CHAPTER 6
RULES OF APPELLATE PROCEDURE

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CHAPTER 6
RULES OF APPELLATE PROCEDURE

DIVISION I
CASE INITIATION: CIVIL AND CRIMINAL; PARTIES AND ATTORNEYS; PROTECTED INFORMATION; AND CONFIDENTIAL MATERIALS

Rules 6.1 to **6.100** Reserved.

Rule 6.101 Time for appealing final orders and judgments appealable as a matter of right.

6.101(1) *Time for filing a notice of appeal from final orders and judgments.*

a. Termination-of-parental-rights and child-in-need-of-assistance cases under Iowa Code chapter 232. A notice of appeal from a final order or judgment entered in Iowa Code chapter 232 termination-of-parental-rights or child-in-need-of-assistance proceedings must be filed within 15 days after the filing of the order or judgment. However, if a motion is timely filed under Iowa R. Civ. P. 1.904(2) or Iowa R. Civ. P. 1.1007, the notice of appeal must be filed within 15 days after the filing of the ruling on such motion.

b. All other cases. A notice of appeal must be filed within 30 days after the filing of the final order or judgment. However, if a motion is timely filed under Iowa R. Civ. P. 1.904(2) or Iowa R. Civ. P. 1.1007, the notice of appeal must be filed within 30 days after the filing of the ruling on such motion.

c. Exception for final orders on partial dispositions. A final order dismissing some, but not all, of the parties or disposing of some, but not all, of the issues in an action may be appealed within the time for appealing from the judgment that finally disposes of all remaining parties and issues to an action, even if the parties' interests or the issues are severable.

6.101(2) *Time for filing a notice of cross-appeal.*

a. Termination-of-parental-rights and child-in-need-of-assistance cases under Iowa Code chapter 232. In Iowa Code chapter 232 termination-of-parental-rights and child-in-need-of-assistance cases, any notice of cross-appeal must be filed within the 15-day limit for filing a notice of appeal, or within 10 days after the filing of a notice of appeal, whichever is later.

b. All other cases. In all other appeals, any notice of cross-appeal must be filed within the 30-day limit for filing a notice of appeal, or within 10 days after the filing of a notice of appeal, whichever is later.

6.101(3) *Appeal taken before order or judgment filed.* An appeal taken from an order or judgment of the district court shall be considered timely even though taken before the order or judgment has been filed by the clerk of the district court, if the order or judgment is filed within 30 days after the date on which the notice of appeal is filed.

6.101(4) *Tolling of filing deadline by timely service.* The time for filing a notice of appeal is tolled when the notice is served, provided the notice is filed with the district court clerk within a reasonable time. See Iowa R. Civ. P. 1.442(4).

6.101(5) *Extension where clerk fails to notify.* The supreme court may extend the time for filing a notice of appeal if it determines the clerk of the district court failed to notify the prospective appellant of the filing of the appealable final order or judgment. A motion for an extension of time must be filed with the clerk of the supreme court and served on all parties and the clerk of the district court no later than 60 days after the expiration of the original appeal deadline as prescribed in rule 6.101(1)(*a*) or (*b*). The motion and any resistance shall be supported by copies of relevant portions of the record and by affidavits. Any extension granted shall not exceed 30 days after the date of the order granting the motion.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.102 Initiation of appeal from a final judgment.

6.102(1) *From final orders in termination-of-parental-rights and child-in-need-of-assistance cases under Iowa Code chapter 232.*

a. Notice of appeal. An appeal from a final order or judgment in a termination-of-parental-rights or a child-in-need-of-assistance case under Iowa Code chapter 232 is initiated by filing the notice of appeal with the clerk of the district court where the order or judgment was entered within the time provided in rule 6.101(1)(*a*). The notice of appeal cannot be filed unless signed by both the appellant's counsel and the appellant.

(1) Contents of notice of appeal. The notice of appeal shall specify the parties taking the appeal and the decree, judgment, order, or part thereof appealed from. The notice shall substantially comply with form 4 in rule 6.1401.

(2) Service of the notice of appeal. A copy of the notice of appeal shall be served upon all counsel of record, all parties not represented by counsel, any court reporter who reported a proceeding that is the subject of the appeal, the attorney general, and the clerk of the supreme court in the manner stated in Iowa R. Civ. P. 1.442(2). The notice of appeal shall include a certificate of service in the form provided in Iowa R. Civ. P. 1.442(7).

b. Petition on appeal. An appeal in a termination-of-parental-rights or a child-in-need-of-assistance case will be dismissed unless a petition on appeal is timely filed as set forth in rule 6.201(1)(*b*).

6.102(2) *From final orders appealable as a matter of right in all other cases.* An appeal from a final order appealable as a matter of right in all cases other than termination-of-parental-rights and child-in-need-of- assistance cases under Iowa Code chapter 232 is taken by filing a notice of appeal with the clerk of the district court where the order or judgment was entered within the time provided in rule 6.101(1)(*b*). The notice of appeal shall be signed by either the appellant's counsel or the appellant.

a. Contents of the notice of appeal. The notice of appeal shall specify the parties taking the appeal and the decree, judgment, order, or part thereof appealed from. The notice shall substantially comply with form 1 in rule 6.1401.

b. Service of the notice of appeal. A copy of the notice of appeal shall be served upon all counsel of record, all parties not represented by counsel, any court reporter who reported a proceeding that is the subject of the appeal, and the clerk of the supreme court in the manner stated in Iowa R. Civ. P. 1.442(2). If the State is a party to the case, a copy of the notice of appeal shall also be served upon the attorney general in the manner stated in Iowa R. Civ. P. 1.442(2). The notice of appeal shall include a certificate of service in the form provided in Iowa R. Civ. P. 1.442(7).

6.102(3) *Filing fee.* Within seven days of filing the notice of appeal, the appellant shall pay to the clerk of the supreme court a filing fee or file a motion to waive or defer the fee as provided in rule 6.702.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.103 Review of final orders and judgments.

6.103(1) *Final order and judgment defined.* All final orders and judgments of the district court involving the merits or materially affecting the final decision may be appealed to the supreme court, except as provided in this rule, rule 6.105, and Iowa Code sections 814.5 and 814.6. An order granting or denying a new trial is a final order. An order setting aside a default judgment in an action for dissolution of marriage or annulment is a final order. An order setting aside a default judgment in any other action is not a final order.

6.103(2) *Attorney fee order entered after final judgment.* A final order or judgment on an application for attorney fees entered after the final order or judgment in the underlying action is separately appealable. The district court retains jurisdiction to consider an application for attorney fees notwithstanding the appeal of a final order or judgment in the action. If the final order or judgment in the underlying case is also appealed, the party appealing the attorney fee order or judgment shall file a motion to consolidate the two appeals.

6.103(3) *Interlocutory order included in appeal of final order or judgment.* No interlocutory order may be appealed until after the final judgment or order is entered except as provided in rule 6.104. Error in an interlocutory order is not waived by pleading over or proceeding to trial. If no appeal was taken from an interlocutory order or a final adjudication in the district court under Iowa R. Civ. P. 1.444 that substantially affected the rights of the complaining party, the appellant may challenge such order or final adjudication on appeal of the final order or judgment.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.104 Review of interlocutory rulings or orders.

6.104(1) *Application for interlocutory appeal.*

a. Applicability. Any party aggrieved by an interlocutory ruling or order of the district court may apply to the supreme court for permission to appeal in advance of final judgment.

b. Time for filing.

(1) Termination-of-parental-rights and child-in-need-of-assistance cases under Iowa Code chapter 232. An application for interlocutory appeal in an Iowa Code chapter 232 termination-of-parental-rights or a child-in-need-of-assistance case must be filed within 15 days after entry of the challenged ruling or order. However, if a motion is timely filed under Iowa R. Civ. P. 1.904(2), the application must be filed within 15 days after the filing of the ruling on such motion. The application for interlocutory appeal cannot be filed unless signed by both the applicant's counsel and the applicant. If the application is granted, the appellant must file a petition on appeal as set forth in rule 6.201(1)(*b*). The failure to file a timely petition on appeal will result in the dismissal of the appeal.

(2) All other cases. An application for interlocutory appeal must be filed within 30 days after entry of the challenged ruling or order. However, if a motion is timely filed under Iowa R. Civ. P. 1.904(2), the application must be filed within 30 days after the filing of the ruling on such motion.

(3) Extensions of time. No extension of the filing deadlines in this rule will be allowed except upon a showing that the failure to file the application within the time provided was due to a failure of the clerk of the district court to notify the applicant of the ruling or order. A motion for an extension of time must be filed with the clerk of the supreme court and served on all parties and the clerk of the district court no later than 60 days after the expiration of the time for filing an application for interlocutory appeal. The motion and any resistance shall be supported by copies of relevant portions of the record and by affidavits. An extension granted under this rule shall not exceed 30 days after the date of the order granting the motion.

c. Filing and serving application. The original application and three copies shall be filed with the clerk of the supreme court. The application shall be served as provided in rule 6.701 upon all counsel of record, all parties not represented by counsel, and the attorney general if the State is a party.

d. Content and form of application. The application shall follow the content and form requirements of rules 6.1002(1) and 6.1007. In addition, the applicant shall state with particularity the substantial rights affected by the ruling or order, why the ruling or order will materially affect the final decision, and why a determination of its correctness before trial on the merits will better serve the interests of justice. The date of any impending hearing, trial, or matter needing immediate attention of the court shall be prominently displayed beneath the title of the application.

e. Filing fee. The applicant shall pay to the clerk of the supreme court a filing fee or file a motion to waive or defer the fee as provided in rules 6.702(1)(*b*) and 6.702(2).

f. Filing of the application does not stay district court proceedings. The filing of an application for interlocutory appeal does not stay district court proceedings. The applicant may apply to the district court for a continuance or a stay of proceedings or to the supreme court for a stay of proceedings. Any application for a stay order by the supreme court must state the dates of any proceedings to be stayed and why a stay is necessary.

6.104(2) *Resistance, consideration, and ruling.* The application may be resisted and will be considered in the same manner provided for motions in rule 6.1002. The supreme court may grant permission to appeal on finding that such ruling or order involves substantial rights and will materially affect the final decision and that a determination of its correctness before trial on the merits will better serve the interests of justice. An order granting an appeal under this rule shall stay further proceedings below, may require bond, and may expedite the time for briefing and submission.

6.104(3) *Procedure after order granting application.* The clerk of the supreme court shall promptly transmit a copy of the order granting the interlocutory appeal to all counsel of record, all parties not represented by counsel, the clerk of the district court, and the attorney general if the State is a party. The appellant shall file and serve the combined certificate required by rule 6.804(1) within 14 days after the filing date of the order granting the interlocutory appeal. Further proceedings shall be had pursuant to the rules of appellate procedure.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.105 Review of small claims actions. Except where the action involves an interest in real estate, no appeal shall be taken in any case originally tried as a small claim. An action originally tried as a small claim may be reviewed by the supreme court only as provided in Iowa Code section 631.16 and rule 6.106.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.106 Discretionary review.

6.106(1) *Application for discretionary review.*

a. Applicability. An application for discretionary review may be filed to review certain orders specified by statute which are not subject to appeal as a matter of right.

b. Time for filing. An application for discretionary review must be filed within 30 days after entry of the challenged ruling, order, or judgment of the district court. However, if a motion is timely filed under Iowa R. Civ. P. 1.904(2), the application must be filed within 30 days after the filing of the ruling on such motion. No extension of such time will be allowed except upon a showing that the failure to file the application within the time provided was due to a failure of the district court clerk to notify the applicant of the ruling, order, or judgment. A motion for an extension of time must be filed with the clerk of the supreme court and served on all parties and the clerk of the district court no later than 60 days after the expiration of the time for filing an application for discretionary review. The motion and any resistance shall be supported by copies of relevant portions of the record and by affidavits. An extension granted under this rule shall not exceed 30 days after the date of the order granting the motion.

c. Filing and serving application. The original application and three copies shall be filed with the clerk of the supreme court. The application shall be served as provided in rule 6.701 upon all counsel of record, all parties not represented by counsel, and the attorney general if the State is a party.

d. Content and form of application. The application shall follow the content and form requirements of rules 6.1002(1) and 6.1007. In addition, the applicant shall state with particularity the grounds upon which discretionary review should be granted. The date of any impending hearing, trial, or matter needing immediate attention of the court shall be prominently displayed beneath the title of the application.

e. Filing fee. The applicant shall pay to the clerk of the supreme court a filing fee or file a motion to waive or defer the fee as provided in rule 6.702(1)(*c*) and 6.702(2).

f. Filing of the application does not stay district court proceedings. The filing of an application for discretionary review does not stay district court proceedings. The applicant may apply to the district court for a continuance or a stay of proceedings or to the supreme court for a stay of proceedings. Any application to the supreme court for a stay order must set forth the dates of any proceedings to be stayed and why a stay is necessary.

6.106(2) *Resistance, consideration, and ruling.* The application may be resisted and will be considered in the same manner provided for motions in rule 6.1002. The supreme court may grant discretionary review upon a determination that (1) substantial justice has not been accorded the applicant, (2) the grounds set forth in rule 6.104(1)(*d*) for an interlocutory appeal exist, or (3) the grounds set forth in any statute allowing discretionary review exist. An order allowing discretionary review under this rule may stay further proceedings below, may require bond, and may expedite the time for briefing and submission.

6.106(3) *Procedure after order granting application.* The clerk of the supreme court shall promptly transmit a copy of the order granting discretionary review to the attorneys of record, any parties not represented by counsel, the clerk of the district court, and the attorney general if the State is a party. The appellant shall file and serve the combined certificate required by rule 6.804(1) within 14 days after the filing date of the order granting discretionary review. Further proceedings shall be had pursuant to the rules of appellate procedure.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.107 Original certiorari proceedings.

6.107(1) *Petition for writ of certiorari.*

a. Applicability. Any party claiming a district court judge, an associate district court judge, an associate juvenile judge, or an associate probate judge exceeded the judge's jurisdiction or otherwise acted illegally may commence an original certiorari action in the supreme court by filing a petition for writ of certiorari as provided in these rules.

b. Time for filing. A petition for writ of certiorari must be filed within 30 days after the challenged decision. However, if a motion is timely filed under Iowa R. Civ. P. 1.904(2) or Iowa R. Civ. P. 1.1007, the petition must be filed within 30 days after the filing of the ruling on such motion. No extension of such time may be allowed except upon a showing that the failure to file the petition within the time provided was due to a failure of the district court clerk to notify the plaintiff of the challenged decision. A motion for an extension of time must be filed with the clerk of the supreme court and served on all parties and the clerk of the district court no later than 60 days after the expiration of the time for filing a petition for writ of certiorari. The motion and any resistance shall be supported by

copies of relevant portions of the record and by affidavits. An extension granted under this rule shall not exceed 30 days after the date of the order granting the motion.

c. Filing and serving petition. The original petition and three copies shall be filed with the clerk of the supreme court. The petition shall be served as provided in rule 6.701 upon all counsel of record, all parties not represented by counsel, the clerk of the district court, and the attorney general if the State is a party.

d. Content and form of petition. The caption of the petition shall name the challenging party as the plaintiff and the district court, not the judge, as the defendant. The date of any impending hearing, trial, or matter needing immediate attention of the court shall be prominently displayed beneath the title of the petition. The petition shall follow the content and form requirements of rules 6.1002(1) and 6.1007. In addition, the petition shall state whether the plaintiff raised the issue in the district court, identify the interest of the plaintiff in the challenged decision, and state the grounds that justify issuance of the writ.

e. Filing fee. The applicant shall pay to the clerk of the supreme court a filing fee or file a motion to waive or defer the fee as provided in rule 6.702(1)(*d*) and 6.702(2).

f. Filing of petition does not stay district court proceedings. The filing of a petition for writ of certiorari does not stay the district court proceedings. The plaintiff may apply to the district court for a continuance or a stay of proceedings or to the supreme court for a stay of proceedings. Any application to the supreme court for a stay order must state the dates of any proceedings to be stayed and why a stay is necessary.

6.107(2) *Resistance, consideration, and ruling.* A petition for writ of certiorari may be resisted and will be considered in the same manner provided for motions in rule 6.1002. An order granting the petition may stay further proceedings below, may require bond, and may expedite the time for briefing and submission. The clerk of the supreme court shall promptly transmit a copy of the ruling on the petition to the attorneys of record, any parties not represented by counsel, the clerk of the district court, and the attorney general if the State is a party.

6.107(3) *Issuance of writ.* If the petition for writ of certiorari is granted, the clerk of the supreme court shall issue a writ under its seal. The original writ shall be transmitted to the clerk of the district court and shall constitute service on the district court.

6.107(4) *Procedure after order granting petition.* The plaintiff shall file and serve the combined certificate required by rule 6.804(1) within 14 days after the filing date of the order granting the petition. Further proceedings shall be had pursuant to the rules of appellate procedure. The appellate rules applicable to appellants shall apply to plaintiffs and those applicable to appellees shall apply to defendants.

6.107(5) *Representation of district court.* Parties before the district court other than the certiorari plaintiff shall be required to defend the district court and make all filings required of the defendant under these rules unless permitted to withdraw by the supreme court. A party required to defend the district court under this rule may file an application to withdraw stating (1) whether the applicant raised the issue addressed in the challenged decision in the district court, (2) the interest or lack of interest of the applicant in the challenged decision, and (3) the grounds justifying withdrawal. The application to withdraw shall be served on all parties, the district court, and the attorney general.
[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.108 Form of review. If any case is initiated by a notice of appeal, an application for interlocutory appeal, an application for discretionary review, or a petition for writ of certiorari and the appellate court determines another form of review was the proper one, the case shall not be dismissed, but shall proceed as though the proper form of review had been requested. The court may treat the papers upon which the action was initiated as seeking the proper form of review and, in appropriate cases, may order the parties to file jurisdictional statements. Nothing in this rule shall operate to extend the time for initiating a case.
[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.109 Parties and attorneys on appeal; caption; substitution of parties; withdrawal of counsel.

6.109(1) *Parties on appeal.* The party who files a notice of appeal is the appellant and the opposing party is the appellee. If opposing parties seek to appeal, the party who first files a notice of appeal shall be the appellant/cross-appellee and the other party shall be the appellee/cross-appellant, unless the parties otherwise agree or the supreme court otherwise orders upon motion of any party.

6.109(2) *Caption on appeal.* The appeal shall be captioned under the title given to the action in the district court, with the parties identified as appellant and appellee. Parties not involved in the appeal may be omitted from the caption. If the title does not contain the name of the appellant, the appellant's name shall be added to the caption.

6.109(3) *Substitution of party.* If substitution of a party is sought for any reason, including those stated in Iowa Rs. Civ. P. 1.221, 1.222, 1.223, 1.224, and 1.226, the person seeking the substitution must file a motion for substitution of party with the clerk of the supreme court.

6.109(4) *Attorneys and guardians ad litem.* The attorneys and guardians ad litem of record in the district court shall be deemed the attorneys and guardians ad litem in the appellate court unless others are retained or appointed and notice is given to the parties and the clerk of the supreme court. However, the representation of an attorney appointed for a minor child or children pursuant to Iowa Code section 598.12 ends when an appeal is taken unless the district court appoints the attorney, or a successor, for the appeal.

