Supreme Court "Secrets":
A Look at Internal Review Processes at the Supreme Court of Pennsylvania

Panelists

Justice Christine Donohue,
Supreme Court of Pennsylvania

Justice Kevin M. Dougherty,
Supreme Court of Pennsylvania

Justice David N. Wecht,
Supreme Court of Pennsylvania

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Course Materials

IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

IN RE: CHARLES ALEXANDER, PRO SE, AND CARRIS KOCHER, PRO SE, GREGORY STENSTROM, PRO SE, AND JOHN PROCTOR CHILD,	:	No. 49 MM 2025
Petitioners	:	
v.	:	
DELAWARE COUNTY BOARD OF ELECTIONS, ET AL.,	:	
Respondents	:	

ORDER

PER CURIAM **FILED: May 1, 2025**

Pro se applicant Gregory Stenstrom challenges this Court's earlier *per curiam* order in which we summarily denied the emergency petition for relief in an election matter filed by applicant and three co-petitioners. *See* Order, 49 MM 2025, 4/22/25. He argues our order is invalid and *ultra vires* because it was neither signed by a Justice of this Court nor accompanied by an explanation or opinion. Applicant presumes this means the Prothonotary's Office, which stamped and signed our order to certify it as "a true copy," improperly delegated to itself the authority to deny the petition on our behalf. This regularly recurring argument is frivolous, and we take this opportunity to explain why this is so, for the benefit of the bench, bar, and, perhaps most importantly, *pro se* litigants who raise the claim most often.

The heart of the problem is applicant's basic misunderstanding of the nature and effect of a *per curiam* ruling. "*Per curiam*" is a Latin phrase that literally translates to "by the court." A *per curiam* decision is unsigned because, as its translation suggests, it is intended to be institutional rather than individual — it is attributable to the court as an entity, not any single jurist. In short, when an appellate court in this Commonwealth rules *per curiam*, whether in the form of an order or an opinion, that necessarily means it is "attributed to the entire panel of judges who" considered the matter, even though it is "not signed by any particular judge on the panel." BLACK'S LAW DICTIONARY (12th ed. 2024) (*"per curiam*").[1]

The ability to issue a ruling *per curiam* is a critical tool for any appellate court and serves many ends, not least of which is judicial efficiency. But the critical point is that a *per curiam* decision, though unsigned, still represents the collective judgment of the whole appellate body. Consider our own publicly codified Internal Operating Procedures (IOPs). *See* 210 Pa. Code §§63.1-63.13. They explain that to act on a petition like the one we previously denied in this matter, "[a] vote of the majority [of the participating Justices] is required to implement the proposed disposition." 210 Pa. Code §63.7(B). This confirms that, unless otherwise indicated,[2] every Justice on this Court carefully considers and

[1] Of course, individual jurists may concur with and/or dissent from *per curiam* decisions to the same extent as signed decisions. *See, e.g.*, *infra* note 2.

[2] *See, e.g.*, 210 Pa. Code §63.5(B) ("All orders resolving a non-capital direct appeal shall indicate if a Justice did not participate in the consideration or decision of the matter."; "A Justice may request that the order record that he or she voted for a different disposition."); *id*. at §63.7(B) ("Orders disposing of motions, petitions and applications shall indicate if a Justice did not participate in the consideration or decision of the matter."; "A Justice may request that the order record that he or she voted for a different disposition."); *cf. id*. at §63.7(D) (a single Justice under his or her own signature "may entertain and may grant or deny any request for relief which may under Pa.R.A.P. 123 or 3315 properly be sought by motion, except that a single Justice may not dismiss or otherwise determine an appeal or other proceeding").

passes upon every matter resolved by way of *per curiam* order issued by this Court.[3] *See Tilghman*, 673 A.2d at 904 ("a *per curiam* order . . . signifies **this Court's**" decision) (emphasis added). Indeed, that is exactly what occurred here.

This leads to our second clarification, relating to the Office of the Prothonotary. Rule of Appellate Procedure 3112 establishes an "Office of the Prothonotary" for each of this Commonwealth's appellate courts. Pa.R.A.P. 3112. By rule, each appellate court shall appoint a clerk of the court, known as the "Prothonotary," who "shall serve at the pleasure of the court." Pa.R.A.P. 3111. These appellate Prothonotaries, as well as their deputies and other duly authorized personnel and agents, are authorized to "exercise the power and perform the duties by law vested in and imposed upon" them and their offices, *see* Pa.R.A.P. 3112, including those established by this Court's rules and IOPs. For example, this Court's Prothonotary is empowered by rule to "dispose of motions relating to the preparation, printing and filing of appendix and briefs and those motions generally relating to calendar control, along with the authority to recommend the appropriate sanction for the violation of any applicable rule or order." Pa.R.A.P. 3305. Our IOPs similarly provide that "[p]rocedural motions (*e.g.*, first requests for extension of time for not more than thirty days, requests to exceed page limits, and requests to proceed *in forma pauperis*) may be resolved by the Prothonotary without further action of the Court." 210 Pa. Code §63.7(A).

Most relevant here, where applicant challenges the validity of our prior *per curiam* denial of the emergency petition for relief filed on our miscellaneous docket, is Section 7 of this Court's IOPs. *See* 210 Pa. Code §63.7. That IOP sets forth the Prothonotary's

[3] For a fuller discussion on the use by appellate courts of *per curiam* orders and opinions to dispose of appeals (as opposed to motions, petitions, applications, and the like), including *per curiam* affirmances, reversals, and dismissals as improvidently granted, see *Commonwealth v. Tilghman*, 673 A.2d 898 (Pa. 1996).

duties with respect to docketing and assigning motions, miscellaneous petitions, and applications for relief. As the IOP details, after docketing such a filing, the Prothonotary's role is limited to assigning the matter within the Court. *See id*. at §63.7(B). The IOP makes clear, however, that it is this Court, and this Court alone, that ultimately acts on any such filing. Again, it takes "[a] vote of the majority" of the participating Justices "to implement the proposed disposition." *Id*. The Prothonotary and its employees take no part in those decisions, and they are not the authors of this Court's *per curiam* orders. When an employee of the Prothonotary's Office stamps or signs an order issued by this Court as "a true copy," it is not intended to convey that the Office or employee unilaterally decided the matter in the Court's stead. On the contrary, it is a verification that the order is, indeed, a true copy of **this Court's** decision. Such certifications are not substantive or related to the merits of the filing in any way; they are merely a byproduct of the Prothonotary's ministerial duties to maintain adequate records. *See, e.g.*, Pa.R.A.P. 3113 ("The prothonotary shall keep, in conformity with law, a docket of matters pending and decided in the court, and such other records as may be required by law or necessary for the operation of the court.").

Because it is clear applicant's challenge to our prior *per curiam* order is entirely frivolous, we **DENY** the Emergency Application for Relief to Strike Unlawful *Per Curiam* Denial. The Emergency Application for Reconsideration and Clarification of *Per Curiam* Denial is **DISMISSED AS MOOT**.[4]

[4] Further frivolous filings with this Court may result in filing restrictions or other sanctions.

Close Window

CHAPTER 11. APPEALS FROM COMMONWEALTH COURT AND SUPERIOR COURT

APPEALS FROM COMMONWEALTH COURT AND SUPERIOR COURT

Rule

PETITION FOR ALLOWANCE OF APPEAL

APPEALS AS OF RIGHT FROM COMMONWEALTH COURT AND SUPERIOR COURT

Rule 1101. Appeals as of Right from the Commonwealth Court.

(a) *Scope of rule.* This rule applies to any appeal to the Supreme Court from an order of the Commonwealth Court entered in:

(1) Any matter which was originally commenced in the Commonwealth Court and which does not constitute an appeal to the Commonwealth Court from another court, a district justice or another government unit.

(2) Any appeal from a decision of the Board of Finance and Revenue.

(b) *Procedure on Appeal.* An appeal within the scope of subdivision (a) of this rule shall be taken to the Supreme Court in the manner prescribed in Chapter 9 (appeals from lower courts), except that if the notice of appeal is transmitted to the Prothonotary of the Commonwealth Court by means of

first class, express, or priority United States Postal Service mail, the notice of appeal shall be deemed received by the prothonotary for the purposes of Pa.R.A.P. 121(a) (filing) on the date deposited in the United States mail, as shown on a United States Postal Service Form 3817 Certificate of Mailing, Form 3800 Receipt for Certified Mail, Form 3806 Receipt for Registered Mail, or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or other similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket number of the matter in the Commonwealth Court and shall be either enclosed with the notice of appeal or separately mailed to the prothonotary. Upon actual receipt of the notice of appeal the prothonotary shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this subdivision, shall constitute the date when the appeal was taken, which date shall be shown on the docket.

Comment:

Subdivision (a) is based on 42 Pa.C.S. § 723 (appeals from the Commonwealth Court). This rule is not applicable to an appeal under 42 Pa.C.S. § 763(b) (awards of arbitrators). See also 42 Pa.C.S. § 5105(b) (successive appeals) which provides as follows:

(b) *Successive appeals*. Except as otherwise provided in this subsection, the rights conferred by subsection (a) are cumulative, so that a litigant may as a matter of right cause a final order of any tribunal in any matter which itself constitutes an appeal to such tribunal, to be further reviewed by the court having jurisdiction of appeals from such tribunal. Except as provided in section 723 (relating to appeals from the Commonwealth Court) there shall be no right of appeal from the Superior Court or the Commonwealth Court to the Supreme Court under this section or otherwise.

Appealable orders to which this rule is not applicable are governed by the procedures of Rule 1111 (form of papers; number of copies) et seq. Rule 906(4) (service of notice of appeal) is not applicable to an appeal under this rule since that provision relates only to service upon the district court administrator of a court of common pleas.

The United States Postal Service Form 3817 mentioned in subdivision (b) is reproduced in the comment to Pa.R.A.P. 1112 (appeals by allowance).

Source

The provisions of this Rule 1101 amended through December 16, 1983, effective December 16, 1983, 13 Pa.B. 3998; amended September 10, 2008, effective December 1, 2008, 38 Pa.B. 5257; amended September 11, 2023, effective January 1, 2024, 53 Pa.B. 5877. Immediately preceding text appears at serial pages (408499) to (408500).

Rule 1102. Improvident Appeals.

