

Rule 240. [*In Forma Pauperis.*] Application to Waive Fees and Costs.

- [(a) This rule shall apply to all civil actions and proceedings except actions pursuant to the Protection From Abuse Act and Protection of Victims of Sexual Violence or Intimidation Act.**

Note: The term “all civil actions and proceedings” includes all domestic relations actions except those brought pursuant to the Protection From Abuse Act, 23 Pa.C.S. § 6106, and Protection of Victims of Sexual Violence or Intimidation Act, 42 Pa.C.S. §§ 62A01—62A60.

- (b) A party who is without financial resources to pay the costs of litigation is entitled to proceed *in forma pauperis*.**

- (c) Except as provided by subdivision (d), the party shall file a petition and an affidavit in the form prescribed by subdivision (h). The petition may not be filed prior to the commencement of an action or proceeding or the taking of an appeal.**

(1)(i) If the petition is filed simultaneously with the commencement of the action or proceeding or with the taking of the appeal, the prothonotary shall docket the matter and petition without the payment of any filing fee.

(ii) If the court shall thereafter deny the petition, the petitioner shall pay the filing fee for commencing the action or proceeding or taking the appeal. A party required to pay such fee may not without leave of court take any further steps in the action, proceeding or appeal so long as such fee remains unpaid. Not sooner than ten days after notice of the denial of the petition pursuant to Rule 236, the prothonotary shall enter a judgment of *non pros* in the action or proceeding or strike the appeal if the fee remains unpaid. The action, proceeding or appeal shall be reinstated only by the court for good cause shown.

(2) If the action or proceeding is commenced or the appeal is taken without the simultaneous filing of a petition, the appropriate filing fee must be paid and shall not be refunded if a petition is thereafter filed and granted.

(3) Except as provided by subdivision (j)(2), the court shall act promptly upon the petition and shall enter its order within twenty days from the date of the filing of the petition. If the

petition is denied, in whole or in part, the court shall briefly state its reasons.

- (d)(1) If the party is represented by an attorney, the prothonotary shall allow the party to proceed *in forma pauperis* upon the filing of a *praecipe* which contains a certification by the attorney that he or she is providing free legal service to the party and believes the party is unable to pay the costs.
- (2) The *praecipe* shall be substantially in the form prescribed by subdivision (i).
- (e) A party permitted to proceed *in forma pauperis* has a continuing obligation to inform the court of improvement in the party's financial circumstances which will enable the party to pay costs.
- (f) A party permitted to proceed *in forma pauperis* shall not be required to
 - (1) pay any cost or fee imposed or authorized by Act of Assembly or general rule which is payable to any court or prothonotary or any public officer or employee, or
 - (2) post bond or other security for costs as a condition for commencing an action or proceeding or taking an appeal.
- (g) If there is a monetary recovery by judgment or settlement in favor of the party permitted to proceed *in forma pauperis*, the exonerated fees and costs shall be taxed as costs and paid to the prothonotary by the party paying the monetary recovery. In no event shall the exonerated fees and costs be paid to the indigent party.
- (h) The affidavit in support of a petition for leave to proceed *in forma pauperis* shall be substantially in the following form:

(Caption)

1. I am the (plaintiff) (defendant) in the above matter and because of my financial condition am unable to pay the fees and costs of prosecuting or defending the action or proceeding.
2. I am unable to obtain funds from anyone, including my family and associates, to pay the costs of litigation.

3. I represent that the information below relating to my ability to pay the fees and costs is true and correct:

(a) Name: _____

Address: _____

(b) *Employment*

If you are presently employed, state

Employer _____

Address: _____

Salary or wages per month: _____

Type of work: _____

If you are presently unemployed, state

Date of last employment: _____

Salary or wages per month: _____

Type of work: _____

(c) *Other income within the past twelve months*

Business or profession: _____

Other self-employment: _____

Interest: _____

Dividends: _____

Pension and annuities: _____

Social security benefits: _____

Support payments: _____

Disability payments: _____

Unemployment compensation and supplemental benefits: _____

Workers' compensation: _____

Public assistance: _____

Other: _____

(d) *Other contributions to household support*

(Wife) (Husband) Name: _____

If your (wife) (husband) is employed, state

Employer: _____

Salary or wages per month: _____

Type of work: _____

Contributions from children: _____

Contributions from parents: _____

Other contributions: _____

(e) *Property owned*

Cash: _____

Checking account: _____

Savings account: _____

Certificates of deposit: _____

Real estate (including home): _____

Motor vehicle: Make _____, Year _____,

Cost _____, Amount Owed \$ _____

Stocks and bonds: _____

Other: _____

(f) *Debts and Obligations*

Mortgage: _____

Rent: _____

Loans: _____

Other: _____

(g) *Persons dependent upon you for support*

(Wife) (Husband) Name: _____

Children, if any:

Initials: _____

Age: _____

Other Persons:

Name: _____

Relationship: _____

4. I understand that I have a continuing obligation to inform the court of improvement in my financial circumstances which would permit me to pay the costs incurred herein.

5. I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: _____
_____ Petitioner

- (i) The praecipe required by subdivision (d) shall be substantially in the following form:

(Caption)

PRAECIPE TO PROCEED IN FORMA PAUPERIS

To the Prothonotary:

Kindly allow _____, (Plaintiff) (Defendant) to proceed *in forma pauperis*.

I, _____, attorney for the party proceeding *in forma pauperis*, certify that I believe the party is unable to pay the costs and that I am providing free legal service to the party.

Attorney for

- (j)(1) If, simultaneous with the commencement of an action or proceeding or the taking of an appeal, a party has filed a petition for leave to proceed *in forma pauperis*, the court prior to acting upon the petition may dismiss the action, proceeding or appeal if the allegation of poverty is untrue or if it is satisfied that the action, proceeding or appeal is frivolous.

Note: A frivolous action or proceeding has been defined as one that “lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 109 S.Ct. 1827, 104 L.Ed.2d 338 (1989).

- (2) If the petitioner commences the action by writ of summons, the court shall not act on the petition for leave to proceed *in forma pauperis* until the complaint is filed. If the complaint has not been filed within ninety days of the filing of the petition, the court may dismiss the action pursuant to subdivision (j)(1).

Note: The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*. See Rule 205.6.]

(This is entirely new text.)

- (a) **General Rule.** Except as provided in subdivision (b), the procedure for requesting waiver of fees and costs in all civil actions is set forth in Pennsylvania Rule of Judicial Administration 1990.
- (b) **Commencing Action by Writ of Summons.** If a party commences a civil action by a writ of summons and the party seeks a waiver of fees and costs:
 - (1) The court shall not act on the application to waive fees and costs until the party files a complaint.
 - (2) If the party has not filed a complaint within 90 days of the application's filing date, the court may deny the application.
- (c) **Dismissal for Frivolous Action.** Nothing in Pa.R.J.A. 1990 shall preclude the court from *sua sponte* dismissing an underlying action, which is filed contemporaneously with an application to waive fees and costs, as frivolous.

Comment: The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*. See Pa.R.Civ.P. 205.6.

Subdivision (b) addresses additional requirements when a party commences a civil action via the issuance of a writ of summons and seeks waiver of fees and costs. Within 90 days of filing the application, the party must file the complaint. Once the complaint is filed, the court may act on the application. If a party fails to file timely the complaint, the action may be dismissed.

Subdivision (c) enables the courts of common pleas to eliminate frivolous lawsuits involving a party who is requesting a waiver of fees and costs. The effect of such lawsuits on the judicial system was stated by the Supreme Court of the United States in *Neitzke v. Williams*, 490 U.S. 319 (1989):

We recognize the problems in judicial administration caused by the surfeit of meritless *in forma pauperis* complaints in the federal courts, not the least of which is the possibility that meritorious complaints will receive inadequate attention or be difficult to identify amidst the overwhelming number of meritless complaints.

Id. at 326. This definition is virtually identical in its statement with the definition of the Supreme Court of Pennsylvania in *Robinson v. Com., Pa. Board of Probation and Parole*, 582 A.2d 857, 860 (Pa. 1990) defining the term “frivolous” as used in Pa.R.A.P. 2744 as “an appeal which lacks any basis in law or fact.”

See Pa.R.Civ.P.M.D.J. 1016-1020 for the procedures governing reconsideration in the court of common pleas of the denial of an application to waive fees and costs by a magisterial district judge.

