

## AGENDA

Meeting of the Advisory Committee on Appellate Rules  
Thursday, October 24, 2024 - 2:00 p.m.

### I. OLD BUSINESS

- A. Approval of minutes of April 4, 2024

### II. NEW BUSINESS

- A. Whether to amend § 64-1 (b) to allow any party to file a notice that the memorandum of decision has not been filed
- B. Whether to amend § 84-1 regarding certification by the Supreme Court
- C. Whether to amend §§ 81-1 and 84-4 regarding the filing requirements for petitions
- D. Whether to amend §§ 81-2 (a)(5) and 84-5 (a) (5) regarding the form of petitions
- E. Whether to amend §§ 83-1, 83-2, 83-3, 83-4, 83-5 and 83-6 regarding applications for certification pursuant to General Statutes § 52-265a
- F. Whether to amend § 84-3 regarding the stay of execution
- G. Whether to amend §§ 67-2 and 67-2A regarding the format of briefs and appendices
- H. Whether to amend §§ 67-5A regarding the reply brief
- I. Whether to amend § 67-13 regarding briefs in family and juvenile matters and other matters involving minor children
- J. Whether to amend § 79a-6 (c) regarding the format and time for filing briefs and appendices
- K. Whether to amend § 67-7A regarding the amicus curiae electronic brief

### III. ANY OTHER BUSINESS THAT MAY COME BEFORE THE COMMITTEE

### IV. NEXT MEETING

## Meeting of the Advisory Committee on Appellate Rules

Thursday, April 4, 2024 at 2:00 p.m.

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 Babbin  
Attorney Colleen Barnett  
Attorney Jill Begemann  
Attorney Jennifer Bourn  
Attorney Carl Cicchetti  
Attorney Renee Cimino  
Attorney Timothy Costello  
Attorney Paul Hartan  
Attorney James Healey  
Hon. Sheila Huddleston  
Attorney Daniel J. Krisch  
Attorney Jessie Opinion  
Attorney Joshua Perry

Attorney Charles Ray  
Attorney René Robertson

### **Members not in attendance:**

Attorney Richard Emanuel  
Attorney Wesley Horton  
Attorney Eric Levine  
Attorney Giovanna Weller

### **Additional Attendees:**

Attorney Ken Bartschi (for Attorney Horton)  
Attorney Julia Herbst  
Attorney Michael Mastrony  
Attorney Evan O'Roark

This meeting was held in the Attorney Conference Room at the Connecticut Supreme Court. Justice D'Auria welcomed Attorney Renee Cimino, director of Delinquency Defense and Child Protection, to the committee.

## **I. OLD BUSINESS**

### **A. Approval of minutes of October 26, 2023**

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

### **B. Whether to recommend a rule governing appellate intervention**

Attorney Joshua Perry, Solicitor General, raised this issue at the October 2023 meeting, and it was marked over to the spring. He thereafter submitted a letter and written proposal to amend §§ 63-4 (a) (6) and 67-7A, to provide that the Attorney General's Office is allowed to intervene as party to the appeal as of right when the constitutionality of a state statute is questioned. The phrase "called into question" was suggested to parallel General Statutes § 3-125.

Following discussion, the marked revisions were made to the proposal such that § 63-4 (a) (6) would be amended to provide: "A constitutionality notice, in all noncriminal cases where the constitutionality of a state statute, rule, regulation, or executive action is called into question. Said notice shall identify the statute, rule regulation, or executive action; the name and address of the party questioning it; and whether the ~~statute's~~

constitutionality of the questioned item was upheld by the trial court. The appellate clerk shall deliver a copy of such notice to the attorney general. If a question becomes apparent to a party or to the court at any time after the preliminary papers are filed, the party shall immediately file or amend the notice mandated by this section, and the court, even absent a party filing a notice, shall issue such notice. 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."

The proposal to amend § 67-7A was unchanged. It was determined that this proposal did not need to be referred to the work group.

Attorney Perry moved to adopt the proposal, as revised. Attorney Ray seconded. The motion passed unanimously, with Attorney Robertson abstaining.

#### **C. Whether to amend § 78a-1 regarding motions for review of bail determinations**

Judge Prescott explained that this proposal, which arose out of discussions in the Appellate Court following the Supreme Court decision in *State v. Pan*, 345 Conn. 922, 946-59 (2022), was on the October 2023 agenda. At that time, Attorneys Perry and Bourn expressed concern that the proposal placed an impediment to an incarcerated person filing a petition by requiring that the person seek modification first, which was not what *Pan* contemplated. The matter was tabled for further study. Attorney Barnett reported that she had brought the concerns raised to Chief Judge Bright and it was determined that the proposal could be withdrawn.

#### **D. Whether to amend § 84-1 to clarify that the Office of the Appellate Clerk can reject an appeal to the Supreme Court from a final decision of the Appellate Court if a petition has not been granted**

Attorney Cicchetti presented this proposal to address the concern that there is no express language in the rule permitting the Appellate Clerk's Office to reject an appeal filed in the Supreme Court where the party aggrieved by the decision of the Appellate Court has not sought or received certification. Following the October 2023 meeting, Attorneys Cicchetti and Robertson met separately with several members of the Advisory Committee to draft the revised proposal.

