ARTICLE I. APPELLATE PROCEDURE

Rule 1. Scope of rules and mandatory electronic filing. - (a) *Scope of Rules.* These rules govern procedure in appeals to the Supreme Court from the Superior Court and the Family Court, and in applications for writs or other relief which the Supreme Court is competent to give.

(b) *Rules Not to Affect Jurisdiction.* These rules shall not be construed to extend or limit the jurisdiction of any court as established by law.

(c) *Definitions.* "Trial court" as used in these rules refers to any court whose judgment, decision, order, or any other determination is subject to review.

(d) *Mandatory Electronic Filing.* In accordance with Article X of the Rhode Island Supreme Court Rules Governing Electronic Filing, electronic filing is mandatory for cases in the Supreme Court using the Rhode Island Judiciary's (Judiciary) Electronic Filing System. All parties are required to use the Judiciary's Electronic Filing System except for incarcerated individuals or where a waiver is granted in accordance with Article X, Rule 3(c). Self-represented litigants may electronically file documents in accordance with Article X, Rule 3(b) but are not required to do so.

Article I must be read in conjunction with Article X, the Rhode Island Judiciary Rules of Practice Governing Public Access to Electronic Case Information, the Rhode Island Judiciary User Guide for Electronic Filing, and the Supreme Court's Electronic Filing System Guidelines. All papers filed with the Supreme Court are subject to the filing requirements set forth in Rule 18.

Rule 2. Suspension of rules. - In the interest of expediting decision, or for other good cause shown, the Supreme Court may suspend the requirements or provisions of these rules on application of a party or on its own motion and may order proceedings in accordance with its direction.

Rule 3. Appeal - How taken. - (a) *Filing the Notice of Appeal.* An appeal permitted by law from a trial court to the Supreme Court shall be taken by filing a notice of appeal in the trial court. Failure of an appellant to take any step other than the timely filing of a notice of appeal or payment of a filing fee as prescribed by these rules does not affect the validity of the appeal, but is ground only for such action as the Supreme Court or trial court deems appropriate, which may include dismissal of the appeal.

(b) *Joint or Consolidated Appeals.* If two (2) or more persons are entitled to

appeal from a judgment or order of a trial court and their interests are such as to make joinder practicable, they may file a joint notice of appeal, or may join in appeal after filing separate timely notices of appeal, and they may thereafter proceed on appeal as a single appellant. Appeals may be consolidated by order of the Supreme Court upon its own motion or upon motion of a party to the several appeals.

(c) *Content of the Notice of Appeal.* The notice of appeal shall specify the party or parties taking the appeal and shall designate the judgment, order, or decree or part thereof appealed from. The most current notice of appeal form is located on the Judiciary's website at www.courts.ri.gov under the heading of Public Resources, Forms under the respective court.

(d) *Service of the Notice of Appeal.* The appealing party shall serve the notice of appeal upon the attorney of record for each party, or, if a party is not represented by an attorney, upon the party at his last known address. Service shall be sufficient notwithstanding the death of a party or the party's attorney.

Rule 4. Appeal - When taken. - (a) *Appeals in Civil Cases.* In a civil case the notice of appeal required by Rule 3 shall be filed with the clerk of the trial court within twenty (20) days of the date of the entry of the judgment, order, or decree appealed from together with a filing fee of one hundred fifty dollars ($150). A notice of appeal filed after the judicial officer issues a decision or order but before entry of the judgment or order shall be deemed to have been filed after such entry and on the day the judgment or order was entered. If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within twenty (20) days of the date on which the first notice of appeal was filed, or was deemed to have been filed, or within the time otherwise prescribed by this subsection, whichever period last expires.

The running of the time for filing a notice of appeal is terminated as to all parties by a timely motion filed in the Superior Court by any party pursuant to the Rules of Civil Procedure of the Superior Court hereafter enumerated in this sentence, or by a timely motion filed in the Family Court for comparable relief pursuant to the rules of that court, and the full time for appeal fixed by this subsection commences to run and is to be computed from the entry of any of the following orders or comparable orders of the Family Court made upon a timely motion under such rules:

(1) Granting or denying a reserve motion under Rule 50(b);

(2) Granting or denying a motion under Rule 52(b) to amend or make additional findings of fact, whether or not an alteration of the judgment would be required if the motion is granted;

(3) Granting or denying a motion under Rule 59 to alter or amend the judgment; or

(4) Granting or denying a motion for a new trial under Rule 59.

An appeal from a judgment reserves for review any claim of error in the record including any claim of error in any of the orders specified in the preceding sentence. An appeal from such an order shall be treated as an appeal from the judgment. A judgment, order, or decree is entered within the meaning of this subsection when it is set forth and signed by the clerk of the trial court in accordance with the applicable rules of the trial court.

Upon a showing of excusable neglect, the trial court may extend the time for filing the notice of appeal by any party for a period not to exceed thirty (30) days from the expiration of the original time prescribed by this subsection. Such an extension may be granted before or after the time otherwise prescribed by this subsection has expired; but if a request for an extension is made after such time has expired, the request shall be made by motion with such notice as the court shall deem appropriate.

(b) *Appeals in Criminal Cases.* In a criminal case the notice of appeal by a defendant shall be filed with the clerk of the Superior Court within twenty (20) days after the entry of the judgment or order appealed from. A notice of appeal filed after the announcement of a decision, sentence, or order but before entry of the judgment or order shall be treated as filed after such entry and on the day thereof. If a timely motion in arrest of judgment or for a new trial on any ground other than newly discovered evidence has been made, an appeal from a judgment of conviction may be taken within twenty (20) days after the entry of an order denying the motion. A motion for a new trial based on the ground of newly discovered evidence will similarly extend the time for appeal from a judgment of conviction if the motion is made before or within ten (10) days after entry of the judgment. A judgment or order is entered within the meaning of this subsection when it is entered in the trial court's docket. Upon a showing of excusable neglect the Superior Court may, before or after the time has expired, with or without motion and notice, extend the time for filing a notice of appeal for a period not to exceed thirty (30) days from the expiration of the time otherwise prescribed by this subsection.

Rule 5. Filing fees. - (a) *Appeals From Trial Courts.* Every person appealing from a judgment or order of a trial court in a civil case and every person seeking issuance of an extraordinary writ pursuant to Rule 13 shall pay a filing fee as prescribed by these rules. When two (2) or more parties file a joint notice of appeal pursuant to Rule 3(b), each appellant shall pay one hundred fifty dollars ($150).

(b) *Relief From Filing Fees.*

(1) *Appeals From Trial Courts.* A person who desires to appeal a judgment or

order of a trial court and who claims that by reason of indigency the person is unable to pay the filing fee shall, within the time prescribed for filing the notice of appeal, petition the trial court to be relieved from payment of the fee. The petition shall be verified, shall set forth the facts relied upon by the petitioner to demonstrate indigency, and shall be accompanied by the notice of appeal which the petitioner desires to file without payment of fee. Upon the filing of a petition for waiver of the filing fee, the running of the time for filing a notice of appeal as prescribed by Rule 4 shall be terminated with respect to the petitioner. If the trial court finds that the petitioner is unable by reason of indigency to pay the filing fee, the court shall enter an order directing the clerk to accept the notice of appeal without payment of the fee. If the petition is denied, the full time for filing a notice of appeal as prescribed by Rule 4 shall, with respect to the petitioner, commence to run upon entry of the order of denial.

(2) *Extraordinary Writs.* A person seeking the issuance of an extraordinary writ pursuant to Rule 13 who claims that by reason of indigency the person is unable to pay the filing fee shall petition the Supreme Court to be relieved from payment of the fee. The petition shall be verified and shall set forth the facts relied upon by the petitioner to demonstrate indigency. If the Supreme Court finds that the petitioner is unable by reason of indigency to pay the filing fee, it shall enter an order directing the clerk to accept the petition without payment of the fee.

(c) *Exemption for the State.* The State of Rhode Island, its departments, agencies, boards, and commissions shall not be required to pay a filing fee when appealing from a judgment or order of a trial court, or when seeking the issuance of an extraordinary writ.

Rule 6. Certification of questions of law. - (a) *Certified Questions of Law.* The Supreme Court may answer questions of law certified to it by the Supreme Court of the United States, a Court of Appeals of the United States, or of the District of Columbia, a United States District Court when requested by the certifying court if there are involved in any proceeding before that court questions of law of this state which may be determinative of the cause then pending in the certifying court and as to which it appears to the certifying court there is no controlling precedent in the decisions of the Supreme Court.

(b) *Orders and Motions.* This rule may be invoked by an order of any of the courts referred to in subsection (a) of this rule upon that court's own motion or upon the motion of any party to the cause.

(c) *Contents of Certification Order.* A certification order shall set forth:

(1) The questions of law to be answered; and

(2) A statement of all facts relevant to the questions certified and showing fully the nature of the controversy in which the questions arose.

(d) *Preparation of Certification Order and Filing of the Record.*

(1) *Certification Order*. The certification order shall be prepared by the certifying court, signed by the judge presiding at the hearing, and forwarded to the Supreme Court Clerk by email to supremecourtclerksoffice@courts.ri.gov by the clerk of the certifying court.

(2) *Filing of the Record*. The Supreme Court may require the filing of all or of any portion of the record before the certifying court, if, in the opinion of the Supreme Court, the record or portion thereof may be necessary in answering the questions. To the extent feasible, the certifying court shall forward the record to the Supreme Court Clerk by email to supremecourtclerksoffice@courts.ri.gov in a PDF file with the documents arranged in the same order as they appear on the docket sheet. Sealed documents should be clearly identified as such on the pleading itself and should be segregated from the single PDF and transmitted as a separate PDF within the same email.

(e) *Costs of Certification.* Fees and costs shall be the same as in civil appeals docketed before the Supreme Court and shall be equally divided between the parties unless otherwise ordered by the certifying court in its order of certification.