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

Explanatory Comment—1991

The Judiciary Act Repealer Act (JARA) became law in 1978, repealing literally thousands of statutory provisions governing civil practice and procedure and amending many others. The Rules of Civil Procedure contained many references to these repealed and amended statutes.

The recent Order of the Supreme Court deletes several notes which are obsolete either because they refer to statutes which have been repealed or amended or because they are no longer of benefit to the bench and bar. Other notes have been amended to refer to current statutory provisions or other rules.

The following rules have been amended:

* * *

... There are two housekeeping amendments. Rule 240 governing proceedings in forma pauperis has been amended by deleting the opening phrase of subdivision (c)(3). The language was surplusage and had no relevance to the subdivision.

Second, Rule 1041.1(b) governing asbestos litigation was amended by deleting the second paragraph. The second paragraph repeated the text of Rule of Judicial Administration 1902 verbatim and was unnecessary here. No change in practice results from the deletion of the second paragraph.

The amendments are of a technical nature only and do not result in any change in practice or procedure.

New subdivision (i) of Pennsylvania Rule of Civil Procedure 240 governing proceedings *in forma pauperis* enables the courts of common pleas to eliminate frivolous *in forma pauperis* lawsuits. The effect of such lawsuits on the judicial system was stated by the Supreme Court of the United States in *Neitzke v. Williams*, 490 U.S. 319, 326, 109 S.Ct. 1827, 1831, 104 L.Ed.2d 338, 347 (1990):

We recognize the problems in judicial administration caused by the surfeit of meritless *in forma pauperis* complaints in the federal courts, not the least of which is the possibility that meritorious complaints will receive inadequate attention or be difficult to identify amidst the overwhelming number of meritless complaints.

New Rule 240(i) would allow the court to dismiss an action in which a petition for leave to proceed *in forma pauperis* has been filed and either “the allegation of poverty is untrue” or “the court is satisfied that the action, proceeding or appeal is frivolous.” The court may dismiss a suit under this rule only where the petition for *in forma pauperis* status is filed simultaneously with the commencement of the suit and the court has taken no action on the petition. Once the petition has been granted and the petitioner has taken steps to prosecute the suit, the traditional remedies of preliminary objections, judgment on the pleadings and summary judgment are available to the defending party.

The subject of the rule is the “frivolous” lawsuit. A note has been added to the rule calling attention to a definition of that term by the Supreme Court of the United States. That definition is virtually identical in its statement with the definition of the Supreme Court of Pennsylvania in *Robinson v. Com., Pa. Board of Probation and Parole*, 525 Pa. 505, 512, 582 A.2d 857, 860 (1990) defining the term “frivolous” as used in Pennsylvania Rule of Appellate Procedure 2744 as “an appeal which lacks any basis in law or fact.”

Explanatory Comment—1994

It had been suggested that there was a problem in clearing the docket when, upon commencing an action or taking an appeal from the judgment of a district justice, the party commencing the action or taking the appeal petitioned the court for leave to proceed *in forma pauperis* but the petition was denied and the required fee was never paid. Rule 240(c)(1) has been amended to correct the problem.

Subdivision (c)(1) governs the filing of a petition “simultaneously with the commencement of the action or with the taking of the appeal”. Initially, the prothonotary must docket the petition and the action or appeal without the payment of a filing fee. The previous rule simply provided that if the petition is denied, the petitioner must pay the required filing fee and cannot without leave of court take any further step in the action as long as the fee is not paid. The rule did not specify a time within which the fee must be

paid or provide a remedy to the prothonotary for an action or appeal stalled by the nonpayment of the filing fee.

Revised Rule 240(c)(1) has been divided into two subparagraphs. Subparagraph (i) consists of the first sentence of previous Rule 240(c)(1) without change and requires the prothonotary to docket the petition and the action or appeal without the payment of a filing fee. Subparagraph (ii) consists of the remaining two sentences of previous Rule 240(c)(1) without change and two new sentences:

(ii) If the court shall thereafter deny the petition, the petitioner shall pay the filing fee for commencing the action or taking the appeal. A party required to pay such fee may not without leave of court take any further steps in the action or appeal so long as such fee remains unpaid. Not sooner than ten days after notice of the denial of the petition pursuant to Rule 236, the prothonotary shall enter a judgment of non pros in the action or strike the appeal if the fee remains unpaid. The action or appeal shall be reinstated only by the court for good cause shown.

