

# THE COURTS

## Title 201—RULES OF JUDICIAL ADMINISTRATION

[ 201 PA. CODE CH. 2 ]

### The Unified Judicial System of Pennsylvania Policy on Nondiscrimination and Equal Employment Opportunity

The Unified Judicial System of Pennsylvania's Policy on Nondiscrimination and Equal Employment Opportunity (Policy) was published at 38 Pa.B. 220 (January 12, 2008). The Policy was erroneously codified in 201 Pa. Code Chapter 2. As the Supreme Court did not promulgate this Policy as Rules of Judicial Administration, 201 Pa. Code Rules 201—211 are therefore reserved.

#### Annex A

#### TITLE 201. RULES OF JUDICIAL ADMINISTRATION

#### CHAPTER 2. (Reserved)

#### Rules 201—211. (Reserved).

[Pa.B. Doc. No. 14-110. Filed for public inspection January 17, 2014, 9:00 a.m.]

## Title 210—APPELLATE PROCEDURE

### PART I. RULES OF APPELLATE PROCEDURE

[ 210 PA. CODE CHS. 3 AND 9 ]

#### Proposed to Recommend Amendments to Pa.R.A.P. 311, 341 and 904

The Appellate Court Procedural Rules Committee proposes to recommend amendments to Pa.R.A.P. 311 and 341, and the notes of Pa.R.A.P. 311 and 904. This proposal is being submitted for public comments, suggestions and concerns prior to submission to the Supreme Court.

Proposed new material is in bold face type and deleted material is bracketed and in bold face type.

All communications in reference to the proposed amendment should be sent no later than February 14, 2014 to:

Appellate Court Procedural Rules Committee  
Pennsylvania Judicial Center  
601 Commonwealth Ave., Suite 6200  
P. O. Box 62635  
Harrisburg, Pennsylvania 17106-2635  
or Fax to  
(717) 231-9551  
or E-Mail to  
appellaterules@pacourts.us

An Explanatory Comment precedes the proposed amendment and has been inserted by this Committee for the convenience of the bench and bar. It will not constitute part of the rule nor will it be officially adopted or promulgated.

*By the Appellate Court  
Procedural Rules Committee*

HONORABLE RENÉE COHN JUBELIRER,  
*Chair*

#### Annex A

#### TITLE 210. APPELLATE PROCEDURE

#### PART I. RULES OF APPELLATE PROCEDURE

#### ARTICLE I. PRELIMINARY PROVISIONS

#### CHAPTER 3. ORDERS FROM WHICH APPEALS MAY BE TAKEN

#### INTERLOCUTORY APPEALS

#### Rule 311. Interlocutory Appeals as of Right.

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

\* \* \* \* \*

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

(i) [ **Section 3323(f) or 3505(a) of the Divorce Code,** ] Pursuant to 23 Pa.C.S. §§ 3323(f), 3505(a); or

\* \* \* \* \*

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

\* \* \* \* \*

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

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

(f) *Administrative [ Remand ] remand.* An appeal may be taken as of right from: (1) an order of a common pleas court or government unit remanding a matter to an administrative agency or hearing officer for execution of the adjudication of the reviewing tribunal in a manner that does not require the exercise of administrative

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

(g) *Waiver of objections.*

(1) [ **Where an interlocutory order is immediately appealable under this rule, failure to appeal:** ] Failure to file an appeal from an interlocutory order shall not constitute a waiver of the objection to the order and the objection may be raised on any subsequent appeal from a final order in the case, except in the following instances:

(i) [ **Under Subdivisions (a), (b)(2) or (f) of this rule shall not constitute a waiver of the objection to the order and the objection may be raised on any subsequent appeal in the matter from a determination on the merits.** ] (Rescinded).

(ii) [ **Under Subdivisions** ] Failure to file an appeal from an interlocutory order under paragraphs (b)(1) or (c) of this rule shall constitute a waiver of all objections to jurisdiction over the person or over the property involved or to venue, etc. and the question of jurisdiction or venue shall not be considered on any subsequent [ **appellate review of the matter** ] appeal from a final order in the case.

(iii) [ **Under Subdivision** ] Failure to file an appeal from an interlocutory order under paragraph (e) of this rule shall constitute a waiver of all objections to such orders and any objection may not be raised on any subsequent appeal [ **in the matter from a determination on the merits** ] from a final order in the case.

(iv) **Failure to file an appeal from an interlocutory order refusing to compel arbitration, appealable under 42 Pa.C.S. § 7320(a)(1) and paragraph (a)(8) of this rule, shall constitute a waiver of all objections to such order, and that issue may not be raised on any subsequent appeal from a final order in the case.**

(2) Where no election that an interlocutory order shall be deemed final is filed under [ **Subdivision** ] paragraph (b)(1) of this rule, the objection may be raised on any subsequent appeal [ **in the matter from a determination on the merits** ] from a final order in the case.

