

IN THE SUPREME COURT, STATE OF WYOMING

APRIL TERM, A.D. 1992

IN THE SUPREME COURT
STATE OF WYOMING
FILED

JUL 31 1992

In the Matter of the Adoption
of the Revised Wyoming Rules of
Appellate Procedure

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JERRILL D. CARTER, CLERK

Jerry Carter
by DEPUTY

ORDER ADOPTING REVISED WYOMING RULES OF APPELLATE PROCEDURE

The members of the Wyoming Supreme Court Committee on Appellate Rules and Practices having conducted research, conferred among themselves commencing on October 19, 1990, having met at regular intervals thereafter; and, having presented to the court a copy of the proposed Revised Wyoming Rules of Appellate Procedure, which have been approved by the court, as modified and filed with this order; and, based upon the submission and recommendation of the Committee on Appellate Rules and Practices and the approval of the court; it is therefore

ORDERED by this court that the Revised Wyoming Rules of Appellate Procedure, a copy of which is attached hereto, shall hereby be adopted by the court; that said rules be published in the advance sheets of the Pacific Reporter and in the Wyoming Reporter; that said rules shall become effective on November 1, 1992, provided, that the revised rules shall apply to those appeals where the notice of appeal is filed after November 1, 1992; that the current rules shall apply to all appeals commenced before November 1, 1992; and that the revised rules shall be spread at length upon the journal of this court and shall thereupon supersede the current Wyoming Rules of Appellate Procedure and the Wyoming Rules of Appellate Procedure for Courts of Limited Jurisdiction; it is further

ORDERED that the members of the Wyoming Supreme Court Committee on Appellate Rules and Practices be commended for the excellence of their work and that sincere appreciation be extended to each member; that a copy of the committee's report and recommendations to the court be attached as an addendum to this order; and, that the committee shall continue in existence until November 1, 1993.

DATED this 31st day of July, 1992.

BY THE COURT:

Richard J. Macy
Richard J. Macy
Chief Justice



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become effective 60 days after their publication in the advance
sheets of the Pacific Reporter.

Rule 1. GENERAL RULES

Rule 1.01. Number of copies to be filed.

(a) Unless otherwise specified in these rules:

(1) One original and six copies of all briefs, petitions, motions and other documents shall be filed in the supreme court; or

(2) One original and two copies of all briefs, petitions, motions and other documents shall be filed in the district court; and

(3) Where appropriate, a proposed order shall accompany all filings.

(b) All briefs, petitions, motions and other documents shall be filed on 8 1/2" x 11" paper. Any attachments or appendices, which in their original form are on larger or smaller paper, should be reduced or enlarged to 8 1/2" x 11" paper.

~~[Comments: The committee decided to make this~~

~~the initial rule because the number of copies to be filed in a particular instance is the most frequently asked question of the clerk's office and because people so frequently don't include the correct number. Also rather than give this detail for each type of filing, the text of the rules was reduced significantly by reference to this rule in each instance where it was relevant.]~~

Rule 1.02. Scope of rules.

All appeals, reviews pursuant to Rule 12, certifications under Rules 11 or 12, and petitions for review shall be governed by these rules. Where the term "appellate court" is used in these rules, it refers to either the district court or the supreme court as circumstances make appropriate. The term "trial court" refers to either a district court, a county court, a justice of the peace court or a municipal court.

~~[Comments: This rule is designed to explain that these rules apply to all appeals whether to a district court or the supreme court and to define terms that are used throughout the rules.]~~

Rule 1.03. Failure to comply with rules.

The timely filing of a notice of appeal, which complies with Rule 2.07(a), is jurisdictional. The failure to comply with any other rule of appellate procedure, or any order of court, does not affect the validity of the appeal, but is ground only for such action as the appellate court deems appropriate, including but not limited to: ~~citation of counsel or a party for contempt; refusal to consider the offending party's contentions; assessment of costs; dismissal; or~~ and affirmance.

~~[Comments: This rule was renumbered from 1.02, but the language was not changed.]~~

Rule 1.04. Review by supreme court and district court.

(a) A judgment rendered, or appealable order made, by a district court may be: reversed, vacated, remanded, or modified by the supreme court for errors appearing on the record.

(b) A judgment rendered, or appealable order made, by an administrative agency or any court inferior in jurisdiction to the district court, upon an appeal or proceeding for judicial review, may be: reversed, vacated, remanded, or modified by the district

court for errors appearing on the record.

~~{Comments: This rule incorporates and makes
parallel language which was previously found
in rules 1.03 and 1.04}~~

Rule 1.05. Appealable order defined.

An appealable order is:

(a) An order affecting a substantial right in an action, when such order, in effect, determines the action and prevents a judgment; or

(b) An order affecting a substantial right made in a special proceeding; or

(c) An order made upon a summary application in an action after judgment; or

(d) An order, including a conditional order, granting a new trial on the grounds stated in Rule 59(a)(4) and (5), Wyo. R. Civ. P.; if an appeal is taken from such an order, the judgment shall

remain final and in effect for the purposes of appeal by another party; or

(e) Interlocutory orders and decrees of the district courts which:

(1) Grant, continue, or modify injunctions, or dissolve injunctions, or refuse to dissolve or modify injunctions; or

(2) Appoint receivers, or issue orders to wind up receiverships, or to take steps to accomplish the purposes thereof, such as directing sales or other disposition of property.

(See Rule 13 for additional guidance on review of interlocutory orders.)

~~{Comments: The number of this rule did not change, but the language was adjusted significantly to refine and clarify what an appealable order is, whether it is a final or interlocutory order.}~~

Rule 1.06. Joint appeals.

If two or more ~~persons~~ 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 notices of appeal. ~~Thereafter, they may proceed on appeal as a single appellant.~~

~~{Comments: This rule was moved here from former 2.12 because it was out of place and sequence in that location. Former rule 1.06, which abolished proceedings in error was eliminated because a search of Wyoming statutes revealed only one remaining reference to proceedings in error, § 18-3-904, which should be treated simply as an appeal.}~~

Rule 2. PROCESSING APPEAL

Rule 2.01. How and when taken; cross-appeals and dismissals.

(a) An appeal from a trial court to an appellate court shall be taken by filing the notice of appeal with the clerk of the trial court within 30 days from entry of the appealable order and concurrently serving the same in accordance with the provisions of

Rule 5, Wyo. R. Civ. P., (or as provided in Wyo. R. Cr. P. 32(c)(4)). Within five days of the filing of the notice of appeal with the clerk of the trial court, a copy of the notice of appeal shall also be filed with the clerk of the appellate court, ~~Simultaneously, a copy of the notice of appeal shall be mailed to the clerk of the appellate court,~~ and in a criminal case ~~teupon~~ the office of public defender and the office of attorney general.

(1) Upon a showing of excusable neglect, the trial court in any action may extend the time for filing the notice of appeal not to exceed 15 days from the expiration of the original time prescribed, provided the application for extension of time is filed and the order entered prior to the expiration of 45 days from entry of the appealable order; appellant shall promptly serve appellee a copy of the order extending the time. ~~If such an order is issued, it shall be appended to the notice of appeal.~~

(2) If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within 15 days of the date on which the first notice of appeal was filed.

(b) If an appeal has not been docketed with the appellate court, the parties, with the approval of the trial court, may dismiss the appeal by stipulation filed in that court, or that court may dismiss the appeal upon motion and notice by appellant.

~~[Comments: This rule is designed to give parties, particularly corporate institutions that are non-residents, more time to consider the prudence and desirability of an appeal.]~~

[Comments: The 1997 amendment of this rule requires that a notice of appeal be filed with the clerk of the appellate court, rather than merely mailed. This amendment was deemed necessary because many appellants' failed to mail a copy of the notice of appeal to the clerk of the appellate court. Also, see General Order 97-1 which provides for a \$150.00 sanction for failure to comply with this rule.]

Rule 2.02. Tolling of time for filing notice of appeal in civil case.

(a) The running of the time for appeal in a civil case is

tolled as to all parties by the timely filing of a motion for judgment under Rule 50(b), Wyo. R. Civ. P.; a motion to amend or make additional findings of fact under Rule 52(b), Wyo. R. Civ. P., whether or not alteration of the judgment would be required if the motion is granted; a motion to alter or amend the judgment under Rule 59, Wyo. R. Civ. P., or a motion for a new trial under Rule 59, Wyo. R. Civ. P.

(b) The full time for appeal commences to run and is to be computed from the entry of any order granting or denying a motion for judgment; a motion to amend or make additional findings of fact; or a motion to alter or amend the judgment, or denying a motion for a new trial. If no order is entered, the full time for appeal commences to run when any such motion is deemed denied.

~~{Comments: This element of former rule 2.01 was separated to provide clarity.}~~

Rule 2.03. Tolling of time for filing of notice of appeal in criminal case.

(a) The running of the time for appeal in a criminal case is terminated by the timely filing of a motion for judgment of

acquittal made pursuant to Rule 29(c), Wyo. R. Cr. P.; a motion for a new trial made pursuant to Rule 33, Wyo. R. Cr. P.; or a motion in arrest of judgment made pursuant to Rule 34, Wyo. R. Cr. P.

(b) The ~~full-time~~ for appeal commences to run and is to be computed from the ~~latest of the following dates: entry of an order denying any such motion, or from the time any such motion is deemed denied, or entry of judgment.~~

~~{Comments: This element of former rule 2.01 was also separated out to enhance clarity.}~~

Rule 2.04. Premature notice of appeal.

A notice of appeal filed prematurely shall be treated as though filed on the same day as entry of the appealable order, provided it complies with Rule 2.07(a).

~~{Comments: This was also separated out of rule 2.01 and recognizes that any premature notice of appeal is considered filed when the judgment is entered.}~~

Rule 2.05. Certification of transcript request.

Concurrently with filing the notice of appeal, appellant must order and either make arrangements satisfactory to the court reporter for the payment of for a transcript of the portions of the evidence deemed necessary for the appeal or make application for payment in forma pauperis status as provided in Rule 10.06. A certificate of compliance with this rule ~~must be filed in the case or endorsed upon~~ shall be endorsed upon or filed with the notice of appeal.

~~{Comments: This rule was also separated out of rule 2.01.}~~

Rule 2.06. Time allowed court reporter to file transcript; certification to appellate court and parties that transcript has been filed in trial court.

Within 60 days after the notice of appeal is filed, the court reporter shall file with the clerk of the trial court, the transcript, or such portions of the transcript that have been ordered as provided in Rule 2.05. Contemporaneously with filing the transcript in the trial court, the reporter shall certify in writing to the appellate court and all parties to the appeal that

the transcript has been filed in the trial court.

~~{Comments: This rule was moved here and separated out of rule 3.02 to enhance logical order of the rules. Also, recognizing that 40 days is frequently not adequate to prepare a transcript, the time to prepare the transcript was extended to 60 days.}~~

Rule 2.07. Notice of appeal; contents.

(a) The notice of appeal shall:

(1) Specify the party or parties taking the appeal;

(2) Identify the judgment or appealable order, or designated portion appealed; and

(3) Name the court to which the appeal is taken.

(4) Be accompanied by the certificate or endorsement required by Rule 2.05.

