



Agenda

Utah Supreme Court Advisory Committee

Utah Rules of Appellate Procedure

Paul C. Burke, Chair

Location: Webex (see calendar appointment for instructions)

Date: April 2, 2020

Time: 12:00 to 2:00 p.m.

Action: Welcome and approval of March 5, 2020 minutes	Tab 1	Paul C. Burke, Chair
Discussion: Legislative update (if any)		Paul C. Burke, Judge Jill Pohlman, Christopher Ballard
Discussion & Action: Rule 8	Tab 2	Clark Sabey
Discussion & Action: Rule 35 (and related Rules 36, 48)	Tab 3	Clark Sabey, Larissa Lee
Discussion & Action: Rule 3	Tab 4	Larissa Lee
DISCUSSION: Other business		Paul C. Burke

Committee Webpage: <https://www.utcourts.gov/utc/appellate-procedure/>

Meeting schedule:

May 7, 2020

June 4, 2020

July 2, 2020

August 6, 2020

September 3, 2020

October 1, 2020

November 5, 2020

December 3, 2020

Tab 1



Minutes

Supreme Court's Advisory Committee on the Utah Rules of Appellate Procedure

450 South State Street
Salt Lake City, Utah 84114

Judicial Council Room
Thursday, March 5, 2020
12:00 pm to 2:00 pm

PRESENT

Christopher Ballard
Troy Booher—
Emeritus Member
Paul C. Burke—Chair
Patrick Burt
Lisa Collins
Tyler Green
Michael Judd—
Recording Secretary

Larissa Lee—Staff
Alan Mouritsen
Judge Gregory Orme
Rodney Parker
Judge Jill Pohlman
Clark Sabey
Nathalie Skibine
Scarlet Smith
Mary Westby

EXCUSED

R. Shawn Gunnarson

1. Welcome and Approval of February 2020 Minutes

Paul C. Burke

Paul C. Burke welcomed the committee and invited comments regarding the February 2020 minutes.

Tyler Green moved to approve the minutes from the February 2020 meeting. Judge Jill Pohlman seconded the motion. Judge Gregory Orme abstained from voting, as he was not present at the last meeting. It otherwise passed unanimously.

2. Discussion: Legislative Update (if any)

**Paul C. Burke
Judge Jill Pohlman
Christopher Ballard**

The Legislative Outreach Subcommittee reported that there were no updates related to legislative outreach. Mr. Burke noted that the committee welcomed the news that the current system of judicial selection and retention is likely to be preserved.

**3. Discussion and Action:
Remaining Advisory Committee Notes**

**Judge Gregory
Orme**

The committee turned first to Rule 3. Troy Booher wondered whether the second sentence of the remaining paragraph is necessary, given that the first sentence makes largely the same point regarding payment of fees in a cross-appeal. The committee reworked that paragraph into a single sentence and made other clarifying changes to the language.

Mr. Booher also noted that Rule 3(f) itself may not provide sufficiently clear guidance regarding fees for cross-appeals, and the committee noted that a return to the rule itself may be a good idea.

Judge Orme moved to adopt the new version of this committee note to Rule 3, as revised during the committee meeting. Patrick Burt seconded the motion and it passed unanimously.

Judge Orme observed that the note to Rule 9 may have been useful when the most recent major reworking of that rule was put into place, in order to ease the transition to the new version, but the note is no longer needed for that purpose. Mary Westby pointed out that the reference to “Form 7” is outdated, as the relevant forms are now found on the Utah Judiciary’s website. The committee reworked the existing note.

Judge Pohlman moved to adopt the new version of the committee note to Rule 9, as revised during the committee meeting. Scarlet Smith seconded the motion and it passed unanimously.

The committee made a number of changes to the note accompanying Rule 21, in order to remove unnecessary language, to clarify the remaining language, and to make the note consistent with the language of the rule itself.

Mr. Green moved to adopt the new version of the committee note to Rule 21, as revised during the committee meeting. Ms. Westby seconded the motion and it passed unanimously.

The committee turned to the note to Rule 27. Judge Orme noted that the paragraph describing “pica size” is unnecessary, as word processors are no longer new technology. The committee noted that a change to the rule itself may be needed, in order to insert a citation to the *Anders* case into the body of the rule.

Judge Orme moved to adopt the new version of the committee note to Rule 27, as revised during the committee meeting. Judge Pohlman seconded the motion and it passed unanimously.

