

APPENDIX
Rules Adopted
or Amended by
Per Curiam Orders

IN THE MATTER OF REVISION OF THE RULES OF
THE SUPREME COURT AND COURT OF APPEALS
OF THE STATE OF ARKANSAS

Supreme Court of Arkansas
Delivered June 10, 1991

PER CURIAM. On and after August 1, 1991, all briefs submitted to the Supreme Court and the Court of Appeals will be accompanied by abstracts of record, as provided in Arkansas Supreme Court and Court of Appeals Rule 9. We will no longer accept briefs including appendices.

The Per Curiam Order by which we created a trial period for experimental changes in our Rules was issued May 15, 1989, entitled, "In re: Amendments to the Arkansas Rules of Civil Procedure, the Arkansas Rules of Appellate Procedure, the Arkansas Supreme Court Administrative Orders, the Rules of the Arkansas Supreme Court and Court of Appeals, and the Inferior Court Rules." In that Order we made it clear that the rules changes having to do with the appendix experiment were adopted on a trial basis but that the changes no longer allowing printed briefs and establishing uniform paper size were to be permanent. We hereby revoke the changes, other than those having to do with printed briefs and paper size, which provided for submitting appendices rather than abstracts. We retain the changes with respect to paper size.

The reason for ending the appendix experiment at this time is that we have found that it adds to the difficulty of, and time consumed in, reading briefs. If our case load and that of the Court of Appeals were not so great, we would be less willing to revert entirely to the abstracting system. Given the numbers of cases we must decide to remain current with our docket, however, we cannot tolerate the additional work we find the appendix system to have caused.

The experiment with the appendix system began with our Per Curiam Order of October 17, 1988, creating a trial period for testing the new system which, with one intermission and two extensions, was to end March 1, 1991. As was expected, there were difficulties in adapting to the change. The main one from our perspective was the problem of expansion of the statement of the case, with appropriate appendix references, to an extent which would save members of the Court from having to scour the

appendix for factual details.

If we find a way to bring our case load and that of the Court of Appeals within reason, we may return to the appendix system, with some revisions, because we continue to wish to implement the goals stated in our original order. We would like our system to be as inexpensive and simple as possible. Under other circumstances we will be able to exercise the patience required to permit lawyers and litigants to become accustomed to the change and to fine tune it with revisions.

IN THE MATTER OF THE CLIENT SECURITY
FUND

Supreme Court of Arkansas
Delivered June 17, 1991

PER CURIAM. The per curiam order of April 30, 1973, creating the Client Security Fund, 254 Ark. 1075, 493 S.W. 422 (1973), as amended by the per curiam order of December 11, 1989, 300 Ark. 643, 782 S.W.2d 357 (1989), in paragraph number three (3), now provides: "No claims shall be allowed for an amount in excess of \$10,000.00."

In 1990, we began to credit to the Client Security Fund with \$4.00, instead of \$2.00, of the annual license fee paid by each attorney. As a result, the fund's growth has accelerated, and we now amend the above quoted sentence to provide: "No claims shall be allowed for an amount in excess of \$15,000.00."

IN THE MATTER OF THE RULES OF THE
ARKANSAS SUPREME COURT AND COURT OF
APPEALS 31

Supreme Court of Arkansas
Delivered July 1, 1991

PER CURIAM. The following Rule shall become effective July

15, 1991:

Rule 31.

CLERK'S OFFICE BUSINESS HOURS

The Clerk will record the exact time and date of filing or tender upon any document filed or tendered for filing in the Clerk's Office. Filings may occur only between business hours of 8:00 a.m. and 5:00 p.m. on business days.

If the Clerk discovers documents left in or about the Clerk's Office after business hours with a written request for filing or tender, and the documents are in order for filing or tender, they may be marked as filed or tendered as of the beginning of the following business day. Neither the Clerk nor any member of the Clerk's Office staff shall be responsible to see to it that documents are filed or tendered unless they are presented during business hours by a person delivering them to the Clerk's Office.

IN RE: BOARD OF CERTIFIED COURT REPORTER
EXAMINERS

Supreme Court of Arkansas
Delivered July 1, 1991

PER CURIAM. By per curiam order dated July 5, 1983, this Court established the Arkansas Supreme Court Board of Certified Court Reporter Examiners and directed that they promulgate relevant regulations for approval by this Court.

On September 26, 1983, this Court approved regulations submitted by the Board of Certified Court Reporter Examiners. Amendments were approved by per curiam orders dated March 5, 1984, February 24, 1986, and June 16, 1986.

On June 5, 1991, the Board filed a Motion to once again amend certain regulations. Pursuant to Section 3G. of the Rule Providing for Certification of Court Reporters, the Court approves and adopts those amendments as recommended effective this date.

