

# THE COURTS

## Title 246—MINOR COURT CIVIL RULES

### PART I. GENERAL

[ 246 PA. CODE CH. 200 ]

#### Proposed Amendment to Rule 214 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges

The Minor Court Rules Committee (Committee) is planning to recommend that the Supreme Court of Pennsylvania amend Rule 214 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges to provide for notification of parents and/or guardians when a subpoena is issued to a person under the age of eighteen. The Committee has not yet submitted this proposal for review by the Supreme Court of Pennsylvania.

The following explanatory *Report* highlights the Committee's considerations in formulating this proposal. The Committee's *Report* should not be confused with the Committee's Notes to the rules. The Supreme Court does not adopt the Committee's Notes or the contents of the explanatory reports.

The text of the proposed changes precedes the *Report*. Additions are shown in bold.

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

Paula Knudsen Burke, Counsel  
Minor Court Rules Committee  
Supreme Court of Pennsylvania  
5035 Ritter Road, Suite 700  
Mechanicsburg, PA 17055  
Fax: (717) 795-2175

or email to: minorcourt.rules@pacourts.us

no later than May 31, 2008.

By the Minor Court Rules Committee:

M. KAY DUBREE,  
*Chair*

### Annex A

#### TITLE 246. MINOR COURT CIVIL RULES

##### PART I. GENERAL

#### CHAPTER 200. RULES OF CONSTRUCTION; GENERAL PROVISIONS

##### Rule 214. Subpoena; Issuance; Service.

[ A. ] (A) Magisterial district judges may issue subpoenas throughout the Commonwealth.

[ B. ] (B) Upon the request of a party **proceeding pro se, the authorized representative of a party, or an attorney of record**, the magisterial district judge may issue a subpoena signed and under the seal of the magisterial district judge. The magisterial district judge shall specify in the subpoena the name and address for service of the person subpoenaed; **the name of the party on whose behalf the person is being ordered to testify**; the date, time, and place at which the person

is to appear; and a description of the documents or things that the person is to produce, if any.

(a) **The party, authorized representative, or attorney of record requesting the subpoena shall provide the magisterial district court with the information required in paragraph (B).**

(b) **If the subpoena is to be issued, the magisterial district court shall fill in the information provided and return it to the requestor for service.**

[ C. ] (C) A subpoena may be served upon any person within the Commonwealth by a competent adult

(1) by handing a copy to the person; or

(2) by handing a copy

(a) at the residence of the person to an adult member of the family with whom the person resides; but if no adult member of the family is found, then to an adult in charge of such residence; or

(b) at the residence of the person to the clerk or manager of the hotel, inn, apartment house, boarding house, or other place of lodging at which the person resides; or

(c) at any office or usual place of business of the person to the person's agent or other person for the time being in charge thereof.

(D) **The person making service of a subpoena must file a return of service form in the magisterial district court in which the hearing is pending within 48 hours of service, and in no event later than the commencement of the hearing. Filing under this paragraph may be accomplished by sending a copy by facsimile transmission.**

(E) **If a subpoenaed witness is under the age of 18, the parent or guardian of the witness shall be served with a copy of the subpoena in the same manner as prescribed in paragraph (C).**

*Official Note:* [ See Rule 202 for definition of "subpoena." Compare Pa.R.C.P. Nos. 234.2 and 402(a). ]

[ The ] **When issuing a subpoena, the** magisterial district judge has discretion to limit the scope of [ **subpoenas** ] **the subpoena** to persons, documents, or things that are relevant to the cause of action before the magisterial district judge.

Magisterial district judges may not issue subpoenas in blank.

Paragraph (D) provides for filing by facsimile transmission. It is the intent of these rules that filing documents by facsimile transmission is permitted only when expressly provided for in the rules. Paragraph D also provides for use of a form promulgated by the Court Administrator of Pennsylvania.

Paragraph (E) provides that parties choosing to subpoena witnesses under the age of 18 must alert the magisterial district court of the witness' age and are responsible for any additional service costs.

See Rule 202 for definitions of "subpoena" and "attorney of record." Compare Pa.R.C.P. Nos. 234.2

and 402(a) and Pa.R.Crim.P. 107. See also Rule 207 regarding representation by an authorized representative.

For the scope of the contempt powers of magisterial district judges, see 42 Pa.C.S. § 4137. See also Pa.R.Crim.P. 140—142.

Adopted September 3, 2003, effective January 1, 2004. Amended January 6, 2005, effective January 29, 2005. Amended , 2008, effective .

## REPORT

### *Proposed Amendment to Rule 214 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges*

#### Parental Notification When Child Subpoenaed

##### I. Background

The Minor Court Rules Committee (“Committee”) was prompted to suggest the following changes based upon a February 28, 2008 order of the Pennsylvania Supreme Court.<sup>1</sup> The Court, upon recommendation of the Juvenile Court Procedural Rules Committee, promulgated changes in the Rules of Juvenile Court Procedure that, *inter alia*, would require parental notification when a subpoena is issued to a person under the age of eighteen.

