

THE COURTS

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CHS. 200 AND 300]

Proposed Revisions to Rules 209, 305, 307, 314, 315, 318 and 319 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt revisions to Rules 209, 305, 307, 314—315, and 318—319 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges. 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 Official Notes to the rules. The Supreme Court does not adopt the Committee's Official Notes or the contents of the explanatory reports.

The text of the proposed changes precedes the Report. Additions are shown in bold; deletions are in bold and brackets.

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

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Supreme Court of Pennsylvania
Minor Court Rules Committee
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or email to: minorcourt.rules@pacourts.us

All comments shall be received no later than Friday, May 4, 2012.

By the Minor Court Rules Committee

MARK A. BRUNO,
Chair

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 200. RULES OF CONSTRUCTION; GENERAL PROVISIONS

Rule 209. Continuances.

A. Continuances may be granted for cause or by agreement.

B. Continuances shall be to a specific time and date. The magisterial district judge shall note continuances on the docket and shall promptly give or mail to the parties written notice of continuances.

C. Except for good cause shown,

(1) not more than one continuance shall be granted to each party, and

(2) the aggregate of all continuances shall not extend the date of the hearing:

(a) beyond [90] 120 days from the date of filing the plaintiff's complaint in proceedings commenced pursuant to Rule 303, or

(b) beyond 30 days from the date of filing the plaintiff's complaint in proceedings commenced pursuant to Rule 502.

D. In all proceedings governed by these rules, the following shall constitute cause for granting a continuance:

(1) the scheduling of a party's attorney of record to appear at any proceeding under the Pennsylvania Rules of Disciplinary Enforcement, whether

(a) as counsel for a respondent-attorney before a hearing committee, special master, the Disciplinary Board or the Supreme Court;

(b) as a special master or member of a hearing committee; or

(c) as a member of the Disciplinary Board.

(2) the scheduling of a party's attorney of record to appear at any proceeding involving the discipline of a justice, judge or magisterial district judge under Section 18 of Article V of the Constitution of Pennsylvania, whether

(a) as counsel for a justice, judge or magisterial district judge before the special tribunal provided for in 42 Pa.C.S. § 727, the Court of Judicial Discipline, the Judicial Conduct Board or any hearing committee or other arm of the Judicial Conduct Board; or

(b) as a member of the Court of Judicial Discipline, the Judicial Conduct Board or any hearing committee or other arm of the Judicial Conduct Board.

E. Continuances shall be granted in compliance with federal or state law, such as the Service-members Civil Relief Act., 50 App. U.S.C.A. § 501 et seq.

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 subdivisions D and E, of course, are not intended to be the only grounds on which a continuance will be granted.

CHAPTER 300. CIVIL ACTION

Rule 305. Setting the Date for Hearing; Delivery for Service.

The magisterial district judge, at the time the complaint is filed, shall:

(1) Set a hearing date [**which shall be not less than 12 or more than 60 days from the date the complaint is filed**] that allows the hearing to be held as expeditiously as possible, but no more than 120 days from the date the complaint is filed.

(2) Insert the hearing time and date and the address of the magisterial district court in the complaint form.

(3) Deliver a copy of the complaint form with hearing time and date thereon to the plaintiff.

(4) Deliver a copy of the complaint form with hearing time and date thereon for service on the defendant as hereinafter set forth, which copy shall contain the following notice:

NOTICE TO DEFENDANT

(a) [If you intend to enter a defense to this complaint you should so notify this office immediately.] **YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN COMPLAINT, YOU MUST TAKE ACTION WITHIN FIFTEEN (15) DAYS AFTER THIS COMPLAINT AND NOTICE ARE SERVED, BY COMPLETING AND RETURNING THE ENCLOSED NOTICE OF INTENT TO DEFEND FORM TO THIS COURT. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE WILL PROCEED WITHOUT YOU AND A JUDGMENT WILL BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT.**

