

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 1300 AND 3000]

Proposed Technical Amendments Rescinding Obsolete Rules and Deleting Obsolete References; Recommendation No. 136

The Civil Procedural Rules Committee has issued Recommendation 136 which proposes to amend the Rules of Civil Procedure by rescinding rules providing for the abolition of special actions or procedures and by deleting obsolete references in rules governing transfer of judgments and enforcement of judgments in special actions.

The recommendation is published in full in the *Pennsylvania Bulletin*, the advance reports of *West's Atlantic and Pennsylvania Reporters*, the *Philadelphia Legal Intelligencer* and the *Pittsburgh Legal Journal*. The recommendation is also published electronically as part of the Home Page of the Administrative Office of Pennsylvania Courts at <http://www.cerf.net/penna-courts/>.

The proposed amendments are being submitted to the bench and bar for comments and suggestions prior to their submission to the Supreme Court. All communications should be sent no later than December 15, 1996 to: Harold K. Don, Jr., Esquire, Counsel, Civil Procedural Rules Committee, 5035 Ritter Road, Suite 700, Mechanicsburg, Pennsylvania 17055; or E-Mail to cprc@courts.state.pa.us.

The Explanatory Comment which appears in connection with the proposed amendments has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules nor will it be officially adopted or promulgated by the Court.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1300. COMPULSORY ARBITRATION

Subchapter E. ABOLITION OF SPECIAL ACTIONS

Rule 1480. Domestic Attachment.

Rescinded.

Official Note: Rule 1480 governing domestic attachment has been rescinded as obsolete.

Rule 1481. Civil Arrest Before Judgment.

Rescinded.

Official Note: Rule 1481 governing civil arrest before judgment has been rescinded as its substance has been incorporated into section 5108(b) of the Judicial Code, 42 Pa.C.S. § 5108(b).

CHAPTER 3000. JUDGMENTS

Subchapter A. TRANSFER OF JUDGMENT TO OTHER COUNTIES

Rule 3010. Acts of Assembly not suspended.

Rescinded.

Official Note: Adopted March 30, 1960, effective November 1, 1960. [This act authorizes the defendant in confessed judgments transferred to another county to petition for opening of judgment in the county of original entry or in the county of execution.] The Act of 1945 prescribing venue of a petition to open a confessed judgment and preserved by this rule has been repealed. See Rule 2959(a)(1).

Rule 3011. Acts of Assembly suspended.

Rescinded.

Official Note: Adopted March 30, 1960, effective November 1, 1960. Former Rule 3011 preserved an Act of Assembly which was subsequently repealed.

Subchapter E. ENFORCEMENT OF JUDGMENTS IN SPECIAL ACTIONS

ACTION OF EJECTMENT

Rule 3160. Judgment; execution.

A judgment for possession shall be enforced by a writ of possession substantially in the form provided by Rule 3254. If the judgment includes **rents**, profits or damages, execution for such **rents**, profits or damages shall be in accordance with the rules governing the enforcement of judgments for the payment of money.

Official Note: Adopted March 30, 1960, effective November 1, 1960.

ACTION OF MORTGAGE FORECLOSURE

Rule 3181. Conformity to rules governing enforcement of judgments for payment of money.

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(f) Notice of Sale, Stay, Continuance:—Rule [3129] 3129.1 through .3.

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Rule 3182. Service of writ; levy.

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Official Note: Adopted March 30, 1960, effective November 1, 1960; amended November 6, 1975. Effective immediately, 5 Pa.B. 2978. Service of the writ upon the mortgagor or real owner is not required but notice of the sale is required by Rule [3129] 3129.1.

ACTIONS UPON MECHANICS' LIENS, MUNICIPAL AND TAX CLAIMS AND CHARGES ON LAND

Rule 3190. Judgment; execution.

* * * * *

Official Note: Adopted July 21, 1961, effective October 1, 1961; amended April 18, 1975, effective immediately, 5 Pa.B. 1820. [The Acts] Statutory procedures relating to enforcement of tax liens by sale under the Real Estate Tax Law of July 7, 1947, P.L. 1368, as amended, 72 P.S. § 5860.101, and other acts authorizing Treasurer's sale remain unsuspending. See Rule 3191(a)(2)(viii).