##### II. Discussion

The Committee reviewed the Feb. 28, 2008 order adopting the Juvenile Court Procedural Rules Committee’s recommendation.<sup>2</sup> The Committee discussed the benefits of the Juvenile Court Procedural Rules Committee’s proposal. Providing a parent or guardian with important information about his or her child’s whereabouts was one of the chief benefits recognized by the Committee in considering adopting similar rule language. In addition, the Committee felt that consistency throughout Pennsylvania’s courts is important, and that if one set of court rules was undergoing a change, the measure should be seriously considered by the Committee. Ultimately the Committee agreed that they should follow the proposal outlined by the Juvenile Court Procedural Rules Committee.

##### III. Proposed Rule Changes

To address the issues discussed previously, the Committee proposes amending Rule 214 to include a new paragraph (E) that closely tracks the Juvenile Court Procedural Rules Committee’s recommendation to the Court.

In addition, the Committee is recommending several other changes. In paragraph (B), the Committee would insert several new terms. The paragraph currently states only that subpoenas may be issued “upon the request of a party.” The Committee proposes adding language clarifying that a magisterial district judge may also issue subpoenas upon the request of an “authorized representative” or “attorney of record.” In 2006, the Supreme Court adopted a Committee recommendation that permits an individual with personal knowledge of the subject matter to appear on behalf of a party. See Rule 207(A)(1). The current language of paragraph (B) would also be changed to emphasize that a party representing him or herself (*pro se*) can request issuance of a subpoena. The Committee also advocates additions to paragraph (B) to make clear who is requesting the subpoenaed witness’ testimony, as well as the procedure for obtaining and serving the subpoena.

<sup>1</sup> Supreme Court of Pennsylvania Order No. 438, Supreme Court Rules Docket No. 1.  
<sup>2</sup> The recommendation was published before adoption at 37 Pa.B. 1306 (March 24, 2007), in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 915, March 16, 2007) and on the Juvenile Court Procedural Rules Committee’s web site.

The Committee suggests adding a new paragraph (D) to provide for return of service forms’ submission to the magisterial district court. Finally, the note to Rule 214 would be amended to include supplemental information about the new paragraphs (D) and (E) as well as providing other helpful information with regard to subpoenas in civil actions before magisterial district judges.

[Pa.B. Doc. No. 08-875. Filed for public inspection May 9, 2008, 9:00 a.m.]

## Title 25—LOCAL COURT RULES

### WASHINGTON COUNTY

#### Local Civil Rules—Business Courts/Arbitration; No. 2008-1

##### Order

*And Now*, this 21st day of April, 2008; *It Is Hereby Ordered* that the Washington County Local Rules—Business Courts/Arbitration be amended as follows.

These changes shall become effective thirty days after publication in the *Pennsylvania Bulletin*.

DEBBIE O’DELL SENECA,  
*President Judge*

### BUSINESS OF COURTS

#### L-212.3 Pre-Trial Conference.

(d) In all jury trials, requests for instructions to the jury, together with citations to legal authorities in support thereof, proposed *voir dire* questions and jury interrogatories shall be filed and served seven (7) days prior to the scheduled pretrial conference so that the court may address those matters in the event the cause can not be resolved during the conference, unless the court enters a case-specific trial order.

#### L-220.1 Jury Voir Dire—Civil Litigation.

(a) **Voire Dire, Generally.** The parties or their attorneys in all civil jury trials shall have the right to question jurors, who are being impaneled with reference to challenges for cause, and for peremptory challenges, and it shall not be necessary to propound questions through the presiding judge, but they shall be asked by the attorneys or by litigants not represented by attorneys.

(b) **Confidential Juror Questionnaires.** Each prospective juror shall complete and verify a confidential juror information questionnaire. Such confidential questionnaire shall be given to the prospective juror upon reporting to the civil jury courtroom and shall be collected by a court employee who will ensure that each questionnaire is completed. In the event that a prospective juror declines to answer some or all of the questions, the matter will be taken up with the court. At the conclusion of the trial or service by a juror, the original confidential juror information questionnaire and any copies provided to counsel shall be destroyed by a court employee.

(c) **Examination of Jurors.** Once a panel of prospective jurors is assigned to a particular case for selection, each attorney or unrepresented litigant shall receive one (1) photocopy of each prospective juror’s questionnaire on that panel. After counsel have reviewed the questionnaires, the court employee shall inform the jurors of the

names and addresses of the parties, the date and place of the accrual of the cause of action, the general nature of the suit, and the names of the witnesses who may be called to testify. Examination of prospective jurors shall then be conducted by counsel under the supervision of a court employee. Counsel will ask questions approved by the court and will utilize the information contained in the questionnaire and may ask pertinent and relevant follow-up questions based on the individual juror's written or verbal responses. There shall be no transcript of the examination conducted by counsel.

