

## AGENDA

Meeting of the Advisory Committee on Appellate Rules  
Thursday, April 6 at 2:00 p.m.

### I. OLD BUSINESS

- A. Approval of minutes of October 27, 2022.
- B. Whether to amend § 66-9 regarding disqualification of appellate jurists and propose an amendment to Rule 2.11 of the Code of Judicial Conduct regarding judicial disqualification.
- C. Whether to amend § 66-6 regarding the time for filing a motion for review.
- D. Whether to amend § 62-8 regarding appearances after a case is ready.

### II. NEW BUSINESS

- A. Whether to amend §§ 62-6 and 60-4 regarding the definition of "signature."
- B. Whether to amend § 60-7 regarding electronic filing and payment of fees.
- C. Whether to amend § 63-4 regarding additional papers to be filed by the appellant and appellee subsequent to the filing of the appeal.
- D. Whether to amend § 83-1 regarding certification pursuant to General Statutes § 52-265a in cases of substantial public interest.
- E. Whether to amend § 67-2 regarding paper briefs and appendices for filers excluded or exempt from electronic filing.
- F. Whether to amend § 67-2A regarding the format of electronic briefs and appendices.
- G. Whether to amend § 67-3A regarding the time for filing electronic briefs and party appendices and § 67-5A regarding reply briefs.
- H. Whether to amend §§ 66-2, 66-3, 67-7A, 77-1, 78-1, 78a-1, 78b-1, 81-2, 81-3, 84-5 and 84-6 regarding the procedures and word limits for filing motions, amicus briefs and applications, petitions for review, and petitions for certification.
- I. Whether to recommend a rule governing appellate intervention.

### III. ANY OTHER BUSINESS THAT MAY COME BEFORE THE COMMITTEE

### IV. NEXT MEETING

## Meeting of the Advisory Committee on Appellate Rules

Thursday, October 27, 2022

Justice D'Auria called the meeting to order at 2 p.m.

### **Members in attendance:**

Justice Gregory T. D'Auria, Co-Chair

Judge Eliot D. Prescott, Co-Chair

Attorney Jeffrey Babbín

Attorney Colleen Barnett

Attorney Jill Begemann

Attorney Jennifer Bourn

Attorney Carl Cicchetti

Attorney Richard Emanuel

Attorney Susan Hamilton

Attorney Paul Hartan

Attorney James Healey

Attorney Wesley Horton

Hon. Sheila Huddleston

Attorney Daniel J. Krisch

Attorney Eric Levine

Attorney Jessie Opinion

Attorney Joshua Perry

Attorney René Robertson

Attorney Giovanna Weller

### **Members not in attendance:**

Attorney Charles Ray

### **Additional Attendees:**

Attorney David Goshdigian

Attorney Andrew Redman

Attorney Timothy Sugrue

This meeting was held in the Attorney Conference Room at the Connecticut Supreme Court. Justice D'Auria welcomed Attorney Joshua Perry, solicitor general, and Attorney Tim Sugrue, acting supervisory assistant state's attorney, to the meeting.

## **I. OLD BUSINESS**

### **A. Approval of minutes of the April 7, 2022 meeting.**

Attorney Horton moved to approve the minutes. Attorney Krisch seconded. Attorney Babbín noted a typographical correction. The motion passed unanimously.

### **B. Whether to add § 66-9 regarding disqualification of appellate jurists and propose an amendment to Rule 2.11 of the Code of Judicial Conduct regarding judicial disqualification.**

Judge Prescott updated the committee on the progress of this proposal before the Rules Committee of the Superior Court. It is expected that this proposal will move forward. This matter was marked over to the Spring, 2023 meeting. If adopted, it is anticipated that the changes would be effective January 1, 2024.

### **C. Whether to amend § 67-8 regarding the party appendix.**

The committee revisited whether § 67-8 could be amended to require that parties provide the text of an unpublished opinion only when the opinion is "not available in either the LEXIS or Westlaw databases." It is unclear that either the LEXIS or Westlaw databases would be consistently accessible to the Court. The proposal was voted down.

## **II. NEW BUSINESS**

### **A. Whether to amend § 62-8 regarding appearances after a case is ready**

Attorneys Cicchetti and Robertson explained this proposal, which added the following sentence to the end of the rule: "Permission is not required to file an appearance with a different court." For recusal screening purposes, permission of the court is required to file an appearance after the matter is "ready." The proposal is intended to make it clear that permission is *not* required when the matter is no longer pending before the first court, even though there may be additional proceedings before the second court. Examples: permission is not required to file an appearance for the purpose of filing a motion for an extension of time to file a petition for certification to the Supreme Court; permission is not required to file an appearance in the Appellate Court when a matter is remanded from the Supreme Court for further proceedings. Several members thought the phrase "a different court" was confusing, and alternative word choices were discussed. The matter was tabled for the work group to revisit the proposal.

### **B. Whether to amend § 78b-1 regarding the ordering and payment of transcripts**

Judge Prescott explained that this rule was recently adopted to allow indigent persons to obtain appellate review of an order denying their fee waiver application to commence a civil or habeas corpus action. Attorney Cicchetti explained that this proposal was to eliminate the requirement that the moving party provide either a transcript or a transcript order confirmation when filing such a petition for review.

Attorney Horton moved to adopt the proposal. Attorney Krisch seconded. The motion passed unanimously.

### **C. Whether to repeal § 61-15 regarding the stay of execution in death penalty cases**

Attorney Horton moved to adopt the proposal. Attorney Krisch seconded. The motion passed unanimously.

### **D. Whether to amend § 66-6 regarding the time to file a motion for review**

Attorney Barnett explained that there was ambiguity in this rule as to when the ten days for filing a motion for review begins when the order is issued in connection with a motion that is filed in the trial court. Attorney Bourn expressed concern that the ten day time for

filing a motion for review would begin on a denied fee waiver application if "notice . . . is given in open court with the party seeking review present . . . ." The Office of the Public Defender may not necessarily be present, but the defendant would be, and the ten days may run before the OPD receives written notice from the trial court clerk. The "good cause for late filing" provision of § 66-3 was discussed to address this concern. Ultimately, the matter was tabled for further consideration by the work group with input from Attorney Bourn.

