

TABLE OF CONTENTS

QUICK REFERENCE TIME TABLE.....	23
---------------------------------	----

CHAPTER 1. OVERVIEW OF APPELLATE PROCESS

Sec.	
1.1	Overview of the Missouri Appellate Courts.
1.2	Organization of the Missouri Appellate Courts.
1.3	Appellate Jurisdiction of the Missouri Appellate Court.
1.4	Appellate Jurisdiction of the Missouri Supreme Court.
1.5	Original Jurisdiction of the Missouri Appellate Courts.
1.6	Supervisory Jurisdiction of the Missouri Appellate Courts.
1.7	Rule-Making Authority of the Missouri Supreme Court.
1.8	Overview of Appellate Process.
1.9	Specialized Proceedings Before the Missouri Supreme Court.

CHAPTER 2. PRE-APPEAL CONSIDERATIONS

2.1	Pre-Appeal Considerations.
2.2	Presenting and Preserving Issues.
2.3	At Trial Court—In General.
2.4	Pleadings and Affirmative Defenses.
2.5	Pretrial Proceedings, Discovery, and Continuances.
2.6	Motions in Limine and Motions to Suppress.
2.7	Trial Proceedings.
2.8	Admission of Evidence.
2.9	Excluded Evidence and Offers of Proof.
2.10	Jury Instructions, Deliberations, and Verdict.
2.11	Motion for Directed Verdict and Motion for Judgment Notwithstanding the Verdict.
2.12	Motion for Judgment of Acquittal.
2.13	Motion to Dismiss.
2.14	Motion for New Trial—Jury-Tried Cases.
2.15	Motion for New Trial—Court-Tried Cases.
2.16	Plain Error.

CHAPTER 3. STANDARD AND SCOPE OF APPELLATE REVIEW

3.1	Introduction.
3.2	Questions of Law and Fact.
3.3	De Novo Review.
3.4	Standard of Review for Civil Non-jury Cases.
3.5	Standard of Review for Civil Jury Cases.

TABLE OF CONTENTS

Sec.	
3.6	Standard of Review for Criminal Non-jury Cases.
3.7	Standard of Review for Criminal Jury Cases.
3.8	Review for Abuse of Discretion.
3.9	Sufficiency of Pleadings.
3.10	Admissibility and Reception of Evidence.
3.11	Review of Jury Instructions.

CHAPTER 4. RIGHT OF APPEAL

4.1	Introduction.
4.2	Civil Cases—General Statute (V.A.M.S. 512.020).
4.3	Civil Cases—Final Judgments.
4.4	Civil Cases—Multicclaim/Multiparty Litigation.
4.5	Civil Cases—Interlocutory Judgments and Orders.
4.6	Civil Cases—Interlocutory Judgments in Partition.
4.7	Civil Cases—Special Orders Following Final Judgments.
4.8	Civil Cases—Juvenile Court/Family Court.
4.9	Probate Court.
4.10	Judgments of Contempt.
4.11	Civil Cases—Right of Appeal—Extraordinary Writs.
4.12	Aggrieved Parties.
4.13	Docket Sheet Entries.
4.14	Criminal Cases—Introduction.
4.15	Criminal Cases—Final Judgments.
4.16	Criminal Cases—Interlocutory Appeals.
4.17	Criminal Cases—Appeals by the State.
4.18	Notice of Appeal.
4.19	Civil Cases—Finality of Judgment.
4.20	Civil Cases—Authorized After Trial Motions.
4.21	Criminal Cases—Authorized After Trial Motions.
4.22	Premature Notices of Appeal.
4.23	Appeals Out of Time.
4.24	Perfecting the Appeal.
4.25	Identification of the Parties.
4.26	Civil Procedure Form No. 8-A—Notice of Appeal to Supreme Court of Missouri.
4.27	Civil Procedure Form No. 8-B—Notice of Appeal to Missouri Court of Appeals.
4.28	Civil Procedure Form No. 8-C—Workers' Compensation Notice of Appeal to Missouri Court of Appeals.
4.29	Civil Procedure Form No. 8-D—Unemployment Compensation Notice of Appeal to Missouri Court of Appeals.

