

THE COURTS

Title 210—APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES [210 PA. CODE CH. 65]

Amendments to the Superior Court Internal Operating Procedures

The Superior Court of Pennsylvania has adopted amendments to its Internal Operating Procedures. These amendments are reflected in the Superior Court Internal Operating Procedures with amendments to 210 Pa. Code 65.1 et seq.

These changes were approved on November 20, 2003, effective immediately.

ERNEST GENNACCARO,
*Chief Staff Attorney to the
Superior Court of Pennsylvania*

Annex A

TITLE 210. APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES

CHAPTER 65. INTERNAL OPERATING PROCEDURES OF THE SUPERIOR COURT

ADMINISTRATIVE OFFICES AND STAFF

§ 65.3. [Court Recorder] Reporter.

A. The [Recorder] Reporter shall be a member of the administrative staff of the Court whose duties and responsibilities include:

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§ 65.5. Panels.

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E. The presiding judge of each panel shall be the commissioned judge highest in seniority, except where the panel includes the President Judge who shall then be the presiding judge. The presiding judge shall preside at all panel sessions, assign the cases, and record the assignment of cases. The presiding judge shall transmit to the members of the panel[, the President Judge, the Prothonotary, the Chief Staff Attorney,] and the [Recorder] Reporter a record of all assignments and/or actions taken by the judge.

F. [The identity of the members of a panel shall be confidential prior to the commencement of a session.] All discussion, votes, and drafts of decisions prior to the filing of the final decision shall [also] remain confidential.

§ 65.6. Courts en banc.

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C. At the conclusion of each en banc session, the presiding judge shall forward to all judges, the Prothonotary, the Chief Staff Attorney, the administrative assistant to the President Judge, and the [Recorder] Reporter a record of all assignments and other actions taken during the session.

§ 65.9. Confidentiality Considerations.

A member of staff owes a duty of confidentiality to the judges of the Superior Court. This duty extends to matters concerning any opinions, statements, or events with respect to the decision-making process of the Court. A staff member should avoid even informal contact with attorneys or litigants with respect to a matter pending before the Court. An attorney should refrain from discussions outside the Court, public or private, regarding the merits of pending proceedings. Matters involving the decision-making process are inappropriate for discussion outside the Court, including but not limited to [the composition of panels prior to argument or submission of a case,] the assignment of a case to a particular judge, the motions assignment judge, or the identity of the judge who may have signed an order in a case per curiam.

MOTIONS PRACTICE

(Editor's Note: Section 65.21 has been entirely replaced with the following text, printed in regular type to enhance readability.)

§ 65.21. Motions Subject to Single Judge Disposition.

A. Except as otherwise provided in § 65.22, a single judge of this Court, whether commissioned or specially assigned, may entertain and may grant or deny any request for relief which under the Rules of Appellate Procedure may properly be sought.

Comment: Section 65.21(A) merely reaffirms the procedure codified in Pa.R.A.P. 123. A single judge may grant or deny relief requested by a proper application, Pa.R.A.P. 123(e). However, the Court may by order or rule provide that an application or class of applications must be acted upon by the Court.

B. All petitions for extension of time shall be referred by the Prothonotary to the motions judge. Such petitions should be acted upon as soon as possible unless the motion judge feels an answer is necessary. Petitions for extension shall be granted only on cause shown and in any event the filing of the brief is required, particularly in criminal cases, even though the right to argue is lost. Central Legal Staff shall be notified of the filing of the motion and the disposition. However, if the petition for extension is accompanied by a substantive motion, such as a motion to quash, remand, or withdraw, Central Legal Staff shall review the motion in an expeditious manner pursuant to the procedures set forth in Section 65.21(C) herein. Notwithstanding any contrary procedure set forth above, all petitions for extension in cases which have been identified as family law fast track cases, upon receipt by the Prothonotary, shall be sent to Central Legal Staff for processing. All such petitions for extension in family law fast track cases shall be presented to a motions judge for disposition within three days of receipt of the petition by Central Legal Staff.

C. All other motions, petitions or applications for relief subject to this rule, shall, upon receipt by the Prothonotary, be transmitted to Central Legal Staff.