(b) In a civil case, the notice of appeal shall have as an appendix:

(1) All pleadings that assert a claim for relief whether by complaint, counterclaim or cross-claim and all pleadings adding parties; and

(2) All orders or judgments disposing of claims for relief and all orders or judgments disposing of all claims by or against any party; and

(3) The judgment or final order.

(c) In a criminal case, the notice of appeal shall have as an appendix the judgment and sentence or other dispositive order.

~~{Comments: This rule has changed significantly. It is derived from former rule 2.02. The basic contents of the notice of appeal are the same, but now appendices are required. A copy of the notice of appeal comes to the appellate court and the appendices are used to determine the appellate court's jurisdiction. The transmitted record is not filed with the appellate court until after briefing is completed, and the jurisdiction check needs to be performed at an early stage to avoid, as much as possible, jurisdiction issues that aren't recognized until after briefing has been completed.}~~

Rule 2.08. Designation of parties.

(a) In all appeals governed by these rules, the party taking the appeal shall be known as appellant and the adverse party as appellee, and in the caption of the cause in the appellate court appellant's name shall appear first.

(b) For purposes of simplicity and clarity, identifying terms such as injured worker, victim, seller/buyer, proper names (e.g. Jones, Smith, Brown), etc., appropriately may be used in the text of any pleading or brief, instead of the terms appellant and appellee.

~~{Comments: This is former 2.05. Subsection (b) is new and some negative comments were received. That portion of the rule is simply intended to use identifying terms whenever possible, and especially where there are multiple appellants and/or appellees. Most appellate briefing authorities now recommend the use of names to boost the readability as well as the clarity of a brief.}~~

Rule 2.09. Payment of filing fee and disposition.

(a) At the time of filing the notice of appeal, an appellant shall deliver to the clerk of the trial court the filing fee for docketing the case in the appellate court or an order permitting

appellant to proceed in forma pauperis. A docketing fee shall be collected for each notice of appeal. If the appeal is dismissed prior to the notice from the clerk of the trial court to the clerk of the appellate court that the record on appeal has been completed, the filing fee for docketing the case in the appellate court shall be refunded to appellant. The clerk of the trial court shall forward the appellate court's filing fee to the clerk of the appellate court at the time the clerk of the trial court submits its notice that the record on appeal has been completed. The case then shall be docketed in the appellate court. A subsequent dismissal by the appellate court of the appeal shall not entitle appellant to refund of the filing fee. All fees under this rule due from or payable by the State of Wyoming or its subdivisions will be paid to the clerk of the trial court by check, voucher or other appropriate fund transfer request in the proper form.

(b) The fee for filing an appeal or other action in the supreme court shall be set by order of court.

~~[Comments: This rule is new for the most part. The requirement of paying the docket fee is drawn from former rule 3.02. Because the docket fee in the district court will be set by statute, and that for the supreme court by court order, the supreme courts docket fee~~

~~should be set in the supreme court's rules or by general order. This rule also provides for refund if the appeal does not go forward to the appellate court. This represents the practice currently where an appeal is dismissed before it is docketed in the appellate court.]~~

Rule 3. RECORD

Rule 3.01. Composition of record.

(a) The record shall consist of:

(1) The original papers and exhibits filed in the trial court;

(2) The transcript of proceedings or any designated portion (if the proceedings were not stenographically recorded or transcribed in accordance with these rules, the electronic audio recording of the proceedings, or any designated portion); and

(3) A certified copy of the docket entries prepared by

the clerk of the trial court.

(b) The transmitted record shall consist of all portions of the record designated by the parties to the appeal for transmission to the appellate court, as described in Rule 3.05 (b), (c) and (d).

~~[This rule is partially new and partially drawn from former rule 4.01. The rule defines and distinguishes the "record on appeal," which is the entirety of the trial courts file, and the "transmitted record," which is that portion designated by the parties and brought forward to the appellate court.]~~

Rule 3.02. Transcript of proceedings.

(a) Transcripts in criminal and juvenile matters shall consist of all proceedings including, but not limited to, voir dire, opening statements and final arguments, conferences with the presiding judge, in addition to the testimony of the case and other essential materials.

(b) In all cases other than criminal and juvenile matters, if the proceedings in the trial court were stenographically reported by an official court reporter, appellant shall, contemporaneously

with the filing of the notice of appeal, file and serve on appellee a description of the parts of the transcript which appellant intends to include in the record and unless the entire transcript is to be included, a statement of the issues appellant intends to present on appeal. If an appellant intends to assert on appeal that a finding or conclusion is unsupported by the evidence or contrary to the evidence, appellant shall include in the record a transcript of all evidence relevant to such finding or conclusion. If appellee deems a transcript of other parts of the proceedings to be necessary appellee shall, within 15 days after service of the designation of the partial transcript by appellant, order such parts from the reporter or procure an order from the trial court directing appellant to do so. At the time of ordering, a party must make arrangements satisfactory to the reporter for payment of the cost of the transcript.

(c) If the proceedings in the trial court were electronically recorded, the audio record of the proceedings shall be received by the district court, sitting as an appellate court, as prima facie evidence of the facts, testimony, evidence and proceedings in such audio record. No transcript of the proceedings shall be required, unless the district court finds that a transcript, or portion, is

necessary for appellate disposition. If discretionary review is granted by the supreme court, the parties shall prepare a transcript in accordance with subsection (b) above.

(d) All transcripts of testimony, evidence and proceedings shall be certified by the official court reporter, or such other person designated by the trial court to prepare the transcript, to be true and correct in every particular, and when certified it shall be received as prima facie evidence of the facts, testimony, evidence, and proceedings set forth in the transcript. The transcript format shall be 8 1/2 x 11 inches and a maximum of 25 lines per page and no more than 10 characters per inch. The reporter shall indicate at the bottom of each page the name of the witness, the name of counsel examining, and the type of examination (e.g., direct, cross). Appended to the transcript shall be a table with page references reflecting the names of the witnesses, the type of examination and the points at which exhibits were offered and admitted or refused. The reporter shall file the original of the completed transcript with the clerk of the trial court within the time fixed or allowed by these rules. The transcript shall be certified by the clerk as a part of the trial court record.

~~{Comments: This rule is drawn in significant part from former rule 4.02. Some changes were made to make the rule more clear. Also, the ordering of transcripts, or partial transcripts, must be done at the same time the notice of appeal is filed. Under the old rules an appellant had 15 days to file a notice of appeal and 10 more to order the transcript. Because the time for filing the notice of appeal was extended to 30 days it was no longer deemed necessary to allow an additional 10 days for ordering the transcript.}~~

Rule 3.03. Statement of evidence or proceedings when no report was made or when the transcript is unavailable.

If no report of the evidence or proceedings at a hearing or trial was made, or if a transcript is unavailable, appellant may prepare a statement of the evidence or proceedings from the best available means including appellant's recollection. The statement shall be served on appellee, who may serve objections or propose amendments within 15 days after service. The statement and any objections or proposed amendments shall be submitted to the trial court for settlement and approval and as settled and approved shall be included by the clerk of the trial court in the record on appeal.

~~{Comments: This is former rule 4.03. The only change is to extend the time for appellee to respond from 10 to 15 days. Throughout the rules the Committee opted to utilize time periods in excess of 10 days to avoid confusion on the computation of time rule which does not count Saturdays, Sundays or holidays if the period of time is less than 11 days.}~~

Rule 3.04. Correction or modification of the record.

If any difference arises as to whether the record discloses what occurred in the trial court, the difference shall be submitted to and settled by that 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, the parties by stipulation, or the trial court either before or after the record is transmitted to the appellate court, or the appellate court on motion or its own initiative, may direct that the omission or misstatement be corrected, and if necessary that a supplemental record be certified and transmitted. All other questions as to the form and content of the record shall be presented to the appellate court by motion.

~~{Comments: This is former rule 4.04, without change.}~~

Rule 3.05. Designation, transmission and retention of record.

(a) Within three working days after the record has been completed (or as otherwise arranged with the clerk of the appellate court), the clerk of the trial court shall advise the clerk of the appellate court in writing that the record has been completed, reciting that the record, including the transcript or parts ordered for inclusion (or that no transcript was created and/or ordered) and necessary exhibits, is complete for purposes of the appeal and certified in accordance with these rules. Within five working days after the record has been completed, the clerk of the trial court shall number each page in the record, prepare an index, and provide copies of the index to the clerk of the appellate court and to the parties. After the remainder of the steps in subparagraph (b), (c), and (d) of this rule are completed, the clerk of the trial court shall transmit to the appellate court the designated portions of the record within five working days after a request by the clerk of the appellate court which notes the reply brief has been filed or the time for filing the reply has expired.

(b) Appellant shall, contemporaneously with the filing of its brief in the appellate court and service of that brief upon

appellee, serve on appellee, and file with the clerk of the trial court a designation for transmission to the appellate court of all parts of the record, without unnecessary duplication, to which appellant intends to direct the particular attention of the appellate court in its brief.

(c) If appellee desires to designate parts of the record for transmission not designated by appellant, appellee shall, contemporaneously with the filing of appellee's brief in the appellate court and service of that brief upon appellant, file with the clerk of the trial court and serve upon appellant a designation of those parts of the record desired by appellee. If appellee does not wish to designate additional portions of the trial court record, then such a certification shall be made to the clerk of the trial court.

(d) Appellant may make an additional designation of record at within the time any reply brief is to be filed and served.

(e) Unless the case is a criminal proceeding, no party shall designate the entire record for transmission without an order of

the appellate court. Unless specifically relevant to the issue(s) on appeal, record papers, including, but not limited to, setting notices, subpoenas and documents relating to discovery shall not be designated for transmission to the appellate court. Any party who designates unnecessarily duplicative pleadings or other papers not relevant to the appeal may be subject to sanction as provided in Rule 1.03.

(f) The record papers transmitted to the appellate court by the clerk of the trial court shall be securely fastened, in an orderly manner, in one or more volumes consisting of no more than 250 pages per volume, with pages numbered ~~consecutively~~ and with a cover page bearing the title of the case and containing the designation "Transmitted Record," followed by a complete index of all papers. The clerk of the trial court shall append a certificate identifying the papers with reasonable definiteness. Documents of unusual bulk or weight and physical exhibits other than documents shall not be transmitted by the clerk unless so directed by the clerk of the appellate court. A party must make advance arrangements with the clerks of both courts for the transportation and receipt of exhibits of unusual bulk or weight.

(g) If the appellate court enters an order that the record not be retained by the clerk of the trial court, the clerk of the trial court shall transmit that record to the appellate court in accordance with these rules.

(h) The transmitted record in matters arising pursuant to Rule 13 is limited to the attachments described in Rule 13.06, unless good cause is shown why additional portions of the record are essential.