(b) [If you have a claim against the plaintiff which is within magisterial district court jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five days before the date set for the hearing.] **IF YOU WANT TO SUE THE PLAINTIFF ON A CLAIM THAT IS WITHIN MAGISTERIAL COURT JURISDICTION, YOU MAY FILE A COUNTERCLAIM. A COUNTERCLAIM MUST BE FILED FIFTEEN DAYS PRIOR TO THE HEARING DATE.**

(c) [YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT MAY BE ENTERED AGAINST YOU BY DEFAULT.] **YOU MAY WISH TO SEEK LEGAL ASSISTANCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.**

(d) **IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.**

Name: _____

Address: _____

Phone: _____

Official Note: The [60] 120 day limitation in subdivision (1) of this rule was considered to provide sufficient time in which to effect service under requirement of Rule 307 that service be made at least [ten] 45 days before the hearing. See Rule 314E as to reinstatement of complaints dismissed because of lack of service. The copies required in subdivisions (3) and (4) are provided by the Magisterial District Judge Automated System. Giving the notice mentioned in subdivision [(4)(a)] (4) is necessary if the defendant is to **avoid a default judgment and to obtain judgment under Rule 319A** because of the plaintiff's failure to appear. Subdivision (4)(b) gives notice of the right to file a [cross-claim] counterclaim within magisterial district court jurisdiction. The procedure for filing such a claim is set forth in Rule 315, and the Note to that rule indicates possible procedures as to counterclaims not within magisterial district court jurisdiction. [Subdivision (4)(c) provides for a warning

concerning a default judgment, which may be rendered under Rule 319B.] Subdivisions (4)(c)—(d) provide information for obtaining legal assistance.

Rule 307. Service of the Complaint.

Service shall be made at least [ten] 45 days before the hearing, in the following manner:

(1) A copy of the complaint for each defendant shall be delivered by the magisterial district judge for service to the sheriff of, or any certified constable in, the county in which the magisterial district of the magisterial district judge is situated. If this service is not available to the magisterial district judge, service may be made by any certified constable of the Commonwealth. If the complaint is delivered for service to the sheriff and service is to be made in a county other than the one in which the magisterial district of the magisterial district judge is situated, the sheriff shall deputize the sheriff of the county in which service is to be made. A certified constable may serve the complaint anywhere in the Commonwealth.

(2) If service is to be made in a county other than the one in which the magisterial district judge's magisterial district is situated, the magisterial district judge, instead of acting in accordance with subdivision (1), may:

(a) send the copy of the complaint for service to a magisterial district judge in the county in which service is to be made who shall deliver it for service to the sheriff of, or any certified constable in, that county. If this service is not available to the magisterial district judge, service may be made by any certified constable of the Commonwealth, or

(b) if service is to be made in Philadelphia, send the copy of the complaint for service to the Court Administrator of the Philadelphia Municipal Court who shall deliver it for service to a writ server of that court or to the sheriff of Philadelphia.

(3) When service by mail is permitted by the rules in this chapter, it shall be at the option of the plaintiff and shall be made by the magisterial district judge by certified or registered mail. Such service may be made to any place in or outside the Commonwealth.

Official Note: This rule provides a number of alternative methods of serving the complaint. Subdivision (1) permits a certified constable to serve the complaint anywhere in the Commonwealth and authorizes deputized service by sheriffs. Subparagraph (2)(a) permits service out of the county through magisterial district judges in the county in which service is to be made, a method of service which might be preferable to service under subdivision (1) by a certified constable of the county where the complaint was filed when that county is a considerable distance from the county of service. Subparagraph (2)(b) provides for service in Philadelphia by writ servers of the Philadelphia Municipal Court or by the sheriff of Philadelphia, although service may still be made in accordance with subdivision (1) if the magisterial district judge so desires. Subdivision (3) makes service by mail, when permitted, at the option of the plaintiff. This was done because service by mail will ordinarily reduce costs.

Rule 314. Return, Waiver and Failure of Service; Reinstatement.

