RULE 1. THE COURT

Rule 1-1. Promulgation and Effective Date of Rules; Amendments

1-1.1. Promulgation and Effective Date

The Rules of Court shall be promulgated by posting a copy to the Louisiana Courts of Appeal websites and published in the manner which the court deems most effective and practicable. They shall become effective on July 1, 1982.
Amended effective April 15, 2010.

1.1-2. Amendments

Amendments of these Rules shall be promulgated and published in the same manner, and shall become effective as of the date fixed therein.

Rule 1-2. Title and Scope of Rules

These Rules shall govern practice and procedure in all appeals and in all writ applications to the Louisiana Courts of Appeal, and shall be known as the "Uniform Rules of Louisiana Courts of Appeal."

Rule 1-3. Scope of Review

The scope of review in all cases within the appellate and supervisory jurisdiction of the Courts of Appeal shall be as provided by LSA-Const. Art. 5, § 10(B), and as otherwise provided by law. The Courts of Appeal will review only issues which were submitted to the trial court and which are contained in specifications or assignments of error, unless the interest of justice clearly requires otherwise.

Rule 1-4. Sessions of Court

Unless the court orders otherwise, each Court of Appeal will hold sessions at its legal domicile.

Rule 1-5. Panels

The court ordinarily will sit in rotating panels, each composed of 3 Judges, as may be directed by the Chief Judge. In civil cases, when a judgment or ruling of a trial court is to be modified or reversed and one judge dissents, the case shall be reargued or resubmitted before a panel of at least 5 Judges if required by the constitution or by the local rules of the particular appellate circuit. When an appeal is taken from an election case objecting to candidacy or contesting an election, the case shall be heard by the court as directed by law. When authorized by law, or when the court deems it necessary to promote justice or expedite the business of court, the court may sit in panels of more than 3 judges or en banc.
Amended effective October 7, 1991; Amended October 6, 2003.

RULE 2. THE PRACTICE

Rule 2-1. Preparation of Record

The record for a Court of Appeal shall be prepared by the clerk of the trial court from which the appeal is taken, in accordance with the requirements set forth in this Rule. If a Court of Appeal directs that a record be prepared for a nonappealable matter to be considered under its supervisory jurisdiction, the record in such matters also shall be prepared in accordance with the requirements set forth in this Rule.
Amended October 2, 2006, effective November 1, 2006.

Rule 2-1.1. Number of Copies

The clerk of the trial court shall prepare a certified copy of the original record and one duplicate record for the Court of Appeal.

2-1.2. Production of Record

The certified copy and the duplicate, which may be typewritten or produced by any acceptable copying or duplicating process, shall be prepared on white, unglazed, opaque paper of legal size, so as to produce a clear black image on white paper, with a margin at the top of each page of 2", and side margins of 1". The impression must be on one side of the paper only, and must be double-spaced, except for matter customarily single-spaced and indented. Illegible copies and photocopies produced on wet copiers are not acceptable. All copies must be legible. The duplicate record shall include all matters contained in the certified copy of the original record, except matters which are not reproducible.

2-1.3. Cover Inscription

The records shall be bound in strong, flexible, looseleaf covers, 9" X 14 1/2", fastened at the top, so as to open flat at the top.

On the outside of the front cover of each volume, there shall be inscribed with proper separation of lines and spaces, and in the following order:

(1) the title of the court to which the record is directed;
(2) the docket number of the case in the Court of Appeal (to be given and entered by the clerks of the Courts of Appeal);
(3) the number of the volume of the record;
(4) the title of the case (the same title given in the trial court);
(5) the status of the parties;
(6) the name of the court and of the parish from which the case came, the number of the case in the court below, the division of the court, and the name of the judge who rendered the ruling or judgment to be reviewed;

(7) the names of counsel, with addresses and phone numbers, and the names of the parties represented; and
(8) the date of the filing of the record (to be entered by the clerks of the Courts of Appeal).

2-1.4. Copy of Front Cover and Indexes

The first volume of the record shall contain:

(1) a copy of its front cover required to be prepared in accordance with Rule 2-1.3;
(2) a chronological index of the contents, which shall specify the volume and page on which the minutes of the trial court, each paper or filing, and the note of evidence appear by item, date, and page of all filings (papers) in the record;
(3) an alphabetical index of the contents, which shall specify the volume and page on which the minutes of the trial court, each paper or filing, and the note of evidence appear by item and page of all filing (papers) in the record; and
(4) a chronological index of the documents and exhibits filed in evidence (showing on whose behalf filed).

Amended March 29, 2012, effective July 1, 2012.

2-1.5. Minute Entries of Trial Court

The record shall contain an extract of the pertinent minute entries of the trial court, and shall show the date of each entry, the action taken by the trial court, and the trial court judge presiding. In criminal cases, the extracts from the minute entries shall include, in chronological order, these items:

(1) opening of the court;
(2) impaneling of the grand jury by which the indictment was found (if prosecution by indictment);
(3) list of challenges for cause;
(4) list of peremptory challenges;
(5) list of petit jurors selected;
(6) list of evidence;
(7) list of witnesses;
(8) time when jury retired to deliberate, and time returned to render verdict;
(9) jury's verdict;
(10) trial court's judgment, ruling, and sentence;
(11) motion and order for appeal;
(12) the names of the defendant(s) and all attorney(s) when present.

Amended October 3, 1994, effective January 1, 1995; amended March 22, 2001, effective January 1, 2002.

2-1.6. Order of Pleadings

All motions and pleadings, together with documents and exhibits attached, and orders of court pertaining thereto, shall be placed in the record in the order in which they are made or filed, except that answers to interrogatories (or similar inquiries) shall immediately follow the interrogatories.

The record in criminal cases shall also contain the indictment (information) and pleas in the order made, returned or filed.

2-1.7. Order of Documents and Other Evidence

The record shall include exact copies of all documentary evidence and other evidence (including depositions filed in evidence) in the order in which such evidence was filed. If it is necessary that the original of any evidence be filed, such original must be filed separately and not attached to the record; however, there must be proper reference in the record showing such filing. No record of another case (or prior record in the same titled and numbered case) shall be included in the record, unless such other record has been introduced in evidence (at trial) in the case on appeal or on writs, in which event such other record shall accompany the record as an exhibit.

2-1.8. Order of Other Items

Other items in the record shall be arranged in the following order:

(1) written reasons for judgment, transcribed oral reasons for judgment, or order (if any);
(2) judgment or order (interlocutory and final); and, in criminal cases, all orders, including the verdict, judgment and sentence;
(3) petition (motion) and order for appeal, and bond (if any);
(4) assignments of error in criminal cases in numerical order, and the trial judge's per curiams (if any), each of which should follow the respective assignment of error. (If the evidence necessary to form a basis for an assignment of error has been transcribed elsewhere in the record, such as in a full transcript of the proceedings, it may be incorporated by reference to the appropriate volume and page of the record, so as to avoid unnecessary duplication in the record).

Amended October 3, 1994, effective January 1, 1995.

2-1.9. Transcript of Testimony

The verbatim transcript of oral testimony of the witnesses in the order in which it is taken shall be included in the record, preceded by an index setting forth the names of witnesses in the order called by the respective parties and the volume and pages of their examination on direct, on cross-examination, on re-direct, on re-cross and in rebuttal. This index shall also list and identify the exhibits, and offers of proof, and show by whom presented and the volume and page where offered. The index shall also give the volume and page of any oral reasons for judgment. The transcript of testimony shall indicate the

party in whose behalf each witness was called (whether on direct, on cross-examination, or in rebuttal), and by whom examined or cross-examined.

In criminal cases, the record must also contain all or any portion of the following designated by the defendant, the state, or the trial judge: preliminary hearing; voir dire examination of prospective jurors; statements, rulings, orders, and jury instructions by the trial court; objections, questions, statements and arguments of counsel. If the voir dire examination of prospective jurors is requested, it shall be accompanied with an index setting forth the names of the prospective jurors in the order called and the volume and page numbers of their examination. This index shall also list whether the prospective juror was challenged, whether the challenge was for cause or peremptory, who raised the challenge and whether the juror was released or accepted.

All transcripts filed with a Court of Appeal must comply with the Transcript Format Rules promulgated by the Louisiana Supreme Court.

Amended October 3, 1994, effective January 1, 1995; amended and effective October 4, 1999.

2-1.10. Numbering of Pages

The pages in the record shall be consecutively numbered. If the record contains more than a total of 250 pages, it shall be bound in separate volumes, each containing not more than 250 pages. To the extent practicable, the extract of minute entries, motions and pleadings, documents, written reasons for judgment, judgments, and appeal pleadings and orders (also bonds, if any), shall be included in the first volume of the record, with the transcript of testimony and other evidence in subsequent volumes. The pages of the duplicate record shall be numbered to correspond with those of the certified copy of the original record.

2-1.11. Items to be Omitted

Subpoenas, notices, and returns may be omitted from the record, unless they are at issue. Such items may be supplied upon timely application to this court by any party, upon showing their materiality.

