

**[J-93A-2020, J-93B-2020 and J-93C-2020]  
IN THE SUPREME COURT OF PENNSYLVANIA  
WESTERN DISTRICT**

**SAYLOR, C.J., BAER, TODD, DONOHUE, DOUGHERTY, WECHT, MUNDY, JJ.**

ALWAYS BUSY CONSULTING, LLC,	:	No. 11 WAP 2020
	:	
Appellant	:	Appeal from the Order of the
	:	Superior Court entered September
v.	:	6, 2019 at No. 94 WDA 2019,
	:	quashing the Appeal from the Order
	:	of the Court of Common Pleas of
	:	Allegheny County entered
BABFORD & COMPANY, INC.,	:	December 28, 2018 at Nos. GD-18-
	:	005205 and GD-18-005466.
Appellee	:	
	:	ARGUED: October 22, 2020

ALWAYS BUSY CONSULTING, LLC,	:	No. 12 WAP 2020
	:	
Appellant	:	Appeal from the Order of the
	:	Superior Court entered September
v.	:	6, 2019 at No. 330 WDA 2019,
	:	quashing the Appeal from the
	:	Judgment of the Court of Common
	:	Pleas of Allegheny County entered
BABFORD & COMPANY, INC.,	:	January 31, 2019 at Nos. GD-18-
	:	005205 and GD-18-005466.
Appellee	:	
	:	ARGUED: October 22, 2020

ALWAYS BUSY CONSULTING, LLC,	:	No. 13 WAP 2020
	:	
Appellant	:	Appeal from the Order of the
	:	Superior Court entered September
v.	:	6, 2019 at No. 387 WDA 2019,
	:	quashing the Appeal from the
	:	Judgment of the Court of Common
	:	Pleas of Allegheny County entered
BABFORD & COMPANY, INC.,	:	February 26, 2019 at Nos. GD-18-
	:	005205 and GD-18-005466.
Appellee	:	
	:	ARGUED: October 22, 2020

**OPINION**

We granted discretionary review to consider whether a notice of appeal filed at a single docket number corresponding to the lead case of multiple consolidated civil cases should be quashed for failing to satisfy the requirements of Pa.R.A.P. 341(a) as interpreted in *Commonwealth v. Walker*, 185 A.3d 969 (Pa. 2018). In *Walker* we held the official Note to Rule 341(a) “provides a bright-line mandatory instruction to practitioners to file separate notices of appeal” and “prospectively, where a single order resolves issues arising on more than one docket, separate notices of appeal must be filed for each case.” *Id.* at 971, 976-77. The Superior Court relied on *Walker* to quash the appeal filed below at one docket number, but we hold *Walker* is inapplicable to the particular facts of this case and therefore reverse.

### I.

Appellant, Always Busy Consulting, LLC (ABC), was involved in a contractual payment dispute with appellee, Babford & Company, Inc. (Babford). An arbitrator ruled in favor of Babford and awarded \$15,937, which was later amended to include counsel fees, interest and costs, for a total award to Babford of \$32,996. ABC filed a Petition to Vacate or Modify Arbitration Award (petition to vacate) in the Allegheny County Court of Common Pleas at docket number GD-18-005205 (docket number 5205). Babford filed a Petition to Confirm Arbitration Award and Oppose Petition to Vacate or Modify (petition to confirm) in the Allegheny County Court of Common Pleas at docket number GD-18-005466 (docket number 5466). The parties then filed a joint motion to consolidate the two petitions, and by order dated June 26, 2018, the court granted the motion, established docket number 5205 as the lead docket for filing purposes, and ordered the caption of the

consolidated cases be modified to reflect the same.<sup>1</sup> Following the submission of briefs and oral argument, on December 27, 2018, the court entered an order that denied the petition to vacate and confirmed the arbitration award in favor of Babford.<sup>2</sup>

Before judgment was entered, ABC filed a notice of appeal at the lead docket number 5205 that included both docket numbers. The Superior Court issued a rule to show cause directing ABC to file a praecipe to enter judgment in the lower court to perfect the appeal. ABC did so, and on January 31, 2019, judgment was entered at docket number 5205. The Superior Court then issued a second rule directing ABC to show cause why the appeal should not be quashed pursuant to *Walker* as the single notice of appeal pertained to two lower court docket numbers.<sup>3</sup>