(f) *Briefs and Argument.* Proceedings in the Supreme Court shall be those provided in these rules governing Rule 12A statements, briefs, and arguments as the Court may order. Unless otherwise ordered, the plaintiff shall file the opening brief, the defendant shall file the responding brief, and the plaintiff may file a reply brief. Any party wishing to seek a modification of the foregoing briefing requirements shall move for such relief with the Supreme Court.

(g) *Opinion.* The written opinion of the Supreme Court stating the law governing the questions certified shall be sent by the Clerk of the Supreme Court to the certifying court and to the parties.

Rule 7. Trial court orders for protection of parties pending appeal or petitions for review. - (a) *Trial Court Orders for Protection of Parties.* The justice or judge of the Superior, Family, or District Court who entered the judgment, order, decree, or other determination from which review is being sought, or in case of his or her absence or disability, any justice or judge of the same court, may make such orders for injunction, giving bond, and the appointment of receivers, and such other orders as are needed for the protection of the rights of the parties until the appeal or petition for review shall be heard and determined by the Supreme Court, subject to modification or annulment by order of the Supreme Court upon motion.

(b) *Appointment of an Attorney.* In cases requiring the appointment of an attorney for appeal to the Supreme Court, the Superior, Family, or District Court may appoint an attorney solely for the purpose of perfecting the appeal, and insuring that all necessary requests for extensions are filed pursuant to Rule 11(c). When the Superior, Family, or District Court makes an appointment for purposes of appeal, the appointment shall be from the panel of attorneys available for appointment in this category in the Supreme Court. All Superior, Family, and District court appointments of counsel for appeal shall terminate upon the docketing of the appeal in the Supreme Court. If the appointed attorney wishes to provide appellate services to the defendant after the appeal is docketed, the attorney must request appointment by the Supreme Court. If the attorney appointed by the Superior, Family, or District Court does not wish to represent the defendant after the appeal is docketed, the attorney shall notify the defendant and file a motion with the Supreme Court requesting appointment of another attorney.

Rule 8. Stay or injunction pending appeal. - (a) *Stay Must Ordinarily Be Sought in Trial Court; Motion for Stay in Supreme Court.* Except in the case of a final decree of the Workers' Compensation Court (review of Workers' Compensation Court's final decrees is governed by Rule 13), application for a stay of enforcement pending appeal, or for an order suspending, modifying, restoring, or granting an injunction during the pendency of an appeal, must ordinarily be made in the first instance in the trial court. After a notice of appeal is filed, a motion for such relief may be made to the Supreme Court or to a justice thereof, but the motion shall show that application to the trial court for relief sought is not practicable or that application has been made to the trial court and denied, with the reasons given by it for denial, or that the action of the trial court did not afford the relief to which the moving party considers himself or herself to be entitled. The motion shall also show the reasons for the relief requested and the facts relied upon, and if the facts are subject to dispute, the motion shall be supported by affidavits or other sworn statements or copies thereof. With the motion shall be filed a copy of the notice of appeal and such parts of the record as are relevant. Reasonable notice of the application shall be given to all parties.

(b) *Stay May Be Conditioned Upon Giving of Bond.* Relief available in the Supreme Court under this rule may be conditioned upon the filing of a bond or other appropriate security.

Rule 9. Release in criminal cases. - Application for release after a judgment of conviction shall be made in the first instance in the trial court. If the trial court refuses release pending appeal, or imposes conditions of release, the court shall state in

writing the reasons for the action taken. Thereafter, if an appeal is pending, a motion for release or for modification of the conditions of release pending review may be made to the Supreme Court. The motion shall be determined promptly upon such papers, affidavits, and portions of the record as the parties shall present and after reasonable notice to the State.

Rule 10. The record on appeal. - (a) *Composition of the Record on Appeal.* Except as otherwise provided in subsection (c), the papers and exhibits filed in the trial court and the transcript of proceedings or electronic sound recordings thereof, if any, shall constitute the record on appeal in all cases.

(b) *The Transcript of Proceedings.*

(1) *Duty of Appellant to Order; Notice to Appellee if Partial Transcript Is Ordered*. Except as provided for in Rule 35(e) with respect to cases eligible for mediation, within twenty (20) days after filing the notice of appeal the appellant shall order from the reporter a transcript of such parts of the proceedings not already on file as the appellant deems necessary for inclusion in the record. Unless the entire transcript is to be included, the appellant shall, within the time above provided, file and serve on the appellee a description of the parts of the transcript which the appellant intends to include in the record and a statement of the specific points upon which the appellant intends to rely on the appeal. If the appellee deems a transcript of other parts of the proceedings to be necessary, the appellee shall immediately order such parts from the reporter or procure an order from the trial court requiring appellant to do so. The ordering and payment of the copies of the transcript shall be in accordance with the rules of the trial court. Every volume of transcript prepared hereunder shall contain an index of witnesses and exhibits and, where applicable, in actions tried without a jury, a reference to the page upon which the final decision of the trial judge commences.

(2) *Filing of the Transcript*. Upon completion of the transcript, the person who prepared the transcript shall transmit it forthwith to the office designated by the rules of the trial court for ordering transcripts. If that office is not the clerk of the court, then an agent of such office shall deliver the transcript to the clerk of the court for transmission with the record. When the stenographer or other proper party completes and delivers the transcript to the trial court, the stenographer or other party shall notify the person who ordered the transcript that it has been completed and delivered to the trial court for docketing on the lower court case.

(c) *Proceedings Pending in the Superior, Family, or District Court.* When further proceedings are pending in the Superior, Family, or District Court over aspects of the case not involving the appeal or petition for review, the papers and exhibits filed

in the trial court as designated by the parties, along with the transcript contemplated by subsection (b)(1), shall constitute the record on appeal. Within twenty (20) days after filing the notice of appeal or petition for review, the appellant shall arrange for the clerk to transmit such parts of the papers and exhibits as the appellant deems necessary for inclusion in the record. Unless the entire record is to be included, or the parties agree otherwise in a writing filed with the Supreme Court, the appellant shall, within the time above provided, file and serve on the appellee a description of the parts of the papers and exhibits which the appellant intends to include in the record and a statement of the orders or rulings that the appellant intends to appeal. If the appellee deems other parts of the papers and exhibits to be necessary, the appellee shall immediately arrange for the clerk to certify such parts or procure an order from the trial court requiring the appellant to do so and serve on the appellant a description of the other papers and exhibits to be included in the record on appeal. Copies of the descriptions shall be filed with the Supreme Court. The ordering and payment of certified copies shall be in accordance with the rules of the trial court.

(d) *Statement of the Evidence of Proceedings When no Report was Made or When the Transcript is Unavailable.* If no report or recording of the evidence or proceedings at a hearing or trial was made, or if a transcript is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection. The statement shall be served on the appellee, who may serve objections or propose amendments thereto within ten (10) days after service. Thereupon the statement and any objection or proposed amendment shall be submitted to the trial court for settlement and approval and as settled and approved shall be included by the clerk of the trial court in the record on appeal.

(e) *Agreed Statement as the Record on Appeal.* In lieu of the record on appeal as defined in subsections (a) and (c) of this rule, the parties may prepare and sign a statement of the case showing how the issues presented by the appeal arose and were decided in the trial court and setting forth only so many of the facts averred and proved or sought to be proved as are essential to a decision of the issues presented. If the statement conforms to the truth, it, together with such additions as the trial court may consider necessary fully to present the issues raised by the appeal, shall be approved by the trial court and shall then be certified to the Supreme Court as the record on appeal and transmitted thereto by the clerk of the trial court within the time provided by Rule 11. Copies of the agreed statement may be filed as the appendix required by Rule 17.

(f) *Correction or Modification of the Record.* If any difference arises as to whether the record truly discloses what occurred in the trial court, the difference

shall be submitted to and settled by that court and the record made to conform to the truth. If anything material to either party is omitted from the record by error or accident or is misstated therein, the parties by stipulation, or the trial court, either before or after the record is transmitted to the Supreme Court, or the Supreme Court, on proper suggestion or of its own initiative, may direct that the omission or misstatement be corrected, and if necessary that a supplemental record be certified and transmitted. All other questions as to the form and content of the record shall be presented to the Supreme Court.

(g) *Exhibits.* Whenever an exhibit is part of the record on appeal and has not been filed electronically with the trial court, the original thereof shall be certified and transmitted by the clerk, except that by stipulation or by order of the trial court upon motion and good cause shown a copy thereof may be substituted.

Rule 11. Transmission of the record - Jurisdiction of Supreme Court and trial court over appeals. - (a) *Time for Transmission; Duty of Appellant.* Except as provided for in Rule 35(e) with respect to cases eligible for mediation, the record on appeal, including the transcript necessary for the determination of the appeal, shall be transmitted to the Supreme Court within sixty (60) days after the filing of the notice of appeal unless the time is shortened or extended by an order entered under subsection (c) of this rule. Promptly after filing the notice of appeal the appellant shall comply with the provisions of Rule 10(b) or (c) and shall take any other action necessary to enable the clerk to assemble and transmit the record. If more than one (1) appeal is filed, each appellant shall comply with the provisions of Rule 10(b) or (c) and this subsection, and a single record shall be transmitted. The appellant shall serve notice of filing the transcript upon all other parties.

(b) *Duty of Clerk to Transmit the Record.* When the record is complete for purposes of the appeal, the clerk of the trial court shall transmit it to the Clerk of the Supreme Court. Documents in bulky containers and physical exhibits other than documents shall not be transmitted by the clerk unless the clerk is directed to do so by a party or by the Clerk of the Supreme Court. A party must make advance arrangements with the clerk of the trial court for the transportation of bulky or weighty exhibits and with the Clerk of the Supreme Court for their receipt. Transmission of the record is effected when the clerk of the trial court forwards the record to the Supreme Court.