(h) *Further proceedings in the trial lower court.* [ **Rule 1701(a) (effect of appeal generally)** ] Pa.R.A.P. 1701(a) shall not be applicable to a matter in which an interlocutory order is appealed under [ **Subdivisions** ] subparagraphs (a)(2) or (a)(4) of this rule.

**Official Note:** Authority—This rule implements 42 Pa.C.S. § 5105(c) (interlocutory appeals), which provides:

\* \* \* \* \*

[ **Paragraph (a)(3) (Change of criminal venue or venire)**—Under prior practice, either a defendant or the Commonwealth could appeal an order changing venue. See former Pa.R.Crim.P. 311(a) (Third sentence) before amendment of June 29, 1977, 471 Pa. XLIV. An order refusing to change venue is not appealable. *Commonwealth v. Swanson*, 424 Pa. 192, 225 A.2d 231 (1967). This rule makes no change in existing practice. ]

**Subparagraph (a)(3)**—Change of venire is authorized by 42 Pa.C.S. § 8702 (impaneling jury from another county). Pa.R.Crim.P. [ **312** ] **584** (motion for change of venue or change of venire) treats changes of venue and venire the same. Thus an order changing **venue or venire** is appealable by the defendant or the Commonwealth, while an order refusing to change **venue or venire** is not.

\* \* \* \* \*

[ **Subdivision (d) (Commonwealth appeals in criminal matters)**—In subdivision (d), the 1992 amendment permits appeals by the Commonwealth from certain interlocutory orders that were previously treated as final orders under the pre-1992 version of Rule 341(c). See, e.g., *Commonwealth v. Dugger*, 506 Pa. 537, 486 A.2d 382 (1985); *Commonwealth v. Deans*, 530 Pa. 514, 610 A.2d 32 (1992); and *Commonwealth v. Cohen*, 529 Pa. 552, 605 A.2d 1212 (1992). The 1996 amendment to Rule 904(e) requires that the Commonwealth assert in the notice of appeal that the trial court's order will terminate or substantially handicap the prosecution. ]

**Paragraph (d)**—In paragraph (d), the Commonwealth has a right to take an appeal from an interlocutory order provided that it certifies in the notice of appeal that the order terminates or substantially handicaps the prosecution. See Pa.R.A.P. 904(e); *Commonwealth v. White*, 910 A.2d 648, 654-55 (Pa. 2006); see also *Commonwealth v. Malinkowski*, 671 A.2d 674, 678 (Pa. 1996). This rule supersedes *Commonwealth v. Dugger*, 486 A.2d 382 (Pa. 1985). *Commonwealth v. Dixon*, 907 A.2d 468, 471 n.8 (Pa. 2006).

Subdivision (e) (Orders overruling preliminary objections in eminent domain cases)—In subdivision (e), the 1992 amendment permits interlocutory appeals from orders overruling preliminary objections in eminent domain cases. These orders were previously appealable as final orders under Rule 341 even though such orders did not dispose of all claims and all parties. See *In Re Certain Parcels of Real Estate*, 420 Pa. 289, 216 A.2d 774 (1966); and *Central Bucks Joint School Bldg. Authority v. Rawls*, 8 Pa. Cmwlth. 491, 303 A.2d 863 (1973).

Subdivision (f) (Administrative remand)—In subdivision (f), the 1992 amendment permitted an immediate appeal as of right from an order of a common pleas court or government unit remanding a matter to an administrative agency or hearing officer for execution of the adjudication of the reviewing tribunal in a manner that does not require the exercise of administrative discretion. Examples of such orders include: (1) a remand by a court of common pleas to the Department of Transportation for removal of points from a drivers license; and (2) an order of the Workmen's Compensation Appeal Board reinstating compensation benefits and remanding to a referee for computation of benefits.

Subdivision (f) further permits immediate appeal from an order of a common pleas court or government unit remanding a matter to an administrative agency or hearing officer that decides an issue that would ultimately evade appellate review if an immediate appeal is not allowed. See *Department of Environmental Resources v. Big B Mining Co., Inc.*, 123 Pa. Cmwlth. 591, 554 A.2d 1002 (1989) (order of Environmental Hearing Board reversing D.E.R.'s denial of a surface mining permit and remanding to D.E.R. for re-evaluation of effluent limitations); Phila. *Commission On Human Relations v. Gold*,

95 Pa. Cmwlth. 76, 503 A.2d 1120 (1986) (court of common pleas order reversing a Philadelphia Human Relations Commission finding of discrimination on ground the commission impermissibly commingled prosecutorial [or] and adjudicative functions). The 1992 amendment overrules, in part, *FMC Corporation v. Workmen's Compensation Appeal Board*, 116 Pa. Cmwlth. 527, 542 A.2d 616 (1988) to the extent that it is inconsistent with subdivision (f).

