# HANDBOOK OF

# CONNECTICUT

# APPELLATE PROCEDURE

## PREFACE

This is only a handbook. Although it contains much information on appellate procedure and tips for both the novice and the seasoned appellate practitioner, it is not intended to be a comprehensive treatise or a substitute for the official Connecticut Practice Book. The material in this handbook should be supplemented by your own careful study of the rules of appellate practice, as well as case law and statutes. The rules change frequently and therefore you should make sure you are consulting the most recent version of the rules.

This handbook does not address rules specifically applicable to habeas corpus cases, land use cases, workers' compensation cases, court closure and sealing cases, and child protection matters. Please consult the Practice Book.

This handbook is based on the rules pertaining to appeals filed on or after July 1, 2013, and has been updated with respect to mandatory e-filing for all parties who are not exempt.

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# INTRODUCTION

## The Role of the Office of the Appellate Clerk

The office of the appellate clerk is staffed by attorneys and paralegals who review, process and monitor all filings submitted to the Supreme Court and the Appellate Court for consideration or ruling.

The office of the appellate clerk is the liaison between the public, the trial courts, the bar, self-represented parties, the Supreme Court justices, the Appellate Court judges, and the court staff**.**

The appellate clerk serves as a resource for information but does not give legal advice. Anyone having business before either the Supreme Court or the Appellate Court is expected to have consulted the Connecticut Rules of Appellate Procedure prior to contacting the appellate clerk.

Each appeal is managed by a clerk/case manager. Appeals are reviewed and monitored for procedural and jurisdictional compliance under guidelines established by the courts, statutes, case law, and the rules of court.

Questions may be directed to the case manager assigned to a particular appeal.

## SECTION 1

## KNOWING WHAT IS APPEALABLE AND WHEN TO APPEAL IT

The failure to take a timely appeal from an appealable judgment or order can result in a loss of the right to appellate review of that ruling. Carefully study the rules, statutes, and case law to determine whether a judgment or an order is appealable, whether you have a right to appeal it, and when your appeal must be filed.

### Is the Judgment Appealable and Are You Entitled to Appeal It?

Generally, only judgments and orders issued by a judge of the Superior Court can be appealed to the Appellate Court or the Supreme Court. Decisions issued by state agencies and by the Probate Court should instead be challenged by taking an appeal to the Superior Court. In workers' compensation cases, on the other hand, appeals from decisions of the Workers' Compensation Review Board are taken to the Appellate Court. See Connecticut General Statutes (C.G.S.) § 31-301b. An appeal from a decision of the workers' compensation commissioner on a complaint that alleges discriminatory discharge in violation of C.G.S. § 31-290a should also be taken directly to the Appellate Court.

Not every order or decision rendered by a Superior Court judge is appealable, and not every person has the right to appeal and challenge a decision that they disagree with. The "appeal statute," C.G.S. § 52-263, provides that you can appeal only if: (1) you were a party to the Superior Court action, (2) you are aggrieved by the Superior Court's decision, and (3) the Superior Court's decision is a final judgment. You should therefore consider the following questions in deciding whether the Superior Court's judgment or order *can* be appealed and, if so, whether you are a person who has a right to appeal it:

1. **Were you a party in the Superior Court case?** If you were not a plaintiff or defendant in the underlying action and you were never made a party to the action in Superior Court, you cannot appeal an order or judgment rendered in that case. Note, however, that a nonparty who is aggrieved by a Superior Court judgment or order that binds them can seek appellate review by filing a writ of error. See P.B. § 72-1.

2. **Are you aggrieved by the decision?** Only someone who is aggrieved by the Superior Court decision can appeal or bring a writ of error to challenge it. A person is aggrieved by a decision if they have some specific, personal and legal interest that will be harmed by the decision. Generally, the party that "lost" the Superior Court case is aggrieved and entitled to appeal. But a party can also be aggrieved by a judgment that is seemingly in their favor if the judgment awards them less than they asked for in the underlying action.

3. **Is the decision a final judgment?** An appeal or writ of error can only be taken from a "final judgment" of the Superior Court. Most often, the final judgment is the ruling made at the end of the case that decides who won and resolves all the parties' claims. But even an interlocutory ruling—that is, a ruling that is made during the course of the ongoing litigation before the Superior Court that does not conclude the case—can be an appealable final judgment. You should consult *State* v. *Curcio*, 191 Conn. 27 (1983), for guidance in determining whether an interlocutory ruling is a final judgment that can be immediately appealed.

   Finally, there are statutes and Practice Book provisions that permit immediate appeals of some orders or decisions that are not final judgments in that they do not necessarily end the case. These orders include, but are not limited to:

   a. decisions concerning mechanic's liens, prejudgment remedies and lis pendens. See C.G.S. §§ 49-35c, 52-278*l* and 52-325c.
   b. temporary injunctions involving labor disputes. See C.G.S. § 31-118.
   c. orders or decisions certified by the Chief Justice as being of substantial public interest and in which delay may work a substantial injustice. See C.G.S. § 52-265a.
   d. orders concerning court closure and sealing or limiting disclosure of court documents, affidavits or files. See C.G.S. § 51-164x.
   e. decisions of the Workers' Compensation Review Board. See C.G.S. § 31-301b.
   f. certain partial judgments that do not dispose of the entire case. See P.B. §§ 61-2 through 61-4.
   g. most Superior Court decisions remanding the case to a state agency for further proceedings under the Uniform Administrative Procedure Act. See C.G.S. § 4-183 (j).

4. **Do you need permission to appeal?** Generally the answer is "no," but permission *is* required in order to appeal some rulings. Those rulings include:

   a. Superior Court decisions on appeals from local zoning and inland wetlands agencies, which require the filing and granting of a petition for certification by the Appellate Court. See C.G.S. §§ 8-8 (o) and 22a-43 (e)**;** P.B. § 81-1.
   b. Habeas corpus decisions, which are appealable by either the petitioner or the respondent only with the permission of the judge who tried the case. See C.G.S. § 52-470 (g)**;** P.B. § 80-1.
   c. Denials of petitions for new trials in criminal cases, which are appealable upon the granting of certification by the trial court. See C.G.S. § 54-95.
   d. Rulings which dispose of at least one cause of action while not disposing of either (1) an entire complaint, counterclaim or cross complaint or (2) all causes of action brought by or against a party. These rulings are immediately appealable only if the trial court makes a written determination that an immediate appeal is justified and the

Chief Justice or Chief Judge concurs with that determination. See P.B. § 61-4.

A party who is denied permission, or certification, to appeal from the rulings listed in paragraphs (b) or (c) above can still file an appeal, but they must argue in their appellate brief that the trial court abused its discretion in denying them permission to appeal.

## Should the Appeal be Filed in the Appellate Court or the Supreme Court?

Most appeals should be filed in the Appellate Court. See C.G.S. § 51-197a. The appeals that should be filed directly in the Supreme Court are listed in C.G.S. § 51-199 (b). A writ of error should be filed in the Supreme Court. See P.B. § 72-1. If an appeal or matter is filed in the wrong court, the appellate clerk has the authority to transfer it to the proper court. See P.B. § 65-4. The Supreme Court may also transfer an appeal that was properly filed in the Appellate Court to itself or transfer an appeal or writ of error that was properly filed in the Supreme Court to the Appellate Court. See C.G.S. § 51-199 (c); P.B. § 65-1.

## How Long Do You Have to File the Appeal?

Consult P.B. § 63-1 and the statutes in determining how long you have to file an appeal. In most (but not all) cases, you must file the appeal within 20 days of the date notice of the judgment or decision is issued by the trial judge or clerk. If notice of the judgment or decision is given orally by the trial judge in open court, the 20 day appeal period begins on that day. If notice is given only by mail, the appeal period begins on the day that notice of the decision was mailed to counsel of record by the trial court clerk. In a civil jury case, the acceptance of the verdict constitutes the judgment if no timely motion under P.B. §§ 16-35, 16-37 or 17-2A is filed; otherwise, the date of issuance of notice of the last ruling on any such motion or motions begins the 20 day appeal period. Finally, note that the filing of *some* motions in the trial court during the appeal period that request that the judgment be opened or reconsidered can operate to create a new appeal period. See P.B. § 63-1 (c).

