

# NORTH CAROLINA RULES OF APPELLATE PROCEDURE CHECKLIST: Civil Appeals from Trial Courts to the Appellate Division<sup>1</sup>

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## CHECK BOXES AS COMPLETED:<sup>2</sup>

- Notice of Appeal**
  - File with county superior court clerk within **30 days** after entry of order or judgment from which appeal is taken (unless otherwise tolled).<sup>3</sup> (App. R. 3(a), (c))
  - Serve all other parties within same period. (App. R. 3(a), (c))
  - Other parties may file notices of appeal with the superior court clerk within **10 days** of service of the initial notice of appeal. (App. R. 3(c))
  - Determine whether to seek stay of the trial court's order or judgment. (*See* App. R. 8)
  
- Transcript Arrangement**
  - Determine which trial tribunal transcripts are necessary for the appeal and which of those transcripts (if any) have already been ordered. (App. R. 7(a)-(b)).
  - Using the Appellate Division Transcript Contract [form](#), order any transcripts deemed necessary for the appeal and not previously ordered. (App. R. 7(b)(1)-(2))
    - Within **14 days** of filing notice of appeal, appellant must serve the completed transcript contract on the transcriptionist and all other parties. (App. R. 7(b)(2))
    - Within **28 days** after any appellant files or gives notice of appeal, appellee may order any transcript(s) not previously ordered for the appeal and serve the transcript contract on the transcriptionist and all other parties. (App. R. 7(b)(2))

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<sup>1</sup>This document is intended as a general guideline only and pertains solely to civil appeals from trial courts. Rather than rely on this document, you should *always* directly consult and follow the North Carolina Rules of Appellate Procedure when handling appeals. Unless otherwise noted, references to rules are taken from the North Carolina Rules of Appellate Procedure – codified 1 January 2022. To receive updates or to submit comments or suggestions, subscribe to the [NCAPB.com](http://NCAPB.com) blog or contact [knelson@foxrothschild.com](mailto:knelson@foxrothschild.com).

Also consider consulting the [Style Manual](#), a free guide produced by the NCBA's Appellate Rules Committee to assist appellate practitioners appearing before North Carolina appellate courts with practical examples, tips, and best practices.

<sup>2</sup> Note that some steps may not apply to every appeal. Consult the Appellate Rules for specific information.

<sup>3</sup> Appellant does not get the benefit of the 3-day mail rule. (App. R. 3(c))

- Regardless of whether transcripts were ordered before or after notice of appeal was given, a party must use the Appellate Division Transcript Documentation [form](#) to list any trial tribunal transcripts it intends to use for the appeal.
    - Within **14 days** of filing notice of appeal, appellant must serve the completed transcript documentation form on all other parties. (App. R. 7(b)(2)-(4))
    - Within **28 days** after any appellant files or gives notice of appeal, appellee may designate any new or additional transcripts and serve the completed transcript documentation form on all other parties. (App. R. 7(b)(2)-(4))
    - The form does not need to be filed with either the trial tribunal or the appellate division.
  - For transcripts ordered after notice of appeal was given, the transcriptionist(s) must prepare and deliver transcripts to all parties within **90 days** after service of the transcript contract. (App. R. 7(e)(1))
  - For transcripts ordered before notice of appeal was given, the ordering party must electronically serve the transcript during the record-settlement process. (App. R. 9(c)(3))
  - Appellant must electronically file each transcript that the parties have designated as part of the record on appeal. (App. R. 9(a); 9(c)(3))
  - Appellant must obtain any necessary extension of time for transcript preparation. The trial court may extend once the time to prepare the transcript for an additional **30 days**, but any subsequent motion must be made to the appellate division. (App. R. 27(c))
  - The transcriptionist(s) must also certify delivery/completion of transcript(s) to the trial court. (App. R. 7(e)(2))
- Settling the Record on Appeal**<sup>4</sup>
- Parties may settle a proposed record on appeal by agreement within **45 days** after certification of delivery of the last transcript or **45 days** after filing of the notice of appeal, whichever is later. (App. R. 11(a))
  - If not settled by agreement, appellant must serve all other parties with a proposed record on appeal within **45 days** after certification of delivery of the last transcript or **45 days** after filing the notice of appeal if no transcript was ordered. (App. R. 11(b))
  - Within **30 days** after service of the proposed record on appeal, appellee may serve on all parties a notice of approval, objections or amendments to the proposed record, or a proposed alternative record on appeal. (App. R. 11(b)-(c))