Following discussion, the proposed final sentence of the amendment to § 84-1 was revised to state: "Failure to obtain an order from the Supreme Court granting certification will result in the rejection of the appeal to the Supreme Court."

Attorney Kirsch moved to adopt the proposal, as revised. Judge Huddleston seconded. The motion passed unanimously.

## **E. Whether to amend §§ 84-9 and 84-11 to clarify the issues that can be raised following certification**

In April 2023, Attorney Krisch raised the lack of a clear procedure in the appellate rules to ask the Supreme Court, following the granting of certification, to also consider issues that were briefed in the Appellate Court but were not reached by the Appellate Court in its disposition of the appeal. A proposal was considered at the October 2023 meeting. Concerns about that proposal included whether the contemplated procedure could be used to permit the appellant to circumvent the Supreme Court's limited grant of certification and whether a motion would be a better course of action. The matter was tabled for additional study.

Thereafter, the proposed amendments to §§ 84-9 and 84-11 presented at this meeting were prepared with input from the work group and Advisory Committee members including Judge Huddleston and Attorneys Krisch and Bourn.

Justice D'Auria indicated that he would be in favor of keeping the final sentence of § 84-11 (b) ("Such permission will be granted only in exceptional cases where the interests of justice so required") but did not oppose sending the proposed amendments to the Court as drafted.

Following discussion, the proposal was revised to state in the final sentence of § 84-11 (c) (2): "any claim that the relief afforded by the Appellate Court in its judgment should be modified, provided the arguments underlying such claim were briefed in the Appellate Court or raised in a motion for reconsideration."

Attorney Kirsch moved to adopt the proposal, as revised. Attorney Robertson seconded. The motion passed unanimously.

## **II. NEW BUSINESS**

### **A. Whether to eliminate §§ 63-1 (d) and 67-12**

Attorney Cicchetti presented this proposal. Sections 63-1 (d) and 67-12 provide that if, after an appeal has been filed but before the appeal period has expired, any motion is filed that would render the judgment or verdict ineffective, any party may move to stay the briefing obligations of the parties. The recommendation is to delete these rules as unnecessary because this could be accomplished by a motion for extension of time if the brief is due, which is typically is not.

Attorney Robertson moved to adopt the proposal. Attorney Barnett seconded. The motion passed unanimously.

### **B. Whether to amend §§ 61-11, 61-12, 61-14, 71-6 and 84-3 regarding stays**

Judge Prescott explained that these proposals were meant to simplify and clarify the

procedures regarding stays to address recurring questions that arise.

Attorney Barnett explained that the proposed amendment to § 61-11 (a) made explicit in the rule what has been held in cases such as *Deutsche Bank v. Fraboni*, 182 Conn. App. 811 (2018). The amendment to § 61-11 (h) clarifies that the foreclosure auction can still go forward where the trial court has denied a motion to open the judgment and extend the sale date (or denied a motion to reargue the same) as it is the confirmation of the judicial sale—and not the sale itself—that cuts off the equity of redemption. The change to § 61-12 is technical. Section 61-14 was reordered; only the last sentence of subsection (b) is new, and that sentence is designed to assist the clerk's office in screening for "emergency stay" matters that must be sent to the Appellate Court immediately.

Attorney Robertson explained that the proposed amendment to § 71-6 clarifies whether there is a stay after disposition of an appeal, and how long it stays in effect. Section 84-3 clarifies how stays work when a petition is filed, and where a party would file a motion for stay when a petition for certification is pending. Following discussion, two improperly placed commas were deleted from the second sentence of § 84-3 (b) and the word "presiding" was deleted from the final sentence.

Attorney Krisch moved to adopt the proposal with the technical revisions. Attorney Robertson seconded. The motion passed unanimously.

### **C. Whether to amend § 66-1 regarding motions for extension of time**

Attorney Cicchetti presented this proposal. The proposal adds an option to use a form instead of a drafted motion seeking an extension of time and streamlines the requirements for a drafted motion by removing the brief history and legal grounds requirements. The proposal also removes the prohibition on late motions for extension of time, allowing the clerk the flexibility to grant extensions for good cause even if the motion is filed late.

There was opposition from practitioners to the portion of the proposal that suggested deleting the final sentence of subsection (a); that portion of the proposal was withdrawn. Attorney Krisch proposed a future project in which the rules were reviewed for the "good cause" standard and whether it should be excised from the rules altogether.

Attorney Krisch moved to adopt the proposal with the technical revisions. Attorney Babbitt seconded. The motion passed unanimously.

### **D. Whether to amend § 70-4 regarding the time allowed for oral argument; who may argue**

Attorney Cicchetti presented this proposal. The existing rule provides that the time allowed may be apportioned among counsel on the same side of a case as they may choose. However, permission is required to allow more than one counsel to present

argument for one party to the appeal. The amendment clarifies when permission of the court or simply notice to the court is required.

Attorney Ray proposed clarifying that the request be made by letter; what is now the fifth sentence of the rule would state "file a request by letter with the appellate clerk . . ."

Attorney Krisch moved to adopt the proposal as revised. Attorney Babbinn seconded. The motion passed unanimously.