After discussion and a thorough comparison to the existing text of the note to the rule itself, the committee determined that the entire note accompanying Rule 33 now appears to be unnecessary.

Rodney Parker moved to remove this committee note, as revised during the committee meeting. Judge Pohlman seconded the motion and it passed unanimously.

After discussion regarding the necessity of the rule and the context in which the rule is likely to arise, the committee determined that the note accompanying Rule 37 is likely to cause more problems than it solves.

Judge Pohlman moved to remove the committee note to Rule 37. Mr. Green seconded the motion and it passed unanimously.

The amendment to the Rule 38 note is intended to clarify the relationship between the “appellate roster” now used and the contract method that preceded the roster. The committee discussed minor changes to the rule’s text.

Mr. Parker moved to remove this committee note, as revised during the committee meeting. Ms. Westby seconded the motion and it passed unanimously.

The amendment to the Rule 40 note will conform the note with the text of the Rule 21 note.

Mr. Parker moved to adopt the new version of the committee note to Rule 21, as revised during the committee meeting. Mr. Burt seconded the motion and it passed unanimously.

Rule 41 may be due attention from the committee, as the rule deals largely with certification, then includes an embedded subparagraph related to pro hac vice admissions. The committee expressed interest in identifying a “new home” for that subparagraph within the rules.

Judge Orme moved to remove the committee note to Rule 41. Mr. Parker seconded the motion and it passed unanimously.

4. Discussion and Action: Rule 8

Clark Sabey

Mr. Sabey guided the committee in resumed discussions of Rule 8. Ms. Lee explained that the draft rule being considered by the committee is an adaptation of the analogous federal rule. The committee discussed whether adapting the injunction standard is appropriate, given the directive given by the Supreme Court in the order being addressed.

The committee discussed whether the adoption of the “federal approach,” which offers an appeal as of right for injunctions, is advisable, and whether that change can be made by rule.

The committee determined that given the complexity of the issues being considered, the best approach is for committee members to discuss these changes further informally and then present a more formal proposal to the committee.

5. **Discussion and Action:** **Larissa Lee**
Rule 35 (and Related Rules 36 and 48) **Clark Sabey**

Ms. Lee explained that she combined previous work done by the committee back into a single rule. The committee's goal in this revision is to abandon the attempt to police substantive and non-substantive changes.

After additional productive discussion of potential changes to the rule, the committee determined the best approach is to continue revisions and discussions at the next committee meeting.

6. **Discussion:** **Paul C. Burke**
Other Business

None.

7. **Adjourn**

Mr. Burke adjourned the meeting. The committee is scheduled to meet again on April 2, 2020.

Tab 2

1 **Rule 8. Stay or injunction pending appeal.**

2 (a) Motion for stay.

3 (a)(1) Initial motion in the trial court. A party must ordinarily move first in the trial
4 court for the following relief:

5 (a)(1)(A) a stay of the judgment or order of a trial court without security pending
6 appeal or disposition of a petition under Rule 5; or

7 (a)(1)(B) approval of a bond or other security provided to obtain a stay of
8 judgment; or

9 (a)(1)(C) an order suspending, modifying, restoring, or granting an injunction
10 while an appeal is pending.

11 (a)(2) Motion in the appellate court.

12 (a)(2)(A) Except in the most extraordinary circumstances, an appellate court will
13 not act on a motion for a stay or for suspension, modification, restoration, or grant
14 of an injunction, unless the movant first requested relief in the trial court and that
15 court denied the request.

16 (a)(2)(B) The motion must include:

17 (a)(2)(B)(i) the reasons the trial court denied the request;

18 (a)(2)(B)(ii) the reasons for granting the relief requested and the facts
19 relied on;

20 (a)(2)(B)(iii) copies of affidavits or other sworn statements supporting
21 facts subject to dispute; and

22 (a)(2)(B)(iv) relevant parts of the record, including a copy of the trial
23 court's order.

24 (a)(2)(C) Any motion must comply with Rule 23.

