

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

ADM 2002-1224.1

The Appellate Division of the Supreme Court of the State of New York, Second Judicial Department, pursuant to the authority vested in it,

DOES HEREBY, effective January 1, 2003, amend Part 670 of Title 22 of the Official Compilation of Codes, Rules and Regulations of the State of New York as follows (additions in text are indicated by underlining and deletions by ~~striketrough~~):

I. Amend the Table of Contents as follows:

Table of Contents

\* \* \* \* \*

§ 670.4 ~~Civil Appeals~~ Management Program ~~of Causes~~

II. Amend the caption of § 670.4, enact a new subdivision (a) thereof, and redesignate former subdivisions (a) and (b) to be paragraphs (1) and (2) of subdivision (b), as follows:

§ 670.4 ~~Civil Appeals~~ Management Program ~~of Causes~~

(a) Active Management.

- (1) The court may, in the exercise of discretion, direct that the prosecution of any cause or class of causes be actively managed.
- (2) The clerk shall issue a scheduling order or orders directing the parties to a cause assigned to the active management program to take specified action to expedite the prosecution thereof, including but not limited to the ordering of the transcript of the proceedings and the filing of proof of payment therefor, the making of motions, the perfection of the cause, and the filing of briefs. Notwithstanding any of the time limitations set forth in this part, a scheduling order shall set forth the date or dates on or before which such specified action shall be taken.
- (3) If any party shall establish good cause why there cannot be compliance with the provisions of a scheduling order, the clerk may amend the same consistent with the objective of insuring expedited prosecution of the cause. An application to amend a scheduling order shall be made by letter, addressed to the clerk, with a copy to the other parties to the cause. The determination of the clerk in amending or declining to amend a scheduling order shall be reviewable by motion to the court on notice pursuant to section 670.5 of this Part.

(4) No filing directed by a scheduling order shall be permitted after the time to do so has expired unless the order is amended in accordance with paragraph (3) of subdivision (a) of this section.

(5) Upon the default of any party in complying with the provisions of a scheduling order, the clerk shall issue an order to show cause, on seven days notice, why the cause should not be dismissed or such other sanction be imposed as the court may deem appropriate.

(b) *Civil Appeals Management Program.*

~~(a)~~(1) The court, in those cases in which it deems it appropriate, will issue a notice-directing the attorneys for the parties and/or the parties themselves to attend a pre-argument conference before a designated Justice of this court or such other person as it may designate, to consider the possibility of settlement, the limitation of the issues, and any other matters which the designated Justice or other person determines may aid in the disposition of the appeal or proceeding.

~~(b)~~(2) Any attorney or party who, without good cause shown, fails to appear for a regularly scheduled pre-argument conference, or who fails to comply with the terms of a stipulation or order entered following a pre-argument conference, shall be subject to the imposition of such costs and/or sanctions as the court may direct.

**III.** Repeal subdivision (d) of § 670.8 and adopt a new subdivision (d) of that section, as follows:

§ 670.8 Placing Civil or Criminal Causes on Calendar; Time Limits for Filing.

\* \* \* \* \*

(d) *Enlargements of Time.* Except where a scheduling order has been issued pursuant to section 670.4(a)(2) of this Part or where the court has directed that a cause be perfected or that a brief be served and filed by a date certain, an enlargement of time to perfect or to serve and file a brief may be obtained as follows:

(1) *By Stipulation.* The parties may stipulate to enlarge the time to perfect a cause by up to 60 days, to file an answering brief by up to 30 days, and to file a reply brief by up to 10 days. Not more than one such stipulation per perfection or filing shall be permitted. Such a stipulation shall not be effective unless so ordered by the clerk.

(2) *For Cause.* Where a party shall establish a reasonable ground why there cannot or could not be compliance with the time limits prescribed by this section, or such time limits as extended by stipulation pursuant to paragraph (1) of this subdivision, the clerk or a Justice may grant reasonable enlargements of time to comply. An application pursuant to this paragraph shall be made by letter, addressed to the clerk, with a copy to the other parties to the cause. Orders made pursuant to this paragraph shall be reviewable by motion to the court on notice pursuant to section 670.5 of this Part.

IV. Amend clauses (vii) and (viii) of paragraph (4) of subdivision (d) of § 670.9, and adopt a new clause (ix) of paragraph (4) of subdivision (d) of that section, as follows:

§ 670.9 Alternate Methods of Prosecuting Appeals

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(d) Original Record

(l) The following appeals may be prosecuted upon the original record, including a properly settled transcript of the trial or hearing, if any:

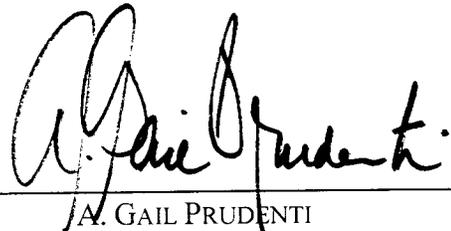
\* \* \* \* \*

(vii) appeals where permission to proceed upon the original record has been authorized by order of this court; ~~and~~

(viii) appeals in criminal causes; and

(ix) appeals under Correction Law §§ 168-d(3) and 168-n(3).

Dated: Brooklyn, New York  
December 24, 2002



A. GAIL PRUDENTI  
Presiding Justice