

THE COURTS

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE [210 PA. CODE CHS. 21 AND 35]

Amendment to Pa.R.A.P. 2111(a) and rescission of
Pa.R.A.P. 3518; No. 116 Appellate Court Rules
Doc. No. 1

Order

Per Curiam:

And Now, this 14th day of January, 1999, upon the recommendation of the Appellate Court Procedural Rules Committee, this Recommendation having been submitted without publication in the interest of justice pursuant to Pa.R.J.A. 103(a)(3);

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the proposed amendment to Pa.R.A.P. 2111(a) is adopted in the following form and Pa.R.A.P. 3518 is rescinded.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective January 14, 1999.

Annex A

TITLE 210. APPELLATE PROCEDURE PART I. RULES OF APPELLATE PROCEDURE ARTICLE II. APPELLATE PROCEDURE CHAPTER 21. BRIEFS AND REPRODUCED RECORD CONTENT OF BRIEFS

Rule 2111. Brief of [the] Appellant.

(a) *General Rule.* The brief of the appellant, except as otherwise prescribed by these rules, shall consist of the following matters, separately and distinctly entitled and in the following order:

- (1) Statement of Jurisdiction.
- (2) Statement of both the scope of review and the standard of review.
 - [(2)] (3) Order or other determination in question.
 - [(3)] (4) Statement of the questions involved.
 - [(4)] (5) Statement of the case.
 - [(5)] (6) Summary of argument.
 - [(6)] (7) Argument for appellant.
 - [(7)] (8) A short conclusion stating the precise relief sought.
 - [(8)] (9) The opinions and pleadings specified in Subdivisions (b) and (c) of this rule.

* * * * *

Official Note:

[Based on former Supreme Court Rules 47 and 61, former Superior Court Rules 39, 47 (notice), 51

and 52 and former Commonwealth Court Rules 81, 90, 110B and 111B. Paragraphs (a)(2), (a)(7) and (a)(8) are new and Paragraph (a)(5) is extended to the Commonwealth Court. The lower court opinion, if not otherwise available, is generated by the appellant's notice to the trial judge under Rule 906(2) (service of notice of appeal) and the judge's preparation of an opinion under Rule 1925(a) (opinion in support of order). Consequently there should always be an opinion attached to the brief of the appellant.]

The 1999 amendment requires a statement of the scope and standard of review. " 'Scope of review' refers to 'the confines within which an appellate court must conduct its examination.' (Citation omitted.) In other words, it refers to the matters (or 'what') the appellate court is permitted to examine. In contrast, 'standard of review' refers to the manner in which (or 'how') that examination is conducted." *Morrison v. Commonwealth, Dept. of Public Welfare*, 538 Pa. 122, 131, 646 A.2d 565, 570 (1994). This amendment incorporates the prior practice of the Superior Court pursuant to Pa.R.A.P. 3518 which required such statements. Accordingly, Rule 3518 has been rescinded as its requirement is now subsumed under paragraph (a)(2) of this Rule.

Explanatory Note—1979

The verbatim text of the order or other determination under review is added as a principal element of appellant's brief, to be included between the statement of jurisdiction and the statement of questions involved. As a result of new Rule 2115, existing Rules 2115, 2116, 2117 and 2118 are appropriately renumbered, and conforming amendments are made to Rules 2152(a) and 2175(b).

(Editor's Note: The Court is rescinding Rule 3518 relating to statement of the scope and standard of review. For the text of Rule 3518, see 210 Pa. Code pages 35-18 and 35-19 (serial pages (236427) and (236428).)

[Pa.B. Doc. No. 99-151. Filed for public inspection January 29, 1999, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Adoption of Arbitration Appeal Program Case Management Order; Administrative Doc. 08 of 1998

Amended Order

And Now, this 31st day of December, 1998, it is hereby *Ordered* that effective January 4, 1999, a Case Management Order will be automatically applied to all cases in the Arbitration Appeal Program upon filing of the appeal from the Report and Award of the Arbitrators. The Prothonotary will be directed upon the filing of any appeal from the Report and Award of the Arbitrators to

issue a form Case Management Order which will be docketed and forwarded together with notice of the date of the status conference. The format of the Case Management Order appears as follows:

**STANDING CASE MANAGEMENT ORDER
ARBITRATION APPEAL PROGRAM**

Pursuant to Administrative Docket 08 of 1998, an appeal from the Report and Award of Arbitrators having been filed in the above-captioned matter and a status hearing having been scheduled, the following Case Management Order is entered.

1. *STATUS CONFERENCE*: ALL counsel and non-represented parties must appear at the status conference and shall be prepared to discuss settlement of the case with clients available by telephone to authorize settlement. All counsel are required to communicate with each other and all non-represented parties to advise them of the status by forwarding a notice of same via facsimile or U.S. Mail.

