

**SUPREME COURT OF THE STATE OF NEW YORK**  
**Appellate Division, Fourth Judicial Department**

Pursuant to the authority conferred by law upon the Appellate Division of the Supreme Court of the State of New York for the Fourth Judicial Department, it is

**ORDERED** that, effective immediately, the Rules of the Supreme Court, Appellate Division, Fourth Judicial Department (22 NYCRR part 1000) are hereby amended to read as follows (amendments are indicated in bold and either material in brackets is deleted or material underlined is added):

**(1000.3)**

**NECESSARY DOCUMENTS; PERFECTION OF APPEALS; BRIEFS.**

\* \* \*

(c) **Appeals in which poor person relief has been granted.**

\* \* \*

(2) **Civil appeals.**

In a civil appeal in which poor person relief has been granted by this Court[,] (including appeals taken pursuant to the Family Court Act, appeals in proceedings taken pursuant to article 78 of the CPLR, **appeals taken pursuant to the Sex Offender Registration Act** and appeals in habeas corpus proceedings) **or in which the appellant is the Attorney for the Child** and, unless otherwise directed by Court order, the appellant or appellant-respondent shall file 10 copies of a brief with proof of service of one copy on each opposing party to the appeal and one copy of the

complete record on appeal along with the original stipulation to the record executed by all parties or their attorneys or the original order of settlement, proof of service of one copy of the record on each other party to the appeal and, when necessary, a demand for exhibits (*see*, 22 NYCRR 1000.4 [g] [3]), with proof of service thereof. Appellant shall also file a copy of any prior order entered by this Court or the trial court affecting the appeal including, but not limited to, an order that: expedites the appeal; grants permission to proceed on appeal as a poor person or on less than the required number of records; assigns counsel; grants an extension of time to perfect the appeal; grants a stay or injunctive relief; grants relief from dismissal of the appeal; or grants permission to exceed page limitations provided for by 22 NYCRR 1000.4 (f) (3).

\* \* \*

(h) **Companion filings on interactive compact disk, read-only memory (CD-ROM).**

\* \* \*

(2) **[Technical Specifications.**

The companion CD-ROM record, appendix or brief shall comply with the current technical specifications available from the Office of the Clerk.] **REPEALED.**

\* \* \*

**(1000.4)**

**CONTENT AND FORM OF RECORDS, APPENDICES AND BRIEFS;  
EXHIBITS.**

(a) **The complete record on appeal.**

\* \* \*

(3) **Form of the complete record.**

\* \* \*

(ii) The complete record on appeal shall be reproduced by standard typographic printing or by any other duplicating process that produces a clear black image on white paper. The record shall be reproduced on opaque, unglazed white paper, measuring 8½ by 11 inches. Printing shall be of no less than 11-point size. **Transcript pages in any condensed form shall not be permitted unless such papers were submitted in identical form to the trial court.**

\* \* \*

(f) **Briefs.**

\* \* \*

(5) **Cover of brief; color.**

Except in those appeals in which permission to proceed as a poor person has been granted, the cover of a brief of an appellant or petitioner shall be blue; the cover of a brief of a respondent shall be red; the cover of a reply brief shall be gray; the cover of a surreply brief shall be yellow; and the

cover of a brief of an intervenor or an amicus curiae shall be green. The cover of a supplemental brief submitted *pro se* in a criminal appeal shall be white. **The cover of a brief submitted by an Attorney for the Child shall be white.**

\* \* \*

**(1000.11)**

**ORAL ARGUMENT.**

**(a) Generally.**

A party or his or her attorney who is scheduled to argue before the Court shall sign in with the Clerk's Office prior to 10:00 A.M. on the day of the scheduled argument. When oral argument is scheduled to commence at a time other than 10:00 A.M., a party or counsel shall sign in with the Clerk's Office prior to the time designated for the commencement of argument. Not more than one person shall be heard on behalf of a party. **In the event that parties submit a joint brief, not more than one person shall be heard in the matter.** When a brief has not been filed on behalf of a party, no oral argument shall be permitted except as otherwise ordered by this Court.

\* \* \*

**(c) No argument permitted in particular cases.**

Unless otherwise provided by order of this Court, oral argument shall not be permitted in the following cases:

\* \* \*

(2) **an appeal from a determination pursuant to the Sex Offender**

**Registration Act;**

(3) a CPLR article 78 proceeding transferred to this Court in which the sole issue is whether there is substantial evidence to support the challenged determination; and

(4)[(3)] any other case in which this Court, in its discretion, determines that oral argument is not warranted.

