

THE COURTS

Title 207—JUDICIAL CONDUCT

PART II. CONDUCT STANDARDS

[207 PA. CODE CH. 51]

Authority, Powers and Responsibilities of President Judges

Introduction

The District Justice Task Force Ad Hoc Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rule 17 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices to further define the authority, powers, and responsibilities of the president judges of the courts of common pleas with regard to administration of the district justice system; and to make other technical or "housekeeping" amendments to this rule.

The following explanatory Report highlights the Ad Hoc Committee's considerations in formulating this proposal. The Ad Hoc Committee's Report should not be confused with the official Notes to the rules. The Supreme Court does not adopt the Notes or the contents of the explanatory Reports.

The text of the proposed changes precedes the Report. Unless otherwise specified, additions are shown in bold; deletions are in bold and brackets.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel,

Michael F. Krimmel, Staff Counsel
Supreme Court of Pennsylvania
District Justice Task Force Ad Hoc Committee
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055

or e-mail to: minorcourt.rules@supreme.court.state.pa.us
no later than Wednesday, September 4, 2002.

By the D.J. Task Force Ad Hoc Committee

BOB YANICH,
Chair

Annex A

TITLE 207. JUDICIAL CONDUCT

PART II. CONDUCT STANDARDS

CHAPTER 51. STANDARDS OF CONDUCT OF DISTRICT JUSTICES

PENNSYLVANIA RULES FOR DISTRICT JUSTICES

Rule 17. Supervision of District Justices by President Judges.

(A) The president judge of the court of common pleas of a judicial district shall exercise general supervision and administrative [control] authority over district justices within [his] the judicial district.

(B) The president judge's administrative authority over district justices within the judicial district includes but is not limited to, and shall be governed by, the following:

(1) *Records*—The president judge shall have authority to designate a person to maintain personnel and other records in such form as directed by the president judge or required by general or local rule.

(2) *Meetings with District Justices*—The president judge shall have authority to require the attendance of district justices in the judicial district, individually or collectively, at meetings with the president judge or his or her representative.

(3) *Personnel in the District Justice Courts*—

(a) Except where minimum job qualifications for employees in the district justice courts are prescribed by the Supreme Court of Pennsylvania, the president judge shall have authority to prescribe minimum job qualifications for the district justice court employees in the judicial district.

(b) The president judge shall have authority to establish procedures regarding the hiring, firing, supervision, and discipline of all employees in the district justice courts in the judicial district.

(c) Subject to subparagraphs (a) and (b) above, a district justice shall have authority to fix the duties of all authorized staff and to select one as personal staff.

(d) In the interest of efficient administration of the judicial district, the president judge shall have authority to

(i) transfer or reassign a staff member, other than personal staff who may be transferred or reassigned only with the consent of the district justice, from one district justice court in the judicial district to another, and;

(ii) hire and assign as appropriate temporary or floater personnel.

(e) The president judge shall have authority to establish a system of performance evaluation for employees in the district justice courts in the judicial district.

(f) The president judge shall have authority to prescribe initial and ongoing training for employees in the district justice courts in the judicial district.

(4) *District Justice Leave; Coverage During Leave*—

(a) The president judge shall have authority to coordinate leave for district justices in the judicial district to assure access to judicial resources.

(b) Subject to the provisions of subparagraph (a) above, district justices shall enjoy autonomy with respect to choosing when to take leave, subject to reasonable coordination by the president judge with the schedules of the other district justices in the judicial district.

(5) *Office Hours*—The president judge shall have authority to designate the ordinary hours of district justice courts in the judicial district in accordance with Rule 103 of the Rules and Standards with Respect to Offices of District Justices.

(6) *Temporary Assignments; Transfer of Cases*—The president judge shall have authority to order

temporary assignments of district justices or reassignment of cases or certain classes of cases to other magisterial districts within the judicial district or to central courts within the judicial district.

(7) *Conduct of District Justices*—When a complaint is received with respect to the conduct of a district justice, the president judge may in his or her discretion, review the matter with the affected district justice and may take any action that the president judge deems appropriate. Contemporaneous notice of any action taken by the president judge resulting in reassignment of cases or otherwise affecting the duties of the district justice shall be given to the Supreme Court of Pennsylvania and the Court Administrator of Pennsylvania.

(8) *Procedural Audits*—The president judge shall have authority to direct that procedural audits of a district justice court be conducted to assure compliance with general and local rules, administrative policies and procedures, and the *District Justice Automated Office Clerical Procedures Manual*. Such procedural audits shall be separate from the fiscal audits conducted by the county controller or state Auditor General, which shall be limited in scope to the accounts of the district justice. Such procedural audits may be conducted by the district court administrator, an outside independent auditor, or such other person as the president judge may designate.

Official Note: [The striking of constables from the heading and body of Rule 17 is pursuant to the Pennsylvania Supreme Court holding in *Rosenwald v. Barbieri*, 501 Pa. 563, 462 A.2d 644 (1983).] All references to constables were stricken from this Rule pursuant to the Pennsylvania Supreme Court's holding in *Rosenwald v. Barbieri*, 501 Pa. 563, 462 A.2d 644 (1983).

This Rule was amended in 2002 to more specifically outline the authority, powers, and responsibilities of the president judges with regard to management of the district justice system. In so doing, however, it was not intended that this be an exclusive list of powers and responsibilities, nor was it intended to limit the president judges' authority to the areas listed. Given the diverse needs of judicial districts throughout Pennsylvania, how president judges exercise this authority will recognizably be varied. In general, president judges have broad authority with regard to management of the district justice courts, but it seemed advisable that certain areas of authority and responsibility be specifically defined.

With regard to paragraph (B)(2), president judges or their representatives are encouraged to meet regularly with the district justices in the judicial district to foster and maintain open lines of communication regarding the management of the district justice system.

