

**PRO SE LITIGANT**

**FILING GUIDE**

**FOR THE APPELLATE**

**COURTS OF TENNESSEE**

**Appellate Court Clerk's Office  
Supreme Court Building  
401 7<sup>th</sup> Avenue North  
Nashville, TN 37219**

**(Revised October 1, 2007)**

## **Introduction<sup>1</sup>**

The Office of the Appellate Court Clerk is pleased to provide pro se litigants with a new revised filing guide for the appellate courts of Tennessee. When you are not represented by a lawyer and you lose your case, it is hard to know how to appeal the trial court's decision to a higher court. This guide is intended to provide general assistance to persons who (not represented by a lawyer) want to appeal their cases to the appellate courts in this State.

All motions, briefs and other pleadings filed in the appellate courts in Tennessee must be filed in one of three offices of the Appellate Court Clerk. These offices are located in Nashville, Knoxville and Jackson. The staff in all three offices are here to serve all litigants in the appellate courts of Tennessee including pro se litigants. The staff are happy to provide you with the following: (1) the status of a case (what last happened in the case); (2) general information on court rules, procedures and practices; and (3) certain forms and sample pleadings such as notice of appeal and appeal bond forms. However, the staff are not permitted to do any of the following: (1) provide legal advice; (2) estimate when an opinion will be filed; (3) state to which judge a case has been assigned to write the opinion after oral argument or submission of the briefs; (4) provide advice as to whether you should or should not file an appeal or take certain action; or (5) fill out any form or tell you what words to put in the form.

Included in the guide are the following sections: (1) Frequently Asked Questions; (2) Timeline for an Appeal and Brief Color Chart; and (3) Forms and Sample Pleadings. I hope that this guide will be of help to pro se litigants who wish to pursue an appeal in the appellate courts of this State. I invite you to visit the web site of the Appellate Court Clerk's Office located at: <http://www.tncourts.gov/geninfo/AppellClerk/AppellateClerksWeb.htm>. There you will find all of the forms discussed and shown in this filing guide as well as other valuable information such as the oral argument calendars for all the appellate courts.

Michael W. Catalano  
Clerk of the Appellate Courts

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<sup>1</sup>This filing guide should not be relied on as a substitute for the full text of the Tennessee Rules of Appellate Procedure which may be found at the Administrative Office of the Courts web site under court rules: <http://www.tncourts.gov/opinions/tsc/rules/TNrulesofcourt/appellateproindex.htm>

## Frequently Asked Questions

### **What is a notice of appeal?**

A notice of appeal is a short statement that you file with the trial court clerk if you are dissatisfied with the final judgment of a trial court and want to have an appellate court review the trial court decision. The notice of appeal should contain the following information: (1) a list of all the parties taking the appeal in either the caption or the body of the notice of appeal; (2) a designation of the judgment from which you are appealing by listing the date of the judgment and the trial court that entered the judgment; and (3) the appellate court to which you are taking the appeal. A Form Notice of Appeal is attached to these guidelines as **Attachment 1**. The Appellate Court Clerk's Office prefers that you use this notice as it includes additional information necessary for the processing of your appeal in our computer-automated case management system.

### **Where do I file a notice of appeal?**

You file the a notice of appeal with the trial court clerk of the court in the county from which you are seeking to appeal the case.

### **When do I file a notice of appeal?**

You must file a notice of appeal within 30 days of filing of the judgment with the trial court clerk. If the 30<sup>th</sup> day falls on a weekend or a state holiday, then you can file the notice of appeal on the first business day after the weekend or holiday. If the notice of appeal is not timely filed within 30 days, the appellate court will not consider the appeal in civil cases and may not consider the appeal in criminal cases.

### **What is a certificate of service?**

A certificate of service is a statement by the person filing a pleading such as a notice of appeal that he/she has sent copies of the notice of appeal to all of the parties or their attorneys in the case. The certificate of service normally lists the name and address of all the parties or their attorneys, the date you served the document on the other party and the manner by which you served it. The certificate of service also must include the signature of the person serving the pleading. You may serve pleadings by U.S. Mail, courier service (UPS, FedEx, etc.), or hand-delivery. All pleadings filed in the trial and appellate courts must include a certificate of service.

### **When I file a notice of appeal, do I have to file any other document?**

The party appealing the final judgment of the trial judge must file an appeal bond for costs which guarantees the costs of the appeal. If the trial court did not allow you to proceed in the at the trial court level as a poor person or indigent, you must file an appeal bond (or a cash deposit of \$1000.00 if the bond is not filed) must be filed with the notice of appeal at the trial court clerk's

office. However, even if you were not allowed to proceed as a poor person or indigent at the trial level, you may file a motion with the trial court and if denied then with the appellate court to proceed on appeal as a poor person or indigent.

### **What is an appeal bond for costs?**

An appeal bond for costs is a bond that ensures that the costs of the appeal will be paid by the person appealing the case if he/she loses the appeal. The costs of the appeal are the statutory costs incurred by the appellate court clerk in processing the appeal. An appeal bond for costs must be signed by a surety, who is a person other than the party to the appeal and is a resident of the State of Tennessee. Such a bond is an “open” bond with no set amount, and the surety must either be an attorney licensed in Tennessee or a Tennessee resident with assets in Tennessee. The Appellate Court Clerk’s Office prefers that you use the appeal bond for costs form which is attached to these guidelines and marked as **Attachment 2**.

### **What if I cannot find someone who will sign as a surety?**

Instead of an appeal bond for costs, you may file a cash bond in the amount of \$1000.00 payable directly to the trial court clerk. The cash bond must be a certified check or a money order. You must still fill out the notice of appeal form; however, the trial court clerk has to approve the appeal bond for costs and sign the bottom of the notice of appeal form.

