

# THE COURTS

## Title 210—APPELLATE PROCEDURE

### PART I. RULES OF APPELLATE PROCEDURE

[ 210 PA. CODE CH. 31 ]

#### Order Amending Rule 3121 of the Rules of Appellate Procedure; No. 235 Appellate Procedural Rules Doc.

##### Amended Order

*Per Curiam*

*And Now*, this 21st day of August, 2013, the proposal having not been published in the interests of justice and efficient administration:

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 3121 of the Pennsylvania Rules of Appellate Procedure is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and the amendments shall be effective immediately.

##### Annex A

#### TITLE 210. APPELLATE PROCEDURE

#### PART I. RULES OF APPELLATE PROCEDURE

#### ARTICLE III. MISCELLANEOUS PROVISIONS

#### CHAPTER 31. BUSINESS OF THE COURTS GENERALLY

#### ATTORNEYS AND COUNSELORS

#### Rule 3121. Practice of Law by Staff; **Qualifications.**

A. Neither the prothonotary, deputy prothonotary, chief clerk, nor any person employed in the Office of the Prothonotary, nor any [ **law clerk, administrative assistant, or secretary** ] **personal staff** employed by an appellate court or by any judge thereof, shall practice [ **in the court** ] **before any court or tribunal of this Commonwealth.** Nor shall any such person otherwise practice law [ **without prior approval of the judge on whose staff such person is employed or of the president judge if such person is not so employed** ]. Such a person may act *pro se*, and may perform routine legal work incident to the management of the personal affairs of the person or a member of the person's family, as long as the work is performed without compensation and does not involve the entry of an appearance on behalf of the family member in a court or other tribunal. Such limited practice is also subject to the disclosure of employment within the Unified Judicial System to the parties and the court in which the employee represents himself or herself.

This rule does not apply to *pro bono* activities, provided that they are performed without compensation; do not involve the entry of an appearance before any court or tribunal; do not involve a matter of public controversy, an issue likely to come before the person's court, or litigation against federal, state or local government; and are under-

taken after written approval of the Justice or Judge for whom the person is employed and the Chief Justice, or the President Judge of the Superior Court or Commonwealth Court, depending on which court employs the person.

B. Staff attorneys must either be members of the Bar of Pennsylvania, or must have received without exception an earned Bachelor of Laws or Juris Doctor degree from a law school that was an accredited law school at the time the staff attorney matriculated or graduated.

**Official Note:** Based on former Supreme Court Rule 6, former Superior Court Rule 4 and former Commonwealth Court Rule 60[ ], and makes no change in substance except to require approval by the appointing authority of the continuance of an outside law practice ]. See also 42 Pa.C.S. § 2502 (certain persons not to appear as counsel). The term "personal staff" includes, for example, a staff attorney, law clerk, administrative assistant, secretary or tipstaff. See 42 Pa.C.S. § 102 (defining "personal staff").

[Pa.B. Doc. No. 13-1886. Filed for public inspection October 11, 2013, 9:00 a.m.]

## Title 246—MINOR COURT CIVIL RULES

### PART I. GENERAL

[ 246 PA. CODE CHS. 300 AND 400 ]

#### Order Amending Rule 402 and the Official Note to Rule 341 of the Minor Court Civil Rules; No. 364 Magisterial Doc.

##### Order

*Per Curiam*

*And Now*, this 26th day of September, 2013, upon the recommendation of the Minor Court Rules Committee; the proposal having been published for public comment at 42 Pa.B. 7007 (November 10, 2012):

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 402 and the Official Note to Rule 341 are amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective December 25, 2013.

##### Annex A

#### TITLE 246. MINOR COURT CIVIL RULES

#### PART I. GENERAL

#### CHAPTER 300. CIVIL ACTION

#### SATISFACTION OF MONEY JUDGMENTS

#### Rule 341. Request for Entry of Satisfaction; Service; Entry of Satisfaction.

\* \* \* \* \*

**Official Note:** Subdivision A provides a mechanism for a judgment debtor, or anyone interested in the judgment, to file a written request for entry of satisfaction in the office of the magisterial district judge who rendered the judgment. See Section 8104(a) of the Judicial Code, 42 Pa.C.S. § 8104(a).

