

SETTLEMENT CONFERENCE IN COURT OF APPEALS

(a) Application of Rule. This rule applies only to an appeal to the Court of Appeals from a trial court decision in a civil case. A civil appeal statement or answer should be filed only if requested by the clerk in the notice given to the parties under section (b).

(b) Settlement Conference. A settlement conference may be held in a civil appeal when directed by the Court of Appeals or when all parties to the appeal agree that a conference would be beneficial. The parties should direct a request for a settlement conference in writing to the clerk of the court. If a settlement conference is requested by all parties, or directed by the Court of Appeals, the clerk of the court will then give notice to the parties of the date, time, and place of the conference; the name of the judge, judge pro tempore, or commissioner who will conduct the conference; and whether the parties are required to attend the conference. The clerk will also advise the parties if a civil appeal statement or answer is required and, if so, the date by which the documents should be filed.

(c) Form of Civil Appeal Statement. The statement should be captioned "Civil Appeal Statement," contain the title of the case as provided in rule 3.4, and contain under appropriate headings and in the order here indicated:

(1) *Nature of Case and Decision.* A short statement of the substance of the case below and the basis for the trial court decision.

(2) *Issues Presented for Review.* A statement of each issue the party intends to present for review by the Court of Appeals.

(3) *Relief Sought in Court of Appeals.* The relief the party seeks in the Court of Appeals.

(4) *Trial Court.* The name of the court from which the appeal was taken.

(5) *Judge.* The name of the trial court judge who made the decision which is being reviewed.

(6) *Date of Decision.* The date the decision was entered in the trial court.

(7) *Postdecision Motions.* A statement of each postdecision motion made in the trial court including the nature of the motion, the date the motion was made, the decision on the motion, and the date the decision was entered.

(8) *Notice of Appeal.* The date the notice of appeal was filed. A copy of the notice should be attached to the statement.

(9) *Counsel.* The name, address, and telephone number of counsel for each party.

(10) *Method of Disposition in Trial Court.* A statement of the method used to decide the case in the trial court.

(11) *Relief Granted by Trial Court.* A short statement of the relief granted by the trial court.

(12) *Relief Denied by Trial Court.* A short statement of the relief sought by the party making the statement which was denied by the trial court.

(13) *Certificate of Counsel.* A statement signed by counsel for the party filing the statement certifying that the appeal is taken in good faith; the appeal is not taken for the purpose

of delay; and that the party represented by counsel is or is not prepared to take all steps immediately to complete the appeal. If the party is not prepared to take all steps immediately to complete the appeal, the certificate of counsel must state the reason(s) why.

(d) Form of Answer to Civil Appeal Statement. The answer should include any modifications to the civil appeal statement that the respondent feels are necessary to give the settlement conference judge a fair presentation of the matters material to settlement of the case. To the extent reasonably necessary to meet this objective, the answer should correct any errors in the civil appeal statement, and present any new issues or modify those presented in the civil appeal statement.

(e) [Reserved.]

(f) Stay Pending Settlement Conference. Unless the notice of the settlement conference states otherwise, a party who has received a notice of settlement conference is not required to take any further steps to complete the review until the settlement conference is concluded. After the settlement conference is completed, the clerk or a commissioner or the settlement judge will establish the dates within which the remaining steps in the review should be completed.

(g) Attendance at Settlement Conference. The attorney for each party, and the party if the notice requires it, must attend the settlement conference on the date, time, and place specified in the clerk's notice. Those in attendance should be ready to consider seriously the possibility of settlement, limitation of the issues to be presented for review, and other matters that may promote the prompt and fair disposition of the appeal.

(h) Settlement Conference Order. If the parties agree to settle the case, to limit the issues, or to other matters to promote the prompt and fair disposition of the appeal, the settlement judge or commissioner may enter an order consistent with that agreement. If the settlement conference order fully settles the case, the clerk of the Court of Appeals will immediately issue the mandate to the trial court with directions to enter judgment as indicated in the order. In all other cases the order is binding on the parties during the review proceeding, unless the appellate court otherwise directs on its own initiative or on motion of a party for good cause shown and on those terms the appellate court deems appropriate.

(i) Sanctions. If a party or counsel for a party fails to comply with this rule or to comply with a settlement conference order, the Court of Appeals may impose sanctions or dismiss the review proceeding as provided in rule 18.9.

(j) Settlement Conference Judge May Be Disqualified. The settlement conference judge may hear the appeal on the merits unless (1) the judge decides the best interests of justice would be served by refraining from hearing the case on the merits, or (2) a party disqualifies the judge by request to the clerk of the appellate court. A party may disqualify the judge without cause. Each clerk of the Court of Appeals shall adopt and implement a procedure to preserve the confidentiality of the identity of a party who disqualifies the judge.

References

Form 21, Civil Appeal Statement.

[Adopted effective July 1, 1976; Amended effective February 28, 1977; September 1, 1990; September 1, 1994; September 1, 1998.]