### **What if I am poor and cannot afford an appeal bond or litigation tax?**

In order to qualify as a poor person, known as “in forma pauperis”, the trial court judge must make a determination to that effect and enter an order. That order will entitle you to proceed as a poor person on appeal. However, even if the trial court allows to proceed with the appeal because of being poor, you are still responsible for paying court costs if ordered to do so by the appellate court at the conclusion of the appeal. Furthermore, all appealing parties (even poor persons) are still required to pay the state litigation tax which is currently \$13.75 even if the trial court judge determines that you are a poor person. You will also receive an invoice with instructions on payment of the litigation tax. Proceeding as a poor person only waives the requirement of filing a bond. The obligation to pay court costs, should you as the appealing party lose the appeal, is not waived. If you as the appealing party are an inmate, the law requires you as an inmate to pay the tax or to pay 20% of the tax and include a statement of the inmates trust account for the past six months.

### **What is the record on appeal, and what does it contain?**

The record on appeal contains the pleadings filed in the trial court, the transcript of the trial, and any exhibits introduced during the trial. The appellate court considers the record and legal briefs filed by the parties to determine whether the trial court made an error or mistake entitling you as the appellant to any relief from the trial court judgment. Specifically, the record must contain the following:

- (1) copies, certified by the clerk of the trial court, of all papers filed in the trial court except as hereafter provided;
- (2) the original of any exhibits filed in the trial court;
- (3) the transcript or statement of the evidence or proceedings, which shall clearly indicate and identify any exhibits offered in evidence and whether received or rejected;
- (4) any requests for instructions submitted to the trial judge for consideration, whether expressly acted upon or not; and
- (5) any other matter designated by a party and properly included in the record.

**Is anything excluded from being filed in the record?**

Yes, unless a party designates by filing a notice of designation with the trial court clerk within 15 days of the filing of the notice of appeal, the following documents are automatically excluded from the record: (1) subpoenas or summonses for any witness or for any defendant when there is an appearance for such defendant; (2) all papers relating to discovery, including depositions, interrogatories and answers thereto, reports of physical or mental examinations, requests to admit, and all notices, motions or orders relating thereto; (3) any list from which jurors are selected; and (4) trial briefs; and (5) minutes of opening and closing of court.

**Once I have filed the notice of appeal, what do I do next?**

If there was a trial of your case before a judge or jury with testimony from witnesses and a court reporter was present at the trial who took down all of the testimony, you should contact the court reporter to make arrangements to file the transcript with the trial court clerk. If there was a trial of your case before a judge or jury with testimony from witnesses but a court reporter was not present at the trial, you may submit a statement of the evidence recounting the testimony of the witnesses. Under such circumstances, the opposing party or his/her attorney has the opportunity to object to the statement of the evidence, and the trial court judge must resolve the issue before the statement of the evidence is filed. If there was not trial in your case and it was decided upon motions, then you should file a notice with the trial court clerk that no transcript will be filed.

**If the trial court ruled against me without a trial, when must I file a notice of no transcript?**

You must file a notice of no transcript with the trial court clerk within 15 days of the filing of the notice of appeal.

**If the trial court ruled against me and there was a trial, when must the transcript be filed?**

The transcript must be filed with the trial court clerk within 60 days of the filing of the notice of appeal for notices of appeal filed after July 1, 2007.

**What do I do if I need an extension of time for the court reporter to file the transcript?**

As the party appealing the case, you must file a motion for extension of time for filing the transcript with the Appellate Court Clerk addressed to the Court of Appeals or Court of Criminal Appeals depending upon the court to which you appealed. The motion should be accompanied with an affidavit from the court reporter explaining the reasons for the needed extension of time for filing the transcript.

**Who prepares and files the record on appeal?**

The trial court clerk prepares and files the record on appeal with the Appellate Court Clerk's Office within 45 days of the filing of the transcript or notice of no transcript.

**When I receive a notice from the Appellate Court Clerk's Office of the filing of the record, what must I do?**

Once the record is filed with the Appellate Court Clerk's Office, you will receive a notice in the mail from the Appellate Court Clerk stating that the record was filed on the specified date. You should then begin preparing to file your brief with the Appellate Court Clerk's Office. You are permitted to look at the record at the Appellate Court Clerk's Office in preparing your brief, and you may file a motion with the appellate court to which you are appealing and request permission from the appellate court to check out the record.

**What must an appellant's brief contain?**

The brief must contain the following sections<sup>2</sup>:

- (1) A table of contents, with references to the pages in the brief [The table of contents should list each of the below listed categories with the corresponding page in the brief. Also, if you have several sections in the argument, then the beginning of each section should be listed in the table of contents with the corresponding page];

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<sup>2</sup>The information contained in the brackets is an explanation of the actual language contained in the rule setting forth the requirements for a brief.

(2) A table of authorities, including cases [alphabetically arranged], statutes and other authorities cited, with references to the pages in the brief where they are cited [The table of authorities should list all legal authorities to which you refer in your brief with the page designation next to the legal authority];

(3) A jurisdictional statement in cases appealed to the Supreme Court directly from the trial court indicating briefly the jurisdictional grounds for the appeal to the Supreme Court [If you appeal directly to the Supreme Court from the trial court, you must state in a single paragraph the statute or other law which gives the Supreme Court the authority to hear your appeal];

(4) A statement of the issues presented for review [The statement of issues is a listing of all the issues that you want to raise with the appellate court as a basis for either reversing the decision of the trial court or sending the case back to the trial court for a new trial];

(5) A statement of the case, indicating briefly the nature of the case, the course of proceedings, and its disposition in the court below [The statement of the case is the procedural history of your lawsuit. It should begin with the filing of the complaint in the trial court in civil cases or the issuance the arrest warrant by law enforcement officials or issuance of the indictment by the grand jury in criminal cases and end with the filing of the notice of appeal];

(6) A statement of facts, setting forth the facts relevant to the issues presented for review with appropriate references to the record [The statement of the facts is a simple statement of the facts in your case in story form. For every statement of fact, you must cite the page in the record from which that fact was entered into evidence in the case. You cannot state facts that are outside of the record. All facts must be found somewhere in the record.]

(7) An argument, which may be preceded by a summary of argument, setting forth the contentions of the appellant with respect to the issues presented, and the reasons therefor, including the reasons why the contentions require appellate relief, with citations to the authorities and appropriate references to the record [which may be quoted verbatim] relied on [The argument contains those legal reasons why you believe that the trial court or jury made an error in your case which entitles you to either a reversal or to have the appellate court send the case back for a new trial or other relief. You should refer to

the relevant statutes and cases in support of your position along with the facts in the record which support your position.];

(8) A short conclusion, stating the precise relief sought. [The conclusion sets forth the specific relief you are requesting of the appellate court such as reversal, remand for a new trial, etc.]

