

MARSHALL ISLANDS  
APPELLATE RULES OF PROCEDURE  
1983

**RULE 1 - APPLICABILITY OF RULES**

These rules apply to all appeals filed in the Courts of the Marshall Islands on or after the effective date hereof, except where specifically limited herein, or by the laws of the Marshall Islands. All appeals must be filed and prosecuted as provided in these rules. The term 'Appellate Court' as used in these rules, shall mean the Court to which the appeal is taken, whether it be the District Court, High Court or Supreme Court.

**RULE 2 - ADMINISTRATIVE AUTHORITY TO REFUSE FILINGS**

The Clerk of Courts shall refuse to file any notice of appeal, brief or other document not filed within the time provided in these rules, except when filing is permitted by special order of a judge of the court to which the matter is appealed.

**RULE 3 - NOTICE OF APPEAL - CONTENTS**

The Notice of Appeal shall set forth the title of the action; specify the party or parties taking the appeal, as well as the name and address of appellant's counsel, if any; designate the judgment or part thereof appealed from, giving its date and the time of its entry; contain a concise statement of the questions presented by the appeal; and if a criminal case, shall include a general statement of the offense, the sentence imposed and the place of confinement if defendant is in custody. Only questions set forth in the notice of appeal or fairly comprised therein will be considered by the Court. The notice of appeal shall include proof of service on all adverse parties as prescribed by these rules.

**RULE 4 - NOTICE OF APPEAL - TIME AND PLACE OF FILING**

(a) Time. An appeal to review any judgment shall be filed within thirty (30) days after the imposition of sentence in a criminal case or service of the judgment in a civil case, unless otherwise provided in the laws of the Republic of the Marshall Islands. The time for filing an appeal is terminated by the timely filing in accordance with the Rules of Civil Procedure or the Rules of Criminal Procedure, of a motion to alter or amend the judgment or a motion for a new trial. The full time for appeal commences to run and is to be computed from the service of an order granting or denying a motion to alter or amend the judgment or the denying of a motion for a new trial.

(b) Place. An appeal to review a judgment shall be deemed to be timely filed if the notice of appeal is filed within the time prescribed in subsection (a) of this Rule with the

presiding judge of the court from which the appeal is taken or with the clerk of courts.

Any notice of appeal filed in a community court shall be promptly forwarded by the court to the clerk of courts with a notation addressed thereon of the date of filing. Notification of the filing of the notice of appeal shall be given by the clerk of courts by making or delivering copies thereof to the presiding judge of the court appealed to, and the judge whose judgment, order or sentence is appealed from (unless the notice of appeal was originally filed with that judge), but the clerk of courts' failure to so notify does not affect the validity of the appeal.

#### RULE 5 - SERVICE

Whenever any pleading, motion, notice, brief or other document is required by these rules to be served, said service shall be accomplished in accordance with Rule 5, Marshall Islands Rules of Civil Procedure.

#### RULE 6 - COMPUTATION AND ENLARGEMENT OF TIME

(a) Computation. In computing any period of time prescribed or allowed by these rules, by order of the court or by any applicable statute, Rule 6, Marshall Islands Rules of Civil Procedure shall be controlling.

(b) Enlargement. The time specified in these rules for any proceeding, except the filing of a notice of appeal may be extended by order of a judge of the court to which the appeal is taken, provided, however, the trial judge may extend the time for filing a notice of appeal upon application of a party prior to the expiration of the original thirty—day period. All applications for extensions of time must be timely filed within the period sought to be extended. In the case of appeals to the Supreme Court, the Clerk of Courts will refuse to receive any application for an extension sought to be presented after expiration of the period sought to be extended. Whenever a judge has granted an extension of time within which a party may file his motion, brief or other document, it shall be the duty of the party to whom such extension is granted. to give all other parties to the proceedings prompt notice thereof.

#### RULE 7 - MOTIONS

All motions shall be in writing and shall state clearly its object and the facts on which it is based. A brief in support of the motion (other than motions to enlarge time) shall be filed with the motion. Motions shall be filed with the clerk of the court to which the appeal is taken together with proof of service. Oral argument will not be heard on any motion unless the court specifically assigns it therefor.