When there is more than one plaintiff or defendant and the court renders a judgment that ends the case as to one plaintiff or defendant, the judgment is a final judgment and a party aggrieved by the judgment can file an immediate appeal—even though the case is not over as to the other parties. See P.B. § 61-3. If a party aggrieved by a P.B. § 61-3 judgment wishes to wait until the end of the case to file an appeal, the party must file a notice of intent to defer the appeal in order to preserve the right to challenge the judgment later. See P.B. § 61-5. The notice of intent to appeal defers the taking of an appeal until the trial court renders a judgment that finally disposes of the case for all purposes and as to all parties. If, however, another party files a timely objection to the notice of intent to defer the appeal, the party who filed the

notice of intent to defer the appeal cannot wait to appeal and must instead file an appeal within 20 days of the filing of the objection to the notice of intent to defer the appeal.

A judgment that disposes of an entire complaint, counterclaim or cross complaint is a final judgment even if the trial court has not yet ruled on—or disposed of—another complaint, counterclaim or cross complaint in the case. See P.B. § 61-2. A party aggrieved by a judgment that disposes of an entire complaint, counterclaim or cross complaint should therefore appeal within 20 days of notice of the judgment.

The trial judge can grant a timely motion for extension of the time to take an appeal and allow up to an additional 20 days, unless a shorter period has been prescribed by rule or by statute. See P.B. § 66-1. If a motion for extension of time to file an appeal is filed at least 10 days before expiration of the time limit sought to be extended, you will have no less than 10 days from the issuance of notice of the denial of the motion to file an appeal. If your motion is filed outside of the initial 10 day period and it is denied by the trial court, you run the risk that your appeal may be deemed untimely.

Not every case has a 20 day appeal period, and the law sets shorter time periods for taking an appeal or seeking certification to appeal in some matters. These shorter time periods include:

1. **72 hour period** to seek review of orders prohibiting attendance at court sessions and orders sealing or limiting access to documents on file with the court under C.G.S. § 51-164x. See P.B. § 77-1.

2. **5 day period** to appeal summary process judgments under C.G.S. § 47a-35 (Sundays and legal holidays are excluded in calculating the 5 day appeal period).

3. **7 day period** to appeal orders concerning lis pendens, mechanic's liens and prejudgment remedies under C.G.S. §§ 49-35c, 52-278*l* and 52-325c.

4. **10 day period** to seek certification to appeal habeas corpus decisions under C.G.S. § 52-470 (g).

5. **14 day period** to seek permission from the Chief Justice to appeal under C.G.S. § 52-265a from orders that involve matters of substantial public interest.

6. **14 day period** to appeal orders regarding temporary injunctions in labor disputes under C.G.S. § 31-118.

### Is the Superior Court Judgment Stayed While the Appeal is Pending?

In most cases, the Superior Court's judgment is automatically stayed and cannot be enforced until the time to file an appeal from the judgment has expired. See P.B. §§

61-11 (civil cases) and 61-13 (criminal cases). If an appeal is filed, the stay of execution ordinarily continues in effect until the final determination of the appeal.

Not all judgments, however, are automatically stayed during the appeal period or during the time that the appeal is pending before the Appellate Court or the Supreme Court. Practice Book § 61-11 (b) and (c) list the civil matters in which the judgment is not automatically stayed during the appeal period or while an appeal is pending. For example, the automatic stay of execution does not apply to some orders rendered in family cases, such as those concerning periodic alimony, child support and visitation, or to judgments rendered in juvenile cases. Note that P.B. § 61-11 (g) and (h) set out different stay rules for appeals taken from judgments of strict foreclosure and foreclosure by sale. Finally, there are statutes that require that some judgments are automatically stayed to allow time to appeal. For example, C.G.S. § 47a-35 states that a summary process judgment is automatically stayed for 5 days from the date the judgment is rendered.

If an automatic stay of execution of the judgment is in effect, a party can file a motion asking the trial judge to terminate the automatic stay. See P.B. §§ 61-11 (c) and (d) (civil cases) and 61-13 (d) (criminal cases). If no stay of execution is in effect, a party can file a motion asking the trial judge to impose a stay. See P.B. §§ 61-12 (civil cases) and 61-13 (d) (criminal cases). A party unhappy with a trial court order that terminates or imposes a stay of execution of a judgment on appeal can seek appellate review of the order by filing a motion for review under P.B. §§ 61-14 and 66-6.

## SECTION 2

## THE MECHANICS OF FILING AN APPEAL AND CROSS APPEAL

### Distinction between Appeals and Cross Appeals

An appeal may only be brought by a party who is legally harmed or "aggrieved" by the decision of the trial court. See C.G.S. § 52-263; P.B. § 61-1. The party who files the appeal is called the appellant and all other parties who have not joined in the appeal are called appellees. Within 10 days of the filing of the appeal by the appellant, an appellee who is also legally harmed by the trial court's decision may also wish to challenge the decision by filing a "cross appeal." The procedure for filing a cross appeal is the same as for the filing of an appeal, except where noted below. See P.B. § 61-8.

### Appeal Form

All appeals must be e-filed unless an exemption from e-filing has been granted. When you e-file an appeal, an appeal form is automatically generated by the computer and filed with the appellate clerk's office. In cases where an exemption has been granted, the appeal form, which is available on the Judicial Branch website (www.jud.ct.gov), shall be filed with the appellate clerk in accordance with P.B. § 60-8. The appeal form must be accompanied by (1) a receipt showing that all required fees have been paid; or (2) a signed application for waiver of fees and the order of the trial court granting the fee waiver; or (3) certification that no fee is required. You may visit the Judicial Branch website for additional helpful information including the appellate e-filing instruction manual.

### Fees

Fees in e-filed cases shall be paid at the time of e-filing as specified by E-Services. No fee is required for a cross appeal. When an exemption from electronic filing has been granted, all fees are paid to the trial court in accordance with P.B. § 60-8. An indigent party may apply for a waiver of the appellate fees and an order that necessary expenses of bringing the appeal be paid by the state. See P.B. §§ 63-6 (civil) and 63-7 (criminal). The application must be filed with the trial court within the deadline for taking the appeal.

### Other Documents

All appellate documents must be e-filed unless an exemption has been granted. Within 10 days of filing the appeal, you must file the following documents pursuant to P.B. § 63-4:

1. **A preliminary statement of the issues** intended for presentation on appeal.

2. **A transcript order form** (JD-ES-38) properly completed by the court reporter with an estimated delivery date or **a certificate stating that no transcript is necessary** or a list of the specific date(s) of transcripts delivered prior to the filing of the appeal.

You must also order an electronic version of the portions of the transcript deemed necessary for presentation of the appeal. See P.B. § 63-8 (a).

3. **A docketing statement** in accordance with P.B. § 63-4 (a) (3).

4. **A preargument conference statement** in most noncriminal cases. See P.B. § 63-10.

5. **A constitutionality notice.** This document is required only in any civil case in which you are challenging the constitutionality of a state statute. The document should state: (a) the statute being challenged, (b) the name and address of the party bringing the challenge, and (c) whether the trial court upheld the constitutionality of the statute.

6. **A copy of the sealing order form** (JD-CL-76) and/or any sealing order in the case showing the date, time, scope and duration of the sealing order. This is required in cases where there is protected information, documents are under seal, or disclosure has been limited.

The appellee has 20 days to respond to these papers pursuant to P.B. § 63-4.

Amendments to any of these documents, except the certificate regarding transcript, may be made without the court's permission until that party's brief is filed.

After you have filed the appeal, you will receive a letter from the office of the appellate clerk with additional information, including the name of the case manager for the appeal. Case managers must remain neutral and therefore cannot provide legal advice for any case on appeal.

