

**Advisory Committee on Appellate Rules
July 23, 2015**

The meeting was called to order by Justice Palmer and Judge DiPentima at 10 a.m. in the Attorney Conference Room of the Supreme Court.

Members in Attendance:

Justice Richard N. Palmer, Co-Chair
Chief Judge Alexandra D. DiPentima, Co-Chair
Attorney Jeffrey Babbin
Attorney Kathryn Calibey
Attorney Gregory D'Auria
Attorney John DeMeo
Attorney Richard Emanuel
Attorney Paul Hartan
Attorney Kenneth Bartschi (in place of Attorney Wesley Horton)
Attorney Pamela Meotti
Attorney Jamie Porter
Attorney Charles Ray
Attorney Thomas Smith
Attorney Giovanna Weller

Members not in Attendance:

Judge Sheila Huddleston
Attorney Susan Marks
Attorney Lauren Weisfeld

Additional Attendees:

Justice Peter T. Zarella
Attorney Colleen Barnett
Attorney Jill Begemann

I. Old Business

A. Approval of Minutes of June 18, 2015

The committee unanimously approved the minutes of the November 25, 2014 meeting.

B. Further Discussion of the Proposed Changes to the Rules of Appellate Procedure to Permit E-Filing

Committee members discussed changes that had been made to the proposal in response to comments submitted by members by e-mail. Substantive changes were made to the following sections:

Section 60-4

The definition of "filed" was amended to clarify that it means "receipt" by the appellate clerk and to clarify that it includes express mail by the US Postal Service or equivalent commercial service. The definition of "request" was updated to address concerns that it could be confused with a formal pleading. The definition of "signature" now includes "individual" before juris number.

Section 60-7

This section now specifies that it does not apply to any state board or commission filing documents with the appellate clerk pursuant to Sections 68-1, 74-2, 74-3, 75-4, 76-3, 76-5.

Section 60-8

This section now includes the procedures for seeking an exemption from e-filing and clarifies that when an exemption applies, certain fees must be paid to the clerk of the original trial court, rather than to the clerk of any trial court.

Section 61-7 (a) (3)

The words "represented by other counsel or self-represented" were added after "additional appellants" to clarify when a joint appeal form is necessary.

Sections 61-11 (e), 61-13 (d) and 66-5

These sections will be amended to provide that when a motion is referred to the trial court for disposition, the clerk of the trial court will list the decision on the docket and send notice of the decision to the appellate clerk. The appellate clerk will then send notice of the decision to counsel of record.

In addition, staff members will suggest revisions to section 61-11 (e) to clarify the procedures that apply when a motion to terminate a stay is filed after judgment but before an appeal has been taken. In such cases, the motion to stay will be filed in the trial court and the trial court will send notice to counsel of record. The revised language will be circulated to committee members to ensure that it addresses their concerns.

Section 62-7 (b)

This section clarifies that requests to deviate from requirements to omit or redact personal identifying information must be filed with the appellate clerk.

Section 62-7 (c)

Instead of "opting in" to accept electronic delivery of documents, counsel of record will now "opt out" if they have an objection to electronic delivery. In order to opt out, counsel of record must notify all other counsel of record and the appellate clerk in writing that they decline to accept electronic delivery of documents.

Section 63-3

The rule no longer requires the appellant to certify that a copy of the appeal form generated at the time of filing was delivered to clerk of the trial court; rather, the appellate clerk will send such notice. In criminal and habeas corpus matters, the appellate clerk will send notice to the Office of the Attorney General and/or the Office of

the Chief State's Attorney, Appellate Bureau.

Section 63-4 (a) (3) and (a) (5)

Subdivision (3) was revised to require only the e-mail addresses of counsel of record, which includes self-represented parties.

There will be no further amendments to subdivision (5), which pertains to the draft judgment file. Instead, section 6-3(b) will be amended so that counsel will e-file a draft judgment file with the clerk of the trial court once an appeal has been filed. Counsel and the clerk of the trial court will then work together to create a signed judgment file, if one is required, within thirty days of the filing of the draft. The signed judgment file will be available electronically. Attorney Hartan has contacted Superior Court Operations to determine how appellate counsel will e-file the draft judgment file if they did not have an appearance in the trial court.

Section 66-1 (a)

Whether to add "or cross appeal" to the first sentence is a substantive change that requires more discussion at a later time.

Section 67-10

The rule now refers to a "notice listing such supplemental authorities"

Section 84-4 (b)

In keeping with new procedures set forth in section 63-3, the appellate clerk will send notice to the trial court that a petition for certification to appeal to the Supreme Court has been filed.

Attorney Ray moved that the committee adopt the amendments as modified and subject to additional minor modifications to be sent to committee members. The motion was seconded by Attorney Babbitt and passed unanimously.

II. Any other business that may come before the committee

There was no additional business for consideration by the committee.

III. Next Meeting

The date for the next meeting was left to the discretion of the committee chairpersons.