

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1300]

Order Amending Rule 1311.1 of the Rules of Civil Procedure; No. 575 Civil Procedural Rules Doc.

Order

Per Curiam

And Now, this 8th day of April, 2013, upon the recommendation of the Civil Procedural Rules Committee; the proposal having been published at 41 Pa.B. 2316 (May 7, 2011):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 1311.1 of the Pennsylvania Rules of Civil Procedure is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective May 8, 2013.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1300. ARBITRATION

Subchapter A. COMPULSORY ARBITRATION

Rule 1311.1. Procedure on Appeal. Admission of Documentary Evidence.

(a) The plaintiff may [stipulate to] elect a limit of \$25,000.00 as the maximum amount of damages recoverable upon the trial of an appeal from the award of arbitrators. The [stipulation] election shall be filed and served upon every other party at least thirty days from the date the appeal is first listed for trial. **The election may be withdrawn at any time by agreement of the parties. If the parties cannot agree, upon plaintiff's motion to withdraw the election, the court may grant the withdrawal of the election upon good cause shown.**

(b) If the plaintiff has filed and served [a stipulation] an election as provided in subdivision (a), any party may offer at trial the documents set forth in Rule 1305(b)(1). The documents offered shall be admitted if the party offering them has provided written notice to every other party of the intention to offer the documents at trial at least twenty days from the date the appeal is first listed for trial. The written notice shall be accompanied by a copy of each document to be offered.

* * * * *

(d) Any other party may subpoena the person whose testimony is waived by this rule to appear at or serve upon a party a notice to attend the trial and any adverse party may cross-examine the person as to the document as if the person were a witness for the party offering the document. The party issuing the subpoena shall pay the [reasonable] usual and customary fees and costs of

the person subpoenaed to testify, including a [reasonable] usual and customary expert witness fee if applicable.

(1) If another party subpoenas or otherwise arranges for the attendance at trial of the person whose testimony is waived by this rule, the document may be presented to the judge or jury as direct examination as if the person has not been subpoenaed by another person, or the plaintiff may conduct a direct examination of the witness.

(2) Any party, or the person subpoenaed, may require that the testimony be given by deposition pursuant to Pa.R.C.P. 4020(a)(5). The party issuing the subpoena shall pay the witness's usual and customary fee for such testimony.

(e) The [stipulation] election required by subdivision (a) shall be substantially in the following form:

(Caption)

[Stipulation to Limitation of] Election to Limit Monetary Recovery Pursuant to Rule 1311.1

To: _____
(Name of Party/Parties)

_____, plaintiff, [stipulates to] elects \$25,000.00 as the maximum amount of damages recoverable upon the trial of the appeal from the award of arbitrators in the above captioned action.

(Name of Plaintiff)

(Attorney for Plaintiff)

Date

Official Note: The term "plaintiff" includes a defendant who is the plaintiff in a counterclaim.

A plaintiff may include in a single document the [stipulation] election and the notice of intent to offer documents.

* * * * *

Explanatory Comment

The Supreme Court of Pennsylvania has amended Rule 1311.1 governing the admission of documentary evidence upon the appeal of an award of arbitrators in compulsory arbitration in three respects. Currently, subdivision (a) of the rule provides for a party to stipulate to \$25,000 as the maximum amount recoverable. The rule is silent as to any procedure for withdrawing the stipulation. The amended rule will allow a plaintiff to elect, rather than stipulate, a limit of \$25,000. An election can subsequently be withdrawn upon agreement by the parties or pursuant to a court order upon good cause shown.

Subdivision (d) of the current rule provides that the expert witness be paid a reasonable fee for his or her testimony. The amendment changes the reasonable fee to a usual and customary fee.

The amendment to subdivision (d) also provides a new procedure when another party subpoenas the witness

whose testimony is waived under this rule. The amendment would allow the plaintiff to present the document to the judge or jury as direct examination as if the person has not been subpoenaed by another person, or allow the plaintiff to conduct a direct examination of the witness.

By the Civil Procedural Rules Committee

DIANE W. PERER,
Chair

[Pa.B. Doc. No. 13-698. Filed for public inspection April 19, 2013, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 3000]

Order Amending Rule 3051 of the Rules of Civil Procedure; No. 574 Civil Procedural Rules Doc.

Order

Per Curiam

And Now, this 5th day of April, 2013, upon the recommendation of the Civil Procedural Rules Committee; the proposal having been published at 41 Pa.B. 5062 (September 24, 2011):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 3051 of the Pennsylvania Rules of Civil Procedure is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective May 5, 2013.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 3000. JUDGMENTS

Subchapter C. FORMS

Rule 3051. Relief from Judgment of Non Pros.

