

THE COURTS

Title 225—RULES OF EVIDENCE

[225 PA. CODE ART. II]

Order Amending Rule 201 of the Pennsylvania Rules of Evidence; No. 938 Supreme Court Rules Docket

Order

Per Curiam

And Now, this 13th day of February, 2023, upon the recommendation of the Committee on Rules of Evidence; the proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rule of Evidence 201 is amended in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective April 1, 2023.

Additions to the rule are shown in bold and are underlined.

Deletions from the rule are shown in bold and brackets.

Annex A

TITLE 225. RULES OF EVIDENCE

ARTICLE II. JUDICIAL NOTICE

Rule 201. Judicial Notice of Adjudicative Facts.

(a) *Scope.* This rule governs judicial notice of an adjudicative fact only, not a legislative fact.

(b) *Kinds of Facts [That May Be] that may be Judicially Noticed.* The court may judicially notice a fact that is not subject to reasonable dispute because it:

(1) is generally known within the trial court's territorial jurisdiction; or

(2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

(c) *Taking Notice.* The court:

(1) may take judicial notice on its own; or

(2) must take judicial notice if a party requests it and the court is supplied with the necessary information.

(d) *Timing.* The court may take judicial notice at any stage of the proceeding.

(e) *Opportunity to [Be] be Heard.* On timely request, a party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed. If the court takes judicial notice before notifying a party, the party, on request, is still entitled to be heard.

(f) *Instructing the Jury.* The court must instruct the jury that it may, but is not required to, accept as conclusive any fact judicially noticed.

Comment

This rule is identical to F.R.E. 201, except for [paragraph] subdivision (f).

Pa.R.E. 201(a) limits the application of this rule to adjudicative facts. This rule is not applicable to judicial notice of law. Adjudicative facts are facts about the events, persons [and], places, or other subjects rel-

evant to the matter before the court. See [2 McCormick, Evidence § 328 (6th ed. 2006)] 1 West's Pa. Prac., Evidence §§ 201-1, 201-2 (4th ed. 2021).

In determining the law applicable to a matter, the judge is sometimes said to take judicial notice of law. In Pennsylvania, judicial notice of law has been regulated by decisional law [and], statute, and rule. See *In re Annual Controller's Reports for Years 1932, 1933, 1934, 1935 and 1936*, [333 Pa. 489,] 5 A.2d 201 (Pa. 1939) (judicial notice of public laws); 42 Pa.C.S. § 6107 (judicial notice of municipal ordinances); 42 Pa.C.S. § 5327 (judicial notice of laws of any jurisdiction outside the Commonwealth); 45 Pa.C.S. § 506 (judicial notice of the contents of the *Pennsylvania Code* and the *Pennsylvania Bulletin*); see also, e.g., Pa.R.A.P. 126 (citation of authority); Pa.R.Civ.P. 242 (same); Pa.R.J.C.P. 138 and 1138 (same), Pa.R.O.C.P. 1.22 (same), Pa.R.Crim.P. 102.1 (same), and Pa.R.Civ.P.M.D.J. 242 (same). [These rules are] This rule is not intended to change existing provisions of law.

Pa.R.E. 201(f) differs from F.R.E. 201(f). Under the Federal Rule the court is required to instruct the jury to accept as conclusive any fact judicially noticed in a civil case. In a criminal case, the judicially noticed fact is not treated as conclusive. Under Pennsylvania law, the judicially noticed fact has not been treated as conclusive in either civil or criminal cases, and the opposing party may submit evidence to the jury to disprove the noticed fact. See *Appeal of Albert*, [372 Pa. 13,] 92 A.2d 663 (Pa. 1952); *Commonwealth v. Brown*, [428 Pa. Super. 587,] 631 A.2d 1014 (Pa. Super. 1993).

[Official Note

Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013.)]

SUPREME COURT OF PENNSYLVANIA COMMITTEE ON RULES OF EVIDENCE ORPHANS' COURT PROCEDURAL RULES COMMITTEE

CRIMINAL PROCEDURAL RULES COMMITTEE

JUVENILE COURT PROCEDURAL RULES COMMITTEE

MINOR COURT RULES COMMITTEE

ADOPTION REPORT

Amendment of Pa.R.E. 201

Adoption of Pa.R.O.C.P. 1.22, Pa.R.Crim.P. 102.1, Pa.R.J.C.P. 138 and 1138, and Pa.R.Civ.P.M.D.J. 242

On February 13, 2023, the Supreme Court amended Pennsylvania Rule of Evidence 201 and adopted Pennsylvania Rule of Orphans' Court Procedure 1.22, Pennsylvania Rule of Criminal Procedure 102.1, Pennsylvania Rules of Juvenile Court Procedure 138 and 1138, and Pennsylvania Rule of Civil Procedure Before Magisterial District Judges 242 to permit the parties and the court to cite non-precedential intermediate appellate court opinions

and single-judge opinions of the Commonwealth Court in election law matters, in accordance with Pa.R.A.P. 126. The Rules Committees have prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, cmt. The statements contained herein are those of the Committees, not the Court.

On January 5, 2022, the Court adopted a recommendation of the Civil Procedural Rules Committee to permit the citation of authority in accordance with Pa.R.A.P. 126 in civil proceedings. Thereafter, the Juvenile Court Procedural Rules Committee, the Orphans' Court Procedural Rules Committee, the Criminal Procedural Rules Committee, and the Domestic Relations Procedural Rules Committee considered rules similar to Pa.R.Civ.P. 242. The Committees collectively agreed that similar rules were warranted. While in agreement, the Domestic Relations Procedural Rules Committee did not believe that further rulemaking within the rules governing family court proceedings was necessary given that those rules are presently contained within the Pennsylvania Rules of Civil Procedure. Accordingly, Pa.R.J.C.P. 138 and 1138, Pa.R.O.C.P. 1.22, and Pa.R.Crim.P. 102.1 have been adopted with language mirroring that of Pa.R.Civ.P. 242.

The Minor Court Rules Committee also saw merit in maintaining consistency among the bodies of rules. That Committee observed that the rules governing procedure in magisterial district courts neither address written briefs submitted by the parties nor require written opinions to be issued by the magisterial district judge. Nonetheless, the Committee interpreted "citation" to include a verbal reference to legal authority in accordance with Pa.R.A.P. 126 during the parties' arguments or by handing up an opinion to the magisterial district judge who may then consider the authority in rendering a decision. Accordingly, Pa.R.Civ.P.M.D.J. 242 has been adopted with language mirroring that of Pa.R.Civ.P. 242.

The Committee on Rules of Evidence observed that the Comment to Pa.R.E. 201 discusses judicial notice of the law: "In determining the law applicable to a matter, the judge is sometimes said to take judicial notice of the law." *Id.* at ¶ 2. To aid readers in understanding that Pennsylvania intermediate appellate court opinions may be cited, and therefore taken judicial notice of, the Comment to Pa.R.E. 201 was amended to include references to Pa.R.Civ.P. 242, Pa.R.J.C.P. 138 and 1138, Pa.R.O.C.P. 1.22, Pa.R.Crim.P. 102.1, and Pa.R.Civ.P.M.D.J. 242. While Pa.R.A.P. 126 now appears applicable to only appellate proceedings given the adoption of Pa.R.Civ.P. 242 and the other rules, a reference to Pa.R.A.P. 126 was included to eliminate any potential confusion with its omission.

The Committee also reviewed the current description of categories of adjudicative facts in the second sentence in the second paragraph of the Comment to Pa.R.E. 201. Presently, that sentence states: "Adjudicative facts are facts about the events, persons and places relevant to the matter before the court. See 2 McCormick, Evidence § 328 (6th ed. 2006)."

That sentence was revised in two aspects. First, the Committee believed the categories of adjudicative facts stated were too limited. See 1 West's Pa. Prac., Evidence § 201-2 (4th ed. 2021) (providing examples of categories that include nature, mathematics, science, medicine, language, words, abbreviations, times, days, and dates). Accordingly, the phrase, "or other subjects," has been

added to the current description of the categories. Of course, this category, as well as the other categories, must still be relevant to the case.

Second, the Committee observed that statements in the commentary should reference the discussion of secondary sources of the Pennsylvania Rules of Evidence, when available, rather than the Federal Rules of Evidence. Therefore, the reference to *McCormick on Evidence* has been replaced with a reference to 1 West's Pa. Prac., Evidence §§ 201-1, 201-2 (4th ed. 2021).

