

MASSACHUSETTS APPEALS COURT RULES

STRIKETHROUGH VERSION

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KEY TO STYLISTIC CONVENTIONS

Original language = regular typeface

~~Strikethrough~~ = removed

Bold = addition

Note regarding proposed textual amendments. Changes to existing Standing Orders that are included in proposed Appeals Court Rules 1.0, 6.0, 10.0, 13.0, 15.0, 20.0, 22.0, and 23.0 are reflected in track changes, with proposed new text shown by underlining and proposed deleted text in strikethrough format. Due to significant revisions to and reorganization of the Standing Orders included in proposed Appeals Court Rules 19.0 and 31.0, track changes are not displayed in those rules.

Rule 1.0 Practice Before A Single Justice

(a) Applicable Procedures. Any matter which is within the jurisdiction of this court, whether originally entered or transferred to this court under the provisions of G. L. c. 211, § 4A, and which might otherwise be disposed of by a single justice of the Supreme Judicial Court, shall be filed with the clerk of this court and shall be heard and determined by a single justice of this court in accordance with the same rules, practices, and procedures which would govern if the same matters were heard and determined by a single justice of the Supreme Judicial Court. ~~The Massachusetts Rules of Civil or Appellate Procedure shall apply to any matter which would be subject thereto if it were being heard and determined by a single justice of the Supreme Judicial Court; and any other matter shall be heard and determined in accordance with the rules, practices and procedures of the Supreme Judicial Court which would be applicable thereto if it were being heard and determined by a single justice of that court.~~

(b) Review. A determination of any of the foregoing matters by a single justice of this court may be reviewed by a panel of ~~other justices of this court~~ in the same manner and to the same extent that the determination of a like matter by a single justice of the Supreme Judicial Court may be reviewed by the full court of the Supreme Judicial Court. As to such review in civil matters, see ~~paragraphs (a) and (b) of Rule 1 of the Massachusetts Rules of Appellate Procedure~~ **Mass. R. A. P. 1(a) and (b).**

Rule 6.0 Motions to Stay Execution of a Judgment or Sentence Filed Pursuant to Mass. R. A. P. 6

(a) Contents of a Motion for a Stay; Form. A motion for a stay pursuant to Mass. R. A. P. 6 shall include, in the following order:

- (1) a request for a stay, which shall state briefly the nature of the judgment or sentence entered by the trial court for which a stay is sought, the entry date of such judgment or conviction, and the name of the judge who entered it;
- (2) the text of the order and rationale of the trial court denying the motion for stay or, if no such motion was filed in the trial court, a showing why filing ~~the~~ **such a** motion in the trial court was not practicable;
- (3) a statement of the issues of law raised by the motion;
- (4) a statement of the specific relief requested; and
- (5) an addendum containing copies of the judgment, notice of appeal, and the trial court's order denying the prior motion for a stay **(including a typed version of any pertinent handwritten or oral endorsement, notation, findings, or order made by the lower court)**.

References to the parties in the motion shall be by the designation of the party in the trial court (e.g., "plaintiff," "defendant," "third-party defendant," etc.). The motion shall not exceed ~~five~~**5** pages of text in monospaced font or 1,000 words in proportional font compliant with Mass. R. A. P. 20(a)(4)(A)-(C) without leave of the court.

(b) Supporting Memorandum of Law and Record Appendix. The motion shall, unless otherwise ordered, be accompanied by a memorandum of law (not to exceed ~~fifteen~~**15** pages of text in monospaced font or 3,500 words in proportional font compliant with Mass. R. A. P. 20[a][4][A]-[C] ~~unless without~~ leave of the court ~~has been obtained~~) in support of the movant's position, with citations to appropriate authorities and a statement addressing why a stay is appropriate. The argument shall make reference to those portions of the record which are directly relevant to the issues raised by the motion. Relevant portions of the record shall be filed as a record appendix, and include a current copy of the trial court docket entries and all relevant ~~papers~~ **documents** filed in the trial court, including those filed by the other party or parties. **In criminal cases, the defendant's board of probation record may be filed in a separate record appendix volume, the cover of which clearly indicates that it includes impounded material. Each volume of** ~~t~~The record appendix shall be consecutively numbered starting with the cover or first page as page 1 followed by a table of contents that lists each document contained therein and the page on which it appears.

(c) Response, Form. The non-moving party or parties to the case may, but need not, file and serve a response thereto (not to exceed ~~fifteen~~**15** pages of text in monospaced font or 3,500 words in proportional font compliant with Mass. R. A. P. 20[a][4][A]-[C] ~~unless~~**without** leave of court ~~has been obtained~~) setting forth reasons why the motion should or should not be granted. The response shall not restate matters contained in the motion unless the responding party is dissatisfied with the statement thereof contained in the motion. The response may be accompanied by a supplemental record appendix containing such additional portions of the record as were before the trial court and are necessary for adjudication, **and which the movant failed to include in its record appendix.**

(d) Response, Timing.