If an appeal is improvidently taken to the Supreme Court under Rule 1101 (appeals as of right from the Commonwealth Court) in a case where the proper mode of review is by petition for allowance of appeal under this chapter, this alone shall not be a ground for dismissal, but the papers whereon the appeal was taken shall be regarded and acted on as a petition for allowance of appeal and as if duly filed in the Supreme Court at the time the appeal was taken.

Official Note

Based on 42 Pa.C.S. § 724(b) (improvident appeals). In a similar fashion, any motion to quash the appeal would be regarded as an answer to the petition under Rule 1116 (answer to the petition for allowance of appeal).

Source

The provisions of this Rule 1102 amended December 11, 1978, effective December 30, 1978, amended May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740; amended February 27, 1980, 10 Pa.B. 1038, effective as set forth at 10 Pa.B. 1038; amended September 10, 2008, effective December 1, 2008, 38 Pa.B. 5257. Immediately preceding text appears at serial page (215316).

Rule 1103. Improvident Petitions for Allowance of Appeal.

If a petition for allowance of appeal is improvidently filed in the Supreme Court under Rule 1112 (appeals by allowance) in a case where the proper mode of review is by appeal under Rule 1101 (appeals as of right from the Commonwealth Court), this alone shall not be a ground for dismissal, but the petition for allowance of appeal shall be regarded as a notice of appeal and as if duly filed in the Commonwealth Court at the time the petition for allowance of appeal was filed in the Supreme Court.

PETITION FOR ALLOWANCE OF APPEAL

Rule 1111. Form of Documents. Number of Copies to be Filed.

All documents filed under this chapter, other than under Pa.R.A.P. 1101 (appeals as of right from the Commonwealth Court), shall be prepared in the manner provided by Pa.R.A.P. 2171 (method of reproduction) through Pa.R.A.P. 2174 (tables of contents and citations). To determine the number of copies to be filed, see Pa.R.A.P. 124(c) and its Official Note.

Official Note

This rule does not apply to appeals taken under Pa.R.A.P. 1101 (appeals as of right from the Commonwealth Court), since those appeals are taken pursuant to Chapter 9 (appeals from lower courts).

Source

The provisions of this Rule 1111 amended October 28, 2021, effective April 1, 2022, 51 Pa.B. 7050. Immediately preceding text appears at serial page (400751).

Rule 1112. Appeals by Allowance.

(a) *General rule*.—An appeal may be taken by allowance under 42 Pa.C.S. § 724(a) (allowance of appeals from Superior and Commonwealth Courts) from any final order of the Commonwealth Court, not appealable under Pa.R.A.P. 1101 (appeals as of right from the Commonwealth Court), or from any final order of the Superior Court.

(b) *Definition. Final order*.—A final order of the Superior Court or the Commonwealth Court is any order that concludes an appeal, including an order that remands an appeal, in whole or in part, unless the appellate court remands and retains jurisdiction.

(c) *Petition for Allowance of Appeal.*

(1) Allowance of an appeal from a final order of the Superior Court or the Commonwealth Court may be sought by filing a petition for allowance of appeal with the Prothonotary of the Supreme

Court within the time allowed by Pa.R.A.P. 1113 (time for petitioning for allowance of appeal), with proof of service on all other parties to the matter in the appellate court below.

(2) If the petition for allowance of appeal is transmitted to the Prothonotary of the Supreme Court by means of first class, express, or priority United States Postal Service mail, the petition shall be deemed received by the Prothonotary for the purposes of Pa.R.A.P. 121(a) (filing) on the date shown by the United States Postal Service as the date accepted for posting, as evidenced by a United States Postal Service Form 3817 Certificate of Mailing, Form 3800 Receipt for Certified Mail, Form 3806 Receipt for Registered Mail, or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or other similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket number of the matter in the appellate court below, and shall be either enclosed with the petition or separately mailed to the Prothonotary.

(3) Upon actual receipt of the petition for allowance of appeal, the Prothonotary of the Supreme Court shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this rule, shall constitute the date when allowance of appeal was sought, which date shall be shown on the docket. The Prothonotary of the Supreme Court shall immediately note the Supreme Court docket number upon the petition for allowance of appeal and give notice of the docket number assignment to the prothonotary of the appellate court below who shall note on the docket that a petition for allowance of appeal has been filed. The Prothonotary of the Supreme Court shall send notice to all persons named in the proof of service accompanying the petition.

(4) In a children's fast track appeal, the Prothonotary of the Supreme Court shall stamp the petition for allowance of appeal with a ''Children's Fast Track'' designation in red ink, advising the Supreme Court that the petition for allowance of appeal is a children's fast track appeal.

(d) *Reproduced record*.—One copy of the reproduced record, if any, in the appellate court below shall be lodged with the Prothonotary of the Supreme Court at the time the petition for allowance of appeal is filed therein. A party filing a cross-petition for allowance of appeal from the same order need not lodge any reproduced record in addition to that lodged by petitioner.

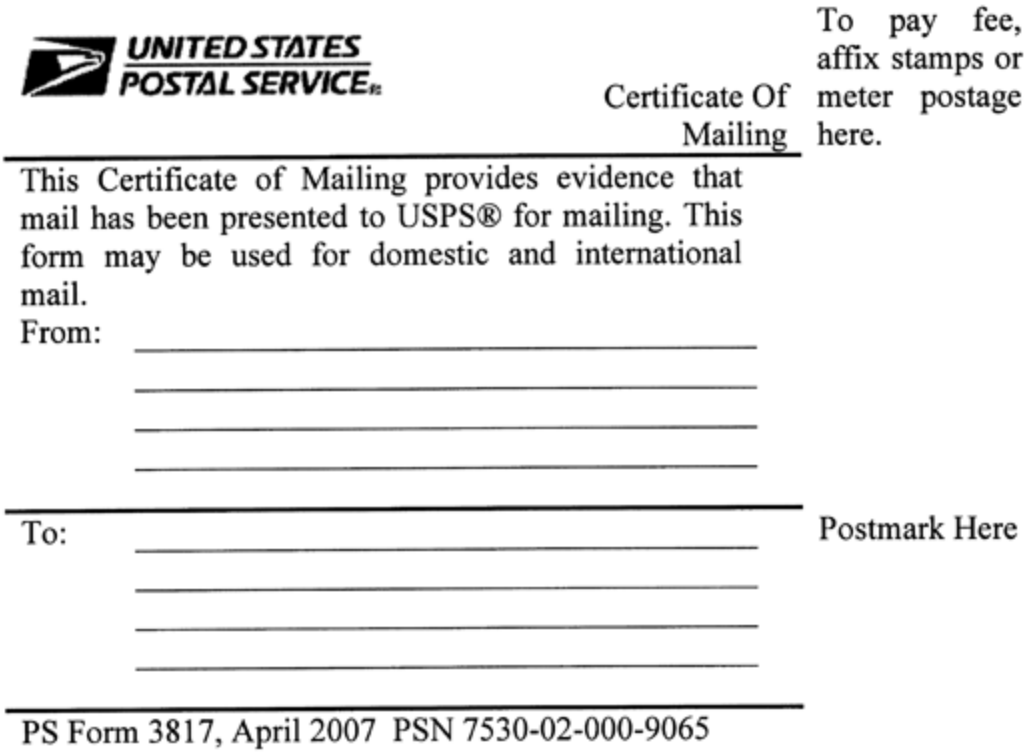
(e) *Fee*.—The petitioner upon filing the petition for allowance of appeal shall pay any fee therefor prescribed by Chapter 27 (fees and costs in appellate courts and on appeal).

(f) *Entry of appearance*. Upon the filing of the petition for allowance of appeal the Prothonotary of the Supreme Court shall note on the record as counsel for the petitioner the name of his or her counsel, if any, set forth in or endorsed upon the petition for allowance of appeal, and, as counsel for other parties, counsel, if any, named in the proof of service. Unless that party is entitled by law to be represented by counsel on allowance of appeal, the Prothonotary shall upon *praecipe* of any such counsel for other parties, filed at any time within 30 days after filing of the petition, strike off or correct the record of appearance. If entry of appearance in the trial court extends through appeals, counsel's appearance for a party may not be withdrawn without leave of court. Appearance cannot be withdrawn without leave of court for counsel who have not filed a *praecipe* to correct appearance within the first 30 days after the petition is docketed, unless another lawyer has entered or simultaneously enters an appearance for the party.

Comment:

Based on 42 Pa.C.S. § 724(a) (allowance of appeals from Superior and Commonwealth Courts). The notation on the docket by the Prothonotary of the Superior Court or Commonwealth Court of the filing of a petition for allowance of appeal renders universal the rule that the appeal status of any order may be discovered by examining the docket of the court in which it was entered.

The United States Postal Service form may be in substantially the following form:



UNITED STATES POSTAL SERVICE®

Certificate Of Mailing

To pay fee, affix stamps or meter postage here.

This Certificate of Mailing provides evidence that mail has been presented to USPS® for mailing. This form may be used for domestic and international mail.

From: _____

_____

_____

_____

To: _____

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Postmark Here

PS Form 3817, April 2007 PSN 7530-02-000-9065

The transmittal should be taken *unsealed* to the Post Office, the Form 3817 Certificate of Mailing, Form 3800 Receipt for Certified Mail, Form 3806 Receipt for Registered Mail, or other similar United States Postal Service form from which the date of deposit can be verified should be obtained, cancelled, and attached to the petition, and the envelope should only then be sealed. Alternatively, the cancelled Form 3817, Form 3800, Form 3806, or other similar United States Postal Service form from which the date of deposit can be verified can be submitted to the Prothonotary under separate cover with clear identification of the filing to which it relates.

It is recommended that the petitioner obtain a duplicate copy of the Form 3817, Form 3800, Form 3806, or other similar United States Postal Service form from which the date of deposit can be verified as evidence of mailing. Since the Post Office is technically the filing office for the purpose of this rule, a petition which was mailed in accordance with this rule and which is subsequently lost in the mail will nevertheless toll the time for petitioning for allowance of appeal. However, counsel will be expected to follow up on a mail filing by telephone inquiry to the appellate prothonotary where written notice of the docket number assignment is not received in due course.

