

# TITLE 210

## APPELLATE PROCEDURE

Part		Chap.
I.	RULES OF APPELLATE PROCEDURE .....	1
II.	INTERNAL OPERATING PROCEDURES .....	61
III.	APPEALS FROM THE COURT OF JUDICIAL DISCIPLINE .....	101

### Source

The provisions of this Title 210 amended June 25, 1976, 6 Pa.B. 1460; amended July 13, 1979, effective July 13, 1979, 9 Pa.B. 2323, unless otherwise noted.

## PART I. RULES OF APPELLATE PROCEDURE

Art.		Chap.
I.	PRELIMINARY PROVISIONS .....	1
II.	APPELLATE PROCEDURE .....	9
III.	MISCELLANEOUS PROVISIONS .....	31

### ARTICLE I. PRELIMINARY PROVISIONS

Chap.		Rule
1.	GENERAL PROVISIONS .....	101
3.	ORDERS FROM WHICH APPEALS MAY BE TAKEN .....	301
5.	PERSONS WHO MAY TAKE OR PARTICIPATE IN APPEALS .....	501
7.	COURTS TO WHICH APPEALS SHALL BE TAKEN .....	701

### Editorial Note

Under the Commonwealth Documents Law the text of documents published in this title acquires no special status by reason of such publication. For the official text of judicial documents reference should be made to the Prothonotary of the Supreme Court or to the Administrative Office of Pennsylvania Courts, as appropriate. See 201 Pa. Code Rule 103.

## CHAPTER 1. GENERAL PROVISIONS

### IN GENERAL

Rule	
101.	Title and Citation of Rules.
102.	Definitions.
103.	Scope of Rules.
104.	Rules of Court.
105.	Waiver and Modification of Rules.
106.	Original Jurisdiction Matters.
107.	Rules of Construction.
108.	Date of Entry of Orders.

### DOCUMENTS GENERALLY

120.	Entry of Appearance.
121.	Filing and Service.
122.	Content and Form of Proof of Service.
123.	Applications for Relief.

- 124. Form of Documents. Number of Copies to be Filed.
- 125. Electronic Filing.
- 126. Citations of Authorities.
- 127. Confidential Information and Confidential Documents. Certification.

### IN GENERAL

#### **Rule 101. Title and Citation of Rules.**

These rules shall be known as the Pennsylvania Rules of Appellate Procedure and may be cited as “Pa. R.A.P.”

#### **Rule 102. Definitions.**

Subject to additional definitions contained in subsequent provisions of these rules which are applicable to specific provisions of these rules, the following words and phrases when used in these rules shall have, unless the context clearly indicates otherwise, the meanings given to them in this rule:

*Action.*—Any action or proceeding at law or in equity.

*Argument.*—Where required by the context, the term includes submission on briefs.

*Administrative office.*—The Administrative Office of Pennsylvania Courts.

*Appeal.*—Any petition or other application to a court for review of subordinate governmental determinations. The term includes an application for *certiorari* under 42 Pa.C.S. § 934 (writs of *certiorari*) or under any other provision of law. Where required by the context, the term includes proceedings on petition for review and petition for specialized review.

**Official Note:** Under these rules a “subordinate governmental determination” includes an order of a trial court. The definition of “government unit” includes courts, and the definition of “determination” includes action or inaction by (and specifically an order entered by) a court or other government unit. In general, any appeal now extends to the whole record, with like effect as upon an appeal from a judgment entered upon the verdict of a jury in an action at law and the scope of review of an order on appeal is not limited as on broad or narrow *certiorari*. See 42 Pa.C.S. § 5105(d) (scope of appeal).

*Appellant.*—Includes petitioner for review or specialized review.

*Appellate court.*—The Supreme Court, the Superior Court, or the Commonwealth Court.

*Appellee.*—Includes a party named as respondent in a petition for review or specialized review.

*Application.*—Includes a petition or a motion.

*Appropriate security.*—Security that meets the requirements of Pa.R.A.P. 1734 (appropriate security).

*Children’s fast track appeal.*—Any appeal from an order involving dependency, termination of parental rights, adoptions, custody, or paternity. See 42 Pa.C.S. §§ 6301 *et seq.*; 23 Pa.C.S. §§ 2511 *et seq.*; 23 Pa.C.S. §§ 2101 *et seq.*; 23 Pa.C.S. §§ 5321 *et seq.*; 23 Pa.C.S. §§ 5102 *et seq.*

*Clerk.*—Includes prothonotary.

*Counsel of record.*—All attorneys who were counsel of record in the trial court at the time of the filing of the notice of appeal will be counsel of record in the appellate courts. For a criminal defendant, the representation extends up to and including the filing of a petition for allowance of appeal and the handling of such an appeal if granted, unless (1) substitute counsel has entered an appearance and is expressly identified in the *praecipe* as substitute, rather than additional, counsel; (2) the Court of Common Pleas has entered on the docket an order permitting the attorney to withdraw; or (3) an application for withdrawal is granted by the appellate court.

