

Connecticut Practice Book
Rules of Appellate Procedure
Effective January 1, 2010

September 8, 2009

RULES OF APPELLATE PROCEDURE

NOTICE

Notice is hereby given that the following amendments to the Rules of Appellate Procedure were adopted to take effect January 1, 2010. The amendments to Sections 61-9, 63-3, 66-1, 67-4, 67-5 and 68-1 were approved by the Appellate Court on July 22, 2009, and by the Supreme Court on July 30, 2009. The adoption of Section 66-2A was approved by the Supreme Court on July 30, 2009.

Attest:

Michèle T. Angers
Chief Clerk Appellate

INTRODUCTION

Contained herein are amendments to the Rules of Appellate Procedure. These amendments are indicated by brackets for deletions and capital letters for added language. The addition of a reference to a section number in Section 66-1 is indicated in bold. The designation “NEW” is printed with the title of each new rule.

CHAPTER AND SECTION HEADINGS OF THE RULES

RULES OF APPELLATE PROCEDURE

**CHAPTER 61
REMEDY BY APPEAL**

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

CHAPTER 63**FILING THE APPEAL; WITHDRAWALS**

Sec.
63-3. Filing OF Appeal [in General]; Number of Copies

CHAPTER 66**MOTIONS AND OTHER PROCEDURES**

Sec.
66-1. Extension of Time
66-2A. SUPREME COURT BRIEFS ON COMPACT DISC; HYPERLINKING
(NEW)

CHAPTER 67**BRIEFS**

- Sec.
67-4. The Appellant's Brief; Contents and Organization
67-5. The Appellee's Brief; Contents and Organization

CHAPTER 68**RECORD**

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

AMENDMENTS TO THE RULES OF APPELLATE PROCEDURE**Sec. 61-9. Decisions Subsequent to Filing of Appeal; Amended Appeals**

Should the trial court, subsequent to the filing of the appeal, make a decision which 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.

No additional fee is required to be paid upon the filing of an amended 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 a second appeal in the same case, the 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.

COMMENTARY: The new last paragraph of this rule permits an amended appeal to survive the dismissal of an original appeal that is jurisdictionally defective, as long as the amended appeal has been taken from a final judgment or other order from which a jurisdictionally proper appeal could have been taken. By permitting such an amended appeal to survive, the proposed amendment would validate, for purposes of judicial efficiency, the amended appeal that was dismissed in *American Factors, Inc. v. Foreign Intrigue, Inc.*, 6 Conn. App. 656, 658, 506 A.2d 1085, cert. denied, 201 Conn. 802, 513 A.2d 696 (1986).

Sec. 63-3. Filing OF Appeal [in General]; Number of Copies

[The original appeal form shall be filed with the clerk of the trial court accompanied by a certification that a copy thereof has been served on each counsel of record in accordance with the provisions of Section 62-7.

At the time the appeal is filed, the appellant shall, as set forth in Section 63-5, pay to the clerk of the trial court all required fees.

The clerk of the trial court shall endorse on the original appeal form the date and time of filing and the receipt, or waiver, of fees. In addition, in non-criminal matters, the trial court clerk shall, without cost, provide the appellant with a copy of the docket sheet (DS1) listing the counsel for all parties. The trial court clerk shall photocopy the endorsed appeal form and return a copy of it to the appellant, who shall file it forthwith, together with the docket sheet and the papers required by Section 63-4, with the appellate clerk. The clerk of the trial court shall also send a copy of the endorsed appeal form to the trial judge and, in criminal matters, to the office of the chief state's attorney, appellate bureau.

The appellate clerk, upon receipt of the copy of the endorsed appeal form from the appellant, shall docket the appeal, affix to the copy received the docket number assigned to the appeal and send one copy to the trial judge and one copy to each party to the appeal and, in criminal matters, to the office of the chief state's attorney, appellate bureau.]

ANY APPEAL MAY BE FILED IN THE ORIGINAL TRIAL COURT OR THE COURT TO WHICH THE CASE WAS TRANSFERRED OR IN ANY JUDICIAL DISTRICT COURT IN THE STATE, EXCEPT THAT JUVENILE APPEALS AND APPEALS FROM INTERLOCUTORY ORDERS, IF PERMITTED BY LAW, MUST BE FILED WITH THE CLERK OF THE ORIGINAL TRIAL COURT OR THE COURT TO WHICH THE CASE WAS TRANSFERRED. AN APPLICATION FOR A FEE WAIVER PURSUANT TO SECTIONS 63-6 OR 63-7 MUST BE FILED WITH THE CLERK OF THE COURT IN WHICH THE CASE WAS TRIED OR OTHERWISE RESOLVED.

