

RULES OF APPELLATE PROCEDURE

Rules of Civil Appellate Procedure (From the District Court to the Supreme Court)

	PAGE
Table of Headnotes	775
Text of Rules	779
Appendix A - Table of Superseded Statutes	800
Index	801

Rules of Civil Appellate Procedure from the County Courts

	PAGE
Table of Headnotes	817
Text of Rules	820
Index	834

Rules of Civil Appellate Procedure (From the District Court to the Supreme Court)

Adopted December 7, 1967

Effective February 1, 1968

With amendments received through August 1, 1982

TABLE OF HEADNOTES

TITLE I. APPLICABILITY OF RULES

Rule 101. Scope of Rules

Rule 102. Suspension of Rules

TITLE II. APPEALS FROM JUDGMENTS AND ORDERS

Rule 103. Appeal as of Right - How Taken

103.01 Manner of Making Appeal

103.02 Joint Appeals

103.03 Appealable Judgments and Orders

103.04 Scope of Review

Rule 104. Time for Service of Notice of Appeal

104.01 Judgments and Orders

104.02 Effect of Entry of Judgment

104.03 Special Proceedings

Rule 105. Discretionary Review

105.01 Petition for Permission to Appeal; Time

105.02 Contents of Petition; Response

105.03 Grant of Permission - Procedure

Rule 106. Respondent's Right to Obtain Review

Rule 107. Bond or Deposit for Costs

Rule 108. Supersedeas Bond; Stays

108.01 Supersedeas Bond

108.02 Judgments Directing Conveyances

108.03 Extent of Stay

108.04 Respondent's Bond to Enforce Judgment

108.05 Joinder of Bond Provisions; Service on Adverse Party

108.06 Perishable Property

Rule 110. The Record on Appeal

110.01 Composition of the Record on Appeal

110.02 The Transcript of Proceedings; Duty of Appellant to Order; Notice to Respondent if Partial Transcript is Ordered; Duty of Reporter; Form of Transcript

110.03 Statement of the Proceedings When No Report Was Made or When the Transcript is Unavailable

110.04 Agreed Statement as the Record

110.05 Correction or Modification of the Record

Rule 111. Transmission of the Record

- 111.01 Transmission of Record; Time
- 111.02 Exhibits
- 111.03 Record for Preliminary Hearing in the Supreme Court
- 111.04 Disposition of Record after Appeal

TITLE III. REVIEW OF WORKMEN'S COMPENSATION COURT OF APPEALS; TAX COURT; DEPARTMENT OF ECONOMIC SECURITY; COMMERCE DEPARTMENT; AND OTHER DECISIONS REVIEWABLE OF RIGHT BY CERTIORARI TO SUPREME COURT

Rule 115. Certiorari as a Matter of Right

- 115.01 How Obtained; Time for Securing Writ
- 115.02 Petition for Writ; How Secured
- 115.03 Contents of the Petition and Writ; Filing and Service Thereof
- 115.04 The Record on Review by Certiorari; Transmissions of the Record
- 115.05 Costs and Disbursements
- 115.06 Dismissal Costs

TITLE V. EXTRAORDINARY WRITS

Rule 120. Writs of Mandamus and Prohibition Directed to a Judge or Judges and Other Writs

- 120.01 Petition for Writ
- 120.02 Submission of Petition; Answer to the Petition
- 120.03 Procedure Following Submission
- 120.04 Filing; Form of Papers; Number of Copies

Rule 121. Mandamus and Prohibition - Emergency Situations

- 121.01 Communication to the Court
- 121.02 Procedure
- 121.03 Filing Fee

TITLE VII. GENERAL PROVISIONS

Rule 125. Filing and Service

- 125.01 Filing
- 125.02 Service of All Papers Required
- 125.03 Manner of Service
- 125.04 Proof of Service

Rule 126. Computation and Extension or Limitation of Time

- 126.01 Computation
- 126.02 Extension or Limitation of Time

Rule 127. Motions

Rule 128. Briefs

- 128.01 Brief of Appellant
- 128.02 Brief of Respondent
- 128.03 Reply Brief
- 128.04 References in Briefs to Record
- 128.05 Reproduction of Statutes, Ordinances, Rules, Regulations, Etc.

Rule 129. Brief of Amicus Curiae

Rule 130. The Appendix to the Briefs; Supplemental Record

- 130.01 Record Not to be Printed; Appellant to File Appendix
- 130.02 Respondent May File Appendix
- 130.03 Party May File Supplemental Record; Not Taxable Cost

Rule 131. Filing and Service of Briefs, the Appendix, and the Supplemental Record

- 131.01 Time for Filing and Service
- 131.011 Application for Extension of Time
- 131.02 Number of Copies to be Filed and Served

Rule 132. Form of Briefs, Appendices, Supplemental Records, and Motions and Other Papers

- 132.01 Form of Briefs, Appendices, and Supplemental Records
- 132.02 Form of Motions and Other Papers

Rule 133. Summary Action; Prehearing Conference; Calendar

- 133.01 Summary Action
- 133.02 Prehearing Conference
- 133.03 Calendar

Rule 134. Oral Argument

- 134.01 Notice of Hearing; Postponement
- 134.02 Time Allowed for Argument
- 134.03 Order and Content of Argument
- 134.04 Non-Appearance of Counsel
- 134.05 Submission on Briefs
- 134.06 Exhibits; Plats
- 134.07 Oral Argument - When Allowed

Rule 135. En Banc and Nonoral Consideration**Rule 136. Notice of Decision; Judgment; Remittitur**

- 136.01 Notice of Decision; Summary Opinion
- 136.02 Entry of Judgment; Stay
- 136.03 Remittitur
- 136.04 Objection to Remittitur

Rule 137. Judgment Roll, Executions

- 137.01 Judgment Roll
- 137.02 Execution; Issuance and Satisfaction

Rule 138. Damages for Delay**Rule 139. Costs and Disbursements**

- 139.01 Costs
- 139.02 Disbursements
- 139.03 Taxation of Costs and Disbursements; Time
- 139.04 Objections; Appeal
- 139.05 Disallowance of Costs and Disbursements

Rule 140. Petition for Rehearing**Rule 142. Dismissal; Default**

- 142.01 Voluntary Dismissal
- 142.02 Default of Appellant
- 142.03 Default of Respondent

Rule 143. Parties; Substitution

- 143.01 Parties
- 143.02 Death of a Party
- 143.03 Substitution for Other Causes
- 143.04 Public Officers

Rule 144. Cases Involving Constitutional Questions Where State is Not A Party

Rule 145. Appendix of Forms

Rule 146. Title

Rule 147. Effective Date; Statutes Superseded

147.01 Effective Date and Application to Pending Proceedings

147.02 Statutes Superseded

TEXT OF RULES

TITLE I. APPLICABILITY OF RULES

Rule 101. Scope of Rules

These rules govern procedure in the Supreme Court of Minnesota in civil appeals; in criminal appeals insofar as the rules are not inconsistent with the Rules of Criminal Procedure or Minnesota Statutes; in proceedings for review of orders of administrative agencies, boards or commissions; and on applications for writs or other relief in civil proceedings which the Supreme Court or a justice thereof is competent to give. The term "trial court" as used in these rules shall refer to the court or agency whose decision is sought to be reviewed.

(As amended February 14, 1975.)

Rule 102. Suspension of Rules

In the interest of expediting decision upon any matter before it, or for other good cause shown, the Supreme Court, except as otherwise provided in Rule 126.02, may suspend the requirement or provisions of these rules on application of a party or on its own motion and may order proceedings in accordance with its direction.

TITLE II. APPEALS FROM JUDGMENTS AND ORDERS

Rule 103. Appeal as of Right - How Taken

103.01 Manner of Making Appeal

(1) An appeal shall be made by the service of a written notice of appeal on the adverse party. The case shall be entitled as in the trial court. The notice shall specify the judgment or order from which the appeal is taken and the names, addresses, and telephone numbers of opposing counsel and the parties they represent. Not more than 5 days after expiration of the time to appeal, the appellant shall file the notice of appeal and the cost bond required by Rule 107 with the clerk of the court in which the judgment or order was entered, together with a deposit of \$25. The bond may be waived by stipulation of the parties.

(2) When a party in good faith serves notice of appeal from a judgment or an order, and omits, through inadvertence or mistake, to proceed further with the appeal, or to stay proceedings, the Supreme Court may grant relief on such terms as may be just.

(3) Upon compliance with subdivision (1) of this rule, the clerk of the trial court shall immediately transmit to the clerk of the Supreme Court \$20 out of the prescribed fee together with a certified copy of the notice of appeal, the affidavit of service of notice of appeal, the order or judgment from which the appeal is taken, and the bond or stipulation waiving such bond.

(Amended October 23, 1969; February 14, 1975; April 9, 1979.)

103.02 Joint Appeals

If two or more parties are entitled to appeal from a judgment or order and their interests are such as to make joinder practicable, they may file a joint notice of appeal, or may join in appeal after filing separate notice of appeal, and they may thereafter proceed on appeal as a single appellant.

103.03 Appealable Judgments and Orders

An appeal may be taken to the Supreme Court:

- (a) From a judgment or order for judgment entered in the trial court;
- (b) From an order which grants, refuses, dissolves, or refuses to dissolve, an injunction;

- (c) From an order vacating or sustaining an attachment;
- (d) From an order involving the merits of the action or some part thereof;
- (e) From an order refusing a new trial, or from an order granting a new trial if the trial court expressly states therein, or in a memorandum attached thereto, that the order is based exclusively upon errors of law occurring at the trial, and upon no other ground; and the trial court shall specify such errors in its order or memorandum, but upon appeal, such order granting a new trial may be sustained for errors of law prejudicial to respondent other than those specified by the trial court;
- (f) From an order which, in effect, determines the action, and prevents a judgment from which an appeal might be taken;
- (g) From a final order or judgment made or rendered in proceedings supplementary to execution;
- (h) Except as otherwise provided by statute, from the final order or judgment affecting a substantial right made in a special proceeding, provided that the appeal must be taken within the time limited for appeal from an order;
- (i) If the trial court certifies that the question presented is important and doubtful from an order which denies a motion to dismiss for failure to state a claim upon which relief can be granted or from an order which denies a motion for summary judgment.

(Amended April 9, 1979.)

103.04 Scope of Review

(1) The Supreme Court upon an appeal may reverse, affirm, or modify the judgment or order appealed from, or take any other action as the interests of justice may require.

(2) On appeal from an order the Supreme Court may review any order affecting the order from which the appeal is taken and on appeal from a judgment may review any order involving the merits or affecting the judgment. It may review any other matter as the interests of justice may require.

Rule 104. Time for Service of Notice of Appeal

104.01 Judgments and Orders

An appeal from a judgment may be taken within 90 days after the entry thereof, and from an order within 30 days after service of written notice of filing thereof by the adverse party.

The time for taking an appeal from a partial judgment disposing of less than all multiple claims or affecting less than all of the multiple parties to an action shall begin to run on the date of the entry of the final judgment relating to all of the remaining multiple claims or multiple parties.

(Amended December 4, 1980, effective January 1, 1981.)

104.02 Effect of Entry of Judgment

No order made prior to the entry of judgment shall be appealable after the expiration of time to appeal from the judgment. Time to appeal from the judgment under this section shall not be extended by the subsequent insertion therein of the costs and disbursements of the prevailing party.

104.03 Special Proceedings

Except as otherwise provided by statute, an appeal from the final order or judgment affecting a substantial right made in a special proceeding must be taken within the time limited for appeal from an order.

Rule 105. Discretionary Review**105.01 Petition for Permission to Appeal; Time**

The Supreme Court, in the interest of justice and upon the petition of a party, may allow an appeal from an order not otherwise appealable under Rule 103.03 except an order made during trial, or from a determination of the District Court pursuant to Minn. Stat. 487.39. The petition shall be served on the adverse party within the time limited for appeal from an appealable order. The trial court should, as a matter of courtesy, be notified that such a petition has been filed and provided with a copy of the petition and any response thereto. Four copies of the petition, including the original, shall be filed with the clerk of the Supreme Court, but the Supreme Court may direct that additional copies be provided.

(Amended April 9, 1979; amended December 4, 1980, effective January 1, 1981.)

105.02 Content of Petition; Response

The petition shall be entitled as in the trial court and shall contain a statement of facts necessary to an understanding of the questions of law or fact determined by the order of the trial court; a statement of the question itself; and a statement why an immediate appeal is necessary and desirable. The petition shall include or have annexed thereto a copy of the order from which appeal is sought and any findings of fact, conclusions of law and memorandum relating thereto. Within 7 days after service of the petition, any adverse party may serve and file a response thereto, with copies in the number required for the petition. All papers may be typewritten.

The petition and any response shall be submitted without oral argument unless otherwise ordered.

(Amended April 9, 1979.)

105.03 Grant of Permission - Procedure

If permission to appeal is granted, the clerk of the Supreme Court shall notify the clerk of the trial court and the appellant shall pay the appeal fee and file the bond as required by these rules and shall thereafter proceed as though the appeal had been noticed by service of a written notice of an appeal. The time fixed by these rules for transmitting the record and for filing the briefs and appendix shall run from the date of the entry of the order granting permission to appeal.

(Amended April 9, 1979.)

Rule 106. Respondent's Right to Obtain Review

A respondent may obtain review of a judgment or order entered in the same action which may adversely affect him by serving a notice of review on all parties to the action who may be affected by the judgment or order. The notice of review shall specify the judgment or order to be reviewed and shall be served upon the other parties within 15 days after service of the notice of appeal on that respondent and thereafter shall be filed with the clerk of the Supreme Court.

Rule 107. Bond or Deposit for Costs

A bond shall be executed by, or on behalf of, the appellant. The bond shall be conditioned upon the payment of all costs and disbursements awarded against appellant on the appeal, not exceeding the penalty of the bond which shall be at least \$500. In lieu of said bond, the appellant may deposit \$500 with the clerk of the trial court as security for such payment. The bond may be filed or the deposit may be made without approval or order of the trial court. The bond or deposit may be waived by written consent of the respondent which consent shall be filed with the clerk of the trial court.

(Amended January 5, 1976.)

Rule 108. Supersedeas Bond; Stays

108.01 Supersedeas Bond

(1) An appeal from an order or judgment shall stay proceedings in the trial court and save all rights affected thereby, if the appellant provides a supersedeas bond in the amount and form which the trial court shall order and approve, in the cases provided in this Rule.

(2) If the appeal is from an order, the condition of the bond shall be the payment of the costs of the appeal, the damages sustained by the respondent in consequence of the appeal, and the obedience and satisfaction of the order or judgment which the Supreme Court may give, if the order or any part thereof is affirmed or if the appeal is dismissed.

(3) If the appeal is from a judgment directing the payment of money, the condition of the bond shall be the payment of the judgment or that part of the judgment which is affirmed and all damages awarded against the appellant upon the appeal, if the judgment or any part thereof is affirmed, or if the appeal is dismissed.

(4) If the appeal is from a judgment directing the assignment or delivery of documents or personal property, the condition of the bond shall be the obedience of the order or judgment of the Supreme Court. The bond provided by this subdivision need not be given if the appellant places the document or personal property in the custody of the officer or receiver whom the trial court may appoint.

(5) If the appeal is from a judgment directing the sale or delivery or possession of real property, the condition of the bond shall be the payment of the value of the use and occupation of the property from the time of the appeal until the delivery of the possession of the property if the judgment is affirmed, and the undertaking that the appellant shall not commit or suffer the commission of any waste on the property while it remains in his possession during the pendency of the appeal.

(6) In cases not specified in subdivisions (2) to (5) hereof, the giving of the bond specified in Rule 107 shall stay proceedings in the trial court.

(7) Upon motion, the trial court may require the appellant to provide a supersedeas bond if it determines that the provisions of Rule 108 do not provide adequate security to the respondent.

(Amended October 29, 1968; January 5, 1976.)

108.02 Judgments Directing Conveyances

If the appeal is from a judgment directing the execution of a conveyance or other instrument, its execution shall not be stayed by an appeal until the instrument shall be executed and deposited with the clerk of the trial court to abide the judgment of the Supreme Court.

108.03 Extent of Stay

When a bond is given as provided by Rule 108.01, it shall stay all further proceedings in the trial court upon the judgment or order appealed from or the matter embraced therein; but the trial court may proceed upon any other matter included in the action, and not affected by the judgment or order appealed from.

108.04 Respondent's Bond to Enforce Judgment

Notwithstanding an appeal from a money judgment and security given for a stay of proceedings thereon, the trial court, on motion and notice to the adverse party, may grant leave to the respondent to enforce the judgment upon his giving bond to the appellant as herein provided, if it be made to appear to the satisfaction of the trial court that the appeal was taken for the purpose of delay. Such bond shall be executed by the respondent, or someone in his behalf, and

shall be conditioned that if the judgment be reversed or modified the respondent will make such restitution as the Supreme Court shall direct.

108.05 Joinder of Bond Provisions; Service on Adverse Party

The bonds provided for in Rule 107 and Rule 108.01 may be in one instrument or several, at the option of the appellant, and shall be served on the adverse party.

108.06 Perishable Property

If the appeal is from a judgment directing the sale of perishable property, the trial court may order the property to be sold and the proceeds thereof deposited or invested to abide the judgment of the Supreme Court.

Rule 109.

(Reserved for future use.)

Rule 110. The Record on Appeal

110.01 Composition of the Record on Appeal

The papers filed in the trial court, the offered exhibits, and the transcript of the proceedings, if any, shall constitute the record on appeal in all cases.

110.02 The Transcript of Proceedings; Duty of Appellant to Order; Notice to Respondent if Partial Transcript is Ordered; Duty of Reporter; Form of Transcript

(1) Within 10 days after receiving notice from the prehearing conference judge appellant shall in writing, with a copy to the clerk of the Supreme Court and all counsel of record, order from the reporter a transcript of such parts of the proceedings not already part of the record as he deems necessary for inclusion in the record. Unless the entire transcript is to be included, the appellant, within said 10 days, shall file and serve on the respondent a description of the parts of the transcript which he intends to include in the record and the statement of the issues he intends to present on appeal. If the respondent deems a transcript of other parts of the proceedings to be necessary he shall within 10 days of service of such description order such parts from the reporter or serve and file a motion in the trial court for an order requiring the appellant to do so.

(2) At the time of ordering, a party must make satisfactory arrangements with the reporter for the payment of the cost of the transcript and all necessary copies. The reporter shall promptly acknowledge receipt of said order and his acceptance of it, in writing, with copies to the clerk of the Supreme Court and all counsel of record and in so doing shall state the date, not to exceed a period of 60 days, by which the transcript will be furnished. Upon delivery of the transcript to the appellant, the reporter shall file with the clerk of the Supreme Court, a certificate evidencing the date of delivery of the transcript.

