

Supreme Court

In re Amendment to Article I, Rules 16, 18, :
18A and 24 of the Supreme Court Rules of :
Appellate Procedure :
(Filing of papers and oral argument). :

ORDER

Section 1. Article I, Rule 16 of the Supreme Court Rules of Appellate Procedure, entitled “Briefs” is hereby amended to read as follows:

“(f) *Form of Briefs.* All briefs filed pursuant to this rule shall be in the form set forth in Rule 18(b). ~~If briefs are~~ briefs shall be typewritten, ~~they and~~ and shall be on good paper of sufficient opacity to be distinctly legible. Briefs shall be bound on the left side and not at the top. Unless authorized by order of the Court, pursuant to a party's written motion, briefs shall not exceed a total of fifty (50) pages, except that reply briefs shall not exceed twenty-five (25) pages. Briefs exceeding these page limitations shall not be filed, either provisionally or otherwise, along with the motion seeking their approval, and no such brief will be accepted by the clerk until such motion has first been granted. The motion for leave to file a brief exceeding this subdivision's page limitations shall be accompanied only by a memorandum substantiating, to the Court's satisfaction, the need for the additional pages requested.

* * *

All briefs shall be filed with a completed “Checklist for Filing Briefs” form prescribed by the clerk (Appendix).

(g) *Effect of Failure to Comply.* A party failing to comply with any of the requirements of this rule shall not be heard, but the appellee or other adverse party shall not be considered in default for failure to file briefs if the moving party has not duly filed briefs. The clerk ~~may~~ shall reject any brief not in compliance with this rule.”

Section 2. Article I, Rule 18 of the Supreme Court Rules of Appellate Procedure, entitled “Filing, form, service and notice” is hereby amended to read as follows:

“(b) *Form.* Unless authorized by order of the Court, pursuant to a party's written motion, All papers filed with the Court shall be eight and one-half (8 1/2) by eleven (11) inches and double spaced, using Times New Roman

~~font or a font of similar legibility~~ and at least 12 as the font size; footnotes are to be single spaced and also use Times New Roman font ~~or a font of similar legibility~~ and at least 12 as the font size. Any papers failing to comply with the foregoing requirements ~~may~~ shall be rejected.”

Section 3. Article I is hereby amended to add an Appendix to read as follows and to add the Checklist for Filing Briefs form:

“APPENDIX. CHECKLIST FOR FILING BRIEFS.

Section 4. Article I, Rule 18A of the Supreme Court Rules of Appellate Procedure is hereby amended to read as follows:

“Sanctions for failure to file statements of the case, counter-statements and briefs in accordance with Rules 12A and 16. - In implementation of Rules 12A and 16 of these rules, ~~relating to civil cases,~~ the following authority is hereby conferred upon the clerk of this Court.

(1) In the event that an appellant should fail to file a statement of the case within the time limit set forth in Rule 12A or in any order entered pursuant to a single justice conference or by the Court setting a different time, the eClerk shall enter a conditional order of dismissal of the appeal subject to reinstatement if the statement of the case is filed within ten (10) days after the entry of the order.

(2) In the event that an appellee shall fail to file a counter-statement within the time limit set forth in Rule 12A or in any order entered pursuant to a single justice conference or by the Court setting a different time, following the filing of appellant's statement of the case, the eClerk shall enter a conditional order of default subject to reinstatement if the counter-statement is filed within ten (10) days of the date of the order. A defaulted appellee may be barred from filing any further statements, memoranda, or briefs in support of appellee's position and may be barred from oral argument in support of that position.

(3) In the event that an appellant fails to file a brief in support of the appeal within the time limit set forth in Rule 16 or any order entered pursuant to a single-justice conference or other order entered by the Court setting a different time, the eClerk shall enter an order of conditional dismissal of the appeal, subject to reinstatement if the brief is filed within ten (10) days of the date of the conditional dismissal.

(4) In the event that an appellee fails to file a brief in support of the appellee's position within the time limit set forth in Rule 16 after filing of appellant's brief or such additional time as may be authorized by court order, the eClerk shall enter an order of conditional default subject to reinstatement of the appellee's right to proceed if the brief is filed within

ten (10) days of the date of the order. The order of default will have the effect of barring the appellee from filing any brief in support of appellee's position or from arguing orally to the Court in opposition to the appellant's argument.

In addition to the foregoing actions which may be taken by the clerk, the Court may impose sanctions upon attorneys for failure to meet their filing obligations in respect to appellate matters pending before this Court. Such sanctions may include monetary penalties to be paid to the opposing parties or to the Court, or both.