[The writs of *levari facias* provided by § 28 of the Municipal Claim Act of May 16, 1923, P.L. 207, 53 P.S. § 7278, The Fiscal Code of April 9, 1929, P.L. 343, § 1404 as last amended August 7, 1963, P.L. 559,

§ 1, 72 P. S. § 1404, § 8 of Act of June 9, 1911, P. L. 736, 72 P. S. § 3491 and similar acts are abolished.]

Statutory provisions relating to municipal claims and liens remain unsuspended. See Rule [3233 for Acts of Assembly not suspended relating to] 3191(a)(2)(i) through (viii) for provisions including special stay provisions, sequestration of rents, upset price, sale clear of lien and preferences.

See Rule 3191(b) for Acts of Assembly suspended insofar as they provide for writs of *levari facias* and *scire facias*.

Rule 3191. Acts of Assembly.

(a) The rules governing the enforcement of a judgment in rem in an action or proceeding upon a mechanics' lien, municipal claim, tax claim or charge on land shall not be deemed to suspend or affect:

(1) Mechanics' Liens.

(i) Sections 303(c) and 508 of the Act of August 24, 1963, P. L. 1175, No. 497, 49 §§ 1303(c) and 1508.

Official Note: These sections provide for the loss of the lien when the property is conveyed in good faith prior to the filing of a claim and for the priority of a lien.

(2) Municipal and Tax Claims.

(i) Section 24 of the Act of May 16, 1923, P. L. 207, as amended, 53 P. S. § 7275.

Official Note: This Section relates to sequestration of rents.

(ii) Section 27 of the Act of May 16, 1923, P. L. 207, 53 P. S. § 7277.

Official Note: This Section relates to stay upon entry of security and admission of validity of claim.

(iii) Section 29 of the Act of May 16, 1923, P. L. 207, as amended, 53 P. S. § 7279.

Official Note: This Section relates to upset sale price and discharge of liens.

(iv) Section 30 of the Act of May 16, 1923, P. L. 207, 53 P. S. § 7280.

Official Note: This Section relates to execution against quasi public corporations and preference of claims.

(v) Section 31 of the Act of May 16, 1923, P. L. 207, 53 P. S. § 7281.

Official Note: This Section relates to procedure for selling free and clear of all liens.

(vi) Sections 31.1, 31.2 of the Act of May 16, 1923, P. L. 207, as added and amended, 53 P. S. §§ 7282, 7283.

Official Note: These Sections relate to procedure for selling free and clear of all claims in first class counties and cities.

(vii) Section 32 of the Act of May 16, 1923, P. L. 207, 53 P. S. § 7293, as added and amended.

Official Note: This Section relates to right of redemption after sale.

(viii) The Real Estate Tax Sale Law approved July 7, 1947, P. L. 1368, as amended, 72 P. S. § 5860.101 and all other acts authorizing Tax Bureau or Treasurer's sale on tax liens.

(ix) Sections 4 to 9, inclusive, of the Act of March 1, 1956, P. L. (1955) 1196, 53 P. S. §§ 7287 to 7292, except insofar as § 7 relates to execution, acknowledgment and delivery of sheriff's deed.

Official Note: These Sections relate to sale of vacant lots in "conservation areas" free and clear of all liens and without any right of redemption.

(b) The following Acts of Assembly are suspended in accordance with the provisions of the Constitution of 1968, Article V, Section 10(c):

(1) Section 28 of the Act approved May 16, 1923, P. L. 207, 53 P. S. § 7278.

Official Note: This Section provides for execution upon a judgment by writ of *levari facias* and specifies the form of the writ and procedure thereon.

(2) Section 1404 of the Fiscal Code of April 9, 1929, P. L. 343, Art. XIV, 72 P. S. § 1404, only insofar as it may authorize sale of real estate subject to tax liens on writ of *scire facias*.

Official Note: This Section authorizes writs of *scire facias* to issue and be prosecuted to judgment and execution on Commonwealth tax liens.

