COURT NOTICES

AMENDMENT OF RULE

Court of Appeals

In pursuance of section 51 of the Judiciary Law, it is hereby

ORDERED, that Part 500 (22 NYCRR Part 500) and Part 530 (22 NYCRR Part 530) of the present Rules of the Court of Appeals be and they hereby are repealed, effective November 5, 2008, or as soon thereafter as section 52 of the Judiciary Law is complied with, and a new Rules of the Court of Appeals Part 500 (22 NYCRR Part 500) and Part 530 (22 NYCRR Part 530) be and they hereby are enacted to read as follows:

COURT OF APPEALS STATE OF NEW YORK

*RULES OF PRACTIC*E

(22 NYCRR Part 500)

GENERAL MATTERS

500.1 General Requirements.

(a) All papers shall comply with applicable statutes and rules, particularly the signing requirement of 22 NYCRR 130-1.1-a.

(b) Papers filed. ''Papers filed'' means briefs, papers submitted pursuant to sections 500.10 and 500.11 of this Part, motion papers, records and appendices.

(c) Method of reproduction. All papers filed may be reproduced by any method that produces a permanent, legible, black image on white paper. Reproduction on both sides of the paper is encouraged.

(d) Designation of original. Where this Part requires the filing of multiple copies of papers, the parties shall identify on its cover the original document filed.

(e) Proof of service. The original affidavit of service shall be affixed to the inside of the back cover of the original of each paper filed.

(f) Disclosure statement. All papers filed by or on behalf of a corporation or other business entity shall contain a disclosure statement listing all its parents, subsidiaries and affiliates, or state that no such parents, subsidiaries and affiliates exist.

(g) Citation form. Where New York authorities are cited in any submissions, New York Official Law Report citations shall be included, if available.

(h) Inclusion of decisions. Copies of decisions that are not officially published, or are not otherwise readily available, shall be included in the submission in which such decisions are cited.

(i) Paper quality, size and binding. Paper shall be opaque, unglazed, white and eleven by eight and one-half inches. Briefs, appendices, records and motion papers shall be bound on the left side in a manner that keeps all pages securely together, without plastic covers or any metal fasteners or similar hard material that protrudes or presents a bulky surface or sharp edge.

(j) Computer-generated papers filed. Papers filed prepared on a computer shall be printed in either a serifed, proportionally spaced typeface, such as Times Roman, or a serifed monospaced typeface, such as Courier. Narrow or condensed typefaces and condensed font spacing shall not be used. Except in headings, words shall not be in bold type or type consisting of all capital letters.

(1) Papers filed using a proportionally-spaced typeface. The body of any papers filed using a proportionally-spaced typeface shall be printed in 14-point type. Footnotes shall be printed in type of no less than 12 points.

(2) Papers filed using a monospaced typeface. The body of any papers filed using a monospaced typeface shall be printed in 12-point type containing no more than 10 and one-half characters per inch. Footnotes shall be printed in type of no less than 10 points.

(k) Typewritten papers filed. Typewritten papers filed shall be neatly prepared in legible type no smaller than elite and in a pitch of no more than twelve characters per inch. The original, ribbon typescript of any papers filed shall be signed and filed as the original required by this Part. Carbon copies will not be accepted.

(1) Margins, line spacing and page numbering of computer-generated and typewritten papers filed. Computer-generated and typewritten papers filed shall have margins of one inch on all sides of the page. Text shall be double-spaced, but quotations more than two lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. Pages shall be consecutively numbered in the center of the bottom margin of each page.

(m) Handwritten papers. Self-represented litigants may serve and file handwritten papers. Such papers shall be neatly prepared in cursive script or hand printing in black ink. Pages shall be consecutively numbered in the center of the bottom margin of each page. The filing of handwritten papers is not encouraged. The clerk of the Court may reject illegible papers.

(n) Filing of papers. All papers filed shall be addressed to the clerk of the Court at 20 Eagle Street, Albany, New York 12207, not to a Judge or Judges of the Court, and shall be served on each other party in accordance with the requirements of this Part. Submissions shall not be filed by facsimile transmission or electronic mail, except when requested by the clerk of the Court.

(o) Acknowledgment of receipt of papers. A request for an acknowledgment of receipt of papers shall be accompanied by the papers filed and a self-addressed, postage pre-paid postcard or envelope. Parties proceeding as poor persons or requesting poor person relief shall comply with this requirement if acknowledgment of receipt of papers is desired.

(p) Nonconforming papers. The clerk of the Court may reject papers that do not conform to the requirements of this Part.

500.2 Companion Filings on Compact Disk, Read-Only Memory (CD-ROM).

(a) The Court allows the submission of briefs, records or appendices on compact disk, read-only memory (CD-ROM) as companions to the requisite number of printed briefs, records and appendices filed and served in accordance with this Part if all parties have consented to the filing of the companion CD-ROM brief and record or appendix. The Court, by order on motion of any party or on its own motion, may require such filing by a party or amicus.

(b) The companion CD-ROM brief, record or appendix shall comply with the current technical specifications available from the clerk's office.

(c) The companion CD-ROM brief, record or appendix shall be identical in content and format (including page numbering) to the printed version, except that each also shall be word-searchable and shall provide electronic links (hyperlinks) to the complete text of any authorities cited therein, and to all documents or other material constituting the record on appeal. The disk and container shall be labeled to indicate the title of the case and the documents reproduced on the disk.

(d) Unless the Court requires a greater number, 10 disks or sets of disks shall be filed, with

(1) proof of service of at least one disk or set on each other party; and

(2) a copy of the parties' stipulation permitting, or the Court's order directing, such filing.

(e) Unless the Court requires otherwise, appellant's filing and respondent's filing, or a joint filing by appellant and respondent, are due 10 days after the final due date for filing appellant's reply brief (see section 500.12[d] of this Part).

500.3 Fees.

(a) Upon the filing of record material in a civil appeal pursuant to section 500.11, 500.12 or 500.26(a) of this Part, appellant shall provide the clerk of the Court the fee in the amount specified in CPLR 8022 in the form of an attorney's check, certified check, cashier's check or money order payable to ''State of New York, Court of Appeals'' unless:

(1) appellant demonstrates exemption from the fee requirements by statute or other authority;

(2) other payment arrangements have been made with the clerk of the Court;

(3) the appeal is accompanied by a motion requesting poor person relief or a motion requesting relief from payment of the filing fee; or

(4) appellant in the Court of Appeals provides a copy of an order issued by any court in the action or proceeding to which the appeal relates granting that party poor person relief, together with a sworn affidavit that the same financial circumstances exist at the time of filing in the Court of Appeals as when the order granting poor person relief was issued.

