

THE COURTS

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CHS. 9, 15 AND 17]

Order Amending Rules 901, 1501, 1512, 1516, 1517 and 1541 and Adopting New Rule 1770 of the Rules of Appellate Procedure; No. 221 Appellate Procedural Rules Doc.

Order

Per Curiam

And Now, this 10th day of December, 2012, upon the recommendation of the Appellate Court Procedural Rules Committee; the proposal having been published for public comment at 41 Pa.B. 3968 (July 23, 2011):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 901, 1501, 1512, 1516, 1517 and 1541 are amended, and proposed new Rule 1770 of the Pennsylvania Rules of Appellate Procedure is adopted, in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and the amendments herein shall be effective in 60 days.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 9. APPEALS FROM LOWER COURTS

Rule 901. Scope of Chapter.

This chapter applies to all appeals from a trial court to an appellate court except:

(1) An appeal by allowance taken under 42 Pa.C.S. § 724 (allowance of appeals from Superior and Commonwealth Courts). See Rule 1112 (appeals by allowance).

(2) An appeal by permission taken under 42 Pa.C.S. § 702(b) (interlocutory appeals by permission). See Rule 1311 (interlocutory appeals by permission).

(3) An appeal which may be taken by petition for review pursuant to Rule 1762(b)(2), which governs applications relating to bail when no appeal is pending.

(4) **An appeal which may be taken by petition for review pursuant to Rule 1770, which governs out of home placement in juvenile delinquency matters.**

(5) Automatic review of sentences pursuant to 42 Pa.C.S. § 9711(h) (review of death sentence). See Rule 1941 (review of death sentences).

[(5)] (6) An appeal which may be taken by petition for review pursuant to Rule 3331 (review of special prosecutions or investigations).

CHAPTER 15. JUDICIAL REVIEW OF GOVERNMENTAL DETERMINATIONS

IN GENERAL

Rule 1501. Scope of Chapter.

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(d) *Jurisdiction of courts unaffected.*—This chapter does not enlarge or otherwise modify the jurisdiction and powers of the Commonwealth Court or any other court.

Official Note: This chapter applies to review of any “determination” of a “government unit” as defined in Rule 102 assuming, of course, that the subject matter of the case is within the jurisdiction of a court subject to these rules (see Subdivision (d) of this rule). A “determination” means “action or inaction by a government unit which action or inaction is subject to judicial review by a court under Section 9 of Article V of the Constitution of Pennsylvania or otherwise. The term includes an order entered by a government unit.” The term “government unit” is all inclusive and means “the Governor and the departments, boards, commissions, officers, authorities and other agencies of the Commonwealth, including the General Assembly and its officers and agencies and any court or other officer or agency of the unified judicial system, and any political subdivision or municipal or other local authority or any officer or agency of any such political subdivision or local authority. The term includes a board of arbitrators whose determination is subject to review under 42 Pa.C.S. § 763(b) (awards of arbitrators).” The term “administrative agency” is not defined in these rules, although the term is used in these rules as a result of its appearance in Section 9 of Article V of the Constitution of Pennsylvania.

Subdivision (a)(4) was added in 2004 to recognize the references in various appellate rules and accompanying notes to petition for review practice. For example, the Notes to Rules 341 and 1311 direct counsel to file a petition for review of a trial court or government agency order refusing to certify an interlocutory order for immediate appeal. Similarly, Rule 1762 directs the filing of a petition for review when a party seeks release on bail before judgment of sentence is rendered[. See], see Rule 1762(b), and **Rule 1770 directs the filing of a petition for review when a juvenile seeks review of placement in a juvenile delinquency matter.** A petition for review is also the proper method by which to seek judicial review pursuant to Rule 3321 (regarding legislative reapportionment commission) and Rule 3331 (regarding special prosecutions or investigations). The 2004 and 2012 amendments clarify the use of petitions for review in these special situations.

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PETITION FOR REVIEW

Rule 1512. Time for Petitioning for Review.

