

APPELLATE DIVISION GUIDELINES
FOR
CAPTIONS AND
ATTORNEY APPEARANCE SECTIONS
IN
MEMOS AND OPINIONS

October 2007

PREFACE

The following guidelines are designed to promote uniformity in work product among the staff of the Appellate Division. They are divided into two sections: the CAPTION GUIDELINES, which pertain to the caption itself; and the ATTORNEY APPEARANCE GUIDELINES, which pertain to the attorney appearance section of a memo or opinion.

The guidelines are not exhaustive, but they do provide a basis with which to answer common captioning questions. They generally take precedence over the captions that have been submitted by the parties. Occasionally the writer of an opinion or memo will have a good reason for not adhering to these guidelines. They are not inflexible strictures to be applied in the face of supervening logic and common sense. They should, however, be used when appropriate. Also, they are meant to be consistent with The Bluebook, the Manual on Style for Judicial Opinions, and any pertinent court rules. These sources may contain helpful information for addressing situations not dealt with here, especially Section 1 of the Manual on Style for Judicial Opinions, which sets forth general rules on opinion form.

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PART ONE:
CAPTION GUIDELINES

C1: PARTY DESIGNATIONS USED IN THE LOWER COURT OR AGENCY

Include the trial court or agency designation, if any, used below for every party named in the caption. Almost always, this designation will be "plaintiff" or "defendant" (see Example #1), but in some cases it will be "petitioner" or "respondent" (see Example #2). In some administrative appeals, the party who initiates the hearing procedure is called an "appellant" at the agency level (see Example #3).

See Guideline C2 where there is no party designation below.

Example #1:

THE PRUDENTIAL INSURANCE COMPANY
OF AMERICA,

Plaintiff-Appellant,

v.

XONU INTERCONTINENTAL INDUSTRIES,
a Maine Corporation,

Defendant-Respondent.

Example #2:

LINDA FRANKS,

Petitioner-Respondent,

v.

NEW JERSEY HORSE RACING INJURY
COMPENSATION BOARD,

Respondent-Appellant.

EXAMPLE #3:

ROBERT MILLER,

Appellant-Respondent,

v.

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Respondent-Appellant.

C2: NO PARTY DESIGNATIONS USED IN THE LOWER COURT OR AGENCY OR ON APPEAL

If the trial court or agency caption does not show any party designations, do not change the caption on appeal. However, in such a case, you must clearly identify the appellant and respondent in the attorney appearance section (see Part Two: Attorney Appearance Guidelines).

EXAMPLE #1 (agency appeal):

IN THE MATTER OF FARMERS MUTUAL
FIRE ASSURANCE ASSOCIATION OF
NEW JERSEY.

EXAMPLE #2 (appeal from commitment of sexually violent predator):

IN THE MATTER OF THE CIVIL
COMMITMENT OF X.Y.Z. SVP 173-00.

EXAMPLE #3 (appeal from adjudication of juvenile delinquency):

STATE OF NEW JERSEY IN THE
INTEREST OF A.J.K., a minor.

C3: SPECIAL CAPTIONS IN CERTAIN AGENCY APPEALS; APPELLATE DESIGNATIONS ONLY

In some agency appeals, such as from the Board of Review (see Example #'s 1 and 2) or the Department of Corrections (see Example #3), the caption on appeal will reflect only the appellate designations of the parties.

Note for Board of Review Appeals: Even if the case below was captioned "In the Matter of Alice Smith," where Alice Smith is the employee, the caption on appeal will show an appellant (either the employee or employer) and two respondents. If the employee is the appellant, both the employer and the Board of Review should be shown as respondents, even if the employer does not participate in the appeal (see Example #1). If the employer is the appellant, both the Board of Review and the employee should be shown as respondents (see Example #2).

EXAMPLE #1 (employee appealing from Board of Review decision):

ALICE SMITH,

Appellant,

v.

BOARD OF REVIEW,
and ABC CORPORATION,

Respondents.

EXAMPLE #2 (employer appealing from Board of Review decision):

ABC CORPORATION,
Appellant,

v.

BOARD OF REVIEW and
ALICE SMITH,

Respondents.

EXAMPLE #3 (appeal from Department of Corrections):

ROBERT ALLEN,

Appellant,

v.

NEW JERSEY DEPARTMENT
OF CORRECTIONS,

Respondent.

C4: USE OF SPLIT CAPTIONS

If the party who is appealing is not named in the lower court or agency, such as an attorney who is appealing from a contempt citation or fee award (see Example #1), or a party who has been denied intervenor status below (see Example #2), that party may be added to the caption on appeal but should be separated from the other parties by a solid line.

Note for DYFS proceedings: The top half of the dual caption should read "DYFS v. the Child's Parents," and the bottom half should read "In the Matter of the Guardianship of the Child" (for termination of parental rights cases) (see Example #3) or "In the Matter of the Child" (for abuse and neglect cases) (see Example #4).

