

Rule 57. *Direct Appeals to Texas Supreme Court*

57.1 *Perfecting Direct Appeal*

(a) *Notice of Appeal.* A direct appeal to the Supreme Court permitted by law is perfected when a written notice of appeal is filed with the trial court clerk [within the time provided by Rule 26.1 or as extended by Rule 26.3]. The trial court clerk must immediately send a copy of the notice of appeal to the clerk of the Supreme Court. [If a notice of appeal is mistakenly filed with the clerk of the Supreme Court or the clerk of a court of appeals, the notice is deemed filed the same day with the trial court clerk and the Supreme Court clerk or the court of appeals' clerk must immediately send the trial court clerk a copy of the notice.]

(b) *Contents of Notice.* The notice of direct appeal must:

- (1) identify the trial court and state the case's trial court number and style;
- (2) state the date of the judgment or order appealed from;
- (3) state that the party desires to take a direct appeal to the Supreme Court;
- (4) state the name of each party filing the notice; and
- (5) state, if applicable, that the appellant is presumed indigent and may proceed without advance payment of costs as provided in Rule 20.1(a)(3).

[*When filed.* The notice of appeal must be filed within ____ days after the date on which the interlocutory order or judgment to be appealed is signed, unless the Supreme Court extends the time for filing under Rule 10.5(b). Filing a motion for new trial, any other post-trial motions or a request for findings of fact, will not extend the time to perfect a direct appeal to the Supreme Court.]

(c) *Amending the Notice.* An amended notice of appeal correcting a defect or omission in an earlier filed notice may be filed in the Supreme Court at any time before the [appellant's or petitioner's] brief is filed. The amended notice is subject

to being struck for cause on the motion of any party affected by the amended notice. After the [appellant's *or* petitioner's] brief is filed, the notice may be amended only on leave of the Supreme Court on such terms as the court may prescribe.

(d) *Other Requirements.* The [appellant *or* petitioner] must also file with the clerk of the Supreme Court a docketing statement as provided in Rule 32.1 and pay all required fees authorized to be collected by the clerk of the Supreme Court.

57.2 Jurisdiction of Supreme Court.

(a) *Statement of Jurisdiction.* In addition to perfecting the appeal, the appellant [or petitioner] must file with the clerk of the Supreme Court a statement of jurisdiction within ____ [e.g. 45] days after the notice of appeal is filed with the trial court clerk.

(b) *Contents of Statement of Jurisdiction.* The statement of jurisdiction must plainly state the basis for the exercise of the Supreme Court's direct appeal jurisdiction, otherwise follow the form and contents of a petition for review prescribed by Rule 53 and conform to the length requirements prescribed for a petition for review by Rule 9.4.

(c) *Response to Jurisdictional Statement.* [An appellee *or* A respondent] may file a response to the [appellee's *or* respondent's] statement of jurisdiction challenging the exercise of direct appeal jurisdiction, [or a waiver of response] within ____ [e.g. 30] days after the jurisdictional statement is filed with the Clerk of the Supreme Court. If filed, the response must conform to the form and contents of a response to a petition for review prescribed by Rule 53 and follow the length requirements of Rule 9.4.

(d) *Exercise of Jurisdiction; Discretionary Review.* The Supreme Court [may not take jurisdiction of any question of fact] and may decline to exercise jurisdiction over a direct appeal of an interlocutory order [granting or denying a temporary injunction] if the record is not adequately developed, or if its decision

would be advisory, or if the case is not of such importance to the jurisprudence of the state that a direct appeal should be allowed.

57.3 Preliminary Ruling on [Probable] Jurisdiction; Dismissal of Appeal.

The Supreme Court may determine whether the Court has probable jurisdiction based on the statement of jurisdiction and any response and without first ordering the parties to obtain the appellate record. If the Supreme Court determines that it does not have [probable] jurisdiction [or that a direct appeal should not be allowed as a matter of judicial discretion], it will dismiss the appeal. [If the direct appeal is dismissed, any party may pursue any other appeal available at the time the direct appeal was filed. The other appeal must be perfected within ten days after dismissal of the direct appeal.]

57.4 The Appellate Record.

(1) Preparation and Filing of Record. The parties should not request the preparation and filing of the clerk's record or the reporter's record until the Supreme Court directs them to do so. If the Supreme Court determines that it has [probable jurisdiction], or that the Court needs the record to determine whether it has probable jurisdiction, the Supreme Court clerk will send written notice:

(A) of the Supreme Court's decision to all parties to the proceeding;

(B) directing the parties to obtain the preparation of the clerk's record and, if necessary to the appeal, to request and obtain preparation of the reporter's record under Rules 34 and 35, within ____ [e.g. 10] days after the date written notice of the Court's decision was sent to the parties; and

(C) to the trial court clerk and the court reporter or court reporters responsible for preparing the reporter's record of the date on which the record must be filed by them in the Supreme Court.

(2) Review of Appellate Record by Clerk. On receipt of the record, the clerk of the Supreme Court must determine whether the record complies with the Supreme

Court's order on preparation of the record. If it is defective, the clerk must specify the defects and instruct the responsible official or officials to correct the defects and return the record to the Supreme Court for filing by a specified date. The clerk of the Supreme Court also must notify the parties of the date or dates of receipt and filing of the appellate record in the Supreme Court.

57.6 *Determination of Direct Appeal.*

(a) [*Ruling on Merits*]. If the Supreme Court determines that it has [probable] jurisdiction [and that a direct appeal should be allowed as a matter of judicial discretion], the Court:

- (1) must request a response to the statement of jurisdiction if one has not been filed;
- (2) may request full briefing under Rule 55;
- (3) may set the case for submission and argument under Rule 59; and
- (4) may render judgment under Rule 60.

(b) *Rehearing*. Any party may file a motion for rehearing within 15 days after the final order is rendered. The motion must clearly state the points or issues relied on for rehearing.

57.7 *Direct Appeal Exclusive While Pending.* If a direct appeal to the Supreme Court is filed, the parties to the appeal must not, while the appeal is pending, pursue an appeal to the court of appeals. [But if the direct appeal is dismissed, any party may pursue any other appeal available at the time when the direct appeal was filed. The other appeal may be perfected within ten days after dismissal of the direct appeal.]