

ELY SHOSHONE RULES OF APPELLATE PROCEDURE

I. APPLICABILITY OF RULES

RULE 1. SCOPE, CONSTRUCTION OF RULES

(a) **Scope of Rules.** These rules govern procedure in appeals to the Appellate Court from the Ely Shoshone Tribal Court and in applications for writs or other relief which the Appellate Court or a justice thereof is competent to give.

(b) **Rules Not to Affect Jurisdiction.** These rules shall not be construed to extend or limit the jurisdiction of the Appellate Court as established by law.

(c) **Construction of Rules.** These rules shall be liberally construed to secure the proper and efficient administration of the business and affairs of the court and to promote and facilitate the administration of justice by the court.

(d) **Effect of Rule and Subdivision Headings.** Rules and subdivision headings set forth in these rules shall not in any manner affect the scope, meaning or intent of any of the provisions of these rules.

(e) **Definitions of Words and Terms.** In these rules, unless the context or subject matter otherwise requires:

(1) "Appellant" includes, if appropriate, a petitioner.

(2) "Appellee" includes, if appropriate, a respondent.

(3) "Case" includes action and proceeding.

(4) "Clerk" means the clerk of the appellate court.

(5) "Court" means the appellate court.

(6) "Party," "applicant," "petitioner" or any other designation of a party include such party's attorney of record. Whenever under these rules a notice or other paper is required to be given or served on a party, such notice or service shall be made on his attorney of record if he has one.

(7) "Person" includes and applies to corporations, firms, associations and all other entities, as well as natural persons.

(8) "Shall" is mandatory and "may" is permissive.

(9) The past, present and future tense shall each include the others; the masculine, feminine and neuter gender shall include the others; and the singular and plural numbers shall each include the other.

RULE 2. SUSPENSION OF RULES

In the interest of expediting decision, or for other good cause shown, the Appellate Court may suspend the requirements or provisions of any of these rules in a particular case on application of a party or on its own motion and may order proceedings in accordance with its direction.

II. APPEALS FROM JUDGMENTS AND ORDERS OF TRIBAL COURTS

RULE 3. APPEAL—HOW TAKEN

(a) Filing the Notice of Appeal. Except for automatic appeals from a judgment of death pursuant to Section 177.055, an appeal permitted by law from a tribal court to the Appellate Court shall be taken by filing a notice of appeal with the clerk of the tribal court within the time allowed by Rule 4. Failure of an appellant to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for such action as the Appellate Court deems appropriate, which may include dismissal of the appeal.

(1) Case Appeal Statement. Any notice of appeal presented to the tribal court clerk for filing shall be accompanied by a case appeal statement completed and signed by appellant's counsel. If the notice of appeal is filed in proper person, the tribal court clerk shall complete and sign the case appeal statement. A case appeal statement must substantially comply with Form 2 in the Appendix of Forms, and must contain the following information:

- (i) Tribal court case number and caption showing the names of all parties to the proceedings below; the use of et al. to denote parties is prohibited;
- (ii) Name of judge who entered the order or judgment appealed from;
- (iii) Names of all parties to the appeal; names of all counsel and the party or parties they represent;
- (iv) Whether appellant was represented by appointed counsel in the tribal court, and whether appellant is represented by appointed counsel on appeal;
- (v) Whether appellant was granted leave to proceed in forma pauperis, and, if so, the date of entry of the tribal court order granting such leave; and
- (vi) The date the proceedings commenced in the tribal court.

(2) Deficient Notice of Appeal. The tribal court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the tribal court or Appellate Court filing fee. The tribal court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Appellate Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Appellate Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Appellate Court shall docket the appeal in accordance with Rule 12.

(b) Joint or Consolidated Appeals. If two or more persons are entitled to appeal from a judgment or order of a tribal court and their interests are such as to make joinder practicable, they may file a joint notice of appeal, or may join in appeal after filing separate timely notices of appeal, and they may thereafter proceed on appeal as a single appellant. Appeals may be consolidated by order of the Appellate Court upon its own motion or upon motion of a party, or by stipulation of the parties to the several appeals.

(c) Content of the Notice of Appeal. The notice of appeal shall specify the party or parties taking the appeal; shall designate the judgment, order or part thereof appealed from; and shall name the court to which the appeal is taken. Form 1 in the Appendix of Forms is a suggested form of a notice of appeal.

(d) Service of the Notice of Appeal. The appellant shall serve the notice of appeal on all parties to the action in the tribal court. Service on a party represented by counsel shall be made on counsel. If a party is not represented by counsel, appellant shall serve the notice of appeal on the party at the party's last known address. There shall be noted on each copy served the date on which the notice of appeal was filed. The notice of appeal shall contain an acknowledgement of service or proof of service that conforms to the requirements of Rule 10(1)(d).

(1) Service in Criminal Appeals. When an appeal is taken by a defendant in a criminal case, appellant's counsel shall also serve a copy of the notice of appeal on the defendant, either by personal service or by mail addressed to the defendant. In criminal appeals governed by Rule 3C, appellant's trial counsel must comply with the provisions of this Rule and Rule 3C(c) governing service of the notice of appeal.

(e) Transmission to Appellate Court. Upon the filing of the notice of appeal, the clerk of the tribal court shall immediately transmit to the clerk of the Appellate Court the required filing fee, together with two (2) certified, file-stamped copies of the following documents: (1) notice of appeal; (2) case appeal statement; (3) the tribal court docket entries; (4) the judgment(s) or order(s) appealed from; (5) any notice of entry of the judgment(s) or order(s)

appealed from; (6) any certification order directing entry of judgment pursuant to [NRCP 54\(b\)](#); (7) the minutes of the tribal court proceedings; and (8) a list of exhibits offered into evidence, if any.

(1) If, at the time of filing of the notice of appeal, any of the enumerated documents have not been filed in the tribal court, the clerk of the tribal court shall nonetheless transmit the notice of appeal together with all documents then on file with the clerk.

(2) Appellant shall take all action necessary to enable the clerk to assemble and transmit the documents enumerated in this subdivision.

(f) Filing Fee. In addition to the fees charged by the tribal court, the appellant shall tender the Appellate Court filing fee to the clerk of the tribal court at the time of filing of the notice of appeal. Except for amended notices of appeal filed pursuant to Rule 4(a)(4), the Appellate Court filing fee is \$250 for each notice of appeal filed.

RULE 3A. CIVIL ACTIONS: STANDING TO APPEAL; APPEALABLE DETERMINATIONS

(a) Aggrieved Party May Appeal. Any appealable judgment or order in a civil action or proceeding may be appealed from and reviewed as prescribed by these rules, and not otherwise. Any party aggrieved may appeal, with or without first moving for a new trial, and the Appellate Court may consider errors of law and the sufficiency of the evidence, and may remand for new trial, whether or not a motion for new trial has been made.

(b) Appealable Determinations. An appeal may be taken:

(1) From a final judgment in an action or proceeding commenced in the court in which the judgment is rendered.