*Determination.*—Action or inaction by a government unit which action or inaction is subject to judicial review by a court under Section 9 of Article V of the Constitution of Pennsylvania or otherwise. The term includes an order entered by a government unit.

*Docket entries.*—Includes the schedule of proceedings of a government unit.

*General rule.*—A rule or order promulgated by or pursuant to the authority of the Supreme Court.

*Government unit.*—The Governor and the departments, boards, commissions, officers, authorities, and other agencies of the Commonwealth, including the General Assembly and its officers and agencies and any court or other officer or agency of the unified judicial system, and any political subdivision or municipal or other local authority or any officer or agency of any such political subdivision or local authority. The term includes a board of arbitrators whose determination is subject to review under 42 Pa.C.S. § 763(b) (awards of arbitrators).

*Hybrid representation.*—An attempt to act as counsel for oneself when one has counsel of record.

*Judge.*—Includes a justice of the Supreme Court.

*Matter.*—Action, proceeding, or appeal. The term includes a petition for review or petition for specialized review.

*Order.*—Includes judgment, decision, decree, sentence, and adjudication.

*Petition for allowance of appeal.*—

(a) A petition under Pa.R.A.P. 1112 (appeals to the Supreme Court by allowance); or

(b) a statement pursuant to Pa.R.A.P. 2119(f) (discretionary aspects of sentence). *See* 42 Pa.C.S. § 9781.

*Petition for permission to appeal.*—A petition under Pa.R.A.P. 1311 (interlocutory appeals by permission).

*Petition for review.*—A petition under Chapter 15.

*Petition for specialized review.*—A petition under Chapter 16.

*President judge.*—When applied to the Supreme Court, the term means the Chief Justice of Pennsylvania.

*Pro se.*—A party representing himself or herself without counsel.

*Proof of service.*—Includes acknowledgment of service endorsed upon a pleading.

*Quasijudicial order.*—An order of a government unit, made after notice and opportunity for hearing, which is by law reviewable solely upon the record made before the government unit, and not upon a record made in whole or in part before the reviewing court.

*Reargument.*—Includes reconsideration and rehearing, and is requested through an application filed in accordance with Pa.R.A.P. 2541—2547.

*Reproduced record.*—That portion of the record which has been reproduced for use in an appellate court. The term includes any supplemental reproduced record.

*Rule of court.*—A rule promulgated by a court regulating practice or procedure before the promulgating court(s).

*Trial court.*—The court from which an appeal is first taken or to be taken.

*Verified statement.*—A document filed with a clerk under these rules containing statements of fact and a statement by the signatory that it is made subject to the penalties of 18 Pa.C.S. § 4904 (unsworn falsification to authorities).

**Official Note:** Based on 42 Pa.C.S. § 102 (definitions). The definition of “determination” is not intended to affect the scope of review provided by 42 Pa.C.S. § 5105(d) (scope of appeal) or other provision of law.

#### Source

The provisions of this Rule 102 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; 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 May 28, 2014, effective July 1, 2014, 44 Pa.B. 3493; amended January 7, 2020, effective May 1, 2020, 50 Pa.B. 535; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial pages (400740) to (400742).

### Rule 103. Scope of Rules.

These rules govern practice and procedure in the Supreme Court, the Superior Court and the Commonwealth Court, including procedure in appeals to such courts from lower courts and the procedure for direct review in such courts of determinations of government units.

### Rule 104. Rules of Court.

(a) *General rule.*—Each appellate court may from time to time make and amend rules of court governing its practice:

- (1) On any subject within the scope of Chapter 23 (sessions and arguments) notwithstanding any inconsistent provision of such chapter.
- (2) On any subject covered by these rules where these rules expressly authorize the adoption of a rule of court inconsistent with a provision of these rules applicable to appellate courts generally.
- (3) On any other subject, if such rule of court is not inconsistent with these rules.

All rules of court and changes therein adopted pursuant to this rule shall be promulgated as amendments to Chapters 33, 35 or 37, as appropriate. In all

cases not provided for by rule, the appellate courts may regulate their practice in any manner not inconsistent with these rules.

(b) *Briefs and reproduced records in Commonwealth Court evidentiary hearing matters.*—The Commonwealth Court may from time to time make and amend rules of court governing its practice in matters which under the applicable law may be determined in whole or in part upon the record made before the court, notwithstanding any inconsistent provision of Chapter 21 (briefs and reproduced record) or Chapter 25 (post-submission proceedings).

**Note:** Under 42 Pa.C.S. § 323 (powers) every court has, except as otherwise prescribed by general rules, power to make such rules and orders of court as the interest of justice or the business of the court may require.

