

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

**NOTICE OF PROPOSED RULEMAKING**

**Proposed Amendment of Pa.R.A.P. 102, 121, 122, 125, 1921,  
1931, 2173, 2174, and 2701 with Correlative Amendment of 120, 123, 124, 551, 554,  
556, 902, 906, 907, 908, 1101, 1102, 1111, 1115, 1121, 1301, 1311, 1312, 1321,  
1571, 1734, 1932, 1934, 1941, 1952, 1973, 2152, 2153, 2156, 2171, 2176, 2541, 2546,  
2571, 3101, 3114, and 3901 (omitted)**

The Appellate Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Proposed Amendment of Pa.R.A.P. 102, 121, 122, 125, 1921, 1931, 2173, 2174, and 2701 with Correlative Amendment of 120, 123, 124, 551, 554, 556, 902, 906, 907, 908, 1101, 1102, 1111, 1115, 1121, 1301, 1311, 1312, 1321, 1571, 1734, 1932, 1934, 1941, 1952, 1973, 2152, 2153, 2156, 2171, 2176, 2541, 2546, 2571, 3101, 3114, and 3901 (omitted) for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They will neither constitute a part of the rules nor be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

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All communications in reference to the proposal should be received by **May 28, 2021**. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Appellate Court Procedural Rules Committee,

Patricia A. McCullough  
Chair

## PUBLICATION REPORT

The Appellate Court Procedural Rules Committee is considering proposing the amendment of Pennsylvania Rules of Appellate Procedure 102, 121, 122, 125, 1921, 1931, 2173, 2174, and 2701 to codify procedures for the use of PACFile in the appellate courts. A prior version of PACFile rules was published for comment at 49 Pa.B. 825 (February 23, 2019).

Currently, the use of PACFile in the appellate courts is generally governed by Pa.R.A.P. 125, which relies upon various administrative orders. From a procedural perspective, PACFile is used for two processes. The first process is the filing and service of documents by the parties, which is subject to the Amended Order of January 6, 2014, Judicial Admin. Dkt. 418. The second process is the transmission and remand of the record on appeal, which is subject to the Order of November 13, 2015, Judicial Admin. Dkt. 450. Both of these processes are operationalized through online user guidance and instruction provided by the Administrative Office of Pennsylvania Courts.

Regarding the filing and service of documents by the parties, the Committee originally published a proposal for new rules Pa.R.A.P. 130-136 to primarily govern that process. Since publication, the proposal has been substantially revised. The rule governing PACFile, as it relates to format, filing, service, and signature of documents, is Pa.R.A.P. 125 and largely modeled after Pa.R.Crim.P. 576.1; Pa.R.J.C.P. 205; Pa.R.J.C.P. 1205 with modifications specific to appellate court procedures.

As with the prior proposal, Pa.R.A.P. 125(a)(ii) provides for a not-yet determined date upon which attorney participation in PACFile will become mandatory, but for good cause shown. Comments are specifically invited as to reader's opinion about a sufficient lead time, *e.g.*, 6 months, 12 months, before mandatory participation. The response to the COVID-19 pandemic has demonstrated a wide acceptance of PACFile and the capacity for an increased volume of documents to be filed via PACFile.

Regarding the transmission and remand of the record on appeal, Pa.R.A.P. 1931(g) substantially reflects the requirements of the Order of November 13, 2015. The proposed language has been further clarified to replace references to "file" with "transmit." In addition, commentary was added to the Official Note to alert readers that the definition of "case record" in paragraph (c) can be found in the UJS Public Access Policy on the UJS website.

To distinguish between the use of "clerk" and "prothonotary" throughout the rules, Pa.R.A.P. 102 is proposed to be amended to define those terms. Additional terms, such as "Document," "Electronic Filing," "Filing Party," "Original Document," and "PACFile," are also defined. Pa.R.A.P. 121 is proposed to be amended to reflect "eService" through

PACFile as a method of service. Similarly, Pa.R.A.P. 122 provides a suggested form for proof of service through PACFile.

