

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

[204 PA. CODE CH. 213]

Case Records Public Access Policy of the Unified Judicial System of Pennsylvania

Commentary to Section 9.0 of the *Case Records Public Access Policy of the Unified Judicial System* provides in part that, “[t]he Administrative Office of Pennsylvania Courts [AOPC] shall from time to time publish a list of applicable authorities that restrict public access to court records or information. This list shall be published on the Unified Judicial System’s website and in the *Pennsylvania Bulletin*.” In accordance with this directive, the AOPC has updated the following *Limits on Public Access to Unified Judicial System Case Records*.

The entire policy, including this amendment and other

related information, can be found on the Unified Judicial System’s public records webpage located at <http://www.pacourts.us>.

Filed in the Administrative Office of Pennsylvania Courts on March 9, 2021.

GEOFF MOULTON,
Court Administrator of Pennsylvania

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

CHAPTER 213. COURT RECORDS POLICIES

Subchapter D. CASE RECORDS PUBLIC ACCESS POLICY OF THE UNIFIED JUDICIAL SYSTEM OF PENNSYLVANIA

(Editor’s Note: The list which appears in 204 Pa. Code pages 213-56—213-65, serial pages (402664), (397455)—(397463), is replaced with the following list.)

LIMITS ON PUBLIC ACCESS TO UNIFIED JUDICIAL SYSTEM CASE RECORDS

<i>Subject Area</i>	<i>Record Description</i>	<i>Accessibility</i>	<i>Authority</i>
Civil	Jurors Notes.	No Public Access. Collected and destroyed post-trial.	Pa.R.C.P. No. 223.2.
Civil	Complaints filed in magisterial district courts.	No Public Access to the minor’s name in a complaint. Minors shall be designated by the initials of their first and last name.	Pa.R.C.P.M.D.J. No. 803.
Commonwealth Court	Child Line Registry Cases.	No Public Access to documents in the case except Orders and Opinions wherein the court shall use initials of the minor child involved rather than full name.	Admin. Order No. 126 Misc. Docket No. 3 (February 8, 2013).
Criminal	Juror’s Address.	No Public Access.	<i>Commonwealth v. Long</i> , 922 A.2d 892 (Pa. 2007).
Criminal	Sealed affidavit of probable cause for a search warrant.	No Public Access while sealed. The affidavit may not be sealed for more than 60 days unless an extension is received. Extensions may not be longer than 30 days, but an unlimited number of extensions are available. Public may access the affidavit after it has been unsealed.	Pa.R.Crim.P. 211.
Criminal	Unexecuted Search Warrant.	No Public Access until warrant is executed.	Pa.R.Crim.P. 212(A).
Criminal	Arrest Warrant Information.	A court may delay public access for good cause for up to 72 hours. In addition, a court may seal arrest warrant information for a longer period of time.	Pa.R.Crim.P. 513(C), Pa.R.Crim.P. 513.1.

<i>Subject Area</i>	<i>Record Description</i>	<i>Accessibility</i>	<i>Authority</i>
Criminal	Information obtained from or concerning the defendant by a bail agency.	No public access. Information only accessible by the defendant, counsel for the defendant, the issuing authority or judge setting bail, the attorney for the Commonwealth, and the department of probation or parole preparing a presentence report regarding the defendant.	Pa.R.Crim.P. 530(C).
Criminal	Motion filed by attorney for the Commonwealth to present the matter to an indicting grand jury and subsequent order.	No Public Access—the motion and order are sealed.	Pa.R.Crim.P. 556.2.
Criminal	All indicting grand jury proceedings and related documents.	No Public Access. Disclosure may be granted to attorney for the Commonwealth, defendant in a criminal case, witnesses, law enforcement personnel, and upon motion when necessary.	Pa.R.Crim.P. 556.10.
Criminal	Sealed indictments.	No Public Access.	Pa.R.Crim.P. 556.11(E).
Criminal	Sealed records concerning mental health experts.	No Public Access.	Pa.R.Crim.P. 569.
Criminal	Sealed written statements pertaining to protective orders.	No Public Access. The entire text of the statement shall be sealed and preserved in the records of the court to be made available to the appellate court(s) in the event of an appeal.	Pa.R.Crim.P. 573(F).
Criminal	Sealed plea agreement.	No Public Access.	Pa.R.Crim.P. 590.
Criminal	Juror qualification forms.	No Public Access.	Pa.R.Crim.P. 625(A)(3).
Criminal	Juror information questionnaires.	No Public Access. Questionnaires are retained in a sealed file and shall be destroyed upon completion of the jurors' service, unless otherwise ordered by the trial judge.	Pa.R.Crim.P. 632.
Criminal	Sealed verdict.	No Public Access.	Pa.R.Crim.P. 649.
Criminal	Notes taken by jurors.	No Public Access.	Pa.R.Crim.P. 644(B)(7).
Criminal	Pre-sentence reports and related psychiatric psychological reports.	No Public Access.	Pa.R.Crim.P. 703(A).
Criminal	Records revealing the names of human trafficking victims.	No Public Access, unless otherwise ordered by a court in a prosecution involving a victim of human trafficking.	18 Pa.C.S. § 3019(a).
Criminal	Wiretap applications, final reports and orders.	No Public Access except upon showing of good cause before a court of competent jurisdiction.	18 Pa.C.S. § 5715.

<i>Subject Area</i>	<i>Record Description</i>	<i>Accessibility</i>	<i>Authority</i>
Criminal	Names of minor victims of sexual or physical abuse.	No Public Access. Records revealing a victim's name are sealed. A minor victim who is 18 years of age or older at the time of the commencement of the prosecution may waive this protection and allow the court to release the name of the minor victim.	42 Pa.C.S. § 5988.
Criminal	Any criminal history record information related to the convictions of certain offenses graded as a misdemeanor of the first, second or third degree, or summary more than 10 years old with completed payment obligations, and dispositions that are non-convictions.	No public access. The court shall not release the information to an individual, noncriminal justice agency or an internet website.	18 Pa.C.S. §§ 9121, 9122.1, and § 9122.2
Domestic Relations	Information regarding the registration, filing of a petition for, or issuance of a protection from abuse order in either the issuing or enforcing State.	No Public Access via internet publication, if such publication would be likely to publically reveal the identity or location of the protected party.	18 U.S.C. § 2265(d)(3).
Domestic Relations	Social security number of any individual subject to a divorce decree, support order, paternity determination, or acknowledgement of paternity, which is required in all records of those matters.	No Public Access.	23 Pa.C.S. § 4304.1(a)(3).
Domestic Relations	Child Support Records	No Public Access, except for PACSES dockets, court orders and opinions.	42 U.S.C. §§ 654 (26)(A), 654a(d)(1)(A); 45 CFR §§ 303.21(c)-(d), 307.13(a)(1); 23 Pa.C.S. § 4304.1(d); Sections 2.4 and 3.4 of the Cooperative Agreement.
Domestic Relations	(a) Subject to any inconsistent general rules and to the supervision and direction of the court, the domestic relations section shall have the power and duty to . . . (10) Implement safeguards applicable to all confidential information received by the domestic relations section in order to protect the privacy rights of the parties, including. . . (ii) prohibitions against the release of information on the whereabouts of one party or the child to another party against whom a protective order with respect to the former party or the child has been entered; and	No Public Access.	23 Pa.C.S. § 4305(a)(10)(ii)-(iii).

