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APPELANT OPENING BRIEF
In The Court of Appeals

Appeal from Charleston County
Administrative Law Court

Stephanie P. McDonald , Administrative Tribunal Law Judge

Order dated: 27 February 2014

Mr. Wesley Edward Smith III, Appellant,

v.

Washington Mutual Bank et al, Respondent(s);

APPELLANT OPENING BRIEF

INTRODUCTION

I, Mr. Wesley Edward Smith III am relying on these rules of this appellate Court and the plethora of entitled rights afforded this hard working Black American Citizen of the State of South Carolina, as all rights are contained in the State Constitution. I am relying on this State Constitution, which serves and guides me as my legal shield. My objective stance for which I assert objections on reasonable inferences being drawn is from the mistreatment and deprival of rights, harassment, encroachment of legal right and the adverse private action taken against by the Washington Mutual Bank, INC. In terms of employment, education, worship and day to day normal activities inferences (intentional or unintentional/direct or indirect however respondent leads one to believe as plausible), I rely on and the rules and constitutional requirements that are

written in the English language on American soil, as taken from my State of South Carolina related Website. All references herein made are related to the court rules and constitutional rights, duties, protections, accountabilities, responsibilities, protections, fairness, equalities, liberties and promises for the pursuit of happiness are contained in the State Constitution and copies of the Court rules can be extracted from the following websites or made available, upon the party request:

The website for the State Supreme Court Appellate rules are located at :
http://www.judicial.state.sc.us/supreme/

The website for the State of South Carolina Constitution is located at:
http://www.scstatehouse.gov/scconstitution/scconst.php.

The website for the State of South Carolina State code of laws are located and found:
http://www.scstatehouse.gov/code/statmast.php

I am also requesting, based on a reliable source information, that since the law and rules can changed without anyone's knowledge, as on the website posting (based on information the rules are sometime change daily without others being notified) to provide such service and submissions, to be made to this citizens related to the subject matters, as identified an issue.

I, Mr. Wesley move before this honorable court under the authority of the rules, in accordance with the requirements of this court which governs such protection and afforded fairness and equality for an aggrieved citizen, without any restriction or any subjective personal upon her pursuant to rule 201. As stated in relevant parts:

RULE 201, RIGHT TO APPEAL.
(a) Judgments, Orders and Decisions Subject to Appeal. Appeal may be taken, as provided by law, from any final judgment, appealable order or decision. The procedure for petitioning for a writ of certiorari to review final judgments in post-conviction relief cases is provided by Rule 243. Further, the review of decisions of the State Board of Canvassers in election cases shall be

by petition for a writ of certiorari under S.C. Code Ann. §§ 7-17-250 and 7-17-270.
(b) Who May Appeal. Only a party aggrieved by an order, judgment, sentence or decision may appeal.
Last amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.

II. PROCDRUAL HISTORY AND BACKGROND FACTS

Mr. Wesley Edward Smith III was a loyal, conscientious and dedicated worker, (as also later identified and acknowledge by the Centex Home and Bank Laons provided a services and in turn was provide Land and a home benefit that came with the territory of having hjome ownership by merger with the Washington Mutual Bank, INC, of which a partnership was formed. On or about 227 March 2003 a hearing was held of which Mr. Wesley Edward Smith III believes I became a target of other White American employees was because I opposing unlawful entry of private property and subjective personal attacks of my legal right under the state constitutional law. Subsequently, being subjectively of the State law a person uses the business as a practice field to practices, but does not only affect me, but could disgrace this company, while at the same time exploit the shareholder and stakeholder monies and retirements (individuals were pocketing monies intentionally or unintentionally, let them tell it as here to be a plausible excuses) state property Executives and managers by mergers did report these fact to the homeowners (Mr. Wesley Edward Smith III and family) of such acquisition of other properties by companies and other partners, who were not reporting all the fact to the investigative services of the agencies as required. Executives (just a self title given) and Mangers not reporting the true net revenue of the company, taking side deals, expensive gifts, compromising the business and converting the practice, committing fraud in a sham process intended or united to deceive, for which compelling reasons are given believe the acts were retaliatory and discriminatory.

My WMB contract signed under and by the unwritten integrity code that I, Mr. Wesley Edward smith III would not disgrace this company (in layman terms), while at the same time be the eyes and ears for the homeowners, shareholder and stakeholder

monies and retirements which allows them to be protected, because the shareholder and investors did not have inside access. I was doing my job as WMB bible clearly state and employee contract that "must report perceive violation of the companies policies and procedures.

I Mr. Wesley Edward Smith III, was then made the subject of the South Carolina State law for Grand theft larceny and unlawful entry to private property misapplication of company records and misappropriations of funds, as alleged by State prosecutors, committee of private Citizens AKA Washington Mutual Bank and Home loans by merger, with Fleet Home loans, successor to Centex Homes and Loans state prosecutors of Ms. Cynthia, D. Blair, Mr. Michelle Rowe. Mr. William Everett, SR, Mrs. Cheryl Fischer, Mr. Samuel C. Waters, Mr. Dennis Brosnan, Mr. Reginald P. Corley, Mrs. Rebecca Anne Roberts, Mrs. Andrea St K Armand, Mr. Thomas C. Hidlebrand, Mr. Robert P.Woods, Mrs. Jenny C Honeycutt, Mrs, Jenney A Cox, Mr. John Didit, ESQ, Ms Jane Duet, ESQ, but not an exhausting listing of the Respondents that convicted me of the "just cause" and unnamed others in South Carolina while working under State of South Carolina Personal Estate and planning Business Affairs, legal rights of citizens under the state Constitutional laws. Actions gives reason that the taking of my home (grand larceny with weapons strong armed) were involved in the commission and used to cover this up another crime was colluded to deny me of my constitutional right before a fair and equal hearing before the impartial law. WMB and others collectively took my home as collateral attack by WMB under the same premise but without being affording. Mr. Wesley Edward Smith III procedural due process and the Constitutional protection my "Legal Shield". As required of the Respondents,

who subjected Mr. Wesley Edward smith III to the state laws, did not allow me to cross examine its said witness not see the discoverable evidence, Instead. I Mr. Wesley Edward Smith III was made subject of the State law and lost his home and entitlement of lega constitutional rights based on hearsay, rumors, speculation of facts and mere conjecture of the state law. This is reasonable true because the order is not supported by supporting legal memorandum of law argument for the respondent cause of action to terminated my employment without providing the constitutional rights, duties and services. Mr. Wesley Edward Smith III believe that all his state Constitutional rights have been denied and encroached upon by the respondents.

Not only has the violation occurred to my Constitutional rights, but I believe based on this supporting rule under rule 203, that my right to appeal the respondents verdict and subsequent conviction (which lead to my being terminated from employment for the alleged "just cause" reason. I also object to the respondent implied legal right to act as the enforcement agency without providing the substantive proof and evidence required by law. Upon conclusion of the respondent findings, there should be no reasonable doubt remaining. Thus the granting an order or ruling form the court was premature and error of a constitutional right and in violation of the State appellate rules. Also the fact that the respondents have not provided or refuses disclose to the opposing party that upon completion of the initiation and final disposition of termination from employment of such conclusive finding, and that the verdict handed on behalf of the respondent allowed Mr. Wesley Edward Smith III the opportunity as require under rule 203 as relied upon below, to appeal such subject matters decisions from any venue as stated herein and as stated in relevant parts:

RULE 203
NOTICE OF APPEAL

(a) Notice. A party intending to appeal must serve and file a notice of appeal and otherwise comply with these Rules. Service and filing are defined by Rule 262.

(b) Time for Service.

