

APPENDIX
Rules Adopted
or Amended by
Per Curiam Orders

IN RE: APPOINTMENT OF COUNSEL IN CRIMINAL
CASES

831 S.W.2d 149

Supreme Court of Arkansas
Opinion delivered June 29, 1992

PER CURIAM. Because appellants in criminal cases are entitled to counsel on direct appeal from a judgment of conviction, 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.

IN THE MATTER OF THE CLIENT SECURITY
FUND

832 S.W.2d 815

Supreme Court of Arkansas
Opinion delivered June 29, 1992

PER CURIAM. The per curiam order of April 30, 1973, creating the Client Security Fund, 254 Ark. 1075, 493 S.W.2d 422 (1973), as amended by the per curiam order of December 11, 1989, 300 Ark. 643, 782 S.W.2d 357 (1989), and as amended by per curiam order of June 17, 1991, 306 Ark. 656 (1991), in paragraph number three (3), now provides: "No claims shall be allowed for an amount in excess of \$15,000.00."

In 1990, we began to credit 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 has grown, and we now amend the above quoted sentence to provide: "No claims shall be allowed for an amount in excess of \$25,000.00."

IN THE MATTER OF RULES OF PROCEDURE IN
THE ARKANSAS JUDICIAL DISCIPLINE &
DISABILITY COMMISSION

Supreme Court of Arkansas
Opinion delivered July 6, 1992

PER CURIAM. Rule 1E of the Rules of Procedure of the Arkansas Judicial Discipline & Disability Commission is revised to provide as follows:

E. Quorum; Voting Requirements. Five members of the Commission shall constitute a quorum for the transaction of business. A finding of proable cause shall require the concurrence of a majority of the members present.

Any alternate member may serve in the place of any member of the same category whenever such member is disqualified or unable to serve and upon the call of, or on behalf of, the chairman. An alternate member who is present at a Commission meeting but who has not been called to serve may neither be included in a quorum count nor vote on any matter being considered at such meeting. Whenever an alternate member is called to serve in the place of a member of the Commission, an announcement with respect thereto shall be made at the commencement of the meeting.

A recommendation that discipline be imposed shall require the concurrence of a majority of the members of the Commission.

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

Supreme Court of Arkansas
Delivered July 20, 1992

PER CURIAM. The Rules of this Court and the Arkansas Court of Appeals have grown by amendment over the years as problems have occurred. The current format is not as organized

as it should be. The Rules also contain out of date statutory references and some provisions we cannot understand. We cannot determine the origin of some of the Rules which are unused and unnecessary.

At our request, the Administrative Office of the Courts, in conjunction with the Clerk, has prepared a revised draft of our Rules in an effort to remedy the problems mentioned above. We have reviewed them and find that there are no dramatic changes proposed and the organization is far superior to that of our current rules.

We publish the new draft and ask for comment from the bench and bar to be submitted prior to November 1, 1992. We will study the responses with a view toward revising the draft and adopting it.

Comments, in letter form should be sent to:

Leslie Steen, Clerk
Attn: Rules Project
Arkansas Supreme Court
Justice Building
625 Marshall Street
Little Rock, Arkansas 72201

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RULE 1

HOURS OF MEETING

The Supreme Court shall convene each Monday at 9:00 a.m. and the Court of Appeals each Wednesday at 9:00 a.m., except during recess or as announced by either Court.

RULE 2

APPELLATE JURISDICTION OF THE SUPREME COURT AND COURT OF APPEALS

(a) SUPREME COURT JURISDICTION. All cases appealed shall be filed in the Court of Appeals, except that the following cases shall be filed in the Supreme Court:

1. All cases involving the interpretation or construction of the Constitution of Arkansas;
2. Criminal cases in which the death penalty, life imprisonment, or a cumulative sentence of more than 30 years imprisonment has been imposed;
3. Cases, other than appeals from the Workers' Compensation Commission, the Public Service Commission, or the Board of Review created by the Employment Security Law, in which the validity, interpretation, construction, or constitutionality of an act of the General Assembly, an ordinance of a municipality or county, or a rule or regulation of any court, administrative agency, or regulatory body is in question; declaratory judgment actions pertaining to the validity or applicability of a rule of an agency subject to the Administrative Procedure Act;
4. Cases appealed from orders of the Arkansas Transportation Commission and the Arkansas Pollution Control and Ecology Commission as well as cases involving rates for public utilities fixed by municipal authorities;
5. Appeals in cases based on petitions for post-conviction relief under Rule 37 of the Arkansas Rules of Criminal Procedure;
6. Cases of quo warranto, prohibition, injunction, or mandamus directed to the state, county, or municipal officials or to circuit, chancery, or probate courts;

7. Cases pertaining to elections and election procedures;
8. Cases involving the discipline of attorneys-at-law and other cases arising under the power of the Supreme Court to regulate the practice of law;
9. Cases involving the discipline and disability of judges;
10. Motions for rule on the clerk under Rule 9 of the Rules of the Supreme Court of Appeals; and when the case in which relief is sought has not previously been docketed in the Court of Appeals and a transcript filed, motions or petitions for writ of certiorari to complete the record and for admission to bail;
11. Cases in which the current appeal is a second or subsequent appeal following an appeal which has been decided in the Supreme Court;
12. Interlocutory appeals permitted by statute or by the Arkansas Rules of Civil Procedure or of the Arkansas Rules of Criminal Procedure;
13. Cases presenting a question about usury;
14. Cases presenting a question about products liability;
15. Cases presenting a question about oil, gas, or mineral rights;
16. Cases presenting a question about the law of torts;
17. Cases presenting a question about the construction of deeds or wills.

(b) **PROCEDURE TO INVOKE SUPREME COURT JURISDICTION.** An appellant who contends that the appeal should be heard in the Supreme Court pursuant to Rule 2(a), instead of in the Court of Appeals, shall designate on the notice of appeal and designation of the record the applicable subdivision of Rule 2(a) which gives the Supreme Court jurisdiction. In addition, the appellant shall preface the brief with a jurisdictional statement not exceeding two pages in length.

(c) **TRANSFER BETWEEN COURTS.** The Supreme Court may transfer to the Court of Appeals any case appealed to

the Supreme Court and may transfer to the Supreme Court any case appealed to the Court of Appeals.

(d) **CERTIFICATION FROM COURT OF APPEALS TO SUPREME COURT.** The Court of Appeals may certify any case appealed to the Supreme Court if the Court of Appeals finds that the appealed case: (1) is excepted from its jurisdiction by section (a) hereof; or (2) involves an issue of significant public interest or a legal principle of major importance. The Supreme Court may accept for its docket cases so certified or may remand any of them to the Court of Appeals for decision.

(e) **IMPROPER FILING.** No case filed in either the Supreme Court or the Court of Appeals shall be dismissed for having been filed in the wrong Court but shall be transferred or certified to the proper Court.

(f) **CERTIORARI.** No appeal as of right shall lie from the Court of Appeals to the Supreme Court. Certiorari may be granted by the Supreme Court for review of decisions of the Court of Appeals only if the Supreme Court determines that the case (1) should have come to the Supreme Court originally under Section (a) of this Rule, (2) should have been certified to the Supreme Court under Section (d)(2) of this Rule, or (3) was decided in the Court of Appeals by a tie vote.

(g) **EQUALIZATION OF WORKLOAD.** This Rule is intended to achieve an equalization of the appellate workload between the Supreme Court and the Court of Appeals. If the classifications do not achieve this objective, adjustments will be made.

RULE 3

UNIFORM PAPER SIZE

All briefs, motions, pleadings, records, transcripts, and other papers required or authorized by these Rules shall be on 8 1/2" x 11" paper.

RULE 4

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.

RULE 5

CONTEMPT

No argument, brief, or motion filed or made in the Court shall contain language showing disrespect for the trial court.

RULE 6

EMPLOYEES OF THE COURT

No employee of either Court shall engage in the practice of law or have a pecuniary interest in any concern that does business with either Court.

RULE 7

PRACTICE ABSENT SPECIFIC RULE

In cases where no provision is made by statute or other Rules, proceedings in the Court shall be in accordance with existing practice.

RULE 8

MOTIONS, GENERAL RULES

(a) **WRITING REQUIRED.** All motions must be in writing.

(b) **NUMBER OF COPIES.** Eight clearly legible copies must be filed on 8 1/2" x 11" paper.