A. The person serving the complaint shall, at or before the time of the hearing, make proof of service which shall show (1) the manner of service, (2) the date, time, and

place of service and, (3) the name and relationship or title, if any, of the person on whom the complaint was served. The proof of service shall be filed with the original complaint.

B. When service is made by registered or certified mail, the return receipt shall be filed with the original complaint.

C. The appearance of a defendant in person or by representative or the filing by a defendant of a claim in the case shall be deemed a waiver of any defect in service but not a waiver of a defect in venue.

D. If the complaint is not served on the defendant in time to permit holding a hearing within [60] 120 days of the filing of the complaint, the magisterial district judge shall dismiss the complaint without prejudice.

E. Upon written request of the plaintiff, a complaint that has been dismissed without prejudice for failure to make service pursuant to subdivision D of this rule may be reinstated at any time and any number of times. The date of reinstatement shall be the date upon which the request for reinstatement is filed.

Official Note: The provision concerning appearance not being a waiver of venue was inserted in subdivision C of this rule to prevent the concentration of business in the office of a favorable magisterial district judge. Also, the public cannot generally be expected to be aware of venue provisions. See Rule 302H regarding improper venue.

Subdivision D is intended to prevent the accumulation of stale claims in the office of the magisterial district judge.

Subdivision E provides for the reinstatement, upon written request of the plaintiff, of a complaint that has been dismissed without prejudice for failure to make service under subdivision D. Compare Pa.R.C.P. No. 401(b). The written request for reinstatement may be in any form and may consist of a notation on the permanent copy of the complaint form, "Reinstatement of complaint requested," subscribed by the plaintiff. The magisterial district judge shall mark all copies of the reinstated complaint, "Complaint reinstated. Request for reinstatement filed on ____ (date)." If it is necessary to use a new form for the reinstated complaint, the reinstated complaint, except for service portions thereof, shall be an exact copy of the original complaint, although signatures may be typed or printed with the mark "/s/" indicating an actual signature. The language in subdivision E that a complaint may be reinstated "at any time" will permit reinstatement after a faulty service without waiting for further proceedings in the case. Reinstatement must occur within the period of the statute of limitations from the date of the last filing or reinstatement. The cost for reinstating a complaint is specified in Section 1725.1 of the Judicial Code, 42 Pa.C.S. § 1725.1. In addition, there may be additional server costs for service of the reinstated complaint.

Rule 315. [Claim by Defendant] Counterclaim.

A. The defendant, by filing a complaint at least [five] 15 days before the date set for the hearing, may assert in the case any claim against the plaintiff that is within the jurisdiction of a magisterial district judge. Such a claim need not arise from the same transaction or occurrence from which the plaintiff's claim arose, nor need it be the same type of claim.

B. The rules governing the form, processing, and service of a plaintiff's complaint shall apply also to the defendant's complaint. [**The magisterial district judge shall set a date and time for the consolidated hearing of both complaints that shall not be less than 12 or more than 30 days from the filing of the defendant's complaint. The magisterial district court shall promptly notify the parties of the date and time set for the consolidated hearing of both complaints.**]

C. A money judgment for the plaintiff or for the defendant, but not for both, shall be entered with respect to such [**cross-complaints**] **counterclaims**, any lesser amount found due on the claim asserted in one being deducted from the greater amount found due on the claim asserted in the other.

D. Rescinded.

Official Note: Paragraph A of this rule permits the defendant to file a [**cross-complaint**] **counterclaim** against the plaintiff at least [**five**] 15 days before the date originally set for the hearing, if it is for a claim cognizable by a magisterial district judge. See Section 1515(a)(3) of the Judicial Code, 42 Pa.C.S. § 1515(a)(3), as to waiver of jurisdictional limits, a defendant filing a [**cross-complaint**] **counterclaim** being considered a "plaintiff" as to the [**cross-complaint**] **counterclaim** within the meaning of this statute. [**The requirement that a cross-complaint be filed at least five days before the hearing is intended to give the magisterial district judge time to notify the parties of any new hearing date and time.**] Notice under paragraph B is not a substitute for proper service. If the defendant does not file an action at least [**five**] 15 days before the hearing, the defendant may still file a complaint against the plaintiff but it will not be processed as a [**cross-complaint**] **counterclaim**.

