AGENDA

Meeting of the Advisory Committee on Appellate Rules
Thursday, October 26, 2023, at 2:00 p.m.

I. OLD BUSINESS

A. Approval of minutes of April 6, 2023.

B. Whether to recommend a rule governing appellate intervention

II. NEW BUSINESS

A. Whether to amend § 63-4 to clarify the time for filing amendments to the preliminary papers

B. Whether to adopt § 67-14 regarding joint briefs and statements adopting briefs and amend § 70-4 to reference § 67-14

C. Whether to amend § 61-4 to reference §§ 66-2 and 66-3.

D. Whether to amend § 67-10 to provide a 350-word limit for supplemental authority letters

E. Whether to amend § 71-4 to include electronic volumes

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

G. 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

H. Whether to amend § 60-7 (c) regarding filing of the electronic access form

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

J. Whether to amend § 66-4 to provide for the addition of a justice or judge in ruling on motions when the justices are equally divided

III. ANY OTHER BUSINESS THAT MAY COME BEFORE THE COMMITTEE

IV. NEXT MEETING

Meeting of the Advisory Committee on Appellate Rules

Thursday, April 6 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 Timothy Costello
Attorney Susan Hamilton
Attorney James Healey
Hon. Sheila Huddleston
Attorney Daniel J. Krisch
Attorney Eric Levine
Attorney Jessie Opinion
Attorney Joshua Perry
Attorney René Robertson
Attorney Giovanna Weller

Members not in attendance:
Attorney Richard Emanuel
Attorney Paul Hartan
Attorney Wesley Horton
Attorney Charles Ray

Additional Attendees:
Attorney Kenneth Bartschi (for Attorney Horton)
Attorney Julie Lavoie

This meeting was held in the Attorney Conference Room at the Connecticut Supreme Court. Justice D'Auria welcomed Attorney Timothy Costello to the committee.

I. OLD BUSINESS

A. Approval of minutes of October 27, 2022.

Attorney Weller moved to approve the minutes. Attorney Bourn seconded. The motion passed unanimously.

B. Whether to adopt § 66-9 regarding disqualification of appellate jurists and propose an amendment to Rule 2.11 of the Code of Judicial Conduct regarding judicial disqualification.

Judge Prescott updated the committee on the progress of the proposal before the Rules Committee of the Superior Court. Subsection (b) of § 66-9 mirrors Comment 7 to Rule 2.11 of the Code concerning the disqualification of appellate jurists. The proposal to adopt § 66-9 has been revised since the last meeting to remove language from subsection (c) regarding referring the issue of disqualification to another judge or justice, as that is a matter within the inherent discretion of the judge.

Attorney Barnett moved to adopt § 66-9. Attorney Robertson seconded.

During discussion, Attorney Bartschi proposed an amendment to subsection (b) to clarify it as follows:

> (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 (2) ~~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 the law firm or attorney who filed an amicus brief in the matter ~~such law firm or attorney~~; or (3) 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.

The motion to adopt the proposal as amended passed unanimously.

C. Whether to amend § 66-6 regarding the time for filing a motion for review.

Attorney Barnett and Attorney Robertson explained that there was ambiguity in this rule as to when the ten days for filing a motion for review begins when the order is issued in connection with a motion that is filed in the trial court. At the previous meeting of this committee, Attorney Bourn had expressed concerns. Those concerns had since been resolved, and the amendment was presented for a vote.

Judge Prescott moved to adopt the proposal. Attorney Krisch seconded.

During discussion, Attorney Babbin proposed amendments to the third sentence of subsection (b) as follows:

> If the order is issued in connection with a motion that was filed with the appellate clerk, the motion for review shall be filed within ten days from the issuance of notice by the appellate clerk of the order from the trial court sought to be reviewed. Otherwise, if notice of the order sought to be reviewed is given by the trial court in open court with the party seeking review present, the time for filing the motion for review shall begin on that day; if notice is given to the party seeking review only by mail or by electronic delivery, the time for filing the motion for review shall begin on the day that notice was sent to counsel of record by the clerk of the trial court.

