Meeting of the Advisory Committee on Appellate Rules
Thursday, October 23, 2025, at 2:00 p.m.

Justice D'Auria called the meeting to order at 2:02 p.m.

Members in attendance:

Justice Gregory T. D'Auria, Co-Chair
Attorney Jeffrey Babbin
Attorney Colleen Barnett
Attorney Jill Begemann
Attorney Jennifer Bourn
Attorney Carl Cicchetti
Attorney Renee Cimino
Attorney Timothy Costello
Attorney Richard Emanuel
Attorney Paul Hartan
Attorney James Healy
Hon. Sheila A. Huddleston
Attorney Eric Levine
Attorney Jessie Opinion
Hon. Eliot D. Prescott
Attorney René Robertson
Attorney Michael Skold
Attorney Giovanna Weller

Members not in attendance:

Judge Ingrid L. Moll, Co-Chair
Attorney Wesley Horton
Attorney Daniel J. Krisch
Attorney Charles Ray

Additional attendees:

Attorney Kenneth Bartschi (for Attorney Wesley Horton)
Attorney David Goshdigian
Attorney Julie Lavoie (for Attorney Daniel J. Krisch)
Attorney Andrew Redman

This meeting was held in the Attorney Conference Room at the Supreme Court. Justice D'Auria opened the meeting by noting that Judge Ingrid L. Moll, Co-Chair, was unable to attend due to unforeseen circumstances.

I. OLD BUSINESS

A. Approval of the minutes of April 3, 2025 meeting

Attorney Robertson moved to approve the minutes of the April 3, 2025 meeting, which was seconded by Attorney Babbin. Judge Prescott abstained, and the remainder of the committee voted in favor of approval.

B. Whether to amend § 84-1 regarding certification to the Supreme Court

Attorney Goshdigian reviewed this proposal, which was tabled at the October, 2024 meeting. The proposal allows a party to file a petition for certification to appeal from the denial of a motion to file a late appeal in the Appellate Court, and the committee tabled this proposal until the legislature amended General Statutes § 51-197f in the same respect. The amendment to § 51-197f passed during the most recent legislative session, and this proposal to amend Practice Book § 84-1 mimics the statutory amendment authorizing a party also to petition for certification to appeal "upon the Appellate Court's denial of a motion to file a late appeal." Attorney Barnett moved to approve the proposal, and Attorney Robertson seconded the motion, which passed unanimously.

II. NEW BUSINESS

A. Whether to amend § 67-5A regarding the reply brief

Attorney Robertson explained that, when § 67-5A initially was drafted, the language specifying the contents of the reply brief was omitted accidentally. This proposal provides that the reply brief shall contain "a table of contents; table of authorities; the argument, divided under appropriate headings, as needed; and a conclusion." Attorney Weller asked whether this list should include the proposed "list of trial court exhibits referenced in the brief" under agenda item C.

Following a discussion that is described in detail under agenda item C, Attorney Robertson moved to approve this proposal, as amended to provide that the brief shall contain a list of exhibits, which is not included in the word count. Attorney Babbin seconded the motion, which passed unanimously.

B. Whether to amend §§ 67-3 and 67-3A regarding the time for filing briefs and appendices

Attorney Cicchetti explained that the Rules Work Group was reviewing §§ 67-3 and 67-3A for another issue and decided that the language of these sections should be clarified. This proposal eliminates the phrase, "[i]n the case of multiple appellees," and replaces the phrase, "meet the appellant's time schedule for filing a brief," with a phrase that requires an appellee who supports the appellant to file a brief "on or before the due date of the appellant's brief." Attorney Robertson moved to approve the proposal, and Attorney Weller seconded the motion. All members of the committee voted in favor of approval.

