

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

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1. Court submitting Rules for Approval:

Appeals Court

2. Date Rules Submitted for Approval:

November 20, 2015

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

December 16, 2015

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

Appeals Court Standing Order Concerning Docketing Statement for All Appeals (Civil and Criminal), as described in Chief Justice Scott L. Kafker's letter dated November 20, 2015, attached.

5. Effective Date:

January 1, 2016

(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 APPEALS COURT
BOSTON 02108

SCOTT L. KAFKER
CHIEF JUSTICE

November 20, 2015

Honorable Robert J. Cordy
Chair,
SJC Rules Committee
Supreme Judicial Court
John Adams Courthouse
Boston, Massachusetts 02108

Re: Completion of Pilot Programs and Adoption of Appeals Court Standing Order Requiring
Appellants and Cross-Appellants to File Docketing Statements in Civil and Criminal Appeals

Dear Justice Cordy:

In 2011, the Justices of the Supreme Judicial Court approved Appeals Court pilot programs requiring appellants and cross-appellants to file docketing statements in all civil and criminal appeals. The inaugural pilot programs commenced in 2011 and were extended in 2012 until December 31, 2015. The Appeals Court has determined the pilot programs were successful and should be concluded, and that a standing order requiring the docketing statement be adopted.

The docketing statement provides the Appeals Court with important background information that is used when the case is entered, screened, under review, and in editorial. Blank docketing statements are posted on the Appeals Court website where appellants and cross-appellants complete a fillable PDF form that has drop-down menus, calendars, and text that will automatically fill in certain information. Attorneys and litigants are able to complete and save the form with little difficulty and then file it electronically. The statement's instructions require it to be electronically signed, filed, and served. Incarcerated self-represented appellants are not required to file a docketing statement.

In 2015, the Clerk of the Appeals Court surveyed the Appeals Court Justices and staff, as well as the Supreme Judicial Court's Offices of the Chief Staff Counsel and the Reporter of Decisions, to determine whether the docketing statements are useful and whether any amendments should be made to their data fields. The responses were positive overall and indicated that many Justices and staff regularly use a docketing statement in their business practices. Further, all Justices and staff rely on the data provided in the docketing statements after it is entered in the docket. The Appeals Court's Case Management Committee reviewed the survey results and the docketing statements and supports their continuation after the pilot programs expire on December 31, 2015. Finally, in June 2015 the Appeals Court published for public comment a proposal to reorganize the court's rules and standing orders, and convert the docketing statement standing orders into rules of court. No public comments addressing the docketing statements were received.

Since 2011, the Appeals Court's docketing statement pilot programs have been set forth in separate standing orders, one for civil appeals and one for criminal appeals, with instructions that detail the filing and service requirements. We propose to simplify the docketing statements by adopting a single standing order that encompasses both civil and criminal cases, with the detailed instructions continuing to be provided on the forms. The standing order will provide:

Docketing Statement for All Appeals (Civil and Criminal).

(a) Filing. Each appellant or cross-appellant, other than a self-represented person who is incarcerated, shall complete and file a docketing statement for each appeal or cross-appeal. The docketing statement is due within fourteen days after the Appeals Court issues the "Notice of Entry" of the appeal.

(b) Content and Form. The docketing statement shall contain such information as required on the form located on the Appeals Court's website. The filer shall comply with the instructions on the docketing statement form.

(c) Multiple Appellants or Cross-Appellants. Each separately represented appellant or cross-appellant shall file a separate docketing statement. Counsel representing multiple appellants or cross-appellants shall file one docketing statement on behalf of all appellants or cross-appellants represented by that counsel. Each appellant or cross-appellant who is not represented by counsel shall file one docketing statement.

(d) Failure to File Docketing Statement. The court may take such action as necessary to ensure the filing of the docketing statement, including denying without prejudice any motion to enlarge time to file a brief or motion to stay appellate proceedings until the appellant has filed the docketing statement.

On behalf of the Justices of the Appeals Court, I respectfully request that the Supreme Judicial Court approve the adoption of an Appeals Court standing order requiring appellants and cross-appellants in civil and criminal cases to file a docketing statement.

Yours sincerely,



Scott L. Kafker
Chief Justice

SLK/md

MASSACHUSETTS APPEALS COURT

STANDING ORDER
(Effective January 1, 2016)

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(b) Content and Form. The docketing statement shall contain such information as required on the form located on the Appeals Court's website. The filer shall comply with the instructions on the docketing statement form.

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(d) Failure to File Docketing Statement. The court may take such action as necessary to ensure the filing of the docketing statement, including denying without prejudice any motion to enlarge time to file a brief or motion to stay appellate proceedings until the appellant has filed the docketing statement.