The motion to adopt the proposal as amended passed unanimously.

D. Whether to amend § 62-8 regarding appearances after a case is ready.

Attorney Cicchetti presented an updated proposal, which deleted the requirement that counsel file a motion for permission to file an appearance after the case is ready. Any such appearance will simply be forwarded to the court by the appellate clerk for recusal screening purposes.

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

II. NEW BUSINESS

A. Whether to amend §§ 62-6 and 60-4 regarding the definition of "signature."

There are two aspects to this proposal. Attorney Robertson explained that the purpose of the amendments to § 62-6 (a) and (b) was to address filings by self-represented parties and to remove any conflict between that section and § 60-4 by simply deleting the definition of signature from the latter.

Attorney Begemann explained that the proposal to adopt subsection (c) of 62-6 was to allow an attorney to assist a client in the preparation of appellate filings without filing an appearance. Judge Prescott clarified that this proposal does not require the disclosure of the name of counsel who assisted in preparing the filing. It is comparable to § 4-2 (c) of the Superior Court rules.

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

B. Whether to amend § 60-7 regarding electronic filing and payment of fees.

Attorney Robertson explained that the proposed change was to make the rules consistently refer to a self-represented party's "E-Services user identification."

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

C. Whether to amend § 63-4 regarding additional papers to be filed by the appellant and appellee subsequent to the filing of the appeal.

There are two aspects to this proposal. Attorney Opinion explained that § 63-4 (a) (4) (C) was adopted to assist the clerk's office with its obligations under VAWA; the proposed amendment requests more specific information to assist the Staff Attorney's Office in screening appeals in civil matters for preargument conferences. Attorney Bourn expressed concern with respect to the obligation to provide this additional

information in all appeals (as it is part of the docketing statement), which may prove especially challenging to counsel in an appeal in a criminal case or habeas case. The prefatory phrase "to the extent known or reasonably ascertainable by the appellant" as it exists in the rule was discussed.

Attorney Babbin noted that the phrase "causes of action" in the proposed amendment to § 63-4 (a) (4) (B) could be confusing as to whether it referred to an appeal from a partial judgment. That phrase was replaced with "cases."

With respect to the second aspect of this proposal, Attorney Cicchetti explained that appellate forms were being created to assist filers with meeting their obligation to file § 63-4 papers within ten days of filing the appeal. The new forms for the preliminary statement of issues, designation of the proposed contents of the clerk appendix, and certificate regarding transcripts are optional under new subsection § 63-4 (d). Attorney Krisch noted that the use of the preargument conference form is *not* optional under § 63-4 (a) (5). Accordingly, subsection (d) was amended to provide as follows:

> The use of the forms indicated in subdivisions (1), (2), and (3) of subsection (a) is optional. The party may instead draft documents in compliance with the rules.

It was noted that the proposed commentary should be updated to reflect the changes to § 63-4 (a) (4) (C) and to accurately reflect the list of optional forms.

Attorney Krisch moved to adopt the proposal as amended. Attorney Weller seconded. The motion passed unanimously.

D. Whether to amend § 83-1 regarding certification pursuant to General Statutes § 52-265a in cases of substantial public interest.

Attorney Cicchetti indicated that the chief justice must act on such applications within seven days, as required by statute. The proposal therefore requires that any response to such application be filed within five days.

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

E. Whether to amend § 67-2 regarding paper briefs and appendices for filers excluded or exempt from electronic filing.

Attorney Robertson presented this proposal, which was to make the number of physical copies of briefs and appendices that are required from exempt / paper filers to match the number of physical copies that are required to be filed by everyone else.