CHAPTER 5. RECORD ON APPEAL

5.1	Overview.
5.2	Ordering and Filing Record on Appeal.
5.3	Legal File and the Transcript of Proceedings.

TABLE OF CONTENTS

Sec.

- 5.4 Trial Exhibits.
- 5.5 Approval and Certification.
- 5.6 Abbreviated Short Form Record on Appeal.
- 5.7 Review of Administrative Proceedings.
- 5.8 Partial or Total Unavailability of a Transcript.

CHAPTER 6. STAY OF ENFORCEMENT—SUPERSEDEAS BONDS AND OTHER RELIEF PENDING APPEAL

A. CIVIL CASES

- 6.1 Introduction.
- 6.2 Stays and Supersedeas Bonds.
- 6.3 Amount of the Supersedeas Bond.
- 6.4 Stays in Injunction, Quo Warranto, and Related Proceedings.
- 6.5 Stays in Child Support and Child Custody Cases.
- 6.6 Other Forms of Security.
- 6.7 Enforcement of Supersedeas Bond.
- 6.8 Supersedeas Bond—Traditional Surety.
- 6.9 Supersedeas Bond—Modified—Stay of Judgment Involving Real Estate.
- 6.10 Supersedeas Bond—Modified—Alternate Form of Security—Irrevocable Letter of Credit Posted With Clerk.
- 6.11 Irrevocable Letter of Credit—For Use With Supersedeas Bond—Bank Form.

B. CRIMINAL CASES

- 6.12 Stay Pending Appeal.
- 6.13 Qualifications of Surety.
- 6.14 Stay During Pendency of Post–Opinion Proceedings.
- 6.15 Appeal Bond—With Surety.
- 6.16 Appeal Bond—Cash or Securities Deposited With Clerk.

CHAPTER 7. BRIEFS

- 7.1 Introduction.
- 7.2 Number and Type of Briefs.
- 7.3 Time Frames for Preparing and Filing Briefs.
- 7.4 Form of Briefs.
- 7.5 Contents of Opening Brief on the Merits—Overview.
- 7.6 Jurisdictional Statement.
- 7.7 Statement of Facts.
- 7.8 Points Relied On.
- 7.9 The Argument.
- 7.10 Conclusion and Appendix.
- 7.11 Respondent’s Brief.
- 7.12 Reply Brief.

TABLE OF CONTENTS

Sec.

- 7.13 Amicus Briefs.
- 7.14 Suggestions and Writing Styles.

CHAPTER 8. MOTIONS, SANCTIONS, AND SETTLEMENT CONFERENCES

- 8.1 Introduction.
- 8.2 Filing and Docketing Fees.
- 8.3 Format of Pleadings and Other Documents.
- 8.4 Filing and Service of Pleadings and Other Documents.
- 8.5 Motion Practice—Overview.
- 8.6 Motions for Procedural Matters.
- 8.7 Dismissal of Appeal—Motion to Dismiss.
- 8.8 Dismissal of Appeal—Failure to Perfect Appeal.
- 8.9 Dismissal of Appeal—Violations of Rules of Appellate Procedure.
- 8.10 Dismissal of Appeal—Issues Rendered Moot.
- 8.11 Dismissal of Appeal—Actions Inconsistent With Right of Appeal—Civil.
- 8.12 Dismissal of Appeal—Action Inconsistent With Appeal—Criminal.
- 8.13 Frivolous Appeals.
- 8.14 Docketing and Settlement Conferences.
- 8.15 Settlement During Pendency of Appeal—Civil.
- 8.16 Death of a Party.
- 8.17 Bankruptcy.

CHAPTER 9. ORAL ARGUMENT

- 9.1 Introduction.
- 9.2 Request for and Waiver of Oral Argument.
- 9.3 Time Limits and Other Procedural Matters.
- 9.4 Preparation for Oral Argument.
- 9.5 Presentation of Oral Argument.
- 9.6 Waiver of Oral Argument.

CHAPTER 10. DISPOSITION OF THE CASE AND ENFORCEMENT OF THE MANDATE

- 10.1 Disposition of Cases in the Court of Appeals.
- 10.2 Disposition of Cases by the Missouri Supreme Court.
- 10.3 Disposition of the Appeal on the Merits.
- 10.4 Issuance and Enforcement of the Mandate, and Law of the Case.
- 10.5 Recall of the Mandate and Correction of the Opinion.
- 10.6 Restitution.
- 10.7 Appellate Court Costs and Taxation.
- 10.8 Attorney Fees.

