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CASES ADJUDGED

IN

THE SUPREME COURT

AT

OCTOBER TERM, 1882

AND

RULES ANNOUNCED AT OCTOBER TERM, 1883

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RULES
OF THE
SUPREME COURT OF THE UNITED STATES

ANNOUNCED

JANUARY 7, 1884.

1.

CLERK.

1. The clerk of this court shall reside and keep the office at the seat of the National Government, and he shall not practise, either as attorney or counsellor, in this court, or in any other court, while he shall continue to be clerk of this court.

2. The clerk shall not permit any original record or paper to be taken from the court room, or from the office, without an order from the court, except as provided by Rule 10.

2.

ATTORNEYS AND COUNSELLORS.

1. It shall be requisite to the admission of attorneys or counsellors to practise in this court, that they shall have been such for three years past in the supreme courts of the States to which they respectively belong, and that their private and professional character shall appear to be fair.

2. They shall respectively take and subscribe the following oath or affirmation, viz. :

I, ———, do solemnly swear [or affirm] that I will demean myself, as an attorney and counsellor of this court, uprightly, and according to law; and that I will support the Constitution of the United States.

and file the record thereof with the clerk of this court within the first six days of the term; and if the writ of error or appeal shall be brought from a judgment or decree rendered less than thirty days before the commencement of the term, it shall be the duty of the plaintiff in error or appellant to docket the case and file the record thereof with the clerk of this court within the first thirty days of the term; and if the plaintiff in error or appellant shall fail to comply with this rule, the defendant in error or appellee may have the case docketed and dismissed, upon producing a certificate from the clerk of the court wherein the judgment or decree was rendered stating the case, and certifying that such writ of error or appeal has been duly sued out and allowed. And in no case shall the plaintiff in error or appellant be entitled to docket the case and file the record after the same shall have been docketed and dismissed under this rule, unless by order of the court.

2. But the defendant in error or appellee may, at his option, docket the case and file a copy of the record with the clerk of the court; and if the case is docketed and a copy of the record filed with the clerk of this court by the plaintiff in error or appellant within the periods of time above limited and prescribed by this rule, or by the defendant in error or appellee at any time thereafter during the term, the case shall stand for argument at the term.

3. Upon the filing of the transcript of a record brought up by writ of error or appeal, the appearance of the counsel for the party docketing the case shall be entered.

4. In all cases where the period of thirty days is mentioned in this rule, it shall be extended to sixty days in writs of error and appeals from California, Oregon, Nevada, Washington, New Mexico, Utah, Arizona, Montana, and Idaho.

10.

PRINTING RECORDS.

1. In all cases the plaintiff in error or appellant, on docketing a case and filing the record, shall enter into an undertaking to the clerk, with surety to his satisfaction, for the payment of his fees, or otherwise satisfy him in that behalf.

2. The clerk shall cause an estimate of printing the record, and of the printer and supervising the party docketing the case the shall not pay it within a reasonable time, the adverse party, and he may pay it, and for want of such payment the record shall not be printed when a case is re-docketed, after March 1st, 1884.

3. Upon payment by either party to the clerk, twenty-five copies under his supervision, for the

4. In cases of appellate jurisdiction the file shall be taken by the clerk and he shall cause copies to be made of the papers, sent up under Rule 8, to be printed; and of the whole record.

5. The clerk shall supervise the printing of a copy is properly indorsed and printed copies to the justices at the time, as required, and a copy to be given to the parties.

6. If the actual cost of printing the record, the fee of the clerk, shall be more than was estimated and paid, the amount of the excess shall be paid by the clerk to the party paying it, if the actual cost shall exceed the estimate, the clerk shall be paid to the clerk before the case is docketed by the party or his counsel.

7. In case of reversal, after the amount of the cost of printing the record shall be taxed against the party given, and shall be inserted in the record as part of other proper process.

8. Upon the clerk's production of the record or the acknowledgment of the party having served a copy of the record, the clerk shall, respectively, in this court, on such

ereof with the clerk of this court within the term; and if the writ of error or appeal or a judgment or decree rendered less than the commencement of the term, it shall be docketed by the plaintiff in error or appellant to docket the record thereof with the clerk of this court within the term; and if the plaintiff in error or appellee fail to comply with this rule, the defendant may have the case docketed and receive a certificate from the clerk of the court that the judgment or decree was rendered stating the date at such writ of error or appeal has been docketed. And in no case shall the plaintiff in error or appellee be entitled to docket the case and file the record thereof unless the case shall have been docketed and dismissed by order of the court.

10. In cases of error or appellee may, at his option, receive a copy of the record with the clerk of the court if the case is docketed and a copy of the record shall be taken by the plaintiff in error or appellee within the periods of time above limited and prescribed by the defendant in error or appellee at the time of filing the record, the case shall stand for

the transcript of a record brought up for appeal, the appearance of the counsel for the case shall be entered.

