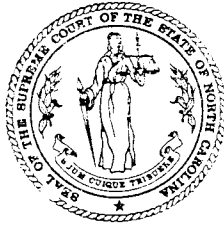


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AMENDMENTS TO
NORTH CAROLINA RULES
OF APPELLATE PROCEDURE

The first sentence of Rule 13(a) of the Rules of Appellate Procedure, 287 N.C. 671, 710, shall be amended to read as follows (new material appears in italics):

FILING AND SERVICE OF BRIEFS.

Within 20 days after the *clerk of the appellate court has mailed the printed record to the parties*, the appellant shall file his brief in the office of the clerk, and serve copies thereof upon all other parties separately represented.

This amendment to Rule 13(a) was adopted by the Supreme Court in Conference on 7 October 1980, to become effective January 1, 1981. It shall be promulgated by publication in the Advance Sheets of the Supreme Court and the Court of Appeals.

CARLTON, J.

For the Court

The last sentence of the first paragraph of Rule 14(d)(1) of the Rules of Appellate Procedure, 287 N.C. 671, 712, as amended 31 January 1977, 291 N.C. 721, shall be amended to read as follows (new material appears in italics):

Filing and Service; Copies.

* * *

Within *20* days after service of the appellant's brief upon him, the appellee shall similarly file and serve copies of a new brief.

The last sentence of Rule 15(g)(2) of the Rules of Appellate Procedure, 287 N.C. 671, 717, shall be amended to read as follows (new material appears in italics):

**Cases Certified for Review of
Court of Appeals Determinations.**

* * *

The appellee shall file a new brief in the Supreme Court and

APPELLATE PROCEDURE RULES

serve copies upon all other parties within 20 days after a copy of appellant's brief is served upon him.

This amendment to Rules 14(d)(1) and 15(g)(2) was adopted by the Supreme Court in Conference on 7 October 1980, to become effective January 1, 1981. It shall be promulgated by publication in the Advance Sheets of the Supreme Court and the Court of Appeals.

CARLTON, J.

For the Court

The third and final paragraph of Rule 18(d)(3) of the Rules of Appellate Procedure, 287 N.C. 671, 724, as amended 21 June 1977, 292 N.C. 739, shall be amended to read as follows (new material appears in italics):

Settling the Record on Appeal.

* * *

Upon receipt of a request for settlement of the record on appeal the Chairman of the Industrial Commission or the Chairman of the Hearing Committee of the Disciplinary Hearing Commission of the North Carolina State Bar shall by written notice to counsel for all parties set a place and time not later than 20 days after receipt of the request for a hearing to settle the record on appeal. At the hearing the Chairman shall settle the record on appeal by order; *provided, however, that when the Chairman of the Hearing Committee of the Disciplinary Hearing Commission of the North Carolina State Bar is a party to the appeal as permitted by Rule 19(d), settlement of the record on appeal, absent an agreement of the parties, shall be by a referee appointed pursuant to the procedures contained in the preceding paragraph.*

This amendment to Rule 18(d)(3) was adopted by the Supreme Court in Conference on 7 October 1980, to become effective January 1, 1981. It shall be promulgated by publication in the Advance Sheets of the Supreme Court and the Court of Appeals.

CARLTON, J.

For the Court

APPELLATE PROCEDURE RULES

The first sentence of Rule 23(b) of the Rules of Appellate Procedure, 287 N.C. 671, 733 shall be amended to read as follows (new material appears in italics):

Pending Review by Supreme Court of Court of Appeals Decisions

Application may be made in the first instance to the Supreme Court for a writ of supersedeas to stay the execution or enforcement of a judgment, order or other determination mandated by the Court of Appeals when a *notice of appeal of right or a petition for discretionary review has been or will be timely filed*, or a *petition* for review by certiorari, mandamus, or prohibition has been filed to obtain review of the decision of the Court of Appeals. No prior motion for a stay order need be made to the Court of Appeals.

Approved by the Court in Conference this 2 day of December, 1980, to become effective 1 January 1981. It shall be promulgated by publication in the Advance Sheets of the Supreme Court and the Court of Appeals.

CARLTON, J.
For the Court

APPELLATE PROCEDURE RULES

Rule 28 of the North Carolina Rules of Appellate Procedure 287 N.C. at 742 is hereby amended by repealing subsection (d), "Incorporation of Court of Appeals Argument into Supreme Court Brief by Reference."

Rather than re-letter the remaining subsections of Rule 28, the Court has elected to reserve subsection (d) for future use. The following note will be added to the end of the existing material under the Commentary to Rule 28, Subdivision (d):

"Note: The North Carolina Supreme Court, in repealing subsection (d), has eliminated the right to incorporate by reference any argument contained in a brief filed in the Court of Appeals. Not only must a party include in his new brief any question which he wants to preserve as required by Rule 28(b), but now he must also present any argument for that question upon which he intends to rely. Questions not brought forward *and* argued in the new brief will be considered abandoned."

Approved by the Court in Conference this 27th day of January 1981, to become effective 1 July 1981. It shall be promulgated by publication in the Advance Sheets of the Supreme Court and the Court of Appeals.

Meyer, J.
For the Court