

VIRGINIA:

*In the Supreme Court of Virginia held at the Supreme Court Building in the
City of Richmond on* Friday *the* 16th *day of* May, 2014.

It is ordered that the Rules heretofore adopted and promulgated by this Court and now in effect be and they hereby are amended to become effective immediately.

Amend Rule 5:1A to read as follows:

Rule 5:1A. Penalties for Non-compliance; Show Cause; Dismissal.

(a) *Penalties; Show Cause; Dismissal.* -- This Court may dismiss an appeal or impose such other penalty as it deems appropriate for non-compliance with these Rules. Except as provided in Rule 5:17(c)(1)(i) and (iii), regarding assignments of error, prior to the dismissal of an appeal for any defect in the filings related to formatting, curable failure to comply with other requirements, or the failure to meet non-mandatory filing deadlines, this Court may issue a show cause order to counsel or a party not represented by an attorney, prescribing a time in which to cure such defect or to otherwise show cause why the appeal should not be dismissed or other penalty imposed.

(b) *Report to Virginia State Bar.* -- If an attorney's failure to comply with these Rules results in the dismissal of an appeal, this Court may report the attorney to the Virginia State Bar in accordance with Rule 8.3 of the Virginia Rules of Professional Conduct.

Amend Rule 5:17 to read as follows:

Rule 5:17. Petition for Appeal.

* * *

(c) *What the Petition Must Contain.*-- A petition for appeal must contain the following:

(1) Assignments of Error. Under a heading entitled "Assignments of Error," the petition shall list, clearly and concisely and without extraneous argument, the specific errors in the rulings below upon which the party intends to rely. An exact reference to the page(s) of the transcript, written statement of facts, or record where the alleged error has been preserved in the trial court or other tribunal from which the appeal is taken shall be included with each assignment of error but is not part of the assignment of error.

(i) Effect of Failure to Assign Error. Only assignments of error assigned in the petition for appeal will be noticed by this Court. If the petition for appeal does not contain assignments of error, the petition shall be dismissed.

(ii) Nature of Assignments of Error in Appeals from the Court of Appeals. When appeal is taken from a judgment of the Court of Appeals, only assignments of error relating to assignments of error presented in, and to actions taken by, the Court of Appeals may be included in the petition for appeal to this Court.

(iii) Insufficient Assignments of Error. An assignment of error that does not address the findings or rulings in the trial court or other tribunal from which an appeal is taken, or which merely states that the judgment or award is contrary to the law and the evidence, is not sufficient. An assignment of error in an appeal from the Court of Appeals to the Supreme Court which recites that "the trial court erred" and specifies

the errors in the trial court, will be sufficient so long as the Court of Appeals ruled upon the specific merits of the alleged trial court error and the error assigned in this Court is identical to that assigned in the Court of Appeals. If the assignments of error are insufficient, the petition for appeal shall be dismissed.

(iv) Effect of Failure to Use Separate Heading or Include Preservation Reference. If the petition for appeal contains assignments of error, but the assignments of error are not set forth under a separate heading as provided in subparagraph (c)(1) of this Rule, a rule to show cause will issue pursuant to Rule 5:1A. If there is a deficiency in the reference to the page(s) of the transcript, written statement of facts, or record where the alleged error has been preserved in the trial court or other tribunal from which the appeal is taken, a rule to show cause will issue pursuant to Rule 5:1A.

(2) Required Statements When the Appeal is from the Court of Appeals.

When appeal is taken from a judgment of the Court of Appeals in a case in which judgment is made final under Code § 17.1-410, the petition for appeal shall contain a statement setting forth in what respect the decision of the Court of Appeals involves the following:

(i) a substantial constitutional question as a determinative issue, or

(ii) matters of significant precedential value.

If the petition for appeal does not contain such a statement, the appeal will be dismissed.

(3) Table of Contents and Table of Authorities. A table of contents and table of authorities with cases alphabetically

arranged. Citations of all authorities shall include the year thereof.

(4) Nature of the Case and Material Proceedings Below. A brief statement of the nature of the case and of the material proceedings in the trial court or commission in which the case originated. This statement shall omit references to any paper filed or action taken that does not relate to the assignments of error.

(5) Statement of Facts. A clear and concise statement of the facts that relate to the assignments of error, with references to the pages of the record, transcript, or written statement of facts. Any quotation from the record should be brief. When the facts are in dispute, the petition shall so state. The testimony of individual witnesses should not be summarized seriatim unless the facts are in dispute and such a summary is necessary to support the appellant's version of the facts.