6.109(5) *Withdrawal of counsel.* An attorney may not withdraw from representation of a party before an appellate court without permission of that court unless another attorney has appeared or simultaneously appears for the party. A motion for permission to withdraw as counsel for a party must show service of the motion on the party, and must include the party's address, phone number, and e-mail address. Before court-appointed trial counsel for a criminal defendant may withdraw, the court file must contain proof counsel has completed counsel's duties under Iowa R. Crim. P. 2.29(6). [Court Order October 31, 2008, effective January 1, 2009]

Rule 6.110 Protected information; confidential materials; briefs not confidential.

6.110(1) *Protected information.*

a. When a party files any document that contains protected information as defined in Iowa R. Civ. P. 1.422(1) or a reproduction, quotation, or extensive paraphrase of material that contains protected information, the party shall omit or redact that information from the document in the manner provided by rule 1.422(1).

b. When a party files any document that contains information that may be omitted or redacted under Iowa R. Civ. P. 1.422(2) or a reproduction, quotation, or extensive paraphrase of material that contains such information, the party may omit or redact that information from the document in the manner provided by rule 1.422(2).

c. The omission or redaction of protected information is not required if the document is certified as confidential under rule 6.110(2).

6.110(2) *Certification by party of material or cases made confidential by statute or rule.* When a party files any document, except a brief, that contains material or a reproduction, quotation, or extensive paraphrase of material declared confidential by any statute or rule of the supreme court or in a case declared confidential by any statute or rule of the supreme court, the party shall certify its confidential nature. The certificate shall cite the applicable statute or rule, be signed by the party or counsel, and be affixed on top of the cover page of each copy of the notice, motion, appendix, record, or other document that is filed or served. In appeals in cases that are not confidential by statute or rule, but include confidential material, a party may file separate appendices, one containing confidential materials and one containing documents having no confidential material.

6.110(3) *Clerk to maintain confidentiality.* Upon receipt by the clerk of the supreme court of a notice, motion, appendix, district court record, portion of district court record, or other document that has been certified by a party or the clerk of the district court as confidential, the clerk shall maintain its confidentiality. If the confidential designation is not warranted, the court shall direct the clerk to file the document as a public record. Confidential documents may be inspected only by persons authorized by statute, rule, or court order to inspect such documents.

6.110(4) *Briefs not confidential.*

a. Briefs filed with the clerk of the supreme court shall not be confidential. A brief shall not contain a reproduction, quotation, or extensive paraphrase of material that is declared by any statute or rule of the supreme court to be confidential. Instead, a brief may include general statements of fact supported by references pursuant to rule 6.904(4) to pages of the appendix or parts of the record that are confidential.

b. The briefs in a case declared confidential by any statute or rule of the supreme court shall not be confidential and shall refer to the parties in the caption and text by first name or initials only. When a

victim's name is deemed confidential by law, a brief shall refer to the victim by first name or initials only.
[Court Order October 31, 2008, effective January 1, 2009]

Rules 6.111 to **6.200** Reserved.

DIVISION II
TERMINATION-OF-PARENTAL-RIGHTS AND CHILD-IN-NEED-OF-ASSISTANCE APPEALS UNDER IOWA CODE CHAPTER 232

Rule 6.201 Petition on appeal in termination-of-parental-rights and child-in-need-of-assistance cases under Iowa Code chapter 232.

6.201(1) *Petition on appeal.*

a. Trial counsel's obligation to prepare petition. The appellant's trial counsel shall prepare the petition on appeal. Trial counsel may be relieved of this obligation by the district court only upon a showing of extraordinary circumstances.

b. Filing and service of petition on appeal. An original petition on appeal and 17 copies must be filed with the clerk of the supreme court within 15 days after the filing of the notice of appeal with the clerk of the district court or within 15 days after the filing of an order granting an interlocutory appeal. The time for filing a petition on appeal shall not be extended. A copy of the petition on appeal shall be served on all counsel of record, all parties unrepresented by counsel, and the attorney general in the manner stated in Iowa R. Civ. P. 1.442(2). The petition on appeal shall include a certificate of service in the form stated in Iowa R. Civ. P. 1.442(7).

c. Length; form; cover. The petition on appeal shall not exceed 15 pages, excluding the attachments required by rule 6.201(1)(*e*), and shall be in the form prescribed by rule 6.1007, except that it may be printed or duplicated on one side of the page. The cover shall be blue and shall contain:

(1) The caption of the case.

(2) The title of the document (Petition on Appeal).

(3) The name of the court and judge whose decision is under review.

(4) The name, address, telephone number, e-mail address, and fax number of counsel representing the appellant.

(5) A certificate of confidentiality in accordance with rule 6.110(2).

d. Contents of petition. The petition on appeal shall substantially comply with form 5 in rule 6.1401.

e. Attachments to petition.

(1) In an appeal from an order or judgment in a child-in-need-of-assistance proceeding, the appellant shall attach to the petition on appeal a copy of:

1. The order or judgment from which the appeal is taken.

2. Any ruling on a motion for new trial under Iowa R. Civ. P. 1.1007 or a motion under Iowa R. Civ. P. 1.904(2).

(2) In an appeal from an order terminating parental rights or dismissing the termination petition, the appellant shall attach to the petition on appeal a copy of:

1. The petition for termination of parental rights and any amendments to the petition.

2. The order or judgment terminating parental rights or dismissing the termination petition.

3. Any ruling on a motion for new trial under Iowa R. Civ. P. 1.1007 or a motion under Iowa R. Civ. P. 1.904(2).

(3) In an appeal from a post-termination order, the appellant shall attach to the petition on appeal a copy of:

1. The order or judgment terminating parental rights.

2. Any ruling on a motion for new trial under Iowa R. Civ. P. 1.1007 or a motion under Iowa R. Civ. P. 1.904(2).

3. Any motion requesting post-termination relief.

4. Any resistance to the request for post-termination relief.

5. The post-termination order from which the appeal is taken.

6.201(2) *Consequence of failure to file a timely petition on appeal.* If the petition on appeal is not filed with the clerk of the supreme court within 15 days after the filing of a notice of appeal or within

15 days after the filing of an order granting an interlocutory appeal, the supreme court shall dismiss the appeal, and the clerk shall immediately issue procedendo.
[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.202 Response to petition on appeal in termination-of-parental-rights and child-in-need-of-assistance cases under Iowa Code chapter 232.

6.202(1) *When required.* A response to the petition on appeal is optional unless the appellee has filed a notice of cross-appeal, in which case a response shall be required. An optional response shall substantially comply with form 6 in rule 6.1401. If the appellee has filed a notice of cross-appeal, the response by appellee shall address the claims of error alleged in the petition on appeal, separately state the grounds for the cross-appeal, and substantially comply with form 6 in rule 6.1401.

6.202(2) *Filing and service.* An original and 17 copies of a response shall be filed with the clerk of the supreme court within 15 days after the service of the appellant's petition on appeal. A copy of the response shall be served on all counsel of record, all parties unrepresented by counsel, and the attorney general in the manner prescribed in Iowa R. Civ. P. 1.442(2).

6.202(3) *Length; form; cover.* An optional response to the petition on appeal shall not exceed 15 pages; a required response shall not exceed 18 pages. A response shall be in the form prescribed by rule 6.1007, except that it may be printed or duplicated on one side of the page. The cover shall be red and shall contain:

a. The caption of the case.

b. The title of the document (Response to Petition on Appeal).

c. The name of the court and judge whose decision is under review.

d. The name, address, telephone number, e-mail address, and fax number of counsel representing the appellee.

e. A certificate of confidentiality in accordance with rule 6.110(2).

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.203 Reply to issues raised in cross-appeal. If a notice of cross-appeal is filed, the appellant may file a reply to the cross-appeal issues within seven days after service of the appellee's response. An appellant may not file a reply if the appellee has not filed a notice of cross-appeal.
[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.204 Filing fee and transmission of record. Within seven days after filing the notice of appeal, the appellant shall pay the filing fee as provided in rule 6.702(1) or request waiver or deferral of the fee pursuant to rule 6.702(2). Within 30 days after the filing of the notice of appeal, the appellant shall request the clerk of the district court to transmit the record to the clerk of the supreme court. The clerk of the district court shall certify the record and its confidential nature.

6.204(1) *Record on appeal in child-in-need-of-assistance appeals.* In appeals from child-in-need-of-assistance proceedings, the record on appeal shall include the following:

a. The child-in-need-of-assistance court file, including all exhibits.

b. Any transcript of a hearing or hearings resulting in the order from which an appeal has been taken.

6.204(2) *Record on appeal in termination-of-parental-rights appeals.* In appeals from termination-of-parental-rights proceedings, the record on appeal shall include the following:

a. The termination court file, including all exhibits.

b. Those portions of the child-in-need-of-assistance court file either received as exhibits or judicially noticed in the termination proceedings.

c. The transcript of the termination hearing.

6.204(3) *Record on appeal of post-termination rulings in termination-of-parental-rights cases.* In appeals from post-termination proceedings, the record on appeal shall include all of the following:

a. The order or judgment terminating parental rights.

b. Any ruling on a motion for new trial under Iowa R. Civ. P. 1.1007 or a motion under Iowa R. Civ. P. 1.904(2).

c. The post-termination order from which the appeal is taken.

d. Any motion, resistance, or transcript relevant to the post-termination order from which the appeal is taken.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.205 Disposition.

6.205(1) *Ruling.* After reviewing the petition on appeal, any response, any reply, and the record, the appellate court may affirm or reverse the district court's order or judgment, remand the case, or set the case for briefing as directed by the appellate court.

6.205(2) *Further review.* If the court of appeals affirms or reverses the court's order or judgment or remands the case, further review pursuant to rule 6.1103 may be sought. The refusal of the court of appeals to grant full briefing shall not be a ground for further review.

[Court Order October 31, 2008, effective January 1, 2009]

Rules 6.206 to **6.300** Reserved.

DIVISION III
CERTIFIED QUESTIONS OF LAW

Rule 6.301 Procedure for certification of questions of law. The procedure for answering and certifying questions of law shall be as provided in the Uniform Certification of Questions of Law Act, Iowa Code chapter 684A, and the rules of appellate procedure.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.302 Initiation of certification proceedings.

6.302(1) *Certification order.*

a. Filing. The certification order prepared by the certifying court shall be forwarded by the clerk of the certifying court under its official seal to the clerk of the supreme court, who shall file the order and assign a number to the matter. The clerk of the supreme court shall notify the certifying court that the certification order has been received.

b. Contents. The certification order shall contain all of the following:

(1) The information required by Iowa Code section 684A.3.

(2) The names and addresses of the interested parties or their counsel, if they are represented by counsel.

(3) The party requesting submission of a certified question.

(4) A designation of the party to file the first brief, if the question is certified on the court's own motion.

c. Service on attorney general. When the constitutionality of an act of the Iowa legislature is drawn into question in a certification proceeding to which the State of Iowa or an officer, agency, or employee thereof is not a party, the certifying court shall serve the certification order on the attorney general.

6.302(2) *Record.* The certifying court shall attach to its certification order a copy of the portions of its record deemed necessary for a full understanding of the question. If the entire record is not included, the supreme court may order that a copy of any portion of the remaining record be filed with the clerk of the supreme court.

6.302(3) *Parties.* The party requesting certification or, if none, the party who is to file the first brief shall be considered the appellant and shall make all filings required of the appellant under these rules.

6.302(4) *Filing fee.* The appellant shall pay to the clerk of the supreme court a filing fee or file a motion to waive or defer the fee as provided in rule 6.702(1)(*f*) and 6.702(2).

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.303 Briefing.

6.303(1) *Form of briefs.* Briefs shall be prepared in the manner and form specified in rules 6.903 and 6.904.

6.303(2) *Filing of briefs.* The parties shall file and serve all briefs within the expedited times for filings prescribed by rule 6.902(2).

6.303(3) *Appendix.* The appendix shall be prepared in the manner and form specified in rule 6.905 to the extent possible. It shall contain the certification order and such portions of the record relevant to the question as the parties by agreement or the certifying court by order may determine.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.304 Disposition.

6.304(1) *Opinion.* Upon the filing of an opinion on a certified question, the clerk of the supreme court shall comply with Iowa Code section 684A.7.

6.304(2) *Rehearing.* A petition for rehearing shall not be allowed.

6.304(3) *Costs and fees.* Printing costs shall be certified by the parties as provided in rule 6.903(1)(*h*). Upon the filing of the supreme court's opinion, the clerk of the supreme court shall prepare and transmit to the clerk of the certifying court a bill of costs listing the filing fee and reasonable printing costs and the parties who paid them. The clerk of the certifying court shall be responsible for collecting and apportioning the fee and costs pursuant to Iowa Code section 684A.5.
[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.305 State as amicus curiae. When the constitutionality of an act of the Iowa legislature is drawn into question in a certification proceeding to which the State of Iowa or an officer, agency, or employee thereof is not a party, the attorney general shall be permitted to file an amicus curiae brief on behalf of the State, as provided in rule 6.906 on the constitutionality of the act.
[Court Order October 31, 2008, effective January 1, 2009]

Rules 6.306 to **6.400** Reserved.

DIVISION IV
ABORTION NOTIFICATION APPEALS

Rule 6.401 Procedure in abortion notification appeals.

6.401(1) *Notice of appeal.* A pregnant minor may appeal from a district court order denying a petition for waiver of notification regarding abortion. The notice of appeal shall be filed within 24 hours of issuance of the district court order. The notice of appeal shall be filed with the clerk of the district court where the order was entered in person or by facsimile transmission. A list of the clerk of the district court's facsimile numbers can be found at www.iowacourts.gov. The notice shall also be filed with the clerk of the supreme court in person or by facsimile transmission at (515)242-6164. The notice of appeal shall contain the date the petition was filed. A notice of appeal is filed for purposes of this rule when it is date and time stamped if filed in person or when it is received if transmitted by facsimile.

6.401(2) *Procedure on appeal.* Within 48 hours after the filing of a notice of appeal, the court reporter shall file the original of the completed transcript with the clerk of the supreme court. The reporter shall also file a certificate with the clerk of the district court stating the date the transcript was filed in the supreme court. Within 48 hours after the filing of a notice of appeal, the clerk shall transmit to the supreme court any relevant district court papers, including the district court decision. The minor shall file a written argument supporting her appeal with the clerk of the supreme court within 48 hours of filing the notice of appeal. The written argument shall include a statement designating the method by which the minor chooses to receive notice of the supreme court's final decision.

6.401(3) *Decision on appeal.* The appeal shall be considered by a three-justice panel of the supreme court. It shall be considered without oral argument unless the supreme court or a justice thereof orders otherwise. A single justice may conduct a hearing, but a majority of the three-justice panel must render any decision on the appeal. The court shall consider the appeal de novo and render its decision as soon as is reasonably possible. In no event shall the court's decision be made later than 10 calendar days from the day after filing of the petition for waiver in the district court, or the 10 calendar days plus the period of time granted by the district court for any extension under Iowa Ct. R. 8.27. The court's decision may be rendered by order or opinion, and may simply state that the district court's order is affirmed or reversed. Any decision affirming the denial of waiver of notification shall inform the minor of her right to request appointment of a therapist by the district court on remand. Notwithstanding any other rule, the panel's decision shall not be subject to review or rehearing. The clerk of the supreme court shall promptly issue procedendo once an order or opinion is filed. The minor shall be notified of the final decision in the manner designated in the written argument submitted to the court.

6.401(4) *Confidentiality.* Notwithstanding any other rule or statute, all documents filed in the appeal and the supreme court's docket shall be confidential. Any hearing held on an appeal under this rule shall be confidential. The minor may use the same pseudonym that she used in the juvenile court proceedings. Identifying information, including address, parents' names, or social security number,

shall not appear on any court papers. All papers shall contain the juvenile court docket number for identification purposes. The only persons who may have access to the court papers and admission to any hearing are the justice(s), court staff who must have access to the records for administrative purposes, the minor, her attorney, her guardian ad litem, and the person(s) designated in writing by the minor, her attorney, or her guardian ad litem to have such access or admission. In no case may the minor's parent(s) have access to her papers or admission to any hearing.

6.401(5) *Computation of time.* For the purpose of this rule, any duty of filing or issuance of a decision or order that falls on a Saturday, Sunday, or legal holiday is extended to 9 a.m. on the next business day.

[Court Order October 31, 2008, effective January 1, 2009]

Rules 6.402 to **6.500** Reserved.

DIVISION V
OTHER PROCEEDINGS

Rule 6.501 Procedure in other proceedings. Procedure in all other proceedings in the appellate courts, such as an action to invoke the supreme court's original jurisdiction shall, unless otherwise ordered, be the procedure prescribed in the rules of appellate procedure to the full extent not inconsistent with rules specifically prescribing the procedure or with a statute. An appendix under the rules of appellate procedure shall be deemed an abstract of record.

[Court Order October 31, 2008, effective January 1, 2009]

Rules 6.502 to **6.600** Reserved.

DIVISION VI
STAYING DISTRICT COURT JUDGMENTS AND PROCEEDINGS

Rule 6.601 Supersedeas bond.

6.601(1) *Requirement of bond.* Except upon order entered by the supreme court, pursuant to a procedural, appellate, or court rule, or upon order entered by the district court pursuant to rule 6.601(3), no appeal shall stay proceedings under a judgment or order unless the appellant executes a bond with sureties, to be filed with and approved by the clerk of the court where the judgment or order was entered. The condition of such bond shall be that the appellant will satisfy and perform the judgment if affirmed, or any judgment or order, not exceeding in amount or value the obligation of the judgment or order appealed from, which an appellate court may render or order to be rendered by the district court; and also all costs and damages adjudged against the appellant on the appeal, and all rents from or damage to property during the pendency of the appeal of which the appellee is deprived by reason of the appeal.

6.601(2) *Amount of bond.* If the judgment or order appealed from is for money, such bond shall be 110 percent of the amount of the money judgment, unless the district court otherwise sets the bond at a higher amount pursuant to the provisions of Iowa Code section 625A.9(2)(*a*). In no event shall the bond exceed the maximum amount set forth in Iowa Code section 625A.9(2)(*b*). In all other cases, the bond shall be an amount sufficient to save the appellee harmless from the consequences of the appeal, but in no event less than $1000.

6.601(3) *Bond by State or political subdivision.* Upon motion and for good cause shown, the district court may stay all proceedings under the order or judgment being appealed and permit the State or any of its political subdivisions to appeal a judgment or order to the supreme court without the filing of a supersedeas bond.

6.601(4) *Effect on judgment.* No appeal shall vacate or affect the judgment or order appealed from; but the clerk shall issue a written order requiring the appellee and all others to stay proceedings under it or such part of it as has been appealed from, when the appeal bond is filed and approved.

6.601(5) *Form of bond.* An appeal bond secured by cash, a certificate of deposit, or government security in a form and in an amount approved by the clerk may be filed in lieu of other bond. If a cash bond is filed, the cash shall be deposited at interest with interest earnings being paid into the general fund of the State in accordance with Iowa Code section 602.8103(5). The cash bond shall be disbursed pursuant to court order upon the district court's receipt of the procedendo.