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(b) *Special appellate provisions.* A petition for review of:

(1) A determination of the Department of Community and Economic Development in any matter arising under the Local Government Unit Debt Act, 53 Pa.C.S. §§ 8001—8271, shall be filed within 15 days after entry of the order or the date the determination is deemed to have been made, when no order has been entered.

(2) A determination governed by Rule 1571 (determinations of the Board of Finance and Revenue) shall be filed within the appropriate period therein specified.

(3) A determination governed by Rule 3331 (review of special prosecutions or investigations) shall be filed within ten days after the entry of the order sought to be reviewed.

(4) A determination of a Commonwealth agency under section 1711.1(g) of the Commonwealth Procurement Code, 62 Pa.C.S. § 1711.1(g), shall be filed within 15 days of the mailing date of a final determination denying a protest.

(5) A determination governed by Rule 1770 (review of dispositional order for out of home placement in juvenile delinquency matters) shall be filed within ten days of the order sought to be reviewed.

(c) *Original jurisdiction actions.* A petition for review of a determination of a government unit not within the scope of Subdivisions (a) or (b) of this rule may be filed with the prothonotary of the appellate court within the time, if any, limited by law.

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Rule 1516. Other Pleadings Allowed.

(a) *Appellate jurisdiction petitions for review.* No answer or other pleading to an appellate jurisdiction petition for review is authorized, unless the petition for review is filed pursuant to the Notes to Rules 341 or 1311 (seeking review of a trial court or other government unit's refusal to certify an interlocutory order for immediate appeal), Rule 1762 (regarding release in criminal matters), **Rule 1770 (regarding placement in juvenile delinquency matters)**, Rule 3321 (regarding appeals from decisions of the Legislative Reapportionment Commission) or Rule 3331 (regarding review of special prosecutions and investigations). Where an answer is authorized, the time for filing an answer shall be as stated in Rule 123(b).

(b) *Original jurisdiction petitions for review.* Where an action is commenced by filing a petition for review addressed to the appellate court's original jurisdiction, the pleadings are limited to the petition for review, an answer thereto, a reply if the answer contains new matter or a counterclaim, a counter-reply if the reply to a counterclaim contains new matter, a preliminary objection, and an answer thereto. Every pleading filed after an original jurisdiction petition for review shall be filed within 30 days after service of the preceding pleading, but no pleading need be filed unless the preceding pleading is endorsed with a notice to plead.

Official Note: The 2004 and 2012 amendments made clear that, with [**five**] **six** limited exceptions, no answer or other pleading to a petition for review addressed to an appellate court's appellate jurisdiction is proper. With regard to original jurisdiction proceedings, practice is patterned after Rules of Civil Procedure 1017(a) (Pleadings Allowed) and 1026 (Time for Filing, Notice to Plead). The ten additional days in which to file a subsequent pleading are in recognition of the time required for agency coordination where the Commonwealth is a party. See Rule 1762(b)(2) regarding bail applications. **See Rule 1770 regarding placement in juvenile delinquency matters.**

Rule 1517. Applicable Rules of Pleading.

Unless otherwise prescribed by these rules, the practice and procedure under this chapter relating to pleadings in original jurisdiction petition for review practice shall be in accordance with the appropriate Pennsylvania Rules of Civil Procedure, so far as they may be applied.

Official Note: See Rule 1762(b)(2) regarding bail applications. **See Rule 1770 regarding placement in juvenile delinquency matters.** See also Rule 3331 regarding Review of Special Prosecutions or Investigations.

Rule 1541. Certification of the Record.

Upon notice from the appellate court of the filing of a petition for review addressed to the appellate jurisdiction of an appellate court, the government unit shall prepare and transmit the record as provided by Chapter 19 (preparation and transmission of record and related matters).

Official Note: Rule 102 defines "government unit" to include "any court or other officer or agency of the unified judicial system." Thus, if the order to be reviewed was filed by a trial court, that court shall certify the record. This occurs when the petition for review was filed pursuant to Rule 1762, **1770**, 3321 or 3331, or the note to Rules 341 or 1311.