**Paragraph (g) (waiver of objections)**—The amendment adding subparagraph (g)(1)(iv) provides that failure to file an appeal from an interlocutory order refusing to compel arbitration, appealable under 42 Pa.C.S. § 7320(a)(1) and subparagraph (a)(8) of this rule, shall constitute a waiver of all objections to such order, and that issue may not be raised on appeal from a subsequent order. This amendment abrogates subparagraph (g)(1)(i), which had previously provided that failure to under old paragraphs (a), (b)(2) or (f) shall not constitute a waiver of the objection to the order. The amendment to subparagraph (g)(1)(iv) accordingly supersedes the Superior Court's holding in *Cooke v. Equitable Life Assurance Soc'y of the U.S.*, 723 A.2d 723, 726 (Pa. Super. 1999).

Subdivision (h) (Further proceedings in lower court)—See note to Rule 1701(a) (effect of appeal generally).

**FINAL ORDERS**

**Rule 341. Final Orders; Generally.**

(a) *General Rule.*—Except as prescribed in [ **subdivision** ] **paragraph** (d), and (e) of this rule, an appeal may be taken as of right from any final order of an administrative agency or lower court.

(b) *Definition of Final Order.*—A final order is any order that:

- (1) disposes of all claims and of all parties; or
- (2) [ **is expressly defined as a final order by statute; or** ] (Rescinded).
- (3) is entered as a final order pursuant to [ **subsection** ] **paragraph** (c) of this rule.

\* \* \* \* \*

**Official Note: Related Constitutional and Statutory Provisions**—Section 9 of Article V of the Constitution of Pennsylvania provides that “there shall be a right of appeal from a court of record or from an administrative agency to a court of record or to an appellate court.” The term “administrative agency” is not defined in Rule 102 of these rules and as used in this rule is intended to have the same meaning as the term “administrative agency” in Section 9 of Article V of the Constitution of Pennsylvania. The constitutional provision is implemented by 2 Pa.C.S. § 702 (appeals), 2 Pa.C.S. § 752 (appeals), and 42 Pa.C.S. § 5105 (right to appellate review).

\* \* \* \* \*

[ *Final Orders in Declaratory Judgment Matters*—In an action taken pursuant to the Declaratory Judgments Act, 42 Pa.C.S. §§ 7531–7541, orders based on a pre-trial motion or petition are considered “final” within the meaning of this Rule, under subdivision (b)(2), if they affirmatively or negatively declare the rights and duties of the parties. *Nationwide Mut. Ins. Co. v. Wickett*, 563 Pa. 595, 604, 763 A.2d 813, 818 (2000). Thus, an order in

a declaratory judgment action sustaining a demurrer and dismissing some, but not all, defendants is considered a final order under subdivision (b)(2) because it is expressly defined as such by statute. Importantly, however, when a court enters an order in a declaratory judgment action that overrules preliminary objections in the nature of a demurrer, the order is not “final” under subdivision (b)(2), because such order merely allows the case to go forward without declaring the rights and duties of the parties. *Safe Harbor Water Power Corp. v. Fajt*, 583 Pa. 234, 876 A.2d 954 (2005).

In order to preserve issues for appeal after a trial in a declaratory judgment action, an aggrieved party must file post-trial motions as required by Pa.R.C.P. No. 227.1. *Motorists Mutual v. Pinkerton*, 574 Pa. 333, 830 A.2d 958 (2003); *Chalkey v. Roush*, 569 Pa. 462, 805 A.2d 491 (2002).

**Orders Appealable Under Other Rules**—Orders which are separable from and collateral to the main cause of action where the right involved is too important to be denied review, and the question presented is such that if review is postponed until final judgment in the case, the claim will be irreparably lost, previously appealable as final orders under Rule 341, are now appealable under Rule 313. See *Pugar v. Greco*, 483 Pa. 68, 73, 394 A.2d 542, 545 (1978) (quoting *Cohen v. Beneficial Industrial Loan Corp.*, 337 U.S. 541 (1949)).

The following is a partial list of orders that are no longer appealable as final orders pursuant to Rule 341 but which, in an appropriate case, might fall under Rules 312 (Interlocutory Appeals by Permission) or 313 (Collateral Orders) of this Chapter.

- (1) a decision transferring an equity action to the law side;
- (2) an order denying a defendant leave to amend his answer to plead an affirmative defense;
- (3) a pre-trial order refusing to permit a defendant to introduce evidence of an affirmative defense;
- (4) an order denying a party the right to intervene;
- (5) an order denying a petition to amend a complaint;
- (6) an order requiring the withdrawal of counsel;
- (7) an order denying class certification in a class action case; and
- (8) an order striking a lis pendens.