Pa.R.A.P. 2173 is proposed to be amended so that numbering begins with the cover page and Pa.R.A.P. 2174 is proposed to be amended so that the table of contents appears on the page or pages immediately following the cover. These proposals are intended to correlate the page numbers of briefs and reproduced records with the numbering of images by .pdf reader.

During its review, the Committee also identified that “petition for specialized review” appeared to have been omitted from Pa.R.A.P. 2701 concerning the payment of fees. That form of a petition has been added to paragraph (b) and historical content removed from the Official Note.

In its entirety, this proposal involves 46 rules spanning 68 pages. The majority of the rules will be amended as a result of definitional changes and stylistic revisions. To illuminate operative portions and reduce the burden on readers, the proposal published for comment includes the nine rules containing substantive amendments and omits those containing only correlative amendments. Further, should this proposal ultimately be adopted by the Supreme Court, the Committee intends to also recommend that the administrative orders governing PACFile in the appellate courts be rescinded.

All comments, concerns, and suggestions concerning this proposal are welcome.

## **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] **The filing office of the trial court or other government unit.**

*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.

**Document.**—**A submission to the court, including applications, briefs, reproduced records, or other filings, that is required or permitted; court orders, opinions, and notices; but excluding any submission related to:**

**(1) Appeals pursuant to the Abortion Control Act under Pa.R.A.P. 3801—3814; and**

**(2) Applications pursuant to the Wiretap Act under 210 Pa. Code §§ 65.51—65.78.**

**Electronic filing.**—**The electronic submission of documents and the acceptance of documents by the prothonotary through PACFile.**

**Filing party.**—**An authorized participant who files a document through PACFile.**

*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.

**Original document.**—A document filed either as a paper document or electronically shall be deemed the original document.

**PACFile.**— The system for electronic filing with the appellate courts as developed and administered by the Administrative Office.

*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.

**Prothonotary.**—The filing office of the appellate court.

*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] that** 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] document.*—A document filed with a **prothonotary or** 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.

**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).**

## Rule 121. Filing and Service.

(a) *Filing.*—**[Papers] Documents** 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] documents** are received by the prothonotary within the time fixed for filing. If an application under these rules requests relief **[which that]** may be granted by a single judge, a judge in extraordinary circumstances may permit the application and any related **[papers] documents** to be filed with that judge. In that event the judge shall note thereon the date of filing and shall thereafter transmit such **[papers] documents** to the **[clerk] prothonotary**.

(b) *Service of [all papers required] documents.*—Copies of all **[papers] documents** 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 **by the following**:

(1) **eService through PACFile pursuant to Pa.R.A.P. 125(d)**;

**(2) [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] (3)** first class, express, or priority United States Postal Service mail; which service by mail is complete on mailing;

**[(3) by] (4)** 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] (5)** facsimile or **[e-mail] email** with the agreement of the party being served as stated in the certificate of service[;].

(d) *Proof of service.*—**[Papers presented] Documents submitted** 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] documents** filed. The **[clerk] prothonotary** may permit **[papers] documents** to be filed without acknowledgement or proof of service but shall require such to be filed promptly thereafter.

(e) *Additional time after service of documents in paper format 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] document** upon that party (other than an order of a court or other government unit) and the **[paper] document** 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)](1)** a notice of appeal;
- [(ii)](2)** a request to change or remove counsel;
- [(iii)](3)** a response to a motion to withdraw that has been filed by counsel of record;
- [(iv)](4)** a complaint that existing counsel has abandoned the party; or
- [(v)](5)** 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] documents**” in paragraph (a) of this rule includes any appeal **[paper] document** 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)*—**For the necessity of a proof of service for documents filed through PACFile, see Pa.R.A.P. 125(d).** With respect to appearances by new counsel following

the initial docketing of appearances pursuant to paragraph (d) of this rule, **[please note]** **see** 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 re-argument, since under these rules the time for filing such **[papers]** **documents** 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. However, these rules permit the filing of such notice and petitions (except a petition for reconsideration or re-argument) in the local county (generally in the county court house; otherwise in a post office), thus eliminating a major problem under the prior practice. 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.

