

IN THE SUPREME COURT OF MISSISSIPPI

NO. 89-R-99027 SCT

IN RE: MISSISSIPPI RULES OF APPELLATE PROCEDURE

ORDER

This matter is today before the Court, en banc, on its own motion. In the interest of the fair and efficient administration of justice, the Court had determined to amend certain of the Mississippi Rules of Appellate Procedure.

IT IS, THEREFORE ORDERED that M.R.A.P. 2(a)(2) be and the same is hereby amended as set forth in Exhibit "A", and

IT IS FURTHER ORDERED that M.R.A.P. 2(b) be and the same is hereby amended as set forth in Exhibit "B" hereto, and

IT IS FURTHER ORDERED that M.R.A.P. 10(b)(5) be and the same is hereby amended as set forth in Exhibit "C" hereto, and

IT IS FURTHER ORDERED that M.R.A.P. 16(d) be and the same is hereby amended as set forth in Exhibit "D" hereto, and

IT IS FURTHER ORDERED that M.R.A.P. 17(b) be and the same is hereby amended as set forth in Exhibit "E" hereto, and

IT IS FURTHER ORDERED that M.R.A.P. 17(e) be and the same is hereby amended as set forth in Exhibit "F" hereto, and

IT IS FURTHER ORDERED that M.R.A.P. 21(d) be and the same is hereby amended as set forth in Exhibit "G" hereto, and

IT IS FURTHER ORDERED that M.R.A.P. 22 be and the same is hereby amended as set forth in Exhibit "H" hereto, and

IT IS FURTHER ORDERED that M.R.A.P. 27(b) be and the same is hereby amended as set forth in Exhibit "I" hereto, and

IT IS FURTHER ORDERED that M.R.A.P. 27(c) be and the same is hereby amended and an additional M.R.A.P. 27(g) is adopted as set forth in Exhibit "J" hereto, and

IT IS FURTHER ORDERED that the Comment to M.R.A.P. 27 be and the same is hereby amended as set forth in Exhibit "K" hereto, and

IT IS FURTHER ORDERED that M.R.A.P. 35-A and 35-B and the Comment to those rules be and the same are hereby amended as set forth in Exhibit "L" hereto, and

IT IS FURTHER ORDERED that M.R.A.P. 40(b) be and the same is hereby amended as set forth in Exhibit "M" hereto, and

IT IS FURTHER ORDERED that M.R.A.P. 46(b) be and the same is hereby amended as set forth in Exhibit "N" hereto, and

IT IS FURTHER ORDERED that the foregoing amendments shall be effective as to Rule 16(d) from and after entry of this Order, and as to Rules 35-A and 35-B from and after November 1, 1998. All other amendments shall be effective from and after January 1, 1999.

IT IS FURTHER ORDERED that the Clerk of this Court shall spread this Order upon the minutes of the Court and shall forthwith forward a true certified copy hereof to West Publishing Company for publication as soon as practical in the advance sheets of *Southern Reporter, Second Series (Mississippi Edition)* and in the next edition of *Mississippi Rules of Court*.

SO ORDERED, this, the _____ day of October, 1998.

LENORE L. PRATHER, CHIEF JUSTICE,

FOR THE COURT

PITTMAN, P.J., NOT PARTICIPATING

MCRAE, J. WOULD NOT ADOPT THE AMENDMENTS

EXHIBIT "A" TO ORDER

AMENDMENT TO M.R.A.P. 2(a)(2)

(2) *Discretionary Dismissal*. An appeal may be dismissed upon motion of a party or on motion of the appropriate appellate court (i) when the court determines that there is an obvious failure to prosecute an appeal; or (ii) when a party fails to comply substantially with these rules. When either court, on its

own motion or on motion of a party, determines that dismissal may be warranted under this Rule 2(a) (2), the clerk of the Supreme Court shall give written notice to the party in default, apprising the party of the nature of the deficiency. If the party in default fails to correct the deficiency within fourteen 14 days after the notification, the appeal shall be dismissed by the clerk of the Supreme Court. The attorney for the party in default has the burden to correct promptly any deficiency or to see that the default is corrected by the appropriate official. Motions for additional time in which to file briefs will not be entertained after the notice of the deficiency has issued.