Subparagraphs (B)(3)(c) and (B)(4)(b) limit the president judges' authority in certain areas that are within the district justices' discretion. With regard to subparagraph (B)(3)(c), see 42 Pa.C.S. §§ 102 and 2301(a)(1), and Rule 5C. With regard to subparagraph (B)(4)(b), see Rule 3A.

Subparagraph (B)(3)(d)(i) gives president judges authority to transfer or reassign district justice court personnel as needed, except for personal staff

as provided in subparagraph (B)(3)(c), who may be transferred or reassigned only with the consent of the affected district justice. It is contemplated that president judges would give sufficient notice to the affected district justices and employees before making transfers.

Nothing in subparagraph (B)(3)(f) is intended to circumvent any training program established or required by the Supreme Court of Pennsylvania or the Court Administrator of Pennsylvania.

As to paragraph (B)(6), compare Pa.R.Crim.P. 131(B) relating to central locations for preliminary hearings and summary trials. In addition, if the judicial district is part of a regional administrative unit, district justices may be assigned to any other judicial district in the unit. See Pa.R.J.A. No. 701(E).

Nothing in paragraph (B)(7) is intended to contradict or circumvent the constitutionally established process for the suspension, removal, and discipline of district justices. See Pa. Const. art. V, § 18; see also 207 Pa. Code chs. 101–119 (Judicial Conduct Board rules of procedure). President judges do not have authority to suspend or discipline district justices.

Adopted, effective Feb. 1, 1973. Amended and effective April 3, 1973; amended April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; amended and effective June 20, 1985; amended _____, effective _____.

REPORT

Proposed Amendment to Rule 17 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices

DEFINING THE AUTHORITY, POWERS, AND RESPONSIBILITIES OF THE PRESIDENT JUDGES OF THE COURTS OF COMMON PLEAS WITH REGARD TO ADMINISTRATION OF THE DISTRICT JUSTICE SYSTEM

I. Background

The District Justice Task Force Ad Hoc Committee (hereinafter Ad Hoc Committee) was established by the Supreme Court of Pennsylvania to follow up on and develop implementation strategies regarding certain recommendations contained in the Report of the Intergovernmental Task Force to Study the District Justice System.¹ One of the Ad Hoc Committee's specific assignments was to develop implementation strategies for Recommendation No. 1 of the Special Courts Administration Subcommittee of the Task Force (hereinafter Recommendation No. 1). Recommendation No. 1 relates to the authority, powers, and responsibilities of the president judges of the courts of common pleas with regard to administration of the district justice system, as defined in Rule 17 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices (hereinafter Rule 17).² As is noted in the Comment to Recommendation No. 1, the Special Courts Administration Subcommittee found that Rule 17,³

¹ The Intergovernmental Task Force to Study the District Justice System was convened on May 30, 2001 "to examine the current state of the district justice court system" and to "propose clear standards for the decennial magisterial district reestablishment, identify immediate and long-term system problems and needs, and formulate solutions to ensure the prudent and effective administration of the district justice courts." Report of the Intergovernmental Task Force to Study the District Justice System vii (October 2001) (available online at <http://www.courts.state.pa.us/>) [hereinafter Task Force Report].

² *Id.* at 29.

³ Rule 17, as currently written, states, "[t]he president judge of the court of common pleas of a judicial district shall exercise general supervision and administrative control over district justices within his judicial district."

"broadly states that the president judge of the judicial district has general supervisory authority and administrative control over the district justices in the judicial district, but fails to specifically define the president judge's authority in major administrative areas. Accordingly, the Subcommittee determined that Rule 17 should be amended and expanded to specifically outline the authority, powers, and responsibilities of the president judge with regard to management of the district justice system."⁴ The Special Courts Administration Subcommittee enumerated eight major areas in which the president judges' authority should be defined, including record keeping, meetings with district justices, personnel, district justice leave time, office hours, temporary assignments of district justices and transfer of cases, conduct of district justices, and procedural audits.⁵ As further noted in the Comment to Recommendation No. 1, "[i]n enumerating the authority, powers, and responsibilities of the president judge, however, it was not the Subcommittee's intention to create an exclusive list of powers and responsibilities, nor was it the Subcommittee's intention to limit the president judges' authority to the areas listed. The Subcommittee agreed that the president judges should have broad authority with regard to management of the district justice courts, but it further determined that certain areas of authority and responsibility should be specifically defined."⁶ It was against this backdrop that the Ad Hoc Committee went about the task of formulating an implementation strategy for Recommendation No. 1.

The Ad Hoc Committee considered two options to implement Recommendation No. 1. The first option would have substantially left Rule 17 as it is currently written and would have added the enumerated list of president judge powers and responsibilities as clarifying language in the Note to the rule. However, after considerable discussion and the recognition that the Supreme Court does not adopt the language of the committee Notes to the rules, the Ad Hoc Committee agreed on the second option that would incorporate the enumerated list into the body of Rule 17, with additional clarifying language added to the Note.

II. Discussion of Rule Changes

As discussed above, the Ad Hoc Committee agreed on a proposed amendment to Rule 17 that would incorporate the substance of Recommendation No. 1 into the body of the rule. To accomplish this, the Ad Hoc Committee proposes that Rule 17 be divided into two subdivisions. Subdivision (A) would retain the existing, broad language of the rule granting general supervisory and administrative authority to the president judge. A new subdivision (B) would incorporate the enumerated list from Recommendation No. 1. In keeping with its charge to implement the recommendation substantially as it was approved by the Intergovernmental Task Force, the Ad Hoc Committee made only minor editorial changes to the language of Recommendation No. 1 and made no major substantive changes to the list of president judge powers and responsibilities.

The Ad Hoc Committee further proposes substantial revisions to and expansion of the Note to Rule 17 to add clarifying language about the rule. Significantly, the proposed Note would make clear that the rule was amended "to more specifically outline the authority, powers, and responsibilities of the president judges," but that "it was not intended that this be an exclusive list of

powers and responsibilities, nor was it intended to limit the president judges' authority to the areas listed." The proposed Note would further state that, "[g]iven the diverse needs of judicial districts throughout Pennsylvania, how president judges exercise this authority will recognizably be varied." The proposed Note would also include a number of cross-references to other rules, and constitutional and statutory provisions.

