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AMENDMENTS TO  
FEDERAL RULES OF APPELLATE PROCEDURE

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The following amendments to the Federal Rules of Appellate Procedure were prescribed by the Supreme Court of the United States on April 27, 1995, pursuant to 28 U. S. C. § 2072, and were reported to Congress by THE CHIEF JUSTICE on the same date. For the letter of transmittal, see *post*, p. 1138. The Judicial Conference report referred to in that letter is not reproduced herein.

Note that under 28 U. S. C. § 2074, such amendments shall take effect no earlier than December 1 of the year in which they are transmitted to Congress unless otherwise provided by law.

For earlier publication of the Federal Rules of Appellate Procedure and the amendments thereto, see 389 U. S. 1063, 398 U. S. 971, 401 U. S. 1029, 406 U. S. 1005, 441 U. S. 973, 475 U. S. 1153, 490 U. S. 1125, 500 U. S. 1007, 507 U. S. 1059, and 511 U. S. 1155.

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LETTER OF TRANSMITTAL

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SUPREME COURT OF THE UNITED STATES  
WASHINGTON, D. C.

APRIL 27, 1995

*To the Senate and House of Representatives of the United States of America in Congress Assembled:*

By direction of the Supreme Court of the United States, I have the honor to submit to the Congress the amendments to the Federal Rules of Appellate Procedure that have been adopted by the Supreme Court of the United States pursuant to Section 2072 of Title 28, United States Code. To maintain uniformity between revised and unrevised Rules, the Court has edited the amendments transmitted to the Supreme Court by the Judicial Conference of the United States to use the word "shall" in a consistent manner.

The rules are accompanied by an excerpt from the report of the Judicial Conference of the United States' Committee on Rules of Practice and Procedure and that Committee's Advisory Committee Notes. In order to minimize confusion, a footnote noting the changes made by the Supreme Court has been added to the marked-up version of the proposed amendments that accompanies the Advisory Committee Notes.

Sincerely,

(Signed) WILLIAM H. REHNQUIST  
*Chief Justice of the United States*

SUPREME COURT OF THE UNITED STATES

APRIL 27, 1995

ORDERED:

1. That the Federal Rules of Appellate Procedure be, and they hereby are, amended by including therein amendments to Appellate Rules 4, 8, 10, and 47.

[See *infra*, pp. 1141–1143.]

2. That the foregoing amendments to the Federal Rules of Appellate Procedure shall take effect on December 1, 1995, and shall govern all proceedings in appellate cases thereafter commenced and, insofar as just and practicable, all proceedings in appellate cases then pending.

3. That THE CHIEF JUSTICE be, and hereby is, authorized to transmit to the Congress the foregoing amendments to the Federal Rules of Appellate Procedure in accordance with the provisions of Section 2072 of Title 28, United States Code.

AMENDMENTS TO THE FEDERAL RULES  
OF APPELLATE PROCEDURE

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*Rule 4. Appeal as of right—when taken.*

*(a) Appeal in a civil case.*

(4) If any party files a timely motion of a type specified immediately below, the time for appeal for all parties runs from the entry of the order disposing of the last such motion outstanding. This provision applies to a timely motion under the Federal Rules of Civil Procedure:

- (A) for judgment under Rule 50(b);
- (B) to amend or make additional findings of fact under Rule 52(b), whether or not granting the motion would alter the judgment;
- (C) to alter or amend the judgment under Rule 59;
- (D) for attorney's fees under Rule 54 if a district court under Rule 58 extends the time for appeal;
- (E) for a new trial under Rule 59; or
- (F) for relief under Rule 60 if the motion is filed no later than 10 days after the entry of judgment.

A notice of appeal filed after announcement or entry of the judgment but before disposition of any of the above motions is ineffective to appeal from the judgment or order, or part thereof, specified in the notice of appeal, until the entry of the order disposing of the last such motion outstanding. Appellate review of an order disposing of any of the above motions requires the party, in compliance with Appellate Rule 3(c), to amend a previously filed notice of appeal. A party intending to challenge an alteration or amendment of the judgment shall file a notice, or amended notice, of appeal

within the time prescribed by this Rule 4 measured from the entry of the order disposing of the last such motion outstanding. No additional fees will be required for filing an amended notice.

*Rule 8. Stay or injunction pending appeal.*

(c) *Stay in a criminal case.*—A stay in a criminal case shall be had in accordance with the provisions of Rule 38 of the Federal Rules of Criminal Procedure.

*Rule 10. The record on appeal.*

(a) *Composition of the record on appeal.*—The record on appeal consists of the original papers and exhibits filed in the district court, the transcript of proceedings, if any, and a certified copy of the docket entries prepared by the clerk of the district court.

(b) *The transcript of proceedings; duty of appellant to order; notice to appellee if partial transcript is ordered.*

(1) Within 10 days after filing the notice of appeal or entry of an order disposing of the last timely motion outstanding of a type specified in Rule 4(a)(4), whichever is later, the appellant shall order from the reporter a transcript of such parts of the proceedings not already on file as the appellant deems necessary, subject to local rules of the courts of appeals. The order shall be in writing and within the same period a copy shall be filed with the clerk of the district court. If funding is to come from the United States under the Criminal Justice Act, the order shall so state. If no such parts of the proceedings are to be ordered, within the same period the appellant shall file a certificate to that effect.

*Rule 47. Rules of a court of appeals.*

(a) *Local rules.*

(1) Each court of appeals acting by a majority of its judges in regular active service may, after giving appro-

priate public notice and opportunity for comment, make and amend rules governing its practice. A generally applicable direction to a party or a lawyer regarding practice before a court shall be in a local rule rather than an internal operating procedure or standing order. A local rule shall be consistent with—but not duplicative of—Acts of Congress and rules adopted under 28 U. S. C. §2072 and shall conform to any uniform numbering system prescribed by the Judicial Conference of the United States. The clerk of each court of appeals shall send the Administrative Office of the United States Courts a copy of each local rule and internal operating procedure when it is promulgated or amended.

(2) A local rule imposing a requirement of form shall not be enforced in a manner that causes a party to lose rights because of a nonwillful failure to comply with the requirement.

*(b) Procedure when there is no controlling law.*—A court of appeals may regulate practice in a particular case in any manner consistent with federal law, these rules, and local rules of the circuit. No sanction or other disadvantage may be imposed for noncompliance with any requirement not in federal law, federal rules, or the local circuit rules unless the alleged violator has been furnished in the particular case with actual notice of the requirement.