EXHIBIT "B" TO ORDER

AMENDMENT TO M.R.A.P. 2(b)

(b) Other Sanctions. The Supreme Court or the Court of Appeals may, after reasonable notice given by the clerk of the Supreme Court and opportunity to show cause to the contrary, and after hearing, if requested, impose such sanctions as may be appropriate on any party, court reporter, trial court clerk, or attorney who fails to comply with these rules or any order issued pursuant to these rules. Trial court judges have concurrent jurisdiction to sanction any party, court reporter, trial court clerk, or attorney who fails to comply with Rules 3, 10 and 11. A copy of any such sanction order shall be served on the clerk of the Supreme Court and may be reviewed by the Supreme Court for abuse of discretion.

EXHIBIT "C" TO ORDER

AMENDMENT TO M..R.A..P. 10(b)(5)

(5) Attorney's Examination and Proposed Corrections. For ~~seven (7)~~ fourteen (14) days after service of the clerk's notice of completion under Rule 1 l(d)(2), the appellant shall have the use of the record for examination. On or before the expiration of that period appellant's counsel shall deliver or mail the record to one firm or attorney representing the appellee, and shall append to the record both a written statement of any proposed corrections to the record, certifying that the attorney has carefully examined the record, that with the proposed corrections, if any, it is true, correct and complete and includes all items designated for the record, and a certificate of service. Counsel for the appellee shall examine the record and return it to the trial court clerk within ~~seven (7)~~ fourteen (14) days after service, and shall append to the record a written statement of any proposed corrections to the record, certifying that the attorney has carefully examined the record, that with the proposed corrections, if any, it is true correct and complete and includes all items designated for the record and a certificate of service. Corrections as to which counsel for all parties agree in writing shall be deemed made by stipulation. If the parties propose corrections to the record but do not agree on the corrections, the trial court clerk shall forthwith deliver the record with proposed corrections to the trial judge. The trial judge shall promptly determine which corrections, if any, are proper, enter an order under Rule 10(e), and return the record to the court reporter or the trial court clerk who shall within seven (7) days make corrections directed by the order.

EXHIBIT "D" TO ORDER

AMENDMENT TO M.R.A.P. 16(d)

(d) Initial Assignment to the Court of Appeals. ~~The Chief Justice, or his designated assignment justice, appointed by the Chief Justice from among the sitting justices of the Supreme Court, shall receive and review each case filed in the Supreme Court and shall determine which cases are to be retained by the Supreme Court and which are to be assigned to the Court of Appeals. The assignment justice shall enter an order assigning the case to the Court of Appeals or retaining it in the Supreme Court. The order regarding assignment shall be entered within 28 days of the filing of the last brief allowed to be filed in the case or from the deadline for filing that brief, whichever is later. If one or more of the parties to the appeal has noted the existence of a related case on appeal and briefing on that case has not been completed, the assignment justice may delay assignment of the appeal until the day upon which he or she assigns the related case. Upon the entry of the assignment/retention order, the clerk of the Supreme Court shall immediately send a copy of the order of assignment to all parties. The clerk of the Supreme Court, subject to the directions of the Court, will designate those cases retained by that Court for disposition and those assigned to the Court of Appeals.~~

Although any case, other than those which the Supreme Court is statutorily required to retain, may be assigned to the Court of Appeals, the Supreme Court will retain all cases involving attorney discipline, judicial performance, and certified questions from a federal court. The Court will also ordinarily retain cases involving:

- (1) a major question of first impression;
- (2) fundamental and urgent issues of broad public importance requiring prompt or ultimate determination by the Supreme Court;
- (3) substantial constitutional questions as to the validity of a statute, ordinance, court rule, or administrative rule or regulation;
- (4) issues upon which there is an inconsistency in the decisions of the Court of Appeals or of the Supreme Court or conflict between the decisions of the two courts.

In assigning matters to the Court of Appeals, the Supreme Court may take into account the relative workloads of the Supreme Court and the Court of Appeals. The Supreme Court may also, by order, provide that cases falling within identified categories, defined by subject matter or other general criteria, shall be designated for immediate transfer to the Court of Appeals or retention by the Supreme Court, ~~and, therefore, not subject to screening review.~~ Except for those cases which the Supreme Court is required by statute to retain, a party has no right to have his or her case heard by the Supreme Court.