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<sup>1</sup> The order provided, “[T]he Joint Motion to Consolidate is GRANTED. The cases initiated at dockets GD-18-005205 and GD-18-005466 are hereby consolidated. The lead docket for all filing purposes is GD-18-005205. The Caption shall be modified as reflected in this Order.” Trial Court Order filed June 26, 2018. A review of the record shows the captions on subsequent filings by the parties listed both numbers, with docket 5205 as the “lead docket” and docket 5466 as “consolidated[.]” See, e.g., Babford’s Answer to Petition with New Matter dated July 18, 2018.

<sup>2</sup> The order was captioned with both docket numbers and provided: “[U]pon consideration of Plaintiff’s Petition to Vacate or Modify Arbitration Award, it is hereby ORDERED that Plaintiff’s Petition is DENIED. The arbitration award is CONFIRMED.” Trial Court Order filed December 27, 2018.

<sup>3</sup> Specifically, the Superior Court’s *per curiam* order provided:

The Court having received a response to the January 25, 2019 rule to show cause, the rule is discharged and the appeal shall proceed. This ruling, however, is not binding upon this Court as a final determination as to the propriety of the appeal. Counsel are advised that the issue may be revisited by the panel to be assigned to the case, and counsel should be prepared to address, in their briefs or at the time of oral argument, any concerns the panel may have concerning this issue. . . .

[T]his appeal appears to have been filed from two different lower court docket numbers. Under *Commonwealth v. Walker*, 185 A.3d 969, 977 (Pa. 2018), Rule 341(a), in accordance with its Official Note, requires that when

Upon receipt of the Superior Court's order, ABC attempted to file a second notice of appeal at docket number 5466, which the common pleas court prothonotary rejected because "[a]ll filings should be submitted at the consolidated number."<sup>4</sup> ABC then filed a new notice of appeal at docket number 5205 from the court's January 31, 2019 order entering judgment, which included **both** docket numbers in the caption, and also stated the matters at docket numbers 5205 and 5466 were consolidated. ABC informed the Superior Court of this new filing via letter with a copy of the common pleas docket

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a single order resolves issues arising on more than one lower court docket, separate notices of appeal must be filed. The failure to do so will result in quashal of the appeal. Accordingly, Appellant is directed to show cause, in the form of a letter addressed to the Prothonotary of this Court with a copy to opposing counsel and the trial judge, why the appeal should not be quashed. The letter shall be transmitted so as to be actually received by this Court's Prothonotary within fourteen (14) days of the date of this Order. Failure to comply with this Order may result in dismissal of the appeal without further notice.

Superior Court Order filed February 15, 2019 (emphasis omitted). In *Walker*, the Commonwealth filed a single notice of appeal from a single order which disposed of four separate motions to suppress evidence filed by four separate criminal defendants at four separate docket numbers. This Court noted filing a single notice of appeal for multiple cases "will often result in unintended consequences, as the appellate court, in deciding the single appeal, must 'go behind' the notice of appeal to determine if the same facts and issues apply to all of the [defendants]." *Walker*, 185 A.3d at 977 (Pa. 2018). This *Walker* Court recognized the suppression order appealed from may affect one or more defendants differently than the rest, and determined — at least in part on this basis — separate notices of appeal were required. *Id.*

<sup>4</sup> ABC's counsel attempted to electronically file a "Notice of Appeal to Higher Court" with the Prothonotary of the Allegheny County Court of Common Pleas at docket number 5466. In response, he received an email from that office on February 25, 2019, informing him the filing was rejected. The "Rejection Details" stated, "Please be advised that all the dockets of the submissions for Case Number: GD-18-005466 have been rejected because . . . this case is consolidated at GD-18-005205. All filings should be submitted at the consolidated number." Email Correspondence from Allegheny Cty. Prothonotary dated 2/25/19, attached as Exhibit A to ABC's Application for Reconsideration to the Superior Court filed 9/9/19.

attached. See Correspondence to Superior Court Deputy Prothonotary dated 2/25/19; Allegheny Cty. Dep't of Court Records Docket No. GD-18-005205, entry dated 2/25/19.