Samples of the first page of each of these sections are attached to these guidelines as **Attachment 3**.

### **Is there a limit on the number of pages in an appellant's brief?**

Yes. The argument section in a principal brief by the appellant and appellee shall not exceed 50 pages, and the argument section in reply brief by the appellant shall not exceed 25 pages.

### **How long do I have to file an appellant's brief?**

An appellant's brief must be filed with the Appellate Court Clerk's Office within 30 days of the filing of the record on appeal. It is important to remember that the 30 days is counted from the date of the filing of the record not from the date that the appellant receives notice from the Appellate Court Clerk's Office that the record was filed. In the Court of Appeals, you must file the original and 4 copies of the appellant's brief with the Appellate Court Clerk's Office. In the Court of Criminal Appeals you must file an original and 3 copies of the appellant's brief with the Appellate Court Clerk's Office. In addition, the appellant's brief must have a blue cover.

### **What do I do if I need an extension of time for filing my brief?**

If you need an extension of time for filing a brief, you should file a motion for extension with the Appellate Court Clerk's Office before the deadline for filing your brief. Extensions are rarely granted in cases involving parental termination. A form motion for extension is attached to these guidelines and marked as **Attachment 4**.

### **How long does an appellee have to file his/her brief?**

An appellee must file a brief with the Appellate Court Clerk's Office within 30 days of the filing of the Appellant's brief. It is important to remember that the 30 days is counted from the date that the appellant's brief is filed not from the date that the appellee receives the appellant's brief. In the Court of Appeals and Court of Criminal Appeals, you must file the original and 4 copies of the appellee's brief with the Appellate Court Clerk's Office. In addition, the appellee's initial brief must have a red cover.

**As the appellant, may I file a brief in response?**

Yes. The appellant may, but does not have to, file a reply brief to the appellee's brief. If you wish to file a reply brief, you must file it with the Appellate Court Clerk's Office no later than 14 days after the appellee files his/her brief with the Appellate Court Clerk's Office. In addition, the appellant's reply brief must have a gray cover.

**What happens if I do not file a reply brief as the appellant?**

The appellate court considers your case based upon the appellant's brief and the appellee's brief.

**If I want the appellate court to grant a request relating to my appeal while my appeal is pending, how do I make such a request?**

Generally, you may file a written motion asking the appellate court to enter an order granting your request. The motion must be accompanied by a memorandum of law and an affidavit if you are relying on any evidence outside the appellate record. A sample motion is attached to these guidelines and marked as **Attachment 5**.

**Am I entitled to argue my case before the Court of Appeals or Court of Criminal Appeals?**

Pro se litigants, who are not incarcerated in a prison or jail, may appear in the appellate court to argue their cases. However, inmates incarcerated in correctional facilities may not appear to argue their cases in the appellate courts.

**If I want to argue my case before the Court of Appeals or Court of Criminal Appeals, what must I do?**

Pro se litigants, who are not incarcerated in a prison or jail who want to argue their case before the Court of Appeals or Court of Criminal Appeals must include the following words in typewritten form on the front of their brief: "Oral Argument Requested".

**When will oral argument for my case be set after the filing of the appellee's brief?**

There is no deadline for setting a case for oral argument established by rule or statute. As a practical matter, once the appellee's brief has been filed, the case is designated as ready for oral argument. Your case will be placed in line with other cases, and as soon as practicable, it will be set for oral argument. Certain cases, such as parental termination cases, are expedited for oral argument.

**How will I receive notice of the setting of my case for oral argument?**

The Appellate Court Clerk's Office will notify you as soon as your case has been set for oral argument. You are usually given several weeks' notice before the oral argument date. It is your responsibility to keep the clerk's office informed of any change of address, to ensure that you are notified of any changes regarding your case. Oral argument calendars for all appellate courts are posted on the web page of the Appellate Court Clerk's Office on the internet at [www.tncourts.gov](http://www.tncourts.gov).

**May a pro se litigant present new exhibits or testify about his/her case during oral argument?**

No. The appellate court may not hear new testimony nor may it consider new exhibits from anyone. It is an appellate court and may only consider evidence contained in the record along with legal arguments contained in the briefs and made at the time of oral argument.

**Once the judges hear oral arguments, when will they decide my case, and how will I be notified?**

There is no deadline established by statute or rule for an appellate court to issue an opinion or order in an appeal. When an appellate court issues its opinion or order, the Appellate Court Clerk's Office will notify you by mail with a copy of the opinion, judgment and/or order of the appellate court. Opinions but not orders are posted daily on the Web site of the Administrative Office of the Courts at [www.tncourts.gov](http://www.tncourts.gov).

**Can I appeal the decision of the Court of Appeals or Court of Criminal Appeals to the Supreme Court?**

Yes. You may file an Application for Permission to Appeal with the Supreme Court from a decision of the Court of Appeals or Court of Criminal Appeals.

**What is an Application for Permission to Appeal?**

An Application for Permission to Appeal is a request to the Supreme Court for it to agree to hear your appeal. When you appeal a decision of a trial court to the Court of Appeals or Court of Criminal Appeals, you do so as a matter of right by filing a Notice of Appeal. On the other hand, the Supreme Court has the discretion of whether to accept or decline an Application for Permission to Appeal.

**How long after the decision of the Court of Appeals or Court of Criminal Appeals do I have to file an Application for Permission to Appeal?**

You have 60 days from the filing of the opinion and judgment of the Court of Appeals or Court of Criminal Appeals to file an Application for Permission to Appeal to the Supreme Court.

Failure to file the application within 60 days will result in dismissal of the application. Also, the Supreme Court will not grant any requests for extension to file an Application for Permission to Appeal.

