

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 1910, 1915, 1920 AND 1930]

Order Amending Rules 1910.11, 1910.12, 1915.4-2, 1915.4-3, 1920.51, 1930.4 and 1930.8 of the Rules of Civil Procedure; No. 617 Civil Procedural Rules Doc.

Order

Per Curiam

And Now, this 4th day of March, 2015, upon the recommendation of the Domestic Relations Procedural Rules Committee; the proposal having been published for public comment in the *Pennsylvania Bulletin*, 44 Pa.B. 4338 (July 12, 2014):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 1910.11, 1910.12, 1915.4-2, 1915.4-3, 1920.51, 1930.4 and 1930.8 of the Pennsylvania Rules of Civil Procedure 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 in 30 days on April 3, 2015.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.11. Office Conference. Subsequent Proceedings. Order.

(a)(1) The office conference shall be conducted by a conference officer.

(2) [A] Any lawyer serving as a conference officer [who is a lawyer] employed by, or under contract with, a judicial district or appointed by the court shall not practice family law before a conference officer, [permanent] hearing officer [or], permanent or standing master [employed by], or judge of the same judicial district.

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Rule 1910.12. Office Conference. Hearing. Record. Exceptions. Order.

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(b)(1) At the conclusion of a conference attended by both parties, if an agreement for support has not been reached, and the conference and hearing are not scheduled on the same day, the court, without hearing the parties, shall enter an interim order calculated in accordance with the guidelines and substantially in the form set forth in Rule 1910.27(e), and the parties shall be given notice of the date, time and place of a hearing. A record hearing shall be conducted by a hearing officer who must be a lawyer.

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(3) [A] Any lawyer serving as a hearing officer employed by, or under contract with, a judicial district or appointed by the court shall not practice family law before a conference officer, hearing officer [or], permanent or standing master [employed by], or judge of the same judicial district.

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CHAPTER 1915. ACTIONS FOR CUSTODY OF MINOR CHILDREN

Rule 1915.4-2. Partial Custody. Office Conference. Hearing. Record. Exceptions. Order.

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(b) *Hearing.*

(1) The hearing shall be conducted by a hearing officer who must be a lawyer, and a record shall be made of the testimony. A hearing officer who is a lawyer employed by, or under contract with, a judicial district or appointed by the court shall not practice family law before a conference officer, hearing officer [or], permanent or standing master [employed by], or judge of the same judicial district.

* * * * *

Rule 1915.4-3. Non-Record Proceedings. Trials.

(a) *Non-Record Proceedings.* In those jurisdictions that utilize an initial non-record proceeding such as a conciliation conference or office conference, if no agreement is reached at the conclusion of the proceeding, the conference officer or conciliator shall promptly notify the court that the matter should be listed for trial. Any lawyer employed by, or under contract with, a judicial district or appointed by the court to serve as a conciliator or mediator or to preside over a non-record proceeding shall not practice family law before a conference officer, hearing officer, permanent or standing master, or judge of the same judicial district.

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CHAPTER 1920. ACTIONS OF DIVORCE OR FOR ANNULMENT OF MARRIAGE

Rule 1920.51. Hearing by the Court. Appointment of Master. Notice of Hearing.

(a)(1) The court may hear the testimony or, upon its own motion or the motion of either party, may appoint a master with respect to all or any of the matters specified in subdivision (a)(2)(i) to consider same and issue a report and recommendation. The order of appointment shall specify the matters which are referred to the master.

(2)(i) The court may appoint a master in an action of divorce under Section 3301(a), (b) and (d)(1)(ii) of the Divorce Code, an action for annulment, and the claims for alimony, alimony pendente lite, equitable distribution of marital property, child support, partial custody or visitation, or counsel fees, costs and expenses, or any aspect thereof.

(ii) If there are no claims other than divorce, no master may be appointed to determine grounds for divorce if either party has asserted grounds for divorce pursuant to § 3301(c) or § 3301(d)(1)(i) of the Divorce Code. A master may be appointed to hear ancillary economic claims in a divorce action pursuant to § 3301(c) or § 3301(d) of the

Divorce Code. The master may be appointed to hear ancillary economic claims prior to the entry of a divorce decree if grounds for divorce have been established.

(iii) No master may be appointed in a claim for legal, physical or shared custody or paternity.

Official Note: Section 3321 of the Divorce Code, 23 [Pa.C.S.A.] Pa.C.S. § 3321, prohibits the appointment of a master as to the claims of custody and paternity.

(3) The motion for the appointment of a master and the order shall be substantially in the form prescribed by Rule 1920.74.

