

**Practice Book Revisions
to the Rules of Appellate Procedure
Being Considered by the
Justices of the Supreme Court and
Judges of the Appellate Court**

**Including Commentaries to Proposals
April 27, 2021**

NOTICE

**Public Hearing on Practice Book Revisions
to the Rules of Appellate Procedure
Being Considered by the Justices of the Supreme Court and
Judges of the Appellate Court**

On May 17, 2021, at 2 p.m., a public hearing will be conducted pursuant to General Statutes § 51-14 (c) for the purpose of receiving comments concerning revisions to the Rules of Appellate Procedure, which are being considered by the Justices and Judges, and that were adopted by the Justices and Judges on an interim basis, as well as any proposed new rule or any change to an existing rule that any member of the public deems desirable. The revisions proposed by the Advisory Committee on Appellate Rules follow this notice and are posted on the Judicial Branch website at <http://www.jud.ct.gov/pb.htm>.

Due to the ongoing pandemic, the public hearing will be conducted electronically using *Microsoft Teams* communication and collaboration platform. Individuals who would like to access the public hearing in order to speak at the hearing may do so by clicking [here](#). The public hearing will also be broadcast on the Judicial Branch's YouTube channel. Individuals who wish to view the public hearing but who do not wish to speak, may do so by clicking [here](#).

For every individual who wishes to access and speak at the public hearing, it is important that certain procedures be followed. All individuals who access the public hearing must at all times act in a professional and respectful manner. Any individual whose conduct is deemed by

the co-chairs to be disruptive or inappropriate will be removed from the public hearing.

Individuals who would like to speak at the public hearing should access the hearing one-half hour before the hearing begins in order to be recognized and queued to speak. Each speaker will be allowed a maximum of five minutes to offer their remarks. Anyone who believes that they may need to exceed the five minute limit or who does not wish to speak at the public hearing but wishes to offer comments on the proposed revisions may submit their comments to the co-chairs of the Advisory Committee on Appellate Rules by e-mail to Attorney Jill Begemann at Jill.Begemann@connapp.jud.ct.gov or by forwarding their comments to the co-chairs at the following address:

Co-Chairs of the Advisory Committee on Appellate Rules
Attn: Attorney Jill Begemann
Connecticut Appellate Court
75 Elm Street
Hartford, CT 06106

All comments should be received by May 11, 2021.

Hon. Gregory T. D'Auria

Hon. Eliot D. Prescott

Co-Chairs, Advisory Committee on Appellate Rules

INTRODUCTION

The following are amendments to the Rules of Appellate Procedure that are being considered by the Justices of the Supreme Court and Judges of the Appellate Court. 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 2022 edition of the Practice Book becomes available.

CHAPTER AND SECTION HEADINGS OF THE RULES

RULES OF APPELLATE PROCEDURE

**CHAPTER 61
REMEDY BY APPEAL**

- Sec.
61-7. Joint and Consolidated Appeals
61-14. Review of Order concerning Stay; When Stay May Be Requested from Court Having Appellate Jurisdiction
-

**CHAPTER 62
CHIEF JUDGE, APPELLATE CLERK AND DOCKET: GENERAL ADMINISTRATIVE MATTERS**

- Sec.
62-7. Matters of Form; Filings; Delivery and Certification to Counsel of Record
62-8A. Attorneys of Other Jurisdictions Participating Pro Hac Vice on Appeal
-

**CHAPTER 63
FILING THE APPEAL; WITHDRAWALS**

- Sec.
63-4. Additional Papers To Be Filed by Appellant and Appellee Subsequent to the Filing of the Appeal
63-8. Ordering and Filing of Paper Transcripts
63-10. Preargument Conferences
-

**CHAPTER 66
MOTIONS AND OTHER PROCEDURES**

- Sec.
66-6. Motion for Review; In General
-

**CHAPTER 67
BRIEFS**

- Sec.
67-1. Brief and Appendix

- 67-2. Format of Paper Briefs and Appendices for Filers Excluded or Exempt from Electronic Filing Pursuant to Section 60-8; Copies]; Electronic Briefing Requirement]
- 67-2A. Format of Electronic Briefs and Party Appendices; Copies **(NEW)**
- 67-3. Page Limitations; Time for Filing Briefs and Appendices
- 67-3A. Word Limitations; Time for Filing Electronic Briefs and Party Appendices **(NEW)**
- 67-5A. The Reply Brief **(NEW)**
- 67-7A. The Amicus Curiae Electronic Brief **(NEW)**
- 67-8. The Party Appendix]; Contents and Organization]

CHAPTER 68
CASE FILE AND CLERK APPENDIX

- Sec.
- 68-1. Responsibilities of Clerk of the Trial Court regarding Copying Case File and Additions to Case File Made after Appeal Is Filed; Exhibits and Lodged Records
- 68-2A. Assembly of the Clerk Appendix **(NEW)**
- 68-3A. Clerk Appendix Contents **(NEW)**
- 68-4A. Clerk Appendix Format **(NEW)**
- 68-5A. Clerk Appendix when More than One Appeal **(NEW)**
- 68-6A. Clerk Appendix when Several Cases Present Same Question **(NEW)**
- 68-8A. Supplements **(NEW)**
- 68-10A. Clerk Appendix in Administrative Appeals; Exceptions **(NEW)**
- 68-11A. Decision To Be Part of Clerk Appendix **(NEW)**

CHAPTER 77
PROCEDURES CONCERNING COURT CLOSURE AND SEALING ORDERS OR ORDERS LIMITING THE DISCLOSURE OF FILES, AFFIDAVITS, DOCUMENTS OR OTHER MATERIAL

- Sec.
- 77-1. Petition for Review Seeking Expedited Review of an Order concerning Court Closure, or an Order That Seals or Limits the Disclosure of Files, Affidavits, Documents or Other Material

CHAPTER 84
APPEALS TO SUPREME COURT BY CERTIFICATION FOR
REVIEW

Sec.

84-2. Basis for Certification

84-5. Form of Petition

84-6A. Petitions, Responses and Statements in Opposition in Family and Child Protection Matters and Other Matters Involving Minor Children **(NEW)**

CHAPTER 84a
MATTERS WITHIN SUPREME COURT'S ORIGINAL JURISDICTION
IN WHICH FACTS MAY BE FOUND

Sec.

84a-2. Procedure for Filing Original Jurisdiction Action; Pleadings and Motions

**AMENDMENTS TO THE
RULES OF APPELLATE PROCEDURE
CHAPTER 61
REMEDY BY APPEAL**

Sec. 61-7. Joint and Consolidated Appeals

(a) (1) Two or more plaintiffs or defendants in the same case may appeal jointly or severally. Separate cases heard together and involving at least one common party may as of right be appealed jointly, provided all the trial court docket numbers are shown on the appeal form (JD-SC-033).

(2) Prior to the filing of an appeal, the trial court, on motion of any party or on its own motion, may order that a joint appeal be filed in any situation not covered by the preceding paragraph.

(3) In the case of a joint appeal, only one entry fee is required. The appellant filing the appeal shall pay the entry fee. When additional appellants are represented by other counsel or are self-represented, a single joint appeal consent form (JD-SC-035) signed by all joint appellants shall be filed on the same business day the appeal is filed.

(b) (1) The Supreme Court, on motion of any party or on its own motion, may order that appeals pending in the Supreme Court be consolidated.

(2) When an appeal pending in the Supreme Court involves the same cause of action, transaction or occurrence as an appeal pending in the Appellate Court, the Supreme Court may, on motion of any party or on its own motion, order that the appeals be consolidated in the Supreme Court. The court may order consolidation at any time before the assignment of the appeals for hearing.

(3) The Appellate Court, on motion of any party or on its own motion, may order that appeals pending in the Appellate Court be consolidated.

(4) There shall be no refund of fees if appeals are consolidated.

