

THE COURTS

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 1000]

Amendment of Rules 1008 and 1013 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges; No. 241 Magisterial Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 15th day of April, 2008, upon recommendation of the Minor Court Rules Committee, the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3) in the interest of justice and efficient administration, and a Final Report to be published with this *Order*.

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 1008 and 1013 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges be, and hereby are, amended to read as follows.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective May 15, 2008.

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 1000. APPEALS

APPEAL

Rule 1008. Appeal as Supersedeas.

A. Receipt by the magisterial district judge of the copy of the notice of appeal from the judgment shall operate as supersedeas, except as provided in [subdivision] subdivisions B and C of this rule.

B. When an appeal is from a judgment for the possession of real property, receipt by the magisterial district judge of the copy of the notice of appeal shall operate as a supersedeas only if the appellant at the time of filing the notice of appeal, deposits with the prothonotary a sum of money (or a bond, with surety approved by the prothonotary) equal to the lesser of three (3) months' rent or the rent actually in arrears on the date of the filing of the notice of appeal, based upon the magisterial district judge's order of judgment, and, thereafter, deposits cash or bond with the prothonotary in a sum equal to the monthly rent which becomes due during the period of time the proceedings upon appeal are pending in the court of common pleas, such additional deposits to be made within thirty (30) days following the date of the appeal, and each successive thirty (30) day period thereafter.

Upon application by the landlord, the court shall release appropriate sums from the escrow account on a continuing basis while the appeal is pending to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the appeal.

In the event the appellant fails to deposit the sums of money, or bond, required by this rule when such deposits are due, the prothonotary, upon praecipe filed by the appellee, shall terminate the supersedeas. Notice of the termination of the supersedeas shall be forwarded [via] by first class mail to [all parties, but if any party has an attorney] attorneys of record [named in the complaint form or other filings with the court, notice shall be given to the attorney instead of to the party. Notice to a party that does not have an attorney of record is sufficient if mailed] , or, if a party is unrepresented, to the party's last known address of record.

[Where] When the deposit of money or bond is made pursuant to the [Rule] rule at the time of filing the appeal, the prothonotary shall make upon the notice of appeal and its copies a notation that it will operate as a supersedeas when received by the magisterial district judge.

C. Indigent Tenants

(1) Residential tenants who seek to appeal from a magisterial district court judgment for possession and who do not have the ability to pay the lesser of three months' rent or the full amount of the magisterial district court judgment for rent shall file with the office of the prothonotary a tenant's affidavit, as set forth in subdivision (2).

(2) The tenant's affidavit shall be substantially in one of the following two forms:

[Caption]

TENANT'S SUPERSEDEAS AFFIDAVIT (NON-SECTION 8)

I, _____ (print name and address here), have filed a notice of appeal from a magisterial district court judgment awarding to my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the judgment for rent awarded by the magisterial district court. My total household income does not exceed the income limits set forth in the supplemental instructions for obtaining a stay pending appeal and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date _____

SIGNATURE OF TENANT

OR

[Caption]

SECTION 8 TENANT'S SUPERSEDEAS AFFIDAVIT

I, _____ (print name and address here), have filed a notice of appeal from a magisterial district court judgment awarding my landlord possession of real property that I occupy, and I do not have the

financial ability to pay the lesser of three (3) times my monthly rent or the actual rent in arrears. My total household income does not exceed the income limits set forth in the supplemental instructions for obtaining a stay pending appeal and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

The total amount of monthly rent that I personally pay to the landlord is \$ _____. I hereby certify that I am a participant in the Section 8 program and I am not subject to a final (i.e., non-appealable) decision of a court or government agency which terminates my right to receive Section 8 assistance based on my failure to comply with program rules.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date SIGNATURE OF TENANT

(3)(a) If the rent has already been paid to the landlord in the month in which the notice of appeal is filed, the tenant shall pay into an escrow account with the prothonotary the monthly rent as it becomes due under the lease for the months subsequent to the filing of the notice of appeal; or

(b) If the rent has not been paid at the time of filing the notice of appeal, the tenant shall pay:

(i) at the time of filing the notice of appeal, a sum of money equal to one third (1/3) of the monthly rent;

(ii) an additional deposit of two thirds (2/3) of the monthly rent within twenty (20) days of filing the notice of appeal; and

(iii) additional deposits of one month's rent in full each thirty (30) days after filing the notice of appeal. The amount of the monthly rent is the sum of money found by the magisterial district judge to constitute the monthly rental for the leasehold premises pursuant to Rule 514A. However, when the tenant is a participant in the Section 8 program, the tenant shall pay the tenant share of the rent as set forth in the "Section 8 Tenant's Supersedeas Affidavit" filed by the tenant.

(4) The prothonotary's office of the Court of Common Pleas in which the appeal is taken shall provide residential tenants who have suffered a judgment for possession with a "Supplemental Instructions for Obtaining a Stay of Eviction" as it appears on the website of the Minor Court Rules Committee.

Official Note: The website of the Minor Court Rules Committee is part of the home page of the Administrative Office of Pennsylvania Courts at www.aopc.org. The Supplemental Instructions include both instructions and income limits.

The income limits are stated in monthly amounts and are based upon the most recent poverty income guidelines issued by the Federal Department of Health and Human Services.

(5) When the requirements of paragraphs (2) and (3) have been met, the prothonotary shall issue a supersedeas.

(6) Upon application by the landlord, the court shall release appropriate sums from the escrow account on a continuing basis while the appeal is pending to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the appeal.

(7) If the tenant fails to make monthly rent payments to the prothonotary as described in paragraph (3), the supersedeas may be terminated by the prothonotary upon praecipe by the landlord or other party to the action. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented, to the party's last known address of record.

(8) If the Court of Common Pleas determines, upon written motion or its own motion, that the averments within any of the tenant's affidavits do not establish that the tenant meets the terms and conditions of paragraph (1), supra, the Court may terminate the supersedeas. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented, to the party's last known address of record.

D. If an appeal is stricken or voluntarily terminated, any supersedeas based on it shall terminate. The prothonotary shall pay the deposits of rental to the party who sought possession of the real property.

Official Note: Subdivision A provides for an automatic supersedeas in appeals from [**trespass and assumpsit**] civil actions upon receipt by the magisterial district judge of a copy of the notice of appeal. [**It did not seem worthwhile to require bond or other security for costs as a condition for supersedeas in trespass and assumpsit appeals.**]

Subdivision B, however, does require the deposit of money or approved bond as a condition for supersedeas where the appeal is from a judgment for the possession of real property. [**This provision substantially incorporates the purpose and intent of the Legislative provision contained in Act No. 1995-33, approved July 6, 1995. The 1996 amendment provides a uniform, Statewide procedure (except Philadelphia County; See: Philadelphia Municipal Court Rules of Civil Procedure), and establishes a mechanism for the application of a supersedeas or the termination thereof without the need for any local court rule or order.**] A new subdivision (C) was created in 2008 to provide for appeals by indigent residential tenants who are unable to meet the bond requirements of subdivision (B).

