

NORTH CAROLINA REPORTS

VOLUME 358

SUPREME COURT OF NORTH CAROLINA



6 FEBRUARY 2004

13 AUGUST 2004

RALEIGH
2006

IN THE SUPREME COURT OF NORTH CAROLINA

Order Adopting Amendments to the North Carolina Rules of Appellate Procedure

Appendix B of the North Carolina Rules of Appellate is hereby amended as described below:

APPENDIX B. FORMAT AND STYLE

All documents for filing in either Appellate Court are prepared on 8½ x 11 inch, plain, white unglazed paper of 16 to 20 pound weight. Typing is done on one side only, although the document will be reproduced in two-sided format. No vertical rules, law firm marginal return addresses, or punched holes will be accepted. The papers need not be stapled; a binder clip or rubber bands are adequate to secure them in order.

Papers shall be prepared using at least 12-point type so as to produce a clear, black image. Documents shall be set either in nonproportional type or in proportional type, defined as follows: Nonproportional type is defined as 10-character-per-inch Courier (or an equivalent style of Pica) type that devotes equal horizontal space to each character. Proportional type is defined as any non-italic, non-script font, other than nonproportional type, that is 14-point or larger. Under Appellate Rule 28(j), briefs in nonproportional type are governed by a page limit, and briefs in proportional type are governed by a word-count limit. To allow for binding of documents, a margin of approximately one inch shall be left on all sides of the page. The formatted page should be approximately 6½ inches wide and 9 inches long. Tabs are located at the following distances from the left margin: ½", 1", 1½", 2", 4¼" (center), and 5".

CAPTIONS OF DOCUMENTS.

All documents to be filed in either appellate court shall be headed by a caption. The caption contains: the number to be assigned the case by the Clerk; the Judicial District from which the case arises; the appellate court to whose attention the document is addressed; the style of the case showing the names of all parties except as provided by Rule 3(b) to the action; the county from which the case comes; the indictment or docket numbers of the case below (in records on appeal and in motions and petitions in the cause filed prior to the filing of the record); and the title of the document. The caption shall be placed beginning at the top margin of a cover page and, again, on the first textual page of the document.

No. _____

(Number) DISTRICT

(SUPREME COURT OF NORTH CAROLINA)

(or)

(NORTH CAROLINA COURT OF APPEALS)

STATE OF NORTH CAROLINA)

or)

(Name of Plaintiff))

From (Name) County

) No. _____

v)

)

(Name of Defendant))

(TITLE OF DOCUMENT)

The caption should reflect the title of the action (all parties named except as provided by Rule 3(b)) as it appeared in the trial division. The appellant or petitioner is not automatically given top-side billing; the relative position of the plaintiff and defendant should be retained.

The caption of a record on appeal and of a notice of appeal from the Trial Division should include directly below the name of the county, the indictment or docket numbers of the case in the trial division. Those numbers, however, should not be included in other documents except for a petition for writ of certiorari or other petitions and motions where no record on appeal has yet been created in the case. In notices of appeal or petitions to the Supreme Court from decisions of the Court of Appeals, the caption should show the Court of Appeals' docket number in similar fashion.

Immediately below the caption of each document, centered and underlined, in all capital letters, should be the title of the document, e.g., PETITION FOR DISCRETIONARY REVIEW UNDER G.S. 7A-31, or DEFENDANT-APPELLANT'S BRIEF. A brief filed in the Supreme Court in a case previously heard and decided by the Court of Appeals is entitled NEW BRIEF.

INDEXES

A brief or petition which is 10 pages or more in length and all Appendixes to briefs (Rule 28) and Records on Appeal (Rule 9) must contain an index to the contents.

The index should be indented approximately ¾" from each margin, providing a five-inch line. The form of the index for a record on appeal should be as follows (indexes for briefs are addressed in Appendix E):

(Record)

I N D E X

Organization of the Court	1
Complaint of Tri-Cities Mfg. Co.	1
* * *	
* PLAINTIFF'S EVIDENCE:	
John Smith	17
Tom Jones	23
Defendant's Motion for Nonsuit	84
* DEFENDANT'S EVIDENCE:	
John Q. Public	86
Mary J. Public	92
Request for Jury Instructions	101
Charge to the Jury	101
Jury Verdict	102
Order or Judgment	108
Appeal Entries	109
Order Extending Time	111
Assignments of Error	113
Certificate of Service	114
Stipulation of Counsel	115
Names and Addresses of Counsel	116

USE OF THE TRANSCRIPT OF EVIDENCE WITH RECORD ON APPEAL

Those portions asterisked (*) in the sample index above would be omitted if the transcript option were selected under Appellate Rule 9(c). In their place in the record, counsel should place a statement in substantially the following form:

"Per Appellate Rule 9(c) the transcript of proceedings in this case, taken by (name), court reporter, from (date) to (date) and consisting of (# of pages) pages, numbered (1) through (last page#), and bound in (# of volumes) volumes is filed contemporaneously with this record."