**Rule 122. Content and Form of Proof of Service of Documents Filed in an Appellate Court.**

(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] email** 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:

**eService by PACFile on the following:**

**Name**

**Email address**

**Telephone number**

**Mailing address**

**(Party represented)**

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] email** at **the** following:

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

Service by facsimile at **the** 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.

**Practitioners are advised that email service and eService through PACFile are not the same. Email service pursuant to Pa.R.A.P. 121(c)(4)(5) is permitted upon the agreement between the parties to accept such service and is completed when the document is [e-mailed] emailed by a party. For eService through PACFile pursuant to Pa.R.A.P. 125(d), PACFile provides electronic notification to attorneys and other**

**parties participating via PACFile. EService is complete for purposes of Pa.R.A.P. 121(c)-(d) when that document has been submitted.**

**Rule 125. [Electronic] Filing and Service of Documents through PACFile.**

**[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.]**

(This is entirely new text.)

(a) *Participation in PACFile.*

(1) *Participation by attorneys.*

(i) Unless otherwise prohibited, an attorney shall be permitted to participate in PACFile by establishing an account through procedures established by the Administrative Office.

(ii) Effective \_\_ \_\_, \_\_, participation by attorneys in PACFile, unless otherwise prohibited, is mandatory. Upon application and a showing of good cause, an appellate court may exempt an attorney from mandatory participation.

(2) *Participation by non-attorneys.*

(i) Unless otherwise prohibited, a non-attorney shall be permitted to participate in PACFile through an authorization process established by the Administrative Office of Pennsylvania Courts.

(ii) Participation by non-attorneys in PACFile is optional.

(3) To participate in PACFile, an attorney shall establish an account or a non-attorney shall obtain authorization from the Administrative Office of Pennsylvania Courts. Participation includes acceptance of service electronically of any document filed in PACFile and the email service of advance text of briefs

under Pa.R.A.P. 2185(a) and (c), and 2187(b), if the record is being reproduced under Pa.R.A.P. 2154(b) (large records).

(4) An attorney or non-attorney who participates in PACFile, including *amicus curiae*, is authorized to file a permitted document in an electronic format. Service upon an attorney or non-attorney who participates in PACFile shall be done electronically.

(5) Participation in PACFile shall not include access via PACFile to documents submitted to a court *in camera*, and may not include access to confidential information and documents.

(b) *Filing.*

(1) When a document is to be electronically filed, it shall be submitted to PACFile at the Unified Judicial System web portal at <http://ujportal.pacourts.us>, in accordance with this rule and any instructions that may be otherwise be provided at the web portal site.

(2) Documents may be submitted through PACFile at any time, except during times of periodic maintenance. The electronic submission must be completed by 11:59:59 p.m. EST/EDT to be considered filed that day.

(3) The time and date on which a document is submitted to PACFile shall be recorded by PACFile. PACFile shall provide an acknowledgement to the filing party that the document has been submitted.

(4) The time and date on which the document is accepted by the prothonotary also shall be recorded by PACFile. PACFile shall provide an acknowledgement to the filing party that the document has been accepted.

(5) A document shall be considered filed upon submission of the document to PACFile and acceptance of the document by the prothonotary. If the prothonotary determines that the requirements for filing have been met, the time and date of filing shall be the time and date that the document was submitted to PACFile. If the prothonotary finds that the requirements for filing are not met, the prothonotary may reject the document.

(6) A filing party shall be responsible for any delay, disruption, and interruption of the electronic signals and legibility of the document electronically filed, except when caused by the failure of PACFile's website.