#### **E. Whether to amend § 72-3 regarding writs of error**

Attorney Barnett presented this proposal to clarify that permission is needed to file an amended writ of error.

Attorney Krisch moved to adopt the proposal. Attorney Robertson seconded. The motion passed unanimously.

#### **F. Whether to amend § 62-8A regarding attorneys appearing pro hac vice**

Attorney Robertson presented this proposal. Everyone already uses the pro hac vice form, so the proposed amendment makes it mandatory. It is therefore unnecessary to list all the requirements in the rule.

Attorney Ray moved to adopt the proposal. Attorney Robertson seconded. The motion passed unanimously.

#### **G. Whether to amend § 62-7 regarding matters of form; filings; delivery and certification to counsel of record**

Attorney Cicchetti presented this proposal. The fifteen day period to refile a document that was returned for noncompliance remains in place for parties exempt from electronic filing; the period has been shortened to seven days for electronic filers.

Attorney Robertson moved to adopt the proposal. Attorney Krisch seconded. The motion passed unanimously.

#### **H. Whether to amend § 61-7 regarding joint and consolidated appeals**

Attorney Robertson presented this proposal to make clear that in a joint appeal, the appellees may jointly or separately file their brief. They don't have to file a single consolidated brief. It also clarifies that if an appellant is using a fee waiver for a joint appeal, a granted waiver is required for each trial court docket number being appealed.

Attorney Babbinn proposed keeping language deleted from (b) (2) in the proposal as drafted. Following discussion, the phrase ", on motion of any party or its own motion," was restored to (b) (2).

Judge Huddleston proposed revising the new penultimate sentence of subsection (c) to read: "Multiple appellees may file a joint or separate brief."

Attorney Babbin moved to adopt the proposal as revised. Attorney Ray seconded. The motion passed unanimously.

**I. Whether to amend § 61-9 regarding decisions subsequent to the filing of appeal; amended appeals**

Attorney Robertson presented this proposal, which includes new language to provide a cutoff for when an amended appeal may be filed. Once an appeal is ready for assignment, any appeal from a subsequent decision in the trial court shall be filed as a new appeal. The proposal also clarifies the documents that need to be filed upon the filing of an amended appeal.

There was some discussion of whether it is ever proper for a "ready" appeal to be amended, and the proposal was clarified to provide that a party could file a motion to amend a ready appeal. Specifically, in the new penultimate paragraph, the first sentence was revised to state in part: "Once an appeal is ready pursuant to Section 69-2, absent permission to file an amended appeal, any appeal from a subsequent decision in the trial court shall be filed as a new appeal in accordance with the provisions of Section 63-3."

Attorney Babbin moved to adopt the proposal as revised. Attorney Krisch seconded. The motion passed unanimously.

**J. Whether to amend § 66-5 regarding motions for rectification and articulation**

Attorney Robertson presented this proposal to add clarity to the rule regarding motions for articulation and rectification. It deletes as unnecessary the provision regarding motions for further articulation. There are very few motions for further articulation. When the court needs further information, it will issue an order. Moreover, a party dissatisfied with an articulation order can file a motion for review and request that the Appellate Court direct the trial court to articulate.

Attorney Ray moved to adopt the proposal. Attorney Cicchetti seconded. The motion passed unanimously.

**K. Whether to amend §§ 77-1, 78-1, 78a-1, 78b-1, 81-3 and 84-6 to clarify that responses to oppositions are not permitted for petitions**

Attorney Robertson presented this proposal. When the motion and petition rules were separated last year, the language providing that responses to oppositions are not allowed was inadvertently left off the petition rules. This proposal adds that language back into the petition rules.

Attorney Krisch moved to adopt the proposal. Attorney Robertson seconded. The motion passed unanimously.

**L. Whether to amend §§ 63-4 (a) (5), 63-4 (b) and 63-10 regarding preargument conferences**

Judge Prescott introduced this proposal at the request of Chief Judge Bright, following consultation with Chief Justice Robinson. Pursuant to these amendments, a PAC will only be scheduled if it is jointly requested by the parties. This is part of an effort to move cases along so that they are ready for oral argument without delay. Under the current rules, every civil case automatically goes to PAC unless it is exempt under the rules (habeas, juvenile/child protection, summary process, foreclosure and appeals from a license suspension due to operating under the influence).

To see the benefit of this rule during the next court year, we may wish to consider whether this rule should be effective upon passage or by another date prior to January of 2025. Notice of the proposed rule with the effective date will be posted on the Judicial Branch website. That notice will indicate that the parties can still request a PAC after the briefs are filed.

Discussion took place regarding the proposed amendment to § 63-4 (a) (5), specifically, whether "may" should be changed to "shall" and whether this section should become § 63-4 (b). Absent substantive objection to the proposal, a motion was made to approve the proposal with the understanding that the final language would be circulated to the members of Advisory Committee by email for their information.

Attorney Krisch moved to adopt the proposal. Attorney Robertson seconded. The motion passed unanimously.

**III. ANY OTHER BUSINESS THAT MAY COME BEFORE THE COMMITTEE**

None.

**IV. NEXT MEETING**

The next meeting will be at the discretion of the co-chairs, anticipated for fall 2024.

The meeting adjourned at 3:53 p.m.

