

Agenda

Meeting of the Advisory Committee on Appellate Rules
Thursday, April 7, 2022, at 2:00 p.m.

1. Old Business

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| A. | Approval of minutes of October 28, 2021. | 3 |
| B. | Whether to amend the rules to require a more comprehensive listing of interested parties. | 7 |
| C. | Whether to add § 66-9 regarding disqualification of appellate jurists and propose an amendment to Rule 2.11 of the Code of Judicial Conduct regarding judicial disqualification. | 22 |
| D. | Whether to amend the rules (new chapter 78b) to provide for review of a decision denying an application for a few waiver for the commencement of a habeas action or a civil action. | 25 |
| E. | Whether to amend § 70-9 regarding coverage of court proceedings by cameras and electronic media. | 26 |

2. New Business

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| A. | Whether to amend § 67-8 regarding the party appendix. | 30 |
| B. | Whether to amend § 63-4 (a) (4) to remove subsection (D) (whether there were exhibits in the trial court). | 31 |
| C. | Whether to amend § 84-5 regarding the form of petitions. | 33 |
| D. | Whether to amend 63-3 to conform to electronic filing and available technological capabilities. | 34 |
| E. | Whether to amend § 84-11 (d) to clarify the papers to be filed upon the granting of a petition for certification, and add § 84-10A regarding the record upon granting of certification. | 35 |
| F. | Whether to amend 63-10 regarding preargument conferences. | 36 |
| G. | Whether to amend §§ 67-7 and 67-7A regarding the filing of amicus briefs. | 37 |
| H. | Whether to recommend the adoption of the uniform style of citation described in <i>The Bluebook</i> . | 39 |
| I. | Whether to amend § 77-2 to require the filing of redacted and unredacted briefs when discussing sealed materials. | 41 |
| J. | Whether to amend § 70-4 regarding the time allowed for oral argument. | 44 |
| K. | Whether to amend § 61-9 regarding the filing of amended appeals. | 45 |

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| L. | Whether to amend Chapter 65 regarding the transfer of appellate matters. | 46 |
| 3. | Any Other Business That May Come Before the Committee | |
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Meeting of the Advisory Committee on Appellate Rules

Thursday, October 28, 2021

Justice D'Auria called the meeting to order at 2 p.m.

Members in attendance:

Justice Gregory T. D'Auria, Co-Chair

Judge Eliot D. Prescott, Co-Chair

Attorney Jeffrey Babbitt

Attorney Colleen Barnett

Attorney Jill Begemann

Attorney Carl Cicchetti

Attorney Richard Emanuel

Attorney Susan Hamilton

Attorney Paul Hartan

Attorney Wesley Horton

Attorney James Healey

Attorney Clare Kindall

Attorney Daniel J. Krisch

Attorney Eric Levine

Attorney Bruce Lockwood

Attorney Jessie Opinion

Attorney Jamie Porter

Attorney Charles Ray

Attorney Giovanna Weller

Members not in attendance:

Attorney Jennifer Bourn

Hon. Sheila Huddleston

Additional Attendees:

Attorney Pamela Nagy (for Atty. Bourn)

Attorney Andrew Redman

Alison Chandler (External Affairs)

Preliminary matters:

This meeting was conducted via videoconference on the Microsoft Teams platform and was livestreamed on the YouTube channel for the Judicial Branch.

I. OLD BUSINESS

A. Approval of minutes of April 6, 2021 and April 13, 2021

Attorney Horton moved to approve the minutes. Attorney Krisch seconded. The motion passed unanimously.

B. Whether to amend the rules to require a more comprehensive listing of interested parties

Discussion item. This matter previously had been considered by the Advisory Committee at the request of Justice McDonald. The attached draft amendments were prepared in 2017 and would need to be updated before proposed amendments could be considered for a vote. Query whether a similar disclosure requirement should be proposed for the Rules Committee of the Superior Court. Query whether the final proposal should hew more closely to the disclosure requirement under the Federal Rules, as counsel for private corporate entities have experience with navigating those requirements. Specific suggestions for improving the final proposal included amending the proposed definition of "a certificate of interested entities or persons": (1) to reflect

that the 10 percent threshold applies to publicly held entities owning an interest in the represented entity; (2) to reflect that the disclosure requirement applies to the ownership of the represented entity that is a party and not to, for example, the ownership of some much larger entity that owns a small portion of the represented entity that is a party; (3) by removing "interested" before individuals; (4) by replacing "individuals" with "persons" because "persons" is used in the name of the certificate, or vice versa. The matter was referred to the workgroup and the proposal and was tabled for further consideration at a future meeting.

II. NEW BUSINESS

N.B. Attorney Begemann noted that a portion of proposal (A) and proposal (B) were prompted by letters submitted to the Advisory Committee by Kacey Lewis, an inmate at a correctional institution, which were included in the meeting materials.

A. Whether to amend § 66-1 regarding motions for extension of time.

Proposal presented by Judge Prescott and Attorney Cicchetti. The amendment to subsection (d) gives parties who are exempt from electronic filing, which includes incarcerated self-represented litigants, an additional 5 days to object to a motion for an extension of time. The first sentence of subsection (e) has been deleted, as that requirement has not been treated as mandatory. Attorneys Lockwood and Kindall spoke in support. Attorney Kindall moved to adopt the proposal. Attorney Weller seconded. The motion passed unanimously.

B. Whether to amend §§ 70-1 and 79a-9 regarding the time to file a request for oral argument.

Attorney Begemann presented this proposal, which increased the time from seven to ten days to file a request for oral argument following the issuance of notice from the court that the case would be decided on briefs and the record only. The additional time would be especially helpful to incarcerated self-represented litigants. Attorney Kindall moved to adopt the proposal. Attorney Porter seconded. The motion passed unanimously.

C. Whether to amend § 72-3 regarding writs of error

Attorney Cicchetti presented this proposal. When a party files an appeal, the party must file certain preliminary papers listed in § 63-4 (a) within 10 days. The proposed amendment to § 72-3 (f) requires that a plaintiff in error similarly must file a certificate regarding transcripts and a docketing statement within 10 days of filing the writ of error. In addition, new subsection (j) clarifies that briefing is in accordance with the rules applicable to appeals. Attorney Porter moved to adopt the proposal. Attorney Kindall seconded. The motion passed unanimously.

D. Whether to amend § 79a-3 (b) regarding the appointment of an appellate review attorney for cases in which the party did not have appointed counsel below.

Judge Prescott explained that this proposed addition to subsection (b) seeks to clarify the amendments adopted in response to *In re Taijha H.B.*. The proposed amendment makes it explicit that an indigent party who did *not* have appointed counsel at trial and applies for the appointment of counsel for an appeal shall be appointed an appellate review attorney for the purpose of determining whether there is a nonfrivolous ground on which to appeal. That attorney will follow the procedures set forth in subsection (c). Attorneys Kindall and Hamilton spoke in support of the amendment as making the rule clear and consistent with current practice. Attorney Kindall moved to adopt the proposal. Attorney Porter seconded. The motion passed unanimously.

E. Whether to amend § 66-5 regarding motions for rectification or articulation

Attorney Cicchetti presented this proposal. The proposed changes to the third paragraph make this rule consistent with the recently enacted amendments regarding the preparation of the clerk appendix. In addition, the seventh paragraph has been simplified and amended to reflect the current practice of the court, which is that if a final order has been issued for the appellant's brief, the appellant must obtain permission of the court before filing a motion for articulation/rectification. Attorney Kindall moved to adopt the proposal. Attorney Weller seconded. The motion passed unanimously.

F. Whether to amend §§ 81-2 and 84-5 regarding petitions filed with the Supreme and Appellate Courts

Attorney Cicchetti explained that orders are not issued on motions for extensions of time. The proposed amendments make it clear that orders on such motions are not required to be included in the appendix to petitions. Attorney Kindall moved to adopt the proposal. Attorney Babbitt seconded. The motion passed unanimously.

G. Whether to amend the rules to provide for review of a decision denying an application for a fee waiver for the commencement of a habeas action or a civil action

Judge Prescott and Attorney Porter presented this matter for discussion. The relevant statute, General Statutes § 52-259b, was amended effective October 1, 2013, to allow a judge of the Superior Court to deny a fee waiver application by an indigent applicant if the judge determines that the proposed action is part of a pattern of successive or frivolous filings. If the application is denied, the applicant can request a hearing before the trial court, but there is presently no avenue of appellate review of a denial of an application following a hearing. Discussion of whether there would be appellate jurisdiction over such a matter absent a statutory amendment; whether this presented a significant problem in need of a solution; whether a petition for review similar to a petition for review of a bail bond would be an appropriate mechanism. In addition, practical concerns were discussed regarding the mechanics of appellate review of a denied fee waiver application—such as whether notice to the potential defendants or the commissioner of correction in habeas cases—would be required, especially in the context of frivolous/harassing claims. Following discussion, the matter was tabled pending input from External Affairs and other stakeholders.

H. Whether to add a rule regarding disqualification of appellate jurists and propose an amendment to the Code of Judicial Conduct regarding judicial disqualification.

Judge Prescott and Attorney Begemann presented this proposal, which included a draft of a new rule § 66-9. Subsection (b) of that proposed rule is the current text of Comment 7 to Rule 2.11 in the Code of Judicial Conduct, which was adopted in 2010 and applies only to the judges and justices of the Appellate and Supreme Courts. The "on the record" language in Rule 2.11 (e) of the Code presents a problem for appellate jurists. Questions were raised about counsel for amicus filers versus parties. Attorney Kindall spoke in favor of transparency generally, and would prefer to know if a litigant has filed a complaint with the Judicial Review Council, for example, even if the jurist is not disqualified. The proposed amendment to the Code would be discussed with Justice McDonald and possibly referred to the Rules Committee of the Superior Court for consideration. The matter was tabled for consideration at a future meeting.

I. Whether to consider amending § 70-9 regarding coverage of court proceedings by cameras and electronic media.

Attorney Hartan explained that there was a desire to review this rule, noting that the Superior Court counterpart to this rule was also under review. Justice D'Auria explained that the Supreme Court recently received a request to record court proceedings from someone who was not a media outlet. Attorney Hartan and Justice D'Auria invited thoughts and comments from members of the Advisory Committee as to whether this rule should be updated to address changing technology etc.

III. ANY OTHER BUSINESS THAT MAY COME BEFORE THE COMMITTEE

Attorney Kindall noted that potential amicus filers do not have access to the party briefs in child protection matters. Attorney Cicchetti indicated that this was a matter that the clerk's office could address.

IV. NEXT MEETING

Anticipated to be sometime in April, 2022.

The meeting adjourned at 3:40 p.m.

Respectfully submitted,

Colleen Barnett

Sec. 60-4. Definitions

“Administrative appeal” shall mean an appeal from a judgment of the Superior Court concerning the appeal to that court from a decision of any officer, board, commission or agency of the state or of any political subdivision of the state.

“Appellant” shall mean the party, or parties if an appeal is jointly filed, taking the appeal.

“Appellee” shall mean all other parties in the trial court at the time of judgment, unless after judgment the matter was withdrawn as to them or unless a motion for permission not to participate in the appeal has been granted by the court.