At the conference, a date for trial in the designated "Pool" month and a pretrial settlement conference date shall be assigned. Counsel will be attached for trial.

Also, at the status conference, a memorandum will be given to all parties with direction to complete and present the same at the time of the mandatory pretrial settlement conference. Failure to comply with the terms and conditions of said memorandum and/or failure to appear for either the pretrial settlement conference or trial will result in the imposition of appropriate sanctions.

2. *DISCOVERY DEADLINE*: All discovery shall be completed no later than 90 days prior to the first Monday of the designated "Pool" month.

3. *EXPERT DEADLINE*: Plaintiff's expert report (if applicable), including any supplemental report, is to be served on opposing counsel and/or opposing party on or before 90 days prior to trial. Defendant's expert report is to be served on opposing counsel and/or opposing party on or before 60 days prior to the first Monday of the designated "Pool" month.

4. *DISPOSITIVE MOTIONS*: All dispositive motions must be filed no later than 50 days prior to the first Monday of the designated "Pool" month. *However, in all Limited Tort cases*, motions for summary judgment must be filed no later than 80 days prior to the first Monday of the designated "Pool" month.

5. *EXTENSIONS*: Requests to extend any case management deadline must be submitted by filing a Petition for Extraordinary Relief and filed prior to the expiration of the deadline in question.

6. *CONTINUANCES*: All requests for continuances must be submitted in writing with a copy to opposing party and directed to the Honorable Joseph D. O'Keefe, Supervising Judge, Attention: Mary McGovern, via facsimile (215-563-1623) or U.S. Mail (12th Floor, Complex Litigation Center, Wanamaker Building, Philadelphia, Pa. 19107). However, said requests may be made only under exigent circumstances.

By the Court

JOHN W. HERRON,
*Administrative Judge
Trial Division*

This Administrative Docket is promulgated in accordance with the April 11, 1987 Order of the Supreme Court of Pennsylvania, Eastern District, No. 55, Judicial Administration, Docket No. 1, Phila. Civ. *51 and Pa. R.C.P. 239, and shall become effective immediately. As required by Pa. R.C.P. 239, the original Administrative Docket shall be filed with the Prothonotary in a docket maintained for Administrative Dockets 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 Administrative Docket shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library and the Law Library for the First Judicial District.

[Pa.B. Doc. No. 99-152. Filed for public inspection January 29, 1999, 9:00 a.m.]

PHILADELPHIA COUNTY

Philadelphia Family Court; Administrative Regulation 99-1

Effective March 1, 1999, a program will be instituted for the dismissal of all actions in divorce or annulment wherein no docket activity has occurred since January 1, 1996, and in which there was no prior entry of a final decree. The names of all cases falling within this definition shall hereafter be published in the *Legal Intelligencer*. Within 30 days following such publication, any affected party, acting through his/her attorney or pro se, may prevent dismissal of an action by filing a Certification in the office of the Clerk of the Family Court (Room B-16, 34 S. 11th Street, Philadelphia) that the case remains active. In the absence of the filing of such Certification, dismissal shall occur automatically without further notice to any party. All dismissals hereunder shall be without prejudice, and shall be subject to the right of any party to petition for reinstatement of an action for good cause shown.

This order is only applicable to cases wherein no decree has been entered, and shall not affect the rights of parties to seek enforcement of decrees previously entered, regardless of their date.

PAUL P. PANEPINTO,
*Administrative Judge
Family Court Division*

[Pa.B. Doc. No. 99-153. Filed for public inspection January 29, 1999, 9:00 a.m.]

**COMMISSION ON
SENTENCING**

Meeting Dates for 1999

The Commission on Sentencing is giving notice that the following dates have been established for upcoming meetings in 1999:

February 23, 24 (Tuesday, Wednesday)

May 25, 26 (Tuesday, Wednesday)

August 17, 18 (Tuesday, Wednesday)

November 16, 17 (Tuesday, Wednesday)

Work sessions are scheduled to begin at 7:30 p.m. Tuesday; Commission Meetings are scheduled to begin at 9 a.m. Wednesday.

The February meeting will be held at the Westin William Penn Hotel located at 530 William Penn Place,

Pittsburgh, PA. The May, August and November meetings will be held at the Harrisburg Hilton and Towers in downtown Harrisburg. If there are any questions concerning upcoming meetings, please contact Mark Bergstrom, Executive Director at (814) 863-2797.

FRANK DERMODY,
Chair

[Pa.B. Doc. No. 99-154. Filed for public inspection January 29, 1999, 9:00 a.m.]