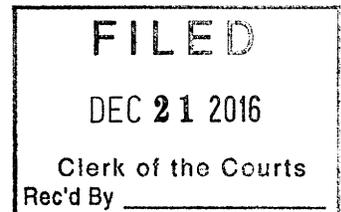


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE AMENDMENT TO THE TENNESSEE RULES
OF APPELLATE PROCEDURE

No. ADM2016-01777



ORDER

The Court adopts the attached amendments effective July 1, 2017, subject to approval by resolutions of the General Assembly. The rules amended are as follows:

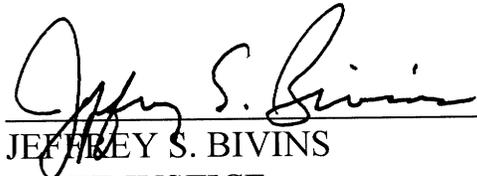
- | | |
|----------|---|
| RULE 3 | APPEAL AS OF RIGHT: AVAILABILITY;
METHOD OF INITIATION; |
| RULE 4 | APPEAL AS OF RIGHT: TIME FOR
FILING NOTICE OF APPEAL; |
| RULE 5 | APPEAL AS OF RIGHT: SERVICE OF
NOTICE OF APPEAL; DOCKETING OF
THE APPEAL; |
| RULE 6 | COSTS ON APPEAL; |
| RULE 9 | INTERLOCUTORY APPEAL BY
PERMISSION FROM THE TRIAL COURT; |
| RULE 10 | EXTRAORDINARY APPEAL BY
PERMISSION ON ORIGINAL
APPLICATION IN THE APPELLATE
COURT; |
| RULE 11 | APPEAL BY PERMISSION FROM
APPELLATE COURT TO SUPREME
COURT; |
| RULE 12 | DIRECT REVIEW OF ADMINISTRATIVE
PROCEEDINGS BY THE COURT OF
APPEALS; |
| RULE 20A | FACSIMILE FILING OF PAPERS; |
| RULE 25 | COMPLETION AND TRANSMISSION OF
THE RECORD; |

APPENDIX A: FORMS Form 1 (NOTICE OF APPEAL);
and
APPENDIX A: FORMS Form 3 (UNIFORM FACSIMILE
FILING COVER SHEET).

The text of each amendment is set out in the attached Appendix.

IT IS SO ORDERED.

FOR THE COURT:

A handwritten signature in black ink, appearing to read "Jeffrey S. Bivins", is written over a horizontal line.

JEFFREY S. BIVINS
CHIEF JUSTICE

APPENDIX

***AMENDMENTS TO THE
RULES OF APPELLATE PROCEDURE***

**[Deleted text is indicated by overstriking,
and new text is indicated by underlining.]**

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 3

APPEAL AS OF RIGHT: AVAILABILITY; METHOD OF INITIATION

[Amend subdivisions (e) and (f) as indicated below; the other subdivisions of the rule are unchanged:]

* * * *

(e) Initiation of Appeal as of Right. — An appeal as of right to the Supreme Court, Court of Appeals, or Court of Criminal Appeals shall be taken by timely filing a notice of appeal with the clerk of the appellate ~~trial~~ court as provided in Rule 4 and by service of the notice of appeal as provided in Rule 5. An appeal as of right may be taken without moving in arrest of judgment, praying for an appeal, entry of an order permitting an appeal or compliance with any other similar procedure. Provided, however, that in all cases tried by a jury, no issue presented for review shall be predicated upon error in the admission or exclusion of evidence, jury instructions granted or refused, misconduct of jurors, parties or counsel, or other action committed or occurring during the trial of the case, or other ground upon which a new trial is sought, unless the same was specifically stated in a motion for a new trial; otherwise such issues will be treated as waived. Failure of an appellant to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal but is ground only for such action as the appellate court deems appropriate, which may include dismissal of the appeal. ~~The trial court clerk shall send the trial judge a copy of all notices of appeal.~~

(f) Content of the Notice of Appeal. — The notice of appeal shall specify the party or parties taking the appeal by naming each one in the caption or body of the notice (but an attorney representing more than one party may describe those parties with such terms as “all plaintiffs,” “the defendants,” “the plaintiffs A, B, et al.,” or “all defendants except X”), shall designate the judgment from which relief is sought, and shall name the court to which the appeal is taken. The notice of appeal should include a list of the parties upon whom service of notice of docketing of the appeal is required by Rule 5 of these rules. An appeal shall not be dismissed for informality of form or title of notice of appeal.