“Certificate of interested entities or individuals” is a certificate filed in any civil appellate matter, excluding habeas corpus matters, by counsel of record for a party that is an entity as defined in this rule. The certificate shall list for that party: (1) any parent corporations, entities, and (2) all entities or individuals owning or controlling an interest of 10 percent or more of the stock of that party, and (3) all publicly held entities owning an interest of 10 percent or more of the stock of that party and (4) all individuals holding a majority interest in that party. If there are no other interested entities or individuals, or individuals a certificate indicating that information is required. The certificate shall state whether the party knows of any direct or indirect ownership or controlling interest for that party that counsel of record thinks could reasonably require a judge to disqualify himself or herself under Rule 2.11 of the Code of Judicial Conduct.

“Counsel of record” shall include all attorneys and self-represented parties appearing in the trial court at the time of the initial appellate filing, unless an exception pursuant to Section 62-8 applies, all attorneys and self-represented parties who filed the appellate matter, and all attorneys and self-represented parties who file an appearance in the appellate matter.

“Entity” means any corporation, limited liability—company, partnership, limited liability partnership, firm or any association that is not a governmental entity or its agencies.

“Filed” shall mean the receipt by the appellate clerk of a paper or document by electronic submission pursuant to Section 60-7. If an exemption to electronic filing has been granted or if the electronic filing requirements do not apply, filed shall mean receipt of the paper or document by hand delivery, by first class mail or by express mail delivered by the United States Postal Service or an equivalent commercial service. If a document must be filed by a certain date under these rules or under any statutory provision, the document must be received by the appellate clerk by the close of business on that date; it is not sufficient that a document be mailed by that date to the appellate clerk unless a rule or statutory provision expressly so computes the time.

“Issues” shall include claims of error, certified questions and questions reserved.

“Motion” shall include applications and petitions, other than petitions for certification. A preappeal motion is one that is filed prior to or independent of an appeal.

“Paper” and “Document” shall include an electronic submission that complies with the procedures and standards established by the chief clerk of the appellate system under the direction of the administrative judge of the appellate system and a paper or document created in or converted to a digital format by the Judicial Branch.

“Petition” does not include petitions for certification unless the context clearly

requires.

“Record” shall include the case file, any decisions, documents, transcripts, recordings and exhibits from the proceedings below, and, in appeals from administrative agencies, the record returned to the trial court by the administrative agency.

“Requests” shall include correspondence and notices as permitted by these rules.

“Signature” shall be made upon entry of an attorney’s individual juris number or a self-represented party’s user identification number during the filing transaction, unless an exemption from the requirements of Section 60-7 (d) has been granted or applies.

“Submission” shall mean a “paper” or a “document” and shall include an electronic submission that complies with the procedures and standards established by the chief clerk of the appellate system under the direction of the administrative judge of the appellate system.

(For additional definitions, see Secs. 62-2 and 76-6.)

Sec. 63-4. Additional Papers To Be Filed by Appellant and Appellee Subsequent to the Filing of the Appeal

(Applicable to appeals filed before October 1, 2021.)

(a) Within ten days of filing an appeal, the appellant shall also file with the appellate clerk the following:

(1) A preliminary statement of the issues intended for presentation on appeal. If any appellee wishes to: (A) present for review alternative grounds upon which the judgment may be affirmed; (B) present for review adverse rulings or decisions of the court which should be considered on appeal in the event the appellant is awarded a new trial; or (C) claim that a new trial rather than a directed judgment should be ordered if the appellant is successful on the appeal, that appellee shall file a preliminary statement of issues within twenty days from the filing of the appellant’s preliminary statement of the issues.

Whenever the failure to identify an issue in a preliminary statement of issues prejudices an opposing party, the court may refuse to consider such issue.

(2) A certificate stating that no transcript is deemed necessary or a transcript order confirmation from the official court reporter pursuant to Section 63-8. If the appellant is to rely on any transcript delivered prior to the filing of the appeal, the transcript order confirmation shall indicate that an electronic version of a previously delivered transcript has been ordered.

If any other party deems any other parts of the transcript necessary that were not ordered by the appellant, that party shall, within twenty days of the filing of the appellant’s transcript papers, file a transcript order confirmation for an order placed in compliance with Section 63-8. If the order is for any transcript delivered prior to the filing of the appeal, the transcript order confirmation shall indicate that an electronic version of a previously delivered transcript has been ordered.

(3) A docketing statement containing the following information to the extent known or reasonably ascertainable by the appellant: (A) the names and addresses of all parties to the appeal, the names, addresses, and e-mail addresses of trial and appellate counsel of record, and the names and addresses of all persons having a legal interest in the cause on appeal sufficient to raise a substantial question whether a judge should be disqualified from participating in the decision on the case by virtue of that judge’s personal or financial

interest in any such persons; (B) the case names and docket numbers of all pending appeals to the Supreme Court or Appellate Court which arise from substantially the same controversy as the cause on appeal, or involve issues closely related to those presented by the appeal; (C) whether a criminal protective order, civil protective order, or civil restraining order was requested or issued during any of the underlying proceedings; (D) whether there were exhibits in the trial court and, if so, whether the exhibits were physical, electronic or a combination thereof; and (E) in criminal and habeas cases, the defendant's or petitioner's conviction(s) and sentence(s) that are the subject of the direct criminal or habeas appeal and whether the defendant or petitioner is incarcerated. If additional information is or becomes known to, or is reasonably ascertainable by the appellee, the appellee shall file a docketing statement supplementing the information required to be provided by the appellant.

When an appellant or an appellee is aware that one or more appellees have no interest in participating in the appeal, the appellant and any other appellees may be relieved of the requirement of certifying copies of filings to those appellees by designating the nonparticipating appellee(s) in a section of the docketing statement named "Nonparticipating Appellee(s)." This designation shall indicate that if no docketing statement in disagreement is filed, subsequent filings will not be certified to those appellees.

If an appellee disagrees with the nonparticipating designation, that appellee shall file a docketing statement indicating such disagreement within twenty days of the filing of that designation. All documents filed on or before the expiration of the time for an appellee to file a docketing statement in disagreement as stated above shall be delivered pursuant to Section 62-7 (b) to all counsel of record. If no docketing statement in disagreement is filed, subsequent filings need not be certified to nonparticipating appellees.

(4) In all noncriminal matters, except for matters exempt from a preargument conference pursuant to Section 63-10, a preargument conference statement.

(5) A constitutionality notice, in all noncriminal cases where the constitutionality of a statute has been challenged. Said notice shall identify the statute, the name and address of the party challenging it, and whether the statute's constitutionality was upheld by the trial court. The appellate clerk shall deliver a copy of such notice to the attorney general. This section does not apply to habeas corpus matters based on criminal convictions, or to any case in which the attorney general is a party, has appeared on behalf of a party, or has filed an amicus brief in proceedings prior to the appeal.

(6) In matters in which documents are under seal, conditionally or otherwise, or limited as to disclosure, a notice identifying the time, date, scope and duration of the sealing order with a copy of the order. (See Section 77-2.)

(7) If an entity as defined in Section 60-4 is an appellant, counsel of record for that entity shall file a certificate of interested entities or individuals as defined in Section 60-4 in any civil appeal to assist the appellate jurists in making an informed decision regarding possible disqualification from the appeal. If an entity in a civil appeal is an appellee, counsel of record for the entity shall file a certificate of interested entities or individuals within twenty days of the filing of the appellant's preliminary statement of the issues. Counsel of record has a continuing duty to amend the certificate of interested entities or individuals during the pendency of the appeal if any changes occur.

(b) Except as otherwise provided, a party may as of right file amendments to the

preliminary statement of issues at any time until that party's brief is filed. Amendments to the docketing statement may be filed at any time. Amendments to the transcript statement may be made only with leave of the court. If leave to file such an amendment is granted, the adverse party shall have the right to move for permission to file a supplemental brief and for an extension of time. Amendments to the preargument conference statement shall not be presented in writing but may be presented orally at the preargument conference, if one is held.

(c) Failure to comply with this rule shall be deemed as sufficient reason to schedule a case for sanctions under Section 85-3 or for dismissal under Section 85-1.

Sec. 63-4. Additional Papers To Be Filed by Appellant and Appellee Subsequent to the Filing of the Appeal

(Applicable to appeals filed on or after October 1, 2021.)

(a) Within ten days of filing an appeal, the appellant shall also file with the appellate clerk the following:

(1) A preliminary statement of the issues intended for presentation on appeal. If any appellee wishes to: (A) present for review alternative grounds upon which the judgment may be affirmed; (B) present for review adverse rulings or decisions of the court which should be considered on appeal in the event the appellant is awarded a new trial; or (C) claim that a new trial rather than a directed judgment should be ordered if the appellant is successful on the appeal, that appellee shall file a preliminary statement of issues within twenty days from the filing of the appellant's preliminary statement of the issues.

Whenever the failure to identify an issue in a preliminary statement of issues prejudices an opposing party, the court may refuse to consider such issue.

(2) A designation of the proposed contents of the clerk appendix that is to be prepared by the appellate clerk under Section 68-2A listing the specific documents docketed in the case file that the appellant deems are necessary to include in the clerk appendix for purposes of presenting the issues on appeal, including their dates of filing in the proceedings below, and, if applicable, their number as listed on the docket sheet. The appellant shall limit the designation to the documents referenced in Section 68-3A for inclusion in the clerk appendix. If any other party disagrees with the inclusion of any documents designated by the appellant, or deems it necessary to include other documents docketed in the case file in the clerk appendix, that party may, within seven days from the filing of the appellant's designation of the proposed contents of the clerk appendix, file its own designation of the proposed contents of the clerk appendix.

(3) A certificate stating that no transcript is deemed necessary or a transcript order confirmation from the official court reporter pursuant to Section 63-8. If the appellant is to rely on any transcript delivered prior to the filing of the appeal, the transcript order confirmation shall indicate that an electronic version of a previously delivered transcript has been ordered.

If any other party deems any other parts of the transcript necessary that were not ordered by the appellant, that party shall, within twenty days of the filing of the appellant's transcript papers, file a transcript order confirmation for an order placed in compliance with Section 63-8. If the order is for any transcript delivered prior to the filing of the appeal, the transcript order confirmation shall indicate that an electronic version of a previously

delivered transcript has been ordered.

(4) A docketing statement containing the following information to the extent known or reasonably ascertainable by the appellant: (A) the names and addresses of all parties to the appeal, the names, addresses, and e-mail addresses of trial and appellate counsel of record, and the names and addresses of all persons having a legal interest in the cause on appeal sufficient to raise a substantial question whether a judge should be disqualified from participating in the decision on the case by virtue of that judge's personal or financial interest in any such persons; (B) the case names and docket numbers of all pending appeals to the Supreme Court or Appellate Court which arise from substantially the same controversy as the cause on appeal, or involve issues closely related to those presented by the appeal; (C) whether a criminal protective order, civil protective order, or civil restraining order was requested or issued during any of the underlying proceedings; (D) whether there were exhibits in the trial court and, if so, whether the exhibits were physical, electronic or a combination thereof; and (E) in criminal and habeas cases, the defendant's or petitioner's conviction(s) and sentence(s) that are the subject of the direct criminal or habeas appeal and whether the defendant or petitioner is incarcerated. If additional information is or becomes known to, or is reasonably ascertainable by the appellee, the appellee shall file a docketing statement supplementing the information required to be provided by the appellant.