THE ORIGINAL APPEAL FORM SHALL BE ACCOMPANIED BY A CERTIFICATION THAT A COPY THEREOF HAS BEEN SERVED ON EACH COUNSEL OF RECORD, AS DEFINED IN SECTION 60-4, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 62-7. AT THE TIME THE APPEAL IS FILED, THE APPELLANT SHALL, AS SET FORTH IN SECTION 63-5, PAY TO THE CLERK OF THE TRIAL COURT ALL REQUIRED FEES. THE CLERK SHALL: (1) ENDORSE ON THE ORIGINAL APPEAL FORM THE DATE AND TIME OF FILING AND THE RECEIPT OR WAIVER OF FEES; (2) RETURN THE ORIGINAL ENDORSED APPEAL FORM TO THE APPELLANT; AND (3) IMMEDIATELY NOTIFY THE CLERK OF THE ORIGINAL TRIAL COURT THAT AN APPEAL HAS BEEN FILED. IN ADDITION, IN NONCRIMINAL MATTERS, THE CLERK SHALL, WITHOUT COST, PROVIDE THE APPELLANT WITH A COPY OF THE DOCKET SHEET (DS1) LISTING THE COUNSEL FOR ALL PARTIES. IN CRIMINAL AND HABEAS CORPUS MATTERS, THE CLERK SHALL ALSO SEND A COPY OF THE ENDORSED APPEAL FORM TO THE OFFICE OF THE CHIEF STATE'S ATTORNEY, APPELLATE BUREAU.

ON THE SAME DAY ON WHICH THE ORIGINAL APPEAL FORM IS ENDORSED BY THE TRIAL COURT CLERK, THE APPELLANT SHALL DELIVER A COPY OF THE ENDORSED APPEAL FORM TO THE CLERK OF THE TRIAL COURT IN WHICH THE CASE WAS ORIGINALLY FILED AND THE CLERK OF ANY TRIAL COURT TO WHICH THE CASE WAS SUBSEQUENTLY TRANSFERRED. THE COPY MAY BE DELIVERED BY HAND, FAX OR ANY OTHER ELECTRONIC MEANS PERMITTED BY SECTION 4-4. THE APPELLANT SHALL OBTAIN PROOF THAT THE ORIGINAL TRIAL COURT AND ANY SUBSEQUENT TRIAL COURT RECEIVED THE COPY ON THE SAME DAY ON WHICH IT WAS DELIVERED.

WITHIN TEN DAYS OF FILING THE APPEAL, THE APPELLANT SHALL FILE WITH THE APPELLATE CLERK THE ORIGINAL AND ONE COPY OF THE ENDORSED APPEAL FORM; THE DOCKET SHEET, IF ANY; THE

PAPERS REQUIRED BY SECTION 63-4; AND PROOF THAT A COPY OF THE ENDORSED APPEAL FORM WAS TRANSMITTED TO THE ORIGINAL TRIAL COURT AND TO ANY TRIAL COURT TO WHICH THE CASE SUBSEQUENTLY WAS TRANSFERRED. THE APPELLANT SHALL CERTIFY THAT A COPY THEREOF WAS SERVED ON: (1) EVERY OTHER PARTY IN THE MANNER SET FORTH IN SECTION 62-7; (2) THE CLERK OF THE ORIGINAL TRIAL COURT; (3) THE CLERK OF ANY OTHER TRIAL COURT TO WHICH THE CASE WAS TRANSFERRED; (4) ANY TRIAL COURT WHOSE DECISION IS THE SUBJECT OF THE APPEAL; AND (5) IN CRIMINAL AND HABEAS CORPUS MATTERS, THE OFFICE OF THE CHIEF STATE'S ATTORNEY, APPELLATE BUREAU.

THE APPELLATE CLERK, UPON RECEIPT OF THE FOREGOING, SHALL DOCKET THE APPEAL, AFFIX TO THE ENDORSED APPEAL FORM THE DOCKET NUMBER ASSIGNED TO THE APPEAL AND SEND ONE COPY TO THE TRIAL JUDGE AND ONE COPY TO EACH PARTY TO THE APPEAL AND, IN CRIMINAL AND HABEAS CORPUS MATTERS, TO THE OFFICE OF THE CHIEF STATE'S ATTORNEY, APPELLATE BUREAU.

COMMENTARY: The proposed changes are intended to simplify the filing of an appeal by allowing most appeals to be filed in any judicial district court in the state. These changes will reduce travel time because an appeal can be initiated at the judicial district court most convenient for counsel or a self-represented party. It is important to note that these changes do not apply to appeals in juvenile matters and to appeals from interlocutory orders, if permitted by law, such as appeals from pendent lite orders of child custody. See *Madigan v. Madigan*, 224 Conn. 749, 620 A.2d 1276 (1993). Such appeals must be filed in the court in which the matter was originally filed or the court to which it was transferred.