(b) Upon the filing of each motion or cross motion in a civil case pursuant to sections 500.21 through 500.24 or 500.26(b) of this Part, movant shall provide the clerk of the Court with the fee in the amount specified in CPLR 8022 in the form of an attorney's check, certified check, cashier's check or money order payable to ''State of New York, Court of Appeals'' unless:

(1) movant demonstrates exemption from the fee requirements by statute or other authority;

(2) other payment arrangements have been made with the clerk of the Court;

(3) the motion or cross motion is accompanied by a motion requesting poor person relief or a motion requesting relief from payment of the filing fee; or

(4) movant in the Court of Appeals provides a copy of an order issued by any court in the action or proceeding to which the motion relates granting that party poor person relief, together with a sworn affidavit that the same financial circumstances exist at the time of filing in the Court of Appeals as when the order granting poor person relief was issued.

(c) Except as provided in subsections (a) or (b) above or where otherwise specifically required by law or by the Court, no fees shall be charged by the clerk of the Court.

500.4 Pro Hac Vice Admission.

An attorney or the equivalent who is a member of the bar of another state, territory, district or foreign country may apply to appear pro hac vice with respect to a particular matter pending in this Court (see 22 NYCRR 520.11[a] [Rules of the Court of Appeals for the Admission of Attorneys and Counselors at Law--Admission Pro Hac Vice]). The application shall consist of a letter request to the clerk of the Court, with proof of service on each other party, and shall include current certificates of good standing from each jurisdiction in which the applicant is admitted and any orders of the courts below granting such relief in the matter for which pro hac vice status is sought.

500.5 Sealed Documents and Confidential Material.

(a) Documents under seal are not available for public viewing.

(b) Any papers sealed by a court below or otherwise required by statute to be sealed shall be sealed in the Court of Appeals.

(c) Any party to an appeal or motion may request that papers not sealed below be sealed in this Court. Such requests shall be by an original and one copy of a motion pursuant to section 500.21 of this Part, with proof of service of one copy on each other party.

(d) Documents and transcripts ordered sealed by the Court of Appeals or a court below shall be reproduced in separate volumes of the record on appeal. Each such volume shall be clearly identified on the cover as containing sealed material.

(e) To the extent possible, papers filed shall not contain confidential material subject to a statutory proscription against publication. Where such material must be included, the cover of the paper filed shall clearly indicate that the document contains confidential material.

500.6 Developments Affecting Appeals, Certified Questions, Motions and Criminal Leave Applications.

Counsel shall timely inform the clerk's office and each other party by letter of all developments affecting appeals, section 500.27 certified questions, motions and criminal leave applications pending in this Court, including contemplated and actual settlements, circumstances or facts that could render the matter moot and pertinent developments in applicable case law, statutes and regulations. For appeals, counsel shall also timely inform the clerk's office and each other party by letter of any changes in the status of any related litigation reported on the appellant's preliminary appeal statement or of any related litigation commenced after the filing of appellant's preliminary appeal statement. Such letters shall contain proof of service on each other party.

500.7 Post-Briefing, Post-Submission and Post-Argument Communications.

Except for communications providing the information required by section 500.6 of this Part or those specifically requested by the Court, post-briefing, post-submission and post-argument written communications to the Court are not favored, and shall be returned to the sender unless accepted by the clerk of the Court following a written request with a copy of the proposed submission and proof of service of one copy on each other party.

500.8 Withdrawal of Appeal, Motion or Criminal Leave Application.

(a) Appeals.

(1) Before argument or submission, an appeal shall be marked withdrawn upon receipt by the clerk of the Court of a stipulation of withdrawal signed by counsel for all parties to the appeal and by all self-represented litigants and, in criminal appeals, additionally by defendant.

(2) After argument or submission, a request to withdraw an appeal shall be supported by a stipulation of withdrawal signed by counsel for all parties to the appeal and by all self-represented litigants and, in criminal appeals, additionally by defendant. The request shall be submitted to the Court for determination.

(b) Motions.

(1) Before its return date, a motion shall be marked withdrawn upon receipt by the clerk of the Court of a written notice of withdrawal signed by counsel for the moving party, with proof of service of one copy on each other party.

(2) After the return date, a request to withdraw a motion shall be supported by a stipulation of withdrawal signed by counsel for all parties to the motion and by all self-represented litigants. The request shall be submitted to the Court for determination.

(c) Criminal Leave Applications. A request to withdraw an application shall be in writing and, if made on behalf of a defendant, shall also be signed by defendant. The request shall contain an indication of service of one copy upon all parties and, if the request is made by defendant personally, proof of service upon defense counsel, if defendant is represented. The request shall be submitted to the assigned Judge for determination.

APPEALS

500.9 Preliminary Appeal Statement.

(a) Within 10 days after an appeal is taken by (1) filing a notice of appeal in the place and manner required by CPLR 5515, (2) entry of an order granting a motion for leave to appeal in a civil case, or (3) issuance of a certificate granting leave to appeal in a criminal case, appellant shall file with the clerk of the Court an original and one copy of a preliminary appeal statement on the form prescribed by the Court, with the required attachments and proof of service of one copy on each other party. No fee is required at the time of filing the preliminary appeal statement.

(b) Where a party asserts that a statute is unconstitutional, appellant shall give written notice to the Attorney General before filing the preliminary appeal statement, and a copy of the notification shall be attached to the preliminary appeal statement. The notification and a copy of the preliminary appeal statement shall be sent to the Solicitor General, Department of Law, The Capitol, Albany, New York 12224.

(c) After review of the preliminary appeal statement, the clerk will notify the parties either that review pursuant to section 500.10 or section 500.11 of this Part shall commence or that the appeal shall proceed in the normal course.

500.10 Examination of Subject Matter Jurisdiction.

On its own motion, the Court may examine its subject matter jurisdiction over an appeal based on the papers submitted in accordance with section 500.9 of this Part. The clerk of the Court shall notify all parties by letter when an appeal has been selected for examination pursuant to this section, stating the jurisdictional concerns identified in reviewing the preliminary appeal statement and setting a due date for filing and service of comments in letter form from all parties. Such examination shall result in dismissal of the appeal by the Court or in notification to the parties that the appeal shall proceed either under the review process described in section 500.11 of this Part or in the normal course, with or without oral argument. This examination of jurisdiction shall not preclude the Court from addressing any jurisdictional concerns at any time.