EXHIBIT "E" TO ORDER

AMENDMENT TO M.R.A.P. 17(b)

(b) Time for Filing **Petition for Writ of Certiorari; Content and Length of Petition.** A party seeking review of a judgment of the Court of Appeals must first seek review of that court's decision by filing a motion for rehearing in the Court of Appeals. If a party seeks review in the Supreme Court, a petition for writ of certiorari for review of the decision of the Court of Appeals must be filed in the Supreme Court and served on other parties within fourteen (14) days from the date of entry of judgment by the Court of Appeals on the motion for rehearing, unless such time be extended upon motion filed within such time. A petition not so timely filed may be summarily dismissed by a single justice of the Court. The petition for writ of certiorari may not exceed ten (10) pages in length and must briefly and succinctly state the precise basis on which the party seeks review by the Supreme Court, and may include citation of authority in support of that contention. No citation to authority or argument may be incorporated into the petition by reference to another document. The petitioner must file an original and ten (10) copies of the petition. The Petitioner must attach, as appendices to the petition, a copy of the opinion and judgment of the Court of Appeals, and a copy of the motion for rehearing filed in the Court of Appeals.

EXHIBIT "F" TO ORDER

PROPOSED AMENDMENT TO M.R.A.P. 17(e)

(e) **Decision by the Supreme Court.** The Supreme Court shall act upon a petition for a writ of certiorari within ninety (90) days of the filing of the ~~petition-response~~ provided for in subsection (d) above, or, should no response be filed, the final date upon which such response could be filed. The failure of the Court to issue such a writ within that period shall constitute a rejection of the petition and the petition shall be deemed denied.

EXHIBIT "G" TO ORDER

AMENDMENT TO M.R.A.P. 21(d)

(d) **Denial; ~~Order~~ Notice Directing Answer.** If the appellate court is of the opinion that the writ should not be granted, it will deny the petition without requesting an answer. Otherwise, ~~it will order the clerk of the Supreme Court will issue notice~~ that an answer to the petition be filed by the respondents within the time fixed by the ~~order~~ notice. The ~~order~~ notice shall be served by the clerk on the judge or judges and on all other parties to the action in the trial court. All parties below, other than the petitioner, shall also be deemed respondents for all purposes. Two or more respondents may answer jointly. The clerk shall advise the parties of the dates on which briefs are to be filed, if briefs are required, and of the date of oral argument. The proceedings shall be given preference over ordinary civil cases. The Supreme Court also may, in its discretion, treat the petition as a petition for permission to appeal under Rule 5 and order such further proceedings as the Court deems appropriate.

EXHIBIT "H" TO ORDER

AMENDMENT TO M.R.A.P. 22

(a) Filing of Applications. Applications for post-conviction relief in criminal cases ~~may~~ shall be governed by Miss. Code Ann. § 99-39-1. et seq. (~~Supp. 1994~~). In the event that any application shall be filed which fails to comply substantially with the formal requirements of the statute, the clerk of the Supreme Court shall notify the filing party in default apprising the party of the nature of the default. If the deficiencies are not corrected within thirty days, the application may be dismissed.

(b) Post-conviction Applications by Persons Under Sentence of Death. [The text of part (b) remains unchanged.]

EXHIBIT "I" TO ORDER

AMENDMENT TO M.R.A.P. 27(b)

(b) Determination of Motions for Procedural ~~Order~~ Relief. Notwithstanding the provisions of Rule 27(a) as to motions generally, motions for procedural orders relief including any motions for enlargement of time permitted by these rules, may be acted upon at any time without awaiting a response. When unopposed, motions for specified types of procedural orders may be disposed of by the clerk of the Supreme Court. The clerk may rule on motions:

(1) for enlargement of time permitted by these rules for periods not to exceed a total of 60 days,

(2) to make corrections in briefs or pleadings filed at the request of counsel filing the brief or pleading,

(3) to ~~substitute appearances; or withdraw as counsel and/or substitute appearance of counsel in non-~~ death penalty cases,

(4) to stay issuance of mandates pursuant to Rule 41,

(5) to voluntarily dismiss appeals where sought by the appellant or the cross-appellant, unless the case has been submitted to the Court for decision,

(6) to obtain additional pages, up to a limit of 75 pages, or, in death penalty appeals, 125 pages,

(7) to supplement the record, where the certified documents which were included in the designation of the record are attached to the motion,

(8) to appear pro hac vice, and

(9) to suspend record preparation or briefing.

Any party' adversely affected by such action may by motion to the appropriate appellate court request reconsideration, vacation or modification of such action by the clerk.

