# RULES OF APPELLATE PROCEDURE

## NOTICE

Notice is hereby given that the following amendments to the Rules of Appellate Procedure were adopted to take effect October 8, 2017. The amendments were approved by the Appellate Court on July 6, 2017, and by the Supreme Court on July 19, 2017.

Attest:

Carolyn Ziogas
*Chief Clerk Appellate*

## INTRODUCTION

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

This material should be used as a supplement to the Connecticut Practice Book until the 2018 edition of the Practice Book becomes available.

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# RULES OF APPELLATE PROCEDURE

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## AMENDMENTS TO THE RULES OF APPELLATE PROCEDURE

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

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

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

(b) All papers except the transcript and regulations filed pursuant to Section 81-6 shall contain: (1) certification that a copy has been delivered to each other counsel of record, including names, addresses, e-mail addresses, and telephone **[**and facsimile**]** numbers; (2) certification that the document has been redacted or does not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law; and (3) certification that the document complies with all applicable rules of appellate procedure. Electronic papers shall contain a certification as set forth in subsection (b) (1), but filers can comply with the certification requirements set forth in subsections (b) (2) and (b) (3) during the electronic filing process. Any request to deviate from the requirement regarding personal identifying information shall be filed with the appellate clerk pursuant to Section 67-2 (k). Briefs and appendices require additional certifications pursuant to Section 67-2 (g) and (i). **[**Additional**]** Other certification requirements may be required by the rules under which specific documents are filed.

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

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

**Sec. 62-8A. Attorneys of Other Jurisdictions Participating Pro Hac Vice on Appeal**

(a) An attorney, who upon written application pursuant to Section 2-16 has been permitted by a judge of the superior court to participate in the presentation of a cause or appeal pending in this state, shall be allowed to participate in any appeal of said cause without filing a written application to the court having jurisdiction over the appeal. All terms, conditions and obligations set forth in Section 2-16 shall remain in full effect. The chief clerk of the superior court for the judicial district in which the cause originated shall continue to serve as the agent upon whom process and notice of service may be served.

(b) Any attorney who is in good standing at the bar of another state and who has not appeared pro hac vice in the superior court to participate in the cause now pending on appeal, may for good cause shown, upon written application presented by a member of the bar of this state, be permitted in the discretion of the court having jurisdiction over the appeal to participate in the presentation of the appeal, provided, however, that:

(1) such application shall be accompanied by an affidavit

(A) stating whether an application was filed pursuant to Section 2-16 in the superior court and, if so, the disposition of said application;

(B) certifying whether such applicant has a grievance pending against him or her in any other jurisdiction, has ever been reprimanded, suspended, placed on inactive status, disbarred or otherwise disciplined, or has resigned from the practice of law and, if so, setting forth the circumstances concerning such action;

**[**(C) certifying that the applicant has paid to the clerk of the superior court any fee required by the General Statutes for admission pro hac vice;**]**

**[**(D)**]** (C) certifying that the applicant has paid the client security fund fee due for the calendar year in which the application is made;

**[**(E)**]** (D) designating the chief clerk of the superior court for the judicial district in which the cause originated as his or her agent upon whom process and notice of service may be served;

**[**(F)**]** (E) certifying that the applicant agrees to register with the statewide grievance committee in accordance with the provisions of chapter 2 of the rules of practice while appearing in the appeal and for two years after the completion of the matter in which the attorney appeared and to notify the statewide grievance committee of the expiration of the two year period;

[(G)] (F) identifying the number of attorneys in his or her firm who are appearing pro hac vice in the cause now on appeal or who have filed or intend to file an application to appear pro hac vice in this appeal; and

[(H)] (G) identifying the number of cases in which the attorney has appeared pro hac vice in any court of this state since the attorney first appeared pro hac vice in this state; and provided

(2) a member of the bar of this state must be present at all proceedings and arguments and must sign all motions, briefs and other papers filed with the court having jurisdiction over the appeal and assume full responsibility for them and for the conduct of the appeal and of the attorney to whom such privilege is accorded. Good cause for according such privilege may include a showing that by reason of a long-standing attorney-client relationship, predating the cause of action or subject matter of the appeal, the attorney has acquired a specialized skill or knowledge with respect to issues on appeal or to the client's affairs that are important to the appeal, or that the litigant is unable to secure the services of Connecticut counsel. Upon the granting of an application to appear pro hac vice, the clerk of the court in which the application is granted shall immediately notify the statewide grievance committee of such action.

