

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 83]

Amendment of Rule 214(g) of the Pennsylvania Rules of Disciplinary Enforcement; No. 52 Disciplinary Rules; Doc. No. 1

#### Order

*Per Curiam:*

*And Now*, this 28th day of March, 2006, it is ordered, pursuant to Article V, Section 10 of the Constitution of Pennsylvania, that:

1. Rule 214(g) of The Pennsylvania Rules of Disciplinary Enforcement is amended as set forth in Annex A.

2. This Order shall be processed in accordance with Rule 103(b) of the Pennsylvania Rules of Judicial Administration. To the extent that publication of a notice of proposed rulemaking would otherwise be required with respect to the amendment adopted by this Order, such publication is hereby found to be unnecessary because the immediate adoption of this Order is required in the interests of justice.

3. The amendment to the Pennsylvania Rules of Disciplinary Enforcement shall take effect upon publication of this Order in the *Pennsylvania Bulletin*.

Madame Justice Baldwin did not participate in the decision of this matter.

#### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART V. PROFESSIONAL ETHICS AND CONDUCT

##### Subpart B. DISCIPLINARY ENFORCEMENT

#### CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

##### Subchapter B. MISCONDUCT

#### Rule 214. Attorneys convicted of crimes.

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(g) Upon receipt of a certificate of conviction of any attorney for a crime other than a serious crime, the Court shall take such action as it deems warranted [ , **including reference to the Board for the institution of a formal proceeding before a hearing committee in the appropriate disciplinary district** ]. The Court may in its discretion [ **make no reference** ] **take no action** with respect to convictions for minor offenses.

**Official Note:** The actions the Court may take under subdivision (g) include reference of the matter to the Office of Disciplinary Counsel for investigation and possible commencement of either a formal or informal proceeding, or reference of the matter to the Board with direction that it institute a formal proceeding.

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[Pa.B. Doc. No. 06-600. Filed for public inspection April 14, 2006, 9:00 a.m.]

## Title 210—APPELLATE PROCEDURE

### PART II. INTERNAL OPERATING PROCEDURES [210 PA. CODE CH. 67]

Amendment to Commonwealth Court Internal Operating Procedures

#### Annex A

### TITLE 210. APPELLATE PROCEDURE

#### PART II. INTERNAL OPERATING PROCEDURES

#### CHAPTER 67. INTERNAL OPERATING PROCEDURES OF THE COMMONWEALTH COURT APPELLATE JURISDICTION

#### § 67.29. Decisions; Effect of Disagreements.

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(b) When there exists a vacancy or a recusal among the [ **active** ] **commissioned** judges that results in an even number of [ **active** ] **commissioned** judges voting on a circulating panel or en banc opinion, a tie vote of the [ **active** ] **commissioned** judges shall result in the filing of the opinion as circulated. The opinion shall not be published unless there is a majority vote of the [ **active** ] **commissioned** judges to publish. The opinion shall contain a footnote indicating that the opinion is filed pursuant to this paragraph.

JAMES G. COLLINS,  
*President Judge*

[Pa.B. Doc. No. 06-601. Filed for public inspection April 14, 2006, 9:00 a.m.]

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### [231 PA. CODE CHS. 200 AND 1000]

Technical Amendments to Rules 205.4, 206.5 and 1038.2; No. 453 Civil Procedural Rules; Doc. No. 5

#### Order

*Per Curiam:*

*And Now*, this 27th day of March, 2006, Pennsylvania Rules of Civil Procedure 205.4, 206.5 and 1038.2 are amended to read as follows.

Whereas prior distribution and publication of these amendments would otherwise be required, it has been determined that the amendments are of a perfunctory nature and that immediate promulgation is required in the interests of justice and efficient administration.

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

Madame Justice Baldwin did not participate in the promulgation of these amendments.

**Annex A**

**TITLE 231. RULES OF CIVIL PROCEDURE**

**PART I. GENERAL**

**CHAPTER 200. BUSINESS OF COURTS**

**Rule 205.4. Electronic Filing and Service of Legal Papers.**

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(b) A party may file a legal paper with the prothonotary by means of electronic filing if electronic filing is permitted by general rule, rule of court or special order of court. The filing shall be in the format of Adobe PDF, WordPerfect for Windows or Microsoft Word for Windows. Except as otherwise provided by law, a legal paper filed electronically shall be deemed the equivalent of the original document.