See Rule 3331 regarding Review of Special Prosecutions or Investigations.

CHAPTER 17. EFFECT OF APPEALS; SUPERSEDEAS AND STAYS

REVIEW OF DISPOSITIONAL ORDER FOR OUT OF HOME PLACEMENT IN JUVENILE DELINQUENCY MATTERS

(Editor's Note: The following rule is new and printed in regular type to enhance readability.)

Rule 1770. Review of Out of Home Placement in Juvenile Delinquency Matters.

(a) *General rule.* If a court under the Juvenile Act, 42 Pa.C.S. § 6301 et seq., enters an order after an adjudication of delinquency of a juvenile pursuant to Rules of Juvenile Court Procedure 409(A)(2) and 515, which places the juvenile in an out of home overnight placement in any agency or institution that shall provide care, treatment, supervision or rehabilitation of the juvenile ("Out of Home Placement"), the juvenile may seek review of that order pursuant to a petition for review under Chapter 15 (judicial review of governmental determinations). The petition shall be filed within ten days of the said order.

(b) *Content.* A petition for review under subdivision (a) shall contain: (i) a specific description of any determinations made by the juvenile court; (ii) the matters complained of; (iii) a concise statement of the reasons why the juvenile court abused its discretion in ordering the Out of Home Placement; (iv) the proposed terms and conditions of an alternative disposition for the juvenile; and (v) a request that the official court reporter for the juvenile court transcribe the notes of testimony as required by subdivision (g) of this Rule. Any order(s) and opinion(s) relating to the Out of Home Placement and the transcript of the juvenile court's findings shall be attached as appendices. The petition shall be supported by a certificate of counsel to the effect that it is presented in good faith and not for delay.

(c) *Objection to specific agency or institution, or underlying adjudication of delinquency, is not permitted.*

(1) A petition for review under subdivision (a) shall not challenge the specific agency or specific institution that is the site of the Out of Home Placement and instead shall be limited to the Out of Home Placement itself.

(2) A petition for review under subdivision (a) shall not challenge the underlying adjudication of delinquency.

(d) *Answer.* Any answer shall be filed within ten days of service of the petition, and no other pleading is authorized. Rule 1517 (applicable rules of pleading) and Rule 1531 (intervention) through 1551 (scope of review) shall not be applicable to a petition for review filed under subdivision (a).

(e) *Service.* A copy of the petition for review and any answer thereto shall be served on the judge of the juvenile court and the official court reporter for the juvenile court. All parties in the juvenile court shall be served in accordance with Rule 121(b) (service of all papers required). The Attorney General of Pennsylvania need not be served in accordance with Rule 1514(c) (service), unless the Attorney General is a party in the juvenile court.

(f) *Opinion of juvenile court.* Upon receipt of a copy of a petition for review under subdivision (a), if the judge who made the disposition of the Out of Home Placement did not state the reasons for such placement on the record at the time of disposition pursuant to Rule of Juvenile Court Procedure 512 (D), the judge shall file of record a brief statement of the reasons for the determination or where in the record such reasons may be found, within five days of service of the petition for review.

(g) *Transcription of Notes of Testimony.* Upon receipt of a copy of a petition for review under subdivision (a), the court reporter shall transcribe the notes of testimony and deliver the transcript to the juvenile court within five business days. If the transcript is not prepared and delivered in a timely fashion, the juvenile court shall order the court reporter to transcribe the notes and deliver the notes to the juvenile court, and may impose sanctions for violation of such an order. If the juvenile is proceeding in forma pauperis, the juvenile shall not be charged for the cost of the transcript. Chapter 19 of the Rules of Appellate Procedure shall not otherwise apply to petitions for review filed under this Rule.

(h) *Non-waiver of objection to placement.* A failure to seek review under this rule of the Out of Home Placement shall not constitute a waiver of the juvenile's right to seek review of the placement in a notice of appeal filed by the juvenile from a disposition after an adjudication of delinquency.