**E. Whether to amend §§ 66-6, 76-1, 76-2, 76-3, 76-4, 76-6 and 84-4 to replace "workers' compensation commissioner" with "administrative law judge"**

Judge Prescott explained that the Rules Committee of the Superior Court was handling this matter as a technical change consistent with amendments to the workers' compensation statutes. The committee offered no objection to proceeding in the same manner with the appellate rules.

**F. Whether to amend § 76-3 regarding Compensation Review Board files**

Attorney Cicchetti explained the additional proposal concerning § 76-3. Files in workers' compensation matters are transmitted to the appellate clerk electronically, so the phrase beginning ", if possible . . ." following "electronic copy of the file" was no longer needed.

Attorney Krisch moved to adopt the proposal. Attorney Horton seconded. The motion passed unanimously.

**G. Whether to amend § 63-8 and § 63-8A regarding ordering and filing of transcripts**

Attorney Robertson explained the proposal, which was to remove the requirement that parties file paper copies of transcripts with the appellate clerk. As a result, § 63-8A would be repealed, and several subsections of § 63-8 concerning delivery and filing of paper transcripts would be eliminated. Members of the committee inquired regarding the format of the official transcript delivered to the court by the official court reporter, and specifically suggested that it be in a searchable PDF format. Attorney Hartan indicated that he would follow-up with transcript services and report back to the committee at the next meeting. Attorney Babbitt noted that a change to these rules would also affect the briefing deadline rules. Attorney Robertson noted that this point was well taken, and an additional proposal would be prepared for the committee to consider at the Spring meeting.

Attorney Horton moved to adopt the proposal. Attorney Weller seconded. The motion passed unanimously.

**H. Discussion regarding the difference between joining in the brief of another and adopting the brief of another**

Justice D'Auria and Judge Prescott presented this as a discussion item. Under §§ 70-4 and 79a-9, only one who has filed a brief or "joined" the brief of another party may

argue. However, in child protection matters and other matters involving minor children, counsel for the minor child and/or counsel for the GAL may file a "statement adopting the position" of one of the parties. See §§ 67-13, 79a-6, 84-6A. Under the e-filing system, however, any party can file a "statement adopting the position" of another party. Query whether that is the same as "joining" the brief and whether such a statement entitles one to argument. Attorney Krisch inquired whether "adopting" the position of another party implicated Rule 3.3 of the Rules of Professional Conduct.

This item will be on the agenda for the Spring, 2023 meeting.

### **I. Whether to amend § 71-4 regarding the time for release of opinions**

Attorney Krisch presented this proposal, which required the Supreme and Appellate Courts to release an opinion in a case no later than 180 days after oral argument or submission on the briefs, barring exceptional circumstances. He discussed one example of a case that was argued twenty months ago in the Appellate Court and remains pending as of the date of this meeting. He argued that delay of this kind undermines public confidence in the judicial process and gives the appearance of delay for no good reason. Although he could not find an example of a state appellate court that had such a rule, there are states that impose consequences, including withholding judge's pay, for cases pending too long.

There was support on the committee for the animating principles behind the proposal, but not necessarily for the solution proposed. Attorney Weller discussed an alternative proposal, requiring the court to send notice to the parties at the 180-day mark indicating that the matter was still under consideration. Attorney Krisch indicated that this alternative would be better than nothing.

Judge Huddleston indicated that the rule as proposed would be unenforceable. The 120-day rule in the Superior Court has a consequence attached; a matter pending too long in the Supreme Court cannot be assigned to another panel. Attorney Sugrue indicated that the Division of Criminal Justice would not support this proposal.

Judge Prescott indicated that the appellate courts take procedural justice seriously. Parties before the court deserve to be heard and have a timely decision rendered so that they can order their lives. Some have argued that the Appellate Court should do away with "memorandum decisions" and write on every case. This might make litigants feel heard, but perhaps at the expense of timeliness. This is a challenging balance. Judge Prescott also discussed the Appellate Court's internal policy; the Chief Judge meets with an authoring judge when an opinion, including a concurrence or dissent, is outstanding for more than a certain number of days.

Justice D'Auria stated that collective decision making is very difficult, not as a defense, but by way of a partial explanation for the time that it takes to issue an opinion. He noted that, unlike in other states, no parties wait for a matter to be assigned for argument in our appellate system: once a case is briefed and ready, it is assigned. He was interested to learn why this concern was being raised now because it was his

impression that the appellate courts had decreased the average time between argued and released dates. He would be interested in seeing statistics on the issue.

Attorney Sugrue moved for a vote on the proposal. Attorney Krisch voted in favor, the remaining members opposed, with Attorneys Babbitt and Robertson abstaining.

**J. Whether to amend §§ 67-3A, 67-5A and 67-7a regarding the word count for briefs**

Justice D'Auria indicated that this proposal would not be put to a vote today, but that it was the impression of the judges and justices that they were reading a lot more under the word count rules than they were under the page limit rules. Attorney Cicchetti explained that his staff had converted several recent briefs into the old format and discovered that they are coming in at five to seven pages over the thirty-five page limit. Attorney Emanuel shared with the committee the chart that he prepared of word limits for appellate briefs in various state courts. Attorneys Bourn and Healey noted that practitioners write very differently when adhering to word count versus page limits. Several practitioners mentioned that they would be reassured if it were easier to obtain additional words for complex cases. Justice D'Auria invited practitioners to share with Attorney Cicchetti examples of briefs that were accepted under the page limit rules so that he may convert them to the word count rules, so that the courts may have more data.

**III. ANY OTHER BUSINESS THAT MAY COME BEFORE THE COMMITTEE**

None.

**IV. NEXT MEETING**

Anticipated to be sometime in April, 2023.