~~{Comments:—This rule supplants portions of former rule 3.02 and all of former rule 4.05. The rule serves two purposes. First, it provides for the record to remain in the district/trial court until all briefs have been completed. Because designation of the "transmitted record" does not take place until after a brief is completed, it is intended to require parties to thoughtfully designate only those portions of the record which are germane to the appeal. Second, the rule comprehends the concept of dual jurisdiction, i.e., the trial court retains jurisdiction of any and all matters not the subject of appeal. The public defender and the attorney general are adamantly opposed to the rule because of the inconvenience this will cause them. In response to their concerns, an adjustment was made to rule 3.09, infra, specifically permitting one party to check out a record and then transfer it to another party, with notice to the trial court. This would then allow the public defender to obtain records, use them, transfer them to the attorney general and~~

~~arrange for the return of the record to the trial court for final preparation of the "transmitted record." The Committee fully understood the concerns expressed by the public defender and the attorney general, but was convinced that the rule is very workable and causes the least inconvenience to the fewest parties.~~

~~The notice from the clerk of the trial court is the event that initiates jurisdiction in the appellate court, and only then does the appellate court have a case. From that point on the monitoring of briefs and so forth becomes the business of the appellate court and the trial court has only its retained jurisdiction.]~~

Rule 3.06. Record for intermediate relief in appellate court.

If prior to the time the record is transmitted a party moves in the appellate court for any intermediate relief, then the clerk of the trial court at the request of the appellate court shall transmit to the appellate court such parts of the record as the appellate court shall designate.

~~[Comments: This rule is not often used, but is former rule 4.06 with only minor changes. The change is to delete the language "preliminary hearing" (to avoid confusion with that phrase's usual meaning) and to substitute "intermediate relief." Thus, if a party makes a motion for some sort of relief, e.g., a motion to dismiss, motion for stay, the appellate court may call up that portion of~~

~~the record it needs to address the motion.}~~

Rule 3.07. Return of record to the trial court.

After an appeal has been determined, the transmitted record shall be returned to the custody of the trial court.

~~{Comments: This is former rule 4.07 with
minor language changes.}~~

Rule 3.08. Agreed statement.

(a) In lieu of designations of the record, the parties may prepare and sign a statement of the case showing how the questions arose and were decided in the trial court, and may set forth those facts averred and proved, or sought to be proved, which are essential for review. The parties shall notify the clerk of the trial court in writing at the time the notice of appeal is filed that an agreed statement will be used as the record.

(b) The statement shall include: a concise statement of the points on which appellant relies; a copy of the judgment or appealable order; and a copy of the notice of appeal with its filing date. The statement, together with such additions as the

trial court may consider necessary to present the questions raised on appeal, shall be approved by the trial court and be certified to the appellate court as the transmitted record. The statement shall be filed with the clerk of the trial court within sixty days of the filing of the notice of appeal.

~~{Comments: This is former rule 4.08 with only minor language changes.}~~

Rule 3.09. Withdrawing records.

(a) Either party, at that party's expense, may withdraw the record in a case, except the original exhibits, from the office of the clerk of the trial court during the time allowed for the filing of the brief. That party shall be responsible for its safekeeping and shall return it promptly when its brief is filed. A party may agree to transfer the record to another party, provided that notice of the transfer is given to the trial court. No other paper pertaining to a pending case, nor the original exhibits, shall be taken from the office of the trial court clerk without an order of the trial court. This rule supersedes any other court rule.

(b) In criminal cases, notwithstanding any conflicting provisions of paragraph (a), presentence investigation reports and other confidential documents may be withdrawn from the office of the clerk of the trial court without an order of that court by the office of the attorney general and other appellate counsel of record.

(b)(c) The transmitted record may not be withdrawn from the office of the clerk of the appellate court without an order from a judge or justice of that court.

~~{Comments: This is similar to former rule 4.09. The change is that the record has remained with the trial court. Because briefing has been completed when the "transmitted" record comes forward to the appellate court, the rule on checking the record out from the clerk of the appellate court is more restrictive. At this stage the record is meant primarily for the use of the appellate court and any need of a party to peruse the record should be very limited and confined to in-office use as much as is possible.}~~

Rule 4. BONDS

~~{Comments: These rules appeared as former rules 2.07 through 2.10. They were placed here for logical sequence and to separate them out as a subject matter. The only changes have been to improve grammar and phraseology, but the substance is not changed.}~~

Rule 4.01. Bond for costs.

Whenever a bond for costs on appeal is required by law, the bond shall be filed or equivalent security shall be deposited in the trial court with the notice of appeal.

Rule 4.02. Supersedeas bonds.

(a) Whenever an appellant so entitled desires a stay on appeal, appellant may present to the trial court a supersedeas bond in such amount as shall be fixed by the trial court and with surety or sureties to be approved by the court or by the clerk of court. The bond shall be conditioned for the satisfaction of the judgment in full together with costs, interest, and damages for delay, if for any reason the appeal is not perfected or is dismissed, or if the judgment is affirmed, and to satisfy in full such modification of the judgment and such costs, interest, and damages as the appellate court may adjudge and award.

(b) When the judgment is for the recovery of money not otherwise secured, the amount of the bond shall be fixed at such sum as will cover the whole amount of the judgment remaining and unsatisfied, costs on appeal, and interest, unless the court, after notice and hearing and for good cause shown, fixes a different amount or orders security other than the bond. When the judgment determines the disposition of the property in controversy, as in real actions, replevin, and actions to foreclose mortgages, or when such property is in the custody of the sheriff, or when the proceeds of such property or a bond for its value is in the custody or control of the court, the amount of the supersedeas bond shall be fixed at the sum as will secure the amount recovered for the use and detention of the property, the costs of the action, costs on appeal, interest, and damages for delay. When appellant has already filed a surety bond in the trial court, a separate supersedeas bond need not be given, except for the difference in amount as determined by the trial court to be attributable to the appeal.

(c) When the judgment directs the execution, assignment or delivery of a conveyance or other instrument, appellant may execute, assign or deliver the conveyance or other instrument,

leaving same in the custody of the clerk of the trial court in which the judgment was rendered, there to remain and abide the judgment of the appellate court, and in such case appellant shall give bond only for costs on appeal and damages for delay.

(d) Executors, administrators and guardians shall be required to give a supersedeas bond.

Rule 4.03. Restitution undertaking by appellee.

(a) In an action on a contract for the payment of money only, or in an action for injuries to the person, if appellee gives adequate security to make restitution in case the judgment is reversed or modified, appellee may, on leave obtained from the trial court, proceed to enforce the judgment notwithstanding the execution of a supersedeas bond. This security must be an undertaking executed to appellant, with sufficient surety, to the effect that if the judgment be reversed or modified appellee will make full restitution to appellant of the money received under the judgment.

(b) The provisions of paragraph (a) shall not apply to

judgments recovered in actions for libel, slander, malicious prosecution, false imprisonment or assault and battery.

Rule 4.04. Failure to file or insufficiency of bond.

If a bond on appeal or a supersedeas bond is not filed within the time specified, or if the bond filed is found insufficient, a bond may be filed at such time as may be fixed by the trial court.

Rule 4.05. Judgment against surety.

The provisions of Rule 65.1, Wyo. R. Civ. P., apply to a surety upon an appeal or supersedeas bond given pursuant to Rules 4.01, 4.02 and 4.03.

Rule 5. STAY OF EXECUTION IN DEATH AND OTHER CRIMINAL CASES

~~{Comments: These rules formerly appeared in rules 2.11. They were placed here as part of the logical sequence of the rules and to separate out the subject matter.}~~

Rule 5.01. Stay of execution and relief pending appeal.

(a) Death. -- A sentence of death shall be stayed pending appeal.

(b) Imprisonment. -- A sentence of imprisonment shall be stayed if defendant appeals and is admitted to bail by the trial court.

(c) Fine. -- If defendant appeals, a sentence to pay a fine may be stayed by the trial court upon such terms as the trial court deems proper. The trial court may require that defendant deposit the entire fine or costs, or any portion, with the clerk of the trial court, or give bond for the payment, or submit to an examination of assets, and restrain defendant from dissipating the assets.

(d) Probation. -- If defendant appeals, an order placing defendant on probation will not be stayed, unless a specific order granting stay, or granting admission to bail, or both, is entered by the trial court.

(e) Admission to bail. -- Admission to bail upon appeal shall

be as provided in Rules 46 to 46.2, Wyo. R. Cr. P.

Rule 6. DOCKETING APPEAL

Rule 6.01. Docketing Appeal and Jurisdiction.

(a) The case shall be docketed in the appellate court when the notice of the completion of the record, as provided in Rule 3.05(a), is filed with the appellate court together with the filing fee. The clerk of the appellate court shall, forthwith, serve on the parties to the appeal notice that the appeal has been docketed and set forth the briefing schedule in accord with Rule 7.

(b) The appellate court shall acquire jurisdiction over the matters appealed when the case is docketed. In all cases, the trial court retains jurisdiction over all matters and proceedings not the subject of the appeal, including all matters covered by Rules 4 and 5, unless otherwise ordered by the appellate court.

(c) A district court shall have jurisdiction of appeals from interlocutory orders of administrative agencies and county courts,

justice of the peace courts and municipal courts, and questions certified pursuant to Rule 11, and petitions pursuant to Rule 13.

(d) The supreme court shall have jurisdiction of appeals from interlocutory orders of a district court, and questions certified pursuant to Rules 11 or 12, and petitions pursuant to Rule 13.

(e) The appellate court has authority to ascertain its jurisdiction of the appeal once a notice of appeal is received by the court.

~~[Comments: The language of this rule reflects the concept of dual jurisdiction. It provides for docketing the appeal in the appellate court and for payment of the filing fee when the notice of the completion of the record is received from the clerk of the trial court. This is the event that triggers the briefing schedule upon notice from the clerk of the appellate court. The language has been changed from former Rule 3 in order to accommodate new Rule 3, which provides that the record for the appeal, denominated the "transmitted record" is prepared for submission to the appellate court after the briefs have been prepared. The event that invests jurisdiction in the appellate court is the notice that record on appeal has been completed. It serves in lieu of the filing of the record for purposes of docketing the case in the appellate court.]~~

Rule 7. BRIEFS

~~{Comments: For the most part, this series of rules which were formerly in rule 5 are not changed. The time for filing a brief is now extended from 30 days to 45 days; footnotes must be double spaced and in the same type size as text (to discourage footnotes or at least excessive footnotes); and the rule providing for extensions of time was tightened up. Originally rule 7.10 was more restrictive, but in response to comments the most restrictive language was removed.}~~

Rule 7.01. Brief of appellant.

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

(a) A title page which must include:

(1) The appropriate caption and appellate court case number;

(2) Identification of party filing the brief; and

(3) The names(s), address(es) and telephone number(s) of the attorney(s) or pro se party(ies) preparing the brief.

(b) A table of contents, with page references;

(c) A table of cases alphabetically arranged (in one list or by jurisdiction), statutes and other authorities cited, with references to the pages where they appear;

(d) A statement of the issues presented for review;

(e) A statement of the case including:

(1) The nature of the case, the course of proceedings, and the disposition in the trial court; and

(2) A statement of the facts relevant to the issues presented for review with appropriate references to documents listed in the index of the transmitted record.

(f) An argument, which may be preceded by a summary, setting forth the contentions with respect to the issues presented and the

reasons therefor, with citations to the authorities, statutes and parts of the record relied on;

(g) A short conclusion stating the precise relief sought;

(h) The signature(s) of counsel or pro se party(ies) submitting the brief; and

(i) A certificate of service.