(1) For motions filed in all civil matters and for criminal matters entered in the Appeals Court's single justice session (i.e., prior to the entry of an appeal pursuant to Mass. R. A. P. 10[a][1] or [2]), the other party or parties to the case may, but need not, file and serve a response thereto within ~~seven~~ **7** days after the service of the motion (~~ten~~ **10** days if the movant's certificate of service required under **Appeals Court Rule 6.0[e]** ~~hereof~~ shows service by first-class mail **or its equivalent [as defined by Mass. R. A. P. 1(c)]**), or such other time as the court may direct.

(2) For motions filed in criminal appeals subsequent to the entry of and during the pendency of a direct or collateral appeal in the Appeals Court, the time limit for a response is governed by the provisions of Mass. R. A. P. 6(b)(2)(B)-(C).

(3) For motions filed in civil appeals entered pursuant to Mass. R. A. P. 10(a)(1) the other party or parties to the case may, but need not, file and serve a response thereto within ~~seven~~ **7** days after the service of the motion (~~ten~~ **10** days if the movant's certificate of service required under **Appeals Court Rule 6.0[e]** ~~hereof~~ shows service by first-class mail **or its equivalent**), or such other time as the court may direct.

(e) Filing; Service; Required Certificate(s). The motion, memorandum, record appendix, and any subsequently filed response and supplemental record appendix, shall be filed electronically if the filing party is represented by counsel. Self-represented litigants may file electronically, or may file a single paper original or duplicate in the office of the Clerk of the Appeals Court. Any document required to be e-filed may be filed on paper upon allowance of a motion to waive the e-filing requirement, preferably filed in advance or with the document. The motion must contain a showing of undue hardship, significant prejudice, exigency, or other good cause.

Whether filed electronically or on paper, all filings shall include a certificate of service on all other parties in the case, including the service and filing of a copy in the appropriate trial court clerk's office from which the matter arose. The certificate of service shall set forth the name, address, email address, and telephone number of counsel or other persons upon whom service has been made, and specify the date and manner of service. The certificate of service shall

identify the name of each party represented by counsel and specify the counsel who represents each party.

Service may be personal, by first class mail **or its equivalent**, or electronically with the consent of the person served. Personal service includes delivery of the copy to a clerk or other responsible person at the office of counsel. Service by first class mail **or its equivalent** is complete on mailing. Registration for and use of the electronic filing system constitutes consent to electronic service, and such service is complete upon e-filing.

If a ~~petition~~ **motion** and supporting memorandum of law or a response is produced in a proportional font, an additional certificate of compliance with the length limit(s) is required and must include the name and size of the proportionally spaced font used, the number of non-excluded words, and the name and version of the word-processing program used.

(f) Impounded or confidential information. In any case in which the trial court entered an order impounding, sealing, or excluding from public access all or any portion of the trial court records, or there is material or information in a party's motion, addendum, memorandum, or any appendix that is automatically impounded or deemed confidential by statute or court rule, the parties shall comply with Mass. R. A. P. 16(d), 16(m), and 18(d). See G. L. c. 265, § 24C. The parties shall comply with Supreme Judicial Court Rule 1:24, Protection of Personal Identifying Information in Publicly Accessible Court Documents in all filings to the Appeals Court.

(g) Hearing. The single justice has discretion to determine whether a hearing shall be held.

Rule 10.0 Docketing Statement for All Appeals (Civil and Criminal)

(a) Filing. Each appellant or cross-appellant, other than a self-represented person who is incarcerated, shall complete and file a docketing statement for each appeal or cross-appeal. The docketing statement is due within ~~fourteen~~ **14** days after the Appeals Court issues the "Notice of Entry" of the appeal.

(b) Content and Form. The docketing statement shall contain such information as required on the form located on the Appeals Court's website. The filer shall comply with the instructions on the docketing statement form.

(c) Multiple Appellants or Cross-Appellants. Each separately represented appellant or cross-appellant shall file a separate docketing statement. Counsel representing multiple appellants or cross-appellants shall file one docketing statement on behalf of all appellants or cross-appellants represented by that counsel. Each appellant or cross-appellant who is not represented by counsel shall file one docketing statement.

(d) Failure to File Docketing Statement. The court may take such action as necessary to ensure the filing of the docketing statement, including denying without prejudice any motion to enlarge time to file a brief or motion to stay appellate proceedings until the appellant has filed the docketing statement.

