

4.5. PRACTICE ON APPEAL. -- (A) Within ten (10) days of the filing of the reasons of appeal with the court, the appellant or other moving party shall file a statement of the case and a summary of the issues proposed to be argued on appeal. This document shall be concise, not exceeding five (5) pages, and a copy shall be sent to the appellee(s). Within ten (10) days after the filing of the above statement, the responding party may file a counter-statement, not to exceed five (5) pages, and a copy shall be promptly sent to the appellant. Failure to file a counter-statement shall constitute a waiver of the same.

(B)(1) Following the filing of such statements, the court may require the appearance by counsel for the parties before a single judge of the court for a settlement conference. Counsel shall be prepared to engage in a meaningful discussion of the matter with the goal of achieving settlement of the dispute. If a settlement is not reached, the objectives of the conference shall be to determine the issues on appeal and to determine the manner in which the appeal shall proceed.

(2) At the time scheduled for the settlement conference, counsel for all parties shall submit a joint filing which shall certify that they have conferred in good faith to attempt to resolve the disputed issues prior to the time of the conference.

(C) In the event that the single judge of the court determines it appropriate, s/he may:

(1) refer the appeal to an appellate panel for disposition of the issues on appeal by order or opinion without further argument; or

(2) order that the matter be placed on the regular appellate calendar for oral argument before an appellate panel.

In either situation, the single judge may direct or allow the filing of supplemental memorandum by the parties and set the time for the filing of same.

Reporter's Notes. This rule codifies the settlement conference procedure. This procedure was reviewed and endorsed by the Supreme Court's Committee on Alternate Dispute Resolution as an effective vehicle to reduce the issues in dispute and to foster meaningful dialogue calculated to resolve the matter.

This rule also changes the procedure for show cause hearings. Following the settlement conference, the matter may be assigned to an appellate panel for disposition with or without argument. This provision is modeled after Rhode Island Supreme Court Rules, Art. I, Rule 12A(3)(b), and allows the Appellate Division to expedite the handling of those cases where the issue on appeal is relatively simple and unequivocally controlled by settled law. In all other cases, it is anticipated that the matter will be heard at oral argument.