In an unpublished memorandum opinion, the Superior Court acknowledged the lower court had granted the joint motion to consolidate “the two cases” and the “lead docket for filing purposes [was] docket no. GD-18-5205.” *Always Busy Consulting v. Babford and Co.*, Nos. 94 WDA 2019, 330 WDA 2019, 387 WDA 2019, 2019 WL 4233816 memorandum at \*2-3 (Pa. Super. filed September 6, 2019) (unpublished memorandum). The panel referred to ABC’s “decision to file a single notice of appeal listing both docket numbers, but filed only at docket no. GD-18-5205, and not at docket no. GD-18-5466,” and observed:

The Official Note to Pennsylvania Rule of Appellate Procedure 341 provides as follows:

Where . . . one or more orders resolves issues arising on more than one docket or relating to more than one judgment, separate notices of appeal must be filed. *Commonwealth v. C.M.K.*, 932 A.2d 111, 113 & n.3 (Pa. Super. 2007) (quashing appeal taken by single notice of appeal from order on remand for consideration under Pa.R.Crim.P. 607 of two persons’ judgments of sentence).

Pa.R.A.P. 341, Official Note.

Recently, in *Walker*, our Supreme Court construed the above language as constituting “a bright-line mandatory instruction to practitioners to file separate notices of appeal.” *Walker*, 185 A.3d at 976-77. Therefore, the *Walker* Court held that “the proper practice under Rule 341(a) is to file separate appeals from an order that resolves issues arising on more than one docket. The failure to do so requires the appellate court to quash the appeal.” *Id.* at 977. The Court tempered its holding by making it prospective only, recognizing that “[t]he amendment to the Official Note to Rule 341 was contrary to decades of case law from this Court and the intermediate appellate courts that, while disapproving of the practice of failing to file multiple appeals, seldom quashed appeals as a result.” *Id.* Accordingly, the *Walker* Court directed that “in future cases Rule 341 will, in accordance with its Official Note, require that when a single order resolves issues arising on more than one lower court docket, separate

notices of appeal must be filed. **The failure to do so will result in quashal of the appeal.** *Id.* (emphasis in original).

*Id.* at \*3-4 (quotation omitted).

Based on the foregoing, the panel held as follows:

Here, the trial court's judgment resolved Appellant's petition to vacate or modify the arbitration award filed at docket no. GD-18-5205, as well as Appellee's petition to confirm arbitration award at docket no. GD-18-5466. Although the trial court consolidated the two cases generally, Appellant failed to file a notice of appeal at docket no. GD-18-5466. Because we are constrained by the strict holding of *Walker*, we reluctantly quash the appeal.

*Id.* at \*4.

The Superior Court thereafter denied ABC's petition for reconsideration *en banc* and we subsequently allowed appeal on the following issue:

Did the Superior Court err in quashing [ABC's] appeal pursuant to *Commonwealth v. Walker*, 646 Pa. 456, 185 A.3d 969 (Pa. 2018), on the basis that [ABC] failed to file a notice of appeal at a separate docket number in a consolidated case, when [ABC] filed separate notices of appeal at the consolidated docket number, as directed and required by the trial court?

*Always Busy Consulting LLC v. Babford & Co., Inc.*, 235 A.3d 271 (Pa. 2020) (Table) (*per curiam*).

## II.

First, ABC recognizes that *Walker* expressly states the Official Note to Rule 341 provides a bright-line mandatory instruction to practitioners to “file separate notices of appeal” and to “file separate appeals from an order that resolves issues arising on more than one docket[.]” Appellant's Brief at 14, *citing Walker*, 185 A.3d at 976-77. But ABC notes the *Walker* Court “did not impose a requirement that a party must file a separate notice of appeal **at separate docket numbers.**” *Id.* (emphasis supplied by appellant).