## SECTION 3

## THE RECORD ON APPEAL

It is the appellant's responsibility (or in the case of a cross appeal, the cross appellant's responsibility) to ensure that the record is adequate to permit appellate review of the appellant's claims on appeal. See P.B. § 61-10. The record includes the case file, any decisions, documents, transcripts, recordings and exhibits from the proceedings below, and, in appeals from administrative agencies, the record returned to the trial court by the administrative agency. See P.B. § 60-4. The failure to provide an adequate record for review could result in the court's declining to review an issue or claim on appeal. Perfecting the record for appeal involves a number of activities both before and after filing the appeal:

1. **Transcript.** On or before filing the appeal, the appellant must order (using Form JD-ES-38), and make satisfactory arrangements for payment of, a transcript of the parts of the proceedings not already transcribed that are necessary for proper presentation and review of the appeal. See P.B. §§ 63-8, 63-8A and 63-4 (2). The appellant is required to order both the paper copy of the transcript as well as an electronic version. Upon receipt of the certificate of completion from the official reporter, counsel or self-represented parties who ordered the transcript must file a certification that a copy of the certificate of completion has been sent to all counsel and self-represented parties in accordance with P.B. §§ 62-7 and 63-8. Also, before or at the time of the filing of the appellant's brief, the appellant must file with the office of the appellate clerk one unmarked, nonreturnable copy of the paper version of the transcript, including the reporter's certification page. See P.B. § 63-8. The reporter files an electronic version of the transcript with the office of the appellate clerk and delivers a copy to the ordering party. See P.B. § 63-8A. Failure to file a transcript could preclude review of any claim dependent on the transcript. The transcript is not served on other parties, who must either review the transcript on file with the office of the appellate clerk or order their own copies from the court reporter. In a criminal case, the court reporter will provide the state with a copy of all transcripts ordered and received by the defendant-appellant if the appeal is being handled by a private attorney or the defendant is self-represented. If the criminal appeal is being handled by a special public defender, the defendant, through counsel, must provide the state with a copy of all transcripts ordered and received.

2. **Motion for Rectification.** The appellant should seek to correct any errors or omissions in the trial record by filing a motion for rectification. See P.B. §§ 66-5 and 66-2. For example, a motion for rectification should be used to seek to correct an error in the trial transcript or to include a document omitted from the trial court record. Unless the filing period is extended for good cause shown, a motion for rectification must be filed within 35 days after: (a) delivery of the last portion of the transcripts; (b) if no transcripts were ordered, the filing of the appeal; or (c) if no memorandum of decision was filed before the appeal was filed, the filing of the memorandum of decision. If the court, on its own motion, sets a different deadline for filing the appellant's brief, such as an extension pending assignment for a

preargument conference, a motion for rectification must be filed within 10 days before the deadline for filing the appellant's brief. See P.B. § 66-5. Except for good cause shown, no motion for rectification can be filed after the appellant's brief is filed. The filing of a motion for rectification does **not** delay the time for filing the appellant's brief, so a motion for extension of time may be necessary. See P.B. § 66-1. The office of the appellate clerk will forward the motion for rectification to the trial judge who decided, or presided over, the subject matter of the rectification. The trial judge will file the decision on the motion with the office of the appellate clerk. The trial court may hold a hearing to receive evidence, approve a stipulation of counsel or hear arguments regarding a requested correction. Any party aggrieved by a trial court's ruling on a motion for rectification may file a motion for review under P.B. § 66-7, which is discussed in subsection 5.

3. **Memorandum of Decision or Transcript of Oral Decision.** It is also the appellant's responsibility to ensure either (a) that the trial court files a written memorandum of decision or (b) if the trial court's decision was oral, that a transcript of the portion of the proceedings in which the court stated its oral decision is signed by the trial judge and filed in the trial court clerk's office. See P.B. § 64-1. Filing a transcript of a decision that is not signed by the trial judge may not be sufficient to permit appellate review. If the trial judge fails to file a memorandum of decision or to sign a transcript of an oral decision, the appellant should file with the office of the appellate clerk under P.B. § 64-1 (b) a notice that the decision has not been filed, specifying the trial judge involved and the date of the ruling in question. The appellate clerk will forward the notice to the trial judge. If the judge does not respond in a reasonable time, the appellant may also seek an order under P.B. § 60-2 (1) directing the trial court to file a written decision or sign the transcript.

4. **Motion for Articulation.** Whenever the trial court's decision fails to address an issue that was raised in the trial court and will be raised on appeal, or is unclear or incomplete in setting forth the factual or legal basis of its decision, it is the appellant's responsibility to file a motion for articulation under P.B. § 66-5. The motion for articulation (which seeks further explanation regarding the basis for an existing decision) should not be confused with the notice, discussed above, that is filed pursuant to P.B. § 64-1 (b) when the trial court has failed to file any memorandum of decision or to sign a transcript of the court's ruling. The time periods for filing a motion for articulation are the same as those governing motions for rectification. Filing a motion for articulation does **not** delay the deadline for filing the appellant's brief, so that a motion for extension of time to file a brief may be necessary. See P.B. § 66-1. The office of the appellate clerk will forward the motion for articulation to the trial judge. Within 20 days of a judge's articulation, any party may move for further articulation. See P.B. § 66-5.

5. **Motion for Review.** If any party is aggrieved by the action of the trial judge on a motion for articulation or rectification, that party should seek appellate review of that decision by filing with the office of the appellate clerk a motion for review under P.B. § 66-7 within 10 days of notice of the trial judge's action. See P.B. § 66-6. Failure to file a motion for review may result in an appellate court's declining to review an

issue or claim on appeal, even if a motion for articulation or rectification was filed. If the motion was not granted or the trial court's ruling is incomplete in any way, a prudent party will file a motion for review, attaching any relevant pleadings, transcripts or other court papers. If the motion for review depends upon a transcript, either a paper version of the transcript with an electronic version or a copy of the transcript order form if the transcript has not yet been delivered, should be filed with the motion. Failure to file the transcript when the motion for review depends on transcript could result in the denial of review of your motion.

6. **Filing Local Land Use Regulations.** In appeals certified by the Appellate Court pursuant to P.B. § 81-1 et seq., one complete copy of the local land use regulations in effect at the time of the hearing that gave rise to the agency action or ruling in dispute must be filed with the office of the appellate clerk when the appellant's brief is filed. The copy filed must be certified by the local zoning official as having been in effect at the time of the hearing. See P.B. § 81-6.

## SECTION 4

## PREARGUMENT CONFERENCES

Preargument conferences are held pursuant to P.B. § 63-10 and are convened primarily to explore the possibility that the case can be settled, and indeed this mediation process has resulted in the settlement and withdrawal of many appeals. The deadline for the appellant's brief will usually be extended until *after* the preargument conference so that the parties can discuss settlement before they have incurred the expense of preparing and filing their appellate briefs. The judge assigned to conduct the preargument conference may point out to the attendees, parties and attorneys, in joint conference and in private discussions, the strengths and weaknesses of each side. The judge may also wish to discuss the possibility of reducing the number of issues presented in the appeal or a timetable for the filing of the appellate briefs. Finally, the preargument conference judge may recommend that the case be transferred from the Appellate Court to the Supreme Court.

In all noncriminal cases, except for those noncriminal cases that are expressly exempt from a preargument conference under P.B. § 63-10, the appellant must file a preargument conference statement within 10 days of filing the appeal. All civil cases are eligible for a preargument conference except habeas corpus appeals, driving while intoxicated appeals and appeals involving juveniles, such as delinquency and termination of parental rights cases. A party in an exempt case may nonetheless request a preargument conference by filing a request for a conference with the appellate clerk, certified to all parties, explaining why the case should not be exempt.

Any questions or requests regarding the preargument conference should be addressed to the judge to whom the case has been assigned.

Parties are required to attend the preargument conference unless they are excused from attendance by the preargument conference judge. In the event that a party against whom a claim is made is insured, the insurer must be available by telephone, although the judge may require the adjuster to be present at the conference. If a party or an attorney who has not been excused from attending the preargument conference fails to attend the conference, sanctions may be imposed under P.B. § 85-2 (7).

The preargument conference proceedings are confidential and, if the proceedings do not result in withdrawal of the appeal, nothing discussed in the proceedings should be brought to the attention of the Supreme Court or the Appellate Court or mentioned or included by any party in their appellate brief or appendix.

## SECTION 5

## MOTION PRACTICE

Unless a filer is exempt from electronic filing pursuant to P.B. § 60-8, all motions and oppositions to motions must be electronically filed pursuant to P.B. § 60-7, and shall comply with the requirements of P.B. §§ 66-2, 66-3 and 62-7. Thus, motions must be:

- typewritten and fully double-spaced
- 12 point or larger size in arial or univers typeface
- no more than 3 lines to the vertical inch or 27 lines to the page
- margins and footnotes shall comply with P.B. § 66-3

If you received an exemption from electronic filing pursuant to P.B. § 60-8, only an original paper motion or opposition is required.

