

## RoD – Remedial Appeal Prehearing Process

### D-8.0100 Initiation of an Appeal

- Definition, Effect (does not suspend action unless stay of enforcement was obtained).
- Withdrawal may be requested, pjc shall deny withdrawal if approval would defeat the ends of justice.
- 7 grounds for appeal listed.

### 8.0200 Filings in Appeal Process

- 45 days from receipt of judgement to file Notice of Appeal.
- Filed with SC of *lower* council with copies to other parties and SC of higher council.
- Contains copy of decision being appealed, statement of errors and certification of delivery to other parties and SC of higher council.
- Upon receipt, SC of higher council transmits notice and decision to pjc officers.

### 8.0300 Prehearing Proceedings

- Officers promptly consider 4 PQs, including “the appeal states one or more of the grounds for appeal.”
- Findings reported to pjc and parties.
- 30 days from receipt of findings for pjc member or party to challenge.
- If hearing is necessary, it is scheduled at least 30 days prior to hearing of the appeal, unless circumstances “render advisable the disposition” immediately before the hearing.
- Remaining timelines may extended by SC.
- 45 days from receipt of notice for SC to list items in record; then 15 days for the parties to file written challenge the record.
- Parties may stipulate to corrections, or pjc may direct corrections. Other questions regarding record presented to pjc for adjudication.
- SC of higher council notifies parties of date record is received, and furnishes copies to parties at their request and at their cost.
- Appellant brief within 30 days of filing record, with certification of its delivery to other party(ies). Failure to file brief deemed abandonment of the appeal.
- Appellee brief within 30 days of receipt of Appellant brief. Failure to file brief deemed waiver of the right to file a brief, appear, and be heard.
- Upon receipt of record and briefs, SC distributes to pjc.
- Pjc may provide by rule for exploration of settlement possibilities or narrow issues at pretrial conference.

### D-14.0502

- Process for receiving newly discovered evidence, which may be received and utilized in appeal.

## ChD – Remedial Appeal Prehearing Process

### D-6.01 Filing an Appeal

- Definitions

### D-6.02 Notice of Appeal

- 45 days from receipt of final order to file Notice of Appeal.
- Filed with SC of *higher* council, and may be filed electronically, provided SC certifies receipt.
- Parties may agree for all future filings to be electronic.
- Appellant proved copy of Notice to SC of lower council.
- SC of higher council distributes to other party(ies).
- Items to be included listed, including ruling, 7 grounds for appeal, and certification of delivery to SC of lower council, which may be electronic if agreed upon by parties.

### D-6.03 Duty of Stated Clerk

- SC of higher council transmits Notice to officers upon receipt.

### D-6.04 Effect of Appeal

- Does not suspend unless stay of enforcement was obtained or is obtained at this time, in which case process described in D-4.05 or D-4.06 is followed.

### D-6.05 Withdrawal of Appeal

- Parties are encouraged to seek resolution of differences, and jointly filed request to withdraw appeal is distributed to pjc members and granted unless the withdrawal is challenged by a pjc member within 7 days, in which case pjc must meet to consider the withdrawal.

### D-6.06 Preliminary Process

- Officers promptly consider 4 PQs, including “the appeal states and describes one or more of the grounds for appeal.”
- Preliminary ruling reported to pjc and parties.
- 30 days from receipt of preliminary ruling for pjc member or party to challenge.
- Within 30 days of receiving preliminary ruling, a hearing may be requested by either party or by a pjc member, or if all parties agree, decided on briefs.
- Hearing should be held at least 30 days prior to hearing of appeal unless officers determine that “circumstances, including expenditures of time and resources, warrant disposition of the challenge immediately prior to the hearing on the appeal.”

### D-6.07 List of Papers

- If officers accept or dismissal is successfully challenged, SC of lower council lists items in record within 45 days; then 15 days for parties to challenge. SC may, but is not required, to amend list; however challenge is added to the record when it is filed.

- Upon receipt of notice by SC of higher council that case is accepted, SC of lower council compiles and files record with the SC of the higher council who distributes it to pjc.
- Parties may stipulate to corrections, SC of lower council may submit supplemental record, or pjc may direct corrections. Other questions regarding record decided by vote of pjc at a duly constituted meeting at least 45 days prior to the hearing on the appeal (this may be electronic).

#### D-6.08 Briefs

- Appellant brief within 30 days of filing record, with certification of its delivery to other party(ies). Failure to file brief deemed abandonment of the appeal.
- Appellee brief within 30 days of receipt of Appellant brief. Failure to file brief deemed waiver of the right to file a brief, appear, and be heard.
- Appellee brief may raise additional issues, in which case within 30 days of receipt, Appellant, may file supplemental brief.

#### D-6.09 Extensions

- SC of higher council may extend these time limits.

#### D-6.10 Transmittal of records and Briefs

- Upon receipt of briefs or at expiration of deadlines, SC distributes record and briefs to pjc.

#### D-6.11

- Pjc may determine or may provide by rule for exploration of settlement possibilities or narrow issues at pretrial conference.

#### D-5.0904 Newly Discovered Evidence

- Can only result in remanding the case for a new trial.