The Committees did not publish these proposals for comment because of the Civil Procedural Rules Committee's prior publication and the Court's adoption of that Committee's recommendation. See 51 Pa.B. 1002 (February 27, 2021) (proposed Pa.R.Civ.P. 242 published for comment); 52 Pa.B. 440 (January 22, 2022) (adoption of Pa.R.Civ.P. 242); Pa.R.J.A. 103(a)(3) (permitting adoption of rule without prior publication).

These amendments become effective April 1, 2023.

[Pa.B. Doc. No. 23-252. Filed for public inspection February 24, 2023, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

[231 PA. CODE PART II]

Order Adopting Rule 1.22 of the Pennsylvania Rules of Orphans' Court Procedure; No. 936 Supreme Court Rules Docket

Order

Per Curiam

And Now, this 13th day of February, 2023, upon the recommendation of the Orphans' Court Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rule of Orphans' Court Procedure 1.22 is adopted in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective April 1, 2023.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

CHAPTER I. PRELIMINARY RULES

The following text is entirely new.

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

Rule 1.22. Citation of Authorities.

Citation of authorities in matters subject to these rules shall be in accordance with Pa.R.A.P. 126.

Comment

See also 210 Pa. Code § 65.37 and *Wenk v. State Farm Fire and Casualty Co.*, 228 A.3d 540, 552 n.11 (Pa. Super. 2020) for citing to non-precedential decisions of the

Superior Court; and Pa.R.A.P. 3716 and 210 Pa. Code. § 69.414 for citing to non-precedential decisions of the Commonwealth Court.

**SUPREME COURT OF PENNSYLVANIA
COMMITTEE ON RULES OF EVIDENCE**

**ORPHANS' COURT PROCEDURAL
RULES COMMITTEE**

CRIMINAL PROCEDURAL RULES COMMITTEE

**JUVENILE COURT PROCEDURAL
RULES COMMITTEE**

MINOR COURT RULES COMMITTEE

ADOPTION REPORT

Amendment of Pa.R.E. 201

**Adoption of Pa.R.O.C.P. 1.22, Pa.R.Crim.P. 102.1,
Pa.R.J.C.P. 138 and 1138, and Pa.R.Civ.P.M.D.J. 242**

On February 13, 2023, the Supreme Court amended Pennsylvania Rule of Evidence 201 and adopted Pennsylvania Rule of Orphans' Court Procedure 1.22, Pennsylvania Rule of Criminal Procedure 102.1, Pennsylvania Rules of Juvenile Court Procedure 138 and 1138, and Pennsylvania Rule of Civil Procedure Before Magisterial District Judges 242 to permit the parties and the court to cite non-precedential intermediate appellate court opinions and single-judge opinions of the Commonwealth Court in election law matters, in accordance with Pa.R.A.P. 126. The Rules Committees have prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. *See* Pa.R.J.A. 103, cmt. The statements contained herein are those of the Committees, not the Court.

On January 5, 2022, the Court adopted a recommendation of the Civil Procedural Rules Committee to permit the citation of authority in accordance with Pa.R.A.P. 126 in civil proceedings. Thereafter, the Juvenile Court Procedural Rules Committee, the Orphans' Court Procedural Rules Committee, the Criminal Procedural Rules Committee, and the Domestic Relations Procedural Rules Committee considered rules similar to Pa.R.Civ.P. 242. The Committees collectively agreed that similar rules were warranted. While in agreement, the Domestic Relations Procedural Rules Committee did not believe that further rulemaking within the rules governing family court proceedings was necessary given that those rules are presently contained within the Pennsylvania Rules of Civil Procedure. Accordingly, Pa.R.J.C.P. 138 and 1138, Pa.R.O.C.P. 1.22, and Pa.R.Crim.P. 102.1 have been adopted with language mirroring that of Pa.R.Civ.P. 242.

The Minor Court Rules Committee also saw merit in maintaining consistency among the bodies of rules. That Committee observed that the rules governing procedure in magisterial district courts neither address written briefs submitted by the parties nor require written opinions to be issued by the magisterial district judge. Nonetheless, the Committee interpreted "citation" to include a verbal reference to legal authority in accordance with Pa.R.A.P. 126 during the parties' arguments or by handing up an opinion to the magisterial district judge who may then consider the authority in rendering a decision. Accordingly, Pa.R.Civ.P.M.D.J. 242 has been adopted with language mirroring that of Pa.R.Civ.P. 242.

The Committee on Rules of Evidence observed that the Comment to Pa.R.E. 201 discusses judicial notice of the law: "In determining the law applicable to a matter, the judge is sometimes said to take judicial notice of the law." *Id.* at ¶ 2. To aid readers in understanding that Pennsyl-

vania intermediate appellate court opinions may be cited, and therefore taken judicial notice of, the Comment to Pa.R.E. 201 was amended to include references to Pa.R.Civ.P. 242, Pa.R.J.C.P. 138 and 1138, Pa.R.O.C.P. 1.22, Pa.R.Crim.P. 102.1, and Pa.R.Civ.P.M.D.J. 242. While Pa.R.A.P. 126 now appears applicable to only appellate proceedings given the adoption of Pa.R.Civ.P. 242 and the other rules, a reference to Pa.R.A.P. 126 was included to eliminate any potential confusion with its omission.

The Committee also reviewed the current description of categories of adjudicative facts in the second sentence in the second paragraph of the Comment to Pa.R.E. 201. Presently, that sentence states: "Adjudicative facts are facts about the events, persons and places relevant to the matter before the court. *See* 2 McCormick, Evidence § 328 (6th ed. 2006)."

That sentence was revised in two aspects. First, the Committee believed the categories of adjudicative facts stated were too limited. *See* 1 West's Pa. Prac., Evidence § 201-2 (4th ed. 2021) (providing examples of categories that include nature, mathematics, science, medicine, language, words, abbreviations, times, days, and dates). Accordingly, the phrase, "or other subjects," has been added to the current description of the categories. Of course, this category, as well as the other categories, must still be relevant to the case.

Second, the Committee observed that statements in the commentary should reference the discussion of secondary sources of the Pennsylvania Rules of Evidence, when available, rather than the Federal Rules of Evidence. Therefore, the reference to *McCormick on Evidence* has been replaced with a reference to 1 West's Pa. Prac., Evidence §§ 201-1, 201-2 (4th ed. 2021).

The Committees did not publish these proposals for comment because of the Civil Procedural Rules Committee's prior publication and the Court's adoption of that Committee's recommendation. *See* 51 Pa.B. 1002 (February 27, 2021) (proposed Pa.R.Civ.P. 242 published for comment); 52 Pa.B. 440 (January 22, 2022) (adoption of Pa.R.Civ.P. 242); Pa.R.J.A. 103(a)(3) (permitting adoption of rule without prior publication).

These amendments become effective April 1, 2023.

[Pa.B. Doc. No. 23-253. Filed for public inspection February 24, 2023, 9:00 a.m.]

**Title 234—RULES OF
CRIMINAL PROCEDURE**

[234 PA. CODE CH. 1]

**Order Adopting Rule 102.1 of the Pennsylvania
Rules of Criminal Procedure; No. 545 Criminal
Procedural Rules Docket**

Order

Per Curiam

And Now, this 13th day of February, 2023, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 102.1 of the Pennsylvania Rules of Criminal Procedure is adopted in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective April 1, 2023.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

The following text is entirely new.

(*Editor's Note:* The following rule is printed in regular type to enhance readability.)

Rule 102.1. Citation of Authorities.

Citation of authorities in matters subject to these rules shall be in accordance with Pa.R.A.P. 126.

Comment

See also 210 Pa. Code § 65.37 and *Wenk v. State Farm Fire and Casualty Co.*, 228 A.3d 540, 552 n. 11 (Pa. Super. 2020) for citing to non-precedential decisions of the Superior Court; and Pa.R.A.P. 3716 and 210 Pa. Code § 69.414 for citing to non-precedential decisions of the Commonwealth Court.