The meeting adjourned at 3:55 p.m.

Respectfully submitted,

Colleen Barnett

**(NEW) Sec. 66-9. Disqualification of Appellate Jurists**

(a) A justice of the Supreme Court or a judge of the Appellate Court shall, upon motion of either party or upon its own motion, be disqualified from acting in a matter if such justice or judge is disqualified from acting therein pursuant to Rule 2.11 of the Code of Judicial Conduct.

(b) A justice of the Supreme Court or a judge of the Appellate Court is not automatically disqualified from acting in a matter merely because: (1) the justice or judge previously practiced law with the law firm or attorney who filed an amicus brief in the matter or the justice's or judge's spouse, domestic partner, parent, or child, or any other member of the justice's or judge's family residing in his or her household is practicing or has practiced law with such law firm or attorney; or (2) an attorney or party to the matter has filed a lawsuit against the justice or judge or filed a complaint against the justice or judge with the Judicial Review Council or an administrative agency.

(c) When an attorney or party who has filed a lawsuit or a complaint against a justice or judge is involved in a matter before the court on which the justice or judge sits, such attorney or party shall so advise the court and other attorneys and parties to the matter, and, thereafter, the justice or judge who is the subject of the disqualification issue shall ~~either~~ decide whether to disqualify himself or herself from acting in the matter ~~or refer the disqualification issue to another justice or judge of the court for a decision.~~

## **Code of Judicial Conduct, Rule 2.11. Disqualification**

(a) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned including, but not limited to, the following circumstances:

(1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of facts that are in dispute in the proceeding.

(2) The judge knows that the judge, the judge's spouse or domestic partner, or a person within the third degree of relationship to either of them, or the spouse or domestic partner of such a person is:

(A) a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;

(B) acting as a lawyer in the proceeding;

(C) a person who has more than a de minimis interest that could be substantially affected by the proceeding; or

(D) likely to be a material witness in the proceeding.

(3) The judge knows that he or she, individually or as a fiduciary, or the judge's spouse, domestic partner, parent, or child, or any other member of the judge's family residing in the judge's household, has an economic interest in the subject matter in controversy or in a party to the proceeding.

(4) The judge has made a public statement, other than in a court proceeding, judicial decision, or opinion that commits or appears to commit the judge to reach a particular result or rule in a particular way in the proceeding or controversy.

(5) The judge:

(A) served as a lawyer in the matter in controversy or was associated with a lawyer who participated substantially as a lawyer in the matter during such association;

(B) served in governmental employment and in such capacity participated personally and substantially as a lawyer or public official concerning the proceeding or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy; or

(C) was a material witness concerning the matter.

(b) A judge shall keep informed about the judge's personal and fiduciary economic interests and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse or domestic partner and minor children residing in the judge's household.

(c) A judge subject to disqualification under this Rule, other than for bias or prejudice under subsection (a)(1), may ask the parties and their lawyers to consider, outside the presence of the judge and court personnel, whether to waive disqualification, provided that the judge shall disclose on the record the basis of such disqualification. If, following the disclosure, the parties and lawyers agree, either in writing or on the record before another judge, that the judge should not be disqualified, the judge may participate in the proceeding.



(d) Notwithstanding the foregoing, a judge may contribute to a client security fund maintained under the auspices of the court, and such contribution will not require that the judge disqualify himself or herself from service on such a client security fund committee or from participation in a lawyer disciplinary proceeding or in any matter concerning restitution or subrogation relating to such a client security fund.

(e) A judge is not automatically disqualified from sitting on a proceeding merely because a lawyer or party to the proceeding has filed a lawsuit against the judge or filed a complaint against the judge with the Judicial Review Council or an administrative agency. When the judge becomes aware pursuant to Practice Book Sections 1-22(b), ~~or 4-8, 66-9~~ or otherwise that such a lawsuit or complaint has been filed against him or her, the judge shall, ~~on the record, disclose that fact to the lawyers and parties to the proceeding before such judge, and the judge shall thereafter~~ proceed in accordance with Practice Book Section 1-22 (b) or 66-9.

(f) The fact that the judge was represented or defended by the attorney general in a lawsuit that arises out of the judge's judicial duties shall not be the sole basis for recusal by the judge in lawsuits where the attorney general appears.

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

(a) The court may, on written motion for review stating the grounds for the relief sought, modify or vacate (1) any order made by the trial court under Section 66-1 (a); (2) any action by the appellate clerk under Section 66-1 (c); (3) any order made by the trial court, or by the ~~workers' compensation commissioner~~ administrative law judge 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; (4) any order made by the trial court concerning a stay of execution in a case on appeal; (5) any order made by the trial court concerning the waiver of fees, costs and security under Section 63-6 or Section 63-7; or (6) any order concerning the withdrawal of appointed appellate counsel pursuant to Section 62-9 (d). 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.

~~(b) Motions for review shall be filed within ten days from the issuance of notice of the order sought to be reviewed. If the order is issued in connection with a motion that was filed with the appellate clerk, the motion for review shall be filed within ten days from the issuance of notice by the appellate clerk of the order from the trial court sought to be reviewed. Otherwise, if notice of the order sought to be reviewed is given in open court with the party seeking review present, the time for filing the motion for review shall begin on that day; if notice is given only by mail or by electronic delivery, the time for filing the motion for review shall begin on the day that notice was sent to counsel of record by the clerk of the trial court. 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.~~

(c) 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 confirmation. The opposing party may, within one week after the transcript or the copy of the order confirmation is filed by the moving party, file either a transcript of additional evidence or a copy of the order confirmation for additional transcript. Parties filing or ordering a transcript shall order an electronic version of the transcript in accordance with Section 63-8A.

