

# THE COURTS

## Title 210—APPELLATE PROCEDURE

### PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CH. 3]

Order Amending PA.R.A.P. 342; No. 124; Appellate  
Court Rules Doc. No. 1

#### Order

*Per Curiam:*

Now, this 20th day of December 2000, upon the recommendation of the Appellate Court Procedural Rules Committee and the Orphans' Court Procedural Rules Committee, the proposal having been published before adoption at 29 Pa.B. 1709-1712 (April 3, 1999); 29 Pa.B. 2766 (May 29, 1999); 29 Pa.B. 6325-6327 (December 18, 1999); and 30 Pa.B. 1476-1477 (March 18, 2000):

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rule of Appellate Procedure 342 is amended as follows.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective January 1, 2001.

#### Annex A

### TITLE 210. APPELLATE PROCEDURE

#### PART I. RULES OF APPELLATE PROCEDURE

##### ARTICLE I. PRELIMINARY PROVISIONS

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

##### FINAL ORDERS

Rule 342. [Final Distribution Orders] Orphans' Court Orders Determining Realty, Personality and Status of Individuals or Entities.

[An appeal may be taken as of right from any order of distribution entered in an orphan's court division which is not final within the meaning of Rule 341 (final orders generally) if the lower court shall certify that the order is sufficiently definite to determine the substantial issues between the parties.]

In addition to final orders pursuant to Subdivision (b) of Rule 341 or determined to be final under Subdivision (c) of Rule 341, an order of the Orphans' Court Division determining an interest in realty, personalty, the status of individuals or entities or an order of distribution not final under Subdivision (b) of Rule 341 or determined to be final under Subdivision (c) of Rule 341 shall constitute a final order upon a determination of finality by the Orphans' Court Division.

[Pa.B. Doc. No. 01-1. Filed for public inspection January 5, 2001, 9:00 a.m.]

## Title 231—RULES OF CIVIL PROCEDURE

### PART II. ORPHANS' COURT RULES

[231 PA. CODE PART II]

Order Adopting New Orphans' Court Rule 7.2 and  
Amendments to Orphans' Court Rule 7.1; No.  
261; Supreme Court Rules Doc. No. 1

#### Order

*Per Curiam:*

Now, this 20th day of December, 2000, upon the recommendation of the Appellate Court Procedural Rules Committee and the Orphans' Court Procedural Rules Committee, the proposal having been published before adoption at 29 Pa.B. 1709-1712 (April 3, 1999); 29 Pa.B. 2766 (May 29, 1999); 29 Pa.B. 6325-6327 (December 18, 1999); and 30 Pa.B. 1476-1477 (March 18, 2000):

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that new Orphans' Court Rule 7.2 is adopted and Orphans' Court Rule 7.1 is amended as follows.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective January 1, 2001.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART II. ORPHANS' COURT RULES

##### RULE 7. EXCEPTIONS

#### Rule 7.1. Exceptions.

[Exceptions shall be filed at such place and time, shall be in such form, copies thereof served and disposition made thereof as local rules shall prescribe.]

(a) *General Rule.* Except as provided in Subdivision (e), no later than twenty (20) days after entry of an order, decree or adjudication, a party may file exceptions to any order, decree or adjudication which would become a final appealable order under Pa.R.A.P. 341(b) or Pa.R.A.P. 342 following disposition of the exceptions. If exceptions are filed, no appeal shall be filed until the disposition of exceptions except as provided in Subdivision (d) (Multiple Aggrieved Parties). Failure to file exceptions shall not result in waiver if the grounds for appeal are otherwise properly preserved.

(b) *Waiver.* Exceptions may not be sustained unless the grounds are specified in the exceptions and were raised by petition, motion, answer, claim, objection, offer of proof or other appropriate method.

(c) *Time for Filing Exceptions.* If a party files timely exceptions, any other party may file cross exceptions within ten (10) days after the filing of exceptions.

(d) *Multiple Aggrieved Parties.* Where more than one party is aggrieved by a final appealable order under Pa.R.A.P. 341(b) or Pa.R.A.P. 342, a timely appeal filed by any party renders exceptions a

nullity by any other party and the order shall be submitted directly to the appellate court.

(e) *Adoptions and Involuntary Terminations.* No exceptions shall be filed to any order in involuntary termination or adoption matters under the Adoption Act, 23 Pa.C.S. Section 2501, et seq.

(f) *Time Limits for Decision on Exceptions.* The Orphans' Court shall decide exceptions including supplemental exceptions and cross exceptions within one hundred and twenty (120) days of the filing of the initial exceptions. If the Orphans' Court fails to decide the exceptions within one hundred and twenty (120) days, the exceptions shall be deemed denied by operation of law on the one hundred and twenty first (121st) day and the clerk is directed to enter the deemed denial on the docket as of that date. The appeal period shall begin to run as of the one hundred and twenty first (121st) day.

(g) *Exceptions.* Exceptions shall be the exclusive procedure for review by the Orphans' Court of a final order, decree or adjudication. A party may not file a motion for reconsideration of a final order.