When an appellant or an appellee is aware that one or more appellees have no interest in participating in the appeal, the appellant and any other appellees may be relieved of the requirement of certifying copies of filings to those appellees by designating the nonparticipating appellee(s) in a section of the docketing statement named "Nonparticipating Appellee(s)." This designation shall indicate that if no docketing statement in disagreement is filed, subsequent filings will not be certified to those appellees.

If an appellee disagrees with the nonparticipating designation, that appellee shall file a docketing statement indicating such disagreement within twenty days of the filing of that designation. All documents filed on or before the expiration of the time for an appellee to file a docketing statement in disagreement as stated above shall be delivered pursuant to Section 62-7 (b) to all counsel of record. If no docketing statement in disagreement is filed, subsequent filings need not be certified to nonparticipating appellees.

(5) In all noncriminal matters, except for matters exempt from a preargument conference pursuant to Section 63-10, a preargument conference statement.

(6) A constitutionality notice, in all noncriminal cases where the constitutionality of a statute has been challenged. Said notice shall identify the statute, the name and address of the party challenging it, and whether the statute's constitutionality was upheld by the trial court. The appellate clerk shall deliver a copy of such notice to the attorney general. This section does not apply to habeas corpus matters based on criminal convictions, or to any case in which the attorney general is a party, has appeared on behalf of a party, or has filed an amicus brief in proceedings prior to the appeal.

(7) In matters in which documents are under seal, conditionally or otherwise, or limited as to disclosure, a notice identifying the time, date, scope and duration of the sealing order with a copy of the order. (See Section 77-2.)

(8) If an entity as defined in Section 60-4 is an appellant, counsel of record for that entity shall file a certificate of interested entities or individuals as defined in Section 60-4

in any civil appeal to assist the appellate jurists in making an informed decision regarding possible disqualification from the appeal. If an entity in a civil appeal is an appellee, counsel of record for the entity shall file a certificate of interested entities or individuals within twenty days of the filing of the appellant's preliminary statement of the issues. Counsel of record has a continuing duty to amend the certificate of interested entities or individuals during the pendency of the appeal if any changes occur.

(b) Except as otherwise provided, a party may as of right file amendments to the preliminary statement of issues at any time until that party's brief is filed. Amendments to the docketing statement may be filed at any time. Amendments to the transcript statement may be made only with leave of the court. If leave to file such an amendment is granted, the adverse party shall have the right to move for permission to file a supplemental brief and for an extension of time. Amendments to the preargument conference statement shall not be presented in writing but may be presented orally at the preargument conference, if one is held.

(c) Failure to comply with this rule shall be deemed as sufficient reason to schedule a case for sanctions under Section 85-3 or for dismissal under Section 85-1.

Sec. 62-5. Changes in Parties

Any change in the parties to an action pending an appeal shall be made in the court in which the appeal is pending. The appellate clerk shall notify the clerk of the trial court of any change.

If any party to a civil action is an entity as defined in Section 60-4, counsel of record shall include a certificate of interested entities or individuals with any motion seeking a change in the parties filed with the appellate clerk.

Sec. 66-3. Motion Procedures and Filing

All motions, petitions, applications, memoranda of law, stipulations, and oppositions shall be filed with the appellate clerk in accordance with the provisions of Sections 60-7 and 60-8 and docketed upon filing. The submission may be returned or rejected for noncompliance with the Rules of Appellate Procedure. All papers shall contain a certification that a copy has been delivered to each other counsel of record in accordance with the provisions of Section 62-7.

No paper mentioned above shall be filed after expiration of the time for its filing unless the filer demonstrates good cause for its untimeliness in a separate section captioned "good cause for late filing." No motion directed to the trial court that is required to be filed with the appellate clerk shall be filed after expiration of the time for its filing, except on separate written motion accompanied by the proposed trial court motion and by consent of the Supreme or Appellate Court. No amendment to any of the above mentioned papers shall be filed except on written motion and by consent of the court.

Motions shall be typewritten and fully double spaced, and shall not exceed three lines to the vertical inch or twenty-seven lines to the page. Footnotes and block quotations may be single spaced. Only the following two fonts, of 12 point or larger size, are approved for use in motions: Arial and Univers. Each page of a motion, petition, application, memorandum of law, stipulation and opposition shall have as a minimum the following margins: top, 1 inch; left, 1 and 1/4 inch; right, 1/2 inch; and bottom, 1 inch.

Any preappeal motion, petition, application or opposition filed by an entity as

defined in Section 60-4 in a civil matter shall be accompanied by a certificate of interested entities or individuals filed by counsel of record.

Sec. 67-4. The Appellant's Brief; Contents and Organization

The appellant's brief shall contain the following:

- (a) A table of contents.
- (b) A concise statement setting forth, in separately numbered paragraphs, without detail or discussion, the principal issue or issues involved in the appeal, with appropriate references to the page or pages of the brief where the issue is discussed, pursuant to subsection (e) hereof. Such statement shall be deemed in replacement of and shall supersede the preliminary statement of issues.
- (c) A table of authorities cited in the brief, with references to the page or pages of the brief where the citations to those authorities appear. Citations shall be in the form provided in Section 67-11.
- (d) A statement of the nature of the proceedings and of the facts of the case bearing on the issues raised. The statement of facts shall be in narrative form, shall be supported by appropriate references to the page or pages of the transcript or to the document upon which the party relies and shall not be unnecessarily detailed or voluminous.
- (e) The argument, divided under appropriate headings into as many parts as there are points to be presented, with appropriate references to the statement of facts or to the page or pages of the transcript or to the relevant document. The argument on each point shall include a separate, brief statement of the standard of review the appellant believes should be applied.
 - (1) When error is claimed in the trial court's refusal to charge the jury as requested, the party claiming such error shall include in the brief of that party or the appendix thereto a verbatim statement of the relevant portions of the charge as requested and as given by the court and any relevant exceptions to the charge as given and shall recite in narrative form any evidence which it is claimed would entitle that party to the charge as requested, with appropriate references to the page or pages of the transcript.
 - (2) When error is claimed in the charge to the jury, the brief or appendix shall include a verbatim statement of all relevant portions of the charge and all relevant exceptions to the charge. Unless essential to review of a claimed error, a verbatim statement of the entire charge to the jury should not be included in the brief or appendix. Evidence relevant to the claimed error shall be recited in narrative form with appropriate references to the page or pages of the transcript.
 - (3) When error is claimed in any evidentiary ruling in a court or jury case, the brief or appendix shall include a verbatim statement of the following: the question or offer of exhibit; the objection and the ground on which it was based; the ground on which the evidence was claimed to be admissible; the answer, if any; and the ruling.
 - (4) When error is claimed in any other ruling in a court or jury case, the brief or appendix shall include the pertinent motion or pleading as well as any other pertinent documents which are a part of the record of the proceedings below.
 - (5) When the basis of an evidentiary or other ruling referred to in subsection (e) (3) or (e) (4) cannot be understood without knowledge of the evidence or proceeding which preceded or followed the ruling, a brief narrative or verbatim statement of the evidence or

proceeding should be made. A verbatim excerpt from the transcript should not be used if a narrative statement will suffice. When the same ruling is repeated, the brief should contain only a single ruling unless the other rulings are further illustrative of the rule which determined the action of the trial court or establish the materiality or harmfulness of the error claimed. The statement of rulings in the brief shall include appropriate references to the page or pages of the transcript.

(f) A short conclusion stating the precise relief sought.

(g) The text of the pertinent portions of any constitutional provision, statute, ordinance or regulation at issue or on which the appellant relies. Such text need not be included in the brief if it is included in the appendix to the appellant's brief.

(h) In appeals filed pursuant to Section 81-4, a statement identifying the version of the land use regulations filed with the appellate clerk.

(i) In civil appeals filed by an entity as defined in Section 60-4, counsel of record shall include a current certificate of interested entities or individuals in the appellant's brief.

(j) The appellant's brief shall be organized in the following order: if the appeal is in a civil matter and the appeal was filed by an entity, a current certificate of interested entities or individuals as defined in Section 60-4; table of contents; statement of issues; table of authorities; if the appeal was filed pursuant to Section 81-4, statement identifying version of land use regulations filed with the appellate clerk; statement of facts; argument; conclusion and statement of relief requested; signature; and certification pursuant to Section 62-7.

Sec. 67-5. The Appellee's Brief; Contents and Organization

The brief of the appellee shall contain, in a form corresponding to that stated in Section 67-4, the following:

(a) A table of contents.

(b) A counterstatement of any issue involved as to which the appellee disagrees with the statement of the appellant or a statement of any other grounds which were properly raised by an appellee under Section 63-4. Such statement shall be deemed in replacement of and shall supersede the preliminary statement of the issues.

(c) A table of authorities cited in the brief, with references to the page or pages of the brief where the citations to those authorities appear. Citations shall be in the form provided in Section 67-11.

(d) A counter statement of any fact as to which the appellee disagrees with the statement of the appellant. The counter statement of facts shall be in narrative form and shall be supported by appropriate references to the page or pages of the transcript or to the relevant document upon which the appellee relies. An appellee may not rely on any fact unless it is set forth in the appellee's counter statement of facts or in the appellant's statement of facts or is incorporated in any brief of the parties in accordance with Section 67- 4 (e) or with subsection (e) hereof.

(e) The argument of the appellee, divided as provided in Section 67-4 (e). The argument on each point shall include a separate, brief statement of the standard of review the appellee believes should be applied. The argument may augment or take exception to the appellant's presentation of rulings or the charge by reference to any relevant part of the court's charge or any other evidence in narrative or verbatim form which is relevant

to such question, with appropriate references to the statements of facts or to the page or pages of the transcript or to the relevant document.

(f) Claims, if any, directed to any rulings or decisions of the trial court adverse to the appellee. These shall be made in the manner provided in Section 67-4 (e).

(g) A short conclusion stating the precise relief sought.

(h) The text of the pertinent portions of any constitutional provision, statute, ordinance or regulation at issue or on which the appellee relies. Such text need not be included in the brief if it is included in the appellant's brief or appendix or in the appendix to the appellee's brief.

(i) In appeals filed pursuant to Section 81-4, a statement as to whether the appellee disputes the applicability of the version of the land use regulations filed with the appellate clerk. If the appellee disputes the applicability of such regulations, it shall set forth its basis for maintaining that such regulations do not apply.

(j) If the appellee is an entity as defined in Section 60-4, counsel of record shall include a current certificate of interested entities or individuals in the appellee's brief.

(k) The appellee's brief shall be organized in the following order: if the appeal in a civil matter was filed by an entity, a current certificate of interested entities or individuals as defined in Section 60-4; table of contents; statement of issues; table of authorities; statement of facts; argument; conclusion and statement of relief requested; signature; and certification pursuant to Section 62-7.

(~~k~~) When the appellee is also the cross appellant, the issues on the cross appeal shall be briefed in accordance with Section 67-4. In such a case, the briefs shall clearly label which sections of the brief refer to the appeal and which refer to the cross appeal.

Sec. 67-7. The Amicus Curiae Brief

(a) A brief of an amicus curiae in cases before the court on the merits may be filed only with the permission of the court. An application for permission to appear as amicus curiae and to file a brief shall be filed within twenty days after the filing of the brief of the party, if any, whom the applicant intends to support, and if there is no such party, then the application shall be filed no later than twenty days after the filing of the appellee's brief.