(c) **SERVICE.** Evidence of service of motions upon opposing counsel must be furnished at time of filing.

(d) **RESPONSE.** A response may be filed within 10 calendar days of the filing of a motion. Evidence of service is required.

(e) **MEMORANDUM OF AUTHORITIES.** With any motion, application for temporary relief, or other action of the Court that is sought before the regular submission of the case, the moving party shall file and serve upon opposing counsel or an unrepresented party a short citation of statutes, rules of court, and other authorities upon which the movant relies. Any party responding to any such motion or application shall likewise file a memorandum of authorities.

RULE 9

MOTION FOR RULE ON CLERK

(a) **RECORD TENDERED LATE.** Where a record is tendered which, on its face, appears to be without the time allotted for docketing the case, it shall be the duty of the Clerk to notify the attorney representing the appellant and note on the record the date the tender was made.

(b) **DOCKETING FOR PURPOSE OF PRESENTING REQUEST FOR RULE — SERVICE OF MOTION.** If the appellant insists that the Clerk is in error in refusing to file the record, then upon payment of the regular filing fee, the case shall be tentatively docketed and numbered. The appellant shall then file a motion in accordance with Rule 8 to require the Clerk to docket the case as an appeal. A copy of the motion shall be served by the appellant upon opposing counsel, and evidence of service shall be furnished to the Clerk with the motion at the time of filing.

(c) **PROCEDURE WHEN RULE GRANTED.** If the motion is granted, the case shall proceed in the regular manner for appeals without payment of any additional fee.

(d) **PROCEDURE WHEN RULE DENIED.** If the motion is denied, the case shall be stricken from the docket, the jurisdiction of the Court terminated, and the filing fee forfeited.

RULE 10

PETITIONS FOR REHEARING

(a) **FILING AND SERVICE.** A petition for rehearing, a brief in support of the petition, and evidence of service of the petition, brief, and a certificate of merit stating that the petition is not filed for the purpose of delay, must be filed within 17 days from the date of decision.

(b) **RESPONSE.** The respondent may file a brief on the following Monday (in the Supreme Court) or Wednesday (in the Court of Appeals) or may, on or before that day, obtain an extension of one week upon written motion to the Court.

(c) **ADDITIONAL TIME.** Neither party will be granted further time than as indicated above, except upon written motion to the Court and a showing of illness of counsel or other unavoidable casualty.

(d) **NUMBER OF COPIES TO BE FILED.** Eight copies of the petition must be filed, and a copy must be served upon opposing counsel.

(e) **PAGE LENGTH.** In all cases, both civil and criminal, the petition and supporting brief, if any, including the style of the case and the certificate of counsel, shall not exceed ten 8 1/2" x 11" double-spaced, typewritten pages and shall comply with the provisions of Rule 18(a), except that if the petition and supporting argument are not more than three pages, they need not be bound as set forth in Rule 18(a).

(f) **GROUND(S) STATED.** The petition must specifically state the ground(s) relied upon.

(g) **ENTIRE CASE NOT TO BE REARGUED.** The petition for rehearing should be used to call attention to specific errors of law or fact which the opinion is thought to contain. Counsel are expected to argue the case fully in the original briefs, and the brief on rehearing is not intended to afford an opportunity for a mere repetition of the argument already considered by the Court.

(h) **PREVIOUS REFERENCE IN ABSTRACT.** In no case will a rehearing petition be granted when it is based upon any fact thought to have been overlooked by the Court, unless reference has been clearly made to it in the abstract of the record prescribed by Rules 19 and 20.

(i) **NO ORAL ARGUMENT.** Oral argument will not be permitted on a petition for rehearing.

(j) **LIMITED TO ONE PETITION.** A party may submit only one petition for rehearing.

(k) **NEW COUNSEL.** Litigants will not be permitted to substitute new counsel for the purpose of filing a petition for

rehearing. Additional counsel may, however, participate in a petition for rehearing, or in opposition to the petition, by joining with the original counsel in the petition and brief, or by obtaining permission of the Court by motion.

RULE 11

PETITIONS FOR REVIEW

(a) **CONTENTS OF PETITION.** A petition to the Supreme Court for review of a decision of the Court of Appeals must be in writing and must be filed within 17 days from the date of the decision, regardless of whether a petition for rehearing is filed with the Court of Appeals. The petition may be typewritten and shall not exceed three 8 1/2" x 11", double-spaced pages in length. The petition must briefly and distinctly state the basis upon which the case should be reviewed and may include citations of authority or references to statutes or constitutional provisions.

(b) **BRIEFS AND ORAL ARGUMENT PROHIBITED.** Briefs will not be accepted and oral arguments will not be heard in support of petitions for review. However, the petitioner may attach a copy of the petition for rehearing to the petition for review.

(c) **REQUIREMENT FOR ASSERTING RULE 2(d)(2).** To invoke the Supreme Court's jurisdiction asserting that the case involves an issue of significant public interest or a legal principle of major importance as set forth in Rule 2(d)(2), the petitioner must have filed a motion in the Court of Appeals requesting certification to the Supreme Court before the case was submitted to the Court of Appeals. The motion must contain a certificate of counsel stating that it is filed in good faith belief that the case should be certified to the Supreme Court.

This requirement does not apply to cases appealed to the Court of Appeals from the Workers' Compensation Commission, the Employment Security Board of Review, or the Public Service Commission.

(d) **RESPONSE.** A response to a petition for review must be filed within 10 calendar days of the date the petition was filed. Responses are subject to the same limitations as petitions. The respondent may attach a copy of the response to the petition for rehearing to the response to the petition for review.

(e) **CLERK'S NOTIFICATION; REQUEST FOR ORAL ARGUMENT.** When the Supreme Court grants a petition for review, the clerk shall promptly notify all counsel and parties appearing pro se. Within two weeks of the notification, fourteen additional copies of the briefs previously submitted to the Court of Appeals shall be filed with the Clerk. Requests for oral argument must also be made to the Clerk in writing within those two weeks.

(f) **SUPPLEMENTAL AND REPLY BRIEFS; REQUEST FOR ORAL ARGUMENT.** Any party may request permission to submit a supplemental brief by motion, filed with the Clerk and served upon all other parties, within two weeks after the granting of review. The moving party's brief shall be due twenty days from the granting of the motion. Other parties may file responsive supplemental briefs within ten days of the date the moving party's supplemental brief is filed. A reply brief may be filed within five days after the filing of a responsive supplemental brief. No supplemental brief, responsive supplemental brief, or reply brief submitted pursuant to this Rule shall exceed ten pages in length. These briefs shall otherwise conform to the requirements of Rule 18.

Oral argument may be requested not more than five days after a reply brief is served or becomes due, whichever occurs first. The request for oral argument shall be by letter, separate from any brief, filed with the Clerk and served upon all parties.

RULE 12

PREPARATION OF THE RECORD

(a) **GENERALLY.** All records shall begin with the style of the court in which the controversy was heard, the name of the judge presiding when the decree, judgment or order was rendered and its date, the names of all the parties litigant, and the nature of the suit or motion. For example: "Trial before A.B., judge of _____ court, on the ____ day of _____, 19____;

John Doe, Plaintiff

vs. Action on Promissory Note"

Jane Doe, Defendant

(b) **DATES.** Whenever an order of the court is mentioned, the date shall be specifically stated, rather than by reference to

the day and year "aforesaid".

(c) **DUPLICATIONS.** No part of the record shall be copied more than once. When a particular record recurs, a reference should be made to pages in the preceding part of the record.

(d) **DEPOSITIONS.** When depositions are taken on interrogatories and included in the record, the answers must be placed immediately after the questions to which they are responsive.

(e) **RECORD ON SECOND APPEAL.** When a cause has been once before the Court and a record is again required (for the purpose of correcting error which occurred on retrial), the second record shall begin where the former ended; that is, with the judgment of the appellate Court, which should be entered of record in the trial court, omitting the opinion of the appellate Court. The appeal or supersedeas bond should be the last entry included.

(f) **TABLE OF CONTENTS.** Every record shall include a table of contents, which refers to pages in the record where the matter identified is copied. For example:

| | |
|--|--------|
| Complaint | Page 1 |
| Exhibit A (note of J.B. to C.F.) | Page 3 |
| Answer | Page 4 |
| Exhibit B (deed from A to B) | Page 5 |
| Decree (or judgment) | Page 6 |

(g) **FEE FOR INDEX.** Clerks may add to their fee for the record a reasonable charge for these items where no charge is fixed by statute.