All motions and oppositions must contain a certification that a copy has been delivered to each other counsel of record, including names, addresses, e-mail addresses, and telephone and facsimile numbers. The certification shall also include a statement 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 that the document complies with all applicable rules of appellate procedure.

In accordance with P.B. § 66-2, every motion, including motions for extension of time, **must** contain in separate, appropriately captioned paragraphs:

- a brief history of the case
- specific facts relied upon
- legal grounds relied upon

There is a 10 page limit for all motions or oppositions, including any memoranda in support of or in opposition to a motion. See P.B. § 66-2 (b). Attachments to the motion or opposition such as transcripts or documents are not included in the 10 page limit. Whenever a motion is filed in the office of the appellate clerk, it is initially examined for compliance with P.B. §§ 66-2 and 66-3. Noncomplying motions are returned. See P.B. § 62-7. Although the returned document remains in the electronic filings for that appeal, it will not be considered by the court and a return notice will be issued by the office of the appellate clerk. Any papers correcting a noncomplying filing should be resubmitted to the appellate clerk within 15 days. P.B. § 62-7 applies unless otherwise ordered by the court having appellate jurisdiction. The response time will not start to run until the correcting paper is filed.

Some motions may lead to the disposition of an appeal or writ of error. Generally, the appellee must file a motion to dismiss based on a nonjurisdictional defect within 10 days after the filing of the appeal or within 10 days after the alleged defect

arose. A motion to dismiss based on lack of jurisdiction, however, may be filed at any time. See P.B. § 66-8. Examples of jurisdictional problems that can result in dismissal of an appeal include lack of aggrievement, mootness, and lack of a final judgment. Examples of nonjurisdictional claims that can result in the dismissal of an appeal include failure to timely file required documents or to file a timely appeal. Motions for sanctions may be filed at any time. See P.B. § 85-3.

A motion for review pursuant to P.B. § 66-6 allows the Appellate Court or the Supreme Court to review actions of the trial court during the pendency of the appeal involving questions that may arise in connection with the preparation of the appeal. A motion for review is appropriate where a party seeks to modify or vacate any order of the trial court relating to the perfecting of the record for appeal or the procedure for prosecuting or defending the appeal. A motion for review is also appropriate to seek review of the action of the appellate clerk or the trial court on a motion to extend time. See P.B. § 66-1. In addition, a party may move for review of an adverse ruling on either a motion for stay of execution or a motion to terminate an automatic stay. See P.B. §§ 61-11, 61-12 and 66-6. A party has 10 days from the date of issuance of notice of any order to file a motion for review. See P.B. § 66-6.

Pursuant to P.B. § 60-2, any order made by the trial court in relation to the prosecution of an appeal may be modified or vacated. This rule also permits the filing of a motion to strike improper matter from a brief or appendix, and a motion to stay any proceedings ancillary to a case on appeal. The Supreme Court or Appellate Court may order that a party for good cause shown may file a late appeal, petition for certification, brief or other document unless the court lacks jurisdiction to allow a late filing. The court also may order that a hearing be held to determine whether the court has jurisdiction over a pending matter, order an appeal to be dismissed unless the appellant complies with specific orders of the trial court, and remand any pending matter to the trial court for resolution of factual issues if necessary.

An opposition can be filed to any motion, other than a motion for extension of time, within 10 days of the filing of the motion. Responses to oppositions are not permitted and will be returned by the office of the appellate clerk.

Some motions that are directed to the trial court, such as a motion to terminate stay pursuant to P.B. § 61-11 or motions for rectification or articulation pursuant to P.B. § 66-5, are filed with the appellate clerk. These trial court motions must comply with the requirements of P.B. § 66-2 (e). These motions and any oppositions will be forwarded to the trial court by the appellate clerk. When the trial court has decided these motions, the appellate clerk shall issue notice of the decision. A motion for review can be filed within 10 days of issuance of notice of the decision.

## SECTION 6

## MOTIONS FOR EXTENSION OF TIME

Motions for extension of time to file a brief or other document are governed by P.B. § 66-1. Like all other motions, they must be electronically filed pursuant to P.B. § 60-7 and comply with P.B. §§ 66-2, 66-3 and 62-7. Pursuant to P.B. § 66-1, motions for extension of time must also include:

- the reason for the requested extension
- certification to counsel, self-represented parties, **and** the movant's client
- a statement indicating whether other parties consent or object
- the current status of the brief
- the estimated date of completion of the brief
- whether the client is incarcerated (criminal cases only)
- a claim of **good cause.** See P.B. § 66-1 (c).

Only an original of the motion must be filed if you received an exemption from electronic filing. See P.B. § 60-8. Unlike other motions, an objection to a motion for extension of time must be filed within 5 days. See P.B. § 66-1 (c) (3).

### The Good Cause Requirement

Good cause must be shown for a motion for extension to be granted. The appellate clerk is authorized to grant motions for extension of time pursuant P.B § 66-1 (c). If the reason for the requested extension is that counsel is working on other appeals, be specific, listing the dates when briefs are due in other cases. Whether your reason relates to the inherent nature of the appeal, such as a lengthy transcript, complex issues or pending settlement negotiations, or relates to other matters, be forthright. Other pending motions, unrelated to the filing of a brief, do not automatically delay the time to file the brief, although such other pending motions may furnish a reason for granting an extension of time to file the brief.

### When to File

A motion for extension of time must be filed no later than 10 days **before** the brief or document is due, unless the reason for the request for an extension arose during that 10 day period. If the motion for extension is filed **after** the due date, the clerk is required to deny the motion. See P.B. § 66-1 (4). If the due date has passed or a motion for extension has been denied, a motion for permission to file late may be filed. Extensions cannot be granted over the telephone.

If there is a specific court order or a final extension order for the filing of a brief or other document, you must comply with the order. If you fail to comply with the order, the office of the appellate clerk cannot accept a late brief or other document unless the court grants a motion for permission to amend or set aside the court order.

## Notice of Decision on Motions for Extension of Time

The official notice for orders on motions for extension of time issued by the Supreme Court and the Appellate Court is the electronic posting of the order to the appellate file through the appellate e-filing system. Paper notice will issue in all appeals where the litigant is exempt from electronic filing. Counsel of record and the public can view the disposition of the motion for extension and the date of the extension in the Motion, Order, and Activity section of the electronic file available on the Judicial Branch website. In the event an order on a motion for extension of time contains additional text that cannot be seen on the activity section, or case information is not electronically available, paper notice will issue.

## Extensions of Time in Which to File an Appeal

Pursuant to P.B. § 66-1, a motion for extension of time to file an appeal must be filed in the trial court where the case was heard. A motion for extension of time to file an appeal should be filed at least 10 days before expiration of the time limit sought to be extended so that if the motion is denied, the party seeking to appeal will have no less than 10 days from the issuance of notice of the denial to appeal. See P.B. §§ 66-1 (a) and 63-1 (a).

## SECTION 7

## BRIEFS AND APPENDICES

The timing, format, and content of briefs and appendices are governed by Chapter 67 of the Practice Book. Briefs and appendices that do not substantially comply with the rules may be rejected by the office of the appellate clerk. See P.B. § 62-7. Moreover, the court may refuse to review issues that are not properly briefed. Note that different rules apply to the filing of briefs and appendices in child protection matters. See P.B. §§ 79a-1 through 79a-15.

### Timing

1. **The Appellant's Brief.** The brief and appendix of the appellant must be filed within 45 days of the delivery date of any transcript ordered by the appellant. See P.B. §§ 67-3 and 63-8 (c). The "delivery date" of the transcript is the date on which the final portion of the transcript ordered by the appellant is sent to the appellant by the court reporter. See P.B. § 63-8 (c). If the appellant has not ordered any transcript or, if the transcript on which the appellant intends to rely was obtained prior to the filing of the appeal, the appellant's brief and appendix must be filed within 45 days of the filing of the appeal. See P.B. § 67-3.

2. **The Appellee's Brief.** The brief of the appellee and any appendix must be filed within 30 days after the filing of the appellant's brief. See P.B. § 67-3. If the appellee has ordered any transcript in addition to that ordered by the appellant; see P.B. § 63-4 (a) (2); the appellee's brief and any appendix must be filed within 30 days after the delivery date of the transcript ordered by the appellee. See P.B. § 67-3.