* * * *

Advisory Commission Comment [2017]

In 2017, the Appellate Court Clerk’s office will implement electronic filing and begin charging fees at the initiation of an appeal. To accommodate these initiatives, subdivision (e) of this rule is amended to change the location for filing the notice of appeal from the office of the trial court clerk to the office of the appellate court clerk. Subdivision (f) is also amended to be consistent with amended Form 1 (“Notice of Appeal”) in the Appendix to the rules.

This paragraph of the Comment is added to cross-reference the 2017 amendment to Tenn. R. Crim. P. 36, which provides that an appeal as of right is available following the trial court’s *denial* of a motion filed pursuant to Tenn. R. Crim. P. 36, in addition to cases in which the court files a corrected judgment or order. That amendment makes Tenn. R. Crim. P. 36 consistent with the text of the 2012 amendment to Tenn. R. App. P. 3(b) and (c), which authorized an appeal as of right from “an order or judgment entered pursuant to Rule 36. . . , Tennessee Rules of Criminal Procedure[.]” As a result of the 2017 amendment to Tenn. R. Crim. P. 36, the second paragraph of the 2012 Advisory Commission Comment to Tenn. R. App. P. 3(b) and (c) is superceded.

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 4

APPEAL AS OF RIGHT: TIME FOR FILING NOTICE OF APPEAL

[Amend subdivision (a) as indicated below; the other subdivisions of the rule are unchanged:]

(a) Generally. — In an appeal as of right to the Supreme Court, Court of Appeals or Court of Criminal Appeals, the notice of appeal required by Rule 3 shall be filed with ~~and received by~~ the clerk of the appellate ~~trial~~ court within 30 days after the date of entry of the judgment appealed from; however, in all criminal cases the “notice of appeal” document is not jurisdictional and the timely filing of such document may be waived in the interest of justice. The appropriate appellate court shall be the court that determines whether such a waiver is in the interest of justice. Any party may serve notice of entry of an appealable judgment in the manner provided in Rule 20 for the service of papers.

Transitional Provision. — Effective July 1, 2017, Rule 4(a) is amended to require that the notice of appeal be filed with the appellate court clerk, instead of the trial court clerk. In the event a party, on or after July 1, 2017, incorrectly attempts to file a notice of appeal with the trial court clerk, the trial court clerk shall note the date and time of receipt of the attempted filing and shall immediately notify the party attempting to file the notice of appeal that the notice must be filed with the appellate court clerk. If the attempted filing of the notice of appeal with the trial court clerk was received by the trial court clerk within 30 days after the date of entry of the judgment, the party attempting to file the notice with the trial court clerk shall have 20 additional days, counting from the 30th day after the date of entry of the judgment, within which to file the

notice of appeal with the appellate court clerk; a notice of appeal filed with the appellate court clerk during the additional period allowed by this transitional provision shall be deemed to have been timely filed. This transitional provision shall expire at 11:59 p.m., appellate court clerk's local time, on June 29, 2018, after which this transitional provision shall automatically be repealed. During the period this transitional provision is in effect, this provision shall govern all cases meeting its requirements, notwithstanding any other provision of these Rules. See Tenn. R. App. P. 2 and Tenn. R. App. P. 21(b) (stating, in summary, that the time for filing a notice of appeal cannot be suspended or extended by the appellate court).