(h) **RECORD FEE AND COSTS CERTIFIED.** The fee for the production of the record must be certified in all cases; in addition, all costs in the trial court must be reported, and by whom paid.

(i) **CLERK'S RECORD AND REPORTER'S TRANSCRIPT — PAPER SIZE AND PREPARATION.** The transcript must be prepared in plain typewriting or computer or word processor printing of the first impression, not copies, on 8 1/2" x 11" paper. The record, as defined in paragraph (m) of this Rule, shall be fastened on the left of the page. All transcripts shall be prepared by certified court reporters and comport with the following rules:

- (1) No fewer than 25 types lines on standard 8 1/2" x 11" paper;
- (2) No fewer than 9 or 10 characters to the typed inch;
- (3) Left-hand margins to be set at no more than 1 3/4";
- (4) Right-hand margins to be set at no more than 3/8";
- (5) Each question and answer to begin on a separate line;
- (6) Each question and answer to begin at the left-hand margin with no more than 5 spaces from the "Q" and "A" to the text;
- (7) Carry-over "Q" and "A" lines to begin at the left-hand margin;
- (8) Colloquy material, quoted material, parentheticals and exhibit markings to begin no more than 15 spaces from the left-hand margin with carry-over lines to begin no more than 10 spaces from the left-hand margin;
- (9) All transcripts to be prepared in the lower case;
- (10) All depositions prepared for use as evidence in any court to comply with these Rules, except that the left-hand margin is to be set at no more than 1 3/4" and bound on the left.

(j) FOLDING OF RECORD. Records must be transmitted to the Clerk without being folded or creased.

(k) SURVEYS. Real property surveys which form a part of the record shall not be fastened to the record.

(l) RECORD IN VOLUMES. Where the record is too large to be conveniently bound in one volume it shall be divided into separate volumes of convenient size and numbered sequentially.

(m) **DEFINITION OF RECORD.** The term "record" in civil cases, and as used in these Rules, refers only to the pleadings, judgment, decree, order appealed, transcript, exhibits, and certificates.

RULE 13

OMISSIONS OF ITEMS FROM THE RECORD

(a) **GENERALLY.** The clerks of the circuit, chancery and probate courts, in making records to be transmitted to the Court, shall, unless excepted by the provisions of this Rule, include all matters in the record as required by Rule 12(m).

(b) **SUMMONS.** In cases where the defendant has appeared, the clerk shall set out any summons or other writ of process for appearance or the return thereof, but shall state: "Summons issued", (showing date) "and served", (showing date).

(c) **AMENDED PLEADINGS.** In case of an amendment to the pleadings by substitution, the clerks shall treat the amended pleading as the only one and shall refrain from copying into the records any pleadings withdrawn, waived or superseded by amendment, unless it is expressly called for by a party's designation of the record.

(d) **INCIDENTAL MATTERS.** Clerks shall not insert in the record any matter concerning the organization or adjournment of court, the impaneling or swearing of the jury, the names of jurors, including any motion, affidavit, or order or ruling in reference thereto, any continuance or commission to take testimony or the return thereto, any notice to take depositions or the caption or certificate of the officer before whom such depositions are taken, or any other incidental matter, unless it is expressly called for by a party's designation of the record.

RULE 14

RECORD IN CIVIL CASES

Not all records in civil cases will have the same contents. The following designation of the sequence in which items will be included will be followed to the extent possible:

1. The Complaint;

2. Plaintiff's exhibits;
3. Statement regarding summons, set out in Rule 13;
4. Answer;
5. Defendant's exhibits;
6. Subsequent pleadings and orders in chronological order;
7. Final judgment, decree, or order appealed;
8. Post-judgment decree, order or motion (e.g., motions for new trial);
9. Orders granting or denying post-judgment motions;
10. Notice of appeal and designation of record;
11. Statement of points to be relied upon if abbreviated record designated;
12. Extensions of time to file record on appeal;
13. Stipulations to abbreviated records;
14. Narrative of testimony upon stipulations;
15. Depositions introduced;
16. Reporters' transcription of testimony;
17. Supersedeas bond;
18. Certificate, duly acknowledged;
19. Certificate of costs, indicating payor.

RULE 15

RECORD IN CRIMINAL CASES

(a) ORDER OF RECORD. In all criminal cases, after the caption set forth in Rule 12, the record shall be organized in the following sequence:

1. Return of the indictment or information;
2. Defendant's pleadings;

3. Subsequent pleadings and orders in chronological order;
4. Final judgment and commitment or order appealed;
5. Motion for new trial, to set aside, amend, etc.;
6. Order granting or denying above motions;
7. Notice of appeal and designation of record;
8. Extension of time to file record on appeal;
9. Reporters' transcription of testimony;
10. Appeal bond;
11. Certificate, duly acknowledged.

(b) **RECORD OF JURY MATTERS.** The record shall not include the impaneling or swearing of the jury, the names of the jurors, or any motion, affidavit, order, or ruling in reference thereto unless expressly called for by a party's designation of the record.

RULE 16

CERTIORARI TO COMPLETE THE RECORD

(a) **AUTHORIZATION FOR WRIT OF CERTIORARI.** When jurisdiction is conferred by filing, within the time allowed for appeal, a dated and certified copy of the order or judgment appealed from, the Clerk may, upon authorization by the Court, issue a writ of certiorari to the clerk of the trial court, the reporter, or any other person charged with the duty of preparing the record on appeal, directing that any omissions or errors in the record be corrected.

(b) **CONTENTS OF WRIT.** The writ shall order that the record be completed and certified within thirty days, and the explanation for any default in complying with the writ must be made on the return within the time directed. This procedure may be used in appeals of civil, criminal, and administrative agency or commission cases.

RULE 17

DISPOSAL OF RECORD AND EXHIBITS

(a) **PROCEDURE TO OBTAIN — FAILURE TO RETURN.** Attorneys may obtain from the Clerk the record in a disposed of case by giving a receipt and may retain the record for a period of not more than thirty days. No extension of time will be granted until the record has been returned, and then only upon order of the Court. Upon failure to return the record within the time allotted, the Clerk shall demand its return. If the demand is not complied with within ten days, the delinquency shall be reported to the Court at which time a citation shall issue commanding the attorney to appear before the Court immediately and show cause why a citation for contempt should not issue.

(b) **FAILURE TO CLAIM EXHIBITS IN CIVIL CASES.** All exhibits filed in civil cases and not attached to the transcript, in the Supreme Court and Court of Appeals, must be claimed by the party who presented the exhibit to the trial court and be removed from the Clerk's office within 90 days from the date the mandate is issued. The attorney receiving the exhibits must sign the docket showing their receipt. If an exhibit is not claimed within the 90 days, the Clerk may destroy or dispose of it after giving the parties, or the attorneys of record, 30 days notice of the Clerk's intention to do so.

RULE 18

STYLE OF BRIEFS

(a) **BRIEFS — SIZE — PAPER — TYPE.** All briefs shall be typewritten or produced with computer or word processing equipment. Briefs shall be of uniform size on opaque, unglazed 8 1/2" x 11" white paper and firmly bound on the left hand margin by staples or other binding devices. If staples are used, they should be covered by tape. Carbon copies are not acceptable, but copies produced by offset printing, positive photocopy, or other dry photoduplicating process which produces a clearly legible black-on-white reproduction may be used. The margin at the top, outer edge, and bottom of each page shall be not less than one inch, and the margin at the binding edge shall be wide enough to allow the text to be read easily. If a standard typewriter is used, type shall be no smaller than 10 point, i.e., 10 characters to the inch, and double-spaced, except for quoted material, which may

be single-spaced and indented. Footnote lines, except quotations, shall be double-spaced. If a computer or word processor is used, the type shall be no smaller than a 10 pitch font. Briefs not in compliance with this Rule shall not be accepted by the Clerk. Commercial organizations or members of the bar maintaining equipment for duplicating may submit to the Clerk samples for prior approval. If the Clerk is satisfied that such duplicating process will produce documents which conform to the specifications of this Rule, it will be approved.

(b) **LENGTH OF ARGUMENT.** Unless leave of the Court is first obtained, the argument portion of a brief shall not exceed 25 double-spaced pages including the conclusion, if any. The appellant's reply brief shall not exceed 15 double-spaced pages and shall not include any supplemental abstract. Motions for an expansion of the page limit must set forth the reason or reasons for the request and must state that a good faith effort to comply with this Rule has been made. The motion must specify the number of additional pages requested.