## RULE 8 - STAY OF JUDGMENT

(a) Stay of Judgment Pending Appeal. Any request for stay of execution of the judgment, order, or sentence pending appeal shall ordinarily be made in the first instance to the trial judge. If he denies the request, the matter may be taken up directly with any other judge authorized to sit in the court to which the appeal is taken. If the record has not yet been certified, the appellant shall accompany the request to any judge, other than the trial judge, by a Statement under oath, setting forth sufficient details to clearly indicate what questions of law are involved and how these arise. In the absence of unusual circumstances, a showing that the appeal raises a substantial question of law shall be sufficient cause for granting a stay upon reasonable terms.

(b) Limitations on Stay of Judgment. Except as provided in the following section of this Rule, no stay of judgment of the High Court in a civil action shall be granted pending appeal unless the party requesting the stay gives satisfactory security for the satisfaction of the judgment in full, together with any costs, interests and damages for delay, in the event the appeal is dismissed or the judgment is affirmed, and to satisfy in full such modification of the judgment and such costs, interests, and damages as the court on appeal may adjudge and award. This security may be in the form of a bond with surety or sureties, or deposit of money in court, or stipulation between the parties or court order entrusting certain assets to the control of a third person, or otherwise, provided the arrangements are agreeable with the judge granting the extension to ensure compliance with the judgment or any modification of it which the court on appeal may make. If the appeal is from the granting, dissolving, or denying of an injunction, the trial judge may in his discretion suspend, modify, restore, or grant an injunction pending appeal upon such terms as he considers proper for the security of the rights of the adverse party or parties.

(c) No Security Required of the Government of the Marshall Islands. When an appeal is taken by the Government of the Marshall Islands or an officer or agency thereof in his or its official capacity, no security shall be required for stay of execution of judgment pending appeal.

## RULE 9 - SUPERVISION OF APPEALS

The supervision and control of the proceedings on appeal shall be in the court appealed to from the time the notice of appeal is filed with or received by its clerk. The court appealed to may at any time entertain a motion to dismiss the appeal, or for directions to the lower Court, or to modify or vacate any order made by the lower court or by any judge thereof in relation to the prosecution of the appeal, including any order fixing or denying bail or refusing to stay execution of sentence.

## RULE 10 - AMICUS CURIAE

An attorney may appear as amicus curiae in any cause on appeal only by request of the appellate court or when accompanied by written consent of all parties to the case and presented within the time allowed for the filing of the brief of party supported.

When consent to the filing of a brief on amicus curiae is refused by a party to the case, a motion for leave to file may be presented to the appellate court as soon as practicable after the refusal of a party. Such motion shall concisely state the nature of the applicant's interest, set forth facts or questions of law that have not been raised or reasons for believing that they will not adequately be presented by the parties, and their relevancy to the disposition of the case. A party served with such motion may reasonably file an objection concisely stating the reasons for withholding consent. Appearance as amicus curiae shall be by brief only unless the court specially authorizes or directs oral argument.

## RULE 11 - SUBSTITUTION OF PARTIES

Upon the death or disability of a party or the replacement of a holder of a public office who in such capacity is a party in a cause pending on appeal, an order of substitution will be made by the appellate court upon a proper showing.

## RULE 12 - CONSOLIDATION

Cases may be consolidated for the purpose of appeal upon motion served and filed in accordance with these rules or upon the court's own motion.

## RULE 13 - QUESTIONS OPEN ON APPEALS IN COURT AND THE HIGH COURT

The entire record of a case shall be open for consideration on appeal to the High Court or a District Court, including questions of law and of fact and exercise of discretion. Any sentence, judgment or order may be modified, except that a sentence may not be increased unless a new trial has been granted.

## RULE 14 - APPEALS FROM COMMUNITY COURTS TO DISTRICT COURT

Appeals from Community Court to District Court shall be considered on the basis of the record in the Community Court, the notice of appeal, and such written or oral argument as the parties may submit, unless the District Court orders otherwise on motion of a party or on its own motion.

(a) Record. Upon receipt of the notice of appeal, the Community Court judge having originally heard the matter, shall within twenty (20) days prepare a summary of the evidence presented at the trial and promptly furnish each party with a copy of the summary of

evidence. Within ten (10) days after service of the summary of evidence on the parties, the Community Court judge shall hold a hearing with all parties to determine if any addition or corrections should be made in the summary of evidence or other record of the case. After said hearing the Community Court judge shall promptly forward the summary of evidence together with such record and file of the case to the Clerk of Courts.