(3) Section 7 of the Act approved March 1, 1956, P. L. (1955) 1196, 53 P. S. § 7290, insofar as it relates to acknowledgment and delivery of sheriff's deed.

Official Note: This Section relates to the execution, acknowledgment and delivery of deeds in sale of tax delinquent vacant lots located in blighted "conservation areas."

ACTS OF ASSEMBLY NOT SUSPENDED

Rule 3232. Action of mortgage foreclosure.

Rescinded.

Official Note: Former Rule 3232 preserved Acts of Assembly which were subsequently repealed.

Rule 3233. Action upon mechanics' liens, municipal claims, tax claims, and charges on land.

Rescinded.

Official Note: Former Rule 3233(a)(1) preserved statutory provisions which were subsequently repealed. See Rule 3191(a)(1)(i) for preservation of the Act of 1963 governing the enforcement of a judgment in rem in an action or proceeding upon a mechanics' lien.

All of the Acts of Assembly preserved by former Rule 3233(b) continue to be preserved under Rule 3191(a)(2).

ACTS OF ASSEMBLY SUSPENDED

Rule 3242. Action of ejectment.

Rescinded.

Official Note: Former Rule 3242 suspended statutory provisions which were subsequently repealed.

Rule 3243. Action of replevin.

Rescinded.

Official Note: Former Rule 3243 suspended statutory provisions which were subsequently repealed.

Rule 3244. Action of mortgage foreclosure.

Rescinded.

Official Note: Former Rule 3244 suspended statutory provisions which were subsequently repealed.

Rule 3245. Action upon mechanic's liens, municipal claims, tax claims and charges on land.

Rescinded.

Official Note: See Rule 3191(b) for the suspension of statutory provisions governing writs of scire facias and levari facias.

RULES SUPERSEDED

Rule 3249. Attachment rules superseded.

Rescinded.

Official Note: Rule 3249 governing attachment rules superseded has been rescinded as obsolete.

ABOLITION OF CIVIL ARREST AFTER JUDGMENT

Rule 3250. Abolition of civil arrest after judgment.

Rescinded.

Official Note: Rule 3250 governing civil arrest after judgment has been rescinded as its substance has been incorporated into Section 5108(b) of the Judicial Code, 42 Pa.C.S. § 5108(b).

Explanatory Comment

Recommendation No. 136 proposes amendments to the rules of civil procedure which are technical in nature and do not affect practice or procedure.

I. Amendment of Rules Governing Transfer of Judgments and Enforcement of Judgments in Special Actions

The Judiciary Act Repealer Act (JARA), enacted in 1978, repealed literally thousands of statutory provisions governing civil practice and procedure and amended many others. Since that time the references to these repealed and amended statutes contained in the Rules of Civil Procedure have gradually been eliminated. This recommendation proposes to continue this process and to eliminate from the rules set forth all obsolete references and citations and to make any conforming amendments necessary. The statutes which were entirely or in relevant part repealed by JARA are listed in the table following this comment.

Rule 3160 governing the enforcement of a judgment of ejectment is to be amended to conform to Rule 1055

which provides for the complaint in an action of ejectment to state a cause of action for rents as well as profits and damages.

Proposed Rule 3191 governing the preservation and suspension of Acts of Assembly relating to an action or proceeding upon a mechanics' lien, municipal claim, tax claim or charge on land does not set forth new procedure but is a restatement and relocation of the substance of present Rules 3233 and 3245. New Rule 3191 immediately follows Rule 3190 governing the procedure in the same types of actions.

II. Rescission of Rules Abolishing Special Actions

Recommendation No. 136 also proposes the rescission of four rules relating to the abolition of special actions or procedures.

Rule 1480 promulgated in 1954 abolished the action of domestic attachment and suspended the Acts of Assembly which formed the basis of the action. Those Acts were repealed by JARA in 1978 so that Rule 1480 is now obsolete.

