

## **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 on September 1, 2018. The amendments were approved by the Appellate Court on May 23, 2018, and by the Supreme Court on June 6, 2018.

Attest:

Carolyn Ziogas  
*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 underlined text for added language. The designation “NEW” is printed with the title of each new rule.

This material should be used as a supplement to the Connecticut Practice Book until the 2019 edition of the Practice Book becomes available.

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## **CHAPTER AND SECTION HEADINGS OF THE RULES**

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**RULES OF APPELLATE PROCEDURE**

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**AMENDMENTS TO THE RULES OF APPELLATE PROCEDURE**

**CHAPTER 63**  
**FILING THE APPEAL; WITHDRAWALS**

**Sec. 63-4. Additional Papers to Be Filed by Appellant and Appellee when Filing Appeal**

(a) Within ten days of filing an appeal, the appellant shall also file with the appellate clerk the following:

(1) A preliminary statement of the issues intended for presentation on appeal. If any appellee wishes to: (A) present for review alternative grounds upon which the judgment may be affirmed; (B) present for review adverse rulings or decisions of the court which should be considered on appeal in the event the appellant is awarded a new trial; or (C) claim that a new trial rather than a directed judgment should be ordered if the appellant is successful on the appeal, that appellee shall file a preliminary statement of issues within twenty days from the filing of the appellant's preliminary statement of the issues.

Whenever the failure to identify an issue in a preliminary statement of issues prejudices an opposing party, the court may refuse to consider such issue.

(2) A certificate stating that no transcript is deemed necessary, or a copy of the transcript order acknowledgment form (JD-ES-38) with section I thereof completed, filed with the official reporter pursuant to Section 63-8. If any other party deems any other parts of the transcript necessary, that party shall, within twenty days from the filing of the appellant's transcript papers, file a copy of the order form (JD-ES-38), which that party has placed in compliance with Section 63-8.

If the appellant is to rely on transcript delivered prior to the taking of the appeal, an order form (JD-ES-38) shall be filed stating that an electronic version of a previously delivered transcript has been ordered. The detailed statement of the transcript to be relied on required by Section 63-8 also must be filed. If any other party deems any other parts of the transcript necessary, and those parts have not been delivered at the time of the taking of the appeal, that party shall have twenty days to order those additional parts. If any other party is to rely on transcript delivered prior to the taking of the appeal, an order form (JD-ES-38) shall be filed within twenty days, stating that an electronic version of a previously delivered transcript has been ordered.

(3) A docketing statement containing the following information to the extent known or reasonably ascertainable by the appellant: (A) the names and addresses of all parties to the appeal, the names, addresses, and e-mail addresses of trial and appellate counsel of record, and the names and addresses of all persons having a legal interest in the cause on appeal sufficient to raise a substantial question 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 persons; (B) the case names and docket numbers of all pending appeals to the supreme court or appellate court which arise from substantially the same controversy as the cause on appeal, or involve issues closely related to those presented by the appeal; (C) whether there were exhibits in the trial court; and (D) in criminal cases, the defendant's conviction(s) and sentence(s) that are the subject of the appeal, and whether the defendant is incarcerated as a result of the proceedings in which the appeal is being filed. If additional information is or becomes known to, or is reasonably ascertainable by the appellee, the appellee shall file a docketing statement supplementing the information required to be provided by the appellant.

When an appellant or an appellee is aware that one or more appellees have no interest in participating in the appeal, the appellant and any other appellees may be relieved of the requirement of certifying copies of filings to those appellees by designating the nonparticipating appellee(s) in a section of the docketing statement named "Nonparticipating Appellee(s)." This designation shall indicate that if no docketing statement in disagreement is filed, subsequent filings will not be certified to those appellees.

If an appellee disagrees with the nonparticipating designation, that appellee shall file a docketing statement indicating such disagreement within twenty days of the filing of that designation. All documents filed on or before the expiration of the time for an appellee to file a docketing statement in disagreement as stated above shall be delivered pursuant to Section 62-7 (b) to all counsel of record. If no docketing statement in disagreement is filed, subsequent filings need not be certified to nonparticipating appellees.

(4) In all noncriminal matters, except for matters exempt from a preargument conference pursuant to Section 63-10, a preargument conference statement.

(5) A constitutionality notice, in all noncriminal cases where the constitutionality of a statute has been challenged. Said notice shall identify the statute, the name and address of the party challenging it, and whether the statute's constitutionality was upheld by the trial court. The appellate clerk shall deliver a copy of such notice to the attorney general. This section does not apply to habeas corpus matters based on criminal convictions, or to any case in which the attorney general is a party, has appeared on behalf of a party, or has filed an amicus brief in proceedings prior to the appeal.

(6) In matters in which documents are under seal, conditionally or otherwise, or limited as to disclosure, a notice identifying [a copy of] the time, date, scope and duration of the sealing order with a copy of the order [form (JD-CL-76)]. (See Section 77-2.)

(b) Except as otherwise provided, a party may as of right file amendments to the preliminary statement of issues at any time until that party's brief is filed. Amendments to the docketing statement may be filed at any time. Amendments to the transcript statement may be made only with leave of the court. If leave to file such an amendment is granted, the adverse party shall have the right to move for permission to file a supplemental brief and for an extension of time. Amendments

to the preargument conference statement shall not be presented in writing but may be presented orally at the preargument conference, if one is held.

(c) Failure to comply with this rule shall be deemed as sufficient reason to schedule a case for sanctions under Section 85-3 or for dismissal under Section 85-1.

