

***IN THE SUPREME COURT, STATE OF WYOMING***

*April Term, A.D. 2017*

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*In the Matter of Amendments to* )  
*The Wyoming Rules of* )  
*Appellate Procedure* )

**ORDER ADOPTING AMENDMENTS TO RULES 1.01, 2.01, 2.05,  
2.07, 3.05, 7.01, 10.05, 12.11, 13.01, 13.07, AND 14.03 OF THE  
WYOMING RULES OF APPELLATE PROCEDURE**

**The Permanent Rules Advisory Committee, Appellate Division**, has recommended that the Court amend Rules 1.01, 2.01, 2.05, 2.07, 3.05, 7.01, 10.05, 12.11, 13.01, 13.07, and 14.03 of the Wyoming Rules of Appellate Procedure. The Court finds the proposed amendments should be adopted. It is, therefore,

**ORDERED** that the amendments to Rules 1.01, 2.01, 2.05, 2.07, 3.05, 7.01, 10.05, 12.11, 13.01, 13.07, and 14.03 of the Wyoming Rules of Appellate Procedure, attached hereto, be and hereby are adopted by the Court to be effective November 1, 2017; and it is further

**ORDERED** that this order and the amendments be published in the advance sheets of the Pacific Reporter; the amendments be published in the Wyoming Court Rules Volume; and that this order and the amendments be published online at the Wyoming Judicial Branch's website, <http://www.courts.state.wy.us>. The amendments shall thereafter be recorded in the journal of this Court.

**DATED** this 23<sup>rd</sup> day of August, 2017.

**BY THE COURT:**

/s/

**E. JAMES BURKE**  
Chief Justice

## Wyoming Rules of Appellate Procedure

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### Rule 1.01. Electronic Filing; number of copies to be filed; format.

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(d) All briefs, petitions, motions and other documents shall be filed on 8½" x 11" paper, single-sided. Any attachments or appendices, which in their original form are on larger or smaller paper, should be reduced or enlarged to 8½" x 11" paper, single-sided.

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

(a) \*\*\*\*\*

(1) Upon a showing of excusable neglect, the trial court in any action may extend the time for filing the notice of appeal to ~~45 days from entry of the appealable order~~, 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. Along with the application for extension of time, appellant shall submit a proposed notice of appeal, which the clerk of court shall retain. At the time of filing the application for extension of time, appellant shall also deliver to the clerk of the trial court the filing fee for docketing the case in the appellate court or a motion for leave to proceed in forma pauperis. See Rule 2.09(a). If the district court does not enter an order granting the application for extension within 14 days of filing of the application, the application shall be deemed denied. If the trial court grants the application for extension of time within the 14-day period, the clerk of court shall file the proposed notice of appeal concurrently with entry of the order extending the time. If the trial court denies the application or if the application is deemed denied, any docketing fee shall be refunded to appellant. 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 that is served on the clerk of the appellate court.

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### Rule 2.05. Certification of transcript request; statement of evidence, or agreed statement.

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(b) If counsel certifies that transcripts have been ordered and arrangement for payment has been made, but fails to actually contact the court reporter and follow through on the request, the court reporter ~~or the district court clerk~~ shall prepare an affidavit, setting out the facts with the reporter's attempts to obtain payment. The reporter shall notify the supreme court and the supreme court may take any action it deems appropriate pursuant to Rule 1.03.

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### 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;
- (3) Name the court to which the appeal is taken;

- (4) Include the certificate required by Rule 2.05(a); and
- (5) Appellant(s) shall as clearly as possible indicate either in the body of the notice of appeal or on the certificate of service, alignment of the parties with their respective counsel when there are multiple appellants or appellees.

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**Rule 3.05. Designation, transmission and retention of record.**

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(h) If ~~one or more parties to the appeal~~ appellant/petitioner fails to designate portions of the record or designate the entire record in a civil appeal, the clerk of the trial court shall promptly notify the clerk of the appellate court.