500.11 Alternative Procedure for Selected Appeals.

(a) On its own motion, the Court may review selected appeals by an alternative procedure. Such appeals shall be determined on the intermediate appellate court record or appendix and briefs, the writings in the courts below and additional letter submissions on the merits. The clerk of the Court shall notify all parties by letter when an appeal has been selected for review pursuant to this section. Appellant may request such review in its preliminary appeal statement. Respondent may request such review by letter to the clerk of the Court, with proof of service of one copy on each other party, within five days after the appeal is taken.

(b) Appeals may be selected for alternative review on the basis of:

(1) questions of discretion, mixed questions of law and fact or affirmed findings of fact, which are subject to a limited scope of review;

(2) recent, controlling precedent;

(3) narrow issues of law not of statewide importance;

(4) nonpreserved issues of law;

(5) a party's request for such review; or

(6) other appropriate factors.

(c) Appellant's filing. Within 25 days after the date of the clerk of the Court's letter initiating the alternative review procedure, appellant shall:

(1) file three copies of the intermediate appellate court record or appendix and three copies of each brief filed by each party in the intermediate appellate court. Original exhibits to be relied upon which are not in the record or appendix at the intermediate appellate court shall be filed or, if they are on file with the clerk of the trial court, subpoenaed to this Court and the Court so advised by letter. Such exhibits shall be clearly identified and, where appropriate, their authenticity shall be certified or stipulated to;

(2) file an original and two copies of a letter stating its arguments in support of appellant's position on the merits. If appellant objects to review pursuant to this section, the letter shall also explain that position;

(3) include as part of its submission a disclosure statement pursuant to section 500.1(f) of this Part, if necessary;

(4) file proof of service of one copy of its arguments on each other party; and

(5) remit the fee, if any, required by section 500.3(a) of this Part.

(d) Respondent's filing. Within 20 days after service of appellant's submission, respondent shall file an original and two copies of a letter stating its arguments in support of its position on the merits. If respondent objects to review pursuant to this section, the letter shall also explain that position. Respondent shall include in its submission a disclosure statement pursuant to section 500.1(f) of this Part, if necessary, and file proof of service of one copy of its arguments on each other party.

(e) Appellant's reply. A reply is not permitted unless authorized by the Court upon request of the appellant, which shall accompany the proposed filing, or on the Court's own motion.

(f) Abandonment of arguments. A party shall be deemed to have abandoned any argument made in the intermediate appellate court briefs not addressed or reserved in the written submission to this Court.

(g) Review of subject matter jurisdiction. An appeal selected for review pursuant to this section is subject to dismissal on the Court's own motion, should it be determined that the Court is without subject matter jurisdiction.

(h) Related litigation. Where necessary, each letter filing shall indicate the status of any related litigation as of the date of the letter's filing.

(i) Termination of alternative procedure. If the Court terminates its review of the appeal pursuant to this section before disposition, the clerk of the Court will notify counsel by letter and set a schedule for full briefing of the appeal.

(j) Amicus curiae relief. The Attorney General of the State of New York may file, no later than the filing date set for respondent's submission, an original and two copies of an amicus curiae submission without leave of the Court, with proof of service of one copy on each party. Any other proposed amicus curiae shall request amicus curiae relief pursuant to section 500.23(a)(2) of this Part.

500.12 Filing of Record Material and Briefs in Normal Course Appeals.

(a) Scheduling letter. Generally, in an appeal tracked for normal course treatment, the clerk of the Court issues a scheduling letter after the filing of the preliminary appeal statement. A scheduling letter also issues upon the termination of an inquiry pursuant to section 500.10 or 500.11 of this Part. The scheduling letter sets the filing dates for record material and briefs.

(b) Appellant's initial filing. On or before the date specified in the scheduling letter, appellant shall serve and file record material in compliance with section 500.14 of this Part, and shall remit the fee, if any, required by section 500.3(a) of this Part. Appellant also shall file an original and 24 copies of a brief, with proof of service of three copies on each other party. If no scheduling letter is issued, appellant's papers shall be served and filed within 60 days after appellant took the appeal by (1) filing a notice of appeal in the place and manner required by CPLR 5515, (2) entry of an order granting a motion for leave to appeal in a civil case, or (3) issuance of a certificate granting leave to appeal in a criminal case.

(c) Respondent's filing. On or before the date specified in the scheduling letter, respondent shall serve and file an original and 24 copies of a brief and a supplementary appendix, if any, with proof of service of three copies on each other party. If no scheduling letter is issued, respondent's papers shall be filed within 45 days after service of appellant's brief.

(d) Reply briefs. A reply brief is not required but may be served and filed by appellant on or before the date specified in the scheduling letter. If no scheduling letter is issued, a reply brief may be served and filed within 15 days after service of respondent's brief. Where cross appeals are filed, the cross appellant may serve and file a reply brief to the main appellant's responsive brief. An original and 24 copies of a reply brief shall be served and filed, with proof of service of three copies on each other party.

(e) Amicus curiae briefs. The Attorney General of the State of New York may file, no later than the filing date set for respondent's brief, an original and 24 copies of an amicus curiae brief without leave of the Court, with proof of service of three copies on each party. Any other proposed amicus curiae shall request amicus curiae relief pursuant to section 500.23(a)(1) of this Part.

(f) Briefs in response to amicus curiae briefs. Briefs in response to an amicus curiae brief are not required but may be served and filed by a party whose position is adverse to that of the amicus curiae. The brief shall be served and filed within 15 days after the date of this Court's order granting a motion for amicus curiae relief or within 15 days after the service of an amicus curiae brief by the Attorney General of the State of New York. An original and 24 copies shall be filed,

with proof of service of three copies on each other party and one copy on each amicus curiae.

(g) Sur reply briefs. Sur reply briefs are not permitted.

500.13 Content and Form of Briefs in Normal Course Appeals.

(a) Content. All briefs shall conform to the requirements of section 500.1 of this Part and contain a table of contents, a table of cases and authorities and, if necessary, a disclosure statement pursuant to section 500.1(f) of this Part. Such disclosure statement shall be included before the table of contents in the party's principal brief. Appellant's brief shall include a statement showing that the Court has jurisdiction to entertain the appeal and to review the questions raised, with citations to the pages of the record or appendix where such questions have been preserved for the Court's review. Respondent's brief may have a supplementary appendix attached to it. The original of each brief shall be signed and dated, shall have the affidavit of service affixed to the inside of the back cover and shall be identified on the front cover as the original. Each brief shall indicate the status of any related litigation as of the date the brief is completed. Such statement shall be included before the table of contents in each party's brief.

