AGENDA

Meeting of the Advisory Committee on Appellate Rules
Thursday, October 27, 2022, at 2:00 p.m.

I. OLD BUSINESS

A. Approval of minutes of April 7, 2022

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

C. Whether to amend § 67-8 regarding the party appendix

II. NEW BUSINESS

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

B. Whether to amend § 78b-1 regarding the ordering and payment of transcripts

C. Whether to repeal § 61-15 regarding the stay of execution in death penalty cases

D. Whether to amend § 66-6 regarding the time to file a motion for review

E. Whether to amend §§ 66-6, 76-1, 76-2, 76-3, 76-4, 76-6 and 84-4 to replace "workers' compensation commissioner" with "administrative law judge"

F. Whether to amend § 76-3 regarding Compensation Review Board files

G. Whether to amend § 63-8 and § 63-8A regarding ordering and filing of transcripts

H. Discussion regarding the difference between joining in the brief of another and adopting the brief of another

I. Whether to amend § 71-4 regarding the time for release of opinions

J. Whether to amend §§ 67-3A, 67-5A and 67-7a regarding the word count for briefs

III. ANY OTHER BUSINESS THAT MAY COME BEFORE THE COMMITTEE

IV. NEXT MEETING

Meeting of the Advisory Committee on Appellate Rules

Thursday, April 7, 2022

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 Richard Emanuel
Attorney Susan Hamilton
Attorney Paul Hartan
Attorney James Healey
Attorney Wesley Horton
Attorney Clare Kindall
Attorney Daniel J. Krisch
Attorney Eric Levine
Attorney Bruce Lockwood
Attorney Jessie Opinion
Attorney Charles Ray
Attorney René Robertson

Members not in attendance:
Hon. Sheila Huddleston
Attorney Giovanna Weller

Additional Attendees:
Justice Andrew McDonald (for agenda items IB and IC)
Attorney Michael Skold
Attorney Andrew Redman

This meeting was held in the courtroom of the Connecticut Appellate Court.

I. OLD BUSINESS

A. Approval of minutes of October 28, 2021.

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

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

This matter was taken up when Justice McDonald arrived at the meeting. The proposed amendments affect §§ 60-4, 63-4, 62-5, 66-3, 67-4, 67-5, 67-7, 67-7A, 72-1, 73-1, 81-2, 81-3, 82-3, 83-1, 84-5, and 84-6. The amendment to § 60-4 adds a definition of "certificate of interested entities or individuals." That filing is intended to provide the court with information regarding the principals behind business entities appearing before the court. The remaining amendments describe when such a certificate is required to be filed. Justice McDonald described the disclosure sought as consistent with federal practice, and as providing helpful information to the court without being unnecessarily

burdensome on litigants.

There was discussion concerning whether the courts may wish to indicate in commentary that nonparty insurers are not "interested" within the meaning of this proposal. Attorney Krisch noted that the same proposal should be considered by the Rules Committee of the Superior Court. Justice McDonald indicated he would raise it with that committee.

Attorney Babbin suggested amending the proposal to delete possibly redundant and less specific language from § 63-4 (a) (4) (A) (beginning after "counsel of record" and through the semicolon prior to (B)). After discussion, it was suggested that some of that language could be captured by amending the final sentence of the "catchall" provision in § 60-4 to read as follows (changes underlined): "The certificate shall also state whether the party knows of any direct or indirect ownership, ~~or~~ controlling or legal interest for that party that counsel of record thinks could reasonably require a judge to disqualify himself or herself under Rule 2.11 of the Code of Judicial Conduct."

Attorney Horton moved to adopt the proposal, as amended. Attorney Babbin seconded. The motion passed unanimously.

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

Judge Prescott presented this proposal. There is presently no appellate rule governing disqualification. The relevant Superior Court rule (§ 1-22 (b)) suggests that a hearing is *required* when a party to the proceeding has filed a complaint with the Judicial Review Council or a lawsuit against the jurist. The proposed new rule is consistent with the Superior Court rules and Code of Judicial Conduct, but removes the requirement of a hearing. An appellate jurist *may* refer the disqualification issue to another judge who *may* conduct a hearing. Justice McDonald indicated that a similar proposal is being considered by the Rules of Committee of the Superior Court. Following discussion, the Committee did not express any significant disagreement with the proposal, and the matter was tabled for consideration at a future meeting.

