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CHAPTER 31. BUSINESS OF THE COURTS GENERALLY**IN GENERAL**

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IN GENERAL**Rule 3101. Appellate Courts Always Open.**

An appellate court shall be deemed always open for the purpose of filing any proper paper, of issuing and returning process and of making applications and orders.

Official Note: Based on 42 Pa.C.S. § 324 (sessions and terms of courts) which provides that each court shall always be open for the transaction of judicial business and the court or any judge shall have the same power in vacation to issue injunctions, grant stays and enter other orders as they may have while the court is in session.

Source

The provisions of this Rule 3101 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802. Immediately preceding text appears at serial page (25489).

Rule 3102. Quorum and Action.

(a) *Quorum.* A majority of the Supreme Court and, except as otherwise prescribed in this rule, a panel of three judges of any other appellate court shall be a quorum of the court.

(b) *Absence from panel.* If less than three members of a panel attend a session of the panel, another judge or judges shall be designated to complete the panel if reasonably possible, and if it is not reasonably possible to do so the presiding judge with the consent of the parties present may direct that the matter be heard and determined by a panel of two judges. If the two judges who so heard the matter are unable to agree upon the disposition thereof, the president judge of the court may direct either that the matter be submitted on the briefs to a third judge, or that the matter be reargued before a full panel.

(c) *Commonwealth Court evidentiary hearing and election matters.* A single judge of the Commonwealth Court shall be a quorum of the Court for the purposes of hearing and determining:

- (1) Any matter which under the applicable law may be determined in whole or in part upon the record made before the court.
- (2) Any election matter.
- (3) Any enforcement proceeding under Rule 3761 (relating to enforcement proceedings).

Official Note: Subdivisions (a) and (c) are based on 42 Pa.C.S. § 326(a) and (b) (quorum). 42 Pa.C.S. § 326(c) (inability to assemble quorum) provides that where by reason of vacancy, illness, disqualification or otherwise it is impossible to assemble a quorum of a court at the time and place appropriate therefor, sufficient judges shall be temporarily assigned to the court to permit the court to hold a duly convened session and transact the business of the court. It is well-established that the Supreme Court may provide by rule for the quorum of a court whose regular complement is fixed by the Constitution. See, e.g., Rule 7 of the Special Rules for the Courts of Common Pleas of the First Judicial District and Section 6 of Article V of the Constitution of 1874. Subdivision (d) is intended as a codification of existing practice and is based in part on former Commonwealth Court Rule 42.

Source

The provisions of this Rule 3102 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended January 28, 2002, effective January 28, 2002, 32 Pa.B. 876; amended January 28, 2002, effective January 28, 2002, 34 Pa.B. 2688; amended September 10, 2008, effective December 1, 2008, 38 Pa.B. 5257. Immediately preceding text appears at serial page (304074).

Rule 3103. Court En Banc.

(a) *Composition.* All intermediate appellate courts en banc shall consist of seven members. Insofar as practicable, the president judge shall assign members of the court to en banc panels in such a fashion that each member sits substantially the same number of times with each other member.

(1) *Superior Court.* The court en banc shall consist of no more than nine active members of the court.

(2) *Commonwealth Court.* The court en banc shall consist of seven active members of the court.

Insofar as practicable, the president judge shall assign members of the court to en banc panels in such a fashion that each member sits substantially the same number of times with each other member.

(b) *Precedent.* An opinion of the court en banc is binding on any subsequent panel of the appellate court in which the decision was rendered.

Official Note: Based on 42 Pa.C.S. § 326(d) (court en banc), which provides that the composition of a court en banc shall be specified by general rules.

Authority

The provisions of this Rule 3103 issued under Article V, section 10, of the Constitution of Pennsylvania.

Source

The provisions of this Rule 3103 adopted May 11, 1981, effective May 30, 1981, 11 Pa.B. 1892; amended June 13, 1984, effective July 1, 1984, 14 Pa.B. 2240. Immediately preceding text appears at serial pages (61065) to (61066).

Rule 3111. Prothonotary.

Each appellate court shall appoint a clerk of the court, who shall be known as the “Prothonotary of (the respective) Court of Pennsylvania”. The prothonotary shall serve at the pleasure of the court.

Rule 3112. Office of the Prothonotary.

There shall be an office of the prothonotary of each appellate court, which shall be known as the “Office of the Prothonotary of (the respective) Court of Pennsylvania,” which shall be the office of the prothonotary of the court, and which shall be maintained at such place or places as may be specified by rule of court. It shall be supervised by the prothonotary of the court who shall, either personally, by deputy, by other duly authorized personnel of the system, or by duly authorized agent, exercise the power and perform the duties by law vested in and imposed upon the prothonotary or the office of the prothonotary of the court.

Rule 3113. Docket and Records.

The prothonotary shall keep, in conformity with law, a docket of matters pending and decided in the court, and such other records as may be required by law or necessary for the operation of the court.

Rule 3114. Original Papers.

No original record or paper shall be taken from its appropriate place among the records or files of an appellate court, without a written order from a judge of the court, or from the prothonotary or other authorized officer, and the giving of a written receipt therefor. If such order is given, the officer permitting the record or paper to be removed shall see that it is returned immediately on the expiration of the time specified in the order, or within one day after it is taken out, if no time is specified therein.