#### Note

The 2000 amendment discontinues the prior practice permitting local rules to govern whether exceptions are required after entry of an order, decree or adjudication. The 2000 amendment limits the filing of exceptions to order, decree or adjudication which are final appealable orders after disposition of exceptions under Pa.R.A.P. 341(b) or amended Pa.R.A.P. 342. If an aggrieved party appeals from such order, that appeal shall not affect proceedings with regard to other aspects of the case.

It is understood that failure to appeal shall constitute a waiver of any issues in the order which the Orphans' Court has determined as final.

The 30 day appeal period pursuant to Pa.R.A.P. 903 from such final orders begins to run from the date of entry of an order disposing of exceptions or on the date of a deemed denial pursuant to Subdivision (f) of this rule. Where no exceptions are filed, the 30 day appeal period runs from entry of the final appealable order.

If an order would not become final within the definition of Pa.R.A.P. 341(b) or Pa.R.A.P. 342, then no exceptions may be filed until subsequent entry of a final order within the definition of Pa.R.A.P. 341(b) or Pa.R.A.P. 342. This will eliminate the practice in some counties of permitting issues to be raised by exception following entry of an otherwise interlocutory order and raising the same issues in exceptions to a final order, decree or adjudication. See, e.g., *Estate of McCutcheon*, 699 A.2d 746 (Pa.Super. 1997).

Rule 7.1 permits but does not require exceptions to orders pursuant to Pa.R.A.P. 341(b) and Pa.R.A.P. 342. The election of an aggrieved party not to file exceptions will not result in waiver of issues on appeal. However, nothing in this rule is intended to abrogate the requirement of decisional law or court rule mandating that issues on appeal be preserved

by a timely petition, answer, claim, objection, offer of proof or other appropriate vehicle.

The 2000 amendments to Rule 7.1 resolve the dilemma that the judiciary and litigants have faced in determining whether exceptions are required under local practice and whether issues have been preserved for appeal in accordance with the disparate rules throughout the Commonwealth. The prior practice also made it difficult to draw conclusions as to whether an appellate decision constituted controlling authority on a statewide basis or whether the holding was based in whole or part on the vagaries of a local rule. Making exceptions optional with an aggrieved party will expedite the appeals process where the issues have been fully litigated and the reasons for the trial court's decision are clear and the aggrieved party reasonably believes the trial court cannot be convinced that its decision is in error.

Parties frequently overlook the requirement that the order from which a party seeks to appeal and notice of that order from the prothonotary be entered on the docket before an appeal can be taken. See Pa.R.A.P. 301(c), Pa.R.C.P. 236 and Orphans' Court Rules 1.2 and 3.1. See also *Frazier v. City of Philadelphia*, 735 A.2d 113 (Pa. 1999). This requirement applies to Orphans' Court orders. See *Estate of Keefauver*, 518 A.2d 1263 (Pa.Super. 1986).

Local practice shall continue to govern with respect to place of filing, briefs, oral argument, courts en banc, etc. Neither Pa.R.C.P. 227.1 nor Pa.R.C.P. 1517 shall apply to Orphans' Court matters.

Subdivision (d) provides that where there are multiple aggrieved parties to a final order, any aggrieved party may file an appeal without filing exceptions. If any other party has filed exceptions prior to a timely appeal by any other party, those exceptions are nullified by the appeal. Once any aggrieved party has filed a timely appeal, no other party may file exceptions even if the time period for filing exceptions has not otherwise expired. Any exceptions filed after an appeal has been taken will be deemed a nullity. See also Pa.R.A.P. 1701(b).

In order to avoid delay of final determination of adoption and termination matters, see *In Re A.L.A.*, 719 A.2d 363 (Pa.Super. 1998), Subdivision (e) eliminates post-trial practice in such cases.

#### Rule 7.2. Transcript of Testimony.

All exceptions shall contain a request designating a portion of the record to be transcribed in order to enable the court to dispose of the exceptions. Within ten days after the filing of the exceptions, any other party may file an objection requesting that an additional, lesser or different portion of the record be transcribed. If no portion is indicated, the transcription of the record shall be deemed unnecessary to the disposition of the exceptions. The trial judge shall promptly decide the objection to the portion of the record to be transcribed.

[Pa.B. Doc. No. 01-2. Filed for public inspection January 5, 2001, 9:00 a.m.]

# Title 255—LOCAL COURT RULES

## WASHINGTON COUNTY

**Local Civil Rule L-1012.1. Case Description; No.:  
2000-1**

### Order

*And Now*, this 12<sup>th</sup> day of December, 2000; *It Is Hereby Ordered* that Local Civil Rule L-1012.1—Case Description, be adopted as follows.

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

THOMAS D. GLADDEN,  
*President Judge*

### L-1012.1. Case Description.

When an initial document is filed in an action, the document shall be identified by applying the description of case types listed below. This information shall be placed on the first page of filing.

