

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 upon 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; ~~z~~ 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, ~~z~~ or the Court of
51 Appeals, ~~z~~ or ~~which are~~ cases of first impression under state or federal law ~~which~~
52 that will have wide applicability.