SUPREME COURT OF PENNSYLVANIA COMMITTEE ON RULES OF EVIDENCE ORPHANS' COURT PROCEDURAL RULES COMMITTEE

CRIMINAL PROCEDURAL RULES COMMITTEE

JUVENILE COURT PROCEDURAL RULES COMMITTEE

MINOR COURT RULES COMMITTEE

ADOPTION REPORT

Amendment of Pa.R.E. 201

Adoption of Pa.R.O.C.P. 1.22, Pa.R.Crim.P. 102.1, Pa.R.J.C.P. 138 and 1138, and Pa.R.Civ.P.M.D.J. 242

On February 13, 2023, the Supreme Court amended Pennsylvania Rule of Evidence 201 and adopted Pennsylvania Rule of Orphans' Court Procedure 1.22, Pennsylvania Rule of Criminal Procedure 102.1, Pennsylvania Rules of Juvenile Court Procedure 138 and 1138, and Pennsylvania Rule of Civil Procedure Before Magisterial District Judges 242 to permit the parties and the court to cite non-precedential intermediate appellate court opinions and single-judge opinions of the Commonwealth Court in election law matters, in accordance with Pa.R.A.P. 126. The Rules Committees have prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, cmt. The statements contained herein are those of the Committees, not the Court.

On January 5, 2022, the Court adopted a recommendation of the Civil Procedural Rules Committee to permit the citation of authority in accordance with Pa.R.A.P. 126 in civil proceedings. Thereafter, the Juvenile Court Procedural Rules Committee, the Orphans' Court Procedural Rules Committee, the Criminal Procedural Rules Committee, and the Domestic Relations Procedural Rules Committee considered rules similar to Pa.R.Civ.P. 242. The Committees collectively agreed that similar rules were warranted. While in agreement, the Domestic Relations Procedural Rules Committee did not believe that further rulemaking within the rules governing family

court proceedings was necessary given that those rules are presently contained within the Pennsylvania Rules of Civil Procedure. Accordingly, Pa.R.J.C.P. 138 and 1138, Pa.R.O.C.P. 1.22, and Pa.R.Crim.P. 102.1 have been adopted with language mirroring that of Pa.R.Civ.P. 242.

The Minor Court Rules Committee also saw merit in maintaining consistency among the bodies of rules. That Committee observed that the rules governing procedure in magisterial district courts neither address written briefs submitted by the parties nor require written opinions to be issued by the magisterial district judge. Nonetheless, the Committee interpreted "citation" to include a verbal reference to legal authority in accordance with Pa.R.A.P. 126 during the parties' arguments or by handing up an opinion to the magisterial district judge who may then consider the authority in rendering a decision. Accordingly, Pa.R.Civ.P.M.D.J. 242 has been adopted with language mirroring that of Pa.R.Civ.P. 242.

The Committee on Rules of Evidence observed that the Comment to Pa.R.E. 201 discusses judicial notice of the law: "In determining the law applicable to a matter, the judge is sometimes said to take judicial notice of the law." *Id.* at ¶ 2. To aid readers in understanding that Pennsylvania intermediate appellate court opinions may be cited, and therefore taken judicial notice of, the Comment to Pa.R.E. 201 was amended to include references to Pa.R.Civ.P. 242, Pa.R.J.C.P. 138 and 1138, Pa.R.O.C.P. 1.22, Pa.R.Crim.P. 102.1, and Pa.R.Civ.P.M.D.J. 242. While Pa.R.A.P. 126 now appears applicable to only appellate proceedings given the adoption of Pa.R.Civ.P. 242 and the other rules, a reference to Pa.R.A.P. 126 was included to eliminate any potential confusion with its omission.

The Committee also reviewed the current description of categories of adjudicative facts in the second sentence in the second paragraph of the Comment to Pa.R.E. 201. Presently, that sentence states: "Adjudicative facts are facts about the events, persons and places relevant to the matter before the court. See 2 McCormick, Evidence § 328 (6th ed. 2006)."

That sentence was revised in two aspects. First, the Committee believed the categories of adjudicative facts stated were too limited. See 1 West's Pa. Prac., Evidence § 201-2 (4th ed. 2021) (providing examples of categories that include nature, mathematics, science, medicine, language, words, abbreviations, times, days, and dates). Accordingly, the phrase, "or other subjects," has been added to the current description of the categories. Of course, this category, as well as the other categories, must still be relevant to the case.

Second, the Committee observed that statements in the commentary should reference the discussion of secondary sources of the Pennsylvania Rules of Evidence, when available, rather than the Federal Rules of Evidence. Therefore, the reference to *McCormick on Evidence* has been replaced with a reference to 1 West's Pa. Prac., Evidence §§ 201-1, 201-2 (4th ed. 2021).

The Committees did not publish these proposals for comment because of the Civil Procedural Rules Committee's prior publication and the Court's adoption of that Committee's recommendation. See 51 Pa.B. 1002 (February 27, 2021) (proposed Pa.R.Civ.P. 242 published for comment); 52 Pa.B. 440 (January 22, 2022) (adoption of Pa.R.Civ.P. 242); Pa.R.J.A. 103(a)(3) (permitting adoption of rule without prior publication).

These amendments become effective April 1, 2023.

[Pa.B. Doc. No. 23-254. Filed for public inspection February 24, 2023, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 1 AND 11]

Order Adopting Rules 138 and 1138 of the Pennsylvania Rules of Juvenile Court Procedure; No. 937 Supreme Court Rules Docket

Order

Per Curiam

And Now, this 13th day of February, 2023, upon the recommendation of the Juvenile Court Procedural Rules Committee, the proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rules of Juvenile Court Procedure 138 and 1138 are adopted in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective on April 1, 2023.

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 1. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

The following text is entirely new.

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

Rule 138. Citation of Authorities.

Citation of authorities in matters subject to these rules shall be in accordance with Pa.R.A.P. 126.

Comment

See also 210 Pa. Code § 65.37 and *Wenk v. State Farm Fire and Casualty Co.*, 228 A.3d 540, 552 n.11 (Pa. Super. 2020) for citing to non-precedential decisions of the Superior Court; and Pa.R.A.P. 3716 and 210 Pa. Code § 69.414 for citing to non-precedential decisions of the Commonwealth Court.

Subpart B. DEPENDENCY MATTERS

CHAPTER 11. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 1138. Citation of Authorities.

Citation of authorities in matters subject to these rules shall be in accordance with Pa.R.A.P. 126.

Comment

See also 210 Pa. Code § 65.37 and *Wenk v. State Farm Fire and Casualty Co.*, 228 A.3d 540, 552 n.11 (Pa. Super. 2020) for citing to non-precedential decisions of the Superior Court; and Pa.R.A.P. 3716 and 210 Pa. Code § 69.414 for citing to non-precedential decisions of the Commonwealth Court.

SUPREME COURT OF PENNSYLVANIA COMMITTEE ON RULES OF EVIDENCE

ORPHANS' COURT PROCEDURAL RULES COMMITTEE

CRIMINAL PROCEDURAL RULES COMMITTEE

JUVENILE COURT PROCEDURAL RULES COMMITTEE

MINOR COURT RULES COMMITTEE

ADOPTION REPORT

Amendment of Pa.R.E. 201

Adoption of Pa.R.O.C.P. 1.22, Pa.R.Crim.P. 102.1, Pa.R.J.C.P. 138 and 1138, and Pa.R.Civ.P.M.D.J. 242

On February 13, 2023, the Supreme Court amended Pennsylvania Rule of Evidence 201 and adopted Pennsylvania Rule of Orphans' Court Procedure 1.22, Pennsylvania Rule of Criminal Procedure 102.1, Pennsylvania Rules of Juvenile Court Procedure 138 and 1138, and Pennsylvania Rule of Civil Procedure Before Magisterial District Judges 242 to permit the parties and the court to cite non-precedential intermediate appellate court opinions and single-judge opinions of the Commonwealth Court in election law matters, in accordance with Pa.R.A.P. 126. The Rules Committees have prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, cmt. The statements contained herein are those of the Committees, not the Court.

On January 5, 2022, the Court adopted a recommendation of the Civil Procedural Rules Committee to permit the citation of authority in accordance with Pa.R.A.P. 126 in civil proceedings. Thereafter, the Juvenile Court Procedural Rules Committee, the Orphans' Court Procedural Rules Committee, the Criminal Procedural Rules Committee, and the Domestic Relations Procedural Rules Committee considered rules similar to Pa.R.Civ.P. 242. The Committees collectively agreed that similar rules were warranted. While in agreement, the Domestic Relations Procedural Rules Committee did not believe that further rulemaking within the rules governing family court proceedings was necessary given that those rules are presently contained within the Pennsylvania Rules of Civil Procedure. Accordingly, Pa.R.J.C.P. 138 and 1138, Pa.R.O.C.P. 1.22, and Pa.R.Crim.P. 102.1 have been adopted with language mirroring that of Pa.R.Civ.P. 242.