The request for termination of the supersedeas, upon the praecipe filed with the prothonotary, may simply state: "Please terminate the supersedeas in the within action for failure of the appellant to pay monthly rental as required by Pa.R.C.P.M.D.J. No. 1008 [**for a period in excess of thirty (30) days**] when it became due" and will be signed by appellee. The prothonotary will then note upon the praecipe: "Upon confirmation of failure of the appellant to deposit the monthly rent [**for more than thirty (30) days**] when it became due, the supersedeas is terminated," and the prothonotary will sign and clock the praecipe. A copy of the praecipe may thereupon be displayed to the magisterial district judge

who rendered the judgment, and a request for issuance of an order for possession under Pa.R.A.P.M.D.J. No. 515 made.

The deposit of rent required hereunder is intended to apply in all cases, irrespective of the reasons which caused the filing of the complaint before the magisterial district judge in the first instance. Disposition of the monthly rental deposits will be made by the court of common pleas following its de novo hearing of the matter on appeal.

The money judgment portion of a landlord and tenant judgment (see Pa.R.C.P.M.D.J. Nos. 514 and 521) would be governed by subdivision A.

Adopted June 1, 1971. Amended April 25, 1979, effective in 30 days; June 30, 1982, effective in 30 days after July 17, 1982; March 28, 1996, effective March 29, 1996; **April 15, 2008, effective May, 15 2008.**

Rule 1013. Writ of Certiorari as Supersedeas.

A. Receipt of the writ of certiorari by the magisterial district judge to whom it was directed shall operate as a supersedeas, except as provided in [subdivision] subdivisions B and C of this rule.

B. When the writ of certiorari involves a judgment for the possession of real property, receipt of the writ by the magisterial district judge shall operate as a supersedeas only if the party obtaining the writ at the time of filing the writ, deposits with the prothonotary a sum of money (or a bond, with surety approved by the prothonotary) equal to the lesser of three (3) months' rent or the rent actually in arrears on the date of the filing of [appeal] **the praecipe for writ of certiorari ("praecipe")**, as determined by the magisterial district judge, and, thereafter, deposits cash or bond with the prothonotary in a sum equal to the monthly rent which becomes due during the period of time the proceedings upon writ are pending in the court of common pleas, such additional deposits to be made within thirty (30) days following the date of the filing of the [writ] **praecipe**, and each successive thirty (30) day period thereafter.

Upon application by the landlord, the court shall release appropriate sums from the escrow account on a continuing basis while the writ is pending and while the ensuing proceeding is pending (in the event the writ is granted) to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the writ and during the pendency of the ensuing proceeding (in the event the writ is granted).

In the event that the party filing the [writ] **praecipe** fails to deposit the sums of money, or bond, required by this rule when such deposits are due, the prothonotary, upon praecipe filed by the party that did not file the **praecipe for writ of certiorari**, shall terminate the supersedeas. Notice of the termination of the supersedeas shall be forwarded [via] by first class mail to [all parties, but if any party has an attorney] attorneys of record [named in the complaint form or other filings with the court, notice shall be given to the attorney instead of to the party. Notice to a party who or which does not have an attorney of record is sufficient if mailed], or, if a party is unrepresented to the party's last known address of record.

Where the deposit of money or bond is made pursuant to this Rule at the time of the filing of the [writ] **praecipe**, the prothonotary shall make upon the writ and

its copies a notation that the writ will operate as a supersedeas when received by the magisterial district judge.

C. Indigent Tenants

(1) Residential tenants who seek to file a praecipe involving a magisterial district court judgment for possession and who do not have the ability to pay the lesser of three months' rent or the full amount of the magisterial district court judgment for rent shall file with the office of the prothonotary a tenant's affidavit, as set forth in subdivision (2).

(2) The tenant's affidavit shall be substantially in one of the following two forms:

[Caption]

TENANT'S SUPERSEDEAS AFFIDAVIT (NON-SECTION 8)

I, _____ (print name and address here), have filed a praecipe for a writ of certiorari to review a magisterial district court judgment awarding to my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the judgment for rent awarded by the magisterial district court. My total household income does not exceed the income limits set forth in the instructions for obtaining a stay pending issuance of a writ of certiorari and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date _____ SIGNATURE OF TENANT
OR
[Caption]

SECTION 8 TENANT'S SUPERSEDEAS AFFIDAVIT

I, _____ (print name and address here), have filed a praecipe for a writ of certiorari to review a magisterial district court judgment awarding my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the actual rent in arrears. My total household income does not exceed the income limits set forth in the Instructions for obtaining a stay pending issuance of writ of certiorari and I have completed an in forma pauperis (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

The total amount of monthly rent that I personally pay to the landlord is \$ ____ . I hereby certify that I am a participant in the Section 8 program and I am not subject to a final (i.e., non-appealable) decision of a court or government agency which terminates my right to receive Section 8 assistance based on my failure to comply with program rules.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date _____ SIGNATURE OF TENANT _____

(3)(a) If the rent has already been paid to the landlord in the month in which the praecipe is filed, the tenant shall pay into an escrow account with the prothonotary the monthly rent as it becomes due under the lease for the months subsequent to the filing of the praecipe; or

(b) If the rent has not been paid at the time of filing the praecipe, the tenant shall pay:

(i) at the time of filing the praecipe, a sum of money equal to one third (1/3) of the monthly rent;

(ii) an additional deposit of two thirds (2/3) of the monthly rent within twenty (20) days of filing the praecipe; and

(iii) additional deposits of one month's rent in full each thirty days after filing the praecipe. The amount of the monthly rent is the sum of money found by the magisterial district judge to constitute the monthly rental for the leasehold premises pursuant to Rule 514A. However, when the tenant is a participant in the Section 8 program, the tenant shall pay the tenant share of the rent as set forth in the "Section 8 Tenant's Supersedeas Affidavit" filed by the tenant.

(4) The prothonotary's office of the Court of Common Pleas in which the praecipe is filed shall provide residential tenants who have suffered a judgment for possession with a "Supplemental Instructions for Obtaining a Stay of Eviction" as it appears on the website of the Minor Court Rules Committee.