(3) If any party deems the period of time set by the reporter to be excessive or insufficient, or if the reporter needs an extension of time for completion of the transcript, the party or reporter may request a different period of time within which the transcript must be delivered by written motion to the Supreme Court under Rule 127, showing good cause why said period of time is excessive or insufficient. The Court Commissioner of the Supreme Court shall act as a referee in hearing said motions and shall file with the Court appropriate findings and recommendations for an order of the Court in said matter. A failure to comply with the order of the Court fixing a time within which the transcript must be delivered may be punished as a contempt of Court.

(4) The transcript shall be typewritten on 11 x 8 1/2 inches or 10 1/2 x 8 1/2 inches unglazed opaque paper with double spacing between each line of text, shall be bound at the left-hand margin, and shall contain a table of contents. The name of each witness shall appear at the top of each page containing his testimony. A question and its answer may be contained in a single paragraph.

The original and first copy of the transcript shall be filed with the clerk of the trial court, and a copy shall be promptly transmitted to the attorney for each party to the appeal separately represented. All copies must be legible. The reporter shall certify the correctness of the transcript.

(Amended August 8, 1973; February 14, 1975; April 9, 1979.)

110.03 Statement of the Proceedings When No Report was Made or When the Transcript is Unavailable

If no report of all or any part of the proceedings at a hearing or trial was made, or if a transcript is unavailable, the appellant may, within 15 days after service of the notice of appeal, prepare a statement of the proceedings from the best available means, including his recollection. The statement shall be served on the respondent, who may serve objections or propose amendments thereto within 15 days after service. Thereupon the statement and any objections or proposed amendments shall be submitted to the trial court and the statement as approved by the trial court shall be included in the record.

110.04 Agreed Statement as the Record

In lieu of the record as defined in Rule 110.01, the parties may prepare and sign a statement of the case showing how the issues presented by the appeal arose and were decided in the trial court and setting forth only so many of the facts averred and proved or sought to be proved as are essential to a decision of the issues presented. If the statement conforms to the truth, it, together with such additions as the trial court may consider necessary to present the issues raised by the appeal, shall be approved by the trial court and shall be the record on appeal.

110.05 Correction or Modification of the Record

If any difference arises as to whether the record truly discloses what occurred in the trial court, the difference shall be submitted to and determined by the trial court and the record made to conform to the truth. If anything material to either party is omitted from the record by error or accident or is misstated therein, the parties by stipulation, or the trial court, either before or after the record is transmitted to the Supreme Court, or the Supreme Court, on motion by a party or on its own initiative, may direct that the omission or misstatement be corrected, and if necessary that a supplemental record be approved and transmitted. All other questions as to the form and content of the record shall be presented to the Supreme Court.

Rule 111. Transmission of the Record

(Order of the Supreme Court of February 14, 1975, struck down Rule 111.01 and renumbered Rules 111.02, 111.03, 111.04 and 111.05 accordingly.)

111.01 Transmission of Record; Time

The record shall be transmitted to the clerk of the Supreme Court by the clerk of the trial court 60 days prior to the date set for oral argument or submission of the appeal unless the time is shortened by an order of the Supreme Court. The clerk shall transmit with the record a list, in duplicate, of the exhibits and the items comprising the record, identifying each with reasonable definiteness. Appellant's attorney has the duty to see that the clerk of the trial court complies with this rule. A party must make his own arrangements for the transportation of bulky or weighty exhibits to and from the clerk of the Supreme Court. Transmission of the record is effected when the clerk of the trial court mails or otherwise forwards the record to the Supreme Court.

(Renumbered from Rule 111.02 and amended February 14, 1975.)

111.02 Exhibits

All exhibits sent to the clerk of the Supreme Court shall have endorsed thereon the title of the case to which they belong. All exhibits will be returned to

the clerk of the trial court with the remittitur. All models will be so returned when necessary on a new trial, but where the decision of the Supreme Court is final and no new trial is to be had, such models will be destroyed by the clerk of the Supreme Court unless called for by the parties within 30 days after final decision is rendered.

(Renumbered from Rule 111.03 February 14, 1975.)

111.03 Record for Preliminary Hearing in the Supreme Court

If prior to the time the record is transmitted a party desires to make a motion for dismissal, for a stay pending appeal, for additional security on the bond on appeal or on a supersedeas bond, or for any intermediate order, the clerk of the trial court at the request of any party shall transmit to the Supreme Court such parts of the original record as the party shall designate.

(Renumbered from Rule 111.04 February 14, 1975.)

111.04 Disposition of Record after Appeal

Upon the termination of the appeal, the clerk of the Supreme Court shall transmit the original transcript to the State Law Library and the remainder of the record to the clerk of the trial court.

(Renumbered from Rule 111.05 February 14, 1975.)

Rules 112 - 114.

(Reserved for future use.)

TITLE III. REVIEW OF WORKMEN'S COMPENSATION COURT OF APPEALS; TAX COURT; DEPARTMENT OF ECONOMIC SECURITY; COMMERCE DEPARTMENT; AND OTHER DECISIONS REVIEWABLE OF RIGHT BY CERTIORARI TO SUPREME COURT

Rule 115. Certiorari as a Matter of Right

115.01 How Obtained; Time for Securing Writ

Review of decision of Workmen's Compensation Court of Appeals; Tax Court; Department of Economic Security; Commerce Department; and other decisions reviewable of right by certiorari to the Supreme Court may be had by securing issuance of a writ of certiorari within sixty (60) days after the party applying for such writ shall have received written notice of the decision sought to be reviewed, unless an applicable statute prescribes a different period of time. (Amended October 23, 1969; February 14, 1975; amended December 4, 1980, effective January 1, 1981.)

115.02 Petition for Writ; How Secured

The petition and a proposed writ of certiorari shall be presented to the clerk of the Supreme Court who shall issue the writ in the name of the court.

115.03 Contents of the Petition and Writ; Filing and Service Thereof

(1) **Contents and Form of Petition and Writ.** The petition shall definitely and briefly state the judgment, order, or proceeding which is sought to be reviewed and the errors which the petitioner claims. The title and form of the petition and writ may be as shown in Forms 3 and 4 of the Appendix.

(2) **Bond or Security.** Petitioner shall file such bond or other security as may be required by statute or by the Supreme Court.

(3) **Filing; Fees.** The clerk shall file the original petition and issue the original writ. The petitioner shall pay the clerk of the administrative agency \$25, \$5 of which shall be retained by the agency and \$20 of which shall be forwarded to the clerk of the Supreme Court unless a different fee is required by statute.

(4) Service; Time. The petitioner shall serve copies of the petition and writ upon the body to which it is directed and upon the adverse party in interest within 60 days after petitioner shall have received written notice of the decision to be reviewed unless a different time is prescribed by statute. Proof of service shall be promptly filed with the Supreme Court.

(Amended March 29, 1972; April 9, 1979.)

115.04 The Record on Review by Certiorari; Transmissions of the Record

As near as may be, the provisions of Rules 110 and 111 respecting the record and the time and manner of its transmission and filing or return in appeals shall govern in cases on writ of certiorari unless otherwise provided by statute or order of the court. Each reference in those rules to the trial court, the clerk of the trial court and notice of appeal shall be read as a reference to the body whose decision is to be reviewed, to the clerk or secretary thereof, and to writ of certiorari respectively.

115.05 Costs and Disbursements

Costs and disbursements may be taxed by the prevailing party but not for or against the body to whom the writ is directed. In case a writ shall appear to have been brought for the purpose of delay or vexation the court may award double costs to the prevailing party.

115.06 Dismissal Costs

If any writ of certiorari shall be issued contrary to statute, or shall not be served upon the adverse party as required by these rules, the party against which the same is so issued may have the same dismissed on motion and affidavit showing the facts and shall be entitled to his costs and disbursements.

Rules 116 - 119.

(Reserved for future use.)

TITLE V. EXTRAORDINARY WRITS

Rule 120. Writs of Mandamus and Prohibition Directed to a Judge or Judges and Other Writs

120.01 Petition for Writ

Application for a writ of mandamus or of prohibition or for any other extraordinary writ directed to a judge or judges of an inferior court shall be made by petition. The petition shall specify the trial court and the name of the trial judge and shall contain (a) a statement of the facts necessary to an understanding of the issues presented by the application; (b) a statement of the issues presented and the relief sought; and (c) a statement of the reasons why the extraordinary writ should issue. If necessary to an understanding of the issues, pertinent trial court documents shall be attached to the petition.

(Amended April 9, 1979.)

120.02 Submission of Petition; Answer to the Petition

The petition and a proposed writ shall be served on all parties and filed with the clerk of Supreme Court in the manner specified in Rule 120.04. The trial court should be notified of the filing of the petition and provided with a copy of the petition and any response thereto. All parties other than the petitioner shall be deemed respondents and may answer jointly or separately within 5 days after the service of the petition on them. If a respondent does not desire to respond, the clerk of the Supreme Court and all parties shall be advised by letter within said 5-day period, but the petition shall not thereby be taken as admitted.

(Amended February 14, 1975; April 9, 1979; amended December 4, 1980, effective January 1, 1981.)

120.03 Procedure Following Submission

If the Supreme Court is of the opinion that the writ should not be granted, it shall deny the petition. Otherwise, it may (a) issue a peremptory writ or (b) grant temporary relief and direct the filing of briefs within the time fixed by the order. There shall be no oral argument unless the Supreme Court shall direct.

(Amended April 9, 1979.)

120.04 Filing; Form of Papers; Number of Copies

Upon receipt of a \$20 filing fee, the clerk shall file the petition. All papers and briefs may be typewritten and in the form specified in Rule 132.02. Four copies, including an original, shall be filed, together with proof of service, with the clerk, but the Supreme Court may direct that additional copies be provided. Service of all papers and briefs may be made by mail. The petition shall be entitled as in the trial court.

(Amended April 9, 1979.)

Rule 121. Mandamus and Prohibition - Emergency Situations**121.01 Communication to the Court**

If an emergency situation exists as to which the provisions of Rule 120 are impractical, the attorney for a party seeking a writ of mandamus or prohibition directed to a judge or judges of inferior courts may orally petition the Supreme Court for such relief by telephoning or by personally contacting the Supreme Court Commissioner who will communicate with the Supreme Court relative to an early or immediate consideration of the petition. If the Commissioner is unavailable, the oral petition may be made to a justice of the Supreme Court.

(Added April 9, 1979.)

121.02 Procedure

Except as provided in Rule 121.03, no written petition or other document need be filed unless the Supreme Court so directs. If the Supreme Court is of the opinion that no emergency exists, it shall deny the petition and direct the party to proceed under Rule 120. Otherwise, after affording all parties an opportunity to be heard, it may (a) issue a peremptory writ, or (b) grant such other relief as the interests of justice require.

(Added April 9, 1979.)

121.03 Filing Fee

The attorney orally petitioning for a writ shall immediately transmit to the clerk of Supreme Court a \$20 filing fee with a letter specifying (a) the name of the case, (b) the trial court and the name of the trial judge, and (c) the type of writ sought.

(Added April 9, 1979.)

Rules 122 - 124.

(Reserved for future use.)

TITLE VII. GENERAL PROVISIONS**Rule 125. Filing and Service****125.01 Filing**

Papers required or permitted to be filed must be received by the clerk of the Supreme Court within the time fixed for filing. If a motion or petition requests relief which may be granted by a single justice, the justice may permit the motion to be filed with him, in which event he shall note thereon the date of filing and shall thereafter transmit it to the clerk.

125.02 Service of All Papers Required

Copies of all papers filed by any party shall be served by him, at or before the time of filing, on all other parties to the appeal or review. Service on a party represented by an attorney shall be made on the attorney.

125.03 Manner of Service

Service may be personal or by mail. Personal service includes delivery of the copy to the attorney or other responsible person in the office of the attorney. Service by mail is complete on mailing.

125.04 Proof of Service

Papers presented for filing shall contain either a written admission of service or an affidavit of service. Proof of service may appear on or be affixed to the papers filed. The clerk may permit papers to be filed without proof of service, but shall require such proof to be filed promptly thereafter.

Rule 126. Computation and Extension or Limitation of Time

126.01 Computation

In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the method of computation specified in Rules 6.01 and 6.05 of the Rules of Civil Procedure for the District Court shall be used.

126.02 Extension or Limitation of Time

The Supreme Court for good cause shown may by order extend or shorten the time prescribed by these rules or by its order for doing any act, and may permit an act to be done after the expiration of such time if the failure to act was excusable under the circumstances; but the Supreme Court may not extend or shorten the time for service of a notice of appeal or the time prescribed by law for securing a review of an order of an administrative agency, board, commission or officer, except as specifically authorized by law.

Rule 127. Motions

Unless another form is prescribed by these rules, an application for an order or other relief shall be made by serving and filing a motion in writing for such order or relief. The motion shall specify the date of its submission, which date shall be not less than 8 days after service, and shall state with particularity the grounds therefor and set forth the order or relief sought. If the motion is supported by briefs, affidavits or other papers, they shall be served and filed with the motion. Any party may file an answer in opposition within 5 days after service of the motion. Any reply shall be served within 2 days thereafter. The motion and all papers relating thereto may be typewritten. An original and three copies of all papers shall be filed. Oral argument will not be permitted except by order of the Supreme Court.

Rule 128. Briefs

128.01 Brief of Appellant

(1) An informal brief of the appellant authorized by the prehearing conference justice shall be in the form designated in the prehearing conference order and shall contain a concise statement of the party's arguments on appeal, together with the appendix required by Rule 130.01.

(2) The formal brief of the appellant shall contain under appropriate headings and in the order here indicated:

(a) A table of contents, with page references, and a table of cases (alphabetically arranged), statutes and other authorities cited, with references to the pages of the brief where they are cited.

(b) A concise statement of the legal issue or issues involved, omitting unnecessary detail. Each issue shall be stated as an appellate court would state the broad issue presented. Each issue shall be followed by a concise statement how the trial court decided it.

(c) A statement of the case and the facts. A statement of the case shall first be presented identifying the trial court and the trial judge and indicating briefly the nature of the case and its disposition in the trial court. There shall follow a statement of facts relevant to the grounds urged for reversal, modification, or other relief. The facts must be stated fairly, with complete candor, and as concisely as possible. Where it is claimed that a verdict, finding of fact, or other determination is not sustained by the evidence, the evidence, if any, tending directly or by reasonable inference to sustain the verdict, findings or determination shall be summarized. Each statement of a material fact shall be accompanied by a reference to the record, as provided in Rule 128.04, where such fact appears.

(d) An argument. The argument may be preceded by a summary introduction. The argument shall contain the contentions of the party with respect to the issues presented, the reasons therefor, and the citations to the authorities relied on. Each issue shall be separately presented. Needless repetition shall be avoided.

(e) A short conclusion stating the precise relief sought.

(f) The appendix required by Rule 130.01.

(Amended December 4, 1980, effective January 1, 1981.)

128.02 Brief of Respondent

The brief of the respondent shall conform to the requirements of Rule 128.01, except that a statement of the issues or of the case or facts need not be made unless the respondent is dissatisfied with the statement of appellant. If a notice of review is filed pursuant to Rule 106, the respondent's brief shall contain the issues specified in the notice of review and the argument thereon as well as the answer to the brief of appellant. A respondent who fails to file a brief either when originally due or upon expiration of an extension of time therefor shall not be entitled to oral argument without leave of the Court.

(Amended February 14, 1975; April 9, 1979.)

128.03 Reply Brief

The appellant may file a brief in reply to the brief of the respondent. The reply brief must be confined to new matter raised in the brief of the respondent. No further briefs may be filed except with leave of the Supreme Court.

128.04 References in Briefs to Record

Whenever a reference is made in the briefs to any part of the record which is reproduced in the appendix or in a supplemental record, the reference shall be made to the specific pages of the appendix or the supplemental record where the particular part of the record is reproduced. Whenever a reference is made to a part of the record which is not reproduced in the appendix or in a supplemental record, the reference shall be made to the particular part of the record, suitably designated, and to the specific pages thereof, e.g., Motion for Summary Judgment, p. 1; Transcript, p. 135; Plaintiff's Exhibit D, p. 3. Intelligible abbreviations may be used.

128.05 Reproduction of Statutes, Ordinances, Rules, Regulations, Etc.

If determination of the issues presented requires the study of statutes, ordinances, rules, regulations, etc., or relevant parts thereof, they shall be reproduced in the brief or in an addendum at the end, or they may be supplied to the court in pamphlet form.

Rule 129. Brief of an Amicus Curiae

Upon prior notice to the parties, a brief of amicus curiae may be filed by leave of the Supreme Court. A request for leave shall identify whether the applicant's interest is public or private in nature and shall state the reason why a brief of an amicus curiae is desirable. Copies of an amicus curiae brief shall be served on all parties, with proof of service filed with the clerk of the Supreme Court. An amicus curiae shall not participate in oral argument except with leave of the court.

(Amended April 9, 1979.)

Rule 130. The Appendix to the Briefs; Supplemental Record

130.01 Record Not to be Printed; Appellant to File Appendix

(1) The record shall not be printed. The appellant shall prepare and file an appendix to his brief which shall contain the following portions of the record:

- (a) the relevant pleadings;
- (b) relevant written motions and orders;
- (c) the trial court's instructions and the verdict, or the findings of fact, conclusions of law and order for judgment;
- (d) relevant post trial motions and orders;
- (e) any memorandum opinions;
- (f) any portion of the transcript containing a discussion of the trial court's instructions and any relevant requests for instructions if the instructions are challenged on appeal;
- (g) any judgments; and
- (h) the notice of appeal.

The parties shall have regard for the fact that the entire record is always available to the Supreme Court for reference or examination and shall not engage in unnecessary reproduction.

(2) If the record includes a statement of the proceedings (made pursuant to Rule 110.03) or an agreed statement (made pursuant to Rule 110.04), the statement shall be included in the appendix.

130.02 Respondent May File Appendix

If the respondent determines that the appendix filed by the appellant omits any items specified in Rule 130.01, he may prepare and file an appendix to his brief containing the omitted items.

130.03 Party May File Supplemental Record; Not Taxable Cost

A party may prepare and file a supplemental record, suitably indexed, containing any relevant portion of the record not contained in the appendix. The original paging of each part of the transcript set out in the supplemental record shall be indicated by placing in brackets the number of the original page at the place where the page begins. If the transcript is abridged, the pages and parts of pages of the transcript omitted shall be clearly indicated following the index and at the place where the omission occurs. A question and its answer may be contained in a single paragraph. The cost of producing the supplemental record shall not be a taxable cost.

Rule 131. Filing and Service of Briefs, the Appendix, and the Supplemental Record

131.01 Time for Filing and Service

The appellant shall serve and file his brief and appendix within 60 days after delivery of the transcript by the reporter. If the transcript is obtained prior to appeal, or if the record on appeal does not include a transcript, then the appellant shall serve and file his brief and appendix within 60 days after service of the notice

of appeal upon the adverse party. The respondent shall serve and file his brief and appendix, if any, within 45 days after service of the brief of appellant. The appellant may serve and file a reply brief within 15 days after service of respondent's brief. If a party prepares a supplemental record, the supplemental record shall be served and filed with his first brief.