(b) Brief covers. Brief covers shall be white and shall contain the caption of the case and name, address, telephone number, and facsimile number of counsel or self-represented litigant and the party on whose behalf the brief is submitted, and the date on which the brief was completed. In the upper right corner, the brief cover shall indicate whether the party proposes to submit the brief without oral argument or, if argument time is requested, the amount of time requested and the name of the person who will present oral argument (see section 500.18 of this Part). If a time request does not appear on the brief, generally no more than 10 minutes will be assigned. The Court will determine the argument time, if any, to be assigned to each party. Plastic covers shall not be used.

500.14 Records, Appendices and Exhibits in Normal Course Appeals.

(a) Record material. Appellant shall supply the Court with record material in one of the following ways:

(1) Appellant may subpoena the original file to this Court from the clerk of the court of original instance or other custodian, and submit original exhibits to be relied upon, and supplement these with an original and 24 copies of an appendix conforming to subdivision (b) below, with proof of service of three copies of the appendix on each other party. If appellant is represented by assigned counsel, or has established indigency, an oral or written request may be made of the clerk of this Court to obtain the original file.

(2) Appellant may file with the clerk of the Court one copy of the reproduced record used at the court below. This record shall be supplemented by an original and 24 copies of an appendix conforming to subdivision (b) below, with proof of service of three copies of the appendix on each other party.

(3) Appellant may file with the clerk of the Court an original and 24 copies of a new and full record which shall include the record used at the court below, the notice of appeal or order granting leave to appeal to this Court, the decision and order appealed from to this Court, and any other decision and order brought up for review, with proof of service of three copies of the new record on each other party.

(b) Appendix. An appendix shall conform to the requirements of CPLR 5528 and 5529, and shall be sufficient by itself to permit the Court to review the issues raised on appeal without resort to the original file (see subsection [a][1] of this section) or reproduced record used at the court below (see subsection [a][2] of this section). The appendix shall include, as relevant to the appeal, the following:

(1) the notice of appeal or order or certificate granting leave to appeal;

(2) the order, judgment or determination appealed from to this Court;

(3) any order, judgment or determination which is the subject of the order appealed from, or which is otherwise brought up for review;

(4) any decision or opinion relating to the orders set forth in subsections (b)(2) and (3) above; and

(5) the testimony, affidavits, jury charge and written or photographic exhibits useful to the determination of the questions raised on appeal or cited in the brief of the party filing the appendix.

(c) Respondent's appendix. A respondent's brief may include a supplementary appendix.

(d) Inadequate appendix. When appellant has filed an inadequate appendix, respondent may move to strike the appendix (see section 500.21 of this Part) or may submit an original and 24 copies of an appendix containing such additional parts of the record as respondent deems necessary to consider the questions involved, with proof of service of three copies of the appendix on each other party. The Court may direct appellant to supplement the appendix with additional parts of the record it deems necessary to consider the questions involved.

(e) Description of action or proceeding. The reproduced record and additional papers or the appendix shall contain the statement required by CPLR 5531.

(f) Correctness of the record. The correctness of the reproduced record or the appendix and additional papers shall be authenticated pursuant to CPLR 2105 or stipulated to pursuant to CPLR 5532.

500.15 Extensions of Time.

The clerk of the Court is authorized to grant, for good cause shown, a reasonable extension of time for filing papers on an appeal. A request for an extension may be made by telephone call to the clerk's office. The party requesting an extension shall advise the clerk of the Court of the position of each other party with regard to the request. A party granted an extension shall file a confirmation letter, with proof of service of one copy on each other party, unless the clerk's office has notified all parties in writing of the determination of the request.

500.16 Failure to Proceed or File Papers.

(a) Dismissal of appeal. If appellant has not filed and served the papers required by section 500.11, 500.12 or 500.26(a) of this Part within the time set by the clerk's office or otherwise prescribed by this Part, the clerk of the Court shall enter an order dismissing the appeal.

(b) Preclusion. If respondent has not filed and served the papers required by section 500.11, 500.12 or 500.26(a) of this Part within the time set by the clerk's office or otherwise prescribed by this Part, the clerk of the Court shall enter an order precluding respondent's filing.

(c) Judicial review. A party may seek judicial review of dismissal and preclusion orders entered pursuant to subsections (a) and (b) above by motion on notice in accordance with section 500.21 of this Part.

500.17 Calendar.

(a) Notification of argument time and date. When the calendar has been prepared, the clerk of the Court shall advise counsel by letter of the date and time assigned for oral argument.

(b) Calendar preferences. A party seeking a preference shall address a letter to the clerk of the Court, with proof of service of one copy on each other party. The letter shall state why a preference is needed, why an alternative remedy, such as review pursuant to section 500.11 of this Part or submission without argument, is not appropriate, and opposing counsel's position on the request.

(c) Notification of unavailability. Counsel have a continuing obligation to notify the clerk's office of days of known or possible unavailability for oral argument during the Court's scheduled Albany sessions.

(d) Adjournments. Requests for adjournment of a calendared appeal are not favored. A party seeking an adjournment shall address a letter to the clerk of the Court, with proof of service of one copy on each other party. The letter shall state in detail why the adjournment is necessary, and why submission on the brief filed or having substitute counsel argue are not viable alternatives, and opposing counsel's position on the request.

500.18 Oral Argument.

(a) Argument time. Maximum argument time is 30 minutes per party, unless otherwise directed or permitted by the Court upon advance request by letter addressed to the clerk of the Court with proof of service of one copy on each other party. In requesting argument time, counsel shall presume the Court's familiarity with the facts, procedural history and legal issues the appeal presents. The Court may assign time for argument that varies from a party's request and may determine that the appeal be submitted by any party or all parties without oral argument (see section 500.13[b] of this Part).

(b) Arguing counsel. Only one counsel is permitted to argue for a

party, unless otherwise directed or permitted by the Court upon advance request by letter addressed to the clerk of the Court with proof of service of one copy on each other party.

(c) Rebuttal. Prior to beginning argument, appellant may orally request permission from the Chief Judge to reserve a specific number of minutes for rebuttal. The time reserved shall be subtracted from the total time assigned to appellant. Respondent may not request permission to reserve time for sur-rebuttal.

500.19 Remittitur.

(a) The remittitur of the Court, containing the Court's adjudication, together with the return papers filed with the Court, shall be sent to the clerk of the court of original instance or to the clerk of the court to which the case is remitted, there to be proceeded upon according to law.

(b) The court of original instance or the court to which the case is remitted issues any order to effect the adjudication in this Court's remittitur, including an award of costs.

