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## CHAPTER 9. APPEALS FROM LOWER COURTS

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**Rule 901. Scope of Chapter.**

This chapter applies to all appeals from a trial court to an appellate court except:

- (1) An appeal by allowance taken under 42 Pa.C.S. § 724 (allowance of appeals from Superior and Commonwealth Courts). *See* Pa.R.A.P. 1112.
- (2) An appeal by permission taken pursuant to Pa.R.A.P. 1311.
- (3) An appeal taken by petition for specialized review pursuant to Chapter 16.
- (4) Automatic review of sentences pursuant to 42 Pa.C.S. § 9711(h) (review of death sentence). *See* Pa.R.A.P. 1941.

**Source**

The provisions of this Rule 901 amended December 29, 1977, effective January 29, 1978, 8 Pa.B. 133; amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended February 27, 1980, 10 Pa.B. 1038, effective as set forth at 10 Pa.B. 1038; amended May 15, 2007, effective immediately, 37 Pa.B. 2492; amended December 10, 2012, effective in 60 days, 42 Pa.B. 7813; amended June 4, 2013, effective July 4, 2013, 43 Pa.B. 3327; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial pages (367331) to (367332).

**Rule 902. Manner of Taking Appeal.**

(a) *Requirements.* An appeal permitted by law as of right from a trial court to an appellate court shall be taken by filing a notice of appeal with the clerk of the trial court within the time allowed by Pa.R.A.P. 903 (time for appeal). A notice of appeal must be filed in each docket in which the order has been entered.

(b) *Failure to Comply with Requirements.*

(1) *Generally.* Except as provided in subdivision (b)(2), the failure of a party to comply with the requirements stated in subdivision (a) does not affect the validity of the appeal, but the appeal is subject to such action as the appellate court deems appropriate. Such action may include, but is not limited to, remand of the matter to the trial court so that the omitted procedural step may be taken.

(2) *Exception.* The failure to file a notice of appeal within the time allowed by Pa.R.A.P. 903 (time for appeal) renders an appeal invalid.

**Comment:**

*Discretionary aspects of sentencing.* Section 9781 of the Sentencing Code (42 Pa.C.S. § 9781) provides that the defendant or the Commonwealth may file a “petition for allowance of appeal” of the discretionary aspects of a sentence for a felony or a misdemeanor. The notice of appeal under this chapter (*see* Pa.R.A.P. 904 (content of the notice of appeal)), in conjunction with the requirements set forth in Pa.R.A.P. 2116(b) and 2119(f), operates as the “petition for allowance of appeal” under the Sentencing Code. No additional wording is required or appropriate in the notice of appeal.

In effect, the filing of the “petition for allowance of appeal” contemplated by the statute is deferred by these rules until the briefing stage, where the question of the appropriateness of the discretionary aspects of the sentence may be briefed and argued in the usual manner. *See* Pa.R.A.P. 2116(b) and note; Pa.R.A.P. 2119(f) and note.

*Subdivision (a).* Where cases are consolidated or related, applicable practice in the trial court may result in the order listing multiple dockets and being entered in one or more dockets. Under those circumstances, an appellant who intends to appeal the order in one docket should file a notice of appeal in the appropriate docket listing that docket number. An appellant who intends to appeal the order in more than one docket is required to file a separate notice of appeal in each docket, listing the appropriate docket number. *See Commonwealth v. Walker*, 185 A.3d 969 (Pa. 2018).

The appellant who intends to appeal the order in more than one docket is cautioned that “no order of a court shall be appealable until it has been entered upon the appropriate docket in the trial court.” Pa.R.A.P. 301(a)(1). The burden is on the appellant to cause entry of the order on the appropriate docket in anticipation of taking the appeal. Under these circumstances, the appellant is also cautioned to consider Pa.R.A.P. 301 when calculating the time allowed for filing the notice of appeal pursuant to Pa.R.A.P. 903. Pa.R.A.P. 301 provides that “here under the applicable practice below an order is entered in two or more dockets, the order has been entered for the purposes of appeal when it has been entered in the first appropriate docket.” Pa.R.A.P. 301(a)(1).