(c) Whenever appeals are jointly filed or are consolidated, all appellants shall file a single, consolidated brief and appendix, and a single, consolidated reply brief, if any. All appellees shall file a single, consolidated brief or, if applicable, a single, consolidated brief and appendix. If the parties cannot agree upon the contents of the brief, reply brief or [and] appendix, or if the issues to be briefed are not common to the joint parties, any party may file a motion for permission to file a separate brief, reply brief or [and] appendix.

COMMENTARY: The purpose of these amendments is to clarify that whenever appeals are jointly filed or are consolidated, appellants shall file a single, consolidated reply brief, if any. In addition, the amendments provide that any party may file a motion for permission to file a separate reply brief under certain circumstances.

Sec. 61-14. Review of Order concerning Stay; When Stay May Be Requested from Court Having Appellate Jurisdiction

The sole remedy of any party desiring the court to review an order concerning a stay of execution shall be by motion for review under Section 66-6. Execution of an order of the court terminating a stay of execution shall be stayed for ten days from the issuance of notice of the order, and if a motion for review is filed within that period, the order shall be stayed pending decision of the motion, unless the court having appellate jurisdiction rules otherwise. Any stay of proceedings that was in effect during the pendency of the motion for review shall

continue, unless the court having appellate jurisdiction rules otherwise, until the time for filing a motion for reconsideration under Section 71-5 has expired. If such a timely motion for reconsideration is filed, any stay that was in effect shall continue until its disposition and, if it is granted, until the matter is finally determined.

A motion for extension of time to file a motion for review of a ruling concerning a stay of execution must be filed in the trial court but shall not automatically stay the execution after the ten days has expired, except that the trial judge may order a stay pending a ruling on the motion for extension of time.

A ruling concerning a stay is a judgment in a trial to the court for purposes of Section 64-1, and the trial court making such a ruling shall state its decision, either orally or in writing, in accordance with the requirements of that section.

In any case in which there is no automatic stay of execution and in which the trial court denies, or refuses to rule on, a motion for stay, an aggrieved party may file a motion requesting a stay of execution of the judgment from the court having appellate jurisdiction pending the filing of and ruling upon a motion for review. The motion must be filed with the appellate clerk.

COMMENTARY: The intent of this amendment is to codify the holding in *Wachovia Mortgage, FSB v. Toczek*, 189 Conn. App. 812, 820 n.5 (2019), that the language in Section 71-6 concerning the continuation of a stay until the time for reconsideration has passed necessarily applies to stays under this section, as Section 71-6 applies to any stay of proceedings.

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

**Sec. 62-7. Matters of Form; Filings; Delivery and Certification
to Counsel of Record**

(a) It is the responsibility of counsel of record to file papers in a timely manner and in the proper form. The appellate clerk may return any papers filed in a form not in compliance with these rules; in returning, the appellate clerk shall indicate how the papers have failed to comply. The clerk shall note the date on which they were received before returning them, and shall retain an electronic copy thereof. Any papers correcting a timely, noncomplying filing shall be deemed to be timely filed if a complying document is refiled with the appellate clerk within fifteen days of the official notice date, which is the notice date indicated on the return form. The official notice date is not the date the return form is received. Subsequent returns for the same filing will not initiate a new fifteen day refiling period. The time for responding to any such paper shall not start to run until [the correcting] a complying paper is filed.

(b) All papers except the transcript and regulations filed pursuant to Section 81-6 shall contain: (1) certification that a copy has been delivered to each other counsel of record, except as provided in Section 63-4 (a) (3), which certification shall include names, addresses, e-mail addresses, and telephone numbers; (2) certification that the document has been redacted or does not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute,

court order or case law; and (3) certification that the document complies with all applicable Rules of Appellate Procedure.

Electronic papers shall contain a certification as set forth in subsection (b) (1), but filers can comply with the certification requirements set forth in subsections (b) (2) and (b) (3) during the electronic filing process. Any request to deviate from the requirement regarding personal identifying information shall be filed with the appellate clerk pursuant to Section 67-2 (k). Briefs and appendices require additional certifications pursuant to Section 67-2 (g) and (i). Other certifications may be required by the rules under which specific documents are filed.

(c) Any counsel of record who files a document electronically with the court must deliver it electronically to all other counsel of record, except as provided in Section 63-4 (a) (3), unless the intended recipient has notified the appellate clerk and all other counsel of record in writing that the recipient declines to accept electronic delivery of documents or the intended recipient is exempt from the requirements of electronic filing pursuant to Section 60-8. Any counsel of record who has signed an electronically filed document shall be deemed to have consented to electronic delivery under this section. Delivery by e-mail is complete upon sending the electronic notice unless the party sending notice learns that the attempted delivery did not reach the e-mail address of the intended recipient.

If the intended recipient has declined to accept electronic delivery or is exempt from the requirements of electronic filing, a document may be delivered to counsel of record by hand or by first class or express mail delivered by the United States Postal Service or an

equivalent commercial service, postage prepaid, to the last known address of the intended recipient.

COMMENTARY: The purpose of these amendments is to codify the policy of the Supreme and Appellate Courts that a timely filed document returned by the appellate clerk is deemed timely if corrected within fifteen days of the official notice date, and that a party is not entitled to successive fifteen day periods to file a complying document.

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 and without paying the filing fee. 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, on form JD-CL-141, Application for Permission for Attorney to Appear Pro Hac Vice in a Court Case, 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 on form JD-CL-143, Affidavit of Attorney Seeking Permission to Appear Pro Hac Vice

(A) [stating whether an application was filed pursuant to Section 2-16 in the Superior Court and, if so, the disposition of said application] providing the full legal name of the applicant with contact information, including firm name, business mailing address, telephone number and e-mail address, as applicable;

(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 the client security fund fee due for the calendar year in which the application is made;

(D) 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;

(E) 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;

(F) 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] 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 as well as any previously assigned juris number;

(G) [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; and provided] stating the number of applications previously filed in the Superior Court pursuant to Section 2-16 and whether any of those applications were denied and the reason for that denial;

(H) 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

(2) The filing fee shall be paid with the court for the application submitted pursuant to General Statutes § 52-259 (i); and

[(2) 3) 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. 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: These amendments update this section to correspond to new forms regarding applications to appear pro hac vice, for consistent use in both the Superior Court and the Supreme and Appellate Courts.

CHAPTER 63

FILING THE APPEAL; WITHDRAWALS

Sec. 63-4. Additional Papers To Be Filed by Appellant and Appellee Subsequent to the Filing of the 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 designation of the proposed contents of the clerk appendix that is to be prepared by the appellate clerk under Section 68-2A listing the specific documents docketed in the case file that the appellant deems are necessary to include in the clerk appendix for purposes of presenting the issues on appeal, including their dates of filing in the proceedings below, and, if applicable, their number as listed on the docket sheet. The appellant shall limit the designation to the documents referenced in Section 68-3A for inclusion in the clerk appendix. If any other party disagrees with the inclusion of any documents designated by the appellant, or deems it necessary to include other documents docketed in the case file in the clerk appendix, that party may, within seven days from the filing of the appellant's designation of the proposed contents of the clerk appendix, file its own designation of the proposed contents of the clerk appendix.

([2] 3) A certificate stating that no transcript is deemed necessary[,] or a [copy of the] transcript order [acknowledgment form (JD-ES-038) with section I thereof completed, filed with an] confirmation from the official court 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-038), which that party has placed in

compliance with Section 63-8] the appellant is to rely on any transcript delivered prior to the filing of the appeal, the transcript order confirmation shall indicate that an electronic version of a previously delivered transcript has been ordered.

[If the appellant is to rely on transcript delivered prior to the taking of the appeal, an order form (JDES-038) 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 deems any other parts of the transcript necessary that were not ordered by the appellant, that party shall, within twenty days of the filing of the appellant's transcript papers, file a transcript order confirmation for an order placed in compliance with Section 63-8. If [any other party is to rely on] the order is for any transcript delivered prior to the [taking] filing of the appeal, [an order form (JD-ES-038)] the transcript order confirmation shall [be filed within twenty days, stating] indicate that an electronic version of a previously delivered transcript has been ordered.

