

THE COURTS

Title 201—RULES OF JUDICIAL ADMINISTRATION

[201 PA. CODE CH. 19]

Adoption of Rules 1907.1 and 1907.2 of the Rules of Judicial Administration; No. 408 Judicial Administration Doc.

Order

Per Curiam

And Now, this 28th day of May, 2013, the proposal having been submitted without publication in the interests of justice and efficient administration, *It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 1907.1 and 1907.2 of the Pennsylvania Rules of Judicial Administration are adopted in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective in 30 days.

Annex A

TITLE 201. RULES OF JUDICIAL ADMINISTRATION

CHAPTER 19. MISCELLANEOUS ADMINISTRATIVE PROVISIONS

CONSTABLES

Rule 1907.1. Definitions.

“Constable.” Includes any elected or appointed constable or deputy constable engaged to perform services for any court of the unified judicial system.

Official Note: For the statutorily prescribed services constables perform for the unified judicial system, *see, e.g.*, 44 Pa.C.S. §§ 7161 and 7161.1.

Rule 1907.2. Policies, procedures and standards of conduct.

(a) The Court Administrator shall establish uniform policies, procedures and standards of conduct for constables who perform services for the courts. These policies, procedures and standards of conduct shall be mandatory for all judicial districts and constables engaged to perform services for any court of the unified judicial system.

(b) The president judge of a judicial district is authorized to enact policies and procedures consistent with those established by the Court Administrator in section (a) as local rules pursuant to Pa.R.J.A. No. 103(c). Any policies and procedures enacted by the president judge of a judicial district that may deviate from the uniform policies, procedures and standards of conduct for constables established by the Court Administrator must be approved by the Court Administrator before promulgation. *See* Pa.R.J.A. No. 505(1).

(c) President Judges are responsible for implementing the provisions set forth in this rule within their respective judicial districts.

Comment

Constables are independent contractors, belonging analytically to the executive branch of government. *In re Act 147 of 1990*, 528 Pa. 460, 598 A.2d 985 (1991). Constables

are defined as “related staff” under the Judicial Code. *Rosenwald v. Barbieri*, 501 Pa. 563, 462 A.2d 644 (1983). While these Rules are established pursuant to Pa. Const. Art. V, § 10(c), nothing herein, or in any document created under these Rules, shall be construed to alter the status of constables as independent contractors and related staff.

[Pa.B. Doc. No. 13-1070. Filed for public inspection June 14, 2013, 9:00 a.m.]

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CHS. 11, 17 AND 33]

Order Amending Rules 1114, 1702 and 3316 and Adopting New Rules 1704 and 3341 of the Rules of Appellate Procedure; No. 231 Appellate Procedural Rules Doc.

Order

Per Curiam

And Now, this 31st day of May, 2013, upon the recommendation of the Appellate Court Procedural Rules Committee; the proposal having been submitted without publication in the interests of efficient administration:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rules of Appellate Procedure 1114, 1702 and 3316 are amended and that new Rules 1704 and 3341 of the Pennsylvania Rules of Appellate Procedure are 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 immediately.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 11. APPEALS FROM COMMONWEALTH COURT AND SUPERIOR COURT

PETITION FOR ALLOWANCE OF APPEAL

Rule 1114. [**Considerations**] **Standards** Governing Allowance of Appeal.

(a) **General Rule.** Except as prescribed in [**Rule 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: [Based in part on U.S. Supreme Court Rule 10. The following, while neither controlling nor fully measuring the discretion of the Supreme Court, indicate the character of the reasons which will be considered:

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

Prior to the 2011 amendment to the Official Note to this Rule, the procedural mechanism to seek the Pennsylvania Supreme Court's review of an intermediate appellate court order quashing or dismissing an appeal was by petition for review. See *Vaccone v. Syken*, 587 Pa. 380, 382 n.2, 899 A.2d 1103, 1104 n.2 (2006). The current amendments now provide that such appeals should be pursued by the petition for allowance of appeal process. The 2011 amendment adds Reason (7) to the Official Note,

which provides a basis for seeking review of intermediate appellate court quashals and dismissals through the Chapter 11 petition for allowance of appeal procedure, rather than the Chapter 15 petition for review procedure.]

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).