D. Whether to amend the rules (new chapter 78b) to provide for review of a decision denying an application for a few waiver for the commencement of a habeas action or a civil action.

There is pending legislation that would allow this review by the Appellate Court. If the legislation passes, this rule change would implement it.

Attorney Horton moved to adopt the proposal. Attorney Kindall seconded. The motion passed unanimously.

E. Whether to amend § 70-9 regarding coverage of court proceedings by cameras and electronic media.

Justice D'Auria explained that the proposed changes conform to current practice before the Supreme Court, which also includes an admonishment reminding counsel of record not to disclose the identity or location of protected persons in certain cases. Attorney Begemann explained that a similar proposal was being considered by the Rules Committee of the Superior Court and that External Affairs supports the changes. Upon inquiry, Attorneys Lockwood and Bourn expressed no reservations.

Attorney Horton moved to adopt the proposal. Attorney Kindall seconded. The motion passed unanimously.

II. NEW BUSINESS

A. Whether to amend § 67-8 regarding the party appendix.

Attorney Kindall proposed altering the requirement that parties provide the text of an unpublished opinion only when the case is not officially published "in a reporter or is not available in either the LEXIS or Westlaw databases." Attorney Begemann explained that the workgroup expressed concerns that (1) these private databases are not publicly available and therefore may put self-represented litigants at a disadvantage; and (2) enshrining this in a rule is complicated when the judicial branch may change vendors (currently the branch uses Westlaw and not LEXIS). Matters discussed included: the length of party appendices when unpublished cases are included; hyperlinking to cases in party appendices may give those cases disproportionate emphasis; there is public access to these databases at law libraries around the state; bound reporters are also published by for-profit entities; pros and cons of instead requiring dual citation to both databases in the table of authorities.

The matter was tabled for discussion at a future meeting.

B. Whether to amend § 63-4 (a) (4) to remove subparagraph (D) (whether there were exhibits in the trial court).

Attorney Robertson explained that although subparagraph (D) had been added to the rules recently, it was no longer needed in light of changes to how the appellate clerk receives exhibits from the trial court.

Attorney Horton moved to adopt the proposal. Attorney Kindall seconded. The motion passed unanimously.

C. Whether to amend § 84-5 regarding the form of petitions.

Justice D'Auria explained the rule expressed the Justices' preference for the version of the Appellate Court opinion published in the Law Journal, which is available for free on the judicial branch website. There was some discussion of making the change a requirement, but an alternative proposal was not pursued.

Attorney Horton moved to adopt the proposal. Attorney Kindall seconded. The motion passed unanimously.

D. Whether to amend § 63-3 to conform to electronic filing and available technological capabilities.

Attorney Cicchetti explained that notices from the appellate clerk would replace the delivery of the "copy of the appeal form" as required under the present rule.

Attorney Horton moved to adopt the proposal. Attorney Kindall seconded. The motion passed unanimously.

E. Whether to amend § 84-11 (d) to clarify the papers to be filed upon the granting of a petition for certification, and add § 84-10A regarding the record upon granting of certification.

Attorneys Cicchetti and Robertson explained that proposal permitted the filing of a designation of the clerk's appendix in an appeal to the Supreme Court following the grant of certification and what constitutes the "record" in such appeals.

The following amendments to the proposal were discussed and met with approval: delete from the proposal the second paragraph of the new § 84-10A; change uses of the word "affirmation" to "affirmance." The first sentence of § 84-11 (b) now begins: "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 such party . . . ."

Attorney Horton moved to adopt the proposal, as amended. Attorney Kindall seconded. The motion passed unanimously.

F. Whether to amend 63-10 regarding preargument conferences.

Judge Prescott explained that this proposal made technical changes to the rule to refer to the presiding judge at the preargument conference in a consistent manner.

Attorney Horton moved to adopt the proposal. Attorney Kindall seconded. The motion passed unanimously.