The transcript should be prepared with a clear, black image on 8½ x 11 paper of 16-20 pound substance. Enough copies should be

reproduced to assure the parties of a reference copy, and file one copy in the Appellate Court. In criminal appeals, the District Attorney is responsible for conveying a copy to the Attorney General (App. Rule 9(c)).

The transcript should not be inserted into the record on appeal, but, rather, should be separately bound and submitted for filing in the proper appellate court with the record. Transcript pages inserted into the record on appeal will be treated in the manner of a narration and will be printed at the standard page charge. Counsel should note that the separate transcript will not be reproduced with the record on appeal, but will be treated and used as an exhibit.

In termination of parental rights and juvenile matters, the entire verbatim transcript must be sealed pursuant to Rule 9(c); if individual transcript pages are inserted in the record on appeal, the pages must be modified to comply with Rule 3(b).

TABLE OF CASES AND AUTHORITIES

Immediately following the index and before the inside caption, all briefs, petitions, and motions greater than five pages in length shall contain a table of cases and authorities. Cases should be arranged alphabetically, followed by constitutional provisions, statutes, regulations, and other textbooks and authorities. The format should be similar to that of the index. Citations should be made according to A Uniform System of Citation (14th ed.).

FORMAT OF BODY OF DOCUMENT

The body of the document of records on appeal should be single-spaced with double-spaces between paragraphs. The body of the document of petitions, notices of appeal, responses, motions, and briefs should be double-spaced, with captions, headings, and long quotes single-spaced.

Adherence to the margins is important since the document will be reproduced front and back and will be bound on the side. No part of the text should be obscured by that binding.

Quotations of more than three lines in length should be indented $\frac{3}{4}$ inch from each margin and should be single-spaced. The citation should immediately follow the quote.

References to the record on appeal should be made through a parenthetical entry in the text. (R. pp. 38-40) References to the transcript, if used, should be made in similar manner. (T. p. 558, line 21)

TOPICAL HEADINGS

The various sections of the brief or petition should be separated (and indexed) by topical headings, centered and underlined, in all capital letters.

Within the argument section, the issues presented should be set out as a heading in all capital letters and in paragraph format from margin to margin. Sub-issues should be presented in similar format, but block indented $\frac{1}{2}$ inch from the left margin.

NUMBERING PAGES

The cover page containing the caption of the document (and the index in Records on Appeal) is unnumbered. The index and table of cases and authorities are on pages numbered with lower case roman numerals, e.g., i, ii, iv.

While the page containing the inside caption and the beginning of the substance of the petition or brief bears no number, it is page 1. Subsequent pages are sequentially numbered by arabic numbers, flanked by dashes, at the center of the top margin of the page, e.g. -4-.

An appendix to the brief should be separately numbered in the manner of a brief.

SIGNATURE AND ADDRESS

All original papers filed in a case will bear the original signature of at least one counsel participating in the case, as in the example below. The name, address, telephone number, and e-mail address of the person signing, together with the capacity in which he signs the paper will be included. Where counsel or the firm is retained, the firm name should be included above the signature; however, if counsel is appointed in an indigent criminal appeal, only the name of the appointed counsel should appear, without identification of any firm affiliation. Counsel participating in argument must have signed the brief in the case prior to that argument.

(Retained)

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These amendments to the North Carolina Rules of Appellate Procedure shall be effective on the 12th day of May, 2004.

Adopted by the Court in Conference this the 6th day of May, 2004. These amendments shall be promulgated by publication in the Advance Sheets of the Supreme Court and the Court of Appeals. These amendments shall also be published as quickly as practical on the North Carolina Judicial Branch of Government Internet Home Page (<http://www.nccourts.org>).

