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INTRODUCTION

In March 1978, the Court published the first edition of this manual. This is the seventh revision of the manual, which has been made necessary by changes in the Supreme Court Rules and Eastern District Special Rules.

This manual is a summary of basic procedural requirements for processing and perfecting direct appeals from the lower courts and administrative agencies, and extraordinary remedial writs in the Missouri Court of Appeals, Eastern District. It is designed for use merely as a reference tool and a general, simple information guide for attorneys and litigants practicing before this Court. It is not to be used as a substitute for the Missouri Rules of Court or the judicial decisions interpreting them. Attorneys and litigants are urged to examine the Rules and judicial decisions when certain legal issues arise, as for example, the meaning of a "final" judgment.

The Supreme Court of Missouri has said that the Rules of Appellate Practice are simple and plain; they fill no office of red tape and must be followed for the good of court and counsel. Every lawyer should become familiar with the appellate principles set forth in *Thummel v. King*, 570 S.W.2d 679 (Mo. banc 1978).

Appellate practice before the Eastern District of the Missouri Court of Appeals is governed by Supreme Court Rules that are applicable to all three appellate districts in Missouri, and certain Special Rules promulgated by the Eastern District alone.

The Supreme Court Rules that generally govern the procedure relating to appeals are found in Rule 30 (criminal appeals), Rules 81 and 84 (civil appeals) and the Special Rules of the Eastern District.

In addition, over the past few years this Court has established certain internal administrative procedures and policies relating to the perfection of appeals. Litigants and members of the Bar practicing before this Court should be aware and become familiar with these internal procedures. Although the material included in this manual should prove informative and helpful, the information is not meant to provide the sole basis for any action taken by a party on appeal or other proceeding pending in the Eastern District. A party should always refer to the actual text of the Rules governing appellate practice and the case law for authority. An excellent discussion of the rules of appellate practice may be found in the Missouri Bar CLE "Appellate Court Practice," 5th ed., as well as Vol. 24 of the Missouri Practice series entitled "Appellate Practice."

The Eastern District is composed of 14 judges and has general appellate and original remedial writ jurisdiction over cases arising in the City of St. Louis and 25 counties in Eastern Missouri. The Court is located in the Old Post Office, Third Floor, 815 Olive St., St. Louis, Missouri 63101. Phone No.: (314) 539-4300 and Telefacsimile No.: (314) 539-4324. The Court will accept filings in person at the Old Post Office and has drop box locations at the Old Post Office and in the St. Louis County Courthouse. The Court holds oral argument in St. Louis from September to June. The Court generally sits two times a year in Cape Girardeau, Missouri and Hannibal, Missouri and may sit in other locations in the Eastern District during the year.

MISSOURI JUDICIARY WEBSITE

The Eastern District maintains a website, which contains much useful information. Access to the Eastern District website can be found at the Missouri Judiciary website, http://www.courts.mo.gov. The Eastern District website provides many items, including full-text opinions of the court, monthly dockets, biographies of the judges, the local Eastern District Rules, the ABC's of Appellate Practice, as well as announcements of interest to the bar. The Missouri Judiciary website provides full-text opinions of the Missouri Supreme Court and the other intermediate appellate courts. Also at that website, access is provided to Case.Net, a case information service. Case.Net allows a search by litigant name and case number for courts, including the Eastern District of the Court of Appeals, using the JIS case management software as part of the Missouri Court Automation Project. The identity of all parties, attorneys and docket entries for an appeal are currently available on Case.Net.

THE APPELLATE PROCESS: STEP BY STEP

The following is a summary of the procedures for filing and perfecting direct appeals in the Eastern District of the Court of Appeals. It is intended to be both a logical beginning-to-end overview of the appellate process and a practical guide for the benefit of all attorneys and litigants practicing before this Court.

Generally, a party initiates an appeal by filing a notice of appeal with the clerk of the trial court that issued the judgment. Once the notice of appeal is filed, the party appealing, or Appellant, has responsibility for ordering and filing a record on appeal and then filing an “Appellant’s Brief.” Strict time lines govern these filings and the process can be complicated. If an appellant is representing himself or herself *pro se*, he or she is advised to retain an attorney if possible. While the staff at the Court can explain the appellate process and court procedure to litigants, they cannot give legal advice to litigants about their cases.

I. PRESERVING THE RECORD

Although an appeal is first set in motion by the filing of a notice of appeal with the clerk of the trial court, the appellate process actually begins at the trial and pre-trial level. Counsel and the parties are bound by the record made at the trial level. A litigant cannot present any new evidence or testimony in the appellate court, which may only review the record from the proceedings at the trial court. In addition, trial errors cannot be raised for the first time on appeal, and constitutional issues must be raised at the first opportunity. Two things are important to keep in mind in this regard.

First, objections during the trial must be both specific and timely. A general objection is not sufficient. Untimely or general objections preserve nothing for appellate review, unless the court, in rare cases, considers the matter "plain error." Rules 30.20 and 84.13(c).

Second, in jury-tried cases, allegations of error must be included in a motion for new trial to be preserved for appellate review. Rules 29.11(d) and 78.07. A motion for

new trial must be timely filed in the trial court and must be specific as to the allegations of error. In a civil case, a motion for new trial must be filed within thirty (30) days after the entry of a judgment on a jury verdict. Rule 78.04. In a criminal case, the motion for new trial must be filed fifteen (15) days after return of the verdict and the time may be extended for one period of ten (10) days. Rule 29.11(b). In a civil case, the time for filing the motion for new trial may not be extended either by the trial court or the appellate court. In all cases, whether jury-tried or tried without a jury, allegations of error relating to the form or language of the judgment must be raised in a motion to amend the judgment in order to be preserved for appellate review. Rule 78.07(a). The motion for new trial, timely filed, is automatically overruled at the expiration of ninety (90) days after the motion is filed if not ruled on prior to that time. Rules 29.11(g) and 78.06.

II. INITIATING AN APPEAL

- **General Rule: In general civil and criminal appeals, the notice of appeal is due ten (10) days after the judgment becomes final.**

A. *JURISDICTION*

This Court has jurisdiction of all appeals, except where jurisdiction is vested in the Missouri Supreme Court, pursuant to Article V, Section 3, Mo. Const., from cases of the following courts:

1. Circuit Courts. See generally Section 512.020 RSMo.
2. Associate Circuit Courts. See Sections 512.180.2 and 543.335 RSMo. for the circumstances under which an appeal may be filed with this Court directly from the associate circuit court.
3. Probate courts. See Section 472.160 RSMo. for a list of some of the orders of the probate court that may be appealed.

