

## APPENDIX TO RULES.

### FORMS FOR NOTICES OF APPEAL.

1. The forms of notices of appeal contained herein are intended for illustration only, to show what is sufficient under Rule 10.

2. The caption in each instance should be that of the cause being appealed, as it stood in the court in which the notice of appeal is to be filed under Rule 10 (3). Details of form should comply with the rules and practice of that court.

3. The form and manner of signature of the notice of appeal should likewise comply with the rules of the court in which the notice is to be filed.

4. Any form of service authorized by Rule 33 (1) may be employed, and proof of service may be made by any of the means authorized by Rule 33 (3).

FORM 1. NOTICE OF APPEAL FROM FEDERAL COURT,  
CIVIL CASE.<sup>1</sup>

United States District Court for the ..... District  
of ....., Division.<sup>2</sup>

<p>A. B. C. CORP., PLAINTIFF, <i>v.</i> UNITED STATES OF AMERICA, INTERSTATE COMMERCE COM- MISSION, D. E. F. R. R. CO., ET AL., DEFENDANTS.</p>	}	CIVIL ACTION NO. .... <sup>3</sup>
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NOTICE OF APPEAL TO THE SUPREME COURT OF THE  
UNITED STATES.

I. Notice is hereby given that A. B. C. CORP., the plain-  
tiff above named, hereby appeals to the Supreme Court  
of the United States from the<sup>3</sup> (final order dismissing  
the complaint),<sup>2</sup> entered in this action on .....,  
19....

This appeal is taken pursuant to 28 U. S. C. § 1253.<sup>4</sup>

II. The clerk will please prepare a transcript of the  
record in this cause, for transmission to the Clerk of the  
Supreme Court of the United States, and include in said  
transcript the following:

(Here list each of the items to be included in the  
transcript of record.)

III. The following questions are presented by this  
appeal:

(Here list the questions presented, formulated as  
prescribed by Rule 10 (2)).<sup>5</sup>

[Signed] .....  
*Attorney for A. B. C. Corp.*

Address .....<sup>6</sup>

PROOF OF SERVICE.<sup>7</sup>

I, ....., one of the attorneys for A. B. C. Corp., appellant herein, and a member of the Bar of the Supreme Court of the United States,<sup>8</sup> hereby certify that, on the .... day of ....., 19.., I served copies of the foregoing Notice of Appeal to the Supreme Court of the United States on the several parties thereto, as follows:

1. On the United States, by leaving a copy thereof at the office of ....., Esq., United States Attorney for the ..... District of ....., at Room ....., Federal Building, .....,<sup>9</sup> and by mailing a copy in a duly addressed envelope, with air mail postage prepaid,<sup>10</sup> to The Solicitor General, Department of Justice, Washington 25, D. C.<sup>10</sup>

2. On the Interstate Commerce Commission, by mailing a copy, in a duly addressed envelope, with air mail postage prepaid,<sup>11</sup> to ....., Esq., its Chief Counsel, at the offices of the Commission, Washington 25, D. C.<sup>12</sup>

3. On D. E. F. R. R. Co., G. H. Ry. Co., ....., ....., intervening defendants, by mailing copies in duly addressed envelopes, with first-class postage prepaid,<sup>13</sup> to their respective attorneys of record, as follows:

To ....., Esq., Attorney for D. E. F. R. R. Co., (address);

To ....., Esq., Attorney for G. H. Ry. Co., (address); (list each party or attorney served).

[Signed] .....  
*Attorney for A. B. C. Corp.*

Address .....<sup>8</sup>

## NOTES TO FORM I.

<sup>1</sup> This presupposes a civil action pursuant to 28 U. S. C. §§ 2321-2325 to set aside an order of the Interstate Commerce Commission.

<sup>2</sup> Since this is accordingly a civil action in a federal court, the form of the caption is governed by the Federal Rules of Civil Procedure, subject to such modification as may be required by local rules and practice.

<sup>3</sup> Describe order or judgment as indicated in Form 27, F. R. Civ. P.

<sup>4</sup> This is the statutory provision authorizing the appeal in the case supposed; for other classes of cases, appropriate change in statutory reference must be made.

<sup>5</sup> Note that the substance of the questions presented may not be altered afterwards. Rule 15 (1)(c)(2); Rule 40 (1)(d)(2).

<sup>6</sup> The form of signature on the facts supposed is governed by the Federal Rules of Civil Procedure, subject to such modification as may be required by local rules and practice.

<sup>7</sup> Proof of service may be made by indorsement on the document served, or by separate instrument, or by a combination of both; see Rule 33 (3).

<sup>8</sup> Only a member of the Bar of the Supreme Court may certify to service. Rule 33 (3)(b). Service effected by any person not a member of the Bar of the Supreme Court must be proved by affidavit. Rule 33 (3)(c).

<sup>9</sup> Service may be effected by leaving a copy at the office of counsel. Rule 33 (1). And, where the United States is a party, the notice of appeal must be served on an attorney of record who represented the United States in the court whose judgment is sought to be reviewed. Rule 33 (2).

<sup>10</sup> If the United States is a party, service must likewise be made on the Solicitor General. Rule 33 (2).

<sup>11</sup> This presupposes a U. S. District Court 500 miles or more from Washington, hence air mail postage is required. Rule 33 (1).

<sup>12</sup> Since the Interstate Commerce Commission is an agency authorized by law to appear in its own behalf, it must also be served. Rule 33 (2).

<sup>13</sup> This presupposes that counsel for the non-government defendants are less than 500 miles distant from the person effecting service, hence ordinary first class postage suffices. Rule 33 (1).