3. **The Reply Brief.** The reply brief, if any, must be filed within 20 days after the filing of the brief of the appellee. See P.B. § 67-3. It must respond only to the appellee's argument and may not raise new issues.

4. **Cross Appeals.** Where a cross appeal has been filed, the brief and appendix of the appellee is combined with the brief and appendix as cross appellant and is filed within the time provided for the filing of the appellee's brief. The reply brief, if any, of the appellant is combined with the brief and appendix as cross appellee and must be filed within 30 days after the filing of the brief of the appellee/cross appellant. The reply brief, if any, of the cross appellant must be filed within 20 days after the filing of the brief of the cross appellee. See P.B. § 67-3.

### Format

The Practice Book contains precise requirements concerning margins, spacing, fonts, page numbers, binding and covers. See P.B. § 67-2. Strict compliance with these requirements is essential.

Supreme Court cases require an original and 15 copies of the brief and appendix to be filed. Appellate Court cases require an original and 10 copies. Unless ordered otherwise, the brief shall be copied on one side of the page only. Appendices may be copied on both sides of the page.

The page limitations for briefs may be found in P.B. § 67-3. For purposes of the page limitations, you must count everything other than the: (1) appendices; (2) statement of issues; (3) table of contents; (4) table of authorities; (5) statement of interest in an amicus curiae brief; and (6) last page of the brief, but **only** if it contains nothing more than the signature of counsel or the signature of the self-represented party. The Chief Justice or the Chief Judge may grant permission to exceed the page limitations. Requests to exceed the page limitations, which should be made sparingly, should be made by letter filed with the appellate clerk. The request should include both a compelling reason and the number of additional pages sought. It is helpful if you include your current statement of issues. If you are briefing a claim based on the state constitution as an independent ground for relief, the appellate clerk will, upon request, grant an additional 5 pages for briefs, plus an additional 2 pages for the appellant's reply brief. Note that these additional pages are to be used **only** for the state constitutional argument.

## Content

The brief should be as concise and as readable as possible. Use plain English in your brief. The appellant and the appellee should be referred to as either the "plaintiff" or the "defendant," as appropriate, or by name. See P.B. § 67-1. The appellant must describe what happened in the trial court and why the judgment should be reversed. The appellee should try to persuade the reviewing court either that the trial court did nothing wrong or that any errors that might have occurred do not merit reversing the judgment, or both.

## Electronic Briefing Requirements

In addition to the requirement that you file paper briefs, you are required to submit electronic versions of briefs and appendices, unless you are exempt from electronic filing requirements. A copy of the electronic confirmation receipt indicating that the brief and appendix were submitted electronically must be filed with the original paper brief and appendix.

## The Appellant's Brief

The appellant's brief must contain a statement of the issues involved in the appeal, a table of authorities, a statement of the nature of the proceedings and the facts of the case, and an argument section. See P.B. § 67-4 (a) through (d). The text of pertinent portions of any constitutional provisions, statutes, ordinances or regulations on which the appellant relies must be included either in the brief or in an appendix. See

P.B. § 67-4 (f). Also include any rules of court that are at issue. The appellant's brief should be organized in the following order:

1. **Table of Contents.** The table of contents should outline the various sections of the brief (including the major headings from the argument section), along with a page number for each section or heading.

2. **Statement of Issues.** The statement of issues must be included in the appellant's brief. See P.B. § 67-4 (a). The issues stated must be concise and must be set forth in separately numbered paragraphs, without detail or discussion. The statement should include references to the pages of the brief where each issue is discussed. See P.B. § 67-4 (a). The statement of issues should not exceed 1 page and should be on a page by itself. See P.B. § 67-1. The statement of issues will be deemed to replace and supersede the appellant's preliminary statement of issues. See P.B. § 67-4 (a).

3. **Table of Authorities.** The table of authorities should include all authorities cited in the brief, as well as the page numbers of the brief where those citations appear. See P.B. § 67-4 (b). The rules provide for different citation protocols for judicial decisions, depending on whether the citation to the decision is located in the brief or in the table of authorities. See P.B. § 67-11.

4. **Statement Regarding Land Use Regulations.** In zoning and wetland appeals filed pursuant to P.B. § 81-4, you must include a statement identifying the version of the land use regulations filed with the office of the appellate clerk. See P.B. § 67-4 (g).

5. **Statement of Proceedings and Facts.** The rules provide that the statement of proceedings and statement of facts should have some "bearing on the issues raised." See P.B. § 67-4 (c). For example, it is not necessary to set forth every procedural event or every piece of evidence presented at trial, if the issue on appeal is whether the trial court should have stricken the complaint because it failed to state a cause of action. On the other hand, if the issue on appeal is whether the verdict was contrary to the evidence, then the statement of facts would necessarily require a detailed description of the evidence presented at trial. The statement of facts should be in narrative form, should not be "unnecessarily detailed or voluminous," and should include citations to the transcript page(s) or documents upon which you rely. See P.B. § 67-4 (c).

6. **Argument.** The argument section should be divided into appropriate sections (with headings), corresponding to the issues and subissues presented in the appeal. See P.B. § 67-4 (d).

   At or near the beginning of the argument for each issue, you must include a separate, brief statement of the standard of review that you believe the reviewing court should apply. See P.B. § 67-4 (d). The statement of the standard of review is an opportunity to tell the judges considering the appeal how you believe they should

review the actions of the trial court. For example, if the trial court decided an issue as a matter of law (for example, construed a statute or granted summary judgment), such decisions are generally reviewed anew on appeal ("de novo" or "plenary" standard of review). On the other hand, issues related to the management of a trial (for example, scheduling, evidentiary rulings, etc.) are generally reviewed on appeal only to the extent necessary to determine whether the trial court abused the wide discretion allocated to it in such matters ("abuse of discretion" standard of review). Factual findings made by the trial court are generally reviewed to determine whether there is evidence in the record to support those findings ("clearly erroneous" standard of review). Be aware that these three examples do not purport to cover the field of "standards of review." It is very important that you understand the nature of the review to which you are entitled on appeal and that you inform the court what you believe that standard should be.

The appellant must also demonstrate to the reviewing court that the issues presented on appeal were properly raised in the trial court. Depending on the issue raised on appeal, the appellant is required to include certain pertinent information in either the brief or the appendix. See P.B. § 67-4 (d) (1) through (5). If the appellant does not comply with these requirements, the court may refuse to review the issues raised on appeal.

7. **Conclusion and Statement of Relief Requested.** A short conclusion should be included in the appellant's brief, identifying exactly what action you believe should be taken in the event the court resolves the appeal in your favor. See P.B. § 67-4 (e).

8. **Signature and Certificate of Service.** The brief must be signed by counsel of record, which includes self-represented parties. It should include the signer's telephone number, fax number, mailing address and, if applicable, the signer's juris number or self-represented party's user identification number. See P.B. § 62-6. In your certificate of service, include the names, addresses, telephone and fax numbers of all counsel and self-represented parties served. See P.B. § 62-7.

9. **Certification Requirements for Electronically Submitted Briefs.** Counsel and self-represented parties must certify that electronically submitted briefs and appendices: (1) have been delivered electronically to the last known e-mail address of each counsel of record for whom an e-mail address has been provided; and (2) 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. See P.B. § 67-2 (g).

10. **Certification Requirements for the Original Brief and Copies of Briefs**. The original and all copies of the brief filed must be accompanied by: (1) certification that a copy of the brief and appendix has been sent to each counsel or self-represented party of record and to any trial judge who rendered a decision that is the subject matter of the appeal, in compliance with P.B. § 62-7; (2) certification by counsel that the brief and appendix being filed with the appellate clerk are true

copies of the brief and appendix that were submitted electronically pursuant to P.B. § 67-2 (g); (3) 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; and (4) certification that the brief complies with all provisions of P.B. § 67-2.

11. **Electronic Confirmation Receipt**. Counsel and self-represented parties must file a copy of the electronic confirmation receipt indicating that the brief and appendix were submitted electronically with the original brief.