(d) **Selection of Jurors.** Upon conclusion of such examination, counsel shall report to the trial judge those jurors whom they agree may be stricken for cause. If the attorneys are unable to agree that a juror should be stricken for cause, the trial judge shall make the just cause determination and may, along with counsel, question the prospective juror on the record. Counsel shall proceed to exercise their peremptory challenges and the jurors remaining shall be sworn and handled subsequently as a group.

**Rule L-229. Discontinuance. Payment of Record Court Costs on Settlement.**

Unless all parties agree in writing to the contrary, the settling defendant or defendants in any filed civil action shall pay to the plaintiff record court costs which are specifically defined to be:

1. Initial filing fees;
2. Service of process fees;
3. Costs to settle and discontinue the docket.

**MISCELLANEOUS COURT MATTERS**

**Rule L-810. Washington County Civil Litigation Mediation Program.**

g. The parties to any case on the civil trial list may at any time by agreement voluntarily submit a case to mediation by the filing of the Civil Litigation Mediation Program Consent Submission Form. These forms are available through the Court Administrator's Office. However, any such submission shall **not** delay any scheduled trial of the matter. Further, upon motion of any party to submit a case to mediation then on a civil trial list, the Court shall direct the parties to proceed to mediation if the scheduling of the mediation will not delay any scheduled trial in the matter.

h. For all cases which are selected for mandatory mediation and are not either: (1) settled or (2) referred for arbitration or (3) mediated due to the failure of one or more parties to pay the \$150.00 mediation fee, those cases, pursuant to Pa.R.C.P. 214(2), will be given preference on the trial list. The trial of those cases given preference will be held as soon as is practicable after the date of the settlement/conciliation conference. Cases voluntarily submitted into the Mediation Program will not be given preference on the trial list.

k. Each party to a case selected for mediation will pay a mediation fee of \$150.00 to be made payable to the Washington County Civil Litigation Mediation Program Trustee Account and to be submitted to the Court Administrator's Office. For those cases subject to mandatory mediation, the \$150.00 mediation fee shall be paid within ten (10) days of the date of the Notice of Scheduling of Settlement/Conciliation Conference. For those cases voluntarily submitted to mediation, the \$150.00 mediation fee shall be paid with the filing of the Consent to Submit Case to Civil Litigation Mediation Program. Failure to

pay the \$150.00 mediation fee shall result in the cancellation of the settlement/conciliation conference and shall subject the offending party to the sanctions set forth in Paragraph (j) of the Mediation Program.

**ACTIONS AT LAW**

**Rule L-1302. Arbitrators.**

e. Arbitrators shall be paid at the rate of \$250.00 per full day of service. In the event that an arbitrator is required to serve more than one day, the Court Administrator shall determine what additional time was required and set compensation with Court approval.

**Rule L-1303. Hearing, Notice, Continuance, Call of List.**

(a)(1)(i) After the pleadings have been closed for thirty (30) days, any party may initiate arbitration by filing with the Prothonotary a Praeceptum for Reference to a Board of Arbitration. The Praeceptum for Reference to a Board of Arbitration shall be substantially in the following form:

(Caption)

**PRAECEPTUM FOR REFERENCE TO A BOARD OF ARBITRATION**

To the Prothonotary:

Kindly refer this matter to a Board of Arbitration. I certify that at least ten (10) days notice of the filing of this Praeceptum has been given to all parties to this action.

Date: \_\_\_\_\_ By \_\_\_\_\_

Attorney for \_\_\_\_\_

As noted, the moving party shall notify all other parties or their counsel of their intent to file such Praeceptum at least ten (10) days prior to the filing.

(a)(1)(ii) Upon filing of the Praeceptum, the Prothonotary shall furnish a copy to the Court Administrator for scheduling.

(a)(2)(i) If a party fails to appear for a scheduled arbitration hearing, the matter may be transferred immediately to a judge of the Court of Common Pleas, for an ex parte hearing on the merits and entry of a non-jury verdict, from which there shall be no right to a trial de novo on appeal.

*Note:* This Local Rule results in the loss of a right to a trial de novo on appeal, as described in the Local Rule. A dismissal or judgment which results from this Local Rule will be treated as any other final judgment in a civil action, subject to Pa.R.C.P. 227.1.

(a)(2)(ii) A non-jury verdict entered at a hearing held pursuant to Local Rule 1305(a) shall not exceed \$50,000 (exclusive of interest and costs) to any party.

(a)(2)(iii). The Hearing Notice issued by the Prothonotary shall state the following:

**DUTY TO APPEAR AT ARBITRATION HEARING**

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.**

Notice: You must respond to this complaint within twenty (20) days or a judgment for the amount claimed may be entered against you **before the hearing.**

If one or more of the parties is not present at the hearing, the matter may be heard immediately before a judge without the absent party or parties. There is **no right to a trial de novo on appeal from a decision entered by a judge.**

[Pa.B. Doc. No. 08-876. Filed for public inspection May 9, 2008, 9:00 a.m.]

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