25 ~~Stay must ordinarily be sought in the first instance in trial court; motion for stay in~~
26 ~~appellate court. Application for a stay of the judgment or order of a trial court pending appeal,~~
27 ~~or disposition of a petition under Rule 5, or for approval of a supersedeas bond, or for an order~~

28 ~~suspending, modifying, restoring, or granting an injunction during the pendency of an appeal~~
29 ~~must ordinarily be made in the first instance in the trial court. A motion for such relief may be~~
30 ~~made to the appellate court, but the motion shall show that application to the trial court for the~~
31 ~~relief sought is not practicable, or that the trial court has denied an application, or has failed to~~
32 ~~afford the relief which the applicant requested, with the reasons given by the trial court for its~~
33 ~~action. The motion shall also show the reasons for the relief requested and the facts relied upon,~~
34 ~~and if the facts are subject to dispute, the motion shall be supported by affidavits or other sworn~~
35 ~~statements or copies thereof. With the motion shall be filed such parts of the record as are~~
36 ~~relevant, including a copy of the order sought to be stayed. Any motion for stay shall be filed~~
37 ~~under rule 23.~~

38 (b) **Bond requirement.**

39 (b)(1) Stay ~~may be~~ordinarily conditioned upon giving of bond. For requests for relief
40 to which Rule 62(d) of the Utah Rules of Civil Procedure applied below, ~~R~~relief available
41 in the appellate court under this rule pending appeal ~~may will~~ be conditioned upon the
42 filing ~~of~~ a bond or other appropriate security in the trial court, unless there is no
43 reasonable means of quantifying the security in monetary or other terms and the
44 conditions of paragraph (b)(2) are met.

45 (b)(2) Stay in cases not conditioned on giving of bond. Ordinarily a stay without a
46 bond or other security will not be granted unless the movant demonstrates a likelihood of
47 success on the merits or the case presents serious issues on the merits warranting
48 appellate review and the appellant demonstrates:

49 (b)(2)(A) a likelihood of irreparable harm to the appellant outweighing the harm
50 to any other party, a significant harm to the public interest; or

51 (b)(2)(B) an extraordinary circumstance that justifies issuing a stay.

52 (b)(3) Injunctions. For requests for relief to which Rule 65A or 62(c) of the Utah Rules of
53 Civil Procedure applied below, any relief available pending appeal is governed by those
54 rules.

55 (c) **Stays in criminal cases.** Stays pending appeal in criminal cases in which the defendant has
56 been sentenced are governed by Utah Code Ann. Section 77-20-10 and Rule 27, Utah. R. Crim.
57 P. Stays in other criminal cases are governed by this rule.

Tab 3

1 **Rule 35. Petition for rehearing.**

2 (a) ~~Petition for rehearing~~ for rehearing permitted. ~~A rehearing will not be granted~~
3 ~~in the absence of a petition for rehearing.~~

4 (a)(1) **Petition.** A petition for rehearing requesting to alter a decision in a
5 manner that affects the substantive rights of the parties or any mandate or
6 rule of law established by the decision may be filed only in cases in which
7 the court ~~has~~ issueds an opinion, memorandum decision, ~~or~~
8 per curiam decision, or order resolving the appeal on the merits. ~~No other~~
9 ~~petitions for rehearing will be considered.~~

10 (a**b**)(2) **Time for filing.** A petition for rehearing may be filed with the clerk
11 within 14 days after the court ~~issuance of~~ es ~~the opinion, memorandum~~
12 ~~decision, or per curiam decision of the court~~ an opinion, memorandum
13 decision, per curiam decision, or order resolving the appeal on the merits,
14 unless the time is shortened or enlarged by order.

15 (a**e**)(3) **Contents of petition.** The petition ~~shall~~ must succinctly state and
16 explain ~~with particularity~~ the points of law or fact ~~which~~ that the petitioner
17 claims the court has overlooked or misapprehended ~~and shall contain such~~
18 ~~argument in support of the petition as the petitioner desires.~~ Counsel for The
19 petitioner must certify that the petition is presented in good faith and not for
20 delay.

21 ~~(d) **Oral argument.** Oral argument in support of the petition will not be~~
22 ~~permitted.~~

23 (ea)(4) **Response.** No response to a petition for rehearing will be received
24 unless requested by the court. Any response ~~shall~~ must be filed within 14

25 days after the entry of the order requesting the response, unless otherwise
26 ordered by the court. A petition for rehearing will not be granted in whole or
27 in part in the absence of a request for a response.

28 ~~(fa)~~(5) **Form of petition.** The petition ~~shall~~must be in ~~a~~the form prescribed
29 by Rule 27~~(a), (b), and (d) with respect to contents of the cover~~ and ~~shall~~
30 must include a copy of the decision to which it is directed.