EXAMPLE #1 (attorney appealing from contempt order or fee award):

DAVID L. KERMIT,

Plaintiff-Respondent,

v.

ABC SANITARY SERVICES, INC.,

Defendant-Respondent.

IN THE MATTER OF THOMAS HALE, ESQ.,

Appellant.

EXAMPLE #2 (person appealing from denial of intervenor status)

DONALD SNIDER,

Plaintiff-Respondent,

v.

JOHN JACKSON,

Defendant-Respondent.

HELEN MILLER,

Appellant.

EXAMPLE #3 (appeal from termination of parental rights):

NEW JERSEY DIVISION OF YOUTH
AND FAMILY SERVICES,

Plaintiff-Respondent,

v.

M.S. and J.S.,

Defendants-Appellants.

IN THE MATTER OF THE GUARDIANSHIP
OF A.K.S., a minor.

EXAMPLE #4 (appeal from child abuse or neglect proceeding):

NEW JERSEY DIVISION OF YOUTH
AND FAMILY SERVICES,

Plaintiff-Respondent,

v.

M.S. and J.S.,

Defendants-Appellants.

IN THE MATTER OF A.K.S., a minor.

C5: WHEN A PARTY SHOULD BE DESIGNATED A RESPONDENT ON APPEAL

As long as they make no appearance on appeal, the following parties should be included in the caption without appellate designations (that is, not designated as respondents), even if they have been served with a notice of appeal.

- Parties who defaulted below.
- Parties who were never served below.
- Parties who never made an appearance in the action below.
- Parties who were let out of the case prior to entry of final judgment by settlement, withdrawal, or dismissal.

Parties who do not fit into the above categories and who are served with a notice of appeal should be designated as respondents even if they do not file appellate briefs.

EXAMPLE: The plaintiff sued three defendants. The caption below read "John L. Smith v. Ann Adams, Betty Baker, and Carol Collins." The plaintiff lost at trial and is appealing from a judgment entered in favor of Adams. Baker was never served with the complaint, and Collins settled with the plaintiff. The caption on appeal should read as follows.

JOHN L. SMITH,

Plaintiff-Appellant,

v.

ANN ADAMS,

Defendant-Respondent,

and

BETTY BAKER and CAROL COLLINS,

Defendants.

C6: ORDER OF PARTIES

Even if the lead plaintiff or lead defendant is not involved in the appeal, i.e., neither a respondent nor an appellant, that party still stays "first in line." In other words, once first always first. All other parties who share exactly the same designation as that lead plaintiff or lead defendant should be grouped with that party. The same principle should be followed for the remainder of the parties.

COMMENT: This means that the appellant should not automatically be made the lead plaintiff or lead defendant. This procedure is advisable because of the manner in which the clerk's office enters the name of the case in ACMS. Also, this procedure will preserve the general rule followed in New Jersey that the order of the caption does not change during the course of appellate proceedings. See R. 2:5-1(f) and Appendix IV (title of a matter on appeal is to be "as captioned below").

EXAMPLE: The plaintiff sued five defendants. The caption below read "John L. Smith v. Ann Adams, Betty Baker, Carol Collins, Debbie Dunn and Ellen Eckert." Adams, Collins, and Eckert settled with the plaintiff and are not involved in the appeal. Baker settled with the plaintiff but prevailed on a cross-claim against Dunn. Dunn lost at trial and is appealing from the judgment in the plaintiff's favor and from Baker's cross-claim against her. The caption on appeal should read as follows.

JOHN L. SMITH,

Plaintiff-Respondent,

v.

ANN ADAMS, CAROL COLLINS, and
ELLEN ECKERT,

Defendants,

and

BETTY BAKER,

Defendant-Respondent,

and

DEBBIE DUNN,

Defendant-Appellant.

C7: CLOSELY RELATED OR AFFILIATED PARTIES

Where one attorney represents closely related or affiliated parties (e.g., a closely held corporation and the individual owners), all the parties who join in the filing of the notice of appeal should be listed as appellants, even though the interests of some of the parties may not have been affected by the final judgment and even though the cover of the brief may indicate that it is being submitted only on behalf of those whose interests were actually affected.

C8: USE OF "ET AL."

Do not use "et al." or "etc." to indicate multiple parties. All parties must be identified by name.

C9: FICTITIOUS PARTIES

Fictitious defendants ("John Does") may be eliminated from the caption.

C10: MULTIPLE CRIMINAL DEFENDANTS

In criminal cases, even though two or more defendants may have been indicted or tried together, the caption on appeal should name only the defendant who is the subject of that appeal.

C11: INTERVENORS BELOW

Parties who intervened below should be included in the caption as plaintiff/intervenor or defendant/intervenor, and should ordinarily have an appellate designation as well. See generally R. 4:33-1, -2, -3. For parties who are appealing from the denial of intervenor status below, see Guideline C4.

EXAMPLE:

JOHN L. SMITH,

Plaintiff-Appellant,

v.