(Note: PB 2022 version; no amendments for PB 2023)

## **Sec. 62-8. Names of Counsel; Appearance**

Counsel of record for all parties appearing in the trial court at the time of the appellate filing shall be deemed to have appeared in the appeal unless permission to withdraw has been granted pursuant to Section 62-9 or unless an in place of appearance pursuant to Section 3-8 has been filed by other counsel or unless the other provisions of Section 3-9 apply. Counsel of record who filed the appeal or filed an appearance in the Appellate Court after the appeal was filed shall be deemed to have appeared in the trial court for the limited purpose of prosecuting or defending the appeal. Unless otherwise provided by statute or rule, counsel who have so appeared shall be entitled to review all trial court docket sheets and files, including sealed files, and shall be entitled to participate in proceedings in the trial court on motions filed in the trial court pursuant to Section 66-1 and motions filed in the Appellate Court but referred to the trial court for decision.

~~An appearance filed after the case is ready pursuant to Section 69-2 requires permission of the court.~~

This rule shall not be deemed to permit appellate counsel to review records that were sealed as to trial counsel but retained in the trial court file for appellate review.

This rule shall not be deemed to excuse trial counsel with respect to preserving a defendant's right to appeal pursuant to Section 63-7; nor shall this rule prevent trial counsel from moving for a withdrawal of appearance pursuant to Section 62-9.

## Sec. 62-6 Signature on Documents

(a) All documents shall be signed by counsel of record. Attorneys shall sign electronically filed documents and electronically submitted briefs by entering their individual juris number during the filing transaction. Self-represented parties shall sign electronically filed documents and electronically submitted briefs by entering their self-represented party E-Services user identification number during the filing transaction. If a document or brief is electronically filed by more than one self-represented party, it must include the E-Services user identification or written signature of each self-represented party filing the document. See Section 60-4.

(b) All documents, except Judicial Branch forms, must include a signature block at the end of the document or brief, but before the appendix, if any. The signature block shall include the name, phone number, address, and, unless filed by counsel of record that are excluded from electronic filing, email address for counsel of record filing the document. Paper briefs and appendices and documents filed by counsel of record who are exempt from electronic filing requirements shall be signed and shall set forth the signer's telephone number, mailing address, and e-mail address below the signature.

(c) An attorney may assist a client in preparing a document or brief to be signed and filed by the client. In such cases, the attorney shall insert the notation "prepared with assistance of counsel" on any document or brief prepared by the attorney. The attorney is not required to sign the document or brief, and the filing of such a document or brief shall not constitute an appearance by the attorney.

## Sec. 60-4. Definitions

~~"Signature" shall be made upon entry of an attorney's individual juris number or a self-represented party's user identification number during the filing transaction, unless an exemption from the requirements of Section 60-7 (d) has been granted or applies.~~

## **Sec. 60-7. Electronic Filing; Payment of Fees**

(a) Counsel of record must file all appellate papers electronically unless the court grants a request for exemption. Papers may be filed, signed, or verified by electronic means that comply with procedures and standards established by the chief clerk of the appellate system under the direction of the administrative judge of the appellate system. A paper filed by electronic means in compliance with such procedures and standards constitutes a written paper for the purpose of applying these rules.

(b) At the time of filing, the appellant must (1) pay all required fees; or (2) upload a signed application for waiver of fees and the order of the trial court granting the fee waiver; or (3) certify that no fees are required. Any document that requires payment of a fee as a condition of filing may be returned or rejected for noncompliance with the Rules of Appellate Procedure.

(c) All self-represented parties must have an account with E-Services unless exempt from electronic filing pursuant to Section 60-8. All nonexempt self-represented parties in family matters, child protection matters, matters involving protected information and in all other matters in which the self-represented party's [E-Services](#) user identification ~~number~~ has not already been provided must submit an appellate electronic access form (JD-AC-015). This form must be filed within ten days of the filing of the appeal. Failure to comply with this rule may result in the dismissal of the appeal or the imposition of sanctions pursuant to Section 85-1.

(d) The requirements of this section do not apply to documents filed by incarcerated self-represented parties, the clerk of the trial court, the official court reporter, or the clerk of the court for any other state, federal or tribal court. This section also does not apply to any state board or commission filing documents with the appellate clerk pursuant to Section 68-1, 74-2A, 74-3A, 75-4, 76-3 or 76-5.

#### **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 [\(JD-AC-###\)](#) 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 [\(JD-AC-###\)](#) 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.

(3) A certificate stating that no transcript is deemed necessary [\(JD-AC-###\)](#) or a transcript order confirmation from the official court reporter pursuant to Section 63-8. If 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 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 the order is for 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.

(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, and the names, addresses, and e-mail addresses of trial and appellate counsel of record; (B) the case names and docket numbers of all pending causes of action, including appeals to the Supreme Court or Appellate Court, ~~which~~that arise from substantially the same controversy as the cause on appeal, or involve issues closely related to those presented by the appeal; (C) the case name and docket number with respect to~~whether~~ any active criminal protective order, civil protective order, or civil restraining order that governs any of the parties to the appeal as well as the case name and docket number with respect to any such order that has expired or previously was requested but not issued;~~or issued during any of the underlying proceedings;~~ and (D) 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.

(5) In all noncriminal matters, except for matters exempt from a preargument conference pursuant to Section 63-10, a preargument conference statement [\(JD-SC-028\)](#).

(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.

(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.)

(8) If an entity as defined in Section 60-4 is an appellant, counsel of record for that entity shall file a certificate of interested entities or individuals as defined in Section 60-4 in any civil appeal to assist the appellate jurists in making an informed decision regarding possible disqualification from the appeal. If an entity in a civil appeal is an appellee, counsel of record for the entity shall file a certificate of interested entities or individuals within twenty days of the filing of the appellant's preliminary statement of the issues. Counsel of record has a continuing duty to amend the certificate of interested entities or individuals during the pendency of the appeal if any changes occur.

(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.

(d) The use of the forms indicated in subsection (a) is optional. The party may instead draft documents in compliance with the rules.

COMMENTARY—2022: These amendments update this section to correspond to new optional forms for the preliminary statement of the issues, designation of the proposed contents of the clerk appendix, certificate of transcript and docketing statement.