One exception has been recognized to the requirement of filing separate notices of appeal. An appellant may file a single notice of appeal from an order entered in the lead docket for consolidated civil cases “where all record information necessary to adjudication of the appeal exists, and which

involves identical parties, claims and issues.” See *Always Busy Consulting, LLC v. Babford & Co., Inc.*, 247 A.3d 1033, 1043 (Pa. 2021).

*Subdivision (b).* When it is not apparent from the notice of appeal that the requirements of Pa.R.A.P. 902 have been satisfied, an appellate court may remand, issue a rule, or take other steps that may require the appellant to respond with additional information or to correct a defect. See *Commonwealth v. Young*, 265 A.3d 462 (Pa. 2021), and the Note to Pa.R.A.P. 301 for examples of when an appeal may be remanded because an order has not been reduced to judgment or final decree and docketed.

If the appellant fails to respond or take the necessary steps to correct a defect, the appellate court may quash the appeal.

The failure to file a timely notice of appeal implicates the jurisdiction of the appellate court and requires quashal of the appeal. See 42 Pa.C.S. § 704(b)(1); *Commonwealth v. Williams*, 106 A.3d 583, 587 (Pa. 2014).

#### Source

The provisions of this Rule 902 amended through December 10, 1986, effective January 31, 1987, and shall govern all matters thereafter commenced and, insofar as just and practicable, matters then pending, 16 Pa.B. 4951; amended May 28, 2014, effective July 1, 2014, 44 Pa.B. 3493; amended May 18, 2023, effective immediately, 53 Pa.B. 2940. Immediately preceding text appears at serial pages (408492) and (403233).

### Rule 903. Time for Appeal.

(a) *General rule.* Except as otherwise prescribed by this rule, the notice of appeal required by Rule 902 (manner of taking appeal) shall be filed within 30 days after the entry of the order from which the appeal is taken.

(b) *Cross appeals.* Except as otherwise prescribed in subdivision (c) of this rule, if a timely notice of appeal is filed by a party, any other party may file a notice of appeal within 14 days of the date on which the first notice of appeal was served, or within the time otherwise prescribed by this rule, whichever period last expires.

(c) *Special provisions.* Notwithstanding any other provision of this rule:

(1) An appeal from any of the following orders shall be taken within ten days after the entry of the order from which the appeal is taken:

(i) An order changing venue or venire in a criminal proceeding. See Rule 311(a)(3) (change of criminal venue or venire).

(ii) An order in any matter arising under the Pennsylvania Election Code.

(iii) An order in any matter arising under the Local Government Unit Debt Act or any similar statute relating to the authorization of public debt.

(2) Where an election has been filed under Rule 311(b) (order sustaining venue or personal or *in rem* jurisdiction), the notice of appeal shall be filed within 30 days after the filing of the election.

(3) In a criminal case in which no post-sentence motion has been filed, the notice of appeal shall be filed within 30 days of the imposition of the judgment of sentence in open court.

#### Comment:

42 Pa.C.S. § 5571(a) (appeals generally) provides that the time for filing an appeal, a petition for allowance of appeal, a petition for permission to appeal or a petition for review or a quasi-judicial order, in the Supreme Court, the Superior Court or the Commonwealth

Court shall be governed by general rules and that no other provision of 42 Pa.C.S. Ch. 55D shall be applicable to such matters. In order to prevent inadvertent legislative creation of nonuniform appeal times, 42 Pa.C.S. § 1722(c) (time limitations) expressly authorizes the suspension by general rule of nonuniform statutory appeal times. See also 42 Pa.C.S. § 5501(a) (scope of chapter), which makes Chapter 55 (limitation of time) of the Judicial Code subordinate to any other statute prescribing a different time in the case of an action or proceeding, but which does not so provide in the case of an appeal.

Thus, on both a statutory and constitutional basis, this rule supersedes all inconsistent statutory provisions prescribing times for appeal.

As to subdivision (b), compare 42 Pa.C.S. § 5571(f) (cross appeals).

A party filing a cross appeal pursuant to subdivision (b) should identify it as a cross appeal in the notice of appeal to assure that the prothonotary will process the cross appeal with the initial appeal. See also Rule 511 (cross appeals), Rule 2113 (reply brief), Rule 2136 (briefs in cases involving cross appeals), Rule 2185 (service and filing of briefs) and Rule 2322 (cross and separate appeals).