2-1.12. Bulky Exhibits

Bulky or cumbersome documents, exhibits, and other physical or corporeal evidence should not be filed with the record, unless otherwise ordered by the court. They may be included in specially marked envelopes, or other containers, with a list and identification of the enclosed items attached thereto, with proper reference noted on the record. Offers of proof (or proffers) should be included in separate specially marked envelopes, properly identified. The duplicate record need not reproduce such items, but reference thereto should be made.

2-1.13. Separate Records

Separate records shall be prepared of each case even though consolidated with another case for trial. Each of such records shall be enclosed in a separate cover, with proper references indicating the consolidation thereof. The transcript of testimony in the consolidated cases may be included in only one of the records. Documentary evidence applicable to only one of the consolidated cases shall be enclosed in the appropriate record.

2-1.14. Use of Another Record

Any record lodged in this court may, with leave of court, be used, without necessity of duplication, in any other case on appeal or on writ.

2-1.15. Certificate of Clerk

The certified copy of the original record and the duplicate record shall each bear the certificate of the clerk of the trial court as to the completeness and authenticity thereof. The notice of appeal from the trial court shall also certify the amount of court costs.

Amended March 30, 1989.

2-1.16. Responsibility of Clerk

It is the responsibility of the clerk of the trial court from which a case is appealed, or to which writs are directed, to prepare the record for a Court of Appeal. To assist in its preparation, the clerk of the trial court may require of its court reporter a legible copy of the transcript of testimony, and of the appellant (or party seeking review by this court) legible copies of all pleadings, depositions, and other papers to be included in the record. In preparing the record for a Court of Appeal, the clerk of the trial court shall insure that depositions included as an exhibit consist of one page of deposition testimony per physical page and do not contain reduced images of multiple pages placed on one page. If any deposition introduced into evidence in the case does not meet this standard, the party who introduced the deposition shall provide a certified true copy of the substandard document in the required format.

Amended October 1, 2001, effective January 1, 2002.

2-1.17. Designated Record

Notwithstanding the foregoing requirements, the parties may designate, in writing, portions of the record to constitute the record in a Court of Appeal.

Rule 2-2. Notice of Appeal; Filing of Record

2-2.1. Notice of Appeal

Within seven (7) days of the granting of an order of appeal, the clerk of the trial court shall transmit to the appellate court and the judicial administrator of the Supreme Court, the notice of appeal required by the Code of Civil Procedure or the Code of Criminal Procedure.

Adopted April 11, 1996; amended April 7, 2005; amended September 30, 2012, effective January 1, 2013.

2-2.2. Repealed effective September 30, 2012.

2-2.3. Filing of Record

In all cases appealed or in which a writ is granted, a certified copy of the original record and one duplicate record shall be filed timely in the office of the clerk of the Court of Appeal by the clerk of the trial court on or before the date fixed for the return of the appeal or of the writ, or such extension thereof as may be granted in accordance with law.

Former Rule 2-2, redesignated as Rule 2-2.3, April 11, 1996.

Rule 2-3. Criminal Appeals from Courts of Limited Jurisdiction Wherein Testimony was Electronically Recorded

In all cases appealed to a Court of Appeal from a judgment rendered in a criminal case by a parish, city, or municipal court, where the testimony of witnesses was electronically recorded, such electronic recording shall, before filing of the appeal, be transcribed, and a certified copy of the original transcription and one duplicate shall be prepared and filed in accordance with Rules 2-1 and 2-2.

Rule 2-4. Fees

The clerks of the Courts of Appeal shall charge the fees prescribed by law.

Rule 2-5. Docketing of Cases; Notification

2-5.1. Docketing

Cases shall be docketed by the clerk in the order in which they are filed, under the same title used in the trial court.

2-5.2. Notification

Upon the filing of the record and the docketing of the case, the clerk shall forthwith notify counsel of record and each party not represented by counsel of the date of the filing and docketing.

Amended September 30, 2012, effective January 1, 2013.

Rule 2-6. Withdrawals of Records

A record may be withdrawn from the office of the clerk of a Court of Appeal by counsel of record upon giving receipt therefor to the clerk. The record shall be returned within such reasonable period of time as may be fixed by the clerk at the time of withdrawal. A party not represented by counsel is not permitted to withdraw a record, but may make arrangements with the clerk to review the record at reasonable times in the clerk's office, or in the office of the clerk of the trial court. Records are subject to recall by the court at any time.

Rule 2-7. Motions, Pleadings, Instructions to Clerk, Agreements of Parties

2-7.1. Motions in Open Court

Motions which may be made in open court shall be made at the beginning of the daily session, before the first case is called for argument or submission.

2-7.2. Requirements of Other Motions

All other motions or pleadings (e.g., peremptory exceptions and answers to appeals) filed originally in a Court of Appeal shall be typewritten and double-spaced on white paper of legal size, with proper margins, and shall bear the number and title of the case in the appellate court, the nature of the motion or pleading, the name of counsel filing the motion or pleading, and the name of the party on whose behalf it is filed. Unless the motion or pleading bears a certificate showing that a legible copy thereof has been delivered or mailed to opposing counsel of record, and to each opposing party not represented by counsel, and showing the date of service thereof, it shall not be filed or docketed. All motions filed in a Court of Appeal shall include a proposed order.
Amended October 3, 1994, effective January 1, 1995.

2-7.3. Filing

Unless made in open court, an original and 4 copies of each motion or pleading shall be filed, numbered, and docketed in the clerk's office for the clerk to present to the court for consideration. Unless previously filed, numbered, and docketed, such motion or pleading will not be considered by the court.

2-7.4. Summary Dismissal

The court may summarily dismiss untimely or improperly filed motions and pleadings.

2-7.5. Instructions and Agreements

Instructions to the clerk, or agreements between the parties or their counsel, of which the court is expected to take cognizance, shall be in writing, signed by the parties or counsel, and filed in the clerk's office.

Rule 2-8. Motion to Dismiss or Remand, Pre-docketing Dismissals; Abandonment

2-8.1. Motion to Dismiss or Remand

Motions to dismiss or to remand appeals shall comply with the provisions of Rule 2-7. Such motions shall be submitted to the court by the clerk without oral argument within 10 days following the date of filing; provided, however, the court may, in its discretion, fix any such motion for oral argument, or refer the motion to the argument on the merits. The mover to dismiss or to remand may file a brief with the motion, and the opponent may file an opposition brief within 7 days of the filing of the motion.

2-8.2. Service of Motion

A copy of a motion to dismiss or to remand an appeal, together with a copy of the accompanying brief, if any, shall be served in accordance with the provisions of Louisiana Code of Civil Procedure art. 1313 to opposing counsel of record and to each opposing party not represented by counsel.
Amended October 7, 2013, effective January 1, 2014.

2-8.3. Joint Motion

Any appeal may be summarily dismissed or remanded by order of the court where there has been a joint motion filed by all interested parties or their counsel of record, which shall set forth the reason for such action and which shall be supported by appropriate affidavits that the facts alleged are true and correct.

2-8.4. Ex Parte Motion

Where there has been no timely answer to the appeal, or other formal action to amend or modify the judgment appealed, the appellant may, by ex parte motion, have the appeal dismissed, with leave of court.

2-8.5. Pre-docketing Dismissals

In cases where the parties desire to dismiss or to remand an appeal in which jurisdiction of the appellate court has attached, but in which the record on appeal has not yet been lodged and docketed, the court may nevertheless consider a joint motion to such effect, provided the parties submit their motion signed by all counsel of record, together with, in the case of a motion to dismiss the appeal, the statement of counsel that all costs incurred in the trial court have been paid, or that counsel will be responsible for the payment of same. The motion shall be accompanied by a certificate from the clerk of the trial court indicating that the motion to dismiss or to remand has been signed by all counsel of record and by each party not represented by counsel. It shall show that the appeal bond, if required, has been filed or, in the case of a pauper suit, indicate the lack of necessity for an appeal bond.

2-8.6. Abandonment of Civil Appeal

For civil appeals, if an appellant does not file a brief within the time prescribed by Rule 2-12.7 or any extension thereof granted by the court as provided by Rule 2-12.8, a notice shall be transmitted by the clerk to counsel for the appellant, or to the appellant if not represented, that the appeal shall be dismissed 30 days thereafter unless a brief is filed in the meantime. If an appellant does not file a brief within 30 days after such notice is transmitted, the appeal shall be dismissed as abandoned. Provided, however, that irrespective of the time limit provided in Rule 2-12.7 for the appellee to file a brief, the appellee's brief shall be filed within 20 days from the due date shown on the notice of abandonment.

Amended effective October 7, 1991, amended October 3, 1994, effective January 1, 1995; amended October 1, 2001; amended September 30, 2012, effective January 1, 2013.