### **Sec. 83-1. Application; In General**

Within two weeks of the issuance of an order or decision of the Superior Court involving a matter of substantial public interest pursuant to General Statutes § 52-265a, any party may file an application for certification by the chief justice. The application for certification shall contain: (1) the question of law on which the appeal is to be based; (2) a description of the substantial public interest that is alleged to be involved; (3) an explanation as to why delay may work a substantial injustice; and (4) an appendix with: (A) the decision or order of the Superior Court sought to be appealed and (B) a list of all parties to the case in the Superior Court with the names, addresses, telephone numbers, e-mail addresses and, if applicable, the juris numbers of their counsel. If the party in a civil matter is an entity as defined in Section 60-4, counsel of record must also provide a certificate of interested entities or individuals in the appendix.

Using an expeditious delivery method such as overnight mail or facsimile or other electronic medium, in addition to the certification requirements of Section 62-7, the party submitting the application shall also notify the trial judge and the clerk of the trial court that rendered the decision sought to be appealed.

[A party response to the application must be filed within five days from the filing of the application.](#)

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

(Applicable to appeals filed on or after October 1, 2021.)

(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 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 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) The brief and the party appendix, if any, may be bound together. 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.

(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). A 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 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. 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 Arial or Univers font of 12 point or larger size.

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

(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 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 (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.

(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.

**Sec. 67-2A. Format of Electronic Briefs and Party Appendices; Copies**  
(Applicable to appeals filed on or after October 1, 2021.)

(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. Internal hyperlinks must be clearly distinguishable from other text in the brief (e.g., underlined blue text or highlighted text). External hyperlinks are not permitted. Any external hyperlink included in a brief will be viewed as text only. 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 a 12 point ~~Century Schoolbook or New Century Schoolbook~~ serif font, including footnotes but excluding headings. Headings must be in a 14 point ~~Georgia or New Baskerville Book~~ serif font. A list of serif fonts can be found in the guidelines published on the Judicial Branch website. Margins shall be 1 and 1/2 inches on all sides. All text must be left aligned. Line spacing is can be between 1.3x and 1.5x 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. The covers for all types of briefs shall be white.

(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~~ a serif 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.~~

(~~h~~) 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.

## **Sec. 67-3A. Word Limitations; Time for Filing Electronic Briefs and Party Appendices**

(Applicable to appeals filed on or after October 1, 2021.)

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 of counsel of record, certifications and, in the case of an amicus brief, the statement of the interest of the amicus curiae required by Section 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, which words are to be used for the state constitutional argument only.

**Sec. 67-5A. The Reply Brief**

(Applicable to appeals filed on or after October 1, 2021.)

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 or 67-2A.

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 for electronic filers, or fifteen pages for filers that are excluded or exempt from electronic filing pursuant to Section 60-8. Word counts and page limitations are exclusive of the cover page, the table of contents, the 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.



## Sec. 66-2. Motions, ~~Petitions and Applications; Supporting Memoranda~~

(a) Motions, ~~petitions and applications~~ shall be specific and shall not request multiple forms of relief. ~~No motion, petition or application will be considered unless it clearly~~ The motion shall sets forth in separate paragraphs appropriately captioned: (1) a brief history of the case; (2) the specific facts upon which the moving party relies; and (3) the legal grounds upon which the moving party relies.

~~A separate memorandum of law may but need not be filed. If the moving party intends to file a memorandum of law in support of the motion, petition or application, however, such memorandum shall be filed either as an appendix to or as a part of the motion, petition or application.~~

~~An~~ party intending to oppose ~~opposition to~~ a motion shall be filed within ten days after the filing of the motion and, ~~petition or application~~ shall ~~file a brief statement~~ clearly setting forth in separate paragraphs appropriately captioned: (1) the specific facts upon which the opposing party relies, and (2) the legal grounds upon which the opposing party relies. ~~the factual and legal grounds for opposition within ten days after the filing of the motion, petition or application. If an opposing party chooses to file a memorandum of law in opposition to a motion, petition or application, that party shall do so within ten days after the filing of the motion, petition or application.~~ An opposition shall not include any request for relief that should be filed as a separate motion ~~by the opposing party to the motion, petition or application~~. Responses to oppositions are not permitted. ~~Except as provided in subsection (c) below, no proposed order is required.~~

(b) Except ~~with special permission of the appellate clerks~~ as otherwise ordered, ~~the motions and oppositions, petition or application and memorandum of law filed together~~ shall not exceed ~~ten pages~~ 3500 words, and ~~the memorandum of law in opposition thereto shall not exceed ten pages.~~ The word count is exclusive of the case caption, signature block of counsel of record, certifications, and appendix, if any.

(c) Where counsel for the moving party ~~certifies~~ attests that all other parties to the appeal have consented to the granting of the motion, ~~petition or application~~, the motion, ~~petition or application~~ may be submitted to the court immediately upon filing and may be acted upon without awaiting expiration of the time for filing ~~an~~ opposition ~~papers~~. Notice of such consent ~~certification~~ shall be indicated on the first page of the ~~document~~ motion.

(d) Motions which are not dispositive of the appeal may be ruled upon by one or more members of the court subject to review by a full panel upon a motion for reconsideration pursuant to Section 71-5.

(e) Motions that are directed to the trial court, such as motions to terminate stay pursuant to Section 61-11 or motions for rectification or articulation pursuant to Section 66-5, shall: (1) include both the trial court and the Appellate Court docket numbers in the caption of the case; (2) state in the first paragraph the name of the trial judge, or panel of judges, ~~who issued the order or orders to be reviewed~~ to whom the motion is directed; ~~(3) include a proper order for the trial court if required by Section 11-1;~~ and ~~(4)~~ (3) comply with the

requirements of Section 66-3. Such motions will be forwarded to the trial court by the appellate clerk.

(f) When the appellate clerk issues an order on a motion, ~~petition or application,~~ the official notice date shall be the date indicated on the order for notice to the clerk of the trial court and all counsel of record. The official notice date is not the date that such order is received.