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

F. Whether to amend § 67-2A regarding the format of electronic briefs and appendices.

Attorney Robertson explained that the purpose of the proposal was to loosen up some of the formatting requirements while still maintaining consistency in appearance and readability of the briefs received. To that end, the proposal permits a wider array of acceptable serif fonts, a list of which is available on the judicial branch website, and between 1.3x and 1.5x uniform line spacing. The proposal makes it explicit that covers of briefs should be white and removes the requirement in (h) concerning the electronic confirmation receipt, which is now superfluous. There was some discussion as to whether the rules should contain a preferred font, whether preferred fonts versus acceptable fonts should be included in the guidelines or mentioned in the commentary, and whether 1.5x line spacing should be the standard, but no changes to the proposal were made.

Attorney Weller moved to adopt the proposal. Attorney Hamilton seconded. The motion passed unanimously.

G. Whether to amend § 67-3A regarding the time for filing electronic briefs and party appendices and § 67-5A regarding reply briefs.

Attorney Cicchetti presented this proposal, which was to address inconsistencies in the rules identified by Attorney Babbin at the last meeting.

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

Before moving onto the next proposal, Justice D'Auria and Judge Prescott thanked everyone on the committee who joined the work group to provide their input into various proposals regarding reducing the word counts in appellate briefs. That matter has been tabled for at least one year to gather more data.

H. Whether to amend §§ 66-2, 66-3, 67-7A, 77-1, 78-1, 78a-1, 78b-1, 81-2, 81-3, 84-5 and 84-6 regarding the procedures and word limits for filing motions, amicus briefs and applications, petitions for review, and petitions for certification.

Attorney Robertson explained that, in addition to changing from page limits to word limits, the proposal was intended to minimize the number of times a party had to refer to more than one rule to find out what is required to file an appellate document. So, for example, instead of referring to §§ 66-2 and 66-3 (which pertain to motions), the formatting and timing requirements for filing amicus applications, petitions for review, and petitions for certification are contained within the rule authorizing the filing.

Committee members agreed with the thorough proposal but noticed two typological inconsistencies: (1) all references to line spacing "between 1.3 and 1.5" should be updated to provide "between 1.3x and 1.5x"; and (2) because oppositions are not required, rules containing instances of the phrase "An opposition . . ." should be updated to provide "Any opposition . . . " (§§ 62-2 (a) [first sentence of the second paragraph only], 77-1 (b); 78a-1 (b); 78b-1 (b)).

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

I. Whether to recommend a rule governing appellate intervention.

This issue was raised by Attorney Perry. The issue has come up in several recent cases before the U.S. Supreme Court and a proposed amendment to the federal Rules of Appellate Procedure is presently being considered. The matter was referred to the work group.

III. ANY OTHER BUSINESS THAT MAY COME BEFORE THE COMMITTEE

None.

IV. NEXT MEETING

It is anticipated that the next meeting will be in fall 2023.

The meeting adjourned at 3:03 p.m.

Respectfully submitted,

Colleen Barnett

OFFICE OF THE ATTORNEY GENERAL
CONNECTICUT

JOSHUA PERRY
SOLICITOR GENERAL

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March 16, 2023

Via email

Jill B. Begemann
Director of Appellate Operations
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Jill.Begemann@connapp.jud.ct.gov

Dear Attorney Begemann,

I write to ask the Advisory Committee to consider recommending a rule governing appellate intervention.

The Practice Book – like the Federal Rules of Appellate Procedure – is silent on appellate intervention. The United States Supreme Court recently took up *Arizona v. Mayorkas*, No. 22-592, a vehicle for considering when appellate intervention may be appropriate. But, as a group of distinguished civil procedure scholars argue in an amicus brief in that case, *ad hoc* consideration of intervention motions is suboptimal. Instead, the rulemaking process is ideally suited to building a comprehensive framework for intervention.

The Attorney General's Office is concerned that existing opportunities for nonparties to weigh in on appeal may be inadequate. The State is entitled to just 10 pages of amicus briefing – with no argument, no opportunity to reply, and no prerogative to file or object to motions – when a statute is challenged. And it is has recently become clear that issues of vital importance to the State may arise for the first time on appeal and require more substantial advocacy than amicus briefing allows.