Official Note: The website of the Minor Court Rules Committee is part of the home page of the Administrative Office of Pennsylvania Courts at www.aopc.org. The Supplemental Instructions include both instructions and income limits.

The income limits are stated in monthly amounts and are based upon the most recent poverty income guidelines issued by the Federal Department of Health and Human Services.

(5) When the requirements of paragraphs (2) and (3) have been met, the prothonotary shall issue a supersedeas.

(6) Upon application by the landlord, the court shall release appropriate sums from the escrow account on a continuing basis while the writ is pending and while the ensuing proceeding is pending (in the event the writ is granted) to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the writ and during the pendency of the ensuing proceeding (in the event the writ is granted).

(7) If the tenant fails to make monthly rent payments to the prothonotary as described in paragraph (3), the supersedeas may be terminated by the prothonotary upon praecipe by the landlord or other party to the action. Notice of the termination of the supersedeas shall be forwarded by first class

mail to attorneys of record, or, if a party is unrepresented, to the party's last known address of record.

(8) If the Court of Common Pleas determines, upon written motion or its own motion, that the averments within any of the tenant's affidavits do not establish that the tenant meets the terms and conditions of paragraph (1), supra, the Court may terminate the supersedeas. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented, to the party's last known address of record.

D. If a writ of certiorari is stricken, dismissed or discontinued, any supersedeas based on it shall terminate. The prothonotary shall pay the deposits of rental to the party who sought possession of the real property.

Official Note: As in appeals (see Pa.R.C.P.M.D.J. No. 1008), certiorari operates as an automatic supersedeas in [trespass and assumpsit matters] civil actions when the writ is received by the magisterial district judge. If the writ involves a judgment for the possession of real property, however, it will operate as a supersedeas upon receipt by the magisterial district judge only if money is paid or a bond is filed conditioned as stated in the rule. This Rule has been amended to require a payment equal to the lesser of three months rent or the rent actually in arrears in order for the writ involving a judgment for the possession of real property to act as a supersedeas to ensure consistency between this Rule and Pa.R.C.P.M.D.J. No. 1008. (Appeal as Supersedeas). **A new subdivision (C) was created in 2008 to provide a praecipe for writ of certiorari process for indigent residential tenants who are unable to meet the bond requirements of subdivision (B).**

The request for termination of the supersedeas, upon the praecipe filed with the prothonotary, may simply state: "Please terminate the supersedeas in the within action for failure of the party filing the writ to pay monthly rental as required by Pa.R.C.P.M.D.J. No. 1013 [for a period in excess of thirty (30) days] when it became due" and will be signed by landlord. The prothonotary will then note upon the praecipe: "Upon confirmation of failure of the party filing the writ to deposit the monthly rent [for more than thirty (30) days,] when it became due the supersedeas is terminated," and the prothonotary will sign and clock the praecipe. A copy of the praecipe may thereupon be displayed to the magisterial district judge who rendered the judgment, and a request for issuance of an order for possession under Pa.R.C.P.M.D.J. No. 515 may be made.

The money judgment portion of a landlord and tenant judgment (see Pa.R.C.P.M.D.J. Nos. 514 and 521) would be governed by subdivision A of this rule.

Adopted June 1, 1971. Amended April 25, 1979, effective in 30 days; June 30, 1982, effective in 30 days after July 17, 1982; March 28, 1996, effective March 29, 1996; Jan. 6, 2005, effective Jan. 29, 2005; April 15, 2008, effective May 15, 2008.

SUPPLEMENTAL INSTRUCTIONS FOR OBTAINING A STAY OF EVICTION

****** IMPORTANT **** PLEASE READ THESE INSTRUCTIONS CAREFULLY!**

This document contains important information about your case. Failure to comply with any in-

structions provided in these materials may cause you to be evicted before your appeal or writ is heard.

1. FOR TENANTS—SUPERSEDEAS: If you are a tenant and you filed the notice of appeal or praecipe for writ of certiorari, you must pay money into an escrow account to remain in the property until your appeal or writ is decided. This is called a “supersedeas.” The supersedeas will suspend the magisterial district court judgment and will prevent your eviction until your case is heard by a judge and a final decision is made on the appeal or writ. **IF YOU FAIL TO PAY YOUR MONTHLY RENT INTO ESCROW IN FULL AND ON TIME, YOU COULD BE EVICTED BEFORE YOUR APPEAL OR WRIT IS HEARD.**

Begin by looking at the income limits attached to these instructions.

If your income is below the income limits, complete a Tenant’s Affidavit, pursuant to Pa.R.C.P.M.D.J. No. 1008(C)(2) or 1013(C)(2). These affidavits are available on the website of the Administrative Office of Pennsylvania Courts (www.aopc.org). Then follow the instructions for low-income tenants below. There are several different options available; pick the option (A, B, or C) that best describes your situation.

If your income is *higher* than the income limits attached to these instructions, follow the instructions for D.

A. If you are a low-income tenant and there was a money judgment entered against you for non-payment of rent, and you **HAVE NOT** paid rent for the month in which the notice of appeal or praecipe for writ of certiorari is filed, you must:

1. File an in forma pauperis petition (a petition for low-income parties) pursuant to Pa.R.C.P. No. 240;
2. Pay one-third of your monthly rent into an escrow account with the prothonotary’s office at the time the notice of appeal or praecipe for writ of certiorari (“praecipe”) is filed;
3. Pay the remaining two-thirds (2/3) of your monthly rent into the escrow account within twenty (20) days of the date the notice of appeal or praecipe was filed; and
4. Pay your monthly rent on an ongoing basis into the escrow account in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of your trial.

B. If you are a low-income tenant, and there was a money judgment against you for non-payment of rent, and you **HAVE** paid rent for the month in which the notice of appeal or praecipe for writ of certiorari (“praecipe”) is filed, you do not have to pay rent at the time you file your notice of appeal or praecipe. You must:

1. File an in forma pauperis petition (a petition for low-income parties), pursuant to Pa.R.C.P. No. 240;
2. Pay your monthly rent on an ongoing basis into an escrow account with the prothonotary in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of trial. It is important to count the thirty (30) days exactly because the date of your payment will change depending on the number of days in a given month.

C. If you are a low-income tenant, and no money judgment was entered against you for non-payment of rent, you do not have to pay rent at the time you file your

notice of appeal or praecipe for writ of certiorari (“praecipe”). *This option is to be used if at the magisterial district court hearing, the judge determined that you owed “zero” or “nothing” in rent.* You must:

1. File an in forma pauperis petition (a petition for low-income parties), pursuant to Pa.R.C.P. No. 240;
2. Pay your monthly rent on an ongoing basis into an escrow account with the prothonotary in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of your trial. It is important to count the thirty (30) days exactly because the date of your payment will change depending on the number of days in a given month.

