

Seminole Appellate Court

Rules of Appellate Procedure



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(a) Open sessions of the Court are held beginning at 10 a.m. on the first Monday of each month unless no appeals have been filed, and thereafter as announced by the Court. Unless it orders otherwise, the Court sits to hear arguments from 10 a.m. until noon and from 1 p.m. until 3 p.m. 8

(b) There shall be three Justices of the Appellate Court present at each hearing. If a Justice is unable to sit for a hearing, the Chief Justice may bring up one Trial Court Judge to sit in place of the absent Justice. 8

(c) When appropriate, the Court will direct the Clerk or the Marshal to announce recesses. 8

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RULES OF APPELLATE PROCEDURE
Effective 2016

TITLE I. APPLICABILITY OF RULES

Rule 1. Scope of Rules; Definition; Title

(a) Scope of Rules.

- (1) These rules govern procedure in the Tribal Appellate Court.
- (2) When these rules provide for filing a motion or other document in the Trial Court, the procedure must comply with the practice of the Trial Court.

(b) Title. These rules are to be known as the Rules of Appellate Procedure.

Rule 2. Suspension of Rules

On its own or a party's motion, the Appellate Court may—to expedite its decision or for other good cause—suspend any provision of these rules in a particular case and order proceedings as it directs, except as otherwise provided in Rule 26(b).

TITLE II. APPEAL FROM A JUDGMENT OR ORDER OF THE TRIAL COURT

Rule 3. Appeal as of Right—How Taken

(a) Filing the Notice of Appeal.

- (1) An appeal permitted by law as of right from the Trial Court to the Appellate Court may be taken only by filing a notice of appeal with the Trial Court clerk within the time allowed by Rule 4. At the time of filing, the appellant must furnish the clerk with enough copies of the notice to enable the clerk to comply with Rule 3(d).
- (2) An appellant's failure to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is grounds only for the Appellate Court to act as it considers appropriate, including dismissing the appeal.

(b) Joint or Consolidated Appeals.

- (1) When two or more parties are entitled to appeal from the Trial Court judgment or order, and their interests make joinder practicable, they may file a joint notice of appeal. They may then proceed on appeal as a single appellant.
- (2) When the parties have filed separate timely notices of appeal, the appeals may be joined or consolidated by the Appellate Court.

(c) Contents of the Notice of Appeal.

- (1) The notice of appeal must:
 - (A) specify the party or parties taking the appeal by naming each one in the caption or body of the notice, but an attorney representing more than one party may describe those parties with such terms as “all plaintiffs,” “the defendants,” “the plaintiffs A, B, et al.,” or “all defendants except X”;
 - (B) designate the judgment, order, or part thereof being appealed; and
 - (C) name the court to which the appeal is taken.
- (2) A pro se notice of appeal is considered filed on behalf of the signer and the signer’s spouse and minor children (if they are parties), unless the notice clearly indicates otherwise.
- (3) In a class action, whether or not the class has been certified, the notice of appeal is sufficient if it names one person qualified to bring the appeal as representative of the class.
- (4) An appeal must not be dismissed for informality of form or title of the notice of appeal, or for failure to name a party whose intent to appeal is otherwise clear from the notice.

(d) Serving the Notice of Appeal.

- (1) The Trial Court clerk must serve notice of the filing of a notice of appeal by mailing a copy to each party’s counsel of record—excluding the appellant’s—or, if a party is proceeding pro se, to the party’s last known address. The Trial Court clerk must note, on each copy, the date when the notice of appeal was filed.
- (2) If an inmate confined in an institution files a notice of appeal in the manner provided by Rule 4(c), the Trial Court clerk must also note the date when the clerk docketed the notice.
- (3) The Trial Court clerk’s failure to serve notice does not affect the validity of the appeal. The clerk must note on the docket the names of the parties to whom the clerk mails copies, with the date of mailing. Service is sufficient despite the death of a party or the party’s counsel

(e) Payment of Fees. Upon filing a notice of appeal, the appellant must pay the Trial Court clerk all required fees. The Trial Court clerk receives the appellate docket fee on behalf of the Appellate Court.

Rule 4. Appeal as of Right—When Taken

(a) Appeal in a Civil Case.

(1) Time for Filing a Notice of Appeal.

(A) In a civil case, except as provided in Rules 4(a)(1)(B), 4(a)(4), and 4(c), the notice of appeal required by Rule 3 must be filed with the Trial Court clerk within 30 days after entry of the judgment or order appealed from.

(B) [Reserved]

(C) An appeal from an order granting or denying an application for a writ of error Coram Nobis is an appeal in a civil case for purposes of Rule 4(a).

(2) Filing Before Entry of Judgment. A notice of appeal filed after the court announces a decision or order—but before the entry of the judgment or order—is treated as filed on the date of and after the entry.

(3) Multiple Appeals. If one party timely files a notice of appeal, any other party may file a notice of appeal within 14 days after the date when the first notice was filed, or within the time otherwise prescribed by this Rule 4(a), whichever period ends later.

(4) Effect of a Motion on a Notice of Appeal.

(A) If a party timely files in the Trial Court any of the following motions under the Seminole Tribal Court Rules of Civil Procedure, the time to file an appeal runs for all parties from the entry of the order disposing of the last such remaining motion:

- (i) for judgment under Rule 50(b);
- (ii) to amend or make additional factual findings under Rule 52(b), whether or not granting the motion would alter the judgment;
- (iii) for attorney's fees under Rule 54 if the Trial Court extends the time to appeal under Rule 58;
- (iv) to alter or amend the judgment under Rule 59;
- (v) for a new trial under Rule 59; or
- (vi) for relief under Rule 60 if the motion is filed no later than 28 days after the judgment is entered.

(B) (i) If a party files a notice of appeal after the court announces or enters a judgment—but before it disposes of any motion listed in Rule 4(a)(4)(A)—the notice becomes effective to appeal a judgment

or order, in whole or in part, when the order disposing of the last such remaining motion is entered.

- (i) A party intending to challenge an order disposing of any motion listed in Rule 4(a)(4)(A), or a judgment's alteration or amendment upon such a motion, must file a notice of appeal, or an amended notice of appeal—in compliance with Rule 3(c)—within the time prescribed by this Rule measured from the entry of the order disposing of the last such remaining motion.
- (ii) No additional fee is required to file an amended notice.

(5) Motion for Extension of Time.

(A) The Trial Court may extend the time to file a notice of appeal if:

- (i) a party so moves no later than 30 days after the time prescribed by this Rule 4(a) expires; and
- (ii) regardless of whether its motion is filed before or during the 30 days after the time prescribed by this Rule 4(a) expires, that party shows excusable neglect or good cause.

(B) A motion filed before the expiration of the time prescribed in Rule 4(a)(1) or (3) may be ex parte unless the court requires otherwise. If the motion is filed after the expiration of the prescribed time, notice must be given to the other parties in accordance with local rules.

(C) No extension under this Rule 4(a)(5) may exceed 30 days after the prescribed time or 14 days after the date when the order granting the motion is entered, whichever is later.

(6) Reopening the Time to File an Appeal. The Trial Court may reopen the time to file an appeal for a period of 14 days after the date when its order to reopen is entered, but only if all the following conditions are satisfied:

- (A) the court finds that the moving party did not receive notice under Seminole Tribal Court Rule of Civil Procedure 77(d) of the entry of the judgment or order sought to be appealed within 21 days after entry;
- (B) the motion is filed within 180 days after the judgment or order is entered or within 14 days after the moving party receives notice under Seminole Tribal Court Rule of Civil Procedure 77(d) of the entry, whichever is earlier; and
- (C) the court finds that no party would be prejudiced.

(7) Entry Defined.

(A) A judgment or order is entered for purposes of this Rule 4(a):

- (i) if Seminole Tribal Court Rule of Civil Procedure 58(a) does not require a separate document, when the judgment order is entered in the civil docket under Seminole Tribal Court Rule of Civil Procedure 79(a); or
- (ii) if Seminole Tribal Court Rule of Civil Procedure 58(a) requires a separate document, when the judgment or order is entered in the civil docket under Seminole Tribal Court Rule of Civil Procedure 79(a) and when the earlier of these events occurs:
 - a. the judgment or order is set forth on a separate document, or
 - b. 150 days have run from entry of the judgment or order in the civil docket under Seminole Tribal Court Rule of Civil Procedure 79(a).

(B) A failure to set forth a judgment or order on a separate document when required by Seminole Tribal Court Rule of Civil Procedure 58(a) does not affect the validity of an appeal from that judgment or order.

