

1 **Rule 43. Certification by the Court of Appeals to the Supreme Court.**

2 (a) **Transfer.** In any case over which the Court of Appeals has original appellate  
3 jurisdiction, the court may, upon the affirmative vote of at least four judges of the court,  
4 certify a case for immediate transfer to the Supreme Court for determination.

5 (b) **Procedure for transfer.**

6 (1) The Court of Appeals may, on its own motion, decide whether a case should  
7 be certified. Any party to a case may, however, file ~~and serve an original and~~  
8 ~~eight copies of~~ a suggestion for certification not exceeding five pages, ~~setting~~  
9 ~~forth the reasons~~ explaining why the party believes that the case should be  
10 certified. The suggestion may not be filed ~~prior to the filing of~~ before a docketing  
11 statement is filed. Within ~~ten~~ 14 days of service, an adverse party may file and  
12 serve ~~an original and eight copies of a~~ statement not ~~in excess of~~ exceeding five  
13 pages either supporting or opposing the suggestion for certification.

14 (2) Upon ~~entry of~~ entering the certification order ~~of certification~~, the Court of  
15 Appeals Clerk ~~of the Court of Appeals shall~~ must immediately transfer the case,  
16 including the record and file of the case from the trial court, all papers filed in the  
17 Court of Appeals, and a written statement of all docket entries in the case up to  
18 and including the certification order, to the Supreme Court Clerk ~~of the Supreme~~  
19 ~~Court~~. The Court of Appeals Clerk ~~of the Court of Appeals shall~~ must promptly  
20 notify all parties and the trial court clerk ~~of the trial court~~ that the case has been  
21 transferred.

22 (3) Upon ~~receipt of~~ receiving the certification order ~~of certification~~, the Supreme  
23 Court Clerk ~~of the Supreme Court shall~~ must enter the appeal ~~up~~ on the Supreme  
24 Court's docket ~~of the Supreme Court~~. The ~~clerk of the~~ Supreme Court Clerk  
25 ~~shall~~ must immediately send notices to all parties and to the trial court clerk ~~of~~  
26 ~~the trial court~~ that the case has been docketed and that all further filings will be  
27 made with the Supreme Court Clerk ~~of the Supreme Court~~. The notice ~~shall~~ must  
28 state the docket number assigned to the case in the Supreme Court. The case

29 ~~shall~~will proceed before the Supreme Court to final decision and disposition as  
30 in other appellate cases ~~pursuant to~~under these rules.

31 (4) If the record on appeal has not been filed with the Court of Appeals Clerk ~~of~~  
32 ~~the Court of Appeals~~ as of the date of the certification order ~~of transfer~~, the Court  
33 of Appeals Clerk ~~of the Court of Appeals shall~~must notify the trial court clerk ~~of~~  
34 ~~the trial court~~ that upon ~~completion of~~completing the conditions for filing the  
35 record by that court, the clerk ~~shall~~must transmit the record on appeal to the  
36 Supreme Court Clerk ~~of the Supreme Court~~. If, however, the record on appeal  
37 has already been transmitted to and filed with the Court of Appeals Clerk ~~of the~~  
38 ~~Court of Appeals~~ as of the date the certification order is entered ~~of the entry of the~~  
39 ~~order of transfer~~, the Court of Appeals Clerk ~~of the Court of Appeals shall~~must  
40 transmit the record on appeal to the Supreme Court Clerk ~~of the Supreme Court~~  
41 within five days ~~of the date of the entry of the order of transfer~~ after the  
42 certification order is entered.

43 (c) **Criteria for transfer.** The Court of Appeals ~~shall~~must consider certification only in  
44 the following cases:

45 (1) Cases ~~which are of such a nature that~~where it is apparent that the case should  
46 be decided by the Supreme Court and that the Supreme Court would ~~probably~~  
47 likely grant a petition for a writ of certiorari in the case if decided by the Court of  
48 Appeals, irrespective of how the Court of Appeals might rule; ~~and~~

49 (2) Cases ~~which~~ that will govern a number of other cases involving the same  
50 legal issue or issues pending in the district courts, juvenile courts, ~~or~~ the Court of  
51 Appeals, ~~or~~ ~~which are~~ cases of first impression under state or federal law ~~which~~  
52 that will have wide applicability.

Effective November 1, 2021