(b) Motions to Hear Evidence. If any party believes that justice requires the District Court to hear additional evidence, such party shall notify the other parties and file his request as soon as possible.

(c) Discretion of District Court. If at any time while the appeal is pending, the District Court becomes convinced that a change in the procedure outlined above is necessary in a particular case to accomplish justice, it may, after such notice, if any, as it deems justice requires, change the procedure.

#### RULE 15 - APPEALS FROM DISTRICT COURTS TO THE HIGH COURT

Appeals from District Courts to the High Court shall be considered on the basis of the record in the District Court, the notice of appeal, and such written or oral argument or both as the parties may submit, unless the High Court orders otherwise on motion of a party or on its own motion.

(a) Record. Upon receipt of a notice of appeal, the Clerk of Court shall within twenty (20) days of receipt of the notice of appeal transmit the original file together with the record of any proceedings to the High Court. At the time of the transmittal to the High Court, the Clerk of Courts shall promptly furnish each party with a copy of the record of any proceedings and proof of such service shall be filed with the High Court.

(b) Correction of the Record. If any party considers the District Court's record to be inaccurate or not complete enough, he shall, within ten (10) days of receipt thereof notify the other parties of the alleged error or omission and endeavor to secure a written agreement as to what correction or addition should be made in the record to make it agree with the facts. A copy of the notice shall also be filed with the High Court. If within ten (10) days all parties are unable to agree on such correction or addition, the party claiming error shall promptly arrange with the District Court for a time and place for a hearing on the matter, and shall provide a reasonable notice to the other parties of the time and place of the hearing. After giving all parties an opportunity to be heard, the District Court shall then make a supplemental record correcting or adding to the original record if the court is satisfied that the correction or addition requested is in accordance with the facts, or certifying the court's understanding of the facts in connection with the requested change in the record. If a party still feels the record, as supplemented, is incorrect or incomplete in any important respect he may, within ten (10) days of receipt of the supplemental record, request the High Court to consider affidavits or evidence on the matter, and shall notify the other parties of his request.

(c) Motions to Hear Evidence. If any party believes that justice requires the High Court hear evidence on matters other than amendment of the record, or that the High Court reopen the case and try it de novo, such party shall notify the other parties and file his request together with the reasons therefore as soon as practicable. The High Court shall not try a case de novo unless it is satisfied no other just solution of the matter is practicable.

(d) Discretion of the High Court. If at any time while the appeal is pending, the High Court becomes convinced that a change in the procedure outlined above is necessary in a particular case to accomplish justice, it may, after such notice, if any, as it deems justice requires, change the procedure. If an applicant is not represented by a lawyer or a duly listed trial assistant, the High Court shall take care, in such manner as it deems practical in each case, to see that every adverse party has an adequate opportunity to prepare to argue any ground of appeal advanced by the appellant and may, if it seems justice requires, adjourn the hearing for this purpose after the appellant has completed his oral argument, or may grant any adverse party permission to file a written argument within such further time as the court may fix.

#### RULE 16 - APPEAL FROM THE HIGH COURT TO THE SUPREME COURT

(a) Designation of Record and Ordering of Transcript. Within ten (10) days after filing the notice of appeal, the appellant shall, in writing, designate and order the whole or any part of the record which he desires to raise on appeal, or file a written waiver thereof. The designation and order shall be filed with the Clerk of Courts, with a certification or statement of its service upon the appellee.

Within five (5) days from service of the designation and order of the record, or the waiver thereof, the appellee shall file with the Clerk of Courts any additions to the designation and order of record which he desires to be considered on appeal, with certification or statement of its service on the appellant.

Upon receipt of the designation and order of the record from the appellant, and additions thereto from the appellee, the Clerk of Courts shall forthwith obtain and notify the appellant of the estimated expense to prepare the designated transcript. Every effort shall be made on the part of the Clerk of Courts and the Court Reporter or other person who is to prepare the transcript to prepare and notify the appellant the estimated cost of transcription without unnecessary delay. Said cost shall include the copies required under 6 TTC 405 (3).