Rule 5. Appeal by Permission

(a) Petition for Permission to Appeal.

- (1) To request permission to appeal when an appeal is within the Appellate Court's discretion, a party must file a petition for permission to appeal. The petition must be filed with the Trial Court clerk with proof of service on all other parties to the Trial Court action.
- (2) The petition must be filed within the time provided by Rule 4(a) for filing a notice of appeal.
- (3) If a party cannot petition for appeal unless the Trial Court first enters an order granting permission to do so or stating that the necessary conditions are met, the Trial Court may amend its order, either on its own or in response to a party's motion, to include the required permission or statement. In that event, the time to petition runs from entry of the amended order.

(b) Contents of the Petition; Answer or Cross-Petition; Oral Argument.

- (1) The petition must include the following:
 - (A) the facts necessary to understand the question presented;
 - (B) the question itself;
 - (C) the relief sought;

- (D) the reasons why the appeal should be allowed and is authorized by a Tribal Code or rule; and
- (E) an attached copy of:

- (i) the order, decree, or judgment complained of and any related opinion or memorandum, and
- (ii) any order stating the Trial Court's permission to appeal or finding that the necessary conditions are met.

- (2) A party may file an answer in opposition or a cross-petition within 10 days after the petition is served.
- (3) The petition and answer will be submitted without oral argument unless the Appellate Court orders otherwise.

(c) **Form of Papers; Number of Copies.** All papers must conform to Rule 32(c)(2). Except by the court's permission, a paper must not exceed 20 pages, exclusive of the disclosure statement, the proof of service, and the accompanying documents required by Rule 5(b)(1)(E). An original and 3 copies must be filed unless the court requires a different number by local rule or by order in a particular case.

(d) **Grant of Permission; Fees; Cost Bond; Filing the Record.**

- (1) Within 14 days after the entry of the order granting permission to appeal, the appellant must:
 - (A) pay the Trial Court clerk all required fees; and
 - (B) file a cost bond if required under Rule 7.
- (2) A notice of appeal need not be filed. The date when the order granting permission to appeal is entered serves as the date of the notice of appeal for calculating time under these rules.
- (3) The Trial Court clerk must enter the appeal on the Appellate Court docket once the petitioner has paid the fees.

Rule 6. Sessions and Quorum

- (a) Open sessions of the Court are held beginning at 10 a.m. on the first Monday of each month unless no appeals have been filed, and thereafter as announced by the Court. Unless it orders otherwise, the Court sits to hear arguments from 10 a.m. until noon and from 1 p.m. until 3 p.m.
- (b) There shall be three Justices of the Appellate Court present at each hearing. If a Justice is unable to sit for a hearing, the Chief Justice may bring up one Trial Court Judge to sit in place of the absent Justice.
- (c) When appropriate, the Court will direct the Clerk or the Marshal to announce recesses.

Rule 7. Bond for Costs on Appeal in a Civil Case

In a civil case, the Trial Court may require an appellant to file a bond or provide other security in any form and amount necessary to ensure payment of costs on appeal. Rule 8(b) applies to a surety on a bond given under this rule.

Rule 8. Stay or Injunction Pending Appeal

(a) Motion for Stay.

(1) Initial Motion in the Trial Court. A party must ordinarily move first in the Trial Court for the following relief:

- (A) a stay of the judgment or order of a Trial Court pending appeal;
- (B) approval of a supersedeas bond; or
- (C) an order suspending, modifying, restoring, or granting an injunction while an appeal is pending.

(2) Motion in the Appellate Court; Conditions on Relief. A motion for the relief mentioned in Rule 8(a)(1) may be made to the Appellate Court or to one of its judges.

(A) The motion must:

- (i) show that moving first in the Trial Court would be impracticable; or
- (ii) state that, a motion having been made, the Trial Court denied the motion or failed to afford the relief requested and state any reasons given by the Trial Court for its action.

(B) The motion must also include:

- (i) the reasons for granting the relief requested and the facts relied on;
- (ii) originals or copies of affidavits or other sworn statements supporting facts subject to dispute; and
- (iii) relevant parts of the record.

(C) The moving party must give reasonable notice of the motion to all parties.

(D) A motion under this Rule 8(a)(2) must be filed with the Appellate Court and normally will be considered by a panel of the court. But in an exceptional case in which time requirements make that procedure impracticable, the motion may be made to and considered by a single judge.

(E) The court may condition relief on a party's filing a bond or other appropriate security in the Appellate Court.

(b) Proceeding Against a Surety. If a party gives security in the form of a bond or stipulation or other undertaking with one or more sureties, each surety submits to the jurisdiction of the Appellate Court and irrevocably appoints the Appellate Court clerk as the surety's agent on whom any papers affecting the surety's liability on the bond or undertaking may be served. On motion, a surety's liability may be enforced in the Trial Court without the necessity of an independent action. The motion and any notice that the Trial Court prescribes may be served on the Trial Court clerk, who must promptly mail a copy to each surety whose address is known.

Rule 9. Reserved

Rule 10. The Record on Appeal

(a) Composition of the Record on Appeal. The following items constitute the record on appeal:

- (1) the original papers and exhibits filed in the Trial Court;
- (2) the transcript of proceedings, if any; and
- (3) a certified copy of the docket entries prepared by the Trial Court clerk.

(b) The Transcript of Proceedings.

(1) Appellant's Duty to Order. Within 14 days after filing the notice of appeal or entry of an order disposing of the last timely remaining motion of a type specified in Rule 4(a)(4)(A), whichever is later, the appellant must do either of the following:

(A) order from the reporter a transcript of such parts of the proceedings not already on file as the appellant considers necessary, subject to a local rule of the Appellate Court and with the following qualifications:

- (i) the order must be in writing; and
- (ii) the appellant must, within the same period, file a copy of the order with the Trial Court clerk; or

(B) file a certificate stating that no transcript will be ordered.

(2) Unsupported Finding or Conclusion. If the appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant must include in the record a transcript of all evidence relevant to that finding or conclusion.

(3) Partial Transcript. Unless the entire transcript is ordered:

- (A) the appellant must, within the 14 days provided in Rule 10(b)(1), file a statement of the issues that the appellant intends to present on the appeal and must serve on the appellee a copy of both the order or certificate and the statement;
 - (B) if the appellee considers it necessary to have a transcript of other parts of the proceedings, the appellee must, within 14 days after the service of the order or certificate and the statement of the issues, file and serve on the appellant a designation of additional parts to be ordered; and
 - (C) unless within 14 days after service of that designation the appellant has ordered all such parts, and has so notified the appellee, the appellee may within the following 14 days either order the parts or move in the Trial Court for an order requiring the appellant to do so.
- (4) Payment. At the time of ordering, a party must make satisfactory arrangements with the reporter for paying the cost of the transcript.
- (c) Statement of the Evidence When the Proceedings Were Not Recorded or When a Transcript Is Unavailable. If the transcript of a hearing or trial is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection. The statement must be served on the appellee, who may serve objections or proposed amendments within 14 days after being served. The statement and any objections or proposed amendments must then be submitted to the Trial Court for settlement and approval. As settled and approved, the statement must be included by the Trial Court clerk in the record on appeal.
- (d) Agreed Statement as the Record on Appeal. In place of the record on appeal as defined in Rule 10(a), the parties may prepare, sign, and submit to the Trial Court a statement of the case showing how the issues presented by the appeal arose and were decided in the Trial Court. The statement must set forth only those facts averred and proved or sought to be proved that are essential to the court's resolution of the issues. If the statement is truthful, it—together with any additions that the Trial court may consider necessary to a full presentation of the issues on appeal—must be approved by the Trial Court and must then be certified to the Appellate Court as the record on appeal. The Trial Court clerk must then transfer it to the Appellate Court within the time provided by Rule 11. A copy of the agreed statement may be filed in place of the appendix required by Rule 30.
- (e) Correction or Modification of the Record.
- (1) If any difference arises about whether the record truly discloses what occurred in the Trial Court, the difference must be submitted to and settled by that court and the record conformed accordingly.
 - (2) If anything material to either party is omitted from or misstated in the record by error or accident, the omission or misstatement may be corrected and a supplemental record may be certified and forwarded:
 - (A) on stipulation of the parties;
 - (B) by the Trial court before or after the record has been forwarded; or

- (C) by the Appellate Court.
- (3) All other questions as to the form and content of the record must be presented to the Appellate Court.