* * * *

Advisory Commission Comment [2017]

In 2017, the Appellate Court Clerk's office will implement electronic filing and begin charging fees at the initiation of an appeal. To accommodate these initiatives, subdivision (a) of this rule is amended to change the location for filing the notice of appeal from the office of the trial court clerk to the office of the appellate court clerk. The word "timely" is also added to the second clause of the first sentence in subdivision (a) for the purpose of clarification. The rule is further amended to add a one year transitional rule to lessen the detrimental effect for those who mistakenly attempt to file their notice of appeal at the last minute with the trial court clerk.

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 5

APPEAL AS OF RIGHT: SERVICE OF NOTICE OF APPEAL; DOCKETING OF THE APPEAL

[Amend subdivisions (a), (b), and (c) as indicated below:]

(a) Service of Notice of Appeal in Civil Actions. — Not later than 7 days after filing the notice of appeal, the appellant in a civil action shall serve a copy of the notice of appeal on counsel of record for each party or, if a party is not represented by counsel, on the party. Proof of service in the manner provided in Rule 20(e) shall be filed with the clerk of the appellate ~~trial~~ court within 7 days after service. The appellant shall note on each copy served the date on which the notice of appeal was filed. Service shall be sufficient notwithstanding the death of a party or counsel. The ~~trial court~~ clerk of the appellate court shall promptly send a copy of ~~serve~~ all filed notices of appeal to ~~on~~ the trial court and the clerk of the trial ~~appellate~~ court designated in the notice of appeal. ~~With the notice of appeal, the trial court clerk shall also serve on the clerk of the appellate court either an appeal bond or an affidavit of indigency or a notice of the appellant's failure to file either an appeal bond or affidavit.~~

(b) Service of Notice of Appeal in Criminal Actions. — In criminal actions, when the defendant is the appellant and the action was prosecuted by the state, the defendant shall serve a copy of the notice of appeal on the district attorney general of the county in which the judgment was entered and on the attorney general at the Attorney General's Nashville, Tennessee office. When the defendant is the appellant and the action was prosecuted by a governmental entity

other than the state for the violation of an ordinance, the copy of the notice of appeal shall be served on the chief legal officer of the entity or, if this officer's name and address does not appear of record, then on the chief administrative officer of the entity at his or her official address. When the state or other prosecuting entity is the appellant, a copy of the notice of appeal shall be served on the defendant and the defendant's counsel. Service shall be made not later than 7 days after filing notice of appeal and proof of service in the manner provided in Rule 20(e) shall be filed with the clerk of the appellate ~~trial~~ court within 7 days after service. The appellant shall note on each copy served the date on which the notice of appeal was filed. The ~~trial court~~ clerk of the appellate court shall promptly send a copy of ~~serve~~ all filed notices of appeal ~~to on the trial court and the clerk of the trial~~ appellate court designated in the notice of appeal.

(c) Docketing of the Appeal. — The clerk of the appellate court shall enter the appeal on the docket immediately upon receipt ~~of the copy~~ of the notice of appeal ~~served upon the clerk of the appellate court by the trial court clerk~~ or, in appeals other than appeals as of right pursuant to Rule 3, upon receipt of the application or petition initiating the appeal. The clerk of the appellate court shall immediately serve notice on all parties of the docketing of the appeal. An appeal shall be docketed under the title given to the action in the trial court, with the appellant identified as such, but if such title does not contain the name of the appellant, the party's name, identified as appellant, shall be added to the title unless otherwise directed by the appellate court. With the service of the notice of docketing of the appeal, the clerk of the appellate court shall send to the appellant, and the appellant shall fully complete and return to the clerk, a docketing statement in the form prescribed by the clerk.

If more than one party files a notice of appeal in an action appealed to the Court of Appeals pursuant to Tenn. R. App. P. 3, the first party filing a notice of appeal shall be deemed to be the appellant, unless otherwise directed by the court.

Advisory Commission Comment [2017]

In 2017, the Appellate Court Clerk's office will implement electronic filing and begin charging fees at the initiation of an appeal. To accommodate these initiatives, Rule 4 is amended to change the location for filing the notice of appeal from the office of the trial court clerk to the office of the appellate court clerk. Subdivisions (a), (b) and (c) of this rule are amended to reflect this change in Rule 4. Additionally, subdivision (c) is amended to clarify the appellate court's authority to designate the title given to the appellate action.