#### *Actions Commenced By:*

- Complaint Civil Action
- Complaint In Mandamus
- Complaint In Equity
- Complaint In Equity (Injunction)
- Complaint In Divorce
- Complaint In Custody
- Complaint In Arbitration
- Complaint In Protection From Abuse
- Complaint In Asbestos
- Complaint In Declaration Eminent Domain
- Complaint In Declaratory Judgment

#### *Real Property:*

- Ejectment
- Quiet Title
- Partition
- Mortgage Foreclosure
- Mechanics Lien
- Replevin
- Landlord/Tenant

#### *Other*

#### *Appeals:*

- Zoning Board
- District Justice
- Tax Assessment
- Landlord/Tenant

#### *Explanatory Comment—Case Description*

This information shall be used to determine Judge assignments. Suggested cover sheets with this information will be supplied by the Prothonotary.

[Pa.B. Doc. No. 01-3. Filed for public inspection January 5, 2001, 9:00 a.m.]

# DISCIPLINARY BOARD OF THE SUPREME COURT

## Notice of Transfer of Attorney to Inactive Status

Notice is hereby given that the following attorneys have been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated November 17, 2000, pursuant to Rule 111(b) Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective December 17, 2000 for Compliance Group 1 due April 30, 2000.

Notice with respect to attorneys having Pennsylvania registration addresses, who have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

Anil D. Aggarwal  
New York, NY

Giuseppe C. Basili  
Boston, MA

Robert E. Barth Jr.  
Maple Shade, NJ

Joseph F. Betley  
Mt. Laurel, NJ

Patricia L. Brennan  
Rockville, MD

Richard J. Brightman  
Cranford, NJ

David Michael Brown  
Binghamton, NY

Gabe Michael Chiasson  
Silver Spring, MD

Eugene E. Chmura  
Astoria, NY

Craig Thomas Conley  
Canton, OH

James Curcio  
Hammonton, NJ

J.J. Daiak  
New Port Richey, FL

William Henry Finlay  
Charlotte, NC

Leanne J. Fitzgerald  
Hudson, MA

Edward George Foster  
Cape May Court House, NJ

Noelle Luise Frangipane  
Trenton, NJ

Keith Arthur Fournier  
Virginia Beach, VA

Cynthia May Fullwood  
Saginaw, MI

Clare I. Godholm  
Northport, ME

Conrad Golaski  
Holbrook, MA

Madeline I. Gonzalez  
Bronx, NY

Alicia F. Greenaway  
Princeton, NJ

Michael David Greenberg  
New York, NY

Tim J. Harrington, Jr.  
Hurst, TX

Elizabeth A. Hartwig  
San Diego, CA

George J. Hayward  
White Plains, NY

Janice K. Hunter  
Pittsford, NY

Perry W. Jost  
Manasquan, NJ

Michael Edward Joyce  
Haddonfield, NJ

Lynne Levin Kaufman  
Atlantic City, NJ

Eric H. Kim  
Portland, OR

Lawrence H. Kleiner  
Hackensack, NJ

Lori B. Lasson  
Brooklyn, NY

Cassandra A. Lawson  
Mason, OH

Neal Randolph Lewis  
Miami, FL

Robert L. Lieberman  
Westmont, NJ

Robert P. Lipkin  
Sarasota, FL

James V. Loewen  
Princeton, NJ

Brian John Macala  
Salem, OH

Lawson Riley McElroy  
Trenton, NJ

Donald F. McGahn II  
Washington, DC

Anne Patricia McHugh  
Princeton, NJ

Scott R. McMurtry  
Audubon, NJ

Yvette Marie Meftah  
Washington, DC

D. Jennings Meincke  
Newport Beach, CA

Suzanne Cocco Midlige  
Morristown, NJ

Jason Jay Miller  
Lincoln Park, NJ

Gary Wayne Moten  
Colonial Heights, VA

Albert Agha Ngwana  
Silver Spring, MD

Milica Novakovic  
San Diego, CA

David Edward Oles  
Atlanta, GA

Allen Howard Orenberg  
Washington, DC

Margaret Ann Quick  
Los Angeles, CA

Eric Meyer Raudenbush  
Washington, DC

Robert W. Rhoads  
Roseland, NJ

Diane E. Ristaino  
Montclair, NJ

Patrick J. Ryan III  
Los Altos Hills, CA

Lisa Joy Scarangella  
Livingston, NJ

Joan French Schlaepfer  
Union City, CA

Patricia L. Schrader  
St. Croix, USVI

Charles J. Slane  
Galena, OH

Gail Ann Thomas  
New York City, NY

Alan S. Toppelberg  
Washington, DC

Elizabeth S. Washko  
Nashville, TN

Daniel Joseph Welsh  
Jersey City, NJ

Patrick A. White  
Miramar, FL

Joan Marie Wilbon  
Washington, DC

H. John Witman III  
Hamilton Square, NJ

Mark M. Yacura  
Washington, DC

ELAINE M. BIXLER,  
*Executive Director & Secretary*  
*The Disciplinary Board of the Supreme Court*

[Pa.B. Doc. No. 01-4. Filed for public inspection January 5, 2001, 9:00 a.m.]