(2) From an order granting or refusing a new trial, or granting or refusing to grant or dissolving or refusing to dissolve an injunction, or appointing or refusing to appoint a receiver, or vacating or refusing to vacate an order appointing a receiver, or dissolving or refusing to dissolve an attachment, or changing or refusing to change the place of trial, or from any order entered in a proceeding that did not arise in a tribal court that finally establishes or alters the custody of minor children, and from any special order made after final judgment except an order granting a motion filed and served within sixty (60) days following entry of a default judgment, setting aside the judgment pursuant to [N.R.C.P. 60\(b\)\(1\)](#).

(3) From an interlocutory judgment, order or decree made or entered in actions to redeem real or personal property from a mortgage thereof or lien thereon, determining such right to redeem and directing an accounting, and from an interlocutory judgment in actions for partition which determines the rights and interests of the respective parties and directs partition, sale or division to be made.

(4) If an order granting or refusing to grant a motion to change the place of trial of an action or proceeding is not directly appealed from within thirty (30) days, there shall be no appeal therefrom on appeal from the judgment in the action or proceeding or otherwise, and on demand or motion of either party to an action or proceeding the court or judge making the order changing or refusing to change the place of trial of an action or proceeding shall make an order staying the trial of the action or proceeding until the time to appeal from such order, changing or refusing to change the place of trial, shall have lapsed; or if an appeal from such order is taken, until such appeal shall, in the appellate court, or in some other manner, be legally determined.

RULE 3B. CRIMINAL ACTIONS: STANDING TO APPEAL; WHEN ALLOWED; HOW TAKEN; RULES GOVERNING

Appeals from determinations of tribal courts in criminal actions shall be governed by the rules and by [Section 177.015 to 177.305](#). All appeals in capital cases are also subject to the provisions of [A.C.R. 250](#). Rule 3C applies to all other direct and post-conviction criminal appeals, except those matters specifically excluded from the fast track by Rule 3C(a).

RULE 3C. FAST TRACK CRIMINAL APPEALS

(a) **Expedited Appeals.** A proceeding is commenced for the purposes of this Rule upon the filing of an indictment, information, or post-conviction application in the tribal court. The Appellate Court may exercise its discretion and apply this Rule to appeals arising from criminal and post-conviction proceedings that are not subject to this Rule. Unless the court otherwise orders, an appeal is not subject to this Rule if:

(1) The appeal is brought by a proper person defendant or petitioner.

(b) **Responsibilities of Trial Counsel.** Trial counsel shall be responsible for filing the notice of appeal, rough draft transcript request form, and fast track statement and for consulting with appellate counsel for the case regarding the appellate issues that are raised. Trial counsel shall arrange their calendars and adjust their public or private contracts for compensation to accommodate the additional duties imposed by this Rule.

(1) **Withdrawal of Trial Counsel.** To withdraw from representation during the appeal, trial counsel shall file with the Appellate Court a motion to withdraw from representation. The motion shall be considered only after trial counsel has filed the notice of appeal, rough draft transcript request and fast track statement. The granting of such motions shall be conditioned upon trial counsel's full cooperation with appellate counsel during the appeal.

(c) **Notice of Appeal.** In the event that an appellant elects to appeal from a tribal court order or judgment governed by this Rule, appellant's trial counsel shall serve and file a notice of appeal pursuant to applicable rules and statutes.

(d) **Rough Draft Transcript.** A rough draft transcript is a computer-generated transcript that can be expeditiously prepared in a condensed fashion, but is not proofread, corrected or certified to be an accurate transcript.

(1) For the purposes of this Rule, a rough draft transcript shall:

(i) Be printed on paper 8 1/2 by 11 inches in size, double-sided, with the words "Rough Draft Transcript" printed on the bottom of each page;

(ii) Be produced with a yellow cover sheet in a condensed format that produces at least four conventional transcript pages on one condensed page;

(iii) Include a concordance indexing key words in the transcript; and

(iv) Include an acknowledgment by the court reporter or recorder that the document submitted pursuant to this section of this Rule is a true original or copy of the rough draft transcript.

(2) **Notification of Court Reporter or Recorder.** When a case may be subject to this Rule, the presiding tribal court judge shall notify the court reporter or recorder for the case prior to trial that a rough draft transcript may be required.

(3) **Request for Rough Draft Transcript.** When a rough draft transcript is necessary for an appeal, trial counsel shall file a rough draft transcript request form with the tribal court and shall serve a copy of the request form upon the court reporter or recorder and opposing counsel. Trial counsel shall file with the Appellate Court two (2) file-stamped copies of the rough draft transcript request form and proof of service of the form upon the court reporter or recorder and opposing counsel.

(i) Trial counsel shall serve and file the documents specified in subsection (d)(3) of this Rule on the same date the notice of appeal is served and filed. The rough draft transcript request shall substantially comply with Form 5 of the Appendix of Forms.

(ii) Counsel shall order transcripts of only those portions of the proceedings which counsel reasonably and in good faith believes are necessary to determine whether appellate issues are present. In particular, transcripts of

jury voir dire, opening statements, closing arguments, and the reading of jury instructions shall not be requested unless pertinent to the appeal.

(iii) The court reporter or recorder shall submit an original rough draft transcript, as requested by appellant's or respondent's counsel, to the tribal court no more than 20 days after the date of service of the request. The court reporter or recorder shall also deliver certified copies of the rough draft transcript to the requesting and opposing attorneys no more than 20 days after the date of service of the request. Within 5 days after delivering the certified copies of the rough draft transcript, the court reporter or recorder shall file with the clerk of the Appellate Court a certificate acknowledging delivery of the completed transcript and specifying the transcripts that have been delivered and the date that they were delivered to the requesting party.

(iv) Relevant portions of the trial or hearing that were audio recorded or video recorded shall be submitted in typewritten form. The Appellate Court shall not accept audio or video tapes in lieu of a rough draft transcript.

(4) Supplemental Request for Rough Draft Transcript. Opposing counsel may make a supplemental request for portions of the rough draft transcript that were not previously requested. The request shall be made no more than 3 days after opposing counsel is served with the transcript request made pursuant to subsection (d)(3) of this Rule. In all other respects, opposing counsel shall comply with the provisions of this Rule governing a rough draft transcript request when making a supplemental rough draft transcript request.

(5) Sufficiency of the Rough Draft Transcript. Trial counsel shall be responsible for reviewing the sufficiency of the rough draft transcript. In the event a substantial question arises regarding an inaccuracy in a rough draft transcript, the Appellate Court may order the production of a certified transcript.

(6) The provisions of subsection (d)(1) of this Rule shall not apply to preparation of transcripts produced by means other than computer-generated technology. Time limitations and other procedures governing requests for and preparation of transcripts produced by means other than computer-generated technology, however, shall conform with the provisions of this Rule respecting rough draft transcripts.

(e) Filing of Fast Track Statement and Appendix. Within 40 days from the date the notice of appeal is filed with the tribal court, appellant's trial counsel shall file an original and 1 copy of both a form fast track statement and an appendix with the Appellate Court. The fast track statement shall substantially comply with Form 6 of the Appendix of Forms.