(c) *Extension of Time for Transmission of the Record; Reduction of Time.* The trial court may extend the time for transmitting the record. The request for extension must be made within the time originally prescribed or within an extension previously granted, and the trial court shall not extend the time to a day more than ninety (90)

days from the date of filing of the first notice of appeal. If the trial court is without authority to grant the relief sought or has denied a request therefor, the Supreme Court may on motion extend the time for transmitting the record or may permit the record to be transmitted and filed after the expiration of the time allowed or fixed. A motion for an extension of time for transmitting the record made in either court shall show that the inability of the appellant to cause timely transmission of the record is due to causes beyond the appellant's control or to circumstances which may be deemed excusable neglect. Whenever an extension of time for transmitting the record is requested because of a delay in the completion of transcripts, a copy of the extension request shall be sent by the appellant to the administrator of the trial court. If a request for an extension of time for transmitting the record has been previously denied, the motion shall set forth the denial and shall state the reasons therefor, if any were given.

The trial court or the Supreme Court may require the record to be transmitted and the appeal to be docketed at any time within the time otherwise fixed or allowed therefor.

(d) *Retention by and Transmittal of the Record Back to the Trial Court.* In cases not electronically filed in the trial court, the Supreme Court may order that a certified copy of the docket entries and designated parts of the record shall be transmitted in lieu of the entire record, subject to the right of any party to request at any time during the pendency of the appeal that additional parts of the record be transmitted.

If a nonelectronic record that has been transmitted to the Supreme Court is required in the trial court for use therein pending the appeal, the Supreme Court may order that the record or portions thereof be returned to the trial court and the clerk of such court shall retain it subject to further order of the Supreme Court.

(e) *Record for Preliminary Hearing in the Supreme Court.* If prior to the time the record is transmitted a party desires to make in the Supreme Court a motion for dismissal, for a stay pending appeal, or for any intermediate order, the clerk of the trial court at the request of any party shall transmit to the Supreme Court such parts of the record as the party shall designate.

(f) *Orders for Dismissal, Extensions to Transmit Record, and Determination of Correctness of Record.* From the time of the filing of notice of appeal, the Supreme Court and trial courts shall have concurrent jurisdiction to supervise the course of said appeal and to promulgate orders of dismissal of appeal for failure to comply with these rules, either upon motion of a party or upon the court's own motion. Motions for extensions of time for transmission of the record and the determination of the correctness of the record shall be submitted in the first instance to the trial court in accordance with Rules 10(f) and 11(c).

From the time of the docketing of an appeal in the Supreme Court, the Court shall have exclusive jurisdiction to supervise the further course of such appeal and enter such orders as may be appropriate, including orders of dismissal for failure to comply with these rules, either on motion of a party or on its own motion. Notwithstanding the provisions of this subsection, if further proceedings are pending in the Superior, Family, or District Court over aspects of the case not involved in the appeal or petition for review after the case has been docketed in the Supreme Court in accordance with Rule 10(c), any party wishing to seek a stay of such proceedings shall proceed in the first instance to the trial court, or thereafter by motion to the Supreme Court, which shall determine if a stay is warranted pending the resolution of the appeal. If nonelectronic papers and exhibits filed in the trial court or portions thereof are required for the appeal in addition to the certified copies contemplated by Rule 10(c), the Supreme Court may order that such nonelectronic papers and exhibits or portions thereof be transmitted to the Supreme Court, and the Clerk of the Supreme Court shall retain them subject to further order.

Rule 12. Filing of the record - Docketing the appeal. - (a) *Filing of the Record.* Upon receipt of the record by the Clerk of the Supreme Court following its timely transmittal, the Clerk shall file the record.

(b) *Docketing the Appeal.* Upon the filing of the record, the Clerk of the Supreme Court shall thereupon enter the appeal upon the appropriate docket. The Clerk shall immediately give notice to all parties that the appeal was docketed.

An appeal shall be docketed under the title given to the action in the trial court with such addition as is necessary to indicate the identity of the appellant, appellee, petitioner, or respondent. The parties shall notify the Clerk of the Supreme Court of any inaccuracies in the titles assigned by the Clerk within seven (7) days after receiving notice of the docketing of the appeal.

(c) *Dismissal for Failure of Appellant to Cause Timely Transmission or to Docket Appeal.* If the appellant shall fail to cause timely transmission of the record, any appellee may file a motion in the trial court to dismiss the appeal. Instead of filing a motion to dismiss the appeal, the appellee may cause the record to be transmitted and may docket the appeal, in which event the appeal shall proceed as if the appellant had caused it to be docketed.

(d) *Motions to Correct Record.* Motions to correct the record as transmitted shall be made within twenty (20) days after docketing, or within such further time as the court or any justice thereof may order.

Rule 12A. Statement of the Case; Single Justice Conferences; Hearing Panels.

- (1) *Statement of the Case.* Within twenty (20) days after the docketing of the record of an appeal with the Clerk of the Supreme Court or the receipt by the Clerk of the Supreme Court of the record in a case in which a petition for writ of certiorari has been granted, the appellant, petitioner, or other moving party shall file a statement of the case and a summary of the issues proposed to be argued in accordance with Rule 18. The statement shall include a copy of the judgment, order, or other ruling which is the subject of the appeal or certiorari petition and the bench decision or written decision of the trial justice or other tribunal deciding the matter. The statement shall be concise, not exceeding 3,000 words (unless special permission is granted by the Court or a justice thereof for additional words or pages). Handwritten statements or statements produced on a typewriter, when allowed, shall not exceed ten (10) pages.

The Clerk shall reject any statement which fails to include copies of the required rulings and decision in accordance with the rejection process set forth in Rule 18(f).

The party may take out any nonelectronic transcripts and exhibits from the Clerk's Office in accordance with Rule 29 for reference in the preparation of the statement but shall return them when the statement is filed.

(2) *Counter-statement.* Within fifteen (15) days after the filing of the above statement, the responding party shall file a counter-statement in accordance with Rule 18 not to exceed 3,000 words (unless special permission is granted by the Court or a justice thereof for additional words or pages). Handwritten statements or statements produced on a typewriter, when allowed, shall not exceed ten (10) pages.

Nonelectronic transcripts and exhibits may be taken out for reference in preparing this counter-statement in accordance with Rule 29 but shall be returned upon its filing.

(3) *Single Justice Conferences and Orders.* Following the filing of such statements, the Supreme Court may require appearance by the attorneys for the parties before a single justice of the Supreme Court for a conference. The objective of said conference will be to achieve settlement of the dispute in civil cases, to determine the issues on appeal/certiorari, to determine the manner in which the appeal, cross-appeal, certiorari petition, or petition for review shall proceed, and to consider whether proceedings over aspects of the case not involved in the appeal, cross-appeal, certiorari petition, or petition for review are contemplated or pending below while the matter is pending in the Supreme Court. In civil matters, attorneys for each party shall confer in advance of the conference with the attorney’s client and obtain authority to settle the matter, if possible. In the event that the single justice of the Supreme Court determines it appropriate, the justice may:

(a) Issue an order in accordance with subdivisions 4 and 6 of this rule to either or

both parties to show cause why the issues raised by the appeal or petition for certiorari should not be decided on the show cause calendar;

(b) Refer the appeal or certiorari petition to the Supreme Court at a session in conference for a determination of the manner in which the appeal or certiorari petition shall proceed or for a disposition of the issues on appeal or certiorari with or without further filing of memoranda and with or without oral argument;

(c) Order that the case be placed on the regular calendar for full briefing and oral argument; or

(d) The single justice may also order that specific appeals or certiorari petitions be consolidated or that the case be remanded for specific proceedings or the entry of necessary orders in the trial court or other tribunal.

(4) *Show Cause Supplemental Statements.* In cases in which show cause orders are issued, the attorney for either party may submit a supplemental statement not exceeding 3,000 words unless otherwise ordered. The appellant, petitioner, or other moving party may submit this statement within twenty (20) days of the issuance of the show cause order; the responding party may file a counter-statement within ten (10) days thereafter, or within ten (10) days from when the appellant, petitioner, or other moving party's supplemental statement was due should the appellant, petitioner, or other moving party not submit a supplemental statement. Handwritten statements or statements produced on a typewriter, when allowed, shall not exceed ten (10) pages. The single justice may vary the time of filing as well as the length of memorandum by special order. No party may submit a further supplemental statement or post-argument memorandum, or other communication of any kind, without the prior approval or direction of the Supreme Court or a justice thereof upon motion in accordance with Rule 28.

(5) *Form and Manner.* All papers filed pursuant to this Rule shall be submitted in the form and manner set forth in Rule 18.

(6) *Show Cause Arguments, Orders, and Decisions.* The show cause argument shall be conducted before a hearing panel of the Supreme Court consisting of at least three (3) justices, except for appeals in criminal cases which shall be heard by the full Court or by as many members of the Court as are available. The Supreme Court or hearing panel may issue an order or opinion dismissing the appeal or certiorari petition, reversing or modifying the judgment, or remanding the case to the appropriate trial court or other tribunal for further proceedings. The Supreme Court or panel may if it sees fit determine that the case should be placed on the regular calendar for full briefing and argument.

(7) *Cases Referred to the Full Court.* Cases referred to the Supreme Court for a determination of the manner in which the appeal or certiorari petition shall proceed

or for disposition with or without briefing or oral argument may be:

(a) Ordered to be placed on the regular calendar for full briefing and argument;

(b) Decided by the Court on the merits of the controversy without further briefing or oral argument; or

(c) Ordered to be placed on the motion calendar with such further filing of supplemental memoranda as the Court may require for oral argument before a hearing panel of the Court consisting of at least three (3) justices, except for appeals in criminal cases and proceedings pursuant to Rule 6 which shall be heard by the full Court or as many members of the Court as are available.