(a) Relief from a judgment of non pros shall be sought by petition. All grounds for relief, whether to strike off the judgment or to open it, must be asserted in a single petition.

(b) **[If] Except as provided in subdivision (c), if the relief sought includes the opening of the judgment, the petition shall allege facts showing that**

- (1) the petition is timely filed,
- (2) there is a reasonable explanation or legitimate excuse for the **[inactivity or delay] conduct that gave rise to the entry of judgment of non pros**, and
- (3) there is a meritorious cause of action.

Official Note: See Rule 237.3 for special provisions relating to relief from a judgment of non pros entered pursuant to Rule 1037(a).

(c) If the relief sought includes the opening of the judgment of non pros for inactivity, the petition shall allege facts showing that

Official Note: The “inactivity” covered by this subdivision is governed by and subject to *Jacobs v. Halloran*, 551 Pa. 350, 710 A.2d 1098 (1998).

- (1) the petition is timely filed,
- (2) there is a meritorious cause of action, and
- (3) the record of the proceedings granting the judgment of non pros does not support a finding that the following requirements for entry of a judgment of non pros for inactivity have been satisfied:

(i) there has been a lack of due diligence on the part of the plaintiff for failure to proceed with reasonable promptitude,

(ii) the plaintiff has failed to show a compelling reason for the delay, and

(iii) the delay has caused actual prejudice to the defendant.

Explanatory Comment

The Supreme Court of Pennsylvania has amended Rule 3051 governing relief from a judgment of *non pros* to clarify the requirements for opening a judgment of *non pros* entered for inactivity. In *Madrid v. Alpine Mountain Corp.*, 24 A.3d 380 (Pa. Super. 2011), the Superior Court of Pennsylvania ruled that under the current language of Rule 3051(b) it was compelled to conclude that a plaintiff is not entitled to relief from a judgment of *non pros* for inactivity without a showing that there was a reasonable explanation or legitimate excuse for the inactivity. Under this interpretation of Rule 3051(b), a judgment of *non pros* for inactivity cannot be opened even if the record did not establish actual prejudice unless the plaintiff could also show a reasonable explanation or legitimate excuse for the delay. Thus, while the defendant was required to show that the delay caused actual prejudice in order to obtain a judgment of *non pros* for inactivity, the plaintiff who cannot show a reasonable excuse for the delay may not challenge the entry of the judgment of *non pros* on the ground that the record failed to establish actual prejudice.

New subdivision (c) is intended to alter the ruling in *Madrid* by providing for the opening of a judgment of *non pros* dismissing a case for inactivity upon a showing that the defendant did not meet each of the three requirements for the entry of a judgment of non pros.

By the Civil Procedural Rules Committee

DIANE W. PERER,
Chair

[Pa.B. Doc. No. 13-699. Filed for public inspection April 19, 2013, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 200]

Proposed Amendment to Rule 207

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt an amendment to Rule 207 of the Minor Court Civil Rules. 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.

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

Pamela S. Walker, Counsel
Supreme Court of Pennsylvania
Minor Court Rules Committee
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
Fax: 717-231-9546
or email to: minorrules@pacourts.us

no later than June 20, 2013.

By the Minor Court Rules Committee

MARY P. MURRAY,
Chair

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 200. RULES OF CONSTRUCTION; GENERAL PROVISIONS

Rule 207. Representation in Magisterial District Court Proceedings.

(A) In magisterial district court proceedings:

(1) Individuals may be represented by themselves, by an attorney at law, or by a representative with personal knowledge of the subject matter of the litigation and written authorization from the individual to appear as the individual's representative.

(2) Partnerships may be represented by an attorney at law, a partner, or by an employee or authorized agent of the partnership with personal knowledge of the subject matter of the litigation and written authorization from a partner to appear as the partnership's representative.

(3) Corporations or similar entities and unincorporated associations may be represented by an attorney at law, by an officer of the corporation, entity, or association, or by an employee or authorized agent of the corporation, entity, or association with personal knowledge of the subject matter of the litigation and written authorization from an officer of the corporation, entity, or association to appear as its representative.

(B) A representative, employee, or authorized agent:

(1) must provide verification of personal knowledge of the subject matter of the litigation, and

(2) may take no action on behalf of a party until the written authorization required under paragraph (A)(1), (2), or (3) is filed with the court.

Official Note: This rule is intended to permit a non-lawyer representative, employee, or authorized agent to appear on behalf of an individual, partnership, corporation or similar entity, or unincorporated association, but not to allow a non-lawyer to establish a business for the purpose of representing others in magisterial district court proceedings.

It is intended that the designation of a non-lawyer representative, employee, or authorized agent to represent a party is to apply only on a case-by-case basis. A

party may not give blanket authorization for a non-lawyer representative, employee, or authorized agent to represent the party in all cases involving the party.

