

THE COURTS

Title 201—RULES OF JUDICIAL ADMINISTRATION

[201 PA. CODE CH. 50]

Amendment of Rule 5000.5; No. 185; Doc. No. 1

Order

Per Curiam:

And Now, this 7th day of July, 1997, the following amendment to Rule 5000.5 of the Pennsylvania Rule of Judicial Administration is adopted.

This order shall be processed in accordance with Pa.R.J.A. 103(b) and shall become effective in sixty days.

Annex A

TITLE 201. RULES OF JUDICIAL ADMINISTRATION

CHAPTER 50. UNIFORM RULES GOVERNING COURT REPORTING AND TRANSCRIPTS

Rule 5000.5. Requests [and Orders] for Transcripts.

* * * * *

(b) For an appeal, the transcript [order] request shall be made part of the notice of appeal. Where a transcript is required for a motion, the transcript [order] request shall be made part of or annexed to the motion papers. A party or counsel, in addition to the notice provided above, may also [order a transcript by] request a transcript in open court.

[Pa.B. Doc. No. 97-1136. Filed for public inspection July 18, 1997, 9:00 a.m.]

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART IV. ADMISSION TO PRACTICE OF LAW

[204 PA CODE CH. 71]

Amendment of Rule 321 of the Pennsylvania Bar Admission Rules; No. 180; Doc. No. 1

Order

Per Curiam:

And now, this 2nd day of July, 1997, Rule 321 of the Pennsylvania Bar Admission Rules is amended to read as follows.

To the extent that notice of proposed rulemaking would be required by Pennsylvania Rule of Judicial Administration No. 103 or otherwise, the immediate amendment of Pa. B.A.R. 321 is hereby found to be required in the interest of justice and efficient administration.

This Order shall be process in accordance with Pennsylvania Rule of Judicial Administration No. 103(b) and shall be effective immediately.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART IV. ADMISSION TO PRACTICE OF LAW CHAPTER 71. PENNSYLVANIA BAR ADMISSION RULES

Subchapter C. RESTRICTED PRACTICE OF LAW CERTIFIED LEGAL INTERNS

Rule 321. Requirements for Formal Participation in Legal Matters by Law Students.

(a) *General Rule.* The requirements for eligibility for formal participation in legal matters by a law student pursuant to Rule 322 (relating to authorized activities of certified legal interns) are:

(1) Enrollment in an accredited law school located in this Commonwealth.

(2) Completion of legal studies amounting to at least **three [four]** semesters, or the equivalent if the law school is on a basis other than the semester basis.

* * * * *

[Pa.B. Doc. No. 97-1137. Filed for public inspection July 18, 1997, 9:00 a.m.]

Title 210—APPELLATE PROCEDURE

[210 PA. CODE CHS. 1, 3, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 33, 51 AND 52]

Amendments to Rules; No. 108; Doc. No. 1

Order

Per Curiam:

And Now, this 7th day of July, 1997, the amendments to Rules 121, 123, 313, 341, 343, 752, 904, 906, 907, 1112, 1311, 1501, 1513, 1514, 1515, 1532, 1571, 1734, 1751, 1782, 1911, 2132, 2136, 2140, 2153, 2154, 2185, 2186, 2187, 2311, 2313, 2543, 2546, 3331, 5101 and 5102 of the Pennsylvania Rules of Appellate Procedure are adopted as follows.

This order shall be processed in accordance with Pa.R.J.A. 103(b) and shall become effective in sixty days.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE I. PRELIMINARY PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

DOCUMENTS GENERALLY

Rule 121. Filing and Service.

(a) *Filing.* Papers required or permitted to be filed in an appellate court shall be filed with the prothonotary. Filing may be accomplished by mail addressed to the prothonotary, but except as otherwise provided by these

rules filing shall not be timely unless the papers are received by the prothonotary within the time fixed for filing. Paperbooks shall be deemed filed on the day of mailing if first class mail is utilized. If an application under these rules requests relief which may be granted by a single judge, [the] a judge in extraordinary circumstances may permit the application and any related papers to be filed with [him] that judge, in which event [he] that judge shall note thereon the date of filing and shall thereafter transmit such papers to the clerk.

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

* * * * *

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

* * * * *

Rule 123. Application for Relief.

* * * * *

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

Official Note: [Based on former Supreme Court Rules 62, 63, and 66, former Superior Court Rules 53, 54 and 57, former Commonwealth Court Rule 112A and Pa.R.Crim.P. 304.] The 1997 amendment precludes review by the Commonwealth Court of actions of a single judge in election matters.

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

Rule 313. Collateral Orders (Rescinded).

(Editor's Note: The original text appears at 210 Pa. Code page 3-14, serial page (222738)).

Official Note: Rule 313 is a codification of existing case law with respect to collateral orders. See *Pugar v. Greco*, 483 Pa. 68, 73, 394 A.2d 542, 545 (1978) (quoting *Cohen v. Beneficial Industrial Corp.*, 337 U. S. 541 (1949)). Examples of collateral orders include an order denying a pre-trial motion to dismiss based on double jeopardy, *Commonwealth v. Brady*, 510 Pa. 363, 508 A.2d 286, 289-91 (1986) (allowing an immediate appeal from denial of double jeopardy claim under collateral order doctrine where trial court makes a finding that motion is not frivolous); an order denying a petition to

permit the payment of death taxes, *Hankin v. Hankin*, 338 Pa. Super. 442, 487 A.2d 1363 (1985); and an order denying a petition for removal of an executor, *Re: Estate of Georgianna*, 312 Pa. Super. 339, 458 A.2d 989 (1983), *aff'd*, 504 Pa. 510, 475 A.2d 744. Thorough discussions of the collateral order doctrine as it has been applied by Pennsylvania appellate courts are found in the following sources: *Darlington, McKeon, Schuckers and Brown, 1 Pennsylvania Appellate Practice Second Edition*, §§ 313:1-313:201 (1994) and *Byer; Appealable orders under the Pennsylvania Rules of Appellate Procedures in Practice and Procedures in Pennsylvania Appellate Courts* (PBI No. 1994-869); *Pines, Pennsylvania Appellate Practice: Procedural Requirements and the Vagaries of Jurisdiction*, 91 Dick. L. Rev. 55, 107-115 (1986).

If an order falls under Rule 313, an immediate appeal may be taken as of right simply by filing a notice of appeal. The procedures set forth in Rules 341(c) and 1311 do not apply under Rule 313.

FINAL ORDERS

Rule 341. Final Orders; Generally.

* * * * *

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

(1) disposes of all claims [or] and of all parties; or

* * * * *

(3) any order entered as a final order pursuant to [subsection] subdivision (c) of this rule.

(c) *Determination of finality.* When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim, or third-party claim or when multiple parties are involved, the trial court or other governmental unit may enter a final order as to one or more but fewer than all of the claims [or] and parties only upon an express determination that an immediate appeal would facilitate resolution of the entire case. Such an order becomes appealable when entered. In the absence of such a determination and entry of a final order, any order or other form of decision that adjudicates fewer than all the claims [or] and parties shall not constitute a final order. In addition, the following conditions shall apply:

[(1) An order may be amended to include the determination of finality within 30 days of entry of the order. A notice of appeal or a petition for review may be filed within 30 days after entry of an order as amended, unless a shorter time period is provided in Rule 903(c) or 1512(b).

(2) The trial court or other governmental unit is required to act on an application for a determination of a finality under subdivision (c) within 30 days of entry of the order. During the time an application for determination for finality is pending, the action will be stayed. Any denial of such an application shall be reviewable only for abuse of discretion pursuant to Chapter 15.]

(1) The trial court or other governmental unit is required to act on an application for a determination of finality under subdivision (c) within 30 days of entry of the order. During the time an application for a determination of finality is pending the action is stayed.

(2) A notice of appeal may be filed within 30 days after entry of an order as amended unless a shorter time period is provided in Rule 903(c). Any denial of such an application shall be reviewable only for abuse of discretion pursuant to Chapter 15.

(3) Unless the trial court or other governmental unit acts on the application within 30 days of entry of the order, the trial court or other governmental unit shall no longer consider the application and it shall be deemed denied.

(4) The time for filing a petition for review will begin to run from the date of entry of the order denying the application for a determination of finality or, if the application is deemed denied, from the 31st day. A petition for review may be filed within 30 days of the entry of the order denying the application or within 30 days of the deemed denial unless a shorter time period is provided by Rule 1512(b).

* * * * *

Official Note: * * *

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 [543] 542, 545 (1978) (quoting *Cohen v. Beneficial Industrial Loan Corp.*, 337 U.S. 541 (1949)).

* * * * *

Orders formerly appealable under Rule 341 by the Commonwealth in criminal cases as heretofore provided by law, but which do not dispose of the entire case, are now appealable as interlocutory appeals as of right under Subdivision [(e)] (d) of Rule 311.

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

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

Rule 343. [Order Determining Challenge to a Plea of Guilty] (Rescinded).

[If a timely motion has been filed pursuant to Rule 321 of the Pennsylvania Rules of Criminal Procedure (challenge to guilty plea), any appeal taken as of right shall be from the final order disposing of such motion. Such timely motion shall have the effect, for the purposes of Rule 1701(b)(3) (authority of lower court or agency after appeal), of an order expressly granting reconsideration of the judgment previously entered on the plea of guilty.]