Rule 13. Extraordinary Writs. - (a) *Petition for Issuance of Writ.* Other than for habeas corpus and except where otherwise provided for by statute a proceeding seeking the issuance of an extraordinary writ shall be by petition. The petition shall include:

(1) A concise statement of the case containing the facts material to consideration of the questions presented in sufficient detail as to enable the Supreme Court to determine the desirability of issuance of the writ;

(2) A statement setting forth with particularity why the relief sought is not available in any other court, or cannot be had through other appellate processes, including whether a notice of appeal has been filed with the Supreme Court and why that is not sufficient; and

(3) A copy of any order or opinion which the petitioner seeks to have reviewed and any other parts of the record which may be essential to an understanding of the matters set forth in the petition.

A memorandum shall be appended to the petition stating the grounds relied upon by the petitioner, together with citations of the authorities in support thereof. The petitioner shall serve upon all other parties a copy of said petition and memorandum. The petitioner shall file the petition and memorandum in the office of the Clerk of the Supreme Court and shall pay to the clerk a filing fee of one hundred fifty dollars ($150) per petitioner.

(b) *Memorandum in Opposition.* Within (20) days after service of a petition for issuance of an extraordinary writ, together with the supporting memorandum, or within such other time as the Supreme Court or a justice thereof shall order, any adverse party may file a memorandum in opposition, disclosing any matter or ground why the writ should not issue, and shall serve a copy thereof upon the petitioner and all other parties. No motion by a respondent to dismiss, quash, supersede, or such other motion on application for an extraordinary writ will be received. Objections to the jurisdiction of the Supreme Court to grant the writ petitioned for may be included

in the memorandum in opposition.

(c) *Reply Memorandum.* The petitioner may file a reply memorandum within ten (10) days after service of the memorandum in opposition. No party may file any further memorandum or brief without the prior approval or direction of the Supreme Court.

(d) *Form and Manner.* All papers filed pursuant to this Rule shall be submitted in the form and manner set forth in Rule 18.

(e) *Order Granting or Denying Petition.* Upon the granting or denying of a petition, an appropriate order will be entered and the Clerk of the Supreme Court shall give notice thereof to all parties. If the petition is granted, appropriate process shall issue and the cause shall thereafter proceed in accordance with these rules. It shall be incumbent upon the petitioner to comply with the requirements of these rules for the preparation and transmission of the record on appeal. In the case of certiorari petitions, the parties shall comply with Rule 12A. If the writ in question calls for review of the record of a court or other tribunal, allegations of fact contained in the petition which are not contained in the record under review shall not be considered to be established. A denial of a petition, without more, is not an adjudication on the merits and has no precedential effect, and such action is to be taken as being without prejudice to a further application to the Supreme Court or any court for the relief sought.

(f) *Stay Pendente Lite.* A petitioner may apply to any justice of the Supreme Court for a stay of other proceedings pending a determination by the Court on the issuance of the writ.

(g) *Effectiveness of Other Provisions.* Except as herein specifically amended, modified, changed, or supplemented, all rules and statutory provisions in respect to the extraordinary writ shall remain in full force and effect.

Rule 14. Habeas corpus. - (a) *Application for Writ; Order to Show Cause in Lieu of Issuance of Writ.* Upon the making of an application for a writ of habeas corpus in accordance with statutory provisions, the Supreme Court, in lieu of issuance of the writ, may direct the respondent to show cause why the writ should not issue.

(b) *Answer to Order to Show Cause.* Within twenty (20) days after receiving notice of entry of a show cause order, or within such other time as ordered by the Supreme Court or a justice, the respondent shall file with the Clerk of the Supreme Court a signed answer under oath in which the respondent shall set forth the matter required by G.L. 1956 § 10-9-8 to be included in a return to a writ of habeas corpus as well as any additional facts upon which the respondent relies to justify his or her detention of the applicant. The respondent shall append to the respondent's answer

a memorandum of law setting forth the reasons why the writ should not issue, together with citations to authorities in support thereof. A copy of the answer and memorandum shall be served by respondent on the attorney for the applicant, or on the applicant if the applicant is not represented by an attorney.

(c) *Reply of Applicant to Answer of Respondent.* Within ten (10) days after receiving the answer and memorandum, or within such other time as ordered by the Supreme Court or a justice, the applicant, if the applicant desires to controvert or reply to any of the matters set forth in the answer, shall file with the Clerk of the Supreme Court a signed reply under oath setting forth any matter or ground in support of the application or in denial of the facts set forth in the answer. The applicant shall append to his or her reply a memorandum of law setting forth the reasons why the writ should issue or his or her release should be ordered together with citations of authorities in support thereof. A copy of the reply and memorandum shall be served by the applicant upon the attorney for the respondent, or upon the respondent if the respondent is not represented by an attorney.

(d) *Number of Copies of Answers and Replies*. All answers or replies and memoranda filed pursuant to this rule shall be filed in accordance with Rule 18.

(e) *Subsequent Proceedings.* Upon the grant or denial of the writ an appropriate order will be entered. The Clerk of the Supreme Court shall thereupon notify all parties to the proceeding of entry of such order. If the application for the writ is granted, the writ and appropriate process shall issue; thereafter the cause shall, without the necessity of either party filing any further pleadings, be docketed on the return day and shall be assigned for hearing pursuant to the provisions of Rule 22. Briefs of the respective parties shall be filed pursuant to Rule 16. Upon issuance of the writ, it shall be incumbent upon the petitioner to comply with the requirements of these rules for the preparation and transmission of the record on appeal, except that if the petitioner has been granted permission to proceed in forma pauperis the Supreme Court may, where the respondent is a state official, direct the Attorney General to arrange for the preparation and transmission of the record.

Rule 15. Applications by Indigent Litigants and Persons in Custody. - The Supreme Court recognizes that full compliance with the formalities of the rules of this Court cannot always be expected of those not represented by an attorney, particularly when such persons are in confinement. Ordinarily, the Supreme Court will only entertain petitions or other applications for relief which contain the following information:

(a) The name of the court whose judgment or order is sought to be reviewed and the title of the case (i.e., the names of the parties);

(b) The date on which such judgment or order was made or on which an application for rehearing or other relief was denied;

(c) The nature of the decision about which the petitioner or other applicant is complaining, together with a copy of any opinion or other document that the petitioner or other applicant has available, or the citation to any such opinion if the petitioner or other applicant knows of the same;

(d) A statement of what relief the petitioner or other applicant has attempted to obtain since entry of the judgment or order complained of, and the result of such attempt;

(e) A statement of the grounds on which the petitioner or other applicant relies for relief; and

(f) A statement of the relief which the petitioner or other applicant requests from the Court.

Rule 16. Briefs. - (a) *Brief of Appellant or Other Moving Party.* Within forty (40) days after the date on which the Clerk of the Supreme Court notifies the appellant or other moving party that the case to be reviewed has been assigned to the regular calendar for full briefing and argument, the appellant or other moving party shall file in the office of the Clerk a brief in accordance with Rule 18. The brief shall contain:

(1) A brief and concise statement of the facts and the prior proceedings in the case together with page citations to the places in the record and the appendix where such can be found;

(2) A specification of the errors claimed with a page citation to the places in the record and the appendix where such error can be found;

(3) The specific questions raised duly numbered and for each question, a concise statement of the applicable standard of review (which may appear in the discussion of the question or under a separate heading placed before the discussion of the questions);

(4) The points made, together with the authority relied on in support thereof;

(5) A conclusion setting forth with particularity the relief to which the party believes himself or herself entitled; and

(6) An index of authorities arranged alphabetically indicating at what page or pages of the brief each authority is cited. Errors not claimed, questions not raised, and points not made ordinarily will be treated as waived and not be considered by the Supreme Court. In cases where it may be necessary for the Supreme Court to examine the evidence, the party shall specify in the party's brief the leading facts that the party deems to be established by the evidence, with a reference to the pages of the record and the appendix where the evidence of such facts may be found, which

references will be relied upon by the Court in its consideration of such facts. Ordinarily the Supreme Court will not consider evidence not referenced in conformity with this subdivision.

(b) *Brief of Appellee or Other Adverse Party***.** Within forty (40) days after the brief of the appellant or other moving party has been filed, the appellee or other adverse party shall file a brief in accordance with Rule 18. The brief of the appellee or other adverse party shall conform to the requirements of subsection (a), except that no specification of errors is necessary and no statement of the case need be made beyond what may be deemed necessary to correct any inaccuracy or omission in the statement of the appellant or other moving party.

(c) *Reply Briefs; Supplemental Briefs and Special Orders.* The appellant or other moving party may file a reply brief within twenty (20) days after the filing of a brief by the appellee or other adverse party. Except as otherwise provided in subsections (d) and (e), no party may submit any further or supplemental brief or post-argument memorandum, or other communication of any kind, without the prior approval or direction of the Supreme Court or a justice thereof upon motion in accordance with Rule 28. Nothing in this rule shall prevent the making in any case, of a special order by the Supreme Court in regard to the time for filing any briefs.

(d) *Briefs in Consolidated Cases - Cases Involving Cross-appeals or Cross-petitions.* Unless otherwise ordered, in matters consolidated before the Supreme Court, the party filing the first notice of appeal or petition for writ of certiorari is the appellant or petitioner and shall file the opening brief in accordance with subsection (a), the party filing the second notice or petition is the appellee or respondent and shall file a responding brief in accordance with subsection (b) which shall also address the issues raised in any cross-appeal or cross-petition, the appellant or petitioner may file a reply brief in accordance with subsection (c), and an appellee or respondent who has cross-appealed or cross-petitioned may file a brief in reply to the appellant's or petitioner's response to the issues presented by the cross-appeal or cross-petition. If notices or petitions are filed on the same day, the plaintiff in the proceeding below is the appellant or petitioner. Except as otherwise provided in subsection (e), no party may submit any further or supplemental brief or post-argument memorandum, or other communication of any kind, without the prior approval or direction of the Supreme Court or a justice thereof upon motion in accordance with Rule 28. Any party wishing to seek a modification of the foregoing briefing requirements shall move for such relief prior to the Rule 12A single justice conference.