MARY J. JONES,

Defendant,

and

SANSONE, INC.,

Defendant/Intervenor-
Respondent.

C12: INTERVENORS ON APPEAL

Although parties who intervene on appeal should be included and clearly identified in the attorney appearance section, they should not ordinarily be included in the caption. If, however, they are included in the caption, they should be separated from the other parties by a solid line. See generally R. 4:33-1, -2, -3. For parties who are appealing from the denial of intervenor status below, see Guideline C4.

EXAMPLE:

JOHN L. SMITH,

Plaintiff-Appellant,

v.

MARY J. JONES,

Defendant-Respondent.

SANSONE, INC.,

Intervenor-Respondent.

C13: AMICI CURIAE

Parties admitted as amici curiae, either at trial or on appeal, should not be included in the caption. However, they should be included in the attorney appearance section if they file briefs. (see Guideline A22). See generally R. 1:13-9.

C14: THIRD-PARTY COMPLAINTS, COUNTERCLAIMS, AND CROSS-CLAIMS

If a third-party complaint was filed, the caption must reflect third-party designations (see Example #1). If, after a third-party complaint was filed, the plaintiff amended its complaint to name any of the third-party defendants as direct defendants, that should also be reflected in the caption (see Example #2).

Do not show counterclaims and cross-claims.

EXAMPLE #1:

DENNIS DUCHAI,

Plaintiff-Appellant,

v.

LAKEVIEW CUSTOM COACH,
JEFF BROWN, and PETE'S
SERVICE CENTER,

Defendants-Respondents,

and

J.R. CORELLI ASSOCIATES, INC.,

Defendant/Third-Party
Plaintiff-Respondent,

v.

TILDEN COMMERCIAL ALLIANCE, INC.,
and TRW INFORMATION SERVICES,

Third-Party Defendants.

EXAMPLE #2 (third-party defendant [Tilden] also named as direct defendant):

DENNIS DUCHAI,

Plaintiff-Appellant,

v.

LAKEVIEW CUSTOM COACH,
JEFF BROWN, PETE'S SERVICE
CENTER, and TILDEN
COMMERCIAL ALLIANCE, INC.,

Defendants-Respondents,

and

J.R. CORELLI ASSOCIATES, INC.,

Defendant/Third-Party
Plaintiff-Respondent,

v.

TILDEN COMMERCIAL ALLIANCE, INC.,
and TRW INFORMATION SERVICES,

Third-Party Defendants.

C15: CROSS-APPEALS

If a cross-appeal has been filed, the caption must reflect cross-appellant and cross-respondent designations (see Example below).

EXAMPLE:

JAMES SMITH,

Plaintiff-Appellant/
Cross-Respondent,

v.

ANN ADAMS,

Defendant-Respondent,

and

BETTY BAKER,

Defendant-Respondent/
Cross-Appellant.

C16: BACK-TO-BACK APPEALS

For Memos: For back-to-back appeals where only one memo is prepared, there should be two completely independent captions, with the docket number appended to each separate appeal. The caption with the oldest docket number should be listed first (see Example below).

For Opinions: Back-to-back appeals should have separate opinions unless they have been consolidated for opinion purposes. In that case, the consolidation should be noted in the opinion and the caption should follow Guideline C17.

EXAMPLE:

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1234-06T2

DURO-TEST CORPORATION,

Plaintiff-Respondent,

v.

JOSE NODAR and JOSEPH UMBACH,

Defendants-Appellants,

and

BANCO POPULAR de PUERTO RICO,

Defendant-Respondent.

DOCKET NO. A-4567-06T2

DURO-TEST CORPORATION,

Plaintiff-Respondent,

v.

JOSE NODAR and JOSEPH UMBACH,

Defendants-Respondents,

and

BANCO POPULAR de PUERTO RICO,

Defendant-Appellant.

C17: CONSOLIDATED CASES

Cases Consolidated on Appeal: Even though only one memo or opinion is prepared, consolidated appeals usually have two or more completely independent captions. Docket numbers should be listed together on top with the oldest number listed first. The captions should follow that same order (see Example below). However, if all of the cases have identical captions, including the appellate designations of the parties, then only one caption may be used with multiple docket numbers.

Cases Consolidated Below: Cases consolidated in the trial court or agency should retain the same caption on appeal as was used below. There will be only one appellate docket number.

EXAMPLE:

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NOS. A-1234-02T5
A-4567-02T5

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

ROBERT COOPER,

Defendant-Appellant.

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

WILLIE LEE LAWSON,

Defendant-Appellant.

C18: DISPUTE AS TO SPELLING OF PARTY'S NAME

In civil cases, the final judgment controls the spelling of a party's name. If that does not resolve the dispute, then the complaint controls.

In criminal cases, the judgment of conviction controls. If that does not resolve the dispute, then the indictment controls.

However, in either type of case, if there is a definite indication in the record, e.g., in the transcripts or appendices, that a name should be spelled differently, rely on that. Also, you may need to change the caption and drop a footnote that a party was "incorrectly designated as" something else.