C. Whether to amend §§ 67-4, 67-5 and 67-3A regarding the brief of the appellant and appellee

The committee, within the discussion of agenda item A, also discussed whether briefs should include a list of trial court exhibits referenced therein. Attorney Weller asked what the list should look like and what numbering scheme should be used, suggesting that the parties use the exhibit numbers from the trial court. Attorney Babbin asked for clarification as to whether the list should include the page number in the brief where the exhibit is referenced, and, if that should be included, then whether the exhibits should be listed in the order in which they are referenced or in numerical order. Attorney Bartschi asked whether a list of the page numbers on which exhibits are referenced would be useful to the courts. Attorney Cicchetti responded that this proposal will help the Appellate Clerk's Office administratively by indicating which exhibits are at issue. Attorney Bartschi also questioned whether an exhibit would need to be listed as being referenced in the brief if it is only included in the appendix. Justice D'Auria remarked that the court makes use of hyperlinks to material in a party's appendix and emphasized the utility of those hyperlinks.

Attorney Cicchetti reviewed an email from Attorney Horton, who recommended that the proposed list of exhibits referenced in the brief, if approved, be codified at § 67-4 (c) (2) instead of in § 67-4 (d) so as to avoid relabeling the following subsections. Attorney Weller moved to approve the proposal, which Attorney Barnett seconded. Judge Huddleston remarked that including the list of exhibits as a new subdivision is

inconsistent with what seems to be the logic behind the other subsections in § 67-4, as each subsection pertains to only one component of a brief, and Attorney Horton's suggestion includes two components in subsection (c), namely, the table of authorities and the list of exhibits. On the other hand, the committee noted that creating a new subsection makes researching the relabeled subsections more complicated. Following a straw poll, the committee decided that the list of exhibits should be included as new a subsection in § 67-4 and, then, voted unanimously to approve the proposal as drafted.

D. Whether to amend § 68-4A regarding the clerk appendix format

Attorney Robertson explained that § 68-4A requires the case manager to include in the table of contents for the clerk appendix the title or nature of each document, the corresponding page number in the clerk appendix, and the date that the document was filed in the trial court. This proposal provides the case manager with the flexibility to include either the date that the document was filed, the entry number listed on the case detail for the document, or both. Attorney Barnett moved to approve the proposal, Attorney Weller seconded, and all committee members voted in favor of approval.

E. Whether to amend § 69-2 regarding cases ready for assignment

Attorney Cicchetti detailed that the current practice of the Supreme Court is to mark a case ready to be assigned for oral argument before all of the briefs have been filed. Although both courts have relied on Practice Book §§ 60-1 and 60-2 for this practice, he explained that this proposal would codify the practice in § 69-2. Attorney Cicchetti further explained that, when a case is marked ready for oral argument early in the Supreme Court, the Appellate Clerk's Office always contacts the parties to ensure that any outstanding briefs will be filed prior to oral argument. Attorney Robertson confirmed that consulting the parties is not the practice in the Appellate Court.

Judge Huddleston commented that it may be unnerving for an appellee if a case is marked ready before its appellee's brief is filed. Attorney Cicchetti reassured the committee that this is not done to "scare" parties into filing briefs but, rather, to ensure that the courts have the information that they need in order to assign cases for the upcoming terms. Attorney Costello questioned whether to include language in the rule that the parties will be contacted prior to making a case ready early, and the committee suggested adding, "upon consultation with the parties." Attorney Levine added that "consultation with the parties" would be inconsistent with the "at the discretion of the court" language in the proposal.

Justice D'Auria specifically asked the committee members for advice as to whether to adopt this proposal in light of the fact that it appears to be the current practice and keeping in mind that parties who do not regularly practice appellate law may not be aware of this practice. Attorney Babbin reported that he is in favor of the proposal and noted that, after the Appellate Clerk's Office marks an appeal ready to be assigned for oral argument, there is a period of time before the appeal is assigned for an argument, which gives the parties ample time to file a reply brief. Attorney Hartan also had no issue with this proposal, as the parties are being notified well in advance of oral argument such that there is no surprise. In response to questions from Attorney Bourne as to the benefit of marking cases ready for oral argument early, Justice D'Auria responded that the practice helps to bring cases before the court as quickly as possible.

Attorney Cicchetti also responded that, if a practitioner indicated that a brief would not be ready, then an appeal would not be marked ready for oral argument early.