(7) PACFile shall attribute the filing of an electronic document to the party whose account is used to log onto PACFile and file the document.

(8) Documents shall be filed in portable document format (".pdf"). When possible, documents should be electronically converted to .pdf. The applicable general rules of court and court policies that implement the rules shall continue to apply to all documents.

(9) Any document submitted for filing to the prothonotary in a paper format shall be accepted by the prothonotary in that format and shall be retained by the prothonotary as may be required by applicable rules of court and record retention policies. The prothonotary shall convert such document in a paper format to .pdf and add it to PACFile. However, those submissions excluded from the definition of "document" under Pa.R.A.P. 102 shall not be converted and added to PACFile.

(10) Applicable filing fees shall be paid electronically through procedures established by the appellate courts and the Administrative Office of Pennsylvania Courts. Filing fees shall be paid at the same time and in the same amount as required by statute, rule of court, or order. In addition to the filing fees now applicable, a fee for use of PACFile shall be imposed.

(c) *Signature.*

(1) Except as provided in paragraph (c)(3), an electronic signature of the filer, as provided for in PACFile, is permitted in the following form: */s/ Chris L. Doe.*

(2) Any application that, pursuant to Pa.R.A.P. 123(c), avers facts not of record and requires a verification shall be created in a paper form, have a signature placed on the application, and then be converted to .pdf before the application may be electronically filed.

(3) The original of any verified document shall be maintained by the filing party until two years after the entry of a final order and made available upon direction of the court or reasonable request of the signatory or opposing party.

(d) *Service.*

(1) Upon the submission of a document through PACFile, PACFile shall provide electronic notification to attorneys and other parties to the case who are participating in PACFile that the document has been submitted. This notification upon submission shall satisfy the manner and proof of service requirements of Pa.R.A.P. 121(c)-(d) on any attorney or party who has established a PACFile account, *i.e.*, eService.

(2) Upon the acceptance by the prothonotary of a document submitted through PACFile, PACFile shall provide electronic notification to attorneys and other parties to the case who are participating in PACFile that the document has been accepted.

(3) Service of document filed through PACFile on any attorney or party who has not established a UJS web portal account or who is unable to file or receive documents through PACFile, or is otherwise unable to access PACFile shall be made by the manner of service permitted under Pa.R.A.P. 121(c) (2)-(5) with proof of service required by Pa.R.A.P. 121(d).

(4) A party serving a document on a prospective party seeking to intervene or a non-party shall not serve that document through PACFile, but shall serve the document by any manner of service under Pa.R.A.P. 121(c) (2)-(5).

(5) Original process shall be served in accordance with the general rules that authorize such service in a matter commenced in an appellate court.

(e) *Submission of paper version of a document filed through PACFile.* Within 7 days of the submission of any document filed through PACFile, the filer shall submit to the appellate court a paper copy of the electronically time-stamped document and as many additional copies as the court requires. The paper copy of the document filed through PACFile shall be considered the original for archival purposes only. To determine the number of copies required for filing, see Pa.R.A.P. 124(c).

**Official Note:**

To provide a uniform system for electronic filing, the Administrative Office has developed the PACFile electronic filing system. This is the only authorized system for electronic filing of documents in appellate court proceedings. PACFile can be accessed on the Unified Judiciary System web portal (“UJS Portal”) at [www.ujsportal.pacourts.us](http://www.ujsportal.pacourts.us). The UJS Portal contains other automated services besides PACFile. There may be circumstances when an attorney, who has registered as a user on another service of the UJS Portal, may have an established account that would be usable for PACFile. Any

questions about the requirements of registration or accessibility to PACFile should be referred to the Administrative Office. Questions about filing a document pursuant to this rule should be directed to the prothonotary of the appellate court in which the document is to be filed.

PACFile permits a user to designate other users as proxies on individual cases. These proxies all receive notice of any document in the case. An attorney is responsible for the actions of other individuals whom the attorney authorizes to use the attorney's account.