G. Whether to amend §§ 67-7 and 67-7A regarding the filing of amicus briefs.

Note: Proposals II G and II H were prompted by a letter from Attorney Jeffrey Gentes from the Connecticut Fair Housing Center. Attorney Gentes proposed an amendment to address the filing of an amicus application in support of a party that elects not to file a brief. Attorney Robertson explained the text of the proposed amendment §§ 67-7 and 67-7A as drafted by the workgroup, which tied the time for filing an amicus application to the filing of the appellant's brief. Attorney Kindall, Attorney Healey, and Attorney Horton voiced concerns with the proposal as drafted. If no appellee's brief is filed, the amicus

applicant could include that as part of a "good cause for late filing" statement under § 66-3. The proposal was withdrawn.

H. Whether to recommend the adoption of the uniform style of citation described in *The Bluebook*.

Attorney Gentes submitted this recommendation. Attorney Levine addressed the proposed recommendation from the perspective of the Reporter's Office. He and others noted that the appellate clerk did not monitor compliance with any particular style manual and would not return or reject a filing for its citation format. Other members of the Committee voiced strong opposition to the proposal. The recommendation was not adopted.

Judge Prescott indicated that the co-chairs would let Attorney Gentes know of this outcome by letter.

I. Whether to amend § 77-2 to require the filing of redacted and unredacted briefs when discussing sealed materials.

Attorney Ken Bartschi sent this proposal to adopt a new subsection (b) to facilitate the process by which a party can file an unredacted appellate brief when that party wishes to discuss matters that are subject to a trial court sealing order. The work group prepared a revised proposal, which was presented to Attorney Bartschi. Attorney Begemann indicated that Attorney Bartschi agreed with the revised proposal. Attorney Robertson explained the revised proposal, which included providing notice to the clerk's office and a cross-reference to the rules regarding child protection appeals.

Attorney Horton moved to adopt the revised proposal. Attorney Kindall seconded. The motion passed unanimously.

J. Whether to amend § 70-4 regarding the time allowed for oral argument.

Judge Prescott explained that the proposal was intended to clearly state in the rules the different practices of the Supreme and Appellate Courts with respect to the time allotted for oral arguments.

Attorney Horton moved to adopt the proposal. Attorney Kindall seconded. The motion passed unanimously.

K. Whether to amend § 61-9 regarding the filing of amended appeals.

Attorney Cicchetti explained that an amended appeal is not actually filed "in the same manner" as an original appeal, and the proposed amendment more closely conforms to e-filing practice. Attorney Babbin suggested that the proposal be amended to state "in the pending appeal using form JD-SC-033, along with the certification . . . ."

Attorney Horton moved to adopt the proposal, as amended. Attorney Kindall seconded. The motion passed unanimously.

L. Whether to amend Chapter 65 regarding the transfer of appellate matters.

Attorney Robertson explained the purpose of the reorganization of this chapter and proposed adoption of §§ 65-1A and 65-5. It was clear that no substantive changes were intended. Rather, the proposal clarifies existing practice and consolidates, in new § 65-5, information that had been scattered across multiple rules concerning proceedings after transfer.

Attorney Horton moved to adopt the proposal. Attorney Kindall seconded. The motion passed unanimously.

III. ANY OTHER BUSINESS THAT MAY COME BEFORE THE COMMITTEE

None.

IV. NEXT MEETING

Anticipated to be sometime in Fall, 2022.

The meeting adjourned at 3:50 p.m.

Respectfully submitted,

Colleen Barnett

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

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

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

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

Code of Judicial Conduct, Rule 2.11. Disqualification

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

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

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

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

(B) acting as a lawyer in the proceeding;

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

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

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

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

(5) The judge:

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

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

(C) was a material witness concerning the matter.

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

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

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

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

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

Love, Carla

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

Importance: High

Dear Jill –

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

Sec. 67-8. The Party Appendix
(a) No party appendix is required in either a court or a jury case, except where an opinion is cited that is not officially published in a reporter or is not available in either the LEXIS or Westlaw databases, in which case the text of the opinion must be included in the party appendix.