CRIMINAL LEAVE APPLICATIONS

500.20 Criminal Leave Applications.

(a) Letter application. Applications to the Chief Judge for leave to appeal in a criminal case (CPL 460.20) shall be by letter addressed to 20 Eagle Street, Albany, New York 12207, and shall be sent to the attention of the clerk of the Court, with proof of service of one copy on the adverse party. The letter shall indicate:

(1) the names of all codefendants in the trial court, if any, and the status of their appeals, if known;

(2) that no application for the same relief has been addressed to a justice of the Appellate Division, as only one application is available;

(3) whether an oral hearing on the application, in person or by telephone conference call, is requested; and

(4) the grounds upon which leave to appeal is sought. Particular written attention shall be given to reviewability and preservation of error, identifying and reproducing the particular portions of the record where the questions sought to be reviewed are raised and preserved.

After the application is assigned to a Judge for review, counsel will be given an opportunity to serve and file additional submissions, if any, and opposing counsel will be given an opportunity to respond.

(b) Material to be provided with application.

(1) Orders of intermediate appellate courts determining appeals to those courts. An application for leave to appeal from an intermediate appellate court order determining an appeal taken to that court shall include:

(i) one copy of each brief submitted on defendant's behalf to the intermediate appellate court;

(ii) one copy of each brief submitted by the People to the intermediate appellate court;

(iii) the order and decision of the intermediate appellate court sought to be appealed from;

(iv) all relevant opinions or memoranda of the courts below, along with any other papers to be relied on in furtherance of the application; and

(v) if defendant is a corporation or other business entity, a disclosure statement pursuant to section 500.1(f) of this Part.

(2) Orders of intermediate appellate courts determining applications for writs of error coram nobis. An application for leave to appeal from an intermediate appellate court order determining an application for coram nobis relief shall include:

(i) the order and decision sought to be appealed from;

(ii) the papers in support of and opposing the application filed in the intermediate appellate court; and

(iii) the intermediate appellate court decision and order sought to be vacated, as well as the briefs filed on the underlying appeal, if available.

(c) Assignment. The Chief Judge directs the assignment of each application to a Judge of the Court through the clerk of the Court; counsel shall not apply directly to a Judge or request that an application be assigned to a particular Judge. The assigned Judge shall advise the parties if an oral hearing on the application will be entertained.

(d) Reargument or reconsideration. Requests for reargument or reconsideration shall be in letter form addressed to the clerk of the Court, with proof of service on the adverse party, and shall be assigned to the Judge who ruled on the original application. Copies of the papers filed on the underlying leave application need not be filed. A request for reargument or reconsideration shall not be based on the assertion for the first time of new points, except for extraordinary and compelling reasons. Unless otherwise permitted by the assigned Judge, the reargument or reconsideration request shall be served not later than 30 days after the date of the certificate determining the application of which reargument or reconsideration is sought.

(e) Counsel. This Court does not assign counsel for criminal leave applications. One set of motion papers addressed to this Court under section 500.21 of this Part for assignment of counsel on a criminal appeal may be filed, with proof of service of one copy on the adverse party, only after leave to appeal is granted.

(f) Stay requests. Whether prominently set forth at the beginning of a letter application for leave to appeal or made by separate letter with proof of service of one copy on the adverse party, a request for a stay (CPL 460.60; 530.50) shall state:

(1) whether the relief sought has been previously requested;

(2) whether defendant is presently incarcerated and the incarceration status, if known, of any co-defendants; and,

(3) if the defendant is at liberty:

(i) whether a surrender date has been set; and

(ii) the conditions of release (e.g., on defendant's own recognizance or on a set bail amount).

(g) Applications for extensions of time to seek leave to appeal. An application for an extension of time to seek leave to appeal (CPL 460.30) shall be by one set of motion papers in compliance with section 500.21 of this Part, with proof of service of one copy on the adverse party. The motion shall be accompanied by a copy of the order sought to be appealed, and one copy of each brief filed in the intermediate appellate court or, in the case of an order granting or denying an application for a writ of error coram nobis, the papers filed in the intermediate appellate court in support of and in opposition to the application for the writ. If no opposing papers were filed, the motion papers filed in this Court must clearly so state.

MOTIONS

500.21 Motions - General Procedures.

(a) Return date. Regardless whether the Court is in session, motions shall be returnable on a Monday or, if Monday is a legal holiday, the first business day of the week unless otherwise provided by statute, order to show cause or stipulation so ordered by a Judge of the Court. Motions shall be submitted without oral argument, unless the Court directs otherwise. No adjournments shall be permitted other than in those limited instances provided by statute (CPLR 321[c] and 1022).

(b) Notice and service. Movant shall serve a notice of motion and supporting papers on sufficient notice to each other party, as set forth in the CPLR and below. In computing the notice period, the date of service shall not be included.

(1) When movant's papers are personally served, movant shall give at least eight days' notice (CPLR 2214[b]).

(2) When movant's papers are served by regular mail, movant shall give at least 13 days' notice (CPLR 2103[b][2]).

(3) When movant's papers are served by overnight delivery service, movant shall give at least nine days' notice (CPLR 2103[b][6]).

(4) When movant's papers are served by facsimile transmission, movant shall comply with CPLR 2103(b)(5), and give at least eight days' notice.

(c) Filing. Unless otherwise permitted by the Court or clerk of the Court, movant shall file its papers, with proof of service on each other party of the required number of copies, at Court of Appeals Hall no later than noon on the Friday preceding the return date. On or before the return date of the motion, respondent may file papers in opposition to the motion, with proof of service on each other party of the required number of copies. Submissions shall not be filed by facsimile

transmission or electronic mail, except when requested by the clerk of the Court. The Court's motion practice does not permit the filing of reply briefs and memoranda. A request for permission to file papers after the return date of the motion is governed by section 500.7 of this Part.

(d) Number of required copies. Except in cases of indigency, where subsection (g) below applies, the number of copies required to be filed is as follows:

(1) Motions for permission to appeal in civil cases. Movant shall file an original and six copies of its papers, with proof of service of two copies on each other party. Respondent may file an original and six copies of papers in opposition to the motion, with proof of service of two copies on each other party.

(2) Motions for reargument of appeals, reargument of motions for permission to appeal and reargument of decisions on certified questions. Movant shall file an original and six copies of its papers, with proof of service of two copies on each other party. Respondent may file an original and six copies of papers in opposition to the motion, with proof of service of two copies on each other party.

(3) Other motions. For motions other than those addressed in subsections (d)(1) and (2) above, movant shall file an original and one copy of its papers, with proof of service of one copy on each other party. Respondent may file an original and one copy of papers in opposition to the motion, with proof of service of one copy on each other party.