31 ~~(g) Number of copies to be filed and served. An original and 6 copies shall~~
32 ~~be filed with the court. Two copies shall be served on counsel for each party~~
33 ~~separately represented.~~

34 ~~(ha)~~(6) **Length.** Except by ~~order of the court~~ order, a petition for rehearing
35 and any response requested by the court ~~shall~~may not exceed 15 pages.

36 ~~(i) Color of cover. The cover of a petition for rehearing shall be tan; that of~~
37 ~~any response to a petition for rehearing filed by a party, white; and that of~~
38 ~~any response filed by an amicus curie, green. All brief covers shall be of~~
39 ~~heavy cover stock. There shall be adequate contrast between the printing and~~
40 ~~the color of the cover.~~

41 ~~(ja)~~(7) **Action by court if granted.** ~~If a petition for rehearing is granted,~~
42 ~~†~~The court may make a final disposition of ~~the cause~~a petition for rehearing
43 without reargument, or may restore ~~it~~the case to the calendar
44 for reargument or resubmission, or may make such other orders as are
45 deemed appropriate under the circumstances of the particular case.

46 ~~(ka)~~(8) **Untimely or consecutive petitions.** Petitions for rehearing that are
47 not timely presented under this rule and consecutive petitions ~~for rehearing~~
48 will ~~not~~ be ~~received~~refused by the clerk.

49 ~~(1a)~~(9) **Amicus curiae.** An amicus curiae may not file a petition for
50 rehearing but may file a response to a petition if the court has requested a
51 response under paragraph ~~(ea)~~(4) ~~of this rule.~~

52 **(b) Clerical error.** If a decision contains a nonsubstantive clerical error, a party
53 may promptly advise the appellate clerk by letter, with a copy to all other parties,
54 identifying the paragraphs of the decision containing the error and stating or
55 suggesting how the error may be corrected. The body of the letter may not exceed
56 350 words. Any response must be made promptly and similarly limited. This
57 paragraph does not affect the court’s authority to make nonsubstantive corrections
58 to a decision in the absence of a motion by a party or notice to the parties.

Rule 36. Issuance of ~~r~~Remittitur.**(a) Date of issuance.**

(a)(1) ~~In t~~The Supreme Court will issue a~~the~~ remittitur ~~of the court shall issue~~ 15 days after ~~the entry of~~ the judgment is entered. If a petition for rehearing is timely filed, the remittitur ~~of the court shall~~will issue five days after ~~the entry of~~ the order disposing of the petition is entered.

(a)(2) ~~In t~~The Court of Appeals will issue a~~the~~ remittitur ~~of the court shall issue~~ immediately after ~~the expiration of~~ the time for filing a petition for writ of certiorari expires. If a petition for writ of certiorari is timely filed, ~~issuance of the remittitur by~~ the Court of Appeals will automatically ~~be stayed~~ issuing the remittitur until the Supreme Court's disposition on the petition for writ of certiorari. If the Supreme Court denies the petition, the Court of Appeals ~~shall~~will issue its remittitur five days after ~~entry of~~ the order denying the petition is entered. If the Supreme Court grants the petition, jurisdiction of the appeal ~~shall~~will ~~be transferred~~transfer to the Supreme Court, and the Court of Appeals ~~shall~~will close its file and transfer the record on appeal, if any, to the Supreme Court.

(a)(3) The time ~~for issuance of~~to issue the remittitur may be otherwise stayed, enlarged, or shortened by ~~order of the court~~ order. ~~A certified copy of t~~The court's ~~opinion of the court,~~ any direction as to costs, and the record of the proceedings ~~shall~~will constitute the remittitur.

(b) Stay, supersedeas, or injunction pending application for review to the Supreme Court of

the United States. A stay or supersedeas of the remittitur or an injunction pending application for review to the United States Supreme Court may be granted on motion and for good cause. Any motion for a stay of the remittitur or for approval of a supersedeas bond or for an order suspending, modifying, restoring, or granting an injunction during ~~the pendency of~~ the appeal ~~shall~~must be filed in the Utah Supreme Court. Reasonable notice of the motion ~~shall~~must be given to all parties. The period of the stay, supersedeas, or injunction ~~shall~~will be for such time as the court ~~orders,~~ ~~by the court~~ up to and including the final disposition of the application for review. A bond or other security on such terms as the court deems appropriate may be required as a condition to the grant or continuance of relief under this paragraph. If the stay, supersedeas,

31 or injunction is granted until the final disposition of the application for review, the party seeking
32 the review ~~shall~~must, within the time permitted for seeking the review, file with the clerk of the
33 court ~~which~~that entered the decision sought to be reviewed, ~~a certified copy of~~ the notice of
34 appeal, petition for writ of certiorari, or other application for review, or ~~shall~~must file a
35 certificate that such application for review has been filed. Upon ~~the filing of a copy of~~ an order
36 of the United States Supreme Court dismissing the appeal or denying the petition for a writ of
37 certiorari, the remittitur ~~shall~~will issue immediately.