The Court hereby republishes the Regulations in their

entirety as amended:

*REGULATIONS OF THE BOARD OF CERTIFIED
COURT REPORTER EXAMINERS*

Section 1. The following definitions are set forth: The word "Section" refers to sections of the per curiam of July 5, 1983. "Board" hereinafter referred to, is the Certified Court Reporter Examiners Board. "Certified Court Reporter", or its abbreviation, "CCR", means any person holding a valid regular or temporary certificate in one of the methods approved herein as a certified verbatim reporter. The Certificate shall reflect the method of certification according to the system tested. (Amended July 1, 1991). "Verbatim Reporting" means the making of a verbatim record of court proceedings, depositions, or proceedings before any grand jury by means of manual or machine shorthand or mask dictation. No system of direct electrical recording shall be considered a means of verbatim reporting. (Amended March 5, 1984).

Section 2. Any court reporter serving in that capacity on or before January 1, 1983 may be issued a certificate as a Certified Court Reporter without examination provided the application is made prior to May 1, 1984 and is accompanied by a recommendation of a Circuit, Chancery or Court of Appeals Judge and two attorneys licensed to practice law in this state who certify that the applicant was a practicing court reporter on or before January 1, 1983.

Section 3. The Board shall set the following fees for the administration of these regulations:

- a. \$50.00 application fee;
- b. \$20.00 certificate renewal fee. (Amended February 24, 1986).
- c. \$100.00 penalty fee for failure to timely remit certificate renewal fee as set forth in Section 9 of these regulations. (Amended July 1, 1991).

Section 4. Applicants other than those certified without examination pursuant to Section 6 shall file not later than 30 days prior to the next examination date, a written application in the form prescribed by the Court, together with an application fee of \$50.00, with the Clerk of the Supreme Court. Said application fee

shall not be refunded in the event the applicant decides not to take the examination or fails the examination. Said application shall state by which method the applicant will test, and certification will be issued solely in that method if the applicant successfully passes the examination. (Amended July 1, 1991).

Section 5. Applicants and/or applications shall be screened by the Board and those deemed eligible to take the examination will be advised of the time and place the test will be conducted. (Amended July 1, 1991). Any applicant whose application is denied shall be promptly notified of the action of the Board and the application fee shall be refunded.

Section 6. Applicants for certification, deemed eligible by the Board, shall receive certification upon submitting the application, paying the application fee, and successfully passing the certification examination. Certification shall be issued solely in the method by which the applicant successfully tested. (Amended July 1, 1991).

Section 7. Examinations for certification shall be held at least semi-annually at times and places set by the Board.

Section 8. Certification granted by the Board shall remain in effect upon payment of the annual certificate renewal fees to the Clerk of the Supreme Court on or before January 1 of each year, unless suspended or revoked pursuant to Section 7 of the Rules of the Board of Certified Court Reporter Examiners. (Amended July 1, 1991).

Section 9. A reporter's certification will immediately expire if the \$20.00 certificate renewal fee is not remitted to the Clerk of the Supreme Court on or before January 1 of each year. An expired certificate shall be reinstated without examination, within 120 days of the date the certificate expired for failure to timely renew, upon application and payment of a \$100.00 penalty fee as well as the \$20.00 renewal fee. Otherwise, the certificate shall be revoked but may be reinstated during the remainder of the calendar year in which the certificate expired for failure to timely renew, if the Board finds, based on a sworn affidavit(s) or other credible evidence, that the applicant has retained the professional skills required for original certification and has paid all delinquent renewal and penalty fees. After December 31 of the calendar year in which the certificate expired, an expired certificate shall not be subject to renewal without examination.

(Amended July 1, 1991).

Section 10. Each certified reporter shall procure a seal upon which shall be engraved the name, certificate number of the reporter, and the words "Arkansas Supreme Court - Certified Court Reporter", said seal to be included with signature, on all transcript certificates, to ensure compliance with Section 9.

Section 11. At the discretion of the trial judge, Section 9 may be waived with regard to depositions taken outside this state for use in this state, provided the court reporter is authorized to take verbatim testimony in the state where the deposition was taken. (Deleted - See Per Curiam, March 14, 1988)

Section 12. Any eligible applicant not certified pursuant to the per curiam order of the Supreme Court of Arkansas, dated July 5, 1983, or any eligible applicant who is certified in another state, may be granted a non-renewable temporary certificate, at the discretion of the Board, to enable said applicant to work. The temporary certificate issued shall expire fourteen days after a reporter receiving such a certificate has had two opportunities to pass the examination at the two successive examinations given after the date of the certificate. The certificate will reflect the expiration date on its face as well as the method of reporting. (Amended February 24, 1986) (Amended July 1, 1991).

