

For Publication

Appellate Rules Advisory Committee Report dated June 9, 2008

The Judicial Council of Virginia has directed that the report of the Appellate Rules Advisory Committee, dated June 9, 2008, be published for comment. The report, which is under final consideration but has not been formally approved by the Judicial Council or adopted by the Supreme Court, will clarify Virginia appellate practice and attempt to provide more uniformity between the rules applicable to the Supreme Court of Virginia and the Court of Appeals of Virginia.

Comments on the proposed rules may be directed to Steven Dalle Mura, Director of the Department of Legal Research, Office of the Executive Secretary, Supreme Court of Virginia, 100 North Ninth Street, Richmond, Virginia 23219. Comments on the proposed rule change related to Supreme Court Rule 5:9 (Notice of Appeal), must be received by October 10, 2008. Comments related to the remaining proposed rule changes must be received by October 31, 2008. The report of the Appellate Rules Advisory Committee can be accessed via the Supreme Court website, at <http://www.courts.state.va.us/scv/home.html>, by scrolling down the page to the listing for the Amendments to the Rules of Court, or at the Clerk's Office of the Supreme Court of Virginia, 100 North Ninth Street, 5th Floor, Richmond.

The June 2008 report provides background on the Appellate Rules Advisory Committee, which was established in 2005 and chaired by Justice Donald W. Lemons, and includes a description of five task forces that were composed of Committee members, a calendar of meetings, and a summary of the Committee's work. The five task forces, (1) Procedure for Filing an Appeal; (2) Perfecting the Appeal; (3) Granted Cases; (4) Capital Cases, Habeas Corpus, and Actual Innocence; and (5) Original Jurisdiction/Miscellaneous, were given specific rules and subject areas to review and were asked to prepare suggested revisions, if any were deemed necessary.

While considering different aspects of the appellate process, all of the task forces shared the same set of general principles and goals. These included making the rules more fair, efficient, and user-friendly. Consideration was given to whether the Court should hold lawyers, instead of their clients, accountable for procedural mistakes. Major goals of the Committee were to harmonize the rules in the Court of Appeals with the rules in the Supreme Court, and to ensure that the rules reflect advances in technology and incorporate more electronic filing.

The work of the Committee, ongoing from September 2005, was referred to the Editing Committee in May 2006. The Editing Committee was charged with incorporating the suggested revisions and creating new Parts 5 and 5A that were clear, concise, and uniform. Its "Revised Version of the Rules" was presented to the full Committee in October 2007 and finalized in December 2007.

As reflected in the report of the Appellate Rules Advisory Committee, the substantive revision of many of the rules was accompanied by changes in the form and appearance of the rules to make them more user friendly. For example, titles now more accurately reflect the information contained in the rules and headings have been incorporated to emphasize each paragraph. These non-substantive rule changes appear in Appendices A and B of the report.