

## STATE OF WEST VIRGINIA

At the Supreme Court of Appeals, continued and held at Charleston, Kanawha County, on June 28, 2022, the following order was made and entered **in vacation**:

**RE: Provisional Approval and Request for Public Comment on Proposed Amendment to the Rules of Appellate Procedure, 22-Rules-01**

On this day, the Court, on its own motion, proceeded to consider amendments to Rule 24 of the Rules of Appellate Procedure. The Court is of the opinion that the rule amendments should be provisionally adopted, subject to being published for a thirty-day period of public comment. Comments must be filed in writing with the Clerk of Court on or before **July 29, 2022**. This amendment results in amendment to Appendix A as appended to this order.

The proposed deletions are indicated by strikethrough, and the additions to the Rules are indicated by underscoring to read as follows:

### Rules of Appellate Procedure

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#### Rule 24. Filing fees; costs.

*(a) Filing fees charged by the Clerk.*

(1) *Supreme Court of Appeals.* Except as provided by law for indigent parties, for actions filed in the Supreme Court of Appeals, the Clerk shall charge the following: \$200 for docketing any civil appeal, including ~~an appeals from~~ in family courts cases and administrative cases, but not including appeals in worker's compensation cases, original jurisdiction actions ~~before the Supreme Court,~~ or any other action, cause, or proceeding ~~before the Supreme Court.~~

(2) *Intermediate Court of Appeals.* Except as provided by law for indigent parties, for actions filed in the Intermediate Court of Appeals, the Clerk shall charge the following: \$200 for docketing any civil appeals, including ~~appeals from in family courts and administrative agencies cases,~~ but not including appeals in family court cases, appeals in worker's compensation cases, or any other cause, action, or proceeding in the Intermediate Court.

(b) *To whom costs are allowed.* Except as otherwise provided by law, if an appeal is dismissed, costs shall be taxed against the petitioner unless otherwise agreed by the parties or so ordered; if a judgment is affirmed, costs shall be taxed against the petitioner unless otherwise ordered; if a judgment is reversed, costs shall be taxed against the respondent unless otherwise ordered; if a judgment is affirmed or reversed in part, or is vacated, costs shall be allowed only as ordered.

(c) *Costs for or against the state.* In cases involving the State of West Virginia or an agency or officer thereof, if an award of costs against the State is authorized by law, costs shall be awarded in accordance with the provisions of subdivision (a); otherwise, costs shall not be awarded for or against the State.

(d) *Taxable costs.* Costs of assembling and filing the appendix are taxable as costs in the discretion of the Intermediate Court or the Supreme Court and may be divided among the parties to the appeal. Other taxable costs include costs for the preparation and handling of the designated record. Attorney's fees and costs are not taxable unless specifically provided by law.

(e) *Costs in disciplinary actions.* If the Supreme Court directs that costs be paid in connection with a lawyer or judicial disciplinary action, disciplinary counsel shall, within twenty days of entry of the applicable order, memorandum decision, or opinion, provide the Supreme Court and the respondent in the disciplinary action with a certified statement of the costs as specified by the Supreme Court.

(f) *Clerk to insert costs in mandate.* The Clerk shall prepare and certify an itemized statement of costs taxed in the Intermediate Court or the Supreme Court for insertion in the mandate. If the mandate has been issued before final determination of costs, the statement, or any amendment thereof, may be added to such order at any time upon request of the Clerk.

(g) *Costs on appeal taxable in the circuit courts.* Costs incurred in the preparation and transmission of the record, the cost of the reporter's transcript, if necessary for the determination of the appeal, and the premiums paid for cost of appeal bonds or other bonds to preserve rights pending appeal, shall be taxed in the circuit court as costs of the appeal in favor of the party entitled to costs under this rule.