ABC further observes that neither the text of Rule 341 nor its Official Note state that parties must file separate notices of appeal at separate docket numbers to perfect an appeal. ABC thus reasons that “filing separate notices of appeal at a lead docket number in a consolidated case is patently permitted.” *Id.* at 15. ABC points out it filed two separate notices of appeal from a single order entering judgment at the lead docket number in a consolidated case, which is a decidedly different scenario than the circumstances of *Walker*, upon which the panel relied. ABC insists *Walker* “holds only that a party must file ‘separate notices of appeal when an order (or orders) resolves issues arising on more than one lower court docket.’” *Id.* at 16, *quoting Walker*, 185 A.3d at 977. According to ABC, because *Walker* “does not mandate at which docket number such notices must be filed” the decision “leaves room for the common practice (as is the practice in Allegheny County) requiring parties to file all documents in consolidated cases at the lead docket number.” *Id.* at 16-17. ABC concludes “when the Superior Court quashed [the] appeal on the basis that [ABC] failed to file separate appeals **at separate docket numbers**, it improperly extended *Walker*’s reach in conflict with this Court’s clear pronouncement and contrary to its role as an error-correcting court.” *Id.* at 17 (emphasis supplied by appellant).<sup>5</sup>

ABC next argues the phrase “one docket” as set forth in the Official Note to Rule 341 is ambiguous, and neither *Walker* nor Rule 341(a) defines the term. ABC suggests the phrase “one docket” may reasonably be interpreted as “encompassing a single docket in single case, and the lead docket in a consolidated case involving identical parties and

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<sup>5</sup> ABC notes *Walker* also does not explicitly prohibit parties from listing multiple docket numbers on a single notice of appeal, but observes the Superior Court, in an unrelated matter, has “further muddied the waters in finding that *Walker* required notices of appeal to ‘contain only one docket number,’” such that a court may not “accept a notice of appeal listing multiple docket numbers[.]” Appellant’s Brief at 17 n.2, *quoting Commonwealth v. Creese*, 216 A.3d 1142, 1144 (Pa. Super. 2019), *overruled by Commonwealth v. Johnson*, 236 A.3d 1141, 1148 (Pa. Super. 2020) (*en banc*).

claims.” *Id.* at 18. ABC asserts the *Walker* Court held our appellate rules must be construed “in consonance with the rules of statutory construction[,]” and the object of all interpretation is to ascertain and effectuate the intent of the drafter. *Id.*, quoting *Walker*, 185 A.3d at 976. ABC notes that when the language of a rule is not explicit “the Court may consider other indicia of intent[,]” and a rule ““is ambiguous when there are at least two reasonable interpretations of the text under review.”” *Id.*, quoting *Warrantech Consumer Products Services, Inc. v. Reliance Ins. Co. in Liquidation*, 96 A.3d 346, 354-55 (Pa. 2014).

ABC argues there are two reasonable interpretations of the phrase “one docket” as used in the Official Note to Rule 341. First, the phrase may refer to a single record maintained by a court relevant to a single case, *i.e.*, “the documentation of a single proceeding appearing on a single court record, likely identified by a single docket number.” Appellant’s Brief at 19. Second, according to ABC, the phrase may also refer to “the lead docket number in a consolidated case where all case-related records are filed.” *Id.* ABC posits this second interpretation is reasonable and does not conflict with the bright-line mandate of the Official Note as enunciated in *Walker*. ABC expounds, “filing a single notice of appeal from an order entered at the lead docket number in a consolidated case involving identical parties, claims, and issues[] does not run counter to the objects and necessity of Rule 341; nor does it raise the specter of inconsistent application and unintended consequences that this Court sought to remedy in *Walker*.” *Id.* at 22-23.

Finally, ABC argues there was a “breakdown in the court’s operations when, on February 25, 2019, the trial court rejected [ABC’s] attempt to file a notice of appeal at [docket] number 5466, and, instead, directed [ABC] to file a separate notice of appeal at [docket] number 5205.” *Id.* at 26. ABC continues, “as a result of the [trial] court’s failure



to file [a] notice of appeal at 5466, as originally submitted, the Superior Court quashed [ABC's] appeal.” *Id.* ABC argues that, but for the trial court’s improper rejection of its attempted appeal at docket number 5466, it would have been in compliance with the bright-line mandate applied by the Superior Court. *Id.* ABC also alleges there was a breakdown in the court’s operations when the Superior Court failed, in its February 15, 2019 Order and Rule to Show Cause, to expressly instruct ABC to file separate notices of appeal at separate docket numbers. *Id.* Instead, ABC claims, the “Superior Court merely recited the [b]right-line [m]andate” and rule of *Walker*. *Id.* at 26-27. ABC maintains, until its appeal was quashed, the Superior Court never advised ABC it was required to file “separate notices of appeal at separate docket numbers. This, too, constitutes a breakdown in the [operations] of the court.” *Id.* at 27.