(e) *Citation of Supplemental Authorities.* If pertinent and significant authorities come to a party's attention after the party's briefs have been filed, or after oral

argument but before decision, a party may promptly file a document entitled "Citation of Supplemental Authority," with a copy to be served on other parties setting forth the citations. If an authority is not available in a national reporter, a copy must be included and served on all parties. The document must state without argument the reasons for the supplemental citations, referring either to the page of the brief or to a point argued orally. Any response must be filed within ten (10) days and must be similarly limited. No reply shall be allowed.

(f) *Form of Briefs.* All briefs filed pursuant to this rule shall be submitted in the form and manner set forth in Rule 18. Unless authorized by order of the Supreme Court pursuant to a party's written motion, briefs shall not exceed a total of 15,000 words, except that reply briefs shall not exceed 7,500 words.

Handwritten briefs or briefs produced on a typewriter, when allowed, shall not exceed fifty (50) pages, except that reply briefs that are handwritten or produced on a typewriter shall not exceed twenty-five (25) pages.

Briefs exceeding these 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 these limitations shall be accompanied only by a memorandum substantiating, to the Supreme Court's satisfaction, the need for the additional words or pages requested.

Nonelectronic briefs shall be bound on the left side and not at the top. The brief must be bound in any manner that is secure, does not obscure text, and permits the brief to lie reasonably flat when open and not fall apart. The cover of the nonelectronic brief of the appellant shall be blue; that of the appellee, red; that of an intervenor or amicus curiae, green; that of any reply brief, gray. The cover of the nonelectronic appendix, if separately printed, should be white.

The front covers of all briefs and of appendices, if separately filed, shall contain the following information:

(1) The name of the court and the number of the case;

(2) The title of the case;

(3) The nature of the proceeding in the court (e.g., Appeal; Petition for Review) and the name of the court, agency, or board below;

(4) The title of the document (e.g., Brief for Appellant, Appendix); and

(5) The name, bar number, and contact information, including email address, of the attorney representing the party on whose behalf the document is filed.

All briefs shall be filed with a completed "Checklist for Filing Briefs" form prescribed by the Clerk of the Supreme Court. The most current Checklist for Filing Briefs is located on the Judiciary's website at www.courts.ri.gov under the heading

of Public Resources, Forms, Supreme Court. Checklists shall be signed by the filing attorney(s). Briefs that are filed without a completed checklist shall be rejected by the Clerk.

(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 of the Supreme Court shall reject any brief not in compliance with this rule.

(h) *Brief of Amicus Curiae.* A brief of an amicus curiae may be filed only if accompanied by written consent of all parties, or by leave of the Supreme Court granted on motion or at the request of the Court, except that consent or leave shall not be required when the brief is presented by the United States or an officer or agency thereof, or by the State of Rhode Island or an officer or agency thereof. The brief may be conditionally filed with the motion for leave. A motion for leave shall identify the interest of the applicant and shall state the reasons why a brief of an amicus curiae is desirable. Unless all parties consent, an amicus curiae shall file its brief within the time allowed the party whose position as to affirmance or reversal the amicus brief will support unless the Supreme Court for cause shown shall grant leave for later filing, in which event it shall specify within what period an opposing party may answer. A motion of an amicus curiae to participate in the oral argument will be granted only for extraordinary reasons.

(i) *References to Parties.* In briefs and at oral argument, attorneys should minimize use of the terms "appellant" and "appellee." To make briefs clear, attorneys should use the parties' actual names or the designations used in the trial court or agency proceeding, or such descriptive terms as "the employee," the injured person," "the taxpayer," "the landlord," "the tenant."

Rule 17. Appendix to the briefs. - (a) *Duty of Appellant or Other Moving Party to Prepare and File; Content.* The appellant shall prepare a separate appendix to the brief. The appendix shall contain:

(1) The relevant docket entries in the proceeding below;

(2) Any relevant portions of the pleadings, charge, findings, or opinions;

(3) The judgment, order, decision, or ruling in question; and

(4) Any other part of the record, including the transcript, to which the party wishes to direct the particular attention of the Supreme Court. Except as otherwise provided in subsection (b) of this Rule, the appendix shall have a table of contents, pages separately numbered, and appropriate demarcation separating discrete sections to assist the Supreme Court to locate portions of the record referenced in

the briefs. When portions of a transcript are included in the appendix, attorneys shall ensure that the cover sheet of the transcript volume and the index of witness names are included, together with sufficient pages assembled in sequence to enable the Supreme Court to read the cited passages in context.

(b) *Appendix in Criminal Cases.* In criminal cases, the provisions of subsection (a) concerning separate pagination of the appendix shall not be mandatory, provided that the parties employ alternative methods of organizing the appendix in a form which provides substantially equivalent assistance to the Supreme Court in locating portions of the record referenced in the briefs.

(c) *Duty of Appellee or Other Adverse Party to Prepare and File.* If the appellee or other adverse party deems it necessary to direct the particular attention of the Supreme Court to parts of the record not designated by the appellant in the appellant's appendix, the appellee shall prepare and file an appendix to the appellee's brief containing a designation of those parts.

(d) *Form of Appendices.* The form of appendices shall be in accordance with the provisions of Rule 16(f) except as to maximum number of words and pages permitted and in accordance with the "Checklist for Filing Briefs" form.

Rule 18. Filing, Form, Service, and Notice. - (a) *Filing.* Papers required or permitted to be filed in the Supreme Court shall be filed electronically with the Clerk of the Supreme Court in accordance with Rule 1(d).

Filings shall not be timely unless the papers are received by the Clerk of the Supreme Court within the time fixed for filing.

The only proof of the time of filing any paper, when filed electronically or nonelectronically, shall be the file mark of the Clerk of the Supreme Court.

(b) *Form.* Unless authorized by order of the Supreme 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 and at least fourteen (14) point as the font size; footnotes are to be single spaced and also use Times New Roman font and at least fourteen (14) point as the font size. Self-represented litigants who do not have access to a word processing system must file typewritten or legibly handwritten documents. Such documents must otherwise comply with the form requirements in this rule.

Pages must be numbered consecutively at the bottom center of each page. Written material shall appear on only one side of the paper and margins must be at least one (1) inch on all four (4) sides, except that page numbers may be within the bottom margin.

Headings, footnotes, and quotations count toward the word limitations in these rules. The cover page, table of contents, table of authorities, statement of the issues, signature blocks, and certifications do not. All Rule 12A statements and briefs shall include a signed certification that the filing complies with the form and length requirements of these rules, as follows:

CERTIFICATION OF WORD COUNT AND COMPLIANCE WITH RULE 18(B).

1. This [Rule 12A statement/brief] contains _____ words, excluding the parts exempted from the word count by Rule 18(b).
2. This [Rule 12A statement/brief] complies with the font, spacing, and type size requirements stated in Rule 18(b).

_____
Signature of Filing Attorney

The person signing the certificate may rely on the word count of the word processing system used to prepare the brief.

(c) *Service.* Copies of all papers filed by any party and not required by these rules to be served by the Clerk of the Supreme Court shall, at or before the time of filing, be served by a party or a person acting for the party on all other parties to the appeal or proceeding. Service on a party represented by an attorney shall be made on the attorney.

(d) *Manner of Service.* Service of nonelectronic papers may be personal or by mail. Personal service shall be by delivery to the person to be served or by leaving the same at the person's office with some person in charge thereof. Service by mail shall be by regular, certified, or registered mail return receipt requested. Service by mail is complete upon mailing.

(e) *Proof of Service.* Papers presented for filing shall contain an acknowledgment of service by the person served or proof of service. Proof of service may appear on or be affixed to the papers filed.

(f) *Clerk Review and Acceptance of Papers.* Following submission, the Clerk shall timely review the electronically filed document(s) and shall notify the filing party as to whether the filing is accepted or rejected. Upon acceptance, the submitted document(s) shall be entered into the docket of the case and the docket shall reflect the date and time of filing as set forth in Article X, Rule 5(b) of the Rhode Island Supreme Court Rules Governing Electronic Filing.

(g) *Rejection of Papers at Filing.* In accordance with Article X, Rule 5(c), grounds for rejection by the Clerk of papers electronically filed with the Supreme Court are limited in scope as follows:

(1) Papers failing to comply with subsections (b) – (e) of this rule;

(2) Papers filed without a conventional signature where required;

(3) Papers filed without the required documents as set forth in the Supreme Court's Electronic Filing System Guidelines;

(4) Papers not submitted individually with related documents submitted as separate files within the same submission or filing (for example, a motion and memorandum or other supporting attachments or exhibits filed in support of a motion);

(5) Papers, including any required documents, attachments, or exhibits, scanned in the wrong orientation, e.g., upside down or backwards;

(6) Papers scanned and filed that are unreadable or illegible;

(7) Papers filed in a fillable portable document format (PDF);

(8) Papers filed do not match the selected filing code type;

(9) Papers filed into the wrong case;

(10) Papers containing an incorrect or incomplete case caption;

(11) Papers filed with no case identification;

(12) Papers improperly scanned or uploaded;

(13) Papers where the party name, party address, or paper name exceeds the number of allotted characters in the electronic filing system;

(14) Papers where the filer added a party or participant that is not configured in the case management system or does not match the information in the case;

(15) Papers where a payment processing error occurred; and/or

(16) Papers where a technical submission error occurred.

If rejected, the filing will not be docketed and notice will be sent to the Registered User indicating why the document(s) was returned. The rejection notice shall identify the basis for the rejection. A rejected filing shall be corrected and resubmitted within ten (10) days from service of notice of the rejection.

(h) *Hardcopies Required.*

(1) *Rule 12A Statements, Briefs, and Petitions and Supporting Memoranda.* The parties shall file with the Clerk nine (9) nonelectronic copies of Rule 12A statements, briefs, petitions and applications for the issuance of a writ or for reargument, and any supporting memoranda filed therewith, within five (5) days of the Clerk's acceptance of the electronic filing thereof.

