

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-13-0021
)
PETITION TO AMEND RULE 59,)
RULES OF THE SUPREME COURT) **FILED: 08/28/13**
)
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)
_____)

**ORDER
AMENDING RULES 46 AND 59, RULES OF THE SUPREME COURT**

A petition having been filed proposing to amend the rules relating to disciplinary appeals and no comments having been received, upon consideration,

IT IS ORDERED that Rules 46 and 59, Rules of the Supreme Court, be amended in accordance with the attachment hereto, effective January 1, 2014.

DATED this _____ day of August, 2013.

REBECCA WHITE BERCH
Chief Justice

TO:
Rule 28 Distribution
Kathleen Ronan Curry, Staff Attorney, Arizona Supreme Court Staff Attorneys' Office

ATTACHMENT*

RULES OF THE SUPREME COURT

Rule 46. Jurisdiction in Discipline and Disability matters; Definitions

(a)-(e) [No change in text.]

(f) Definitions.

1.-19. [No change in text.]

20. "Record," for the purposes of these rules, means the complaint and accompanying committee's order of probable cause, or other document that commences formal discipline, disability or reinstatement proceedings, or contempt proceedings and every later-filed document, ~~or exhibit, or verbatim record of the proceedings.~~ Certified transcripts shall be submitted to the court when an appeal is taken as part of the record unless the court directs otherwise in a specific case.

Rule 59. Review by the Court

(a)-(c) [No change in text.]

~~(d) Notice of Additional Transcripts.~~ A party requiring additional transcripts for the purpose of appeal shall arrange for transcription at the party's expense. Within ten (10) days of filing the notice of appeal, the party shall file with the disciplinary clerk a notice of intent to file additional transcripts and shall advise when the party anticipates the transcripts will be filed. Upon filing the transcript with the disciplinary clerk, the party shall serve a copy on the opposing party. **Transmittal of Record.** Upon the filing of a notice of cross-appeal, or upon the expiration of time for filing a notice of cross-appeal, the disciplinary clerk shall have ten (10) days to transmit the entire record to the clerk of the court. The disciplinary clerk shall notify the parties of the transmittal of the record.

* Changes and additions to text are indicated by underlining and deletions by ~~strikeouts~~.

(e) Notice of Transcripts. Within ten (10) days of the notice of the transmittal of the record, a party requesting transcripts for purposes of appeal shall serve the clerk of the court with a notice designating the transcripts requested. A party requesting transcripts for the purpose of appeal shall arrange for transcription at the party's expense. Within thirty (30) days of the notice designating the requested transcripts, or as otherwise ordered by the clerk of the court, the party shall file the certified transcript with the clerk of the court and serve a copy on the opposing party.

~~**(ef) Docketing the Appeal.** The disciplinary clerk shall docket the appeal and notify the parties of the docketing and the briefing schedule after the filing of a notice of cross-appeal or the expiration of time for filing a cross-appeal, and upon the filing of any transcript of which the disciplinary clerk has received notice pursuant to paragraph (d). Upon receipt of the record and the filing of any transcripts of which a party filed notice pursuant to paragraph (e), the clerk of the court shall docket the appeal and send a notice of docketing and filing of the record on appeal and a briefing schedule to the disciplinary clerk, respondent, respondent's counsel, if any, and bar counsel.~~

(fg) Time for Filing Briefs. The appellant's opening brief, and appellee's opening brief in a cross-appeal, if any, shall be filed with the disciplinary clerk of the court no later than thirty (30) days after the notice of docketing. The answering briefs shall be filed with the disciplinary clerk of the court no later than thirty (30) days after service of the opening brief. A reply brief may be filed with the disciplinary clerk of the court no later than fifteen (15) days after service of the answering brief. A party who files a cross-appeal may combine in one brief the opening cross-appeal brief and the answering brief, but such brief shall be filed within the time allowed for filing the brief as cross-appellant.

(gh) Briefs; Form, Length, and Content. [No change in text.]

~~**(h) Perfection of Appeal.** Perfection of the appeal and cross-appeal shall be a precondition of transmitting the record to the court. For purposes of this rule, perfection shall include the timely filing of a notice of appeal or cross-appeal and the timely filing of the appellant's or cross-appellant's opening brief.~~

~~**(i) Abandonment of Appeal; Dismissal.** In the event an appeal or cross-appeal is not fully perfected, it shall be deemed abandoned and shall be dismissed by order of the presiding disciplinary judge, with notice to the appellant or cross-appellant.~~

~~**(j) Transmittal of Record.** After the time for filing the appellate briefs has expired and the appeal and cross appeal, where applicable, are otherwise perfected, the disciplinary clerk shall transmit the entire record, including any transcripts and the parties' briefs, to the clerk of the court.~~

(ki) Oral Argument. Oral argument may, in the court's discretion, be scheduled in an appeal upon request of either party or upon the court's own motion.

(lj) Standard of Review. The court shall review questions of law de novo. In reviewing findings of fact, the court shall apply a clearly erroneous standard.

(mk) Form of Decision. The court may resolve any matter before it by opinion, memorandum decision, or order, as the court may determine in its discretion.

~~**(n) Priority Over Civil Matters.** Matters arising out of orders for discipline in the form of suspension or disbarment shall take precedence over all civil cases in this court.~~