Subdivision B is intended to provide a number of alternative methods of service. See Rules 307, 308, 309, 310, 311, 312 and 313. When permitted, service by mail should be at the option of the person filing the request for entry of satisfaction. The requester shall be required to pay for all costs associated with initiating entry of satisfaction. **If the requester is unable to locate or otherwise serve the request upon the judgment creditor, the requester may need to enter the judgment in the court of common pleas, and seek alternative service pursuant to Pa.R.C.P. 430.**

\* \* \* \* \*

**CHAPTER 400. ENFORCEMENT OF JUDGMENTS RENDERED BY MAGISTERIAL DISTRICT JUDGES FOR THE PAYMENT OF MONEY**

**Rule 402. Request for Order of Execution. Entry of Judgment in Court of Common Pleas.**

\* \* \* \* \*

C. The plaintiff may enter the judgment, for the purpose of requesting an order of execution thereon, in an office of a magisterial district judge other than that in which it was rendered only if levy is to be made outside the county in which the judgment was rendered and the office in which the judgment is entered for execution is that of the magisterial district judge whose magisterial district is situated in the county in which levy is to be made.

The plaintiff may enter the judgment in such other office by filing therein a copy of the record of the proceedings containing the judgment, [ **certified** ] **certified** to be a true copy by the magisterial district judge in whose existing office the judgment was rendered or by any other official custodian of the record.

D. (1) The plaintiff may enter the judgment in the court of common pleas in any county. When so entered, the indexing, revival and execution of the judgment shall be in accordance with procedures applicable in the court of common pleas.

(2) The judgment may be entered in the court of common pleas by filing with the prothonotary a copy of the record of the proceedings containing the judgment, certified to be a true copy by the magisterial district judge in whose office the judgment was rendered or by any other official custodian of the record.

(3) The judgment may be entered in the court of common pleas after 30 days from the date the judgment is entered by the magisterial district judge. The judgment may not be entered in the court of common pleas after five years from the date the judgment is entered by the magisterial district judge.

**(4)(a) Within 14 days of entering the judgment in the court of common pleas, the plaintiff shall file satisfactory proof of the entry of judgment with the magisterial district court that entered the judgment, and the magisterial district court shall vacate the judgment from its docket.**

**(b) If after 14 days of entering the judgment in the court of common pleas, the plaintiff fails to comply with subparagraph 4(a) of this rule, the defendant may file such proof with the magisterial district court that entered the judgment, and the magisterial district court shall vacate the judgment from its docket.**

**(5) Except as provided in [ subparagraph D(5) ] paragraphs D(4) and D(6) of this rule, once the judgment is entered in the court of common pleas all further process must come from the court of common pleas and no further process may be issued by the magisterial district judge.**

[ (5) ] (6) The magisterial district judge shall enter satisfaction on the docket of the magisterial district court proceedings upon the filing by any party in interest of a certified copy of the docket entries of the court of common pleas showing the judgment and satisfaction have been entered in the court of common pleas.

**E. (1) As used in this rule, a judgment marked "expired" is a judgment that cannot be satisfied, revived, or vacated because the five-year period designated in Rule 402 has elapsed.**

**(2) If the plaintiff does not request an order of execution in a magisterial district court or enter the judgment in a court of common pleas within five years of the date the judgment was entered by the magisterial district judge, then the judgment shall be marked expired.**

**Official Note:** Under subdivision A of this rule, the execution proceedings are commenced by requesting an "order of execution." The request may not be filed before the expiration of 30 days after the date the judgment is entered by the magisterial district judge. This will give the defendant an opportunity to obtain a supersedeas within the appeal period. The request must be filed within five years of the date the judgment is entered by the magisterial district judge. No provision has been made for revival of a judgment in magisterial district court proceedings.

Subdivision C provides for entering the judgment, for the purpose of requesting an order of execution, in an office of a magisterial district judge other than that in which the judgment was rendered when levy is to be made outside the county in which the judgment was rendered. Compare Pa.R.C.P. No. 3002.

