

RULES OF APPELLATE PROCEDURE

NOTICE

Notice is hereby given that the following amendments to the Rules of Appellate Procedure were adopted to take effect September 1, 2014. The amendments to Sections 62-7, 63-6, 67-1, and 67-2 were approved by the Appellate Court on June 4, 2014, and by the Supreme Court on June 18, 2014. The courts have waived the provision of Section 86-1 requiring publication of rules sixty days prior to their effective date.

Attest:

Michèle T. Angers
Chief Clerk Appellate

INTRODUCTION

Contained herein are amendments to the Rules of Appellate Procedure. These amendments are indicated by brackets for deletions and underlines for added language.

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RULES OF APPELLATE PROCEDURE

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(Applicable to appeals filed before July 1, 2013.)
- 62-7. Matters of Form; Filings; Certification to Counsel
(Applicable to appeals filed on or after July 1, 2013.)

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(Applicable to appeals filed before July 1, 2013.)

- 67-2. Format of Briefs and Appendices; Copies; Electronic Briefing Requirement [for Cases to Be Argued in the Supreme Court]
(Applicable to appeals filed on or after July 1, 2013.)

AMENDMENTS TO THE RULES OF APPELLATE PROCEDURE

CHAPTER 62

CHIEF JUDGE, APPELLATE CLERK AND DOCKET: GENERAL ADMINISTRATIVE MATTERS

Sec. 62-7. Matters of Form; Filings; Certification to Counsel

(Applicable to appeals filed before July 1, 2013.)

It is the responsibility of counsel of record to submit papers for filing in a timely manner and in the proper form.

The appellate clerk may refuse to accept for filing any papers presented in a form not in compliance with these rules; in refusing, the appellate clerk shall indicate how the papers have failed to comply. The clerk shall stamp any papers refused with the date on which they were received before returning them, and shall retain a copy thereof. Any papers correcting a noncomplying filing shall be deemed to be timely filed if resubmitted to the appellate clerk [without delay] within fifteen days. The time for responding to any such paper shall not start to run until the correcting paper is filed.

Except for the transcript of evidence or where otherwise indicated, an original and fifteen copies of all papers shall be filed with the appellate clerk. For copies of the initial appeal papers, see Sections 63-3 and 63-4; for copies of papers withdrawing an appeal or writ of error, see Section 63-9; for copies of motions and opposition papers, see Section 66-3 (motions in general), Section 66-1 (extension of time), Section 61-11 (termination of stay of execution), and Section 66-5 (rectification); for copies of briefs, see Section 67-2; for copies of the record, see Section 68-7; for copies of petitions for certification and opposition papers, see Sections 84-4 and 84-6; for copies of certified questions from courts of other jurisdictions, see Section 82-4.

All papers except the transcript and regulations filed pursuant to Section 81-6 shall contain a certification that a copy has been served on each other counsel of record, including the names, addresses and telephone and facsimile numbers of all counsel served. The certification concerning briefs may be signed by counsel of record or the printer on the last page of one of the briefs or on a separate typewritten document filed with the briefs. All service and filing by mail shall be by first class or express United States mail, postage prepaid, or by hand delivery.

If a document must be filed by a certain date under these rules or under any statutory provision, the document must be received by the appellate clerk by the close of business on that date; it is not sufficient that a document be mailed by that date to the appellate clerk unless a rule or statutory provision expressly so computes the time.

The signed original of documents filed pursuant to Sections 66-3, 67-2, 81-2, 81-3, 84-5 and 84-6 shall bear an attached certificate indicating that the document is in compliance with all of the requirements of the rule under which it is being filed.

Sec. 62-7. Matters of Form; Filings; Certification to Counsel

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The signed original of documents filed pursuant to Sections 66-3, 67-2, 81-2, 81-3, 84-5 and 84-6 shall bear an attached certificate indicating that the document is in compliance with all of the requirements of the rule under which it is being filed.

CHAPTER 63 FILING THE APPEAL; WITHDRAWALS

Sec. 63-6. Waiver of Fees, Costs and Security—Civil Cases

If a party in any case where fees and costs may lawfully be waived is indigent and desires to appeal, that party may, within the time provided by the rules for taking an appeal, make written application, to the court to which the fees required by statute or rule are to be paid, for relief from payment of fees, costs and expenses. The application must be under oath and recite, or it must be accompanied by an affidavit reciting, the grounds upon which the applicant proposes to appeal and the facts concerning the applicant's financial status. Where an application arises out of a habeas corpus proceeding, the application shall be handled pursuant to Section 63-7. Where an application arises out of a child protection matter, the application shall be handled pursuant to Section 79a-4.

