

STATE OF WEST VIRGINIA

At the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on December 3, 2020, the following order was made and entered in vacation:

**RE: Adoption of Amendments to the Rules of Appellate Procedure
20-Rules-11**

On September 17, 2020, the Court published proposed amendments to Rules 7, 19, and 20 of the Rules of Appellate Procedure for public comment for a period of thirty days. The Court has jurisdiction under Article VIII, §§ 1 and 3 of the West Virginia Constitution. The proposed amendments give the respondent guardian ad litem in a case time to present oral argument separate from the time allotted to the petitioner and respondent. The amendments also require the appendix record in an electronic format. The Court acknowledges the comments submitted by Joseph V. Shaeffer, Esq., Spilman, Thomas, & Battle; Robert Noone, Esq.; and Karen C. Villanueva-Matkovich, Esq., Deputy Attorney General.

On December 3, 2020, the Court proceeded to consider the proposed amendments, together with the comments filed. Upon consideration, the Court is of the opinion to, and hereby does, adopt the proposed amendments to Rules 7, 19, and 20 of the Rules of Appellate Procedure effective January 2, 2021. The amendments are set forth as follows (additions indicated by underscoring; deletions indicated by strike-throughs):

Rules of Appellate Procedure

Rule 7. Appendix record

(a) Format. An appendix must contain accurate reproductions of the papers and exhibits submitted to the lower court, administrative agency or other tribunal, and may be reproduced using any method that produces a permanent, legible black image on white paper measuring eight and one-half inches by eleven inches. Reproductions may be slightly reduced in size to accommodate the page numbers required by subparagraph (b), provided, however, that legibility of the appendix is not significantly impaired. To the extent practicable, reproduction on both sides of the paper is encouraged. Appendices must be fastened on the left side in a manner that will keep all the pages securely together and permit the Court to easily disassemble for copying. Use of binding methods that result in bulky protrusions or sharp edges, such as three-ring binders or spiral binders, is prohibited. An appendix of excessive length must be divided into volumes not to exceed three inches in thickness.

In addition to the paper appendix, an electronic Portable Document Format (Pdf) copy in no less than 150 dots per inch and no greater than 300 dots per inch (dpi) resolution is required. An appendix of excessive length must be divided into volumes not to exceed 20 megabytes (MB) in size. The electronic copy of the appendix shall be provided by

electronic mail to: scawv.filing@courtswv.gov. If an appendix contains only one volume, then the name of the file transmitted to the Clerk's Office must include: (1) the petitioner's name; (2) the term "Appx."; and (3) the term "p." followed by the page numbers. EX. Smith-Appx. p.1-10. If an appendix contains more than one volume, then the name of the file transmitted to the Clerk's Office must include: (1) the petitioner's name; (2) the term "Appx."; (3) the term "Vol." followed by the volume number; and (4) the term "p." followed by the page numbers within that volume. EX. Smith-Appx.Vol.1 p.1-200; Smith-Appx.Vol.2 p.201-399, etc.

(b) **Page numbering.** Each page of an appendix must be clearly numbered in a sequential fashion so as to permit each page to be located by reference to a single page number. Page numbers must be legible and distinct from any other numbers that appear on the documents. If a volume is comprised solely of official transcripts in their entirety, official transcripts are stand-alone volumes, and the transcripts contain assigned page numbers, additional sequential page numbering is not required.

Rule 19. Oral Argument.

(e) **Oral argument.** Oral arguments under Rule 19 are limited to ten minutes per side, unless otherwise indicated by the Court in the notice of argument. During oral argument, the Court may direct counsel to conclude prior to the time allotted if the Court understands the issues and the Court determines that further argument is not necessary. In the event of multiple parties on the same side, the Court may determine, either upon its own motion or upon motion of a party, an appropriate amount of time for oral argument. When a guardian ad litem in a case appears as a respondent for argument an additional five minutes of argument shall be allotted to the guardian ad litem. The petitioner shall be entitled to open and close the argument.

Rule 20. Oral Argument.

(e) **Oral argument.** Unless otherwise provided in the notice or by order, oral argument under this Rule is limited to twenty minutes per side. During oral argument, the Court may direct counsel to conclude prior to the time allotted if the Court understands the issues and the Court determines that further argument is not necessary. In the event of multiple parties on the same side, the Court may determine, either upon its own motion or upon motion of a party, an appropriate arrangement for oral argument. The Court may, at the conclusion of the time allotted, permit further argument if necessary. When a guardian ad litem in a case appears as a respondent for argument an additional five minutes of argument shall be allotted to the guardian ad litem. The petitioner shall be entitled to open and close the argument. A party is not obliged to utilize all of the time allotted, and the Court may

terminate the argument whenever in its judgment further argument is unnecessary. Oral argument shall emphasize and clarify the written argument appearing in the briefs. The Court may decline to consider issues at oral argument that were not presented in the briefs. The Court does not favor any oral argument that is read from briefs or from a prepared text.

A True Copy

Attest: /s/ Edythe Nash Gaiser
Clerk of Court