Official Note: This Rule provides a mechanism for the expedited review of an order of Out of Home Placement entered pursuant to Rule of Juvenile Court Procedure 515. Rule of Juvenile Court Procedure 512(D) requires the judge who made the disposition of an Out of Home Placement to place the reasons for an Out of Home Placement on the record at the time of the disposition, and subdivision (f) of this Rule is only applicable in the exceptional circumstance where the judge who made the disposition of an Out of Home Placement fails to comply with Rule of Juvenile Court Procedure 512(D). The Juvenile Act, 42 Pa.C.S. § 6352, sets forth the considerations for a dispositional order following an adjudication of delinquency and the alternatives for disposition. The standard for review of a dispositional order is an abuse of discretion. See *In the Interest of A.D.*, 771 A.2d 45 (Pa. Super. 2001) (en banc).

[Pa.B. Doc. No. 12-2518. Filed for public inspection December 28, 2012, 9:00 a.m.]

Title 252—ALLEGHENY COUNTY RULES

ALLEGHENY COUNTY

Civil and Family Rule of the Court of Common Pleas; No. 2 of 2012 Rules Doc.

Amended Order of Court

And Now, to-wit, this 20th day of April, 2012, *It Is Hereby Ordered Adjudged and Decreed* that the following Amended Rule of the Court of Common Pleas of Allegheny County, Pennsylvania, Civil and Family Division, adopted by the unanimous proxy vote of the Board of Judges on April 5, 2012, shall be effective upon publication on the UJS webportal:

Rule 205.4 Electronic Filing of Legal Papers in Allegheny County

By the Court

DONNA JO McDANIEL,
President Judge

Local Rule 205.4. Electronic Filing of Legal Papers in Allegheny County.

Note: This Local Rule has been promulgated in compliance with Pa.R.Civ.P. 239.9(a) which provides, "If a court permits or requires the electronic filing of legal papers with the prothonotary, the court must promulgate a local rule designated Local Rule 205.4 which sets forth in detail the practice and procedure to file a legal paper electronically and includes the matters set forth in this rule."

(a)(1) Except as noted in the subsections below, use of the Allegheny County Department of Court Records Civil/Family Division (hereinafter "DCR") electronic filing system is permissive for the filing of all legal papers, including original process, in all actions and proceedings brought in or appealed to the court.

Note: A "legal paper" is defined in Pa.R.C.P. 205.4(2) as "a pleading or other paper filed in an action, including exhibits and attachments."

A. Use of the DCR's electronic filing system is mandatory for all actions and proceedings involving personal injury or death allegedly caused by asbestos.

B. Use of the DCR's electronic filing system is not permitted for the following Civil Division Filings:

1. Initial filings in Petitions for Name Change;

Note: Secondary filings in Petitions for Name Change may be filed electronically.

2. Initial filings for Exemplification of Records;

Note: Secondary filings involving Exemplification of Records may be filed electronically.

3. The following secondary filings in General Docket Cases: (i) preliminary objections, (ii) motions for judgment on the pleadings, or (iii) motions for summary judgment.

Note: The matters described in subsection (a)(1)(B)(3) are excluded from electronic filing because of the existing procedure under which these matters are presented to the Chief Motions Clerk or Calendar Control for scheduling prior to filing in the Office of the DCR.

4. The following secondary filings in compulsory arbitration cases: (i) preliminary objections, (ii) petitions, or (iii) motions.

Note: The matters described in subsection (a)(1)(B)(4) are excluded from electronic filing because of the practice of furnishing an argument date to the party filing the matter at the time of filing.

5. Filings under seal.

6. Praecipes for writ of execution in a mortgage foreclosure proceeding.

C. Use of the DCR's electronic filing system is not permitted for the following Family Division Filings:

1. Legal papers relating to Protection From Abuse matters which must be processed with the PFA Office in Family Division before they can be filed.