([3] 4) 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 a criminal protective order, civil protective order, or civil restraining order was requested or issued during any of the underlying proceedings; (D) whether there were exhibits in the trial court and, if so, whether the exhibits were physical, electronic or a combination thereof; and (E) in criminal and habeas cases, the defendant's or petitioner's conviction(s) and sentence(s) that are the subject of the direct criminal or habeas appeal and whether the defendant or petitioner is incarcerated. 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] 5) In all noncriminal matters, except for matters exempt from a preargument conference pursuant to Section 63-10, a preargument conference statement.

([5] 6) 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] 7) In matters in which documents are under seal, conditionally or otherwise, or limited as to disclosure, a notice identifying the time, date, scope and duration of the sealing order with a copy of the order. (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.

COMMENTARY: The purpose of these amendments is to conform this section to the new process for the ordering of electronic transcripts, consistent with the recent changes adopted by the Superior Court. The amendments also require the docketing statement to indicate whether exhibits in the trial court were physical, electronic or a combination thereof. Further, the amendments add a new subdivision requiring the appellant or other party to designate the proposed contents of the clerk appendix that is to be prepared by the appellate clerk pursuant to Section 68-2A.

Sec. 63-8. Ordering and Filing of Paper Transcripts

(a) [On or before the date of the filing of the Section 63-4 papers] Prior to the deadline for compliance with Section 63-4 (a) (2), the appellant shall, subject to Section 63-6 or 63-7 if applicable, order[, using form JD-ES-038,] from an official court reporter a transcript of the parts of the proceedings not already on file which the appellant

deems necessary for the proper presentation of the appeal. Such order shall specify the case name, docket number, judge's name(s), and hearing date(s), and include a brief, detailed statement describing the parts of the proceedings of which a transcript has been ordered. If any other party deems other parts of the transcript necessary that were not ordered by the appellant, that party shall, within twenty days from the filing of the appellant's transcript papers, similarly order those parts [in writing] from an official court reporter. Upon submission of a transcript order, the ordering party will be provided with an order confirmation that includes the information required above.

(b) A party shall promptly make satisfactory arrangements for payment of the costs of the transcript, pursuant to guidelines established by the chief court administrator. After those arrangements have been made, an official court reporter shall [deliver] provide to the ordering party [a written] an acknowledgment of the order, with an estimated date of delivery and [the] estimated number of pages in the transcript order. The ordering party shall file [it] the acknowledgment with the appellate clerk with certification pursuant to Section 62-7. [The official court reporter shall also immediately deliver a copy of the acknowledgment to court transcript services.] If the final portion of the transcript cannot be delivered on or before the estimated delivery date on the acknowledgment, the official court reporter will, not later than the next business day, [issue] provide to the ordering party an amended transcript order acknowledgment [form (JD-ES-38A)] with a revised estimated delivery date [and shall also immediately deliver a copy of the amended acknowledgment form to court transcript services]. The

ordering party shall file the amended acknowledgment form immediately with the appellate clerk with certification pursuant to Section 62-7.

(c) An official court reporter shall cause each court recording monitor involved in the production of the transcript to prepare a certificate of delivery stating the number of pages in the transcript and the date of its delivery to the party who ordered it. If delivery is by mail, the transcript shall be mailed first class certified, return receipt requested. The date of mailing is the date of delivery. If delivery is by hand, the court recording monitor shall obtain a receipt acknowledging delivery. The date of the receipt is the date of delivery. Each court recording monitor shall forward the certificates of delivery to the official court reporter [with a copy to court transcript services]. Upon receipt of all the certificates of delivery, the official court reporter shall deliver to the ordering party a certificate of completion stating the total number of pages in the entire transcript order and the date of final delivery of the transcript order. [The official court reporter shall also immediately deliver a copy of the certificate of completion to court transcript services.]

(d) Upon receipt of the certificate of completion from the official court reporter, the ordering party shall file with the appellate clerk the certificate of completion along with a certification that a copy of the certificate of completion has been delivered to all counsel of record in accordance with Section 62-7.

(e) (1) The appellant is required, either before or simultaneously with the filing of the appellant's brief, to file with the appellate clerk one unmarked, nonreturnable copy of the transcript, including a copy

of the official court reporter's certification page, ordered pursuant to subsection (a).

(2) All other parties are likewise required, either before or simultaneously with the filing of their briefs, to file those additional portions ordered pursuant to subsection (a) but shall not include the portions already filed by the appellant.

(3) The party filing the transcript shall provide the appellate clerk and all opposing counsel with a list of the number, and inclusive dates, of the volumes being filed. Form JD-CL-62, or one similar to it, should be used to satisfy this subsection.

COMMENTARY: The purpose of these amendments is to conform this section to the new process for the ordering of electronic transcripts, consistent with the recent changes adopted by the Superior Court.

Sec. 63-10. Preargument Conferences

The chief justice or the chief judge or a designee may, in cases deemed appropriate, direct that conferences of the parties be scheduled in advance of oral argument. All civil cases are eligible for preargument conferences except habeas corpus appeals, appeals involving juvenile matters, including child protection appeals as defined in Section 79a-1, summary process appeals, foreclosure appeals, and appeals from the suspension of a motor vehicle license due to operating under the influence of liquor or drugs.

In any exempt case, all parties appearing and participating in the appeal may file a joint request for a preargument conference. In a foreclosure case, the request for a preargument conference is sufficient if jointly submitted by the owner of the equity and the foreclosing party.

In any exempt case, however, the chief justice or the chief judge or a designee may, if deemed appropriate, order a preargument conference.

The chief justice may designate a judge of the Superior Court, a senior judge or a judge trial referee [or senior judge] to preside at a conference. The scheduling of or attendance at a preargument conference shall not affect the duty of the parties to adhere to the times set for the filing of briefs. Failure of counsel of record to attend a preargument conference may result in the imposition of sanctions under Section 85-2. Unless other arrangements have been approved in advance by the conference judge, parties shall be present at the conference site and available for consultation. When a party against whom a claim is made is insured, an insurance adjuster for such insurance company shall be available by telephone at the time of such preargument conference unless the conference judge, in his or her discretion, requires the attendance of the adjuster at the conference. The conference proceedings shall not be brought to the attention of the court by the presiding officer or any of the parties unless the conference results in a final disposition of the appeal.

The following matters may be considered:

- (1) Possibility of settlement;
- (2) Simplification of issues;
- (3) Amendments to the preliminary statement of issues;
- (4) Transfer to the Supreme Court;
- (5) Timetable for the filing of briefs;
- (6) En banc review; and

(7) Such other matters as the conference judge shall consider appropriate.

All matters scheduled for a preargument conference before a judge trial referee are referred to that official by the chief court administrator pursuant to General Statutes § 52-434a, which vests judge trial referees with the same powers and jurisdiction as Superior Court judges and senior judges, including the power to implement settlements by opening and modifying judgments.

COMMENTARY: This amendment allows the chief justice to designate a judge of the Superior Court, in addition to a senior judge or a judge trial referee, to preside at a preargument conference.

CHAPTER 66

MOTIONS AND OTHER PROCEDURES

Sec. 66-6. Motion for Review; In General

The court may, on written motion for review stating the grounds for the relief sought, modify or vacate any order made by the trial court under Section 66-1 (a); any action by the appellate clerk under Section 66-1 (c); any order made by the trial court, or by the workers' compensation commissioner in cases arising under General Statutes § 31-290a (b), relating to the perfecting of the record for an appeal or the procedure of prosecuting or defending against an appeal; any order made by the trial court concerning a stay of execution in a case on appeal; any order made by the trial court concerning the waiver of fees, costs and security under Section 63-6 or 63-7; or any order concerning the withdrawal of appointed appellate counsel pursuant to Section 62-9 (d). Motions for review shall be filed within ten days from

the issuance of notice of the order sought to be reviewed. Motions for review of the clerk's taxation of costs under judgments of the court having appellate jurisdiction shall be governed by Section 71-3.