I am eager to engage with the Advisory Committee to consider possibilities. Thank you for considering this request.

Respectfully,

Joshua Perry

165 Capitol Avenue
Hartford, Connecticut 06106

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

(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 (JD-AC-038) 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. 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.

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 (JD-AC-039) 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 (JD-AC-040) 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.

Amendments to the transcript statement may be made only ~~with leave of the court.~~upon the granting of a motion.

(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, and the names, addresses, and e-mail addresses of trial and appellate counsel of record; (B) the case names and docket numbers of all pending causes of action, including appeals to the Supreme Court or Appellate Court, that arise from substantially the same controversy as the cause on appeal or involve issues closely related to those presented by the appeal; (C) the case name and docket number with respect to any active criminal protective order, civil protective order, or civil restraining order that governs any of the parties to the appeal as well as the case name and docket number with respect to any such order that has expired or previously was requested but not issued; and (D) 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. Amendments to the docketing statement may be filed at any time.

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 (JD-SC-028A).

(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. 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~~b) 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.

(~~d~~c) The use of the forms indicated in subsection (a) is optional. The party may instead draft documents in compliance with the rules.

New section 67-14 Joint Briefs; Statements Adopting Briefs

(a) If one or more parties wants to join in the brief of another party, those parties may file a joint brief. A joint brief must conform to the requirements of sections 67-2 et seq., and must be signed by all counsel of record joining in the brief.

(b) If a party agrees with the contents of another party's brief, a statement adopting the brief of the other party may be filed. Any statement adopting a brief must be filed before the case is ready for assignment.

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 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 in accordance with section 67-14 (a).

Sec. 61-4. Appeal of Judgment that Disposes of at Least One Cause of Action while not Disposing of Either (1) an Entire Complaint, Counterclaim or Cross Complaint, or (2) All the Causes of Action in a Pleading Brought by or Against a Party

(a) Judgment not Final Unless Trial Court Makes Written Determination and Chief Justice or Chief Judge Concurs. This section applies to a trial court judgment that disposes of at least one cause of action where the judgment does not dispose of either of the following: (1) an entire complaint, counterclaim or cross complaint, or (2) all the causes of action in a complaint, counterclaim or cross complaint brought by or against a party. If the order sought to be appealed does not meet these exact criteria, the trial court is without authority to make the determination necessary to the order's being immediately appealed.

This section does not apply to a judgment that disposes of an entire complaint, counterclaim or cross complaint (see Section 61-2); and it does not apply to a trial court judgment that partially disposes of a complaint, counterclaim or cross complaint, if the order disposes of all the causes of action in that pleading brought by or against one or more parties (see Section 61-3).

When the trial court renders a judgment to which this section applies, such judgment shall not ordinarily constitute an appealable final judgment. Such a judgment shall be considered an appealable final judgment only if the trial court makes a written determination that the issues resolved by the judgment are of such significance to the determination of the outcome of the case that the delay incident to the appeal would be justified, and the chief justice or chief judge of the court having appellate jurisdiction concurs.

If the procedure outlined in this section is followed, such judgment shall be an appealable final judgment, regardless of whether judgment was rendered on the granting of a motion to strike pursuant to Section 10-44, by dismissal pursuant to Section 10-30, by summary judgment pursuant to Section 17-44 or otherwise.
A party entitled to appeal under this section may appeal regardless of which party moved for the judgment to be made final.

(b) Procedure for Obtaining Written Determination and Chief Justice's or Chief Judge's Concurrence; When to File Appeal. If the trial court renders a judgment described in this section without making a written determination, any party may file a motion in the trial court for such a determination within the statutory appeal period, or, if there is no applicable statutory appeal period, within twenty days after notice of the partial judgment has been sent to counsel. Papers opposing the motion may be filed within ten days after the filing of the motion.