No provision has been made for a stay of the magisterial district court proceedings upon notice by the defendant of intention to commence an action in the court of common pleas on a claim against the plaintiff not within magisterial district judge jurisdiction. It was thought that no such provision was necessary, for if the plaintiff prevails in the magisterial district court action the defendant may appeal, the appeal operates as an automatic supersedeas of the money judgment, the case is heard de novo, and the defendant may assert a claim in the court of common pleas, possibly as a counterclaim. See Rules 1002, 1007, and 1008.

Since a [**cross-complaint**] **counterclaim** is in the nature of a responsive pleading, there is no fee for filing it.

No [**cross-complaint**] **counterclaim** may be filed in a supplementary action filed under Rule 342. See Rule 342 and Note.

Rule 318. [**Informing Plaintiff of**] Notice of Intention to Defend.

(A) **A defendant shall give the magisterial district court written notice of intention to defend on a form that shall be prescribed by the State Court Administrator within fifteen days of the date of service. If the defendant does not give such notice, the magisterial district judge shall enter judgment for the plaintiff or continue the case for cause.**

(B) If the defendant gives the magisterial district court notice of intention to defend in accordance with [**Rule 305(4)(a)**] **subdivision (A)**, the magisterial district court shall promptly give the plaintiff written notice that the defendant intends to enter a defense.

Official Note: [**No specific form of notification from the defendant to the magisterial district court is required by this rule, but entries**] **Entries** on the docket will show that the defendant gave **written** notice of intention to defend and that the magisterial district court gave written notice to the plaintiff.

Rule 319. Failure of a Party to Appear at the Hearing.

A. If a plaintiff who has been given notice of the defendant's intention to defend does not appear at the hearing, but the defendant does appear, the magisterial district judge shall enter judgment for the defendant or continue the case for cause. [**If the plaintiff does not appear at the hearing and the defendant does, but the plaintiff has not been given notice of the defendant's intention to defend, the case shall be continued.**]

B. If the defendant does not appear at the hearing, the magisterial district judge shall, whether or not the plaintiff appears, enter judgment for the plaintiff **in the amount specified on the complaint** or continue the case for cause. [**If judgment is entered for the plaintiff, the magisterial district judge shall assess damages for the amount to which the plaintiff is entitled if it is for a sum certain or which can be made certain by computation, but if it is not, the damages shall be assessed by the magisterial district judge at a hearing at which the issues shall be limited to the amount of the damages. If such a hearing is to be held, the magisterial district judge shall give the defendant written notice of the time and date of the hearing, which shall be not less than ten (10) days from the date of the notice.**]

Official Note: The first sentence of subdivision A of this rule provides for a judgment for the defendant rather than merely a dismissal of the plaintiff's complaint. This provision is intended to prevent the plaintiff from bringing the action again before a magisterial district judge, although he can appeal. The continuance called for in the second sentence of subdivision A will constitute a form of notice to defend and if the plaintiff does not appear at the second hearing judgment will be entered against him.

As to the provisions concerning assessment of damages in subdivision B, compare Pa.R.C.P. Nos. 1037(b) and 1047(b).]

REPORT

Proposed Amendments to Rules 209, 305, 307, 314—315, and 318—319 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges

Civil Actions: Setting Hearing Date; Notice to Defendant and Defendant's Notice of Intent to Defend; Counterclaim; Failure of a Party to Appear
I. Introduction and Background

The Minor Court Rules Committee (the "Committee") is proposing amendments to the rules of procedure governing civil actions before magisterial district judges. The

goal of these rule changes is to promote statewide uniformity in the setting of hearing dates in civil actions, and to eliminate the common practice of setting a "fake" hearing date until a defendant enters a notice of intention to defend. The Committee learned, as explained below, that existing procedures require unnecessarily scheduled hearings and continuances, with the end result often being a default judgment because the defendant does not appear at the hearing to defend against the complaint.

