

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 1300, 2950 AND 3000]

Proposed Amendment to the Rules of Civil Procedure Governing Judgment Liens and Revival of Judgment Liens; Proposed Recommendation No. 174

The Civil Procedural Rules Committee proposes that the Rules of Civil Procedure be amended by promulgating new rules governing judgment liens and amending existing rules governing revival of judgment liens. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court.

All communications in reference to the proposed recommendation should be sent not later than July 15, 2001 to:

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The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure nor will it be officially adopted or promulgated by the Court.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1300. COMPULSORY ARBITRATION

Subchapter A. RULES

Rule 1307. Award. Docketing. Notice. Lien. Judgment. Molding the Award.

* * * * *

(b) The award for the payment of money when entered in the judgment index shall be a lien [upon the party's real estate, which] on real property located within the county, title to which is recorded in the name of the person against whom the award was entered. The lien shall continue during the pendency of an appeal or until extinguished according to law.

[Official Note: Subdivision (b) continues the practice under the Act of June 16, 1836, P. L. 715, 5 P. S. § 54, repealed by the Judiciary Act Repealer Act of 1978 (JARA), 42 P. S. § 20002(a)(149).]

(c) If no appeal is taken within thirty days after the entry of the award on the docket, the prothonotary on praecipe shall enter judgment on the award.

[Official Note: Subdivision (c) continues the practice under the Act of June 16, 1836, P. L. 715, 5

P. S. § 58, repealed by JARA, and under superseded Rule 247.1.]

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CHAPTER 2950. CONFESSION OF JUDGMENT FOR MONEY

Rule 2963. Praecipe for Writ of Execution. Certification. Form.

The praecipe for a writ of execution upon a confessed judgment shall be substantially in the following form:

[Caption]

PRAECIPE FOR WRIT OF EXECUTION UPON A CONFESSSED JUDGMENT

To the Prothonotary:

Issue writ of execution upon a judgment entered by confession in the above matter,

* * * * *

(4) and [index] enter this writ in the judgment index

* * * * *

Official Note:

* * * * *

Paragraph (4)(a) should be completed only if [indexing] entry of the execution in the county of issuance is desired as authorized by Rule 3104(a). When the writ issues to another county [indexing] entry is required as of course in that county by the prothonotary. See Rule 3104(b).

Paragraph (4)(b) should be completed only if real property in the name of a garnishee is attached and [indexing] entry as a lis pendens is desired. See Rule 3104(c).

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CHAPTER 3000. JUDGMENTS

Subchapter A. TRANSFER OF JUDGMENTS TO OTHER COUNTIES

Rule 3002. Transfer to another county.

* * * * *

(b) The prothonotary of the court to which a judgment is transferred shall forthwith enter it in the appropriate docket and in the judgment index [it] against the defendant.

* * * * *

(Editor's Note: Rules 3020—3023 are new and printed in regular type to enhance readability.)

Rule 3020. Definition.

As used in this chapter, "judgment" means a judgment, order or decree requiring the payment of money entered in any court which is subject to these rules, including a final or interlocutory order for payment of costs, except a judgment against the Commonwealth or a political subdivision.

Official Note: Political subdivision includes a municipal or other local authority. See Definition Rule 76.

Rule 3021. Verdict. Judgment. Entry in Judgment Index.

(a) The prothonotary shall enter a verdict or order for a specific sum of money in the judgment index with the notation "verdict" or "order" and include its amount and the date and time it was rendered.

Official Note: See also Rule 1307(a) governing the entry by the prothonotary of an award in compulsory arbitration and Rule 3027(a) governing the entry of a writ of revival.

(b) Upon entry of judgment by the court, on order of court or on praecipe of a party, the prothonotary shall immediately enter the judgment in the judgment index. The entry in the judgment index shall state

- (1) the names of the parties,
- (2) the number of the case,
- (3) the amount of the judgment if for a sum certain, and
- (4) the date and time of entry in the judgment index.

Official Note: Section 8142 of the Judicial Code, 42 Pa.C.S. § 8142(e), requires the prothonotary to "note on the dockets in such office where each verdict, judgment, order, instrument or writ creating a lien against real property is entered, the time it was recorded, rendered, left for filing, or issued."

The rule presumes a channel of communication between the court and prothonotary so that the prothonotary may "immediately" docket a judgment entered by the court.

Rule 3022. Verdict or Order. Entry. Lien.

A verdict or order for a specific sum of money shall be a lien on real property located within the county, title to which at the time of the rendition of the verdict or order is recorded in the name of the person against whom the verdict or order was rendered. The lien shall

- (1) date from the time of the rendition of the verdict or order, provided that no innocent purchaser without notice shall be prejudiced, and
- (2) continue for five years unless the verdict is sooner reduced to judgment or the court sooner awards a new trial or enters a judgment notwithstanding the verdict.

Official Note: An order is defined by section 102 of the Judicial Code, 42 Pa.C.S. § 102, to include, inter alia, a decision, a decree and an adjudication.

Section 8141(3) of the Judicial Code provides that the lien of a verdict for a specific sum of money shall have priority from the time it is recorded by the court. Section 8142(b) provides for the endorsement of time on recorded verdicts.

An award of arbitrators in compulsory arbitration is a lien as provided by Rule 1307(b).

"Overdue support obligations of this or any other state which are on record at the county domestic relations section shall constitute a lien by operation of law against all real property owned by the obligor within the county as provided in subsection (d.1)." See Section 4352(d) of the Domestic Relations Code, 23 Pa.C.S. § 4352(d).

Rule 3023. Judgment. Lien. Duration.

(a) Except as provided by subdivision (b), a judgment when entered in the judgment index shall be a lien on real property located in the county, title to which at the

time of entry is recorded in the name of the person against whom the judgment is entered.

Official Note: See Rule 3001 et seq. for the transfer of a judgment to another county.

See Rule 3027 for the lien of the writ of revival or of the agreement to revive and Rule 3031.1 for the lien of a judgment of revival.

(b) A judgment upon a verdict, an order or an award in compulsory arbitration, when entered in the judgment index, shall

(1) continue the lien upon real property located in the county which is subject to the lien of the verdict, order or award upon which the judgment is entered, and

Official Note: The continued lien of a verdict or order dates from the time the verdict or order was rendered provided that no innocent purchaser without notice is prejudiced. See Rule 3022(1). The continued lien of an award in compulsory arbitration dates from entry of the award in the judgement index. See Rule 1307(b).

(2) create a lien upon all other real property located in the county, title to which at the time of entry in the judgment index is recorded in the name of the person against whom the judgment is entered.

(c) The lien shall continue for five years from the date the judgment was entered in the judgment index unless the judgment is sooner discharged or the lien is sooner revived.

Official Note: A judgment lien may be revived in the manner provided by Rule 3025 et seq.

Subchapter B. REVIVAL OF [JUDGEMENTS] JUDGMENT LIENS

Rule 3025. Commencement of proceedings. Venue.

A proceeding to revive [**and continue**] which **continues or creates** the lien of a judgment may be commenced by filing with the prothonotary of the county in which the judgment has been entered

- (1) a praecipe for a writ of revival in substantially the form provided by Rule [**3033**] **3032**, or
- (2) an agreement to revive [**judgment**] in substantially the form provided by Rule 3034.

Official Note: [**For the substantive law governing the revival of judgments against defendants and terre tenants see the Judgment Lien Law of 1947, 12 P. S. 877 et seq.**]

The Acts approved September 26, 1951, P. L. 1505, 12 P. S. 855, as amended, and May 16, 1923, P. L. 207, as amended, 53 P. S. 7183, providing additional methods of revival of judgments in favor of the Commonwealth and for municipal and tax claims by the filing of suggestion of nonpayment remain unsuspended by these rules.

The Act approved April 22, 1909, P. L. 112, 12 P. S. 875 providing for consolidation and revival of separate judgments against the same defendant remains unsuspended by these rules.]

Section 5526(1) of the Judicial Code requires that an action for revival of a judgment lien must be commenced within five years. See also Section 605 of the Goods and Services Installment Sales Act, 69 P. S. § 1605(b), requiring that a proceeding for revival of a judgment lien subject to the Act and

entered by confession be commenced within one year from the lapse of the lien.

The revival of a judgment lien pursuant to the Commercial Real Estate Broker Lien Act is governed by these rules. See 68 P. S. § 1062.

A lien arising from an overdue support obligation retains its priority "without renewal or revival." See Section 4352(d.1)(5)(ii) of the Domestic Relations Code, 23 Pa.C.S. § 4352(d.1)(5)(ii).

The following statutes provide for revival or continuation of liens by filing with the prothonotary a suggestion of nonpayment and an averment of default:

Section 1404 of the Act of April 9, 1929, P. L. 343, as amended, 72 P. S. § 1404, providing for revival of liens for state taxes, unpaid bonus, interest and penalties;

Section 15 of the Act of May 16, 1923, P. L. 207, as amended, 53 P. S. § 7183, providing for continuation of liens on municipal and tax claims;

Section 9 of the Act of May 16, 1923, P. L. 207, as amended, 53 P. S. § 7143 relating to municipal claims for taxes, water rents or rates, lighting rates, power rates and sewer rates.

See also statutory provisions relating to revival of municipal claims and liens, 53 P. S. § 7391 et seq.

Tax liens required to be filed by the Department of Revenue continue without the necessity of revival. See the Act of April 9, 1929, P. L. 343, No. 176, § 1404.1, 72 P. S. § 1404.1, added by Section 5 of the Act of December 12, 1994, P. L. 1015, No. 138.

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

Rule 3025.1. Consolidation of Judgments.