(b) The application shall state concisely the nature of the applicant's interest and the reasons why a brief of an amicus curiae should be allowed. If the applicant in a civil appeal is an entity as defined in Section 60-4, a certificate of interested entities or individuals shall be attached to the application. The length of the brief shall not exceed ten pages unless a specific request is made for a brief of more than that length. The application shall conform to the requirements set forth in Sections 66- 2 and 66-3. The amicus application should specifically set forth reasons to justify the filing of a brief in excess of ten pages. A party in receipt of an application may, within ten days after the filing of the application, file an objection concisely stating the reasons therefor.

(c) All briefs filed under this section shall comply with the applicable provisions of this chapter and shall set forth the interest of the amicus curiae. If the appeal is in a civil matter and the amicus curia is an entity as defined in Section 60-4, a certificate of interested entities or individuals shall be included in the brief.

(d) An amicus curiae may argue orally only when a specific request for such permission is granted by the court in which the appeal is pending.

(e) With the exception of briefs filed by the attorney general as provided by this

rule, all briefs shall indicate whether counsel for a party wrote the brief in whole or in part and whether such counsel or a party contributed to the cost of the preparation or submission of the brief and shall identify those persons, other than the amicus curiae, its members or its counsel, who made such monetary contribution. The disclosure shall be made in the first footnote on the first page of text.

(f) Except for habeas corpus matters based on criminal convictions, if an appeal in a noncriminal matter involves an attack on the constitutionality of a state statute, the attorney general may appear and file a brief amicus curiae as of right. Any such appearance by the attorney general shall be filed no later than the date on which the brief of the party that the attorney general supports is filed, and the attorney general's brief will be due twenty days after the filing of the brief of the party that the attorney general supports.

Sec. 67-7A. The Amicus Curiae Electronic Brief

(Applicable to appeals filed on or after October 1, 2021.)

(a) A brief of an amicus curiae in cases before the court on the merits may be filed only with the permission of the court unless Section 67-7A (f) applies. An application for permission to appear as amicus curiae and to file a brief shall be filed within twenty days after the filing of the brief of the party, if any, whom the applicant intends to support, and if there is no such party, then the application shall be filed no later than twenty days after the filing of the appellee's brief.

(b) The application shall state concisely the nature of the applicant's interest and the reasons why a brief of an amicus curiae should be allowed. **If the applicant in a civil appeal is an entity as defined in Section 60-4, a certificate of interested entities or individuals shall be attached to the application.** The length of the brief shall not exceed 4000 words unless a specific request is made for a brief of more than that length. The application shall conform to the requirements set forth in Sections 66-2 and 66-3. The amicus application should specifically set forth reasons to justify the filing of a brief in excess of 4000 words. A party in receipt of an application may, within ten days after the filing of the application, file an objection concisely stating the reasons therefor.

(c) All briefs filed under this section shall comply with the applicable provisions of this chapter and shall set forth the interest of the amicus curiae. **If the appeal is in a civil matter and the amicus curia is an entity as defined in Section 60-4, a certificate of interested entities or individuals shall be included in the brief.**

(d) An amicus curiae may argue orally only when a specific request for such permission is granted by the court in which the appeal is pending.

(e) With the exception of briefs filed by the attorney general as provided by this rule, all briefs shall indicate whether counsel for a party wrote the brief in whole or in part and whether such counsel or a party contributed to the cost of the preparation or submission of the brief and shall identify those persons, other than the amicus curiae, its members or its counsel, who made such monetary contribution. The disclosure shall be made in the first footnote on the first page of text.

(f) Except for habeas corpus matters based on criminal convictions, if an appeal in a noncriminal matter involves an attack on the constitutionality of a state statute, the attorney general may appear and file a brief amicus curiae as of right. Any such appearance by the attorney general shall be filed no later than the date on which the brief

of the party that the attorney general supports is filed, and the attorney general's brief will be due twenty days after the filing of the brief of the party that the attorney general supports.

Sec. 72-1. Writs of Error; In General

(a) Writs of error for errors in matters of law only may be brought from a final judgment of the Superior Court to the Appellate Court in the following cases: (1) a decision binding on an aggrieved nonparty; (2) a summary decision of criminal contempt; (3) a denial of transfer of a small claims action to the regular docket; and (4) as otherwise necessary or appropriate in aid of its jurisdiction and agreeable to the usages and principles of law.

(b) No writ of error may be brought in any civil or criminal proceeding for the correction of any error where (1) the error might have been reviewed by process of appeal, or by way of certification, or (2) the parties, by failure timely to seek a transfer or otherwise, have consented to have the case determined by a court or tribunal from whose judgment there is no right of appeal or opportunity for certification.

(c) If an entity as defined in Section 60-4 is a plaintiff in error or a defendant in error, counsel for that entity shall file a certificate of interested entities or individuals.

Sec. 73-1. Reservation of Questions from the Superior Court to the Supreme Court or Appellate Court; Contents of Reservation Request

(a) Counsel may jointly file with the Superior Court a request to reserve questions of law for consideration by the Supreme Court or Appellate Court. A reservation request shall set forth: (1) a stipulation of the essential undisputed facts and a clear and full statement of the question or questions upon which advice is desired; (2) a statement of reasons why the resolution of the question by the appellate court having jurisdiction would serve the interest of simplicity, directness and judicial economy; and (3) whether the answers to the questions will determine, or are reasonably certain to enter into the final determination of the case. All questions presented for advice shall be specific and shall be phrased so as to require a Yes or No answer.

(b) Reservation requests may be brought only in those cases in which an appeal could have been filed directly to the Supreme Court, or to the Appellate Court, respectively, had judgment been rendered. Reservations in cases where the proper court for the appeal cannot be determined prior to judgment shall be filed directly to the Supreme Court.

(c) If one of the parties to the reservation request in a civil matter is an entity as defined in Section 60-4, the reservation request must also include a certificate of interested entities or individuals filed by counsel of record for that entity.

Sec. 81-2. Form of Petition

(a) A petition for certification shall contain the following sections in the order indicated here:

(1) A statement of the questions presented for review, expressed in the terms and circumstances of the case but without unnecessary detail.

(2) A statement of the basis for certification identifying the specific reasons why

the Appellate Court should allow the extraordinary relief of certification. These reasons may include but are not limited to the following:

(A) The court below has decided a question of substance not theretofore determined by the Supreme Court or the Appellate Court or has decided it in a way probably not in accord with applicable decisions of the Supreme Court or the Appellate Court.

(B) The decision under review is in conflict with other decisions of the court below.

(C) The court below has so far departed from the accepted and usual course of judicial proceedings, or has so far sanctioned such a departure by any other court, as to call for an exercise of the Appellate Court's supervision.

(D) A question of great public importance is involved.

(3) A summary of the case containing the facts material to the consideration of the questions presented, reciting the disposition of the matter in the trial court, and describing specifically how the trial court decided the questions presented for review in the petition.

(4) A concise argument amplifying the reasons relied upon to support the petition. No separate memorandum of law in support of the petition will be accepted by the appellate clerk.

(5) An appendix containing a table of contents, the operative complaint, all briefs filed by all parties, the opinion or order of the trial court sought to be reviewed, a copy of the order on any motion which would stay or extend the time period for filing the petition, and a list of all parties to the appeal in the trial court with the names, addresses, telephone numbers, e-mail addresses, and, if applicable, the juris numbers of their counsel. **If a petitioner in a civil matter is an entity as defined in Section 60-4, counsel of record must also provide a certificate of interested entities or individuals in the appendix.** The appendix shall be paginated separately from the petition with consecutively numbered pages preceded by the letter "A."

(b) The petition shall not exceed ten pages in length, exclusive of the appendix, except with special permission of the appellate clerk. The petition shall be typewritten and fully double spaced, and shall not exceed three lines to the vertical inch or twenty-seven lines to the page. Footnotes and block quotations may be single spaced. Only the following two fonts, of 12 point or larger size, are approved for use in petitions: Arial and Univers. Each page of a petition shall have as a minimum the following margins: top, 1 inch; left, 1 and 1/4 inch; right, 1/2 inch; and bottom, 1 inch.

Sec. 81-3. Statement in Opposition to Petition

(a) Within ten days of the filing of the petition, any party may file a statement in opposition with the appellate clerk stating the reasons why certification should not be granted. The statement shall be presented in a manner which is responsive, in form and content, to the petition it opposes. The statement in opposition shall not exceed ten pages in length, except with special permission of the appellate clerk. The statement in opposition shall be typewritten and fully double spaced and shall not exceed three lines to the vertical inch or twenty-seven lines to the page. Footnotes and block quotations may be single spaced. Only the following two fonts, of 12 point or larger size, are approved for use in the statement in opposition: Arial and Univers. Each page of a statement in opposition to a petition shall have as a minimum the following margins: top, 1 inch; left, 1 and 1/4 inch; right, 1/2 inch; and bottom, 1 inch.

No separate memorandum of law in support of the statement in opposition will be accepted by the appellate clerk.

(b) The statement in opposition shall be delivered in the manner set forth in Section 62-7.

(c) No motion to dismiss a petition for certification will be accepted by the appellate clerk. Any objection to the jurisdiction of the court to entertain the petition shall be included in the statement in opposition.

(d) If the party in a civil matter filing the opposition is an entity as defined in Section 60-4, a certificate of interested entities or individuals shall be attached to the opposition.

Sec. 82-3. Contents of Certification Request

A certification request shall set forth: (1) The questions of law to be answered; (2) a finding or stipulation approved by the court setting forth all facts relevant to answering the questions certified and showing fully the nature of the controversy in which the questions arose; (3) that the receiving court may reformulate the questions; and (4) the names and addresses of counsel of record.

The questions presented should be such as will be determinative of the case, and it must appear that their present determination would be in the interest of simplicity, directness and economy of judicial action.

All questions presented shall be specific and shall be phrased so as to require a Yes or No answer, wherever possible.

If one of the parties to the certification request in a civil matter is an entity as defined in Section 60-4, the certification request must also include a certificate of interested entities or individuals filed by counsel of record for that entity.

Sec. 83-1. Application; In General

Within two weeks of the issuance of an order or decision of the Superior Court involving a matter of substantial public interest pursuant to General Statutes § 52-265a, any party may file an application for certification by the chief justice. The application for certification shall contain: (1) the question of law on which the appeal is to be based; (2) a description of the substantial public interest that is alleged to be involved; (3) an explanation as to why delay may work a substantial injustice; and (4) an appendix with: (A) the decision or order of the Superior Court sought to be appealed and (B) a list of all parties to the case in the Superior Court with the names, addresses, telephone numbers, e-mail addresses and, if applicable, the juris numbers of their counsel. If the party in a civil matter is an entity as defined in Section 60-4, counsel of record must also provide a certificate of interested entities or individuals in the appendix.

Using an expeditious delivery method such as overnight mail or facsimile or other electronic medium, in addition to the certification requirements of Section 62-7, the party submitting the application shall also notify the trial judge and the clerk of the trial court that rendered the decision sought to be appealed.

Sec. 84-5. Form of Petition

(a) A petition for certification shall contain the following sections in the order indicated here:

(1) A brief introduction providing context for the statement of the questions

presented for review.

(2) A statement of the questions presented for review, expressed in the terms and circumstances of the case but without unnecessary detail. The Supreme Court will ordinarily consider only those questions squarely raised, subject to any limitation in the order granting certification.

