

CHAPTER 23. SESSIONS AND ARGUMENT**IN GENERAL**

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IN GENERAL**Rule 2301. Scope of Chapter.**

The provisions of this chapter are subject to any inconsistent rules on the same subject set forth in:

- (1) Chapter 33 (business of the Supreme Court) with respect to matters to be heard and determined in the Supreme Court.
- (2) Chapter 35 (business of the Superior Court) with respect to matters to be heard and determined in the Superior Court.
- (3) Chapter 37 (business of the Commonwealth Court) with respect to matters to be heard and determined in the Commonwealth Court.

SCHEDULING OF ARGUMENT**Rule 2311. Submission on Briefs.**

(a) *General rule.*—By agreement of the parties a case may be submitted for decision on the briefs, but the court may direct that the case be argued.

(b) *Post conviction relief cases.*—All parties shall submit post conviction relief cases on the briefs unless otherwise directed by the court on its own motion or upon application.

Official Note: Based on former Supreme Court Rules 32 and 71 and former Superior Court Rules 24 and 64. Counsel are no longer required to be present at the time the case is submitted, where the court has not required that the case be argued.

Source

The provisions of this Rule 2311 amended July 7, 1997, effective in 60 days, 27 Pa.B. 3503. Immediately preceding text appears at serial pages (115453) to (115454).

Rule 2312. Notice of Arguments.

The prothonotary shall give written notice to all parties of the date and place at which oral argument has been scheduled.

Official Note: The effect of this rule is to commit the scheduling of a case to the discretion of the court. The rule supersedes all statutory preferences and requirements purporting to regulate the scheduling of the business of an appellate court.

Source

The provisions of this Rule 2312 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802. Immediately preceding text appears at serial page (25472).

Rule 2313. Advancement or Continuance.

(a) *Advancement.*—Advancement of the argument of a case, or change from the normal place of argument, shall be allowed only on application. Ordinarily advancement will be granted to the earliest open date convenient to the court, allowing about the usual time contemplated by these rules for the service and filing of the briefs and any reproduced record, unless the objection shall set forth good cause why the case should not be advanced.

(b) *Continuance.*—Continuance of the argument of a case to a later argument list than that designated in the notice from the prothonotary shall be allowed only on application. The appellate court or a designated judge of the appellate court may grant a continuance upon application of less than all parties without notice to the other parties when exigent. A continuance shall be granted only for compelling and persuasive reasons.

Official Note: Rule 3305 provides that in the Supreme Court, the prothonotary may dispose of motions generally relating to calendar control. In the Superior Court, continuances are handled by the presiding judge of the panel. In the Commonwealth Court, continuances are handled by the president judge or duty judge. In each appellate court, the application is to be submitted to the prothonotary and not to an individual judge of the appellate court.

Source

The provisions of this Rule 2313 amended December 10, 1986, effective January 31, 1987, and shall govern all matters thereafter commenced and, insofar as just and practicable, matters then pending, 16 Pa.B. 4951; amended July 7, 1997, effective in 60 days, 27 Pa.B. 3503. Immediately preceding text appears at serial pages (115454) to (115455).

Rule 2314. Non-appearance of Parties.

If appellant or the moving party is not ready to proceed when a case is called for oral argument, the matter may be dismissed as of course. The court in its dis-

cretion may hear a party who is ready *ex parte*; or the court may act in such manner as under the circumstances may be deemed to be appropriate.

Official Note: Based on former Supreme Court Rule 30, former Superior Court Rule 22 and former Commonwealth Court Rule 72, without change in substance. Where appellant is not ready to proceed at argument and has filed no brief, the appeal will be dismissed as of course. *In re Ray's Estate*, 281 Pa. 297, 126 Atl. 751 (1924). See Rule 2188 (consequence of failure to file briefs and reproduced records).

Source

The provisions of this Rule 2314 amended February 27, 1980, 10 Pa.B. 1038, effective date as set forth at 10 Pa.B. 1038. Immediately preceding text appears at serial page (43067).

Rule 2315. Time for Argument. Argument Lists.

(a) *General rule.*—Oral argument is not a matter of right and will be permitted only to the extent necessary to enable the appellate court to acquire an understanding of the issues presented. The presiding judge may terminate the argument for any party notwithstanding the fact that the maximum time for argument specified in the applicable provision of these rules has not been exhausted.

(b) *Assignment to lists.*—Argument lists shall consist of the regular list and short list. All cases listed for argument shall be placed upon the regular list unless all the parties upon praecipe to the prothonotary of the appellate court request the case to be placed upon the short list.

(c) *Short list.*—The time for argument of cases on the short list shall be limited to not more than 15 minutes for each side. On days when there are cases on both the short list and on the regular list those on the short list shall be heard first and in order of listing.

(d) *Regular list.*—The time for argument of cases on the regular list shall be limited to not more than 30 minutes for each side. When there are two or more appeals from the same order, and in joint appeals, even though they raise different or unrelated questions, counsel for all the appellants will be limited to a total of not more than 30 minutes for argument, and counsel for all the appellees to a total of not more than 30 minutes. The maximum time shall be divided between or among the appellants or between or among the appellees respectively as they may decide, subject to reduction as prescribed in Subdivision (a) of this rule.

Official Note: Based on former Supreme Court Rules 24 and 25, former Superior Court Rule 15, and former Commonwealth Court Rule 70. The Superior Court practice of handling all cases on the short list is continued in Rule 3513 (oral arguments).

The maximum time is intended as a limit for complex cases, and counsel should prepare for argument on the assumption that less than the maximum time for argument may be allowed by the presiding judge.

Source

The provisions of this Rule 2315 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802. Immediately preceding text appears at serial page (25474).

Cross References

This rule cited in 210 Pa. Code § 67.23 (relating to arguments—time allowed).

ORDER AND CONTENT OF ARGUMENT**Rule 2321. Order and Content of Argument.**

The appellant shall open, and if permitted by the court by way of rebuttal, may conclude the argument. Counsel should not read at length from briefs, records or authorities.

Official Note: Based in part on former Supreme Court Rule 31 (part), and former Superior Court Rule 23 (part). This rule is intended to make clear that the appellant does not have the right at the commencement of argument to reserve a portion of his argument until after the argument for appellee.

Rule 2322. Cross and Separate Appeals.

A cross or separate appeal shall be argued with the initial appeal at a single argument, unless the court otherwise directs. If a case involves a cross appeal, the plaintiff or moving party in the action below shall be deemed the appellant for the purposes of these rules unless the parties otherwise agree or the court otherwise directs. If two or more parties support the same argument, care shall be taken to avoid duplication of argument. Where two or more appeals, not being cross-appeals, are heard together, each appellant shall open the argument on his appeal, each appellee shall reply thereto, and (if permitted by the court by way of rebuttal) not more than two appellants will be heard in conclusion.

Official Note: Based in part on former Supreme Court Rule 31 and former Superior Court Rule 23. See Rule 2136 (briefs in cases involving cross appeals) for inclusion of designation of appellant for purposes of this chapter in notice given by the appellate prothonotary under Rule 1934 (filing of the record).

Source

The provisions of this Rule 2322 amended May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740. Immediately preceding text appears at serial page (39648).

Rule 2323. Physical Exhibits.

If physical exhibits other than documents are to be used at the argument, counsel shall arrange to have them placed in the court room before the court convenes on the date of the argument. After the argument counsel shall cause the exhibits to be removed from the court room unless the court otherwise directs. If exhibits are not reclaimed by counsel within a reasonable time after notice given by the prothonotary, they shall be destroyed or otherwise disposed of as the prothonotary shall think best.

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