Respectfully submitted,

Colleen Barnett



## **Sec. 64-1. Statement of Decision by Trial Court; When Required; How Stated; Contents**

(Amended July 23, 1998, to take effect Jan. 1, 1999.)

(a) The trial court shall state its decision either orally or in writing, in all of the following: (1) in rendering judgments in trials to the court in civil and criminal matters, including rulings regarding motions for stay of executions, (2) in ruling on aggravating and mitigating factors in capital penalty hearings conducted to the court, (3) in ruling on motions to dismiss under Section 41-8, (4) in ruling on motions to suppress under Section 41-12, (5) in granting a motion to set aside a verdict under Section 16-35, and (6) in making any other rulings that constitute a final judgment for purposes of appeal under Section 61-1, including those that do not terminate the proceedings. The court's decision shall encompass its conclusion as to each claim of law raised by the parties and the factual basis therefor. If oral, the decision shall be recorded by an official court reporter or court recording monitor, and, if there is an appeal, the trial court shall create a memorandum of decision for use in the appeal by ordering a transcript of the portion of the proceedings in which it stated its oral decision. The transcript of the decision shall be signed by the trial judge and filed with the clerk of the trial court. This section does not apply in small claims actions and to matters listed in Section 64-2.

(b) If the trial judge fails to file a memorandum of decision or sign a transcript of the oral decision in any case covered by subsection (a), ~~the appellant~~any party may file with the appellate clerk a notice that the decision has not been filed in compliance with subsection (a). The notice shall specify the trial judge involved and the date of the ruling for which no memorandum of decision was filed. The appellate clerk shall promptly notify the trial judge of the filing of the appeal and the notice. The trial court shall thereafter comply with subsection (a).

## General Statutes

**Sec. 51-197f. Further review by certification only.** Upon final determination of any appeal by the Appellate Court [or upon the Appellate Court's denial of a motion to file a late appeal](#), there shall be no right to further review except the Supreme Court shall have the power to certify cases for its review upon petition by an aggrieved party or by the appellate panel which heard the matter. A vote of three judges of the Supreme Court shall be required to certify a case for review by the Supreme Court, except that if fewer than six judges of said court are available to consider a petition, a vote of two judges of said court shall be required to certify a case, under such other rules as the justices of said court shall establish. The procedure on appeal from the Appellate Court to the Supreme Court shall, except as otherwise provided, be in accordance with the procedure provided by rule or law for the appeal of judgments rendered by the Superior Court, unless modified by rule of the justices of the Supreme Court.

## Practice Book

### **Sec. 84-1. (Rev. to 2025) Certification by Supreme Court.**

No appeal may be taken from a final decision of the Appellate Court to the Supreme Court unless the Supreme Court grants certification. When an appeal is decided by the Appellate Court [or when the Appellate Court denies a motion to file a late appeal](#), an aggrieved party may petition the Supreme Court for certification to appeal. If certification is granted, the petitioner may file an appeal to the Supreme Court. Failure to obtain an order from the Supreme Court granting certification will result in the rejection of the appeal to the Supreme Court.

### **Sec. 81-1. Petition; Where To File; Time To File; Service; Fee**

(a) A petition for certification in accordance with chapters 124 and 440 of the General Statutes shall be filed with the appellate clerk by the party aggrieved by the decision of the trial court within twenty days from the issuance of notice of the decision of the trial court. All petitions for certification to appeal shall be filed and all fees paid in accordance with the provisions of Section 60-7 or 60-8. If within this period a timely motion is filed which, if granted, would render the trial court judgment ineffective, as, for example, a motion for a new trial, then the twenty days shall run from the issuance of notice of the decision thereon.

The petitioner shall deliver a copy of the petition to every other party in the manner set forth in Section 62-7. The appellate clerk will send notice of the filing to [the trial judge and the clerk of the trial court that rendered the decision sought to be appealed](#). ~~the clerk of the original trial court and to the clerk of any trial courts to which the matter was transferred.~~

(b) Any other party aggrieved by the decision of the trial court may file a cross petition within ten days of the filing of the original petition. The filing of cross petitions, including the payment of the fee, service pursuant to Section 62-7, the form of the cross petition, and all subsequent proceedings shall be the same as though the cross petition were an original petition.

(c) The filing of a petition or cross petition by one party shall be deemed to be a filing on behalf of that party only.

[\(d\) No petition or opposition shall be filed after the 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 amendment to a petition or opposition shall be filed without permission of the court.](#)

### **Sec. 84-4. Petition; Time To File; Where To File; Service; Fee**

(a) A petition for certification shall be filed by the petitioner within twenty days of (1) the date the opinion is officially released as set forth in Section 71-4 or (2) the issuance of notice of any order or judgment finally determining a cause in the Appellate Court, whichever is earlier. If within this period a timely motion is filed which, if granted, would render the Appellate Court order or judgment ineffective, as, for example, a motion for reconsideration, or if within this period an application for waiver of fees is filed, then the twenty days shall run from the issuance of notice of the decision thereon.

(b) All petitions for certification to appeal shall be filed and all fees paid in accordance with the provisions of Section 60-7 or 60-8. The petition for certification will be docketed upon filing but may be returned or rejected for noncompliance with the Rules of Appellate Procedure.

