

Alabama Rules of Appellate Procedure

Rule 7.

Security for costs on appeal in civil cases.

Unless an appellant is exempted by law or rule, or has filed a supersedeas bond or other undertaking which includes security for the payment of costs on appeal, in civil cases security for costs on appeal shall be filed with the notice of appeal by the appellant in the trial court. If appellant desires to post cash in lieu of security for costs on appeal, application shall be made to the trial court and the amount of cash to be posted shall be set by the trial court. Security for costs on appeal shall be approved by the clerk of the trial court. Any cash security shall be conditioned and deposited to secure the payment of costs if the appeal is finally dismissed or the judgment affirmed, or of such costs as the appellate court may direct if judgment is modified. If cash in lieu of security for costs on appeal is given, no approval thereof is necessary. After security for costs on appeal is filed, an appellee may raise for determination by the trial court objections to the form of the bond or to the sufficiency of the surety. The provisions of Rule 8(b) apply to a surety upon a bond given pursuant to this rule.

Committee Comments

Rule 7 is intended to provide a simplified method for handling security for costs on appeal. Cash is specifically recognized in lieu of a bond, thereby superseding the holding of *Finley v. Pless*, 287 Ala. 596, 253 So.2d 521.

It is intended that the security shall be deposited with the filing of the notice of appeal, but the failure to file such security contemporaneously is not fatal to the jurisdiction of the appellate court. The failure to file such security would be the subject of appropriate action upon notice on motion or notice by the court itself. See Rule 12(a) for prepayment of appellate court costs (Docket Fee).

Rule 24 makes proceedings in forma pauperis applicable to civil appeals and specifically states that no security shall be required in such appeals.