Official Note: [Pa.R.Crim.P. 321 provides a procedure whereby a timely motion challenging the validity of a plea of guilty, or the denial or a motion to withdraw a plea of guilty, shall be heard by the lower court. In such event, the time for filing an

appeal from the judgment on the plea does not begin to run until such motion is decided by the lower court.

In the event an appeal from the judgment on a plea of guilty has been filed before a timely motion under Pa.R.Crim.P. 321 has been made, the filing of such motion acts as an automatic grant of reconsideration under Rule 1701(b)(3) (authority of lower court or the judgment on the plea does not begin to run until such motion is decided by the lower court.

In the event an appeal from the judgment on a plea of guilty has been filed before a timely motion under Pa.R.Crim.P. 321 has been made, the filing of such motion acts as an automatic grant of reconsideration under Rule 1701(b)(3) (authority of lower court or agency after appeal), so as to render inoperative the prior appeal. In such event, an appeal could be filed anew after disposition of the Pa.R.Crim.P. 321 motion.]

The Supreme Court rescinded this Rule in 1997 as obsolete in view of the changes to the Rules of Criminal Procedure rescinding Pa.R.Crim.P. 321 and adopting new Pa.R.Crim.P. 1410, effective as to cases in which the determination of guilt occurs on or after January 1, 1994. See *Criminal Procedural Rules Committee Final Report at 620-621 A.2d (Pennsylvania Reporter Series) pages CVIII-CXXXIII.*

CHAPTER 7. COURTS TO WHICH APPEALS SHALL BE TAKEN TRANSFERS OF CASES

Rule 752. Transfers Between Superior and Commonwealth Courts.

* * * * *

(b) *Content of application; answer:* The application shall contain a statement of the facts necessary to an understanding of the same or related questions of fact, law or discretion; a statement of the questions themselves; and a statement of the reasons why joint consideration of the appeals would be desirable. The application shall be served on all other parties to all appeals or other matters involved, and shall include or have annexed thereto a copy of each order from which any appeals involved were taken and any findings of fact, conclusions of law and opinions relating thereto. [**Within seven days after service of the application any**] Any other party to any appeal or other matter involved may file an answer in opposition in accordance with Rule 123(b). The application and answer shall be submitted without oral argument unless otherwise ordered.

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ARTICLE II. APPELLATE PROCEDURE

CHAPTER 9. APPEALS FROM LOWER COURTS

Rule 904. Content of the Notice of Appeal.

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(c) [*Order*] **Request for transcript.** The [*order*] request for transcript [, if any,] contemplated by Rule 1911 ([*order*] request for transcript) 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 [order] request for transcript shall not affect the validity of the appeal.

* * * * *

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

Official Note: [The former requirement that the appellant swear that the appeal is not taken for the purpose of delay has been omitted. The appeal to the Commonwealth Court was governed by former Commonwealth Court Rule 20A.]

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.

[The form of the notice of appeal provided by subdivision (a) has been revised to include the required certification.]

* * * * *

The 1997 amendment changes the word "order" to "request" in order to eliminate any unintended implication that a court order is required. No court order is required to obtain a transcript of the proceedings. See Pa.R.J.A. 5000.5 and the 1997 amendment to subdivision (a) of Rule 1911.

With respect to subdivision (e), in Commonwealth v. Dugger, 506 Pa. 537, 486 A.2d 382 (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. 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 (1992); Commonwealth v. Cohen, 529 Pa. 552, 605 A.2d 1212 (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).

Rule 906. Service of Notice of Appeal.

(a) General rule. Concurrently with the filing of the notice of appeal under Rule 905 (filing of notice of appeal), the appellant shall serve copies thereof, and of any order for transcript, and copies of a proof of service showing compliance with this rule, upon:

(1) All parties to the matter in the trial court[.], including parties previously dismissed pursuant to an interlocutory order unless; (i) the interlocutory order of dismissal was reviewed by an appellate court and affirmed; or (ii) the interlocutory order of dismissal was made final under Rule 341(c) and no party appealed from that date;

(2) The judge of the court below, whether or not the reasons for the order appealed from already appear of record [.] ;

(3) The official court reporter of the trial court, whether or not an order for transcript accompanies the papers[.]; and

(4) The district court administrator or other person designated by the administrator pursuant to Rule [5000.5(a)(4)] 5000.5(a)(3) of the Pennsylvania Rules of Judicial Administration (requests and orders for transcripts).

* * * * *

Official Note: See Rule 908 (Parties on Appeal). Rule 907. Docketing of Appeal.

(a) Docketing of appeal. Upon the receipt of the papers specified in Rule 905(b) (transmission to appellate court) the prothonotary of the appellate court shall immediately enter the appeal upon the docket, note the appellate docket number upon the notice of appeal, and give written notice of the docket number assignment in person or by first class mail to the clerk of the lower court, to the appellant[,] and to the persons named in the proof of service accompanying the notice of appeal [and to the Administrative Office]. An appeal shall be docketed under the caption given to the matter in the lower court, with the appellant identified as such, but if such caption does not contain the name of the appellant, his name, identified as appellant, shall be added to the caption in the appellate court.

(b) Entry of appearance. Upon the docketing of the appeal the prothonotary of the appellate court shall note on the record as counsel for the appellant the name of [his] counsel, if any, set forth in or endorsed upon the notice of appeal, and, as counsel for other parties, counsel, if any, named in the proof of service. The prothonotary of the appellate court shall upon praecipe of any such counsel for other parties, filed within 30 days after filing of the notice of appeal, strike off or correct the record of appearances. Thereafter [an entry of appearance may be withdrawn only by leave of the appellate court] a counsel's appearance for a party may not be withdrawn without leave of court, unless another lawyer has entered or simultaneously enters an appearance for the party.

Official Note: * * *

With regard to subdivision (b) and withdrawal of appearance without leave of the appellate court, counsel may nonetheless be subject to trial court supervision pursuant to Pa.R.Crim.P. 1504 (Appointment of counsel; forma pauperis).

CHAPTER 11. APPEALS FROM COMMONWEALTH COURT AND SUPERIOR COURT PETITION FOR ALLOWANCE OF APPEAL

Rule 1112. Appeals by Allowance.

* * * * *

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

[(b)] (c) * * *

[(c)] (d) * * *

[(d)] (e) * * *

[(e)] (f) Entry of appearance.—Upon the filing of the petition for allowance of appeal the Prothonotary of the Supreme Court shall note on the record as counsel for the petitioner the name of his counsel, if any, set forth in or endorsed upon the petition for allowance of appeal, and, as counsel for other parties, counsel, if any, named in the proof of service. The Prothonotary shall upon praecipe of any such counsel for other parties, filed at any time within 30 days after filing of the petition, strike off or correct the record of appearance. Thereafter **[an entry of appearance may be withdrawn only by leave of court] a counsel's appearance for a party may not be withdrawn without leave of court unless another lawyer has entered or simultaneously enters an appearance for the party.**

Official Note: * * *

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With regard to subdivision (f) and withdrawal of appearance without leave of the appellate court, counsel may nonetheless be subject to trial court supervision pursuant to Pa.R.Crim.P. 1504 (Appointment of Counsel; Forma Pauperis).

CHAPTER 13. INTERLOCUTORY APPEALS BY PERMISSION

Rule 1311. Interlocutory Appeals by Permission.

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(b) *Petition for permission to appeal.* Permission to appeal from an interlocutory order containing the statement prescribed by 42 Pa.C.S. § 702(b) may be sought by filing a petition for permission to appeal with the prothonotary of the appellate court within 30 days after entry of such order in the lower court or other government unit with proof of service on all other parties to the matter in the lower court or other government unit and on the government unit or clerk of the lower court, who shall file the petition of record in such lower court. An application for an amendment of an interlocutory order to set forth expressly the statement specified in 42 Pa.C.S. § 702(b) shall be filed with the lower court or other government unit within 30 days after the entry of such interlocutory order and permission to appeal may be sought within 30 days after entry of the order as amended. **[The trial court must act on the application within 30 days.] Unless the trial court or other governmental unit acts on the application within 30 days after it is filed, the trial court or other governmental unit shall no longer consider the application and it shall be deemed denied.** If the petition for permission to appeal is transmitted to the prothonotary of the appellate court by means of first class mail, the petition shall be deemed received by the prothonotary for the purposes of Rule 121(a) (filing) on the date deposited in the United States mail, as shown on a U. S. Postal Service Form 3817 certificate of mailing. The certificate of mailing shall show the docket number of the matter in the lower court or other government unit and shall be either enclosed with the petition or separately mailed to the prothonotary. Upon actual receipt of the petition for permission to appeal the prothonotary of the appellate court shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this subdivision, shall constitute the date when permission to appeal was sought, which date shall be shown on the docket. The prothonotary of the

appellate court shall immediately note the appellate docket number assignment upon the petition for permission to appeal and give written notice of the docket number assignment in person or by first class mail to the government unit or clerk of the lower court, to the petitioner and to the other persons named in the proof of service accompanying the petition.