(2) Appeals From the Court of General Sessions. After a plea or trial resulting in conviction or a proceeding resulting in revocation of probation, a notice of appeal shall be served on all respondents within ten (10) days after the sentence is imposed. In all other cases, a notice of appeal shall be served on all respondents within ten (10) days after receipt of written notice of entry of the order or judgment. When a timely post-trial motion is made under Rule 29(a), SCRCrimP, the time to appeal shall be stayed and shall begin to run from receipt of written notice of entry of an order granting or denying such motion. In those cases in which the State is allowed to appeal a pre-trial order or ruling, the notice of appeal must be served within ten (10) days of receiving actual notice of the ruling or order; provided, however, that the notice of appeal must be served before the jury is sworn or, if tried without a jury, before the State begins the presentation of its case in chief.

(4) Appeals From Masters and Special Referees. The notice of appeal from an order or judgment issued by a master or special referee shall be served in the same manner as provided by Rule 203(b)(1).

(c) Cross-Appeals. A respondent may institute a cross-appeal by serving a notice of appeal on all adverse parties, or in the case of an appeal from the administrative tribunal, by serving a notice of appeal on the agency, the administrative law court (if it has been involved in the case) and all parties of record, within five (5) days after receipt of appellant's notice of appeal, or within the time prescribed by Rule 203(b), whichever period last expires.

(d) Filing.

(1) Appeals from the Circuit Court, Family Court and Probate Court.

(A) Where to File. The notice of appeal shall be filed with the clerk of the lower court and with the Clerk of the Supreme Court in the following cases:

(i) Any final judgment from the circuit court which includes a sentence of death.

(ii) Any final judgment involving a challenge on state or federal grounds to the constitutionality of a state law or county or municipal ordinance where the principal issue is one of the constitutionality of the law or ordinance; provided, however, in any case where the Supreme Court finds that the constitutional issue raised is not a significant one, the Supreme Court may transfer the case to the Court of Appeals.

(iii) Any final judgment from the circuit court involving the authorization, issuance, or proposed issuance of general obligation debt, revenue, institutional, industrial, or hospital bonds of the State, its agencies, political subdivisions, public service districts, counties, and municipalities, or any other indebtedness now or hereafter authorized by Article X of the Constitution of this State.

(iv) Any final judgment from the circuit court pertaining to elections and election procedure.
(v) Any order limiting an investigation by a State Grand Jury under S.C. Code Ann. § 14-7-1630.

In closing, I believe that a reversal of law to the premature error of law for the violation of the Appellant Constitutional rights and the requirement under rule 203 for the the service of appellant notices are in order. I, Mr. Wesley Edward smith III gave respect and am respectfully demanding to be respected, demand the enforcement of law to the violation of my recognized constitutional rights demanded to be release form the bonds of WMB and it is many actor, Enjoin others form chiming in on a legal issue that is unrelated to the implied termination process, enjoin all others for chumming in just to continually harass and encroach up on the legal process, for the fraudulent judgment made and actions taken against me and my families ,members, fraudulent orders, fraudulent date and times, fraud committed upon the cout fraudulent for the bonds of perpetrators acting under the government state laws, demand freedoms, protection, legal rights, liberties, recovery, redress, reinstatement, restoration and I demand that my legal shield of my constitutional be respected as well as for other similarly situated citizen regardless of any known or unknown disability factors.

WHERES under **RULE 245 ORIGINAL JURISDICTION OF THE SUPREME COURT**
(a) When Appropriate. The Supreme Court will not entertain matters in its original jurisdiction when the matter can be determined in a lower court in the first instance, without material prejudice to the rights of the parties. If the public interest is involved, or if special grounds of emergency or other good reasons exist why the original jurisdiction of the Supreme Court should be exercised, the facts showing the reasons must be stated in the petition with supporting affidavits.
(b) Extraordinary Writs. A party seeking the issuance of an extraordinary writ in the original jurisdiction of the Supreme Court shall serve and file a petition. The petition and any return shall comply with the requirements of Rule 240.
(c) Actions. A party seeking to have the Supreme Court entertain an action in its original jurisdiction (petitioner) shall serve on all other parties (respondents) a petition for original jurisdiction, a complaint setting forth the claim for relief in the manner specified by Rule 8,

SCRCP, and a notice advising each respondent he has twenty (20) days from the date of service to serve and file a return to the petition. Service shall be in the same manner as required for summons and complaints in Rule 4, SCRCP. The petitioner shall file an original and six (6) copies of the petition, notice and complaint with the Clerk of the Supreme Court, along with proof of service on each respondent. Any party opposing the petition shall have twenty (20) days from the date of service to file an original and six (6) copies of his return with the Clerk of the Supreme Court and serve on all parties a copy of the return. Failure of a party to timely file a return may be deemed a consent by that party to the matter being heard in the original jurisdiction. Unless otherwise ordered by the Supreme Court, the petition shall be decided without oral argument. If the petition is granted, the respondent shall have thirty (30) days to serve and file an answer to the complaint. The Supreme Court may provide for discovery, fact finding and/or a briefing schedule as necessary.
Amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.

RULE 246
STAY IN CRIMINAL CASES

(a) Stays Pending Appeal. The service of a notice of appeal by a criminal defendant shall operate as a stay of the execution of the sentence until the appeal is finally disposed of; provided, however, a sentence of confinement shall not be stayed until the defendant has posted bail under S.C. Code Ann. §§ 18-1-80 and -90 (1985). Where the sentence exceeds imprisonment for ten (10) years, the defendant may only be admitted to bail by an appellate court. Where the State has taken an appeal, the appeal shall automatically operate as a stay of further proceedings in the lower court.
(b) Stays of Sentences After Affirmance. No stay of any sentence in a criminal case which has been affirmed by the judgment of an appellate court shall be granted, except by order of an appellate court, or a judge or justice thereof, upon motion pursuant to Rule 240.
Amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.

WHEREAS under rule **RULE 260 DISMISSAL AND REINSTATEMENT**
(a) Involuntary Dismissal and Reinstatement. Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court. A case shall not be reinstated except by leave of the court, upon good cause shown, after notice to all parties. The clerk shall remit the case to the lower court or administrative tribunal in accordance with Rule 221 unless a motion to reinstate the appeal has been actually received by the court within fifteen (15) days of filing of the order of dismissal (the day of filing being excluded).
(b) Agreed Dismissal. If the parties to an appeal or other proceeding shall sign and file with the clerk of the appellate court an agreement that the proceeding be dismissed, the appellate court may enter an order of dismissal. The agreement may contain a provision altering the costs to be assessed under Rule 222 and/or other settlement terms subject to the provisions of Rule 261.
(c) Withdrawal. An appeal or other proceeding may be dismissed on motion of the appellant or petitioner upon such terms as may be fixed by the court.
Last amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date,

WHEREAS under RULE 261 AGREEMENTS AND SETTLEMENTS

(a) Agreements Generally. Any agreement submitted to the appellate court for its consideration shall be in writing and signed by the parties or their attorneys. Further, any agreement submitted to the appellate court shall be public unless a motion to seal is filed and the appellate court determines that the matters should be sealed under the standard provided by Rule 41.1, SCRCP.

(b) Settlement Agreements. If a settlement agreement relates to a matter that is pending before an appellate court, the settlement agreement need not be submitted to the appellate court unless approval by the appellate court, a lower court or tribunal is required before the agreement can be effective, or the parties desire to have the agreement approved by the appellate court.

(c) Agreements Regarding Rules. Any agreement to modify a requirement of these Appellate Court Rules must be approved by the appellate court.

(d) Vacation of Prior Opinions, Orders or Judgments. In the agreement, the parties may request vacation of opinions, orders, decisions and judgments previously issued in the matter. The agreement must set forth the facts that warrant this extraordinary relief. If the matter is pending before the Supreme Court and the agreement requests the vacation of an order or opinion of the Court of Appeals, the Supreme Court, in its discretion, may seek a recommendation from the Court of Appeals regarding the request for vacation. If an agreement containing a request for vacation is rejected, the parties may resubmit the agreement without the request for vacation.

