

# THE COURTS

## Title 246—MINOR COURT CIVIL RULES

### PART I. GENERAL [246 PA. CODE CH. 200] Design of Forms

#### Introduction

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt an entirely new Pa. R.C.P.D.J. No. 212 to provide for the design of forms used in district justice proceedings. The Committee has not 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 official Committee 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 rule precedes the Report.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Michael F. Krimmel, Counsel, Supreme Court of Pennsylvania, Minor Court Rules Committee, 5035 Ritter Road, Suite 700, Mechanicsburg, PA 17055, or e-mail to: [minorcourt.rules@supreme.court.state.pa.us](mailto:minorcourt.rules@supreme.court.state.pa.us) no later than Thursday, January 24, 2002.

*By the Minor Court Rules Committee:*

FRED A. PIERANTONI, III  
*Chair*

#### Annex A

### TITLE 246. MINOR COURT CIVIL RULES

#### PART I. GENERAL

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

#### Rule 212. Design of Forms.

The Court Administrator of Pennsylvania, in consultation with the Minor Court Rules Committee, shall design and publish forms necessary to implement these rules.

Adopted \_\_\_\_\_, effective \_\_\_\_\_.

#### REPORT

*Proposed Pa. R.C.P.D.J. No. 212*

*Design of Forms*

Proceedings in district justice courts, more so than in other courts, rely heavily on the use of preprinted standard forms. Forms are used for basic pleadings, notices, and virtually all other case-related documents. Most forms used in district justice proceedings are computer generated, produced by the District Justice Automated System (DJS). Traditionally, when individual rules have specified that a form is to be used for a certain document, the rules have made reference to "a form prescribed by the State Court Administrator." In drafting proposed new rules and amendments to existing rules, the Committee has decided that the use of this language in individual rules is cumbersome and unnecessary.

As an alternative, the Committee proposes an entirely new Pa. R.C.P.D.J. No. 212 to be a general rule regarding the design of forms. In proposing such a rule, the Committee contemplates that references to forms in individual rules could be eliminated, except where the content of a form is to be expressly dictated by the rule.

The proposed new rule, which is modeled after Pa.R.Crim.P. 104, would provide that "[t]he Court Administrator of Pennsylvania, in consultation with the Minor Court Rules Committee, shall design and publish forms necessary to implement these rules."

[Pa.B. Doc. No. 01-2318. Filed for public inspection December 28, 2001, 9:00 a.m.]

### PART I. GENERAL

#### [246 PA. CODE CHS. 200—500]

#### Definitions; Subpoenas to Attend and Testify in Civil and Landlord/Tenant Matters

#### Introduction

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Pa. R.C.P.D.J. Nos. 202 and 421; adopt an entirely new Pa. R.C.P.D.J. No. 213; and rescind Pa. R.C.P.D.J. Nos. 317 and 510 to further provide for definitions and to provide for subpoenas to attend and testify in civil and landlord/tenant matters and to make other technical or "housekeeping" amendments. The Committee has not 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 official Committee 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; deletions are in bold and brackets.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Michael F. Krimmel, Counsel, Supreme Court of Pennsylvania, Minor Court Rules Committee, 5035 Ritter Road, Suite 700, Mechanicsburg, PA 17055 or e-mail to: [minorcourt.rules@supreme.court.state.pa.us](mailto:minorcourt.rules@supreme.court.state.pa.us) no later than Thursday, January 24, 2002.

*By the Minor Court Rules Committee:*

FRED A. PIERANTONI, III  
*Chair*

#### Annex A

### TITLE 246. MINOR COURT CIVIL RULES

#### PART I. GENERAL

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

#### Rule 202. Definitions.

As used in these rules, the following words and phrases shall have the following meanings unless

the context clearly indicates otherwise or the particular word or phrase is expressly defined in the chapter in which the particular rule is included:

[ (1) *District justice*—The district justice before whom the action or proceeding is pending.

(2) *Sheriff*—Includes a deputy sheriff.

(3) *Constable*—Means a certified constable or a certified deputy constable.

(4) *Prothonotary*—Includes any officer exercising the powers and performing the duties of the office of prothonotary as set forth in the Judicial Code, and includes the analogous officer in those counties which do not have a prothonotary. ]

“Constable” means a certified constable or a certified deputy constable.

“District justice” means the district justice before whom the action or proceeding is pending.

“Prothonotary” includes any officer exercising the powers and performing the duties of the office of prothonotary as set forth in the Judicial Code, and includes the analogous officer in those counties which do not have a prothonotary.

“Sheriff” includes a deputy sheriff.