2. Legal papers relating to custody, partial custody or visitation matters which must be processed through the Generations office before they can be filed.

3. Legal papers relating to spousal or child support must be processed through Family Division before they can be filed.

4. Legal papers relating to divorce which contain or address counts or counterclaims for support, alimony pendente lite, alimony or custody, partial custody and visitation, must be processed through the offices to which reference is made in (C)(1), (2) or (3) of this subsection.

Note: Divorce pleadings which do not include or address any of the counts enumerated above may be filed electronically, including but not limited to, § 3301(c) or § 3301(d) affidavits of consent, counter-affidavits, waiver of notice of intention to request entry of a decree, notice of intention to request a divorce decree, and praecipe to transmit the record.

5. Any and all legal papers which must be presented to a Family Division Judge in motions before filing with the Office of the DCR.

(b)(1) Legal papers may be filed using the DCR's electronic filing system in the following file formats only: Portable Document Format (.pdf), Microsoft Word (.doc or .docx), WordPerfect for Windows, version 6.0 or higher (.wpd), TIF (.tif), GIF (.gif), JPEG (.jpg), or PCX (.pcx).

[(c)(1) There is no Section (c)(1).]

(c)(2) The DCR's electronic filing website is dcr.allegHENYcounty.us ("www" does not appear before and ".com" does not appear after this web address). Persons may access the DCR's electronic filing system by first registering and establishing a User ID and password using the "Register" link at the DCR's electronic filing website. The User ID for Pennsylvania licensed attorneys is their Supreme Court of Pennsylvania identification number issued by the Court. Non-attorney users may, at the time of registration, designate any combination of letters or numbers they may wish to use as a User ID.

(d)(1) The following credit and debit cards may be used on the DCR's electronic filing website to pay filing-related fees: Visa, MasterCard, Discover, and American Express. Such fees may also be paid by depositing in advance sufficient funds with the DCR. The DCR may also accept payments by electronic checking/ACH (Automatic Clearing House). See the DCR website for additional information.

[(d)(2) There is no Section (d)(2).]

[(d)(3) Intentionally omitted as Allegheny County has not designated a third party to operate the electronic filing system.]

(f)(1) When a legal paper has been successfully transmitted electronically, the DCR's electronic filing website shall generate a printable acknowledgement page and shall transmit to the filer an initial e-mail confirming the electronic receipt of the legal paper and the date and time thereof. Subsequently, after the DCR has processed the electronic filing, the DCR shall transmit, to the filer, an e-mail stating the date and time of acceptance of the filing or stating that the filing has not been accepted and the reasons for non-acceptance. A legal paper will not be considered filed if the DCR responds to the filing by notifying the filer that the filer has not (i) maintained with the DCR sufficient funds to pay the fees and costs of the filing or (ii) authorized payment by credit or debit card of such fees and costs.

(f)(2) The DCR shall maintain an electronic and a hard copy file for the legal papers, including original process, in any civil action or proceeding at law or in equity brought in or appealed to the court, including any action pursuant to the Eminent Domain Code of 1964 or the Municipal Claims Act of 1923. The DCR is not required to maintain a hard copy file for the following legal papers when filed electronically:

Allegheny County Bar Association Fee Dispute Judgment

Annual Audit

Assurance of Voluntary Compliance

Bond of Tax Collector

Cemetery Report

Commercial Broker Lien

Commonwealth Tax Lien

Condominium Lien

Declaration of Covenant Lien

Environmental Resources Lien

Federal Judgment Lien

Foreign Execution

Foreign Judgment

Foreign Judgment/Execution

Foreign State Tax Lien

Health Department Judgment

Housing Court Judgment

Judgment Roll

Liens/Scire Facias

Mechanics' Lien

Municipal Lien

No Lien Agreement

Oath of Office

Orphans' Court Judgment

Pennsylvania Agency Judgment

Pension Benefit Lien

PHEAA Judgment

Planned Community Lien

Scire Facias sur Municipal Lien

Scire Facias sur Tax Lien

Tax Collector Report

Unemployment Compensation Lien

Workers' Compensation Judgment

[(f)(3) There is no Section (f)(3).]