B. FINALITY OF JUDGMENT

Generally, an appeal may be taken only from a final judgment. A judgment is rendered when a writing signed by a judge and denominated "judgment" or "decree" is filed. Rule 74.01(a). A final judgment is one that disposes of all issues, claims and parties. In the absence of a final judgment, the appeal is premature. A judgment that disposes of fewer than all parties or claims may be made final for purposes of appellate review, if the trial court makes an express determination that there is “no just reason for delay.” Rule 74.01(b). In the absence of this express determination, the appellate court has no jurisdiction. Bi-State Development Agency v. Peckham, Guyton, Albers & Viets, Inc., 747 S.W.2d 332, 334 (Mo. App. 1988).

In civil cases, the judgment becomes final thirty (30) days after the entry of the judgment if no timely motion for new trial is filed. If a timely motion for new trial is filed, the judgment becomes final at the expiration of ninety (90) days after the filing of the motion or, if such motion is passed on at an earlier date, at the later of: 1) thirty (30) days after the entry of judgment; or 2) disposition of the motion. Rule 81.05(a).

In criminal cases, the judgment is final when the motion for new trial is overruled, allocution given, judgment and sentence entered in accordance with the jury verdict, and sentence is imposed. State v. Welch, 865 S.W.2d 434 (Mo. App. 1993). In cases

where no sentence is imposed, there is no right of appeal. State v. Lynch, 679 S.W.2d 858 (Mo. banc 1984).

C. FILING THE NOTICE OF APPEAL

In general civil and criminal appeals, the notice of appeal is filed with the clerk of the trial court no later than ten (10) days after the judgment becomes final. Rules 30.01(d) and 81.04(a).

The form and contents of a notice of appeal are contained in Form 8-A for both criminal and civil cases. Rules 30.01(e) and 81.08(a). See Appendix A. At the time of the filing the notice of appeal with the clerk of the trial court, a docket fee of $70.00 or forma pauperis finding by the trial court must be filed. Rules 30.01(d), 81.04(c); section 488.031. The appellant shall also serve a copy of the notice of appeal on all other parties to the judgment. Rule 81.08(d).

The notice of appeal must specify the parties taking the appeal, the judgment or order appealed from, the court to which the appeal is taken and must be signed. Rules 30.01(e) and 81.08(a). The clerk of the trial court shall give notification of the filing of the notice of appeal by mailing copies to all parties to the judgment other than the party or parties taking the appeal. Rules 30.01(h) and 81.08(d).

In accordance with this Court's Special Rule 300(a), in addition to filing the notice of appeal, the appellant in a civil case must file a Civil Case Information Form using the form attached to the Rule. See Appendix B.

In a criminal case, the appellant must file the Criminal Case Information Form. See Appendix C. The appellant must also file a copy of an appeal bond if appellant has been released on bond pending appeal. These documents are to be filed with the notice of appeal in the trial court and forwarded to the Court of Appeals.

D. CROSS-APPEAL

If a notice of appeal is timely filed by a party, any other party may file a notice of appeal within ten (10) days of the date the first of notice of appeal was filed. Rule 81.04(b). The Court generally consolidates all appeals arising from the same circuit court judgment into one case for judicial efficiency. Any party by motion may request that appeals be consolidated.

E. LATE NOTICE OF APPEAL

If a timely notice of appeal has not been filed, all is not lost. A party may seek leave from the Court of Appeals to file a "late" notice of appeal. Rules 30.03 (within twelve (12) months after final judgment in criminal cases including post-conviction proceedings) and 81.07 (within six (6) months of final judgment in civil cases). Leave to file a late notice of appeal is sought by filing with the Clerk of the Court of Appeals a written motion for special order permitting a late notice of appeal.

In a civil case, the Court of Appeals may issue a special order only upon motion, with notice to the adverse parties, and a showing by affidavit or otherwise that the delay was not due to the appellant's culpable negligence. In addition, a copy of the final judgment from which the appeal is sought shall be attached to the motion. Rule

81.07(a). In a criminal case, the Court of Appeals may issue a special order in its discretion "for good cause shown." Rule 30.03.

When a special order is granted, the clerk of the trial court shall permit the appellant to file a notice of appeal within the time specified by the appellate court. Rules 30.03 and 81.07(a). The notice of appeal should not be filed with the trial court until after the appellate court has granted the motion. If a notice of appeal has been previously filed, it is still necessary to file a new notice of appeal. The notice of appeal should never be filed directly in the appellate court.

F. INTERLOCUTORY APPEAL BY STATE

In accordance with Section 547.200, RSMo, the state may appeal from an order that quashes an arrest warrant, suppresses evidence, a confession or admission. The notice of appeal must be filed in the trial court within five (5) days of the entry of the order. The filing of the record on appeal and the briefing cycle are expedited in accordance with Rule 30.02.

G. SPECIAL TIME LIMITS

In workers' compensation cases, the notice of appeal is due within 30 days of the date of the award. Section 287.495.1. In unemployment cases, decisions must be appealed within 20 days of finality. Finality occurs 10 days after the date of mailing of the decision. Sections 288.200.2 and 288.210. There is a mailbox rule applicable to notices of appeal sent to the Labor and Industrial Relations Commission in workers' compensation and unemployment cases. Sections 287.480.1 and 288.240.

III. STAY OF EXECUTION

A. CIVIL APPEAL

The filing of a notice of appeal automatically stays execution on a judgment during the pendency of an appeal when the appellant is an executor, administrator, personal representative, conservator, guardian, curator, or when the appellant is a county, city, township, town, school district or other municipality. Rule 81.09(a).

In all other cases, the appellant may, at or prior to, the filing of the notice of appeal, file a supersedeas bond in an amount determined under Rule 81.09(b), which if approved and accepted by the trial court, shall have the effect of staying execution on the judgment while the appeal is pending. Rule 81.09. The trial court may also, at or prior to the filing of the notice of appeal, fix the amount of the supersedeas bond by order and allow appellant a reasonable period of time not to exceed thirty (30) days to file the bond, subject to its approval. This means that a bond may be filed in the trial court after the notice of appeal has been filed, if the trial court set the amount of the bond at or before the filing of the notice of appeal. Security other than a bond, such as a letter of credit or the posting of other property, may be approved only for good cause shown and after notice and hearing. Rule 81.09(b).