Documents in certain appeals may not be filed using PACFile. See Pa.R.A.P. 102 for the definition of "document" (excluding documents related to appeals pursuant to the Abortion Control Act and applications pursuant to the Wiretap Act); see also paragraph (b)(9).

Upon submission of a document, PACFile shall automatically send notice of the filing to all participating parties. If PACFile sends notice of such filing, the party filing the document must serve only those parties who are not served by PACFile.

Regarding paragraph (b)(6), see Pa.R.A.P. 123 for the procedure regarding how to file an application for relief if a document is rejected by PACFile. Practitioners may find written instructions and obtain technical assistance through the UJS Portal Help Center for help to correct the filing of a rejected document.

Paragraph (b)(8) expresses a preference that documents presented for filing through PACFile be electronically converted to .pdf rather than scanned to .pdf, when possible. There are two ways to create a .pdf: one is to scan a document on a commercial copier or stand-alone scanner; the other is to convert the document to .pdf electronically with the word processing program itself or using .pdf conversion software.

In addition to the filing fees now applicable, an online payment convenience fee for use of PACFile may be imposed. See 204 Pa. Code § 207.3.

Paragraph (d)(1) describes the service requirements for documents filed through PACFile known as eService. See also Pa.R.A.P. 121-122 the manner and proof of service for eService.

Paragraph (d)(4) is intended to alert practitioners to the necessity of serving documents filed through PACFile on a would-be intervenor or a non-party pursuant to Pa.R.A.P. 121 rather than through PACFile. Practitioners may file their documents via PACFile, but must serve those seeking to intervene by methods other than service by PACFile.

Paragraph (d)(5) is intended to prevent the possibility of default judgments due to a lack of monitoring of an account in PACFile. See, for example, Pa.R.A.P. 1514(c) and 3761(b).

## **Rule 1921. Composition of Record on Appeal.**

The original **[papers] documents** and exhibits filed in the **[lower] trial** court, **[paper]** copies of **[legal papers] documents** filed with the prothonotary through PACFile, the transcript of proceedings, if any, and a certified copy of the docket entries prepared by the clerk **[of the lower court]** shall constitute the record on appeal in all cases. **Unless otherwise ordered by the appellate court in accordance with Pa.R.A.P. 1931(g), in any appeal in which the record is electronically filed or transmitted through PACFile, the documents and filings electronically filed or transmitted thereby shall constitute original documents and exhibits.**

### **Official Note:**

An appellate court may consider only the facts which have been duly certified in the record on appeal. *Commonwealth v. Young*, [456 Pa. 102, 115,] 317 A.2d 258, 264 (Pa. 1974). All involved in the appellate process have a duty to take steps necessary to assure that the appellate court has a complete record on appeal, so that the appellate court has the materials necessary to review the issues raised on appeal. Ultimate responsibility for a complete record rests with the party raising an issue that requires appellate court access to record materials. See, e.g., *Commonwealth v. Williams*, [552 Pa. 451, 460,] 715 A.2d 1101, 1106 (Pa. 1998) (addressing obligation of appellant to purchase transcript and ensure its transmission to the appellate court). [Rule] Pa.R.A.P. 1931(c) and (f) afford a “safe harbor” from waiver of issues based on an incomplete record. Parties may rely on the list of documents transmitted to the appellate court and served on the parties. If the list shows that the record transmitted is incomplete, the parties have an obligation to supplement the record pursuant to [Rule] Pa.R.A.P. 1926 (correction or modification of the record) or other mechanisms in Chapter 19. If the list shows that the record transmitted is complete, but it is not, the omission shall not be a basis for the appellate court to find waiver. This principle is consistent with the Supreme Court’s determination in *Commonwealth v. Brown*, [\_\_\_ Pa. \_\_\_,] 52 A.3d 1139, 1145 n.4 (Pa. 2012) that where the accuracy of a pertinent document is undisputed, the [C]court could consider that document if it was in the Reproduced Record, even though it was not in the record that had been transmitted to the [C]court. Further, if the appellate court determines that something in the original record or otherwise presented to the trial court is necessary to decide the case and is not included in the certified record, the appellate court may, upon notice to the parties, request it from the trial court *sua sponte* and supplement the certified record following receipt of the missing item. [See Rule] See Pa.R.A.P. 1926 (correction or modification of the record).