Rule 13.0 Electronic Filing

~~Consistent with Rule 1 of S.J.C. Rule 1:25, Massachusetts Rules of Electronic Filing ("E-Filing Rules"), the Appeals Court hereby adopts this standing order concerning its electronic filing program.~~

~~(a)A.~~ Governing Rules and Orders.

~~(1)~~ Filers who submit documents electronically through the e-filing service provider ("Provider"), on the Massachusetts Court System Odyssey File and Serve Site ("EfileMA.com") shall comply with ~~the S.J.C. Rule 1:25, Massachusetts Rules of Electronic Filing ("E-Filing Rules")~~**E-Filing Rules**,¹ the Massachusetts Rules of Appellate Procedure, the Appeals Court electronic filing format requirements found on the Appeals Court website,² and all other applicable Appeals Court ~~Rules and standing orders.~~

~~(2)~~ To the extent that any court rule or standing order is inconsistent with this ~~Order concerning electronic~~**Rule** filing in the Appeals Court, the E-Filing Rules, or the Appeals Court electronic filing format requirements found on the Appeals Court website, ~~then the E-Filing Rules, this Order~~**Rule**, and the Appeals Court electronic filing format requirements shall control.

~~(b)B.~~ Mandatory Attorney Registration for Electronic Filing and Service. All law firms and attorneys with cases pending in the Appeals Court shall register for electronic filing at eFileMA.com. Registration shall not constitute a notice of appearance in any particular case. Attorney registrants are required to use their business email address on file with the Board of Bar Overseers and to maintain their name and business email address on the eFileMA.com "Public List." If such email address is different from the email address previously registered with the Appeals Court for receipt of electronic court notices, the filer shall file a change of email address with the Appeals Court.

~~(c)C.~~ Mandatory Attorney Electronic Filing. ~~Except as provided in Section E(1) (which provides there is no requirement to e file an impounded document), the following documents filed by an attorney representing a party to a case shall be filed electronically using eFileMA.com.~~ Use of the eFileMA.com system constitutes "e-filed" as used herein. The Appeals Court designates each case docket as either: (i) "public" meaning all data and documents are publicly accessible; (ii) "partially impounded," meaning some information or documents are publicly accessible and other data or document(s) are not publicly accessible; or (iii) "impounded," meaning no case information or records are publicly accessible. **Except as provided in Appeals Court Rule**

¹ See <https://www.mass.gov/supreme-judicial-court-rules/supreme-judicial-court-rule-125-massachusetts-rules-of-electronic>

² See <https://www.mass.gov/guides/electronic-filing-at-the-appeals-court>

13.0(e)(1) (which provides there is no requirement to e-file an impounded document), the following documents filed by an attorney representing a party to a case shall be filed electronically using eFileMA.com:

- (1): ~~All filings in criminal panel cases.~~All documents in public and partially impounded criminal panel cases (on the court's "P" docket); ~~must be e-filed.~~
- (2): ~~Briefs and appendices in civil panel cases.~~All briefs and appendices in public and partially impounded civil panel cases (on the court's "P" docket); ~~must be e-filed.~~
- (3): ~~All docketing statements.~~All docketing statements, in public and partially impounded civil and criminal panel cases, ~~must be e-filed pursuant to the Appeals Court Standing Order Concerning Docketing Statements for All Appeals (Civil and Criminal).~~ ~~(Filers may request a waiver of the Provider convenience fee using a waiver account);³~~
- (4): All **documents in public and partially impounded civil and criminal panel cases filed** motions and letters filed after panel assignment. ~~A~~after the Appeals Court assigns a case to a panel of justices for consideration on the merits, either with or without oral argument, ~~all subsequent filings in the case must be e-filed. This requirement applies in all public and partially impounded civil and criminal panel cases.~~ ~~(Filers may request a waiver of the Provider convenience fee using a waiver account);~~ **and**
- (5): ~~All filings on the Single Justice docket.~~All documents in public and partially impounded single justice cases (on the court's "J" docket) ~~must be e-filed.~~

Except upon motion and order as provided in ~~paragraph~~ **Appeals Court Rule 13.0(f)**~~F~~, the **Appeals** Court may decline to docket any of the foregoing documents submitted on paper.

~~D~~.(d) Voluntary Electronic Filing by Attorneys and Self-Represented Litigants.

- (1): Voluntary e-filing. ~~An attorney or party self-represented litigant may voluntarily e-file a~~Any document that is not identified as mandatory in ~~paragraph~~ **Appeals Court Rule 13.0(c)**~~C~~ may nonetheless be e-filed voluntarily by the attorney or party. The Appeals Court encourages all attorneys and self-represented litigants in public, partially impounded, and impounded cases, to e-file ~~every~~**all** documents submitted to the court.
- (2): Self-represented litigants. Self-represented litigants may register for electronic filing at eFileMA.com.