FORM 2. NOTICE OF APPEAL FROM STATE COURT,  
CIVIL CASE.In the Supreme Court of the State of.....<sup>1</sup>

A. B. C., APPELLANT,	}	No. .... <sup>2</sup>
v.		
D. E. F., APPELLEE.		

NOTICE OF APPEAL TO THE SUPREME COURT OF THE  
UNITED STATES.

I. Notice is hereby given that A. B. C., the appellant above named, hereby appeals to the Supreme Court of the United States from the final judgment<sup>3</sup> of .....<sup>4</sup> (affirming, dismissing, etc.)<sup>5</sup> entered in this action<sup>6</sup> on ....., 19....

This appeal is taken pursuant to 28 U. S. C. § .....<sup>7</sup>

II. The clerk will please prepare a transcript of the record in this cause, for transmission to the Clerk of the Supreme Court of the United States, and include in said transcript the following:

(Here list the items to be included in the transcript of record.)

III. The following questions are presented by this appeal:

(Here list the questions presented, formulated as prescribed by Rule 10 (2)).<sup>8</sup>

[Signed] .....  
*Attorney for A. B. C., Appellant.*

Address .....<sup>9</sup>

## PROOF OF SERVICE.

I, ....., a (stenographer) (clerk) (attorney) in the office of Messrs. ...., attorneys of record for A. B. C., appellant herein, depose and say <sup>10</sup> that on the ..... day of ....., 19... I served a copy of the foregoing Notice of Appeal to the Supreme Court of the United States on D. E. F., appellee herein, by delivering the same to (the receptionist)<sup>11</sup> in the offices of ....., counsel of record for said D. E. F., located at .....

[Signed] .....

Subscribed and sworn to before me, at ..... this ..... day of ....., 19...

.....<sup>12</sup>

## NOTES TO FORM 2.

<sup>1</sup> Rule 10 (3) provides that "If the appeal is taken from a state court, the notice of appeal shall be filed with the clerk of the court possessed of the record." This may or may not be the supreme court of the state.

The caption should be that of the court in which the notice of appeal is filed.

<sup>2</sup> The form and style of the case should conform to the rules of the court in which the notice of appeal is filed.

<sup>3</sup> Only final judgments or decrees of state courts are reviewable; see 28 U. S. C. § 1257.

<sup>4</sup> Here indicate the court in which the judgment or order sought to be reviewed was entered, which may or may not be the court in which the notice of appeal is filed.

<sup>5</sup> Here describe generally the nature of the judgment or order sought to be reviewed, giving its date. Cf. *Dept. of Banking v. Pink*, 317 U. S. 264.

<sup>6</sup> Use the proper descriptive term under state law—suit, proceeding, action, etc., as the case may be.

<sup>7</sup> Indicate whether the appeal is taken pursuant to § 1257 (1) or § 1257 (2) of 28 U. S. C., the only provisions currently authorizing appeals from state courts to the Supreme Court of the United States.

## NOTES TO FORM 2—Continued.

<sup>8</sup> Note that the substance of the questions presented may not be altered afterwards. Rule 15 (1)(c)(2); Rule 40 (1)(d)(2).

<sup>9</sup> The form of signature should comply with the rules of the court in which the notice of appeal is filed.

<sup>10</sup> This presupposes service by one not a member of the Bar of the Supreme Court, hence service must be proved by affidavit. Rule 33 (3) (c).

<sup>11</sup> Service by delivery to a clerk in the office of counsel is sufficient under Rule 33 (1).

<sup>12</sup> Here insert official character of person before whom the affidavit is sworn.

FORM 3. NOTICE OF APPEAL FROM STATE COURT,  
CRIMINAL CASE.

In the Supreme Court of the State of .....

M. N. O., APPELLANT,	}	No. .... <sup>2</sup>
v.		
STATE OF .....		

NOTICE OF APPEAL TO THE SUPREME COURT OF THE  
UNITED STATES.

I. Notice is hereby given that M. N. O., the appellant above named, hereby appeals to the Supreme Court of the United States from the final order<sup>2</sup> of .....<sup>4</sup> (affirming the judgment of conviction),<sup>5</sup> entered herein on ....., 19...

This appeal is taken pursuant to 28 U. S. C. § .....<sup>6</sup>

Appellant was convicted of the crime of .....<sup>7</sup> in violation of .....<sup>7</sup> was sentenced to ..... years confinement at hard labor (and to pay a fine of \$.....);<sup>8</sup> (and is presently confined at ..... ) (and is presently enlarged on bail in the sum of \$.....) (and is not now in custody or enlarged on bail).<sup>9</sup>

(Parts II and III and signature, same as in corresponding portions of Form 2.)

## PROOF OF SERVICE.

I, ....., Assistant Attorney General of the State of .....,<sup>10</sup> hereby acknowledge receipt of a copy of the foregoing Notice of Appeal to the Supreme Court of the United States, this ..... day of ....., 19...

[Signature] <sup>10</sup> .....

## NOTES TO FORM 3.

<sup>1, 2, 3, 4, 5</sup> Same as corresponding notes under Form 2.

<sup>6</sup> Indicate whether the appeal is taken pursuant to § 1257 (1) or § 1257 (2) of 28 U. S. C., the only provisions currently authorizing appeals from State courts to the Supreme Court of the United States.

<sup>7</sup> Describe the offense in general terms, and include a citation to the statute involved.

<sup>8</sup> Indicate the sentence imposed.

<sup>9</sup> Indicate the place of confinement if the defendant below is in custody, and the amount of bail or recognizance if not in custody.

<sup>10</sup> Acknowledgment of service, if relied on to prove service, must be signed by counsel of record for the party served. Rule 33 (3)(a).