(c) **PRO SE BRIEFS.** Where the appellant in a criminal appeal is entitled to representation by counsel, pro se briefs will be accepted only when the appellant has knowingly and intelligently refused the services of an attorney on appeal. Such a brief shall be accompanied by an affidavit that the appellant has prepared it without the paid assistance of any other prison inmate.

RULE 19

CONTENTS OF BRIEFS

(a) **CONTENTS.** The contents of the brief shall be in the following order:

- (1) Table of Contents
- (2) Jurisdictional statement
- (3) Statement of the case
- (4) Points of appeal
- (5) Table of Authorities

(6) Abstract

(7) Argument

(b) **TABLE OF CONTENTS.** Each brief must include a table of contents. It should reference the page number for the beginning of each of the major sections identified in Rule 19(a). Within the abstract section of the brief, it should reference the page number for the beginning of each witness' testimony and should note the page at which each pleading and document is abstracted.

(c) **JURISDICTIONAL STATEMENT AND STATEMENT OF THE CASE.** After any jurisdictional statement required in Supreme Court cases by Rule 2(b), the appellant's brief shall begin with a concise statement of the case, without argument. This statement, ordinarily not exceeding two pages in length, should be sufficient to enable the Court to read the abstract with an understanding of the nature of the case, the general fact situation, and the action taken by the trial court. The appellee's brief need not contain a statement of the case unless the appellant's statement is controverted or deemed insufficient.

(d) **POINTS AND AUTHORITIES.** Following the appellant's statement of the case, the appellant shall list and separately number, concisely and without argument, the points relied upon for a reversal of the judgment or decree. The appellee will follow the same sequence and arrangement of points as contained in the appellant's brief and may then add additional points. Either party may insert under any point not more than two citations which either considers to be the principal authorities on that point.

(e) **ABSTRACT.** The appellant's abstract or abridgment of the record should consist of an impartial condensation, without comment or emphasis, of *only* such material parts of the pleadings, proceedings, fact, documents, and other matters in the record as are necessary to an understanding of all questions presented to the Court for decision. A document, such as a will or contract, may be photocopied and attached as an exhibit to the abstract. However, the document or the necessary portions of the document must be abstracted. Mere notation such as "plaintiff's exhibit no. 4" is not sufficient. On a second or subsequent appeal, the abstract shall include a condensation of all pertinent portions of the record filed on any prior appeal. Not more than two pages of

the record shall in any instance be abstracted without a page reference to the record. In the abstracting of testimony, the first person (i.e., "I") rather than the third person (i.e., "He, She") shall be used. The Clerk will refuse to accept a brief if the testimony is not abstracted in the first person or if the abstract does not contain the required references to the record. In the abstracting of depositions taken on interrogatories, requests for admissions, and the responses thereto, and interrogatories to parties and the responses thereto, the abstract of each answer must immediately follow the abstract of the question. Whenever a map, plat, photograph, or other similar exhibit, which cannot be abstracted in words, must be examined for a clear understanding of the testimony, the appellant shall reproduce the exhibit by photography or other process and attach it to the copies of the abstract filed in the Court and served upon the opposing counsel, unless this requirement is shown to be impracticable and is waived by the Court upon motion.

(f) INSUFFICIENCY OF APPELLANT'S ABSTRACT.

Motions to dismiss the appeal for insufficiency of the appellant's abstract will not be recognized. Deficiencies in the appellant's abstract will ordinarily come to the Court's attention and be handled in either of two ways:

(1) If the appellee considers the appellant's abstract to be defective, the appellee's brief may call the deficiencies to the Court's attention and may, at the appellee's option, contain a supplemental abstract. When the case is considered on its merits, the Court may impose or withhold costs to compensate either party for the other party's noncompliance with this Rule. In seeking an award of costs under this paragraph, counsel must submit a statement showing the cost of the supplemental abstract and a certificate of counsel showing the amount of time that was devoted to the preparation of the supplemental abstract.

(2) Whether or not the appellee has called attention to deficiencies in the appellant's abstract, the Court may treat the question when the case is submitted on its merits. If the Court finds the abstract to be flagrantly deficient, or to cause an unreasonable or unjust delay in the disposition of the appeal, the judgment or decree may be affirmed for noncompliance with the Rule. If the Court considers that action to be unduly harsh, the appellant's attorney may be allowed time to revise the brief, at his or her own expense, to conform to Rule 19(e). Mere modifications

of the original brief by the appellant, as by interlineation, will not be accepted by the Clerk. Upon the filing of such a substituted brief by the appellant, the appellee will be afforded an opportunity to revise or supplement the brief, at the expense of the appellant or the appellant's counsel, as the Court may direct.

(g) **BRIEFS.** Arguments shall be presented under subheadings numbered to correspond to the outline of points to be relied upon. Citations of decisions of the Court which are officially reported must be from the official reports. All citations of decisions of any court must state the style of the case and the book and page in which the case is found. If the case is also reported by one or more unofficial publishers, these should also be cited, if possible.

(h) **COVER FOR BRIEFS.** On the cover of every brief there should appear the number and style of the case in the Supreme Court or Court of Appeals, a designation of the court from which the appeal is taken, and the name of its presiding judge, the title of the brief (e.g., "Abstract and Brief for Appellant"), and the name or names of individual counsel who prepared the brief, including their addresses and telephone numbers.

RULE 20

BRIEFS IN CRIMINAL CASES

(a) **BRIEFS IN CHIEF — WHEN THE STATE IS THE APPELLEE.** In criminal cases in which the State is the appellee and in which appellant is not indigent, the appellant shall have 40 days from the date the transcript is lodged to file 17 copies of the brief with the Clerk. Upon the filing of the brief, the appellant shall submit proof of service of two additional copies of the brief upon the Attorney General and one copy upon the trial court.

(b) **BRIEFS IN CHIEF — WHEN STATE IS THE APPELLANT.** In criminal cases in which the State is the appellant, the procedure shall be the same as in subsection (a) except the State shall file only 17 copies of the brief with the Clerk and furnish evidence of service upon opposing counsel and the trial court.

(c) **APPELLEE'S BRIEF.** The appellee shall have 30 days from the filing of the appellant's brief to file 17 copies of the brief with the Clerk and such further abstract as may be necessary to a

fair determination of the case. Proof of service upon opposing counsel and the trial court is required.

(d) **REPLY BRIEF.** The appellant shall have 15 days from the date that the appellee's brief is filed to file 17 copies of the reply brief and furnish evidence of service upon the opposing counsel and the trial court.

(e) **PAGE LIMITS ON BRIEFS.** The argument portion of the appellant's and the appellee's briefs shall not exceed 25 double-spaced typewritten pages including the conclusion, if any, with a 15 typewritten page limit upon the reply brief, except that if either limitation is shown to be too stringent in a particular case, and there has been a good faith effort to comply with the page limits, it may be waived on motion.

(f) **MISDEMEANOR CASES SUBJECT TO DISMISSAL.** In misdemeanor cases, failure of the appellant to file a brief within the time limit renders the case subject to dismissal as in civil cases pursuant to Rule 22.

(g) **APPELLANT'S DUTY TO ABSTRACT RECORD.** In all felony cases it is the duty of the appellant, whether represented by retained counsel, appointed counsel or a public defender, or acting pro se, to abstract such parts of the record, but *only* such parts of the records as are material to the points to be argued in the appellant's brief.

(h) **COURT'S REVIEW OF ERRORS IN DEATH OR LIFE IMPRISONMENT CASES.** When the sentence is death or life imprisonment, the Court must review all errors prejudicial to the appellant in accordance with Ark. Code Ann. Sec. 16-91-113(a). To make that review possible, the appellant must abstract all objections that were decided adversely to him or her in the trial court, together with such parts of the record as are needed for an understanding of the objections. The Attorney General will make certain and certify that all of those objections have been abstracted and will brief all points argued by the appellant and any other points that appear to involve prejudicial error.

(i) **PREPARATION OF BRIEFS FOR INDIGENT APPELLANTS.** When an indigent appellant is represented by appointed counsel or a public defender, the attorney may have the briefs reproduced by submitting one double-spaced typewritten manuscript to the Attorney General and one to the Clerk not later

than the due date of the brief. In such instances, the time for the filing of the Attorney General's brief is extended by five days.