(Amended October 29, 1968; June 6, 1972.)

131.01 Application for Extension of Time

No extension of the time fixed in Rule 131.01 for the filing of appellant's brief and appendix and respondent's brief will be granted the parties except upon a motion pursuant to Rule 127. The motion shall be heard and considered by the Court Commissioner acting as a referee and shall be granted only for good cause shown. Only an original of said motion shall be filed.

(Added March 29, 1971; amended February 14, 1975; amended December 4, 1980, effective January 1, 1981.)

131.02 Number of Copies to be Filed and Served

Unless otherwise specified in the prehearing conference order, twenty copies of each brief, appendix, and supplemental record, if any, shall be filed with the clerk of the Supreme Court, and two copies shall be served on the attorney for each party to the appeal separately represented. The clerk shall not accept a brief, appendix, or supplemental record for filing unless it is accompanied by admission or proof of service as required by Rule 125.

(Amended September 28, 1973; amended December 4, 1980, effective January 1, 1981.)

Rule 132. Form of Briefs, Appendices, Supplemental Records, and Motions and other Papers

132.01 Form of Briefs, Appendices, and Supplemental Records

(1) The form of all briefs shall be determined at the time of the prehearing conference. Briefs and appendices shall be produced by standard commercial typographical printing. Any alternative process capable of producing a clear black image on white paper may be used if permission is obtained at the prehearing conference. All material (other than footnotes) must appear in at least 11 point type, or the equivalent thereof, on unglazed opaque paper. Briefs and accompanying appendices shall be bound together using a spiral spine in volumes having pages 8-1/2 by 11 inches and type matters not exceeding 6-1/2 by 9-1/2 inches. The pages of the appendix shall be separately numbered. Briefs and appendices submitted in typewritten form shall be double spaced. Carbon copies may not be submitted.

(2) The front cover of the brief and appendix shall contain:

(a) the name of the court and the number of the case which number shall be printed or lettered in bold-face print or prominent lettering, the equivalent of 18 point figures, and shall be located one-half inch from the top center of the cover;

(b) the title of the case;

(c) the title of the document, e.g., Appellant's Brief and Appendix; and

(d) the names, addresses, and telephone numbers of the attorneys representing each party to the appeal.

(3) Supplemental records shall be bound in separate volumes and shall, in all other respects, comply with this rule.

(Amended April 3, 1980; amended December 4, 1980, effective January 1, 1981.)

132.02 Form of Motions and Other Papers

(1) Papers not required to be produced in the manner prescribed in Rule 132.01 shall be typewritten or otherwise duplicated upon unglazed opaque paper,

8-1/2 by 11 inches in size. Typewritten matter must be double-spaced. All copies must be legible.

(2) Each such paper shall contain a caption setting forth the name of the court, the title of the case, the file number, and a brief descriptive title of the paper; and shall be subscribed by the attorneys preparing the paper together with their addresses and telephone numbers.

(Amended April 3, 1980; amended December 4, 1980, effective January 1, 1981.)

Rule 133. Summary Action; Prehearing Conference; Calendar

133.01 Summary Action

(1) The Supreme Court, on its own motion or on motion of any party, may summarily affirm, may summarily reverse with directions, may remand or dismiss an appeal or other request for relief upon grounds proper for remand or dismissal, or may limit the issues to be considered on appeal. Summary dispositions have no precedential value and shall not be cited.

(2) Motions for such relief may be made at any time but shall be filed promptly when the occasion appears and shall comply with the requirements of Rule 127.

(Added March 29, 1972; amended January 5, 1976; January 10, 1979; amended and effective December 17, 1981.)

133.02 Prehearing Conference

The Supreme Court may direct the attorneys for the parties to appear before a justice thereof for a Prehearing Conference to consider the application or nonapplication of Rule 133.01, settlement, simplification of the issues, and such other matters as may aid in the disposition of the proceedings by the Supreme Court. The justice shall ascertain whether or not the appeal should be decided, remanded, or dismissed pursuant to Rule 133.01, shall so recommend to the Supreme Court, and may participate in the decisional process of the Court with respect thereto. The justice shall make an order which recites the recommendation made pursuant to Rule 133.01 and the agreements made by the parties as to any of the matters considered and which limits the issue to those not disposed of by admissions or agreements of counsel.

(Added March 29, 1972; amended January 5, 1976; January 10, 1979.)

Prehearing Conference Procedures

By order of the Supreme Court of the State of Minnesota dated January 10, 1979, the following procedures and Prehearing Conference Statement are specified:

IT IS ORDERED that, pursuant to Appellate Rule 133.02, the following Prehearing Conference Procedures in all non-criminal matters are hereby established to remain in effect until further order of the Court:

A. Prehearing Conference Statement. Simultaneously with the service of the notice of appeal pursuant to Appellate Rule 133.01(1), or with the filing of the writ pursuant to Appellate Rule 115.03(3), the appellant or relator shall serve on all other parties separately represented, and transmit (with proof of service) to the clerk of Supreme Court a completed Prehearing Conference Statement in the form prescribed by the Court. The statement will not be treated as confidential.

Within ten days after service of appellant's statement, the respondent shall serve on all other parties separately represented, and within three days thereafter file with the clerk of supreme court (with proof of service) a Prehearing Conference Statement supplementing that of appellant in the particulars respondent deems to be of assistance to the Court.

B. Notice of Prehearing Conference - Duties of Parties. Following receipt of appellant's statement, the Court shall schedule a Prehearing Conference pursuant to Appellate Rule 133.02 unless it notifies the parties to the contrary. The attorneys for the parties shall be notified of the time and place of the conference, which will be held promptly, before the record is transcribed and briefs prepared. Attendance at the conference by the attorneys shall be obligatory. They shall have full authority to reach settlements, limit issues, and deal with such other matters as may aid in the disposition of the appeal. Upon receipt of the notice of Prehearing Conference, the attorneys shall make arrangements for their clients or their clients' insurers or indemnitors to be available at the time of the conference by telephone communication to approve matters requiring client approval. The clients may in some instances be required to accompany their attorneys to the hearing.

C. Transcript. The appellant will not order a transcript until authorized by the Court to do so. Upon receipt of such authorization, the appellant shall, pursuant to Rule 110.02, notify the court reporter.

D. Prehearing Conference. The Prehearing Conference shall be conducted by a justice of the Court. Settlement discussions, if any, shall be confidential, otherwise the documents presented and discussions conducted will not be treated as confidential.

E. Prehearing Conference Order. The Prehearing Conference justice shall issue an order reciting the action taken at the Prehearing Conference and his recommendation, if any, pursuant to Rule 133. The justice may also recommend any other procedures appropriate to Rule 133.02 and the assignment of the appeal to En Banc, division, or non-oral consideration.

F. Sanctions. Failure of a party or his attorney to obey the foregoing provisions of this Order shall result in such sanctions as the Court may deem appropriate.

G. Exceptions. The provisions of this Order are not applicable to extraordinary writs pursuant to Appellate Rule 120.

H. Form of Prehearing Conference Statement:

STATE OF MINNESOTA
IN SUPREME COURT

INFORMATION
FURNISHED
HEREIN
WILL NOT BE
TREATED AS
CONFIDENTIAL

CIVIL APPEAL
PREHEARING
CONFERENCE
STATEMENT OF
APPELLANTS or
RESPONDENTS
(Strike one)

Please Complete and
File Original with:

John McCarthy, Clerk
of Supreme Court,
230 State Capitol
St. Paul, MN 55155

1. Title of Case: (Describe parties as appellant or respondent)
2. Names and Addresses and Telephone of Attorneys
For Appellants or Relators:
For Respondents:
For Other Parties:
3. A. Court or Agency from which appeal is taken:
B. Name of Judge or Hearing Officer who presided:
C. State whether appeal is from an order or judgment and the date of the order or judgment.
4. Type of Litigation (e.g., automobile negligence, products liability, malpractice, real estate, zoning, taxation, UCC, domestic matters, insurance, etc.):

5. Brief Description of Claims, Defenses, Issues Litigated, and Result Below (Do not detail evidence):

6. Nature of Judgment or Order as to Which Review is Sought (Appellant: Attach copy of judgment or order, verdict, copy of any memorandum, findings of facts, or conclusions of law of the court or agency below, pleadings, trial briefs, and any documents which may be the subject of the litigation such as deeds, wills, contracts, or insurance policies). **DO NOT PREPARE OR SUBMIT AN APPELLATE BRIEF OR TRIAL TRANSCRIPT FOR THE PREHEARING CONFERENCE:**

7. Issues Proposed to be Raised on Appeal:

8. Reasons why the appeal or other proceedings should or should not be decided pursuant to Rule 133.01:

One purpose of this Prehearing Conference is to encourage the parties to reach a voluntary settlement before incurring the expense of securing a transcript and preparing and printing briefs, or if that is not possible, to define the issues.

Signed _____

Date _____

**TO BE EXECUTED BY THE ATTORNEY FOR
APPELLANT OR RESPONDENT WHO
IS HANDLING THE APPEAL**

133.03 Calendar

No case shall be placed on the calendar for argument until after there has been filed in this court the appellant's brief and appendix and respondent's brief. If either appellants or respondents fail to file their brief within the time provided, or an extension thereof, the case shall be disposed of in accordance with Rule 142. (Added March 29, 1972; amended January 5, 1976.)

Rule 134. Oral Argument

134.01 Notice of Hearing; Postponement

The clerk shall advise all parties of the time and place at which oral argument will be heard. A request for postponement of the hearing must be made by motion filed reasonably in advance of the date fixed for hearing.

134.02 Time Allowed for Argument

Except as provided in Rule 134.07, the appellant(s) shall be entitled to a total of 35 minutes and the respondent(s) to 25 minutes for oral argument. If counsel is of the opinion that additional time is necessary for the adequate presentation of his argument, he may request such additional time as he deems necessary at the prehearing conference or by motion filed in advance of the date fixed for hearing. (Amended November 20, 1970, effective January 11, 1971; amended December 4, 1980, effective January 1, 1981.)

134.03 Order and Content of Argument

The appellant is entitled to open and conclude the argument. It is the duty of counsel for appellant to state the case and facts fairly, with complete candor, and as fully as necessary for consideration of the issues to be presented. The appellant shall precede the statement of facts with a summary of the questions to be raised. Counsel should not read at length from the record, briefs or authorities.

134.04 Non-Appearance of Counsel

If counsel for a party fails to appear to present argument, the court may hear argument on behalf of a party whose counsel is present, and the case will be decided on the briefs and the argument heard. If no counsel appear for any party, the case will be decided on the briefs unless the court shall otherwise order.

134.05 Submission on Briefs

By agreement of the parties, a case may be submitted for decision on the briefs, but the court may direct that the case be argued.

134.06 Exhibits; Plats

(1) If any exhibits are to be used at the hearing, counsel shall arrange to have them placed in the courtroom before the Court convenes on the date of the hearing. Counsel will also see that all photographic exhibits shall be in court for the oral argument.

(2) In cases where a plat or diagram will facilitate an understanding of the facts or of the issues involved, counsel for appellant shall have in court a plat or diagram of sufficient size and distinctness to be visible to the court. The plat or diagram may be drawn on the courtroom blackboard.

134.07 Oral Argument - When Allowed

(1) In the following actions no oral argument is allowed:

(a) Actions for the recovery of money only, or for specific personal property, where the amount or the value of the property involved in the appeal shall not exceed \$2,000.

(b) Appeals from orders involving only questions of practice, or forms or rules of pleading.

(c) Appeals from the clerk's taxation of costs.

(d) Appeals from municipal court.

(e) Cases classified by the court to be submitted on briefs.

(2) Application for leave to argue a case orally when a matter has been set for submission without oral argument shall be made by motion pursuant to Rule 127 setting forth the reason why the appeal should be submitted upon oral argument. Said motion will be considered timely filed if made within 15 days after receipt by counsel of the prehearing conference order or the written notice which designates the manner of consideration.

(3) Whenever any member of the court is not present at the oral argument of a case, such case shall be deemed submitted to such member of the court on the record and briefs therein and when during the consideration of a case there is a change in the personnel of the court the case shall be deemed submitted to the new member or members on the record and briefs.

(Amended October 19, 1972; December 20, 1973; amended October 12, 1976, effective January 1, 1977; amended December 4, 1980, effective January 1, 1981.)

Rule 135. En Banc and Nonoral Consideration

(1) Cases scheduled for oral argument shall be heard and decided by the court en banc. Cases submitted on briefs shall be considered by a nonoral panel of the court, comprised of three or more members of the court assigned by the Chief Justice.

(2) The prehearing conference justice is authorized to classify all civil cases for assignment to the en banc or to a nonoral calendar according to the legal and judicial significance of the issues raised. The Court Commissioner is designated as a referee of the court for purposes of the classification of all criminal cases. The Chief Justice, in his discretion and according to the requirements of composing the calendar, shall accept, reject or revise the proposed classification of cases. Thereafter, the clerk shall prepare the calendar.

(3) All cases assigned to the nonoral calendar will be considered by a panel consisting of at least three members of the court other than the justice who presided at the prehearing conference. A proposed dispositional opinion or order is thereafter circulated to the full court, including the prehearing conference justice, for consideration and decision prior to its filing with the clerk. The court

may, in its discretion, order further conferences, an en banc hearing or the filing of supplemental briefs by the parties.

(4) The Chief Justice may appoint a panel or panels of members of the court to review pending cases for disposition under the rules of this court.

(Amended October 24, 1969; November 20, 1970; March 29, 1972; amended December 4, 1980, effective January 1, 1981.)

Rule 136. Notice of Decision; Judgment; Remittitur

136.01 Notice of Decision; Summary Opinion

(1) **Notice of Decision.** Upon the filing of a decision or order which determines the matter, the clerk shall mail a copy thereof to the attorneys for the parties and to the trial court. The mailing of such copy shall constitute notice of the filing.

(2) **Summary Opinion.** In any case decided under Rule 133.01 or in any other case where the Supreme Court determines that a detailed opinion would have no precedential value, the Supreme Court in its discretion may enter the following summary opinion:

“Affirmed (or reversed or other appropriate direction for action), pursuant to Rule 136.01(2).”

(Amended January 5, 1976.)

136.02 Entry of Judgment; Stay

The clerk shall enter judgment pursuant to the decision or order not less than ten days after the filing thereof. The service and filing of a petition for rehearing shall stay the entry of the judgment.

136.03 Remittitur

The clerk of the Supreme Court shall transmit the remittitur to the clerk of the trial court when judgment is entered, unless the prevailing party files an objection to the remittitur pursuant to Rule 136.04. The remittitur shall contain a certified copy of the judgment of the Supreme Court signed by the clerk.

136.04 Objection to Remittitur

Unless otherwise ordered by the Supreme Court, the prevailing party's properly taxed costs and disbursements shall be paid by the losing party before he shall be entitled to a remittitur. If the prevailing party serves and files a written objection to remittitur on or before the day set for the taxation of costs and disbursements, the clerk shall not transmit the remittitur to the clerk of the trial court until the costs and disbursements are paid. If it shall appear to the satisfaction of the Supreme Court that the losing party is unable to pay the costs and disbursements, it may permit the remittitur.

Rule 137. Judgment Roll, Executions

137.01 Judgment Roll

In all cases the clerk shall attach together the bond and notice of appeal certified and returned by the clerk of the trial court and a certified copy of the judgment of the Supreme Court, signed by him; and these papers shall constitute the judgment roll.

137.02 Execution; Issuance and Satisfaction

Executions to enforce any judgment of the Supreme Court may issue to the sheriff of any county in which a transcript of the judgment is filed and docketed. Such executions shall be returnable within 60 days from the receipt thereof by the officer. On the return of an execution satisfied in due form of law the clerk shall make an entry thereof upon the record.

Rule 138. Damages for Delay

If an appeal delays proceedings on the judgment of the trial court and appears to have been taken merely for delay, the Supreme Court may award just damages and single or double costs to the respondent.

Rule 139. Costs and Disbursements**139.01 Costs**

Unless otherwise ordered by the Supreme Court, the prevailing party shall recover costs as follows:

- (1) Upon a judgment in his favor on the merits, \$25;
- (2) Upon a dismissal, \$10.

139.02 Disbursements

Unless otherwise ordered by the Supreme Court, the prevailing party shall be allowed his disbursements necessarily paid or incurred. The prevailing party will not be allowed to tax as a disbursement the cost of preparing facsimile briefs. (Amended October 12, 1976, effective January 1, 1977.)

139.03 Taxation of Costs and Disbursements; Time

Costs and disbursements shall be taxed by the clerk upon 2 days' written notice served and filed by the prevailing party. The costs and disbursements so taxed shall be inserted in the judgment. Failure to tax costs and disbursements within 15 days after the filing of the decision or order shall constitute a waiver thereof.

139.04 Objections; Appeal

Written objections to the taxation of costs and disbursements may be served and filed on or before the time set for the taxation thereof. A party may appeal to the Supreme Court from the clerk's taxation by serving and filing a notice of appeal within 6 days from the date of taxation by the clerk. Failure to serve and file written objections on or before the time set for the taxation of costs and disbursements shall constitute a waiver of objections and shall preclude the right to appeal.

(Amended and effective December 17, 1981.)

139.05 Disallowance of Costs and Disbursements

The clerk, in the first instance, and the Supreme Court upon appeal from the clerk's taxation, or upon its own motion, may disallow the prevailing party's costs or disbursements or both, in whole or in part, for a violation of these rules or for other good cause. The prevailing party will not be allowed to tax as a disbursement the cost of reproducing parts of the record in the appendix which are not relevant to the issues on appeal.

Rule 140. Petition for Rehearing

A petition for rehearing may be filed within 10 days after the filing of the decision or order unless the time is enlarged by order of the Supreme Court within the 10-day period. The petition shall set forth with particularity any controlling statute, decision, or principle of law, any material fact, or any material question in the case which, in the opinion of the petitioner, the Supreme Court has overlooked, failed to consider, misapplied, or misconceived. The petition shall be served upon the opposing party who may answer within 5 days thereafter. Oral argument in support of the petition will not be permitted. Thirteen copies of the petition, produced and sized as required by Rule 132.01, shall be filed with the clerk, except that any duplicated copy, other than a carbon copy, of a typewritten original may also be filed. A filing fee of \$25 shall accompany the petition for rehearing. The filing of a petition for rehearing stays the entry of judgment until disposition of

such petition. It does not stay the taxation of costs. If the petition is denied, the party responding to the petition may be awarded attorneys fees to be allowed by the court in the amount not to exceed \$500.

(Amended September 28, 1973; amended and effective December 17, 1981.)

Rule 141.

(Reserved for future use.)