(1) The fast track statement shall not exceed 10 pages in length and shall include the following:

- (i) A statement of jurisdiction for the appeal;
- (ii) A statement of the case and procedural history of the case;
- (iii) A concise statement summarizing all facts material to a consideration of the issues on appeal;
- (iv) An outline of the alleged error(s) of the tribal court;
- (v) A statement describing how the alleged issues on appeal were preserved during trial;
- (vi) Legal argument, including authorities, pertaining to the alleged error(s) of the tribal court;
- (vii) Where applicable, a statement regarding the sufficiency of the rough draft transcript; and

(viii) Where applicable, a reference to all related or prior appeals, including the appropriate citations for those appeals.

(2) Counsel have a duty to confer and attempt to reach an agreement concerning a possible joint appendix to be filed with the fast track statement. In the absence of an agreement respecting a joint appendix, appellant shall prepare and file a separate appendix with the fast track statement. The preparation and contents of appendices shall

comply with paginated sequentially. Every assertion in the fast track statement regarding matters in an appendix shall cite to the page of the appendix that supports that assertion.

(f) Filing of Fast Track Response. Within 20 days from the date a fast track statement is filed with the Appellate Court, the respondent shall file an original and 1 copy of its fast track response. The fast track response shall substantially comply with Form 7 of the Appendix of Forms.

(1) The fast track response shall not exceed 10 pages in length and shall include additional authority and factual information necessary to rebut the contentions in the fast track statement.

(2) Counsel have a duty to confer and attempt to reach an agreement concerning a possible joint appendix. In the absence of an agreement respecting a joint appendix, respondent shall file an original and 1 copy of a separate appendix with the fast track response. The preparation and contents of appendices shall comply with Rules 30 and 32 and shall be paginated sequentially. Every assertion in the fast track response regarding matters in an appendix shall cite to the page of the appendix that supports that assertion.

(g) Filing of Supplemental Fast Track Statement and Response. An original and 1 copy of a supplemental fast track statement of not more than 5 pages may be filed by appellate counsel if appellate counsel differs from trial counsel and if appellate counsel can assert material issues which should be considered and which were not raised in the fast track statement. The supplemental statement shall be filed with the Appellate Court and served upon opposing counsel no more than 20 days after the filing of the fast track statement or appellate counsel's appointment, whichever is later. A response to a supplemental fast track statement of not more than 5 pages may be filed by the respondent and served upon opposing counsel no later than 10 days after the filing and service of the supplemental fast track statement.

(h) Extensions of Time.

(1) A court reporter or recorder may request by telephone a 5-day extension of time for the preparation of a rough draft transcript if such preparation requires more time than is allowed under this Rule. If good cause is shown, the clerk of the Appellate Court or a designated deputy may grant such requests via telephone or by written order of the clerk. Subsequent extensions of time for filing rough draft transcripts shall be granted only upon motion to the Appellate Court. Such motions shall justify the requested extension in light of the time limits provided in this Rule, and shall specify the exact length of the extension requested. Extensions of time for the filing of rough draft transcripts shall be granted only upon demonstration of good cause. Sanctions may be imposed if such motions are brought without reasonable grounds.

(2) Counsel may request by telephone a 5-day extension of time for filing fast track statements and responses, and supplemental fast track statements and responses. If good cause is shown, the clerk of the Appellate Court may grant such requests via telephone or by written order of the clerk. Subsequent extensions of time for filing fast track statements and responses, and supplemental fast track statements and responses shall be granted only upon motion to the Appellate Court. Such motions shall justify the requested extension in light of the time limits provided in this Rule, and shall specify the exact length of the extension requested. Extensions of time for the filing of fast track statements and responses, and supplemental fast track statements and responses shall be granted only upon demonstration of extreme need or merit. Sanctions may be imposed if such motions are brought without reasonable grounds.

(i) Amendments to Statements and Responses. Leave to amend fast track statements and responses, or supplemental fast track statements and responses shall be granted only upon motion to the Appellate Court. Motions to amend shall justify the absence of the offered arguments in the initial or supplemental fast track statement or response. Such motions shall be granted only upon demonstration of extreme need or merit.

(j) Full Briefing, Calendaring or Summary Disposition.

(1) Based solely upon review of the rough draft transcript, fast track statement, fast track response, and any supplemental documents, the Appellate Court may summarily dismiss the appeal, may affirm or reverse the decision appealed from without further briefing or argument, may order the appeal to be fully briefed and argued or

submitted for decision without argument, may order that briefing and any argument be limited to specific issues, or may direct the appeal to proceed in any manner reasonably calculated to expedite its resolution and promote justice.

(2) If the Appellate Court orders an appeal to be fully briefed, and neither party objects to the sufficiency of the rough draft transcripts to adequately inform this court of the issues raised in the appeal, counsel are not required to file certified transcript request forms pursuant to Rule 9. If a party's brief will cite to a transcript not previously filed in this court, that party shall cause a supplemental transcript to be prepared and filed in the tribal court and the Appellate Court pursuant to Rule 7 within the time specified for filing the brief in the Appellate Court's briefing order. If a party's brief will cite to documents not previously filed in this court, that party shall file and serve an appropriately documented supplemental appendix with the brief.

(k) Reserved.

(l) Withdrawal of Appeal. If an appellant no longer desires to pursue an appeal after the notice of appeal is filed, counsel responsible for the appeal at that time shall file with the Appellate Court a notice of withdrawal of appeal. The notice of withdrawal of appeal shall substantially comply with Form 8 of the Appendix of Forms.

(m) Court Reporter or Recorder Protection and Compensation. When preparing and submitting rough draft transcripts under this Rule,

(1) Court reporters or recorders shall not be subject to civil, criminal or administrative causes of action for inaccuracies in a rough draft transcript unless the court reporter or recorder willfully:

(i) Fails to take full and accurate stenographic notes of the criminal proceeding for which the rough draft transcript is submitted, or willfully and improperly alters stenographic notes from the criminal proceeding, or willfully transcribes audio or video tapes inaccurately; and

(ii) Such willful conduct proximately causes injury or damage to the party asserting the action, and that party demonstrates that appellate or post-conviction relief was granted or denied based upon the court reporter's or recorder's inaccuracies.

(2) Compensation. Court reporters shall be compensated as follows:

(i) For the preparation of a rough draft transcript, the court reporter shall receive 100 percent of the rate established by [NRS 3.370](#) for each transcript page as defined by [NRS 3.370](#) and \$25.00 for costs. Costs include the cost of an ASCII diskette, which is included with the original and each copy of the rough draft transcript, and the cost of delivery of the original and copies of the rough draft transcript. In the event that overnight delivery is required to or from outlying areas, that cost shall be additional.

(ii) In the event a certified transcript is ordered after the rough draft transcript is prepared, the court reporter shall receive an additional fee equal to 25 percent of the amount established by [NRS 3.370](#) for the already prepared rough draft portion of the transcript. Any portions not included with the rough draft transcript will be compensated by the amount established by [NRS 3.370](#).

(n) Sanctions. Any attorney, court reporter, or court recorder who lacks due diligence in compliance with this Rule may be subject to sanctions by the Appellate Court. Sanctionable actions include, but are not limited to, failure of trial counsel to file a timely fast track statement or fast track response; failure of trial counsel to fully cooperate with appellate counsel during the course of the appeal; and failure of counsel to raise material issues or arguments in a fast track statement, response, supplemental statement or supplemental response.

(o) Conflict. The provisions of this Rule shall prevail over conflicting provisions of any other rule.