In cases when an appeal is taken out of time after a special order of the appellate court, or if the notice of appeal has been filed and a supersedeas bond has not been filed with the trial court in accordance with Rule 81.09(a), the power to issue a stay of execution rests exclusively in the appellate court. Rule 81.10. In such cases, an

application for a stay of execution should be directed to the Court of Appeals, which may in its discretion decline to grant the application, issue a stay upon such terms and conditions with respect to the supersedeas bond as it deems appropriate, or remand the matter to the trial court. Rule 81.10. It is the general practice of this Court, if it grants the application, to remand the matter to the trial court to approve the amount and form of the bond. A copy of the appeal bond filed with the trial court should then be filed with the appellate court. Rule 81.09(a). Original bonds should not be filed with the appellate court.

B. CRIMINAL APPEAL

If a convicted defendant is entitled to a conditional release pending an appeal, the conditions shall be determined by the trial court pursuant to Rule 33. Rule 30.16. Section 547.170, RSMo, contains a list of the offenses for which a defendant may not be released on bail pending appeal. A defendant on an appeal bond is only entitled to release until an opinion is issued affirming the conviction or dismissing the appeal. The appellate court may in its discretion, order the appellant arrested before the opinion is made public. Section 547.330, RSMo.

This District's Special Rule 425 requires that if an eligible defendant is released on bail pending appeal pursuant to Rules 30.16 and 33, the stated conditions of the bond shall include: (1) that defendant report to and appear before an officer of this Court with defendant's surety at a designated time within thirty (30) days after filing the notice of appeal and defendant appear thereafter at such time and place as required by the Court of Appeals or by the circuit court; (2) that defendant submit to the orders, judgment, sentence and process of the Court; (3) that defendant will not leave the geographical jurisdiction of the Court of Appeals without its written permission. Further, the bond shall contain the defendant's residence and mailing address and the surety's address.

An appellant on appeal bond must inform the appellate court and provide the Court with a copy of the appeal bond. Special Rule 300. Upon receipt of the appeal bond, the appellant will generally be required to make a personal appearance within one week before the Marshal of this Court and every four months thereafter. The appellant bears an affirmative duty to advise this Court in writing of any change of address. Special Rule 310. Failure to comply with the conditions of the bond will result in issuance of a warrant for appellant's arrest. Rule 33.08.

IV. SETTLEMENT DOCKET

After the notice of appeal and supplemental filings are filed, a settlement judge screens all civil cases and selects those cases that the judge determines are appropriate for possible settlement. Once a case is placed on the settlement docket, the time requirements for ordering the record on appeal and filing the record and briefs may be suspended. If settlement efforts fail, the case is returned for regular processing. The policy of the Court of Appeals is that no information about any case selected and processed for settlement docket shall be disclosed to any other judge. The settlement judge is barred from sitting on any case that was before him or her as a settlement judge. Currently, the settlement judges for the Court are retired appellate court judges.

V. THE RECORD ON APPEAL

- **General Rule: In most cases, the Record on Appeal is due 90 days after the notice of appeal is filed with the circuit court, if a legal file and transcript are to be filed. If the case is a legal file only, then the legal file is due within 30 days.**

A. GENERAL PROCEDURE

It is the appellant's burden to provide this Court with the record on appeal that contains all of the record, proceedings and evidence necessary to the determination of all questions to be presented to the Court for decision. Rules 30.04(a) and 81.12(a).

The record on appeal is divided into two components - the "legal file" and the "transcript." The record on appeal must be filed with the appellate court within ninety (90) days from the date of filing of the notice of appeal, if both a legal file and a transcript are to be filed. Rules 30.04(f) and 81.19. If an extension of time is sought on the ground that the transcript has not been completed, the appellant or counsel must request from the court reporter or the Office of the State Court Administrator, whichever is appropriate, a written statement in support of the request for an extension. Rule 81.20 and Special Rule 340. Appendix D contains a sample court reporter statement.

In appeals of the termination of parental rights, this court accelerates the review process. The record on appeal will be due thirty (30) days after the notice of appeal is filed. Special Rule 348(a).

If the record on appeal consists of the legal file only, the legal file must be filed within thirty (30) days after the notice of appeal is filed in the trial court. Rule 81.19(a). A legal file only case is one in which all of the record has been previously reduced to written form. Even though a case may include a deposition or a transcript of an administrative hearing, it is still considered a legal file only and the record is due within thirty (30) days of filing the notice of appeal.

The original record on appeal is to be filed with the Clerk of the Court of Appeals. The appellant is required to serve a copy of the record on the respondent. In civil cases, a copy of the index of the transcript and the index of the legal file shall be filed with the clerk of the trial court. Rule 81.12(d). In criminal cases, a copy of the transcript and the index of the legal file shall be filed with the clerk of the trial court. Rule 30.04(f). Proof of service on the respondent shall be filed with the record on appeal. Rules 84.07(a) and 30.04(f).

B. *LEGAL FILE*

The legal file shall contain clearly reproduced, exact copies of the pleadings and other portions of the trial record previously reduced to written form. Rules 30.04(a) and 81.12(a). The legal file should be ordered from the clerk of the trial court within thirty (30) days of filing the notice of appeal. A copy of the written order shall be filed with this Court and served on respondent. Rules 30.04(c) and 81.12(c). The clerk of the trial court may not charge for a copy of the legal file in cases where the appellant has been granted leave to proceed *in forma pauperis*.

In a civil case, the legal file should contain in chronological order at least the following documents:

(1) circuit court docket sheets;
(2) last amended pleadings upon which the action was tried;
(3) the verdict;
(4) findings of the court or jury;
(5) judgment or order appealed from;
(6) motions and orders after judgment;
(7) notice of appeal.

In a criminal case, the legal file should contain in chronological order at least the following:

(1) circuit court docket sheets;
(2) indictment or information on which the defendant was tried;
(3) defendant's arraignment or waiver thereof and plea;
(4) the fact of defendant's presence at the trial;
(5) the verdict;
(6) any motion for new trial or waiver thereof and plea or other after-trial motion;
(7) the court's rulings thereon;
(8) the fact that allocution was accorded defendant;
(9) the judgment and sentence;
(10) notice of appeal.

Generally, the following items should not be included unless necessary to the resolution of issues on appeal: motions, continuances, abandoned pleadings, briefs, memoranda, notices of filing, subpoenas, summonses, motions to extend time, affidavits and admissions of service, notices of settings, jury lists, and depositions and notices. Rules 30.04(b) and 81.12(b).