CHAPTER 17. EFFECT OF APPEALS; SUPERSEDEAS AND STAYS

IN GENERAL

Rule 1702. Stay Ancillary to Appeal.

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(c) *Supreme Court review of appellate court supersedeas and stay determinations.*—No appeal, petition for allowance of appeal or petition for review need be filed in the Supreme Court in connection with a reapplication under Rule 3315 (review of stay orders of appellate courts).

[(d) *Stay of execution.*—When a trial court enters an order granting or denying a stay of execution in a capital case, such order may be reviewed by the Supreme Court upon application pursuant to Rule 123. No appeal or petition for review need be filed in connection with an application for review of a stay order in a capital case.]

Official Note: Based on former Superior Court Rule 53 and Commonwealth Court Rule 112A, which required the taking of an appeal prior to an application for supersedeas or other interlocutory order. Subdivision (b) is new and is added in recognition of the fact that the drafting of a petition for allowance of appeal or a petition for permission to appeal in the form required by these rules may not be possible prior to the time when an application for *supersedeas* may have to be made in the appellate court in order to avoid substantial harm.

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

Rule 1704. Application in a Capital Case for a Stay of Execution or for Review of an Order Granting or Denying a Stay of Execution.

Prior notice of the intent to file an application in a capital case for a stay or review of an order granting or denying a stay of execution shall be provided to the Prothonotary of the Pennsylvania Supreme Court, if prior notice is practicable.

The application for stay or review shall set forth the following:

1. The date the warrant issued; the date and nature of the order that prompted the issuance of the warrant; and the date the execution is scheduled, if a date has been set;

2. Whether any direct or collateral challenges to the underlying conviction are pending, and, if so, in what court(s) or tribunal(s);

3. Whether any other applications for a stay of the pending execution have been filed, and, if so, in what court(s) or tribunal(s), when, and the status of the application(s);

4. The grounds for relief and the showing made to the trial court of entitlement to a stay under 42 Pa.C.S. § 9545(c), if applicable;

5. A statement certifying that emergency action is required and setting forth a description of the emergency.

All dockets, pleadings, and orders that are referred to in 1—5 above must be attached to the application. If any of the information provided in the application changes while the motion is pending, the party seeking the stay or review must file with the Pennsylvania Supreme Court written notice of the change within 24 hours.

No notice of appeal or petition for review needs to be filed in order to file an application under this rule.

ARTICLE III. MISCELLANEOUS PROVISIONS

CHAPTER 33. BUSINESS OF THE SUPREME COURT

SUPERSEDEAS AND STAYS

Rule 3316. Review of Stay of Execution Orders in Capital Cases.

[**Wen**] When a trial court has entered an order granting or denying a stay of execution in a capital case, such order may be reviewed by the Supreme Court in the manner prescribed in [**Rule 1702(d)**] **Pa.R.A.P. 1704**.

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

PETITIONS FOR CERTIFICATION OF QUESTIONS OF PENNSYLVANIA LAW

Rule 3341. Petitions for Certification of Questions of Pennsylvania Law.

(a) *General Rule.*—On the motion of a party or sua sponte, any of the following courts may file a petition for certification with the Prothonotary of the Supreme Court:

- (1) The United States Supreme Court; or
- (2) Any United States Court of Appeals.

(b) *Content of the Petition for Certification.*—A petition for certification need not be set forth in numbered paragraphs in the manner of a pleading, and shall contain the following (which shall, insofar as practicable, be set forth in the order stated):

- (1) A brief statement of the nature and stage of the proceedings in the petitioning court;
- (2) A brief statement of the material facts of the case;
- (3) A statement of the question or questions of Pennsylvania law to be determined;
- (4) A statement of the particular reasons why the Supreme Court should accept certification; and
- (5) A recommendation about which party should be designated Appellant and which Appellee in subsequent pleadings filed with the Supreme Court.

There shall be appended to the petition for certification copies of any papers filed by the parties regarding certification, e.g., a motion for certification, a response thereto, a stipulation of facts, etc.