In addition to the substantive changes to Rule 17 to implement Recommendation No. 1, the Ad Hoc Committee also proposes minor technical amendments to the rule and Note to address gender neutrality issues and to correct citation form.

[Pa.B. Doc. No. 02-1364. Filed for public inspection August 9, 2002, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Amendment of Rule 237.1 Governing Notice of Praecipe for Entry of Judgment of Non Pros for Failure to File Complaint or by Default for Failure to Plead; No. 369 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 23rd day of July, 2002, Pennsylvania Rule of Civil Procedure 237.1 is amended as follows.

Whereas prior distribution and publication of the amendment would otherwise be required, it has been determined that immediate promulgation of the amendment is required in the interest of justice and efficient administration.

This order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective immediately.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 237.1. Notice of Praecipe for Entry of Judgment of Non Pros for Failure to File Complaint or by Default for Failure to Plead.

(a)(1) * * *

(2) No judgment of non pros for failure to file a complaint or by default for failure to plead shall be entered by the prothonotary unless the praecipe for entry includes a certification that a written notice of intention to file the praecipe was mailed or delivered

* * * * *

The ten-day notice period in subdivision (a)(2)(i) and (ii) shall be calculated forward from the date of the mailing or delivery, in accordance with Rule 106.

⁴ Task Force Report, *supra* note 1, at 31.

⁵ *Id.* at 29-31.

⁶ Task Force Report, *supra* note 1, at 32.

Official Note: The final sentence of Rule 237.1(a)(2) alters the practice described in the decision of *Williams v. Wade*, 704 A.2d 132 (Pa. Super. 1997).

(3) A copy of the notice shall be attached to the praecipe.

* * * * *

[Pa.B. Doc. No. 02-1365. Filed for public inspection August 9, 2002, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 200]

Amendment of Rule 238 Governing Damages for Delay; No. 371 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 29th day of July, 2002, Pennsylvania Rule of Civil Procedure 238 is amended as follows.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective immediately.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 238. Damages for Delay in Actions for Bodily Injury, Death or Property Damage.

(a)(1) * * *

(2) Damages for delay shall be awarded for the period of time

[(i) in an action commenced before August 1, 1989, from the date the plaintiff first filed a complaint or from a date one year after the accrual of the cause of action, whichever is later, up to the date of the award, verdict or decision; or

(ii) in an action commenced on or after August 1, 1989,] from a date one year after the date original process was first served in the action up to the date of the award, verdict or decision.

* * * * *

(b)(1) The period of time for which damages for delay shall be calculated under subdivision (a)(2) shall exclude the period of time, if any,

[(1) after which the defendant has made a written offer of

(i) settlement in a specified sum with prompt cash payment to the plaintiff, or

(ii) a structured settlement underwritten by a financially responsible entity, and continued that offer in effect for at least ninety days or until commencement of trial, whichever first occurs, which offer was not accepted and the plaintiff did not recover by award, verdict or decision, exclusive of damages for delay, more than 125 percent of

either the specified sum or the actual cost of the structured settlement plus any cash payment to the plaintiff; or]

(i) after the defendant made a written offer which complied with the requirements of subdivision (b)(2), provided that the plaintiff obtained a recovery which did not exceed the amount described in subdivision (b)(3), or

[(2)] (ii) during which the plaintiff caused delay of the trial.

Official Note: This rule does not preclude the suspension of damages for delay as a pre-trial sanction under Discovery Rule 4019.

In additional defendant proceedings, the additional defendant will be considered the defendant, for purposes of this subdivision, and the plaintiff will be considered either the original defendant if liability over is claimed, or the original plaintiff if direct liability is claimed, or both if both forms of liability are claimed.

(2) The written offer of settlement required by subdivision (b)(1)(i) shall contain an express clause continuing the offer in effect for at least ninety days or until commencement of trial, whichever occurs first, and shall either

(i) be in a specified sum with prompt cash payment, or

(ii) contain a structured settlement plus any cash payment. An offer that includes a structured settlement shall disclose the terms of payment underwritten by a financially responsible entity, the identity of the underwriter and the cost.

Official Note: The offer of the cost of the structured settlement and any cash payment must remain open for ninety days. The cost of the entire structured settlement must remain the same while the terms of the payment may vary and have to be recalculated at the time of acceptance due to market fluctuation over the ninety-day period during which the offer must remain open.

(3) The plaintiff's recovery required by subdivision (b)(1)(i), whether by award, verdict or decision, exclusive of damages for delay, shall not be more than 125 percent of either the specified sum or the cost of the structured settlement plus any cash payment to the plaintiff.

* * * * *

Explanatory Comment

Subdivision (a)(2)

Prior to the present amendment, the subdivision differentiated between cases commenced before and after August 1, 1989. With the passage of time, there now remain few cases, if any, commenced prior to that date. The amendment to subdivision (a)(2) streamlines the provision by eliminating paragraph (i) referring to these cases. Paragraph (ii) formerly governing cases commenced after August 1, 1989 continues as subdivision (a)(2).

Subdivision (b)

The revision to subdivision (b) of Rule 238 restructures the former provision and incorporates the requirements set forth by the Superior Court In *Sonlin v. Abington Memorial Hospital*, 748 A.2d 213 (2000).

Prior to the present amendment, subdivision (b) contained several complex concepts in one paragraph. For clarity, the amended subdivision is divided into three paragraphs.

New paragraph (1) states the basis for excluding time periods from the calculation of delay damages, i.e., a written offer of settlement not accepted and delay caused by the plaintiff. In defining the offer, paragraph (1)(i) incorporates by reference the detailed provisions of new paragraph (2) relating to the offer and new paragraph (3) relating to the plaintiff's recovery. Paragraph (1)(ii) retains without change the language of former subdivision (b)(2) relating to periods of time "during which the plaintiff caused delay of the trial."

