

**PROPOSAL TO AMEND AND REPEAL
APPEALS COURT RULES AND STANDING
ORDERS AND TO ESTABLISH THE
MASSACHUSETTS
APPEALS COURT RULES**

SEPTEMBER 3, 2019

Notice for Public Comment

General Laws c. 211A, § 13, authorizes the Appeals Court, subject to the approval of the Supreme Judicial Court, to adopt rules regulating the "practices, procedures and internal administration of the appeals court." The Appeals Court invites public comments on proposed adoption of, amendments to, and reorganization of, its standing orders, rules, and policies. The Appeals Court proposes the following amendments:

1. Reorganization, Reformatting, and Establishment of the Appeals Court Rules.

Since its establishment in 1972, the Appeals Court has promulgated various rules, standing orders, orders, and other policies that govern procedures in the Appeals Court. The mixed characterization and format of these varied authorities makes them difficult to locate and reference in filings. Consequently, the Appeals Court proposes to reorganize and reformat many of its rules, standing orders, orders, and other policies into a single set of rules, and proposes to name these authorities the "Appeals Court Rules."

The Appeals Court proposes to assign each rule, standing order, or policy a new label as an "Appeals Court Rule" and the specific number assigned to each rule is intended to correspond to the most closely applicable Massachusetts Rule of Appellate Procedure ("Mass. R. A. P."). For example, the Appeals Court proposes to relabel its "Standing Order Governing Motions to Stay a Judgment or Execution of Sentence Filed Pursuant to Mass. R.A.P. 6" as "Appeals Court Rule 6: Motions to Stay Execution of a Judgment or Sentence Filed Pursuant to Mass. R. A. P. 6." The standing order is directly relevant to Mass. R. A. P. 6 ("Stay or injunction pending appeal") and by aligning the two provisions the standing order will be easier for attorneys and self-represented litigants to reference.

In reorganizing these authorities into a single set of rules, the Appeals Court proposes additional technical amendments that are intended to harmonize the formatting of each rule for consistency with the Mass. R. A. P. These proposed amendments include dividing longer rules into distinct and titled paragraphs to facilitate ease of reference; revising citations to the Massachusetts General Laws and Mass. R. A. P. to comply with the 2019 Style Manual prepared by the Reporter of Decisions; and technical revisions (such as replacing the word "paper" with "document," and "first class mail" with "first class mail or its equivalent") for consistency with extensive amendments to the Mass. R. A. P., effective March 1, 2019. See Reporter's Note (2019) to Mass. R. A. P. 1. Language referencing standing orders is uniformly revised to "Appeals Court Rules."

2. Adoption of Appeals Court [Rule 1](#): Practice Before A Single Justice.

The Appeals Court proposes to adopt this rule from Appeals Court Rule 2:01, "Practice Before A Single Justice," effective February 27, 1975. This Rule is relevant both to Mass. R. A. P. 1(b), "Scope of Rules: Definitions; Rules not to Affect Jurisdiction," and Mass. R. A. P.

15(c), "Power of a Single Justice to Entertain Motions." Given the breadth of Rule 2:01, it is more related to Mass. R. A. P. 1 than 15. The Appeals Court proposes that Rule 2:01 be repealed, its text be amended to delete the second sentence as redundant of the first, and it be adopted as a rule and retitled "Appeals Court Rule 1: Practice Before A Single Justice."

3. Adoption of Appeals Court [Rule 6](#): Motions to Stay Execution of a Judgment or Sentence Filed Pursuant to Mass. R. A. P. 6.

The Appeals Court proposes that the "Standing Order Governing Motions to Stay a Judgment or Execution of Sentence Filed Pursuant to Mass. R.A.P. 6," effective May 1, 2019, be adopted as a rule and retitled "Appeals Court Rule 6: Motions to Stay Execution of a Judgment or Sentence Filed Pursuant to Mass. R. A. P. 6." The Appeals Court proposes to amend paragraph (b) to explicitly permit inclusion of a criminal defendant's board of probation record in a separate impounded record appendix. The Appeals Court also proposes to delete as unnecessary text in paragraph (c) of the standing order which provides the non-moving party's supplemental record appendix should contain only those necessary portions of the record omitted from the moving party's record appendix. Notwithstanding the proposed deletion, the non-moving party would not be required to provide record material already provided by the moving party and in the ordinary course does not do so.