Babford responds that *Walker* unambiguously holds “where a single order resolves issues arising on more than one docket, separate notices of appeal must be filed for each case.” Appellee’s Brief at 3, *quoting Walker*, 185 A.3d at 971. Moreover, Babford observes the *Walker* Court held the Official Note to Rule 341 “provides a bright-line mandatory instruction to practitioners to file separate notices of appeal[,]” and accordingly, determined “the failure to do so requires the appellate court to quash the appeal.” *Id.*, *quoting Walker* 185 A.3d at 976-77. Babford argues that, since *Walker*, filing a single notice of appeal listing more than one docket number has unequivocally resulted in quashal by the Superior Court on the basis of *Walker*.<sup>6</sup>

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<sup>6</sup> Babford cites a number of instances in which the Superior Court quashed appeals relying on *Walker*, “arising out of criminal sentences involving individuals’ life and liberty - a significantly harsher outcome” than one involving quashal of an appeal from an arbitration award. Appellee’s Brief at 4. Babford asserts if the Superior Court erred in the present matter, the criminal cases cited “were therefore incorrect and should also be overturned.” *Id.* at 4, 5 n.1, *citing Commonwealth v. Nichols*, 208 A.3d 1087 (Pa. Super. 2019) (PCRA appeal quashed where single notice of appeal identified three trial court docket numbers); *Commonwealth v. Williams*, 206 A.3d 573 (Pa. Super. 2019)

Babford also argues the Superior Court recently addressed and rejected the precise argument ABC now raises in *Commonwealth v. Creese*, 216 A.3d 1142 (Pa. Super. 2019), *overruled by Commonwealth v. Johnson*, 236 A.3d 1141, 1148 (Pa. Super. 2020) (*en banc*).<sup>7</sup> The *Creese* panel read *Walker* “as instructing that we may not accept a notice of appeal listing multiple docket numbers, even if those notices are included in the records of each case. Instead, a notice of appeal may contain only one docket number.” *Creese*, 216 A.3d at 1144. The *Creese* panel further stated: “if we create exceptions to Rule 341 and *Walker* to avoid a harsh result, we will return to a scenario that the amendment to the Official Note and *Walker* sought to abrogate. In addition, we will do a disservice to appellants and counsel by applying the rule in a manner that is both confusing and inconsistent, the latter of which would be patently unfair.” *Id.* Babford

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(PCRA appeal quashed where single notice of appeal identified multiple docket numbers); *Commonwealth v. Keil*, No. 989 WDA 2018, 2019 WL 4325504 (Pa. Super. filed September 12, 2019) (unpublished memorandum) (PCRA appeal quashed where five identical notices of appeal each identified five separate trial court docket numbers); *Commonwealth v. Hanson*, 221 A.3d 1237 (Pa. Super. 2019) (unpublished memorandum) (PCRA appeal quashed where single notice of appeal listed two trial court docket numbers in caption); *Commonwealth v. Small*, 221 A.3d 1293 (Pa. Super. 2019) (unpublished memorandum) (PCRA appeal quashed where appellant filed two identical notices of appeal each containing two trial court docket numbers); *Commonwealth v. Rankin*, 221 A.3d 284 (Pa. Super. 2019) (unpublished memorandum) (PCRA appeal quashed where single notice of appeal related to four different docket numbers); *Commonwealth v. Toole*, 224 A.3d 805 (Pa. Super. 2019) (unpublished memorandum) (PCRA appeal quashed where single notice of appeal filed from order resolving issues pertaining to more than one docket number); *Commonwealth v. Gregor*, 229 A.3d 360 (Pa. Super. 2020) (unpublished memorandum) (PCRA appeal quashed where single notice of appeal identified several docket numbers).

