REPUBLIC OF THE MARSHALL ISLANDS

SUPREME COURT RULES

OF

PROCEDURE

Adopted and Promulgated by

The Supreme Court
of the
Republic of the Marshall Islands

Effective September 25, 2023

September 25, 2023

REPUBLIC OF THE MARSHALL ISLANDS
SUPREME COURT RULES OF PROCEDURE
TABLE OF CONTENTS

REPUBLIC OF THE MARSHALL ISLANDS
SUPREME COURT RULES OF PROCEDURE

Rule 1. SCOPE OF RULES.

(a) Scope of Rules. These rules govern procedure in all appeals to the Marshall Islands Supreme Court as of right from any final decision of the High Court; from any final determination or from any order granting, dissolving, or denying an injunction issued by the Nuclear Claims Tribunal or the Special Tribunal; in appeals at the discretion of the Supreme Court from any final determination or order of any court; in other appeals that hereafter may be allowed by law; and in applications for writs, orders, or other relief that the Supreme Court is competent to give.

(b) Rules Not to Affect Jurisdiction. These rules shall not be considered to extend or limit the jurisdiction of the Marshall Islands Supreme Court as established by law.

Rule 2. SUSPENSION OF RULES.

In the interest of expediting a decision, or for other good cause shown, the Supreme Court may suspend the requirements or provisions of any of these rules in a particular case on application of a party or on its own motion and may order proceedings in accordance with its direction.

Rule 3. APPEALS--HOW TAKEN.

(a) Filing the Notice of Appeal.

(1) An appeal permitted by law to the Supreme Court shall be taken by filing a notice of appeal with the clerk of the court from which the appeal is taken.

(2) Failure of an appellant to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for such action as the Supreme Court deems appropriate, which may include dismissal of the appeal.

(b) Joint or Consolidated Appeals. If two or more persons are entitled to appeal from a judgment or order and their interests are such as to make joinder practicable, they may file a joint notice of appeal, or may join in appeal after filing separate timely notices of appeal, and they may thereafter proceed on appeal as a single appellant. Appeals may be consolidated by order of the Supreme Court upon the Court's own motion, on motion of a party, or upon stipulation of the parties to the several appeals.

(c) Content of the Notice of Appeal.

(1) The notice of appeal must specify the party or parties taking the appeal; designate the judgment, order, or part thereof appealed from and have a copy of the judgment or order attached as an exhibit; contain a concise statement of the questions presented by the appeal; and if a criminal case, must include a general statement of the offense, the sentence imposed, whether the defendant has been released on bail or on this defendant's own recognizance, and the place of confinement if the defendant is in custody. Only questions set forth in the notice of appeal or fairly comprised therein will be considered by the Supreme Court. Questions not presented according to this paragraph will be disregarded. The Court, at its option, may notice a plain error not presented.

(2) An appeal shall not be dismissed for informality of form or title of the notice of appeal.

(3) If the appeal is allowable only in the discretion of the Supreme Court, the appellant or the appellee may, within 10 days following filing of the notice of appeal, file a supplement to the notice of appeal identifying the standards, criteria, or factors the Supreme Court should consider or apply in determining whether to entertain the appeal and what conditions, if any, should govern the appeal. The appellee or the appellant may, within 10 days following service of the supplement, file an answer thereto, addressing the same matters. The supplement and answer must be served in the same manner as the notice of appeal and neither shall exceed 10 pages, exclusive of exhibits and appendices.

(d) Service of the Notice of Appeal. The party appealing shall serve the notice of appeal in accordance with Rule 25 on counsel of record for each party other than the appellant, or, if a party is not represented by counsel, on the party; and shall forthwith file with the clerk of the court appealed from a statement setting forth the date and manner of service and, if the appeal is from a court other than the High Court, shall attach a copy of the Notice of Appeal.

(e) Payment of Fees. Upon the filing of any separate or joint notice of appeal, the appellants shall pay to the clerk of the court appealed from such fees, if any, as are established by statute or rule.

(f) Denomination of Parties. The party appealing shall be denominated the appellant; the appellant's denomination in the proceeding in which the appeal is taken shall also be included so that an appellant shall be denominated plaintiff-appellant or petitioner-appellant or defendant-appellant or respondent-appellant. All other parties shall be denominated appellees and each appellee's denomination in the proceeding in which the appeal is taken shall also be included so that each appellee shall be denominated plaintiff-appellee or petitioner-appellee or defendant-appellee or respondent-appellee. Any appellee who supports the position of an appellant shall meet the time schedule for filing papers that is provided for that appellant.

Rule 4. APPEALS--WHEN TAKEN.

(a) Appeals in Civil Cases.

(1) (A) In a civil case in which an appeal is permitted by law as of right or at the discretion of the Supreme Court from any final decision of any court or by an order of a court granting an interlocutory appeal permitted by statute or rule, the notice of appeal required by Rule 3 must be filed by a party with the clerk of the court appealed from within 30 days after the date of entry of the judgment or order.

(B) Where an appeal is permitted at the discretion of the Supreme Court from any final determination or order granting, dissolving, or denying an injunction issued by the Nuclear Claims Tribunal or the Special Tribunal, the notice of appeal required by Rule 3 must be filed with the clerk of the Tribunal within 30 days after the date of entry of the final determination or order appealed from, unless a request for review by the Tribunal is denied or is not acted upon within 30 days, in which case the notice of appeal must be filed by a party within 30 days of the date of denial or, if the request is not acted upon, within 60 days of the date the request for review was filed.

(C) If a notice of appeal is mistakenly filed in the Supreme Court, the Supreme Court shall note thereon the date on which it was received and transmit it to the court appealed from and it shall be deemed filed in the court appealed from on the date so noted.

(2) Except as provided in (a) (4) of this rule, notice of appeal filed after the announcement of a decision or order but before the entry of the judgment or order shall be treated as filed after such entry and on the day thereof.

(3) If a timely notice of appeal or cross-appeal is filed by a party, any other party not already an appellant may file a notice of appeal or cross-appeal within 14 days after the date on which the notice of appeal or cross-appeal was served upon such party or the party's counsel or within the time otherwise prescribed by this Rule 4(a), whichever period last expires.

(4) (A) If a timely motion under the Marshall Islands Rules of Civil Procedure is filed by any party: (i) to amend or make additional findings of fact, whether or not an alteration of the judgment would be required if the motion is granted; (ii) to alter or amend the judgment; or (iii) for a new trial; or (iv) for rehearing, the time for appeal for all parties shall run from the entry of the order denying a new trial or granting or denying any other such motion.

(B) A notice of appeal filed before the disposition of any of the above motions shall have no effect. A new notice of appeal must be filed within the prescribed time measured from the entry of the order disposing of the motion as provided above.

(C) No additional fee shall be required for such filing.

(5) **(A)** The court appealed from, upon a showing of excusable neglect or good cause, may extend the time for filing a notice of appeal upon motion actually filed not later than 30 days after the expiration of the time prescribed by subsections (a)(1) through (a)(4) of this Rule 4.

(B) Any such motion that is filed before expiration of the prescribed time may be ex parte unless the court appealed from otherwise requires. Notice of any such motion that is filed after expiration of the prescribed time shall be given to the other parties in accordance with the rules of the court appealed from.

(C) No such extension shall exceed 30 days past such prescribed time or 10 days from the date of entry of the order granting the motion, whichever occurs later.

(6) (Reserved).

(7) A judgment or order is entered within the meaning of this Rule 4(a) when it is filed in the office of the clerk of the court involved.

(b) Appeals in Criminal Cases.

(1) In a criminal case, whether the appeal is one of right or is an interlocutory appeal permitted by statue or rule, the notice of appeal by a defendant must be filed with the court appealed from within 30 days after the entry of the judgment or order appealed from.

(2) A notice of appeal filed after the announcement of a decision, sentence, or order but before entry of the judgment or order shall be treated as filed after such entry and on the day thereof.

(3) **(A)** If a timely motion in arrest of judgment or for a new trial on any ground other than newly discovered evidence has been made, an appeal from a judgment of conviction may be taken within 30 days after the entry of an order denying the motion.

(B) A motion for a new trial based on the ground of newly discovered evidence will similarly extend the time for appeal from a judgment of conviction if the motion is made before or within 7 days after entry of the judgment.