The Minor Court Rules Committee also saw merit in maintaining consistency among the bodies of rules. That Committee observed that the rules governing procedure in magisterial district courts neither address written briefs submitted by the parties nor require written opinions to be issued by the magisterial district judge. Nonetheless, the Committee interpreted "citation" to include a verbal reference to legal authority in accordance with Pa.R.A.P. 126 during the parties' arguments or by handing up an opinion to the magisterial district judge who may then consider the authority in rendering a decision. Accordingly, Pa.R.Civ.P.M.D.J. 242 has been adopted with language mirroring that of Pa.R.Civ.P. 242.

The Committee on Rules of Evidence observed that the Comment to Pa.R.E. 201 discusses judicial notice of the law: "In determining the law applicable to a matter, the judge is sometimes said to take judicial notice of the law." *Id.* at ¶ 2. To aid readers in understanding that Pennsylvania intermediate appellate court opinions may be cited, and therefore taken judicial notice of, the Comment to Pa.R.E. 201 was amended to include references to

Pa.R.Civ.P. 242, Pa.R.J.C.P. 138 and 1138, Pa.R.O.C.P. 1.22, Pa.R.Crim.P. 102.1, and Pa.R.Civ.P.M.D.J. 242. While Pa.R.A.P. 126 now appears applicable to only appellate proceedings given the adoption of Pa.R.Civ.P. 242 and the other rules, a reference to Pa.R.A.P. 126 was included to eliminate any potential confusion with its omission.

The Committee also reviewed the current description of categories of adjudicative facts in the second sentence in the second paragraph of the Comment to Pa.R.E. 201. Presently, that sentence states: “Adjudicative facts are facts about the events, persons and places relevant to the matter before the court. *See* 2 McCormick, Evidence § 328 (6th ed. 2006).”

That sentence was revised in two aspects. First, the Committee believed the categories of adjudicative facts stated were too limited. *See* 1 West’s Pa. Prac., Evidence § 201-2 (4th ed. 2021) (providing examples of categories that include nature, mathematics, science, medicine, language, words, abbreviations, times, days, and dates). Accordingly, the phrase, “or other subjects,” has been added to the current description of the categories. Of course, this category, as well as the other categories, must still be relevant to the case.

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The Committees did not publish these proposals for comment because of the Civil Procedural Rules Committee’s prior publication and the Court’s adoption of that Committee’s recommendation. *See* 51 Pa.B. 1002 (February 27, 2021) (proposed Pa.R.Civ.P. 242 published for comment); 52 Pa.B. 440 (January 22, 2022) (adoption of Pa.R.Civ.P. 242); Pa.R.J.A. 103(a)(3) (permitting adoption of rule without prior publication).

These amendments become effective April 1, 2023.

[Pa.B. Doc. No. 23-255. Filed for public inspection February 24, 2023, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 200]

Order Adopting Rule 242 of the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings before Magisterial District Judges; No. 529 Magisterial Rules Docket

Order

Per Curiam

And Now, this 13th day of February, 2023, upon the recommendation of the Minor Court Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rule of

Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges 242 is adopted in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective April 1, 2023.

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 200. RULES OF CONSTRUCTION; GENERAL PROVISIONS

The following text is entirely new.

(*Editor’s Note:* The following rule is printed in regular type to enhance readability.)

Rule 242. Citation of Authorities.

Citation of authorities in matters subject to these rules shall be in accordance with Pa.R.A.P. 126.

Comment

See also 210 Pa. Code § 65.37 and *Wenk v. State Farm Fire and Casualty Co.*, 228 A.3d 540, 552 n.11 (Pa. Super. 2020) for citing to non-precedential decisions of the Superior Court; and Pa.R.A.P. 3716 and 210 Pa. Code § 69.414 for citing to non-precedential decisions of the Commonwealth Court.

SUPREME COURT OF PENNSYLVANIA

COMMITTEE ON RULES OF EVIDENCE

ORPHANS’ COURT PROCEDURAL RULES COMMITTEE

CRIMINAL PROCEDURAL RULES COMMITTEE

JUVENILE COURT PROCEDURAL RULES COMMITTEE

MINOR COURT RULES COMMITTEE

ADOPTION REPORT

Amendment of Pa.R.E. 201

Adoption of Pa.R.O.C.P. 1.22, Pa.R.Crim.P. 102.1, Pa.R.J.C.P. 138 and 1138, and Pa.R.Civ.P.M.D.J. 242

On February 13, 2023, the Supreme Court amended Pennsylvania Rule of Evidence 201 and adopted Pennsylvania Rule of Orphans’ Court Procedure 1.22, Pennsylvania Rule of Criminal Procedure 102.1, Pennsylvania Rules of Juvenile Court Procedure 138 and 1138, and Pennsylvania Rule of Civil Procedure Before Magisterial District Judges 242 to permit the parties and the court to cite non-precedential intermediate appellate court opinions and single-judge opinions of the Commonwealth Court in election law matters, in accordance with Pa.R.A.P. 126. The Rules Committees have prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. *See* Pa.R.J.A. 103, cmt. The statements contained herein are those of the Committees, not the Court.

On January 5, 2022, the Court adopted a recommendation of the Civil Procedural Rules Committee to permit the citation of authority in accordance with Pa.R.A.P. 126 in civil proceedings. Thereafter, the Juvenile Court Procedural Rules Committee, the Orphans’ Court Procedural Rules Committee, the Criminal Procedural Rules Committee, and the Domestic Relations Procedural Rules Committee considered rules similar to Pa.R.Civ.P. 242. The Committees collectively agreed that similar rules were warranted. While in agreement, the Domestic Relations Procedural Rules Committee did not believe that

further rulemaking within the rules governing family court proceedings was necessary given that those rules are presently contained within the Pennsylvania Rules of Civil Procedure. Accordingly, Pa.R.J.C.P. 138 and 1138, Pa.R.O.C.P. 1.22, and Pa.R.Crim.P. 102.1 have been adopted with language mirroring that of Pa.R.Civ.P. 242.

The Minor Court Rules Committee also saw merit in maintaining consistency among the bodies of rules. That Committee observed that the rules governing procedure in magisterial district courts neither address written briefs submitted by the parties nor require written opinions to be issued by the magisterial district judge. Nonetheless, the Committee interpreted “citation” to include a verbal reference to legal authority in accordance with Pa.R.A.P. 126 during the parties’ arguments or by handing up an opinion to the magisterial district judge who may then consider the authority in rendering a decision. Accordingly, Pa.R.Civ.P.M.D.J. 242 has been adopted with language mirroring that of Pa.R.Civ.P. 242.

The Committee on Rules of Evidence observed that the Comment to Pa.R.E. 201 discusses judicial notice of the law: “In determining the law applicable to a matter, the judge is sometimes said to take judicial notice of the law.” *Id.* at ¶ 2. To aid readers in understanding that Pennsylvania intermediate appellate court opinions may be cited, and therefore taken judicial notice of, the Comment to Pa.R.E. 201 was amended to include references to Pa.R.Civ.P. 242, Pa.R.J.C.P. 138 and 1138, Pa.R.O.C.P. 1.22, Pa.R.Crim.P. 102.1, and Pa.R.Civ.P.M.D.J. 242. While Pa.R.A.P. 126 now appears applicable to only appellate proceedings given the adoption of Pa.R.Civ.P. 242 and the other rules, a reference to Pa.R.A.P. 126 was included to eliminate any potential confusion with its omission.

The Committee also reviewed the current description of categories of adjudicative facts in the second sentence in the second paragraph of the Comment to Pa.R.E. 201. Presently, that sentence states: “Adjudicative facts are facts about the events, persons and places relevant to the matter before the court. *See* 2 McCormick, Evidence § 328 (6th ed. 2006).”

That sentence was revised in two aspects. First, the Committee believed the categories of adjudicative facts stated were too limited. *See* 1 West’s Pa. Prac., Evidence § 201-2 (4th ed. 2021) (providing examples of categories that include nature, mathematics, science, medicine, language, words, abbreviations, times, days, and dates). Accordingly, the phrase, “or other subjects,” has been added to the current description of the categories. Of course, this category, as well as the other categories, must still be relevant to the case.