## Rule 1931. Transmission of the Record.

### (a) *Time for transmission.*

(1) *General rule.*—Except as otherwise prescribed by this rule, the record on appeal, including the transcript and exhibits necessary for the determination of the appeal, shall be transmitted to the appellate court within 60 days after the filing of the notice of appeal. If an appeal has been allowed or if permission to appeal has been granted, the record shall be transmitted as provided by Pa.R.A.P. 1122 (allowance of appeal and transmission of record) or by Pa.R.A.P. 1322 (permission to appeal and transmission of record), as the case may be. The appellate court may shorten or extend the time prescribed by this paragraph for a class or classes of cases.

(2) *Children’s fast track appeals.*—In a children’s fast track appeal, the record on appeal, including the transcript and exhibits necessary for the determination of the appeal, shall be transmitted to the appellate court within 30 days after the filing of the notice of appeal. If an appeal has been allowed or if permission to appeal has been granted, the record shall be transmitted as provided by Pa.R.A.P. 1122 (allowance of appeal and transmission of record) or by Pa.R.A.P. 1322 (permission to appeal and transmission of record), as the case may be.

(b) *Duty of trial court.*—After a notice of appeal has been filed, the judge who entered the order appealed from shall:

**(1)** comply with Pa.R.A.P. 1925 (opinion in support of order)[, **shall**];

**(2)** cause the official court reporter to comply with Pa.R.A.P. 1922 (transcription of notes of testimony) or shall otherwise **[settle] approve** a statement of the evidence or proceedings as prescribed by **[this chapter,] Pa.R.A.P. 1923 (statement in absence of transcript) and Pa.R.A.P. 1924 (agreed statement of record)**; and

**(3)** **[shall]** take any other action necessary to enable the clerk to assemble and transmit the record as prescribed by this rule.

(c) *Duty of clerk to transmit the record.*—When the record is complete for purposes of the appeal, the clerk **[of the lower court]** shall transmit it to the prothonotary **[of the appellate court]**. The clerk **[of the lower court]** shall number the documents comprising the record and shall transmit with the record a list of the documents correspondingly numbered and identified with sufficient specificity to allow the parties on appeal to identify each document and whether it is marked as confidential, so as to

determine whether the record on appeal is complete. Any Confidential Information Forms and the “Unredacted Version” of any pleadings, documents, or other legal papers where a “Redacted Version” was also filed shall be separated either physically or electronically and transmitted to the appellate court. Whatever is confidential shall be labeled as such. If any case records or documents were sealed in the **[lower] trial** court, the list of documents comprising the record shall specifically identify such records or documents as having been sealed in the **[lower] trial** court. Documents of unusual bulk or weight and physical exhibits other than documents shall not be transmitted by the clerk unless **[he or she is]** directed to do so by a party or by the prothonotary **[of the appellate court]**. A party must make advance arrangements with the clerk for the transportation and receipt of exhibits of unusual bulk or weight. Transmission of the record is effected when the clerk **[of the lower court]** mails or otherwise forwards the record to the prothonotary **[of the appellate court]**. The clerk **[of the lower court]** shall indicate, by endorsement on the face of the record or otherwise, the date upon which the record is transmitted to the appellate court.