If a motion for review of a decision depends on a transcript of evidence or proceedings taken by an official court reporter or court recording monitor, the moving party shall file with the motion either a transcript or a copy of the transcript order [form (JD-ES-038)] confirmation. The opposing party may, within one week after the transcript or the copy of the order [form] confirmation is filed by the moving party, file either a transcript of additional evidence or a copy of the order [form] confirmation for additional transcript. Parties filing or ordering a transcript shall order an electronic version of the transcript in accordance with Section 63-8A.

COMMENTARY: The purpose of these amendments is to conform this section to the new process for the ordering of electronic transcripts, consistent with the recent changes adopted by the Superior Court.

CHAPTER 67

BRIEFS

Sec. 67-1. Brief and Appendix

In any brief or appendix, the plaintiff and defendant shall be referred to as such rather than as the 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] be on 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.

COMMENTARY: The purpose of this amendment is to permit the requirements for the statement of issues to be applicable to both paper and electronic briefs.

Sec. 67-2. Format of Paper Briefs and Appendices for Filers Excluded or Exempt from Electronic Filing Pursuant to Section 60-8; Copies; Electronic Briefing Requirement]

(a) Briefs and party appendices, if any, shall be typewritten or clearly photocopied from a typewritten original on white 8 1/2 by 11 inch paper. Unless ordered otherwise, briefs shall be copied on one side of the page only. Party [A]appendices may be copied on both sides of the page. The page number for briefs and party appendices shall be centered on the bottom of each 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] fonts, of 12 point or larger size, are approved for use in briefs: arial and univers. Each page of a brief or party appendix shall have as a minimum the following margins: top, 1 inch; left, 1 and 1/4 inches; right, 1/2 inch; and bottom, 1 inch. Briefs and party 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.

(b) [When possible, parts one and two of the appendix shall be bound together. In addition, parts one and two of] [t]The brief and the party appendix, if any, may be bound together [with the brief]. When,

however, binding the brief and party appendix together would affect the integrity of the binding, the party appendix shall be bound separately from the brief. [When either part of the appendix exceeds one hundred and fifty 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).] The brief and party appendix, if any, shall include a single pagination scheme that starts on the cover page of the brief and continues throughout the entire document, on every page, including the cover and table of contents for the party appendix through to the last page of the party appendix. The page numbers shall be centered on the bottom of each page and shall be written as “Page X of XX” (e.g., Page 1 of 55 . . . Page 32 of 55 . . . Page 55 of 55). A[n] party 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 a[n] party 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) Briefs and separately bound party appendices, if any, shall have a suitable front cover of white 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.

(f) Briefs and separately bound party appendices, if any, must bear on the cover, in the following order, from the top of the page: (1) the name of the court; (2) the appellate docket number; (3) the appellate case name; (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); and (5) the name, address, telephone number and e-mail address of individual counsel who is to argue the appeal and, if different, the name, address, telephone number and e-mail address of the party's counsel of record. The foregoing shall be displayed in [the upper case of an] arial or univers [typeface] font of 12 point or larger size.

[(g) Counsel of record 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 brief and appendix shall be submitted electronically as separate documents. The electronic version shall be submitted prior to the timely filing of the party's paper brief and appendix pursuant to subsection (h) of this

section. Counsel of record 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.]

([h] g) If the appeal is in the Supreme Court, [~~fifteen~~] twelve legible photocopies of each brief and party appendix, if any, shall be filed with the appellate clerk. If the appeal is in the Appellate Court, [~~ten~~] eight legible photocopies of each brief and party appendix, if any, shall be filed with the appellate clerk.

([i] h) All copies of the brief filed with the Supreme Court or the Appellate Court must be accompanied by a: (1) certification that a copy of the brief and party appendix, if any, has been sent to each counsel of record 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 (g) of this section;] ([3] 2) 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, except for briefs filed pursuant to Section 79a-6; and ([4] 3) certification that the brief complies with all provisions of this rule. The certification that a copy of the brief and party appendix has been sent to each counsel of record in compliance with Section 62-7 may be signed by counsel of record or

the printing service, if any. All other certifications pursuant to this subsection shall be signed by counsel of record only.

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

[[k] i) Any request for deviation from the above requirements, including requests to deviate from the requirement to redact or omit personal identifying information or information that is prohibited from disclosure by rule, statute, court order or case law, shall be filed with the appellate clerk.

COMMENTARY: The purpose of these amendments is to clarify and update the requirements for paper briefs and appendices for filers excluded or exempt from electronic filing in light of the new rules regarding electronic briefs and party appendices. These amendments are also made for consistency with the electronic briefing rules. They also reduce the number of paper copies of briefs and party appendices required to be filed.

(NEW) Sec. 67-2A. Format of Electronic Briefs and Party Appendices; Copies

(a) Briefs filed under this rule shall include the words “Filed Under the Electronic Briefing Rules” at the top center of the cover of the brief. Briefs and party appendices, if any, shall be uploaded together as a text searchable single document. Bookmarks are required and must link to sections of the brief and to items included in the party appendix. Briefs shall include internal hyperlinks for citations to items included in the party appendix. External hyperlinks are not permitted.

Visual aids that comply with the guidelines published on the Judicial Branch website are permitted to be included in the brief. Additional formatting information and recommendations can be found in the guidelines published on the Judicial Branch website.

(b) Briefs shall be typed in 12 point Century Schoolbook or New Century Schoolbook font, including footnotes but excluding headings. Headings must be in 14 point Georgia or New Baskerville Book font. Margins shall be 1 and 1/2 inches on all sides. All text must be left aligned. Line spacing is 1.3x and must be uniform throughout, including the body of the document, footnotes, and block quotes. Bold face or italic emphasis tools shall be used in place of underlining. Sections shall be marked sequentially using numbers or letters (e.g., 1. Introduction, 2. Statement of the facts . . . 6. Conclusion; or A. Introduction, B. Statement of the facts . . . F. Conclusion).

(c) The brief and party appendix, if any, shall include a single pagination scheme that starts on the cover page of the brief and continues throughout the entire document, on every page, including the cover and table of contents for the party appendix through to the last page of the party appendix. The page numbers shall be centered on the bottom of each page and shall be written as “Page X of XX” (e.g., Page 1 of 55 . . . Page 32 of 55 . . . Page 55 of 55). The party appendix shall have an index of the names of witnesses whose testimony is cited within it. Any part of the testimony of a witness that is omitted 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) Two legible photocopies of each brief and party appendix, if any, shall be filed with the appellate clerk. The party appendix may be printed on both sides of a page. The brief and party appendix may be bound together or separately. No specific type or style of binding is required as long as the documents are securely bound.

(e) Briefs and separately bound party appendices, if any, must bear on the cover, in the following order, from the top of the page: (1) the name of the court; (2) the appellate docket number; (3) the appellate case name; (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); and (5) the name, address, telephone number and e-mail address of individual counsel who is to argue the appeal and, if different, the name, address, telephone number and e-mail address of the party's counsel of record. The foregoing shall be displayed in Century Schoolbook or New Century Schoolbook font of 12 point size.

(f) Counsel of record filing a brief shall submit the electronic version of the brief and party appendix, if any, in accordance with guidelines established by the court and published on the Judicial Branch website. The electronic version shall be submitted prior to the timely filing of the party's paper copies of the brief and party appendix pursuant to subsection (d) of this section.

