

## Meeting of the Advisory Committee on Appellate Rules

Tuesday, April 13, 2021

Judge Prescott called the meeting to order at 3 p.m.

### **Members in attendance:**

Justice Gregory T. D'Auria, Co-Chair

Judge Eliot D. Prescott, Co-Chair

Attorney Jeffrey Babbitt

Attorney Colleen Barnett

Attorney Jill Begemann

Attorney Jennifer Bourn

Attorney Carl Cicchetti

Attorney Richard Emanuel

Attorney Paul Hartan

Attorney Wesley Horton

Attorney James Healey

Hon. Sheila Huddleston

Attorney Clare Kindall

Attorney Daniel J. Krisch

Attorney Eric Levine

Attorney Bruce Lockwood

Attorney Jessie Opinion

Attorney Charles Ray

Attorney Giovanna Weller

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

Attorney Jamie Porter

### **Additional Attendees:**

Attorney Dave Goshdigan

Attorney René Robertson

Attorney Andrew Redman

Alison Chandler (External Affairs)

### *Preliminary matters:*

This meeting was conducted via videoconference on the Microsoft Teams platform and was livestreamed on the Youtube channel for the Judicial Branch.

## **I. OLD BUSINESS**

### **A. Vote on Revised E-Brief Rules**

A revised package of proposed amendments was circulated by e-mail to the members of the advisory committee for their consideration. Among other things, the revised proposal includes commentary to Sec. 68-3A, which provides guidance with respect to which documents should be included in the designation of contents of the clerk appendix. The following matters were discussed in advance of the vote.

#### **1. Additional Technical Changes**

Attorney Robertson set forth some additional technical changes that had been made to the revised rules package. These changes were to make the proposal consistent with changes approved at the April 6, 2021 meeting concerning reply briefs.

Sec. 67-5A now includes a word count; the list of items excluded from the word and page count in the third paragraph was made to conform to the list of exclusions in 67-3A; and a cross reference was added to 67-3A.

The e-brief proposal as to Secs. 67-3 and 67-3A was amended to conform to the reply

brief proposal adopted at the last meeting; the order of items excluded was made to conform to that proposal, as adopted; and a cross reference to the amicus brief rule was added.

There were no concerns with these additional changes. Judge Prescott indicated that they would be deemed included in the final proposal, as amended.

## **2. Word count.**

Having received feedback from Attorney Bourn at the April 6, 2021 meeting, and having considered additional data provided by Attorney Emanuel since that meeting, the committee discussed whether to amend the proposal to Section 67-3A to increase the word count of the principal appellate briefs.

Attorney Horton moved to amend the proposal to increase the word count of the principal appellate briefs from 13,000 to 13,500. Attorney Babbin seconded. During discussion, Attorney Emanuel expressed a preference for 14,000 words, especially in serious criminal matters. The motion to amend the proposal to increase the word count to 13,500 passed unanimously.

## **3. Proposal to adopt 84-6A.**

Judge Prescott explained that this proposal was tabled at the last meeting in order to get input from Attorney Susan Hamilton from the public defender's office. In response, it was suggested that the proposal be amended to give counsel for the minor child and/or counsel for the guardian ad litem ten days, not five, to file the required response or statement. Attorney Kindall moved to amend the proposal. Attorney Horton seconded. The motion to amend the proposal passed unanimously.

## **4. Slip opinions in appendix**

Attorney Horton reads the party appendix rule as requiring that parties include slip opinions that only appear on the Judicial Branch website, but have not yet been published in the Connecticut Law Journal. He wondered whether the rule should be clarified to exclude such unpublished opinions. Attorneys Kindall and Ray suggested that commentary could be added to Sec. 67-8. Attorney Horton moved to add commentary to the proposal. Attorney Kindall seconded. The proposed commentary states: "Slip opinions by the Connecticut Appellate Court and the Connecticut Supreme Court are not required to be included in the party appendix." The motion to amend the proposal to add the commentary passed unanimously.

## **5. Additional technical changes noted at the meeting.**

Attorney Babbin:

- 67-8. Delete the word "lengthy" twice before exhibits
- 67-2A. Plural for "inch" in 1.5 inch
- 68-3A. Add "the appeal form" before "the docketing statement" in the commentary
- 68-10A. Delete additional instance of "as the judge who tried the case shall order included or"

Attorney Robertson:

- Make plural for "inch" consistent in other rules

Attorney Begemann:

- Fix the cross reference in 68-3A to be 68-10A (not 68-10) for contents of appendix in administrative appeals

#### **6. Additional discussion: necessity of 68-11A**

Attorney Babbin noted its potential redundancy in light of 68-3A. Attorney Goshdigan explained that the former chief clerk indicated that the separate rule would be helpful to the clerk's office in getting the decision from the trial court for the preparation of the clerk appendix. No changes were proposed.

#### **7. Additional discussion: judgment files**

Attorney Hartan noted that the judgment file is not going to be required in clerk appendix, as it would add delay to the process of preparing that appendix. The judgment file is currently not required in party appendix. No changes were proposed.

Attorney Kindall moved to adopt the revised proposed rules package, as amended. Attorney Horton seconded. The motion passed unanimously.

## **II. NEW BUSINESS**

None.

## **III. NEXT MEETING**

Anticipated to be scheduled in fall 2021.

The meeting adjourned at 3:47 p.m.

Respectfully submitted,

Colleen Barnett