COMMONWEALTH COURT

Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts; No. 126 Misc. Doc. No. 3

[47 Pa.B. 7851]
[Saturday, December 30, 2017]

Order

And Now, this 12th day of December, 2017, in accordance with Section 7(C) of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts, it is hereby *Ordered* that all documents filed with the Commonwealth Court of Pennsylvania that contain confidential information shall be filed in two versions, a redacted version and an unredacted version.

This Order shall be effective January 6, 2018.

MARY HANNAH LEAVITT,
President Judge

Chapter 1
General Provisions

In General

Rule 101. | Title and Citation of Rules.

These rules shall be known as the Pennsylvania Rules of Appellate Procedure and may be cited as "Pa.R.A.P."

Rule 102. | Definitions.

Subject to additional definitions contained in subsequent provisions of these rules which are applicable to specific provisions of these rules, the following words and phrases when used in these rules shall have, unless the context clearly indicates otherwise, the meanings given to them in this rule:

"Action." Any action or proceeding at law or in equity.

"Argument." Where required by the context, the term includes submission on briefs.

"Administrative Office." The Administrative Office of Pennsylvania Courts.

"Appeal." Any petition or other application to a court for review of subordinate governmental determinations. The term includes an application for certiorari under 42 Pa.C.S. §934 (writs of certiorari) or under any other provision of law. Where required by the context, the term includes proceedings on petition for review.

Note: Under these rules a "subordinate governmental determination" includes an order of a lower court. The definition of "government unit" includes courts, and the definition of "deter0mination" includes action or inaction by (and specifically an order entered by) a court or other government unit. In general any appeal now extends to the whole record, with like effect as upon an appeal from a judgment entered upon the verdict of a jury in an action at law and the scope of review of an order on appeal is not limited as on broad or narrow certiorari. See 42 Pa.C.S. §5105(d) (scope of appeal).

"Appellant." Includes petitioner for review.

"Appellate Court." The Supreme Court, the Superior Court or the Commonwealth Court.

"Appellee." Includes a party named as respondent in a petition for review.

"Application." Includes a petition or a motion.

"Appropriate Security." Security which meets the requirements of Rule 1734 (appropriate security).

"Children's fast track appeal." Any appeal from an order involving dependency, termination of parental rights, adoptions, custody or paternity. See 42 Pa.C.S. §§ 6301 et seq.; 23 Pa.C.S. §§ 2511 et seq.; 23 Pa.C.S. §§ 2101 et seq.; 23 Pa.C.S. §§ 5301 et seq.; 23 Pa.C.S. §§ 5102 et seq.

"Clerk." Includes Prothonotary.

"Counsel." Counsel of record.

"Determination." Action or inaction by a government unit which action or inaction is subject to judicial review by a court under Section 9 of Article V of the Constitution of Pennsylvania or otherwise. The term includes an order entered by a government unit.

"Docket Entries." Includes the schedule of proceedings of a government unit.

"General Rule." A rule or order promulgated by or pursuant to the authority of the Supreme Court. "Government Unit." The Governor and the departments, boards, commissions, officers, authorities and other agencies of the Commonwealth, including the General Assembly and its officers and agencies and any court or other officer or agency of the unified judicial system, and any political subdivision or municipal or other local authority or any officer or agency of any such political subdivision or local authority. The term includes a board of arbitrators whose determination is subject to review under 42 Pa.C.S. §763(b) (awards of arbitrators).

"Judge." Includes a justice of the Supreme Court.

"Lower Court." The court from which an appeal is taken or to be taken. With respect to matters arising under Chapter 17 (effect of appeals; supersedeas and stays), the term means the trial court from which the appeal was first taken.

"Matter." Action, proceeding or appeal. The term includes a petition for review.

"Order." Includes judgment, decision, decree, sentence and adjudication.

Orphans' Court Appeal.—Any appeal from an order of the Orphans' Court Division as set forth in Pa.R.A.P. 342 or an appeal from an order from the First Judicial District Family Division deciding an adoption petition.

"Petition for Allowance of Appeal."

(a) A petition under Rule 1112 (appeals to the Supreme Court by allowance); or

(b) a statement pursuant to Rule 2119(f) (discretionary aspects of sentence). See 42 Pa.C.S. § 9781.

"Petition for Permission to Appeal." A petition under Rule 1311 (interlocutory appeals by permission). "Petition for Review." A petition under Rule 1511 (manner of obtaining judicial review of governmental determinations).

"President Judge." When applied to the Supreme Court, the term means the Chief Justice of Pennsylvania.

"Proof of Service." Includes acknowledgment of service endorsed upon a pleading.

"Quasijudicial Order." An order of a government unit, made after notice and opportunity for hearing, which is by law reviewable solely upon the record made before the government unit, and not upon a record made in whole or in part before the reviewing court.

"Reargument." Includes, in the case of applications for reargument under Chapter 25 (postsubmission proceedings), reconsideration and rehearing.

"Reconsideration." Includes reargument and rehearing. "Reproduced Record." That portion of the record which has been reproduced for use in an Appellate Court.

The term includes any supplemental reproduced record.

"Rule of Court." A rule promulgated by a court regulating practice or procedure before the promulgating court.

"Verified Statement." A document filed with a clerk under these rules containing statements of fact and a statement by the signatory that it is made subject to the penalties of 18 Pa.C.S. §4904 (unsworn falsification to authorities).

Note: Based on 42 Pa.C.S. §102 (definitions). The definition of "determination" is not intended to affect the scope of review provided by 42 Pa.C.S. §5105(d) (scope of appeal) or other provision of law.

Editor's Note: Amended December 11, 1978, effective December 30, 1978; amended September 10, 2008, effective December 1, 2008; amended January 13, 2009, effective as to all appeals filed 60 days or more after adoption; amended May 28, 2014, effective July 1, 2014; amended July 26, 2024, effective October 1, 2024.

Rule 103. | Scope of Rules.

These rules govern practice and procedure in the Supreme Court, the Superior Court and the Commonwealth Court, including procedure in appeals to such courts from lower courts and the procedure for direct review in such courts of determinations of government units.

Rule 104. | Rules of Court.

(a) *General Rule*.—Each Appellate Court may from time to time make and amend rules of court governing its practice:

(1) On any subject within the scope of Chapter 23 (sessions and arguments) notwithstanding any inconsistent provision of such chapter.

(2) On any subject covered by these rules where these rules expressly authorize the adoption of a rule of court inconsistent with a provision of these rules applicable to Appellate Courts generally.

(3) On any other subject, if such rule of court is not inconsistent with these rules.

All rules of court and changes therein adopted pursuant to this rule shall be promulgated as amendments to Chapters 33, 35 or 37, as appropriate. In all cases not provided for by rule, the Appellate Courts may regulate their practice in any manner not inconsistent with these rules.

(b) *Briefs and Reproduced Records in Commonwealth Court Evidentiary Hearing Matters*.—The Commonwealth Court may from time to time make and amend rules of court governing its practice in matters which under the applicable law may be determined in whole or in part upon the record made before the court, notwithstanding any inconsistent provision of Chapter 21 (briefs and reproduced record) or Chapter 25 (postsubmission proceedings).

Note: Under 42 Pa.C.S. §323 (powers) every court has, except as otherwise prescribed by general rules, power to make such rules and orders of court as the interest of justice or the business of the court may require.

All rules of court must be adopted in compliance with Pa.R.J.A. 103, which (except in the case of Supreme Court rules of court) requires filing in the Administrative Office prior to the effectiveness of such rules.

Rules contained in Chapters 33, 35 and 37 applicable to a particular Appellate Court should always be examined to determine whether they have superseded provisions of these rules applicable to Appellate Courts generally.

Also, review of any applicable internal operating procedures may afford material guidance. See e.g. 210 Pa. Code Ch. 67 (internal operating procedures of the Commonwealth Court).

Editor's Note: Note amended December 11, 1978, effective December 30, 1978; note amended February 27, 1980, effective March 15, 1980.

Rule 105. | Waiver and Modification of Rules.

(a) *Liberal construction and modification of rules*.— These rules shall be liberally construed to secure the just, speedy and inexpensive determination of every matter to which they are applicable. In the interest of expediting decisions, or for other good cause shown, an Appellate Court may, except as otherwise provided in Subdivision (b) of this rule, disregard the requirements or provisions of any of these rules in a particular case on application of a party or on its own motion and may order proceedings in accordance with its direction.

(b) *Enlargement of Time*.—An Appellate Court for good cause shown may upon application enlarge the time prescribed by these rules or by its order for doing any act, or may permit an act to be done after the expiration of such time; but the court may not enlarge the time for filing a notice of appeal, a petition for allowance of appeal, a petition for permission to appeal, or a petition for review.

Note: 42 Pa.C.S. §5504 (judicial extension of time) provides that the time limited by, inter alia, Chapter 55D (appeals) of the Judicial Code shall not be extended by order, rule or otherwise except that the time limited may be extended to relieve fraud or its equivalent, but that there shall be no extension of time as a matter of indulgence or with respect to any criminal proceeding. However, under 42 Pa.C.S. §5571(a) (appeals generally) statutory time limits under Chapter 55D do not apply to appeals to or other judicial review by the Supreme, Superior or Commonwealth Courts.

Subdivision (b) of this rule is not intended to affect the power of a court to grant relief in the case of fraud or breakdown in the processes of a court.

Editor's Note: Note amended December 11, 1978, effective December 30, 1978.

Rule 106. | Original Jurisdiction Matters.

Unless otherwise prescribed by these rules the practice and procedure in matters brought before an Appellate Court within its original jurisdiction shall be in accordance with the appropriate general rules applicable to practice and procedure in the courts of common pleas, so far as they may be applied.

Note: Based on former Commonwealth Court Rule 119. The last clause of the rule refers to provisions which must be adapted to the nature and jurisdiction of the court involved.

Editor's Note: Amended December 11, 1978, effective December 30, 1978.

Rule 107. | Rules of Construction.

Chapter 19 of Title I of the Pennsylvania Consolidated Statutes (rules of construction) so far as not inconsistent with any express provision of these rules, shall be applicable to the interpretation of these rules and all amendments hereto to the same extent as if these rules were enactments of the General Assembly.

Note: The effect of this rule is substantially the same as Pa.R.C.P. 76 to 153, which were in turn patterned after the Statutory Construction Act. See also former Commonwealth Court Rules 120 and 121.

(*Editor's Note*: Rule 108 as printed in 210 Pa. Code reads "Official Note" rather than "Note." Rule 108 was not included in the proposal that was published for public comment at 53 Pa.B. 4962.)

Rule 108. | Date of Entry of Orders.

(a) *General Rule*.

(1) Except as otherwise prescribed in this rule, in computing any period of time under these rules involving the date of entry of an order by a court or other government unit, the day of entry shall be the day the clerk of the court or the office of the government unit mails or delivers copies of the order to the parties, or if such delivery is not otherwise required by law, the day the clerk or office of the government unit makes such copies public. The day of entry of an order may be the day of its adoption by the court or other government unit, or any subsequent day, as required by actual circumstances.

(2) When pursuant to law a determination of a government unit other than a court is deemed to have been made by reason of the expiration of a specified period of time after submission of a matter to the government unit or after another prior event, any person affected may treat the expiration of such period as equivalent to the entry of an order for the purposes of appeal (in which event the notice of appeal or other document seeking review shall set forth briefly facts showing the applicability of this subdivision) and shall so treat the expiration of the period where the person has actual knowledge (other than knowledge of the mere lapse of time) that the implied determination has occurred.

(b) *Civil Orders*.—The date of entry of an order in a matter subject to the Pennsylvania Rules of Civil Procedure shall be the date on which the clerk makes the notation in the docket that written notice of entry of the order has been given as required by Pa.R.C.P. 236(b).

(c) *Orphans' Court Orders.*—The date of entry of an order in a matter subject to the Pennsylvania Rules of Orphans' Court Procedure shall be the date on which the clerk makes the notation in the docket that written notice of entry of the order has been given as required by Pa.R.O.C.P. 4.6.

(d) *Criminal orders*.

(1) In determining the date of entry of criminal orders, subdivision (a)(1) shall apply except as provided in subdivision (d)(2).

(2) In a criminal case in which no postsentence motion has been filed, the date of imposition of sentence in open court shall be deemed to be the date of entry of the judgment of sentence.

(e) *Emergency Appeals*.—Notwithstanding the provisions of this rule, an order subject to Pa.R.A.P. 301(e) (emergency appeals) shall be deemed entered for the purposes of these rules when the party intending to appeal has complied with such rule to the extent practicable under the circumstances.

Comment: Based in part on 42 Pa.C.S. § 5572 (time of entry of order) (which is not applicable to appeals to or judicial review of quasijudicial orders by the Supreme, Superior, or Commonwealth Courts; see 42 Pa.C.S. § 5571(a) (appeals generally)) and 1 Pa. Code § 31.13. The purpose of this rule is to fix a date from which the time periods such as those set forth in Pa.R.A.P. 903 (time for appeal), Pa.R.A.P. 1113 (time for petitioning for allowance of appeal), Pa.R.A.P. 1311 (interlocutory appeals by permission), Pa.R.A.P. 1512 (time for petitioning for review), Pa.R.A.P. 1602 (filing), and Pa.R.A.P. 2542 (time for application for reargument) are computed. Pa.R.A.P. 5101(g) (statutes suspended) suspends all inconsistent statutes so that all appellate time periods are computed on the same basis.

Subdivision (a)(2) is patterned after 42 Pa.C.S. § 5571(c)(6) (implied determinations). See Comment to Pa.R.A.P. 903 (time for appeal). The purpose of the provision is: (1) to permit an aggrieved party to appeal immediately after the expiration of the period notwithstanding the failure of the government unit to take formal action; and (2) to eliminate complicated calendar watching by forcing the government unit or another affected person to notify all parties of the expiration of the period as a prerequisite to commencement of the running of the appeal period for the purpose of the finality of the implied determination. *See, e.g.*, Pa.R.A.P. 1571(b)(3) (determinations of the Board of Finance and Revenue).

Subdivision (d)—See Pa.R.A.P. 301(a)(1) and (2), Pa.R.A.P. 903(c)(3), and Pa.R.Crim.P. 462, 720, and 721 governing criminal appeals. When no post-sentence motion is filed, the time for appeal begins to run from the date of imposition of sentence. *See* Pa.R.Crim.P. 462(H)(2), 720(A)(3) and (D), and 721(B)(2)(a)(ii), Pa.R.A.P. 301(a)(2) and 903(c)(3). *See also Commonwealth v. Green*, 862 A.2d 613 (Pa. Super. 2004) (*en banc*), *petition for allowance of appeal denied*, 882 A.2d 477 (Pa. 2005). When post-sentence motions are denied by operation of law, the appeal period shall run from the date of entry of the order denying the motion by operation of law. *See* Pa.R.Crim.P. 720(A)(2)(c).

HISTORICAL COMMENTARY

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

EXPLANATORY COMMENT—1979

Where a determination is implied by the passage of time without action by a government unit, an aggrieved party is given the option either to appeal at once at the expiration of the period or to rely on the government unit or other affected person to give notice that an implied determination has been made.

EXPLANATORY COMMENT—2007

New subdivision (d) governs criminal appeals. Under new subdivision (d), when no postsentence motion is filed, the time for appeal begins to run from the date of imposition of sentence. *See* Pa.R.Crim.P. 462(G)(2), 720(A)(3) and (D), and 721(B)(2)(a)(ii), and the conforming amendments to Pa.R.A.P. 301(a)(2) and 903(c)(3), and 2006 Explanatory Comment thereto. *See also Commonwealth v. Green*, 862 A.2d 613 (Pa. Super. 2004) (*en banc*), *allocatur denied*, 584 Pa. 692, 882 A.2d 477 (2005). When postsentence motions are denied by operation of law, the appeal period shall run from the date of entry of the order denying the motion by operation of law. *See* Pa.R.Crim.P. 720(B)(3)(c).

