

### **RULE 3. APPEAL—HOW TAKEN**

#### **(a) Filing the Notice of Appeal.**

(1) Except for automatic appeals from a judgment of death under NRS 177.055, an appeal permitted by law from a district court may be taken only by filing a notice of appeal with the district court clerk within the time allowed by Rule 4.

(2) An appellant's failure to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for the court to act as it deems appropriate, including dismissing the appeal.

(3) The district court clerk must file an appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay any district court fees or Supreme Court filing fee. The district court clerk must apprise the appellant of the deficiencies in writing, and must send the notice of appeal to the Supreme Court in accordance with Rule 3(g) with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court must docket the appeal in accordance with Rule 12.

#### **(b) Joint or Consolidated Appeals.**

(1) When two or more parties are entitled to appeal from a district court judgment or order, and their interests make joinder practicable, they may file a joint notice of appeal. They may then proceed on appeal as a single appellant.

(2) When the parties have filed separate timely notices of appeal, the appeals may be joined or consolidated by the court upon its own motion or upon motion of a party.

#### **(c) Contents of the Notice of Appeal.**

(1) The notice of appeal must:

(A) specify the party or parties taking the appeal by naming each one in the caption or body of the notice, but an attorney representing more than one party may describe those parties with such terms as “all plaintiffs,” “the defendants,” “the plaintiffs A, B, et al.,” or “all defendants except X”;

(B) designate the judgment, order, or part thereof being appealed;  
and

(C) name the court to which the appeal is taken.

(2) A notice of appeal may identify multiple separately appealable determinations issued in the same underlying matter.

(3) In a class action, whether or not the class has been certified, the notice of appeal is sufficient if it names one person qualified to bring the appeal as representative of the class.

(4) The Notice of Appeal Form on the Nevada Supreme Court website is a suggested form of a notice of appeal.

**(d) Serving the Notice of Appeal.**

**(1) In General.** The appellant must serve the notice of appeal on all parties to the action in the district court. Service on a party represented by counsel must be made on counsel. If a party is not represented by counsel, the appellant must serve the notice of appeal on the party at the party’s last known address. Unless the appellant serves a file-stamped copy of the notice of appeal, the notice of appeal served must indicate the date when it was filed or submitted for filing. The notice of appeal filed with the district court clerk must contain an acknowledgment of service or proof of service that conforms to the requirements of Rule 25(d).

**(2) Service in Criminal Appeals.** When a defendant in a criminal case appeals, the defendant’s counsel must also serve a copy of the notice of appeal on the defendant, either by personal service or by mail addressed to the

defendant. In criminal appeals governed by Rule 3C, trial counsel must comply with the provisions of this Rule and Rule 3C(c) governing service of the notice of appeal.

**(e) Payment of Fees.** Except where provided by statute, upon filing a notice of appeal, the appellant must pay the district court clerk the Supreme Court filing fee and any fees charged by the district court. The Supreme Court filing fee is \$250 for each notice of appeal filed. No filing fee is required for amended notices of appeal filed under Rule 4(a)(8).

**(f) Case Appeal Statement.**

**(1) Appellant's Duty to File Case Appeal Statement.** Upon filing a notice of appeal, the appellant must also file with the district court clerk a completed case appeal statement that is signed by appellant's counsel.

**(2) District Court's Duty to Complete Case Appeal Statement.** When the appellant is not represented by counsel, the district court clerk must complete and sign the case appeal statement.

**(3) Contents of Case Appeal Statement.** The case appeal statement must contain the following information:

(A) the district court case number and caption showing the names of all parties to the proceedings below, but the use of et al. to denote parties is prohibited;

(B) the name of the judge who entered the order or judgment being appealed;

(C) the name of each appellant and the name and address of counsel for each appellant;

(D) the name of each respondent and the name and address of appellate counsel, if known, for each respondent, but if the name of a

respondent's appellate counsel is not known, then the name and address of that respondent's trial counsel;

(E) whether an attorney identified in response to Rule 3(f)(3)(C) or (D) is not licensed to practice law in Nevada, and if so, whether the district court granted that attorney permission to appear under SCR 42, including a copy of any district court order granting that permission;

(F) whether the appellant was represented by appointed counsel in the district court, and whether the appellant is represented by appointed counsel on appeal;

(G) whether the district court granted the appellant leave to proceed in forma pauperis, and if so, the date of the district court's order granting that leave;

(H) the date that the proceedings commenced in the district court;

(I) a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court;

(J) whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court or Court of Appeals and, if so, the caption and docket number of the prior proceeding;

(K) whether the primary issue on appeal involves child custody, guardianship of minors, parenting time, or visitation; and

(L) in civil cases, whether the appeal involves the possibility of settlement.

**(4) Form Case Appeal Statement.** A case appeal statement must substantially comply with the Case Appeal Statement Form on the Nevada Supreme Court website.

**(g) Forwarding Appeal Documents to Supreme Court.**

**(1) District Court Clerk's Duty to Forward.**

(A) Upon the filing of the notice of appeal, the district court clerk must immediately forward to the clerk of the Supreme Court the required filing fee, together with a certified, file-stamped copy of the following documents:

- (i) the notice of appeal;
- (ii) the case appeal statement;
- (iii) any transcript request form filed with the notice of appeal;
- (iv) the district court docket entries;
- (v) the civil case cover sheet, if any;
- (vi) the judgment(s) or order(s) being appealed;
- (vii) any notice of entry of the judgment(s) or order(s) being appealed;
- (viii) any certification order directing entry of judgment in accordance with NRCPC 54(b);
- (ix) the minutes of the district court proceedings; and
- (x) a list of exhibits offered into evidence, if any.

(B) If, at the time of filing of the notice of appeal, any of the enumerated documents have not been filed in the district court, the district court clerk must nonetheless forward the notice of appeal together with all documents then on file with the clerk.

(C) The district court clerk must promptly forward any later docket entries to the clerk of the Supreme Court.

**(2) Appellant's Duty.** An appellant must take all action necessary to enable the district court clerk to assemble and forward the documents enumerated in Rule 3(g)(1).

## REVIEWING NOTE

With a few exceptions, the amendments to this Rule are mostly intended to be stylistic.

Subdivision (c)(2) was added to clarify that a party may identify multiple separately appealable determinations in a single notice of appeal.

In subdivision (d)(1), the language “or submitted for filing” was added to account for the fact that it is the clerk who controls the filing of a document and a party may not know the actual filing date if they simultaneously submit a notice of appeal for filing with the district court and serve the opposing parties with the notice of appeal.

Subdivision (f)(3)(E) was updated to match the requirement on the Case Appeal Statement Form. Subdivision (f)(3)(K) was amended to include additional types of appeals that must be noted in the case appeal statement to make it easier to identify appeals that will be subject to expedited treatment under NRAP 16.

Subdivision (g)(1)(A). Because NRAP 3C requires an appellant to file and serve the transcript request form on the same date the notice of appeal is filed, subdivision (g)(1)(A) was updated to require the district court clerk to transmit any transcript request form that may have been filed with the notice of appeal.