[The judicial authority shall assign the request for waiver of fees, costs and expenses for a hearing within twenty days of its filing and shall act promptly on the application following the hearing. Where a request arises out of a habeas corpus proceeding, the request shall be handled pursuant to Section 63-7.] The judicial authority shall act promptly on the application for waiver of fees, costs and expenses. If the application is denied in whole or in part, and the applicant wishes to challenge that denial, the applicant shall file a written request for a hearing, pursuant to Section

8-2, within ten days of the issuance of notice of the denial of the application. The court clerk shall assign the application for a hearing within twenty days of the filing of the request and the judicial authority shall act promptly on the application following the hearing.

If the court is satisfied that the applicant is indigent and has a statutory or constitutional right to court appointed counsel or a statutory right to appeal without payment of fees, costs and expenses, the court may (1) waive payment by the applicant of fees specified by statute and of taxable costs, and waive the requirement of Section 63-5 concerning the furnishing of security for costs upon appeal, and (2) order that the necessary expenses of prosecuting the appeal be paid by the state. The court may not consider the relative merits of a proposed appeal in acting upon an application pursuant to this section except that the court may consider the criteria contained in General Statutes § 52-259b.

Before incurring any expense in excess of \$100, including the expense of obtaining a transcript of the necessary proceedings or testimony, [counsel for] the applicant shall obtain the permission of the judge who presided at the applicant's trial. The judge shall authorize a transcript at state expense only of the portions of testimony or proceedings which may be pertinent to the issues on appeal.

The sole remedy of any party desiring the court to review an order concerning the waiver of fees, costs and security shall be by motion for review under Section 66-6.

COMMENTARY—September, 2014: The rule was amended to bring it into accord with General Statutes § 52-259b (c) in allowing the trial court to take and rule on an application for waiver of fees “on the papers” and without a hearing. If the application is denied following that initial review, the applicant has the option of requesting a hearing and further decision on the application.

CHAPTER 67 BRIEFS

Sec. 67-1. Brief and Appendix

(Applicable to appeals filed on or after July 1, 2013.)

In any brief or appendix, the plaintiff and defendant shall be referred to as such rather than as appellant and appellee, wherever it is possible to do so; on a reservation the plaintiff below shall be regarded as the appellant.

Each brief shall contain a concise statement of the principal issue or issues involved in the appeal. The statement ordinarily should not exceed one page in length and should be on a page by itself. The court may refuse to receive a brief not complying with this requirement.

[In appeals where personal identifying information is protected by rule, statute, court order or case law, and in appeals that have been ordered sealed in part or in their entirety or are subject to limited disclosure pursuant to Section 77-2, all briefs and appendices shall contain a separate certification that any name or other identifying information that is prohibited from disclosure has been redacted or has not been revealed in the briefs or appendices. The responsibility for omitting or redacting personal identifying information rests with the party who has prepared the brief or appendix.]

COMMENTARY—September, 2014: Language concerning the responsibility of the parties with respect to omitting or redacting personal identifying information from briefs or appendices has been transferred to Section 67-2. Matters pertaining to the appendices in administrative appeals have been transferred to Section 67-8A.

Sec. 67-2. Format; Copies; Electronic Briefing Requirement [for Cases to Be Argued in the Supreme Court]

(Applicable to appeals filed before July 1, 2013.)

(a) Original briefs and appendices shall be typewritten or clearly photocopied from a typewritten original on white 8 1/2 by 11 inch paper. Unless ordered otherwise, [the] briefs shall be copied on one side of the page only. Appendices may be copied on both sides of the page. The brief shall be fully double spaced and shall not exceed three lines to the vertical inch or twenty-seven lines to the page; footnotes and block quotations may, however, be single spaced. Only the following two typefaces, of 12 point or larger size, are approved for use in briefs: arial and univers.

(b) If constitutional provisions, statutes, ordinances, regulations or portions of the transcript are contained in an appendix, they may be reproduced in their original form so long as the document is not reduced to less than 75 percent of its original form.

(c) Each page of a brief or appendix shall have as a minimum the following margins: top, 1 inch; left, 1 and 1/4 inch; right, 1/2 inch; and bottom, 1 inch.

