

## **RULES OF APPELLATE PROCEDURE**

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### **NOTICE**

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Notice is hereby given that the following amendments to the Rules of Appellate Procedure were adopted to take effect January 1, 2013. The amendments to Sections 61-9, 63-8 and 81-2 were approved by the Appellate Court on June 20, 2012, and by the Supreme Court on July 11, 2012.

Attest:

Michèle T. Angers  
*Chief Clerk Appellate*

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### **INTRODUCTION**

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

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

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### **RULES OF APPELLATE PROCEDURE**

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#### **CHAPTER 61**

##### **REMEDY BY APPEAL**

Sec.  
61-9. Decisions Subsequent to Filing of Appeal; Amended Appeal

#### **CHAPTER 63**

##### **FILING THE APPEAL; WITHDRAWALS**

Sec.  
63-8. Ordering and Filing of Transcripts

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**AMENDMENTS TO THE RULES OF APPELLATE PROCEDURE  
CHAPTER 61**

**REMEDY BY APPEAL**

**Sec. 61-9. Decisions Subsequent to Filing of Appeal; Amended Appeals**

Should the trial court, subsequent to the filing of [the] A PENDING appeal, make a decision [which] THAT the appellant desires to have reviewed, the appellant shall file an amended appeal [form] in the trial court within twenty days from the issuance of notice of the decision as provided for in Section 63-1. [At the time the amended appeal form is filed, the appellant shall submit a copy thereof, endorsed in accordance with Section 63-3, to the appellate clerk together with any amendments to the documents required by Section 63-4.]

THE AMENDED APPEAL SHALL BE FILED IN THE TRIAL COURT IN THE SAME MANNER AS AN ORIGINAL APPEAL PURSUANT TO SECTION 63-3. No additional fee is required to be paid upon the filing of an amended appeal.

WITHIN TEN DAYS OF FILING THE AMENDED APPEAL, THE APPELLANT SHALL FILE WITH THE APPELLATE CLERK AN ORIGINAL AND ONE COPY OF EITHER A CERTIFICATE STATING THAT THERE ARE NO CHANGES TO THE SECTION 63-4 PAPERS FILED WITH THE ORIGINAL APPEAL OR ANY AMENDMENTS TO THOSE PAPERS. ANY OTHER PARTY MAY FILE AN ORIGINAL AND ONE COPY OF RESPONSIVE SECTION 63-4 PAPERS WITHIN TWENTY DAYS OF THE FILING OF THE CERTIFICATE OR THE AMENDMENTS.

IF THE ORIGINAL APPEAL IS DISMISSED FOR LACK OF JURISDICTION, THE AMENDED APPEAL SHALL REMAIN PENDING IF IT WAS FILED FROM A JUDGMENT OR ORDER FROM WHICH AN ORIGINAL APPEAL PROPERLY COULD HAVE BEEN FILED.

AFTER DISPOSITION OF AN APPEAL WHERE NO AMENDED APPEALS RELATED TO THAT APPEAL ARE PENDING, A SUBSEQUENT APPEAL SHALL BE FILED AS A NEW APPEAL.

If the amended appeal is filed after the filing of the appellant’s brief but before the filing of the appellee’s brief, the appellant may move for leave to file a supplemental brief. If the amended appeal is filed after the filing of the appellee’s brief, either party may move for such leave. In any event, the court may order that an amended appeal be briefed or heard separately from the original appeal.

[Unless the court shall order otherwise,] If the appellant [has filed] FILES a [second] SUBSEQUENT appeal FROM A TRIAL COURT DECISION in [the same] A case, WHERE THERE IS A PENDING APPEAL, the SUBSEQUENT appeal [papers] shall be treated as an amended appeal [under this rule], and [in that event,] there shall be no refund of the fees paid.

[If, after an amended appeal is filed, the original appeal is dismissed for lack of jurisdiction, the amended appeal shall not be void as long as the amended appeal was filed from a judgment or order from which an original appeal could have been filed.]

**CHAPTER 63**

**FILING THE APPEAL; WITHDRAWALS**

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

(a) On or before the date of [filing the appeals] THE FILING OF THE SECTION 63-4 PAPERS, the appellant shall, subject to Section 63-6 or 63-7 if applicable, order, using Form JD-ES-38, from the official reporter a transcript and an electronic

version of a transcript of the parts of the proceedings not already on file which the appellant deems necessary for the proper presentation of the appeal. Such order shall specify the case name, docket number, judge's name(s), and hearing date(s), and include a detailed statement describing the parts of the proceedings of which a transcript has been ordered, for example, "the voir dire on Monday, May 25, 1995," or "the entire sentencing proceeding before Smith, J., on June 4, 1995." If any other party deems other parts of the transcript necessary, that party shall, within twenty days from the filing of the [appeal] APPELLANT'S TRANSCRIPT PAPERS, similarly order those parts, and an electronic version of those parts, in writing from the official reporter.

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

(c) The official reporter shall cause each court reporter involved in the production of the transcript to prepare a certificate of delivery stating the number of pages in the transcript and the date of its delivery to the party who ordered it, and a certificate stating that an electronic version of the transcript has been produced and delivered in accordance with Section 63-8A. If delivery is by mail, the transcript, including the electronic version of the transcript, shall be mailed first class certified, return receipt requested. The date of mailing is the date of delivery. If delivery is manual, the court reporter shall obtain a receipt acknowledging delivery. The date of the receipt is the date of delivery. Each court reporter shall forward the certificates of delivery to the official reporter with a copy to the chief court administrator. Upon receipt of all the certificates of delivery, the official reporter shall forward to the appellate clerk, with copies to the chief court administrator and the party who ordered the transcript, including an electronic transcript, a certificate of completion stating the total number of pages in the entire transcript and the date of final delivery of the transcript.

(d) Upon receipt of the certificate of completion from the official reporter, counsel who ordered the transcript shall file a certification that a paper copy of the certificate of completion has been sent to all counsel of record in accordance with Section 62-7.

(e) (1) The appellant is required, either before or simultaneously with the filing of the appellant's brief, to file with the appellate clerk one unmarked, nonreturnable copy of the transcript, including a copy of the court reporter's certification page, ordered pursuant to subsection (a).

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

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

## CHAPTER 81

### APPEALS TO APPELLATE COURT BY CERTIFICATION FOR REVIEW IN ACCORDANCE WITH GENERAL STATUTES CHAPTERS 124 AND 440

#### 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 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 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 and facsimile numbers, and, if applicable, the juris numbers of their counsel.

(b) The petition shall not exceed ten pages in length, exclusive of the appendix, except with special permission of the appellate clerk. The petition shall be typewritten and fully double spaced, and shall not exceed three lines to the vertical inch or twenty-seven lines to the page. Footnotes and block quotations may be single spaced. Only the following two typefaces, of 12 point or larger size, are approved for use in petitions: arial and univers. Each page of a petition shall have as a minimum the following margins: top, 1 inch; left, 1 and  $\frac{1}{4}$  inch; right,  $\frac{1}{2}$  inch; and bottom, 1 inch. A certificate shall be attached to the signed, original petition, indicating that it is in compliance with all the provisions of this rule.

COMMENTARY: The amendment to subdivision (5) of subsection (a), which addresses the contents of the appendix, is intended to facilitate review by the appellate court in its consideration of petitions for certification.

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