*In Re Petition of the Board of School Directors of the Hampton Township School District*, 688 A.2d 279 (Pa. Cmwlth. 1997), the Commonwealth Court panel held that Rule 903(b) does not extend the appeal period for any other party to file an appeal unless the party is “adverse.” Under the 2002 amendment to Rule 511, the requirement that a party be adverse in order to file a cross appeal is eliminated. Once a notice of appeal is filed by one party, any other party may file a cross appeal within fourteen days.

Rule of Appellate Procedure 107 incorporates by reference the rules of construction in the Pennsylvania Rules of Judicial Administration, Pa.R.J.A. 104—115. See Pa.R.J.A. 107(a)-(b) relating to computation of time for the rule of construction relating to (1) the exclusion of the first day and inclusion of the last day of a time period and (2) the omission of the last day of a time period which falls on Saturday, Sunday or legal holiday.

See Rule 108 (date of entry of orders) and Explanatory Comment—2007 thereto, Rule 301(a)(1) and (2) (entry upon docket below), and Pa.R.Crim.P. 462, 720, and 721 governing criminal appeals.

#### **Explanatory Comment—2001**

The 2001 amendment to Subdivision (c) clarifies that the appeal period for appealing from orders in civil cases sustaining venue or personal or in rem jurisdiction runs from the date of the election under Pa.R.A.P. 311(b)(1), not the date of the original order. The 2000 amendment extends the appeal period following such an election from ten days to thirty days to conform the appeal period for civil orders changing venue pursuant to Pa.R.A.P. 311(c).

The portion of the Note suggesting the necessity of taking an appeal within the 20 day pleading period is misleading and is deleted. For this reason, the bracketed material of the Note is deleted.

#### **Explanatory Comment—2002**

See Comment following Pa.R.A.P., Rule 511.

#### **Source**

The provisions of this Rule 903 amended through December 10, 1986, effective January 31, 1987, and shall govern all matters thereafter commenced, and insofar as just and practicable, matters then pending, 16 Pa.B. 4951; amended April 26, 2001, effective July 1, 2001, 31 Pa.B. 2469; amended October 18, 2002, effective December 2, 2002, 32 Pa.B. 5402; amended January 18, 2007, effective August 1, 2007, 37 Pa.B. 521; amended April 9, 2012, effective in 30 days, 42 Pa.B. 2269; amended November 3, 2023, effective January 1, 2024, 53 Pa.B. 7132. Immediately preceding text appears at serial pages (414633) to (414634).

### **Rule 904. Content of the Notice of Appeal.**

(a) *Form.* Except as otherwise prescribed by this rule, the notice of appeal shall be in substantially the following form:

COURT OF COMMON PLEAS  
OF \_\_\_\_\_ COUNTY

Party A's full name, Plaintiff:

v.

Party B's full name, Defendant:

Docket or File No. \_\_\_\_\_

Offense Tracking Number \_\_\_\_\_

NOTICE OF APPEAL

Notice is hereby given that \_\_\_\_\_, defendant above named, hereby appeals to the (Supreme) (Superior) (Commonwealth) Court of Pennsylvania from the order entered in this matter on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_. This order has been entered in the docket as evidenced by the attached copy of the docket entry.

(S) \_\_\_\_\_

\_\_\_\_\_  
(Address and telephone number)

(b) *Caption.*

(1) *General Rule.* The parties shall be stated in the caption as they appeared on the record of the trial court at the time the appeal was taken.

(2) *Appeal of Custody Action.* In an appeal of a custody action where the trial court has used the full name of the parties in the caption, upon application of a party and for cause shown, an appellate court may exercise its discretion to use the initials of the parties in the caption based upon the sensitive nature of the facts included in the case record and the best interest of the child.

(c) *Request for Transcript.* The request for transcript contemplated by Pa.R.A.P. 1911 or a statement signed by counsel that either there is no verbatim record of the proceedings or the complete transcript has been lodged of record shall accompany the notice of appeal, but the absence of or defect in the request for transcript shall not affect the validity of the appeal.

(d) *Docket Entry.* The notice of appeal shall include a statement that the order appealed from has been entered on the docket. A copy of the docket entry showing the entry of the order appealed from shall be attached to the notice of appeal.