Similarly, Rule 3249 promulgated in 1960 provided for the supersession of the then existing 1954 attachment rules and to advise that pending attachment proceedings would be governed by the newly adopted attachment execution rules. Thirty-six years later, the 1954 attachment rules remain superseded and the 1960 attachment execution rules continue in force, rendering Rule 3249 obsolete.

The substance of Rule 1481 abolishing civil arrest before judgment and Rule 3250 abolishing civil arrest after judgment has been incorporated into Section 5108(b) of the Judicial Code, thus rendering the rules unnecessary. The Judicial Code provision, which acknowledges Rule 1481 in part as its source, provides:

§ 5108. Imprisonment for Debt

(a) Constitutional restriction.— . . .

(b) Statutory restriction.—Except in an action for fines and penalties, or as punishment for contempt, or to prevent departure from the Commonwealth, a defendant may not be arrested in any civil matter.

By the Civil Procedural Rules Committee

EDWIN L. KLETT,
Chairperson

Table of Statutes Repealed and Rules Affected

<i>Rule</i>	<i>Act</i>	<i>Citation</i>	<i>Repealer</i>
3010(1)	Act of March 27, 1945, P. L. 83	12 P. S. §§ 913, 914	JARA § 2(a)[1236]
3011(1)	§ 1 of the Act of April 16, 1840, P. L. 410	12 P. S. § 891	JARA § 2(a)[169]
3232(1)	§§ 8 and 9 of the Act of 1705, 1 Sm.L. 57	21 P. S. §§ 794, 795	JARA § 2(a)[7]
3232(2)	§ 1 of the Act of May 18, 1857, P. L. 573	21 P. S. § 799	JARA § 2(a)[340]
3232(3)	§§ 1, 2 and 3 of the Act approved April 3, 1860, P. L. 630	21 P. S. §§ 796, 797, 798	JARA § 2(a)[381]
3232(4)	§§ 1 and 2 of the Act approved May 5, 1876, P. L. 123, No. 90	17 P. S. §§ 300, 301	JARA § 2(a)[672]
3232(5)	§§ 1 and 2 of the Act approved March 23, 1877, P. L. 32, No. 25, as amended	17 P. S. §§ 302 to 304	JARA § 2(a)[686]
3233(a)(1)	§ 39 of the Act of June 4, 1901, P. L. 431	49 P. S. § 201	Act of August 24, 1963, P. L. 1175, No. 497, Art. IX, § 901

<i>Rule</i>	<i>Act</i>	<i>Citation</i>	<i>Repealer</i>
3233(a)(2)	§ 47 of the Act of June 4, 1901, P. L. 431	49 P. S. § 184	Act of August 24, 1963, P. L. 1175, No. 497, Art. IX, § 901
3233(a)(3)	§§ 13, 55 & 56 of the Act of June 4, 1901, P. L. 431	49 P. S. §§ 202, 203, 263	Act of August 24, 1963, P. L. 1175, No. 497, Art. IX, § 901
3242(1)	§ 1 of the Act of February 1, 1834, P. L. 26	12 P. S. § 1556	JARA § 2(a)[133]
3243(1)	§ 11 of the Act of May 5, 1911, P. L. 198, as amended	17 P. S. § 643	JARA § 2(a)[940]
3243(2)	§§ 5 and 7 of the Act of April 19, 1901, P. L. 88, as amended	12 P. S. §§ 1836, 1841	JARA § 2(a)[848]
3244(1)	§§ 4, 6 and 7 of the Act of 1705, 1 Sm.L. 57, Ch. CLII	21 P. S. §§ 791, 792 and 793	JARA § 2(a)[7]
3244(2)	§§ 1, 2 and 3 of the Act of March 23, 1877, P. L. 26	21 P. S. §§ 800, 801 and 802	JARA § 2(a)[684]
3245(1)	§ 44 of the Act of June 4, 1901, P. L. 431	49 P. S. § 181	Act of August 24, 1963, P. L. 1175, No. 497, Art. IX, § 901
3245(2)	§ 45 of the Act of June 4, 1901, P. L. 431	49 P. S. § 183	Act of August 24, 1963, P. L. 1175, No. 497, Art. IX, § 901
3245(3)	§ 8 of the Act of June 9, 1911, P. L. 736	72 P. S. § 3491	JARA § 2(a)[953]—repeal in part
3245(5)	§ 1404 of the Fiscal Code of April 9, 1929, P. L. 343, Art. XIV	72 P. S. § 1404	JARA § 2(a)[1098]—repealed in part
3250(b)(1)	§ 16 of the Act approved June 16, 1836, P. L. 755	12 P. S. § 2239	JARA § 2(a)[151]
3250(b)(2)	§§ 19 & 20 of the Act approved June 16, 1836, P. L. 755	12 P. S. §§ 2111, 2112	JARA § 2(a)[151]
3250(b)(3)	§§ 27 to 31 of the Act approved June 16, 1836, P. L. 755	12 P. S. §§ 2141 to 2143	JARA § 2(a)[151]
3250(b)(4)	§ 81 of the Act approved June 16, 1836, P. L. 755	12 P. S. § 2636	JARA § 2(a)[151]
3250(b)(5)	§§ 1 to 12, 18, 19, 22 and 35 of the Act of July 12, 1842, P. L. 339, 12 P. S. §§ 257—272	12 P. S. §§ 257—272	JARA § 2(a)[185]