(g) All electronic and paper copies of the brief submitted and filed with the Supreme Court or the Appellate Court must be accompanied

by a: (1) certification that a copy of the brief and party appendix, if any, has been sent electronically to each counsel of record in compliance with Section 62-7, except for counsel of record exempt from electronic filing pursuant to Section 60-8, to whom a paper copy of the brief and party appendix, if any, must be sent; (2) certification that the brief and party appendix being filed with the appellate clerk are true copies of the brief and party appendix that were submitted electronically pursuant to subsection (f) of this section; (3) certification that the brief and party 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, unless the brief is filed pursuant to Section 79a-6; (4) certification of the word count in the brief; (5) certification that the brief complies with all provisions of this rule; and (6) certification listing the approved deviations from this rule or that no deviations were requested/approved. The certification that a copy of the brief and party appendix has been sent to each counsel of record in compliance with Section 62-7 may be signed by counsel of record or the printing service, if any; and if copies are sent by a printing service, that certification is not required to be included in the electronic version of the brief and party appendix. All other certifications pursuant to this subsection shall be signed by counsel of record only.

(h) A copy of the electronic confirmation receipt indicating that the brief and party appendix, if any, were submitted electronically in compliance with subsection (f) of this section shall be filed with the paper briefs and party appendices.

(i) Any request for deviation from the above requirements, including requests to deviate from the requirement to redact or omit personal identifying information or information that is prohibited from disclosure by rule, statute, court order or case law, shall be filed with the appellate clerk.

COMMENTARY: The purpose of this new section is to define the requirements for the format and filing of electronic briefs and party appendices and related copying obligations. The two legible photocopies of each brief and party appendix, if any, to be filed with the appellate clerk under subsection (d) are simply reproductions of the electronic filings, and do not require any additional modifications.

Sec. 67-3. Page Limitations; Time for Filing Briefs and Appendices

Except as otherwise ordered, the brief of the appellant shall not exceed thirty-five pages and shall be filed with the appendix within forty-five days after the delivery date of the transcript ordered by the appellant. In cases where no transcript is required or the transcript has been received by the appellant prior to the filing of the appeal, the appellant's brief and appendix shall be filed within forty-five days of the filing of the appeal.

The delivery date of the paper—not electronic—transcript shall be used, where applicable, in determining the filing date of briefs.

Any party whose interest in the judgment will not be affected by the appeal and who intends not to file a brief shall inform the appellate clerk of this intent prior to the deadline for the filing of the appellee's brief. In the case of multiple appellees, an appellee who supports the

position of the appellant shall meet the appellant's time schedule for filing a brief.

Except as otherwise ordered, the brief of the appellee shall not exceed thirty-five pages, and shall be filed with any appendix within thirty days after the filing of the appellant's brief or the delivery date of the portions of the transcript ordered only by that appellee, whichever is later.

The appellant may [within twenty days after the filing of the appellee's brief] file a reply brief [which shall not exceed fifteen pages] in accordance with Section 67-5A.

Where there is a cross appeal, the brief and appendix of the cross appellant shall be combined with the brief and appendix of the appellee. The brief shall not exceed fifty pages and shall be filed with any appendix at the time the appellee's brief is due. The brief and appendix of the cross appellee shall be combined with the appellant's reply brief, if any. This brief shall not exceed forty pages and shall be filed within thirty days after the filing of the original appellee's brief. The cross appellant may [within twenty days after the filing of the cross appellee's brief] file a cross appellant's reply brief [which shall not exceed fifteen pages] in accordance with Section 67-5A.

Where cases are consolidated or a joint appeal has been filed, the brief of the appellants and that of the appellees shall not exceed the page limitations specified above.

All page limitations shall be exclusive of appendices, the statement of issues, the table of authorities, the table of contents, and, in the case of an amicus brief, the statement of the interest of the amicus

curiae required by Section 67-7. The last page of a brief shall likewise not be counted if it contains only the signature of counsel of record.

Briefs shall not exceed the page limitations set forth herein except by permission of the chief justice or chief judge. Requests for permission to exceed the page limitations shall be filed with the appellate clerk, stating both the compelling reason for the request and the number of additional pages sought.

Where a claim relies on the state constitution as an independent ground for relief, the clerk shall, upon request, grant an additional five pages for the appellant and appellee briefs, [and an additional two pages for the reply brief,] which pages are to be used for the state constitutional argument only.

COMMENTARY: The purpose of these amendments is to condense this section and to conform it to the new Section 67-5A regarding reply briefs, and to clarify the time period for filing a reply brief when there are multiple appellees.

(NEW) Sec. 67-3A. Word Limitations; Time for Filing Electronic Briefs and Party Appendices

Except as otherwise ordered, the brief of the appellant shall not exceed 13,500 words. The brief shall be filed with the party appendix, if any, either within forty-five days after the delivery date of the transcript ordered by the appellant or forty-five days after the clerk appendix is sent to the parties, whichever is later. In cases where no transcript is required or the transcript has been received by the appellant prior to the filing of the appeal, the appellant's brief and party appendix, if any, shall be filed either within forty-five days of the filing of the appeal or

forty-five days after the clerk appendix is sent to the parties, whichever is later.

The delivery date of the paper—not electronic—transcript shall be used, where applicable, in determining the filing date of briefs.

Any party whose interest in the judgment will not be affected by the appeal and who intends not to file a brief shall inform the appellate clerk of this intent prior to the deadline for the filing of the appellee's brief. In the case of multiple appellees, an appellee who supports the position of the appellant shall meet the appellant's time schedule for filing a brief.

Except as otherwise ordered, the brief of the appellee shall not exceed 13,500 words, and shall be filed with any party appendix within thirty days after the filing of the appellant's brief or the delivery date of the portions of the transcript ordered only by that appellee, whichever is later.

The appellant may file a reply brief in accordance with Section 67-5A.

Where there is a cross appeal, the brief and party appendix, if any, of the cross appellant shall be combined with the brief and party appendix, if any, of the appellee. The brief shall not exceed 18,000 words and shall be filed with any party appendix at the time the appellee's brief is due. The brief and party appendix, if any, of the cross appellee shall be combined with the appellant's reply brief, if any. This brief shall not exceed 16,000 words and shall be filed within thirty days after the filing of the original appellee's brief. The cross appellant may file a cross appellant's reply brief in accordance with Section 67-5A.

Where cases are consolidated or a joint appeal has been filed, the brief of the appellants and that of the appellees shall not exceed the word limitations

specified above.

All word limitations shall be exclusive of party appendices, if any, the cover page, the table of contents, the table of authorities, the statement of issues, the signature block, certifications, and, in the case of an amicus brief, the statement of the interest of the amicus curiae required by Section 67-7 or 67-7A.

Briefs shall not exceed the word limitations set forth herein except by permission of the chief justice or chief judge. Requests for permission to exceed the word limitations shall be filed with the appellate clerk, stating both the compelling reason for the request and the number of additional words sought.

Where a claim relies on the state constitution as an independent ground for relief, the clerk shall, upon request, grant an additional 2000 words for the appellant and appellee briefs, and an additional 800 words for the reply brief, which words are to be used for the state constitutional argument only.

COMMENTARY: The purpose of this new section is provide for word limitations and outline the time periods for the filing of electronic briefs and party appendices. The time for filing the appellant's brief and party appendix, if any, is dependent on the delivery date of the transcript ordered by the appellant or when the clerk appendix is sent to the parties, whichever is later. If there is no transcript, or if the transcript has been received by the appellant prior to the filing of the

appeal, the time for filing the appellant's brief and party appendix, if any, is dependent on the date of the filing of the appeal or when the clerk appendix is sent to the parties. See Chapter 68.

(NEW) Sec. 67-5A. The Reply Brief

The appellant may file a reply brief, which should respond directly and succinctly to the arguments in the appellee's brief. The format of a reply brief shall be in accordance with Section 67-2.

The reply brief shall be filed within twenty days of the appellee's brief. If there are multiple appellees and they file separate briefs, then the time to file a reply brief shall run from the filing date of the last appellee's brief.

Except as otherwise ordered, the reply brief shall not exceed fifteen pages or 6500 words exclusive of the cover page, table of contents, table of authorities, the signature block of counsel of record, certifications and any appendix. Requests for permission to exceed fifteen pages or 6500 words shall be filed in accordance with Section 67-3 or 67-3A.

If there is a cross appeal, the cross appellant may file a reply brief as to the cross appeal in accordance with the requirements of this rule.