(4) A permanent or standing master employed by, **or under contract with**, a judicial district **or appointed by the court** shall not practice family law before a conference officer, hearing officer [or], permanent or standing master [**employed by**], **or judge of** the same judicial district.

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CHAPTER 1930. RULES RELATING TO DOMESTIC RELATIONS MATTERS GENERALLY

Rule 1930.4. Service of Original Process in Domestic Relations Matters.

(a) *Persons Who May Serve.* Original process in all domestic relations matters may be served by the sheriff or a competent adult:

* * * * *

(3) or pursuant to special order of court.

Official Note: See Rule 76 for the definition of “competent adult.” Service upon an incarcerated person in a domestic relations action must also include notice of any hearing in such action, and specific notice of the incarcerated individual’s right to apply to the court for a writ of habeas corpus ad testificandum to enable him or her to participate in the hearing. The writ is available where an incarcerated individual wishes to testify as provided by statute or rule, as well as where the individual’s testimony is sought by another. *Vanaman v. Cowgill*, [**363 Pa. Super. 602**,] 526 A.2d 1226 (**Pa. Super.** 1987). See 23 [Pa.C.S.A.] Pa.C.S. § 4342(j) and Rule 1930.3. In determining whether a writ of habeas corpus ad testificandum should be issued, a court must weigh the factors set forth in *Salemo v. Salemo*, [**381 Pa. Super. 632**,] 554 A.2d 563 (**Pa. Super.** 1989).

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Rule 1930.8. Self-Represented Party.

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(e) The assertion of self-representation shall not delay any stage of the proceeding.

(f) The entry of appearance of a self-represented party shall be substantially in the following form:

[CAPTION]

**ENTRY OF APPEARANCE OF SELF-REPRESENTED PARTY
PURSUANT TO Pa.R.C.P. No. 1930.8**

I, _____, Plaintiff or Defendant (circle one), represent myself in the within action.
REMOVAL OR WITHDRAWAL OF COUNSEL OF RECORD (If Applicable)

_____ Remove _____, Esq., as my attorney of record.

_____ Withdraw my appearance for the filing party.

_____ Esq. (Print name) ID# _____

_____ Signature DATE: _____

I understand that I am under a continuing obligation to provide current contact information to the court, to other self-represented parties, and to attorneys of record.

All pleadings and legal papers can be served on me at the address listed below, which may or may not be my home address pursuant to Rule 1930.8:

Print Name

Signature

Address

City, State, Zip Code

Telephone number

FAX

Date

THE PARTY FILING THIS ENTRY OF APPEARANCE MUST PROVIDE NOTICE BY SENDING A COPY TO ALL PARTIES AND ATTORNEYS, INCLUDING THE ATTORNEY REMOVED FROM THE CASE.

Official Note: This form cannot be used when filing for support through the Department of Public Welfare Bureau of Child Support Enforcement's E-Services program. An entry of appearance form is available on the E-Services site for individuals filing through that program.

Explanatory Comment—2013

Withdrawal of appearance by counsel of record **without the entry of appearance by a self-represented party** is governed by Pa.R.C.P. No. 1012. Service of original process in domestic relations matters is governed by Pa.R.C.P. No. 1930.4. Service of legal papers other than original process is governed by Pa.R.C.P. No. 440.

[Pa.B. Doc. No. 15-493. Filed for public inspection March 20, 2015, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CHS. 300 AND 500]

Proposed Amendment of the Official Notes to Pa.R.C.P.M.D.J. Nos. 316, 322, 324, 509 and 514

The Minor Court Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of the Official Notes to Pa.R.C.P.M.D.J. Nos. 316, 322, 324, 509 and 514, addressing correction of data errors, for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Pamela S. Walker, Counsel
Minor Court Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717-231-9526
minorrules@pacourts.us

All communications in reference to the proposal should be received by April 29, 2015. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Minor Court Rules Committee

BRADLEY K. MOSS,
Chair

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 300. CIVIL ACTION

Rule 316. Amendment to Complaint.

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Official Note: It [was] is felt that the usual notice requirements involved with respect to amendments made prior to the hearing are too difficult and burdensome to be made applicable to magisterial district court proceedings. Consequently, this rule forbids amendments other than those made at the hearing in the presence of the adverse party. **Nothing in this rule is intended to prevent a magisterial district court from correcting its own typographical or data entry errors. A party seeking to correct a data error in an electronic case record shall submit a written request for correction to the magisterial district court that made the data error. See Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania, Section 6.00, Correcting Data Errors, 204 Pa. Code § 213.78.**

Rule 322. Judgment.