(c) *Standards.*—The Supreme Court shall not accept certification unless all facts material to the question of law to be determined are undisputed, and the question of

law is one that the petitioning court has not previously decided. The Supreme Court may accept certification of a question of Pennsylvania law only where there are special and important reasons therefor, including, but not limited to, any of the following:

- (1) The question of law is one of first impression and is of such substantial public importance as to require prompt and definitive resolution by the Supreme Court;
- (2) The question of law is one with respect to which there are conflicting decisions in other courts; or
- (3) The question of law concerns an unsettled issue of the constitutionality, construction, or application of a statute of this Commonwealth.

[Pa.B. Doc. No. 13-1071. Filed for public inspection June 14, 2013, 9:00 a.m.]

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CH. 37]

Amendments to Rules 3702, 3709, 3712, 3714, 3715, 3751 and 3761

The Commonwealth Court on May 14, 2013 unanimously approved the following amendments to Chapter 37 of the Pennsylvania Rules of Appellate Procedure governing Business of the Commonwealth Court.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE III. MISCELLANEOUS PROVISIONS

CHAPTER 37. BUSINESS OF THE COMMONWEALTH COURT

THE COMMONWEALTH COURT

Rule 3702. Office of the Prothonotary.

All business of the Commonwealth Court, except as otherwise provided by law, by these rules or by order of court, shall be administered through the [**principal**] Office of the [**Prothonotary**] **Chief Clerk** maintained by the court at the seat of government in the City of Harrisburg. All matters within the jurisdiction of the court may be filed in the [**principal**] Office of the [**Prothonotary or in the filing office of the court maintained in the City of Philadelphia for transmission to the principal Office of the Prothonotary**] **Chief Clerk**. Writs or other process issuing out of the court shall exit [**only from the principal Office of the Prothonotary**] **from the Office of the Chief Clerk** and shall be returnable there.

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ORIGINAL MATTERS

Rule 3709. Designation of Legal Aid Sources.

Whenever a matter not subject to Chapter 15 (judicial review of governmental determinations) is brought before the Commonwealth Court within its original jurisdiction, the following names and related information shall be included in the notice to defend set forth in the complaint pursuant to [**Pa.R.Civ.P.**] **Pa.R.C.P. No. 1018.1**:

[**Central Pennsylvania Legal Services, Inc.**]
MidPenn Legal Services
 [**213**] **213-A** North Front Street
 Harrisburg, Pennsylvania 17101
 (717) 232-0581

and

[**Public Services and Lawyers Referral
 Committee,**]
Dauphin County Lawyer Referral Service
 Dauphin County Bar Association
 213 North Front Street
 Harrisburg, Pennsylvania 17101
 (717) 232-7536

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LISTING OF CASES FOR ARGUMENT

Rule 3712. [**Manner**] **Method** of Listing of Cases.

Subject to the time limitations and conditions of [**Rule**] **Pa.R.A.P.** 3713 (argument *en banc* or before a panel) where applicable:

(1) Each appeal from a court of common pleas, each other matter which under the applicable law is required to be determined by the court upon the record before the government unit below, and each matter subject to [**Rule**] **Pa.R.A.P.** 1542 (oral argument and evidentiary hearing) in which no order for an evidentiary hearing has been entered, shall be listed for argument by the [**Prothonotary**] **Chief Clerk** on a specified date, of which notice shall be given by the [**Prothonotary**] **Chief Clerk** to the parties.

(2) An election case shall be argued before the [**judge**] **judges** to whom it is assigned immediately after the record is closed and briefs shall be submitted to the court at or before argument as directed.

(3) An appeal or petition for review (except a matter subject to Paragraphs (1) or (2) of this rule) which under the applicable law may be determined in whole or in part upon the record made before the court, shall be listed for argument by the [**Prothonotary**] **Chief Clerk** on a specified date upon order of the judge to whom the case was assigned or upon *praecipe* of either party certifying that it is at issue for argument, and notice shall be given by the [**Prothonotary**] **Chief Clerk** to the parties of the date fixed.

(4) A matter, except a matter subject to [**Rule**] **Pa.R.A.P.** 1542, commenced in the court within its original jurisdiction when at issue for argument on preliminary matters or after the record has been made shall be listed by the [**Prothonotary**] **Chief Clerk** for argument upon the order of the President Judge or the judge before whom the record has been made.

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Rule 3714. Listing of Cases and Briefing Schedules.