(e) *Content in Criminal Cases.* When the Commonwealth takes an appeal pursuant to Pa.R.A.P. 311(d), the notice of appeal shall include a certification by counsel that the order will terminate or substantially handicap the prosecution.

(f) *Content in Children's Fast Track Appeals.* In a children's fast track appeal, the notice of appeal shall include a statement advising the appellate court that the appeal is a children's fast track appeal.

(g) *Completely Consolidated Civil Cases.* In an appeal of completely consolidated civil cases where only one notice of appeal is filed, a copy of the consolidation order shall be attached to the notice of appeal.

**Comment:**

The Offense Tracking Number (OTN) is required only in an appeal in a criminal proceeding. It enables the Administrative Office of the Pennsylvania Courts to collect and forward to the Pennsylvania State Police information pertaining to the disposition of all criminal cases as provided by the Criminal History Record Information Act, 18 Pa.C.S. §§ 9101 *et seq.*

The notice of appeal must include a statement that the order appealed from has been entered on the docket. Because generally a separate notice of appeal must be filed on each docket on which an appealable order is entered so as to appeal from that order, *see* Pa.R.A.P. 902(a), the appellant is required to attach to the notice of appeal a copy of the docket entry showing the entry of the order

appealed from on that docket. The appellant does not need to certify that the order has been reduced to judgment. This omission does not eliminate the requirement of reducing an order to judgment before there is a final appealable order where required by applicable practice or case law.

Subdivision (b)(2) provides the authority for an appellate court to initialize captions in custody appeals. *See also* Pa.R.C.P. 1915.10.

With respect to subdivision (e), in *Commonwealth v. Dugger*, 486 A.2d 382, 386 (Pa. 1985), the Supreme Court held that the Commonwealth's certification that an order will terminate or substantially handicap the prosecution is not subject to review as a prerequisite to the Superior Court's review of the merits of the appeal. The principle in *Dugger* has been incorporated in and superseded by Pa.R.A.P. 311(d). *Commonwealth v. Dixon*, 907 A.2d 468, 471 n.8 (Pa. 2006). Thus, the need for a detailed analysis of the effect of the order, formerly necessarily a part of the Commonwealth's appellate brief, has been eliminated.

A party filing a cross-appeal should identify it as a cross-appeal in the notice of appeal to assure that the prothonotary will process the cross-appeal with the initial appeal. *See also* Pa.R.A.P. 2113, 2136, and 2185 regarding briefs in cross-appeals and Pa.R.A.P. 2322 regarding oral argument in multiple appeals.

A party appealing completely consolidated civil cases using one notice of appeal must attach a copy of the consolidation order to the notice of appeal to assure the applicability of Pa.R.A.P. 902.

#### Source

The provisions of this Rule 904 amended through December 10, 1986, effective January 31, 1987, and shall govern all matters thereafter commenced and, insofar as just and practicable, matters then pending, 16 Pa.B. 4951; corrected at January 16, 1987, 17 Pa.B. 246; amended July 7, 1997, effective in 60 days, 27 Pa.B. 3503; amended October 16, 2002, effective immediately, 32 Pa.B. 5402; amended January 13, 2009, 39 Pa.B. 1094, effective as to all appeals filed 60 days or more after adoption; amended December 14, 2015, effective April 1, 2016, for all orders entered on or after that date, 46 Pa.B. 8; amended October 22, 2020, effective January 1, 2021, 50 Pa.B. 6197; amended May 18, 2023, effective immediately, 53 Pa.B. 2940. Immediately preceding text appears at serial pages (403234) and (408493) to (408494).

### Rule 905. Filing of Notice of Appeal.

#### (a) *Filing with clerk.*

(1) Two copies of the notice of appeal, the order for transcript, if any, and the proof of service required by Pa.R.A.P. 906, shall be filed with the clerk of the trial court. If the appeal is to the Supreme Court, the jurisdictional statement required by Pa.R.A.P. 909 shall also be filed with the clerk of the trial court.

(2) If the appeal is a children's fast track appeal, a concise statement of errors complained of on appeal as described in Pa.R.A.P. 1925(a)(2) shall be filed with the notice of appeal and served on the trial judge in accordance with Pa.R.A.P. 906(a)(2).