Within twenty days after notice of such a determination in favor of appealability has been sent to counsel, any party intending to appeal shall file a motion, in accordance with the provisions of Sections 66-2 and 66-3, for permission to file an appeal with the

clerk of the court having appellate jurisdiction. The motion shall state the reasons why an appeal should be permitted. Papers opposing the motion may be filed within ten days after the filing of the motion. The motion and any opposition papers shall be referred to the chief justice or chief judge to rule on the motion. If the chief justice or chief judge is unavailable or disqualified, the most senior justice or judge who is available and is not disqualified shall rule on the motion.

The appellate clerk shall send notice to the parties of the decision of the chief justice or chief judge on the motion for permission to file an appeal. For purposes of counting the time within which the appeal must be filed, the date of the issuance of notice of the decision on this motion shall be considered the date of issuance of notice of the rendition of the judgment or decision from which the appeal is filed.

Sec. 67-10. Citation of Supplemental Authorities after Brief Is Filed

When pertinent and significant authorities come to the attention of a party after the party's brief has been filed, or after oral argument but before decision, a party may promptly file with the appellate clerk a ~~notice~~letter listing such supplemental authorities, including citations, with a copy certified to all counsel of record in accordance with Section 62-7. If the authority is an unreported decision, a copy of the text of the decision must accompany the filing, unless the authority is an advance release opinion of the Supreme or Appellate Court that is available on the Judicial Branch website or a slip opinion of the United States Supreme Court available on that court's website. The ~~filing~~letter shall concisely and without argument state the relevance of the supplemental citations and shall include, where applicable, reference to the pertinent page(s) of the brief. The body of the letter must not exceed 350 words. Any response shall be made promptly and shall be similarly limited. Replies to responses are not permitted.

This section may not be used after oral argument to elaborate on points made or to address points not made.

Sec. 71-4. Opinions; Rescripts; Official Release Date

(a) After the court releases an opinion in any case other than a case involving a question certified from a federal court, the ~~r~~Reporter of ~~j~~Judicial ~~d~~Decisions shall provide a hyperlink to an electronic version of the opinion and send a copy of the rescript to the clerk of the trial court~~,~~ and shall make the rescript available to the appellate clerk. Notice of the decision of the court shall be deemed to have been given, for all purposes, on the official release date that appears in the court's opinion or memorandum decision.

(b) The official opinion of the court is the version published in the bound or electronic volumes of the Connecticut Reports and the Connecticut Appellate Reports, or, if not published in a bound or electronic volume, the most recent version published in the Connecticut Law Journal.

Sec. 78a-1. Petition for Review of Order concerning Release on Bail

Any accused person or the state, aggrieved by an order of the Superior Court concerning release, may petition the Appellate Court for review of such order. Any such petition shall have precedence over any other matter before the Appellate Court and any hearing ordered by the court shall be held expeditiously with reasonable notice. A petition in which the sole issue is whether the amount of bail is unreasonable may only be filed after a hearing and order on a motion for modification filed pursuant to Section 38-14. Petitions for review of bail 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.

Commentary: This rule change is consistent with our Supreme Court's clarification of the procedures that are used in Connecticut to ensure that the trial court sets bail in compliance with the constitutional requirement of reasonableness in *State* v. *Pan*, 345 Conn. 922, 952–59 (2022).

CHAPTER 84

APPEALS TO SUPREME COURT BY CERTIFICATION ~~FOR REVIEW~~

Sec. 84-1. Certification by Supreme Court

~~An appeal may be filed with the Supreme Court~~ U~~u~~pon the final determination of an appeal in the Appellate Court, 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. ~~where the Supreme Court, upon petition of an aggrieved party, certifies the case for review.~~ Failure to comply with the provisions of this section will result in the rejection of the appeal.

Sec. 60-7. Electronic Filing; Payment of Fees

(a) Counsel of record must file all appellate papers electronically unless the court grants a request for exemption. Papers may be filed, signed, or verified by electronic means that comply with procedures and standards established by the chief clerk of the appellate system under the direction of the administrative judge of the appellate system. A paper filed by electronic means in compliance with such procedures and standards constitutes a written paper for the purpose of applying these rules.