2-8.7. Suspension of Briefing Delays

A party may by written motion request that the Court of Appeal suspend briefing delays until such time as a ruling is made by the appellate court on any pending motion to dismiss or remand. If the court grants the request for suspension of the briefing delays and later denies the motion to dismiss or remand, the court shall set new briefing delays.

Added October 3, 1994, effective *January 1, 1995.*

Rule 2.9. Substitution of Parties

The rules and procedures for substitution of parties provided by LSA-C.C.P. Arts. 801- 807 shall regulate the substitution of parties.

Rule 2-10. Withdrawal of Counsel

2-10.1. Withdrawal

No counsel may withdraw without leave of the appellate court once the trial court is divested of jurisdiction.

Amended October 3, 1994, effective January 1, 1995.

2-10.2. Motion and Order

Withdrawal shall be upon motion and order of the appellate court.

Amended October 3, 1994, effective January 1, 1995.

Rule 2-11. Assignment on Calendar

2-11.1. Assignment as Docketed

Unless otherwise provided by law, or the court orders otherwise, the clerk shall assign cases for hearing on the calendar in the order in which they are docketed.

2-11.2. Special Assignment

A special assignment may be given by the court in any case where the state or any subdivision thereof is a party, or in any matter impressed with the public interest, or in any case where the interest of justice clearly requires an immediate or special hearing.

2-11.3. Summary Disposition

Cases may be assigned for summary disposition with or without oral argument when the court so orders.

Amended effective December 1, 1984.

2-11.4. Request for Oral Argument

Appeals in all cases shall be submitted for decision without oral argument unless a written request for permission to orally argue is filed in the clerk's office by a party within thirty (30) days after the filing of the record in the court and permission is granted. Pursuant to this rule, the request for oral argument must be in the form of a motion or a letter. A request made within a party's brief will NOT suffice. A request for oral argument by only one of the parties is acceptable. Ordinarily, timely requests for oral argument will be granted, except in cases assigned for summary disposition. When permission for oral argument has been granted to one party, the right to oral argument extends to all parties, unless the right to orally argue had been forfeited.

Amended effective December 1, 1984; amended October 3, 1984, effective January 1, 1995; amended effective April 15, 2010; amended October 7, 2013, effective January 1, 2014.

2-11.5. Cases Carried Over

A case assigned for oral argument that is not reached or in which the argument is not completed on the assigned day, shall go over to the next argument day, unless the court reassigns the case for a particular day.

2-11.6. Continuance

No case fixed for argument or submission on the calendar may be continued, except in extraordinary situations which the court deems to justify a continuance.

2-11.7. Submission Without Oral Argument

Any case docketed in this court may be submitted at any time for decision without oral argument, on joint motion of all parties or counsel of record.

2-11.8. Court's Authority to Hear Argument

The court shall retain its authority to order oral argument in any case.

2-11.9. Calendar of Assignments

The clerk shall post the calendar of assignments for hearing and transmit it to all counsel of record, and to any party not represented by counsel, not less than 30 days prior to the date fixed for the hearing of a case on the calendar, provided, however, that the 30 day notice herein required shall not be applicable where there will be no oral argument. The clerk shall note on the calendar the dates and hours of sessions of court.

Amended effective October 7, 1991; amended September 30, 2012, effective January 1, 2013.

Rule 2-12. Briefs

2-12.1. Filing

Each party shall file an original and 7 copies of the brief in every case. All parties must file briefs in every criminal appeal.

Amended October 3, 1994, effective January 1, 1995

2-12.2. Preparation of Briefs

A. The provisions of this Section shall apply to briefs submitted in appeals and to briefs or supporting memoranda submitted in connection with motions, applications for supervisory writs and applications for rehearing.

B. Briefs may be printed, typewritten, or produced by any copying or duplicating process which produces a clear black image on white paper. Illegible copies and photocopies produced on wet copiers are not acceptable. Briefs may be typewritten or otherwise acceptably produced on either letter or legal-size, white, unglazed, opaque paper, with a margin of 1" on each side, using only one side of each page. The text of briefs shall be double-spaced except for matters which are customarily single-spaced. The pages in the briefs shall be numbered consecutively.

C. The language used in the brief shall be courteous, free from vile, obscene, obnoxious, or offensive expressions, and free from insulting, abusive, discourteous, or irrelevant matter or criticism of any person, class of persons or association of persons, or any court, or judge or other officer thereof, or of any institution. Any violation of this Subsection shall subject the author, or authors, of the brief to punishment for contempt of court, and to having such brief returned.

D. The preparation of briefs shall be subject to the following requirements and limitations:

(1) Original briefs on 8 1/2" X 14" paper shall not exceed thirty-one pages; reply briefs on such paper shall not exceed thirteen pages. Original briefs on 8 1/2" X 11" paper shall not exceed forty-one pages; reply briefs on such paper shall not exceed eighteen pages. These limitations do not include pages containing the table of contents required by Rule 2-12.4, Subsection A(1) and the table of authorities required by Rule 2-12.4, Subsection A(2).

(2) The size type in all briefs will be: (a) Roman or Times New Roman 14 point or larger computer font, normal spacing; or (b) no more than 10 characters per inch typewriter print. A margin of at least one inch at the top and bottom of each page shall be maintained. Footnotes may be single-spaced but shall not be used to circumvent the spirit of this rule.

(3) A motion for leave to file a brief in excess of the page limitation of this rule must be filed at least ten days in advance of the due date of the brief. Such a motion will be granted only for extraordinary and compelling reasons.

Amended April 3, 1986, effective July 1, 1986; amended October 5, 1992; amended October 3, 1994, effective January 1, 1995; amended March 22, 2001, effective January 1, 2002; amended October 7, 2013, effective January 1, 2014.

2-12.3. Cover Inscription

Briefs shall state on the cover or on the title page the following:

(a) the title of the court to which it is directed;
(b) the docket number of the case in the court;
(c) the title of the case as it appears on the docket of the court;
(d) the name or title of the court and the parish from which the case came;
(e) the name of the judge who rendered the judgment or ruling complained of;
(f) a statement as to whether the case comes before the court on appeal or in response to a writ.
(g) a statement identifying the party on whose behalf the brief is filed and the party's status before the court;
(h) the nature of the brief, whether original, in reply, or supplemental;
(i) the name of counsel, with address and telephone number, by whom the brief is filed, and a designation of the parties represented, and a designation of "appeal counsel";
(j) the designation of whether the case is a civil, criminal, juvenile, or special proceeding (state particular type of proceeding).

2-12.4. Appellant's Brief

A. The brief of the appellant shall contain, under appropriate headings and in the order indicated:

(1) a table of contents with page references;

(2) a table of authorities, including cases alphabetically arranged, statutes and other authorities, with references to the pages of the brief where the authorities are cited;

(3) a jurisdictional statement setting forth the constitutional and statutory basis for the court to exercise appellate jurisdiction, with citations to applicable provisions. The jurisdictional statement shall also include the dates of the judgment appealed and of the motion and order for appeal to establish the timeliness of the appeal and the following, as applicable:

(a) an assertion that the appeal is from a final appealable judgment and, if the appealability is dependent upon a designation by the trial court, a reference to the specific page numbers of the record where the designation and reasons for the designation are to be found, or

(b) an assertion that the appeal is from an interlocutory judgment or order which is appealable as expressly provided by law, or

(c) an assertion of information establishing the court of appeal's jurisdiction on some other basis;

(4) a concise statement of the case, indicating the nature of the case, the action of the trial court and the disposition;

(5) assignments of alleged errors;

(6) a listing of issues presented for review;

(7) a statement of facts relevant to the assignments of error and issues for review, with references to the specific page numbers of the record;

(8) a short summary of the argument, *i.e.*, a succinct, clear and accurate statement of the arguments made in the body of the brief;

(9) the argument, which shall contain:

(a) appellant's contentions, with reference to the specific page numbers of the record and citations to the authorities on which the appellant relies,

(b) for each assignment of error and issue for review, a concise statement of the applicable standard of review, which may appear in the discussion or under a separate heading placed before the discussion, and

(c) for each assignment of error and issue for review which required an objection or proffer to preserve, a statement that the objection or proffer was made, with reference to the specific page numbers of the record; and

(10) a short conclusion stating the precise relief sought.

B. (1) A copy of the judgment, order, or ruling complained of, and a copy of either the trial court's written reasons for judgment, transcribed oral reasons for judgment, or minute entry of the reasons, if given, shall be appended to the brief of the appellant. If reasons for judgment were not given, the brief shall so declare.

(2) Citation of Louisiana cases shall be in conformity with Section VIII of the Louisiana Supreme Court General Administrative Rules. Citations of other cases shall be to volume and page of the official reports (and when possible to the unofficial reports). It is recommended that where United States Supreme Court cases are cited, all three reports be cited, e.g., *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966). When a decision from another state is cited, a copy thereof should be attached to the brief.

(3) The court may disregard the argument on an assignment of error or issue for review if suitable reference to the specific page numbers of the record is not made.