Judge Huddleston asked whether consulting with the parties under this proposal will cause issues for the Appellate Court, as Attorney Robertson had explained that the Appellate Court generally does not consult with the parties when a child protection appeal is marked ready to be assigned for oral argument early. As another example, Attorney Robertson hypothesized that a case may be marked ready early, without consulting the parties, if a reply brief was due shortly after the final docket cutoff for the court year. Attorney Begemann raised a concern with requiring consultation with the parties in light of the fact that the Appellate Court is directed to expedite child protection appeals and does not generally consult with parties when marking those appeals ready early. Attorney Cimino indicated that she had discussed the proposal with Attorney Robertson and that Attorney Cimino will reach out to the child protection attorneys for feedback. Attorney Weller asked how this proposal works with § 79a-6 (e), which provides that, in child protection appeals, "the case shall be deemed ready for assignment . . . after the filing of the appellee's brief." Attorney Robertson explained that the proposal is not inconsistent, as § 79a-6 (e) states when a child protection appeal is considered ready for assignment and this proposal generally provides that an appeal may be deemed ready for assignment prior to the completion of briefing.

Attorney Emanuel supported the concerns voiced by Attorney Bourne and believed that it may be better to include language in the proposal about consulting with the parties. Justice D'Auria asked the committee members whether it is important to tell clients that an appeal has been marked ready to be assigned for oral argument early. Attorney Healy responded that he would not necessarily tell a client that an appeal was marked ready early, as that pertains to the court's internal procedures. Furthermore, Attorney Healy has no concerns with this proposal. Attorney Weller proffered that the proposal provide that a case may be marked ready for assignment "prior to the completion of the reply brief," and Attorney Robertson noted that child protection appeals may be marked ready even earlier. Attorney Babbin added that assigning a case for argument before the reply briefs are filed is the standard procedure regarding certified questions of law from other jurisdictions under Chapter 82, and Attorney Robertson informed the committee that § 82-6 specifically provides that the case may be assigned for oral argument before the briefs are filed. Attorney Weller added that she does not see a downside to the rule reflecting the courts' practice, and Attorney Cicchetti confirmed again that the parties are consulted when an appeal is marked ready to be assigned for oral argument before all of the briefs are filed.

Justice D'Auria thanked everyone and tabled this proposal so that the committee members can return to their constituents and gather feedback in light of this discussion.

F. Whether to amend §§ 73-2, 73-3 and 73-4 regarding reservations

Attorney Robertson introduced and reviewed this proposal as well as the proposal for agenda item G, which generally clarify the procedures for and provide that no clerk appendix will be prepared with respect to either a reservation of questions from the Superior Court under Chapter 73 or a certified question from courts of other jurisdictions under Chapter 82. Furthermore, Attorney Robertson explained that both proposals

provide that a docketing statement is the only document under § 63-4 that needs to be filed for these matters. Also, she detailed that the proposal for § 73-4 provides that a reservation may be assigned for argument before the reply briefs are filed and that, for clarity, the proposal for § 82-5 changes the heading from "Receipt" to "Procedure on Acceptance of Certified Question." Attorney Robertson moved to approve the proposal, and Attorney Begemann seconded the motion.

Attorney Babbin asked for clarification with respect to the phrase, "initial briefs," in § 73-4, and questioned whether that was a simultaneous briefing requirement. Attorney Robertson highlighted that this is the phrase that is used in § 84-6 and explained that there should be no confusion because, after a reservation or certified question of law is accepted, the Appellate Clerk's Office issues a scheduling order to the parties with a briefing schedule and the reservation or the certified question. Attorney Babbin then questioned the proposal's reference in § 73-4 to "the Appellate Court," as a reservation may be transferred to the Supreme Court, and suggested that "Appellate Court" be changed to "court." Attorney Begemann highlighted the references to "[t]he Supreme Court or Appellate Court" in § 73-2 and proposed using that language. Attorney Emanuel noted that "of" in the proposal for § 73-4 should not be deleted, and the committee agreed

Attorney Babbin asked about notice of sealing orders, as the proposal provides that the docketing statement is the only document under § 63-4 that needs to be filed, and, as a result, sealed documents do not need to be brought to the court's attention pursuant to § 63-4 (b) (3). Judge Huddleston proposed adding, "and, if applicable, a notice of sealing pursuant to § 63-4 (b) (3)," after the phrase, "pursuant to Section 63-4 (a) (4)." Attorney Robertson proposed amending the phrase to read that "no Section 63-4 (a) papers shall be filed," as the sealing notice is contained in subsection (b). All committee members voted in favor of approving the proposal as amended.

