

## **Rules of Practice of the Appellate Division, First Judicial Department**

### Part 600

#### **600.1 General Provisions and Definitions**

##### (a) Practice Rules of the Appellate Division

This Part serves as a supplement to, and should be read in conjunction with, the Practice Rules of the Appellate Division (22 NYCRR) Part 1250 and the Electronic Filing Rules of the Appellate Division (22 NYCRR) Part 1245. Where there is a conflict between this Part and Parts 1250 and 1245, this Part controls when practicing within the First Judicial Department.

##### (b) Sessions of the Court

The court will convene at 2:00 o'clock in the afternoon during the appointed terms of the court for the hearing of appeals except on Fridays when the court will convene at 10:00 o'clock in the forenoon. Special sessions of the court may be scheduled for such time or such purposes as the court may direct.

#### 600.2 [Reserved]

#### **600.3 Initial Filings; Active Management of Causes; Settlement or Mediation Program**

##### (a) Pre-argument Conference Program

(1) By order of the court, counsel and the parties, and any additional parties in interest, may be directed to attend a pre-argument conference before a special master or such other person as may be designated by the Appellate Division.

(2) Within 10 days after an order directing a pre-argument conference, counsel for respondent shall file a counterstatement, together with proof of service, setting forth:

- (i) the issues proposed to be raised on the appeal, if respondent disagrees with the issues identified by appellant in the informational statement filed pursuant to (22 NYCRR) § 1250.3;
- (ii) the extent to which respondent challenges the assertions made in the informational statement; and
- (iii) an explanation of the grounds for granting the relief sought by respondent.

(3) Upon the conclusion of the conference, if the parties have entered into a stipulation the court shall file an order of approval.

#### 600.4 **Motions**

(a) Electronically Filed Motions. One hard copy of electronically filed motion papers shall be filed with the clerk in accordance with section 1245.6(a) of the Electronic Filing Rules of the Appellate Division ([22 NYCRR] Part 1245).

(b) Leave to File Amicus Curiae Brief. A motion to serve and file an amicus curiae brief shall include six copies of the proposed brief.

600.5 [Reserved]

600.6 [Reserved]

600.7 [Reserved]

600.8 [Reserved]

#### 600.9 **Time, Number and Manner of Filing of Records, Appendices and Briefs**

(a) Filing and Service of Digital Copies of Record, Appendices and Briefs

(1) Digital copies of the records, appendices and briefs filed pursuant to (22 NYCRR) § 1250.9(a), (c) and (d) shall comply with the technical specifications for electronically filed documents set forth in Attachment A to Electronic Rules of the Appellate Division ([22 NYCRR] Part 1245) and shall be filed and served by e-mail. Emails to the court shall be directed as follows:

- (i) In civil matters – [AD1copy-civil@nycourts.gov](mailto:AD1copy-civil@nycourts.gov)
- (ii) In criminal matters – [AD1copy-criminal@nycourts.gov](mailto:AD1copy-criminal@nycourts.gov)
- (iii) In Family Court matters – [AD1copy-family@nycourts.gov](mailto:AD1copy-family@nycourts.gov)

(2) Records, appendices and briefs filed electronically through NYCSEF shall satisfy the digital copy requirements of (22 NYCRR) § 1250(a), (c) and (d).

600.10 [Reserved]

#### 600.11 **Additional Rules Relating to Criminal Appeals**

(a) Transcript of Proceedings. Where an appeal in a criminal matter is prosecuted on the original record or by the appendix method, the appellant shall serve a copy of the transcript of the proceedings upon the respondent together with the brief and appendix, and cause a copy to be filed with the court.

600.12 [Reserved]

600.13 [Reserved]

600.14 [Reserved]

**600.15 Calendar Preferences; Calendar Notice; Oral Argument; Post-Argument Submissions**

(a) Calendar Notice

All appeals or causes shall be noticed for a term of the court as enumerated or non-enumerated.

The following appeals are to be noticed as enumerated:

- (1) Appeals from final orders and judgments of the Supreme Court, other than those dismissing a cause for failure to prosecute, for failure to serve a complaint or for failure to obey an order of disclosure or to stay or compel arbitration.
- (2) Appeals from decrees or orders of the Surrogate's Court finally determining a special proceeding.
- (3) Appeals from orders granting or denying motions for a new trial.
- (4) Appeals from orders granting or denying motions for summary judgment.
- (5) Appeals from orders granting or denying motions to dismiss a complaint, a cause of action, a counterclaim or an answer in point of law.
- (6) Appeals from orders of the Appellate Term.
- (7) Appeals from judgments or orders in criminal proceedings.
- (8) Special proceedings transferred to this court for disposition.
- (9) Controversies on agreed statement of facts.
- (10) Appeals from orders of the Family Court finally determining a special proceeding.
- (11) Appeals from orders granting or denying custody of minors after a hearing.
- (12) Special proceedings challenging determination of the New York City tax appeals tribunal.
- (13) Such other appeals as the court or a justice thereof may designate as enumerated.

(b) All other types of appeals not set forth in subdivision (a) of this section shall be noticed as non-enumerated.

(c) How Placed on the Calendar; filing time

(1) Appellant's Filing. An appeal or cause shall be placed on the calendar, by the appellant or moving party filing with the clerk, at least 57 days before the first day of the term for which the matter shall have been noticed, the record on appeal or appendix and brief, in the manner and number required by (22 NYCRR) § 1250.9(a), and a note of issue, with proof of service, stating the term for which noticed, the date of the notice of appeal, the date the judgment or order was entered, the name of the justice who made the decision, the nature of the appeal or cause, and the index or indictment number and the Appellate Division number.

(2) Respondent's Filing. At least 27 days before the first day of the term for which the appeal or cause shall have been noticed, the respondent or opposing party shall file the answering brief and appendix, if any, in the manner and number required by (22 NYCRR) § 1250.9(c).

(3) Reply Brief. Within nine days after service of the respondent's brief, the appellant or moving party may file a reply brief, in the manner and number required by (22 NYCRR) § 1250.9(d).

(d) Cross Appeals

(1) If the parties to the appeal do not stipulate to a briefing schedule pursuant to (22 NYCRR) § 1250.9(f)(1)(i), respondent-appellant shall file his or her answering brief pursuant to the schedule for a respondent for that specific term. Appellant shall have nine days thereafter to file its reply brief, and thereafter, respondent-appellant shall have nine days to file his or her reply brief.

(e) Time Permitted for Argument

(1) On the argument of an enumerated appeal, not more than 15 minutes shall be permitted on either side. Any party may for good cause request additional argument time by written application before the day of argument.

(2) Oral argument shall not be allowed in non-enumerated appeals, except by permission of the Court upon application pursuant to (22 NYCRR) § 1250.15(c)(2).

(3) Only one counsel on each side shall be heard except by permission of the Court.

600.16 [Reserved]

**600.17 Fees of the Clerk of the Court**

(a) In addition to the fees provided for in (22 NYCRR) § 1250.17, pursuant to Judiciary Law § 265, the clerk of the court is entitled to receive in advance the following fees on behalf of the State of New York:

(1) For an embossed and engraved certificate of admission as an attorney and counselor at law, twenty-five dollars;

(2) For a certificate of good standing, ten dollars;

(3) For furnishing a hard or digital copy, certified or uncertified, of an opinion, decision, order, record, or other paper in his or her custody, one dollar for the first page and 50 cents for each additional page; and

(4) No charge shall be made for furnishing a copy of the order, opinion or decision of the court to any party to an appeal or proceeding pending in the court.