All rules of court must be adopted in compliance with Pa. R.J.A. No. 103, which (except in the case of Supreme Court rules of court) requires filing in the Administrative Office prior to the effectiveness of such rules.

Rules contained in Chapters 33, 35 and 37 applicable to a particular appellate court should always be examined to determine whether they have superseded provisions of these rules applicable to appellate courts generally. Also, review of any applicable internal operating procedures may afford material guidance. See, e.g. 210 Pa. Code Ch. 67 (internal operating procedures of the Commonwealth Court).

#### Source

The provisions of this Rule 104 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended February 27, 1980, 10 Pa.B. 1038, effective date as set forth at 10 Pa.B. 1038. Immediately preceding text appears at serial page (39540).

### Rule 105. Waiver and Modification of Rules.

(a) *Liberal construction and modification of rules.*—These rules shall be liberally construed to secure the just, speedy, and inexpensive determination of every matter to which they are applicable. In the interest of expediting decision, or for other good cause shown, an appellate court may, except as otherwise provided in paragraph (b) of this rule, disregard the requirements or provisions of any of these rules in a particular case on application of a party or on its own motion and may order proceedings in accordance with its direction.

(b) *Enlargement of time.*—An appellate court for good cause shown may upon application enlarge the time prescribed by these rules or by its order for doing any act, or may permit an act to be done after the expiration of such time, but the court may not enlarge the time for filing a notice of appeal, a petition for allowance of appeal, a petition for permission to appeal, a petition for review, or a petition for specialized review.

**Official Note:** 42 Pa.C.S. § 5504 provides that the time limited by, *inter alia*, Chapter 55D of the Judicial Code shall not be extended by order, rule, or otherwise, except that the time limited may be extended to relieve fraud or its equivalent, but there will be no extension of time as a matter of indulgence or with respect to any criminal proceeding. However, under 42 Pa.C.S. § 5571(a), statutory time limits under Chapter 55D do not apply to appeals to or other judicial review by the Supreme, Superior, or Commonwealth Courts.

Paragraph (b) of this rule is not intended to affect the power of a court to grant relief in the case of fraud or breakdown in the processes of a court.

**Source**

The provisions of this Rule 105 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial pages (231595) to (231596).

**Rule 106. Original Jurisdiction Matters.**

Unless otherwise prescribed by these rules the practice and procedure in matters brought before an appellate court within its original jurisdiction shall be in accordance with the appropriate general rules applicable to practice and procedure in the courts of common pleas, so far as they may be applied.

**Official Note:** Based on former Commonwealth Court Rule 119. The last clause of the rule refers to provisions which must be adapted to the nature and jurisdiction of the court involved.

**Source**

The provisions of this Rule 106 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802. Immediately preceding text appears at serial page (27895).

**Rule 107. Rules of Construction.**

Chapter 19 of Title 1 of the *Pennsylvania Consolidated Statutes* (rules of construction) so far as not inconsistent with any express provision of these rules, shall be applicable to the interpretation of these rules and all amendments hereto to the same extent as if these rules were enactments of the General Assembly.

**Official Note:** The effect of this rule is substantially the same as Pa. R.Civ.P. 76 to 153, which were in turn patterned after the Statutory Construction Act. See also former Commonwealth Court Rules 120 and 121.

**Rule 108. Date of Entry of Orders.**

(a) *General rule.*

(1) Except as otherwise prescribed in this rule, in computing any period of time under these rules involving the date of entry of an order by a court or other government unit, the day of entry shall be the day the clerk of the court or the office of the government unit mails or delivers copies of the order to the parties, or if such delivery is not otherwise required by law, the day the clerk or office of the government unit makes such copies public. The day of entry of an order may be the day of its adoption by the court or other government unit, or any subsequent day, as required by the actual circumstances.

(2) When pursuant to law a determination of a government unit other than a court is deemed to have been made by reason of the expiration of a specified period of time after submission of a matter to the government unit or after another prior event, any person affected may treat the expiration of such period

as equivalent to the entry of an order for the purposes of appeal (in which event the notice of appeal or other document seeking review shall set forth briefly facts showing the applicability of this paragraph) and shall so treat the expiration of the period where the person has actual knowledge (other than knowledge of the mere lapse of time) that the implied determination has occurred.

(b) *Civil orders.*—The date of entry of an order in a matter subject to the Pennsylvania Rules of Civil Procedure shall be the day on which the clerk makes the notation in the docket that notice of entry of the order has been given as required by Pa. R.Civ.P. 236(b).

(c) *Emergency appeals.*—Notwithstanding Subdivisions (a) and (b) of this rule, an order subject to Rule 301(e) (emergency appeals) shall be deemed entered for the purposes of these rules when the party intending to appeal has complied with such rule to the extent practicable under the circumstances.

(d) *Criminal orders.*

(1) In determining the date of entry of criminal orders, subdivision (a)(1) shall apply except as provided in subparagraph (d)(2).