* * * * *

(d) *Entry of appearance.* Upon the filing of the petition for permission to appeal the prothonotary of the appellate court shall note on the record as counsel for the petitioner the name of **[his]** counsel, if any, set forth in or endorsed upon the petition for permission to appeal, and, as counsel for other parties, counsel, if any, named in the proof of service. The prothonotary shall upon praecipe of any such counsel for other parties, filed at any time within 30 days after filing of the petition, strike off or correct the record of appearance. Thereafter **[an entry of appearance may be withdrawn only by leave of court] a counsel's appearance for a party may not be withdrawn without leave of court, unless another lawyer has entered or simultaneously enters an appearance for the party.**

Official Note: * * *

* * * * *

The 1997 amendment to subdivision (b) provides for a deemed denial where the trial court or other governmental unit fails to act on the application within 30 days. Under such circumstances, a party may need to file a praecipe for entry of the deemed denial pursuant to Rule 301(d).

With regard to subdivision (d) and withdrawal of appearance without leave of the appellate court, counsel may nonetheless be subject to trial court supervision pursuant to Pa.R.Crim.P. 1504 (relating to Appointment of counsel; forma pauperis).

CHAPTER 15. JUDICIAL REVIEW OF GOVERNMENTAL DETERMINATIONS IN GENERAL

Rule 1501. Scope of Chapter.

* * * * *

(c) *Unsuspending statutory procedures.*—This chapter does not apply to any appeal pursuant to the following statutory provisions, which are not suspended by these rules:

- (1) Section **[135] 137** of Title 15 of the Pennsylvania Consolidated Statutes (Court to pass upon rejection of documents by Department of State).
- (2) The Pennsylvania Election Code.

* * * * *

PETITION FOR REVIEW

Rule 1513. Petition for Review.

* * * * *

(d) *Notice [of demand for evidentiary hearing] to plead.*—If under the applicable law the questions raised by the petition for review may be determined in whole or in part upon the record made before the court, the petition shall contain or have endorsed upon it a notice to plead.

* * * * *

*Official Note: * * **

The 1997 amendment to subdivision (d) remedies what had been an inconsistency between the former heading and the text of the rule.

Rule 1514. Filing and Service of the Petition for Review.

* * * * *

(d) *Entry of appearance.*—Upon the filing of the petition for review the prothonotary shall note on the record as counsel for the petitioner the name of [his] counsel, if any, set forth in or endorsed upon the petition for review, and, as counsel for other parties, counsel, if any, named in the proof of service. The prothonotary shall upon praecipe of any such counsel for other parties, filed within 30 days after filing of the petition, strike off or correct the record of appearances. Thereafter [an entry of appearance may be withdrawn only by leave of court] a counsel's appearance for a party may not be withdrawn without leave of court, unless another lawyer has entered or simultaneously enters an appearance for the party.

* * * * *

Rule 1515. Answer to Petition.

Where under the applicable law the questions raised by the petition for review may be determined in whole or in part upon the record made before the court, and the right to an evidentiary hearing has been claimed by inclusion or endorsement of a notice to plead as prescribed by Rule 1513(d) [notice of demand for evidentiary hearing] [notice to plead], any adverse party may file an answer to the petition controverting any factual allegation of the petition.

* * * * *

Rule 1532. Special and Summary Relief.

* * * * *

(b) *Summary relief.*—At any time after the filing of a petition for review in an appellate or original matter the court may on application enter judgment if the right of the applicant thereto is clear. [A party against whom judgment is entered under this subdivision may apply to open or vacate the judgment within 30 days after entry, or within such lesser time as may be fixed by the court under Rule 105 (waiver and modification of rules) after reasonable notice to the parties.]

*Official Note: * * **

Subdivision (b) of this rule is a generalization of Pa. R.Civ.P. 1098 (peremptory judgment). Cf. Pa.R.Civ.P. [No.] 1035(a) (motion for summary judgment), which is not available until after the pleadings are closed.

The 1997 amendment to subdivision (b) is analogous to the 1996 amendment to Pa.R.C.P. 1098. The deletion of the last sentence of Rule 1532(b) is intended to eliminate the requirement of filing a motion to open or vacate the order granting summary relief. Under prior practice, a party was required to file a motion to open or vacate the order granting summary relief before an appeal could be taken. An order denying an application for summary relief is not appealable as of right.

REVIEW OF DETERMINATIONS OF THE BOARD OF FINANCE AND REVENUE

Rule 1571. Determinations of the Board of Finance and Revenue.

* * * * *

(d) *Service.*—In the case of a petition for review by a taxpayer or similar party, a copy of the petition shall be served on the Board of Finance and Revenue and on the Attorney General by the petitioner in accordance with Rule 1514(c). All other parties before the Board shall be served as prescribed by Rule 121(b) (service of all papers required).

* * * * *

CHAPTER 17. EFFECT OF APPEALS; SUPERSEDEAS AND STAYS

STAY OR INJUNCTION IN CIVIL MATTERS

Rule 1734. Appropriate Security.

(a) *General rule.* For the purposes of this chapter any of the following, when deposited with the clerk, constitutes appropriate security, unless otherwise ordered pursuant to this chapter:

* * * * *

(2) Any of the following, if registered in the name of or to the order of the Commonwealth of Pennsylvania: (i) United States Treasury bills, (ii) certificates of deposit issued by a Federally-insured bank, bank and trust company, savings bank, savings association, banking association or savings and loan association having an office within this Commonwealth, (iii) irrevocable letters of credit issued by a Federally-insured bank, bank and trust company, savings bank, savings association, banking association or saving and loan association having an office within this Commonwealth. The clerk may transfer or negotiate such bills or certificates for the purposes of this chapter. [The clerk shall be entitled to receive commission or poundage with respect to such bills or certificates only when the deposit is made pursuant to Rule 1782 (security on review on tax matters).]

* * * * *

Rule 1751. Form of Bond.

A bond under this chapter may be in substantially the following form:

(Caption)

Appellant, having appealed from an order of the Court of Common Pleas of _____ County [or "of the _____ Judicial District"], entered in this matter on the ___ day of _____, 19___, and having procured the execution of this instrument for the purpose of complying with the Pennsylvania Rules of Appellate Procedure, the undersigned surety acknowledges itself bound and indebted to the Commonwealth of Pennsylvania, for the use of the persons or parties entitled thereto, in the sum of _____ dollars (\$ _____), to be paid as required by law.

[The condition of this obligation is that if the appellant shall satisfy the above-identified order, if it is affirmed or if for any reason the appeal is dismissed, or shall satisfy any modification of the order, and in either case shall pay all costs, interest

and any damages for delay that may be awarded, this obligation shall be void; but otherwise it shall remain in force.]

Upon conclusion of this matter, if the appellant satisfies the above identified order or any court order modifying or affirming that order and pays all costs, interest and damages for delay that may be awarded, this obligation shall be void; otherwise, it shall remain in force.

Date _____

(Name of Surety)

By _____
Name and Title of Authorized signatory)

* * * * *

STAY PENING ACTION ON PETITION FOR REVIEW

Rule 1782. Security on Review in Tax Matters.

* * * * *

(b) *Form of bond.* A bond under this rule may be in substantially the following form:

[Caption]

Petitioner, having sought review of an order of the Board of Finance and Revenue entered (or deemed entered) in this matter on the _____ day of _____, 19____, and having procured the execution of this instrument for the purpose of complying with the Pennsylvania Rules of Appellate Procedure, the undersigned surety acknowledges itself bound and indebted to the Commonwealth of Pennsylvania in the [sum of 120% of] amount of \$(____), which is 120% of the sum of \$____ (taxes found due) and \$(____) (penalty found due), the amount of taxes and penalty found due by the Board and remaining unpaid in this matter, to be paid as required by law.

[The condition of this obligation is that if the Petitioner shall satisfy the above-identified order, if it is affirmed or if for any reason the matter is dismissed, or shall satisfy any modification of the order, and in either case shall pay all costs, interest and any damages for delay that may be awarded, this obligation shall be void; but otherwise it shall remain in force.]

Upon conclusion of this matter, if the petitioner satisfies the above identified order or any court order modifying or affirming that order and pays all costs, interest and any damages for delay that may be awarded, this obligation shall be void; otherwise it shall remain in full force.

Date _____

(Name of Surety)

By _____
Name and Title of Authorized signatory)

* * * * *

CHAPTER 19. PREPARATION AND TRANSMISSION OF RECORD AND RELATED MATTERS

RECORD ON APPEAL FROM LOWER COURT

Rule 1911. [Order] Request for Transcript.

(a) *General rule.* The appellant shall [order] request any transcript required under this chapter in the manner and make any necessary payment or deposit therefor in the amount and within the time prescribed by Rules 5000.1 et seq. of the Pennsylvania Rules of Judicial Administration (court reporters).