C19: ALIASES AND FORMER NAMES

If a party uses an alias, use the designation "a/k/a." Any "a/k/a" shown on a judgment of conviction should be included in the caption (see Example #1).

If a party was formerly known by another name, use the designation "f/k/a" (see Example #2). If a party is now known by another name, use the designation "n/k/a" (see Example #3). For changes in party names after the entry of final judgment, see Guideline C20.

EXAMPLE #1 (alias):

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

ALLAN BROWN, a/k/a SKIP BROWN,

Defendant-Appellant.

EXAMPLE #2 (formerly known as):

JOHN SMITH,

Plaintiff-Appellant,

v.

SUSAN REYNOLDS, f/k/a SUSAN SMITH,

Defendant-Respondent.

EXAMPLE #3 (now known as):

JOHN SMITH,

Plaintiff-Appellant,

v.

SUSAN SMITH, n/k/a SUSAN
REYNOLDS,

Defendant-Respondent.

C20: CHANGES IN PARTIES OR PARTIES' NAMES AFTER FINAL JUDGMENT WAS ENTERED

If, after entry of final judgment, a party's name changes or the party changes by reason of succession, death, or substitution, retain the original name unless there has been a formal substitution. If there has been a formal substitution, use the new name and drop a footnote indicating the change.

EXCEPTION: There is no need for a formal substitution when a public officer sues or is sued in an official capacity and then leaves office. Court rules provide for an automatic substitution, so use the current official's name in the caption. See R. 4:34-4.

C21: IMPOUNDED CASES

When an impounded case comes to the Appellate Division designating parties in the caption by initials, that format should be continued.

When an impounded case comes to the Appellate Division designating parties in the caption by full names, that format should be continued in memos. If necessary, initials will be used in the caption when the opinion is issued.

PART TWO:
ATTORNEY APPEARANCE GUIDELINES

A1: IDENTIFICATION AND DOCKET NUMBER OF COURT OR AGENCY BELOW

Appeals from Superior Court: Immediately before the attorney appearances, indicate the court from which the appeal is taken. Show the division (Law or Chancery), the part (where applicable), the name of the county, and either the lower court docket number (for civil cases) or the indictment number (for criminal cases). See Example #'s 1 through 5.

Docket numbers do not have to be preceded by the three-letter county prefix. Indictment numbers should be shown as follows: the last two digits of the year, followed by the two digits of the month, then the number of the indictment.

Note if the appeal is interlocutory. See Example #6.

Appeals from Agency Decisions: Immediately before the attorney appearances, indicate the agency from which the appeal is taken. Show the name of the agency, the department within the agency (where applicable), and the agency docket number (if there is one). Do not use the OAL docket number. See Example #'s 7 and 8. For appeals challenging the promulgation of an agency rule, see Example #9.

EXAMPLES:

- #1 On appeal from Superior Court of New Jersey, Law Division, Bergen County, Docket No. L-222-04 [Note: not BER-L-222-04].

- #2 On appeal from Superior Court of New Jersey, Chancery Division, Family Part, Bergen County, Docket No. FD-00034-04.

- #3 On appeal from Superior Court of New Jersey, Law Division, Salem County, Indictment No. 06-08-1234 [Note: This is Indictment #1234 filed in August 2006].

- #4 On appeal from the Tax Court of New Jersey, Docket No. 1234-2005.
- #5 On appeal from Superior Court of New Jersey, Law Division, Sussex County, Municipal Appeal No. 05-1234.
- #6 On appeal from an interlocutory order of Superior Court of New Jersey, Law Division, Middlesex County, Docket No. L-222-04.
- #7 On appeal from the Board of Review, Department of Labor, Docket No. 83,092.
- #8 On appeal from the Board of Trustees of the Public Employees' Retirement System, Department of Treasury.
- #9 On appeal from the adoption of N.J.A.C. 7:6E-8.2(g)(5) by the Department of Environmental Protection.

A2: EVENTS SUBSEQUENT TO INITIAL APPELLATE DIVISION OPINION

Sometimes cases come back to the Appellate Division after the original opinion has been issued. The Appellate Division may consider the case again following: (1) a remand from the Supreme Court (see Example #1); (2) a temporary remand to the trial court (see Example #2); or (3) the grant of a motion for reconsideration (see Example #3). References to these events should be noted in the appearance section.

EXAMPLE #1 (remand from Supreme Court):

Submitted May 13, 2004 -- Decided May 28,
2004.
Remanded by Supreme Court March 25, 2005.
Resubmitted May 16, 2005 -- Decided

EXAMPLE #2 (remand to trial court, jurisdiction retained):

Submitted May 13, 2004 -- Remanded May 28,
2004.
Resubmitted July 30, 2004 -- Decided

EXAMPLE #3 (grant of motion for reconsideration)

Submitted May 13, 2004 -- Decided May 28,
2004.
Motion for reconsideration granted.
Resubmitted July 1, 2004 -- Decided

A3: PUBLISHED OPINION BELOW

Note if the opinion rendered by the court below is published.

