

## RULES OF APPELLATE PROCEDURE

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### NOTICE

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Notice is hereby given that the following amendments to the Rules of Appellate Procedure were adopted to take effect October 1, 2013. The amendments to Sections 62-8A, 63-3, and 84-4 and the adoption of Section 63-3A were approved by the Appellate Court on June 5, 2013, and by the Supreme Court on June 27, 2013.

Attest:

Michèle T. Angers

*Chief Clerk Appellate*

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### INTRODUCTION

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Contained herein are amendments to the Rules of Appellate Procedure. These amendments are indicated by brackets for deletions and underlines for added language. The designation “NEW” is printed with the title of each new rule.

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## CHAPTER AND SECTION HEADINGS OF THE RULES

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### RULES OF APPELLATE PROCEDURE

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#### CHAPTER 62 CHIEF JUDGE, APPELLATE CLERK AND DOCKET; GENERAL ADMINISTRATIVE MATTERS

Sec.

62-8A. Attorneys of Other Jurisdictions Participating Pro Hac Vice on Appeal

#### CHAPTER 63 FILING THE APPEAL; WITHDRAWALS

Sec.

63-3. Filing of Appeal; Number of Copies

63-3A. Appeals in E-Filed Cases (NEW)

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**AMENDMENTS TO THE RULES OF APPELLATE PROCEDURE****CHAPTER 62****CHIEF JUDGE, APPELLATE CLERK AND DOCKET; GENERAL ADMINISTRATIVE MATTERS****Sec. 62-8A. Attorneys of Other Jurisdictions Participating Pro Hac Vice on Appeal**

(a) An attorney, who upon written application pursuant to Section 2-16 has been permitted by a judge of the superior court to participate in the presentation of a cause or appeal pending in this state, shall be allowed to participate in any appeal of said cause without filing a written application to the court having jurisdiction over the appeal. All terms, conditions and obligations set forth in Section 2-16 shall remain in full effect. The chief clerk of the superior court for the judicial district in which the cause originated shall continue to serve as the agent upon whom process and notice of service may be served.

(b) Any attorney who is in good standing at the bar of another state and who has not appeared pro hac vice in the superior court to participate in the cause now pending on appeal, may for good cause shown, upon written application presented by a member of the bar of this state, be permitted in the discretion of the court having jurisdiction over the appeal to participate in the presentation of the appeal, [;] provided, however, that:

(1) such application shall be accompanied by an affidavit

(A) stating whether an application was filed pursuant to Section 2-16 in the superior court and, if so, the disposition of said application;

[(A)](B) certifying whether such applicant has a grievance pending against him or her in any other jurisdiction, has ever been reprimanded, suspended, placed on inactive status, disbarred or otherwise disciplined, or has resigned from the practice of law and, if so, setting forth the circumstances concerning such action; [;]

(C) certifying that the applicant has paid to the clerk of the superior court any fee required by the General Statutes for admission pro hac vice;

(D) certifying that the applicant has paid the client security fund fee due for the calendar year in which the application is made;

[(B)] (E) designating the chief clerk of the superior court for the judicial district in which the cause originated as his or her agent upon whom process and notice of service may be served; [, and]

(F) [agreeing] certifying that the applicant agrees to register with the statewide grievance committee in accordance with the provisions of chapter 2 of the rules of practice while appearing in the appeal and for two years after the completion of the matter in which the attorney appeared [,] and to notify the statewide grievance committee of the expiration of the two year period;

[(C)] (G) identifying the number of attorneys in his or her firm who are appearing pro hac vice in the cause now on appeal or who have filed or intend to file an application to appear pro hac vice in this appeal; [,] and

[(D) stating whether an application was filed pursuant to Section 2-16 in the superior court and, if so, the disposition of said application, and]

(H) identifying the number of cases in which the attorney has appeared pro hac vice in any court of this state since the attorney first appeared pro hac vice in this state.

(2) a member of the bar of this state must be present at all proceedings and arguments and must sign all motions, briefs and other papers filed with the court having jurisdiction over the appeal and assume full responsibility for them and for the conduct of the appeal and of the attorney to whom such privilege is accorded. Said application shall be made to the court having jurisdiction over the appeal. The

application shall be filed in accordance with Sections 66-2 and 66-3. Good cause for according such privilege may include a showing that by reason of a long-standing attorney-client relationship, predating the cause of action or subject matter of the appeal, the attorney has acquired a specialized skill or knowledge with respect to issues on appeal or to the client's affairs that are important to the appeal, or that the litigant is unable to secure the services of Connecticut counsel. Upon the granting of an application to appear pro hac vice, the clerk of the court in which the application is granted shall immediately notify the statewide grievance committee of such action.

(c) No application to appear pro hac vice shall be permitted after the due date of the final reply brief as set forth in Section 67-3 without leave of the court.

COMMENTARY—October, 2013: The amendment is intended to reconcile this rule with Section 2-16, which governs pro hac vice applications to the superior court. This section as amended also requires the applicant to certify that any statutory fee for admission pro hac vice has been paid. As of the effective date of the amendment, General Statutes § 52-259 (i) requires payment of a \$600 fee with an application for admission pro hac vice. That statutory fee provision expires July 1, 2015.

## CHAPTER 63 FILING THE APPEAL; WITHDRAWALS

### **Sec. 63-3. Filing of Appeal; Number of Copies**

Any appeal may be filed in the original trial court or the court to which the case was transferred or in any judicial district court in the state, except that juvenile appeals and appeals from interlocutory orders, if permitted by law, must be filed with the clerk of the original trial court or the court to which the case was transferred. [An appeal in any case that may be e-filed pursuant to Section 4-4 also may be e-filed in accordance with the procedures and technical standards set forth on the Judicial Branch website.] Procedures for appeals in e-filed cases are governed by Section 63-3A. An application for a fee waiver pursuant to Sections 63-6 or 63-7 must be filed with the clerk of the court in which the case was tried or otherwise resolved.