New paragraph (2) incorporates into the rule three requirements imposed by the *Sonlin* case to bring an offer of settlement within the exclusion of that rule from the calculation of delay damages. The first requirement is that a written offer of settlement, whether cash or structured, must, in the words of the *Sonlin* case, contain "a clause expressly validating the offer for 90 days. . . ." This requirement carries out the intention of the rule which presently requires that an offer be in writing and that it be continued "in effect for at least ninety days or until commencement of trial, whichever first occurs. . . ."

In the case of an offer of a structured settlement, *Sonlin* adds two additional requirements: the identity of the underwriter and the cost of the entire structured settlement. New paragraph (2) of the rule adds a third requirement: "the terms of payment underwritten by a financially responsible entity."

A note added to paragraph (2) recognizes that most entities underwriting a structured settlement annuity cannot commit to the exact payment terms of a structured settlement for the entire ninety-day period required under the rule because the payment is often dependent on the financial market which may fluctuate over the period of the offer. Variations in the amount of the payment due to market forces shall not invalidate the offer for purposes of this rule and thus repeated modifications of the offer are not required.

Paragraph (3) continues without change the provision of former subdivision (b) that an offer is valid to toll the running of delay damages only if the plaintiff does not recover "more than 125 percent of either the specified sum or the cost of the structured settlement plus any cash payment to the plaintiff."

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,
Chair

[Pa.B. Doc. No. 02-1366. Filed for public inspection August 9, 2002, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 200]

Rescission of Rules 214 and 215 and Promulgation of New Rule 214; No. 370 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 23rd day of July, 2002, the Pennsylvania Rules of Civil Procedure are amended as follows:

I. Rules 214 and 215 are rescinded.

II. New Rule 214 is promulgated to read as follows.

This order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective immediately.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 214. Preferences on Trial Lists.

Preference shall be given in the preparation of trial lists to

- (1) cases in which a new trial has been granted, and
- (2) such cases as the court upon application and cause shown may designate.

Explanatory Comment

Rule 214 governing preferences on trial lists formerly listed seven categories of cases that should be accorded priority. By the present amendment, five of the seven categories have been deleted. These categories were based generally upon statutes which have been repealed since the promulgation of the rule in 1938. The provision for preference of a case in which a new trial has been granted formerly in paragraph (d) and the catchall provision for cases designated for preference by the court upon cause shown formerly in paragraph (g) are retained as the bases for the revised rule.

Prior to its rescission, Rule 215 required that a request for a preference be brought to the attention of the court and specified a procedure. The procedure is a matter of administration which need not be set forth in the rules of civil procedure. The requirement to apply for the preference is included in revised Rule 214.

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,
Chair

[Pa.B. Doc. No. 02-1367. Filed for public inspection August 9, 2002, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 1000]

Amendment of Rule 1018.1 Governing the Notice to Defend; Proposed Recommendation No. 181

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 1018.1 governing the Notice to Defend be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent not later than September 13, 2002 to:

Harold K. Don, Jr., Counsel
Civil Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, Pennsylvania 17055

or E-Mail to
civil.rules@supreme.court.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 or be officially adopted or promulgated by the Court.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1000. ACTIONS AT LAW

Subchapter A. CIVIL ACTION

PLEADINGS

Rule 1018.1. Notice to Defend. Form

* * * * *

(b)

[CAPTION]

Notice

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU CAN GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER REDUCED FEE OR NO FEE LEGAL SERVICES TO ELIGIBLE PERSONS.

* * * * *

Official Note:

* * * * *

This rule applies to all complaints including those where service is by publication. For the mandatory content of the publication in such cases see Rule [1009(f)] 430(b).

When a defendant is a nonresident served outside the United States, [Rules 2081(a), 2131.2(a), 2157.2(a) and 2182(a) provide] Rule 1026(b) provides a sixty-day period for pleading.

(c) Each court shall by local rule designate the officer, organization, agency or person to be named in the notice from whom [legal help] information can be obtained.

* * * * *

Explanatory Comment

Rule 1018.1 requires that every complaint begin with a notice to defend which advises the defendant in part as follows:

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

It appears that defendants are interpreting the notice as stating that they have a right to free legal counsel irrespective of eligibility requirements. This interpretation creates a difficult situation for the office to which defendants are referred by the notice. It is therefore

proposed that the notice be revised to eliminate the misconception engendered by it.

The following rules prescribe notices which contain language identical to that of the Notice to Defend under Rule 1018.1. These rules will require amendment as well:

- Rule 430 Service Pursuant to Special Order of Court. Publication
- Rule 1910.25 Enforcement. Support Order. Civil Contempt. Petition. Service. No Answer Required
- Rule 1910.27(b) Form of Complaint. Order. Income and Expense
- Rule 1910.27(f) Statement. Health Insurance Coverage. Information Form. Form of Support Order. Form Petition for Modification
- Rule 1915.12 Civil Contempt for Disobedience of Custody Order. Petition. Form of Petition. Service. Order
- Rule 1915.15 Form of Complaint. Caption. Order. Petition to Modify a Partial Custody or Visitation Order
- Rule 1915.16 Form of Order and Notice. Joinder. Intervention
- Rule 1920.71 Form of Notice
- Rule 1920.73 Notice of Intention to Request Entry of divorce Decree. Praecepte to Transmit Record. Forms
- Rule 3146 Judgment Against Garnishee Upon Default or Admission in Answer to Interrogatories
- Rule 3252 Writ of Execution. Money Judgments
- Rule 3282 Petition. Averments. Notice to Defend
- Rule 3288 Petition. Averments. Notice to Defend
- Rule 4009.33 Motion for Entry upon Property of a Person Not a Party

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,
Chair

[Pa.B. Doc. No. 02-1368. Filed for public inspection August 9, 2002, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 4]

Electronic Preparation and Transmission of Citation Information Generally

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rules of Criminal Procedure 401 (Proceedings In Summary Cases Charging Parking Violations), 405 (Issuance of Citation), 411 (Procedures Following Filing of Citation—Issuance of Summons), and 460 (Notice of Appeal), and approve the revision of the Comments to Rules of Criminal Procedure 400 (Means of Instituting Proceedings in Summary Cases), 403 (Contents of Citation), 406 (Procedure Following Issuance of Citation), and

410 (Filing of Citation). These rule changes would provide the procedures for electronically preparing and transmitting citation information generally.¹ This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Supplemental Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

The text of the proposed rule changes precedes the Report. Deletions appear in bold and brackets, and the proposed 2002 additions appear in bold and small capital letters.²

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel,

Anne T. Panfil
Chief Staff Counsel
Supreme Court of Pennsylvania
Criminal Procedural Rules Committee
P. O. Box 1325
Doylestown, PA 18901

no later than Monday, September 9, 2002.