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 6

SECURITY FOR COSTS ON APPEAL

[Amend the title of the rule as indicated above and amend subdivisions (a), (b), and (c) as indicated below:]

(a) Unless an appellant is exempted by statute or these rules or the Tennessee Rules of Civil Procedure, or has established indigency in accordance with Rule 18 and been permitted to proceed on appeal as an indigent person, the appellant shall pay to the clerk of the appellate court all applicable fees established by order or rule of the Supreme Court. Contemporaneous with the filing of appellant's notice of appeal or other initiating document, appellant shall (1) pay all applicable litigation taxes and all applicable fees required by the clerk of the appellate court, (2) establish to the satisfaction of the clerk of the appellate court the basis for an exemption, or (3) apply for, or establish proof of, indigency in accordance with Rule 18. If the appellant fails to pay the applicable litigation taxes or fees or to establish indigency or an appropriate exemption, the appellate court may issue an order requiring the appellant to show cause why the appeal should not be dismissed for failure to pay the applicable litigation taxes or fees. ~~or has filed a bond for a stay that includes security for the payment of costs on appeal, in civil actions a bond for costs on appeal shall be filed by the appellant in the trial court with the notice of appeal. The trial court shall notify the Appellate Court Clerk of a party's failure to file a bond with the notice of appeal. The appellate court may issue a show cause order as to why the appeal should not be dismissed for failure to file a bond. A bond for costs on appeal shall have sufficient surety, and it~~

~~shall be conditioned to secure the payment of costs if the appeal is finally dismissed or the judgment affirmed or the payment of such costs as the appellate court may direct if judgment is modified. In order to ensure that a surety is sufficient, the appellate court clerk may require the surety to provide proof that the surety has sufficient assets in the State of Tennessee to pay the costs of the appeal. If the appellate court clerk determines that the surety is not sufficient, the appellate court clerk may reject the bond for costs. The surety may appeal the decision of the appellate court clerk to the appellate court by filing a motion to approve the bond for costs within 10 days of the decision of the appellate court clerk. After a bond for costs on appeal is filed, an appellee may raise on motion for determination by the trial court objections to the form of the bond and/or the sufficiency of the surety. The provisions of Tennessee Rule of Civil Procedure 65A, regarding other forms of security and sureties, apply to a bond given under this rule.~~

~~(b) Unless an appellant is exempted by statute or has filed an affidavit of indigency and been permitted to proceed on appeal as an indigent person, the appellant shall pay to the clerk of the appellate court all applicable litigation taxes upon receipt of the notice of docketing of the appeal pursuant to Rule 5(c). If the appellant fails to pay the litigation tax, the appellate court may issue an order requiring the appellant to show cause why the appeal should not be dismissed for failure to pay the litigation tax. [Reserved.]~~

~~(c) Any party wanting to litigate appellate issues despite dismissal of the original appellant's appeal shall comply with the requirements of this rule for payment of applicable fees and/or taxes as required by the clerk of the appellate court. ~~file with the appellate court clerk a cost bond with sufficient surety to replace the cost bond filed by the original appellant. Filing of~~~~

~~the replacement cost bond shall relieve the original appellant and surety of further obligations under the original cost bond.~~

Advisory Commission Comment [2017]

In 2017, the Appellate Court Clerk's office will implement electronic filing and begin charging fees at the initiation of an appeal. To accommodate these initiatives, Rule 4 is amended to change the location for filing the notice of appeal from the office of the trial court clerk to the office of the appellate court clerk. Subdivisions (a) and (c) of this rule are amended to reflect that fees and taxes are to be paid at the initiation of a case, except under limited circumstances. Subdivision (b) is deleted due to subdivision (a) being amended to address the payment of litigation taxes, which was previously addressed in subdivision (b). The amendment to Rule 6 requiring the payment of all applicable appellate fees to the clerk of the appellate court is not meant to address any additional statutory fees that might be due to the trial court clerk for preparation of the record on appeal or that are otherwise due to the trial court clerk.