<sup>7</sup> Both parties cite *Creese*, see n.5, *supra*, to support their respective positions regarding the application of *Walker*, but both parties fail to note *Creese* was expressly overruled by the Superior Court *en banc* in *Johnson*. We include the parties’ arguments regarding *Creese*’s overruled holding for the sake of completeness and to highlight the varying applications of *Walker* by the lower courts.

similarly argues the fact the cases below were consolidated makes no difference in the application of the bright-line mandate and holding of *Walker*.

Lastly, Babford asserts there was no breakdown in the operation of the courts to preclude quashal. Babford argues the Superior Court's rule to show cause did not misstate the law in any way and the court has no duty to inform litigants or their counsel how to interpret the law. Babford posits instead that ABC's claim of a breakdown rests "solely" on the common pleas court prothonotary's rejection of ABC's attempt to file a notice of appeal at docket number 5466. Appellee's Brief at 13. Babford suggests ABC must shoulder responsibility for any breakdown and the consequences flowing therefrom because it had numerous opportunities to alert the Superior Court to the events in common pleas court, but did not. Babford notes ABC replied to the Superior Court's February 15, 2019, rule to show cause with a letter stating it had filed separate notices of appeal at each docket number in the consolidated cases, but did not mention its attempted electronic filing at docket number 5466 had been rejected. Moreover, according to Babford, ABC failed to present any argument about a breakdown in court operations to the assigned Superior Court panel and thus has waived the claim. Babford points out the first time ABC alleged a breakdown had occurred was in its motion seeking reconsideration *en banc*, and the allegations were based on events outside the record. Babford maintains the Superior Court correctly declined to consider the claim, and urges this Court to do the same.

### III.

The issue before us — whether the Superior Court erroneously quashed ABC's appeal — presents a question of law; accordingly, our scope of review is plenary and our

standard of review is *de novo*. *Walker*, 185 A.3d at 974. We focus first on ABC's contention there was a breakdown in court operations that precludes quashal.<sup>8</sup>

We have repeatedly recognized the powers of a prothonotary are "purely ministerial in nature." *Commonwealth v. Williams*, 106 A.3d 583, 588 n.9 (Pa. 2014), citing *In re Administrative Order No. 1-MD-2003*, 936 A.2d 1, 9 (Pa. 2007). In *Williams*, the issue was whether the Clerk of Courts of Philadelphia County should have accepted for filing a timely notice of appeal deemed defective "because it was missing two docket numbers and/or because the Clerk's office preferred a separate notice for each of the three docket numbers contained therein." *Id.* at 585. In determining the notice of appeal should have been accepted and filed, we noted, "[t]he clerk of courts and prothonotary are not permitted to interpret statutes or challenge court actions." *Id.* at 588. These court officers "lack the authority to either evaluate the merits of a litigant's pleadings or decline to accept a timely notice of appeal." *Id.*, citing *Brown v. Levy*, 73 A.3d 514, 519 (Pa. 2013). We noted the prothonotary does not operate as an independent reviewer and screening officer with respect to court filings, but fulfills a strictly administrative function, and is therefore obligated to accept and process timely notices of appeal upon receipt in

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<sup>8</sup> We reject Babford's assertion ABC waived this argument. ABC posits it complied with Rule 341 and *Walker* when, on February 25, 2019, it filed a new notice of appeal at the "lead" docket number 5205 listing both that docket number and docket number 5466 in response to the Superior Court's rule to show cause indicating separate notices must be filed and the common pleas prothonotary's directive that all filings in the consolidated cases should be at the lead number. At that time, having followed both courts' directives, ABC asserts it had no reason to believe a breakdown had occurred. It was not until after the Superior Court panel's memorandum opinion quashing the appeal regardless of the step it had taken to resolve the issue that ABC realized there was a breakdown, and it timely sought reconsideration on that basis, which was denied. Under these circumstances, we decline to find waiver.

accordance with the Rules of Appellate Procedure, notwithstanding any perceived defects therein. *Id.*<sup>9</sup>