Edmunds, J.
For the Court

IN THE SUPREME COURT OF NORTH CAROLINA

Order Adopting Amendments to the North Carolina Rules of Appellate Procedure

Rules 3, 26, 30, 37, and 41 of the North Carolina Rules of Appellate are hereby amended as described below:

Rule 3(b) is amended to read as follows:

(b) Special Provisions. Appeals in the following types of cases shall be taken in the time and manner set out in the General Statutes section noted:

- (1) Termination of Parental Rights, G.S. 7B-1113.
- (2) Juvenile matters, G.S. 7B-~~1001~~1001 or 7B-2602.

For appeals filed pursuant to these provisions and for extraordinary writs filed in cases to which these provisions apply, the name of the juvenile who is the subject of the action, and of any siblings or other household members under the age of eighteen, shall be referenced by the use of initials only in all filings, documents, exhibits, or arguments submitted to the appellate court with the exception of sealed verbatim transcripts submitted pursuant to Rule 9(c). In addition, the juvenile's address, social security number, and date of birth shall be

excluded from all filings, documents, exhibits, or arguments with the exception of sealed verbatim transcripts submitted pursuant to Rule 9(c). Appeals filed pursuant to these provisions shall specifically comply, if applicable, with Rules 9(b), 9(c), 26(g), 28(d), 28(k), 30, 37, 41 and Appendix B.

Rule 26(g) is amended to add new subsection (4):

(4) Termination of Parental Rights and Juvenile Matters. All documents and exhibits filed with the appellate court shall not include the name of a juvenile or any other identifying information, in compliance with Rule 3(b).

Rule 30 is amended to read as follows:

(a) Order and Content of Argument.

~~(1) (a) Order and Content of Argument.~~ The appellant is entitled to open and conclude the argument. The opening argument shall include a fair statement of the case. Oral arguments should complement the written briefs, and counsel will therefore not be permitted to read at length from briefs, records, and authorities.

(2) To the extent practicable, counsel shall refrain from using a juvenile's name in oral argument and, instead, refer to the juvenile consistent with the provisions of Rule 3(b).

Rule 37 is amended to add subsection (c):

(c) Termination of Parental Rights and Juvenile Matters. Any motion or response to a motion filed in the appellate courts shall not include the name of a juvenile, in compliance with Rule 3(b).

Rule 41(b)(2) is amended to read as follows:

(2) Each appellant shall complete and file the APPEAL INFORMATION STATEMENT with the Clerk of the Court of Appeals at or before the time his or her appellant's brief is due and shall serve a copy of the statement upon all other parties to the appeal pursuant to Rule 26. The APPEAL INFORMATION STATEMENT may be filed by mail addressed to the clerk and, if first class mail is utilized, is deemed filed on the date of mailing as evidenced by the proof of service. For cases arising out of termination of parental rights and juvenile matters, the name of the juvenile shall not be included in the APPEAL INFORMATION STATEMENT, in compliance with Rule 3(b).

These amendments to the North Carolina Rules of Appellate Procedure shall be effective on the 12th day of May, 2004.

Adopted by the Court in Conference this the 6th day of May, 2004. These amendments shall be promulgated by publication in the Advance Sheets of the Supreme Court and the Court of Appeals. These amendments shall also be published as quickly as practical on the North Carolina Judicial Branch of Government Internet Home Page (<http://www.nccourts.org>).

Edmunds, J.
For the Court

IN THE SUPREME COURT OF NORTH CAROLINA

Order Adopting Amendments to the North Carolina Rules of Appellate Procedure

Rule 9 of the North Carolina Rules of Appellate is hereby amended as described below:

Rule 9(a) is amended to read as follows:

(a) **Function; Composition of Record.** In appeals from the trial division of the General Court of Justice, review is solely upon the record on appeal ~~and~~, the verbatim transcript of proceedings, if one is designated, constituted in accordance with this Rule ~~9-9~~, and any items filed with the record on appeal pursuant to Rule 9(c) and 9(d). Parties may cite any of these items in their briefs and arguments before the appellate courts.

Rule 9(a)(1)(l) is amended to read as follows:

(l) a statement, where appropriate, that the record of ~~proceeding~~proceedings was made with an electronic recording device.

Rule 9(a) is amended to add new subsection (4):

(4) Exclusion of Social Security Numbers from Record on Appeal. Social security numbers shall be deleted or redacted from any document before including the document in the record on appeal.