(4) When an appeal by the government is authorized by statute, the notice of appeal must be filed with clerk of the court appealed from within 30 days after the entry of the judgment or order appealed from.

(5) A judgment or order is entered within the meaning of this subdivision when it is filed in the office of the clerk of the court involved.

(6) Upon a showing of excusable neglect or good cause the court appealed from may, no later than 30 days after the time has expired, on motion and notice, extend the time for

filing a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by this subdivision (b).

Rule 5. ADMINISTRATIVE AUTHORITY TO REFUSE FILINGS.

The clerk of the court appealed from and the clerk of the Supreme Court 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 order of a justice of the Supreme Court.

Rule 6. (RESERVED).

Rule 7. BOND FOR COSTS ON APPEAL IN CIVIL CASES.

The High Court may require an appellant to file a bond or provide other security in such form and amount as it finds necessary to ensure payment of costs on appeal in a civil case. The provisions of Rule 8(b) apply to a surety upon a bond given pursuant to this rule.

Rule 8. STAY OR INJUNCTION PENDING APPEAL.

(a) Motion for Stay.

(1) An application in a civil case for a stay of the judgment or order appealed from pending appeal, or for approval of a supersedeas bond, or for an order suspending, modifying, restoring, or granting an injunction during the pendency of an appeal shall ordinarily be made in the first instance to the court appealed from.

(2) A motion for such relief on an appeal may be made to the Supreme Court.

(A) The motion must show that application to the court appealed from for the relief sought is not practicable, or that the court appealed from has denied an application, or has failed to afford the relief that the applicant requested, with the reasons given by the court appealed from for its action.

(B) The motion must also show the reasons for the relief requested and the facts relied upon, and if the facts are subject to dispute the motion must be supported by affidavits or other sworn statements or copies thereof.

(C) With the motion must be filed such copies of parts of the record as are relevant.

(D) Notice of the motion must be given to all parties.

(b) Stay May Be Conditioned Upon Giving of Bond; Proceedings Against Sureties. Relief available in the Supreme Court under this rule may be conditioned upon the filing of a bond or other appropriate security in the court appealed from. If security is given in the form of a

bond or stipulation or other undertaking with one or more sureties, each surety submits to the jurisdiction of the court appealed from and irrevocably appoints the clerk thereof as the surety's agent upon whom any papers affecting the surety's liability on the bond or undertaking may be served. The surety's liability may be enforced on motion in the court appealed from without the necessity of an independent action. The motion and such notice of the motion as the court prescribes may be served on the clerk of the court appealed from, who shall forthwith serve copies on the sureties if their addresses are known.

(c) Stays in Criminal Cases. Stays in criminal cases shall be had according to law.

Rule 9. RELEASE IN CRIMINAL CASES.

(a) Appeals from Orders Respecting Release Entered Prior to a Judgment of Conviction. An appeal authorized by law from an order refusing or imposing conditions of release shall be determined promptly. Upon the entry of an order refusing or imposing conditions of release, the court shall state in writing the reasons for the action taken. The appeal shall be heard without the briefs, unless otherwise ordered by the Supreme Court, after reasonable notice to the appellee upon such papers, affidavits, and copies of portions of the record as the parties shall present. The Supreme Court may order the release of the appellant pending the appeal.

(b) Release Pending Appeal from a Judgment of Conviction. Application for release after a judgment of conviction shall be made in the first instance in the court that rendered the judgment. If the court refuses release pending appeal, or imposes conditions of release, the court shall state in writing the reasons for the action taken. Thereafter, if an appeal is pending, a motion for release, or for modification of the conditions of release, pending a review, may be made to the Supreme Court. The motion shall be determined promptly upon such papers, affidavits, and copies of portions of the record as the parties shall present and after reasonable notice to the appellee. The Supreme Court may order the release of the appellant pending disposition of the motion.

(c) Criteria for Release. The Court must make its decision regarding release in accordance with the applicable provisions of Marshall Islands Rules of Criminal Procedure Rule 46.

Rule 10. THE RECORD ON APPEAL.

(a) Composition of the Record on Appeal. The original papers and exhibits filed in the court appealed from, the transcript of any proceedings, and the minutes, indices, and any other memorials of the proceedings prepared by the clerk of the court involved shall constitute the record on appeal in all cases.

(b) The Transcript of Proceedings; Duty of the Appellant to Order; Notice to Appellee if Partial Transcript is Ordered.

(1) Within 10 days after filing the notice of appeal the appellant shall order from the clerk of the court appealed from a transcript of such parts of the proceedings as the appellant deems necessary that are not already on file. The order must be in writing and within the same period a copy must be filed with the clerk of the court appealed from. The clerk shall in writing designate a reporter to prepare the transcript, attach to the designation a copy of the appellant's order, file the designation with the court appealed from and serve a copy of the designation on the designated reporter and the parties. If no such parts of the proceedings are to be ordered, within the same period the appellant must file a certificate to that effect.

(2) If the appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant must include in the record a transcript of all evidence relevant to such finding or conclusion.

(3) If the appellant does not designate that the entire transcript is to be included, and the appellee deems a transcript of other parts of the proceedings to be necessary, the appellee shall file and serve on the appellant a designation of additional parts to be included, within 10 days after service of the order or certificate of the appellant. Unless within 10 days after service of such designation the appellant has ordered such parts and has so notified the appellee, the appellee may within the following 10 days either order the parts or move in the court appealed from for an order requiring the appellant to do so.

(4) At the time of ordering, the clerk of the court appealed from shall forthwith obtain and notify the ordering party of the estimated cost of the ordered transcript. Said cost shall include any copies required under applicable rules. A party ordering a transcript shall have 20 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 timely filed. The ordering party shall have 10 days after service of notice from the clerk of the court appealed from to pay the final cost of the ordered transcript, if the final cost of the transcription exceeds the estimated cost.

(5) If the ordering party seeks to proceed without prepayment of costs pursuant to Rule 24 and 29 MIRC 136(1) and 136(5), the party shall file such a request with the clerk of the court appealed from within 10 days after service of notice of the estimated cost. If the request is granted, prepayment of the estimated cost is waived and Rule 24(a) and (b) shall apply. If the request is denied, Rule 24(c) and (d) shall apply.

(c) Statement of the Evidence or Proceedings When No Report Made or When Transcript Unavailable. This rule only applies where there is no report of the evidence or proceedings at a hearing or trial due to no fault of appellant. This rule encompasses situations such as where the reporter refuses, becomes unable, or fails to transcribe all or any portion of the evidence or oral proceedings. In such situations the appellant may prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection. The statement must be served on the appellee, who may serve objections or propose amendments

thereto within 10 days after service. Thereupon the statement and any objections or proposed amendments must be submitted to the court appealed from for settlement and approval and as settled and approved must be included by the clerk of that court in the record on appeal.

(d) Agreed Statement as the Record on Appeal. In lieu of the record on appeal as defined in subdivision (a) of this rule, the parties may prepare and sign a statement of the case showing how the issues presented by the appeal arose and were decided in the court appealed from and setting forth only so many of the facts averred and proved or sought to be proved as are essential to a decision of the issues presented. The statement, together with such additions, deletions and modifications as the court appealed from may consider necessary to truthfully and fully present the issues raised by the appeal must be approved by the court appealed from and must then be certified as the record on appeal and transmitted by the clerk of that court appealed from within the time provided by Rule 11. It must contain a copy of the judgment and the notice of appeal with its filing date. The statement must be accompanied by a list of such exhibits admitted in evidence or rejected as the parties desire to have transmitted on appeal.

(e) Correction or Modification of the Record.

(1) If any differences arise as to whether the record truly discloses what occurred in the court appealed from, the differences must be submitted to and settled by that court and the record made to conform to the truth.

(2) If anything material to any party is omitted from the record by error or accident or is misstated therein, corrections or modifications may be made as follows:

(A) by the stipulation of the parties; or

(B) by the court appealed from, either before or after the record is transmitted; or

(C) by direction of the Supreme Court, on proper suggestion or its own initiative. If necessary, the Supreme Court may direct that a new supplemental record be certified and transmitted.

(3) All other questions as to the form and contents of the record must be presented to the Supreme Court.

Rule 11. TRANSMISSION OF THE RECORD.

(a) Duty of Appellant.