6.601(6) *Child custody.* A supersedeas bond filed pursuant to this rule shall not stay an order, judgment, decree, or portion thereof affecting the custody of a child. Requests for stays involving child custody are governed by rule 6.604.
[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.602 Sufficiency of bond. If any party to an appeal is aggrieved by the clerk's approval of, or refusal to approve, a supersedeas bond tendered by the appellant, the party may apply to the district court, on at least three days' notice to the adverse party, to review the clerk's action. Pending such hearing, the court may recall or stay all proceedings under the order or judgment appealed from. On such hearing, the district court shall determine the sufficiency of the bond, and if the clerk has not approved the bond, the court shall, by written order, fix its conditions and determine the sufficiency of the security; or if the court determines that a bond approved by the clerk is insufficient in security or defective in form, it shall discharge such bond and fix a time for filing a new one, all as appears by the circumstances shown at the hearing.
[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.603 Judgment on bond. If an appellate court affirms the judgment appealed from, it may, on motion of the appellee, render judgment against the appellant and the sureties on the appeal bond for the amount of the judgment, with damages and costs; or it may remand the cause to the district court for the determination of such damages and costs and entry of judgment on the bond.
[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.604 Stays involving child custody.

6.604(1) *Application.* A supersedeas bond filed pursuant to rule 6.601 shall not stay an order, judgment, decree, or portion thereof affecting the custody of a child. Upon application in a pending appeal, the appellate court may, in its discretion, stay any district court order, judgment, decree, or portion thereof affecting the custody of a child and provide for the custody of the child during the pendency of the appeal. The application for such a stay order and any supporting briefs or other papers shall be filed with the clerk of the supreme court and served in the manner provided in rule 6.701.

6.604(2) *Resistance.* An application for a stay pending appeal of any order, judgment, or decree affecting the custody of a child may be resisted and will be ruled upon as provided in rule 6.1002, unless otherwise ordered. Pending consideration of the application for a stay pending appeal, the appellate court may immediately order a temporary stay pursuant to rule 6.1002(4).

6.604(3) *Considerations in granting stay.* The best interests of the child shall be the primary consideration in deciding whether to grant the application for a stay order. The best interests of the child likewise shall be paramount in determining where to place custody of the child during the pendency of the appeal. Additional considerations include, but are not limited to, the following factors when they appear:

a. The circumstances giving rise to the adjudication being appealed.

b. The safety and protection of the child.

c. The safety and protection of the community and the likelihood of serious violence.

d. The need to quickly begin treatment or rehabilitation of the child.

e. The likelihood of the child fleeing or being removed from the jurisdiction during the pendency of the appeal or not appearing at further court proceedings.

f. The availability of custody placement alternatives.

g. The child's family ties, employment, school attendance, character, length of residence in the community, and juvenile court record.

h. The likelihood of a reversal of the district court order, judgment, or decree on appeal.

6.604(4) *Burden.* The applicant seeking the stay order shall have the burden of showing that such a stay or alternative custody placement of the child pending appeal is in the child's best interests.
[Court Order October 31, 2008, effective January 1, 2009]

Rules 6.605 to **6.700** Reserved.

DIVISION VII
FILING, SERVICE, AND FEES

Rule 6.701 Filing and service.

6.701(1) *Applicability.* This rule shall govern the filing and service of papers required or permitted to be filed with the clerk of the supreme court under the rules of appellate procedure.

6.701(2) *Filing.*

a. Where and when filed. Papers required or permitted to be filed in the supreme court or in the court of appeals shall be filed with the clerk of the supreme court. All papers required to be served upon a party shall be filed with the court before or at the time of service or within a reasonable time thereafter. Whenever these rules require a filing with the supreme court or its clerk within a certain time, the time requirement shall be tolled when service is made, provided the actual filing is done within a reasonable time thereafter. Papers received by the clerk of the supreme court without a certificate of service shall be deemed filed when received by the clerk.

b. Facsimile filing. The filing of some papers may also be accomplished by fax transmission. A paper shall not be filed by fax transmission when these rules or an order of an appellate court requires 18 copies of the paper to be filed. A paper longer than five pages shall not be filed by fax transmission without prior leave of the clerk. Each fax transmission shall be accompanied by a fax cover page which states the date of the transmission, the name and fax telephone number of the person to whom the paper is being transmitted, the name, telephone number, and e-mail address of the person transmitting the paper, the docket number and title of the case in which the paper is to be filed, the name of the paper, and the number of pages, excluding the cover page, being transmitted. A fax fee of $3 per page, excluding the cover page, shall be required for filing a paper by fax transmission. The person transmitting the paper shall certify that the fax fee and any required filing fee have been mailed to the clerk contemporaneously with the fax transmission. Only one copy of the paper shall be transmitted; the clerk will provide any additional copies required by these rules or an order of an appellate court. Papers filed by fax transmission shall be deemed filed when the transmission is received by the clerk. Failure to comply with the fax requirements of this rule may result in the imposition of sanctions: the paper transmitted may be stricken or deemed not filed, the appeal or review may be dismissed, or other appropriate action may be taken.

6.701(3) *Service of all papers required.* Copies of all papers filed by any party and not expressly required by these rules to be served by the clerk shall, at or before the time of 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. Papers required to be served on the State shall be served on the attorney general.

6.701(4) *Manner of service.* Service may be personal, by mail, by fax transmission, or by e-mail. Personal service includes delivery of the copy to a clerk or other responsible person at the office of counsel. Service by mail is complete on mailing. Service may also be made upon a party or attorney by fax transmission or e-mail if the person consents in writing in that case to be served in that manner. The written consent shall specify the fax telephone number or e-mail address for such service and shall be served on all other parties or attorneys. The written consent may be withdrawn by written notice and shall be served on all other parties or attorneys. Service of a paper by fax transmission is complete when the person transmitting the paper receives confirmation of receipt of the transmission by the fax machine of the person served. Service by e-mail is complete upon transmission, unless the party making service learns that the attempted service did not reach the person to be served.

6.701(5) *Certificate of service.* All papers required or permitted to be filed shall include a certificate of service. The certificate shall identify the document served and include the date and manner of service and the names and addresses of the persons served. The certificate shall be signed by the person who made service. The certificate of service may appear on or be affixed to the papers filed. The clerk of the supreme court may permit papers to be filed without acknowledgment or certificate of service but shall require such proof to be filed promptly thereafter. The certificate of service for a paper served by fax transmission shall state the fax telephone number of the person to whom the paper was transmitted. The certificate of service for a paper served by electronic mail shall state the e-mail address of the person to whom the information was transmitted.

6.701(6) *Additional time after service by mail.* Whenever a party is required or permitted to do an act within a prescribed period after service of a paper upon that party and the paper is served by mail, e-mail, or fax transmission three days shall be added to the prescribed period. Such additional

time shall not be applicable where the deadline runs from entry or filing of a judgment, order, decree, or opinion.

6.701(7) *Service of orders, notices or opinions by e-mail.* Each document filed with the supreme court shall bear the e-mail address of the attorney or party filing it. The clerk is authorized to deliver any orders, notices, opinions or documents requiring service by the clerk to the e-mail address provided by the attorney or party.

[Court Order October 31, 2008, effective January 1, 2009; June 29, 2009]

Rule 6.702 Filing fees and copies.

6.702(1) *Filing fees.*

a. Appeal from final order or judgment. The fee for filing an appeal from a final order or judgment is $150. The appellant shall pay the fee to the clerk of the supreme court within seven days after filing the notice of appeal.

b. Application for interlocutory appeal. The fee for filing an application for interlocutory appeal is $100. The appellant shall pay the fee to the clerk of the supreme court at the time the application is filed. If the application is granted, the appellant shall pay an additional $50 fee within seven days after the order granting the application is filed.

c. Application for discretionary review. The fee for filing an application for discretionary review is $100. The appellant shall pay the fee to the clerk of the supreme court at the time the application is filed. If the application is granted, the appellant shall pay an additional $50 fee within seven days after the order granting the application is filed.

d. Petition for writ of certiorari. The fee for filing a petition for writ of certiorari is $100. The certiorari plaintiff shall pay the fee to the clerk of the supreme court at the time the petition is filed. If the petition is granted, the plaintiff shall pay an additional $50 fee within seven days after the order granting the petition is filed.

e. Original proceeding other than certiorari. The fee for filing an original proceeding other than certiorari is $150. The initiating party shall pay the fee to the clerk of the supreme court at the time the proceeding is filed.

f. Certified questions of law. The fee for filing a certification order is $150. The appellant shall pay the fee to the clerk of the supreme court within seven days after the certification order is filed.

g. Application for further review. The fee for filing an application to the supreme court for further review of a decision of the court of appeals is $75. The applicant shall pay the fee to the clerk of the supreme court at the time of filing the application for further review.

6.702(2) *Waiver or deferral of filing fees.*

a. Waiver of filing fees.

(1) State as filing party. If the State of Iowa is the filing party, the clerk shall waive any filing fees.

(2) Criminal defendant as filing party. If a criminal defendant is the filing party and there has been a district court finding of indigency, the clerk shall waive any filing fees upon the defendant's motion. The defendant's motion to waive the filing fee shall be accompanied by a copy of the district court's order finding the defendant indigent. If a criminal defendant is the filing party and the appellate defender's office has been appointed to represent the defendant, the clerk shall waive any filing fees.

(3) Postconviction applicant as filing party. If an applicant under Iowa Code section 822.9 of the Uniform Postconviction Procedure Act is the filing party and there has been a district court finding of indigency, the clerk shall waive any filing fees upon the applicant's motion. The applicant's motion to waive the filing fee shall be accompanied by a copy of the district court's order finding the applicant indigent.

(4) Waiver of filing fee authorized by other rule or statute. If waiver of the filing fee is otherwise authorized by a rule or statute, the clerk shall waive the filing fee upon motion. The motion shall state the applicable rule or statute which authorizes waiver of the filing fee.

b. Deferral of filing fee. If a rule, statute, or court order authorizes a party to defer payment of a filing fee, the clerk shall enter an order deferring the fee upon motion. The motion shall state the applicable rule or statute, or have attached the court order which authorizes deferral of the filing fee.

6.702(3) *Copies.* The fee for providing copies of papers shall be 50 cents for each page. An additional fee of $10 shall be charged for a certified copy of a document.

[Court Order October 31, 2008, effective January 1, 2009; December 18, 2009]

Rules 6.703 to **6.800** Reserved.

DIVISION VIII
RECORD ON APPEAL

Rule 6.801 Composition of record on appeal. The original papers and exhibits filed in the district court, the transcript of proceedings, if any, and a certified copy of the docket and court calendar entries prepared by the clerk of the district court shall constitute the record on appeal in all cases.
[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.802 Transmission of record.

6.802(1) *Transmission of notice of appeal and docket entries.* The clerk of the district court shall transmit certified copies of the notice of appeal, the notice of cross-appeal, if any, and the docket entries in the district court proceeding to the clerk of the supreme court, all parties or their attorneys, any court reporter who reported a proceeding that is the subject of the appeal, and the attorney general in juvenile cases and other cases in which the State of Iowa is an interested party whether or not the attorney general has appeared in the district court. Transmission shall be completed within four days after the filing of the notice of appeal or the notice of cross-appeal, if any. Upon receipt of the certified copies, the clerk of the supreme court shall assign a number to the case and create a docket.

6.802(2) *Transmission of remaining record.* No later than seven days after all briefs in final form have been served or the times for serving them have expired, the appellant shall request the clerk of the district court to transmit to the clerk of the supreme court any remaining record. The record shall include the original papers and exhibits filed in the district court. Exhibits of unusual bulk or weight shall not be transmitted by the clerk unless a party or the clerk of the supreme court requests transmission. A party shall make advance arrangements with the clerk of the district court for the transmission and the clerk of the supreme court for the receipt of exhibits of unusual bulk or weight.

6.802(3) *Certification of confidential record.* Whenever the clerk of the district court transmits to the clerk of the supreme court or to a party a district court record or any portion of a district court record that is declared by any statute or rule of the supreme court to be confidential, the clerk of the district court shall certify its confidential nature. The certificate shall cite the applicable statute or rule, be signed by the clerk of the district court, and be affixed on top of the cover page of the record or portion of the record.

6.802(4) *Retention of trial record in district court.* If the record or any part of it is required in the district court for use pending the appeal, the district court may order its retention. In such cases, the clerk of the district court shall retain the record or parts of it in compliance with the district court's order and shall transmit to the clerk of the supreme court a copy of the order, a certified copy of the records retained pursuant to the order, and the remaining records that are not retained under the district court's order. The appellate court may require transmission of an original record retained pursuant to the order. The parts of the record not transmitted to the clerk of the supreme court shall be part of the record on appeal for all purposes.

6.802(5) *Portions of record not transmitted.* Any parts of the record not transmitted to the clerk of the supreme court shall, on request of an appellate court or any party, be transmitted by the clerk of the district court to the clerk of the supreme court.
[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.803 Transcript.

6.803(1) *Ordering transcript.* Within seven days after filing the notice of appeal, the appellant shall use the combined certificate to order in writing from the court reporter a transcript of such parts of the proceedings not already on file as the appellant deems necessary for inclusion in the record. If the appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant shall include in the record a transcript of all evidence relevant to such finding or conclusion.

6.803(2) *Form of transcript.* The following transcript format requirements shall be followed whether the transcript is produced in printed or electronic format.

a. Page layout. A page of transcript shall consist of no fewer than 25 lines per page of type on paper 8 1/2 by 11 inches in size, prepared for binding on the left side. Margins shall be 1 1/8 inches on each side and 1 inch on the top and bottom. Pages shall be numbered consecutively in the upper right-hand corner. When the transcript for a proceeding consists of multiple volumes, pagination shall be consecutive throughout.

b. Font. A monospaced typeface may not contain more than 10 characters per inch. Font size shall be 12 point.

c. Question-and-answer form. Questions and answers shall each begin a new line of transcript. Indentations for speakers or paragraphs shall not be more than 10 spaces from the left-hand margin. Testimony of a new witness may be started on a new page where the prior witness's testimony ends below the center of the preceding page.

d. Index. Transcripts shall include an index of witnesses and exhibits.

e. Reporter's certificate of filing the transcript. In addition to the transcript, the reporter shall prepare a reporter's certificate of filing the transcript containing the case caption, the date the transcript was ordered, the name of the attorney or other person ordering the transcript, and the date it was filed with the supreme court.

f. Condensed transcript. A transcript may be produced in a condensed format which includes four pages of transcript on a single page of 8 1/2 by 11 inch paper. Margins shall be 1 1/4 inches on each side and 1 inch on the top and bottom. A condensed transcript shall be legible, shall be in portrait format, and the font size shall be not less than 10 points. The pages of the condensed transcript shall be formatted with page one in the top left, page two in the bottom left, page three in the top right, and page four in the bottom right.

6.803(3) *Filing transcript.* The reporter shall file the original of the transcript with the clerk of the supreme court and shall serve a copy of the reporter's certificate of filing the transcript on the parties and the clerk of the district court. The transcript and the reporter's certificate of filing the transcript shall be filed within the following number of days from service of the combined certificate:

a. 20 days — guilty pleas and sentencing.

b. 30 days — child-in-need-of-assistance and termination-of-parental-rights proceedings under chapter 232.

c. 40 days — all other cases.

If a reporter cannot file the transcript and certificate of filing the transcript in the time allowed under this rule, the reporter shall file with the clerk of the supreme court an application for extension of time and shall serve a copy on all counsel of record, any unrepresented parties, and the chief judge of the judicial district. The application shall include the estimated date of completion, the approximate page length of the transcript, and the grounds for requesting the extension.

6.803(4) *Charges for transcription.* Pursuant to Iowa Code section 602.3202, the maximum compensation of reporters for transcribing their official notes shall be as provided in Iowa Ct. R. 22.28.

6.803(5) *Payment for transcript.* The ordering party must make satisfactory arrangements with the reporter for payment of the transcript costs. The cost of the transcript shall be taxed in the district court.

6.803(6) *Notice of filing transcript.* The clerk of the supreme court shall give notice, in a notice of the briefing deadline, to all parties or their attorneys of the date on which the last transcript ordered for the appeal was filed.

[Court Order October 31, 2008, effective January 1, 2009; March 9, 2009]

Rule 6.804 Combined certificate.

6.804(1) *Duty of the appellant to file combined certificate.* In all cases, the appellant shall complete the combined certificate form found in form 2 in rule 6.1401. The combined certificate shall be filed within seven days after filing the notice of appeal or appointment of new appellate counsel, whichever is later. The appellant shall serve the combined certificate on all parties to the appeal and on each court reporter from whom a transcript was ordered. If the State is a party to the case, a copy of the combined certificate shall also be served upon the attorney general. The combined certificate shall be filed with the clerks of both the district and the supreme court.

6.804(2) *Certification of ordering transcript.* If a report of the evidence or proceedings at a hearing or trial was made and is available and the appellant deems some or all of that report necessary for inclusion in the record on appeal, the appellant shall certify in the combined certificate that the transcript has been ordered. This certification shall be deemed a professional statement by the attorney signing it that the transcript has been ordered in good faith, that no arrangements have been made or suggested to delay the preparation of the transcript, and that payment for the transcript will be made in accordance with these rules.

6.804(3) *Appellant's designation of parts of transcript ordered.* Unless all of the proceedings are to be transcribed, the appellant shall describe in the combined certificate the parts of the proceedings ordered transcribed and state the issues appellant intends to present on appeal.

6.804(4) *Statement that expedited deadlines apply.* The appellant shall indicate in the combined certificate whether the expedited deadlines of rule 6.902 apply.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.805 Appellee's designation of additional parts of transcript.

6.805(1) *Appellee's designation.* If the appellee deems a transcript of other parts of the proceedings to be necessary, the appellee shall serve a designation of additional parts to be transcribed on all parties and the court reporter. The designation of additional parts shall be served within 10 days after service of the combined certificate, and shall be filed with the clerks of both the district and the supreme court.

6.805(2) *Disputes regarding transcription.* The parties are encouraged to agree on which parts of the proceedings are to be transcribed. Any disputes concerning which parts of the proceedings are to be transcribed and which party is to advance payment to the reporter for transcription are to be submitted to the district court. If the appellant shall within four days fail or refuse to order such parts, the appellee shall either order the parts or apply to the district court to compel the appellant to do so.

6.805(3) *Supplemental certificate.* Within seven days after the appellee has served a designation of additional parts of the proceedings requested to be transcribed, the party ordering additional proceedings shall use the supplemental certificate found in form 3 in rule 6.1401 to order the additional proceedings transcribed, serve it on all parties to the appeal and on the court reporter, and file it with the clerks of both the district court and the supreme court.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.806 Proceedings when transcript unavailable.

6.806(1) *Statement of the evidence or proceedings.* 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 the appellant's recollection. The statement shall be filed with the clerk of the district court and served on the appellee within 20 days after the filing of the notice of appeal if the evidence or proceeding was not reported, or within 10 days after the appellant discovers a transcript of reported evidence or a proceeding is unavailable.

6.806(2) *Objections to statement.* The appellee may file with the clerk of the district court and serve on the appellant objections or proposed amendments to the statement within 10 days after service of the appellant's statement.