The appellant shall have thirty (30) days from service of notice of the estimated cost to pay the estimated cost, unless a request to proceed without prepayment of cost has been filed timely. The appellant shall have fifteen (15) days after service of notice from the Clerk of Courts, to pay the final cost of transcription, if the final cost of transcription exceeds the estimated cost.

If the appellant requests to proceed without prepayment of costs pursuant to 6 TTC 404 (1), he shall file the request therefor with the Clerk of Courts, Supreme Court Docket, within ten (10) days after service of notice of the estimated cost upon him. If the request is granted, prepayment of the estimated cost is waived and 6 TTC 404 (5) shall apply. If the request is denied by the Supreme Court, appellant shall have 20 days from service of the notice of such denial by which to pay the estimated cost.

(b) Preparation of Record and Submission to the Supreme Court. As soon as the appellant makes full payment of the estimated cost of transcription, or that prepayment thereof is waived, the Clerk of Courts shall cause a transcript of the ordered testimony to be prepared and filed in the Supreme Court files. The Court Reporter or other person assigned to prepare that transcript shall have sixty (60) days following the date prepayment of cost is made or issuance of the Court Order waiving the prepayment within which to prepare and file the ordered transcript. If the Reporter or other assigned person is engaged in the preparation of other transcripts, or is unable for any valid reason to complete the transcript within the sixty (60) days allowed, he should request the Supreme Court for an additional time, up to and not exceeding ninety (90) days, to complete the transcript. After the ninety-day period has elapsed, he may obtain an extension of time only by presenting an affidavit to the Supreme Court stating his reasons for inability, and with it, may request for an order of the court to further extend the time.

The Clerk of Courts shall file the original transcript, and after collecting the final cost of transcription (if any), forthwith distribute copies thereof to all parties in the appeal.

The transcript may be either in question and answer form or in the form of a narrative covering the substance of all material testimony of each witness designated and ordered according to the manner in which the case was recorded.

If a transcript is waived, or the parties stipulate to a summary of the testimony, or submit a tape recording in lieu of a transcript, or when a transcript has been prepared, filed, and copies distributed, the Clerk of Courts shall, without delay, file in the Supreme Court files all of the designated records and transcript with a certificate listing each of the papers received on behalf of the Supreme Court and certifying that they constitute the records designated by the appellant and the appellee in the appeal.

The papers so certified and filed shall constitute the record on appeal, unless the Supreme Court orders additional papers or exhibits. After the records on appeal have been certified and before disposition of the case, any papers or documents intended to be filed in the appeal shall be filed directly with the Clerk of Courts.

(c) Notice of Certification. The Clerk of Courts shall at the time of certification, notify each counsel of record, or party not represented by counsel, the date on which he certified the record on appeal. Along with such notification, the Clerk of Courts shall furnish each counsel or party a copy of the certified listing.

(d) Correction of Record. If any party considers that the record as certified by the Clerk of Courts is inaccurate or incomplete in any important respect, he shall notify the other party of the alleged error or omission and endeavor to secure a written agreement as to what correction or addition should be made in the record. If such agreement is made, it shall be promptly filed with the Clerk of Courts and shall thereupon become a part of the record. If all parties are unable to agree upon such correction or addition, the party claiming the error shall arrange with the trial judge for a time and place of hearing on the matter and shall notify the other parties of that time and place, Any party unable to be present or represented may submit his views on the matter in writing at or before that time, if he so desires. After giving all parties an opportunity to be heard, the trial judge will then make such changes in, or additions to, the record as the facts warrant, and will so notify each party or his counsel. If any party still feels that the record, as amended by agreement of the parties or by the trial judge is incorrect or incomplete in any important aspect, he may by written motion, supported by affidavits, request the Supreme Court to make further change, specifying particularly the change desired.

(e) Tape Recording of Trial. In the event the trial was recorded on tape, and a party in an appeal designates and orders the whole or portion thereof to be transcribed, the Clerk of Courts shall cause the estimate to be prepared in accordance with section (a) above.

Where testimonies were taken by means of tape recording, the appellant or the appellee may waive preparation of transcript, and designate and request production of all or part of a tape necessary for the determination of the appeal by the Supreme Court, in which event the designated testimony will not be transcribed, but will be listened to by the Supreme Court in considering the appeal, unless the Supreme Court requires transcription.