(d) **[Service] Notice of the list of record documents.**—The clerk **[of the lower court]** shall, at the time of the transmittal of the record to the appellate court, **[mail] send** a copy of the list of record documents to all counsel of record, or if unrepresented by counsel, to the parties at the address they have provided to the clerk. The clerk shall note on the docket the giving of such notice.

(e) *Multiple appeals.*—Where more than one appeal is taken from the same order, it shall be sufficient to transmit a single record, without duplication.

(f) *Inconsistency between list of record documents and documents actually transmitted.*—If the clerk **[of the lower court]** fails to transmit to the appellate court all of the documents identified in the list of record documents, such failure shall be deemed a breakdown in **the** processes of the court. Any omission shall be corrected promptly pursuant to Pa.R.A.P. 1926 (correction or modification of the record) and shall not be the basis for any penalty against a party.

**(g) Transmission and remand of records through PACFile.—Records may be transmitted and remanded through PACFile. The applicable general rules of court and court policies that implement the rules shall continue to apply to the transmission and remand of records on appeal regardless of whether a record is transmitted or remanded through PACFile. The transmission of a record through PACFile by a court or other government unit to an appellate court shall not excuse the court or other government unit from submitting a paper version of the record transmitted through PACFile to the appellate court should the appellate court require it.**

(1) The transmission or remand of a record through PACFile by a court or other government unit shall constitute the transmission or remand of the record under the Pennsylvania Rules of Appellate Procedure.

(2) The transmission or remand of a record through PACFile is effectuated when a court or other government unit utilizes PACFile to transmit or give notice of the remand or remittal of the record to a court or other government unit.

(3) The date of the transmission or remand of a record through PACFile by a court or other government unit shall be noted on the docket of the transmitting or remanding court or other government unit, and on the docket of the receiving court or other government unit.

(4) Upon the transmission or remand of a record through PACFile, the record shall be considered to be in the possession of the receiving court or other government unit until the record is transmitted through PACFile to another court or government unit, or notice of remand or remittal to another court or other government unit is given.

(5) If a Rule of Appellate Procedure or court policy requires that a court transmit, or remand or remit a record to another court or other government unit, the transmission or notice of remand or remittal to the receiving court or other government unit may also be effectuated through PACFile.

(6) Any documents sealed in a court or other government unit may be transmitted or remanded through PACFile only in a manner that restricts access to the sealed documents or filings to the court or other government unit and registered users of PACFile who are authorized to view the sealed documents.

(7) The appellate courts shall retain control over access to records transmitted through PACFile, and may permit such electronic access in whole or in part.

**Official Note:**

Pa.R.A.P. 1926 (correction or modification of the record) provides the means to resolve any disagreement between the parties as to what should be included in the record on appeal.

**Paragraph (c)—For the definition of “case records,” see the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* available at [www.pacourts.us/public-records](http://www.pacourts.us/public-records).**

**Notice of electronic remand of the record is for jurisdictional purposes.**

**Rule 2173. Numbering of Pages.**

**[Except as provided in Rule 2174 (tables of contents and citations), the] All pages of briefs, the reproduced record, and any supplemental reproduced record shall be numbered [separately] consecutively, starting with the cover page. The pages shall be numbered in Arabic figures [and not in Roman numerals]: thus 1, 2, 3, etc., followed in the reproduced record by a small a, thus 1a, 2a, 3a, etc., and followed in any supplemental reproduced record by a small b, thus 1b, 2b, 3b, etc. Where the reproduced record is bound in more than one volume, there shall be one continuous paging, regardless of the division into volumes.**

**[Official Note:**

**Based on former Supreme Court Rules 37 (part) and 38 (first clause), former Superior Court Rules 29 (part) and 30 (first clause), and former Commonwealth Court Rules 83 (part) and 84, without change in substance.]**