(2) *Appendices.* The parties shall file with the Clerk six (6) nonelectronic copies of appendices within five (5) days of the Clerk's acceptance of the electronic filing

thereof.

(3) Parties exempt from electronic filing shall file an original plus nine (9) nonelectronic copies of all papers.

(4) All nonelectronic copies shall be on good paper of sufficient opacity and a print quality to be distinctly legible.

(i) *Rejection of Papers after Acceptance.* Upon the rejection of any papers after acceptance, the Clerk of the Supreme Court shall notify the parties and shall state the reason for the rejection. The filer shall have ten (10) days from service of notice of the rejection to file and serve any corrected papers, unless a different time for filing is ordered by the court.

(j) *Notice, Where None Required.* Whenever these rules do not expressly provide for giving notice, the Supreme Court may order that special notice be given.

(k) *Self-represented Litigant Filings by Party Represented by an Attorney.* In any appeal where a party is represented by an attorney, the Clerk of the Supreme Court shall not accept for filing any self-represented litigant's briefs, pleadings, or other papers. In the event that such briefs, pleadings, or papers are presented for filing, the Clerk of the Supreme Court shall acknowledge receipt and notify the party that such papers are not being filed. The Clerk of the Supreme Court shall notify the responsible attorney of the receipt of the papers, including with the notification, copies of such papers. This subsection shall not apply to self-represented litigant's pleadings or papers directed to the court concerning the performance of an appellate attorney.

(l) *Unpublished Orders and Electronic Case Citations.* Unpublished orders will not be cited by the Supreme Court in its opinions and such orders will not be cited in papers filed with the Court. Unpublished orders shall have no precedential effect.

Citation to a case contained in an electronic service (e.g. Westlaw or Lexis) is permissible only when the case which is set to be published in the national reporter is not yet published in book form. To the extent that a Lexis citation is used in papers filed with the Court, the citation shall be accompanied by the concomitant Westlaw citation.

Rule 18A. 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, the following authority is hereby conferred upon the Clerk of the Supreme Court.

(1) *Failure to File a Statement of the Case.* 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 Supreme Court

setting a different time, the Clerk of the Supreme Court 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) *Failure to File a Counter-statement.* 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 Supreme Court setting a different time, following the filing of appellant's statement of the case, the Clerk of the Supreme Court 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) *Failure of an Appellant to File a Brief.* 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 Supreme Court setting a different time, the Clerk of the Supreme Court 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) *Failure of an Appellee to File a Brief.* 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 Clerk of the Supreme Court 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 Supreme Court in opposition to the appellant's argument.

In addition to the foregoing actions which may be taken by the Clerk of the Supreme Court, the Supreme 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 Supreme Court, or both.

Rule 18B. Dismissal. - (1) *Voluntary Dismissal.* At any time prior to the scheduling of oral argument, the appellant or petitioner may withdraw an appeal or petition for review by filing written notice with the Supreme Court. Thereafter, the Supreme Court may dismiss the appeal or petition for review upon the filing of a stipulation of dismissal signed by the parties.

(2) *Involuntary Dismissal by the Clerk for Lack of Prosecution.* The Clerk of

the Supreme Court shall enter a conditional order of dismissal in each case where there has been no action by the parties for a period of at least ninety (90) days and the parties are not awaiting action by the Supreme Court.

Cases conditionally dismissed by the Clerk of the Supreme Court pursuant to this rule shall be reinstated if a statement to show cause why the case should not be dismissed is filed by any party within twenty (20) days of the conditional order of dismissal. The show cause statement shall be filed with the Clerk of the Supreme Court and shall be submitted in the form and manner set forth in Rule 18.

(3) *Cases Remanded, Stayed or Held in Abeyance - Duty to Keep the Supreme Court Informed.* In all cases where the Supreme Court has entered an order to remand a case to the trial court or to stay a case or hold a case in abeyance, the appellant or petitioner shall notify the Court, in writing, every sixty (60) days starting from the date of the order, as to the status of the case and continued need for the stay, remand, or for holding the case in abeyance. If the appellant or petitioner fails to provide the Supreme Court with such notice, the Clerk of the Supreme Court shall conditionally dismiss the case for lack of prosecution pursuant to subdivision (2) of this rule.

Rule 19. Appearances. - Within the time required for the filing of statements of the case pursuant to Rule 12A of these rules, or the filing of briefs in cases in which Rule 12A is not applicable, attorneys for each party shall file with the Clerk of the Supreme Court a written appearance, setting forth the attorney's individual name, address, email address, bar number, and telephone number. A copy of the appearance shall be served upon every other party. No attorney shall be permitted to conduct an argument or address the Supreme Court or any justice thereof on behalf of a party without first having filed an entry of appearance on behalf of such party with the Clerk of the Supreme Court. Attorneys who are not appointed by the Supreme Court in the ordinary course following docketing of an appeal, and prior to the performance of appellate services, shall not be appointed as an appellate attorney *nunc pro tunc* and will not be compensated for any services performed in advance of their appointment, in the absence of extraordinary circumstances.

Rule 20. Computation and extension of time. - (a) *Computation of Time.* In computing any period of time prescribed by these rules, by an order of the Supreme Court, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a holiday.

(b) *Enlargement.* Except as otherwise provided in subsection (c) or in these rules, when by these rules or by order of the Supreme Court an act is required or allowed to be done at or within a specified time, the Supreme Court clerk's office may, upon motion, grant one (1) thirty (30) day extension. Thereafter, the Clerk of the Supreme Court may, upon motion, grant an additional thirty (30) day extension, or two (2) additional thirty (30) day extensions in criminal cases, unless an objection is filed within seven (7) days of filing of the motion to extend, in which case the motion shall be resolved by the Supreme Court. No further extensions shall be granted unless authorized by order of the Supreme Court for good cause shown. However, the Supreme Court may not extend the time for filing a notice of appeal. This subsection shall not apply to petitions for reargument pursuant to Rule 25 or to orders of civil certification from District Court.

(c) *Enlargement in Criminal Cases in Which Full Briefing is Ordered.* When any party in a criminal case believes in good faith that more than three (3) requests for extension of time will be required in any matter in which full briefing is ordered, the parties, on motion after consultation, may establish a briefing schedule in advance, subject to approval by the Supreme Court.

(d) *Additional Time after Electronic Service or Service by Mail.* Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after service of a notice or other paper upon the party, and the notice or paper is served upon the party electronically or by mail, one (1) day shall be added to the prescribed period.

Rule 21. Docketing. - (a) *Classes of Cases.* All cases shall be docketed and numbered consecutively and followed by such designations as the Clerk of the Supreme Court may deem appropriate.

(b) *Extraordinary and Prerogative Writs.* Petitions for extraordinary and prerogative writs and processes, proceedings in equity originally entered in the Supreme Court, and all other matters not expressly provided for by this rule shall be docketed under Miscellaneous Petitions and Appeals. Such matters shall be docketed on the return day.

(c) *Criminal Matters.* Criminal appeals, petitions for trials and new trials in criminal cases, and all questions certified from trial courts in criminal proceedings shall be docketed under Criminal Matters.

(d) *Civil Matters.* Civil appeals, petitions for trials and new trials in civil cases, and all questions certified from trial courts in civil cases shall be docketed under Civil Matters.

Rule 22. Assignment of Cases. - (a) *Argument List.* The Clerk of the Supreme Court shall keep a current argument list, placing thereon in order each case thirty (30) days after the moving party's briefs have been filed pursuant to these rules or five (5) days after the adverse party's supplemental statements or briefs have been so filed, whichever day is sooner. The appeals shall be arranged in two (2) groups:

(1) Group A, cases entitled to priority by statute, criminal cases, election cases, cases in which the State is an actual party in interest, cases involving termination of parental rights, habeas corpus proceedings, and other cases designated by special order; and

(2) Group B, all other cases. Cases shall be assigned hearing dates by the Clerk of the Supreme Court in the order in which they appear on the argument list.

The cases in Group A shall be heard first, then the cases in Group B. Attorneys shall be notified by the Clerk of the Supreme Court of the date assigned for the hearing of a case.

(b) *Sessions of Court.* The Supreme Court will be in open session to hear arguments on assigned court days during the months of September, October, November, December, January, February, March, April, and May. The Supreme Court may also be in open session and hear arguments at such other times as it may by special order designate. The Supreme Court will not hear arguments or hold open sessions on Saturday, Sunday, and legal holidays.

(c) *Number of Cases; Call of Calendar.* Except as otherwise ordered by the Supreme Court not more than seven (7) cases shall be assigned for hearing on any day. For the purpose of this rule two (2) or more cases which are part of a trial group in which the same questions are involved shall be treated as one case. The calendar shall be called at 9:30 a.m. Cases assigned and called ready for hearing shall be heard immediately thereafter.

(d) *Continuances; Special Assignments.* For good cause shown the Supreme Court may continue a case or order its assignment to a day certain. No stipulation to pass or continue a case will be binding upon the Supreme Court.

(e) *Engagements of Attorneys.* Cases on the current argument list shall be in order for disposition when reached without regard to engagements of the attorneys before other courts; however, the reaching of a case for hearing in the Supreme Court shall not require the vacation of a case in order for hearing in any other court nor excuse the attorney from attendance in that court other than for a period of time sufficient to permit the completion of the attorney's engagement before the Supreme Court.

(f) *Dismissal of Cases not Argued.* A case reached for argument and not heard may be dismissed or made the subject of such other order as the Supreme Court may deem appropriate under the circumstances. In the event that an attorney for the

parties, or the party if self-represented, fails to appear at the time the case is in order for hearing, the Supreme Court may hear the cause or decide it solely upon the briefs.