* * * * *

Official Note: The 1997 amendment changes the word "order" to "request" in order to clarify that an order of court is not necessary. [The order under this rule constitutes the "formal request" under] See Pa.R.J.A. 5000.5 and 1997 amendment to Rule 904(c). If a request for a transcript on appeal is made in open court the appellant must nevertheless prepare and serve a written order for transcript, so that the district court administrator and the appellate court are aware of the order. Local rules contemplated by Pa.R.J.A. 5000.6 should be consulted as to the officer or other person who is to receive and hold any security deposit (up to one-half the estimated charge) required by the court reporter. It is the responsibility of the appellant to contact the court reporter to ascertain whether a deposit will be required and the amount thereof, and to make the deposit. The court reporter is under no obligation to proceed in the absence of a required deposit, and under Pa.R.J.A. 5000.11(b) is under no obligation to certify and file the transcript in the absence of full payment or adequate security therefor. While delay in payment, and any resulting delay in certification and filing of the transcript, does not automatically affect the validity of the appeal, under Subdivision (d) the appellate court may impose other sanctions in an appropriate case. Compare Rule 902 (manner of taking appeal) and Rule 2101 (conformance with requirements). This rule and Rule 1922 are "another arrangement for delivery" under Pa.R.J.A. 5000.11(a), since it is undesirable for the official appellate transcript to pass outside of the control of court officials.

CHAPTER 21. BRIEFS AND REPRODUCED RECORD CONTENT OF BRIEFS

Rule 2132. References in Briefs to the Record.

(a) *General rule.* References in the briefs to parts of the record appearing in a reproduced record filed with the brief of the appellant (see Rule 2154(b) (large records)) shall be to the pages in the reproduced record where those parts appear, e.g.: "(R. 26a)." If the record is reproduced after the briefs are [filed] served in advance typewritten or page proof form (see Rule 2185(c) (definitive copies)), the brief may also contain references to the pages of the parts of the original record, e.g.: "(Tr. 279-280; R. 26a-27a)".

* * * * *

Rule 2136. Briefs in Cases Involving Cross Appeals.

If a cross appeal is filed, the plaintiff or moving party in the court or other government unit below shall be deemed the appellant for the purposes of this chapter and Chapter 23 (sessions and argument), unless the parties otherwise agree or the appellate court otherwise orders. Where the nature of the matter is such that the identity of the appellant for the purposes of this chapter and Chapter 23 is not readily apparent the prothonotary of the appellate court shall designate the appellant for the purposes of this chapter and Chapter 23 when giving notice under Rule 1934 (filing of the record). The brief of

the appellee shall contain the issue and argument involved in [his] the cross appeal as well as the answer to the brief of the appellant, and the appellant may file a brief in answer to the brief of the appellee on the cross appeal.

Official Note. Ordinarily there will be three briefs in a case involving a cross appeal: appellant's main brief, appellee's main brief, and appellant's reply brief directed to the issues on the cross appeal. However, [if the case is submitted without oral argument,] Rule 2113 permits a fourth brief: appellee's reply to appellant's answer on the cross appeal.

Rule 2140. Brief on Remand or Following Grant of Reargument or Reconsideration.

(a) *General rule.* Following a remand from the Supreme Court to the Superior Court or the Commonwealth Court, or an Order allowing reargument or reconsideration by any appellate court, unless otherwise directed by the Court having jurisdiction of the case, each party shall, within the time period specified below, either refile the brief previously filed together with a supplemental brief if desired, or prepare and file a substituted brief in accordance with this Rule.

(b) [**Caption**] *Cover on brief.* The brief (whether new or refiled) shall be appropriately [**captioned**] titled to reflect the current status of the case (e.g., brief on remand, supplemental brief on remand, brief on reargument, supplemental brief on reargument).

* * * * *

CONTENT OF REPRODUCED RECORD

Rule 2153. Docket Entries and Related Matter.

* * * * *

[**Official Note:** Based on former Supreme Court Rules 42 and 43; former Superior Court Rules 34 and 35, and (in the case of Subdivision (a)) former Commonwealth Court Rule 87, without change in substance. As to the type of matters contemplated by Subdivision (b) see *Steel v. Levy*, 282 Pa. 338, 343, 127 Atl. 766, 768 (1925).]

Rule 2154. Designation of Contents of Reproduced Record.

* * * * *

Explanatory Note—1979

The principal criticism of the new Appellate Rules has been the provisions for deferred preparation of the reproduced record, and the resulting procedure for the filing of advance copies of briefs (since the page citations to the reproduced record pages are not then available) followed by the later preparation and filing of definitive briefs with citations to the reproduced record pages. It has been argued that in the typical state court appeal the record is quite small, with the result that the pre-1976 practice of reproducing the record in conjunction with the preparation of appellant's definitive brief is entirely appropriate and would ordinarily be followed if the rules did not imply a preference for the deferred method. The Committee has been persuaded by these comments, and the rules have been redrafted to imply that the deferred method is a secondary method particularly appropriate for longer records.

[**Also, the number of briefs to be filed under the in forma pauperis procedure has been increased from ten to 15 in the Commonwealth and Superior Courts.]**

FILING AND SERVICE

Rule 2185. Time for Serving and Filing Briefs.

(a) *General rule.* The appellant shall serve [his] appellant's brief not later than the date fixed pursuant to Subdivision (b) of this rule, or within 40 days after the date on which the record is filed, if no other date is so fixed. The appellee shall serve [his] appellee's brief within 30 days after service of [the] appellant's brief [of the appellant] and reproduced record if proceeding under Rule 2154(a). A party may serve a reply brief permitted by these rules within 14 days after service of the preceding brief but, except for good cause shown, a reply brief must be served and filed so as to be received at least three days before argument. Except as prescribed by Rule 2187(b) (advance text of briefs) each brief shall be filed not later than the last day fixed or pursuant to this rule for its service.

* * * * *

Official Note: [Former Supreme Court Rule 57 and former Superior Court Rule 47 provided that the brief of the appellant was to be filed within 60 days after the issuance of the writ of certiorari. Former Commonwealth Court Rule 32A provided that the brief of the appellant was to be filed within 30 days of mailing of notice of the filing of the record. To avoid paperwork relating to continuances because the record is not ready, the time under these rules commences to run from the filing of the record. The time for filing the brief of the appellee is the same as under the prior practice, except that formerly only 25 days was allowed in the Commonwealth Court.

Subdivision (b) is necessary because approximately one year can elapse under existing practices before an appellate court hears a case filed in the Middle or Harrisburg districts, and briefing the case far in advance permits intervening decisions and legislation to render the briefs stale.]

Unlike the provision for filing other papers, Rule 121(a) provides "paperbooks shall be deemed filed on the day of mailing if first class mail is utilized." "Paperbooks" are defined in Rule 102 as briefs and reproduced records, but "the term does not include applications for reconsideration of denial of allowance of appeal under Rule 1123(b) (reconsideration) or applications for reargument under Chapter 25 (post-submission proceedings)."

Rule 2186. Time for Serving and Filing Reproduced Record.

(a) *General rule.* The reproduced record shall be served and filed not later than:

(1) the date of service of the appellant's brief [of the appellant]; or

(2) [51 days after the date of service of the brief of appellant in advance form] 21 days from the date of service of the appellee's brief in advance form, if the record is being reproduced pursuant to Rule 2154(b) (large records).

* * * * *

Official Note: Former Supreme Court Rule 57, former Superior Court Rule 47 and former Commonwealth Court Rule 32A provided that the appellant was to serve and file the reproduced record with his brief, which continues

to be the rule under Paragraph [(a)(2)] (a)(1) of this rule. The delayed filing of the reproduced record results in the designation and reproduction of the minimum amount of the original record since the parties will then know exactly the portions of the original record mentioned in their briefs and may accordingly limit the amount of record reproduced.

Rule 2187. Number of Copies to be Served and Filed.

(a) *General rule.* [Twenty-five copies of each definitive brief and of each reproduced record shall be filed with the Prothonotary of the Supreme Court, and fifteen copies of each definitive brief and of each reproduced record shall be filed with the Prothonotary of the Commonwealth Court and ten copies shall be filed with the Superior Court, unless the appellate court by order in a particular case shall direct a lesser number, and two copies of each definitive brief and of each reproduced record shall be served on each party separately represented.] Unless the appellate court directs otherwise, each party shall file:

- (1) 25 copies of each definitive brief and reproduced record in the Supreme Court;
- (2) 15 copies of each definitive brief and eight copies of each reproduced record in the Commonwealth Court;
- (3) 7 copies of each definitive brief and reproduced record in the Superior Court.

Each party shall serve 2 copies of its definitive brief and reproduced record on every other party separately represented.

* * * * *

(c) *In forma pauperis.* [A party who has been permitted to proceed in forma pauperis shall file fifteen copies of his brief with the prothonotary of the appellate court and shall serve one copy on each party separately represented.] Unless the appellate court directs otherwise, a party who has been permitted to proceed in forma pauperis shall file:

- (i) 15 copies of each definitive brief with the Supreme Court;
- (ii) 15 copies of each definitive brief with the Commonwealth Court;
- (iii) 7 copies of each definitive brief with the Superior Court.

Each party who has been permitted to proceed in forma pauperis shall serve one copy of each definitive brief on every other party separately represented.

* * * * *

**CHAPTER 23. SESSIONS AND ARGUMENT
SCHEDULING OF ARGUMENT**

Rule 2311. Submission on Briefs.

* * * * *

(b) *Post conviction [hearing] relief cases.* All parties shall submit post conviction [hearing] relief cases on the briefs unless otherwise directed by the court on its own motion or upon application.

* * * * *

Rule 2313. Advancement or Continuance.