As to subdivision D, see Section 1516 of the Judicial Code, 42 Pa.C.S. § 1516. The 30 day limitation in the rule appears to be required by this Section. Certification by the magisterial district judge should not be done before the expiration of 30 days after the date of entry of the judgment. The only method available to renew a judgment would be to record the judgment in the Prothonotary's office prior to the expiration of the five-year period and then follow the applicable Rules of Civil Procedure for the revival of judgments. See Pa.R.C.P. No. 3025 et seq. Also, subdivision D makes clear that when the judgment is entered in the court of common pleas, all further process shall come from the court of common pleas and that no further process shall be issued by the magisterial district judge except that the magisterial district judge shall enter on the magisterial district court

docket **vacating of the judgment due its entry at the court of common pleas, or proof of satisfaction of a judgment that had been entered in the court of common pleas and subsequently satisfied in that court.** This exception is necessary so that procedures exist for entering satisfaction of all judgments with the magisterial district court, regardless of whether the judgment has been certified to and satisfied in the court of common pleas. **A plaintiff filing a judgment in the court of common pleas is required to file satisfactory proof of the entry of judgment with the magisterial district court that entered the judgment, and the magisterial district court will then vacate its judgment.** This step ensures that only the enforceable common pleas judgment will be reportable as an outstanding liability of the defendant.

Subdivision E provides that a judgment shall be marked expired if the plaintiff does not request an order of execution in a magisterial district court or enter the judgment in a court of common pleas within five years of the date the judgment was entered by the magisterial district judge. Limiting the time period for entry of the judgment to five years will give a plaintiff sufficient time to act without indefinitely penalizing a defendant.

#### FINAL REPORT

#### Recommendation 3-2013, Minor Court Rules Committee

#### *Amendments to Rule 402 and the Official Note to Rule 341 of the Minor Court Civil Rules*

#### Civil Actions; Time Limits for Requesting an Order of Execution or Entering Judgment in a Court of Common Pleas

On September 26, 2013, effective December 25, 2013, upon recommendation of the Minor Court Rules Committee<sup>1</sup>, the Supreme Court of Pennsylvania approved amendments to Rule 402 and the Official Note to Rule 341 of the Minor Court Civil Rules<sup>2</sup>.

#### I. Background and Discussion

The Minor Court Rules Committee (the "Committee") recommended amendments to the rules of procedure governing civil actions before magisterial district judges. The goal of these changes is (1) to suggest an option for a defendant when a plaintiff cannot be located or otherwise served with a request for entry of satisfaction of judgment pursuant to Pa.R.C.P.M.D.J. No. 341, and (2) to clarify the status of a judgment when a plaintiff has not executed upon it or entered it at a court of common pleas within the five year period set forth in Pa.R.C.P.M.D.J. No. 402.

The Committee received reports that some defendants have encountered difficulties when attempting to serve plaintiffs with requests to enter satisfaction of judgment because the plaintiffs have either moved, died, or are otherwise unavailable (e.g., corporate dissolution). Under current Pa.R.C.P.M.D.J. No. 341, the judgment creditor must be served with the request as the first step in the satisfaction process. Additionally, the Committee was advised that when a plaintiff enters a judgment at a court of common pleas pursuant to Pa.R.C.P.M.D.J. No. 402D, the judgment in the magisterial district court remains open and active because the magisterial district court is not advised of the action at common pleas.

<sup>1</sup> Minor Court Rules Committee Recommendation 3-2013.

<sup>2</sup> Supreme Court of Pennsylvania Order No. 364, Magisterial Docket (September 26, 2013).

Moreover, it is incumbent upon the plaintiff to adhere to the requirement in Pa.R.C.P.M.D.J. No. 402D(4), and not take further action in the magisterial district court. Finally, the Committee also considered the scenario where five years from the date of the judgment has elapsed, and the plaintiff has not taken any action to either execute on the judgment in a magisterial district court, or enter it in a court of common pleas pursuant to Pa.R.C.P.M.D.J. No. 402. In all of these instances, defendants can be subject to adverse credit reporting because of these magisterial district court judgments, yet they have no effective means to update the record.

