

## CHANGES IN THE RULES OF APPELLATE PROCEDURE EFFECTIVE OCTOBER 1, 2009

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**(1) Elimination of assignments of error** (Rule 9 and 10, primarily) — Parties no longer will be required to prepare assignments of error. Instead, the appellant will identify in the record on appeal “proposed issues that the defendant intends to present on appeal.” The appellant will not be bound by that listing in the record, however, and still may argue any issue in the brief. If it turns out that the record is not sufficient for the appellee to respond to all the arguments made in the appellant’s brief, the appellee may supplement the record. The record supplement is filed at the same time as the appellee’s brief.

**(2) Protection of juvenile’s identity** (Rule 3.1 primarily) — The rules on protecting the identity of juveniles are rewritten and consolidated into new Rule 3.1. A new provision in Rule 9(a) and elsewhere specifies that a filing involving a juvenile include a notice in all caps that it is open to public inspection only on order of the court. The parties can stipulate to the use of pseudonyms for juveniles rather than initials. Rule 4(e) provides that the rules on confidentiality of the juvenile’s identity also apply to juvenile victims of sexual offenses.

**(3) No-merit briefs allowed in juvenile abuse and neglect cases** (Rule 3.1(d)) — The new rule allows appellate counsel in juvenile abuse, neglect and dependency appeals under G.S. 7B-1001 to file a brief stating that there is no issue of merit for appeal. The lawyer is to provide a copy of the no-merit brief, record and transcript to the appellant who may file a *pro se* brief within 30 days.

**(4) Pro hac vice admissions** (Rule 33(d) primarily) — New Rule 33(d) informs out-of-state counsel that they must seek pro hac vice admission under G.S. 84-4.1. Various other rules are amended to require that pro hac vice orders be included in the record. A lawyer admitted in the Court of Appeals will have to file a new motion when the case goes to the Supreme Court, but does not have to pay a second fee.

**(5) Transcripts filed electronically by reporter** (Rule 7 and Rule 12(c)) — The court reporter will transmit the transcript electronically to the lawyers. Once the appellant notifies the reporter that the record on appeal has been filed, the court reporter will file the transcript electronically with the court.

**(6) Inclusion of statements and events in record** (Rule 9(c)) — The rule is revised to clarify that the record on appeal can include “statements and events” from hearings as well as testimonial evidence, and to specify that the narrative form may be used for presentation of such information.

**(7) Secured leave request to specify cases** (Rule 33.1) — The secured leave rule is renumbered as 33.1 rather than 33A and the lawyer is required to list by caption and docket number each case to which the designated leave is to apply.

**(8) State Bar numbers and e-mail addresses** — Various rules are amended so that they consistently require inclusion of lawyers' State Bar numbers and e-mail addresses in filings.

**(9) Gender neutrality** — The rules are amended in numerous places to replace references to "he" or "him" or "his" and to substitute gender-neutral titles such as "chair" for "chairman."

**(10) Timetable for juvenile cases** (Appendix A) — A timetable of appeals for juvenile cases is added to Appendix A. The deadlines have not changed, but the inclusion of the timetable is new.

**(11) Correcting miscellaneous inconsistencies, updating, etc.** — The amendments remove various inconsistencies in the rules, update references, impose more uniform terminology for subsections and subdivisions, and the like. Among these kinds of changes are the following:

- Appendix B is amended to provide that a table of cases and authorities is needed only when the brief, petition or motion is ten pages or longer, as already stated in Rule 26(g)(2). The appendix has said five pages.
- Rule 6 is amended to refer to a "party" rather than "appellant" proceeding in forma pauperis, the same as G.S. 1-288.
- Rule 5 is amended to provide that joint oral notice of appeal may be given only in criminal cases, to be consistent with Rules 3 (civil) and 4 (criminal) on how notice of appeal is given.
- Rule 7(a)(1) is amended to require citation to the page and line number of the transcript by an appellant in a civil case arguing that a finding or conclusion is unsupported by the evidence or contrary to the evidence.
- The provisions in Rule 9(d)(2) about the trial court clerk transmitting original, nondocumentary exhibits are deleted.
- Rule 29(a)(1) is amended to say that arguments in the Supreme Court are held in February through May and September through December, deleting the statement about hearings beginning the week of the second Monday.
- General Statutes should be referred to by "N.C.G.S. §" rather than "G.S."

**(12) Advice to counsel** (Rule 30(b)(1)) — Rule 30(b)(1) already advises counsel that they do not have to use all the time allotted for oral argument. The amendment further advises counsel that they "should avoid unnecessary repetition." No doubt, all lawyers will comply immediately.