RULE 3D. FAST TRACK CHILD CUSTODY APPEALS

(a) Applicability. This Rule applies to appeals and cross-appeals from tribal court orders pertaining to child custody or visitation in which either the appellant or cross-appellant is represented by counsel.

(b) Responsibilities of Appellant. Appellant and cross-appellant are responsible for filing the notice of appeal, case appeal statement, docketing statement, a transcript request form, and a fast track statement for the case identifying the appellate issues that are raised.

(c) Request for Transcripts or Rough Draft Transcripts.

(1) Rough Draft Transcript. For the purposes of this Rule, a rough draft transcript is a computer-generated transcript that can be expeditiously prepared in a condensed fashion, but is not proofread, corrected or certified to be an accurate transcript. A rough draft transcript shall:

(i) be printed on paper 8 1/2 by 11 inches in size, double-sided, with the words “Rough Draft Transcript” printed on the bottom of each page;

(ii) be produced with a yellow cover sheet in a condensed format that produces at least four conventional transcript pages on one condensed page;

(iii) include a concordance, indexing key words contained in the transcript; and

(iv) include an acknowledgment by the court reporter or recorder that the document submitted pursuant to this Rule is a true original or copy of the rough draft transcript.

(2) Transcript Requests.

(i) Filing and Serving Request Form. The parties have a duty to confer and attempt to reach an agreement concerning the transcripts necessary for the Appellate Court’s review on appeal. When a transcript is necessary for an appeal, appellant shall file the transcript or rough draft transcript request form with the tribal court and shall serve a copy of the request form upon the court reporter or recorder and the opposing party. Appellant shall file and serve the request form within 10 days of the date that the Appellate Court approves the settlement conference report indicating that the parties were unable to settle or, if the case was exempted or removed from the settlement program, within 10 days of the date that the case was exempted or removed from the settlement program. Appellant shall file with the Appellate Court two (2) file-stamped copies of the transcript or rough draft transcript request form and proof of service of the form upon the court reporter or recorder and the opposing party. The transcript request form shall substantially comply with Form 3 or 11 of the Appendix of Forms. If no transcript is to be requested, appellant shall file with the Appellate Court and serve the opposing party with a certificate to that effect within the same period that the transcript request form must be filed and served under this subsection.

(ii) Appellant shall order transcripts of only those portions of the proceedings that appellant reasonably and in good faith believes are necessary to determine the appellate issues.

(iii) The court reporter or recorder shall submit an original transcript or rough draft transcript, as requested by appellant, to the tribal court no more than 20 days after the date that the request is served. The court reporter or recorder shall also deliver certified copies of the transcript or rough draft transcript to the requesting and opposing parties no more than 20 days after the date when the request is served. Within 5 days after delivering the certified copies of the rough draft transcript, the court reporter or recorder shall file with the clerk of the Appellate Court a certificate acknowledging delivery of the completed transcript and specifying the transcripts that have been delivered and the date that they were delivered to the requesting party. The preparation of transcripts shall conform with the provisions of this Rule.

(iv) Relevant portions of the trial or hearing that were audio recorded or video recorded shall be submitted in typewritten form. The Appellate Court will not accept audio or videotapes in lieu of transcripts.

(3) Supplemental Request for Transcripts or Rough Draft Transcripts. The opposing party may make a supplemental request for portions of the transcript or rough draft transcript that were not previously requested. The request shall be made no more than 5 days after appellant served the transcript request made pursuant to subsection (c)(2) of this Rule. In all other respects, the opposing party shall comply with the provisions of this Rule governing a transcript or rough draft transcript request when making a supplemental transcript request.

(4) Sufficiency of the Rough Draft Transcript. In the event that appellant elects to use rough draft transcripts, appellant shall be responsible for reviewing the sufficiency of the rough draft transcripts. In the event that a substantial question arises regarding a rough draft transcript's accuracy, the Appellate Court may order the production of a certified transcript.

(d) Filing Fast Track Statement, Response and Appendix.

(1) Filing Fast Track Statement. Within 40 days after the Appellate Court approves the settlement conference report indicating that the parties were unable to settle the case or, if the appeal is removed or exempted from the settlement program, within 40 days after the appeal is removed or exempted, appellant and cross-appellant shall file and serve an original and one copy of both a fast track statement form and an appendix with the Appellate Court and serve one copy of the fast track statement and appendix on the opposing party. The fast track statement shall substantially comply with Appendix of Forms. The fast track statement shall not exceed 15 pages in length and shall include the following:

- (i) A statement of jurisdiction for the appeal;
- (ii) A statement of the case and procedural history of the case;
- (iii) A concise statement summarizing all facts material to a consideration of the issues on appeal;
- (iv) An outline of the alleged tribal court error(s);
- (v) Legal argument, including authorities, pertaining to the alleged error(s) of the tribal court;
- (vi) When applicable, a statement regarding the sufficiency of the rough draft transcript; and
- (vii) When applicable, a reference to all related or prior appeals, including the appropriate citations for those appeals.

(2) Filing Fast Track Response. Within 20 days from the date a fast track statement is served, the respondent and cross-respondent shall file an original and one copy of a fast track response and serve one copy of the fast track response on the opposing party. The fast track response shall substantially comply with Form 13 of the Appendix of Forms. The fast track response shall not exceed 10 pages in length and shall include additional authority and factual information necessary to rebut the contentions in the fast track statement.

(3) Expanded Fast Track Statement or Response. A party may seek leave of the Appellate Court to expand the length of the fast track statement or response. The requesting party must demonstrate that the complexity of the case and the issues presented warrant granting the request. A request for expansion must be filed at least 10 days before the fast track statement or response is otherwise due, and must specify the number of additional pages requested.

(4) Appendix. The parties have a duty to confer and attempt to reach an agreement concerning a possible joint appendix to be filed with the fast track statement. In the absence of an agreement respecting a joint appendix, appellant shall prepare and file a separate appendix with the fast track statement, and respondent may prepare and file a separate appendix with the fast track response. The preparation and contents of appendices shall be paginated sequentially. Every assertion in the fast track statement or response regarding matters in an appendix shall cite to the specific page number that supports that assertion.

(e) Extensions of Time.

(1) Transcripts or Rough Draft Transcripts. A court reporter or recorder may request, by telephone, a 5-day extension of time for the preparation of a transcript or rough draft transcript if such preparation requires more time than is allowed under this Rule. The Appellate Court clerk or designated deputy may, for good cause, grant such requests via telephone or by written order.

(2) Fast Track Statements or Responses. Either party may request, by telephone, a 5-day extension of time for filing a fast track statement or response. The Appellate Court clerk or designated deputy may, for good cause, grant such requests via telephone or by written order.

(3) Subsequent Request for Extensions. Any subsequent request for an extension of time must be made by written motion to the Appellate Court. The motion must justify the requested extension in light of the time limits provided in this Rule, and shall specify the exact length of the extension requested. Extensions of time for the filing of fast track statements and responses shall be granted only upon demonstration of extreme need or merit. Sanctions may be imposed if a subsequent motion for an extension of time is brought without reasonable grounds.

(f) Appeal Disposition, Full Briefing, or Calendaring.