(j) An appendix, which shall contain a copy of the judgment or final order appealed from and the trial court's written and/or oral reasons for judgment, if any, and the statement of costs required by rule 10.01.

Rule 7.02. Brief of appellee.

The brief of appellee shall conform to the requirements of Rule 7.01, except that a statement of the issues, or of the case, is not required.

Rule 7.03. Reply brief.

Appellant may file a brief in reply limited to those new issues and arguments raised by the brief of appellee.

Rule 7.04. Additional authorities.

Any relevant authority published since the filing of a party's brief, or other authority which was not discovered until after the brief was served, may be cited at oral argument only if notice is provided to the court and opposing counsel five days prior to argument. If such notice is not provided, the party wishing to use such authority must obtain the express permission of the appellate court before citing that authority in argument, unless the opposing counsel stipulates in writing, which must be on file with the appellate court at the time of oral argument, that no objection is lodged.

Rule 7.05. Length, format, binding and number of briefs.

(a) Length of Briefs.

(1) Except by permission of the appellate court, principal briefs shall not exceed 70

pages, and reply briefs shall not exceed 35 pages, exclusive of pages containing the title page, table of contents, table of authorities, certificate of service and appendices.

(b) *Format of Briefs.*

(1) Brief pages shall not exceed 8 ½ by 11 inches. Margins shall not be less than one inch on all sides;

(2) Text of Briefs shall be double-spaced (except quotations of more than 50 words);

(3) Briefs must be in no smaller type or font than 10 characters per inch;

(4) Footnotes shall be in the same size of type as the text of the brief and double-spaced; and

(5) Appendices on legal-sized paper should be reduced to 8 ½ by 11 inch paper and readily legible.

(c) Binding of briefs.

Briefs shall be bound only at the upper left-hand corner.

(d) Number of briefs filed is governed by Rule 1.01.

Rule 7.06. Time for filing and serving briefs.

(a) Brief of appellant.

(1) Appellant shall file, within 45 days after service of the notice that the case is docketed in the appellate court as provided in Rule ~~3.05(a)~~ 6.01, the required number of copies of the brief in the appellate court, and concurrently ~~serve on appellee(s), or attorney(s) of record,~~ one copy of that brief on each party.

(b) Brief of appellee.

(1) Appellee shall file, within 45 days after

service of appellant's brief, the required number of
briefs and shall concurrently serve one copy
~~on appellant(s) or the attorney(s) of record~~ each party.

(c) Reply brief.

(1) Appellant shall file, within 15 days after the
service of appellee's brief, the required number of reply
briefs and shall concurrently serve one copy on
~~appellee(s) or the attorney(s) of record~~ each party.

(d) Abbreviated schedule.

(1) The appellate court may order a shorter time to
file and serve briefs.

Rule 7.07. Service of briefs on attorney general.

In all cases in which the state is a party, or in which any of
its property is involved, or in which a statute, ordinance or
franchise is alleged to be unconstitutional, including criminal
cases upon reserved questions, and cases arising upon exceptions

taken in a criminal case by the district attorney, counsel shall also serve a copy of the brief upon the attorney general.

Rule 7.08. Briefs in criminal cases upon exceptions of district attorney.

In criminal cases arising upon the filing of a bill of exceptions by the district attorney, the time for filing and serving briefs shall be governed by Rule 7.06, computed from the time the bill is filed with the supreme court. In case of delay in the appointment of counsel to argue the case against the exceptions beyond the time allowed for the briefs on behalf of the state, counsel shall have the full time allowed that side after the appointment and service of the opposing brief.

Rule 7.09. Pleadings in original cases.

(a) In all cases originally commenced in the supreme court, the party shall file that pleading along with the filing fee required by Rule 10.02, with the clerk of the supreme court. Any party against whom such relief is sought shall file such response and briefs as the court may direct.

(b) Rule 1.01 applies.

Rule 7.10. Extension of time.

(a) An extension of time in which to file briefs may only be obtained from the appellate court upon a motion certifying good cause made before the time to file the brief expires. A motion for an extension of time to file brief must be accompanied by an order in the proper form.

(b) Good cause, as used in this rule, includes such things as a death in counsel's immediate family, serious illness, or other unanticipated circumstances which justify delay of the appellate process.

Rule 7.11. Failure to file.

(a) If in any case the party holding the affirmative fails to file a brief within the time fixed by law or the rules herein, the case may be dismissed on the ground of want of prosecution.

(b) When the party holding the negative has failed to file

and serve a brief as is required by these rules, and the brief of the party holding the affirmative has been duly filed and served within the time required, the party holding the affirmative may submit the case, with or without oral argument, and the other party shall not be heard.

Rule 7.12. Amicus curiae.

A brief of an amicus curiae may be filed only by leave of court granted on motion or the request of the appellate court. The brief may be conditionally filed with the motion for leave. A motion for leave shall identify the interest of the applicant and shall state the reasons a brief of amicus curiae is appropriate. Any amicus curiae shall file a brief within the time allowed the party whose position the amicus brief will support. A motion of amicus curiae to participate in oral argument shall be granted only for extraordinary reasons with the time used to be charged against the party whose contentions amicus curiae supports.

Rule 8. ORAL ARGUMENTS

~~{Comments: The only changes are minor language adjustments to former Rule 6.}~~

Rule 8.01. Settings and appearance.

(a) There will be two disposition dockets:

(1) The expedited docket. Cases assigned to this docket will be considered submitted when the time for reply briefs has expired, without oral argument; and

(2) The oral argument docket. Cases assigned to this docket will not be considered submitted until the oral argument has been held.

~~(b) Counsel for either or all parties, when wishing to submit a case upon briefs, may avoid personal attendance at court by filing a written direction to the clerk of the appellate court to so submit upon briefs. Any party may request submission of its case upon its brief without oral argument upon written notice to the clerk.~~

~~(c) Except as provided in subsection (d), the appellate court will not hear oral arguments in cases assigned to the expedited docket.~~

~~—(d)—~~The clerk of the appellate court ~~will~~shall promptly notify all ~~counsel~~parties by mail if a case is assigned to the expedited docket. Any party may move, with good cause shown, not later than 15 days after the entry of the order assigning a case to the expedited docket, to have the case reassigned to the argument docket and the case may be reassigned in the discretion of the appellate court.

~~(e)(d)~~ The clerk ~~will~~shall notify ~~counsel~~by mailparties of cases set for oral ~~argument~~hearing. ~~In instances where mail may not reach counsel to permit counsel's appearance at oral argument, the clerk may notify counsel by telephone.~~ A motion to vacate an oral argument may be considered by the court without ~~hearing~~postpone a hearing beyond the time assigned may be heard without argument in the discretion of the appellate court, but a reasonable time may be allowed upon request for a showing by a party for or against the motion.

Rule 8.02. Procedure; time allowed for argument.

In oral argument, ~~counsel for the party holding the affirmative~~ appellant shall be entitled to the opening and closing, and in the opening, ~~counsel shall present all points and authorities upon which counsel relies, but without unnecessary repetition of matters contained in the brief. Counsel opposed shall.~~ Appellee may then be heard. ~~and shall present all points and authorities upon which that counsel relies. Counsel for the party holding the affirmative shall.~~ Appellant may then conclude. Unless otherwise ordered by the court, ~~counsel on each side~~ may not exceed 30 minutes in argument. If more time is desired, the request must be made at the time of filing the brief in the case. The court may make such order as it deems proper.

Rule 9. DECISIONS, REHEARING, MANDATE

~~{Comments: No significant language changes, but this rule combines former rules 7, 8 and 9.}~~

Rule 9.01. Opinions.

~~No cause shall be considered decided until a written opinion of the appellate court is filed with the clerk. The decision of the appellate court shall be set forth in a written opinion or order and filed with the clerk.~~

Rule 9.02. Reversal in part.

If a judgment or appealable order is reversed in part, for error relating only to an issue which is not dependent for its proper trial on any other issue or issues found to have been properly tried, then a partial new trial may be directed by the appellate court, if a trial on that issue does not prejudice or work an injustice on any party.

Rule 9.03. Proceedings after reversal.

When a judgment or an appealable order is reversed in the appellate court, either in whole or in part, the court reversing shall proceed to render that judgment as the trial court should have rendered, or remand the cause to the trial court for judgment or additional proceedings as the appellate court may direct. If an

appellate court reverses or affirms the judgment or appealable order, it shall not issue execution in causes that are brought before it but shall send a mandate to the trial court, as the case may require, for execution, and the trial court to which the mandate is sent shall proceed in the same manner as if the judgment or appealable order had been rendered in that court.

Rule 9.04. Harmless error.

Any error, defect, irregularity or variance which does not affect substantial rights shall be disregarded by the reviewing court.

Rule 9.05. Plain error.

Plain errors or defects affecting substantial rights may be noticed although they were not brought to the attention of the trial court.

Rule 9.06. Abbreviated opinions.

When all parties to an appeal stipulate in writing for a

ruling by the appellate court without a published decision, by entry of an abbreviated opinion, that court may, in its discretion with unanimous vote, determine the case by an abbreviated opinion. The decision for the case will provide the ultimate disposition without a detailed statement of facts or law. The opinion will not be published, or generally disseminated, and shall not constitute precedent of the appellate court.

Rule 9.07. Application for rehearing.

(a) An application for rehearing of a case in the appellate court shall be by petition to that court, signed by counsel, briefly stating the points wherein it is alleged that the appellate court has erred, and shall be filed within 15 days after the decision is rendered. The petition shall be accompanied by a brief covering the points and authorities upon which the petitioner relies. A copy of the petition and the brief shall, within the time above specified, be served upon ~~the opposing party or the attorney of record all parties~~. There shall be no oral argument on petitions for rehearings unless argument is requested by the appellate court.

(b) Rule 1.01 applies.

Rule 9.08. Suspension of proceedings.

The filing of the petition for rehearing within the time allowed shall suspend proceedings under the decision until the petition is decided, unless the appellate court shall otherwise order.

Rule 9.09. Hearing.

When a rehearing is granted, the other party, within 15 days of that grant, shall file with the appellate court an answer and supporting brief as described in Rule 9.07, which shall also be served upon petitioner.

Rule 9.10. Mandate.

Upon the denial of a petition for rehearing, or if within 15 days after the decision no petition for rehearing is filed, a mandate shall be issued to the trial court, as the case may require, for execution. A copy of the mandate shall be sent to all parties.

Rule 10. COSTS

Rule 10.01. Cost of record, docket and service fees.

(a) Appellant, at the time of filing appellant's brief, must file with the clerk of the appellate court a statement of the cost of the original transcript of the evidence with information regarding the payment.

(b) The fees charged for the services of the clerk in the appellate court for criminal cases, where there is no statute to the contrary, shall be the same as those prescribed in civil cases.

[A copy of the supreme court order setting docket and service fees is attached following Rule 29. Please note that this order does not appear in the Michie Company Wyoming Court Rules volume of the Wyoming Statutes.]

Rule 10.02. Costs in reserved cases, certified cases, and Rule 13 cases.