(a) A judgment creditor who holds two or more judgments entered against the same person in the same county may consolidate the judgments by filing

- (1) a single praecipe requesting the issuance of a single consolidated writ of revival, or
- (2) an agreement to enter a consolidated judgment and revive the lien thereof.

(b) The praecipe or the agreement shall contain the court, number and amount of each judgment being consolidated.

(c) The consolidated judgment shall be entered as of the docket number of one of the judgments being consolidated and shall include the amounts due on all the consolidated judgments.

(d) The court and docket number of the consolidated judgment shall be noted on the docket of each original judgment substantially as follows: "Consolidated as part of the consolidated judgment entered at Docket No. _____ of the Court of Common Pleas of _____ County."

Rule 3026. Parties. Generally.

(a) The [**plaintiff shall name in the**] caption shall contain the name of the original defendant and any [**terre tenant**] terre-tenant against whom [**he**] the plaintiff seeks to revive [**and continue**] the lien of the judgment.

Official Note: [For the effect of failure to name a defendant or terre tenant, see § 3 of the Judgment

Lien Law of 1947, 12 P. S. 879. As to joinder of personal representatives of a deceased defendant, see Probate, Estates and Fiduciaries Code, Act of June 30, 1972, P. L. 508, No. 164, § 3382, 20 Pa.C.S. § 3382.] The terms "plaintiff" and "defendant" as used in the rules governing judgment liens and revival of judgments refer generally to the judgment creditor and judgment debtor, respectively. Thus, a defendant who holds a judgment against the plaintiff on a counterclaim would be a plaintiff for the purpose of these rules. See also Definition Rule 3101(a).

(b) If the judgment has been assigned or transferred, the caption shall contain the name of the original judgment plaintiff and the name of the real party in interest.

Official Note: As to joinder of personal representatives of a deceased defendant, see Section 3382 of the Probate, Estates and Fiduciaries Code, 20 Pa.C.S. § 3382.

See Rule 3026.2 governing terre-tenants as parties and Rule 3026.3 governing revival against a terre-tenant.

(Editor's Note: The following Rules 3026.1—3026.3 are new and are printed in regular type to enhance readability.)

Rule 3026.1. Parties. Joint Defendants.

(a) Except as provided by subdivision (b), if there is a judgment against two or more joint defendants, no revival of the lien of the judgment shall be effective against any of such defendants unless all joint defendants are made parties to the revival proceedings.

(b) If all or fewer than all joint defendants agree to be bound, the revival shall be effective against all of the defendants so agreeing.

Official Note: This rule does not apply where defendants are jointly and severally liable or severally liable only.

Rule 3026.2 Parties. Terre-Tenants.

(a) As used in Rule 3025 et seq., a terre-tenant is a person other than the original defendant in whom title to real property subject to a lien provided by the Rules of Civil Procedure has vested.

Official Note: The rules governing the action of mortgage foreclosure use the term "real owner" in a similar sense. See Rule 1144(a)(3).

See the following rules of civil procedure providing for liens upon real property: Rule 1307(b) (lien of an award in compulsory arbitration), Rule 3022 (lien of a verdict or order), Rule 3023 (lien of a judgment), Rule 3027 (lien of a writ or agreement of revival), Rule 3131.1 (lien of a judgment of revival) and Rule 3104 (lien of a writ of execution).

(b) The term "terre-tenant" shall not include

(1) any person claiming under or whose claim of title passes through a deed which is not recorded in the county where the real property is located, or

(2) any person claiming under or through a deceased defendant or terre-tenant whose will has not been filed with, or letters of administration on whose estate have not been issued by, the register of wills or orphans' court of such county.

(c) Any person claiming under or through

- (1) a deceased defendant, or

(2) a deceased terre-tenant, who was not a resident of the county at the time of death, may qualify as a terre-tenant under this rule by recording in the office of the recorder of deeds of the county where the real property is located, a certified copy of the will of the decedent, or, if the decedent died intestate, a declaration of interest accompanied by a certificate of the register of wills or probate court or officer of the county, state or country in which the decedent resided at the time of death that letters of administration have been issued in the estate of the decedent.

Rule 3026.3. Revival of Lien of Judgment as to Property of Terre-Tenant.

(a) Except as provided by subdivision (b), if an interest in real property subject to a lien of a judgment has been acquired by a terre-tenant, then the lien of the judgment on the property shall be revived only if the terre-tenant within the five-year period of Rule 3023(c) or Rule 3031.1(a) joins in an agreement to revive or is made a party to the writ of revival.

Official Note: The revival of a judgment lien continues or creates a lien upon real property. See Rule 3025.

(b) If a writ of revival or an agreement to revive is entered in the judgment index against the defendant at a time when a terre-tenant's deed or other evidence of title is of record, but without the joinder of the terre-tenant, the lien of the judgment may be revived as to the terre-tenant within five years after the recording of the terre-tenant's deed or other evidence of title by (1) agreement between the plaintiff and the terre-tenant alone or between the plaintiff, defendant and terre-tenant, or (2) a writ of revival issued against the terre-tenant alone, or against the defendant and terre-tenant jointly. The lien shall continue as to the terre-tenant for the same period as it continues against the defendant, when it must be revived against both parties.

Official Note: The mere recording of a terre-tenant's deed or other evidence of title is ineffective to revive a lien as to any part of the property acquired by a terre-tenant without specific revival by agreement or by writ.

For the effect of a judgment of revival against a terre-tenant, see Rule 3031.1(b).

Rule 3027. Writ of Revival. [Indexing.] Entry. Lien.

(a) Upon issuance of the writ of revival or the filing of an agreement [for a judgment of revival] to revive, the prothonotary shall [index] enter it in the judgment index against each defendant and [terre tenant] terre-tenant named therein.

(b) [The writ when indexed shall be a lien upon all real property within the county which at the time of indexing is owned by the defendant against whom the original judgment is entered]

The writ or agreement, when entered in the judgment index, shall

(1) continue the lien upon real property located in the county which is subject to the lien of the judgment which is sought to be revived, and

(2) create a lien upon all other real property located in the county, title to which at the time of entry in the judgment index is recorded in the name of the defendant or a terre-tenant.

Official Note: The lien attaches whether or not the real property was owned by the defendant at the time the original judgment was [indexed] entered or the lien of the judgment was previously revived and whether or not the lien of the judgment had been lost as to the property.

(c) The lien of a writ of revival or of an agreement to revive shall continue for a period of five years from the date on which the writ or agreement was [indexed] entered.

Rule 3028. Service of the writ.

[The writ shall be served in the manner provided by Rule 400 et seq. for service of original process. A return of no service shall be equivalent to personal service.

Official Note: See Rule 400 et seq. governing service and return.]

(a) The writ shall be served within ninety days after its issuance by the sheriff or a competent adult by handing a copy in the manner provided by Rule 402 or by mailing a copy in the manner provided by Rule 403.

(b) If service cannot be made as provided by subdivision (a), then service may be made

(1) in the manner prescribed by order of court pursuant to Rule 430(a), or

Official Note: For example, where the Postal Service shows a good address and mail service under subdivision (a) is returned unclaimed, the court pursuant to Rule 430 may permit service by regular mail.

(2) by publication in the manner prescribed by Rule 430(b) upon the filing of an affidavit showing reasonable efforts to make service pursuant to subdivision (a) and the reasons why such service could not be made.

Official Note: A special order of court under Rule 430(a) is not a prerequisite to service by publication under this rule.

Rule 3029. Reissuance and substitution of writ.

* * * * *

Official Note: See Rule [1010] 401(b) governing reissuance and substitution of a writ of summons.

Rule 3030. Pleadings. Further Proceedings. Continuance of Lien

* * * * *

(c) If judgment cannot be entered on the writ within a period of five years after the [indexing] entry of the writ in the judgment index because of the further proceedings, the court before which the further proceedings are pending may enter an order continuing the lien of the writ for a period not exceeding five years. The order shall become effective when [indexed] entered in the judgment index.

Rule 3031. Judgment upon default or admission. Assessment of damages.

(a) The prothonotary, on praecipe of the plaintiff, shall enter judgment against a defendant or [terre tenant] terre-tenant for failure within the required time to plead to the writ or for any relief admitted to be due by the

defendant's or [terre tenant's] terre-tenant's pleading. The prothonotary shall assess damages as directed in the praecipe for judgment.

Official Note: See the Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. § 520 requiring an affidavit setting forth facts showing that the defendant is not in military service as a prerequisite to the entry of a default judgment.

See Rule 237.1 et seq. which requires a ten-day notice as a prerequisite to the entry of a default judgment.

* * * * *

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

Rule 3031.1. Judgment of Revival. Lien.

(a) A judgment of revival when entered in the judgment index shall be a lien as provided by Rule 3027(b) governing the lien of a writ of revival. The lien shall continue for five years from the date the judgment was entered in the judgment index unless the judgment is sooner discharged or revived.

(b) If an interest in real property subject to the lien of a judgment has been acquired by a terre-tenant, a judgment of revival entered against the terre-tenant shall not be a personal judgment against the terre-tenant and shall not extend to any other property of the terre-tenant.

Rule 3032. Praecipe for writ of revival. Form.

The praecipe for writ of revival shall be substantially in the following form:

[Caption]

PRAECIPE FOR WRIT OF REVIVAL

To the Prothonotary:

Issue writ of revival of lien of judgment entered [to] at _____ Court[, Term,] Number and [index] enter it in the judgment index against _____ (Name of Defendant(s)) _____ and (Name of [Terre Tenant] Terre-Tenant(s)) in the amount of \$ _____ with interest from _____.