Editor's Note: Note amended December 11, 1978, effective December 30, 1978; rule and note amended May 16, 1979, effective October 1, 1979; note amended February 27, 1980, effective March 15, 1980; amended January 18, 2007, effective August 1, 2007; amended July 26, 2024, effective October 1, 2024.

Rule 120. | Entry of Appearance.

(a) Filing. Any counsel filing papers required or permitted to be filed in an appellate court must enter an appearance with the prothonotary of the appellate court unless that counsel has been previously noted on the docket as counsel pursuant to Rules 907(b), 1112(f), 1311(d) or 1514(d). New counsel appearing for a party after docketing pursuant to Rules 907(b), 1112(f), 1311(d), or 1514(d) shall file an entry of appearance simultaneous with or prior to the filing of any papers signed by new counsel. The entry of appearance shall specifically designate each party the attorney represents and the attorney shall file a certificate of service pursuant to Subdivision (d) of Rule 121 and Rule 122. Where new counsel enters an appearance on behalf of a party currently represented by counsel and there is no simultaneous withdrawal of appearance, new counsel shall serve the party that new counsel represents and all other counsel of record and file a certificate of service.

Official Note: See Subdivision (b) of Rule 907, Subdivision (f) of Rule 1112, Subdivision (d) of Rule 1311 and Subdivision (d) of Rule 1514.

For admission pro hac vice, see Pa.B.A.R. 301

Editor's Note: Adopted March 15, 2004, effective 60 days after adoption; amended December 10, 2013, effective February 10, 2014.

Documents Generally

Rule 121. | Filing and Service.

(a) *Filing*.—Papers required or permitted to be filed in an appellate court shall be filed with the prothonotary. Filing may be accomplished by mail addressed to the prothonotary, but except as otherwise provided by these rules, filing shall not be timely unless the papers are received by the prothonotary within the time fixed for filing. If an application under these rules requests relief which may be granted by a single judge, a judge in extraordinary circumstances may permit the application and any related papers to be filed with that judge. In that event the judge shall note thereon the date of filing and shall thereafter transmit such papers to the clerk.

A pro se filing submitted by a prisoner incarcerated in a correctional facility is deemed filed as of the date it is delivered to the prison authorities for purposes of mailing or placed in the institutional mailbox, as evidenced by a properly executed prisoner cash slip or other reasonably verifiable evidence of the date that the prisoner deposited the pro se filing with the prison authorities.

(b) *Service of all Papers Required*.—Copies of all papers filed by any party and not required by these rules to be served by the prothonotary shall, concurrently with their filing, be served by a party or person acting on behalf of that party or person on all other parties to the matter. Service on a party represented by counsel shall be made on counsel.

(c) *Manner of Service*.—Service may be:

(1) by personal service, which includes delivery of the copy to a clerk or other responsible person at the office of the person served, but does not include interoffice mail;

(2) by first class, express, or priority United States Postal Service mail;

(3) by commercial carrier with delivery intended to be at least as expeditious as first class mail if the carrier can verify the date of delivery to it;

(4) by facsimile or email with the agreement of the party being served as stated in the certificate of service.

(d) *Proof of Service*.—Papers presented for filing shall contain an acknowledgment of service by the person served, or proof of service certified by the person who made service. Acknowledgment or proof of service may appear on or be affixed to the papers filed. The clerk may permit papers to be filed without acknowledgment or proof of service but shall require such to be filed promptly thereafter.

(e) *Additional time after service by mail and commercial carrier*.—Whenever a party is required or permitted to do an act within a prescribed period after service of a paper upon that party (other than an order of a court or other government unit) and the paper is served by United States mail or by commercial carrier, three days shall be added to the prescribed period.

Official Note: Subdivision (a)—The term "related papers" in subdivision (a) of this rule includes any appeal papers required under Rule 1702 (stay ancillary to appeal) as a prerequisite to an application for a stay or similar relief.

In 2008, the term "paperbooks" was replaced with "briefs and reproduced records" throughout these rules. The reference to the deemed filing date for paperbooks when first class mail was used that was formerly found in subdivision (a) is now found in rule 2185 regarding filing briefs and in Rule 2186 regarding filing reproduced records.

As to pro se filings by persons incarcerated in correctional facilities, see *Commonwealth v. Jones*, 549 Pa. 58, 700 A.2d 423 (1997); *Smith v. Pa. Bd. of Prob. & Parole*, 546 Pa. 115, 683 A.2d 278 (1996); *Commonwealth v. Johnson*, 860 A.2d 146 (Pa.Super. 2004).

Subdivision (c)—An acknowledgement of service may be executed by an individual other than the person served, e.g., by a clerk or other responsible person.

Subdivision (d)—With respect to appearances by new counsel following the initial docketing of appearances pursuant to Subdivision (d) of this rule, please note the requirements of Rule 120 (entry of appearance).

Subdivision (e)—Subdivision (e) of the rule does not apply to the filing of a notice of appeal, a petition for allowance of appeal, a petition for permission to appeal, or a petition for reconsideration or reargument, since under these rules the time for filing such papers runs from the entry and service of the related order, nor to the filing of a petition for review, which is governed by similar considerations. However, these rules permit the filing of such notice and petitions (except a petition for reconsideration or reargument) in the local county (generally in the county court house; otherwise in a post office), thus eliminating a major problem under the prior practice. The amendments to Rules 903(b), 1113(b) and 1512(a)(2) clarified that subdivision (e) does apply to calculating the deadline for filing cross-appeals, cross petitions for allowance of appeal and additional petitions for review.

Editor's Note: Amended July 7, 1997, effective September 5, 1997; amended March 15, 2004, effective 60 days after amended; amended September 10, 2008, effective December 1, 2008; amended April 9, 2012, effective 30 days after amendment.

Rule 122. | Content and Form of Proof of Service.

(a) *Content*.—A proof of service shall contain a statement of the date and manner of service and of the names of the persons served.

(b) *Form*.—Each name and address shall be separately set forth in the form of a mailing address, including applicable zip code, regardless of the actual method of service employed. The proof of service shall also show the telephone number, the party represented, and, where applicable, an email or facsimile address. The name, address and telephone number of the serving party shall be similarly set forth, followed by the attorney's registration number. A proof of service may be in substantially the following form:

See Forms Index

Note: Under 18 Pa.C.S. §4904 (unsworn falsification to authorities) a knowingly false proof of service constitutes a misdemeanor of the second degree.

Editor's Note: Amended February 27, 1980, effective March 15, 1980; further amended April 20, 1990, effective May 12, 1990; amended September 10, 2008, effective December 1, 2008.

EXPLANATORY COMMENT—1976

The name and address of the serving party is added to the certificate of service so that it also readily available if the certificate is xeroxed to form an address list.

Rule 123. | Application for Relief.

(a) *Contents of Applications for Relief*.—Unless another form is elsewhere prescribed by these rules, an application for an order or other relief shall be made by filing a written application for such order or relief with proof of service on all other parties. The application shall contain or be accompanied by any matter required by a specific provision of these rules governing such an application, shall state with particularity the grounds on which it is based, and shall set forth the order or relief sought. If an application is supported by briefs, verified statements, or other papers, they shall be served and filed with the application. An application may be made in the alternative and seek such alternative relief or action by the court as may be appropriate. All grounds for relief demanded shall be stated in the application and failure to state a ground shall constitute a waiver thereof. Except as otherwise prescribed by these rules, a request for more than one type of relief may be combined in the same application.

(b) *Answer*.—Any party may file an answer to an application within 14 days after service of the application, but applications under Chapter 17 (effect of appeals; supersedeas and stays), or for delay in remand of the record, may be acted upon after reasonable notice, unless the exigency of the case is such as to impel the court to dispense with such notice. The court may shorten or extend the time for answering any application. Answers shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized.

(c) *Speaking Applications*.—An application or answer which sets forth facts which do not already appear of record shall be verified by some person having knowledge of the facts, except that the court, upon presentation of such an application or answer without a verified statement, may defer action pending the filing of a verified statement or it may in its discretion act upon it in the absence of a verified statement if the interests of justice so require.

(d) *Oral Argument*.—Unless otherwise ordered by the court, oral argument will not be permitted on any application.

(e) *Power of Single Judge to Entertain Applications*.—In addition to the authority expressly conferred by these rules or by law or rule of court, a single judge of an Appellate Court may entertain and may grant or deny any request for relief which under these rules may properly be sought by application, except that an Appellate Court may provide by order or rule of court that any application or class of applications must be acted upon by the court. The action of a single judge may be reviewed by the court except for actions of a single judge under Pa.R.A.P. 3102(c)(2) (relating to a quorum in Commonwealth Court in any election matter).

(f) *Certificate of compliance with Case Records Public Access Policy of the Unified Judicial System of Pennsylvania.*—An application or answer filed under this Rule shall contain the certificate of compliance required by Pa.R.A.P. 127.

Official Note: The 1997 amendment precludes review by the Commonwealth Court of actions of a single judge in election matters.

Editor's Note: Amended December 11, 1978, effective December 30, 1978; amended December 30, 1987, effective January 16, 1988; further amended July 7, 1997, effective September 5, 1997; amended September 10, 2008, effective December 1, 2008; amended January 5, 2018, effective January 6, 2018; amended June 1, 2018, effective July 1, 2018.

Rule 124. | Form of Papers; Number of Copies.

(a) *Size and other physical characteristics*.—All papers filed in an appellate court shall be on 8 1/2 inch by 11 inch paper and shall comply with the following requirements:

(1) The papers shall be prepared on white paper (except for covers, dividers and similar sheets) of good quality.

(2) The first sheet (except the cover of a brief or reproduced record) shall contain a 3 inch space from the top of the paper for all court stampings, filing notices, etc.

(3) Text must be double spaced, but quotations more than two lines long may be indented and single spaced. Footnotes may be single spaced. Except as provided in subdivision (2), margins must be at least one inch on all four sides.

(4) Lettering shall be clear and legible and no smaller than 14 point in the text and 12 point in footnotes. Lettering shall be on only one side of a page, except that exhibits and similar supporting documents, briefs and reproduced records may be lettered on both sides of a page.

(5) Any metal fasteners or staples must be covered. Originals must be unbound. Copies must be firmly bound.

(6) No backers shall be necessary.

(b) *Nonconforming papers*.—The prothonotary of an appellate court may accept any nonconforming papers.

(c) *Copies*.—Except as otherwise prescribed by these rules:

(1) An original of an application for continuance or advancement of a matter shall be filed.

(2) An original and three copies of any other application in the appellate courts shall be filed, but the court may require additional copies.

Official Note: The 2013 amendment increased the minimum text font size from 12 point to 14 point and added a minimum footnote font size of 12 point. This rule requires a clear and legible font. The Supreme, Superior, and Commonwealth Courts use Arial, Verdana, and Times New Roman, respectively, for their opinions. A brief using one of these fonts will be satisfactory.

Editor's Note: Amended May 16, 2003. Effective 60 days after adoption; amended September 10, 2008, effective December 1, 2008; amended March 27, 2013, effective to all appeals and petitions for review filed 60 days after adoption.

EXPLANATORY NOTE—1979

The Supreme Court "short paper" (i.e. 11 inches rather than 13 or 14 inch legal size) rule is extended to the entire Pennsylvania Judicial System. This result follows from a new requirement that all papers filed in an Appellate Court, including the original record made before the trial court, be submitted on short paper. The change also applies to printed paperbooks (briefs and reproduced records). The note to the rule makes clear that the change is prospective only, but that by early 1980 it is anticipated that the bar and all elements of the Pennsylvania Judicial System will have converted over to the use of modern lettersize paper.

EXPLANATORY COMMENT—2006

The 2006 amendment changes the required type size from "no smaller than point 11" to "no smaller than point 12" and conforms the type size requirements to Pa.R.C.P. No. 204.1 and Pa.R.Crim.P. 575.

Editor's Note: Amended September 15, 2006, effective immediately.

Rule 125. | Electronic Filing.

Electronic filing of documents in the appellate courts shall be through the PACFile appellate court electronic filing system. Electronic filing of documents shall be governed Administrative Orders of the Supreme Court of Pennsylvania, which may be found at http://ujsportal.pacourts.us/refdocuments/judicialorder.pdf.

Official Note: This is an interim rule permitting electronic filing of documents in the Pennsylvania appellate courts. Initially, electronic filing will be available only in the Supreme Court. Subsequently, electronic filing will become available in the Superior and Commonwealth Courts. After experience is gained with electronic filing, the Pennsylvania Rules of Appellate Procedure will be amended where needed and as appropriate.

Editor's Note: Adopted October 24, 2012, effective November 1, 2012; amended December 20, 2013, effective December 20, 2013; amended November 13, 2015, effective immediately.

Rule 126. | Citations of Authorities.

(a) *General Rule*.—When citing authority, a party should direct the court's attention to the specific part of the authority on which the party relies. A party citing authority that is not readily available shall attach the authority as an appendix to its filing. If a party cites a decision as authorized in paragraph (b), (c), or (d), the party shall indicate the value or basis for such citation in a parenthetical following the citation.

(b) *Non-Precedential Decisions.*

(1) As used in this rule, "non-precedential decision" refers to an unpublished non-precedential memorandum decision of the Superior Court filed after May 1, 2019 or an unreported memorandum opinion of the Commonwealth Court filed after January 15, 2008.

(2) Non-precedential decisions as defined in (b)(1) may be cited for their persuasive value.

(c) *Single-Judge Opinions of the Commonwealth Court.*

(1) A reported single-judge opinion in an election law matter filed after October 1, 2013, may be cited as binding precedent only in an election law matter.

(2) All other single-judge opinions, even if reported, shall be cited only for persuasive value and not as binding precedent.

(d) *Law of the Case and Related Doctrines.*—Any disposition may always be cited if relevant to the doctrine of law of the case, *res judicata*, or collateral estoppel, or if relevant to a criminal action or proceeding because it recites issues raised and reasons for a decision affecting the same defendant in a prior action or proceeding.

Official Note:

Paragraph (a)

Pa.R.A.P. 126 is intended to ensure that cited authority is readily available to the court and parties. Paragraph (a) encourages parties to provide citations to the specific pages of cases and sections or subsections of statutes or rules that are relevant to the reason for the citation.

Although the rule does not establish rules for citation, the following guidelines regarding the citation of Pennsylvania cases and statutes are offered for parties' benefit:

Regarding cases, the rule does not require parallel citation to the National Reporter System and the official reports of the Pennsylvania appellate courts. Parties may cite to the National Reporter System alone.

Regarding statutes, Pennsylvania has officially consolidated only some of its statutes. Parties citing a statute enacted in the Pennsylvania Consolidated Statutes may use the format "1 Pa.C.S. § 1928." Parties citing an unconsolidated statute may refer to the Pamphlet Laws or other official collection of the Legislative Reference Bureau, with a parallel citation to *Purdon's Pennsylvania Statutes Annotated*, if available, using the format, "Act of February 14, 2008, P.L. 6, 65 P.S. §§ 67.101—67.3104" or "Section 3(a) of the Act of May 16, 1923, P.L. 207, *as amended*, 53 P.S. § 7106(a)." Parties are advised that *Purdon's* does not represent an official version of Pennsylvania statutes. *In re Appeal of Tenet HealthSystems Bucks Cnty., LLC*, 880 A.2d 721, 725-26 (Pa. Cmwlth. 2005), appeal denied, 897 A.2d 1185 (Pa. 2006).