The dismissal of preliminary objections to a petition for appointment of a board of viewers and the dismissal of preliminary objections to a declaration of taking, formerly appealable as final orders under Rule 341, are now appealable as interlocutory appeals as of right under Rule 311. ]

**Rescission of Subdivision (b)(2)**—Subdivision (b)(2) previously provided that an order deemed final by statute is a “final order” that must be appealed within 30 days. This was true even when the order did not end the case as to all claims or all parties. Following the 2013 rescission of (b)(2), such orders are only appealable under Pa.R.A.P. 341 if they meet the criteria for a final order under (b)(1). One of the further effects of the rescission of

Subdivision (b)(2) is to change the basis for appealability of orders that do not end the case but grant or deny a declaratory judgment. See *Nationwide Mut. Ins. Co. v. Wickett*, 563 Pa. 595 , 763 A.2d 813 (2000) and *Pa. Bankers Ass’n v. Pa. Dept. of Banking*, 597 Pa. 1, 940 A.2d 790 (2008). The effect of the rescission is to eliminate waiver for failure to take an immediate appeal from such an order. A party aggrieved by a non-case ending order granting or denying a declaratory judgment, where the order satisfies the criteria for “finality” under *Pa. Bankers Ass’n* may elect to proceed under Pa.R.A.P. 311(a)(8) or wait until the end of the case and proceed under Subdivision (b)(2) of this rule.

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

\* \* \* \* \*

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 9. APPEALS FROM LOWER COURTS

Rule 904. Content of the Notice of Appeal.

\* \* \* \* \*

(c) *Request for transcript.*—The request for transcript contemplated by [ **Rule 1911 (request for transcript)** ] Pa.R.A.P. 1911 or a statement signed by counsel that there is either no verbatim record of the proceedings or the complete transcript has been lodged of record, shall accompany the notice of appeal, but the absence of or defect in the request for transcript shall not affect the validity of the appeal.

(d) *Docket entry.*—The notice of appeal shall include a statement that the order appealed from has been entered [ **in** ] on the docket. A copy of the docket entry showing the entry of the order appealed from shall be attached to the notice of appeal.

(e) *Content in criminal cases.*—When the Commonwealth takes an appeal pursuant to [ **Rule** ] Pa.R.A.P. 311(d), the notice of appeal shall include a certification by counsel that the order will terminate or substantially handicap the prosecution.

(f) *Content in children’s fast track appeals.*—In a children’s fast track appeal the notice of appeal shall include a statement advising the appellate court that the appeal is a children’s fast track appeal.

**Official Note:** The Offense Tracking Number (OTN) is required only in an appeal in a criminal proceeding. It enables the Administrative Office of the Pennsylvania Courts to collect and forward to the Pennsylvania State Police information pertaining to the disposition of all criminal cases as provided by the Criminal History Record Information Act, 18 Pa.C.S. § 9101 et seq.

\* \* \* \* \*

With respect to [ **subdivision** ] **paragraph** (e), in *Commonwealth v. Dugger*, [ **506 Pa. 537,** ] 486 A.2d 382 (Pa. 1985), the Supreme Court held that the Commonwealth’s certification that an order will terminate or substantially handicap the prosecution is not subject to review as a prerequisite to the Superior Court’s review of the merits of the appeal. **The principle in *Dugger* has**

been incorporated in and superseded by Pa.R.A.P. 311(d). *Commonwealth v. Dixon*, 907 A.2d 468, 471 n.8 (Pa. 2006). Thus, the need for a detailed analysis of the effect of the order, formerly necessarily a part of the Commonwealth’s appellate brief, was eliminated. See also *Commonwealth v. Deans*, [ **530 Pa. 514,** ] 610 A.2d 32 (Pa. 1992); *Commonwealth v. Cohen*, [ **529 Pa. 552,** ] 605 A.2d 1212 (Pa. 1992) [ **allowing appeals by the Commonwealth from adverse rulings on motions in limine**]. Accordingly, the 1997 amendment added subdivision (e) as a requirement when the Commonwealth takes an appeal pursuant to Rule 311(d) ].

\* \* \* \* \*

EXPLANATORY COMMENT

*Interlocutory Appeals from Orders Made Appealable by Statute or General Rule*

Under the current Pennsylvania Rules of Appellate Procedure, provision is made for orders that the General Assembly has determined are immediately appealable by statute. Under current Pa.R.A.P. 311(a)(8), an interlocutory order is appealable as of right if a statute creates the right to an immediate appeal. However, a party is not required to take an immediate appeal of such orders and may defer the appeal until a final order ending the case as to all claims and parties is entered pursuant to Pa.R.A.P. 341(b)(1). In addition, Pa.R.A.P. 341(b)(2) provides that an order is appealable as a final order, if the General assembly expressly defines it as a final order in a statute.

