

**RULES GOVERNING THE COURTS OF THE STATE OF NEW JERSEY  
RULE 2:12. APPEALS ON CERTIFICATION TO THE SUPREME COURT**

**2:12-1. Certification on Motion of the Supreme Court**

The Supreme Court may on its own motion certify any action or class of actions for appeal.

Note: Source-R.R. 1:10-1.

**2:12-2. Certification of Appeals Pending Unheard in Appellate Division**

(a) Filing and Service of Motion. A motion for certification of an appeal pending unheard in the Appellate Division shall be served and filed with the Supreme Court and the Appellate Division within 10 days after the filing of all briefs with the Appellate Division. Within 5 days after service of the motion an opposing party may serve and file a statement in opposition. The motion and statement shall not exceed 5 pages. Nine copies thereof shall be filed with the Supreme Court.

(b) Additional Briefs. On certification, either on motion of a party or the court, the appeal shall proceed to hearing upon the briefs, appendices and transcript prepared for the Appellate Division, and 4 more copies of the briefs and appendices shall be filed, but the Supreme Court may, on good cause shown, permit the filing of supplemental briefs.

Note: Source-R.R. 1:10-1A(a), 1:10-14(c); paragraph (a) amended July 14, 1992 to be effective September 1, 1992.

**2:12-3. Certification of Final Judgments of the Appellate Division**

(a) Notice of Petition for Certification: Time for Filing; Contents; Filing Fees. If certification is sought to review a final judgment of the Appellate Division, the petitioner shall, within 20 days after its entry, serve a copy of a notice of petition for certification upon all parties who may be affected by the proceeding and shall file the original notice with the clerk of the Supreme Court, together with the payment of the appropriate fee pursuant to N.J.S.A. 22A:2, and a copy thereof with the Clerk of the Appellate Division. The notice shall set forth the petitioner's name and address or the name and address of counsel, if any. In civil actions it shall designate the judgment or part thereof sought to be reviewed. In criminal, quasi-criminal and juvenile delinquency matters it shall concisely state the offense and designate the judgment, its date and any sentence, or disposition imposed thereon and, if the defendant is in custody, the place of confinement.

(b) Cross Petition for Certification. A cross petition for certification to review a judgment of the Appellate Division shall be governed by the rules applying to a petition

for certification, except that the notice of cross petition for certification shall be served and filed within 10 days after the service and filing of the notice of petition for certification.

Note: Source-R.R. 1:10-4(a)(c)(d), 1:10-5. Paragraph (a) amended July 24, 1978 to be effective September 11, 1978; paragraph (a) amended July 13, 1994 to be effective September 1, 1994; paragraph (a) amended July 5, 2000 to be effective September 5, 2000.

#### **2:12-4. Grounds for Certification**

Certification will be granted only if the appeal presents a question of general public importance which has not been but should be settled by the Supreme Court or is similar to a question presented on another appeal to the Supreme Court; if the decision under review is in conflict with any other decision of the same or a higher court or calls for an exercise of the Supreme Court's supervision and in other matters if the interest of justice requires. Certification will not be allowed on final judgments of the Appellate Division except for special reasons.

Note: Source-R.R. 1:10-1A(b), 1:10-2.

#### **2:12-5. Deposit for Costs**

In all civil actions, unless a supersedeas bond has been filed or a deposit in lieu thereof made pursuant to R. 2:5-2, the petitioner shall, within 30 days of the filing of the notice of petition for certification, deposit \$300 with the clerk of the Supreme Court, to answer the costs on the petition, if denied, and the cost of the appeal if granted, but no deposit shall be required if the petitioner is a party exempted from making deposit by R. 2:5-2. Notice of deposit and dismissal for failure to make timely deposit shall be in accordance with R. 2:5-2.

Note: Source-R.R. 1:10-7, 1:10-14(d) (second sentence). Amended July 22, 1983 to be effective September 12, 1983; amended July 13, 1994 to be effective September 1, 1994.

#### **2:12-6. Record on Petition for Certification**

The record on petition for certification shall be the briefs, appendices and transcripts filed in the Appellate Division, the opinion of the Appellate Division, and the transcript of the oral argument of sentencing appeals heard by the Appellate Division pursuant to R. 2:9-11. Such record shall constitute the record on appeal if certification is granted.

Note: Source-R.R. 1:10-8, 1:10-14(d) (first sentence); amended January 19, 1989 to be effective February 1, 1989.