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

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

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

Respectfully submitted,

Clare Kindall

CLARE KINDALL
Solicitor General / Chief of the Division of Appeals

Office of the Attorney General
165 Capitol Ave, Hartford, CT 06106
Office: +1 860-808-5316 | Fax: +1 860-808-5387 | URL: https://ct.gov/ag/

Sec. 62-8. Names of Counsel; Appearance

Counsel of record for all parties appearing in the trial court at the time of the appellate filing shall be deemed to have appeared in the appeal unless permission to withdraw has been granted pursuant to Section 62-9 or unless an in place of appearance pursuant to Section 3-8 has been filed by other counsel or unless the other provisions of Section 3-9 apply. Counsel of record who filed the appeal or filed an appearance in the Appellate Court after the appeal was filed shall be deemed to have appeared in the trial court for the limited purpose of prosecuting or defending the appeal. Unless otherwise provided by statute or rule, counsel who have so appeared shall be entitled to review all trial court docket sheets and files, including sealed files, and shall be entitled to participate in proceedings in the trial court on motions filed in the trial court pursuant to Section 66-1 and motions filed in the Appellate Court but referred to the trial court for decision.

An appearance filed after the case is ready pursuant to Section 69-2 requires permission of the court. Permission is not required to file an appearance with a different court.

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

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

Petitions for review of the denial of an application for waiver of the payment of a fee for filing an action or the cost of service of process to commence a civil action or writ of habeas corpus are subject to transfer to the Supreme Court pursuant to Section 65-3, and must conform to the requirements for motions for review set forth in Section 66-6, except that the moving party shall not be required to provide a transcript or transcript order confirmation. ~~and are subject to transfer to the Supreme Court pursuant to Section 65-3~~.

Sec. 61-15. Stay of Execution in Death Penalty Case

[Repealed as of Jan. 1, 2023.]

HISTORY—2023: Prior to 2023, this section read: "If the defendant is sentenced to death, the sentence shall be stayed for the period within which to file an appeal. If the defendant has taken an appeal to the Supreme or Appellate Court of this state or to the United States Supreme Court or brought a writ of error, writ of certiorari, writ of habeas corpus, application for a pardon or petition for a new trial, the taking of the appeal, the making of the application for a writ of certiorari or for a pardon, or the return into court of the writ of error, writ of habeas corpus, or petition for a new trial shall, unless, upon application by the state's attorney and after hearing, the Supreme Court otherwise orders, stay the execution of the death penalty until the clerk of the court where the trial was had has received notification of the termination of any such proceeding by decision or otherwise, and for thirty days thereafter. Upon motion by the defendant, filed with the appellate clerk, the Supreme Court may grant a stay of execution to prepare a writ of error, a writ of certiorari, writ of habeas corpus, application for a pardon or petition for a new trial. Upon motion by the defendant and after hearing, the Supreme Court may extend a stay of execution beyond the time limits stated within this rule for good cause shown. No appellate procedure shall be deemed to have terminated until the end of the period allowed by law for the filing of a motion for reconsideration, or, if such motion is filed, until the proceedings consequent thereon are finally determined. When execution is stayed under the provisions of this section, the clerk of the court shall forthwith give notice thereof to the warden of the institution in which such defendant is in custody. If the original judgment of conviction has been affirmed or remains in full force at the time when the clerk has received the notification of the termination of any proceedings by appeal, writ of certiorari, writ of error, writ of habeas corpus, application for a pardon or petition for a new trial, and the day designated for the infliction of the death penalty has then passed or will pass within thirty days thereafter, the defendant shall, within said period of thirty days, upon an order of the court in which the judgment was rendered at a regular or special criminal session thereof, be presented before said court by the warden of the institution in which the defendant is in custody or his deputy, and the court, with the judge assigned to hold the session presiding, shall thereupon designate a day for the infliction of the death penalty and the clerk of the court shall issue a warrant of execution, reciting therein the original judgment, the fact of the stay of execution and the final order of the court, which warrant shall be forthwith served upon the warden or his deputy. (For stays of execution in other criminal cases, see Section 61-13.)