“Subpoena” means an order of the district justice commanding a person to attend and testify at a particular time and place. It may also require the person to produce documents or things which are under the possession, custody, or control of that person.

“Verified,” when used in reference to a written statement of fact by the signer, means supported by oath or affirmation or made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

**Note**

Amended April 25, 1979, effective in 30 days, June 30, 1982, effective 30 days after July 17, 1982; amended effective Dec. 1, 1983; amended July 16, 2001, effective August 1, 2001; amended \_\_\_\_\_, effective \_\_\_\_\_.

(Editor’s Note: This is a new rule and is being printed in regular type to enhance readability.)

**Rule 213. Subpoena to Attend and Testify.**

A. District justices may issue subpoenas throughout the Commonwealth.

B. A subpoena may be used to command a person to attend and to produce documents or things only at a trial or hearing in an action or proceeding pending before the district justice.

C. A subpoena may not be used to compel a person to appear or to produce documents or things ex parte before an attorney, a party, or a representative of the party.

**Note**

See Rule 202 for definition of “subpoena.” Compare Pa.R.C.P. No. 234.1. The district justice has the discretion to limit the production of documents or things to those that are relevant to the cause of action before the district justice. As to Subdivision C, see Rule 325<sup>1</sup>.

Adopted \_\_\_\_\_, effective \_\_\_\_\_.

<sup>1</sup> Recommendation No. 3 Minor Court Rules 2001 includes a recommendation to renumber existing Rule 325 as new Rule 210.

**CHAPTER 300. CIVIL ACTION**

**Rule 317. [ Subpoena of Witnesses ] (Rescinded).**

[ A district justice may issue subpoenas throughout the Commonwealth to require the attendance of witnesses in any cause of action triable before the district justice. The subpoena may also require the person to produce at the time of hearing documents or things that are under the possession, custody or control of that person. ]

**Note**

See Rule 213 governing subpoenas.

[ Amended ] Former Rule 317 amended June 30, 1982, effective 30 days after July 17, 1982; May 3, 1999, imd. effective; rescinded \_\_\_\_\_, effective \_\_\_\_\_.

**[ Explanatory Comment—1999 ]**

**[ DELETE ENTIRELY ]**

**CHAPTER 400. EXECUTION OF JUDGEMENTS FOR THE PAYMENT OF MONEY**

**Rule 421. Time for Hearing and Determination; [ Subpoenas; ] Effective Date of Orders and Determination.**

A. The district justice shall hold hearings on matters to be determined [ by him ] under Rule 420 not later than five [ (5) ] days after they are filed [ in his office ], and [ he ] shall notify all parties in interest of the date and time of the hearing by telephone or other timely means of communication. [ He ] The district justice shall [ make his ] enter a determination not later than three [ (3) ] days after the hearing.

B. [ At the time of the entry of the determination, the ] The district justice shall promptly give or mail to the parties written notice of the determination. [ If a ] The written notice shall be given or mailed to all parties in interest, but if any party has an attorney of record the written notice shall be given or mailed to the attorney of record instead of to the party. Notice of the determination shall contain advice as to the right of the parties to file a Statement of Objection, the time within which the statement must be filed, and that the statement is to be filed with the court of common pleas.

C. [ The district justice may issue subpoenas throughout the Commonwealth to require the attendance of witnesses ] (Rescinded).

D. Any stay of the whole or part of the execution proceedings ordered by the district justice shall be effective immediately. All other orders and determinations with respect to the whole or part of the execution proceedings shall not take effect until after the expiration of ten [ (10) ] days from [ their ] the date of entry of the order or determination.

**Note**

\* \* \* \* \*

Subdivision [ C ] D provides that, except for stays, determinations and orders of the district justice concerning the execution proceedings shall not take effect until after the expiration of ten days from [ their ] the date of entry of the determination or order. This will give any aggrieved party in interest a chance to obtain a stay

by filing a statement of objection in the court of common pleas during that period of time. [See Rule 1016B.] See Rule 1016.

Amended June 1, 1971; April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; March 27, 1992, effective June 25, 1992 [The March 27, 1992, Order provided in part: "In promulgating this Order, the Court recognizes that the District Justice Automation Project will be affected by said Rule changes and that, therefore, those Rules which affect the Project will become effective as the District Justice offices are brought on-line"]; amended \_\_\_\_\_, effective \_\_\_\_\_.

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

Rule 510. [Subpoena of Witnesses] (Rescinded).

[A district justice may issue subpoenas throughout the Commonwealth to require the attendance of witnesses in any cause of action triable before the district justice. The subpoena may also require the person to produce at the time of hearing documents or things that are under the possession, custody or control of that person.]