* * * * *

Official Note: [Based on former Supreme Court Rules 27 and 72, former Superior Court Rules 16 and 17, and former Commonwealth Court Rule 71. The omitted procedural provisions are covered by Rule 123 (applications for relief). Obviously, when all parties join in an application, the court may act upon it without waiting the seven-day period for answer. The Supreme Court formerly permitted two automatic extensions of time for filing briefs (usually resulting in corresponding continuance to a later argument list) by consent of the parties; the Superior Court formerly permitted one such automatic extension. Generally the only justifiable basis for such automatic extensions was the difficulty in securing the preparation and transmission of the original record. Since under Rule 2185 (time for serving and filing briefs) the usual briefing schedule commences no earlier than the filing of the record in the appellate court, there is no longer any need for the automatic extension machinery.

The rule does not, as did former Supreme Court Rule 72 and former Superior Court Rule 17, contain any specific deadline for the filing of an application for continuance. Obviously, the later the party files such an application the greater the risk (1) that the court will not be able to act upon it in time, or (2) if it is denied, that the unsuccessful applicant will find it difficult or impossible to comply with these rules, with the adverse consequences which flow therefrom.

In the Supreme Court, continuances are handled by the Chief Justice.] Rule 3305 provides that in the Supreme Court, the prothonotary may dispose of motions generally relating to calendar control. In the Superior Court, continuances are handled by the presiding judge of the panel. In the Commonwealth Court, continuances are handled by the president judge or the duty judge. In each [Appellate] [Court] appellate court, the application is to be submitted to the prothonotary and not to an individual judge of the appellate court.

**CHAPTER 25. POST-SUBMISSION PROCEDURES
APPLICATION FOR REARGUMENT**

Rule 2543. Considerations Governing Allowance of Reargument.

Reargument before an appellate court is not a matter of right, but of sound judicial discretion, and reargument will be allowed only when there are compelling reasons therefor. An application for reargument is not permitted from a final order of an intermediate appellate court under: (1) the Pennsylvania Election Code; or (2) the Local Government Unit Debt Act or any similar statute relating to the authorization of public debt.

Official Note: * * *

* * * * *

The 1997 amendment clarifies that applications for reargument are not to be filed in matters arising under the Pennsylvania Election Code, the Act of June 3, 1937, P. L. 1333, 25 P. S. §§ 2600—3591, [et seq.,] or the Local Government Unit Debt Act, 53 Pa.C.S. §§ 8001 - 8271. [et seq.] Matters

involving elections and authorization of public debt require expeditious treatment. See, e.g., Rule 1113(c).

Rule 2546. Transmission of Papers to and Action by the Court.

* * * * *

Official Note: See Rule 2140 regarding the filing and content of briefs following the grant of reargument or reconsideration.

Where there is a deemed denial of an application for reargument, a party seeking a further appeal must follow subdivision (d) of Rule 301 and praecipe for entry of the deemed denial on the docket, if the prothonotary has failed to do so.

**CHAPTER 33. BUSINESS OF THE SUPREME COURT
REVIEW OF SPECIAL PROSECUTIONS OR INVESTIGATIONS**

Rule 3331. Review of Special Prosecutions or Investigations.

(a) *General rule.* Any of the following orders shall be subject to review pursuant to Chapter 15 (judicial review of governmental determinations):

* * * * *

[(5) An order enforcing or refusing to enforce a subpoena issued by or otherwise affecting the existence or operation of the Pennsylvania Crime Commission existing under the Pennsylvania Crime Commission Act (71 P. S. § 1190.1 et seq.).

(6)](5) * * *

* * * * *

Official Note: This rule is intended to provide a simple and expeditious method for Supreme Court supervision of special prosecutions and investigations, e.g. orders of the supervising judge of an investigating grand jury, findings of contempt (whether civil or criminal) by witnesses called before such a grand jury, etc. Rule 702([b]c) (supervision of special prosecutions or investigations) and 42 Pa.C.S. § 722(5) (direct appeals from courts of common pleas) vest jurisdiction over such matters in the Supreme Court. However, this rule is not applicable to review of investigating grand jury issues which collaterally arise in plenary criminal prosecution initiated by complaint, information or indictment. Rule 1512(b)(3) (special provisions) requires that review be sought within ten days. Essentially the procedure is analogous to the review of a bail order under Rule 1762 (release in criminal matters). The last brief is due not later than 21 days after the entry of the order sought to be reviewed. There is no delay for certification of the record, oral argument is ordinarily not available, and the matter is ready for final disposition by the Supreme Court immediately upon completion of the briefing schedule. The term "investigating grand jury" in Subdivision (a) includes a "multicounty investigating grand jury" convened under 42 Pa.C.S § 4544 (convening multicounty investigating grand jury).

The "independent grounds" referred to in Subdivision (d) include grounds for relief in the nature of mandamus, prohibition, etc. and cases where the order is reviewable under the standards of 42 Pa.C.S. § 702(b) (interlocutory appeals by permission). Failure to petition for review

under this rule from an interlocutory order will ordinarily not constitute a waiver of objections to the order since, except as prescribed by Rule 311([d]g)(1)(ii) (waiver of objections), there is no requirement under these rules that a party seek available interlocutory relief.

Under Rule 1702(a) (stay ancillary to appeal) the Supreme Court or a justice thereof will not entertain an application for relief under Rule 1781 (stay pending action on petition for review) in connection with a special prosecution or investigation order until a petition for review has been filed under this rule.

CHAPTER 51. PROVISIONS OF LAW SAVED AND ABROGATED

(Editor's Note: Rule 5101 is rescinded and replaced with the following. The text appears at 210 Pa. Code pages 51-1—51-4, serial pages (188427) to (188430).)

Rule 5101. Statutes and Other Authorities Suspended or Abrogated.

(a) The Statute of 13 Edw. 1, c. 31 (3 Binney 606) (1 Ruffhead 99) is hereby suspended absolutely insofar as it is in force in this Commonwealth as supplied by Rule 1923 of these rules.

(b)

(1) The practice and procedure provided in all former statutes governing appellate procedure within the scope of these rules, which have been repealed effective June 27, 1978 or June 27, 1979 by the Judiciary Act Repealer Act (JARA), act of April 28, 1978 (P. L. 202, No. 53), and which are now part of the common law of this Commonwealth by virtue of Section 3(b) of JARA (42 P. S. § 20003(b)) are hereby abolished and shall not continue as part of the common law of this Commonwealth.

(2) With respect to all statutes relating to practice and procedure, repeal of which will become effective June 27, 1980 as provided by Section 4(b) of JARA (42 P. S. § 20004(b)), these rules are a general rule within the meaning of Section 3(b) of JARA and the practice and procedure provided in those statutes, so far as relates to appellate procedure within the scope of these rules, shall not continue as part of the common law of this Commonwealth.

(c) These rules are intended to provide a complete and exclusive procedure relating to appellate practice and procedure and:

(1) Except as provided in Rule 5102 (statutes saved from suspension), all statutes relating to practice and procedure finally enacted prior to January 1, 1981 are hereby suspended to the extent inconsistent with these rules.

(2) All local rules of court relating to appellate practice and procedure are hereby abrogated, except where these rules expressly authorize the adoption of a local rule of court supplementary to a provision of these rules applicable to appeals generally.

Rule 5102. Statutes Saved from Suspension.

* * * * *

(b) *Other statutes.*—These rules shall not be deemed to suspend or affect:

* * * * *

[(5) Last sentence of section 423 of the act of June 13, 1967 (P. L. 31, No. 21), known as the Public Welfare Code (62 P. S. § 423).]

* * * * *

(6) 15 Pa.C.S. § [135] 137 (Commonwealth Court to pass upon rejection of documents by Department of State).

(7) **Rescinded.** 20 Pa.C.S. § 746 (money paid into court), repealed by the Judiciary Act Repealer Act effective June 27, 1980.

* * * * *

[Pa.B. Doc. No. 97-1138. Filed for public inspection July 18, 1997, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Joint General Court Regulation; Trial Division and Orphans' Court Division; No. 97-1

Procedure for Approval of Compromises Involving Minors, Incapacitated Persons, Wrongful Death and Survival Actions

In order to fully implement a comprehensive procedure dealing with the settlement of cases involving Minors, Incapacitated Persons, Wrongful Death and Survival Actions in light of the experience gathered through the implementation of Joint General Court Regulation No. 93-2 issued by the Administrative Judges of the Trial and Orphans' Court Divisions, *It Is Hereby Ordered and Decreed* that the said Joint General Court Regulation is rescinded and consistent with Pa.R.C.P. No. 2039, 2064 and 2206 and Phila. Civ. R. No. ★2039.1 and ★2206, the following procedure shall be utilized in approving Petitions for settlements involving minors, incapacitated persons, wrongful death and survival actions:

I. Minor or Incapacitated Person's Compromises

(a) *Situs of the Filing of the Petition.* Petitions for Approval of Settlements in cases where minors or incapacitated persons have an interest shall be filed with the Prothonotary. The Prothonotary shall forward the Petition to the office of Civil Administration where it will be held until after the expiration of the Response period whereupon, by designation of the Administrative Judge of the Trial Division, and by agreement of the Administrative Judge of the Orphans' Court Division, the Petition will be assigned to a Judge of the Orphans' Court Division, as directed by the Administrative Judge of the Orphans' Court Division, for the entry of an appropriate final appealable Order. The Order will be returned to the office of Civil Administration for docketing and mailing to all interested parties.