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 9

INTERLOCUTORY APPEAL BY PERMISSION FROM THE TRIAL COURT

[Amend subdivisions (c) and (d) as indicated below; the other subdivisions of the rule are unchanged:]

* * * *

(c) How Sought in Appellate Court; Clerk's Fees~~Cost Bond~~. — The appeal is sought by filing an application for permission to appeal with the clerk of the appellate court within 10 days after the date of entry of the order in the trial court or the making of the prescribed statement by the trial court, whichever is later. A sufficient number of copies shall be filed to provide the clerk and each judge of the appellate court with one copy. The application shall be served on all other parties in the manner provided in Rule 20 for the service of papers.

Applicable fees, taxes, or documentation~~A bond for costs~~ as required by Rule 6 shall be ~~filed~~ submitted 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."

(d) Content of Application; Answer. — The application shall contain: (1) a statement of the questions presented for review; (2) a statement of the facts necessary to an understanding of why an appeal by permission lies, with appropriate references to the documents contained in the

appendix to the application; and (3) a statement of the reasons supporting an immediate appeal. A statement of reasons is sufficient if it simply incorporates by reference the trial court's reasons for its opinion that an appeal lies. The application shall be accompanied by an appendix containing copies of: (1) the order appealed from, (2) the trial court's statement of reasons, and (3) the other parts of the record necessary for determination of the application for permission to appeal. Within 10 days after filing of the application, any other party may file an answer in opposition, with copies in the number required for the application, together with an appendix containing any additional parts of the record such party desires to have considered by the appellate court; any statement of facts in the answer shall contain appropriate references to the documents contained in the appendix to the application or the appendix to the answer. The answer shall be served on all other parties in the manner provided in Rule 20 for the service of papers. If available, the color of the cover of the application shall be blue, and the cover of the answer shall be red. The color of the cover of an answer filed by an amicus curiae shall be green. The application and answer shall be submitted without oral argument unless otherwise ordered.

* * * *

Advisory Commission Comment [2017]

In 2017, the Appellate Court Clerk's office will implement electronic filing and begin charging fees at the initiation of an appeal. To accommodate these initiatives, Rule 6 is amended to reflect that fees and taxes are to be paid at the initiation of a case, except under limited circumstances. Subdivision (c) of this rule is amended to reflect that fees are to be submitted with the application, rather than secured under the former procedure of filing a cost bond.

Rule 9(d) is amended to require that the statement of the facts in the application contain appropriate references to the documents contained in the appendix to the application. Subdivision (d) also is amended to require that any statement of facts in an answer to the application contain appropriate references to the documents contained in the appendix to the

application or the appendix to the answer. These requirements are intended to facilitate the appellate court's efficient review of the application for an interlocutory appeal by permission from the trial court.

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 10

EXTRAORDINARY APPEAL BY PERMISSION ON ORIGINAL
APPLICATION IN THE APPELLATE COURT

[Amend subdivisions (b), (c), and (d) as indicated below; the other subdivisions of the rule are unchanged:]

* * * *

(b) How Sought; Clerk's Fees ~~Cost Bond~~. — An extraordinary appeal is sought by filing an application for an extraordinary appeal with the clerk of the appellate court. A sufficient number of copies shall be filed to provide the clerk and each judge of the appellate court with one copy. Unless necessity requires otherwise, the application shall be served on all other parties in the manner provided in Rule 20 for the service of papers. The appeal shall be docketed in accordance with Rule 5(c) upon the filing of the application with the clerk of the appellate court. 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. Applicable fees, taxes, or documentation ~~A bond for costs~~ as required by Rule 6 shall be ~~filed~~ submitted with the application.

(c) Content of Application. — The application shall contain: (1) a statement of the questions presented for review; (2) a statement of the facts necessary to an understanding of why an extraordinary appeal lies, with appropriate references to the documents contained in the appendix to the application; (3) a statement of the reasons supporting an extraordinary appeal,

and (4) the relief sought. The application shall be accompanied by an appendix containing copies of any order or opinion relevant to the questions presented in the application or and any other parts of the record necessary for determination of the application. The application may also be supported by affidavits or other relevant documents, which also shall be contained in the appendix. 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.