(2) In a criminal case in which no post-sentence motion has been filed, the date of imposition of sentence in open court shall be deemed to be the date of entry of the judgment of sentence.

**Official Note:** Based in part on 42 Pa.C.S. § 5572 (time of entry of order) (which is not applicable to appeals to or judicial review of quasijudicial orders by the Supreme, Superior or Commonwealth Courts; see 42 Pa.C.S. § 5571(a) (appeals generally)) and 1 Pa. Code § 31.13. The purpose of this rule is to fix a date from which the time periods such as those set forth in Rules 903 (time for appeal), 1113 (time for petitioning for allowance of appeal), 1311 (interlocutory appeals by permission), 1512 (time for petitioning for review) and 2542 (time for application for reargument) shall be computed. Rule 5101(g) (statutes suspended) suspends all inconsistent statutes so that all appellate time periods are now computed on the same basis.

Subdivision (a)(2) is patterned after 42 Pa.C.S. § 5571(c)(6) (implied determinations). See note to Rule 903 (time for appeal). The purpose of the provision is, on the one hand, to permit an aggrieved party to appeal immediately after the expiration of the period notwithstanding the failure of the government unit to take formal action, and on the other, to eliminate complicated calendar watching by forcing the government unit or another affected person to notify all parties of the expiration of the period as a prerequisite to commencement of the running of the appeal period for the purpose of the finality of the implied determination. See, e.g. Rule 1571(b)(3) (determinations of the Board of Finance and Revenue).

See Pa.R.A.P. 301(a)(1) and (2), Pa.R.A.P. 903(c)(3), and Pa.R.Crim. P. 462, 720, and 721 governing criminal appeals.

#### **Explanatory Comment—1979**

Where a determination is implied by the passage of time without action by a government unit, an aggrieved party is given the option either to appeal at once at the expiration of the period or to rely on the government unit or other affected person to give notice that an implied determination has been made.

#### **Explanatory Comment—2007**

New subdivision (d) governs criminal appeals. Under new subdivision (d), when no post-sentence motion is filed, the time for appeal begins to run from the date of imposition of sentence. See Pa.R.Crim.P. 462(G)(2), 720(A)(3) and (D), and 721(B)(2)(a)(ii), and the conforming amendments to Pa.R.A.P. 301(a)(2) and 903(c)(3), and 2006 Explanatory Comment thereto. See also *Commonwealth v. Green*, 862 A.2d 613 (Pa. Super. 2004) (en banc), allocatur denied, 584 Pa. 692, 882 A.2d 477

(2005). When post-sentence motions are denied by operation of law, the appeal period shall run from the date of entry of the order denying the motion by operation of law. See Pa.R.Crim.P. 720(B)(3)(c).

#### Source

The provisions of this Rule 108 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 February 27, 1980, 10 Pa.B. 1038, effective date as set forth at 10 Pa.B. 1038; amended January 18, 2007, effective August 1, 2007, 37 Pa.B. 521. Immediately preceding text appears at serial pages (321596) and (303523).

### DOCUMENTS GENERALLY

#### Rule 120. Entry of Appearance.

Any counsel filing papers required or permitted to be filed in an appellate court must enter an appearance with the prothonotary of the appellate court unless that counsel has been previously noted on the docket as counsel pursuant to Pa.R.A.P. 907(b), 1112(f), 1311(d), 1514(d), or 1602(d). New counsel appearing for a party after docketing pursuant to Pa.R.A.P. 907(b), 1112(f), 1311(d), 1514(d), or 1602(d) shall file an entry of appearance simultaneously with or prior to the filing of any papers signed by new counsel. The entry of appearance shall specifically designate each party the attorney represents, and whether the attorney is entering an appearance as substitute or additional counsel. The attorney shall file a certificate of service pursuant to paragraph (d) of Pa.R.A.P. 121 and to Pa.R.A.P. 122. If an attorney enters an appearance as substitute counsel for a party, the original counsel of record for that party may withdraw by *praecipe*, without filing an application for permission to withdraw.

**Official Note:** For admission *pro hac vice*, see Pa.B.A.R. 301.

#### Source

The provisions of this Rule 120 adopted March 15, 2004, effective 60 days after adoption, 34 Pa.B. 1670; amended December 10, 2013, effective February 10, 2014, 43 Pa.B. 7544; amended January 7, 2020, effective May 1, 2020, 50 Pa.B. 535; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial page (400744).

#### Rule 121. Filing and Service.

(a) *Filing.*—Papers required or permitted to be filed in an appellate court shall be filed with the prothonotary. Filing may be accomplished by mail addressed to the prothonotary, but except as otherwise provided by these rules, filing shall not be timely unless the papers are received by the prothonotary within the time fixed for filing. If an application under these rules requests relief which may be granted by a single judge, a judge in extraordinary circumstances may permit the application and any related papers to be filed with that judge. In that event the judge shall note thereon the date of filing and shall thereafter transmit such papers to the clerk.