Some confusion has arisen as to whether certain orders appealable by statute are appealable under Pa.R.A.P. 311(a)(8) or Pa.R.A.P. 341(b)(2) or both. Both rules concern non-case ending orders for which the right to appeal is based upon a statute, but the distinction between the two rules can be subtle and occasionally overlapping. This confusion can lead to waiver of the right to appeal, because non-case ending orders that are appealable under Pa.R.A.P. 341(b)(2) must be appealed immediately and cannot be appealed at the end of the case, while non-case ending orders appealable under Pa.R.A.P. 311(a)(8) may be appealed either immediately or at the end of the case.

The Committee has determined that if an order is immediately appealable by statute and it is a true final order that ends a case as to all claims and all parties as defined in Pa.R.A.P. 341(b)(1), there is no need for (b)(2). Such orders are final orders under Pa.R.A.P. 341(b)(1) and the General Assembly’s designation of such orders as final is redundant. Accordingly, the Committee recommends that the Supreme Court delete Pa.R.A.P. 341 (b)(2).

If the General Assembly determines that an interlocutory order is appealable as of right, then the right to appeal should be under Pa.R.A.P. 311, regardless of whether the General Assembly describes the order as “final” or as “appealable.” Therefore, the Committee further recommends that the Supreme Court amend Pa.R.A.P. 311(a)(8) to clarify that there is an immediate right to appeal any non-case ending order that is appealable by statute or general rule.

The Committee has also specifically addressed the result of failure to take an immediate appeal from an interlocutory order refusing to compel arbitration. Such orders are immediately appealable under 42 Pa.C.S. § 7320(a)(1). The failure to take an immediate appeal from such orders should result in waiver. By requiring

either an immediate appeal or waiver, the possibility of an unnecessary trial of a case that belongs in arbitration will be avoided. See Pa.R.A.P. 311(g)(iv). All other orders that fall under Pa.R.A.P. 311(a)(8) may be appealed at the conclusion of the case if an appeal is not filed immediately after the order is entered.

The effect of rescinding Pa.R.A.P. 341(b)(2) and effectively merging that provision into Pa.R.A.P. 311(a)(8) also eliminates the waiver issue that sometimes arises with non-case ending orders that grant or deny a declaratory judgment.

*Certification by the Commonwealth that an Order will Terminate or Substantially Handicap the Prosecution*

Rule 311(d) was adopted in the wake of *Commonwealth v. Dugger*, 486 A.2d 382 (Pa. 1985), a case that dealt with the way in which the Commonwealth could secure review of suppression orders, despite the fact that such orders were interlocutory. As the case law has developed, 311(d) has been used for review of other orders as well, including those resolving motions *in limine* and recusal motions. Because the procedure is now set forth by rule(s) and case law construing the rule, and because it applies to more than suppression orders, the rule and the *Dugger* case are not coextensive. Indeed, in *Commonwealth v. Dixon*, 407 A.2d 468 (Pa. 2006), the Supreme Court observed that the rule had superseded *Dugger*. Accordingly, a recommendation to align the references in the rules with case law follows.

[Pa.B. Doc. No. 14-111. Filed for public inspection January 17, 2014, 9:00 a.m.]

# Title 231—RULES OF CIVIL PROCEDURE

## PART I. GENERAL [ 231 PA. CODE CH. 200 ]

### Damages for Delay

#### CHAPTER 200. BUSINESS OF COURTS

#### Rule 238. Damages for Delay in an Action for Bodily Injury, Death or Property Damage.

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#### Addendum to Explanatory Comment (2014)

The prime rate as set forth in the first edition of the *Wall Street Journal* for a particular year is the basis for calculating damages for delay under Pa.R.C.P. No. 238 as revised November 7, 1988. The prime rate published in the first edition of the *Wall Street Journal* for each of the years specified is as follows:

<i>Date of Publication</i>	<i>Prime Rate Percentage</i>
January 2, 2014	3 1/4
January 2, 2013	3 1/4
January 3, 2012	3 1/4
January 3, 2011	3 1/4
January 4, 2010	3 1/4
January 2, 2009	3 1/4
January 2, 2008	7 1/4
January 2, 2007	8 1/4

<i>Date of Publication</i>	<i>Prime Rate Percentage</i>
January 3, 2006	7 1/4
January 3, 2005	5 1/4
January 2, 2004	4
January 2, 2003	4 1/4
January 2, 2002	4 3/4
January 2, 2001	9 1/2
January 3, 2000	8 1/2
January 4, 1999	7 3/4
January 2, 1998	8 1/2

**Official Note:** The prime rate for the years 1980 through 1997 may be found in the Addendum to the Explanatory Comment published in the *Pennsylvania Bulletin*, volume 33, page 634 (2/1/03) and on the web site of the Civil Procedural Rules Committee at <http://www.pacourts.us>.