The rule previously required the appellant to file "forthwith" an endorsed copy of the appeal, along with the other papers needed to perfect the appeal. "Forthwith" has been replaced by "within ten days of the filing of the appeal" to provide a concrete period of time for submitting these papers to the appellate clerk. The rule has also been amended to require that the appellant serve the appeal papers on, and the appellate clerk provide a copy of the endorsed appeal form to, the appellate bureau of the office of the chief state's attorney in habeas corpus matters.

Sec. 66-1. Extension of Time

(a) Except as otherwise provided in these rules, the judge who tried the case may, for good cause shown, extend the time limit provided for filing the appeal, except that such extension shall be of no effect if the time within which the appeal must be taken is set by statute and is a time limit that the legislature intended as a limit on the subject matter jurisdiction of the court to which the appeal is taken. In no event shall the trial judge extend the time for filing the appeal to a date which is more than twenty days from the expiration date of the appeal period. Where a motion for extension of the period of time within which to appeal has been filed at least ten days before expiration of the time limit sought to be extended, the party seeking to appeal shall have no less than ten days from issuance of notice of denial of the motion to file the appeal.

For extensions of time to file a cross appeal, see Section 61-8; to file a petition or certification to the supreme court, see Section 84-7; to file a petition for certification to the appellate court, see Section 81-5.

(b) If an appeal has been filed, the time provided for taking any step necessary to prosecute or to defend the appeal may be extended by the court in which the appeal is pending.

(c) (1) Extensions shall be granted only upon a written motion filed with the clerk of the trial court, in the case of a preappeal motion, and with the appellate clerk, in the case of a postappeal motion. The motion, only an original of which need be filed, should set forth the reason for the requested extension and shall be accompanied by a certification that complies with Section 62-7. An attorney filing

such a motion on a client's behalf shall also indicate that a copy of the motion has been mailed to each of his or her clients who are parties to the appeal. The moving party shall also include a statement as to whether the other parties consent or object to the motion. A motion for extension of time to file a brief must specify the current status of the brief or preparations therefor, indicate the estimated date of completion, and, in criminal cases, state whether the defendant is incarcerated as a result of the proceeding in which the appeal has been taken.

(2) The appellate clerk is authorized to grant or to deny motions for extension of time promptly upon their filing. Motions for extension of time to complete any step necessary to prosecute or to defend the appeal, to move for or to oppose a motion for reconsideration, or to petition for or to oppose a petition for certification will not be granted except for good cause. Claims of good cause shall be raised promptly after the cause arises.

(3) An opposing party who objects to a motion for extension of time filed pursuant to subsection (b) of this section shall file an objection with reasons in support thereof with the appellate clerk within five days from the filing of the motion.

(4) A motion for extension of time shall be filed at least ten days before the expiration of the time limit sought to be extended or, if the cause for such extension arises during the ten day period, as soon as reasonably possible after such cause has arisen. No motion under this rule shall be granted unless it is filed before the time limit sought to be extended by such motion has expired.

(5) Any action by the trial court judge pursuant to subsection (a) of this section or the appellate clerk pursuant to subsection (c) (2) of this section is reviewable pursuant to Section 66-6.

(6) Postappeal motions for extension of time may be filed, signed or verified by electronic means that comply with procedures and technical standards set forth on the judicial branch website. A paper filed by electronic means in compliance with such procedures and standards constitutes a written paper for the purpose of applying these rules. Service and proof of service shall be made pursuant to sections 10-13, **10-14** and 62-7.

COMMENTARY: This rule was amended to insert a reference to Section 10-14, which sets forth details of service and proof of service.

(NEW) Sec. 66-2A. Supreme Court Briefs on Compact Disc; Hyperlinking.

In addition to the filing of the requisite number of printed briefs and the submission of the electronic version of briefs as required by Section 67-2, the supreme court will accept all briefs in an appeal on a single compact disc, read-only memory (CD-ROM). Counsel who wish to file such a CD-ROM should consult with opposing counsel and self-represented litigants who should cooperate in its preparation. If only one party wishes to participate in the preparation of the CD-ROM, that party may prepare the CD-ROM with briefs provided by all parties, as long as (1) those parties consent, (2) all briefs are hyperlinked as described below and (3) all parties who have filed briefs are afforded an opportunity to review the CD-ROM before it is filed.