Litigants are directed to provide, as far as practicable, citations to non-precedential decisions from electronic databases, such as LEXIS or Westlaw or any other readily available website. Opinions of the appellate courts are posted at http://www.pacourts.us and that website has searching and filtering capabilities. If another Rule of Appellate Procedure requires a paper copy, one should be provided.

Prior to Pa.R.A.P. 126, the format for citation was discussed only in Pa.R.A.P. 2119(b), a rule applicable to briefs. The format guidelines are not mandatory, and a party does not waive an argument merely by failing to follow the format. The guidelines do, however, provide assistance to parties looking for generally acceptable citation format in Pennsylvania's appellate courts.

Paragraph (b)

Paragraph (b) defines non-precedential decisions and their value for citation purposes. The new term is intended to harmonize the designations of intermediate appellate court opinions. Thus, "non-precedential decision" encompasses what are referred to as unpublished non-precedential memorandum decisions of the Superior Court and unreported memorandum opinions of the Commonwealth Court.

EXPLANATORY COMMENT

The Committee is proposing to amend Pa.R.A.P. 126 to permit citation of all panel or full-court decisions after the effective date of the rule. Any decision designated as "non-precedential memorandum" or "unpublished" would, however, be citable only for the persuasive value that the court chooses to attribute to it. Commonwealth Court would continue to allow citation from 2008 forward, and would continue to restrict citation to single-judge opinions, but the Committee is proposing to integrate the Commonwealth Court's practice, currently found at Pa.R.A.P. 3716, into Pa.R.A.P. 126, in order to have a single rule that governs the citation of authority in the appellate courts.

Prior to 2015, the only rule of appellate procedure that addressed the citation of authorities was Pa.R.A.P. 2119(b), which by its terms addressed only the argument section of briefs. The only other discussions of authority were in the internal operating procedures of the Superior and Commonwealth Courts. That year, however, Rules 126 and 3716 were adopted. Pa.R.A.P. 126 made the principles that had applied to arguments in briefing applicable whenever authority is cited to an appellate court. Pa.R.A.P. 3716 took what had been an internal operating procedure and made it a rule.

When Pa.R.A.P. 126 was adopted, there was a conscious decision not to address the differences among the appellate courts. The Committee now proposes to amend Pa.R.A.P. 126 to establish a more uniform protocol for the citation of decisions in the appellate courts. This proposal reflects several value judgments as to which the Committee desires the input of the bench and bar:

First, there is a value in being able to cite unpublished memorandum decisions. At the least, it is important to be able to draw to the attention of the appellate courts matters that have been addressed in unpublished memorandum decisions but not in published opinions, or matters that appear to have been resolved inconsistently in unpublished memorandum decisions.

Second, the value of the opportunity to cite to unpublished memorandum decisions is somewhat offset by the determination of the panel that the decision did not warrant a published opinion; accordingly, the intermediate appellate courts should be able to decide for themselves whether to give an unpublished memorandum decision no weight, some weight, or persuasive weight.

Third, given the volume of decisions and the longstanding tradition of non-citation in the Superior Court, the method that the Commonwealth Court employed—*i.e.*, making citation available going forward from the date of adoption of the rule permitting citation—is sensible.

Fourth, the bar (and the bench of the Court of Common Pleas) should be able to look to a rule and not to an internal operating procedure to understand how and when they can cite decisions.

Fifth, there should be a single rule that governs the citation of authorities.

The current proposal attempts to balance several competing values. On the one hand, the current proposal recognizes that it is important that lawyers and Courts of Common Pleas have the opportunity to raise to the appellate courts unpublished memorandum decisions that appear to answer the question presented, or that appear to have reached a conclusion contrary to another opinion of the same court. On the other, the current proposal seeks to accommodate the desire for courts to be able to write less and other panels of that court to pay correspondingly less attention to decisions that a panel thinks do not warrant published opinions.

Editor's Note: Adopted November 24, 2015, effective January 1, 2016; amended March 4, 2019, effective May 1, 2019.

Rule 127. | Confidential Information and Confidential Documents. Certification.

(a) Unless public access is otherwise constrained by applicable authority, any attorney or any unrepresented party who files a document pursuant to these rules shall comply with the requirements of Sections 7.0 and 8.0 of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* ("Public Access Policy"). In accordance with the Policy, the filing shall include a certification of compliance with the Policy and, as necessary, a Confidential Information Form, unless otherwise specified by rule or order of court, or a Confidential Document Form.

(b) Unless an appellate court orders otherwise, case records or documents that are sealed by a court, government unit, or other tribunal shall remain sealed on appeal.

***Official Note*:** Paragraph (a)—"Applicable authority" includes but is not limited to statute, procedural rule, or court order. *The Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* ("Public Access Policy") can be found at http://www.pacourts.us/public-records. Sections 7.0(D) and 8.0(D) of the Public Access Policy provide that the certification shall be in substantially the following form:

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Appropriate forms can be found at http://www.pacourts.us/public-records. Pursuant to Section 7.0(C) of the Policy, a court may adopt a rule or order that permits, in lieu of a Confidential Information Form, the filing of a document in two versions, that is, a "Redacted Version" and an "Unredacted Version." For certification of the Reproduced Record and Supplemental Reproduced Record in compliance with the Public Access Policy, *see* Pa.R.A.P. 2152, 2156, 2171, and accompanying notes.

Paragraph (b)—Once a document is sealed, it shall remain sealed on appeal unless the appellate court orders, either *sua sponte* or on application, that the case record or document be opened.

Editor's Note: Adopted January 5, 2018, effective January 6, 2018; amended June 1, 2018, effective July 1, 2018.

Chapter 3
Orders from Which Appeals May be Taken

In General

Rule 301. | Requisites for an Appealable Order.

(a) *Entry Upon Docket Below*.

(1) Except as provided in paragraph (2) of this subdivision, no order of a court shall be appealable until it has been entered upon the appropriate docket in the lower court. Where under the applicable practice below an order is entered in two or more dockets, the order has been entered for the purposes of appeal when it has been entered in the first appropriate docket.

(2) In a criminal case in which no postsentence motion has been filed, a judgment of sentence is appealable upon the imposition of sentence in open court.

(b) *Separate Document Required*.—Every order shall be set forth on a separate document.

(c) *Non-appealable Orders*.—Except as provided in subdivision (a)(2), a direction by the lower court that a specified judgment, sentence or other order shall be entered, unaccompanied by actual entry of the specified order in the docket, does not constitute an appealable order. Any such order shall be docketed before an appeal is taken.

(d) *Entry of Appealable Orders*.—Subject to any inconsistent general rule applicable to particular classes of matters, the clerk of the lower court shall on praecipe of any party (except a party who by law may not praecipe for entry of an adverse order) forthwith prepare, sign and enter an appropriate order judgment or final decree in the docket evidencing any action from which an appeal lies either as of right or upon permission to appeal or allowance of appeal.

(e) *Emergency Appeals*.—Where the exigency of the case is such as to impel an immediate appeal and the party intending to appeal an adverse action is unable to secure the formal entry of an appealable order pursuant to the usual procedures, the party may file in the lower court and serve a praecipe for entry of an adverse order, which action shall constitute entry of an appealable order for the purposes of these rules. The interlocutory or final nature of the action shall not be affected by this subdivision.

Note: See Rules of Appellate Procedure 311 authorizing interlocutory appeals as of right, 312 authorizing interlocutory appeals by permission, and 341 to 843 authorizing appeals from final orders.

See also Rules of Appellate Procedure 903 governing time for filing notice of appeal, 1113 governing time for filing petition for allowance of appeal, 1311(b) governing time for filing petition for permission for appeal, and 1512 governing time for filing petition for review.

The 1986 Amendment to Rule 301 states that no order shall be appealable until entered in the docket and deletes reference to reduction of an order to judgment as a prerequisite for appeal in every case. This deletion does not eliminate the requirement of reduction of an order to judgment in an appropriate case. Due to the variety of orders issued by courts in different kinds of cases, no single rule can delineate the requirements applicable in all cases. The bar is cautioned that if the applicable practice or case law requires that an order be reduced to judgment or final decree before it becomes final, that requirement must still be met before the order can be appealed. An appeal may be remanded or subject to other appropriate action of the Appellate Court when the order is such that it may be reduced to judgment or final decree and entered in the docket but such action has not been taken. Rule 902. Examples of orders which may be remanded under Rule 902 when the order appealed from has not been reduced to judgment or final decree include:

1. an order denying a motion for a new trial or judgment notwithstanding the verdict after a trial by jury, *Dennis v. Smith*, 288 Pa. Super. 185, 431 A.2d 350 (1981);

2. an order dismissing exceptions to the decision after a trial without jury, *Black Top Paving Co., Inc. v. John Carlo, Inc.*, 292 Pa. Super. 404, 437 A. 2d 446 (1981); and

3. an order dismissing exceptions to the decree nisi in an equity action, *Kopchak v. Springer*, 292 Pa. Super. 441, 437 A. 2d 756 (1981).

An appeal will also be quashed where the order appealed from is interlocutory and the appeal is not authorized by Rule 311 governing interlocutory appeals as of right or Rule 312 governing interlocutory appeals by permission. Examples of interlocutory orders include:

1. an order granting a petition for appointment of an arbitrator, *Cassidy v. Keystone Ins. Co.*, 297 Pa. Super. 421, 443 A. 2d 1193 (1982); and
2. an order relating to alimony pendente lite, and interim counsel fees and expenses is not appealable. *Fried v. Fried*, 509 Pa. 89, 501 A. 2d 211 (1985).

Subdivision (a) extends former Supreme Court Rule 19A and former Commonwealth Court Rule 29A to the Superior Court. The second sentence of the subdivision codifies *Stotsenburg v. Frost*, 465 Pa. 187, 348 A. 2d 418 (1975).

The requirement of Subdivision (b) for a separate document is patterned after Fed. Rules Civ. Proc. 58, as interpreted in *United States v. Indrelunas*, 93 S.Ct. 1562, 411 U.S. 216, 36 L.Ed.2d 202 (1973), so as to render certain the date on which an order is entered for purposes of computing the running of the time for appeal. See also *Bankers Trust Co. v. Mallis*, 98 S.Ct. 1117, 435 U.S. 381, 55 L. Ed.2d 357 (1978) (requirement of separate document may be waived by appellee). This requirement is intended to control over any inconsistent civil (including Orphans' Court) or criminal procedural rule, since such rules are not primarily concerned with the appellate process.

Subdivision (c) sets forth the frequently overlooked requirement for an appealable order that an order must be docketed before it may be appealed. The subdivision also sets forth the rule that an appeal is premature where the court directs that a judgment sentence or order be entered in the docket and the prothonotary fails to do so. *Friedman v. Kasser*, 293 Pa. Super. 294, 438 A. 2d 1001 (1981). Moreover, an order of court then directing that a complaint as set forth will be dismissed upon the passage of time or occurrence or failure of an event is not appealable; only a subsequent order of dismissal would be appealable. See *Ayre v. Mountaintop Area Joint San. Auth.*, 58 Pa. Commw. 510, 427 A. 2d 1294 (1981).

This rule does not supersede rules such as Pa.R.C.P. 237 which impose additional requirements or procedures in connection with filing a praecipe for a final order.

Subdivision (d) provides a remedy for the appellant where no appealable order has been entered on the docket, and is similar to Pa.R.C.P. 227.4. The exception refers to cases such as certain matrimonial matters, where it has been held that the defendant is not entitled to cause an adverse decision to be formally entered as judgment. See, e.g. *Mirarchi v. Mirarchi*, 226 Pa. Super. 53, 311 A. 2d 698 (1973).

The filing in the lower court required by Subdivision (e) may under Rule 121 (a) (filing) be made with a judge of the lower court in connection with an application under Chapter 17 (effect of appeals, supersedeas and stays).

See Pa.R.A.P. 108 and Explanatory Comment—2007 thereto, Pa.R.A.P. 903(c)(3), and Pa.R.Crim. P. 462, 720, and 721 governing criminal appeals.

Editor's Note: Amended May 16, 1979, effective June 2, 1979; further amended December 10, 1986, effective January 31, 1987; amended January 18, 2007, effective August 1, 2007.

EXPLANATORY COMMENT—1976

Language clarified to conform to *Stotsenburg v. Frost*, 465 Pa. 187, 348 A.2d 418 (1975).

Rule 302. | Requisites for Reviewable Issue.

(a) General Rule.—Issues not raised in the trial court are waived and cannot be raised for the first time on appeal.

(b) Charge to Jury.—A general exception to the charge to the jury will not preserve an issue for appeal. Specific exception shall be taken to the language or omission complained of.

Official Note: *Paragraph (a)—See Commonwealth v. Piper*, 328 A.2d 845, 847 (Pa. 1974) ("[I]ssues not raised in the court below are waived and cannot be raised for the first time on appeal. . . .").

Paragraph (b)—In the civil context, the Supreme Court held in *Jones v. Ott*, 191 A.3d 782, 791 n.13 (Pa. 2018), that "in order to preserve a jury-charge challenge under Pa.R.C.P. 227.1 by filing proposed points for charge with the prothonotary, a party must make requested points for charge part of the record pursuant to Pa.R.C.P. 226(a), obtain an explicit trial court ruling upon the challenged instruction, and raise the issue in a post-trial motion. *See* Pa.R.A.P. 302(a); Pa.R.C.P. 226(a), 227, 227.1." *See Dilliplaine v. Lehigh Valley Trust Co.*, 322 A.2d 114 (Pa. 1974) (specific exception to trial court's jury instruction must be made in order to preserve a point for appellate review).

In the criminal context, the procedure for raising and preserving objections to a jury charge is found in Pa.R.Crim.P. 647(B) and (C). *See also Commonwealth v. Pressley*, 887 A.2d 220, 225 (Pa. 2005) ("[M]ere submission and subsequent denial of proposed points for charge that are inconsistent with or omitted from the instructions actually given will not suffice to preserve an issue, absent a specific objection or exception to the charge or the trial court's ruling respecting the points."); *Commonwealth v. Light*, 326 A.2d 288 (Pa. 1974) (plurality opinion) (failure to take a specific exception to the language complained of in a jury charge forecloses review by the appellate court).

Failure to follow the appropriate procedure may result in waiver of this issue.

Cross references—Pa.R.A.P. 2117(c) (statement of place of raising or preservation of issues) and Pa.R.A.P. 2119(e) (statement of place of raising or preservation of issues) require that the brief, in both the statement of the case and in the argument, expressly refer to the place in the record where the issue presented for decision on appeal has been raised or preserved below. See Pa.R.A.P. 1551 (scope of review) as to requisites for reviewable issues on petition.

Amended June 23, 1976, effective July 1, 1976; further amended February 27, 1980, effective March 15, 1980.

EXPLANATORY COMMENT—1976

Rule 302 provides that in an appeal from a lower court procedural objections not raised below are waived. Rule 1551(a)(1) is amended to conform with that principle so that on review of a quasijudicial order a procedural objection not raised below is waived. This amendment is not applicable to appellate review of government unit proceedings where the administrative proceedings below commenced prior to September 1, 1976.

Editor's Note: Amended October 7, 2020, effective immediately.

Interlocutory Appeals

Rule 311. | Interlocutory Appeals as of Right.

(a) *General Rule*. An appeal may be taken as of right and without reference to Pa.R.A.P. 341(c) from the following types of orders:

(1) *Affecting judgments*. An order refusing to open, vacate, or strike off a judgment. If orders opening, vacating, or striking off a judgment are sought in the alternative, no appeal may be filed until the court has disposed of each claim for relief.