G. Whether to amend §§ 82-4, 82-5 and 82-6 regarding certified questions of law

Attorney Barnett moved to approve this proposal as previously discussed and amended under agenda item F, which Attorney Babbin seconded. Attorney Robertson confirmed that this proposal will be amended in the same manner as the proposal in agenda item F, and the committee members all voted in favor of approval.

H. Whether to amend §§ 76-2 and 76-3 regarding appeals in workers' compensation cases

Attorney Robertson recounted that this proposal follows a recent change to the transcript requirements and the realization that the Workers' Compensation Commission does not use the same official reporters as the Superior Court. Attorney Robertson reviewed this proposal with an administrative hearings specialist at the Workers' Compensation Commission, and the proposal reflects the commission's current practice. Attorney Robertson went on to explain the different procedures for requesting a transcript from either the Compensation Review Board or from a local board. Judge Huddleston remarked that "board" is capitalized in some places in the proposal but not others, and Attorney Robertson responded that board should be capitalized throughout. In light of the proposed changes to § 76-3, Attorney Weller suggested including

"Transcripts" in the heading, and Judge Prescott added that feedback from a practitioner in workers' compensation law may be helpful. Attorney Robertson moved to approve the proposal, as amended, Judge Huddleston seconded that motion, and the motion passed unanimously.

I. Whether to amend § 63-4 regarding the docketing statement

Attorney Cicchetti recounted that, during the April, 2025 meeting, Attorney Babbin had suggested reinstating language that was removed from § 63-4 regarding judicial disqualification, specifically, that the parties list "the names and address of all entities and/or individuals having a legal interest in the cause on appeal sufficient to raise a substantial question of whether a judge should be disqualified from participating in the decision on the case by virtue of that judge's personal or financial interest in any such entities and/or individuals." Attorney Hartan moved to approve the proposal, which Attorney Barnett seconded, and all committee members voted in favor of approval.

J. Whether to amend §§ 72-2 and 72-3 regarding writs of error

With respect to writs of error, Attorney Robertson explained that parties are not always clear regarding who are the plaintiffs in error and the defendants in error. This proposal provides that the writ of error "shall clearly indicate the plaintiff in error and the defendant in error." Furthermore, no clerk appendix will be prepared for a writ of error under this proposal, which requires the plaintiff in error to "file a party appendix that includes the documents necessary to present the claims of error made in the writ of error, including pertinent pleadings and memoranda of decision."

Based on his prior experiences with writs of error, Attorney Bartschi is in favor of this proposal and reports that the plaintiff in error may have a better idea of the documents that are needed to present the claim of error when the brief is filed as opposed to when the writ is filed. Attorney Babbin also is in favor of the proposal given his recent questions about the party appendix for a writ of error. Attorney Healy agreed with this proposal, reasoning that it appears to be a more sensible way to provide the reviewing court with the materials it needs at a more logical time. Attorney Levine suggested using the phrase, "plaintiff or plaintiffs in error," and Attorney Robertson reported that the suggestion previously was considered. Attorney Babbin moved to approve the proposal as drafted, and Attorney Weller seconded the motion, which passed unanimously.

III. ANY OTHER BUSINESS THAT MAY COME BEFORE THE COMMITTEE

There was no other business presented to the committee.

IV. NEXT MEETING

The date of the next meeting will be at the discretion of the co-chairs, and it is anticipated for the spring of 2025.

The meeting adjourned at 3:20 p.m.

Respectfully Submitted,

Attorney David Goshdigian