* * * * *

Official Note: The five day provision of this rule is in keeping with the general principle of insuring the expeditious handling of these actions. A general provision for costs has also been included. **A party seeking to correct a data error in an electronic case record shall submit a written request for correction to the magisterial district court that made the data error. See Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania, Section 6.00, Correcting Data Errors, 204 Pa. Code § 213.78.**

Rule 324. Notice of Judgment or Dismissal and the Right to Appeal.

* * * * *

Official Note: As to paragraph B(2), see Rule 402D and Note. As to paragraph B(3), see Rule 341. **A party seeking to correct a data error in an electronic case record shall submit a written request for correction to the magisterial district court that made the data error. See Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania, Section 6.00, Correcting Data Errors, 204 Pa. Code § 213.78.**

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

Rule 509. Amendments to Complaint.

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Official Note: [This rule is the same as Rule 316 of the civil rules.] It is felt that the usual notice requirements involved with respect to amendments made prior to the hearing are too difficult and burdensome to be made applicable to magisterial district court proceedings. Consequently, this rule forbids amendments other than those made at the hearing in the presence of the adverse party. Noth-

ing in this rule is intended to prevent a magisterial district court from correcting its own typographical or data entry errors. A party seeking to correct a data error in an electronic case record shall submit a written request for correction to the magisterial district court that made the data error. See Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania, Section 6.00, Correcting Data Errors, 204 Pa. Code § 213.78.

Rule 514. Judgment; Notice of Judgment or Dismissal and the Right to Appeal.

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Official Note: Paragraph A of this rule requires that the plaintiff appear and give testimony to prove the complaint before the magisterial district judge can enter judgment against the defendant, even when the defendant fails to appear for the hearing. The magisterial district judge may not enter a default judgment in a possessory action, including a judgment for money only. See Rule 512A and Note. The various issues that the magisterial district judge must determine at the hearing include: whether notice to quit was given to the defendant in accordance with law or that no notice was required under the terms of the lease; the amount or rent due, if any; damages to the leasehold premises, if any; the amount found to constitute the monthly rental, and; the amount of the security deposit held by the landlord, if any.

As to the notice to quit requirement, see Section 501 of The Landlord and Tenant Act of 1951, 68 P.S. § 250.501. See also *Patrycia Bros., Inc. v. McKeefrey*, 38 Pa. D. & C.2d 149 (Delaware County C.P. 1966).

The separate entries provided in paragraph A are made necessary as a result of the rental deposit provisions for appeal or certiorari contained in Rules 1008B and 1013B, as well as the wage attachment provisions contained in Section 8127 of the Judicial Code, 42 Pa.C.S. § 8127.

As to paragraph D(2), see Rule 402D and Note. As to paragraph D(3), see Rule 341.

A party seeking to correct a data error in an electronic case record shall submit a written request for correction to the magisterial district court that made the data error. See Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania, Section 6.00, Correcting Data Errors, 204 Pa. Code § 213.78.

REPORT

Proposed Amendment of the Official Notes to Pa.R.C.P.M.D.J. Nos. 316, 322, 324, 509 and 514

Correction of Data Errors

I. Introduction

The Minor Court Rules Committee (“Committee”) is planning to propose to the Supreme Court of Pennsylvania the amendment of the Official Notes to Pa.R.C.P.M.D.J. Nos. 316, 322, 324, 509 and 514. These rules address amendment of the complaint, as well as entry of judgment by the magisterial district court. The Committee is proposing to add a reference to the Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania to the Official Notes of the above referenced rules in order to clarify the procedure for seeking correction of data errors.

II. Discussion

The Committee received correspondence from an attorney who expressed concern at the difficulties he encountered in magisterial district courts in correcting what he characterized as typographical errors made by the courts. The attorney indicated that the problem arose when a suffix (e.g., Sr. or Jr.) is in the party’s name, and is reflected on the complaint, but court staff entered the party name into the Magisterial District Justice System (“MDJS”) without the suffix. Likewise, the misspelling of a party’s name when entering it into the MDJS could create a similar problem. The attorney reported that some magisterial district judges did not think that they had the authority to correct a record when advised of a data entry error.

The Committee discussed the correspondence, and agreed that magisterial district courts have the authority to correct their own typographical errors. The Committee further agreed that a request for such a correction should not fall under the general prohibition on seeking an amendment to a complaint. See Pa.R.C.P.M.D.J. Nos. 316, 509. While considering various options, the Committee was reminded of the Court’s adoption of the Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania (“Policy”)¹, and, specifically, of the section of the Policy addressing data errors. The Committee agreed that referencing the Policy, and the procedures for requesting data error correction, in the Rules would be helpful to the bench, bar and litigants.

Additionally, the Committee is concurrently seeking comments on a proposal that would rescind the rules governing writs of certiorari and making correlative rule changes, including changes to Rules 514. The Committee has not reprinted those proposed changes in this publication, but will ensure that any final recommendation to the Court on this matter conforms to the current status of that proposal.