EXHIBIT "J" TO ORDER
PROPOSED AMENDMENT TO RULE 27(c)

AND

NEW RULE 27(g)

(c) Power of a Single Justice to Entertain Motions. In addition to the authority expressly conferred by these rules or by law, a single justice of the Supreme Court or a single judge of the Court of Appeals may entertain and may grant or deny requests for relief which, under these rules, may properly be sought by motion, except that when a motion is contested a single justice or judge may not dismiss or otherwise determine an appeal or other proceeding. A single justice or judge may rule on opposed motions otherwise subject to action by the clerk under Rule 27(b). ~~The actions of a single justice may not be reviewed by the Supreme Court and the action of a single judge of the Court of Appeals may not be reviewed by that court.~~

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(g) Rehearing on Motions Prohibited. Except as provided in Rule 2(c) and Rule 27(b), decisions of the Supreme Court on motions or petitions shall be subject to rehearing or reconsideration only on the Court's own motion. Rehearing on decisions of the Court of Appeals by that court are likewise restricted.

EXHIBIT "K" TO ORDER
AMENDMENT TO COMMENT TO RULE 27

Comment

Rule 27 is based on Fed.R.App.P. 27 as modified by 5th Cir.R. 27.

Many motions seek relief of a sort which is ordinarily unopposed, or which is granted as a matter of course. The provision of subdivision (a), which permits any party to file a response in opposition to a motion within seven days after its service, assumes that the motion is one of substance which ought not be acted upon without affording affected parties an opportunity to reply. A motion to dismiss or otherwise determine an appeal is clearly such a motion. Motions authorized by Rules 8, 9, and 41 are likewise motions of substance, but, in the nature of the relief sought, to afford an adversary an

automatic delay of at least seven days is undesirable; thus, such motions may be acted upon after notice which is reasonable under the circumstances.

The term "motions for procedural orders" is used in subdivision (b) to describe motions which do not substantially affect the rights of the parties or the ultimate disposition of the appeal (other than motions for voluntary dismissal). To prevent delay in the disposition of such motions, subdivision (b) provides that they may be acted upon immediately without awaiting a response. The rule also gives the clerk authority to dispose of certain procedural motions. An enlargement of time for filing a notice of appeal is not permitted by these rules and may not be granted by the clerk.

Subdivision (c) empowers a single justice to act upon virtually all requests for intermediate relief which may be made during the course of an appeal or other proceeding. By its terms, the justice may entertain and act upon any motion, other than a contested motion to dismiss or a contested motion that will otherwise determine an appeal or other proceeding. ~~A single justice may act upon an agreed motion for dismissal under Rule 42.~~

Examples of the power conferred on a single justice by this subdivision are: to determine any matter which, if unopposed, may be decided by the clerk under subdivision (b); to grant enlargements of time for any period beyond the 30 days granted by the clerk, except that the time period for filing a notice of appeal may not be extended, see Rules 2(c), 26(b); to permit an appeal **in forma pauperis** and to appoint counsel under Rule 6; to consider release in criminal cases under Rule 9; to expedite or to consolidate appeals under Rule 23; to permit the filing of further reply or supplemental briefs under Rule 28(c) or briefs of extraordinary length under Rule 28(g); to grant leave to file an amicus brief under Rule 29; to postpone oral argument under Rule 34(a) or grant additional time for oral argument under Rule 34(b); or to substitute parties under Rule 43.

~~Certain rules require that application for the relief or orders which they authorize be made by petition. Because relief under those rules may not properly be sought by motion, a single justice may not entertain requests for such relief. Thus, a A single justice may not act upon requests for permission to appeal under Rule 5 $\frac{1}{2}$, or for mandamus or other extraordinary writs under Rule 21, other than for stays or injunctions pending appeal, authority to grant which is "expressly conferred by these rules" on a single justice under certain circumstances under Rule 8. Likewise, motions for rehearing cannot be considered by a single justice.~~

Rehearing on or reconsideration of decisions on motions or petitions is allowed only as to procedural motions granted or denied in the first instance by the clerk of the Supreme Court, or, in extraordinary circumstances, where the court suspends the rules under the provisions of Rule 2(c) or determines to reconsider or rehear on the court's own motion.

A brief may be filed in support of a motion and such a brief should be filed unless the motion seeks a routine procedural order. The rule does not, however, require the filing of a brief with every motion.