³ For information about establishing a waiver account, see <https://www.mass.gov/guides/electronic-filing-at-the-appeals-court#-payment-and-waiver-of-e-filema.com-fees->

(3)- Public Access Scanner and Terminal. A public access computer terminal and scanner are located in the Clerk's Office of the Appeals Court, which may be used by any party to e-file a paper document without payment of the Provider convenience fee.

(e) E-~~E~~Electronic Filing of Impounded Documents.

(1)- Voluntary e-filing. Impounded documents may be e-filed through ~~eFileMA.com~~, but there is no requirement to e-file an impounded document.

(2)- Marking impounded documents. Prior to e-filing, the filer shall mark any impounded document as impounded on the cover or first page of the document, as required by E-Filing Rule 11, Mass. R. App. P. 16(m) and 18(d).

(3)- Designation of impounded documents on ~~EfileMAeFileMA.com~~. The filer shall also designate the document as impounded using the appropriate field on ~~EfileMAeFileMA.com~~, which shall satisfy the requirement of providing written notice to the clerk of a document's impounded status. Impounded documents may otherwise be e-filed in the same manner as non-impounded documents.

(4)- Confidentiality. The confidentiality of an electronic record or an electronic or paper copy thereof is equivalent to that of a paper record. Access may be permitted only to the extent provided by law. E-notices from the eFileMA.com system containing hyperlinks to impounded documents shall be treated as confidential.

F-~~f~~Waiver of Mandatory Electronic Filing and Permission to File Paper Original and Copies.

(1) Any document required to be e-filed under ~~paragraph Appeals Court Rule 13.0(c)~~ may be **paper**-filed ~~on paper~~ upon allowance of a motion to waive the e-filing requirement, preferably filed in advance or with the document. The motion must contain a showing of undue hardship, significant prejudice, exigency, or other good cause.

(2) For self-represented litigants who are confined in an institution, the requirement of Mass. R. App. P. 20(a)(6)(A) that a ~~paper~~ brief ~~must~~ have a color cover is suspended; ~~and~~ no color cover is required.

G-~~g~~Format. All e-filed documents shall comply with the formatting requirements of the Massachusetts Rules of Appellate Procedure except as modified by the Appeals Court's electronic filing format requirements found on the Appeals Court website. See generally E-Filing Rule 1.

H-~~h~~No Paper Duplicates. All documents that are e-filed shall be submitted electronically only. Neither a paper original nor duplicate shall be filed unless specifically requested by the Court.

I-~~i~~Electronic Service of E-Filed Documents.

(1)- Service of Documents E-Filed in the Appeals Court. Pursuant to E-Filing Rule 3(d), the filer's registration with ~~eFileMA.com~~ constitutes consent to receive electronic service in all cases. All documents submitted electronically through EfileMA.com may be electronically served through ~~eFileMA.com~~ pursuant to E-Filing Rule 7 ~~and such service shall be considered compliant with Mass. R. App. P. 13~~, provided the other party or party's attorney has registered with ~~eFileMA.com~~. Registered filers must maintain their name and email address on the eFileMA.com "Public List." If a party's representative has not registered with ~~eFileMA.com~~, service should be made by the conventional methods (e.g., paper copies and ~~regular~~ **first class mail or its equivalent [as defined by Mass. R. A. P. 1(c)]**).

(2)- No Copies of **Direct or Further Appellate Review** Applications ~~or~~ Responses, ~~or~~ Oppositions Filed in the Supreme Judicial Court. A party ~~shall~~ is not required to file ~~or~~ serve a copy in the Appeals Court **a copy** of any application ~~or~~ response, ~~or~~ opposition that is filed in the Supreme Judicial Court **for direct appellate review or further appellate review**, pursuant to Mass. R. App. P. 11 and 27.1.

J.(j) Mandatory Electronic Notice.

(1)- Notice from Provider. The eFileMA.com system will transmit electronic notifications (i) when an e-filed document is submitted, (ii) when the Clerk's Office accepts or rejects the document, and (iii) possibly at other times during an e-filing transaction.

(2)- Notice from the Appeals Court. All attorneys will receive electronic notifications in lieu of paper notices of the court's actions, orders, judgments, rescripts, and decisions. The Court will use the business e-mail addresses on file with the Board of Bar Overseers pursuant to S.J.C. Rule 4:02(11) **and Mass. R. A. P. 31(c)**. Attorneys must ensure that their business email address registered with the Board of Bar Overseers is up to date. A self-represented litigant may authorize the Court to send electronic notice in lieu of paper notices.