D. If your income is higher than the income limits on the attached chart, you must:

1. Pay the fee to file a notice of appeal or praecipe for writ of certiorari (“praecipe”);
2. Pay the lesser of three (3) months’ rent or the amount of rent awarded to the landlord in magisterial district court into an escrow account with the prothonotary’s office at the time the notice of appeal or praecipe is filed; and
3. Pay your monthly rent into the escrow account in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of trial. It is important to count the thirty (30) days exactly because the date on your payment will change depending on the number of days in a given month.

INCOME LIMITS

2008 HHS Poverty Income Guidelines Expressed in Monthly Amounts

Size of Family Unit	Poverty Guideline Monthly Amount
1	\$866.66
2	1,166.66
3	1,466.66
4	1,766.66
5	2,066.66
6	2,366.66
7	2,666.66
8	2,966.66
For each additional person, add	300.00

FINAL REPORT

Recommendation 1-2008, Minor Court Rules Committee

Amendments to Rules 1008 and 1013 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges

EXCEPTIONS FOR INDIGENT RESIDENTIAL TENANTS IN APPEALS

On April 15, 2008, effective May 15, 2008, upon recommendation of the Minor Court Rules Committee,¹ the Supreme Court of Pennsylvania approved amendments to Rules 1008 and 1013 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges.²

¹ Minor Court Rules Committee Recommendation 1-2008.
² Supreme Court of Pennsylvania Order No. 241 Magisterial Rules Docket No. 1 (April 15, 2008).

I. Background

In late 2007, the Minor Court Rules Committee (“Committee”) became aware of federal district court lawsuits challenging the constitutionality of Pa.R.C.P.M.D.J. No. 1008B. In both *Jones v. Lamb*³ and *Santiago v. Sutton*⁴, federal district court judges enjoined the use of Rule 1008B as applied to indigent tenants. The courts relied upon federal constitutional guarantees of due process and equal protection in holding that indigent residential tenants’ rights were being violated by Rule 1008B’s requirement that tenants post three times the monthly rent or the rent determined to be in arrears so that they could remain in the home while appealing a magisterial district judge’s award of possession to the landlord.

The Committee learned that two counties—Allegheny and Berks—had already been subject to litigation of Rule 1008B but that other lawsuits on behalf of indigent tenants were likely. In order to comply with the federal district courts’ holdings; to limit litigation and associated expenses; and to provide a uniform, statewide procedure for indigent residential tenants, the Committee agreed that an immediate amendment to Rule 1008 was advisable. At the same time, the Committee decided to make similar revisions to Rule 1013.

II. Discussion

Rule 1008B (“Appeal as Supersedeas”) requires that residential tenants who want to remain in a rental unit during an appeal must post “a sum of money equal to the lesser of three (3) months’ rent or the rent actually in arrears on the date of the filing of appeal, based upon the magisterial district judge’s order of judgment . . .” Until the instant rule change, residential tenants who were unable to post this sum of money could not remain in their homes pending a de novo appeal by a common pleas court.

Similarly, Rule 1013B (“Writ of Certiorari as Supersedeas”) requires a residential tenant to post the same sum (three months’ rent or the rent actually in arrears) in order to receive a supersedeas from the prothonotary’s office, allowing the residential tenant to remain in the rental unit during the writ of certiorari process. The change to Rule 1013 allows indigent residential tenants to follow a procedure that maintains them in their homes during the writ of certiorari process.

In determining that these rules changes were necessary, the Committee reviewed pleadings from *Lamb* and *Santiago*, such as complaints and temporary restraining orders. In addition, the Committee reviewed the federal district court case *Pleasant v. Evers*. See *Wendolyn Pleasant and Tenants’ Action Group v. Evers*, 1998 WL 205431 (E.D. Pa. Apr. 24, 1998), C.A.NO. 97-4124 (Ludwig, J.). In *Evers*, Community Legal Services challenged Philadelphia Municipal Court’s Rule of Procedure 124, which required a deposit to be paid in almost the same fashion as Pa.R.C.P.M.D.J. No. 1008B. During the early phases of the protracted litigation, a temporary restraining order was entered enjoining the use of the Municipal Court rule. Ultimately, *Evers* led Municipal Court to change its practices and create a standing procedure for indigent residential tenants’ appeals. That procedure is still used today.

After reviewing the various federal court cases, the Committee proposed that Rule 1008 be amended to provide a procedure on appeal for indigent residential tenants. In addition, the Committee proposed that Rule 1013 be amended to cure the same type of problem, only in the praecipe for writ of certiorari arena.

III. Approved Rule Changes

A. Rule 1008

The Committee proposed amendment of Rule 1008 to include a new subdivision C that contains the appeal procedure for indigent residential tenants. Within new subdivision C, there is an explanation of how much tenants are to pay, including the scenarios of rent already being paid that month, or no rental payment for the month of the appeal. Two tenant’s affidavits are provided within the new C, while the new subdivision also references supplemental instructions that will be provided by the prothonotary’s office staff to residential tenants who have suffered a judgment for possession. The supplemental instructions and attached poverty income guidelines will be available on the Minor Court Rules Committee’s website, much in the same way that federal income guidelines are posted on the Civil Procedural Rules Committee’s website. See Pa.R.C.P. No. 3302(b). The income guidelines appended to the supplemental instructions are modeled upon the guidelines promulgated by the Civil Procedural Rules Committee for Pa.R.C.P. No. 3302(b).

In addition, the Note to the Rule has been amended to delete the obsolete terms “trespass” and “assumpsit.” They have been replaced with “civil action.” The Note to the Rule has also been amended to include a short explanation of the background of the Rule change. Finally, miscellaneous grammatical errors were corrected.

B. Rule 1013

The Committee proposed amendment of Rule 1013 to include a new subdivision C that contains the writ of certiorari procedure for indigent residential tenants. Within new subdivision C, there is an explanation of how much tenants are to pay, including the scenarios of rent already being paid that month, or no rental payment for the month of the writ. Two tenant’s affidavits are provided within the new C, while the new subdivision also references supplemental instructions that will be provided by the prothonotary’s office staff to residential tenants who have suffered a judgment for possession. The supplemental instructions and attached poverty income guidelines will be available on the Minor Court Rules Committee’s website, much in the same way that federal income guidelines are posted on the Civil Procedural Rules Committee’s website. See Pa.R.C.P. No. 3302(b). The income guidelines appended to the supplemental instructions are modeled upon the guidelines promulgated by the Civil Procedural Rules Committee for Pa.R.C.P. No. 3302(b).