1 **Rule 48. Time for petitioning.**

2 (a) **Timeliness of petition.** A petition for a writ of certiorari must be filed with the ~~Clerk of the~~
3 Supreme Court clerk within 30 days after ~~the entry of the final decision by~~ the Court of Appeals'
4 final decision is entered. The docket fee ~~shall~~must be paid when ~~at the time of filing~~ the petition
5 is filed.

6 (b) **Refusal of petition.** The clerk will refuse ~~to receive~~ any petition for a writ of certiorari not
7 timely filed or ~~which is beyond the time indicated in paragraph (a) of this rule or which is not~~
8 accompanied by the docket fee.

9 (c) **Effect of petition for rehearing.** The time for filing a petition for a writ of certiorari runs
10 from the date ~~the decision is entered by~~ the Court of Appeals' final decision is entered, not from
11 the date ~~of the issuance of the~~ remittitur is issued. If a petition for rehearing that complies with
12 Rule 35(a) is timely filed by any party, the time for filing the petition for a writ of certiorari for
13 all parties runs from the date ~~of the denial of~~ the petition for rehearing is denied or ~~of the entry of~~
14 a subsequent decision ~~on~~entered upon the rehearing or motion is entered.

15 (d) **Time for cross-petition.**

16 (d)(1) A cross-petition for a writ of certiorari must be filed:

17 (d)(1)(A) within the time provided in Subdivisions (a) and (c) of this rule; or

18 (d)(1)(B) within 30 days of ~~the filing of~~ the petition for a writ of certiorari.

19 (d)(2) Any cross-petition that is timely only ~~pursuant to~~under paragraph (d)(1)(B) ~~of this~~
20 ~~rule~~ will not be granted unless a timely petition for a writ of certiorari of another party to
21 the case is granted.

22 (d)(3) The docket fee ~~shall~~must be paid when ~~at the time of filing~~ the cross-petition is
23 filed. The clerk ~~shall~~will refuse any cross-petition not accompanied by the docket fee.

24 (d)(4) A cross-petition for a writ of certiorari may not be joined with any other filing. The
25 clerk ~~of the court shall~~ will refuse any filing so joined.

26 (e) **Time Extensions of time.**

27 (e)(1) ~~The Supreme Court, upon a showing of good cause,~~ A party may file a motion
28 to may extend the time for filing a petition or a cross-petition for a writ of certiorari ~~upon~~

29 ~~motion filed not later~~within than 30 days after ~~the expiration of~~ the time prescribed by
30 paragraph (a) or (c) ~~of this rule expires~~. The Supreme Court will grant the motion only for
31 good cause or excusable neglect. Responses to such motions are disfavored and the court
32 may rule at any time after the ~~filing of the~~ motion is filed. No extension ~~shall~~will exceed
33 30 days past the prescribed time or 14 days from the date ~~of entry of~~ the order granting
34 the motion is entered, whichever occurs later, and no more than one extension will be
35 granted.

36 ~~(e)(2) The Supreme Court, upon a showing of good cause or excusable neglect, may~~
37 ~~extend the time for filing a petition or a cross petition for a writ of certiorari upon motion~~
38 ~~filed not later than 30 days after the expiration of the time prescribed by paragraph (a) or~~
39 ~~(e) of this rule, whichever is applicable. No extension shall exceed 30 days past the~~
40 ~~prescribed time or 14 days from the date of entry of the order granting the motion,~~
41 ~~whichever occurs later, and no more than one extension will be granted.~~

42 ~~(f) Seven copies of the petition for a writ of certiorari, one of which shall contain an original~~
43 ~~signature, shall be filed with the Clerk of the Supreme Court.~~

Tab 4

1 **Rule 3. Appeal as of right: how taken.**

2 (a) **Filing ~~appeal from final orders and judgments~~ the notice of appeal.**

3 (a)(1) Except as otherwise provided by law, A party may appeal ~~may be taken~~ a final
4 order or judgment from a ~~district or juvenile~~ trial court to the appellate court ~~with~~
5 ~~jurisdiction over the appeal from all final orders and judgments, except as otherwise~~
6 ~~provided by law,~~ by filing a notice of appeal with the trial court clerk ~~of the trial court~~
7 within the time allowed by Rule 4.