We further observe our courts “have many times declined to quash an appeal when the defect resulted from an appellant’s acting in accordance with misinformation relayed to him by the trial court.” *Commonwealth v. Stansbury*, 219 A.3d 157, 160 (Pa. Super. 2019). In *Stansbury*, the PCRA court informed a *pro se* litigant that he could pursue appellate review of its decision denying relief at two criminal case docket numbers by filing a single notice of appeal, even though the rule of *Walker* required the filing of a separate notice of appeal at each docket number. The Superior Court concluded “such misstatements as to the manner that [a]ppellant could effectuate an appeal from the PCRA court’s order amount to a breakdown in court operations such that we may overlook the defective nature of [a]ppellant’s timely notice of appeal rather than quash pursuant to *Walker*.” *Id.* at 160.<sup>10</sup>

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<sup>9</sup> See also, *McKeown v. Bailey*, 731 A.2d 628, 631 (Pa. Super. 1999), quoting *Warner v. Cortese*, 288 A.2d 550, 552 (Pa. Cmwth. 1972) (“A Prothonotary may have the power, and even the duty, to inspect documents tendered for filing and to reject them if they are not on their face in the proper form . . . but this power is limited. He is not in the position of an administrative officer who has discretion to interpret or implement rules and statutes. . . . Any question of construction must be resolved by the courts, not by the Prothonotary nor the parties. The Prothonotary must accept papers and file them.”).

<sup>10</sup> See also *Commonwealth v. Flowers*, 149 A.3d 867, 872 (Pa. Super. 2016) (breakdown in court operations existed where trial court failed to correct counsel’s misstatement about deadline for filing appeal and incorrectly provided appellant additional thirty days to appeal); *Commonwealth v. Patterson*, 940 A.2d 493, 498 (Pa. Super. 2007) (compiling cases in which the “courts of this Commonwealth have held that a court breakdown occurred in instances where the trial court . . . either failed to advise [the litigant] of his post-sentence and appellate rights or misadvised him”), appeal denied, 960 A.2d 838 (Pa. 2008); *Commonwealth v. Parlante*, 823 A.2d 927, 929 (Pa. Super. 2003) (“[W]e decline to quash this appeal because [the late appeal] resulted from the trial court’s misstatement of the appeal period, which operated as a breakdown in the court’s operation.”) (internal quotation marks omitted); *Commonwealth v. Coolbaugh*, 770 A.2d 788, 791 (Pa. Super. 2001) (same).

Here, ABC sought to electronically file a timely notice of appeal at docket number 5466. However the filing office rejected it on the basis all filings for docket number 5466 must be filed at docket number 5205, which had been designated as the “lead” docket number for consolidated matters. ABC then filed a notice of appeal from docket number 5466 at that lead docket number 5205. The Superior Court panel nevertheless quashed the appeal on the basis ABC should also have filed a notice of appeal at docket number 5466, pursuant to *Walker*. As we have noted, ABC had attempted to make that requested filing, but its attempt was rejected by the common pleas court prothonotary, who explained notices of appeal in consolidated cases are filed only at the lead docket number. Clearly, there was a “catch-22” not of ABC’s own making: the prothonotary apparently relied on custom to require a single notice of appeal in consolidated cases, notwithstanding the conflicting directive of *Walker*, and ABC was thus misinformed by the court regarding the applicable law. We conclude this was a breakdown in court operations that ordinarily would preclude quashal.

#### IV.

We now consider whether *Walker* nevertheless applies to require quashal in the current circumstances *i.e.*, where a notice of appeal from an order in consolidated civil cases is filed at the lead docket number, and the cases involve the same parties and issues, and the lead docket contains all the court filings and information necessary to decide the appeal.

First we note Appellate Rule 341, entitled “Final Orders; Generally[,]” defines a final order as one that, among other things, “disposes of all claims and of all parties.” Pa.R.A.P. 341(b)(1). The Official Note to the Rule cites *Malanchuk v. Tsimura*, 137 A.3d 1283, 1288 (Pa. 2016), for the proposition that “complete consolidation (or merger or fusion of actions) does not occur absent a complete identity of parties and claims;

separate actions lacking such overlap retain their separate identities and require distinct judgments.” *Id.*, Official Note. *Walker* was certainly not such a case.