Rule 9(b) is amended to read as follows:

Rule 9(b) Form of Record; Amendments. The record on appeal shall be in the format prescribed by Rule 26(g) and the appendixes to these rules.

(1) *Order of Arrangement.* The items constituting the record on appeal should be arranged, so far as practicable, in the order in which they occurred or were filed in the trial tribunal.

(2) *Inclusion of Unnecessary Matter; Penalty.* It shall be the duty of counsel for all parties to an appeal to avoid including in the record on appeal matter not necessary for an understanding of the errors assigned, such as social security numbers referred to in Rule 9(a)(4). The cost of including such matter may be charged as costs to the party or counsel who caused or permitted its inclusion.

(3) *Filing Dates and Signatures on Papers.* Every pleading, motion, affidavit, or other paper included in the record on appeal shall show the date on which it was filed and, if verified, the date of verification and the person who verified. Every judgment, order, or other determination shall show the date on which it was entered. The typed or printed name of the person signing a paper shall be entered immediately below the signature.

(4) *Pagination; Counsel Identified.* The pages of the record on appeal shall be numbered consecutively, be referred to as “record pages” and be cited as “(R p ____).” Pages of the verbatim transcript of proceedings filed under Rule 9(c)(2) shall be referred to as “transcript pages” and cited as “(T p ____).” At the end of the record on appeal shall appear the names, office addresses, and telephone numbers of counsel of record for all parties to the appeal.

(5) *Additions and Amendments to Record on Appeal.* On motion of any party or on its own initiative, the appellate court may order additional portions of a trial court record or transcript sent up and added to the record on appeal. On motion of any party the appellate court may order any portion of the record on appeal or transcript amended to correct error shown as to form or content. Prior to the filing of the record on appeal in the appellate court, such motions may be made by any party to the trial tribunal.

(6) Appeals from Termination of Parental Rights and Juvenile Matters. The record on appeal shall comply with the provisions to protect the confidentiality of juveniles by redacting the juvenile’s name and other identifying information as set out in Rule 3(b) from any documents included in the record on appeal.

Rule 9(c) is amended to read as follows:

(c) Presentation of Testimonial Evidence and Other Proceedings. Testimonial evidence, voir dire, and other trial proceedings necessary to be presented for review by the appellate court may be included either in the record on appeal in the form specified in Rule 9(c)(1) or by designating the verbatim transcript of proceedings of the trial tribunal as provided in Rule 9(c)(2) and (c)(3). Where

error is assigned to the giving or omission of instructions to the jury, a transcript of the entire charge given shall be included in the record on appeal. Verbatim transcripts in an appeal of a termination of parental rights or a juvenile matter, as identified by Rule 3(b), shall be submitted to the appellate court in a signed, sealed envelope or other appropriate container on which is noted a case caption that complies with the confidentiality provisions of Rule 3(b), including the District Court case number. The transcript shall be available to the public only with permission from the appellate court.

Rule 9(c)(2) is amended to read as follows:

(2) *Designation that Verbatim Transcript of Proceedings in Trial Tribunal Will Be Used.* Appellant may designate in the record on appeal that the testimonial evidence will be presented in the verbatim transcript of the evidence in the trial tribunal in lieu of narrating the evidence as permitted by Rule 9(c)(1). Appellant may also designate that the verbatim transcript will be used to present voir dire or other trial proceedings where those proceedings are the basis for one or more assignments of error and where a verbatim transcript of those proceedings has been made. Any such designation shall refer to the page numbers of the transcript being designated. Appellant need not designate all of the verbatim transcript which has been made, provided that when the verbatim transcript is designated to show the testimonial evidence, so much of the testimonial evidence must be designated as is necessary for an understanding of all errors assigned. When appellant has narrated the evidence and trial proceedings under Rule 9(c)(1), the appellee may designate the verbatim transcript as a proposed alternative record on appeal.

Rule 9(c)(3)(c) is amended to read as follows:

(c) in criminal appeals, the district attorney, upon settlement of the record on appeal, shall forward one copy of the settled transcript to the Attorney General of North Carolina; and

Rule 9(d)(1) is amended to read as follows:

(1) *Exhibits.* Maps, plats, diagrams and other documentary exhibits filed as portions of or attachments to items required to be included in the record on appeal shall be included as part of such items in the record on appeal. Where such exhibits are not necessary to an understanding of the errors assigned, they may by agreement of counsel or by order of the trial court upon motion be excluded from the record on appeal. Social security numbers shall be deleted or redacted from exhibits prior to filing the exhibits in the appellate court.