8 (a)(2) An appellant's ~~F~~ failure ~~of an appellant~~ to take any step other than ~~the~~ timely filing
9 ~~of~~ a notice of appeal does not affect the validity of the appeal, but is ground only for ~~such~~
10 ~~action as~~ the appellate court to act as it deems considers appropriate, ~~which may include~~
11 ing dismissal ~~of ing~~ the appeal or other sanctions short of dismissal, ~~as well as and~~ the
12 awarding ~~of~~ attorney fees.

13 (b) **Joint or consolidated appeals.** If two or more parties are entitled to appeal from a judgment
14 or order and their interests are such as to make joinder practicable, they may file a joint notice of
15 appeal or may join in an appeal of another party after filing separate timely notices of appeal.
16 Joint appeals may proceed as a single appeal with a single appellant. Individual appeals may be
17 consolidated by order of the appellate court upon its own motion or upon motion of a party, or by
18 stipulation of the parties to the separate appeals.

19 (c) **Party Designation ~~of parties.~~** The party taking the appeal ~~shall be~~ is known as the appellant
20 and the adverse party as the appellee. Unless otherwise directed by the appellate court, T the
21 appeal will not change the title of the action or proceeding ~~shall not be changed in consequence~~
22 ~~of the appeal, except where otherwise directed by the appellate court. In~~ For original proceedings
23 in the appellate court, the party making the original application ~~shall be~~ is known as the petitioner
24 and any other party as the respondent.

25 (d) **~~Content of n~~ Notice of appeal contents.**

26 (d)(1) The notice of appeal ~~shall~~ must:

27 (d)(1)(A) specify the party or parties taking the appeal;

28 (d)(1)(B) ~~shall~~ designate the judgment, ~~or~~ order, or part thereof; being appealed
 29 ~~from~~;

30 (d)(1)(C) ~~shall designate~~ name the court from which the appeal is taken; and

31 (d)(1)(D) ~~shall designate~~ name the court to which the appeal is taken.

32 (e) ~~Service of~~ the notice of appeal. The ~~party taking the appeal shall~~ appellant must give
 33 ~~notice of the filing of a~~ serve the notice of appeal ~~by serving on~~ each party to the judgment or
 34 order in accordance with the requirements of the court from which the appeal is taken. If counsel
 35 of record is served, the certificate of service ~~shall~~ must ~~designate~~ include the name of the party
 36 represented by that counsel.

37 (f) **Filing fee in civil appeals.** ~~At the time of~~ When filing any notice of separate, joint, or cross
 38 appeal in a civil case, the party taking the appeal ~~or cross appeal~~ shall must pay the filing fee
 39 established by law to the trial court clerk ~~of the trial court~~ ~~the filing fee established by law~~. The
 40 trial court clerk ~~of the trial court~~ shall must accept a notice of appeal regardless of whether the
 41 filing fee has been paid. Failure to pay the filing fee within a reasonable time may result in
 42 dismissal.

43 (g) **Docketing of appeal.** ~~Upon the~~

44 (g)(1) Transmitting notice of appeal to the appellate court. After an appellant files ~~ing~~
 45 ~~of the~~ ~~the~~ notice of appeal, the trial court clerk ~~of the trial court~~ shall must immediately
 46 ~~transmit a certified~~ email a copy of the notice of appeal to the appellate court clerk. This
 47 will include;

48 (g)(1)(A) ~~showing~~ the date the notice of appeal was filed ~~of its filing~~; and

49 (g)(1)(B) the clerk's ~~a~~ statement ~~by the clerk indicating~~ declaring whether the
 50 filing fee was paid; and

51 (g)(1)(C) whether the cost bond required by Rule 6 was filed.

52 (g)(2) Docketing the appeal. ~~Upon~~ ~~receipt of~~ ving the copy of the notice of appeal from
 53 the trial court clerk, the appellate court clerk ~~of the appellate court~~ shall will enter the

54 appeal ~~upon~~on the docket. An appeal ~~shall~~will be docketed under the title given to the
55 action in the trial court, with the appellant identified as such, but if the title does not
56 contain the name of the appellant, such name ~~shall~~will be added to the title.