(3) A brief history of the case containing the facts material to the consideration of the questions presented, including the disposition of the matter in the Appellate Court, and if applicable, a specific description of how the Appellate Court decided the questions presented for review in the petition.

(4) A concise argument expanding on the bases for certification, as presented in Section 84-2, and explaining why the Supreme Court should allow the extraordinary relief of certification. No separate memorandum of law in support of the petition will be accepted by the appellate clerk.

(5) An appendix, which shall be paginated separately from the petition with consecutively numbered pages preceded by the letter "A," containing:

(A) a table of contents,

(B) the opinion or order of the Appellate Court sought to be reviewed,

(C) if the opinion or order of the Appellate Court was per curiam or a summary affirmance or dismissal, a copy of the trial court's memorandum of decision that was entered in connection with the claim raised by the petitioner before the Appellate Court, or, if no memorandum was filed, a copy of the trial court's ruling on the matter,

(D) a copy of the order on any motion which would stay or extend the time period for filing the petition,

(E) a list of all parties to the appeal in the Appellate Court with the names, addresses, telephone numbers, e-mail addresses, and, if applicable, the juris numbers of their trial and appellate counsel. **If one of the parties in a civil action is an entity as defined in Section 60-4, counsel of record must also provide a certificate of interested entities or individuals.**

(b) The petition shall not exceed ten pages in length, exclusive of the appendix, except with special permission of the appellate clerk. The petition shall be typewritten and fully double spaced, and shall not exceed three lines to the vertical inch or twenty-seven lines to the page. Footnotes and block quotations may be single spaced. Only the following two fonts, of 12 point or larger size, are approved for use in petitions: Arial and Univers. Each page of a petition shall have as a minimum the following margins: top, 1 inch; left, 1 and 1/4 inches; right, 1/2 inch; and bottom, 1 inch.

Sec. 84-6. Statement in Opposition to Petition

(a) Within ten days of the filing of the petition, any party may file a statement in opposition to the petition with the appellate clerk. The statement in opposition shall disclose any reasons why certification should not be granted by the Supreme Court and shall be presented in a manner which is responsive, in form and content, to the petition it opposes. The statement in opposition shall not exceed ten pages in length except with special permission of the appellate clerk.

The statement in opposition shall be typewritten and fully double spaced and shall not exceed three lines to the vertical inch or twenty-seven lines to the page. Footnotes and block quotations may be single spaced. Only the following two fonts, of 12 point or

larger size, are approved for use in the statement in opposition: Arial and Univers. Each page of a statement in opposition to a petition shall have as a minimum the following margins: top, 1 inch; left, 1 and 1/4 inch; right, 1/2 inch; and bottom, 1 inch. No separate memorandum of law in support of the statement in opposition will be accepted by the appellate clerk.

(b) The statement in opposition shall be delivered in the manner set forth in Section 62-7.

(c) No motion to dismiss a petition for certification will be accepted by the appellate clerk. Any objection to the jurisdiction of the court to entertain the petition shall be included in the statement in opposition.

 (d) If the party filing the opposition in a civil action is an entity as defined in Section 60-4, a certificate of interested entities or individuals shall be attached to the opposition.

(NEW) Sec. 66-9. Disqualification of Appellate Jurists

(a) A justice of the Supreme Court or a judge of the Appellate Court shall, upon motion of either party or upon its own motion, be disqualified from acting in a matter if such justice or judge is disqualified from acting therein pursuant to Rule 2.11 of the Code of Judicial Conduct.

(b) A justice of the Supreme Court or a judge of the Appellate Court is not automatically disqualified from acting in a matter merely because: (1) the justice or judge previously practiced law with the law firm or attorney who filed an amicus brief in the matter or the justice's or judge's spouse, domestic partner, parent, or child, or any other member of the justice's or judge's family residing in his or her household is practicing or has practiced law with such law firm or attorney; or (2) an attorney or party to the matter has filed a lawsuit against the justice or judge or filed a complaint against the justice or judge with the Judicial Review Council or an administrative agency.

(c) When an attorney or party who has filed a lawsuit or a complaint against a justice or judge is involved in a matter before the court on which the justice or judge sits, such attorney or party shall so advise the court and other attorneys and parties to the matter, and, thereafter, the justice or judge who is the subject of the disqualification issue shall either decide whether to disqualify himself or herself from acting in the matter or refer the disqualification issue to another justice or judge of the court for a decision.

Code of Judicial Conduct, Rule 2.11. Disqualification

(a) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned including, but not limited to, the following circumstances:

(1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of facts that are in dispute in the proceeding.

(2) The judge knows that the judge, the judge's spouse or domestic partner, or a person within the third degree of relationship to either of them, or the spouse or domestic partner of such a person is:

(A) a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;

(B) acting as a lawyer in the proceeding;

(C) a person who has more than a de minimis interest that could be substantially affected by the proceeding; or

(D) likely to be a material witness in the proceeding.

(3) The judge knows that he or she, individually or as a fiduciary, or the judge's spouse, domestic partner, parent, or child, or any other member of the judge's family residing in the judge's household, has an economic interest in the subject matter in controversy or in a party to the proceeding.

(4) The judge has made a public statement, other than in a court proceeding, judicial decision, or opinion that commits or appears to commit the judge to reach a particular result or rule in a particular way in the proceeding or controversy.

(5) The judge:

(A) served as a lawyer in the matter in controversy or was associated with a lawyer who participated substantially as a lawyer in the matter during such association;

(B) served in governmental employment and in such capacity participated personally and substantially as a lawyer or public official concerning the proceeding or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy; or

(C) was a material witness concerning the matter.

(b) A judge shall keep informed about the judge's personal and fiduciary economic interests and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse or domestic partner and minor children residing in the judge's household.

(c) A judge subject to disqualification under this Rule, other than for bias or prejudice under subsection (a)(1), may ask the parties and their lawyers to consider, outside the presence of the judge and court personnel, whether to waive disqualification, provided that the judge shall disclose on the record the basis of such disqualification. If, following the disclosure, the parties and lawyers agree, either in writing or on the record before another judge, that the judge should not be disqualified, the judge may participate in the proceeding.

(d) Notwithstanding the foregoing, a judge may contribute to a client security fund maintained under the auspices of the court, and such contribution will not require that the judge disqualify himself or herself from service on such a client security fund committee or from participation in a lawyer disciplinary proceeding or in any matter concerning restitution or subrogation relating to such a client security fund.

(e) A judge is not automatically disqualified from sitting on a proceeding merely because a lawyer or party to the proceeding has filed a lawsuit against the judge or filed a complaint against the judge with the Judicial Review Council or an administrative agency. When the judge becomes aware pursuant to Practice Book Sections 1-22(b), ~~or 4-8, 66-9~~ or 66-9 otherwise that such a lawsuit or complaint has been filed against him or her, the judge shall, ~~on the record, disclose that fact to the lawyers and parties to the proceeding before such judge, and the judge shall thereafter~~ proceed in accordance with Practice Book Section 1-22 (b) or 66-9.

(f) The fact that the judge was represented or defended by the attorney general in a lawsuit that arises out of the judge's judicial duties shall not be the sole basis for recusal by the judge in lawsuits where the attorney general appears.

NEW

**CHAPTER 78b
REVIEW OF ORDERS DENYING APPLICATION FOR WAIVER OF FEES TO
COMMENCE A CIVIL ACTION OR A WRIT OF HABEAS CORPUS**

NEW Sec. 78b-1. Petition for Review of Order Denying Application for Waiver of Fees to Commence a Civil Action or a Writ of Habeas Corpus

Any person aggrieved by an order of the Superior Court denying an application for waiver of the payment of a fee for filing an action or the cost of service of process to commence a civil action or a writ of habeas corpus in the Superior Court may petition the Appellate Court for review of such an order after a hearing pursuant to the provisions of Section 8-2 (d) and a decision thereon.

Petitions for review of the denial of an application for waiver of the payment of a fee for filing an action or the cost of service of process to commence a civil action or writ of habeas corpus must conform to the requirements for motions for review set forth in Section 66-6 and are subject to transfer to the Supreme Court pursuant to Section 65-3.

Sec. 70-9. Coverage of Court Proceedings by Cameras and Electronic Media

(a) The broadcasting, televising, recording, or photographing of proceedings in the Supreme or Appellate Court by the media as defined in Section 1-10A should be allowed unless the panel of jurists partially or totally excludes coverage in the interests of the administration of justice. ~~Except for those matters enumerated in subsection (c) of this rule, all judicial courtroom proceedings in the Supreme and Appellate Courts are presumed to be subject to coverage by cameras and electronic media.~~

(b) ~~(1)~~ Unless good cause is shown, any media or pool representative who has been approved as media pursuant to Section 1-10A and wishes to broadcast, televise, record, or photograph a Supreme or Appellate Court proceeding shall send an e-mail request for electronic coverage to a person designated by the chief court administrator to receive such requests at least three business days prior to the commencement of the proceeding. Said designee shall promptly transmit any such request to the panel of jurists assigned to hear the matter. The right to permit or exclude coverage shall remain with the panel of jurists. ~~All such proceedings may be broadcast, televised, videotaped, audio recorded or photographed unless: (A) the panel of jurists grants a motion by a party or a victim in a case requesting the limitation or preclusion of such coverage, or (B) the panel of jurists, on its own motion, limits or precludes such coverage. The right to permit or to exclude coverage, whether partially or totally, at any time in the interests of the administration of justice shall remain with the panel of jurists.~~

~~———(2) Any party or victim who desires to file a motion to limit or preclude coverage shall do so not later than one week before the start of the term for which the case is subject to being assigned, as indicated on a docket pursuant to Section 69-1. The party~~

~~or victim shall deliver a copy of such motion to each counsel of record and to any other victim in the case. The party or victim shall give notice to any such victim by notifying the state's attorney in a criminal case, the attorney or guardian ad litem for a minor child in cases involving a minor victim or child represented by an attorney or guardian ad litem, and to any other victim or child by notifying the office of the victim advocate. Endorsed on the motion shall be certification of such delivery. The appellate clerk shall refer any such motion to the panel of jurists for review as soon as the panel is determined. The panel of jurists may consider a late motion to limit or preclude coverage. Prior to acting on such motion, the panel of jurists shall provide any media outlet expected to cover the proceeding an opportunity to respond in writing to the motion.~~

~~———(3) In acting on such motion or on its own motion, the panel of jurists will apply the presumption that all judicial courtroom proceedings in the Supreme and Appellate Courts are subject to coverage by cameras and electronic media. In addition, it will be guided by the principles that such coverage should be limited only if there is good cause to do so, there are no reasonable alternatives to such limitations, and the limitation is no broader than necessary to protect the competing interests at issue.~~

~~———(4) In acting on such motion or its own motion, the panel of jurists will conclude that the presumption in favor of coverage by cameras and electronic media has been overcome only if it is satisfied that good cause exists for a limitation or preclusion on coverage. If the panel of jurists orders a limitation or preclusion on coverage, it will provide a statement of its reasons. A statement may be written or stated on the record in open court.~~

(c) The right to permit or to exclude coverage, whether partially or totally, shall remain with the panel of jurists.

~~(ed) (1) In any case involving:~~The presumption in favor of coverage shall not apply to cases involving: (A1) sexual assault; (B2) risk of injury to, or impairing the morals of, a child; (C3) abuse or neglect of a child; (D4) termination of parental rights; and (E5) contested questions of child custody or visitation, counsel of record shall not disclose any information that would likely publicly reveal the identity or location of the protected parties during the proceeding.