(b) *Contents of Petition.* The Petition shall be substantially in the form set forth hereunder, and shall:

(1) set forth the date of birth and social security number of the minor plaintiff or incapacitated person, the names and addresses of the minor's parents, the name of the plaintiff's guardian and the appointing court, the address of the plaintiff, and a factual recitation of the salient facts which form the bases of the cause of action;

(2) state the terms of the settlement, including the specific provisions of any annuity, if applicable, including the credit rating of the entity which assumes responsibility for future payments, the present cost of the annuity, periodic and lump sum payments, and otherwise comply with Pa.R.C.P. No. 2039 and 2064;

(3) state whether a lien or claim has been raised on behalf of any medical supplier, including the Department of Public Welfare;

(4) contain or be accompanied by the following:

(a) a written report of a physician setting forth the present condition of the minor or incapacitated person;

(b) a statement under oath by the guardian and, if appropriate, the parent(s), certifying (i) the present physical or mental condition of the minor or incapacitated person, and (ii) approval of the proposed settlement and distribution thereof;

(c) a statement of the professional opinion of counsel as to the reasonableness of the proposed settlement and the basis for such opinion; and

(d) if there is to be an allocation between parents and children or incapacitated persons, or among children or other parties, the amounts allocated to each party and specific reasons for such allocation must be set forth. In the event more than one plaintiff is involved, whether minor, adult or incapacitated, Petitioner must set forth the amount each plaintiff is to receive and shall provide justification for the requested allocation;

(e) in the event that a minor is sixteen (16) years of age or older, his or her written approval of the proposed settlement and distribution thereof.

(f) a proposed Order.

(c) *Appointment of a Guardian.* Pennsylvania Rules of Civil Procedure No. 2028 and 2053 require that the minor or incapacitated person be represented in the action by a guardian, when the minor or incapacitated person is a party to the action, who is to be duly appointed by the appropriate Orphans' Court Division or Court. In the event the circumstances of an individual case require the appointment of a guardian ad litem, the guardian ad litem shall submit a statement concerning his/her opinion as to the reasonableness of the proposed settlement and requested allocation of the gross settlement proceeds.

(d) *Proof of Deposit and Compliance with Court Order.* Within sixty (60) days of the entry of a final order, counsel shall file an Affidavit with Civil Administration certifying compliance with the Court Order, and shall submit proof of deposit in the form of a photocopy of the restricted certificate of deposit or bankbook. The Affidavit shall be substantially in the form set forth hereunder.

II. Petitions for Approval of Settlements in Wrongful Death/Survival Actions.

(a) *When Required.*

(1) *Survival Action.* Court approval of settlements in survival actions is always required.

(2) *Wrongful Death.* If the Complaint only raised a Wrongful Death claim, court approval of settlements shall be required only where a minor or incapacitated person has an interest.

(3) *Combined Wrongful Death and Survival Actions.* If the Complaint raised Wrongful Death and Survival claims Court approval is required as to allocation between the categories notwithstanding the absence of minors or

incapacitated persons, even if plaintiff requests that the entire proceeds be allocated entirely to the Wrongful Death claim.

(b) *Situs of the Filing of the Petition.* Petitions for Approval of Settlements in Wrongful Death or Survival Actions shall be filed with the Prothonotary. The Prothonotary shall forward the Petition to Civil Administration where it will be held until after the expiration of the Response period whereupon, by designation of the Administrative Judge of the Trial Division and by agreement of the Administrative Judge of the Orphans' Court Division, it will be assigned to a Judge of the Orphans' Court Division, as directed by the Administrative Judge of the Orphans' Court Division, for the entry of an appropriate final appealable Order. The Order will be returned to the office of Civil Administration for docketing and mailing to all interested parties.

(c) *Contents of Petition.* The Petition shall be substantially in the form set forth hereunder, and shall:

(1) set forth the date of death of plaintiff-decedent, the name of the personal representative of the estate and the county of appointment. A copy of the Decree of the Register must be attached;

(2) state the terms of the settlement, including the specific allocation as between Wrongful Death and Survival, name the Wrongful Death beneficiaries and the amount each is to receive, name the intestate heirs of Plaintiff-decedent as of the date the cause of action arose, state reasons why the settlement and allocation are reasonable, and otherwise comply with Pa.R.C.P. No. 2206. In the event a portion of the settlement is payable through the purchase of an annuity, set forth the credit rating of the entity which assumes responsibility for future payments, the present cost of the annuity, as well as the periodic and lump sum payments.

(3) show compliance with Pa.R.C.P. No. 2205 and Phila. Civ. R. No. ★2205, and set forth the name, relationship and address of plaintiff-decedent's intestate heirs who must be served with a copy of the Petition (as required by 20 Pa.C.S. § 2101, et seq.);

(4) identify any other parties who may have a possible interest in plaintiff-decedent's estate, and list unpaid claims raised, or which are outstanding, in the decedent's estate;

(5) state whether a lien or claim has been raised on behalf of any medical supplier, including the Department of Public Welfare; and

(6) attach a proposed Order.

(d) *Proof of Deposit and Compliance with Court Order.* Within sixty (60) days of the entry of a final order, counsel shall file an Affidavit with Civil Administration, substantially in the form set forth hereunder, certifying compliance with the Court Order and shall submit proof of deposit in the form of a photocopy of the restricted certificate of deposit or bankbook. The Affidavit shall be substantially in the form set forth hereunder.

III. Petitions for Allowance

(a) Petitions for Allowance in those cases where a guardian has been appointed by the Orphans' Court Division of Philadelphia County shall be filed directly with such Division. A copy of the Order approving the settlement shall be attached to the Petition.

(b) Petitions for Allowance in those cases where a guardian has been appointed by the Orphans' Court Division of a county other than Philadelphia, or by a

different state, shall be filed directly with such appointing Court. A copy of the Order approving the settlement shall be attached to the Petition.

(c) Petitions for Allowance in those cases where a guardian has not been appointed shall be filed with the Orphans' Court Division of the appropriate county or other state. A copy of the Order approving the settlement shall be attached to the Petition.

IV. Inconsistency with Phila. Civ. R. No. 2039.1, 2039.2 and 2206.

To the extent the terms of Phila. R. Civ. P. No. 2039.1, 2039.2 and 2206 differ from the terms provided in the within Joint General Court Regulation, the terms of the said rules are rescinded.

This Joint General Court Regulation is promulgated in accordance with the April 11, 1986, Order of the Supreme Court of Pennsylvania, Eastern District, No. 55 Judicial Administration, Docket No. 1, Phila. Civ. R. ★51 and Pa.R.C.P. 239, and shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*. As required by Pa.R.C.P. 239, the original Joint General Court Regulation shall be filed with the Prothonotary in a docket maintained for General Court Regulations issued by the Administrative Judge of the Trial Division, and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Civil Procedural Rules Committee. Copies of the Regulation shall also be submitted to Legal Communications, Ltd., *The Legal Intelligencer*, Jenkins Memorial Law Library and the Law Library for the First Judicial District.

JOHN W. HERRON,
Administrative Judge, Trial Division
PETRESE B. TUCKER,
Administrative Judge, Orphans' Court Division

**IN THE COURT OF COMMON PLEAS OF
PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT**

PLAINTIFF : CIVIL TRIAL DIVISION
:
v. : TERM, 19
:
DEFENDANT : NO:

**PETITION FOR LEAVE TO SETTLE OR
COMPROMISE MINOR'S ACTION¹**

To The Honorable, the Judges of the Said Court:

The Petition of _____, a minor, by his Guardian (see Pa.R.C.P. 2028), by his attorney, _____, Esquire respectfully requests:

- 1. Petitioner is (see Pa.R.C.P. 2026): _____ .
- 2. The minor was born on _____, and his/her social security number is _____.
- 3. The minor resides with _____ at the following address: _____ .
- 4. A guardian (was) (was not) appointed for the minor as follows: _____ . A copy of the Order is attached.
- 5. The minor's mother is _____ who resides at the following address: _____
- 6. The minor's father is _____ who resides at the following address: _____ .

7. The defendant is _____ who resides or whose principal place of business at all relevant times was _____

8. On _____ the minor sustained the following injuries at the following location (set forth in detail): _____

(If additional space is needed, please continue on separate page.)

9. A Complaint was filed against defendant(s) as follows: _____

10. Attached hereto is a report by Dr. _____ dated _____ which sets forth the present condition of the minor.

11. Attached hereto is a statement, under oath, of the minor's parents and/or guardian and/or guardian ad litem certifying the physical and/or mental condition of the minor, as well as the parents' and/or guardian's and/or guardian ad litem's approval of the proposed settlement and distribution.

12. Attached hereto is the written approval of the proposed settlement and distribution by the minor, who is sixteen (16) years of age or older.

13. The following settlement has been proposed:²

(If additional space is needed, please continue on separate page.)

14. Counsel is of the professional opinion that the proposed settlement is reasonable due to the following:

(If additional space is needed, please continue on separate page.)