Rule 142. Dismissal; Default

142.01 Voluntary Dismissal

If the parties to an appeal or other proceeding shall sign and file with the clerk a stipulation that the proceedings be dismissed, the clerk shall enter an order of dismissal accordingly.

(Amended April 9, 1979.)

142.02 Default of Appellant

The respondent may serve and file a motion for judgment of affirmance or dismissal if the appellant shall fail or neglect to serve and file his brief and appendix as required by these rules. If the appellant is in default for 30 days and respondent has not made a motion under this rule, the Supreme Court shall order the appeal dismissed without notice, subject to a motion to reinstate the appeal. In support of the motion, appellant must show good cause for failure to comply with the rules governing the service and filing of briefs, that the appeal is meritorious and that reinstatement would not substantially prejudice respondent's rights.

(Amended April 9, 1979.)

142.03 Default of Respondent

If the respondent shall fail or neglect to serve and file his brief, the case shall be determined on the merits. If a defaulting respondent has filed a notice of review pursuant to Rule 106, the appellant may serve and file a motion for judgment of affirmance of the judgment or order specified in the notice of review, or for a dismissal of respondent's review proceedings.

(Amended April 9, 1979.)

Rule 143. Parties; Substitution

143.01 Parties

The party appealing shall be known as the appellant and the adverse party as the respondent. The title of the action shall not be changed in consequence of the appeal.

143.02 Death of a Party

If any party to the appeal shall die while an appeal is pending in the Supreme Court, the surviving party or the legal representative or successor in interest of the deceased party, shall file with the clerk of the Supreme Court an affidavit showing such death and the name and address of the legal representative or successor in interest. The clerk, after giving notice to the representative or successor in interest, shall substitute the name of such legal representative or successor in interest by or against whom the appeal shall thereafter proceed. If the deceased party has no representative, any party may suggest the death on the record and proceedings shall then be had as the Supreme Court may direct. If a party against whom an appeal may be taken dies after entry of judgment or order in the trial court but before a notice of appeal is filed, an appellant may proceed as if death had not occurred. After the notice of appeal is filed substitution shall be effected in the Supreme Court in accordance with this rule. If a party entitled to appeal shall die before filing a notice of appeal, the notice of appeal may be filed by his personal representative, or, if he has no personal representative, by his attorney of

record within the time prescribed by these rules. After the notice of appeal is filed substitution shall be effected in the Supreme Court in accordance with this rule.

143.03 Substitution for Other Causes

If substitution of a party in the Supreme Court is necessary for any reason other than death, substitution shall be effected in accordance with the procedure prescribed in Rule 143.02.

143.04 Public Officers

When a public officer is a party to an appeal or other proceeding in the Supreme Court in his official capacity and during its pendency dies, resigns or otherwise ceases to hold office, the action does not abate and his successor is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantial rights of the parties shall be disregarded. An order of substitution may be entered at any time, but the omission to enter such an order shall not affect the substitution.

Rule 144. Cases Involving Constitutional Questions Where State is not a Party

When the constitutionality of an act of the legislature is drawn in question in any proceeding in the Supreme Court to which the state or an officer, agency, or employee of the state is not a party, the party asserting the unconstitutionality of the act shall notify the attorney general thereof.

Rule 145. Appendix of Forms

The forms contained in the Appendix of Forms are sufficient under the rules and are intended to indicate the simplicity and brevity of statement which the rules contemplate.

(The Appendix of Forms is not reprinted in this edition.)

Rule 146. Title

These rules may be known and cited as Rules of Civil Appellate Procedure.

Rule 147. Effective Date; Statutes Superseded

147.01 Effective Date and Application to Pending Proceedings

These rules will take effect on February 1, 1968. They govern all civil appeals and proceedings brought after they take effect, and also all further proceedings then pending, except to the extent that in the opinion of the Supreme Court their application in a particular proceeding pending when the rules take effect would not be feasible, or would work injustice, in which event the procedure existing at the time the proceeding was brought applies.

147.02 Statutes Superseded

Upon the taking of effect of these rules the statutes listed in Appendix A are superseded with respect to practice and procedure in the Supreme Court.

APPENDIX A

Table of Superseded Statutes

Minnesota Statutes 1965	Rules
Sec. 357.021, Subd. 2(9)	103.01
Sec. 357.08(2)	103.01, 115.03, 120.04
c. 586	120
c. 587	120
Sec. 605.001	101
Sec. 605.01	101
Sec. 605.02	143.01
Sec. 605.03	103.01
Sec. 605.045	103.01
Sec. 605.05	103.04
Sec. 605.065	106
Sec. 605.07	142.01
Sec. 605.08	104
Sec. 605.09	103.03
Sec. 605.10	107
Sec. 605.115	108.01
Sec. 605.14	108.02
Sec. 605.16	108.03
Sec. 605.17	108.04
Sec. 605.18	108.05
Sec. 605.19	108.01
Sec. 605.20	108.06
Sec. 605.21	101
Sec. 605.225	143.02
c. 606	120
Sec. 607.01	139.01, .02
Sec. 607.02	136.04, 138

Note: The listed statutes are superseded only insofar as they pertain to appellate practice and procedure. See Rule 147.02.

APPENDIX B

FORMS

(The Appendix of forms is not reprinted in this edition.)

INDEX

- Abatement of actions, death of public officers, Rule 143.04.
- Accident, record on appeal, omissions, correction, Rule 110.05.
- Administrative agencies,
 - Notice of appeal, service, extension or limitation of time, Rule 126.02.
 - Scope of rules for review of orders, Rule 101.
- Administrative procedure, certiorari to review rules of boards, Rule 115.
- Admission,
 - Service of papers, written admission, Rule 125.04.
- Adverse parties,
 - Bonds on appeal, service, Rule 108.05.
 - Certiorari,
 - Copies of petition, service upon, Rule 115.03.
 - Failure to serve, Rule 115.06.
 - Copy service, petition for permission to appeal, Rule 105.02.
 - Notice of appeal, service on Rule 103.01.
- Affidavits,
 - Certiorari, dismissal, Rule 115.06.
 - Death of party, Rule 143.02.
 - Motions supported by, service, Rule 127.
- Affirmance,
 - Judgment, motion, failure to serve and file brief, etc., Rule 142.02.
 - Scope of review, Rule 103.04.
- Agreed statements,
 - Appendix to briefs, contents, Rule 130.01.
 - Record on appeal, Rule 110.04.
- Allowance, oral argument, Rule 134.07.
- Amicus curiae, briefs, Rule 129.
- Amount in controversy, oral argument, allowance, Rule 134.07.
- Answer,
 - Mandamus, service and filing, Rule 120.02.
 - Motions, opposition, time to file, Rule 127.
 - Petition,
 - Extraordinary Writ, Rule 120.02.
 - Rehearing, Rule 140.
 - Respondent's brief, Rule 128.02.
- Appealable judgments and orders, Rule 103.03.
 - Making order prior to entry of judgment, Rule 104.02.
- Appearance, oral argument, non-appearance of counsel, Rule 134.04.
- Appellant,
 - Brief, Rule 128.01.
 - Time, filing and service, Rule 131.01.
 - Extension of time, Rule 131.011.
 - Default, Rule 142.02.
 - Forms, brief and appendix, App. Form 8.
 - Prehearing conference statement, Rule 133.02 note.
 - Reply brief, Rule 128.03.
 - Time for oral argument, Rule 134.02.
- Appendix,
 - Briefs, Rule 130.
 - Filing,
 - Respondent, Rule 130.02.
 - Time, Rule 131.01.
 - Extension of time, Rule 131.011.

Copies, filing and service, number of copies, Rule 131.02.

Filing, Rules 131.01, 131.02.

Extension of time, Rule 131.011.

Forms, Rules 132, 145.

Reference in briefs, record reproduced in, Rule 128.04.

Service, Rules 131.01, 131.02.

Time, Rule 131.01.

Time for filing and service, Rule 131.01.

Extension of time, Rule 131.011.

Grant of permission to appeal, Rule 105.03.

Application,

Oral argument, Rule 134.07.

Suspension of rules, Rule 102.

Argument. Oral argument, generally, post.

Assignment, supersedeas bond, conditions, appeal from judgment directing, Rule 108.01.

Attachment, appealable orders, Rule 103.03.

Attorney general, notice, constitutional questions, state not party, Rule 144.

Attorneys,

Copy of decisions, mailing to, Rule 136.01.

Death of party, notice of appeal, filing Rule 143.02.

Oral argument, non-appearance of counsel, Rule 134.04.

Personal service on, Rule 125.03.

Prehearing conference, Rule 133.02 note.

Service on, Rules 125.02, 125.03.

Transmission of record, duties, Rule 111.02.

Authorities,

Briefs, citation, Rule 128.01.

Reading on oral argument, Rule 134.03.

Boards and commissions,

Certiorari, review of decisions, Rule 115.

Notice of appeal, service, extension or limitation of time, Rule 126.02.

Scope of rules, appeals of orders, Rule 101.

Bond on appeal,

Conditions, Rule 107.

Filing cost bond, Rule 103.01.

Joinder of joint bonds, Rule 108.05.

Judgment roll, Rule 137.01.

Motion for additional bond prior to transmittal of record on appeal, Rule 111.04.

Supersedeas bond, Rule 108.

Bonds,

Certiorari, petitioner, Rule 115.03.

Respondent's bond to enforce money judgment, Rule 108.04.

Supersedeas bond, Rule 108.01.

Extent of stay on, Rule 108.03.

Joint bonds, Rule 108.05.

Motion for bond prior to transmittal of record on appeal, Rule 111.04.

Briefs, Rule 128.

Absence, court member on oral argument, Rule 134.07.

Amicus curiae, service, Rule 129.

Appellant, Rule 128.01.

Time for filing and service, Rule 131.01.

Extension of time, Rule 131.011.

Appendix, Rule 130.

Filing,

Respondent, Rule 130.02.

Time, Rule 131.01.

Extension of time, Rule 131.011.

Calendar, case place for argument, filing of briefs as condition, Rule 133.03.

Copies, filing and service, number of copies, Rule 131.02

En banc or division of court, Rule 135.

Failure or neglect to serve, default, Rules 142.02, 142.03.

Filing, Rules 131.01, 131.02.

Extension of time, Rule 131.011.

Form, Rule 132.

Reproduction of statutes, etc., Rule 128.05.

Informal, Rule 128.01.

Mandamus, Rule 120.03.

Filing, Rules 120.03, 120.04.

Motions supported by, service, Rule 127.

Oral argument, Rule 128.01.

Cases classified by court to be submitted on briefs, Rule 134.07.

Respondent's brief, Rule 128.02.

Submission on, Rule 134.05.

Printing, Rule 132.01.

Prohibition, Rule 120.03.

Filing, Rules 120.03, 120.04.

Reading on oral argument, Rule 134.03.

Referee for review, Rule 135.

References, Rules 128.01, 128.04.

Reply brief, Rule 128.03.

Reproduction of statutes, ordinances, etc., Rule 128.05.

Respondent, Rule 128.02.

Service, Rules 131.01, 131.02.

Amicus curiae, Rule 129.

Time, Rules 105.03, 131.01.

Support of motions, service, Rule 127.

Time, filing and service, Rules 105.03, 131.01.

Extension of time, Rule 131.011.

Calendars,

Assignment, en banc, and nonoral, Rule 135.

Case placed for argument, filing of briefs as condition, Rule 133.03.

En banc calendar, Rule 135.

Nonoral calendar, Rule 135.

Preparation by clerk, Rule 135.

Certification, transcript of proceedings on appeal, correctness, Rule 110.02.

Certified copies,

Judgment,

Remittitur, contents, Rule 136.03.

Signed by court, Rule 137.01.

Certified questions, appealable orders, Rule 103.03.

Certiorari, Rule 115.

Application for writ, time, Rule 115.01.

Bond or security, filing by petitioner, Rule 115.03.

Costs and disbursements, Rules 115.05, 115.06.

Dismissal, grounds, Rule 115.06.

Filing, record on review by, Rule 115.04.

Forms, Rule 115.03.

- Issues contrary to statute, Rule 115.06.
- Manner of obtaining, Rule 115.01.
- Matter of right, Rule 115.
- Notice of decision, time for review, Rule 115.01.
- Petition for writ, Rules 115.02, 115.03.
 - Form, App. Form 3.
- Record on review by, Rule 115.04.
- Return, record on review by, Rule 115.04.
- Service,
 - Copies of petition, Rule 115.03.
 - Failure to serve, Rule 115.06.
- Time,
 - Issuance of writ, Rule 115.01.
 - Record on review by, transmission, Rule 115.04.
 - Service of copies of petition. Rule 115.03.
- Classification of cases, en banc or division calendar assignment, Rule 135.
- Clerk, preparation of calendar, Rule 135.
- Closing argument, Rule 134.03.
- Commerce department, certiorari for review of decisions, Rule 115.
- Commissions,
 - Certiorari, review of decisions, Rule 115.
 - Notice of appeal, service, extension or limitation of time, Rule 126.02.
 - Scope of rules, appeal of orders, Rule 101.
- Composition, record on appeal, Rule 110.01.
- Computation of time, Rule 126.01.
- Conciseness, briefs, Rule 128.01.
- Conclusions, briefs, contents, Rule 128.01.
- Conclusions of law, appendix to briefs, contents, Rule 130.01.
- Concurrent, division of court, Rule 135.
- Conditions,
 - Bond on appeal, Rule 107.
 - Respondent's bond to enforce money judgment, Rule 108.04.
 - Supersedeas bond, payment of costs on appeal, Rule 108.01.
- Conference, prehearing conference, Rule 133.02 note.
- Constitutional questions, state not party, notice to attorney general, Rule 144.
- Contempt, transcript, proceedings on appeal, time of delivery, Rule 110.02.
- Conveyances, judgment directing, Rule 108.02.
- Copies,
 - Amicus curiae brief, Rule 129.
 - Appendix, filing and service, number, Rule 131.02.
 - Briefs, filing and service, number, Rule 131.02.
 - Certiorari, petition, Rule 115.03.
 - Decision, mailing to attorneys, Rule 136.01.
 - Mandamus, papers, etc., Rule 120.04.
 - Personal service on attorney, Rule 125.03.
 - Petition,
 - Permission to appeal, Rule 105.01.
 - Accompanying petition, Rule 105.02.
 - Rehearing, Rule 140.
 - Prohibition, papers, etc., Rule 120.04.
 - Service by party, Rule 125.02.
 - Supplemental record on appeal, filing and service, number, Rule 131.02.
 - Transcript,
 - Proceedings for appeal, Rule 110.02.
 - Record on appeal, transmission, time, Rule 111.01.

Correction, record on appeal, Rule 110.05.

Costs, Rule 139.

Bond on appeal, conditions as to payment, Rule 107.

Certiorari to review, Rules 115.05, 115.06.

Disallowance, Rule 139.05.

Dismissal, Rule 139.01.

Double costs, certiorari for delay, Rule 115.05.

Objection to taxation, Rule 139.04.

Petition for rehearing, stay of taxation, restriction, Rule 140.

Prevailing party, Rule 139.01.

Remittitur, Rule 136.04.

Supersedeas bond, conditions, Rule 108.01.

Supplemental record on appeal, Rule 130.03.

Taxation, time, Rule 139.03.

Time of taxation, Rule 139.03.

Transcript, proceedings on appeal, Rule 110.02.

Court's own motion,

Record on appeal, correction, Rule 110.05.

Suspension of rules, Rule 102.

Criminal appeals, Rule 101.

Damages, supersedeas bond, conditions, Rule 108.01.

Date of submission, motions, Rule 127.

Death of parties, Rule 143.02.

Public officers, Rule 143.04.

Decisions,

Certiorari to review, Rule 115.

Notice, Rule 136.

Decrees. Judgment and decrees, generally, post.

Deeds and conveyances, judgment directing, Rule 108.02.

Default, Rule 142.

Appellant, Rule 142.02.

Respondent, Rule 142.03.

Delay,

Appeal for delay, respondent's bond to enforce money judgment, Rule 108.04.

Certiorari for delay, double costs, Rule 115.05.

Delivery,

Documents, supersedeas bond, condition, appeal from judgment directing, Rule 108.01.

Real property, condition of supersedeas bond on appeal from judgment directing, Rule 108.01.

Transcript of proceedings on appeal, Rule 110.02.

Department of manpower services, certiorari for review of decisions, Rule 115.

Deposits,

Cost on appeal, Rule 107.

Proceeds from sale of perishable property, Rule 108.06.

Description, transcript of proceedings on appeal, request, Rule 110.02.

Disallowance,

Costs and disbursements, Rule 139.05.

Oral argument, Rule 134.07.

Disbursements, Rule 139.

Certiorari to review, Rules 115.05, 115.06.

Disallowance, Rule 139.05.

Objections to taxation, Rule 139.04.

Prevailing party, Rule 139.02.

- Remittitur, Rule 136.04.
- Taxation, time, Rule 139.03.
- Time of taxation, Rule 139.03.
- Discretionary review, Rule 105.
- Dismissal, Rule 142.
 - Appeal orders, Rule 103.03.
 - Certiorari, grounds, Rule 115.06.
 - Costs, Rule 139.01.
 - Default,
 - Appellant, Rule 142.02.
 - Respondent, Rule 142.03.
 - Failure or neglect to file brief, etc., Rule 142.02.
 - Motion prior to transmittal of record on appeal, Rule 111.04.
 - Prehearing conference order, Rule 133.02 note.
 - Voluntary dismissal, Rule 142.01.
- Disposition of record after appeal, Rule 111.05.
- Division calendar, Rule 135.
- Division of court, hearing oral argument, Rule 135.
 - Time allowed, Rule 134.02.
- Duplicates, list of items comprising record, Rule 111.02.
- Effective date of rules, Rule 147.
- Emergencies, extraordinary writs, Rules 121.01, 121.02, 121.03.
- Employment services, department of, certiorari for review of decisions, Rule 115.
- En banc, hearing oral arguments, Rule 135.
 - Time allowed, Rule 134.02.
- En banc calendar, Rule 135.
- Endorsements, exhibits, record on appeal, Rule 111.03.
- Entry, judgment, Rule 136.02.
- Evidence, briefs, summary, Rule 128.01.
- Execution, Rule 137.02.
 - Issuance of satisfaction, Rule 137.02.
- Execution of instruments,
 - Conveyances, appeal from judgment directing, Rule 108.02.
 - Respondent's bond to enforce money judgment, Rule 108.04.
- Exhibits,
 - List transmitted with record, Rule 111.02.
 - Oral argument, Rule 134.06.
 - Record on appeal, Rule 111.03.
 - Composition, Rule 110.01.
 - Transportation on appeal, Rule 111.02.
- Extension of time, Rule 126.02.
 - Briefs, filing, Rule 131.011.
 - Completing transcript, Rule 110.01.
 - Judgment, appeal from, Rule 104.02.
 - Petition for rehearing, filing, Rule 140.
 - Respondent's brief extension of time, oral argument, Rule 128.02.
- Extraordinary writs, Rule 120.
- Fees,
 - Filing fees,
 - Certiorari, Rule 115.03.
 - Mandamus, Rule 120.04.
 - Prohibition, Rule 120.04.
 - Rehearing petition, Rule 140.
 - Notice of appeal, deposit with, Rule 103.01.