"(Adopted July 21, 1999, to take effect Jan. 1, 2000; amended Sept. 16, 2015, to take effect Jan. 1, 2016.)"

COMMENTARY—2023: Public Acts 2012, No. 12-5 (P.A. 12-5) repealed the death penalty for all crimes committed on or after April 25, 2012, and *State* v. *Santiago*, 318 Conn. 1, 122 A.3d 1 (2015), held that the state constitution no longer permits the execution of individuals for crimes committed prior to the enactment of P.A. 12-5; therefore, this section is obsolete.

Sec. 66-6. Motion for Review; In General

(a) The court may, on written motion for review stating the grounds for the relief sought, modify or vacate (1) any order made by the trial court under Section 66-1 (a); (2) any action by the appellate clerk under Section 66-1 (c); (3) any order made by the trial court, or by the ~~workers' compensation commissioner~~ administrative law judge in cases arising under General Statutes § 31-290a (b), relating to the perfecting of the record for an appeal or the procedure of prosecuting or defending against an appeal; (4) any order made by the trial court concerning a stay of execution in a case on appeal; (5) any order made by the trial court concerning the waiver of fees, costs and security under Section 63-6 or Section 63-7; or (6) any order concerning the withdrawal of appointed appellate counsel pursuant to Section 62-9 (d). Motions for review of the clerk's taxation of costs under judgments of the court having appellate jurisdiction shall be governed by Section 71-3.

(b) Motions for review shall be filed within ten days ~~from the issuance~~ of notice of the order sought to be reviewed. 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 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 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. ~~Motions for review of the clerk's taxation of costs under judgments of the court having appellate jurisdiction shall be governed by Section 71-3.~~

(c) If a motion for review of a decision depends on a transcript of evidence or proceedings taken by an official court reporter or court recording monitor, the moving party shall file with the motion either a transcript or a copy of the transcript order confirmation. The opposing party may, within one week after the transcript or the copy of the order confirmation is filed by the moving party, file either a transcript of additional evidence or a copy of the order confirmation for additional transcript. Parties filing or ordering a transcript shall order an electronic version of the transcript in accordance with Section 63-8~~A~~.

(Note: PB 2022 version; no amendments for PB 2023)

Sec. 66-6. Motion for Review; In General

The court may, on written motion for review stating the grounds for the relief sought, modify or vacate any order made by the trial court under Section 66-1 (a); any action by the appellate clerk under Section 66-1 (c); any order made by the trial court, or by the ~~workers' compensation commissioner~~administrative law judge in cases arising under General Statutes § 31-290a (b), relating to the perfecting of the record for an appeal or the procedure of prosecuting or defending against an appeal; any order made by the trial court concerning a stay of execution in a case on appeal; any order made by the trial court concerning the waiver of fees, costs and security under Section 63-6 or 63-7; or any order concerning the withdrawal of appointed appellate counsel pursuant to Section 62-9 (d). Motions for review shall be filed within ten days from the issuance of notice of the order sought to be reviewed. Motions for review of the clerk's taxation of costs under judgments of the court having appellate jurisdiction shall be governed by Section 71-3.

If a motion for review of a decision depends on a transcript of evidence or proceedings taken by an official court reporter or court recording monitor, the moving party shall file with the motion either a transcript or a copy of the transcript order confirmation. The opposing party may, within one week after the transcript or the copy of the order confirmation is filed by the moving party, file either a transcript of additional evidence or a copy of the order confirmation for additional transcript. Parties filing or ordering a transcript shall order an electronic version of the transcript in accordance with Section 63-8A.

Sec. 76-1. Applicability of Rules

Except as otherwise noted in Sections 76-2 through 76-6, the practice and procedure for appeals to the Appellate Court (1) from a decision of the Compensation Review Board (board), or (2) from a decision of ~~a workers' compensation commissioner~~an administrative law judge acting pursuant to General Statutes § 31-290a (b) ~~(§ 31-290a commissioner)~~, shall conform to the rules of practice governing other appeals.