## CHAPTER 71 APPELLATE JUDGMENTS AND OPINIONS

### **Sec. 71-4. Opinions; Rescripts; Official Release Date**

(a) 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 [send a copy] of the opinion and send a copy of the rescript to the clerk of the trial court, and shall make [send] 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) The official opinion[s] 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 [are the official opinions. The appellate clerk is authorized to furnish official copies of those opinions and, until the bound volumes are published, of the opinions as they appear] in the Connecticut Law Journal.

### **Sec. 71-5. Motions for Reconsideration; Motions for Reconsideration En Banc**

A motion for reconsideration will not be entertained unless filed with the appellate clerk within ten days from the date when the decision or any order being challenged is officially released. Any required fees shall be paid in accordance with the provisions of Sections 60-7 or 60-8. A fee shall not be required for a motion for reconsideration when either (1) no fee was required to file the appeal, or (2) the movant was granted a waiver of fees to file the appeal.

The motion for reconsideration shall state briefly the grounds for requesting reconsideration.

A party may also request reconsideration en banc by placing "en banc" in the caption of the motion and requesting such relief as an alternative to reconsideration by the panel.

Whenever reconsideration en banc is sought, the motion shall state briefly why reconsideration en banc is necessary (for example, to secure or maintain uniformity of decision or because of the importance of the decision) and shall also state the names of the decisions, if any, with which the decision conflicts. A motion for reconsideration shall be treated as a motion for reconsideration en banc when any member of the court which decided the matter will not be available, within a reasonable time, to act on the motion for reconsideration.

## CHAPTER 72 WRITS OF ERROR

### **(NEW) Sec. 72-3A. Stays**

Except where otherwise provided by statute or other law, proceedings to enforce or carry out the judgment or order that is challenged in the writ of error shall be automatically stayed for twenty days and if the writ is timely allowed and signed, the stay shall continue until the return date set forth in the writ. If a writ of error is timely filed, such proceedings shall be stayed until the final determination of the writ. If the writ goes to judgment in the supreme court or appellate court, any stay

thereafter shall be in accordance with Section 71-6 (motions for reconsideration), Section 84-3 (petitions for certification by the Connecticut supreme court), and Section 71-7 (petitions for certiorari by the United States supreme court). The automatic stay only applies to proceedings to enforce or carry out the judgment or order that is being challenged in the writ of error and does not stay any other trial court proceedings. There shall be no automatic stay if a writ of error is filed challenging an order of civil contempt, summary criminal contempt or any decisions under Section 61-11 (b) and (c) in accordance with the rules for appeals.

Any aggrieved nonparty plaintiff in error or defendant in error or a party may file a motion to terminate or impose a stay in matters covered by this section, either before or after the judgment or order is rendered, based upon the existence of a writ of error. Such a motion shall be filed in accordance with the procedures in Section 61-11 (d) and (e) or Section 61-12. Whether acting on a motion of a party, a nonparty plaintiff in error or defendant in error or sua sponte, the judge shall hold a hearing prior to terminating the automatic stay.

In a family matter the trial judge shall consider: (1) the needs and interests of the parties, their children and any other persons affected by such order; (2) the potential prejudice that may be caused to the parties, their children and any other persons affected, if a stay is entered, not entered or is terminated; (3) the need to preserve the rights of the nonparty bringing the writ of error to obtain effective relief if the writ is successful; (4) the effect, if any, of the automatic orders under Section 25-5 on any of the foregoing considerations; and (5) any other factors affecting the equities of the parties and aggrieved nonparties. The judge who entered the order in a family matter from which a writ of error is brought may terminate any stay in that matter upon motion of a party or nonparty or sua sponte, after considering the factors set forth above.

COMMENTARY—This new rule makes it clear that only the order or proceeding being challenged, and not the entire underlying action, is stayed upon the timely and proper filing of a writ of error. It also sets forth the procedures for terminating or imposing a stay.

### CHAPTER 73 RESERVATIONS

#### Sec. 73-4. Briefs, Appendices and Argument

Briefs and appendices filed by the parties shall conform to the rules set forth in Chapter 67[.], except that the parties shall file initial briefs and appendices within forty-five days of issuance of the notice of an order of preliminary acceptance. A party wishing to file a reply brief must do so within twenty days of the filing of the last initial brief. Extensions of time will not be granted except for extraordinary cause.

Oral argument shall be as provided in Chapter 70, unless otherwise ordered by the court.

### CHAPTER 82 CERTIFIED QUESTIONS TO OR FROM COURTS OF OTHER JURISDICTIONS

#### Sec. 82-6. Briefs, Appendices, Assignment and Argument

Briefs and appendices filed by the parties shall conform to the rules set forth in Chapter 67, except that the parties shall file initial [simultaneous] briefs and appendices within forty-five days of issuance of the notice of an order of preliminary acceptance. [The parties may file simultaneous] A party wishing to file a reply brief[s] must do so within twenty days [thereafter] of the filing of the last initial brief. Extensions of time will not be granted except for extraordinary cause. The

supreme court may assign certified questions without the matter appearing on the docket and before reply briefs are filed.

Oral argument shall be as provided in Chapter 70, unless otherwise ordered by the court.

**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.

(b) All petitions for certification to appeal shall be filed and all fees paid in accordance with the provisions of Sections 60-7 or 60-8. The petition for certification will be docketed upon filing but may be returned by the appellate clerk or rejected by the court upon review for compliance 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.

[If no fee was required to file the initial appeal, no fee is required for the petition.]  
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, 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.

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