**How do I calculate the time for filing of documents with the Appellate Court Clerk's Office?**

In computing any period of time prescribed or allowed by these rules, you do not include the date of the filing from which you are counting in the number of days. For example, if the appellant's brief was filed on Monday, then you begin to count the 30 days for filing the appellee's brief on Tuesday. If your due date for filing your pleading falls on a Saturday, a Sunday, a legal holiday, or on a day on which weather or other conditions have made the office of the court clerk inaccessible, then your pleading is not due to be filed until the first business day after that date. For example, if your brief is due on Saturday, you may file it timely on the next business day which is Monday unless Monday is a holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays and legal holidays are excluded from the computation.

**What are the form requirements for briefs, motions and other pleadings filed in the appellate courts?**

The form requirements for all pleadings including briefs and motions in the appellate courts are: (1) opaque, unglazed 8 ½ x 11 inches white paper; (2) double-spaced text (may be single spaced for quoted matters of 50 words or more); (3) text no smaller than standard elite typewriting; (4) Side margins no smaller than 2 inches combined and top and bottom margins no smaller than 1 ½ inches; (5) numbering of pages at the bottom of each page; and (6) pages fastened together on the left side.

**What is the proper way to cite to the record, transcript, exhibits, statutes and appellate court decisions?**

The following is a short listing of the generally accepted way to cite to various portions of the record and legal authorities:

1. Single Volume Record - (R., 25)
2. Multi-Volume Record - (IV R., 42)
3. Transcript - (Tr. 291)
4. Multi-Volume Transcript - (IX Tr., 149)
5. Exhibit - (Ex. 35)
6. Tennessee Code - Tenn. Code Ann. § 8-21-501

7. Tennessee Appellate Court Decision - *Smith v. Jones*, 15 S.W.3d 295 (Tenn. 2000)
8. Tennessee Rules of Appellate Procedure - Tenn. R. App. P. 13
9. Tennessee Constitution - Tenn. Const. Art. II, § 2

**What about parental termination cases? Are the time deadlines the same as or different from regular appeals?**

Effective July 1, 2004, the rules changed regarding deadlines in parental termination appeals. These changes were made to expedite these appeals, providing a balance between the parents rights and not having the child linger in the system for an unnecessarily long period of time.

The changes are as follows:

1. The Notice of Appeal in addition to the other requirements shall indicate that “the appeal involves a termination of parental rights” case.
2. The transcript is to be filed with the trial court clerk 45 days from the filing of the notice of appeal.
3. Objections to the filing of the transcript must be made within 10 days after the service of the notice of the filing of the transcript.
4. In addition to the documents that are excluded from the record as stated in Tenn. R. App. Pro. 24(a), any portion of the juvenile court file of a child dependency, delinquency or status offense case that has not been properly admitted into evidence at the termination of parental rights trial shall be excluded from the record.
5. The trial court judge now has 20 days after the expiration of the period for filing objections to the transcript to approve the transcript or the record is deemed to have been approved.
6. The trial court clerk now has 5 days from the date the judge approves the record or the date of automatic approval in which to transmit the record to the court of appeals.
7. While the appellant’s brief is still due 30 days from the filing of the record with the appellate court clerk’s office. The appellee’s brief is now due 20 days from the filing of the appellants brief.

**Where is the Appellate Court Clerk’s Office located?**

There are three Appellate Court Clerk’s Offices located in Nashville, Knoxville and Jackson.

You should file all motions, briefs and other documents in the city located in the grand division of the trial court from which you are appealing the final judgment: (1) East - Knoxville; (2) Middle - Nashville; and (3) West - Jackson. The addresses of the Appellate Court Clerk's Offices are as follows:

**Nashville**

Appellate Court Clerk's Office  
Middle Division  
Supreme Court Building  
401 7<sup>th</sup> Avenue North  
Nashville, TN 37219-1407  
Office: 615-741-1314  
Fax: 615-532-8757

**Knoxville**

Appellate Court Clerk's Office  
Eastern Division  
Supreme Court Building  
P.O. Box 444  
Knoxville, TN 37901  
Office: 865-594-6700  
Fax: 865-594-6497

Shipping Address:  
505 Main Street  
Suite 200  
Knoxville, TN 37902

**Jackson**

Appellate Court Clerk's Office  
Western Division  
Supreme Court Building  
P.O. Box 909  
Jackson, TN 38302-0909  
Office: 731-423-5840  
Fax: 731-423-6453

Shipping Address:  
#6 Highway 45 By-Pass  
Jackson, TN 38301

**If I want the appellate court to take some action with respect to how my appeal is being handled, how do I bring it to the appellate court's attention?**

You may file an application for an order from the appellate court in the form of a motion. The motion must state the grounds on which it is based and cite any legal authorities in support of the motion. If you rely upon facts not appearing in the record, you must include an affidavit supporting those facts. A sample motion is attached to these guidelines and marked as **Attachment 5**.

**How can I file motions, briefs or any other documents with the Appellate Court Clerk’s Office?**

There are several ways to file motions, briefs or other documents with the Appellate Court Clerk’s Office: (1) Hand-delivery to the Appellate Court Clerk’s Office; (2) U.S. Mail; (3) Courier service such as UPS or Federal Express; and (4) Telefax in certain limited circumstances.

Filings may be placed in a drop box located at the entrance of each of the Supreme Court Buildings in the Knoxville, Nashville and Jackson locations. Filings placed in the box will be stamped filed the previous day. Example: If a filing is placed in the box at 8:00 p.m. on September 5<sup>th</sup>, it will be retrieved on September 6<sup>th</sup> at 8:00 a.m. but the filing will be stamped filed for September 5<sup>th</sup>.

**If I lose the appeal and I am a poor person or indigent, do I have to pay the Appellate Court Clerk’s costs for the appeal?**

If the appellate court assesses or taxes costs against you in the judgment, then you are obligated to pay the costs even if you were permitted to proceed on the appeal as a poor person or indigent. Status as a poor person or indigent only entitles you to proceed on appeal without having to file an appeal bond.