(6) Authorities and Argument. With respect to each assignment of error, the standard of review and the argument -- including principles of law and the authorities -- shall be stated in one place and not scattered through the petition. At the option of counsel, the argument may be preceded by a short summary.

(7) Conclusion. A short conclusion stating the precise relief sought.

* * *

Add Rule 5A:1A to read as follows:

Rule 5A:1A. Penalties for Non-compliance; Show Cause; Dismissal.

(a) Penalties; Show Cause; Dismissal. This Court may dismiss an appeal or impose such other penalty as it deems appropriate for

non-compliance with these Rules. Except as provided in Rule 5A:12(c)(1)(i) and (ii) regarding assignments of error, prior to the dismissal of an appeal for any defect in the filings related to formatting, curable failure to comply with other requirements, or the failure to meet non-mandatory filing deadlines, this Court may issue a show cause order to counsel or a party not represented by an attorney, prescribing a time in which to cure such defect or to otherwise show cause why the appeal should not be dismissed or other penalty imposed.

(b) Report to Virginia State Bar. If an attorney's failure to comply with these Rules results in the dismissal of an appeal, this Court may report the attorney to the Virginia State Bar in accordance with Rule 8.3 of the Virginia Rules of Professional Conduct.

Amend Rule 5A:12 to read as follows:

Rule 5A:12. Petition for Appeal.

* * *

(c) What the Petition Must Contain. -- A petition for appeal must contain the following:

(1) Assignments of Error. Under a heading entitled "Assignments of Error," the petition shall list, clearly and concisely and without extraneous argument, the specific errors in the rulings below upon which the party intends to rely. An exact reference to the page(s) of the transcript, written statement of facts, or record where the alleged error has been preserved in the trial court or other tribunal from which the appeal is taken shall be included with each assignment of error but is not part of the assignment of error.

(i) Effect of Failure to Assign Error. Only assignments of error assigned in the petition for appeal

will be noticed by this Court. If the petition for appeal does not contain assignments of error, the petition shall be dismissed.

(ii) Insufficient Assignments of Error. An assignment of error which does not address the findings or rulings in the trial court or other tribunal from which an appeal is taken, or which merely states that the judgment or award is contrary to the law and the evidence, is not sufficient. If the assignments of error are insufficient, the petition for appeal shall be dismissed.

(iii) Effect of Failure to Use Separate Heading or Include Preservation Reference. If the petition for appeal contains assignments of error, but the assignments of error are not set forth under a separate heading as provided in subparagraph (c)(1) of this Rule, a rule to show cause will issue pursuant to Rule 5A:1A. If there is a deficiency in the reference to the page(s) of the transcript, written statement of facts, or record where the alleged error has been preserved in the trial court or other tribunal from which the appeal is taken, a rule to show cause will issue pursuant to Rule 5A:1A.

(2) Table of Contents and Table of Authorities. A table of contents and table of authorities with cases alphabetically arranged. Citations of all authorities shall include the year thereof.

(3) Nature of the Case and Material Proceedings Below. A brief statement of the nature of the case and of the material proceedings in the trial court or commission in which the case originated. This statement shall omit references to any paper filed or action taken that does not relate to the assignments

of error.

(4) Statement of Facts. A clear and concise statement of the facts that relate to the assignments of error, with references to the pages of the record, transcript, or written statement of facts. Any quotation from the record should be brief. When the facts are in dispute, the petition shall so state. The testimony of individual witnesses should not be summarized seriatim unless the facts are in dispute and such a summary is necessary to support the appellant's version of the facts.

(5) Authorities and Argument. With respect to each assignment of error, the standard of review and the argument - including principles of law and the authorities -- shall be stated in one place and not scattered through the petition. At the option of counsel, the argument may be preceded by a short summary.

(6) Conclusion. A short conclusion stating the precise relief sought.

(7) Contact Information. The signature of at least one counsel, counsel's name, Virginia State Bar number, mailing address, telephone number, facsimile number (if any), and email address (if any).

(8) Certificate. A certificate stating the date of mailing or delivery of the petition to opposing counsel and whether or not the appellant desires to state orally the reasons why the petition for appeal should be granted.

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A Copy,

Teste:

Pat L. Hamings

Clerk