Sec. 76-2. Filing Appeal

The appeal shall be filed with the appellate clerk in accordance with the provisions of Section 63-3. The appellant shall deliver a copy of the appeal form to each party of record in accordance with the provisions of Section 62-7 and to the board or the ~~§ 31-290a commissioner~~administrative law judge, as appropriate.

The appellate clerk shall deliver a copy of the appeal form to the board or the ~~§ 31-290a commissioner~~administrative law judge, as appropriate, and to each appearing party.

Sec. 76-3. Preparation of Case File; Exhibits

Within ten days of the issuance of notice of the filing of an appeal, the board or the ~~§ 31-290a commissioner~~administrative law judge, as appropriate, shall deliver to the appellate clerk an electronic copy of the file, if possible, or one complete copy of the case file. No omissions may be made from the case file except upon the authorization of the appellate clerk. Each document of the case file must be numbered, and the file must

include a table of contents listing each item entered in the file according to its number.

All exhibits before the board or the ~~§ 31-290a commissioner~~administrative law judge are deemed exhibits on appeal. The appellate clerk shall notify the board or the ~~§ 31-290a commissioner~~administrative law judge of the exhibits required by the court. It shall be the responsibility of the board or the ~~§ 31-290a commissioner~~administrative law judge to transmit those exhibits promptly to the appellate clerk.

Nothing in this section relieves the appellant and the appellee of their duty to comply with the appendix requirements of Section 67-8.

Sec. 76-4. Fees and Costs

On appeals from the board or the ~~§ 31-290a commissioner~~administrative law judge, or upon the reservation of a workers' compensation case by the Compensation Review Board, no entry fee shall be paid, and no costs shall be taxed in favor of either party provided that if an appeal is found by the court either to be frivolous or to be filed for the purpose of vexation or delay, the court may tax costs in its discretion against the person so taking the appeal.

Sec. 76-6. Definitions

With regard to appeals from the board or the ~~§ 31-290a commissioner~~administrative law judge, references in the Rules of Appellate Procedure to trial court or trial judge shall, where applicable, be deemed to mean the individuals who comprised the board which rendered the decision from which the appeal was filed, or the ~~§ 31-290a commissioner~~administrative law judge, as appropriate.

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 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 ~~§ 31-290a commissioner~~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.

Sec. 76-3. Preparation of Case File; Exhibits

Within ten days of the issuance of notice of the filing of an appeal, the board or the ~~§ 31-290a commissioner~~administrative law judge, as appropriate, shall deliver to the appellate clerk an electronic copy of the file~~, if possible, or one complete copy of the case file~~. No omissions may be made from the case file except upon the authorization of the appellate clerk. Each document of the case file must be numbered, and the file must include a table of contents listing each item entered in the file according to its number.

All exhibits before the board or the ~~§ 31-290a commissioner~~administrative law judge are deemed exhibits on appeal. The appellate clerk shall notify the board or the ~~§ 31-290a commissioner~~administrative law judge of the exhibits required by the court. It shall be the responsibility of the board or the ~~§ 31-290a commissioner~~administrative law judge to transmit those exhibits promptly to the appellate clerk.

Nothing in this section relieves the appellant and the appellee of their duty to comply with the appendix requirements of Section 67-8.

Sec. 63-8. Ordering and Filing of ~~Paper~~ Transcripts

(a) ~~Prior to the deadline for compliance with Section 63-4 (a) (23)~~Within ten days of filing an appeal, the appellant shall, subject to Section 63-6 or Section 63-7 if applicable, order from an official court reporter an electronic version of the~~a~~ transcript of the parts of the proceedings not already on file ~~which~~ that the appellant deems necessary for the proper presentation of the appeal. Such order shall specify the case name, docket number, judge's name(s), and hearing date(s), and include a brief, detailed statement describing the parts of the proceedings of which a transcript has been ordered. If any other party deems other parts of the transcript necessary that were not ordered by the appellant, that party shall, within twenty days from the filing of the appellant's ~~transcript papers~~certificate that no transcript is deemed necessary or transcript order confirmation, similarly order those parts from an official court reporter. Upon submission of a transcript order, the ordering party will be provided with an order confirmation that includes the information required above.