Attorney for Plaintiff

Official Note: For the definition of [terre tenant] terre-tenant and the substantive effect of omission of a defendant, a joint defendant, or a [terre tenant] terre-tenant, see [the Judgment Lien Law of 1947, 12 P. S. 877 et seq.] Rules 3026, 3026.1 and 3026.2.

Rule 3033. Writ of revival. Form.

The writ of revival shall be substantially in the following form:

[CAPTION]

WRIT OF REVIVAL

TO _____:

(Name of Defendant(s) and

[Terre Tenant] Terre-Tenant(s))

(1) You are notified that the plaintiff has commenced a proceeding to revive [and continue] the lien of the judgment entered [to] at _____ (Court, [Term,] Number)

(2) The plaintiff claims that the amount due and unpaid is \$ _____ with interest from _____.

(3) You are required within twenty (20) days after service of this writ to file an answer or otherwise plead to [this writ] it. If you fail to do so judgment of revival [will] in the amount claimed by the plaintiff may be entered without a hearing and you may lose your property or other important rights.

YOU SHOULD TAKE THIS WRIT OF REVIVAL TO A LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE FOLLOWING OFFICE TO FIND OUT WHERE YOU CAN GET LEGAL HELP:

(Name of Office)

(Address of Office)

(Telephone Number)

* * * * *

Official Note: For definition of [terre tenant] terre-tenant, see [§ 3(d) of the Judgment Lien Law of 1947, 12 P. S. 879(d)] Rule 3026.2.

Rule 3034. Agreement to revive. Form.

The agreement to revive shall be substantially in the following form:

[Caption]

AGREEMENT TO REVIVE

The undersigned hereby agree(s) that the lien of the judgment entered on _____ [, 19 ____ to]

Date

at _____ (Court, [Term,] Number) be revived and [the lien continued and] authorize(s) the prothonotary to enter [and] in the judgment index a judgment of revival in the amount of \$ _____ plus costs.

Signed and dated [this __ day of __ 19 __] : _____

(Defendants(s))

([Terre Tenant] Terre-Tenant(s))

Official Note: For the substantive effect of omission of a defendant, a joint defendant or a [terre tenant] terre-tenant see [the Judgment Lien Law of 1947] Rules 3026, 3026.1 and 3026.2.

See Rule 3125.1(b) for additional requirements when there is an agreement to consolidate two or more judgments against the same person and revive the lien thereof.

Rule 3048. Acts of Assembly not suspended.

The Rules governing the Revival of Judgment Liens shall not be deemed to suspend or affect:

(1) [Section 1 of the Act approved April 22, 1909, P. L. 112, 12 P. S. 875.] Section 9 of the Act of May 16, 1923, P. L. 207, as amended, 53 P. S. § 7143;

Official Note: This Section provides for [consolidation and revival of separate judgments against the same person in one proceeding] revival of municipi-

pal claims for taxes, water rents or rates, lighting rates, power rates and sewer rates.

(2) Section 15 of the Act approved May 16, 1923, P. L. 207, as [last] amended [June 7, 1961, P. L. 263], 53 P. S. § 7183 insofar as it authorizes revival of municipal claims by suggestion of nonpayment and averment of default[.];

(3) Section 1404 of the Fiscal Code of April 9, 1929, P. L. 343 as [last] amended [by Act No. 296 approved August 7, 1963], 72 P. S. § 1404[.];

* * * * *

(4) [The Act approved September 26, 1951, P. L. 1505, as last amended May 3, 1956, P. L. (1955) 1528, 12 P. S. 885.] Section 1404.1 of the Act of April 9, 1929, P. L. 343, No. 176, added by Section 5 of the Act of December 12, 1994, P. L. 1015, No. 138, 72 P. S. § 1404.1;

Official Note: [This Act provides for revival of judgment in favor of the Commonwealth by filing and notice of suggestion of nonpayment.] This section provides for the continuation without the necessity of revival of tax liens required to be filed by the Department of Revenue.

(5) [AND all other Acts or parts of Acts authorizing special procedures for the Revival of Judgments in favor of the Commonwealth or political subdivisions.] Section 605 of the Act of October 28, 1966, Special Session No.1, P. L. 55, known as the Goods and Services Installment Sales Act, added by Section 6 of the Act of March 25, 1982, P. L. 199, No. 68, 69 P. S. § 1605;

Official Note: This section requires that a proceeding for revival of a judgment entered by confession, which is subject to the Act, be commenced within one year from the lapse of the lien.

(6) Section 3382 of the Probate, Estates and Fiduciaries Code, 20 Pa.C.S. § 3382;

Official Note: Section 3382 provides for the joinder of the personal representative of a decedent as a defendant and for the continuation of the lien on a decedent's real estate.

(7) Section 4352(d) and (d.1) of the Domestic Relations Code, 23 Pa.C.S. § 4352(d) and (d.1);

Official Note: Section 4352(d) imposes a lien upon real property for overdue support and Section 4352(d.1) provides for the lien to retain its priority without renewal or revival.

(8) Section 5526(1) of the Judicial Code, 42 Pa.C.S. § 5526(1);

Official Note: This section requires that an action for revival of a judgment lien must be commenced within five years.

(9) And all other Acts or parts of Acts authorizing special procedures for the Revival of Judgments in favor of the Commonwealth or political subdivisions.

Rule 3049. Acts of Assembly suspended.

[The following Acts of Assembly are suspended insofar as they apply to the practice and procedure in revival of judgments entered in any court subject to these rules, in accordance with the provi-

sions of Section 1 of the Act approved June 21, 1937, P. L. 1982, No. 392 and Section 705 of the Mechanics' Lien Law of 1963;

(1) Section 2 of the Act approved April 11, 1862, P. L. 484, 12 P. S. 874.

Official Note: This section relates to the procedure for issuance of alias writs of scire facias.

(2) Section 1, Cl. 1 and 2, of the Act approved July 9, 1901, P. L. 614, as last amended April 24, 1931, P. L. 56, § 2, 12 P. S. 292, 293, 294 and 295, insofar as they relate to writs of scire facias to revive.

Official Note: The provisions of these sections relating to the service of writs of scire facias are now supplied by Rule 3028.

(3) Sections 3, 4, 5, 6 and 7(b) of the Judgment Lien Law of July 3, 1947, P. L. 1234, 12 P. S. 879, 880, 881, 882, 883(b), insofar as they authorize writs of scire facias to revive and regulate the practice and procedure therein.

(4) And all other Acts or parts of Acts inconsistent with these rules to the extent of such inconsistency.]

Rescinded.

* * * * *

Official Note: The statutory provisions governing revival of judgment liens previously suspended by Rule 3049 have been repealed.

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

Rule 3049.1. Abolition of Practice and Procedure Under Repealed Statutes.

The practice and procedure provided in the following Acts of Assembly which have been repealed by the Judiciary Act Repealer Act (JARA), Act of April 28, 1978, No. 53, are hereby abolished and shall not continue as part of the common law of the Commonwealth:

(1) Section 1 of the Act of March 23, 1877, P. L. 34, 12 P. S. 861.

Official Note: The Act of 1877 relating to lien of verdict was repealed by Section 2(a) of JARA, 42 P. S. § 20002(a)[687].

(2) Section 1 of the Act of May 19, 1887, P. L. 132, 12 P. S. 2094.

Official Note: The Act of 1887 relating to execution, after five years, upon personal property was repealed by Section 2(a) of JARA, 42 P. S. § 20002(a)[740].

(3) Section 1 of the Act of April 22, 1909, P. L. 112, 12 P. S. § 875.

Official Note: The Act of 1909 relating to consolidation of judgments by scire facias was repealed by Section 2(a) of JARA, 42 P. S. § 20002(a)[921].

(4) Sections 2 through 7 inclusive of the Act of July 3, 1947, P. L. 1234, No. 504, known as the Judgment Lien Law, 12 P. S. 878 through 883.

Official Note: The Judgment Lien Law was repealed by Section 2(a) of JARA, 42 Pa.C.S. § 20002(a)[1257]. The repealed sections concerned the property subject to lien and duration of lien (§ 2), the manner of reviving lien and duration of revived lien (§ 3), scire facias as lien (§ 4), revival of lien against person in armed forces (§ 5), service of scire facias; and judgment on return of nihil

habet (§ 6), and property subject to execution, lien of execution and execution after five years (§ 7).

Subchapter D. ENFORCEMENT OF MONEY JUDGMENTS FOR THE PAYMENT OF MONEY

Rule 3101. Definitions; garnishee.

(a) As used in this chapter

“judgment” means a judgment, order, or decree requiring the payment of money entered in any court which is subject to these rules, including a final or interlocutory order for payment of costs, except a judgment against the Commonwealth[,] or a political subdivision[or a public authority];

* * * * *

(Editor’s Note: The following section is new and is printed in regular type to enhance readability.)

Rule 3101.1. Property Subject to Execution. Execution Within and after Five Years.

(a)(1) Execution may issue within five years after entry of the judgment sought to be enforced or any judgment of revival or agreement to revive, against

(i) real property which is subject to the lien of the judgment, and

(ii) real property, title to which at the time of the entry of the writ of execution in the judgment index is recorded in the name of the person against whom the judgment is entered.

(2) If more than five years have expired since the entry of the judgment or of the last preceding judgment of revival or agreement to revive, no execution against real property may issue until a writ of revival shall have issued and been reduced to judgment or an agreement to revive entered. The execution shall issue on the judgment or agreement so entered and not on the original judgment.

(b) Execution may issue against personal property within the time allowed by law.

Official Note: Subdivisions (a)(1) and (2) continue the practice under Section 7 of the Act of July 3, 1947, P. L. 1234, 12 P. S. § 883 (repealed) relating to property subject to execution and execution after five years.