If the period of thirty days is mentioned in the writ, it shall be extended to sixty days in writs of error in California, Oregon, Nevada, Washington, Arizona, Montana, and Idaho.

10.

PRINTING RECORDS.

11. The plaintiff in error or appellant, on docketing the record, shall enter into an undertaking to the clerk of the court, to his satisfaction, for the payment of the cost of printing the record, to satisfy him in that behalf.

2. The clerk shall cause an estimate to be made of the cost of printing the record, and of his fee for preparing it for the printer and supervising the printing, and shall notify to the party docketing the case the amount of the estimate. If he shall not pay it within a reasonable time, the clerk shall notify the adverse party, and he may pay it. If neither party shall pay it, and for want of such payment the record shall not have been printed when a case is reached in the regular call of the docket, after March 1st, 1884, the case shall be dismissed.

3. Upon payment by either party of the amount estimated by the clerk, twenty-five copies of the record shall be printed, under his supervision, for the use of the court and of counsel.

4. In cases of appellate jurisdiction the original transcript on file shall be taken by the clerk to the printer. But the clerk shall cause copies to be made for the printer of such original papers, sent up under Rule 8, Section 4, as are necessary to be printed; and of the whole record in cases of original jurisdiction.

5. The clerk shall supervise the printing, and see that the printed copy is properly indexed. He shall distribute the printed copies to the justices and the reporter, from time to time, as required, and a copy to the counsel for the respective parties.

6. If the actual cost of printing the record, together with the fee of the clerk, shall be less than the amount estimated and paid, the amount of the difference shall be refunded by the clerk to the party paying it. If the actual cost and clerk's fee shall exceed the estimate, the amount of the excess shall be paid to the clerk before the delivery of a printed copy to either party or his counsel.

7. In case of reversal, affirmance, or dismissal, with costs, the amount of the cost of printing the record and of the clerk's fee shall be taxed against the party against whom costs are given, and shall be inserted in the body of the mandate or other proper process.

8. Upon the clerk's producing satisfactory evidence, by affidavit or the acknowledgment of the parties or their sureties, of having served a copy of the bill of fees due by them, respectively, in this court, on such parties or their sureties, an attach-

desire to have it heard, they may file with the clerk their joint request to that effect, and the case shall then be by him reinstated for call ten cases after that under argument, or next to be called at the end of the day the request is filed. If the parties will not unite in such a request, either may move to take up the case, and it shall then be assigned to such place upon the docket as the court may direct.

10. No stipulation to pass a case without placing it at the foot of the docket will be recognized as binding upon the court. A case can only be so passed upon application made and leave granted in open court.

27.

ADJOURNMENT.

The court will, at every term, announce on what day it will adjourn at least ten days before the time which shall be fixed upon; and the court will take up no case for argument, nor receive any case upon printed briefs, within three days next before the day fixed upon for adjournment.

28.

DISMISSING CASES IN VACATION.

Whenever the plaintiff and defendant in a writ of error pending in this court, or the appellant and appellee in an appeal, shall in vacation, by their attorneys of record, sign and file with the clerk an agreement in writing directing the case to be dismissed, and specifying the terms on which it is to be dismissed as to costs, and shall pay to the clerk any fees that may be due to him, it shall be the duty of the clerk to enter the case dismissed, and to give to either party requesting it a copy of the agreement filed; but no mandate or other process shall issue without an order of the court.

29.

SUPERSEDEAS.

Supersedeas bonds in the circuit courts must be taken, with good and sufficient security, that the plaintiff in error or appellant shall prosecute his writ or appeal to effect, and answer

all damages and costs if he fail to make good the same by indemnity, where the judgment or decree is for a sum of money not otherwise secured, must be paid within ten days of the judgment or decree, including interest on the appeal; and costs and interest on the appeal; and property in controversy necessarily retained in suit, as in real actions, replevin, and where the property is in the custody of the court, or in the custody of a marshal or other officer, as in case of capture of a vessel, or proceeds thereof, or a bond for the return of the vessel or control of the court, indemnity must be given in an amount sufficient to cover the value of the property for the use and detention of the property, and just damages for delay, and costs of appeal.

30.

REHEARING.

A petition for rehearing after judgment shall be filed at the term at which judgment is given, and shall be granted during the term; and the petitioner shall briefly and distinctly state its grounds, and shall file a certificate of counsel; and will not be argued, unless a justice who concurs in the judgment consents, and a majority of the court.

31.

FORM OF PRINTED RECORDS.

All records, arguments, and briefs shall be in such form and so conveniently bound together, so as to be easily referred to in volume.

32.

WRITS OF ERROR AND APPEALS UNDER THE ACT OF MARCH 3D.

1. Writs of error and citations under the act of March 3d, 1875, "to determine the