<i>Subject Area</i>	<i>Record Description</i>	<i>Accessibility</i>	<i>Authority</i>
	(iii) prohibitions against the release of information on the whereabouts of one party or the child to another person if the domestic relations section has reason to believe that the release of the information may result in physical or emotional harm to the party or the child.		
Domestic Relations	List of weapons ordered to be relinquished by the defendant in an action for protection from abuse.	No Public Access, except (A) upon an order of the court granted upon cause shown; (B) as necessary, by law enforcement and court personnel; or (C) after redaction of information listing any firearm, other weapons or ammunition.	23 Pa.C.S. § 6108(a)(7)(v); 18 Pa.C.S. § 6105.2(f); <i>see also</i> 18 Pa.C.S. § 6128(e).
Domestic Relations	All records pertaining to a confidential address for individuals participating in the Office of Victim Advocate's Address Confidentiality Program.	No Public Access, except for the substitute address provided by the Office of Victim Advocates.	23 Pa.C.S. § 6703(d); <i>see also</i> 23 Pa.C.S. § 5336(b)(1).
Juvenile Court	Juvenile Dependency and Delinquency records.	No Public Access; except as set forth in 42 Pa.C.S. § 6307, Pa.Rs.J.C.P. 160 and/or 1160, including with leave of court.	42 Pa.C.S. § 6307; Pa.Rs.J.C.P. 160, 1160.
*Landlord-Tenant	Domestic Violence Affidavit filed with the court to stay the execution of an order of possession.	No Public Access to the Domestic Violence Affidavit.	Pa.R.C.P.M.D.J. § 514.1.
Orphans' Court	Proceedings related to appointment of guardianship for incapacitated persons.	Shall be closed to the public upon request of the alleged incapacitated person or his counsel. After the individual's death his/her estate may access the record of the guardianship proceedings.	20 Pa.C.S. § 5511(a); <i>In re Estate of duPont</i> , 2 A.3d 516 (Pa. 2010).
Orphans' Court	Records required for foreign adoption decrees.	No Public Access unless a court order is granted upon good cause.	23 Pa.C.S. § 2908(F); Pa.O.C.R. 15.7.
Orphans' Court	Adoption records.	No Public Access unless otherwise ordered.	23 Pa.C.S. § 2915; <i>see also</i> 23 Pa.C.S. § 2906; Pa.O.C.R. 15.7.
*Superior Court	The Court may order that parties' names in captions for appeals from divorce, equitable distribution, custody, visitation, or child support decisions be initialized.	No Public Access to the names in the caption. This does not apply to the text of a circulation or order of the Court.	210 Pa. Code § 65.44.
Orphans' Court (Family Court in Philadelphia County or Juvenile Court Section of Family Division in Allegheny County Pa.R.J.A. 2157)	Applications of a minor for judicial approval of decision to have an abortion, under the Abortion Control Act, as well as proceedings and the name of the minor.	No Public Access; sealed dockets, and documents shall be maintained in a closed file marked "confidential" and identified by case number only.	18 Pa.C.S. § 3206(f); Pa.O.C.R. 16.2 and 16.6. Note also Pa.R.J.A. No. 2157 and Pa.R.A.P. 3801.
General	Records concerning persons in treatment under the Mental Health Procedures Act.	Limited Public Access in compliance with the Mental Health Procedures Act and controlling case law.	50 P.S. § 7111.

<i>Subject Area</i>	<i>Record Description</i>	<i>Accessibility</i>	<i>Authority</i>
General	Court documents, rules, or orders in Gaming Law proceedings.	Any party may request proceeding and record to be sealed if in best interest of any person or Commonwealth.	4 Pa.C.S. § 1518.2(b).
General	Proceedings and records involving juveniles charged with a summary offense before the minor judiciary, the Philadelphia Municipal Court or a Court of Common Pleas.	No Public Access.	42 Pa.C.S. §§ 6303(c), 6307(c), and 6336(g).
General	Transcript of proceedings in the judicial districts within the Unified Judicial System.	A court may order the person preparing the transcript to redact confidential, personal and/or financial data and other identifiers and information listed in Section 7.0 of the Case Records Public Access Policy of the Unified Judicial System.	Pa.R.J.A. No 4014.

Note: this may not be a complete listing; the public and court staff are directed to consult federal and state statutes, court rules or case law.

*New material

[Pa.B. Doc. No. 21-412. Filed for public inspection March 19, 2021, 9:00 a.m.]

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE [210 PA. CODE CH. 3]

Order Amending Rules 311 and 341 of the Pennsylvania Rules of Appellate Procedure; No. 292 Appellate Procedural Rules Doc.

Order

Per Curiam

And Now, this 9th day of March, 2021, upon the recommendation of the Appellate Court Procedural Rules Committee; the proposal having been published for public comment at 49 Pa.B. 10 (January 5, 2019):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 311 and 341 of the Pennsylvania Rules of Appellate 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 July 1, 2021.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE I. PRELIMINARY PROVISIONS

CHAPTER 3. ORDERS FROM WHICH APPEALS MAY BE TAKEN

INTERLOCUTORY APPEALS

Rule 311. Interlocutory Appeals as of Right.

(a) *General rule.*—An appeal may be taken as of right and without reference to Pa.R.A.P. 341(c) from:

* * * * *

(8) *Other cases.*—An order that is made final or appealable by statute or general rule, even though the order does not dispose of all claims and of all parties.

* * * * *

Official Note: Authority—This rule implements 42 Pa.C.S. § 5105(c), which provides:

* * * * *

Subparagraph (a)(8)—Subparagraph (a)(8) recognizes that orders that are procedurally interlocutory may be made appealable by statute or general rule. For example, see 27 Pa.C.S. § 8303. The Pennsylvania Rules of Civil Procedure, the Pennsylvania Rules of Criminal Procedure, etc., should also be consulted.

See Pa.R.A.P. 341(f) for appeals of Post Conviction Relief Act orders.

Following a 2005 amendment to Pa.R.A.P. 311, orders determining the validity of a will or trust were appealable as of right under former subparagraph (a)(8). Pursuant to the 2011 amendments to Pa.R.A.P. 342, such orders are now immediately appealable under Pa.R.A.P. 342(a)(2).

* * * * *

FINAL ORDERS

Rule 341. Final Orders; Generally.

(a) *General rule.*—Except as prescribed in paragraphs (d) and (e) of this rule, an appeal may be taken as of right from any final order of a government unit or trial court.

(b) *Definition of final order.*—A final order [**is any order that**]:

(1) disposes of all claims and of all parties; [**or**]

(2) (Rescinded)[**.**];

(3) is entered as a final order pursuant to paragraph (c) of this rule[**.**] **or**

(4) is an order pursuant to paragraph (f) of this rule.