4. Adoption of Appeals Court [Rule 10](#): Docketing Statement for All Appeals (Civil and Criminal).

The Appeals Court proposes that the "Standing Order Concerning Docketing Statements for all Appeals," effective January 1, 2016, be adopted as a rule and retitled "Appeals Court Rule 10: Docketing Statement for All Appeals (Civil and Criminal)."

5. Adoption of Appeals Court [Rule 13](#): Electronic Filing.

The Appeals Court proposes that the "Standing Order Concerning Electronic Filing," effective May 1, 2019, be adopted as a rule and retitled "Appeals Court Rule 13: Electronic Filing."

Separately, the Appeals Court proposes revisions to this standing order as required by amendments to the Mass. R. A. P. and development of the Appeals Court's paperless practices. These proposed changes are as follows:

- deleting a phrase contained in the standing order (proposed Appeals Court Rule 13[i][1]), which states "and such [electronic] service shall be considered compliant with Mass. R. A. P. 13," because Mass. R. A. P. 13(a)(2) now provides the same. See Mass. R. A. P. 13(a)(2), effective March 1, 2019 ("Except as provided in Rule 13(a)(2), filing may be accomplished in hand, through any electronic means provided by the clerk or by first class mail or its equivalent. . . .");

- clarifying in proposed Appeals Court Rule 13(i)(2) that copies of direct appellate review or further appellate review applications and responses are not to be filed in the Appeals Court;
- adding a reference to Mass. R. A. P. 31(c) to proposed Appeals Court Rule 13(j)(2) because that authority was amended to allow the Clerk to send electronic notice to attorneys and any self-represented litigant that registers for such notice. See Reporter's Notes (2019) to Mass. R. A. P. 31(c);
- deleting standing order paragraphs L-O, regarding the Appeals Court's discontinued "emotions" email filing program, recession of prior standing orders, and future amendments to the standing order, because these paragraphs, while important at the time that the Appeals Court launched electronic filing, are no longer necessary.

6. Adoption of Appeals Court [Rule 15](#): Review of Action on Motions Requesting Procedural Relief.

The Appeals Court proposes that Appeals Court Rule 2:02, "Review under Rule 15(c) of the Massachusetts Rules of Appellate Procedure," effective February 27, 1975, be repealed and its text be adopted as a rule and comprise a portion of "Appeals Court Rule 15: Review of Action on Motions Requesting Procedural Relief." The Appeals Court proposes to delete a notation in Appeals Court Rule 2:02 that states: "[a]pplicable to civil cases." This parenthetical would be deleted because Mass. R. A. P. 15(c) does not distinguish between civil or criminal cases and to clarify that a timely notice of appeal is required in either type of case as explained by the Appeals Court in Commonwealth v. Kardas, 93 Mass. App. Ct. 620, 621-622 (2018).

Separately, the Appeals Court proposes Appeals Court Rule 15(a) be adopted to detail the Clerk's authority to act on procedural motions. Although this authority has not yet been included in a court rule or standing order, it has existed since 1978 when it was authorized by the Chief Justice of the Appeals Court. This proposed provision would clarify that such authority exists and also that a party may seek reconsideration of a clerk's action from the single justice of the Appeals Court.

The Appeals Court also separately proposes Appeals Court Rule 15(b)(2) be adopted to establish regular procedures for appeals from a single justice's action on a motion for procedural relief under Mass. R. A. P. 15(c). Consistent with current practice, the rule would provide that the appeal may be docketed as a new appeal or consolidated with the underlying appeal in which the single justice entered the action. The rule would further provide for limited briefing and would vary depending on the procedural posture of the two appeals:

- In the case of a new appeal, the appellant would file a 10 page or 2,000 word memorandum of law (in lieu of an appellate brief) and an appendix within 14 days after

the docketing of the new appeal. The appellee would then file a responsive memorandum of law within 14 days of service of the appellant's memorandum.