*By the Civil Procedural Rules Committee*

DIANE W. PERER,  
*Chair*

[Pa.B. Doc. No. 14-112. Filed for public inspection January 17, 2014, 9:00 a.m.]

## PART I. GENERAL

### [ 231 PA. CODE CH. 200 ]

#### Proposed Amendment of Rule 229 Governing Discontinuances; Proposed Recommendation No. 257

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 229 governing discontinuances be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than February 28, 2014 to:

Karla M. Shultz  
Counsel  
Civil Procedural Rules Committee  
601 Commonwealth Avenue, Suite 6200  
P. O. Box 62635  
Harrisburg PA 17106-2635  
FAX 717-231-9526  
[civilrules@pacourts.us](mailto:civilrules@pacourts.us)

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 200. BUSINESS OF COURTS

#### Rule 229. Discontinuance.

\* \* \* \* \*

(b)(1) Except as otherwise provided in subdivision (b)(2), a discontinuance may not be entered as to less than all defendants except upon the written consent of all parties, or leave of court [ **after notice to all parties** ] upon motion of any plaintiff or any defendant for whom plaintiff has stipulated in writing to the discontinuance.

\* \* \* \* \*

**Explanatory Comment**

Current Rule 229 provides that a discontinuance is the sole method by which a plaintiff can terminate an action before trial. A discontinuance as to less than all defendants requires written consent of all parties to the action or leave of court. This current rule is incomplete because it does not describe which parties may seek leave of court to enter a discontinuance as to less than all defendants. Under the proposed amendment, leave of court may be sought by any plaintiff or any defendant for whom the plaintiff has stipulated in writing to the discontinuance.

*By the Civil Procedural  
Rules Committee*

DIANE W. PERER,  
*Chair*

[Pa.B. Doc. No. 14-113. Filed for public inspection January 17, 2014, 9:00 a.m.]

**PART I. GENERAL****[ 231 PA. CODE CH. 200 ]****Proposed Rescission of Rule 211 Governing Oral Argument; Proposed Recommendation No. 258**

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 211 governing oral argument be rescinded as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than February 28, 2014 to:

Karla M. Shultz  
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601 Commonwealth Avenue, Suite 6200  
P. O. Box 62635  
Harrisburg PA 17106-2635  
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**Annex A****TITLE 231. RULES OF CIVIL PROCEDURE****PART I. GENERAL****CHAPTER 200. BUSINESS OF COURTS**

Rule 211. [ **Oral Arguments** ] (Rescinded).

[ Any party or the party's attorney shall have the right to argue any motion and the court shall have the right to require oral argument. With the approval of the court oral argument may be dispensed with by agreement of the attorneys and the matter submitted to the court either on the papers filed of record, or on such briefs as may be filed by the parties. The person seeking the order applied for shall argue first and may also argue in reply, but such reply shall be limited to answering arguments advanced by the respondent. In matters where there may be more than one respondent, the order of argument by the respondents shall be as directed by the court. ]

**Explanatory Comment**

Current Rule 211, if read literally, confers on a party the right to argue any motion before the trial court. In practice, however, the trial court, in its discretion, determines those matters before it that will be decided with or without an oral argument. The Civil Procedural Rules Committee is proposing the rescission of Rule 211 because the interests of justice are best served by the current practice of the trial judge determining whether issues raised by the parties can be resolved by a review of written documents, including briefs, and/or by oral argument with or without briefs. See Pa.R.C.P. Nos. 208.1 et seq.

*By the Civil Procedural  
Rules Committee*

DIANE W. PERER,  
*Chair*

[Pa.B. Doc. No. 14-114. Filed for public inspection January 17, 2014, 9:00 a.m.]

**Title 255—LOCAL  
COURT RULES****CLARION COUNTY****Administrative Order Amending the Booking Center Fund Fee to \$100 from \$50; No. 1395 CD 2013****Amended Administrative Order  
Increasing Booking Center Fee**

*And Now*, December 11, 2013 as per 42 Pa.C.S.A. § 1725.5 and following the adoption of a countywide booking center plan, which plan was effective November 15, 2009 any defendant who is:

1. placed on probation without verdict pursuant to section 17 of the act of April 14, 1972 (P. L. 223, No. 64) known as The Controlled Substance, Drug, Device and Cosmetic Act

2. Receives Accelerated Rehabilitative Disposition for, pleads guilty to or nolo contendere to or is convicted of a crime under the following:

(i) 18 Pa.C.S. § 106(a) (relating to classes of offenses).