Rule 11. Forwarding the Record

(a) Appellant's Duty. An appellant filing a notice of appeal must comply with Rule 10(b) and must do whatever else is necessary to enable the clerk to assemble and forward the record. If there are multiple appeals from a judgment or order, the clerk must forward a single record.

(b) Duties of Reporter and Trial Court Clerk.

(1) Reporter's Duty to Prepare and File a Transcript. The reporter must prepare and file a transcript as follows:

- (A) Upon receiving an order for a transcript, the reporter must enter at the foot of the order the date of its receipt and the expected completion date and send a copy, so endorsed, to the Trial Court clerk.
- (B) If the transcript cannot be completed within 30 days of the reporter's receipt of the order, the reporter may request the Trial Court clerk to grant additional time to complete it. The clerk must note on the docket the action taken and notify the parties.
- (C) When a transcript is complete, the reporter must file it with the Trial Court clerk and notify the Appellate Court of the filing.
- (D) If the reporter fails to file the transcript on time, the Appellate Court clerk must notify the Trial Court judge and do whatever else the Appellate Court directs.

(2) Trial Court Clerk's Duty to Forward. When the record is complete, the Trial Court clerk must number the documents constituting the record and send them promptly to the Appellate Court clerk together with a list of the documents correspondingly numbered and reasonably identified.

(c) Retaining the Record Temporarily in the Trial Court for Use in Preparing the Appeal. The parties may stipulate, or the Trial Court on motion may order, that the Trial Court clerk retain the record temporarily for the parties to use in preparing the papers on appeal. In that event the Trial Court clerk must certify to the Appellate Court clerk that the record on appeal is complete. Upon receipt of the appellee's brief, or earlier if the court orders or the parties agree, the appellant must request the Trial Court clerk to forward the record.

(d) [Reserved]

(e) Retaining the Record by Court Order.

- (1) The Appellate Court may, by order or local rule, provide that a certified copy of the docket entries be forwarded instead of the entire record. But a party may at any time during the appeal request that designated parts of the record be forwarded.
 - (2) The Trial Court may order the record or some part of it retained if the court needs it while the appeal is pending, subject, however, to call by the Appellate Court.
 - (3) If part or all of the record is ordered retained, the Trial Court clerk must send to the Appellate Court a copy of the order and the docket entries together with the parts of the original record allowed by the Trial Court and copies of any parts of the record designated by the parties.
- (f) Retaining Parts of the Record in the Trial Court by Stipulation of the Parties. The parties may agree by written stipulation filed in the Trial Court that designated parts of the record be retained in the Trial Court subject to call by the Appellate Court or request by a party. The parts of the record so designated remain a part of the record on appeal.
- (g) Record for a Preliminary Motion in the Appellate Court. If, before the record is forwarded, a party makes any of the following motions in the Appellate Court:
- for dismissal;
 - for release;
 - for a stay pending appeal;
 - for additional security on the bond on appeal or on a supersedeas bond; or
 - for any other intermediate order

The Trial Court clerk must send the Appellate Court any parts of the record designated by any party.

Rule 12. Docketing the Appeal; Filing a Representation Statement; Filing the Record

- (a) Docketing the Appeal. Upon receiving the copy of the notice of appeal and the docket entries from the Trial Court clerk under Rule 3(d), the Appellate Court clerk must docket the appeal under the title of the Trial-court action and must identify the appellant, adding the appellant's name if necessary.
- (b) Filing a Representation Statement. Unless the Appellate Court designates another time, the attorney who filed the notice of appeal must, within 14 days after filing the notice, file a statement with the Appellate Court clerk naming the parties that the attorney represents on appeal.
- (c) Filing the Record, Partial Record, or Certificate. Upon receiving the record, partial record, or Trial Court clerk's certificate as provided in Rule 11, the Appellate Court clerk must file it and immediately notify all parties of the filing date.

Rule 12.1. Remand After an Indicative Ruling by the Trial Court on a Motion for Relief That Is Barred by a Pending Appeal

- (a) Notice to the Appellate Court. If a timely motion is made in the Trial Court for

relief that it lacks authority to grant because of an appeal that has been docketed and is pending, the movant must promptly notify the Appellate Court clerk if the Trial Court states either that it would grant the motion or that the motion raises a substantial issue.

- (b) Remand After an Indicative Ruling. If the Trial Court states that it would grant the motion or that the motion raises a substantial issue, the Appellate Court may remand for further proceedings but retains jurisdiction unless it expressly dismisses the appeal. If the Appellate Court remands but retains jurisdiction, the parties must promptly notify the Appellate Court clerk when the Trial Court has decided the motion on remand.

TITLE V. EXTRAORDINARY WRITS

Rule 21. Writs of Mandamus and Prohibition, and Other Extraordinary Writs

(a) Mandamus or Prohibition to a Court: Petition, Filing, Service, and Docketing.

- (1) A party petitioning for a writ of mandamus or prohibition directed to a court must file a petition with the Appellate Court clerk with proof of service on all parties to the proceeding in the trial court. The party must also provide a copy to the trial-court judge. All parties to the proceeding in the trial court other than the petitioner are respondents for all purposes.

(2) (A) The petition must be titled “In re [name of petitioner].”

(B) The petition must state:

- (i) the relief sought;
- (ii) the issues presented;
- (iii) the facts necessary to understand the issue presented by the petition; and
- (iv) the reasons why the writ should issue.

(C) The petition must include a copy of any order or opinion or parts of the record that may be essential to understand the matters set forth in the petition.

(3) Upon receiving the prescribed docket fee, the clerk must docket the petition and submit it to the court.

(b) Denial; Order Directing Answer; Briefs; Precedence.

- (1) The court may deny the petition without an answer. Otherwise, it must order the respondent, if any, to answer within a fixed time.
- (2) The clerk must serve the order to respond on all persons directed to respond.
- (3) Two or more respondents may answer jointly.

- (4) The Appellate Court may invite or order the trial-court judge to address the petition or may invite an amicus curiae to do so. The trial-court judge may request permission to address the petition but may not do so unless invited or ordered to do so by the Appellate Court.
 - (5) If briefing or oral argument is required, the clerk must advise the parties, and when appropriate, the trial-court judge or amicus curiae.
 - (6) The proceeding must be given preference over ordinary civil cases.
 - (7) The Appellate Court clerk must send a copy of the final disposition to the trial-court judge.
- (c) Other Extraordinary Writs. An application for an extraordinary writ other than one provided for in Rule 21(a) must be made by filing a petition with the Appellate Court clerk with proof of service on the respondents. Proceedings on the application must conform, so far as is practicable, to the procedures prescribed in Rule 21(a) and (b).
- (d) Form of Papers; Number of Copies. All papers must conform to Rule 32(c)(2). Except by the court's permission, a paper must not exceed 30 pages, exclusive of the disclosure statement, the proof of service, and the accompanying documents required by Rule 21(a)(2)(C). An original and 3 copies must be filed unless the court requires the filing of a different number by local rule or by order in a particular case.

TITLE VI. HABEAS CORPUS; PROCEEDINGS IN FORMA PAUPERIS

Rule 22. Reserved

Rule 24. Proceeding in Forma Pauperis

- (a) Leave to Proceed in Forma Pauperis.
- (1) Motion in the Trial Court. Except as stated in Rule 24(a)(3), a party to a Trial-court action who desires to appeal in forma pauperis must file a motion in the Trial Court. The party must attach an affidavit that:
 - (A) shows in the detail the party's inability to pay or to give security for fees and costs;
 - (B) claims an entitlement to redress; and
 - (C) states the issues that the party intends to present on appeal.
 - (2) Action on the Motion. If the Trial Court grants the motion, the party may proceed on appeal without prepaying or giving security for fees and costs, unless a statute provides otherwise. If the Trial Court denies the motion, it must state its reasons in writing.

- (3) **Prior Approval.** A party who was permitted to proceed in forma pauperis in the Trial-Court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless:
 - (A) the Trial Court—before or after the notice of appeal is filed—certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding; or
 - (B) a Tribal Code provides otherwise.
- (4) **Notice of Trial Court’s Denial.** The Trial Court clerk must immediately notify the parties and the Appellate Court when the Trial Court does any of the following:
 - (A) denies a motion to proceed on appeal in forma pauperis;
 - (B) certifies that the appeal is not taken in good faith; or
 - (C) finds that the party is not otherwise entitled to proceed in forma pauperis.
- (5) **Motion in the Appellate Court.** A party may file a motion to proceed on appeal in forma pauperis in the Appellate Court within 30 days after service of the notice prescribed in Rule 24(a)(4). The motion must include a copy of the affidavit filed in the Trial Court and the Trial Court’s statement of reasons for its action. If no affidavit was filed in the Trial Court, the party must include the affidavit prescribed by Rule 24(a)(1).