The petitioner shall deliver a copy of the petition to every other party in the manner set forth in Section 62-7. The appellate clerk will send notice of the filing to [the trial judge and the clerk of the trial court that rendered the decision sought](#)

to be appealed. ~~the clerk of the original trial court and to the clerk of any trial courts to which the matter was transferred.~~

A fee shall not be required for a petition when either (1) no fee was required to file the appeal, or (2) the petitioner was granted a waiver of fees to file the appeal.

In workers' compensation cases, the petitioner shall also deliver a copy of the petition to the administrative law judge, and in an appeal from the board, the petitioner shall also deliver a copy of the petition to the board.

(c) Any other party aggrieved by the judgment of the Appellate Court may file a cross petition within ten days of the filing of the original petition. The filing of cross petitions, including the payment of the fee, delivery pursuant to Section 62-7, the form of the cross petition, and all subsequent proceedings shall be the same as though the cross petition were an original petition.

(d) The filing of a petition or cross petition by one party shall not be deemed to be a filing on behalf of any other party.

(e) No petition or opposition shall be filed after the 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 amendment to a petition or opposition shall be filed without permission of the court.

## **Sec. 81-2. Form of Petition**

(a) A petition for certification shall be filed as one document with a single pagination scheme that starts on the first page of the petition and continues throughout. The page numbers shall be centered on the bottom of the page and shall be written as "Page X of XX" (e.g., Page 1 of 33...Page 7 of 33...Page 33 of 33). The petition must 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, other than a motion for extension of time, 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, email 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) Except as otherwise ordered, petitions shall not exceed 4000 words. The word count is exclusive of the case caption, signature block of counsel of record, certifications and appendix. Petitions, including footnotes, shall be typed in a 12 point serif font. Section captions shall be typed in a 14 point serif font. A list of serif fonts can be found in the guidelines published on the Judicial Branch website. Margins shall be 1 and 1/2 inches on all sides. All text must be left aligned. Line spacing can be between 1.3x and 1.5x and must be uniform

throughout, including the body of the document, footnotes and block quotes. Bold face or italic emphasis tools shall be used, not underlining.

#### **Sec. 84-5. Form of Petition**

(a) A petition for certification shall be filed as one document with a single pagination scheme that starts on the first page of the petition and continues throughout. The page numbers shall be centered on the bottom of the page and shall be written as "Page X of XX" (e.g., Page 1 of 33...Page 7 of 33...Page 33 of 33). The petition must 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, email 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) Except as otherwise ordered, petitions shall not exceed 4000 words. The word count is exclusive of the case caption, signature block of counsel of record, certifications and appendix. Petitions, including footnotes, shall be typed in a 12 point serif font. Section captions shall be typed in a 14 point serif font. A list of

serif fonts can be found in the guidelines published on the Judicial Branch website. Margins shall be 1 and 1/2 inches on all sides. All text must be left aligned. Line spacing can be between 1.3x and 1.5x and must be uniform throughout, including the body of the document, footnotes and block quotes. Bold face or italic emphasis tools shall be used, not underlining.

### **Sec. 83-1. ~~Application; In General~~ Time To File; Where To File**

Within ~~two weeks~~ fourteen days 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, email 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.~~ The applicant shall deliver a copy of the application to every other party in the manner set forth in Section 62-7. The appellate clerk will send notice of the filing to ~~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. 83-2. Form of Application

(a) 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, email 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.  
(b) Except as otherwise ordered, the application shall not exceed 4000 words. The word count is exclusive of the case caption, signature block of counsel of record, certifications and appendix. Applications, including footnotes, shall be typed in a 12 point serif font. Section captions shall be typed in a 14 point serif font. A list of serif fonts can be found in the guidelines published on the Judicial Branch website. Margins shall be 1 and 1/2 inches on all sides. All text must be left aligned. Line spacing can be between 1.3x and 1.5x and must be uniform throughout, including the body of the document, footnotes and block quotes. Bold face or italic emphasis tools shall be used, not underlining.

### Sec. 83-3. Statement in Opposition to Application

(a) Within three days of the filing of the application, any party may file a statement in opposition to the application with the appellate clerk. Except as otherwise ordered, oppositions shall not exceed 4000 words. The word count is



exclusive of the case caption, signature block of counsel of record, certifications and appendix, if any.

Oppositions, including footnotes, shall be typed in a 12 point serif font. Section captions shall be typed in a 14 point serif font. A list of serif fonts can be found in the guidelines published on the Judicial Branch website. Margins shall be 1 and 1/2 inches on all sides. All text must be left aligned. Line spacing can be between 1.3x and 1.5x and must be uniform throughout, including the body of the document, footnotes and block quotes. Bold face or italic emphasis tools shall be used, not underlining.

No separate memorandum of law in support of the statement in opposition will be accepted by the appellate clerk. Responses to oppositions are not permitted.

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

(c) 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.

~~A party response to the application must be filed within five days from the filing of the application.~~

#### **Sec. 83-~~24~~. Application Granted**

If any application is certified pursuant to General Statutes § 52-265a by the chief justice, the party that sought certification shall file the appeal in accordance with the procedure set forth in Section 63-3, except as modified by the Supreme Court pursuant to Section 60-2 or 60-3, and shall pay all required fees in accordance with Sections 60-7 and 60-8. The party certified to appeal shall have such additional time as the order of certification allows to file the appeal.