In each civil case sent to an appellate court upon reserved

questions, certified cases and Rule 13 cases, the usual docketing fee required by law to be paid in other cases shall be paid upon the filing of the papers in the court. Such docketing fee shall be advanced by the party or parties designated by the trial court or judge, but in the absence of any such designation, then by the plaintiff or petitioner in the action. The costs in such reserved cases accruing in the court shall be taxed and abide the suit as in other cases.

Rule 10.03. Costs on bill of exceptions and reserved questions in criminal cases.

No fees shall be collected in criminal cases properly filed with the supreme court on certification, reserved questions, ~~writ of review~~, or by bill of exceptions of a district attorney unless otherwise provided by statute.

Rule 10.04. Costs on reversal.

When a judgment or appealable order is reversed, appellant shall recover costs, and when reversed in part and affirmed in part, the court may apportion the costs between the parties in such

manner as it deems equitable; and there shall be taxed as a part of such costs the cost of making the transcript of the evidence in the case and for typewriting and reproducing of briefs, such costs to be computed at the rate allowed by law for making the transcript of such evidence; provided, however, that the appellate court may, by order entered of record, refuse to allow as part of such costs those costs as may result from the insertion in the transcript of the evidence, or in the briefs, those portions as may clearly appear to have been unnecessary.

Rule 10.05. Costs and penalties on affirmance.

If the judgment or appealable order is affirmed in a civil case, appellee shall recover the cost for publication of the brief with the cost to be computed at the rate allowed by law for making the transcript of the evidence. If the court certifies there was no reasonable cause for the appeal, a reasonable amount for attorneys' fees and damages to the appellee shall be fixed by the appellate court and taxed as part of the costs in the case. The amount for attorneys' fees shall not be less than one hundred dollars (\$100.00) nor more than five thousand dollars (\$5,000.00). The amount for damages to the appellee shall not

~~exceed two thousand dollars (\$2,000.00). The fee shall not be less than one hundred dollars (\$100.00) nor more than five thousand dollars (\$5,000.00) to the counsel of appellee; and damages to appellee, in such sum as may be reasonable, shall not exceed two thousand dollars (\$2,000.00) unless the judgment, or appealable order directs the payment of money and execution was stayed, when in lieu of such penalty, it shall bear additional interest at a rate not to exceed five percent (5%) per annum for the time for which it was stayed, to be ascertained and awarded by the appellate court.~~

Rule 10.06. In forma pauperis.

A defendant in a criminal case who desires to proceed on appeal in forma pauperis shall file in the trial court one copy of a motion for leave so to proceed, together with an affidavit documenting the defendant's inability to pay fees and costs or to give security. The motion shall be accompanied by a proposed order. If the trial court finds defendant is qualified to proceed in forma pauperis, defendant may proceed without further application to the appellate court, and without payment of fees or costs in either court or the giving of security. In original

proceedings, the application shall be made in the appellate court.

Rule 11. CERTIFICATION OF QUESTIONS OF LAW

Rule 11.01. Generally.

The supreme court may answer questions of law certified to it by a federal court or a state district court, and a district court may answer questions of law certified to it by a county court, justice of the peace court, municipal court or an administrative agency, if there is involved in any proceeding before the certifying court or agency a question of law which may be determinative of the cause then pending in the certifying court or agency and concerning which it appears there is no controlling precedent in the decisions of the supreme court. Any decision rendered by a district court under this section may be reviewed by the supreme court only through the provisions for writ of review, Rule 13.

Rule 11.02. Method of invoking.

Rule 11 may be invoked upon the motion of the court or of any party to the cause.

Rule 11.03. Contents of certification order.

A certification order shall set forth:

(a) The questions of law to be answered;

(b) A statement of all facts relevant to the questions certified;

(c) The nature of the controversy in which the questions arose; and

(d) A designation of the party or parties who will be the appellant(s), i.e. the party holding the affirmative, in the appellate court.

Rule 11.04. Preparation of certification order.

(a) The certification order shall be prepared by the

certifying court or agency, signed by the judge presiding at the hearing or a designated individual for the agency, and forwarded to the reviewing court by the clerk of the certifying court or the designated individual for the agency under the official seal of the court or agency. The reviewing court may require the original or copies of all, or of any portion of the record before the certifying court, to be filed under the certification order, if, in the opinion of the reviewing court, the record or any portion may be necessary in answering the questions.

(b) The reviewing court shall accept or reject a certified question within 30 days of receiving the certification order. A request for certification is deemed denied if not granted within 30 days of filing in the reviewing court.

Rule 11.05. Costs.

Fees and costs shall be the same as in civil appeals docketed before the reviewing court. Payment of the docketing fee shall be borne by the party seeking certification. If both parties seek certification, then the parties shall each pay one-half of the docketing fee. In any other circumstances, fees and costs shall be

paid as directed by the certifying court in its order of certification.

Rule 11.06. Briefs and argument.

Upon the agreement of the reviewing court to answer the certified questions, notice shall be given to all parties. The appellant in the appellate court shall file a brief within 45 days from the date of receipt of the notice, and the opposing party within 45 days from service of copies of appellant's brief. Briefs must be in the manner and form of briefs as provided in Rules 1.01 and 7, and oral arguments shall be as provided in Rule 8.

Rule 11.07. Opinion.

The written opinion of the reviewing court, stating the law governing ~~the~~ each question(s) certified, shall be sent by the clerk of the reviewing court under the court's seal to the certifying court or agency and to the parties.

~~{Comments: These rules remain essentially the same, but were rewritten to accommodate all certifications, including those now described in statutes and to add additional courts from~~

~~which questions may be certified.]~~

Rule 12. JUDICIAL REVIEW OF ADMINISTRATIVE
ACTION.

Rule 12.01. Generally.

To the extent judicial review of administrative action by a district court is available, any person aggrieved or adversely affected in fact by a final decision of an agency in a contested case, or who is aggrieved or adversely affected in fact by any other agency action or inaction, or who is adversely affected in fact by a rule adopted by that agency, may obtain such review as provided in this rule. All appeals from administrative agencies shall be governed by these rules.

~~{Comments: No change other than the title
from "applicability" to "generally".}~~

Rule 12.02. Definitions.

As used in Rule 12, the words "agency", "contested case",

"party", "person" and "rule" (when referring to an agency or administrative rule), shall have the meanings set forth in Wyo. Stat. 16-3-101, provided, that "agency" shall not mean a sheriff, clerk of court, district court commissioner, master, referee, receiver, appraiser, executor, administrator, guardian, commissioner appointed by a court, or any other officer of a court or officer appointed by a court, the governing body of a city or town, or the state legislature.

~~{Comments: Insertion of "the governing body of a city or town, or the state legislature".}~~

Rule 12.03. Institution of proceedings.

The proceedings for judicial review under Rule 12 shall be instituted by filing a petition for review in the district court having venue. No other pleading shall be necessary, either by petitioner or by the agency or by any other party. No summons shall be necessary. The petition shall conform to the requirements set forth in Rule ~~12.09~~12.06. Copies of the petition shall be served without unnecessary delay upon the agency and the parties in accordance with Rule 5, Wyo. R. Civ. P.

~~{Comments: 1. Deletion of "and all proceedings for trial de novo reviewing administrative action." 2. Insertion of "the petition shall conform to requirements set forth in Rule 12.09 W.R.A.P."}~~

Rule 12.04. Time for filing petition; ordering transcript.

In a contested case, or in an uncontested case, even where a statute allows a different time limit on appeal, the petition for review shall be filed within 30 days after written, certified notice to all parties of the final decision of the agency or denial of the petition for a rehearing, or, if a rehearing is held, within 30 days after written, certified notice to all parties of the decision, except that upon a showing of excusable neglect the district court may extend the time for filing the petition for review not exceeding 30 days from the expiration of the original time herein prescribed. Concurrently with the filing of the petition, appellant shall order and arrange for the payment of a transcript of the testimony necessary for the appeal, and written evidence of the compliance with this requirement shall be served upon the agency and all parties as provided in Rule 5, Wyo. R. Civ. P.

~~{Comments: 1. Change in title. 2. Delete "places" and insert "allows a different time." 3. Delete "based upon the failure of a party to learn of the decision or action" (conform to Rule 2.01 W.R.A.P. — excusable neglect should not be limited to failure to learn of decision, see Big Horn County Commissioners v. Hinckley, 593 P.2d 573 (Wyo. 1979).}~~

Rule 12.05. Stay of enforcement.

Filing of the petition does not itself stay enforcement of the agency decision. The reviewing court may order a stay upon appropriate terms. If the stay involves an order preventing an agency or another party from committing or continuing an act or course of action, the provisions of Rule 65, Wyo. R. Civ. P., relating to injunctions shall apply.

~~{No change.}~~

Rule 12.06. Requirements of petition.

The petition for review shall include:

(a) A concise statement showing jurisdiction and venue;

(b) The specific issues of law addressed to the district court for review;

(c) A brief statement of the facts relevant to the legal issues raised before the agency, showing the nature of the controversy in which the legal issues arose; and

(d) A copy of the agency decision shall be attached as an appendix.

The petition shall not exceed five letter pages in length, excluding appendix, and shall be in the format described in Rule 7.05(b).

~~{Comments: 1. Change in title. 2. This rule has been substantially rewritten to require the petition for review contain a statement showing jurisdiction and venue, specification of issues of law, a brief statement of the relevant facts, and have attached a copy of the agency decision. The rule also limits the petition to five letter pages excluding appendix, and requires a specific format.}~~

Rule 12.07. Record.

Within 60 days after the service of petition, or within the time allowed by the reviewing court, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceedings under review and a separate letter of transmittal marked for the personal attention of the judge or judges of the reviewing court. Concurrently with transmitting the record, the agency shall serve notice of the transmittal on all parties. The record in a contested case shall consist of the matter required by Wyo. Stat. 16-3-107(o), Wyoming Administrative Procedures Act. To the extent any matter required was not preserved by the agency and there is no record, the court may take evidence on that matter. The record in all other cases shall consist of the appropriate agency documents reflecting the agency action and its basis. By stipulation of all parties to the review proceedings, the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may be disciplined in accordance with Rule 1.03. The reviewing court may require or permit subsequent additions or corrections to the record. A record remanded by a court to an agency for any reason or purpose may be

recalled by the remanding court, as necessary, upon its own motion.

~~[Comments: The time frame within which the agency must transmit a certified record of its proceedings has been increased from 30 days to 60 days.]~~

Rule 12.08. Presentation of evidence.

If, before the date set for hearing, application is made to the reviewing court for leave to present additional evidence, and it is shown to the satisfaction of the court the additional evidence is material, and good cause for failure to present it in the proceeding before the agency existed, the reviewing court, in contested cases, shall order the additional evidence to be taken before the agency upon those conditions determined by the reviewing court. The agency may adhere to, or modify, its findings and decision after receiving such additional evidence, and shall supplement the record to reflect the proceedings had and the decision made. Supplemental evidence may be taken by the reviewing court in cases involving fraud, or involving misconduct of some person engaged in the administration of the law affecting the decision. In all cases other than contested cases, additional

material evidence may be presented to the reviewing court.

~~{No substantive change.}~~

Rule 12.09. Extent of review.