6.806(3) *Approval of statement by district court.* The statement and any objections or proposed amendments shall be submitted to the district court for settlement and approval. The statement as settled and approved shall be filed with the clerk of the district court and the clerk of the supreme court.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.807 Correction or modification of the record. If any difference arises as to whether the record truly discloses what occurred in the district court, commission, agency, or other tribunal, the difference shall be submitted to and settled by that court, commission, agency or other tribunal and the record made to conform to the truth. If anything material to either party is omitted from the record by error or accident or is misstated therein, the parties by stipulation or the district court, commission, agency, or other tribunal, either before or after the record is transmitted to the supreme court, or the appropriate appellate court on proper suggestion or on its own initiative, may direct that the omission or misstatement be corrected and if necessary that a supplemental record be certified and transmitted. A copy of any request to correct or modify the record shall be filed with the clerk of the supreme court. All other questions as to the form and content of the record shall be presented to the supreme court, unless the questions arise after the case has been transferred to the court of appeals, in which event, they shall be presented to that court.

[Court Order October 31, 2008, effective January 1, 2009; March 9, 2009]

Rules 6.808 to **6.900** Reserved.

DIVISION IX
BRIEFS AND APPENDIX

Rule 6.901 Filing and service of briefs and amendments.

6.901(1) *Time for filing proof briefs.* Except for cases expedited under rule 6.902, the following filing deadlines shall apply:

a. Appellant's proof brief. The appellant shall file a proof copy of the appellant's brief within 50 days after the date the clerk gives the notice of the briefing deadline required under rule 6.803(6) that the last transcript ordered for the appeal has been filed. If no transcript is ordered or if the transcript is unavailable, the appellant shall file a proof copy of the appellant's brief within 50 days after the clerk gives notice of the briefing deadline.

b. Appellee's proof brief. Within 30 days after service of the appellant's proof brief, the appellee shall file either a proof copy of the appellee's brief, a written statement under rule 6.903(3) waiving the brief, or a combined appellee's/cross-appellant's brief pursuant to rule 6.903(5).

c. Reply briefs. If a cross-appeal has not been filed, the appellant may file a proof copy of a reply brief within 21 days after service of the appellee's proof brief. If a cross-appeal has been filed, the appellant/cross-appellee shall respond within 21 days after service of the appellee/cross-appellant's proof brief by filing either a proof copy of a reply brief or a statement waiving any further proof brief. If the appellant/cross-appellee files a reply brief, the appellee/cross-appellant may file a reply brief in final form under rule 6.903(5) within 14 days after service of the appellant's/cross-appellee's reply brief.

d. Counsel's duty to serve brief on defendant, applicant, or respondent. In addition to the service requirements of rule 6.701(3), appellate counsel for a criminal defendant, a postconviction applicant, or a respondent committed under Iowa Code chapter 229A shall serve a copy of counsel's proof brief and designation of parts upon the defendant, applicant, or respondent. Counsel shall indicate such service in the certificate of service on the proof brief and on the designation of parts. The certificate of service shall include the address at which the defendant, applicant, or respondent was served.

6.901(2) *Pro se supplemental proof briefs.*

a. Filing and service of supplemental brief. Any criminal defendant, applicant for postconviction relief, or respondent committed under Iowa Code chapter 229A may file a pro se supplemental brief or designate additional parts of the district court record for inclusion in the appendix within 15 days after service of the proof brief filed by their counsel. Any pro se supplemental brief or designation filed beyond this period by a properly served defendant, applicant, or respondent will not be considered by the court and no response by the State will be allowed. The pro se supplemental brief cannot exceed more than one-half of the length limitations for a required brief specified in rule 6.903(1)(*g*) unless otherwise ordered by the court for good cause shown. The defendant, applicant, or respondent must serve counsel and the State with copies of the supplemental brief or designation.

b. Pro se as appellant. If the defendant, applicant, or respondent is the appellant, the State's proof brief must be served and filed within 30 days after service of the pro se supplemental brief, and the State must serve a copy of its proof brief upon the appellant and the appellant's counsel. Within the time provided for the appellant's counsel to file a reply brief, the appellant may also file a pro se supplemental reply brief. The pro se supplemental reply brief cannot exceed more than one-half of the length limitations for a reply brief specified in rule 6.903(1)(*g*) unless otherwise ordered by the court for good cause shown. The appellant must serve counsel and the State with copies of the pro se supplemental reply brief. Counsel for the appellant shall be responsible for including any additional designated parts of the record in the appendix.

c. State as appellant. If the State is the appellant, the State shall serve and file the appendix and a reply brief, if any, within 21 days after service of the pro se supplemental brief, and the State shall be responsible for including any additional designated parts in the appendix.

d. Counsel's duty to file final supplemental briefs. Counsel for the defendant, applicant, or respondent shall serve and file the final copies of the pro se supplemental briefs.

6.901(3) *Time for serving and filing briefs in final form.* Within 14 days after service of the appendix pursuant to rule 6.905(11), each party shall serve and file the party's brief or briefs in the final form prescribed by rule 6.903 and 6.904(4)(*b*).

6.901(4) *Other supplemental briefs.* If the appellate court concludes supplemental briefs from the parties will assist the court in deciding any issue in the case, it shall file an order prescribing the issue or issues to be addressed, the length of such brief, and the schedule for filing them.

6.901(5) *Multiple adverse parties.* If the time for doing any act prescribed by these rules is measured from the date of service of a paper by an adverse party, then in the case of multiple adverse parties the time for doing such act shall be measured from the date of service of the last timely served paper by an adverse party or the date of expiration of time for such service.

6.901(6) *Amendments.* An appellant may amend a required brief once within 15 days after serving the brief, provided no brief has been served in response to it. The time for serving and filing of the appellee's brief shall be measured from the date of service of the amendment to the appellant's brief. An appellee's brief may be amended once within 10 days after service, provided no brief has been served in reply to it. The time for serving and filing the appellant's reply brief shall be measured from the date of service of the amendment to the appellee's brief. A reply brief may be amended once within seven days after it is served. Any other amendments to the briefs may be made only with leave of the appropriate appellate court. An amendment may be conditionally filed with a motion for leave.

6.901(7) *Deadlines shortened by order.* The supreme court may shorten the periods for serving and filing proof and final briefs.

6.901(8) *Number of copies to be filed and served.* Two copies of proof briefs and 18 copies of each brief in final form or amendment thereto shall be filed with the clerk of the supreme court, and one copy of the proof brief and the briefs in final form shall be served on counsel for each party separately represented.

[Court Order October 31, 2008, effective January 1, 2009; March 9, 2009]

Rule 6.902 Cases involving expedited times for filing briefs and appendix.

6.902(1) *Expedited cases.* The following cases shall be expedited on appeal:

a. Child custody.

b. Adoption.

c. Termination-of-parental-rights cases under Iowa Code chapter 600A.

d. Child-in-need-of-assistance or termination-of-parental-rights cases under Iowa Code chapter 232 (when full briefing has been granted).

e. Criminal proceedings in which an appeal is taken from a judgment and sentence entered upon a guilty plea or from the sentence only.

f. Juvenile proceedings affecting child placement.

g. Lawyer disciplinary matters.

h. Involuntary mental health commitments under Iowa Code chapter 229.

i. Involuntary substance abuse commitments under Iowa Code chapter 125.

j. Certified questions under Iowa Code chapter 684A.

6.902(2) *Filing deadlines.* The time for serving and filing proof briefs, other than reply briefs, and the time for designating the contents of the appendix shall be reduced by one-half of the time provided in rules 6.901(1) and 6.905(1)(*b*). The appendix and reply briefs, except an appellee/cross-appellant's reply brief, shall be served and filed not more than 15 days after service or expiration of the time for service of the appellee's proof brief, and printed or duplicated copies of all the briefs in final form shall be served and filed within seven days after service of the appendix. An appellee/cross-appellant's reply brief may be served and filed not more than seven days after service of the appellant's/cross-appellee's reply brief. The litigants will not be given extensions of time in which to comply with the expedited deadlines except upon a showing of the most unusual and compelling circumstances.

6.902(3) *Priority.* Each case subject to this rule shall be given the highest priority at all stages of the appellate process. These appeals shall be accorded submission precedence over other civil cases.

6.902(4) *Transcripts.* Court reporters shall give priority to transcription of proceedings in these cases over other civil transcripts.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.903 Briefs.

6.903(1) *Form of briefs.*

a. Reproduction. A brief may be reproduced by any process that yields a clear black image on white paper. The paper must be opaque and unglazed. Briefs shall be reproduced on both sides of the sheet.

b. Form of front covers. The front covers of the briefs shall contain:

(1) The name of the court and the appellate number of the case.

(2) The caption on appeal. *See* rule 6.109(2).

(3) The nature of the proceeding (e.g., Appeal, Certiorari) and the name of the court and judge, agency, or board whose decision is under review.

(4) The title of the document (e.g., Brief for Appellant).

(5) The name, address, telephone number, e-mail address, and fax number of counsel or the self-represented party filing the brief.

c. Color of front covers. The front cover of a brief shall be:

(1) Appellant's brief—blue.

(2) Appellee's brief—red.

(3) Reply brief—gray.

(4) Amicus curiae brief—green.

The cover of any amended brief shall be the same color as the original brief.

d. Paper size, line spacing, and margins. The brief must be on 8½ by 11 inch paper. The text must be double-spaced, but quotations more than 40 words long may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins shall be 1¼ inches on each side and 1 inch on the top and bottom. Page numbers shall be located at the bottom center of each page.

e. Typeface. Either a proportionally spaced or a monospaced typeface may be used.

(1) A proportionally spaced typeface must include serifs, but sans-serif type may be used in headings and captions. A proportionally spaced typeface must be 14 point or larger. Examples of proportionally spaced typeface with serifs that can be used in the body of a brief are Bookman Old Style, Century Schoolbook, Times New Roman, Baskerville Old Face, Garamond, or Georgia.

(2) A monospaced typeface may not contain more than 10 1/2 characters per inch. Examples of monospaced typeface that can be used in the body of a brief are Courier 12 point and Consolas 12 point.

f. Type styles. A brief must be set in a plain style. Italics or boldface may be used for emphasis. Case names must be italicized or underlined.

g. Length. The maximum length of a brief is determined by whether it is printed or handwritten.

(1) Proportionally spaced typeface. If a required brief uses a proportionally spaced typeface it shall contain no more than 14,000 words. A reply brief shall contain no more than half of the type volume specified for a required brief. The headings, footnotes, and quotations count toward the word limitation. The table of contents, table of authorities, statement of the issues, and certificates do not count toward the word limitation.

(2) Monospaced typeface. If a required brief uses a monospaced typeface it shall contain no more than 1,300 lines of text. A reply brief shall contain no more than half of the type volume specified for a required brief. The headings, footnotes, and quotations count toward the line limitation. The table of contents, table of authorities, statement of the issues, and certificates do not count toward the line limitation.

(3) Handwritten briefs. A required brief that is handwritten may not exceed 50 pages or a reply brief 25 pages. The headings, footnotes, and quotations count toward the page limitation. The table of contents, table of authorities, statement of the issues, and certificates do not count toward the page limitation.

(4) Certificate of compliance. A brief submitted under rule 6.903(1)(*g*)(1) or (2) must include a certificate of compliance using form 7 of rule 6.1401.

h. Printing or duplicating taxed as costs. To the extent reasonable, the costs of printing or duplicating a brief shall be taxed in the appellate court as costs. Reasonable printing or duplicating costs shall not exceed $4 per page unless otherwise ordered by the appropriate appellate court.

6.903(2) *Appellant's brief.* The appellant shall file a brief containing all of the following under appropriate headings and in the following order:

a. A table of contents. The table of contents shall contain page references.

b. A table of authorities. The table of authorities shall contain a list of cases (alphabetically arranged), statutes, and other authorities cited, with references to all pages of the brief where they are cited.

c. A statement of the issues presented for review. Each issue shall be numbered and stated separately in the same order as they are presented in the argument. All authorities referred to in the argument shall be listed under each issue.

d. A routing statement. The routing statement shall indicate whether the case should be retained by the supreme court or transferred to the court of appeals and shall refer to the applicable criteria in rule 6.1101.

e. A statement of the case. The statement shall indicate briefly the nature of the case, the relevant events of the prior proceedings, and the disposition of the case in the district court. If a defendant appeals from a criminal conviction, the statement shall include the crimes for which the defendant was convicted and the sentence imposed. All portions of the statement shall be supported by appropriate references to the record or the appendix in accordance with rule 6.904(4).

f. A statement of the facts. The statement shall recite the facts relevant to the issues presented for review. All portions of the statement shall be supported by appropriate references to the record or the appendix in accordance with rule 6.904(4).

g. An argument section. The argument section shall be structured so that each issue raised on appeal is addressed in a separately numbered division. Each division shall include in the following order:

(1) A statement addressing how the issue was preserved for appellate review, with references to the places in the record where the issue was raised and decided.

(2) A statement addressing the scope and standard of appellate review (e.g., "de novo," "correction of errors of law," "abuse of discretion"), citing relevant authority.

(3) An argument containing the appellant's contentions and the reasons for them with citations to the authorities relied on and references to the pertinent parts of the record in accordance with rule 6.904(4). Failure to cite authority in support of an issue may be deemed waiver of that issue.

h. A conclusion. A short conclusion stating the precise relief sought.

i. A request for oral or nonoral submission. A request to submit the case with or without oral argument.

j. Certificate of cost. The amount actually paid for printing or duplicating necessary copies of briefs in final form shall be certified by the attorney.

6.903(3) *Appellee's brief.* The appellee shall file a brief or a statement waiving the appellee's brief. If the appellee files a brief, the brief shall conform to the requirements of rule 6.903(2), except that a statement of the case or a statement of the facts need not be included unless the appellee is dissatisfied with the appellant's statements. Each division of the appellee's argument shall begin with a discussion of whether the appellee agrees with the appellant's statements on error preservation, scope of review, and standard of review.

6.903(4) *Appellant's reply brief.* The appellant may file a brief in reply to the brief of the appellee. Unless a cross-appeal is filed, no further briefs may be filed without leave of the appropriate appellate court.

6.903(5) *Briefs in cross-appeals.* The brief of the appellee/cross-appellant shall respond to the brief of the appellant and then address the issues raised in the cross-appeal. The appellant/cross-appellee shall file a reply brief responding to the issues presented by the cross-appeal or a statement waiving the reply brief. The appellee/cross-appellant may file a reply brief responding to the appellant/cross-appellee's reply brief.

6.903(6) *Multiple appellants or appellees.* In a case involving a cross-appeal, an appellee who has not filed a cross-appeal shall file a brief that either responds to or waives response to the issues raised in the appellant's brief, and then addresses the issues raised in the cross-appeal. The appellant shall then file either a brief that addresses the appeal and/or cross-appeal issues, or a statement waiving any responsive brief. If the appellant files a brief that addresses the cross-appeal issues, the appellee may file a reply brief limited to those issues.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.904 References in briefs.

6.904(1) *To the parties.* In briefs counsel should minimize references to parties by such designations as "appellant" and "appellee" and should use the actual names of the parties or descriptive terms such as "the plaintiff," "the defendant," "the employee," "the injured person," "the taxpayer," or "the decedent."

6.904(2) *To legal authorities.*

a. Cases. In citing cases, the names of parties must be given. In citing Iowa cases, reference must be made to the volume and page where the case may be found in the North Western Reporter. If the case is not reported in the North Western Reporter, reference must be made to the volume and page where the case may be found in the Iowa Reports. In citing cases, reference must be made to the court that rendered the opinion and the volume and page where the opinion may be found in the National Reporter System, if reported therein. *E.g.*, _ N.W.2d _ (Iowa 20_); _ N.W.2d _ (Iowa Ct. App. 20_); _ S.W.2d _ (Mo. Ct. App. 20_); _ U.S._, _ S. Ct._, _ L. Ed. 2d _ (20_); _ F.3d_ (_Cir. 20_); _ F.

Supp. 2d _ (S.D. Iowa 20_). When quoting from authorities or referring to a particular point within an authority, the specific page or pages quoted or relied upon shall be given in addition to the required page references.

b. Iowa Court Rules. When citing the Iowa Court Rules parties shall use the following references:

(1) "Iowa R. Civ. P."; "Iowa R. Crim. P."; "Iowa R. Evid."; "Iowa R. App. P."; "Iowa R. of Prof'l Conduct"; and "Iowa Code of Judicial Conduct" when citing those rules.

(2) "Iowa Ct. R." when citing all other rules.

c. Unpublished opinions or decisions. An unpublished opinion or decision of a court or agency may be cited in a brief if the opinion or decision can be readily accessed electronically. Unpublished opinions or decisions shall not constitute controlling legal authority. When citing an unpublished opinion or decision a party shall include an electronic citation indicating where the opinion may be readily accessed online. *E.g.*, No. _____, _____ WL _____, at *___ (____ 20__).

d. Other authorities. When citing other authorities, references shall be made as follows:

(1) Citations to codes shall include the section number and date.

(2) Citations to treatises, textbooks, and encyclopedias shall include the edition, section, and page.

(3) Citations to all other authorities shall include the page or pages.

e. Internal cross-references. Use of "supra" and "infra" is not permitted.

6.904(3) *To legal propositions.* The following propositions are deemed so well established that authorities need not be cited in support of them:

a. Findings of fact in a law action, which means generally any action triable by ordinary proceedings, are binding upon the appellate court if supported by substantial evidence.

b. In considering the propriety of a motion for directed verdict, the court views the evidence in the light most favorable to the party against whom the motion was made.

c. In ruling upon motions for new trial, the district court has a broad but not unlimited discretion in determining whether the verdict effectuates substantial justice between the parties.

d. The court is slower to interfere with the grant of a new trial than with its denial.

e. Ordinarily, the burden of proof on an issue is upon the party who would suffer loss if the issue were not established.

f. In civil cases, the burden of proof is measured by the test of preponderance of the evidence.

g. In equity cases, especially when considering the credibility of witnesses, the court gives weight to the fact findings of the district court, but is not bound by them.

h. The party who so alleges must, unless otherwise provided by statute, prove negligence and proximate cause by a preponderance of the evidence.

i. A motorist upon a public highway has a right to assume that others using the road will obey the law, including statutes, rules of the road, and necessity for due care, at least until the motorist knows or in the exercise of due care should have known otherwise.

j. Generally questions of negligence, contributory negligence, and proximate cause are for the jury; it is only in exceptional cases that they may be decided as matters of law.

k. Reformation of written instruments may be granted only upon clear, satisfactory, and convincing evidence of fraud, deceit, duress, or mutual mistake.

l. Written instruments affecting real estate may be set aside only upon evidence that is clear, satisfactory, and convincing.

m. In construing statutes, the court searches for the legislative intent as shown by what the legislature said, rather than what it should or might have said.

n. In the construction of written contracts, the cardinal principle is that the intent of the parties must control, and except in cases of ambiguity, this is determined by what the contract itself says.

o. In child custody cases, the first and governing consideration of the courts is the best interests of the child.

p. Direct and circumstantial evidence are equally probative.

q. Even when the facts are not in dispute or contradicted, if reasonable minds might draw different inferences from them a jury question is engendered.