[Pa.B. Doc. No. 96-1784. Filed for public inspection October 25, 1996, 9:00 a.m.]

[231 PA. CODE CH. 4000]

Revision of Rule 4011 Governing Limitation of Scope of Discovery and Deposition; Recommendation No. 137

The Civil Procedural Rules Committee has issued Recommendation No. 137 which proposes the amendment of Rule 4011 governing the limitation of scope of discovery and deposition. The recommendation is published in full in the *Pennsylvania Bulletin*, the advance reports of West's *Atlantic and Pennsylvania Reporters*, the *Philadelphia Legal Intelligencer* and the *Pittsburgh Legal Journal*. The recommendation is also published electronically as part of the Home Page of the Administrative Office of Pennsylvania Courts at <http://www.cerf.net/penna-courts/>. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to their submission to the Supreme Court. All communications should be sent no later than December 15, 1996 to: Harold K. Don, Jr., Esquire, Counsel, Civil Procedural Rules Committee, 5035 Ritter Road, Suite 700, Mechanicsburg, Pennsylvania 17055; or E-Mail to cprc@courts.state.pa.us.

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure nor will it be officially adopted or promulgated by the Court.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 4000. DEPOSITIONS AND DISCOVERY

Rule 4011. Limitation of Scope of Discovery and Deposition.

No discovery or deposition shall be permitted which

(a) is sought in bad faith;

(b) would cause unreasonable annoyance, embarrassment, oppression, burden or expense to the deponent or any person or party;

(c) relates to matter which is [**privileged**] beyond the scope of discovery as set forth in Rule 4003.1; or

(d) Rescinded.

(e) would require the making of an unreasonable investigation by the deponent or any party or witness.

(f) Rescinded.

Explanatory Comment

Rule 4011(c) presently provides that no discovery or deposition shall be permitted which "relates to matter which is privileged." The rule, however, is incomplete since Rule 4003.1 stating the scope of discovery refers to relevancy as well as privilege. It is proposed, therefore, that the rule be amended to refer to Rule 4003.1 and thereby encompass all of its concepts.

By the Civil Procedural Rules Committee

EDWIN L. KLETT,
Chairperson

[Pa.B. Doc. No. 96-1785. Filed for public inspection October 25, 1996, 9:00 a.m.]

Title 255—LOCAL COURT RULES

SULLIVAN AND WYOMING COUNTIES

Court Calendar for 1997; No. 96-937

Order of Court

And Now, the 2nd day of October, 1996,

It Is Ordered that the Court Calendar of the Court of Common Pleas of the 44th Judicial District of Pennsylvania for the Year of 1997, be and the same is hereby established in accordance with the schedule hereto and made a part hereof.

