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It need contain no statement of the questions presented, statement of the case, statement of the facts, or appendixes, unless the appellee disagrees with the appellant's statements or appendixes, and desires to make a restatement or suggest errors in or supplement the appellant's appendixes, or unless the appellee desires to present questions in addition to those stated by the appellant. If the appellee desires to present questions in addition to those stated by the appellant, the appellee's brief must contain a full, non-argumentative summary of all material facts necessary to understand the new questions supported by references to pages in the stenographic transcript, or the record on appeal, or both, as the case may be. If the stenographic transcript is used in lieu of narrating the testimony pursuant to Rule 9(c)(1), the appellee's brief must contain appendixes which set out verbatim those portions of the certified stenographic transcript which form the basis for and are necessary to understand the new questions presented by the appellee.

This amendment shall become effective and relate to all appeals docketed on and after 1 October 1981.

By order of the Court in conference, this 10th day of June, 1981.

MEYER, J.
For the Court

Commentary: These amendments to Rules 9 and 28 will provide litigants with an *alternative* to the provision of Rule 9(c)(1) which requires that generally the evidence must be set out in narrative form. This alternative pertains only to the testimony given at trial. Other items necessary to the appeal, *e.g.*, pleadings, jury instructions, judgments, etc. should be contained in the record on appeal as required by appropriate appellate rules.

Rule 10(b)(2) of the Rules of Appellate Procedure is amended by rewriting said section to read as follows:

Jury Instructions; Findings and Conclusions of Judge. No party may assign as error any portion of the jury charge or omission therefrom unless he objects thereto before the jury retires to consider its verdict, stating distinctly that to which he objects and the grounds of his objection; provided, that opportunity was given to the party to make the objec-

tion out of the hearing of the jury and, on request of any party, out of the presence of the jury. In the record on appeal an exception to instructions given the jury shall identify the portion in question by setting it within brackets or by any other clear means of reference. An exception to the failure to give particular instructions to the jury, or to make a particular finding of fact or conclusion of law which finding or conclusion was not specifically requested of the trial judge, shall identify the omitted instruction, finding or conclusion by setting out its substance immediately following the instructions given, or findings or conclusions made. A separate exception shall be set out to the making or omission of each finding of fact or conclusion of law which is to be assigned as error.

This amendment shall apply to every case the trial of which begins on or after 1 October 1981.

By order of the Court in conference, this 10th day of June, 1981.

MEYER, J.
For the Court

Commentary: This amendment will make North Carolina's procedure for reviewing alleged errors in the jury charge similar to that of the federal courts and many, if not most, of the other states including Connecticut, Florida, Indiana, Massachusetts, Michigan, New Jersey, New York, Ohio, Texas and South Carolina.

Rule 30 of the Rules of Appellate Procedure is amended by rewriting subdivision (f) to read as follows:

Pre-argument Review; Decision of Appeal Without Oral Argument.

(1) At anytime that the Supreme Court concludes that oral argument in any case pending before it will not be of assistance to the Court, it may dispose of the case on the record and briefs. In those cases, counsel will be notified not to appear for oral argument.

(2) The Chief Judge of the Court of Appeals may from time to time designate a panel to review any pending case, after all briefs are filed but before argument, for decision