6.904(4) *To the record.*

a. Proof briefs. Proof briefs shall contain references to the pages of the parts of the record, e.g., Petition p. 6, Judgment p. 5, Transcript p. 298, Lines 15-24.

b. Final briefs. In final briefs, the parties shall replace references to parts of the record with citations to the page or pages of the appendix at which those parts appear. If references are made in the final briefs to parts of the record not reproduced in the appendix, the references shall be to the

pages of the parts of the record involved, e.g., Answer p. 7, Motion for Judgment p. 2, Tr. p. 231 Ll. 8-21. Intelligible abbreviations may be used. No other changes may be made in the proof briefs as initially served and filed, except that typographical errors may be corrected.
[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.905 Appendix.

6.905(1) *Designation of contents.*

a. The parties are encouraged to agree as to the contents of the appendix.

b. An original and a copy of the designation of parts of the district court record to be included in the appendix shall be filed by each party when the proof copy of their required brief, other than appellant/cross-appellee's reply brief, is served and filed. One copy shall be served on all parties. An appellee who is satisfied with the appellant's designation need not designate additional parts for inclusion, but must file an original and a copy of a statement indicating the appellee is not designating additional parts of the record. One copy shall be served on all parties. In designating parts of the record for inclusion in the appendix, the parties shall consider the fact that the entire record is available to the appellate courts for examination and shall not engage in unnecessary designation.

c. The appellant shall include in the appendix the parts designated by the appellee.

6.905(2) *Duty of appellant; content.*

a. The appellant shall prepare and file an appendix.

b. The appendix shall contain:

(1) A table of contents.

(2) A list of the relevant docket entries in the district court proceeding.

(3) Relevant portions of the pleadings, transcript, exhibits, instructions, findings, conclusions, and opinion. Any pleading included in the appendix shall include the caption, signature block, and certificate of service. Summaries, abstracts, or narratives shall not be used.

(4) A file-stamped copy of the judgment, order, or decision in question.

(5) A file-stamped copy of any notices of appeal or cross-appeal, including any certificate(s) of service.

(6) The text of any agency rule that is cited in the parties' briefs.

(7) Other parts of the record to which the parties wish to direct the court's attention.

6.905(3) *Cover; form.*

a. The cover of the appendix and amendments to it shall be white.

b. The requirements set out in rule 6.903(1) governing the printing, typeface, spacing, page size, margins, binding, and the form and content of the front cover of briefs shall also be followed in the preparation of the appendix.

c. Copies of pleadings, exhibits, and other papers may be reduced or enlarged to 8 1/2 by 11 inches for insertion in the appendix. All such copies must be legible.

6.905(4) *Table of contents.*

a. The appendix shall include a table of contents identifying each part of the record included and disclosing the page number at which each part begins in the appendix.

b. If portions of a court reporter's transcript of testimony are included in the appendix, the table of contents shall state the name of each witness whose testimony is included and the appendix page at which each witness's testimony begins.

c. If exhibits are included in the appendix, the table of contents shall identify each exhibit by the number or letter with which it was marked in the district court, give a concise description of the exhibit (*e.g.*, "warranty deed dated . . ."; "photograph of construction site"; "Last Will and Testament executed on . . ."), and state the page number at which the exhibit appears in the appendix.

6.905(5) *Relevant docket entries.* The docket entries relevant to the appeal shall be listed on a separate page immediately following the table of contents.

6.905(6) *Verbatim; paginated; in chronological order.* Following the table of contents and the list of relevant docket entries, other parts of the record of proceedings relevant to the issues raised in the appeal shall be included verbatim on consecutively numbered pages and in the chronological order in which the proceedings occurred.

6.905(7) *Transcripts of proceedings and depositions.*

a. Any portion of a transcript or deposition included in the appendix shall be preceded by a copy of the reporter's cover sheet disclosing the date(s) of the proceedings and the names of the participants.

b. Any portion of a transcript of proceedings shall appear in the chronological order of the proceedings.

c. The name of each witness whose testimony is included in the appendix shall be inserted on the top of each appendix page where the witness's testimony appears.

d. The transcript page number shall be placed in brackets at the place in the appendix where the testimony from that transcript page begins.

e. The omission of any transcript page(s) or portion of a transcript page shall be indicated by a set of three asterisks at the location on the appendix page where the matter has been omitted.

f. A condensed version of a transcript which complies with the requirements of rule 6.803(2)(*f*) may be included in the appendix.

6.905(8) *Separate volume for exhibits.* Relevant portions of exhibits included in the appendix may be indexed and contained in a separate volume or volumes. Relevant portions of the transcript of a proceeding before an administrative agency, board, commission, or officer, used in an action in the district court, may be regarded as an exhibit for the purpose of this rule.

6.905(9) *Asterisks shall denote omitted portions of exhibits and other papers.* If part of an exhibit or other paper is omitted from the appendix, the omission shall be indicated by a set of three asterisks at the location on the appendix page where the matter has been omitted.

6.905(10) *Matters not included in the appendix.*

a. Trial briefs shall not be included in the appendix unless necessary to establish preservation of error on an issue argued on appeal. When included to establish error was preserved, relevant portions of an unfiled trial brief shall be made a part of the record pursuant to rule 6.807.

b. The fact that parts of the record are not included in the appendix shall not prevent the parties or the courts from relying on such parts.

6.905(11) *Number of copies; time for service and filing.* The appellant shall file 18 copies of each volume of the appendix and any amendments with the clerk of the supreme court and serve one copy on counsel for each party separately represented within 21 days after service or expiration of the time for service of the appellee's proof brief.

6.905(12) *Amendments.*

a. The appendix may be amended by agreement of all the parties at any time prior to assignment of the appeal for submission to an appellate court. The written consent of all the parties shall be filed with the amendment.

b. In the absence of agreement or after assignment of the appeal for submission to an appellate court, the appendix may be amended only with leave of the appropriate appellate court. A proposed amendment may be conditionally filed with a motion for leave to amend.

6.905(13) *Cost of producing; taxation as costs on appeal.*

a. The cost of producing the appendix shall initially be paid by the appellant unless the parties otherwise agree. If, however, the appellant reasonably believes parts of the record designated by the appellee for inclusion are unnecessary for the determination of the issues presented, the appellant may so advise the appellee who shall advance the cost of including such parts. If any party shall cause matters to be unnecessarily included in the appendix, the appropriate appellate court may tax the cost of producing such parts on that party.

b. Appellant's attorney shall certify within the appendix the amount actually paid for printing or otherwise producing necessary copies of the appendix.

c. The reasonable costs of printing or duplicating the appendix shall be taxed by the appellate court. Reasonable printing or duplicating costs shall not exceed $4 per page unless otherwise ordered by the appropriate appellate court.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.906 Brief of amicus curiae.

6.906(1) *Appeal.* An amicus curiae brief may be served and filed only by leave of the appropriate appellate court granted on motion served on all parties, at the request of the appropriate appellate court, or when accompanied by the written consent of all parties. The brief may be conditionally served and filed with a motion for leave. A motion for leave shall identify the interest of the applicant and shall state the reasons an amicus curiae brief would assist the court in resolving issues preserved for appellate review in the case. An amicus curiae shall serve and file a brief within the time allowed the party whose position the brief will support. The appropriate appellate court for cause shown may extend the deadline for the brief, specifying the period within which an opposing party may respond. An amicus curiae's request to participate in oral argument will not be granted except for extraordinary reasons.

6.906(2) *Further review.* Amicus curiae briefs shall not be filed in support of, or in resistance to, an application for further review of a decision of the court of appeals. If the supreme court grants further review, an amicus curiae brief may be filed upon leave of the supreme court granted on motion served on all parties, at the request of the supreme court, or when accompanied by the written consent of all parties. A motion for leave to file an amicus curiae brief must be filed within 14 days of the supreme court's order granting further review, and no response to the motion shall be received unless requested by the court. The motion shall identify the interest of the applicant, shall state the reasons an amicus curiae brief would assist the court in resolving issues preserved for appellate review in the case, and shall be accompanied by the amicus curiae brief. If the motion for leave to file an amicus curiae brief is granted, the parties may file a response to the amicus curiae brief within 15 days of the court's order granting the motion.

6.906(3) *Form of amicus curiae brief.* An amicus curiae brief shall not exceed more than one-half of the length limitations for a required brief specified in rule 6.903(1)(*g*). An amicus curiae brief must comply with the format requirements of rule 6.903(1). An amicus curiae brief need not comply with rule 6.903(2) or (3) but must include all of the following:

a. A table of contents with page references.

b. A table of authorities containing cases (alphabetically arranged), statutes, and other authorities cited, with references to all pages of the brief where they are cited.

c. A concise statement of the identity of the amicus curiae and its interest in the case.

d. An argument.

e. A certificate of compliance, if required by rule 6.903(1)(*g*)(4).

6.906(4) *Criteria for allowing amicus curiae brief.* An appellate court has broad discretion in determining whether an amicus curiae brief should be allowed. The court will base its decision on whether the brief will assist the court in resolving the issues preserved for appellate review in the case. In reaching its decision, the court will consider various factors, including those set forth below.

a. The court will ordinarily grant a motion for leave to file an amicus curiae brief if one of the following factors is present.

(1) The party whose position the proposed amicus brief supports is unrepresented or has not received adequate representation.

(2) The proposed amicus curiae has a direct interest in another case that may be materially affected by the outcome of the present case.

(3) The proposed amicus curiae has a unique perspective or information that will assist the court in assessing the ramifications of any decision rendered in the present case.

b. The court will ordinarily deny a motion for leave to file an amicus curiae brief if one of the following factors is present.

(1) The proposed amicus curiae brief will merely reiterate the arguments of the party whose position the brief supports.

(2) The proposed amicus curiae brief appears to be an attempt to expand the number of briefing pages available to the party whose position the brief supports.

(3) The proposed amicus curiae brief attempts to raise issues that were not preserved for appellate review.

(4) The proposed amicus curiae brief will place an undue burden on the opposing party.

c. The court may also strike an amicus curiae brief filed with the consent of all parties if it appears the brief would not be allowed under the above criteria.

6.906(5) *Number of copies of amicus brief.* Eighteen copies of an amicus brief shall be filed. In addition, one copy shall be served on each party.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.907 Scope of review. Review in equity cases shall be de novo. In all other cases the appellate courts shall constitute courts for correction of errors at law, and findings of fact in jury-waived cases shall have the effect of a special verdict.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.908 Oral and nonoral submission; notice of additional authorities.

6.908(1) *Requests for oral argument.* A party desiring to present an oral argument shall request it in their brief as provided in rule 6.903(2)(*i*). Oral argument will not be granted if it is not requested in the brief, except by order of the appropriate appellate court.

6.908(2) *Denial of oral argument.* The appropriate appellate court will deny a request for oral argument if oral argument is unlikely to be of assistance to the court.

6.908(3) *Grant of oral argument.* If oral argument is granted, the court shall fix the time allotted for oral argument and notify the parties.

6.908(4) *Issues raised but not argued.* Issues properly raised in the briefs shall not be waived as a consequence of failing to address them during oral argument.

6.908(5) *Additional authorities.* After final briefs are filed, a party may file a notice of additional authorities not cited in the briefs. The party shall file 12 copies of the notice with the clerk of the supreme court and serve one copy on opposing counsel. The notice shall include a citation for each additional authority. No further argument shall be included in the notice. If the case is set for oral argument, the party shall fax, e-mail, or hand deliver the notice to all opposing parties at least four days in advance of oral argument, unless the authorities were not in existence prior to that time.

6.908(6) *Use of exhibits and demonstrative aids during argument.* If a party intends to display exhibits or any other demonstrative aids during oral argument, they shall serve a copy of the exhibit or aid on all opposing parties no later than four days prior to the argument. No such exhibit or aid may be used in oral argument unless a sufficient number of copies for the court are given to the bailiff when a party checks in for oral argument, unless it is impractical to do so.

[Court Order October 31, 2008, effective January 1, 2009]

Rules 6.909 to **6.1000** Reserved.

DIVISION X
WRITS, MOTIONS, AND OTHER PAPERS

Rule 6.1001 Writs and process.

6.1001(1) *Writs and process, supreme court.* The supreme court shall issue all writs and process necessary for the exercise and enforcement of its appellate jurisdiction and in the furtherance of its supervisory and administrative control over all inferior judicial tribunals and officers. The supreme court may enforce its mandates by fine and imprisonment, and imprisonment may be continued until obeyed.

6.1001(2) *Writs and process, court of appeals.* The court of appeals shall issue writs and other process necessary for the exercise and enforcement of its jurisdiction, but only in cases that have been transferred to the court of appeals by the supreme court.

6.1001(3) *Resistance and consideration.* Any request for relief under this rule may be resisted and will be considered in the same manner provided for motions in rule 6.1002.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1002 Motions.

6.1002(1) *Motions in supreme court and court of appeals.* All motions and supporting documents shall be served as provided in rule 6.701 and filed with the clerk of the supreme court. A motion:

a. Shall prominently display beneath the title of the motion, the date of any impending hearing, trial, or matter needing immediate attention of the court.

b. Shall include any materials required by a specific provision of these rules governing such motion.

c. Shall be accompanied by a copy of any ruling from which a party seeks appellate review.

d. Shall state with particularity the grounds on which it is based, including citations to relevant authorities.

e. Shall set forth the order or precise relief sought.

f. May be supported by other relevant portions of the record, but such attachments shall not exceed 25 pages unless otherwise ordered by the appellate court. Any application for the inclusion of attachments exceeding the 25-page limitation shall not include such attachments.

6.1002(2) *Resistance; reply to resistance.* All resistances, replies, and any supporting documents shall be served as provided in rule 6.701 and filed with the clerk of the supreme court. Unless the appropriate appellate court orders otherwise, any party may file a resistance to a motion within 14 days after service of the motion. A reply to the resistance may be filed within three days after the service of the resistance. A resistance or a reply to the resistance may be supported by other relevant portions of the record, but such attachments shall not exceed 25 pages unless otherwise ordered by

an appellate court. Any application for the inclusion of attachments exceeding the 25-page limitation shall not include such attachments.

6.1002(3) *Additional filings; hearings.* The court may require additional filings and may set any motion for hearing.

6.1002(4) *Motions for procedural or temporary orders.* Notwithstanding the provisions of rule 6.1002(2), motions for procedural orders, including any motion under rule 6.1003(2), and motions for temporary orders in which it appears that rights would be lost or greatly impaired by delay, may be ruled upon at any time without awaiting a resistance. Any party adversely affected by such ruling may within 10 days request review of the ruling.

6.1002(5) *Authority of a single justice to entertain motions.* In addition to any authority expressly conferred by rule or by statute, a single justice or senior judge of the supreme court may entertain any motion in an appeal or original proceeding in the supreme court and grant or deny any relief which may properly be sought by motion, except that a single justice or senior judge may not dismiss, affirm, reverse, or otherwise determine an appeal or original proceeding. The action of a single justice or senior judge may be reviewed by the supreme court upon its own motion or a motion of a party. A party's motion for review of the action of a single justice or senior judge shall be filed within 10 days after the date of filing of the challenged order.

6.1002(6) *Authority of the court of appeals and its judges to entertain motions.* The court of appeals and its judges may entertain motions only in appeals that the supreme court has transferred to that court. In such appeals, a single judge of the court of appeals may entertain any motion and grant or deny any relief which may properly be sought by motion, except that a single judge may not dismiss, affirm, reverse, or otherwise determine an appeal. The action of a single judge may be reviewed by the court of appeals upon its own motion or a motion of a party. A party's motion for review of the action of a single judge shall be filed within 10 days after the date of filing of the challenged order.

6.1002(7) *Authority of the clerk to entertain motions for procedural orders.* The clerk or the deputy clerk of the supreme court is authorized, subject to the control and direction of the supreme court, to take appropriate action for the supreme court on motions for procedural orders upon which the court pursuant to rule 6.1002(4) could rule without awaiting a resistance. The clerk may grant a motion only for good cause shown and when the prejudice to the nonmoving party is not great. Good cause for an extension includes the illness of counsel, the unavailability of counsel due to unusual and compelling circumstances, the unavailability of a necessary transcript or other portion of the record due to circumstances beyond the control of counsel, or a reasonably good possibility of settlement within the time as extended. An order of the clerk entered pursuant to this paragraph may be reviewed by the supreme court upon the motion of an adversely affected party filed within 10 days after the date of filing of the challenged order.

6.1002(8) *Authority of the clerk to set motions for consideration.* The clerk or the deputy clerk of the supreme court is authorized, subject to the control and direction of the supreme court, to set any motion pending in the supreme court for consideration and set the time allowed for resistance to the motion.

6.1002(9) *Filing deadlines not extended.* The filing of a motion will not stay a filing deadline unless otherwise provided by these rules or an order of the court.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1003 Motions to shorten or extend deadlines.

6.1003(1) *Jurisdictional deadlines.*

a. Notices of appeal. The supreme court may not extend the deadline for filing a notice of appeal except as provided in rule 6.101(5).

b. Applications for interlocutory appeal. The supreme court may not extend the deadline for filing an application for interlocutory appeal except as provided in rule 6.104(1)(*b*)(3).

c. Applications for discretionary review. The supreme court may not extend the deadline for filing an application for discretionary review except as provided in rule 6.106(1)(*b*).

d. Petitions for writ of certiorari. The supreme court may not extend the deadline for filing a petition for writ of certiorari except as provided in rule 6.107(1)(*b*).

e. Applications for further review. The court of appeals may not extend the deadline for filing an application for further review except as provided in Iowa Code section 602.4102(5). The supreme court may not extend the deadline for filing an application for further review.

6.1003(2) *All other deadlines.* The appropriate appellate court may upon its own motion or on motion of a litigant for good cause shorten or extend a non-jurisdictional deadline set by these rules or by an order of the court. In cases where the expedited deadlines of rule 6.902 apply, the motion shall so state. Good cause for an extension includes the illness of counsel, the unavailability of counsel due to unusual and compelling circumstances, the unavailability of a necessary transcript or other portion of the record due to circumstances beyond the control of counsel, or a reasonably good possibility of settlement within the time as extended.
[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1004 Limited remands. The appropriate appellate court may on its own motion or on motion of a litigant remand a pending appeal to the district court, which shall have jurisdiction to proceed as directed by the appellate court. Jurisdiction of the appeal shall otherwise remain with the remanding appellate court. A motion for limited remand shall be filed as soon as the grounds for the motion become apparent.
[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1005 Frivolous appeals; withdrawal of counsel.

6.1005(1) *Applicability.* The procedures in this rule apply when court-appointed counsel moves to withdraw on the grounds that the appeal is frivolous. These withdrawal procedures cannot be used in termination-of-parental-rights and child-in-need-of-assistance appeals under Iowa Code chapter 232, in direct criminal appeals following a trial, or in appeals from the denial of an application for postconviction relief following a reported evidentiary hearing on that application, unless the application was ultimately denied based upon the statute of limitations, law of the case, or res judicata principles. Although not permitted to withdraw from such appeals, counsel are not required to raise in such appeals claims of ineffective assistance of counsel that require the development of an additional record in a further postconviction relief proceeding.