In addition, the Note to the Rule has been amended to delete the obsolete terms “trespass” and “assumpsit.” They have been replaced with “civil action.” The Note to the Rule has also been amended to include a short explanation of the background of the Rule change. Finally, miscellaneous grammatical errors were corrected.

[Pa.B. Doc. No. 08-821. Filed for public inspection May 2, 2008, 9:00 a.m.]

³ Docketed in the U.S. District Court for the Western District of PA at: 05-1025.

⁴ Docketed in the U.S. District Court for the Eastern District of PA at: 07-2496.

PART I. GENERAL

[246 PA. CODE CH. 200]

Proposed Amendment to Rule 209 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges

The Minor Court Rules Committee (Committee) is planning to recommend that the Supreme Court of Pennsylvania amend Rule 209 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges to specify that military personnel shall be granted continuances in civil actions under certain circumstances. The Committee has not yet submitted this proposal for review by the Supreme Court of Pennsylvania.

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

The text of the proposed changes precedes the *Report*. Additions are shown in bold.

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

Paula Knudsen Burke, Counsel
Minor Court Rules Committee
Supreme Court of Pennsylvania
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055
Fax: 717-795-2175

or email to: minorcourt.rules@pacourts.us

no later than May 31, 2008.

By the Minor Court Rules Committee:

M. KAY DUBREE,
Chair

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 200. RULES OF CONSTRUCTION;
GENERAL PROVISIONS**Rule 209. Continuances.**

* * * * *

(E) Continuances shall be granted in compliance with the Servicemembers Civil Relief Act, 50 App. U.S.C.A. § 501.

Official Note: This rule was amended in 2005 to consolidate the provisions of former Rules 320 (relating to continuances in civil actions) and 511 (relating to continuances in possessory actions) into one general rule governing continuances. The limitations set forth in subdivision C are intended to ensure that these cases proceed expeditiously. The grounds set forth in subdivision D, of course, are not intended to be the only grounds on which a continuance will be granted.

Adopted March 15, 1994, effective April 2, 1994.
Amended December 16, 2004, effective July 1, 2005;
January 6, 2005, effective January 29, 2005.
Amended , 2008, **immediately effective.**

REPORT

Proposed Amendment to Rule 209 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges**I. Background**

In 2007, several magisterial district judges questioned why the rules of civil procedure did not specifically address continuances for military personnel. Based upon the reported uncertainty of some magisterial district judges in dealing with military personnel's requests for continuances, the Minor Court Rules Committee ("the Committee") is recommending an amendment to Rule 209 referencing the Servicemembers Civil Relief Act ("Act"). The Committee believes the amendment will provide a quick statutory reference as well as foster a uniform, statewide practice.

II. Discussion

The Committee determined that its main concern was ensuring that magisterial district judges are aware of the Act and follow it, when appropriate. In its deliberations, the Committee reviewed a sample request for a continuance pursuant to the Act; the Act itself; 51 Pa.C.S.A. § 7314 ("Stay of proceedings when military service affects conduct thereof") and Pa.R.C.P. No. 1920.46 ("Affidavit of Non-military Service").

The Committee decided that the simplest way to achieve its goal of compliance with the Act was through a statutory reference. While the Committee considered including a reference to the Act in the note, rather than the rule, the eventual decision was to draft a new subdivision within the rule itself. The Committee members felt strongly that individuals meeting the criteria of the Act should be granted continuances. By including the language in the rule, the exception for qualifying military personnel becomes mandatory; if simply included in the note, the reference would not be binding as the Supreme Court of Pennsylvania does not adopt the contents of the Committee's notes to the rules.

III. Proposed Rule Changes

To address the issues discussed above, the Committee proposes including a new subdivision "E," following directly after the current subdivision "D." As explained above, the new subdivision "E" will provide a statutory reference to the Act.

[Pa.B. Doc. No. 08-822. Filed for public inspection May 2, 2008, 9:00 a.m.]

**Title 249—PHILADELPHIA
RULES**

PHILADELPHIA COUNTY

Residential Mortgage Foreclosure Diversion Pilot Program April 1, 2008, and May 6, 2008, Sheriff Sales; Joint General Court Regulation No. 2008-01**Order**

And Now, this 16th day of April, 2008, in order to permit the implementation of the Residential Mortgage Foreclosure Diversion Pilot Program adopted by Joint

General Court Regulation 2008-01, the sale of all owner occupied residential premises exposed to judicial sale on April 1, 2008 to enforce a residential mortgage whose sale was postponed by the Sheriff of Philadelphia, as well as the sale of all owner occupied residential premises which are scheduled to be exposed to judicial sale to enforce a residential mortgage at the Sheriff Sale on May 6, 2008 are, subject to further order of this Court, postponed until the Sheriff Sale scheduled for July 1, 2008 so that the Conciliation Conference required by Joint General Court Regulation No. 2008-01 can be held.

It is further *Ordered, Adjudged and Decreed* that:

(a) unless the sales are otherwise individually stayed or postponed, the Sheriff of Philadelphia shall proceed to sell on May 6, 2008, as scheduled and advertised, all premises which are not owner occupied, which are not residential, or which are not exposed to judicial sale to enforce a residential mortgage, (these properties shall hereinafter be collectively referred to as "Non Owner Occupied Non Residential Properties" including those Non Owner Occupied Non Residential Properties which were scheduled to be sold at the previously postponed April 1, 2008 Sheriff Sale;

(b) because of the difficulty involved in determining whether or not a Writ of Execution comes within the scope of this Order, all real estate scheduled for sale by the Sheriff of the City of Philadelphia on May 6, 2008, including the sales postponed from April 1, 2008, shall be postponed to the Sheriff Sale scheduled for July 1, 2008 unless:

(1) counsel for the Plaintiff on the Writ of Execution, on or before April 21, 2008, files, with the Prothonotary, and serves on the defendant (as provided in subsection 3) a copy of this Order and a Certificate, substantially in the format attached hereto as Exhibit "A," certifying whether the property on the Sheriff Sale list is or is not an Owner Occupied Residential Premises Exposed to Judicial Sale to Enforce a Residential Mortgage within the meaning of this Order;

(2) if Counsel for the Plaintiff certifies that a specific property is not a residential property within the meaning of this Order, is not owner occupied as of this date, is not exposed to judicial sale to enforce a residential mortgage, or is vacant, counsel shall mail to defendant(s) a copy of the Certificate, and the Important Notice substantially in the format attached hereto as Exhibit "B" and **Defendant's Objection to Plaintiff's Certification And Request For Postponement Of Sale** substantially in the format attached hereto as Exhibit "C";