The Committee began looking at this issue in 2002, initiating this project partly in response to a survey that it circulated to all magisterial district judges. The purpose of the Committee's survey was to collect samples of "cover sheets" or instructions that magisterial district judges send to parties at the time of service of civil and landlord/tenant complaints. The Committee had contemplated developing standardized civil and landlord/tenant cover sheets that would provide parties with general information about court procedures. More than 150 magisterial district judges responded to the Committee's survey, and provided copies of civil and landlord/tenant cover sheet forms used in their magisterial district courts. Some cover sheets appear to have been adopted countywide, but most were developed by individual judges and were unique to one court.

In reviewing the sample cover sheets, the Committee noticed one practice used by a significant number of courts that raised concerns with the Committee. Current Rule 305 requires that the magisterial district court set a hearing date immediately upon the filing of the plaintiff's complaint, and requires that the court send a hearing notice along with the complaint when it is served on the defendant. The Committee noticed that many district courts, while technically complying with the requirement that a hearing date be set immediately, included instructions on their cover sheets that the hearing date on the hearing notice is, in essence, a default date, and the parties are not to appear on that date. The cover sheets further provide that the defendant is to inform the court of his or her intention to defend by the date on the hearing notice, and if the defendant does notify the court by the prescribed date that he or she intends to defend, that the court will notify the parties of an actual hearing date on which they are to appear and present their cases. If the defendant fails to notify the court by the prescribed date and does not appear for the hearing, a default judgment is entered without the plaintiff having to appear in court. Under this procedure, therefore, the hearing date required by Rule 305 becomes a de facto fictitious date, and only after the defendant notifies the court of his or her intention to defend, is the "real" hearing date set.

The Committee found that many magisterial district judges were using this informal procedure as a case management tool to avoid setting hearing dates in cases that may result in a default judgment. After making inquiries about the use of this informal procedure, the Committee heard reports from judges who claimed the procedure works very well, enabling the court to schedule its hearing times with greater certainty, to dispose of cases more efficiently, and to avoid unnecessary court appearances by parties.

The Committee acknowledges that courts should employ all proper means to manage and expedite case flow and enhance the administration of justice. Nonetheless,

the Committee has concerns about the use of an informal procedure that is not contemplated by or sanctioned under existing rules. The Committee does not suggest that there is anything inherently improper about this procedure, nor does the Committee suggest that the rules of procedure should be so rigid or inflexible so as to quash the ability of individual judges to adopt practices and policies designed to meet the unique needs of their courts. Rather, the Committee's concerns center on the widespread use of an informal procedure that is arguably inconsistent with the official procedural scheme set forth in the general rules, and the confusion that can occur as a result of using this informal procedure in some, but not all, magisterial district courts.

The Committee's primary concern is that the computer-generated hearing notice form that is sent to the plaintiff and served on the defendant along with the complaint states, as to the hearing date entered on the form, that "you must appear at the hearing and present your defense." Therefore, in courts that use the informal "default date" procedure, the instructions on the official hearing notice form are inconsistent with the instructions on the local court-generated cover sheet, which is likely to cause confusion. To make their cover sheet instructions clear, some courts use brightly colored paper or stickers to inform the parties that they are to disregard the date on the hearing notice form. The Committee is also concerned that many, but not all, courts have adopted this informal procedure, thereby resulting in inconsistent practice from court-to-court. In addition, even those courts that use the informal procedure have inconsistent procedures. For example, some cover sheets reviewed by the Committee require the defendant to notify the court of an intention to defend within a certain number of days, others require notice only by the prescribed date; some cover sheets require written notice, others provide for notice by telephone. The statewide general rules are intended to make practice in the magisterial district courts consistent and predictable. While the rules should allow enough flexibility for individual judges to adopt practices or policies that they find necessary to account for local needs and conditions, "local rules" of this nature are not contemplated by or provided for in the general rules.

