

# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[ 231 PA. CODE CHS. 200 AND 2950 ]

#### Rescission of Rule 2951(a) Governing Confession of Judgment; Proposed Recommendation No. 232

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 2951(a) governing confession of judgment be amended as set forth herein. 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 no later than August 15, 2008 to:

Karla M. Shultz, Esquire  
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 236. Notice by Prothonotary of Entry of Order or Judgment.

(a) The prothonotary shall immediately give written notice of the entry of

(1) a judgment entered by confession to the defendant by ordinary mail at the address stated in the certificate of residence filed by the plaintiff together with a copy of all documents filed with the prothonotary in support of the confession of judgment. The plaintiff shall provide the prothonotary with the required notice and documents for mailing and a properly stamped and addressed envelope; and

[ *Official Note: See Rule 2951(a) as to the requirement of filing a certificate of the residence of the plaintiff and of the defendant.* ]

\* \* \* \* \*

#### CHAPTER 2950. CONFESSION OF JUDGMENT FOR MONEY

Rule 2951. [ **Methods** ] Method of Proceeding.

[ (a)(1) Upon filing of the documents by subparagraph (2), the prothonotary shall enter judgment by confession on a note, bond or other instrument

confessing judgment or authorizing confession by an attorney at law or other person against the person who executed it in favor of the original holder or, unless expressly forbidden in the instrument, in favor of the assignee or other transferee, without the agency of an attorney and without the filing of a complaint, for the amount which may appear to be due from instrument. The judgment may include interest computable from the instrument.

(2) The documents to be filed in support of the entry of judgment are

(i) the instrument,

(ii) an affidavit that the judgment is not being entered by confession against a natural person in connection with a consumer credit transaction, and

(iii) a certificate of residence of the plaintiff and of the defendant.

*Official Note: Section 2737(3) of the Judicial Code provides that the prothonotary shall have the power and the duty to "enter all civil judgments, including judgments by confession."*

A judgment by confession may be entered only in the name of a holder, assignee or other transferee. See Rule 2954.

For collection of attorneys' fees under such a judgment see Rule 2957. If an instrument authorizes confession for a penal sum, judgment may be entered in that amount.

If a judgment by confession on an instrument is to be entered in a judicial district which has implemented electronic filing, an electronic copy of the instrument should be filed in support thereof. Should an issue arise concerning the instrument, any party at any time may request the production of the original instrument for inspection pursuant to Pa.R.C.P. No. 205.4(b)(5).

(b) ] (a) [ If judgment by confession is authorized by the instrument but may not be entered by the prothonotary under subdivision (a), an ] An action shall be commenced by filing with the prothonotary a complaint substantially in the form provided by Rule 2952. [ Even though the instrument is one on which judgment could be entered by the prothonotary under subdivision (a), the plaintiff may proceed under this subdivision.

(c) The action must be brought under subdivision (b) if

(1) the instrument is more than ten years old or

(2) the original cannot be produced for filing or

(3) it requires the occurrence of a default or condition precedent before judgment may be entered, the occurrence of which cannot be ascertained from the instrument itself, or

(4) the computation of the amount due requires consideration of matters outside the instrument.

(d) ] (b) If the instrument is more than twenty years old, judgment may be entered only by leave of court after notice and the filing of a complaint [ under Subdivision (b) ].

[ (e) ] (c) When [ the plaintiff proceeds under Sub-division (b) and ] the original or a photostatic copy or like reproduction of the instrument showing the defendant's signature is not attached to the complaint, judgment may be entered only by leave of court after notice.

**Official Note:** The procedure for notice and hearing shall be in accordance with local practice.

See Sections 401(h) and 1205 of the Goods and Services installment Sales Act, 1966, Special Sess. No. 1, October 28, P. L. 7, effective April 1, 1967, 69 P. S. § 1401(h) and 2205 which may limit the venue for commencement of an action in certain cases.

**Rule 2955. Confession of Judgment.**

(a) [ In an action commenced by a complaint under Rule 2951(b), the ] The plaintiff shall file with the complaint a confession of judgment substantially in the form provided by Rule 2962.

(b) The attorney for the plaintiff may sign the confession as attorney for the defendant unless an Act of Assembly or the instrument provides otherwise.

**Official Note:** There are local rules in some counties requiring the filing of an affidavit of non-military service. See also the [ Soldiers, and Sailors ] Service-members Civil Relief Act, 50 U.S.C.A. Appendix § [ 520 ] 521.

**Rule 2956. Entry of Judgment.**

The prothonotary shall enter judgment in conformity with the confession.

**Official Note:** As to instruments more than 20 years old see Rules 2951 [ (d) ](b) and 2952(a)(9).

See Rule 236 for the notice required to be given and the documents required to be mailed to the defendant by the prothonotary.