(d) Pages shall be numbered in the center of the bottom of the page.

(e) Briefs and appendices shall be firmly bound 1/4 inch from the left side, at points approximately 1/4, 1/2 and 3/4 of the length of the page, so as to make an easily opened volume.

[(f) Any request for deviation from the above requirements shall be addressed to the appellate clerk.]

[(g) (f) [If the appeal is in the supreme court, the original and twenty-five legible photocopies of each brief and appendix shall be filed with the appellate clerk, accompanied by certification of service attached to the original brief only that a copy thereof has been sent to each counsel of record and to any trial judge who rendered a decision which is the subject matter of the appeal, in compliance with Section 62-7. If the appeal is in the appellate court, the original and fifteen legible photocopies of each brief and appendix shall be filed with the appellate clerk, accompanied by certification of service attached to the original brief only that a copy thereof has been sent to each counsel of record and to any trial judge who rendered a decision which is the subject matter of the appeal, in compliance with Section 62-7. See Section 65-1 for cases subsequently transferred.] Every brief shall designate on the front page the name, address, telephone and facsimile numbers and e-mail address of the individual counsel who is to argue the appeal. The plaintiff and defendant shall be referred to as such rather than as appellant and appellee, wherever it is possible to do so. For the purposes of this rule, on a reservation, the plaintiff below shall be regarded as the appellant.

[(h) (g) Briefs and separately bound appendices shall have a suitable front cover of heavy paper in the color indicated: briefs for appellants and plaintiffs in error, light blue; briefs for appellees and defendants in error, pink; reply briefs, white; briefs for amicus curiae, light green. Covers of briefs filed for cross appeals shall be of the same color as indicated for that party on the original appeal briefs. If a supplemental brief is ordered or permitted by the court, the cover shall be the same color as indicated for that party's original brief. A back cover is not necessary; however, if one is used, it must be white.

[(i) (h) Briefs and separately bound appendices must bear on the cover, in the following order, from the top of the page: (1) the name of the court; (2) the number of the case; (3) the name of the case as it appears in the judgment file of the trial court; (4) the nature of the brief (e.g., brief of the defendant-appellant; brief of the plaintiff-appellee on the appeal and of the plaintiff-cross appellant on the cross appeal); (5) the name, address and, if they are different from arguing counsel's

telephone and facsimile numbers and e-mail address, the telephone and facsimile numbers and e-mail address of the party's counsel of record, and of the arguing counsel, if different. The foregoing shall be displayed in the upper case of an arial or univers typeface of 12 point or larger size. [A certificate shall be attached to the signed, original brief, indicating that the brief complies with all the provisions of this rule.]

(j) (i) Sections 67-4, 67-5 and 67-8 should be consulted for guidance as to when an appendix is necessary and for specific requirements regarding appendices.

(k) (j) [In addition to the requirements of subsection (g) of this section, in a case that is to be argued in the supreme court, an electronic version of every brief filed by a party represented by counsel, or a person represented by counsel who has been granted permission to appear as an amicus curiae, shall be submitted to the court] Every attorney filing a brief shall submit an electronic version of the brief and appendix in accordance with guidelines established by the court and published on the Judicial Branch website. The electronic version shall be submitted [as soon as practicable after] prior to the timely filing of the party's paper brief and appendix. A party who is not represented by counsel is not required to submit an electronic version of his or her brief and appendix. Counsel must certify that electronically submitted briefs and appendices: (1) have been delivered electronically to the last known e-mail address of each counsel of record for whom an e-mail address has been provided; and (2) have been redacted or do not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law. [Any appendix, whether attached to the brief or separately bound, shall not be electronically submitted.]

(k) If the appeal is in the supreme court, the original and fifteen legible photocopies of each brief and appendix, if any, shall be filed with the appellate clerk. If the appeal is in the appellate court, the original and ten legible photocopies of each brief and appendix, if any, shall be filed with the appellate clerk.

(l) The original and all copies of the brief filed with the supreme court or the appellate court must be accompanied by: (1) certification that a copy of the brief and appendix has been sent to each counsel of record and to any trial judge who rendered a decision that is the subject matter of the appeal, in compliance with Section 62-7; (2) certification that the brief and appendix being filed with the appellate clerk are true copies of the brief and appendix that were submitted electronically pursuant to subsection (j) of this section; (3) certification that the brief and appendix have been redacted or do not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law; and (4) certification that the brief complies with all provisions of this rule.