By the Criminal Procedural Rules Committee

JOSEPH P. CONTI,
Chair

Annex A

**TITLE 234. RULES OF CRIMINAL PROCEDURE
CHAPTER 4. PROCEDURES IN SUMMARY CASES**

PART A. Instituting Proceedings

Rule 400. Means of Instituting Proceedings in Summary Cases.

* * * * *

Comment

* * * * *

ELECTRONICALLY TRANSMITTING THE CITATION INFORMATION OR PARKING TICKET INFORMATION TO THE ISSUING AUTHORITY WOULD INSTITUTE PROCEEDINGS BY FILING PURSUANT TO PARAGRAPH (2) OF THIS RULE.

For the procedures when a citation is filed pursuant to paragraph (2), see Chapter 4 Part B(2), Rules 410, 411, 412, 413, and 414.

* * * * *

For general procedures applicable in all summary cases, see Chapter 4 Part E, Rules 451, 452, 453, 454, 455, 456, 457, and 458.

For the procedures for appealing to the court of common pleas for a trial de novo, see Chapter 4[,] Part F, Rules 460, 461, and 462.

* * * * *

Official Note: Previous Rule 51[,] adopted January 23, 1975, effective September 1, 1975; Comment revised January 28, 1983, effective July 1, 1983; Comment revised December 15, 1983, effective January 1, 1984;

¹ This Report supplements the 1999 Committee proposal concerning the electronic filing of parking ticket information published at 29 Pa.B. 2770 (May 28, 1999).
² The proposed 1999 additions are shown in bold.

rescinded July 12, 1985, effective January 1, 1986; and replaced by present Rules 103, 400, 401, 402, 405, 410, 420, 440, and 430. Present Rule 51 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; Comment revised February 1, 1989, effective July 1, 1989; Comment revised January 31, 1991, effective July 1, 1991; Comment revised January 16, 1996, effective immediately; Comment revised June 6, 1997, effective immediately; renumbered Rule 400 and amended March 1, 2000, effective April 1, 2001; **Comment revised _____, effective _____.**

Committee Explanatory Reports:

* * * * *

Report explaining the proposed amendment adding paragraph (5) published at 32 Pa.B. 3891 (August 10, 2002).

Rule 401. Means of Instituting Proceedings in Summary Cases Charging Parking Violations.

(A) Political subdivisions may use parking tickets to inform defendants of parking violations and to offer defendants an opportunity to avoid criminal proceedings by paying an amount specified on the ticket within the time specified on the ticket.

(1) When a political subdivision does use parking tickets and a ticket has been handed to a defendant or placed on a vehicle windshield, a criminal proceeding shall be instituted only if the defendant fails to respond as requested on the ticket.

(2) [In that event,] When a defendant fails to respond to a parking ticket, the criminal proceeding shall be instituted either

(a) by a law enforcement officer filing a citation with the proper issuing authority, or

(b) by having the parking violation information electronically transmitted to and verified with the proper issuing authority.

Upon receipt of the citation or the electronically transmitted information, the issuing authority shall proceed as provided in Rule 411, and [the filing of the citation,] the case shall proceed [in the same manner as other summary cases instituted by filing a citation,] in accordance with Rules 411—414.

(B) When a parking ticket has not been used, a criminal proceeding in a summary case charging a parking violation shall be instituted by a law enforcement officer issuing a citation either by handing it to a defendant or by placing it on a vehicle windshield.

(1) Upon the issuance of a citation, the case **ordinarily** shall [**ordinarily**] proceed in the same manner as other summary cases instituted by issuing a citation to the defendant, in accordance with Rules 405—409.

(2) If the defendant fails to respond to the citation, the issuing authority shall issue a summons and the case shall then proceed in accordance with Rules 411—414 as if the proceedings were instituted by filing a citation, unless the issuing authority has reasonable grounds to believe that the defendant will not obey a summons, in which case an arrest warrant shall be issued and the case shall proceed in accordance with Rule 431.

[(C) The filing of a citation charging a parking violation may be accomplished by electronic filing.]

Comment

* * * * *

If the defendant pays the amount specified on the parking ticket within the time specified on the ticket, the case will be concluded without the institution of a criminal proceeding. If the defendant makes no response within the suggested time, or if the defendant indicates a desire to plead not guilty, and the subdivision desires to proceed with the case, a law enforcement officer must determine the identity of the vehicle owner from the Department of Transportation and then institute a criminal proceeding by either filing a citation directly with the proper issuing authority, or having the parking violation information electronically transmitted under paragraph (A) of this rule.

Although this rule and Rule 411 do not require that a citation be prepared when the parking violation information is transmitted electronically, a municipality, of course, may continue to have its officers prepare citations as provided in paragraph (A)(2)(a), and also electronically transmit the parking violation information.

When the parking violation information is transmitted electronically pursuant to paragraph (A)(2)(b), the individual who electronically transmits the information must verify with the issuing authority that the information transmitted accurately reflects the information on the subject parking tickets.

[Paragraph (C) was added in 1996 to specifically authorize that a citation charging a parking violation may be filed electronically.]