(b) At the time of filing, the appellant must (1) pay all required fees; or (2) upload a signed application for waiver of fees and the order of the trial court granting the fee waiver; or (3) certify that no fees are required. Any document that requires payment of a fee as a condition of filing may be returned or rejected for noncompliance with the Rules of Appellate Procedure.

(c) ~~All s~~Self-represented parties ~~must~~ are required to have an account with E-Services unless exempt from electronic filing pursuant to Section 60-8. All nonexempt self-represented parties in ~~family matters, child protection matters, matters involving protected information and in all~~ any ~~other~~ matter~~s~~ in which the self-represented party ~~'s user identification number~~ has not already been ~~provided~~ granted electronic access to their case in the Superior Court must have their E-Services user identification verified within ten days of the filing of the appeal. To verify a self-represented party's user identification, follow the instructions provided on the Appellate E-Filing homepage in E-Services. ~~submit an appellate electronic access form (JD-AC-015). This form must be filed within ten days of the filing of the appeal.~~ Failure to comply with this rule may result in the dismissal of the appeal or the imposition of sanctions pursuant to Section 85-1.

Commented [CC1]: Superior court?

(d) The requirements of this section do not apply to documents filed by incarcerated self-represented parties, the clerk of the trial court, the official court reporter, or the clerk of the court for any other state, federal or tribal court. This section also does not apply to any state board or commission filing documents with the appellate clerk pursuant to Section 68-1, 74-2A, 74-3A, 75-4, 76-3 or 76-5.

Sec. 84-9. Proceedings after Certification

(a) Within twenty days from the issuance of notice that certification to appeal has been granted, the petitioner, who shall be considered the appellant, shall file the appeal in accordance with the procedure set forth in Section 63-3 and shall pay all required fees in accordance with the provisions of Section 60-7 or Section 60-8.

(b) The issues which the appellant may present are limited to those set forth in ~~the petition for certification, except where the issues are further limited by~~ the order granting certification or where other issues are presented for review pursuant to Section 84-11.

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). Except as provided in subsections (b) and (c), ~~T~~the parties shall not file other Section 63-4 papers ~~o~~in a certified appeal without permission of the Supreme Court.

(b) Within ten days of the filing of the appeal, the appellee may file a statement of alternative grounds for affirmance ~~or adverse rulings or decisions to be considered in the event of a new trial~~, provided that the appellee ~~such party has raised~~ briefed such ~~claims~~ alternative grounds in the Appellate Court. ~~If such alternative grounds for affirmance 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.~~

(c) Within ten days of the filing of the appeal, any party to the appeal may present for review: (1) a statement of adverse rulings or decisions which, in the interest of judicial economy, should be considered, provided that such party briefed such issues in the Appellate Court and (2) ~~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~~ briefed in the Appellate Court ~~either in such party's brief~~ or presented in ~~upon~~ a motion for reconsideration.

(d) Any party seeking to present for review any claim or issue that was not briefed in the Appellate Court must file a motion for permission to do so prior to the filing of that party's brief.

§ 66-4 Hearings and Decisions on Motions

Hearings on motions will be assigned only upon order of the court and only in exceptional cases. In cases involving incarcerated self-represented parties, hearings on motions may be conducted by videoconference upon direction of the court.

Decisions on non-dispositive motions may be made by one or more members of the Court. Decisions on dispositive motions shall be made in the Appellate Court by at least three judges and in the Supreme Court by at least five justices or judges. If the Court is evenly divided as to the result, it shall reconsider the motion with an odd number of justices or judges.

Decisions on both dispositive and non-dispositive motions may be reconsidered pursuant to § 71-5.

Commentary:

This proposal responds to the lack of a rule providing for the addition of a justice or a judge in ruling on motions when the justices are equally divided. See *State v. Malone*, 346 Conn. 1012.

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