(m) A copy of the electronic confirmation receipt indicating that the brief and appendix were submitted electronically in compliance with subsection (j) of this section shall be filed with the original brief.

(l) (n) No argument shall be allowed any party who has not filed a brief or who has not joined in the brief of another party.

(o) Any request for deviation from the above requirements shall be addressed in writing to the appellate clerk.

COMMENTARY—September, 2014: This rule has been amended to require that counsel in cases before the supreme and appellate courts submit electronic versions of their briefs and appendices prior to the filing of paper briefs and appendices. Counsel are also required to file the electronic confirmation receipt of the electronic filing with the paper brief and appendix. In addition, each party filing a brief or appendix must certify that any name or other personal identifying information that is prohibited from disclosure has been redacted or has not been revealed in the briefs or appendices. See, e.g., General Statutes § 54-86e; see also Sections 4-7, 11-20A, 11-20B, 30a-8 and 77-2. The amendment also reduces the number of paper copies of briefs and appendices that must be submitted.

Sec. 67-2. Format of Briefs and Appendices; Copies; Electronic Briefing Requirement [for Cases to Be Argued in the Supreme Court]

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(b) When possible, parts one and two of the appendix shall be bound together. In addition, parts one and two of the appendix may be bound together with the brief. When, however, binding the brief and appendix together would affect the integrity of the binding, the appendix shall be bound separately from the brief. When either part of the appendix exceeds one hundred and fifty [numbered] pages, parts one and two of the appendix shall be separately bound.

(c) An appendix shall be paginated separately from the brief. The appendix shall be numbered consecutively, beginning with the first page of part one and ending with the last page of part two, and preceded by the letter "A" (e.g., A1 . . . A25 . . . A53). An appendix shall have an index of the names of witnesses whose testimony is cited within it. If any part of the testimony of a witness is omitted, this shall be indicated by asterisks. After giving the name of a witness, the party who called that witness shall be designated, and it shall be stated whether the testimony quoted was given on direct, cross or other examination.

(d) If constitutional provisions, statutes, ordinances, regulations or portions of the transcript are contained in an appendix, they may be reproduced in their original form so long as the document is not reduced to less than 75 percent of its original form.

[(e) If the appeal is in the supreme court, the original and twenty-five legible photocopies of each brief and appendix shall be filed with the appellate clerk, accompanied by certification of service attached to the original brief only that a copy thereof has been sent to each counsel of record and to any trial judge who rendered a decision which is the subject matter of the appeal, in compliance with Section 62-7. If the appeal is in the appellate court, the original and fifteen legible photocopies of each brief and appendix shall be filed with the appellate clerk, accompanied by certification of service attached to the original brief only that a copy thereof has been sent to each counsel of record and to any trial judge who rendered a decision which is the subject matter of the appeal, in compliance with Section 62-7. See Section 65-1 for cases subsequently transferred.]

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color as indicated for that party's original brief. A back cover is not necessary; however, if one is used, it must be white.

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[(h)] (g) [In addition to the requirements of subsection (e) of this section, in a case that is to be argued in the supreme court, an electronic version of every brief filed by a party represented by counsel, or a person represented by counsel who has been granted permission to appear as an amicus curiae, shall be submitted to the court] Every attorney filing a brief shall submit an electronic version of the brief and appendix in accordance with guidelines established by the court and published on the Judicial Branch website. The electronic version shall be submitted [as soon as practicable after] prior to the timely filing of the party's paper brief and appendix pursuant to subsection (h) of this section. A party who is not represented by counsel is not required to submit an electronic version of his or her brief and appendix. Counsel must certify that electronically submitted briefs and appendices: (1) have been delivered electronically to the last known e-mail address of each counsel of record for whom an e-mail address has been provided; and (2) have been redacted or do not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law. [Any appendix, whether attached to the brief or separately bound, shall not be electronically submitted.]

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or appendix must certify that any name or other personal identifying information that is prohibited from disclosure has been redacted or has not been revealed in the briefs or appendices. See, e.g., General Statutes § 54-86e; see also Sections 4-7, 11-20A, 11-20B, 30a-8 and 77-2. The amendment also reduces the number of paper copies of briefs and appendices that must be submitted and removes the single-sided copy restriction on appendices.