(1) Based solely upon review of the transcripts or rough draft transcripts, fast track statement, fast track response, and any other documents filed with the court, the Appellate Court may resolve the matter or direct full briefing.

(2) A party may seek leave of the Appellate Court to remove an appeal from the fast track program and direct full briefing. The motion must demonstrate that the specific issues raised in the appeal are complex and/or too numerous for resolution in the fast track program. Counsel for the movant must attach a written waiver from the client certifying that counsel has discussed the implications of full briefing and that the client waives expeditious resolution of the appeal.

(3) If the Appellate Court orders an appeal to be fully briefed, the parties are not required to file transcript request forms pursuant to Rule 7(a) unless otherwise ordered. If a party's brief cites to a transcript not previously filed in the Appellate Court, that party shall cause a supplemental transcript to be prepared and filed in the tribal court and the Appellate Court under Rule 9 within the time specified for filing the brief in the Appellate Court's briefing order. If a party's brief cites to documents not previously filed in the Appellate Court, that party shall file and serve an appropriately documented supplemental appendix with the brief.

(4) Subject to extensions, and if the Appellate Court does not order full briefing, the Appellate Court shall dispose of all fast track child custody appeals within 90 days of the date the fast track response is filed.

(g) Court Reporter or Recorder Protection and Compensation. When preparing and submitting rough draft transcripts under this Rule,

(1) Court reporters or recorders shall not be subject to civil, criminal or administrative causes of action for inaccuracies in a rough draft transcript unless the court reporter or recorder willfully

(i) fails to take full and accurate stenographic notes of the proceeding for which the rough draft transcript is submitted, or willfully and improperly alters stenographic notes from the proceeding, or willfully transcribes audio or video tapes inaccurately; and

(ii) such willful conduct proximately causes injury or damage to a party asserting the action, and that party demonstrates that appellate relief was granted or denied based upon the court reporter's or recorder's inaccuracies.

(2) Court reporters shall be compensated as follows:

(i) For the preparation of a transcript or rough draft transcript, the court reporter shall receive 100 percent of the rate established by [NRS 3.370](#) for each transcript page and for costs. A party ordering transcripts or copies must

pay the court reporter's fee. No reporter may be required to perform any service in a civil case until the fees have been paid to him or her, or deposited with the court clerk.

(ii) In the event that a certified transcript is ordered after the rough draft transcript is prepared, the court reporter shall receive an additional fee as established by [NRS 3.370](#).

(h) Sanctions. Any party, attorney, court reporter, or court recorder who lacks due diligence in compliance with this Rule may be subject to sanctions by the Appellate Court. Sanctionable actions include, but are not limited to, failure of appellant to timely file a fast track statement or respondent's failure to file a fast track response; and failure of a party to raise material issues or arguments in a fast track statement or response.

(i) Conflict. The provisions of this Rule shall prevail over conflicting provisions of any other rule.

RULE 4. APPEAL—WHEN TAKEN

(a) Appeals in Civil Cases.

(1) **Time and Location for Filing a Notice of Appeal.** In a civil case in which an appeal is permitted by law from a tribal court to the Appellate Court, the notice of appeal required by Rule 3 shall be filed with the clerk of the tribal court. Except as provided in Rule 4(a)(4), a notice of appeal must be filed after entry of a written judgment or order, and no later than 30 days after the date that written notice of entry of the judgment or order appealed from is served. If an applicable statute provides that a notice of appeal must be filed within a different time period, the notice of appeal required by these rules must be filed within the time period established by the statute.

(2) **Multiple Appeals.** If a party timely files a notice of appeal, any other party may file and serve a notice of appeal within 14 days of the date on which the first notice of appeal was served, or within the time otherwise prescribed by Rule 4(a), whichever period last expires.

(3) **Entry Defined.** A judgment or order is entered within the meaning of this Rule when it is signed by the judge or by the clerk, as the case may be, and filed with the clerk. A notice or stipulation of dismissal filed pursuant to [T.R.C.P. 41\(a\)\(1\)](#) has the same effect as a judgment or order signed by the judge and filed by the clerk and constitutes entry of a judgment or order for the purposes of this Rule. If such a notice or stipulation dismisses all unresolved claims pending in an action in the tribal court, the notice or stipulation constitutes entry of a final judgment or order for purposes of this Rule.

(4) **Effect of Certain Motions on a Notice of Appeal.** If a party timely files in the tribal court any of the following motions under the Ely Shoshone Tribal Rules of Civil Procedure, the time to file a notice of appeal runs for all parties from entry of an order disposing of the last such remaining motion, and the notice of appeal must be filed no later than 30 days from the date of service of written notice of entry of that order:

- (i) a motion for judgment;
- (ii) a motion under to amend or make additional findings of fact;
- (iii) a motion under to alter or amend the judgment;
- (iv) a motion for a new trial.

(5) **Appeal From Certain Amended Judgments and Post-Judgment Orders.** An appeal from a judgment substantively altered or amended upon the granting of a motion listed in Rule 4(a)(4), or from an order granting or denying a new trial, is taken by filing a notice of appeal, or amended notice of appeal, in compliance with Rule 3. The notice of appeal or amended notice of appeal must be filed after entry of a written order disposing of the last such remaining timely motion and no later than 30 days from the date of service of written notice of entry of that order.

(6) **Premature Notice of Appeal.** A premature notice of appeal does not divest the tribal court of jurisdiction. The appellate court may dismiss as premature a notice of appeal filed after the oral pronouncement of a decision or order but before entry of the written judgment or order, or before entry of the written disposition of the last-

remaining timely motion listed in Rule 4(a)(4). If, however, a written order or judgment, or a written disposition of the last-remaining timely motion listed in Rule 4(a)(4), is entered before dismissal of the premature appeal, the notice of appeal shall be considered filed on the date of and after entry of the order, judgment or written disposition of the last-remaining timely motion.

(7) **Amended Notice of Appeal.** No additional fees shall be required if any party files an amended notice of appeal in order to comply with the provisions of this Rule.

(b) Appeals in Criminal Cases.

(1) In a criminal case, the notice of appeal by a defendant shall be filed in the tribal court within thirty (30) days after the entry of the judgment or order appealed from. A notice of appeal filed after the announcement of a decision, sentence or order but before entry of the judgment or order shall be treated as filed after such entry and on the day thereof. If a timely motion in arrest of judgment or for a new trial on any ground other than newly discovered evidence has been made, an appeal from a judgment of conviction may be taken within thirty (30) days after the entry of an order denying the motion. A motion for a new trial based on the ground of newly discovered evidence will similarly extend the time for appeal from a judgment of conviction if the motion is made before or within thirty (30) days after entry of the judgment. When an appeal by the tribe is authorized by tribal code or statute, the notice of appeal shall be filed in the tribal court within thirty (30) days after the entry of the judgment or order appealed from. A judgment or order is entered within the meaning of this rule when it is signed by the judge and filed with the clerk.

(2) The tribal court judge shall enter a written judgment of conviction within ten (10) days after sentencing. The tribal court judge shall enter a written judgment or order finally resolving any post-conviction matter within twenty (20) days after the tribal court judge's oral pronouncement of a final decision in such a matter. The judgment or order in any post-conviction matter must contain specific findings of fact and conclusions of law supporting the decision of the tribal court. This court may impose sanctions on any counsel instructed by the tribal court judge to draft the judgment or order and who does not submit the proposed judgment or order to the tribal court judge within the applicable time periods specified in this subsection.