(b) *Service of all papers required.*—Copies of all papers filed by any party and not required by these rules to be served by the prothonotary shall, concurrently with their filing, be served by a party or person acting on behalf of that party or person on all other parties to the matter. Service on a party represented by counsel shall be made on counsel.



(c) *Manner of service.*—Service may be:

(1) by personal service, which includes delivery of the copy to a clerk or other responsible person at the office of the person served, but does not include inter-office mail;

(2) by first class, express, or priority United States Postal Service mail, which service is complete upon mailing;

(3) by commercial carrier with delivery intended to be at least as expeditious as first class mail if the carrier can verify the date of delivery to it; or

(4) by facsimile or e-mail with the agreement of the party being served as stated in the certificate of service.

(d) *Proof of service.*—Papers presented for filing shall contain an acknowledgement of service by the person served or proof of service certified by the person who made service. Acknowledgement or proof of service may appear on or be affixed to the papers filed. The clerk may permit papers to be filed without acknowledgement or proof of service but shall require such to be filed promptly thereafter.

(e) *Additional time after service by mail and commercial carrier.*—Whenever a party is required or permitted to do an act within a prescribed period after service of a paper upon that party (other than an order of a court or other government unit) and the paper is served by United States mail or by commercial carrier, three days shall be added to the prescribed period.

(f) *Date of filing for incarcerated persons.*—A *pro se* filing submitted by a person incarcerated in a correctional facility is deemed filed as of the date of the prison postmark or the date the filing was delivered to the prison authorities for purposes of mailing as documented by a properly executed prisoner cash slip or other reasonably verifiable evidence.

(g) *Hybrid representation.*—Where there is counsel of record, a party may file only the following documents *pro se*: (i) a notice of appeal; (ii) a request to change or remove counsel; (iii) a response to a motion to withdraw that has been filed by counsel of record; (iv) a complaint that existing counsel has abandoned the party; or (v) an application to file a petition for allowance of appeal *nunc pro tunc*. Any other document that a party attempts to file *pro se* will be noted on the docket but not accepted for filing. This rule is not intended to provide an independent basis for jurisdiction where it does not otherwise exist.

**Official Note:** *Paragraph (a)*—The term “related papers” in paragraph (a) of this rule includes any appeal papers required by Pa.R.A.P. 1702 (stay ancillary to appeal) as a prerequisite to an application for a stay or similar relief.

*Paragraph (c)*—An acknowledgement of service may be executed by an individual other than the person served, e.g., by a clerk or other responsible person.

*Paragraph (d)*—With respect to appearances by new counsel following the initial docketing of appearances pursuant to paragraph (d) of this rule, please note the requirements of Pa.R.A.P. 120 (entry of appearance).

*Paragraph (e)*—Paragraph (e) of the rule does not apply to the filing of a notice of appeal, a petition for allowance of appeal, a petition for permission to appeal, or a petition for reconsideration or reargument, since under these rules the time for filing such papers runs from the entry and service of the related order, nor to the filing of a petition for review or a petition for specialized review, which are governed by similar considerations. The amendments to Pa.R.A.P. 903(b), 1113(b), and 1512(a)(2) clarified that paragraph (e) does apply to calculating the deadline for filing cross-appeals, cross-petitions for allowance of appeal, and additional petitions for review or specialized review.

*Paragraph (f)*—This recognizes the holding in *Smith v. Board of Probation and Parole*, 683 A.2d 278, 281 (Pa. 1996) (adopting the prisoner mailbox rule to determine date of filing of a petition for review). *Smith* adopted the reasoning of the United States Supreme Court in *Houston v. Lack*, 487 U.S. 266, 270-71 (1988). See also *Commonwealth v. Jones*, 700 A.2d 423, 426 (Pa. 1997) (extending prisoner mailbox rule to filing of a notice of appeal).

*Paragraph (g)*—The rule on hybrid representation is premised on *Commonwealth v. Ellis*, 626 A.2d 1137, 1139-40 (Pa. 1993). See 210 Pa. Code § 65.24. If a *pro se* notice of appeal is filed, it will satisfy the timeliness requirement for the filing of a notice of appeal. Counsel of record will, however, be obligated to prosecute that appeal. There are four other instances in which *pro se* documents will be accepted by an appellate court for filing: a request by the party to change or remove counsel; a response to counsel's request to withdraw; a complaint that existing counsel has abandoned the party; and a *pro se* petition for *nunc pro tunc* permission to file a petition for allowance of appeal under Pa.R.A.P. 1113(d). All other documents will be noted on the docket as received by the appellate court prothonotary's office but will not be accepted for filing; instead, the *pro se* document will be forwarded to counsel of record with, if the court desires, direction for counsel to respond.