(j) WITHDRAWAL OF COUNSEL.

(1) Any motion by counsel for a defendant in a criminal or a juvenile delinquency case for permission to withdraw made after notice of appeal has been given shall be addressed to the Court, shall contain a statement of the reason for the request and shall be served upon the defendant appealing. A request to withdraw on the ground that the appeal is wholly without merit shall be accompanied by a brief referring to anything in the record that might arguably support the appeal, together with a list of all objections made by the appellant and overruled by the court, and of all motions and requests made by the appellant and denied by the court, accompanied by a statement as to the reason counsel considers that the points thus raised would not arguably support the appeal.

(2) The Clerk shall furnish the appellant with a copy of the appellant's counsel's brief, and advise the appellant that he or she has 30 days within which to raise any points that he or she chooses, and that this may be done in typewritten or hand printed form and accompanied by an affidavit that no paid assistance from any inmate of the Department of Correction or of any other place of incarceration has been received in the preparation of the response.

(3) The Clerk shall serve all such responses by an appellant on the Attorney General, who shall file a brief for the State, pursuant to sections (e) and (i) of this Rule, within 30 days after such service and serve a copy on the appellant, as well as on the appellant's counsel.

(4) After a reply brief has been filed, or after the time for filing such a brief has expired, the motion for withdrawal shall be submitted of the Court as other motions are submitted. If, upon consideration of the motion, it shall appear to the Court that the judgment of the trial court should be affirmed or reversed, the Court may take such action on its own motion, without any supporting opinion.

(k) CONTINUANCES AND EXTENSIONS OF TIME.

(1) The Clerk or a deputy clerk may extend the due date of any brief by seven (7) days upon oral request. If such an extension is

granted, no further extension shall be entertained except by the Court upon a written motion showing good cause.

(2) Stipulations of counsel for continuances will not be recognized. Any request for an extension of time (except in (k)(1)) for the filing of any brief must be made by a written motion, addressed to the Court, setting forth the facts supporting the request. Eight copies of the motion are required. Counsel who delay the filing of such a motion until it is too late for the brief to be filed if the motion is denied, do so at their own risk.

RULE 21

FILING AND SERVICE OF BRIEFS IN CIVIL CASES

(a) **APPELLANT'S BRIEF.** In all civil cases the appellant shall, within 40 days of lodging the record, file 17 copies of the appellant's brief with the Clerk and furnish evidence of service upon opposing counsel and the trial court. Each copy of the appellant's brief shall contain every item required by Rule 19. Unemployment compensation cases appealed from the Arkansas Board of Review may be submitted to the Court of Appeals for decision as soon as the transcript is filed, unless the petition for review shows it is filed by an attorney, or notice of intent to file a brief for the appellant is filed with the Clerk prior to the filing of the transcript.

(b) **APPELLEE'S BRIEF — CROSS-APPELLANT'S BRIEF.** The appellee shall file 17 copies of the appellee's brief, and of any further abstract thought necessary, within 30 days after the appellant's brief is filed, and furnish evidence of service upon opposing counsel and the trial court. If the appellee's brief has a supplemental abstract, it shall be compiled in accordance with Rule 19 and included in or with each copy of the brief. This Rule shall apply to cross-appellants. If the cross-appellant is also the appellee, the two separate arguments may be contained in one brief, but each argument is limited to 25 pages.

(c) **REPLY BRIEF — CROSS-APPELLANT'S REPLY BRIEF.** The appellant may file 17 copies of a reply brief within 15 days after the appellee's brief is filed and shall furnish evidence of service upon opposing counsel and the trial court. This Rule shall apply to the cross-appellant's reply brief except it must be filed within 15 days after the cross-appellee's brief is filed.

(d) **EVIDENCE OF SERVICE.** Briefs tendered to the

Clerk will not be filed unless evidence of service upon opposing counsel and the trial court has been furnished to the Clerk. Such evidence may be in the form of a letter signed by counsel, naming the attorney or attorneys and the trial court to whom copies of the brief have been mailed or delivered.

(e) **SUBMISSION.** The case shall be subject to call on the next Monday (in the Supreme Court) or Wednesday (in the Court of Appeals) after the expiration of the time allowed for filing the reply brief of the appellant or the cross-appellant.

(f) **CONTINUANCES AND EXTENSIONS OF TIME.**

(1) The Clerk or a deputy clerk may extend the due date of any brief by seven (7) days upon oral request. If such an extension is granted, no further extension shall be entertained except by the Court upon a written motion showing good cause.

(2) Stipulations of counsel for continuances will not be recognized. Any request for an extension of time (except in (f)(1)) for the filing of any brief must be made by a written motion, addressed to the Court, setting forth the facts supporting the request. Eight copies of the motion are required. Counsel who delay the filing of such a motion until it is too late for the brief to be filed if the motion is denied, do so at their own risk.

RULE 22

FAILURE TO FILE BRIEFS IN CIVIL CASES

If the appellant's brief has not been filed in a civil case within the time allowed by Rule 21, the Court may dismiss the appeal and affirm the judgment or decree at cost to the appellant. When the appellee has failed to appear and file a brief, the Court may, when the case is called for submission, proceed and give judgment according to the requirements of the case.

RULE 23

AMICI CURIAE ATTORNEYS

(a) **BRIEFS.** Amici Curiae attorneys may file briefs with the permission of the Court. The motion for permission should state the reasons why such a brief is thought to be necessary. If the amicus brief supports the appellant's position or is neutral, it is due at the same time as the appellant's brief; if it supports the appellee's position, it is due at the same time of the appellee's brief.

(b) **ORAL ARGUMENTS.** Amici Curiae attorneys will not be permitted to participate in oral arguments.

(c) **PETITIONS FOR REHEARING.** Amici Curiae attorneys will not be permitted to file a petition for rehearing in their own names and may participate only by first securing permission of the regular attorneys or of the Court to join in the motion or brief.

RULE 24

ORAL ARGUMENTS

(a) **WRITTEN REQUEST REQUIRED.** Where either side desires to make an oral argument in any case, counsel shall give the Court and opposing counsel written notice by letter, separate from any brief or any cover letter accompanying the tender of briefs. The letter shall be filed with the Clerk not more than five days after the appellant's reply brief is filed or becomes due, whichever occurs first.

Counsel who have not requested oral argument are not required to appear at the argument but must, at least five days before the date the argument is to be heard, notify the Clerk in writing that they do not intend to appear.

(b) **COUNSEL AND TIME LIMITATIONS.** Only two attorneys will be heard for each side, and not more than 20 minutes will be allowed to each side for argument unless special leave of Court has been granted prior to the argument. Applications for additional time for argument must be by written motion, filed not less than one week before the case is scheduled for submission, and setting forth the reasons why additional time is necessary.

(c) **APPORTIONMENT OF TIME.** The time allowed may be apportioned between the counsel on the same side at their discretion; provided, always, that a fair presentation of the case shall be made by the party having the opening and closing argument.

(d) **READING FROM BOOKS.** Counsel are not permitted to read from books, brief, or records, except those short extracts which they consider necessary to properly emphasize some point.

(e) **SUBSTANCE OF AUTHORITIES STATED.** Instead

of reading authorities, counsel are expected to cite them in their briefs and to state the substance in argument.

(f) **INTERRUPTIONS NOT PERMITTED.** Counsel will not be permitted to interrupt opposing counsel with questions or otherwise, except by leave of the Court.

(g) **PETITIONS FOR REHEARING.** Oral arguments are not permitted in support of or in opposition to petitions for rehearing.

(h) **AMICI CURIAE COUNSEL.** Amici Curiae counsel will not be permitted to participate in the oral argument.

(i) **ARGUMENT DATE FIXED.** Within 15 days of the mailing of the letter notifying the Clerk and the other party or parties of the request for oral argument, counsel and the parties may submit to the Clerk, in writing, dates when they will be unavailable for argument. The Clerk will notify counsel or the parties of the date oral argument is to be held. Thereafter, the date for argument may be changed only upon written motion to the court and upon a showing of good cause. If it appears that attempts to schedule oral argument may result in undue delay, the Court may decide any case without oral argument.

(j) **CITING CASES OUTSIDE THE BRIEF.** If a case outside the brief is to be cited during oral argument, the citation must be furnished opposing counsel and the Court before the date of argument.