Last amended by Orders dated January 28 and 29, 2009, effective April 29, 2009, by Orders of the same date.

The respondents WMB reuse to speak with Mr. Wesley Edward Smith III and will not reconcile. WMB claim it owes Mr. Wesley Edward Smith III, and based on such assumptions, not even respecting the state declaration of rights, under **SECTION 22.** Procedure before administrative agencies; judicial review.

No person shall be finally bound by a judicial or quasi-judicial decision of an administrative agency affecting private rights except on due notice and an opportunity to be heard; nor shall he be subject to the same person for both prosecution and adjudication; nor shall he be deprived of liberty or property unless

SECTION 23. Provisions of Constitution mandatory.

The provisions of the Constitution shall be taken, deemed, and construed to be mandatory and prohibitory, and not merely directory, except where expressly made directory or permissory by its own terms. (1970 (56) 2684; 1971 (57) 315.)

SECTION 24. Victims' Bill of Rights.

(A) To preserve and protect victims' rights to justice and due process regardless of race, sex, age, religion, or economic status, victims of crime have the right to:

(1) be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal and juvenile justice process, and informed of the victim's constitutional rights, provided by statute;

(2) be reasonably informed when the accused or convicted person is arrested, released from custody, or has escaped;

(3) be informed of and present at any criminal proceedings which are dispositive of the charges where the defendant has the right to be present;

(4) be reasonably informed of and be allowed to submit either a written or oral statement at all hearings affecting bond or bail;

(5) be heard at any proceeding involving a post-arrest release decision, a plea, or sentencing;
(6) be reasonably protected from the accused or persons acting on his behalf throughout the criminal justice process;
(7) confer with the prosecution, after the crime against the victim has been charged, before the trial or before any disposition and informed of the disposition;
(8) have reasonable access after the conclusion of the criminal investigation to all documents relating to the crime against the victim before trial;
(9) receive prompt and full restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury, including both adult and juvenile offenders;
(10) be informed of any proceeding when any post-conviction action is being considered, and be present at any post-conviction hearing involving a post-conviction release decision;
(11) a reasonable disposition and prompt and final conclusion of the case;
(12) have all rules governing criminal procedure and the admissibility of evidence in all criminal proceedings protect victims' rights and have these rules subject to amendment or repeal by the legislature to ensure protection of these rights.
(B) Nothing in this section creates a civil cause of action on behalf of any person against any public employee, public agency, the State, or any agency responsible for the enforcement of rights and provision of services contained in this section. The rights created in this section may be subject to a writ of mandamus, to be issued by any justice of the Supreme Court or circuit court judge to require compliance by any public employee, public agency, the State, or any agency responsible for the enforcement of the rights and provisions of these services contained in this section, and a wilful failure to comply with a writ of mandamus is punishable as contempt.
(C) For purposes of this section:
(1) A victim's exercise of any right granted by this section is not grounds for dismissing any criminal proceeding or setting aside any conviction or sentence.
(2) "Victim" means a person who suffers direct or threatened physical, psychological, or financial harm as the result of the commission or attempted commission of a crime against him. The term "victim" also includes the person's spouse, parent, child, or lawful representative of a crime victim who is deceased, who is a minor or who is incompetent or who was a homicide victim or who is physically or psychologically incapacitated.
(3) The General Assembly has the authority to enact substantive and procedural laws to define, implement, preserve, and protect the rights guaranteed to victims by this section, including the authority to extend any of these rights to juvenile proceedings.
(4) The enumeration in the Constitution of certain rights for victims shall not be construed to deny or disparage others granted by the General Assembly or retained by victims.

If this is plausible and the State actors that intervene in or around the court's knew or should have known of these problematic areas such as encroaches of the judicial process and perpetrators at law who lurk and act out of practice at the state laws and thus creates a clime more of problematic vice proffering a legal solution to these controversial issues, with the

cosigning back into existence the long standing propaganda of intent[1] such as the assertion of the defense used by the respondents for a defense, which as presumed allow one to act out in any mannerism of ways to another citizen, then why would the professionals of the Courts allow the "Untimely" ruling form Honorable R. Markley Dennis order on 20 March 2006, then the subsequent finalization of the initiated two-part order by the Honorable Doyet A. Early on 29 November 2007 and this order by the Honorable Stephanie P, McDonald dated 27 February 2014 (which order appears totally relevant of one another) without having such mockery of law and further injustices. Why didn't the court impartiality process allow the required liberal construing and then "Summarily Dismissing of the case by the unsupported claims, non-standing of party, non-holding of case by law, by reverting such actions to the State association State affiliations, State interest groups and the State legislators before making a timely, mentally sound, mentally competent, affirmed, decreed, concurring decisions or judgments under the court business practice letterhead. Such follow-ups as required would have prevented illegitimate legalities issue of material fact of objectionable inferences steadily drawn into questions?

These posted declaration of rights affords Mr. Wesley Edward Smith III constitutional protections and relief as afforded under appellate rule 222 and rule 260 from being arbitrary targeted and detained. I respectfully demand to be brought before the court on the respondents WMB claims, charges and wrongful convictions and subsequent collateral attacks, while being lead to believe being racially profiled and stereotyped while living, working, attending school, religious services while having to be reminded of such, for which a place to exist in the state of South Carolina which can be construed or considered to a reasonable person as an hostile

[1] Criminal Intent is the devastation of the laws as applied without due dilligence and with implied prejudice to be expressly written by the imparttial adjuducator.

environment, as orders and rules are allows averting. Based on the facts of the supporting declaration of rights, this juridical review is respectfully demanded to be considered based on the written laws, as required. A question of does the order of the lower court allows with the contempt of court action to stand in face of the right not allow A writ of ***habeas corpus*, to** addressed to WMB (the custodian a prison official) and demands that a prisoner be taken before the court, of which the custodian may disclose and evidences and present proof of implied or express authority to act in the fashion to enforce the law while acting under the state Constitution and to determine whether or not PGB had lawful authority to detain the prisoner?

I was at work and victimized, just a innocent bystander, when intruders entered my workspace and deprived me of legal rights, later to have "me" held in contempt of their courts for prior unrelated incident. prior to these facts, I did not know any of these persons listed above and did not know this scam sham process of criminal activity to defraud the State Government or to exploit partners in the WMB company business in any form or mannerism. I am currently guilty according to the work of WMB only by work association and respectfully demand to invoke the entitlements of my remaining constitutional right to have my day in court, to face my many accusers of the alleged crimes charged and the cause that resulted in the loss of employment with benefits against Mr. Wesley Edward Smith III. My family was adversely affected as a result

How can a ruling be considered finally disposed when the adjudicators know or were sure to know that a harm or injury would result from the existing conflicts and contradictions be adjudicated based on pure speculation, mere conjecture of law and third party hearsay for asking or how such a rulings be legally binding for WMB as justified who provided as fraudulent event,

a fraudulent judge, produces fraudulent orders and with fraudulent reporting dates and times still undisputed when the procedural due process clause require a equal and fair process

The reversal, modification, amendment of complaint and remand is in order due to the conclusion of the state court order in question and the reluctant action of the respondents are potentially objectionable, especially in view of the attached State constitution. This is reasonably true because the order not supported by supporting legal memorandum of law argument is considerably legally unfamiliar and for the respondent cause of action to terminated my employment without providing the constitutional rights, duties and services is without proof beyond reasonable doubt and unsupported by the required substantiated evidence .