(a) Review shall be conducted by the reviewing court and shall be confined to the record as supplemented pursuant to Rule 12.08 and to the issues set forth in the petition and raised before the agency. Review shall be limited to a determination of the matters specified in Wyo. Stat. 16-3-114(c).

(b) Upon such review, or in response to a motion for certification or interlocutory appeal by any party within 30 days of the filing of the petition for review and after the expiration of 15 days from service of the motion for response, the district court may, as a matter of judicial discretion, certify the case to the supreme court. In determining whether a case is appropriate for certification, the district court shall consider whether the case involves a novel question, a constitutional question, a question of state-wide impact or an important local question which should receive consideration from the district court in the first

instance, a question of imperative public importance, or whether an appeal from any district court determination is highly likely such that certification in the first instance would serve the interests of judicial economy and reduce the litigation expenses to the parties. Not later than 60 days after a petition for review is filed, the district court shall notify the parties of its decision concerning certification by order, which shall include a concise statement of the issues raised in the petition and findings which support the determination concerning certification. Upon entry of an order of certification, the petitioner shall pay the required docketing fee. The clerk of the district court shall promptly forward copies of the order of certification and the petition for review to the clerk of the reviewing court. The filing of the record, briefs, and oral argument in the supreme court shall be as in civil cases pursuant to Rules 2.08(b) 4, 7, and 8.

(c) For all cases not certified to the supreme court, the district court may receive written briefs and hear oral argument in its discretion. The briefing schedule shall be fixed by the district court.

(d) The district court may, in its discretion, remand the

case to the agency for proceedings in accordance with the direction of the court. The district court shall enter judgment reversing, vacating, remanding or modifying the order for errors appearing on the record.

~~{Comments: 1. The following language has been inserted in subsection (a): "set forth in the petition and." 2. The remainder of the rule has been substantially rewritten to provide district court review and certification of an agency action to the Wyoming Supreme Court for review and consideration. The rule also provides a district court procedure if the matter is not certified to the Wyoming Supreme Court.}~~

Rule 12.10. Joint or several appeals; agreed statement.

The provisions of Rules 1.06 and 3.08 apply to appeals from administrative agencies to the district court.

~~{No change other than to conform rule references to these amended rules.}~~

Rule 12.11. Review by supreme court.

(a) An aggrieved party may obtain review of any final judgment of the district court by appeal to the supreme court.

(b) If the final judgment of the district court is appealed to the supreme court, the filing of the record, briefs, and oral argument in the supreme court shall be as in civil cases pursuant to Rules 1.01, 4, 7, and 8.

~~[Comments: In subsection (b), the language "If the matter is not certified to the Supreme Court, or" has been deleted, and the rule references have been changed to conform to these amended rules.]~~

Rule 12.12. Relief available by independent action.

The relief, review, or redress available in suits for injunction against agency action or enforcement, in actions for recovery of money, in actions for a declaratory judgment based on agency action or inaction, in actions seeking any common law writ to compel, review or restrain agency action shall be available by independent action notwithstanding any petition for review.

~~[Comments: This rule has been grammatically revised to eliminate references to specific writs, replacing those references with "any common law writ".]~~

Rule 13. THE PETITION FOR A WRIT OF REVIEW

~~[Comments: This rule represents a major departure from the former rules. It encompasses former Rule 13, but it also provides for interlocutory appeals. It does reflect the practice of the Supreme Court with respect to Writs of Certiorari, but specific procedures are provided for accomplishing the petition. The discretion is vested in the reviewing court as distinguished from the certification procedure in which the discretion of the trial court is addressed initially.]~~

Rule 13.01. Generally.

(a) All applications to the supreme court for interlocutory or extraordinary relief from orders of the district courts, including such applications as are established by statute, may be made as petitions for a writ of review. Granting of a petition is within the discretion of the supreme court.

(b) All applications to a district court for interlocutory or extraordinary relief from orders of administrative agencies and the municipal, justice of the peace, and county courts, including such applications as are established by statute (e.g., Wyo. Stat. 5-2-119), may be made as petitions for a writ of review. Granting of a petition is within the discretion of the district court.

(c) The petitioner for a writ of review shall specifically state the nature of review desired and the relief sought.

Rule 13.02. When interlocutory review may be granted.

A writ of review may be granted by the reviewing court to review an interlocutory order of a trial court in a civil or criminal action, or from an interlocutory order of an administrative agency, which is not otherwise appealable under these rules, but which involves a controlling question of law as to which there are substantial bases for difference of opinion and in which an immediate appeal from the order may materially advance resolution of the litigation.

Rule 13.03. Petition and response to petition.

(a) A petition for a writ of review must be filed with the reviewing court within 11 days after entry of the order from which relief is sought.

(b) Any party may file a response within 11 days after filing of the petition.

(c) The reviewing court may grant the petition anytime after the 22nd day or as soon as both the petition and the response have been filed with the reviewing court, but it shall be deemed denied if the reviewing court does not accept review within 30 days from the date of the petition.

(d) Rule 1.01 applies.

Rule 13.04. Contents of petition for writ of review.

The petition shall be captioned in the reviewing court. It shall contain concise statements of the following:

(a) The nature of the review desired and the relief sought;

(b) The facts necessary to an understanding of the controlling questions of law determined by the lower court or administrative agency;

(c) The question itself;

(d) The principles of law upon which petitioner relies, with citation of authorities in support but without argument;

(e) A statement explaining why the ends of justice require review;

(f) A certification that the petition is not interposed for purpose of delay; and

(g) A certification that no notice of entry of the order sought to be reviewed was provided, if such is the case.

Rule 13.05. Exhibits and attachments to the petition for a writ of review.

Unless otherwise ordered by the reviewing court, certified

copies of the following shall be attached as exhibits to all petitions for a writ of review:

(a) All relevant pleadings;

(b) The order sought to be reviewed;

(c) All pertinent findings of fact and conclusions of law and memorandum opinions; and

(d) Any other documents or exhibits petitioner may deem essential.

Rule 13.06. Stay of lower court or administrative agency proceedings.

A petition for a writ of review shall not stay proceedings in the trial court or administrative agency unless the trial court or agency, or reviewing court, so orders.

Rule 13.07. Writ of review.

The order granting the writ of review may set forth the particular issue or point of law which will be considered and may be on such terms as the reviewing court conditions. If the petition is granted, ~~the writ shall be deemed to have been docketed and all~~ proceedings shall be within the time required for appeals. Oral argument will not be held except at the direction of the reviewing court. No petition for rehearing shall be permitted.

Rule 13.08. Disposition of the writ when granted.

If the writ of review is granted, the reviewing court may reverse, vacate, remand or modify the decision for errors appearing on the record.

Rule 13.09. Duties of clerks.

(a) Grant of petition. When a petition for a writ of review is granted, the clerk of the reviewing court shall enter that order and shall notify the trial court or administrative agency and counsel of record. The order may direct that all or part of the record be transmitted to the reviewing court.

(b) Denial of petition. Upon denial of a petition for a writ of review, the clerk of the reviewing court shall notify the trial court or administrative agency and counsel of record of such denial and forward copies of the order.

Rule 14. SERVICE OF PAPERS AND COMPUTATION
OF TIME

~~{Comments: This rule is meant to parallel the
language of civil rule 5.}~~

Rule 14.01. Service; how made.

(a) Whenever, under these rules, service is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney unless personal service upon the party is ordered by the court. Service upon the attorney or upon the party shall be made by delivering a copy to that party or by mailing it to the last known address, or, if no address is known, by leaving it with the clerk of the appellate court. Copies deposited with the clerk shall be promptly mailed or delivered by the clerk to the attorney of the party so entitled, or to the

party, if the party has no attorney of record.

(b) Delivery of a copy within this rule means handing it to the attorney or to the party, or leaving it at the party's office with the clerk or other person in charge, or leaving it in a conspicuous place, or, if the office is closed or the person to be served has no office, leaving it at the party's dwelling house or usual place of abode with some member of the family over the age of 14 years who resides there or otherwise, as provided in Wyo. R. Civ. P. 5. Service by mail is complete upon mailing.

Rule 14.02. Computation of time.

In computing any period of time prescribed or allowed by these rules, or by order of court, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper, a day on which weather or other conditions have closed the office of the clerk of the court, in which event the period runs until the end of the next day which is not one of the above described days. When

~~the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.~~ As used in this rule "legal holiday" includes any day officially recognized as a legal holiday in this state by designation of the legislature or appointment as a holiday by the chief justice of the Wyoming Supreme Court.

Rule 14.03. Additional time after service by mail.

Whenever a party has the right, or is required to do some act or take some proceedings within a prescribed period from or after the service of a brief, notice or other paper upon that party, and the brief, notice or other paper, is served upon the party by mail or by delivery to the clerk, three days shall be added to the prescribed period.

[Comments: The three additional days for mailing shall be computed as part of the original period and not as a separate period (overruling *Sellers v. Employment Sec. Comm'n*, 760 P.2d 394 (Wyo. 1988)).

Rule 15. PETITION FOR REINSTATEMENT

~~{Comments: Rules 15 through 26 are unchanged except for minor adjustments to language. The rule numbers are the same as the former rules.}~~

An application for reinstatement of a case in the appellate court, after dismissal, shall be by petition to the appellate court, signed by counsel, stating the reasons, and supported by a showing, in writing, as may be essential. The application shall be filed within 15 days after the order of dismissal has been made, and shall be accompanied by a brief containing the points and authorities upon which petitioner relies. Rule 1.01, ~~W.R.A.P.~~ applies. A copy of such petition, as well as the brief, shall also be served on the counsel for opposing party who may have appeared in the appellate court in the case within the above-specified time. Counsel for opposing party shall have 15 days after such service within which to file with the court any objections to the petition, together with a brief covering the points and authorities upon which the opposing party relies. The opposing party shall also serve upon counsel for the petitioner a copy of the objections and brief. There shall be no oral argument on the petition and the objections, unless requested by the court.

Rule 16. MOTIONS

(a) Motions submitted to an appellate court shall be filed with the clerk and served in accordance with the Wyo. R. Civ. P. 5

(b) A motion directed to a subject matter which may substantially affect the disposition of a case shall, at the time of filing, be supported by a memorandum of points and authorities. Rule 1.01 applies. Prior to filing, such memorandum shall be served upon the adverse party or the attorney of record who, within 15 days after service, may file and serve a similar memorandum. The court may resolve a motion without oral argument, or may order a hearing. All motions not previously determined shall be heard or submitted at the time regularly assigned for the hearing of the case. All motions shall be in the same form as described in Rule 7.05(b). Each motion filed must be accompanied by a proposed order.

Rule 17. SUBSTITUTION OF PARTIES

Rule 17.01. Death of a party.

(a) If a party dies after a notice of appeal is filed, or while a proceeding is otherwise pending in the appellate court, the personal representative of the deceased party may be substituted as a party on motion filed by the representative or by any party with the clerk of the appellate court. The motion of a party shall be served upon the representative in accordance with the provisions of Rule 5, Wyo. R. Civ. P. If the deceased party has no representative, any party may notify the appellate court of the death on the record and proceedings shall then be had as the appellate court may direct. If a party against whom an appeal may be taken dies after entry of a 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.