EXAMPLES

- #1** On appeal from Superior Court of New Jersey, Law Division, Bergen County, Docket No. L-222-04, whose opinion is reported at 290 N.J. Super. 1 (Law Div. 1997).
- #2** On appeal from the Tax Court of New Jersey, Docket No. 277-2000, whose opinion is reported at 21 N.J. Tax 123 (Tax 2003).

A4: WHEN COUNSEL MUST BE IDENTIFIED

For memos: List counsel (or indicate pro se representation, see Guideline A16) for every party with an appellate designation regardless of whether the party has filed a brief. If a respondent files only a letter of non-participation, or if a respondent's brief has been suppressed, note simply that the respondent has not filed a brief (see Example below).

EXAMPLE:

Mead & Miller, attorneys for respondent Capital Insurance Company, have not filed a brief.

For opinions: List counsel (or indicate pro se representation, see Guideline A16) only for those parties who have filed briefs or those public body respondents who have filed statements in lieu of brief pursuant to R. 2:6-4(c) (see Guideline A19). If no respondent has filed a brief, state: "Respondent has not filed a brief."

A5: WHEN TO IDENTIFY PARTIES BY NAME IN APPEARANCE SECTION

If there is only one appellant or one respondent, or if the same attorney represents all appellants or all respondents, it is not necessary to identify the party by name in the attorney appearance section, as long as the party is identified in the caption (see Examples #1). Otherwise, each party must be identified by name as an appellant or respondent (see Examples #2) or, in the case of a cross-appeal, as an appellant/cross-respondent or respondent/cross-appellant (see Examples #3).

EXAMPLES (for memos and for opinions without oral argument):

- #1: Miller and Dugan, attorneys for appellants (Joseph Miller, on the brief).
- #2: Smith, Jones and Wilson, attorneys for appellant John Gibson (Thomas Field, on the brief).
- #3: Carter and Jackson, attorneys for appellant/cross-respondent Susan Gibson (Bill Carter, on the brief).

EXAMPLES (for opinions where cases were orally argued):

- #1: Nancy Dugan argued the cause for appellants (Miller and Dugan, attorneys; Joseph Miller, on the brief).
- #2: Harold Smith argued the cause for appellant John Gibson (Smith, Jones and Wilson, attorneys; Thomas Field, on the brief).
- #3: Carol Jackson argued the cause for appellant/cross-respondent Susan Gibson (Carter and Jackson, attorneys; Bill Carter, on the brief).

A6: MORE THAN ONE ATTORNEY FROM SAME FIRM

Where there is more than one attorney from the same law firm, and one performs more than one function on appeal, that attorney may be named twice, but should be referred to as Mr. or Ms. when identified the second time. See Manual on Style for Judicial Opinions, Section 1.

Alternatively, for memos and for opinions without oral argument, the attorney may be named only once, with all of his or her functions grouped together.

EXAMPLES (for memos and for opinions without oral argument):

Adams, Brooks & Cole, attorneys for appellant (Joan J. Brooks, of counsel; Ms. Brooks and Susan Carter, on the brief).

OR

Adams, Brooks & Cole, attorneys for appellant (Joan J. Brooks, of counsel and on the brief; Susan Carter, on the brief).

EXAMPLE (for opinions where cases were orally argued):

Joan J. Brooks argued the cause for appellant (Adams, Brooks & Cole, attorneys; Ms. Brooks, of counsel and on the brief; Susan Carter, on the brief).

A7: USE OF SPECIAL DESIGNATIONS BY LAWYERS OR LAW FIRMS

Do not use the following designations with a lawyer's or law firm's name.

- "Esquire"
- "Chartered"

You may use the following:

- "and Associates" (as in "Donald Matthews and Associates")
- "Law Offices of" (as in "Law Offices of Donald Matthews")
- "Law Group" (as in "The Matthews Law Group")
- "P.C."
- "L.L.C."
- "L.L.P."

A8: BRIEF WRITERS NOT ADMITTED TO THE BAR

Except for pro se litigants, no one who has not been admitted to the bar should be identified in the attorney appearance section.

NOTE: Some government officials use the title of "law clerk" or "legal intern" for attorneys who have been admitted to the bar. When in doubt, check with the Clerk's office.

A9: ORDER OF LISTING OF COUNSEL

Regardless of the trial designation below, always list counsel for all the appellants first, followed by counsel for the respondents.

EXCEPTION: In consolidated or back-to-back appeals where more than one set of briefs have been filed, it may be more practical to list all of the attorneys from the first docketed appeal (appellants, then respondents), with the docket number noted, followed by the attorneys from any subsequently docketed appeal.

A10: PUBLIC AGENCY ATTORNEYS

The Attorney General, County Prosecutor, Public Defender, or Public Advocate, not the particular Deputy Attorney General, Assistant Prosecutor, Deputy Public Defender, or Deputy Public Advocate who handled the appeal, is considered the attorney of record. Use the Attorney General, County Prosecutor, Public Defender, or Public Advocate who is in office at the time of argument or submission to the court, not at the time the brief or opinion was written.