~~K.(k) Support.~~ All technical support shall be provided by Provider. The Appeals Court's Clerk's Office may be contacted with procedural questions or with questions regarding the application of this Order.

~~L. Cessation of Appeals Court's "emotions" email filings.~~ The Appeals Court will no longer accept emails and PDFs of filings at its "emotions@appet.state.ma.us" address. All electronic filings shall be submitted via the eFileMA.com system.

~~M. Prior Orders Rescinded.~~ The following prior orders of the Appeals Court are hereby rescinded by this Order and no longer in effect:

- ~~1. Appeals Court Order Concerning Electronic Filing Pilot Project, adopted March 30, 2016.~~
- ~~2. Appeals Court Order Concerning Number of Copies of Brief and Record Appendix to be Filed, adopted July 29, 2016.~~
- ~~3. Appeals Court Standing Order Requiring the Electronic Filing of All Motions and Letters Filed After Panel Assignment, adopted May 1, 2010, and amended June 1, 2011.N. Future Changes and Updates. This order may be superseded or amended, in writing, at any time. Effective Date. This Order shall become effective on September 1, 2018.~~

Rule 15.0 Review of Action on Motions Requesting Procedural Relief

~~(Applicable to Civil Cases.)~~

(a) Authority to Act on Motion Requesting Procedural Relief. Consistent with Mass. R. A. P. 15(c), a single justice has authority to grant or deny any request for procedural relief. In addition, the Clerk of the Appeals Court, including the court's assistant clerks and deputy clerks ("clerk"), has authority to act on behalf of the Appeals Court to enter actions and orders on procedural motions and matters. An action or order of a clerk is subject to review by a single justice if a motion for reconsideration seeking such review is filed within 14 days of the action or order.

(b) Review of Single Justice's Action.

(1) The review of the action of a single justice ~~which~~**that** is afforded by the last sentence ~~of of paragraph (c) of Rule~~**Mass. R. A. P. 15(c) of the Massachusetts Rules of Appellate Procedure** shall be by a panel of ~~other justices of this~~**the Appeals Court**, shall be claimed by an appeal to such a panel **pursuant to Mass. R. A. P. 3(a) and 4**, and shall be prosecuted in the same manner as if the single justice were the "lower court" within the meaning of ~~paragraph (c) of Rule 1 of said Rules~~**Mass. R. A. P. 1(c)**. See ~~paragraphs (a) and (b) of Rule 1 of said Rules~~**Mass. R. A. P. 1(a) and (b)**.

(2) The appeal may be docketed as a new appeal or consolidated with any pending appeal.

(A) If the appeal is docketed as a new appeal, in lieu of briefing as required under the Massachusetts Rules of Appellate Procedure, the appellant shall file and serve within 14 days of the docketing of the new appeal, a memorandum of law, with citations to pertinent legal authorities, not to exceed 10 pages in monospaced font or 2,000 words in proportionally spaced font, identifying the claimed abuse of discretion or error of law committed by the single justice. The memorandum of law shall be accompanied by a record appendix that includes the papers filed to the single justice, including any memorandum of decision from the single justice. The appellee shall file and serve a responsive memorandum of law not to exceed 10 pages in monospaced font or 2,000 words in proportionally spaced font, within 14 days after service of the appellant's memorandum of law. Proceedings in the underlying appeal shall not be stayed unless by order of the court or a single justice.

(B) If the appeals are consolidated and the party claiming the appeal from the action of the single justice has filed a brief in the underlying appeal prior to entry of the order of consolidation, the party shall file and serve within 14 days of entry of the consolidation order, a memorandum of law, with citations to pertinent legal authorities, not to exceed 10 pages in monospaced font or 2,000 words in proportionally spaced font, identifying the claimed abuse of discretion or error of law committed by the single justice. The

memorandum of law shall be accompanied by a record appendix that includes the papers filed to the single justice, including any memorandum of decision from the single justice. If the party claiming the appeal from the action of the single justice has not filed a brief in the underlying appeal prior to entry of the consolidation order, the party's brief shall include all of the party's arguments in the consolidated appeal. If the responding party has filed a brief in the underlying appeal prior to entry of the order of consolidation, any response shall be a memorandum of law not to exceed 10 pages in monospaced font or 2,000 words in proportionally spaced font, filed and served within 14 days after service of the appealing party's memorandum of law. If the responding party has not filed a brief in the underlying appeal prior to entry of the consolidation order, the responding party's brief shall include all of the party's arguments in the consolidated appeal.

Rule 19.0 Dismissals of Appeals and Reports in all Cases for Lack of Prosecution

(a) Appellant's Brief or Appendix.