* * * * *

Official Note: Rule 95 adopted July 12, 1985, effective January 1, 1986; effective date extended to July 1, 1986; amended July 17, 1996, effective January 1, 1997; renumbered Rule 401 and amended March 1, 2000, effective April 1, 2001; amended _____, effective _____.

Committee Explanatory Reports:

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Report explaining the proposed amendments clarifying the procedures for electronically transmitting parking violation information published at 32 Pa.B. 3891 (August 10, 2002).

PART B. Citation Procedures

Rule 403. Contents of Citation.

* * * * *

Comment

A LAW ENFORCEMENT OFFICER MAY PREPARE AND TRANSMIT A CITATION ELECTRONICALLY. THE LAW ENFORCEMENT OFFICER CONTEMPORANEOUSLY MUST GIVE THE DEFENDANT A PAPER COPY OF THE CITATION CONTAINING ALL THE INFORMATION REQUIRED BY THIS RULE.

Paragraph (A)(3) requires the law enforcement officer who issues a citation to indicate on the citation if the defendant is a juvenile and, if so, whether the juvenile's parents were notified. See the Judicial Code, 42 Pa.C.S. § 1522, concerning parental notification in certain summary cases involving juveniles.

* * * * *

Paragraph (B)(6) was amended in 2000 to make it clear in a summary criminal case that the defendant may file

an appeal for a trial de novo following the entry of a guilty plea. See Rule [86 (Appeals)] 460 (Notice of Appeal).

* * * * *

See Rule 401 for procedures for instituting cases in which there is a parking violation. When the parking violation information is electronically transmitted as permitted by Rule 401(A), only a summons is issued as provided in Rule 411.

Official Note: Previous rule, originally numbered Rule 133(a) and Rule 133(b), adopted January 31, 1970, effective May 1, 1970; renumbered Rule 53(a) and 53(b) September 18, 1973, effective January 1, 1974; amended January 23, 1975, effective September 1, 1975; Comment revised January 28, 1983, effective July 1, 1983; rescinded July 12, 1985, effective January 1, 1986, and not replaced in these rules. Present Rule 53 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; amended February 1, 1989, effective as to cases instituted on or after July 1, 1989; amended January 31, 1991, effective July 1, 1991; amended June 3, 1993, effective as to new citations printed on or after July 1, 1994; amended July 25, 1994, effective January 1, 1995; renumbered Rule 403 and Comment revised March 1, 2000, effective April 1, 2001; amended March 3, 2000, effective July 1, 2000; **Comment revised _____, effective _____.**

Committee Explanatory Reports:

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Report explaining the proposed Comment revisions cross-referencing Rule 401 concerning electronic transmission of parking citations published at 32 Pa.B. 3891 (August 10, 2002).

PART B(1). Procedures When Citation Is Issued to Defendant

Rule 405. Issuance of Citation.

When a criminal proceeding in a summary case is instituted by issuing a citation to the defendant [,] ;

(1) the law enforcement officer who issues the citation shall exhibit [some] AN OFFICIAL sign of THE OFFICER'S authority; AND

(2) THE LAW ENFORCEMENT OFFICER CONTEMPORANEOUSLY MUST GIVE THE DEFENDANT A PAPER COPY OF THE CITATION CONTAINING ALL THE INFORMATION REQUIRED BY RULE 403.

Comment

A LAW ENFORCEMENT OFFICER MAY PREPARE AND TRANSMIT A CITATION ELECTRONICALLY.

* * * * *

Official Note: Previous rule, originally numbered Rule 135, adopted January 31, 1970, effective May 1, 1970; renumbered Rule 55 September 18, 1973, effective January 1, 1974; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rule 408. Present Rule 55 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates are all extended to July 1, 1986; Comment revised February 11, 1989, effective July 1, 1989; Comment revised January 16, 1996, effective immediately; renumbered Rule 405 and Comment revised March 1, 2000, effective April 1, 2001; **amended _____, 2002, effective _____, 2002.**

Committee Explanatory Reports:

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Report explaining the proposed amendments concerning issuance of citations published at 32 Pa.B. 3891 (August 10, 2002).

Rule 406. Procedure Following Issuance of Citation.

Within 5 days after a citation is issued to the defendant, the [original] CITATION shall be filed with the proper issuing authority.

Comment

TO SATISFY THE REQUIREMENTS OF THIS RULE, THE LAW ENFORCEMENT OFFICER MAY PREPARE AND TRANSMIT THE CITATION INFORMATION ELECTRONICALLY.

These rules are not intended to require the law enforcement officer who issued the citation to personally file the [original] citation.

It is intended that the [original] citation be filed as soon as is practical so the issuing authority may process the case. However, failure to comply with the [five] 5-day limit is not intended to be grounds for dismissal, unless the defendant is prejudiced by the delay. See Rule 109.

* * * * *

Official Note: Previous rule, originally numbered Rule 137, adopted January 31, 1970, effective May 1, 1970; renumbered Rule 56 and paragraph (d) amended September 18, 1973, effective January 1, 1974; rescinded July 12, 1985, effective January 1, 1986; and replaced by present Rule 409. Present Rule 56 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; renumbered Rule 406 and amended March 1, 2000, effective April 1, 2001; amended _____, effective _____.

Committee Explanatory Reports:

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Report explaining the proposed Comment revision published at 32 Pa.B. 3891 (August 10, 2002).

PART B(2). Procedures When Citation Filed

Rule 410. Filing of Citation.

* * * * *

Comment

FILING AS USED IN THIS RULE INCLUDES ELECTRONICALLY TRANSMITTING THE CITATION OR PARKING TICKET INFORMATION.