(1) After the filing of the notice of appeal the appellant, or in the event that more than one appeal is taken, each appellant, must comply with the provisions of Rule 10(b) and take any other action necessary to enable the clerk of the court appealed from to assemble and transmit the record. A single record shall be transmitted.

(2) The record shall be transmitted to the clerk of the Supreme Court within 60 days from the filing of the notice of appeal provided that the court appealed from may, upon stipulation or motion made within such period for good cause shown, extend the time for transmission for a period not to exceed 90 days from the filing of the notice of appeal.

(3) Counsel for the appellant shall, within 72 hours after the entry of an order extending the time for transmission of the record made by the court appealed from, file a certified copy of the same with the clerk of the Supreme Court.

(4) If the record cannot be transmitted within such period as extended, the Supreme Court for good cause may extend the time upon stipulation or motion.

(5) When the record is not filed within the time required, the clerk of the Supreme Court shall give notice to counsel for the appellant or to the appellant when proceeding pro se, that the matter will be called to the attention of the Supreme Court on a day certain for such action as the Court deems proper, and the appeal may be dismissed.

(b) Duty of Reporter to Prepare and File Transcript.

(1) Upon receipt of an order for a transcript, and full payment of the estimated cost of the transcript, the reporter shall acknowledge at the foot of the order the fact that the reporter has received it and the date on which the reporter expects to have the transcript completed and shall transmit the order, so endorsed, to the clerk of the Supreme Court.

(2) If the transcript cannot be completed within 90 days of receipt of the order, the reporter shall request an extension of time from the clerk of the Supreme Court before the expiration of the 90 days. A failure to make such a request by the reporter may result in a fine from the Supreme Court.

(3) The action of the clerk of the Supreme Court shall be entered on the docket and the parties notified.

(4) In the event of the failure of the reporter to file the transcript within the time allowed, the clerk of the Supreme Court shall notify the court appealed from and take any other such steps as may be directed by the Supreme Court including the levying of a fine against the court reporter.

(5) Upon completion of the transcript the reporter shall file it with the clerk of the court appealed from and notify the clerk of the Supreme Court of the completion.

(c) Duty of the Clerk of the Court Appealed from to Prepare Minutes, Indices, Any Other Memorials of the Proceedings and Transmit the Record; Notice to Supreme Court.

(1) When the record is complete for purposes of appeal, the clerk of the court appealed from shall certify it and forthwith transmit it to the clerk of the Supreme Court.

(2) The clerk of the court appealed from shall consecutively number the documents of the record and shall provide in the file a numbered index of all the documents therein. If any original papers, exhibits and transcripts filed in the court appealed from are not mentioned in the numbered index, the clerk shall provide an additional index identifying each of them with reasonable definiteness. The clerk shall provide all parties to the appeal with copies of said indices. If an index is claimed to be in error, the party claiming it to be so is obligated to pursue appropriate proceedings to correct it.

(3) Documents of unusual bulk or weight, physical exhibits other than documents, and such other parts of the record as the Supreme Court may designate by rule, shall not be transmitted by the clerk of the court appealed from unless the clerk is directed to do so by a party or by the Supreme Court. A party must make advance arrangements with the clerk for the transportation and receipt of exhibits of unusual bulk or weight.

(4) The clerk of the Supreme Court shall notify the Supreme Court when the record is complete for purposes of appeal.

(d) (Reserved).

(e) Retention of the Record by Court Order.

(1) The Supreme Court may order that a certified copy of the docket entries be transmitted in lieu of the entire record or any parts thereof, subject to the right of any party to request at any time during the pendency of the appeal that designated parts of the record be transmitted.

(2) The court appealed from may order the record or some part of it retained if the court needs it while the appeal is pending, subject, however, to call by the Supreme Court.

(3) If part or all of the record is ordered retained, the clerk of the court appealed from shall send to the Supreme Court a copy of the order and the docket entries together with the parts of the original record allowed by the court appealed from and copies of any parts of the record designated by the parties.

(f) Stipulation of Parties that Parts of the Record be Retained in the Court Appealed From. The parties may agree by written stipulation filed in the court appealed from that designated parts of the record be retained by the court unless thereafter the Supreme Court or any party requests their transmittal. The parts thus designated shall nevertheless be a part of the record on appeal for all purposes.

(g) Record for Preliminary Hearing in the Supreme Court. If any party desires to make a motion for any intermediate order in the Supreme Court, before the record is transmitted, the clerk of the court appealed from shall transmit to the Supreme Court such parts of the original record as any party requests and designates in writing. This rule applies to all motions for

intermediate orders including motions for dismissal, for release, for a stay pending appeal, or for additional security on the bond on appeal, or on a supersedeas bond.

(h) Preparation and Retention of the Record by the Clerk of the Nuclear Claims Tribunal. In an appeal from any final determination or order granting, dissolving, or denying an injunction issued by the Nuclear Claims Tribunal or the Special Tribunal, the clerk of the Nuclear Claims Tribunal or the Special Tribunal shall prepare the record, but shall retain custody thereof pending acceptance of the appeal by the Supreme Court or notification from the clerk of the Supreme Court that said record, or portion thereof, be transmitted to the clerk of the Supreme Court for filing with the Supreme Court.

Rule 12. DOCKETING THE APPEAL; FILING OF RECORD.

(a) Docketing the Appeal. Upon receipt of the statement of service of the notice of appeal, transmitted by the appellant pursuant to Rule 3(d), the clerk of Supreme Court shall thereupon enter the appeal on the docket. Except as provided below, an appeal must be docketed under the title given to the action in the court appealed from with the appellant identified as such, but if such title does not contain the name of the appellant, the appellant's name, identified as appellant, must be added to the title. If and whenever required by law, the anonymity of the persons or parties involved must be maintained by the use of fictitious names and designations.

(b) Filing the Record, Partial Record, or Certificate. Upon receipt of the record, the partial record, the clerk's certificate, or the record or the certified copy of the docket entries pursuant to Rule 11, and after the final cost of transcription are paid, the clerk of the Supreme Court shall file it and shall immediately give notice to all parties of the date on which it was filed.

Rule 13. (RESERVED).

Rule 14. (RESERVED).

Rule 15. (RESERVED).

Rule 16. (RESERVED).

Rule 17. PROCEEDINGS IN PETITIONS FOR WRITS OR OTHER RELIEF FILED IN THE SUPREME COURT.

In actions commenced by petitions for writs or other relief filed with the Supreme Court, all pleadings must conform to the requirements of the Marshall Islands Rules of Civil Procedure 7 through 15. The proceedings had must conform to the requirements of any applicable statutes and to such orders as may, from time to time, be issued by the Supreme Court. Petitions for appellate writs must conform to all applicable appellate rules.

Rule 18. QUESTIONS REMOVED FROM THE HIGH COURT.

(a) Removal. The High Court may, on its own motion or on application of any party to the proceedings, remove to the Supreme Court any question arising as to the interpretation or effect of the Constitution in any proceedings of the High Court other than proceedings set down for trial before a bench of three judges.

(b) Record. The High Court shall transmit, through its clerk, as much of the record as may be necessary to a full understanding of the question removed. Certified copies may be transmitted in lieu of the original papers.

(c) Disposition. The Supreme Court shall determine the question removed and either dispose of the case or remand it to the High Court for disposition consistent with the Supreme Court's determination.

Rule 19. (RESERVED).

Rule 20. PETITION FOR WRIT OF CERTIORARI IN THE SUPREME COURT.

(a) Application; When Filed. No later than 10 days after the filing of a decision or ruling of an inferior tribunal, board, commission, or officer exercising judicial or quasi-judicial functions, or after the filing of an order denying a timely motion for rehearing by an inferior tribunal, board, commission, or officer exercising judicial or quasi-judicial functions, any party may petition to the Supreme Court for a writ of certiorari to review such decision or ruling. The petition must be filed with the clerk of the Supreme Court.

(b) Discretion of the Court. Review by the Supreme Court of a decision of an inferior tribunal, board, commission, or officer exercising judicial or quasi-judicial functions is a matter within the discretion of the Supreme Court.