(4) All assignments of error and issues for review must be briefed. The court may consider as abandoned any assignment of error or issue for review which has not been briefed.

Amended April 3, 1986, effective July 1, 1986; amended October 3, 1994, effective January 1, 1995; amended October 2, 2006, effective November 1, 2006; amended October 7, 2013, effective January 1, 2014.

2-12.5. Appellee's Brief

The brief of the appellee shall contain appropriate and concise responses and arguments to the contentions and arguments of the appellant and shall conform to the requirements for the appellant's brief set forth in Rule 2-12.4, except that the following need not be included unless the appellee is dissatisfied with the appellant's statements:

(1) the jurisdictional statement, Rule 2-12-4, Subsection A(3);

(2) the statement of the case, Rule 2-12-4, Subsection A(4);

(3) the listing of issues, Rule 2-12.4, Subsection A(6);

(4) the statement of facts, Rule 2-12.4, Subsection A(7); and

(5) the statement of the standard of review, Rule 2-12.4, Subsection A(9)(b).

Amended October 2, 2006, effective November 1, 2006; amended October 7, 2013, effective January 1, 2014.

2-12.6. Reply Brief

The appellant may file a reply brief, if he has timely filed an original brief, but it shall be strictly confined to rebuttal of points urged in the appellee's brief. No further briefs may be filed except by leave of court.

2-12.6.1. Citation of Supplemental Authorities

If pertinent and significant authorities come to a party's attention after all original and reply briefs have been filed - or after oral argument but before decision - a party may promptly advise the clerk by letter, with a copy to all other parties, setting forth the citations. The letter shall be limited to: (a) the name and citation of the opinion or authority; (b) the issue raised by the case which is pertinent to the issues raised in the case pending before this Court; and (c) a citation to the page number of where this point has been raised in briefs before this Court or, if not raised in briefs and dealt with in oral argument only, where and how this issue arose during oral argument. The body of the letter shall not exceed two pages (letter size). Any response must be made promptly and must be similarly limited. This section 2-12.6.1 letter shall not contain argument; if a party desires to make an argument or to exceed two pages (letter size), the party shall file a motion for permission to file a supplemental brief.

Adopted April 6, 2006.

2-12.7. Time to File

The brief of the appellant shall be filed not later than 25 calendar days after the filing of the record in the court, and the brief of the appellee shall be filed not later than 45 calendar days after the filing of the record in the court. The reply brief, if any, of the appellant shall be filed not later than 10 calendar days after the appellee's brief is filed.

Unless otherwise directed by the court in the notice of lodging, in the case of a timely order of appeal being obtained by a litigant subsequent to an earlier order of appeal obtained by a different litigant, the brief on behalf of the litigant whose order of appeal bears the earlier date shall be due in point of time under the provisions of the appropriate rule regarding the appellant. The brief on behalf of the litigant whose order of appeal bears the later date shall be due in point of time under the provisions of the appropriate rule regarding the appellee.

Amended October 7, 2002.

2-12.8. Extensions of Time

An extension of time within which to file the brief may be granted by the court for good cause shown on written motion filed with the clerk of the court on or before the date the brief was due. If an extension of time is granted to an appellant to file the original brief, time for filing the appellee's brief is extended for a period of twenty days from the date of the extended time granted the appellant, without the necessity of a motion or request by the appellee. To preserve the right to oral argument, an appellee must file the brief within the extended twenty-day period, whether or not the appellant's brief is timely filed. An extension of time may not be granted if such extension will retard the hearing or determination of the case.

Amended October 5, 1987, effective December 1, 1987.

2-12.9. Specially-assigned Cases

In cases specially assigned for argument, the briefs shall be filed as ordered by the court.

2-12.10. Briefs on Motions or Writ Applications

Briefs in support of motions or applications for writs shall be filed with the motion or writ application. Briefs in opposition thereto shall be filed prior to decision by the court, or as may be ordered by the court.

2-12.11. Amicus Curiae Briefs

Amicus curiae briefs may be filed only upon motion by the applicant and order of the court. The motion shall identify the interest of the applicant, state that the applicant has read the briefs of the parties, and state specific reasons why applicant's brief would be helpful to the court in deciding the cases. An amicus curiae may not request oral argument.

2-12.12. Untimely Briefs; Sanctions

If the brief on behalf of any party is not filed by the date that the brief is due, the party's right to oral argument shall be forfeited. The court may also impose other sanctions including, but not limited to, dismissal of the appeal when the appellant does not file a brief as provided for in Rule 2-8.6.

2-12.13. Non-conforming Briefs; Sanctions

Briefs not in compliance with these Rules may be stricken in whole or in part by the court, and the delinquent party or counsel of record may be ordered to file a new or amended brief.

Rule 2-13. Timely Filing of Papers

All papers to be filed in a Court of Appeal shall be filed with the clerk. Filing may be accomplished by delivery or by mail addressed to the clerk. The filing of such papers shall be deemed timely when the papers are mailed on or before the due date. If the papers are received by mail on the first legal day following the expiration of the delay, there shall be a rebuttable presumption that they were timely filed. In all cases where the presumption does not apply, the timeliness of the mailing shall be shown only by an official United States postmark or cancellation stamp or by official receipt or certificate from the United States Postal Service or bonafide commercial mail services such as Federal Express or United Parcel Service, made at the time of mailing which indicates the date thereof. Any other dated stamp, such as a private commercial mail meter stamp, shall not be used to establish timeliness.

Amended October 7, 2002; amended October 2, 2006, effective November 1, 2006.

Rule 2-14. Service of Legible Copies; Certificate

2-14.1. Service of Legible Copies

At or before the time of filing, legible copies of all papers filed in a Court of Appeal by any party shall be served in accordance with the provisions of Louisiana Code of Civil Procedure art. 1313 to opposing counsel of record and to each opposing party not represented by counsel.

Amended October 7, 2013, effective January 1, 2014.

2-14.2. Certificate

The fact of such service shall be evidenced by a certificate listing all parties and all counsel, indicating the parties each represents, and showing when and by what means such service was accomplished.

Amended October 2, 1995, effective January 1, 1996; amended October 7, 2013, effective January 1, 2014.

Rule 2-15. Oral Argument

2-15.1. Order of Argument

The appellant shall have the right to open and close the argument. Where there are 2 or more appellants in the same case, the court will decide when the case is called for argument who shall open and who shall close the argument, unless the parties agree upon the order of presentation.

2-15.2. Length of Time

The parties shall be allowed a period of time not to exceed 40 minutes, divided equally between opposing parties, unless additional time is allowed by the court for sound reason, or the court deems additional time is needed for proper presentation of the case. Counsel is not required to use all of the allotted time. The time for argument may be shortened in the discretion of the court. When there is a conflict of interests between appellants or between appellees, the court will decide upon the apportionment of the time allowed them for argument, unless they agree upon the apportionment.

2-15.3. Reading From Briefs

Argument should not be read from a prepared text. Counsel shall not be permitted to read from briefs, except matters, such as quotations, which are customarily read.

2-15.4. Textual Materials and Exhibits

(a) Textual Materials. A book, treatise, or other textual material not conveniently available to the court, used as authority during argument by counsel, shall, on request of court, be deposited with the court until the case is decided. By leave of court, a photocopy of the pertinent material may be substituted in lieu of the book, the treatise, or other textual material.

(b) Exhibits for Demonstration. All models, maps, charts, diagrams, or other exhibits used for purposes of illustration, demonstration, or explanation during oral argument before the court (but not made a part of the record) and deposited thereafter with the court shall be removed by the party or counsel responsible for such use and deposit within 30 days after written notice given by the clerk. Failure to remove timely shall authorize the clerk to destroy the exhibit or make other disposition thereof as the court may deem proper.

2-16. Decisions of the Appellate Courts

The decision of the appellate court may be expressed in one of the following forms: a full opinion, a concise memorandum opinion, or a summary disposition conforming to the provisions of this rule. All opinions and summary dispositions shall contain the names of the judges who rendered the opinion or summary disposition.
Amended December 22, 2003; effective January 1, 2004.

2-16.1. Opinions of the Appellate Courts

Opinions of the appellate courts, whether authored or per curiam, shall be formal opinions or memorandum opinions.

A. A case may be disposed of by formal opinion when at least one of the following criteria is satisfied. The decision involved:

(1) establishes a new rule of law or alters or modifies an existing rule;
(2) involves a legal issue of continuing public interest;
(3) criticizes or explains existing law;
(4) applies an established rule of law to a factual situation significantly different from that in published opinions of the courts of this state;
(5) resolves an apparent conflict of authority; or,
(6) constitutes a significant and non-duplicative contribution to legal literature because it contains:
    (a) an historical review of law;
    (b) a review of legislative history; or,
    (c) a review of conflicting decisions among the courts or other jurisdictions.