Attest:

  
Clerk of Court



APPENDIX A – RULES OF APPELLATE PROCEDURE

**NOTICE OF APPEAL**

Intermediate Court of Appeals

Supreme Court of Appeals of West Virginia

ATTACH  
COPIES OF ALL  
ORDERS BEING  
APPEALED

1. COMPLETE CASE TITLE AND CASE NUMBERS IN LOWER TRIBUNAL  
(Include all party designations, such as plaintiff, intervenor, etc. Use an extra sheet if necessary)

2. COUNTY OR LOWER TRIBUNAL APPEALED FROM AND NAME OF JUDGE(S) WHO ISSUED  
DECISION(S) (If the presiding judge was appointed by special assignment, include an explanation of the  
circumstances on an extra sheet.)

3. PETITIONER(S) (list all parties who join in the  
appeal and provide the name, firm name, address,  
phone number, and e-mail address of counsel of  
record for each party. Self-represented parties must  
provide an address, phone number, and e-mail  
address.)

4. RESPONDENT(S) (list all parties against  
whom the appeal is taken and provide the name,  
firm name, address, phone number, and e-mail  
address of counsel of record for each party. For  
Self-represented parties provide an address,  
phone number, and e-mail address.)

5. NON-PARTICIPANT(S) (list any parties to the lower tribunal action that will not be involved in the  
appeal and provide the name, firm name, address, telephone number and e-mail address of counsel of record  
for each non-participant. Provide the name, address and telephone number of any self-represented litigant  
who was a party to the lower tribunal action but is not participating in the appeal.)

## APPENDIX A – RULES OF APPELLATE PROCEDURE

Case Name: \_\_\_\_\_

6. DATE OF ENTRY OF JUDGMENT ON APPEAL \_\_\_\_\_

DATE OF ENTRY OF JUDGMENT ON POST-TRIAL MOTIONS, IF ANY  
\_\_\_\_\_  
\_\_\_\_\_

7. CRIMINAL CASES: DEFENDANT'S SENTENCE AND BAIL STATUS

8. ABUSE AND NEGLECT CASES: On an extra sheet, provide a brief list of the names, ages and parent's names of all minor children, a description of the current status of the parental rights of each parent as of the filing of the notice of appeal, a description of the proposed permanent placement of each child, and the name of each guardian ad litem appointed in the case.

9a. Is the order or judgment appealed a final decision on the merits as to all issues and all parties?

YES  NO

If your answer is no, was the order or judgment entered pursuant to R. Civ. P. 54(b)?  YES  NO If your answer is no, you must attach a brief explanation as to why the order or judgment being appealed is proper for the court to consider.

9b. Is the family court order entered under W. Va. Code 48-9-203(f)?  YES  NO

10. Has this case previously been appealed?  YES  NO

If yes, provide the case name, docket number and disposition of each prior appeal.

11. Are there any related cases currently pending in the Intermediate Court or the Supreme Court or in a lower tribunal?

YES  NO If yes, cite the case, provide the status, and provide a description of how it is related.

12. Is any part of the case confidential?  YES  NO

If yes, identify which part and provide specific authority for confidentiality.

13. If an appealing party is a corporation an extra sheet must list the names of parent corporations and the name of any public company that owns more than ten percent or more of the corporation's stock. If this section is not applicable, please so indicate below.

The corporation who is a party to this appeal does not have a parent corporation and no publicly held company owns ten percent or more of the corporation's stock.

14. Do you know of any reason why one or more of the Intermediate Court Judges or Supreme Court Justices should be disqualified from this case?  YES  NO If yes, set forth the basis on an extra sheet. Providing the information required in this section does not relieve a party from the obligation to file a motion for disqualification in accordance with Rule 33.

## APPENDIX A – RULES OF APPELLATE PROCEDURE

Case Name: \_\_\_\_\_

### NOTICE OF APPEAL

15. Is a transcript of proceedings necessary for the Court to fairly consider the assignments of error in the case?  
 YES  NO **If yes, you must complete the appellate transcript request on page 4 of this form.**

16. NATURE OF THE CASE, RELIEF SOUGHT, and OUTCOME BELOW (Limit to two double-spaced pages; please attach.)

17. ASSIGNMENTS OF ERROR (Express the assignments in the terms and circumstances of the case but without unnecessary detail. Separately number each assignment of error and for each assignment: (1) state the issue; (2) provide a succinct statement as to why the court should review the issue. Limit to eight pages double-spaced; please attach.)