(3) a copy of the Certificate and other documentation, as appropriate, shall be served on the Defendant by regular mail to the last known address of the Defendant(s) and to the address of the premises scheduled for sale;

(4) an Affidavit of Service, substantially in the format attached hereto as Exhibit "D" shall be filed with the Prothonotary along with a copy of the documents served upon the defendants;

(5) any Defendant who disagrees with the Certification filed by the Plaintiff which stated that the premises are not residential, or are not owner occupied, or are not exposed to judicial sale to enforce a residential mortgage must file an Objection, substantially in the format attached hereto as Exhibit "C," on or before April 30, 2008; and

(6) this Court shall issue an order before the May 6, 2008 Sheriff Sale identifying which owner occupied resi-

dential premises subject to this Order are postponed to the July 1, 2008 Sheriff Sale;

(c) the term "Residential Premises" means real property located within the City and County of Philadelphia containing not more than four residential units and shall include a residential condominium unit or a residential co-op unit;

(d) as authorized by Pa.R.C.P. 3129.3(a), any writ of execution which scheduled premises for judicial sale on April 1, 2008 which was postponed by the Sheriff, and any writ of execution which scheduled premises for judicial sale on May 6, 2008 which is being postponed as required by this Order, shall be permitted to proceed to judicial sale on July 1, 2008, or thereafter, without further posting, notice, advertisement or affidavit pursuant to Pa.R.Civ.P. 3129.1 to 3129.3. Moreover, the April 1, 2008 postponement and the postponement provided in this Order shall not affect the Plaintiffs right to postpone the sale twice further up to 130 days as permitted by Pa.R.C.P. 3129.3(b).

(e) This Order shall be published in the *Pennsylvania Bulletin* and *The Legal Intelligencer*; and shall be posted on the website of the First Judicial District of Pennsylvania at <http://courts.phila.gov>.

(f) The Sheriff shall advertise the entry of this Order (without Exhibits) on April 21, 2008, April 28, 2008 and May 5, 2008 in the *Philadelphia Inquirer*.

(g) The Sheriff shall announce the Postponements at the time and place scheduled for the May sale.

By the Court

HONORABLE C. DARNELL JONES, II,
President Judge, Court of Common Pleas

EXHIBIT A
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF
PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

Plaintiff,	:	_____ TERM, 200 ____
	:	NO. _____
v.	:	
	:	Book No. _____
Defendant	:	Writ No. _____
	:	Sale Date: _____

Certification Regarding Status of Foreclosed Premises as Residential and Owner Occupied

Pursuant to the Order dated April 16, 2008 issued by President Judge C. Darnell Jones II and entered in connection with Joint General Court Regulation No. 2008-01, I hereby certify that the premises at issue in this action known and numbered as:

Premises Address: _____
Philadelphia, PA _____ Ward: _____
BRT Number: _____

(CHECK APPLICABLE BOX OR BOXES)

PROTHY CODE

CEROC is an owner occupied Residential Premises exposed to judicial sale to enforce a residential mortgage;

CERNO is not a Residential Premises within the meaning of the aforementioned order;

CERNO □ is not owner occupied as of this date;
CERNO □ is not exposed to judicial sale to enforce a residential mortgage;
CERNO □ is vacant.

The undersigned verifies that the statements made herein are true and correct. I understand that false statements are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____ Signature of Plaintiff or Counsel for Plaintiff

EXHIBIT B

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY CIVIL TRIAL DIVISION

Plaintiff, : _____ TERM, 200 ____
: NO. _____
v. :
: Book No. _____
Defendant : Writ No. _____
: Sale Date: _____

IMPORTANT NOTICE

YOUR PROPERTY HAS BEEN LISTED FOR SHERIFF SALE ON MAY 6, 2008 (A SALE WHICH MAY HAVE BEEN POSTPONED FROM AN EARLIER DATE). IF YOU OWN AND LIVE IN THE PROPERTY LISTED FOR SALE AND IT HAS FOUR OR FEWER RESIDENTIAL UNITS, YOU CAN HAVE THE SHERIFF SALE OF YOUR PROPERTY POSTPONED FROM MAY 6, 2008 TO JULY 1, 2008, SO YOU CAN PARTICIPATE IN A CONFERENCE THAT MAY ENABLE YOU TO SAVE YOUR HOME. YOU CAN ENSURE YOUR ABILITY TO PARTICIPATE IN THE CONFERENCE BY FILING THE OBJECTION TO PLAINTIFF'S CERTIFICATION, ATTACHED TO THIS NOTICE, IN ROOM 278 CITY HALL, PHILADELPHIA, PA 19107 ON OR BEFORE 2:00 PM, APRIL 30, 2008. YOU MUST MAIL A COPY TO THE PLAINTIFF'S ATTORNEY AT THE FOLLOWING ADDRESS:

[Attorney name and address]

UNLESS THE OBJECTION TO PLAINTIFF'S CERTIFICATION IS RECEIVED BY THE PROTHONOTARY, IN ROOM 278 CITY HALL, PHILADELPHIA, PA 19107 ON OR BEFORE 2:00 PM, APRIL 30, 2008, THE PREMISES MAY BE SOLD ON MAY 6, 2008.

YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. YOU SHOULD TAKE THIS PAPER TO THE LAWYER. 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 ASSISTANCE.

Philadelphia Bar Association
Lawyer Referral and Information Service
One Reading Center
Philadelphia, PA 19107
Telephone: 215-238-1701

SAVE YOUR HOME PHILLY HOTLINE
(215) 334-HOME

EXHIBIT C

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY CIVIL TRIAL DIVISION

Plaintiff, : _____ TERM, 200 ____
: NO. _____
v. :
: Book No. _____
Defendant : Writ No. _____
: Sale Date: _____

DEFENDANT'S OBJECTION TO PLAINTIFF'S CERTIFICATION AND REQUEST FOR POSTPONEMENT OF SALE

I, the undersigned, object to Plaintiff's Certification and in support thereof I certify that:

- 1. I am the owner or an owner or an heir to a deceased owner of the property identified above;
2. That I live in the property described above;
3. That the property is my principal residential property;
4. That the judgment entered against me in the case described above was entered against me to collect a mortgage debt on my home; and

I request that the Sheriff Sale of the above premises be postponed so that I can take part in the conciliatory conference required for owner occupied residential premises.