(c) *Determination of finality.*—When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim, or third-party claim, or when multiple parties are involved, the trial court or other government unit may enter a final order as to one or more but fewer than all of the claims and parties only upon an express determination that an immediate appeal would facilitate resolution of the entire case. Such an order becomes appealable when entered. In the absence of such a determination and entry of a final order, any order or other form of decision that adjudicates fewer than all the claims and parties shall not constitute a final order. In addition, the following conditions shall apply:

(1) An application for a determination of finality under paragraph (c) must be filed within 30 days of entry of the order. During the time an application for a determination of finality is pending, the action is stayed.

(2) Unless the trial court or other government unit acts on the application within 30 days after it is filed, the trial court or other government unit shall no longer consider the application and it shall be deemed denied.

(3) A notice of appeal may be filed within 30 days after entry of an order as amended unless a shorter time period is provided in Pa.R.A.P. 903(c). Any denial of such an application is reviewable only through a petition for permission to appeal under Pa.R.A.P. 1311.

(d) *Superior Court and Commonwealth Court orders.*—Except as prescribed by Pa.R.A.P. 1101 no appeal may be taken as of right from any final order of the Superior Court or of the Commonwealth Court.

(e) *Criminal orders.*—An appeal may be taken by the Commonwealth from any final order in a criminal matter only in the circumstances provided by law.

(f) *Post Conviction Relief Act orders.*

(1) An order granting, denying, dismissing, or otherwise finally disposing of a petition for post-conviction collateral relief shall constitute a final order for purposes of appeal.

(2) An order granting sentencing relief, but denying, dismissing, or otherwise disposing of all other claims within a petition for post-conviction collateral relief, shall constitute a final order for purposes of appeal.

Official Note: Related Constitutional and statutory provisions—Section 9 of Article V of the Constitution of Pennsylvania provides that “there shall be a right of appeal from a court of record or from an administrative agency to a court of record or to an appellate court.” The constitutional provision is implemented by 2 Pa.C.S. § 702, 2 Pa.C.S. § 752, and 42 Pa.C.S. § 5105.

Criminal law proceedings—Commonwealth appeals—Orders that do not dispose of the entire case that were formerly appealable by the Commonwealth in criminal cases under Pa.R.A.P. 341 are appealable as interlocutory appeals as of right under paragraph (d) of Pa.R.A.P. 311.

Final orders—pre- and post-1992 [Practice] practice—The 1992 amendment generally eliminated appeals as of right under Pa.R.A.P. 341 from orders that do not end the litigation as to all claims and as to all parties. Prior to 1992, there were cases that deemed an order final if it had the practical effect of putting a party out of court, even if the order did not end the litigation as to all claims and all parties.

A party needs to file only a single notice of appeal to secure review of prior non-final orders that are made

final by the entry of a final order, see *K.H. v. J.R.*, 826 A.2d 863, 870-71 (Pa. 2003) (following trial); *Betz v. Pneumo Abex LLC*, 44 A.3d 27, 54 (Pa. 2012) (summary judgment). Where, however, one or more orders resolves issues arising on more than one docket or relating to more than one judgment, separate notices of appeal must be filed. *Malanchuk v. Tsimura*, 137 A.3d 1283, 1288 (Pa. 2016) (“[C]omplete consolidation (or merger or fusion of actions) does not occur absent a complete identity of parties and claims; separate actions lacking such overlap retain their separate identities and require distinct judgments”); *Commonwealth v. C.M.K.*, 932 A.2d 111, 113 & n.3 (Pa. Super. 2007) (quashing appeal taken by single notice of appeal from order on remand for consideration under Pa.R.Crim.P. 607 of two persons’ judgments of sentence).

The 1997 amendments to paragraphs (a) and (c), substituting the conjunction “and” for “or,” are not substantive. The amendments merely clarify that by definition any order that disposes of all claims will dispose of all parties and any order that disposes of all parties will dispose of all claims.

Rescission of subparagraph (b)(2)—Former subparagraph (b)(2) provided for appeals of orders defined as final by statute. The 2015 rescission of subparagraph (b)(2) eliminated a potential waiver trap created by legislative use of the adjective “final” to describe orders that were procedurally interlocutory but nonetheless designated as appealable as of right. Failure to appeal immediately an interlocutory order deemed final by statute waived the right to challenge the order on appeal from the final judgment. Rescinding subparagraph (b)(2) eliminated this potential waiver of the right to appeal. If an order designated as appealable by a statute disposes of all claims and of all parties, it is appealable as a final order pursuant to Pa.R.A.P. 341. If the order does not meet that standard, then it is interlocutory regardless of the statutory description. Pa.R.A.P. 311(a)(8) provides for appeal as of right from an order that is made final or appealable by statute or general rule, even though the order does not dispose of all claims or of all parties and, thus, is interlocutory. Pa.R.A.P. 311(g) addresses waiver if no appeal is taken immediately from such interlocutory order.

One of the further effects of the rescission of subparagraph (b)(2) is to change the basis for appealability of orders that do not end the case but grant or deny a declaratory judgment. See *Nationwide Mut. Ins. Co. v. Wickett*, 763 A.2d 813, 818 (Pa. 2000); *Pa. Bankers Ass’n v. Pa. Dep’t of Banking*, 948 A.2d 790, 798 (Pa. 2008). The effect of the rescission is to eliminate waiver for failure to take an immediate appeal from such an order. A party aggrieved by an interlocutory order granting or denying a declaratory judgment, where the order satisfies the criteria for “finality” under *Pennsylvania Bankers Association*, may elect to proceed under Pa.R.A.P. 311(a)(8) or wait until the end of the case and proceed under subparagraph (b)(1) of this rule.

An arbitration order appealable under 42 Pa.C.S. § 7320(a) may be interlocutory or final. If it disposes of all claims and all parties, it is final, and, thus, appealable pursuant to Pa.R.A.P. 341. If the order does not dispose of all claims and all parties, that is, the order is not final, but rather interlocutory, it is appealable pursuant to Pa.R.A.P. 311. Failure to appeal an interlocutory order appealable as of right may result in waiver of objections to the order. See Pa.R.A.P. 311(g).

Paragraph (c)—Determination of finality—Paragraph (c) permits an immediate appeal from an order dismissing less than all claims or parties from a case only upon an express determination that an immediate appeal would facilitate resolution of the entire case. Factors to be considered under paragraph (c) include, but are not limited to:

- (1) whether there is a significant relationship between adjudicated and unadjudicated claims;
- (2) whether there is a possibility that an appeal would be mooted by further developments;
- (3) whether there is a possibility that the court or government unit will consider issues a second time; and
- (4) whether an immediate appeal will enhance prospects of settlement.

The failure of a party to apply to the government unit or trial court for a determination of finality pursuant to paragraph (c) shall not constitute a waiver and the matter may be raised in a subsequent appeal following the entry of a final order disposing of all claims and all parties.