~~(2) In cases to which the presumption in favor of coverage does not apply, any person may request such coverage by filing a motion not later than one week before the start of the term for which the case is subject to being assigned, as indicated on the docket pursuant to Section 69-1. The applicant shall deliver a copy of such written request to each counsel of record and to any victim or child in the case. The applicant shall give notice to any such victim by notifying the state's attorney in a criminal case, the attorney or guardian ad litem for a minor child in cases involving a minor victim or child represented by an attorney or guardian ad litem, and to any other victim or child by notifying the office of the victim advocate. Endorsed on the motion shall be a certification of such delivery. The appellate clerk shall refer any such motion to the panel of jurists for review as soon as the panel is determined. The panel of jurists may consider a late motion requesting coverage. Prior to acting on such motion, the panel of jurists shall provide the parties, any such minor children and any victims of the offense an opportunity to respond in writing to the motion. The panel of jurists shall grant the motion only if it is satisfied that the need for such coverage outweighs the privacy~~

interests involved in the case.

~~(d) The right to permit or to exclude coverage, whether partially or totally, shall remain with the panel of jurists. Supreme and Appellate Courts shall establish appropriate protocols governing the number, location and use of all forms of coverage consistent with these rules.~~

(e) If there are multiple requests to broadcast, televise, record, or photograph the same proceeding, the media representatives making such requests must make pooling arrangements among themselves, unless otherwise determined by the panel of jurists. The panel of jurists shall not mediate any disputes among the media regarding pooling arrangements.

(e) As used in this rule, “panel of jurists” means the justices or judges assigned to hear a particular case.

Robertson, Rene

From: Kindall, Clare <Clare.Kindall@ct.gov>
Sent: Tuesday, October 19, 2021 3:30 PM
To: Begemann, Jill
Cc: Babbin, Jeffrey R.
Subject: Proposed change to post-October 1, 2021 Practice Book Sec. 67-8(a)

Importance: High

Dear Jill –

I apologize for the late submission, but with the new e-briefing appellate rules now in effect, I would like to propose the following proposed rule change:

Sec. 67-8. The Party Appendix

(a) No party appendix is required in either a court or a jury case, except where an opinion is cited that is not officially published in a reporter or is not available in either the LEXIS or Westlaw databases, in which case the text of the opinion must be included in the party appendix.

With the new requirement to include hyperlinks to documents in the attached party appendix, if cases reported in LEXIS or Westlaw are cited, they currently are required to be included in the party appendix and need to be hyperlinked to where they are cited in the text. This leaves us in the strange position of reported cases not being hyperlinked, and unreported cases being hyperlinked.

Moreover, it is my understanding that the Judicial Branch has access to both LEXIS and Westlaw, and thus there is no longer a need for attaching cases reported only in those databases. Finally, the requirement to include LEXIS or Westlaw cases significantly increases the size of the party appendix. Given there is a size limit to the electronic filing of the combined brief and appendix, as long as there is no longer a need to include LEXIS and Westlaw cases, it would assist for purposes of remaining under the electronic filing size limit.

For these reasons, I propose that Rule 67-8(a) be amended to state that if a cited case is available in a reporter, on LEXIS or in Westlaw, then it does not need to be included in the party appendix.

Respectfully submitted,

Clare Kindall



CLARE KINDALL

Solicitor General / Chief of the Division of Appeals

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**Sec. 63-4. Additional Papers To Be Filed by Appellant and Appellee
Subsequent to the Filing of the Appeal**

(Applicable to appeals filed on or after October 1, 2021.)

(a) Within ten days of filing an appeal, the appellant shall also file with the appellate clerk the following:

(1) A preliminary statement of the issues intended for presentation on appeal. If any appellee wishes to: (A) present for review alternative grounds upon which the judgment may be affirmed; (B) present for review adverse rulings or decisions of the court which should be considered on appeal in the event the appellant is awarded a new trial; or (C) claim that a new trial rather than a directed judgment should be ordered if the appellant is successful on the appeal, that appellee shall file a preliminary statement of issues within twenty days from the filing of the appellant's preliminary statement of the issues.

Whenever the failure to identify an issue in a preliminary statement of issues prejudices an opposing party, the court may refuse to consider such issue.

(2) A designation of the proposed contents of the clerk appendix that is to be prepared by the appellate clerk under Section 68-2A listing the specific documents docketed in the case file that the appellant deems are necessary to include in the clerk appendix for purposes of presenting the issues on appeal, including their dates of filing in the proceedings below, and, if applicable, their number as listed on the docket sheet. The appellant shall limit the designation to the documents referenced in Section 68-3A for inclusion in the clerk appendix. If any other party disagrees with the inclusion of any documents designated by the appellant, or deems it necessary to include other documents docketed in the case file in the clerk appendix, that party may, within seven days from the filing of the appellant's designation of the proposed contents of the clerk appendix, file its own designation of the proposed contents of the clerk appendix.

(3) A certificate stating that no transcript is deemed necessary or a transcript order confirmation from the official court reporter pursuant to Section 63-8. If the appellant is to rely on any transcript delivered prior to the filing of the appeal, the transcript order confirmation shall indicate that an electronic version of a previously delivered transcript has been ordered.

If any other party deems any other parts of the transcript necessary that were not ordered by the appellant, that party shall, within twenty days of the filing of the appellant's transcript papers, file a transcript order confirmation for an order placed in compliance with Section 63-8. If the order is for any transcript delivered prior to the filing of the appeal, the transcript order confirmation shall indicate that an electronic version of a previously delivered transcript has been ordered.

(4) A docketing statement containing the following information to the extent known or reasonably ascertainable by the appellant: (A) the names and addresses of all parties to the appeal, the names, addresses, and e-mail addresses of trial and appellate counsel of record, and the names and addresses of all persons having a legal interest in the cause on appeal sufficient to raise a substantial question whether a judge should be disqualified from participating in the decision on the case by virtue of that judge's personal or financial interest in any such persons; (B) the case names and docket numbers of all pending appeals to the Supreme Court or Appellate Court which arise from substantially the same controversy as the cause on appeal, or involve issues closely related to those presented by the appeal; (C) whether a criminal protective order, civil protective order, or civil restraining order

was requested or issued during any of the underlying proceedings; ~~(D) whether there were exhibits in the trial court and, if so, whether the exhibits were physical, electronic or a combination thereof;~~ and (E) in criminal and habeas cases, the defendant's or petitioner's conviction(s) and sentence(s) that are the subject of the direct criminal or habeas appeal and whether the defendant or petitioner is incarcerated. If additional information is or becomes known to, or is reasonably ascertainable by the appellee, the appellee shall file a docketing statement supplementing the information required to be provided by the appellant.

When an appellant or an appellee is aware that one or more appellees have no interest in participating in the appeal, the appellant and any other appellees may be relieved of the requirement of certifying copies of filings to those appellees by designating the nonparticipating appellee(s) in a section of the docketing statement named "Nonparticipating Appellee(s)." This designation shall indicate that if no docketing statement in disagreement is filed, subsequent filings will not be certified to those appellees.

If an appellee disagrees with the nonparticipating designation, that appellee shall file a docketing statement indicating such disagreement within twenty days of the filing of that designation. All documents filed on or before the expiration of the time for an appellee to file a docketing statement in disagreement as stated above shall be delivered pursuant to Section 62-7 (b) to all counsel of record. If no docketing statement in disagreement is filed, subsequent filings need not be certified to nonparticipating appellees.

(5) In all noncriminal matters, except for matters exempt from a preargument conference pursuant to Section 63-10, a preargument conference statement.

(6) A constitutionality notice, in all noncriminal cases where the constitutionality of a statute has been challenged. Said notice shall identify the statute, the name and address of the party challenging it, and whether the statute's constitutionality was upheld by the trial court. The appellate clerk shall deliver a copy of such notice to the attorney general. This section does not apply to habeas corpus matters based on criminal convictions, or to any case in which the attorney general is a party, has appeared on behalf of a party, or has filed an amicus brief in proceedings prior to the appeal.

(7) In matters in which documents are under seal, conditionally or otherwise, or limited as to disclosure, a notice identifying the time, date, scope and duration of the sealing order with a copy of the order. (See Section 77-2.)

(b) Except as otherwise provided, a party may as of right file amendments to the preliminary statement of issues at any time until that party's brief is filed. Amendments to the docketing statement may be filed at any time. Amendments to the transcript statement may be made only with leave of the court. If leave to file such an amendment is granted, the adverse party shall have the right to move for permission to file a supplemental brief and for an extension of time. Amendments to the preargument conference statement shall not be presented in writing but may be presented orally at the preargument conference, if one is held.

(c) Failure to comply with this rule shall be deemed as sufficient reason to schedule a case for sanctions under Section 85-3 or for dismissal under Section 85-1.

Sec. 84-5. Form of Petition

(a) A petition for certification shall contain the following sections in the order indicated here:

(1) A brief introduction providing context for the statement of the questions presented for review.

(2) A statement of the questions presented for review, expressed in the terms and circumstances of the case but without unnecessary detail. The Supreme Court will ordinarily consider only those questions squarely raised, subject to any limitation in the order granting certification.

(3) A brief history of the case containing the facts material to the consideration of the questions presented, including the disposition of the matter in the Appellate Court, and if applicable, a specific description of how the Appellate Court decided the questions presented for review in the petition.

(4) A concise argument expanding on the bases for certification, as presented in Section 84-2, and explaining why the Supreme Court should allow the extraordinary relief of certification. No separate memorandum of law in support of the petition will be accepted by the appellate clerk.

(5) An appendix, which shall be paginated separately from the petition with consecutively numbered pages preceded by the letter "A," containing:

(A) a table of contents,

(B) the opinion, [preferably as published in the Connecticut Law Journal](#), or order of the Appellate Court sought to be reviewed,

(C) if the opinion or order of the Appellate Court was per curiam or a summary affirmance or dismissal, a copy of the trial court's memorandum of decision that was entered in connection with the claim raised by the petitioner before the Appellate Court, or, if no memorandum was filed, a copy of the trial court's ruling on the matter,

(D) a copy of the order on any motion, other than a motion for extension of time, which would stay or extend the time period for filing the petition,

(E) a list of all parties to the appeal in the Appellate Court with the names, addresses, telephone numbers, e-mail addresses, and, if applicable, the juris numbers of their trial and appellate counsel.

(b) The petition shall not exceed ten pages in length, exclusive of the appendix, except with special permission of the appellate clerk. The petition shall be typewritten and fully double spaced, and shall not exceed three lines to the vertical inch or twenty-seven lines to the page. Footnotes and block quotations may be single spaced. Only the following two typefaces, of 12 point or larger size, are approved for use in petitions: arial and univers. Each page of a petition shall have as a minimum the following margins: top

Sec. 63-3. Filing of Appeal

All appeals shall be filed and all fees paid in accordance with the provisions of Sections 60-7 or 60-8. The appeal will be docketed upon filing but may be returned or rejected for noncompliance with the Rules of Appellate Procedure. The appellant must certify that a copy of the appeal form generated at the time of electronic filing and bearing the assigned docket number and electronic signature of the filer will immediately be delivered pursuant to Section 62-7 (c) to all counsel of record and, in criminal and habeas corpus matters, to the Office of the Chief State's Attorney, Appellate Bureau. The appellate clerk, upon receipt of the foregoing, shall deliver a copy of the appeal form to the clerk of the ~~original trial court, to the clerk of any trial courts to which the matter was transferred, and to each party to the appeal.~~ In criminal and habeas corpus matters, the appellate clerk shall deliver a copy of the appeal form to the Office of the Chief State's Attorney, Appellate Bureau, or to the attorney general, as appropriate.

