

DOS AND DON'TS IN APPELLATE PRACTICE

Appeals

Do:

...carefully fill out the petition in error form! This form and the information you include is used by the Supreme Court clerk's office to docket your case. Incorrect information may affect deadlines and notices to the parties. The case style on the petition in error must comply with Rule 1.25 (b) of the Oklahoma Supreme Court rules.

...file your petition in error within the time specified by the Supreme Court rules. The petition in error is a jurisdictional document. If you have not timely secured a certified copy of the judgment or order from which you are appealing and you are running up on your 30-day deadline, file what you have and then file an amended petition in error as soon as possible.³³

... Note and calendar/tickle all deadlines in the appeal.³⁴ Note that the time for completing the record and briefing for appeals from interlocutory orders is shorter.³⁵ This is also true of appeals from decisions of the Workers' Compensation Court³⁶ and appeals involving juveniles.³⁷

... Designate only actual documents for inclusion in the record on appeal. Minutes – posted only to the appearance docket – and other notations may only exist on the trial court's docket. Remember, a copy of the district court appearance docket is included in every record on appeal; hence, there is no need to separately designate these types of items.³⁸

... Make arrangements for the transcripts as soon as possible, but no later than the date of filing the petition in error. Make sure that the court reporter has all of the designated exhibits so that they can be filed with the transcripts.

... Check with the district court clerk well before the notice of completion of record is due to make sure that there is no problem with completion of the record. Remember it is the appellant's duty to monitor the preparation of the record on appeal. If there are problems, e.g., getting a transcript, it is the appellant – *and not the district court clerk* – who is required to seek relief from the trial court for the Record's timely completion. Since the filing of the notice of completion triggers the briefing schedule, no Amended Designations of Record should be filed after that event has occurred except under the most exigent of circumstances.

... Make sure that the Rule 1.36 record either consists of certified copies of all documents included, or includes a certification from the district court clerk that all documents are true and correct copies of documents on file in the district court. Most district court clerks prefer that you give them a list of documents that you wish for them to certify. This way they can copy and certify what they actually have on file without having to go through what you have given them page by page.

... Attach a verified statement of costs, which is required by Okla.Sup.Ct.R. 1.14, to all motions for costs. Only those costs listed in Rule 1.14 are taxable in the Supreme Court.

Don't:

... fail to respond to an Order of the Supreme Court within the date specified in the order!

... ask for an extension of time after the due date, unless you did not receive notice of the document (such as the appellant's brief) which triggered the running of the time to take action.³⁹

... withdraw trial exhibits until after the time has run to file post trial motions or an appeal.

... fail to properly follow the mailing rule for mailing a petition in error, brief, or Petition for *Certiorari*.

... file one appeal from two separate district court cases unless the cases were consolidated by the district court, or the judge filed a single final order with both case numbers on it.

... designate items from a case other than the one from which you are appealing, unless those items were made a part of the case file and reviewed by the judge before entering the order appealed from.

... designate the **entire** trial court record in a case without first securing leave to do so from the Chief Justice.⁴⁰

... retry your case in the appeal. The purpose of an appeal is to correct errors, not to reargue the facts.

Original Actions

Do:

... read Okla.Sup.Ct.R. 1.191 before you start. This rule explains how to commence an original action.

... bring a notice when you file an original action.⁴¹