IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Catherine E. Livecchi, Individually and as Executrix of The Estate of John Mikucki, Deceased, Appellant	:	
v.	:	
	:	No. 96 C.D. 2026
Monroe County	:	Submitted: October 13, 2026

BEFORE: HONORABLE RENÉE COHN JUBELIRER, President Judge
HONORABLE CHRISTINE FIZZANO CANNON, Judge (P.)
HONORABLE BONNIE BRIGANCE LEADBETTER, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE FIZZANO CANNON FILED: November 24, 2026

Catherine E. Livecchi (Livecchi) appeals from the November 14, 2025 order of the Court of Common Pleas of Monroe County (Trial Court), which granted Monroe County's (County) Motion for Summary Judgment. Upon review, we find that Livecchi has waived all issues on appeal as a result of her failure to file a timely concise statement of errors complained of on appeal pursuant to Rule 1925(b) of the Pennsylvania Rules of Appellate Procedure, Pa.R.A.P. 1925(b) (1925(b) Statement). Therefore, we affirm the November 14, 2025 order of the Trial Court.

I. Background

On April 21, 2021, Livecchi went to the County Courthouse with her then-fiancé (Decedent) to obtain a marriage license. Original Record (O.R.) at 167.[1] Decedent was using a cane due to mobility issues, and Decedent fell and fractured his hip after passing through the County Courthouse security screening. *Id.* Livecchi and Decedent were married in July of 2021 after Decedent was released from rehabilitation, and Decedent passed away in October of 2021. *Id.*

Livecchi filed a complaint against the County on July 3, 2023, on behalf of herself and as executrix of Decedent's estate. O.R. at 12. The complaint asserted five causes of action: Negligence, Wrongful Death, Survival, Loss of Consortium, and Negligent Infliction of Emotional Distress. *Id.* at 14-18. Livecchi specifically alleged that Decedent's fall was caused by a depression or other dangerous condition on the tile floor of the County Courthouse which thereby caused Decedent to lose his balance. *Id.* at 13-14. Livecchi also asserted that Decedent's broken hip contributed to his death. *Id.* at 14. However, during her deposition, Livecchi conceded that she did not see Decedent fall and she was unable to identify the allegedly dangerous condition on the County Courthouse floor. Deposition Transcript at 17 & 20-24.

On June 24, 2025, the County served Livecchi with a request for admissions relevant to the County's alleged negligence and Livecchi failed to respond. O.R. at 112 & 116-18. The County thereafter filed a Motion for Summary

[1] Because Livecchi's reproduced record does not contain all docket entries relevant to our analysis, we refer to the original record. *See Mulholland v. Workmen's Comp. Appeal Bd. (Bechtel Constr.)*, 669 A.2d 465, 466-67 (Pa. Cmwlth. 1995) (holding that a failure to include relevant docket entries in the reproduced record does not constitute a substantial defect unless the exclusion "preclude[s] the effective exercise of our appellate review") (citing Pa.R.A.P. 2152). As our review may be effectively conducted via reference to the original record, we proceed accordingly. Original record citations are to electronic pagination.

Judgment on September 29, 2025, arguing that the evidentiary record was extremely deficient and that Livecchi's failure to respond to the County's request for admissions resulted in her deemed admission of all statements therein. *Id.* at 112-13. Neither party requested oral argument, and the Trial Court granted the Motion for Summary Judgment on November 14, 2025. *Id.* at 167-68.

Livecchi thereafter filed a timely notice of appeal to this Court on December 15, 2025. O.R. at 180. On December 16, 2025, the Trial Court issued an order directing Livecchi to file a 1925(b) Statement within 21 days and a Rule 236 notice of entry was entered on the Trial Court docket the same day. *Id.* at 206; *see also* Pa.R.A.P. 1925(b); Pa.R.Civ.P. 236(b) (requiring the prothonotary to "note in the docket the giving of [ ] notice" of any order or judgment to each party). The order expressly stated that "[a]ny issue not properly included in the [1925(b)] Statement timely filed and served pursuant to this order and [Rule] 1925[(b)] shall be deemed waived." O.R. at 207. Livecchi filed her 1925(b) Statement eight days after the deadline on January 14, 2026, without requesting leave to file *nunc pro tunc*. *Id.* at 210. Instead, Livecchi included a footnote in her 1925(b) Statement which asserted:

> While the [1925(b)(1)] Order was entered on December 16, 2025, the undersigned did not receive mailed or electronic notice of entry. Rather, the undersigned first learned of entry of the [1925(b)(1)] Order when conducting review of the civil docket on January 14, 2026, prompting the immediate filing of the instant [1925(b)] Statement.