(b) After the notice of appeal is filed substitution shall be effected in the appellate 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 a personal representative, or, if the party has no personal representative, by the attorney of record within the time prescribed by these rules. After the notice of appeal is filed substitution shall be effected

in the appellate court in accordance with this rule.

(c) In appeals of criminal convictions, an appeal shall be dismissed if the convicted person dies.

Rule 17.02. Substitution for other causes; incompetency.

If substitution of a party in the appellate court is necessary because of incompetency or for any reason other than death, substitution shall be effected in accordance with the procedure prescribed in Rule 17.01.

Rule 17.03. Public officers; death or separation from office.

When a public officer is a party to an appeal or other proceeding in the appellate court in an official capacity and during its pendency dies, resigns or otherwise ceases to hold office, the action does not abate and the 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.

When a public officer is a party to an appeal or other proceeding in an official capacity the public officer may be described as a party by the official title rather than by name; but the court may require the name to be added.

Rule 18. VOLUNTARY DISMISSAL

If the parties to an appeal or other proceeding shall sign and file with the clerk of the appellate court an agreement that the proceeding be dismissed, specifying the terms as to payment of costs, and shall pay whatever fees are due, the clerk shall enter the case dismissed, but no mandate or other process shall issue without an order of the appellate court. An appeal may be dismissed on motion of appellant upon such terms as may be agreed upon by the parties or fixed by the appellate court.

Rule 19. APPEARANCE, WITHDRAWAL OR

SUBSTITUTION OF COUNSEL

Rule 19.01. Appearance.

Counsel or firms shown as participating in the filing of any motion, other pleading, or brief in the appellate court shall, unless otherwise indicated, be deemed to have appeared in the cause.

Rule 19.02. Withdrawal.

No attorney or firm who has appeared in a cause on appeal may withdraw from it without written consent of the appellate court filed with the clerk. Such consent may be conditioned upon substitution of other counsel.

Rule 19.03. Notice of withdrawal or substitution.

Notice of withdrawal or substitution of counsel shall be given to all parties either by withdrawing counsel or by substituted counsel and proof of service filed with the clerk. If an attorney ceases to act in a cause for a reason other than withdrawal with

consent, upon motion of any party, the court may require the taking of such steps as it may deem advisable to insure that the cause will proceed with promptness and dispatch.

Rule 20. HEARINGS OF SUPREME COURT CAUSES
BEFORE A DISTRICT COURT

Whenever a cause over which the supreme court has original jurisdiction is pending, the court may direct any district judge of the state to conduct a hearing at any county seat in the state. The judge conducting hearing shall make findings of fact and conclusions of law and shall forward the entire proceedings and record properly certified, to the supreme court for final determination of the cause.

Rules 21 through 26. [RESERVED]

Rule 27. RULES SUPERSEDED

~~[Comments: This rule supersedes the former appellate rules governing courts of limited jurisdiction because these rules are designed to apply to all appeals.]~~

From and after the effective date of these rules, all other rules in conflict with these rules shall be of no further force or effect. The following rules are superseded:

W.R.A.P.C.L.J. -- all.

Rule 28. TITLE

These rules shall be known as the Wyoming Rules of Appellate Procedure and may be cited as Wyo. R. App. P.

~~Rule 29. EFFECTIVE DATE~~

~~These rules shall take effect and be in force from and after November 1, 1992, as to all original proceedings commenced in the supreme court and judgments of conviction and sentences of death subject to automatic review by the supreme court as provided in~~

~~W.S. 6-2-103. They shall govern all other appellate proceedings in which the judgment or other appellate order appealed from is entered by the clerk of the trial court subsequent to November 1, 1992.~~

IN THE SUPREME COURT, STATE OF WYOMING

OCTOBER TERM, A.D. 1992

In the Matter of the Setting of Docket	)	
and Service Fees for Appellate Matters	)	
in the Wyoming Supreme Court, Wyoming	)	General Order 92-1
District Courts and Wyoming Courts of	)	
Limited Jurisdiction	)	

ORDER SETTING DOCKET AND SERVICE FEES FOR WYOMING COURTS IN APPELLATE MATTERS

The court having considered the necessity of implementing the revised Wyoming Rules of Appellate Procedure which will become effective on November 1, 1992; and, the court having found that former Rule 10.01, W.R.A.P., which set forth the docket and service fees for appellate matters in the supreme court was not carried forward in the revised Wyoming Rules of Appellate Procedure; and the court further finding that the Wyoming Rules of Appellate Procedure for Courts of Limited Jurisdiction, including Rules 20.02(b) and 10.01, thereof, which set forth the fee for preparing the record on appeal in courts of limited jurisdiction and which set forth the appellate docket fee in the district court were superseded by the revised Wyoming Rules of Appellate Procedure; it is therefore

ORDERED that the following docket and service fees to be collected by the clerks of the respective courts, be and they are hereby, established effective November 1, 1992, as follows:

I. Wyoming Supreme Court:

1. For the docketing of an appeal or any original proceeding, including any matters brought to the supreme court by the certification process or the writ of review, \$75.00.
2. The sum of \$5.00 for issuing certified court documents, including certificates of good standing of attorneys and certification of records.

3. The sum of \$.50 per page for reproducing any document, record or other paper, including opinions of the court.

4. For replacement, duplicate, or renewal of admission certificate, \$10.00.

5. For notary service, fee as set by WYO. STAT. § 32-1-112.

II. Wyoming District Courts:

1. For the docketing of a record on appeal from a judgment or appealable order rendered in a Wyoming Court of Limited Jurisdiction, the sum of \$25.00.

2. For the docketing of a record for judicial review of an administrative decision rendered in a contested case by a state administrative agency, the sum of \$25.00.

3. For the preparation of all transcripts in district court cases appealed to the supreme court including certificates, seals and the transmission, the sum of \$25.00. [WYO. STAT. § 5-3-206(vii)]

III. Wyoming Courts of Limited Jurisdiction:

1. For the preparation of the record on appeal to the district court, including the certified copy of the docket entries, the sum of \$10.00 to be paid at the time of the filing of the notice of appeal by the appellant.

It is further

ORDERED that this general order shall remain in full force and effect until such time as it may be amended by the court.

Dated this 28th day of October, 1992.

BY THE COURT:

/s/

Richard J. Macy
Chief Justice

INTRODUCTION TO APPENDICES

These appendices are not a part of the Wyo. R. App. P. and have not been adopted by the Wyoming Supreme Court as a part of the rules.

Appendix I is a timetable which summarizes the salient time limitations which are applicable to the appellate process.—~~The timetable was also developed by the committee during its revision work.~~ Again, the timetable should not be used as a substitute for consulting the applicable rules, but it does provide a general outline and limited index to the most frequently applicable time limitations.

Appendix II consists of forms which may be used by practitioners in drafting pleadings appropriate to an appeal.—~~The forms were prepared by the Supreme Court Committee on Appellate Rules and Practices in conjunction with its recommendations concerning revision of the Wyoming Rules of Appellate Procedure.~~ However, they are not intended to be a substitute for careful drafting of appellate pleadings. No attempt is made to furnish a manual of forms.

The forms and the timetable are intended for illustration only and have not been adopted as official documents.

APPENDIX I

TIMETABLE FOR LAWYERS ON APPEAL

(Unofficial)

(w/in = within; N of A = Notice of Appeal;
D. Ct. = District Court; S. Ct. = Supreme Court;
Tr. Ct. = Trial Court; App. Ct. = Appellate Court)

Procedure	Filed in:	When	Served
Notice of Appeal (Wyo. R. App. P. 2.01, 2.02, 2.03)	Tr. Ct.	w/in 30 days after entry of judgment, or final appealable order; or w/in 15 days thereafter for excusable neglect; or w/in 15 days after original notice filed, for any other party; or w/in 30 days from entry of order made on motions 50(b), 52(b), and 59 W.R.C.P.; 29(c), 33, and 34 W.R. Cr. P; or w/in 30 days after above motions deemed denied	By appellant
Transcript Ordered (W.R.A.P. 2.05)	From Repr.	Concurrently with filing N of A	Evidence of order filed or endorsed on N of A
Designate transcript (W.R.A.P. 2.05, 3.02)	Tr. Ct.	With N of A	Appellant
Bond for Costs (W.R.A.P. 4.01)	Tr. Ct.	When N of A filed	
Supersedeas Bond	Tr. Ct.	At or before filing N of	

(W.R.A.P. 4.02)		A		
Docket Fee (W.R.A.P. 2.09)	Tr. Ct.	With N of A		Appellant
Designate Record (W.R.A.P. 3.05)	Tr. Ct.	With brief		Appellant
		With response brief		Appellee
		With reply brief		Appellant
Statement of Evidence when no transcript (W.R.A.P. 3.03)	Tr. Ct.	Appellant prepares		Serve on appellee
		w/in 15 days after service appellee may amend or object		Serve on appellant
Transmitting Record (W.R.A.P. 3.05)	Tr. Ct. Clerk	w/in 5 working days after reply brief filed or due		To clerk of App. Ct.
Time for filing briefs (W.R.A.P. 7.06)	App. Ct.	w/in 45 days after service of notice case docketed in App. Ct.	Served by appellant, see W.R.A.P. 1.01	
		w/in 45 days after service of appellant brief, appellee must file	Served by appellee, see W.R.A.P. 1.01	
		w/in 15 days after service of appellee brief, appellant may file reply brief	See W.R.A.P. 1.01	
Amicus Curiae Brief (W.R.A.P. 7.12)	App. Ct.	Filed w/in time allowed to party amicus supports		

Settings

(~~W.R.A.P.~~ 8.01)

●●Expedited docket	App. Ct.	App. Ct. clerk will notify by mail	All counsel
●●Objection to expedited docket	Any party	w/in 15 days after entry of order assigning to expedited docket	
●●Oral argument	App. Ct.	Clerk will notify by mail or telephone	All counsel
Rehearing (W.R.A.P. 9.07)	App. Ct.	w/in 15 days after decision	Serve on opposing party, see W.R.A.P. 1.01
●●Answer to application for rehearing (W.R.A.P. 9.09)	App. Ct.	w/in 15 days after rehearing granted	Serve applicant, see W.R.A.P. 1.01
Mandate (W.R.A.P. 9.10)	App. Ct.	w/in 15 days after decision, or after denial of rehearing	To all counsel
Certification of questions of law (W.R.A.P. 11)			
●●Briefs (W.R.A.P. 11.06)	Reviewing App. Ct.	w/in 45 days from notice to all parties of agreement to answer	Plaintiff or appellant
		w/in 45 days from service of plaintiff/appellant brief	Opposing party

Administrative

agency review
(~~W.R.A.P.~~ 12)

●●Petition Filed D. Ct.
(~~W.R.A.P.~~ 12.04)

w/in 30 days after
agency written notice
of decision; or
w/in 30 days thereafter
if D. Ct. extends time
period (Appellant
orders transcript when
petition filed)

● ● R e c o r d D. Ct.
transmitted
(~~W.R.A.P.~~ 12.07)

w/in 60 days after
service of petition or as
allowed by D. Ct.,
agency shall transmit
record to D. Ct. Notice
of transmittal by
agency, by personal
letter to judge and
notice to all parties.