(b) A party shall promptly make satisfactory arrangements for payment of the costs of the transcript, pursuant to guidelines established by the chief court administrator. After those arrangements have been made, an official court reporter shall provide to the ordering party an acknowledgment of the order, with an estimated date of delivery and estimated number of pages in the transcript order. The ordering party shall file the acknowledgment with the appellate clerk with certification pursuant to Section 62-7. If the final portion of the transcript cannot be delivered on or before the estimated delivery date on the acknowledgment, the official court reporter will, not later than the next business day, provide to the ordering party an amended transcript order acknowledgment with a revised estimated delivery date. The ordering party shall file the amended acknowledgment form immediately with the appellate clerk with certification pursuant to Section 62-7.

(c) Whenever an electronic transcript is ordered in accordance with this section, ~~the court recording~~Court Transcript Services monitor shall have ~~produce~~ an electronic version of the transcript produced and deliver it to the ordering party and the official court reporter. Upon receipt of all electronic versions of the transcript ordered, the official court reporter shall deliver to the ordering party a certificate of completion stating the total number of pages in the entire transcript order and the date of final delivery of the transcript order. The official court reporter shall then deliver the electronic transcripts to the appellate clerk, with a certification that the electronic version of the transcript is accurate and a copy of the certificate of completion.~~An official court reporter shall cause each court recording monitor involved in the production of the transcript to prepare a certificate of delivery stating the number of pages in the transcript and the date of its delivery to the party who ordered it. If delivery is by mail, the transcript shall be mailed first class certified, return receipt requested. The date of mailing is the date of delivery. If~~

~~delivery~~
~~is by hand, the court recording monitor shall obtain a receipt acknowledging delivery. The date of the receipt is the date of delivery. Each court recording monitor shall forward the certificates of delivery to the official court reporter. Upon receipt of all the certificates of delivery, the official court reporter shall deliver to the ordering party a certificate of completion stating the total number of pages in the entire transcript order and the date of final delivery of the transcript order.~~
(d) Upon receipt of the certificate of completion from the official court reporter, the ordering party shall file with the appellate clerk the certificate of completion along with a certification that a copy of the certificate of completion has been delivered to all counsel of record in accordance with Section 62-7.
~~(c) (1) The appellant is required, either before or simultaneously with the filing of the appellant's brief, to file with the appellate clerk one unmarked, nonreturnable copy of the transcript, including a copy of the official court reporter's certification page, ordered pursuant to subsection (a). (2) All other parties are likewise required, either before or simultaneously with the filing of their briefs, to file those additional portions ordered pursuant to subsection (a) but shall not include the portions already filed by the appellant. (3) The party filing the transcript shall provide the appellate clerk and all opposing counsel with a list of the number, and inclusive dates, of the volumes being filed. Form JD-CL-62, or one similar to it, should be used to satisfy this subsection.~~

~~**Sec. 63-8A. Electronic Copies of Transcripts**~~
Repealed
~~In addition to the requirements of Section 63-8:~~

~~(a) Any party ordering a transcript of evidence as part of an appeal, a writ of error, or a motion for review shall, at the same time, order from a court recording monitor an electronic version of the transcript. If the party received the paper transcript prior to the filing of the appeal, the party shall order an electronic version of the transcript within the period specified by these rules for the ordering of a transcript.~~

~~(b) Whenever an electronic transcript is ordered in accordance with this section, the court recording monitor shall produce an electronic version of the transcript and deliver it to the ordering party and the official court reporter. Upon receipt of all electronic versions of the transcript ordered, the official court reporter shall deliver them to the appellate clerk, with a certification that the electronic version of the transcript is accurate and a copy of the certificate of completion.~~

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.

Sec. 71-4. Time for Decision; Opinions; Rescripts; Official Release Date

(a) Except as provided in subsection (b) of this rule, the court shall release its opinion in a case no later than 180 days after the date of oral argument, or the date when the case is submitted on the briefs.

(b) The court may release its opinion in a case more than 180 days after the date of oral argument, or the date when the case is submitted on the briefs, only if the court files notice that exceptional circumstances require it, or if the parties consent to an extension of the 180-day deadline. In either circumstance, the court may obtain only one such extension, which shall not exceed an additional 90 days.