**What are the business hours of the Appellate Court Clerk’s Offices?**

The Appellate Court Clerk’s Offices are open from 8:00 a.m. to 4:30 p.m. (Local Time) on Monday through Friday except for State Holidays which are as follows:

<b>Holiday</b>	<b>Date</b>
New Year’s Day	January 1
Martin Luther King, Jr. Day	3 <sup>rd</sup> Monday in January
Presidents’ Day	3 <sup>rd</sup> Monday in February
Good Friday	Friday before Easter
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1 <sup>st</sup> Monday in September
Columbus Day <sup>3</sup>	2 <sup>nd</sup> Monday in October
Thanksgiving Day	4 <sup>th</sup> Thursday in November
Christmas Day	December 25

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<sup>3</sup>By law, the Governor may substitute the Friday after Thanksgiving for Columbus Day.

### Time-Line For An Appeal<sup>4</sup>

<b>Person Filing</b>	<b>Item Filed</b>	<b>Time Deadline</b>	<b>Location Filed</b>	<b>TRAP Rule</b>
Appellant	Notice of Appeal	30 days after entry of final order	Trial court clerk	4(a)
Appellant	Cost bond - Open with sufficient sureties, \$1000 cash or pauper's oath	30 days after entry of final order	Trial court clerk	6, 9 & 10
Trial Court Clerk	Copy of Notice of Appeal in Civil & Criminal cases	7 days after Notice of Appeal filed	Appellate Court Clerk	5
Appellant	Designation of record if less than full record is needed	15 days after Notice of Appeal	Trial court clerk	24(a)
Appellee	Designation of record if any, in addition to Appellant	15 days after service of Appellant's designation	Trial court clerk	24(b)
Appellant	Filing of certified transcript with proof of service to Appellee	60 days after filing Notice of Appeal	Trial court clerk	24(c)
Appellant	Statement of evidence when no transcript of evidence is available	60 days after filing Notice of Appeal	Trial court clerk	24(d)
Appellant	Notice that no transcript of the evidence or statement of the evidence to be filed	15 days after the Notice of Appeal	Trial court clerk	24(d)

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<sup>4</sup>This is a general time line for most cases; however, the time line may be different for certain specific appeals. For example, the time-line for parental termination appeals is on an expedited basis and is controlled by Tenn. R. App. P. 8A.

<b>Person Filing</b>	<b>Item Filed</b>	<b>Time Deadline</b>	<b>Location Filed</b>	<b>TRAP Rule</b>
Trial Court Judge	Approval of the Transcript of the Evidence or the Statement of the Evidence	30 days after the 15 day objection period expires	Trial court clerk	24(f)
Trial Court Clerk	Appellate Record	45 days after the Transcript of the Evidence, Statement of the Evidence, or Notice of No Transcript filed	Transmit to Appellate Court Clerk	25(a) & (b)
Trial Court Clerk	Extension of time for completion of the record	45 day period - No more than 60 days after filing Transcript of the Evidence or Statement of the Evidence	Appellate Court Clerk	25(d)
Appellate Court Clerk	Notice of Filing of Record	Upon Receipt and Filing of Record	Trial court clerk and parties	26(a)
Appellant	Appellant's Brief	30 days after the filing of the record	All Parties	29(a)
Appellee	Appellee's Brief	30 days after the filing of Appellant's Brief	All Parties	29(a)
Appellant	Appellant's Reply Brief (Optional)	14 days after the filing of Appellee's Brief	All Parties	29(a)
Appellate Court Clerk	Notice of Oral Argument scheduled	Upon setting of the appeal for oral argument	All Parties	35(b)

<b>Person Filing</b>	<b>Item Filed</b>	<b>Time Deadline</b>	<b>Location Filed</b>	<b>TRAP Rule</b>
Appellate Court Clerk	Opinion of the Intermediate Appellate Court and Judgment	Date the Opinion and Judgment filed	All Parties	38
Appellate Court Clerk	Application for Permission to Appeal (TRAP 11)	60 days after entry of judgment of the Int. App. Court	All Parties	11(b)
Appellate Court Clerk	Mandate (Certified copy of Opinion and Judgment)	61 days after entry of the judgment or immediately after denial of TRAP 11 Application by the Supreme Court	Trial Court Clerk & all Parties	42
Appellate Court Clerk	Response in Opposition to TRAP 11 Application	15 days after filing of TRAP 11 Application to the Supreme Court	All Parties	11(d)
Appellate Court Clerk	Order Granting TRAP 11 Application	Upon issuance by Supreme Court	All Parties	11(e)
Appellate Court Clerk	Appellant's Brief in the Supreme Court	At time of filing the TRAP 11 Application or 30 days after the Supreme Court grants the TRAP 11 Application	All Parties	11(f)
Appellate Court Clerk	Appellee's Brief in the Supreme Court	30 days after filing of Appellant's Brief	All Parties	11(f)
Appellate Court Clerk	Appellant's Reply Brief in the Supreme Court (Optional)	14 days after filing of Appellee's Brief	All Parties	11(f)
Appellate Court Clerk	Notice of Oral Argument scheduled	Upon setting of the appeal for oral argument	All Parties	35(b)

<b>Person Filing</b>	<b>Item Filed</b>	<b>Time Deadline</b>	<b>Location Filed</b>	<b>TRAP Rule</b>
Appellate Court Clerk	Opinion of the Supreme Court and Judgment	Date the Opinion and Judgment filed	All Parties	38
Appellate Court Clerk	Mandate (Certified copy of Opinion and Judgment)	11 days after entry of the judgment	Trial Court Clerk & all Parties	42

### Color Chart for Briefs

<b>Court</b>	<b>Appellant's Brief</b>	<b>Appellee's Brief</b>	<b>Reply Brief</b>	<b>Amicus Brief</b>	<b>Motions w/ Affidavit</b>	<b>Petitions to Rehear</b>
<u>Court of Appeals</u>	Original + 4 copies (Blue cover)	Original + 4 copies (Red cover)	Original + 4 copies (Gray cover)	Original + 4 copies (Green cover)	Original + 1 copy (No cover)	Original + 3 copies (No cover)
<u>Court of Criminal Appeal</u>	Original + 3 copies (Blue cover)	Original + 3 copies (Red cover)	Original + 3 copies (Gray cover)	Original + 3 copies (Green cover)	Original + 3 copies (No cover)	Original + 3 copies (No cover)
<u>Supreme Court</u>	<b>Application</b>	<b>Response</b>				
<i>Rule 11 (Application)</i>	Original + 6 copies (Blue cover preferred)	Original + 6 copies (Red cover preferred)				
	<b>Appellant's Brief</b>	<b>Appellee's Brief</b>	<b>Reply Brief</b>	<b>Amicus Brief</b>	<b>Motions w/ Affidavits</b>	<b>Petitions to Rehear</b>
<i>Merits' Briefs</i>	Original + 5 copies (Blue cover)	Original + 5 copies (Red cover)	Original + 5 copies (Gray cover)	Original + 5 copies (Green cover)	Original + 1 copy (No cover)	Original + 5 copies (No cover)
<u>Workers' Comp Panel (Supreme Court)</u>	Original + 3 copies (Blue cover)	Original + 3 copies (Red cover)	Original + 3 copies (Gray cover)			Review by Entire SCt Original + 5 copies