For the applicable law under subdivision (b), see Section 5529(a) of the Judicial Code, 42 Pa.C.S. § 5529(a) (twenty-year limitation to issue execution upon personal property). See also *Shearer v. Naftzinger*, 747 A.2d 859 (Pa. 2000).

A proceeding to revive a judgment lien is not relevant to an execution upon personal property.

Rule 3104. [Indexing] Writ of Execution. Entry. Lien.

(a)(1) When **issuing the writ**, the prothonotary [**issues the writ he shall, upon praecipe of the plaintiff, index**] shall enter it against the defendant in the judgment index. **The writ, when entered, shall**

(i) **continue the lien upon real property which is then subject to the lien of the judgment, and**

(ii) **create a lien on real property acquired by the defendant subsequent to the entry of the judgment, located in the county, title to which at the time of entry is recorded in the name of the defendant.**

Official Note: As to the effect of [**indexing see**] **entry of the writ, Rule 3104 continues the practice under the Judgment Lien Law of 1947, 12 P. S. § 883 (repealed). See also Section 4303 of the Judicial Code, 42 Pa.C.S. § 4303.**

[**The provisions of the Allegheny County Court Act of May 5, 1911, P. L. 198, as amended providing that county court judgments shall not constitute liens on real property and providing for transfer to the common pleas remain unsuspended by these rules.**]

The praecipe for the writ of execution contains a direction to the prothonotary to enter the writ in the judgment index. See Rule 3251.

(2) **A lien created or continued solely by the entry of a writ of execution in the judgment index shall continue for a period of five years from the date the writ was entered.**

(b) [**When a writ is received by the sheriff of another county, it shall be his duty to**] **Upon receiving a writ from another county, the sheriff shall deliver it to the prothonotary of his or her county who shall thereupon [index] enter it in the judgment index and return it to the sheriff for execution. Such [indexing] entry shall have the same effect as the [indexing] entry of a judgment against the defendant. [If the plaintiff so directs, the sheriff may levy or attach under the writ before he delivers it to the prothonotary for indexing.]**

(c) When the writ directs attachment of real property of the defendant in the name of a garnishee, the prothonotary of the county in which the writ is to be executed, upon praecipe of the plaintiff so directing and describing the real property in that county, shall [**index**] enter the writ against the garnishee **in the judgment index** as a lis pendens. [**Indexing**] **Entry** against the garnishee shall constitute a lis pendens against the described property only in the county where the writ is [**indexed**] **entered** and not against any other property of the garnishee.

Subchapter E. ENFORCEMENT OF JUDGEMENTS IN SPECIAL ACTIONS
FORMS

Rule 3251. Praecipe for Writ of Execution. Money Judgments.

Except as provided by Rule 2963 governing execution upon a judgment entered by confession, the praecipe for a writ of execution shall be substantially in the following form:

[Caption]

PRAECIPE FOR WRIT OF EXECUTION

To the Prothonotary:

Issue writ of execution in the above matter,

* * * * *

(4) and [**index**] **enter this writ in the judgment index**

(a) against _____, defendant, and
(Name of Defendant)

(b) against _____, as garnishee, as
(Name of Garnishee)

* * * * *

Official Note:

* * * * *

Paragraph (4)(a) should be completed only if [**indexing**] entry of the execution in the county of issuance is desired as authorized by Rule 3104(a)(1). When the writ issues to another county [**indexing**] entry is required as of course in that county by the prothonotary. See Rule 3104(b).

Paragraph (4)(b) should be completed only if real property in the name of a garnishee is attached and [**indexing**] entry as a lis pendens is desired. See Rule 3104(c).

* * * * *

Explanatory Comment

- I. Introduction
 - II. Terminology
 - III. Judgments
 - IV. Revival of Judgment Liens
 - V. Enforcement of Judgments for the Payment of Money
 - VI. Disposition and Derivation Table
 - VII. Endnotes
- I. *Introduction*

The Supreme Court of Pennsylvania promulgated Rules 3025 through 3049 in 1964 to provide the procedure in proceedings “to revive and continue the lien of a judgment.” The note to Rule 3025 advised the bench and bar: “For the substantive law governing the revival of judgment against defendants and terre tenants see the Judgment Lien Law of 1947, 12 P. S. 877 et seq.”

The Judgment Lien Law was repealed by the Judiciary Act Repealer Act (JARA) in 1978 but no successor provisions were enacted as part of the Judicial Code or otherwise. A consequence of the repeal was that the 1947 Act disappeared from Purdon’s Pennsylvania Statutes along with the rest of Title 12 relating to Judicial Procedures and Remedies. Unless the superseded volumes of former Title 12 were retained, the Judgment Lien Law became unavailable to the legal community. Yet, as no general rules had been promulgated to date to replace the repealed Act, the Judgment Lien Law continued as part of the common law of the Commonwealth under the fail-safe provision of JARA, 42 P. S. § 20003(b).

It is proposed that the rules of civil procedure be amended to fill the void. The General Assembly in Section 1722(b)(1) of the Judicial Code, 42 Pa.C.S. § 1722(b)(1), has authorized the governing authority to prescribe and modify general rules governing:

- (1) The effect of judgments and other orders of, and the right to and effect of attachments and other process issuing out of, a tribunal, and the manner of the enforcement of any thereof, including the time during which and the property with respect to which they shall be a lien, the relative priority of liens and other claims, stays of execution which may or shall be granted, satisfaction of judgments and dissolution of attachments, and all other matters relating to

judgments and other orders and attachments and other process which have been regulated heretofore by statute.

The proposed amendments would not effect a radical change in the law of judgment liens and revival of judgment liens. Rather, the purpose is to make the law accessible to the bench and bar, to integrate the substantive and procedural law of judgment liens and revival, and to state the law in clear terms.

II. *Terminology*

The rules use the terms “plaintiff” and “defendant.” In the context of a judgment, the plaintiff is the judgment creditor or the party in whose favor the judgment is entered and the defendant is the judgment debtor or the party against whom the judgment is entered. It may be that a judgment has been entered in favor of the defendant on a counterclaim in which case the defendant will be the “plaintiff” under these rules and the plaintiff will be the “defendant.” A note has been added to Rule 3026 to this effect.

Prior statutes referred to the “indexing” of verdicts and judgments and the rules of civil procedure promulgated when those statutes were in effect used that term. The present law, Section 4303 of the Judicial Code, refers to a judgment or order being a lien “when it is entered of record.” Consistent with the Judicial Code, the proposed amendments use the terms “entry,” “enter” and “entered” as may be appropriate.

III. *Judgments*

A new chapter of four rules has been added which encompasses the entry of judgment in the judgment index and the effect of a judgment as a lien upon real property. The four rules are Rule 3020 (Definition.), Rule 3021 (Verdict. Judgment. Entry in Judgment Index.), Rule 3022 (Verdict or Order. Entry. Lien.) and Rule 3023 (Judgment. Lien. Duration.).

Rule 3020. Definition.

Rule 3101(a) governing the enforcement of money judgments defines the term “judgment.” It has been amended by deleting the language “or a public authority.” This language became unnecessary in light of the recent amendment of the term “political subdivision” in Definition Rule 76 to include “a municipal or other local authority.” Rule 3101(a) now defines judgment as follows:

“judgment” means a judgment, order, or decree requiring the payment of money entered in any court which is subject to these rules, including a final or interlocutory order for payment of costs, except a judgment against the Commonwealth or a political subdivision;

New Rule 3020 defines the term “judgment” using identical language and applies to the rules of the new chapter.

Rule 3021. Verdict. Judgment. Entry in Judgment Index.

Section 2737 of the Judicial Code provides that the “office of the prothonotary shall have the power and duty to . . . [e]nter all civil judgments, including judgments by confession.” Section 4303(a) of the Judicial Code provides that any judgment or order for the payment of money shall be a lien upon real property when it is “entered of record” in the office of the clerk of the court of common pleas of the county where the real property is situated.¹

These sections give scant direction to the prothonotary with respect to the judgment index when contrasted with

prior statutes such as the Act of 1827, 16 P. S. § 9871.² The new rule provides the necessary direction by setting forth, first, the duty of the prothonotary to enter verdicts, orders and judgments in the judgment index and, second, the content of the entry in the index.

Rule 3022. Verdict or Order. Entry. Lien.

New Rule 3022 is derived from the repealed Act of March 23, 1877, P. L. 34, § 1, 12 P. S. § 861.³ The statute provided in part that “the verdict shall be a lien upon the real estate situate within the proper county of the party or parties against whom said verdict shall be rendered” In its formulation of the nature of the lien, the rule states:

A verdict or order for a specific sum of money shall be a lien on real property located within the county, title to which at the time of the rendition of the verdict or order is recorded in the name of the person against whom the verdict or order was rendered

This language used in Rule 3022 is the basic formulation used to describe the lien in each rule prescribing a lien. Rules 1307, 3023, 3027 and 3104 all contain in almost identical form the following italicized language: “*a lien on real property located within the county, title to which at the time of the rendition of the verdict or order is recorded in the name of the person against whom the verdict or order was entered.*”

As the lien dates from the rendition of the verdict or order rather than its entry in the judgment index, the subparagraph (1) provides “that no innocent purchaser without notice shall be prejudiced.” This provision continues the prior practice.

Subparagraph (2) provides a five-year limit upon the life of the lien. The lien terminates earlier if, prior to the expiration of the five-year period, the verdict or order is reduced to judgment or the court awards a new trial or enters a judgment notwithstanding the verdict.