As to "personal knowledge of the subject matter of the litigation" see Pa.R.E. 602 and Comment.

A business organized as a sole proprietorship may be represented in the same manner as an individual under paragraph (A)(1).

See rules in Chapter 800 as to representation of minors and incapacitated persons by guardians.

REPORT

Proposed Amendment to Rule 207 of the Minor Court Civil Rules

Verification by Non-Lawyer Representative, Employee or Authorized Agent

I. Introduction

The Minor Court Rules Committee (the "Committee") is proposing an amendment to the rules of procedure governing actions in magisterial district courts. The goal of this rule change is to ensure that a non-lawyer representative, employee or authorized agent representing a party in a magisterial district court proceeding has personal knowledge of the subject matter of the litigation as required by Pa.R.C.P.M.D.J. No. 207.

II. Discussion

In 2006, the Supreme Court of Pennsylvania amended Pa.R.C.P.M.D.J. No. 207, clarifying who may represent certain parties in magisterial district court proceedings, and establishing an authorization procedure for non-lawyer representatives, employees and authorized agents of parties. Specifically, Rule 207 was amended to permit a non-lawyer representative, employee or authorized agent to appear on behalf of an individual, partnership, corporation or similar entity. Rule 207 requires that the authorized representative must have "personal knowledge of the subject matter of the litigation." The rule requires the party to file a written authorization with the magisterial district court naming the non-lawyer representative, employee or authorized agent to act as the party's authorized representative. A written authorization form is available on the website of the Unified Judicial System for use by the public.

In 2012, the Administrative Office of Pennsylvania Courts advised the Committee that it received a request from a magisterial district judge to modify the written authorization form to include the party's verification that the authorized representative has personal knowledge of the subject matter of the litigation. After reviewing and discussing the request, the Committee concluded that a more direct way to ensure that the authorized representative has the requisite personal knowledge is to require the representative's verification.

III. Proposed Rule Changes

The Committee proposes adding a provision to Pa.R.C.P.M.D.J. No. 207(B) requiring that the representative, employee or authorized agent provide verification of the subject matter of the litigation.

[Pa.B. Doc. No. 13-700. Filed for public inspection April 19, 2013, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Dismissal of Citations not Disposed within Three Years of the Commission of the Offense; Admin- istrative Order No. 01 of 2013

Order

And Now, this 3rd day of April, 2013, the Traffic Court having determined that the Citations listed on the following report were committed more than three years ago, and the Traffic Court having further determined that the citations have not been adjudicated,

It is hereby *Ordered, Adjudged and Decreed* that pursuant to 42 Pa.C.S. § 5553(e), the Citations are dismissed. The Traffic Court shall return any collateral posted in connection with the dismissed citations to the depositor, unless the depositor has outstanding Traffic Court fees, fines and costs in which event, the collateral shall be used to satisfy the depositor's outstanding fees, fines and costs. The depositor shall be sent the refund or receipt for allocation of the refund, as appropriate.

The original Administrative Order and amended local rule shall be filed with the Prothonotary in a docket maintained for Administrative Orders issued by the Administrative Judge of the Philadelphia Traffic Court, and, two certified copies of this Administrative Order and amended local rule as well as a copy on a computer diskette shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. Copies of this Administrative Order and amended local rule shall be published in *The Legal Intelligencer* and will be submitted to American Lawyer Media, Jenkins Memorial Law Library, and the Law Library for the First Judicial District.

By the Court

HONORABLE GARY S. GLAZER,
Administrative Judge,
Philadelphia Traffic Court

Ticket Number

F01223961
Q03793974
R00444301
Q03733402
\$003549162
Q01965876
Q01965880
R00198542
R02529520
R02529531
G01044761
S01177831
E07241780
E07241791
V00329921
Q02292264
K01350355
F00821085
F00821096
F00826464

Defendant's Name

Alexander, Marie
Aveni, Jasper Ademola
Bae, Shelly Jin
Brown, Tremaine R
Cancelliere, Pascual
Carter, Tyler Ariel
Carter, Tyler Ariel
Cervantes, Emmanuel
Childs III, Raymond
Childs III, Raymond
Clinton Princess
Cole, Timothy M
Contractors Inc, Greenscap Landscap
Contractors Inc, Greenscap Landscap
Corp, The Maramont
Cutts, Reginald
Davis, Troy
Dejesus Angel
Dejesus Angel
Dejesus Angel