(c) No application to appear pro hac vice shall be permitted after the due date of the final reply brief as set forth in Section 67-3 without leave of the court.

COMMENTARY—A member of the bar of this state pays the fee required by General Statutes § 52-259 (i) when presenting the pro hac vice application.

## CHAPTER 63
## FILING THE APPEAL; WITHDRAWALS

### Sec. 63-1. Time to Appeal

**(a) General provisions**

Unless a different time period is provided by statute, an appeal must be filed within twenty days of the date notice of the judgment or decision is given. The appeal period may be extended if permitted by Section 66-1 (a). If circumstances give rise to a new appeal period as provided in subsection (c) of this rule, such new period may be similarly extended as long as no extension of the original appeal period was obtained.

If a motion is filed within the appeal period that might give rise to a new appeal period as provided in subsection (c) of this rule, the appeal may be filed either in the original appeal period, which continues to run, or in the new appeal period.

As used in this rule, ''appeal period'' includes any extension of such period obtained pursuant to Section 66-1 (a).

**(b) When appeal period begins**

If notice of the judgment or decision is given in open court, the appeal period shall begin on that day. If notice is given only by mail or by electronic delivery, the appeal period shall begin on the day that notice was [mailed] sent to counsel of record by the clerk of the trial court. The failure to give notice of judgment to a nonappearing party shall not affect the running of the appeal period.

In criminal cases where the appeal is from a judgment of conviction, the appeal period shall begin when sentence is pronounced in open court. In civil jury cases, the appeal period shall begin when the verdict is accepted.

**(c) New appeal period**

**(1) How new appeal period is created**

If a motion is filed within the appeal period that, if granted, would render the judgment, decision or acceptance of the verdict ineffective, either a new twenty day period or applicable statutory time period for filing the appeal shall begin on the

day that notice of the ruling is given on the last such outstanding motion, except as provided for additur or remittitur in the next paragraph.

If a motion for additur or remittitur is filed within the appeal period and granted, a new twenty day appeal period shall begin upon the earlier of (A) acceptance of the additur or remittitur or (B) expiration of the time set for the acceptance. If the motion is denied, the new appeal period shall begin on the day that notice of the ruling is given.

Motions that, if granted, would render a judgment, decision or acceptance of the verdict ineffective include, but are not limited to, motions that seek: the opening or setting aside of the judgment; a new trial; the setting aside of the verdict; judgment notwithstanding the verdict; reargument of the judgment or decision; collateral source reduction; additur; remittitur; or any alteration of the terms of the judgment. Motions that do not give rise to a new appeal period include those that seek: clarification or articulation, as opposed to alteration, of the terms of the judgment or decision; a written or transcribed statement of the trial court's decision; or reargument of a motion listed in the previous paragraph.

If, within the appeal period, any motion is filed, pursuant to Section 63-6 or 63-7, seeking waiver of fees, costs and security or appointment of counsel, a new twenty day appeal period or statutory period for filing the appeal shall begin on the day that notice of the ruling is given on the last such outstanding motion. If a party files, pursuant to Section 66-6, a motion for review of any such motion, the new appeal period shall begin on the day that notice of the ruling is given on the motion for review.

**(2) Who may appeal during new appeal period**

If a new appeal period arises due to the filing of a motion that, if granted, would render a judgment, decision or acceptance of the verdict ineffective, any party may file an appeal during the new appeal period regardless of who filed or prevailed upon such motion. If, however, a new appeal period arises due to the filing of a motion for waiver of fees, costs and security or a motion for appointment of counsel, only the party who filed such motion may file an appeal during the new appeal period.

**(3) What may be appealed during new appeal period**

The new appeal period may be used for appealing the original judgment or decision and/or for appealing any order that gave rise to the new appeal period. Such period may also be used for amending an existing appeal pursuant to Section 61-9 to challenge the ruling that gave rise to the new appeal period. Rulings on motions for waiver of fees, costs and security or motions for appointment of counsel may not be appealed during the new appeal period but may be challenged by motion for review in accordance with Section 66-6.

