

THE COURTS

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CH. 19]

Proposed Amendment to Rule 1931, Transmission of the Record

The Appellate Court Procedural Rules Committee proposes to amend Pennsylvania Rules of Appellate Procedure 1931 (Transmission of the Record). The amendment is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court.

All communications in reference to the proposed amendment should be sent no later than September 30, 2003 to the Appellate Court Procedural Rules Committee, 5035 Ritter Road, Suite 700, Mechanicsburg, PA 17055.

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

By the Appellate Court Procedural Rules Committee

HONORABLE JOSEPH A. HUDOCK,
Chair

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 19. PREPARATION AND TRANSMISSION OF RECORD AND RELATED MATTERS

RECORD ON APPEAL FROM LOWER COURT

Rule 1931. Transmission of the Record.

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(c) *Duty of clerk to transmit the record.*—When the record is complete for the purposes of the appeal, the clerk of the lower court shall transmit it to the prothonotary of the appellate court. The clerk of the lower court shall number the documents comprising the record and shall transmit with the record a list of the documents correspondingly numbered and identified with reasonable definiteness. Documents of unusual bulk or weight and physical exhibits other than documents shall not be transmitted by the clerk unless he is directed to do so by a party or by the prothonotary of the appellate court. A party must make advance arrangements with the clerk for the transportation and receipt of exhibits of unusual bulk or weight. Transmission of the record is effected when the clerk of the lower court mails or otherwise forwards the record to the prothonotary of the appellate court. The clerk of the lower court shall indicate, by endorsement on the face of the record or otherwise, the date upon which [**it**] **the record** is transmitted to the appellate court.

(d) [*Multiple appeals*] *Service of the List of Record Documents.*—The clerk of the lower court shall, at the time of the transmittal of the record to the appellate court, mail a copy of the list of record documents to all counsel of record and shall note on the docket the giving of such notice.

(e) *Multiple appeals.*—Where more than one appeal is taken from the same order, it shall be sufficient to transmit a single record, without duplication.

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Explanatory Comment—1976

This provision makes clear that in multiple appeals only one original record need be transmitted.

Explanatory Comment—2003

It is hoped that the 2003 amendment to Rule 1931 will alleviate the potential waiver problem which results when counsel is unable to ascertain whether the entire record in a particular case has been transmitted to the appellate court for review. The rule change is intended to assist counsel in its responsibility under the Rules of Appellate Procedure to provide a full and complete record for effective appellate review. See *Commonwealth v. Williams*, 552 Pa. 451, 715 A.2d 1101 (1998) (“The fundamental tool for appellate review is the official record of what happened at trial, and appellate courts are limited to considering only those facts that have been duly certified in the record on appeal”); *Commonwealth v. Wint*, 1999 Pa.Super. 81, 730 A.2d 965 (1999) (“Appellant has the responsibility to make sure that the record forwarded to an appellate court contains those documents necessary to allow a complete and judicious assessment of the issues raised on appeal”). In order to facilitate counsel’s ability to monitor the contents of the original record which is transmitted from the trial court to the appellate court, new subdivision (d) requires that a copy of the list of record documents be mailed to all counsel of record and that the giving of such notice be noted on the record. Thereafter, in the event that counsel discovers that anything material to either party has been omitted from the certified record, such omission can be corrected pursuant to Pa.R.A.P. 1926.

[Pa.B. Doc. No. 03-1788. Filed for public inspection September 12, 2003, 9:00 a.m.]

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CH. 21]

Proposed Amendment of Rule 2117, Statement of the Case

The Appellate Court Procedural Rules Committee proposes to amend Pennsylvania Rules of Appellate Procedure 2117 (Statement of the Case). The amendment is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court.

All communications in reference to the proposed amendment should be sent no later than September 30,

2003 to the Appellate Court Procedural Rules Committee,
5035 Ritter Road, Suite 700, Mechanicsburg, PA 17055.

By the Appellate Court Procedural Rules Committee

HONORABLE JOSEPH A. HUDOCK,
Chair

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 2117. Statement of the Case.

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(d) [*Appeals from case stated*] *Appeals from cases submitted on stipulated facts.*—When the appeal is from an order on a [**case stated, in the nature of a special verdict,**] **case submitted on stipulated facts**, the statement of the case may consist of the facts as [**agreed upon**] **stipulated** by the parties.

Official Note:

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The 2003 amendment replaces references in subdivision (d) to appeals from a “case stated” because this procedure was abolished pursuant to Pa.R.C.P. 1038.2. In its place, the Supreme Court adopted Pa.R.C.P. 1038.1 providing for a “case submitted on stipulated facts.” The statement of the case under subdivision (a)(1) of this rule may now only consist of those facts stipulated to by the parties.

[Pa.B. Doc. No. 03-1789. Filed for public inspection September 12, 2003, 9:00 a.m.]