## The Appellant's Appendix

The appellant must file an appendix with the appellant's brief. Extensive requirements are stated in P.B. § 67-8. The appendix is to be divided into two parts. Part one is mandatory and must include: a table of contents; the docket sheets, a case detail or court action entries in the proceedings below; relevant motions, findings and opinions of the court below; the signed judgment file, if applicable; the appeal form; the docketing statement; any relevant appellate motions or orders completing or perfecting the record; and other documents listed in P.B. § 67-8 (b). A list of suggested documents for inclusion in part one is provided in the appendix to this handbook.

Part two may include other portions of the record that the appellant deems necessary for the presentation of the appeal. It may include excerpts of lengthy exhibits or quotations from transcripts, or items to comply with other sections of the Practice Book which require inclusion of materials in the appendix. Opinions cited by a party that are not officially published must be included in part two of the appendix. See P.B. § 67-8 (b) (2). The entire trial court file will be available to the Supreme Court and the Appellate Court.

## The Appellee’s Brief

In general, the appellee's brief mirrors that of the appellant as to content and organization. The appellee's brief must respond to the points made and the issues raised in the appellant's brief. The rules allow the appellee to dispense with certain items that are required in the appellant's brief as appropriate. For example, the appellee's counter statement of issues need only address those issues raised by the appellant with which the appellee disagrees, along with any issues properly raised by the appellee under P.B. § 63-4 (i.e., alternative grounds on which the judgment may be affirmed or adverse rulings that should be considered if a new trial is ordered). See P.B. § 67-5 (a).

Similarly, the appellee is not required to submit a statement of the nature of proceedings and is required to include a counter statement only as to those facts as to which the appellee disagrees. See P.B. § 67-5 (c). The counter statement of facts

must be supported with references to the transcript or relevant documents. Any facts on which the appellee intends to rely must be set forth in either the brief or appendix of the appellant, or in the brief or appendix of the appellee. See P.B. § 67-5 (c).

To the extent that you disagree with the appellant's interpretation of rulings made by the trial court, voice your disagreement in the argument section of the appellee's brief. See P.B. § 67-5 (d). The appellee's brief must also include a brief statement of the standard of review that the appellee believes should be applied by the court. See P.B. § 67-5 (d). If you agree with the appellant's statement of the standard of review, you may so indicate. The appellee's argument section should also address any claims raised under P.B. § 63-4.

When the appellee is also the cross appellant, the issues on the cross appeal should be briefed by the cross appellant in accordance with the rules governing the appellant's brief. See P.B. § 67-5 (j).

The appellee must comply with the same certification requirements specified in P.B. § 67-2 as the appellant.

## The Appellee's Appendix

The appellee's appendix should not include items already included in the appellant's appendix. If the appellee determines that necessary items were not included in part one of the appellant's appendix, the appellee shall include those items. The appellee shall include copies of opinions that are not officially published and may include any portions of the proceedings below that the appellee deems necessary for the proper presentation of the appeal. See P.B. § 67-8 (c).

## The Reply Brief

Although the filing of a reply brief by the appellant is not required by the rules, if the appellee has raised any issues pursuant to P.B. § 63-4 (a) (1), a reply brief is the only way for the appellant to respond in writing to such issues. Do not raise new issues for the first time in the reply brief.

## Format of Appendices

When possible, parts one and two of the appendix should be bound together, and may be bound together with the brief unless the integrity of the binding is affected or either part exceeds 150 pages, in which case the appendices should be separately bound. See P.B. § 67-2 (b). The appendix should be paginated separately from the brief. The appendix should contain an index of the names of witnesses whose testimony is included and the page(s) on which the testimony occurred. You should review P.B. § 67-2 (c) through (j) for other requirements, such as covers of appendices,

number of copies to be filed, and the need for electronic versions to be filed by counsel and self-represented parties.

**BRIEFS IN BRIEF (P.B. § 67-1 et seq.)**

**General Requirements**

| | |
|---|---|
| FONT (text and footnotes) | arial or univers, at least 12 point |
| MARGINS | 1" top and bottom, 1.25" left, .5" right |
| PAGE NUMBERS | center bottom |
| BINDING | 3 staples on left or otherwise firmly bound |
| HOW MANY TO FILE | AC: original plus 10 copies<br>SC: original plus 15 copies |
| SPACING | • fully double-spaced text<br>• single-spaced footnotes and block quotes |
| FRONT COVER | arial or univers, at least 12 point:<br>• court (Supreme Court or Appellate Court)<br>• docket number (SC _____ or AC _____)<br>• case name (as found in trial court's judgment file, if applicable)<br>• whose brief (e.g., brief of the defendant-appellant)<br>• name, address, telephone number, fax number and e-mail address of counsel of record (including counsel of record who will argue the appeal) |
| BACK COVER | optional, but white, if used |
| APPENDIX | Parts one and two should be bound together when possible, and may be bound together with the brief unless the integrity of the binding is affected or either part exceeds 150 pages, in which case they should be separately bound. May be copied on both sides of the page. |
| CERTIFICATIONS | • certification requirements for electronically submitted briefs and paper briefs are found in P.B. § 67-2<br>• electronic confirmation receipt required with original brief |
| TRANSCRIPT | due at time of filing brief: 1 unmarked, nonreturnable copy, with form (JD-CL-62) indicating filing party, number of volumes and dates of hearings transcribed |
| ZONING REGULATIONS | 1 complete copy of local land use regulations certified by local zoning official |

**Specific Requirements for Parties' Briefs**

| BRIEF | NO. OF PAGES | COVER COLOR | WHEN DUE |
|---|---|---|---|
| APPELLANT | 35 | blue | 45 days after transcript delivered or, if no transcript, 45 days after appeal filed in trial court |
| APPELLEE | 35 | pink | 30 days after appellant's brief filed |
| APPELLEE/CROSS APPELLANT | 50 | pink | 30 days after appellant's brief filed |
| REPLY | 15 | white | 20 days after appellee's brief filed |
| CROSS APPELLEE WITH APPELLANT REPLY | 40 | white | 30 days after appellee's brief filed |
| CROSS APPELLANT REPLY | 15 | white | 20 days after cross appellee's brief filed |
| AMICUS | 10 | green | set by court |

## SECTION 8

## ASSIGNMENT OF CASES

Cases are listed on the Docket when all briefs and appendices, including reply briefs, have been filed, or the time for filing reply briefs has expired. See P.B. §§ 69-1 and 69-2. The cases listed on the Docket are considered ready for assignment during the upcoming court term. The Docket, which also contains the anticipated assignment dates, is delivered by the office of the appellate clerk to counsel of record. It is posted on the Judicial Branch website.

Assignment of cases is ordinarily made in order of readiness. Counsel of record are required to inform the office of the appellate clerk of any requests for variation from this order, including requests to argue cases together, requests to waive argument or of any scheduling conflicts, including the date and reasons therefor. See P.B. § 69-3. Such requests must include certification to counsel of record and to each of counsel's clients who are parties to the appeal, and must be received by the office of the appellate clerk by the date shown on the Docket. **In making such a request, counsel of record should be aware that assignments in the Supreme Court and the Appellate Court take precedence over all other Judicial Branch assignments.** See P.B. §§ 1-2 and 69-3.

The Assignment for Days is a calendar that shows the dates on which cases are assigned during a particular term of the court. See P.B. § 69-3. It is posted on the Judicial Branch website. The office of the appellate clerk must be notified immediately if an assigned case is settled or withdrawn for any reason. See P.B. § 69-2.

## SECTION 9

## ORAL ARGUMENT

In the Supreme Court, both the appellant and the appellee are ordinarily allowed no more than 30 minutes of argument time respectively. See P.B. § 70-4. The practice of the Appellate Court is to allow both the appellant and the appellee no more than 20 minutes of argument time respectively. The appellant may reserve rebuttal time out of the allotted time. The appellant opens and generally closes the argument. See P.B. § 70-3.

Only one person may argue for any one party unless special permission is obtained from the court prior to the date of argument. See P.B. § 70-4. Different parties on the same side of a case may apportion the argument time allotted to that side between themselves without special permission of the court. It is a courtesy to the court, however, to file a letter with the appellate clerk prior to oral argument indicating your intent to apportion the argument time and how you wish to do so. A party must have filed a brief or joined in the brief of another party in order to argue at all. An amicus curiae may not argue unless specifically granted permission to do so. See P.B. § 67-7. Such permission is rarely granted.