EXAMPLES (for memos and for opinions without oral argument):

Anne Milgram, Attorney General, attorney for respondent (Wendy Sterling, Assistant Attorney General, of counsel; Ned Schwartz, Deputy Attorney General, on the brief).

John L. Molinelli, Bergen County Prosecutor, attorney for respondent (Melissa Mills, Assistant Prosecutor, on the brief).

Yvonne Smith Segars, Public Defender, attorney for appellant (Joan Rush, Deputy Public Defender, of counsel and on the brief).

Ronald K. Chen, Public Advocate, attorney for appellant (Kathy Gold, Deputy Public Advocate, on the brief).

EXAMPLES (for opinions where cases were orally argued):

Ned Schwartz, Deputy Attorney General, argued the cause for respondent (Anne Milgram, Attorney General, attorney; Wendy Sterling, Assistant Attorney General, of counsel; Mr. Schwartz, on the brief).

Melissa Mills, Assistant Prosecutor, argued the cause for respondent (John L. Molinelli,

Bergen County Prosecutor, attorney; Ms. Mills, on the brief).

Joan Rush, Deputy Public Defender, argued the cause for appellant (Yvonne Smith Segars, Public Defender, attorney; Ms. Rush, of counsel and on the brief).

Kathy Gold, Deputy Public Advocate, argued the cause for appellant (Ronald K. Chen, Public Advocate, attorney; Ms. Gold, on the brief).

A11: DESIGNATED COUNSEL

When designated counsel represents a criminal defendant on behalf of the Public Defender, the Public Defender is considered the attorney of record. Do not show the name of designated counsel's law firm.

EXAMPLE (for memos and for opinions without oral argument):

Yvonne Smith Segars, Public Defender,
attorney for appellant (Janice Stills,
Designated Counsel, on the brief).

EXAMPLE (for opinions where cases were orally argued):

Janice Stills, Designated Counsel, argued
the cause for appellant (Yvonne Smith
Segars, Public Defender, attorney; Ms.
Stills, on the brief).

A12: REPRESENTATION BY MORE THAN ONE NEW JERSEY FIRM

When a party is represented by more than one New Jersey law firm, the firms should be listed as attorneys and the brief writers should be named without specifying their respective law firm affiliations.

EXAMPLE (for memos and for opinions without oral argument):

Adams, Brooks & Cole, and Denforth, Ellis & Frost, attorneys for appellant (John J. Brooks and Gail Denforth, on the brief).

EXAMPLE (for opinions where cases were orally argued):

John J. Brooks argued the cause for appellant (Adams, Brooks & Cole, and Denforth, Ellis & Frost, attorneys; Mr. Brooks and Gail Denforth, on the brief).

A13: OUT-OF-STATE ATTORNEYS ADMITTED PRO HAC VICE

When a party is represented both by a New Jersey firm and by an out-of-state attorney who has been admitted pro hac vice, identify the New Jersey firm first and then the individual attorney who has been admitted pro hac vice. Identify the out-of-state attorney's law firm (in parentheses) and the state where the attorney is licensed to practice.

COMMENT: Only an individual attorney, not a law firm, may be admitted pro hac vice. R. 1:21-2. Once this status is granted below, it ordinarily continues on appeal. R. 1:21-2(d).

EXAMPLE (for memos and for opinions without oral argument):

Adams, Brooks & Cole, and Gail Minter (Dunphy, Ernst & Flynn) of the New York bar, admitted pro hac vice, attorneys for appellant (John J. Brooks and Ms. Minter, on the brief).

EXAMPLE (for opinions where cases were orally argued):

Gail Minter (Dunphy, Ernst & Flynn) of the New York bar, admitted pro hac vice, argued the cause for appellant (Adams, Brooks & Cole, and Ms. Minter, attorneys; John J. Brooks and Ms. Minter, on the brief).

A14: NEW JERSEY ATTORNEYS WHO WORK FOR OUT-OF-STATE LAW FIRMS

When a party is represented by an attorney who is admitted to practice in New Jersey but who works for an out-of-state law firm, that individual attorney does not have to be admitted pro hac vice in order to be the attorney of record. The out-of-state law firm should be identified in parentheses.

EXAMPLE (for memos and for opinions without oral argument):

George Flynn (Dunphy, Ernst & Flynn),
attorney for appellant.

EXAMPLE (for opinions where cases were orally argued):

George Flynn (Dunphy, Ernst & Flynn) argued
the cause for appellant.

A15: SUBSTITUTION OF ATTORNEY

When a new law firm is substituted after a brief is filed, that firm replaces the old one as the attorney of record and should be listed in the appearance section without any indication of the substitution. The author of the brief does not change, and you do not have to identify the law firm with which the author is affiliated (see Examples #1). See R. 1:11-1, -2, -3. This guideline also applies when a pro se party files a brief and subsequently retains an attorney (see Examples #2), or when a represented party decides to appear pro se after the brief has been filed (see Examples #3).