(c) Denomination of Parties. The party seeking review of the decision of an inferior tribunal, board, commission, or officer exercising judicial or quasi-judicial functions shall be denominated the petitioner; the petitioner's denomination in the opinion of an inferior tribunal, board, commission, or officer exercising judicial or quasi-judicial functions shall also be included so that a petitioner shall be denominated petitioner-appellant or petitioner-plaintiff, or petitioner- appellee or petitioner-defendant. All other parties in this court shall be denominated respondents and each respondent's denomination in the opinion of an inferior tribunal, board, commission, or officer exercising judicial or quasi-judicial functions shall also be included so that each respondent shall be denominated respondent-appellant or respondent-plaintiff, or respondent-appellee or respondent-defendant. Any respondent who supports the position of a petitioner shall meet the time schedule for filing papers that is provided for that petitioner.

(d) Contents. The petition for a writ of certiorari must not exceed 12 pages and must contain in the following order:

(1) A short and concise statement of the question or questions presented for decision, set forth in the most general terms possible. The statement of a question presented will be deemed to include every subsidiary question fairly comprised therein. Questions not presented according to this paragraph will be disregarded. The Court, at its option, may notice a plain error not presented.

(2) A statement of prior proceedings in the case, including a list of parties to the prior proceedings.

(3) A short statement of the case containing the facts material to the consideration of the questions presented.

(4) A brief argument with supporting authorities.

A copy of the decision of an inferior tribunal, board, commission, or officer exercising judicial or quasi-judicial functions must be attached as an appendix.

(e) Opposition; Form. Within 5 days after filing of a petition for a writ of certiorari, any other party to the case may, but need not, file and serve a brief written answer containing a statement of reasons why the petition should not be granted.

(f) Oral Argument. There shall be no oral argument on a petition for a writ of certiorari unless requested by the Supreme Court.

(g) Determination. The Supreme Court shall act upon a petition for a writ of certiorari no later than 20 days after the filing of the petition. The failure of the Court to issue such writ within 20 days shall constitute a rejection of the petition. The Supreme Court by order may extend the 20-day limitation in this rule.

(h) No Rehearing of Acceptance or Rejection of Petition for a Writ of Certiorari. Neither acceptance nor rejection of a petition for a writ of certiorari shall be subject to a motion for rehearing in the Supreme Court. The rejection of a petition for certiorari shall be final. However, if a petition for certiorari is accepted, the Supreme Court, at any time prior to final disposition, may sua sponte find that certiorari was improvidently granted and may dismiss the certiorari proceeding.

(i) Review by Supreme Court After Acceptance of Petition for a Writ of Certiorari. If the Supreme Court accepts the petition for a writ of certiorari to review a decision of an inferior tribunal, board, commission, or officer exercising judicial or quasi-judicial functions, the case shall be decided on the record and briefs previously filed. The Supreme Court may limit the questions on review, may request additional briefs and may set the case for oral argument. Within 10 days of the acceptance of the petition for a writ of certiorari, a party may move in the Supreme Court for permission to file a supplemental brief. The Court may impose restrictions as to the length and filing of such brief and any response thereto.

Rule 21. WRITS DIRECTED TO A JUDGE OR JUDGES; WRITS OF MANDAMUS DIRECTED TO A PUBLIC OFFICER AND OTHER EXTRAORDINARY WRITS.

(a) Writs Directed to a Judge or Judges. Application for a writ directed to a judge or judges must be made by filing a petition therefor with the clerk of the Supreme Court with proof of service on the respondent judge or judges, on all parties to the action in the trial court, and the Attorney General. The petition must contain a statement of the facts necessary to an understanding of the issues presented by the application; a statement of the issues presented and of the relief sought; a statement of the reasons for issuing the writ; and copies of any order or opinions or parts of the record that may be essential to an understanding of the matters set forth in the petition. Upon receipt of the prescribed docket fee, the clerk shall docket the petition and submit it to the Supreme Court.

(b) Writs of Mandamus Directed to Public Officers. An application for a writ of mandamus directed to a public officer must be made by filing a petition therefor with the clerk of the Supreme Court with proof of service on the officer and the Attorney General. The petition must conform to the requirements of subdivision (a) of this rule. Upon receipt of the prescribed docket fee, the clerk shall docket the petition and submit it to the Supreme Court for a determination as to whether it will entertain it. If the Court elects to entertain the petition, it will be handled in the same manner as a petition under subdivision (a) of this rule.

(c) Denial; Order Directing Answer. If the Supreme Court is of the opinion that the writ should not be granted, it shall deny the petition. Otherwise, it shall order that an answer to the petition be filed by the respondents within the time fixed by the order. The order shall be served by the clerk of the Supreme Court on the respondents and the Attorney General and, in the case of a writ directed to a judge or judges, on all other parties to the action in the trial court. All parties below other than the petitioner shall be deemed respondents for all purposes. Two or more respondents may answer jointly. If the judge or judges named respondents do not desire to appear in a proceeding, they may advise the clerk and all parties by letter, but the petition shall not thereby be taken as admitted. The clerk shall advise the parties and the Attorney General of the dates on which any required briefs are to be filed and of the date of any oral argument. The proceeding shall be given preference over ordinary civil cases.

(d) Habeas Corpus Proceedings. Habeas corpus proceedings before the Supreme Court shall be governed by and conform to the provisions of Article II, Sections 4(10) and 7 of the Constitution, Article VI, Sections 1(2) and 1(3) of the Constitution, 30 MIRC 203-210, and 32 MIRC 212.

(e) Other Extraordinary Writs. Application for extraordinary writs other than those provided for in subdivisions (a), (b), and (c) of this rule may be made by petition filed with the clerk of the Supreme Court with proof of service on the parties named respondents. Proceedings on such application must conform, so far as is practicable, to the procedures prescribed in subdivisions (a), (b), and (c) of this rule.

Rule 22. (RESERVED).

Rule 23. CUSTODY OF PRISONERS IN HABEAS CORPUS PROCEEDINGS.

(a) Transfer of Custody. Pending disposition of any habeas corpus proceeding commenced pursuant to Article II, Section 7 of the Constitution and 32 MIRC 212, before the Supreme Court of the Marshall Islands or a justice thereof for the release of a prisoner, a person having custody of the prisoner shall not transfer custody to another unless such transfer is directed in accordance with the provisions of this rule. Upon application of a custodian showing any need therefor, the Court or a justice thereof may make an order authorizing transfer and providing for the substitution of the successor custodian as a party.

(b) Detention or Release of Prisoner Pending Disposition of Application for Habeas Corpus. Pending a disposition of an application for habeas corpus pursuant to Article II, Section 7 of the Constitution and 32 MIRC 212, the prisoner may be detained in the custody from which release is sought, or in other appropriate custody, or may be released upon the prisoner's own recognizance, with or without surety, as may appear fitting to the Court or justice to whom the application is made.

(c) Modification of Initial Order Respecting Custody. An initial order respecting the custody or release of the prisoner and any recognizance or surety taken, shall govern pending disposition of the application unless modified by the Court.

Rule 24. PROCEEDINGS IN FORMA PAUPERIS.

(a) Leave to Proceed on Appeal in Forma Pauperis from the Court Appealed From. A party to an action in the court appealed from who desires to proceed on appeal in forma pauperis shall file in the court appealed from a motion for leave to so proceed, together with an affidavit stating the information required by 29 MIRC 136(1), including the party's inability to pay the court appealed from's and the Supreme Court's filing fees or to give security for costs, the party's belief that the party is entitled to redress, and a statement of the issues that the party intends to present on appeal. A party who has filed such a motion may file the party's notice of appeal without being required to prepay the filing fees. If the motion is granted, the party may proceed without further application to the Supreme Court and without prepayment of fees or costs in any court or the giving of security therefor. In such an event, the clerk of the court appealed from shall pay all fees or costs that would otherwise be due. If the motion is denied, the court appealed from shall state in writing the reasons for the denial. The court appealed from shall promptly provide the Supreme Court with a filed copy of its order granting or denying the motion.

(b) Need For Further Authorization To Proceed on Appeal in Forma Pauperis. Notwithstanding the provisions of the preceding paragraph, a party who has been permitted to proceed in an action in a court in forma pauperis, or who has been permitted to proceed as one who is financially unable to obtain adequate defense in a criminal case, may proceed on appeal in the same action in forma pauperis without further authorization unless, before or after the notice of appeal is filed, the court appealed from shall certify that the appeal is not taken in good faith or

shall find that the party is otherwise not entitled so to proceed, in which event the court shall state in writing the reasons for such certification or finding.