Rule 9(d)(3) is amended to read as follows:

(3) *Removal of Exhibits from Appellate Court.* All models, diagrams, and exhibits of material placed in the custody of the Clerk of the appellate court must be taken away by the parties within 90 days after the mandate of the Court has issued or the case has otherwise been closed by withdrawal, dismissal, or other order of the Court, unless notified otherwise by the Clerk. When this is not done, the Clerk shall notify counsel to remove the articles forthwith; and if they are not removed within a reasonable time after such notice, the Clerk shall destroy them, or make such other disposition of them as to ~~him~~the Clerk may seem best.

These amendments to the North Carolina Rules of Appellate Procedure shall be effective on the 12th day of May, 2004.

Adopted by the Court in Conference this the 6th day of May, 2004. These amendments shall be promulgated by publication in the Advance Sheets of the Supreme Court and the Court of Appeals. These amendments shall also be published as quickly as practical on the North Carolina Judicial Branch of Government Internet Home Page (<http://www.nccourts.org>).

Edmunds, J.
For the Court

IN THE SUPREME COURT OF NORTH CAROLINA

Order Adopting Amendments to the North Carolina Rules of Appellate Procedure

Rule 11 of the North Carolina Rules of Appellate is hereby amended as described below:

Rule 11(b) is amended to read as follows:

(b) **By Appellee's Approval of Appellant's Proposed Record on Appeal.** If the record on appeal is not settled by agreement under Rule 11(a), the appellant shall, within the same times provided, serve upon all other parties a proposed record on appeal constituted in accordance with the provisions of Rule 9. Within ~~21~~30 days (35 days in capitally tried cases) after service of the proposed record on appeal upon ~~him~~ an appellee, that appellee may serve upon all other parties a notice of approval of the proposed record on appeal, or objections, amendments, or a proposed alternative record on appeal in accordance with Rule 11(c). If all appellees within the times

allowed them either serve notices of approval or fail to serve either notices of approval or objections, amendments, or proposed alternative records on appeal, appellant's proposed record on appeal thereupon constitutes the record on appeal.

Rule 11(c) is amended to read as follows:

(c) ~~By Judicial Order or Agreement, by Operation of Rule, or by Court Order After Appellant's Appellee's Failure to Request Judicial Settlement~~**Objection or Amendment.** Within ~~2130~~ 30 days (35 days in capitally tried cases) after service upon ~~him~~ ~~appellee~~ of appellant's proposed record on appeal, ~~and that~~ appellee may serve upon all other parties specific amendments or objections to the proposed record on appeal, or a proposed alternative record on appeal. Amendments or objections to the proposed record on appeal shall be set out in a separate paper.

If any appellee timely serves amendments, objections, or a proposed alternative record on appeal, the record on appeal shall consist of each item that is either among those items required by Rule 9(a) to be in the record on appeal or that is requested by any party to the appeal and agreed upon for inclusion by all other parties to the appeal. If a party requests that an item be included in the record on appeal but not all other parties to the appeal agree to its inclusion, then that item shall not be included in the printed record on appeal, but shall be filed with the record on appeal, along with any verbatim transcripts, narrations of proceedings, documentary exhibits, and other items that are filed pursuant to Rule 9(c) or 9((d); provided that any item not filed, served, submitted for consideration, admitted, or for which no offer of proof was tendered, shall not be included.

If any party to the appeal contends that materials proposed alternative for inclusion in the record on appeal or for filing therewith pursuant to Rule 9(c) or 9(d) were not filed, served, submitted for consideration, admitted, or made the appellant or any other appellee subject of an offer of proof, then that party, within 10 days after expiration of the time within which the appellee last served with the appellant's proposed record on appeal might have served amendments, objections, or a proposed alternative record on appeal, may in writing request the judge from whose judgment, order, or other determination appeal was taken to settle the record on appeal. A copy of the request, endorsed with a certificate showing service on the judge, shall be filed forthwith in the office of the clerk of the superior court, and served upon all other parties. Each party shall promptly provide to the judge a reference copy of the record items, amendments, or objections served by that party in the case. ~~If only one appellee or only one set of appellees proceeding jointly have so served, and no~~