**Rule 2957. Praecept for Writ of Execution; Amount; Items Claimed; Certification.**

(a) Plaintiff may include the amount due, interest, attorneys' fees and costs in the praecipe for a writ of execution under Rule 2963(5). [ Where judgment has been entered under Rule 2951(a) and there has been a record appearance of counsel at any stage of the proceedings and attorneys' fees are authorized in the instrument, these fees may be included in the praecipe for a writ of execution. ]

\* \* \* \* \*

**FORMS**

**Rule 2962. Confession of Judgment Where Action Commenced by Complaint. Form.**

The confession of judgment required by Rule 2955 shall be substantially in the following form:

[ CAPTION ]

Pursuant to the authority contained in the warrant of attorney, the original or a copy of which is attached to the complaint filed in this action, I appear for the defendant(s) and confess judgment in favor of the plaintiff(s) and against defendant(s) as follows:

\*(Principal) \*(Penal) Sum \$ \_\_\_\_\_  
Other authorized items: \_\_\_\_\_ \$ \_\_\_\_\_  
(Specify)  
\*\*Interest \$ \_\_\_\_\_  
\*\*Attorney fees \$ \_\_\_\_\_

\*Strike out inapplicable item.

\*\*Interest and attorney fees may be included only if authorized by the warrant.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTORNEY FOR DEFENDANT(S)

[ Official Note: This form is not to be used when judgment by confession is entered by the prothonotary under Rule 2951(a). ]

**Rule 2963. Praecept for Writ of Execution. Certification. Form.**

The praecipe for a writ of execution upon a confessed judgment shall be substantially in the following form:

[ Caption ]

PRAECIPE FOR WRIT OF EXECUTION UPON A CONFESED JUDGMENT

To the Prothonotary:

Issue a writ of execution upon a judgment entered by confession in the above matter,

- (1) directed to the sheriff of \_\_\_\_\_ county;
- (2) against \_\_\_\_\_, defendant; and  
(Name of Defendant)
- (3) against \_\_\_\_\_, garnishee;  
(Name of Garnishee)
- (4) and enter this writ in the judgment index
- (a) against \_\_\_\_\_, defendant and  
(Name of Defendant)
- (b) against \_\_\_\_\_, as garnishee, as a lis  
(Name of Garnishee)

pendens against real property of the defendant in name of garnishee as follows:

\_\_\_\_\_  
(Specifically describe property)

(If space insufficient attach extra sheets)

(5) Amount due \$ \_\_\_\_\_  
Interest from \_\_\_\_\_ \$ \_\_\_\_\_  
Attorneys' fees\*\* \$ \_\_\_\_\_  
[ [ Costs to be added ] ] \$ \_\_\_\_\_  
(Costs to be added)

[ \*\*Where judgment has been entered under Rule 2951(a), attorneys' fees may be included if they are authorized in the instrument and there has been a record appearance of counsel at any stage of the proceedings. ]

\* \* \* \* \*

**Explanatory Comment**

Current Rule 2951 provides for two methods of confessing judgment. Subdivision (a) allows the prothonotary, upon the filing of certain documents in support of the entry of judgment, to enter judgment by confession without the filing of a complaint or a confession of judgment signed by an attorney. Subdivision (b), on the other hand, requires both the filing of a complaint and a confession of judgment signed by an attorney. It has been reported that the method prescribed in subdivision (a) has been abused by lay persons. Furthermore, it is the practice of counsel representing creditors to enter judgments by confession pursuant to subdivision (b). They seldom confess judgment pursuant to subdivision (a) and subdivision (b) fully protects the creditor who seeks to obtain a judgment by confession. Rule 2951 has been amended by rescinding subdivision (a) so that all actions for confessing judgment must be commenced by filing a complaint. Rules 236, 2955, 2957, 2962 and 2963 have also been amended to conform to the rescission of Rule 2951(a).

*By the Civil Procedural Rules Committee*

R. STANTON WETTICK, Jr.,  
Chair

[Pa.B. Doc. No. 08-1089. Filed for public inspection June 13, 2008, 9:00 a.m.]

**Title 237—JUVENILE RULES****PART I. RULES**

[ 237 PA. CODE CH. 5 ]

**Order Amending Rule 510 of the Rules of Juvenile Court Procedure; Supreme Court Rules; No. 447; Doc. No. 1**

**Order**

*Per Curiam:*

Now, this 30th day of May, 2008, upon the recommendation of the Juvenile Court Procedural Rules Committee; the proposal having been published for public comment before adoption at 38 Pa.B. 63 (January 5, 2008), in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 935, No. 4, January 4, 2008), and on the Supreme's Court web-page, and an Explanatory Report to be published with this *Order*:

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the modifications to the Rules of Juvenile Court Procedure Rule 510 are approved in the attached form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective January 1, 2009.