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<sup>4</sup> If there are multiple appellants, the parties should come to an agreement regarding the procedure for preparing and serving the proposed record or, if necessary, request an order from the trial court. (App. R. 11(d))

- Settlement of Record
  - If appellee serves no objections, amendments, or alternative to the proposed record, the record is deemed settled as of the date of any notice of approval or as of the date when the time for filing objections expires. (App. R. 11(b))
  - If objections, amendments, or a proposed alternative record are served, judicial settlement of the record by the trial court may be requested in writing by any party within **10 days** after expiration of the last day within which appellee could serve objections, amendments, etc. (App. R. 11(c))
    - Note: Judicial settlement is limited to narrow circumstances. (*See* App. R. 11(c))
    - Each party must promptly provide the trial court judge a reference copy of the record items, amendments, or objections served by that party. (App. R. 11(c))
    - A judicial settlement hearing must be held within **15 days** after service of the request for hearing upon the judge. (App. R. 11(c))
    - The judge must file an order settling the record on appeal within **20 days** after service of the request for hearing upon the judge. (App. R. 11(c))
  - If objections, amendments, or alternative are served but judicial settlement is not sought, the record is deemed settled on the date of expiration of the **10-day** period for requesting judicial settlement. (App. R. 11(c))

**Filing the Record on Appeal**

- Appellant files the settled record on appeal (including the printed record and any transcripts, exhibits, supplements, or other materials) with the clerk of the appellate court, usually on the [electronic-filing site](#).
  - Letter-sized copies of record documents are filed electronically within **15 days** after settlement. (App. R. 12(a); 26(a))
  - Copies of oversized exhibits and non-documentary record materials may be filed electronically, by hand-delivery, or by mail within **15 days** after settlement. (App. R. 12(a); 26(a))
  - Original exhibits are filed by their custodian only at direction of the appellate court. (App. R. 9(d)(2))
- Appellant pays the appellate clerk the \$10.00 docketing fee, and the clerk will docket the appeal. (App. R. 12(b); Appendix F)
- Appellant pays \$250.00 appeal bond to the appellate clerk. (App. R. 6; Appendix F)
- The appellate division will bill the parties for printing costs (\$1.75 per page) for the record on appeal. (App. R. 12(c); Appendix F)

- Appellate Mediation**<sup>5</sup>
  - For appeals in the Court of Appeals, each party should file and serve the mediation election [form](#) within **15 days** after the appeal is docketed.
  - If all parties consent to mediation, appellant automatically receives a 60-day extension of time to file its brief.
  
- Appellant's Brief**
  - Appellant completes an Appeal Information Statement using the [electronic-filing site](#) before appellant's brief is filed. (App. R. 41)
  - Appellant's opening brief is filed within **30 days** after the record on appeal has been filed with the appellate division. (App. R. 13(a)(1))<sup>6</sup>
  - Serve brief on all parties within same time. (App. R. 13(a)(1))
  - Include all required sections of the brief. (App. R. 28(b); Appendix E)
  - Include any required appendix, properly formatted. (App. R. 28(d))
  - Follow font requirements, formatting requirements, and word limitations. (App. R. 26(g); Appendix B)
  - For appeals in the Court of Appeals, include certificate of compliance with word limitations. (App. R. 28(j))
    - Printing costs will be billed to appellant (\$1.75 per page). (Appendix F)
  
- Appellee's Brief**
  - Appellee's brief is filed within **30 days** after appellant's brief has been served. (App. R. 13(a)(1))<sup>7</sup>
  - Serve brief on all parties within same time. (App. R. 13(a)(1))
  - Include all required sections of the brief. (App. R. 28(c); Appendix E)
  - Include any required appendix, properly formatted. (App. R. 28(d))
  - Follow font requirements, formatting requirements, and word limitations. (App. R. 26(g); Appendix B)
  - For appeals in the Court of Appeals, include certificate of compliance with word limitations. (App. R. 28(j))

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<sup>5</sup>For more information, see the Court of Appeals' mediation page at <http://www.nccourts.org/Courts/Appellate/Appeal/Mediation/Default.asp>.

