

**CHAPTER 27. FEES AND COSTS IN APPELLATE COURTS AND
ON APPEAL**

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FEES

Rule 2701. Payment of Fees Required.

(a) *General rule.* A person upon filing any paper shall pay any fee therefor prescribed by law.

(b) *Appeals by allowance or permission; petitions for review.* The fee for filing a petition for allowance of appeal, a petition for permission to appeal or a petition for review shall, except as otherwise required by statute, be the same as the fee payable under Rule 907 (docketing of appeal). Where a petition for allowance of appeal or a petition for permission to appeal has been filed under these rules and is granted, no additional fee, except as otherwise required by statute, shall be payable upon docketing the appeal in the appellate court.

(c) *Temporary fee for filing notice of appeal.* Until otherwise provided by law, the clerk upon filing a notice of appeal under Rule 905 (filing of notice of appeal) shall be entitled to receive an amount equal to the fee otherwise payable, if any, upon the filing of a writ issued out of the Supreme Court of Pennsylvania evidencing the fact that an appeal has been taken to the Supreme Court.

Official Note: Former Supreme Court Rule 70 (first sentence), former Superior Court Rule 61 and former Commonwealth Court Rule 117 (first sentence) literally required the payment of the fee in advance of filing. In view of the filing by mail procedures instituted by these rules, a limited opportunity is afforded to permit the prompt correction of the failure to include a check with the letter of transmittal or the failure to draw the check in the proper amount.

A party who intends to proceed in forma pauperis should transmit a copy of his application under Rule 552 (application to lower court for leave to appeal in forma pauperis) to the appellate prothonotary so that Rule 554(b) (appeal taken before application acted on) will operate to defer the requirement for fees in the appellate court.

The fees in appellate courts are temporarily continued by Section 24(a) of the Judiciary Act of 1976, act of July 9, 1976 (P.L. 586, No. 142), by reference to the former provisions of law, which were as follows: The fees of the Commonwealth Court were prescribed by 204 Pa. Code § 155.203. The docketing fee in the Supreme and Superior Court was fixed at \$12 by the act of May 19, 1897 (P.L. 67, No. 53), § 3 (former 12 P.S. § 1135), and the fee for issuing writs for the enforcement of the duty to file the records in such courts and the fee for filing a petition for allowance of appeal from the Superior Court was fixed by § 18 (second and third sentences) of the act (former 12 P.S. § 1156) at \$3.

Source

The provisions of this Rule 2701 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740. Immediately preceding text appears at serial page (39658).

Rule 2702. Multiple Parties.

Where a joint notice of appeal is filed in the trial court or docketed in the appellate court, or a joint petition for allowance of appeal is filed under Pa.R.A.P. 512, or a joint petition for review is filed under Pa.R.A.P. 512 or otherwise, or a joint petition for permission to appeal is filed under Pa.R.A.P. 1312(e), or a joint petition for specialized review is filed, or where any other filing under these rules is effected jointly as permitted by these rules, only one fee is payable, regardless of the number of parties to the filing.

Official Note: This rule abolishes the “number of appellants times number of appellees” practice previously followed in the computation of appellate filing fees.

Source

The provisions of this Rule 2702 amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial page (338862).

Rule 2703. Erroneously Filed Cases.

Upon a transfer under Rule 751 (transfer of erroneously filed cases) the appellant, petitioner or plaintiff shall pay as costs of transfer to the clerk of the transferee court within seven days after service of an invoice therefor the filing fee for the appeal or other matter in that court.

COSTS

Rule 2741. Parties Entitled to Costs.

Except as otherwise provided by law:

- (1) If an appeal or other matter is dismissed, costs shall be taxed against the appellant or other moving party in the appellate court unless otherwise agreed by the parties or ordered by the court.
- (2) If an order is affirmed, costs shall be taxed against the appellant unless otherwise ordered.
- (3) If an order is reversed, modified or vacated with a direction for a new trial, costs shall be taxed against the appellee, unless otherwise ordered, or

unless the appellee causes the matter to be retried below within one year after the remand of the record, in which event the liability for costs shall follow the final judgment on such retrial unless otherwise ordered.