Official Note: Based on former Supreme Court Rule 69, former Superior Court Rule 60 and former Commonwealth Court Rule 116, and makes no change in substance.

Rule 3115. Inactive Matters.

(a) *General rule.* The prothonotary shall list for general call at the first session held after September 1 of each year all matters which appear to be inactive for an unreasonable period of time and shall give notice thereof to the parties as provided by Rule 1901(c) of the Pennsylvania Rules of Judicial Administration (prompt disposition of matters; termination of inactive cases). If no action is taken or no written objection is docketed in the matter prior to the commencement of the general call, the prothonotary shall strike the matter from the list and enter an order as of course marking the matter “Terminated Under Pa. R.J.A. 1901.” If no good cause for continuing a matter is shown at the general call, an appropriate order shall be entered quashing or non prossing for want of prosecution or marking the matter “Terminated Under Pa. R.J.A. 1901.” Thereafter the record shall be remanded as prescribed by these rules.

(b) *Proceedings in lower court.* A termination under this rule terminates proceedings in the appellate court, but does not affect the status of the matter in the lower court, except that the period during which the matter was inactive in the appellate court may be considered by the lower court in making its own determination in the matter under Rule 1901 of the Pennsylvania Rules of Judicial Administration.

Official Note: Based on Pa. R.J.A. No. 1901 and former Commonwealth Court Rule 3.

Source

The provisions of this Rule 3115 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802. Immediately preceding text appears at serial page (25492).

ATTORNEYS AND COUNSELORS

Rule 3121. Practice of Law by Staff; Qualifications.

A. Neither the prothonotary, deputy prothonotary, chief clerk, nor any person employed in the Office of the Prothonotary, nor any personal staff employed by an appellate court or by any judge thereof, shall practice before any court or tribunal of this Commonwealth. Nor shall any such person otherwise practice law. Such a person may act *pro se*, and may perform routine legal work incident to the management of the personal affairs of the person or a member of the person's family, as long as the work is performed without compensation and does not involve the entry of an appearance on behalf of the family member in a court or other tribunal. Such limited practice is also subject to the disclosure of employment within the Unified Judicial System to the parties and the court in which the employee represents himself or herself.

This rule does not apply to *pro bono* activities, provided that they are performed without compensation; do not involve the entry of an appearance before any court or tribunal; do not involve a matter of public controversy, an issue likely to come before the person's court, or litigation against federal, state or local government; and are undertaken after written approval of the Justice or Judge for whom the person is employed and the Chief Justice, or the President Judge of the Superior Court or Commonwealth Court, depending on which court employs the person.

B. Staff attorneys must either be members of the Bar of Pennsylvania, or must have received without exception an earned Bachelor of Laws or Juris Doctor degree from a law school that was an accredited law school at the time the staff attorney matriculated or graduated.

Official Note: Based on former Supreme Court Rule 6, former Superior Court Rule 4 and former Commonwealth Court Rule 60. See also 42 Pa.C.S. § 2502 (certain persons not to appear as counsel). The term "personal staff" includes, for example, a staff attorney, law clerk, administrative assistant, secretary or tipstaff. See 42 Pa.C.S. § 102 (defining "personal staff").

Source

The provisions of this Rule 3121 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended August 21, 2013, effective immediately, 43 Pa.B. 5394. Immediately preceding text appears at serial page (338869).

Rule 3122. Oral Agreements.

Oral agreements between attorneys will not be considered or recognized by appellate court if disputed unless made in open court concerning a matter then under consideration.

Official Note: Based on former Supreme Court Rule 18, former Superior Court Rule 8 and former Commonwealth Court Rule 61, and makes no change in substance except to omit reference to written notice to attorneys, which is now covered by Rule 121 (filing and service).

BRIEFS**Rule 3191. Distribution of Briefs.**

The following entities shall be entitled to receive distribution of briefs filed in an appellate court:

- (1) The State Library (two copies).
- (2) The Jenkins Law Library of Philadelphia.
- (3) The Allegheny County Law Library.
- (4) The University of Pennsylvania Law Library.
- (5) The Dickinson Law School Library.
- (6) The University of Pittsburgh Law Library.
- (7) The Harvard Law School.
- (8) The Duquesne University Law Library.
- (9) The Temple Law School Library.
- (10) The Villanova University Law School Library.
- (11) The Delaware Law School of Widener College Law Library.
- (12) The Legal Intelligencer.
- (13) The West Publishing Company

Official Note: Based on former Supreme Court Rule 59 and former Superior Court Rule 49. The whole subject of the distribution of briefs to the court and others is an administrative matter, but the existence of the rule will continue the free distribution of the *Pennsylvania Consolidated Statutes*, the *Pennsylvania Code*, the *Pennsylvania Bulletin* and local government codes to the entities named in the rule by reason of 1 Pa.C.S. § 501 (publication and distribution) 45 Pa.C.S. § 730(3) (pricing and distribution of published documents) and act of May 29, 1935 (P. L. 244, No. 102), § 2.1(b)(4) (46 P. S. § 431.2a(b)(4)).

Source

The provisions of this Rule 3191 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 (254187) to (254188).

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