#### II. Approved Rule Changes

The Committee recommended amending the Official Note to Rule 341 to address the situation where the defendant is unable to locate or otherwise serve the request for entry of satisfaction of judgment on the judgment creditor. As the magisterial district courts do not have motions practice, the Committee considered mechanisms for obtaining alternative service. The amended note suggests that the defendant enter the judgment in the court of common pleas, and then seek alternative service in that court pursuant to Pa.R.C.P. 430.

The Committee also recommended amending Rule 402. First, the Committee recommended that a plaintiff entering judgment at the court of common pleas must also file satisfactory proof of the entry of judgment with the magisterial district court that rendered the judgment, and the magisterial district court will then vacate the judgment from its docket. If the plaintiff fails to do so within fourteen days of entry at the court of common pleas, then the defendant may make the filing with the magisterial district court. The Committee also recommended marking magisterial district court judgments that have not been executed upon or entered at the court of common pleas within the five year period prescribed by Rule 402 as expired, rendering the judgment unenforceable. Doing so will properly indicate that such a judgment is one that can no longer be enforced via the processes set forth in Rule 402.

[Pa.B. Doc. No. 13-1887. Filed for public inspection October 11, 2013, 9:00 a.m.]

## Title 25—LOCAL COURT RULES

### BEDFORD COUNTY

#### Local Rule Amendments; No. 3 for 2013 Administrative Doc.

#### Order of Court

*And Now*, this 12th day of September, 2013, the Court hereby adopts the following new Local Rules:

1. Rule of Criminal Procedure 300.1. Summary Case ARD.
2. Rule of Civil Procedure 211.1. Non-Appearance of Oral Argument.
3. Rule of Civil Procedure 212.7. Motion Required for Placement on Civil Trial List.
4. Rule of Civil Procedure 212.8. Pre-Trial Conference.

The Court hereby adopts amendments to the following existing Local Rules:

1. Rule of Civil Procedure 1028(c). Preliminary Objections.
2. Rule of Civil Procedure 1034(a). Motion for Judgment on the Pleadings.
3. Rule of Civil Procedure 1035.2(a). Motions for Summary Judgment.
4. Rule of Judicial Administration 1901.

A copy of said Local Rules follows this Order and said Local Rules shall be effective in the 57th Judicial District of the Commonwealth of Pennsylvania thirty (30) days after publication in the *Pennsylvania Bulletin*.

*By the Court*

THOMAS S. LING,  
*President Judge*

### Rules of Criminal Procedure

#### Rule 300.1. Summary Case ARD.

(A) The District Attorney of Bedford County has filed a certification pursuant to Pa.R.Crim.P. 300, and:

(1) has elected that ARD in summary cases shall exclusively proceed in the Court of Common Pleas pursuant to the procedures in Pa.R.Crim.P. 302, and

(2) has designated the following classes of offenses and/or offenders, in addition to those which are statutorily excluded, as ineligible for summary case ARD:

(a) any violation of Title 18 (Crimes Code) where the alleged offender is over twenty-one (21) years of age,

(b) violations arising out of Title 24 (relating to Education),

(c) violations arising out of Title 75 (relating to Vehicles),

(d) any violation that results in serious bodily injury and/or death of any person.

(B) Summary cases shall not be submitted for ARD consideration before the minor judiciary under Pa.R.Crim.P. 301.

(C) Summary cases submitted for ARD consideration by the District Attorney shall proceed pursuant to Pa.R.Crim.P. 311 through Pa.R.Crim.P. 315.

(1) Upon being notified that the District Attorney is moving a summary case for ARD consideration, a hearing under Pa.R.Crim.P. 312 et seq. shall be scheduled for the next available date reserved for Summary Appeal hearings.

(D) If the judge finds that ARD is an appropriate disposition in the case, the following conditions may be imposed:

- (1) court costs,
- (2) a program fee of not less than \$100, nor more than \$500,
- (3) payment of restitution,
- (4) probation under the supervision of the Bedford County Office of Probation and Parole for a term not to exceed three (3) months,
- (5) successful completion of a Youth Alcohol Awareness Program,
- (6) successful completion of an Outpatient Drug and Alcohol Program,

(7) completion of community service hours,

(8) any conditions as may be agreed to by the parties, or

(9) any other conditions that the judge believes are reasonable and appropriate.