B. Where the panel unanimously agrees that a case does not qualify for disposition by formal opinion, the case may be disposed of by a concise memorandum opinion. A memorandum opinion shall succinctly state:

(1) the court from which the appeal comes;
(2) the germane facts, including the ruling of the lower court;
(3) the issues and contentions of the parties when appropriate;
(4) the reasons for the decision;
(5) the judgment of the appellate court; and
(6) a statement that the memorandum opinion is issued in compliance with URCA Rule 2-16.1.B.

Amended December 22, 2003, effective January 1, 2004.

2-16.2. Summary Disposition

A. In any case in which the panel unanimously determines no jurisprudential purpose would be served by a written opinion and that any one or more of the following dispositive circumstances exist, the decision of the court may be made by summary disposition. A summary disposition may be utilized when:

(1) the appellate court lacks jurisdiction;
(2) the disposition is clearly controlled by case law precedent, statute, or rules of court;
(3) the appeal is moot;
(4) the issues involve no more than an application of well-settled rules to recurring fact situations;
(5) the opinion or findings of fact and conclusions of law of the trial court or agency adequately explain the decision;

(6) no error of law appears on the record;
(7) the trial court or agency did not abuse its discretion;
(8) the record does not demonstrate that the decision of the trier of fact is clearly wrong (manifestly erroneous);
(9) the record demonstrates that the evidence in support of a criminal jury verdict is not insufficient; or,
(10) the panel otherwise unanimously determines summary disposition is appropriate in accordance with the law and evidence.

B. The court may dispose of a case by summary disposition with or without oral argument at any time after the case is docketed in the appellate court. The disposition may provide for dismissal, affirmance, remand, reversal or any combination thereof as appropriate to the case.

C. When a summary disposition is issued, it shall contain:
(1) a statement describing the nature of the case and the dispositive issues without a discussion of the facts;
(2) a citation to controlling precedent, if any; and
(3) the judgment of the appellate court and a citation to one or more of the criteria under this rule which supports the judgment, e.g., "Affirmed in accordance with Uniform Court of Appeal Rule 2-16.2.A(1)."

Amended April 30, 1999, effective October 4, 1999; Amended December 22, 2003, effective January 1, 2004.

2-16.3. Publication and Citation

A. A formal opinion of a Court of Appeal shall be designated for publication unless a majority of the panel determines otherwise.

B. A memorandum opinion or a summary disposition of a Court of Appeal shall not be designated for publication except by majority vote of the panel.

C. The panel shall reconsider its decision not to publish an opinion upon the request of the trial judge or a party, provided that the request and reasons therefore are made in writing within the delays for rehearing following the rendition of the opinion.

Amended April 30, 1999, effective October 4, 1999; amended December 22, 2003, effective January 1, 2004; amended October 1, 2007, effective November 1, 2007.

2-16.4. Copies of Opinions

In every case, one copy of the opinion, when rendered, shall be transmitted to the trial judge, the clerk of the trial court, all appeal counsel of record, and all parties not represented by counsel.

Amended September 30, 2012, effective January 1, 2013.

2-16.5. Certificate

The clerk of this court shall file a certificate in the record showing the date on which and to whom the copy of opinion was transmitted and the transmission method.
Amended September 30, 2012, effective January 1, 2013.

Rule 2-17. Notice of Judgment

2-17.1. Notice

Notice of judgment of a Court of Appeal shall be transmitted by the clerk to all counsel of record, and to all parties not represented by counsel.
Amended September 30, 2012, effective January 1, 2013.

2-17.2. Certificate

The clerk shall file a certificate in the record showing the date on which and the names of all parties or persons to whom the notice of judgment was transmitted and the transmission method.
Amended March 22, 2001, effective January 1, 2002; amended September 30, 2012, effective January 1, 2013.

Rule 2-18. Rehearing

2-18.1. Application for Rehearing

An application for rehearing shall state with particularity contentions of the applicant and shall contain a concise argument in support of the application. Except by permission of court, an application for rehearing shall not exceed 10 pages. An original and 4 copies of the application for rehearing shall be filed. Oral argument in support of the application will not be permitted.

2-18.2. Time to File

(A) In cases governed by the Code of Criminal Procedure, an application for rehearing must be filed with the clerk on or before 14 days after the rendition of the judgment.

(B) In cases governed by the Code of Civil Procedure, an application for rehearing must be filed with the clerk on or before 14 days after the personal delivery or mailing of the notice of the judgment and opinion of the court.

(C) No extension of time for filing an application for rehearing shall be granted.
Amended effective August 30, 1983.

2-18.3. Support Brief

The applicant shall file an original and 4 copies of a brief in support of the application for rehearing at the time the application for rehearing is filed.
Amended October 3, 1994, effective January 1, 1995.

2-18.4. Additional Time for Brief

If the applicant for rehearing needs additional time for filing of brief in support of the application, a written request for additional time, explaining the cause of the need therefor, shall be made in the application and the court may grant or refuse the requested extension.

2-18.5. Granting of Rehearing

When a rehearing is granted, the case shall be submitted, with or without oral argument, as ordered by the court.

2-18.6. Repetitive Applications

When a case has been decided on rehearing, another application for a rehearing will not be considered unless the applicant has not theretofore been granted a rehearing, or unless the court has expressly granted the right to apply for another rehearing.

2-18.7. When Rehearing Will Be Considered

An application for rehearing will be considered in cases where the court has:

(A) Granted a writ application on the merits;

(B) Dismissed an appeal; or

(C) Ruled on the merits of an appeal.

Amended October 2, 1989, effective January 1, 1990. amended October 3, 1994, effective January 1, 1995.

Rule 2-19. Frivolous Appeal

The court may award damages for frivolous appeal in civil cases as provided by law.

Rule 2-20. Notices or Copies by Clerk, Sufficiency of

All notices or copies of papers required by these Rules to be transmitted by the clerk shall be sent to appeal counsel of record for each party, and to any party not represented by counsel, to the United States mailing address, email address or facsimile shown by the record or to the United States mailing address, email address or facsimile number furnished to the clerk.
Amended September 30, 2012, effective January 1, 2013.

RULE 3. THE SPECIAL APPEALS

Rule 3-1. Administrative Cases

3-1.1. Application for Appeal

Every application for appeal from a final decision of any administrative body shall be filed with the appropriate administrative body in writing as required by law and may include a designation of the documents filed and transcripts desired to be incorporated into the record on appeal. If such a designation is made, within 5 days after the filing of an application for appeal, any other party to the appeal may file a designation of additional portions of the record to be included. If no designation is made, the record shall be a transcript of all the proceedings as well as all documents filed with the administrative body. Costs for the inclusion of any unnecessary part of the record may be assessed against the party requiring such inclusion. The record on appeal shall include the application for appeal, any designation of the record, and a certification by the administrative body as to the correctness of the record.

Appeals from the Office of Worker's Compensation. In addition, the record on appeal from the Office of Worker's Compensation shall include a jurisdictional statement as contemplated by LSA-R.S. 23:1310.4 and 23:1310.5(A)(2).

Amended October 3, 1994, effective January 1, 1995; amended October 7, 2013, effective January 1, 2014.

3-1.2. Filing and Return Dates

The administrative body shall endorse on every application for an appeal the date of its filing and shall fix the return date, which shall not be more than 60 days from the date of filing the application for appeal. The administrative body shall transmit the record to the appropriate Court of Appeal by the return date.

Amended October 7, 2013, effective January 1, 2014.

3-1.3. Application for Supervisory Review (Writs)

Every application for supervisory review from any ruling of an administrative body that is not a final and definitive ruling on the merits of the case shall be governed by URCA Rule 4.

Amended October 2, 1989, effective January 1, 1990.

3-1.4. Stay of Execution

A stay pending review by the court of appeal of any ruling or decision of an administrative body, may be granted either by that body or by the court of appeal only in those matters where the authority is expressly granted by law or in exercise of supervisory jurisdiction by the court of appeal.

Amended October 2, 1989, effective January 1, 1990.

3-1.5. Applicability of Rules

All other Rules of the court and all laws regulating appeals, not inconsistent with the foregoing, shall be applicable to appeals from such administrative bodies.

Redesignated from Rule 3-1.4 October 2, 1989, effective January 1, 1990.

Rule 3-2. Additional Notice Requirements in Election Cases; Responsibility of Appellant and Clerk of Trial Court

In any action objecting to candidacy or contesting an election, governed by the provisions of Title 18 of the Revised Statutes, the following additional notices and procedures shall be applicable to either parties or the clerk of district court.

(a) Within 24 hours after any document is filed in an action objecting to candidacy or contesting an election, the clerk of district court shall by facsimile transmission or by e-mail, if directed by the Court of Appeal, provide a copy to the clerk of the Court of Appeal.

(b) Within 24 hours after the signing of judgment, the clerk of the district court shall provide a copy of the judgment and reasons for judgment to the clerk of the Court of Appeal by facsimile transmission or by e-mail, if directed by the Court of Appeal.

(c) Within 24 hours after an order of appeal has been obtained and a bond given, the clerk of district court shall give notice of the order of appeal to the clerk of the Court of Appeal by facsimile transmission, or by e-mail as directed by the Court of Appeal.