(d) Subsequent Procedure. — If the appellate court is of the opinion that an extraordinary appeal should not be granted, it shall deny the application. Otherwise, the appellate court shall order that an answer to the application be filed by the other parties within the time fixed by the order. The order shall be served on all other parties and if the application has not previously been served shall have attached thereto a copy of the application. Such answers shall be accompanied by an appendix containing any additional parts of the record the answering party desires to have considered by the appellate court; any statement of facts in the answer shall contain appropriate references to the documents contained in the appendix to the application or the appendix to the answer. After the answer is filed, the appellate court shall either grant or deny the application. If the application is granted, the trial court clerk must file the record on appeal within 30 days from the date of entry of the order granting permission to appeal or within such other period as the appellate court may direct. The appellate court shall advise the parties of the dates on which briefs are to be filed, if briefs are required, and of the date of oral argument, if oral argument is granted.

* * * *

Advisory Commission Comment [2017]

In 2017, the Appellate Court Clerk's office will implement electronic filing and begin charging fees at the initiation of an appeal. To accommodate these initiatives, Rule 6 is amended to reflect that fees and taxes are to be paid at the initiation of a case, except under limited circumstances. Subdivision (b) of this rule is amended to reflect that fees are to be submitted with the application, rather than secured under the former procedure of filing a cost bond.

Rule 10(c) is amended to require that the statement of the facts in the application contain appropriate references to the documents contained in the appendix to the application. Rule 10(d) is amended to require that, in the event the appellate court orders the filing of an answer to the application, the answer be accompanied by an appendix containing any additional parts of the record the answering party desires to have considered by the appellate court; subdivision (d) also is amended to require that any statement of facts in the answer contain appropriate references to the documents contained in the appendix to the application or the appendix to the answer. These requirements are intended to facilitate the appellate court's efficient review of the application for an extraordinary appeal on original application in the appellate court.

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 11

APPEAL BY PERMISSION FROM APPELLATE COURT TO SUPREME COURT

[Amend subdivisions (b), (d), and (h) as indicated below; the other subdivisions of the rule are unchanged:]

* * * *

(b) Time; Content. — The application for permission to appeal shall be filed with the clerk of the Supreme Court within 60 days after the entry of the judgment of the Court of Appeals or Court of Criminal Appeals if no timely petition for rehearing is filed, or, if a timely petition for rehearing is filed, within 60 days after the denial of the petition or entry of the judgment on rehearing. Except for an application seeking to appeal the Court of Criminal Appeals' disposition of an appeal pursuant to Rule 9 or Rule 10, the time period for filing an application for permission to appeal is not jurisdictional in a case arising from the Court of Criminal Appeals and may be waived by the Supreme Court in the interest of justice. The application shall contain a statement of: (1) the date on which the judgment was entered and whether a petition for rehearing was filed, and if so, the date of the denial of the petition or the date of entry of the judgment on rehearing; (2) the questions presented for review and, for each question presented, a concise statement of the applicable standard of review (which may appear in the discussion of the issue or under a separate heading placed before the discussion of the issues); (3) the facts relevant to the questions presented, with appropriate references to the record, but facts correctly stated in the opinion of the intermediate appellate court need not be restated in the application; and (4) the reasons, including appropriate authorities, supporting

review by the Supreme Court. Except by order of the Supreme Court, the argument in an application for permission to appeal shall not exceed 50 pages. The brief of the appellant referred to in subdivision (f) of this rule may be served and filed with the application for permission to appeal. A copy of the opinion of the appellate court shall be appended to the application.

(c) * * * *

(d) Answer; Reply. — Within 15 days after filing of the application, any other party may file an answer in opposition, with copies in the number required for the application. An answer shall set forth the reasons why the application should not be granted and any other matters considered necessary for correction of the application. Additional facts stated in the answer shall contain appropriate references to the record. Except by order of the Supreme Court, the argument in an answer in opposition shall not exceed 25 pages. The answer shall be served on all other parties in the manner provided in Rule 20 for the filing of papers. No reply to the answer shall be filed.