**(d) When motion to stay briefing obligations may be filed**

If, after an appeal has been filed but before the appeal period has expired, any motion is filed that, if granted, would render the judgment, decision or acceptance of the verdict ineffective, any party may move to stay the briefing obligations of the parties in accordance with Section 67-12.

**(e) Simultaneous filing of motions**

Any party filing more than one motion that, if granted, would render the judgment, decision or acceptance of the verdict ineffective, shall file such motions simultaneously insofar as simultaneous filing is possible.

## CHAPTER 66
## MOTIONS AND OTHER PROCEDURES

### Sec. 66-8. Motion to Dismiss

Any claim that an appeal or writ of error should be dismissed, whether based on lack of jurisdiction, failure to file papers within the time allowed or other defect,

shall be made by a motion to dismiss the appeal or writ. Any such motion must be filed in accordance with Sections 66-2 and 66-3. [within ten days after the filing of the appeal or the return day of the writ, or if the ground alleged subsequently occurs, within ten days after it has arisen, provided that a motion based on lack of jurisdiction may be filed at any time. The court may on its own motion order that an appeal be dismissed for lack of jurisdiction.] A motion to dismiss an appeal or writ of error that claims a lack of jurisdiction may be filed at any time. A motion for sanctions filed pursuant to Sections 85-1, 85-2 or 85-3 may be filed at any time.

A motion to dismiss an appeal that claims any defect other than a lack of jurisdiction must be filed within ten days after the filing of the appeal.

A motion to dismiss a writ of error that claims any defect other than a lack of jurisdiction must be filed within ten days after the filing of an electronically filed writ of error or, if the plaintiff in error is exempt from the electronic filing requirements, within ten days after the return day. If a defendant in error was not a party to any action underlying the writ of error, and such defendant in error claims a defect in the writ other than lack of jurisdiction, a motion to dismiss must be filed within thirty days after the return day.

If the ground alleged for dismissal of an appeal or writ of error, other than a lack of jurisdiction, subsequently arises, a motion to dismiss must be filed within ten days after such ground for dismissal arises.

The court may on its own motion order that an appeal or writ of error be dismissed for lack of jurisdiction or other defect.

COMMENTARY—The rule was significantly amended to make it clear that the limitation period for filing a motion to dismiss that does not claim a lack of jurisdiction is measured differently for appeals and for writs of error—and for electronically filed writs of error and writs of error filed by those who are exempt from the electronic filing requirements. The rule was also amended to give a defendant in error who was not a party to an underlying action, such as the Superior Court when it is properly made a defendant to a writ of error brought to challenge a judgment of summary criminal contempt, more time to file a motion that raises a nonjurisdictional ground for dismissal. The thirty day period afforded to new parties to the litigation comports with the thirty day period in Practice Book § 10-30, which governs motions to dismiss in the Superior Court.

## CHAPTER 67
## BRIEFS

### Sec. 67-8. The Appendix; Contents and Organization

(a) An appendix shall be prepared in accordance with Section 67-2.

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

(1) Part one of the appellant's appendix shall contain: a table of contents giving the title or nature of each item included; the docket sheets, a case detail, or court action entries in the proceedings below; in chronological order, all relevant pleadings, motions, requests, findings, and opinions or decisions of the trial court or other decision-making body (see Sections 64-1 and 64- 2); the signed judgment file, if applicable, prepared in the form prescribed by Section 6-2 et seq.; the appeal form, in accordance with Section 63-3; the docketing statement filed pursuant to Section 63-4 (a) (3); any relevant appellate motions or orders that complete or perfect the record on appeal; and, in appeals to the supreme court upon grant of certification for review, the order granting certification and the opinion or order of the appellate court under review. In administrative appeals, part one of the appellant's appendix also shall meet the requirements of Section 67-8A (a). In criminal or habeas appeals filed by incarcerated self-represented parties, part one of the appendix shall be prepared by the appellee. See Section 68-1. In these appeals, the filing of an appendix by incarcerated self-represented parties shall be in accordance with subsection (c) of this rule.

(2) Part two of the appellant's appendix may contain any other portions of the proceedings below that the appellant deems necessary for the proper presentation of the issues on appeal. Part two of the appellant's appendix may be used to excerpt lengthy exhibits, or to excerpt quotations from the transcripts deemed necessary by any parties pursuant to Section 63-4 (a) (2), or to comply with other provisions of the Practice Book that require the inclusion of certain materials in the appendix. To reproduce a full transcript or lengthy exhibit when an excerpt would suffice is a misuse of an appendix. Where an opinion is cited that is not officially published, the text of the opinion shall be included in part two of the appendix.