The legal file shall be firmly bound and labeled with a cover page that shall contain the style of the case and the Eastern District Appeal Number. The legal file shall be paginated, contain an index referring to the documents by page number and shall not contain more than 200 pages in a volume. The documents shall be arranged with a minute sheet on top numbered as page one. The oldest document shall follow the minute sheet(s) with the remaining documents arranged in chronological order ending with the notice of appeal at the bottom. Special Rule 330(b). If fasteners are used to bind the legal file, they shall extend a full one-inch beyond the depth of the volume. Rule 81.18(d). The legal file must be certified by the clerk of the trial court to consist of true copies of the portions of the record filed in the trial court. Rules 81.15(a) and 30.04(g). Certification is not necessary if the parties agree in writing that the legal file is true and accurate. Rules 30.04(g) and 81.15(c).

C. TRANSCRIPT

The transcript must contain the portions of the proceedings and evidence not previously reduced to written form. Rules 30.04(a) and 81.12(a). In civil cases, within ten (10) days after the notice of appeal is filed, the appellant must order the transcript (original and at least two copies) from the court reporter or from the clerk of the trial court if the proceedings were electronically recorded. Rule 81.12(c). The Office of the

State Court Administrator in Jefferson City supervises the transcriptions of proceedings ordered from the clerk that have been recorded electronically. In criminal cases, the transcript must be ordered within thirty (30) days of filing of the notice of appeal. Rule 30.04(c).

The written order for the transcript should designate the portions of the proceedings and evidence not previously reduced to written form that are to be included in the transcript. In criminal cases, a copy of the written order must also be filed with the Court of Appeals and served on respondent. Rule 30.04(c). The court reporter or state court administrator should be requested to transcribe only those portions of the trial proceedings that are necessary for a determination of the legal issues to be presented to the appellate court for review. Generally, the following items should not be included unless necessary: voir dire, opening statements, closing arguments, MAI 2.01, and evidence regarding damages. Rules 30.04(b) and 81.12(b). Keep in mind, the Court of Appeals may tax the cost of unnecessary portions of the transcript against the party responsible for its inclusion.

Within ten (10) days of receiving a request for a transcript, a court reporter shall provide written notification of the amount of the estimated charges. A deposit in the amount of the estimated charges shall be paid within ten (10) days of the written notification by the court reporter. Section 512.050, RSMo. In civil cases, within ten (10) days after payment of the charges, appellant shall file a written certificate in the appellate court stating the date on which the transcript charges were paid. Rule 81.12(c). If the appellant is appealing *in forma pauperis*, the appellant will receive the transcript at no cost.

The transcript pages shall be numbered consecutively and must be preceded by a complete index. Rules 30.04(d) and 81.14(b). The transcript must be certified by the court reporter as a true and accurate reproduction of the proceedings transcribed. Rules 30.04(g) and 81.15(b). Certification is not necessary if the parties agree in writing that the transcript is true and accurate. Rules 30.04(g) and 81.15(c).

The transcript shall be prepared in page reduction format. Rule 336(a). If the court reporter lacks the technological means to comply, a certificate from the court reporter must be filed with the transcript certifying the technology was unavailable. Special Rule 336(b). The transcript, either in page reduction format or full page format, shall be accompanied by a floppy disk or disks containing the transcript. Special Rule 337(a). In the event the court reporter lacks the technology to provide the disk, a certificate from the court reporter must be filed with the transcript certifying the technology was unavailable. Special Rule 337(b).

D. EXHIBITS

Exhibits filed with the trial court are not automatically transferred to the appellate court. Appellant is responsible for the filing of all exhibits that are necessary for the determination of any point relied on with the appellate court.

In civil cases, exhibits shall be filed on or before the day the reply brief is due or when the Court so directs, whichever is earlier. Rule 81.16. In criminal appeals, exhibits shall be filed on or before the day of oral argument or if there is no oral argument, within five days of submission. Rule 30.05. Any exhibits not filed on or before the day they

are due may be considered immaterial by the Court. Special Rule 345 requires that a complete inventory of exhibits filed be supplied at the time exhibits are deposited with the Court. Attorneys mailing exhibits to the court must include a typed inventory of the exhibits and individually label each exhibit with its appellate case number. Attorneys filing exhibits at the counter will be asked to complete a standard inventory form. In a civil appeal, except post-conviction proceedings, exhibits deposited with the clerk must be removed within thirty (30) days after final judgment or they will be destroyed. Rule 81.16.

E. SUPPLEMENTAL RECORD

If the appellant omitted anything material at the time the record was filed and desires to file additional parts of the record, appellant may file a motion accompanied by the supplemental record. Rules 30.04(h) and 81.12(e). The supplemental record must comply with the filing requirements for a transcript or legal file. Rules 81.15(e) and 81.12(d). If the respondent is dissatisfied with the record on appeal filed by appellant, the respondent, may up until the time for filing its brief, file such additional parts of the record on appeal as respondent considers necessary. Rules 30.04(c) and 81.12(c). The supplemental record must comply with the filing requirements for a transcript or legal file. Rules 81.15(e) and 81.12(d). The appellate court reserves the right to order on its own that additional parts of the record be filed at any time. Rules 30.04(h) and 81.12(e).

F. CROSS-APPEAL

Each party filing a notice of appeal has an equal duty to see that the record on appeal is prepared and timely filed. It is to be expected that only one record on appeal will be prepared. Each appellant shall share the cost. Rule 81.14(a). It is expected that counsel shall cooperate in preparing the record in these circumstances.

VI. BRIEFS

- **General Rule: Appellant's brief is due 60 days after the record on appeal is filed. Respondent's brief is due 30 days after Appellant's brief is filed. The reply brief is due 15 days after Respondent's brief is filed.**

A. GENERAL PROCEDURE

Within sixty (60) days after the record on appeal is filed with the Clerk of the Appellate Court, an original and nine (9) copies of appellant's brief must be filed with the Clerk of the Appellate Court. Within thirty (30) days after filing of the appellant's brief, an original and nine (9) copies of respondent's brief shall be filed with the appellate court. Within fifteen (15) days after the filing of the respondent's brief, an original and nine (9) copies of appellant's reply brief may be filed. Briefs filed in this Court must also have color coded covers pursuant to Rules 30.06(g) and 84.06(f):

Appellant's brief on the merits	white
Respondent's brief on the merits	gray
Appellant's second briefs in cross appeals	light brown
Reply brief	light orange

Amicus curiae or intervenors. . . . . light red

In cases where cross-appeals are filed, the plaintiff in the court below is deemed the appellant, unless the parties otherwise agree or the court otherwise orders. Rule 84.04(k). The appellant's brief is due sixty (60) days after the record is filed. The respondent shall file a combined respondent/cross-appellant's brief as one brief thirty (30) days after filing of the appellant's brief. The appellant shall file a combined appellant reply/cross-respondent's brief as one brief thirty (30) days after filing of the combined respondent's brief. The cross-appellant may file a cross-appellant's reply brief fifteen (15) days after filing of appellant's combined brief. Rule 84.04(j); 84.05(b); and Special Rule 330(d).