6.1005(2) *Motion to withdraw.* If, after a diligent investigation of the entire record, court-appointed counsel is convinced the appeal is frivolous and that counsel cannot, in good conscience, proceed with the appeal, counsel may file a motion to withdraw. For purposes of this section, a potential claim of ineffective assistance of counsel that requires the development of an additional record in a postconviction relief proceeding may be considered frivolous. The motion must be accompanied by:

a. A brief referring to anything in the record that might arguably support the appeal. The motion and brief shall be in the form specified in rule 6.1007.

b. A copy of the rule 6.1005(3) notice.

c. A certificate showing service of the motion, brief, and notice upon the client and the attorney general.

6.1005(3) *Written notice to client.* Counsel shall notify the client in writing of counsel's conclusion that the appeal is frivolous and that counsel is filing a motion to withdraw. The notice shall be accompanied by a copy of counsel's motion and brief. The notice shall advise the client:

a. If the client agrees with counsel's decision and does not desire to proceed further with the appeal, the client shall within 30 days from service of the motion and brief clearly and expressly communicate such desire, in writing, to the supreme court.

b. If the client desires to proceed with the appeal, the client shall within 30 days communicate that fact to the supreme court, raising any issues the client wants to pursue.

c. If the client fails to file a response with the supreme court, such failure could result in the waiver of the client's claims in any subsequent postconviction action.

6.1005(4) *Request to transmit record.* Within 14 days after filing the motion to withdraw, counsel shall request the clerk of the district court to transmit immediately to the clerk of the supreme court the remaining record not already transmitted, including the original papers and exhibits filed in the district court and any court reporter's transcript of the proceedings.

6.1005(5) *Dismissal upon client's agreement.* When a client communicates to the court the client's agreement with counsel's decision the appeal shall be promptly dismissed.

6.1005(6) *Supreme court examination of record.* In all other cases the supreme court will, after a full examination of all the record, decide whether the appeal is wholly frivolous. If it finds the appeal is frivolous, it may grant counsel's motion to withdraw and dismiss the appeal. If however, the supreme court finds the legal points to be arguable on their merits and therefore not frivolous, it

shall deny counsel's motion and may remand the matter to the district court for appointment of new counsel.

6.1005(7) *Extension of times.* The filing of a motion to withdraw pursuant to this rule shall extend the times for further proceedings on appeal until the court rules on the motion to withdraw.
[Court Order October 31, 2008, effective January 1, 2009; May 21, 2012]

Rule 6.1006 Motions to dismiss, affirm, or reverse.

6.1006(1) *Motions to dismiss.*

a. Contents and time for filing. An appellee may file a motion to dismiss an appeal based upon the appellant's failure to comply with an appellate filing deadline established by an appellate rule or court order, the appellant's filing of a document that fails to substantially comply with the appellate rules or a court order, or an allegation that the appropriate appellate court lacks jurisdiction or authority to address the case. The motion shall state with particularity the grounds justifying dismissal and, if applicable, shall specify the prejudice to the appellee's interests. The motion shall comply with the requirements of rule 6.1002(1). A motion to dismiss should be filed within a reasonable time after the grounds supporting the motion become apparent. Except for instances in which the court allegedly lacks jurisdiction or authority over the case, the motion to dismiss should be used sparingly. A motion to dismiss will usually be granted only if the alleged infractions are repeated or significant and have resulted in prejudice to another party or the administration of justice.

b. Ruling. The appropriate appellate court may rule on the motion or may order the motion submitted with the appeal. An order dismissing an appeal for failure to prosecute shall direct the clerk of the supreme court to forward certified copies of the docket and the order of dismissal to the Iowa Supreme Court Attorney Disciplinary Board unless the appellant was unrepresented. If counsel was court-appointed, the clerk shall also forward certified copies of those documents to the State Public Defender.

c. Motion to reinstate an appeal. Within 10 days after issuance of the dismissal order an appellant may file a motion to reinstate an appeal dismissed under this rule. The motion must set forth the grounds for reinstatement and may be resisted. The supreme court may, in its discretion, and shall upon a showing that such dismissal was the result of oversight, mistake, or other reasonable cause reinstate the appeal.

6.1006(2) *Motions to affirm.* Appellee may file a motion with the appropriate appellate court to affirm the appeal on the ground that the issues raised by the appeal are frivolous. The motion shall ordinarily be served and filed within the time provided for service of the appellee's proof brief. However, if the motion is based on an allegation that the result in the case is controlled by an indistinguishable, recently published decision of an appellate court, the motion may be filed when the grounds for affirmance become apparent. The appellee shall not file a motion to affirm prior to the filing of appellant's proof brief. The motion shall comply with the requirements of rule 6.1002(1). One judge or justice may overrule, but only a quorum of the appropriate appellate court may sustain, a motion to affirm.

6.1006(3) *Motions to reverse.* Any party may file a motion with the appropriate appellate court to summarily reverse the appeal on the grounds the result is controlled by an indistinguishable, recently published decision of an appellate court or where error has been confessed. The motion shall comply with the requirements of rule 6.1002(1). In response to a motion to reverse, the appropriate appellate court will order the nonmoving party to show cause why the case should not be reversed. A similar show cause order may be entered by the appropriate appellate court acting on its own initiative. One judge or justice may overrule, but only a quorum of the appropriate appellate court may sustain, a motion to reverse.

6.1006(4) *Excluding time.* The time between the service of a motion to dismiss, affirm, or reverse and an order overruling the motion or ordering its submission with the appeal shall be excluded in measuring the time within which subsequent acts required by these rules must be done.
[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1007 Form of motions and other papers.

6.1007(1) *Format.* Motions and other papers may be reproduced by any process that yields a clear black image on white 8½ by 11 inch paper. The paper must be opaque and unglazed. Unless handwritten, the text must be double-spaced, but quotations more than 40 words long may be indented and single-spaced. Margins shall be 1¼ inches on each side and 1 inch on the top and bottom. Page

numbers shall be located at the bottom center of each page. Typeface shall conform to rule 6.903(1)(*e*). Consecutive sheets shall be attached at the upper left margin.

6.1007(2) *Contents.* A motion or other paper addressed to an appellate court shall contain a caption setting forth the name of the court, the title of the case, the file number, a brief descriptive title indicating the purpose of the paper, and the name, address, telephone number, e-mail address, and fax number of counsel or the self-represented party.

6.1007(3) *Copies; filing and service.* Four copies of motions and other papers shall be filed with the clerk of the supreme court and one copy shall be served on each party unless the appropriate appellate court orders otherwise.

[Court Order October 31, 2008, effective January 1, 2009]

Rules 6.1008 to **6.1100** Reserved.

DIVISION XI
TRANSFER, SUBMISSION, AND FURTHER REVIEW

Rule 6.1101 Transfer of cases to court of appeals.

6.1101(1) *Transfer.* The supreme court may by order, on its own motion, transfer to the court of appeals for decision any case filed in the supreme court except a case in which provisions of the Iowa Constitution or statutes grant exclusive jurisdiction to the supreme court.

6.1101(2) *Criteria for retention.* The supreme court shall ordinarily retain the following types of cases:

a. Cases presenting substantial constitutional questions as to the validity of a statute, ordinance, or court or administrative rule.

b. Cases presenting substantial issues in which there appears to be a conflict between a published decision of the court of appeals or supreme court.

c. Cases presenting substantial issues of first impression.

d. Cases presenting fundamental and urgent issues of broad public importance requiring prompt or ultimate determination by the supreme court.

e. Cases involving lawyer discipline.

f. Cases presenting substantial questions of enunciating or changing legal principles.

6.1101(3) *Criteria for transfer.* The supreme court shall ordinarily transfer to the court of appeals the following types of cases:

a. Cases presenting the application of existing legal principles.

b. Cases presenting issues that are appropriate for summary disposition.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1102 Order of submission and transfer.

6.1102(1) *Submission.* Appeals shall be submitted to the supreme court or transferred to the court of appeals substantially in the order they are made ready for submission except when earlier submission is mandated by statute, rule, or order of the supreme court.

6.1102(2) *Early submission or transfer.* If an appeal involves questions of public importance or rights that are likely to be lost or greatly impaired by delay, the supreme court may upon the motion of a party or on the court's own motion order the submission or transfer of the case in advance of the time at which it would otherwise be submitted or transferred.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1103 Application to the supreme court for further review.

6.1103(1) *Application.*

a. Time for filing. An application for further review in an appeal from an Iowa Code chapter 232 child-in-need-of-assistance or termination-of-parental-rights proceeding shall be filed within 10 days following the filing of the court of appeals decision. In all other cases, an application for further review shall be filed within 20 days following the filing of the court of appeals decision.

b. Grounds. An application for further review shall allege precisely and in what manner the court of appeals has done any of the following:

(1) Made an error of law.

(2) Rendered a decision that conflicts with a prior holding of a published court of appeals or supreme court opinion.

(3) Failed to consider a potentially controlling constitutional provision in rendering its decision.

(4) Decided a case that should have been retained by the supreme court.

c. Form. An application for further review shall be in the form prescribed by rule 6.903(1). Each copy of the application shall contain or be accompanied by a copy of the court of appeals decision, showing the date of its filing. The application shall be a single document including a brief in support of the request for review. All contentions and legal authorities in support of the application shall be included. No authorities or argument may be incorporated into the application by reference to another document; however, citations to the appendix are permitted. The only materials that may be attached to or filed with an application, other than the court of appeals decision, are an evidentiary exhibit not exceeding 10 pages and a district court order. The district court order shall be attached if the court of appeals affirmed the decision of the district court under rule 6.1203 (affirmed or enforced without opinion), Iowa Ct. R. 21.29 (memorandum opinion), or Iowa Code section 602.5106(1) (affirmed by operation of law).

d. Filing fee. The applicant shall pay to the clerk of the supreme court a filing fee or file a motion to waive or defer the fee as provided in rule 6.702(1)(*g*).

6.1103(2) *Resistance.*

a. When allowed; time for filing. No resistance will be received in an Iowa Code chapter 232 child-in-need-of-assistance or termination-of-parental-rights proceeding unless requested by the supreme court. In all other cases, a party may file a resistance within 10 days after service of the application.

b. Form. A resistance shall be in the form prescribed by rule 6.903(1). The resistance shall be a single document including all contentions and legal authorities in opposition to the application. No authorities or argument may be incorporated into the resistance by reference to another document; however, citations to the appendix are permitted. The only materials that may be attached to or filed with a resistance are an evidentiary exhibit not exceeding 10 pages and a district court order.

6.1103(3) *Cover of application or resistance.* The cover of an application for further review shall be yellow and the cover of the resistance shall be orange. The cover of the application or resistance shall contain:

a. The name of the court and the appellate number of the case.

b. The caption of the case. See rule 6.109(2).

c. The date of filing of the court of appeals decision.

d. The title of the document.

e. The name, address, telephone number, e-mail address, and fax number of counsel or the self-represented party.

6.1103(4) *Length of application or resistance.* The application or resistance shall not exceed two-fifths of the length limitations for a required brief specified in rule 6.903(1)(*g*) exclusive of the court of appeals decision, table of contents, table of authorities, and evidentiary exhibits and district court orders.

6.1103(5) *Number of copies of application or resistance.* Eighteen copies of an application or a resistance shall be filed. In addition, one copy shall be served on each other party separately represented.

6.1103(6) *Supplemental briefs.* If an application for further review is granted, the supreme court may require the parties to file supplemental briefs on all or some of the issues to be reviewed.

6.1103(7) *Procedendo.* When an application for further review is denied by order of the supreme court, the clerk of the supreme court shall immediately issue procedendo.

[Court Order October 31, 2008, effective January 1, 2009]

Rules 6.1104 to **6.1200** Reserved.

DIVISION XII
DISPOSITION OF APPEALS

Rule 6.1201 Voluntary dismissals.

6.1201(1) *Dismissal of an appeal.* An appeal may be voluntarily dismissed by the party who filed the appeal at any time before a decision is filed by either the supreme court or the court of appeals.

6.1201(2) *Dismissal of a cross-appeal.* A cross-appeal may be voluntarily dismissed by the party who filed the cross-appeal at any time before a decision is filed by either the supreme court or court of appeals.

6.1201(3) *Effect of dismissal.* The clerk shall promptly issue procedendo upon the filing of a voluntary dismissal unless another party's appeal or cross-appeal remains pending under the same appellate docketing number. If only a cross-appeal remains pending following the dismissal, the cross-appeal shall continue as the primary appeal, and the cross-appellant shall assume the role of the appellant. The issuance of procedendo shall constitute a final adjudication with prejudice. A voluntary dismissal of a direct appeal from a criminal case shall not preclude the subsequent consideration of a claim for ineffective assistance of counsel in an action for postconviction relief pursuant to Iowa Code chapter 822.
[Court Order October 31, 2008, effective January 1, 2009; May 21, 2012]

Rule 6.1202 Failure to comply with appellate deadlines; consequences and penalties.

6.1202(1) *Notice of default.*

a. For appellant's failure to comply. When an appellant fails to comply with an appellate deadline, the clerk shall serve a notice stating that the appeal will be dismissed unless the appellant cures the default by performing the overdue action within 15 days of issuance of the notice. If the appellant fails to cure the default, the clerk shall enter an order dismissing the appeal.

b. For appellee's failure to comply. When an appellee fails to meet the deadline for filing a brief or statement waiving the appellee's brief, the clerk shall serve a notice stating that the appellee will not be allowed to participate in oral argument unless the appellee remedies the default by filing the overdue brief within 15 days of issuance of the notice.

6.1202(2) *Penalty assessed to attorney.* When a default notice is sent to a party's attorney for failing to comply with an appellate deadline, the attorney shall be assessed a penalty of $150 by the clerk for each violation. Such penalties are to be paid by the attorney individually and are not to be charged to the client. If such penalties are not paid within 15 days, the attorney may be ordered to show cause why he or she should not be found in contempt of the supreme court.

6.1202(3) *Notice of dismissal due to attorney's failure to comply.* Following the dismissal of an appeal for failure to comply with an appellate deadline where the appellant was represented by an attorney, the clerk of the supreme court shall forward certified copies of the docket, the notice of default which resulted in dismissal, and the order of dismissal to the Iowa Supreme Court Attorney Disciplinary Board. In cases where the attorney was court-appointed, the clerk shall also forward certified copies of those documents to the State Public Defender.

6.1202(4) *Dismissal on court's motion.* An appeal may be dismissed, with or without notice of default, upon the motion of the appropriate appellate court.

6.1202(5) *Motion to reinstate an appeal.* Within 10 days after issuance of the dismissal order, an appellant may file a motion to reinstate an appeal dismissed under this rule. The motion must set forth the grounds for reinstatement and may be resisted. The supreme court may, in its discretion, and shall upon a showing that such dismissal was the result of oversight, mistake, or other reasonable cause reinstate the appeal.
[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1203 Affirmed or enforced without opinion. A judgment or order may be affirmed or enforced without opinion if the appellate court concludes the questions presented are not of sufficient importance to justify an opinion, an opinion would not have precedential value, and any of the following circumstances exists:

a. A judgment of the district court is correct.
b. The evidence in support of a jury verdict is sufficient.
c. The order of an administrative agency is supported by substantial evidence.
d. No error of law appears.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1204 Petition for rehearing in court of appeals.

6.1204(1) *Filing does not toll further review deadline.* The filing of a petition for rehearing with the court of appeals does not toll the 20-day period provided in Iowa Code section 602.4102(4) for filing an application for further review of a court of appeals decision with the supreme court. Nothing in these rules prohibits any party from filing both a petition for rehearing with the court of appeals and an application for further review with the supreme court.

6.1204(2) *Time for filing.* Any petition for rehearing must be filed within seven days after the filing of a court of appeals decision.

6.1204(3) *Content.* The petition shall state with particularity the points of law or fact which in the opinion of the petitioner the court of appeals has overlooked or misapprehended.

6.1204(4) *Response.* No response to a petition for rehearing will be received unless requested by the court of appeals.

6.1204(5) *Action by court of appeals.* Oral argument in support of the petition will not be permitted. If the petition for rehearing is not expressly granted or denied by the court of appeals within seven days after the petition is filed, the petition will be deemed denied. Upon request of the court of appeals within the seven-day period, the supreme court may grant an extension not to exceed seven days for the court of appeals to rule upon the petition. If the petition for rehearing is granted, the decision of the court of appeals is vacated and the court of appeals shall retain jurisdiction of the case. The court of appeals may dispose of the case with or without oral argument, order resubmission, or enter any other appropriate order. The decision after rehearing shall be subject to further review as provided in Iowa Code section 602.4102(4).

6.1204(6) *Stay of pending application of further review.* Upon motion of a party or request of the court of appeals, the supreme court may stay any pending application for further review for consecutive periods of up to 30 days during the pendency of a petition for rehearing.

6.1204(7) *Form of petition.* The petition shall be in the form prescribed by rule 6.903(1). Except by permission of the court, a petition for rehearing shall not exceed one-fifth of the length limitations for a required brief specified in rule 6.903(1)(*g*).

6.1204(8) *Number of copies to be filed and served.* Eighteen copies of the petition shall be filed with the clerk of the supreme court and one copy served on each party as prescribed by rule 6.701.
[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1205 Petition for rehearing in supreme court.

6.1205(1) *Time for filing.* A petition for rehearing may be filed within 14 days after the filing of a supreme court opinion unless the time is shortened or enlarged by order of that court. A party may not file a petition for rehearing from an order denying an application for further review.

6.1205(2) *Content.* The petition shall state with particularity the points of law or fact which in the opinion of the petitioner the supreme court has overlooked or misapprehended.

6.1205(3) *Response.* No response to a petition for rehearing will be received unless requested by the supreme court, but a petition for rehearing will ordinarily not be granted in the absence of such a request.

6.1205(4) *Action by supreme court.* Oral argument in support of the petition will not be permitted. If a petition for rehearing is granted, the supreme court may make a final disposition of the case with or without oral argument, order resubmission, or enter any other appropriate order.

6.1205(5) *Form of petition.* The petition shall be in the form prescribed by rule 6.903(1). Except by permission of the court, a petition for rehearing shall not exceed one-fifth of the length limitations for a required brief specified in rule 6.903(1)(*g*).

6.1205(6) *Number of copies to be filed and served.* Eighteen copies of the petition shall be filed with the clerk of the supreme court and one copy served on each party as prescribed by rule 6.701.
[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1206 Remands. When a judgment is reversed for error in overruling a motion and granting the motion would have terminated the case in favor of appellant, the appellate court may enter or direct the district court to enter final judgment as if such motion had been initially sustained. However, if it appears from the record that the material facts were not fully developed at the trial or if in the opinion or the appellate court the ends of justice will be served, a new trial shall be awarded on all or part of the case.
[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1207 Costs. All appellate fees and costs shall be taxed to the unsuccessful party, unless otherwise ordered by the appropriate appellate court.
[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1208 Procedendo.