As noted previously, in *Walker*, the Commonwealth filed a single notice of appeal from a single order which disposed of four separate motions to suppress evidence filed by four separate criminal defendants at four separate docket numbers. The matters had not been consolidated in either the trial court or the Superior Court, and no request for consolidation had been made. In holding separate notices at each docket number would be required to perfect appeals in such cases going forward, the *Walker* Court noted “[t]he 2013 amendment to the Official Note provides a necessary clarification to Rule 341(a) by setting forth a bright line requirement for future cases: ‘Where . . . one or more orders resolves issues arising on more than one docket or relating to more than one judgment, separate notices of appeal[ ] must be filed.’” *Walker*, 185 A.3d at 976, *quoting* Pa.R.A.P. 341, Official Note. We also observed by filing a “single notice of appeal from an order arising on more than one docket, the Commonwealth effectively, and improperly, consolidated the appeals in the [a]ppellees’ four cases for argument and joint resolution, without either the approval of the Superior Court or the agreement of the [a]ppellees.” *Id.* We further recognized the Rules of Appellate Procedure “provide[] that consolidation is a determination that must be made by ‘the appellate court, at its discretion,’ absent a stipulation by all parties to the several appeals.” *Id.*, *quoting* Pa.R.A.P. 513.<sup>11</sup>

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<sup>11</sup> The parties do not present us with support for the proposition discussed at oral argument that our appellate courts generally do not apply this discretion to “unconsolidate” matters on appeal that were consolidated in the lower court. Indeed, we can discern no reason the Superior Court would have “unconsolidated” the cases had the common pleas court prothonotary accepted separate notices of appeal at each docket. We simply note, as we did in *Walker*, that in cases “where there is more than one appeal from the same order, or where the same question is involved in two or more appeals in different cases,” Pa.R.A.P. 513 allows an appellate court “in its discretion, [to] order them to be argued together in all particulars as if but a single appeal. Appeals may be consolidated by stipulation of the parties to the several appeals.” *Walker*, 185

Additionally, we noted:

[The] practice [of filing a single notice of appeal for multiple cases] utilized in this circumstance by the Commonwealth will often result in unintended consequences, as the appellate court, in deciding the single appeal, must “go behind” the notice of appeal to determine if the same facts and issues apply to all of the appellees. As the Superior Court in this case observed, the suppression order at issue here may affect one or more of the [a]ppellees differently from the rest, including, for example, the remaining evidence (if any) against each [a]ppellee that may be used at trial (which, in turn, may implicate whether all or some of the [a]ppellees should be tried in a single joint trial). The legal issues relating to suppression, *e.g.*, the standing of each defendant to challenge the search and seizure, may also differ from one [a]ppellee to the next.

*Id.* at 977.

The present case is thus easily distinguishable from *Walker*, where the Court was concerned about disparate impact of a single suppression order on multiple defendants in separate, unconsolidated cases. Here, consolidation of the dockets was sought and granted in the common pleas court, and there existed complete identity of parties and claims, such that a single order disposed of the litigation which involved two sides of the same coin, *i.e.*, competing petitions to vacate or confirm the same arbitration award.

## V.

Under these circumstances, the Superior Court’s strict application of *Walker* to mandate quashal improperly elevated form over substance. Accordingly, we now hold filing a single notice of appeal from a single order entered at the lead docket number for consolidated civil matters where all record information necessary to adjudication of the appeal exists, and which involves identical parties, claims and issues, does not run afoul

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A.3d. at 972, *quoting* Pa.R.A.P. 513. It appears, had the Superior Court not strictly applied *Walker* to quash the appeals, it had discretion to consolidate them.



of *Walker*, Rule 341, or its Official Note.<sup>12</sup> We therefore reverse the order quashing the appeal and remand to the Superior Court for consideration of the merits.

Reversed and remanded.

Chief Justice Saylor and Justices Baer, Todd, Wecht and Mundy join the opinion.

Justice Mundy files a concurring opinion.

Justice Donohue files a concurring and dissenting opinion.

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<sup>12</sup> We refer the matter to our Appellate Procedural Rules Committee for consideration of corresponding adjustments to the Official Note to Rule 341.