(c) The appellee's appendix should not include the portions of the proceedings below already included in the appellant's appendix. If the appellee determines that part one of the appellant's appendix does not contain portions of the proceedings below, the appellee shall include any such items that are required to be included pursuant to Section 67-8 (b) (1) in part one of its appendix. Where an appellee cites an opinion that is not officially published and is not included in the appellant's appendix, the text of the opinion shall be included in part two of the appellee's appendix. Part two of the appellee's appendix may also contain any other portions of the proceedings below that the appellee deems necessary for the proper presentation of the issues on appeal.

(d) In appeals where personal identifying information is protected by rule, statute, court order or case law, and in appeals that have been ordered sealed in part or in their entirety or are subject to limited disclosure pursuant to Section 77-2, all briefs and appendices shall be prepared in accordance with Section 67-1.

## CHAPTER 72
## WRITS OF ERROR

### Sec. 72-2. Form

The writ of error shall contain in numbered paragraphs the facts upon which the plaintiff in error relies and a statement of the relief claimed.

### Sec. 72-3. Applicable Procedure

(a) The writ of error, if in proper form, shall be allowed and signed by a judge or clerk of the court in which the judgment or decree was rendered. The writ of error shall be presented for signature within twenty days of the date notice of the judgment or decision complained of is given but shall be signed by the judge or clerk even if not presented in a timely manner. Failure without cause to present the writ of error in a timely manner may be a ground for dismissal of the writ of error by the supreme court.

(b) The writ of error shall be served and returned as other civil process, except that the writ of error shall be served at least ten days before the return day**[**.**]** and shall be returned to the appellate clerk at least one day before the return day. The return days of the supreme court are any Tuesday not less than twelve nor more than thirty days after the writ of error is signed by a judge or clerk of the court.

(c) The writ of error shall be deemed filed the day it is properly returned to the appellate clerk. **[**At least one day before the return day, t**]** The plaintiff in error shall return the writ of error to the appellate clerk by (1) **[**pay all required fees as set forth in**]** complying with Sections 60-7 or 60-8 by paying the required fee, submitting a signed application for waiver of fees and the order of the trial court granting the fee waiver, or certifying that no fees are required; (2) **[**file**]** submitting the matter in accordance with the provisions of Section 63-3; and (3) **[**file**]** submitting the allowed and signed writ of error and the signed marshal's return **[**with**]** to the appellate clerk.

[(c)] (d) [The writ shall be docketed upon filing] An electronically filed writ of error will be docketed upon the submission of the matter in accordance with Section 63-3 [and payment of all required fees, but the writ may be returned] but will be rejected upon review by the appellate clerk if the plaintiff in error fails to [file the return with the appellate clerk, or] comply with Section 60-7 or to submit an allowed and signed writ of error and the signed marshal's return on the same business day the matter is submitted in accordance with the provisions of Section 63-3. The writ of error may also be returned upon review by the appellate clerk for noncompliance with the rules of appellate procedure. The appellate clerk shall forthwith give notice to all parties of the filing of the writ of error.

[(d)] (e) If the writ of error is brought against a judge of the superior court to contest a summary decision of criminal contempt by that judge, the defendant in error shall be the superior court. In all other writs of error, the writ of error shall bear the caption of the underlying action in which the judgment or decision was rendered. All parties to the underlying action shall be served in accordance with chapter 8 of these rules.

[(e)] (f) Within twenty days after filing the writ of error, the plaintiff in error shall file with the appellate clerk such documents as are necessary to present the claims of error made in the writ of error, including pertinent pleadings, memoranda of decision and judgment file, accompanied by a certification that a copy thereof has been served on each counsel of record in accordance with Section 62-7.

[(f)] (g) In the event a transcript is necessary, the plaintiff in error shall follow the procedure set forth in Sections 63-8 and 63-8A.

[(g)] (h) Within ten days of the filing by the plaintiff in error of the documents referred to in subsections [(e)] (f) and [(f)] (g) of this rule, the defendant in error may file such additional documents as are necessary to defend the action, accompanied by a certification that a copy thereof has been served on each counsel of record in accordance with Section 62-7.