Termination of parental rights cases are accelerated and as such, have shorter periods of time for filing of briefs. The appellant's brief shall be filed within thirty (30) days of the filing of the record on appeal. The respondent's brief is due within thirty (30) days of the filing of the appellant's brief. The reply brief, if any, is due within ten (10) days of the filing of the respondent's brief. Special Rule 348.

B. GENERAL FORMAT OF COMPUTER SOFTWARE BRIEFS

1. Page Size, Type Style, and Spacing

All briefs shall be prepared using computer software unless an exception applies. Rule 84.06. The briefs must be on paper of size 8 1/2 by 11 inches and weighing not less than nine pounds to the ream. The type must be double-spaced, except for the cover, certificates of service, and signature block, which may be single-spaced. The type should be only on one side of the page, with margins not less than one inch on each side. All pages must be numbered after the cover page and the brief must be securely bound on the left. The character font size throughout the brief, including footnotes, cannot be smaller than 13 point Times New Roman, unless an exception applies. Rule 84.06.

This Court prefers the use of Microsoft Word format, but WordPerfect 5.x or higher is accepted. Page limitations are calculated based on word or line counts, which can be ascertained from the computer software program. Briefs prepared using a monospaced font must contain a line count. Monospaced fonts, such as Courier, are those with a fixed width in which all the characters are equal in width and take up equal space. Briefs prepared using a proportional type (or any other type besides monospaced), must provide a word count. Proportional fonts are those with variable width in which the characters adapt to the width, such as Times New Roman.

2. Length of Briefs

All briefs are limited by word count or line count, unless an exception applies. Rule 84.06(b). Appellant's brief (and all briefs in a cross appeal except the reply brief) shall not exceed 15,500 words, or 1,100 lines of text if a monospaced font is used. Respondent's brief shall not exceed 13,950 words or 990 lines. The reply brief shall not exceed 3,875 words or 275 lines. Special Rule 360(a)(1). All material contained in the brief except the cover, certificate of service, Rule 84.06(c) certificate, signature block, appendix, table of contents, and table of authorities count toward the word and line

limitations. Rule 84.06(b); Special Rule 360(c). A motion must be filed ten (10) days before the brief is due if a brief in excess of the page limitation is sought be filed. Special Rule 360(b). The Court strongly discourages briefs in excess of the page limitation.

3. Certificate of Compliance

The brief shall also contain a certificate that states the brief complies with the page limits of Special Rule 360, the number of words or lines in the brief, and the information that is required by Rule 55.03. Rule 84.06(c).

4. Floppy Disk or E-mail

A floppy disk containing a copy of the brief shall be filed along with the written brief. Rule 84.06(g). The floppy disk shall be double-sided, high density, IBM-PC compatible 1.44 MB, 3 1/2-inch size. Special Rule 361. An adhesive label shall be affixed to each disk legibly identifying the caption of the case, the party or amicus curiae filing the disk, the disk number (e.g., "Disk 1 of 2"), and the word processing format (e.g., Microsoft Word). The filing party must file a certification that the disk has been scanned for viruses and is virus-free. Rule 84.06(g); Special Rule 361.

In lieu of preparing a floppy disk, a party may file a copy of the brief with the clerk of this court by an electronic e-mail message with an attachment containing a copy of the brief. Special Rule 363. The paper brief shall contain a notice that an electronic mail message has been filed in lieu of a floppy disk. The e-mail should be sent to moapped@courts.mo.gov.

5. Certificate of Service

The file copy of each brief must include a certificate of service upon opposing counsel. Proof of service may be shown by acknowledgement of receipt or by affidavit or by written certificate of counsel making such service. Rules 20.04, 30.07 and 84.07. Service of the brief shall consist of serving one copy of the brief in printed form and one copy of the disk. Rule 84.06(g).

6. CD-ROM Briefs

Special Rule 362 provides that a party may file a CD-ROM brief in addition to filing paper briefs as required by Rule 84.05(a). If a CD-ROM brief is filed, it will satisfy the requirement of Rule 361 for filing briefs on a floppy disk. The paper brief shall contain a notice that a CD-ROM will be filed in lieu of a floppy disk. A CD-ROM brief shall comply with the requirements of Rule 84.05 and 84.06(g) governing service and filing, labeling, format, and virus scanning.

The CD-ROM brief shall contain a copy of the brief and the appendix to the brief. It may contain the record on appeal, exhibits, and authorities cited in the brief.

Parties who intend to file a CD-ROM brief are encouraged to jointly prepare a single CD-ROM. The parties should consult with the specific requirements for CD-ROM briefs outlined in Rule 362.

C. GENERAL FORMAT OF TYPEWRITTEN BRIEFS

A person allowed to appeal as a poor person and who is unable to produce a brief by computer software may file a typewritten brief. Rule 84.06(e). Any other person unable to produce a brief as provided by Rule 84.06(a) or Rule 84.06(d) may file, with leave of court, a typewritten brief. The briefs must be on paper of size 8 1/2 by 11 inches and weighing not less than nine pounds to the ream. The type must be double-spaced, except for the cover, certificates of service, and signature block, which may be single-spaced. The type should be only on one side of the page, with margins not less than one inch on each side. All pages must be numbered after the cover page and the brief must be securely bound on the left. Rule 84.06(e). The type size must be not less than ten pitch and ten characters to the inch. Appellant's brief (and all briefs in a cross appeal except the reply brief) shall not exceed 50 pages. Respondent's brief is limited to 45 pages and the reply brief is limited to 15 pages. Special Rule 360(a)(2).

