

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Amendment of Rule 240 Governing In Forma Pauperis; Proposed Recommendation No. 230

The Civil Procedural Rules Committee is proposing that Rule of Civil Procedure 240 governing in forma pauperis 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 not later than March 3, 2008 to:

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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 240. In Forma Pauperis.

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(c) Except as provided by subdivision (d), the party shall file a petition and an affidavit in the form prescribed by subdivision (h). The petition may not be filed prior to the commencement of an action **or proceeding** or the taking of an appeal.

(1)(i) If the petition is filed simultaneously with the commencement of the action **or proceeding** or with the taking of the appeal, the prothonotary shall docket the **[action and petition or shall accept the appeal] matter** and petition without the payment of any filing fee.

(ii) If the court shall thereafter deny the petition, the petitioner shall pay the filing fee for commencing the action **or proceeding** or taking the appeal. A party required to pay such fee may not without leave of court take any further steps in the action, **proceeding** or appeal so long as such fee remains unpaid. Not sooner than ten days after notice of the denial of the petition pursuant to Rule 236, the prothonotary shall enter a judgment of non pros in the action **or proceeding** or strike the appeal if the fee remains unpaid. The action, **proceeding** or appeal shall be reinstated only by the court for good cause shown.

(2) If the action **or proceeding** is commenced or the appeal is taken without the simultaneous filing of a petition, the appropriate filing fee must be paid and shall not be refunded if a petition is thereafter filed and granted.

(3) **[The] Except as provided by subparagraph (4), the court shall act promptly upon the petition and shall enter its order within twenty days from the date of the filing of the petition. If the petition is denied, in whole or in part, the court shall briefly state its reasons.**

(4) If an action is commenced by writ of summons, the court shall not act on the petition until the complaint is filed. If the complaint has not been filed within ninety days of the filing of the petition, the court may dismiss the action pursuant to subdivision (j).

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(f) A party permitted to proceed in forma pauperis shall not be required to

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(2) post bond or other security for costs as a condition for commencing an action **or proceeding** or taking an appeal.

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Explanatory Comment

Present subdivision (j) provides for a court, prior to acting on a petition to proceed in forma pauperis, to dismiss an action, proceeding, or appeal if the allegation of poverty in the petition is untrue, or if the court is satisfied that the action, proceeding, or appeal is frivolous. However, subdivision (j) did not consider the situation where an action is commenced by the issuance of a writ of summons. The proposed amendment to subdivision (c) would require the party commencing an action by writ of summons and seeking to proceed in forma pauperis to file the complaint within ninety days of filing the petition. The court would not make a determination on the petition until the complaint is filed. If the complaint is not filed within the ninety-day time period, the court may dismiss the petition pursuant to procedures set forth in subdivision (j).

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,
Chair

[Pa.B. Doc. No. 08-86. Filed for public inspection January 18, 2008, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 200]

Damages for Delay

Rule 238. Damages for Delay in an Action for Bodily Injury, Death or Property Damage.

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Addendum to Explanatory Comment (2008)

The prime rate as set forth in the first edition of the *Wall Street Journal* for a particular year is the basis for

calculating damages for delay under Pa.R.C.P. 238 as revised November 7, 1988. The prime rate published in the first edition of the *Wall Street Journal* for each of the years specified is as follows:

<i>Date of Publication</i>	<i>Prime Rate Percentage</i>
January 2, 2008	7 1/4
January 2, 2007	8 1/4
January 3, 2006	7 1/4
January 3, 2005	5 1/4
January 2, 2004	4
January 2, 2003	4 1/4
January 2, 2002	4 3/4
January 2, 2001	9 1/2
January 3, 2000	8 1/2
January 4, 1999	7 3/4
January 2, 1998	8 1/2

Official Note: The prime rate for the years 1980 through 1997 may be found in the Addendum to the Explanatory Comment published in the *Pennsylvania Bulletin*, volume 33, page 634 (2/1/03) and on the website of the Civil Procedural Rules Committee at <http://www.aopc.org>.

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,
Chair

[Pa.B. Doc. No. 08-87. Filed for public inspection January 18, 2008, 9:00 a.m.]

Title 25—LOCAL COURT RULES CUMBERLAND COUNTY

Local Rule 303-3; Civil Term; 96-1335 Civil

Order

And Now, this 13th day of December, 2007, effective December 13, 2007, or thirty (30) days after publication in the *Pennsylvania Bulletin*, Cumberland County Local Rule 303-3 is amended to read as follows:

Rule 303-3

(a) A criminal trial list of all cases arraigned and undisposed of for the upcoming trial term shall be published and distributed by the District Attorney not later than the day before the pretrial conference scheduled for that term.

(b) The District Attorney's Office shall provide the Court Administrator's Office with a list of all undisposed cases arraigned for that trial term not later than 10:00 a.m. on the last working day before the trial term. The Court Administrator's Office shall publish and distribute not later than noon on the last working day before the trial term a schedule of all undisposed cases arraigned for that trial term. The District Attorney shall call cases for trial before the next available judge in the order scheduled. Any request for a continuance will be considered only after notice to the other party. Any continuance granted shall include an order to appear at the next term's pretrial conference date. A similar trial schedule shall be published for the second trial week of any term not later than the previous Thursday. The District Attorney shall coordinate the calling of cases for trial as scheduled with the Court Administrator.

Adopted September 25, 1989; effective October 30 1989; amended December 13, 2007.

Pursuant to Pa.R.C.P. 239, the Court Administrator is directed to forward seven (7) certified copies of this order to the Administrative Office of Pennsylvania Courts, two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, together with a diskette, formatted in Microsoft Word for Windows reflecting the text in hard copy version, one (1) copy to the Supreme Court Civil Procedural Rules Committee and/or the Supreme Court Domestic Relations Committee, and one (1) copy to the *Cumberland Law Journal*.

By the Court

EDGAR B. BAYLEY,
President Judge

[Pa.B. Doc. No. 08-88. Filed for public inspection January 18, 2008, 9:00 a.m.]