I verify that the statements made herein are true and correct. I understand that false statements are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____ Signature of Defendant
Address:
Philadelphia, PA _____
Phone Number:
Mobile Number:
Fax Number:
Email Address:

EXHIBIT D

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY CIVIL TRIAL DIVISION

Plaintiff, : _____ TERM, 200 ____
: NO. _____
v. :
: Book No. _____
Defendant : Writ No. _____
: Sale Date: _____

CERTIFICATE OF SERVICE

The undersigned verifies, subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities, that the attached [Certification was] or [Certification, Important Notice, and Defendant's Objection To Plaintiff's Certification And Request For Postponement of

Sale form were] mailed to the defendant(s) at their last known address and, if different, to the address of the premises subject to sale and to counsel of record, if any, and to the owners of the noted premises via first class mail, as noted below.

NAME(S)

ADDRESS(ES)

Date: _____

Counsel for Plaintiff

[Pa.B. Doc. No. 08-823. Filed for public inspection May 2, 2008, 9:00 a.m.]

PHILADELPHIA COUNTY

Residential Mortgage Foreclosure Diversion Pilot Program; Joint General Court Regulation No. 2008-01

The Court takes judicial notice that in 1983 and 2004, the Philadelphia Court of Common Pleas was called upon to issue stop-gap relief to a large number of residential homeowners who were facing the loss of their homes due to their inability to pay their mortgages. Relief was granted in the form of a temporary stay and postponements in the Sheriff Sale of foreclosed residential properties.

Mortgage Foreclosure actions recently filed in the Court of Common Pleas, as well as reliable data, establish that a mortgage foreclosure crisis, caused in part by "subprime" and "predatory lending" practices as well as rising interest rates, unemployment and underemployment, have negatively impacted a substantial number of homeowners causing an increasing number of residential mortgage foreclosures actions which are being filed and will be filed in the Court of Common Pleas requiring the expenditure of substantial judicial resources.

Pennsylvania Rules of Civil Procedures authorize the Court to implement case management programs designed to assist the Court and the litigants in the simplification of the issues involved, and to address such other matters which may aid in the timely and efficient disposition of the action. The within General Court Regulation adopts a Residential Mortgage Foreclosure Diversion Pilot Program which is designed to provide early Court intervention in residential owner occupied mortgage foreclosure cases which will assure timely determination of eligibility under various federal, state and local programs established to facilitate loan work-out and other solutions to permit residential homeowners, where possible, to retain their properties and permit lenders to move forward to the Sheriff Sale of the properties upon conclusion of the process established pursuant to this General Court Regulation.

1. *Cases Subject to Residential Mortgage Foreclosure Diversion Pilot Program.*

(a) All Mortgage Foreclosure cases involving owner-occupied residential properties which are subject to execution to enforce a residential mortgage must be scheduled for a Conciliation Conference, as provided in this General Court Regulation, before a real property can be sold at Sheriff Sale. The term "residential premises" means real

property located within the City and County of Philadelphia containing not more than four residential units and shall include a residential condominium unit or a residential co-op unit, occupied by an owner as the owner's principal residence.

(b) Cases involving premises which are not owner occupied, which are not residential, or which are not exposed to judicial sale to enforce a residential mortgage are not subject to the Conciliation Conference and may be sold by the Sheriff of Philadelphia as scheduled and advertised unless the sales are otherwise individually stayed or postponed.

2. *Conciliation Conference and Sheriff Sale.* Owner-occupied residential properties which are subject to execution to enforce a residential mortgage cannot proceed to Sheriff Sale unless a conciliation conference is held as provided in this General Court Regulation.

3. *Scheduling of the Conciliation Conference.* The Conciliation Conference shall be scheduled as follows:

(a) *Cases on the April 2008 and May 2008 Mortgage Foreclosure Sheriff Sale List.* The sale of all owner occupied residential premises exposed to judicial sale on April 1, 2008 to enforce a residential mortgage whose sale was postponed by the Sheriff of Philadelphia, as well as the sale of all owner occupied residential premises which are scheduled to be exposed to judicial sale to enforce a residential mortgage at the Sheriff Sale on May 6, 2008 are postponed until the Sheriff Sale scheduled for July 1, 2008 so that the Conciliation Conference required by this General Court Regulation can be held.

The Court will issue orders designed to identify owner-occupied residential properties, subject to execution to enforce a residential mortgage, which were listed for Sheriff Sale in April 2008 and May 2008 which are to be postponed to a specific date pending the scheduling of a Conciliation Conference and those cases which can proceed to Sheriff Sale on May 6, 2008.

When the owner-occupied residential properties subject to execution to enforce a residential mortgage have been identified, a case specific Case Management Order will be issued, scheduling a Conciliation Conference, as provided in this Regulation.

(b) *Cases Filed but not yet scheduled for Sheriff Sale.* The Court will issue orders designed to identify owner-occupied residential properties, subject to execution to enforce a residential mortgage.

When the owner-occupied residential properties subject to execution to enforce a residential mortgage have been identified, a case specific Case Management Order will be issued, scheduling a Conciliation Conference, as provided in this Regulation.

(c) *New Mortgage Foreclosure cases filed on or after July 7, 2008.* Any Mortgage Foreclosure Case commenced on or after July 7, 2008 which involves owner-occupied residential properties subject to execution to enforce a residential mortgage must be identified as Case Type "3D—Mortgage Foreclosure—Owner Occupied Residential Premises" on the Civil Cover Sheet. A Case Management Order will be administratively issued and provided to the Plaintiff upon the filing of the Mortgage Foreclosure action which must be served on the Defendant(s) as provided in Section 5.

4. *Case Management Order.* The Case Management Order shall schedule a conference within thirty (30) to forty-five (45) days after the filing of the Complaint for cases subject to Section 3.(c), and as soon as practicable

for cases subject to Section 3.(a) and (b). As applicable, the Case Management Order shall, inter alia:

a. schedule a Conciliation Conference for a specific date, place and time;

b. require the attendance of the Defendant and the Plaintiff-Lender's Servicer (who may appear telephonically);

c. require the Defendant to call immediately upon receipt of the Case Management Order the **SAVE YOUR HOME PHILLY HOTLINE** at (215) 334-HOME and the Defendant-homeowner will be directed to a housing counseling agency;

d. require the Defendant to cooperate with the housing counseling agency, provide financial and employment information and complete loan resolution proposals and applications, as appropriate;

e. require the exchange of the information provided as required by subsection 4.d. to the Plaintiff—Lender representative;

f. authorize the Plaintiff to send the ten (10) day notice required by Pa.R.C.P. 237.1, if service is effectuated as permitted under the Civil Procedural Rules, but delay the request for the entry of a judgment by default until after the date of the Conciliation Conference; and

g. provide such other terms as may be necessary and appropriate.