April 14, 2015

Respectfully Submitted

Mr. Wesley Edward Smith III

RULE 101
SCOPE AND TITLE

(a) Scope. These Rules are divided into six parts.

Part I governs the applicability of these Rules and contains general provisions.

Part II governs practice and procedure in appeals, petitions, and motions in the Supreme Court and the Court of Appeals.

Part III is reserved for future use.

Part IV governs the admission to practice, conduct, discipline, continuing legal education, and other obligations and duties of attorneys in this State.

Part V governs the conduct, discipline, continuing legal education, and other obligations of judges in the courts of this State; and rules governing employees of the Judicial Department.

Part VI contains rules governing judicial administration.

(b) Title. These Rules shall be entitled South Carolina Appellate Court Rules, and may be cited by rule number and the letters SCACR, i.e., Rule ___, SCACR.

RULE 102
EFFECTIVE DATE AND REPEALER

(a) Effective Date. These Rules take effect on September 1, 1990. They govern all matters occurring after they take effect and also all further proceeding in matters then pending, except to the extent that in the opinion of the Court their application in a particular matter pending when these rules take effect would not be feasible or would work an injustice, in which event the former procedure applies. Part II, however, shall not apply in any appeal where a notice of intent to appeal was served prior to the effective date of these rules; if a notice was served before the effective date, the appeal shall proceed to conclusion under the Supreme Court Rules. Where the time to serve a notice of intent to appeal under Supreme Court Rules 1, § 1A, or 50 has expired before these Rules take effect, these Rules shall not revive the right to appeal or to petition for a writ of certiorari in a post-conviction relief case.

(b) Repealer. The Supreme Court Rules and the Miscellaneous Rules shall be repealed when these Rules become effective.

RULE 201
RIGHT TO APPEAL

(a) Judgments, Orders and Decisions Subject to Appeal. Appeal may be taken, as provided by law, from any final judgment, appealable order or decision. The procedure for petitioning for a writ of certiorari to review final judgments in post-conviction relief cases is provided by Rule 243. Further, the review of decisions of the State Board of Canvassers in election cases shall be by petition for a writ of certiorari under S.C. Code Ann. §§ 7-17-250 and 7-17-270.

(b) Who May Appeal. Only a party aggrieved by an order, judgment, sentence or decision may appeal.

Last amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.

RULE 202.
DESIGNATION OF PARTIES AND DEFINITIONS

(a) Designation of Parties. The party appealing shall be known as the appellant and the adverse party as the respondent.

(b) Definitions. For the purpose of Part II of the South Carolina Appellate Court Rules, the following definitions shall apply:

(1) Lower Court: the circuit court (including masters-in-equity), family court or probate court from which the

Exh "A"

appeal is taken.

(2) Administrative Tribunal: the administrative law court or agency from which the appeal is taken.

Last amended by Order dated May 3, 2007.

RULE 203
NOTICE OF APPEAL

(a) Notice. A party intending to appeal must serve and file a notice of appeal and otherwise comply with these Rules. Service and filing are defined by Rule 262.

(b) Time for Service.

(1) Appeals From the Court of Common Pleas. A notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment. When a timely motion for judgment n.o.v. (Rule 50, SCRCP), motion to alter or amend the judgment (Rules 52 and 59, SCRCP), or a motion for a new trial (Rule 59, SCRCP) has been made, the time for appeal for all parties shall be stayed and shall run from receipt of written notice of entry of the order granting or denying such motion. When a form or other short order or judgment indicates that a more full and complete order or judgment is to follow, a party need not appeal until receipt of written notice of entry of the more complete order or judgment.

(2) Appeals From the Court of General Sessions. After a plea or trial resulting in conviction or a proceeding resulting in revocation of probation, a notice of appeal shall be served on all respondents within ten (10) days after the sentence is imposed. In all other cases, a notice of appeal shall be served on all respondents within ten (10) days after receipt of written notice of entry of the order or judgment. When a timely post-trial motion is made under Rule 29(a), SCRCrimP, the time to appeal shall be stayed and shall begin to run from receipt of written notice of entry of an order granting or denying such motion. In those cases in which the State is allowed to appeal a pre-trial order or ruling, the notice of appeal must be served within ten (10) days of receiving actual notice of the ruling or order; provided, however, that the notice of appeal must be served before the jury is sworn or, if tried without a jury, before the State begins the presentation of its case in chief.

(3) Appeals From the Family Court. A notice of appeal in a domestic relations action shall be served in the same manner provided by Rule 203(b)(1). A notice of appeal in a juvenile action shall be served in the same manner as provided by Rule 203(b)(2).

(4) Appeals From Masters and Special Referees. The notice of appeal from an order or judgment issued by a master or special referee shall be served in the same manner as provided by Rule 203(b)(1).

(5) Appeals From Probate Court. When a direct appeal is authorized by S.C. Code Ann. § 62-1-308(g), the notice of appeal shall be served in the same manner as provided by Rule 203(b)(1).

(6) Appeals From Administrative Tribunals. When a statute allows a decision of the administrative law court or agency (administrative tribunal) to be appealed directly to the Supreme Court or the Court of Appeals, the notice of appeal shall be served on the agency, the administrative law court (if it has been involved in the case) and all parties of record within thirty (30) days after receipt of the decision. If a timely petition for rehearing is filed with the administrative tribunal, the time to appeal for all parties shall be stayed and shall run from receipt of the decision granting or denying that motion. If a decision indicates that a more full and complete decision is to follow, a party need not appeal until receipt of the more complete decision.

(c) Cross-Appeals. A respondent may institute a cross-appeal by serving a notice of appeal on all adverse parties, or in the case of an appeal from the administrative tribunal, by serving a notice of appeal on the agency, the administrative law court (if it has been involved in the case) and all parties of record, within five (5) days after receipt of appellant's notice of appeal, or within the time prescribed by Rule 203(b), whichever period last expires.

(d) Filing.

(1) Appeals from the Circuit Court, Family Court and Probate Court.

(A) Where to File. The notice of appeal shall be filed with the clerk of the lower court and with the

Clerk of the Supreme Court in the following cases:

(i) Any final judgment from the circuit court which includes a sentence of death.

(ii) Any final judgment involving a challenge on state or federal grounds to the constitutionality of a state law or county or municipal ordinance where the principal issue is one of the constitutionality of the law or ordinance; provided, however, in any case where the Supreme Court finds that the constitutional issue raised is not a significant one, the Supreme Court may transfer the case to the Court of Appeals.

(iii) Any final judgment from the circuit court involving the authorization, issuance, or proposed issuance of general obligation debt, revenue, institutional, industrial, or hospital bonds of the State, its agencies, political subdivisions, public service districts, counties, and municipalities, or any other indebtedness now or hereafter authorized by Article X of the Constitution of this State.

(iv) Any final judgment from the circuit court pertaining to elections and election procedure.

(v) Any order limiting an investigation by a State Grand Jury under S.C. Code Ann. § 14-7-1630.

(vi) Any order of the family court relating to an abortion by a minor under S.C. Code Ann. § 44-41-33.

In all other cases, the notice of appeal shall be filed with the clerk of the lower court and the Clerk of the Court of Appeals.