(c) Notice of Denial and Filing a Subsequent Motion in the Supreme Court. If a motion for leave to proceed on appeal in forma pauperis is denied by the court appealed from, or if the court appealed from certifies that the appeal is not taken in good faith or finds that the party is otherwise not entitled to proceed in forma pauperis, the clerk of the court appealed from shall forthwith serve notice of such action. A motion for leave so to proceed may be filed in the Supreme Court within 10 days after service of the notice of the action of the court appealed from. The motion must be accompanied by a copy of the affidavit filed in the court appealed from, or by the affidavit prescribed in the first paragraph of this subdivision if no affidavit has been filed in the court appealed from, and by a copy of the statement of reasons given by the court appealed from for its action.

(d) Payment of Fees in the Event of a Denial to Proceed. If the Supreme Court has denied a party's motion to proceed on appeal in forma pauperis, then within 10 days after the denial of such a motion is filed in the Supreme Court or, if no such motion is filed in the Supreme Court, within 10 days after the expiration of the time to file such a motion in the Supreme Court, the movant shall pay all unpaid filing fees and shall give security for costs. Failure of the unsuccessful movant to pay the unpaid filing fees or to give security for costs shall not affect the validity of the appeal, but is ground for such action as the Supreme Court deems appropriate, which may include dismissal of the appeal.

Rule 25. FILING AND SERVICE.

(a) Filing. Papers required or permitted to be filed in the Supreme Court must be filed with the clerk of the Supreme Court. Filing may be accomplished by email, with the original being mailed concurrently, addressed to the clerk, but filing shall not be considered timely unless the papers are received by the clerk by email, or by mail, within the time fixed for filing, except that briefs and appendices shall be deemed filed on the day of mailing if mailed first class with full postage paid.

(b) Service of All Papers Required. Copies of all papers filed by any party and not required by these rules to be served by the clerk of the Supreme Court shall, at or before or promptly after the time of filing, be served by a party or person acting for the party on all other parties to the proceedings. Service on a party represented by counsel shall be made on counsel.

(c) Manner of Service. Service may be personal, by email, or by mail. Personal service includes delivery of the copy to a responsible person at the office of counsel. Service by mail is complete on mailing, if mailed in the manner provided in paragraph (a) above. Service by email is complete upon the transmission being received and must be evidenced by the transmittal email.

(d) Proof of Service. Papers presented for filing must contain an acknowledgment of service by the person served or proof of service in the form of a statement of the date and manner of service and of the name of the person served, certified by the person who made service. Proof

of service may appear on or be affixed to the papers filed. The clerk may permit papers to be filed without acknowledgment or proof of service but such must be filed promptly thereafter.

Rule 26. COMPUTATION AND EXTENSION OF TIME.

(a) Computation of Time. In computing any period of time prescribed by these rules, an order of court, or any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period extends until the end of the next day that is not a Saturday, a Sunday, or a legal holiday. When the period of time prescribed or allowed is less than 7 days, any intervening Saturday, Sunday, or legal holiday shall be excluded in the computation.

(b) Enlargement of Time. A justice of the Supreme Court for good cause shown upon motion may enlarge the time prescribed by these rules for doing any act, or may permit an act to be done after the expiration of such time. Provided, however, no court is authorized to change the jurisdictional requirements contained in Rule 4, supra.

(c) Additional Time After Service by Mail. Whenever a party is required or permitted to do an act within a prescribed time after service of a paper upon the party, and the paper is served by mail, 7 extra days shall be added to the prescribed period.

(d) Shortening Time. A justice of the Supreme Court for good cause shown may shorten the time for serving or filing a notice of motion or other paper incident to an appeal or an original proceeding. A motion to shorten time shall be made as provided in Rule 27.

(e) Relief from Default. A justice of the Supreme Court for good cause shown may relieve a party from a default occasioned by any failure to comply with these rules, except the failure to give timely notice of appeal.

Rule 27. MOTIONS.

(a) Content of Motions; Response. Unless another form is elsewhere prescribed by these rules, an application for an order or other relief must be made by filing a written motion for such order or relief with proof of service on all other parties. The motion must contain or be accompanied by any matter required by a specific provision of these rules governing such a motion, must state with particularity the grounds upon which it is based, and must set forth the order or relief sought. If a motion is supported by briefs, affidavits, or other papers, they must be served and filed with the motion. Any party may file a written response in opposition to a motion within 5 days after service of the motion, but the Supreme Court may shorten or extend the time for responding to any motion as provided in Rule 26(d) or (b).

(b) Determination of Motions for Procedural Orders. Notwithstanding Rule 27(a), motions for procedural orders, including any motion for enlargement of time, may be acted upon at any time, without awaiting a response thereto. Pursuant to rule or order of the Supreme Court,

motions for specified types of procedural orders may be disposed of by the clerk of the Supreme Court. Any party adversely affected by such action, by application to the Supreme Court within 10 days of such action, may request rehearing, vacation, or modification of such action.

(c) Power of a Single Justice to Entertain Motions. In addition to the authority expressly conferred by these rules or by law, a single justice of the Supreme Court may entertain and may grant or deny any request for relief that under these rules may properly be sought by motion before the Supreme Court except that the Supreme Court may provide by order or rule that any motion or class of motions must be acted upon by it or the High Court. Any party adversely affected by an action of a single justice may, by application to the Supreme Court within 10 days of such action, request rehearing, vacation, or modification of such action.

Rule 28. BRIEFS.

(a) Format and Service. All briefs must conform with this rule and be accompanied by proof of service of a copy on each party to the appeal. Except after leave granted, the clerk of the Supreme Court will not receive an opening or answering brief of more than 35 typewritten or printed pages, or a reply brief of more than 10 typewritten or printed pages, exclusive of indices, appendices and statements of related cases, or any brief that does not conform with Rule 31.

(b) Opening Brief. Within 40 days after the filing of the record on appeal, the appellant shall file an opening brief, containing the following sections in the order here indicated:

(1) A subject index of the matter in the brief with page references, and a table of authorities listing the cases, alphabetically arranged (with citation to both the official reports and, for United States cases, to national reporter systems, if available to counsel), textbooks, articles, statutes, treatises, regulations and rules cited, with references to the pages in the brief where they are cited.

(2) A statement showing the grounds on which the jurisdiction of the court has been invoked. It must include a showing that the appeal is timely by references to the record with dates. In a criminal case it shall indicate the nature of the offense and the statute under which the defendant was convicted, the sentence imposed, whether the defendant has been released on bail or on the defendant's own recognizance, and the place of confinement if the defendant is in custody.

(3) A concise statement of the case, containing the facts material to consideration of the questions and points presented, with record references supporting each statement of fact or mention of trial proceedings. In presenting those material facts all supporting and contradictory evidence must be presented in summary fashion and with appropriate record references. There must be appended to the brief a copy of the findings of fact and conclusions of law, or opinion, or decision, or final determination or order, if any, unless otherwise ordered by the Supreme Court.

(4) A concise statement of the points on which appellant intends to rely, set forth in separate, numbered paragraphs. Each point shall refer to the alleged error committed by the

court appealed from upon which appellant intends to rely. The point shall show where in the record the alleged error occurred and where it was objected to and, where applicable, the following:

(A) When the point involves the admission or rejection of evidence, there must be included a quotation of the grounds urged at the trial for the objection and the full substance of the evidence admitted or rejected. If the full substance is lengthy, a concise summary may be included in the brief and the full substance set out in an appendix.

(B) When the point involves the charge of the court appealed from, there must be set out the specific words of the part referred to, whether it be instructions given or refused, together with the objections urged at the trial.

(C) When the point involves findings or conclusions of the court appealed from, those urged as error must be quoted in their entirety and there must be included a summary statement explaining why the findings of fact or conclusions of law are alleged to be erroneous.

(D) When the point involves a ruling upon the report of a master, there must be included a statement of the objection to the report and a summary of the action taken below.

Points not presented in accordance with this section will be disregarded, except that the Supreme Court, at its option, may notice a plain error not presented.

(5) A brief separate section entitled "Standard of Review," setting forth the applicable standard or standards of review to be applied in reviewing the respective orders or decisions of the court alleged to be erroneous. For example, the Standard of Review is de novo, or clearly erroneous, or abuse of discretion, or arbitrary and capricious, or substantial evidence, or other established criterion.