Applicants for temporary certificates will be considered by the Board only if the applicant meets the following requirements:

- a. the applicant has been granted a diploma or equivalent from a court reporting school which is recognized and accepted by the Board, or
- b. the applicant has completed one year's continuous work experience in court reporting, or
- c. the applicant has been certified as a court reporter in a sister state, or by the National Shorthand Reporters' Association, and by the National Stenomask Verbatim Reporters' Association, and
- d. the applicant demonstrates a real necessity for the issuance of a temporary certificate.

Section 13. In the event of an emergency where no Certified Court Reporter is immediately available, a judge of a circuit or chancery court may, in his discretion, grant a one hundred twenty

day, non-renewable emergency certificate in order to continue the conduct of the court's business; provided a copy of the one hundred twenty day emergency certificate shall be forthwith filed with the Clerk of the Arkansas Supreme Court and the Secretary of this Board. (Amended June 16, 1986)

Section 14. The tests shall be as follows:

- a. A written knowledge test consisting of spelling, vocabulary, punctuation, general knowledge, and rules governing preparation of transcripts (Rules of the Supreme Court and Court of Appeals 12, 13, 14 and 15) with a minimum of 75% accuracy.
- b.
 - (1) Five minutes of one-voice dictation of literacy at 180 words per minute.
 - (2) Five minutes of one-voice dictation of jury charge at 200 words per minute.
 - (3) Five minutes of one-voice dictation of Q & A at 225 words per minute.
- c. Applicants shall be required to transcribe dictation tests with a cumulative average of 95% accuracy. (Amended February 24, 1986).
- d. If an applicant shall pass one part of the test but fail the other part, the applicant will not be required to take the part passed at the next successive examination given, but only that part failed. All parts of the dictation test must be padded at the same time. (Amended February 24, 1986).
- e. A new application and application fee of \$50.00 will be required for all subsequent testing.
- f. Certification will be restricted to the method of reporting used by the applicant at the time of testing, and said method will be reflected on the certificate issued to the applicant upon successfully passing the certification examination. (Amended July 1, 1991).

Section 15. Applicants for testing must furnish their own equipment and supplies for reporting and transcribing dictation test. (Amended July 1, 1991). No applicant is permitted to use an open microphone or other backup recording device during testing.

Section 16. The content and depth of this examination shall be a continuing subject of review by the Board, and may be altered by amendments to these regulations.

Section 17. The Board shall maintain a file containing names and pertinent information on all individuals who have been certified, including all verbatim notes or records, transcripts, and other papers used in connection with testing.

Section 18. Any person desiring to file a complaint against a Certified Court Reporter may file a notarized affidavit, attaching any pertinent documentary evidence thereto, and forward to the Secretary of the Board.

Section 19. Pursuant to Section 7 of the Rules of the Board of Certified Court Reporter Examiners, the Board may revoke or suspend any certificate issued after proper notice and hearing, on the following grounds:

- a. conviction of a felony. conviction of a misdemeanor involving moral turpitude. Conviction is defined as a plea of guilty, or nolo contendere, or guilty verdict. (Amended July 1, 1991).
- b. misrepresentation or omission of material facts in obtaining certification.
- c. any intentional violation of, noncompliance with or gross negligence in complying with any rule or directive of the Supreme Court of Arkansas, any other court of record within this State, or this Board.
- d. fraud, dishonesty, gross incompetence or habitual neglect of duty. The notice shall state the cause for the contemplated revocation or suspension and the time and place of the hearing before the Board, and shall be mailed to the registered address of the holder of the certificate at least thirty days prior to the hearing. The Board shall make written findings of fact based on the evidence presented. (Amended March 5, 1984)

Section 20. No persons shall use the title "Certified Court Reporter", or its abbreviation "CCR", in conjunction with their names to indicate they are qualified verbatim reporters in this state, without having a valid temporary or regular certificate

issued by the Board.

IN RE: THE ARKANSAS CODE OF JUDICIAL
CONDUCT

Supreme Court of Arkansas
Delivered July 8, 1991

PER CURIAM. On June 15, 1991, the House of Delegates to the Arkansas Bar Association approved the proposed Arkansas Code of Judicial Conduct prepared by the Committee on the Model Code of Judicial Conduct of the Arkansas Bar Association. This court will now consider adopting the proposed Code. In the meantime, copies of the proposed Code may be inspected at the Office of the Clerk, Arkansas Supreme Court, Justice Building, 625 Marshall Street, Little Rock, Arkansas.

We would appreciate comments by interested persons on the proposed Arkansas Code. Such comments should be addressed to the Administrative Office of the Courts, Justice Building, 625 Marshall Street, Little Rock, Arkansas 72201-1078, Attn: Ms. Kay McClanahan.