(B) When and What to File. The notice of appeal shall be filed with the clerk of the lower court and the clerk of the appellate court within ten (10) days after the notice of appeal is served. The notice filed with the appellate court shall be accompanied by the following:

(i) Proof of service showing that the notice has been served on all respondents;

(ii) A copy of the order(s) and judgment(s) to be challenged on appeal if they have been reduced to writing;

(iii) A filing fee as set by order of the Supreme Court;[1] this fee is not required for criminal appeals or appeals by the State of South Carolina or its departments or agencies;

(iv) If the appeal is from a guilty plea, an Alford[2] plea or a plea of nolo contendere, a written explanation showing that there is an issue which can be reviewed on appeal. This explanation should identify the issue(s) to be raised on appeal and the factual basis for the issue(s) including how the issue(s) was raised below and the ruling of the lower court on that issue(s). If an issue was not raised to and ruled on by the lower court, the explanation shall include argument and citation to legal authority showing how this issue can be reviewed on appeal. If the appellant fails to make a sufficient showing, the notice of appeal may be dismissed;

(v) If the notice of appeal is from a post-conviction relief case and the lower court determined that the post-conviction relief action is barred as successive or being untimely under the statute of limitations, the written explanation required by Rule 243(c), SCACR; and,

(vi) If the notice of appeal is from a habeas corpus proceeding and the lower court determined that habeas corpus relief was improper because the issues could have been raised in a timely application under the Post-Conviction Relief Act (see Simpson v. State, 329 S.C. 43, 495 S.E.2d 429 (1998)), a written explanation as to why this determination was improper. This explanation must contain sufficient facts, argument and citation to legal authority to show that there is an arguable basis for asserting that the determination by the lower court was improper. If the appellant fails to make a sufficient showing, the notice of appeal may be dismissed.

(2) Appeals from Administrative Tribunals.

(A Where to File. Appeals from a decision of the Public Service Commission setting public utility

rates pursuant to Title 58 of the South Carolina Code of Laws shall be filed with the Clerk of the Supreme Court. Unless otherwise required by statute, all other appeals from administrative tribunals shall be filed with the Clerk of the Court of Appeals.

(B) When and What to File. The notice of appeal shall be filed with the clerk of the appellate court within the time required to serve the notice of appeal under Rule 203(b)(6). The notice filed with the appellate court shall be accompanied by the following:

(i) Proof of service showing that the notice has been served on the agency, the administrative law court (if it has been involved in the case), and all parties of record;

(ii) A copy of the decision(s) to be challenged on appeal; and

(iii) A filing fee as set by order of the Supreme Court;[3] this fee is not required for criminal appeals or appeals by the State of South Carolina or its departments or agencies.

(3) Effect of Failure to Timely File. If the notice of appeal is not timely filed or the filing fee is not paid in full, the appeal shall be dismissed, and shall not be reinstated except as provided by Rule 260.

(e) Form and Content. The notice of appeal shall be substantially in the form designated in the Appendix to these Rules.

(1) Appeals from the Circuit Court, Family Court and Probate Court. In appeals from lower courts, the notice of appeal shall contain the following information:

(A) The name of the court, judge, and county from which the appeal is taken.

(B) The docket number of the case in the lower court.

(C) The date of the order, judgment, or sentence from which the appeal is taken; and if appropriate for the determination of the timeliness of the appeal, a statement of when the appealing party received notice of the order or judgment from which the appeal is taken, or, if a cross-appeal, when the respondent received appellant's notice of appeal.

(D) The name of the party taking the appeal.

(E) The names, mailing addresses, and telephone numbers of all attorneys of record and the names of the party or parties represented by each.

(2) Appeals from Administrative Tribunals. In appeals from administrative tribunals, the notice of appeal shall contain the following information:

(A) The name of the agency and the name of the administrative law judge (if applicable).

(B) The docket number of the case before the administrative law court, or if the appeal is from an agency, the docket number before the agency.

(C) The date of the decision from which the appeal is taken; and if appropriate for the determination of the timeliness of the appeal, a statement of when the appealing party received the decision from which the appeal is taken, or, if a cross-appeal, when the respondent received appellant's notice of appeal.

(D) The name of the party taking the appeal.

(E) The names, mailing addresses, and telephone numbers of all attorneys of record and the names of the party or parties represented by each.

Last amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.

[1] By order dated April 17, 1990, this filing fee was set at one hundred ($100.00) dollars.

[2] North Carolina v. Alford, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970)

[3] By order dated April 17, 1990, this filing fee was set at one hundred ($100.00) dollars.

RULE 204
TRANSFER OF CASES

(a) Improperly Filed Cases. In the event that the notice of appeal is filed in the wrong appellate court, the appellate court in which the matter is filed shall issue an order transferring the case to the appropriate appellate court.

(b) Certification by Supreme Court. In any case which is pending before the Court of Appeals, the Supreme Court may, in its discretion, on motion of any party to the case, on request by the Court of Appeals, or on its own motion, certify the case for review by the Supreme Court before it has been determined by the Court of Appeals. Certification is normally appropriate where the case involves an issue of significant public interest or a legal principle of major importance. The effect of such certification shall be to transfer jurisdiction over the case to the Supreme Court for all purposes.

RULE 205
EFFECT OF APPEAL

Upon the service of the notice of appeal, the appellate court shall have exclusive jurisdiction over the appeal; the lower court or administrative tribunal shall have jurisdiction to entertain petitions for writs of supersedeas as provided by Rule 241. Nothing in these Rules shall prohibit the lower court, commission or tribunal from proceeding with matters not affected by the appeal.

Last amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.

RULE 206
CASES INVOLVING MULTIPLE NOTICES OF APPEAL

Where more than one party serves a notice of appeal, the party whose notice of appeal is first received by the appellate court shall be designated as the primary appellant and shall be responsible for performing all duties required of the appellant under Rules 207 and 210. Upon receipt of notification that the primary appellant has received the transcript of proceeding, the clerk of the appellate court shall establish a briefing schedule.

RULE 207
TRANSCRIPT OF PROCEEDING

(a) Appeals From a Lower Court.

(1) Ordering the Transcript. Where a transcript of the proceeding must be prepared by the court reporter, appellant shall, within the time provided for ordering the transcript, make satisfactory arrangements (including agreement regarding payment for the transcript), in writing with the court reporter for furnishing the transcript. In appeals from the court of common pleas, masters in equity, special referees or the family court in domestic actions, the transcript must be ordered within ten (10) days after the date of service of the notice of appeal. In appeals from the court of general sessions or the family court in juvenile actions, the transcript must be ordered within thirty (30) days of the date of service of the notice of appeal. Appellant shall contemporaneously furnish all counsel of record, the Office of Court Administration, and the clerk of the appellate court with copies of all correspondence with the court reporter. Unless the parties otherwise agree in writing, appellant must order a transcript of the entire proceedings below. If a party to the appeal unjustifiably refuses to agree to ordering less than the entire transcript, appellant may move to be awarded costs for having unnecessary portions transcribed; this motion must be made no later than the time the final briefs are due under Rule 211.

(2) Delivery of Transcript. The court reporter shall transcribe and deliver the transcript to appellant no later than sixty (60) days after the date of the request. Records shall be transcribed by the court reporter in the order in which the requests for transcripts are made.

(3) Extension for Court Reporter. If a court reporter anticipates continuous engagement in the performance of other official duties which make it impossible to prepare a transcript in compliance with this Rule, the reporter shall promptly notify the Office of Court Administration in writing of the fact, setting forth the caption of the case involved, the length of time required to complete the transcript, and the nature and probable duration of the conflicting official duties. The Office of Court Administration may grant an extension of up to ninety (90) days. An extension in excess of ninety (90) days shall not be allowed except by order of the Chief Justice.

(4) Notice of Extension. Upon the granting of any extension of time for delivery of the transcript, the Office

of Court Administration shall notify all parties and the clerk of the appellate court.

(5) Failure to Receive Transcript. If appellant has not received the transcript within the allotted time nor received notification of an extension within ten (10) days after the allotted time, appellant shall notify the Office of Court Administration, the clerk of the appellate court, and the court reporter in writing.

(6) Failure to Comply. The willful failure of a court reporter to comply with the provisions of this Rule shall constitute contempt of court enforceable by order of the Supreme Court.

(b) Appeals From an Administrative Tribunal.