* * * *

(h) [Reserved.] ~~Grant of Permission; Cost Bond. In civil cases, if application for permission to appeal is made by the appellee in the Court of Appeals and there is no appeal bond for costs with sufficient surety filed by the appealing party in the Court below, the appealing party must file an appeal bond for costs with sufficient surety in the amount of \$1000. If this amount is deemed insufficient to cover the costs on appeal the Court may require an additional bond in an amount the Court deems sufficient to cover the cost of appeal. If application for permission to appeal is made by the appellant in the Court of Appeals and the appeal bond is~~

~~insufficient to cover the cost of appeal, the Court may require the appealing party to file an additional bond in an amount the Court deems sufficient to cover the cost of appeal.~~

Advisory Commission Comment [2017]

Rule 11(b) and (d) are amended to require that the statement of facts in the application, and any additional facts stated in an answer to the application, contain appropriate references to the record. These requirements are intended to facilitate the appellate court's efficient review of the application for an appeal by permission from the appellate court to the Supreme Court.

In 2017, the Appellate Court Clerk's office will implement electronic filing and begin charging fees at the initiation of an appeal. To accommodate these initiatives, Rule 6 is amended to reflect that fees and taxes are to be paid at the initiation of a case, except under limited circumstances, rather than secured under the former procedure of filing a cost bond. Subdivision (h) of this rule, which addressed the posting of bonds under certain circumstances, is deleted as unnecessary in light of the amendment to Rule 6.

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 12

DIRECT REVIEW OF ADMINISTRATIVE PROCEEDINGS
BY THE COURT OF APPEALS

[Amend the rule as indicated below; the other subdivisions of the rule are unchanged:]

I.

For those agencies which are subject to the Tennessee Uniform Administrative Procedures Act and from which appeals are taken directly to the Court of Appeals, the procedure upon review shall be as follows:

(a) Any person who is aggrieved by a final decision in a contested case may seek judicial review by filing a petition for review with the clerk of the Court of Appeals within 60 days after entry of the administrative order appealed from. The agency shall be named respondent.

(b) The petition shall specify the party seeking review, designate the order to be reviewed, and briefly describe the issues which the petitioner intends to raise. If two or more persons are entitled to petition for review of the same order and their interests are such as to make joinder practicable, they may file a joint petition and proceed as a single petitioner.

(c) The petition shall be accompanied by any applicable fees, taxes, or documentation ~~an appropriate bond as provided in~~ required by Rule 6.

* * * *

II.

For all other agencies from which appeals are taken directly to the Court of Appeals, the procedure upon review shall be as follows:

(a) Petition for Review. — Review is instituted by filing a petition for review with the clerk of the Court of Appeals within thirty days after the date of entry of the administrative order appealed from. The petition for review shall specify the party or parties seeking review and shall designate the respondent and the order to be reviewed. The agency and all other parties of record shall be named as respondents. 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 any applicable fees, taxes, or documentation ~~an appropriate bond~~ as required ~~by~~ Rule 6. The clerk of the Court of Appeals shall docket the proceeding and serve notice of the docketing as provided in Rule 5(c).

* * * *

Advisory Commission Comment [2017]

In 2017, the Appellate Court Clerk's office will implement electronic filing and begin charging fees at the initiation of an appeal. To accommodate these initiatives, Rule 6 is amended to reflect that fees and taxes are to be paid at the initiation of a case except under limited circumstances. Subdivision (c) of section I of Rule 12 and subdivision (a) of section II of Rule 12 are amended to reflect that any applicable fees and taxes are to be submitted with the petition, rather than the former procedure of filing a cost bond.

