

## **Alabama Rules of Appellate Procedure**

### **Rule 42.**

#### **Voluntary dismissal.**

If the parties to an appeal or other proceeding shall sign and file with the clerk of the appellate court an agreement that the proceeding be dismissed, specifying the terms as to payment of costs and fees, if any, due in connection with the appeal, the court may order a case dismissed. An appeal or other proceeding may be dismissed on motion of the appellant or moving party upon such terms as fixed by the court. A copy of the dismissal of the appeal shall be filed by the clerk of the appellate court with the clerk of the court below.

#### **Committee Comments**

Since the appellant is the party who will be moving for dismissal on a voluntary basis, it is provided that the appellant or his counsel shall serve notice thereof on the clerk of the appellate court who will have received a copy of the notice of appeal and the record once it is lodged there. However, since the dismissal will be an act of the court, it is appropriate for the clerk of the appellate court to send a copy of the actual notice of dismissal to the clerk of the trial court.