(1) Filing Deadline. The appellant is required to file a brief and appendix within the time required or permitted by Mass. R. A. P. 19 or any enlargement.

(2) Notice of Intent to Dismiss Appeal. Whenever an appellant has not served or filed a brief or appendix within the time required or permitted by Mass. R. A. P. 19 or any enlargement, the clerk shall notify the attorney of record for such appellant, or any self-represented appellant, and all other parties or their attorneys of record that, as to that appellant, the appeal (or report made pursuant to Mass. R. A. P. 5) will be dismissed for lack of prosecution unless, within 21 days of the date of the notice, the clerk shall receive (A) a motion by that appellant to enlarge to a date certain set forth in the motion the time for serving and filing the brief or appendix, and (B) an affidavit of the attorney of record for the appellant, or the self-represented appellant, which shall set forth good cause for the enlargement in accordance with the provisions of Mass. R. A. P. 14(b) and 15.

(3) Dismissal of Appeal. If a motion and affidavit identified in Appeals Court Rule 19.0(a)(2) are not received by the clerk within the prescribed 21-day period, the clerk shall forthwith (A) enter notice of dismissal of the appeal as to that appellant for lack of prosecution, (B) notify the parties of such dismissal, and (C) note such dismissal on the docket. The clerk shall not send notice of the dismissal to the lower court except as provided in Appeals Court Rule 19.0(c).

(b) Appellant's Status Report.

(1) Notice of Intent to Dismiss Appeal. Whenever an appellant, prior to filing a brief, has not served or filed a status report within the time ordered by the court, the clerk shall notify the attorney of record for such appellant, or any self-represented appellant, and all other parties or their attorneys of record that, as to that appellant, the appeal will be dismissed for lack of prosecution unless, within 21 days of the date of the notice, the clerk shall receive (A) a motion by that appellant to enlarge the time for serving and filing the status report, (B) an affidavit of the attorney of record for the appellant, or the self-represented appellant, which shall set forth good cause for the enlargement in accordance with the provisions of Mass. R. A. P. 14(b) and 15, and (C) the status report.

(2) Dismissal of Appeal. If a motion, affidavit, and status report are not received by the clerk within the prescribed 21-day period, the clerk shall forthwith (A) enter notice of dismissal of the appeal as to that appellant for lack of prosecution, (B) notify the parties of such dismissal, and (C) shall note such dismissal on the docket. The clerk shall not send notice of the dismissal to the lower court except as provided in Appeals Court Rule 19.0(c).

(c) Motion to Reinstate Appeal Before Notice of Dismissal is Sent to the Lower Court; Notice of Dismissal to the Lower Court. The clerk shall notify the lower court and the parties that the appeal has been dismissed as to that particular appellant unless, prior to the expiration of 14 days

from the clerk's entry of notice of dismissal of the appeal, the appellant serves and files (1) a motion to reinstate the appeal and for leave to file a late brief or appendix or status report and (2) the brief or appendix or status report (whichever documents are overdue). A single justice may grant such relief, in which case the appeal shall proceed. If the single justice denies the motion to reinstate the appeal, the clerk forthwith shall notify the lower court and the parties that the appeal has been dismissed.

(d) Motion to Reinstate Appeal After Notice of Dismissal is Sent to Lower Court. After the clerk has notified the lower court of a dismissal of an appeal for lack of prosecution, the appellant may file a motion for reinstatement of the appeal.

(1) Criminal cases. An appeal in a criminal case may be reinstated by a single justice who determines that a motion and an affidavit of the attorney of record for the appellant, or the self-represented appellant, establish either (A) the existence of a meritorious case, or (B) that the defendant was deprived of his or her right of direct appeal as a result of an act or omission of counsel after the appeal had been entered in this court.

(2) Civil cases. An appeal in a civil case may be reinstated by a single justice who determines that a motion and an affidavit of the attorney of record for the appellant, or the self-represented appellant, establish (A) excusable neglect for the lack of prosecution, and (B) the existence of a meritorious case.

Rule 20.0 Form of Petitions to the Single Justice Pursuant to G. L. c. 231, § 118 (first paragraph) or Rule 12(a) of the Uniform Rules on Impoundment Procedure

(a) Contents of Petition for Relief; Form. A petition for relief pursuant to G. L. c. 231, § 118 (first paragraph), or Rule 12(a) of the Uniform Rules on Impoundment Procedure, shall include, in the following order:

- (1) a request for review, which shall state briefly the nature of the order or action of the trial court from which review is sought, the entry date of such order or action, and the name of the judge who entered it;
- (2) a statement of the issues of law raised by the petition;
- (3) a statement as to whether a party has filed, served, or intends to file a motion for reconsideration in the trial court;
- (4) a statement of the specific relief requested (**a draft order for the single justice may be attached**); and
- (5) an addendum containing a copy of the order or action of the trial court (**including a typed version of any pertinent handwritten or oral endorsement, notation, findings, or order made by the lower court**). (~~a draft order for the single justice may be attached~~).