#### **Sec. 83-~~35~~. Application Denied**

If an application pursuant to General Statutes § 52-265a is denied by the chief justice, the denial shall be deemed to terminate all proceedings relating to the appeal.

#### **Sec. 83-~~46~~. Unavailability of Chief Justice**

If the chief justice is unavailable or disqualified, the most senior associate justice who is available and is not disqualified shall rule on the application for certification.

### **Sec. 84-3. Stay of Execution (as adopted to take effect January 1, 2025)**

(a) In any action in which a stay of proceedings was in effect during the pendency of the appeal, [or, if no stay of proceedings was in effect, in which the decision of the Appellate Court would change the position of any party from its position during the pendency of the appeal,] proceedings to enforce or carry out the judgment shall be stayed until the time to file the petition has expired. If no stay of proceedings was in effect, but the decision of the Appellate Court would change the position of any party from its position during the pendency of the appeal, proceedings to enforce or carry out the judgment shall be stayed until the time to file the petition has expired. If a petition by a party is timely filed, the proceedings shall [continue to](#) be stayed until the Supreme Court acts on the petition and, if the petition is granted, until the final determination of the cause[;].

(b) Any party may file a motion in the Appellate Court to terminate the stay provided for in subsection (a). Such motion shall comply with Sections 66-2 and 66-3 and state, in the first paragraph, the panel of Appellate Court judges that heard the case. [but if t]The presiding judge, or if such presiding judge is unavailable, the most senior judge on such panel who is available, may act upon such a motion for termination of the stay up to the time the Supreme Court acts upon the petition. If the judge [of an appellate panel which heard the case] is of the opinion that the certification proceedings have been filed only for delay or that the due administration of justice so requires, such [presiding] judge may[, up to the time the Supreme Court acts upon the petition, upon motion] order that the stay be terminated. [If such presiding judge is unavailable, the most senior judge on such panel who is available may act upon such a motion for termination of the stay.]

COMMENTARY: These amendments simplify and clarify the procedures regarding stays by clarifying how stays work when a petition is filed and where a party would file a motion for stay when a petition for certification is pending.

## **Sec. 67-2. Format of Paper Briefs and Appendices for Filers Excluded or Exempt from Electronic Filing Pursuant to Section 60-8; Copies**

(a) Briefs and party appendices, if any, shall be typewritten or clearly photocopied from a typewritten original on white 8 1/2 by 11 inch paper. Unless ordered otherwise, briefs shall be copied on one side of the page only. Party appendices may be copied on both sides of the page. The page number for briefs and party appendices shall be centered on the bottom of each page. The brief shall be 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, however, be single spaced. Only the following two fonts, of 12 point or larger size, are approved for use in briefs: Arial and Univers. Each page of a brief or party appendix 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. Briefs and party appendices shall be firmly bound 1/4 inch from the left side, at points approximately 1/4, 1/2 and 3/4 of the length of the page, so as to make an easily opened volume.

(b) The brief and the party appendix, if any, may be bound together. When, however, binding the brief and party appendix together would affect the integrity of the binding, the party appendix shall be bound separately from the brief.

(c) The brief and party appendix, if any, shall include a single pagination scheme that starts on the cover page of the brief and continues throughout the entire document, on every page, including the cover and table of contents for the party appendix through to the last page of the party appendix. The page numbers shall be centered on the bottom of each page and shall be written as "Page X of XX" (e.g., Page 1 of 55 . . . Page 32 of 55 . . . Page 55 of 55). A party appendix shall have an index of the names of witnesses whose testimony is cited within it. If any part of the testimony of a witness is omitted, this shall be indicated by asterisks. After giving the name of a witness, the party who called that witness shall be designated, and it shall be stated whether the testimony quoted was given on direct, cross or other examination.

(d) If constitutional provisions, statutes, ordinances, regulations, or portions of the transcript are contained in a party appendix, they may be reproduced in their original form so long as the document is not reduced to less than 75 percent of its original form.

(e) Two legible photocopies of each brief and party appendix, if any, shall be filed with the appellate clerk. The brief must be printed on only one side of the page, but the party appendix, if any, may be printed on both sides of a page. The brief and party appendix may be bound together or separately. No specific type or style of binding is required as long as the documents are securely bound. The covers for all types of briefs shall be white. ~~Briefs and separately bound party appendices, if any, shall have a suitable front cover of white heavy paper. A back cover is not necessary; however, if one is used, it must be white.~~

(f) Briefs and separately bound party appendices, if any, must bear on the cover, in the following order, from the top of the page: (1) the name of the court; (2) the appellate docket number; (3) the appellate case name; (4) the nature of

the brief (e.g., brief of the defendant-appellant; brief of the plaintiff-appellee on the appeal and of the plaintiff cross appellant on the cross appeal); and (5) the name, address, telephone number and email address of individual counsel who is to argue the appeal and, if different, the name, address, telephone number and email address of the party's counsel of record. The foregoing shall be displayed in Arial or Univers font of 12 point or larger size.