(3) Upon receipt of the notice of appeal, the clerk shall immediately stamp it with the date of receipt, and that date shall constitute the date when the appeal was taken, which date shall be shown on the docket.

(4) If a notice of appeal is mistakenly filed in an appellate court, or is otherwise filed in an incorrect office within the unified judicial system, the clerk shall immediately stamp it with the date of receipt and transmit it to the clerk of the court which entered the order appealed from, and upon payment of an additional filing fee the notice of appeal shall be deemed filed in the trial court on the date originally filed.

(5) A notice of appeal filed after the announcement of a determination but before the entry of an appealable order shall be treated as filed after such entry and on the day thereof.

(b) *Transmission to appellate court.*—The clerk shall immediately transmit to the prothonotary of the appellate court named in the notice of appeal a copy of

the notice of appeal and all attachments, as well as a receipt showing collection of any docketing fee in the appellate court required under paragraph (c). If the appeal is a children's fast track appeal, the clerk shall stamp the notice of appeal with a "Children's Fast Track" designation in red ink, advising the appellate court that the appeal is a children's fast track appeal, and the clerk shall also transmit to the prothonotary of the appellate court named in the notice of appeal the concise statement of errors complained of on appeal required by subparagraph (a)(2) of this rule. The clerk shall also transmit with such documents:

- (1) copies of all orders for transcripts relating to orders on appeal;
- (2) a copy of any verified statement, application, or other document filed under Pa.R.A.P. 551-561 relating to *in forma pauperis*; and
- (3) if the appeal is to the Supreme Court, the jurisdictional statement required by Pa.R.A.P. 909.

(c) *Fees*.—The appellant upon filing the notice of appeal shall pay any fees therefor (including docketing fees in the appellate court) prescribed by Chapter 27.

**Official Note:** To preserve a mailing date as the filing date for an appeal as of right from an order of the Commonwealth Court, *see* Pa.R.A.P. 1101(b).

To determine the number of copies to be filed, *see* Pa.R.A.P. 124(c) and its Official Note. The appellate court portion of the filing fee will be transmitted pursuant to regulations adopted under 42 Pa.C.S. § 3502.

#### Source

The provisions of this Rule 905 amended through December 10, 1987, effective January 31, 1987, and shall govern all matters thereafter commenced and, insofar as just and practicable matters then pending, 16 Pa.B. 4951; amended September 10, 2008, effective December 1, 2008, 38 Pa.B. 5257; amended January 13, 2009, 39 Pa.B. 1094, effective as to all appeals filed 60 days or more after adoption; amended June 24, 2019, effective October 1, 2019, 49 Pa.B. 3867; amended October 28, 2021, effective April 1, 2022, 51 Pa.B. 7050. Immediately preceding text appears at serial pages (403236) to (403237).

### Rule 906. Service of Notice of Appeal.

(a) *General rule*. Concurrently with the filing of the notice of appeal under Pa.R.A.P. 905, the appellant shall serve copies thereof, and of any request for transcript, and copies of a proof of service showing compliance with this rule, upon:

- (1) All parties to the matter in the trial court including parties previously dismissed pursuant to an interlocutory order unless; (i) the interlocutory order of dismissal was reviewed by an appellate court and affirmed; or (ii) the interlocutory order of dismissal was made final under Pa.R.A.P. 341(c) and no party appealed from that date;
- (2) The judge of the court below, whether or not the reasons for the order appealed from already appear of record;
- (3) The official court reporter of the trial court, whether or not a request for transcript accompanies the papers; and
- (4) The district court administrator or other person designated by the administrator pursuant to Rule 4007(B)(3) of the Pennsylvania Rules of Judicial Administration.



(b) *Appeals to the Supreme Court.* In addition to the requirements of paragraph (a), the appellant shall serve copies of the jurisdictional statement required by Pa.R.A.P. 909 upon all parties to the matter in the trial court. The proof of service shall show compliance with this paragraph.

**Official Note:** See Pa.R.A.P. 908.

**Source**

The provisions of this Rule 906 amended through December 10, 1986, effective January 31, 1987, and shall govern all matters thereafter commenced and, insofar as just and practicable, matters then pending, 16 Pa.B. 4951; amended July 7, 1997, effective in sixty days, 27 Pa.B. 3503; amended December 2, 2016, effective January 1, 2017, 46 Pa.B. 7801. Immediately preceding text appears at serial pages (342214) to (342215).