Sometimes there is a change in counsel or designation of arguing counsel before the scheduled argument date. After the case is ready for assignment, any change in counsel requires permission of the court. See P.B. § 62-8.

In cases involving incarcerated self-represented parties, oral argument may, in the discretion of the court, be conducted by videoconference. See P.B. § 70-1 (c).

The Appellate Court may determine that certain cases are appropriate for disposition without oral argument. See P.B. § 70-1. If a case is chosen for such disposition, counsel of record are notified that the case will be decided on the briefs and record only. If either party has an objection to waiving oral argument, that party may file a request for argument within 7 days of issuance of the court's notice. The court will either assign the case for oral argument or assign the case for disposition without oral argument, as it deems appropriate.

Counsel of record may, at any time, request the court's permission to submit a case for consideration without oral argument.

### Suggestions for Successful Oral Argument

The following is a short list of suggestions to keep in mind as you plan your oral argument.

1. **Oral argument and written briefs serve very different functions**. The brief is a detailed and formal explanation of your position that the judges study at length before and after oral argument. Oral argument, by contrast, is a short and often intense opportunity that is provided so that you can answer the judges' questions

about the case and your position. Oral argument, therefore, should not be a speech or a spoken version of the brief. Instead, use the oral argument to focus the court on the key strengths of your case and weaknesses of your opponent's position and to answer the judges' questions.

2. **Effective oral argument requires detailed preparation and a mastery of the facts and law relevant to the case and position.** The judges assigned to hear the case will have read the parties' briefs before argument and will be familiar with the facts of the case, the proceedings below and the key cases cited. So should you. The judges expect you to know what has occurred in the case even if you were not the lawyer who tried the case. Therefore, answers such as, "I was not the lawyer who tried the case," are not favored. The judges expect you to be able to answer their questions.

3. **Do not read your argument from a prepared text or notebook**. Bring notes with you to the lectern but resist the temptation to read from them. Instead, maintain eye contact with the judges and engage them in a discussion of your position and the court's questions. A meaningful discussion of that kind will be possible only if you are thoroughly familiar with the facts of your case and the decisions cited in the parties' briefs. If you intend to rely at argument on a decision that was not cited in the briefs, advise the court and your opponent of the case in advance of argument pursuant to P.B. § 67-10.

4. **Do not begin your oral argument with a recitation of the facts or proceedings below.** Assume that the judges will be familiar with the facts and procedural history of your case. You will probably have only a brief opportunity to speak at the outset of the argument before the judges begin to ask questions. Instead of wasting that opportunity on matters that the judges already know about or that are not relevant to resolution of your case, use that brief time to get immediately to the crux of your case.

5. **Expect and welcome questions from the court.** The purpose of oral argument is to answer the judges' questions. Experienced advocates understand that questions are not interruptions but are opportunities to clarify positions, to clear up confusion and to persuade the judges that you should prevail. The best way to give a good answer is to anticipate the questions in advance. Careful preparation, therefore, requires you to consider the questions that the judges may have about your case and to develop concise answers to anticipated questions. Many lawyers consider it useful to practice answers to anticipated questions before the argument.

6. **Listen carefully to the questions asked and think before answering a question**. Make sure you understand what the judge is asking **before** responding. Long answers to questions that were never asked are not helpful. Respond directly and immediately to the question with a "Yes," "No," or "I do not know," and then explain your answer. As a practical matter, you will probably be limited to a one or two sentence explanation. If you quote from a portion of the record, tell the judges where they can find it.

7. **Never say, “I’ll get to that later.”** The judge who asked the question wants to explore that issue now, not when you get around to the page of your outline where you listed that issue.

8. **Be courteous and respectful to the court and opposing counsel.** Do not argue with a judge or pose questions to the court. It is their job to ask the questions, not yours, although you should clarify questions if needed. Judges also will not appreciate it if you denigrate, or are discourteous to, your opponent.

9. **Do not continue your argument or use your rebuttal time if you no longer have anything meaningful to say.** If the judges have no further questions, consider whether it is useful to continue your argument or to waive the balance of your allotted time.

10. **Above all, be honest and candid with the court.** If you do not know the answer to a question, say so. Also, if there is a decision or fact that is harmful to your case, say so as well, but explain why you believe the court should not follow it. You do not help yourself by giving evasive or untruthful answers. You have an ethical obligation of candor to the court.

## SECTION 10

## POSTDECISION MOTIONS AND PETITIONS

After the Supreme Court or the Appellate Court issues its opinion in a case, the reporter of judicial decisions sends a copy of the opinion and the original rescript to the clerk of the trial court. Notice of the decision will be deemed to have been given, for all purposes, on the official release date that appears in the court's opinion, and not on the date on which the court's opinion is posted on the Judicial Branch website. See P.B. § 71-4. There are a number of motions and petitions that may be filed after the court has issued its decision.

### Motions for Reconsideration or for Reconsideration En Banc

After the decision is released, a party may ask that the panel of judges that decided the case reconsider the decision. See P.B. § 71-5. A party may also request reconsideration en banc; that is, that the decision be reconsidered by *all* the members of the reviewing court. Any motion for reconsideration or for reconsideration en banc must be filed, and any fees associated with the motion must be paid, within 10 days from the official release date of the decision being challenged. A motion for reconsideration or for reconsideration en banc must comply with the general motion requirements listed in P.B. §§ 66-2 and 66-3 and is generally limited to 10 pages. Motions for reconsideration or for reconsideration en banc should briefly state with specificity the grounds for requesting reconsideration of the decision.

### Petitions for Certification

A party who is aggrieved by a final determination of an appeal by the Appellate Court may seek review of the Appellate Court's judgment by filing a petition for certification in the Supreme Court. See C.G.S. § 51-197f; P.B. § 84-1. Such review is entirely discretionary, and there is no right to review of the judgment unless the Supreme Court grants the petition for certification. Petitions for certification must be filed within 20 days of the date on which the Appellate Court decision is officially released or within 20 days of the order on any timely filed motion for reconsideration filed with the Appellate Court. See P.B. § 84-4 (a). Cross petitions for certification may be filed by any other party who is aggrieved by the Appellate Court's judgment within 10 days of the filing of the original petition for certification. See P.B. § 84-4 (b).

Practice Book § 84-5 governs the form of the petition for certification, and it directs that the petition must include:

- a statement of the question(s) presented for review
- a statement of the basis for the extraordinary relief of certification (see also P.B. § 84-2)
- a summary of the case
- a concise argument explaining the reasons relied upon to support the petition
- an appendix that contains the papers specified in P.B. § 84-5 (5).

Within 10 days of the filing of a petition for certification, a party may file a statement in opposition to the petition for certification with the appellate clerk. See P.B. § 84-6. When the Supreme Court rules on a petition for certification, the appellate clerk sends notice of the order granting or denying the petition to the trial court clerk and to all counsel of record. When the Supreme Court grants a petition for certification to appeal, the successful petitioner (now called the appellant) must file the appeal and pay any fees required within twenty days from the issuance of notice that certification to appeal has been granted. See P.B. § 84-9.

## Petitions for Certiorari and Motions for Stay

When a party wishes to obtain a stay of execution of a Connecticut Supreme Court judgment pending a decision on a petition for certiorari filed with the United States Supreme Court, the party should file a motion for stay directed to the Connecticut Supreme Court within 20 days of the Connecticut Supreme Court's judgment. See P.B. § 71-7. The timely filing of the motion will operate as a stay pending the Connecticut Supreme Court's decision on the motion for stay.

When the Connecticut Supreme Court has denied a petition for certification to appeal from the Appellate Court, a party seeking a stay of execution pending a decision in the case by the United States Supreme Court—or seeking that a stay of execution already in existence at the time certification was denied be extended—should file a motion for a stay directed to the Appellate Court within 20 days of the Connecticut Supreme Court's decision denying the petition for certification. The timely filing of the motion for a stay will operate as a stay pending the Appellate Court's decision on the motion for a stay.

## Bills of Costs

A party that has prevailed before the Appellate Court or the Supreme Court is entitled to costs, and a prevailing party must file a bill of costs with the appellate clerk within 30 days after notice of the official release of the appellate decision or within 30 days of the denial of a motion for reconsideration or petition for certification, whichever is latest. See P.B. § 71-2. Any party may seek review of the appellate clerk's taxation of costs by filing a motion to reconsider costs. See P.B. § 71-3.

