

IN THE SUPREME COURT OF ALABAMA
September 20, 2016

ORDER

IT IS ORDERED that Rule 2(c) and Rule 3(c), Alabama Rules of Appellate Procedure, be amended to read in accordance with Appendices A and B, respectively, to this order;

IT IS FURTHER ORDERED that the Committee Comments to Amendment to Rule 3(c) Effective January 1, 2017, is adopted to read in accordance with Appendix C to this order;

IT IS FURTHER ORDERED that Rule 28A, Alabama Rules of Appellate Procedure, the Committee Comments to Rule 28A Effective January 1, 2017, and Rule 28B, Alabama Rules of Appellate Procedure, are adopted to read in accordance with Appendices D, E, and F, respectively, to this order;

IT IS FURTHER ORDERED that the Committee Comments to Rule 25 Effective January 1, 2017, are adopted to read in accordance with Appendix G to this order;

IT IS FURTHER ORDERED that the amendments of Rule 2(c) and Rule 3(c) and the adoption Rule 28A and Rule 28B and the committee comments are effective January 1, 2017;

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow Rule 2, Rule 3, Rule 25, Rule 28A, and Rule 28B:

"Note from the reporter of decisions: The order amending Rule 2(c) and Rule 3(c) and adopting Rule 28A and Rule 28B, Ala. R. App. P., and the committee comments, including the comments to Rule 25, effective January 1, 2017, is published in that volume of Alabama Reporter that contains Alabama cases from ___ So. 3d."

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 20th day of September, 20 16

Julia Jordan Weller

Clerk, Supreme Court of Alabama

APPENDIX A

Rule 2(c), Alabama Rules of Appellate Procedure

(c) Striking of Petition for Certiorari. A petition for certiorari to the courts of appeals shall be stricken if the petition for certiorari was not timely filed to invoke the jurisdiction of the supreme court.

APPENDIX B

Rule 3(c), Alabama Rules of Appellate Procedure

(c) Form and Content of Notice of Appeal. The notice of appeal shall specify all parties taking the appeal and each adverse party against whom the appeal is taken; shall designate the judgment, order, or part thereof appealed from; and shall name the court to which the appeal is taken. Such designation of judgment or order shall not, however, limit the scope of appellate review. An appellant may not use the terms "et al." or "etc." to designate multiple appellants or appellees in lieu of naming each appellant or appellee.

APPENDIX C

Committee Comments to Amendment to Rule 3(c)
Effective January 1, 2017

The amendment requires that the notice of appeal specify by name all appellants and all appellees who are parties to the appeal and is designed to eliminate any confusion as to the actual participants to the appeal and to ensure that a party's ability to file a cross-appeal is not impaired due to uncertainty or a lack of notice.

APPENDIX D

RULE 28A. SUPPLEMENTAL BRIEFS ON RETURN TO REMAND

(a) Supplemental Briefs. Unless the court provides otherwise, when an appellate court remands a matter with instructions for the trial court to make findings and to make a return to the court, upon return to remand the parties may file supplemental briefs. Any supplemental briefs shall be limited to the proceedings on remand and shall address only the issues raised in those proceedings. Unless the court otherwise provides, all supplemental briefs shall conform to the form requirements of Rules 28(d) and 32. The covers of the briefs shall be appropriately titled to reflect the supplemental status of the case. The covers of the supplemental briefs shall remain the color of the party's initial brief. The parties are strongly encouraged to incorporate by reference all appropriate portions of any previously filed briefs.

(b) Briefing Schedule. Unless a different schedule is set by the court, a party who has indicated that he or she wishes to file a supplemental brief shall serve and file the brief within 28 days (4 weeks) after the date shown on the copy of the certificate of completion of the record on return to remand. Any opposing party shall serve and file a responsive supplemental brief within 21 days (3 weeks) after the filing of the original party's supplemental brief. A supplemental reply brief may be filed within 14 days (2 weeks) after the filing of the responsive supplemental brief. One extension may be granted up to 7 days (1 week) upon a motion being filed by a party seeking the extension. Said motion must be filed before the time allotted for the filing of the supplemental brief has expired.

(c) Length of Briefs. In a civil or noncapital case, a supplemental brief and the responsive supplemental brief may not exceed 50 pages and a supplemental reply brief may not exceed 25 pages. In a capital case, a supplemental brief and the responsive supplemental brief may not exceed 60 pages and a supplemental reply brief may not exceed 30 pages. In all other respects, the provisions of Rule 28(j)(1) shall apply.

(d) Supplemental Briefing Not Required. Unless otherwise directed by the court, the parties are not required to file supplemental briefs on return to remand if they believe that

all issues presented by the remand proceedings are adequately covered by their original briefs.

APPENDIX E

Committee Comments to Rule 28A Effective January 1, 2017

Rule 28A provides a mechanism for the parties to file supplemental briefs when the case has been remanded to the trial court with instructions for the trial court to make findings and to make a return to the appellate court. In an appropriate case, the appellate court may direct that the parties not be permitted to file supplemental briefs.

Supplemental briefing is not required in all cases when there has been a remand to the trial court. Unless otherwise directed by the court, the parties need not file supplemental briefs on return to remand if the issues presented by the remand proceedings are adequately covered by the original briefs. It is recommended that, if no supplemental brief (or responsive brief) is to be filed, the party who would be filing the brief notify the appellate court in writing of that fact as soon as possible.

APPENDIX F

RULE 28B. NOTICE OF NEW AUTHORITY

If pertinent and significant authority comes to a party's attention after the party's brief has been filed--or after oral argument but before a decision has been rendered by the appellate court--a party may promptly advise the clerk of the appellate court in which the proceeding is pending by letter, with a copy to all other parties, setting forth the citation or citations of the new authority. The letter must state the reasons for the supplemental citations, referring either to the page of the brief the new authority supports or to a point argued orally. The body of the letter must not exceed two pages and must otherwise comply with Rule 32(a)(6) and (7), Ala. R. App. P. Any response must be made promptly and shall be similarly limited.

APPENDIX G

Committee Comments to Rule 25
Effective January 1, 2017

Rule 25(a)(3)(A)(i) provides that the filing of any document with the appellate courts may be accomplished if the document is "mailed to the clerk using certified, registered, or express mail of the United States Postal Service" and that in such cases the document shall be deemed filed on the day of mailing. "Express mail" should be understood to mean the most expeditious method used by the Postal Service, whatever term the Postal Service uses for such mail.