The CD-ROM briefs shall comply with the current technical specifications available on the judicial branch website and shall be identical in content and format to the printed version. The CD-ROM briefs shall be word-searchable and hyperlinked to each other and to the full text of all cases, statutes, rules and treatises cited therein. The disc and its paper sleeve shall be labeled with the title of the case, the docket number and the documents reproduced on the disk.

Twenty copies of the CD-ROM shall be filed in the office of the appellate clerk no later than thirty days after the last paper brief is filed, accompanied by proof of service of at least one disc on each other party.

COMMENTARY: This rule permits the filing of hyperlinked briefs on CD-ROM in the supreme court. The filing of such briefs does not eliminate the requirement of filing paper briefs as required by these rules.

Sec. 67-4. The Appellant's Brief; Contents and Organization

The appellant's brief shall contain the following:

(a) A concise statement setting forth, in separately numbered paragraphs, without detail or discussion, the principal issue or issues involved in the appeal, with appropriate references to the page or pages of the brief where the issue is discussed, pursuant to subsection (d) hereof. The court may refuse to receive a brief not complying with this requirement. Such statement shall be deemed in replacement of and shall supersede the preliminary statement of issues.

(b) A table of authorities cited in the brief, with references to the page or pages of the brief where the citations to those authorities appear. Citations shall be in the form provided in Section 67-11.

(c) A statement of the nature of the proceedings and of the facts of the case bearing on the issues raised. The statement of facts shall be in narrative form, shall be supported by appropriate references to the page or pages of the transcript or to the document upon which the party relies and shall not be unnecessarily detailed or voluminous.

(d) The argument, divided under appropriate headings into as many parts as there are points to be presented, with appropriate references to the statement of facts or to the page or pages of the transcript or to the relevant document. The argument on each point shall include a separate, brief statement of the standard of review the appellant believes should be applied.

(1) When error is claimed in the trial court's refusal to charge the jury as requested, the party claiming such error shall include in the brief of that party or the appendix thereto a verbatim statement of the relevant portions of the charge as requested and as given by the court and any relevant exceptions to the charge as given and shall recite in narrative form any evidence which it is claimed would entitle that party to the charge as requested, with appropriate references to the page or pages of the transcript.

(2) When error is claimed in the charge to the jury, the brief or appendix shall include a verbatim statement of all relevant portions of the charge and all relevant exceptions to the charge. Unless essential to review of a claimed error, a verbatim statement of the entire charge to the jury should not be included in the brief or appendix. Evidence relevant to the claimed error shall be recited in narrative form with appropriate references to the page or pages of the transcript.

(3) When error is claimed in any evidentiary ruling in a court or jury case, the brief or appendix shall include a verbatim statement of the following: the question or offer of exhibit; the objection and the ground on which it was based; the ground on which the evidence was claimed to be admissible; the answer, if any; and the ruling.

(4) When error is claimed in any other ruling in a court or jury case, the brief or appendix shall include the pertinent motion or pleading as well as any other pertinent documents which are a part of the trial court case file but are not included in the record.

(5) When the basis of an evidentiary or other ruling referred to in subsection (d) (3) or (d) (4) cannot be understood without knowledge of the evidence or proceeding which preceded or followed the ruling, a brief narrative or verbatim statement of

the evidence or proceeding should be made. A verbatim excerpt from the transcript should not be used if a narrative statement will suffice. When the same ruling is repeated, the brief should contain only a single ruling unless the other rulings are further illustrative of the rule which determined the action of the trial court or establish the materiality or harmfulness of the error claimed. The statement of rulings in the brief shall include appropriate references to the page or pages of the transcript.

(E) A SHORT CONCLUSION STATING THE PRECISE RELIEF SOUGHT.

[(e)] (F) The text of the pertinent portions of any constitutional provision, statute, ordinance or regulation at issue or on which the appellant relies. Such text need not be included in the brief if it is included in the appendix to the appellant's brief.

[(f)] (G) In appeals filed pursuant to Section 81-4, a statement identifying the version of the land use regulations filed with the appellate clerk.

The brief shall be organized in the following order: table of contents; statement of issues; table of authorities; if the appeal was filed pursuant to Section 81-4, statement identifying version of land use regulations filed with the appellate clerk; if amicus, statement of interest of the amicus curiae; statement of facts; argument; conclusion and statement of relief requested; signature; and certification pursuant to Section 62-7.

COMMENTARY: This rule has been amended to include a new subsection requiring an appellant's brief to include, as a separate section, a conclusion stating the precise relief requested. A similar requirement for the appellee's brief also has been adopted.