## APPENDIX

# Suggested Contents for Preparation of Appendix Part One (P.B. § 67-8, post July 1, 2013 appeals)

Appendix Part One shall include only those **pleadings** and **decisions** which are necessary for the proper presentation of the issues on appeal.

Appellate clerks have formulated the samples below as suggestions based on the Rules of Appellate Procedure, effective July 1, 2013, and case type, to assist in the preparation of Part One of the Appendix.

- Documents included in the appendices MUST be redacted to ensure that no information that is protected by rule, statute, court order or case law is disclosed. See P.B. § 4-7.

- Every Appendix Part One shall include a table of contents, a case detail or docket sheets, the appeal form, and a docketing statement, along with the relevant pleadings and decision(s). Case type determines whether a signed judgment file is required.

- Memoranda of law should NOT be included in Appendix Part One.

- Appendix Part Two may include other items deemed necessary for the proper presentation of the issues on appeal.

- Pages of the appendices shall be numbered consecutively beginning with the first page of Part One and ending with the last page of Part Two. The numbers shall be preceded by the letter A, for example, A1, A2, A3.

See P.B. §§ 67-2, 67-8 and 67-8A (Applicable to appeals filed on or after July 1, 2013).

### Civil Matters (Nonjury)

1. Table of contents
2. Case detail
3. Operative complaint
4. Answer
5. Special defense(s)
6. Counterclaim
7. Reply
8. Pertinent motion(s) such as to strike, for default, in limine, for summary judgment, with the attached affidavit(s), but without memorandum of law
9. Opposition(s) to motion(s)
10. Trial court's decision(s)

11. Motion for reconsideration and opposition
12. Judgment file (signed by clerk or judge)
13. Appeal form
14. Docketing statement
15. Relevant postappeal motion(s) and order(s) granting articulation, rectification, and/or dismissing a portion of the appeal

## Civil Matters (Jury)

1. Table of contents
2. Case detail
3. Operative complaint
4. Answer
5. Pertinent motion(s) such as to strike, for default, in limine, for summary judgment, with the attached affidavit(s), but without memorandum of law
6. Opposition(s) to motion(s)
7. Trial court's decision(s) on the motion(s)
8. Jury verdict and interrogatories
9. Motion to set aside the verdict, motion for new trial, motion for judgment notwithstanding the verdict
10. Opposition(s) to motion(s)
11. Trial court's decision
12. Judgment file (signed by clerk or judge)
13. Appeal form
14. Docketing statement
15. Relevant postappeal motion(s) and order(s) granting articulation, rectification, and/or dismissing a portion of the appeal
16. See P.B. § 67-4 regarding requests to charge

## Civil Foreclosure

1. Table of contents
2. Case detail
3. Operative complaint
4. Answer
5. Motion for default
6. Motion for summary judgment with the attached affidavit(s), but without the memorandum of law
7. Motion for judgment of strict foreclosure or motion for judgment of foreclosure by sale with affidavit of debt
8. Motion to open judgment of strict foreclosure or foreclosure by sale, motion to reargue or for reconsideration
9. Opposition(s) to motion(s)
10. Trial court's decision

11. Motion to reargue or for reconsideration, opposition and the trial court's decision
12. Appeal form
13. Docketing statement
14. Relevant postappeal motion(s) and order(s) granting articulation, rectification, and/or dismissing a portion of the appeal

**Criminal**

1. Table of contents
2. Original information and court action entries
3. Substitute information(s) and Part B information(s)
4. Long form information (the final long form information unless an earlier long form information is relevant)
5. Bill of particulars
6. Pertinent motion(s) such as in limine, to suppress, to dismiss, for acquittal, for a new trial, to reargue, without the memorandum of law
7. Opposition(s) to motion(s)
8. Memorandum of decision or signed transcript of oral decision
9. Judgment file (signed by clerk or judge)
10. Appeal form
11. Docketing statement
12. Relevant postappeal motion(s) and order(s) granting articulation, rectification, and/or dismissing a portion of the appeal
13. See P.B. § 67-4 regarding requests to charge

**Habeas**

1. Table of contents
2. Case detail
3. Petition or final amended petition
4. Return or Amended Return
5. Pertinent motion(s)
6. Opposition(s) to motion(s)
7. Trial court's oral or written decision
8. Petition for certification to appeal and order
9. Judgment file (signed by clerk or judge)
10. Appeal form
11. Docketing statement
12. Relevant postappeal motion(s) and order(s) granting articulation, rectification, and/or dismissing a portion of the appeal

## Family (Dissolution)

1. Table of contents
2. Case detail
3. Complaint
4. Answer/cross claim
5. Reply
6. Pendente lite order(s), if relevant
7. Unsealed financial affidavit(s), if relevant, with unsealing order(s)
8. Memorandum of decision
9. Motion for reconsideration or to open, opposition and the trial court's decision
10. Judgment file (signed by clerk or judge)
11. Appeal form
12. Docketing statement
13. Relevant postappeal motion(s) and order(s) granting articulation, rectification, and/or dismissing a portion of the appeal

## Family (Postjudgment)

1. Table of contents
2. Case detail
3. Judgment file (signed by clerk or judge)
4. Pertinent motion(s) for modification, contempt, to open
5. Opposition(s) to motion(s)
6. Unsealed financial affidavit(s), if relevant, with unsealing order(s)
7. Trial court's oral or written decision
8. Motion for reconsideration, opposition and the trial court's decision
9. Appeal form
10. Docketing statement
11. Relevant postappeal motion(s) and order(s) granting articulation, rectification, and/or dismissing a portion of the appeal

## Workers' Compensation Review Board

1. Table of contents
2. Certification of the record
3. Finding and award
4. Motion to correct
5. Objection to motion to correct
6. Petition for review
7. Reasons for appeal
8. Appeal from finding
9. Opinion
10. Appeal form

11. Docketing statement
12. Relevant postappeal motion(s) and order(s) granting articulation, rectification, and/or dismissing a portion of the appeal

## Juvenile

1. Table of contents
2. Case information(s) juvenile matters
3. Motion/order of temporary custody/order to appear
4. Petition: neglected uncared-for, dependent child/youth
5. Social worker affidavit(s)
6. Specific steps
7. Neglect judgment file (signed by clerk or judge)
8. Petition for termination of parental rights
9. Summary of facts to substantiate petition for termination of parental rights
10. Motion to review permanency plan/revoke commitment/transfer guardianship
11. Objection to permanency plan
12. Memorandum of decision
13. Termination of parental rights judgment file (signed by clerk or judge)
14. Appeal form
15. Docketing statement
16. Relevant postappeal motion(s) and order(s) granting articulation, rectification, and/or dismissing a portion of the appeal

## Administrative Appeals

As above, a table of contents, case detail, all relevant pleadings and orders, signed judgment file, appeal form, docketing statement, plus the return of record listing of the administrative agency papers that were returned to the trial court, the notice of the hearing and affidavit of publication, if at issue, any minutes or decision showing the action taken by the agency, the reasons assigned for that action, and any findings and conclusions of fact made by the agency. See P.B. § 67-8A.

## Supreme Court Appeals upon Grant of Certification

As above, a table of contents, case detail, all relevant pleadings and orders, signed judgment file, if applicable, appeal form, docketing statement plus the order granting certification and the opinion or order of the appellate court under review. See P.B. § 67-8 (b) (1).

## RESOURCES ON CONNECTICUT APPELLATE PROCEDURE

Official Connecticut Practice Book: The Commission on Official Legal Publications (2016)[1]

Connecticut Rules of Appellate Procedure, Horton & Bartschi: West Publishing (2016)[2]

Connecticut Appellate Practice and Procedure, Tait & Prescott: Connecticut Law Tribune (4th Ed. 2014)[3]

[1] The Official Practice Book, which is republished annually, may also be accessed at www.jud.ct.gov, the website of the Connecticut Judicial Branch. It should be noted that when new rules of practice are adopted or existing rules are amended, an Official Commentary, which often explains the reason for the rule change, appears after the rule in the Official Practice Book. The Official Commentary appears only in the edition of the Official Practice Book corresponding to the year in which the new rule or amendment first was published.

[2] This unofficial, annotated volume is updated and reissued annually, and it includes prior years' Official Commentaries.

[3] This volume is updated periodically.