**Forms**

**and**

**Samples**

**ATTACHMENT 1  
NOTICE OF APPEAL FORM**

**NOTICE OF APPEAL**

Style: \_\_\_\_\_  
v. \_\_\_\_\_  
\_\_\_\_\_

Notice: Notice is hereby given that \_\_\_\_\_  
(List Name(s) of all appealing party(ies) \*Use  
Additional sheet if necessary\*)  
appeals as follows:

Appeal to:  Supreme Court  Post-Conviction  Parental Termination  
 Worker's Comp Case  Capital Case  
 Court of Appeals  Court of Criminal Appeals

Appealed from:  Circuit  Chancery  Criminal (○ Misdemeanor ○ Felony)  
 Juvenile  Probate  General Sessions  Claims Commission

County: \_\_\_\_\_

Trial Court No. : \_\_\_\_\_

Trial Judge: \_\_\_\_\_

File Date of Judgment Appealed: \_\_\_\_\_

Bond on appeal is:  Filed (Copy Attached)  Indigent  Not required  Cash bond

If not required, state reason:

\_\_\_\_\_  
(\*\*Copy of Affidavit/Order of Indigency must be attached\*\*)

**Appellant(s)**

[Party(ies) initiating the appeal]

Appellant: \_\_\_\_\_ At trial:  Plaintiff  Defendant

Party's Address: \_\_\_\_\_

Party's Telephone: \_\_\_\_\_

*\* Attach an additional sheet for each additional Appellant \**

**Appellee(s)**

**Appellee:** \_\_\_\_\_ At trial:  Plaintiff  Defendant

Appellee's Address: \_\_\_\_\_

Attorney's Name: \_\_\_\_\_ BPR#: \_\_\_\_\_

Attorney's Address: \_\_\_\_\_ Phone: \_\_\_\_\_

*\* Attach an additional sheet for each additional Appellee \**

**Attorney or Pro Se Party(ies):**

\_\_\_\_\_

\_\_\_\_\_

Name (please print)

Signature

BPR Number

Address of Attorney or Pro Se Party: \_\_\_\_\_

\_\_\_\_\_

**Certificate of Service**

I, \_\_\_\_\_, certify that I have sent a copy of this motion by U.S. Mail, postage prepaid, to all counsel of record or parties on this the \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Signature of Counsel or Party

**ATTACHMENT 2**  
**APPEAL BOND FOR COSTS FORM**  
**APPEAL BOND FOR COSTS**

I (we), \_\_\_\_\_, principal(s)/ Appellant(s), and  
I (we), \_\_\_\_\_, the surety(ies)/ Attorney, bind myself/ourselves  
for the costs of appeal in:

\_\_\_\_\_ vs. Cause No. \_\_\_\_\_

\_\_\_\_\_, or  
PRINCIPAL/APPELLANT (Signature)

\_\_\_\_\_ by \_\_\_\_\_  
PRINCIPAL (Print) ATTORNEY (Signature)

PRINCIPAL'S ADDRESS: \_\_\_\_\_

PRINCIPAL(S) SOCIAL SECURITY NO.: \_\_\_\_\_

*(street address only; **NO** P.O. boxes; **NO** in care of principal's attorney)*  
*(Social Security Numbers Required for individual principal(s) per Tenn. Code Ann. § 25-1-108)*

\_\_\_\_\_ by \_\_\_\_\_ SURETY  
(Print) (Signature)

SURETY'S ADDRESS: \_\_\_\_\_

*(street address only; **NO** P.O. boxes)*

**IF THE PRINCIPAL(S) PAY ALL COSTS OF APPEAL, THEN THIS OBLIGATION IS VOID. IF PRINCIPAL(S) FAIL(S) TO PAY, THEN THE SURETY IS OBLIGATED TO PAY ALL COSTS OF APPEAL.**

**\*IF YOU DO NOT HAVE A SURETY TO SIGN YOUR BOND FOR COSTS \***: A cash deposit of \$1,000.00 is deemed sufficient instead of a surety bond, except as otherwise required by the trial court clerk and/or the Appellate Court Clerk.

A deposit of \$ \_\_\_\_\_ in cash has been made by \_\_\_\_\_ with \_\_\_\_\_ of the \_\_\_\_\_ court clerk's office on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

Approved by: \_\_\_\_\_  
Trial Court Clerk or Appellate Court Clerk

**ATTACHMENT 3A - BRIEF - COVER PAGE**

**IN THE COURT OF APPEALS OF TENNESSEE  
AT NASHVILLE**

**NISSAN NORTH AMERICA, INC.,** )  
**Successor by Merger to NISSAN MOTOR** )  
**MANUFACTURING COMPANY,** )  
 )  
Plaintiff/Appellee, )  
 )  
v. ) Case No. M2003-00813-COA-R3-CV  
 )  
**LINDA J. HAISLIP, Marshall County** )  
**Assessor of Property, et al.,** )  
 )  
 )  
Defendants/Appellants. )

*Rule 3 Appeal from the Final Judgment of the  
Chancery Court for Davidson County, Case No. 02-1614-III*

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**BRIEF OF APPELLANT  
STATE BOARD OF EQUALIZATION**

---

PAUL G. SUMMERS  
Attorney General and Reporter

MICHAEL E. MOORE  
Solicitor General

MARY ELLEN KNACK (#14927)  
Assistant Attorney General  
Office of the Attorney General of Tennessee  
P.O. Box 20207  
Nashville, Tennessee 37202  
(615) 741-7404