(6) A short and concise statement of the question or questions presented for decision by the points specified under (b) (4) of this rule, set forth in the most general terms possible. The statement of a question presented will be deemed to include every subsidiary question fairly comprised therein. Questions not presented in accordance with this paragraph will be disregarded, except that the Supreme Court, at its option, may notice a plain error not presented.

(7) The argument, exhibiting clearly the points of fact and of law being presented, citing the authorities relied upon. The argument may be preceded by a concise summary.

(8) Relevant parts of the constitutional provisions, statutes, ordinances, treatises, regulations, or rules involved, setting them out verbatim. If lengthy they may be cited and their pertinent text set out in the appendix.

(9) Parts of the record material to the questions presented may be included in the appendix. Anything that is not part of the record must not be appended to the brief.

(10) A conclusion, specifying with particularity the relief sought.

(11) A brief statement identifying any related case known to be pending in the Republic of the Marshall Islands' courts or agencies. The statement must include the following: case caption, docket number and the nature of the relationship. Cases are deemed related if they:

(A) arise out of the same or consolidated cases in the court appealed from;

(B) involve a case that was previously heard in the Supreme Court;

(C) involve the same parties;

(D) involve the same or closely related issues;

(E) involve the same basic transaction or event; or

(F) have any other similarities of which the Supreme Court should be aware.

The statement must be presented on a separate page entitled "Statement of Related Cases." The statement must be the last page in the brief. If no other cases are deemed related, a single statement to this effect must be provided. If a party identifies a case as related, no other party need duplicate the listing in that party's brief. If a party learns of a related case after filing the initial brief, that party must promptly file a statement.

(c) Answering Brief. Within 40 days after service of appellant's opening brief, the appellee shall file an answering brief. The brief must be of like character as that required of the appellant except that no statement of points shall be required, and no other section is required unless the section presented by the appellant is controverted. The answering brief must contain a counter-statement of each section except points, unless the appellee is satisfied with the section included in the appellant's brief.

(d) Reply Brief. Within 10 days after service of appellee's answering brief, appellant may file a reply brief. The reply brief must be confined to matters presented in the answering brief. If no reply brief is to be filed, appellant shall notify the clerk of the Supreme Court and appellee in writing of that decision prior to expiration of the time for filing the reply brief.

(e) Briefs on Removed Questions. In cases in which a single question has been removed by the High Court to the Supreme Court, the party maintaining the affirmative shall, for the purpose of this rule, be regarded as the appellant and the party opposing the question the appellee. So also where there are several questions and one party has the affirmative as to all of them. Where several questions have been removed as to which a party maintains the affirmative

as to some and the negative as to others, the plaintiff shall be regarded as the appellant and the defendant as the appellee, unless, upon application to the Supreme Court, an order specifying otherwise is issued by the Court.

(f) Briefs in Petitions for Writs or Other Relief. With the modifications hereafter noted, this rule shall apply to petitions for writs or other relief in the Supreme Court, unless otherwise ordered by the Court. For the purpose of this rule, when a petition for a writ or other relief is brought in the Supreme Court, the party who would be regarded as the plaintiff or petitioner if the matter were instituted in a lower court shall be regarded as the appellant, and the opposing party the appellee. The opening brief must accompany the petition and be limited to 25 typewritten or printed pages. The answering brief must accompany the response to the petition, must be filed within 20 days after service of the petition and must be limited to 25 typewritten or printed pages. The reply brief, if any, must be filed within 5 days after service of the response to the petition and must be limited to 10 typewritten or printed pages.

(g) Briefs of Amicus Curiae. A brief of an amicus may be filed only by order of the Supreme Court, which shall fix the time for filing the same and any response thereto. The Court may allow or disallow the filing of such brief with or without a hearing. All briefs of an amicus curiae must comply with the applicable provisions of Rule 28. The Attorney General may file a brief amicus curiae without order of the court in all cases where the constitutionality of any statute is drawn in question.

(h) Briefs on Cross-Appeal. If there is a cross-appeal, separate opening and answering briefs on the cross-appeal, and any reply brief relating thereto, shall be filed in addition to the briefs on the primary appeal and must comply with the applicable requirements of subsections (a) through (d) of this rule, including the requirement that an opening brief be filed within 40 days after the filing of the record on appeal.

Rule 29. (RESERVED).

Rule 30. BRIEFS NOT TIMELY FILED OR NOT IN CONFORMITY WITH RULE.

When the brief for appellant is not filed within the time required, or in conformity with these rules, the appeal may be dismissed or the brief stricken and sanctions including a fine may be levied by the Court. When the brief for an appellee is not filed within the time required or not in conformity with these rules, the brief may be stricken and sanctions including a fine may be levied by the Court. In addition, the Court may accept as true the statement of facts in the appellant's opening brief. Any party who may be adversely affected by application of this rule may, within 10 days of the applicable action, submit a memorandum or affidavits setting forth the reasons for non-conformance with these rules.

Rule 31. FORM OF PAPERS.

(a) Quality and Size of Papers. All papers and briefs originally filed in the Supreme Court must be printed, photocopied, typewritten, or otherwise prepared in type in a clear and legible manner on unruled, unglazed, opaque white paper. The pages must be 8 ½ inches by 11 inches, each sheet to have a margin at the top and bottom of not less than 1 inch and on the left-hand side of not less than 1 inch. Such papers must be filed without covers and without creasing the same and must include a flyleaf upon which must be noted in the order named, beginning at the top, the case number, the title of the court and cause abbreviated or in full, the character of the document, and the name or names, addresses, the telephone numbers, and email addresses of the attorney or attorneys representing the party on whose behalf the same is filed. No originals of such papers, except printed briefs, shall be perforated or permanently bound. Copies, except printed briefs, must be bound or stapled at the upper left-hand corner.

(b) Language. All papers and briefs originally filed in the Supreme Court shall be in English or accompanied by an English translation. Any expense for preparing such translation shall be borne by the party submitting the paper or brief and may be taxed as part of the costs.

(c) Quality and Style of Type. Papers to be filed, including copies, must be typed or printed in black and be neat, clean, clear, and legible; the lines double spaced or one and one-half spaced except in headings, quotations, citations, indexes, footnotes and appendices; the type size and font, 12 Times New Roman, or the equivalent; the line height for each line not less than 0.162 inches, except for footnotes. Material not in conformance with the requirements of this paragraph and the preceding paragraph will not be accepted by the clerk for filing or if filed may be stricken by the Supreme Court.

(d) Number of Copies. With respect to briefs, papers filed in applications for writs or other relief, and motions, the clerk of Supreme Court may direct that in addition to the original a specific number of additional copies be furnished on or before a specified date.

Rule 32. PREHEARING ORDERS.

A justice of the Supreme Court may make all necessary orders concerning any appeal prior to the hearing and determination thereof, and may dismiss an appeal for failure to take any steps in accordance with the law or applicable rules of procedure.

Rule 33. PREHEARING CONFERENCE.

The Supreme Court may direct the attorneys for the parties to appear before the Court or a justice thereof, in person or by telephone conference, for a prehearing conference to consider the simplification of the issues and such other matters as may aid in the disposition of the case by the Court. The Court or justice shall enter an order that recites the action taken at the conference and the agreements made by the parties as to the matters considered and that limits the issues to those not disposed of by admissions or agreements of counsel, and such order when entered controls the subsequent course of the proceedings, unless modified to prevent manifest injustice.

Rule 34. ORAL ARGUMENT.

(a) In General. Oral argument shall be had in all cases except those in which the Supreme Court enters an order providing for consideration of the case without oral argument.

(b) Notice of Argument; Postponement. The clerk of the Supreme Court shall advise all parties whether oral argument is to be heard, and if so, of the time and place therefor, and the time to be allowed each side. A request for postponement of the argument must be made by motion filed within 7 days of such notification.

(c) Motion for Retention of Oral Argument. If the Supreme Court has ordered a case submitted on the briefs, any party or parties within 10 days after the service of the clerk's notice of the court's action, may file a motion for retention of oral argument, supported by a statement of reasons. The Supreme Court may grant or deny such motion and such grant or denial shall not be subject to review or rehearing.

(d) Order and Content of Argument. The appellant is entitled to open and conclude the argument. The opening argument must include a fair statement of the case. Counsel will not be permitted to read at length from briefs, records or authorities.

