition, or a response to a petition or cross-petition must include a certificate of compliance as shown in Form 2. A party preparing this certificate may rely on the word count of the processing system used to prepare the petition, cross-petition, or response.

(i) Availability of Briefs. When the Supreme Court clerk notifies the Court of Appeals clerk that a party has filed a petition for review, the Court of Appeals clerk will make available to the Supreme Court the briefs the parties filed in the Court of Appeals. The Court of Appeals clerk also must make available other portions of the record requested by the Supreme Court or its staff attorneys.

(j) Order Denying Review. An order of the Supreme Court denying review will specify those justices of the Supreme Court, if any, who voted to grant review. The Supreme Court clerk will promptly notify the parties and the Court of Appeals clerk if the Supreme Court has denied all petitions and cross-petitions for review.

(k) Order Granting Review.

(1) The Supreme Court clerk must promptly notify the parties and the Court of Appeals clerk if the Supreme Court grants a petition or cross-petition for review.

(2) A Supreme Court order granting review will specify the issue or issues that the Supreme Court will review, and whether it will consider issues raised in, but not decided by, the Court of Appeals.

(3) The Supreme Court may permit the parties to file supplemental briefs, or it may set oral argument, or both. Unless otherwise ordered, oral argument may not be scheduled less than 30 days after entry of a written notice of oral argument or, if supplemental briefs are permitted, less than 30 days after the deadline for filing supplemental briefs.

(4) If an order granting review does not provide for supplemental briefs or oral argument, any party may file a motion specifying the reasons that supplementation or oral argument, or both, would be appropriate. A party must file this motion within 15 days after the Supreme Court clerk sends notice to the parties of the order granting review.

(l) Availability of the Remaining Record. The Court of Appeals clerk will make the remaining record available to the Supreme Court clerk upon notification that the Supreme Court has granted a petition or cross-petition for review.

(m) Disposition. If the Supreme Court grants review, it may decide the appeal in any manner specified in Rule 28(a). Additionally, the Supreme Court may do the following:

(1) Remand the appeal to the Court of Appeals for reconsideration in light of authority it identifies in its decision or order.

(2) If issues were raised in, and not decided by, the Court of Appeals, it may consider and decide those issues, remand the appeal to the Court of Appeals to decide them, or dispose of those issues as it deems appropriate.

(3) If the parties by agreement resolve the appeal after a petition for review is filed, it may vacate the disposition of the Court of Appeals, or order depublication of an opinion of the Court of Appeals.

Rule 24. Appellate Court Mandates

(a) Definition. The mandate is the final order of the appellate court, which may command another appellate court, superior court or agency to take further proceedings or to enter a certain disposition of a case. An appellate court retains jurisdiction of an appeal until it issues the mandate.

(b) Generally. An appellate court will issue the mandate in an appeal as follows:

(1) If the parties did not file a petition for review, the Court of Appeals clerk will issue the mandate when the time for the filing that petition expires.

(2) If a party filed a petition for review, the clerk of the Court of Appeals will issue the mandate 15 days after the receipt by the clerk of an order of the Supreme Court denying the petition for review.

(3) When the Supreme Court has filed any disposition that requires the issuance of the mandate, the Supreme Court clerk will issue the mandate 15 days after the filing of the disposition, or, if a party files a motion for reconsideration, 15 days after a final disposition of the motion.

(c) Return of Papers. After the appellate court issues the mandate:

(1) The appellate clerk will return to the superior court clerk or other transmitting body any original exhibit or record provided to the appellate court under Rule 11.1.

(2) The appellate clerk may destroy copies of the record as authorized by rule or appellate court administrative order.

(d) Stay of Mandate.

(1) Request for Stay. A party may request an appellate court to stay issuance of the mandate pending application to the United States Supreme Court for a writ of certiorari:

(A) A party may file an application for a stay of issuance of the mandate with the Arizona Supreme Court clerk within 15 days after the filing of the Court's opinion, memorandum decision, or order denying a motion for reconsideration.

(B) A party may file an application for a stay of issuance of the mandate with the Court of Appeals clerk within 15 days after the Arizona Supreme Court enters an order denying a petition for review, or within 15 days in any other situation requiring the Court of Appeals to issue the mandate.

