

**SUPREME COURT OF PENNSYLVANIA
APPELLATE COURT PROCEDURAL RULES COMMITTEE**

NOTICE OF PROPOSED RULEMAKING

Proposed Amendments to Pa.R.A.P. 904 and 907

Protecting the privacy of juveniles and children is of great importance to the Courts. To date, that has been done through the use of initials rather than full names. When attempting to access opinions and dockets, however, initials alone can be unwieldy. In an effort to provide an additional reference point, the Committee is proposing to amend Pa.R.A.P. 904 and 907 to require the captions to include initials, county, and year.

The Committee invites all interested persons to submit comments, suggestions, or objections. Comments should be provided to:

**Appellate Court Procedural Rules Committee
Pennsylvania Judicial Center
601 Commonwealth Ave., Suite 6200
P.O. Box 62635
Harrisburg, Pennsylvania 17106-2635
FAX: (717) 231-9551
appellaterules@pacourts.us**

All communications in reference to the proposal should be received by **September 29, 2017**. E-mail is the preferred method for submitting comments, suggestions, or objections; any emailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

An Explanatory Comment precedes the proposed amendments and has been inserted by this Committee for the convenience of the bench and bar. It will not constitute part of the rule nor will it be officially adopted or promulgated.

By the Appellate Court Procedural Rules Committee
Hon. Patricia McCullough
Chair

EXPLANATORY COMMENT

Protecting the privacy of juveniles and children is of great importance to the courts. To date, that has been done through the use of initials rather than full names. When attempting to access opinions and dockets, however, initials can be unwieldy. As one example, on March 21, 2014, the Superior Court decided *In the Interest of T.J.*, in an unpublished opinion; a later Superior Court opinion was issued July 24, 2014. That case came out of Berks County. But there is also a Superior Court “*In the Interest of T.J.*” from 2012 (from Philadelphia County) and 2010 (Allegheny County). Accordingly, if a person is looking for “*In the Interest of T.J.*,” the title of the opinion is not enough to avoid confusion. Options such as using actual first names with last initials only or assigning random first names in alphabetical order (as is done with hurricanes) appeared to create new issues. For example, in a large county, “*In the Interest of John D.*” might still generate multiple same-name appeals, and in a small one, an unusual first name might eliminate the anonymity needed. If names were generated randomly on a county-by-county basis, there would likewise be opportunities for duplication and confusion, as well as additional administrative challenges.

In an effort to use the existing format, but avoid confusion, the Appellate Court Procedural Rules Committee is proposing the use of initials, county, and year in combination. Accordingly, the Committee is proposing to amend Pa.R.A.P. 904 and 907 to ensure that notices of appeal – and from the notices of appeal, the appellate dockets – use that format.

Rule 904. Content of the Notice of Appeal.

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

**COURT OF COMMON PLEAS
OF _____ COUNTY**

A.B., Plaintiff:

Docket or File No. _____

v.

Offense Tracking Number _____

C.D., Defendant:

NOTICE OF APPEAL

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

(S) _____

(Address and telephone number)

(b) *Caption.*—**Except as provided in paragraph (g), [T]**the parties shall be stated in the caption as they stood upon the record of the trial court at the time the appeal was taken.

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

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

(e) *Content in criminal cases.*—When the Commonwealth takes an appeal pursuant to

Pa.R.A.P. 311(d), the notice of appeal shall include a certification by counsel that the order will terminate or substantially handicap the prosecution.

(f) *Content in children's fast track appeals.*—In a children's fast track appeal the notice of appeal shall include a statement advising the appellate court that the appeal is a children's fast track appeal.

(g) Caption in Juvenile Act and Adoption Act appeals.—For an appeal of an order arising from a proceeding under the Juvenile Act or the Adoption Act, the caption shall be stated using the initials of the child's full name, followed by the name of the county in which the order being appealed was entered and the year in which the order was entered.

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

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

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

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

Paragraph (g) introduced a new naming convention for appeals from decisions under the Juvenile Act, 42 Pa.C.S. § 6301, *et seq.*, and the Adoption Act, 23 Pa.C.S. § 2101, *et seq.* For such appeals, references to juveniles or children should be by initials, county, and year, such as *In the Interest of A.B.C. – Jefferson 2017*. The revised form of caption preserves the child's anonymity but avoids the confusion that has arisen using initials alone.

Rule 907. Docketing of Appeal.

(a) *Docketing of appeal.*—Upon the receipt of the papers specified in **[Rule]Pa.R.A.P. 905(b)**, **[(transmission to appellate court)]** the prothonotary of the appellate court shall immediately enter the appeal upon the docket, note the appellate docket number upon the notice of appeal, and give written notice of the docket number assignment in person or by first class mail to the clerk of the **[lower]trial** court, to the appellant, and to the persons named in the proof of service accompanying the notice of appeal. An appeal shall be docketed under the caption given to the matter in the **[lower]trial** court, with the appellant identified as such, **[but if such caption does not contain the name of the appellant, his name, identified as appellant, shall be added to the caption in the appellate court] unless the appeal arises under the Juvenile Act or the Adoption Act, in which case the juvenile or child should be identified by the initials of the child’s full name, followed by the name of the county in which the order being appealed has been entered and the year in which the order was entered. If the appellant is not identified in the caption of the trial court, the appellant’s name shall be added to the caption in the appellate court.**

(b) *Entry of appearance.*—Upon the docketing of the appeal, the prothonotary of the appellate court shall note on the record as counsel for the appellant the name of counsel, if any, set forth in or endorsed upon the notice of appeal, and, as counsel for other parties, counsel, if any, named in the proof of service. The prothonotary of the appellate court shall, upon **[praecipe]praecipe** of any such counsel for other parties, filed within 30 days after filing of the notice of appeal, strike off or correct the record of appearances. Thereafter a counsel’s appearance for a party may not be withdrawn without leave of court, unless another lawyer has entered or simultaneously enters an appearance for the party.

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

[With regard to subdivision (b) and withdrawal of appearance without leave of the appellate court, counsel may nonetheless be subject to trial court supervision pursuant to Pa.R.Crim.P. 904 (Entry of Appearance and Appointment of Counsel; *In Forma Pauperis*).]

With respect to appearances by new counsel following the initial docketing appearances pursuant to **[Subdivision]paragraph** (b) of this rule, please note the requirements of **[Rule]Pa.R.A.P. 120**.