(a) *Matters heard solely on certified record.* An appeal from a court of common pleas and each other matter which under the applicable law is required to be determined by the court upon the record before the government unit below shall be eligible for listing for argument after the record has been filed. When all briefs and reproduced records have been filed, the [**Prothonotary**] **Chief Clerk** shall list the case for oral argument on a specified date and shall give at least ten days written

notice by first class mail to all parties of the date scheduled for the argument. The Court may direct any matter to be submitted on briefs without oral argument.

(b) *Original jurisdiction matters.* A matter commenced in whole or in part within the original jurisdiction of the court including matters under [**Rule**] **Pa.R.A.P.** 1571 (determinations of the Board of Finance and Revenue) when at issue for argument on preliminary matters or after the record has been made shall be listed for oral argument [**on a specified date with at least 70 days written notice of that date to all parties. In every such case, not more than 30 days after the date of such notice, the moving party shall file 15 copies of his brief with the Prothonotary, and shall concurrently serve upon the responding party one copy of his brief. The responding party, not more than 60 days after the date of such notice, shall file 15 copies of his brief with the Prothonotary, and shall concurrently serve upon the moving party one copy of his brief**] after the court establishes a briefing schedule.

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Rule 3715. Distribution of Briefs.

The [**Prothonotary**] **Chief Clerk** shall distribute to each judge who is to hear an argument, whether *en banc* or before a panel, at least five days before the argument date, copies of all briefs and reproduced records [**which**] that have been filed by the parties.

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COSTS

Rule 3751. Taxation of Costs.

A party who desires costs to be taxed under [**Rule**] **Pa.R.A.P.** 2762(b) (procedure for collection of costs on appeal) shall state them in an itemized and verified bill of costs which such party shall file with the [**Prothonotary**] **Chief Clerk** within 14 days after entry of the judgment or other final order.

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ENFORCEMENT PROCEEDINGS

Rule 3761. Enforcement Proceedings.

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(c) *Hearing and Notice.* Upon the filing of a petition to enforce, the court will issue an order setting a date for a hearing and a date by which the respondent must answer the petition. The petitioner shall serve the court's order upon the respondent in the manner prescribed by [**Rules**] **Pa.R.A.P.** 121 and 122.

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Official Note: [**Rule 3761** (relating to enforcement proceedings) has been promulgated by the Commonwealth Court of Pennsylvania pursuant to authority granted to it by Pa.R.A.P. 104. The rule was made necessary by the opinion issued by the Supreme Court of Pennsylvania in *Pennsylvania Human Relations Commission v. School District of Philadelphia*, 732 A.2d 578 (Pa. 1999), in which the Court held that the "rules of appellate procedure, rather than the rules of civil procedure, govern enforcement proceedings in Commonwealth Court.

Prior to the Supreme Court ruling in *PHRC*, Commonwealth Court had treated enforcement pro-

ceedings as matters resting within the Court's original jurisdiction and thereby governed in part by the rules of Appellate Procedure and in part by the Rules of Civil Procedure. In *PHRC*, the Supreme Court made clear that enforcement proceedings are within Commonwealth Court's appellate jurisdiction and that only the Rules of Appellate Procedure apply. The Supreme Court's ruling left a void, however, because the Rules of Appellate Procedure did not prescribe specific procedures governing enforcement proceedings.

Consistent with *PHRC*, therefore, Rule 3761 was adopted to establish a Rule of Appellate Procedure to codify the practice which the Commonwealth Court had theretofore followed in enforcement proceedings when those proceedings were regarded as matters within the Court's original jurisdiction. This special rule governing Commonwealth Court practice adheres to the Supreme Court's opinion in *PHRC* and should prove to be of benefit to both the bench and bar.]

Pa.R.A.P. 3761 implements *Pennsylvania Human Relations Commission v. School District of Philadelphia*, 557 Pa. 126, 132, 732 A.2d 578, 581 (1999), in which the Court held that "just as enforcement proceedings are not originally commenced in Commonwealth Court, they are also in the appellate, rather than the original, jurisdiction of the court. It then follows that the rules of appellate procedure, rather than the rules of civil procedure, govern enforcement proceedings in Commonwealth Court." This analysis was confirmed in *Department of Environmental Protection v. Township of Cromwell*, 613 Pa. 1, 32 A.3d 639 (2012). Petitions for enforcement are not within any other provisions of the Rules of Appellate Procedure. Thus absent Pa.R.A.P., 3761, there would be no clear method of presenting enforcement actions to the Commonwealth Court.