III. Proposed Changes

The Committee identified Rules 316, 322, 324, 509 and 514 as rules that would benefit from a reference to the Policy. Rules 316 and 509 generally prohibit amendment of the complaint, except at the hearing in the presence of the adverse party. The Committee agreed that a reference to the Policy in the Official Notes to Rules 316 and 509 would establish the procedure to follow in the event a court makes a data error while entering a complaint or other document related to a case. The Committee also agreed to add language to the Official Notes to Rules 316 and 509, clarifying that the general prohibition on amendments to the complaint was not intended to preclude correction of a court’s own typographical or data entry errors. The Committee also agreed to add a reference to the Policy in the Official Notes to Rules 322, 324 and 514 to assist the bench, bar and litigants in the event a data error is made while entering the judgment. The proposed language regarding the Policy is as follows:

A party seeking to correct a data error in an electronic case record shall submit a written request for correction to the magisterial district court that made the data error. See Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania, Section 6.00, Correcting Data Errors, 204 Pa. Code § 213.78.

¹ Electronic Case Record Public Access Policy of the Unified Judicial System, 204 Pa. Code §§ 213.71—213.79.

Additionally, in Rule 509, addressing amendments to the complaint, the current Official Note simply directs the reader to Rule 316, providing that “[t]his rule is the same as Rule 316 of the civil rules.” The Committee agreed that it would be clearer to delete the current note, and, instead, insert the note language from Rule 316 that explains why amendments to the complaint are generally prohibited.

[Pa.B. Doc. No. 15-494. Filed for public inspection March 20, 2015, 9:00 a.m.]

PART I. GENERAL

[246 PA. CODE CHS. 300 AND 1000]

Proposed Adoption of Pa.R.C.P.M.D.J. Nos. 302.1 and 302.2 and Proposed Amendment of Pa.R.C.P.M.D.J. Nos. 314 and 1001

The Minor Court Rules Committee is planning to propose to the Supreme Court of Pennsylvania the adoption of Pa.R.C.P.M.D.J. Nos. 302.1 and 302.2, as well as the amendment of Pa.R.C.P.M.D.J. Nos. 314 and 1001, governing dismissals and transfers of civil actions for lack of jurisdiction, for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being republished in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Pamela S. Walker, Counsel
Minor Court Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717-231-9526
minorrules@pacourts.us

All communications in reference to the proposal should be received by May 5, 2015. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Minor Court Rules Committee

BRADLEY K. MOSS,
Chair

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 300. CIVIL ACTION

(Editor’s Note: Rules 302.1 and 302.2 are new and printed in regular type to enhance readability.)

Rule 302.1. Dismissal for Lack of Personal Jurisdiction.

A. The magisterial district judge may dismiss a complaint for lack of personal jurisdiction.

B. A party may request a hearing for the limited purpose of contesting personal jurisdiction. Such a request or the party’s appearance at such a hearing shall not constitute a waiver of the right to raise any defense including questions of jurisdiction or venue.

C. The magisterial district judge shall issue written notice of the dismissal to the parties.

Official Note: This rule addresses dismissal due to lack of personal jurisdiction. Jurisdictional issues must be raised at a hearing. Personal jurisdiction is the power of a court to hear and determine a case as long as there are minimum contacts between the parties and the Commonwealth. Personal jurisdiction over persons in the Commonwealth is established by 42 Pa.C.S. § 5301. Personal jurisdiction over persons outside the Commonwealth is established by 42 Pa.C.S. § 5322. In contrast, venue refers to the geographical limitations on a court’s authority to hear a case that it otherwise has jurisdiction over. See Rule 302 regarding venue.

Rule 302.1B is derived in part from Pa.C.R.P. 1012(a), and provides a method for a party to contest personal jurisdiction, without waiving such objection.

An appeal is the method for challenging a dismissal made on the grounds of lack of personal jurisdiction. See Rules 1001—1002.

Rule 302.2. Transfer of Action for Lack of Subject Matter Jurisdiction.

A. When an action is commenced in a magisterial district court but the court does not have jurisdiction over the subject matter of the action, the magisterial district court shall not dismiss the action if there is another court of appropriate jurisdiction within the Commonwealth in which the action could originally have been brought.

B. The magisterial district court shall transfer the action at the cost of the plaintiff to the court of appropriate jurisdiction.

C. The magisterial district court in which the action is commenced shall transfer the complaint to the prothonotary or clerk of the court to which the action is transferred.