RULE 25

OPINIONS

(a) **SUPREME COURT — SIGNED OPINIONS.** All signed opinions of the Supreme Court shall be designated for publication.

(b) **COURT OF APPEALS — OPINION FORM.** Opinions of the Court of Appeals may be in conventional form or in memorandum form. They shall be filed with the Clerk. The opinions need not contain a detailed statement of the facts, but may set forth only such matters as may be necessary to an understandable discussion of the errors urged. In appeals from decisions of the Arkansas Board of Review in unemployment compensation cases, when the Court finds the decision appealed

from is supported by substantial evidence, that there is an absence of fraud, no error of law appears in the record, and an opinion would have no precedential value, the order may be affirmed without opinion.

(c) COURT OF APPEALS — PUBLISHED OPINIONS. Opinions of the Court of Appeals which resolve novel or unusual questions will be released for publication when the opinions are announced and filed with the Clerk. The Court of Appeals may consider the question of whether to publish an opinion at its decision-making conference and at that time, if appropriate, make a tentative decision not to publish. Concurring and dissenting opinions will be published only if the majority opinion is published. All opinions that are not to be published shall be marked "Not Designated for Publication."

(d) COURT OF APPEALS — UNPUBLISHED OPINIONS. Opinions of the Court of Appeals not designated for publication shall not be published in the *Arkansas Reports* and shall not be cited, quoted or referred to by any court or in any argument, brief, or other materials presented to any court (except in continuing or related litigation upon an issue such as res judicata, collateral estoppel, or law of the case). Opinions not designated for publication shall be listed in the *Arkansas Reports* by case number, style, date, and disposition.

(e) COPIES OF ALL OPINIONS. In every case the Clerk will furnish, without charge, one typewritten copy of all of the Court's published or unpublished opinions in the case to counsel for every party on whose behalf a separate brief was filed. The charge for additional copies is fixed by statute.

RULE 26

MANDATE

(a) MANDATE TO BE ISSUED IN ALL CASES. In all cases, civil and criminal, the Clerk will issue a mandate when the decision becomes final and will mail it to the clerk of the trial court for filing and recording.

(b) IMMEDIATE ISSUANCE, UPON LEAVE OF COURT. No transcript of any judgment, decision or opinion of the court shall be certified by the Clerk, or mandate issued, within 17 calendar days after the judgment is rendered without special

leave of the Court or upon stipulation of counsel, except in the case of the denial of a petition under Rule 37 of the Arkansas Rules of Criminal Procedure, in which case the decision of the Court shall be certified by the Clerk and the mandate issued on the day the decision is rendered.

(c) **STAY OF MANDATE.** Parties desiring to prosecute proceedings to the Supreme Court of the United States, either by appeal or certiorari, may obtain an order staying issuance of mandate, or in case of Rule 37 of the Arkansas Rules of Criminal Procedure, recalling mandate, upon application to the Court (or to an individual judge) and a showing that an order has been placed with the Clerk for a copy of the record, with payment of an advance deposit of \$50.00. Such stay is discretionary.

Bond may be required as a condition for granting the stay.

(d) **MOTION TO RECALL MANDATE.** A motion to recall the mandate must be served upon opposing counsel, and an objection to the motion may be filed.

Should the motion be granted, the moving party shall pay all costs accrued after the filing of the mandate.

RULE 27

PETITIONS FOR EXTRAORDINARY RELIEF AND EXPEDITED CONSIDERATIONS

(a) **PLEADINGS — NUMBER OF COPIES.** In cases in which the jurisdiction of the Court is in fact appellate although in form original, such as petitions for writs of prohibition, certiorari, or mandamus, the pleadings with certified exhibits from the trial court (if applicable) are treated as the record. If the petition falls within subsection (b) or (c) of this Rule, the pleader is required to file the original and seven copies of the pleading along with the record with the Clerk. Evidence of service of a copy upon the adverse party of his or her counsel of record in the trial court is required. If the proceeding falls within subsection (e) of this Rule, the pleader is required to file only the original pleading along with the certified record. When the petition includes a certified copy of the record in the trial court, it is not necessary that a copy of such exhibit be served upon the adverse party or his or her counsel. In prohibition cases, a copy of the pleadings will also be served upon the trial judge, who is ordinarily a nominal party and is not required to file a response.

(b) **EMERGENCY OR ACCELERATED PROCEEDINGS.** In situations where time limitations do not allow a proper response time of ten days, upon the filing of the pleading, the pleader shall inform the Clerk's office of the need for an emergency or accelerated hearing by the Court. Upon notification, the court will determine the date of the response and date of consideration of the pleading. If the pleader desires oral argument, such argument will be addressed to the Court at the regularly called sessions at 9:00 a.m. on Monday or Wednesday morning; otherwise, oral argument will not be entertained. The pleading must be properly filed and the party or attorney of record notified before oral argument will be heard.

(c) **APPLICATIONS FOR TEMPORARY RELIEF.** When the petitioner intends to apply to the full Court for temporary relief staying the trial court proceedings pending the consideration of the petition upon its merits, eight copies of the petition must be filed, and reasonable notice of the application for temporary relief must be served upon the other party or the counsel of record in the trial court and the trial court. If, after its review and consideration of the record and pleading filed, the Court shall determine that a temporary stay is warranted and granted, briefs shall be required as in other cases under Rule 21, and the parties' brief time will be calculated from the date the temporary relief is granted. However, the Court may decide the matter without ruling on the request for a briefing schedule.

(d) **RESPONSE.** A response to an application for temporary relief in subsection (c) may be filed within 10 calendar days unless modified by the Court. Additional time for filing a response must be requested within the 10 day period.

(e) **TIME FOR FILING BRIEFS.** If the proceedings in the trial court have been stayed, or the time before a hearing or trial will allow a briefing schedule, briefs are required as in other cases, the parties' brief time under Rule 21 for filing a brief to be calculated from the date on which the petition is filed. The mere filing of a petition for relief under this section does not automatically entitle the petitioner to file briefs and stay the proceedings in the trial court.

RULE 28

APPEALS PROSECUTED FOR PURPOSES OF DELAY

(a) **MOTION ALLEGING DELAY.** When counsel of the appellee has examined the record and believes that the appeal has been prosecuted merely for the purposes of delay, he or she may file a motion alleging such delay with a plea to the Court to advance and affirm.

(b) **CONTENTS OF MOTION.** The motion shall provide citations to the record to show that the appeal has been prosecuted merely for the purpose of delay. Counsel shall state in the motion that he or she has carefully examined the record and specify the reasons for the belief that the appeal has been filed for the purpose of delay.

(c) **PROCEDURE.** The motion shall be in the form required by Rule 8 and will be called for submission three weeks after filing.

(d) **RESPONSE.** Counsel for the appellant may file a response within 21 days of the filing of the motion.

RULE 29

ANONYMITY IN CERTAIN APPELLATE
PROCEEDINGS,
OPINIONS AND CASE STYLES

(a) **SCOPE.** In an appeal in which counsel for either side believes that a person's identity should be protected by the Court, counsel may petition the Court to do so. These cases may include, but are not limited to, adoptions and appeals from the juvenile division of chancery court.

(b) **APPELLANT AS PETITIONER.** If the petitioner is the appellant in the case, the motion shall be filed at the time the transcript is tendered for filing to the Clerk. The person whose identity is sought to be protected shall be referred to using the first name and initial of the last name in the motion and on the cover of the transcript, if applicable. Upon filing the motion, the Clerk shall seal the record pending the Court's decision on the motion.

(c) **APPELLEE AS PETITIONER.** If the petitioner is the appellee in the case, the motion shall be filed within 5 days, excluding weekends and holidays, of the date the record is filed.

The person whose identity is sought to be protected shall be referred to using the first name and initial of the last name in the motion. Upon filing the motion, the Clerk shall seal the record pending the Court's decision on the motion.

(d) SERVICE. A copy of the motion must be served upon opposing counsel who will have 10 days to respond and serve the petitioner. Opposing counsel shall also use only the first name and initial of the last name of the person at issue in any response.

(e) MOTION GRANTED. If the Court grants the motion, the Clerk shall ensure that the cover of the tendered transcript complies with the Court's order. Counsel and the Court shall preserve the person's anonymity by using the first name and initial of the last name in all subsequent captions, opinions, motions, and briefs, as well as in oral argument, if any. The records and papers on appeal shall be open for inspection only to counsel of record, or, only upon order of the Court, to others demonstrating by written motion a proper interest in the documents.

