

## **WHAT'S NEW IN THE PENNSYLVANIA APPELLATE COURTS?**

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Two years ago, we updated our readers regarding the many new and departing judges in the Pennsylvania appellate courts. With the November 2009 election, there have been even more changes. So, here's what's new in our Pennsylvania appellate courts, along with an update on the courts' workload.

### **Judges Joining The Bench And Leaving The Bench**

The Pennsylvania Supreme Court now has a full complement of justices on the bench. The newest addition is Justice Joan Orié Melvin, who was elected last year. Justice Orié Melvin had previously served as a trial court judge in Allegheny County and was a judge for 10 years on the Superior Court. She replaced Justice Jane Cutler Greenspan, who had served an 18-month interim appointment and who had agreed not to run for election.

The Pennsylvania Superior Court, the intermediate appeal court that reviews most of the civil and criminal appeals from the county common pleas courts, has also seen changes in personnel. Four new judges were elected in November 2009: Anne Lazarus from Philadelphia, Sallie Mundy from Tioga County, Judith Olson from Pittsburgh and Paula Ott from Chester County. The Superior Court now has 14 commissioned judges and one vacancy (resulting from the election of Justice Joan Orié Melvin to the Supreme Court). There are also seven senior judges who assist the Court with the case load. Interestingly, most of the commissioned judges on this Court are women (10 of 14), and half of the commissioned judges (7 of 14) have served on the Superior Court for less than three years.

In the Commonwealth Court, the intermediate appellate court that hears appeals involving state and local governments and regulatory agencies, has two new judges. Elected in November were Kevin Brobson from Harrisburg and Patricia McCullough from Pittsburgh. This Court also has a substantial number of women judges (4 of the 9 commissioned judges and 1 of the 5 senior judges).

### **The Courts' Workload**

Clients are often surprised at the heavy volume of cases that the appellate courts handle and the length of time it takes for the courts to issue a decision. Understanding the burdens of the courts and timing considerations can be useful in drafting court filings and in developing any settlement strategy.

Most of the matters filed in the Supreme Court are petitions for allowance of appeal, which the Supreme Court reviews to decide whether it will even hear the case. In 2008 (the latest year for which full Supreme Court statistics are available), 2,151 petitions were filed, but the Supreme Court chose to allow only 110 cases to be heard. Moreover, of the appeals that are permitted to go forward each year, in most of those cases the Supreme Court upholds the intermediate appellate court's decision. Thus, the chance that a case will even be heard by the Supreme Court or that a lower court decision will be reversed is very slim.

The Superior Court is the workhorse of the appellate courts. The Superior Court has already published its 2009 statistics, reporting that 8,169 new appeals were filed last year. Approximately 40% of the new appeals in 2009 were civil cases and 60% were criminal cases. The Superior Court resolved 8,321 appeals in 2009, but as of January 1, 2010, 6,661 appeals

remained pending on its docket. On average, appeals were resolved in 301 days. The Superior Court issued 5,384 written opinions in 2009.

The Commonwealth Court saw 3,409 appeals filed in calendar year 2008 and 582 original jurisdiction cases (in which the Commonwealth Court acts as the trial court). The Commonwealth Court disposed of 3,856 cases in that same year. About 94% of this Court's cases were decided in less than 365 days, and 87% were decided in less than 290 days. The Commonwealth Court authored 1,205 opinions in 2008.

### **What Does This Information Mean For Your Appeal?**

Appeals can be costly and time-consuming, so it is important to maximize the opportunities for success. Given the appellate courts' heavy workload, appellate judges may look more favorably upon arguments that are presented in concise, compelling briefs that quickly focus on the key issues. Knowing the backgrounds and preferences of the judges serving on the appellate courts can also help in tailoring arguments to catch the judge's attention and position the case for a prompt, favorable ruling.

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