(1) Ordering the Transcript. Within ten (10) days after the date of service of the notice of appeal, appellant shall, in writing, make satisfactory arrangements with the administrative law court or the agency (administrative tribunal) to obtain a transcript of the proceeding before that body. Appellant shall contemporaneously furnish all counsel of record, and the clerk of the appellate court with copies of all correspondence with the administrative tribunal. Unless the parties otherwise agree in writing, appellant must order a transcript of the entire proceedings before the administrative tribunal. If a party to the appeal unjustifiably refuses to agree to order less than the entire transcript, appellant may move to be awarded costs for having unnecessary portions transcribed; this motion must be made no later than the time the final briefs are due under Rule 211. The administrative tribunal may establish reasonable rates for providing the transcript or a copy thereof.

(2) Delivery of Transcript. The administrative tribunal shall insure that the transcript is delivered to the appellant within (60) days after the date of the request.

(3) Extension. If the administrative tribunal cannot deliver the transcript in the time specified, it shall promptly seek an extension from the appellate court. The request for an extension shall be in writing and shall comply with Rule 240, SCACR.

(4) Failure to Receive Transcript. If appellant has not received the transcript within the allotted time nor received notification of an extension within ten (10) days after the allotted time, appellant shall notify the clerk of the appellate court, and the administrative tribunal in writing.

(c) Duty of Appellant. The transcript received from the court reporter or the administrative tribunal must be retained by appellant during the entire appeal and for a period of at least one (1) year after the remittitur (See Rule 221) is sent to the lower court or administrative tribunal.

Last amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.

RULE 208
INITIAL BRIEFS

(a) Time for Serving and Filing Initial Briefs.

(1) Brief of Appellant. Within thirty (30) days after receiving the transcript or, if no transcript is ordered, within thirty (30) days after serving the notice of appeal, appellant shall serve one copy of his brief on all parties to the appeal, and file with the clerk of the appellate court one copy of the brief with proof of service.

(2) Brief of Respondent. Within thirty (30) days after service of appellant's brief, respondent shall serve one copy of his brief on all parties to the appeal and file with the clerk of the appellate court one copy of the brief with proof of service.

(3) Reply Brief. An appellant may file and serve a brief in reply to the brief of respondent. If a reply brief is prepared, appellant shall, within ten (10) days after service of respondent's brief, serve one copy of the reply brief on all parties to the appeal and file with the clerk of the appellate court one copy of the reply brief with proof of service.

(4) Failure to File. Upon the failure of the appellant to file and serve his brief within the time prescribed, the clerk of the appellate court shall sign an order dismissing the appeal, and the appeal shall not be reinstated except as provided by Rule 260. Upon the failure of respondent to timely file a brief, the appellate court may

take such action as it deems proper.

(b) **Content.** The initial briefs under this Rule and the final briefs under Rule 211 shall contain:

(1) Brief of Appellant. The brief of appellant shall contain under appropriate headings and in the order here indicated:

(A) Table of Contents and Cases. A table of contents, with page references, and a table of cases (alphabetically arranged), statutes, and other authorities cited, with references to the pages of the brief where they are cited.

(B) Statement of Issues on Appeal. A statement of each of the issues presented for review. The statement shall be concise and direct as to each issue, and may be stated in question form. Broad general statements may be disregarded by the appellate court. Ordinarily, no point will be considered which is not set forth in the statement of the issues on appeal.

(C) Statement of the Case. The statement shall contain a concise history of the proceedings, insofar as necessary to an understanding of the appeal. The statement shall not contain contested matters and shall contain, as a minimum, the following information: the date of the commencement of the action or matter; the nature of the action or matter; the nature of the defense or of the response; the action of the court, jury, master, or administrative tribunal; the date(s) of trial or hearing; the mode of trial; the amount involved on appeal; the date and nature of the order, judgment or decision appealed from; the date of the service of the notice of appeal; the date of and description of such orders, judgments, decisions and proceedings of the lower court or administrative tribunal that may have affected the appeal, or may throw light upon the questions involved in the appeal; and any changes made in the parties by death, substitution, or otherwise. Any matters stated or alleged in appellant's statement shall be binding on appellant.

(D) Argument. The brief shall be divided into as many parts as there are issues to be argued. At the head of each part, the particular issue to be addressed shall be set forth in distinctive type, followed by discussion and citations of authority. A party may also include a separate statement of facts relevant to the issues presented for review, with reference to the record on appeal, which may include contested matters and summarize the party's contentions.

(E) Conclusion. A short conclusion stating the precise relief requested.

(2) Brief of Respondent. The brief of respondent shall conform to the requirements of Rule 208(b)(1)(A)-(E), except that a statement of the issues or of the case need not be made unless the respondent is dissatisfied with the statement of the issues or of the case by appellant. If a respondent does not include his own statement of the case, he shall be bound by the matters stated or alleged in appellant's statement of the case. If a respondent does include his own statement of the case, he shall be bound by the matters stated or alleged in his statement of the case. Respondent's brief may also contain argument asking the court to affirm for any ground appearing on the record as provided by Rule 220(c).

(3) Reply Brief. All reply briefs shall contain a table of contents, with page references, and a table of cases (alphabetically arranged), statutes, and other authorities cited, with references to the pages of the reply brief where they are cited.

(4) References to Record. The brief shall contain references to the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [see Rule 210(c)] to support the salient facts alleged. References shall also be made to where relevant objections and rulings occurred in the transcript. In the initial briefs, these references should be to the page and line number of the transcript prepared by the court reporter or by the page of the material to be referenced; e.g., Answer p. 7, Motion for Judgment p. 2, Transcript p. 231. Intelligible abbreviations may be used. After the Record on Appeal is prepared, these references shall be revised as provided by Rule 211(b)(1).

(5) Length of Briefs. Except in cases in which a sentence of death has been imposed, principal briefs shall not

exceed fifty (50) pages, and reply briefs shall not exceed twenty-five (25) pages. On motion, the appellate court may grant a party permission to exceed those limitations.

(6) Joining in Briefs. In cases involving more than one appellant or respondent, including cases consolidated for appeal, any number of parties may join in a single brief, and any party may adopt by reference all or any part of the brief of another.

(7) Supplemental Citations. When pertinent and significant authorities come to the attention of a party after his initial brief(s) has been served and filed, the party shall promptly advise the clerk of the appellate court, by letter, with a copy to all counsel, setting forth the citations. There shall be a reference either to the page of the brief or to an issue to which the citations pertain, but the letter shall, without argument, state the reasons for the supplemental citations. Any response shall be made promptly and shall be similarly limited.

(8) Form. All briefs shall comply with the requirements of Rule 267, except that the cover of initial briefs may be made of white paper of not less than twenty pound weight and the initial briefs shall not be bound but shall be securely stapled or fastened on the top left hand corner.

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RULE 209
DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL

(a) Time to Serve and File. At the same time a party serves his initial brief(s) under Rule 208, to include a reply brief, he shall also serve on all parties to the appeal a Designation of Matter to be Included in the Record on Appeal which shall set forth with specificity those parts of the transcript, pleadings, orders, exhibits, or other materials which he proposes to include in the record on appeal. One copy of this Designation with proof of service shall immediately be filed with the clerk of the appellate court.

(b) Content. The Designation must clearly identify what the party desires to have included in the Record on Appeal, and the Designation may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [See Rule 210(c)]. A party shall not include any matter in his Designation which is not relevant to the appeal.

(c) Certification. The Designation shall be accompanied by a certificate signed by the party's counsel of record that the Designation contains no matter which is irrelevant to the appeal.

RULE 210
RECORD ON APPEAL

(a) Time for Service. Within thirty (30) days after service of the last brief, the appellant shall serve a copy of the Record on Appeal on each party who has served a brief. Proof of service of the Record shall be immediately filed with the clerk of the appellate court.