(f) MOTION DENIED. If the Court denies the motion, the Clerk shall substitute the person's full name on the cover of the transcript, if applicable, and the appeal shall proceed in accordance with these rules.

RULE 30

MOTION REQUESTING DISQUALIFICATION

Counsel for any party may file a motion requesting that one or more justices or judges disqualify. The motion shall be in the form required by Rule 8 and shall state the particular facts alleged to require the disqualification. The motion shall be filed a reasonable time prior to the submission of the case to the Court.

RULE 31

ORIGINAL ACTIONS

(a) PROCEDURE. In cases in which the jurisdiction of the Supreme Court is original rather than appellate, such as suits attacking the validity of statewide petitions filed under Amendment 7 of the Arkansas Constitution, the procedure will conform to that prevailing in the chancery courts. Upon filing the original and seven copies of the pleading and payment of a filing fee, a summons or other process will be issued by the Clerk. The

respondent's pleading must be filed within the time allowed in chancery cases as provided under the Rules of Civil Procedure.

(b) **FACT FINDING.** Evidence upon issues of fact will be taken by a master to be appointed by the Court. As a condition to the appointment of a master, the Court may require both parties to file a bond for costs to be approved by the Clerk.

(c) **FACT FINDING UNNECESSARY.** When the issues involve questions of law only, and there is no need for appointment of a master to determine facts, the parties shall file briefs as in other cases. Time limits under Rule 21 will be calculated from the date the respondent's pleading is filed or due to be filed.

RULE 32

PAUPER'S OATH AND MOTIONS FOR ATTORNEY'S FEES IN CRIMINAL CASES

(a) **PAUPER'S OATH AND AFFIDAVIT; REQUIREMENT.** It shall be required that all pro se petitions or motions and all petitions or motions filed by counsel seeking relief on behalf of a client who is claiming the status of an indigent, filed in the Court, be accompanied by an assertion of indigency, verified by a supporting affidavit. The affidavit form will be provided by the Court for such purposes. Any petition or motion not in compliance with this Rule will be returned to the petitioner or counsel for failure to comply.

(b) **FORM FOR AFFIDAVIT IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS.** The form of the affidavit shall be as follows:

IN THE SUPREME COURT OF ARKANSAS

PETITIONER

V.

No. _____

STATE OF ARKANSAS RESPONDENT

AFFIDAVIT IN SUPPORT OF
REQUEST TO PROCEED IN FORMA PAUPERIS

I, _____, being first duly sworn, depose and say that I am the petitioner in the above entitled case; that in support of my motion to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to redress.

I further swear that the responses which I have made to questions and instructions below are true.

1. Are you presently employed? Yes _____ No _____
 - (a) If the answer is yes, state the amount of your salary or wages per month, and give the name and address of your employer. _____
 - (b) If the answer is no, state the date of last employment and the amount of the salary and wages per month which you received. _____
2. Have you received within the past twelve months any money from any of the following sources?
 - (a) Business, profession or any form of self-employment?
Yes _____ No _____
 - (b) Rent payments, interest or dividends? Yes _____ No _____
 - (c) Pensions, annuities or life insurance payments?
Yes _____ No _____
 - (d) Gifts or inheritances? Yes _____ No _____
 - (e) Any other sources? Yes _____ No _____

If the answer to any of the above is yes, describe each source of money and state the amount received from each during the past twelve months. _____

3. Do you own any cash, or do you have money in a checking or savings account? Yes ☐ No ☐

If the answer is yes, state the total amount in each account.

4. Do you own any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings and clothing)? Yes ☐ No ☐

If the answer is yes, describe the property and state its approximate value.

5. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support.

6. TO BE COMPLETED ONLY IF PETITIONER IS INCARCERATED IN THE ARKANSAS DEPARTMENT OF CORRECTION OR ANY OTHER PENAL INSTITUTION.

Do you have any funds in the inmate welfare funds?
Yes ☐ No ☐

If the answer is yes, state the total amount in such account and have the certificate found below completed by the authorized officer of the institution.

I understand that false statement or answer to any questions in this affidavit will subject me to penalties for perjury.

Signature of Petitioner

STATE OF _____

COUNTY OF _____

Petitioner, _____, being first duly sworn under oath, presents that he/she has read and subscribed to the above and states that the information therein is true and correct.

SUBSCRIBED AND SWORN to before me this ____ day of _____ 19__.

Notary Public

My commission expires:

C E R T I F I C A T E

(To be completed by authorized officer of penal institution)

I hereby certify that the petitioner herein, _____ on account to
_____, has the sum of \$ _____ institution where
his/her credit at the _____ institution where
he/she is confined. I further certify that petitioner likewise
has the following securities to his/her credit according to the
records of said _____ institution:

Authorized Officer of Institution

(c) **CONTENT OF MOTIONS FOR ATTORNEY'S FEES.** All motions for attorney's fees from attorneys appointed to represent indigent appellants in criminal cases shall contain the following information: (1) the date of appointment; (2) the court which appointed counsel; (3) the number of hours expended by counsel in research, court appearances, and preparation of pleadings and briefs; (4) counsel's customary rate of compensation in similar cases; (5) the customary rate of compensation in similar cases of attorneys in the community; (6) expenses incurred by counsel which are directly attributable to the case; (7) the experience of counsel in the representation of criminal appellants; and (8) the relative complexity of the case. The motion shall be filed not later than 30 days after the issuance of the mandate.

RULE 33

TAXATION OF COSTS

(a) **AFFIRMANCE.** The appellee may recover brief costs not to exceed \$3.00 per page; total costs not to exceed \$500.00.

(b) **REVERSAL.** The appellant may recover brief costs not to exceed \$3.00 per page; total costs not to exceed \$500.00, the filing fee of \$100.00 and the certified costs of the transcript.

(c) **AFFIRMED IN PART AND REVERSED IN PART — LAW.** In cases at law, the appellant is entitled to the appeal costs if a reversal is ordered, and a substantial recovery is made.

(d) **AFFIRMED IN PART AND REVERSED IN PART — CHANCERY CASES.** In chancery cases, the Court may assess appeal costs according to the merits of the case.

(e) **IMPOSING OR WITHHOLDING COSTS.** Whether the case be affirmed or reversed, the Court will impose or withhold costs in accordance with Rule 19(f).

IN THE MATTER OF RECOMMENDATIONS OF THE
ARKANSAS SUPREME COURT COMMITTEE ON
CIVIL PRACTICE;
Ark. R. Civ. P. 33(d) and (e) and 54(b)

Supreme Court of Arkansas
Delivered September 28, 1992

PER CURIAM. The Arkansas Supreme Court Committee on Civil Practice has submitted its annual recommendations for changes in the Arkansas Rules of Civil Procedure.

We publish the following changes to the Rules and the Reporter's Notes for comment from the bench and bar. Unless withdrawn or altered by further order, the changes will become effective January 1, 1993.

We again express our gratitude to the Chair of the Committee, Judge Henry Wilkinson, its Reporter, Professor John J. Watkins, and the Committee membership for their faithful and helpful work with respect to the Rules.

Comments and suggestions on these perspective rules changes may be made in writing addressed to:

Clerk, Arkansas Supreme Court
Attn: Civil Procedure Rules
Justice Building
625 Marshall Street
Little Rock, Arkansas 72201

Comment and suggestions on the Arkansas Rule of Civil Procedure, generally, should be addressed to:

Professor John J. Watkins
Leflar Law Center
University of Arkansas
Fayetteville, Arkansas 72701

Rule 33, Ark. R. Civ. P.

Rule 33 of the Arkansas Rules of Civil Procedure is amended by deleting subdivisions (d) and (e).

The following addition to the Reporter's Notes accompanying Rule 33 is adopted:

Addition to Reporter's Notes, 1992 Amendment:

Subdivisions (d) and (e), neither of which was based on the corresponding federal rule, have been deleted. Their elimination should not affect Arkansas practice in any meaningful way, since the subjects they addressed are adequately covered by other rules. *See generally*, D. Newbern, *Arkansas Practice & Procedure* § 17-9 (1985).

Subdivision (d) provided that a party who by interrogatory "requests copies of documents to be attached . . . may be required to pay the reasonable cost of reproduction of each document." This provision allowed a party to use interrogatories for purposes of document production, despite the fact that Rule 34 specifically governs that discovery device. Under Rule 34, the requesting party may "inspect and copy" documents and must bear the expense of making copies. The party from whom discovery is sought is not required to make copies for the convenience of his opponent. *See* 4A *Moore's Federal Practice* ¶ 34.19[2] & [3] (2d ed. 1992).