(2) Duration. A stay may not exceed 90 days unless the appellate court extends the time for good cause. If during the period of the stay a party files a notice with the appellate clerk stating that the party has filed a petition for a writ of certiorari, the stay will continue until the appellate clerk receives notice from the United States Supreme Court of a denial of the petition or, in a case in which the United States Supreme Court grants the petition, that the United States Supreme Court has issued its mandate.

(e) Mandates from the United States Supreme Court. Upon receipt of the mandate from the United States Supreme Court, an Arizona appellate court will take action consistent with that mandate, including issuing its own mandate to the superior court of the county that entered the original judgment. The Arizona appellate court's mandate will contain a verbatim recital of the United States Supreme Court mandate and command the superior court to take action as provided in the mandate.

Rule 25. Sanctions

An appellate court may impose sanctions on an attorney or party if it determines that an appeal or a motion is frivolous, or filed solely for the purpose of delay. An appellate court also may impose sanctions on an attorney or party for a violation of these Rules. An appellate court may impose sanctions that are appropriate in the circumstances of the case, and to discourage similar conduct in the future. Sanctions may include contempt, dismissal, or withholding or imposing costs or attorneys' fees.

Rule 26. Voluntary Dismissal

(a) Dismissal by the Superior Court. If the appellate clerk has not assigned an appellate case number under Rule 12(a), the superior court may dismiss the appeal on the filing of a stipulation signed by all parties, or on the appellant's motion with notice to all parties.

(b) Dismissal by the Appellate Court. An appellate clerk may dismiss an appeal if the parties pay whatever appellate court fees are due and file a signed stipulation requesting dismissal and specifying the terms for payment of costs. The appellate clerk, however, may not issue a mandate or other process without an order from the appellate court. The appellant also may file a motion to dismiss the appeal, which the appellate court may grant on terms as agreed to by the parties or as determined by the appellate court.

Rule 27. Substitution of Parties

(a) Death of a Party. If a party to an appeal dies while the appeal is pending, the decedent's personal representative may be substituted as a party on the personal representative's motion or on motion of any party. A party's motion must be served on the personal representative in accordance with Rule 4(f). If the decedent has no personal representative, any party may inform the appellate court of the death and the appeal may proceed as the appellate court directs.

(b) Substitution for Other Reasons. If a party's substitution is necessary for any reason other than death, a motion for substitution may be filed with the appellate court in which the appeal or other matter is pending.

(c) Public Officers:

(1) Identification of Party. A public officer who is a party to an appeal in an official capacity may be described as a party by an official title rather than by name. But the appellate court may require the addition of the officer's name.

(2) Automatic Substitution of Officeholder. If a public officer is a party to an appeal in his or her official capacity and if the officer ceases to hold office during the pendency of the appeal, the appeal does not abate, and the officer's successor automatically substitutes as a party. Proceedings following the substitution are in the name of the substituted party, but the appellate court will disregard any misnomer that does not affect the

substantial rights of the parties. The appellate court may enter an order of substitution at any time, but failure to enter such an order will not affect the substitution.

Rule 28. Decisions; Publication of Opinions

(a) Generally. An appellate court's decision of an appeal will be in writing. The caption of a decision must contain the designation "Opinion," "Memorandum Decision," "Decision Order," or "Order."

(1) An "**opinion**" is a written disposition of an appeal that is intended as precedent, and is distributed for publication. Publication means that the appellate court will distribute the opinion for reporting by publishing companies in compliance with the provisions of A.R.S. § 12-107, § 12-108 and § 12-120.07. A "**memorandum decision**" is a written disposition of an appeal that is not intended for publication or as precedent.

(2) A "**decision order**" or "**order**" is a disposition of a matter before the appellate court other than by opinion or memorandum decision, which is not intended for publication or as precedent.

(b) Factors for Disposition by Opinion. An appellate court will issue an opinion if a majority of the judges deciding the appeal determines that the court's disposition does one or more of the following:

- (1) Establishes, alters, modifies or clarifies a rule of law;
- (2) Calls attention to a rule of law that is generally overlooked;
- (3) Criticizes existing law; or
- (4) Involves a legal or factual issue of unique interest or substantial public importance.

If a disposition includes a separate concurrence or dissent whose author desires that it be published, then the disposition will be by opinion.

(c) Partial Publication. If the appellate court issuing a decision concludes that only a portion of its decision meets the criteria for publication, it may issue a portion of the decision as an opinion and the remainder as a separate memorandum decision, decision order, or order.