(b) Time for Filing. The appellant must file with the clerk of the appellate court fifteen (15) copies of the Record on Appeal no later than the date his brief(s) are due under Rule 211. As provided by Rule 267(d), one copy filed with the appellate court shall be filed unbound. The appellate court may require an appellant to file additional copies of the Record on Appeal.

(c) Content. The Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267. The Record shall not, however, include matter which was not presented to the lower court or tribunal. Matter contained in the Record on Appeal shall be arranged in the following order: the title page, index, orders, judgments, decrees, decisions, pleadings, transcript, charges, exhibits and other materials or documents, and a certificate by appellant. Each page of the Record on Appeal shall be numbered consecutively beginning with the index. Where a portion of a page of the trial transcript, or a page of an exhibit or document, is to be included in the Record on Appeal, the entire page shall be included. When a portion of an order, judgment, decision or pleading is to be included in the Record on Appeal, the entire order, judgment, decision or pleading shall be included in the Record, to include the caption and signature(s); provided, however, that the portion of a pleading showing verification or service shall not be included unless relevant to the appeal. If the original court

reporter's numbering has been deleted, the Record on Appeal shall contain ellipses or other notation indicating when pages of the court reporter's transcript have been omitted.
Where witness testimony is included in the Record on Appeal, the first page of each witness's direct, cross, redirect and recross examination must show the name of the witness, the phase of examination and the name of the counsel conducting the examination. If this information is not already reflected on the page, the top of the page shall be annotated with the required information in the following form: John H. Doe--Direct (Cross) (Redirect) (Recross) Examination by Mr. Smith.
(d) Title. The title page shall contain the caption as set forth in Rule 267. Nothing shall be printed on the title page except the caption.
(e) Index. Every Record on Appeal shall contain an index to the principal matters therein to include orders, judgments, decisions, pleadings, pretrial matters, opening statements, testimony, motions, closing arguments, jury charges, post-trial motions and exhibits. For witness testimony, the index shall show the pages on which direct, cross, redirect and recross examination begins.
(f) Exhibits. Photographs, plats and diagrams, and other paper exhibits shall be inserted in the Record on Appeal where they can reasonably be reduced or drawn to a size which permits them to be printed and inserted in the Record on Appeal, without folding more than one time. Where they are larger, or do not reasonably lend themselves to accurate reproduction, they need not be included in the Record on Appeal, but shall be filed separately. All exhibits other than paper exhibits must be retained in the trial court and delivered to the appellate court only upon receipt of an order from the clerk of the appellate court.
(g) Certificate of Counsel. Appellant or his counsel shall certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.
(h) Review Limited to Record on Appeal. Except as provided by Rule 212 and Rule 208(b)(1)(C) and (2), the appellate court will not consider any fact which does not appear in the Record on Appeal.
Last amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.

RULE 211
FINAL BRIEFS

(a) Time to Serve and File. Within twenty (20) days after the service of the Record on Appeal, each party shall serve a copy of his final brief(s) on every other party to the appeal, and file fifteen (15) copies of the final brief(s) with the clerk of the appellate court. As provided by Rule 267(d), one copy filed with the appellate court shall be filed unbound. The party must also file with the clerk proof that the final brief(s) has been served, and a certificate that his final brief(s) complies with Rule 211(b). The appellate court may require a party to file additional copies of its brief(s).
(b) Content. The final brief(s) shall be identical to the brief(s) previously served under Rule 208, except for the following:

(1) References to the Record. The references in the initial brief shall be revised to indicate where the material appears in the Record on Appeal. These revised references may be in place of or in addition to the initial references, and shall be in the form indicated by the following examples: (R. p. 15, line 4) (R. p. 75, lines 8-20) (R. p. 90, line 1-p. 101, line 14) (R. pp. 29-31).

(2) Correction of Typographical Errors and Misspellings. The party may correct obvious typographical errors and misspellings which were contained in the initial brief. No other changes may be made.

Last amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.

RULE 212
SUPPLEMENTAL RECORD

(a) By the Court. The appellate court may require copies of all or any part of the transcript of proceedings or other matter which was before the lower court or administrative tribunal to be sent up for its inspection and consideration. It may likewise require a report of the trial or hearing, or of any matter relative thereto, to be made by the trial judge

or administrative tribunal. These matters shall become part of the Record on Appeal.

(b) By a Party. With the written consent of all attorneys of record, a party may supplement the Record on Appeal at any time before argument commences. Without such consent or after argument commences, a party desiring to supplement the Record on Appeal must move the appellate court for leave to do so. In response to that motion, the other party(s) shall designate any supplemental materials which that party desires to add if the Court grants the motion.

(c) Appendix. Supplemental materials filed under Rule 212(b) shall be included in an Appendix to the Record on Appeal. Unless otherwise agreed by the parties or ordered by the Court, the Appendix shall be compiled, served and filed by the party initially proposing it.

Last amended by Order dated May 3, 2007.

RULE 213
AMICUS CURIAE BRIEF

A brief of an amicus curiae may be filed only by leave of the appellate court granted on motion, or at the request of the appellate court. The brief may be conditionally filed with the motion for leave to file. A motion for leave shall identify the interest of the applicant and shall state the reasons why a brief of an amicus curiae is desirable. The brief shall be limited to argument of the issues on appeal as presented by the parties and shall comply with the requirements of Rules 208(b) and 211. If leave to file an amicus curiae brief is granted, the appellate court will specify the period in which a response to the brief may be filed.

RULE 214
CONSOLIDATION

Where there is more than one appeal from the same order, judgment, decision or decree, or where the same question is involved in two or more appeals in different cases, the appellate court may, in its discretion, order the appeal to be consolidated.

Last amended by Order dated May 3, 2007.

RULE 215
SUBMISSION WITHOUT ORAL ARGUMENT

Unless otherwise ordered by the appellate court, all appeals in civil cases which do not involve a constitutional question and in which the amount involved is $1000 or less, and all appeals in civil cases where there has been no final judgment, shall be submitted to the appellate court without oral argument. Further, the appellate court may decide any other case without oral argument if it determines that oral argument would not aid the court in resolving the issues.

RULE 216
NOTICE OF ORAL ARGUMENT

(a) Preliminary List.

(1) When Mailed. Not later than forty (40) days prior to the commencement of any term of court, the clerk of the appellate court shall mail to the parties or their counsel a list of all cases which may be reached for hearing at the term.

(2) Scheduling Conflicts. Upon receipt of the preliminary list, counsel shall immediately notify the clerk of the appellate court in writing of any anticipated conflict which may prevent his appearance, with copies to all parties on appeal.

(b) Roster.

(1) When Mailed. Not later than fifteen days prior to the commencement of any term of Court, the clerk of the appellate court shall mail to the parties or their counsel a roster showing the dates fixed for the hearing of the cases in which oral argument will be heard.

(2) Continuances. Once a case is placed on the roster, it shall not be continued except by order of the appellate court or the Chief Judge or Chief Justice thereof.

RULE 217
MOTION TO ARGUE AGAINST PRECEDENT

Permission of the appellate court shall not be required to argue against precedent in the brief. Oral argument against precedent shall not be permitted except upon leave of the appellate court in which the case is then pending, pursuant to motion in accordance with Rule 240 filed at least fifteen (15) days prior to oral argument.
Amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.

RULE 218
ORAL ARGUMENT

(a) Conduct of Argument. The appellant shall open and close the argument. The opening argument shall include a statement of the relevant facts. Unless otherwise permitted by the court, counsel will not be permitted to read from books, briefs, records or authorities cited.
(b) Failure to Appear. If any party fails to appear, the court will hear argument on behalf of the parties present. If no party appears, the case will be decided on the briefs unless the court shall otherwise order.
(c) Length of Argument. The length of time allotted for oral argument shall be determined by the court. The clerk shall notify all parties of the time allotted.