(E) The procedures for refusal, violation, completion and/or termination of ARD programs in summary cases shall be in accordance with Pa.R.Crim.P. 317 through Pa.R.Crim.P. 320.

### Rules of Civil Procedure

#### Rule 211.1. Non-Appearance at Oral Argument.

If all parties fail to appear for oral argument scheduled upon a motion, and have not first obtained Court approval for their non-appearance, the motion at issue shall be dismissed without prejudice of being re-filed and re-scheduled for argument.

#### Rule 212.7. Motion Required for Placement on Civil Trial List.

It shall be the responsibility of the parties in every civil action to notify the court when the matter is ready to proceed to trial. The parties shall do so by filing a motion that requests the judge to schedule a pre-trial conference and place the case on the civil trial list.

#### Rule 212.8. Pre-Trial Conference.

When a pre-trial conference has been scheduled pursuant to Local Rule 212.7, the parties shall file a concise pre-trial statement no later than seven (7) days before the date of the pre-trial conference. The pre-trial statement shall be no longer than three (3) pages and contain

- (a) a brief summary of the facts of the case;
- (b) whether the case is to be tried by jury or without a jury;
- (c) an estimate of the number of days required for trial;
- (d) a list of any presently outstanding pre-trial motions awaiting decision.

#### Rule 1028(c). Preliminary Objections.

All preliminary objections shall be filed in the Prothonotary's Office, which will then forward the preliminary objections to the Court Administrator's Office for scheduling. Argument for preliminary objections shall be scheduled for the next available Motions Court date. The Prothonotary's Office shall notify all counsel of record and/or unrepresented parties of the scheduling. Briefs shall be filed no later than seven (7) days prior to the date of argument. In the event there is an agreement amongst all parties to submit the matter on briefs, without oral argument, the request shall be made in writing to the Court Administrator.

#### Rule 1034(a). Motion for Judgment on the Pleadings.

The procedure for Motions for Judgment on the Pleadings shall be the same as that for Preliminary Objections.

**Rule 1035.2(a). Motions for Summary Judgment.**

The procedure for Motions for Summary Judgment shall be the same as that for Preliminary Objections.

**Rules of Judicial Administration****Rule 1901.**

(A) The Prothonotary shall list for general call at the first Motions Court date held after September 1 of each year all civil matters in which no action or proceedings have been taken for two years or more prior thereto and shall give notice thereof to counsel of record, and to parties for whom no appearance has been entered, as provided by Pa.R.J.A. 1901(c). If no action is taken or no written objection is docketed in such a matter prior to the commencement of the general call, the Prothonotary shall strike the matter from the list and enter an order as of course dismissing the matter with prejudice for failure to prosecute, under the provisions of this rule. If no good cause for continuing a matter is shown at the general call, an order shall be entered forthwith by the court for dismissal.

(B) The clerk of court shall list at the first Motions Court date held after September 1 of each year all criminal proceedings in which no action or proceedings have been taken for two years or more prior thereto and shall give notice thereof to the District Attorney, any private prosecutor and the defendant, as provided by Pa.R.J.A. 1901(c). If no good cause for continuing a proceeding is shown at the general call, an order for dismissal shall be entered forthwith by the court.

**\*\*Note:** Local Rules 1028(c), 1034(a), 1035.2(a), and 1901 are amendments to the existing Local Rules.

[Pa.B. Doc. No. 13-1888. Filed for public inspection October 11, 2013, 9:00 a.m.]

**WESTMORELAND COUNTY**  
**Increase in Clerk of Courts' Fees**

**Approval**

*And Now*, this 20th of September, 2013, pursuant to 42 Pa.C.S.A. § 1725.4(a)(2), the Westmoreland County Clerk of Courts' request to increase fees and charges effective October 1, 2013 is approved at a level not to exceed 6.8%. The amount of this approval is the calculated percentage difference in the consumer price index for Urban Wage Earners and Clerical Workers for the U.S. city average, all items, not seasonally adjusted, for the benchmarks of 2007 through 2009, the immediate three years preceding the last increase.