Where the government unit or trial court refuses to amend its order to include the express determination that an immediate appeal would facilitate resolution of the entire case and refuses to enter a final order, a petition for permission to appeal under Pa.R.A.P. 1311 of the unappealable order of denial is the exclusive mode of review. The filing of such a petition does not prevent the trial court or other government unit from proceeding further with the matter pursuant to Pa.R.A.P. 1701(b)(6). Of course, as in any case, the appellant may apply for a discretionary stay of the proceeding below.

Subparagraph (c)(2) provides for a stay of the action pending determination of an application for a determination of finality. If the application is denied, and a petition for permission to appeal is filed challenging the denial, a stay or *supersedeas* will issue only as provided under Chapter 17 of these rules.

In the event that a trial court or other government unit enters a final order pursuant to paragraph (c) of this rule, the trial court or other government unit may no longer proceed further in the matter, except as provided in Pa.R.A.P. 1701(b)(1)—(5).

Paragraph (f)—Post Conviction Relief Act Orders—A failure to timely file an appeal pursuant to paragraph (f)(2) shall constitute a waiver of all objections to such an order.

[Pa.B. Doc. No. 21-413. Filed for public inspection March 19, 2021, 9:00 a.m.]

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CH. 17]

Proposed Amendment of Pa.R.A.P. 1702

The Appellate Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.A.P. 1702 governing stays ancillary to appeal 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 will neither constitute a part of the rules nor be officially adopted by the Supreme Court.

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

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

Karla M. Shultz, Counsel
Appellate Court Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
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All communications in reference to the proposal should be received by May 21, 2021. 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 Appellate Court
Procedural Rules Committee*

PATRICIA A. McCULLOUGH,
Chair

Annex A

TITLE 210. APPELLATE PROCEDURE PART I. RULES OF APPELLATE PROCEDURE ARTICLE II. APPELLATE PROCEDURE

CHAPTER 17. EFFECT OF APPEALS; SUPERSEDEAS AND STAYS

IN GENERAL

Rule 1702. Stay Ancillary to Appeal **or Review**.

[(a) *General rule*.—Applications for relief under this chapter will not be entertained by an appellate court or a judge thereof until after a notice of appeal has been filed in the trial court or a petition for review or petition for specialized review has been filed.

(b) *Proceedings on petition for allowance of appeal, petition for permission to appeal, or petition for specialized review*.—Applications for relief under this chapter may be made without the prior filing of a petition for allowance of appeal, petition for permission to appeal, or petition for specialized review, but the failure to effect timely filing of such a petition, or the denial of such a petition, shall automatically vacate any ancillary order entered under this chapter. In such a case, the clerk of the court in which the ancillary order was entered shall, on *praecipe* of any party to the matter, enter a formal order under this rule vacating such ancillary order.

(c) *Supreme Court review of appellate court supersedeas and stay determinations*.—No appeal, petition for allowance of appeal, petition for review, or petition for specialized review need be

filed in the Supreme Court in connection with an application under Pa.R.A.P. 3315.

Official Note: In any instance in which a party seeks a stay or *supersedeas* from a trial court or government unit, that party can seek relief from the appellate court that has jurisdiction of the matter and can seek review of that intermediate appellate court's decision from the Supreme Court.]

(a) Right of appeal or review.—When a party has an appeal as of right, a party may seek relief under this chapter after the filing of a notice of appeal, a petition for review, or a petition for specialized review.

(b) Discretionary appeal or review.—When a party intends to pursue discretionary appellate review, the party may seek relief under this chapter prior to the filing of a petition for allowance of appeal or a petition for permission to appeal.

(1) The failure to timely file such petition, or its denial, shall operate to vacate any ancillary order entered under this chapter.

(2) Any party thereafter may file a *praecipe* with the prothonotary or the clerk of the court in which the ancillary order was entered directing entry of a formal order vacating such ancillary order.

(c) Supreme Court review of appellate court *supersedeas* and stay determinations.—No appeal, petition for allowance of appeal, petition for review, or petition for specialized review need be filed in the Supreme Court in connection with an application under Pa.R.A.P. 3315.

Official Note: Relief sought from an appellate court should be in the form of an application in accordance with Pa.R.A.P. 123 and Pa.R.A.P. 1703.

Paragraph (a) reflects the requirement that when an appellant has a right of appeal or review, the notice of appeal, or petition for review or specialized review must be filed before the application seeking a stay is filed court pursuant to Pa.R.A.P. 1732(a) or Pa.R.A.P. 1781(a). Stays pending the outcome of post-trial or post-sentence motions are not governed by this chapter. See, e.g., Pa.R.C.P. 227.1 (Post-Trial Relief); Pa.R.Crim.P. 720 (Post-Sentence Procedures; Appeal).

PUBLICATION REPORT

Proposed Amendment of Pa.R.A.P. 1702

The Appellate Court Procedural Rules Committee is considering proposing the amendment of Pennsylvania Rule of Appellate Procedure 1702 governing stays ancillary to appeal to clarify the necessity of a pending appeal prior to the filing an application for stay.

In 2020, the Pa.R.A.P. 1702 was amended to add “petition for specialized review” to both paragraph (a) and paragraph (b). Paragraph (a) states that the appellate court will not rule on an application until a petition for specialized relief has been filed. However, current paragraph (b) permits the filing of an application before the filing of a petition for specialized review.

In reviewing the rule, the Committee concluded there may be ambiguity with “petition for specialized review” in paragraph (b) when read *in pari materia* with Pa.R.A.P. 1732(a), which requires that an “appeal” be pending prior to an application for a stay. Pursuant to the definition of

“appeal” in Pa.R.A.P. 102, the term may include a petition for specialized review. If a petition for specialized review is synonymous with an appeal, then paragraph (a) would require the petition to be filed before filing an application for a stay. However, paragraph (b) indicates that such a petition can be filed after filing an application for a stay.

Further, Pa.R.A.P. 1702(b) may be in tension with Pa.R.A.P. 1781(a), which states that an application for a stay or *supersedeas* of an order or other determination of any government unit should be made while the petition for specialized review is pending. Yet, paragraph (b) of Pa.R.A.P. 1702 states that a petition for specialized review need not be pending to file an application.

The Committee is proposing the amendment of Pa.R.A.P. 1702 in two respects. First, the rule would be modified to clarify that paragraph (a) applies when the party has a right of appeal or review, and paragraph (b) applies when a party has a discretionary right of review. The clarification within paragraph (a) is intended to resolve potential confusion about whether Chapter 17 applies in the absence of an appeal, which it does not. The Official Note would also indicate that stays pending the outcome of post-trial or post-sentence motions may be governed by other procedural rules.

Second, the rule would be modified to delete petitions for specialized review from the scope of paragraph (b). This amendment is intended to clarify that a petition for specialized review is not the proper vehicle in seeking discretionary review. Although Chapter 16 procedures are for expedited review of “discrete issues,” they were not intended as an expedited alternative to Chapter 13 (Interlocutory Appeals by Permission).

The Committee is also proposing other non-substantive revisions to the rule text and commentary to the extent that it believes the entire rule should be rescinded and replaced rather than amended. No revisions were made to paragraph (c).

Accordingly, the Committee invites all comments, objections, concerns, and suggestions regarding this proposed rulemaking.

