

# THE COURTS

## Title 207—JUDICIAL CONDUCT

### PART III. JUDICIAL CONDUCT BOARD

[207 PA. CODE CH. 117]

#### Rescission of Rule 31

At its February 5, 2007 meeting, the Judicial Conduct Board voted to rescind Rule 31 of Chapter 117 of their Rules of Procedure, in its entirety. The rescission is effective immediately.

#### Annex A

#### TITLE 207. JUDICIAL CONDUCT

#### PART III. JUDICIAL CONDUCT BOARD

#### CHAPTER 117. [DISPOSITION; CONTINUANCES] (Reserved)

#### Rule 31. [Disposition of Complaint] (Reserved).

[ (A) Except as provided in paragraph (C), within 180 days of the Board's receipt of the Judicial Officer's written response pursuant to Rule 30(B)(2)(c) or written response to any subsequent letter requesting information by the Board, the Board shall:

(1) dismiss the complaint upon a finding that there is no existing probable cause to file formal charges;

(2) dismiss the complaint with the issuance of a letter of counsel upon a determination that, even if the alleged conduct occurred, it was not conduct which requires that formal charges be filed, provided that the Judicial Officer:

(a) consents in writing;

(b) stipulates that the letter of counsel may be used during proceedings involving new complaints against the Judicial Officer; and

(c) agrees to and satisfies any conditions required by the Board; or

(3) authorize the filing of formal charges with the Court of Judicial Discipline.

(B) If the Board dismisses a complaint following a full investigation, Chief Counsel shall promptly notify the Judicial Officer and the complainant.

(C) Exceptions.

(1) The Board may continue a full investigation of a matter beyond the 180-day period set forth in paragraph (A) upon a good faith belief that further investigation is necessary.

(2) The Board may defer disposition of a complaint pursuant to paragraph (A) upon discovery or receipt of additional, corollary, or cognate allegations which may necessitate an investigation.

(3) The receipt of the Judicial Officer's written response to any Rule 30(B) notice or supplemental or investigatory letter is a necessary prerequisite to the tolling and calculation of the 180-day period set forth in paragraph (A). Thus, the 180-day time period is wholly inapplicable if the Judicial Officer fails to file a written response and the investigation will continue to conclusion. ]

[Pa.B. Doc. No. 07-344. Filed for public inspection March 2, 2007, 9:00 a.m.]

## Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 5]

### Proposed Amendments to Pa.R.Crim.P. 541

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Pa.R.Crim.P. 541 (Waiver of Preliminary Hearing) to add a cross-reference to Rule 543(C) to alert the bench and bar that bail needs to be addressed when a defendant waives the preliminary hearing. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Report 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 amendments precedes the Report.

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

Anne T. Panfil, Chief Staff Counsel  
Supreme Court of Pennsylvania  
Criminal Procedural Rules Committee  
5035 Ritter Road, Suite 100  
Mechanicsburg, PA 17055  
fax: (717) 795-2106

e-mail: [criminalrules@pacourts.us](mailto:criminalrules@pacourts.us)

no later than Friday, April 20, 2007.

*By the Criminal Procedural Rules Committee*

NICHOLAS J. NASTASI,  
*Chair*

#### Annex A

#### TITLE 234. RULES OF CRIMINAL PROCEDURE

#### CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

#### PART D. Proceedings in Court Cases Before Issuing Authorities

#### Rule 541. Waiver of Preliminary Hearings.

(A) The defendant who is represented by counsel may waive the preliminary hearing at the preliminary arraignment or at any time thereafter.

(B) The defendant who is not represented by counsel at the preliminary arraignment may not at that time waive the preliminary hearing.

(C) If the defendant waives the preliminary hearing and consents to be bound over to court, the defendant and defense attorney, if any, shall certify in writing that the issuing authority told the defendant of the right to have a preliminary hearing, and that the defendant voluntarily waives the hearing and consents to be bound over to court.

**(D) When the defendant waives the preliminary hearing, the case shall proceed as provided in Rule 543(C).**

#### Comment

While the rule continues to require a written certification incorporating the contents set forth in paragraph (C), the form of certification was deleted in 1985 because it is no longer necessary to control the specific form of written certification.

Under paragraph (B), it is intended that the defendant who elects to proceed pro se may waive the preliminary hearing at a time subsequent to the preliminary arraignment.

**Official Note:** Rule 140A adopted April 26, 1979, effective July 1, 1979; amended November 9, 1984, effective January 2, 1985; renumbered Rule 541 and amended March 1, 2000, effective April 1, 2001; **amended** , 2007, effective , 2007.

#### Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

**Report explaining the proposed new paragraph (D) referencing Rule 543(C) published at 37 Pa.B. 1026 (March 3, 2007).**

#### REPORT

##### *Proposed amendments to Pa.R.Crim.P. 541*

#### **Bail When Defendant Waives Preliminary Hearing**

The Criminal Procedural Rules Committee is proposing an amendment to Pa.R.Crim.P. 541 (Waiver of Preliminary Hearing) that would add a cross-reference to the provisions in Rule 543(C) that require the issuing authority to:

- (1) set bail as permitted by law if the defendant did not receive a preliminary arraignment; or
- (2) continue the existing bail order, unless the issuing authority modifies the order as permitted by Rule 529(A)

when the defendant has been held for court.

The Committee agreed to propose this change after learning that some judicial districts do not permit defendants to waive the preliminary hearing when the case has proceeded pursuant to a summons because there is no

provision in Rule 541 concerning the imposition of bail, and in summons cases, bail ordinarily is set at the preliminary hearing pursuant to Rule 543(C).

Following our discussion, the Committee confirmed that defendants in cases initiated by summons may waive the preliminary hearing as provided in Rule 541. The Committee also agreed that Rule 541 should be amended to address bail in these cases, as well as when a preliminary hearing is waived following a preliminary arraignment. In reaching this decision, the Committee noted that the bail provisions in Rule 543(C) apply when the defendant is held for court following a preliminary hearing, and reasoned it is appropriate for the issuing authority to address bail at the time he or she accepts the defendant's waiver because, when the defendant waives the preliminary hearing, the case is held for court. Accordingly, after discussing several different means of alerting the bench and bar to the need to address bail at the time of the waiver, the members agreed to propose that a new paragraph (D) be added to Rule 541 that provides "when the defendant waives the preliminary hearing, the case shall proceed as provided in Rule 543(C)."

[Pa.B. Doc. No. 07-345. Filed for public inspection March 2, 2007, 9:00 a.m.]

## Title 25—LOCAL COURT RULES

### DAUPHIN COUNTY

#### Promulgation of Local Rules; No. 1793 S 1989

#### Order

And Now, this 20th day of February, 2007, Dauphin County Local Rules of Civil Procedure 1301 and 1308 are amended as follows:

#### **Rule 1301—Arbitration.**

1. All actions at issue in which the amount in controversy is [ **\$35,000** ] **\$50,000** or less, except those involving title to real estate, shall be submitted to and be heard by a Board of Arbitration pursuant to applicable law. The term "amount in controversy" shall mean the aggregate amount, exclusive of interest and costs, claimed by any one party in the complaint, counterclaim, or agreement of reference.

2. . . .

#### **Rule 1308—Appeal. Notice. Compensation.**

. . .

(a)(2) When an appeal is filed to a decision of the Board of Arbitrators, any party appealing shall repay to the County the fees of the members of the Board of Arbitration, which shall not thereafter be refundable to or recoverable by the said party under any circumstances, under the following schedule:

(a) If the amount in controversy is less than \$5,000.00—\$[ **200.00** ] **400.00**.

(b) If the amount in controversy is \$5,000.00 or more, but less than \$10,000.00—\$[ 300.00 ] 500.00.

(c) If the amount in controversy is \$10,000.00 or more, but less than \$20,000.00—\$[ 400.00 ] 600.00.

(d) If the amount in controversy is \$20,000.00 or more, but less than \$35,000.00—\$[ 500.00 ] 700.00.

(e) If the amount in controversy is \$35,000.00—50,000.00—\$800.00.

**For purposes of determining the appeal fee, “amount in controversy” shall be defined as the amount of the award rendered by the Board of Arbitration, or, in cases of no award, the amount demanded in the complaint.**

These amendments shall be effective July 3, 2007.

*By the Court*

RICHARD A. LEWIS,  
*President Judge*

[Pa.B. Doc. No. 07-346. Filed for public inspection March 2, 2007, 9:00 a.m.]

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# COMMONWEALTH COURT

Regular Sessions of Commonwealth Court for the Year 2008; 126 M.D. No. 3

### Order

*And Now*, this 9th day of February, 2007, *It Is Hereby Ordered* that the argument sessions of the Commonwealth Court of Pennsylvania shall be held in the year 2008 as follows:

*Dates*

February 11—15  
March 10—14  
April 7—11  
May 5—9  
June 9—13  
September 8—12  
October 14—17  
November 10—14  
December 8—12

*Situs*

Pittsburgh  
Philadelphia  
Harrisburg  
Pittsburgh  
Philadelphia  
Harrisburg  
Pittsburgh  
Philadelphia  
Harrisburg

BONNIE BRIGANCE LEADBETTER,  
*President Judge*

[Pa.B. Doc. No. 07-347. Filed for public inspection March 2, 2007, 9:00 a.m.]

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