(d) Once the record lodges with the Court of Appeal, all briefing and docketing notices issued by the clerk of court shall be by facsimile or e-mail transmission.

Adopted October 4, 1999; effective October 4, 1999; Amended October 2, 2006, effective November 1, 2006; amended September 30, 2012, effective January 1, 2013.

RULE 4. WRITS

Rule 4-1. Application for Writs

An application for writs of any kind, and all documents and exhibits in connection therewith, shall be filed in an original and 3 duplicate copies with the clerk of the Court of Appeal, and shall not be considered by the court or any judge of the court unless it is properly filed with the clerk.

Application for Post-conviction Relief. The applicant shall use the uniform application for post-conviction relief (see Appendix A). Inexcusable failure of the applicant to comply with this Rule may subject the applicant to dismissal of the application, or to other sanctions of the court.

Amended March 29, 1983, effective May 1, 1983; amended October 3, 1994, effective January 1, 1995.

Rule 4-2. Notice of Intention

The party, or counsel of record, intending to apply to the Court of Appeal for a writ shall give to the opposing parties or opposing counsel of record, notice of such intention; notice simultaneously shall be given to the judge whose ruling is at issue, by requesting a return date to be set by the judge within the time period provided for in Rule 4-3.

Amended October 2, 2000; amended effective April 15, 2010

Rule 4-3. Time to File; Extension of Time

The judge who has been given notice of intention as provided by Rule 4-2 shall immediately set a reasonable return date within which the application shall be filed in the appellate court. The return date in civil cases shall not exceed 30 days from the date of notice, as provided in La. C.C.P. art. 1914. In criminal cases, unless the judge orders the ruling to be reduced to writing, the return date shall not exceed 30 days from the date of the ruling at issue. When the judge orders the ruling to be reduced to writing in criminal cases, the return date shall not exceed 30 days from the date the ruling is signed. In all cases, the judge shall set an explicit return date; an appellate court will not infer a return date from the record.

Upon proper showing, the trial court or the appellate court may extend the time for filing the application upon the filing of a motion for extension of return date by the applicant, filed within the original or an extended return date period. An application not filed in the appellate court within the time so fixed or extended shall not be considered, in the absence of a showing that the delay in filing was not due to the applicant's fault. The application for writs shall contain documentation of the return date and any extensions thereof; any application that does not contain this documentation may not be considered by the appellate court.

Amended October 3, 1994, effective January 1, 1995; amended October 2, 2000; amended October 6, 2003; amended November 7, 2003, effective November 10, 2003.

Rule 4-4. Stay of Proceedings

(A) When an application for writs is sought, further proceedings may be stayed at the trial court's discretion. Any request for a stay of proceedings should be presented first to the trial court. The filing of, or the granting of, a writ application does not stay further proceedings unless the trial court or appellate court expressly orders otherwise.

(B) When expedited consideration by an appellate court is requested, including, but not limited to, a request for a stay order, the application shall include on the cover a statement in bold print that such consideration is sought and a statement within the application itself, entitled "REQUEST FOR EXPEDITED CONSIDERATION", setting forth justification for the request and a specific time within which action by the appellate court is sought by the applicant. The "REQUEST FOR EXPEDITED CONSIDERATION" shall be included as a separate page and properly noted in the index. The applicant shall notify the appellate court immediately of any change in the status of the case.

(C) In all applications requesting a stay order or other priority consideration, the applicant must certify in affidavit form that the trial court and all counsel and unrepresented parties have been notified by telephonic or other equally prompt means of communication that said writ application has been or is about to be filed and that said application has been served forthwith on the trial court and all parties at interest or their counsel, by means equal to the means used to effect filing with the appellate court. (That is, if filing with the appellate court is by overnight mail, the same means shall be employed for service on the trial court and all parties at interest or their counsel. If filing is by hand to the appellate court, service must be made on the trial court and all parties at interest or their counsel by an equally prompt means.)

Amended October 3, 1994, effective January 1, 1995; amended October 2, 1995, effective January 1, 1996.

Rule 4-5. Contents of Application

A. The original application for writs shall be signed by the applicant or counsel of record, and shall contain an affidavit verifying the allegations of the application and certifying that a copy has been delivered or mailed to the respondent judge and to opposing counsel, and to any opposing party not represented by counsel. The affidavit shall list all parties and all counsel, indicating the parties each represents. The affidavit also shall list the addresses and telephone numbers (if available) of the respondent judge, opposing counsel and any opposing party not represented by counsel.

B. The original and duplicates shall have the pages of the application and attached documents and exhibits consecutively numbered. The entire submission shall be hole punched and bound in two places along the top margin, preferably with 4 1/4 inch metal file fasteners such that no part of the text on any page is obscured, and in sections consisting of no more than 250 pages. No tabs shall be used in lieu of consecutive page

numbering and no tabs or extensions shall be placed outside the paper dimensions. Documents within the bound submission shall not contain any staples, clips or other fasteners.

C. The submission shall contain these items:

(1) an index of all items contained therein;
(2) a concise statement of the grounds on which the jurisdiction of the court is invoked;
(3) a concise statement of the case, including the status of the case at the time the writ application is filed, in order to reflect any trial dates or hearing dates that are pending;
(4) the issues and questions of law presented for determination by the court;
(5) the assignments or specifications of errors and a memorandum in support of the application, in accordance with Rules 2-12.2 and 2-12.10, and a prayer for relief;
(6) a copy of the judgment, order, or ruling complained of (if by written judgment, order, or ruling);
(7) a copy of the judge's reasons for judgment, order, or ruling (if written);
(8) a copy of each pleading on which the judgment, order, or ruling was founded, including the petition(s) in civil cases and the indictment or the bill of information in criminal cases;
(9) a copy of any opposition and any attachments thereto filed by a party in the trial court or a statement by the relator that no opposing written document was filed;
(10) a copy of pertinent court minutes;
(11) the notice of intent and return date order required by Rules 4-2 and 4-3; and
(12) a separate page entitled "REQUEST FOR EXPEDITED CONSIDERATION" and indexed as such shall be included if the applicant seeks expedited relief or a stay order as required by Rule 4-4(B) and a corresponding affidavit as required by Rule 4-4(C).

D. If any trial or hearing date is set after a writ application is filed or if any trial or hearing date included in a filed writ application is changed or continued, the applicant shall notify the court by facsimile or by e-mail, if directed by the Court of Appeal, of the setting, change, or continuance of the hearing date no later than three business days after the setting, change or continuance. The filed writ application shall be supplemented with this information not later than one week after the setting, change or continuance.

Amended March 26, 1992, effective April 1, 1992; amended Oct. 3, 1994, effective Jan. 1, 1995; amended October 2, 1995, effective January 1, 1996; amended October 2, 2000; amended March 14. 2002, effective Jan. 1, 2003; amended October 2, 2006, effective November 1, 2006; amended effective April 15, 2010.

Rule 4-6. Notices of Disposition of an Application for Writs

(A) The clerk shall transmit a copy of the court of appeal's disposition of an application for writs in each particular case to

(1) The applicant;
(2) The opposing party or parties respondent;
(3) The trial judge whose ruling has been complained of;
(4) The trial court clerk; and
(5) Any interested party who has requested, before disposition, a copy of such disposition.

If a party is not represented by a counsel of record, the clerk shall transmit a copy of the disposition to the litigant at the United States mailing address shown in the application or in care of the trial court clerk where no address of the litigant is shown.

(B) Where circumstances require prompt notice of the court's disposition of an application for writs, the clerk shall transmit the disposition in accordance with Rule 2-20, but may also give prompt notice of the disposition by telephone and/or by email or facsimile transmission to those who are to receive the notice via United States mail.

Amended October 2, 1989, effective January 1, 1990; amended September 30, 2012, effective January 1, 2013.

Rule 4-7. Action on Writ Application

In exercise of its supervisory jurisdiction, the court may act peremptorily on the application, if circumstances warrant such action, with or without a response by the opposing party. The court alternatively may order a response by the opposing party and/or a per curiam by the trial court or may assign the case for argument and/or submission on any day that the court shall select.

Amended October 2, 1989, effective January 1, 1990; amended October 3, 1994, effective January 1, 1995.

Rule 4-8. Applicability of Rules

The Rules of the court pertaining to appeals and not conflicting with Rules specifically pertaining to applications for writs, when applicable and insofar as practicable, shall govern writ applications and the disposition thereof.

Rule 4-9. Rehearing

Rules 2-18.1 through 2-18.7 apply to requests for rehearings related to writ applications.

Adopted October. 3, 1994, effective January. 1, 1995.

RULE 5. PROCEDURES FOR WRITS AND APPEALS IN CERTAIN CASES INVOLVING MINORS

Abolition of prior Rule 5

Prior Rules 5-1 to 5-8, relating to post-conviction proceedings, were abolished by order of October 3, 1994, effective January 1, 1995. See Rule 4-1 as amended effective January 1, 1995.