6.1208(1) *Procedendo from supreme court action.* Unless otherwise ordered by the supreme court, no procedendo shall issue for:

a. Twenty-one days after an opinion of the supreme court is filed, nor thereafter while a petition for rehearing or an application for extension of time to file a petition for rehearing, filed according to these rules, is pending.

b. Seventeen days after an order dismissing the appeal is filed, nor thereafter while a motion requesting that the dismissal be set aside, filed according to these rules, is pending.

6.1208(2) *Procedendo from court of appeals action.* Unless otherwise ordered by the court of appeals, no procedendo shall issue for:

a. Seventeen days after an opinion is filed in a chapter 232 termination of parental rights or CINA case, nor thereafter while an application for further review by the supreme court is pending.

b. Twenty-seven days after an opinion is filed in all other cases, nor thereafter while an application for further review by the supreme court is pending.

[Court Order October 31, 2008, effective January 1, 2009; March 9, 2009]

Rule 6.1209 Quarterly publication. A list indicating the disposition of all decisions rendered by the supreme court per curiam or under rule 6.1203 shall be published quarterly in the North Western Reporter, except for such of those decisions as the supreme court specially orders to be published in the regular manner.

[Court Order October 31, 2008, effective January 1, 2009]

Rules 6.1210 to **6.1300** Reserved.

DIVISION XIII
AMENDMENT TO RULES

Rule 6.1301 Amendments.

6.1301(1) The amendment of rules 6.101 — 6.105, 6.601 — 6.603, and 6.907 shall be reported to the legislature.

6.1301(2) The amendment of all other appellate rules shall be by court order and shall take effect at such time as the court prescribes.

[Court Order October 31, 2008, effective January 1, 2009]

Rules 6.1302 to **6.1400** Reserved.

DIVISION XIV
FORMS

Rule 6.1401 Forms.
Rule 6.1401 — Form 1: ***Notice of Appeal.***

IN THE IOWA DISTRICT COURT
FOR _____ COUNTY

(Insert district court caption.) No. _____ *(district court case number)*

NOTICE OF APPEAL

To: The clerk of the district court for _____ County, the clerk of the supreme court and

_____

_____
(insert names of unrepresented parties and attorneys of record).

Notice is given that _____ *(insert the names of the parties who are taking the appeal)* appeal(s) to the Supreme Court of Iowa from the final order entered in this case on the _____ day of _____, 20____, and from all adverse rulings and orders inhering therein.

Dated this _____ day of _____, 20____.

_____
(signature of appellant or appellant's attorney)
Name, address, telephone number, fax number, and e-mail address of appellant or appellant's attorney.

CERTIFICATE OF SERVICE

The undersigned certifies a copy of this notice of appeal was served on the _____ day of _____, 20____, upon the following persons and upon the clerk of the supreme court *(list the names and addresses of the persons below and indicate the manner of service).*

_____
(signature of person making service)

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1401 — Form 2: ***Combined Certificate.***

IN THE SUPREME COURT OF IOWA

(Insert supreme court caption.) No. _____ *(supreme court case number)*

COMBINED CERTIFICATE

(See Iowa R. App. P. 6.804.)

1. Notice of appeal was filed in district court on _____ *(date)* from a judgment or ruling filed on _____ *(date)*.

2A. I hereby order a transcript or portions thereof on the _____ day of _____, 20____,[1] from:

(1) _____ _____
(court reporter name) *(address)*

(2) _____ _____
(court reporter name) *(address)*

No arrangements have been made or suggested to delay the preparation thereof.

Financial arrangements have been made with the reporter(s) in accordance with Iowa R. App. P. 6.803(5). Payment (____ will be) (____ has been) made by

_____ private funds

_____ court-ordered funds *(attach a copy of the order appointing appellate counsel)*

The following proceedings are ordered:[1]

(1) _____
(describe parts ordered) before _____ *(judge)* on _____ *(date of hearing/trial)*.

(2) _____
(describe parts ordered) before _____ *(judge)* on _____ *(date of hearing/trial)*.

—OR—

2B. I need not order a transcript under Iowa R. App. P. 6.804(2) because:

_____

_____

_____

I (____ will) (____ will not) prepare a statement of the evidence or proceedings pursuant to Iowa R. App. P. 6.806.

2C. [*To be completed by appellant if less than full transcript is ordered.*]

The issues appellant(s) intends to present on appeal are:

I.

II.

III.

[1]This certificate shall be used to order the transcript. *See* rule 6.803(1).

FAILURE TO SPECIFY IN ADEQUATE DETAIL THOSE PROCEEDINGS TO BE TRANSCRIBED, OR FAILURE TO MAKE PROMPT SATISFACTORY ARRANGEMENTS TO PAY FOR THE TRANSCRIPT, ARE GROUNDS FOR DISMISSAL OF THE APPEAL.

3. If Iowa Rs. App. P. 6.303(2), 6.803(3), or 6.902(1) apply to this case, check category:

_____ A contest as to custody of children, an adoption, or a juvenile proceeding affecting child placement.

_____ A termination of a parent-child relationship under Iowa Code chapter 600A.

_____ A conviction and sentence on a plea of guilty or a sentence only.

_____ A certified question of law under Iowa Code chapter 684A.

_____ A lawyer disciplinary matter.

_____ Involuntary mental health commitments under Iowa Code chapter 229.

_____ Involuntary substance abuse commitments under Iowa Code chapter 125.

4. I assert in good faith that this appeal meets jurisdicitional requirements and is from:

_____ A final judgment, order, or decree and a timely notice of appeal has been filed.

—OR—

_____ A ruling entered in advance of a final judgment and permission to appeal has been granted by the supreme court.

5. The names of the parties involved in this appeal and their designations in district court are shown below under column A. Their respective attorneys' names, law firms, addresses, and telephone numbers are shown below under column B:

Column A Parties	Column B Attorneys
Appellant(s):	
Appellee(s):	

_____

(signature of appellant or appellant's attorney)
Name, address, telephone number, fax number, and e-mail address of appellant or appellant's attorney.

CERTIFICATE OF SERVICE

The undersigned certifies a copy of this combined certificate was served on the _____ day of _____, 20____, upon the following persons and upon the clerk of the supreme court *(list the names and addresses of the persons below and indicate the manner of service)*.

_____

(signature of person making service)

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1401 — Form 3: ***Supplemental Certificate.***

IN THE SUPREME COURT OF IOWA

(Insert supreme court caption.) No. _____ *(supreme court case number)*

SUPPLEMENTAL CERTIFICATE

(See Iowa R. App. P. 6.805.)

I hereby order a transcript or portions thereof on the _____ day of _____, 20____,[2] from:

(1) _____ _____
(court reporter name) *(address)*

(2) _____ _____
(court reporter name) *(address)*

No arrangements have been made or suggested to delay the preparation thereof.

Financial arrangements have been made with the reporter(s) in accordance with Iowa R. App. P. 6.803(5). Payment (____ will be) (____ has been) made by

_____ private funds

_____ court-ordered funds *(attach a copy of the order appointing appellate counsel)*

The following proceedings are ordered:

(1) _____
(describe parts ordered) before _____ *(judge)* on _____ *(date of hearing/trial)*.

(2) _____
(describe parts ordered) before _____ *(judge)* on _____ *(date of hearing/trial)*.

FAILURE TO SPECIFY IN ADEQUATE DETAIL THOSE PROCEEDINGS TO BE TRANSCRIBED, OR FAILURE TO MAKE PROMPT SATISFACTORY ARRANGEMENTS TO PAY FOR THE TRANSCRIPT, ARE GROUNDS FOR DISMISSAL OF THE APPEAL.

_____
(signature of appellant or appellant's attorney)
Name, address, telephone number, fax number, and e-mail address of appellant or appellant's attorney.

CERTIFICATE OF SERVICE

The undersigned certifies a copy of this supplemental certificate was served on the _____ day of _____, 20____, upon the following persons and upon the clerk of the supreme court *(list the names and addresses of the persons below and indicate the manner of service).*

_____
(signature of person making service)

[2]This certificate shall be used to order the transcript. *See* rule 6.805(3).

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1401 — Form 4: ***Notice of Appeal (Cross-Appeal) (Child-in-Need-of-Assistance and Termination Cases).***

IN THE IOWA DISTRICT COURT
FOR _____ COUNTY

(Insert district court caption.) Juvenile No. _____

NOTICE OF APPEAL
(CROSS-APPEAL)
(Child-in-Need-of-Assistance and Termination Cases)

To: The clerk of the district court for _____ County, the clerk of the supreme court and

_____

_____

(insert names of unrepresented parties and attorneys of record).

Notice is given that _____ (insert the names of the parties who are taking the appeal) appeal(s) to the Supreme Court of Iowa from *(check one of the following)* and from all adverse rulings and orders inhering therein.

☐ An order in a child-in-need-of-assistance proceeding entered on the _____ day of _____, 20 ____.

☐ An order terminating the parent-child relationship or dismissing a petition to terminate the parent-child relationship entered pursuant to Iowa Code section 232.117 on the _____ day of _____, 20 ____.

☐ A post-termination order entered pursuant to Iowa Code section 232.117 on the _____ day of _____, 20 ____.

Dated this _____ day of _____, 20 ____.

_____
(signature of appellant's attorney)
Name, address, telephone number, fax number, and e-mail address of appellant's attorney.

_____
(Signature of appellant.)*
Name, address, and telephone number of Appellant.

***The signature of the appellant is required by Iowa R. App. P. 6.102(1)(*a*).**

CERTIFICATE OF SERVICE

The undersigned certifies a copy of this notice of appeal (cross-appeal) was served on the _____ day of _____, 20____, upon the following persons and upon the clerk of the supreme court *(list the names and addresses of the persons below and indicate the manner of service).*

_____
(signature of person making service)

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1401 — Form 5: ***Petition on Appeal (Cross-Appeal) (Child-in-Need-of-Assistance and Termination Cases).***

IN THE SUPREME COURT OF IOWA

IN THE INTEREST OF _____, CHILD(REN)	Supreme Court No. _____ Juvenile Court No. _____ **PETITION ON APPEAL (CROSS–APPEAL) (Child-In-Need-Of-Assistance and Termination Cases)**

County _____ Judge _____

The names of the parties involved in this appeal and their designations in juvenile court are shown below in column A. Their respective attorneys' names, law firms, addresses, and telephone numbers are shown below in column B.

	Column A Parties	Column B Attorneys
Appellant(s):		
Appellee(s):		

1. This Petition on Appeal is filed on behalf of, *(insert name of person)* _____, *(insert role of filer i.e. mother, father, child, State, intervenor, or other)* in the above–identified (CHECK ONE)

☐ child-in-need-of-assistance

☐ termination-of-parental-rights

☐ post–termination

proceeding, with respect to child(ren)

Child(ren)'s Name(s)	Date(s) of Birth
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

2. (If applicable), parental rights were terminated by the juvenile court pursuant to Iowa Code section(s) 232.116(_____) *(insert specific subsection(s))* as to the mother and Iowa Code section(s) 232.116(_____) *(insert specific subsection(s))* as to the father.

If appealing from a **CINA** order, indicate as to the mother on what statutory ground(s) the child(ren) was/were adjudicated in need of assistance (_____)*(insert specific subsection(s))* and indicate as to the father on what statutory ground(s) the child(ren) was/were adjudicated in need of assistance (_____)*(insert specific subsection(s))*.

3. Appellant's attorney, _____, is/is not the attorney who represented appellant at trial.

4. List any other pending appeals involving the child(ren).

Case Name: _____

Supreme Court No.: _____

Type of Appeal: (e.g., appeal from adjudication/disposition, dissolution) _____

5. The relevant dates regarding this appeal are the following:

a. Date of adjudication _____

b. Date of last removal (excluding any trial period at home of less than 30 days)

c. Date of disposition _____

d. Date(s) of any review hearings _____

e. Date of any permanency hearing _____

f. Date(s) termination petition filed/amended _____

g. Date(s) of termination hearing _____

h. Date(s) of child-in-need-of-assistance order(s) from which appeal was taken _

i. Date of termination or dismissal order from which appeal was taken _____

j. Date of post–termination order from which appeal was taken

k. Date notice of appeal filed _____

l. Any other date(s)/hearing(s) material to appeal _____

6. Nature of case and relief sought: The appellant seeks a reversal of the juvenile court order:

a. terminating the parental rights of _____*(insert name(s))* with respect to the child(ren) _____*(insert name(s))*; OR

b. dismissing a petition to terminate the parental rights of _____ *(insert name(s))* with respect to the child(ren), _____ *(insert name(s))*; OR

c. If seeking reversal or modification of a **CINA** order, specify the relief requested:

_____

_____

d. OTHER (specify) _____

7. State the material facts as they relate to the issues presented for appeal:

_____

_____

_____

_____

_____

8. State the legal issues presented for appeal, including a statement of how the issues arose and how they were preserved for appeal. Also, state what findings of fact or conclusions of law the district court made with which you disagree and why, generally referencing a particular part of the record, witnesses' testimony, or exhibits that support your position on appeal:

The issue statement should be concise in nature setting forth specific legal questions. General conclusions, such as "the trial court's ruling is not supported by law or the facts" are not acceptable. Include supporting legal authority for each issue raised, including authority contrary to appellant's case, if known.

a. Issue I:

_____

_____

_____

Was error preserved? _____ yes _____ no. If yes, state how:

_____

_____

Supporting legal authority for Issue I:

_____

_____

_____

_____

_____

_____

_____

_____

Findings of fact or conclusions of law with which you disagree:

_____

_____

_____

_____

_____

_____

_____

_____

b. Issue II:

_____

_____

_____

Was error preserved? _____ yes _____ no. If yes, state how:

_____

_____

Supporting legal authority for Issue II:

_____

_____

_____

_____

_____

_____

_____

_____

Findings of fact or conclusions of law with which you disagree:

_____

_____

_____

_____

_____

_____

_____

_____

(Additional issues may be added)

9. I hereby certify I will request within 30 days after the filing of the notice of appeal that the clerk of the trial court transmit immediately to the clerk of the supreme court:

(For appeals from child-in-need-of-assistance proceedings)

a. The child-in-need-of-assistance court file, including all exhibits.

b. Any transcript of a hearing or hearings resulting in the order from which an appeal has been taken.

(For appeals from termination proceedings)

a. The termination-of-parental-rights court file, including all exhibits.

b. Those portions of the child-in-need-of-assistance court file, either received as exhibits or judicially noticed in the termination proceedings.

c. The transcript of the termination hearing.

(For appeals from post–termination proceedings)

a. The order, judgment, or decree terminating parental rights.

b. Any ruling on a motion for new trial under Iowa R. Civ. P. 1.1007 or a motion under Iowa R. Civ. P. 1.904(2).

c. The post–termination order from which the appeal was taken.

d. Any motion(s), resistance(s), or transcript(s) related to the post–termination order from which the appeal was taken.

The undersigned requests that the appellate court issue an opinion reversing the order of the juvenile court in this matter, or, in the alternative, enter an order setting this case for full briefing.

_____

(signature of appellant or appellant's attorney)
Name, address, telephone number, fax number, and e-mail address of appellant or appellant's attorney.

ATTACHMENTS:

(For appeals from child-in-need-of-assistance proceedings):

(1) a copy of the order or judgment from which the appeal has been taken; and

(2) a copy of any rulings on a motion for new trial as provided in Iowa R. Civ. P. 1.1007 or a motion as provided in Iowa R. Civ. P. 1.904(2).

(For appeals from termination orders):

(1) a copy of the petition (and any amendments) for termination of parental rights filed in the juvenile court proceedings;

(2) any ruling on a motion for new trial under Iowa R. Civ. P. 1.1007 or a motion under Iowa R. Civ. P. 1.904(2);

(3) a copy of the order, judgment, or decree terminating parental rights or dismissing the termination petition; and

(4) a copy of any rulings on a motion for new trial as provided in Iowa R. Civ. P. 1.1007 or a motion as provided in Iowa R. Civ. P. 1.904(2).

(For appeals from post–termination orders):

(1) a copy of the order, judgment, or decree terminating parental rights;

(2) a copy of the post–termination order from which the appeal was taken; and

(3) any motion(s) or resistance(s) related to the post–termination order from which the appeal was taken.

CERTIFICATE OF SERVICE

The undersigned certifies a copy of this petition on appeal (cross-appeal) was served on the _____ day of _____ 20 _____, upon the following persons and upon the clerk of the supreme court *(list the names and addresses of the persons below and indicate the manner of service).*

_____

(signature of person making service)

[Court Order October 31, 2008, effective January 1, 2009; May 27, 2010]

Rule 6.1401 — Form 6: ***Response to Petition on Appeal (Cross-Appeal).***

IN THE SUPREME COURT OF IOWA

IN THE INTEREST OF

_____, CHILD(REN)

Supreme Court No._____

Juvenile Court No. _____

RESPONSE TO PETITION ON APPEAL (CROSS-APPEAL)

1. This response to the petition on appeal/cross-appeal is filed on behalf of _____, *(insert name of person)* _____, *(insert role of filer i.e. mother, father, child, State, intervenor, or other)* in the above-identified proceeding.

2. The appellee's attorney, _____, is/is not the attorney who represented appellee at trial.

3. The relevant date(s) regarding this appeal:

_____ are correctly stated in the petition on appeal.

_____ are corrected by appellee as follows: _____

_____

4. The statement of material facts as they relate to the issues presented for appeal is:

_____ accurate as set forth by appellant and accepted by the undersigned appellee; OR

_____ requires additions/corrections, as follows:

_____

_____

5. Appellee's responses to the legal issues presented for appeal are as follows:

a. Issue I:

_____

_____

Appellee states that:

_____ error was preserved as alleged in the petition on appeal.

_____ error was not preserved. If so, please explain briefly:

_____

_____

Legal authorities for Issue I supporting appellee's response:

_____

_____

_____

_____

b. Issue II:

_____

_____

Appellee states that:

_____ error was preserved as alleged in the petition on appeal.

_____ error was not preserved. If so, please explain briefly:

_____

_____

Legal authorities for Issue II supporting appellee's response:

_____

_____

_____

_____

6. The undersigned requests the appellate court issue an opinion affirming the order of the juvenile court in this matter.

_____

(signature of appellee or appellee's attorney)
Name, address, telephone number, fax number, and e-mail address of appellee or appellee's attorney.

CERTIFICATE OF SERVICE

The undersigned certifies a copy of this response to petition on appeal (cross-appeal) was served on the _____ day of _____, 20____, upon the following persons and upon the clerk of the supreme court *(list the names and addresses of the persons below and indicate the manner of service).*

_____

(signature of person making service)

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1401 — Form 7: ***Certificate of Compliance with Type-Volume Limitation, Typeface Requirements, and Type-Style Requirements.***

Certificate of Compliance with Type-Volume Limitation, Typeface Requirements, and Type-Style Requirements

1. This brief complies with the type-volume limitation of Iowa R. App. P. 6.903(1)(*g*)(1) or (2) because:

[ ] this brief contains [state the number of] words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(*g*)(1) or

[ ] this brief uses a monospaced typeface and contains [state the number of] lines of text, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(*g*)(2).

2. This brief complies with the typeface requirements of Iowa R. App. P. 6.903(1)(*e*) and the type-style requirements of Iowa R. App. P. 6.903(1)(*f*) because:

[ ] this brief has been prepared in a proportionally spaced typeface using [state name and version of word processing program] in [state font size and name of type style], or

[ ] this brief has been prepared in a monospaced typeface using [state name and version of word processing program] with [state number of characters per inch and name of type style].