Given its concerns about the widespread use of this informal procedure, the Committee considered ways in which the use of the procedure could be discouraged so as to maintain consistency in practice in the district courts and promote compliance with the procedural scheme set forth in the general rules. Following review and discussion of the survey results, the Committee drafted a comprehensive set of proposed rule changes that contemplated having defendants complete and return a simplified answer form before the court would set a hearing date. The proposal was published with a request for public comment in the *Pennsylvania Bulletin*. Following receipt and review of the public comments, the Committee conducted further analysis and discussion of the proposed changes, and made recommendations to the Pennsylvania Supreme Court ("Court"). Subsequently, the Committee requested the Court's permission to withdraw the recommendations for further review and modification. The proposal that follows is the result of the Committee's subsequent review of the issues initially identified in 2002.

II. Discussion

In its present examination of the informal procedures used in many magisterial district courts, the Committee continues to see value in facilitating uniformity in the

setting of hearing dates statewide, and eliminating the common practice of setting a "fake" hearing date until a defendant enters a notice of intention to defend. The Committee's efforts in this regard focused on changing the timeframes for the setting of the hearing, service of the complaint, and requiring the defendant to timely file a notice of intent to defend or suffer a default judgment.

III. Proposed Rule Changes

A. Rule 209

Under the proposal, Rule 209C(2)(a), providing for continuances, would require amendment to account for the new hearing date schedule set forth below. Specifically, the aggregate of all continuances in matters commenced pursuant to Rule 303 could not extend beyond 120 days from the filing of the plaintiff's complaint.

B. Rule 305

Rule 305 currently requires, among other things, that a hearing date be set immediately upon the filing of the plaintiff's complaint, with the hearing date set not less than 12 or more than 60 days from the date the complaint is filed. Under the proposed changes, the hearing would continue to be scheduled at the time the complaint is filed, but the window for scheduling the hearing would expand to no more than 120 days from the date the complaint is filed. It is anticipated that this change will allow the civil action to proceed without the need to set a "fake" hearing date.

Additionally, the Committee proposes adding an enhanced Notice to Defendant that would accompany the complaint when served on the defendant. The enhanced Notice to Defendant would be based on the notice required by Pa.R.C.P. No. 1018.1 for civil actions in the courts of record. The notice would inform the defendant that he or she must file a written Notice of Intention to Defend with the magisterial district court within fifteen days after service of the complaint and notice in order to defend against the claim, or else suffer judgment by default. In addition, the notice would provide instructions regarding the filing of a counterclaim, which would need to be filed fifteen days prior to the hearing date.

C. Rule 307

The only proposed change to Rule 307 amends the time limit for serving the complaint, from at least 10 days before the hearing to at least 45 days before the hearing.

D. Rule 314

The Committee proposes amending Rule 314D to provide that the magisterial district justice shall dismiss the complaint without prejudice if it cannot be served on the defendant within 120 days of the filing of the complaint, such that the hearing cannot be timely held. This amendment is necessitated by the change to Rule 305.

E. Rule 315

Rule 315 modifies the time for a defendant to file a counterclaim against the plaintiff from "at least five days before the date set for the hearing" to at least fifteen days before the date set for hearing. Moreover, the Committee recommends deleting the second sentence of Rule 315B, which provides for setting a consolidated hearing, since proposed revised scheduling will permit the parties to have adequate notice of the defendant's complaint. Finally, Rule 315 would be amended to substitute the term "counterclaim" for "cross-complaint."

F. Rule 318

Currently, Rule 318 does not require a defendant to give the magisterial district court notice of intention to defend, but, instead, prescribes steps for the court to take if such notice is filed. The proposed amendments would require the defendant to file a written notice of intention to defend within 15 days of the date of service. Failure of a defendant to file a notice will result in the entry of judgment for the plaintiff or a continuance of the case for cause. By receiving notice of the intention to defend, the magisterial district court will be able to proceed with the hearing.