The Rules of Criminal Procedure require counsel appointed by the trial court to continue representation through direct appeal. Pa.R.Crim.P. 120(A)(4) and Pa.R.Crim.P. 122(B)(2). Similarly, the Rules of Criminal Procedure require counsel appointed in post-conviction proceedings to continue representation throughout the proceedings, including any appeal from the disposition of the petition for post-conviction collateral relief. Pa.R.Crim.P. 904(F)(2) and Pa.R.Crim.P. 904(H)(2)(b). The same is true when counsel enters an appearance on behalf of a juvenile in a delinquency matter or on behalf of a child or other party in a dependency matter. Pa.R.J.C.P. 150(B), 151, Pa.R.J.C.P. 1150(B), 1151(B), (E). It would be rare for counsel in such cases to consider withdrawing by *praecipe*, but the 2020 amendment to the rule avoids any possibility of confusion by clarifying that withdrawal by *praecipe* is available only in matters that do not otherwise require court permission to withdraw.

With respect to appearances by new counsel following the initial docketing of appearances pursuant to paragraph (f) of this rule, please note the requirements of Pa.R.A.P. 120.

Where an appellant desires to challenge the discretionary aspects of a sentence of a trial court, the ''petition for allowance of appeal'' referred to in 42 Pa.C.S. § 9781(b) is deferred until the briefing stage, and the appeal is commenced by filing a notice of appeal pursuant to Chapter 9 rather than a petition for allowance of appeal pursuant to Chapter 11. *See* note to Pa.R.A.P. 902; note to Pa.R.A.P. 1115; Pa.R.A.P. 2116(b) and the note thereto; Pa.R.A.P. 2119(f) and the note thereto.

Source

The provisions of this Rule 1112 amended through December 16, 1983, effective December 16, 1983, 13 Pa.B. 3998; amended July 7, 1997, effective in 60 days, 27 Pa.B. 3503; amended March 15, 2004, effective 60 days after adoption, 34 Pa.B. 1670; amended September 10, 2008, effective December 1, 2008, 38 Pa.B. 5257; amended January 13, 2009, effective as to all appeals filed 60 days or more after adoption, 39 Pa.B. 1094; amended May 28, 2014, effective July 1, 2014, 44 Pa.B. 3493; amended January 7, 2020, effective May 1, 2020, 50 Pa.B. 535; amended September 11, 2023, effective January 1, 2024, 53 Pa.B. 5877. Immediately preceding text appears at serial pages (408501) to (408502) and (400753) to (400754).

Rule 1113. Time for Petitioning for Allowance of Appeal.

(a) *General rule*.—Except as otherwise prescribed by this rule, a petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within 30 days after the entry of the order of the Superior Court or the Commonwealth Court sought to be reviewed.

(1) If a timely application for reargument is filed in the Superior Court or Commonwealth Court by any party, the time for filing a petition for allowance of appeal for all parties shall run from the entry of the order denying reargument or from the entry of the decision on reargument, whether or not that decision amounts to a reaffirmation of the prior decision.

(2) Unless the Superior Court or the Commonwealth Court acts on the application for reargument within 60 days after it is filed, the court shall no longer consider the application, it shall be deemed to have been denied, and the prothonotary of the appellate court shall forthwith enter an order denying the application and shall immediately give notice of entry of the order denying the application to each party who has appeared in the appellate court. A petition for allowance of appeal filed before the disposition of such an application for reargument shall have no effect. A new petition for allowance of appeal must be filed within the prescribed time measured from the entry of the order denying or otherwise disposing of such an application for reargument.

(3) In a children's fast track appeal, unless the Superior Court acts on the application for reargument within 45 days after it is filed, the court shall no longer consider the application, it shall be deemed to have been denied, and the Prothonotary of the Superior Court shall forthwith enter an order denying the application and shall immediately give notice of entry of the order denying the application to each party who has appeared in the appellate court. A petition for allowance of appeal filed before the disposition of such an application for reargument shall have no effect. A new petition for allowance of appeal must be filed within the prescribed time measured from the entry of the order denying or otherwise disposing of such an application for reargument.

(b) *Cross-petitions*.—Except as otherwise prescribed in paragraph (c) of this rule, if a timely petition for allowance of appeal is filed by a party, any other party may file a cross-petition for allowance of appeal within 14 days of the date on which the first petition for allowance of appeal was served, or within the time otherwise prescribed by this rule, whichever period last expires.

(c) *Special provisions*.—Notwithstanding any other provision of this rule, a petition for allowance of appeal from an order in any matter arising under any of the following shall be filed within ten days after the entry of the order sought to be reviewed:

1. Pennsylvania Election Code.

2. Local Government Unit Debt Act or any similar statute relating to the authorization of public debt.

(d) *Nunc pro tunc filing*.—In addition to the right of any petitioner to seek *nunc pro tunc* relief in compliance with the standard set forth in case law, in a criminal case, a party may, (either *pro se* or through counsel) file an application for permission to file a petition for allowance of appeal *nunc pro tunc* if the party directed counsel to file a petition for allowance of appeal but counsel did not do so timely. If the Court cannot determine whether *nunc pro tunc* relief is appropriate from the information provided, the Court may remand to the trial court for factual findings.

Official Note

See note to Pa.R.A.P. 903 (time for appeal).

Paragraph (*b*)—A party filing a cross-petition for allowance of appeal should identify it as a cross-petition to assure that the prothonotary will process the cross-petition with the initial petition. *See also* Pa.R.A.P. 511 (cross-appeals), Pa.R.A.P. 2136 (briefs in cases involving cross-appeals), and Pa.R.A.P. 2322 (cross- and separate appeals).

Paragraph (*d*)—An application for *nunc pro tunc* relief pursuant to Pa.R.A.P. 123 should contain averments and documentation in support of the request. Such an application may eliminate the need for a criminal defendant to vindicate the right to file a petition for allowance of appeal through post-conviction proceedings and preserve judicial resources. This method is available because the Supreme Court has recognized that a criminal defendant has a right to have counsel petition for allowance of appeal. Pennsylvania Rules of Criminal Procedure 120 and 122 require counsel to represent clients through all stages of a direct appeal, and this places on counsel an obligation to file a petition for allowance of appeal if the client requests one, and to represent the client in the Pennsylvania Supreme Court, if allowance of appeal is granted. Parties seeking *nunc pro tunc* relief must act promptly to assert such a right upon learning of the existence of the basis for such relief. *See, e.g., Commonwealth v. Bassion*, 568 A.2d 1316 (Pa. Super. 1990). Additionally, nothing in this rule is intended to expand upon the jurisdictional time limitations of the Post-Conviction Relief Act, 42 Pa.C.S. § § 9541 *et seq*.

(*Editor's Note:* The following order was published at 54 Pa.B. 5611 (September 7, 2024):

Temporary Modification and Suspension of the Rules of Appellate Procedure and Judicial Administration for Appeals Arising under the Pennsylvania Election Code; No. 622 Judicial Administration Docket

Order

Per Curiam

And Now, this 27th day of August, 2024, upon consideration of the requirements of the Electoral Count Reform Act of 2022, *see* 3 U.S.C. § 5, to expedite appeals in matters arising under the Pennsylvania Election Code with respect to the November 5, 2024 General Election, and pursuant to Article V, Section 10 of the Pennsylvania Constitution, it is *Ordered* as follows:

Rule 903(c)(1)(ii) of the Pennsylvania Rules of Appellate Procedure, which provides for a 10-day appeal period from an order in any matter arising under the Pennsylvania Election Code, is *Temporarily Modified* to provide for a 3-day appeal period; further, Pa.R.A.P. 1113(c)(1), which provides for a 10-day period for filing a petition for allowance of appeal from an order in any matter arising under the Pennsylvania Election Code, is *Temporarily Modified* to provide for a 3-day period. All cross-appeals and cross-petitions for allowance of appeal must also be filed within 3 days of the challenged order.

Additionally, Pa.R.A.P. 107 and Pa.R.J.A. 107 are *Temporarily Suspended* to the extent they specify that weekends and holidays are to be excluded in calculating the above 3-day periods.

Answers to jurisdictional statements and petitions for allowance of appeal, and separate motions to quash or dismiss appeals, will not be received in these matters. Any objection to the propriety of the appeal, including questions surrounding the appellate court's jurisdiction, are to be raised in the appellees' merits briefs.

In appeals that fall within the purview of this order, appellants shall file briefs within 24 hours of the filing their notice of appeal and, where applicable, jurisdictional statement. Appellees' briefs are due within 24 hours of the filing of appellants' briefs. Further, Pa.R.A.P. 2113 (regarding reply briefs) is *Temporarily Suspended* in these matters; no reply briefs will be permitted absent order of court.

All filings related to matters encompassed by this order shall be filed electronically when counsel or the litigants have a PACFile account. Otherwise, counsel or the litigants shall contact the relevant filing office to make alternative arrangements to ensure that the filing office receives the submissions by the applicable deadline.

Pa.R.A.P. 1931(a) and (c) (regarding the deadline for transmittal of the record when complete) are *Temporarily Suspended* in matters subject to this order, and the record shall be transferred as soon as practicable. The lower court may transmit partially completed records in the interest of facilitating prompt resolution of any appeal in these matters.

Applications for reconsideration or reargument will not be received on matters falling under this order.

Any court deciding a matter that arises under the Pennsylvania Election Code in relation to the November 5, 2024 General Election shall append a copy of this order to its decision.

This order shall be effective August 29, 2024, and shall apply to appeals or petitions for allowance of appeal filed from orders entered after that date.

This order shall remain in effect pending further order of this Court.

Source

The provisions of this Rule 1113 amended through April 26, 1982, effective September 12, 1982, 12 Pa.B. 1536; amended October 18, 2002, effective December 2, 2002, 32 Pa.B. 5402; amended January 13, 2009, effective as to all appeals filed 60 days or more after adoption, 39 Pa.B. 1094; amended April 9, 2012, effective in 30 days, 42 Pa.B. 2269; amended January 7, 2020, effective

May 1, 2020, 50 Pa.B. 535. Immediately preceding text appears at serial pages (372656) and (389947).

Rule 1114. Standards Governing Allowance of Appeal.

(a) *General Rule.* Except as prescribed in Pa.R.A.P. 1101 (appeals as of right from the Commonwealth Court), review of a final order of the Superior Court or the Commonwealth Court is not a matter of right, but of sound judicial discretion, and an appeal will be allowed only when there are special and important reasons therefor.