15. Counsel has incurred the following expenses for which reimbursement is sought (please set forth in detail)

(If additional space is needed, please continue on separate page.)

16. The following costs have been incurred by or on behalf of the minor and must be paid from the proceeds of the settlement: _____

(If additional space is needed, please continue on separate page.)

17. The Department of Public Welfare, or any other entity, does (not) have a claim or lien against the plaintiff(s) as follows _____

(If additional space is needed, please continue on separate page.)

18. Counsel requests a fee in the sum of \$ _____ which is _____% per cent of the net settlement payable to the minor. A copy of the retainer agreement is attached.

19. Counsel (has) (has not) and (will) (will not) receive collateral payments as counsel fees for representation involving the same matter from third parties (i.e. subrogation).

20. The net settlement payable to the minor (after deduction of costs and attorneys fees) is \$ _____ .

WHEREFORE, Petitioner requests that he/she be permitted to enter into the settlement recited above and that the Court enter an Order of Distribution³ as follows:

- a. To _____ \$ _____
Reimbursement for Costs
- b. To _____ \$ _____
- c. To _____ \$ _____
Counsel Fee
- d. To: Adult Plaintiff(s) \$ _____
(if applicable)
- e. To _____, a minor,⁴ \$ _____
in restricted accounts not to be withdrawn before majority or upon prior leave of Court.

OR

- e. To _____, the \$ _____
Guardian of the Estate of _____,
A Minor, appointed or to be appointed
by the Orphans' Court of _____
County, after posting appropriate
security

Name of Attorney
Attorney for Petitioner

VERIFICATION

I, _____, am the Petitioner in this action and hereby verify that the statements made in the foregoing Petition to Settle or Compromise Minor's Action are true and correct to the best of my knowledge, information and belief.

I understand that the statement in said Petition are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

DATE: _____

PETITIONER

¹ In the event the Petition involves an incapacitated Person, appropriate changes are to be made. See Pa.R.C.P. 2051, et seq.

² Phila. Civ. R. ★2039.1(D)(3)(e) provides that if there is to be an allocation between parents and children or incapacitated persons or among children or other parties, the amounts allocated to each party and specific reasons for such allocation must be set forth. Additionally, if more than one plaintiff is involved, whether minor, adult or incapacitated, Petitioner must set forth the amount each is to receive and shall provide justification for the requested allocation. In the event a portion of the settle-

ment is payable through the purchase of an annuity, set forth the credit rating of the entity which assumes responsibility for future payments, the present cost of the annuity, as well as the periodic and lump sum payments.

³ Counsel is cautioned to specifically provide the requested distribution. Requests that distribution be "as per the attached Order" are not acceptable.

⁴ Counsel is cautioned that the restricted account must be set up in the name of the minor only (not in the name of the parent as guardian for the minor). See Pa.R.C.P. 2039(b)(2).

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY FIRST JUDICIAL DISTRICT

: CIVIL TRIAL DIVISION
:
:
: TERM, 19
:
:
: No.

ORDER APPROVING SETTLEMENT AND ORDER FOR DISTRIBUTION

AND NOW, this _____ day of _____, 19____, upon consideration of the Petition For Leave to Compromise A Minor's Action, filed _____ it is hereby ORDERED and DECREED that Petitioner is authorized to enter into a settlement with Defendant(s) _____ in the gross sum of _____ (\$ _____) Dollars. Defendant(s) shall forward all settlement drafts or checks to Petitioners' counsel for proper distribution.

IT IS FURTHER ORDERED and DECREED that the settlement proceeds be allocated as follows:

1. To: Minor Plaintiff(s)

NAME	DATE OF BIRTH	SOC. SEC. #	
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

2. To: Adult Plaintiff(s)

_____	\$ _____
_____	\$ _____

IT IS FURTHER ORDERED and DECREED that the settlement proceeds be distributed as follows:

1. Minor Plaintiff⁵

NAME	DATE OF BIRTH	SOC. SEC. #	
_____	_____	_____	\$ _____

a. To: _____, Esquire \$ _____
Reimbursement Costs

b. To: _____ \$ _____

c. Costs to: _____, Esquire \$ _____
Counsel Fees

d. The balance, the sum of \$ _____ payable to _____, a minor, shall be distributed as follows:⁶

OPTION 1

To: _____, Guardian \$ _____ of the Estate of _____, A minor; provided, however, that no payment shall be made to the guardian until the guardian has posted additional security as required by the Orphans' Court Division of _____ County pursuant to 20 Pa.C.S. § 5121, et seq. An appropriate Petition shall be filed with the Orphans' Court within thirty (30) days.

OPTION 2

Counsel is hereby authorized to execute all documentation necessary to purchase saving certificate(s), from federally insured banks or savings institutions having an office in Philadelphia County, in the sum of \$ _____, each not to exceed the insured amount, with the funds payable to the minor upon majority. The certificate shall be titled and restricted as follows:

_____, a minor, not to be redeemed except for renewal in its entirety, not to be withdrawn, assigned, negotiated, or, otherwise alienated before the minor attains majority, except upon prior Order of Court.

Counsel shall open a savings account in the sum of \$ _____ in the name of the minor. The savings account shall be titled and restricted as follows:

_____, a minor, not to be withdrawn before the minor attains majority, except for the payment of city, state, and federal income taxes on the interest earned by the savings certificate and savings account, or upon prior Order of Court.

2. Adult Plaintiff⁷

The portion of the settlement payable to _____, an Adult Plaintiff named in the Complaint, shall be distributed as follows:

To: _____, Esquire \$ _____
Reimbursement of Costs

To: _____ \$ _____
Costs

To: _____, Esquire \$ _____
Counsel Fees

To: _____ \$ _____
Plaintiff

Pursuant to Phila. Civ. R. ★2039.1(I), counsel shall file with the office of Civil Administration within sixty (60) days from the date of this final Order, proof of the establishment of the accounts as required herein, by Affidavit from counsel certifying compliance with this Order. Counsel shall attach to the Affidavit a copy of the Certificate of Deposit and/or bank account containing the

required restrictions.

BY THE COURT:

_____ J.

ORPHANS' COURT DIVISION

⁵ The share of each minor Plaintiff shall be separately distributed.

⁶ In the event a portion of the settlement is payable through the purchase of an annuity, set forth the credit rating of the entity which assumes responsibility for future payments, the present cost of the annuity, as well as the periodic and lump sum payments.

⁷ The share of each adult plaintiff shall be separately distributed.

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY CIVIL TRIAL DIVISION

_____ : TERM, 19
: :
v. : :
: :
: : NO:

AFFIDAVIT

I, _____, Esquire, hereby state and affirm that I have complied with the order issued on _____ by the Honorable _____ as follows:

Copies of bank accounts are attached hereto.

I verify that the statements in this Affidavit are made subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities.

DATE: _____, Esquire, Attorney for Petitioner

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY FIRST JUDICIAL DISTRICT CIVIL TRIAL DIVISION

_____ : TERM, 19
: :
: :
: : NO:

PETITION TO SETTLE WRONGFUL DEATH AND SURVIVAL ACTIONS

TO THE HONORABLE, THE JUDGES OF THE SAID COURT:

The Petition of _____, Administrator/Executor of the Estate of _____, Deceased, by his attorney, _____, Esquire, respectfully requests:

1. Petitioner is _____ who was appointed Administrator/Executor of the Estate of _____, Deceased, on _____, 19____, by the Register of Wills of _____ County. A copy of the Decree of the Register is attached.

2. The plaintiff decedent died on _____ as a result of: [set forth relevant information describing

the underlying negligence or cause of action as required by Phila. Civ. R. ★2206(D)]

(If additional space is needed, please continue on separate sheet).

3. Notice of the institution of the action as required by Pa.R.C.P. 2205 and Philadelphia Civ. R. ★2205 was given on _____ to the following individuals:

NAME	ADDRESS:
_____	_____
_____	_____
_____	_____

4. Pursuant to Phila. Civ. R. ★2206(B) Petitioner has served a copy of this Petition on the intestate heirs⁸ of plaintiff decedent (as provided in 20 Pa.C.S. § 2101 et seq.) who are as follows:

NAME	RELATIONSHIP	ADDRESS
_____	_____	_____
_____	_____	_____
_____	_____	_____

5. Pursuant to Phila. Civ. R. ★2206(B) Petitioner has served a copy of this Petition on the following parties who may have a possible interest:

NAME	RELATIONSHIP	ADDRESS
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. Decedent (did (did not) have a Will. A copy is attached.

7. The following unpaid claims⁹ have been raised and/or are outstanding in the decedent's estate:

CREDITOR	AMOUNT DUE
_____	_____
_____	_____
_____	_____

8. A Complaint was filed against defendant(s) as follows: _____

_____ .

9. The following settlement has been proposed¹⁰: _____

(If additional space is needed, please continue on a separate page).

10. Counsel is of the professional opinion that the proposed settlement is reasonable due to the following (state the reasons why in the professional opinion of counsel the settlement is proper):

(If additional space is needed, please continue on separate page).

11. Petitioner is of the opinion that the proposed settlement is reasonable.

12. Counsel has incurred the following expenses for which reimbursement is sought (Please set forth in detail):

(If additional space is needed, please continue on separate page).