<sup>6</sup> Cross-appellants must file a brief on their cross-appeal issues under the same deadlines as the initial appellant.

<sup>7</sup> Three extra days are permitted if the appellant's brief was served by mail or electronic mail. (App. R. 27(b))

- Printing costs will be billed to appellee (\$1.75 per page). (Appendix F)

**Reply Brief**

- Reply brief is filed within **14 days** after appellee's brief has been served. (App. R. 28(h))<sup>8</sup>
- Serve brief on all parties within same time. (App. R. 13(a)(1); 28(h))
- Limit to concise rebuttal of arguments set out in appellee's brief. (App. R. 28(h))
- Follow font requirements, formatting requirements, and word limitations. (App. R. 26(g); Appendix B)
- For appeals in the Court of Appeals, include certificate of compliance with word limitations. (App. R. 28(j))
  - Printing costs will be billed to appellant (\$1.75 per page). (Appendix F)

**Oral Argument (Only If Ordered By Court)**

- If the case is selected for oral argument, counsel arguing the case must have personally signed the brief. (App. R. 33(a))
- If necessary, file memoranda of additional authorities before oral argument. (App. R. 28(g))

**Opinion, Mandate, and Optional Filings**

- After a decision is reached by Court of Appeals, the clerk enters judgment and issues the mandate **20 days** after the written opinion is filed. (App. R. 32)
  - Note: The mandate is issued automatically. There is no further notification by the Court.
- A motion for rehearing en banc may be filed within **15 days** after the **opinion** is filed.<sup>9</sup> (App. R. 31.1(d))
  - Consider whether to seek a stay from the trial court to which the mandate is issued. (See App. R. 31.1(e))
  - Pay the \$20.00 docketing fee applicable to petitions for rehearing. (Appendix F)
  - If the motion is granted, new briefs are only required if the court requests them. (App. R. 31.1(d))

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<sup>8</sup> Three extra days are permitted if the appellee's brief was served by mail or electronic mail. (App. R. 27(b))

<sup>9</sup> A petition for initial en banc determination can also be filed at any point after the appellant's brief is filed but no later than 15 days after the filing of the appellee's brief. (App. R. 31.1(c))

- A petition for panel rehearing may be filed within **15 days** after the **mandate** is issued. (App. R. 31(a))
  - Any petition for rehearing must include certificates of two uninterested and qualified attorneys regarding errors. (App. R. 31(a))
  - Pay the \$20.00 docketing fee applicable to petitions for rehearing. (Appendix F)
  - Consider whether to seek a stay from the trial court to which the mandate is issued. (*See* App. R. 31(e))
  - No response to the petition will be received. (App. R. 31(c))
- If the petition is granted:
  - Petitioner's brief is filed within **30 days** after the case is certified for rehearing. (App. R. 31(d))
  - Opposing party's brief is filed within **30 days** after petitioner's brief has been served. (App. R. 31(d))
  - No reply briefs are allowed. (App. R. 31(d))

**NORTH CAROLINA RULES OF APPELLATE PROCEDURE CHECKLIST:  
Civil Appeals from North Carolina Court of Appeals  
to Supreme Court of North Carolina<sup>1</sup>**

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**CHECK BOXES AS COMPLETED:<sup>2</sup>**