(4) If an order is reversed, without a direction for a new trial, costs shall be taxed against the appellee unless otherwise ordered, or unless the lower court shall determine that the matter is not finally closed between the parties, and the appellee shall bring a new action against the appellant within 30 days after such determination, in which event the liability for costs shall follow the final judgment in such second or other matter relating to the same cause of action.

(5) If an order is affirmed or reversed in part, or is vacated, costs shall be allowed only as ordered by the court.

Official Note: 42 Pa.C.S. § 1726 (establishment of taxable costs) authorizes general rules prescribing the standards governing the imposition and taxation of costs, including the items which constitute taxable costs, the litigants who shall bear such costs, and the discretion vested in the courts to modify the amount and responsibility for costs in specific matters; and provides that all system and related personnel shall be bound by such general rules and that in prescribing such rules the governing authority shall be guided by the following considerations, among others:

(1) Attorney's fees are not an item of taxable costs except to the extent authorized by 42 Pa.C.S. § 2503 (relating to right of participants to receive counsel fees).

(2) The prevailing party should recover his costs from the unsuccessful litigant except where the:

(i) Costs relate to the existence, possession or disposition of a fund and the costs should be borne by the fund.

(ii) Question involved is a public question or where the applicable law is uncertain and the purpose of the litigants is primarily to clarify the law.

(iii) Application of the rule would work substantial injustice.

(3) The imposition of actual costs or a multiple thereof may be used as a penalty for violation of general rules or rules of court.

The references in the rule to the appellant and appellee are intended to include their privies and successors in interest. Former Supreme Court Rule 70 placed the costs on appellant, unless otherwise ordered by the court, where a judgment of non pros was entered.

The procedure for taxation of costs related to Supreme Court appeals is set forth in Rule 3306 of these rules.

Source

The provisions of this Rule 2741 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended May 11, 1993, effective immediately, 23 Pa.B. 2527. Immediately preceding text appears at serial pages (43078) and (99791).

Rule 2742. Costs of Briefs and Reproduced Records.

The cost of printing or otherwise producing necessary copies of briefs and reproduced records, including copies of the original record reproduced under

Rule 2151(a) (consideration of matters on the original record without the necessity of reproduction) shall be taxable, except as otherwise ordered pursuant to Rule 2155 (allocation of cost of reproduced record) at rates not higher than those generally charged for such work in this Commonwealth.

Official Note: See note to Rule 2741 (parties entitled to costs). In the event of a dispute as to the level of rates generally charged for printing or other reproduction, the issue will be resolved by the lower court under Rule 2761 (insertion of costs in remanded record and taxation of costs).

Source

The provisions of this Rule 2742 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740; amended September 10, 2008, effective December 1, 2008, 38 Pa.B. 5257. Immediately preceding text appears at serial pages (236421) to (236422).

Rule 2743. Other Taxable Costs.

(a) General rule.—Except as otherwise provided by law, taxable costs on appeal shall include:

- (1) Fees in the appellate court paid in the matter pursuant to Rule 2701 (payment of fees required).
- (2) In cases in which an evidentiary record is made before the appellate court, other than by the filing of a stipulation of facts, the cost of the original transcript as determined in the same manner as the costs of transcripts in the courts of common pleas are determined.
- (3) Costs authorized by or pursuant to this chapter.

(b) Exceptions.—The filing fees in the transferor court in a matter transferred under Rule 751 (transfer of erroneously filed cases) and the additional filing fee in a matter transferred under Rule 905(a) (filing notice of appeal) shall not be taxable.

Official Note: See note to Rule 2741 (parties entitled to costs). Subdivision (a)(2) is based on former Commonwealth Court Rule 117.