_____ _____

Signature Date

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1401 — Form 8: ***Reporter's Certificate of Filing a Transcript.***

IN THE SUPREME COURT OF IOWA

(Insert supreme court caption.)

Supreme Court No._____

District Court No. _____

REPORTER'S CERTIFICATE OF FILING A TRANSCRIPT

(See Iowa R. App. P. 6.803(2)(*e*))

I hereby certify that on the _____ day of _____, 20____, _____ *(name of attorney or party)* ordered the following transcript(s)

_____

_____

_____

_____

_____

in the above captioned matter by serving a copy of the combined certificate. I further certify that on the _____ day of _____, 20____, I filed the following transcript(s)

_____

_____

_____

_____

_____

with the clerk of the supreme court.

_____

(signature of court reporter)
Name, address, telephone number, and e-mail address of court reporter

CERTIFICATE OF SERVICE

The undersigned certifies a copy of this reporter's certificate was served on the _____ day of _____, 20____, upon the following persons and upon the clerk of the supreme court *(list the names and addresses of the persons below and indicate the manner of service)*.

_____

(signature of person making service)

NOTE: RULE 6.803(3) REQUIRES THIS CERTIFICATE TO BE FILED AS A SEPARATE DOCUMENT AND TO BE SERVED ON THE PARTIES OF RECORD AND THE CLERK OF THE DISTRICT COURT.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1401 — Form 9: ***Reporter's Application for an Extension of Time to File a Transcript.***

IN THE SUPREME COURT OF IOWA

(Insert supreme court caption.) Supreme Court No._____

REPORTER'S APPLICATION FOR AN EXTENSION OF TIME TO FILE A TRANSCRIPT

(See Iowa R. App. P. 6.803(3)(*c*))

1. I hereby certify that on the _____ day of _____, 20____, _____ *(name of attorney or party)* ordered the following transcript(s)

_____

_____

_____

_____

_____

in the above captioned matter by serving a combined certificate.

2. The deadline for filing the transcript(s) with the clerk of the supreme court is the _____ day of _____, 20____.

3. I am unable to file the transcript(s) on the date required because

_____

_____

_____

_____

_____

(If the transcript(s) cannot be filed by the due date because the party ordering it has not complied with the arrangements made to pay for the transcript(s), you must state what arrangements for payment of the transcript(s) were made under rule 6.803(5).)

4. I will be able to complete and file the transcript by the _____ day of _____, 20____.

WHEREFORE, the undersigned requests the court to grant the undersigned more time to file the transcript(s) in the above captioned matter.

or

WHEREFORE, the undersigned requests the court to enter an order requiring the person who ordered the transcript(s) to pay for the transcript(s) as previously arranged under rule 6.803(5) and set a date as to when the transcript(s) shall be filed.

_____

(signature of court reporter)
Name, address, telephone number, and e-mail address of court reporter

CERTIFICATE OF SERVICE

The undersigned certifies a copy of this reporter's application for an extension of time to file a transcript was served on the _____ day of _____, 20____, upon the following persons and upon the clerk of the supreme court *(list the names and addresses of the persons below and indicate the manner of service).*

_____
(signature of person making service)

NOTE: RULE 6.803(3) REQUIRES THAT THIS APPLICATION BE SERVED ON ALL COUNSEL OF RECORD, ANY UNREPRESENTED PARTIES, AND THE CHIEF JUDGE OF THE JUDICIAL DISTRICT.

[Court Order October 31, 2008, effective January 1, 2009]

Rules 6.1402 to **6.1500** Reserved.

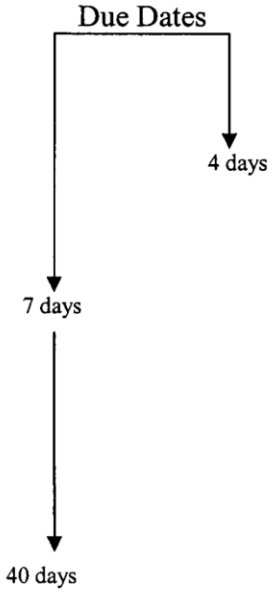
DIVISION XV
APPELLATE PROCEDURE TIMETABLES

Rule 6.1501 Appellate Procedure Timetables
Rule 6.1501 — Timetable 1: Pre-Briefing Procedure.

APPELLATE PROCEDURE TIMETABLE NO. 1

(NOT FOR USE IN CHAPTER 232 CHILD-IN-NEED-OF-ASSISTANCE AND TERMINATION APPEALS)

PRE-BRIEFING PROCEDURE[1]



1. **Notice of appeal.** The appellant files the notice of appeal with the district court clerk and serves a copy on all parties and the supreme court clerk. See rules 6.101, 6.102(2).
2. **Transmission of certified notice of appeal and docket entries.** Within four days after the filing of the notice of appeal the district court clerk transmits a certified copy of the notice of appeal and the docket and calendar entries to the supreme court clerk and all parties. See rule 6.802.
3. **Payment of filing fee, ordering transcript, and filing combined certificate.** Within seven days after the filing of the notice of appeal the appellant pays the filing fee to the supreme court clerk or requests a waiver of the fee. See rule 6.702. Within seven days after the filing of the notice of appeal the appellant orders the transcript from the court reporter by completing the combined certificate, and serving the certificate on the court reporter and all parties. The appellant files the combined certificate with the clerks of both the district and supreme courts. See rules 6.803, 6.804.[2]
4. **Filing of transcript.** Within 40 days from service of the combined certificate the court reporter files the original transcript with the supreme court clerk and serves a copy of the reporter's certificate of filing the transcript on the parties and the clerk of the district.[3] See rule 6.803(3).

NOTES

[1] The Iowa Rules of Appellate Procedure govern the procedure in all appeals. These timetables are merely illustrative and may not cover every procedural situation.

[2] See rule 6.805 if the appellee wishes to designate additional parts of the transcript and/or if a dispute arises about which parts of the proceedings are to be transcribed.

[3] The time for filing the transcript is reduced to:

20 days for criminal proceedings in which an appeal is taken from a judgment and sentence entered upon a guilty plea or from the sentence only.

30 days for appeals from Iowa Code chapter 232 child-in-need-of-assistance and termination proceedings.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1501 Appellate Procedure Timetables
Rule 6.1501 — Timetable 2: Briefing Procedure.

APPELLATE PROCEDURE TIMETABLE NO. 2

(NOT FOR USE IN CHAPTER 232 CHILD-IN-NEED-OF-ASSISTANCE AND TERMINATION APPEALS)

BRIEFING PROCEDURE[1]

Due Dates	
	1. **Filing of last transcript.** Briefing deadlines run from the filing of the last transcript ordered for the appeal.[2] The times for filing are reduced for expedited cases.[3] *See* rule 6.902.
50 days	2. **Appellant's proof brief and designation.** Within 50 days after the clerk gives notice that the last transcript has been filed the appellant files two copies of its proof brief and designation with the supreme court clerk and serves one copy on the other parties. *See* rules 6.901(1), 6.905(1).
30 days	3. **Appellee's proof brief and designation.** Within 30 days after service of the appellant's proof brief the appellee files two copies of its proof brief and designation with the supreme court clerk and serves one copy on the other parties. *See* rules 6.901(1), 6.905(1).
21 days	4. **Appendix and appellant's proof reply brief.** Within 21 days after service or expiration of the time for service of the appellee's proof brief the appellant files 18 copies of the appendix with the supreme court clerk and serves a copy on the other parties. *See* rule 6.905(11). If a cross-appeal has not been filed the appellant *may* file a proof reply brief within 21 days of service of the appellee's proof brief. If a cross-appeal has been filed the appellant/cross-appellee *shall* respond within 21 days of service of the appellee/cross-appellant's proof brief by either filing a proof reply brief or a statement waiving any further brief. *See* rule 6.901(1)(*c*).
14 days	5. **Final briefs and appellee/cross-appellant's reply brief.** Within 14 days after service of the appendix each party serves and files the party's brief(s) in final form. *See* rule 6.901(3). If a cross-appeal was filed the appellee/cross-appellant may file a reply brief in final form within 14 days of service of the appellant/cross-appellee's reply brief. *See* rule 6.901(1)(*c*).
7 days	6. **Transmission of record.** No later than seven days after all briefs in final form have been served or the time for serving them has expired, the appellant shall request transmission of the remaining record from the clerk of the district court. *See* rule 6.802(2).[4]

NOTES

[1]The Iowa Rules of Appellate Procedure govern the procedure in all appeals. These timetables are merely illustrative and may not cover every procedural situation.

[2]If no transcript was ordered the deadlines run from service of the combined certificate or after the date of filing of any approved statement of the evidence. *See* rule 6.901(1).

[3]Expedited cases include:
- Child custody.
- Adoption.
- Termination-of-parental-rights cases under Iowa Code chapter 600A.
- Child-in-need-of-assistance or termination-of-parental-rights cases under Iowa Code chapter 232.
- Criminal proceedings in which an appeal is taken from a judgment and sentence entered upon a guilty plea or from the sentence only.
- Juvenile proceedings affecting child placement.
- Lawyer disciplinary matters.
- Involuntary mental health commitments under Iowa Code chapter 229.
- Involuntary substance abuse commitments under Iowa Code chapter 125.
- Certified questions under Iowa Code chapter 684A

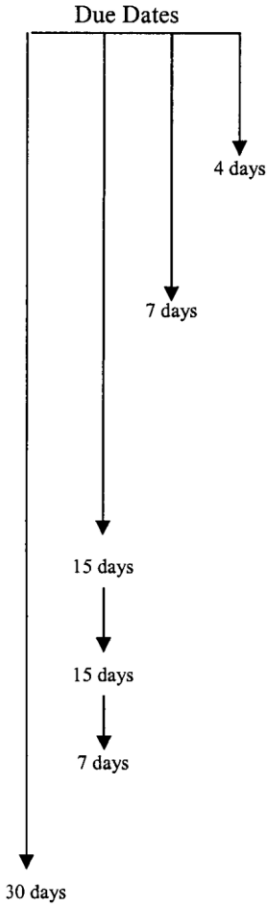
In expedited cases the times for filing are reduced by one-half except step 4 which is reduced to 15 days and step 6 which remains 7 days.

[4]An appellant should request the transmission of the remaining record by sending a letter to the district court clerk with a copy to the supreme court.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1501 Appellate Procedure Timetables
Rule 6.1501 — Timetable 3: Chapter 232 Child-in-Need-of-Assistance and Termination Appeals.

APPELLATE PROCEDURE TIMETABLE NO. 3[1]



1. **Notice of appeal.** A notice of appeal must be filed within 15 days of the filing of the juvenile court order. *See* rule 6.101(1). A notice of appeal cannot be filed unless signed by both the appellant and the appellant's counsel. *See* rule 6.102(1).

2. **Transmission of certified notice of appeal and docket entries.** Within four days after the filing of the notice of appeal the district court clerk transmits a certified copy of the notice of appeal and the docket and calendar entries to the supreme court clerk and all parties. *See* rule 6.802.

3. **Payment of filing fee, ordering transcript, and filing combined certificate.** Within seven days after the filing of the notice of appeal the appellant pays the filing fee to the supreme court clerk or requests a waiver of the fee. See rules 6.204, 6.702. Within seven days after the filing of the notice of appeal the appellant orders the transcript from the court reporter by completing the combined certificate, and serving the certificate on the court reporter and all parties. The appellant files the combined certificate with the clerks of both the district and supreme courts. See rules 6.803, 6.804.[2]

4. **Petition on appeal.** The appellant files a petition on appeal within 15 days after the filing of the notice of appeal or the appeal is dismissed. *See* rules 6.102(1)(*b*), 6.201.

5. **Response to petition.** A response to a petition may be filed within 15 days of service of the petition. *See* rule 6.202.

6. **Reply to issues raised in cross-appeal.** If a cross-appeal is filed the appellant/cross-appellee may file a reply to the cross-appeal issues within seven days after service of the appellee/cross-appellant's response. An appellant may not file a reply if the appellee has not filed a cross-appeal. *See* rule 6.203.

7. **Transmission of record.** Within 30 days after the filing of the notice of appeal the appellant requests that the clerk of the district court transmit the record to the clerk of the supreme court.[3] *See* rule 6.204.

8. **Briefing.** Briefing is done only when directed by the appellate court. *See* rule 6.205.

NOTES

[1] The Iowa Rules of Appellate Procedure govern the procedure in all appeals. These timetables are merely illustrative and may not cover every procedural situation.

[2] See rule 6.805 if the appellee wishes to designate additional parts of the transcript and/or if a dispute arises about which parts of the proceedings are to be transcribed.

[3] An appellant should request the transmission of the remaining record by sending a letter to the district court clerk with a copy to the supreme court.

[Court Order October 31, 2008, effective January 1, 2009]

Rules 6.1502 to **6.1600** Reserved.

DIVISION XVI
TABLES

Rule 6.1601 Tables
Rule 6.1601 — Table A: Technical Requirements of a Brief

Document	Number of Copies to be Filed	Cover Color	Time to File Proof Copy	Time to File Final Brief	Number of Copies to be Served	Length of Handwritten Brief	Length of Brief Line Option (monspaced typeface)	Length of Brief Word Option (proportionally spaced typeface)
Appellant's Brief	2 proof briefs 18 final briefs	Blue	50 days after the clerk gives notice that the last transcript has been filed; if no transcript, 50 days after service of the combined certificate or the filing of any approved statement of the evidence	14 days after service of the appendix	1 proof brief 1 final brief	50 Pages	1300 lines	14,000 words
Appellee's Brief & Appellee/ Cross-Appellant's Brief	2 proof briefs 18 final briefs	Red	30 days after service of appellant's proof brief	14 days after service of the appendix	1 proof brief 1 final brief	50 Pages	1300 lines	14,000 words
Appellant's Reply Brief	2 proof briefs 18 final briefs	Gray	21 days after service of appellee's proof brief	14 days after service of the appendix	1 proof brief 1 final brief	25 Pages	650 lines	7000 words
Appellant's Reply/Cross-Appellee's Brief	2 proof briefs 18 final briefs	Gray	21 days after service of appellee/cross-appellant's proof brief	14 days after service of the appendix	1 proof brief 1 final brief	50 pages	1300 lines	14,000 words
Appellee/Cross-Appellant's Reply Brief	18 final briefs	Gray	Not applicable	14 days after service of appellant's reply/cross-appellee's proof reply brief	1 copy	25 pages	650 lines	7000 words
Amicus Curiae Brief	18 final briefs	Green	Within the time allowed the party whose position the brief will support	14 days after service of the appendix	1 proof brief 1 final brief	25 pages	650 lines	7000 words
Appendix	18 copies	White	Not applicable	21 days after service of appellee's proof brief	1 copy	Not applicable	Not applicable	Not applicable
Petition for Rehearing in Court of Appeals*	18 copies		Not applicable	7 days after court of appeals' decision	1 copy	10 pages	260 lines	2800 words
Application for Further Review	18 copies	Yellow	Not applicable	20 days after the filing of the court of appeals' decision	1 copy	20 pages	520 lines	5600 words
Resistance to Applicaton for Further Review	18 copies	Orange	Not applicable	10 days after service of application for further review	1 copy	20 pages	520 lines	5600 words
Petition for Rehearing in Supreme Court	18 copies		Not applicable	14 days after supreme court decision	1 copy	10 pages	260 lines	2800 words

* Filing a petition for rehearing in the court of appeals does not stay the time for filing an application for further review.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1601 — Table B: Technical Requirements of a Brief When Expedited Times for Filing Apply

Document	Number of Copies to be Filed	Cover Color	Time to File Proof Copy	Time to File Final Brief	Number of Copies to be Served	Length of Handwritten Brief	Length of Brief Line Option (monospaced typeface)	Length of Brief Word Option (proportionally spaced typeface)
Appellant's Brief	2 proof briefs 18 final briefs	Blue	25 days after the clerk gives notice that the last transcript has been filed; if no transcript, 25 days after service of the combined certificate or the filing of any approved statement of the evidence	7 days after service of the appendix	1 proof brief 1 final brief	50 pages	1300 lines	14,000 words
Appellee's Brief & Appellee/ Cross-Appellant's Brief	2 proof briefs 18 final briefs	Red	15 days after service of appellant's proof brief	7 days after service of the appendix	1 proof brief 1 final brief	50 pages	1300 lines	14,000 words
Appellant's Reply Brief	2 proof briefs 18 final briefs	Gray	15 days after service of appellee's proof brief	7 days after service of the appendix	1 proof brief 1 final brief	25 pages	650 lines	7000 words
Appellant's Reply/Cross-Appellee's Brief	2 proof briefs 18 final briefs	Gray	15 days after service of appellee/cross-appellant's proof brief	7 days after service of the appendix	1 proof brief 1 final brief	50 pages	1300 lines	14,000 words
Appellee/Cross-Appellant's Reply Brief	18 final briefs	Gray	Not applicable	7 days after service of appellant's reply/cross-appellee's proof reply brief	1 copy	25 pages	650 lines	7000 words
Amicus Curiae Brief	18 final briefs	Green	Within the time allowed the party whose position the brief will support	7 days after service of the appendix	1 proof brief 1 final brief	25 pages	650 lines	7000 words
Appendix	18 copies	White	Not applicable	15 days after service of appellee's proof brief	1 copy	Not applicable	Not applicable	Not applicable
Petition for Rehearing in Court of Appeals*	18 copies		Not applicable	7 days after court of appeals' decision	1 copy	10 pages	260 lines	2800 words
Application for Further Review	18 copies	Yellow	Not applicable	20 days after the filing of the court of appeals' decision	1 copy	20 pages	520 lines	5600 words
Resistance to Application for Further Review	18 copies	Orange	Not applicable	10 days after service of application for further review	1 copy	20 pages	520 lines	5600 words
Petition for Rehearing in Supreme Court	18 copies		Not applicable	14 days after supreme court opinion	1 copy	10 pages	260 lines	2800 words

* Filing a petition for rehearing in the court of appeals does not stay the time to file an application for further review.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1601 — Table C: Contents of a Brief

BRIEF SECTION	APPELLANT	APPELLEE	REPLY	COUNTED IN PAGE, LINE, OR WORD LIMITATION
Table of contents	YES	YES	YES	NO
Table of authorities	YES	YES	YES	NO
Statement of the issues	YES	YES	YES	NO
Routing statement	YES	YES	NO	YES
Statement of the case	YES	Only if dissatisfied with appellant's version	NO	YES
Statement of the facts	YES	Only if dissatisfied with appellant's version	NO	YES
Error preservaton statement	YES	YES	NO	YES
Scope and standard of appellate review	YES	YES	NO	YES
Argument	YES	YES	YES	YES
A conclusion stating the precise relief sought	YES	YES	YES	YES
Request for oral or nonoral submission	YES	YES	NO	YES
Certificate of cost	YES	YES	YES	NO
Certificate of compliance	YES	YES	YES	NO
Certificate of service	YES	YES	YES	NO

[Court Order October 31, 2008, effective January 1, 2009]