Section 5. Article I, Rule 24 of the Supreme Court Rules of Appellate Procedure

is hereby amended to read as follows:

“Arguments. - (a) *Content.* During oral argument, counsel should undertake to emphasize and clarify the written argument appearing in the brief. The Court looks with disfavor on any oral argument that is read from a prepared text.

(b) *Order of Argument; Time.* The appellant or petitioner shall be entitled to open and conclude the argument. In cases on the show cause calendar for which oral argument is allowed, each side shall be entitled to ten (10) minutes for presentation of argument, and the appellant or petitioner shall be allowed an additional two (2) minutes for rebuttal. In cases placed on the regular calendar for full briefing and oral argument, each side shall be allowed thirty (30) minutes for presentation of argument, and the appellant or petitioner shall be allowed ten (10) minutes for rebuttal. In cases with more than one party on a side, the times for argument allocated to the appellant or the petitioner and to the appellee or respondent may be shared by the parties wishing to present argument to the Court. Unless authorized by order of the Court, only one attorney may present argument on behalf of a party. Where more than one attorney argues on a side of a case, it is counsel’s responsibility to assure a fair division of the time allotted.”

Entered as an Order of this Court this 5th day of *November 2012*.

/s/
Suttell, C. J.

/s/
Goldberg, J.

/s/
Flaherty, J.

/s/
Robinson, J.

/s/
Indeglia, J.



APPENDIX

CLERK'S OFFICE
RHODE ISLAND SUPREME COURT
CHECKLIST FOR FILING BRIEFS
ART. I, RULES 16 AND 17

Case Name: _____ Case Number: _____

Please check appropriate box –

☐ Appellant/Petitioner's Brief

- ☐ Filed within for forty (40) days of pre-briefing order
☐ Fifty (50) pages or less*

☐ Appellee/ Respondent's Response Brief

- ☐ Filed within for forty (40) days from Appellant/Petitioner's Brief
☐ Fifty (50) pages or less*

☐ Appellant/Petitioner's Reply Brief

- ☐ Filed within twenty (20) days of Appellee/Respondent's Brief
☐ Twenty Five (25) pages or less*

* Briefs filed in excess of the maximum limit require a motion in advance of filing.

Clerk's Office Use Only

- ☐ Accept
☐ Reject

Reviewing Clerk _____
Date ____/____/____

General Requirements – The following requirements apply to all briefs filed with the Supreme Court.

Cover – Art. I, Rule 16

- ☐ Color
- ☐ Appellant – Blue
 - ☐ Appellee – Red
 - ☐ Reply Brief – Grey
 - ☐ Amicus/Intervenor – Green
 - ☐ Appendix - White
- ☐ Court Name and Case Number.
☐ Case Title.
- ☐ Nature of Proceedings in Supreme Court (e.g., Appeal; Petition for Review).
☐ Name of Court, Agency, or Board Below and Lower Court Case Number.
☐ Title of Document (e.g., Brief for Appellant, Appendix).
☐ Name, Address, Telephone Number, and Email Address of Attorney Filing Brief.

Brief Contents and Format– Art. I, Rules 16

- ☐ Original plus Nine (9) Copies.
☐ Table of Contents with Page Citations.
☐ Index/Table of Authorities - Alphabetically by category (i.e., U.S. Supreme Court, other federal authorities, Rhode Island cases) with page citations.
☐ Statement of facts and prior proceedings with page citations to the record.
☐ Errors claimed and specific questions raised, duly numbered.
- ☐ Concise statement of applicable standard of review.
☐ Body of Brief:
 - ☐ 12 Point Times New Roman Font
 - ☐ Double Spaced
- ☐ Footnotes:
 - ☐ 12 Point Times New Roman Font
 - ☐ Single Spaced
- ☐ Bound on the left side and not the top.

Appendix – Art. I, Rule 17

- ☐ Original plus Five (5) Copies.
☐ Table of Contents with page citations to record.
☐ Docket entries of proceedings below.
☐ Relevant portions of pleadings, charges, findings, or opinions.
☐ Judgment, order, decision, or ruling in question.
- ☐ Any portion of record, including transcription, to which the parties wish to direct the Court's attention.
☐ Separately numbered pages.
☐ Tabs or colored paper separating discrete sections.
☐ If portions of transcripts are included:
 - ☐ Copy of cover sheet of transcript volume
 - ☐ Index of witness names

Filed on behalf of _____

Attorney Name: _____ Attorney Registration No.: _____

Attorney Signature: _____ Date: _____ Email: _____