## **Rule 2174. Tables of Contents and Citations.**

(a) *Tables of contents.*—The briefs and the reproduced record shall each contain a full and complete table of contents, set forth **[either on the inside of the front cover or on the first and immediately succeeding pages] on the page or pages immediately following the cover**. The table of contents of the reproduced record, in addition to the material otherwise specified in this chapter, shall include a reference to all reproduced exhibits, indicating what each is, and the names of witnesses, indicating where the examination, cross-examination, and re-examination of each begin. Where the reproduced record is bound in more than one volume, there shall be but one table of contents which shall indicate in which volume each particular part of the record will be found. The combined table of contents ordinarily shall be set forth in full at the front of each volume, but where the combined table of contents is itself voluminous, a cross reference at the front of the second and subsequent volumes to the combined table of contents at the front of the first volume may be substituted for the text of the combined table of contents.

(b) *Tables of citations.*—All briefs shall contain a table of citations therein, arranged alphabetically, which shall be set forth immediately following the table of contents.

**[(c) *Paging of introductory tables.*—The pages of the tables specified in this rule need not be numbered, but if numbered shall be numbered in Roman numerals: thus i, ii, iii, etc.**

**Official Note: Based on former Supreme Court Rule 37, former Superior Court Rule 29 and former Commonwealth Court Rule 83. The rule substitutes the term “table of contents” for the incorrect term “index,” authorizes the optional practice of beginning the table of contents on the face-up page (rather than inside the front cover) and authorizes Roman numbering the introductory pages.]**

## **Rule 2701. Payment of Fees Required.**

(a) *General rule.*—A person upon filing any **[paper] document** shall pay any fee therefor prescribed by law.

(b) *Appeals by allowance or permission; petitions for review.*—The fee for filing a petition for allowance of appeal, a petition for permission to appeal, **[or]** a petition for review, **or a petition for specialized review** shall, except as otherwise required by statute, be the same as the fee payable under **[Rule] Pa.R.A.P. 907** (docketing of appeal). Where a petition for allowance of appeal or a petition for permission to appeal has been filed under these rules and is granted, no additional fee, except as otherwise required by statute, shall be payable upon docketing the appeal in the appellate court.

(c) *Temporary fee for filing notice of appeal.*—Until otherwise provided by law, the clerk, upon filing a notice of appeal under **[Rule] Pa.R.A.P. 905** (filing of notice of appeal), shall be entitled to receive an amount equal to the fee otherwise payable, if any, upon the filing of a writ issued out of the Supreme Court of Pennsylvania evidencing the fact that an appeal has been taken to the Supreme Court.

### **Official Note:**

Former Supreme Court Rule 70 (first sentence), former Superior Court Rule 61 and former Commonwealth Court Rule 117 (first sentence) literally required the payment of the fee in advance of filing. In view of the filing by mail procedures instituted by these rules, a limited opportunity is afforded to permit the prompt correction of the failure to include a check with the letter of transmittal or the failure to draw the check in the proper amount.

A party who intends to proceed **[in forma pauperis] in forma pauperis** should transmit a copy of **[his] the** application under **[Rule] Pa.R.A.P. 552** (application to **[lower] trial** court for leave to appeal **[in forma pauperis] in forma pauperis**) to the **[appellate]** prothonotary so that **[Rule] Pa.R.A.P. 554(b)** (appeal taken before application acted on) will operate to defer the requirement for fees in the appellate court.

**[The fees in appellate courts are temporarily continued by Section 24(a) of the Judiciary Act of 1976, act of July 9, 1976 (P.L. 586, No. 142), by reference to the former provisions of law, which were as follows: The fees of the Commonwealth Court were prescribed by 204 Pa.Code § 155.203. The docketing fee in the Supreme and Superior Court was fixed at \$12 by the act of May 19, 1897 (P.L. 67, No. 53), § 3 (former 12 P.S. § 1135), and the fee for issuing writs for the enforcement of the duty to file the records in such courts and the fee for filing a petition for allowance of appeal from the Superior Court was fixed by § 18 (second and third sentences) of the act (former 12 P.S. § 1156) at \$3.]**