(2) *Attachments, etc.* An order confirming, modifying, dissolving, or refusing to confirm, modify or dissolve an attachment, custodianship, receivership, or similar matter affecting the possession or control of property, except for orders pursuant to 23 Pa.C.S. §§ 3323(f), 3505(a).

(3) *Change of Criminal Venue or Venire.* An order changing venue or venire in a criminal proceeding.

(4) *Injunctions.* An order that grants or denies, modifies or refuses to modify, continues or refuses to continue, or dissolves or refuses to dissolve an injunction unless the order was entered:

(i) Pursuant to 23 Pa.C.S. §§ 3323(f), 3505(a); or

(ii) After a trial but before entry of the final order. Such order is immediately appealable, however, if the order enjoins conduct previously permitted or mandated or permits or mandates conduct not previously mandated or permitted, and is effective before entry of the final order.

(5) *Peremptory Judgment in Mandamus.* An order granting peremptory judgment in mandamus.

(6) *New Trials.* An order in a civil action or proceeding awarding a new trial, or an order in a criminal proceeding awarding a new trial where the defendant claims that the proper disposition of the matter would be an absolute discharge or where the Commonwealth claims that the trial court committed an error of law.

(7) *Partition.* An order directing partition.

(8) *Other Cases.* An order that is made final or appealable by statute or general rule, even though the order does not dispose of all claims and of all parties.

(b) *Order Sustaining Venue or Personal or In Rem Jurisdiction.* An appeal may be taken as of right from an order in a civil action or proceeding sustaining the venue of the matter or jurisdiction over the person or over real or personal property if:

(1) the plaintiff, petitioner, or other party benefiting from the order files of record within ten days after the entry of the order an election that the order shall be deemed final; or

(2) the court states in the order that a substantial issue of venue or jurisdiction is presented.

(c) *Changes of Venue, etc.* An appeal may be taken as of right from an order in a civil action or proceeding changing venue, transferring the matter to another court of coordinate jurisdiction, or declining to proceed in the matter on the basis of forum non conveniens or analogous principles.

(d) *Commonwealth Appeals in Criminal Cases.* In a criminal case, under the circumstances provided by law, the Commonwealth may take an appeal as of right from an order that does not end the entire case where the Commonwealth certifies in the notice of appeal that the order will terminate or substantially handicap the prosecution.

(e) *Orders Overruling Preliminary Objections in Eminent Domain Cases.* An appeal may be taken as of right from an order overruling preliminary objections to a declaration of taking and an order overruling preliminary objections to a petition for appointment of a board of viewers.

(f) *Administrative Remand.* An appeal may be taken as of right from:

(1) an order of a common pleas court or government unit remanding a matter to an administrative agency or hearing officer for execution of the adjudication of the reviewing tribunal in a manner that does not require the exercise of administrative discretion; or

(2) an order of a common pleas court or government unit remanding a matter to an administrative agency or hearing officer that decides an issue that would ultimately evade appellate review if an immediate appeal is not allowed.

(g) *Waiver of Objections.*

(1) Except as provided in subdivision (g)(1), failure to file an appeal of an interlocutory order does not waive any objections to the interlocutory order:

(i) (Rescinded).

(ii) Failure to file an appeal from an interlocutory order under subdivision (b)(1) or subdivision (c) of this rule shall constitute a waiver of all objections to jurisdiction over the person or over the property involved or to venue, etc., and the question of jurisdiction or venue shall not be considered on any subsequent appeal.

(iii) Failure to file an appeal from an interlocutory order under subdivision (e) of this rule shall constitute a waiver of all objections to such an order.

(iv) Failure to file an appeal from an interlocutory order refusing to compel arbitration, appealable under 42 Pa.C.S. § 7320(a)(1) and subdivision (a)(8) of this

rule, shall constitute a waiver of all objections to such an order.

(2) Where no election that an interlocutory order shall be deemed final is filed under subdivision (b)(1) of this rule, the objection may be raised on any subsequent appeal.

(h) *Further Proceedings in the Trial Court.* Pa.R.A.P. 1701(a) shall not be applicable to a matter in which an interlocutory order is appealed under subdivisions (a)(2) or (a)(4) of this rule.

COMMENT:

Authority—This rule implements 42 Pa.C.S. § 5105(c), which provides:

(c) *Interlocutory appeals.* There shall be a right of appeal from such interlocutory orders of tribunals and other government units as may be specified by law. The governing authority shall be responsible for a continuous review of the operation of section 702(b) (relating to interlocutory appeals by permission) and shall from time to time establish by general rule rights to appeal from such classes of interlocutory orders, if any, from which appeals are regularly permitted pursuant to section 702(b).

The appeal rights under this rule and under Pa.R.A.P. 312, Pa.R.A.P. 313, Pa.R.A.P. 341, and Pa.R.A.P. 342 are cumulative; and no inference shall be drawn from the fact that two or more rules may be applicable to an appeal from a given order.

Paragraph (a)—If an order falls under Pa.R.A.P. 311, an immediate appeal may be taken as of right simply by filing a notice of appeal. The procedures set forth in Pa.R.A.P. 341(c) and 1311 do not apply to an appeal under Pa.R.A.P. 311.

Subparagraph (a)(1)—The 1989 amendment to subparagraph (a)(1) eliminated interlocutory appeals of right from orders opening, vacating, or striking off a judgment while retaining the right of appeal from an order refusing to take any such action.

Subparagraph (a)(2)—The 1987 Amendment to subparagraph (a)(2) is consistent with appellate court decisions disallowing interlocutory appeals in matrimonial matters. *Fried v. Fried*, 501 A.2d 211 (Pa. 1985); *O'Brien v. O'Brien*, 519 A.2d 511 (Pa. Super. 1987).

Subparagraph (a)(3)—Change of venire is authorized by 42 Pa.C.S. § 8702. Pa.R.Crim.P. 584 treats changes of venue and venire the same. Thus, an order changing venue or venire is appealable by the defendant or the Commonwealth, while an order refusing to change venue or venire is not.

See also Pa.R.A.P. 903(c)(1) regarding time for appeal.

Subparagraph (a)(4)—The 1987 amendment to subparagraph (a)(4) is consistent with appellate court decisions disallowing interlocutory appeals in matrimonial matters. *Fried v. Fried*, 501 A.2d 211, 215 (Pa. 1985); *O'Brien v. O'Brien*, 519 A.2d 511, 514 (Pa. Super. 1987).

The 1996 amendment to subparagraph (a)(4) reconciled two conflicting lines of cases by adopting the position that generally an appeal may not be taken from a *decree nisi* granting or denying a permanent injunction.

The 2009 amendment to the rule conformed the rule to the 2003 amendments to the Pennsylvania Rules of Civil Procedure abolishing actions in equity and thus eliminating the *decree nisi*. Because *decrees nisi* were in general not appealable to the extent they were not effective immediately upon entry, this principle has been expressly incorporated into the body of the rule as applicable to any injunction.

Subparagraph (a)(5)—Subparagraph (a)(5), added in 1996, authorizes an interlocutory appeal as of right from an order granting a motion for peremptory judgment in mandamus without the condition precedent of a motion to open the peremptory judgment in mandamus. An order denying a motion for peremptory judgment in mandamus remains unappealable.

Subparagraph (a)(8)—Subparagraph (a)(8) recognizes that orders that are procedurally interlocutory may be made appealable by statute or general rule. For example, see 27 Pa.C.S. § 8303. The Pennsylvania Rules of Civil Procedure, the Pennsylvania Rules of Criminal Procedure, etc., should also be consulted.

See Pa.R.A.P. 341(f) for appeals of Post Conviction Relief Act orders.

Following a 2005 amendment to Pa.R.A.P. 311, orders determining the validity of a will or trust were appealable as of right under former subparagraph(a)(8). Pursuant to the 2011 amendments to Pa.R.A.P. 342, such orders are now immediately appealable under Pa.R.A.P. 342(a)(2).

Paragraph (b)—Paragraph (b) is based in part on the Act of March 5, 1925, P.L. 23. The term "civil action or proceeding" is broader than the term "proceeding at law or in equity" under the prior practice and is intended to include orders entered by the orphans' court division. *Cf. In the Matter of Phillips*, 370 A.2d 307 (Pa. 1977).

In subparagraph (b)(1), a plaintiff is given a qualified (because it can be overridden by petition for and grant of permission to appeal under Pa.R.A.P. 312) option to gamble that the venue of the matter or personal or *in rem* jurisdiction will be sustained on appeal. Subparagraph (g)(1)(ii) provides that if the plaintiff timely elects final treatment, the failure of the defendant to appeal constitutes a waiver. The appeal period under Pa.R.A.P. 903 ordinarily runs from the entry of the order, and not from the date of filing of the election, which procedure will ordinarily afford at least 20 days within which to appeal. *See* Pa.R.A.P. 903(c) as to treatment of special appeal times. If the plaintiff does not file an election to treat the order as final, the case will proceed to trial unless (1) the trial court makes a finding under subparagraph (b)(2) of the existence of a substantial question of jurisdiction and the defendant elects to appeal, (2) an interlocutory appeal is permitted under Pa.R.A.P. 312, or (3) another basis for appeal appears, for example, under subparagraph (a)(1), and an appeal is taken. Presumably, a plaintiff would file such an election where plaintiff desires to force the defendant to decide promptly whether the objection to venue or jurisdiction will be seriously pressed. Paragraph (b) does not cover orders that do not sustain jurisdiction because they are, of course, final orders appealable under Pa.R.A.P. 341.

Subparagraph (b)(2)—The 1989 amendment to subparagraph (b)(2) permits an interlocutory appeal as of right where the trial court certifies that a substantial question of venue is present. This eliminated an inconsistency formerly existing between paragraph (b) and subparagraph (b)(2).

Paragraph (c)—Paragraph (c) is based in part on the act of March 5, 1925 (P.L. 23, No. 15). The term "civil action or proceeding" is broader than the term "proceeding at law or in equity" under the prior practice and is intended to include orders entered by the orphans' court division. *Cf. In the Matter of Phillips*, 370 A.2d 307, 308 (Pa. 1977).

Paragraph (c) covers orders that do not sustain venue, such as orders under Pa.R.C.P. 1006(d) and (e).

However, the paragraph does not relate to a transfer under 42 Pa.C.S. § 933(c)(1), 42 Pa.C.S. § 5103, or any other similar provision of law, because such a transfer is not to a "court of coordinate jurisdiction" within the meaning of this rule; it is intended that there shall be no right of appeal from a transfer order based on improper subject matter jurisdiction. Such orders may be appealed by permission under Pa.R.A.P. 312, or an appeal as of right may be taken from an order dismissing the matter for lack of jurisdiction. *See Balshy v. Rank*, 490 A.2d 415, 416 (Pa. 1985).

Other orders relating to subject matter jurisdiction (which for this purpose does not include questions as to the form of action, such as between law and equity, or divisional assignment, *see* 42 Pa.C.S. § 952) will be appealable under Pa.R.A.P. 341 if jurisdiction is not sustained, and otherwise will be subject to Pa.R.A.P. 312.

Paragraph (d)—Pursuant to paragraph (d), the Commonwealth has a right to take an appeal from an interlocutory order provided that the Commonwealth certifies in the notice of appeal that the order terminates or substantially handicaps the prosecution. See Pa.R.A.P. 904(e). This rule supersedes *Commonwealth v. Dugger*, 486 A.2d 382, 386 (Pa. 1985). *Commonwealth v. Dixon*, 907 A.2d 468, 471 n.8 (Pa. 2006).

Paragraph (f)—Pursuant to paragraph (f), there is an immediate appeal as of right from an order of a common pleas court or government unit remanding a matter to an administrative agency or hearing officer for execution of the adjudication of the reviewing tribunal in a manner that does not require the exercise of administrative discretion. Examples of such orders include: a remand by a court of common pleas to the Department of Transportation for removal of points from a drivers license; and an order of the Workers' Compensation Appeal Board reinstating compensation benefits and remanding to a referee for computation of benefits.

Paragraph (f) further permits immediate appeal from an order of a common pleas court or government unit remanding a matter to an administrative agency or hearing officer that decides an issue that would ultimately evade appellate review if an immediate appeal is not allowed. *See Lewis v. Sch. Dist. of Philadelphia*, 690 A.2d 814, 816 (Pa. Cmwlth. 1997).

Subparagraph (g)(1)(iv)—Subparagraph (g)(1)(iv), added in 2015, addresses waiver in the context of appeals from various classes of arbitration orders. All six types of arbitration orders identified in 42 Pa.C.S. § 7320(a) are immediately appealable as of right. Differing principles govern these orders, some of which are interlocutory and some of which are final. The differences affect whether an order is appealable under this rule or Pa.R.A.P. 341(b) and whether an immediate appeal is necessary to avoid waiver of objections to the order.

- Section 7320(a)(1)—An interlocutory order refusing to compel arbitration under 42 Pa.C.S. § 7320(a)(1) is immediately appealable pursuant to Pa.R.A.P. 311(a)(8). Failure to appeal the interlocutory order immediately waives all objections to it. *See* Pa.R.A.P. 311(g)(1)(iv). This supersedes the holding in *Cooke v. Equitable Life Assurance Soc'y*, 723 A.2d 723, 726 (Pa. Super. 1999). Pa.R.A.P. 311(a)(8) and former Pa.R.A.P. 311(g)(1)(i) require a finding of waiver based on failure to appeal the denial order when entered).

- Section 7320(a)(2)—Failure to appeal an interlocutory order granting an application to stay arbitration under 42 Pa.C.S. § 7304(b) does not waive the right to contest the stay; an aggrieved party may appeal such an order immediately under Pa.R.A.P. 311(a)(8) or challenge the order on appeal from the final judgment.

- Section 7320(a)(3)—(a)(6)—If an order is appealable under 42 Pa.C.S. § 7320(a)(3), (4), (5), or (6) because it is final, that is, the order disposes of all claims and of all parties, *see* Pa.R.A.P. 341(b), failure to appeal immediately waives all issues. If the order does not dispose of all claims or of all parties, then the order is interlocutory. An aggrieved party may appeal such an order immediately under Pa.R.A.P. 311(a)(8) or challenge the order on appeal from the final judgment.

Paragraph (h)—See note to Pa.R.A.P. 1701(a).

(This is entirely new text.)

(*Editor's Note:* The following text is proposed to be added and is printed in regular type to enhance readability.)

COMMENT:

Authority—This rule implements 42 Pa.C.S. § 5105(c), which provides:

(c) *Interlocutory appeals.* There shall be a right of appeal from such interlocutory orders of tribunals and other government units as may be specified by law. The governing authority shall be responsible for a continuous review of the operation of section 702(b) (relating to interlocutory appeals by permission) and shall from time to time establish by general rule rights to appeal from such classes of interlocutory orders, if any, from which appeals are regularly permitted pursuant to section 702(b).

The appeal rights under this rule and under Pa.R.A.P. 312, Pa.R.A.P. 313, Pa.R.A.P. 341, and Pa.R.A.P. 342 are cumulative, and no inference shall be drawn from the fact that two or more rules may be applicable to an appeal from a given order. Pa.R.A.P. 902 addresses whether separate notices of appeal are required to be filed where an order appealable under this rule is entered on more than one docket.

Subdivision (a)—If an order falls under Pa.R.A.P. 311, an immediate appeal may be taken as of right simply by filing a notice of appeal. The procedures set forth in Pa.R.A.P. 341(c) and 1311 do not apply to an appeal under Pa.R.A.P. 311.