The rule refers to an “order” as well as a “verdict.” The term “order” is broadly defined by the Section 102 of the Judicial Code to include a “judgment, decision, decree, sentence and adjudication.” However, a judgment is specifically governed by Rule 3023.

Rule 3023. Judgment. Lien.

New Rule 3023 sets forth the lien of a judgment and its duration and replaces two prior statutes, Section 2 of the Judgment Lien Law of 1947, 12 P. S. § 878⁴, and Section 2 of the Act of 1877, 12 P. S. § 862⁵. Subdivision (a) states the general rule using the basic language of Rule 3022 governing the lien of a verdict and order but appropriately particularized to a judgment:

(a) Except as provided by subdivision (b), a judgment when entered in the judgment index shall be a lien on real property located in the county, title to which at the time of entry is recorded in the name of the person against whom the judgment is entered.

Subdivision (b) states the rules for two particular judgments: the lien of a judgment entered upon a verdict or order and the lien of a judgment entered upon an award in compulsory arbitration. Subdivision (b), however, is couched in different terms than the statute it replaces. One section of the statute⁶ provided that “every judgment . . . shall be a lien” and another section⁷ provided that “the lien of the verdict in such case shall date from the time of its rendition”

Subdivision (b) achieves the same end as the statute but in a different manner. The subdivision begins with entry in the judgment index:

(b) A judgment upon a verdict, an order or an award in compulsory arbitration, when entered in the judgment index, shall

Then, rather than state that the lien shall date from rendition of the verdict, the rule provides for the entry of the judgment in the judgment index to “continue” the lien of the verdict:

(1) continue the lien upon real property located in the county which is subject to the lien of the verdict, order or award upon which the judgment is entered,

The continuing of a lien parallels the concept of new Rule 3027(b)(1) by which the lien of a writ or agreement of revival when entered in the judgment index shall “continue the lien upon all real property located in the county which is subject to the lien of the judgment sought to be revived.” Since the rule continues the lien of the verdict, the date of the commencement of the lien is determined by reference to Rule 3022 which provides in paragraph (1) that the lien shall “date from the time of the rendition of the verdict or order, provided that no innocent purchaser without notice shall be prejudiced.” Similarly, the date of commencement of the lien of an award in compulsory arbitration is determined by referring to Rule 1307(b). A note to subdivision (b)(1) sets forth the cross-references.

Subdivision (b)(2) pertains to after-acquired property and generally follows the statute. Consistent with revised Rule 3025 which refers to a proceeding to “revive which continues or creates the lien of a judgment,” subparagraph (2) provides that the entry of the judgment shall “create” a lien:

(2) create a lien upon all other real property located within the county, title to which at the time of entry in the judgment index is recorded in the name of the person against whom the judgment is entered.

Subdivision (c) provides for a five-year duration of the lien and applies to the liens of all judgments under the rule. The life of the lien is unchanged from prior practice.

Other Rules Affecting Liens

Several additional rules of civil procedure govern liens on real property and are affected by the proposed amendments.

Rule 1307. Award. Docketing. Notice. Lien. Judgment. Molding the Award.

Rule 1307 is a rule governing compulsory arbitration which formerly provided in subdivision (b) that the “award when entered in the judgment index shall be a lien upon the party’s real estate, which shall continue during the pendency of an appeal or until extinguished according to law.” The language has been revised to conform to that of other rules of civil procedure imposing a lien on real property:

(b) The award for the payment of money when entered in the judgment index shall be a lien on real property located within the county, title to which is recorded in the name of the person against whom the award was entered. The lien shall continue during the pendency of an appeal or until extinguished according to law.

Rule 3027. Writ of Revival. Entry. Lien. and

Rule 3031.1. Judgment of Revival. Lien.

Rule 3027 governing the entry and lien of a writ of revival was amended in 1994 to incorporate the substance of Section 4 of the Judgment Lien Law, 12 P. S. § 880⁸.

The present amendment to that rule and new Rule 3031.1 governing the entry and lien of a judgment of revival are described below under the comment discussing the revisions to the rules governing revival of judgment.

Rule 3104. Writ of Execution. Entry. Lien.

The amendment to Rule 3104(a) is intended to incorporate without substantial change Section 7 of the Judgment Lien Law, 12 P. S. § 883⁹, relating to the property subject to execution, the lien of execution and the duration of the lien. The rule is discussed at the end of the comment in connection with the rules governing the enforcement of judgments for the payment of money.

IV. Revival of Judgment Liens

The rules governing “revival of judgments” are revised generally to be gender neutral and to delete obsolete references. In addition, the phrase “revival of judgments” is revised to read “revival of judgment lien.”

The source of the revision providing for “revival of judgment lien” is the concurring opinion by Mr. Justice Zappala in *Shearer v. Naftzinger*, 747 A.2d 859, 861 (Pa. 2000), which described the effect of a judgment and the necessity for revival of a judgment lien:

... A money judgment acts as a lien against real property, but only for five years. The lien must be continued (or revived) to maintain (or obtain a new) place of priority. However, properly speaking, *it is the lien that is revived, not the judgment*. There is no outer time limit to executing against real property to satisfy a judgment, but the proceeds of such a sale must be distributed according to the priority of liens

Rule 3025. Commencement of Proceedings. Venue.

Although it was not mentioned in the title to the rule, Rule 3025 stated the scope of the chapter, i.e., “[a] proceeding to revive and continue the lien of a judgment.” This language is revised as follows:

A proceeding to revive [and] *which continues or creates* the lien of a judgment

The words “which continues or creates the lien of a judgment” reveal the nature of the proceeding. The proceeding to revive will, first, continue the lien as to real property which is subject to an existing lien and, second, create a lien with respect to property which is not subject to an existing lien because either the lien has been lost or the lien had not attached to the property (after-acquired property). The concept is similar to that of Rule 3023(b) governing the lien of a judgment which provides that the judgment when entered in the judgment index shall “continue” the lien of the verdict or order as to property subject to the lien and “create” a lien as to all other property recorded in the name of the person against whom the judgment is entered.

(1) *Continuing a lien*

A proceeding to revive “continues *** a lien of a judgment.” The continuing of a lien presupposes an existing lien. Rule 3023 governing the lien of a judgment and Rule 3031.1 governing the lien of a judgment of revival both provide that the “lien shall continue for five years from the date the judgment was entered in the judgment index unless the judgment is sooner discharged or revived.” If a proceeding to revive a judgment lien is commenced within the five-year period prescribed by Rules 3023 and 3031.1, there exists a lien to be continued. This is the import of Rule 3027(b)(1) which provides

that a writ of revival or an agreement to revive when entered in the judgment index shall

(1) continue the lien upon real property located in the county which is subject to the lien of the judgment which is sought to be revived

(2) *Creating a lien*

A proceeding to revive also “creates a lien of a judgment.” The creation of a lien presupposes that there is no existing lien. There may be no existing lien on real property because either the lien has been lost or because the lien did not attach.

If a proceeding to revive a judgment is not brought within the five-year period after entry of the judgment in the judgment index as required by Rules 3023 and 3031.1, the lien is lost as to property which had been subject to the lien and there exists no lien to continue. However, the proceeding will create a new lien on property as to which a lien has been lost. This is the import of Rule 3027(b)(2) which provides that a writ of revival or an agreement to revive when entered in the judgment index shall

(2) create a lien upon all other real property located in the county, title to which, at the time of entry is recorded in the name of the defendant or a terretenant.

Rule 3023(a) provides in part that “a judgment when entered in the judgment index shall create a lien on real property located in the county, title to which at the time of entry is recorded in the name of the person against whom the judgment is entered.” Thus, property which is acquired by the defendant after entry of the judgment in the judgment index is not subject to the lien of the judgment. In this case also, the proceeding to revive the judgment will create a lien as provided by Rule 3027(b)(2).

Though a proceeding to revive a judgment may be commenced after the expiration of the five-year period, the importance of commencing a proceeding within the five-year period to continue a lien cannot be ignored. If a lien is lost, its priority is lost and the new lien will date from the entry of the writ of revival or agreement to revive in the judgment index. As stated by Mr. Justice Zappala in *Shearer v. Naftzinger*, 747 A.2d at 861, “The lien must be continued (or revived) to maintain (or obtain a new) place of priority.”

Rule 3025 with its “definition” of a proceeding to revive encapsulates the law and procedure of the chapter. Rules 3027 and 3031.1 provide the substantive effect of the writ of revival and judgment of revival while the remaining rules of the chapter provide the procedure to effectuate the substantive law.

Rule 3025.1. Consolidation of Judgments.

Subdivision (a) of this new rule governing consolidation of judgments provides for consolidation by writ of revival and is derived from the Judgment Lien Law of 1947, 12 P. S. § 875¹⁰. Subdivision (b) adds the option of consolidating judgments by agreement.

There needs to be a trail leading to and from the consolidated judgment. Subdivisions (c) and (d) provide for cross-references to enable the searcher to trace the history of both the individual judgments and the consolidated judgment.

Rule 3026. Parties. Generally.

There is no change in substance to Rule 3026. The title is revised by adding the word “Generally.” There are three

new rules to follow which concern specific aspects, i.e., joint defendants and terre-tenants.

The two subdivisions are revised to be parallel in style. A note is added to subdivision (a) describing the use in the rules of the words "plaintiff" and "defendant" to mean judgment creditor and judgment debtor, respectively. The note to subdivision (b) is made current by deleting obsolete material and adding cross-references to the new rules governing terre-tenants.

Rule 3026.1. Parties. Joint Defendants.

New Rule 3026.1 relating to joint defendants incorporates the substance of Section 3 of the Judgment Lien Law, 12 P. S. § 879(b)¹¹.