Second, the Committee observed that statements in the commentary should reference the discussion of secondary sources of the Pennsylvania Rules of Evidence, when available, rather than the Federal Rules of Evidence. Therefore, the reference to *McCormick on Evidence* has been replaced with a reference to 1 West’s Pa. Prac., Evidence §§ 201-1, 201-2 (4th ed. 2021).

The Committees did not publish these proposals for comment because of the Civil Procedural Rules Committee’s prior publication and the Court’s adoption of that Committee’s recommendation. *See* 51 Pa.B. 1002 (February 27, 2021) (proposed Pa.R.Civ.P. 242 published for comment); 52 Pa.B. 440 (January 22, 2022) (adoption of Pa.R.Civ.P. 242); Pa.R.J.A. 103(a)(3) (permitting adoption of rule without prior publication).

These amendments become effective April 1, 2023.

[Pa.B. Doc. No. 23-256. Filed for public inspection February 24, 2023, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 300]

Order Adopting Rule 351 and Amending the Comments to Rules 301, 302, and 321 of the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges; No. 528 Magisterial Rules Docket

Order

Per Curiam

And Now, this 10th day of February, 2023, upon the recommendation of the Minor Court Rules Committee; the proposal having been published for public comment at 52 Pa.B. 3816 (July 9, 2022):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rule of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges 351 is adopted and the comments to Rules 301, 302, and 321 are amended in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective April 11, 2023.

Additions to the rule are shown in bold and are underlined.

Deletions from the rule are shown in bold and brackets.

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 300. CIVIL ACTION

Rule 301. Definition[.]; Scope.

[**A.**] (a) As used in this chapter, “action” means a civil action brought before a magisterial district judge.

[**B.**] (b) Civil action includes any action within the jurisdiction of a magisterial district judge except an action by a landlord against a tenant for the recovery of the possession of real property.

[**C.**] (c) As used in this chapter, “complaint” or civil action shall include, where applicable, the attached and completed Civil Action Hearing Notice form.

Comment

Civil action includes actions formerly denominated “assumpsit” or “trespass” (commonly called contract and tort cases, respectively) and civil claims for fines and penalties. *See* 42 Pa.C.S. § 1515(a)(3) prescribing the jurisdiction of magisterial district judges.

The rules in this chapter apply to all civil actions before magisterial district judges except an action by a landlord against a tenant for the recovery of possession of real property, which is governed by Chapter 500 of these rules.

Except as otherwise provided in [**Rule 350**] **Rules 350 and 351**, the rules in this chapter apply to: **(1) *de novo* appeals filed pursuant to 75 Pa.C.S. § 3369(j)(4), relating to automated work zone speed enforcement violations; and (2) actions filed pursuant to 75 Pa.C.S. § 3345.1(i.1), relating to civil violations for passing a stopped school bus with flashing red signal lights and an activated side stop signal arm.**

Statutes authorizing a civil fine or penalty include 53 P.S. §§ 10617.1 and 10817-A relating to violations of zoning and joint municipal zoning ordinances.

Rule 302. Venue.

* * * * *

Comment

This rule combines, with some minor changes, the Pennsylvania Rules of Civil Procedure relating to venue. See:

- (1) Individuals: Pa.R.Civ.P. 1006(a).
- (2) Partnerships: Pa.R.Civ.P. 2130(a).
- (3) Corporations: Pa.R.Civ.P. 2179(a).
- (4) Insurance Policies: Pa.R.Civ.P. 2179(b).
- (5) Unincorporated Associations: Pa.R.Civ.P. 2156(a).
- (6) Political Subdivisions: Pa.R.Civ.P. 2103(b).

This rule is not intended to repeal special statutory venue provisions, such as the: (1) venue provisions for actions involving installment sales of goods and services, 12 Pa.C.S. § 6307; (2) venue provisions of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692i, pertaining to actions brought by debt collectors against consumers; [**and**] (3) venue provisions for appeals from automated work zone speed enforcement violations, 75 Pa.C.S. § 3369(j)(4); **and (4) venue provisions for actions filed pursuant to 75 Pa.C.S. § 3345.1(i.1), relating to civil violations for passing a stopped school bus with flashing red signal lights and an activated side stop signal arm.** See Pa.R.Civ.P.M.D.J. 382(1) (pertaining to Acts of Assembly providing for special venue provisions that are not suspended).

For a definition of “transaction or occurrence,” see *Craig v. W.J. Thiele & Sons, Inc.*, 149 A.2d 35 (Pa. 1959).

Subdivision G is intended to take care of indistinct, “center line” or other confusing boundaries in the respects mentioned. When a complaint is transferred under subdivision H, it is treated as if originally filed in the transferee court on the date first filed in a court. If service of the complaint has already been made, no new service may be necessary, but the transferee court must set a new date, time and place for the new hearing and notify the parties thereof. 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. The jurisdictional limits of the magisterial district courts and the Philadelphia Municipal Court are governed by 42 Pa.C.S. §§ 1515 and 1123, respectively.

There are no costs for transfer of the complaint and no additional filing costs when a case is transferred from one magisterial district court to another magisterial district

court. There are no additional filing costs when a case is transferred from the Philadelphia Municipal Court to a magisterial district court.

There may be additional service costs when a case is transferred.

Rule 321. Hearings and Evidence.

The magisterial district judge shall be bound by the rules of evidence, except that a bill, estimate, receipt, or statement of account that appears to have been made in the regular course of business may be introduced in evidence by any party without affidavit or other evidence of its truth, accuracy, or authenticity.

Comment

The exception to the rules of evidence provided by this rule was inserted because the Pennsylvania statutes making certain business entries admissible in evidence apparently do not apply to bills, receipts, and the like that are made in the regular course of business but are not made as “records.” See 42 Pa.C.S. § 6108. The fact that this exception permits the introduction of these items of evidence without affidavit or other evidence of their truth, accuracy, or authenticity does not, of course, preclude the introduction of evidence contradicting them. The exception was deemed necessary because the items of evidence made admissible thereby are probably the proofs most commonly used in minor judiciary proceedings. See [**Rule 350 D(2)**] **Rules 350D(2) and 351(d)** for additional exceptions applicable to appeals from automated work zone speed enforcement violations **and actions filed pursuant to 75 Pa.C.S. § 3345.1(i.1), relating to civil violations for passing a stopped school bus with flashing red signal lights and an activated side stop signal arm.**

The following rule text is entirely new.

(*Editor’s Note:* The text of this rule is entirely new and printed in regular type to enhance readability.)

Rule 351. Action to Contest Civil Liability for Passing a School Bus with Flashing Red Lights and an Activated Side Stop Signal Arm; Failure to Respond to a Notice of Violation.

(a) As used in this rule:

(1) “Vehicle owner” means the owner of a vehicle alleged to have violated 75 Pa.C.S. § 3345, relating to enforcement of failure to stop for a school bus with flashing red lights and an activated side stop signal arm, brought pursuant to 75 Pa.C.S. § 3345.1.

(2) “Police department” means the police department issuing the notice of violation of 75 Pa.C.S. § 3345, relating to enforcement of failure to stop for a school bus with flashing red lights and an activated side stop signal arm, brought pursuant to 75 Pa.C.S. § 3345.1.

(b) *Venue.* An action filed pursuant to this rule shall only be filed in the magisterial district court in the magisterial district where the alleged violation of 75 Pa.C.S. § 3345 occurred.

(c) *Proceedings.*

(1) *Vehicle Owner Request to Contest Liability.*

(i) A vehicle owner may contest the liability alleged in the notice of violation within 30 days of the mailing of the notice of violation by filing a hearing request form prescribed by the State Court Administrator together with a copy of the notice of violation.

(ii) The vehicle owner shall pay all costs for filing and service of the hearing request form at the time of filing or, if without the financial resources to pay the costs of litigation, the vehicle owner shall file a petition to proceed *in forma pauperis* pursuant to Rule 206E.

(iii) After setting the hearing date pursuant to Rule 305, the magisterial district judge shall serve the hearing request on the police department by mailing a copy to the police department at the address listed on the notice of violation by certified mail or comparable delivery method resulting in a return receipt in paper or electronic form. The return receipt shall show that the hearing request was received by the police department.