Where a claim relies on the state constitution as an independent ground for relief, the clerk shall, upon request, grant an additional two pages or 800 words for the reply brief, which pages or words are to be used for the state constitutional argument only.

COMMENTARY: This new section sets forth more generally the requirements for the reply brief in a separate rule, expanding on what is set forth in Section 67-3. In addition, it incorporates the requirement

that the reply brief respond directly and succinctly to the arguments in the appellee's brief.

(NEW) Sec. 67-7A. The Amicus Curiae Electronic Brief

(a) A brief of an amicus curiae in cases before the court on the merits may be filed only with the permission of the court unless Section 67-7A (f) applies. An application for permission to appear as amicus curiae and to file a brief shall be filed within twenty days after the filing of the brief of the party, if any, whom the applicant intends to support, and if there is no such party, then the application shall be filed no later than twenty days after the filing of the appellee's brief.

(b) The application shall state concisely the nature of the applicant's interest and the reasons why a brief of an amicus curiae should be allowed. The length of the brief shall not exceed 4000 words unless a specific request is made for a brief of more than that length. The application shall conform to the requirements set forth in Sections 66-2 and 66-3. The amicus application should specifically set forth reasons to justify the filing of a brief in excess of 4000 words. A party in receipt of an application may, within ten days after the filing of the application, file an objection concisely stating the reasons therefor.

(c) All briefs filed under this section shall comply with the applicable provisions of this chapter and shall set forth the interest of the amicus curiae.

(d) An amicus curiae may argue orally only when a specific request for such permission is granted by the court in which the appeal is pending.

(e) With the exception of briefs filed by the attorney general as provided by this rule, all briefs shall indicate whether counsel for a party wrote the brief in whole or in part and whether such counsel or a party contributed to the cost of the preparation or submission of the brief and shall identify those persons, other than the amicus curiae, its members or its counsel, who made such monetary contribution. The disclosure shall be made in the first footnote on the first page of text.

(f) Except for habeas corpus matters based on criminal convictions, if an appeal in a noncriminal matter involves an attack on the constitutionality of a state statute, the attorney general may appear and file a brief amicus curiae as of right. Any such appearance by the attorney general shall be filed no later than the date on which the brief of the party that the attorney general supports is filed, and the attorney general's brief will be due twenty days after the filing of the brief of the party that the attorney general supports.

COMMENTARY: This new section sets forth the requirements for the amicus curiae electronic brief.

Sec. 67-8. The Party Appendix [; Contents and Organization]

(a) [An] No party appendix is required in either a court or a jury case, except where an opinion is cited that is not officially published, in which case the text of the opinion must be included in the party appendix [shall be prepared in accordance with Section 67-2].

[(b) The appellant's appendix shall be divided into two parts.

(1) Part one of the appellant's appendix shall contain: a table of contents giving the title or nature of each item included; the docket

sheets, a case detail, or court action entries in the proceedings below; in chronological order, all relevant pleadings, including the operative complaint and any other complaint at issue, motions, requests, findings, and opinions or decisions of the trial court or other decision-making body (see Sections 64- 1 and 64-2); the signed judgment file, if applicable, prepared in the form prescribed by Section 6-2 et seq.; the appeal form, in accordance with Section 63-3; the docketing statement filed pursuant to Section 63-4 (a) (3); any relevant appellate motions or orders that complete or perfect the record on appeal; and, in appeals to the Supreme Court upon grant of certification for review, the order granting certification and the opinion or order of the Appellate Court under review.

A signed judgment file is not required in the following noncriminal matters: habeas corpus matters based on criminal convictions; pre- and postjudgment orders in matters claiming dissolution of marriage, legal separation or annulment; prejudgment remedies under chapter 903a of the General Statutes; and actions of foreclosure of title to real property.

In administrative appeals, part one of the appellant's appendix also shall meet the requirements of Section 67-8A (a). In criminal or habeas appeals filed by incarcerated self-represented parties, part one of the appendix shall be prepared by the appellee. See Section 68-1. In these appeals, the filing of an appendix by incarcerated self-represented parties shall be in accordance with subsection (c) of this rule.

(2) Part two of the appellant's appendix may contain any other portions of the proceedings below that the appellant deems necessary

for the proper presentation of the issues on appeal. Part two of the appellant's A party appendix may be used: (1) to include excerpts [of] from [lengthy] exhibits[.]; (2) to include excerpts from the transcripts deemed necessary by any parties pursuant to Section 63-4 (a) [(2)] (3)[.]; [provided that the transcript cover page and certification page are included,] (3) to provide other items from the proceedings below that a party deems necessary for the proper presentation of the issues on appeal; or (4) to comply with other provisions of the [Practice Book] rules of practice that require the inclusion of certain materials in the party appendix.

The transcript cover page and certification page must be included with any transcript excerpt. To reproduce a full transcript or [lengthy] exhibit when an excerpt would suffice, or to include portions of the proceedings below that are not necessary for the proper presentation of the issues on appeal, is a misuse of [an] a party appendix. Pursuant to Sections 67-2 (a) and 67-2A (a), briefs shall include internal hyperlinks for citations to items included in the party appendix.

[Where an opinion is cited that is not officially published, the text of the opinion shall be included in part two of the appendix.]

(b) The party appendix, if any, shall be prepared in accordance with Section 67-2 or Section 67-2A. A party appendix shall have at its beginning a table of contents of any items in it. If constitutional provisions, statutes, ordinances, regulations, or portions of the transcript are contained in a party 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) [The appellee's appendix should not include the portions of the proceedings below already included in the appellant's appendix. If the appellee determines that part one of the appellant's appendix does not contain portions of the proceedings below, the appellee shall include any such items that are required to be included pursuant to Section 67-8 (b) (1) in part one of its appendix. Where an appellee cites an opinion that is not officially published and is not included in the appellant's appendix, the text of the opinion shall be included in part two of the appellee's appendix. Part two of the appellee's appendix may also contain any other portions of the proceedings below that the appellee deems necessary for the proper presentation of the issues on appeal. If the appellee includes excerpts from the transcripts deemed necessary pursuant to Section 63-4 (a) (2) in the appendix, the transcript cover page and the certification page shall be included with the excerpts.

(d) In appeals where] All briefs and party appendices shall protect personal identifying information [is] as defined by Section 4-7, or other information protected by rule, statute, court order or case law[, and in]. A[a]ppeals that have been ordered sealed in part or in their entirety or are subject to limited disclosure [pursuant to] shall comply with Section 77-2[, all briefs and appendices shall be prepared in accordance with Section 67-2].

COMMENTARY: The purpose of these amendments is to set forth the requirements for a party appendix in light of the new rules regarding the clerk appendix. A party appendix, if any, is produced by a party and serves to supplement the clerk appendix. See Chapter 68. Slip

opinions issued by the Supreme or Appellate Court that have not yet been published in the Connecticut Law Journal need not be included in a party appendix.

CHAPTER 68

CASE FILE AND CLERK APPENDIX

Sec. 68-1. Responsibilities of Clerk of the Trial Court regarding Copying Case File and Additions to Case File Made after Appeal Is Filed; Exhibits and Lodged Records

(a) With the exception of those appeals in which the contents of the case file consist solely of papers filed by electronic means, the clerk of the trial court shall, within ten days of the filing of the appeal, prepare and forward to the appellate clerk one complete copy of the case file, including the case detail page for noncriminal cases and all written requests to charge. No omissions may be made from the case file except upon the authorization of the appellate clerk. The appellate clerk may direct the clerk of the trial court to prepare and to forward a case file in any other instance in which it is needed. The clerk of the trial court shall, within five days of the filing, forward to the appellate clerk one copy of all additions made to the case file after the initial preparation and transmittal of the case file.

Nothing in this section relieves the appellant and the appellee of their duty to comply with the party appendix requirements of Section 67-8.