Sec. 84-10A. Record

Those portions of the record for the appeal to the Appellate Court relevant to the issue certified by the Supreme Court shall be included in the clerk appendix, which shall be prepared and distributed in accordance with Section 68-2 et seq. In addition, the clerk appendix shall include the order granting certification, the opinion or order of the Appellate Court under review and, to the extent the appellate clerk deems appropriate, any papers subsequently filed pursuant to Section 84-11.

The argument, if any, before the Appellate Court shall not be considered part of the record on appeal to the Supreme Court, except upon motion by a party showing special and important reasons therefor.

Sec. 84-11. Papers To Be Filed by Appellant and Appellee in an Appeal After Certification

(a) Within ten days of filing the appeal, the appellant shall also file a docketing statement pursuant to Section 63-4 (a) (4) and a designation of the proposed contents of the clerk appendix pursuant to Section 63-4 (a) (2). The parties shall not file other Section 63-4 papers on a certified appeal without permission of the Supreme Court.

~~(ab) Upon the granting of certification, t~~Within ten days of the filing of the appeal, the appellee may present for review alternative grounds for affirmation or adverse rulings or decisions to be considered in the event of a new trial~~alternative grounds upon which the judgment may be affirmed provided those grounds were raised and briefed in the Appellate Court. Any party to the appeal may also present for review adverse rulings or decisions which should be considered on the appeal in the event of a new trial,~~ provided that such party has raised such claims in the Appellate Court. If such alternative grounds for affirmation or adverse rulings or decisions to be considered in the event of a new trial were not raised in the Appellate Court, the party seeking to raise them in the Supreme Court must move for special permission to do so prior to the filing of that party's brief. Such permission will be granted only in exceptional cases where the interests of justice so require.

~~(bc)~~ Any party may also present for review any claim that the relief afforded by the Appellate Court in its judgment should be modified, provided such claim was raised in the Appellate Court either in such party's brief or upon a motion for reconsideration.

~~(cd) Any party desiring to present alternative grounds for affirmance, adverse rulings or decisions in the event of a new trial or a claim concerning the relief ordered by the Appellate Court shall file a statement thereof within fourteen days from the date the certified appeal is filed in accordance with Section 84-9.~~

~~(de) Except for a docketing statement, parties shall not file other Section 63-4 papers on a certified appeal without permission of the Supreme Court.~~

Sec. 63-10. Preargument Conferences

The chief justice or the chief judge or a designee may, in cases deemed appropriate, direct that conferences of the parties be scheduled in advance of oral argument. All civil cases are eligible for preargument conferences except habeas corpus appeals, appeals involving juvenile matters, including child protection appeals as defined in Section 79a-1, summary process appeals, foreclosure appeals, and appeals from the suspension of a motor vehicle license due to operating under the influence of liquor or drugs.

In any exempt case, all parties appearing and participating in the appeal may file a joint request for a preargument conference. In a foreclosure case, the request for a preargument conference is sufficient if jointly submitted by the owner of the equity and the foreclosing party. In any exempt case, however, the chief justice or the chief judge or a designee may, if deemed appropriate, order a preargument conference.

The chief justice may designate a judge trial referee or senior judge to preside at a [preargument](#) conference. The scheduling of or attendance at a preargument conference shall not affect the duty of the parties to adhere to the times set for the filing of briefs. Failure of counsel of record to attend a preargument conference may result in the imposition of sanctions under Section 85-2. Unless other arrangements have been approved in advance by the ~~conference~~-[presiding](#) judge, parties shall be present at the [preargument](#) conference site and available for consultation. When a party against whom a claim is made is insured, an insurance adjuster for such insurance company shall be available by telephone at the time of such preargument conference unless the ~~conference~~-[presiding](#) judge, in his or her discretion, requires the attendance of the adjuster at the [preargument](#) conference. The [preargument](#) conference proceedings shall not be brought to the attention of the court by the presiding ~~officer~~-[judge](#) or any of the parties unless the [preargument](#) conference results in a final disposition of the appeal.

The following matters may be considered:

- (1) Possibility of settlement;
- (2) Simplification of issues;
- (3) Amendments to the preliminary statement of issues;
- (4) Transfer to the Supreme Court;
- (5) Timetable for the filing of briefs;
- (6) En banc review; and
- (7) Such other matters as the ~~conference~~-[presiding](#) judge shall consider appropriate.

All matters scheduled for a preargument conference before a judge trial referee are referred to that official by the chief court administrator pursuant to General Statutes § 52-434a, which vests judge trial referees with the same powers and jurisdiction as Superior Court judges and senior judges, including the power to implement settlements by opening and modifying judgments.



By Electronic Mail via colleen.barnett@connapp.jud.ct.gov

December 20, 2021

Advisory Committee on Appellate Rules
c/o Appellate Clerk's Office
231 Capitol Avenue
Hartford, CT 06115-0474

Dear Justice D'Auria and Judge Prescott:

I write in my capacity as an attorney at Connecticut Fair Housing Center and with the Housing Clinic at Yale Law School. I write to ask the Committee to consider two changes to appellate practice.

1. Whether an amicus application can support a party that does not support a brief.

Section 67-7, on its face, arguably only permits amicus curiae applications in support of a party if that party submits a brief. However, there are times when parties who prevail at the trial court level – e.g., self-represented parties in foreclosure and collection actions – fail to submit a brief for whatever reason. Parties interested in the outcome and with relevant knowledge to share should be able to submit amicus applications so that our appellate courts have the opportunity to determine whether a brief with a different position than the appellant – even if it were only ten pages – would assist them in reaching the right result.

At the moment, however, the Appellate Clerk's office rejects amicus applications in support of a party does not submit a brief. See, e.g., *Ocwen Loan Servicing, LLC v. Sheldon*, AC 43704. The office takes this position notwithstanding the role an amicus played in *Sikorsky v. Butts*, SC 19216, 310 Conn. 931 (2015). There a creditor appealed a judgment, rendered against a non-appearing defendant, that was not fully in its favor. An amicus appeared to argue for affirmance, and was allowed to submit a brief three months after the non-appearing appellee's (not submitted) brief was due. (Counsel for the amicus also appeared for oral argument.)

To formalize the approach taken in *Sikorsky v. Butts*, the relevant part of Section 67-7 could be amended as follows:

An application for permission to appear as amicus curiae and to file a brief shall be filed within twenty days after the later of (1) the filing of the brief of the party, if any, whom the applicant intends to support, or (2) if no such brief is filed, such party's deadline for filing a brief, and if there is no such party, then the application shall be filed no later than twenty days after the filing of the appellee's brief.

2. Adoption of the Bluebook.

I also ask that the Committee follow the lead of several other states and adopt the uniform style of citation described in *The Bluebook*. For instance, as of 2008, California allows practitioners to use either the *California Style Manual* or *The Bluebook* as long as either style is used consistently throughout each document. ([California Rules of Court, Rule 1.200. Format of citations.](#)) North Carolina is similar; in addition to a 9-page supplementary guide, the court system generally follows *The Bluebook*'s uniform style of citation as well as the style and usage conventions from the Texas Law Review's *Manual on Usage & Style*. ([The Guidebook: Citation, Style, and Usage at the Supreme Court of North Carolina.](#)) Adoption of the standards in *The Bluebook* would help save time when drafting motions and briefs and eliminate needless differences depending on whether one was writing for state court, federal court, or another legal publication. Attorneys could spend less time following a state-specific style guide, more time drafting the substantive content of their documents, and, in turn, lower costs to clients. In turn, the term clerks that provide much of the citation-related support to the justices and judges could deploy the citing convention they had just spent the past three years mastering. Should the Committee wish to maintain *The Manual of Style*'s convention in at least some form, *The Bluebook*'s convention could at least be formally recognized as an acceptable alternative.

I greatly appreciate your consideration of these proposals. Should you have any questions, please do not hesitate to contact me at 860-263-0741 or jgentes@ctfairhousing.org.

Sincerely,



Jeffrey Gentes

Managing Attorney, Fair Lending and Foreclosure Prevention

Sec. 67-7A. The Amicus Curiae Electronic Brief

(Applicable to appeals filed on or after October 1, 2021.)

(a) A brief of an amicus curiae in cases before the court on the merits may be filed only with the permission of the court unless Section 67-7A (f) applies. An application for permission to appear as amicus curiae and to file a brief shall be filed within twenty days after the filing of the ~~brief of the party, if any, whom the applicant intends to support, and if there is no such party, then the application shall be filed no later than twenty days after the filing of the appellee~~appellant's brief.

(b) The application shall state concisely the nature of the applicant's interest, which party, if any, the applicant supports, and the reasons why a brief of an amicus curiae should be allowed. The length of the brief shall not exceed 4000 words unless a specific request is made for a brief of more than that length. The application shall conform to the requirements set forth in Sections 66-2 and 66-3. The amicus application should specifically set forth reasons to justify the filing of a brief in excess of 4000 words. A party in receipt of an application may, within ten days after the filing of the application, file an objection concisely stating the reasons therefor.

(c) All briefs filed under this section shall comply with the applicable provisions of this chapter and shall set forth the interest of the amicus curiae.

(d) An amicus curiae may argue orally only when a specific request for such permission is granted by the court in which the appeal is pending.

(e) With the exception of briefs filed by the attorney general as provided by this rule, all briefs shall indicate whether counsel for a party wrote the brief in whole or in part and whether such counsel or a party contributed to the cost of the preparation or submission of the brief and shall identify those persons, other than the amicus curiae, its members or its counsel, who made such monetary contribution. The disclosure shall be made in the first footnote on the first page of text.

(f) Except for habeas corpus matters based on criminal convictions, if an appeal in a noncriminal matter involves an attack on the constitutionality of a state statute, the attorney general may appear and file a brief amicus curiae as of right. Any such appearance by the attorney general shall be filed no later than the date on which the brief of the party that the attorney general supports is filed, and the attorney general's brief will be due twenty days after the filing of the brief of the party that the attorney general supports.

Sec. 67-7. The Amicus Curiae Brief

(Applicable to appeals filed before October 1, 2021.)

(a) A brief of an amicus curiae in cases before the court on the merits may be filed only with the permission of the court. An application for permission to appear as amicus curiae and to file a brief shall be filed within twenty days after the filing of the ~~brief of the party, if any, whom the applicant intends to support, and if there is no such party, then the application shall be filed no later than twenty days after the filing of the appellee~~appellant's brief.

(b) The application shall state concisely the nature of the applicant's interest, which party, if any, the applicant supports, and the reasons why a brief of an amicus curiae should be allowed. The length of the brief shall not exceed ten pages unless a specific request is made for a brief of more than that length. The application shall conform to the requirements set forth in Sections 66-2 and 66-3. The amicus application should specifically set forth reasons to justify the filing of a brief in excess of ten pages. A party in receipt of an application may, within ten days after the filing of the application, file an objection concisely stating the reasons therefor.