Subdivision (a)(3)—Change of venire is authorized by 42 Pa.C.S. § 8702. Pa.R.Crim.P. 584 treats changes of venue and venire the same. Thus, an order changing venue or venire is appealable by the defendant or the Commonwealth, while an order refusing to change venue or venire is not. *See* also Pa.R.A.P. 903(c)(1) regarding time for appeal.

Subdivision (a)(4)—This subdivision does not apply to an order granting or denying an application filed with a trial court under Pa.R.A.P. 1732(a) (stays or injunctions pending appeal). Any further relief may be sought directly from the appellate court under Pa.R.A.P. 1732(b). *See In re Passarelli Trust*, 231 A.3d 969 (Pa. Super. 2020).

Subdivision (a)(5) authorizes an interlocutory appeal as of right from an order granting a motion for peremptory judgment in mandamus without the condition precedent of a motion to open the peremptory judgment in mandamus. An order denying a motion for peremptory judgment in mandamus remains unappealable.

Subdivision (a)(6)—See Commonwealth v. Wardlaw, 249 A.3d 937 (Pa. 2021) (holding that an order declaring a mistrial only is not "an order in a criminal proceeding awarding a new trial").

Subdivision (a)(8) recognizes that orders that are procedurally interlocutory may be made appealable by statute or general rule. For example, see 27 Pa.C.S. § 8303. The Pennsylvania Rules of Civil Procedure, the Pennsylvania Rules of Criminal Procedure, etc., should also be consulted. See Pa.R.A.P. 341(f) for appeals of Post Conviction Relief Act orders.

Subdivision (b) is based in part on the Act of March 5, 1925, P.L. 23. The term "civil action or proceeding" is broader than the term "proceeding at law or in equity" under the prior practice and is intended to include orders entered by the orphans' court division. *Cf. In the Matter of Phillips*, 370 A.2d 307, 308 (Pa. 1977).

In subdivision (b)(1), a plaintiff is given a qualified option to gamble that the venue of the matter or personal or *in rem* jurisdiction will be sustained on appeal because it can be overridden by petition for and grant of permission to appeal under Pa.R.A.P. 312. Subdivision (g)(1)(ii) provides that if the plaintiff timely elects final treatment, the failure of the defendant to appeal constitutes a waiver. The appeal period under Pa.R.A.P. 903 ordinarily runs from the entry of the order, and not from the date of filing of the election, which procedure will ordinarily afford at least 20 days within which to appeal. *See* Pa.R.A.P. 903(c)(2) as to treatment of special appeal times. If the plaintiff does not file an election to treat the order as final, the case will proceed to trial unless (1) the trial court makes a finding under subdivision (b)(2) of the existence of a substantial question of venue or jurisdiction and the defendant elects to appeal, (2) an interlocutory appeal is permitted under Pa.R.A.P. 312, or (3) another basis for appeal appears, for example, under subdivision (a)(1), and an appeal is taken. Presumably, a plaintiff would file such an election where plaintiff desires to force the defendant to decide promptly whether the objection to venue or jurisdiction will be seriously pressed. Subdivision (b) does not cover orders that do not sustain jurisdiction because they are, of course, final orders appealable under Pa.R.A.P. 341.

Subdivision (c) is based in part on the Act of March 5, 1925, P.L. 23. The term "civil action or proceeding" is broader than the term "proceeding at law or in equity" under the prior practice and is intended to include orders entered by the orphans' court division. *Cf. In the Matter of Phillips*, 370 A.2d 307, 308 (Pa. 1977). Subdivision (c) covers orders that do not sustain venue, such as orders under Pa.R.Civ.P. 1006(d) and (e).

However, the subdivision does not relate to a transfer under 42 Pa.C.S. § 933(c)(1), 42 Pa.C.S. § 5103, or any other similar provision of law, because such a transfer is not to a "court of coordinate jurisdiction" within the meaning of this rule; it is intended that there shall be no right of appeal from a transfer order based on improper subject matter jurisdiction. Such orders may be appealed by permission under Pa.R.A.P. 312, or an appeal as of right may be taken from an order dismissing the matter for lack of jurisdiction. *See Balshy v. Rank*, 490 A.2d 415, 416 (Pa. 1985).

Other orders relating to subject matter jurisdiction (which for this purpose does not include questions as to the form of action, such as between law and equity, or divisional assignment, *see* 42 Pa.C.S. § 952) will be appealable under Pa.R.A.P. 341 if jurisdiction is not sustained, and otherwise will be subject to Pa.R.A.P. 312.

Pursuant to subdivision (d), the Commonwealth has a right to take an appeal from an interlocutory order provided that the Commonwealth certifies in the notice of appeal that the order terminates or substantially handicaps the prosecution. *See* Pa.R.A.P. 904(e). This rule supersedes *Commonwealth v. Dugger*, 486 A.2d 382, 386 (Pa. 1985). *Commonwealth v. Dixon*, 907 A.2d 468, 471 n.8 (Pa. 2006).

Pursuant to subdivision (f), there is an immediate appeal as of right from an order of a common pleas court or government unit remanding a matter to an administrative agency or hearing officer for execution of the adjudication of the reviewing tribunal in a manner that does not require the exercise of administrative discretion. Examples of such orders include: a remand by a court of common pleas to the Department of Transportation for removal of points from a driver's license; and an order of the Workers' Compensation Appeal Board reinstating compensation benefits and remanding to a referee for computation of benefits.

Subdivision (f) further permits immediate appeal from an order of a common pleas court or government unit remanding a matter to an administrative agency or hearing officer that decides an issue that would ultimately evade appellate review if an immediate appeal is not allowed. *See Lewis v. Sch. Dist. of Philadelphia*, 690 A.2d 814, 816 (Pa. Cmwlth. 1997).

Subdivision (g)(1)(iv) addresses waiver in the context of appeals from various classes of arbitration orders. All six types of arbitration orders identified in 42 Pa.C.S. § 7320(a) are immediately appealable as of right. Differing principles govern these orders, some of which are interlocutory and some of which are final. The differences affect whether an order is appealable under this rule or Pa.R.A.P. 341(b) and whether an immediate appeal is necessary to avoid waiver of objections to the order.

- Section 7320(a)(1)—An interlocutory order refusing to compel arbitration under 42 Pa.C.S. § 7320(a)(1) is immediately appealable pursuant to Pa.R.A.P. 311(a)(8). Failure to appeal the interlocutory order immediately waives all objections to it. *See* Pa.R.A.P. 311(g)(1)(iv). This supersedes the holding in *Cooke v. Equitable Life Assurance Soc'y*, 723 A.2d 723, 726 (Pa. Super. 1999). Pa.R.A.P. 311(a)(8) and former Pa.R.A.P. 311(g)(1)(i) require a finding of waiver based on failure to appeal the denial order when entered).

- Section 7320(a)(2)—Failure to appeal an interlocutory order granting an application to stay arbitration under 42 Pa.C.S. § 7304(b) does not waive the right to contest the stay; an aggrieved party may appeal such an order immediately under Pa.R.A.P. 311(a)(8) or challenge the order on appeal from the final judgment.

- Section 7320(a)(3)—(a)(6)—If an order is appealable under 42 Pa.C.S. § 7320(a)(3), (4), (5), or (6) because it is final, that is, the order disposes of all claims and of all parties, *see* Pa.R.A.P. 341(b), failure to appeal immediately waives all issues. If the order does not dispose of all claims or of all parties, then the order is interlocutory. An aggrieved party may appeal such an order immediately under Pa.R.A.P. 311(a)(8) or challenge the order on appeal from the final judgment.

Subdivision (h)—See note to Pa.R.A.P. 1701(a).

Editor's Note: Most recently amended December 30, 1987; March 31, 1989; and May 6, 1992, effective July 6, 1992 to govern only actions or administrative proceedings originally commenced in a court, Commonwealth agency or local agency after July 6, 1992. Further amended April 10, 1996, effective April 27, 1996; amended October 14, 2009, effective in 30 days; amended December 29, 2011, effective 45 days after amendment, amended December 14, 2015, effective April 1, 2016; amended March 9, 2021, effective July 1, 2021; amended September 8, 2022, effective January 1, 2023; amended May 18, 2023, effective immediately.

Rule 312. | Interlocutory Appeals by Permission.

An appeal from an interlocutory order may be taken by permission pursuant to Chapter 13 (interlocutory appeals by permission).

COMMENT:

This rule does not apply to an order granting or denying an application filed with the trial court under Pa.R.A.P. 1732(a) (stays or injunctions pending appeal). Any further relief may be sought directly from the appellate court under Pa.R.A.P. 1732(b). *See In re Passarelli Trust*, 231 A.3d 969 (Pa. Super. 2020).

Editor's Note: Amended September 8, 2022, effective January 1, 2023.

APPELLATE COURT PROCEDURAL RULES COMMITTEE ADOPTION REPORT

Amendment of Pa.R.A.P. 311 and 312

On September 8, 2022, the Supreme Court of Pennsylvania adopted amendments to Rules of Appellate Procedure 311 and 312. The Appellate Court Procedural Rules Committee has prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. *See* Pa.R.J.A. 103, Comment. The statements contained herein are those of the Committee, not the Court.

Pursuant to a request, the Appellate Court Procedural Rules Committee reviewed recent case law to determine whether pertinent cross references should be added to commentary the Pennsylvania Rules of Appellate Procedure.

In *In re Passarelli Trust*, 231 A.3d 969 (Pa. Super. 2020), the Superior Court considered the appealability of injunctions pursuant to Pa.R.A.P. 311(a)(4), which is an appeal as of right, and the non-appealability of applications for stay pending appeal. The appellant in that case filed a petition for allowance of appeal with the Supreme Court. While the petition for allowance of appeal was pending, the appellant sought an injunction pending appeal from the trial court. The injunction was denied and the appellant filed a notice of appeal from that denial. *See In re Passarelli Trust*, 231 A.3d at 970-971. The Superior Court observed that, given pendency of petition for allowance of appeal, the appellant should have filed an application for stay pending appeal with the Superior Court. *Id.* at 974; *see also* Pa.R.A.P. 1732. Accordingly, the Superior Court quashed the appeal because the proper procedure would have been to file an application for an injunction pending appeal ancillary to the existing appellate proceeding rather than a notice of appeal. *Id*.

The Committee believed adding a cross reference was salutary so that litigants are cautioned as to the holding in the case. Accordingly, the cross reference specifies that relief from an order granting or denying injunctive relief under Pa.R.A.P. 311(a)(4) should be sought directly from the appellate court under Pa.R.A.P. 1732(b). The same cross reference was added as a comment to Pa.R.A.P. 312 to provide a similar caution for litigants seeking relief from an order granting or denying relief of an interlocutory appeal by permission.

In *Commonwealth v. Wardlaw*, 249 A.3d 937 (Pa. 2021), the Supreme Court considered whether an order declaring a mistrial was included within the scope of Pa.R.A.P. 311(a)(6), which provides for an interlocutory appeal as of right for new trials. The Court clarified that this subdivision covers only orders granting motions for a new trial, and not orders declaring a mistrial. The Committee recommended adding a cross reference to this case in the commentary to Pa.R.A.P. 311 to advise counsel of this distinction.

Stylistic revisions to the text of both Pa.R.A.P. 311 and 312 were also made. The commentary to Pa.R.A.P. 311 was replaced in its entirety for easier readability.

The Committee did not publish the amendments for public comment because they are informational in nature and do not affect practice or procedure.

The amendments become effective January 1, 2023.

Rule 313. | Collateral Orders.

Special Notice: It was erroneously reported in the *Pennsylvania Bulletin* that Pa.R.A.P. 313 had been rescinded. We want to assure you that Pa.R.A.P. 313 has not been repealed.—Appellate Court Procedural Rules Committee, November 14, 1997.

(a) *General Rule*. An appeal may be taken as of right from a collateral order of an administrative agency or lower court.

(b) *Definition*. A collateral order is an order separable from and collateral to the main cause of action where the right involved is too important to be denied review and the question presented is such that if review is postponed until final judgment in the case, the claim will be irreparably lost.

Comment: If an order meets the definition of a collateral order, it is appealed by filing a notice of appeal or petition for review.

Pa.R.A.P. 313 is a codification of existing case law with respect to collateral orders. *See Pugar v. Greco*, 394 A.2d 542, 545 (Pa. 1978) (quoting *Cohen v. Beneficial Industrial Loan Corp.*, 337 U.S. 541 (1949)).

Pennsylvania appellate courts have found a number of classes of orders to fit the collateral order definition. Collateral order cases are collected and discussed in Darlington, McKeon, Schuckers and Brown, Pennsylvania Appellate Practice 2015-2016 Edition, §§ 313:1—313:201. Examples include an order denying a petition to permit the payment of death taxes, *Hankin v. Hankin*, 487 A.2d 1363 (Pa. Super. 1985), and an order denying a petition for removal of an executor, *Re: Estate of Georgiana*, 458 A.2d 989 (Pa. Super. 1983), *aff'd*, 475 A.2d 744 (Pa. 1984), and an order denying a pre-trial motion to dismiss on double jeopardy grounds if the trial court does not also make a finding that the motion to dismiss is frivolous. *See Commonwealth v. Brady*, 508 A.2d 286, 289—91 (Pa. 1986) (allowing an immediate appeal from denial of double jeopardy claim under collateral order doctrine where trial court does not make a finding of frivolousness); *Commonwealth v. Orie*, 22 A.3d 1021 (Pa. 2011). An order denying a pre-trial motion to dismiss on double jeopardy grounds that also finds that the motion to dismiss is frivolous is not appealable as of right as a collateral order, but may be appealable by permission under Pa.R.A.P. 1311(a)(3).

Pa.R.A.P. 902 addresses whether separate notices of appeal are required to be filed where an order appealable under this rule is entered on more than one docket.

***Editor's Note*:** Adopted May 6, 1992, effective July 6, 1992. Official note amended July 7, 1997, effective September 5, 1997; amended May 18, 2023, effective immediately.

Official Note: Amended June 4, 2013, effective July 4, 2013.

Final Orders

Rule 341. | Final Orders; Generally.

(a) *General Rule*. Except as prescribed in subdivisions (d) and (e) of this rule, an appeal may be taken as of right from any final order of a government unit or trial court.

(b) *Definition of Final Order.* A final order:

(1) disposes of all claims and of all parties;

(2) [Rescinded];

(3) is entered as a final order pursuant to subdivision (c) of this rule; or

(4) is an order pursuant to subdivision (f) of this rule.

(c) *Determination of Finality*. When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim or third-party claim, or when multiple parties are involved, the trial court or other government unit may enter a final order as to one or more but fewer than all of the claims and parties only upon an express determination that an immediate appeal would facilitate resolution of the entire case. Such an order becomes appealable when entered. In the absence of such a determination and entry of a final order, any order or other form of decision that adjudicates fewer than all the

claims and parties shall not constitute a final order. In addition, the following conditions shall apply:

(1) An application for a determination of finality under subdivision (c) must be filed within 30 days of entry of the order. During the time an application for a determination of finality is pending, the action is stayed.

(2) Unless the trial court or other government unit acts on the application within 30 days after it is filed, the trial court or other government unit shall no longer consider the application and it shall be deemed denied.

(3) A notice of appeal may be filed within 30 days after entry of an order as amended unless a shorter time period is provided in Pa.R.A.P. 903(c). Any denial of such an application is reviewable only through a petition for permission to appeal under Pa.R.A.P. 1311.

(d) *Superior Court and Commonwealth Court Orders*. Except as prescribed by Pa.R.A.P. 1101 no appeal may be taken as of right from any final order of the Superior Court or of the Commonwealth Court.