(2) *Vehicle Owner Fails to Respond to Notice of Violation.* If the vehicle owner fails to respond to the notice of violation within 30 days of the original notice by either paying the fine as indicated on the notice of violation or contesting liability as provided in subdivision (c)(1), the police department may file a civil complaint against the vehicle owner pursuant to Rule 303.

(d) *Evidence.* The hearing is subject to the standards of evidence set forth in Rule 321, except that photographs, videos, vehicle titles, police reports, and records of the Pennsylvania Department of Transportation may also be entered as evidence by any party without affidavit or other evidence of their truth, accuracy, or authenticity.

Comment

75 Pa.C.S. § 3345.1 provides for automated side stop signal arm enforcement systems to identify and civilly fine the owners of vehicles failing to stop for a school bus with flashing red lights and an activated side stop signal arm. This rule was adopted to address the provisions of the statute that (1) allow a vehicle owner to contest liability for a notice of violation and (2) establishes a mechanism for a police department to file a complaint when a vehicle owner has failed to respond to a notice of violation.

Insofar as other procedures under these rules may be applicable, the vehicle owner shall be deemed the “defendant” and the police department shall be deemed the “plaintiff.”

A vehicle owner issued a notice of violation under 75 Pa.C.S. § 3345.1 may contest liability by requesting a hearing with the magisterial district judge in the magisterial district where the violation occurred. The initiating document in an action filed by a vehicle owner to contest liability is the hearing request form, which shall be used in lieu of a complaint.

If the magisterial district judge finds the vehicle owner liable for the violation, the vehicle owner shall pay civil fines incurred pursuant to 75 Pa.C.S. § 3345.1(c) to the police department and not to the magisterial district court. See Rule 3.10(A)(2) of the Rules Governing Standards of Conduct of Magisterial District Judges (prohibiting a magisterial district judge from engaging in any activity related to the collection of a claim or judgment for money); see also Pa.R.Civ.P.M.D.J. 323, Comment (“The payments are to be made to the plaintiff and not to the magisterial district judge”).

If the magisterial district judge enters judgment in favor of the vehicle owner, the vehicle owner is entitled to recover taxable costs from the police department. See Pa.R.Civ.P.M.D.J. 206B (“The prevailing party in magisterial district court proceedings shall be entitled to recover taxable costs from the unsuccessful party. Such costs shall consist of all filing, personal service, witness, and

execution costs authorized by Act of Assembly or general rule and paid by the prevailing party.”). Procedures for enforcement of judgments, including judgments in favor of the plaintiff for taxable costs from the defendant, are set forth in Rules 401 *et seq.*

If the vehicle owner fails to respond to the notice of violation within 30 days of the original notice by either paying the fine as indicated on the notice of violation or contesting liability as provided in subdivision (c)(1), the police department may file a civil complaint against the vehicle owner in the magisterial district where the violation occurred pursuant to Rule 303. See 75 Pa.C.S. § 3345.1(i.1)(2)(iii). A complaint filed by a police department to enforce a notice of violation when the vehicle owner failed to respond will proceed as any other civil action filed pursuant to Rule 303 except as otherwise provided in this Rule. See also Pa.R.Civ.P.M.D.J. 206 (pertaining to costs).

Photographs, videos, vehicle titles, police reports, and records of the Pennsylvania Department of Transportation were added to the existing business record exceptions in Rule 321 because they are the proofs most likely to be used to support the permitted defenses to 75 Pa.C.S. § 3345.1(c).

See Rules 1001 *et seq.* for procedures to appeal a judgment rendered by a magisterial district judge or to file a *praecipe* for a writ of *certiorari* in civil actions, including actions brought pursuant to this rule.

MINOR COURT RULES COMMITTEE ADOPTION REPORT

Adoption of Pa.R.Civ.P.M.D.J. 351 and Amendment of the Comments to Pa.R.Civ.P.M.D.J. 301, 302, and 321

On February 10, 2023, the Supreme Court adopted Rule 351 and amended the Comments to Rules 301, 302, and 321 of the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges (“Rules”), pertaining to challenges to civil violations issued via an automated side stop signal enforcement system on a school bus (“school bus camera”). The Minor Court Rules Committee has prepared this Adoption Report describing the rulemaking process as it relates to these changes. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, cmt. The statements contained herein are those of the Committee, not the Court. The Committee published a proposal pertaining to violations issued via school bus cameras for public comment at 52 Pa.B. 3816 (July 9, 2022). The comment period ran through August 24, 2022. These rule changes become effective on April 1, 2023.

Act 38 of 2020 authorized the use of automated side stop signal enforcement systems on school buses to identify and issue civil violations to the owners of vehicles passing a stopped school bus when the red signal lights on the school bus are flashing and the side stop signal arms are activated. See 75 Pa.C.S. § 3345.1(a), (c). Using the camera footage, a system vendor provides violation data to the police department with coverage responsibility for the school district or the Pennsylvania State Police. See *id.* § 3345.1(h). The police department reviews the violation evidence from the vendor and authorizes the issuance of a notice of violation to the vehicle owner. See *id.* § 3345.1(h.2)(1). The notice of violation instructs the vehicle owner to either pay the fine as indicated on the notice of violation or “request a hearing with the magisterial district judge for the purpose of contesting liability.” *Id.* § 3345.1(i.1)(1)(iv). If the owner does not pay the fine or contest liability within 30 days of the original notice,

the police department may “turn the matter over to the magisterial district judge where the violation occurred. The magisterial district judge may assess liability upon the owner for failure to pay the fine or contest liability.” *Id.* § 3345.1(i.1)(2)(iii).

New Rule 351(c)(1) addresses when the vehicle owner contests liability for the alleged violation by filing a hearing request with the magisterial district court in the magisterial district where the alleged violation occurred. The vehicle owner must attach a copy of the notice of violation to the hearing request and it must be filed within 30 days from the original notice.¹ The vehicle owner must pay all filing and service costs at the time of filing or file a petition to proceed *in forma pauperis* pursuant to Rule 206E. The hearing notice is served on the police department by certified mail or comparable delivery method.

New Rule 351(c)(2) addresses when the vehicle owner fails to respond timely to the notice of violation either by paying the fine or requesting a hearing to contest liability. In those instances, the police department may “turn the matter over to the magisterial district judge.” *See* 75 Pa.C.S. § 3345.1(i.1)(2)(iii). A police department may do this by filing a civil complaint with the magisterial district court in the magisterial district where the alleged violation occurred, no earlier than 30 days from the date of the original notice. Except as otherwise provided by Rule 351, a complaint filed pursuant to subdivision (c)(2) will proceed in the same manner as any other civil complaint.

In an action brought pursuant to subdivision (c)(2), the only issue before the magisterial district judge is whether the vehicle owner timely responded to the notice of violation by paying the civil fine or contesting liability. 75 Pa.C.S. § 3345.1(i.1)(2)(iii). The underlying violation for passing a school bus is not the subject of a hearing on a complaint brought pursuant to subdivision (c)(2)(i) and the defenses in 75 Pa.C.S. § 3345.1(f) are not applicable.²

Relative to cost recovery, if the prevailing party has paid the filing and service costs, that party is entitled to recover taxable costs from the unsuccessful party. *See* 42 Pa.C.S. § 1726; *see also* Pa.R.Civ.P.M.D.J. 206B (pertaining to awarding of costs to a prevailing party). While it may be unusual for a police department to be a party in a civil matter in magisterial district court, the statute has prescribed these violations for passing a school bus as civil actions, not criminal.

Because these are civil actions, the unsuccessful party must pay the judgment amount directly to the prevailing party. *See* Rule 3.10(A)(2) of the Rules Governing Standards of Conduct of Magisterial District Judges (prohibiting a magisterial district judge from engaging in any activity related to the collection of a claim or judgment for money); *see also* Pa.R.Civ.P.M.D.J. 323, Comment (“The payments are to be made to the plaintiff and not to the magisterial district judge”).

The courts of common pleas have jurisdiction of appeals and writs of *certiorari* from judgments rendered by the magisterial district courts. “Except as otherwise pre-

¹ The statute does not address the scenario when the vehicle owner initially pays the violation but later decides to request a hearing within 30 days of the original notice. Accordingly, such a provision was not incorporated in the Rules to accommodate this likely rare occurrence.