(f) Taxing Coats On Appeal. If on the determination of an appeal, the Supreme Court finds that the appellant or appellee failed to make a good faith effort in the designation of the record or ordering the transcript, and included frivolous and obviously unnecessary documents, exhibits or portions of the transcript, the Supreme Court may tax costs to the appellant or the appellee as the case may be, for additional reasonable expense in preparing the record. If the cost of the transcript is waived pursuant to 6 TTC 404, but the appellant fails to prosecute his appeal and the same is dismissed, the Supreme Court may tax costs to the appellant for the transcript.

## RULE 17 - PREPARATION OF BRIEFS

An original and three (3) copies shall be filed with the Supreme Court unless the Supreme Court orders otherwise.

(a) Form and Content. All briefs submitted by counsel who is a lawyer shall conform with the following requirements for form and content of briefs on appeals:



(1) The first page of each brief shall be the cover sheet. The cover sheet shall set forth the court to which appeal is taken, the full title of the case, the number assigned in the lower court, the number of the appeal, names of the appellant(s) and respondent(s), the party on whose behalf filed, a designation of the nature of the brief, the court from which appeal is taken, the name of the judge thereof, and the names, addresses and telephone numbers (if any) of counsel for the respective parties. The cover sheet shall not be numbered.

(2) Pages shall be of uniform size throughout each brief. The width of the pages shall not be less than eight inches nor more than eight-and-a-half inches. The length of the pages shall not be less than 13 inches nor more than 14 inches.

(3) Typewritten briefs shall be in pica or elite type and double-spaced, except that quotation of more than three typewritten lines in length may be indented and single-spaced with double spaces above and below each paragraph or less of quotation.

(4) The body of each brief shall be preceded by a Table of Contents which shall indicate the first page number of each separate item required to be in the brief by these rules.

(5) The body of each brief shall be preceded by a Table of Authorities. The Table of Authorities shall contain a list of all authorities referred to in the brief and shall indicate the page(s) of the brief where each authority is cited.

(6) In the body of all briefs, shall be a list of the questions presented in the appeal. This list shall set forth, in clear and concise terms, each question the party submitting the brief deems to be presented in the appeal. Each question presented shall be set forth in a separate numbered paragraph.

(7) In the body of all briefs, shall be the Statement of the Case. This shall set forth, in clear and concise terms and in substantially the following order, the following the nature of the action, suit or proceeding, the relief sought, and, in criminal cases, the information including citation of the applicable statute(s); the nature of the judgment, decree or other order sought to be reviewed, and, if trial was had whether it was before a court or a jury; a concise but complete statement of all the facts of the case material to the determination of the question(s) presented for appellate decision, such statement to be presented in narrative form; and any other matters necessary to inform the Appellate Court concerning the questions and contentions raised upon the appeal, insofar as such matters are a part of the record, with reference to the portion(s) of the record where such matters appear. The respondent may, in lieu of the above, state acceptance of the Statement of the Case as it appears in the appellant's brief, or cite any alleged omissions or inaccuracies therein, and may also state such relevant facts or other matters as may apply to the decision, referring to pages of the record in support thereof, but without unnecessary repetition of the appellant's statement. "Points and Authorities" shall not be given in this portion of the brief.

(8) In the body of all briefs, shall be the argument. The argument shall be divided into major sections, with a separate argument following each assignment or combination of assignments of error. Each such major section shall be immediately preceded by a caption, which shall indicate briefly the substance of each assignment or combination of assignments of error discussed thereunder.

(b) Trial Assistants' Briefs. Trial Assistants shall endeavor to the best of their ability to conform with the same requirement, except that their briefs may be submitted in longhand.

(c) Non-lawyers. If a party is not represented by a lawyer or trial assistant, the brief shall be in such form as directed by the Supreme Court.

(d) Language. All written arguments must be either in English or accompanied by an English translation. Any expense for preparing such translation shall be born by the party submitting the argument and may be taxed as part of the Costs.

(e) Signing. All written arguments must be signed by a lawyer or trial assistant unless the Supreme Court expressly grants permission in advance for the filing of a particular argument without such signature. By so signing any written argument or notice of appeal, as counsel for the appellant, the lawyer or trial assistant represents that in his opinion the appeal raises substantial questions of law.