By the Court

BRENDAN J. VANSTON,
President Judge

Wyoming County—1997 Court Calendar

Account Confirmation

January 7	July 1
February 4	August 5
March 4	September 8
April 1	October 7
May 6	November 4
June 3	December 2

Arraignments

January 8	July 9
February 12	August 13
March 12	September 10
April 9	October 8
May 14	November 12
June 11	December 10

Domestic Relations

De Novos

January 14
February 11
March 11
April 8
May 13
June 10
July 8
August 12
September 9

Contempts

16
13
13
10
15
12
7
14
11

De Novos

October 14
November 10
December 9

Contempts

9
13
11

General Call

September 2

Juveniles

January 15
February 5
March 5
April 2
May 7
June 4

July 10
August 6
September 3
October 1
November 5
December 3

Criminal Trial Weeks

February 24
April 21
June 16

August 18
October 20
December 15

Guilty Pleas and Status Call

January 3
February 7
March 7
April 4
May 2
June 6

July 18
August 8
September 5
October 3
November 7
December 5

Sentences and ARDs

January 8
February 12
March 12
April 9
May 14
June 11

July 16
August 13
September 10
October 8
November 12
December 10

Civil Trial Weeks

January 20, 1997
March 17, 1997
May 19, 1997

July 28, 1997
September 15, 1997
November 17, 1997

Close Civil Trial List

December 6, 1996
February 7, 1997
April 4, 1997
June 6, 1997
August 1, 1997
October 3, 1997
December 5, 1997

(March)
(May)
(July)
(September)
(November)
(January, 1998)
(March, 1998)

Pre-Trial Conferences

January 17, 1997
March 14, 1997
May 16, 1997
July 11, 1997
September 12, 1997
November 24, 1997

(March)
(May)
(July)
(September)
(November)
(January, 1998)

Dependency

January 7
February 4
March 4
April 1
May 6
June 3

July 1
August 5
September 8
October 7
November 4
December 2

Prison Board

January 7
February 4

March 4
April 1

May 6	September 2
June 3	October 7
July 1	November 4
August 5	December 2

Sullivan County—1997 Court Calendar

Miscellaneous, Arraignments and Account Confirmations

January 9	July 17
February 6	August 7
March 6	September 4
April 3	October 2
May 1	November 6
June 5	December 4

Civil and Criminal Trial Weeks

January 27, 1997	September 22, 1997
March 24, 1997	October 27, 1997
June 23, 1997	

Close Civil Trial List

November 1, 1996	(January, 1997 Trial Term)
December 6, 1996	(March, 1997 Trial Term)
March 7, 1997	(June, 1997 Trial Term)
June 6, 1997	(September, 1997 Trial Term)
August 1, 1997	(October, 1997 Trial Term)
November 7, 1997	(January, 1998 Trial Term)
December 5, 1997	(March, 1998 Trial Term)

Pre-Trial Conferences

January 2, 1997	(January Trial Term)
February 6, 1997	(March Trial Term)
May 1, 1997	(June Trial Term)
August 7, 1997	(September Trial Term)
October 3, 1997	(October Trial Term)
December 4, 1997	(January, 1998 Trial Term)

General Call

September 4, 1997

[Pa.B. Doc. No. 96-1786. Filed for public inspection October 25, 1996, 9:00 a.m.]

SUPREME COURT

Request for Proposal

The Supreme Court of Pennsylvania plans to release a Request for Proposal (RFP) during the week of October 28, 1996, for a computer modeling vendor to model Joint Application Development Materials which outline the docketing/case management procedures of the Supreme, Superior and Commonwealth Courts of Pennsylvania. The modeling vendor will follow standard modeling practices using the Westmount I- CASE/Yourdon for Informix tool for the development of an analysis model and a design model beginning in December, 1996. The project schedule, terms and conditions and scope of work are outlined in the RFP. Copies of the RFP may be requested by calling the Project Administrator at the Administrative Office of Pennsylvania Courts at (717) 795-2000. Letters of Intent to Bid must be submitted no later than November 6, 1996. A resource library will be available. Details are included in the Request for Proposal.

NANCY M. SOBOLEVITCH,
Court Administrator of Pennsylvania

[Pa.B. Doc. No. 96-1787. Filed for public inspection October 25, 1996, 9:00 a.m.]
