

IN THE SUPREME COURT OF ALABAMA
May 7, 2015

ORDER

IT IS ORDERED that Rule 3(d)(1), Rule 11(c), Rule 39(d)(4), and Rule 57(j)(1), Alabama Rules of Appellate Procedure, be amended to read in accordance with Appendices A, C, E, and G, respectively, to this order;

IT IS FURTHER ORDERED that the Committee Comments to Amendment to Rule 3(d)(1) Effective August 1, 2015, the Committee Comments to Amendment to Rule 11(c) Effective August 1, 2015, and the Committee Comments to Amendment to Rule 39(d)(4) Effective August 1, 2015, are adopted to read in accordance with Appendices B, D, and F, respectively, to this order;

IT IS FURTHER ORDERED that these amendments and the adoption of the Committee Comments are effective August 1, 2015;

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow Rule 3, Rule 11, Rule 39, and Rule 57:

"Note from the reporter of decisions: The order amending Rule 3(d)(1), Rule 11(c), Rule 39(d)(4), and Rule 57(j)(1), effective August 1, 2015, and adopting the Committee Comments to the amendments to Rule 3(d)(1), Rule 11(c), and Rule 39(d)(4) is published in that volume of Alabama Reporter that contains Alabama cases from ___ So. 3d."

Moore, C.J., and Stuart, Bolin, Parker, Murdock, Shaw, Main, Wise, and Bryan, JJ., concur.

I, Julia Jordan Weller, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 7th day of May, 2015

Julia Jordan Weller
Clerk, Supreme Court of Alabama

APPENDIX A

Rule 3(d)(1), Alabama Rules of Appellate Procedure

(1) In civil cases, the appellant shall serve a copy of the notice of appeal on each adverse party, but the copy need not contain the clerk's filing notations.

In civil cases, the clerk of the trial court shall, on the date the notice of appeal is filed, serve a true copy of the notice of appeal, or any amendment thereto, as required in (a)(1) above, personally or by mailing a copy thereof to each of the following: the clerk of the appropriate appellate court; the court reporter who reported the evidence; counsel of record for each party, or, if a party is not represented by counsel, to the party at the party's last known address. Service shall be sufficient notwithstanding the death of the party or the party's counsel. In civil cases, the copy of the notice of appeal to the clerk of the appellate court will be accompanied by payment of the docket fee as provided in Rule 35(A)(1).

APPENDIX B

Committee Comments to Amendment to Rule 3(d)(1)
Effective August 1, 2015

Rule 3(d)(1) was amended effective February 1, 1994, to add what was the last sentence of paragraph (d)(1), which read: "In civil cases, the appellant shall serve a copy of the notice of appeal on each adverse party, but the copy need not contain the clerk's filing notations." The purpose of this notice provision is to prevent the 14-day cross-appeal period from running before the adverse party or parties learn of the filing of a notice of appeal. This amendment moves that sentence to the beginning of the subdivision and in a separate paragraph for greater emphasis.

APPENDIX C

Rule 11(c), Alabama Rules of Appellate Procedure

(c) Extension of Time for Completion of Record; Reduction in Time. The trial court for cause shown may extend the time for completing and filing the clerk's record and the reporter's transcript in a civil case, and the reporter's transcript of proceedings and the record on appeal in a criminal case; provided that a motion for extension shall have been made within the time originally prescribed or within the period of an extension previously granted. The trial court may grant a 7-day (1-week) extension of time to complete the reporter's transcript of proceedings in either a civil or criminal case. For good cause shown, the trial court may grant up to three (3) additional 7-day (1-week) extensions, but no more than a total of four (4) such extensions shall be granted by the trial court and in no event shall an extension be granted to a date later than 84 days (12 weeks) from the filing of the notice of appeal. The trial court may grant a 7-day (1-week) extension of time to complete the clerk's record in a civil case. For good cause shown, the trial court may grant one additional 7-day (1-week) extension, but no more than a total of two (2) such extensions shall be granted by the trial court and in no event shall an extension be granted to a date later than 42 days (6 weeks) from the filing of the notice of appeal.

If the trial court is without authority to grant a further extension or has denied a request therefor, the appellate court may, on motion for good cause shown, grant a 7-day (1-week) extension for filing the clerk's record, the reporter's transcript, or the record on appeal in either a civil or criminal case; provided that a motion for extension shall have been received in the clerk's office of the appellate court within the time originally prescribed or within an extension previously granted. For good cause shown, the appellate court may grant additional 7-day (1-week) extensions; provided that a motion for extension shall have been received in the clerk's office of the appellate court within the time originally prescribed or within an extension previously granted.

The clerk of the trial court shall notify the parties to the appeal of any extension of time for completion of the record.

APPENDIX D

Committee Comments to Amendment to Rule 11(c)
Effective August 1, 2015

The amendment to Rule 11(c) directs the clerk of the trial court to provide the parties to the appeal with notice of any extension of time for completion of the record.

APPENDIX E

Rule 39(d)(4), Alabama Rules of Appellate Procedure

(4) A copy of the opinion or the unpublished memorandum of the court of appeals and the court of appeals' order or notice on the application for rehearing, if an application for rehearing was filed, attached to the petition as an exhibit; and

APPENDIX F

Committee Comments to Amendment to Rule 39(d)(4)
Effective August 1, 2015

Although Rule 39(d)(2) provides that the petition is to include the date any application for rehearing was filed and the date of any order on rehearing, the amendment to Rule 39(d)(4) requires that a copy of the court of appeals' order or notice on the application for rehearing be attached to the petition as an exhibit. A copy of the court of appeals' order or notice is needed because the Supreme Court does not have the record before it for its preliminary review of the petition for the writ of certiorari.

APPENDIX G

Rule 57(j)(1), Alabama Rules of Appellate Procedure

(1) Clerk's Record. The clerk of the trial court shall assemble electronic copies of the original documents to be included in the clerk's record as prescribed in Rule 10(b)(1) and Rule 10(c)(1), Ala. R. App. P. If the documents to be included in the clerk's record are not currently available to the clerk in an electronic format, the clerk shall scan the paper copies of such documents in the manner prescribed in this subsection for inclusion in the clerk's record. In appeals in criminal cases, the clerk shall prepare one paper copy of the clerk's record in addition to the electronic copy. The pages of the clerk's record shall be numbered beginning with the first physical page of the record (typically the cover sheet) and shall continue throughout the clerk's record, including any blank pages, dividers, and cover pages. The electronic file stamp or any file stamp shall not be covered or rendered illegible.