\* \* \*

(g) **Post-argument submissions.**

Except as otherwise ordered by this Court, no post-argument submissions shall be accepted unless **10 copies are** filed, with proof of service of one copy on each other party, within five business days of the argument date.

\* \* \*

**(1000.13)**

**MOTIONS.**

\* \* \*

(g) **Vacate dismissal of appeal or proceeding.**

When an appeal **or proceeding** has been dismissed pursuant to 22 NYCRR 1000.12 (b) or an order of this Court, a motion to vacate the dismissal may be

made within one year of the date of the dismissal. In support of the motion, the appellant **or petitioner** shall submit an affidavit demonstrating a reasonable excuse for the delay and an intent to perfect the appeal **or proceeding** within a reasonable time and setting forth sufficient facts to demonstrate a meritorious appeal **or proceeding**.

\* \* \*

(m) **Expedite or adjourn appeal.**

A motion to expedite **or adjourn** an appeal or proceeding shall be supported by an affidavit setting forth with particularity the compelling circumstances justifying an expedited **or adjourned** appeal or proceeding.

\* \* \*

**(1000.15)**

**LESSER NUMBER OF RECORDS.**

\* \* \*

(c) **Relief under motion.**

When a motion to perfect an appeal on less than the required number of records has been granted, an appellant shall perfect the appeal as set forth in 22 NYCRR 1000.14 (c) [(2)]. A respondent shall comply with 22 NYCRR 1000.14 (e).

\* \* \*

**(1000.20)**

**CONFIDENTIAL AND SEALED RECORDS.**

(a) **Generally.**

Records, briefs and other papers filed in matters deemed confidential by statute are sealed and shall not be available to the public except as provided by statute or rule of this Court.

(b) **Confidential matters.**

Appeals and proceedings that are confidential by statute include, but are not limited to:

- (1) Matters arising pursuant to the Family Court Act (Family Court Act § 166; 22 NYCRR 205.5).
- (2) Matrimonial actions and proceedings (Domestic Relations Law § 235; CPLR 105 [p]).
- (3) Adoption proceedings (Domestic Relations Law § 114).
- (4) Youthful offender adjudications (CPL 720.35 [2]; 725.15).
- (5) Civil or criminal matters involving sex offenses, as defined by article 130 or §§ 255.25, 255.26 and 255.27 of the Penal Law or an offense involving the alleged transmission of the human immunodeficiency virus (Civil Rights Law § 50-b).
- (6) Proceedings pursuant to article 6 of the Social Services Law (Social Services Law § 422 [4] [a]).
- (7) In criminal matters not otherwise confidential, records of grand jury proceedings (CPL 190.25 [4]), grand jury reports (CPL 190.85) and pre-sentence reports and memoranda (CPL 390.50).

(c) **Papers sealed by trial court.**

Any papers sealed by a trial court shall remain sealed in this Court.

(d) **Application to seal papers.**

Any party to an appeal, proceeding or motion may request, upon good cause shown, that this Court seal papers not sealed at the trial court. Such request shall be made by motion pursuant to 22 NYCRR 1000.13 (a) and (r). In determining whether good cause has been shown, this Court shall consider the interests of the parties and the public.

(e) **Access to papers.**

(1) With respect to papers sealed pursuant to statute, access to the papers may be requested as authorized by the statute.

(i) A person authorized by statute to have access to particular papers on file in this Court may request access to such papers, in writing from the Clerk.

(ii) When the access authorized by statute lies in the discretion of this Court, the request shall be made by motion pursuant to 22 NYCRR 1000.13 (a) and (r).

(2) When papers have been sealed in the discretion of a court, requests for access to such papers shall be made by motion, upon good cause shown, pursuant to 22 NYCRR 1000.13 (a) and (r). In determining whether good cause has been shown, this Court shall consider the interests of the parties and the public.

(1022.9)

**ADMISSION PRO HAC VICE.**

\* \* \*

- (b) Applications for admission pro hac vice pursuant to 22 NYCRR 520.11(a)  
(2), **(b) and (d) (6)** [and (3)] shall be made only to the Appellate Division.

**Entered: September 12, 2012**

**FOR THE COURT:**

  
**Hon. Henry J. Scudder**  
**Presiding Justice**