Rule 3026.2. Parties. Terre-Tenants. and

Rule 3026.3. Revival of Lien of Judgment as to Property of Terre-Tenant.

New Rule 3026.2 provides a definition of the term "terre-tenant." Subdivision (a) is derived from *Eberhart's Appeal*, 39 Pa. 509, 512 (1861): "A terre-tenant is one in whom the title to the encumbered estate has vested."

Subdivisions (b) and (c) of Rule 3026.2 limiting the term "terre-tenant" incorporate a corresponding provision of the Judgment Lien Law, 12 P. S. § 879(d)¹².

A portion of Section 3 of the 1947 Act, 12 P. S. § 879(a)¹³, set forth the manner of revival against the property of a terre-tenant. New Rule 3026.3 incorporates the substance of that provision, dividing it into two subdivisions and a note.

Rule 3027. Writ of Revival. Entry. Lien.

Rule 3027 is the heart of the rules governing revival of judgment liens, setting forth the substantive law pertaining both to the writ of revival and, by incorporation by reference in Rule 3031.1, to the judgment of revival.

Subdivision (a) provides for the prothonotary to enter the writ of revival or agreement to revive in the judgment index "against each defendant and terre-tenant named therein." The provision might be compared to the requirement of new Rule 3021 requiring the prothonotary to enter verdicts, orders and judgments into the judgment index.

Subdivision (b) provides for the effect of the writ or agreement when entered in the judgment index as continuing or creating a lien upon real property. The effect of this subdivision is described under the comment to Rule 3025.

Subdivision (c) providing for the lien to continue for five years has been revised only to accommodate the reference to an agreement to revive and to substitute the word "entered" in place of "indexed."

Rule 3028. Service of the Writ.

The former rule that a "return of no service shall be equivalent to personal service" was derived from at least two repealed statutory sources: Section 6 of the Judgment Lien Law, 12 P. S. § 882, and 12 P. S. § 295. Under the former¹⁴, the prothonotary was authorized to enter judgment of revival upon praecipe following a return of nihil habet. The latter provided that "a return of nihil habet shall be equivalent to personal service, in writs of scire facias to revive judgments entered in personal actions."

The new rule places a greater emphasis upon serving the writ of revival and provides procedures beyond those normally available for service of original process. Subdivision (a) provides that the writ may be served by the

sheriff or a competent adult. The manner of service may be by handing a copy as provided by Rule 402 through 402.2 or mailing a copy as provided by Rule 403. If service cannot be made by handing or mailing a copy, then subdivision (b) provides two alternatives. The first alternative is service pursuant to an order of court under Rule 430(a). The second is service by publication without an order of court but upon filing an affidavit "showing reasonable efforts to make service pursuant to subdivision (a) and the reasons why such service could not be made." In effect, the party seeking to make service by publication under subdivision (b)(2) is making a record by affidavit which will support the right granted by the rule.

Rule 3029. Reissuance and Substitution of Writ.

There is no change in practice under the rule as only the note is revised. The note presently contains an obsolete reference to former Rule 1010 as governing reissuance and substitution of a writ of summons. A reference to the current rule, Rule 401(b), is substituted.

Rule 3030. Pleadings, Further Proceedings. Continuance of Lien.

Again, there is no change in practice under the revised rule. The only revision is to substitute in subdivision (c) the new language relating to the "entry" of a judgment in the judgment index in place of the "indexing" of a judgment.

Rule 3031. Judgment upon default or admission. Assessment of damages.

The addition of a note is the only change proposed to this rule governing judgment upon default or admission. The note which refers to the Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. § 520, replaces Section 5 of the Judgment Lien Law of 1947, 12 P. S. § 881, relating to revival of a lien against a person in the armed forces.

Rule 3031.1. Judgment of Revival. Lien.

Rule 3031.1 governs the judgment of revival and its lien. Subdivision (a) of Rule 3031.1 replaces the first sentence of section 3(c) of the Judgment Lien Law of 1947, 12 P. S. § 879(c)¹⁵ and cross-refers to Rule 3027 governing the lien of the writ of revival for the extent and duration of the lien.

The second sentence of subsection (c) of the statute relating to extension of the lien was incorporated in 1994 into Rule 3030 as subdivision (c).¹⁶

Subdivision (b) of the new rule has no statutory antecedent and is a clarification of the extent of the judgment of revival against a terre-tenant.

Rules 3032, 3033 and 3034. Forms.

The revisions to the rules governing forms are directed primarily to matters of style and updating obsolete references. The only revision of substance is the addition to the form of writ of revival of a notice based upon the Notice to Defend prescribed by Rule 1018.1.

Rules 3048, 3049 and 3049.1. Acts of Assembly.

Rule 3048 governing Acts of Assembly Not Suspended has been revised to take cognizance of statutes which have been repealed as well as statutes enacted subsequent to the original promulgation of the rule. No change in practice is intended as the result of the revision of this rule.

Rule 3049 governing Acts of Assembly Suspended is rescinded as all of the statutes formerly suspended by the rule have been repealed. However, the practice and procedure under certain of these statutes have remained

in force as the result of the “fail-safe” provision of Section 3(b) of JARA, 42 Pa.C.S. § 20003(b). New Rule 3049.1 sets forth those repealed statutes, the practice and procedure under which, as the result of the promulgation of these rules, will no longer continue as part of the common law of the Commonwealth.

V. *Enforcement of Judgments for the Payment of Money.*

Rule 3101. Definitions. Garnishee

The amendment to the definition of judgment in Rule 3101 has already been mentioned in the comment to Rule 3020. The amendment deletes the phrase “or public authority.” No change in practice is effected by this amendment as the term “political subdivision” is defined by Rule 76 to include a municipal or other local authority.

Rule 3101.1. Property Subject to Execution. Execution Within and after Five Years.

New Rule 3101.1 replaces two Acts of Assembly relating to the property subject to the execution, the lien of execution and execution after five years.

Subdivision (a) incorporates the substance of Section 7 of the Judgment Lien Law, 12 P.S. § 883 (repealed). Subdivision (a)(1) provides for execution against real property bound by the lien of a judgment, whether original or revived, within five years of the entry of the original judgment, judgment of revival or agreement to revive. The revival of the judgment lien continues an existing lien upon real property (including real property acquired by a terre-tenant) and creates a lien upon after-acquired property (“real property, title to which at the time of the entry of the writ of execution in the judgment index is recorded in the name of the person against whom the judgment is entered).”

Subdivision (a)(2) is concerned with an execution against real property where five years have elapsed since the entry of the original judgment, the last preceding judgment of revival or the last preceding agreement to revive. In that case, “no execution against real property may issue until a writ of revival shall have issued and been reduced to judgment or an agreement to revive entered.” The execution is issued on the judgment of revival or agreement entered and not on the original judgment.

Subdivision (b) incorporates the Act of 1887, 12 P.S. § 2094 (repealed).¹⁷ This subdivision provides for execution upon personal property “within the time allowed by law.” It is immaterial whether the judgment is a lien upon real property or whether the lien of the judgment has been revived within five years since the entry of the original judgment or any judgment of revival or agreement to revive. In distinguishing between execution upon real and personal property, Mr. Justice Zappala in *Shearer v. Naftzinger* stated, 747 A.2d at 862:

Different rules apply with respect to personal property. A judgment continues to exist, and can be executed on by having the sheriff sell personal property, whether or not a writ of revival is ever filed. . . .

The note to the rule cites Section 5529(a) of the Judicial Code, 42 Pa.C.S. § 5529(a), prescribing a twenty-year limitation upon execution against personal property. The note also refers to the *Shearer* case for additional guidance.

New Rule 3101.1 highlights another distinction between executions upon real and personal property. Execution upon real property requires that there be a judgment

lien upon the real property, that is, that execution issue within five years of the entry of the original judgment or last revival of the judgment lien in the judgment index. In contrast, execution upon personal property is unrelated to a lien. There must simply be a judgment and the execution must issue within the time required by law (“within 20 years after the entry of the judgment upon which the execution is to be issued” as provided by Section 5529 of the Judicial Code¹⁸). Again, as stated by Mr. Justice Zappala in the *Shearer* case, 747 A.2d at 861—862:

. . . There is no outer time limit to executing against real property to satisfy a judgment, but the proceeds of such a sale must be distributed according to the priority of liens. . . .

Different rules apply with respect to personal property. A judgment continues to exist, and can be executed on by having the sheriff sell personal property, whether or not a writ of revival is ever filed. . . . Section 5529 simply places an outer limit of 20 years on executing against personal property to satisfy a judgment. . . .

Rule 3104. Writ of Execution. Entry. Lien.

Rule 3104, also a part of the chapter governing the enforcement of judgments for the payment of money, was previously entitled “Indexing” and provided for the indexing of a writ of execution. The amendment to Rule 3104(a) is intended to incorporate without substantial change a portion of Section 7 of the Judgment Lien Law, 12 P.S. § 883¹⁹, relating to the property subject to execution, the lien of execution and the duration of the lien. The title of the rule has been revised to indicate the subject matter of the rule and the language of subdivision (a)(1) tracks the language of the other rules creating liens.

Rule 3104(a) provides for the writ of execution to create not only a lien upon property owned at the time of the entry of the writ but also to continue the lien upon property which is already subject to the lien of the judgment.

An additional revision to subdivision (a) is the deletion of the phrase “upon praecipe of the plaintiff.” The writ of execution is issued upon a praecipe prescribed by Rule 3251 which contains a direction to the prothonotary to “enter this writ in the judgment index.” It was not the intention of the rule that the plaintiff be required to file a second praecipe for the prothonotary to enter the writ in the judgment index. The deletion of the phrase quoted above and an addition to the note make this point clear.