(e) *Criminal Orders.* An appeal may be taken by the Commonwealth from any final order in a criminal matter only in the circumstances provided by law.

(f) *Post Conviction Relief Act Orders.*

(1) An order granting, denying, dismissing, or otherwise finally disposing of a petition for post-conviction collateral relief shall constitute a final order for purposes of appeal.

(2) An order granting sentencing relief, but denying, dismissing, or otherwise disposing of all other claims within a petition for post-conviction collateral relief, shall constitute a final order for purposes of appeal.

Comment: *Related Constitutional and statutory provisions*— Section 9 of Article V of the Constitution of Pennsylvania provides that "there shall be a right of appeal from a court of record or from an administrative agency to a court of record or to an appellate court." The constitutional provision is implemented by 2 Pa.C.S. §702, 2 Pa.C.S. §752, and 42 Pa.C.S. §5105.

Criminal law proceedings—Commonwealth appeals—Orders that do not dispose of the entire case that were formerly appealable by the Commonwealth in criminal cases are under Pa.R.A.P. 341 appealable as interlocutory appeals as of right under Pa.R.A.P. 311(d).

Final orders—pre-and post-1992 practice—The 1992 amendment generally eliminated appeals as of right under Pa.R.A.P. 341 from orders that do not end the litigation as to all claims and as to all parties. Prior to 1992, there were cases that deemed an order final if it had the practical effect of putting a party out of court, even if the order did not end the litigation as to all claims and all parties.

A party needs to file only a single notice of appeal to secure review of prior non-final orders that are made final by the entry of a final order. *See, e.g., K.H. v. J.R.*, 826 A.2d 863, 870-71 (Pa. 2003) (notice of appeal following trial); *Betz v. Pneumo Abex LLC*, 44 A.3d 27, 54 (Pa. 2012) (notice of appeal of summary judgment); *Laster v. Unemployment Comp. Bd. of Rev.*, 80 A.3d 831, 832 n.2 (Pa.Cmwlth. 2013) (petition for review of agency decision). Where, however, one or more orders resolves issues arising on more than one docket or relating to more than one judgment, separate notices of appeal must be filed. *Malanchuk v. Tsimura*, 137 A.3d 1283, 1288 (Pa. 2016) ("[C]omplete consolidation (or merger or fusion of actions) does not occur absent a complete identity of parties and claims; separate actions lacking such overlap retain their separate identities and require distinct judgments"); *Commonwealth v. C.M.K.*, 932 A.2d 111, 113 & n.3 (Pa. Super. 2007) (quashing appeal taken by single notice of appeal from order on remand for consideration under Pa.R.Crim.P. 607 of two persons' judgments of sentence).

The 1997 amendments to subdivisions (a) and (c), substituting the conjunction "and" for "or," are not substantive. The amendments merely clarify that by definition any order that disposes of all claims will dispose of all parties and any order that disposes of all parties will dispose of all claims.

Rescission of subdivision (b)(2)—Former subdivision (b)(2) provided for appeals of orders defined as final by statute. The 2015 rescission of subdivision (b)(2) eliminated a potential waiver trap created by legislative use of the adjective "final" to describe orders that were procedurally interlocutory but nonetheless designated as appealable as of right. Failure to appeal immediately an interlocutory order deemed final by statute waived the right to challenge the order on appeal from the final judgment. Rescinding subdivision (b)(2) eliminated this potential waiver of the right to appeal. If an order designated as appealable by a statute disposes of all claims and of all parties, it is appealable as a final order pursuant to Pa.R.A.P. 341. If the order does not meet that standard, then it is interlocutory regardless of the statutory description. Pa.R.A.P. 311(a)(8) provides for appeal as of right from an order that is made final or appealable by statute or general rule, even though the order does not dispose of all claims or of all parties and, thus, is interlocutory. Pa.R.A.P. 311(g) addresses waiver if no appeal is taken immediately from such interlocutory order.

One of the further effects of the rescission of subdivision (b)(2) is to change the basis for appealability of orders that do not end the case but grant or deny a declaratory judgment. *See Nationwide Mut. Ins. Co. v. Wickett*, 763 A.2d 813, 818 (Pa. 2000); Pa. *Bankers Ass'n v. Pa. Dep't. of Banking*, 948 A.2d 790, 798 (Pa. 2008). The effect of the rescission is to eliminate waiver for failure to take an immediate appeal from such an order. A party aggrieved by an interlocutory order granting or denying a declaratory judgment, where the order satisfies the criteria for "finality" under *Pennsylvania Bankers Association*, may elect to proceed under Pa.R.A.P 311(a)(8) or wait until the end of the case and proceed under subdivision (b)(1) of this rule.

An arbitration order appealable under 42 Pa.C.S. § 7320(a) may be interlocutory or final. If it disposes of all claims and all parties, it is final and, thus, appealable pursuant to Pa.R.A.P. 341. If the order does not dispose of all claims and all parties, that is, the order is not final, but rather interlocutory, it is appealable pursuant to Pa.R.A.P. 311. Failure to appeal an interlocutory order appealable as of right may result in waiver of objections to the order. *See* Pa.R.A.P. 311(g).

Subdivision (c)—Determination of finality—Subdivision (c) permits an immediate appeal from an order dismissing less than all claims or parties from a case only upon an express determination that an immediate appeal would facilitate resolution of the entire case. Factors to be considered under subdivision (c) include, but are not limited to:

(1) whether there is a significant relationship between adjudicated and unadjudicated claims;

(2) whether there is a possibility that an appeal would be mooted by further developments;

(3) whether there is a possibility that the court or government unit will consider issues a second time; and

(4) whether an immediate appeal will enhance prospects of settlement.

The failure of a party to apply to the government unit or trial court for a determination of finality pursuant to subdivision (c) shall not constitute a waiver and the matter may be raised in a subsequent appeal following the entry of a final order disposing of all claims and all parties.

Where the government unit or trial court refuses to amend its order to include the express determination that an immediate appeal would facilitate resolution of the entire case and refuses to enter a final order, a petition for permission to appeal under Pa.R.A.P. 1311 of the unappealable order of denial is the exclusive mode of review. The filing of such a petition does not prevent the trial court or other government unit from proceeding further with the matter pursuant to Pa.R.A.P. 1701(b)(6). Of course, as in any case, the appellant may apply for a discretionary stay of the proceeding below.

Subdivision (c)(2) provides for a stay of the action pending determination of an application for a determination of finality. If the application is denied, and a petition for permission to appeal is filed challenging the denial, a stay or *supersedeas* will issue only as provided under Chapter 17 of these rules.

In the event that a trial court or other government unit enters a final order pursuant to subdivision (c) of this rule, the trial court or other government unit may no longer proceed further in the matter, except as provided in Pa.R.A.P. 1701(b)(1)—(5).

Subdivision (f)—Post Conviction Relief Act Orders—A failure to timely file an appeal pursuant to subdivision (f)(2) shall constitute a waiver of all objections to such an order.

Pa.R.A.P. 902 addresses whether separate notices of appeal are required to be filed where an order appealable under this rule is entered on more than one docket.

The following is a partial list of orders previously interpreted by the courts as appealable as final orders under Pa.R.A.P. 341 that are no longer appealable as of right unless the trial court or government unit makes

an express determination that an immediate appeal would facilitate resolution of the entire case and expressly enters a final order pursuant to Pa.R.A.P. 341(c):

(1) an order dismissing one of several causes of action pleaded in a complaint but leaving pending other causes of action;

(2) an order dismissing a complaint but leaving pending a counterclaim;

(3) an order dismissing a counterclaim but leaving pending the complaint that initiated the action;

(4) an order dismissing an action as to less than all plaintiffs or as to less than all defendants but leaving pending the action as to other plaintiffs and other defendants;

(5) an order granting judgment against one defendant but leaving pending the complaint against other defendants; and

(6) an order dismissing a complaint to join an additional defendant or denying a petition to join an additional defendant or denying a petition for late joinder of an additional defendant.

The 1997 amendment adding subparagraph (c)(3) provided for a deemed denial where the trial court or other government unit fails to act on the application within 30 days.

***Editor's Note*:** Rule 341 and the notes thereto have been rescinded and new rule 341 was adopted on May 6, 1992, effective July 6, 1992; amended July 7, 1997, effective September 5, 1997; amended October 13, 2006, effective December 11, 2006; amended April 16, 2013, effective as to appeals and petitions for review filed 30 days after adoption; official note amended May 28, 2014, effective July 1, 2014. Amended December 14, 2015, effective April 1, 2016; amended March 9, 2021, effective July 1, 2021; amended May 18, 2023, effective immediately.

Rule 342. | Appealable Orphans' Court Orders.

(a) *General rule*. An appeal may be taken as of right from the following orders of the Orphans' Court Division:

(1) An order confirming an account, or authorizing or directing a distribution from an estate or trust;

(2) An order determining the validity of a will or trust;

(3) An order interpreting a will or a document that forms the basis of a claim against an estate or trust;

(4) An order interpreting, modifying, reforming or terminating a trust;

(5) An order determining the status of fiduciaries, beneficiaries, or creditors in an estate, trust, or guardianship;

(6) An order determining an interest in real or personal property;

(7) An order issued after an inheritance tax appeal has been taken to the Orphans' Court pursuant to either 72 Pa.C.S. § 9186(a)(3) or 72 Pa.C.S. § 9188, or after the Orphans' Court has made a determination of the issue protested after the record has been removed from the Department of Revenue pursuant to 72 Pa.C.S. § 9188(a); or

(8) An order otherwise appealable as provided by Chapter 3 of these rules.

(b) *Definitions*. As used in this rule:

(1) "estate" includes the estate of a decedent, minor, incapacitated person, or principal under Chapters 33, 35, 51, 55 and 56 of Title 20 of the Pennsylvania Consolidated Statutes ("Probate, Estates and Fiduciaries Code") ("PEF Code");

(2) "trust" includes inter vivos and testamentary trusts and the "custodial property" under Chapters 53 and 77 of the PEF Code; and

(3) "guardianship" includes guardians of the person for both minors and incapacitated persons under Chapters 51 and 55 of the PEF Code.

(c) *Waiver of objections*. Failure to appeal an order that is immediately appealable under paragraphs (a)(1)—(7) of this rule shall constitute a waiver of all objections to such order and such objections may not be raised in any subsequent appeal.

Official Note: In 1992, the Supreme Court amended Rule 341 to make clear that, as a general rule, a final order is an order that ends a case as to all claims and all parties. Because of this amendment, many Orphans' Court orders that may have been considered constructive final orders prior to 1992 became unappealable interlocutory orders. Although some Orphans' Court orders were construed by case law to be appealable as collateral orders, *see Estate of Petro*, 694 A.2d 627 (Pa. Super. 1997), the collateral order doctrine was neither consistently applied nor was it applicable to other Orphans' Court orders that previously had been considered final under the "final aspect" doctrine. *See, e.g. Estate of Habazin*, 679 A.2d 1293 (Pa. Super. 1996).

In response, the Supreme Court revised Rule 342 that initially permitted appeals from Orphans' Court orders concerning distribution even if the order was not considered final under the definition of Rule 341(b). In 2001, Rule 342 was amended to also allow appeals from orders determining an interest in realty or personalty or the status of individuals or entities, in additional to orders of distribution, if the Orphans' Court judge made a determination that the particular order should be treated as final. In 2005, the Supreme Court amended Rule 342 again, adding subdivision (2) to clarify that Rule 342 was not the exclusive method of appealing Orphans' Court orders.

Also, in 2005, the Supreme Court amended Rule 311 to provide for an interlocutory appeal as of right from an order determining the validity of a will or trust. See former Rule 311(a)(8). Such an order needed to be immediately appealable and given finality so that the orderly administration of the estate or trust could proceed appropriately.

Since 2005, it has become apparent that other adversarial disputes arise during the administration of an estate, trust or guardianship, and that orders adjudicating these disputes also must be resolved with finality so that the ordinary and routine administration of the estate, trust or guardianship can continue. *See Estate of Stricker*, 602 Pa. 54, 63-64, 977 A.2d 1115, 1120 (2009) (Saylor, J., concurring). Experience has proven that the determination of finality procedure in subdivision (1) of Rule 342 is not workable and has been applied inconsistently around the Commonwealth. *See id*. (*citing Commonwealth v. Castillo*, 585 Pa. 395, 401, 888 A.2d 775, 779 (2005) (rejecting the exercise of discretion in permitting appeals to proceed)).

Experience has also proven that it is difficult to analogize civil litigation to litigation arising in estate, trust and guardianship administration. The civil proceeding defines the scope of the dispute, but the administration of a trust or estate does not define the scope of the litigation in Orphans' Court. Administration of a trust or an estate continues over a period of time. Litigation in Orphans' Court may arise at some point during the administration, and when it does arise, the dispute needs to be determined promptly and with finality so that the guardianship or the estate or trust administration can then continue properly and orderly. Thus, the traditional notions of finality that are applicable in the context of ongoing civil adversarial proceedings do not correspond to litigation in Orphans' Court.

In order to facilitate orderly administration of estates, trusts and guardianships, the 2011 amendments list certain orders that will be immediately appealable without any requirement that the Orphans' Court make a determination of finality. Orders falling within subdivisions (a)(1)—(7) no longer require the lower court to make a determination of finality.

Subdivisions (a)(1)—(7) list orders that are unique to Orphans' Court practice, but closely resemble final orders as defined in Rule 341(b). Subdivision (a)(1) provides that the adjudication of any account, even an interim or partial account, is appealable. Previously, only the adjudication of the final account would have been appealable as a final order under Rule 341. The prior limitation has proven unworkable for estate administration taking years and trusts established for generations during which interim

and partial accounts may be adjudicated and confirmed. The remainder of subdivision (a)(1) permits appeals from orders of distribution as Rule 342 always has permitted since its initial adoption. Subdivision (a)(2) is a new placement for orders determining the validity of a will or trust that previously were appealable as interlocutory appeals as of right following the 2005 amendment to Rule 311. See prior Rule 311(a)(8). Subdivision (a)(3) is a new provision that allows an immediate appeal from an order interpreting a will or other relevant document that forms the basis of a claim asserted against an estate or trust. Such orders can include, among other things, an order determining that a particular individual is or is not a beneficiary or determining if an underlying agreement executed by the decedent during life creates rights against the estate. Subdivision (a)(4) addresses trusts and is similar to subdivision (a)(3), but also permits immediate appeals from orders modifying, reforming or terminating a trust since such judicial actions are now permitted under 20 Pa.C.S. § 7740 et seq. Subdivision (a)(5) is intended to clarify prior Rule 342 in several respects: First, an appealable Orphans' Court order concerning the status of individuals or entities means an order determining if an individual or entity is a fiduciary, beneficiary or creditor, such as an order determining if the alleged creditor has a valid claim against the estate. Second, such orders include orders pertaining to trusts and guardianships as well as estates. Finally, this subdivision resolves a conflict in prior appellate court decisions by stating definitively that an order removing or refusing to remove a fiduciary is an immediately appealable order. Subdivision (a)(6) retains the same language from prior Rule 342. Subdivision (a)(7) permits appeals of an Orphans' Court order concerning an inheritance tax appraisement, assessment, allowance or disallowance when such order is issued separately and not in conjunction with the adjudication of an account. Sections 9186 and 9188 of Chapter 72 provide three procedures, outside the context of an accounting, whereby either the personal representative or the Department of Revenue may bring before the Orphans' Court a dispute over inheritance taxes imposed. *See also Estate of Gail B. Jones*, 796 A.2d 1003 (Pa. Super. 2002) (analogizing a petition regarding the apportionment of inheritance taxes to a declaratory judgment petition given that an estate account had not yet been filed). A decision concerning inheritance taxes issued in conjunction with the adjudication of an account would be appealable under subdivision (a)(1).