Official Note: This rule authorizes a magisterial district court to transfer a case to another court within the Commonwealth when the magisterial district court does not have jurisdiction over the subject matter of the action. The subject matter jurisdiction of the magisterial district courts is governed by Section 1515 of the Judicial Code, 42 Pa.C.S. § 1515. In contrast, venue refers to the geographical limitations on a court’s authority to hear a case that it otherwise has jurisdiction over. See Rule 302 regarding venue.

Rule 302.2 is derived in part from Section 5103(a) of the Judicial Code, 42 Pa.C.S. § 5103(a). “If an appeal or other matter is taken to or brought in a court or magisterial district of the Commonwealth which does not have jurisdiction of the appeal or other matter, the court or magisterial district judge shall not quash such appeal or dismiss the matter, but shall transfer the record thereof to the proper tribunal of this Commonwealth, where the appeal or other matter shall be treated as if originally filed in the transferee tribunal on the date when the appeal or other matter was first filed in a court

or magisterial district of this Commonwealth.” 42 Pa.C.S. § 5103(a). Rule 302.2 is also derived in part from Pa.R.C.P. No. 213(f) (authorizing transfer of actions for lack of subject matter jurisdiction).

When a complaint is transferred under this rule, it is treated as if it was originally filed in the transferee court on the date first filed in the magisterial district court. It is the intent of this rule that cases may be transferred to any Pennsylvania court with appropriate jurisdiction and venue, including the Philadelphia Municipal Court. Likewise, nothing in this rule prohibits a court other than a magisterial district court from transferring a case to a magisterial district court with proper jurisdiction and venue, in accordance with the procedural rules of the transferring court.

There may be additional costs when a case is transferred, including, but not limited to, service costs.

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

* * * * *

C. [The] Except for a limited purpose hearing requested pursuant to Rule 302.1B, 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.

* * * * *

Official Note: The hearing referenced is subdivision C is for the limited purpose of contesting personal jurisdiction. 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.

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CHAPTER 1000. APPEALS

APPELLATE PROCEEDINGS WITH RESPECT TO JUDGMENTS AND OTHER DECISIONS OF MAGISTERIAL DISTRICT JUDGES IN CIVIL MATTERS

Rule 1001. Definitions.

As used in this chapter¹:

(1) *Judgment*—A judgment rendered by a magisterial district judge under Rule 319, 322 or 514, or a dismissal rendered by a magisterial district judge pursuant to Rule 302.1.

* * * * *

Official Note: Although one of the purposes of the definitions in this rule is to avoid needless repetition throughout these appellate rules, some of the definitions are intended to state or clarify the law as well.

The definition of “judgment” includes a dismissal due to lack of personal jurisdiction.

In connection with the definition of “appeal” in subdivision (2), see also Rule 1007 and the note thereto.

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¹ Rules in 1000 series. Since these rules are a chapter of the Rules of Civil Procedure Governing Actions and Proceedings before Magisterial District Judges, the rules in the 200 series will also apply.

REPORT

Proposed Adoption of Pa.R.C.P.M.D.J. Nos. 302.1 and 302.2, and Proposed Amendment of Pa.R.C.P.M.D.J. Nos. 314 and 1001

Dismissals and Transfers for Lack of Jurisdiction

I. Introduction

The Minor Court Rules Committee (“Committee”) is planning to propose to the Supreme Court of Pennsylvania the adoption of Pa.R.C.P.M.D.J. Nos. Rules 302.1 and 302.2, as well as the amendment of Pa.R.C.P.M.D.J. Nos. 314 and 1001, governing dismissals and transfers of civil actions for lack of jurisdiction. The goal of the proposed new rules and amendments is to establish procedures when a case is brought in a magisterial district court, but the court is lacking either personal jurisdiction or subject matter jurisdiction.

II. Discussion

The Committee has been examining procedures related to withdrawals, settlements and dismissals of cases in the magisterial district courts.¹ In conducting its review, the Committee observed that the rules did not have procedures for addressing cases where the magisterial district court is lacking either personal jurisdiction over a party or subject matter jurisdiction. The Committee previously published proposed rules on this topic in the Pennsylvania Bulletin for public comment. See 44 Pa.B. 479 (January 25, 2014). After reviewing comments received in response to the publication, the Committee determined that further review and revision of the proposal was warranted.