[Pa.B. Doc. No. 21-414. Filed for public inspection March 19, 2021, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Proposed Amendment of Pa.R.C.P. Nos. 226, 227 and 230.1

The Civil Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P. Nos. 226, 227, and Rule 230.1 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 will neither constitute a part of the rules nor be officially adopted by the Supreme Court.

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

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

Karla M. Shultz, Counsel
Civil Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717-231-9526
civilrules@pacourts.us

All communications in reference to the proposal should be received by May 7, 2021. 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 Civil Procedural
Rules Committee*

JOHN J. HARE,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 226. [Points for Charge. Motion for Directed Verdict] Requests for Jury Instructions.

[(a) Points upon which the trial judge is requested to charge the jury shall be so framed that each may be completely answered by a simple affirmation or negation. Attorneys shall hand copies of requested points for charge to the trial judge and to the opposing attorneys before the closing addresses to the jury are begun. A requested point for charge that was presented to the trial judge becomes part of the record when the requested point is read into the record, or the point is filed in the office of the prothonotary prior to filing a motion for post-trial relief regarding the requested point for charge.

Official Note: An appellate court will not review an objection to a ruling of a trial court regarding a point for charge unless the point for charge was (1) presented to the court and (2) made a part of the record by either reading the point into the record or filing it in the office of the prothonotary prior to filing a motion for post-trial relief.

(b) At the close of all the evidence, the trial judge may direct a verdict upon the oral or written motion of any party.]

Any party may submit to the trial judge written requests for jury instructions within a reasonable time before the closing arguments begin, or within such time as directed by the trial judge and shall provide copies to all other parties. Such requests shall be framed so that each requested instruction may be answered with a simple affirmative or negative by the trial judge. A requested instruction submitted to the trial judge becomes part of the record when it is read into the record or it is filed in the office of the prothonotary prior to filing a motion for post-trial relief. If a written request that

is made part of the record is not ruled upon, that request shall be deemed denied.

Rule 227. Exceptions. Objections to Jury Charge. Preserving Challenge to Jury Instructions for Appellate Review.

(a) [It] **General Rule.** Except as provided in subdivision (b), it shall not be necessary on the trial of any action or proceeding to take exception to any ruling of the trial judge. An exception in favor of the party against whom the adverse ruling was made shall be deemed to have been taken with the same force and effect as if it had been requested, noted by the official stenographer and thereafter written out, signed and sealed by the trial judge.

[(b) **Unless specially allowed by the court, all exceptions to the charge to the jury shall be taken before the jury retires. On request of any party all such exceptions and arguments thereon shall be made out of hearing of the jury.]**

(b) Objections to the Jury Charge.

(1) Before the charge is given to the jury, the parties shall be given the opportunity to make specific objections to the proposed instructions or any requests for instructions that were denied.

(2) After the charge is given to the jury, the parties may object to any matter charged that could not have been raised prior to charging the jury, including matters that were not ruled upon pursuant to Rule 226.

(3) All objections and argument with respect to the jury charge shall be made outside the presence of the jury.

(c) Preserving Challenges to Jury Instructions for Appellate Review. To preserve a challenge to a jury instruction for appellate review, a party shall:

(1) lodge a contemporaneous and specific objection on the record to an instruction or submit a requested instruction and make it part of the record pursuant to Rule 226;

(2) obtain an explicit court ruling on the record to the objection or the requested instruction; and

(3) raise the issue in a motion for post-trial relief pursuant to Rule 227.1.

Rule 230.1. Compulsory Nonsuit at Trial. Motion for Directed Verdict.

(a)(1) In an action involving only one plaintiff and one defendant, the court, on oral motion of the defendant, may enter a nonsuit on any and all causes of action if, at the close of the plaintiff's case on liability, the plaintiff has failed to establish a right to relief.

(2) The court in deciding the motion shall consider only evidence which was introduced by the plaintiff and any evidence favorable to the plaintiff introduced by the defendant prior to the close of the plaintiff's case.

Official Note: Subdivision (a) changes the prior practice whereby the entry of a compulsory nonsuit was precluded when any evidence had been presented by the defendant.

If a motion for compulsory nonsuit is granted, the plaintiff may file a written motion to remove the nonsuit. See Rule 227.1.

(b) In an action involving more than one plaintiff, the court may not enter a compulsory nonsuit as to any plaintiff until the close of the case of all the plaintiffs.

(c) In an action involving more than one defendant, the court may not enter a nonsuit of any plaintiff prior to the close of the case of all plaintiffs against all defendants. The nonsuit may be entered in favor of

- (1) all of the defendants, or
- (2) any of the defendants who have moved for nonsuit if all of the defendants stipulate on the record that no evidence will be presented that would establish liability of the defendant who has moved for the nonsuit.

Official Note: The term “defendants” includes additional defendants.

(d) At the close of all the evidence, the trial judge may direct a verdict upon the oral or written motion of any party.

PUBLICATION REPORT

In *Jones v. Ott*, 191 A.3d 782 (Pa. 2018), the Supreme Court held, *inter alia*, that:

[I]n order to preserve a jury-charge challenge under Pa.R.C.P. 227.1 by filing proposed points for charge with the prothonotary, a party must make requested points for charge part of the record pursuant to Pa.R.C.P. 226(a), obtain an explicit trial court ruling upon the challenged instruction, and raise the issue in a post-trial motion. See Pa.R.A.P. 302(a), Pa.R.C.P. 226(a), 227, 227.1.

Jones, 191 A.3d at 791 n.13.

The Committee has examined Rule 226 and observed that it provides the procedure for requesting a jury instruction to be included in the charge given to the jury. Rule 227(b) prescribes that an exception to the jury charge must be made prior to the jury retiring, but may be made outside of the presence of the jury.

In addition, the Committee has also examined Pa.R.Crim.P. 647 and 603 (Exceptions). It observed that Pa.R.Crim.P. 647 sets forth the procedure for both the request for the jury instructions and the procedure for objecting to the jury charge. Pa.R.Crim.P. 647 requires written requests for jury instructions to be submitted to the trial judge within a reasonable time before closing arguments. The trial judge, in turn, is required to inform the parties on the record of the judge’s rulings on all written requests as well as the instructions that will be submitted to the jury in writing. Pa.R.Crim.P. 647 specifies that no error may be assigned to any portion of the jury charge or to any omission from the jury charge unless a party makes a specific objection before the jury retires to deliberate; such objections must be made outside the presence of the jury. Pa.R.Crim.P. 603 provides for an automatic exception to any ruling of the judge on an objection or motion during trial; however, objections to the jury charge are specifically exempted from the scope of the rule.