(b) **Leave to Use Original Record.** A party allowed to proceed on appeal in forma pauperis may request that the appeal be heard on the original record without reproducing any part.

TITLE VII. GENERAL PROVISIONS

Rule 25. Filing and Service

(a) Filing.

- (1) **Filing with the Clerk.** A paper required or permitted to be filed in the Appellate Court must be filed with the clerk.
- (2) **Filing: Method and Timeliness.**
 - (A) **In general.** Filing may be accomplished by mail addressed to the clerk, but filing is not timely unless the clerk receives the papers within the time fixed for filing.
 - (B) **A brief or appendix.** A brief or appendix is timely filed, however, if on or before the last day for filing, it is:
 - (i) mailed to the clerk by First-Class Mail, or other class of

mail that is at least as expeditious, postage prepaid; or
(ii) dispatched to a third-party commercial carrier for delivery to the clerk within 3 days.

(C) Inmate filing. A paper filed by an inmate confined in an institution is timely if deposited in the institution's internal mailing system on or before the last day for filing. If an institution has a system designed for legal mail, the inmate must use that system to receive the benefit of this rule. Timely filing may be shown by a sworn declaration or by a notarized statement, either of which must set forth the date of deposit and state that first-class postage has been prepaid.

(D) Electronic filing. The Appellate Court may permit or require papers to be filed, signed, or verified by electronic means that are consistent with technical standards, if any, that the Administrative Office of the Courts establishes.

(3) Filing a Motion with a Judge. If a motion requests relief that may be granted by a single judge, the judge may permit the motion to be filed with the judge; the judge must note the filing date on the motion and give it to the clerk.

(4) Clerk's Refusal of Documents. The clerk must not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by these rules or by any local rule or practice.

(5) Privacy Protection. Privacy protection is governed by Seminole Tribal Court Rule of Civil Procedure 5.2.

(b) Service of All Papers Required. Unless a rule requires service by the clerk, a party must, at or before the time of filing a paper, serve a copy on the other parties to the appeal or review. Service on a party represented by counsel must be made on the party's counsel.

(c) Manner of Service.

(1) Service may be any of the following:

(A) personal, including delivery to a responsible person at the office of counsel;

(B) by mail;

(C) by third-party commercial carrier for delivery within 3 days; or

(D) by electronic means, if the party being served consents in writing.

(2) If authorized by local rule, a party may use the court's transmission equipment to make electronic service under Rule 25(c) (1) (D).

(3) When reasonable considering such factors as the immediacy of the relief sought, distance, and cost, service on a party must be by a manner at least as expeditious as the manner used to file the paper with the court.

(4) Service by mail or by commercial carrier is complete on mailing or delivery to the carrier. Service by electronic means is complete on transmission,

unless the party making service is notified that the paper was not received by the party served.

(d) Proof of Service.

(1) A paper presented for filing must contain either of the following:

- (A) an acknowledgment of service by the person served; or
- (B) proof of service consisting of a statement by the person who made service certifying:

- (i) the date and manner of service;
- (ii) the names of the persons served; and
- (iii) their mail or electronic addresses, facsimile numbers, or the addresses of the places of delivery, as appropriate for the manner of service.

(2) When a brief or appendix is filed by mailing or dispatch in accordance with Rule 25(a)(2)(B), the proof of service must also state the date and manner by which the document was mailed or dispatched to the clerk.

(3) Proof of service may appear on or be affixed to the papers filed.

(e) Number of Copies. When these rules require the filing or furnishing of a number of copies, the court may require a different number by order in a particular case.

Rule 26. Computing and Extending Time

(a) Computing Time. The following rules apply in computing any time period specified in these rules, in any local rule or court order, or in any statute that does not specify a method of computing time.

(1) Period Stated in Days or a Longer Unit. When the period is stated in days or a longer unit of time:

- (A) exclude the day of the event that triggers the period;
- (B) count every day, including intermediate Saturdays, Sundays, and legal holidays; and
- (C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday

- (2) Period Stated in Hours. When the period is stated in hours:
- (A) begin counting immediately on the occurrence of the event that triggers the period;
 - (B) count every hour, including hours during intermediate Saturdays, Sundays, and legal holidays; and
 - (C) if the period would end on a Saturday, Sunday, or legal holiday, the period continues to run until the same time on the next day that is not a Saturday, Sunday, or legal holiday.
- (3) Inaccessibility of the Clerk’s Office. Unless the court orders otherwise, if the clerk’s office is inaccessible:
- (A) on the last day for filing under Rule 26(a)(1), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday; or
 - (B) during the last hour for filing under Rule 26(a)(2), then the time for filing is extended to the same time on the first accessible day that is not a Saturday, Sunday, or legal holiday.
- (4) “Last Day” Defined. Unless a different time is set by a Code, local rule, or court order, the last day ends:
- (A) for electronic filing in the Trial Court, at midnight Eastern Standard Time;
 - (B) for electronic filing in the Appellate Court, at midnight Eastern Standard Time;
 - (C) for filing under Rules 4(c)(1), 25(a)(2)(B), and 25(a)(2)(C)—and filing by mail under Rule 13(b)—at the latest time for the method chosen for delivery to the post office, third-party commercial carrier, or prison mailing system; and
 - (D) for filing by other means, when the clerk’s office is scheduled to close.
- (5) “Next Day” Defined. The “next day” is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.
- (6) “Legal Holiday” Defined. “Legal holiday” means:
- (A) the day set aside by the Seminole Tribe of Florida Tribal Council for observing New Year’s Day, Martin Luther King Jr.’s Birthday, President’s Day, Memorial Day, Independence Day, Labor Day, Indian Day, Veterans’ Day, Thanksgiving Day, or Christmas Day;

(B) any day declared a holiday by the Tribal Council of the Seminole Tribe of Florida; and

(b) Extending Time. For good cause, the court may extend the time prescribed by these rules or by its order to perform any act, or may permit an act to be done after that time expires. But the court may not extend the time to file for:

- (1) a notice of appeal (except as authorized in Rule 4) or a petition for permission to appeal; or
- (2) a notice of appeal from or a petition to enjoin, set aside, suspend, modify, enforce, or otherwise review an order of a Tribal administrative agency, board, commission, or officer of the Seminole Tribe of Florida, unless specifically authorized by Code.

(c) Additional Time after Service. When a party may or must act within a specified time after service, 3 days are added after the period would otherwise expire under Rule 26(a), unless the paper is delivered on the date of service stated in the proof of service. For purposes of this Rule 26(c), a paper that is served electronically is not treated as delivered on the date of service stated in the proof of service.

Rule 26.1. Corporate Disclosure Statement

- (a) Who Must File. Any nongovernmental corporate party to a proceeding in the Appellate Court must file a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation.
- (b) Time for Filing; Supplemental Filing. A party must file the Rule 26.1(a) statement with the principal brief or upon filing a motion, response, petition, or answer in the Appellate Court, whichever occurs first, unless a local rule requires earlier filing. Even if the statement has already been filed, the party's principal brief must include the statement before the table of contents. A party must supplement its statement whenever the information that must be disclosed under Rule 26.1(a) changes.
- (c) Number of Copies. If the Rule 26.1(a) statement is filed before the principal brief, or if a supplemental statement is filed, the party must file an original and 3 copies unless the court requires a different number by order in a particular case.

Rule 27. Motions

(a) In General.

- (1) Application for Relief. An application for an order or other relief is made by motion unless these rules prescribe another form. A motion must be in writing unless the court permits otherwise.
- (2) Contents of a Motion.

- (A) Grounds and relief sought. A motion must state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support it.
- (B) Accompanying documents.

- (i) Any affidavit or other paper necessary to support a motion must be served and filed with the motion.
- (ii) An affidavit must contain only factual information, not legal argument.
- (iii) A motion seeking substantive relief must include a copy of the trial court's opinion or agency's decision as a separate exhibit.

- (C) Documents barred or not required.

- (i) A separate brief supporting or responding to a motion must not be filed.
- (ii) A notice of motion is not required.
- (iii) A proposed order is not required.

(3) Response.

- (A) Time to file. Any party may file a response to a motion; Rule 27(a)(2) governs its contents. The response must be filed within 10 days after service of the motion unless the court shortens or extends the time. A motion authorized by Rules 8, 9, 18, or 41 may be granted before the 10 day period runs only if the court gives reasonable notice to the parties that it intends to act sooner.
- (B) Request for affirmative relief. A response may include a motion for affirmative relief. The time to respond to the new motion, and to reply to that response, are governed by Rule 27(a)(3)(A) and (a)(4). The title of the response must alert the court to the request for relief.