References to the parties in the petition shall be by designation of the party in the trial court (e.g., "plaintiff," "defendant," "third-party defendant," etc.). The petition shall not exceed ~~five~~ **5** pages of text in monospaced font or 1,000 words in proportional font compliant with Mass. R. A. P. 20(a)(4)(A)-(C) without leave of the court.

(b) Supporting Memorandum of Law and Record Appendix. The petition shall, unless otherwise ordered, be accompanied by a memorandum of law (not to exceed ~~fifteen~~ **15** pages of text in monospaced font or 3,500 words in proportional font compliant with Mass. R. A. P. 20[a][4][A]-[C] ~~unless~~**without** leave of the court ~~has been obtained~~) in support of the petitioner's position, with citations to appropriate authorities and a statement addressing why relief is appropriate. The argument shall make reference to those portions of the record which are directly relevant to the issues raised by the petition. Relevant portions of the record shall be filed as a record appendix, and include a current copy of the trial court docket entries and all relevant ~~papers~~ **documents** filed in the trial court, including those filed by the other party or parties. The record appendix shall be consecutively numbered starting with the cover or first page as page 1 followed by a table of contents that lists each document contained therein and the page on which it appears. Only those pleadings, exhibits, and ~~papers~~ **documents** which were before the trial

court when the order appealed from was entered, and which are necessary for an adjudication of the issues raised, may be submitted.

(c) Response; Form. Within ~~seven~~ **7** days (~~ten~~ **10** days if the petitioner's certificate of service required under [d] hereof shows service by first-class mail **or its equivalent [as defined by Mass. R. A. P. 1(c)]**) after the filing of the petition, or such other time as the court may direct, the other party or parties to the case may, but need not, file and serve a response thereto (not to exceed ~~fifteen~~ **15** pages of text in monospaced font or 3,500 words in proportional font compliant with Mass. R. A. P. 20[a][4][A]-[C] ~~unless~~ **without** leave of court ~~has been obtained~~) setting forth reasons why the petition should or should not be granted. The response shall not restate matters contained in the petition unless the responding party is dissatisfied with the statement thereof contained in the petition. The response may be accompanied by a supplemental record appendix containing such additional portions of the record as were before the trial court and are necessary for adjudication, ~~and which the petitioner failed to include in its record appendix.~~

(d) Filing; Service; Required Certificate(s). The petition, memorandum, record appendix, and any subsequently filed response and supplemental record appendix, shall be filed electronically if the filing party is represented by counsel. Self-represented litigants may file electronically, or may file a single paper original or duplicate in the office of the Clerk of the Appeals Court. Any document required to be e-filed may be filed on paper upon allowance of a motion to waive the e-filing requirement, preferably filed in advance or with the document. The motion must contain a showing of undue hardship, significant prejudice, exigency, or other good cause.

Whether filed electronically or on paper, all filings shall include a certificate of service on all other parties in the case, including the service and filing of a copy in the appropriate trial court clerk's office from which the matter arose. The certificate of service shall set forth the name, address, email address, and telephone number of counsel or other persons upon whom service has been made, and specify the date and manner of service. The certificate of service shall identify the name of each party represented by counsel and specify the counsel who represents each party.

Service may be personal, by first class mail **or its equivalent**, or electronically with the consent of the person served. Personal service includes delivery of the copy to a clerk or other responsible person at the office of counsel. Service by first class mail **or its equivalent** is complete on mailing. Registration for and use of the electronic filing system constitutes consent to electronic service, and such service is complete upon e-filing.

If a petition and supporting memorandum of law or a response is produced in a proportional font, an additional certificate of compliance with the length limit(s) is required and must include the name and size of the proportionally spaced font used, the number of non-excluded words, and the name and version of the word-processing program used.

(e) Impounded or confidential information. In any case in which the trial court entered an order impounding, sealing, or excluding from public access all or any portion of the trial court records, or there is material or information in a party's petition, addendum, response, or any appendix that is automatically impounded or deemed confidential by statute or court rule, the parties shall comply with Mass. R. A. P. 16(d), 16(m), and 18(d). The parties shall comply with Supreme Judicial Court Rule 1:24, Protection of Personal Identifying Information in Publicly Accessible Court Documents in all filings to the Appeals Court.

(f) Hearing. The single justice has discretion to determine whether a hearing shall be held.

