

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

***October Term, A.D. 2021***

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***In the Matter of Amendments to  
the Wyoming Rules of  
Appellate Procedure*** )  
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**ORDER AMENDING THE WYOMING RULES OF APPELLATE PROCEDURE**

**The Permanent Rules Advisory Committee, Appellate Division**, has recommended that the Court amend the Wyoming Rules of Appellate Procedure. The Court finds the proposed amendments should be adopted. It is, therefore,

**ORDERED** that the amendments to the Wyoming Rules of Appellate Procedure, attached hereto, be, and hereby are, adopted by the Court to be effective January 1, 2022; 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>, on the “Rule Amendments” page. The amendments shall thereafter be recorded in the journal of this Court.

**DATED** this 12<sup>th</sup> day of October, 2021.

**BY THE COURT:**

/s/

**KATE M. FOX**  
**Chief Justice**

## Wyoming Rules of Appellate Procedure

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

(a) Except as noted below, all briefs, motions and other pleadings shall be filed electronically in the supreme court using C-Track Electronic Filing System (CTEF), and the electronic version shall be the officially filed document in the case. The rules will apply to district courts and circuit courts as they adopt electronic filing. The current version of the supreme court e-filing training, policies and log-in can be found at [www.courts.state.wy.us/Documents/EFiling/PnPManual.pdf](http://www.courts.state.wy.us/Documents/EFiling/PnPManual.pdf). [www.courts.state.wy.us/supreme-court/clerk-of-court-efile/efiling/](http://www.courts.state.wy.us/supreme-court/clerk-of-court-efile/efiling/).

(1) Electronic filing must be completed within the time set forth in the Wyoming Supreme Court Electronic Filing Administrative Policies and Procedures Manual, [www.courts.state.wy.us/Documents/EFiling/PnPManual.pdf](http://www.courts.state.wy.us/Documents/EFiling/PnPManual.pdf), to be considered timely filed on the date it is due. Electronic filing, together with the Notice of Electronic Filing that is automatically generated by CTEF, constitutes filing of a document

(2) When documents filed do not comply with the rules (such as the Rules Governing Redaction from Court Records), the document will be removed from the public docket and counsel will immediately be notified ~~by email~~ and instructed to re-file the pleading within a specified amount of time. If the pleading is not correctly re-filed within the required time, it shall not be considered timely filed.

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~~(5) Motion to intervene in a case or motion to file amicus curiae shall not be electronically filed unless ordered by the supreme court.~~

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(c) Until otherwise ordered, in addition to electronic filing, the following paper copies are required: \*\*\*\*\*

(3) A proposed order shall accompany all filings in the district court. ~~For filings in the supreme court, a proposed order may be attached.~~ No proposed order shall accompany supreme court filings.

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### Rule 1.02. Scope of rules.

(a) All appeals, reviews pursuant to Rule 12, certifications under Rules 11 or 12, and petitions for writ of review pursuant to Rule 13 shall be governed by these rules. Where the term “appellate court” is used in these rules, it refers to either the district court or the supreme court as circumstances make appropriate. The term “trial court” refers to either a district court, the chancery court, a circuit court, or a municipal court.

(b) These rules shall supersede any conflicting statutes, rules or regulations addressing procedural matters.

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### Rule 1.03. Failure to comply with rules.

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(b) ~~A party's f~~ Failure to comply with these rules may result in imposition of sanctions, including but not limited to:

(1) An appellant or cross appellant who fails to provide a notice of appeal to the appellate court as required by Rule 2.01(a), or whose notice of appeal does not include the appendix required by Rule 2.07(b) and (c), may be subject to a monetary sanction when the case is docketed in the appellate court.

(2) An appellant or cross appellant party who fails to file the required designation of record in the trial court contemporaneously with filing the initial brief in the appellate court may be subject to a monetary sanction upon notification of non-compliance by the clerk of the trial court. See Rule 3.05. For Supreme Court general orders on sanctions, see [www.courts.state.wy.us/WSC/Clerk](http://www.courts.state.wy.us/WSC/Clerk).

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**Rule 1.04. Review by supreme court and district court.**

(a) A judgment or appealable order entered by a district court or the chancery court may be: affirmed, reversed, vacated, remanded, or modified by the supreme court for errors appearing on the record.