With regard to personal jurisdiction, the Committee further revised proposed new Rule 302.1 to require that jurisdictional issues be raised at a hearing, and permitting such a hearing to be held for the limited purpose of contesting jurisdiction, without waiver of future defenses. The Committee also added definitions of venue and personal jurisdiction to the Official Note, as well as statutory citations to distinguish between personal jurisdiction over persons within and outside the Commonwealth. The Committee is concurrently seeking comments on a proposal that would rescind the rules governing writs of certiorari and making correlative rule changes.²

Currently, jurisdictional challenges are addressed by seeking a writ of certiorari. Because the Committee plans to ultimately recommend the rescission of the certiorari rules, proposed new Rule 302.1 does not identify certiorari as the vehicle for review of a magisterial district court decision on personal jurisdiction; rather, the Official Note to proposed new Rule 302.1 identifies an appeal as the method for challenging a dismissal made on the grounds of personal jurisdiction.

With regard to subject matter jurisdiction, the Committee further revised the Official Note to proposed new Rule 302.2 to distinguish the statutorily established subject matter jurisdiction of magisterial district courts from venue.

Because proposed new Rule 302.1 now provides for a limited purpose hearing for contesting personal jurisdiction determinations, the Committee proposes amending Rule 314C to provide for an exception to the general rule that “appearance of a defendant in person or by

¹ The Supreme Court adopted a procedural rule pertaining to withdrawals and settlements. See Supreme Court of Pennsylvania Order No. 368, Magisterial Docket No. 1 (July 21, 2014); Pa.R.C.P.M.D.J. No. 320.

² Any final recommendation to the Court on this matter will conform to the current status of the rescission of certiorari proposal.

representative...shall be deemed a waiver of any defect in service." See Rule 314C. Additionally, the Committee proposes amending the definition of "judgment" in Rule 1001 to include a dismissal made pursuant to proposed new Rule 302.1. As the Committee is planning to propose the rescission of the rules governing writs of certiorari, adding dismissals pursuant to proposed new Rule 302.1 to the definition of a judgment will permit such dismissals to be challenged via appeals.

III. Proposed Rule Changes

Proposed Rule 302.1A provides that a magisterial district judge may dismiss a complaint for lack of personal jurisdiction. Proposed Rule 302.1B provides for a hearing for the limited purpose of contesting personal jurisdiction, and establishes that such a hearing will not constitute a waiver of the right to raise any defense, such as jurisdiction or venue. Proposed Rule 302.1C provides that the magisterial district judge shall issue written notice of the dismissal. The Official Note provides that jurisdictional issues must be raised at a hearing. The Official Note also sets forth the statutory authority for establishing personal jurisdiction, on persons inside and outside the Commonwealth, as well as distinguishing personal jurisdiction from venue. Finally, the Official Note advises that an appeal is the method for challenging a dismissal made on the grounds of personal jurisdiction.

Proposed Rule 302.2 is derived in part from 42 Pa.C.S. § 5103(a) and Pa.R.C.P. No. 213(f). The proposed new rule provides for the transfer of actions for lack of subject matter jurisdiction, and notes that there may be additional costs to the plaintiff when a case is transferred, including, but not limited to, service costs. The Official Note to proposed new Rule 302.2 distinguishes subject matter jurisdiction from venue.

The proposed amendment to Rule 314C addresses the limited purpose hearing authorized by proposed Rule 302.1B. It provides that such limited purpose hearings are exempt from the general provision that "the appearance of a defendant in person or by representative or the filing by the 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." See Rule 314C.

Finally, the proposed amendment to the definition of "judgment" in Rule 1001 would include a dismissal rendered by a magisterial district judge pursuant to Rule 302.1, as well as amend the Official Note to explain that the Rule 302.1 dismissal is due to lack of personal jurisdiction.

[Pa.B. Doc. No. 15-495. Filed for public inspection March 20, 2015, 9:00 a.m.]

Title 25—LOCAL COURT RULES

LEHIGH COUNTY

Rule 205.4 Authorizing an E-Filing Program for Civil Cases; No. 2015-J-18

Administrative Order

And Now, this 24th day of February 2015, *It Is Hereby Ordered That* Lehigh County R.C.P. 205.4, Electronic Filing and Service of Legal Papers, authorizing a pilot program for electronic filing of civil cases identified on the Supreme

Court of Pennsylvania Court of Common Pleas Civil Cover Sheet, be and is hereby rescinded effective upon publication on the Pennsylvania Judiciary Web Application Portal and that the following Lehigh County Rule authorizing an E-Filing Program for Civil Cases be and the same is hereby *Adopted*, effective upon publication of this rule on the Pennsylvania Judiciary Web Application Portal (<http://ujportal.pacourts.us>).

It Is Further Ordered That the Court Administrator of Lehigh County shall file: one (1) certified copy of this Order and the Lehigh County Rule authorizing the E-Filing Program for Civil Cases with the Administrative Office of Pennsylvania Courts; two (2) certified copies and a computer diskette or CD-ROM copy that complies with the requirement of 1 Pa. Code Section 13.11(b) with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; one (1) certified copy with the Civil Procedural Rules Committee, and publish a copy on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>)

By the Court

CAROL K. MCGINLEY,
President Judge

Rule 205.4. Electronic Filing of Legal Documents Filed in the Clerk of Judicial Records—Civil Division.