In keeping with the 2005 amendment that added subdivision (2) to prior Rule 342, subdivision (a)(8) tracks subdivision (2) of former Rule 342. Subdivision (2) was adopted in response to *Estate of Sorber*, 2002 Pa. Super. 226, 803 A.2d 767 (2002), a panel decision holding that Rule 342 precluded immediate appeals from orders that would have otherwise been appealable as collateral orders under Rule 313 unless the Orphans' Court judge made a determination of finality under Rule 342. Subdivision (a)(8) makes clear that Rule 342, as amended, is still not the sole method of appealing an Orphans' Court order and an order not otherwise immediately appealable under Rule 342 may still be immediately appealable if it meets the criteria under another rule in Chapter 3 of these rules. Examples would include injunctions appealable under Rule 311(a)(4), Interlocutory Orders Appealable by Permission under Rules 312 and 1311, Collateral Orders appealable under Rule 313, and an order approving a final accounting which is a true final order under Rule 341. Whether or not such orders require certification or a further determination of finality by the trial court depends on the applicable rule in Chapter 3. *Compare* Rules 311(a)(4), 313 and 341(c) with Rules 312 and 1311.

Failure to appeal an order that is immediately appealable under subdivisions (a)(1)—(7) of this rule shall constitute a waiver of all objections to such order and may not be raised in any subsequent appeal. See Subdivision (c) of this Rule. The consequences of failing to appeal an Orphans' Court order under (a)(8) will depend on whether such order falls within Rules 311, 312, 313, 1311 or 341.

Editor's Note: Adopted December 29, 2011, effective 45 days after adoption.

Editor's Note: Amended December 20, 2000, effective January 1, 2001; Amendments adopted June 29, 2005, effective 60 days after adoption; rescinded December 29, 2011, effective in 45 days.

Rule 343. | Order Determining Challenge to a Plea of Guilty. [Rescinded July 7, 1997, effective September 5, 1997.]

Official Note: The Supreme Court rescinded this Rule in 1997 as obsolete in view of the changes to the Rules of Criminal Procedure rescinding Pa.R.Crim.P. 321 and adopting new Pa.R.Crim.P. 1410, effective as to cases in which the determination of guilt occurs on or after January 1, 1994. See Criminal Procedural Rules Committee Final Report at 620621 A.2d (Pennsylvania Reporter Series) pages CVIIICXXXIII.

Chapter 5
Persons Who May Take or Participate in Appeals

In General

Rule 501. | Any Aggrieved Party May Appeal.

Except where the right of appeal is enlarged by statute, any party who is aggrieved by an appealable order, or a fiduciary whose estate or trust is so aggrieved, may appeal therefrom.

Note: Whether or not a party is aggrieved by the action below is a substantive question determined by the effect of the action on the party, etc.

Editor's Note: Note amended December 11, 1978, effective December 30, 1978.

Rule 502. | Substitution of Parties.

(a) *Death of a Party*.—If a party dies after a notice of appeal or petition for review is filed or while a matter is otherwise pending in an Appellate Court, the personal representative of the deceased party may be substituted as a party on application filed by the representative or by any party with the Prothonotary of the Appellate Court. The application of a party shall be served upon the representative in accordance with the provisions of Rule 123 (applications for relief). If the deceased party has no representative, any party may suggest the death on the record and proceedings shall then be had as the Appellate Court may direct. If a party against whom an appeal may be taken or a petition for review may be filed dies after entry of an order below but before a notice of appeal or petition for review is filed, an appellant may proceed as if death had not occurred. After the notice of appeal or petition for review is filed substitution shall be effected in the Appellate Court in accordance with this subdivision. If a party entitled to appeal or petition for review shall die before filing a notice of appeal or petition for review, the notice of appeal or petition for review may be filed by his personal representative, or, if he has no personal representative, by his counsel, within the time prescribed by these rules. After the notice of appeal or petition for review is filed substitution shall be effected in the Appellate Court in accordance with this subdivision.

(b) *Substitution in Other Cases or for Other Causes*.—If substitution of a party in an Appellate Court is necessary in connection with a petition for allowance of appeal or a petition for permission to appeal, or in connection with any other matter other than a notice of appeal or petition for review, or if substitution of a party in an Appellate Court is necessary for any reason other than death, substitution shall be effected in

accordance with the procedure prescribed in Subdivision (a) of this rule.

(c) *Death or Separation from Office of Public Officer.*—When a public officer is a party to an appeal or other matter in an Appellate Court in his official capacity and during its pendency dies, resigns or otherwise ceases to hold office, the matter does not abate and his successor is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantial rights of the parties shall be disregarded. An order of substitution may be entered at any time, but the omission to enter such an order shall not affect the substitution.

Note: Pa.R.C.P. 2351 to 2375 relate to substitution of parties in the Courts of Common Pleas, but this rule, which is patterned after Fed. Rules App. Proc. 43(a), (b) and (c)(1), covers the subject in the Appellate Courts for the first time.

Rule 503. | Description of Public Officers.

When a public officer is a party to an appeal or other matter in his official capacity he may be described as a party by his official title rather than by name; but the Appellate Court may require his name to be added.

Note: Patterned after Fed. Rules App. Proc. 43(c)(2).

Multiple Appeals

Rule 511. | Cross-Appeals.

The timely filing of an appeal shall extend the time for any other party to cross-appeal as set forth in Pa.R.A.P. 903(b) (cross-appeals), 1113(b) (cross-petitions for allowance of appeal), and 1512(a)(2) (cross-petitions for review). The discontinuance of an appeal by a party shall not affect the right of appeal or cross-appeal of any other party regardless of whether the parties are adverse.

Comment:

See also Pa.R.A.P. 2113, 2136, and 2185 regarding briefs in cross-appeals and Pa.R.A.P. 2322 regarding oral argument in multiple appeals.

An appellee should not be required to file a cross-appeal because the court below ruled against it on an issue, as long as the judgment granted appellee the relief it sought. *See Lebanon Valley Farmers Bank v. Commonwealth*, 83 A.3d 107, 112 (Pa. 2013); *Basile v. H & R Block, Inc.*, 973 A.2d 417, 421 (Pa. 2009). For discussion of cross-petitions for allowance of appeal, see Pa.R.A.P. 1113, cmt.

In deciding whether to cross-appeal, parties may also consider that appellate courts have discretion, but are not required, to affirm for any reason appearing in the record. *See Commonwealth v. Fant*, 146 A.3d 1254, 1265 n.13 (Pa. 2016); *Pa. Dept. of Banking v. NCAS of Del., LLC*, 948 A.2d 752, 762 (Pa. 2008); *Am. Future Sys., Inc. v. Better Bus. Bureau of E. Pa.*, 923 A.2d 389, 401 (Pa. 2007).

Editor's Note: Amended October 18, 2002, effective December 2, 2002; amended March 15, 2019, effective July 1, 2019.

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

Explanatory Comment—2002

Introduction: The Appellate Rules contemplate three "multiple appeal" situations in which more than one party may wish to challenge individually an order of a court. These are: cross appeals; cross petitions for review; and cross petitions for allowance of appeal. The proposed amendments are intended to simplify and clarify the terminology and procedures in such cases. The 2002 amendments do not create a right to file new briefs or affect the right to file briefs heretofore permitted by the Appellate Rules.

Rule 511 (Cross Appeals). The 2002 amendment clarifies the intent of the former rule that the filing of an appeal extends the time within which any party may cross appeal as set forth in Rules 903(b), 1113(b) and 1512(a)(2) and that a discontinuance of an appeal by a party will not affect the right of any other party to file a timely cross appeal under Rules 903(b), 1113(b) or 1512(a)(2) or to otherwise pursue an appeal or cross appeal already filed at the time of the discontinuance. The discontinuance of the appeal at any time before or after a cross appeal is filed will not affect the right of any party to file or discontinue a cross appeal. The 2002 amendment supersedes *In Re: Petition of the Board of School Directors of the Hampton Township School*, 688 A.2d 279 (Pa. Cmwlth. 1997) to the extent that decision requires that a party be adverse to the initial appellant in order to file a cross appeal.

The Note to Rule 511 is also amended to advise that an appellee should not be required to file a cross appeal because the court below ruled against it on an issue, as long as the judgment granted appellee the relief it sought.

Rule 903 (Time For Appeal). The 2002 amendment to the Note to Rule 903 includes a suggestion, for the aid of the appellate court filing office, that a party identify a cross appeal in its notice of appeal. This will assure that the appeals are linked for processing purposes. The proposed amendment to the note also cross references Rule 511 (Cross Appeals), Rule 2136 (briefs in cases of cross appeals) and Rule 2322 (Cross and Separate Appeals). This is for the convenience of counsel and the parties to alert them to the unique aspects of cross appeal or petition practice. See also conforming amendments to the Notes to Rules 1113 and 1512.

The Explanatory Comment—1979, which is simply historical reference, is deleted as unnecessary.

Rule 1113 (Time For Petitioning For Allowance Of Appeal). See explanatory comment to Rule 903 (Time for Appeal).

Rule 1512 (Time For Petitioning For Review). See explanatory comment to Rule 903 (Time for Appeal).

Rule 2113 (Reply Brief). The 2002 amendment deletes subdivision (c), an obsolete cross reference to a reply brief in cross appeals. The briefs permitted and proper sequence in cases involving cross appeals are explained in the Note to Rule 2136.

Rule 2136 (Briefs In Cases Involving Cross Appeals). In a single party appeal or petition situation, there are three briefs: appellant's principal brief on the merits, appellee's principal brief on the merits and appellant's reply brief. In a cross appeal or petition situation, there are four briefs, because the designated appellant's second brief must serve two purposes, that is, it is the appellant's reply brief (a brief limited in scope by Rule 2113) and, simultaneously, the appellant's principal brief on the merits of the cross appeal or petition. The appellee may then file a "reply" brief on the merits of the cross appeal, that is, a reply brief in the appeal filed by the appellee. This procedure is explained in the proposed amendment to the Note as follows:

When there are cross appeals, there may be up to four briefs: (1) the deemed or designated appellant's principal brief on the merits of the appeal; (2) the deemed or designated appellee's brief responding to appellant's arguments and presenting the merits of the cross appeal; (3) the appellant's second brief replying in support of the appeal and responding to the merits of the cross appeal; and (4) appellee's reply brief in the cross appeal.

Rule 2185 (Time For Serving And Filing Briefs). The existing rule is unclear as to the due date for the filing of the designated appellant's second brief (Brief No. 3 as described above). The 2002 amendment provides that brief is due thirty days after the deemed appellee's brief (Brief No. 2) as described above.

Editor's Note: Amended July 15, 2025, effective October 1, 2025.

Rule 512. | Joint Appeals.

Parties interested jointly, severally or otherwise in any order in the same matter or in joint matters or in matters consolidated for the purposes of trial or argument, may join as appellants or be joined as appellees in a single appeal where the grounds for appeal are similar, or any one or more of them may appeal separately or any two or more may join in an appeal.

Comment: This describes who may join in a single notice of appeal. The rule does not address whether a single notice of appeal is adequate under the circumstances presented. Under Pa.R.A.P. 341, a single notice of appeal will not be adequate to take an appeal from orders entered on more than one trial court docket. *See* Pa.R.A.P. 341, Note ("Where, however, one or more orders resolves issues arising on more than one docket or relating to more than one judgment, separate notices of appeal must be filed."). Pa.R.A.P. 902 addresses whether separate notices of appeal are required to be filed where an order appealable under this rule is entered on more than one docket.

Editor's Note: Amended April 16, 2013, effective to appeals and petitions for review filed 30 days after adoption; amended May 18, 2023, effective immediately.

Rule 513. | Consolidation of Multiple Appeals.

Where there is more than one appeal from the same order, or where the same question is involved in two or more appeals in different cases, the Appellate Court may, in its discretion, order them to be argued together in all particulars as if but a single appeal. Appeals may be consolidated by stipulation of the parties to the several appeals.

Note: The first sentence is substantially the same as former Supreme Court Rule 29, former Superior Court Rule 21 and former Commonwealth Court Rule 27. The second sentence is patterned after Fed. Rules App. Proc. 3(b).

Official Participation upon Challenge to Statutes or Rules

Rule 521. | Notice to Attorney General of Challenge to Constitutionality of Statute.

(a) *Notice*.—It shall be the duty of a party who draws in question the constitutionality of any statute in any matter in an Appellate Court to which the Commonwealth or any officer thereof, acting in his official capacity, is not a party, upon the filing of the record, or as soon thereafter as the question is raised in the Appellate Court, to give immediate notice in writing to the Attorney General of Pennsylvania of the existence of the question; together with a copy of the pleadings or other portion of the record raising the issue, and to file proof of service of such notice.

(b) *Status of Attorney General*.—The Attorney General may be heard on the question of the constitutionality of the statute involved without formal intervention. If the Attorney General files a brief concerning the question the Commonwealth shall thereafter be deemed to be an intervening party in the matter.

Note: Based on Pa.R.C.P. 235 and Fed. Rules App. Proc. 44. The provisions of Subdivision (b) are intended to place the Commonwealth in a position to obtain review in the Supreme Court of Pennsylvania or the Supreme Court of the United States of an adverse decision on the constitutional question.

Rule 522. | Notice to Court Administrator of Pennsylvania of Challenge to Constitutionality of General Rules.

(a) *Notice*.—It shall be the duty of a party who draws in question the constitutionality of any general rule to give notice in writing to the Court Administrator of Pennsylvania in accordance with the procedure prescribed in Rule 521 (notice to Attorney General of challenge to constitutionality of statute).

(b) *Status of Court Administrator*.—The Court Administrator of Pennsylvania may be heard on the question of the constitutionality of the general rule involved without formal intervention. If the Court Administrator files a brief concerning the question the Commonwealth, acting by and through the Court Administrator of Pennsylvania, shall thereafter be deemed to be an intervening party in the matter.

Note: The purpose of this rule is to prevent the recurrence of situations such as *Swarb v. Lennox*, 405 U.S. 191 (1972), where by reason of the withdrawal of the Attorney General of Pennsylvania, there was no official defense of the challenged rule of the Supreme Court of Pennsylvania. It is anticipated that the Court Administrator will coordinate with the appropriate rules committee.

Amicus Curiae

Rule 531. | Participation by Amicus Curiae.

(a) General.—An amicus curiae is a non-party interested in the questions involved in any matter pending in an appellate court.

(b) Briefs

(1) Amicus Curiae Briefs Authorized.—An amicus curiae may file a brief (i) during merits briefing; (ii) in support of or against a petition for allowance of appeal, if the amicus curiae participated in the underlying proceeding as to which the petition for allowance of appeal seeks review; or (iii) by leave of court. An amicus curiae does not need to support the position of any party in its brief.

(2) Content.—An amicus curiae brief must contain a statement of the interest of amicus curiae. The statement of interest shall disclose the identity of any person or entity other than the amicus curiae, its members, or counsel who (i) paid in whole or in part for the preparation of the amicus curiae brief or (ii) authored in whole or in part the amicus curiae brief. It does not need to contain a Statement of the Case and does not need to address jurisdiction or the order or other determinations in question. An amicus curiae brief shall contain the certificate of compliance required by Pa.R.A.P. 127.

(3) Length.—An amicus curiae brief under subparagraph (b)(1)(i) is limited to 7,000 words. An amicus curiae brief under subparagraph (b)(1)(ii) is limited to 4,500 words. An amicus curiae brief under subparagraph (b)(1)(iii) is limited to the length specified by the court in approving the motion or, if no length is specified, to half the length that a party would be permitted under the rules of appellate procedure. Any amicus curiae brief must comply with the technical requirements for briefs, including certificates of compliance, set forth in Pa.R.A.P. 1115, 2135(b)—(d), 2171—2174, and 2187, or other pertinent rules.