[(b) (1) In criminal appeals filed by incarcerated self-represented parties, the clerk of the trial court shall forward to the Office of the Chief State's Attorney one complete copy of the case file and all written

requests to charge for use in preparing part one of the appendix pursuant to Section 67-8 (b).

(2) In habeas appeals filed by incarcerated self-represented parties, the clerk of the trial court shall forward to either the Office of the Chief State's Attorney or the Office of the Attorney General one complete copy of the case file, including the case detail page and all written requests to charge for use in preparing part one of the appendix pursuant to Section 67-8 (b).

(3) In criminal and habeas appeals filed by incarcerated self-represented parties, the Office of the Chief State's Attorney or the Office of the Attorney General and the clerk of the trial court may agree that the copy of the case file be provided by electronic means.]

[(c] b) Each document of the case file must be numbered, and the file must include a table of contents listing each item entered in the file according to its number.

[(d] c) In an appeal from an administrative agency, the papers returned by the agency to the trial court, even though annexed to and incorporated by reference in the answer, shall accompany the copy[ies] of the file that is numbered and indexed pursuant to subsection (b) [but need not be included in the copies of the file].

[(e] d) All exhibits in the trial court are deemed exhibits on appeal and are deemed in the custody of the appellate clerk while the appeal is pending. The appellate clerk shall notify the clerk of the trial court of the exhibits required by the court in which the appeal is pending. Within ten days of such notice, the clerk of the trial court shall transmit those exhibits to the appellate clerk accompanied by a list of all exhibits in the case. The clerk of the trial court shall notify all counsel of record

of the transmittal and provide them with a copy of the exhibit list. The provisions of this paragraph shall apply to records lodged pursuant to Section 7-4C.

COMMENTARY: The purpose of these amendments is to update the section with regard to the responsibilities of the clerk of the trial court and the copying of the case file in light of the new rules concerning the clerk appendix. The amendments eliminate the need for the clerk of the trial court to forward a copy of the case file to the Office of the Chief State's Attorney or the Office of the Attorney General in criminal and habeas appeals filed by self-represented parties who are incarcerated.

(NEW) Sec. 68-2A. Assembly of the Clerk Appendix

As soon as possible after the filing of the appeal and the delivery of the case file, the appellate clerk shall assemble the clerk appendix. After assembling the clerk appendix, the appellate clerk shall upload the clerk appendix in a searchable portable document format to the appellate file and deliver it to the parties.

COMMENTARY: This new section sets forth the requirements for the assembly of the clerk appendix by the appellate clerk. The clerk appendix is a file assembled by the appellate clerk that includes key documents pertaining to the case on appeal. These documents are consolidated for the convenience of the Supreme and Appellate Courts and the parties.

(NEW) Sec. 68-3A. Clerk Appendix Contents

The clerk appendix shall contain the oral or written decision that is the subject of the appeal, pleadings, motions, orders and other documents (but not memoranda of law) docketed in the case file that

are necessary for presenting the issues on appeal. The appellate clerk shall assemble the clerk appendix based on a review of the case file and the preliminary papers submitted by the parties pursuant to Section 63-4. The appellate clerk may confer with counsel and with the clerk of the trial court to determine the contents of the clerk appendix. Officer's returns, transcripts and exhibits shall not be included in the clerk appendix unless they had been annexed to a document docketed in the case file in the proceedings below. Nevertheless, exhibits annexed to a document docketed in the case file in the proceedings below may be excluded from the clerk appendix at the discretion of the appellate clerk. The contents of the clerk appendix in administrative appeals is governed by Section 68-10A.

COMMENTARY: This new section outlines the contents of the clerk appendix. The clerk appendix shall contain the oral or written decision that is the subject of the appeal, certain pleadings, the appeal form, the docketing statement filed pursuant to Section 63-4 (a) (4), any relevant appellate motions or orders that complete or perfect the record on appeal, and, in appeals to the Supreme Court upon the granting of certification for review, the order granting certification and the opinion or order of the Appellate Court under review. The contents of the clerk appendix is left to the discretion of the appellate clerk, working in conjunction with the parties, and the parties shall designate the proposed contents of the clerk appendix under Section 63-4 (a) (2).

(NEW) Sec. 68-4A. Clerk Appendix Format

The cover of the clerk appendix shall include the following in order from the top of the page: (1) the name of the court; (2) the appellate

docket number; and (3) the appellate case name. The appellate clerk shall prepare a table of contents giving the title or nature of each document included in the clerk appendix, along with the corresponding page number on which the document begins. The pages of the clerk appendix shall be numbered sequentially. The date when each paper contained in the clerk appendix was filed must be stated.

COMMENTARY: This new section sets forth the formatting requirements for the clerk appendix.

(NEW) Sec. 68-5A. Clerk Appendix when More than One Appeal

When more than one appeal is taken from the same trial court docket number, the appellate clerk has the discretion to assemble only one clerk appendix.

COMMENTARY: This new section provides the appellate clerk with discretion to assemble only one clerk appendix when more than one appeal is taken from the same trial court docket number.

(NEW) Sec. 68-6A. Clerk Appendix when Several Cases Present Same Question

In the discretion of the appellate clerk, if several cases are pending in which the same question of law is presented, whether between the same or different parties, such clerk may assemble only one clerk appendix.

COMMENTARY: This new section provides the appellate clerk with discretion to assemble only one clerk appendix when several cases present the same question of law.

(NEW) Sec. 68-8A. Supplements

After the clerk appendix has been filed, the appellate clerk may supplement the clerk appendix as needed and shall upload any supplement to the appellate file and deliver it to the parties.

COMMENTARY: This new section authorizes the appellate clerk to supplement the clerk appendix after it has been assembled and sets forth the process for supplementation.

(NEW) Sec. 68-10A. Clerk Appendix in Administrative Appeals; Exceptions

(a) If not already included in the copy of the case file pursuant to subsection (c), in appeals from administrative agencies, the clerk appendix shall include the part of the return of the administrative agency which identifies the papers returned to the trial court, and also such of the papers returned as consist of (1) the application or appeal to the agency; (2) the notice of hearing and the affidavit of publication, if they are at issue in the appeal; and (3) any minutes or decision showing the action taken by the agency, the reasons assigned for that action and any findings and conclusions of fact made by the agency. The clerk appendix shall also contain such other portions of the returned agency record as the appellate clerk finds are needed for the proper presentation of any of the issues on appeal. Relevant portions of the record before the agency returned by it to the trial court but not included in the clerk appendix should be reproduced in the brief or party appendix as provided in Section 67-8.

(b) The party appendix, if any, shall be prepared in accordance with the provisions of Section 67-8.

(c) Subsection (a) shall not apply to the following administrative appeals:

(1) Appeals from municipal boards of tax review filed pursuant to General Statutes §§ 12-117a and 12-119.

(2) Appeals from municipal assessors filed pursuant to General Statutes § 12-103.

(3) Appeals from the Commissioner of Revenue Services.

(4) Appeals from the insurance commissioner filed pursuant to General Statutes § 38a-139.

(5) Any other appeal in which the parties received a trial de novo in the Superior Court.

The clerk appendix in these matters shall be assembled pursuant to the rules applicable to the clerk appendix in ordinary civil actions.

COMMENTARY: This new section outlines the contents of the clerk appendix in administrative appeals and lists the types of administrative appeals to which the section does not apply.

(NEW) Sec. 68-11A. Decision To Be Part of Clerk Appendix

The oral or written decision that is the subject of the appeal shall be included as part of the clerk appendix. See Sections 64-1 and 64-2.

COMMENTARY: This new section requires that the oral or written decision that is the subject of the appeal be included as part of the clerk appendix.