Source

The provisions of this Rule 2743 amended through April 26, 1982, effective May 15, 1982, 12 Pa.B. 1536. Immediately preceding text appears at serial page (50337).

Rule 2744. Further Costs. Counsel Fees. Damages for Delay.

In addition to other costs allowable by general rule or Act of Assembly, an appellate court may award as further costs damages as may be just, including

- (1) a reasonable counsel fee and
- (2) damages for delay at the rate of 6% *per annum* in addition to legal interest, if it determines that an appeal is frivolous or taken solely for delay or that the conduct of the participant against whom costs are to be imposed is

dilatory, obdurate or vexatious. The appellate court may remand the case to the trial court to determine the amount of damages authorized by this rule.

Official Note: See 42 Pa.C.S. § 1726(1) and (3) (relating to establishment of taxable costs) and 42 Pa.C.S. § 2503(a), (7) and (9) (relating to the right of participants to receive counsel fees.)

Some concern was expressed that the rule should contain an exception for criminal cases in which the defendant may have a constitutional right to appeal, whether frivolous or not. It is felt that such right will be taken into consideration, when appropriate, and that such a blanket exception should not be written into the rule.

Source

The provisions of this Rule 2744 amended through June 28, 1985, effective July 20, 1985, 15 Pa.B. 2636. Immediately preceding text appears at serial page (70119).

Rule 2751. Applications for Further Costs and Damages.

An application for further costs and damages must be made before the record is remanded, unless the appellate court, for cause shown, shall otherwise direct. Such an application must set forth specifically the reasons why it should be granted, and shall be accompanied by the opinion of the court and the briefs used therein. An application for further costs and damages shall contain the certificate of compliance required by Pa.R.A.P. 127.

Official Note: Based on former Supreme Court Rule 65 and former Superior Court Rule 56, and makes no change in substance.

Source

The provisions of this Rule 2751 amended January 5, 2018, effective January 6, 2018, 48 Pa.B. 461. Immediately preceding text appears at serial page (236423).

Rule 2761. Insertion of Costs in Remanded Record and Taxation of Costs.

Where specific costs are awarded in an appellate court under Rule 2155 (allocation of cost of reproduced record) or Rule 2744 (damages for delay) or otherwise, the prothonotary of the appellate court shall prepare and certify an itemized statement of any such costs taxed in the appellate court for inclusion in the remanded record. If the record has been remanded before final determination of such costs, the statement, or any amendment thereof, may be added to the remanded record at any time upon request to the prothonotary of the appellate court. Unless otherwise ordered, all other costs on appeal, including any costs awarded by the appellate court under Rule 2155 or Rule 2744 in terms of a fraction or percentage of any amount which has not yet been taxed of record, shall be taxed in the lower court.

Rule 2762. Procedure for Collection of Costs in Appellate Courts and on Appeal.

(a) General rule.—Costs on appeal from a lower court shall be collected in the same manner as costs taxed in such court are collected.

(b) Commonwealth Court.—Costs in the Commonwealth Court which are not collectable under Subdivision (a) of this rule shall be entered by the Prothonotary of the Commonwealth Court as a judgment against the party liable therefor and shall be collected in the same manner as other judgments of the Commonwealth Court are enforced.

Official Note: The right to costs in the Commonwealth Court under Subdivision (b) is lost unless a bill of costs is filed within the time prescribed by Rule 3751 (taxation of costs).

Source

The provisions of this Rule 2762 through April 26, 1982, effective September 12, 1982, 12 Pa.B. 1536. Immediately preceding text appears at serial pages (61062) and (61063).

Rule 2771. Costs on Appeal Taxable in the Lower Court.

Costs incurred in the preparation and transmission of the record, the costs of the notes of testimony or other transcript, if necessary to a determination of the appeal, the premiums paid for cost of supersedeas bonds or other bonds to preserve rights pending appeal, and the fee for filing the notice of appeal, shall be taxed in the lower court as costs of the appeal in favor of the party entitled to costs under this chapter.

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