(a)(1) *Authorization for Electronic Filing of Civil Legal Papers*

(i) In accordance with Pa.R.C.P. No. 239.9, the Lehigh County Court of Common Pleas permits the electronic filing of legal papers and the electronic service of such papers effective March 15, 2015, as specifically defined within this rule. The applicable general rules of court and court policies that implement the rules shall continue to apply to all filings regardless of the method of filing. Electronic filing and service shall be governed by this rule.

(ii) In the context of this rule, "legal papers" which may be filed electronically shall be in all civil cases, but not including family court or Orphans' Court matters.

(iii) All registered participants are eligible to file the legal papers as indicated in paragraph (a)(1)(ii) above.

Comment

The primary intent of this rule is to facilitate the filing of all legal papers that are expressly permitted under this subsection.

(b)(1) *Authorized Electronic Format of Legal Papers Electronically Filed.* All legal papers that may be filed electronically as defined by this rule shall be filed in Portable Document Format (PDF). In the event any legal paper or exhibit is submitted to the Clerk of Judicial Records—Civil Division in hard copy format for a case already initiated electronically, the Clerk of Judicial Records—Civil Division shall convert and maintain such legal paper or exhibit to a Portable Document Format (PDF) and the Clerk of Judicial Records—Civil Division shall return the hard copy legal paper or exhibit to the filing party for retention as required by Pa.R.C.P. No. 205.4(b)(4).

(c)(1) A legal paper filed electronically shall be deemed the original document.

(c)(2) *Website—Access to the Website*

(i) *Website.* All legal papers may be filed electronically through the Clerk of Judicial Records—Civil Division's

Electronic Filing System “Odyssey File and Serve” (OFS) which shall be accessible through the Lehigh County Website, www.lehighcounty.org

(ii) *Access to the Website.* To obtain access to the Electronic Filing System, counsel and any unrepresented party must apply for and receive a User Name and Password.

(d)(1) *Payment of Filing Fees*

(i) The Clerk of Judicial Records—Civil Division will accept electronic payment of all filing fees with the following credit and debit cards: Discover, MasterCard, American Express and Visa.

(ii) The credit or debit card will be charged with a convenience fee dictated by the credit card vendor.

(iii) The Clerk of Judicial Records—Civil Division will accept payment of electronic filing fees in cash or checks only when filing in person at the counter in the Clerk of Judicial Records—Civil Division.

(e) *Reserved*

(f) *Local Procedures*

As authorized by Pa.R.C.P. No. 205.4(f), the following local administrative procedures are adopted:

(i) As provided by Pa.R.C.P. No. 1023.1, the required signature on an electronic filing of legal papers is established by submission of a filing and the application of a digitized signature or the name of the filer proceeded by /s/ accompanied by the attorney’s printed name or a scanned document with an original signature. Verification will be achieved through the use of an email address and a password obtained from the OFS System. The OFS system will verify the user ID against the state ID number. Verification for parties other than attorneys will be verified through the user ID.

(ii) The legal paper must include a signature block, and the name of the filer under whose user name and password the legal filing is submitted.

(iii) The Electronic Filing Application (OFS) shall provide to the filer, using the email address registered by the filer, a Courtesy Email acknowledging that the filing was received. An Official Notification will be displayed in the Electronic Filing System, which includes the time and date, as a pending filing awaiting approval by the Clerk of Judicial Records—Civil Division. Within six (6) business hours of the receipt of the legal paper, the Clerk of Judicial Records—Civil Division shall provide the filer with notification through the Electronic Filing System that the legal paper has been either accepted or rejected.

(iv) If a legal paper is accepted, it shall be deemed to have been filed as of the date and time it was received by the Electronic Filing System; however, if a legal paper is submitted without the requisite filing fee, the legal paper shall be deemed to have been accepted for filing as of the date payment is received pursuant to 42 P.S. Section 21073(b), “The Clerk of Judicial Records—Civil Division shall not be required to enter on the docket any suit or action or order of court or to enter any judgment thereon and perform any services whatsoever for any person, political subdivision or the Commonwealth until the requisite fee is paid.”

Note: As required by Pa.R.C.P. No. 205.4(c)(1) access to the Electronic Filing System shall be available at all times, except for routine maintenance; however, legal documents can only be reviewed by the staff of the Clerk of Judicial Records—Civil Division during normal office hours. Therefore, filers are cautioned to file required legal

papers well in advance of any filing deadlines to enable timely correction and re-submission in the event a legal paper is not acceptable for filing.

