

SUPREME COURT OF PENNSYLVANIA

In Re: Order Amending Rule 311, 341, and 904 of the Pennsylvania Rules of Appellate Procedure

In re Order Amending Rule 311, 341, and 904 · Decided December 14, 2015

SUMMARY

This document sets out amendments to Pennsylvania Rules of Appellate Procedure 311, 341, and 904. The amendments address interlocutory appeals as of right, final orders, waiver of objections, Commonwealth appeals in criminal cases, and related appellate procedures.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
JURISDICTION	Pennsylvania
DECIDED	December 14, 2015
DISPOSITION	other
PROCEDURAL POSTURE	The Supreme Court of Pennsylvania promulgated amendments to Pennsylvania Rules of Appellate Procedure 311, 341, and 904.
PRECEDENTIAL VALUE	binding rulemaking order

TOPICS

appellate procedure interlocutory appeal final judgment rule waiver civil procedure

PRACTICE AREAS

appellate procedure civil procedure criminal procedure

QUESTIONS PRESENTED

1. Which interlocutory orders may be appealed as of right under Pa.R.A.P. 311?
2. How should final orders and orders disposing of fewer than all claims or parties be defined and certified under Pa.R.A.P. 341?
3. When does failure to take an immediate appeal from an interlocutory order waive objections to that order?
4. What information must be included in a notice of appeal under Pa.R.A.P. 904?

HOLDINGS

1. Pa.R.A.P. 311 permits an appeal as of right from the specified classes of interlocutory orders, including orders affecting judgments, certain property-control matters, changes of criminal venue or venire, specified injunction orders, peremptory mandamus judgments, new-trial orders, partition orders, orders made appealable by statute or general rule, certain venue or jurisdiction orders, venue transfers or forum-non-conveniens orders, specified Commonwealth criminal appeals, eminent-domain orders, and administrative-remand orders.
2. Failure to appeal an immediately appealable interlocutory order does not generally waive objections, except for the categories identified in Pa.R.A.P. 311(g), including certain venue or jurisdiction orders, eminent-domain orders, and interlocutory orders refusing to compel arbitration.
3. Under Pa.R.A.P. 341, a final order generally disposes of all claims and all parties, or is entered as a final order under paragraph (c); an order resolving fewer than all claims or parties is not final absent an express determination that immediate appeal would facilitate resolution of the entire case.
4. A notice of appeal must state the parties as they appeared below, include the required transcript request or counsel statement, state that the appealed order was entered on the docket, and attach a copy of the docket entry; specified additional certifications or statements are required in criminal and children's fast-track appeals.

KEY QUOTATIONS

“The appeal rights under this rule, and under Pa.R.A.P. 312 (Interlocutory Appeals by Permission), Pa.R.A.P. 313 (Collateral Orders), Pa.R.A.P. 341 (Final Orders; Generally), and Pa.R.A.P. 342 (Appealable Orphans’ Court Orders) are cumulative; and no inference shall be drawn from the fact that two or more rules may be applicable to an appeal from a given order.” (at 3)

“Rescinding subparagraph (b)(2) eliminated this potential waiver of the right to appeal.” (at 13)

FACTUAL BACKGROUND

The opinion concerns the operation and amendment of Pennsylvania's appellate procedural rules. The amendments address categories of immediately appealable interlocutory orders, the definition and certification of final orders, waiver resulting from failure to take an immediate appeal, and notice-of-appeal requirements. The accompanying official notes explain the amendments' relationship to statutes, other appellate rules, and prior Pennsylvania decisions.

PROCEDURAL HISTORY

This is a rulemaking order rather than an appeal arising from a party-specific controversy. The court amended provisions governing interlocutory appeals as of right, final orders, waiver of objections, continuation of proceedings during interlocutory appeals, and the contents of notices of appeal.

DISPOSITION

other

CASES CITED

- Fried v. Fried, 501 A.2d 211 (Pa. 1985)
- O'Brien v. O'Brien, 519 A.2d 511 (Pa. Super. 1987)
- Commonwealth v. Swanson, 225 A.2d 231 (Pa. 1967)
- Hamby v. Stoe, 295 A.2d 309 (Pa. 1972)
- Butler v. Emerson, 463 A.2d 109 (Pa. Commw. Ct. 1983)
- Mertz v. Lakatos, 328 A.2d 587 (Pa. Commw. Ct. 1974)
- Ellenbogen v. Larsen, 328 A.2d 587 (Pa. Commw. Ct. 1974)
- In the Matter of Phillips, 370 A.2d 307 (Pa. 1977)
- Balshy v. Rank, 490 A.2d 415 (Pa. 1985)
- Commonwealth v. Dugger, 486 A.2d 382 (Pa. 1985)
- Commonwealth v. Dixon, 907 A.2d 468 (Pa. 2006)
- Commonwealth v. Deans, 610 A.2d 32 (Pa. 1992)
- Commonwealth v. Cohen, 605 A.2d 1212 (Pa. 1992)
- Lewis v. Sch. Dist. of Philadelphia, 690 A.2d 814 (Pa. Commw. Ct. 1997)
- Cooke v. Equitable Life Assurance Soc'y, 723 A.2d 723 (Pa. Super. 1999)
- K.H. v. J.R., 826 A.2d 863 (Pa. 2003)
- Betz v. Pneumo Abex LLC, 44 A.3d 27 (Pa. 2012)
- Commonwealth v. C.M.K., 932 A.2d 111 (Pa. Super. 2007)
- Nationwide Mut. Ins. Co. v. Wickett, 763 A.2d 813 (Pa. 2000)
- Safe Harbor Water Power Corp. v. Fajt, 876 A.2d 954 (Pa. 2005)
- Motorists Mutual v. Pinkerton, 830 A.2d 958 (Pa. 2003)
- Chalkey v. Roush, 805 A.2d 491 (Pa. 2002)
- Pugar v. Greco, 394 A.2d 542 (Pa. 1978)
- Cohen v. Beneficial Industrial Loan Corp., 337 U.S. 541 (1949)
- Pa. Bankers Ass'n v. Pa. Dep't. of Banking, 948 A.2d 790 (Pa. 2008)

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