[(h)] (i) Answers or other pleas shall not be filed in response to any writ of error.

## CHAPTER 79a
## APPEALS IN CHILD PROTECTION MATTERS

### Sec. 79a-2. Time to Appeal

**(a) General Provisions**

Unless a different period is provided by statute, appeals from judgments of the superior court in child protection matters shall be filed within twenty days from the issuance of notice of the rendition of the decision or judgment from which the appeal is filed. The judge who tried the case may, for good cause shown, extend the time limit provided for filing the appeal. 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 initial 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, and such motion is denied, the party seeking to appeal shall have no less than ten days from issuance of notice of the denial of the motion for extension in which to file the appeal.

**(b) When appeal period begins**

If notice of the judgment or decision is given in open court, the appeal period shall begin on that day. If notice of the judgment or decision is given only by mail or by electronic delivery, the appeal period shall begin on the day that notice of the judgment or decision is [mailed] sent to counsel by the clerk for juvenile matters. The failure to give notice of judgment to a nonappearing party shall not affect the running of the appeal period.

**(c) How a new appeal period is created**

If a motion is filed within the appeal period that, if granted, would render the judgment or decision ineffective, then a new twenty day appeal period for filing the appeal shall begin on the day that notice of the ruling is given on the last such outstanding motion. Such motions include, but are not limited to, motions that seek: the opening or setting aside of the judgment; a new trial; reargument of the judgment or decision; or any alteration of the terms of the judgment. Motions that do not give rise to a new appeal period include those that seek: clarification or articulation, as opposed to alteration, of the terms of the judgment or decision; a written or transcribed statement of the trial court's decision; or reargument or reconsideration of a motion listed in this paragraph.

If, within the appeal period, any application is filed, pursuant to Section 79a-4, seeking waiver of fees, costs and security or appointment of counsel, a new twenty day appeal period or statutory period for filing the appeal is not created. If a party files, pursuant to Section 66-6, a motion for review of the denial of any such application, a new appeal period shall begin on the day that notice of the ruling is given on the motion for review.

**(d) What may be appealed during new appeal period**

If a new appeal period is created under Section 79a-2 (c), the new appeal period may be used for appealing the original judgment or decision and/ or for appealing any order that gave rise to the new appeal period. Such period may also be used for amending an existing appeal pursuant to Section 61-9 to challenge the ruling that gave rise to the new appeal period. Rulings on applications for waiver of fees, costs and security or motions for appointment of counsel may not be appealed during the new appeal period but may be challenged by motion for review in accordance with Section 66-6.

**(e) Limitation of time to appeal**

Unless a new appeal period is created pursuant to Section 79a-2 (c), the time to file a child protection appeal shall not be extended past forty days (the original twenty days plus one twenty day extension for appellate review) from the date of issuance of notice of the rendition of the judgment or decision.

## CHAPTER 82
## CERTIFIED QUESTIONS TO OR FROM COURTS OF OTHER JURISDICTIONS

### Sec. 82-5. Receipt; Costs of Certification

Within twenty days of issuance of the notice of an order of preliminary acceptance, the appellant shall file the matter in accordance with the provisions of Section 63-3 for filing an appeal and shall pay all required fees in accordance with Sections 60-7 or 60-8. After paying the filing fee, the appellant shall be entitled to seek reimbursement from the appellee for one half of the filing fee, unless otherwise ordered by the court that requested certification. All proceedings subsequent to the filing of the matter shall be governed by the rules applicable to appeals except as to the time for filing briefs and appendices. No security or recognizance shall be required, and no costs shall be taxed in favor of either party.

### Sec. 82-6. Briefs, Appendices, Assignment and Argument

Briefs and appendices filed by the parties shall conform to the rules set forth in Chapter 67, except that the parties shall file simultaneous briefs and appendices within forty-five days of issuance of the notice of an order of preliminary acceptance. The parties may file simultaneous reply briefs within twenty days thereafter. Extensions of time will not be granted except for extraordinary cause. The supreme court may assign certified questions without the matter appearing on the docket and before

reply briefs are filed. [The time for filing briefs and appendices shall commence from the issuance of notice of preliminary acceptance of the certification order.]

Oral argument shall be as provided in Chapter 70, unless otherwise ordered by the court.