(b) *Standards.* A petition for allowance of appeal may be granted for any of the following reasons:

(1) the holding of the intermediate appellate court conflicts with another intermediate appellate court opinion;

(2) the holding of the intermediate appellate court conflicts with a holding of the Pennsylvania Supreme Court or the United States Supreme Court on the same legal question;

(3) the question presented is one of first impression;

(4) the question presented is one of such substantial public importance as to require prompt and definitive resolution by the Pennsylvania Supreme Court;

(5) the issue involves the constitutionality of a statute of the Commonwealth;

(6) the intermediate appellate court has so far departed from accepted judicial practices or so abused its discretion as to call for the exercise of the Pennsylvania Supreme Court's supervisory authority; or

(7) the intermediate appellate court has erroneously entered an order quashing or dismissing an appeal.

Official Note

The petition for allowance of appeal is synonymous with a petition for allocatur.

Pa.R.A.P. 1114(b)(7) supersedes the practice described in *Vaccone v. Syken*, 587 Pa. 380, 384 n.2, 899 A.2d 1103, 1106 n.2 (2006).

Source

The provisions of this Rule 1114 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended February 4, 2011, effective in 30 days, and shall be applicable to petitions filed thereafter, 41 Pa.B. 923; amended May 31, 2013, effective immediately, 43 Pa.B. 3223. Immediately preceding text appears at serial page (361141).

Rule 1115. Content of the Petition for Allowance of Appeal.

(a) *General rule*.—The petition for allowance of appeal need not be set forth in numbered paragraphs in the manner of a pleading, and shall contain the following (which shall be set forth in the order stated):

(1) A reference to the official and unofficial reports of the opinions delivered in the courts below, if any, and if reported. Any such opinions shall be appended as provided in subdivision (a)(7).

(2) The text of the order in question, or the portions thereof sought to be reviewed, and the date of its entry in the appellate court below. If the order is voluminous, it may, if more convenient, be appended to the petition.

(3) The questions presented for review, expressed in the terms and circumstances of the case but without unnecessary detail. The statement of questions presented will be deemed to include every subsidiary question fairly comprised therein. Only the questions set forth in the petition, or fairly comprised therein, will ordinarily be considered by the court in the event an appeal is allowed.

(4) A statement of place of raising or preservation of issues, which shall appear immediately after the questions presented for review. The statement shall specify the stage of the proceedings at which, and manner in which, the questions sought to be reviewed were raised in each proceeding below, the method of raising those questions (*e.g.*, by a pleading, by a request to charge and exceptions, etc.), and the way in which those questions were passed upon by each court below, with citations to the record, as required by Pa.R.A.P. 2117(c). If under the applicable law an issue is reviewable on appeal without having been raised or preserved below, the statement shall so assert, with citation to appropriate authority.

(5) A concise statement of the case containing the facts material to a consideration of the questions presented.

(6) A concise statement of the reasons relied upon for allowance of an appeal. *See* Pa.R.A.P. 1114.

(7) There shall be appended to the petition a copy of any opinions delivered relating to the order sought to be reviewed, as well as all opinions of government units, trial courts, or intermediate appellate courts in the case, and, if reference thereto is necessary to ascertain the grounds of the order, opinions in companion cases. If an application for reargument was filed in the Superior Court or Commonwealth Court, there also shall be appended to the petition a copy of any order granting or denying the application for reargument. If whatever is required by this paragraph to be appended to the petition is voluminous, it may, if more convenient, be separately presented.

(8) There shall be appended to the petition the verbatim texts of the pertinent provisions of constitutional provisions, statutes, ordinances, regulations, or other similar enactments which the case involves, and the citation to the volume and page where they are published, including the official edition, if any.

(9) The certificate of compliance required by Pa.R.A.P. 127.

(b) *Caption and parties.*—All parties to the proceeding in the intermediate appellate court shall be deemed parties in the Supreme Court, unless the petitioner shall notify the Prothonotary of the Supreme Court of the belief of the petitioner that one or more of the parties below have no interest in the outcome of the petition. A copy of such notice shall be served on all parties to the matter in the intermediate appellate court, and a party noted as no longer interested may remain a party in the Supreme Court by filing a notice that he has an interest in the petition with the Prothonotary of the Supreme Court. All parties in the Supreme Court other than petitioner shall be named as respondents, but respondents who support the position of the petitioner shall meet the time schedule for filing papers which is provided in this chapter for the petitioner, except that any response by such respondents to the petition shall be filed as promptly as possible after receipt of the petition.

(c) *No supporting brief.*—All contentions in support of a petition for allowance of appeal shall be set forth in the body of the petition as provided by subdivision (a)(6) of this rule. Neither the briefs below nor any separate brief in support of a petition for allowance of appeal will be received, and the Prothonotary of the Supreme Court will refuse to file any petition for allowance of appeal to which is annexed or appended any brief below or supporting brief.

(d) *Essential requisites of petition.*—The failure to comply with the requirements of this rule in all material respects shall alone be grounds for denying a petition. The failure of a petitioner to present with accuracy, brevity, and clarity whatever is essential to a ready and adequate understanding of the points requiring consideration will be a sufficient reason for denying the petition.

(e) *Multiple petitioners.*—Where permitted by Pa.R.A.P. 512 a single petition for allowance of appeal may be filed.

(f) *Length.*—A petition for allowance of appeal shall not exceed 9,000 words. A petition for allowance of appeal that does not exceed 20 pages when produced by a word processor or typewriter shall be deemed to meet the 9,000 word limit. In all other cases, the attorney or the unrepresented filing party shall include a certification that the petition complies with the word count limit. The certificate may be based on the word count of the word processing system used to prepare the petition.

(g) *Supplementary matter*.—The cover of the petition for allowance of appeal, pages containing the table of contents, table of citations, proof of service, signature block, and anything appended to the petition under subdivisions (a)(7) and (a)(8) shall not count against the word count limitations of this rule.

Official Note

Former Supreme Court Rule 62 permitted the petitioner in effect to dump an undigested mass of material (such as briefs in and opinions of the court below) in the lap of the Supreme Court, with the burden on the individual justices and their law clerks to winnow the wheat from the chaff. This rule, which is patterned after U.S. Supreme Court Rule 14, places the burden on the petitioner to prepare a succinct and coherent presentation of the case and the reasons in support of allowance of appeal.

Where an appellant desires to challenge the discretionary aspects of a sentence of a trial court the ''petition for allowance of appeal'' referred to in 42 Pa.C.S. § 9781(b) is deferred until the briefing stage, and the appeal is commenced by filing a notice of appeal pursuant to Chapter 9 rather than a petition for allowance of appeal pursuant to Chapter 11. *Commonwealth v. Tuladziecki*, 522 A.2d 17, 18 (Pa. 1987). *See* note to Pa.R.A.P. 902; Pa.R.A.P. 2116(b) and the note thereto; Pa.R.A.P. 2119(f) and the note thereto.

Source

The provisions of this Rule 1115 amended May 16, 1979, effective June 2, 1979, 9 Pa.B. 1753; amended September 25, 2008, effective as to all petitions for allowance of appeal filed more than 30 days after entry of the order, 38 Pa.B. 5589; amended May 28, 2014, effective July 1, 2014, 44 Pa.B. 3493; amended December 30, 2014, effective in 60 days, 45 Pa.B. 288; amended January 5, 2018, effective January 6, 2018, 48 Pa.B. 461; amended December 7, 2021, effective April 1, 2022, 51 Pa.B. 7857; amended October 12, 2023, effective December 1, 2023, 53 Pa.B. 6696. Immediately preceding text appears at serial pages (408504) to (408506).

Rule 1116. Answer to the Petition for Allowance of Appeal.

(a) *General rule*.—Except as otherwise prescribed by this rule, within 14 days after service of a petition for allowance of appeal an adverse party may file an answer. The answer shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized. The answer need not be set forth in numbered paragraphs in the manner of a pleading, shall set forth any procedural, substantive or other argument or ground why the order involved should not be reviewed by the Supreme Court, and shall comply with Pa.R.A.P. 1115(a)(8). No separate motion to dismiss a petition for allowance of appeal will be received. A party entitled to file an answer

under this rule who does not intend to do so shall, within the time fixed by these rules for filing an answer, file a letter stating that an answer to the petition for allowance of appeal will not be filed. The failure to file an answer will not be construed as concurrence in the request for allowance of appeal.

(b) *Children's fast track appeals*.—In a children's fast track appeal, within 10 days after service of a petition for allowance of appeal, an adverse party may file an answer.

(c) *Length*.—An answer to a petition for allowance of appeal shall not exceed 9,000 words. An answer that does not exceed 20 pages when produced by a word processor or typewriter shall be deemed to meet the 9,000 word limit. In all other cases, the attorney or the unrepresented filing party shall include a certification that the answer complies with the word count limit. The certificate may be based on the word count of the word processing system used to prepare the answer.

(d) *Supplementary matter*.—The cover of the answer, pages containing the table of contents, table of citations, proof of service, signature block, and anything appended to the answer shall not count against the word count limitations of this rule.

(e) *Certificate of compliance with Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*.—An answer to a petition for allowance of appeal shall contain the certificate of compliance required by Pa.R.A.P. 127.

Official Note

This rule and Pa.R.A.P. 1115 contemplate that the petition and answer will address themselves to the heart of the issue, such as whether the Supreme Court ought to exercise its discretion to allow an appeal, without the need to comply with the formalistic pattern of numbered averments in the petition and correspondingly numbered admissions and denials in the response. While such a formalistic format is appropriate when factual issues are being framed in a trial court, as in the petition for review under Chapter 15, such a format interferes with the clear narrative exposition necessary to outline succinctly the case for the Supreme Court in the allocatur context.

Parties are strongly encouraged to raise any waiver-based or procedural objection to a petition for allowance of appeal in an answer to the petition. In addition, parties are reminded that they may raise waiver-based, procedural, and jurisdictional objections after the grant of a petition for allowance of appeal, but before merits briefing, through a dispositive motion filed under Pa.R.A.P. 1972.

