

§ 2-101. Docketing the case.

(A) Perfecting the Appeal. Every appeal shall be deemed perfected when the notice of appeal as provided in § 2-101(B)(1)(a) and the docket fee required by Neb. Rev. Stat. § 33-103 or an application to proceed in forma pauperis and a poverty affidavit pursuant to Neb. Rev. Stat. § 29-2306 or Neb. Rev. Stat. § 25-2301 et seq. have been filed in the office of the clerk of the trial court and such application has been granted by that court.

(B) Forwarding to Supreme Court. The clerk of the district court shall within 2 business days of receipt of a notice of appeal send the following items to the Clerk of the Supreme Court:

(1)(a) Notice of appeal. The notice of appeal shall be deemed made to the Court of Appeals unless the notice contains language specifically requesting appeal to the Supreme Court along with citation to the statutory authority allowing such appeal to the Supreme Court.

(b) If a notice of appeal filed in a case involving termination of parental rights is not signed by the parent whose parental rights were terminated, the appeal shall be subject to summary affirmance pursuant to § 2-107(A) unless, following issuance of an order to show cause and a 15-day response time, the before-mentioned parent files an affidavit with the appellate court stating his or her intention to proceed with the appeal or other good cause is shown. This subsection shall not apply to a child's guardian ad litem taking an appeal in such cases.

(2) Request for transcript; see § 2-104(A);

(3) Request for bill of exceptions; see § 2-105(B);

(4) Check of the clerk of the district court for docket fee, or a copy of the application to proceed in forma pauperis and accompanying poverty affidavit which has been executed no more than 45 days prior to the filing of notice of appeal; and

(5) A certificate, which shall contain the following information:

(a) The caption of the case, including the names and adversary relationship of all the parties, as the case was filed in the district court;

(b) The name, address, city, state, zip code, telephone number, e-mail address, and Nebraska attorney identification number of each principal Nebraska attorney, and the name of the party or parties the attorney represents, or, if a party or parties represent themselves, the above information except for the identification number;

(c) Whether the case is a civil case or a criminal case; if a civil case, whether the case is law (general) or equity, if applicable; if a criminal case, whether there was a trial to a jury or judge, or whether a guilty or nolo contendere plea was accepted by the court, whether a plea in bar was entered, and whether the case is a felony, misdemeanor, or postconviction; and

(d) If the notice of appeal is to the Supreme Court, whether the appeal involves a sentence of death or life imprisonment, constitutionality of a statute, or other statutory authorization therefor.

(e) The date the notice of appeal was filed in the district court and the date the docket fee was paid to the clerk of the district court.

(f) Whether the requirements of Neb. Rev. Stat. § 25-1914 with regard to cost bond, cash in lieu of cost bond, or supersedeas bond or poverty affidavit have been met and the date filed.

(g) Indicate if a motion for new trial was filed in the trial court and the date of disposition.

See appendices 5 and 6.

(C) Method of Docketing Case; Multiple Appeals from Same Case Prohibited. Upon receipt of the material required by § 2-101(B), the Clerk of the Supreme Court shall thereupon docket the case designating the party or parties first having filed the notice of appeal in the district court as appellant or appellants. All other parties shall be designated as appellees, and any attempt to appeal thereafter made by any party to the action shall be filed in the existing case and not separately docketed.

(D) Appeal from Special Tribunals. In an appeal from an order of the Nebraska Department of Natural Resources or other tribunal from which an appeal can be taken directly to this court, the procedure shall be that provided for in appeals from the district court, except as otherwise provided by statute.

(E) Cross-Appeal. The proper filing of an appeal shall vest in an appellee the right to a cross-appeal against any other party to the appeal. The cross-appeal need only be asserted in the appellee's brief as provided by § 2-109(D)(4).

(F) Attorneys of Record and Pro Se Litigants.

(1) The attorneys of record and guardians ad litem of the respective parties in the court below shall be deemed the attorneys and guardians ad litem of the same parties in this court, until a withdrawal of appearance has been filed together with an affidavit that a copy of such withdrawal has been sent to counsel's client by certified mail to the client's last-known address and by regular mail to the adverse party or that party's attorney of record. Counsel in any criminal case pending in this court may withdraw only after obtaining permission of this court. The method for the withdrawal of court-appointed counsel is specified by § 2-103(B).

(2) All attorneys of record and pro se litigants are required to keep the Clerk of the Supreme Court advised in writing of their current address during the pendency of an appeal in the Supreme Court or Court of Appeals for use in notification of all court orders. See § 2-110.

(G) Costs and Security for Costs.

(1) Docket fees shall be paid in advance as required by Neb. Rev. Stat. § 33-103, except in the following categories of cases:

(a) Docket fees are waived in cases brought under the Nebraska Workers' Compensation Act and the employment security law.

(b) Where an application to proceed in forma pauperis and a timely affidavit of poverty has been filed pursuant to Neb. Rev. Stat. § 29-2306 or Neb. Rev. Stat. § 25-2301 et seq., advance payment of docket fees is not required.

(c) Docket fees in habeas corpus proceedings and disciplinary actions against members of the Nebraska bar are not required in advance. Fees in these cases will be collected at the conclusion of the proceeding.

(2) All cases must comply with Neb. Rev. Stat. § 25-1914, unless specific statutory exceptions exist. A case will be dismissed for failure to comply with § 25-1914 if a motion is filed in accordance with § 2-106. Additional time for compliance with the statute may be requested by motion and a showing of good cause.

Rule 1(A), (B)(1), (B)(4), (B)(5)(c) - (B)(5)(g), (C), (E), (F)(2), (G)(1)(b) and (G)(2) amended May 28, 1992; Rule 1(F)(1) amended March 31, 1993; Rule 1(A) amended May 29, 1997; Rule 1(A), (B), (B)(4), and (G)(1)(a) and (b) amended October 14, 1999; Rule 1(F)(2) amended October 16, 2003; Rule 1(B)(1) amended September 13, 2006. Renumbered and codified as § 2-101, effective July 18 2008; § 2-101(D) amended December 22, 2010; § 2-101(B)(5)(b) amended September 24, 2014, effective January 1, 2015.