5. *Service of the Case Management Order.* The Court shall serve the Case Management Order on all parties for cases subject to Section 3.(a) and (b). The Plaintiff shall serve the Case Management Order together with the Complaint or other initial process for cases subject to Section 3.(c).

6. *Conciliation Conference.*

a. *Presiding Officer:* As appropriate, the Conciliation Conference shall be conducted by a Civil Case Manager or other person designated by the Court, a Judge Pro Temp who possesses experience in the subject matter, or a judge of the Court of Common Pleas.

b. *Issues to be Addressed:* The following issues shall be addressed at the Conciliation Conference:

1. whether the Defendant is represented and if not represented, whether volunteer counsel may be available and appointed;

2. whether Defendant(s) met with a Housing Counseling Agency, as required;

3. whether the Housing Counseling Agency has prepared an assessment or report providing available loan work-out for the defendant;

4. Defendant's income and expense information;

5. Defendant's employment status;

6. Defendant's qualifications for any of the available work-out programs, upon review and application of guidelines established pursuant to this General Court Regulation;

7. assistance with preparation of work-out plans and required Court Orders, as appropriate;

8. the necessity of a subsequent Conciliation Conference;

9. whether the case may proceed to Sheriff Sale since there is no prospect of an amicable resolution; and

10. any other relevant issue.

c. *Defendant's Failure to Attend The Conference:* If a Defendant fails to appear for the mandatory Conciliation Conference, the requirement for a Conciliation Conference imposed by this Regulation may be deemed satisfied upon verification that the required notice was sent, and if so, an order will be issued authorizing the Plaintiff to proceed with the action.

7. *Case Management Order:* At the conclusion of the Case Management Conference, an appropriate Order shall issue memorializing the result of the Conciliation Conference.

8. *Duration of the Residential Mortgage Foreclosure Diversion Pilot Program.* Unless otherwise ordered the **Residential Mortgage Foreclosure Diversion Pilot Program** shall terminate on December 31, 2009.

This General Court Regulation is promulgated in accordance with the April 11, 1986 Order of the Supreme Court of Pennsylvania, Eastern District, No. 55, Judicial Administration, Docket No. 1, Phila.Civ.R. *51 and Pa.R.C.P. 212.3 and 239, and shall become effective immediately. As required by Pa.R.C.P. 239, the original regulation shall be filed with the Prothonotary in a docket maintained for General Court Regulations; and copies shall be submitted to the Supreme Court Civil Procedural Rules Committee, the Administrative Offices of Pennsylvania Courts, the Legislative Reference Bureau and the Legal Communications, Ltd., *The Legal Intel-ligencer*, Jenkins Memorial Law Library and the Law Library for the First Judicial District.

By the Court

HONORABLE C. DARNELL JONES, II,
President Judge, Court of Common Pleas

Date: April 16, 2008

By the Court

HONORABLE D. WEBSTER KEOGH,
President Judge, Trial Division

Date: April 16, 2008

[Pa.B. Doc. No. 08-824. Filed for public inspection May 2, 2008, 9:00 a.m.]

Title 25—LOCAL COURT RULES

BUCKS COUNTY

Administrative Order on Juvenile and Dependency Matters; No. 52; MD 700-08

Order of Court

And Now, this 28th day of March, 2008, Bucks County Administrative Order No. 52 is hereby promulgated as follows:

Administrative Order No. 52; Orders Entered Under the Pennsylvania Rules of Juvenile Court Procedure

Whereas the Supreme Court of Pennsylvania has initiated an electronic docketing system for juvenile and dependency matters which requires a high degree of uniformity in the reporting of dispositions, it is hereby ordered as follows:

Every order entered in a juvenile or dependency matter which is governed by a form of order promulgated by the Administrative Office of Pennsylvania Courts shall conform in all respects to the requirements of the form order promulgated by the Administrative Office.

By the Court

DAVID W. HECKLER,
President Judge

[Pa.B. Doc. No. 08-825. Filed for public inspection May 2, 2008, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Transfer of Attorneys to Inactive Status

Notice is hereby given that the following attorneys have been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated March 18, 2008, under Rule 111(b) Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective April 17, 2008, for Compliance Group 2 due August 31, 2007.

Notice with respect to attorneys having Pennsylvania registration addresses, which have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

Bossong, Craig Peter
Ridgefield Park, NJ

Breen, John J.
Wiluku, HI

Brewer, Joel N.
Bethesda, MD

Brown, Samuel Z.
Lakewood, NJ

Carey, Christine A.
Randolph, NJ

Cohen, Martin J.
Tampa, FL

Corum, Caroline Ferguson
Seattle, WA

Cox, Curt James
Pennington, NJ

Dash, Benjamin L.
Moorestown, NJ

Davis, Deborah Klein
Cherry Hill, NJ

Denti, Kenneth M.
Westmont, NJ

Ellis, Leslie Marie
Milburn, NJ

Engster, Diane Carol
Alexandria, VA

Gervasi, Julie Rose
Stone Harbor, NJ

Gibson, Cicely Germain
Washington, DC

Gilmore, Barnerico
Baltimore, MD

Grasso, Gregory S.
Florham Park, NJ

Healey, Arthur T.
Clarksburg, MD

Henley, Angela Cecile
McLean, VA

Johnson, Stephen Hunter
Miami, FL

Jorge, Aisha Tyice
Atlanta, GA

Klotz, John R.
Clifton, NJ

Krysiak, Susan E.
North Cape May, NJ

Maltby, Lewis L.
Princeton, NJ

Mena-Brown, Maria
Silver Spring, MD

Muldoon, Carolyn Ann
Rochester, NY

Nguyen, Steven Huu
Union, NJ

Palchick, Mark J.
Washington, DC

Park, Yona S.
Washington, DC

Patterson, Colleen Elise
Cranford, NJ

Petrone II, John R.
Utica, NY

Reynolds, James Moul
Moorestown, NJ

Roberts, Douglas Alfred
La Jolla, CA

Rolfe, Jennifer Elizabeth
New York, NY

Rothstein, Neil
Santa Monica, CA

Stafford Jr., Charles Ronald
Princeton, NJ

Szymanski, Charles F. X.
Atlantic Highlands, NJ

Szymanski, Patricia
Atlantic Highlands, NJ

Van Fleet, Jeffrey M.
Cape Elizabeth, ME

Walsh, Christopher M.
Columbus, OH

ELAINE M. BIXLER,
Secretary

*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 08-826. Filed for public inspection May 2, 2008, 9:00 a.m.]