

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ORDER AMENDING RULES 7, 9, §
20, 26, 26.1, and 93 OF THE §
RULES OF THE SUPREME §
COURT OF DELAWARE §

Before **SEITZ**, Chief Justice, **VALIHURA**, **VAUGHN**, **TRAYNOR**, and
MONTGOMERY-REEVES, Justices, constituting the Court *en banc*.

ORDER

This 14th day of June 2021, it appears to the Court that it is desirable to amend Supreme Court Rules 7, 9, 20, 26, 26.1, and 93. These amendments are effective July 6, 2021.

(1) Supreme Court Rule 7(d) is amended to add the underlined text and to delete the strikethrough text:

(d) *Use of pseudonyms.* All appeals concerning domestic relations and juvenile delinquency proceedings matters shall be captioned and reported with the full names of the individual parties, except that the following shall be captioned and reported by use of appropriate pseudonyms selected by the Court: ~~matters concerning adoption, termination of parental rights, child custody and visitations, juvenile delinquency proceedings and any other domestic relations matters, which in the discretion of the trial court, a lower appellate court or this Court, are deemed to be of a sensitive nature. In such cases, the parties shall, within 10 days of the filing of the notice of appeal submit to the Court for its approval a stipulation providing for the use of pseudonyms, which sets forth and is consistent with the pseudonyms used in the court below or, in the absence of a stipulation, the Court may order the use of pseudonyms sua sponte.~~ The Court may also assign pseudonyms to non-parties named in its orders and opinions when, in the Court's discretion, it is appropriate to protect the identity of the non-party. Any party to an appeal in which a pseudonym is assigned may move the Court to revoke the assignment, but any such motion will be granted only for good cause shown.

(2) Supreme Court Rule 9(bb) is amended to add the underlined text and to delete the strikethrough text:

(bb) *Sealing of court records.* In any appeal except from Family Court, any document or other part of the record ~~which~~that has been sealed by order of the trial court or submitted to the arbitrator as confidential shall remain sealed unless this Court, for good cause shown upon application by any person, shall authorize the unsealing of such document or record. In appeals originating in the Family Court, the record and documents filed with the Clerk of this Court and all proceedings shall remain confidential unless otherwise ordered by the Court, sua sponte, or for good cause shown upon application by a party. Any motion to challenge the confidential treatment of any document or record in this Court shall be governed by the procedures set forth in Rule 30. The Court may, in its discretion, direct the trial court to rule on any such motion. After the filing of any brief under seal, in any appeal except from Family Court, one original and one copy of a redacted brief should be filed with the Court within 15 days.

(3) Supreme Court Rule 20(f) is amended to add the underlined text:

(f) *Frivolous appeals.* The Court may in any case involving a frivolous appeal, enter a special order assessing costs in addition to those provided for by paragraph (d) as justice may require. Such additional costs may, in the discretion of the Court, include the costs incurred in the preparation and transmission of the record, the cost of the transcript and the reasonable expenses of any appellee. An appellee that wishes to recover costs and reasonable expenses, including attorneys' fees, under this rule must file a motion that conforms with the requirements of Rule 30 by the deadline for the filing of the reply brief. Rule 30 governs the form, contents, and timing of the response and reply to the motion.

(4) Supreme Court Rule 26 is amended to include a new letter (j) and to re-letter the remaining provisions as set forth below:

(j) *Timing of fee applications.* All fee applications should be submitted within 90 days after issuance of the mandate.

(~~k~~j) *Appeals in habeas corpus*. The foregoing procedures shall be applicable in an appeal from a denial of a petition for writ of habeas corpus filed by any indigent appellant.

(~~l~~k) Appeals in violation of probation proceedings. Notwithstanding the provisions of Rule 26(a), the defense attorney of record in the proceedings in which the client has been found in violation of probation satisfies the continuing obligation of and representation by counsel when the defense attorney advises the client, in writing:

(i) of any right to appeal;

(ii) whether the defense attorney will continue representation on appeal;
and

(iii) that, if the client wants to pursue an appeal without representation, the client must file, in the office of the Clerk of this Court, a notice of appeal within 30 days after a sentence from the violation of probation is imposed.

The defense attorney's advice to the client shall be made part of the record at the violation of probation proceedings.

(5) Supreme Court Rule 26.1 is amended to include a new letter (i) as set

forth below:

(i) *Timing of fee applications*. All fee applications should be submitted within 90 days after issuance of the mandate.

(6) Supreme Court Rule 93 is amended to add the underlined text and to

delete the strikethrough text:

Permanent Advisory Committee on Supreme Court Rules, ~~Rules of Civil and Criminal Procedure~~, and Rules of Evidence.

(a) A permanent Advisory Committee on Supreme Court Rules, ~~Rules of Civil Procedure~~, and Rules of Evidence is hereby established. The Committee shall be known as the "Supreme Court Rules Committee."

(b) It shall consist of members of the Bar who shall be appointed by the Court for such terms as the Court shall determine. One of the members shall be designated as Chair.

(c) The Committee's duties shall include:

- (i) Monitoring the Supreme Court Rules, considering changes where appropriate, considering and drafting changes suggested by the Committee and the Court, receiving and considering comments from members of the Bar, Bench, and public regarding possible improvements to the Rules;
- (ii) Establishing a subcommittee to monitor the Delaware Uniform Rules of Evidence, ~~the various trial courts' Rules of Civil and Criminal Procedure, consult with the rules committees of the trial courts in an effort to ensure the efficiency, fairness, and consistency of these rules, ensure that any court-specific differences are justified,~~ to consider any changes to analogous federal rules of evidence and procedure and ensure timely consideration of whether Delaware's comparable rules should be amended to incorporate those changes, and to receive and consider comments from members of the Bar, Bench and public regarding these topics. This subcommittee shall be called the "Evidence Rules of Trial Procedure Advisory Subcommittee," ~~or, the "Trial Procedures Subcommittee" for short.~~ The Chairs of the subcommittee shall be determined by the Chair of the Committee, in consultation with the Chief Justice.
- (iii) Making recommendations and performing such other duties as the Court and Chief Justice find helpful in fulfilling their responsibilities under § 13 of Article 4 of the Delaware Constitution.
- (iv) Making recommendations to the Court concerning the rules and practices of trial courts.

(d) The Chair of the Rules Committee may appoint ad hoc members of the Committee in consultation with the Court, for specific purposes when that will aid the accomplishment of the Committee's duties. ~~In particular, the Chair shall, in consultation with the Court, ensure that the Trial Procedures Subcommittee coordinates with the trial courts and their rules committees to accomplish the purposes set forth in this Rule.~~

(7) The Clerk of this Court is directed to transmit a certified copy of the

Order to the clerk for each trial court in each county.

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Chief Justice