APPEAL BRIEFING INFORMATION

BRIEF	BRIEF COVER	LENGTH LIMIT	DUE DATE
Appellant's Brief	White	50 pages or 15,500 words/1,100 lines of monospaced text	60 days after record is complete or from other date set by order
Respondent's Brief	Gray	45 pages or 13,950 words/990 lines of monospaced text	30 days after appellant's brief is filed
Reply Brief	Light Orange	15 pages or 3,875 words/275 lines of monospaced text	15 days after respondent's brief is filed

CROSS APPEAL BRIEFING INFORMATION

BRIEF	BRIEF COVER	LENGTH LIMIT	DUE DATE
First Brief Appellant's Brief	White	50 pages or 15,500 words/1,100 lines of monospaced text	60 days after record is complete or from other date set by order
Second Brief Respondent/Cross Appellant's Brief	Gray	50 pages or 15,500 words/1,100 lines of monospaced text	30 days after first brief is filed
Third Brief Appellant's Reply	Light Brown	50 pages or 15,500 words/1,100 lines of monospaced text	30 days after second brief is filed
Fourth Brief Cross Appellant's Reply	Light Orange	15 pages or 3,875 words/275 lines of monospaced text	15 days after third brief is filed

D. CONTENTS OF BRIEF

The contents of the brief must conform to the requirements set forth in Rules 30.06 and 84.04. Briefs not in compliance with the rules may be stricken, the party may be ordered to file a new or amended brief, or the appeal may be dismissed. In addition, Rules 30.20 and 84.13 require that the Court not consider any allegations of error that are not properly briefed. In recent years, the appellate courts have required strict adherence to the rules relating to the contents of a brief. Every attorney should become familiar with the principles of brief writing laid down in Thummel v. King, 570 S.W.2d 679 (Mo. banc 1978) and Ambrose v. MFA Co-operative Association, 266 S.W.2d 647 (Mo. banc 1954).

1. Appellant's Brief

The appellant's brief shall contain:

(1) Table of Contents - A detailed table of contents with page references, and a table of cases (alphabetically arranged), statutes and other authorities cited, with reference to the pages of the brief where they are cited. Rule 84.04(a)(1).

(2) Jurisdictional Statement - A concise statement of the grounds upon which the jurisdiction of the reviewing court is based. "No bare recitals." Rules 30.06(b) and 84.04(b).

(3) Statement of Facts - A fair and concise statement of the facts relevant to the issues presented for review. Page references to the record on appeal must be included. Rules 30.06(c) and 84.04(c).

(4) Points Relied On - A brief statement of what actions or rulings of the trial court are sought to be reviewed and wherein and why they are claimed to be erroneous. Immediately following each point relied on, the party must list the cases and other legal authority, not to exceed four, upon which the party principally relies. Rules 30.06(d) and 84.04(d). Each point relied on shall: (A) identify the trial court ruling or administrative ruling that the appellant challenges; (B) state concisely the legal reasons for the appellant's claim of reversible error; and (C) explain in summary fashion why, in the context of the case, those legal reasons support the claim of reversible error. See Rule 84.04(d) for specific examples of the form.

(5) Argument - The argument must substantially follow the order of the "Points Relied On." The point relied on shall be restated at the beginning of the section of the argument discussing that point. If a point relates to the giving, refusal, or modification of an instruction, the instruction must be set out in full in the argument portion of the brief. The argument shall also include a concise statement of the applicable standard of review. Page references to the transcript must be included. Rules 30.06(e) and 84.04(e).

(6) Conclusion - At the end of the brief, the party should provide a short conclusion stating the precise relief sought. Rule 84.04(a)(6).

(7) Appendix – A party's brief shall contain or be accompanied by an appendix. Rule 84.04(h); Special Rule 365.

2. Respondent's Brief

The respondent's brief shall include a detailed table of contents and table of authorities and an argument in conformity with Rule 84.04(e). The respondent may adopt the jurisdictional statement and statement of facts of the appellant or, if not satisfied, respondent may include a jurisdictional statement or statement of facts. Rule 84.04(f), 30.06(d).

The argument portion shall contain headings identifying the points relied on contained in the appellant's brief to which each argument responds. The respondent's brief may also contain additional arguments in support of the judgment that are not raised by the points relied on in the appellant's brief. Rule 84.04(f); 30.06(d).

3. Reply Brief

The appellant may file a reply brief but shall not reargue points covered in the main brief. Rules 30.06(g) and 84.04(g).

4. Supplemental Briefs

No supplemental briefs may be filed by a party without leave of court. Special Rule 370(a). Counsel may call attention to intervening decisions or new developments by directing a short letter providing supplemental citations to the clerk in accordance with Rule 84.20 or Rule 30.08. Special Rule 370(b).

E. APPENDIX TO BRIEFS

A party's brief shall contain or be accompanied by an appendix. Rule 84.04(h); Special Rule 365. The appendix must contain the following materials unless they have already been filed in another appendix: (1) the judgment, order, or decision in question, including the relevant findings of fact and conclusions of law; (2) the complete text of all statutes, ordinances, rules of court, or agency rules (but not case law); and (3) the complete text of any instruction to which a point relied on relates.

The appendix may also contain additional material, but this practice is discouraged. Original exhibits may not be included in the appendix. Copies of exhibits or excerpts from the record may be included in the appendix ONLY IF the original exhibits and the excerpts are properly filed as part of the record on appeal in accordance with Rule 81 or 30. Special Rule 365.

Any appendix must have a separate table of contents. If it contains less than 30 pages, then it must be attached to the back of the party's brief. If it contains 30 pages or more, then the appendix must be separately bound. The pages in the appendix shall be numbered consecutively beginning with page A1 and shall not be counted as part of the brief. Rule 84.04(h). The court STRONGLY discourages the filing of an appendix longer than 30 pages.

F. AMICUS BRIEFS

An Amicus Curiae brief may only be filed with leave of Court. The procedure is set out in Special Rule 375.

VII. DOCKETING

After the appellant's brief is filed, a letter is sent to counsel to determine whether oral argument is desired. If counsel desires oral argument, a written request must be made to the Clerk of the Court within ten (10) days after the letter is mailed. If oral argument is not requested within 10 days, the case will be submitted to a three-judge panel for decision without argument.

If oral argument is requested, the case is set on a docket for oral argument before one of the Court's three judge divisions. Counsel are notified of the specific time and place of oral argument and the division that will hear the case approximately eight (8) weeks prior to the date of argument. Counsel should examine the docket carefully to avoid going to the wrong courtroom. This Court sits in St. Louis as well as Cape Girardeau, Hannibal and other locations throughout the Eastern District. The docket will also identify the amount of time allotted for oral argument.