**[Oral Argument Requested]**

**ATTACHMENT 3B - BRIEF - TABLE OF CONTENTS**

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NISSAN IS LIABLE FOR AD VALOREM TAXES ON THE SPECIAL TOOLS BECAUSE THE TOOLS WERE OWNED BY NISSAN, WERE USED OR HELD FOR USE IN NISSAN’S BUSINESS, AND WERE NOT LEASED TO THE VENDORS. ....	7
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**ATTACHMENT 3C - BRIEF - STATEMENT OF THE ISSUE(S)**

**STATEMENT OF THE ISSUE PRESENTED FOR REVIEW**

Whether the Chancery Court erred in holding that Nissan was not liable for ad valorem taxes on tangible personal property, *i.e.* special tools, that were owned by Nissan but that were in the possession of its contractors in Marshall and Lawrence counties based on the Chancery Court's ruling that the property was "leased" to the contractors.

## ATTACHMENT 3D - STATEMENT OF THE CASE

### STATEMENT OF THE CASE

In the underlying administrative proceedings, the State Board of Equalization was required to determine whether the Appellee, Nissan North America, Inc., was subject to ad valorem taxes on personal property that was owned by Nissan but that was located at the premises of its contractors in Marshall and Lawrence counties. (Administrative Record (A.R.) vol. I, p. 5). The property consisted of certain tools that were located at the premises of Kantus Corporation in Marshall County and Excel Industries in Lawrence County. (A.R. vol. I, 74-75). After the administrative judge assigned to the case issued an Initial Decision and Order ruling that Nissan was liable for payment of ad valorem taxes on the tools, Nissan appealed this determination to the Board's Assessment Appeals Commission. (A.R. vol. I, pp. 92-94, 105-11).

The Assessment Appeals Commission likewise ruled that Nissan was liable for the taxes. (A.R. vol. I, pp. 5-8). In reaching this decision, the Appeals Commission rejected Nissan's argument that Nissan should not be assessed for the tools because the tools were "leased" to its contractors within the meaning of Tenn. Code Ann. § 67-5-904. (A.R. vol. I, p. 6). The Commission's decision became final on March 31, 2002, when the Board issued Official Certificates certifying ad valorem assessments for the disputed property. (A.R. vol. I, pp. 1-4).

## ATTACHMENT 3E - BRIEF - STATEMENT OF THE FACTS

### STATEMENT OF FACTS

In the administrative proceedings before the Board, the parties stipulated to the pertinent facts. (A.R. vol. I, pp. 73-84). Nissan owns a plant in Smyrna, Rutherford County, Tennessee, where it manufactures motor vehicles. (A.R. vol. I, p. 73). As part of its normal business operations, Nissan contracts with various suppliers, including Kantus Corporation and Excel Industries (the “Vendors”), to manufacture and supply parts that Nissan uses to manufacture its automobiles. (A.R. vol. I, pp. 73-74). Kantus operates a manufacturing facility in Marshall County, and Excel operates a facility in Lawrence County. (A.R. vol. I, p. 74). The tangible personal property at issue was located at these facilities. (A.R. vol. I, p. 75).

During the tax years in question, neither Nissan nor the Vendors reported as tangible personal property “special tools” that were owned by Nissan and located at the Vendors’ manufacturing facilities. (A.R. vol. I, p. 76). These “special tools” consisted of molds, patterns, dies, jigs, fixtures, and gauges that were used by the Vendors to manufacture parts for Nissan. (A.R. vol. I, pp. 74-75). In the typical arrangement between the parties, Nissan established specifications for the tools, which the Vendors designed and manufactured according to these specifications. (A.R. vol. I, pp. 74-75). Nissan then purchased the tools from the Vendors and remained the owner of the tools throughout their useful life. (A.R. vol. I, pp. 74-76).

## ATTACHMENT 3F - BRIEF - ARGUMENT

### ARGUMENT

#### **NISSAN IS LIABLE FOR AD VALOREM TAXES ON THE SPECIAL TOOLS BECAUSE THE TOOLS WERE OWNED BY NISSAN, WERE USED OR HELD FOR USE IN NISSAN'S BUSINESS, AND WERE NOT LEASED TO THE VENDORS.**

In Tennessee, the general rule is that all property is assessable against the owner of that property. *See* Tenn. Code Ann. § 67-5-502(a) (1998) (providing that “[t]he function of assessment shall be to assess . . . [a]ll property . . . to the person or persons owning or claiming to own the same”). To this end, the property tax statutes require business taxpayers, like Nissan, to annually report “all tangible personal property owned by the taxpayer and used or held for use in [the taxpayer’s] business or profession including, but not limited to, furniture, fixtures, machinery and equipment, all raw materials, [and] supplies.” Tenn. Code Ann. § 67-5-903(a) (1998).

An exception to the general rule arises in cases involving “leased” personal property. The property tax statutes provide that “leased personal property shall be classified according to the lessee’s use and assessed to the lessee.” Tenn. Code Ann. § 67-5-502(c) (1998); *see also* Tenn. Code Ann. § 67-5-901(b) (1998) (“[l]eased personal property in the possession of the lessee shall be classified and assessed according to the use of the lessee”). Thus, leased personal property is assessed to the lessee rather than to the property's owner.

In the present case, it was undisputed that Nissan was the owner of the special tools that form the subject of this dispute. (A.R. vol. I, pp. 75-76). It likewise was undisputed that these tools were used as directed by Nissan to manufacture parts used in Nissan’s production of motor vehicles. (A.R. vol. I, p. 73-76).

**ATTACHMENT 3G - BRIEF - CONCLUSION**

**CONCLUSION**

For these reasons, the State Board of Equalization requests this Court to reverse the Chancery Court's order ruling that Nissan was not assessable for the tools and to reinstate the Board's decision that Nissan is liable for ad valorem taxes on the tools.