EXAMPLES (for memos and for opinions without oral argument):

#1 [Assume that Beldon & Phillips replaced Smith, Wilson & Jones as attorneys for appellant. Frank Carter wrote the brief as an associate for Smith, Wilson & Jones.]

Beldon & Phillips, attorneys for appellant
(Frank Carter, on the brief).

#2 [Assume that Sterling & Miller now represent the pro se respondent, after he already filed his own brief.]

Sterling & Miller, attorneys for respondent
Mark Williams (Mark Williams, on the pro se
brief).

#3 [Assume that the respondent is now pro se, after Frank Sterling wrote the brief for him as a lawyer with Sterling & Miller.]

Mark Williams, respondent pro se (Frank
Sterling, on the brief).

EXAMPLES (for opinions where cases were orally argued):

#1 [Assume that Beldon & Phillips replaced Smith, Wilson & Jones as attorneys for appellant. Frank Carter wrote the brief as an associate for Smith, Wilson & Jones.]

Marcy Phillips argued the cause for appellant (Beldon & Phillips, attorneys; Frank Carter, on the brief).

#2 [Assume that Sterling & Miller now represent the pro se respondent, after he already filed his own brief.]

Frank Sterling argued the cause for respondent Mark Williams (Sterling & Miller, attorneys; Mark Williams, on the pro se brief).

#3 [Assume that the respondent is now pro se, after Frank Sterling wrote the brief for him as a lawyer with Sterling & Miller.]

Mark Williams, respondent, argued the cause pro se (Frank Sterling, on the brief).

A16: PRO SE BRIEFS

The filing of a pro se supplemental brief should be noted at the end of the list of attorneys for all parties (see Examples #1). Otherwise, list a pro se brief in the regular order, according to appellate designation (see Examples #2). When a law firm is a party and appears pro se, identify any partner or associate who argues the cause or who authors a brief.

EXAMPLES (for memos and for opinions without oral argument):

#1 [Assume that appellant was represented by the Public Defender but filed a pro se supplemental brief.]

Yvonne Smith Segars, Public Defender, attorney for appellant (Wayne Morris, Designated Counsel, of counsel and on the brief).

Anne Milgram, Attorney General, attorney for respondent (Craig Bratner, Deputy Attorney General, of counsel and on the brief).

Appellant filed a pro se supplemental brief.

#2 [Assume that appellant was pro se.]

Bernard Weiss, appellant pro se.

Smith and Jones, attorneys for respondent (Thomas Jones, on the brief).

#3 [Assume that Mead & Miller, a law firm, was a pro se appellant and that George Mead wrote the brief.]

Mead & Miller, appellant pro se (George Mead, on the brief).

EXAMPLES (for opinions where cases were orally argued):

#1 [Assume that appellant was represented by the Public Defender but filed a pro se supplemental brief.]

Wayne Morris, Designated Counsel, argued the cause for appellant (Yvonne Smith Segars, Public Defender, attorney; Mr. Morris, on the brief).

Craig Bratner, Deputy Attorney General, argued the cause for respondent (Anne Milgram, Attorney General, attorney; Mr. Bratner, on the brief).

Appellant filed a pro se supplemental brief.

#2 [Assume that appellant was pro se.]

Bernard Weiss, appellant, argued the cause pro se.

Thomas Jones argued the cause for respondent (Smith and Jones, attorneys; Mr. Jones, on the brief).

#3 [Assume that Mead & Miller, a law firm, was a pro se appellant and that George Mead wrote the brief and argued the appeal.]

George Mead argued the cause for pro se appellant.

A17: SOLO PRACTITIONERS

When a solo practitioner is the attorney of record, and no other attorney either argues the cause or appears on the brief, do not repeat the attorney's name in parentheses (see Examples #1). This guideline also applies to pro se parties (see Examples #2) and to individual New Jersey attorneys who are employed by out-of-state firms (see Examples #3).

EXAMPLES (for memos and for opinions without oral argument):

- #1 Robert Sharp, attorney for appellant.
- #2 Bernard Weiss, appellant pro se.
- #3 Gail Minter (Dunphy, Ernst & Flynn), attorney for appellant.

EXAMPLES (for opinions where cases were orally argued):

- #1 Robert Sharp argued the cause for appellant.
- #2 Bernard Weiss, appellant, argued the cause pro se.
- #3 Gail Minter (Dunphy, Ernst & Flynn) argued the cause for appellant.

A18: SINGLE-NAME LAW FIRMS THAT EMPLOY OTHER ATTORNEYS

A law practice that uses the name of a single attorney may nevertheless employ other attorneys. If one of those other attorneys either argues the cause or authors a brief, he or she must be identified.

EXAMPLE (for memos and for opinions without oral argument):

[Assume that Robert Sharp is the name of the law firm and that Deborah Gold wrote the brief.]