(d) Dissenting Vote on Denial of a Petition for Review. If the Supreme Court denies a petition for review of an opinion and a justice voted to grant review, the caption of the Court of Appeals' opinion will report that justice's dissenting vote.

(e) Depublication. Regardless of this Rule's other provisions, if the Court of Appeals has issued an opinion in a case that comes before the Supreme Court on a petition or cross-petition for review, before the Court of Appeals opinion becomes final the Supreme Court may enter an order directing that either the entirety, or a specified portion, of the opinion be depublished.

(f) Citation of Memorandum Decisions. Because memorandum decisions, decision orders, and orders are not precedent, they may not be cited in any court, except:

- (1) For the purpose of establishing a defense of claim preclusion, issue preclusion, or the law of the case; or
- (2) To inform an appellate court of other memorandum decisions so that the court can decide whether to publish a decision, grant a motion for reconsideration, or grant a petition for review.

Any party citing a memorandum decision under this Rule must attach the decision to the brief, motion or petition that cites it.

[Note: Section (f) may require modification if the Supreme Court adopts the rule amendment proposed by R-14-0004]

(g) Motion for Publication. The appellate courts will consider a motion for publication of a memorandum decision as a motion for reconsideration under Rule 22. A party's motion and any response to the motion must comply with the requirements of Rule 22.

Rule 28.1. Availability of Tax Memorandum Decisions

The appellate court websites must post any memorandum decision that addresses, in the discretion of the issuing appellate court, substantive or significant procedural tax issues. The website will post the decision as required by law and in a manner that prominently indicates that a tax memorandum decision is not binding legal precedent and that a citation to the decision is not permitted except as provided under Rule 28.

Rule 29. Accelerated Appeals

(a) Scope. This Rule provides an alternative procedure for accelerated disposition of an appeal by the Court of Appeals. Where they are inconsistent with provisions of other Rules, the provisions of this Rule apply.

(b) Designation. The Court of Appeals may enter an order designating an appeal "accelerated" by stipulation or by motion.

(1) By Stipulation. If all parties agree to an accelerated appeal, they may file a stipulation with the Court of Appeals in a form prescribed by the court. The parties must file the stipulation within 15 days after the appellate clerk mails or otherwise distributes the initial notice required under Rule 12(b).

(2) By Motion of a Party. After an appeal is at issue as defined in Rule 15(b), a party by motion may request an order that the appeal be accelerated. A party may file an objection within 10 days of service of the motion, and other parties may file a response within 10 days of service of the objection.

(3) By the Court's Motion. After an appeal is at issue as defined in Rule 15(b), the Court of Appeals on its own motion may order that an appeal be accelerated. Any party may file an objection to the order within 10 days of its entry, and other parties may file a response to the objection within 10 days of service of the objection.

(c) Briefs. Rules 13, 13.1, and 14 govern briefs in accelerated appeals, unless the parties stipulate before the filing of the appellant's brief to file summary briefs. If the parties have timely stipulated to summary briefs, neither the opening nor the answering brief may exceed 3,500 words. The argument in a summary brief must contain only an outline of each argument, consisting of a summary statement of the argument and a list, without elaboration, of the authorities and the specific pages relied on. If the parties have stipulated to file summary briefs, neither the stipulation nor a motion may modify the provisions of this Rule.

(d) Oral Argument and Expedited Decision. If a party requests oral argument under Rule 18 in an accelerated appeal and the request is granted, the Court of Appeals will hear the argument within 90 days from the date of entry of an order under Rule 29(b), or within 90 days of when the appeal is at issue under Rule 15(b), whichever is later. The Court of Appeals will decide the appeal within 3 days after oral argument. If the parties do not request oral argument, the Court of Appeals will dispose of an accelerated appeal within 90 days of the entry of an order under Rule 29(b), or within 90 days of when the appeal is at issue, whichever is later.

(e) Summary Decision. The Court of Appeals may decide an accelerated appeal by an order that summarily states the basis for the disposition. The court may give an oral decision from the bench following oral argument in addition to providing a written order. A decision or order under this Rule may be cited only as provided in Rule 28(f).

(f) Petitions for Review. If a party files a petition for review in an accelerated appeal, the Supreme Court will give priority to the petition.

(g) Discretion of the Court. An appellate court at any time may remove an appeal from accelerated disposition if it concludes that the appeal is not appropriate for accelerated treatment.