The new language permits the prothonotary to clear the docket for the non payment of the filing fee no sooner than ten days after denial of the petition to proceed *in forma pauperis*. By allowing the prothonotary to proceed, the rule encourages the petitioner to pay the required fee promptly, i.e., within ten days. Two points are to be noted. First, the amended rule does not require the prothonotary to act immediately upon the expiration of the ten day period. The prothonotary is merely directed to act no sooner than ten days after denial of the petition. Second, the prothonotary is directed to enter a judgment of non pros or to strike the appeal only “if the fee remains unpaid.” Consequently, once the fee has been paid the prothonotary may not take any action even though the ten day period has expired.

Explanatory Comment—2001

Prior to the present amendment, Rule 240(d) provided for a party represented by an attorney to proceed in forma pauperis upon the filing of a praecipe. The rule prescribed two requirements for the praecipe. First, the praecipe must have contained “a certification by the attorney that he or she is providing free legal service to the party and believes the party is unable to pay the costs”. Second, the praecipe must have been “accompanied by the affidavit required by subdivision (c)” which is filed in support of a petition for leave to proceed in forma pauperis and which demonstrates the party's inability to pay the costs of litigation.

Subdivision (d) has been amended by deleting the requirement that the affidavit accompany the praecipe. As amended, the rule provides for the prothonotary to allow a party to proceed in forma pauperis solely upon a praecipe containing the certification of

the party's attorney. A conforming amendment to the form of the praecipe in subdivision (i) deletes the reference to the accompanying affidavit. These amendments bring the rule into conformity with Rule 552(d) of the Pennsylvania Rules of Appellate Procedure and Rule 206 E. (iii) of the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings before District Justices.

Explanatory Comment—2009

There has been an increase in the concern about the use of social security numbers in court paper records. Consequently, the Supreme Court of Pennsylvania has amended Rule 240(h) governing the form for the petition to proceed *in forma pauperis* by deleting the requirement for a petitioner to supply his or her social security number.

Explanatory Comment—2012

Present subdivision (j) provides for a court, prior to acting on a petition to proceed *in forma pauperis*, to dismiss an action, proceeding, or appeal if the allegation of poverty in the petition is untrue, or if the court is satisfied that the action, proceeding, or appeal is frivolous. However, subdivision (j) did not consider the situation where an action is commenced by the issuance of a writ of summons. The amendment to subdivision (j) requires the party commencing an action by writ of summons and seeking to proceed *in forma pauperis* to file the complaint within ninety days of filing the petition. The court would not make a determination on the petition until the complaint is filed. If the complaint is not filed within the ninety-day time period, the court may dismiss the action pursuant to procedures set forth in subdivision (j)(1).

Explanatory Comment—2018

On January 6, 2017, the Supreme Court of Pennsylvania adopted the *Public Access Policy: Case Records of the Appellate and Trial Courts* (Policy), which will become effective January 6, 2018. To provide guidance to practitioners regarding the Policy, new Rule 205.6 has been adopted and provides that absent any applicable authority that constrains public access, all civil filings must comply with the Policy. Of particular importance are the requirements of Sections 7.0 and 8.0 of the Policy governing confidential information and confidential documents. In addition, the rule provides that all practitioners and unrepresented parties must certify that a filing is compliant with the Policy.

Conforming amendments have been made to Rule 229.2 governing the petition to transfer structured settlement payment rights, Rule 240 governing the petition to proceed *in forma pauperis*, Rule 1018 governing captions, and Rule 2028 governing the naming and caption of minor children's names in actions by and against a minor. Section 7.0(A)(5) of the Policy prohibits the disclosure of the names of minor children in a filing

unless the minor is charged as a defendant in a criminal matter. Both Rule 229.2 and Rule 240 require the filing of an affidavit in support of the petition. The form affidavit currently requires the disclosure of the full names of any minor children of the petitioner. See Rule 229.2(f) and 240(h). The amendment requires a petitioner to provide the initials only of any minor children. For Rule 2028, the amended rule requires that minor's initials only be provided in the caption. A cross-reference to Rule 2028 has been added to the note to Rule 1018. In addition, a note cross-referencing new Rule 205.6 has been added to Rules 229.2, 240, and 2028. Stylistic amendments to Rule 240 have also been made.

