

THE COURTS

Title 201—RULES OF JUDICIAL ADMINISTRATION

[201 PA. CODE CH. 19]

Amendment of Rule 1901 Governing Termination of Inactive Cases; No. 252 Judicial Administration; Doc. No. 1

Order

Per Curiam:

And Now, this 20th day of March, 2003, Pennsylvania Rule of Judicial Administration 1901 is amended to read as follows.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective July 1, 2003.

Annex A

TITLE 201. RULES OF JUDICIAL ADMINISTRATION

CHAPTER 19. MISCELLANEOUS ADMINISTRATIVE PROVISIONS

MISCELLANEOUS ADMINISTRATIVE PROVISIONS

Rule 1901. Prompt disposition of matters; termination of inactive cases.

* * * * *

(b) *Primary Responsibility for Implementation of Policy.*

(1) [Each] Except as provided by paragraph (3), each court of common pleas is primarily responsible for the implementation of the policy expressed in subdivision (a) of this rule and is directed to make local rules of court for such purposes applicable to the court and to the community court or district justices of the peace of the judicial district.

* * * * *

(3) The policy set forth in subdivision (a) of this rule shall be implemented in actions governed by the Pennsylvania Rules of Civil Procedure pursuant to Rule of Civil Procedure 230.2.

* * * * *

[Pa.B. Doc. No. 03-613. Filed for public inspection April 4, 2003, 9:00 a.m.]

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CH. 21]

Order Adopting Amendment to Rule 2111; No. 143; Appellate Court Rules; Doc. No. 1

Order

Per Curiam:

Now, this 20th day of March, 2003, upon the recommendation of the Appellate Court Procedural Rules Com-

mittee, Pennsylvania Rule of Appellate Procedure 2111 is amended in the following form.

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the amendment to Pa.R.A.P. 2111 is amended in the following form.

This *Order* is promulgated without prior publication in the interests of efficient administration. This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective immediately.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 21. BRIEFS AND REPRODUCED RECORD

CONTENT OF BRIEFS

Rule 2111. Brief of the Appellant.

(a) *General rule.* The brief of the appellant, except as otherwise prescribed by these rules, shall consist of the following matters, separately and distinctly entitled and in the following order:

* * * * *

(10) In the Superior Court, a copy of the statement of the matters complained of on appeal filed with the trial court pursuant to Rule 1925(b), or an averment that no order requiring a Rule 1925(b) statement was entered.

* * * * *

(d) *Brief of the Appellant.* There shall be appended to the brief of the appellant a copy of the statement of matters complained of on appeal, filed with the trial court pursuant to Pa.R.A.P. 1925(b). If the trial court has not entered an order directing the filing of such a statement, the brief shall contain a statement that no order to file a statement pursuant to Pa.R.A.P. 1925(b) was entered by the trial court.

* * * * *

Explanatory Comment—2003

The 2003 amendment adding subdivision 10 to Rule 2111 is intended to replace Rule 3520 adopted by the Superior Court in 2001. The purpose of this amendment is to consolidate all requirements for briefs into Chapter 21 of the Appellate Rules. It is anticipated that following adoption of this Rule, the Superior Court will rescind Rule 3520.

Materials attached to appellant's brief pursuant to Pa.R.A.P. 2111(a) (9) and (10) shall not count against the page limitations set forth in Pa.R.A.P. 2135.

[Pa.B. Doc. No. 03-614. Filed for public inspection April 4, 2003, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Promulgation of Rule 230.2 Governing Termination of Inactive Cases; No. 385 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 20th day of March, 2003, Pennsylvania Rule of Civil Procedure 230.2 is promulgated to read as follows.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective July 1, 2003.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 230.2. Termination of Inactive Cases.

(a) The court may initiate proceedings to terminate a case in which there has been no activity of record for two years or more by serving a notice of proposed dismissal of court case.

Official Note: This rule provides an administrative method for the termination of inactive cases.

(b)(1) The court shall serve the notice on counsel of record, and on the parties if not represented, sixty days prior to the date of the proposed termination. The notice shall contain the date of the proposed termination and the procedure to avoid termination.

(2) The notice shall be served by mail pursuant to Rule 440. If the mailed notice is returned, the notice shall be served by advertising it in the legal publication, if any, designated by the court for the publication of legal notices or in one newspaper of general circulation within the county.

Official Note: If the notice mailed to an attorney is returned by the postal service, the prothonotary should check a legal directory or contact the Administrative Office of Pennsylvania Courts for a current address. Otherwise, publication in the legal newspaper or a newspaper of general circulation within the county is required under this rule if the mailed notice is returned.

See subdivision (e) for the form of notice.

(c) If no statement of intention to proceed has been filed, the prothonotary shall enter an order as of course terminating the matter with prejudice for failure to prosecute.

Official Note: The prothonotary may not enter an order terminating the action until more than sixty days after service of the notice of proposed termination.

A court officer may certify to the prothonotary those matters which have been inactive and in which no statement of intention to proceed has been filed.

(d)(1) If an action has been terminated pursuant to this rule, an aggrieved party may petition the court to reinstate the action.

(2) If the petition is filed within thirty days after the entry of the order of termination on the docket, the court shall grant the petition and reinstate the action.

Official Note: The provision under subdivision (d)(2) for filing a petition within thirty days is not intended to set a standard for timeliness in proceedings outside this rule.