Rule 23. Affidavits. - In all cases in which affidavits are admissible, the petitioner shall file the petitioner's affidavits at least five (5) days before the day set for hearing. If counter affidavits are admissible they shall be filed at least three (3) days before the day of hearing, unless otherwise allowed by the Supreme Court.

Rule 24. Arguments. - (a) *Content.* During oral argument, attorneys should undertake to emphasize and clarify the written argument appearing in the brief. The Supreme 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 (1) 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 Supreme Court. Unless authorized by order of the Supreme Court, only one (1)_attorney may present argument on behalf of a party. Where more than one (1) attorney argues on a side of a case, it is the attorney's responsibility to assure a fair division of the time allotted.

Rule 25. Reargument. - (a) *Petitions.* Petitions for reargument of causes heard and decided, including those petitions requesting reargument before the full court because the Supreme Court has evenly divided in an opinion, shall be filed within ten (10) days after filing of the decision.-The petitioner shall file with the petition a memorandum setting forth the grounds upon which the petitioner relies.

(b) *Memorandum in Opposition.* The attorney for any adverse party may within ten (10) days after receipt of the petitioner's papers file a memorandum in opposition to the granting of the petition to reargue.

(c) Papers filed pursuant to this rule shall be filed in accordance with Rule 18.

Rule 26. Agreements. - All agreements of parties or attorneys touching the business of the Supreme Court shall be in writing. An agreement not in writing will be invalid.

Rule 26A. Withdrawal and excusal of attorneys. - (a) *Withdrawal of Attorney.* No attorney who has appeared in any case before the Supreme Court, either by entry of appearance, filing of notice of appeal, or who was attorney of record in a trial court at the time a notice of appeal was filed either by the attorney or by the attorney for the adverse party, will be allowed to withdraw without the consent of the Court. Except where another attorney enters an appearance at the time of such withdrawal, all requests to withdraw shall be upon motion with reasonable notice to the party represented and to the adverse party. No such motion shall be granted unless the attorney who seeks to withdraw shall file with the Clerk of the Supreme Court the last known address of the attorney's client, or the client files the client's address, and in either situation the address which is filed shall be the official address to which notices may be sent. A motion for withdrawal shall be accompanied by an affidavit setting forth facts showing the military status of the client or by a written statement of the client consenting to such withdrawal. In the event that an attorney is permitted to withdraw, the attorney shall notify the client in writing that the attorney's motion to withdraw has been granted. The attorney shall further notify the client of the client's obligation to file prebriefing statements and also of the client's obligation to file briefs pursuant to the time schedule set forth in Rule 12A or Rule 16, as said rules may be applicable.

(b) *Excusal from Attendance.* An attorney's request to be excused from attendance from appearances before the Supreme Court shall be filed with the Clerk as far in advance as possible and absent an emergency no later than thirty (30) days from the earliest excusal date being requested. A written request shall be sent by email to supremecourtexcusal@courts.ri.gov and shall be served upon the attorney of record of the adverse party for all matters the moving attorney is scheduled to attend before this Court. The submission shall contain the following information:

(1) The period of time for which the excusal is requested;

(2) The basis for the request. Where the submission is based upon a matter which is personal or confidential in nature, the movant may request a conference with the Chief Justice prior to the filing of the motion;

(3) The file number and caption of every case in which the attorney has entered an appearance during the period for which the excusal is sought and the name of the attorney of record for each of the adverse parties to that case;

(4) Where the movant has no case assigned for hearing or conference during the period for which the excusal is sought, a representation of that fact shall be made; and

(5) A certification that the movant has served a copy of the submission on each attorney of record for each of the adverse parties in all cases in which the movant has entered an appearance.

An attorney of record for an adverse party who objects to the submission shall file an objection with the Clerk of the Supreme Court immediately upon receipt of the submission.

Excusal from attendance at a proceeding before the Supreme Court does not excuse attorneys from filing deadlines. Extensions of time to extend filing deadlines must be sought in accordance with Rule 20.

Rule 26B. Signing of Papers; Sanctions. In accordance with Article X, Rule 7 of the Rhode Island Supreme Court Rules Governing Electronic Filing, every paper of a party represented by an attorney shall be personally signed by at least one (1) attorney of record in the attorney's individual name and shall state the attorney's address, email address, bar number, and telephone number. A self-represented litigant shall personally sign all papers and state the self-represented litigant's address, email address (if electing to utilize the electronic filing system), and telephone number.

The signature of an attorney, self-represented litigant, or party constitutes a certificate by the signer that the signer has read the paper; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry the paper is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that the paper is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a paper is not signed, unless signed promptly after the omission is called to the attention of the pleader or movant, or is signed with intent to defeat the purpose of this rule, the paper shall be stricken. If a paper is signed in violation of this rule, the Supreme Court, upon motion or upon its own initiative, may impose upon the person who signed the paper, a represented party, or both, any appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the paper, including a reasonable attorney's fee.

Rule 27. Amendments. - If the Supreme Court allows amendments to any pleadings in a case, they shall be embodied in a fair copy of the whole paper as amended.

Rule 28. Motions. - (a) *Supporting Memorandum.* Except as otherwise provided by these rules, every motion or petition, including petitions for trials or new trials or for leave to take and prosecute appeals, shall be accompanied by a brief memorandum setting out the grounds therefor and citing the authorities relied upon.

(b) *Memorandum in Opposition.* A memorandum in opposition to a motion may be filed by any adverse party within ten (10) days of service of the movant's motion and memorandum.

(c) *Reply Memorandum.* The moving party may file a reply memorandum within ten (10) days after service of the memorandum in opposition. No party may file a supplemental memorandum without the prior approval or direction of the Supreme Court.

(d) All motions and memoranda filed pursuant to this rule shall be filed in accordance with Rule 18.

(e) *Expediting an Appeal.* If the Supreme Court expedites an appeal, upon motion or its own initiative, no party shall be granted an extension to file any Rule 12A statements, supplemental statements, or briefs without the express permission of the Court. The provisions of Rule 20(b) shall not apply.

(f) *Papers Filed Under Seal.* A party wishing to file any papers under seal shall move for permission at the time the papers are filed. Said papers shall be conditionally filed under seal pending order of the Supreme Court.

Rule 29. Taking out transcripts and exhibits. - (a) *Taking out Transcripts.* A party in a matter before the Supreme Court may take out a nonelectronic transcript upon leaving a receipt with the Clerk of the Supreme Court. A party in a pending appeal may keep such transcript for a maximum of three (3) weeks, unless when the transcript is initially taken out by any party the case has been assigned for hearing, in which event the transcript may be kept for one half (1/2) the time which shall elapse between the date it is taken out and the date to which the case has been assigned for hearing. Upon return of a transcript it may be taken out by the opposing side and kept for three (3) weeks or for the remainder of the time which shall elapse between the time of taking out and the date to which the case has been assigned for hearing. Except as otherwise provided in subsection (b), a party may not retain the transcript longer than three (3) weeks unless the period is extended by order of the Supreme Court upon motion; nor may a party who has previously taken out a transcript of evidence take it out again without the consent of the opposing side unless the opposing side has had an opportunity for three (3) days to take out the transcript and has failed to do so.

(b) *Taking out Transcripts in Criminal Cases.* In criminal cases, the Clerk of the Supreme Court may, upon motion, grant one (1) three (3) month extension, provided, however, that the party make the nonelectronic transcripts available to the Supreme Court or the opposing attorney on an "as needed" basis. Thereafter, a party must, upon motion, seek permission from the Supreme Court for an additional three (3) month extension.

(c) *Taking out Exhibits.* A party may take out nonelectronic and physical exhibits only with leave of the Supreme Court granted upon motion, which sets forth precisely the exhibits the party wishes to remove, the reason for the withdrawal, and the duration of the removal, as well as any measures that will be taken to safeguard the integrity of the exhibits.

Rule 30. Appeals and exceptions with respect to rulings and decisions after judgment. - Decisions and orders of a trial court subsequent to judgment may be appealed in the same manner, as near as may be, as judgments. An appeal from a judgment preserves for review any claim of error in an order upon a reserved motion for a directed verdict, a motion to amend findings, a motion to amend judgment, a motion for a new trial and a motion in arrest of judgment. An appeal from such an order shall be treated as an appeal from the judgment.

Rule 31. Appeals from judgments in cases referred to auditors. - When a case is referred to an auditor and a final judgment is entered upon the report of the auditor by the Superior Court without a jury trial, a party aggrieved may appeal such judgment in the same manner as an appeal from a judgment in a civil action heard on the merits by the Superior Court without a jury.

Rule 32. Cases involving constitutionality of federal or state statutes. - (a) *Constitutionality of Federal Statute.* A party who draws in question the constitutionality of any Act of Congress in any proceeding in the Supreme Court to which the United States, or any agency thereof, or any officer or employee thereof, as such officer or employee, is not a party, upon the filing of the record, or as soon thereafter as the question is raised in the Supreme Court, shall give immediate notice in writing to the Supreme Court of the existence of said question. The Clerk of the Supreme Court shall thereupon certify such fact to the United States Attorney for the District of Rhode Island.

(b) *Constitutionality of State Statute.* A party who draws in question the constitutionality, under the United States Constitution or the Rhode Island Constitution, of any Act of the General Assembly of Rhode Island in any proceeding

in the Supreme Court to which the State of Rhode Island, or any agency thereof, or any officer or employee thereof, as such officer or employee, is not a party, upon the filing of the record, or as soon thereafter as the question is raised in the Supreme Court, shall give immediate notice in writing to the Supreme Court of the existence of said question. The Clerk of the Supreme Court shall thereupon certify such fact to the Attorney General of Rhode Island.

Rule 33. Stenographic recording and taking of testimony in the Supreme Court. - The Supreme Court does not record its proceedings. If a party desires to preserve a stenographic record of the proceedings, including cases in which testimony is taken before the Supreme Court, the party shall move in advance of the proceedings for permission to employ a certified court stenographer at his or her own expense.