- (4) Reply to Response. Any reply to a response must be filed within 7 days after service of the response. A reply must not present matters that do not relate to the response.

- (b) Disposition of a Motion for a Procedural Order. The court may act on a motion for a procedural order—including a motion under Rule 26(b)—at any time without awaiting a response, and may, by rule or by order in a particular case, authorize its clerk to act on specified types of procedural motions. A party adversely affected by the court's, or the clerk's, action may file a motion to reconsider, vacate, or modify that action. Timely opposition filed after the motion is granted in whole or in part does not constitute a request to reconsider, vacate, or modify the disposition; a motion requesting that relief must be filed.
- (c) Power of a Single Judge to Entertain a Motion. A Trial Court judge may act alone on any motion, but may not dismiss or otherwise determine an appeal or other

proceeding. The Appellate Court may provide by rule or by order in a particular case that only the court may act on any motion or class of motions. The court may review the action of a single judge.

(d) Form of Papers; Page Limits; and Number of Copies.

(1) Format.

- (A) **Reproduction.** A motion, response, or reply may be reproduced by any process that yields a clear black image on light paper. The paper must be opaque and unglazed. Only one side of the paper may be used.
 - (B) **Cover.** A cover is not required, but there must be a caption that includes the case number, the name of the court, the title of the case, and a brief descriptive title indicating the purpose of the motion and identifying the party or parties for whom it is filed. If a cover is used, it must be white.
 - (C) **Binding.** The document must be bound in any manner that is secure, does not obscure the text, and permits the document to lie reasonably flat when open
 - (D) **Paper size, line spacing, and margins.** The document must be on 8 ½ by 11 inch paper. The text must be double-spaced, but quotations more than two lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins must be at least one inch on all four sides. Page numbers may be placed in the margins, but no text may appear there.
 - (E) **Typeface and type styles.** The document must comply with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6).
- (e) **Page Limits.** A motion or a response to a motion must not exceed 20 pages, exclusive of the corporate disclosure statement and accompanying documents authorized by Rule 27(a)(2)(B), unless the court permits or directs otherwise. A reply to a response must not exceed 10 pages.
- (f) **Number of Copies.** An original and 3 copies must be filed unless the court requires a different number by order in a particular case.
- (g) **Oral Argument.** A motion will be decided without oral argument unless the court orders otherwise.

Rule 28. Briefs

- (a) **Appellant’s Brief.** The appellant’s brief must contain, under appropriate headings and in the order indicated:
- (1) a corporate disclosure statement if required by Rule 26.1;
 - (2) a table of contents, with page references;
 - (3) a table of authorities—cases (alphabetically arranged), statutes, and other

authorities—with references to the pages of the brief where they are cited;

- (4) a jurisdictional statement, including:
 - (A) the basis for the Trial Court’s or agency’s subject matter jurisdiction, with citations to applicable statutory provisions and stating relevant facts establishing jurisdiction;
 - (B) the basis for the Appellate Court’ jurisdiction, with citations to applicable statutory provisions and stating relevant facts establishing jurisdiction;
 - (C) the filing dates establishing the timeliness of the appeal or petition for review; and
 - (D) an assertion that the appeal is from a final order or judgment that disposes of all parties’ claims, or information establishing the Appellate Court’ jurisdiction on some other basis;
- (5) a statement of the issues presented for review;
- (6) a concise statement of the case setting out the facts relevant to the issues submitted for review, describing the relevant procedural history, and identifying the rulings presented for review, with appropriate references to the record (see Rule 28(e));
- (7) a summary of the argument, which must contain a succinct, clear, and accurate statement of the arguments made in the body of the brief, and which must not merely repeat the argument headings;
- (8) the argument, which must contain:
 - (A) appellant’s contentions and the reasons for them, with citations to the authorities and parts of the record on which the appellant relies; and
 - (B) for each issue, a concise statement of the applicable standard of review (which may appear in the discussion of the issue or under a separate heading placed before the discussion of the issues);
- (9) a short conclusion stating the precise relief sought; and
- (10) the certificate of compliance, if required by Rule 32(a) (7).

(b) Appellee’s Brief. The appellee’s brief must conform to the requirements of Rule 28(a)(1)–(8) and (10), except that none of the following need appear unless the appellee is dissatisfied with the appellant’s statement:

- (1) the jurisdictional statement;
- (2) the statement of the issues;
- (3) the statement of the case; and
- (4) the statement of the standard of review.

(c) Reply Brief. The appellant may file a brief in reply to the appellee’s brief. Unless the court permits, no further briefs may be filed. A reply brief must contain a table

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

- (d) References to Parties. In briefs and at oral argument, counsel should minimize use of the terms “appellant” and “appellee.” To make briefs clear, counsel should use the parties’ actual names or the designations used in the lower court or agency proceeding, or such descriptive terms as “the employee,” “the injured person,” “the taxpayer,” “the ship,” “the stevedore.”
- (e) References to the Record. References to the parts of the record contained in the appendix filed with the appellant’s brief must be to the pages of the appendix. If the appendix is prepared after the briefs are filed, a party referring to the record must follow one of the methods detailed in Rule 30(c). If the original record is used under Rule 30(f) and is not consecutively paginated, or if the brief refers to an unreproduced part of the record, any reference must be to the page of the original document. For example:
 - Answer p. 7;
 - Motion for Judgment p. 2;
 - Transcript p. 231.

Only clear abbreviations may be used. A party referring to evidence whose admissibility is in controversy must cite the pages of the appendix or of the transcript at which the evidence was identified, offered, and received or rejected.

- (f) Reproduction of Statutes, Rules, Regulations, etc. If the court’s determination of the issues presented requires the study of statutes, rules, regulations, etc., the relevant parts must be set out in the brief or in an addendum at the end, or may be supplied to the court in pamphlet form.
- (g) [Reserved]
- (h) [Reserved]
- (i) Briefs in a Case Involving Multiple Appellants or Appellees. In a case involving more than one appellant or appellee, including consolidated cases, any number of appellants or appellees may join in a brief, and any party may adopt by reference a part of another’s brief. Parties may also join in reply briefs.
- (j) Citation of Supplemental Authorities. If pertinent and significant authorities come to a party’s attention after the party’s brief has been filed—or after oral argument but before decision—a party may promptly advise the Trial Court clerk by letter, with a copy to all other parties, setting forth the citations. The letter must state the reasons for the supplemental citations, referring either to the page of the brief or to a point argued orally. The body of the letter must not exceed 350 words. Any response must be made promptly and must be similarly limited.

Rule 28.1. Cross-Appeals

- (a) Applicability. This rule applies to a case in which a cross-appeal is filed. Rules 28(a)–(c), 31(a)(1), 32(a)(2), and 32(a)(7(A)–(B) do not apply to such a case, except as otherwise provided in this rule.

- (b) Designation of Appellant. The party who files a notice of appeal first is the appellant for the purposes of this rule and Rules 30 and 34. If notices are filed on the same day, the plaintiff in the proceeding below is the appellant. These designations may be modified by the parties' agreement or by court order.
- (c) Briefs. In a case involving a cross-appeal:
- (1) Appellant's Principal Brief. The appellant must file a principal brief in the appeal. That brief must comply with Rule 28(a).
 - (2) Appellee's Principal and Response Brief. The appellee must file a principal brief in the cross-appeal and must, in the same brief, respond to the principal brief in the appeal. That appellee's brief must comply with Rule 28(a), except that the brief need not include a statement of the case unless the appellee is dissatisfied with the appellant's statement.
 - (3) Appellant's Response and Reply Brief. The appellant must file a brief that responds to the principal brief in the cross-appeal and may, in the same brief, reply to the response in the appeal. That brief must comply with Rule 28(a)(2)–(8) and (10), except that none of the following need appear unless the appellant is dissatisfied with the appellee's statement in the cross-appeal:
 - (A) the jurisdictional statement;
 - (B) the statement of the issues;
 - (C) the statement of the case; and
 - (D) the statement of the standard of review.
 - (4) Appellee's Reply Brief. The appellee may file a brief in reply to the response in the cross-appeal. That brief must comply with Rule 28(a)(2)–(3) and (10) and must be limited to the issues presented by the cross-appeal.
 - (5) No Further Briefs. Unless the court permits, no further briefs may be filed in a case involving a cross-appeal.
- (d) Cover. Except for filings by unrepresented parties, the cover of the appellant's principal brief must be blue; the appellee's principal and response brief, red; the appellant's response and reply brief, yellow; the appellee's reply brief, gray; and intervenor's or amicus curiae's brief, green; and any supplemental brief, tan. The front cover of a brief must contain the information required by Rule 32(a)(2).
- (e) Length.
- (1) Page Limitation. Unless it complies with Rule 28.1(e)(2) and (3), the appellant's principal brief must not exceed 30 pages; the appellee's principal and response brief, 35 pages; the appellant's response and reply brief, 30 pages; and the appellee's reply brief, 15 pages.
 - (2) Type-Volume Limitation.
 - (A) The appellant's principal brief or the appellant's response and reply brief is acceptable if:

- (i) it contains no more than 14,000 words; or
- (ii) it uses a monospaced face and contains no more than 1,300 lines of text.