**Rule 907. Docketing of Appeal.**

(a) *Docketing of appeal.*—Upon the receipt of the papers specified in Pa.R.A.P. 905(b) (transmission to appellate court), the prothonotary of the appellate court shall immediately enter the appeal upon the docket, note the appellate docket number upon the notice of appeal, and give written notice of the docket number assignment in person or by first class mail to the clerk of the trial court, to the appellant, and to the persons named in the proof of service accompanying the notice of appeal. Unless an appellate court exercises its discretion, upon application of a party and for cause shown, to use the initials of the parties in an appeal of a custody action, the prothonotary of the appellate court shall docket an appeal under the caption given to the matter in the trial court. The appellant shall be identified in the caption. If the appellant is not identified in the caption of the trial court, the appellant's name shall be added to the caption in the appellate court.

(b) *Entry of appearance.*—Upon the docketing of the appeal the prothonotary of the appellate court shall note on the record: as counsel for the appellant, the name of counsel, if any, set forth in or endorsed upon the notice of appeal; counsel of record; and any counsel named in the proof of service. The prothonotary of the appellate court shall upon *praecipe* of counsel filed within 30 days after the docketing of the notice of appeal correct the record of appearances. Also within 30 days after the docketing of the notice of appeal, counsel for a party may strike off his or her appearance by *praecipe*, unless that party is entitled by law to be represented by counsel on appeal. Thereafter, and at any time if a party is entitled by law to be represented by counsel on appeal, a counsel's appearance for a party may not be withdrawn without leave of court, unless another lawyer has entered or simultaneously enters an appearance for the party.

**Official Note:** *Paragraph (a).*—The transmission of a photocopy of the notice of appeal, showing a stamped notation of filing and the appellate docket number assignment, without a letter of transmittal or other formalities, will constitute full compliance with the notice requirement of paragraph (a) of this rule.

A party may be entitled to the representation by counsel on appeal by constitution, statute, rule, and case law. For example, the Rules of Criminal Procedure require counsel appointed by the trial court to continue representation through direct appeal. Pa.R.Crim.P. 120(A)(4) and Pa.R.Crim.P. 122(B)(2). Similarly, the Rules of Criminal Procedure require counsel appointed in post-conviction proceedings to continue representation throughout the proceedings, including



any appeal from the disposition of the petition for post-conviction collateral relief. Pa.R.Crim.P. 904(F)(2) and Pa.R.Crim.P. 904(H)(2)(b). The same is true when counsel enters an appearance on behalf of a juvenile in a delinquency matter or on behalf of a child or other party in a dependency matter. Pa.R.J.C.P. 150(B), 151, Pa.R.J.C.P. 1150(B), 1151(B), (E). It would be rare for counsel in such cases to consider withdrawing by *praecipe*, but the 2020 amendment to the rule avoids any possibility of confusion by clarifying that withdrawal by *praecipe* is available only in matters that do not otherwise require court permission to withdraw.

If a party is entitled to representation on appeal, the appellate court will presume that counsel who represented the party in the trial court will also represent the party on appeal, and counsel will be entered on the appellate court docket. In order to withdraw in such cases, either (1) new counsel must enter an appearance in the appellate court prior to or at the time of withdrawal; (2) counsel must provide the appellate court with an order of the trial court authorizing withdrawal; or (3) counsel must petition the appellate court to withdraw as counsel. Counsel for parties entitled to representation on appeal are cautioned that if any critical filing in the appellate process is omitted because of an omission by counsel, and if the party ordinarily would lose appeal rights because of that omission, counsel may be subject to discipline.

When an appeal is filed in a custody action, upon application of a party and for cause shown the appellate court may make a determination that using the parties' initials in the caption is appropriate after considering the sensitive nature of the facts included in the case record and the child's best interest. *See* Pa.R.A.P. 904(b)(2).

*Paragraph (b).*—With respect to appearances by new counsel following the initial docketing appearances, please note the requirements of Pa.R.A.P. 120.