(c) **Expediting Criminal Appeals.** The court may, by a majority of its members, make orders to expedite the handling of criminal appeals, including without limitation the following:

- (1) Elimination of steps in preparation of the record and the briefs.
- (2) Expediting preparation of stenographic transcripts.
- (3) Priority of calendaring for oral argument.
- (4) Utilization of court opinions or per curiam orders.
- (5) Other lawful measures reasonably calculated to expedite the appeal and promote justice.

RULE 5. BOND FOR COSTS ON APPEAL IN CIVIL CASES

Unless an appellant is exempted by law, or has filed a supersedeas bond or other undertaking which includes security for the payment of costs on appeal, in civil cases a bond for costs on appeal or equivalent security shall be filed by the appellant in the tribal court with the notice of appeal; but security shall not be required of an appellant who is not subject to costs. The bond or equivalent security shall be in the sum or value of \$250 unless the tribal court fixes a different amount. A bond for costs on appeal shall have sufficient surety, and it or any equivalent security shall be conditioned to secure the payment of costs if the appeal is finally dismissed or the judgment affirmed, or of such costs as the Appellate Court may direct if the judgment is modified. If a bond or equivalent security in the sum or value of \$250 is given, no approval thereof is necessary. After a bond for costs on appeal is

filed, a respondent may raise for determination by the clerk of the tribal court objections to the form of the bond or to the sufficiency of the surety. The provisions of Rule 8(b) apply to a surety upon a bond given pursuant to this rule.

RULE 6. STAY OR INJUNCTION PENDING APPEAL

(a) Stay Must Ordinarily Be Sought in the First Instance in Tribal Court; Motion for Stay in Appellate Court. Application for a stay of the judgment or order of a tribal court pending appeal, or for approval of a supersedeas bond, or for an order suspending, modifying, restoring or granting an injunction during the pendency of an appeal must ordinarily be made in the first instance in the tribal court. A motion for such relief may be made to the Appellate Court or to a justice thereof, but the motion shall show that application to the tribal court for the relief sought is not practicable, or that the tribal court has denied an application, or has failed to afford the relief which the applicant requested, with the reasons given by the tribal court for its action. The motion shall also show the reasons for the relief requested and the facts relied upon, and if the facts are subject to dispute the motion shall be supported by affidavits or other sworn statements or copies thereof. With the motion shall be filed such parts of the record as are relevant. Reasonable notice of the motion shall be given to all parties. The motion shall be filed with the clerk and normally will be considered by the court or a quorum thereof but in exceptional cases where such procedure would be impracticable due to the requirements of time, the application may be made to and considered by a single tribal judge.

(b) Stay May Be Conditioned Upon Giving of Bond; Proceedings Against Sureties. Relief available in the Appellate Court under this rule may be conditioned upon the filing of a bond or other appropriate security in the tribal court. If security is given in the form of a bond or stipulation or other undertaking with one or more sureties, each surety submits himself to the jurisdiction of the tribal court and irrevocably appoints the clerk of the tribal court as his agent upon whom any papers affecting his liability on the bond or undertaking may be served. His liability may be enforced on motion in the tribal court without the necessity of an independent action. The motion and such notice of the motion as the district court prescribes may be served on the clerk of the tribal court, who shall forthwith mail copies to the sureties if their addresses are known.

(c) Stays in Civil Cases Not Involving Child Custody. In deciding whether to issue a stay or injunction, this court will generally consider the following factors: (1) whether the object of the appeal will be defeated if the stay or injunction is denied; (2) whether appellant will suffer irreparable or serious injury if the stay or injunction is denied; (3) whether respondent will suffer irreparable or serious injury if the stay or injunction is granted; and (4) whether appellant is likely to prevail on the merits in the appeal.

(d) Stays in Civil Cases Involving Child Custody. In deciding whether to issue a stay in matters involving child custody, this court will consider the following factors: (1) whether the child(ren) will suffer hardship or harm if the stay is either granted or denied; (2) whether the nonmoving party will suffer hardship or harm if the stay is granted; (3) whether movant is likely to prevail on the merits in the appeal; and (4) whether a determination of other existing equitable considerations, if any, is warranted.

(e) Stays in Criminal Cases; Admission to Bail. Stays in criminal cases shall be had in accordance with the provisions of [Section 177.095](#) et seq. Admission to bail shall be as provided in [Section 178.488](#).

RULE 7. TRANSCRIPT; DUTY OF COUNSEL; DUTY OF THE COURT REPORTER

(a) Duty of Counsel; Request for Transcript. Counsel have a duty to confer and attempt to reach an agreement concerning the transcripts necessary for the Appellate Court's review on appeal. If a verbatim record was made of the tribal court proceedings, the appellant shall, no later than 15 days from the date the notice of appeal was filed in the tribal court, file in the Appellate Court an original and one (1) copy of a transcript request form specifying the portions of the transcript requested. Appellant shall serve a copy of the transcript request form on the reporter who recorded the proceedings, and on all parties to the appeal. Appellant must pay an appropriate deposit to the court reporter at the time of such service, unless appellant is proceeding in forma pauperis or is otherwise exempt from payment of the reporter's fees. If no transcript is to be requested, the appellant shall file and serve a

certificate to that effect within the same period. If more than one appeal is taken, each appellant shall comply with the provisions of this Rule.

(1) Transcript Request Form. The transcript request form must substantially comply with Form 3 in the Appendix of Forms, and must contain the following information:

(i) Name of the judge or officer who heard the proceedings;

(ii) Date or dates of the trial or hearing to be transcribed;

(iii) Portions of the transcript requested;

(iv) Number of copies required; and

(v) A certification by appellant's counsel that the attorney has ordered the required transcripts and has paid the required deposits. This certification shall specify from whom the transcript was ordered, the date the transcript was ordered, and the date the deposit was paid.

(2) Supplemental Request. If the parties cannot agree on the transcripts necessary to the Appellate Court's review, and appellant requests only part of the reporter's transcript, appellant shall request such additional parts thereof as the respondent considers necessary. Within 10 days from the date the initial transcript request is filed, respondent shall notify appellant in writing of the additional portions required. Appellant shall have 10 days thereafter within which to file and serve a supplemental transcript request form and pay any additional deposit required.

(3) Consequences of Failure to Comply. A party's failure to comply with the time limits of this Rule may result in the imposition of sanctions, including dismissal of the appeal.

(b) Preparation and Filing; Duty of the Court Reporter. The court reporter shall promptly prepare or arrange for the preparation of the transcript, which shall be completed within 30 days of the filing of the transcript request form. If a supplemental transcript request form is filed pursuant to subdivision (a)(2) of this Rule, the transcript shall be completed within 30 days of the filing of the supplemental transcript request form. The court reporter responsible for preparing the transcript shall deliver the original to the clerk of the tribal court for filing and shall deliver certified copies to the party ordering the transcript. The court reporter shall file with the clerk of the Appellate Court, within 10 days after the transcript is delivered to the requesting party, a certificate acknowledging delivery of the completed transcript and specifying the transcripts that have been delivered and the date that they were delivered to the requesting party.