(4) Time for filing briefs.—An amicus curiae brief must be filed on or before the date of the filing of the party whose position as to affirmance or reversal the amicus curiae will support. If the amicus curiae will not support the position of any party, the amicus curiae brief must be filed on or before the date of the appellant's filing. In an appeal proceeding under Pa.R.A.P. 2154(b), 2185(c), and 2187(b), the amicus curiae must file on or before the date of service of the advance text by the party whose position as to affirmance or reversal the amicus curiae supports or, if the amicus curiae does not support the position of any party, on or before the date of service of the advance text of the appellant.

(c) Oral argument.—Oral argument may be presented by amicus curiae only as the appellate court may direct. Requests for leave to present oral argument shall be by application and will be granted only for extraordinary reasons.

Official Note The Pennsylvania Supreme Court has held that "[a] n amicus curiae is not a party and cannot raise issues that have not been preserved by the parties." Commonwealth v. Cotto, 753 A.2d 217, 224 n.6 (Pa. 2000). In addition, the Court shares the view of the United States Supreme Court that "[a]n amicus curiae brief that brings to the attention of the Court relevant matter not already brought to its attention by the parties may be of considerable help to the Court. An amicus curiae brief that does not serve this purpose burdens the Court, and its filing is not favored." See U.S. Supreme Ct. R. 37.1.

The rule allows interested persons to be amicus curiae as to one or more questions during the merits briefing on that question. An amicus curiae can file a brief of right in support of or against a petition for allowance of appeal only if the amicus curiae participated in the underlying proceedings giving rise to the order for which further review is sought. Any persons wishing to file amicus curiae briefs in any other circumstance must seek leave of court.

The 2016 amendment to the rule set forth content and length requirements for amicus curiae briefs. The amendment also established a requirement that all amicus curiae briefs include a statement of interest disclosing whether any party to the appeal has paid in whole or in part for the preparation of the brief.

The 2011 amendment to the rule clarified when those filing amicus curiae briefs should serve and file their briefs when the appellant has chosen or the parties have been directed to proceed under the rules related to large records (Pa.R.A.P. 2154(b)), advance text (Pa.R.A.P. 2187(b)) and definitive copies (Pa.R.A.P. 2185(c)). Under those rules, the appellant may defer preparation of the reproduced record until after the briefs have been served. The parties serve on one another (but do not file) advance texts of their briefs within the times required by Pa.R.A.P. 2185(c). At the time they file their advance texts, each party includes certified record designations for inclusion in the reproduced record. The appellant must then prepare and file the reproduced record within 21 days of service of the appellee's advance text (Pa.R.A.P. 2186(a)(2)). Within 14 days of the filing of the reproduced record, each party that served a brief in advance text may file and serve definitive copies of their briefs. The definitive copy must include references to the pages of the reproduced record, but it may not otherwise include changes from the advance text other than correction of typographical errors. Those filing amicus curiae briefs may choose to serve an advance text and then file and serve definitive copies according to the procedure required of the parties or they may choose to file a definitive brief without citations to the reproduced record.

Editor's Note: Rule amended May 16, 1979, effective October 1, 1979; note amended February 27, 1980, effective March 15, 1980; further amended September 25, 1992, effective immediately; amended October 3, 2011, effective in 30 days, amended June 7, 2016, effective October 1, 2016; amended January 5, 2018, effective January 6, 2018.

In Forma Pauperis

Rule 550. | Waiver of Fees and Costs Required Under Chapter 27.

The fees and costs required under Chapter 27 (Fees and Costs in Appellate Courts and on Appeal), Pa.R.A.P. 2701—2271, may be waived for a party by continuing an existing waiver or obtaining a new waiver, as provided in these rules.

Comment: A party continuing or obtaining a waiver is commonly described as "proceeding *in forma pauperis*."

Relief from requirements for posting a supersedeas bond in civil matters must be sought under Pa.R.A.P. 1732 (application for stay or injunction pending appeal) and relief from bail requirements in criminal matters must be sought as prescribed by Pa.R.A.P. 1762 (release in criminal matters). Under Pa.R.A.P. 123 (applications for relief), applications for relief pursuant to Pa.R.A.P. 552 (new waiver of fees and costs for purposes of appeal) and other rules may be combined into a single document.

Editor's Note: Amended April 30, 2022, effective June 30, 2022.

Rule 551. | Continuation of Prior Waiver of Fees and Costs for Purposes of Appeal.

(a) *General Rule*. A previously granted waiver of fees and costs pursuant to Pa.R.J.A. 1990 (application to waive fees and costs) shall continue in an appeal of the same case in the appellate court.

(b) *Verified Statement*. A court may, by order or rule, require a party previously granted a waiver to file a verified statement setting forth:

(1) The date on which the trial court entered the order granting the waiver;

(2) There has been no substantial change in the financial condition of the party since such date; and

(3) The party is unable to pay the fees and costs on appeal.

(c) *Effect on Fees and Costs*. The waiver continued pursuant to subdivision (a) shall permit the filing of an appeal and any related documents without the payment of any fees or costs required under Chapter 27.

Editor's Note: Rule and note amended May 16, 1979, effective October 1, 1979; amended April 30, 2022, effective June 30, 2022.

Rule 552. | New Waiver of Fees and Costs for Purposes of Appeal.

(a) *General Rule*. A party who was not previously granted a waiver of fees and costs may seek a waiver of fees and costs by filing an application or *praecipe* of counsel pursuant to Pa.R.J.A. 1990 at the same time as the commencement of the action in the appellate court. Any application filed with the appellate court shall contain the certificate of compliance required by Pa.R.A.P. 127 (confidential information and confidential documents; certification).

(b) *Remand*. An appellate court may remand an application and any supplemental information to a court of record for a hearing and decision. The decision by the court of record shall be rendered within 30 days of the date of the remand order unless otherwise directed by the appellate court.

(c) *Unemployment Compensation Cases*. Any fees and costs required under Chapter 27 shall be deemed waived for a claimant-appellant in an unemployment compensation matter without the need for an application or *praecipe*.

Comment: If an application or *praecipe* is not filed when an action is commenced, the action will be docketed but all applicable fees and costs will be required to be paid before proceeding. *See generally* Pa.R.A.P. 902 (manner of taking appeal).

A record hearing is necessary when an application cannot be granted based upon the application and any supplemental information submitted to the appellate court. Subdivision (b) authorizes an appellate court to remand the application to a court of record, if necessary.

Editor's Note: Note amended May 16, 1979, effective 120 days after June 2, 1979; amended February 27, 1980, effective March 15, 1980; amended December 22, 1983, effective January 1, 1984; amended January 5, 2018, effective January 6, 2018; amended June 1, 2018, effective July 1, 2018; amended April 30, 2022, effective June 30, 2022.

Rule 553. | Obligation to Inform of Improved Financial Circumstances.

A party for whom Chapter 27 fees and costs have been waived has a continuing obligation to inform the appellate court of an improvement in the financial circumstances of the party such that the party would no longer be eligible for a waiver. Counsel for a party shall likewise be under a continuing obligation to inform the appellate court of an improvement affecting eligibility within a reasonable time after counsel learns of it.

Comment: For eligibility of a waiver, see Pa.R.J.A. 1990(b).

Editor's Note: Amended December 22, 1983, effective January 1, 1984; amended April 30, 2022, effective June 30, 2022.

Rule 554. | Appellate Review.

Appellate review of an application to waive fees and costs denied in a court of record shall be initiated by petition for specialized review in accordance with Pa.R.A.P. 1601—1606, subject to the procedures set forth in Pa.R.A.P. 1614.

Editor's Note: Rule and note amended May 16, 1979, effective October 1, 1979; amended April 30, 2022, effective June 30, 2022.

Rule 555. | (Reserved).

Editor's Note: Amended April 30, 2022, effective June 30, 2022.

Rule 556. | (Reserved).

Editor's Note: Amended April 30, 2022, effective June 30, 2022.

Rule 561. | (Reserved).

Editor's Note: Amended February 27, 1980, effective March 15, 1980; amended April 30, 2022, effective June 30, 2022.

Chapter 7
Courts to Which Appeals Shall be Taken

In General

Rule 701. | Interlocutory Orders.

An appeal authorized by law from an interlocutory order in a matter shall be taken to, and petitions for permission to appeal from an interlocutory order in a matter shall be filed in, the Appellate Court having jurisdiction of final orders in such matters.

Note: Based on 42 Pa.C.S. §702(a) (appeals authorized by law).

Editor's Note: Note amended December 11, 1978, effective December 30, 1978.

Rule 702. | Final Orders.

(a) *General Rule*.—An appeal authorized by law from a final order shall be taken to, and petitions for allowance of appeal from a final order shall be filed in, the Appellate Court vested by law with jurisdiction over appeals from such order.

(b) *Matters Tried With Capital Offenses*.—If an appeal is taken to the Supreme Court under Rule 1941 (review of death sentences), any other appeals relating to sentences for lesser offenses imposed on a defendant as a result of the same criminal episode or transaction and tried with the capital offense shall be taken to the Supreme Court.

(c) *Supervision of Special Prosecutions or Investigations*.—All petitions for review under Rule 3331 (review of special prosecutions or investigations) shall be filed in the Supreme Court.

Note: Because of frequent legislative modifications it is not desirable to attempt at this time to restate Appellate Court jurisdiction in these rules. However, the Administrative Office of Pennsylvania Courts publishes from time to time at 204 Pa. Code §201.2 an unofficial chart of the Unified Judicial System showing the appellate jurisdiction of the several courts of this Commonwealth, and it is expected that the several publishers of these rules will include a copy of the current version of such chart in their respective publications.

Subdivisions (b) and (c) are based upon 42 Pa.C.S. §722(i) (direct appeals from courts of common pleas). Under Rule 751 (transfer of erroneously filed cases) an appeal from a lesser offense improvidently taken to the Superior Court or the Commonwealth Court will be transferred to the Supreme Court for consideration and decision with the capital offense.

Under Rule 701 (interlocutory orders) the jurisdiction described in Subdivision (c) extends also to interlocutory orders. See Rule 102 (definitions) where the term "appeal" includes proceedings on petition for review. Ordinarily Rule 701 will have no application to matters within the scope of Subdivision (b), since that subdivision is contingent upon entry of a final order in the form of a sentence of death; the mere possibility of such a sentence is not intended to give the Supreme Court direct appellate jurisdiction over interlocutory orders in homicide and related cases since generally a death sentence is not imposed.

Editor's Note: Amended December 11, 1978, effective December 30, 1978; rule and note amended April 26, 1982, effective September 13, 1982 (120 days after publication in the Pennsylvania Bulletin).

Rule 703. | Arbitration Awards in Public Employment Disputes.

Editor's Note: Rule rescinded and note amended December 11, 1978, effective December 30, 1978.

Note: Former Rule 703 (arbitration awards in public employment disputes) and former Rule 2102 of the Pennsylvania Rules of Judicial Administration related to jurisdiction to review an award of arbitrators appointed in conformity with statute (e.g. Act of June 24, 1968 (P.L. 237, No. 111) (43 P.S. §217.1 et seq.) See now 42 Pa.C.S. §763(b) (awards of arbitrators). Compare 42 Pa.C.S. §933(b) (awards of arbitrators).

Objections to Jurisdiction

Rule 741. | Waiver of Objections to Jurisdiction.

(a) *General Rule*.—The failure of an appellee to file an objection to the jurisdiction of an Appellate Court on or prior to the last day under these rules for the filing of the record shall, unless the Appellate Court otherwise orders, operate to perfect the appellate jurisdiction of such Appellate Court, notwithstanding any provision of law vesting jurisdiction of such appeal in another Appellate Court.

(b) *Exception*.—Subdivision (a) shall not apply to any defect in the jurisdiction of an Appellate Court which arises out of:

(1) The failure to effect a filing within the time provided by these rules.

(2) An attempt to take an appeal from an interlocutory order which has not been made appealable by Rule 311 (interlocutory appeals as of right) or pursuant to Chapter 13 (interlocutory appeals by permission).

Note: Based on 42 Pa.C.S. §704 (waiver of objection to jurisdiction). It is the intention of this rule that where a case is appealed to the wrong Appellate Court, only the Court may require transfer after the briefing schedule has commenced. In view of Subdivision (b)(2), the practice in *Gurnick v. Government Employees Ins. Co.*, 278 Pa. Super. 437, 420 A.2d 620 (1980) is disapproved.

Editor's Note: Amended June 23, 1976, effective July 1, 1976; further amended December 11, 1978, effective December 30, 1978. Amended April 26, 1982, effective September 15, 1982.

EXPLANATORY COMMENT—1976

This provision makes clear that an Appellate Court may not extend the time for appellate review or (other than by the Chapter 13 procedure) make appealable a nonappealable interlocutory order.

Transfers of Cases

Rule 751. | Transfer of Erroneously Filed Cases.

(a) *General Rule*.—If an appeal or other matter is taken to or brought in a court or magisterial district which does not have jurisdiction of the appeal or other matter, the court or district justice shall not quash such appeal or dismiss the matter, but shall transfer the record thereof to the proper court of this Commonwealth, where the appeal or other matter shall be treated as if originally filed in the transferee court on the date first filed in a court or magisterial district.

(b) *Transfers by Prothonotaries*.—An appeal or other matter may be transferred from a court to another court under this rule by order of court or by order of the Prothonotary of any Appellate Court affected.

Note: Based on 42 Pa.C.S. §5103(a) (transfer of erroneously filed matters). See Rule 2703 (erroneously filed cases).

Editor's Note: Amended December 11, 1978, effective December 30, 1978.

Rule 752. | Transfers Between Superior and Commonwealth Courts.

(a) *General Rule*.—The Superior Court and the Commonwealth Court, on their own motion or on application of any party, may transfer any appeal to the other court for consideration and decision with any matter pending in such other court involving the same or related questions of fact, law or discretion.

(b) *Content of Application; Answer*.—The application shall contain a statement of the facts necessary to an understanding of the same or related questions of fact, law or discretion; a statement of the questions themselves; and a statement of the reasons why joint consideration of the appeals would be desirable. The application shall be served on all other parties to all appeals or other matters involved, and shall include or have annexed thereto a copy of each order from which any appeals involved were taken and any findings of fact, conclusions of law and opinions relating thereto. Any other party to any appeal or other matter involved may file an answer in opposition in accordance with Pa.R.A.P. 123(b). An application or answer filed under this Rule shall contain the certificate of compliance required by Pa.R.A.P. 127. The application and answer shall be submitted without oral argument unless otherwise ordered.

(c) *Effect of Filing Application*.—An application to transfer under this rule shall not stay proceedings in any appeal or other matter involved unless the Appellate Court in which the appeal or other matter is pending or a judge thereof shall so order.

(d) *Grant of Application*.—If the application to transfer is granted the prothonotary of the transferor court shall transfer the record of the appeal involved to the prothonotary of the transferee court, who shall immediately give written notice by first class mail of the transfer to all parties to all appeals or other matters involved. The notice shall set forth any necessary changes in the schedule in the transferee court for concurrent briefing and argument of the original and transferred appeals or other matters.

Note: Based on 42 Pa.C.S. §705 (transfers between intermediate Appellate Courts).

Editor's Note: Note amended December 11, 1978, effective December 30, 1978; amended July 7, 1997, effective September 5, 1997; amended January 5, 2018, effective January 6, 2018.