PART V: SETTLEMENT

Rule 30. Arizona Appellate Settlement Conference Program

(a) Generally. The Arizona Appellate Settlement Conference Program (the "program") provides an alternative process for resolving certain civil appeals. The program's objectives are to provide parties to an appeal a procedure to:

- (1) Realistically explore settlement of the entire case or issues in the case;
- (2) Limit and simplify issues on appeal; and
- (3) Aid the speedy and just resolution of the appeal.

Every appeal filed in the Arizona Court of Appeals under these Rules is eligible for the program except criminal appeals; appeals involving habeas corpus petitions; appeals in which a party is incarcerated; appeals from juvenile court; appeals from the Arizona Department of Economic Security Appeals Board; direct appeals from the Corporation Commission; special actions; and any other appeal that the appellate court determines to be inappropriate for the program. The program is available at no additional court cost to the parties beyond the normal appellate filing fees.

(b) Division Policies. Each division of the Court of Appeals may establish its policy for parties to participate in the program or to object to participation; assignment of cases to the program; selection of appellate mediators; and other procedures including settlement conferences. Each policy must provide that:

- (1) All proceedings in this program are confidential, are not discoverable, and are inadmissible in evidence in any judicial proceeding. A party to an appeal selected for the program likewise may not communicate to a third person any information that he or she discusses or learns of in the course of the program, except to the extent required by law or compelled by process.
- (2) Appellate mediators, settlement conference attorneys and all other court employees involved in the program are absolutely immune from suit for all conduct in the course of their official duties.
- (3) Any person who participates as an appellate mediator must not later participate in any way in the consideration or disposition of the appeal.

Program policies for each division must be published on the division's website, and be available at the office of the appellate clerk.

Rule 31. Notice of Settlement

The attorney for a party and any self-represented party must give the appellate clerk prompt notice of the settlement of any pending appeal or other matter. An appellate court may impose sanctions against an attorney or a party for any unreasonable delay in giving such notice to the appellate clerk.

PART VI: MISCELLANEOUS

Rule 32. Websites and Forms

(a) Websites. Information concerning the appellate courts is available on their respective websites:

- (1) Arizona Supreme Court:

<http://www.azcourts.gov/azsupremecourt.aspx>

(2) Arizona Court of Appeals, Division One:

<http://azcourts.gov/coal/Home.aspx>

(3) Arizona Court of Appeals, Division Two:

<http://www.appeals2.az.gov/>

(b) Forms Included in the Appendix to These Rules.

Form 1: Notice of appeal or cross-appeal [Rule 8(c)]

Form 2: Certificate of compliance [Rule 14(a)(5), Rule 22(e) and Rule 23(h)]

Form 3: Caption [Rule 4(a)]

Form 4: Caption of a brief [Rule 14(b)]

Form 5: Consent for electronic distribution by the appellate clerk [Rule 4(h)]

(c) Authority of the Administrative Director. The Administrative Director of the Administrative Office of the Courts has authority to:

(1) Amend Rule 32(a) by adding, deleting, or changing addresses of the appellate websites listed in the Rule, as necessary.

(2) Amend forms listed in Rule 32(b) in response to changes in state laws or procedures, to make other necessary administrative amendments or technical corrections, or to add or delete forms, as appropriate.

Form 1: Notice of Appeal or Notice of Cross-Appeal

Attorney or Party Name
Law Firm Name (if any)
State Bar No. (if any)
Mailing Address
City, State, Zip Code
Telephone Number
Email Address (if required)
Attorney for _____ (party name)

SUPERIOR COURT OF ARIZONA

_____ COUNTY

Plaintiff(s)/Petitioner	)	Case number _____
)	
v.)	<input type="checkbox"/> Notice of Appeal
)	<input type="checkbox"/> Notice of Cross-Appeal
)	<input type="checkbox"/> Amended Notice of Appeal
Defendant(s)/Respondent)	

[Use paragraph 1, 2, or 3 as applicable.]

1. If the appeal is from the entire Judgment

Notice is hereby given that the _____ [name of party or parties] appeals or cross-appeals to the Arizona Court of Appeals from the judgment entered in this case on the ____ day of _____ 20__.