**Annex A****TITLE 237. JUVENILE RULES****PART I. RULES****Subpart A. DELINQUENCY MATTERS****CHAPTER 5. DISPOSITIONAL HEARING****PART B. DISPOSITIONAL HEARING AND AIDS****Rule 510. Prompt Dispositional Hearing.****A. General rule.**

**1) Juvenile is detained.** If the juvenile is detained, the dispositional hearing shall be held no later than twenty days after the ruling on the offenses under Rule 408.

**2) Juvenile not detained. If the juvenile is not detained, the dispositional hearing shall be held no later than sixty days after ruling on the offenses pursuant to Rule 408.**

**B. Continuances.** The dispositional hearing may be continued, if necessary. If the juvenile is detained, each continuance shall not exceed twenty days.

**Comment**

Under paragraph (B), if there is a continuance, the court should review the juvenile's case every twenty days until there is a final dispositional order.

[ See 42 Pa.C.S. § 6341(b). ]

**Official Note:** Rule 510 adopted April 1, 2005, effective October 1, 2005. **Amended May 30, 2008, effective January 1, 2009.**

*Committee Explanatory Reports:*

**Final Report explaining the amendments to Rule 510 published with the Court's Order at 38 Pa.B. (June 14, 2008).**

**INTRODUCTION**

The Supreme Court of Pennsylvania has adopted the proposed changes to Rule 510. The changes are effective January 1, 2009.

**EXPLANATORY REPORT  
MAY 2008***Rule 510—Prompt Dispositional Hearing*

Rule 510 only addressed time limitations for dispositional hearings for juveniles in detention. This rule change adds a time limitation for dispositional hearings for juveniles who are not detained. The dispositional hearing is to be held no later than sixty days after the Court has ruled on the offenses pursuant to Rule 408.

The Committee determined that once a juvenile has committed an offense(s), the disposition should be as timely as possible to effectuate the purposes of the Juvenile Act, including development of competencies, accountability, and protection to the community. See 42 Pa.C.S. § 6301.

The Committee is also deleting the Juvenile Act cite in the Comment because the Juvenile Act requires a hearing for treatment, supervision, and rehabilitation within sixty days of the ruling of the offenses. A hearing for treatment, supervision, and rehabilitation is the adjudication of delinquency covered pursuant to Rule 409. This rule change adds an additional time requirement that provides that the dispositional hearing shall be held within sixty days of the ruling on the offenses.

The Committee determined that six months should be enough time for judicial districts to catch up on any backlog of cases. Thereafter, the judicial districts should schedule dispositional hearings within sixty days of the ruling on the offenses.

[Pa.B. Doc. No. 08-1090. Filed for public inspection June 13, 2008, 9:00 a.m.]

# Title 246—MINOR COURT CIVIL RULES

## PART I. GENERAL

[ 246 PA. CODE CH. 500 ]

Order Amending Note to Rule 506 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges; No. 243, Magisterial Doc. No. 1

### Order

*Per Curiam:*

And Now, this 2nd day of June, 2008, upon the recommendation of the Minor Court Rules Committee; the proposal having been published before adoption at 37 Pa.B. 6905 (December 29, 2007), 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 the note to Pa.R.C.P.M.D.J. No. 506 be, and hereby is, amended in the attached form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective June 9, 2008.

### Annex A

## TITLE 246. MINOR COURT CIVIL RULES

### PART I. GENERAL

#### CHAPTER 500. ACTIONS FOR RECOVERY OF POSSESSION OF REAL PROPERTY

#### Rule 506. Service of Complaint.

\* \* \* \* \*

B. The copy shall be served at least five days before the hearing.

***Official Note:*** Under subdivision A of this rule, service must be made both by first class mail and delivery for service in the manner prescribed. **In actions where wage garnishment may be sought under Pa.R.C.P. No. 3311, the plaintiff may authorize the sheriff or constable to make personal service upon a tenant/defendant. If a tenant/defendant is not present at the property the sheriff or constable is authorized to post the complaint so that the underlying landlord-tenant action may proceed. The plaintiff may authorize the sheriff or constable to make additional attempts to effectuate personal service upon the tenant/defendant so the plaintiff can later prove such service if attempting to garnish wages under Pa.R.C.P. No. 3311. Additional service attempts by the sheriff or constable may result in additional fees.**

Adopted Oct. 15, 1969, effective Jan. 1, 1970. Amended July 8, 1975, imd. effective; Oct. 17, 1975, effective in 90 days; Jan. 29, 1976, effective in 30 days; April 25, 1979,

effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; July 16, 2001, effective Aug. 1, 2001; Jan 6, 2005, effective Jan. 29, 2005. **Amended June 2, 2008, effective June 9, 2008.**