Sec. 67-5. The Appellee's Brief; Contents and Organization

The brief of the appellee shall contain, in a form corresponding to that stated in Section 67-4, the following:

(a) A counter statement of any issue involved as to which the appellee disagrees with the statement of the appellant or a statement of any other grounds which were properly raised by an appellee under Section 63-4. Such statement shall be deemed in replacement of and shall supersede the preliminary statement of the issues.

(b) A table of authorities cited in the brief, with references to the page or pages of the brief where the citations to those authorities appear. Citations shall be in the form provided in Section 67-11.

(c) A counter statement of any fact as to which the appellee disagrees with the statement of the appellant. The counter statement of facts shall be in narrative form and shall be supported by appropriate references to the page or pages of the transcript or to the relevant document upon which the appellee relies. An appellee may not rely on any fact unless it is set forth in the appellee's counter statement of facts or in the appellant's statement of facts or is incorporated in any brief of the parties in accordance with Section 67-4 (d) or with subsection (d) hereof.

(d) The argument of the appellee, divided as provided in Section 67-4 (d). The argument on each point shall include a separate, brief statement of the standard of review the appellee believes should be applied. The argument may augment or take exception to the appellant's presentation of rulings or the charge by reference to any relevant part of the court's charge or any other evidence in narrative or verbatim form which is relevant to such question, with appropriate references to the statements of facts or to the page or pages of the transcript or to the relevant document.

(e) Claims, if any, directed to any rulings or decisions of the trial court adverse to the appellee. These shall be made in the manner provided in Section 67-4 (d).

(F) A SHORT CONCLUSION STATING THE PRECISE RELIEF SOUGHT.

[(f)] (G) The text of the pertinent portions of any constitutional provision, statute, ordinance or regulation at issue or on which the appellee relies. Such text need not be included in the brief if it is included in the appellant's brief or appendix or in the appendix to the appellee's brief.

[(g)] (H) In appeals filed pursuant to Section 81-4, a statement as to whether the appellee disputes the applicability of the version of the land use regulations filed with the appellate clerk. If the appellee disputes the applicability of such regulations, it shall set forth its basis for maintaining that such regulations do not apply.

The brief shall be organized in the following order: table of contents; statement of issues; table of authorities; if amicus, statement of interest of the amicus curiae; statement of facts; argument; conclusion and statement of relief requested; signature; and certification pursuant to Section 62-7.

[(h)] (I) When the appellee is also the cross-appellant, the issues on the cross appeal shall be briefed in accordance with Section 67-4. In such a case, the briefs shall clearly label which sections of the brief refer to the appeal and which refer to the cross appeal.

COMMENTARY: This rule change mirrors the change to Section 67-4 by requiring an appellee's brief to include, as a separate section, a conclusion stating the precise relief requested.

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

Within ten days of the filing of an appeal, the clerk of the trial court shall prepare and forward to the appellate clerk two complete copies of the case file, including the docket sheets (DS1 and DS2) and all written requests to charge. No omissions may be made from the case file except upon the authorization of the appellate clerk. The appellate clerk may direct the clerk of the trial court to prepare and to forward a case file in any other instance in which it is needed. The clerk of the trial court shall forward to the appellate clerk two copies of all additions made to the case file after the initial preparation and transmittal of the case file.

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

In an appeal from an administrative agency, the papers returned by the agency to the trial court, even though annexed to and incorporated by reference in the answer, shall accompany the copies of the file but need not be included in the copies of the file.

All exhibits in the trial court are deemed exhibits on appeal and are deemed in the custody of the appellate clerk while the appeal is pending. The appellate clerk shall notify the clerk of the trial court of the exhibits required by the court in which the appeal is pending. WITHIN TEN DAYS OF SUCH NOTICE, [It shall be the responsibility of] the clerk of the trial court SHALL [to] transmit those exhibits [within ten days of assignment] to the appellate clerk ACCOMPANIED BY A LIST OF ALL EXHIBITS IN THE CASE. THE TRIAL COURT CLERK SHALL NOTIFY ALL COUNSEL AND SELF-REPRESENTED LITIGANTS OF THE TRANSMITTAL AND PROVIDE THEM WITH A COPY OF THE EXHIBIT LIST. The provisions of this paragraph shall apply to records lodged pursuant to Section 7-4C.

COMMENTARY: These amendments require the clerk of the trial court to prepare a list of all exhibits in the case and transmit that list to the appellate clerk at the time the exhibits are sent to the appellate clerk. The trial court clerk is also required to inform counsel and self-represented litigants of the transmittal and to provide them with a copy of the exhibit list. As the exhibits are critical for appellate review, counsel are permitted to inspect the transmitted exhibits to verify that all the necessary ones have been received by the appellate clerk.
