

## ADMINISTRATIVE APPEALS

### INSTRUCTIONS FOR ADMINISTRATIVE AGENCIES

Effective July 15, 1994

SCO 1155

1. When a notice of appeal from an administrative agency decision is filed and all other filing requirements are met, the superior court clerk will send the agency a Notice for Preparation of Record In An Administrative Appeal (form AP-310).
2. Within 10 days after receiving the AP-310 Notice, the agency must file a list of names and addresses of all counsel and pro se parties who appeared in the matter before the agency. Form AP-311, Agency's List of Parties & Attorneys on Appeal, should be used.
3. The agency must paginate the agency file as follows:
  - a. Number all documents in the case file, including those documents filed after the notice of appeal, in the following order:
    - (1) Right side of file, start at the top of the file and number in a single number sequence each page consecutively down.
    - (2) Left side of file, start at the top of the file with the next number and number in a single number sequence each page consecutively down.

NOTE: If there are no documents on the right, begin on the left side of the file.
  - b. Place the page number on the bottom right corner of each page.
  - c. Multi-Volume Files: Start with Volume #1 and completely paginate each volume in consecutive order. There should only be one page #1 in each agency record.
  - d. Confidential Documents:
    - (1) After paginating the non-confidential documents in the file, start with the next number and number all pages of the confidential documents consecutively from the top down.
    - (2) All confidential documents should be placed in an envelope. The front of the envelope should contain the following information:
      - (a) case name
      - (b) case number
      - (c) name of the document(s) in the envelope

- (3) Mark or stamp the envelope "Confidential" and note the page numbers of the documents in the envelope.

NOTE: Be sure to also note on both the document and envelope if any party is not entitled to see the document. For example: "Defendant's access to document prohibited."

- e. Sealed Documents: Number the envelope only. Do not open the sealed envelope.
- f. Once the copy of the file has been forwarded to superior court, documents subsequently filed with the agency need not be numbered and forwarded unless requested by the superior court. If requested, paginate the new documents as follows:
  - (1) Determine the last page number used in the file. Starting with the next number, paginate the new documents in consecutive order. However, since the new documents will be on top of the other documents and not in chronological order, place a colored hard-stock paper divider under the new documents to separate them from the other documents.
  - (2) Forward copies of the paginated documents to the superior court with another AP-312 Transmittal of Agency Record.
- g. Cases Previously On Appeal

Determine the last page number given in the file. Starting with the next number, continue to paginate the file in consecutive order with the documents already paginated. Do not start numbering the agency file with a new page 1.

NOTE: Transcripts and depositions are page numbered at the time they are prepared. Do not paginate these documents with the agency file.

4. Within 40 days after receiving the AP-310 Notice, the agency must send the superior court listed below.<sup>1</sup> It is no longer necessary to prepare a Table of Contents.
  - a. A Transmittal of Agency Record. The agency can use form AP-312 (copy attached) or a similar agency form.

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<sup>1</sup> The agency does not need to prepare the record until the appellate (the party who filed the appeal) pays for the cost, if any, of preparing it. If appellant fails to pay, notify the court by letter or copy of the agency notice, if any, sent to appellant. If the record is not received within 40 days, the court will give notice to appellant that the appeal will be dismissed unless the record is submitted to the court.

- b. A copy of the paginated agency file.<sup>2</sup>
  - c. The transcript of the agency proceedings. Appellant is still responsible for selecting the transcriber and paying for the transcript. The original transcript must be filed with the agency.
  - d. All documentary and photographic exhibits not larger than 8-½" x 14". (All other exhibits should be retained by agency.)
  - e. A list of the exhibits being transmitted.<sup>3</sup>
  - f. A list of exhibits retained by the agency.<sup>3</sup>
  - g. All depositions filed with the agency.
5. At the conclusion of the appeal, the superior court clerk will return the agency record and a copy of the appeal decision to the agency.

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<sup>2</sup> The main reason for the court getting a copy and the agency retaining the original is to ensure that both parties have access to the file or a copy of it while preparing their briefs. However, if both parties are located near the court and the agency wishes to eliminate the cost of duplicating the agency file, the agency may request the court to allow the original file to be sent and no copy kept by the agency.

<sup>3</sup> For purposes of these instructions, exhibits refer to documents or other objects marked as exhibits and submitted at an administrative agency hearing as evidence. Exception: If all documents in the agency file are marked as exhibits, the agency needs to list only non-documentary exhibits.