Subdivision (b) of the rule governs the delivery of the writ of execution to the sheriff of another county. The last sentence provided that the plaintiff could direct the sheriff to levy or attach under the writ before delivering it to the prothonotary for indexing. This sentence has been deleted. There should be no execution proceedings until the writ of execution is entered of record within the county.

By the Civil Procedural Rules Committee

REA BOYLAN THOMAS,
Chair

VI. *Derivation Table*

| | |
|-------------------------------|-----------------|
| Rule | Purdon’s |
| <i>Compulsory Arbitration</i> | |
| 1307 | — |

| Rule | Purdon's |
|---------------------------------------|------------------------------------|
| Judgment Liens | |
| 3020 | — |
| 3021 | 16 P. S. § 9871 17 P. S. § 1922 |
| 3022 | 12 P. S. § 861 |
| 3023 | 12 P. S. §§ 862, 878 |
| Revival of Judgment Liens | |
| 3025 | — |
| 3025.1 | 12 P. S. § 875 |
| 3026 | — |
| 3026.1 | 12 P. S. § 879(b) |
| 3026.2 | 12 P. S. § 879(d) |
| 3026.3 | 12 P. S. § 879(a) |
| 3027 | 12 P. S. § 880 |
| 3028 | 12 P. S. §§ 295, 313, 882 |
| 3029 | — |
| 3030(c) | 12 P. S. § 879(c) |
| 3031 | 12 P. S. § 881 |
| 3031.1(a) | 12 P. S. § 879(c) |
| 3032 | — |
| 3033 | — |
| 3034 | — |
| 3048 | — |
| 3049 | — |
| Execution upon Money Judgments | |
| 3101.1 | 12 P. S. §§ 883, 2094 |
| 3104 | 12 P. S. § 883 |

Disposition Table

| Purdon's 12 P. S. § | Rule |
|------------------------|------------------------|
| 295 | 3028 |
| 313 | 3028 |
| 861 | 3020 |
| 862 | 3021 |
| 878 | 3021 |
| 879(a) | 3026.3 |
| 879(b) | 3026.1 |
| 879(c) | 3030(c), 3031.1(a) |
| 879(d) | 3026.2 |
| 880 | 3027 |
| 881 | 3031 |
| 882 | 3028 |
| 883 | 3101.1(a), (b) 3104 |
| 2094 | 3101.1(b) |
| 16 P. S. § | |
| 9871 | 3021 |
| 17 P. S. § | |
| 1922 | 3021 |

VII. *ENDNOTES*

1§ 4303. Effect of judgments and orders as liens

(a) Real property.—Any judgment or other order of a court of common pleas for the payment of money shall be a lien upon real property on the conditions, to the extent and with the priority provided by statute or prescribed by General Rule adopted pursuant to section 1722(b) (relating to enforcement and effect of orders and process) when it is entered of record in the office of the clerk of the court of common pleas of the county where the real property is

situated, or in the office of the clerk of the branch of the court of common pleas embracing such county.

* * * * *

2§ 9871. Judgment docket; contents; fee for entries

It shall be the duty of each of the prothonotaries of the several courts of common pleas district courts and circuit courts in this commonwealth, to make, prepare and keep a docket, to be called the judgment docket, in which said docket no case shall be entered until after there shall have been a judgment or award of arbitrators in such case, and into which shall be copied the entry of every judgment and every award of arbitrators, immediately after the same shall have been entered; which entries, so to be made in the said judgment docket, shall be so made that one shall follow the other in the order of time in which the said judgments and awards shall have been rendered, entered or filed, as aforesaid; and the entries in each case in said judgment docket shall particularly state and set forth the names of the parties, the term and number of the case, and the date, and in the case of the judgment shall be for a sum certain, the amount of the judgment or award; and when any judgment shall be revived by scire facias or otherwise, or when any execution shall issue in any case, a note thereof shall be made in the proper judgment docket, at the place where the other entries in such case may have been made . . .

3§ 861. Lien of verdict

Whenever a verdict is rendered by a jury in any of the courts of common pleas of this commonwealth for any specific sum of money, in such case the verdict shall be a lien upon the real estate situate within the proper county of the party or parties against whom said verdict shall be rendered, which lien shall remain unless the court grant a new trial or arrest the judgment; and it shall be the duty of the prothonotary of the court of common pleas to enter such verdict on the lien docket where judgments are entered, marking the same "verdict," and specifying the amount of said verdict and the date of its rendition.

4§ 878. Property subject to lien; duration of lien

Every judgment now or hereafter entered of record and indexed in any court of record in this Commonwealth shall be a lien upon all real property within the county where the judgment is entered, which at the time of the entry and indexing of the judgment is owned by the person against whom the judgment is entered, and shall, unless sooner discharged as provided by law, continue as a lien as to the defendant and all other persons for a period of five years from the date on which the judgment was entered, and no longer, unless the same is revived as hereinafter provided.

5§ 862. Lien of judgment to refer to date of verdict

In case the court shall overrule any motion for a new trial or in arrest of judgment, now pending, the lien of the verdict in such case shall date from the time of its rendition: Provided however, That no innocent purchaser without notice shall be prejudiced thereby.

⁶See endnote 4, supra.

⁷See endnote 5, supra.

8§ 880. Scire facias as lien

A writ of scire facias issued to revive a judgment at any time either before or after the expiration of five years after the indexing thereof, or before or after five years after the indexing of the last preceding judgment of

revival thereof, shall, when indexed in the judgment index, be a lien upon all real property within the county which at the time of the indexing thereof is owned by the defendant against whom the original judgment is entered, whether or not such real property was owned by him at the time the judgment was indexed or previously revived. All liens against after-acquired property, or against property as to which the lien of the original judgment has been lost, shall be effective as of the date when the writ of scire facias was indexed, and shall, unless sooner discharged as provided by law, continue as a lien for a period of five years from the date of the indexing of the judgment of revival thereon, and no longer, unless the same is revised as provided in this act.

9§ 883. Property subject to execution; lien of execution; execution after five years

(a) The holder of any judgment may, within five years after the entry thereof or after the entry of any judgment of revival thereon, have execution in the manner provided by law on such original judgment or on such judgment of revival, as the case may be, against any real property bound by the lien of the judgment, whether or not any interest therein has been acquired by a terre-tenant and against any real property acquired by the defendant subsequent to the entry of the original judgment or of the judgment of revival, as the case may be, and owned by him at the time of the indexing of the execution. In the case of after-acquired property, the execution, when docketed and indexed, shall become a lien upon such real property. In the case of real property which is then subject to the lien of the judgment, the execution, when docketed and indexed, shall continue such lien beyond the time it would otherwise have expired. Any lien obtained or continued solely as the result of the docketing and indexing of an execution shall continue only for a period of five years from the indexing of the execution.

(b) In all cases where more than five years have expired since the entry of the judgment, or the entry of the last preceding judgment of revival, as the case may be, no execution upon any real property may issue until a writ of scire facias shall have issued and been reduced to judgment, and the execution shall issue on the judgment so entered and not on the original judgment.

10§ 875. Consolidation of judgments by scire facias

Whenever hereafter any person or persons shall be the owner or owners of two or more judgments, all recovered against the same person or persons, which are overdue, or may become due at the same time, it shall be lawful for the owner or owners of said judgments, at their option, to combine and consolidate the same by the issue of a single writ or [sic] scire facias; and the new judgment, when entered, shall include the amounts due on all the old judgments.

11§ 879. Manner of reviving lien; duration of revived lien

* * * * *

(b) In the case of two or more joint defendants, no revival shall be effective against any of such defendants, or their real property, whether or not owned jointly with the other joint defendants, or any of them, unless all such joint defendants shall join in the agreement, or shall be made parties to the scire facias proceedings: Provided, That if any number less than all of the joint defendants shall agree to be bound the revival shall be effective against all of the defendants so agreeing.

* * * * *

12§ 879. Manner of reviving lien; duration of revived lien

* * * * *

(d) As used in this act, the term "terre-tenant" shall not include any person claiming under or whose claim of title passes through a deed which is not recorded in the county where the real property is located, or any person claiming under or through a deceased defendant or terre-tenant whose will has not been filed with, or letters of administration on whose estate have not been issued by, the register of wills or orphans' court of such county: Provided, That any person claiming under or through a deceased defendant or terre-tenant who was not a resident of the county at the time of his death, may qualify as a terre-tenant under the provisions of this act by recording in the office of the recorder of deeds of the county, where the real property is located, a certified copy of the will of such decedent if he died testate, or if he died intestate, a declaration of interest accompanied by a certificate of the register of wills or probate court or officer of the county, state or country in which the decedent resided at the time of his death that letters of administration have been issued in the estate of such decedent.

13§ 879. Manner of reviving lien; duration of revived lien

(a) ***: Provided, further, That if revival shall have been had against the defendant at a time when a terre-tenant's deed is of record, but without the joinder of the terre-tenant, then, within a period of five years after the recording of the terre-tenant's deed or other evidence of title, the lien may be revived as to the terre-tenant by (1) agreement between the plaintiff and the terre-tenant alone or between the plaintiff, defendant and terre-tenant, or (2) by writ of scire facias issued against the terre-tenant without joining the defendant, or against the defendant and terre-tenant, jointly, entered in, or issued out of, and indexed in the court in which the judgment was entered within such period of five years after the recording of the terre-tenant's deed or other evidence of title, and in such event the lien shall continue as to the terre-tenant for the same period only as it continues against the defendant, when it must be revived against both parties as hereinbefore provided. This proviso shall not be so construed as to revive any lien as to any part of the property acquired by a terre-tenant by the mere recording of a terre-tenant's deed or other evidence of title without specific revival by agreement or scire facias as above provided.