² This scheme is similar to zoning enforcement proceedings brought pursuant to the Municipalities Planning Code (“MPC”), 53 P.S. §§ 10101 *et seq.* Under the MPC, once an alleged violator has been given notice of a zoning violation pursuant to 53 P.S. § 10616.1, the alleged violator can seek an appeal with the municipality’s zoning hearing board but cannot defend the underlying charges before the magisterial district judge after failing to appeal. *See e.g., City of Erie v. Freitas*, 681 A.2d 840, 842 (Pa. Cmwlth., 1996).

scribed by any general rule adopted pursuant to section 503 (relating to reassignment of matters), each court of common pleas shall have exclusive jurisdiction of appeals from final orders of the minor judiciary established within the judicial district.” *See* 42 Pa.C.S. § 932. An appeal from a judgment rendered by a magisterial district court or a *praecipe* for a writ of *certiorari* should be made to the court of common pleas for the judicial district. *See* Pa.R.Civ.P.M.D.J. 1001 *et seq.*

The Comments to Rules 301, 302, and 321 were amended to incorporate new Rule 351. The Comment to Rule 301 (Definition; Scope) was amended to provide that the Rules apply generally to school bus camera violations, except as otherwise provided by new Rule 351. The Comment to Rule 302 (Venue) was updated to add these new actions to the list of actions with special venue provisions. Finally, the Comment to Rule 321 (Hearings and Evidence) was amended to add a cross-reference to new Rule 351(d), providing exceptions to the evidentiary requirements in hearings on these new actions.

[Pa.B. Doc. No. 23-257. Filed for public inspection February 24, 2023, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CUMBERLAND COUNTY

Local Rule 1910.12; Civil Term; Civil 96-1335

Amended Order

And Now, this 10th day of February 2023, it is hereby Ordered and Decreed, that thirty (30) days after publication in the *Pennsylvania Bulletin*, whichever is later, Cumberland County Local Rule of Court 1910.12 is amended to read as follows:

Rule 1910.10. Hearing Procedure.

The Court of Common Pleas of Cumberland County adopts the alternative hearing procedure set forth in Pa.R.C.P. 1910.12.

Rule 1910.12. Conduct of Hearing; Exceptions.

(a) Hearings shall be conducted by the Support Hearing Officer.

(b) The Support Hearing Officer shall engage the services of a Court Reporter or a Courtroom Technician; however, the notes of testimony shall not be transcribed unless:

(1) required by the Support Hearing Officer to prepare the report and recommendation to the Court;

(2) ordered by the Court; or

(3) requested by a litigant in accordance with Local Rule 4007.

(c) When exceptions are filed, the Domestic Relations Office shall forthwith forward the cases to the Court Administrator who shall assign them to the Judges of the Court of Common Pleas on a rotating basis. The assigned Judge will set a briefing and argument schedule.

The Cumberland County District Court Administrator is Ordered and Directed to do the following:

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

2. File two (2) paper copies and one (1) electronic copy in a Microsoft Word format only to bulletin@palrb.us with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. Publish these Rules on the Cumberland County Court website at www.ccpa.net.

4. Incorporate the local rule into the set of local rules on www.cumberlandcountypa.gov within thirty (30) days after the publication of the local rule in the *Pennsylvania Bulletin*.

5. File one (1) copy of the local rule in the appropriate filing office for public inspection and copying.

6. Forward one (1) copy to the *Cumberland Law Journal*.

By the Court

EDWARD E. GUIDO,
President Judge

[Pa.B. Doc. No. 23-258. Filed for public inspection February 24, 2023, 9:00 a.m.]

Title 255—LOCAL COURT RULES

MONROE COUNTY

Local Rules of Civil Procedure on Arbitrations; 3 AD 2023; 5 CV 2023

Order

And Now, this 9th day of February, 2023, it is Ordered that the Administrative Order and accompanying Local Civil Rules published in Volume 53 of the *Pennsylvania Bulletin* on January 28, 2023 are rescinded and replaced with the following Order and the following Monroe County Rules of Civil Procedure 1303, 1304, and 1305.

Monroe Co.R.Civ.P. 1303, 1304, and 1305 are adopted, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

It Is Further Ordered that the District Court Administrator shall:

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

2. File two (2) paper copies of this Order and Rule with the Legislative Reference Bureau and one (1) electronic copy in Microsoft Word format only via email to bulletin@palrb.us for publication in the *Pennsylvania Bulletin*.

Form—Praeipe for Arbitration

COURT OF COMMON PLEAS OF MONROE COUNTY
FORTY-THIRD JUDICIAL DISTRICT
COMMONWEALTH OF PENNSYLVANIA

NO: _____

PRAEICIPE FOR ARBITRATION

43 J.D.R.C.P. 1301

VS.

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

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

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

a. 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.

By the Court

MARGHERITA PATTI-WORTHINGTON,
President Judge

Compulsory Arbitration

Rule 1301. Scope.

1. *Types of Cases for Compulsory Arbitration*—All civil cases where the amount in controversy (exclusive of interest and costs) is Fifty Thousand (\$50,000.00) Dollars or less shall first be submitted to a Board of Arbitrators, except those cases involving title to real estate, equity cases, mandamus, quo warranto, and mortgage foreclosure, in accordance with 42 Pa.C.S. § 7361.

2. *Amount in Controversy*—The amount in controversy shall be determined from the pleadings or by agreement of counsel.

3. *Cases on a Trial List*—The Court may of its own motion, or upon the motion of any party, strike from the trial list and certify for arbitration any case which should have been submitted for Compulsory Arbitration in the first instance.

4. *Timing of Arbitration*—No case shall be scheduled for arbitration until

a. the expiration of 30 days from the most recent service either of (a) the complaint upon an original or an additional defendant; or (b) a counterclaim upon the plaintiff; AND

b. unless counsel for the moving party certifies at the time of filing the Praeipe for arbitration that:

i. All preliminary objections have been finally determined;

ii. Counsel for the moving party has completed all discovery and knows of no pending discovery on the part of opposing counsel which will delay hearing;

iii. The moving party and witnesses are available and ready to proceed to hearing.

5. *Form*—A case shall be listed for arbitration when a party files a Praeipe for Arbitration on the form attached to this rule.

TO THE PROTHONOTARY OF SAID COURT:

Appoint arbitrators in the above case

- () Amount in controversy is \$50,000 or less.
- () The case has been at issue more than thirty days.
- () Order of the Court.
- () Judgment has been entered Sec Leg. Assessment of Damages only.
- () Estimated time required for hearing is _____ hours.
- () There is Companion Case No. _____ .
- () Other

The case is to be tried by and notices sent to:

Attorney(s) for Plaintiff(s) or Pro Se Plaintiff

Attorney(s) for Defendant(s) or Pro Se Defendant

_____ Address

_____ Address

_____ Phone Number

_____ Phone Number

_____ Email

_____ Email

I CERTIFY that all preliminary objections have been finally determined; that I have completed all discovery and know of no discovery on the part of opposing counsel which will delay a hearing; that the moving party and witnesses are available and ready to proceed.

I CERTIFY that a copy of this Praeipe has been served on the following by the moving party.

Dated: _____

Attorney for the _____

Rule 1302. Selection, Replacement, and Compensation of Arbitrators.

1. *Arbitrators*—Attorneys admitted to the Monroe County Bar shall constitute a list of members qualified to act as arbitrators. The Court Administrator shall select from said list three (3) arbitrators for each action; the Chairperson shall have been a member of the Bar of this Court admitted to the practice of law for a minimum of three (3) years. Not more than one member or associate of a firm or association of attorneys shall be appointed to the same board.

2. *Replacement as an Arbitrator*—If any attorney wishes to be replaced as an arbitrator in any particular hearing, the attorney shall request replacement on the form that follows by email to Arbitrations@monroepacourts.us a minimum of seven (7) days prior to the scheduled arbitration hearing, except where excused by the Court for good cause shown. In the event that an attorney, without leave of Court, fails to serve as an arbitrator after having been notified of her/his appointment by the Court Administrator, the attorney may be subject to sanctions.

3. *Notice of Appointment*—The Court Administrator shall email a copy of the notice of appointment to each attorney of record and to each arbitrator appointed. In the event that any party is not represented by an attorney, the Court Administrator shall send such copy to the party at her/his last known address by certified and regular mail. The address and if known, email address of any unrepresented party is to be furnished to the Court Administrator by the party filing the Praeipe for arbitration.