The present Arkansas Code of Judicial Conduct may be found at 295 Ark. 707, 749 S.W.2d LXV (1988).

SUPPLEMENTAL OPINION DELIVERED
SEPTEMBER 23, 1991.

PER CURIAM. On July 8, 1991, we asked for comments from interested persons on the proposed Arkansas Code of Judicial Conduct prepared by the Committee on the Model Code of Judicial Conduct of the Arkansas Bar Association.

The final date for such comments will be October 31, 1991.

Copies of the proposed Code may be inspected at the Office of the Clerk, Arkansas Supreme Court, Justice Building, 625

Marshall Street, Little Rock, Arkansas. Any comments should be addressed to the Administrative Office of the Courts, Justice Building, 625 Marshall Street, Little Rock, AR 72201-1078, Attn: Ms. Kay McClanahan.

The present Arkansas Code of Judicial Conduct may be found at 295 Ark. 707, 749 S.W.2d LXV (1988).

IN RE: APPOINTMENT OF COUNSEL IN CRIMINAL
CASES

Supreme Court of Arkansas
Delivered October 14, 1991

PER CURIAM. Because appellants in criminal cases are entitled to counsel on direct appeal from a judgment of conviction and on the appeal of certain orders denying post-conviction relief, this Court on occasion must appoint attorneys to represent indigent appellants. Attorneys who are desirous of such appointments should register with Sue Newbery, Criminal Justice Coordinator, Arkansas Supreme Court, Justice Building, 625 Marshall St., Little Rock, AR 72201. Counsel will be paid a fee after determination of the case, upon a proper motion.

Appointments to
Committees

ARKANSAS SUPREME COURT COMMITTEE ON
AUTOMATION

Supreme Court of Arkansas
Delivered June 10, 1991

PER CURIAM. Circuit/Chancery Judge Watson Villines, Conway, is appointed to the Arkansas Supreme Court Committee on Automation.

IN THE MATTER OF THE ARKANSAS SUPREME
COURT BOARD OF CERTIFIED COURT REPORTER
EXAMINERS

Supreme Court of Arkansas
Delivered July 1, 1991

PER CURIAM. Circuit Judge John Cole, Sheridan, Arkansas; Chancery Judge Jim Hannah, Searcy, Arkansas; and Ms. Maria Lafferty, Little Rock, Arkansas, are reappointed to our Board of Certified Court Reporter Examiners.

Each term of appointment is for a three-year period expiring July 8, 1994.

IN THE MATTER OF THE SUPREME COURT
COMMITTEE ON CIVIL PRACTICE

Supreme Court of Arkansas
Delivered July 1, 1991

PER CURIAM. Circuit Judge Henry Wilkinson, Forrest City, Arkansas; H. David Blair, Esq., Batesville, Arkansas; and Carolyn Witherspoon, Attorney-at-Law, Little Rock, Arkansas, are reappointed to our Committee on Civil Practice.

Chancery Judge John M. Pittman, West Helena, Arkansas, is appointed to this Committee, replacing Circuit/Chancery Judge Jim Gunter, Hope, Arkansas.

The Court expresses its gratitude to Judge Gunter for his faithful and exemplary service as a member of this Committee.

Each term of appointment is for a three-year period expiring July 5, 1994.

IN THE MATTER OF THE BOARD OF LAW
EXAMINERS

Supreme Court of Arkansas
Delivered October 7, 1991

PER CURIAM. Michael Mashburn, Esq., Fayetteville, Arkansas, is hereby appointed to the Arkansas State Board of Law Examiners replacing Lamar Pettus, Esq. for a term of three years. Frank Morledge, Esq., Forrest City, Arkansas, Webster Hubbell, Esq., Little Rock, Arkansas, Dennis Shackelford, Esq., El Dorado, Arkansas, and A. Watson Bell, Esq., Searcy, Arkansas, are hereby reappointed as members of the Arkansas State Board of Law Examiners for terms of three years ending September 30, 1994.

The Court especially wishes to recognize the efforts of Lamar Pettus, Esq. in connection with his contributions to the improvement of the bar examination application process and for his faithful service to the Board.

IN THE MATTER OF THE ARKANSAS CODE
REVISION COMMISSION

Supreme Court of Arkansas
Delivered October 14, 1991

PER CURIAM. The following persons are reappointed to the Arkansas Code Revision Commission: William S. Arnold, Esq. of Crossett, Arkansas; William H. Sutton, Esq. of Little Rock,

Arkansas; and Douglas O. Smith, Jr., Esq. of Fort Smith, Arkansas. Each reappointment is a four year term to end November 7, 1995.