* * * * *

14§ 882. Service of scire facias; judgment on return of nihil habet

*** On return being made by the sheriff showing service on all such persons found in the county, and a return of nihil habet as to all those not so found, the prothonotary shall, at any time after the end of the period during which the writ runs, upon praecipe, enter and index judgment of revival of any such judgment during another period of five years against the real estate bound by the judgment, unless sufficient cause is shown to prevent the same.

15§ 879. Manner of reviving lien; duration of revived lien

* * * * *

(c) The revived lien of any judgment shall, unless sooner discharged as provided by law, continue for a

period of five years from the date on which the judgment of revival, whether entered by agreement or on writ of scire facias, was indexed, provided such judgment of revival, if entered on a writ of scire facias, was indexed within a period of five years after the issuance of such writ, otherwise such lien shall continue only for a period of five years from the date on which the writ of scire facias to revive was indexed, and in either case no longer unless the same is again revived as provided in this act.

* * * * *

16§ 879. Manner of reviving lien; duration of revived lien

* * * * *

(c) *** In any case where, by reason of pending litigation, judgment cannot be entered on the writ of scire facias within a period of five years after the indexing of such writ, the court, before which such litigation is pending, may enter an order continuing the lien of such writ for such further period, not exceeding five years, as the court may direct, such order shall become effective when indexed.

* * * * *

17§ 2094. Execution, after five years, upon personal property

From and after the passage of this act execution may issue upon any judgment of record in any of the courts of this Commonwealth, notwithstanding such judgment may have lost its lien upon real estate, without a previous writ of scire facias to revive the same: Provided however, That such execution shall be confined or restricted to the personal property only of the debtor, and that such execution shall not issue after the lapse of twenty years from the maturity of the judgment: And provided further, That, at the same time execution is issued, a scire facias shall be issued to revive the judgment upon which said execution is issued; and in case the defendant or defendants in said writs file an affidavit alleging a just and legal defense against the revival of said judgment, it shall be lawful for the court, or a judge thereof in vacation, to stay the writ of fieri facias, by an order preserving the lien thereof, and to order the scire facias on the head of the list for trial at the next term for the trial of civil cases.

18§ 5529. Twenty year limitation

(a) Execution against personal property.—An execution against personal property must be issued within 20 years after the entry of the judgment upon which the execution is to be issued.

* * * * *

19§ 883. Property subject to execution; lien of execution; execution after five years

(a) The holder of any judgment may, within five years after the entry thereof or after the entry of any judgment of revival thereon, have execution in the manner provided by law on such original judgment or on such judgment of revival, as the case may be, against any real property bound by the lien of the judgment, whether or not any interest therein has been acquired by a terre-tenant and against any real property acquired by the defendant subsequent to the entry of the original judgment or of the judgment of revival, as the case may be, and owned by him at the time of the indexing of the execution. In the case of after-acquired property, the execution, when docketed and indexed, shall become a lien upon such real

property. In the case of real property which is then subject to the lien of the judgment, the execution, when docketed and indexed, shall continue such lien beyond the time it would otherwise have expired. Any lien obtained or continued solely as the result of the docketing and indexing of an execution shall continue only for a period of five years from the indexing of the execution.

(b) In all cases where more than five years have expired since the entry of the judgment, or the entry of the last preceding judgment of revival, as the case may be, no execution upon any real property may issue until a writ of scire facias shall have issued and been reduced to judgment, and the execution shall issue on the judgment so entered and not on the original judgment.

[Pa.B. Doc. No. 01-899. Filed for public inspection May 25, 2001, 9:00 a.m.]

Title 25—LOCAL COURT RULES

WARREN COUNTY

Adoption of Proposed Local Rule L205, Exhibit L205, Proposed/Revised Rule L212, Proposed/Revised Rule L1301, Exhibit L1301; No. 23 of 2001 Misc.

Administrative Order No. 1

And Now, this 3rd day of May, 2001, it is hereby Ordered and Decreed that, effective thirty (30) days after publication in the *Pennsylvania Bulletin*, the Court of Common Pleas of the 37th Judicial District hereby adopts Proposed Local Rule L205, Exhibit L205, Proposed/Revised Rule L212, Proposed/Revised Rule L1301, and Exhibit L1301.

The Warren County Prothonotary is ordered and directed to do the following:

1. File seven (7) certified copies of this Order and Rules with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies of this Order and Rules with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. File one (1) certified copy of this Order and pertinent Rules with the Civil Procedural Rules Committee.
4. Keep continuously available for public inspection copies of this Order and Rules in the Prothonotary's Office.

By the Court

PAUL H. MILLIN,
President Judge

Proposed Local Rule L205. Civil Case Management.

1. For all civil cases, excluding domestic relations matters, the Court shall issue a Civil Case Management Order after the close of the pleadings. This Civil Case Management Order shall set dates certain for the completion of discovery, the filing of all pre-trial motions, a pre-trial conference, and jury selection where demanded. The form of the Civil Case Management Order shall be as provided in Exhibit L205.
2. If any party determines that the complexity of the case will require an expanded schedule, that party must

notify the Court Administrator within 10 days of the entry of the Civil Case Management Order to request a scheduling conference. It shall be the responsibility of the party requesting a scheduling conference to notify all counsel and any parties proceeding pro se of the date, time and place of the scheduling conference.

IN THE COURT OF COMMON PLEAS OF THE 37TH JUDICIAL DISTRICT OF PENNSYLVANIA WARREN COUNTY BRANCH CIVIL

Plaintiff VS. No. _____ of 20 ____ Defendant

CIVIL CASE MANAGEMENT ORDER

AND NOW, the Court Administrator having determined that this case is appropriate for a scheduling order, the Court enters the following order:

- 1. All discovery shall be completed within 100 days of this order, by _____ (date).
2. All pretrial motions shall be filed before _____ (date).
3. The pretrial conference will be held on _____ at _____ a.m./p.m. in the _____ Court Room of the Warren County Courthouse. Pre-Trial Conference procedure is set forth in Local Rule L212.
4.

- ___ A. Jury Selection is scheduled for _____ at _____ a.m./p.m.
___ B. A Bench Trial shall be scheduled at the pretrial conference.

If any party determines that the complexity of the case requires an expanded schedule, that party may request a scheduling conference by contacting the Court Administrator within 10 days of the date of this order. It shall be the responsibility of the requesting party to notify all counsel, and any parties proceeding pro se, of the date, time and place of the scheduling conference.

BY THE COURT
Paul H. Millin, P.J.

Exhibit L205

Proposed/Revised Rule L212. Pre-Trial Conference.

- 1. Counsel attending the pre-trial conference must have full and complete authority to stipulate on items of evidence, admissions, and settlement. In the absence of such authority, counsel shall have their client immediately available, either in person or by telephone.
2. At the pre-trial conference the parties shall comply with Rule 212 of Rules of Civil Procedure, and in addition thereto shall submit to the Court and other counsel a pre-trial statement containing:

- (a) A narrative statement of the facts that will be offered by oral or documentary evidence at trial, and a statement of any unusual questions of evidence, fact or law; and in the event of the latter, supporting citations of counsel's position of the law.
(b) A list of names and addresses of all persons who may be called as witnesses, classifying them as liability

and/or damage witnesses. The listing of a witness shall impose no obligation to call the witness or to procure his attendance at trial.

- (c) Medical reports, including hospital records and the reports of any experts whose opinions will be offered in evidence at time of trial.
(d) A specific listing of all non-pecuniary injuries sustained and damages sought in terms of temporary or permanent injury.
(e) A list of all exhibits the party intends to use at trial.
(f) An estimated length of time which will be required to present the parties' respective cases in chief.

ARBITRATION

Proposed/Revised Local Rule L1301. Cases for Submission.

A. Compulsory arbitration of matters as authorized by Section 7631 of the Judicial Code, 42 Pa.C.S. § 101, et. seq. shall apply to all cases at issue where the amount in controversy shall be twenty-five thousand dollars (\$25,000.00) or less.

The amount in controversy shall be determined from the pleadings or by an agreement of reference filed by the attorneys. The amount in controversy, when determined from the pleadings, shall be the largest amount claimed by any one party.

In the event that a case within arbitration limits is consolidated with a case involving more than arbitration limits after the former has been referred to a board of arbitrators, the order of consolidation will remove the same from the jurisdiction of the board of arbitrators.

B. Any civil action filed that is subject to Compulsory Arbitration under Section 7631 of the Judicial Code, 42 Pa.C.S. § 101, et. seq., as governed by Subpart A of this Rule, shall be designated as an arbitration case on its face sheet.

C. Within 20 days of the close of the pleadings, any party to an arbitration case desiring discovery shall notify the Court by filing Exhibit L1301 that it intends to engage in discovery so that the Court may issue a scheduling order pursuant to Local Rule 305. If no party to an arbitration case files Exhibit L1301, the Board of Arbitrators shall be appointed within 30 days of the date the pleadings are closed.

IN THE COURT OF COMMON PLEAS OF THE 37TH JUDICIAL DISTRICT OF PENNSYLVANIA WARREN COUNTY BRANCH CIVIL

Plaintiff vs. In Arbitration No. _____ of 20 ____ Defendant

NOTICE

_____ intends to engage in discovery in Plaintiff/Defendant the captioned case. Discovery is estimated to require _____ days.

Counsel/Pro Se Party

Exhibit L1301

[Pa.B. Doc. No. 01-900. Filed for public inspection May 25, 2001, 9:00 a.m.]