

1 **Rule 42. Transfer of case from Supreme Court to Court of Appeals; retention requests.**

2 (a) **Discretion of Supreme Court to transfer.** At any time before a case is set for oral
3 argument before the Supreme Court, the Court may transfer to the Court of Appeals any
4 case except those cases within the Supreme Court's exclusive jurisdiction. The ~~order of~~
5 transfer ~~shall~~order will be issued without opinion, written or oral, as to the merits of the
6 appeal or the reasons for the transfer.

7 (b) **Notice of ~~order of~~intent to transfer.** Before transferring a case to the Court of Appeals,
8 the Supreme Court will issue a notice of intent to transfer ~~a case to the Court of Appeals.~~

9 (c) **Retention requests.** ~~Upon entry of the order of transfer the Clerk of~~ When the
10 Supreme Court ~~shall give~~issues a notice of ~~entry of the order of transfer by mail~~ intent to
11 transfer a case to the Court of Appeals, any party to the appeal may submit a letter to the
12 Supreme Court requesting that the case be retained.

13 (1) A letter requesting retention must contain:

14 (A) The title of the action and the appellate case number;

15 (B) The names of all parties involved in the case and the attorneys and firms
16 representing the parties;

17 (C) A concise statement of the issues to be presented on appeal;

18 (D) A brief explanation of the reasons supporting retention, including the
19 considerations indicating a decision is likely to have significant precedential value
20 as provided in Rule 46; and

21 (E) A completed checklist for appellate jurisdiction.

22 (2) The content of paragraphs (c)(1)(C) and (c)(1)(D) must not exceed five pages.

23 (3) The letter must be filed within ten days following issuance of the intent to transfer
24 notice.

25 (4) Any response to a timely letter requesting retention must be filed within five days
26 after service of the letter. The response may not exceed five pages.

27 ~~(4) Any letter or response that does not comply with paragraph (b) will not be~~
28 ~~considered.~~

29 (d) Notice of decision.

30 ~~(1) If the Supreme Court grants a~~ Upon entry of a transfer order or an order granting a
31 retention request, the Supreme Court clerk will provide notice of the order granting the
32 request to the parties ~~each party to the proceeding~~ and to the ~~clerk of the~~ trial court. ~~Upon~~
33 ~~entry of the order of transfer, the Clerk of the Supreme Court shall transfer the original~~
34 ~~of the order and the case, including the record and file of the case from the trial court, all~~
35 ~~papers filed in the Supreme Court, and a written statement of all docket entries in the~~
36 ~~case up to and including the order of transfer, to the Clerk of the Court of Appeals.~~

37 ~~(2) (c) Receipt of order of transfer by Court of Appeals. Upon receipt of the original order of~~
38 ~~transfer from the Clerk of~~ clerk. If no timely retention request is received or if the Supreme
39 Court declines a retention request, the Clerk of Supreme Court clerk will also provide
40 notice of the transfer order to the parties and to the Court of Appeals ~~shall of the transfer~~
41 ~~order.~~

42 ~~(e) Court of Appeals' r~~ Receipt of transfer order by Court of Appeals. Upon receipt from
43 the Supreme Court clerk of the transfer order, the Court of Appeals clerk will enter the
44 appeal upon the Court of Appeals docket. The ~~Clerk of the~~ Court of Appeals ~~shall~~ clerk
45 will immediately give notice to ~~each party~~ the parties ~~to the proceeding~~ and to the ~~clerk~~
46 ~~of the~~ trial court clerk that the appeal has been docketed and that all further filings will
47 be made with the ~~Clerk of the Court of Appeals. The notice shall state the docket number~~
48 ~~assigned to the case in the~~ Court of Appeals clerk.

49 ~~(d) Filing or transfer~~ (f) Transfer of appellate record. If the record on appeal ~~has not~~
50 ~~been~~ was filed with the ~~Clerk of the~~ Supreme Court before a case was transferred to the
51 Court of Appeals, as of the date of the order of transfer, the Clerk of the Supreme Court
52 shall notify the clerk of the trial court that upon completion of the conditions for filing
53 the record by that court, the clerk shall transmit the Supreme Court clerk will transfer the

54 record ~~on appeal will be transmitted~~ to ~~the Clerk of~~ the Court of Appeals. ~~If, however,~~
55 ~~the record on appeal has already been transmitted to and filed with the Clerk of the~~
56 ~~Supreme Court as of the date of the entry of the order of transfer, the Clerk of the Supreme~~
57 ~~Court shall transmit the record on appeal to the Clerk of the Court of Appeals~~ clerk
58 within five days of the date of the entry of the ~~order of~~ transfer order.

59 ~~(e)g~~ **Subsequent proceedings before Court of Appeals.** Upon receipt by the ~~Clerk of~~
60 ~~the~~ Court of Appeals clerk of ~~the order of a~~ transfer ~~and the entry thereof upon the docket~~
61 ~~of the Court of Appeals~~ order, the case ~~shall~~ will proceed before the Court of Appeals to
62 final decision and disposition as in other appellate cases pursuant to these rules.