

SUPREME JUDICIAL COURT

Boston, Massachusetts 02108

NOTICE OF APPROVAL

Notice is hereby given that the Supreme Judicial Court has approved and promulgated rules as further indicated below.

RALPH D. GANTS  
Chief Justice

- 
1. Court Submitting Rules for Approval:

Probate & Family Court

2. Date Rules Submitted for Approval:

August 1, 2019

3. Date Approved & Promulgated by the Supreme Judicial Court:

October 4, 2019

4. Rule or Rules, or Amendments Thereto, Approved and Promulgated:

Amendments to Supplemental Rules of the Probate & Family Court Rule 30 attached hereto.

5. Effective Date:

November 1, 2019

(The original of this notice is to be filed in the office of the Clerk of the Supreme Judicial Court for the Commonwealth, and a copy to be sent by the Clerk to the court which requested approval of the rules.)



Commonwealth of Massachusetts  
The Trial Court  
Probate and Family Court Department  
Administrative Office  
3 Center Plaza, Suite 210  
Boston, MA 02108

Telephone: (617) 788-6600

John D. Casey  
CHIEF JUSTICE

Linda M. Medonis  
DEPUTY COURT ADMINISTRATOR

August 1, 2019

Honorable Frank M. Gaziano  
Chair of the Supreme Judicial Court Rules Committee  
Supreme Judicial Court  
John Adams Courthouse, Suite 2200  
One Pemberton Square  
Boston, MA 02108  
***SENT BY EMAIL ONLY***

**Re: Proposed Amendments to Rule 30 of the  
Supplemental Rules of the Probate & Family Court**

Dear Justice Gaziano,

I submit for approval by the Supreme Judicial Court amendments to Rule 30 of the Supplemental Rules of the Probate and Family Court. The amendments are recommended by the Probate and Family Court Bench/Bar Rules Committee. The amendments are minimal and are intended only to correct citations to the Massachusetts Rules of Appellate Procedure.

I have enclosed a redline version of the Rule with the proposed amendments highlighted in yellow, a proposed Reporter's Note, and a copy of the Rule incorporating all changes. Chief Justice Paula M. Carey has reviewed and approved the changes. See enclosed letter, dated August 1, 2019. As the amendments are curative in nature, we request approval **without publication** for comment and an effective date of **August 1, 2019**. Thank you.

Sincerely,

John D. Casey  
Chief Justice

Enclosures

cc: Christine Burak, Esq.,  
Hon. Lisa A. Roberts,  
Evelyn J. Patsos, Esq.

**PROPOSED AMENDMENTS TO RULE 30 OF THE  
SUPPLEMENTAL RULES OF THE PROBATE AND FAMILY COURT**

**Rule 30. Dismissal of Abandoned Appeals**

If the appellant has failed to (i) file the transcript of the proceedings or the designated portions thereof or the statement of certification within the time required by Rule 8(b)(13) and Rule 9(de) of the Massachusetts Rules of Appellate Procedure (unless such time shall previously have been enlarged as permitted by Rule 10(c) ); (ii) docket the appeal within the time required by Rule 10(a)(1) of the Massachusetts Rules of Appellate Procedure (unless such time shall previously have been enlarged or the late docketing allowed as permitted by Rule 10(a)(3) ); or (iii) failed to file the transcript of the proceedings or the designated portion thereof within six (6) months of filing the statement of certification, the register shall send written notice by first class mail that the appeal will be dismissed for lack of prosecution to the attorney of record for each party, or to the party at his last known address if he is not represented by an attorney. A copy of this rule shall accompany said written notice. The sending of every notice required by this rule shall be noted on the docket.

Fourteen (14) days after the date of such notice, the register shall forthwith dismiss such appeal for lack of prosecution and shall note said dismissal on the docket, unless the register receives a) a motion to enlarge to a date certain set forth therein the time for complying with this rule and the requirements of said Rule 8(b)(13) and Rule 9(de) and/or Rule 10(a)(1) or (3) which has been marked for hearing and b) an affidavit of the movant which shall set forth all the facts which such movant wishes to have considered by the court which will act on such motion in accordance with the provisions of this rule and Rule 10(c) .

Adopted July 18, 1988, effective August 1, 1988; amended October 27, 1999, effective January 1, 2000; amended December 14, 2011, effective January 2, 2012.

**Reporter's notes- 2000**

Rule 30 was amended to facilitate the dismissal of abandoned appeals. Pursuant to Rule 9(c)(2) of the Massachusetts Rules of Appellate Procedure, the appellant in a civil case shall deliver to the clerk of the lower court either a transcript of those portions of the transcript of the lower court proceedings which the appellant deems necessary for determination of the appeal or a signed statement certifying that the appellant has ordered such portions from the court reporter. Upon receiving the transcript, the appellant is to deliver it forthwith to the clerk of the lower court.

Under the prior version of rule 30, the appeal could not be dismissed for lack of prosecution if the appellant filed a signed statement certifying that they have ordered the transcript, despite the fact that the transcript is never produced. With the amended version of rule 30, if the

appellant fails to file the transcript within six (6) months of filing the statement of certification, the appeal shall be dismissed.

Another problem with the prior version of the rule is that it allowed the appellant to stop the dismissal by filing a motion to enlarge. However, the rule required no further action on the motion. The amendment to rule 30 requires that the motion to enlarge be marked for hearing.

Rule 30 was also amended to reference Massachusetts Rule of Appellate Procedure 8(b)(3) in addition to rule 9(c) in order to include electronically recorded proceedings.

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#### **Reporter's notes- 2019**

Rule 30 was amended to correct the prior reference to Rule 8(b)(3) of the Massachusetts Rules of Appellate Procedure to state now Rule 8(b)(1), and the prior reference to Rule 9(c) of the Massachusetts Rules of Appellate Procedure to state now Rule 9(d), as a result of amendments to the Massachusetts Rules of Appellate Procedure effective March 1, 2019.

**Proposed Reporter's notes- 2019**

Rule 30 was amended to correct the prior reference to Rule 8(b)(3) of the Massachusetts Rules of Appellate Procedure to state now Rule 8(b)(1), and the prior reference to Rule 9(c) of the Massachusetts Rules of Appellate Procedure to state now Rule 9(d), as a result of amendments to the Massachusetts Rules of Appellate Procedure effective March 1, 2019.