(ii) 75 Pa.C.S. § 3735 (relating to homicide by vehicle while driving under the influence).

(iii) 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance).

(iv) A violation of the Controlled Substance, Drug, Device and Cosmetic Act.

is required by the court to pay a booking center fee fund, which was originally established at Fifty Dollars (\$50.00) and is now increased to One Hundred Dollars (\$100.00) which funds are deposited into a special Central Booking Center Fund, which fund has been created by the Clarion County Clerk of Courts in conjunction with the Treasurer of Clarion County. Such funds shall continue to be used solely for the implementation, operation and maintenance of the Central Booking Center and requisitions for payment of such expenses shall be submitted for payment by the Clarion County District Attorney's Office through the usual requisition process utilized by the County of Clarion.

Any booking center fee fund charged on a case that is disposed of at the Magisterial District Court Office and is not waived or otherwise transferred into Common Pleas Court, shall be submitted to the Treasurer of Clarion County as a CA29 fee. Upon submission of funds to the County of Clarion, the Magisterial District Court shall clearly indicate those funds designated as CA29 fees, so they may be properly deposited into the Central Booking Center Fund.

This order shall become effective thirty days after its publication in the *Pennsylvania Bulletin*.

By the Court

JAMES G. ARNER,  
*President Judge*

[Pa.B. Doc. No. 14-115. Filed for public inspection January 17, 2014, 9:00 a.m.]

**HUNTINGDON COUNTY  
Fees Schedule**

Court Division change in fees schedule effective February 1, 2014.

Automation fee	\$10.00
Accounting	\$15.00
Advertising	\$55.00
Affidavit of Death	\$10.00
Affidavit of Small Estate	\$25.00
Agreement with Court Approval	\$35.00
Amended Petition for Adoption	\$18.00
Ancillary Letters Testamentary	\$20.00
Annual Report of Guardian of Estate— 1st & Final only	\$35.00
Annual Report of Guardian of Person— 1st & Final only	\$35.00
Answer	\$5.00
Answer to Caveat	\$10.00
Appeal to County Court	\$55.00
Appeal of Probate	\$25.00
Appeal to Superior/Supreme Court	\$55.00
Bad Check Fee	\$20.00
Bond	\$14.00
Caveat	\$10.00
Certificate of Adoption	\$5.00
Certified Copy	\$5.00
Certified Copy of a Will following Probate	\$15.00
Certification of any Instrument or Record	\$5.00
Citation (County)	\$25.00
Citation (State)	\$25.00
Claim Against Estate	\$10.00
Codicil	\$20.00
Commission	\$25.00

Complaint	\$15.00
Copies by Mail or Scan and Email	\$5.00 for 4 pages, add'l pages \$1.00 ea
Copy	\$.25 per page
Death Certificate—No Estate	\$10.00
Disclaimer	\$10.00
Election to Take Against Will	\$15.00
Entry of Appearance or Withdrawal	\$5.00
Estate Inventory	\$10.00
Exception/Objection to Estate	\$15.00
Exception/Objection to the Record	\$15.00
Exemplification of Record	\$25.00 + copies cost
Exemplification of Record from other County	\$25.00
Family Exemption	\$10.00
Family Settlement Agreement	\$35.00
File of Will—No Estate	\$18.50
Filing of any Certified Copy	\$5.00
First & Final Account & Distribution	\$35.00 + \$10.00 Distribution + 2.00 each add'l page
First & Partial	\$35.00 + \$10.00 Distribution + 2.00 each add'l page
Registers Hearing	\$50.00
Heir Renunciation	\$5.00
Inheritance Tax Return	\$15.00
Inheritance Tax Return & Inventory— NO LETTERS	\$25.00
Inventory	\$10.00
JCS/ATJ/CJEA	\$23.50
Last Will & Testament	\$15.00
Lien/Claim Against Estate	\$10.00
<i>Probate:</i>	
Up to \$1,000.	\$20.00
\$1,001—\$5,000.	\$35.00
\$5,001—\$10,000.	\$45.00
\$10,001—\$20,000.	\$55.00
\$20,001—\$30,000.	\$65.00
\$30,001—\$40,000.	\$75.00
\$40,001—\$50,000.	\$85.00
\$50,001—\$75,000.	\$95.00
\$75,001—\$100,000.	\$110.00
Each add'l \$100,000. Or fraction thereof	\$40.00