#### Source

The provisions of this Rule 121 amended July 7, 1997, effective in 60 days, 27 Pa.B. 3503; amended March 15, 2004, effective 60 days after adoption, 34 Pa.B. 1670; amended September 10, 2008, effective December 1, 2008, 38 Pa.B. 5257; amended April 9, 2012, effective in 30 days, 42 Pa.B. 2269; amended January 7, 2020, effective May 1, 2020, 50 Pa.B. 535; amended January 7, 2020, effective August 1, 2020, 50 Pa.B. 505. Immediately preceding text appears at serial pages (400744) to (400746).

### Rule 122. Content and Form of Proof of Service.

(a) *Content*.—A proof of service shall contain a statement of the date and manner of service and of the names of the persons served.

(b) *Form*.—Each name and address shall be separately set forth in the form of a mailing address, including applicable zip code, regardless of the actual method of service employed. The proof of service shall also show the telephone number, the party represented, and, where applicable, an e-mail or facsimile address. The name, address and telephone number of the serving party shall be similarly set forth, followed by the attorney's registration number. A proof of service may be in substantially the following form:

I hereby certify that I am this day serving the foregoing document upon the persons and in the manner indicated below, which service satisfies the requirements of Pa.

R.A.P. 121:

Service by first class mail addressed as follows:

Name Telephone number

Mailing address

(Party represented)

Acceptance of service endorsed by the following:

Name, Telephone number

Mailing address

(Party represented)

Service in person as follows:

Name, Telephone number

Street address

Mailing address (if different)

(Party represented)

Service by commercial carrier as follows:

Name of commercial carrier  
 Addressee's name, Telephone number  
 Street address  
 Mailing address (if different)  
 (Party represented)

Service by e-mail at following:

E-mail address, with agreement of:  
 Name, Telephone number  
 Mailing address  
 (Party represented)

Service by facsimile at following:

Fax number with the agreement of:  
 Name, Telephone number  
 Mailing address  
 (Party represented)

Date:

(S) \_\_\_\_\_  
 Name, Telephone number  
 (Attorney Registration No. 00000)  
 Mailing address  
 (Party represented)

**Official Note:** Under 18 Pa.C.S. § 4904 (unsworn falsification to authorities) a knowingly false proof of service constitutes a misdemeanor of the second degree.

**Source**

The provisions of this Rule 122 amended February 27, 1980, 10 Pa.B. 1038, effective as set forth at 10 Pa.B. 1038; amended April 20, 1990, effective May 12, 1990, 20 Pa.B. 2515; amended September 10, 2008, effective December 1, 2008, 38 Pa.B. 5257. Immediately preceding text appears at serial pages (361136) and (392563).

**Rule 123. Application for Relief.**

(a) *Contents of applications for relief.*—Unless another form is elsewhere prescribed by these rules, an application for an order or other relief shall be made by filing a written application for such order or relief with proof of service on all other parties. The application shall contain or be accompanied by any matter required by a specific provision of these rules governing such an application, shall state with particularity the grounds on which it is based, and shall set forth the order or relief sought. If an application is supported by briefs, verified statements, or other papers, they shall be served and filed with the application. An application may be made in the alternative and seek such alternative relief or action by the court as may be appropriate. All grounds for relief demanded shall be stated in the application and failure to state a ground shall constitute a waiver thereof. Except as otherwise prescribed by these rules, a request for more than one type of relief may be combined in the same application.

(b) *Answer.*—Any party may file an answer to an application within 14 days after service of the application, but applications under Chapter 17 (effect of

appeals; supersedeas and stays), or for delay in remand of the record, may be acted upon after reasonable notice, unless the exigency of the case is such as to impel the court to dispense with such notice. The court may shorten or extend the time for answering any application. Answers shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized.

(c) *Speaking applications.*—An application or answer which sets forth facts which do not already appear of record shall be verified by some person having knowledge of the facts, except that the court, upon presentation of such an application or answer without a verified statement, may defer action pending the filing of a verified statement or it may in its discretion act upon it in the absence of a verified statement if the interests of justice so require.

(d) *Oral argument.*—Unless otherwise ordered by the court, oral argument will not be permitted on any application.

(e) *Power of single judge to entertain applications.*—In addition to the authority expressly conferred by these rules or by law or rule of court, a single judge of an appellate court may entertain and may grant or deny any request for relief which under these rules may properly be sought by application, except that an appellate court may provide by order or rule of court that any application or class of applications must be acted upon by the court. The action of a single judge may be reviewed by the court except for actions of a single judge under Pa.R.A.P. 3102(c)(2) (relating to quorum in Commonwealth Court in any election matter).

(f) *Certificate of compliance with Case Records Public Access Policy of the Unified Judicial System of Pennsylvania.*—An application or answer filed under this Rule shall contain the certificate of compliance required by Pa.R.A.P. 127.

**Official Note:** The 1997 amendment precludes review by the Commonwealth Court of actions of a single judge in election matters.