13. Counsel requests counsel fees in the amount of \$_____ which represents _____% of the net proceeds of the settlement.

14. Petitioner requests allocation of the net proceeds of the settlement (after deduction of costs and attorneys fees) as follows:

- a. Wrongful Death Claim \$_____
- b. Survival Claim \$_____

15. The reason for the requested allocation are as follows:

(If additional space is needed, please continue on a separate page).

16. Pursuant to the Wrongful Death Statute (42 Pa.C.S. § 8301), the beneficiaries of the Wrongful Death Claim, and the proportion of their interest, are as follows:

NAME	AMOUNT DUE
_____	_____
_____	_____

17. The pecuniary loss suffered by the beneficiaries listed in Paragraph 15 is as follows:

(If additional space is needed, please continue on a separate page).

WHEREFORE, Petitioner requests that he/she be permitted to enter into the settlement recited above, and that the Court enter an Order of Distribution¹¹ as follows:

- a. To: _____ \$
Reimbursement for Costs
- b. To: _____ \$
Costs
- c. To: _____ \$
Counsel Fees
- d. Wrongful Death Claim
 - i. To: Spouse; and/or \$
 - ii. To: Adult Child(ren); and/or \$
 - iii. To: Minor Child(ren) and/or incapacitated persons; and/or \$
- (a) in restricted accounts; or \$

- (b) to the guardian of the minor(s) \$
estate; and/or
- iv. To: Parent(s) \$
- e. Survival Claim \$
To: _____, Administrator/
Executor of the Estate of _____,
Deceased

Respectfully submitted,

NAME OF ATTORNEY
ATTORNEY FOR PETITIONER

VERIFICATION

I, _____, am the Petitioner in this action and hereby verify that the statements made in the foregoing Petition to Settle or Compromise Minor's Action are true and correct to the best of my knowledge, information and belief.

I understand that the statement in said Petition are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

DATE: _____

PETITIONER

⁸ In the event any court has appointed a guardian for a minor heir or incapacitated person, set forth the name of the guardian, the Court date and manner of appointment.

⁹ Petitioner must indicate whether the Department of Public Welfare has a claim or a lien against Petitioners, the Estate or any wrongful death beneficiaries.

¹⁰ In the event a portion of the settlement is payable through the purchase of an annuity, set forth the credit rating of the entity which assumes responsibility for future payments, the present cost of the annuity, as well as the periodic and lump sum payments.

¹¹ Counsel is cautioned to specifically provide the requested distribution. Requests that distribution be "as per attached Order" are not acceptable.

**IN THE COURT OF COMMON PLEAS OF
PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT
CIVIL TRIAL DIVISION**

PLAINTIFF : TERM, 19
v. :
DEFENDANT : NO:

**NOTICE
PURSUANT TO PHILA. CIV. R. ★2206**

TO: _____
(Name of Beneficiary)

DATE: _____

YOU ARE HEREBY NOTIFIED THAT, _____, Administrator/Executor of the Estate of _____, Deceased has filed (or will file) on _____, A Petition to Approve a Settlement of a Wrongful Death and Survival Action. A copy of that Petition is enclosed.

If you object to the proposed settlement and/or proposed distribution, you must submit your written objections on

Response to the Petition on or before* _____, 19____, to the following address:

Civil Administration, Room 296 City Hall, Philadelphia, Pennsylvania 19107.

I hereby certify that the within Notice has been mailed to the above named individual(s) on the date set forth above.

NAME OF ATTORNEY
ATTORNEY FOR PETITIONER

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY FIRST JUDICIAL DISTRICT CIVIL TRIAL DIVISION

: TERM, 19
:
:
: No:

ORDER

AND NOW, this day of , 19 , upon consideration of the Petition to Compromise Wrongful Death and Survival Action filed on _____, 19____, it is hereby ORDERED and DECREED that Petitioner is authorized to enter into a settlement with Defendant(s) _____, in the gross sum of _____ (\$_____) Dollars. Defendant(s) shall forward all settlement drafts or checks to Petitioner's counsel for proper distribution.

IT IS FURTHER ORDERED and DECREED that the settlement proceeds are allocated as follows:

- 1. Wrongful Death \$_____
2. Survival Claim \$_____

IT IS FURTHER ORDERED and DECREED that the settlement proceeds be distributed as follows:

- 1. To: _____, Esquire \$_____ For Costs
2. To: _____, Esquire \$_____ For Counsel Fees
3. The Wrongful Death Claim in the sum of \$_____ shall be paid as follows:
a. To: Spouse; and/or \$_____
b. To: Adult Child(ren);* and/or \$_____
c. To: Minor Child(ren)+ as provided hereunder \$_____

* Unless waived by all beneficiaries or interested parties, the response period shall be thirty (30) days.

* In the event the beneficiary is an incapacitated person, appropriate changes are to be made.

OPTION 1

To: _____, Guardian \$_____ of the Estate of _____, a minor; provided, however, that no payment shall be made to the guardian until the guardian has posted additional security as may be required by the Orphans' Court Division of _____ County pursuant to 20 Pa.C.S. § 5121, et seq. An appropriate Petition shall be filed with the Orphans' Court within thirty (30) days.

OPTION 2

Counsel is hereby authorized to execute all documentation necessary to purchase saving certificate(s), from federally insured banks or savings institutions having an office in Philadelphia County, in the sum of \$_____ , each not to exceed the insured amount, with the funds payable to the minor upon majority. The certificate shall be titled and restricted as follows:

Not to be redeemed except for renewal in its entirety, not to be withdrawn, assigned, negotiated, or otherwise alienated before the minor attains majority, except upon prior Order of Court. Counsel shall open a savings account in the sum of the sum of \$_____ in the name of the minor. The savings account shall restricted as follows: Not to be withdrawn before the minor attains majority, except for the payment of city, state, and federal income taxes on the interest earned by the savings certificate and savings account, or upon prior Order of Court.

- d. To: Parent(s) \$_____
4. The Survival Claim in the sum of \$_____ shall be paid to _____, Administrator/Executor, of the Estate of _____, Deceased; provided, however, that counsel shall not distribute any funds to the said Administrator/Executor until the additional security as may be required by the Register of Wills of _____ County pursuant to 20 Pa.C.S. § 3323(b)(3) is posted.

Within sixty (60) days from the date of this final Order, counsel shall file with the office of Civil Administration an Affidavit from counsel certifying compliance with this Order. Counsel shall attach to the Affidavit a copy of the

Certificate of Deposit and/or bank account containing the required restrictions.

BY THE COURT:

The order of attachment for damages arising out of a residential lease is binding upon you until further notice and shall have priority over any attachment, execution, garnishment or wage attachment under state or local law except one relating to a support order or a prior attachment for damages arising out of a residential lease. You must commence the attachment of the defendant/tenant's income as soon as possible but no later than fourteen (14) days from the date of the issuance of this order of attachment.

You are notified further that pursuant to law:

- 1. The defendant/tenant has been notified that an order of attachment would be issued.
- 2. Willful failure to comply with this order may result in (i) your being adjudged in contempt of court with appropriate sanctions; (ii) your being held liable for any amount not withheld or withheld but not forwarded to the Prothonotary; and (iii) attachment of your funds or property.
- 3. The attachment of income or the possibility thereof as a basis, in whole or in part, for the discharge of an employee or any disciplinary action against or demotion of an employee is prohibited. Violation may result in (i) your being adjudged in contempt with appropriate sanctions; and (ii) an action against you by the employe for damages.
- 4. You must notify the Prothonotary when the defendant/tenant terminates employment and provide the Prothonotary with the employees' last known address and the name and address of the new employer, if known.
- 5. The maximum amount of the attachment shall not exceed 10% of the employee's net wages per pay period. the total amount of wages attached pursuant to this order shall not exceed _____.
- 6. For the purposes of this order, "net wages" means all wages paid less only the following items:
 - (i) Federal, State, and local income taxes;
 - (ii) F.I.C.A. payments and nonvoluntary retirement payments;
 - (iii) Union dues; and
 - (iv) Health insurance premiums.

Date of Order: _____

BY THE COURT,

_____ J.

[Pa.B. Doc. No. 97-1140. Filed for public inspection July 18, 1997, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Mark Bendet having been disbarred from the practice of law in the State of New Jersey, the Supreme Court of Pennsylvania issued an Order dated July 2, 1997 disbaring Mark Bendet from the practice of law in this Commonwealth, to be effective August 1, 1997.

ELAINE M. BIXLER,
Secretary

The Disciplinary Board of the Supreme Court of Pennsylvania

[Pa.B. Doc. No. 97-1141. Filed for public inspection July 18, 1997, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated July 2, 1997, Terence Alan Plizga is suspended from the Bar of this Commonwealth for a period of one (1) year and one (1) day, to run concurrently with the one (1) year and one (1) day Suspension imposed by Order of this Court on December 4, 1996, at No. 279 Disciplinary Docket No. 3.

ELAINE M. BIXLER,
Secretary

The Disciplinary Board of the Supreme Court of Pennsylvania

[Pa.B. Doc. No. 97-1142. Filed for public inspection July 18, 1997, 9:00 a.m.]