CHAPTER 11. POST-OPINION PROCEEDINGS

- 11.1 Introduction.

TABLE OF CONTENTS

Sec.	
11.2	Motions for Rehearing.
11.3	Transfer to Missouri Supreme Court—Overview.
11.4	Transfer to Supreme Court—Standards Governing.
11.5	Transfer to Supreme Court—Court of Appeals.
11.6	Transfer to Supreme Court—Certification by Dissenting Judge.
11.7	Transfer to Supreme Court—On Order of Supreme Court.
11.8	Pleadings and Filing.
11.9	Internal Procedures of the Court of Appeals.
11.10	Internal Procedures of the Supreme Court.
11.11	Transfer to the Supreme Court—Disposition.
11.12	United States Supreme Court—Review of State Appellate Court Judgments.
11.13	United States Supreme Court—Time Frames and Procedures for Seeking Petition for Writ of Certiorari.
11.15	Notice of Application for Transfer.

CHAPTER 12. EXTRAORDINARY WRITS

A. EXTRAORDINARY WRITS

12.1	Introduction.
12.2	Mandamus.
12.3	Mandamus—Statutes Authorizing Mandamus as a Means of Enforcement.
12.4	Prohibition.
12.5	Prohibition—Differences Between Mandamus and Prohibition.
12.6	Habeas Corpus.
12.7	Quo Warranto.
12.8	Quo Warranto—Forfeiture From Office.
12.9	Certiorari.
12.10	Certiorari—Statutes Providing for Review by Certiorari.
12.11	Coram Nobis and Coram Vobis.

B. PRACTICE AND PROCEDURE

12.12	Introduction.
12.13	Process for Issuance of Original Writs From Appellate Court—In General.
12.14	Pleadings and Captions in General.
12.15	Parties.
12.16	Contents of Pleadings.
12.17	Issuance and Service of Process.
12.18	Record of Proceedings—Appellate Courts.
12.19	Masters in an Appellate Court.
12.20	Briefs and Oral Argument.
12.21	Further Relief.
12.22	Civil Procedure Form No. 16 (Writ Summary).
12.23	Writ Service Information Form (Eastern District).

TABLE OF CONTENTS

Sec.

12.24 Preliminary Order in Prohibition.

CHAPTER 13. CIRCUIT COURTS—APPELLATE JURISDICTION

- 13.1 Introduction.
- 13.2 Appeals From Judgments Rendered by an Associate Circuit Judge.
- 13.3 Trial De Novo for Associate Division Civil Cases.
- 13.4 Small Claims Division.
- 13.5 Misdemeanors, Infractions, and County and Municipal Ordinance Violations.
- 13.6 Municipal and County Municipal Court Divisions.
- 13.7 Traffic Court (St. Louis County Circuit Court).

CHAPTER 14. JUDICIAL REVIEW OF ADMINISTRATIVE AGENCY DECISIONS

- 14.1 Introduction.
- 14.2 Quasi-Judicial Decisions—Contested Versus Non-contested Cases.
- 14.3 Contested Cases—Standing—Exhaustion of Administrative Remedies—Procedures.
- 14.4 Record of Proceedings.
- 14.5 Stay or Other Interim Relief Pending Final Review.
- 14.6 Scope of Review.
- 14.7 Non-Contested Cases—Procedures—Standard and Scope of Review—Appeal from Circuit Court Judgments.
- 14.8 Quasi-Legislative Functions—Validity of Agency Rules and Regulations.

CHAPTER 15. POST-CONVICTION RELIEF PROCEEDINGS

- 15.1 Introduction.
- 15.2 Ineffective Assistance of Counsel.
- 15.3 Time Frames, Venue, and Procedures.
- 15.4 Right of Appeal, Scope of Review, and Standards and Presumptions.
- 15.5 Compulsory Forensic DNA Testing.
- 15.6 PCR Motion (Criminal Procedure Form No. 40).

	Page
Table of Statutes	627
Table of Rules and Regulations	635
Table of Cases	651
Index	703