

Proposal 20-09
Amends Supreme Court Rules 315, 321 and 341, and Creates New Rules 322 and 455
Offered by Appellate Lawyers' Association

Rule 315. Leave to Appeal From the Appellate Court to the Supreme Court

(b) Time.

(1) Published Decisions. Unless a timely petition for rehearing is filed in the Appellate Court, a party seeking leave to appeal must file the petition for leave in the Supreme Court within 35 days after the entry of such judgment. If a timely petition for rehearing is filed, the party seeking review must file the petition for leave to appeal within 35 days after the entry of the order denying the petition for rehearing or, if a modified decision is issued upon denial of rehearing, from the entry of the modified decision. If a petition is granted, the petition for leave to appeal must be filed within 35 days of the entry of the judgment on rehearing. The Supreme Court, or a judge thereof, on motion, may extend the time for petitioning for leave to appeal, but such motions are not favored and will be allowed only in the most extreme and compelling circumstances. The filing of a corrected opinion by the Appellate Court where no petition for rehearing was filed does not extend the time for a party to file a petition for leave to appeal.

(2) Rule 23 Orders. The time for filing a petition for leave to appeal a Rule 23 order shall be the same as for published opinions unless a timely motion to publish has been filed in the Appellate Court pursuant to Rule 23(f). If the Appellate Court grants the motion to publish, the party seeking review must file the petition for leave to appeal within 35 days after the filing of the opinion. If the Appellate Court denies the motion to publish, the party seeking review must file the petition for leave to appeal within 35 days after entry of the order denying the motion to publish. The filing of a Rule 23(f) publication motion shall not invalidate a previously filed petition for leave to appeal. The clerk of the Appellate Court shall promptly transmit notice of the filing of a Rule 23(f) publication motion and its disposition to the clerk of the Supreme Court in any case in which a petition for leave to appeal is filed, irrespective of whether the motion to publish precedes or follows the filing of a petition for leave to appeal.

(b) if the appellant elects to file an additional brief, it shall be filed within 28 days from

Rule 321. Contents of the Record on Appeal

The record on appeal shall consist of the judgment appealed from, the notice of appeal, and the entire original common law record, unless the parties stipulate for, or the trial court, after notice and hearing, or the reviewing court, orders less. The common law record includes every document filed, ~~and judgment and order entered, in the cause and any documentary exhibits offered and filed~~ by any party. Upon motion the reviewing court may order that other exhibits be included in the record. The record on appeal shall also include any report of proceedings prepared in accordance

with Rule 323. There is no distinction between the common law record and the report of proceedings for the purpose of determining what is properly before the reviewing court.

Rule 322. Reserved-Filing of Evidentiary Hearing or Trial Exhibits

(a) Filing. If upon the filing of a notice of appeal the documentary exhibits have not been filed, then within seven days of the service of the notice of appeal each party shall file with the clerk of the trial court: (i) a certified inventory list of the party's exhibits by exhibit number or letter with description of the exhibit (e.g., "photograph," "DVD," or "document"), stating whether the exhibit was admitted into evidence; and (ii) the party's documentary exhibits offered prior to entry of judgment marked with exhibit number or letter. The inventory shall be signed by an attorney or the pro se litigant, certifying its correctness. In the absence of a stipulation, any party may object to the accuracy of an inventory, or the authenticity of an exhibit, within seven days of its filing, and the trial court shall resolve the objection.

(b) Service. Each party shall serve a copy of its certified inventory list on the parties of record.

(c) Extension of Time. The trial court may grant a reasonable extension of time within which to file the certified inventory list and exhibits.

Rule 341. Briefs

(l) Citation of Supplemental Authorities. If pertinent and significant authorities come to a party's attention after the party's brief has been filed, or after oral argument but before decision, then a party may promptly advise the clerk of court by letter, with a copy to all other parties, setting forth the citations. The letter must state the reasons for the supplemental citations, referring either to the page of the brief or to a point argued orally. The body of the letter must not exceed 350 words. Within ten days of the effective date of service of the letter, a response may be made and must be similarly limited.

Rule 455. Reserved-Filing of hearing and Trial Exhibits

(a) Filing. No later than seven days after sentencing, each party shall file with the clerk of the trial court: (i) a certified inventory list of the party's pretrial, trial, post-trial, and sentencing exhibits by exhibit number or letter with description of the exhibit (e.g., "photograph," "DVD," or "document"), stating whether the exhibit was admitted into evidence; and (ii) its offered pretrial, trial, post-trial, and sentencing exhibits marked with exhibit number or letter, including exhibits not admitted into evidence. The inventory shall be signed by an attorney or the pro se litigant, certifying its correctness.

b) Service. Each party shall serve a copy of its certified inventory list on the parties of record.

(c) Extension of Time. The trial court may grant a reasonable extension of time within which to file the certified inventory list and exhibits.

(d) Trials with Codefendants. In the case of joint or severed trials of one or more codefendants in which only one copy of an exhibit was offered or admitted against more than one defendant, the State shall file the State's original exhibit in one defendant's case and a copy, so marked, in the applicable case(s) of the other defendant(s). In the case of physical evidence or oversized exhibits, a photograph of the original exhibit can be filed in the applicable case(s) of the other defendant(s).

(e) Sanctions. The rule's requirements are mandatory and not directory. Failure to comply with the requirements may result in sanctions against the noncompliant attorney or the pro se litigant.

(f) Petition to Withdraw Exhibits. Any party may petition the trial court to withdraw one or more exhibits upon good cause shown. If the trial court grants the petition, the clerk of the trial court shall photograph or photocopy the exhibit(s) withdrawn by the party and place the photograph or photocopy in the record with a marking identifying the date the original exhibit was removed and the party who removed it. The proponent of the exhibit is not responsible for maintaining the care of custody of any exhibit once released to a third party pursuant to court order.