(B) The appellee's principal and response brief is acceptable if:

- (i) it contains no more than 16,500 words; or
- (ii) it uses a monospaced face and contains no more than 1,500 lines of text.

(C) The appellee's reply brief is acceptable if it contains no more than half of the type volume specified in Rule 28.1(e)(2)(A).

(3) Certificate of Compliance. A brief submitted under Rule 28.1(e)(2) must comply with Rule 32(a)(7)(C).

(f) Time to Serve and File a Brief. Briefs must be served and filed as follows:

- (1) the appellant's principal brief, within 40 days after the record is filed;
- (2) the appellee's principal and response brief, within 30 days after the appellant's principal brief is served;
- (3) the appellant's response and reply brief, within 30 days after the appellee's principal and response brief is served; and
- (4) the appellee's reply brief, within 14 days after the appellant's response and reply brief is served, but at least 7 days before argument unless the court, for good cause, allows a later filing.

Rule 29. Brief of an Amicus Curiae

(a) When Permitted. The Seminole Tribe of Florida or its officer, the United States or its officer or agency, or a state may file an amicus curiae brief without the consent of the parties or leave of court. Any other amicus curiae may file a brief only by leave of court or if the brief states that all parties have consented to its filing.

(b) Motion for Leave to File. The motion must be accompanied by the proposed brief and state:

- (1) the movant's interest; and
- (2) the reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case.

(c) Contents and Form. An amicus brief must comply with Rule 32. In addition to the requirements of Rule 32, the cover must identify the party or parties supported and indicate whether the brief supports affirmance or reversal. An amicus brief need not comply with Rule 28, but must include the following:

- (1) if the amicus curiae is a corporation, a disclosure statement like that required of parties by Rule 26.1;

- (2) a table of contents, with page references;
 - (3) a table of authorities—cases (alphabetically arranged), statutes, and other authorities—with references to the pages of the brief where they are cited;
 - (4) a concise statement of the identity of the amicus curiae, its interest in the case, and the source of its authority to file;
 - (5) unless the amicus curiae is one listed in the first sentence of Rule 29(a), a statement that indicates whether:
 - (A) a party’s counsel authored the brief in whole or in part;
 - (B) a party or a party’s counsel contributed money that was intended to fund preparing or submitting the brief; and
 - (C) a person—other than the amicus curiae, its members, or its counsel—contributed money that was intended to fund preparing or submitting the brief and, if so, identifies each such person;
 - (6) an argument, which may be preceded by a summary and which need not include a statement of the applicable standard of review; and
 - (7) a certificate of compliance, if required by Rule 32(a)(7).
- (d) Length. Except by the court’s permission, an amicus brief may be no more than one-half the maximum length authorized by these rules for a party’s principal brief. If the court grants a party permission to file a longer brief, that extension does not affect the length of an amicus brief.
 - (e) Time for Filing. An amicus curiae must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the principal brief of the party being supported is filed. An amicus curiae that does not support either party must file its brief no later than 7 days after the appellant’s or petitioner’s principal brief is filed. A court may grant leave for later filing, specifying the time within which an opposing party may answer.
 - (f) Reply Brief. Except by the court’s permission, an amicus curiae may not file a reply brief.
 - (g) Oral Argument. An amicus curiae may participate in oral argument only with the court’s permission.

Rule 30. Appendix to the Briefs

- (a) Appellant’s Responsibility.
 - (1) Contents of the Appendix. The appellant must prepare and file an appendix to the briefs containing:
 - (A) the relevant docket entries in the proceeding below;
 - (B) the relevant portions of the pleadings, charge, findings, or opinion;
 - (C) the judgment, order, or decision in question; and
 - (D) other parts of the record to which the parties wish to direct the court’s attention.

- (2) Excluded Material. Memoranda of law in the Trial Court should not be included in the appendix unless they have independent relevance. Parts of the record may be relied on by the court or the parties even though not included in the appendix.
- (3) Time to File; Number of Copies. Unless filing is deferred under Rule 30(c), the appellant must file 10 copies of the appendix with the brief and must serve one copy on counsel for each party separately represented. An unrepresented party proceeding in forma pauperis must file 4 legible copies with the clerk, and one copy must be served on counsel for each separately represented party. The court may by local rule or by order in a particular case require the filing or service of a different number.

(b) All Parties' Responsibilities.

- (1) Determining the Contents of the Appendix. The parties are encouraged to agree on the contents of the appendix. In the absence of an agreement, the appellant must, within 14 days after the record is filed, serve on the appellee a designation of the parts of the record the appellant intends to include in the appendix and a statement of the issues the appellant intends to present for review. The appellee may, within 14 days after receiving the designation, serve on the appellant a designation of additional parts to which it wishes to direct the court's attention. The appellant must include the designated parts in the appendix. The parties must not engage in unnecessary designation of parts of the record, because the entire record is available to the court. This paragraph applies also to a cross-appellant and a cross-appellee.
- (2) Costs of Appendix. Unless the parties agree otherwise, the appellant must pay the cost of the appendix. If the appellant considers parts of the record designated by the appellee to be unnecessary, the appellant may advise the appellee, who must then advance the cost of including those parts. The cost of the appendix is a taxable cost. But if any party causes unnecessary parts of the record to be included in the appendix, the court may impose the cost of those parts on that party.

(c) Deferred Appendix.

- (1) Deferral Until After Briefs Are Filed. The court may provide by rule for classes of cases or by order in a particular case that preparation of the appendix may be deferred until after the briefs have been filed and that the appendix may be filed 21 days after the appellee's brief is served. Even though the filing of the appendix may be deferred, Rule 30(b) applies; except that a party must designate the parts of the record it wants included in the appendix when it serves its brief, and need not include a statement of the issues presented.
- (2) References to the Record.

- (A) If the deferred appendix is used, the parties may cite in their briefs the pertinent pages of the record. When the appendix is prepared, the record pages cited in the briefs must be indicated by inserting record page numbers, in brackets, at places in the appendix where those pages of the record appear.
 - (B) A party who wants to refer directly to pages of the appendix may serve and file copies of the brief within the time required by Rule 31(a), containing appropriate references to pertinent pages of the record. In that event, within 14 days after the appendix is filed, the party must serve and file copies of the brief, containing references to the pages of the appendix in place of or in addition to the references to the pertinent pages of the record. Except for the correction of typographical errors, no other changes may be made to the brief.
- (d) **Format of the Appendix.** The appendix must begin with a table of contents identifying the page at which each part begins. The relevant docket entries must follow the table of contents. Other parts of the record must follow chronologically. When pages from the transcript of proceedings are placed in the appendix, the transcript page numbers must be shown in brackets immediately before the included pages. Omissions in the text of papers or of the transcript must be indicated by asterisks. Immaterial formal matters (captions, subscriptions, acknowledgments, etc.) should be omitted.
- (e) **Reproduction of Exhibits.** Exhibits designated for inclusion in the appendix may be reproduced in a separate volume, or volumes, suitably indexed. Four copies must be filed with the appendix, and one copy must be served on counsel for each separately represented party. If a transcript of a proceeding before an administrative agency, board, commission, or officer was used in a trial court action and has been designated for inclusion in the appendix, the transcript must be placed in the appendix as an exhibit.
- (f) **Appeal on the Original Record Without an Appendix.** The court may, either by rule for all cases or classes of cases or by order in a particular case, dispense with the appendix and permit an appeal to proceed on the original record with any copies of the record, or relevant parts, that the court may order the parties to file.