Filing, Rule 125.

Amicus curiae, briefs, Rule 129.

Answer to motion, time, Rule 127.

Appendix,

Briefs and supplemental record, time, Rule 131.01.

Extension of time, Rule 131.011.

Bond or security, petitioner for certiorari, Rule 115.03.

Briefs, Rules 131.01, 131.02.

Extension of time, Rule 131.011.

Decision, notice, Rule 136.01.

Fees,

Certiorari, Rule 115.03.

Mandamus, Rule 120.04.

Notice of appeal, Rule 103.01.

Prohibition, Rule 120.04.

Rehearing petition, Rule 140.

Mandamus proceeding, Rules 120.03, 120.04.

Notice of appeal, Rule 103.01.

Joint appeals, Rule 103.02.

Time, Rule 104.01.

Objection to remittitur, Rule 136.03.

Papers, Rule 125.01.

Without proof of service, Rule 125.04.

Prehearing conference statement, Rule 133.02 note.

Prohibition proceeding, Rules 120.03, 120.04.

Record on review by certiorari, Rule 115.04.

Rehearing petition, Rule 140.

Stay of judgment, Rule 136.02.

Reply brief, Rule 128.03.

Respondent, appendix to briefs, Rule 130.02.

Supplemental record on appeal, Rule 130.03.

Time, Rule 131.01.

Transcript of proceedings on appeal, description of requirements, Rule 110.02.

Final judgments or orders,

Appealability, Rule 103.03.

Substantial rights, special proceeding for appeal of judgment affecting, Rule 104.03.

Findings of fact, appendix to briefs, contents, Rule 130.01.

Forms,

Appendices, Rule 132.

Appendix, Rule 145.

Briefs, Rule 132.

Reproduction of statutes, etc., Rule 128.05.

Certiorari, Rule 115.03.

Motions, Rule 132.02.

Orders, App. Form 6.

Papers, Rule 132.02.

Petitions for writs, Rule 115.03.

Prehearing conference statement, Rule 133.02 note.

Supplemental record on appeal, Rule 132.01.

Transcript of proceedings on appeal, Rule 110.02.

Good faith, notice of appeal, service, Rule 103.01.

Hearing,

Oral argument, notice, Rule 134.01.

- Prehearing conference, Rule 133.02 note.
- Report of proceedings made, transcript, procedure, Rule 110.03.
- Identification, items comprising record, Rule 111.02.
- Index, supplemental record on appeal, Rule 130.03.
- Industrial commission,
 - Certiorari for review of decisions, Rule 115.
 - Informal brief, Rule 135.
- Injunctions, appealable orders, Rule 103.03.
- Instructions to jury, appendix to briefs, contents, Rule 130.01.
- Investment, proceeds from sale of perishable property, Rule 108.06.
- Issues,
 - Briefs, contents, Rule 128.01.
 - Respondent's brief, Rule 128.02.
- Joint appeals, Rule 103.02.
- Judges,
 - Division of court, Rule 135.
 - Mandamus, Rule 120.
 - Prohibition, Rule 120.
- Judgment rolls, Rule 137.01.
- Judgments and decrees, Rule 103 et seq.
 - Appealable judgments, Rule 103.03.
 - Appendix to briefs, contents, Rule 130.01.
 - Certiorari for review, contents of petition, Rule 115.03.
 - Entry by clerk, Rule 136.02.
 - Execution, Rule 137.02.
 - Partial, appeal, Rule 104.01.
 - Remittitur, Rule 136.03.
 - Respondent's bond to enforce money judgment, Rule 108.04.
 - Supersedeas bond, conditions, appeal from judgment, Rule 108.01.
 - Time for appeal from, Rule 104.01.
- Law library, original transcript, Rule 111.05.
- Leave of court, briefs, Rule 128.03.
- Legal representative, substitution as party, Rule 143.02.
- Limitation of time, Rule 126.02.
- Mail and mailing,
 - Copy of decision, Rule 136.01.
 - Service by mail, Rule 125.03.
 - Mandamus, Rule 120.04.
 - Prohibition, Rule 120.04.
- Mandamus, Rule 120.
 - Answer, service and filing, Rule 120.02.
 - Application for writ, Rule 120.01.
 - Emergencies, Rules 121.01, 121.02, 121.03.
 - Notice of submission, Rule 120.02.
 - Oral argument, Rule 120.03.
 - Peremptory writ, issuance, Rule 120.03.
 - Petition for writ, Rule 120.01 et seq.
 - Procedure following submission, Rule 120.03.
 - Respondents, Rule 120.03.
 - Service of papers and briefs, Rules 120.03, 120.04.
 - Submission of petition, Rules 120.01, 120.03.
 - Temporary relief and order, Rule 120.03.
- Manner of appeals, Rule 103.01.
- Manpower services, department of, certiorari for review of decisions, Rule 115.
- Memorandum opinions, appendix to briefs, contents, Rule 130.01.

- Merits of action or controversy,
 - Appealable orders involving, Rule 103.03.
 - Scope of review, Rule 103.04.
- Misnomer, death of parties, public officers, Rule 143.04.
- Mistake, good faith, proceedings on appeal, Rule 103.01.
- Models, record on appeal, Rule 111.03.
- Modification,
 - Record on appeal, Rule 110.05.
 - Scope of review, Rule 103.04.
- Money, oral argument, actions for recovery, Rule 134.07.
- Money judgment,
 - Respondent's bond to enforce judgment, Rule 108.04.
 - Supersedeas bond, conditions, appeal from judgment directing payment, Rule 108.01.
- Motions, Rule 127.
 - Appendix to briefs, contents, Rule 130.01.
 - Certiorari, dismissal, Rule 115.06.
 - Court's own motion,
 - Record on appeal, correction, Rule 110.5.
 - Suspension of rules, Rule 102.
 - Extension of time, briefs and appendix, filing, Rule 131.011.
 - Filing, Rules 125.01, 127.
 - Form, Rule 132.02.
 - Oral argument, Rule 134.07.
- Municipal court of appeals, oral argument, restriction, Rule 134.07.
- New trial,
 - Appealable orders, Rule 103.03.
 - Models, record on appeal, return, Rule 111.03.
- Nonoral calendar, Rule 135.
- Notice,
 - Attorney general, constitutional questions, state not party, Rule 144.
 - Brief of amicus curiae, Rule 129.
 - Certiorari, Time for application, Rule 115.01.
 - Decision, Rule 136.
 - Filing of decision, Rule 136.01.
 - Mandamus, submission of petition, Rule 120.02.
 - Oral argument, hearing, Rule 134.01.
 - Prehearing conference, Rule 133.02 note.
 - Prohibition, submission of petition, Rule 120.02.
- Notice of appeal,
 - Adverse party, service on, Rule 103.01.
 - Appendix to briefs, contents, Rule 130.01.
 - Certiorari, reference to rules, Rule 115.04.
 - Contents, Rule 103.01.
 - Death of party, Rule 143.02.
 - Extension of time, Rule 126.02.
 - Fee, deposit, Rule 103.01.
 - Filing, Rule 103.01.
 - Joint appeals, Rule 103.02.
 - Time, Rule 104.01.
 - Grant of permission, procedure, Rule 105.03.
 - Joint notice, Rule 103.02.
 - Judgment roll, Rule 137.01.
 - Limitation of time, Rule 126.02.
 - Motion for affirmance of judgment, Rule 142.03.

- Multiple parties, Rule 104.01.
- Objection to taxation of cost and disbursement, Rule 139.04.
- Respondent's brief, Rule 128.02.
- Service,
 - Extension or limitation of time, Rule 126.02.
 - Respondent, Rule 106.
 - Time, Rule 104.
- Time,
 - Extension or limitation, Rule 126.02.
 - Service, Rule 104.
- Objections,
 - Remittitur, Rules 136.03, 136.04.
 - Filing, Rule 136.03.
 - Statement, transcript unavailable, Rule 110.03.
- Omission, records on appeal, correction, Rule 110.05.
- Opening argument, Rule 134.03.
- Options, bond on appeal, Rule 108.05.
- Oral argument, Rule 134.
 - Allowance, Rule 134.07.
 - Amicus curiae, Rule 129.
 - Appearance, non-appearance of counsel, Rule 134.04.
 - Briefs, Rule 128.01.
 - Cases classified by court to be submitted on briefs, Rule 134.07.
 - Filing, condition to case being placed on calendar for argument, Rule 133.
 - Respondent's brief, Rule 128.02.
 - Submission on, Rule 134.05.
 - Contents, Rule 134.03.
 - Disallowance, Rule 134.07.
 - En banc or division of court, Rule 135.
 - Exhibits, Rule 134.06.
 - Mandamus, Rule 120.03.
 - Motions, Rule 127.
 - Notice of hearing, Rule 134.01.
 - Orders, Rule 134.03.
 - Petition,
 - Permission to appeal, restriction, Rule 105.02.
 - Rehearing, Rule 140.
 - Plats, Rule 134.06.
 - Postponement, Rule 134.01.
 - Prohibition, Rule 120.03.
 - Request for additional time, Rule 134.02.
 - Submission on briefs, Rule 134.05.
 - Time allowed, Rule 134.02.
- Order to show cause, extraordinary writs, Rule 120.03.
- Orders, Rule 103 et seq.
 - Appealable orders, Rule 103.03.
 - Prior to entry of judgment, Rule 104.02.
 - Appendix to briefs, contents, Rule 130.01.
 - Application for order by motion, Rule 127.
 - Certiorari for review, contents of petition, Rule 115.03.
 - Dismissal, Rule 142.01.
 - Forms. App. Form 6.
 - Motion for intermediate order prior to transmittal of record on appeal, Rule 111.04.

Prehearing conference orders, Rule 133.02 note.

Prior to entry of judgment, appealability, Rule 104.02.

Supersedeas bond, conditions, appeal from order, Rule 108.01.

Time for appeal from, Rule 104.01.

Ordinances, briefs, reproduction, Rule 128.05.

Papers,

Filing, Rule 125.01.

Without proof of service, Rule 125.04.

Form, Rule 132.02.

Judgment roll, Rule 137.01.

Mandamus, Rules 120.03, 120.04.

Motions supported by, service, Rule 127.

Prohibition, Rules 120.03, 120.04.

Proof of service, Rule 125.04.

Record on appeal, composition, Rule 110.01.

Service, Rule 125.02 et seq.

Support of motions, service, Rule 127.

Partial record on appeal, references in briefs to, Rule 128.04.

Parties, Rule 143.

Appellant, generally, ante.

Death, Rule 143.02.

Public officers, Rule 143.04.

Notice, brief of amicus curiae, Rule 129.

Prehearing conference, Rule 133.02 note.

Prevailing party, generally, post.

Public officers, Rule 143.04.

Respondent, generally, post.

Substitution, Rule 143.

Death of party, Rule 143.04.

Other causes, Rule 143.03.

Payment, costs on appeal, conditions of bond, Rule 107.

Penalty bond, execution by appellant, Rule 107.

Pending actions, application of rules, Rule 147.01.

Perishable property, judgment directing sale, Rule 108.06.

Permission to appeal, Rule 105.01 et seq.

Personal property,

Assignment, supersedeas bond, conditions, appeal from judgment directing, Rule 108.01.

Oral argument, actions for recovery, Rule 134.07.

Supersedeas bond, conditions, appeal from judgment directing assignment, Rule 108.01.

Personal service, Rule 125.03.

Petition,

Certiorari, Rules 115.02, 115.03.

Form, App. Form 3.

Emergencies, extraordinary writs, Rules 121.01, 121.02, 121.03.

Filing, Rule 125.01.

Mandamus, Rule 120.01 et seq.

Permission to appeal, Rules 105.01, 105.02.

Prohibition, Rule 120.01 et seq.

Rehearing, Rule 140.

Stay, entry of judgment, Rule 136.02.

Time,

Permission to appeal, Rule 105.01.

Rehearing, filing, Rule 140.

- Title, Rule 105.02.
- Plats, oral argument, Rule 134.06.
- Pleadings,
 - Appendix to briefs, contents, Rule 130.01.
 - Oral argument, appeals, restriction, Rule 134.07.
- Post trial motions and orders, appendix to briefs, Rule 130.01.
- Postponement, oral argument, Rule 134.01.
- Practice and procedure, oral argument, restriction, Rule 134.07.
- Prehearing conference, Rule 133.02.
- Preliminary conference,
 - Mandamus, petition for writ, Rule 120.02.
 - Prohibition, petition for writ, Rule 120.02.
- Preliminary hearing, record in supreme court, Rule 111.04.
- Prevailing party,
 - Certiorari to review, taxation of costs and disbursements, Rule 115.05.
 - Costs, Rule 139.01.
 - Disbursements, Rule 139.02.
 - Objection to remittitur, Rule 136.04.
- Printing,
 - Briefs, etc., Rule 132.01.
 - Record on appeal, Rule 130.01.
- Prohibition, Rule 120.
 - Answer, service and filing, Rule 120.03.
 - Application for writ, Rule 120.01.
 - Emergencies, Rules 121.01, 121.02, 121.03.
 - Forms, App. Form 7.
 - Petition for writ, App. Form 5.
 - Notice of submission, Rule 120.02.
 - Oral argument, Rule 120.03.
 - Peremptory writ, issuance, Rule 120.03.
 - Petition for writ, Rule 120.01 et seq.
 - Procedure following submission, Rule 120.03.
 - Respondents, Rule 120.03.
 - Service of papers and briefs, Rules 120.03, 120.04.
 - Submission of petition, Rules 120.01, 120.03.
 - Temporary relief and order, Rule 120.03.
- Proof of service, papers, Rule 125.04.
- Public officers, parties, Rule 143.04.
- Reading, oral argument, Rule 134.03.
- Real property, supersedeas bond, conditions, appeal from judgment directing sale or delivery, Rule 108.01.
- Reasons, amicus curiae brief, Rule 129.
- Record on appeal, Rule 110 et seq.
 - Absence of court member on oral argument, Rule 134.07.
 - Agreed statement, Rule 110.04.
 - Briefs, references, Rule 128.04.
 - Certiorari, review by, Rule 115.04.
 - Composition, Rule 110.01.
 - Correction, Rule 110.05.
 - Disposition after appeal, Rule 111.05.
 - Exhibits, Rule 111.03.
 - Modification, Rule 110.05.
 - Preliminary hearing, Rule 111.04.
 - Printing, Rule 130.01.
 - Reading on oral argument, Rule 134.03.

- References in briefs, Rule 128.04.
- Remainder of record, transmission, time, Rule 111.02.
- Supplemental record on appeal, generally, post.
- Time for transmission, Rule 105.03.
- Transmission, Rule 111.
 - Time, Rule 105.03.
- Records, suggestion of death on record, Rule 143.02.
- Referee,
 - Transcript of proceedings on appeal, administrative assistance, supreme court, Rule 110.02.
- References,
 - Briefs, Rules 128.01, 128.04.
 - Certiorari, reference to rules, reading, Rule 115.04.
- Regulations, briefs, reproduction, Rule 128.05.
- Rehearing, Rule 140.
 - Petition, Rule 140.
 - Stay of entry of judgment, Rule 136.02.
- Reinstatement of appeal, Rule 142.02.
- Remittitur, objections, Rules 136.03, 136.04.
- Repetition, briefs, restriction, Rule 128.01.
- Reply,
 - Answer to motion, service, Rule 127.
- Reporter, transcript, order from, time, Rule 110.02.
- Reproduction,
 - Appendix to briefs, contents, Rule 130.01.
 - Briefs, statutes, ordinances, etc., Rule 128.05.
 - Record on appeal, reference in briefs, Rule 128.04.
- Respondent,
 - Appendix to briefs, filing, Rule 130.02.
 - Brief, Rule 128.02.
 - Filing, extension of time, Rule 131.011.
 - Default, Rule 142.03.
 - Mandamus, Rule 120.03.
 - Prehearing conference statement, Rule 133.02 note.
 - Prohibition, Rule 120.03.
 - Right to obtain review, Rule 106.
 - Time for oral argument, Rule 134.02.
- Response, petition, permission to appeal, Rule 105.02.
- Restitution, reversal or modification of judgment, respondent's bond to enforce, Rule 108.04.
- Return,
 - Models, record on appeal, new trial, Rule 111.03.
 - Record on review by certiorari, Rule 115.04.
- Reversal, scope of review, Rule 103.04.
- Rights,
 - Appeal as of right, Rule 103.
 - Certiorari, matter of right, Rule 115.
- Sale,
 - Perishable property, appeal from judgment directing, Rule 108.06.
 - Real property, condition of supersedeas bond on appeal from judgment directing, Rule 108.01.
- Scope of appeal, Rule 103.04.
- Scope of rules, Rule 101.
- Security,
 - Certiorari, filing by petitioner, Rule 115.03.

- Motion for additional security prior to transmittal of record on appeal, Rule 111.04.
- Stay of proceedings on money judgment, respondent's bond to enforce, Rule 108.04.
- Service, Rule 125.
 - Amicus curiae brief, Rule 129.
 - Appendix, briefs and supplemental record, time, Rule 131.01.
 - Attorneys, Rule 125.02, 125.03.
 - Bonds on adverse party, appeals, Rule 108.05.
 - Briefs, ante.
 - Certiorari, Rule 115.03.
 - Failure to serve, Rule 115.06.
 - Extraordinary writs, petitions, Rule 120.04.
 - Manner of service, Rule 125.03.
 - Motions, Rule 127.
 - Notice of appeal,
 - Extension or limitation of time, Rule 126.02.
 - Respondent, Rule 106.
 - Time, Rule 104.
 - Papers, Rule 125.02 et seq.
 - Petition,
 - Permission to appeal, Rules 105.01, 105.02.
 - Rehearing, Rule 140.
 - Stay of judgment, Rule 136.02.
 - Prehearing conference notice, Rule 133.02 note.
 - Prohibition, Rule 120.03, 120.04.
 - Answer, Rule 120.03.
 - Proof, Rule 125.04.
 - Reply, answer to motion, Rule 127.
 - Supplemental record on appeal, time, Rule 131.01.
- Special proceedings,
 - Appealable judgments and orders, Rule 103.03.
 - Time for appeal from order or judgment affecting substantial rights, Rule 104.03.
- State, constitutional questions, state not party, notice to Attorney general, Rule 144.
- State law library, original transcript, Rule 111.05.
- Statements,
 - Agreed statement, record on appeal, Rule 110.04.
 - Appendix to briefs, contents, Rule 130.01.
 - Briefs, contents, Rule 128.01.
 - Mandamus, petition for writ, contents, Rule 120.01.
 - Prehearing conference statement, Rule 133.02 note.
 - Proceedings, transcript unavailable, Rule 110.03.
 - Prohibition, petition for writ, contents, Rule 120.01.
 - Respondent's brief, Rule 128.02.
- Statutes,
 - Briefs,
 - Citation, Rule 128.01.
 - Reproduction, Rule 128.05.
 - Superseded, Rules 147, 147.02.
- Stipulations,
 - Cost bond on appeal, waiver by, Rule 103.01.
 - Dismissal, Rule 142.01.
- Submission, oral argument on briefs, Rule 134.05.