RULE 219
HEARING OR REHEARING OF CASES BY THE COURT OF APPEALS EN BANC

(a) When Hearing or Rehearing En Banc Will Be Ordered. It shall require the affirmative vote of six (6) members of the Court of Appeals to hear or rehear an appeal or other proceeding en banc. A hearing or rehearing en banc is not favored and ordinarily will not be ordered except (1) when consideration by the full court is necessary to secure or maintain uniformity of its decisions, or (2) when the proceeding involves a question of exceptional importance.
(b) Suggestion of a Party for Hearing or Rehearing En Banc. If a party desires to suggest that a matter be heard initially en banc, the suggestion shall be made in writing, and must be served and filed not later than twenty (20) days prior to the hearing date. If a suggestion for rehearing en banc is to be made, it shall be included in the petition for rehearing. No response shall be filed by other parties unless the Court shall so order. The Clerk of the Court of Appeals shall transmit the suggestion to all judges of the Court. A vote will not be taken to determine if the matter shall be heard or reheard en banc unless a member of the Court calls for a vote on the suggestion. If no vote is taken on the suggestion, the parties shall be advised that the suggestion has been rejected.

RULE 220
OPINIONS

(a) Opinions. The appellate court shall make its decisions in writing by published opinions or memorandum opinions, with any concurring or dissenting opinions attached. Published opinions shall appear in the Official Reports of the Supreme Court and the Court of Appeals; memorandum opinions shall not be published in the official reports and shall be of no precedential value. Published opinions shall be sent to the official reporter and other reporters or publishers when the time for rehearing has expired or, if a petition for rehearing has been filed, when the petition has been finally decided by the appellate court. The court may affirm, reverse, or modify the decision below or remand all or any issues for further proceedings.
(b) Decision by the Court. In every decision rendered by an appellate court, every point distinctly stated in the case which is necessary to the decision of the appeal and fairly arising upon the record of the court must be stated in writing and must, with the reason for the court's decision, be preserved in the record of the case. This rule does not apply to the following:

(1) The Supreme Court may file a memorandum opinion dismissing an appeal, affirming or reversing the judgment appealed from, or granting other appropriate relief when, in unanimous decision, the Supreme Court determines that a published opinion would have no precedential value and any one or more of the following circumstances exists and is dispositive of issues submitted to the Court for decision: (A) that a judgment of

the trial court is based on findings of fact which are or are not clearly erroneous; (B) that the evidence to support a jury verdict is or is not insufficient; (C) that the order of an administrative agency is or is not supported by such quantum of evidence as prescribed by the statute or law under which judicial review is permitted; or (D) that no error of law appears.

(2) The Court of Appeals need not address a point which is manifestly without merit.

(c) Affirmance on Any Ground Appearing in Record. The appellate court may affirm any ruling, order, decision or judgment upon any ground(s) appearing in the Record on Appeal.

Last amended by Order dated May 3, 2007.

RULE 221
REHEARING AND REMITTITUR

(a) Rehearing. Petitions for rehearing must be actually received by the appellate court no later than fifteen (15) days after the filing of the opinion, order, judgment, or decree of the court. A petition for rehearing shall be in accordance with Rule 240, and shall state with particularity the points supposed to have been overlooked or misapprehended by the court. No petition for rehearing shall be allowed from an order denying a petition for a writ of certiorari under Rule 242, SCACR.

(b) Remittitur. The remittitur shall contain a copy of the judgment of the appellate court, shall be sealed with the seal and signed by the clerk of the court, and unless otherwise ordered by the court shall not be sent to the lower court or administrative tribunal until fifteen (15) days have elapsed (the day of filing being excluded) since the filing of the opinion, order, judgment, or decree of the court finally disposing of the appeal. If a petition for rehearing is received before the remittitur is sent, the remittitur shall not be sent pending disposition of the petition by the court. Where a petition for rehearing has been denied, the Court of Appeals shall not send the remittitur to the lower court or administrative tribunal until the time to petition for a writ of certiorari under Rule 242(c) has expired. If a petition for writ of certiorari is filed, the Court of Appeals shall not send the remittitur until notified that the petition has been denied. If the writ is granted by the Supreme Court, the Court of Appeals shall not send the remittitur.

(c) Rehearing of Motions. The appellate court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal.

Last amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.

RULE 222
COSTS ON APPEAL

(a) To Whom Allowed. Unless otherwise ordered by the appellate court or agreed by the parties, costs shall be taxed against the appellant when the appeal is dismissed or judgment on appeal is affirmed. When a judgment is reversed, costs shall be taxed against the respondent unless the court orders otherwise. When an appeal is affirmed or reversed in part or is vacated, costs shall be allowed only as ordered by the appellate court.

(b) Costs Allowed. The party entitled to recover costs under this rule may, to the extent the party actually incurred these costs, recover the following: (1) the filing fee paid under Rule 203(d); (2) the cost of the court reporter's transcript; (3) premiums paid for costs of supersedeas bonds or other bonds obtained to preserve rights pending appeal; (4) the cost of printing the Record on Appeal under Rule 209; and (5) the cost of printing the party's final brief(s) under Rule 210. In addition, the party shall be entitled to recover an attorney's fee in an amount which shall be set by order of the Supreme Court.[1] The allowance of additional costs will generally not be allowed except in the most extraordinary of circumstances.

(c) Costs for Printing Irrelevant Matter. A party who has unjustifiably designated irrelevant matter to be included in the Record on Appeal shall not be entitled to tax the cost of printing this matter in the Record on Appeal. Further, a party not otherwise entitled to costs under this Rule shall be entitled to collect the cost the party incurred for printing irrelevant matter which another party unjustifiably designated to be included in the Record on Appeal.

(d) Motion for Costs. A party desiring costs to be taxed shall, within fifteen (15) days of the issuance of the remittitur, serve and file a motion requesting that costs be assessed under this Rule. The motion shall comply with

Rule 240. If costs are being sought under (b) above, the motion shall be accompanied by a sworn, itemized statement of costs incurred in the form prescribed in the Appendix to these rules. Any return or reply to the motion shall be served and filed in the manner provided by Rule 240. The return may oppose the request for costs or seek a reduction of the amount of costs to be awarded. The remittitur shall not be stayed by the filing of a motion for costs.

(e) Taxation. Costs on appeal shall be taxed only in the appellate court. If costs are taxed, they shall become part of the judgment of the appellate court and shall be added to the remittitur. If a petition for a writ of certiorari is sought under Rule 242, the Court of Appeals shall tax costs only in those cases in which the petition for a writ of certiorari is denied. In all cases in which a writ of certiorari is granted, costs shall be awarded in the manner provided by Rule 242(j).

(f) Applicability. This Rule does not apply to criminal cases or post-conviction relief cases.

[1] By order dated July 24, 1997, the amount of attorney's fee was set at $1,000.

RULE 269
FRIVOLOUS APPEALS, PETITIONS, MOTIONS, OR RETURNS

Where an appeal, petition, motion or return is frivolous or taken solely for the purposes of delay, or is not in compliance with these Rules, the appellate court may upon its own motion or that of a party, after ten (10) days notice, impose upon offending attorneys or parties such sanctions as the circumstances of the case and discouragement of like conduct in the future may require. This Rule does not apply to any matters where counsel is required by law to pursue an appeal or petition for writ of certiorari even though the matter may be frivolous.
Amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.

RULE 270
FORMS

The Supreme Court should prescribe the content and format of the forms required by these Rules. The use of these forms is recommended, but is not required.
Amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.