Source

The provisions of this Rule 1116 amended September 10, 2008, effective December 1, 2008, 38 Pa.B. 5257; amended January 13, 2009, effective as to all appeals filed 60 days or more after adoption, 39 Pa.B. 1094; amended December 30, 2014, effective in 60 days, 45 Pa.B. 288; amended January 5, 2018, effective January 6, 2018, 48 Pa.B. 461; amended June 1, 2018, effective July 1, 2018, 48 Pa.B. 3517; amended December 7, 2021, effective April 1, 2022, 51 Pa.B. 7857. Immediately preceding text appears at serial pages (400758) and (392575).

Rule 1121. Transmission of Papers to and Action by the Court.

Upon receipt of the answer to the petition for allowance of appeal, or a letter stating that no answer will be filed, from each party entitled to file such, the petition and the answer, if any, shall be distributed by the Prothonotary to the Supreme Court for its consideration. An appeal may be allowed limited to one or more of the questions presented in the petition, in which case the order allowing the appeal shall specify the question or questions which will be considered by the Court.

Source

The provisions of this Rule 1121 amended through April 30, 1984, effective April 30, 1984, 14 Pa.B. 1639; amended September 10, 2008, effective December 1, 2008, 38 Pa.B. 5257. Immediately preceding text appears at serial pages (215322) to (215323).

Rule 1122. Allowance of Appeal and Transmission of Record.

If an appeal is allowed the Prothonotary of the Supreme Court shall immediately give written notice in person or by first class mail of the entry of the order allowing the appeal to the prothonotary of the appellate court below and to each party who has appeared in the Supreme Court. The notice shall specify the question or questions which will be considered by the Supreme Court, if an appeal has been allowed as to less than all questions presented. The prothonotary of the appellate court below shall docket the notice in the same manner as a notice of appeal, and shall forthwith transmit the record to the Prothonotary of the Supreme Court, but for the purpose of computing time under these rules the record shall be deemed filed in the Supreme Court on the date of entry of the order allowing the appeal. A notice of appeal need not be filed.

Official Note

This rule eliminates the little-known procedural ‘‘trap’’ whereby the number of days between the entry of the judgment below and the date of filing the petition for allowance of appeal is subtracted from the time available to the appellant for formal entry of the appeal after it has been allowed. See *Platt-Barber Co. v. Groves,* 193 Pa. 475, 44 Atl. 571 (1899). Under this rule the entry by the Supreme Court of the order allowing the appeal automatically perfects the appeal.

Source

The provisions of this Rule 1122 amended May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740. Immediately preceding text appears at serial page (39580).

Rule 1123. Denial of Appeal; Reconsideration.

(a) *Denial*. If the petition for allowance of appeal is denied the Prothonotary of the Supreme Court shall immediately give written notice in person or by first class mail of the entry of the order denying the appeal to each party who has appeared in the Supreme Court. After the expiration of the time allowed by paragraph (b) of this rule for the filing of an application for reconsideration of denial of a petition for allowance of appeal, if no application for reconsideration is filed, the Prothonotary of the Supreme Court shall notify the prothonotary of the appellate court below of the denial of the petition.

(b) *Reconsideration*. Applications for reconsideration of denial of allowance of appeal are not favored and will be considered only in the most extraordinary circumstances. An application for reconsideration of denial of a petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within fourteen days after entry of the order denying the petition for allowance of appeal. In a children’s fast track appeal, the application for reconsideration of denial of a petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within 7 days after entry of the order denying the petition for allowance of appeal. Any application filed under this paragraph must comport with the following:

(1) Briefly and distinctly state grounds which are confined to intervening circumstances of substantial or controlling effect.

(2) Be supported by a certificate of counsel to the effect that it is presented in good faith and not for delay. Counsel must also certify that the application is restricted to the grounds specified under subparagraph (b)(1).

(3) Contain the certificate of compliance required by Pa.R.A.P. 127.

No answer to an application for reconsideration will be received unless requested by the Supreme Court. Second or subsequent applications for reconsideration, and applications for reconsideration which are out of time under this rule, will not be received.

(c) *Manner of Filing*. If the application for reconsideration is transmitted to the prothonotary of the appellate court by means of first class, express, or priority United States Postal Service mail, the application shall be deemed received by the prothonotary for the purposes of Pa.R.A.P. 121(a) (filing) on the date deposited in the United States mail as shown on a United States Postal Service Form 3817 Certificate of Mailing, Form 3800 Receipt for Certified Mail, Form 3806 Receipt for Registered Mail, or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or other similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket number of the matter in the court in which reconsideration is sought, and shall be enclosed with the application or separately mailed to the prothonotary. Upon actual receipt of the application, the prothonotary shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this subdivision, shall constitute the date when application was sought, which date shall be shown on the docket.

Source

The provisions of this Rule 1123 amended May 16, 1996, effective July 1, 1996, 26 Pa.B. 2482; amended September 10, 2008, effective December 1, 2008, 38 Pa.B. 5257; amended January 13, 2009, effective as to all appeals filed 60 days or more after adoption, 39 Pa.B. 1094; amended January 5, 2018, effective January 6, 2018, 48 Pa.B. 461; amended September 11, 2023, effective January 1, 2024, 53 Pa.B. 5877. Immediately preceding text appears at serial pages (408507) to (408508).

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§ 63.6. Allowance of Appeal.

A. *Duties of Prothonotary*.

(1) The Prothonotary shall initially screen petitions for allowance of appeal for compliance with the applicable appellate rules. The Prothonotary shall note if the following defects are present:

(a) whether the petition violates the prohibition against hybrid representation;

(b) whether the petitioner has not provided proper proof of service;

(c) whether the petitioner has not paid the required filing fee or submitted a petition to proceed *in forma pauperis*; and

(d) whether the petition exceeds the permissible word count limit.

Where any of these four defects are present, the Prothonotary shall notify the petitioner and afford an opportunity for correction, while preserving the filing date based upon the initial submission. If the identified defects are not corrected, the Prothonotary may refuse the petition for filing without further action of the Court.

Untimely petitions may be refused for filing by the Prothonotary without further Court action.

(2) Petitions for allowance of appeal shall be assigned to individual Justices by the Prothonotary on a rotating basis by seniority for preparation of an allowance of appeal report. Petitions from the same district presenting the same question shall be consolidated; petitions from different districts that present the same question may be consolidated at the discretion of the Court.

B. *Circulation and Disposition.* Allowance of appeal reports shall be circulated within ninety (90) days of the receipt of such an assignment. The proposed disposition date shall not be greater than sixty (60) days from the date of circulation. Holds may be placed on petitions for allowance of appeal only upon written notice to the members of the Court as to the reasons for the hold, e.g., the existence of another petition from another district presenting the same question. No hold may be placed on a petition without the existence of a terminus, e.g., the issuance of an opinion on a petition presenting the same question. Where a hold results from the existence of another petition presenting the same issue, the parties shall be notified of the hold and the case that will determine the issue. A hold for the purpose of preparing a counter-report shall not exceed thirty (30) days; only by vote of the majority may a hold be extended beyond thirty (30) days, but in no event shall a hold for such purpose exceed ninety (90) days.

Notwithstanding any contrary procedures set forth above, allowance of appeal reports in Children's Fast Track appeals are to be circulated within thirty (30) days of the receipt of the assignment, and the proposed disposition date shall not be greater than thirty (30) days from the date of circulation. A hold for purposes of preparing a counter-report in a Children's Fast Track appeal shall not exceed fifteen (15) days; only by vote of the majority may a hold be extended beyond fifteen (15) days, but in no event shall a hold exceed forty-five (45) days.

Upon the affirmative vote of three or more Justices, allowance of appeal will be granted and the case will be listed for oral argument, unless the order indicates that the matter will be submitted on the briefs. An order granting a petition for allowance of appeal shall specify the issues upon which allowance of appeal was granted.

A per curiam order granting allowance of appeal and reversing an order of the lower court must cite to controlling legal authority or provide a full explanation of the reasons for reversal.

A Justice may request that the order resolving the petition for allowance of appeal record that he or she voted for a different disposition. All orders shall indicate if a Justice did not participate in the consideration or decision of the matter.

C. *Reconsideration Applications.*

1. *Assignment.* The Prothonotary shall direct applications for reconsideration to the Justice who authored the allowance of appeal report.

2. *Circulation and Disposition.* The assigned Justice shall circulate to the Court a recommended disposition within fourteen (14) days of the date of the assignment, or within seven (7) days of the date of assignment in Children's Fast Track appeals. A Justice who disagrees with the recommended disposition shall circulate a counter-recommendation within fourteen (14) days of the original recommendation, or within seven (7) days of the date of the original recommendation in Children's Fast Track appeals. A vote of the majority is required to grant reconsideration. In any case in which reconsideration has been denied, a Justice may request that the order record that he or she voted to grant reconsideration. All orders shall indicate if a Justice did not participate in the consideration or decision of the matter.

Source

The provisions of this § 63.5 amended February 4, 2011, effective in 30 days, and shall be applicable to petitions filed thereafter, 41 Pa.B. 923; amended May 18, 2011, 41 Pa.B. 2837; renumbered as § 63.6 and amended January 9, 2013, effective in 30 days, 43 Pa.B. 514; amended May 31, 2013, effective immediately, 43 Pa.B. 3227; amended July 22, 2024, effective in 30 days, 54 Pa.B. 4431. Immediately preceding text appears at serial pages (367369) to (367370).

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How to Draft an Effective Petition for Allowance of Appeal

Persuading the Supreme Court to take your case requires a unique—and sometime counterintuitive—type of advocacy.

By Shohin Vance

By Francis G. Notarianni

The situation is all too familiar to many attorneys: after years of litigation, you and your client have been handed a crushing defeat by one of Pennsylvania's two intermediate appellate courts. Convinced that Superior or Commonwealth Court, as the case may be, "got it all wrong," you want to take your case to the Supreme Court. But how do you persuade the highest court in the commonwealth to take your case? Your first instinct may be to hone in on what you perceive as the most glaring legal errors. While that approach is often sound on direct appeal as of right, it is unlikely to prove fruitful when seeking discretionary appellate review. In fact, as we discuss below, persuading the Supreme Court to take your case requires a unique—and sometime counterintuitive—type of advocacy.

