

cient in his judgment, he shall refile such paper or papers and cause the proper docket entry or entries to be made thereof, and such refiled paper and docket entry shall have the same validity and effect, as if the original paper had not been destroyed or injured by fire, and in case any cause of action or trial paper cannot be sufficiently established in the manner herein above prescribed, it shall be the duty of the said commissioner to hear extrinsic evidence touching the re establishment of such paper, and if satisfied upon such evidence that such paper is fully re-established, refile such paper, and make the corresponding docket entries thereto, in conformity to the order passed in the premises, and such refiled paper and docket entries thereof shall have the same validity and force in law or equity as if the original thereof had not been destroyed or injured by fire; *provided, however*, that in all proceedings for the restoration of causes of action or trial papers, which cannot be established to the satisfaction of the said commissioner from the intrinsic evidence within the office of the said clerk or from certified office copies, or by consent of parties, no *ex-parte* action shall be had by the said commissioner until after such notice shall have been served upon the opposite party, or his or their counsel or attorney on the record according to such rules as the commissioner may prescribe, and from any judgment or order passed by said commissioner under the authority conferred by this act, either party may appeal to the circuit judge for the county, within thirty days after the passage of such order or judgment, and in all cases of appeal it shall be the duty of the said commissioner to certify to said judge the record of all proceedings and evidence had before him in the matter, and appeal may be considered and determined by said judge in or out of court at his election, and according to such rule or practice as he may prescribe.

16. The judicial records which may have been wholly or partially destroyed by fire, shall be enquired into and restored by the said commissioner upon proper evidence in the same manner as prescribed in relation to the restoration of other records and papers, and the finding and re-establishing of such record or papers shall be certified by the said commissioner, who shall refile or re-record the same as the case may be.