(1) The electronic filing of a legal paper constitutes

\* \* \* \* \*

(ii) a certification as provided by the signature to a legal paper under Rule [ 1023(b) ] 1023.1(c), the violation of which shall be subject to the sanction provision of Rule [ 1023(c) ] 1023.1(d).

\* \* \* \* \*

Explanatory Comment—1999  
(Revised March 2006)

Rule 205.4 governing electronic filing and service of legal papers is a [ temporary rule and is intended as a further ] step in the process of introducing the concept of electronic documents into a system accustomed solely to paper documents. [ It is anticipated that changes in the procedural rules will be needed as technology progresses and the actual experiences of those counties which utilize this rule demonstrate the need for modifications. For that reason, a termination date of December 31, 2001 has been set for this rule. ] The purpose of the rule is not to provide a comprehensive manual but, rather, a framework upon which a local court can proceed with the electronic filing and service of legal documents while allowing the flexibility to adapt the process on the basis of actual experience.

[ The purpose of the rule is not to provide a comprehensive manual but, rather, a framework upon which a local court can proceed with the electronic filing and service of legal documents while allowing the flexibility to adapt the process on the basis of actual experience. ]

The rule addresses several aspects of electronic filing. It provides definitions of key terms, contains a description of the form, content and handling of documents, and an enumeration of the responsibilities of the prothonotary and the parties. The rule concludes with the procedure for electronic service of legal papers.

Subdivision (a)(2) is the definitional provision. The subject of the rule, "electronic filing", is defined as the electronic transmission of legal papers but the term excludes facsimile transmission which is governed by Rule 205.3.

Most importantly, the term "legal paper" is defined as excluding original process unless the court by local rule provides otherwise. For the purposes of this temporary rule, the local court is in a better position to make the determination of whether to include original process based upon a knowledge of the court's technological capabilities.

Subdivision (b) is concerned with the form and content of the legal papers themselves. Three computer formats are explicitly designated for legal papers which are filed electronically. Adobe PDF was chosen because it is becoming a nationally recognized standard format and has a great deal of flexibility in terms of its ability to include other media beside the printed word. WordPerfect for Windows and Microsoft Word for Windows are included as they are the two most commonly used word-processor software packages.

Regarding legal papers themselves, Rule 205.4(b)(1) provides that the electronic filing of a legal paper constitutes the same certification as a signature on a traditionally filed legal paper under Rule [ 1023 ] 1023.1.

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**Rule 206.5. Rule to Show Cause. Discretionary Issuance. Stay. Form of Order.**

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(c) If the petition is within the scope of [ subdivision (a) ] Rule 206.1(a), is properly pleaded, and states prima facie grounds for relief, the court shall enter an order issuing a rule to show cause and may grant a stay of proceedings.

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**CHAPTER 1000. ACTIONS**

**Subchapter A. CIVIL ACTION**

**JUDGMENT UPON DEFAULT OR ADMISSION**

**Rule 1038.2. Abolition of Case Stated.**

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**Explanatory Comment**

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New Rule 1038.2 abolishes the case stated, a device which has been described as "a misunderstood procedure" and "a trap for the unwary." The abolition eliminates confusion as "parties often call something a 'case stated' when they really mean a stipulation."<sup>2</sup>

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**Explanatory Comment**

The Supreme Court of Pennsylvania has promulgated technical amendments to the following three rules of civil procedure. These amendments do not affect practice or procedure.

**I. Rule 205.4**

Rule 205.4(b)(1)(ii) contained obsolete references to Rule 1023 rescinded in 2002. The rule has been amended to cross-refer to the successor rule, Rule 1023.1. The 1999

<sup>2</sup> See the concurring opinion in *McCarran v. Upper Gwynedd Township et al.*, 139 Pa. Cmwlth. Ct. 528, 591 A.2d 1151, 1159 [ (1990) ] (1991).

Explanatory Comment to the rule is amended to reflect this change and also to delete the obsolete description of the rule as “temporary.”

II. *Rule 206.5*

Rule 206.5(c) contained an obsolete reference to rescinded “subdivision (a).” The rule has been amended to cross-refer to “Rule 206.1(a)” promulgated in 2003.

III. *Rule 1038.2*

Footnote 2 to the Explanatory Comment to rule 1038.2 contains a reference to the *McCarron* case. The year of the decision in the footnote, 1990, was erroneous and has been corrected to read “1991.”

*By the Civil Procedural Rules Committee*

R. STANTON WETTICK, Jr.,  
*Chair*

[Pa.B. Doc. No. 06-602. Filed for public inspection April 14, 2006, 9:00 a.m.]