(e) Length of Argument. Unless otherwise ordered, the appellant shall not have more than 30 minutes for argument, and the respondent shall also have not more than 30 minutes; provided, the appellant may use not more than 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 7 days before the time set for argument.

(f) Cross- and Separate Appeals. A cross- or separate appeal shall be argued with the initial appeal at a single argument, unless the Supreme Court otherwise directs. If a case involves a cross-appeal, the plaintiff in the action below shall be deemed to be the appellant for the purpose of this rule unless the parties otherwise agree or the Court otherwise directs. If separate appellants support the same argument, care must be taken to avoid duplication of argument.

(g) Non-Appearance of Parties. If the appellee or counsel fails to appear to present argument, the Supreme Court will hear argument on behalf of the appellant. If the appellant or counsel fails to appear, the Court may hear argument on behalf of the appellee. If neither party nor counsel appears the case will be decided on the briefs unless the Court shall otherwise order. Sanctions may be assessed against attorneys of record who fail to appear.

(h) Submission on Briefs. By agreement of the parties, a case may be submitted for decision on the briefs. In any such case, the Supreme Court may require oral argument.

(i) No Oral Argument by Party Failing to File Brief. If the appellant or the appellee has failed to file an opening or answering brief, as the case may be, oral argument by that party's counsel will not be heard unless the Supreme Court directs otherwise.

(j) Use of Visual Aids at Argument; Removal. If visual aids are to be used at the argument, counsel shall arrange to have them placed in the courtroom before the Supreme Court convenes on the date of the argument. After the argument counsel shall cause such visual aids to be removed from the courtroom unless the Court otherwise directs. If they are not reclaimed by counsel within a reasonable time, they shall be destroyed or otherwise disposed of by the clerk of the Supreme Court.

Rule 35. OPINIONS AND JUDGEMENTS.

(a) Classes of Opinions. Opinions and judgments may be rendered by a designated justice, or may take the form of per curiam or memorandum opinions and judgments.

(b) Publication. Memorandum opinions and judgments shall not be published.

(c) Citation. A memorandum opinion and judgment shall not be cited in any other action or proceeding except when the opinion establishes the law of the pending case, res judicata or collateral estoppel, or in a criminal action or proceeding involving the same respondent.

(d) Service by Clerk. The clerk of the Supreme Court shall promptly serve on all parties a copy of the opinion and judgment.

Rule 36. ENTRY OF JUDGMENT.

The filing of the judgment constitutes entry of judgment.

Rule 37. INTEREST ON JUDGMENTS.

Unless otherwise provided by law, if a judgment for money in a civil case is affirmed, whatever interest is allowed by law shall be payable from the date the judgment was entered in the court appealed from. If the judgment is modified or reversed with a direction that a judgment for money be entered in the court appealed from, the Supreme Court's judgment shall contain instructions with respect to allowance of interest.

Rule 38. FRIVOLOUS APPEALS.

If the Supreme Court determines that an appeal decided by it was frivolous, it may award damages including reasonable attorneys' fees and costs to the appellee.

Rule 39. COSTS.

(a) To Whom Allowed. Except in criminal cases or as otherwise provided by law, if an appeal or petition is dismissed, costs shall be taxed against the appellant or petitioner upon proper application unless otherwise agreed by the parties or ordered by the Supreme Court; if a judgment is affirmed or a petition denied, costs shall be taxed against the appellant or petitioner

unless otherwise ordered; if a judgment is reversed or a petition granted, costs shall be taxed against the appellee or the respondent unless otherwise ordered; if a judgment is affirmed in part and reversed in part, or is vacated, or a petition granted in part and denied in part, the costs shall be allowed only as ordered by the Court. If the side against whom costs are assessed has multiple parties, the Court may apportion the assessment or impose it jointly and severally.

(b) Costs For and Against the Government of the Republic of the Marshall Islands. In cases involving the government of the Republic of the Marshall Islands or an agency or officer thereof, if an award of costs against the government is authorized by law, costs shall be awarded in accordance with the provisions of this rule; otherwise costs shall not be awarded for or against the government of the Republic of the Marshall Islands, its agencies, or its officers acting in their official capacities.

(c) Costs Defined. Costs in the Supreme Court are defined as (1) the cost of the original and two copies of the reporter's transcripts if necessary for the determination of the appeal, (2) the premiums paid for supersedeas bonds or other bonds to preserve rights pending appeal, (3) the fee for filing the appeal, and (4) the cost of printing or otherwise producing necessary copies of briefs and appendices.

(d) Bill of Costs; Objections; Costs to be Inserted in the Judgment or Added Later. A party who desires an award of costs and attorneys' fees shall state them in an itemized and verified bill of costs and fees, together with a statement of authority for each category of item, filed with the clerk of the Supreme Court, with proof of service, no later than 14 days after entry of judgment. Objections to the bill of costs and fees must be filed with the clerk, with proof of service, within 10 days after service on the party against whom costs and fees are to be taxed unless the time is extended by the Court. A reply to the objections must be filed with the clerk, with proof of service, within 7 days after service of the objections on the initiating party. The issuance of the judgment shall not be delayed for an award of costs and fees. If the judgment has been issued before issuance of an order awarding costs and fees, the party favored by such an order shall prepare and submit to the clerk of the Supreme Court a proposed judgment for costs.

Rule 40. MOTION FOR REHEARING.

(a) Time. A motion for rehearing may only be filed by a party within 10 days after the filing of the opinion or ruling unless by special leave additional time is granted during such period by a justice of the Supreme Court.

(b) Contents. The motion shall state with particularity the points of law or fact that the moving party contends the Supreme Court has overlooked or misapprehended, together with a brief argument on the points raised. The motion shall also be supported by a certificate of counsel to the effect that it is presented in good faith and not for purposes of delay.

(c) Answer; Reply; Argument. No answer to a motion for rehearing or reply to an answer will be received unless requested by the Supreme Court. There shall be no oral argument on a motion for rehearing unless ordered by the Court on its own motion.

(d) Disposition of Motion. The Supreme Court within 10 days of the filing of a motion for rehearing, shall either grant or deny such motion. The failure of the Court to act within the 10 days constitutes a rejection. If a motion for rehearing is granted, the Court may modify the decision without new argument, order new argument, or take such other action as may be appropriate.

(e) Only One Motion Permitted. Only one motion for rehearing may be filed by any one party, even if the Supreme Court modifies its decision or changes the language in the opinion rendered by the Court.

Rule 41. STAY OF JUDGMENT.

The timely filing of a motion for rehearing shall stay the finality of the decision until the disposition of the motion unless otherwise ordered by the Supreme Court. The timely filing of an application for a writ of certiorari shall stay the finality of the decision unless otherwise ordered by the Supreme Court. If the application for a writ is rejected, the decision shall be final as of the date of rejection.

Rule 42. DISMISSAL.

(a) Dismissal Before the Appeal is Docketed. If an appeal has not been docketed, the appeal shall be dismissed by the court appealed from upon the filing in that court of a stipulation for dismissal signed by all the parties. Upon motion and notice by the appellant, the court appealed from may dismiss the appeal upon terms fixed by the court. Counsel for the appellant shall, within 72 hours after the entry of an order dismissing an appeal made by the court appealed from, file a certified copy of the same with the clerk of the Supreme Court.

(b) Dismissal in the Supreme Court.

(1) If the parties to a docketed appeal or other proceeding sign and file with the clerk of the Supreme Court an agreement that the proceeding be dismissed, specifying the terms as to payment of costs, and shall pay whatever fees are due, the clerk shall enter the case dismissed, but no mandate or other process shall issue without an order of the Supreme Court.

(2) Upon motion and notice, the Supreme Court may dismiss the appeal upon terms fixed by the Court.

(3) The Supreme Court may also dismiss an appeal, on its own initiative, for failure of appellant to abide by these rules or for lack of timely compliance with these rules.

Rule 43. SUBSTITUTION OF PARTIES.

(a) Death of a Party. If a party dies after notice of appeal is filed or while the proceeding is otherwise pending in the Supreme Court, the Court may substitute the personal representative of the deceased party as a party on motion filed by the representative or by any

party. The motion of a party must be served upon the representative in accordance with the provisions of Rule 25. If the deceased party has no representative, any party may suggest the death on the record and proceedings shall then be had as that Court shall direct. If a party against whom an appeal may be taken dies after entry of the judgment or order in the court appealed from but before a notice of appeal is filed, an appellant may proceed as if the death had not occurred. After the notice of appeal is filed, substitution shall be effected in the Supreme Court in accordance with this subdivision. If a party entitled to appeal dies before filing a notice of appeal, the notice of appeal may be filed by the party's personal representative, or, if the party has no representative, by the party's attorney of record within the time prescribed by these rules. After the notice of appeal is filed, substitution shall be effected in the Supreme Court in accordance with this subdivision.