●●Motion for D. Ct.
certification
(~~W.R.A.P.~~ 12.09)

w/in 30 days of filing Any party
petition for review

●●Response to D. Ct.
motion for
certification
(~~W.R.A.P.~~ 12.09)

w/in 15 days from Any party
service of motion

●●Certification D. Ct.
(~~W.R.A.P.~~ 12.09)

Not later than 60 days
after petition for
review filed, but not
sooner than 15 days
after motion for
certification filed

Writ of Review
~~Error~~ (~~W.R.A.P.~~ 13)

●●Petition
(~~W.R.A.P. 13.03~~)

App. Ct.

w/in 11 days of entry
of order from which
review is sought

Any party

●●Response to
petition

App. Ct.

w/in 11 days of filing
of petition

Any party

Time Computation
(14)

~~S—e—e~~
~~W.R.A.P. 14~~

Reinstatement after
dismissal
(~~W.R.A.P. 15~~)

App. Ct.

w/in 15 days after
dismissal

~~Serve opponent,~~
~~see W.R.A.P. 1.01~~

w/in 15 days of service
opponent may serve
objections and briefs

~~See W.R.A.P. 1.01~~

Motions
(~~W.R.A.P. 16~~)

App. Ct.

Prior to filing, copy of
motion and memo of
authorities shall be
served on adverse
party or attorney

~~See W.R.A.P. 1.01~~

w/in 15 days of
service, any response
to motion

~~See W.R.A.P. 1.01~~

APPENDIX II

FORMS

IN THE DISTRICT COURT IN AND FOR _____ COUNTY, WYOMING

	)	
A.B.,	)	
	)	
Petitioner,	)	
	)	
	)	
vs.	)	Civil Action No. _____
	)	
	)	
C.D.,	)	
	)	
Respondent.	)	
	)	
	)	

PETITION FOR REVIEW OF ADMINISTRATIVE ACTION

Petitioner, _____, by and through ~~his/her/its~~ undersigned attorney and pursuant to Wyo. R .App. P. 12, hereby petitions the court for judicial review of the final administrative agency decision dated _____, 19___. As grounds for this petition, Petitioner states as follows:

I. Jurisdiction and Venue.

A certified copy of the agency decision from which Petitioner seeks judicial review is attached to this petition as Appendix A.

II. Issues and Nature of Review Sought.

III. Relevant Facts.

IV. Conclusion.

WHEREFORE, Petitioner prays that the court grant its petition for judicial review
in this matter.

Respectfully submitted,

Attorney for Petitioner
Address
Telephone number
FAX/Modem number

IN THE SUPREME COURT, STATE OF WYOMING

_____TERM, A.D. 19__

C.D.

Appellant,

VS.

Case No.

A.B.

Appellee.

MOTION TO FILE BRIEF AS AMICUS CURIAE

_____, by and through ~~his/her~~—undersigned attorney and pursuant to Wyo. R .App. P. 7.12 hereby moves the court for permission to file a brief as amicus curiae in the above-entitled matter. As grounds for this motion, _____ states as follows:

[Insert concise explanation of reasons for motion to file amicus brief.]

WHEREFORE, _____, prays that the court enter its order allowing it to submit a brief in this appeal as amicus curiae.

DATED this _____ day of _____, 19__.

Attorney for Movant
Address
Telephone number
FAX/Modem number

IN THE DISTRICT COURT IN AND FOR _____ COUNTY, WYOMING

	)	
A.B.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Civil Action No. _____
	)	
	)	
C.D.,	)	
	)	
Defendant.	)	
	)	
	)	

ORDER CERTIFYING QUESTION TO SUPREME COURT

The court, [based upon the stipulation of the parties/based upon its own motion],
having reviewed the file and being otherwise fully advised in the premises finds that it would be
in the interests of justice to certify the following question of law to the Wyoming Supreme Court:

[Question of law presented.]

The undisputed facts relevant to this question are as follows:

[Insert statement of undisputed relevant facts or reference attached stipulation of undisputed
facts.]

The nature of the controversy and procedural context in which the question arose

are as follows:

[Insert statement of nature of controversy and procedural history of question or reference
attached stipulation of nature of controversy and procedural history of the question.]

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the above-
stated question of law is certified to the Wyoming Supreme Court for such further proceedings
as the Supreme Court should order.

DATED this ____ day of _____, 19__.

DISTRICT JUDGE

IN THE SUPREME COURT, STATE OF WYOMING

_____TERM, A.D. 19____

C.D.)
)
)
Appellant,)
)
)
vs.) Case No. _____
)
)
A.B.)
)
)
Appellee.)
)

MOTION TO DISMISS APPEAL

Appellee, _____, by and through her undersigned attorney hereby
moves this court to dismiss the above-entitled appeal based on the following grounds:

[State grounds for dismissal here and/or in
accompanying memorandum.]

WHEREFORE, Appellee prays that the court dismiss this appeal and grant
Appellee such other and further relief as it deems just and equitable.

Respectfully submitted,

Attorney for Appellee
Address
Telephone number
FAX/Modem number

IN THE SUPREME COURT, STATE OF WYOMING

_____ TERM, A.D. 19__

C.D.)
)
)
 Appellant,)
)
)
 vs.) Case No. _____
)
)
 A.B.)
)
)
 Appellee.)
)

MOTION FOR EXTENSION OF TIME TO FILE BRIEF

(Appellant/Appellee), by and through undersigned attorney, hereby moves the court for an extension of time in which to file its brief in the above-entitled matter through and including the ____ day of _____, 19__. As grounds for this motion, (Appellant/Appellee) states as follows:

[State explanation of good cause for extension here.]

WHEREFORE, _____ prays that the court grant this request for an extension.

Respectfully submitted,

Attorney for Appellant/Appellee
Address
Telephone number
FAX/Modem number

IN THE SUPREME COURT, STATE OF WYOMING

_____TERM, A.D. 19____

C.D.)
)
Appellant,)
)
)
vs.) Case No. _____
)
)
A.B.)
)
Appellee.)
)

ORDER GRANTING EXTENSION OF TIME TO FILE BRIEF

The court, having considered the motion of (Appellant/Appellee) for an extension of time in which to file a (Appellant/Appellee) brief in this matter and having reviewed the file and being otherwise fully advised in the premises determines that good cause exists to grant the requested extension.

IT IS THEREFORE ORDERED that (Appellant/Appellee) shall have through the ____ day of _____, 19__ to file and serve a brief in this matter.

For the Court:

Justice

IN THE DISTRICT COURT IN AND FOR _____ COUNTY, WYOMING

	)	
A.B.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Civil Action No. _____
	)	
	)	
C.D.,	)	
	)	
Defendant.	)	
	)	
	)	

NOTICE OF APPEAL

TO THE CLERK OF THE ABOVE CAPTIONED DISTRICT COURT:

NOTICE IS HEREBY GIVEN that (Appellant), appeals the (description of judgment/order from which appeal is taken) entered in the above-entitled matter ~~and filed on~~ _____, ____, 19__, to the Supreme Court of the State of Wyoming. A copy of said Order is attached to this notice as Exhibit A.

Appellant further hereby certifies that all relevant portions of the transcript of evidence deemed necessary for this appeal have been ordered and proper arrangements for payment of the transcript have been made.

DATED this ____ day of _____, 19__.

Respectfully submitted,

By: _____
Attorney for Appellant
Address
Telephone number

IN THE SUPREME COURT, STATE OF WYOMING

_____TERM, A.D. 19____

C.D.)
)
)
Appellant,)
)
)
vs.) Case No. _____
)
)
A.B.)
)
)
Appellee.)

PETITION FOR REHEARING

(Appellant/Appellee) by and through undersigned attorney, petitions the court for a rehearing of the court's decision ~~and mandate~~ in the above-entitled matter. As grounds for this petition, Appellant/Appellee states as follows:

[Insert concise explanations of legal grounds for rehearing here or in accompanying memorandum of law.]

WHEREFORE, Petitioner prays that the court grant a rehearing in this matter.

Respectfully submitted,

Attorney for Petitioner
Address
Telephone number
FAX/Modem number

IN THE SUPREME COURT, STATE OF WYOMING

_____TERM, A.D. 19__

C.D.)
)
Appellant,)
)
)
vs.) Case No. _____
)
)
A.B.)
)
Appellee.)
)

STIPULATION AND MOTION FOR VOLUNTARY DISMISSAL

The parties to the above-entitled appeal, hereby agree and stipulate that this appeal should be dismissed. [Specific terms as to payment of costs, etc.]

WHEREFORE, the parties to the above-entitled appeal hereby move the court to enter its order voluntarily dismissing this proceeding pursuant to the parties' stipulation.

DATED this ____ day of _____, 19__.

Appellant's Attorney
Address
Telephone number
FAX/Modem number

Appellee's Attorney
Address
Telephone number
FAX/Modem number

IN THE SUPREME COURT, STATE OF WYOMING

_____TERM, A.D. 19____

C.D.)
)
Appellant,)
)
vs.) Case No. _____
)
A.B.)
)
Appellee.)

MOTION TO WITHDRAW AS COUNSEL

_____, attorney of record for the [Appellant/Appellee] or [Petitioner/Respondent] hereby moves the court for permission to withdraw from the above-entitled appeal. As grounds for this motion to withdraw, _____ states as follows:

[Grounds for withdrawal including identity of proposed replacement counsel and status of case.]

WHEREFORE, _____ prays that the court will grant this motion to withdraw.

Respectfully submitted,

Attorney
Address
Telephone number
FAX/Modem number

IN THE SUPREME COURT, STATE OF WYOMING

_____TERM, A.D. 19____

X.)
)
)
Petitioner,)
)
)
vs.) Case No. _____
)
)
Y.)
)
)
Respondent.)
)

PETITION FOR WRIT OF REVIEW

Petitioner, _____, by and through ~~his/her~~ undersigned attorney,
petitions the court to enter a writ of review in this matter.

I. Nature of Review Desired and Relief Sought.

A certified copy of the order from which Petitioner seeks
a writ of review is attached to this petition as Appendix A.

II. Relevant Facts.

III. Question(s) Presented.

IV. Applicable Principles of Law.

V. Reasons for Review.

(Petitioner's attorney) hereby certifies that this Petition is not interposed for purpose of delay.

WHEREFORE, Petitioner prays that the court grant it a writ of review in this matter and allow the case to proceed.

Respectfully submitted,

Attorney for Petitioner
Address
Telephone number
FAX/Modem number

IN THE SUPREME COURT, STATE OF WYOMING

_____ TERM, A.D. _____

AB,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. _____
	)	
CD,	)	
	)	
Respondent.	)	

ORDER GRANTING LEAVE TO PROCEED IN FORMA PAUPERIS

This matter having come before the court on the petitioner's Motion to Proceed in Forma Pauperis, and the court having reviewed the matter and finding that the petitioner qualifies as an indigent person; it is therefore

ORDERED that the petitioner be allowed to proceed in forma pauperis, and this case may be filed without prepayment of filing fees.

Dated this ____ day of _____, 19__.

BY THE COURT:

CHIEF JUSTICE