~~(g) Two legible photocopies of each brief and party appendix, if any, shall be filed with the appellate clerk.~~

(hg) All copies of the brief filed with the Supreme Court or the Appellate Court must be accompanied by a: (1) certification that a copy of the brief and party appendix, if any, has been sent to each counsel of record in compliance with Section 62- 7; (2) certification that the brief and appendix have been redacted or do not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law, except for briefs filed pursuant to Section 79a-6; and (3) certification that the brief complies with all provisions of this rule. The certification that a copy of the brief and party appendix has been sent to each counsel of record in compliance with Section 62-7 may be signed by counsel of record or the printing service, if any. All other certifications pursuant to this subsection shall be signed by counsel of record only.

(ih) Any request for deviation from the above requirements, including requests to deviate from the requirement to redact or omit personal identifying information or information that is prohibited from disclosure by rule, statute, court order or case law, shall be filed with the appellate clerk.

## **Sec. 67-2A. Format of Electronic Briefs and Party Appendices; Copies**

(a) Briefs filed under this rule shall include the words "Filed Under the Electronic Briefing Rules" at the top center of the cover of the brief. Briefs and party appendices, if any, shall be uploaded together as a text searchable single document. Bookmarks are required and must link to sections of the brief and to items included in the party appendix. Briefs shall include internal hyperlinks for citations to items included in the party appendix. Internal hyperlinks must be clearly distinguishable from other text in the brief (e.g., underlined blue text or highlighted text). External hyperlinks are not permitted. Any external hyperlink included in a brief will be viewed as text only. Visual aids that comply with the guidelines published on the Judicial Branch website are permitted to be included in the brief. Additional formatting information and recommendations can be found in the guidelines published on the Judicial Branch website.

(b) Briefs shall be typed in a 12 point serif font, including footnotes but excluding headings. Headings must be in a 14 point serif font. A list of serif fonts can be found in the guidelines published on the Judicial Branch website. Margins shall be 1 and 1/2 inches on all sides. All text must be left aligned. Line spacing can be between 1.3x and 1.5x and must be uniform throughout, including the body of the document, footnotes, and block quotes. Bold face or

italic emphasis tools shall be used in place of underlining. Sections shall be marked sequentially using numbers or letters (e.g., 1. Introduction, 2. Statement of the facts . . . 6. Conclusion; or A. Introduction, B. Statement of the facts . . . F. Conclusion).

(c) The brief and party appendix, if any, shall include a single pagination scheme that starts on the cover page of the brief and continues throughout the entire document, on every page, including the cover and table of contents for the party appendix through to the last page of the party appendix. The page numbers shall be centered on the bottom of each page and shall be written as "Page X of XX" (e.g., Page 1 of 55 . . . Page 32 of 55 . . . Page 55 of 55). The party appendix shall have an index of the names of witnesses whose testimony is cited within it. Any part of the testimony of a witness that is omitted shall be indicated by asterisks. After giving the name of a witness, the party who called that witness shall be designated, and it shall be stated whether the testimony quoted was given on direct, cross or other examination.

(d) Two legible photocopies of each brief and party appendix, if any, shall be filed with the appellate clerk. The brief must be printed on only one side of the page, but the party appendix, if any, may be printed on both sides of a page. The brief and party appendix may be bound together or separately. No specific type or style of binding is required as long as the documents are securely bound. The covers for all types of briefs shall be white.

(e) Briefs and separately bound party appendices, if any, must bear on the cover, in the following order, from the top of the page: (1) the name of the court; (2) the appellate docket number; (3) the appellate case name; (4) the nature of the brief (e.g., brief of the defendant-appellant; brief of the plaintiff-appellee on the appeal and of the plaintiff cross appellant on the cross appeal); and (5) the name, address, telephone number and email address of individual counsel who is to argue the appeal and, if different, the name, address, telephone number and email address of the party's counsel of record. The foregoing shall be displayed in a serif font of 12 point size.

(f) Counsel of record filing a brief shall submit the electronic version of the brief and party appendix, if any, in accordance with guidelines established by the court and published on the Judicial Branch website. The electronic version shall be submitted prior to the timely filing of the party's paper copies of the brief and party appendix pursuant to subsection (d) of this section.

(g) All electronic and paper copies of the brief submitted and filed with the Supreme Court or the Appellate Court must be accompanied by a: (1) certification that a copy of the brief and party appendix, if any, has been sent electronically to each counsel of record in compliance with Section 62-7, except for counsel of record exempt from electronic filing pursuant to Section 60-8, to whom a paper copy of the brief and party appendix, if any, must be sent; (2) certification that the brief and party appendix being filed with the appellate clerk are true copies of the brief and party appendix that were submitted electronically pursuant to subsection (f) of this section; (3) certification that the brief and party appendix have been redacted or do not contain any names or other personal

identifying information that is prohibited from disclosure by rule, statute, court order or case law, unless the brief is filed pursuant to Section 79a-6; (4) certification of the word count in the brief; (5) certification that the brief complies with all provisions of this rule; and (6) certification listing the approved deviations from this rule or that no deviations were requested/approved. The certification that a copy of the brief and party appendix has been sent to each counsel of record in compliance with Section 62-7 may be signed by counsel of record or the printing service, if any; and if copies are sent by a printing service, that certification is not required to be included in the electronic version of the brief and party appendix. All other certifications pursuant to this subsection shall be signed by counsel of record only.