- In the case of a consolidated appeal in which the party taking the appeal from the single justice's action has already filed a brief in the underlying appeal, the party would file a 10 page or 2,000 word memorandum of law (in lieu of an appellate brief) and an appendix within 14 days of entry of the order consolidating the appeals. The responding party would then file a responsive memorandum of law within 14 days of service of the appellant's memorandum, unless the responding party has not yet filed a brief in the underlying appeal, in which case the responding party would address all issues relating to both appeals in a single appellate brief.
- In the case of a consolidated appeal in which neither party has filed a brief, all issues for both appeals would be briefed together and no memoranda of law would be filed.

Of course, in the extraordinary case where the single justice appeal is of sufficient complexity and importance, the parties could request leave to conduct ordinary briefing. This provision would create an efficient process for the resolution of appeals from actions of a single justice.

7. Adoption of Appeals Court [Rule 19](#): Dismissals of Appeals and Reports for Lack of Prosecution.

The Appeals Court proposes the "Standing Order Concerning Dismissals of Appeals and Reports in all Cases for Lack of Prosecution" (sometimes referred to as "Standing Order 17A"), effective May 1, 2019, be adopted as a rule and retitled "Appeals Court Rule 19: Dismissals of Appeals and Reports for Lack of Prosecution."

Separately, the Appeals Court proposes substantial changes to the dismissal procedures for lack of prosecution. Under Standing Order 17A, the time period between the issuance of a "notice proceeding dismissal" and "notice of dismissal" is 14 days in a civil case and 30 days in a criminal case. Under this proposed Rule, the time period would be 14 days, regardless of case type. The 14-day period between "notice of dismissal" and the clerk's notification to the lower court that the appeal has been dismissed for lack of prosecution would not be changed.

The Appeals Court also proposes to modify Standing Order 17A by including the failure to file a status report as an omission that may initiate application of the dismissal process for lack of prosecution. In appeals that are stayed, the Appeals Court requires recurring status reports to determine the continued need for the stay of appellate proceedings. Under Standing Order 17A, the Appeals Court has no established mechanism for dismissal of these appeals where the necessary status report is not filed because the stay of appellate proceedings typically has the effect of indefinitely staying the filing of the brief and appendix. The proposed Appeals Court

Rule 19 would remedy this issue by including status reports and treating the failure to file a necessary status report effectively the same as the failure to file a brief and appendix.

Proposed Appeals Court Rule 19(d) would make substantial changes to procedures governing motions to reinstate an appeal after notification to the lower court of a dismissal of an appeal for lack of prosecution. Appeals Court Rule 19(d)(1) would govern criminal cases. Under Standing Order 17A, an appeal is permitted to be reinstated only by a panel of justices. As a dismissal under the standing order is "in fact and in law a dismissal by the full court, which alone has the power to dismiss an appeal timely docketed," limitations on the single justice's authority under the standing order have been construed to prohibit the single justice to act unless expressly authorized by the terms of the standing order. See John Donnelly & Sons, Inc. v. Outdoor Advert. Bd., 4 Mass. App. Ct. 847, 847 (1976). However, a motion to reinstate typically presents similar (although not identical) legal issues to a motion to vacate dismissal before notice of dismissal to the lower court, which is entrusted to a single justice. Given the similarity of the motions, Appeals Court Rule 19(d)(1) would expressly confer authority to a single justice to act on motions to reinstate. The single justice's action would be reviewable pursuant to Appeals Court Rule 15 and Mass. R. A. P. 15(c). Conferring authority to the single justice to act on motions to reinstate is consistent with the Supreme Judicial Court's order regarding dismissals for lack of prosecution, which confers similar authority to a Supreme Judicial Court single justice. Appeals Court Rule 19(d)(2) would govern civil cases. Standing Order 17A makes no mention of procedures governing motions to reinstate appeals in civil cases. The practice of the court is to permit such motions to be filed, which was recognized by the Supreme Judicial Court in Watson v. Appeals Court, 450 Mass. 1034, 1035 (2008). Proposed Appeals Court Rule 19(d)(2) recognizes that such motions may be filed and confers authority to a single justice to act on such motions.

