

Cite as 2018 Ark. 237

SUPREME COURT OF ARKANSAS

Opinion Delivered June 21, 2018

IN RE ARKANSAS SUPREME
COURT COMMITTEE ON CIVIL
PRACTICE – RECOMMENDATIONS
ARK. R. CIV. P. 72; ARK. R.
APPELLATE P.–CIV. 5; ARKANSAS
SUPREME COURT RULE 2-3; AND
PROBATE FORMS

PER CURIAM

The Arkansas Supreme Court Committee on Civil Practice submitted proposals and recommendations for changes in rules of procedure affecting civil practice. The proposals relate to the following rules:

- 1. Rule of Civil Procedure 72,**
- 2. Rule of Appellate Procedure –Civ. 5,**
- 3. Rule of Supreme Court 2-3,** and
- 4. Probate Forms** (add contact information to forms 1, 2, 3, 4, 6, 7, 8, 9, 12, 13, 15, 16, 17, 18, 19, 20, 23, 24, 26, 27, 28, 30, 31, 32, 33).

The suggested amendments are being published for comment. The Reporter’s Notes explain the changes, and the proposed changes are set out in “line-in, line-out” fashion (new material is underlined; deleted material is lined through).

Comments on the suggested rules changes should be made in writing before September 1, 2018, and they should be addressed to: Stacey Pectol, Clerk, Supreme Court

of Arkansas, Attn.: Civil Procedure Rules, Justice Building, 625 Marshall Street, Little Rock, Arkansas 72201.

Arkansas Rules of Civil Procedure

Rule 72. Suits in forma pauperis.

(a) Every indigent person who shall have a cause of action ~~against another~~ may petition the court in which the action is pending, or in which it is intended to be brought, for leave to prosecute the suit in forma pauperis.

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Reporter's Notes (20): Subdivision (a) was amended to delete "against another" in the first sentence, which had been a source of confusion to some as to its effect on the scope of the rule.

Arkansas Rules of Appellate Procedure—Civil

Rule 5. Record – Time for filing.

(a) *When filed.* The record on appeal shall be filed with the clerk of the Arkansas Supreme Court and docketed therein within 90 days from the filing of the first notice of appeal, unless the time is extended by order of the circuit court as hereinafter provided. When, however, an appeal is taken from an interlocutory order under Rule 2 (a)(6) or (7), the record must be filed with the clerk of the Supreme Court within 30 days from the ~~entry of such order~~ filing of the first notice of appeal.

(b) *Extension of time.*

(1) If any party has designated stenographically reported material for inclusion in the record on appeal, the circuit court, by order entered before expiration of the period prescribed by subdivision (a) of this rule or a prior extension order, may extend the time for filing the record only if it makes the following findings:

- (A) The appellant has filed a motion explaining the reasons for the requested extension and served the motion on all counsel of record;
- (B) The time to file the record on appeal has not yet expired;
- (C) All parties have had the opportunity to be heard on the motion, either at a hearing or by responding in writing;

(D) The appellant, in compliance with Rule 6(b), has timely ordered the stenographically reported material from the court reporter and made any financial arrangements required for its preparation; and
(E) An extension of time is necessary for the court reporter to include the stenographically reported material in the record on appeal or for the circuit clerk to compile the record.

(2) In no event shall the time be extended more than seven (7) months from the date of the ~~filing of the first notice of appeal entry of the judgment or order, or from the date on which a timely postjudgment motion is deemed to have been disposed of under Rule 4(b)(1), whichever is later.~~

(3) If the appellant has obtained the maximum seven-month extension available from the circuit court, or demonstrates (by affidavit or otherwise) an inability to obtain entry of an order of extension, then before expiration of the period prescribed by subdivision (a) of this rule or a prior extension order, the appellant may file with the clerk of the Supreme Court a petition for writ of certiorari pursuant to Rule 3-5 of the Rules of the Supreme Court and Court of Appeals.

(c) *Partial record.* Prior to the time the complete record on appeal is filed with the clerk of the Arkansas Supreme Court as provided in this rule, any party may docket the appeal to make a motion for dismissal or for any other intermediate order by filing a partial record with the clerk. At the request of the moving party, the clerk of the circuit court that entered the judgment, decree, or order from which the appeal is taken shall certify the portion of the record designated by that party as being a true and correct copy. It shall be the responsibility of the moving party to transmit the certified partial record to the clerk of the Arkansas Supreme Court. Rule 5(b)(1)(A) through (E) required for granting extension of time for filing the record when the court reporter needs additional time to compile the record.

Reporter's Note's (20): The rule was amended to measure both the time to file the record and an extension to file the record from the date of the first notice of appeal. Paragraph (a) was amended to provide that the record for interlocutory appeals of orders under Rule 2 (a)(6) or (7), is to be filed within 30 days of the filing of the first notice of appeal rather than the date of entry of the order being appealed. Paragraph (b) (2) was amended to change the beginning point for measuring extensions from the date of the judgment or order being appealed to the date of the filing of the first notice of appeal.

Rules of the Supreme Court and Court of Appeals

Rule 2-3. Petitions for rehearing.

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(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 4-1(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 4-1(a).~~

Reporter's Notes (20): Subdivision (e) was amended to reconcile it with Rule 2-1 (a) regarding binding and stapling.

Probate Forms

Probate Forms 1, 2, 3, 4, 6, 7, 8, 9, 12, 13, 15, 16, 17, 18, 19, 20, 23, 24, 26, 27, 28, 30, 31, 32, 33

Illustration using Form 18

[Caption]

AFFIDAVIT TO CLAIM AGAINST ESTATE

I, _____, do swear that the attached claim against the estate of _____, deceased, is correct, that nothing has been paid or delivered toward the satisfaction of the claim except as noted, that there are no offsets to this claim, to the knowledge of this affiant, except as therein stated, and that the sum of _____ Dollars (\$ _____) is now justly due (or will or may become due as stated). I further state that if this claim is based upon a written instrument, a true and complete copy, including all endorsements, is attached.

Date: _____, ____.

[Signature]

Date: _____, ____.

[Signature]

[Print Name]

[Address]

[Telephone Number]

[Email Address]

[Affidavit]

Note (20): The form was revised to provide for contact information.