### **Sec. 66-3. Motion Procedures and Filing**

All motions, ~~petitions, applications, memoranda of law, stipulations,~~ and oppositions shall be filed with the appellate clerk in accordance with the provisions of Sections 60-7 and 60-8 and docketed upon filing. The submission may be returned ~~or rejected~~ for noncompliance with the Rules of Appellate Procedure. All papers shall contain a certification that a copy has been delivered to each other counsel of record in accordance with the provisions of Section 62-7.

No ~~paper mentioned above~~ motion or opposition directed to the Supreme or Appellate Court shall be filed after expiration of the time for its filing unless the filer demonstrates good cause for its untimeliness in a separate section captioned "good cause for late filing." No motion directed to the trial court that is required to be filed with the appellate clerk shall be filed after expiration of the time for its filing without permission of the court, ~~except on separate written A motion to file a late trial court~~ motion must be accompanied by the proposed trial court motion ~~and by consent of the Supreme or Appellate Court.~~ No amendment to a any of the above-mentioned papers motion or opposition shall be filed ~~except on written motion and by consent~~ without permission of the court.

Motions and oppositions, including footnotes, shall be typed in a 12 point serif font. Section captions shall be typed in a 14 point serif font. A list of serif fonts can be found in the guidelines published on the Judicial Branch website. Margins shall be 1 and 1/2 inches on all sides. All text must be left aligned. Line spacing can be between 1.3 and 1.5 and must be uniform throughout, including the body of the document, footnotes, and block quotes. Bold face or italic emphasis tools shall be used, not underlining. ~~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 fonts of 12 point or larger size, are approved for use in motions: Arial and Univers. Each page of a motion, petition, application, memorandum of law, stipulation and opposition shall have as a minimum the following margins: top, 1 inch; left, 1 and 1/4 inch; right, 1/2 inch; and bottom, 1 inch.~~

Any preappeal motion, ~~petition, application~~ or opposition to a preappeal motion filed by an entity as defined in Section 60-4 in a civil matter shall be accompanied by a certificate of interested entities or individuals filed by counsel of record.

## **Sec. 67-7A. The Amicus Curiae Electronic Brief**

(Applicable to appeals filed on or after October 1, 2021.)

(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. If the applicant in a civil appeal is an entity as defined in Section 60-4, a certificate of interested entities or individuals shall be attached to the application. A party to the appellate matter in which the application is filed may, within ten days after the filing of the application, file an objection.

Applications and objections, including footnotes, shall be typed in a 12 point serif font. Section captions shall be typed in a 14 point serif font. A list of serif fonts can be found in the guidelines published on the Judicial Branch website. Margins shall be 1 and 1/2 inches on all sides. All text must be left aligned. Line spacing can be between 1.3 and 1.5 and must be uniform throughout, including the body of the document, footnotes, and block quotes. Bold face or italic emphasis tools shall be used, not underlining.

Applications and objections shall not exceed 3500 words. The word count is exclusive of the case caption, signature block of counsel of record, certifications, and appendix, if any.

~~The length of the~~An amicus curiae brief shall not exceed 4000 words and shall conform with the requirements set forth in Chapter 67. The applicant may request to file a brief in excess of 4000 words by including a request in the application that~~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~~ sets forth reasons to justify the ~~filing of a brief in excess of 4000~~additional 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. If the appeal is in a civil matter and the amicus curiae is an entity as defined in Section 60-4, a certificate of interested entities or individuals shall be included in the brief.

(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.

**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**

(Amended July 21, 1999, to take effect Jan. 1, 2000; amended Oct. 24, 2018, to take effect Jan. 1, 2019.)

(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.~~

(b) The petition shall set forth in separate paragraphs appropriately captioned: (1) a brief history of the case, (2) the specific facts upon which the petitioning party relies, and (3) the legal grounds upon which the petitioning party relies. ~~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 an expedited transcript order confirmation, shall be filed with the petition for review. An opposition to the petition shall be filed within ten days after the filing of the petition and shall set forth in separate paragraphs appropriately captioned: (1) the specific facts upon which the opposing party relies, and (2) the legal grounds upon which the opposing party relies. Except as otherwise ordered, petitions and oppositions shall not exceed 3500 words. The word count is exclusive of the case caption, signature block of counsel of record, certifications, and appendix, if any.

Petitions and oppositions, including footnotes, shall be typed in a 12 point serif font. Section captions shall be typed in a 14 point serif font. A list of serif fonts can be found in the guidelines published on the Judicial Branch website.

Margins shall be 1 and 1/2 inches on all sides. All text must be left aligned. Line spacing can be between 1.3 and 1.5 and must be uniform throughout, including the body of the document, footnotes, and block quotes. Bold face or italic emphasis tools shall be used, not underlining.

(c) 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 proceeding of the date and time of the hearing. After such hearing the Appellate Court may affirm, modify or vacate the order reviewed.

(bd) 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.

### **Sec. 78-1. Review of an Order concerning Disclosure of Grand Jury Record or Finding**

(a) Any person aggrieved by an order of a panel or an investigatory grand jury pursuant to General Statutes § 54-47g 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 filing of any such petition for review shall stay the



order until the final determination of the petition. The Appellate Court shall hold an expedited hearing on such petition. After such hearing, the Appellate Court may affirm, modify or vacate the order reviewed.

(b) The petition shall set forth in separate paragraphs appropriately captioned: (1) a brief history of the case, (2) the specific facts upon which the petitioning party relies, and (3) the legal grounds upon which the petitioning party relies. An opposition to the petition shall be filed within ten days after the filing of the petition and shall set forth in separate paragraphs appropriately captioned: (1) the specific facts upon which the opposing party relies, and (2) the legal grounds upon which the opposing party relies. Except as otherwise ordered, petitions and oppositions shall not exceed 3500 words. The word count is exclusive of the case caption, signature block of counsel of record, certifications, and appendix, if any.