**APPEALS OF RIGHT BASED ON DISSENT IN COURT OF APPEALS  
(APP. R. 14; N.C. GEN. STAT. § 7A-30)**

- Notice of Appeal**
  - File notice of appeal of right with the Court of Appeals **and** with the Supreme Court (i) within **15 days** after the mandate of the Court of Appeals has been issued to the trial tribunal or (ii) within **15 days** of entry of order denying motion for rehearing. (App. R. 14(a))
  - Serve all other parties within the same period. (App. R. 14(a))
    - If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within **10 days** after the first notice of appeal is filed. (App. R. 14(a))
  - Pay \$10.00 certification fee to the Court of Appeals. (Appendix F; *see also* Appellate Style Manual)
  - Pay \$250.00 bond to the Supreme Court. (Appendix F)
  - Pay \$10.00 docketing fee to the Supreme Court. (Appendix F)
  - Consider whether to file a petition for discretionary review (“PDR”) to seek review by the Supreme Court of additional issues that were not part of the dissenting opinion. (*See* App. R. 14(a))
    - If appellant files both a notice of appeal and PDR, the docketing fee to the Supreme Court is \$20.00. (Appendix F)

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Also consider consulting the [Style Manual](#), a free guide produced by the NCBA’s Appellate Rules Committee to assist appellate practitioners appearing before North Carolina appellate courts with practical examples, tips, and best practices.

<sup>2</sup> Note that some steps may not apply to every appeal. Consult the Appellate Rules for specific information.

**Briefing**

- Appellant's new brief is filed with the Supreme Court within **30 days** after filing notice of appeal. (App. R. 14(d)(1)) If filing both a PDR and an appeal of right, appellant's new brief must be filed within **30 days** of Supreme Court's order regarding the PDR. (App. R. 14(d)(1))
  - Serve appellant's new brief on all parties within same time. (App. R. 14(d)(1))
  - Include all required sections of the brief. (App. R. 28(b); Appendix E)
  - Include any required appendix, properly formatted. (App. R. 28(d))
  - Follow font and formatting requirements. (App. R. 26(g); Appendix B)
  - Note: word count limitations do not apply in the Supreme Court. (App. R. 28(j))
  - Printing costs will be billed to appellant (\$1.75 per page). (Appendix F)
- Appellee's new brief is filed with the Supreme Court within **30 days** after service of appellant's brief. (App. R. 14(d)(1))<sup>3</sup>
  - Serve appellee's new brief on all parties within same time. (App. R. 14(d)(1))
  - Include all required sections of the brief. (App. R. 28(c); Appendix E)
  - Include any required appendix, properly formatted. (App. R. 28(d))
  - Follow font and formatting requirements. (App. R. 26(g); Appendix B)
  - Note: word count limitations do not apply in the Supreme Court. (App. R. 28(j))
  - Printing costs will be billed to appellee (\$1.75 per page). (Appendix F)
- Appellant's new reply is brief filed with the Supreme Court within **14 days** after service of appellee's new brief. (App. R. 14(d)(1); 28(h))<sup>4</sup>
  - Serve new reply brief on all parties within same time. (App. R. 13(a)(1))
  - Limit to concise rebuttal of arguments set out in Appellee's brief. (App. R. 28(h))
  - Follow font and formatting requirements. (App. R. 26(g); Appendix B)
  - Note: word count limitations do not apply in the Supreme Court. (App. R. 28(j))
  - Printing costs will be billed to appellant (\$1.75 per page). (Appendix F)

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<sup>3</sup> Three extra days are permitted if the appellant's brief was served by mail or electronic mail. (App. R. 27(b))

<sup>4</sup> Three extra days are permitted if the appellee's brief was served by mail or electronic mail. (App. R. 27(b))



**DISCRETIONARY REVIEW BY SUPREME COURT OF NORTH CAROLINA**  
**(APP. R. 15; N.C. GEN. STAT. § 7A-31)**

- Petition for Discretionary Review (“PDR”)<sup>5</sup>**
  - PDR *after* determination by the Court of Appeals must be filed and served: (i) within **15 days** after the mandate of the Court of Appeals has been issued to the trial tribunal or (ii) within **15 days** of entry of order denying motion for rehearing. (App. R. 15(b)) PDR *prior* to determination by the Court of Appeals must be filed and served within **15 days** after the appeal is docketed in the Court of Appeals. (App. R. 15(b))
    - Pay \$10.00 filing fee to the Supreme Court. (Appendix F)
    - Pay \$10.00 certification fee to the Court of Appeals. (Appendix F; *see also* Appellate Style Manual)
  - If PDR is filed by either party, any other party may file its own PDR within **10 days** after the first PDR is filed. (App. R. 15(b))
  - Any response to the PDR is due **10 days** after service of the PDR. No extensions of time are permitted. (App. R. 15(d))
  