(f)(4) The procedures for payment of the fees and costs of the DCR shall be set forth on the DCR website: website: dcr.alleghenycounty.us (www. does not appear before and “.com” does not appear after this web address).

[(f)(5) There is no Section (f)(5).]

Local Rule 1930.1 Electronic Filing in Family Division Matters.

[Rescinded in its entirety.]

Note: See Local Rule 205.4 for information regarding e-filing of Family Division matters.

[Pa.B. Doc. No. 12-2519. Filed for public inspection December 28, 2012, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CARBON COUNTY

**Accelerated Rehabilitative Dispositions Program
(ARD)—Administrative Fee; CP-13-AD-000003-
2012 (Old #34 MI 99)**

Administrative Order No. 24-2012

And Now, this 27th day of November, 2012, in order to administer the ARD Program, it is hereby

Ordered and Decreed that, effective January 1, 2013, all parties placed into the Carbon County Accelerated Rehabilitative Disposition Program shall be assessed an Administrative Fee as follows:

Non-DUI ARD	\$450.00
DUI ARD—Rate of Alcohol .08 to .099	\$450.00
DUI ARD—Rate of Alcohol .10 to .159	\$500.00
DUI ARD—Rate of Alcohol .16 and higher	\$550.00
DUI Refusal of Testing	\$600.00
ALL ARDs not stipulated to at District Justice level	\$650.00

It Is Further Ordered and Decreed that this Court's Administrative Order No. 8-2004 is *Vacated* as of January 1, 2013.

The Carbon County District Court Administrator is *Ordered and Directed* to do the following:

1. File one (1) certified copy of this Administrative Order with the Administrative Office of Pennsylvania Courts.

2. File two (2) certified copies and one (1) computer diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. Publish a copy of this Administrative Order on the Unified Judicial System's website at <http://ujsportal.pacourts.us/localrules/ruleselection.aspx>.

4. Forward one (1) copy for publication in the *Carbon County Law Journal*.

5. Forward one (1) copy to the Carbon County Law Library.

6. Keep continuously available for public inspection copies of the Order in the Clerk of Courts' Office.

By the Court

ROGER N. NANOVIC,
President Judge

[Pa.B. Doc. No. 12-2520. Filed for public inspection December 28, 2012, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Jesse H. Ingram, having been disbarred by consent from the practice of law in the District of Columbia by Order of the District of Columbia Court of Appeals dated July 5, 2012, the Supreme Court of Pennsylvania issued an Order on December 13, 2012, disbaring Jesse H. Ingram from the Bar of this Commonwealth, effective January 12, 2013. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Secretary

*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 12-2521. Filed for public inspection December 28, 2012, 9:00 a.m.]

SUPREME COURT

Schedule of Holidays for Year 2014 for Staffs of the Appellate Courts and the Administrative Of- fice of Pennsylvania Courts; No. 394 Judicial Administration Doc.

Order

Per Curiam:

And Now, this 14th day of December, 2012 it is hereby ordered that the following paid holidays for calendar year 2014 will be observed on the dates specified below by all employees of the appellate courts and the Administrative Office of Pennsylvania Courts:

January 1, 2014	New Year's Day
January 20, 2014	Martin Luther King, Jr. Day
February 17, 2014	Presidents' Day
April 18, 2014	Good Friday
May 26, 2014	Memorial Day
July 4, 2014	Independence Day
September 1, 2014	Labor Day
October 13, 2014	Columbus Day
November 4, 2014	Election Day
November 11, 2014	Veterans Day
November 27, 2014	Thanksgiving Day
November 28, 2014	Day after Thanksgiving
December 25, 2014	Christmas Day

[Pa.B. Doc. No. 12-2522. Filed for public inspection December 28, 2012, 9:00 a.m.]