[Pa.B. Doc. No. 13-1072. Filed for public inspection June 14, 2013, 9:00 a.m.]

PART II. INTERNAL OPERATING PROCEDURES

[210 PA. CODE CH. 63]

Amendment of the Internal Operating Procedures of the Supreme Court; No. 409 Judicial Administration Doc.

Order

Per Curiam

And Now, this 31st day of May, 2013, *It Is Ordered* that the Internal Operating Procedures of the Supreme Court are amended as set forth in the following form. The amendments shall be effective immediately.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES

CHAPTER 63. INTERNAL OPERATING PROCEDURES OF THE SUPREME COURT

§ 63.6. [Allocatur] Allowance of Appeal.

A. [*Standards*. Petitions for allowance of appeal ("allocatur") 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 this 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 this Court;

5. the issue involves the constitutionality of a statute of this 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 this Court's supervisory authority; or

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

B.] *Assignment*. The Prothonotary shall initially screen [*allocatur*] petitions for allowance of appeal for compliance with the applicable appellate rules. Untimely petitions may be refused for filing by the Prothonotary without further action of the Court.

Petitions for allowance of appeal shall be assigned to individual Justices by the Prothonotary on a rotating basis by seniority for preparation of an [*allocatur*] 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.

[C.] B. *Circulation and Disposition*. [*Allocatur*] 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 [*allocatur*] 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, [*allocatur*] 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, [**allocatur**] **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 an [**allocatur**] **petition for allowance of appeal** shall specify the issues upon which [**allocatur**] **allowance of appeal** was granted.

A per curiam order granting [**allocatur**] **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 [**allocatur**] **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.

[**D.**] **C. Reconsideration Applications.**

1. *Assignment.* The Prothonotary shall direct applications for reconsideration to the Justice who authored the [**allocatur**] **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.

§ **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., requests for extension of time, requests to exceed page limits, and requests to proceed in forma pauperis) may be resolved by the Prothonotary without further action of the Court.

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

<i>Filing</i>	<i>Rule</i>	<i>Response Period</i>
Application for Relief (Extensions)	123	14 Days
Jurisdictional Statement	909(b)	14 Days
Petition for [Allocatur] Allowance of Appeal	1116	14 Days
Petition for [Allocatur] 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.)

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

1. [**Contents of application.** The applicant shall set forth the procedural history of the case, certify that the matter involves an emergency, and specify any other applications for stay of execution that have been or will be filed, including those in federal courts. The application shall include any

relevant orders and trial court docket entries. Whenever possible, applicants shall give the Prothonotary advance notice of the anticipated filing of an application for a stay of execution.

2.] *Assignment.* The application [**for stay of execution**] will be assigned to the duty Justice.

[**3.**] 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.

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§ 63.8. Certification of Questions of Law.

A. *Court Limitation.* This Court will accept Certification Petitions from the United States Supreme Court or any United States Court of Appeals.

B. [*Contents of Certification Petition.* A court may file a Certification Petition either on the motion of a party or sua sponte. A Certification Petition shall contain the following:

1. A brief statement of the nature and stage of the proceedings in the petitioning court;
2. A brief statement of the material facts of the case;
3. A statement of the question or questions of Pennsylvania law to be determined;
4. A statement of the particular reasons why this Court should accept certification; and
5. A recommendation as to which party should be designated as the appellant and which should be designated as the appellee in subsequent pleadings filed with this Court.

The petitioning court shall attach to the Certification Petition copies of any papers filed by the parties regarding certification, e.g., a Motion for Certification, a response thereto and a Stipulation of Facts.

C. *Standards for Acceptance.* Acceptance of certification is a matter of judicial discretion. The Court may accept certification of a question of Pennsylvania law only when there are special and important reasons therefore, including, but not limited to, any of the following:

1. The question of law is one of first impression and is of such substantial public importance as to require prompt and definitive resolution by this Court;
2. The question of law is one with respect to which there are conflicting decisions in other courts; or
3. The question of law concerns an unsettled issue of the constitutionality, construction, or application of a statute of this Commonwealth.