Marriage License County Fee	\$45.00	Release	\$10.00
	includes	Release of Claim	\$10.00
	Certified	Renunciation Executor/Executrix	\$5.00
	Copy	Satisfaction of Claim	\$10.00
Memo/Memorandum	\$2.00	Short Certificate	\$5.00
Misc. Filings	\$3.00 per	Small Estate Affidavit	\$25.00
	page	Status Report w/Accounting	\$25.00
Misc. Petition	\$25.00	Subpoena	\$5.00
Name Affidavit	\$15.00	Supplemental Inheritance Tax Rtn	\$15.00
Notice of Claim	\$10.00	Supplemental Inventory	\$10.00
Oath of Out-of-County Estates	\$5.00	Trust Agreement	\$25.00
Objection	\$15.00	Waiver	\$5.00
Petition for Adoption	\$75.00	Withdrawal of Objection	\$10.00
Petition other than Probate or Adoption	\$25.00		
Petition to Settle Small Estate	\$35.00		
Praecipe	\$5.00		
Receipt	\$10.00		
Receipt & Release	\$10.00		

GEORGE N. ZANIC,  
President Judge

[Pa.B. Doc. No. 14-116. Filed for public inspection January 17, 2014, 9:00 a.m.]

## SUPREME COURT

### Duty Assignment Schedule for Emergency Petitions in the Year 2014; No. 415 Judicial Administration Doc. No. 1

#### Order

*Per Curiam:*

*And Now*, this 31st day of December, 2013, the emergency duty assignment for the year 2014, is herewith adopted.

January	Justice J. Michael Eakin Justice Seamus P. McCaffery	(Eastern District) (Western District)
February	Justice Thomas G. Saylor Justice Debra Todd	(Eastern District) (Western District)
March	Justice Max Baer Justice Correale F. Stevens	(Eastern District) (Western District)
April	Justice J. Michael Eakin Justice Seamus P. McCaffery	(Eastern District) (Western District)
May	Justice Thomas G. Saylor Justice Debra Todd	(Eastern District) (Western District)
June	Justice Max Baer Justice Correale F. Stevens	(Eastern District) (Western District)
July	Justice J. Michael Eakin Justice Seamus P. McCaffery	(Eastern District) (Western District)
August	Justice Thomas G. Saylor Justice Debra Todd	(Eastern District) (Western District)
September	Justice Max Baer Justice Correale F. Stevens	(Eastern District) (Western District)
October	Justice J. Michael Eakin Justice Seamus P. McCaffery	(Eastern District) (Western District)
November	Justice Thomas G. Saylor Justice Debra Todd	(Eastern District) (Western District)
December	Justice Max Baer Justice Correale F. Stevens	(Eastern District) (Western District)

[Pa.B. Doc. No. 14-117. Filed for public inspection January 17, 2014, 9:00 a.m.]



**Schedule of Holidays for Year 2015 for Staffs of the Appellate Courts and the Administrative Office of Pennsylvania Courts; No. 416 Judicial Administration Doc.**

**Sessions of the Supreme Court of Pennsylvania for the Year 2015; No. 417 Judicial Administration Doc.**

**Order**

**Order**

*Per Curiam:*

*Per Curiam*

*And Now*, this 31st day of December, 2013, it is hereby ordered that the following paid holidays for calendar year 2015 will be observed on the dates specified below by all employees of the appellate courts and the Administrative Office of Pennsylvania Courts:

*And Now*, this 31st day of December, 2013 it is ordered that the argument/administrative sessions of the Supreme Court of Pennsylvania shall be held in the year 2015 as follows:

January 01, 2015	New Year's Day
January 19, 2015	Martin Luther King, Jr. Day
February 16, 2015	Presidents' Day
April 03, 2015	Good Friday
May 25, 2015	Memorial Day
July 03, 2015	Independence Day Observed
September 07, 2015	Labor Day
October 12, 2015	Columbus Day
November 03, 2015	Election Day**
November 11, 2015	Veterans Day
November 26, 2015	Thanksgiving Day
November 27, 2015	Day after Thanksgiving
December 25, 2015	Christmas Day

Philadelphia	February 5th (Administrative Session)
Philadelphia	March 9th through March 13th
Harrisburg	March 26th (Administrative Session)
Pittsburgh	April 6th through April 10th
Harrisburg	May 4th through May 8th
Pittsburgh	June 4th (Administrative Session)
Philadelphia	September 9th through September 11th
Pittsburgh	October 5th through October 9th
Harrisburg	November 16th through November 20th

Additional argument/administrative sessions may be scheduled as the Court deems necessary.

[Pa.B. Doc. No. 14-119. Filed for public inspection January 17, 2014, 9:00 a.m.]

\*\*AOPC only; Appellate courts will be open.

[Pa.B. Doc. No. 14-118. Filed for public inspection January 17, 2014, 9:00 a.m.]