Rule 31. Serving and Filing Briefs

- (a) **Time to Serve and File a Brief.**
- (1) The appellant must serve and file a brief within 40 days after the record is filed. The appellee must serve and file a brief within 30 days after the appellant's brief is served. The appellant may serve and file a reply brief within 14 days after service of the appellee's brief but a reply brief must be filed at least 7 days before argument, unless the court, for good cause, allows a later filing.
 - (2) The Appellate Court may shorten the time to serve and file briefs, either by local rule or by order in a particular case.

- (b) Number of Copies. Four copies of each brief must be filed with the clerk and 2 copies must be served on each unrepresented party and on counsel for each separately represented party. An unrepresented party proceeding in forma pauperis must file 4 legible copies with the clerk, and one copy must be served on each unrepresented party and on counsel for each separately represented party. The court may by local rule or by order in a particular case require the filing or service of a different number.
- (c) Consequence of Failure to File. If an appellant fails to file a brief within the time provided by this rule, or within an extended time, an appellee may move to dismiss the appeal. An appellee who fails to file a brief will not be heard at oral argument unless the court grants permission.

Rule 32. Form of Briefs, Appendices, and Other Papers

(a) Form of a Brief.

(1) Reproduction.

- (A) A brief may be reproduced by any process that yields a clear black image on light paper. The paper must be opaque and unglazed. Only one side of the paper may be used.
- (B) Text must be reproduced with a clarity that equals or exceeds the output of a laser printer.
- (C) Photographs, illustrations, and tables may be reproduced by any method that results in a good copy of the original; a glossy finish is acceptable if the original is glossy.

(2) Cover. Except for filings by unrepresented parties, the cover of the appellant's brief must be blue; the appellee's, red; an intervenor's or amicus curiae's, green; any reply brief, gray and any supplemental brief, tan. The front cover of a brief must contain:

- (A) the number of the case centered at the top;
- (B) the name of the court;
- (C) the title of the case (see Rule 12(a));
- (D) the nature of the proceeding (e.g., Appeal, Petition for Review) and the name of the court below;
- (E) the title of the brief, identifying the party or parties for whom the brief is filed; and
- (F) the name, office address, and telephone number of counsel representing the party for whom the brief is filed.

(3) Binding. The brief must be bound in any manner that is secure, does not obscure the text, and permits the brief to lie reasonably flat when open.

(4) Paper Size, Line Spacing, and Margins. The brief must be on 8 ½ by 11 inch paper. The text must be double-spaced, but quotations more than two lines long may be indented and single-spaced. Headings and footnotes may be

single-spaced. Margins must be at least one inch on all four sides. Page numbers may be placed in the margins, but no text may appear there.

- (5) Typeface. Either a proportionally spaced or a monospaced face may be used.
- (A) A proportionally spaced face must include serifs, but sans serif type may be used in headings and captions. A proportionally spaced face must be 14-point or larger.
 - (B) A monospaced face may not contain more than 10 ½ characters per inch.
- (6) Type Styles. A brief must be set in a plain, roman style, although italics or boldface may be used for emphasis. Case names must be italicized or underlined.
- (7) Length.
- (A) Page limitation. A principal brief may not exceed 30 pages, or a reply brief 15 pages, unless it complies with Rule 32(a)(7)(B) and (C).
 - (B) Type-volume limitation.
 - (i) A principal brief is acceptable if:
 - a. it contains no more than 14,000 words; or
 - b. it uses a monospaced face and contains no more than 1,300 lines of text.
 - (ii) A reply brief is acceptable if it contains no more than half of the type volume specified in Rule 32(a)(7)(B)(i).
 - (iii) Headings, footnotes, and quotations count toward the word and line limitations. The corporate disclosure statement, table of contents, table of citations, statement with respect to oral argument, any addendum containing statutes, rules or regulations, and any certificates of counsel do not count toward the limitation.
 - (C) Certificate of compliance.
 - (i) A brief submitted under Rules 28.1(e)(2) or 32(a)(7)(B) must include a certificate by the attorney, or an unrepresented party, that the brief complies with the type-volume limitation. The person preparing the certificate may rely on the word or line count of the word-processing system used to prepare the brief. The certificate must state either:
 - a. the number of words in the brief; or
 - b. the number of lines of monospaced type in the brief.

(b) Form of an Appendix. An appendix must comply with Rule 32(a)(1), (2), (3), and (4), with the following exceptions:

- (1) The cover of a separately bound appendix must be white.
- (2) An appendix may include a legible photocopy of any document found in the record or of a printed judicial or agency decision.
- (3) When necessary to facilitate inclusion of odd-sized documents such as technical drawings, an appendix may be a size other than 8 ½ by 11 inches, and need not lie reasonably flat when opened.

(c) Form of Other Papers.

- (1) Motion. The form of a motion is governed by Rule 27(d).
- (2) Other Papers. Any other paper, including a petition for panel rehearing and a petition for hearing or rehearing en banc, and any response to such a petition, must be reproduced in the manner prescribed by Rule 32(a), with the following exceptions:

- (A) A cover is not necessary if the caption and signature page of the paper together contain the information required by Rule 32(a)(2). If a cover is used, it must be white.
- (B) Rule 32(a)(7) does not apply.

(d) Signature. Every brief, motion, or other paper filed with the court must be signed by the party filing the paper or, if the party is represented, by one of the party's attorneys.

(e) Local Variation. Every court of appeals must accept documents that comply with the form requirements of this rule. By local rule or order in a particular case the Appellate Court may accept documents that do not meet all of the form requirements of this rule.

Rule 32.1. Citing Judicial Dispositions

(a) Citation Permitted. A court may not prohibit or restrict the citation of judicial opinions, orders, judgments, or other written dispositions that have been:

- (1) designated as “unpublished,” “not for publication,” “non-precedential,” “not precedent,” or the like; and
- (2) issued on or after January 1, 2007.

(b) Copies Required. If a party cites a judicial opinion, order, judgment, or other written disposition that is not available in a publicly accessible electronic database, the party must file and serve a copy of that opinion, order, judgment, or disposition with the brief or other paper in which it is cited.

Rule 33. Appeal Conferences

The court may direct the attorneys—and, when appropriate, the parties—to participate in one or more conferences to address any matter that may aid in disposing of the proceedings, including simplifying the issues and discussing settlement. A judge or other person designated by the court may preside over the conference, which may be conducted in person or by telephone. Before a settlement conference, the attorneys must consult with their clients and obtain as much authority as feasible to settle the case. The court may, as a result of the conference, enter an order controlling the course of the proceedings or implementing any settlement agreement.

Rule 34. Oral Argument

(a) In General.

- (1) Party's Statement. Any party may file a statement explaining why oral argument should, or need not, be permitted.
- (2) Standards. Oral argument must be allowed in every case unless a panel of three judges who have examined the briefs and record unanimously agrees that oral argument is unnecessary for any of the following reasons:

- (A) the appeal is frivolous;
- (B) the dispositive issue or issues have been authoritatively decided; or
- (C) the facts and legal arguments are adequately presented in the briefs and record, and the decisional process would not be significantly aided by oral argument.

- (b) Notice of Argument; Postponement. The clerk must advise all parties whether oral argument will be scheduled, and, if so, the date, time, and place for it, and the time allowed for each side. A motion to postpone the argument or to allow longer argument must be filed reasonably in advance of the hearing date.
- (c) Order and Contents of Argument. The appellant opens and concludes the argument. Counsel must not read at length from briefs, records, or authorities.
- (d) Cross-Appeals and Separate Appeals. If there is a cross-appeal, Rule 28.1(b) determines which party is the appellant and which is the appellee for purposes of oral argument. Unless the court directs otherwise, a cross-appeal or separate appeal must be argued when the initial appeal is argued. Separate parties should avoid duplicative argument.
- (e) Nonappearance of a Party. If the appellee fails to appear for argument, the court must hear appellant's argument. If the appellant fails to appear for argument, the court may hear the appellee's argument. If neither party appears, the case will be decided on the briefs, unless the court orders otherwise.
- (f) Submission on Briefs. The parties may agree to submit a case for decision on the briefs, but the court may direct that the case be argued.
- (g) Use of Physical Exhibits at Argument; Removal. Counsel intending to use physical exhibits other than documents at the argument must arrange to place them in the

courtroom on the day of the argument before the court convenes. After the argument, counsel must remove the exhibits from the courtroom, unless the court directs otherwise. The clerk may destroy or dispose of the exhibits if counsel does not reclaim them within a reasonable time after the clerk gives notice to remove them.