Rule 1308. Appeal. Arbitrators' Compensation. Notice

- (a) **General Rule.** An appeal from an award shall be taken by:
- (1) filing a notice of appeal in the form provided by Rule 1313 with the prothonotary of the court in which the action is pending not later than thirty days after the day on which the prothonotary makes the notation on the docket that notice of entry of the arbitration award has been provided as required by Rule 1307(a)(3), and
 - (2) payment to the prothonotary of the compensation of the arbitrators not exceeding fifty percent of the amount in controversy, which shall not be taxed as costs or be recoverable in any proceeding;

provided that the court, in an appropriate case, upon petition may permit the appellant to **[proceed in forma pauperis] waive fees and costs.**

[Note: Subdivision (a)(1) incorporates the holding of *Stellar Construction Inc. v. Ronald Sborz et al, individually and trading as Keystone Meats*, 748 A.2d 667 (Pa. 2000) with respect to the date upon which the appeal period begins to run.]

- (b) **Notice.** The appellant shall provide the prothonotary with the required notice for mailing and properly stamped and addressed envelopes. The prothonotary shall give notice to each other party of the taking of the appeal. Failure to give the notice shall not invalidate the appeal.
- (c) **No Bond or Other Security Required.** The appellant shall not be required to post any bond, recognizance, or other security or to pay any record costs which have accrued in the action. All record costs shall abide the event.

Comment:

Subdivision (a)(1) incorporates the holding of *Stellar Construction Inc. v. Sborz*, 748 A.2d 667 (Pa. 2000) with respect to the date upon which the appeal period begins to run.

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

Explanatory Comment—1981

The form of appeal is simplified by the Rules. A simple notice of appeal substantially in the form prescribed by Appellate Rule 904 is all that is now required. The form appears in Rule 1313. The archaic oath or affirmation that the appeal is not for the purpose of delay but because the affiant firmly believes injustice has been done was abolished by Rule 247.1, effective February 2, 1980, and is not included in the form. Subdivision (c) abolishes the historic practice, mandated by Section 27 of the Act of 1836, of requiring the appellant to pay the costs accrued and to file a bond for further costs to accrue. Failure to pay the costs in full and post the bond as required by Sections 27 and 30 of the Act of 1836 and the Act of March 20, 1845, P.L. 188, 42 P.S. § 921, have been the subject of continual litigation and often resulted in quashing of the appeal.

In *Oakley, Inc. v. School District of Philadelphia*, 464 Pa. 330, 346 A.2d 765 (1975), the Supreme Court reversed previous decisions of the Superior Court holding that the statutory requirement of payment of costs was discretionary and not mandatory. *Oakley* held that the statutory requirements for the perfecting of an appeal are jurisdictional and mandatory, unless fraud or some breakdown in the court's operation causes the failure to comply with the statutory requirements. It therefore remanded to permit the lower court to determine whether the prothonotary's docket notation of the costs had been so confusing and misleading that it led to a \$10 underpayment.

There were many decisions on the effect of defects in the bond on the validity of the appeal.

The abolition of payment of accrued costs and the filing of bond will relieve the courts of much litigation without substantial impairment of the rights of litigants. The amount of accrued costs is in most cases not significant and if a monetary award is made and the losing party owns real estate, the award will constitute a lien continuing during pendency of appeal. The abolition of these prerequisites should not substantially increase the number of appeals.

The effect of this will be that payment of the compensation of the arbitrators will be the only financial burden on the appeal, other than the filing fee, if any, which may be established by legislation or general rule. The provision of subdivision (a)(2) as to repayment of arbitrators' fees follows prior practice without change.

The thirty-day period for appeal prescribed by subdivision (a)(1) follows the directive of Rule 247.1 and Sections 7361(d) and 5571 of the Judicial Code. Rule 247.1 is no longer needed and is rescinded.

Subdivision (a) also contains a concluding clause confirming the power of the court to permit the appellant to proceed in forma pauperis, namely, without prepaying the compensation of the arbitrators or paying the filing fee, if any.

Subdivision (b) changes prior practice under existing local rules which require the appellant to serve a copy of the appeal on all other parties to the action. It requires the prothonotary to give the notice, which the appellant must furnish him, postage prepaid.