* * * * *

Official Note: Previous rule, originally adopted as Rule 116 June 30, 1964, effective January 1, 1965; suspended effective May 1, 1970; readopted January 31, 1970, effective May 1, 1970 [,] ; renumbered as Rule 60 and amended to apply only to summary cases September 18, 1973, effective January 1, 1974; amended April 26, 1979, effective July 1, 1979; amended January 28, 1983, effective July 1, 1983; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rule 431. Present Rule 60 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates are all extended to July 1, 1986; Comment revised February 1, 1989, effective July 1, 1989; Comment revised August 13, 1999, effective immediately; renumbered Rule 410 and Comment revised March 1, 2000, effective April 1, 2001; Comment revised _____, effective _____.

Committee Explanatory Reports:

* * * * *

Report explaining the proposed Comment revision concerning filing published at 32 Pa.B. 3891 (August 10, 2002).

Rule 411. Procedures Following Filing of Citation— Issuance of Summons.

(A) Upon the filing of the citation, or receipt of electronically transmitted parking violation information, the issuing authority shall issue a summons commanding the defendant to respond within 10 days of receipt of the summons, unless the issuing authority has reasonable grounds to believe that the defendant will not obey a summons in which case an arrest warrant shall be issued. The summons shall be served as provided in these rules.

(B) [Except] A copy of the citation shall be served with the summons, except in cases charging parking violations when the [citation] parking violation information is electronically filed [, a copy of the citation shall be served with the summons] .

(C) In cases charging parking violations [when] in which the [citation] parking violation information is electronically filed, the summons shall also include:

* * * * *

Comment

* * * * *

This rule [was amended in 1996 to facilitate] facilitates the electronic [filing] transmission of [citations charging] parking [violations] violation information by (1) eliminating the requirement that a copy of the citation be served with the summons in cases in which the parking violation information is electronically filed pursuant to Rule 401(A), and (2) requiring additional information be added to the summons. See Rule 401 (Proceedings in Summary Cases Charging Parking Violations). However, nothing in this rule or Rule 401 is intended to preclude a municipality from continuing to have its officers prepare a citation in addition to electronically transmitting the parking violation information.

Official Note: Previous Rule 117, adopted June 30, 1964, effective January 1, 1965; suspended effective May 1, 1970; revised January 31, 1970, effective May 1, 1970; renumbered and amended to apply only to summary cases September 18, 1973, effective January 1, 1974; amended April 26, 1979, effective July 1, 1979; amended January 28, 1983, effective July 1, 1983; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rule 431. Present Rule 61 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; amended July 17, 1996, effective January 1, 1997; renumbered Rule 411 and Comment revised March 1, 2000, effective April 1, 2001; amended _____, effective _____.

Committee Explanatory Reports:

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Report explaining the proposed amendments concerning electronic transmission of parking violation information published at 32 Pa.B. 3891 (August 10, 2002).

**PART F. Procedures in Summary Cases
Under the Vehicle Code**

Rule 460. Notice of Appeal.

* * * * *

(D) The issuing authority shall, within 20 days after receipt of the notice of appeal, file with the clerk of courts:

* * * * *

(2) the original complaint or citation, **if any**;

* * * * *

Comment

* * * * *

Paragraph (D) was amended in 2002 to align this rule with Rule 401(A), which permits the electronic transmission of parking violation information in lieu of filing a citation. Therefore, in electronically transmitted parking violation cases only, because there is no original citation, the issuing authority would file the summons with the clerk of courts pursuant to paragraph (D)(3).

Rule 462(D) provides for the dismissal of an appeal when the defendant fails to appear for the trial de novo.

* * * * *

Official Note: Former Rule 86 adopted July 12, 1985, effective January 1, 1986; revised September 23, 1985, effective January 1, 1986; the January 1, 1986 effective dates extended to July 1, 1986; amended February 2, 1989, effective March 1, 1989; amended March 22, 1993, effective January 1, 1994; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; amended February 27, 1995, effective July 1, 1995; amended October 1, 1997, effective October 1, 1998; amended May 14, 1999, effective July 1, 1999; amended March 3, 2000, effective July 1, 2000; rescinded March 1, 2000, effective April 1, 2001, and paragraphs (A), (D), (E), (F), (H), and (I) replaced by Rule 460. New Rule 460 adopted March 1, 2000, effective April 1, 2001; **amended _____, effective _____.**

Committee Explanatory Reports:

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NEW RULE 460:

* * * * *

Report explaining the proposed changes concerning electronically transmitted parking citations published at 32 Pa.B. 3891 (August 10, 2002).

SUPPLEMENTAL REPORT

Proposed Amendments to Pa.Rs.Crim.P. 401, 405, 411, and 460, and Revision of the Comments to Rules 400, 403, 406, and 410³

ELECTRONIC PREPARATION AND TRANSMISSION OF CITATION INFORMATION GENERALLY

I. BACKGROUND

The Committee in 1999 published a proposal that would clarify the procedures for electronically filing park-

³ The 1999 proposal included changes to Rules 51, 53, 61, 86, and 95. These rules became Rules 400, 403, 411, 460, and 401 respectively as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001. Rules 405, 406, and 410 were not part of the 1999 proposal.

ing violation information in cases in which a defendant has failed to respond to a parking ticket. See 29 Pa.B. 2770 (May 29, 1999). Following the Committee's publication of the 1999 proposal, we received communications from IT Staff from the Administrative Offices of Pennsylvania Courts, representatives of the Pennsylvania State Police and the Justice Network (JNET), and representatives of Philadelphia Traffic Court concerning the development of electronic data management systems that would permit the electronic issuance of citations and the electronic transmission of citation information generally. The Committee reviewed the correspondence and agreed that implementation of the proposed systems described in the correspondence should be pursued as long as the procedural requirements in the Criminal Rules are satisfied. The Committee strongly believes the use of technology should be encouraged when its use is feasible because this promotes the Court's goals of statewide uniformity in the practice of law, and the use of technology has been shown to result in a more efficient use of the court's limited resources. However, during the Committee's consideration of the use of electronic data managing systems in general, the Committee expressed concern that the 1999 proposal clarifying the procedures for the electronic filing of parking violation information could be misconstrued as limiting electronic filing to transmission of parking violation information if the general citation rules are not similarly amended to include specific provisions for the electronic transmission of citation information.