Under subdivision (e), a court could award costs, including a reasonable attorney's fee, to a party who obtained a protective order on the basis of unnecessary interrogatories propounded by another party. This provision is unnecessary in light of Rules 26(c) and 37, which provide such protection against abusive use of interrogatories.

Rule 54, Ark. R. Civ. P.

Rule 54 of the Arkansas Rules of Civil Procedure is amended by revising the first sentence of subdivision (b) to read as follows:

When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim, or third party claim, or when multiple parties are involved, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination, supported by specific factual findings, that there is no just reason for delay and upon an express direction for the entry of judgment.

The following addition to the Reporter's Notes accompanying Rule 54 is adopted:

Addition to Reporter's Note, 1992 Amendment: The first sentence of Rule 54(b) is amended to expressly state the trial court's obligation to make findings of fact with respect to the required determination that there is "no just reason for delay" for the entry of judgment. The amendment reflects the Supreme Court's holding to that effect in *Franklin v. Osea, Inc.*, 308 Ark. 409, 825 S.W.2d 812 (1992) (trial court "must factually set forth reasons . . . explaining why a hardship or injustice would result if an appeal is not permitted").

ADMINISTRATIVE ORDER NO. V

Supreme Court of Arkansas
Delivered October 5, 1992

Ark. Code Ann. § 16-10-130 (1987) provided that all courts of this state shall, in the absence of extraordinary circumstances, give precedence to the trial of criminal cases over other matters, civil or criminal, when the alleged victim is under age fourteen. Effective immediately, when a case affected by § 16-10-130 is not tried within nine months following arraignment, the circuit judge before whom the case is pending will inform the Administrative Office of the Courts in writing the reason or reasons the case has not been tried. Thereafter, at intervals of ninety (90) days the trial court will inform the Administrative Office of the Courts as to the status of the case. During the pendency of the case no continuance shall be granted on motion of either the state or the defendant except upon written order detailing the reasons for, and the duration of, the delay.

Appointments to Committees

IN RE: BOARD OF CERTIFIED COURT REPORTER
EXAMINERS

830 S.W.2d 872

Supreme Court of Arkansas
Delivered June 22, 1992

PER CURIAM. Chancery Judge Tom Hilburn, Walnut Ridge, Arkansas; and Ms. Fern Nicholson, Harrison, Arkansas, are reappointed to our Board of Certified Court Reporter Examiners.

Each term of reappointment is for a three year period expiring July 1, 1995.

The court expresses its gratitude to Judge Hilburn and Ms. Nicholson for accepting reappointment to this most important board.

IN RE: CLIENT SECURITY FUND COMMITTEE

832 S.W.2d 815

Supreme Court of Arkansas
Opinion delivered July 6, 1992

PER CURIAM. Judith A. DeSimone, Attorney-at-Law, of Pine Bluff, Arkansas is hereby appointed to the Client Security Fund Committee replacing Joe E. Woodward, Esq. of Magnolia, Arkansas, Fourth Congressional District. Ms DeSimone is appointed for a five year term expiring June 30, 1997.

The Court expresses its gratitude to Mr. Woodward for his faithful service to the court on this most important committee.

IN RE: BOARD OF LEGAL SPECIALIZATION

832 S.W.2d 855

Supreme Court of Arkansas
Delivered July 20, 1992

PER CURIAM. On May 11, 1992, The Court adopted the Amended Arkansas Plan of Legal Specialization which also provided that the Court would appoint the Board of Legal Specialization, consisting of lawyers from the Court of Appeals Districts. According to the Plan, the Board is to draw for staggered terms of one year for two members, two years for three members, and three years for three members. Thereafter, the terms will be three years for each appointee.

The following persons are hereby appointed to the Court's Board of Legal Specialization: Bill Penix, Esq. of Jonesboro, Arkansas, First Court of Appeals District; Terry Poynter, Esq. of Mountain Home, Arkansas, Second Court of Appeals District; Court of Appeals Judge Elizabeth Danielson of Booneville, Arkansas, Fourth Court of Appeals District; Wendell Griffin, Esq. of Little Rock, Arkansas, Sixth Court of Appeals District; and A. Wyckliff Nisbet, Esq. of Little Rock, Arkansas, Sixth Court of Appeals District. The Court will fill the remaining vacancies during the its 1992 fall term.

The Court thanks Judge Danielson and Messrs. Penix, Poynter, Griffin, and Nisbet for accepting appointment to this most important Board and requests that they draw for staggered terms as set forth above.

The Court expresses its gratitude to Thomas B. Burke, Esq. of Fayetteville, Arkansas; Charles A. Ledbetter, Esq. of Fort Smith, Arkansas; Toney D. McMillan, Esq. of Arkadelphia, Arkansas; John E. Gaughan, III, Esq. of Camden, Arkansas; and Larry Yancey, Esq. of Little Rock, Arkansas, whose terms have expired, for their faithful service on the board.

IN THE MATTER OF THE COMMITTEE ON THE
UNAUTHORIZED PRACTICE OF LAW

Supreme Court of Arkansas
Delivered September 28, 1992

PER CURIAM. Mr. Hoyt Thomas, Esquire, of Heber Springs, Arkansas, is hereby appointed as a representative of the First Congressional District to our Committee on the Unauthorized Practice of Law, replacing Ms. Patricia L. Van Ausdall, of Harrisburg, Arkansas.

The Court expresses its gratitude to Ms. Van Ausdall for her faithful services as a member of this Committee.

IN RE: BOARD OF LEGAL SPECIALIZATION

Supreme Court of Arkansas
Delivered October 5, 1992

PER CURIAM. Bobby L. Odom, Esq. of Fayetteville, Arkansas, Third Court of Appeals District, and Winfred A. Trafford, Esq. of Pine Bluff Arkansas, Fifth Court of Appeals District, are hereby appointed to the Court's Board of Legal Specialization.

The Court thanks Messrs. Odom and Trafford for accepting appointment to this most important Board and requests that they join the other members of the Board in drawing for staggered terms as set forth in the Per Curiam of July 20, 1992.

IN RE: BOARD OF LEGAL SPECIALIZATION

Supreme Court of Arkansas
Delivered October 19, 1992

PER CURIAM. Murrey L. Grider, Esq. of Pocahontas, Arkansas, Second Court of Appeals District is hereby appointed to the Court's Board of Legal Specialization.

The Court thanks Mr. Grider for accepting appointment to

this most important Board and requests that he join the other members of the Board in drawing for staggered terms as set forth in the Per Curiam of July 20, 1992.

IN THE MATTER OF THE BOARD OF LAW
EXAMINERS

Supreme Court of Arkansas
Delivered October 19, 1992

PER CURIAM. Wyman R. Wade, Esq., Fort Smith, is reappointed to the Board of Law Examiners for a term of three years ending September 30, 1995.

Ms. Shelia Campbell, Attorney, Little Rock, is appointed to the Board replacing James H. Pilkinton, Jr., Esq., Hope; James R. Van Dover, Esq., Marianna, is appointed to the Board replacing the Honorable Joyce Warren, Little Rock, for terms of three years, ending September 30, 1995.

The Court especially wishes to recognize James H. Pilkinton, Jr., Esq., and the Honorable Joyce Warren for their faithful service to the Board.

IN RE: Harrell A. SIMPSON, Jr.
Arkansas Bar No. 67049

Supreme Court of Arkansas
Delivered November 2, 1992

PER CURIAM. On recommendation of the Supreme Court Committee on Professional Conduct, we hereby accept the surrender of the license of Harrell A. Simpson, Jr. to practice law in the State of Arkansas.

DUDLEY, J., not participating.

IN THE MATTER OF THE BOARD OF LAW
EXAMINERS

Supreme Court of Arkansas
Delivered November 2, 1992

PER CURIAM. James A. Ross, Jr., Esq. of Monticello is appointed to the Board of Law Examiners for a term of three years ending September 30, 1995. Mr. Ross replaces Martin G. Gilbert, Esq. of Bentonville, whose term has expired.

The Court thanks Mr. Ross for accepting appointment to this most important Board.

The Court expresses its appreciation to Mr. Gilbert for his faithful service to the Board.