(e) Fee required. Movant shall remit the fee, if any, required by section 500.3(b) of this Part with each motion and cross motion filed.

(f) Form of papers. Movant's papers and opposing papers shall comply in form with section 500.1 of this Part. The papers shall include a disclosure statement pursuant to section 500.1(f) of this Part, if required.

(g) Proof of indigency. Any motion may be made on one set of papers, with proof of service of one copy on each other party, where:

(1) the motion requests poor person relief and contains the information required by CPLR 1101(a), or

(2) movant provides a copy of an order, issued by any court in the action or proceeding to which the motion relates, granting that party poor person relief, together with a sworn affidavit that the same financial circumstances exist at the time of filing in the Court of Appeals as when the order granting poor person relief was issued.

(h) Orders determining motions. The original of an order of the Court of Appeals issued on a motion decision is filed in the clerk's office automatically by the clerk of the Court and is entered on the date of decision. There is no procedure for filing additional papers, such as proof of service of a copy of the order with notice of entry upon adverse parties. If necessary, such papers may be filed in the office where papers submitted to the court of original instance are filed.

500.22 Motions for Permission to Appeal in Civil Cases.

(a) Filing and notice. Movant shall file an original and six copies of its papers, unless permitted to proceed pursuant to section 500.21(g), with proof of service of two copies on each other party. The motion shall be noticed for a return date in compliance with CPLR 5516 and section 500.21(b) of this Part.

(b) Content. Movant's papers shall be a single document, bound on the left, and shall contain in the order here indicated:

(1) A notice of motion (see CPLR 2214).

(2) A statement of the procedural history of the case, including a showing of the timeliness of the motion.

(i) If no prior motion for leave to appeal to the Court of Appeals was filed at the Appellate Division, movant's papers to this Court shall demonstrate timeliness by stating the date movant was served (see CPLR 2103[b]) with the order or judgment sought to be appealed from, with notice of entry.

(ii) If a prior motion for leave to appeal to the Court of Appeals was filed at the Appellate Division, movant's papers filed in this Court shall demonstrate that the timeliness chain is intact by stating:

(a) the date movant was served with the order or judgment sought to be appealed from, with notice of entry,

(b) the date movant served the notice of motion addressed to the Appellate Division upon each other party, and

(c) the date movant was served with the Appellate Division order denying leave to appeal with notice of entry.

(3) A showing that this Court has jurisdiction of the motion and of the proposed appeal, including that the order or judgment sought to be appealed from is a final determination or comes within the special class of nonfinal orders appealable by permission of the Court of Appeals (see CPLR 5602[a][2]).

(4) A concise statement of the questions presented for review and why the questions presented merit review by this Court, such as that the issues are novel or of public importance, present a conflict with prior decisions of this Court, or involve a conflict among the departments of the Appellate Division. Movant shall identify the particular portions of the record where the questions sought to be reviewed are raised and preserved.

(5) A disclosure statement pursuant to section 500.1(f) of this Part, if required.

(6) Copies of the order or judgment sought to be appealed from with notice of entry, as well as copies of all relevant orders, opinions or memoranda rendered in the courts below. The papers shall state if no opinion was rendered.

(c) Additional documents. Movant shall file with its papers one copy of the record below, or appendix if the appendix method was used in the court below, and one copy of the briefs filed below by each of the parties.

(d) Opposing papers. Respondent may file an original and six copies of papers in opposition to the motion, with proof of service of two copies on each other party. The opposing papers shall state concisely respondent's argument for dismissal or denial of the motion.

500.23 Amicus Curiae Relief.

Any nonparty other than the Attorney General seeking to file an amicus brief on an appeal, certified question or motion for leave to appeal must obtain permission by motion.

(a) Motions for amicus curiae relief.

(1) Amicus curiae relief on normal course appeals and normal course certified questions.

(i) Movant shall file an original and one copy of its motion papers, accompanied by an original amicus brief, with proof of service of one copy of the motion and one copy of the brief on each other party.

(ii) If the motion is granted, 24 copies of the brief shall be filed, with proof of service of three copies on each party, within the time set by the Court's order.

(iii) The motion shall be noticed for a return date no later than the Court session preceding the session in which argument or submission of the appeal or certified question is scheduled. When an appeal or certified question is scheduled for argument or submission during the Court's January or September session, the motion shall be noticed for a return date no later than the first Monday in December or the first Monday in August, respectively.

Potential amici seeking information are encouraged to contact the Clerk's office by telephone during business hours. Information on the calendar status of appeals and certified questions, Court session dates and appropriate return dates for amicus motions also is available on the Court's Internet web site.

(2) Amicus curiae relief on appeals and certified questions selected for review by the alternative procedure. Movant shall file an original and one copy of its papers, accompanied by an original and two copies of the proposed submission, with proof of service of one copy on each other party. The motion shall be noticed for a return date no later than the filing date set for respondent's submission on the appeal.

(3) Amicus curiae relief on motions for permission to appeal in civil cases. Movant shall file an original and one copy of its papers, accompanied by an original amicus brief, with proof of service of the motion and one copy of the brief on each other party. The motion shall be noticed for a return date as soon as practicable after the return date of the motion for permission to appeal to which it relates. Movant may expressly request that, if amicus relief is granted on the motion for permission to appeal, and if permission to appeal is granted, leave also be granted for movant to submit an amicus brief on the appeal.

Absent such request and the grant of such leave, the granting of a motion to appear amicus curiae on a motion for permission to appeal does not authorize the movant to appear amicus on the subsequent appeal. In such case, a new motion for amicus curiae relief on the appeal must be brought pursuant to subsection (a) (1) or (2) above.

(4) Criteria. Movant shall not present issues not raised before the courts below. A motion for amicus curiae relief shall demonstrate that:

(i) the parties are not capable of a full and adequate presentation and that movants could remedy this deficiency;

(ii) the amicus could identify law or arguments that might otherwise escape the Court's consideration; or

(iii) the proposed amicus curiae brief otherwise would be of assistance to the Court.

(5) Opposing papers. Respondent may file an original and one copy of papers in opposition to the motion, with proof of service of one copy on each other party.

(b) Amicus curiae filings by the Attorney General.

(1) Amicus curiae relief on motions for permission to appeal in civil cases. The Attorney General shall file an original and one copy of the submission with proof of service of one copy on each other party. The submission shall be filed without leave of the Court on or before the return date of the motion for permission to appeal.

(2) Amicus curiae relief on normal course appeals and normal course certified questions. See Rule 500.12(e).

(3) Amicus curiae relief on appeals and certified questions selected for review by the alternative procedure. See Rule 500.11(j).