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 20A

FACSIMILE FILING OF PAPERS

[Amend subdivisions (b)(4) and (b)(6) as indicated below; the other subdivisions of the rule are unchanged:]

* * * *

(b) Filing Procedures. —

* * * *

(4) Only the following documents may be filed in an appellate court by facsimile transmission:

(a) ~~copy of notice of appeal served on the appellate court clerk by the trial court clerk~~ [Reserved];

* * * *

(6) No facsimile filing shall exceed ~~ten (10)~~ fifty (50) pages in length, including the cover sheet, unless authorized by the court. A facsimile filing may not be split into multiple facsimile transmissions to avoid this page limitation. All documents filed by facsimile transmission shall comply with all applicable rules of court, including, without limitation, rules governing the content and form of the papers, and the service of all papers.

(7) * * * *

Advisory Commission Comment [2017]

In 2017, the Appellate Court Clerk's office will implement electronic filing and begin charging fees at the initiation of an appeal. To accommodate these initiatives, Rule 4 is amended to change the location for filing the notice of appeal from the office of the trial court clerk to the

office of the appellate court clerk. Subdivision (b)(4)(a) of this rule is no longer necessary due to the amendment to Rule 4.

Rule 20A(b)(6) is amended to increase the page limit for facsimile filings from ten (10) to fifty (50).

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 25

COMPLETION AND TRANSMISSION OF THE RECORD

[Amend the first sentence of subdivision (a) as indicated below; the remainder of subdivision (a) and the other subdivisions of the rule are unchanged:]

(a) Time for Completion of the Record; Duty of the Parties. — The record on appeal shall be assembled, numbered and completed by the clerk of the trial court within 45 days after filing of the transcript or statement prepared in accordance with Rule 24(b) or 24(c) or, if no transcript or statement is to be filed, within 45 days after filing of appellant’s notice under Rule 24(d) that no transcript or statement is to be filed, unless the time is extended by an order entered under subdivision (d) of this rule ~~or if proof of service of the notice of appeal has not been filed.~~ * * *

*

Advisory Commission Comment [2017]

The first sentence of subdivision (a) of this rule is amended by deleting the following obsolete text, formerly at the end of that sentence: “or if proof of service of the notice of appeal has not been filed[.]”

TENNESSEE RULES OF APPELLATE PROCEDURE

APPENDIX A: FORMS

Form 1

[Amend footnote 1 as indicated below:]

NOTICE OF APPEAL¹

In the _____ Court for _____ County, Tennessee

No. _____

A. B., Plaintiff

v.

C. D., Defendant

)
)
)
)
)

Notice of Appeal

Notice is hereby given that C. D., defendant above named, hereby appeals to the (Supreme Court of Tennessee or Court of Appeals or Court of Criminal Appeals) from the final judgment entered in this action on the _____ day of _____, 20__.

/s/ _____

(Address)

Counsel for C. D.

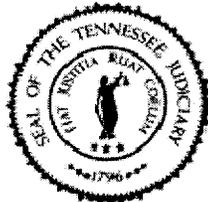
¹ The ~~copy of the~~ notice of appeal filed with the clerk of the appellate court should include a list of the parties upon whom service of notice of docketing of the appeal is required by Rule 5 of these rules.

TENNESSEE RULES OF APPELLATE PROCEDURE

APPENDIX A: FORMS

Form 3

[Amend the last sentence of the form as indicated below:]



TENNESSEE COURTS
UNIFORM FACSIMILE FILING COVER SHEET

TO (COURT CLERK): _____

WITH (COURT): _____

CLERK'S FAX NUMBER: _____

CASE NAME: _____

DOCKET NUMBER: _____

TITLE OF DOCUMENT: _____

FROM (SENDER): _____

SENDER'S ADDRESS: _____

SENDER'S VOICE TELEPHONE NUMBER: _____

SENDER'S FAX TELEPHONE NUMBER: _____

DATE: _____ TOTAL PAGES, INCLUDING COVER PAGE: _____

FILING INSTRUCTIONS/COMMENTS (attach additional sheet if necessary):

Unless authorized by the Court, a facsimile transmission exceeding ~~ten (10)~~ fifty (50) pages, including the cover page, shall not be filed by the clerk.