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**Rule 2.02. Effect of motion on time for filing notice of appeal in civil case.**

(a) The time for appeal in a civil case ceases to run as to all parties when a party timely files a motion for judgment under Rule 50(b), Wyo.R.Civ.P.; a motion to amend or make additional findings of fact under Rule 52(b), Wyo.R.Civ.P. or W.R.C.P.Ch.C., whether or not alteration of the judgment would be required if the motion is granted; a motion to alter or amend the judgment under Rule 59, Wyo.R.Civ.P. or W.R.C.P.Ch.C., or a motion for a new trial under Rule 59, Wyo.R.Civ.P. or W.R.C.P.Ch.C.

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**Rule 2.04. Premature notice of appeal.**

A notice of appeal filed after the court announces a decision or order — but before entry of the judgment or order — is treated as filed on the date of and after the entry. A premature notice of appeal shall comply with Rule 2.07, to the extent possible. ~~Once the judgment or order is entered, the appellant shall forward a copy of the judgment or order to the clerk of the appellate court for inclusion with the notice of appeal served on the clerk.~~

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

(a) Concurrently with filing the notice of appeal, appellant must order and either make arrangements satisfactory to the court reporter for the payment of the portions of the evidence deemed necessary for the appeal or file a motion ~~make application~~ for in forma pauperis status as provided in Rule 2.09. A certificate of compliance with this rule shall be endorsed upon the notice of appeal. If appellant does not intend to order a transcript, the certificate of compliance

shall state the same and include a statement indicating state whether appellant intends to procure a statement of evidence pursuant to Rule 3.03 or an agreed statement pursuant to Rule 3.08.

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**Rule 2.07. Notice of appeal; contents.**

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(b) In a civil case, the notice of appeal shall include an appendix, which shall list, but not attach, the following documents: ~~have as an appendix which shall include and be limited to the following:~~

(1) All pleadings that assert a claim for relief whether by complaint, counter-claim or cross-claim and all pleadings adding or removing parties; and

(2) All orders or judgments disposing of claims for relief and all orders or judgments disposing of all claims by or against any party; and

(3) The judgment or final order and ~~a copy of~~ the trial court's decision letter if one was filed.

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**Rule 2.09. Payment of filing fee, motion to proceed in forma pauperis, and disposition.**

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(d) A notice of appeal may be faxed or emailed to the clerk of the trial court; the notice of appeal shall not be filed until payment of the docket fees is received by the clerk of the trial court or a motion to proceed in forma pauperis is ~~faxed~~ received by ~~to~~ the clerk of the trial court, pursuant to this rule and Wyo.Stat.Ann. § 5-3-205.

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**Rule 3.02. Transcript of proceedings.**

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(d) All transcripts of testimony, evidence and proceedings shall be certified by the official court reporter, or such other person designated by the trial court to prepare the transcript, to be true and correct in every particular, and when certified it shall be received as prima facie evidence of the facts, testimony, evidence, and proceedings set forth in the transcript. The transcript format shall be 8½ x 11 paper, single-sided, inches and a maximum of 25 lines per page and no more than 10 characters per inch. Condensed transcripts are ~~disfavored~~ not allowed by the supreme court. The reporter shall indicate at the bottom of each page the name of the witness, the name of counsel examining, and the type of examination (e.g., direct, cross). Appended to the transcript shall be a table with page references reflecting the names of the witnesses, the type of examination and the points at which exhibits were offered and admitted or refused. The reporter shall file the original of the completed transcript with the clerk of the trial court within the time fixed or allowed by these rules and the Rules Governing Redactions from Court Records. The transcript shall be certified by the clerk as a part of the trial court record.

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

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(a) Within three working days after the record has been completed (or as otherwise arranged with the clerk of the appellate court), the clerk of the trial court shall advise the clerk of the appellate court in writing that the record has been completed and certified in accordance with these rules, reciting that:

(1) Each page of original papers has been numbered in accordance with Rule 3.05(h) and an index has been prepared. The index shall ~~contain~~ list the name of the filing, the date filed and the page number(s). Volume numbers should not be included. The clerk of the trial court shall provide copies of the index to the clerk of the appellate court and to the parties;

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(c) If appellee desires to designate additional parts of the record for transmission, appellee shall, contemporaneously with filing appellee's brief in the appellate court, file with the clerk of the trial court and serve upon all parties and the appellate court clerk a designation of those parts of the record desired by appellee. ~~See Rule 1.03.~~

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(f) After the appellee's brief has ~~all the briefs have~~ been filed, the clerk of the appellate court shall request that the clerk of the trial court transmit the unredacted designated record within ~~five~~ seven working days. The transmitted record shall be securely fastened, in an orderly manner, in one or more sturdy folders consisting of no more than 250 pages per folder, with pages numbered and with a cover page bearing the title of the case, followed by a complete index of the record. The transmitted record on appeal shall be organized as follows:

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(h) *Pagination.* — Excluding transcripts and exhibits, ~~E~~ each page of the record, and documents contained within a separate confidential file, shall bear a handwritten or bates number in the lower right-hand corner of the page. The record should not be renumbered for subsequent appeals. Numbering should be continuous from any prior appeal;

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### **Rule 3.06. Record for intermediate relief in appellate court.**

If prior to the time the record is transmitted a party moves in the appellate court for any intermediate relief, then the clerk of the trial court at the request of the appellate court shall transmit ~~to the appellate court~~ such parts of the record as the appellate court shall designate.

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### **Rule 6.01. Docketing appeal and jurisdiction.**

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(d) The supreme court shall have jurisdiction of appeals from interlocutory orders of a district court or the chancery court, and questions certified pursuant to Rules 11 or 12, and petitions pursuant to Rule 13.

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### **Rule 7.02. Brief of appellee.**

The brief of appellee shall conform to the requirements of Rule 7.01; but shall not include any document(s) appended to appellant's brief. ~~except that~~ A statement of the issues, or of the

case, is not required.

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**Rule 7.05. Length, format, binding and number of briefs.**

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(b) Format of Briefs.

(1) Brief pages shall not exceed 8½ by x 11 inches. Margins shall not be less than one inch on all sides;

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(5) Appendices on legal-sized paper should be reduced to 8½ by x 11 inch paper and readily legible.

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**Rule 7.07. Service of briefs on attorney general.**

In all cases in which the state is a party, or in which any of its property is involved, or in which a statute, ordinance or franchise is alleged to be unconstitutional, including criminal cases upon reserved questions, and cases arising upon exceptions taken in a criminal case by the district attorney, counsel shall also serve a copy of the brief upon the attorney general. Within 45 days of service of such brief, the attorney general may file a brief.

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**Rule 9.06. Abbreviated opinions.**

(a) The supreme court by unanimous vote may, sua sponte, enter an abbreviated opinion affirming or reversing the judgment or order of the district court or the chancery court for the reason that it is clear that affirmance or reversal is required because:

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**Rule 11.01. Generally.**

The supreme court may answer questions of law certified to it by a federal court, the chancery court, or a state district court, and a district court may answer questions of law certified to it by a circuit court, municipal court or an administrative agency, if there is involved in any proceeding before the certifying court or agency a question of law which may be determinative of the cause then pending in the certifying court or agency and concerning which it appears there is no controlling precedent in the decisions of the supreme court. Any decision rendered by a district court under this section may be reviewed by the supreme court only through the provisions for writ of review, Rule 13.

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**Rule 13.01. Generally.**

(a) All applications to the supreme court for interlocutory or extraordinary relief from orders of the chancery court and district courts, including such applications as are established by statute

(e.g., Wyo.Stat. Ann. § 5-2-119 and 7-14-107), may be made as petitions for a writ of review. Granting of a petition is within the discretion of the supreme court.

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**Rule 13.04. Contents of petition for writ of review.**

The petition shall be captioned in the reviewing court and a copy, without attachments, shall be served upon the respondent(s) and the trial court and/or administrative agency whose decision is subject to review. ~~It shall~~ The petition shall contain concise statements of the following:

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~~(h) In addition to service on respondent, a copy of the petition, without attachments, shall also be served on the trial court and/or administrative agency whose decision is subject to review.~~

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**Rule 17.01. Death of a party.**

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(b) After the notice of appeal is filed substitution shall be effected in the appellate court in accordance with this rule. If a party entitled to appeal ~~shall die dies~~ before filing a notice of appeal, the notice of appeal may be filed by a personal representative, or, if the party has no personal representative, by the attorney of record within the time prescribed by these rules. After the notice of appeal is filed substitution shall be effected in the appellate court in accordance with this rule.

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**Rule 18. Voluntary dismissal.**

If the parties to an appeal or other proceeding file with the clerk of the appellate court an agreement that the proceeding be dismissed, specifying the terms as to payment of costs, the clerk shall enter an order dismissing the case. An appeal may be dismissed on motion of appellant upon such terms as may be agreed upon by the parties or fixed by the appellate court. In a criminal case, a voluntary dismissal shall also be accompanied by an original waiver of appeal signed by the appellant. No mandate shall issue.

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