Rule 5-1. Cases Designated for Expedited Handling

In recognition of the need for confidentiality and expeditious consideration of writs and appeals in certain types of cases involving minors, the following cases shall be afforded preferential treatment and consideration:

(a) Cases set forth in LSA-Ch.C. art. 337, including:

(1) Title VI. Child in Need of Care
(2) Title VII. Families in Need of Services
(3) Title VIII. Delinquency
(4) Title X. Involuntary Termination of Parental Rights
(5) Title XI. Surrender of Parental Rights
(6) Title XII. Adoption of Children
(7) Title XV, Chapter 7. Protection of Terminally Ill Children

(b) Cases in which there is a modification of an existing custody decree or custody arrangement, including but not limited to:

(1) change of domiciliary parent
(2) change of custodial time
(3) change in or to sole custody
(4) rendition of an initial custody decree changing custody in fact

(c) Cases involving intercountry adoption of children, as set forth in Title XII-A of the Children's Code.

Adopted April 13, 2000.

Rule 5-2. Confidentiality

To ensure the confidentiality of a minor who is a party to or whose interests are the subject matter in the proceedings listed in Rule 5-1(a) or (c) above, initials shall be used in all filings and in opinions rendered by the court of appeal to protect the minor's identity.

Adopted April 13, 2000.

Rule 5-3. Procedures in Cases Designated for Expedited Handling

The following procedures shall apply in cases designated for expedited treatment, unless a case is given special assignment by the court pursuant to Rule 2-11.2:

(a) Once a return date is set by the trial court, no extension shall be granted by the trial court or the court of appeal except upon a showing of extraordinary circumstances.

(b) Appeals and writ applications in such cases shall be assigned by preference to the next docket or cycle following any required briefing schedule.

(c) (1) In appeals taken in such cases, the brief of the appellant shall be filed not later than 15 calendar days after the filing of the record, and the brief of the appellee shall be filed not later than 30 calendar days after the filing of the record. The reply brief, if any, of the appellant shall be filed not later than 5 calendar days after the appellee's brief is filed.

(2) In such civil cases, if an appellant does not file a brief within the time prescribed by this rule or any extension thereof granted by the court as provided by this rule or Rule 2-12.8, a notice shall be mailed by the clerk to counsel for the appellant, or to the appellant if not represented, that the appeal shall be dismissed 10 days thereafter unless a brief is filed in the meantime. If an appellant does not file a brief within 10 days after such notice is mailed, the appeal shall be dismissed as abandoned. Provided, however, that irrespective of the time limit provided in this rule for the appellee to file a brief, the appellee's brief shall be filed within 15 days from the due date shown on the notice of abandonment.

(d) When an application for writs is sought in such cases to review the actions of a trial court, the trial court shall fix a reasonable time within which the application shall be filed in the appellate court, not to exceed 15 days from the date of the ruling at issue. Only upon a showing of extraordinary hardship shall the trial court or an appellate court extend the time for filing the application; and such an extension, if any, must be sought by the applicant, in writing, within the original or an extended return date period.

(e) Appeals and writs in these cases shall be considered by priority and the court shall render such opinions expeditiously to allow release on or before the next regularly scheduled opinion release date following the cycle or docket in which the case was submitted.

(f) Rehearing applications in compliance with URCA 2-18 shall be decided by preference by the court.

Adopted April 13, 2000; amended Oct. 1, 2001.

Rule 5-4. Applicability of Rules

All other Rules or laws regulating writs or appeals, not inconsistent with the foregoing, shall apply.

Adopted April 13, 2000.

Rules 5-5 to 5-8. Abolished effective January 1, 1995.

APPENDIX A. UNIFORM APPLICATION FOR POST-CONVICTION RELIEF

UNIFORM APPLICATION FOR POST-CONVICTION RELIEF

_____ No. _____
NAME OF APPLICANT (to be filled in by the clerk)

_____ _____ JUDICIAL DISTRICT
PRISON NUMBER

_____ PARISH OF _____
PLACE OF CONFINEMENT STATE OF LOUISIANA

VS.

_____
CUSTODIAN (Warden, Superintendent, Jailer,
or authorized person having custody of applicant)

Please serve CUSTODIAN and _____, DISTRICT ATTORNEY, _____ JUDICIAL DISTRICT, STATE OF LOUISIANA.

INSTRUCTIONS--READ CAREFULLY

(1) This application must be legibly written or typed, signed by the applicant and sworn to before a notary public or institutional officer authorized to administer an oath. Any false statement of a material fact may serve as the basis for a criminal prosecution. All questions must be answered concisely in the proper space on the form. Additional pages are not permitted except with respect to the facts which you rely upon to support your claims for relief. No citation of authorities or legal arguments are necessary.

(2) Only one judgment may be challenged in a single application except that convictions on multiple counts of a single indictment or information may be challenged in one application.

(3) YOU MUST INCLUDE ALL CLAIMS FOR RELIEF AND ALL FACTS SUPPORTING SUCH CLAIMS IN THE APPLICATION.

(4) When the application is completed, the original must be mailed to the clerk of the district court in the parish where you were convicted and sentenced.

(5) You must attach a copy of the court order sentencing you to custody. You may obtain a copy of that order from the clerk of the district court of the parish where you were sentenced or from the institution where you are confined. If a copy of the court order is not attached, you must allege what steps were taken in an effort to obtain the order.

(6) Applications which do not conform to these instructions will be returned with a notation as to the deficiency.

APPLICATION

1. Name and location of court which entered the judgment of conviction challenged_____
2. Date of judgment of conviction_____
3. Length of sentence _____
4. Nature of offense involved (all counts) _____
_____
_____
_____
5. What was your plea? (check one)
   (A) Not guilty ( )
   (B) Guilty ( )
   (C) Not guilty and not guilty by reason of insanity ( )

If you entered a guilty plea to one or more counts and not guilty to other counts, give details:_____
_____
_____
_____

   (D) Name and address of the lawyer representing you at your plea (if you had no lawyer, please indicate)_____
_____

   (E) Was the lawyer appointed ( ) or hired ( )? (check one)

6. Kind of trial: (check one)
   (A) Jury ( )
   (B) Judge only ( )
7. (A) Name and address of the lawyer representing you at your trial: _____
_____

   (B) Was the lawyer appointed ( ) or hired ( )? (check one)

8. Did you testify at the trial? Yes ( ) No ( )
9. (A) Give the name and address of the lawyer who represented you at sentencing for the conviction being attacked herein._____
_____
_____((

   (B) Was the attorney appointed ( ) or hired ( )? (check one)

10. Did you appeal from the judgment of conviction? Yes ( ) No ( )
11. If you did appeal, give the following information:
   (A) Citation, docket number, and date of written opinion by the Appeal Court (if known)_____

(B) Name and address of lawyer representing you on appeal:_____
_____
_____
(C) Was the lawyer appointed ( ) or hired ( )? (check one)

12. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any application for post-conviction relief with respect to this judgment in any state or federal court? Yes ( ) No ( )

13. If your answer to 12 is "yes", give the following information:
(A) (1) Name of court _____
(2) Nature of proceeding_____
_____
(3) Claims raised _____
_____
_____
_____
(4) Did you receive an evidentiary hearing on your application? Yes ( ) No ( )
(5) Was relief granted or denied?_____
(6) Date of disposition _____
(7) Citation of opinion (if known) _____
(8) Name and address of lawyer representing you [If none, so state]:_____
_____
_____
(9) Was the lawyer appointed ( ) or hired ( )? (check one)
(B) As to any second application give the same information:
(1) Name of court
_____
(2) Nature of proceeding_____
_____
(3) Claims raised _____
_____
_____
_____
(4) Did you receive an evidentiary hearing on your application? Yes ( ) No ( )
(5) Was relief granted or denied?_____
(6) Date of disposition _____
(7) Citation of opinion (if known) _____
(8) Name and address of lawyer representing you [If none, so state]:_____
_____
_____
(9) Was the lawyer appointed ( ) or hired ( )? (check one)

(C) Have you filed any other applications for post-conviction relief with respect to the challenged conviction? Yes ( ) No ( )

If "yes", set forth the details (as above) on separate paper and attach.

(D) Did you appeal or seek writs of review from the denial of any post-conviction application?

(1) First application, etc. Yes ( ) No ( )

(2) Second application, etc. Yes ( ) No ( )

(E) If you did not appeal or seek writs from the denial of any post-conviction application, explain briefly why you did not: _____

_____

_____

(F) Name of the lawyer who represented you on appeal from the denial of any post-conviction application [If none, so state]:

(1) First application _____

(2) Second application _____

CLAIMS FOR RELIEF

State concisely facts supporting your claim that you are being held unlawfully. If necessary, you may attach extra pages stating additional claims and supporting facts. Do not argue points of law.

For your information, the following is a list of the most frequently raised claims for relief in post-conviction applications. You may raise any claim which you may have other than those listed. However, YOU MUST RAISE IN THIS APPLICATION ALL AVAILABLE CLAIMS RELATING TO THIS CONVICTION.