### 18. ATTACHMENTS

Attach to this notice of appeal the following documents in order: (1) extra sheets containing supplemental information in response to sections 1 – 14 of this form; (2) a double-spaced statement of the nature of the case, not to exceed two pages, as material required by section 16 of this form; (3) a double-spaced statement of the assignments of error not to exceed eight pages as required by section 17 of this form; (4) a copy of the lower tribunal's decision or order from which you are appealing; (5) a copy of any order deciding a timely post-trial motion; (6) a copy of any order extending the time period for appeal; and (7) the statutory docket fee of \$200 (made payable to the State of West Virginia if made by check or money order); or a copy of the lower court's granting of the application for fee waiver in this case. The statutory docket fee does not apply to criminal cases, appeals from the Workers' Compensation Board of Review or original jurisdiction actions. The statutory docket fee does not apply to appeals from family court to the Intermediate Court of Appeals; however, the statutory docket fee applies to appeals from family court to the Supreme Court of Appeals, whether taken directly or after an appeal to the Intermediate Court of Appeals.

### NOTICE:

You must file a separate affidavit and application anytime your financial situation no longer meets the official guidelines or anytime the court orders you to do so.

### CERTIFICATIONS

I hereby certify that I have performed a review of the case that is reasonable under the circumstances and that the contents of the Notice of Appeal are accurate and complete.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Counsel of record or self-represented party

I hereby certify that on or before the date below, copies of this notice of appeal and attachments were served on all parties to the case, and copies were provided to the clerk of the circuit court from which the appeal is taken and to each court reporter from whom a transcript is requested.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Counsel of record or self-represented party

## APPENDIX A – RULES OF APPELLATE PROCEDURE

Case Name: \_\_\_\_\_

### APPELLATE TRANSCRIPT REQUEST FORM

**INSTRUCTIONS:**

1. If a transcript is necessary for your appeal, you must complete this form and make appropriate financial arrangements with each court reporter from whom a transcript is requested.
2. Specify each portion of the proceedings that must be transcribed for purposes of appeal. *See* Rule of Appellate Procedure 9(a).
3. A separate request form must be completed for each court reporter from whom a transcript is requested. If you are unsure of the court reporter(s) involved, contact the circuit clerk's office for that information.
4. Failure to make timely and satisfactory arrangements for transcript production, including necessary financial arrangements, may result in denial of motions for extension of the appeal period, or may result in dismissal of the appeal for failure to prosecute.

Name of Court Reporter, ERO, or Typist: \_\_\_\_\_

Address of Court Reporter: \_\_\_\_\_

Case No. \_\_\_\_\_ County: \_\_\_\_\_ Date of Final Order: \_\_\_\_\_

Date of Proceeding	Type of Proceeding	Length of Proceeding	Name of Judge(s)	Portions Previously Prepared

**CERTIFICATIONS**

I hereby certify that the transcripts requested herein are necessary for a fair consideration of the issues set forth in the Notice of Appeal.

I hereby further certify that I have contacted the court reporter and satisfactory financial arrangements for payment of the transcript have been made as follows:

- Private funds. (Deposit of \$ \_\_\_\_\_ enclosed with court reporter's copy. Attach documentation.)
- Criminal or habeas corpus appeal with fee waiver (Attach order appointing counsel or order stating defendant is eligible.)
- Abuse & neglect or delinquency appeal with fee waiver (Attach order appointing counsel.)
- Advance payment waived by court reporter (Attach documentation.)

\_\_\_\_\_  
Date mailed to court reporter

\_\_\_\_\_  
Counsel of record or self-represented party

**APPENDIX A – RULES OF APPELLATE PROCEDURE**

**NOTICE OF APPEAL – EXTRA SHEET**

Short Case Name: \_\_\_\_\_

Response to SECTION: \_\_\_\_\_