VIII. ORAL ARGUMENT

Court normally convenes at 9:30 a.m. to hear oral arguments. Oral argument is optional. Cases may be submitted on the briefs without oral argument. If counsel are not present when court convenes, the case will be submitted on the briefs. A respondent who fails to file a brief will not be permitted to participate in oral argument. Special Rule 395(f).

In cases that are set on the regular docket, the appellant is allowed a maximum of fifteen (15) minutes for argument and may reserve three (3) additional minutes for rebuttal. Respondent is allowed a maximum of fifteen (15) minutes. Special Rule 395(a).

Oral argument for cases that are set on the accelerated docket is limited to ten (10) minutes for appellant, ten (10) minutes for respondent and two (2) minutes for rebuttal. Special Rule 395(b).

If there are multiple parties on a side they shall divide the allotted time. Special Rule 395(d). On cross-appeals, the plaintiff in the trial court shall be entitled to the time allotted to the appellant and the defendant in the trial court to the time allotted to the respondent, unless otherwise directed by the presiding judge. Special Rule 395(c).

IX. OPINION

In each case, the judicial decision is reduced to writing and filed in the cause. The Court is authorized to issue memorandum decisions or opinions by a simple order. Rules 30.25(b) and 84.16(b). Opinions are handed down and filed each Tuesday at 8:30 a.m. and are available in the clerk's office. The opinions are also available on the Court's website at 9:00 a.m. One copy of the opinion is mailed to each responsible attorney of record on the day before the Tuesday handdown.

X. POST-OPINION PROCESS

A. POST-OPINION MOTIONS

A party may file in the Court of Appeals a motion for rehearing or in the alternative application to transfer to the Supreme Court of Missouri after an opinion of the Court of Appeals has been filed. Rules 30.26, 30.27**,** 83.02, and 84.17. A party may also file a motion to publish the opinion or motion to modify it. Rule 84.17; Rule 30.26. The post-opinion motion or application may be accompanied by suggestions in support and must be filed in the clerk's office of the Court of Appeals within fifteen (15) days after the opinion is filed. An original and fourteen (14) copies must be filed so that a copy may be distributed to each judge on the Court.

In civil cases, no suggestions in opposition may be filed unless requested by the court. If the court requests such suggestions, any other party may file suggestions in opposition within ten (10) days of the request. Rules 84.17 and 83.06.

In criminal cases, an original and fourteen (14) copies of suggestions in opposition may be filed within seven (7) days after the last day a motion for rehearing could have been filed. Rules 30.26.

An application for transfer must be filed in the Court of Appeals and denied before an application for transfer may be filed in the Missouri Supreme Court. If the Court of Appeals denies the motion for rehearing and denies the application for transfer, a party may make an application for transfer directly to the Supreme Court of Missouri. Application for transfer directly with the Supreme Court must be filed in the Office of the Clerk of the Supreme Court within fifteen (15) days after the date on which transfer was denied by the Court of Appeals. Rule 83.04.

B. MANDATES

Judgments of the court take effect when the mandate issues. Generally, a mandate is not issued until the time for filing a post-opinion motion has expired. If a post-opinion motion is filed, the mandate will not issue until this court and the Missouri Supreme Court resolve all such motions.

XI. ADDITIONAL APPELLATE PROCEDURE

A. ADMINISTRATIVE APPEALS

In worker's compensation (Section 287.495) and unemployment compensation (Section 288.210, RSMo) cases, an appeal is taken from a decision of the Labor and Industrial Relations Commission by filing a notice of appeal along with any required docket fee with the Commission. Form No. 8-C is utilized for the notice of appeal in worker's compensation cases. See Appendix E. Form No. 8-B is used in unemployment compensation cases. See Appendix F. No docket fee is required for unemployment compensation claimants. 288.380.5. The appellant must also file the Labor and Industrial Relations Commission Case Information Form with the notice of appeal per Special Rule 300. See Appendix G. The Commission shall send a copy of the notice of appeal, information form and the docket fee, if required, to the Clerk of the Court. The Commission shall file with this Court all documents and papers on file together with a transcript of any evidence that shall constitute the record on appeal. Sections 287.495.1 and 288.210, RSMo.

Petitions for review from decisions of the Administrative Hearing Commission where review is exclusively with the appellate court pursuant to section 621.189 (declaratory judgments, complaints, and rulings of the Director of Revenue) and section 198.039.3 (nursing home licensing) are filed directly in the Court of Appeals with a docket fee of $70.00. Rules 100.02(b).

The petition for review shall specify the party seeking review, the decision sought to be reviewed and a concise statement of the grounds on which jurisdiction is invoked. Rule 100.02(c). The appellant shall serve a copy of the petition for review on each party of record and the agency. Proof of service shall be filed with this Court. Rule 100.02(d).

The record on appeal shall be composed in the manner set forth in Rule 100.02(e). The record on appeal shall be due within thirty (30) days of the filing of the notice of appeal. Special Rule 350(a).

B. DISMISSAL OF APPEALS

1. Voluntary

An appellant may file a voluntary dismissal of an appeal in the appellate court at any time prior to submission. Rules 30.13 and 84.09. After submission, leave of court is necessary to dismiss an appeal.

2. Involuntary

This Court, on its own motion, may dismiss an appeal if the appellant fails to perfect the appeal within the allowed time. Rules 30.14(a) and 84.08. Prior to this Court's dismissal of the appeal, this Court must give appellant notice and an opportunity to correct the default by placing the case on a "dismissal docket." The Court notifies the

appellant by **regular** mail that the appeal will be dismissed unless appellant remedies the default prior to a specified date, not less than fifteen (15) days from the date of the notice. If the default is not remedied by that date, the appeal shall be dismissed. Rules 30.14(a) and 84.08.

C. MOTIONS

All motions must be in writing and must be filed with the Clerk's office. Motions should not be in letter form and should not be addressed to a judge, but to the Clerk. All motions must be signed and must include proof of service upon opposing counsel. Rules 20.04, 84.01, 84.07 and 84.11. Routine administrative motions require only an original. No copies are necessary. Unless otherwise ordered by this Court, suggestions in opposition may be filed within five (5) business days after the date of service. Motions are decided on the pleadings. There is no oral argument unless directed by the Court. Rules 30.10 and 84.01(a). Motions, unless purely routine, are generally held seven (7) days before disposition. Rulings are mailed to the responsible attorneys. Motions are generally decided without argument and without issuing an opinion.