#### Source

The provisions of this Rule 907 amended May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740; amended July 7, 1997, effective in sixty days, 27 Pa.B. 3503; amended March 15, 2004, effective 60 days after adoption, 34 Pa.B. 1670; amended January 7, 2020, effective May 1, 2020, 50 Pa.B. 535; amended October 22, 2020, effective January 1, 2021, 50 Pa.B. 6197. Immediately preceding text appears at serial pages (400748) to (400749).

### Rule 908. Parties on Appeal.

All parties to the matter in the court from whose order the appeal is being taken shall be deemed parties in the appellate court, unless the appellant shall notify the prothonotary of the appellate court of the belief of the appellant that one or more of the parties below have no interest in the outcome of the appeal. A copy of such notice shall be served on all parties to the matter in the lower court, and a party noted as no longer interested may remain a party in the appellate court by filing a notice that he has an interest in the appeal with the prothonotary of the appellate court. All parties in the appellate court other than the appellant shall be appellees, but appellees who support the position of the appellant shall meet the time schedule for filing papers which is provided in these rules for the appellant.

**Official Note:** Based on U.S. Supreme Court Rule 10(4).

### Rule 909. Appeals to the Supreme Court. Jurisdictional Statement. Sanctions. Number of Copies to be Filed.

(a) *General rule.*—Upon filing a notice of appeal to the Supreme Court, the appellant shall file with the prothonotary or clerk of the trial court an original and 8 copies of a jurisdictional statement. The statement shall be in the form prescribed by Pa.R.A.P. 910(a) and (b). No statement need be filed in cases arising under Pa.R.A.P. 1941 (Review of Death Sentences).

(b) *Answer*.—Within 14 days after service of a jurisdictional statement, an adverse party may file with the Prothonotary of the Supreme Court an answer thereto in the form prescribed by Pa.R.A.P. 911. The answer shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized. No separate motion to dismiss a jurisdictional statement will be received. A party entitled to file an answer who does not intend to do so shall, within the time fixed by these rules for filing an answer, file a letter stating that an answer to the jurisdictional statement will not be filed. The failure to file an answer will not be construed as concurrence in the jurisdictional statement.

(c) *Action by the Supreme Court*.—After consideration of the jurisdictional statement and the brief in opposition thereto, if any, the Court will enter an appropriate order which may include summary dismissal for lack of subject matter jurisdiction. If the Supreme Court in its order notes probable jurisdiction or postpones consideration of jurisdiction to the hearing on the merits, the Prothonotary of the Supreme Court forthwith shall notify the court below and the attorneys of record of the noting or postponement, and the case will then stand for briefing and oral argument. In such case, the parties shall address the question of jurisdiction at the outset of their briefs and oral arguments.

(d) *Sanctions*.—If the court finds that the parties have not complied with Pa.R.A.P. 909—911, it may impose appropriate sanctions including but not limited to dismissal of the action, imposition of costs or disciplinary sanction upon the attorneys.

(e) *Number of copies to be filed*.—To determine the number of copies to be filed, see Pa.R.A.P. 124(c) and its Official Note.

#### Source

The provisions of this Rule 909 adopted December 10, 1986, effective January 31, 1987, and shall govern all matters thereafter commenced and, insofar as just and practicable, matters then pending, 16 Pa.B. 4951; amended December 30, 1987, effective January 16, 1988 and shall govern all matters thereafter commenced and, insofar as just and practicable, matters then pending, 18 Pa.B. 245. This Rule 909 is suspended with respect to death penalty cases until further notice; amended September 10, 2008, effective December 1, 2008, 38 Pa.B. 5257; amended October 28, 2021, effective April 1, 2022, 51 Pa.B. 7050 Immediately preceding text appears at serial pages (403239) to (403240).

### Rule 910. Jurisdictional Statement. Content. Form.

(a) *General rule*.—The jurisdictional statement required by Pa.R.A.P. 909 shall contain the following in the order set forth:

- (1) A reference to the official and unofficial reports of the opinions delivered in the courts below, if any, and if reported, the citation thereto. Any unreported opinions shall be appended to the jurisdictional statement;
- (2) A statement of the basis, either by Act of Assembly or general rule, for the jurisdiction of the Supreme Court or the cases believed to sustain that jurisdiction;
- (3) The text of the order in question, or the portions thereof sought to be reviewed, and the date of its entry in the court. The order may be appended to the statement;
- (4) A concise statement of the procedural history of the case; and
- (5) The questions presented for review, expressed in the terms and the circumstances of the case but without unnecessary detail. The statement of questions presented will be deemed to include every subsidiary question fairly

comprised therein. Only the questions set forth in the statement, or fairly comprised therein will ordinarily be considered by the Court.