(v) Pa.R.C.P. No. 204.1(3) requires that the first sheet of all pleadings, motions and other legal filings shall contain a 3-inch space from the top of the paper. This space shall be reserved solely for the use of the Clerk of Judicial Records—Civil Division for the electronic date and time stamp, and other official use.

(vi) As required by Pa.R.C.P. 205.5, the filer shall include the statewide cover sheet with the initial filing.

(vii) It shall be the responsibility of the filer to notify the Clerk of Judicial Records—Civil Division of any legal paper or exhibit submitted for filing in hard copy format/paper for a case initiated by electronic filing by indicating under the case number “Electronic Case.” The Clerk of Judicial Records—Civil Division shall then convert the legal paper to a portable document format (pdf) and accept and maintain such legal paper or exhibit in the electronic form. The Clerk of Judicial Records—Civil Division shall return the hard copy legal paper or exhibit to the filing party for retention as required by Pa.R.C.P. No. 205.4(b)(4) and Pa.R.C.P. No. 205.4(b)(5).

(viii) If a legal document is refused for filing, the Clerk of Judicial Records—Civil Division shall specify a reason. Subject to the Rule 205.4(e)(3), a legal paper refused for filing shall be deemed as not having been filed.

(ix) Neither the Court nor the Clerk of Judicial Records—Civil Division shall be required to maintain a hard copy of any legal paper, notice, or order filed or maintained under this rule.

(g) *Service of Legal Papers*

(i) Once an electronic filing has been accepted by the Clerk of Judicial Records—Civil Division, it shall be the responsibility of the filing party to provide to the Sheriff of Lehigh County, the proper service fee and the documents for Original Service and Writs.

[Pa.B. Doc. No. 15-496. Filed for public inspection March 20, 2015, 9:00 a.m.]

SUPREME COURT

Pilot Program for Pro Bono Representation; No. 443 Judicial Administration Doc.

Order

Per Curiam

And Now, this 5th day of March, 2015, *It Is Ordered* that:

There is hereby established a pilot program to provide *pro bono* representation to indigent criminal defendants, as well as indigent civil litigants who have a right to appointed counsel (such as a parent whose rights are subject to termination in an involuntary termination proceeding, 23 Pa.C.S. § 2313(a.1));

The pilot program is to be loosely modeled on a similar one employed by the United States Court of Appeals for the Third Circuit;

Participation is limited to indigent *pro se* litigants who are petitioners or respondents relative to a petition for allowance of appeal in the above substantive areas which has been granted;

David R. Fine, Esquire, is appointed as *pro bono* coordinator for the pilot program;

Similar to the procedure pertaining in the Third Circuit, the *pro bono* coordinator will gather a list of experienced appellate attorneys in the Western, Middle, and Eastern Districts who are willing to participate in this Court's pilot program by providing *pro bono* legal services;

The list will be transmitted to the Chief Justice and Prothonotary of the Supreme Court for approval, with periodic updates as appropriate;

Upon issuance of an order allowing appeal on a qualifying *pro se* petition or *pro se* answer, the Prothonotary shall contact the *pro bono* coordinator and provide him with a copy of such order and the underlying petition for allowance of appeal;

The *pro bono* coordinator will then contact potential volunteers on the list previously provided to the Court to locate an appropriate volunteer;

Upon provisional selection by the *pro bono* coordinator, the coordinator will convey the volunteer's name and contact information to the Prothonotary;

The Prothonotary will determine whether the appointment is acceptable to the *pro se* litigant;

If the appointment is acceptable to the *pro se* litigant, the Prothonotary will issue an appointment order;

In the interim, the Prothonotary will defer issuance of a briefing schedule and/or scheduling of oral argument pending the appointment of counsel;

If the appointment is unacceptable to the *pro se* litigant, the Prothonotary will implement the existing procedure for the appointment of counsel;

Upon issuance of an appointment order, the Prothonotary will issue a briefing schedule and/or schedule argument, providing a reasonable amount of time for *pro bono* counsel to become familiar with the case;

Participation of less-experienced attorneys in the pilot program as volunteers is permissible, but in such circumstances, careful supervision from an experienced appellate lawyer is required to ensure consistent, high-quality representation;

Approximately nine months after the date of this order, the *pro bono* coordinator will furnish a report to the Court concerning the progress of the pilot program, as well as recommendations for its continued longevity and/or improvement;

The Administrative Office of Pennsylvania Courts will issue a press release to give notice to the bar and the public of the availability of this pilot program.

[Pa.B. Doc. No. 15-497. Filed for public inspection March 20, 2015, 9:00 a.m.]