While the Committee believes there is merit to uniformity amongst the procedural rules, it is not proposing a procedure that resembles Pa.R.Crim.P. 647. Rather, the proposal would incorporate the specific requirements in *Jones*, while retaining current practice. In particular, the burden to “obtain a specific court ruling” on the requested instruction remains on the party objecting to the requested instruction. Accordingly, Rules 226, 227, and 230.1 would be amended as follows:

Pa.R.C.P. No. 226

The proposed amendment of Rule 226 would, preliminarily, change the terminology in the rule from “point for charge” to “request for jury instruction.” The rule would retain the requirement for requests for jury instructions

to be submitted to the trial judge before closing arguments begin. Alternatively, the trial judge may otherwise direct when requests must be submitted. In addition, the rule would retain the requirements to provide copies of all requests to all other parties, and to frame a request so that it can be answered with a simple affirmative or negative. The requested instruction would become part of the record when it is read into the record or upon filing in the office of the prothonotary. To ensure there is a ruling on all written requests, the rule would specify that any request inadvertently not ruled upon will be deemed denied.

Current subdivision (b) providing for the motion for directed verdict would be deleted and moved to Rule 230.1.

Pa.R.C.P. No. 227

Rule 227(b) would be redrafted to clarify and emphasize that before the jury begins deliberating, the parties shall be given the opportunity to make specific objections to the charge as given to the jury. The rule continues to require such objections to be made outside the presence of the jury.

To address the holding in *Jones*, subdivision (c) would set forth the requirements for preserving any challenge to jury instructions for appellate review. As in current practice, the onus to ensure that a challenge is made part of the record is placed on the objecting party. Pursuant to subdivision (c), that party must (1) either lodge a contemporaneous and specific objection on the record to an instruction given to the jury, or submit a request for a jury instruction and make it part of the record pursuant to Rule 226, (2) obtain a specific court ruling on the record to the objection or the requested instruction, and (3) raise the issue in a motion for post-trial relief pursuant to Rule 227.1.

Pa.R.C.P. No. 230.1

Rule 230.1 governing compulsory nonsuit would be amended to include new subdivision (d) providing that that the trial judge may direct a verdict upon motion of any party. As noted above, this provision is currently set forth in Rule 226(b). The Committee believes the placement in Rule 230.1 authorizing the trial court to direct a verdict is more appropriate because the procedure does not relate to the procedure for requesting jury instructions.

Accordingly, the Committee invites all comments, objections, concerns, and suggestions regarding this proposed rulemaking.

[Pa.B. Doc. No. 21-415. Filed for public inspection March 19, 2021, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CHS. 200, 300 AND 500]

Proposed Amendment of Pa.R.C.P.M.D.J. No. 210, 305, 504, 506 and 507 and Proposed Adoption of Pa.R.C.P.M.D.J. No. 513.1

The Minor Court Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P.M.D.J. No. 210, 305, 504, 506, and

507 and the adoption of Pa.R.C.P.M.D.J. No. 513.1, relating to the right of an individual to intervene in a landlord-tenant action and updating notices to defendants and tenants for the reasons set forth in the accompanying Publication 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.

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: 717-231-9546
minorrules@pacourts.us

All communications in reference to the proposal should be received by May 19, 2021. 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

HONORABLE MARGARET A. HUNSICKER,
Chair

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 200. RULES OF CONSTRUCTION; GENERAL PROVISIONS

Rule 210. Practices Prohibited.

The following practices are specifically prohibited:

- (1) The use of depositions or interrogatories for discovery or use at a hearing.
- (2) Adding parties after the complaint is filed, **except as provided by Rule 513.1.**
- (3) Attachment proceedings previous to judgment.
- (4) Entry of a judgment by warrant of attorney or by confession of judgment.

Official Note: In keeping with the policy of making the procedures in actions before magisterial district judges as simple and nontechnical as possible and in view of the time limitations imposed elsewhere in these rules, it was thought desirable to prohibit specifically the practices mentioned in the four subdivisions of this rule. See also Rules 204 and 381.

Rule 513.1 permits an individual to file an intervention request in a landlord-tenant action.

CHAPTER 300. CIVIL ACTION

Rule 305. Setting the Date for Hearing; Delivery for Service; **Notice to Defendant; Form.**

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

- (1) Set a hearing date which shall be not less than 12 or more than 60 days from the date the complaint is filed.
- (2) Insert the hearing time and date and the address of the magisterial district court in the complaint form.
- (3) Deliver a copy of the complaint form with hearing time and date thereon to the plaintiff.
- (4) Deliver a copy of the complaint form with hearing time and date thereon for service on the defendant as hereinafter set forth, which copy shall contain the following notice:

[(a) If you intend to enter a defense to this complaint you should so notify this office immediately.

(b) If you have a claim against the plaintiff which is within magisterial district court jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five days before the date set for the hearing.

(c) YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT MAY BE ENTERED AGAINST YOU BY DEFAULT.]

Notice to Defendant

You have been sued in court. If you wish to appear at the hearing and defend against the claims set forth in the complaint, you should notify the court in writing. A Notice of Intent to Defend form is enclosed for your convenience. If you do not intend to dispute this claim, you do not need to appear in court and a judgment will be entered against you in your absence.

Failure to appear at the scheduled hearing will result in a judgment entered against you, and you may lose money or property or other rights important to you.

If you have a claim against the plaintiff that is within magisterial district court jurisdiction and that you intend to assert at the hearing, you must file it on a complaint form at this office at least five days before the date set for the hearing.

(5) The copy of the complaint form delivered for service upon the defendant shall be accompanied by a Notice of Intent to Defend on a form that shall be prescribed by the State Court Administrator.

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

ing concerning a default judgment, which may be rendered under Rule 319B.]

Subdivision (4) sets forth the notice that must be provided to a defendant with a complaint, advising the defendant to notify the court if the defendant intends to appear at the hearing, the consequences of failing to appear at the hearing, and the right of the defendant to file a cross-complaint against the plaintiff within magisterial district court jurisdiction. See Rule 315 for procedures to file a cross-complaint. The defendant must notify the court of his or her intention to defend against the complaint in order for the defendant to obtain judgment because of the plaintiff's failure to appear. See Rule 319A.

The Notice of Intent to Defend form required by subdivision (5) shall be included with the complaint served on the defendant. It provides a convenient method for the defendant to advise the court that he or she intends to appear at the hearing and defend against the claims set forth in the complaint.

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

Rule 504. Setting the Date for Hearing; Delivery for Service; **Notice to Tenant.**

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

(1) Set a hearing date that shall be not less than seven or more than fifteen days from the date the complaint is filed.

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

(3) Deliver a copy of the complaint form with hearing time and date thereon to the landlord or the landlord's agent.

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

[(a) **If you have a defense to this complaint, you may present it at the hearing.**

(b) **If you have a claim against the landlord arising out of the occupancy of the premises, which is within magisterial district court jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office before the time set for the hearing.**

(c) **IF YOU DO NOT APPEAR AT THE HEARING, a judgment for possession and costs, and for damages and rent if claimed, may nevertheless be entered against you. A judgment against you for possession may result in YOUR EVICTION from the premises.]**

Notice to Tenant

You have been sued in court. You may appear at the hearing and defend against the claims set forth in the complaint. If you do not intend to dispute this claim, you do not need to appear in court and a judgment will be entered against you in your absence.

Failure to appear at the scheduled hearing will result in a judgment entered against you for possession

and costs, as well as damages and rent if claimed. A judgment against you for possession may result in your eviction from the premises.