D. Central Legal Staff, upon receiving an application for relief pursuant to subsection C, shall review the application and prepare a recommendation and present the application and recommendation to the assigned motions judge at a time and place convenient to the motions judge.

E. The motions judge may decide the application on the basis of the application or may require the filing of an answer or briefs, or the motions judge may schedule a hearing thereon.

F. Unless ordered by the Court, oral argument will not be permitted.

G. It is within the discretion of a single judge to whom an application has been referred to decide the motion or to have it presented to a motions panel. Pa.R.A.P. 123(e). (As amended, effective 1/1/97)

H. Once a case is scheduled before a panel, all motions filed thereafter shall be referred to that panel.

I. Motions for continuance are to be referred to the presiding judge of the panel who alone may decide the motion, or who may obtain a vote of the other judges of the panel by letter or phone.

J. Any motions for mandamus, prohibition and writs of habeas corpus where no direct appeal is pending shall be referred by the Chief Staff Attorney to the assigned motions judge.

Comment: See *Municipal Publications v. Court of Common Pleas of Philadelphia County*, 507 Pa. 194, 489 A.2d 1286 (1985).

§ 65.22. Motions Review Subject to Motions Panel Disposition.

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B. [The President Judge shall set the motions panel. Each motions panel shall consist of three commissioned judges and shall serve for a period of two months.] After a motion subject to this Rule has been filed by the Prothonotary's office, the Prothonotary shall forward the motion to Central Legal Staff which shall prepare and circulate to the motions panel a legal memorandum and recommendation. Votes thereon shall be due three weeks from the date on which the motion and accompanying document are sent by Central Legal Staff. Votes on cases which have been identified as family law fast track cases shall be due two weeks from the date on which the motion and accompanying documents are sent by Central Legal Staff.

C. If, in reviewing motions to be referred to a motions panel, Central Legal Staff determines that the motion is patently defective or the appeal is clearly defective or can be disposed of based upon established case law, the motion may be presented to the assigned motions judge.

§ 65.23. Discontinuances.

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Comment: Fugitive appeals will be quashed rather than discontinued on motion of the District Attorney or sua sponte by the Court. See Pa.R.A.P. 1972(6), *Commonwealth v. Passaro*, 504 Pa. 611, 476 A. 2d 346 (1984).

§ 65.25. Assignment of Judges to Motions Duty.

A. * * *

B. The President Judge shall set the motions panel. Each motions panel shall consist of three commissioned judges and shall serve for a period of two months. During each two-month period, the motions panel shall consider all Section 65.22 motions ready for disposition during the two-month period.

DECISIONAL PROCEDURES

§ 65.37. Unpublished Memoranda Decisions.

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[C. The publication of a decision is within the panel's discretion, however, a decision generally should be published when it:

1. Is by a Court en banc, provided that a majority of the voting members of the panel may vote to refrain from publication and to decide the appeal by memorandum;
2. Establishes a new rule of law;
3. Applies an existing rule of law to facts significantly different than those stated in prior decisions;
4. Modifies or criticizes an existing rule of law;
5. Resolves an apparent conflict of authority;
6. Involves a legal issue of continuing public interest; or
7. Constitutes a significant, non-duplicative contribution to law because it contains;
 - a. An historical review of the law,
 - b. A review of legislative history,
 - c. A review of conflicting decisions among the courts of other jurisdictions.
- D. A judgment order, without separate memorandum decision, may be used to decide an appeal where the decision is unanimous and requires minimal explanation because it is mandated by established and unquestioned precedential decision, statute or principle of law or is based on findings of fact which are fully supported by the evidence.]

[Pa.B. Doc. No. 03-2307. Filed for public inspection December 5, 2003, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated November 14, 2003, Marc M. Scola is disbarred from the practice of law in this Commonwealth, effective December 14, 2003. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 03-2308. Filed for public inspection December 5, 2003, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that on November 18, 2003, Maria Del Sol Morell, who resides outside the Commonwealth of Pennsylvania, was suspended by the Supreme Court for a period of thirty months, retroactive to September 24, 2001. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 03-2309. Filed for public inspection December 5, 2003, 9:00 a.m.]
