

Rule 107. Construction of Rules.

- (a) General Rule.** In the construction of the Pennsylvania Rules of Appellate Procedure, the principles set forth in Pa.R.J.A. 104 to 115 shall be observed.
- (b) Exception. Pa.R.J.A. 107(b) shall not apply to the calculation of the three-day period for an appeal or a petition for allowance of appeal from an order in matters arising under the Pennsylvania Election Code.**

Rule 903. Time for Appeal.

- (a) **General [rule] Rule.** Except as otherwise prescribed by this rule, the notice of appeal required by **[Rule] Pa.R.A.P. 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] 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] 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] an** order changing venue or venire in a criminal proceeding. **[See Rule] See Pa.R.A.P. 311(a)(3)** (change of criminal venue or venire)**[.]**;
 - (ii) **[An order in any matter arising under the Pennsylvania Election Code.] rescinded; and**
 - (iii) **[An] 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] if** an election has been filed under **[Rule] Pa.R.A.P. 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.
 - (4) **An appeal from an order in matters arising under the Pennsylvania Election Code shall be taken within three days after the entry of the order.**

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 of 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] 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] See also Pa.R.A.P. 511** (cross-appeals), **[Rule] Pa.R.A.P. 2113** (reply brief), **[Rule] Pa.R.A.P. 2136** (briefs in cases involving cross-appeals), **[Rule] Pa.R.A.P. 2185** (service and filing of briefs) and **[Rule] Pa.R.A.P. 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] Pa.R.A.P. 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] Pa.R.A.P. 511**, the requirement that a party be adverse in order to file a cross-appeal **[is] was** eliminated. Once a notice of appeal is filed by one party, any other party may file a cross-appeal within **[fourteen] 14** 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] Pa.R.A.P. 108** (date of entry of orders) and Explanatory Comment--2007 thereto, **[Rule] Pa.R.A.P. 301(a)(1)** and (2) (entry upon docket below), and Pa.R.Crim.P. 462, 720, and 721 governing criminal appeals.

Except as provided in Pa.R.A.P. 903(c)(4), the timing and substance of other procedural requirements of appeals from orders in matters arising under the Pennsylvania Election Code, such as the time for certification of the original record or establishing briefing schedules, may be subject to an appellate case management order or rule.

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

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.

Rule 1113. Time for Petitioning for Allowance of Appeal.

- (a) **General Rule.** Except as otherwise prescribed by this rule, a petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within 30 days after the entry of the order of the Superior Court or the Commonwealth Court sought to be reviewed.

* * *

- (b) **Cross-Petitions for Allowance of Appeal.** Except as otherwise prescribed in subdivision (c), if a timely petition for allowance of appeal is filed by a party, any other party may file a cross-petition for allowance of appeal within 14 days of the date on which the first petition for allowance 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, a petition for allowance of appeal from an order **[in any matter arising under any of the following]** shall be filed within **[ten days after the entry of the order sought to be reviewed]**:

[1. **Pennsylvania Election Code.**

2. **Local Government Unit Debt Act or any similar statute relating to the authorization of public debt.]**

(1) **Three days after the entry of the order in matters arising under the Pennsylvania Election Code.**

(2) **Ten days of the entry of the order in matters arising under the Local Government Unit Debt Act or any similar statute relating to the authorization of public debt.**

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Comment: See Pa.R.A.P. 903, cmt. (time for appeal).

Regarding subdivision (b), a party filing a cross-petition for allowance of appeal should identify it as a cross-petition to assure that the prothonotary will process the cross-petition with the initial petition. See *a/so* Pa.R.A.P. 511 (cross-appeals), Pa.R.A.P. 2136 (briefs in cases involving cross-appeals), and Pa.R.A.P. 2322 (cross- and separate appeals).

Unlike the Rules of Appellate Procedure governing cross-appeals as of right, the rules governing appeals by allowance do not contain an aggrievement standard. *Kramer v. Nationwide Property and Casualty Insurance Co.*, 313 A.3d 1031, 1042-44 (Pa. 2024). Thus, if a petition for allowance of appeal is filed challenging a final order of the Superior Court or the Commonwealth Court, and, in that order, the intermediate appellate court rules against the respondent on an issue, the respondent must file a cross-petition for allowance of appeal if the respondent wishes to seek discretionary review of that issue. If a respondent fails to timely file a cross-petition for allowance of appeal, and the Supreme Court reverses the judgment of the intermediate appellate court, the respondent's only recourse is to seek leave to file a *nunc pro tunc* cross-petition for allowance of appeal. *Kramer v. Nationwide Property and Casualty Insurance Co.*, 313 A.3d 1031, 1042-44, 1044 n.18 (Pa. 2024); *Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C. v. Law Firm of Malone Middleman, P.C.*, 137 A.3d 1247, 1260 (Pa. 2016) (Saylor, C.J., concurring); *id.* (Todd, J., concurring).

Regarding subdivision (d), an application for *nunc pro tunc* relief pursuant to Pa.R.A.P. 123 should contain averments and documentation in support of the request. Such an application may eliminate the need for a criminal defendant to vindicate the right to file a petition for allowance of appeal through post-conviction proceedings and preserve judicial resources. This method is available because the Supreme Court has recognized that a criminal defendant has a right to have counsel petition for allowance of appeal. Pa.R.Crim.P 120 and 122 require counsel to represent clients through all stages of a direct appeal, and this places on counsel an obligation to file a petition for allowance of appeal if the client requests one, and to represent the client in the Pennsylvania Supreme Court, if allowance of appeal is granted. Parties seeking *nunc pro tunc* relief must act promptly to assert such a right upon learning of the existence of the basis for such relief. See, e.g., *Commonwealth v. Bassion*, 568 A.2d 1316 (Pa. Super. 1990). Additionally, nothing in this rule is intended to expand upon the jurisdictional time limitations of the Post-Conviction Relief Act, 42 Pa.C.S. §§ 9541 *et seq.*

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

Explanatory Comment—2002

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

Rule 1122. Allowance of Appeal and Transmission of Record.

If an appeal is allowed, the Prothonotary of the Supreme Court shall immediately give written notice in person or by first class mail of the entry of the order allowing the appeal to the prothonotary of the appellate court below and to each party who has appeared in the Supreme Court. The notice shall specify the question or questions which will be considered by the Supreme Court, if an appeal has been allowed as to less than all questions presented. The prothonotary of the appellate court below shall docket the notice in the same manner as a notice of appeal, and shall forthwith transmit the record to the Prothonotary of the Supreme Court, but for the purpose of computing time under these rules the record shall be deemed filed in the Supreme Court on the date of entry of the order allowing the appeal. A notice of appeal need not be filed.

[Note: This rule eliminates the little-known procedural “trap” whereby the number of days between the entry of the judgment below and the date of filing the petition for allowance of appeal is subtracted from the time available to the appellant for formal entry of the appeal after it has been allowed. See *Platt-Barber Co. v. Groves*, 193 Pa. 475, 44 Atl. 571 (1899). Under this rule the entry by the Supreme Court of the order allowing the appeal automatically perfects the appeal.]

Comment: Except as provided in Pa.R.A.P. 903(c)(4), the timing and substance of other procedural requirements of appeals from orders in matters arising under the Pennsylvania Election Code, such as the time for certification of the original record or establishing briefing schedules, may be subject to an appellate case management order or rule.

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

Explanatory Comment – 1979

A separate docket number in an appellate court when a petition for allowance of appeal or petition for permission to appeal has been granted is no longer required.