Robert Sharp, attorney for appellant
(Deborah Gold, on the brief).

EXAMPLES (for opinions where cases were orally argued):

[Assume that Robert Sharp is the name of the law firm and that Deborah Gold argued the appeal and wrote the brief.]

Deborah Gold argued the cause for appellant
(Robert Sharp, attorney; Ms. Gold, on the
brief).

[Assume that Robert Sharp is the name of the law firm, that Mr. Sharp argued the appeal, and that Deborah Gold wrote the brief.]

Robert Sharp argued the cause for appellant
(Mr. Sharp, attorney; Deborah Gold, on the
brief).

A19: REPLY BRIEFS AND LETTER BRIEFS

When you identify the attorneys who wrote the initial brief, add the names of any additional attorneys who wrote any reply brief. Do not repeat names of attorneys on both briefs and do not mention the reply brief separately. Just put all the names together and use the designation "on the briefs" (plural). (See Example below for case where there is an additional attorney on the reply brief).

Adams, Brooks & Cole, attorneys for appellant
(Joan J. Brooks, of counsel; Ms. Brooks, Susan
Carter, and William Barlow, on the briefs).

A letter brief should be identified simply as a "brief," unless it is a statement in lieu of brief filed by a public body respondent pursuant to R. 2:6-4(c) (see Example below).

Anne Milgram, Attorney General, attorney for
respondent State Board of Education (James
Winter, Deputy Attorney General, on the
statement in lieu of brief).

A20: JOINT BRIEFS AND JOINING IN ANOTHER'S BRIEF

When two or more parties file a joint brief, the attorney listing should be combined (see Examples #1). However, if that would be too cumbersome, the attorneys may be listed separately (see Examples #2).

When one party joins in or relies on the brief of another party, that should be noted (see Examples #3).

EXAMPLES (for memos and for opinions without oral argument):

#1 Appel and Worthley, attorneys for appellant House Insurance Company; Robinson & Williams, attorneys for appellant Prudential Insurance Company; and John Forbes, attorney for appellant Aetna Insurance Company (Elizabeth Appel, Rose Williams, and Mr. Forbes, on the joint brief).

#2 Riesling and Graham, attorneys for respondent California Union Insurance Company (Thomas R. Carton, on the joint brief).

Hoag and Longo, attorneys for respondent Columbia Casualty Company (Michael Hoag, on the joint brief).

Katzman & Coley, attorneys for respondent Allstate Insurance Company (Robert Katzman, on the joint brief).

#3 Miller & Rush, attorneys for respondent Zenith Inc. (James Rush, on the brief).

Norcross & Wang, attorneys for respondent Ajax Co., join in the brief of respondent Zenith Inc.

EXAMPLES (for opinions where cases were orally argued):

#1 Elizabeth Appel and Rose Williams argued the cause for appellants (Appel and Worthley, attorneys for appellant House Insurance Company; Robinson & Williams, attorneys for appellant Prudential Insurance Company; and John Forbes, attorney for appellant Aetna Insurance Company; Ms. Appel, Ms. Williams, and Mr. Forbes, on the joint brief).

#2 Thomas R. Carton argued the cause for respondents (Riesling and Graham, attorneys for respondent California Union Insurance Company; Mr. Carton, on the joint brief).

Hoag and Longo, attorneys for respondent Columbia Casualty Company (Michael Hoag, on the joint brief).

Katzman & Coley, attorneys for respondent Allstate Insurance Company (Robert Katzman, on the joint brief).

#3 James Rush argued the cause for respondent Zenith Inc. (Miller & Rush, attorneys; Mr. Rush, on the brief).

Howard Norcross argued the cause for respondent Ajax Co. (Norcross & Wang, attorneys, join in the brief of respondent Zenith Inc.).

A21: LAW GUARDIANS & GUARDIANS AD LITEM

In a DYFS case, where a Law Guardian represents a minor, that individual should also be identified as the attorney for the minor. See R. 5:8A. Guardians ad litem, however, are not included in the attorney appearance section because they do not act as attorneys. See R. 5:8B.

EXAMPLE (for memos and for opinions without oral argument):

Yvonne Smith Segars, Public Defender, Law Guardian, attorney for minor A.C. (Alan Jones, Designated Counsel, on the brief).

EXAMPLE (for opinions where cases were orally argued):

Alan Jones, Designated Counsel, argued the cause for minor A.C. (Yvonne Smith Segars, Public Defender, Law Guardian, attorney; Mr. Jones, on the brief).

A22: AMICI CURIAE

List all amici curiae who have filed briefs.

EXAMPLE (for memos and for opinions without oral argument):

Roth & Eisenberg, attorneys for amicus curiae American Insurance Association (Edward Matthews, of counsel and on the brief).

EXAMPLE (for opinions where cases were orally argued):

Edward Matthews argued the cause for amicus curiae American Insurance Association (Roth & Eisenberg, attorneys; Mr. Matthews, on the brief).