

STATEMENT OF THE PROGRESS  
OF THE WORK OF  
THE ADVISORY COMMITTEE ON APPELLATE RULES

JULY 1962

To the Committee on Rules of Practice and Procedure:

The Committee on Rules of Practice and Procedure has instructed the Advisory Committee on Appellate Rules (1) to present a proposed draft of a uniform rule for review of decisions of the Tax Court of the United States, and (2) to undertake a comprehensive study of appellate procedure in the courts of appeals of the United States for the purpose of presenting its recommendations for improvement of present procedures.

(1) The Uniform Rule for Review of Decisions of the  
Tax Court of the United States

In November, 1960, the Appellate Rules Committee submitted to the Standing Committee a draft of a proposed rule for review of decisions of the Tax Court. The draft was then submitted to the Bench and Bar for criticisms. A number of suggestions were received, and in the meantime the Appellate Rules Committee had tentatively determined as a result of its general study to recommend certain changes in appellate practice which it was thought desirable to incorporate in the Tax Court Rule. Accordingly, in March, 1962, it submitted a second proposed draft to the Standing Committee. This draft has recently been submitted to the Bench and Bar for criticism. The Committee will consider a final proposed draft at its next meeting.

(2) Study of Appellate Procedure in the United States  
Courts of Appeals

The Appellate Rules Committee is now studying the statutes, rules and practices which touch upon the work of the United States courts of appeals and the judges thereof. This study includes provisions respecting appeals which are now contained in the Civil, Criminal and Admiralty Rules and in the Bankruptcy Act and the General Orders. The Committee feels that its recommendations to the Standing Committee can be set forth most precisely and effectively in a set of rules regulating the whole of the practice and procedure in the courts of appeals from the invocation of jurisdiction to ultimate disposition of the case. It has accordingly undertaken to present a draft of such a set of rules to the Standing Committee.

The Committee is working from an outline in the form of tentative descriptive titles of rules. In general, its procedure is this: (1) following preparation and distribution of relevant materials, titles are placed on the agenda for general discussion and agreement on principles and content; (2) a tentative draft incorporating the decisions reached as a result of the general discussion is then prepared and circulated for detailed consideration at the next meeting; and (3) following consideration of the tentative draft, a preliminary draft is prepared for adoption by the Committee and, ultimately, for presentation to the Standing Committee.

The general scope of the Committee's work and its progress to date may best be indicated by setting out its working outline of titles together with a brief statement of the present status of each title in terms of the three-step process described in the paragraph above:

I. GENERAL PROVISIONS.

Rule 1. Scope and Construction of Rules.

(Tentative draft considered; preliminary draft in preparation.)

Rules 2-4. Untitled

(Reserved pending decisions on extent of coverage of the rules.)

II. APPEALS FROM JUDGMENTS AND ORDERS OF THE DISTRICT COURTS

Rule 5. Appeals -- How Taken.

(Tentative draft considered; preliminary draft in preparation.)

Rule 6. Appeals -- When Taken.

(Tentative draft considered; referred to reporter for further study.)

Rule 7. Interlocutory Appeals under 28 U. S. C. 1292(b).

(Tentative draft considered; preliminary draft in preparation.)

Rule 8. Appeals by Allowance in Bankruptcy.

(Tentative draft considered; preliminary draft in preparation.)

Rule 9. Bond on Appeal

(Tentative draft in preparation.)

Rule 10. Supersedeas; Stays.

(Tentative draft in preparation.)

Rules 11-14. Untitled.

(Reserved pending decisions of extent of coverage of the rules.)

Rule 15. The Record on Appeal.

(Tentative draft considered; preliminary draft in preparation.)

Rule 16. Transmission of the Record.

(Tentative draft considered; preliminary draft in preparation.)

Rule 17. Filing of the Record.

(Tentative draft considered; preliminary draft in preparation.)

### III. APPEALS FROM DECISIONS OF THE TAX COURT.

Rules 18-19. Untitled.

(Reserved; the Rule on Review of Decisions of the Tax Court will ultimately be incorporated here.)

### IV. REVIEW OR ENFORCEMENT OF ORDERS OF ADMINISTRATIVE AGENCIES, BOARDS, COMMISSIONS AND OFFICERS.

Rules 20-25. Untitled.

(Reserved; materials are now being prepared for Committee discussion.)

### V. EXTRAORDINARY WRITS.

Rules 26-27. Untitled.

(Reserved; materials are now being prepared for Committee discussion.)

VI. PRACTICE.

Rule 28. Filing and Service.

(Tentative draft considered; preliminary draft in preparation.)

Rule 29. Computation of Time.

(Tentative draft considered; preliminary draft in preparation.)

Rule 30. Motions.

(Tentative draft considered; preliminary draft in preparation.)

Rule 31. Briefs -- General Provisions.

(Tentative draft in preparation.)

Rule 32. Briefs -- Contents and Arrangement.

(Tentative draft in preparation.)

Rule 33. Appendix to Briefs.

(Tentative draft considered; preliminary draft in preparation.)

Rule 34. Form of Briefs and Other Papers.

(Tentative draft considered; preliminary draft in preparation.)

Rule 35. Call and Order of the Calendar.

(Tentative draft in preparation.)

Rule 36. Oral Argument.

(Materials for discussion in preparation.)

Rule 37. Death of a Party; Substitution.

(Materials for discussion in preparation.)

VII. SPECIAL PROVISIONS.

Rule 38. Appeals in Forma Pauperis.

(Materials submitted and considered; referred to reporter for further study.)

Rule 39. Appeals from Orders Fixing Bail.

(Materials for discussion in preparation.)

Rule 40. Constitutional Questions in Cases to Which the United States is Not a Party.

(Tentative draft in preparation.)

Rule 41. Untitled.

(Reserved pending determination of extent of coverage of the rules.)

VIII. DISPOSITION OF CAUSES.

Rule 42. Opinions of the Court.

(Tentative draft in preparation.)

Rule 43. Interest and Damages.

(Materials for discussion in preparation.)

Rule 44. Costs.

(Tentative draft in preparation.)

Rule 45. Rehearings.

(Materials for discussion in preparation.)

Rule 46. Process; Mandates.

(Materials for discussion in preparation.)

Rule 47. Dismissal by the Parties.

(Tentative draft in preparation.)

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Respectfully submitted,

Bernard J. Ward

Reporter

Advisory Committee on Appellate Rules