## **2:12-7. Form, Service and Filing of Petition for Certification**

(a) Form and Contents. A petition for certification shall be in the form of a brief, conforming to the applicable provisions of R. 2:6 and not exceeding 20 pages exclusive of tables of contents, citations and appendix. It shall contain a short statement of the matter involved, the question presented, the errors complained of, the reasons why certification should be allowed, and comments with respect to the Appellate Division opinion. It shall have annexed the notice of petition for certification; the written opinions of the courts below; a copy of the transcript of any relevant oral opinions or statements of findings and conclusions of law; and in the case of a sentencing appeal heard by the Appellate Division pursuant to R. 2:9-11, the transcript of the oral argument, which shall be requested from the Chief, Reporting Services in the Appellate Division. The petition shall be signed by petitioner's counsel who shall certify that it presents a substantial question and is filed in good faith and not for purposes of delay.

(b) Service, Filing and Time. Within 10 days after the filing of the notice of petition for certification or 30 days after the entry of the final judgment, whichever is later, two copies of the petition shall be served on each opposing party and four copies thereof together with four copies of petitioner's Appellate Division brief and appendix shall be filed with the Clerk of the Supreme Court. If certification is granted, petitioner shall file five additional copies of the petition and petitioner's Appellate Division brief and appendix within 10 days following receipt of the order granting certification.

Note: Source - R.R. 1:10-9, 1:10-10(a). Paragraph (a) amended March 5, 1974 to be effective immediately; paragraph (a) amended November 7, 1988 to be effective January 2, 1989; paragraph (a) amended January 19, 1989 to be effective February 1, 1989; paragraph (b) amended June 29, 1990 to be effective September 4, 1990; paragraph (a) amended July 14, 1992 to be effective September 1, 1992; paragraph (b) amended July 13, 1994 to be effective September 1, 1994; paragraph (b) amended July 27, 2006 to be effective September 1, 2006.

## **2:12-8. Respondent's Brief and Petitioner's Reply Brief**

The respondent shall, within 15 days of the service of the petition, serve two copies of the brief in opposition to certification and file four copies thereof together with four copies of respondent's Appellate Division brief and appendix with the Clerk of the Supreme Court. The brief shall be direct and concise, shall conform to the applicable provisions of R. 2:6 and shall not exceed 20 pages, exclusive of tables of contents, citations and appendix. Within 10 days of such service, the petitioner may serve two copies and file four copies of a reply brief not exceeding 10 pages, exclusive of tables of contents, citations, and appendix. If certification is granted, each respondent shall file five additional copies of the brief in opposition to certification and Appellate Division brief and appendix within 10 days following receipt of the order granting certification. The petitioner shall file five additional copies of any reply brief within the same 10-day period.

Note: Source - R.R. 1:10-11, 1:10-12; amended July 14, 1992 to be effective September 1, 1992; amended July 27, 2006 to be effective September 1, 2006.

### **2:12-9. Where Party Appeals and at the Same Time Makes Application for Certification**

A party who seeks certification to review a final judgment of the Appellate Division and also appeals therefrom shall state in the petition for certification all questions intended to be raised on appeal. Except in the case of an appeal as of right pursuant to R. 2:2-1(a)(2), a denial of certification shall be deemed to be a summary dismissal of the appeal, and the Clerk of the Supreme Court shall forthwith enter an order dismissing the appeal, unless the Supreme Court otherwise orders.

Note: Amended July 13, 1994 to be effective September 1, 1994; amended August 1, 2016 to be effective September 1, 2016.

### **2:12-10. Granting or Denial of Certification**

A petition for certification shall be granted on the affirmative vote of 3 or more justices. Upon final determination of a petition for certification, unless the Supreme Court otherwise orders, the clerk shall enter forthwith an order granting or denying the certification in accordance with the Supreme Court's determination and shall mail true copies thereof to the clerk of the court below and to the parties or their attorneys. The date of the order granting certification shall be posted on the Judiciary's website.

Note: Source -- R.R. 1:10-4(e), 1:10-13; amended July 22, 2014 to be effective September 1, 2014.

### **2:12-11. Proceedings After Certification Granted**

If certification is granted, the matter shall be deemed pending on appeal in the Supreme Court and the petitioner's entire case shall be before the Supreme Court for review unless the Supreme Court otherwise orders on its own motion or on the motion of a party which shall be included in the petition or in the respondent's brief in answer thereto. The respondent may seek affirmative relief only by cross petition for certification. Further proceedings shall be had as provided for on appeals as of right, except that the appeal shall be submitted on the briefs, appendices and transcript filed with the Appellate Division and except that, in appropriate cases, the Supreme Court may render a decision without argument. Further briefs on the appeal may be filed only on order and in accordance with the schedule set forth therein. Application for permission to file further briefs shall be in the form of a motion.

Note: Source -- R.R. 1:10-14(a) (e). Amended December 21, 1971 to be effective January 31, 1972; amended March 5, 1974 to be effective immediately; amended May 8, 1975 to be effective immediately; amended July 24, 1978 to be effective September 11, 1978.