Above all else, a strong petition for allowance of appeal to the Pennsylvania Supreme Court—or an allocatur petition—requires a deep understanding of Rule 1114 of the Rules of Appellate Procedure. That rule, which is the court's chief focus when examining allocatur petitions, provides that discretionary review will be granted "only where there are special and important reasons" and proceeds to list seven reasons for granting an appeal:

- the holding of the intermediate appellate court conflicts with another intermediate appellate court opinion;

- the holding of the intermediate appellate court conflicts with a holding of the Pennsylvania Supreme Court or the United States Supreme Court on the same legal question;
- the question presented is one of first impression;
- the question presented is one of such substantial public importance as to require prompt and definitive resolution by the Pennsylvania Supreme Court;
- the issue involves the constitutionality of a statute of the Commonwealth;
- the intermediate appellate court has so far departed from accepted judicial practices or so abused its discretion as to call for the exercise of the Pennsylvania Supreme Court's supervisory authority; or
- the intermediate appellate court has erroneously entered an order quashing or dismissing an appeal.

Pa.R.A.P. 1114(b). (That's right; the Rule 1114(b) factors are so important that we block quoted them).

These factors—sometimes called "the allocatur criteria"—establish the basic lens through which you should assess your case. In order to convince the Supreme Court to grant review appeal, your allocatur petition should squarely implicate at least one of those factors. What this means, practically speaking, is that you'll need to take a step back from the case and view it anew—while remaining mindful of basic waiver and issue preservation principles—to consider how, for example, it implicates a question of first impression or an issue of substantial importance. If you have lived the case from its inception, investing considerable time and effort, this can be easier said than done. By this point, you know you were right, and the court below was obviously wrong, but such a merits based approach will leave you unable to see the forest for the trees.

In fact, of all the mistakes, the most common—and the one most likely to result in denial of review—is an allocatur petition that argues the merits of

the case, rather than answering the sole question the court is concerned with: what are the special and important reasons for the court to exercise its discretion and grant this appeal? If your focus is on the merits of your case and why you were right and the lower court was wrong then you're not answering the salient question; instead, you're inviting the court to step in and conduct error review, which is traditionally not the function of a court of last resort when exercising its discretionary appellate jurisdiction.

So—returning to our earlier proposition that the advocacy at this stage can be somewhat counterintuitive—you might find yourself in a position where, in order to draft an effective allocatur petition, you have to locate additional authority to bolster the very decision you will ultimately be asking the Supreme Court to reverse.

By way of example, lets assume the Commonwealth Court issued an opinion in your case that you believe conflicts with its prior precedent. If the decision you wish to appeal is an unpublished memorandum opinion, the most effective approach is not to simply cite the multitude of ostensibly contravening published Commonwealth Court decisions. Why? Because if a dozen precedential decisions, along with scores of unpublished opinions, have articulated a legal principle correctly, the erroneous nonprecedential decision in your case (although unsettling to you) is unlikely to portend the type of unsettled legal landscape that would justify discretionary review. If, however, the allocatur petition identifies two divergent lines of precedent in the intermediate courts, or even an emerging trend that shows a departure from precedent—albeit in unpublished decisions—the court is more likely to recognize that the issue on which appeal is being sought is not merely one of error review.

Similarly, if the grounds on which you are seeking review is that the issue is one of first impression, the merits are unimportant. Instead, the focus of the allocatur petition should be on firmly establishing that your case is materially different from any other controlling decision. Again, delving

into the merits here can be counterproductive because if you are able to effectively argue that the intermediate court ignored controlling precedent that it was unmistakably bound to follow, it is unlikely that your case is truly one of first impression.
The same holds true if the asserted basis for allocatur is that the question is one of substantial public importance because such issues are seldom clear-cut and generally involve a number of competing principles and interests. Thus, neglecting to offer a robust exposition of the countervailing views and considerations can weaken the argument that the issue is truly of immense public significance.

But even if you successfully execute the above framework, there are additional pitfalls that might prove fatal. The paramount themes throughout Chapter 11 are brevity and clarity. For example, you are required to present the court with a concise statement of the case and concise statement of the reasons for appeal. Indeed, the "failure of a petitioner to present with accuracy, brevity, and clearness whatever is essential to a ready and adequate understanding of the points requiring consideration will be sufficient reason for denying the petition." And this makes sense for two reasons: the court does not have time to figure out what you are trying to argue and the court needs to understand exactly why at least one Rule 1114(b) factor is implicated without extraneous detail.

Along those same lines, the question presented is particularly important because the court is limited to answering only the question as presented. In this light, it is worth spending effort to carefully articulate the question so the court's review encompasses the question(s), and any issues fairly subsumed within them, in their entirety. In fact, there are times when the court will grant appeal based on the question as worded by counsel, only to discover later that the question is imprecise, or does not capture the heart of the issue, which forces the court to dismiss the appeal as improvidently granted.

What should be clear by now is that an allocatur petition requires uniquely focused and sometimes counterintuitive advocacy. And at the center of it all is Rule 1114(b). Follow these rules and your case just might be one of the approximately five percent heard by the justices in a given year. Get bogged down in the merits of the case, and you'll have plenty of unwelcome company.

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§ 63.5. Non-Capital Direct Appeals.

A. *Assignment.* All non-capital direct appeals shall be reviewed by the Court to determine their suitability for oral argument. As soon as all briefs have been received, the non-capital direct appeal will be assigned by the Prothonotary to a Justice on a rotating basis by seniority for preparation of a disposition memorandum, which will contain a short recitation of the facts, a brief discussion of the issues, and a recommendation as to whether the case should be (1) listed for oral argument; (2) submitted on the briefs; (3) resolved by affirmance on the opinion of the court below, including when necessary a brief statement of matters not covered by that opinion; or (4) resolved by per curiam order.

A per curiam order may be issued

1. when the Court's decision:

a. does not establish a new rule of law;

b. does not alter, modify, criticize or clarify an existing rule of law;

c. does not apply an established rule of law to a novel fact situation;

d. does not constitute the only binding precedent on a particular point of law;

e. does not involve a legal issue of continuing public interest; or

2. whenever the Court decides such an order is appropriate.

A per curiam order reversing an order of the lower court must cite to controlling legal authority or provide a full explanation of the reasons for reversal.

B. *Circulation and Disposition*: Each disposition memorandum shall be circulated to the Court within sixty (60) days of assignment. It shall then be placed on a supplemental list for consideration and vote at the same time as opinions. Disposition Memoranda must be circulated to the Court at least ten (10) days prior to circulation of the vote list to be placed on that vote list. A hold for the purpose of preparing a counter-recommendation shall not exceed thirty (30) days; only by vote of the majority may a hold be extended beyond thirty (30) days, but in no event shall a hold exceed ninety (90) days.

The case shall thereafter be resolved in accordance with the vote of the majority. If no clear majority emerges, the case will be listed for oral argument. A Justice may request that the order record that he or she voted for a different disposition. All orders resolving a non-capital direct appeal shall indicate if a Justice did not participate in the consideration or decision of the matter.

C. *Reconsideration Applications.*

1. *Assignment.* The Prothonotary shall direct the application for reconsideration to the Justice who prepared and filed the order.

2. *Circulation and Disposition.* The assigned Justice shall circulate to all members of the Court a recommended disposition within fourteen (14) days of the assignment. A Justice who disagrees with the recommended disposition shall circulate a counter-recommendation within fourteen (14) days of the original recommendation. A vote of the majority is required to grant reconsideration. In any case in which reconsideration has been denied, a Justice may request that the order record that he or she

voted to grant reconsideration. All orders shall indicate if a Justice did not participate in the consideration or decision of the matter.

Source

The provisions of this § 63.5 adopted January 9, 2013, effective in 30 days, 43 Pa.B. 514.

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§ 63.7. Motions, Miscellaneous Petitions, and Applications for Relief.

A. *Duties of Prothonotary*. All assignments of motions, miscellaneous petitions and applications for relief, including emergency motions and those requesting the exercise of King's Bench powers, extraordinary jurisdiction and original jurisdiction, shall originate in the Prothonotary's office. No motions, petitions or applications will be considered which were not first filed in the Prothonotary's office and thence assigned. Documents may be filed in paper format, or by electronic or facsimile transmission. Once received, motions, petitions and applications will be monitored by the Prothonotary's office for compliance with applicable appellate rules. Proposed filings that are not in compliance will not be docketed. Proposed filings that are in compliance will be docketed and a response will be allowed. At the expiration of the response period the documents will be forwarded to the Court.

Procedural motions (*e.g.*, first requests for extension of time for not more than thirty days, requests to exceed page limits, and requests to proceed in forma pauperis) may be resolved by the Prothonotary without further action of the Court.

Requests for extension of time in excess of thirty days, and second or subsequent requests for extension of time, are disfavored and will be granted only upon a showing of good cause. Applications for such extensions will be assigned to the Chief Justice.

(**Court Note:** Time periods for responses*

Filing	*Rule*	*Response Period*
Application for Relief (Extensions)	123	14 Days
Jurisdictional Statement	909(b)	14 Days
Petition for Allowance of Appeal	1116	14 Days
Petition for Allowance of Appeal— Children's Fast Track Cases	1116(b)	10 Days
Reconsideration	1123	No Answer Permitted
Petition for Perm. To Appeal	1314	14 Days
Petition for Review	1516(c)	30 Days
N.B. No Answer Required Unless Petition Contains Notice to Plead		
Application for Release (Bail)	1762	14 Days
Reargument	2545	14 Days
Original Process (e.g., Habeas, Mandamus)	3307	14 Days
Extraordinary Relief	3309	14 Days

*May be shorter in stay or supersedeas applications when circumstances require, or by court order.)

B. *Assignment, Circulation and Disposition*. All motions, petitions and applications will be assigned to the Chief Justice, except for emergency motions, motions addressed to a single Justice, and applications for stay of execution in capital cases. In matters assigned to the Chief Justice, the Chief Justice will prepare a memorandum setting forth the positions of the parties and a recommended disposition. Recommendations should be circulated within sixty (60) days from the date the answer is filed or is due to be filed, whichever occurs first, and should contain a proposed

disposition date no greater than thirty (30) days from the date of circulation, except in Children's Fast Track cases, in which recommendations shall be circulated within fifteen (15) days from the date the answer is filed or due to be filed, whichever occurs first, and the proposed disposition date shall be no greater than fifteen (15) days from the date of circulation. A vote of the majority is required to implement the proposed disposition.

