

THE COURTS

Title 210—APPELLATE PROCEDURE

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

Amendments to the Superior Court Operating Procedures

The Superior Court of Pennsylvania has adopted amendments to its published Operating Procedures. These amendments are reflected in the Superior Court Operating Procedures with amendments to Pa. Code §§ 65.38 and 65.39.

These changes were approved on October 26, 2022, effective on that date.

[Additions appear in boldface. Deletions are bracketed and boldface.]

Annex A

TITLE 210. APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES CHAPTER 65. OPERATING PROCEDURES OF THE SUPERIOR COURT DECISIONAL PROCEDURES

§ 65.38. Reconsideration, Reargument, and En Banc Review.

A. All applications, motions, or petitions requesting reconsideration of the final decision of a merits panel, shall be recognized as Applications for Reargument pursuant to Pa.R.A.P. 2541 *et seq.*, and shall be subject to all the rules and limitations otherwise applicable to Applications for Reargument.

B. All such applications described in subsection A shall first be submitted to the merits panel that issued the decision in question, *i.e.*, the original merits panel, for consideration by that panel.

C. The members of the merits panel may vote to grant panel reconsideration, grant en banc reargument, or deny any such application.

1. If the merits panel recommends en banc reargument, Central Legal Staff shall circulate the application, motion, or petition, along with any relevant filings, original decision(s), and/or summaries, to the commissioned judges for votes.

2. If a majority of the merits panel does not vote to grant reconsideration, Central Legal Staff shall forward all relevant reconsideration submissions to the commissioned judges as an Application for Reargument before a court en banc.

3. A party's request that the case be reargued before a court en banc shall not foreclose a merits panel's ability to reconsider the decision that prompted the underlying application.

D. Reargument before a court en banc is not a matter of right, but of sound judicial discretion. An Application for Reargument will be denied unless there are compelling reasons therefor. Such reasons include, but are not limited to, the following:

1. It appears that a decision of a merits panel may be inconsistent with a decision of a different panel of the court;

2. It appears that a merits panel may have overlooked relevant precedent, statute, or rule of court;

3. It appears that a merits panel may have overlooked or misapprehended one or more material facts of record;

4. It appears a merits panel relied upon legal authority relevant to the decision that has been reversed, modified, overruled, discredited, or materially altered during the pendency of the appeal; and

5. It appears the issues have potential for a significant impact upon developing law or public policy.

E. Reargument before a court en banc will be granted only if [a majority] at least half of the available commissioned judges of the court vote to grant reargument. A judge's vote of "Did Not Participate" or "Recuse" shall constitute a reduction in the count of available judges.

F. The court will not entertain an application, motion, or petition for reconsideration of a decision rendered by a court en banc.

[Amended October 26, 2022, imd. effective]

§ 65.39. [Ancillary Orders Following Merits Panel Decisions.] Rescinded, October 26, 2022, imd. Effective.

[A. If a timely Application for Reargument is filed, the merits panel shall retain jurisdiction over the appeal until such time as the application is decided.

B. Following a decision by the merits panel, applications, motions, or petitions requesting clarification, award of costs or sanctions, publication pursuant to I.O.P. 444 D, or extension of time to file an application for reargument, will be referred to the merits panel for review and disposition.]

[Rescinded October 26, 2022]

[Pa.B. Doc. No. 22-1733. Filed for public inspection November 11, 2022, 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 October 28, 2022, Erik Benjamin Cherdak is disbarred from the practice of law in this Commonwealth to be effective November 27, 2022.

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*.

MARCEE D. SLOAN,
Board Prothonotary

[Pa.B. Doc. No. 22-1734. Filed for public inspection November 11, 2022, 9:00 a.m.]