(1) Number of Copies Required; Costs. Appellant shall furnish counsel for each party appearing separately a copy of the transcript. Any costs associated with the preparation and delivery of the transcript shall be paid initially by the appellant, unless otherwise ordered.

(2) Failure to Pay Deposit. The court reporter is not obligated to commence preparation of the transcript until receipt of the deposit required by subdivision (a) of this Rule. If appellant fails to timely pay the deposit, the court reporter must notify the Appellate Court in writing that the deposit has not been received. The notice must be served on counsel for the party requesting the transcript, and must contain a statement of the full amount of the deposit and the amount which remains unpaid. The court reporter must file this notice with the clerk of the Appellate Court no later than 30 days from the date of filing of the transcript request form.

(c) Failure of Timely Filing; Extensions. In the event the court reporter cannot file a timely transcript, the reporter shall seek an extension of time from the Appellate Court. Requests for extensions of time for preparation of a transcript will be closely scrutinized, and will be granted only upon a showing of good cause. A court reporter who fails to file a timely transcript without a sufficient excuse may be subject to sanctions pursuant to Rule 13.

(1) Extension of Time; Supporting Documentation and Affidavits. Any motion by the court reporter to extend the time for preparation of a transcript shall be accompanied by the affidavit of the court reporter setting forth

the reasons for the requested extension, and the length of additional time needed to prepare the transcript. The motion must be served on counsel for the party requesting the transcript.

(d) Statement of the Evidence or Proceedings When No Report Was Made or When the Transcript Is Unavailable. If no report of the evidence or proceedings at a hearing or trial was made, or if a transcript is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including appellant's recollection. The statement shall be served on the respondent, who may serve objections or propose amendments thereto within 10 days after service. Thereupon the statement and any objections or proposed amendments shall be submitted to the tribal court for settlement and approval and as settled and approved shall be included by the clerk of the tribal court in the trial court record, and may be included in any appendix filed in the Appellate Court.

RULE 8. THE RECORD

(a) The Trial Court Record. The trial court record consists of the papers and exhibits filed in the tribal court, the transcript of the proceedings, if any, the tribal court minutes, and the docket entries made by the tribal court clerk.

(1) Retention of Record. The trial court record shall be retained by the tribal court clerk. When the Appellate Court deems it necessary to review the trial court record, the clerk of the tribal court shall assemble and transmit such portions of the record designated by the Appellate Court to the clerk of the Appellate Court in accordance with the provisions of Rule 11. Any costs associated with the preparation and transmission of the record shall be paid initially by the appellant, unless otherwise ordered.

(b) The Appellate Court Record—The Appendix. For the purposes of appeal, the parties shall submit to the Appellate Court copies of the portions of the trial court record to be used on appeal and copies of all transcripts necessary to the Appellate Court's review, as appendices to their briefs. Pursuant to Rule 30(a), the filing of a joint appendix is preferred.

(1) Exhibits. If exhibits cannot be copied to be included in the appendix, the parties may request transmittal of the original exhibits to the Appellate Court pursuant to Rule 30(d).

(c) Correction or Modification of the Record. If any difference arises as to whether the trial court record truly discloses what occurred in the tribal court, the difference shall be submitted to and settled by that court and the trial court record made to conform to the truth. Questions as to the form and content of the appellate court record shall be presented to the Appellate Court.

RULE 9. PREPARATION AND TRANSMISSION OF THE RECORD

(a) Preparation of the Record. Upon written direction from the Appellate Court, the clerk of the tribal court shall provide the Appellate Court with the papers or exhibits comprising the trial court record. The record shall be assembled, paginated, and indexed in the same manner as an appendix to the briefs under Rule 30. Whenever the Appellate Court is of the opinion that its review of original papers or exhibits is necessary, the clerk shall transmit the original trial court record in lieu of copies.

(1) Exhibits. If the Appellate Court directs transmittal of exhibits, the exhibits shall not be included with the documents comprising the record. The tribal court clerk shall place exhibits in an envelope or other appropriate container, so far as practicable. The title of the case, the Appellate Court docket number, and the number and description of all exhibits shall be listed on the envelope, or if no envelope is used, then on a separate list.

(2) Record in Proper Person Cases. When the Appellate Court directs transmission of the complete record in cases in which the appellant is proceeding in proper person, the record shall contain each and every paper, pleading and other document filed, or submitted for filing, in the tribal court. The record shall also include any previously prepared transcripts of the proceedings in the tribal court. If the Appellate Court should determine that additional

transcripts are necessary to its review, the court may order the reporter who recorded the proceedings to prepare and file the transcripts.

(b) Duty of Clerk to Certify and Transmit the Record. The clerk of the tribal court shall certify and transmit the record to the clerk of the Appellate Court. Transmission of the record is effected when the clerk of the tribal court mails or otherwise forwards the record to the clerk of the Appellate Court. The clerk of the tribal court shall indicate, by endorsement on the face of the record or otherwise, the date upon which it is transmitted to the Appellate Court.

(c) Time for Transmission. The trial court record shall be transmitted within the time allowed by the Appellate Court, unless the time is extended by an order entered under subdivision (d) of this Rule.

(d) Failure of Timely Transmittal; Extensions. In the event the tribal court clerk cannot timely transmit the record, the clerk shall seek an extension of time from the Appellate Court. A tribal court clerk who fails to transmit a timely record on appeal without sufficient excuse may be subject to sanctions.

(1) Extension of Time; Supporting Documentation and Affidavits. Any motion by the tribal court clerk to extend the time for transmitting the record shall be accompanied by the affidavit of the clerk or deputy clerk setting forth the reasons for the requested extension, and the length of additional time needed to prepare the record.

V. GENERAL PROVISIONS

RULE 10. FILING AND SERVICE

1. Filing. Papers required or permitted to be filed in the Appellate Court shall be filed with the clerk as hereinafter provided by this rule.

(a) Service of All Papers Required. Copies of all papers filed by any party and not required by these rules to be served by the clerk shall, at or before the time for filing, be served by a party or person acting for that party on all other parties to the appeal or review. Service on a party represented by counsel shall be made on counsel.

(b) Manner of Service. Service may be personal, by mail, or by third-party commercial carrier for delivery within 3 calendar days. When reasonable, considering such factors as the immediacy of the relief sought, distance, and cost, service on a party shall be by a manner at least as expeditious as the manner used to file the paper with the court. Personal service includes delivery of the copy to a clerk or other responsible person at the office of counsel. Service by mail or by commercial carrier is complete on mailing or delivery to the carrier.

(c) Proof of Service. Papers presented for filing shall contain an acknowledgment of service by the person served or proof of service in the form of a statement of the date and manner of service, of the names of the persons served, and of the addresses to which the papers were mailed or at which they were delivered, certified by the person who made service. Proof of service may appear on or be affixed to the papers filed. The clerk may permit papers to be filed without acknowledgment or proof of service but shall require such to be filed promptly thereafter. The court will not take any action on any such papers, including requests for ex parte relief, until an acknowledgment or proof of service is filed.