#### RULE 18 - FILING OF BRIEFS

(a) Place of Filing. All briefs and written arguments shall be filed with the Clerk of Courts.

(b) Time of Filing. Appellant's brief shall be filed within sixty (60) days after the notification (service) of certification of the record by the Clerk of Courts or after entry of the trial court order settling the transcript, whichever shall occur last; or if a transcript is not designated or is waived, then within sixty (60) days after the filing of the notice of appeal. In cases involving cross-appeals. or separate appeals, the party first filing a notice of appeal shall be considered the appellant under this rule. The respondent's brief, if any, shall be served and filed forty-five (45) days after filing of the appellant's brief. The appellant may serve and file a reply brief within twenty (20) days after the filing of respondent's brief.

#### RULE 19 - ORAL ARGUMENT

(a) Submission Without Argument. By stipulation of the parties, any case may be submitted on briefs without oral argument or any party may waive oral argument unless the appellate court otherwise directs. The court on its own motion may order a case submitted on briefs without oral argument.

(b) Time and Place. After the briefs have been filed by the parties as provided in these rules or after the time for filing such briefs has expired, the court will assign a time and place for oral argument and notify each party or his counsel, If any party is neither present nor represented at the oral argument, the Court may proceed to hear the other parties, and then proceed to decide the appeal without further notice.

(c) Order of Argument. The appellant shall be entitled to open and close and when there are cross-appeals, they shall be argued together and the cross-appellant shall be deemed a respondent.

(d) Length of Argument. Unless otherwise ordered, the appellant shall not have more than thirty (30) minutes for argument, and the respondent shall also have not more than thirty (30) minutes; provided, the appellant may use not more than ten (10) minutes of the time allowed for argument in which to reply. Application for extension of time for argument must be made by motion at least five (5) days before the time set for argument.

#### RULE 20 - FAILURE TO COMPLY WITH RULES

(a) By Appellant. Failure of appellant to comply with these rules after filing notice of appeal, should be ground for such action, including dismissal of the appeal as the court may deem appropriate. If appellant fails to file a brief as provided in these rules and the court determines not to dismiss the matter for such failure, respondent shall be notified and allowed to file a brief as set forth in these rules.

(b) By Respondent. If respondent fails to comply with the rules and the appellant has otherwise complied therewith the cause will be submitted upon its merits as to respondent and the respondent will not be allowed to argue the case orally without permission of the court.

#### RULE 21 - DISCRETION OF APPELLATE COURT

If at any time while an appeal is pending the appellate court becomes convinced that a change in the procedure set forth in these rules is necessary in a particular case to accomplish justice, it may after such notice, if any, as it deems justice requires, change the procedure.

#### RULE 22 - EFFECTIVE DATE

These Rules shall take effect on the 18 day of February 1983, and shall apply to all appeals.

IN THE HIGH COURT  
OF THE  
REPUBLIC OF THE MARSHALL ISLANDS

_____	)	CIVIL ACTION/CRIMINAL CASE NO.
	)	
_____	)	
Plaintiff(s),	)	
	)	
v.	)	NOTICE OF APPEAL TO THE SUPREME
	)	COURT UNDER RULES 3 AND 4 OF
_____	)	THE APPELLATE RULES OF PROCED-
	)	URE
_____	)	
Defendant(s).	)	
	)	
_____	)	

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that \_\_\_\_\_,  
(Name of the party)  
the \_\_\_\_\_ above-named, hereby appeals to the  
(Plaintiff or Defendant)  
Supreme Court from that certain Final Judgment (or part thereof) entered in this action on the  
\_\_\_\_\_ day of \_\_\_\_\_, 198\_\_\_\_\_, at \_\_\_\_\_ .M.

1. The following is a concise statement of the questions presented by this appeal:
  - a.
  - b.
2. [If a criminal case is appealed from] The following is a general statement of the offense(s) involved, the sentence imposed, and the place of confinement.
3. Proof(s) of service of this Notice of Appeal on all adverse parties as prescribed by

the Rules is (are) attached hereto as Exhibit(s) \_\_\_\_\_.

Date: \_\_\_\_\_, 198 \_\_\_\_

(Signature of Counsel) \_\_\_\_\_

(Address of Counsel) \_\_\_\_\_

\_\_\_\_\_

(If the party appealing has no counsel, then the party must sign.)