Every motion, petition or application shall be decided within sixty (60) days, or within thirty (30) days in Children's Fast Track cases. A Justice may request that the order record that he or she voted for a different disposition. Orders disposing of motions, petitions and applications shall indicate if a Justice did not participate in the consideration or decision of the matter.

C. *Emergency Motions*.

1. *Assignment.* On or before the first Monday in January, the Chief Justice shall publish a calendar of duty assignments for the handling of emergency motions. Two Justices will be assigned by the Chief Justice on a monthly rotating basis to review emergency motions for the Eastern and Western Districts. Cases filed in the Middle District will be assigned alternately between the Eastern and Western District duty Justices.

2. *Circulation and Disposition.* Any motion assigned to the duty Justice may at the discretion of that Justice be referred to the full Court for consideration, with or without the entry of an interim order.

D. *Motions Directed to a Single Justice*. A Justice may entertain and may grant or deny any request for relief which may under Pa.R.A.P. 123 or 3315 properly be sought by motion, except that a single Justice may not dismiss or otherwise determine an appeal or other proceeding.

E. *Applications for Stay of Execution in a Capital Case or for Review of an Order Granting or Denying a Stay of Execution.*

1. *Assignment.* The application will be assigned to the duty Justice.

2. *Circulation and Disposition.* The assigned Justice shall promptly circulate a proposed disposition and the application shall be resolved according to the vote of the majority.

F. *Reconsideration Applications.*

1. *Assignment.* The Prothonotary shall direct applications for reconsideration to the Justice who entered the order resolving the application.

2. *Circulation and Disposition.* The assigned Justice shall circulate to the Court a recommended disposition within fourteen (14) days of the date of the assignment, within seven (7) days of the date of assignment in Children's Fast Track appeals, or as soon as practicable in emergency and stay of execution matters. A Justice who disagrees with the recommended disposition shall circulate a counter-recommendation within fourteen (14) days of the original recommendation, within seven (7) days of the date of the original recommendation in Children's Fast Track appeals, or as soon as practicable in emergency and stay of execution matters. A vote of the majority is required to grant reconsideration. In any case in which reconsideration has been denied, a Justice may request that the order record that he or she voted to grant reconsideration. All orders shall indicate if a Justice did not participate in the consideration or decision of the matter.

Source

The provisions of this § 63.6 amended through September 27, 1995; amended May 18, 2011, 41 Pa.B. 2837; renumbered as § 63.7 and amended January 9, 2013, effective in 30 days, 43 Pa.B. 514;

amended May 31, 2013, effective immediately, 43 Pa.B. 3227; amended May 13, 2021, effective immediately, 51 Pa.B. 2962. Immediately preceding text appears at serial pages (367371) to (367372).

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IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

NEW PA PROJECT EDUCATION FUND, NAACP PENNSYLVANIA STATE CONFERENCE, COMMON CAUSE PENNSYLVANIA, LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, BLACK POLITICAL EMPOWERMENT PROJECT, POWER INTERFAITH, MAKE THE ROAD PENNSYLVANIA, ONE PA ACTIVISTS UNITED, CASA SAN JOSE, AND PITTSBURGH UNITED,	:	No. 112 MM 2024
Petitioners	:	
v.	:	
AL SCHMIDT, IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE COMMONWEALTH, AND ALL 67 COUNTY BOARDS OF ELECTIONS (ADAMS COUNTY BOARD OF ELECTIONS; ALLEGHENY COUNTY BOARD OF ELECTIONS; ARMSTRONG COUNTY BOARD OF ELECTIONS; BEAVER COUNTY BOARD OF ELECTIONS; BEDFORD COUNTY BOARD OF ELECTIONS; BERKS COUNTY BOARD OF ELECTIONS; BLAIR COUNTY BOARD OF ELECTIONS; BRADFORD COUNTY BOARD OF ELECTIONS; BUCKS COUNTY BOARD OF ELECTIONS; BUTLER COUNTY BOARD OF ELECTIONS; CAMBRIA COUNTY BOARD OF ELECTIONS; CAMERON COUNTY BOARD OF ELECTIONS; CARBON COUNTY BOARD OF ELECTIONS; CENTRE COUNTY BOARD OF ELECTIONS; CHESTER COUNTY BOARD OF ELECTIONS; CLARION COUNTY BOARD OF ELECTIONS; CLEARFIELD COUNTY BOARD OF ELECTIONS; CLINTON	:	

COUNTY BOARD OF ELECTIONS; :
COLUMBIA COUNTY BOARD OF :
ELECTIONS; CRAWFORD COUNTY :
BOARD OF ELECTIONS; CUMBERLAND :
COUNTY BOARD OF ELECTIONS; :
DAUPHIN COUNTY BOARD OF :
ELECTIONS; DELAWARE COUNTY :
BOARD OF ELECTIONS; ELK COUNTY :
BOARD OF ELECTIONS; ERIE COUNTY :
BOARD OF ELECTIONS; FAYETTE :
COUNTY BOARD OF ELECTIONS; :
FOREST COUNTY BOARD OF :
ELECTIONS; FRANKLIN COUNTY BOARD :
OF ELECTIONS; FULTON COUNTY :
BOARD OF ELECTIONS; GREENE :
COUNTY BOARD OF ELECTIONS; :
HUNTINGDON COUNTY BOARD OF :
ELECTIONS; INDIANA COUNTY BOARD :
OF ELECTIONS; JEFFERSON COUNTY :
BOARD OF ELECTIONS; JUNIATA :
COUNTY BOARD OF ELECTIONS; :
LACKAWANNA COUNTY BOARD OF :
ELECTIONS; LANCASTER COUNTY :
BOARD OF ELECTIONS; LAWRENCE :
COUNTY BOARD OF ELECTIONS; :
LEBANON COUNTY BOARD OF :
ELECTIONS; LEHIGH COUNTY BOARD OF :
ELECTIONS; LUZERNE COUNTY BOARD :
OF ELECTIONS; LYCOMING COUNTY :
BOARD OF ELECTIONS; MCKEAN :
COUNTY BOARD OF ELECTIONS; :
MERCER COUNTY BOARD OF :
ELECTIONS; MIFFLIN COUNTY BOARD :
OF ELECTIONS; MONROE COUNTY :
BOARD OF ELECTIONS; MONTGOMERY :
COUNTY BOARD OF ELECTIONS; :
MONTOUR COUNTY BOARD OF :
ELECTIONS; NORTHAMPTON COUNTY :
BOARD OF ELECTIONS; :
NORTHUMBERLAND COUNTY BOARD OF :
ELECTIONS; PERRY COUNTY BOARD OF :
ELECTIONS; PHILADELPHIA COUNTY :
BOARD OF ELECTIONS; PIKE COUNTY :
BOARD OF ELECTIONS; POTTER :
COUNTY BOARD OF ELECTIONS; :
SCHUYLKILL COUNTY BOARD OF :

ELECTIONS; SNYDER COUNTY BOARD OF ELECTIONS; SOMERSET COUNTY BOARD OF ELECTIONS; SULLIVAN COUNTY BOARD OF ELECTIONS; SUSQUEHANNA COUNTY BOARD OF ELECTIONS; TIOGA COUNTY BOARD OF ELECTIONS; UNION COUNTY BOARD OF ELECTIONS; VENANGO COUNTY BOARD OF ELECTIONS; WARREN COUNTY BOARD OF ELECTIONS; WASHINGTON COUNTY BOARD OF ELECTIONS; WAYNE COUNTY BOARD OF ELECTIONS; WESTMORELAND COUNTY BOARD OF ELECTIONS; WYOMING COUNTY BOARD OF ELECTIONS; AND YORK COUNTY BOARD OF ELECTIONS),

Respondents

ORDER

PER CURIAM

AND NOW, this 5th day of October, 2024, Petitioners' Application for the Exercise of King's Bench or Extraordinary Jurisdiction is hereby **DENIED**. This Court will neither impose nor countenance substantial alterations to existing laws and procedures during the pendency of an ongoing election. *See Crookston v. Johnson*, 841 F.3d 396, 398 (6th Cir. 2016) ("Call it what you will — laches, the *Purcell*[1] principle, or common sense — the idea is that courts will not disrupt imminent elections absent a powerful reason for doing so.").[2]

[1] *Purcell v. Gonzalez*, 549 U.S. 1, 4-5 (2006) (*per curiam*) ("Court orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls. As an election draws closer, that risk will increase.").

[2] However, we will continue to exercise our appellate role with respect to lower court decisions that have already come before this Court in the ordinary course. *See, e.g.*, (continued…)

The application of Republican National Committee and Republican Party of Pennsylvania to intervene is **DISMISSED AS MOOT**.

Justice Brobson files a concurring statement in which Justice Mundy joins.

Justice Donohue files a statement in support of denial in which Justice McCaffery joins.

Chief Justice Todd files a dissenting statement.

Genser v. Butler Cty. Bd. of Elections, 26 & 27 WAP 2024; *Cntr. for Coalfield Justice v. Washington Cty. Bd. of Elections*, 28 WAP 2024.

Close Window

Rule 103. Procedure for adopting, filing, and publishing rules.

(a) *Notice of proposed rulemaking.*

(1) Except as provided in subdivision (a)(3), the initial proposal of a new or amended rule, including any commentary that is to accompany the rule text, shall be distributed by the proposing Rules Committee to the *Pennsylvania Bulletin* for publication therein. The proposal shall include a publication notice containing a statement to the effect that written responses regarding the proposed rule or amendment are invited and should be sent directly to the proposing Rules Committee within a specified period of time, and a publication report from the Rules Committee containing the rationale for the proposed rulemaking.

(2) Written responses relating to the proposal shall be sent directly to the proposing Rules Committee within a specified number of days after the publication of the rule or amendment in the *Pennsylvania Bulletin*, and any written responses shall be reviewed by the said Committee prior to action on the proposal by the Supreme Court. Any further proposals which are based upon the written responses so received need not be, but may be, published in the manner prescribed in subdivision (a)(1).

(3) A proposed rule or amendment may be promulgated even though it has not been previously distributed and published in the manner required by subdivisions (a)(1) and (a)(2), where exigent circumstances require the immediate adoption of the proposal; or where the proposed amendment is of a typographical or perfunctory nature; or where in the discretion of the Supreme Court such action is otherwise required in the interests of justice or efficient administration.

