

RULE 2:12A. Certification of Questions of Law by the Supreme Court

2:12A-1. Responding to Questions of Law.

The Supreme Court may answer a question of law certified to it by the United States Court of Appeals for the Third Circuit, if the answer may be determinative of an issue in litigation pending in the Third Circuit and there is no controlling appellate decision, constitutional provision, or statute in this State.

Note: Adopted November 19, 1999, to take effect January 3, 2000.

2:12A-2. Power to Reformulate Question.

The Supreme Court may reformulate a question of law certified to it.

Note: Adopted November 19, 1999, to take effect January 3, 2000.

2:12A-3. Certification Order; Record.

The Court of Appeals for the Third Circuit shall issue a certification order and forward it to the Supreme Court. Within five days of the filing of the order with the Supreme Court, the parties may comment on the order by serving and filing nine copies of a statement that does not exceed five pages.

Before responding to a certified question, the Court may request of the Court of Appeals for the Third Circuit that it deliver all or part of the record in the pending litigation.

Note: Adopted November 19, 1999, to take effect January 3, 2000.

2:12A-4. Contents of Certification Order.

A certification order must contain:

- (a) The question of law sought to be answered;
- (b) The facts relevant to the question, showing fully the nature of the controversy out of which the question arose. If the parties cannot agree on a statement of facts, the certifying court shall set forth what it believes to be the relevant facts;
- (c) A statement acknowledging that the Supreme Court, acting as the receiving court, may reformulate the question; and
- (d) The names and addresses of counsel of record and all parties appearing without counsel.

Note: Adopted November 19, 1999, to take effect January 3, 2000.

2:12A-5. Notice; Response.

The Supreme Court, acting as the receiving court, shall notify the Court of Appeals for the Third Circuit of its acceptance or rejection of the question and shall respond to an accepted certified question as soon as practicable.

Note: Adopted November 19, 1999, to take effect January 3, 2000.

2:12A-6. Procedures.

After the Supreme Court has accepted a certified question, the matter shall proceed in the same manner as an appeal as of right. The Court shall issue a scheduling order and all briefs shall comply with the requirements and limitations of Rule 2:6 unless otherwise directed by the Court. Unless the Court dispenses with oral argument, it shall proceed pursuant to Rule 2:11-1(b).

Note: Adopted November 19, 1999, to take effect January 3, 2000.

2:12A-7. Disposition.

The Supreme Court shall dispose of the matter by an opinion or order, as may be appropriate.

Note: Adopted November 19, 1999, to take effect January 3, 2000.

2:12A-8. Cost of Certification.

Fees and costs are the same as in appeals as of right to the Supreme Court except that they are to be divided equally among the parties unless otherwise provided in the order entered by the Court of Appeals for the Third Circuit.

Note: Adopted November 19, 1999, to take effect January 3, 2000 for a period of two years; extended September 17, 2001 for two additional years through January 2, 2004; adopted on a permanent basis November 5, 2003 effective immediately.