~~other party makes timely request for judicial settlement, the record on appeal is thereupon settled in accordance with the appellee's objections, amendments or proposed alternative record on appeal. If more than one appellee proceeding separately have so served, failure of the appellant to make timely request for judicial settlement results in abandonment of the appeal as to those appellees, unless within the time allowed an appellee makes request in the same manner.~~

The functions of the judge in the settlement of the record on appeal are to settle narrations of proceedings under Rule 9(c)(1) and to determine whether the record accurately reflects material filed, served, submitted for consideration, admitted, or made the subject of an offer of proof, but not to decide whether material desired in the record by either party is relevant to the issues on appeal, non-duplicative, or otherwise suited for inclusion in the record on appeal.

The judge shall send written notice to counsel for all parties setting a place and a time for a hearing to settle the record on appeal. The hearing shall be held not later than 15 days after service of the request for hearing upon the judge. The judge shall settle the record on appeal by order entered not more than 20 days after service of the request for hearing upon the judge. If requested, the judge shall return the record items submitted for reference during the judicial settlement process with the order settling the record on appeal.

Provided, that nothing herein shall prevent settlement of the record on appeal by agreement of the parties at any time within the times herein limited for settling the record by judicial order.

Rule 11(d) is amended to read as follows:

(d) Multiple Appellants; Single Record on Appeal. When there are multiple appellants (2 or more), whether proceeding separately or jointly, as parties aligned in interest, or as cross-appellants, there shall nevertheless be but one record on appeal, and the appellants shall attempt to agree to the procedure for constituting a proposed record on appeal. The assignments of error of the several appellants shall be set out separately in the single record on appeal and ~~related~~attributed to the several appellants by any clear means of reference. In the event multiple appellants cannot agree to the procedure for constituting a proposed record on appeal, the judge from whose judgment, order, or other determination the appeals are taken shall, on motion of any appellant with notice to all other appellants, enter an order settling the procedure, including the allocation of costs.

These amendments to the North Carolina Rules of Appellate Procedure shall be effective on the 12th day of May, 2004.

Adopted by the Court in Conference this the 6th day of May, 2004. These amendments shall be promulgated by publication in the Advance Sheets of the Supreme Court and the Court of Appeals. These amendments shall also be published as quickly as practical on the North Carolina Judicial Branch of Government Internet Home Page (<http://www.nccourts.org>).

Edmunds, J.
For the Court

IN THE SUPREME COURT OF NORTH CAROLINA

Order Adopting Amendments to the North Carolina Rules of Appellate Procedure

Rule 18 of the North Carolina Rules of Appellate is hereby amended as described below:

Rule 18(c)(1) is amended to read as follows:

(1) an index of the contents of the record on appeal, which shall appear as the first page thereof;

Rule 18(d)(2) is amended to read as follows:

(2) *By Appellee's Approval of Appellant's Proposed Record on Appeal.* If the record on appeal is not settled by agreement under Rule 18(d)(1), the appellant shall, within 35 days after filing of the notice of appeal or after production of the transcript if one is ordered pursuant to Rule 18(b)(3), ~~file in the office of the agency head and~~ serve upon all other parties a proposed record on appeal constituted in accordance with the provisions of Rule 18(c). Within 30 days after service of the proposed record on appeal upon ~~him~~, an appellee, that appellee may file in the office of the agency head and serve upon all other parties a notice of approval of the proposed record on appeal, or objections, amendments, or a proposed alternative record on appeal. If all appellees within the times allowed them either file notices of approval or fail to file either notices of approval or objections, amendments, or proposed alternative records on appeal, appellant's proposed record on appeal thereupon constitutes the record on appeal.

Rule 18(d)(3) is amended to read as follows:

(3) ~~*By Conference or Agency Agreement, by Operation of Rule, or by Court Order; Failure to Request Settlement After Appellee's Objection or Amendment.*~~ If any appellee timely files amendments,

objections, or a proposed alternative record on appeal, the appellant record on appeal shall consist of each item that is either among those items required by Rule 9(a) to be in the record on appeal or that is requested by any party to the appeal and agreed upon for inclusion by all other appellee parties to the appeal, in the absence of contentions that the item was not filed, served, or offered into evidence. If a party requests that an item be included in the record on appeal but not all parties to the appeal agree to its inclusion, then that item shall not be included in the printed record on appeal but shall be filed with the record on appeal along with any verbatim transcripts, narrations of proceedings, documentary exhibits, and other items that are filed pursuant to Rule 9(c) or 9(d); provided that any item not filed, served, submitted for consideration, admitted, or for which no offer of proof was tendered, shall not be included.

