

**IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE**

**IN RE: AMENDMENTS TO TENNESSEE     )**  
**RULES OF APPELLATE            ) No. \_\_\_\_\_**  
**PROCEDURE                     )**

**ORDER**

The Court adopts the attached amendments effective July 1, 1999, subject to approval by resolutions of the General Assembly.

Enter this the 26th day of January, 1998.

FOR THE COURT:

\_\_\_\_\_  
E. Riley Anderson, Chief Justice

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 3

APPEAL AS OF RIGHT

**Advisory Commission Comment**

It is the policy of the appellate court clerk's office in cases involving cross appeals to consider the appellant to be the party who first files a notice of appeal; in the event that the notices are filed on the same day, the plaintiff in the proceeding below is considered to be the appellant unless the parties otherwise agree or the court otherwise directs.

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 4

APPEAL AS OF RIGHT; TIME FOR  
FILING NOTICE OF APPEAL

\* \* \* \*

**Advisory Commission Comment**

If a bankruptcy automatic stay prevents filing a notice of appeal, the appellant has 30 days after lifting of the stay in which to file the notice. See 11 U.S.C. §108(c).

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 9

INTERLOCUTORY APPEAL BY PERMISSION  
FROM THE TRIAL COURT

(c) How Sought in Appellate Court; [add] Cost Bond--

[Add to existing language:]

A bond for costs as required by Rule 6 shall be filed with the application. An appeal from the denial of an application for interlocutory appeal by an intermediate appellate court is sought by filing an application in the Supreme Court as provided for in Rule 11, with the exception that the application shall be filed within 30 days of the filing date of the intermediate appellate court's order; the application shall be entitled "Application for Permission to Appeal from Denial of Rule 9 Application."

(e) [Delete from title everything except:] Filing the Record

[Delete first sentence]

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 10

EXTRAORDINARY APPEAL BY PERMISSION ON  
ORIGINAL APPLICATION IN THE APPELLATE COURT

(b) How Sought; [add] Cost Bond--

[Add to the existing language two sentences:]

An appeal from the denial of an application for extraordinary appeal by an intermediate appellate court is sought by filing an application in the Supreme Court as provided for in this rule within 30 days of the filing date of the intermediate appellate court's order. A bond for costs as required by Rule 6 shall be filed with the application.

(c) Content of Application--

[Add to existing language:]

The application to the Supreme Court shall include the application filed in the intermediate appellate court and a copy of the intermediate appellate court's order.

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 11

APPEAL BY PERMISSION FROM  
APPELLATE COURT TO SUPREME COURT

(d) Answer; Reply--

[Substitute “filing” for “service”]

(f) Briefs--

[Substitute “filing” for “service”]

**Advisory Commission Comment**

Concerning the scope of an answer under Rule 11(d), consult Rule 13(a), which permits the appellee to raise issues allegedly decided erroneously by the intermediate appellate court.

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 12

DIRECT REVIEW OF ADMINISTRATIVE  
PROCEEDINGS BY COURT OF APPEALS

I

\* \* \* \*

(f) [Change “service” to “filing,” so that the subsection reads:]

The record of proceedings before the agency, as described by T.C.A. §4-5-319, shall be filed by the agency with the clerk of the Court of Appeals, as provided in T.C.A. §4-5-322(d), within 45 days after filing of the petition for review.

\* \* \* \*

II

(a) Petition for Review

[Change the fourth sentence to read as follows:]

The petition for review filed with the clerk of the Court of Appeals shall be accompanied by petitioner’s or petitioner’s counsel’s address, a list of the names and addresses of the parties or counsel upon whom service is required, and an appropriate bond as required in Rule 6.

\* \* \* \*

(e) Agency to File Record; Time for Filing; Notice of Filing

[In the first sentence, change “service” to “filing,” so as to read:]

The agency shall file the record within 45 days after filing of the petition to review.

**Advisory Commission Comment**

Appeals from Claims Commission decisions entered after May 7, 1997, are not governed by Rule 12.

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 23

DUTY TO GIVE CLERK NOTICE OF  
[CHANGE TO:] FILED ORDERS

[Amend the rule to read:]

Immediately on the filing of an order the clerk of the appellate court shall serve by mail notice of its filing on each party to the proceeding, together with a copy of any written reasons respecting the order if not explicitly stated in the notice, and shall make a record of the mailing.



TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 25

COMPLETION AND TRANSMISSION OF THE RECORD

(c) Duty of Clerk to Make Record Available to Prepare Appellate Papers

[Change the language to read as follows:]

An attorney may request the clerk of the appellate court to transmit the record for the purpose of preparing appellate papers. The clerk shall comply with the request by making the record available at the clerk's office or by sending the record to the attorney at the attorney's expense. Upon receiving the record, the attorney is responsible for its safekeeping and shall return the record to the clerk of the appellate court not later than the day upon which the party's brief is to be filed. The clerk shall keep a written account of requests for and return of the record.

Pro se litigants shall be allowed to remove the record from the appellate clerk's office only upon order of the appellate court. Also, pro se litigants may inspect the record at the appellate clerk's office even absent court order.

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 42

ISSUANCE, STAY, AND RECALL OF MANDATES

FROM THE APPELLATE COURT

(a) Definition; Issuance; Stay on Petition for Rehearing

[Delete from the first sentence “statement of costs,” resulting in:]

Copies, certified by the clerk of the appellate court, of the judgment, any order as to costs or instructions as to interest, and a copy of the opinion of the appellate court shall constitute the mandate.