

# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[231 PA. CODE CH. 200]

#### Amendment of Rule 223.1 Governing Trial by Jury; Proposed Recommendation No. 222

The Civil Procedural Rules Committee is proposing that Rule of Civil Procedure 223.1 governing trial by jury be amended by adding new subdivision (d) relating to jurors' use of electronic devices. 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 June 1, 2007 to:

Harold K. Don, Jr.,  
Counsel

Civil Procedural Rules Committee  
5035 Ritter Road, Suite 700  
Mechanicsburg, Pennsylvania 17055

or E-Mail to  
civil.rules@pacourts.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 200. BUSINESS OF COURTS

#### Rule 223.1. Conduct of the Trial. Trial by Jury.

\* \* \* \* \*

##### (d)(1) During the trial, jurors may not

(i) seek information by any means, including cellular telephones or other electronic devices, or from any source, including e-mail and the Internet, or

(ii) publish information by any means, including cellular telephones or other electronic devices, or to any media, including e-mail and the Internet.

##### (2) During the deliberations of the jury, jurors may not

(i) communicate with persons outside the jury room other than the trial judge,

(ii) seek or publish information as provided by subdivision (d)(1).

**Official Note:** This rule does not regulate the possession by jurors of electronic devices including cell phones and laptop computers. This is left to the discretion of the local court or trial judge.

#### Explanatory Comment

Electronic devices such as cellular telephones and laptop computers have become an integral part of modern

life. However, such devices have no place in the performance of the duties of a juror. Anecdotal and published reports of the use of these devices by jurors during the course of the trial or deliberations of the jury indicate a need that jurors be informed or reminded that these devices are not to be used during the performance of their duties. Proposed Rule 223.1(d) supplies this need.

*By the Civil Procedural Rules Committee*

R. STANTON WETTICK, Jr.,  
*Chair*

[Pa.B. Doc. No. 07-629. Filed for public inspection April 13, 2007, 9:00 a.m.]

### PART I. GENERAL

[231 PA. CODE CH. 200]

#### Proposed Amendment of Rule 227.4 Governing Entry of Judgment upon Praecipe of a Party; Proposed Recommendation No. 224

The Civil Procedural Rules Committee is proposing the amendment of Rule 227.4 governing entry of judgment upon praecipe of a party. 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 June 1, 2007 to:

Harold K. Don, Jr.,  
Counsel

Civil Procedural Rules Committee  
5035 Ritter Road, Suite 700  
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or E-Mail to  
civil.rules@pacourts.us

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#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 200. BUSINESS OF COURTS

#### Rule 227.4. Entry of Judgment upon Praecipe of a Party.

In addition to the provisions of any Rule of Civil Procedure or Act of Assembly authorizing the prothonotary to enter judgment upon praecipe of a party and except as otherwise provided by Rule 1042.72(e)(3), the prothonotary shall, upon praecipe of a party:

(1) enter judgment upon a **nonsuit by the court**, the verdict of a jury or the decision of a judge following a trial without jury, if

\* \* \* \* \*

#### Explanatory Comment

Rule 227.4(a)(1) provides for the entry of judgment upon a verdict of a jury or the decision of a judge without

a jury when no motion for post-trial relief is filed or, if a motion is filed, the court does not timely dispose of it. However, relief from a nonsuit entered by the court is also subject to a motion for post-trial relief (Rule 227.1(a)(3)) but Rule 227.4(a)(1) omits any reference to the nonsuit. The present recommendation would remedy this omission by amending Rule 227.1(a)(1) to include a nonsuit by the court together with the verdict of a jury and the decision of a judge.

*By the Civil Procedural Rules Committee*

R. STANTON WETTICK, Jr.,  
Chair

[Pa.B. Doc. No. 07-630. Filed for public inspection April 13, 2007, 9:00 a.m.]

**PART I. GENERAL**

**[231 PA. CODE CHS. 1300 AND 3000]**

**Rescission of Rule 1307(b) Governing Lien of an Award in Compulsory Arbitration; Proposed Recommendation No. 223**

The Civil Procedural Rules Committee is proposing the rescission of Rule of Civil Procedure 1307(b) governing the lien of an award in compulsory arbitration. 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 June 1, 2007 to:

Harold K. Don, Jr.,  
Counsel

Civil Procedural Rules Committee  
5035 Ritter Road, Suite 700  
Mechanicsburg, Pennsylvania 17055

or E-Mail to  
civil.rules@pacourts.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 1300. ARBITRATION**

**Subchapter A. COMPULSORY ARBITRATION**

**Rule 1307. Award. Docketing. Notice. Lien. Judgment. Molding the Award.**

(a) The prothonotary shall

(1) enter the award of record

[ (A) ] upon the proper docket, [ and

(B) when the award is for the payment of money, in the judgment index;

**Official Note: Rule 3021 governs the requirements for the entry in the judgment index. ]**

(2) immediately send by ordinary mail a copy of the award, with notice of the date and time of its entry on the

docket and the amount of an arbitrators' compensation to be paid upon appeal, to each party's attorney of record, or to the party if the party has no attorney of record[ ; ], and

(3) note in the docket the date of mailing the notice.