500.24 Motions for Reargument of Appeals, Motions and Decisions on Certified Questions.

(a) Filing and notice. Movant shall file an original and six copies of its papers, with proof of service of two copies on each other party. An original and one copy of a motion for reargument of a motion may be served and filed if filing of an original and one copy of papers was allowed on the underlying motion pursuant to section 500.21(d)(3) or (g).

(b) Timeliness. Movant shall serve the notice of motion not later than 30 days after the appeal, certified question or motion sought to be reargued has been decided, unless otherwise permitted by the Court.

(c) Content. The motion shall state briefly the ground upon which reargument is sought and the points claimed to have been overlooked or misapprehended by the Court, with proper reference to the particular portions of the record and to the authorities relied upon.

(d) New matters. The motion shall not be based on the assertion for the first time of new arguments or points of law, except for extraordinary and compelling reasons.

(e) Limitation on motions. The Court shall entertain only one motion per party for reargument of a specific appeal, motion or certified question decision.

(f) Opposing papers. Except on those motions described in section 500.21(d)(3), respondent may file an original and six copies of papers in opposition to the motion, with proof of service of two copies on each other party. The opposing papers shall briefly state respondent's argument for dismissal or denial of the motion.

500.25 Emergency Matters; Orders to Show Cause.

A request for emergency relief pending the determination of an appeal or a motion for permission to appeal shall be brought on by order to show cause. The applicant shall contact the clerk's office in advance of the filing. The papers shall be filed as directed by the clerk's office. The order to show cause shall include telephone and facsimile numbers for each attorney and self-represented party, and a statement giving reasons for granting the request. If there is no pending appeal or motion for permission to appeal, the order to show cause shall bring on a motion for leave to appeal or be accompanied by a notice of appeal or a motion for permission to appeal complying with section 500.22 of this Part. There is no fee for filing an order to show cause. If a Judge signs an order to show cause bringing on a motion, movant shall pay the fee, if any, required by section 500.3(b) of this Part.

PRIMARY ELECTION SESSION

500.26 Primary Election Session Procedures.

(a) Appeals as of right or by permission of the Appellate Division.

(1) Appellant shall immediately contact the clerk's office by telephone upon receipt of the order from which the appeal is taken.

(2) Appellant shall immediately orally notify each other party of the appeal.

(3) Within the time directed by the clerk of the Court, appellant shall file:

(i) a copy of the notice of appeal or order granting leave and a preliminary appeal statement with proof of service on each other party;

(ii) 25 copies of appellant's Appellate Division brief and, where applicable, the record or appendix;

(iii) the original file, where applicable, which appellant shall obtain;

(iv) the fee, if any, required by section 500.3(a) of this Part;

(v) an original and 24 copies of a letter setting forth appellant's arguments in this Court with proof of service of one copy on each other party; and

(vi) additional papers, if requested.

(4) Within the time directed by the clerk of the Court, respondent shall submit 25 copies of its Appellate Division brief, and may submit an original and 24 copies of a letter in opposition with proof of service of one copy on each other party.

(b) Motions for permission to appeal.

(1) Movant shall immediately contact the clerk's office by telephone upon receipt of the order from which movant seeks leave to appeal.

(2) Movant shall immediately orally notify each other party of the motion.

(3) Within the time directed by the clerk of the Court, movant shall file:

(i) an original and nine copies of a letter requesting permission to appeal with proof of service of one copy on each other party;

(ii) 10 copies of the Appellate Division decision and order;

(iii) 10 copies of the Supreme Court decision and order;

(iv) 10 copies of movant's Appellate Division brief and, where applicable, the record or appendix;

(v) the original file, where applicable, which movant shall obtain; and

(vi) the fee, if any, required by section 500.3(b) of this Part.

(4) Within the time directed by the clerk of the Court, respondent shall submit 10 copies of its Appellate Division brief, and may submit an original and nine copies of a letter in opposition with proof of service of one copy on each other party.

CERTIFIED QUESTIONS

500.27 Discretionary Proceedings to Review Certified Questions from Federal Courts and Other Courts of Last Resort.

(a) Whenever it appears to the Supreme Court of the United States, any United States Court of Appeals, or a court of last resort of any other state that determinative questions of New York law are involved in a case pending before that court for which no controlling precedent of the Court of Appeals exists, the court may certify the dispositive questions of law to the Court of Appeals.

(b) The certifying court shall prepare a certificate which shall contain the caption of the case, a statement of facts setting forth the nature of the case and the circumstances out of which the questions of New York law arise, and the questions of New York law, not controlled by precedent, that may be determinative, together with a statement as to why the issue should be addressed in the Court of Appeals at this time.

(c) The certificate, certified by the clerk of the certifying court under its official seal, together with the original or a copy of all relevant portions of the record and other papers before the certifying court, as it may direct, shall be filed with the clerk of the Court.

(d) The Court, on its own motion, shall examine the merits presented by the certified question, to determine, first, whether to accept the certification and, second, the review procedure to be followed in determining the merits.

(e) If the certification is accepted, the clerk of the Court shall request any additional papers the Court requires for its review. The clerk of the Court shall notify the parties of the time periods for filing of briefs, if any, and calendaring of argument, if any, directed by the Court.

(f) If the constitutionality of an act of the Legislature of this state is involved in a certification to which the State of New York or one of its agencies is not a party, the clerk of the Court shall notify the Attorney General in accordance with the provisions of Executive Law § 71.

(g) When a determination is rendered by the Court with respect to the questions certified, it shall be sent by the clerk of the Court to the certifying court.

COURT OF APPEALS STATE OF NEW YORK

RULES FOR REVIEW OF DETERMINATIONS

OF THE STATE COMMISSION ON JUDICIAL CONDUCT

(22 NYCRR Part 530)

Part 530

Except as herein expressly prescribed to the contrary, the regular practice rules of the Court of Appeals, part 500 of title 22 of the Official Compilation of Codes, Rules and Regulations of the State of New York, are applicable to judicial proceedings in the Court of Appeals to review determinations of the State Commission on Judicial Conduct.

530.1 Request for Review.

(a) The Commission shall transmit to Court of Appeals Hall in Albany, New York three copies of its written determination, together with its findings of fact and conclusions of law and the record of the proceedings upon which the determination is based, including all record and documentary evidence or materials. Two copies shall be addressed to the Chief Judge; the third copy shall be addressed to the clerk of the Court of Appeals for filing. Upon completion of service upon the respondent Judge or Justice of the copy required to be served by the Chief Judge, the clerk's copy shall be available for public inspection at the office of the clerk at Court of Appeals Hall in Albany.