If any party to the appeal contends that materials proposed for inclusion in the record or for filing therewith pursuant to Rule 9(c) or 9(d) were not filed, served, submitted for consideration, admitted, or offered into evidence, then that party, within 10 days after expiration of the time within which the appellee last served with the appellant's proposed record on appeal might have filed amendments, objections, or a proposed alternative record on appeal, may in writing request that the agency head ~~to~~ convene a conference to settle the record on appeal. A copy of that request, endorsed with a certificate showing service on the agency head, shall be served upon all other parties. Each party shall promptly provide to the agency head a reference copy of the record items, amendments, or objections served by that party in the case. ~~If only one appellee or only one set of appellees proceeding jointly have so filed and no other party makes timely request for agency conference or settlement by order, the record on appeal is thereupon settled in accordance with the one appellee's, or one set of appellees', objections, amendments, or proposed alternative record on appeal. If more than one appellee proceeding separately have so filed, failure of the appellant to make timely request for agency conference or for settlement by order results in abandonment of the appeal as to those appellees, unless within the time allowed an appellee makes request in the same manner.~~

The functions of the agency head in the settlement of the record on appeal are to settle narrations of proceedings under Rule 9(c)(1) and to determine whether the record accurately reflects material filed, served, submitted for consideration, admitted, or made the subject of an offer of proof, but not to decide whether material desired in the record by either party is relevant to the issues on appeal, non-duplicative, or otherwise suited for inclusion in the record on appeal.

Upon receipt of a request for settlement of the record on appeal, the agency head shall send written notice to counsel for all parties setting a place and time for a conference to settle the record on appeal. The conference shall be held not later than 15 days after service of the request upon the agency head. The agency head or a delegate appointed in writing by the agency head shall settle the record on appeal by order entered not more than 20 days after service of the request for settlement upon the agency. If requested, the settling official shall return the record items submitted for reference during the settlement process with the order settling the record on appeal.

When the agency head is a party to the appeal, the agency head shall forthwith request the Chief Judge of the Court of Appeals or the Chief Justice of the Supreme Court, as appropriate, to appoint a referee to settle the record on appeal. The referee so appointed shall proceed after conference with all parties to settle the record on appeal in accordance with the terms of these Rules and the appointing order.

Nothing herein shall prevent settlement of the record on appeal by agreement of the parties at any time within the times herein limited for settling the record by agency order.

These amendments to the North Carolina Rules of Appellate Procedure shall be effective on the 12th day of May, 2004.

Adopted by the Court in Conference this the 6th day of May, 2004. These amendments shall be promulgated by publication in the Advance Sheets of the Supreme Court and the Court of Appeals. These amendments shall also be published as quickly as practical on the North Carolina Judicial Branch of Government Internet Home Page (<http://www.nccourts.org>).

Edmunds, J.
For the Court

IN THE SUPREME COURT OF NORTH CAROLINA

**Order Adopting Amendments to the North Carolina
Rules of Appellate Procedure**

Rule 28 of the North Carolina Rules of Appellate is hereby amended as described below:

Rule 28(d) is amended to read as follows:

(d) Appendixes to Briefs. Whenever the transcript of proceedings is filed pursuant to Rule 9(c)(2), the parties must file verbatim portions of the transcript as appendixes to their briefs, if required by this Rule 29(d). Verbatim portions of the transcript filed pursuant to this rule in an appeal of a termination of parental rights or juvenile matter must be modified to comply with the confidentiality provisions of Rule 3(b).

Rule 28(h) is amended to read as follows:

(h) Reply Briefs. ~~Unless the court,~~ No reply brief will be received or considered by the Court, except in the following circumstances:

(1) The Court, upon its own initiative, orders may order a reply brief to be filed and served, none will be received or considered by the court, except as herein provided.

~~(2)~~ If the appellee has presented in its brief new or additional questions as permitted by Rule 28(c), an appellant may, within 14 days after service of such brief, file and serve a reply brief limited to those new or additional questions.

~~(3)~~ If the parties are notified under Rule 30(f) that the case will be submitted without oral argument on the record and briefs, an appellant may, within 14 days after service of such notification, file and serve a reply brief limited to a concise rebuttal to arguments set out in the brief of the appellee which were not addressed in the appellant's principal brief or in a reply brief filed pursuant to Rule 28(h)~~(2)~~.