(d) Original Signature and Bar Number Required. All documents submitted to the Appellate Court for filing by a represented party shall include the original signature of at least one (1) attorney of record who is an active member of any state bar, and the address, telephone number, and any State Bar identification number of the attorney and of any associated attorney appearing for the party filing the paper. All documents submitted to this court for filing by unrepresented parties shall include the original signature of the party, and shall state the party's address and telephone number.

2. Filing by Telephonic Transmission. Papers may be filed with the clerk of the Appellate Court by means of telephonic transmission as hereinafter provided by this section.

(a) Other Documents. In all other cases, documents may be received for filing by the clerk through telephonic transmission only in cases of emergency, and only if an oral request for permission to do so has first been tendered to the clerk and approved, upon a showing of good cause, by any justice or the clerk.

(b) Original; Service. In all cases where a document has been telephonically transmitted and filed pursuant to this section, counsel must file the original document with the clerk, in the manner provided in section (1), within three (3) judicial days of the date of the telephonic transmission. Copies of all documents filed in accordance with this section shall be served within the time and in the manner provided in section (1) of this rule. The original shall be accompanied by proof of service on all parties as required by section (1) of this rule.

(c) Costs. The party filing a document by means of telephonic transmission shall be responsible for all costs of the telephonic transmission and the costs of photocopying the documents transmitted. The clerk of the Appellate Court shall promptly inform counsel of the amount of costs. Such costs shall be paid within ten (10) days of the date of the telephonic request.

RULE 11. ATTORNEY’S CERTIFICATE

(a) Certificate Required Upon Filing of Any Brief. Any brief submitted for filing in the Appellate Court must contain a certificate signed by at least 1 attorney of record who is an active member of any state bar. This certificate must substantially comply with Form 9 in the Appendix of Forms, and must contain the following information:

(1) A representation that the signing attorney has read the brief;

(2) A representation that to the best of the attorney’s knowledge, information and belief, the brief is not frivolous or interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(3) A representation by the signing attorney that the brief complies with all applicable Ely Shoshone Tribe Rules of Appellate Procedure, including the requirement of Rule 28(e) that every assertion in the briefs regarding matters in the record be supported by a reference to the page of the appendix where the matter relied on is to be found.

If a brief does not contain the certification required by this Rule, it shall be stricken unless such a certification is provided within 10 days after the omission is called to the attention of the attorney.

RULE 12. TITLE

These rules shall be known and cited as the Ely Shoshone Rules of Appellate Procedure, or abbreviated “E.S/R.A.P.”

APPENDIX OF FORMS

Form 1. Notice of Appeal to the Appellate Court From a Judgment or Order of a Tribal Court

No.

Dept. No.

**IN THE ELY SHOSHONE COURT
IN AND FOR THE ELY SHOSHONE INDIAN RESERVATION
WHITE PINE COUNTY, NEVADA**

A. B., Plaintiff }
 v. }
C. D., Defendant }

NOTICE OF APPEAL

Notice is hereby given that C. D., defendant above named, hereby appeals to the Appellate Court (from the final judgment) (from the order (describing it)) entered in this action on the day of, 20

/s/.....
Attorney for C.D.
.....
Address

Form 2. Case Appeal Statement

No.

Dept. No.

**IN THE ELY SHOSHONE COURT
IN AND FOR THE ELY SHOSHONE INDIAN RESERVATION
WHITE PINE COUNTY, NEVADA**

A. B., Plaintiff }
v. }
C. D., Defendant }

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:
2. Identify the judge issuing the decision, judgment, or order appealed from:
3. Identify all parties to the proceedings in the tribal court (the use of et al. to denote parties is prohibited):
4. Identify all parties involved in this appeal (the use of et al. to denote parties is prohibited):
5. Set forth the name, law firm, address, and telephone number of all counsel on appeal and identify the party or parties whom they represent:
6. Indicate whether appellant was represented by appointed or retained counsel in the tribal court:
7. Indicate whether appellant is represented by appointed or retained counsel on appeal:
8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the tribal court order granting such leave:
9. Indicate the date the proceedings commenced in the tribal court (e.g., date complaint, indictment, information, or petition was filed):

Dated this day of, 20.....

.....
(Signature of Attorney)
.....
(State Bar Identification No.)
.....
(Law Firm)
.....
(Address)
.....
(Telephone Number)

Form 3. Affidavit and Order to Accompany Motion for Leave to Appeal in Forma Pauperis

No.

Dept. No.

**IN THE ELY SHOSHONE COURT
IN AND FOR THE ELY SHOSHONE INDIAN RESERVATION
WHITE PINE COUNTY, NEVADA**

ELY SHOSHONE TRIBE }
 v. }
A. B. }

**AFFIDAVIT IN SUPPORT OF MOTION TO PROCEED
ON APPEAL IN FORMA PAUPERIS**

Ely Shoshone Tribe }
 }ss.
County of White Pine }

I, being first duly sworn, depose and say that I am the in the above-entitled case; that in support of my motion to proceed on appeal without being required to prepay fees, cost or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to redress; and that the issues which I desire to present on appeal are the following:

I further swear that the responses which I have made to the questions and instructions below relating to my ability to pay the cost of prosecuting the appeal are true.

1. Are you presently employed?
 - a. If the answer is yes, state the amount of your salary or wages per month and give the name and address of your employer.
 - b. If the answer is no, state the date of your last employment and the amount of the salary and wages per month which you received.

2. Have you received within the past twelve months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, or other source?
 - a. If the answer is yes, describe each source of income, and state the amount received from each during the past twelve months.

3. Do you own any cash or checking or savings account?
 - a. If the answer is yes, state the total value of the items owned.

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?
 - a. If the answer is yes, describe the property and state its approximate value.

5. List the persons who are dependent upon you for support and state your relationship to those persons.

I understand that a false statement or answer to any question in this affidavit will subject me to penalties for perjury.

.....

SUBSCRIBED AND SWORN to before me this day of, 20.....

.....

Notary Public

ORDER

Let the applicant proceed without prepayment of costs or fees or the necessity of giving security therefor.
DATED this day of, 20.....

.....
Tribal Judge

Form 4. Request for Rough Draft Transcript of Child Custody Proceeding in the Tribal Court

No.

Dept. No.

IN THE ELY SHOSHONE COURT
OF THE ELY SHOSHONE INDIAN RESERVATION
IN AND FOR THE COUNTY OF WHITE PINE

A. B., Plaintiff }
 v. }
C. D., Defendant }

REQUEST FOR ROUGH DRAFT TRANSCRIPT

TO: [Court Reporter Name]

_____(C.D.)_____, plaintiff/defendant named above, requests preparation of a rough draft transcript of certain portions of the proceedings before the tribal court, as follows:

Date or dates of proceeding:

Portions of the transcript requested:

This notice requests a transcript of only those portions of the tribal court proceedings that counsel reasonably and in good faith believes are necessary for resolution of appellate issues.

I recognize that I must personally serve a copy of this form on the above named court reporter and opposing party, and that the above named court reporter shall have twenty days from the receipt of this notice to prepare and submit to the tribal court the rough draft transcript requested herein.

Dated this day of, 20.....

.....
(Signature of Attorney)
.....
(State Bar Identification No.)
.....
(Law Firm)
.....
(Address)
.....