Rule 34. Conferences with duty justice. - (a) *Arrangement.* All conferences with the duty justice shall be arranged through the office of the Administrative Assistant to the Chief Justice.

(b) *Motions.* Any motion to be addressed to the duty justice shall, unless otherwise ordered by the Supreme Court, or any justice thereof, first be filed with the Clerk of the Supreme Court. Every such motion shall comply with the provisions of Rules 18 and 28, and shall be accompanied by the movant's certificate stating:

(1) That every practicable effort was made to notify all interested parties of the motion and of movant's intention to seek conference with the duty justice thereon; and

(2) When and how interested parties were notified, or if they were not notified, why it was not practicable to give them such notice.

Ordinarily, no conference will be permitted on any motion hereunder unless the movant has first invoked the Supreme Court's jurisdiction, such as through the filing of a notice of appeal or petition for extraordinary writ. The term "motion" shall include any motion, petition, application, or other request for relief which may be addressed to the Supreme Court.

(c) *Scheduling of Motion.* After a motion has been filed in accordance with the provisions of subsection (b), the Administrative Assistant to the Chief Justice shall promptly transmit said motion to the duty justice and shall in due course advise the movant of the time the conference on such motion has been scheduled and of the justice who will consider the motion. The movant shall then notify all interested parties, by means as speedy as may be appropriate, of the scheduled conference. Any party opposing the motion shall file a response thereto with the clerk's office

prior to the scheduled conference, if practicable, or, if not, as soon thereafter as is possible, or as otherwise ordered by the duty justice or the Supreme Court.

(d) Cases in which a party is self-represented are not eligible for conferences with the duty justice.

(e) *Purpose.* The purpose of this rule is to establish a formal procedure for arranging conferences with the duty justice, and the provisions hereof shall not be construed to alter or in any way affect the provisions of any other order, statute or rule relating to the filing of motions.

Rule 35. Appellate Mediation Program. - (a) *Purpose of the Rule.* The purpose of this rule is to afford a meaningful opportunity to the parties in all eligible civil appeals to achieve a resolution of their disputes in a timely manner as early in the appellate process as feasible through the assistance of the Supreme Court Appellate Mediation Program and with the help of designated mediators.

(b) *Eligibility.* All civil cases that have been appealed from a trial court will be eligible for participation in this program with the following exceptions:

(1) Applications for post-conviction relief;

(2) Petitions for habeas corpus;

(3) Cases brought by prisoners in the custody of the Department of Corrections;

(4) Cases in which one (1) or more parties are not represented by an attorney (unless the case is specifically included at the direction of the Supreme Court or by order of a mediator justice);

(5) Appeals from the Family Court;

(6) Juvenile cases; and

(7) Petitions for extraordinary relief, including all prerogative writs, provided, however, that a petition for a prerogative writ brought originally in this Court may be assigned to the Appellate Mediation Program by order of the Court at the time the prerogative writ is issued.

Criminal cases will not be included in the Appellate Mediation Program. Criminal cases will be construed to include cases on review from traffic tribunals of the state or municipalities, or adjudication of offenses by municipal courts, however designated.

The assignment and scheduling of mediations for civil cases that meet the eligibility_requirements and are appropriate for mediation shall be within the discretion of the Director and_the staff of the Appellate Mediation Program. Any civil case that has been appealed from the trial court may be directed by the Supreme Court to participate in the Appellate Mediation Program.

At any time during the appellate process, the Supreme Court may order participation in the program, or any party in a civil case may request participation in the program on a voluntary basis.

(c) *Mediators.* Mediators will be designated retired justices of the Supreme Court, retired judicial officers of trial courts, other judges, or persons who may from time to time be designated by the Chief Justice in a particular proceeding.

(d) *Procedures Relating to Submitting and Scheduling Cases for Mediation.*

(1) *Notice of Eligibility*. If, upon initial review following the filing of a Notice of Appeal, a civil case is deemed to be eligible for mediation, the Office of the Appellate Mediation Program will send a notice to the parties indicating the mediation case number and the due date of the Mediation Statement, which shall be twenty (20) days from the date of the Notice of Eligibility. If, upon initial review, a case is deemed to be ineligible for mediation, a notice regarding such ineligibility shall be sent to the parties and the case will proceed in accordance with these rules.

(2) *The Mediation Statement*. The Mediation Statement, comprised of Parts I and II, shall be filed with the Appellate Mediation Program within twenty (20) days of the date of the Notice of Eligibility. The most current version of the Mediation Statement is located on the Judiciary's website at www.courts.ri.gov under the heading of Public Resources, Forms, Supreme Court.

The Case Information Form (Part I of the Mediation Statement) shall include the procedural history of the case, including the type of judgment entered, the amount of any monetary judgment and/or injunctive relief, the facts giving rise to the initial dispute, the history of negotiation(s), including any demand(s) that have been transmitted by the plaintiff(s), as well as any counteroffer(s) that have been made by the defendant(s). The attorney for the plaintiff(s) or other claimant(s) will include a list of out-of-pocket expenses upon which the claim(s) for compensation is based in whole or in part, as well as a description of physical and other injuries upon which the claim(s) for compensation is based. The Case Information Form shall be filed electronically with the Appellate Mediation Program and shall be served upon all opposing attorneys.

The parties shall also complete a Confidential Mediation Statement (Part II of the Mediation Statement) to be filed with the Appellate Mediation Program. The Confidential Mediation Statement shall include significant factors that could affect the party's chances of prevailing on appeal, a description of why past efforts at negotiation have failed, the priorities of the parties, and possible acceptable outcomes to the mediation process. The statement should be sufficiently detailed to enable the mediator to determine the areas of agreement and disagreement and to consider any other relevant information that would assist the mediator in the

resolution of the dispute. To maintain the confidentiality of the mediation process, the Confidential Mediation Statement shall be filed only with the Appellate Mediation Program and shall not be provided to the opposing attorney. The attorneys may be required to supplement a Mediation Statement with additional relevant information at any time prior to the mediation session.

As a condition for participation in mediation, the parties shall include a statement that counsel has been authorized to negotiate on behalf of the client(s), with full authority to make and/or accept offers. If the attorney is not so authorized, arrangements must be made to have the client(s) or authorized representative(s) available at the mediation session, or available for consultation by telephone at the time of the mediation session. At any time during the mediation process, the mediator-justice may request the record be transferred for reference at the mediator's discretion.

In the event that the judgment has not included all parties or all claims for relief, a judgment shall be requested in the trial court pursuant to Rule 54(b).

(3) *Mediation Scheduling*. Following review of the Mediation Statements submitted by all parties, a case may be scheduled for mediation or deemed to be inappropriate for mediation proceedings. In either circumstance, a notice shall be sent to all parties and the case shall proceed to mediation or shall proceed in accordance with these rules.

(e) *Ordering of Transcript, Transmission of the Record, and Compliance With Rules of Appellate Procedure.* In order to expedite the mediation process and spare the parties as much initial expense as possible, the time for ordering of the transcript in Rule 10(b)(1) with respect to cases eligible for mediation, shall be extended to a date sixty (60) days from the filing of the notice of appeal, and the time for transmittal of the record of the trial court to the Supreme Court under Rule 11(a) shall be extended to a date sixty (60) days from the date of the ordering of the transcript. The Rules of Appellate Procedure are not suspended during participation in the Appellate Mediation Program except as expressly provided for herein.

(f) *Mediation Session.* At the time of the mediation session, the attorneys for the parties should have had a prior meeting with their clients and opposing parties in order to seek as much agreement on issues, including settlement issues, as possible. The attorney should have obtained authority from their client(s) to make demands and counteroffer(s) to the fullest extent possible. Client(s) and/or representatives of client(s) should be available at the mediation session or by telephone in order to furnish additional authority that may be required in order to achieve a successful mediation in the course of the session.

(g) *Confidentiality.* All documents filed, and statements made in furtherance of mediation, including, but not limited to, the history of negotiation, listing of out-of-pocket expenses, injuries, responses by the parties, counteroffers, and memoranda relating to the narrowing of issues, will be confidential. The only portion of the mediation process that will be public is the fact that the session took place and that the case has been settled, if such a result is reached.

(h) *Sanctions.* A party or the attorney for a party who fails to participate in a mediation session after notice, or fails to provide the necessary preliminary documents and other information required for a meaningful mediation session, or fails to keep confidential any mediation statements or documents, or fails to participate in the mediation session in good faith, or otherwise fails to follow the provisions of this rule, may be prohibited from filing further pleadings with the Clerk of the Supreme Court relevant to the pending appeal, or otherwise be subject to sanctions to be imposed after hearing by the Supreme Court or the mediator. Sanctions may be brought either on motion by a party, or by the mediator or the Supreme Court. Such sanctions may include monetary fines, costs, attorney fees, or orders that may deny or grant relief to appellant(s) or to appellee(s) as circumstances and justice may require.

Rule 36. Forms. - The forms listed in the Appendix of Forms are located on the Judiciary's website at www.courts.ri.gov under the heading of Public Resources, Forms, Supreme Court are sufficient under the rules.

APPENDIX OF FORMS

The following forms located on the Judiciary's website at www.courts.ri.gov under the heading of Public Resources, Forms, Supreme Court and are expressly declared by Rule 36 to be sufficient under the rules. They are limited in number. No attempt is made to furnish a manual of forms.

Affidavit for Bail
Checklist for Filing Briefs
Designation of Attorney(s) Presenting Oral Argument
Entry of Appearance – Civil
Entry of Appearance - Criminal
Mediation Statement
Petition for Waiver of the Mandatory Electronic Filing Requirements
Pro Hac Vice - Attorney Certification for Admission Pro Hac Vice
Pro Hac Vice - Client Certification
Pro Hac Vice - Miscellaneous Petition for Admission Pro Hac Vice
Stipulation