(c) All briefs filed under this section shall comply with the applicable provisions of this chapter and shall set forth the interest of the amicus curiae.

(d) An amicus curiae may argue orally only when a specific request for such permission is granted by the court in which the appeal is pending.

(e) With the exception of briefs filed by the attorney general as provided by this rule, all briefs shall indicate whether counsel for a party wrote the brief in whole or in part and whether such counsel or a party contributed to the cost of the preparation or submission of the brief and shall identify those persons, other than the amicus curiae, its members or its counsel, who made such monetary contribution. The disclosure shall be made in the first footnote on the first page of text.

(f) Except for habeas corpus matters based on criminal convictions, if an appeal in a noncriminal matter involves an attack on the constitutionality of a state statute, the attorney general may appear and file a brief amicus curiae as of right. Any such appearance by the attorney general shall be filed no later than the date on which the brief of the party that the attorney general supports is filed, and the attorney general's brief will be due twenty days after the filing of the brief of the party that the attorney general supports.

Robertson, Rene

From: Ken Bartschi <kbartschi@hdblfirm.com>
Sent: Tuesday, January 25, 2022 4:15 PM
To: Begemann, Jill
Subject: Proposed Amendment to PB sec. 77-2
Attachments: 77-2 Proposal.docx

Dear Attorney Begemann,

In broad strokes, Practice Book § 77-2 provides that trial court sealing orders continue on appeal unless otherwise ordered by the reviewing court. To comply with this section, it may be necessary to provide a redacted brief available to the public and an unredacted brief available only to the court and the parties. There is no obvious mechanism in the rules for doing so. Practice Book §§ 67-2(i) and 67-2A(i) provide that a party may make a request to the clerk to deviate from the requirement of redacting personally identifying information, such as names, birthdays, etc. defined by Practice Book § 4-7. But sealing orders often cover material other than personally identifying information, such as employment contracts, trade secrets, etc., which appears to fall outside the clerk's authority to grant deviations.

In cases in which I have been involved where this has arisen, the party seeking to discuss sealed material or include such material in an appendix has improvised a motion for order, which have been granted. To simplify the process and make it clearer for practitioners, I am proposing language to add to § 77-2 to require the filing of redacted and unredacted briefs and appendices when sealed materials are discussed. Attached is my proposed amendment for the Rules Committee's consideration/

Thank you for your attention to this matter.

Ken

Kenneth J. Bartschi
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Sec. 77-2. Sealing Orders; Treatment of Lodged Records

(a) When, by order of the trial court or by operation of statute, a trial court file is sealed or is subject to limited disclosure, all filings with the appellate clerk in that matter shall be treated similarly unless otherwise ordered by the court having appellate jurisdiction. Any sealing or limitation on disclosure ordered by the trial court or required by operation of statute as to any affidavit, document or other material filed in the trial court shall continue throughout the appellate process.

(b) When a brief or appendix contains material that is sealed or subject to limited disclosure, the party filing the brief or appendix shall file a redacted brief and appendix, if any, that will be made available to the public, and an unredacted brief and appendix that will be available only to the parties and the court. This subsection shall not apply where the only redacted material are names or other personally identifying information that is prohibited from disclosure by rule, statute, court order or case law.

~~(b)~~ (c) If a claim is raised on appeal challenging the denial of a motion to seal or limit disclosure pursuant to Section 7-4B(d), a lodged record shall remain conditionally under seal in the court having appellate jurisdiction and shall be treated as an exhibit pursuant to the provisions of Section 68-1.

(Adopted Oct. 15, 2003, to take effect Jan. 1, 2004.)

Commentary

Briefs and appendices are required to redact certain personally identifying information that does not render the brief incomprehensible to the reader, such as the names of minors in child protection cases or the victims of certain crimes, or birthdays or Social Security numbers. But in other cases, such as family matters, it is necessary to discuss in some detail information that has been sealed. The new subsection (b) provides that in such situations, the party should file a redacted and unredacted brief.

Sec. 77-2. Sealing Orders; Treatment of Lodged Records

(a) When, by order of the trial court or by operation of statute, a trial court file is sealed or is subject to limited disclosure, all filings with the appellate clerk in that matter shall be treated similarly unless otherwise ordered by the court having appellate jurisdiction. Any sealing or limitation on disclosure ordered by the trial court or required by operation of statute as to any affidavit, document or other material filed in the trial court shall continue throughout the appellate process.

(b) If a party includes material in a brief or appendix that is sealed or subject to limited disclosure, that party shall file a redacted brief and appendix, if any, to be made available to the public, and an unredacted brief and appendix, if any, to be made available to only the parties and the court. Both the redacted and unredacted brief and appendix shall be filed in accordance with the applicable provisions of Section 67-2 or Section 67-2A, except that only one paper copy of the redacted brief and appendix is required. Prior to filing, counsel of record shall file a letter notifying the court that the briefs and appendices will be filed pursuant to this subsection. This subsection shall not apply to briefs or appendices filed in child protection matters pursuant to Section 79a-6, or where the only redacted material are names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law.

(~~b~~c) If a claim is raised on appeal challenging the denial of a motion to seal or limit disclosure pursuant to Section 7-4B (d), a lodged record shall remain conditionally under seal in the court having appellate jurisdiction and shall be treated as an exhibit pursuant to the provisions of Section 68-1.

Sec. 70-4. Time Allowed for Oral Argument; Who May Argue

Unless the court grants a request for additional time made before oral argument begins, argument of any case shall not exceed ~~one-half hour~~ thirty minutes on each side in the Supreme Court and twenty minutes on each side in the Appellate Court. The time allowed may be apportioned among counsel on the same side of a case as they may choose. The court may terminate the argument whenever in its judgment further argument is unnecessary.

Prior to the date assigned for hearing, counsel of record may file a request with the appellate clerk to allow more than one counsel to present oral argument for one party to the appeal.

In cases in which there is a firm appearance, or in which there are multiple appearances for the same party, if an attorney from the appearing firm or who already has an appearance wishes to argue the appeal but is not identified as the arguing attorney on the brief, the attorney who will be arguing the appeal shall file a letter notifying the court of the change as soon as possible prior to argument.

No argument shall be allowed any party who has not filed a brief or who has not joined in the brief of another party.

Sec. 61-9. Decisions Subsequent to Filing of Appeal; Amended Appeals

Should the trial court, subsequent to the filing of a pending appeal, make a decision that the appellant desires to have reviewed, the appellant shall file an amended appeal within twenty days from the issuance of notice of the decision as provided for in Section 63-1.

The amended appeal shall be filed ~~in the same manner as an original appeal pursuant to Section 63-3~~ in the pending appeal, along with a certification pursuant to Section 62-7. No additional fee is required to be paid upon the filing of an amended appeal.

Within ten days of filing the amended appeal, the appellant shall file with the appellate clerk either a certificate stating that there are no changes to the Section 63-4 papers filed with the original appeal or any amendments to those papers. Any other party may file responsive Section 63-4 papers within twenty days of the filing of the certificate or the amendments.

If the original appeal is dismissed for lack of jurisdiction, any amended appeal shall remain pending if it was filed from a judgment or order from which an original appeal properly could have been filed.

After disposition of an appeal where no amended appeals related to that appeal are pending, a subsequent appeal shall be filed as a new appeal.

If an amended appeal is filed after the filing of the appellant's brief but before the filing of the appellee's brief, the appellant may move for leave to file a supplemental brief. If an amended appeal is filed after the filing of the appellee's brief, either party may move for such leave. In any event, the court may order that an amended appeal be briefed or heard separately from the original appeal.

If the appellant files a subsequent appeal from a trial court decision in a case where there is a pending appeal, the subsequent appeal may be treated as an amended appeal, and, if it is treated as an amended appeal, there will be no refund of the fees paid.

Sec. 65-1. Transfer of ~~Cases~~ Matter by Supreme Court

~~When, pursuant to General Statutes § 51-199 (c), the Supreme Court may (1) transfers to itself a cause-matter to itself from in the Appellate Court, or (2) transfers a cause or a class of causes from itself to the Appellate Court, the appellate clerk shall notify all parties and the clerk of the trial court that the appeal has been transferred. A case so transferred shall be entered upon the docket of the court to which it has been transferred. There shall be no fee on such transfer. The appellate clerk may require the parties to take such steps as may be necessary to make the appeal conform to the rules of the court to which it has been transferred, for example, supply the court with additional copies of the briefs and party appendices, if any.~~

Sec. 65-1A. Transfer of Matter on Recommendation of Appellate Court

If, at any time before the final determination of a matter, the Appellate Court is of the opinion that the matter is appropriate for Supreme Court review, the Appellate Court may notify the Supreme Court of the reasons why transfer is appropriate. The Supreme Court will then determine if the matter will be transferred.

Sec. 65-2. ~~Motion for Party Motion to~~ Transfer ~~from Appellate Court to Supreme Court~~ Appeal, Writ of Error or Reservation

After the filing of an appeal, writ of error or reservation in the Appellate Court, but in no event after ~~the case it~~ has been assigned for hearing, any party may move for transfer to the Supreme Court. The motion, addressed to the Supreme Court, shall specify, in accordance with provisions of Section 66-2, the reasons why the party believes that the Supreme Court should hear the ~~appeal~~ matter directly. A copy of the memorandum of decision of the trial court, if any, shall be attached to the motion. The filing of a motion for transfer shall not stay proceedings in the Appellate Court.

~~If, at any time before the final determination of an appeal, the Appellate Court is of the opinion that the appeal is appropriate for Supreme Court review, the Appellate Court may notify the Supreme Court of the reasons why transfer is appropriate. If the Supreme Court transfers the case to itself, the appellate clerk shall promptly notify the parties. The appellate clerk may require the parties to take such steps as may be necessary to make the appeal conform to the rules of the court to which it has been transferred.~~

Sec. 65-3. Transfer of Petitions for Review of Bail Orders from Appellate Court to Supreme Court

Whenever a petition for review of an order of the Superior Court concerning release is filed in the Appellate Court pursuant to General Statutes §

54-63g in any case on appeal to the Supreme Court or where the defendant could appeal to the Supreme Court if convicted, such petition shall be transferred to the Supreme Court pursuant to the exercise of the Supreme Court's transfer jurisdiction under General Statutes § 51-199 (c) for review of such order.

Sec. 65-4. Transfer of Matters Brought to Wrong Court

Any ~~appeal or cause~~ matter brought to the Supreme Court or the Appellate Court which is not properly within the jurisdiction of the court to which it is brought shall not be dismissed for the reason that it was brought to the wrong court but shall be transferred by the appellate clerk to the court with jurisdiction and entered on its docket. Any timely filed ~~appeal or cause~~ matter that is transferred shall be considered timely filed in the appropriate court. ~~The appellate clerk shall notify all parties and the clerk of the trial court that the appeal or cause has been transferred. In the event that an appeal or cause is so transferred, no additional fees will be due.~~

Sec. 65-5. Proceedings after Transfer

The appellate clerk shall notify all parties and the clerk of the trial court that a matter has been transferred. The transferred matter shall be entered upon the docket of the court to which it was transferred. There shall be no fee on such transfer. The appellate clerk may require the parties to take such steps as may be necessary to make the matter conform to the rules of the court to which it has been transferred, for example, supply the court with additional copies of briefs and party appendices, if any.