Finally, proposed Appeals Court Rule 19 would eliminate reference in Standing Order 17A to dismissals being "vacated by a single justice." Under Standing Order 17A, a motion filed before notice of dismissal to the lower court was commonly referred to as a "motion to vacate" but a motion filed after notice of dismissal to the lower court would be referred to as a "motion to reinstate." Proposed Appeals Court Rule 19 would simplify this by using the term "motion to reinstate" in both instances.

8. Adoption of Appeals Court [Rule 20](#): 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

The Appeals Court proposes the "Standing Order Concerning 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," effective May 1, 2019, be adopted as a rule and retitled "Appeals

Court Rule 20: 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." The Appeals Court also proposes to delete as unnecessary text in paragraph (c) of the standing order which provides the respondent's supplemental record appendix should contain only those necessary portions of the record omitted from the petitioner's record appendix. Notwithstanding the proposed deletion, the respondent would not be required to provide record material already provided by the petitioner and in the ordinary course does not do so.

9. Adoption of Appeals Court [Rule 22](#): Oral Argument

The Appeals Court proposes that Appeals Court Rule 1:26, "Sittings for Hearing Questions of Law," effective February 27, 1975, be adopted as a rule and retitled "Appeals Court Rule 22: Oral Argument." The Appeals Court further proposes that the text be revised to reflect the Appeals Court's modern scheduling practice for oral argument and for consistency with the Chief Justice's statutory duty to arrange sittings in a manner that is "conducive to the dispatch of its business and to the interests of the public." See G. L. c. 211A, § 4.

10. Adoption of Appeals Court [Rule 23](#): Summary Disposition (formerly known as Appeals Court Rule 1:28)

The Appeals Court proposes Appeals Court Rule 1:28, "Summary Disposition," effective January 1, 2009, be adopted as a rule and retitled "Appeals Court Rule 23: Summary Disposition (formerly known as Appeals Court Rule 1:28)." The proposed title includes the parenthetical "(formerly known as Appeals Court Rule 1:28)" because the prior title was commonly known by that name and has been cited by that name in significant appellate decisions, including Chace v. Curran, 71 Mass. App. Ct. 258, 260 n.4 (2008). The Appeals Court proposes to delete from Rule 23 a phrase in Rule 1:28 requiring the addendum to a party's brief citing an order under the rule (or the predecessor rule) to include the full text of the order because Mass. R. A. P. 16(a)(13)(D), effective March 1, 2019, now contains this requirement and extends the requirement to all unpublished decisions. See Reporter's Note (2019) to Mass. R. A. P. 16(a)(13). Finally, the Appeals Court proposes changing the word "order" to "decision" in several places in this rule consistent with the new definition of "decision" in Mass. R. A. P. 1(c), which now includes a memorandum and order pursuant to Appeals Court Rule 1:28.

11. Adoption of Appeals Court [Rule 31](#): Electronic Notification of Court Orders, Notices, and Decisions in Lieu of Paper Notice

The Appeals Court proposes the "Standing Order Governing Electronic Notification of Court Orders, Notices, and Decisions in Lieu of Paper Notice," effective June 1, 2011, be adopted as a rule and retitled "Appeals Court Rule 31: Electronic Notification of Court Orders, Notices, and Decisions in Lieu of Paper Notice." The Appeals Court further proposes to delete significant portions of the standing order as unnecessary and make other modifications because

electronic notice by the clerk is now sanctioned by the Massachusetts Rules of Appellate Procedure, effective March 1, 2019. Further changes would remove reference to voluntary registration for electronic notice by attorneys because electronic notice for attorneys has been mandatory since October 1, 2018. See Mass.App.Ct.R. 13(j)(2).