Petitions and oppositions, including footnotes, shall be typed in a 12 point serif font. Section captions shall be typed in a 14 point serif font. A list of serif fonts can be found in the guidelines published on the Judicial Branch website. Margins shall be 1 and 1/2 inches on all sides. All text must be left aligned. Line spacing can be between 1.3 and 1.5 and must be uniform throughout, including the body of the document, footnotes, and block quotes. Bold face or italic emphasis tools shall be used, not underlining.

### **Sec. 78a-1. Petition for Review of Order concerning Release on Bail**

(a) Any accused person or the state, aggrieved by an order of the Superior Court concerning release, may petition the Appellate Court for review of such order. Any such petition shall have precedence over any other matter before the Appellate Court and any hearing ordered by the court shall be held expeditiously with reasonable notice. Petitions for review of bail must conform to the requirements for motions for review set forth in Section 66-6 and are subject to transfer to the Supreme Court pursuant to Section 65-3.

(b) The petition shall set forth in separate paragraphs appropriately captioned: (1) a brief history of the case, (2) the specific facts upon which the petitioning party relies, and (3) the legal grounds upon which the petitioning party relies. An opposition to the petition shall be filed within ten days after the filing of the petition and shall set forth in separate paragraphs appropriately captioned: (1) the specific facts upon which the opposing party relies, and (2) the legal grounds upon which the opposing party relies. Except as otherwise ordered, petitions and oppositions shall not exceed 3500 words. The word count is exclusive of the case caption, signature block of counsel of record, certifications, and appendix, if any.

Petitions and oppositions, including footnotes, shall be typed in a 12 point serif font. Section captions shall be typed in a 14 point serif font. A list of serif

fonts can be found in the guidelines published on the Judicial Branch website. Margins shall be 1 and 1/2 inches on all sides. All text must be left aligned. Line spacing can be between 1.3 and 1.5 and must be uniform throughout, including the body of the document, footnotes, and block quotes. Bold face or italic emphasis tools shall be used, not underlining.

### **Sec. 78b-1. Petition for Review of Order Denying Application for Waiver of Fees to Commence a Civil Action or a Writ of Habeas Corpus**

(a) Any person aggrieved by an order of the Superior Court denying an application for waiver of the payment of a fee for filing an action or the cost of service of process to commence a civil action or a writ of habeas corpus in the Superior Court may petition the Appellate Court for review of such an order after a hearing pursuant to the provisions of Section 8-2 (d) and a decision thereon. Petitions for review of the denial of an application for waiver of the payment of a fee for filing an action or the cost of service of process to commence a civil action or writ of habeas corpus must conform to the requirements for motions for review set forth in Section 66-6. ~~and are subject to transfer to the Supreme Court pursuant to Section 65-3~~

(b) The petition shall set forth in separate paragraphs appropriately captioned: (1) a brief history of the case, (2) the specific facts upon which the petitioning party relies, and (3) the legal grounds upon which the petitioning party relies. An opposition to the petition shall be filed within ten days after the filing of the petition and shall set forth in separate paragraphs appropriately captioned: (1) the specific facts upon which the opposing party relies, and (2) the legal grounds upon which the opposing party relies. Except as otherwise ordered, petitions and oppositions shall not exceed 3500 words. The word count is exclusive of the case caption, signature block of counsel of record, certifications, and appendix, if any.

Petitions and oppositions, including footnotes, shall be typed in a 12 point serif font. Section captions shall be typed in a 14 point serif font. A list of serif fonts can be found in the guidelines published on the Judicial Branch website. Margins shall be 1 and 1/2 inches on all sides. All text must be left aligned. Line spacing can be between 1.3 and 1.5 and must be uniform throughout, including the body of the document, footnotes, and block quotes. Bold face or italic emphasis tools shall be used, not underlining.

### **Sec. 81-2. Form of Petition**

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

(1) A statement of the questions presented for review, expressed in the terms and circumstances of the case but without unnecessary detail.

(2) A statement of the basis for certification identifying the specific reasons why the Appellate Court should allow the extraordinary relief of certification.

These reasons may include but are not limited to the following:

(A) The court below has decided a question of substance not theretofore determined by the Supreme Court or the Appellate Court or has decided it in a way probably not in accord with applicable decisions of the Supreme Court or the Appellate Court.

(B) The decision under review is in conflict with other decisions of the court below.

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

(D) A question of great public importance is involved.

(3) A summary of the case containing the facts material to the consideration of the questions presented, reciting the disposition of the matter in the trial court, and describing specifically how the trial court decided the questions presented for review in the petition.

(4) A concise argument amplifying the reasons relied upon to support the petition. No separate memorandum of law in support of the petition will be accepted by the appellate clerk.

(5) An appendix containing a table of contents, the operative complaint, all briefs filed by all parties, the opinion or order of the trial court sought to be reviewed, a copy of the order on any motion, other than a motion for extension of time, which would stay or extend the time period for filing the petition, and a list of all parties to the appeal in the trial court with the names, addresses, telephone numbers, e-mail addresses, and, if applicable, the juris numbers of their counsel. If a petitioner in a civil matter is an entity as defined in Section 60-4, counsel of record must also provide a certificate of interested entities or individuals in the appendix. The appendix shall be paginated separately from the petition with consecutively numbered pages preceded by the letter "A."