(b) *Matters of form.*—The jurisdictional statement need not be set forth in numbered paragraphs in the manner of a pleading. It shall be as short as possible and shall not exceed 1000 words, excluding the appendix.

(c) *Certificate of compliance.*

(1) *Word count.*—A jurisdictional statement that does not exceed five pages when produced on a word processor or typewriter shall be deemed to meet the requirements of paragraph (b) of this rule. In all other cases, the attorney or the unrepresented filing party shall include a certification that the statement complies with the word count limits. The certificate may be based on the word count of the word processing system used to prepare the statement.

(2) *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania.*—A jurisdictional statement shall contain the certificate of compliance required by Pa.R.A.P. 127.

(d) *Nonconforming statements.*—The Prothonotary of the Supreme Court shall not accept for filing any statement that does not comply with this rule. The Prothonotary shall return the statement to the appellant, and inform all parties in which respect the statement does not comply with the rule. The prompt filing and service of a new and correct statement within seven days after return by the Prothonotary shall constitute a timely filing of the jurisdictional statement.

#### Source

The provisions of this Rule 910 adopted December 10, 1986, effective January 31, 1987, and shall govern all matters thereafter commenced and, insofar as just and practicable, matters then pending, 16 Pa.B. 4951; amended March 27, 2013, effective and applies to all appeals and petitions for review filed 60 days after adoption, 43 Pa.B. 2007; amended January 5, 2018, effective January 6, 2018, 48 Pa.B. 461; amended June 1, 2018, effective July 1, 2018, 48 Pa.B. 3517. Immediately preceding text appears at serial pages (389944) to (389945).

### **Rule 911. Answer to Jurisdictional Statement. Content. Form.**

(a) *General rule.*—An answer to a jurisdictional statement shall set forth any procedural, substantive, or other argument or ground why the order appealed from is not reviewable as of right and why the Supreme Court should not grant an appeal by allowance. The answer need not be set forth in numbered paragraphs in the manner of a pleading and shall not exceed 1000 words.

(b) *Certificate of compliance.*

(1) *Word count.*—An answer to a jurisdictional statement that does not exceed five pages when produced on a word processor or typewriter shall be deemed to meet the requirements of paragraph (a) of this rule. In all other cases, the attorney or the unrepresented filing party shall include a certification that the answer complies with the word count limits. The certificate may be based on the word count of the word processing system used to prepare the answer.

(2) *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania.*—An answer to a jurisdictional statement shall contain the certificate of compliance required by Pa.R.A.P. 127.

**Official Note:** The Supreme Court has, in a number of cases, determined that a party has no right of appeal, but has treated the notice of appeal as a petition for allowance of appeal and granted review. *See Gossman v. Lower Chanceford Tp. Bd. of Supervisors*, 469 A.2d 996 (Pa. 1983); *Xpress Truck Lines, Inc. v. Pennsylvania Liquor Control Board*, 469 A.2d 1000 (Pa. 1983); *O'Brien v. State Employment Retirement Board*, 469 A.2d 1008 (Pa. 1983). *See also* Pa.R.A.P. 1102. Accordingly, a party opposing a jurisdictional statement shall set forth why the order appealed from is not reviewable on direct appeal and why the Court should not grant an appeal by allowance.

#### Source

The provisions of this Rule 911 adopted December 10, 1986, effective January 31, 1987, and shall govern all matters thereafter commenced and, insofar as just and practicable, matters then pending, 16 Pa.B. 4951; amended September 10, 2008, effective December 1, 2008, 38 Pa.B. 5257; amended March 27, 2013, effective and applies to all appeals and petitions for review filed 60 days after adoption, 43 Pa.B. 2007; amended January 5, 2018, effective January 6, 2018, 48 Pa.B. 461; amended June 1, 2018, effective July 1, 2018, 48 Pa.B. 3517. Immediately preceding text appears at serial page (389946).

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