**(b) [ The award for the payment of money when entered in the judgment index shall be a lien on real property located within the county, title to which is recorded in the name of the person against whom the award was entered. The lien shall continue during the pendency of an appeal or until extinguished according to law. ] (Rescinded).**

(c) If no appeal is taken within thirty days after the entry of the award on the docket, the prothonotary on praecipe shall enter judgment on the award.

**Official Note: Rule 3021(a)(3) requires the prothonotary to immediately enter in the judgment index a judgment entered on praecipe of a party.**

(d) Where the record and the award disclose an obvious and unambiguous error in the award in mathematics or language, the court, on application of a party within the thirty-day period allowed for appeal, may mold the award to the same extent and with the same effect as the court may mold the verdict of a jury. The filing of such an application shall stay all proceedings including the running of the thirty-day period for appeal until disposition of the application by the court. Any party may file a notice of appeal within the thirty-day appeal period prescribed by Rule 1308(a) or within ten days after disposition of the application, whichever is later.

**CHAPTER 3000. JUDGMENTS**

**Subchapter A. TRANSFER OF JUDGMENTS TO OTHER COUNTIES**

**Rule 3021. Verdict. Order. Judgment. Entry in Judgment Index.**

(a) The prothonotary shall immediately enter in the judgment index

(1) a verdict or order for a specific sum of money with the notation "verdict" or "order." The entry shall state the amount of the verdict or order;

**Official Note: See also [ Rule 1307(a) governing the entry by the prothonotary of an award in compulsory arbitration and ] Rule 3027(a) governing the entry by the prothonotary of a writ of revival.**

\* \* \* \* \*

**Rule 3023. Judgment. Lien. Duration.**

\* \* \* \* \*

(b) A judgment upon a verdict [ , an ] or order [ or an award in compulsory arbitration ], when entered in the judgment index, shall

(1) continue the lien upon real property located in the county which is subject to the lien of the verdict [ , ] or order [ or award ] upon which the judgment is entered, and

**Official Note: The lien of a verdict or order dates from the time the verdict or order is entered in the judgment index. See Rule 3022(a).**

**[ The lien of an award in compulsory arbitration dates from entry of the award in the judgment index. See Rule 1307(b). ]**

\* \* \* \* \*

**Explanatory Comment**

The lien of an award of arbitrators in compulsory arbitration in Pennsylvania is statutory in origin, derived from the Act of June 16, 1836, P. L. 715, § 24. The Act of 1836 was repealed by the Judiciary Act Repealer Act in 1978 and the new provision of the Judicial Code, 42 Pa.C.S. § 7361, does not include the provision relating to the award as a lien. Rule 1307(b) promulgated in 1981 continued the prior practice. As the Civil Procedural Rules Committee stated in Paragraph 17 of its 1981 Explanatory Comment to the new rules governing compulsory arbitration, "The award when entered by the prothonotary on the docket has the effect of a verdict as a lien on real estate. The lien continues pending appeal. This continues the practice under the Act of 1836."

The Committee proposes to change this practice. The award when entered on the docket would no longer have the effect of a verdict on real estate and therefore there would be no lien to continue pending an appeal for a trial de novo. Rather, there would be two scenarios. First, if the defendant pursuant to Rule 1307(c) does not appeal the award of arbitrators within the time required, the plaintiff may enter judgment on the award and that judgment shall be entered in the judgment index as provided by Rule 3021(a)(3) and constitute a lien upon the real estate of the defendant as provided by Rule 3023(a) governing the lien of a judgment. Second, if the defendant does appeal an award for the payment of money, the lien will attach following the verdict of the jury or decision of the court upon the trial de novo as provided by Rule 3022 governing the lien of a verdict or order.

There are three bases for this proposal. First, a lien should be the consequence of a verdict of a jury or a decision of the court. The award of arbitrators is neither of these. Second, the imposition of a lien presents difficulties to the court and to the defendant when on appeal the award is not sustained but the lien is not removed. If the defendant wishes to sell the real estate following a verdict or decision on the trial de novo in his or her favor, he or she must take action to have the lien removed if the court or the plaintiff has not done so. Finally, the statutes and rules of other states which have adopted compulsory or judicial arbitration do not provide for the award of the arbitrators to be a lien on real property. The rule would thus conform to the practice in other jurisdictions.

*By the Civil Procedural Rules Committee*

R. STANTON WETTICK, Jr.,  
*Chair*

[Pa.B. Doc. No. 07-631. Filed for public inspection April 13, 2007, 9:00 a.m.]