(A) Denial of right of appeal.

(B) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.

(C) Conviction obtained by use of coerced confession.

(D) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.

(E) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.

(F) Conviction obtained by a violation of the privilege against self-incrimination.

(G) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.

(H) Conviction obtained by a violation of the protection against double jeopardy.

(I) Conviction obtained by action of grand or petit jury which was unconstitutionally selected and impaneled.

(J) Denial of effective assistance of counsel.

A REMINDER: YOU MUST SET FORTH ALL OF YOUR COMPLAINTS ABOUT YOUR CONVICTION IN THIS APPLICATION. YOU MAY BE BARRED FROM PRESENTING ADDITIONAL CLAIMS AT A LATER DATE. Remember that you must state the FACTS upon which your complaints about your conviction are based. DO NOT JUST SET OUT CONCLUSIONS.

CLAIM I

Claim: _____

(A) Supporting FACTS (tell your story briefly without citing cases or law):_____

_____

_____

_____

_____

_____

_____

(B) List names and addresses of witnesses who could testify in support of your claim. If you cannot do so, explain why: _____

_____

_____

_____

_____

_____

_____

(C) If you failed to raise this ground in the trial court prior to conviction, on appeal, or in a prior application, explain why:

_____

_____

_____

_____

_____

CLAIM II

Claim: _____

(A) Supporting FACTS (tell your story briefly without citing cases or law):_____

_____

_____

_____

_____

_____

_____

(B) List names and addresses of witnesses who could testify in support of your claim. If you cannot do so, explain why: _____

_____

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_____

(C) If you failed to raise this ground in the trial court prior to conviction, on appeal, or in a prior application, explain why:

_____

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CLAIM III

Claim: _____

(A) Supporting FACTS (tell your story briefly without citing cases or law):_____

_____

_____

_____

_____

_____

_____

(B) List names and addresses of witnesses who could testify in support of your claim. If you cannot do so, explain why: _____

_____

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_____

_____

_____

(C) If you failed to raise this ground in the trial court prior to conviction, on appeal, or in a prior application, explain why:

_____

_____

_____

_____

_____

You may attach additional pages setting forth the required information (above) if additional claims are asserted.

A. Do you have in a state or federal court any application or appeal now pending as to the judgment challenged? Yes [ ] No [ ] If "'Yes", name the court _____

_____

B. Do you have any future sentence to serve after you complete the sentence imposed by the judgment challenged? Yes [ ] No [ ]

(1) If so, give name and location of court which imposed sentence to be served in the future: _____

_____

(2) Give date and length of sentence to be served in the future: _____

_____

(3) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future? Yes [ ] No [ ]

C. If a copy of the court order sentencing you to custody is not attached, explain why.

_____

WHEREFORE, applicant prays that the Court grant applicant relief to which he may be entitled. -------_____

Signature of Applicant

_____

Day/Month/Year

AFFIDAVIT

STATE OF LOUISIANA
PARISH OF _____

_____, (Name of Applicant) being first duly sworn says that he has read the foregoing application for post-conviction relief and swears or affirms that all of the information therein is true and correct. He further swears or affirms that he is unable to employ counsel because he has no assets or funds which could be used to hire an attorney except as listed above. [Delete reference to appointment of counsel if inapplicable.]

_____

Signature of Applicant

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 20___.

_____

Notary Public or other person authorized to administer an oath.

APPENDIX B. COMMENTS ON RULES

Comments on Rule 1-5

The first sentence provides for the usual 3-judge panel to hear cases. The second sentence adds the constitutional requirement of 5-judge panels in the case of modification or reversal, in a civil matter, with one dissent. The use of the word "resubmitted" allows for the situation where the case was originally submitted without oral argument. It has been the practice that if the case was originally argued orally, it is again argued orally before 5 judges, but if the case was originally submitted without oral argument, it is submitted to the 5-judge panel without oral argument. LSA-Const. Art. 5, § 8(B). In *Sarpy v. Sarpy*, 359 So.2d 750 (La.App. 4 Cir. 1978), writ denied, 360 So.2d 1178 (La.1978), the court said:

> "The purpose of Section 8(B) is to require reconsideration by a larger panel 'prior to rendition of judgment' whenever the original panel proposes to reverse or modify the trial court judgment, unless the original panel votes unanimously to do so. . . "Once the judgment is rendered reversing the trial court judgment, Section 8(B) does not require unanimity of the appellate court on an application to reconsider the unanimous judgment of reversal."

Criminal cases are excepted from the 5-judge provision. LSA-Const. Art. 5, § 8(B).

The third sentence takes care of appeals in election cases. LSA-R.S. 18:1409H. The last sentence is to take care of any special situations.

COMMENTS ON RULE 2-1.17

This Rule is to take care of the situation where a party in a civil case wishes to designate the record as provided in LSA-C.C.P. art. 2128.

Pursuant to C.Cr.P. art. 845 [repealed; see, now C.Cr.P. art. 914.1], the appellant in a criminal case is required to designate the portions of the record on appeal. Other portions may be designated by the appellee (state) or the trial and appellate courts.

COMMENTS ON RULE 2-1.4 Amended July 1, 2012

Appellate courts are scanning records into document management systems. The front cover of the record is required to be "strong" with a list of information inscribed thereon. Scanners cannot handle the "strong" cover material so this rule is being revised to require a regular paper copy of the first volume's front cover to be included in the record to facilitate scanning.

COMMENTS ON RULE 2-3

This Rule is to make it clear that the record is to be transcribed for the appellate court in an appeal where the testimony was electronically recorded, and that tapes, cassettes, or other recordings are not to be sent up as the testimony in such cases. This Rule does not affect those cases wherein the testimony of witnesses has been taken by stenotype, stenograph, or any other customary or mechanical means.

COMMENTS ON RULE 2-4

The statute providing for the fees is LSA-R.S. 13:352.

COMMENTS ON RULE 2-9

This Rule, providing for the substitution of parties, is taken from Rule 13 of the S.Ct. Rules. The references to substitution of parties in the former Rules are contained in the Rule dealing with Remedial Writs, C.A., R 12, S 7, and in Rule 13 dealing with Proceedings in Case of Death (which is unnecessarily detailed). The Rule is intended to make for more uniformity in the appellate courts, as well as in the trial courts.

COMMENTS ON RULE 2-18

This Rule encompasses a detailed explanation of the requirements of the application for rehearing, and the rehearing procedure. The application for rehearing, in order to be timely, must be filed with the clerk of the Court of Appeal on or before 14 calendar days after the delivery or mailing of the notice of judgment, and no extension of time will be granted. LSA-C.C.P. art. 2166. Repeated applications for rehearing will not be countenanced.
(West note: This comment was modified in 2001 to reflect a 1983 amendment to C.C. P. Art. 2166)

COMMENTS ON RULE 2-19

This Rule is based on LSA-C.C.P. art. 2164.

COMMENTS ON RULE 3-1

The Rule is adapted from the former Rule dealing with Appeals from Decisions of Civil Service Commission, etc., with only cosmetic changes, and the elimination of the bond for costs. All administrative body decisions have been combined into one Rule based on the source provision, C.A., R 16.

COMMENTS ON RULE 3-2

This Rule is to take care of the situation where the delays for taking an appeal have elapsed through no fault of the defendant. There is a constitutional right to an appeal in criminal cases, which right can only be waived by the defendant himself. LSA-Const., Art. 1, § 19; *State v. Simmons*, 390 So.2d 504 (La.1980).

COMMENTS ON RULE 4

The Rule applies to all writs, whether in civil or criminal actions, so the writs are not specifically referred to as supervisory or remedial, or as writ of certiorari or the like. See LSA-C.C.P. art. 2201.

COMMENTS ON RULE 4-3

In civil cases, Rule 4-3 has been revised to coordinate the date of the beginning of the 30-day period for setting a return date with the date of notice of the ruling at issue, in accordance with the notice rules of La. C.C.P. art. 1914 as amended by Act 545 of 2003. The "ruling at issue" refers to any interlocutory judgment, order, or ruling of the trial court.

In the interests of judicial efficiency and fairness to the parties, an appellate court in its discretion may review an interlocutory or final judgment pursuant to its supervisory jurisdiction, even though the judgment also could be reviewed pursuant to an appeal. See *Chambers v. LeBlanc*, 598 So.2d 337 (La. 1992); *Winston v. Martin*, 34,195 (La. App. 2 Cir. 7/6/00), 764 So. 2d 368; *Smith v. Louisiana Dept. of Public Safety*, 90-1029 (La. App. 3 Cir. 10/15/90), 571 So.2d 666; *Hamilton Medical Group v. Ochsner Health Plan*, 550 So.2d 290 (La. App 3 Cir. 1989). The 30-day period in Rule 4-3 in no way affects an appellate court's ability to utilize its supervisory jurisdiction in such instances.