4. *Arbitrator Compensation*—The amount of compensation for each member of the Board of Arbitrators, which shall be paid by the County, shall be established from time to time by the President Judge by Administrative Order. When more than one hearing becomes necessary, additional amounts may be allowed at the discretion of the Court upon request by the Chairperson under subsection 8 of this Rule.

Form—Replacement of Arbitrator

**COURT OF COMMON PLEAS OF MONROE COUNTY
FORTY-THIRD JUDICIAL DISTRICT
COMMONWEALTH OF PENNSYLVANIA**

_____ NO: _____

VS.

REQUEST FOR REPLACEMENT OF ARBITRATOR

Arbitration Date: _____

Chairperson: _____
(Include Firm) _____

Arbitration Panelists: _____
(Include Firm) _____

Reason for Request: _____

Substitute Panelist: _____
(Include Firm) _____

Signature Date

Name Firm

Email Telephone

Rule 1303. Continuance of Arbitration, Notice, Failure to Appear.

1. *Form of Application for Continuance*—The President Judge or her/his designee shall have the authority to grant continuances and all requests for continuances shall be by motion as set forth in Pa.R.C.P. 206.1(a), Pa.R.C.P. 208.2(d), and Monroe County Local Rule of Civil Procedure 208.2(d).

2. *Timing of Motion for Continuance*—All motions for continuance of an arbitration must be filed a minimum of seven (7) business days prior to the date of the hearing. Prior to filing a motion for continuance, the moving party shall confer with opposing counsel and all arbitration panelists on a date for the continued hearing. The moving party shall include any agreed-upon dates in their motion and attach certificates of concurrence.

3. *Notice*—Notice of the date, time and place of arbitration shall be provided to counsel for the parties via electronic mail or, if unrepresented, to the party directly via certified and regular mail by the Court Administrator, or her/his designee, and shall include the following provision pursuant to Pa.R.C.P. 1303(a)(2):

“This matter will be heard by a board of arbitrators at the time, date and place specified but, if one or more of the parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the Court without the absent party or parties. There is no right to a trial de novo on appeal from a decision entered by a judge.”

4. *Failure to Appear for Arbitration*—If a party fails to appear for the hearing, no default judgment shall be entered. The arbitrators shall proceed to hear the case and enter an appropriate award upon the conclusion of the evidence.

Rule 1304. Conduct of Hearing, Generally.

1. *Compliance with State Rules*—The arbitrators and parties shall in all respects comply with Pa.R.C.P. 1303, 1304, 1305, 1306. When making an award pursuant to Pa.R.C.P. 1306, the arbitrators shall complete and sign the form provided by Court Administration as prescribed by Pa.R.C.P. 1312. The Chairperson shall send the completed form by email to Arbitrations@monroepacourts.us no more than three business (3) days following the arbitration.

2. *Additional Day(s) of Hearing*—When more than one hearing becomes necessary, the Chairperson shall notify Court Administration on the form that follows by emailing same to Arbitrations@monroepacourts.us. The Chairperson must indicate on the form that all participants concur with the request for additional time and shall set forth a hearing date mutually agreed upon by counsel, the parties, and the arbitrators.

Form—Additional Hearing Day

COURT OF COMMON PLEAS OF MONROE COUNTY
FORTY-THIRD JUDICIAL DISTRICT
COMMONWEALTH OF PENNSYLVANIA

NO: _____

VS.

REQUEST FOR ADDITIONAL HEARING DAY

Arbitration Date: _____

Chairperson: _____

Arbitration Panelists: _____

Counsel for Plaintiff: _____

Counsel for Defendant: _____

Reason for Request: _____

Agreed-Upon Date(s): _____

Signature _____ Date _____

Name _____ Firm _____

Email _____ Telephone _____

Rule 1315. Default Judgment and Settlement.

1. Default Judgment—If a default judgement is entered on a case that is scheduled for arbitration, the filing party must notify Court Administration simultaneously with the filing of the default judgement by email to Arbitrations@monroepacourts.us. Thereafter, a timestamped copy of the default judgement must be emailed to Court Administration a minimum of three (3) business days prior to the arbitration.

2. Settlement—If the parties to a case scheduled for arbitration reach a settlement, they must file a Joint Motion to Cancel the Arbitration and notify Court Administration simultaneously with the filing of the Joint Motion by email to Arbitrations@monroepacourts.us. Thereafter, a copy of the timestamped Joint Motion must be emailed to Court Administration a minimum of three (3) business days prior to the arbitration. If no Praecipe to Discontinue/Settle and End has been filed with the Joint Motion, the Plaintiff will be ordered to file one within thirty (30) days.

[Pa.B. Doc. No. 23-259. Filed for public inspection February 24, 2023, 9:00 a.m.]

Title 255—LOCAL COURT RULES

MONTGOMERY COUNTY

Amendment to Local Rule of Civil Procedure No. *1940.6. Termination of Mediation.; No. 2023-00001

Order

And Now, this 13th day of February, 2023, the Court hereby Amends Montgomery County Local Rule of Civil

Procedure No. *1940.6. Termination of Mediation. This Amended Rule shall become effective thirty (30) days after publication in the Pennsylvania Bulletin.

The Court Administrator is directed to publish this Order once in the Montgomery County Law Reporter and in The Legal Intelligencer. In conformity with Pa.R.J.A. 103, one (1) certified copy of this Order shall be filed with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin. One (1) copy shall be filed with the Law Library

of Montgomery County, and one (1) copy with each Judge of this Court. This Order shall also be published on the Court's website and incorporated into the complete set of the Court's Local Rules.

By the Court

CAROLYN TORNETTA CARLUCCIO,
President Judge

Rule *1940.6. Termination of Mediation.

- (a) * * *
- (b) * * *
- (c) * * *

(d) The Mediator is prohibited from asking the parties to sign any Memorandum of Understanding or agreement. **[No mediator-drafted Memorandum of Understanding or agreement shall be submitted to the Court in any proceeding.]**

[Pa.B. Doc. No. 23-260. Filed for public inspection February 24, 2023, 9:00 a.m.]

SUPREME COURT

Reestablishment of the Magisterial Districts within the 12th Judicial District of the Commonwealth of Pennsylvania; No. 516 Magisterial Rules Docket

Amended Order

Per Curiam

And Now, this 9th day of February, 2023, the Order dated October 13, 2022, that Reestablished the Magisterial Districts of the 12th Judicial District (Dauphin County) of the Commonwealth of Pennsylvania, is hereby *Amended* as follows: The terminology for voting districts in Swatara Township is hereby changed from 'wards' to 'precincts'. Swatara Township (Precincts 2, 4-10) shall be located in Magisterial District 12-2-01. Swatara Township (Precincts 1, 3) shall be located in Magisterial District 12-2-02. The Order of October 13, 2022 shall remain in effect in all other respects.

[Pa.B. Doc. No. 23-261. Filed for public inspection February 24, 2023, 9:00 a.m.]

SUPREME COURT

Reestablishment of the Magisterial Districts within the 40th Judicial District of the Commonwealth of Pennsylvania; No. 468 Magisterial Rules Docket

Amended Order

Per Curiam

And Now, this 9th day of February, 2023, the Order dated May 2, 2022, that Reestablished the Magisterial Districts of the 40th Judicial District (Indiana County) of the Commonwealth of Pennsylvania, is hereby *Amended* as follows: White Township, Ward 3-3, is hereby added to Magisterial District 40-3-02. The Order of May 2, 2022 shall remain in effect in all other respects.

[Pa.B. Doc. No. 23-262. Filed for public inspection February 24, 2023, 9:00 a.m.]

SUPREME COURT

Reestablishment of the Magisterial Districts within the 47th Judicial District of the Commonwealth of Pennsylvania; No. 514 Magisterial Rules Docket

Amended Order

Per Curiam

And Now, this 9th day of February, 2023, the Order dated September 13, 2022 that Reestablished the Magisterial Districts of the 47th Judicial District (Cambria County) of the Commonwealth of Pennsylvania, is hereby *Amended* as follows: Conemaugh Township is hereby removed from Magisterial District 47-1-01. Conemaugh Township is to remain in Magisterial District 47-3-06. The Order of September 13, 2022 shall remain in effect in all other respects.

[Pa.B. Doc. No. 23-263. Filed for public inspection February 24, 2023, 9:00 a.m.]