12. Adoption of Appeals Court [Rule 32](#): Title.

The Appeals Court proposes adopting a new rule to set forth the title and citation format for the new Appeals Court Rules. In selecting the citation format for the Appeals Court Rules, the Appeals Court selected "Mass.App.Ct.R.," with no spaces in between the words, because this citation format only counts as one word for the purposes of preparing a filing using a proportional spaced font and word limit.

13. Repeal of Appeals Court Rule 2:03, Special Masters and Commissioners.

The Appeals Court proposes repealing this rule because it is outdated and not used. Rule 2:03 states:

A majority of the justices of this court may designate special masters and commissioners to deal with specified cases or with such matters as may be referred to them by a written order of a single justice or of a panel of the justices. The acts of such special master and commissioner, when confirmed or approved by a single justice or by a panel of the justices, as the case may be, shall have all the force and effect of a decision by a single justice or by a panel of the justices.

14. Note regarding proposed textual amendments. Changes to existing Standing Orders that are included in proposed Appeals Court Rules 1, 6, 10, 13, 15, 20, 22, and 23 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 and 31, track changes are not displayed in those rules.

Invitation for Public Comment

The Appeals Court welcomes all comments on the proposed amendments. Comments should be directed to Joseph Stanton, Clerk, Massachusetts Appeals Court, One Pemberton Square, Boston, MA 02108, or to AppellateRules@jud.state.ma.us, on or before October 31, 2019. The comments received will be made available to the public.

Table of Contents

- 1) [Rule 1: Practice Before a Single Justice](#)
- 2) [Rule 6: Motions to Stay Execution of a Judgment or Sentence Filed Pursuant to Mass. R. A. P. 6](#)
- 3) [Rule 10: Docketing Statement for All Appeals \(Civil and Criminal\)](#)
- 4) [Rule 13: Electronic Filing](#)
- 5) [Rule 15: Review of Action of Motions Requesting Procedural Relief](#)
- 6) [Rule 19: Dismissals of Appeals and Reports in all Cases for Lack of Prosecution](#)
- 7) [Rule 20: 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](#)
- 8) [Rule 22: Oral Argument](#)
- 9) [Rule 23: Summary Disposition \(formerly known as Appeals Court Rule 1:28\)](#)
- 10) [Rule 31: Electronic Notification of Court Orders, Notices, and Decisions in Lieu of Paper Notice](#)
- 11) [Rule 32: Title](#)

Rule 1: 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: 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.

References to the parties in the motion shall be by the designation of the party in the trial court. 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 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 tThe 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 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[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[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: 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: 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(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);~~

~~(4): All documents in public and partially impounded civil and criminal panel cases filed motions and letters filed after panel assignment. 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(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 may voluntarily e-file a~~Any document that is not identified as mandatory in ~~paragraph Appeals Court Rule 13(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): 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.~~ Electronic Filing of Impounded Documents.

~~(1)-~~ Voluntary e-filing. Impounded documents may be e-filed through ~~eE~~fileMA.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 ~~EfileMA~~eFileMA.com. The filer shall also designate the document as impounded using the appropriate field on ~~EfileMA~~eFileMA.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(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 ~~eE~~fileMA.com constitutes consent to receive electronic service in all cases. All documents submitted electronically through EfileMA.com may be electronically served through ~~eE~~fileMA.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.~~
~~O. Effective Date. This Order shall become effective on September 1, 2018.~~

Rule 15: 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 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: 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 14 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(a)(2) are not received by the clerk within the prescribed 14-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(c).

(b) Status Report.

(1) Notice of Intent to Dismiss Appeal. Whenever an appellant has not served or filed a status report within the time ordered by the court, whether or not the appellant has filed a brief and appendix, 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 14 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 14-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(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: 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 ~~P~~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; and
- (5) an addendum containing a copy of the order or action of the trial 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 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 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: 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: 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 ~~a~~ ~~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: 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: Title

These rules may be known and cited as the Massachusetts Appeals Court Rules (Mass.App.Ct.R.).