AMENDMENTS TO M.R.A.P. 35-A AND 35-B

AND COMMENT TO M.R.A.P. 35-A AND 35-B

RULE 35-A. WRITTEN OPINIONS AND

ENTRY OF JUDGMENT IN THE SUPREME COURT

(a) Written Opinions. The Supreme Court may write opinions on all cases heard by that Court and shall publish all such written opinions. In cases where the judgment of the trial court is affirmed, an opinion will be written in all cases where the ~~deciding court~~ Supreme Court assesses damages for a frivolous appeal and in other cases if a majority of the justices ~~or judges~~ deciding the case determine that a written opinion will add to the value of the jurisprudence of this Sstate or be useful to the parties or to the trial court.

(b) Standards for Publication. ~~An opinion of this Court shall be designated for publication where the opinion:~~

~~(1) establishes a new rule of law or alters or modifies an existing rule; or~~

~~(2) involves a legal issue of continuing public interest; or~~

~~(3) criticizes existing law; or~~

~~(4) resolves an apparent conflict of authority; or~~

~~(5) will serve as a useful reference, such as one reviewing case law or legislative history.~~

(b) Citation of unpublished opinions. Opinions in cases decided prior to the effective date of this rule which have not been designated for publication shall not be cited, quoted or referred to by any court or in any argument, brief or other materials presented to any court except in continuing or related litigation upon an issue such as res judicata, collateral estoppel or law of the case.

(e) Unpublished Opinions; Designation; Not to Be Cited; Filing; Listing in Reports. All opinions that are not found to satisfy a standard for publication as set out in Rule 35-A(b) shall be marked, "Not Designated for Publication." Opinions marked "Not Designated for Publication" shall not be cited, quoted, or referred to by any court or in any argument, brief, or other materials presented to any court except in continuing or related litigation upon an issue such as res judicata, collateral estoppel, or law of the case. Opinions marked "Not Designated for Publication" shall be filed in the clerk's office as public records and shall be listed in the Southern Reporter by case number, style, date, and disposition.

(c) Per Curiam Affirmance. The Court, with the concurrence of all justices participating in the case, may affirm the action of the trial court without rendering a formal opinion when an opinion would have no precedential value and one or more of the following circumstances exist and are dispositive of the appeal:

(1) the Court concurs in the facts as found or as found by necessary implication by the trial court;

(2) there is material evidence to support the verdict of the jury;

(3) no reversible error of law appears.

(d) Entry of Judgment. The notation of a judgment in the minute book of the Supreme Court constitutes entry of the judgment. The clerk of the Supreme Court shall enter the judgment following receipt of the opinion and judgment of the Court. If a judgment is rendered without an opinion, the clerk shall enter the judgment following instruction from the appropriate court.

RULE 35-B. WRITTEN OPINIONS AND ENTRY OF JUDGMENT IN THE COURT OF APPEALS

(a) Written Opinions in the Court of Appeals. The Court of Appeals will may write opinions on all cases heard by that court and may shall publish all such written opinions. ~~only on those cases meeting the requirements for publication as set out in Rules 35-B(b) and (c). The Supreme Court shall, after one year, review the rules concerning publication of opinions of the Court of Appeals.~~ In cases where the judgment of the trial court is affirmed, an opinion will be written in all cases where the Court of Appeals assesses damages for a frivolous appeal and in other cases if a majority of the judges deciding the case determine that a written opinion will add to the value of the jurisprudence of this state or be useful to the parties or to the trial court.

(b) Standards for Publication. ~~An opinion of the Court of Appeals may be designated for publication only when at least one of the following is satisfied:~~

~~(1) The opinion clarifies an existing rule and the matter is not presently pending in a case for review by the Supreme Court; or~~

~~(2) The opinion involves factual situation or a legal issues of broad and/or continuing public interest not addressed in recent Supreme Court opinions; (This criterion shall apply only upon a determination that significant changes in the public perception of the issue suggests the necessity to reaffirm an established rule of law; or~~

~~(3) The opinion resolves an apparent conflict of authority and the matter is not presently before the Supreme Court for review; or~~

~~(4) The opinion contains a professionally useful, nonduplicative review or summary of existing law on a specific issue or area of law not addressed in recent Supreme Court opinions.~~

(b) Citation of unpublished opinions. Opinions in cases decided prior to the effective date of this rule which have not been designated for publication shall not be cited, quoted or referred to by any court or in any argument, brief or other materials presented to any court except in continuing or related litigation upon an issue such as res judicata, collateral estoppel or law of the case.