In view of the points raised in these communications, the Committee's review of the rules as they relate to the new technologies, the Court's goals of statewide uniformity, and the potential for unintended consequences that could result from not including specific provisions for the electronic transmission of citation information, the Committee is proposing changes to the Criminal Rules that supplement the 1999 proposal for the electronic filing of parking violation information by including the procedures for the electronic preparation of the citation the electronic transmission of citation information generally.⁴

II. DISCUSSION OF RULE CHANGES⁵

1) Rule 400 (Means of Instituting Proceedings in Summary Cases)

Rule 400 provides the means of instituting proceedings in summary cases. After reviewing the rule with a focus on electronically transmitting citations generally, the Committee agreed that the current use of the term "filing" in paragraph (2) could cover not only manual filing methods, but also electronic filing. To accommodate this broad construction of "filing," we are proposing that Rule 400 be modified from the 1999 proposal by 1) deleting what was proposed new paragraph (5) and the correlative Comment provision,⁶ and 2) adding in the Comment a new third paragraph that makes it clear that filing may be accomplished by electronically transmitting the citation information or parking ticket information to the issuing authority.

⁴ The 1999 proposal remains the same except as otherwise explained in this 2002 supplemental proposal.

⁵ See Report published at 29 Pa.B. 2772 (May 29, 1999) explaining the proposed rule changes involving Rules 401, 411, and 460.

⁶ In view of the 2002 changes, the 1999 changes that included a proposed new paragraph (5) ("electronic filing of parking ticket information") and correlative Comment provision ("Paragraph (5) and Rule 401(A) authorize the electronic filing of the parking ticket information in those cases in which a defendant fails to respond to the political subdivision's parking ticket.") have been deleted as unnecessary.

2) Rule 403 (Contents of Citation)

Rule 403 provides the requirements for the contents of the citation. To tie this rule into the concept of using electronic means for the preparation and transmission of citation, the Committee is proposing that a new first paragraph be added to the Comment that would provide, "A law enforcement officer may prepare and transmit a citation electronically.⁷ The law enforcement officer contemporaneously must give the defendant a paper copy of the citation containing all the information required by this rule." The Comment would retain the 1999 proposed cross-reference to Rule 401 concerning the procedures for instituting cases in which there is a parking violation.

3) Rule 405 (Issuance of Citation)

Rule 405 provides the procedures for instituting a summary case proceeding by issuing a citation to the defendant. From the Committee's review of Rule 405, we agreed the rule needed to be expanded to more clearly delineate that "issuing" the citation means giving a copy to the defendant at the time it is prepared by the law enforcement officer. In addition, the Committee thought the rule should be clarified concerning the provision for exhibiting a sign of authority. Accordingly, the Committee is proposing that the rule be reorganized to make it clear that the law enforcement officer who issues the citation must exhibit an official sign of his or her authority (see new paragraph (1)), and to add the requirement that the law enforcement officer at the time of issuance of the citation give the defendant a paper copy of the citation (see new paragraph (2)). The paper copy is in addition to, and includes, any information that is electronically prepared and transmitted.

4) Rule 406 (Procedure Following Issuance of Citation)

Rule 406 provides the procedures following the issuance of a citation. The Committee is proposing the amendment of Rule 406 by changing the term "original" to "citation" to accommodate the other proposed changes allowing the filing of the citation by electronically transmitting the citation information to the issuing authority.

5) Rule 410 (Filing of Citation)

Rule 410 provides the procedures when a summary case is instituted by the filing of a citation. The Committee is proposing the revision of the Rule 410 Comment to conform the rule to the other rule changes concerning the electronic filing of citations in general by including as a new first paragraph the language, "Filing as used in this rule includes electronically transmitting the citation information or parking ticket information."

[Pa.B. Doc. No. 02-1369. Filed for public inspection August 9, 2002, 9:00 a.m.]

⁷ Comparable Comment language has been included in the Comments to Rules 405 and 406.

Title 25—LOCAL COURT RULES

SOMERSET COUNTY

Consolidated Rules of Court; No. 50 Misc. 2002

Adopting Order

And Now, this 19th day of July, 2002, it is hereby *Ordered*:

1. Somerset County Rule of Civil Procedure Som.R.C.P. 1301, Arbitration, Jurisdiction Limits, is amended to read in its entirety, as reflected in revised Som.R.C.P. 1301 effective thirty (30) days after publication in the *Pennsylvania Bulletin*:

2. The Somerset County Court Administrator is directed to:

A. File seven (7) certified copies of this Order and the Rule with the Administrative Office of Pennsylvania Courts.

B. Distribute two (2) certified copies of this Order and the Rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

C. File one (1) certified copy of this Order and the attached Rule with the Pennsylvania Civil Procedural Rules Committee.

D. File proof of compliance with this Order in the docket for these Rules, which shall include a copy of each transmittal letter.

By the Court

EUGENE E. FIKE, II,
President Judge

Som.R.C.P. 1301. Arbitration. Jurisdiction Limits.

All civil actions for the recovery of money or personal property shall first be submitted to arbitration before a board of three members of the Bar of this Court, except: (i) actions which involve title to real property, and (ii) actions in which the amount in controversy, exclusive of interest and costs, exceeds \$25,000.00.

Note: See Judicial Code § 7361, 42 Pa.C.S.A. § 7361. The authorized arbitration limit was \$5,000.00 until increased to \$10,000.00 by Act No. 1980-38. The authorized limit was increased to \$25,000.00 by Act No. 1992-25.

Regarding referral of replevin actions to arbitration, see explanatory note-1981 to Pa.R.C.P. 1301.

On arbitration limits, see *Goncher v. Brant*, 29 Somerset Legal Journal 332, 340 (1974) and *Reffner v. Tipton* No. 2, 30 Somerset Legal Journal 269 (1974).

[Pa.B. Doc. No. 02-1370. Filed for public inspection August 9, 2002, 9:00 a.m.]