(b) Substitution for Other Causes. If substitution of a party in the Supreme Court is necessary for any reason other than death, substitution shall be effected in accordance with the procedure prescribed in subdivision (a).

(c) Public officers; Death or Separation from Office.

(1) When a public officer is a party to an appeal or other proceeding in the Supreme Court in the public officer's official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the action does not abate and the successor is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantial rights of the parties shall be disregarded. An order of substitution may be entered at any time, but the omission to enter such an order shall not affect the substitution.

(2) When a public officer is a party to an appeal or other proceeding in the public officer's official capacity the public officer may be described as a party by official title rather than by name, but the Court may require the public officer's name to be added.

Rule 44. CONSTITUTIONALITY OF STATUTE.

It shall be the duty of a party who draws in question the constitutionality of any statute of the Republic of the Marshall Islands in any proceeding in the Supreme Court to which the Republic of the Marshall Islands, or any agency thereof, or any officer or employee thereof, as such officer or employee, is not a party, upon the filing of the record, or as soon thereafter as the question is raised in the Supreme Court, to give immediate notice in writing to the Attorney General of the Republic of the Marshall Islands of the existence of said question.

Rule 45. THE CLERK OF THE SUPREME COURT.

(a) General Provisions. The Clerk of the Courts, or the deputy or an assistant so designated by the Clerk of the Courts, shall service as the clerk of the Supreme Court. The Office of the Clerk of the Courts shall be deemed always open for the purpose of filing any

proper paper, of issuing and returning process and of making motions and orders in the Supreme Court.

(b) The Docket; Calendar; Other Records Required. The clerk of the Supreme Court shall keep a book, known as the docket, in such form and style as may be prescribed by the Clerk of the Courts and shall enter therein each Supreme Court case. Cases shall be assigned consecutive file numbers. The file number of each case shall be noted on the folio of the docket whereon the first entry is made. All papers filed with the clerk of the Supreme Court and all process, orders, and judgments shall be entered chronologically in the docket on the folio assigned to the case. Entries shall be brief but shall show the nature of each paper filed or judgment or order entered. The entry of an order or judgment shall show the date the entry is made. The clerk shall keep a suitable index of cases contained in the docket.

The clerk of the Supreme Court, upon receipt of the initial paper in any appeal or original proceeding, shall assign to it a number, and shall forthwith give notice thereof to the parties. The clerk shall docket the record in each case when filed and forthwith give notice thereof to the parties. Cross-appeals shall be docketed under the same number as the original appeal.

The clerk of the Supreme Court shall prepare a calendar of cases awaiting argument. In placing cases on the calendar for argument, preference shall be given to appeals in criminal cases and to appeals and other proceedings entitled to preference by law.

The clerk shall keep such other books and records as may be required from time to time by the Supreme Court.

(c) Notice of Orders or Judgment. Immediately upon the entry of an order or judgment the clerk of the Supreme Court shall serve the order or judgment upon each party to the proceeding together with a copy of any opinion respecting the order or judgment, if there is a separate opinion. Service on a party represented by counsel shall be made on counsel.

(d) Custody of Records and Papers. The clerk of the Supreme Court shall have custody of the records and papers of the Supreme Court. The clerk shall not permit any original record or paper to be taken from the clerk's custody except as authorized by orders or instructions of the Supreme Court or the High Court or any justice or judge thereof. Original papers transmitted as the record on appeal or review shall upon disposition of the case be returned to the court from which they were received. The clerk shall preserve copies of the briefs and appendices and other papers filed by the parties.

Rule 46. (RESERVED).

Rule 47. (RESERVED).

Rule 48. TITLE.

These rules may be known and cited as the Marshall Islands Supreme Court Rules of Procedure and abbreviated as SCRP.

Rule 49. OTHER MATTERS.

(a) Definitions.

"appeal" includes every proceeding in the Supreme Court other than a petition for a writ or other relief;

"attorney" and "counsel" include trial assistants;

"civil case" means any proceeding in the High Court or the District Court or a Community Court other than a criminal case, and any proceeding before the Nuclear Claims Tribunal and the Special Tribunal;

"clerk of the court appealed from" includes in appropriate cases any court from whose decision, order or action an appeal is taken, or clerk or other official designated by such court to perform those functions performed by a clerk of court;

"court appealed from" includes any court, tribunal, agency or body whose decision, order or action is appealed from, including the Nuclear Claims Tribunal and the Special Tribunal; and

"Supreme Court" or "Court" shall, unless prohibited by law, include the chief justice and each associate justice there of, pro tem, ad hoc, or otherwise.

(b) Terms of Court. The Supreme Court shall be deemed to be in continuous session.

(c) Signing of Orders. Any justice of the Supreme Court may sign any order of the Court relating to any case or proceeding pending before the Court.

(d) Acting Chief Justice. In case of a vacancy in the office of chief justice of the Supreme Court, or if the chief justice is ill, absent, or otherwise unable to serve, the senior of the associate justices, if any, and if none the senior of the High Court justices designated to sit on the case, if any, shall serve temporarily as the chief justice. Seniority for such purpose shall be determined by length of service on the court upon which the justice or judge was appointed to sit.

(e) Effective Date of the Original Rules. These rules, adopted June 3, 1993, take effect with respect to appeals to the Supreme Court and supersede the Marshall Islands Appellate Rules of Procedure 1983 on July 1, 1993. The Appellate Rules of Procedure 1983 shall continue to govern other appeals to which they are applicable until the High Court shall otherwise provide.

(f) Effective Date of 2006 Amendments. The amendments adopted by the Supreme Court on August 25, 2006, take effect on September 25, 2006. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending,

except to the extent that in the opinion of the Court their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedures apply.

(g) Effective Date of 2009 Amendments. The amendments adopted by the Supreme Court on January 15, 2009, take effect on February 15, 2009. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that in the opinion of the Court their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedures apply.

(h) Effective Date of 2018 Amendments. The amendments adopted by the Supreme Court on October 22, 2018, take effect on November 19, 2018. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that in the opinion of the Court their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedures apply.

(i) Effective Date of 2023 Amendments. The amendments adopted by the Supreme Court on September 25, 2023, take effect on September 25, 2023. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that in the opinion of the Court their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedures apply.

Rule 50. WITHDRAWAL OF COUNSEL.

An attorney desiring to withdraw as counsel of record, or any party desiring to discharge counsel of record, must file with the Supreme Court a motion requesting leave therefor, and showing that prior notice of the motion has been given to the client, or counsel, as the case may be. The Court may, in its discretion, deny such motion.

Rule 51. SANCTIONS.

Any attorney of record in a case who fails to comply with any of the provisions of these rules shall be subject to sanctions, by fine, or otherwise, by the Supreme Court, such sanctions to be levied by order of the Court or by order of a justice thereof.

FORM 1 – NOTICE OF APPEAL FORM

IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

_____ _____, **plaintiff(s)** **v.** _____ _____, **defendant(s).**	**CASE NO. 20_____-0____** **HCT/CIVIL[CRIM]/MAJ[EBY]** **NOTICE OF APPEAL TO THE SUPREME COURT UNDER RULE 3 AND 4 OF THE MARSHALL ISLANDS RULES OF THE SUPREME COURT**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that _____,
(Name of Party)

the _____ above-named appeals to the Supreme Court from that
(plaintiff or defendant)

certain final judgment (or part thereof) entered in this action on _____, 20_____.

A copy of which is attached to this notice.

The following is a concise statement of the questions presented by the appeal:

1.

2.

3.

[If a criminal case is appeal from, include a general statement of the offense, the sentence imposed, whether the defendant has been released on bail or on this defendant's own recognizance, and the place of confinement if the defendant is in custody.]

Proof of service of this Notice of Appeal on all adverse parties as prescribed by the SCRP is attached.

Date: _____, 20_____.

(Signature of Counsel)

_____

Typed Name of Counsel

(If the party appealing has no counsel, then the party will be named and sign.)