If you have a claim against the landlord arising out of the occupancy of the premises, which is within magisterial district court jurisdiction and that you intend to assert at the hearing, you must file it on a complaint form at this office before the time set for the hearing.

If you are an occupant of the premises, you may be evicted if you take no action upon receipt of this complaint, even if you are not named in the complaint. You may be able to be added to the case and defend your interests in remaining at the premises. If you are added to the case as a tenant, you may be liable for any judgment entered in favor of the landlord, including property damage, back rent, court costs, and fees. See Pa.R.C.P.M.D.J. No. 513.1.

Official Note: The hearing date in subdivision (1) of this rule is required to be set not less than seven days from the filing of the complaint because of the requirement in Rule 506(B) that service be made at least five days before the hearing. It was thought that the requirement that the hearing be held not more than 15 days from the filing of the complaint should provide ample time to make the type of service required in these cases.

The notice for the tenant set forth in subdivision (4) of this rule varies somewhat from the notice required in civil actions under Rule 305. There are a number of reasons for this. First, there can be no default judgment in these possessory actions and, secondly, it was thought that cross-complaints of tenants in these cases should be limited to those arising out of the occupancy of the premises. **The notice in subdivision (4) is also intended for occupants of the property who are not named in the complaint.**

Rule 506. Service of Complaint.

A. The magisterial district judge shall serve the complaint by mailing a copy of it to the tenant's last known address by first class mail and noting on the docket the date of such mailing, and by delivering a copy of it for service to the sheriff of, or any certified constable in, the county in which the office of the magisterial district judge is situated. If this service is not available to the magisterial district judge, service may be made by any certified constable of the Commonwealth. The officer receiving the copy shall serve it by handing it to the tenant or to an adult person in charge for the time being of the premises possession of which is sought to be recovered [**or, if none of the above is found**], **if found, and** by posting it conspicuously on those premises.

B. The copy shall be served at least five days before the hearing.

Official Note: Under subdivision A of this rule, service must be made both by first class mail and delivery for service in the manner prescribed. **It is expected that the officer serving the complaint will exercise due diligence when attempting personal service upon the tenant. This may be demonstrated by, among other things, attempting service at varying times of day, making a reasonable number of knocks upon the tenant's door, knocking at all available doors of the premises, or announcing the officer's presence. Posting is required in all cases to facilitate notice to an occupant of the property.**

In actions where wage garnishment may be sought under Pa.R.C.P. No. 3311, the landlord may authorize the

sheriff or constable to make personal service upon the tenant. [**If a tenant is not present at the property the sheriff or constable is authorized to post the complaint so that the underlying landlord-tenant action may proceed.**] The landlord may authorize the sheriff or constable to make additional attempts to effectuate personal service upon the tenant so the landlord can later prove such service if attempting to garnish wages under Pa.R.C.P. No. 3311. Additional service attempts by the sheriff or constable may result in additional fees.

Rule 507. Notation and Return of Service; Waiver of Service.

A. The magisterial district judge shall note on the docket the date that a service copy of the complaint was mailed to the tenant, and the sheriff or constable serving a copy of the complaint shall, at or before the time of the hearing, make proof of service on the form provided, which shall show the manner of service and the day, hour, and place thereof, **as well as any unsuccessful attempts at service.**

B. The appearance of a tenant in person or by representative or the filing 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: This rule parallels the provisions of Rule 314A and C.

(Editor's Note: The following rule is proposed to be added and printed in regular type to enhance readability.)

Rule 513.1. Intervention.

A. An individual may file an intervention request with the magisterial district court in an action commenced pursuant to Rule 502 at any time before the hearing on the complaint.

B. The intervention request shall be on a form prescribed by the State Court Administrator, verified by the requester, and contain the following averments:

- (1) the requester is a tenant of the property;
- (2) the length of time the requester has occupied the property;
- (3) to whom the requester paid rent for the property; and
- (4) whether the requester is a party to a lease of the property.

C. The magisterial district court shall enter the intervention request on the docket of the action commenced pursuant to Rule 502.

D. The magisterial district court shall serve a copy of the intervention request by mailing it to the parties at the addresses as listed on the complaint form in the action or by handing it to the parties or the attorneys of record, if any. Notice of an intervention request shall constitute grounds for a continuance by the plaintiff.

E. The requester shall appear at the hearing and present evidence in support of the intervention request.

F. If the magisterial district judge finds that the requester is a tenant of the property, the requester shall be added to the action as a defendant, and the action shall proceed pursuant to Rule 512.

Official Note: This Rule establishes procedures for an individual to file an intervention request in an action commenced pursuant to Rule 502 and present a defense to the complaint.

While Rule 210(2) generally prohibits the addition of a party after the complaint is filed, Rule 513.1 permits the addition of a party in the limited circumstance of an individual requesting to intervene in an action. Allowing the magisterial district court to consider such matters serves the general interests of the parties by avoiding delays that could occur by seeking relief at the court of common pleas.

At the hearing, the magisterial district judge will first consider and decide the request to intervene in the action. The requester must present evidence and testimony at the hearing in support of the request to intervene. See Rule 512. Examples of evidence include, but are not limited to, a written lease, copies of cancelled checks, and receipts. If the magisterial district judge grants the intervention request, the requester shall be added to the action as a defendant and the hearing shall proceed on the underlying action.

If the requester is added to the case as a tenant, he or she may be liable for any judgment entered in favor of the landlord, including property damage, back rent, court costs and fees.

PUBLICATION REPORT

Proposed Amendment of Pa.R.C.P.M.D.J. No. 210, 305, 504, 506, and 507 and Proposed Adoption of Pa.R.C.P.M.D.J. No. 513.1

The Minor Court Rules Committee ("Committee") is considering proposing to the Supreme Court of Pennsylvania the amendment of Rules 210, 305, 504, 506, and 507 of the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings before Magisterial District Judges ("Rules") and the adoption of Rule 513.1. This proposal relates to the right of an individual to intervene in a landlord-tenant action and also updates notices to defendants and tenants given with service of the complaint.

Intervention

The Committee considered the situation of an individual in possession of a property who is not named in the complaint when a landlord-tenant action is commenced. Because the individual is not named in the complaint, he or she will not receive service of the complaint and may be unaware of the landlord's efforts to recover possession of the property. Even if the individual becomes aware of the action, Rule 206(2) specifically prohibits adding a party to an action after the complaint has been filed. *Cf.* Pa.R.C.P. No. 2327 (establishing grounds for a party to intervene). The Committee discussed if a limited exception should be added to Rule 206(2) permitting an individual to file an intervention request in a landlord-tenant action for the purpose of defending his or her interests in remaining in the property.

The Committee recognizes that individuals can be in possession of property under myriad circumstances, ranging from squatting to being a named party on a lease. Individuals on this continuum will have varying degrees of rights consistent with their status. For example, a squatter will have no statutory or due process rights relative to the property while a tenant who is a party to a lease will have all the protections of the Landlord and Tenant Act, 68 P.S. §§ 250.101—250.602, as well as due process protections. The Committee is exploring whether an occupant of property who is a party to a landlord-tenant relationship should be permitted to intervene in the action and assert their rights even if the occupant is not named in the complaint.