Rule 22.0 Oral Argument

Sittings of this court pursuant to G. L. c. 211A, § 4, shall be held at Boston in September, October, November, December, January, February, March, April, May, and June, and at such other places or times as the chief justice of this court from time to time may order.

~~Sittings of this court pursuant to G.L. c. 211A, Sec. 4, shall be held at Boston on the second and third Mondays of October, November, December, January, February, March, April, and May, and at such other places or times as the chief justice of this court from time to time may order.~~

Rule 23.0 Summary Disposition (formerly known as Appeals Court Rule 1:28)

(1) Summary disposition without oral argument. At any time following the filing of the appendix ~~(or the filing of the original record)~~ and the briefs of the parties on any appeal in accordance with the applicable provisions of **Rules Mass. R. A. P. 14(b), 18, and 19** ~~of the Massachusetts Rules of Appellate Procedure~~, a panel of the justices of this court may determine that no substantial question of law is presented by the appeal or that some clear error of law has been committed which has injuriously affected the substantial rights of an appellant and may, by its written order, affirm, modify, or reverse the action of the court below. The panel need not provide an opportunity for oral argument before disposing of cases under this rule. Any ~~order~~ **decision** entered under this rule shall be subject to the provisions of **Mass. R. A. P. Rules 27 and 27.1** ~~of the Massachusetts Rules of Appellate Procedure~~.

(2) Citation of summary dispositions. If, in a brief or other filing, a party cites to a **decision** ~~an order~~ issued under this rule, the party shall cite the case title, a citation to the Appeals Court Reports where issuance of the ~~order~~ **decision** is noted, and a notation that the ~~order~~ **decision** was issued pursuant to this rule **(or its predecessor, Appeals Court Rule 1:28)**; ~~in addition, a party citing such an order shall include the full text of the order as an addendum to the brief or other filing.~~ No such ~~order~~ **decision** issued before February 26, 2008, may be cited.

Rule 31.0 Electronic Notification of Court Orders, Notices, and Decisions in Lieu of Paper Notice

(a) Transmission of Orders, Notices, and Decisions. The clerk will serve and give notice of entry of an appeal, actions, orders, judgments, rescripts, and decisions entered by the Appeals Court, including the scheduling of oral argument, by electronic (i.e., e-mail) notification ("electronic notification") to all attorneys and to any self-represented litigant who has properly registered to receive electronic notification.

(b) Clerk's Functions and Entry of Court-Issued Documents. The court may issue orders through the creation of a docket entry and the issuance of notice thereof to the parties. Any order or document electronically issued by the court without the original signature of a judge or authorized court personnel has the same force and effect as if the judge or clerk had signed a paper copy of the order. Actions or orders also may be issued as "text-only" entries on the docket, without a separate paper copy of the action or order.

(c) Voluntary Registration by Self-Represented Litigants.

(1) All self-represented litigants may register with the Appeals Court to receive only electronic (i.e., e-mail) notification in an appeal in which they are participating. Persons who register to receive electronic notification will not receive any paper notice by first-class U.S. mail.

(2) Registration by Self-Represented Litigants is performed by signing and filing the Consent to Electronic Notification Form (Consent Form). The Consent Form and instructions for filing are available on the Appeals Court's website.

(3) Self-represented litigants must register separately in each appeal for which they seek to receive electronic notice by identifying the docket number of each appeal in their Consent Form.

(d) Mandatory Attorney Electronic Notice. All attorneys will receive electronic notifications in lieu of paper notices of the court's actions, orders, judgments, rescripts, and decisions. The Court will use the business email addresses on file with the Board of Bar Overseers pursuant to S.J.C. Rule 4:02(11).

(e) Recipient's Responsibilities and Undeliverable Electronic Notification.

(1) It is the responsibility of all attorneys and self-represented litigants who register for electronic notification to maintain a current e-mail address with the court, to verify that their e-mail inbox is working properly and receiving incoming electronic notifications at all times from the court, and to file a Change of Electronic Mail Address Form within 3 business days of a change of e-mail address. Attorneys must ensure that their business

email address registered with the Board of Bar Overseers is up to date. Each attorney can designate a second person employed at the same law firm or office (e.g., co-counsel, secretary, assistant district attorney, etc.) to receive a copy of all electronic notifications sent to the attorney.

(2) If service is made to the recipient's electronic mail address on file with the court and returned to the court as undeliverable, the notice will then be served by first-class mail; provided, however, any time period countable from the completion of service of notice shall be based upon the service of the electronic notice. The recipient's e-mail address will be deactivated until the recipient provides written notice to the court that the address is again receiving electronic notifications.

Rule 32.0 Title

These rules may be known as the Massachusetts Appeals Court Rules and be cited as "M.A.C. Rule 6.0(a)."