CHAPTER 77
PROCEDURES CONCERNING COURT CLOSURE AND SEALING
ORDERS OR ORDERS LIMITING THE DISCLOSURE OF FILES,
AFFIDAVITS, DOCUMENTS OR OTHER MATERIAL

Sec. 77-1. Petition for Review Seeking Expedited Review of an Order concerning Court Closure, or an Order That Seals or Limits the Disclosure of Files, Affidavits, Documents or Other Material

(a) Except as provided in subsection (b), any person affected by a court order which prohibits the public or any person from attending any session of court, or any order that seals or limits the disclosure of files, affidavits, documents or other material on file with the court or filed in connection with a court proceeding, may seek review of such order by filing a petition for review with the Appellate Court within seventy-two hours after the issuance of the order. The petition shall fully comply with Sections 66-2 and 66-3. The petition shall not exceed ten pages in length, exclusive of the appendix, except with special permission of the Appellate Court. An appendix containing the information or complaint, the answer, all motions pertaining to the matter, the opinion or orders of the trial court sought to be reviewed, a list of all parties with the names, addresses, telephone numbers, e-mail addresses, and, if applicable, the juris number of their counsel, the names of all judges who participated in the case, and [a] an expedited transcript order confirmation [acknowledgment form (JD-ES-038)], shall be filed with the petition for review.

Any person filing a petition for review pursuant to this rule shall deliver a copy of the petition and appendix to (1) all parties to the case and (2) any nonparty who sought the closure order or order sealing or limiting disclosure in compliance with the provisions of Section 62-7 on the same day as the petition is filed. Any party or nonparty who sought such order may file a response to the petition for review within ninety-six hours after the filing of the petition for review. Failure to file a response shall not preclude the party or nonparty who sought the order under review from participating in the hearing on the petition. Within one business day of the receipt of the transcript and the certificate of completion provided for by Section 63-8 (c), the person filing the petition for review shall file the transcript and the certificate of completion with the Appellate Court.

The filing of any petition for review of a court order which prohibits the public or any person from attending any session of court shall stay the order until the final determination of the review. The filing of any petition for review of an order that seals or limits the disclosure of files, affidavits, documents or other material on file with the court shall not stay the order during the review.

After the receipt of the transcript and the response to the petition, if any, the Appellate Court shall hold an expedited hearing on any petition for review. The appellate clerk will notify the petitioner, the parties and any nonparties who sought the closure order or order sealing or limiting disclosure of files, affidavits, documents or other material on file with the court or filed in connection with a court proceed-

ing of the date and time of the hearing. After such hearing the Appellate Court may affirm, modify or vacate the order reviewed.

(b) This section shall not apply to court orders concerning any session of court conducted pursuant to General Statutes § 46b-11, § 46b-49, § 46b-122, § 54-76h or any other provision of the General Statutes under which the court is authorized to close proceedings. This section also shall not apply to any order issued pursuant to General Statutes § 46b-11 or § 54-33c or any other provision of the General Statutes under which the court is authorized to seal or limit the disclosure of files, affidavits, documents or materials and any order issued pursuant to a court rule that seals or limits the disclosure of any affidavit in support of an arrest warrant.

COMMENTARY: The purpose of these amendments is to conform this section to the new process for the ordering of electronic transcripts, consistent with the recent changes adopted by the Superior Court.

CHAPTER 84

APPEALS TO SUPREME COURT BY CERTIFICATION FOR REVIEW

Sec. 84-2. Basis for Certification

Certification by the Supreme Court on petition by a party is not a matter of right but of sound judicial discretion and will be allowed only where there are special and important reasons therefor. The following, while neither controlling nor fully measuring the court's discretion, indicate the character of the reasons which will be considered:

(1) Where the Appellate Court has decided a question of substance not theretofore determined by the Supreme Court or has decided [it]

a question in a way probably not in accord with applicable decisions of the Supreme Court.

(2) Where the decision under review is in conflict with other decisions of the Appellate Court.

(3) Where the Appellate Court has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by any other court, as to call for an exercise of the Supreme Court's supervision.

(4) Where a question of great public importance is involved.

(5) Where the judges of the appellate panel are divided in their decision or, though concurring in the result, are unable to agree upon a common ground of decision.

COMMENTARY: This amendment was made for clarification purposes.

Sec. 84-5. Form of Petition

(a) A petition for certification shall contain the following sections in the order indicated here:

(1) A brief introduction providing context for the statement of the questions presented for review.

~~[(1)]~~ (2) A statement of the questions presented for review, expressed in the terms and circumstances of the case but without unnecessary detail. The Supreme Court will ordinarily consider only those questions squarely raised, subject to any limitation in the order granting certification.

[(2)] A statement of the basis for certification identifying the specific reasons, including but not limited to those enumerated in Section

84-2, why the Supreme Court should allow the extraordinary relief of certification.]

(3) A [summary] brief history of the case containing the facts material to the consideration of the questions presented, [reciting] including the disposition of the matter in the Appellate Court, and [describing specifically] if applicable, a specific description of how the Appellate Court decided the questions presented for review in the petition.

(4) A concise argument [amplifying the reasons relied upon to support the petition] expanding on the bases for certification, as presented in Section 84-2, and explaining why the Supreme Court should allow the extraordinary relief of certification. No separate memorandum of law in support of the petition will be accepted by the appellate clerk.

(5) An appendix, which shall be paginated separately from the petition with consecutively numbered pages preceded by the letter “A,” containing:

(A) a table of contents,

(B) the opinion or order of the Appellate Court sought to be reviewed,

(C) if the opinion or order of the Appellate Court was per curiam or a summary affirmance or dismissal, a copy of the trial court’s memorandum of decision that was entered in connection with the claim raised by the petitioner before the Appellate Court, or, if no memorandum was filed, a copy of the trial court’s ruling on the matter,

(D) a copy of the order on any motion which would stay or extend the time period for filing the petition,

(E) a list of all parties to the appeal in the Appellate Court with the names, addresses, telephone numbers, e-mail addresses, and, if applicable, the juris numbers of their trial and appellate counsel.

(b) The petition shall not exceed ten pages in length, exclusive of the appendix, except with special permission of the appellate clerk. The petition shall be typewritten and 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 be single spaced. Only the following two typefaces, of 12 point or larger size, are approved for use in petitions: arial and univers. Each page of a petition shall have as a minimum the following margins: top, 1 inch; left, 1 and 1/4 inches; right, 1/2 inch; and bottom, 1 inch.

COMMENTARY: The purpose of these amendments is to improve the format for petitions for certification.

(NEW) Sec. 84-6A. Petitions, Responses and Statements in Opposition in Family and Child Protection Matters and Other Matters Involving Minor Children

In family and child protection matters and other matters involving minor children, counsel for the minor child and/or counsel for the guardian ad litem shall, within ten days of the filing of the response or opposition to a petition for certification or, if no response or opposition is filed, within fifteen days of the filing of the petition, file either (1) a response, (2) a statement adopting the position of either the petitioner or a respondent or (3) a detailed statement that the factual or legal issues proposed in the petition for certification do not implicate the child's interests.

COMMENTARY: The purpose of this new section is to require counsel for minor children or counsel for guardians ad litem in matters involving minor children to file a response to or a statement of position in connection with a petition for certification.

CHAPTER 84a

MATTERS WITHIN SUPREME COURT'S ORIGINAL JURISDICTION IN WHICH FACTS MAY BE FOUND

Sec. 84a-2. Procedure for Filing Original Jurisdiction Action; Pleadings and Motions

An original jurisdiction action shall be filed in accordance with the procedures for filing an appeal as set forth in Section 63-3. Motions and any other documents prescribed in the rules of appellate procedure shall be filed in accordance with the rules of appellate procedure. [Thereafter,] In all other respects and unless otherwise ordered in a particular case, [the form of] pleadings and motions [prescribed in the rules of practice should be followed in an original action in the Supreme Court.] shall be filed in accordance with the Superior Court rules of procedure. [In other respects, those rules, when their application is appropriate,] which may be taken as a guide to procedure in an original action in this court.

COMMENTARY: These amendments clarify that, in an original jurisdiction action filed in the Supreme Court, motions and any other documents prescribed in the rules of appellate procedure are governed by the rules of appellate procedure rather than rules of procedure governing the Superior Court.