The Court shall not accept certification unless all facts material to the question of law to be determined are undisputed, and the question of law is one that the petitioning court has not previously decided.

The Court shall decide whether to accept or decline certification without hearing oral argument.

D.] *Assignment, Circulation and Disposition.* The Prothonotary shall refer Certification Petitions to the Chief Justice, who will prepare a memorandum setting forth the positions of the parties and a recommended disposition. **Acceptance of certification is a matter of judicial discretion. The Court shall decide whether to accept or decline certification without hearing oral argument.** The recommendation should be circulated within thirty (30) days from the date of assignment, and should contain a proposed disposition date no greater than thirty (30) days from the date of circulation. Every Certification Petition should be decided within sixty (60) days. A vote of the majority is required to implement the proposed disposition. A Justice may request that the order

record that he or she voted for a different disposition. Orders disposing of Certification Petitions shall indicate if a Justice did not participate in the consideration or decision of the matter.

Upon acceptance of certification by the Court, the Prothonotary shall (1) issue an order accepting certification, which shall specify the questions of law for which certification was accepted, and whether the case is to be submitted on the briefs or heard at an argument session; (2) establish a briefing schedule; (3) list the matter for oral argument if oral argument has been granted; and (4) take such further action as the Court directs.

[E.] C. *Amicus curiae briefs.* After the Court accepts certification, amicus curiae briefs may be submitted without prior leave of Court. Such briefs shall be filed and served in the manner and within the time directed by the Prothonotary.

[F.] D. *Reconsideration Applications.*

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[Pa.B. Doc. No. 13-1073. Filed for public inspection June 14, 2013, 9:00 a.m.]

Title 252—ALLEGHENY COUNTY RULES

ALLEGHENY COUNTY

Civil and Family Rule of the Court of Common Pleas; No. 000001 of 2013 Rules Doc.

Amended Order of Court

And Now, to wit, this 28th day of May, 2013, *It Is Hereby Ordered, Adjudged, and Decreed* that Amended Order of Court No. 109 of 2013, dated April 30th, 2013, stating that the amendment of Rule 1301 of the Court of Common Pleas of Allegheny County, Pennsylvania, Civil and Family Division, which was adopted by the unanimous proxy vote of the Board of Judges on April 29th, 2013, shall be effective upon publication on the UJS Web Portal, is *Vacated*.

It is further *Ordered* that the amendment of Rule 1301 of the Court of Common Pleas of Allegheny County, Pennsylvania, Civil and Family Division, which was adopted by the unanimous proxy vote of the Board of Judges on April 29th, 2013, is promulgated and shall become effective 30 days after publication in the *Pennsylvania Bulletin*.

Rule 1301 Arbitration Limit

By the Court

DONNA JO McDANIEL,
President Judge

Local Rule 1301. Scope.

(1) The following civil actions shall first be submitted to and heard by a Board of Arbitrators:

(a) Civil actions, proceedings and appeals or issues therein where the demand is for \$35,000 or less (exclusive of interest and costs);

(b) Replevin without bond and replevin with bond once bond has been set by the Court;

(c) Appeals from final judgments of Magisterial District Judges; and

(d) Matters transferred to Compulsory Arbitration by the Court even though the original demand may have exceeded \$35,000.

(2) The following civil actions are not subject to Compulsory Arbitration as set forth, above:

(a) Actions seeking only an accounting;

Note: In an action seeking both money damages and an accounting, a Board of Arbitrators may award money damages but may not order an accounting.

(b) Actions seeking only equitable relief; and

Note: In an action seeking both money damages and equitable relief, a Board of Arbitrators may award money damages but may not order equitable relief.

(c) Actions in which the Commonwealth is a party defendant or an employee of the Commonwealth is a party defendant under the provisions of 42 Pa.C.S., Chapter 85B (relating to actions against Commonwealth parties).

(3) A Board of Arbitrators may not enter an award in favor of any party in excess of \$35,000 (exclusive of interest and costs).

Note: While a Board of Arbitrators may hear a lawsuit in which any party claims an amount in excess of \$35,000, the award of the Board of Arbitrators to any party may not exceed \$35,000 (exclusive of interest and costs). However, with the agreement of all parties, a Board of Arbitrators may award up to the amount agreed upon in excess of \$35,000 if all parties also agree that the arbitration award is final and cannot be appealed to Court.