(h) Any request for deviation from the above requirements, including requests to deviate from the requirement to redact or omit personal identifying information or information that is prohibited from disclosure by rule, statute, court order or case law, shall be filed with the appellate clerk.

### **Sec. 67-5A. The Reply Brief**

The appellant may file a reply brief, which should respond directly and succinctly to the arguments in the appellee's brief. The format of a reply brief shall be in accordance with Section 67-2 or 67-2A. The reply brief shall be filed within twenty days of the last appellee's brief. ~~If there are multiple appellees and they file separate briefs, then the time to file a reply brief shall run from the filing date of~~

~~the last appellee's brief.~~ Except as otherwise ordered, the reply brief shall not exceed 6500 words for electronic filers, or fifteen pages for filers that are excluded or exempt from electronic filing pursuant to Section 60-8. Word counts and page limitations are exclusive of the cover page, the table of contents, the table of authorities, the signature block of counsel of record, certifications and any appendix. Requests for permission to exceed 6500 words or fifteen pages shall be filed in accordance with Section 67-3 or 67-3A.

If there is a cross appeal, the cross appellant may file a reply brief as to the cross appeal in accordance with the requirements of this rule. Where a claim relies on the state constitution as an independent ground for relief, the clerk shall, upon request, grant an additional two pages or 800 words for the reply brief, which pages or words are to be used for the state constitutional argument only.

### **Sec. 67-13. Briefs in Family and Juvenile Matters and Other Matters involving Minor Children**

In family and juvenile matters and other matters involving minor children, counsel for the minor child and/or counsel for the guardian ad litem shall, within ten days of the filing of the [last](#) appellee's brief, file either: (1) a brief, (2) a statement adopting the brief of either the appellant or an appellee, or (3) a detailed statement that the factual or legal issues on appeal do not implicate the child's interests. [If no appellee files a brief, the court will set a due date for the above filing.](#)



## **Sec. 79a-6. Format and Time for Filing Briefs and Appendices**

Briefs and appendices, if any, shall be prepared and submitted in accordance with Chapter 67 of these rules except that the briefs and appendices are not required to be redacted, and the time for filing briefs and appendices shall be strictly observed and abbreviated as set forth below.

(a) Except as otherwise ordered, the appellant's brief and appendix, if any, shall be filed within forty days after the delivery of the transcript ordered by the appellant. In cases where no transcript is required or the transcript has been received by the appellant prior to the filing of the appeal, the appellant's brief and appendix shall be filed within forty days of the filing of the appeal.

(b) Except as otherwise ordered, the brief and appendix, if any, of the appellee shall be filed within thirty days after the filing of the appellant's brief or the delivery date of the portions of the transcript ordered only by that appellee, whichever is later.

(c) Counsel for the minor child and/or counsel for the guardian ad litem shall, within ten days of the filing of the [last](#) appellee's brief, file either (1) a brief, (2) a statement adopting the brief of either the appellant or an appellee, or (3) a detailed statement that the factual or legal issues on appeal do not implicate the child's interests. [If no appellee files a brief, the court will set a due date for the above filing.](#)

(d) The appellant may file a reply brief within ten days of the filing of the appellee's brief.

(e) Except as otherwise ordered, the case shall be deemed ready for assignment by the court after the filing of the appellee's brief and appendix, if any.

(f) The unexcused failure to file briefs and appendices in accordance with this schedule may result in a dismissal of the appeal pursuant to Section 85-1, a refusal of the court to accept the late brief and/or an assignment of the case without the delinquent brief.

## Sec. 67-7A. The Amicus Curiae Electronic 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 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~~ If there is no such party, then the application shall be filed no later than twenty days after the filing of the last appellee's brief, or if no appellee files a brief, no later than twenty days after the due date for the filing of the last 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. A party to the appellate matter in which the application is filed may, within ten days after the filing of the application, file an objection. Applications and objections, including footnotes, shall be typed in a 12 point serif font. Section captions shall be typed in a 14 point serif font. A list of serif fonts can be found in the guidelines published on the Judicial Branch website. Margins shall be 1 and 1/2 inches on all sides. All text must be left aligned. Line spacing can be between 1.3x and 1.5x and must be uniform throughout, including the body of the document, footnotes, and block quotes. Bold face or italic emphasis tools shall be used, not underlining. Applications and objections shall not exceed 3500 words. The word count is exclusive of the case caption, signature block of counsel of record, certifications, and appendix, if any. An amicus curiae brief shall not exceed 4000 words and shall conform with the requirements set forth in Chapter 67. The applicant may request to file a brief in excess of 4000 words by including a request in the application that sets forth reasons to justify the additional words.

(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 curiae 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 t~~The attorney general's brief shall be filed within ~~will be due~~ twenty days ~~of~~ after the filing of the brief of the party that the attorney general supports. If there is no party that the attorney general supports or no appellee files a brief, the attorney general's brief shall be filed no later than twenty days after the due date for the filing of the last appellee's brief.