### FINAL REPORT<sup>1</sup>

#### *Amendment to the Note to Rule 506 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges*

#### **Change to the Note: Reference to Wage Garnishment**

On June 2, 2008, effective June 9, 2008, upon recommendation of the Minor Court Rules Committee,<sup>2</sup> the Supreme Court of Pennsylvania approved amendments to the Note to Rule 506 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges.<sup>3</sup>

#### I. INTRODUCTION

The Committee began reviewing Pa.R.C.P.M.D.J. No. 506 in March 2007 following an inquiry from a magisterial district judge. The judge was concerned that Pa.R.C.P. No. 3311 requires personal service upon a defendant in the original action if wage attachment is to be sought at a later time. However, Pa.R.C.P.M.D.J. No. 506 did not make any reference to this restriction in the Rules of Civil Procedure.

#### II. PROPOSED CHANGE TO THE NOTE TO RULE 506

The Committee amended the Note to M.D.J. Rule 506 to specify that if wage attachment is to be sought at a later time, personal service must be effectuated. The additional language of the Note provides concrete examples of how this personal service would play out in a landlord-tenant case. For instance, the new language specifies that if a defendant is not present at the rental unit to be personally served, the property may be posted for the underlying landlord-tenant action to proceed, but the sheriff/constable would need to return to personally serve the defendant prior to the hearing in order to satisfy Pa.R.C.P. No. 3311.

The new Note language references Pa.R.C.P. No. 3311 twice, to underscore that section's relevance and direct litigants to review the section. Pa.R.C.P. No. 3311 requires a plaintiff judgment creditor/landlord to certify, inter alia, "...that the defendant appeared or filed papers in the action or that the complaint was served by handing a copy to the defendant." See Pa.R.C.P. No. 3311, Certification by Judgment Creditor—Landlord Form, No. 8(b).

Finally, the Note highlights that more than one service attempt by the sheriff/constable could result in additional fees.

[Pa.B. Doc. No. 08-1091. Filed for public inspection June 13, 2008, 9:00 a.m.]

<sup>1</sup> The Committee's Final Report should not be confused with the Notes to the Rules. Also, the Supreme Court of Pennsylvania does not adopt the Committee's Notes or the contents of the explanatory Final Report.

<sup>2</sup> Minor Court Rules Committee Recommendation 3-2008.

<sup>3</sup> Supreme Court of Pennsylvania Order No. 243, Magisterial Docket No. 1 (June 2, 2008).

## Title 255—LOCAL COURT RULES

### BEDFORD COUNTY

#### Local Rule Relating to Continuances; MPY Doc. No. 60115 for 2008

##### Order

*And Now*, this 19th day of May, 2008, the Court hereby amends Local Rule of Court relating to continuances, Rule L 216, for Bedford County, comprising the 57th Judicial District of the Commonwealth of Pennsylvania, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

*By the Court,*

DANIEL LEE HOWSARE,  
*President Judge*

##### CONTINUANCES

#### Rule L 216.

Except as hereinafter set forth, all motions requesting the continuance of any matter pending in the Court of Common Pleas of Bedford County shall be in writing setting forth the reason for the continuance and whether the opposing party or parties consent to the request. All such continuance motions shall be presented to the Court Administrator who shall present them to the judge hearing the case for disposition.

No request for continuance presented to the Court Administrator less than 48 hours before the time scheduled for the hearing of the matter in question will be granted, unless for good cause shown. Except for extraordinary circumstances, continuances will not be granted because of previously scheduled depositions, district justice hearings, or other like matters. In the event the request for continuance concerns a conflict with a matter scheduled in another court of common pleas, the request shall state which matter was scheduled first. Motions for continuance will be granted when a conflict arises with a state appellate or federal court.

[Pa.B. Doc. No. 08-1092. Filed for public inspection June 13, 2008, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Disbarment

Notice is hereby given that Louis A. Colaguori having been disbarred by consent from the practice of law in the State of New Jersey by Order of the Supreme Court of New Jersey dated August 15, 2007, the Supreme Court of Pennsylvania issued an Order on May 29, 2008, disbarring Louis A. Colaguori, from the Bar of this Commonwealth, effective June 28, 2008. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,  
*Secretary*  
*The Disciplinary Board of the*  
*Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 08-1093. Filed for public inspection June 13, 2008, 9:00 a.m.]

### Notice of Disbarment

Notice is hereby given that Robert Lorenzo Kline, III having been disbarred by consent from the practice of law in the State of Maryland by Order of the Court of Appeals of Maryland dated September 25, 2007, the Supreme Court of Pennsylvania issued an Order on May 29, 2008, disbarring Robert Lorenzo Kline, III, from the Bar of this Commonwealth, effective June 28, 2008. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,  
*Secretary*  
*The Disciplinary Board of the*  
*Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 08-1094. Filed for public inspection June 13, 2008, 9:00 a.m.]