(b) *Rules adopted or amended by the Supreme Court.*

(1) Rules adopted or amended by the Supreme Court, and any adoption report of the Rules Committee, shall be filed in the office of the Prothonotary of the Supreme Court.

(2) After an order adopting a rule or amendment has been filed with the Prothonotary of the Supreme Court, the Prothonotary shall forward a certified copy of the order, rule or amendment, and any adoption report to:

(i) The publisher of the official version of Supreme Court decisions and opinions who shall cause it to be printed in the first available volume of the State Reports.

(ii) The Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(iii) The Administrative Office.

(c) *Rules of judicial administration adopted by other courts and by agencies of the System.*

(1) As used in this subdivision, ‘‘local rule’’ shall include every rule, administrative order, regulation, directive, policy, custom, usage, form, or order of general application, however labeled or promulgated, which is adopted or enforced by a court, council, committee, board, commission or other agency of the unified judicial system to govern judicial administration. This subdivision shall also apply to any amendment of a local rule.

(2) Local rules shall not be inconsistent with any general rule of the Supreme Court or any Act of Assembly.

(3) When a local rule under this subdivision corresponds to a general rule, the local rule shall be given a number that is keyed to the number of the general rule.

(4) Reserved.

(5) All local rules shall be published in the *Pennsylvania Bulletin* to be effective and enforceable.

(i) Reserved.

(ii) The adopting court or agency shall distribute two paper copies of the local rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. The adopting court or agency also shall distribute to the Legislative Reference Bureau a copy of the local rule on a computer diskette, CD-ROM, or other agreed upon alternate format that complies with the requirements of 1 Pa. Code § 13.11(b).

(iii) The effective date of the local rule shall not be less than 30 days after the date of publication of the local rule in the *Pennsylvania Bulletin*.

(6) Contemporaneously with publishing the local rule in the *Pennsylvania Bulletin*, the adopting court or agency shall:

(i) file one copy of the local rule with the Administrative Office;

(ii) publish a copy of the local rule on the website of the court or county in which the adopting court has jurisdiction; and

(iii) thereafter compile the local rule within the complete set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*.

(7) A compilation of local rules shall be kept continuously available for public inspection and copying in the respective filing office and on the website of the adopting court or county in which the adopting court has jurisdiction. Upon request and payment of reasonable costs of reproduction and mailing, the respective court office shall furnish a person with a copy of any local rule.

(8) No pleading or other legal paper shall be refused for filing by the prothonotary or clerk of courts based on a requirement of a local rule unrelated to the payment of filing fees. No case shall be dismissed nor request for relief granted or denied because of failure to initially comply with a local rule. In any case of noncompliance with a local rule, the court shall alert the party to the specific provision at issue and provide a reasonable time for the party to comply with the local rule.

(d) *Rules of procedure adopted by other courts of the System.*

(1) For the purpose of this subdivision, the term ‘‘local rule’’ shall include every rule, administrative order, regulation, directive, policy, custom, usage, form or order of general application, however labeled or promulgated, which is adopted by a court of common pleas and the Philadelphia Municipal Court to govern practice and procedure. This subdivision shall also apply to any amendment of a local rule.

(2) Local rules shall not be inconsistent with any general rule of the Supreme Court or any Act of Assembly. A Rules Committee, at any time, may recommend that the Supreme Court suspend, vacate, or require amendment of a local rule.

(3) Local rules shall be given numbers that are either keyed to the number of the general rules to which the local rules correspond or assigned by the general rules.

(4) All proposed local rules shall be submitted in writing to the appropriate Rules Committee for review. The adopting court shall not proceed with the proposed local rule until it receives written notification from the appropriate Rules Committee that the proposed local rule is not inconsistent with any general rule of the Supreme Court.

(5) All local rules shall be published in the *Pennsylvania Bulletin* to be effective and enforceable.

(i) The adopting court shall not publish the local rule in the *Pennsylvania Bulletin* until it has received the written notification pursuant to subdivision (d)(4).

(ii) The adopting court shall distribute two paper copies of the local rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. The adopting court also shall distribute to the Legislative Reference Bureau a copy of the local rule on a computer diskette, CD-ROM, or other agreed upon alternate format that complies with the requirements of 1 Pa. Code § 13.11(b).

(iii) The effective date of the local rule shall not be less than 30 days after the date of publication of the local rule in the *Pennsylvania Bulletin*.

(6) Contemporaneously with publishing the local rule in the *Pennsylvania Bulletin*, the adopting court shall:

(i) file one copy of the local rule with the Administrative Office;

(ii) publish a copy of the local rule on the website of the court or county in which the adopting court has jurisdiction; and

(iii) incorporate the local rule in the complete set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*.

(7) A compilation of local rules shall be kept continuously available for public inspection and copying in the respective filing office and on the website of the adopting court or county in which the adopting court has jurisdiction. Upon request and payment of reasonable costs of reproduction and mailing, the respective court office shall furnish a person with a copy of any local rule.

(8) No pleading or other legal paper shall be refused for filing based upon a requirement of a local rule. No case shall be dismissed nor request for relief granted or denied because of failure to initially comply with a local rule. In any case of noncompliance with a local rule, the court shall alert the party to the specific provision at issue and provide a reasonable time for the party to comply with the local rule.

Comment

Effective October 1, 2021, ‘‘rule’’ includes the rule text and any accompanying commentary such as a note or comment. Such commentary, while not binding, may be used to construe or apply the rule text. Pursuant to subdivision (a), rulemaking proposals published seeking written responses shall be accompanied by a publication report from the Rules Committee. A Rules Committee may also submit a report pursuant to subdivision (b) when the Supreme Court adopts a rulemaking proposal. Any statements contained in Rules Committees’ publication or adoption reports permitted by either subdivision (a) or (b) are neither part of the rule nor adopted by the Supreme Court.

The purpose of subdivisions (c) and (d) is to further the policy of the Supreme Court to implement the Unified Judicial System under the Constitution of 1968 and to facilitate the statewide practice of law under the Court’s general rules. Local rules of judicial administration and local rules of procedure should not repeat general rules or statutory provisions verbatim or substantially verbatim

nor should local rules make it difficult for attorneys to practice law in several counties. The provisions of subdivision (d) apply to local rules of procedure, but not to case-specific orders.

The caption or other words used as a label or designation shall not determine whether something is or establishes a rule; if the definition in subdivisions (c)(1) or (d)(1) is satisfied, the matter is a rule regardless of what it may be called. Local rules ‘‘adopted by a court of common pleas’’ in subdivision (d)(1) is intended to include those local rules of procedure for proceedings before a magisterial district judge.

To simplify the use of rules, local rules are to be given numbers that are keyed to the number of the general rules to which the rules correspond unless numbers are specifically assigned. *See, e.g.*, Pa.R.C.P. No. 239.1—239.7. This requirement is not intended to apply to local rules that govern general business of the court or agency and which do not correspond to a statewide rule.

Subdivision (d)(4) requires that, before publishing a local rule of procedure or proceeding with any of the other requirements, the adopting court must submit all proposed local rules of procedure to the appropriate Rules Committee. For administrative convenience, proposed local rules of procedure may be sent to one email address (rulescommittees@pacourts.us) where the proposal will be distributed to the appropriate Rules Committee. Subdivision (d)(4) emphasizes that the adopting court must comply with all the provisions of this subdivision before any local rule will be effective and enforceable.

To be effective, all local rules shall be published in the *Pennsylvania Bulletin*. Pursuant to 1 Pa. Code § 13.11(b)—(f), any documents that are submitted for publication must be accompanied by a diskette or CD-ROM formatted in MS-DOS, ASCII, Microsoft Word, or WordPerfect. The diskette or CD-ROM must be labeled with the court’s or agency’s name and address and the rule’s computer file name. Section 13.11(e) provides that documents may be accepted in an alternate format if it is requested by the court or agency and agreed upon by the Legislative Reference Bureau.

Although a local rule shall not be effective until at least 30 days after the date of publication in the *Pennsylvania Bulletin*, when a situation arises that requires immediate action, the court or agency may act by specific orders governing particular matters in the interim before an applicable local rule becomes effective.

One copy of the local rule must also be filed with the Administrative Office. When rules are forwarded to the Administrative Office, the adopting court or agency should indicate whether the rules have been distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. For administrative convenience, local rules of procedure and judicial administration may be sent to adminrules@pacourts.us for filing.

New or amended local rules shall be timely compiled into the set of local rules to further facilitate the statewide practice of law, increase accessibility by the public, and maintain the currency of the requirement set forth in subdivisions (c)(7) and (d)(7).

Subdivisions (c)(7) and (d)(7) require that a separate consolidated set of local rules be maintained in the filing office, which may be the prothonotary, clerk of courts, clerk of orphans’ court, or domestic relations section depending on the type of proceeding, and on the website of the adopting court or the county in which the adopting court has jurisdiction. It is intended that a complete and up-to-date set of local rules will be maintained on the website of the adopting court or the county in which the adopting court has jurisdiction.

The Administrative Office maintains a web page linking to the websites of the courts of common pleas. That web page is located at http://www.pacourts.us/courts/courts-of-common-pleas/individual-county-courts.

Under subdivision (c)(8) a filing may be rejected if it is not accompanied by the necessary filing fee unless a fee waiver request is pending or granted. *See, e.g.*, Pa.R.C.P. No. 240.

Source

The provisions of this Rule 103 adopted and effective January 13, 1972; amended and effective May 10, 1973, 3 Pa.B. 921; renumbered from Supreme Court Rule 85 by Order dated March 15, 1972; amended and effective April 21, 1978, 8 Pa.B. 1271; amended October 10, 1979, effective October 20, 1979, 9 Pa.B. 3509; amended January 28, 1983, effective July 1, 1983, 13 Pa.B. 676; amended February 20, 2001, effective April 1, 2001, 31 Pa.B. 1319; amended May 14, 2013, effective in 30 days, 43 Pa.B. 2988; amended June 28, 2016, effective August 1, 2016, 46 Pa.B. 3790; amended February 3, 2017, effective immediately, 47 Pa.B. 937; amended June 10, 2021, effective October 1, 2021, 51 Pa.B. 3440. Immediately preceding text appears at serial pages (392212) and (386399) to (386403).

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