(4) If a party files a counterclaim or a cross-claim seeking an award in excess of \$35,000 (exclusive of interests and costs), any party may file a petition to transfer the entire case to the General Docket. At the discretion of a judge, such a counterclaim or cross-claim may be severed and transferred to the General Docket.

Effective _____

[Pa.B. Doc. No. 13-1074. Filed for public inspection June 14, 2013, 9:00 a.m.]

Title 255—LOCAL COURT RULES

MERCER COUNTY

Court of Common Pleas Criminal Division; No. 2 A.D. 2013

Order

And Now, this 30th day of May, 2013, the court hereby Approves, Adopts and Promulgates Mercer County Local Rule L-527 and Mercer County Local Rule L-571, effective thirty (30) days after the date of publication of these Rules in the *Pennsylvania Bulletin*, pursuant to Rule 103 (c) of the Pennsylvania Rules of Judicial Procedure.

It is also Ordered and Directed the Court Administrator of Mercer County shall file one (1) certified copy of these Rules with the Administrative Office of Pennsylvania

Courts, furnish two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and file one certified copy with the Criminal Procedural Rules Committee.

It is further Ordered and Directed that Local Rules shall be kept continuously available for public inspection and copying in the Office of the Prothonotary of Mercer County. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of the Local Rules. A copy of these Rules shall be published in the *Mercer County Law Journal*.

By the Court

THOMAS R. DOBSON,
President Judge

Mercer County Local Rule of Court L-571. Arraignments.

(a) A defendant's arraignment shall take place on Tuesday of the eighth week following defendant's preliminary hearing. If no arraignment court is scheduled for said Tuesday, a defendant's arraignment shall take place on the next scheduled arraignment court.

(b) Notice of arraignment shall be provided to the defendant by the Magisterial District Judge following the preliminary hearing on the form provided in sub-paragraph (e).

(c) The District Attorney of Mercer County shall have available at arraignment ARD application forms for pro se defendants charged with first offense DUI and/or boating DUI's.

(d) The Court Administrator of Mercer County shall provide to each Magisterial District Judge and the District Attorney of Mercer County on or before the last Monday of each calendar year a schedule setting the arraignment dates in accordance with sub-paragraph (a) hereof.

(e) Arraignment Notice Form:

IN THE COURT OF COMMON PLEAS OF MERCER COUNTY, PENNSYLVANIA
CRIMINAL

COMMONWEALTH OF PENNSYLVANIA

VS.

OTN NO.: _____

Defendant

NOTICE OF ARRAIGNMENT

You are hereby notified that arraignment in the above-captioned matter shall be held on the _____ day of _____, 20____, at _____ o'clock, ____ m. in Courtroom No. ____ of the Mercer County Courthouse, Mercer, Pennsylvania. This Notice is the only one you will receive.

YOU MUST APPEAR FOR ARRAIGNMENT COURT UNLESS YOU EXECUTE A WRITTEN WAIVER PRIOR TO THE DATE OF ARRAIGNMENT. IF YOU FAIL TO APPEAR OR WAIVE ARRAIGNMENT, A BENCH WARRANT SHALL BE ISSUED FOR YOUR ARREST.

BY THE COURT: _____ P.J.

(f) All continuances of arraignment from the date set by the Magisterial District Judge must be approved by the President Judge or most senior judge available should the President Judge not be available.

(g) At arraignment, all defendants charged with DUI shall notify the Court on the record if they appear or in writing if arraignment is waived, whether treatment was recommended as a result of the DUI evaluation and, if so, whether the defendant has commenced said treatment. If the defendant has not, the Court may modify defendant's bail to require defendant successfully complete the recommended treatment in the TASC program.

Mercer County Local Rule of Court L-527. DUI and CRN Evaluations.

All defendants charged with at least one count of Driving Under the Influence shall at the time bail is set by the Magisterial District Judge, have D&A and CRN evaluations scheduled and have as a condition of bail a requirement that the defendant attend said evaluations, and if drug and alcohol treatment is recommended, enter into the recommended treatment prior to the date of arraignment and successfully complete the treatment recommended.

[Pa.B. Doc. No. 13-1075. Filed for public inspection June 14, 2013, 9:00 a.m.]