Respectfully submitted,

PAUL G. SUMMERS  
Attorney General and Reporter

MICHAEL E. MOORE  
Solicitor General

---

MARY ELLEN KNACK (#14927)  
Assistant Attorney General  
Office of the Attorney General of Tennessee  
P.O. Box 20207  
Nashville, Tennessee 37202  
(615) 741-7404

Counsel for State Board of Equalization

**ATTACHMENT 3H - CERTIFICATE OF SERVICE**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the foregoing Brief of Appellant State Board of Equalization has been served upon counsel for Appellee by U.S. Mail, postage prepaid, addressed to:

Martha J. Trammell  
NISSAN NORTH AMERICA, INC.  
983 Nissan Drive  
Smyrna, Tennessee 37167

Timothy J. Peaden  
Mary T. Benton  
ALSTON & BIRD, LLP  
One Atlantic Center  
1201 West Peachtree Street  
Atlanta, Georgia 30309-3424

on this the \_\_\_\_\_ day of July, 2003.

---

MARY ELLEN KNACK  
Assistant Attorney General

**ATTACHMENT 4 - FORM MOTION FOR EXTENSION**

**IN THE \_\_\_\_\_ COURT FOR THE STATE OF TENNESSEE**

[Insert which appellate court]

**SECTION AT \_\_\_\_\_**

[Insert which Grand Division]

[Insert which city]

_____	)
[Insert Name of Party]	)
<b>Plaintiff/</b> _____	)
[Insert Appellant or Appellee]	)
<b>Appeal No.</b> _____	)
_____	)
[Insert Appeal No.]	)
<b>v.</b>	)
_____	)
[Insert Name of Party]	)
<b>Defendant/</b> _____	)
[Insert Appellant or Appellee]	)

**Motion for Extension of Time for Filing Brief**

\_\_\_\_\_ requests \_\_\_\_ days extension of time within which to file a  
[Insert Appellant/Appellee]  
brief from the original due date of \_\_\_\_\_, in this case.

This is Movant's: \_\_\_ 1<sup>st</sup> : \_\_\_ 2<sup>nd</sup> : \_\_\_ (Other) request for extension in this case.

**Opposing Counsel:** \_\_\_\_\_ **Does Not** object to this motion.  
[check one] \_\_\_\_\_ **Objects**  
\_\_\_\_\_ **Called, unable to reach and left message**

Reason (Good Cause) for extension: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Affidavit**

I, \_\_\_\_\_, swear and/or affirm that all of the facts stated in this motion  
[Insert Appellant/Appellee or counsel]  
are true and correct to the best of my knowledge.

\_\_\_\_\_  
[Signature of Appellant/Appellee or counsel]

\_\_\_\_\_  
[Print Name of Appellant/Appellee or counsel]

Sworn to and subscribed before me  
this the \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Signature of Notary Public]

\_\_\_\_\_  
[Printed Name of Notary Public]

**Certificate of Service**

I, \_\_\_\_\_, certify that a true and exact copy of the foregoing  
[Insert name of appellant/appellee or counsel]  
motion has been forwarded by \_\_\_\_\_ on \_\_\_\_\_ day of  
[insert U.S Postal Service, Courier Service, or Hand-delivery, etc]  
\_\_\_\_\_, 20\_\_ to the following parties and/or their counsel of record with their full-mailing  
address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
[Signature of appellant/appellee or counsel]

**ATTACHMENT 5 - SAMPLE MOTION**

**IN THE COURT OF APPEALS OF TENNESSEE  
AT NASHVILLE**

**ANR PIPELINE CO.,**

Petitioner-Appellant,

v.

**TENNESSEE STATE BOARD OF  
EQUALIZATION,**

Respondent-Appellee.

)  
)  
)  
)  
)  
)  
)

No. M2001-01119-COA-R12-CV

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**MOTION FOR LEAVE OF COURT OF APPEALS TO  
CORRECT CLERICAL MISTAKE IN FINAL DECISION AND ORDER OF  
TENNESSEE STATE BOARD OF EQUALIZATION AND TO  
SUPPLEMENT RECORD ON APPEAL WITH CORRECTED ORDER**

---

Respondent-Appellee Tennessee State Board of Equalization, through the Office of the Attorney General, moves the Court for leave to correct a clerical mistake in the Board's Final Decision and Order dated March 14, 2001, and to supplement the record on appeal with the Board's corrected order.

The caption of the March 14, 2001, Final Decision and Order indicated that Petitioner-Appellant Trunkline Gas Company's appeal covered the tax years 1997-2000. (Administrative Record (A.R.) vol. I, pp. 13). The administrative record filed with the Court by the Board, however, indicates that Trunkline's appeal covered only the tax years 1997-1999. Trunkline's appeals for these three tax years appear at the following pages of the administrative record: Tax Year 1997, vol. XIV, pp. 1940-41; Tax Year 1998, vol. XIV, pp. 1903-04; and Tax Year 1999, vol. X, pp. 1361-62. Appeals filed for tax year 2000 by the various pipeline companies did not include an appeal by Trunkline. (A.R. vol. III, pp. 323-36). Accordingly, the caption of the Board's Final Decision and Order should be corrected to reflect that Trunkline's appeal applied only to tax years 1997, 1998, and 1999.

A Supplemental Record containing a Corrected Final Decision and Order setting forth this correction is included with this Motion. Counsel for the Board has contacted counsel for Trunkline Gas Company, Stephen D. Goodwin, who indicated that he did not represent Trunkline for tax year 2000 and that he was not authorized to state whether or not Trunkline filed an appeal for that year. Trunkline's counsel did agree, however, that his representation of Trunkline in the underlying administrative proceeding covered only tax years 1997, 1998, and 1999.

Respectfully submitted,

PAUL G. SUMMERS  
Attorney General and Reporter

---

MARY ELLEN KNACK (#14927)  
Assistant Attorney General  
Office of the Attorney General  
Tax Division  
P.O. Box 20207  
Nashville, Tennessee 37202  
(615) 741-7404  
(615) 741-3334 *fax*

Counsel for Respondent-Appellee  
Tennessee State Board of  
Equalization

**CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the foregoing Motion has been served by placing same in the U.S. Mail, postage prepaid, to all counsel of record on this the \_\_\_\_\_ day of February, 2002.

---

MARY ELLEN KNACK  
Assistant Attorney General