

1 **Rule 43. Certification by the Court of Appeals to the Supreme Court.**

2 (a) **Transfer.** In any case over which the Court of Appeals has original appellate
3 jurisdiction, the court may, upon the affirmative vote of at least four judges of the court,
4 certify a case for immediate transfer to the Supreme Court for determination.

5 (b) **Procedure for transfer.**

6 (1) The Court of Appeals may, on its own motion, decide whether a case should be
7 certified. Any party to a case may, however, file a suggestion for certification not
8 exceeding five pages, explaining why the party believes that the case should be
9 certified. The suggestion may not be filed before a docketing statement is filed. Within
10 14 days of service, an adverse party may file and serve a statement not exceeding five
11 pages either supporting or opposing the suggestion for certification.

12 (2) Upon entering the certification order, the Court of Appeals Clerk must
13 immediately transfer the case, including the record and file of the case from the trial
14 court, all ~~papers~~ documents filed in the Court of Appeals, and a written statement of
15 all docket entries in the case up to and including the certification order, to the Supreme
16 Court Clerk. The Court of Appeals Clerk must promptly notify all parties and the trial
17 court clerk that the case has been transferred.

18 (3) Upon receiving the certification order, the Supreme Court Clerk must enter the
19 appeal on the Supreme Court's docket. The Supreme Court Clerk must immediately
20 send notices to all parties and to the trial court clerk that the case has been docketed
21 and that all further filings will be made with the Supreme Court Clerk. The notice
22 must state the docket number assigned to the case in the Supreme Court. The case will
23 proceed before the Supreme Court to final decision and disposition as in other
24 appellate cases under these rules.

25 (4) If the record on appeal has not been filed with the Court of Appeals Clerk as of the
26 date of the certification order, the Court of Appeals Clerk must notify the trial court
27 clerk that upon completing the conditions for filing the record by that court, the clerk

28 must transmit the record on appeal to the Supreme Court Clerk. If, however, the
29 record on appeal has already been transmitted to and filed with the Court of Appeals
30 Clerk as of the date the certification order is entered, the Court of Appeals Clerk must
31 transmit the record on appeal to the Supreme Court Clerk within five days after the
32 certification order is entered.

33 (c) **Criteria for transfer.** The Court of Appeals ~~will~~must consider certification only in the
34 following cases:

35 (1) Cases where it is apparent that the case should be decided by the Supreme Court
36 and that the Supreme Court would likely grant a petition for a writ of certiorari in the
37 case if decided by the Court of Appeals, irrespective of how the Court of Appeals
38 might rule; and

39 (2) Cases that will govern a number of other cases involving the same legal issue or
40 issues pending in the ~~district trial~~district trial courts, ~~juvenile courts~~, or the Court of Appeals, or
41 cases raising issues of first impression under state or federal law that will have wide
42 applicability.