(b) A timely written request to the Chief Judge for review by the Court of Appeals, in accordance with Judiciary Law section 44 (7), shall commence the proceeding for review of the determination of the State Commission on Judicial Conduct. Respondent in a Commission proceeding shall be denominated the petitioner in the Court of Appeals and the Commission shall be denominated the respondent in the Court of Appeals. Petitioner's written request of the Chief Judge shall be transmitted, by personal delivery or certified mail, to the chambers of the Chief Judge at Court of Appeals Hall, Albany, New York 12207-1095, with copies addressed to the clerk of the Court of Appeals for filing and to the Commission.

530.2 Petitioner's Papers - Content and Time for Filing.

No preliminary appeal statement (Rules of Practice section 500.9) shall be filed. Petitioner shall file the papers for review within thirty days after the date of petitioner's written request for review by the Court of Appeals. Three copies shall be served on the Commission. Papers for review to be filed with the Court shall consist of an original and 24 copies of petitioner's brief and an original and 24 copies of the record for review consisting of, at least, all complaints, whether formal or informal or merely initiatory, except that petitioner or the Commission may move, in accordance with section 530.7 of this Part, to exclude irrelevant initiatory material; any answer or other pleading or an agreed statement of facts; and the written determination, findings and conclusions and record of proceedings upon which the determination is based, including all record and documentary evidence or material before the Commission in the making of its determination. Counsel may stipulate to the record in accordance with the procedure set forth in CPLR 5532, or the record may be certified in accordance with CPLR 2105. Original exhibits may be submitted to the Court of Appeals, upon appropriate stipulation of counsel, without duplication.

Petitioner may serve and file an original and 24 copies of a reply brief within 15 days after service of respondent Commission's brief.

530.3 Appendix Method.

No appendix in lieu of the record for review shall be authorized except by express permission of the Court on motion in accordance with section 530.7 (a) of this Part.

530.4 Service and Filing of Respondent's Brief and Appendix.

Within 30 days after the service of petitioner's papers, respondent Commission shall file with the clerk an original and 24 copies, and shall serve on petitioner three copies of respondent's brief. At the time respondent Commission's brief is filed, respondent may file an original and 24 copies, with proof of service of three copies upon petitioner, of an appendix of record materials not contained in the record filed by petitioner.

530.5 Calendar.

Review by the Court of Appeals of a determination of the Commission shall be scheduled for oral argument at the earliest calendar session next after the filing date for petitioner's reply brief, unless otherwise directed by the Court.

530.6 Extensions of Time; Failure to Proceed or File Papers.

(a) Extensions. The clerk of the Court is authorized to grant, for good cause shown, a reasonable extension of time for filing papers on a review. A request for an extension may be by telephone call to the clerk's office. The party requesting an extension shall advise the clerk of the Court of the position of each other party with regard to the request. A party granted an extension shall file a confirmation letter, with proof of service of one copy on each other party, unless the clerk's office has notified all parties in writing of the determination of the request.

(b) Dismissal. If petitioner has not timely filed and served the papers required by section 530.2 of this Part, the clerk of the Court shall enter an order dismissing the review.

(c) Preclusion. If respondent Commission has not timely filed and served the papers required by section 530.4 of this Part, the clerk of the Court shall enter an order precluding respondent Commission's filing.

(d) Judicial review. A party may seek judicial review of dismissal and preclusion orders entered pursuant to subsections (b) and (c) above by motion on notice in accordance with section 530.7 of this Part.

530.7 Motions.

(a) A motion addressed to the Court may be made on eight days' notice (personal service), nine days' notice (overnight delivery service) or 13 days' notice (service by mail). Motions are returnable at Court of Appeals Hall in Albany every Monday whether or not the Court is in session, unless otherwise directed by order to show cause or by stipulation so ordered by a Judge of the Court. Motions to dispense with rule requirements or to review determinations of the clerk may be made on a single set of the moving papers with proof of service of one copy. Motions for suspension in accordance with New York State Constitution, article 6, section 22, subdivisions (e), (f) or (g), shall be made on an original and six copies of a brief or moving papers unless the Court acts sua sponte on such notice to counsel and with such directions for filings as it may deem appropriate. Oral argument will not be heard unless the Court expressly grants permission upon a written request showing need.

(b) Reargument. A motion for reargument shall be made without oral argument, on an original and six copies of papers which shall state briefly the ground upon which reargument is asked and the points claimed to have been overlooked or misapprehended by the Court, with proper reference to the particular portions of the record and to the authorities relied upon. Such motion may not be based on the assertion for the first time of new points except for extraordinary and compelling reasons. Unless otherwise permitted by the Court, the motion shall be served not later than 30 days after the Court has rendered its judgment or order. Two copies of the motion shall be served on the adverse party.

(c) Amicus curiae relief Movant shall file an original and one copy of its motion papers, accompanied by an original amicus brief, with proof of service of one copy of the motion and one copy of the brief on each other party. If the motion is granted, 24 copies of the brief shall be filed, with proof of service of two copies on each party, within the time set by the Court's order. The motion shall be noticed for a return date no later than the Court session preceding the session in which argument or submission of the request for review is scheduled. When the request for review is scheduled for argument or submission during

the Court's January or September session, the motion shall be noticed for a return date no later than the first Monday in December or the first Monday in August, respectively. A motion for amicus curiae relief shall demonstrate that:

(i) the parties are not capable of full and adequate presentation and that the movant could remedy this deficiency;

(ii) the movant could identify law or arguments that might otherwise escape the Court's consideration; or

(iii) the proposed amicus curiae brief otherwise would be of assistance to the Court.

Potential amici seeking information are encouraged to contact the Clerk's office by telephone during business hours. Information on the calendar status of requests for review, Court session dates and appropriate return dates for amicus motions also is available on the Court's Internet web site.

(d) With respect to all motions provided for under subdivisions (a), (b) and (c), answering papers or briefs shall be served and filed on or before the return date of the motion unless otherwise directed by the Court.

530.8 Order of the Court.

The order of the Court, together with the record filed with the Court, shall be entered and filed in the office of the clerk at Court of Appeals Hall in Albany.

530.9 Withdrawal of Request for Review.

(a) Before argument or submission, a review shall be marked withdrawn upon receipt by the clerk of the Court of a stipulation of withdrawal signed by counsel for all parties and by petitioner Judge or Justice personally.

(b) After argument or submission, a request to withdraw a review shall be supported by a stipulation of withdrawal signed by counsel for all parties and by petitioner Judge or Justice personally. The request shall be submitted to the Court for determination.