Id.

II. Issues

Before this Court,[2] Livecchi raises several arguments solely pertaining to the merits of the instant matter. We do not reach the merits in our disposition. However, we briefly address the issue of waiver. Livecchi is silent on the issue, but the County argues that Livecchi has waived all issues on appeal because her 1925(b) Statement was untimely filed. County's Br. at 6.

III. Discussion

When a trial court orders an appellant to file a 1925(b) Statement, "the appellant must comply ***in a timely manner***." *Hess v. Fox Rothschild, LLP*, 925 A.2d 798, 803 (Pa. Super. 2007) (emphasis added) (citing *Commonwealth v. Castillo*, 888 A.2d 775, 780 (Pa. 2005)).[3] The Pennsylvania Supreme Court has repeatedly emphasized that this is a brightline rule, and an appellant's failure to comply with the order's deadline will result in waiver of all issues raised on appeal. *See, e.g.*, *Castillo*, 888 A.2d at 780; *Commonwealth v. Schofield*, 888 A.2d 771, 774 (Pa. 2005); *Commonwealth v. Lord*, 719 A.2d 306, 309 (Pa. 1998). Where an appellant fails to file a timely 1925(b) Statement or timely request an extension for the filing of such statement, two narrow avenues of redress exist. An appellant may request that an untimely filing be accepted by the trial court *nunc pro tunc* due to "extraordinary circumstances[.]" Pa.R.A.P. 1925(b)(2)(i). Alternatively, an appellant may file with the appellate court an application for remand to the trial court for a

[2] This Court's standard of review of a grant of summary judgment is *de novo,* and our scope of review is plenary. *Leibensperger v. Carpenter Techs., Inc.*, 152 A.3d 1066, 1072 n.6 (Pa. Cmwlth. 2016).

[3] Although not binding on this Court, decisions of the Superior Court may be cited as persuasive where they address analogous issues. *Lerch v. Unemployment Comp. Bd. of Rev.*, 180 A.3d 545, 550 (Pa. Cmwlth. 2018).

1925(b) Statement to be filed *nunc pro tunc* upon a showing of "good cause" for the untimely filing. *Id.* 1925(c)(2).

Here, the Trial Court's December 16, 2025 order directed Livecchi to file a 1925(b) Statement within 21 days and expressly stated that "[a]ny issue not properly included in the [1925(b)] Statement timely filed and served pursuant to this Order . . . shall be deemed waived." O.R. at 206; *see also* Pa.R.A.P. 1925(b)(3). While Livecchi asserts that she "did not receive mailed or electronic notice of" the Trial Court's December 16, 2025 order in a footnote in her untimely 1925(b) statement, the Trial Court docket contains a Rule 236 notice of entry on December 16 in conjunction with the Trial Court's 1925(b) order. O.R. at 1. Such docket entries are subject to the mailbox rule, which raises a rebuttable presumption that the Trial Court's December 16, 2025 order was received. *Murphy v. Murphy*, 988 A.2d 703, 709 (Pa. Super. 2010). Moreover, the mailbox rule presumption "is not nullified solely by testimony denying receipt of the item mailed." *Breza v. Don Farr Moving & Storage Co.*, 828 A.2d 1131, 1135 (Pa. Super. 2003) (holding that a docket entry is sufficient evidence that a prothonotary properly notified a party where there is no subsequent entry on the docket that the mailed item was returned). As such, Livecchi's mere denial of receipt is insufficient to overcome the presumption that she received the Trial Court's December 16, 2025 order.

Further, Livecchi failed to request leave to file her 1925(b) Statement *nunc pro tunc* and she raises no arguments in her brief to demonstrate extraordinary circumstances or good cause for her untimely filing. *Id.* at 210; *see* Pa.R.A.P. 2116(a) ("No question will be considered unless it is stated in the statement of questions involved or is fairly suggested thereby."). Because Livecchi presumptively received the Trial Court's December 16, 2025 order and did not file her 1925(b) Statement until January 14, 2026, 8 days after the expiration of the 21-day period, we are constrained to hold that the statement was untimely filed and that

Livecchi waived all issues for consideration on appeal. *See Castillo*, 888 A.2d at 780; *Schofield*, 888 A.2d at 774.

IV. Conclusion

Based on the foregoing discussion, the November 14, 2025 order of the Trial Court is affirmed.

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CHRISTINE FIZZANO CANNON, Judge

President Judge Cohn Jubelirer concurs in the result only.

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O R D E R

AND NOW, this 24th day of November, 2026, the November 14, 2025 order of the Court of Common Pleas of Monroe County is AFFIRMED.

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CHRISTINE FIZZANO CANNON, Judge