Rule 35. En Banc Determination

Rule 36. Entry of Judgment; Notice

- (a) Entry. A judgment is entered when it is noted on the docket. The clerk must prepare, sign, and enter the judgment:
- (1) after receiving the court's opinion—but if settlement of the judgment's form is required, after final settlement; or
 - (2) if a judgment is rendered without an opinion, as the court instructs.
- (b) Notice. On the date when judgment is entered, the clerk must serve on all parties a copy of the opinion—or the judgment, if no opinion was written—and a notice of the date when the judgment was entered.

Rule 37. Interest on Judgment

- (a) When the Court Affirms. Unless the law provides otherwise, if a money judgment in a civil case is affirmed, whatever interest is allowed by law is payable from the date when the Trial Court's judgment was entered.
- (b) When the Court Reverses. If the court modifies or reverses a judgment with a direction that a money judgment be entered in the Trial Court, the mandate must contain instructions about the allowance of interest.

Rule 38. Frivolous Appeal—Damages and Costs

If the Appellate Court determines that an appeal is frivolous, it may, after a separately filed motion or notice from the court and reasonable opportunity to respond, award just damages and single or double costs to the appellee.

Rule 39. Costs

- (a) Against Whom Assessed. The following rules apply unless the law provides or the court orders otherwise:
- (1) if an appeal is dismissed, costs are taxed against the appellant, unless the parties agree otherwise;
 - (2) if a judgment is affirmed, costs are taxed against the appellant;
 - (3) if a judgment is reversed, costs are taxed against the appellee;
 - (4) if a judgment is affirmed in part, reversed in part, modified, or vacated, costs are taxed only as the court orders.

- (b) [Reserved]
- (c) Costs of Copies. The rate for the cost of producing necessary copies of a brief or appendix, or copies of records authorized by Rule 30(f), shall be made available by the Clerk of Court.
- (d) Bill of Costs: Objections; Insertion in Mandate.
 - (1) A party who wants costs taxed must—within 14 days after entry of judgment—file with the Trial Court clerk, with proof of service, an itemized and verified bill of costs.
 - (2) Objections must be filed within 14 days after service of the bill of costs, unless the court extends the time.
- (e) Costs on Appeal Taxable in the Trial Court. The following costs on appeal are taxable in the Trial Court for the benefit of the party entitled to costs under this rule:
 - (1) the preparation and transmission of the record;
 - (2) the reporter’s transcript, if needed to determine the appeal;
 - (3) premiums paid for a supersedeas bond or other bond to preserve rights pending appeal; and
 - (4) the fee for filing the notice of appeal.

Rule 40. Petition for Panel Rehearing

- (a) Time to File; Contents; Answer; Action by the Court if Granted.
 - (1) Time. Unless the time is shortened or extended by order or local rule, a petition for panel rehearing may be filed within 14 days after entry of judgment.
 - (2) Contents. The petition must state with particularity each point of law or fact that the petitioner believes the court has overlooked or misapprehended and must argue in support of the petition. Oral argument is not permitted.
 - (3) Answer. Unless the court requests, no answer to a petition for panel rehearing is permitted. But ordinarily rehearing will not be granted in the absence of such a request.
 - (4) Action by the Court. If a petition for panel rehearing is granted, the court may do any of the following:
 - (A) make a final disposition of the case without reargument;
 - (B) restore the case to the calendar for reargument or resubmission; or
 - (C) issue any other appropriate order.

- (b) Form of Petition; Length. The petition must comply in form with Rule 32. Copies must be served and filed as Rule 31 prescribes. Unless the court permits or a local rule provides otherwise, a petition for panel rehearing must not exceed 15 pages.

Rule 41. Mandate: Contents; Issuance and Effective Date; Stay

- (a) Contents. Unless the court directs that a formal mandate issue, the mandate consists of a certified copy of the judgment, a copy of the court's opinion, if any, and any direction about costs.
- (b) When Issued. The court's mandate must issue 7 days after the time to file a petition for rehearing expires, or 7 days after entry of an order denying a timely petition for panel rehearing, or motion for stay of mandate, whichever is later. The court may shorten or extend the time.
- (c) Effective Date. The mandate is effective when issued.
- (d) Staying the Mandate.

- (1) On Petition for Rehearing or Motion. The timely filing of a petition for panel rehearing, or motion for stay of mandate, stays the mandate until disposition of the petition or motion, unless the court orders otherwise.

Rule 42. Voluntary Dismissal

- (a) Dismissal in the Trial Court. Before an appeal has been docketed by the Trial Court clerk, the Trial Court may dismiss the appeal on the filing of a stipulation signed by all parties or on the appellant's motion with notice to all parties.
- (b) Dismissal in the Appellate Court. The Trial Court clerk may dismiss a docketed appeal if the parties file a signed dismissal agreement specifying how costs are to be paid and pay any fees that are due. But no mandate or other process may issue without a court order. An appeal may be dismissed on the appellant's motion on terms agreed to by the parties or fixed by the court.

Rule 43. Substitution of Parties

- (a) Death of a Party.
 - (1) After Notice of Appeal Is Filed. If a party dies after a notice of appeal has been filed or while a proceeding is pending in the Appellate Court, the decedent's personal representative may be substituted as a party on motion filed with the Appellate Court clerk by the representative or by any party. A party's motion must be served on the representative in accordance with Rule 25. If the decedent has no representative, any party may suggest the death on the record, and the Appellate Court may then direct appropriate proceedings.
 - (2) Before Notice of Appeal Is Filed—Potential Appellant. If a party entitled to appeal dies before filing a notice of appeal, the decedent's personal representative—or, if there is no personal representative, the decedent's attorney of record—may file a notice of appeal within the time prescribed

by these rules. After the notice of appeal is filed, substitution must be in accordance with Rule 43(a)(1).

- (3) **Before Notice of Appeal Is Filed—Potential Appellee.** If a party against whom an appeal may be taken dies after entry of a judgment or order in the Trial Court, but before a notice of appeal is filed, an appellant may proceed as if the death had not occurred. After the notice of appeal is filed, substitution must be in accordance with Rule 43(a)(1).

(b) **Substitution for a Reason Other Than Death.** If a party needs to be substituted for any reason other than death, the procedure prescribed in Rule 43(a) applies.

(c) **Public Officer: Identification; Substitution.**

- (1) **Identification of Party.** A public officer who is a party to an appeal or other proceeding in an official capacity may be described as a party by the public officer's official title rather than by name. But the court may require the public officer's name to be added.
- (2) **Automatic Substitution of Officeholder.** When a public officer who is a party to an appeal or other proceeding in an official capacity dies, resigns, or otherwise ceases to hold office, the action does not abate. The public officer's successor is automatically substituted as a party. Proceedings following the substitution are to be in the name of the substituted party, but any misnomer that does not affect the substantial rights of the parties may be disregarded. An order of substitution may be entered at any time, but failure to enter an order does not affect the substitution.

Rule 44. [Reserved]

Rule 45. Clerk's Duties

(a) **General Provisions.**

- (1) **Qualifications.** The Appellate Court clerk must take the oath and post any bond required by law. Neither the clerk nor any deputy clerk may practice as an attorney or counselor in any court while in office.
- (2) **When Court Is Open.** The Appellate Court is always open for filing any paper, issuing and returning process, making a motion, and entering an order. The clerk's office with the clerk or a deputy in attendance must be open during business hours on all days except Saturdays, Sundays, and legal holidays. A court may provide by local rule or by order that the clerk's office be open for specified hours on Saturdays or on legal holidays other than New Year's Day, Martin Luther King, Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Indian Day, Veterans' Day, Thanksgiving Day, and Christmas Day.

(b) **Records.**

- (1) **The Docket.** The Appellate Court clerk must maintain a docket and an

index of all docketed cases in the manner prescribed by the Director of the Administrative Office of the Seminole Tribal Courts. The clerk must record all papers filed with the clerk and all process, orders, and judgments.

- (2) Calendar. Under the court's direction, the clerk must prepare a calendar of cases awaiting argument.
 - (3) Other Records. The clerk must keep other books and records required by the Director of the Administrative Office of the Seminole Tribal Courts.
- (c) Notice of an Order or Judgment. Upon the entry of an order or judgment, the Appellate Court clerk must immediately serve a notice of entry on each party, with a copy of any opinion, and must note the date of service on the docket. Service on a party represented by counsel must be made on counsel.
- (d) Custody of Records and Papers. The Appellate Court clerk has custody of the court's records and papers. Unless the court orders or instructs otherwise, the clerk must not permit an original record or paper to be taken from the clerk's office. Upon disposition of the case, original papers constituting the record on appeal or review must be returned to the court or agency from which they were received. The clerk must preserve a copy of any brief, appendix, or other paper that has been filed.