Substantial rights,

Appealable judgments and orders, Rule 103.03.

Special proceedings, appeal from order, Rule 104.03.

Substitution of parties, Rule 143.

Death of party, Rule 143.04.

Other causes, Rule 143.03.

Successor, substitution as party, Rule 143.02.

Summary, briefs, evidence, Rule 128.01.

Summary action, supreme court, Rule 133.01.

Summary judgment, appealable orders, Rule 103.03.

Summary opinion, entry by court, Rule 136.01.

Supersedeas and stay,

Bond,

Appeal from order or judgment of trial court, Rule 108.01.

Extent of stay on, Rule 108.03.

Joint bonds, Rule 108.05.

Motion for bond prior to transmittal of record on appeal, Rule 111.04.

Entry of judgment, petition for rehearing, Rule 136.02.

Execution of conveyances, appeal from judgment directing, Rule 108.02.

Extent of stay on bond, Rule 108.03.

Motion for stay pending appeal, prior to transmittal of record, Rule 111.04.

Petition for rehearing, stay of judgment on filing, Rule 140.

Supplemental record on appeal, Rule 130.

Copies, filing and service, number, Rule 131.02.

Filing, Rules 131.01, 131.02.

Form, Rule 132.

Reference in briefs, Rule 128.04.

Service, Rules 131.01, 131.02.

Time for filing and service, Rule 131.01.

Suspension, Rule 102.

Table of cases, briefs, Rule 128.01.

Table of contents, briefs, Rule 128.01.

Tax court,

Certiorari for review of decisions, Rule 115.

Tentative written opinion, division of court, Rule 135.

Time,

Answer to motion, filing, Rule 127.

Appendix, filing and service, Rule 131.01.

Extension of time, Rule 131.011.

Grant of permission to appeal, Rule 105.03.

Certiorari, Rule 115.01.

Record on review, transmission, Rule 115.04.

Service of copies of petition, Rule 115.03.

Computation, Rule 126.01.

Date, rules effective, Rule 147.01.

Effective date of rules, Rule 147.

Extension of time, Rule 126.02.

Briefs, filing, Rule 131.011.

Judgment, appeal from, Rule 104.02.

Rehearing petition, filing, Rule 140.

Filing papers, Rule 125.01.

Limitation of time, Rule 126.02.

Motions, date of submission, Rule 127.

Notice of appeal,

Extension or limitation, Rule 126.02.

- Service, Rule 104.
- Oral argument, time allowed, Rule 134.02.
- Petition,
 - Permission to appeal, Rule 105.01.
 - Rehearing, filing Rule 140.
- Prehearing conference, Rule 133.02 note.
- Record on review by certiorari, transmission, Rule 115.04.
- Remainder of record on appeal, transmission, Rule 111.02.
- Service of papers by party, Rule 125.02.
- Taxation of costs and disbursements, Rule 139.03.
- Transcript, proceedings on appeal, Rule 110.02.
- Transmission, transcript on appeal, Rule 111.01.
- Title, Rule 146.
- Petition, Rule 105.02.
- Petition for writ of certiorari, Rule 115.03.
- Transcript, Rule 110.02.
 - Appendix to briefs, contents, Rule 130.01.
 - Extension of time to complete, Rule 110.02.
 - Record on appeal, composition, Rule 110.01.
 - Statement of proceedings unavailable, procedure, Rule 110.03.
 - Supplemental record on appeal, Rule 130.03.
 - Time, transmission, Rule 111.01.
 - Transmission, Rule 111.01.
 - Transmitted to state law library, Rule 111.05.
- Transmission,
 - Certiorari, record on review by, Rule 115.04.
 - Record on appeal, Rule 111.
 - Time, Rule 105.03.
 - Record on review by certiorari, Rule 115.04.
 - Remittitur, Rule 136.03.
 - Transcript, Rule 111.01.
- Transportation, exhibits, appeal, Rule 111.02.
- Trial court,
 - Appealable judgments, Rule 103.03.
 - Certiorari, reference to rules, Rule 115.04.
- Defined, scope of rules, Rule 101.
- Supersedeas and stay on appeal from order or judgment, Rule 108.01.
- Typewriting, motion and papers, Rule 127.
- Typing, cost of proceedings on appeal, Rule 110.02.
- Verdict, appendix to briefs, contents, Rule 130.01.
- Voluntary dismissal, Rule 142.01.
- Waiver,
 - Cost bond on appeal, Rule 103.01.
 - Deposit for cost or bond on appeal, Rule 107.
 - Mandamus, submission of petition, notice, Rule 120.02.
 - Prohibition, submission of petition, notice, Rule 120.02.
- Words and phrases,
 - Trial court, scope of rules, Rule 101.

Rules of Civil Appellate Procedure from the County Courts

Rules Adopted and Effective April 20, 1972
With amendments received through August 1, 1982

TABLE OF HEADNOTES

TITLE I. APPLICABILITY OF RULES

Rule 101. Scope of Rules

Rule 102. Suspension of Rules

TITLE II. APPEALS FROM JUDGMENTS AND ORDERS

Rule 103. Appeal as of Right - How Taken

- 103.01 Manner of Making Appeal
- 103.02 Joint Appeals
- 103.03 Appealable Judgments and Orders
- 103.04 Scope of Review

Rule 104. Time for Service on Notice of Appeal

- 104.01 Effect of Entry of Judgment

Rule 105. Discretionary Review

- 105.01 Petition for Permission to Appeal; Time
- 105.02 Contents of Petition; Response
- 105.03 Grant of Permission - Procedure

Rule 106. Respondent's Right to Obtain Review

Rule 107. Bond or Deposit for Costs

Rule 108. Supersedeas Bond; Stays

- 108.01 Supersedeas Bond
- 108.02 Judgments Directing Conveyances
- 108.03 Extent of Stay
- 108.04 Respondent's Bond to Enforce Judgment
- 108.05 Joinder of Bond Provisions; Service on Adverse Party
- 108.06 Perishable Property

Rule 110. The Record on Appeal

- 110.01 Composition of the Record on Appeal
- 110.02 The Transcript of Proceedings; Duty of Appellant to Order; Notice to Respondent if Partial Transcript is Ordered; Duty of Reporter; Form of Transcript
- 110.03 Statement of the Proceedings When No Report Was Made or When the Transcript is Unavailable
- 110.04 Agreed Statement as the Record
- 110.05 Correction or Modification of the Record

Rule 111. Transmission of the Record

- 111.01 Transmission of Transcript; Time
- 111.02 Transmission of Remainder of Record; Time
- 111.03 Exhibits
- 111.04 Record for Preliminary Hearing in the District Court
- 111.05 Disposition of Record after Appeal

TITLE VII. GENERAL PROVISIONS

Rule 125. Filing and Service

- 125.01 Filing
- 125.02 Service of All Papers Required
- 125.03 Manner of Service
- 125.04 Proof of Service

Rule 126. Computation and Extension or Limitation of Time

- 126.01 Computation
- 126.02 Extension or Limitation of Time

Rule 127. Motions

Rule 128. Briefs

- 128.01 Brief of Appellant
- 128.02 Brief of Respondent
- 128.03 Reply Brief
- 128.04 References in Briefs to Record
- 128.05 Reproduction of Statutes, Ordinances, Rules, Regulations, Etc.

Rule 129. Brief of Amicus Curiae

Rule 130. The Appendix to the Briefs; Supplemental Record

- 130.01 Record Not to be Printed; Appellant to File Appendix
- 130.02 Respondent May File Appendix
- 130.03 Party May File Supplemental Record; Not Taxable Cost

Rule 131. Filing and Service of Briefs, the Appendix, and the Supplemental Record

- 131.01 Time for Filing and Service
- 131.02 Number of Copies to be Filed and Served

Rule 132. Form of Briefs, Appendices, Supplemental Records, and Motions and Other Papers

- 132.01 Form of Briefs, Appendices, and Supplemental Records

Rule 134. Oral Argument

- 134.01 Notice of Hearing; Postponement
- 134.02 Time Allowed for Argument
- 134.03 Order and Content of Argument
- 134.04 Non-Appearance of Counsel
- 134.05 Submission on Briefs
- 134.06 Exhibits; Plats

Rule 136. Notice of Decision; Judgment; Remittitur

- 136.01 Notice of Decision
- 136.02 Entry of Judgment; Stay
- 136.03 Remittitur
- 136.04 Objection to Remittitur

Rule 137. Judgment Roll, Executions

- 137.01 Judgment Roll
- 137.02 Execution; Issuance and Satisfaction

Rule 138. Damages for Delay

Rule 139. Costs and Disbursements

- 139.01 Costs
- 139.02 Disbursements

- 139.03 Taxation of Costs and Disbursements; Time
- 139.04 Objections; Appeal
- 139.05 Disallowance of Costs and Disbursements

Rule 140. Petition for Rehearing

Rule 142. Dismissal; Default

- 142.01 Voluntary Dismissal
- 142.02 Default of Appellant
- 142.03 Default of Respondent

Rule 143. Parties; Substitution

- 143.01 Parties
- 143.02 Death of a Party
- 143.03 Substitution for Other Causes
- 143.04 Public Officers

Rule 144. Cases Involving Constitutional Questions Where State is Not A Party

Rule 145. Appendix of Forms

Rule 146. Title

Rule 147. Effective Date; Statutes Superseded

- 147.01 Effective Date and Application to Pending Proceedings
- 147.02 Statutes Superseded

TEXT OF RULES

TITLE I. APPLICABILITY OF RULES

Rule 101. Scope of Rules

These rules govern procedure in civil appeals to the District Court from the Minnesota County Court. The term "trial court" as used in these rules shall refer to the County Court whose decision is sought to be reviewed. They shall also govern procedure in criminal appeals until separate Rules of Criminal Appellate Procedure are officially promulgated.

Rule 102. Suspension of Rules

In the interest of expediting decision upon any matter before it, or for other good cause shown, the District Court, except as otherwise provided in Rule 126.02 may suspend the requirement or provisions of these rules on application of a party or on its own motion may order the proceeding in accordance with its direction.

TITLE II. APPEALS FROM JUDGMENTS AND ORDERS

Rule 103. Appeal as of Right - How Taken

103.01 Manner of Making Appeal

(1) An appeal shall be made as provided in Minn. Stat. Sec. 487.39 subd. 1. The appellant shall file the notice of appeal and the cost bond required by Rule 107 with the clerk of the county court of the county in which the action is venued in the lower court, together with a deposit of (a) \$23 where the matter appealed from arises under Minn. Stat. Sec. 487.14 and (b) \$25 in all other cases. The bond may be waived by stipulation of the parties.

(2) When a party in good faith serves notice of appeal from a judgment or an order and omits, through inadvertence or mistake, to proceed further with the appeal or to stay proceedings, the District Court may grant relief on such terms as may be just.

(3) Upon compliance with subdivision 1 of this rule, the clerk of the county court shall immediately notify the clerk of the district court in writing thereof and shall retain \$5 of the deposit made under subsection (1) hereof and shall transmit the balance to the clerk of the district court. The clerk of the district court shall then notify a district judge of the judicial district of which his county is a part, of the appeal according to rules to be promulgated by the district judges of each judicial district.

103.02 Joint Appeals

If two or more parties are entitled to appeal from a judgment or order and their interests are such as to make joinder practicable, they may file a joint notice of appeal, or may join in appeal after filing separate notice of appeal, and they may thereafter proceed on appeal as a single appellant.

103.03 Appealable Judgments and Orders

An appeal may be taken to the District Court:

- (a) From a judgment entered in the trial court;
- (b) From an order which grants, refuses, dissolves, or refuses to dissolve, an injunction;
- (c) From an order vacating or sustaining an attachment;
- (d) From an order involving the merits of the action or some part thereof;
- (e) From an order refusing a new trial, or from an order granting a new trial if the trial court expressly states therein, or in a memorandum attached

thereto, that the order is based exclusively upon errors of law occurring at the trial, and upon no other ground; and the trial court shall specify such errors in its order or memorandum, but upon appeal, such order granting a new trial may be sustained for errors of law prejudicial to respondent other than those specified by the trial court;

(f) From an order which, in effect, determines the action, and prevents a judgment from which an appeal might be taken;

(g) From a final order or judgment made or rendered in proceedings supplementary to execution;

(h) Except as otherwise provided by statute, from the final order or judgment affecting a substantial right made in a special proceeding, provided that the appeal must be taken within the time limited for appeal from an order;

(i) If the trial court certifies that the question presented is important and doubtful from an order which denies a motion to dismiss for failure to state a claim upon which relief can be granted or from an order which denies a motion for summary judgment.

103.04 Scope of Review

(1) The District Court upon an appeal may reverse, affirm, or modify the judgment or order appealed from, or take any other action as the interests of justice may require.

(2) On appeal from an order the District Court may review any order affecting the order from which the appeal is taken and on appeal from a judgment may review any order involving the merits or affecting the judgment. It may review any other matter as the interests of justice may require.

Rule 104. Time for Service on Notice of Appeal

104.01 Effect of Entry of Judgment

No order made prior to the entry of judgment shall be appealable after the expiration of time to appeal from the judgment. Time to appeal from the judgment under this section shall not be extended by the subsequent insertion therein of the costs and disbursements of the prevailing party.

Rule 105. Discretionary Review

105.01 Petition for Permission to Appeal; Time

The District Court, in the interest of justice and upon the petition of a party, may allow an appeal from an order not otherwise appealable under Rule 103.03 except an order made during trial. The petition shall be served on the adverse party within the time limited for appeal from an appealable order. Four copies of the petition, including the original, shall be filed with the clerk of the District Court, but the District Court may direct that additional copies be provided.

105.02 Content of Petition; Response

The petition shall be entitled as in the trial court and shall contain a statement of facts necessary to an understanding of the questions of law or fact determined by the order of the trial court; a statement of the question itself; and a statement why an immediate appeal is necessary and desirable. The petition shall include or have annexed thereto a copy of the order from which appeal is sought and any findings of fact, conclusions of law and memorandum relating thereto. Within seven days after service of the petition, any adverse party may serve and file a response thereto, with copies in the number required for the petition. All papers may be typewritten.

The petition and any response shall be submitted without oral argument unless otherwise ordered.

105.03 Grant of Permission - Procedure

If permission to appeal is granted, the clerk of the District Court shall notify the clerk of the county court and the appellant shall pay the appeal fee and file the bond as required by these rules and shall thereafter proceed as though the appeal had been noticed by service of a written notice of an appeal. The time fixed by these rules for transmitting the record and for filing the briefs and appendix shall run from the date of the entry of the order granting permission to appeal.

Rule 106. Respondent's Right to Obtain Review

A respondent may obtain review of a judgment or order entered in the same action which may adversely affect him by serving a notice of review on all parties to the action who may be affected by the judgment or order. The notice of review shall specify the judgment or order to be reviewed and shall be served upon the other parties within fifteen days after service of the notice of appeal on that respondent and thereafter shall be filed with the clerk of the District Court.

Rule 107. Bond or Deposit for Costs

A bond shall be executed by the appellant, conditioned that the appellant shall pay all costs and charges which may be awarded against him on appeal, not exceeding the penalty of the bond, which shall be at least \$250; or that sum shall be deposited with the clerk with whom the judgment or order was entered, to abide the judgment of the District Court. Such bond or deposit may be waived by the written consent of the respondent.

Rule 108. Supersedeas Bond; Stays

108.01 Supersedeas Bond

(1) An appeal from an order or judgment shall stay proceedings in the trial court and save all rights affected thereby, if the appellant executes a supersedeas bond in the amount and form which the trial court shall order and approve, in the cases provided in this Rule.

(2) If the appeal is from an order, the condition of the bond shall be the payment of the costs of the appeal, the damages sustained by the respondent in consequence of the appeal, and the obedience and satisfaction of the order or judgment which the District Court may give, if the order or any part thereof is affirmed or if the appeal is dismissed.

(3) If the appeal is from a judgment directing the payment of money, the condition of the bond shall be the payment of the judgment or that part of the judgment which is affirmed and all damages awarded against the appellant upon the appeal, if the judgment or any part thereof is affirmed, or if the appeal is dismissed.

(4) If the appeal is from a judgment directing the assignment or delivery of documents or personal property, the condition of the bond shall be the obedience of the order or judgment of the District Court. The bond provided by this subdivision need not be given if the appellant places the document or personal property in the custody of the officer or receiver whom the trial court may appoint.

(5) If the appeal is from a judgment directing the sale or delivery or possession of real property, the condition of the bond shall be the payment of the value of the use and occupation of the property from the time of the appeal until the delivery of the possession of the property if the judgment is affirmed, and the undertaking that the appellant shall not commit or suffer the commission of any waste on the property while it remains in his possession during the pendency of the appeal.

(6) In cases not specified in subdivisions (2) to (5) hereof, the giving of the bond specified in Rule 107 shall stay proceedings in the trial court.

108.02 Judgments Directing Conveyances

If the appeal is from a judgment directing the execution of a conveyance or other instrument, its execution shall not be stayed by an appeal until the instrument shall be executed and deposited with the clerk of the trial court to abide the judgment of the District Court.

108.03 Extent of Stay

When a bond is given as provided by Rule 108.01, it shall stay all further proceedings in the trial court upon the judgment or order appealed from or the matter embraced therein; but the trial court may proceed upon any other matter included in the action, and not affected by the judgment or order appealed from.

108.04 Respondent's Bond to Enforce Judgment

Notwithstanding an appeal from a money judgment and security given for a stay of proceedings thereon, the trial court, on motion and notice to the adverse party, may grant leave to the respondent to enforce the judgment upon his giving bond to the appellant as herein provided, if it be made to appear to the satisfaction of the trial court that the appeal was taken for the purpose of delay. Such bond shall be executed by the respondent, or someone in his behalf, and shall be conditioned that if the judgment be reversed or modified the respondent will make such restitution as the District Court shall direct.

108.05 Joinder of Bond Provisions; Service on Adverse Party

The bonds provided for in Rule 107 and Rule 108.01 may be in one instrument or several, at the option of the appellant, and shall be served on the adverse party.

108.06 Perishable Property

If the appeal is from a judgment directing the sale of perishable property, the trial court may order the property to be sold and the proceeds thereof deposited or invested to abide the judgment of the District Court.

Rule 109.

(Reserved for future use.)