**Title 25—LOCAL  
COURT RULES**

**BEAVER COUNTY**

**Local Rule 205.4(2)(b)(4); No. 10130 of 2001**

**Order**

At the request of Lexis Nexis File and Serve, the effective date for the electronic filing of Divorce and Child

Custody legal papers under L.R. 205.4(2)(b)(4) is extended from April 2, 2007 to April 16, 2007.

The Court Administrator shall transmit a copy of this Order as follows:

1. Seven certified copies with the Administrative Office of Pennsylvania Courts;
2. Two certified copies and a computer diskette containing the text of this Order with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;
3. One certified copy to the Civil Procedure Rules Committee of the Supreme Court of Pennsylvania;
4. One copy to the Prothonotary to be kept continuously available for public inspection and copying;
5. One copy to the Law Library of Beaver County; and
6. One copy to the Beaver County Bar Association.

*By the Court*

ROBERT E. KUNSELMAN,  
*President Judge*

[Pa.B. Doc. No. 07-632. Filed for public inspection April 13, 2007, 9:00 a.m.]

**CUMBERLAND COUNTY  
Local Rule 208.3(a)(2); Civil 96-1335**

**Amended Order**

*And Now*, this 20 day of March, 2007, Local Rule 208.3(a)(2) which currently reads:

2. The motion shall name each Judge who has ruled upon any other issue on the same or related matter, and shall specify the issue.

is hereby amended to clarify the information being sought. The rule, as amended, shall read:

2. The motion shall state whether or not a judge has ruled upon any other issue in the same or related matter, and, if so, shall specify the judge and the issue.

The Court Administrator is directed to forward and file certified copies of this order in accordance with Pa.R.C.P. 239(c) and to forward a copy to the *Cumberland Law Journal*.

This rule is effective upon publication on the U.J.S. portal.

*By the Court*

EDGAR B. BAYLEY,  
*President Judge*

[Pa.B. Doc. No. 07-633. Filed for public inspection April 13, 2007, 9:00 a.m.]

**TIOGA COUNTY  
Local Rule TC-117; No. 28 MS 2007**

**Order**

*And Now*, this 2nd day of April, 2007, it is hereby *Ordered* that the following Local Rule 117 in reference to Coverage: Issuing Warrants; Preliminary Arraignments

and Summary Trials; and Setting and Accepting Bail be promulgated. This rule shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*. It is further ordered that the District Court Administrator shall send seven (7) certified copies of this Rule to the Administrative Office of the Pennsylvania Courts, two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and one (1) certified copy to the Criminal Procedural Rules Committee. A copy of this rule shall be kept continuously available for public inspection and copying in the Office of the Tioga County District Court Administrator. The Court Administrator shall furnish to any person a copy of any local rule upon request and payment of reasonable costs of reproduction and mailing.

**Local Rule 117. Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail.**

(1) All Magisterial District Judge (MDJ) Offices shall be open for regular business on Mondays through Fridays, excluding holidays, from 8:00 a.m. to 4:30 p.m., prevailing time. During normal business hours, each MDJ shall have primary responsibility for all matters arising in the venue of that MDJ, with the "on-call" or "duty" MDJ being available for all matters in the absence of that MDJ.

(2) Continuous coverage for the issuance of search warrants and arrest warrants, for warrants issued pursuant to Pa.R.Crim.P. 430 in a summary case, and for the issuance of emergency orders under the Protection from Abuse Act shall be provided by the "on-call" or "duty" MDJ, who shall be available for a one week period, commencing on Friday at 9:00 a.m. and concluding the following Friday at 9:00 a.m.

(3) For services set forth in Pa.R.Crim.P. 117(A)(2)(a) & (c), (referring to the conduct of summary trials following arrest with warrant or the setting of bail for out-of-county warrants) the duty MDJ shall be available at his office without unreasonable delay.

(4) Pursuant to Tioga County Administrative Order #129 MISC 2006 IN RE: Magisterial District Judges, all individuals placed under arrest by law enforcement and requiring arraignment between the hours of 11:00 p.m. and 8:00 a.m. shall be temporarily detained at the Tioga County Prison. [See Pa.R.Crim.P. 117(A)(2)(b) & (d)] Further, individuals placed under arrest between the hours of 8:00 a.m. on Saturday until 8:00 a.m. on Monday shall be temporarily housed at the Tioga County Prison, pending the next MDJ arraignment time.

(5) The duty MDJ shall report to the Tioga County Prison or make himself available via videoconferencing at 8:00 a.m. each day and, additionally, at 8:00 p.m. on Saturday and Sunday to conduct preliminary arraignments for any detainees.

(6) MDJs, the Clerk of Courts, and the Warden, or in his absence, his designee in charge of the Tioga County Prison shall be authorized to accept bail in accordance with the provisions, and subject to the limitations, of the Pennsylvania Rules of Criminal Procedure.

*By the Court*

ROBERT E. DALTON, JR.,  
*President Judge*

[Pa.B. Doc. No. 07-634. Filed for public inspection April 13, 2007, 9:00 a.m.]