- Briefing Following Certification of Discretionary Review**
  - Appellant’s New Brief
    - For a PDR filed *after* determination by the Court of Appeals, appellant’s new brief must be filed with the Supreme Court within **30 days** after the case is docketed by entry of the order of certification. (App. R. 15(g)(2)) For a PDR filed *prior* to determination by the Court of Appeals, the parties should follow the briefing schedule set forth in Appellate Rule 13. (App. R. 15(g)(1))
    - Serve appellant’s new brief on all parties within same time.
    - Include all required sections of the brief. (App. R. 28(b); Appendix E)
    - Include any required appendix, properly formatted. (App. R. 28(d))
    - Follow font and formatting requirements. (App. R. 26(g); Appendix B)
    - Pay \$250.00 appeal bond to the Supreme Court after certification order is entered.

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<sup>5</sup>A Notice of Appeal based on a constitutional question is treated like a petition for discretionary review because the Supreme Court must first determine if the constitutional question is a “substantial” constitutional question. Thus, when a Notice of Appeal based on a constitutional question is filed, appellant submits to the Supreme Court a \$10.00 docketing fee with the Notice of Appeal. If the Supreme Court accepts the appeal, it will issue a briefing schedule, at which time appellant should submit a \$250.00 appeal bond to the Supreme Court and a \$10 certification fee to the Court of Appeals. (*See* App. R. 14(d)(1); Appellate Style Manual)

- Note: word count limitations do not apply in the Supreme Court. (App. R. 28(j))
- Printing costs will be billed to appellant (\$1.75 per page). (Appendix F)
- Appellee's New Brief
  - File appellee's new brief with the Supreme Court within **30 days** after service of appellant's new brief.<sup>6</sup> (App. R. 15(g)(2))<sup>7</sup>
  - Serve appellee's brief on all parties within same time. (App. R. 15(g)(2))
  - Include all required sections of the brief. (App. R. 28(c); Appendix E)
  - Include any required appendix, properly formatted. (App. R. 28(d))
  - Follow font and formatting requirements. (App. R. 26(g); Appendix B)
- Note: word count limitations do not apply in the Supreme Court. (App. R. 28(j))
- Printing costs will be billed to appellee (\$1.75 per page). (Appendix F)
- Appellant's New Reply Brief
  - File new reply brief with the Supreme Court within **14 days** after service of appellee's new brief.<sup>8</sup> (App. R. 15(g)(2); 28(h))
  - Serve new reply brief on all parties within same time. (App. R. 15(g)(2))
  - Follow font and formatting requirements. (App. R. 26(g); Appendix B)
- Note: word count limitations do not apply in the Supreme Court. (App. R. 28(j))
- Printing costs will be billed to appellant (\$1.75 per page). (Appendix F)

### **ORAL ARGUMENT BEFORE SUPREME COURT OF NORTH CAROLINA<sup>9</sup>**

- Counsel arguing the case must have personally signed the brief. (App. R. 33(a))
- Send written acknowledgment of receipt of Supreme Court's oral argument notification, and inform the Court who will be arguing.
- If necessary, file any memoranda of additional authorities before oral argument. (App. R. 28 (g))

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<sup>6</sup> Three extra days are permitted if the appellant's brief was served by mail or electronic mail. (App. R. 27(b))

<sup>7</sup> For a PDR filed *prior* to determination by the Court of Appeals, appellee should follow the briefing schedule set forth in Appellate Rule 13. (App. R 15(g)(1))

<sup>8</sup> Three extra days are permitted if the appellee's brief was served by mail or electronic mail. (App. R. 27(b))

<sup>9</sup> Most cases before the Supreme Court of North Carolina are orally argued.