Ticket Number

Q03331285
Q00002402
Q70213205
Q01252646
N04047223
W01895224
W01895246
W01895250
K01238764
H02083373
Q02601362
Q02601373
Q01449626
N01674525
K00118753
G00226170
B03398872
B04213812
B05567450
B05567461
B05567472
C02348010
C02349981
C02349992
C02350003
E06604975
Q02794912
Q00240590
Q00240601
R01545596
Q02562593
S02241901
R01522323
R01522345
Q70008525
Q70098420
F00014755
F00014766
F00014770
F00014781
Q03411660
Q03411671
Q01781662
R02874653
Q70320456
Q00147943
Q00228885
Q00228896
D01454950
G00552554
Q02567132
H00214841
B01667444
Q03330795
Q02553843
Q00124025
Q00124036
L02258686
K00272101
Q01248962
K02712813
R00284513
Q03450064
N02143120

Defendant's Name

Diamantis, Maria
Diggs, Lloyd
Dolch Jr, Henry J
Dougherty, Kristen Iris
Dunning, Anthony
Godfrey, Eric
Godfrey, Eric
Godfrey, Eric
Hale, Roshonna T
Hale, Scott
Herring, Tanya
Herring, Tanya
Hewitt III, Edward J
High, Ronette
Inc, Middlesex Materials
Jahaj, Eneo
Johnson, Amie
Johnson, Amie
Johnson, Amie
Johnson, Amie
Johnson, Amie
Johnson, Naill
Johnson, Naill
Johnson, Naill
Johnson, Naill
Johnson, Naill
Johnson Roosevelt
Johnson, Matthew R
Jones, Charles Kwame
Jones, Charles Kwame
Kashmer, Marietta L
Kearns, Benjamin
Konovalov, Alexander
Lautenbacher, Adam
Lautenbacher, Adam
Leasing, Superior
Leasing, Superior
Lebreau, Scott M
Lebreau, Scott M
Lebreau, Scott M
Lebreau, Scott M
Lewis, Darlene
Lewis, Darlene
Lewis, Gordon
Lopez, Alberto
Lucjan, B
Matta-Robles Isaac
Mcgill, Stephen Paul
Mcgill, Stephen Paul
Mcneil, Jermaine
Moore Hermione
Morella, Edward P
Pak, Kie C
Peterson, Anthony
Pivovrnik, Kerry Ann
Potter, Joshua I
Poulides, John C
Poulides, John C
Queiros-Rivera, Nery
Ribeiro, Weuler M
Richards, Gregory
Roberts, Michael Patrick
Roberts, Michael Patrick
Sampson, David
Savarino, Christoph T

**Ticket
Number****Defendant's Name**

N04802615	Sebastian, Veronica
K00324015	Shah, Chetana K
Q00123222	Smith, Patrick James
A01372556	Smith, Victoria D
A01372560	Smith, Victoria D
H02658935	Stone, Andre
H02658946	Stone, Andre
R00733600	Thomas Jr, Jeffery W
S02396063	Total Landscapi, Four Seasons
Q00126755	Trucking Inc, Black Horse
Q02557015	Trucking Inc, Black Horse
E05013831	Unlimited Inc, Furniture
Q01445566	Unruh, Eric Michael
F03744241	Werts, Malik
K01783014	Wheelings, Jamal
Q03641831	Wheelings, Jamal
Q03641842	Wheelings, Jamal
R01261256	Whitlock, Jr., Carl
R03085375	Wilkins, Cathy J
Q01963625	Williams, Brandon
F01105532	Williams, Selwyn
Q01682133	Williams, Matthew B
K02051184	Wilson, Tashanna
K02051195	Wilson, Tashanna
K02051206	Wilson, Tashanna
K02051210	Wilson, Tashanna
Q03360335	Woolson, Lester
K01126554	Yang, Serey
N04796094	Yost, Walter C
S01798020	Young, Blake
C02776211	Young, Jenice C
R03608010	Young, Shawn D
R03608021	Young, Shawn D

[Pa.B. Doc. No. 13-701. Filed for public inspection April 19, 2013, 9:00 a.m.]

Title 255—LOCAL COURT RULES

WAYNE COUNTY

Local Rule 6.12A; No. 62-1996-OCD

Order

And Now, to wit, this 27th day of March 2013, the Local Rules of Civil Procedure are amended, effective thirty (30) days after publication in the *Pennsylvania Bulletin*, as follows:

1. Local Civil Rule 6.12A is rescinded in its entirety.

The Court Administrator of Wayne County shall file or submit certified copies of this Order as follows:

A. One (1) certified copy with the Administrative Office of Pennsylvania Courts;

B. Two (2) copies and a CD ROM to the Legislative Reference Bureau, for publication in the *Pennsylvania Bulletin*;

C. One (1) copy to *The Wayne County Legal Journal*; and

D. One (1) copy shall be kept continuously available for public inspection and copying at the Clerk of Courts Office.

By the Court

RAYMOND L. HAMILL,
President Judge

[Pa.B. Doc. No. 13-702. Filed for public inspection April 19, 2013, 9:00 a.m.]