G. Rule 319

In Rule 319A, the Committee recommends removing the second sentence pertaining to hearing results when the plaintiff has not been given notice of the defendant's intention to defend because, under the new scheme, there would not be a situation where a hearing would proceed without the defendant filing a notice of intention to defend. Moreover, in Rule 319B, the Committee proposes deleting the portion of the rule addressing damages hearing, instead limiting judgment to the amount specified on the complaint.

[Pa.B. Doc. No. 12-352. Filed for public inspection March 2, 2012, 9:00 a.m.]

Title 25—LOCAL COURT RULES

GREENE COUNTY

Consolidated Local Rules of Court; C.A. No. 5 of 1992

Order

And Now, this 3rd day of February, 2012, the Court *Orders* as follows:

1. Local Rule G 1920.51(f) is amended to provide that Masters in Divorce shall receive as compensation for their services \$125.00 per hour for the first five hours of their service and \$110.00 per hour thereafter, after presentation to and approval by the Court.

2. Future amendments of this subsection may be made by general order.

3. This rule shall become effective 30 days after the date of its publication in the *Pennsylvania Bulletin*.

4. The Greene County Court Administrator shall file one certified copy of the Rule with the Administrative Office of the Pennsylvania Courts, two certified copies with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and one certified copy with the Domestic Relations Procedural Rules Committee.

5. This rule shall be kept continually available for public inspection and copying in the Office of the Prothonotary.

By the Court

WILLIAM R. NALITZ,
President Judge

[Pa.B. Doc. No. 12-353. Filed for public inspection March 2, 2012, 9:00 a.m.]

WESTMORELAND COUNTY

Adopting New Rule W1915.19; No. 3 of 2012

Amended Order

And Now, this 10th day of February, 2012 *It Is Hereby Ordered* that, Westmoreland County Rule of Civil Procedure W1915.19 is adopted. This Rule is effective thirty (30) days after publication in *The Pennsylvania Bulletin*.

By the Court

GARY P. CARUSO,
President Judge

Rule W1915.19. Relocation.

(a) A Complaint for Custody shall be filed prior to or simultaneously with the filing of any Notice of proposed relocation.

(b) Any Notice proposing relocation shall comply with 23 Pa.C.S.A. § 5337(c) and shall be filed with the Prothonotary prior to being served on all other parties. A copy shall also be served on the chambers of the assigned judge.

(c) Any Objection to proposed relocation shall comply with 23 Pa.C.S.A. § 5337(d) and shall be filed with the Prothonotary, served on all other parties, and together with a scheduling order for a relocation hearing, served upon the chambers of the assigned Judge.

[Pa.B. Doc. No. 12-354. Filed for public inspection March 2, 2012, 9:00 a.m.]

ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

Amendments to the Fee Schedule Concerning Requests for Access to Electronic Case Records

Section 5.00(A) of the *Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania* provides that reasonable fees may be imposed for providing public access to electronic case records pursuant to this policy.

When responding to bulk requests pursuant to Section 3.10(A) of this policy, the Administrative Office of Pennsylvania Courts (AOPC) currently charges \$78 per hour (\$28 per hour for staff time and \$50 per hour for computer equipment time). This fee schedule took effect January 1, 1997 (26 Pa.B. 6179).

Beginning April 1, 2012, the fee schedule shall be amended as follows. The computer equipment time fee of \$50 per hour will be eliminated. The staff time fee shall be increased to \$80 per hour. The net result will be an overall increase of 2.5% (from \$78 to \$80 per hour). In addition, a minimum charge of 1 hour of staff time shall be assessed to each request, and thereafter requesters will be charged in 15 minute increments.

In addition, the fees assessed for recurring bulk requests (i.e., on a monthly basis) of standardized files will also change as of April 1, 2012. To view the most recent list of standardized files offered and associated fees, please visit the AOPC website at www.pacourts.us.

ZYGMONT A. PINES,
Court Administrator

[Pa.B. Doc. No. 12-355. Filed for public inspection March 2, 2012, 9:00 a.m.]