

NORTH CAROLINA REPORTS

VOLUME 360

SUPREME COURT OF NORTH CAROLINA



7 OCTOBER 2005

17 NOVEMBER 2006

RALEIGH
2007

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

I. Rule 3 of the North Carolina Rules of Appellate Procedure is amended as described below:

Rule 3(b) is amended to read:

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

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

(2) ~~Juvenile matters, G.S. 7B-1001 or 7B-2602. Appeals pursuant to G.S. 7B-1001 shall be subject to the provisions of N.C. R. App. P. 3A.~~

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.

II. Rule 3A is added to the North Carolina Rules of Appellate Procedure as described below:

Rule 3A is added to read:

**Rule 3A. APPEAL IN QUALIFYING JUVENILE CASES—
HOW AND WHEN TAKEN, SPECIAL RULES**

(a) Filing the Notice of Appeal. Any party entitled by law to appeal from a trial court judgment or order rendered in a case involving termination of parental rights and issues of juvenile dependency or juvenile abuse and/or neglect, appealable pursuant to G.S. 7B-1001, may take appeal by filing notice of appeal with the clerk of superior court and serving copies thereof upon all other parties in the time and manner set out in Chapter 7B of

the General Statutes of North Carolina. Trial counsel or an appellant not represented by counsel shall be responsible for filing and serving the notice of appeal in the time and manner required. If the appellant is represented by counsel, both the trial counsel and appellant must sign the notice of appeal, and the appellant shall cooperate with counsel throughout the appeal. All such appeals shall comply with the special provisions set out in subsection (b) of this rule and, except as hereinafter provided by this rule, all other existing Rules of Appellate Procedure shall remain applicable.

(b) Special Provisions. For appeals filed pursuant to this rule 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 only by the use of initials 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 subdivision (b)(1) below or Rule 9(c).

In addition, appeals filed pursuant to these provisions shall adhere strictly to the expedited procedures set forth below:

(1) **Transcripts.** Within one business day after the notice of appeal has been filed, the clerk of superior court shall notify the court reporting coordinator of the Administrative Office of the Courts of the date the notice of appeal was filed and the names of the parties to the appeal and their respective addresses or addresses of their counsel. Within two business days of receipt of such notification, the court reporting coordinator shall assign a transcriptionist to the case. Within thirty-five days from the date of the assignment, the transcriptionist shall prepare and deliver a transcript of the designated proceedings to the office of the Clerk of the Court of Appeals and provide copies to the respective parties to the appeal at the addresses provided. Motions for extensions of time to prepare and deliver transcripts are disfavored and will not be allowed by the Court of Appeals absent extraordinary circumstances.

(2) **Record on Appeal.** Within ~~twenty~~ ten days after ~~the notice of appeal has been filed~~ receipt of the transcript, the appellant shall prepare and serve upon all other parties a proposed record on appeal constituted in accordance with Rule

9. ~~except there shall be no requirement to set out references to the transcript under the assignments of error. Trial counsel for the appealing party, together with~~ shall have a duty to assist appellate counsel, if separate counsel is appointed or retained for the appeal, ~~shall have joint responsibility for~~ in preparing and serving a proposed record on appeal. Within ten days after service of the proposed record on appeal upon an appellee, the appellee may serve upon all other parties: (1) a notice of approval of the proposed record; (2) specific objections or amendments to the proposed record on appeal, or (3) a proposed alternative record on appeal.

If the parties agree to a settled record on appeal within ~~thirty~~ twenty days after ~~notice of appeal has been filed, receipt of the transcript,~~ the appellant shall file three legible copies of the settled record on appeal in the office of the Clerk of the Court of Appeals within five business days from the date the record was settled. If all appellees fail within the times allowed them either to serve notices of approval or to serve objections, amendments, or proposed alternative records on appeal, the appellant's proposed record on appeal shall constitute the settled record on appeal, and the appellant shall file three legible copies thereof in the office of the Clerk of the Court of Appeals within five business days from the last date upon which any appellee could have served such objections, amendments, or proposed alternative record on appeal. If an appellee timely serves amendments, objections, or a proposed alternative record on appeal and the parties cannot agree to the settled record within thirty days after notice of appeal has been filed, each party shall file three legible copies of the following documents in the office of the Clerk of the Court of Appeals within five business days after the last day upon which the record can be settled by agreement: (1) the appellant shall file his or her proposed record on appeal, and (2) an appellee shall file his or her objections, amendments, or proposed alternative record on appeal.

No counsel who has appeared as trial counsel for any party in the proceeding shall be permitted to withdraw, nor shall such counsel be otherwise relieved of any responsibilities imposed pursuant to this rule, until the record on appeal has been filed in the office of the Clerk of the Court of Appeals as provided herein.

(3) **Briefs.** Within thirty days after the record on appeal has been filed with the Court of Appeals, the appellant shall file his or her brief in the office of the Clerk of the Court of Appeals and serve copies upon all other parties of record. Within thirty days after the appellant's brief has been served on an appellee, the

appellee shall file his or her brief in the office of the Clerk of the Court of Appeals and serve copies upon all other parties of record. Motions for extensions of time to file briefs will not be allowed absent extraordinary circumstances.

(c) Calendaring priority. Appeals filed pursuant to this rule will be given priority over other cases being considered by the Court of Appeals and will be calendared in accordance with a schedule promulgated by the Chief Judge. Unless otherwise ordered by the Court of Appeals, cases subject to the expedited procedures set forth in this rule shall be disposed of on the record and briefs and without oral argument.

These amendments to the North Carolina Rules of Appellate Procedure shall be effective on the 1st day of ~~March~~ May, 2006, and shall apply to cases appealed on or after that date.

Adopted by the Court in Conference this the ~~3rd 26th~~ 28th day of ~~November, 2005~~ January ~~February, 2006~~. These amendments shall be promulgated by publication in the Advance Sheets of the Supreme Court. 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>).

~~Lake~~ Parker, C.J.
For the Court

**AMENDMENTS TO THE RULES AND REGULATIONS
OF THE NORTH CAROLINA STATE BAR CONCERNING
THE RULES OF PROFESSIONAL CONDUCT**

The following amendments to the Rules of Professional Conduct were duly adopted by the Council of the North Carolina State Bar at its quarterly meeting on October 21, 2005.

BE IT RESOLVED by the Council of the North Carolina State Bar that the Rules of Professional Conduct, as particularly set forth in 27 N.C.A.C. 2, Rule 1.13, be amended as follows (additions are underlined, deletions are interlined):

27 N.C.A.C. 2, Revised Rules of Professional Conduct

Rule 1.13, Organization As Client

(a) A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.

(b) If a lawyer for an organization knows that an officer, employee, or other person associated with the organization is en-