Dated this __ day of _____, 20__

Signature of Attorney or Self-Represented Party

Certificate of Service

2. If the appeal is from a part of the Judgment

Notice is hereby given that the _____ [name of party or parties] appeals or

cross-appeals to the Arizona Court of Appeals from the following part of the Judgment entered in this case on the ___ day of _____ 20___. [Specify here the part of the Judgment the party is appealing. _____]

Dated this __ day of _____, 20__

Signature of Attorney or Self-Represented Party

Certificate of Service

3. If the appeal is from an Order

Notice is hereby given that the _____ [name of party or parties] appeals or cross-appeals to the Arizona Court of Appeals from the Order made and entered in this case on the ___ day of _____ 20__. [Briefly describe here the Order that the party is appealing. _____]

Dated this __ day of _____, 20__

Signature of Attorney or Self-Represented Party

Certificate of Service

Form 2: Certificate of Compliance

Certificate of Compliance

1. This certificate of compliance concerns:

A brief, and is submitted under Rule 14(a)(5)

A motion for reconsideration, or a response to a motion for reconsideration, and is submitted under Rule 22(e)

A petition or cross-petition for review, a response to a petition or cross-petition, or a combined response and cross-petition, and is submitted under Rule 23(h)

An amicus curiae brief, and is submitted under Rule 16(b)(4)

2. The undersigned certifies that the brief/motion for reconsideration/petition or cross-petition for review to which this Certificate is attached uses type of at least 14 points, is double spaced, and contains ____ words.

3. The document to which this Certificate is attached does not, or does exceed the word limit that is set by Rule 14, Rule 22, or Rule 23, as applicable.

Signature of Attorney or Self-Represented Party

Printed Name of Attorney or Self-Represented Party

Form 3: Caption

Attorney or Party Name
Law Firm Name (if any)
State Bar No. (if any)
Mailing Address
City, State, Zip Code
Telephone Number
Email Address (if required)
Attorney for _____ (party name)

ARIZONA COURT OF APPEALS

DIVISION __

ROBERT RED,	)	No. 1-CA-CV-15-0000
)	
Petitioner/Appellee,	)	Maricopa County Superior Court
	)	No. FC-2014-999999
v.)	
	)	PETITIONER’S MOTION TO
ROBERTA RED,	)	EXTEND TIME FOR FILING
	)	OPENING BRIEF
Respondent/Appellant.)	

Form 4: Caption of a Brief

ARIZONA COURT OF APPEALS

DIVISION __

THE TOWN OF CACTUS, a political	)	No. 1-CA-CV 15-0000
subdivision of the State of Arizona; ABC)	
HOMES, INC., an Arizona corporation;	)	Maricopa County Superior Court
ROBERT RED AND ROBERTA RED,	)	No. CV 2013-999999
husband and wife,)	
)	
Plaintiffs/Appellants,)	
v.)	
)	
ARIZONA DEPARTMENT OF)	
ELECTRONICS (“ADE”), an agency of the)	
State of Arizona, and BILL BOBB, in his)	
capacity as Director of ADE)	
)	
Defendants/Appellees.)	
)	
-----)	
MOUNTAIN VIEW PRODUCTS, INC., a)	
Montana corporation,)	
)	
Intervenor.)	
_____)	

ANSWERING BRIEF OF DEFENDANT/APPELLEE ADE AND BOBB

David Done
Greater Phoenix Law Firm
State Bar No. 000000
P.O. Box 000
Phoenix, Arizona 85090
(602) 999-9999
Email Address (if required)
Attorney for ADE and Bobb

Form 5: Consent for Electronic Distribution by the Appellate Clerk

Party Name
Mailing Address
City, State, Zip Code
Telephone Number

ARIZONA COURT OF APPEALS

DIVISION ____

	)	Appellate case number _____
)	
Appellants	)	Superior Court case number _____
)	
v.	)	Consent to Electronic Distribution
	)	by the Appellate Clerk
)	
Appellees)	

The undersigned self-represented party to this appeal, pursuant to Rule 4.2(h) of the Arizona Rules of Civil Appellate Procedure, consents to electronic distribution of court documents by the appellate clerk. The appellate clerk may distribute to the undersigned at the following electronic mailing address: _____.

The undersigned is responsible for maintaining this email address, and for checking it on a regular basis.

This consent is effective when it is filed with the appellate clerk. The undersigned understands that this consent is voluntary. The undersigned further understands that this consent remains in effect until the undersigned files a written withdrawal of consent with the appellate clerk. This consent form does not constitute consent to electronic service on the undersigned by another party.

Dated this __ day of _____, 20__

Printed Name of Self-Represented Party

Signature of Self-Represented Party