Rule 110. The Record on Appeal**110.01 Composition of the Record on Appeal**

The papers filed in the trial court, the offered exhibits, and the transcript of the proceedings, if any, shall constitute the record on appeal in all cases.

110.02 The Transcript of Proceedings; Duty of Appellant to Order; Notice to Respondent if Partial Transcript is Ordered; Duty of Reporter; Form of Transcript

(1) Within ten days after service of the notice of appeal appellant shall order from the reporter a transcript of such parts of the proceedings not already part of the record as he deems necessary for inclusion in the record. Unless the entire transcript is to be included, the appellant, within said ten days, shall file and serve on the respondent a description of the parts of the transcript which he intends to include in the record and the statement of the issues he intends to present on appeal. If the respondent deems a transcript of other parts of the proceedings to be necessary he shall within ten days of service of such description order such parts from the reporter or serve and file a motion in the trial court for an order requiring the appellant to do so.

(2) At the time of ordering, a party must make satisfactory arrangements with the reporter for the payment of the costs of the transcript and all necessary copies. The reporter shall promptly acknowledge receipt of said order and his acceptance of it in writing, with copies to the clerk of the District Court and all counsel of record. In so doing he shall state the date not to exceed a period of thirty days, by which the transcript will be furnished. Upon delivery of the transcript to the

appellant, the reporter shall file with the clerk of the District Court a certificate evidencing the date of delivery of the transcript.

(3) If any party deems the period of time set by the reporter to be excessive or insufficient, or if the reporter needs an extension of time for completion of the transcript, the party or reporter may request a different period of time within which the transcript must be delivered by written motion to the District Court under Rule 127 showing good cause why said period of time is excessive or insufficient. The district judge of the judicial district applicable shall act as a referee in hearing said motion and shall file with the court appropriate findings and recommendations for an order of the court in said matter. A failure to comply with the order of the court fixing a time within which the transcript must be delivered may be punished as a contempt of court.

(4) The transcript shall be typewritten on 11 x 8 1/2 inches or 10 1/2 x 8 1/2 inches unglazed opaque paper with double spacing between each line of text, shall be bound at the left-hand margin, and shall contain a table of contents. The name of each witness shall appear at the top of each page containing his testimony. A question and its answer may be contained in a single paragraph. The original and first copy of the transcript shall be filed with the clerk of the trial court, and a copy shall be promptly transmitted to the attorney for each party to the appeal separately represented. All copies must be legible. The reporter shall certify the correctness of the transcript.

(Amended August 8, 1973.)

110.03 Statement of the Proceedings When no Report was Made or When the Transcript is Unavailable

If no report of all or any part of the proceedings at a hearing or trial was made, or if a transcript is unavailable, the appellant may, within fifteen days after service of the notice of appeal, prepare a statement of the proceedings from the best available means, including his recollection. The statement shall be served on the respondent, who may serve objections or propose amendment thereto within fifteen days after service. Thereupon the statement and any objections or proposed amendments shall be submitted to the trial court and the statement as approved by the trial court shall be included in the record.

110.04 Agreed Statement as the Record

In lieu of the record as defined in Rule 110.01 the parties may prepare and sign a statement of the case showing how the issues presented by the appeal arose and were decided in the trial court and setting forth only so many of the facts averred and proved or sought to be proved as are essential to a decision of the issues presented. If the statement conforms to the truth, it, together with such additions as the trial court may consider necessary to present the issues raised by the appeal, shall be approved by the trial court and shall be the record on appeal.

110.05 Correction or Modification of the Record

If any difference arises as to whether the record truly discloses what occurred in the trial court, the difference shall be submitted to and determined by the trial court and the record made to conform to the truth. If anything material to either party is omitted from the record by error or accident or is misstated therein, the parties by stipulation, or the trial court, either before or after the record is transmitted to the District Court, or the District Court, on motion by a party or on its own initiative, may direct that the omission or misstatement be corrected, and if necessary that a supplemental record be approved and transmitted. All other questions as to the form and content of the record shall be presented to the District Court.

Rule 111. Transmission of the Record**111.01 Transmission of Transcript; Time**

The original and copy of the transcript, if any, shall be transmitted by the appellant to the clerk of the District Court at the time of filing the appellant's brief and appendix.

111.02 Transmission of Remainder of Record; Time

The remainder of the record shall be transmitted to the clerk of the District Court by the clerk of the trial court thirty days prior to the date set for oral argument or submission of the appeal unless the time is shortened or extended by an order of the District Court. The clerk shall transmit with the record a list in duplicate, of the exhibits and the items comprising the record, identifying each with reasonable definiteness. Appellant's attorney has the duty to see that the clerk of the trial court complies with this rule. A party must make his own arrangements for the transportation of bulky or weighty exhibits to and from the clerk of the District Court. Transmission of the record is effected when the clerk of the trial court mails or otherwise forwards the record to the District Court.

111.03 Exhibits

All exhibits sent to the clerk of the District Court shall have endorsed thereon the title of the case to which they belong. All exhibits will be returned to the clerk of the trial court with the remittitur.

111.04 Record for Preliminary Hearing in the District Court

If prior to the time the record is transmitted a party desires to make a motion for dismissal, for a stay pending appeal, for additional security on a bond on appeal or on a supersedeas bond or for any intermediate order, the clerk of the trial court at the request of any party shall transmit to the District Court such parts of the original record as the party shall designate.

111.05 Disposition of Record After Appeal

Upon the termination of the appeal, the clerk of District Court shall transmit the original transcript to the clerk of the county court and a copy of said transcript may be retained by the District Court judge hearing the appeal.

Rules 112 to 124.

(Reserved for future use.)

TITLE VII. GENERAL PROVISIONS**Rule 125. Filing and Service****125.01 Filing**

Papers required or permitted to be filed must be received by the clerk of the District Court within the time fixed for filing.

125.02 Service of All Papers Required

Copies of all papers filed by any party shall be served by him, at or before the time of filing, on all other parties to the appeal or review. Service on a party represented by an attorney shall be made on the attorney.

125.03 Manner of Service

Service may be personal or by mail. Personal service includes delivery of the copy to the attorney or other responsible person in the office of the attorney. Service by mail is complete on mailing.

125.04 Proof of Service

Papers presented for filing shall contain either a written admission of service or an affidavit of service. Proof of service may appear on or be affixed to the

papers filed. The clerk may permit papers to be filed without proof of service, but shall require such proof to be filed promptly thereafter.

Rule 126. Computation and Extension or Limitation of Time

126.01 Computation

In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the method of computation specified in Rules 6.01 and 6.05 of the Rules of Civil Procedure for the District Court shall be used.

126.02 Extension or Limitation of Time

The District Court for good cause shown may by order extend or shorten the time prescribed by these rules or by its order for doing any act, and may permit an act to be done after the expiration of such time if the failure to act was excusable under the circumstances; but the District Court may not extend or shorten the time for service of a notice of appeal.

Rule 127. Motions

Unless another form is prescribed by these rules, an application for an order or other relief shall be made by serving and filing a motion in writing for such order or relief. The motion shall specify the date of its submission, which date shall be not less than eight days after service, and shall state with particularity the grounds therefore, and set forth the order or relief sought. If the motion is supported by briefs, affidavits or other papers, they shall be served and filed with the motion. Any party may file an answer in opposition within five days after service of the motion. Any reply shall be served within two days thereafter. Motion and all papers relating thereto may be typewritten. An original and one copy of all papers shall be filed. Oral argument will not be permitted except by order of the District Court.

Rule 128. Briefs

128.01 Brief of Appellant

The brief of the appellant shall contain under appropriate headings and in the order here indicated:

(1) A table of contents, with page references, and a table of cases (alphabetically arranged), statutes and other authorities cited, with references to the pages of the brief where they are cited.

(2) A concise statement of the legal issue or issues involved, omitting unnecessary detail. Each issue shall be stated as an appellate court would state the broad issue presented. Each issue shall be followed by a concise statement how the trial court decided it.

(3) A statement of the case and the facts. A statement of the case shall first be presented identifying the trial court and the trial judge and indicating briefly the nature of the case and its disposition in the trial court. There shall follow a statement of facts relevant to the grounds urged for reversal, modification, or other relief. The facts must be stated fairly, with complete candor, and as concisely as possible. Where it is claimed that a verdict, finding of fact, or other determination is not sustained by the evidence, the evidence, if any, tending directly or by reasonable inference to sustain the verdict, findings or determination shall be summarized. Each statement of a material fact shall be accompanied by a reference to the record, as provided in Rule 128.04, where such fact appears.

(4) An argument. The argument may be preceded by a summary introduction. The argument shall contain the contentions of the party with respect to the issues presented, the reasons therefor, and the citations to the authorities relied on. Each issue shall be separately presented. Needless repetition shall be avoided.

- (5) A short conclusion stating the precise relief sought.
- (6) The appendix required by Rule 130.01.

128.02 Brief of Respondent

The brief of the respondent shall conform to the requirements of Rule 128.01, except that a statement of the issues or of the case or facts need not be made unless the respondent is dissatisfied with the statement of appellant. If a notice of review is filed pursuant to Rule 106, the respondent's brief shall contain the issues specified in the notice of review and the argument thereon as well as the answer to the brief of appellant.

128.03 Reply Brief

The appellant may file a brief in reply to the brief of the respondent. The reply brief must be confined to new matter raised in the brief of the respondent. No further briefs may be filed except with leave of the District Court.

128.04 References in Briefs to Record

Whenever a reference is made in the briefs to any part of the record which is reproduced in the appendix or in a supplemental record, the reference shall be made to the specific pages of the appendix or the supplemental record where the particular part of the record is reproduced. Whenever a reference is made to a part of the record which is not reproduced in the appendix or in a supplemental record, the reference shall be made to the particular part of the record, suitably designated, and to the specific pages thereof, e.g. Motion for Summary Judgment, p. 1; Transcript, p. 135; Plaintiff's Exhibit, D, p. 3. Intelligible abbreviations may be used.

128.05 Reproduction of Statutes, Ordinances, Rules, Regulations, Etc.

If determination of the issues presented requires the study of statutes, ordinances, rules, regulations, etc., or relevant parts thereof, they shall be reproduced in the brief or in an addendum at the end, or they may be supplied to the court in pamphlet form.

Rule 129. Brief of an Amicus Curiae

Upon prior notice to the parties, a brief of amicus curiae may be filed^f by leave of the District Court. A request for leave shall identify the interest of the applicant and shall state the reason why a brief of an amicus curiae is desirable. Copies of an amicus curiae shall be served on the parties. An amicus curiae will not participate in oral argument.

Rule 130. The Appendix to the Briefs; Supplemental Record

130.01 Record Not to be Printed; Appellant to File Appendix

(1) The record shall not be printed. The appellant shall prepare and file an appendix to his brief which shall contain the following portions of the record:

- (a) the relevant pleadings;
- (b) relevant written motions and orders;
- (c) the trial court's instructions and the verdict, or the findings of fact, conclusions of law and order for judgment;
- (d) relevant post trial motions and orders;
- (e) any memorandum opinions;
- (f) any portion of the transcript containing a discussion of the trial court's instructions and any relevant requests for instructions if the instructions are challenged on appeal;
- (g) any judgments; and
- (h) the notice of appeal.

The parties shall have regard for the fact that the entire record is always available to the District Court for reference or examination and shall not engage in unnecessary reproduction.

(2) If the record includes a statement of the proceedings (made pursuant to Rule 110.04), the statement shall be included in the appendix.

130.02 Respondent May File Appendix

If the respondent determines that the appendix filed by the appellant omits any items specified in Rule 130.01, he may prepare and file an appendix to his brief containing the omitted items.

130.03 Party May File Supplemental Record; Not Taxable Cost

A party may prepare and file a supplemental record, suitably indexed, containing any relevant portion of the record not contained in the appendix. The original paging of each part of the transcript set out in the supplemental record shall be indicated by placing in brackets the number of the original page at the place where the page begins. If the transcript is abridged, the pages and parts of pages of the transcript omitted shall be clearly indicated following the index and at place where the omission occurs. A question and its answer may be contained in a single paragraph. The cost of producing the supplemental record shall not be a taxable cost.

Rule 131. Filing and Service of Briefs, the Appendix, and the Supplemental Record

131.01 The Time for Filing and Service

The appellant shall serve and file his brief and appendix within twenty days of delivery of the transcript by the reporter. If the transcript is obtained prior to appeal, or if the record on appeal does not include a transcript, then the appellant shall serve and file his brief and appendix within twenty days after service of the notice of appeal on the adverse party. The respondent shall serve and file his brief and appendix, if any, within ten days after service of brief of appellant. The appellant may serve and file a reply brief within five days after service of respondent's brief. If a party prepares a supplemental record, the supplemental record shall be served and filed with his first brief.

131.02 Number of Copies to be Filed and Served

The original and one copy of each brief, appendix, and supplemental record, if any, shall be filed with the clerk of the District Court, and one copy shall be served on the attorney for each party to the appeal separately represented. The clerk shall not accept a brief, appendix, or supplemental record, for filing unless it is accompanied by admission or proof of service required by Rule 125.

Rule 132. Form of Briefs, Appendices, Supplemental Records, and Motions and Other Papers

132.01 Form of Briefs, Appendices, and Supplemental Records

(1) All papers shall be typewritten or otherwise duplicated on unglazed opaque paper, 10 1/2 x 8 1/2 inches in size double spaced and in type size no smaller than elite type. All copies must be legible.

(2) The front cover of the brief and appendix shall contain:

(a) the name of the court and the number of the case which number shall be printed or lettered in bold-face print or prominent lettering, the equivalent of 18 point figures, and shall be located one-half inch from the top center of the cover;

(b) the title of the case;

(c) the title of the document, e.g., Appellant's Brief and Appendix; and

(d) the names, addresses, and telephone numbers of the attorneys representing each party to the appeal.

(3) Supplemental records shall be bound in separate volumes and shall, in all other respects, comply with this rule.

Rule 133.

(Reserved for future use.)

Rule 134. Oral Argument

134.01 Notice of Hearing; Postponement

No party shall file a brief or make oral argument unless a party shall file in writing his election to do either or both and serve the same upon all opposing parties within fifteen days of receipt of notice of filing of an appeal. Service of such election and proof thereof shall be filed with the clerk of court as required by Rule 125. The clerk shall advise all parties of the time and place at which oral argument will be heard. A request for postponement of the hearing must be made by motion filed reasonably in advance of the date fixed for hearing. The time and place at which oral argument will be heard shall be provided for by rules to be promulgated by the district judges of each judicial district.

134.02 Time Allowed for Argument

The appellant shall be entitled to a total of twenty minutes oral argument. The respondent shall be entitled to fifteen minutes oral argument. If counsel is of the opinion that additional time is necessary for the adequate presentation of his argument, he may request such additional time as he deems necessary by motion filed in advance of the date fixed for hearing.

134.03 Order and Content of Argument

The appellant is entitled to open and conclude the argument. It is the duty of counsel for appellant to state the case and facts fairly, with complete candor, and as fully as necessary for consideration of the issues to be presented. The appellant shall precede the statement of facts with a summary of the questions to be raised. Counsel should not read at length from the record, briefs or authorities.

134.04 Non-appearance of Counsel

If counsel for a party fails to appear to present argument, the court may hear argument on behalf of a party whose counsel is present, and the case will be decided on the briefs and the argument heard. If no counsel appear for any party, the case will be decided on the briefs unless the court shall otherwise order.

134.05 Submission on Briefs

By agreement of the parties, a case may be submitted for decision on the briefs, but the court may direct that the case be argued.

134.06 Exhibits; Plats

(1) If any exhibits are to be used at the hearing, counsel shall arrange to have them placed in the courtroom before the court convenes on the date of the hearing. Counsel will also see that all photographic exhibits shall be in court for the oral arguments.

(2) In cases where a plat or diagram will facilitate an understanding of the facts or of the issues involved, counsel for appellant shall have in court a plat or diagram of sufficient size and distinctness to be visible to the court. The plat or diagram may be drawn on the courtroom blackboard.

Rule 135.

(Reserved for future use.)

Rule 136. Notice of Decision; Judgment; Remittitur

136.01 Notice of Decision

Upon the filing of a decision or order which determines the matter, the clerk shall mail a copy thereof to the attorneys for the parties and to the trial court. The mailing of such copy shall constitute notice of the filing.

136.02 Entry of Judgment; Stay

The clerk shall enter judgment pursuant to the decision or order not less than ten days after the filing thereof. The service and filing of a petition for rehearing shall stay the entry of the judgment.

136.03 Remittitur

The clerk of the District Court shall transmit the remittitur to the clerk of the trial court when judgment is entered, unless the prevailing party files an objection to the remittitur pursuant to Rule 136.04. The remittitur shall contain a certified copy of the judgment of the District Court signed by the clerk.

136.04 Objection to Remittitur

Unless otherwise ordered by the District Court, the prevailing party's properly taxed costs and disbursements shall be paid by the losing party before he shall be entitled to a remittitur. If the prevailing party serves and files a written objection to remittitur on or before the day set for the taxation of costs and disbursements, the clerk shall not transmit the remittitur to the clerk of the trial court until the costs and disbursements are paid. If it shall appear to the satisfaction of the District Court that the losing party is unable to pay the costs and disbursements, it may permit the remittitur.

Rule 137. Judgment Roll; Executions

137.01 Judgment Roll

In all cases the clerk shall attach together the bond and notice of appeal certified and returned by the clerk of the trial court and a certified copy of the judgment of the District Court, signed by him; and these papers shall constitute the judgment roll.

137.02 Execution; Issuance and Satisfaction

Executions to enforce any judgment of the District Court may issue to the sheriff of any county in which a transcript of the judgment is filed and docketed. Such executions shall be returnable within sixty days from the receipt thereof by the officer. On the return of an execution satisfied in due form of law the clerk shall make entry thereof upon the record.

Rule 138. Damages for Delay

If an appeal delays proceedings on the judgment of the trial court and appears to have been taken merely for delay, the District Court may award just damages and single or double costs to the respondent and reasonable attorney's fees.

Rule 139. Costs and Disbursements

139.01 Costs

Unless otherwise ordered by the District Court, the prevailing party shall recover costs as follows:

- (1) Upon a judgment in his favor on the merits, \$25;
- (2) Upon a dismissal, \$10.

139.02 Disbursements

Unless otherwise ordered by the District Court, the prevailing party shall be allowed his disbursements necessarily paid or incurred.

139.03 Taxation of Costs and Disbursements; Time

Costs and disbursements shall be taxed by the clerk upon two days' written notice served and filed by the prevailing party. The costs and disbursements so taxed shall be inserted in the judgment. Failure to tax costs and disbursements within fifteen days after the filing of the decision or order shall constitute a waiver thereof.

139.04 Objections; Appeal

Written objections to the taxation of costs and disbursements may be served and filed on or before the time set for the taxation thereof. A party may appeal to the District Court from the clerk's taxation by serving and filing a notice of appeal within six days from the date of taxation by the clerk.