*By the Court*

GARY P. CARUSO,  
*President Judge*

**Bryan L. Kline**  
**Clerk of Courts**  
**Westmoreland County**

**Fee Increase Notice**

In accordance with Act 36 of 2000 that amends Title 42, Section 1725.4 the Westmoreland County Clerk of Courts Fee Schedule will increase 6.8 % effective January 1, 2010.

The 6.8% increase is based upon the U.S. Department of Labor—Bureau of Labor Statistics—Consumer Price

Index for Urban Workers (not seasonally adjusted), for the time period of January 2006 through December 2009.

The following are the Clerk of Courts fees adjusted January 1, 2010.

1. A fee of \$202.75 will be collected for all proceedings in all misdemeanor and felony cases disposed of at any time during or after trial.

2. A fee of \$152.00 will be collected for all proceedings in all misdemeanor and felony cases disposed of before trial.

3. A fee of \$32.00 for all proceedings in summary matters.

4. A fee of \$10.00 or all certifications.

5. A fee of \$20.00 for all other matters filed in the office and for all reports prepared by the clerk except that no fee shall be charged for filing township and borough audit reports or transcripts received which indicate a final disposition by the district justice.

6. A fee of \$50.60 for the filing of an appeal from a summary conviction before a district justice.

7. A fee of \$60.75 for an appeal from the court of common pleas to an appellate court.

8. A fee of \$0.061 per dollar for the first \$1,000 and \$0.023 per dollar for each additional \$1,000 or fraction thereof for the handling of money paid into court.

These fees are subject to change every three years based on Act 36 of 2000.

[Pa.B. Doc. No. 13-1889. Filed for public inspection October 11, 2013, 9:00 a.m.]

**DISCIPLINARY BOARD OF  
THE SUPREME COURT**

**Notice of Suspension**

Notice is hereby given that Charles Dee Septowski having been suspended from the practice of law in the State of Texas for a period of 42 months, with 4 months served and 38 months stayed, by Judgment of Partially Probated Suspension of the District Court of Travis County, Texas, 126th Judicial District, dated November 23, 2011, and Agreed Judgments of Probated Suspension of the Grievance Committee of the State Bar of Texas dated June 13, 2012, and March 12, 2013; the Supreme Court of Pennsylvania issued an Order dated September 25, 2013, suspending Charles Dee Septowski from the practice of law in this Commonwealth for a period of 42 months with 4 months served and 38 months stayed. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside 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. 13-1890. Filed for public inspection October 11, 2013, 9:00 a.m.]

# SUPREME COURT

**Court Administrator of the First Judicial District of Pennsylvania, Prothonotary of Philadelphia and Clerk of Courts of the First Judicial District of Pennsylvania; No. 412 Judicial Administration Doc.**

**Order**

*And Now*, this 24th day of September, 2013 in order to further streamline the operations of the First Judicial District of Pennsylvania, effective immediately, all duties and functions of the Prothonotary of Philadelphia and Clerk of Courts of the First Judicial District of Pennsylvania shall continue to be performed by Joseph H. Evers, the Court Administrator of the First Judicial District of Pennsylvania, until further order of this Court.

JUSTICE J. MICHAEL EAKIN,  
*Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 13-1891. Filed for public inspection October 11, 2013, 9:00 a.m.]

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**Transfer of Duties of Prothonotary and Clerk of Quarter Sessions of Philadelphia, First Judicial District of Pennsylvania; No. 412 Judicial Administration Doc.**

**Corrected Order**

*And Now*, this 30th day of September, 2013, pursuant to Article V, Section 10(a) of the Constitution of the Commonwealth of Pennsylvania, it is hereby *Ordered and Decreed* that all powers and duties of the Prothonotary of Philadelphia and the Clerk of Quarter Sessions of Philadelphia, First Judicial District, Pennsylvania, be transferred to the Trial Division of the First Judicial District. This Order and Caption supersede the Order entered on this docket at September 24, 2013.

JUSTICE J. MICHAEL EAKIN,  
*Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 13-1892. Filed for public inspection October 11, 2013, 9:00 a.m.]

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