(c) Authority for Publication of Court of Appeals Opinions. An opinion may be published only after it is final. An opinion of the Court of Appeals is final where: (i) no motion for rehearing is filed

pursuant to Rule 40; (ii) no petition for writ of certiorari is filed pursuant to Rule 17; (iii) a petition for writ of certiorari is filed and automatically rejected through the failure of the Supreme Court to issue such a writ within 90 days; (iv) a petition for writ of certiorari is filed and denied by order of the Supreme Court; or (v) a petition for writ of certiorari is filed and granted by the Supreme Court but ultimately dismissed as improvidently granted. Where further review is otherwise granted by the Supreme Court, that court shall decide whether the Court of Appeals' opinion shall be published.

~~(d) Unpublished Opinions; Designation; Not to Be Cited; Filing; Listing in Reports.~~ All opinions that are not found to satisfy the requirements for publication as set out in Rules 35-B(b) shall be marked, "Not Designated for Publication." Opinions marked "Not Designated for Publication" shall not be cited, quoted, or referred to by any court or in any argument, brief, or other materials presented to any court except in continuing or related litigation upon an issue such as res judicata, collateral estoppel, or law of the case. Opinions marked "Not Designated for Publication" shall be filed in the clerk's office as public records and shall be listed in the Southern Reporter by case number, style, date, and disposition.

(d) Per Curiam Affirmance. The Court of Appeals, with the concurrence of all judges participating in the case, may affirm the action of the trial court without rendering a formal opinion when an opinion would have no precedential value and one or more of the following circumstances exist and are dispositive of the appeal:

- (1) the Court concurs in the facts as found or as found by necessary implication by the trial court;
- (2) there is material evidence to support the verdict of the jury;
- (3) no reversible error of law appears.

(e) Entry of Judgment. The notation of a judgment in the minute book of the Court of Appeals constitutes entry of the judgment. The clerk of the Supreme Court shall enter the judgment following receipt of the opinion and judgment of the court. If a judgment is rendered without an opinion, the clerk shall enter the judgment following instructions from the court.

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Comment to Rules 35-A and 35-B

The portions of Rule 35 dealing with written opinions are based upon former rules of the Supreme Court. The ~~Court's~~ appellate courts' practice is to write opinions when it reverses and remands a trial court or administrative agency, and Rule 35-A(~~e~~) (c) and Rule 35-B(d) therefore address those circumstances in which judgment is affirmed and no opinion is written. Rule 45(c) governs furnishing copies of the courts' opinions and judgments by the clerk.

While it is the policy of the appellate courts to publish all opinions, there are opinions which have been issued prior to the adoption of that policy which have been designated "Not for Publication." Rules 35-A(b) and 35-B(b) restrict the citation of those unpublished opinions.

EXHIBIT "M" TO ORDER

AMENDMENT TO M.R.A.P. 40(b)

(b) **Form of Motion; Length.** The motion shall be in a form prescribed by Rule 32, and ~~an original and nine (9) copies shall be filed in the Supreme Court and an original and four (4) copies shall be served and filed in the Court of Appeals.~~ in cases decided by the Supreme Court an original and nine (9) copies shall be filed with the clerk of the Supreme Court, and in cases decided by the Court of Appeals an original and ten (10) copies shall be filed. The Supreme Court or the Court of Appeals may require that additional copies be furnished. The motion shall be served as prescribed by Rule 31 for the service and filing of briefs. Except by permission of the appropriate court a motion for rehearing shall not exceed twenty-five 25 pages.

EXHIBIT "N" TO ORDER

AMENDMENT TO M.R.A.P. 46(b)

[The following new Rule 46(b)(5) shall be inserted within rule 46(b):]

(5) Filing of order authorizing appearance. Upon being authorized by any court or administrative agency of this state to appear in a particular case, the foreign attorney shall file with the Clerk of the Supreme Court a certified copy of the order authorizing such appearance, and such authority to appear shall not be effective until such certified copy is so filed. This filing is required to provide all courts and agencies with a central source from which to obtain an accurate record of appearances made by each such attorney.

[The existing subsections 46(b)(5) through 46(b)(8) shall be renumbered 46(b)(6) through 46(b)(9) consecutively.]