#### Source

The provisions of this Rule 123 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended December 30, 1987, effective January 16, 1988 and shall govern all matters thereafter commenced and insofar as just and practicable, matters pending, 18 Pa.B. 245; amended July 7, 1997, effective in 60 days, 27 Pa.B. 3503; amended September 10, 2008, effective December 1, 2008, 38 Pa.B. 5257; 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 (389926) to (389927).

### **Rule 124. Form of Documents. Number of Copies to be Filed.**

(a) *Size and other physical characteristics.*—All documents filed in an appellate court shall be on 8 1/2 inch by 11 inch pages and shall comply with the following requirements:

- (1) The documents shall be prepared on white background.
- (2) The first page shall contain a three-inch space from the top of the document for all court stampings, filing notices, etc.
- (3) Text must be double spaced, but quotations more than two lines long may be indented and single spaced. Footnotes may be single spaced. Except as provided in paragraph (a)(2), margins must be at least one inch on all four sides.
- (4) Lettering shall be clear and legible and no smaller than 14 point in the text and 12 point in footnotes. Lettering shall be on only one side of a page,

except that exhibits and similar supporting documents, briefs and reproduced records may be lettered on both sides of a page.

(5) Any metal fasteners or staples must be covered. Originals must be unbound. Copies must be firmly bound.

(6) No backers shall be necessary.

(b) *Nonconforming documents.*—The prothonotary of an appellate court may accept any nonconforming documents.

(c) *Number of copies to be filed.*—Unless otherwise directed by the prothonotary or ordered by the court, a party shall file the number of copies as specified in the copy and fee requirements set forth on each appellate court's web page.

**Official Note:** The 2013 amendment increased the minimum text font size from 12 point to 14 point and added a minimum footnote font size of 12 point. This rule requires a clear and legible font. The Supreme, Superior, and Commonwealth Courts use Arial, Verdana, and Times New Roman, respectively, for their opinions. A brief using the respective court's font is preferred, but a brief using any of these fonts will be satisfactory.

The number of copies to be filed in the Supreme Court can be found at <http://www.pacourts.us/courts/supreme-court/copy-and-fee-requirements>.

The number of copies to be filed in the Superior Court can be found at <http://www.pacourts.us/courts/superior-court/copy-and-fee-requirements>.

The number of copies to be filed in the Commonwealth Court can be found at <http://www.pacourts.us/courts/commonwealth-court/copy-and-fee-requirements>.

Self-represented parties who do not have access to an appellate court's web page may file an original document together with a written request to the prothonotary for instructions on the number of copies required.

#### Source

The provisions of this Rule 124 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended May 24, 1979, effective September 21, 1979, 9 Pa.B. 1853; amended May 16, 2003, effective 60 days after adoption, 33 Pa.B. 2586; 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 October 28, 2021, effective April 1, 2022, 51 Pa.B. 7050. Immediately preceding text appears at serial pages (393650) and (396033).

### Rule 125. Electronic Filing.

Electronic filing of documents in the appellate courts shall be through the PACFile appellate court electronic filing system. Electronic filing of documents shall be governed by Administrative Orders of the Supreme Court of Pennsylvania, which may be found at <http://ujportal.pacourts.us/refdocuments/judicialorder.pdf>.

**Official Note:** This is an interim rule permitting electronic filing of documents in the Pennsylvania appellate courts. Initially, electronic filing will be available only in the Supreme Court. Subsequently, electronic filing will become available in the Superior and Commonwealth Courts. After experience is gained with electronic filing, the Pennsylvania Rules of Appellate Procedure will be amended where needed and as appropriate.

#### Source

The provisions of this Rule 125 adopted October 24, 2012, effective November 1, 2012, 42 Pa.B. 7007; amended December 20, 2013, effective immediately, 44 Pa.B. 8; amended November 13, 2015, effective immediately, 45 Pa.B. 6808. Immediately preceding text appears at serial page (379514).

**Rule 126. Citations of Authorities.**

(a) When citing authority, a party should direct the court's attention to the specific part of the authority on which the party relies. A party citing authority that is not readily available shall attach the authority as an appendix to its filing. If a party cites a decision as authorized in paragraph (b), (c), or (d), the party shall indicate the value or basis for such citation in a parenthetical following the citation.

(b) *Non-Precedential Decisions.*

(1) As used in this rule, "non-precedential decision" refers to an unpublished non-precedential memorandum decision of the Superior Court filed after May 1, 2019 or an unreported memorandum opinion of the Commonwealth Court filed after January 15, 2008.

(2) Non-precedential decisions as defined in (b)(1) may be cited for their persuasive value.

(c) *Single-Judge Opinions of the Commonwealth Court.*

(1) A reported single-judge opinion in an election law matter filed after October 1, 2013, may be cited as binding precedent only in an election law matter.