139.05 Disallowance of Costs and Disbursements

The clerk, in the first instance, and the District Court upon appeal from the clerk's taxation, or upon its own motion, may disallow the prevailing party's costs or disbursements or both, in whole or in part, for a violation of these rules or for other good cause. The prevailing party will not be allowed to tax as a disbursement the cost of reproducing parts of the record in the appendix which are not relevant to the issues on appeal.

Rule 140. Petition for Rehearing

A petition for rehearing may be filed within 10 days after the filing of the decision or order unless the time is enlarged by order of the District Court within the ten-day period. The petition shall set forth with particularity any controlling statute, decision, or principle of law, any material fact, or any material question in the case which, in the opinion of the petitioner, the District Court has overlooked, failed to consider, misapplied, or misconceived. The petition shall be served upon the opposing party who may answer within five days thereafter. Oral argument in support of the petition will not be permitted. An original and one copy of the petition produced and sized as required by Rule 132.01, shall be filed with the clerk, except that any duplicated copy, other than a carbon copy, of a typewritten original may also be filed. A filing fee of \$25 shall accompany the petition for rehearing. The filing of a petition for rehearing stays the entry of judgment until disposition of such petition. It does not stay the taxation of costs.

Rule 141.

(Reserved for future use.)

Rule 142. Dismissal; Default**142.01 Voluntary Dismissal**

If the parties to an appeal or other proceeding shall sign and file with the clerk a stipulation that the proceedings be dismissed, the clerk shall enter an order of dismissal accordingly.

142.02 Default of Appellant

The respondent may serve and file a motion for judgment of affirmance or dismissal if the appellant shall fail or neglect to serve and file his brief and appendix as required by these rules. If the appellant is in default for twenty days and respondent has not made a motion under this rule, the District Court shall order the appeal dismissed without notice, subject to reinstatement upon motion to the District Court for good cause shown.

142.03 Default of Respondent

If the respondent shall fail or neglect to serve and file his brief, the case shall be determined on the merits. If a defaulting respondent has filed a notice of review pursuant to Rule 106, the appellant may serve and file a motion for judgment of affirmance of the judgment or order specified in the notice of review, or for a dismissal of respondent's review proceedings.

Rule 143. Parties; Substitution**143.01 Parties**

The party appealing shall be known as the appellant and the adverse party as the respondent. The title of the action shall not be changed in consequence of the appeal.

143.02 Death of a Party

If any party to the appeal shall die while an appeal is pending in the District Court, the surviving party or the legal representative or successor in interest of the deceased party, shall file with the clerk of the District Court an affidavit showing such death and the name and address of the legal representative or successor in interest. The clerk, after giving notice to the representative or successor in interest, shall substitute the name of such legal representative or successor in interest by or against whom the appeal shall thereafter proceed. If the deceased party has no representative, any party may suggest the death on the record and proceedings shall then be had as the District Court may direct. If a party against whom an appeal may be taken dies after entry of judgment or order in the trial court but before a notice of appeal is filed, an appellant may proceed as if death had not occurred. After the notice of appeal is filed substitution shall be effected in the District Court in accordance with this rule. If a party entitled to appeal shall die before filing a notice of appeal, the notice of appeal may be filed by his personal attorney of record within the time prescribed by these rules. After the notice of appeal is filed substitution shall be effected in the Supreme Court in accordance with this rule.

143.03 Substitution of Other Causes

If substitution of a party in the District Court is necessary for any reason other than death, substitution shall be effected in accordance with the procedure prescribed in Rule 143.02.

143.04 Public Officers

When a public officer is a party to an appeal or other proceeding in the District Court in his official capacity and during its pendency dies, resigns or otherwise ceases to hold office, the action does not abate and his successor is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantial rights of the parties shall be disregarded. An order of substitution may be entered at any time, but the omission to enter such an order shall not affect the substitution.

Rule 144. Cases Involving Constitutional Questions Where State is not a Party

When the constitutionality of an act of the legislature is drawn in question in any proceeding in the District Court to which the state or an officer, agency, or employee of the state is not a party, the party asserting the unconstitutionality of the act shall notify the attorney general thereof.

Rule 145. Appendix of Forms

The forms contained in the appendix of forms are sufficient under the rules and are intended to indicate the simplicity and brevity of statement which the rules contemplate.

Rule 146. Title

These rules may be known and cited as the Rules of Civil and Criminal Appellate Procedure from the Minnesota County Courts to the District Courts until such time as separate criminal appellate rules are promulgated.

Rule 147. Effective Date; Statutes Superseded**147.01 Effective Date and Application to Pending Proceedings**

These rules will take effect on April 20, 1972. They govern all civil and criminal appeals and proceedings after they take effect and also all further proceedings then pending except to the extent that in the opinion of the District Court their application in any particular proceeding pending when the rules take effect, the rules would not be feasible or would work injustice in which event the procedure existing at the time the proceeding was brought applies.

147.02 Statutes Superseded

Upon the taking of effect of these rules, any statutory provisions inconsistent with these rules with respect to practice and procedure in appealing civil and criminal matters from the Minnesota County Court to the District Court are superseded.

INDEX

- Admission of service, Rule 125.04.
- Affidavits,
 - Death of party, substitution, Rule 143.02.
 - Motions supported by, service, Rule 127.
 - Proof of service, Rule 125.04.
- Affirmance, scope of review, Rule 103.04.
- Agreed statement, record on appeal, Rule 110.04.
- Amicus curiae briefs, Rule 129.
- Appendix,
 - Briefs, filing, Rules 130.01, 130.02, 131.01, 131.02.
 - Forms, Rules 132.01, 145.
- Application of rules, Rules 101, 147.01.
- Argument. Oral argument, generally, post.
- Assignments, delivery of documents or personal property, supersedeas bond, conditions, Rule 108.01.
- Attachment, appealable orders, Rule 103.03.
- Attorney fees, appeal delays, damages, Rule 138.
- Attorney general, constitutional questions, notice, state, party, Rule 144.
- Attorneys, service, Rule 125.02.
- Bond on appeal,
 - Costs, Rule 107.
 - Filing cost bond, Rule 103.01.
 - Judgment roll, Rule 137.01.
 - Permission to appeal, granting, Rule 105.03.
 - Waiver, Rules 103.01, 107.
- Bonds, Supersedeas or stay, post.
- Briefs, Rule 128.
 - Amicus curiae, Rule 129.
 - Appellant, Rule 128.01.
 - Appendix, filing, Rules 130.01, 130.02, 131.01, 131.02.
 - Dismissal of appeal, failure or neglect to serve and file brief and appendix, Rule 142.02.
 - Filing, Rules 131.01, 131.02.
 - Appendix, Rules 130.01, 130.02.
 - Form, Rule 132.01.
 - Motions supported by, service, Rule 127.
 - Oral argument, submission of briefs, Rule 134.05.
 - Permission to appeal, granting, Rule 105.03.
 - References to record, Rule 128.04.
 - Reply brief, Rule 128.03.
 - Reproduction of statutes, ordinances, etc., Rule 128.05.
 - Respondent, Rule 128.02.
 - Filing appendix, Rule 130.02.
 - Service, Rule 131.01.
 - Time, filing and service, Rule 131.01.
- Certificates and certification, transcripts, Rule 110.02.
- Computation of time, Rule 126.01.
- Constitutional questions, state, party, Rule 144.
- Conveyances, judgments directing, stay of proceedings, Rule 108.02.
- Copies, amicus curiae briefs, Rule 129.
- Correction, record on appeal, Rule 110.05.
- Costs and disbursements, Rule 139.
 - Bond on appeal, Rule 107.

- Filing, Rule 103.01.
- Delays, appeals, damages, Rule 138.
- Disallowance, Rule 139.05.
- Dismissal, Rule 139.01.
- Objection to taxation, Rule 139.04.
- Prevailing party, Rule 139.01, 139.02.
- Remittitur, Rule 136.04.
- Supplemental record on appeal, Rule 130.03.
- Taxation,
 - Objection, notice of appeal, Rule 139.04.
 - Time, Rule 139.03.
- Time of taxation, Rule 139.03.
- Damages, appeal delays, Rule 138.
- Death, substitution of parties, Rule 143.02.
- Decrees. Judgment and decrees, generally, post.
- Deeds and conveyances, judgment directing, stay of proceedings, Rule 108.02.
- Default, dismissal,
 - Appellant, Rule 142.02.
 - Respondent, Rule 142.03.
- Definitions, trial court, scope of rules, Rule 101.
- Deposits,
 - Cost on appeal, Rule 107.
 - Perishable property, sale, proceeds, Rule 108.06.
- Disbursements. Costs and disbursements, generally, ante.
- Discretionary review, Rule 105.
- Dismissal, Rule 142.
 - Costs, Rule 139.01.
- Default,
 - Appellant, Rule 142.02.
 - Respondent, Rule 142.03.
- Voluntary dismissal, Rule 142.01.
- Effective date of rules, Rule 147.01.
- Errors, record on appeal, correction or modification, Rule 110.05.
- Execution, Rule 137.02.
 - Appealable orders, Rule 103.03.
- Exhibits,
 - Oral argument, Rule 134.06.
 - Record on appeal, Rule 110.01, 111.03.
- Extension of time, Rule 126.02.
- Fees,
 - Attorney fees, appeal delays, damages, Rule 138.
 - Permission to appeal, granting, Rule 105.03.
 - Rehearing petition, Rule 140.
- Filing, Rule 125.
 - Brief, Rules 131.01, 131.02.
 - Appendix, Rules 130.01, 130.02.
 - Motions, Rule 127.
 - Notice of appeal, Rule 103.01.
 - Papers, Rule 125.01.
 - Supplemental record on appeal, Rule 130.03.
 - Time, Rule 131.01.
- Forms,
 - Appendix, Rules 132.01, 145.
 - Briefs, Rule 132.01.
 - Supplemental records on appeal, Rule 132.01.

- Good faith, notice of appeal, insurers, Rule 103.01.
- Hearings, oral argument, notice, Rule 134.01.
- Injunctions, appealable orders, Rule 103.03.
- Investment, sale of perishable property, proceeds, Rule 108.06.
- Joint appeals, Rule 103.02.
- Joint bonds, supersedeas bonds, Rule 108.05.
- Judgment rolls, Rule 137.01.
- Judgments and decrees, Rule 103 et seq.
 - Appealable judgments, Rule 103.03.
 - Death of party, Rule 143.02.
 - Entry of judgment, Rule 136.02.
 - Execution, Rule 137.02.
 - Supersedeas or stay, generally, post.
 - Time, appeal from, Rule 104.01.
- Limitation of time, Rule 126.02.
- Mail and mailing,
 - Decisions, notice, Rule 136.01.
 - Service, Rule 125.03.
- Manner of appeals, Rule 103.01.
- Merits of action or controversy, appealable orders, Rule 103.03.
- Mistake, good faith, proceedings on appeal, Rule 103.01.
- Modification,
 - Record on appeal, Rule 110.05.
 - Scope of review, Rule 103.04.
- Money judgment, supersedeas bond, conditions, Rule 108.01.
- Motions, Rule 127.
 - Dismissal, default of appellant, Rule 142.02.
- New trial, appealable orders, Rule 103.03.
- Notice,
 - Constitutional questions, party, state, Rule 144.
 - Decisions, Rule 136.
 - Oral argument, hearing, Rule 134.01.
- Notice of appeal,
 - Costs and disbursements, taxation, objection, Rule 139.04.
 - Death of party, Rule 143.02.
 - Deposit, Rule 103.01.
 - Extension of time, Rule 126.02.
 - Filing, Rule 103.01.
 - Judgment roll, Rule 137.01.
 - Limitation of time, Rule 126.02.
 - Permission to appeal, granting, Rule 105.03.
 - Respondent, right to obtain review, Rule 106.
 - Service, respondent, Rule 106.
 - Time, 104.01.
 - Extension of limitation, Rule 126.02.
 - Respondent, right to obtain review, Rule 106.
- Objections,
 - Costs and disbursements, taxation, Rule 139.04.
 - Remittitur, Rule 136.04.
- Omissions, good faith, proceedings on appeal, Rule 103.01.
- Oral argument, Rule 134.
 - Appearance of counsel, Rule 134.04.
 - Contents, Rule 134.03.
 - Exhibits, Rule 134.06.
 - Motions, Rule 127.

- Notice of hearing, Rule 134.01.
- Order of argument, Rule 134.03.
- Petitions,
 - Permission to appeal, Rule 105.02.
 - Rehearing, Rule 140.
- Plats, Rule 134.06.
- Postponement, Rule 134.01.
- Rehearing, petition, Rule 140.
- Submission on briefs, Rule 134.04.
- Time allowed, Rule 134.02.
- Orders, Rule 103 et seq.
 - Appealable orders, Rule 103.03.
 - Dismissal, Rule 142.01.
 - Supersedeas or stay, generally, post.
- Ordinances, briefs, reproduction, Rule 128.05.
- Papers,
 - Filing, Rule 125.01.
 - Service, Rule 125.02 et seq.
- Parties, Rule 143.
 - Death of party, substitution, Rule 143.02.
 - Designation, Rule 143.01.
 - Public officers, substitution, Rule 143.04.
 - State, constitutional questions, Rule 144.
 - Substitution of parties, Rule 143.02 et seq.
- Penalty bond, Rule 107.
- Perishable property, judgment directing sale, supersedeas or stay, Rule 108.06.
- Permission to appeal, Rule 105.
- Petition,
 - Permission to appeal, Rules 105.01, 105.02.
 - Rehearing, Rule 140.
 - Time, permission to appeal, Rule 105.01.
- Plats, oral argument, Rule 134.06.
- Postponement, oral argument, Rule 134.01.
- Preliminary hearing, record on appeal, Rule 111.04.
- Printing, record on appeal, Rule 130.01.
- Proof of service, Rule 125.04.
- Public officers, parties, Rule 143.04.
- Real property, supersedeas bond, conditions, Rule 108.01.
- Record on appeal, Rule 110 et seq.
 - Agreed statement, Rule 110.04.
 - Briefs, references to record, Rule 128.04.
 - Composition, Rule 110.01.
 - Correction of record, Rule 110.05.
 - Exhibits, Rules 110.01, 111.03.
 - Modification, Rule 110.05.
 - Permission to appeal, granting, Rule 105.03.
 - Preliminary hearing, Rule 111.04.
 - Printing, Rule 130.01.
 - Supersedeas or stay, preliminary hearings, Rule 111.04.
 - Supplemental record, Rule 130.
 - Cost, Rule 130.03.
 - Filing, Rule 130.03.
 - Form, Rule 132.01.
 - Time, filing, Rule 131.01.
- Time,

- Supplemental record on appeal, filing, Rule 131.01.
- Transmission of record, Rules 111.01, 111.02.
- Transcripts, generally, post.
- Transmission, Rule 111.
- Regulations, briefs, reproduction, Rule 128.05.
- Rehearing, petition, Rule 140.
- Remittitur, Rule 136.03.
- Objections, Rule 136.04.
- Reply, motions, service, Rule 127.
- Reply brief, Rule 128.03.
- Response, petitions, permission to appeal, Rule 105.02.
- Reversal, scope of review, Rule 103.04.
- Right of appeals, Rule 103.01.
- Respondent, Rule 106.
- Sales,
 - Perishable property, appeal from judgment directing, Rule 108.06.
 - Real property, supersedeas bond, conditions, Rule 108.01.
- Scope of appeal, Rule 103.04.
- Scope of rules, Rule 101.
- Service, Rule 125.
 - Admission of service, Rule 125.04.
 - Affidavit of service, Rule 125.04.
 - Attorneys, Rule 125.02.
 - Briefs, Rule 131.01.
 - Mail and mailing, Rule 125.03.
 - Manner of service, Rule 125.03.
 - Motions, Rule 127.
 - Notice of appeal, time, Rule 104.01.
 - Papers, Rule 125.02 et seq.
 - Petitions,
 - Permission to appeal, Rule 105.01.
 - Rehearing, Rule 140.
 - Proof, Rule 125.04.
 - Rehearing, petition, Rule 140.
 - Supersedeas bonds, Rule 108.05.
- Special proceedings, appealable judgments and orders, Rule 103.03.
- State, constitutional questions, party, notice to attorney general, Rule 144.
- Statement of proceedings, transcript unavailable, Rule 110.03.
- Statutes,
 - Briefs, reproduction, Rule 128.05.
 - Superseded statutes, Rule 142.02.
- Stay. Supersedeas or stay, generally, post.
- Stipulations,
 - Cost bond on appeal, waiver, Rule 103.01.
 - Dismissal, voluntary, Rule 142.01.
- Substitution of parties, Rule 143.02 et seq.
- Summary judgment, appealable orders, Rule 103.03.
- Supersedeas or stay, Rule 108.
 - Bonds, Rule 108.
 - Conditions, Rule 108.01.
 - Extent of stay, Rule 108.03.
 - Joinder of bond provisions, Rule 108.05.
 - Respondent's bond to enforce judgment, Rule 108.04.
 - Conveyances, judgments directing, Rule 108.02.
 - Entry of judgment, Rule 136.02.

Perishable property, Rule 108.06.

Record on appeal, Rule 111.04.

Respondent's bond to enforce judgment, Rule 108.04.

Supplemental record. Record on appeal, ante.

Suspension of rules, Rule 102.

Time,

Briefs, filing and service, Rule 131.01.

Computation, Rule 126.01.

Extension of time, Rule 126.02.

Limitation of time, Rule 126.02.

Notice of appeal, ante.

Petitions,

Permission to appeal, Rule 105.01.

Rehearing, filing, Rule 140.

Record on appeal,

Supplemental record, filing, Rule 131.01.

Transmission, Rules 111.01, 111.02.

Rehearing petition, Rule 140.

Taxation of cost and disbursements, Rule 139.03.

Transcripts, furnishing, Rule 110.02.

Transmission, record on appeal, Rule 111.01, 111.02.

Title of action, Rule 143.01.

Title of rules, Rule 146.

Transcripts, Rules 110.01, 110.02.

Certification, Rule 110.02.

Statement of proceedings, transcript unavailable, Rule 110.03.

Supplemental record on appeal, Rule 130.03.

Time, furnishing, Rule 110.02.

Transmission, Rule 111.01.

Typewriting, Rule 110.02.

Transmission,

Record on appeal, Rule 111.

Transcripts, Rule 111.01.

Trial court, defined, Rule 101.

Typewriting, Rule 110.02.

Motions and papers, Rule 127.

Petitions, permission to appeal, Rule 105.02.

Waiver, cost bond on appeal, Rules 103.01, 107.

Words and phrases, trial court, scope of rules, Rule 101.

Note: This index was originally derived from an index prepared by West Publishing Company and was used with West's permission. Modifications since original use have been made by the Revisor. West retains all copyright rights to the original index.