Proposed new Rule 513.1 would permit the filing of an intervention request in a landlord-tenant action. The requester must aver that he or she is a tenant of the property, the length of time the requester has occupied the property, to whom the requester has paid rent for the property, and if the requester is a party to a lease for the property. *See* proposed Rule 513.1B. The requester may file the intervention request up to the time of the hearing. *See* proposed Rule 513.1A. Upon receipt of the intervention request, the magisterial district court will serve the request upon the parties to the action. *See* proposed Rule 513.1D.

The magisterial district court will hold a hearing on the request to intervene in the action. *See* proposed Rule 513.1E. The requester must testify and present evidence demonstrating that he or she has a landlord-tenant relationship with the landlord and is entitled to intervene in the matter. If the magisterial district judge grants the request to intervene in the action, the requester will be added to the action as a defendant and the action will proceed on the underlying action. *See* proposed Rule 513.1F. However, a requester who is added as a defendant in an action may be liable for any judgment in favor of the landlord, *e.g.*, property damage, back rent, court costs and fees.

This proposal also includes amendments to Rules 206, 504, and 506 relative to intervention requests. The proposed amendment to Rule 206 establishes an exception to the general rule prohibiting the addition of parties after the complaint is filed and cites proposed new Rule 513.1. The proposed amendment to Rule 504 adds a provision to the hearing notice advising an occupant that he or she may be evicted from the property if no further action is taken on their part. The proposed amendment to Rule 506 would require conspicuously posting the complaint on the premises in all instances, even when personal service on a tenant is achieved. Posting all complaints is intended to provide an occupant with a reasonable opportunity to learn of a possessory action. However, the Committee recognizes that this would be a significant change from current practice and especially welcomes comments on this aspect of the proposal. The proposed amendment to the Comment to Rule 506 provides examples of minimally expected efforts to obtain personal service upon a tenant. Finally, proposed Rule 507 would require the sheriff or constable to document unsuccessful efforts at personal service in an effort to provide greater transparency.

Notices to Defendants and Tenants

The Committee examined measures intended to increase the numbers of defendants and tenants who timely respond to the complaint and notify the court of their intent to appear at the hearing, as well as to clarify some of the notice language. In civil cases, the Committee proposes amendments to the notice set forth in Rule 305(4) to help defendants understand that they should notify the court regarding their intentions to defend against the complaint and the ramifications of failing to appear for the hearing. Additionally, the notice has been updated to advise the defendant that they do not need to appear in court if they do not intend to defend against the claim and that a judgment will be entered against them in their absence. Proposed Rule 305(5) would require the magisterial district court to include a Notice of Intent to Defend form with the copy of the complaint form served on the defendant. Doing so will give the defendant a convenient mechanism to notify the court in writing that he or she intends to appear at the hearing.

The Committee is also considering proposing similar changes to the Notice to Tenant in Rule 504(4). The Notice of Intent to Defend is not referenced in Rule 504 because the landlord must appear at the hearing. *See* Rule 512B.

The Committee invites all comments, concerns, and suggestions regarding this proposal.

[Pa.B. Doc. No. 21-416. Filed for public inspection March 19, 2021, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BUTLER COUNTY

Local Rules of Civil Court; MsD No. 2021-40047

Administrative Order of Court

And Now, this 25th day of February, 2021, it is hereby Ordered and Decreed that Local Rules of Court listed as follows pertaining to Butler County Court of Common Pleas Civil Court Division, are hereby amended:

■ L 1018.1 Notice to Defend

It is further ordered that this Administrative Order shall be effective immediately upon publication in the *Pennsylvania Bulletin*.

It is finally ordered that in accordance with Pa.R.J.A 103 that the District Court Administrator shall:

1. File one (1) paper copy of this Administrative Order and the within Local Rules of Civil Procedure with the Administrative Office of the Pennsylvania Courts.
2. File two paper copies of this Administrative Order and the within Local Rules of Civil Procedure and one (1) diskette/CD with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. Forward one (1) copy of this Administrative Order and the within Local Rules of Civil Procedure to the administrative office of the *Butler County Legal Journal* for publication.
4. Publish this Local Rule on the Butler County Courts website.
5. File one copy of this Local Rule with the Butler County Prothonotary's office for public inspection and copying.

By the Court

WILLIAM R. SHAFFER,
Administrative Judge

Rule L1018.1. Notice to Defend. Form.

(a) The organization to be named in the Notice to Defend to find out where legal help may be obtained:

Office of Prothonotary, Butler County
Butler County Government Center
124 West Diamond Street
Butler, PA 16001
(724) 284-5214

Butler County Bar Association
240 S. Main Street
Butler, PA 16001
(724) 841-0130

[Pa.B. Doc. No. 21-417. Filed for public inspection March 19, 2021, 9:00 a.m.]

Title 255—LOCAL COURT RULES**MONROE COUNTY****Establishment of Pretrial Services as Bail Agency;
No. 94 AD 2021; No. 5 CV 2021****Administrative Order**

And Now, this 4th day of March 2021, We hereby *Order* the establishment of Monroe County Pretrial Services as the Bail Agency for the 43rd Judicial District pursuant to Pa.R.Crim.P. 530, effective thirty (30) days after Publication in the *Pennsylvania Bulletin*.

Nothing in this Order shall prohibit the posting of any appropriate type of bail allowed under the Pennsylvania Rules of Criminal Procedure by private or licensed sureties without the designation of Monroe County Pretrial Services.

This Administrative Order shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

It Is Further Ordered that the District Court Administrator shall:

1. File one (1) copy of this Administrative Order with the Administrative Office of Pennsylvania Courts via email to adminrules@pacourts.us.

2. File two (2) paper copies and one (1) electronic copy of this Administrative Order in a Microsoft Word format only on a CD-ROM to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. Arrange to have this Administrative Order published on the Monroe County Bar Association website at www.monroebar.org.

4. Arrange to have this Administrative Order, as well as all local rules and Administrative Orders, published on the 43rd Judicial District website at www.monroepacourts.us.

5. Keep this Administrative Order, as well as all local rules and Administrative Orders of this Court, continuously available for public inspection and copying in the respective Monroe County filing office.

6. Upon request and payment of reasonable cost of reproduction and mailing, the respective filing office shall furnish to any person a copy of any local rule or Administrative Order.

By the Court

MARGHERITA PATTI-WORTHINGTON,
President Judge

[Pa.B. Doc. No. 21-418. Filed for public inspection March 19, 2021, 9:00 a.m.]

**DISCIPLINARY BOARD OF
THE SUPREME COURT****Notice of Disbarment**

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated March 10, 2021, Stephanie Ashley Hand (# 69914) is Disbarred on Consent from the Bar of this Commonwealth effective April 9, 2021. 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*.

MARCEE D. SLOAN,
Board Prothonotary

[Pa.B. Doc. No. 21-419. Filed for public inspection March 19, 2021, 9:00 a.m.]