(b) Except as otherwise ordered, petitions shall not exceed 4000 words. The word count is exclusive of the case caption, signature block of counsel of record, certifications, and appendix. Petitions, including footnotes, shall be typed in a 12 point serif font. Section captions shall be typed in a 14 point serif font. A list of serif fonts can be found in the guidelines published on the Judicial Branch website. Margins shall be 1 and 1/2 inches on all sides. All text must be left aligned. Line spacing can be between 1.3 and 1.5 and must be uniform throughout, including the body of the document, footnotes, and block quotes. Bold face or italic emphasis tools shall be used, not underlining.~~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 fonts, 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 inch; right, 1/2 inch; and bottom, 1 inch.~~

### **Sec. 81-3. Statement in Opposition to Petition**

(a) Within ten days of the filing of the petition, any party may file a statement in opposition with the appellate clerk stating the reasons why certification should not be granted. The statement shall be presented in a manner which is responsive, in form and content, to the petition it opposes. Except as otherwise ordered, oppositions shall not exceed 4000 words. The word count is exclusive of the case caption, signature block of counsel of record, certifications, and appendix, if any. Oppositions, including footnotes, shall be typed in a 12 point serif font. Section captions shall be typed in a 14 point serif font. A list of serif fonts can be found in the guidelines published on the Judicial Branch website. Margins shall be 1 and 1/2 inches on all sides. All text must be left aligned. Line spacing can be between 1.3 and 1.5 and must be uniform throughout, including the body of the document, footnotes, and block quotes.

~~Bold face or italic emphasis tools shall be used, not underlining. The statement in opposition shall not exceed ten pages in length, except with special permission of the appellate clerk. The statement in opposition 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 fonts of 12 point or larger size, are approved for use in the statement in opposition: Arial and Univers. Each page of a statement in opposition to a petition shall have as a minimum the following margins: top, 1 inch; left, 1 and 1/4 inch; right, 1/2 inch; and bottom, 1 inch.~~

No separate memorandum of law in support of the statement in opposition will be accepted by the appellate clerk.

(b) The statement in opposition shall be delivered in the manner set forth in Section 62-7.

(c) No motion to dismiss a petition for certification will be accepted by the appellate clerk. Any objection to the jurisdiction of the court to entertain the petition shall be included in the statement in opposition.

(d) If the party in a civil matter filing the opposition is an entity as defined in Section 60-4, a certificate of interested entities or individuals shall be attached to the opposition.

### **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.

(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.

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

(4) A concise argument 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, preferably as published in the Connecticut Law Journal, 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, other than a motion for extension of time, 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. If one of the parties in a civil action is an entity as defined in Section 60-4, counsel of record must also provide a certificate of interested entities or individuals.

(b) Except as otherwise ordered, petitions shall not exceed 4000 words. The word count is exclusive of the case caption, signature block of counsel of record, certifications, and appendix. Petitions, including footnotes, shall be typed in a 12 point serif font. Section captions shall be typed in a 14 point serif font. A list of serif fonts can be found in the guidelines published on the Judicial Branch website. Margins shall be 1 and 1/2 inches on all sides. All text must be left aligned. Line spacing can be between 1.3 and 1.5 and must be uniform throughout, including the body of the document, footnotes, and block quotes. Bold face or italic emphasis tools shall be used, not underlining. ~~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 fonts, 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.

## Sec. 84-6. Statement in Opposition to Petition

(a) Within ten days of the filing of the petition, any party may file a statement in opposition to the petition with the appellate clerk. The statement in opposition shall disclose any reasons why certification should not be granted by the Supreme Court and shall be presented in a manner which is responsive, in form and content, to the petition it opposes. Except as otherwise ordered, oppositions shall not exceed 4000 words. The word count is exclusive of the case caption, signature block of counsel of record, certifications, and appendix, if any.

Oppositions, including footnotes, shall be typed in a 12 point serif font. Section captions shall be typed in a 14 point serif font. A list of serif fonts can be found in the guidelines published on the Judicial Branch website. Margins shall be 1 and 1/2 inches on all sides. All text must be left aligned. Line spacing can be between 1.3 and 1.5 and must be uniform throughout, including the body of the document, footnotes, and block quotes. Bold face or italic emphasis tools shall be used, not underlining.~~The statement in opposition shall not exceed ten pages in length except with special permission of the appellate clerk.~~

~~The statement in opposition 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 fonts of 12 point or larger size, are approved for use in the statement in opposition: Arial and Univers. Each page of a statement in opposition to a petition shall have as a minimum the following margins: top, 1 inch; left, 1 and 1/4 inch; right, 1/2 inch; and bottom, 1 inch.~~

No separate memorandum of law in support of the statement in opposition will be accepted by the appellate clerk.

(b) The statement in opposition shall be delivered in the manner set forth in Section 62-7.

(c) No motion to dismiss a petition for certification will be accepted by the appellate clerk. Any objection to the jurisdiction of the court to entertain the petition shall be included in the statement in opposition.

(d) If the party filing the opposition in a civil action is an entity as defined in Section 60-4, a certificate of interested entities or individuals shall be attached to the opposition.



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March 16, 2023

*Via email*

Jill B. Begemann  
Director of Appellate Operations  
75 Elm Street  
Hartford, CT 06106  
Jill.Begemann@connapp.jud.ct.gov

Dear Attorney Begemann,

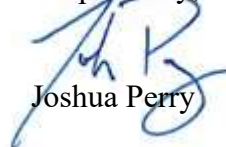
I write to ask the Advisory Committee to consider recommending a rule governing appellate intervention.

The Practice Book – like the Federal Rules of Appellate Procedure – is silent on appellate intervention. The United States Supreme Court recently took up *Arizona v. Mayorkas*, No. 22-592, a vehicle for considering when appellate intervention may be appropriate. But, as a group of distinguished civil procedure scholars argue in an [amicus brief](#) in that case, *ad hoc* consideration of intervention motions is suboptimal. Instead, the rulemaking process is ideally suited to building a comprehensive framework for intervention.

The Attorney General's Office is concerned that existing opportunities for nonparties to weigh in on appeal may be inadequate. The State is entitled to just 10 pages of amicus briefing – with no argument, no opportunity to reply, and no prerogative to file or object to motions – when a statute is challenged. And it has recently become clear that issues of vital importance to the State may arise for the first time on appeal and require more substantial advocacy than amicus briefing allows.

I am eager to engage with the Advisory Committee to consider possibilities. Thank you for considering this request.

Respectfully,



Joshua Perry

165 Capitol Avenue  
Hartford, Connecticut 06106

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