(c) For purposes of this rule, "exceptional circumstances" means an occurrence not within the court's control that prevents the release an opinion within 180 days after the date of oral argument, or the date when the case is submitted on the briefs. A non-unanimous decision is not an exceptional circumstance within the meaning of this rule.

~~(a)~~(d) After the court releases an opinion in any case other than a case involving a question certified from a federal court, the reporter of judicial 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)~~(e) The official opinion of the court is the version published in the bound volumes of the Connecticut Reports and the Connecticut Appellate Reports, or, if not published in a bound volume, the most recent version published in the Connecticut Law Journal.

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Sec. 67-3A. Word Limitations; Time for Filing Electronic Briefs and Party Appendices
(Applicable to appeals filed on or after October 1, 2021.)

Except as otherwise ordered, the brief of the appellant shall not exceed ~~13,500~~11,500 words. The brief shall be filed with the party appendix, if any, either within forty-five days after the delivery date of the transcript ordered by the appellant or forty-five days after the clerk appendix is sent to the parties, whichever is later. 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 party appendix, if any, shall be filed either within forty-five days of the filing of the appeal or forty-five days after the clerk appendix is sent to the parties, whichever is later.

The delivery date of the paper - not electronic - transcript shall be used, where applicable, in determining the filing date of briefs.

Any party whose interest in the judgment will not be affected by the appeal and who intends not to file a brief shall inform the appellate clerk of this intent prior to the deadline for the filing of the appellee's brief. In the case of multiple appellees, an appellee who supports the position of the appellant shall meet the appellant's time schedule for filing a brief.

Except as otherwise ordered, the brief of the appellee shall not exceed ~~13,500~~11,500 words, and shall be filed with any party appendix 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.

The appellant may file a reply brief in accordance with Section 67-5A.

Where there is a cross appeal, the brief and party appendix, if any, of the cross appellant shall be combined with the brief and party appendix, if any, of the appellee. The brief shall not exceed ~~18,000~~15,250 words and shall be filed with any party appendix at the time the appellee's brief is due. The brief and party appendix, if any, of the cross appellee shall be combined with the appellant's reply brief, if any. This brief shall not exceed ~~16,000~~13,625 words and shall be filed within thirty days after the filing of the original appellee's brief. The cross appellant may file a cross appellant's reply brief in accordance with Section 67-5A.

Where cases are consolidated or a joint appeal has been filed, the brief of the appellants and that of the appellees shall not exceed the word limitations specified above.

All word limitations shall be exclusive of party appendices, if any, the cover page, the table of contents, the table of authorities, the statement of issues, the signature

block of counsel of record, certifications and, in the case of an amicus brief, the statement of the interest of the amicus curiae required by Section 67-7A.

Briefs shall not exceed the word limitations set forth herein except by permission of the chief justice or chief judge. Requests for permission to exceed the word limitations shall be filed with the appellate clerk, stating both the compelling reason for the request and the number of additional words sought.

Where a claim relies on the state constitution as an independent ground for relief, the clerk shall, upon request, grant an additional ~~2000~~ 1700 words for the appellant and appellee briefs, which words are to be used for the state constitutional argument only.

Sec. 67-5A. The Reply Brief
(Applicable to appeals filed on or after October 1, 2021.)

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 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 fifteen pages or ~~6500~~5525 words 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 fifteen pages or ~~6500~~5525 words 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~~675 words for the reply brief, which pages or words are to be used for the state constitutional argument only.

Sec. 67-7A. The Amicus Curiae Brief
(Applicable to appeals filed on or after October 1, 2021.)

(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. The length of the brief shall not exceed ~~4000~~ 3400 words unless a specific request is made for a brief of more than that length. The application shall conform to the requirements set forth in Sections 66-2 and 66-3. The amicus application should specifically set forth reasons to justify the filing of a brief in excess of ~~4000~~ 3400 words. A party in receipt of an application may, within ten days after the filing of the application, file an objection concisely stating the reasons therefor.