(3) If the petition is filed more than thirty days after the entry of the order of termination on the docket, the court shall grant the petition and reinstate the action upon a showing that

(i) the petition was timely filed following the entry of the order for termination and

(ii) there is a reasonable explanation or a legitimate excuse for the failure to file both

(A) the statement of intention to proceed prior to the entry of the order of termination on the docket and,

(B) the petition to reinstate the action within thirty days after the entry of the order of termination on the docket.

Official Note: The provision under subdivision (d)(2) for filing a petition within thirty days of the entry of the order of termination on the docket is not a standard of timeliness. Rather, the filing of the petition during that time period eliminates the need to make the showing otherwise required by subdivision (d)(3).

(e) The notice required by subdivision (b) shall be in the following form:

(Caption)

NOTICE OF PROPOSED TERMINATION OF COURT CASE

The court intends to terminate this case without further notice because the docket shows no activity in the case for at least two years.

You may stop the court from terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed should be filed with the Prothonotary of the Court at

_____ Address
on or before _____ Date

IF YOU FAIL TO FILE THE REQUIRED STATEMENT OF INTENTION TO PROCEED, THE CASE WILL BE TERMINATED.

BY THE COURT;

_____ Officer
Date of this Notice _____

(f) The Statement of Intention to Proceed shall be in the following form:

(Caption)

Statement of Intention to Proceed

To the Court:

_____ intends to proceed with the above captioned matter.

Date: _____ Attorney for _____

Explanatory Comment

The Supreme Court of Pennsylvania has promulgated new Rule of Civil Procedure 230.2 governing the termina-

tion of inactive cases and amended Rule of Judicial Administration 1901. Two aspects of the recommendation merit comment.

I. *Rule of Civil Procedure*

New Rule of Civil Procedure 230.2 has been promulgated to govern the termination of inactive cases within the scope of the Pennsylvania Rules of Civil Procedure. The termination of these cases for inactivity was previously governed by Rule of Judicial Administration 1901 and local rules promulgated pursuant to it. New Rule 230.2 is tailored to the needs of civil actions. It provides a complete procedure and a uniform statewide practice, preempting local rules.

This rule was promulgated in response to the decision of the Supreme Court in *Shope v. Eagle*, 551 Pa. 360, 710 A.2d 1104 (1998) in which the court held that "prejudice to the defendant as a result of delay in prosecution is required before a case may be dismissed pursuant to local rules implementing Rule of Judicial Administration 1901."

Rule of Judicial Administration 1901(b) has been amended to accommodate the new rule of civil procedure. The general policy of the prompt disposition of matters set forth in subdivision (a) of that rule continues to be applicable.

II. *Inactive Cases*

The purpose of Rule 230.2 is to eliminate inactive cases from the judicial system. The process is initiated by the court. After giving notice of intent to terminate an action for inactivity, the course of the procedure is with the parties. If the parties do not wish to pursue the case, they will take no action and "the prothonotary shall enter an order as of course terminating the matter with prejudice for failure to prosecute." If a party wishes to pursue the matter, he or she will file a notice of intention to proceed and the action shall continue.

a. *Where the action has been terminated*

If the action is terminated when a party believes that it should not have been terminated, that party may proceed under Rule 230(d) for relief from the order of termination. An example of such an occurrence might be the termination of a viable action when the aggrieved party did not receive the notice of intent to terminate and thus did not timely file the notice of intention to proceed.

The timing of the filing of the petition to reinstate the action is important. If the petition is filed within thirty days of the entry of the order of termination on the docket, subdivision (d)(2) provides that the court must grant the petition and reinstate the action. If the petition is filed later than the thirty-day period, subdivision (d)(3) requires that the plaintiff must make a showing to the court that the petition was promptly filed and that there is a reasonable explanation or legitimate excuse both for the failure to file the notice of intention to proceed prior to the entry of the order of termination on the docket and

for the failure to file the petition within the thirty-day period under subdivision (d)(2).

b. *Where the action has not been terminated*

An action which has not been terminated but which continues upon the filing of a notice of intention to proceed may have been the subject of inordinate delay. In such an instance, the aggrieved party may pursue the remedy of a common law non pros which exists independently of termination under Rule 230.2.

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,
Chair

[Pa.B. Doc. No. 03-615. Filed for public inspection April 4, 2003, 9:00 a.m.]

Title 25—LOCAL COURT RULES

CARBON COUNTY

Substance Abuse Education and Demand Reduction Fund; No. 40 MI 03

Administrative Order No. 7-2003

And Now, this 19th day of March, 2003, pursuant to 18 Pa.C.S.A. 7508.1, it is hereby

Ordered and Decreed, that the County Treasurer shall establish a separate interest bearing account for monies received from adult and juvenile offenders in every applicable case where the Clerk of Court assesses the costs prescribed pursuant to the previous statute.

It Is Further Ordered and Decreed that the portion of the monies which are to remain in Carbon County *Shall Be Used* exclusively for the Substance Abuse Treatment and/or Prevention Programs at the direction of the Court of Common Pleas of Carbon County.

By the Court

RICHARD W. WEBB,
President Judge

[Pa.B. Doc. No. 03-616. Filed for public inspection April 4, 2003, 9:00 a.m.]