(2) All other single-judge opinions, even if reported, shall be cited only for persuasive value and not as binding precedent.

(d) *Law of the Case and Related Doctrines.*—Any disposition may always be cited if relevant to the doctrine of law of the case, *res judicata*, or collateral estoppel, or if relevant to a criminal action or proceeding because it recites issues raised and reasons for a decision affecting the same defendant in a prior action or proceeding.

**Official Note:**

*Paragraph (a)*

Pa.R.A.P. 126 is intended to ensure that cited authority is readily available to the court and parties. Paragraph (a) encourages parties to provide citations to the specific pages of cases and sections or subsections of statutes or rules that are relevant to the reason for the citation.

Although the rule does not establish rules for citation, the following guidelines regarding the citation of Pennsylvania cases and statutes are offered for parties' benefit:

Regarding cases, the rule does not require parallel citation to the National Reporter System and the official reports of the Pennsylvania appellate courts. Parties may cite to the National Reporter System alone.

Regarding statutes, Pennsylvania has officially consolidated only some of its statutes. Parties citing a statute enacted in the Pennsylvania Consolidated Statutes may use the format "1 Pa.C.S. § 1928." Parties citing an unconsolidated statute may refer to the Pamphlet Laws or other official collection of the Legislative Reference Bureau, with a parallel citation to *Purdon's Pennsylvania Statutes Annotated*, if available, using the format, "Act of February 14, 2008, P.L. 6, 65 P.S. §§ 67.101—67.3104" or "Section 3(a) of the Act of May 16, 1923, P.L. 207, as amended, 53 P.S. § 7106(a)." Parties are advised that *Purdon's* does not represent an official version of Pennsylvania statutes. *In re Appeal of Tenet HealthSystems Bucks Cnty., LLC*, 880 A.2d 721, 725-26 (Pa. Cmwlth. 2005), appeal denied, 897 A.2d 1185 (Pa. 2006).

Litigants are directed to provide, as far as practicable, citations to non-precedential decisions from electronic databases, such as LEXIS or Westlaw or any other readily available website. Opinions of the appellate courts are posted at <http://www.pacourts.us> and that website has searching and filtering capabilities. If another Rule of Appellate Procedure requires a paper copy, one should be provided.

Prior to Pa.R.A.P. 126, the format for citation was discussed only in Pa.R.A.P. 2119(b), a rule applicable to briefs. The format guidelines are not mandatory, and a party does not waive an argument merely by failing to follow the format. The guidelines do, however, provide assistance to parties looking for generally acceptable citation format in Pennsylvania's appellate courts.

*Paragraph (b)*

Paragraph (b) defines non-precedential decisions and their value for citation purposes. The new term is intended to harmonize the designations of intermediate appellate court opinions. Thus, "non-precedential decision" encompasses what are referred to as unpublished non-precedential memorandum decisions of the Superior Court and unreported memorandum opinions of the Commonwealth Court.

**Source**

The provisions of this Rule 126 adopted November 24, 2015, effective January 1, 2016, 45 Pa.B. 6971; amended March 4, 2019, effective May 1, 2019, 49 Pa.B. 1335. Immediately preceding text appears at serial page (393652).

**Rule 127. Confidential Information and Confidential Documents. Certification.**

(a) Unless public access is otherwise constrained by applicable authority, any attorney or any unrepresented party who files a document pursuant to these rules shall comply with the requirements of Sections 7.0 and 8.0 of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* ("Public Access Policy"). In accordance with the Policy, the filing shall include a certification of compliance with the Policy and, as necessary, a Confidential Information Form or a Confidential Document Form.

(b) Unless an appellate court orders otherwise, case records or documents that are sealed by a court, government unit, or other tribunal shall remain sealed on appeal.

**Comment:** Paragraph (a)—"Applicable authority" includes but is not limited to statute, procedural rule, or court order. *The Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* ("Public Access Policy") can be found at <https://www.pacourts.us/public-records>. Sections 7.0(D) and 8.0(D) of the Public Access Policy provide that the certification shall be in substantially the following form:

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Appropriate forms can be found at <https://www.pacourts.us/public-records>. For certification of the Reproduced Record and Supplemental Reproduced Record in compliance with the Public Access Policy, see Pa.R.A.P. 2152, 2156, 2171, and accompanying notes.

Paragraph (b)—Once a document is sealed, it shall remain sealed on appeal unless the appellate court orders, either *sua sponte* or on application, that the case record or document be opened.

**Source**

The provisions of this Rule 127 adopted January 5, 2018, effective January 6, 2018, 48 Pa.B. 461; amended June 1, 2018, effective July 1, 2018, 48 Pa.B. 3517; amended December 1, 2021, effective January 1, 2022, 51 Pa.B. 7618. Immediately preceding text appears at serial page (396035).

[Next page is 3-1.]

1-16

(407860) No. 568 Mar. 22

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