(4) If the parties are notified that the case has been scheduled for oral argument, an appellant may file with the Court, within 14 days after the notice of argument is mailed, a motion for leave to file a reply brief. The motion shall state concisely the reasons why a reply brief is believed to be desirable or necessary and the issues to be addressed in the reply brief. The proposed reply brief may be submitted with the motion for leave and shall be limited to a concise rebuttal to arguments set out in the brief of the appellee which were

not addressed in the appellant's principal brief. Unless otherwise ordered by the Court, the motion for leave will be determined solely upon the motion and without responses thereto or oral argument. The clerk of the appellate court will notify the parties of the Court's action upon the motion, and, if the motion is granted, the appellant shall file and serve the reply brief within ten days of such notice.

(5) Motions for extensions of time in relation to reply briefs are disfavored.

Rule 28(j) is amended to read as follows:

(j) Page Limitations Applicable to Briefs Filed in the Court of Appeals. Each brief filed in the North Carolina Court of Appeals, whether filed by an appellant, appellee, or amicus curiae, formatted according to Rule 26 and the Appendixes to these Rules, shall have either a page limit or a word-count limit, depending on the type style used in the brief:

(1) *Type.*

(A) *Type style.* Documents must be set in a plain roman style, although italics or boldface may be used for emphasis. Case names must be italicized or underlined. Documents may be set in either proportionally spaced or nonproportionally spaced (mono-spaced) type.

(B) *Type size.*

1. Nonproportionally spaced type (e.g., Courier or Courier New) may not contain more than 10 characters per inch (12-point).

2. Proportionally spaced type (e.g., Times New Roman), must be 14-point or larger.

3. Documents set in Courier New 12-point type, or Times New Roman 14-point type will be deemed in compliance with these type-size requirements.

(2) *Document length.*

(A) *Length limitations on briefs filed in the Court of Appeals.* Every brief filed in the Court of Appeals, whether filed by an appellant, appellee, or amicus curiae, shall be subject to either a page limit or a word-count limit, depending on the type style used in the brief.

1. *Page limits for briefs using nonproportional type.* The page limit for a principal brief that uses nonproportional (e.g.,

Courier) type is 35 pages. The page limit for a reply brief permitted by Rule 28(h)(1), (2), or (3) is 15 pages, and the page limit for a reply brief ~~if permitted by Appellate Rule 28(h)(4)~~ is ~~15~~12 pages. A page shall contain no more than 27 lines of double-spaced text of no more than 65 characters per line. Covers, indexes, tables of authorities, certificates of service, and appendixes do not count toward these page limits. The Court may strike or require resubmission of briefs with excessive single-spaced passages or footnotes that are used to circumvent these page limits.

2. *Word-count limits for briefs in proportional type.* A principal brief that uses proportional type may contain no more than 8,750 words, ~~and a~~ A reply brief if permitted by Appellate Rule 28(h)(1), (2), or (3) may contain no more than 3,750 words, and a reply brief permitted by Rule 28(h)(4) may contain no more than 3,000 words. Covers, indexes, tables of authorities, certificates of service, certificates of compliance with this rule, and appendixes do not count against these word-count limits. Footnotes and citations in the text, however, do count against these word-count limits. Parties who file briefs in proportional type shall submit along with the brief, immediately before the certificate of service, a certification, signed by counsel of record, or, in the case of parties filing briefs pro se, by the party, that the brief contains no more than the number of words allowed by this rule. For purposes of this certification, counsel and parties may rely on word counts reported by word-processing software, as long as footnotes and citations are included in those word counts.

Rule 28 is amended to add new subsection (k):

(k) Termination of Parental Rights and Juvenile Matters.
No brief shall include the name of a juvenile or other identifying information, in compliance with Rule 3(b).

These amendments to the North Carolina Rules of Appellate Procedure shall be effective on the 12th day of May, 2004.

Adopted by the Court in Conference this the 6th day of May, 2004. These amendments shall be promulgated by publication in the Advance Sheets of the Supreme Court and the Court of Appeals. These amendments shall also be published as quickly as practical on the North Carolina Judicial Branch of Government Internet Home Page (<http://www.nccourts.org>).

Edmunds, J.
 For the Court