The Court maintains a policy for extensions of time to file appellant's and respondent's briefs. The policy is subject to change. A copy of the Court's current policy may be requested from the Clerk's office and is also posted on the Court's website.

D. TELEFACSIMILE FILINGS

This Court accepts filings by fax at 314-539-4324. Routine motions, pleadings, or correspondence that require only one copy and that do <u>not</u> exceed ten (10) pages will be accepted for filing. Special Rule 415(a). A paper filed by fax shall have the same effect as an original filing. Rule 84.01(b). The original document should not be mailed or filed with the Court, but rather should be kept for production if requested by the Court. Special Rule 415(c).

Records on appeal, briefs, writ petitions, motions for rehearing, applications for transfer, legal files and suggestions in opposition to motions for rehearing, applications for transfer or petitions for writs shall not be filed by fax. Special Rule 415(d). Fax filings received at the Court after 5:00 p.m. will be deemed filed the next business day. There is no charge for filing documents by fax.

E. DROP BOX FILINGS

To make the filing of documents more convenient, the Court has installed a drop box in the third floor elevator vestibule of the Court at the Old Post Office, 815 Olive St., St. Louis, Missouri. The box is located next to the elevators as you exit the elevator. Ask security on the first floor for directions if you cannot locate the box. The drop box may be used for filings Monday-Friday (except holidays) from 6:30 a.m. to 8:30 a.m. and from 5:00 p.m. to 10:00 p.m. Documents MUST be filed in the Clerk’s Office during business hours.

This Court also accepts drop box filings at the St. Louis County Courthouse at 7900 Carondelet. The drop box is located inside the courthouse close to the North

entrance, on the street level, just prior to reaching the security checkpoint. This drop box may be used for filings Monday-Friday (except holidays) from 6:00 a.m. to 10:00 p.m. All documents and filings MUST be date stamped with the automatic clock stamp located on the top of the drop box.

EXTRAORDINARY WRITS

The Court of Appeals is authorized by Article V, Sec. 4 of the Missouri Constitution to issue extraordinary original remedial writs. The five types of remedial writs are prohibition, mandamus, habeas corpus, quo warranto, and certiorari. The remedial writs are extraordinary remedies in contrast to a direct appeal. The writs are distinct from a direct appeal, are not intended as a substitute for appeal, and will not lie if an appeal is possible or where there is another adequate remedy. An excellent discussion of the purpose and application of each of the five extraordinary writs may be found in the Missouri Bar CLE desk book on Appellate Court Practice, 5th Ed. (2002). Rules 84.22 through 84.24 set forth the procedure governing extraordinary remedial writs in general; Rule 97 governs prohibition; Rules 94, mandamus; Rule 91, habeas corpus; and Rule 98, quo warranto.

The writ duty division of the Court consists of a presiding judge and one other judge. Each writ division serves for a one month period. Upon issuance of a preliminary order or upon disagreement by members of the writ division, a third judge, also selected by rotation, is added to the division. The Court has a writ attorney to whom inquiries and correspondence concerning writs should be directed. Original remedial writs will not be issued by an appellate court where relief can be afforded by appeal or by application to a lower court. Rule 84.22(a).

The writ petition accompanied by suggestions in support, exhibits, and a $70.00 docket fee is filed. Rule 81.04(c) and 84.24(a). Special Rule 410(a) mandates that writ pleadings also be submitted in an electronic versions--diskette, CD or electronic mail message with attachment containing a copy of the filing. Petitioners proceeding as poor persons and petitioners in custody filing pro se writ petitions do not have to submit an electronic copy of their writ filings. In addition, a writ summary not to exceed one page shall accompany all writ petitions, other than habeas corpus. Rule 84.24(a)(1). The summary shall substantially conform to Civil Procedure Form No. 16 and identify the parties, the nature of the underlying action, the action being challenged, the relief sought and state the date the case is set for trial or date of any other event bearing upon the relief sought. See Appendix H. In child custody habeas corpus proceedings, the Writ Service Information Form shall be completed. See Appendix I. An original plus five copies of the writ petition, suggestions in support, exhibits, and writ summary must be filed. Special Rule 330(f). Any party filing a writ petition shall assemble and bind or clip the filings together by placing the writ summary on top, followed by the petition, suggestions in support, and any exhibits. Special Rule 410(a). In petitions for a writ of mandamus, writ of prohibition, or petition in quo warranto, the exhibits shall be attached to the petition along with an index of all exhibits. The exhibits shall be identified in the index by number or letter and page, and, in addition, shall be described so the court can distinguish the exhibits. The pages of the exhibits shall be numbered consecutively. Rules 94.03; 97.03; 98.03.

Proof of service shall be filed which shall identify the name, address, and phone number of each attorney served and the name of the party each represents. Rule 84.24(a)(4). The respondent has ten (10) days in which to file suggestions in opposition that shall be served on the relator prior to or on the day of filing in the Clerk's office. Rule 84.24(c). If the ten (10) day time limit would defeat the purpose of the writ, the relator may request that time to file suggestions in opposition be shortened or eliminated altogether. Rule 84.24(e).

After the petition is filed, the judges of the writ division shall determine whether to issue a preliminary order, issue a peremptory writ, or deny the writ petition. Oral argument is not granted at this stage of the proceedings. If the petition is denied, the attorneys will be informed by a written order. The Court seldom states a reason why the petition for the writ is denied. If the petition is denied, that ends the matter in this Court. Motions for reconsideration or applications for transfer shall not be filed. Rule 84.24(m). The relator's only remedy is to file an original petition in the Supreme Court of Missouri.

If a preliminary order is issued, the order will require the respondent to file an answer. Rule 84.24. Even though a respondent may have filed suggestions in opposition before the issuance of the preliminary order, the respondent must still file an answer as directed by the preliminary order. The answer admits or denies the allegations of the relator's petition. Failure to file an answer within the time specified by the preliminary order will result in judgment by default for the relief requested in the relator's petition.

There is no requirement that a legal file or a transcript be filed. Copies of the relevant documents are attached to the petition or suggestions of the parties as exhibits. The preliminary order may also set forth a briefing schedule and a date for oral argument. See Rule 84.04 for contents of the brief if requested. The Court will thereafter issue an opinion either making the preliminary order permanent or quashing it. A motion for rehearing or an application for transfer may then be filed in accordance with Rules 84.17 and 83. However, if the preliminary order is quashed without an opinion, relator's only remedy is to file an original petition in the Missouri Supreme Court.