

## **RULE 2:2. Appealable Judgments And Determinations**

### **2:2-1. Appeals to the Supreme Court From Final Judgments**

- **(a) As of Right.** Appeals may be taken to the Supreme Court from final judgments as of right: (1) in cases determined by the Appellate Division involving a substantial question arising under the Constitution of the United States or this State; (2) in cases where, and with regard to those issues as to which, there is a dissent in the Appellate Division; (3) directly from the trial courts in cases where the death penalty has been imposed and in post-conviction proceedings in such cases; (4) in such cases as are provided by law.
- **(b) On Certification.** Appeals may be taken to the Supreme Court from final judgments on certification to the Appellate Division pursuant to R. 2:12.

Note: Source-R.R. 1:2-1(a) (b) (c) (d) (e). Paragraph (a)(2) amended February 28, 1979 to be effective immediately.

### **2:2-2. Appeals to the Supreme Court From Interlocutory Orders**

Appeals may be taken to the Supreme Court by its leave from interlocutory orders:

- **(a)** Of trial courts in cases where the death penalty has been imposed.
- **(b)** Of the Appellate Division when necessary to prevent irreparable injury;
- **(c)** On certification by the Supreme Court to the Appellate Division pursuant to R. 2:12-1.

Note: Source-R.R. 1:2-3(a); amended July 17, 1975 to be effective September 8, 1975; amended September 28, 1982 to be effective immediately.

### **2:2-3. Appeals to the Appellate Division From Final Judgments, Decisions, Actions and From Rules; Tax Court**

- **(a) As of Right.** Except as otherwise provided by R. 2:2-1(a)(3) (final judgments appealable directly to the Supreme Court), and except for appeals from a denial by the State Police of an application to make a gun purchase under a previously issued gun purchaser card, which appeals shall be taken to the designated gun permit judge in the vicinage, appeals may be taken to the Appellate Division as of right
  - (1)** from final judgments of the Superior Court trial divisions, or the judges thereof sitting as statutory agents; the Tax Court; and in summary contempt proceedings in all trial courts except municipal courts;
  - (2)** to review final decisions or actions of any state administrative agency or officer, and to review the validity of any rule promulgated by such agency or officer excepting matters prescribed by R. 8:2 (tax matters) and matters governed by R. 4:74-8 (Wage Collection Section appeals), except that review pursuant to this subparagraph shall not be maintainable so long as there is available a right of review before any administrative agency or officer, unless the interest of justice requires otherwise;
  - (3)** in such cases as are provided by law.
- Final judgments of a court, for appeal purposes, shall also include those referred to by R. 3:28(f) (order enrolling defendant into the pretrial intervention program over the objection of the prosecutor), R. 3:26-3 (material witness order), R. 4:42-2 (certification of interlocutory order), R. 4:53-1 (order appointing statutory or liquidating receiver), R. 5:8-6 (final custody determination in bifurcated family action), and R. 5:10-9 (order on preliminary hearing in adoption action). An order granting or denying a motion to extend the time to file a notice of tort claim pursuant to N.J.S.A. 59:8-9, whether entered in the cause or by a separate action, and any order either compelling arbitration, whether the

action is dismissed or stayed, or denying arbitration shall also be deemed a final judgment of the court for appeal purposes.

**(b) By Leave.** On application made pursuant to R. 2:5-6, appeals may be taken to the Appellate Division by leave granted, in extraordinary cases and in the interest of justice, from final judgments of a court of limited jurisdiction or from actions or decisions of an administrative agency or officer if the matter is appealable or reviewable as of right in a trial division of the Superior Court, as where the jurisdiction of the court, agency or officer is questioned on substantial grounds

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Note: Source — R.R. 2:2-1(a) (b) (c) (d) (f) (g), 2:2-4, 2:12-1, 3:10-11, 4:88-7, 4:88-8(a) (first sentence), 4:88-10 (first sentence), 4:88-14, 6:3-11(a). Paragraph (a) amended July 14, 1972 to be effective September 5, 1972; paragraph (b) amended November 27, 1974 to be effective April 1, 1975; caption and paragraph (a) amended June 20, 1979 to be effective July 1, 1979; paragraph (a) amended July 8, 1980 to be effective July 15, 1980; paragraph (a) amended July 15, 1982 to be effective September 13, 1982; paragraph (a)(1) amended July 22, 1983 to be effective September 12, 1983; paragraph (a) amended December 20, 1983 to be effective December 31, 1983; paragraph (b) amended July 26, 1984 to be effective September 10, 1984; paragraph (a) amended July 14, 1992 to be effective September 1, 1992; paragraph (a) amended June 28, 1996 to be effective September 1, 1996; paragraph (a) amended July 10, 1998 to be effective September 1, 1998; paragraph (a) amended July 5, 2000 to be effective September 5, 2000; paragraph (a) amended July 27, 2006 to be effective September 1, 2006; paragraph (a)(3) amended July 23, 2010 to be effective September 1, 2010; paragraph (a) amended July 21, 2011 to be effective September 1, 2011; paragraph (a) amended July 19, 2012 to be effective September 4, 2012.

## **2:2-4. Appeals to the Appellate Division From Interlocutory Orders, Decisions or Actions**

Except as otherwise provided by R. 3:28, the Appellate Division may grant leave to appeal, in the interest of justice, from an interlocutory order of a court or of a judge sitting as a statutory agent, or from an interlocutory decision or action of a state administrative agency or officer, if the final judgment, decision or action thereof is appealable as of right pursuant to R.2:2-3(a), but no such appeal shall be allowed in cases referred to in R. 2:2-2(a).

Note: Source-R.R. 2:2-3(a) (first sentence), 4:88-8(b). Amended October 25, 1982 to be effective December 1, 1982.

## **2:2-5. Consequences of Certain Appellate Division Judgments**

- **(a) Interlocutory Orders.** A judgment of the Appellate Division on an appeal to it from an interlocutory order, decision or action shall be deemed to be interlocutory and not reviewable by the Supreme Court as a final judgment, unless the judgment of the Appellate Division is dispositive of the action.
- **(b) Final Judgments.** A judgment of the Appellate Division on an appeal to it from a final judgment shall be reviewable by the Supreme Court on certification or, when appropriate, as of right, notwithstanding the remand of the matter by the Appellate Division for further proceedings. If jurisdiction is retained, however, the matter is interlocutory and subject to R. 2:5-6 and R. 2:8-1.

Note: Source-R.R. 1:2-2, 2:2-2. Amended by order of September 5, 1969 effective September 8, 1969; former rule designated paragraph (a) and new paragraph (b) adopted November 2, 1987 to be effective January 1, 1988.