Subdivision (b) settles the problem of whether failure of an appellant to give notice of the appeal required by a local rule warrants the dismissal of the appeal with prejudice. *Mikita v. Bailey Homes, Inc.*, 265 Pa.Super. 399, 401 A.2d 1367 (1979), upheld the power of a local court to promulgate such a rule. Subdivision (a)(3) now prescribes that failure to give the notice shall not invalidate the appeal. Local rules to the contrary are no longer applicable.

In addition to the right of appeal de novo, Section 26 of the Act of 1836, 5 P.S. § 57, provided for setting aside an award if the arbitrators misbehaved or the award was obtained by corruption or other undue means. The Act did not place any time limit on the filing of the petition, but many local rules which incorporated Section 26 of the Act of 1836 provided the same time limit as the time for appeal. This raised problems if both an appeal and a petition to set aside the award were filed within the time for appeal. In *Township of Hampden, Cumberland County v. Tenny*, 32 Pa.Cmwlth. 301, 379 A.2d 635 (1977), the court held that dismissal of the petition to set aside the award was interlocutory and in effect was made moot by the appeal for trial de novo.

The Rules do not continue the practice of petitioning to set aside an award for corruption or misbehavior. Hearings or depositions on the petition proceedings could delay the proceedings. Rule 1311(b) creates quasi-judicial immunity for the arbitrators with respect to their official actions and they cannot be called to testify. As a practical matter, if the fraud or corruption were proved, remand and the appointment of a new panel could be the only relief. Trial de novo is preferable since it expedites the proceedings. The court would, of course, have power to punish the attorney-arbitrators involved for any professional misconduct that could be proved.

Explanatory Comment—2000

Rule 1308 governing compulsory arbitration has been amended in two respects. First, subdivision (a)(1) governs the filing of a notice of appeal from an award of arbitrators and previously provided that the notice of appeal must be filed not later than thirty days “after the entry of the award on the docket”. That provision has now been revised to incorporate the holding of *Stellar Construction, Inc. v. Ronald Sborz et al, individually and trading as Keystone Meats*, 748 A.2d 667, 669 (Pa. 2000):

In furtherance of clarity, certainty and ease of determination, see *Frazier*, 557 Pa. at 621-22, 735 A.2d at 115, we hold that the date of entry of an order for purposes of Pennsylvania Rule of Civil Procedure 1308 shall mean the day on which the prothonotary fulfills its duty to make the required notation on the docket reflecting that notice of entry of the arbitration award has been provided as required by Rule 1307(a)(3).

Second, the note following subdivision (c) of the rule has been deleted as obsolete.

Rule 1313. Form of Notice of Appeal

(a) **Form.** The notice of appeal shall be in substantially the following form:

(Caption)

**NOTICE OF APPEAL
FROM AWARD OF BOARD OF ARBITRATORS**

TO THE PROTHONOTARY:

Notice is given that _____ appeals from the award of the board of arbitrators entered in this case on _____.

A jury trial is demanded. (Check box if a jury trial is demanded. Otherwise, jury trial is waived.)

I hereby certify that:

- (1) the compensation of the arbitrators has been paid, or
- (2) application has been made for permission to **[proceed in forma pauperis]** **waive fees and costs.**

(Strike out the inapplicable clause.)

Appellant or Attorney for Appellant

[Note: The demand for jury trial on appeal from compulsory arbitration is governed by Rule 1007.1(b).]

(b) **No Verification Required.** No affidavit or verification is required.

Comment: The demand for jury trial on appeal from compulsory arbitration is governed by Rule 1007.1(b).

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

Explanatory Comment—1981

This form is adapted from Appellate Rule 904(a). It eliminates the statutory form of affidavit, variance from which caused much litigation in prior practice. A place for the demand for jury trial by the appellant (see Rule 1007.1(b)) is provided, as well as notation of compliance with the requirements of Rule 1308(a) respecting payment of the arbitrators' compensation.

The form makes it clear that the appeal may be taken without payment of the arbitrators' compensation if proceedings in forma pauperis have only been requested but not yet authorized. If the application is rejected, the appellant would have to pay the compensation promptly; otherwise the appeal will be quashed.