The original appeal form shall be accompanied by a certification that a copy thereof has been served on each counsel of record, as defined in Section 60-4, in accordance with the provisions of Section 62-7. At the time the appeal is filed, the appellant shall, as set forth in Section 63-5, pay to the clerk of the trial court all required fees. The clerk shall: (1) endorse on the original appeal form the date and time of filing and the receipt or waiver of fees; (2) return the original endorsed appeal form to the appellant; and (3) immediately notify the clerk of the original trial court that an appeal has been filed. In addition, in noncriminal matters, the clerk shall, without cost, provide the appellant with a copy of the docket sheet (DS1) listing the counsel for all parties. In criminal and habeas corpus matters, the clerk shall also send a copy of the endorsed appeal form to the office of the chief state's attorney, appellate bureau. [If an appeal is e-filed, the paper confirmation of e-filing, together with the appeal form, shall be used in lieu of the endorsed appeal form for purposes of this rule.]

On the same day on which the original appeal form is endorsed by the trial court clerk, the appellant shall deliver a copy of the endorsed appeal form to the clerk of the trial court in which the case was originally filed and the clerk of any trial court to which the case was subsequently transferred. The copy may be delivered by hand, fax or any other electronic means permitted by Section 4-4. The appellant shall obtain proof that the original trial court and any subsequent trial court received the copy on the same day on which it was delivered.

Within ten days of filing the appeal, the appellant shall file with the appellate clerk the original of the endorsed appeal form; the docket sheet, if any; the papers required by Section 63-4; and proof that a copy of the endorsed appeal form was

transmitted to the original trial court and to any trial court to which the case subsequently was transferred. The appellant shall certify that a copy of the endorsed appeal form was served on: (1) the clerk of the original trial court; (2) the clerk of any other trial court to which the case was transferred; and (3) any trial court whose decision is the subject of the appeal. The appellant shall also certify that a copy of the endorsed appeal form and all other papers required by Section 63-4 was served on: (1) every other party in the manner set forth in Section 62-7; and (2) in criminal and habeas corpus matters, the office of the chief state's attorney, appellate bureau.

The appellate clerk, upon receipt of the foregoing, shall docket the appeal, affix to the endorsed appeal form the docket number assigned to the appeal and send one copy to the trial judge and one copy to each party to the appeal and, in criminal and habeas corpus matters, to the office of the chief state's attorney, appellate bureau.

### **(New) Sec. 63-3A. Appeals in E-Filed Cases**

An appeal may be e-filed in any case in which e-filing is permitted in the trial court. The appeal form shall be e-filed in accordance with Section 4-4 and shall contain a certification that a copy has been served on each counsel of record, as defined in Section 60-4, in accordance with the provisions of Section 62-7.

All required fees shall be paid at the time of e-filing by any method specified by Judicial Branch E-Services. The appellant shall print a copy of the confirmation of e-filing and affix it to the original appeal form. The original appeal form and the confirmation of e-filing together are deemed to be the endorsed appeal form.

Within ten days of e-filing the appeal, the appellant shall file with the appellate clerk the original and one copy of the endorsed appeal form, with a certification that a copy was served on each party as required by Section 63-3; two print copies of the electronic docket sheet for the case as it appears on the Judicial Branch website; and the papers required by Section 63-4.

Upon receipt of the foregoing, the appellate clerk shall docket the appeal and proceed in accordance with Section 63-3.

## **CHAPTER 84**

### **APPEALS TO SUPREME COURT BY CERTIFICATION FOR REVIEW**

#### **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.

[Except in workers' compensation cases, t]The petitioner [for certification] shall file the original and one copy of the petition with, and pay a filing fee to, the clerk of the trial court, [except that] [n]No fee shall be required in cases where a waiver of fees, costs and expenses under Section 63-6 or 63-7 was previously granted. The fee, if not waived or exempted by statute, may be paid to the clerk of any trial court in the state. The clerk shall endorse on the original petition the date and time of filing and the receipt, or waiver, of fees. The clerk shall return the original endorsed petition to the petitioner, who shall promptly send it, [together] with fifteen additional copies of the petition, to the appellate clerk. The petitioner shall serve a copy upon every other party in the manner set forth in Section 62-7. If the fee was paid at a location other than the original trial court, then the petitioner shall also attach a

separate certification indicating that a copy has been served upon the clerk of the original trial court.

In cases where a waiver of fees, costs and expenses under Section 63-6 or 63-7 was granted or a statutory provision exempts the petitioner from paying the required fee, the petitioner may file the original petition and fifteen additional copies of the petition directly with the appellate clerk. Any petition for certification filed directly with the appellate clerk shall include a certification indicating the name of the judge granting the waiver of fees, costs and expenses and the date such waiver was granted, or the specific statutory section exempting the petitioner from paying the required fee. The petitioner shall serve a copy of the petition for certification upon every other party in the manner set forth in Section 62-7 and shall also attach a certification indicating that a copy has been served upon the clerk of the original trial court.

In workers' compensation cases, the petitioner shall file the original petition and fifteen additional copies of the petition directly with the appellate clerk. The petitioner shall serve a copy upon every other party in the manner set forth in Section 62-7, and upon the trial commissioner in a General Statutes § 31-290a appeal and upon the compensation review board in an appeal from that board. No fee is required in workers' compensation cases.

(b) 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, service pursuant to Section 62-7, the form of the cross petition, and all subsequent proceedings shall be the same as though the cross petition were an original petition.

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

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