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**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 appellate court caption and appellate court case number;
  - (2) Identification of party filing the brief; and
  - (3) The name(s), address(es) and telephone number(s) of the attorney(s) or pro se party(ies) preparing the brief. Members of the Wyoming Bar shall include their Wyoming Bar number.
- (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 jurisdiction in the appellate court. The statement shall include a concise statement of the facts material to the finality of an order being appealed, the timeliness of the appeal, any other facts effecting jurisdiction and a reference to the provisions of statute, rule or case law on which jurisdiction rests;
- ~~(d)~~ (e) A statement of the issues presented for review;
- ~~(e)~~ (f) A statement of the case, presented in any efficient order, identifying the nature of the case, setting out the facts relevant to the issues presented for review, describing the relevant procedural history, and identifying the rulings presented for review, with citations to the designated record on appeal. 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 citations to the parts of the designated record on appeal relied on.~~
- ~~(f)~~ (g) An argument (which may be preceded by a summary) setting forth:
  - (1) Appellant's contentions with respect to the issues presented and the reasons therefor, with citations to the authorities, statutes and parts of the designated record on appeal relied on; and
  - (2) For each issue, a concise statement of the applicable standard of review (which may appear in the discussion of the issue or under a separate heading placed before the discussion of the issues).

- ~~(g)~~ (h) A short conclusion stating the precise relief sought;
- ~~(h)~~ (i) The signature(s) of counsel or pro se party(ies) submitting the brief;
- ~~(i)~~ (j) A certificate of service; and
- ~~(j)~~ (k) An appendix, which shall contain:
  - \_\_\_\_\_ (1) a copy of the judgment or final order appealed from;
  - \_\_\_\_\_ (2) the trial court's decision letter or other written and/or oral reasons for judgment, if any; and
  - \_\_\_\_\_ (3) the statement of costs required by rule 10.01.

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**Rule 10.05. Costs and penalties on affirmance.**

(a) When the judgment or appealable order is affirmed in a civil case, appellee shall recover costs. The appellee may also recover costs when appeal is dismissed in the court opinion after full briefing. The costs are awarded in the mandate and shall be as follows: the costs of producing the original brief which shall be computed at the per page rate allowed by law for making the transcript, and the cost of copies for the briefs filed in the court and served on the appellant. If the appellant failed to order and pay for a transcript of the evidence of the case or only ordered a portion of the transcript, then if appellee ordered necessary portions of the transcript, appellee shall recover the costs expended ordering the transcript. An appellee may also recover the cost of a copy obtained from the court reporter at the statutory rate for copies of portions of the transcript ordered by the appellant.

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**Rule 12.11. Review by supreme court.**

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(b) If the final judgment of the district court is appealed to the supreme court, filing the record, including transcripts of relevant electronically recorded proceedings, briefs, and oral argument in the supreme court shall be as in civil cases pursuant to Rules 1.01,3, 7, and 8. Unless stipulated by both parties pursuant to W.R.A.P. 12.07(b), the complete agency record shall be transmitted to the supreme court.

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**Rule 13.01. Generally.**

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~~—(d) Writs of habeas corpus, mandamus, prohibition, quo warranto or any prerogative writ shall be treated as a writ of review under this rules. In any petition made to the supreme court for a writ to be issued in the exercise of its original jurisdiction and for which an application might have been lawfully made to some other court in the first instance, the petition shall, in addition to the necessary matter required by the rules of law to support the application, also set forth the circumstances which, in the opinion of the petitioner, render it necessary or proper that the writ should issue originally from the supreme court, and not from such other court, and the sufficiency or insufficiency of such circumstances will be determined by the court in awarding or refusing the application. In case any court, justice or other officer, or any board or other tribunal,~~

~~in the discharge of duties of a public character, be named in the petition as defendant or respondent, the petition shall also disclose the name or names of the real party or parties, if any, in interest, or whose interest would be directly affected by the proceedings.~~

(d) Writs of habeas corpus, mandamus, prohibition, quo warranto or any prerogative writ shall be treated as a writ of review under these rules. In any petition made to the supreme court for a writ to be issued in the exercise of its original jurisdiction and for which an application might have been lawfully made to some other court, the petition shall set forth the circumstances why, in the opinion of the petitioner, the writ should issue originally from the supreme court and not from such other court. The petition shall also name the real party or parties in interest, or whose interest would be directly affected by the proceedings.

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**Rule 13.07. Writ of review.**

(a) 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, all proceedings including briefing, designation and transmission of the record shall be within the time and in the manner required for appeals unless otherwise ordered by the reviewing court. In cases where preparation of the trial court record is necessary, petitioner(s) shall pay to the clerk of the trial court the docketing fee applicable to appeals from that court. Failure to pay the docketing fee within 30 days of entry of the order granting the petition may result in dismissal of the case. Pursuant to Rule 3.02(c), any audio recording relevant to the review shall be transcribed and filed as part of the record. Oral argument will not be held except at the direction of the reviewing court.

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**Rule 14.03. Additional time after service by mail.**

(a) 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. No additional time shall be added if the party is served electronically through the court's electronic filing system.

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