#### Note

[This rule is the same as Rule 317 governing subpoenas in civil actions.] See Rule 213 governing subpoenas.

[Amended] Former Rule 510 amended June 30, 1982, effective 30 days after July 17, 1982; amended December 15, 2000, effective January 1, 2001; rescinded \_\_\_\_\_, effective \_\_\_\_\_.

#### Report

*Proposal to Amend Pa. R.C.P.D.J. Nos. 202 and 421; Adopt an Entirely New Pa. R.C.P.D.J. No. 213; and Rescind Pa. R.C.P.D.J. Nos. 317 and 510*

#### DEFINITIONS; SUBPOENAS TO ATTEND AND TESTIFY IN CIVIL AND LANDLORD/TENANT MATTERS

##### I. Background

The Committee undertook a review of Rule 421 when it came to the Committee's attention that Rule 421C, that provides for the issuance of subpoenas in determination of property claims hearings (Rule 420 hearings), was not consistent with Rule 317 (relating to subpoena of witnesses in civil actions) and Rule 510 (relating to subpoena of witnesses in landlord/tenant actions). The Supreme Court had previously approved amendments to Rules 317 and 510 to provide for the issuance of subpoenas duces tecum. In recommending these amendments the Committee apparently overlooked the subpoena provision in Rule 421. The Committee had initially proposed that Rule 421 be amended to provide for the issuance of subpoenas duces tecum in Rule 420 hearings to make it consistent with the other subpoena rules. See 31 Pa.B. 2920 (June 9, 2001).

Upon consideration of comments received in response to that initial proposal, however, the Committee has revised its proposal. The Committee received comments indicating that three separate rules governing subpoenas caused unnecessary duplication and confusion. The Committee agreed. Accordingly, the Committee now proposes the addition of a new general rule governing subpoenas in the 200 Series (RULES OF CONSTRUCTION; GENERAL

PROVISIONS). Further, the Committee proposes that Rules 317 and Rule 510 be rescinded, and that Rule 421 be amended to delete the references to subpoenas.

Further, the Committee proposes amendments to Rule 202 (Definitions) to add two new definitions. First, relating to the rule changes discussed above, the Committee proposes that the word "subpoena" be defined in Rule 202. The Committee proposes that substantially the same definition for "subpoena" as is used in Pa.R.C.P. No. 234.1 be adopted in Pa. R.C.P.D.J. No. 202. The definition provides for subpoenas to attend and testify as well as subpoenas duces tecum. Secondly, the Committee noted that the word "verified" was used in the rules but was not defined. Upon review of the three instances where the word currently is used in the rules, the Committee determined that it also should be defined in Rule 202. The Committee proposes that the same definition for "verified" as is used in Pa.R.C.P. No. 76 be adopted in Pa. R.C.P.D.J. No. 202.<sup>2</sup>

Finally, in conjunction with the proposed amendments to Rules 202 and 421, the Committee also recognized the need for several technical or "housekeeping" amendments to these rules.

##### II. Discussion of Rule Changes

###### A. Rule 202

In conjunction with the proposed amendment to the rule to add the words "subpoena" and "verified" as described above, the Committee also recognized the need for two technical amendments to this rule. First, the Committee proposes that the introductory language in the rule be amended to more closely mirror that in Pa.R.C.P. No. 76 so as to more clearly state how terms in the rules are to be defined and construed. Also, the Committee proposes that the rule be restructured to remove the numbered list of definitions and to list the definitions in alphabetical order. The Committee believes that this technical change will present the list of defined terms in a more logical order and will better facilitate future additions to or deletions from the list.

###### B. New Rule 213

As noted above, the Committee proposes an entirely new rule, Pa. R.C.P.D.J. No. 213, to generally provide for subpoenas in civil and landlord and tenant matters.

Subdivision A makes clear that district justices may issue subpoenas throughout the Commonwealth. Subdivisions B and C of the proposed rule impose limitations on the use of subpoenas. Subdivision B makes clear that subpoenas may be used to command a person to attend and to produce documents or things only at a trial or hearing in an action or proceeding pending before the district justice. Subdivision C makes clear that subpoenas may not be used to compel a person to appear or produce documents or things ex parte.

The proposed Note cross references Pa.R.C.P. No. 234.1 and Pa. R.C.P.D.J. Nos. 202 and 325<sup>3</sup>. It also makes clear

<sup>2</sup> A proposal to add the word "verified" to the Rule 202 definitions, and to make other format changes to Rule 202, was previously published at 31 Pa.B. 5938 (October 27, 2001). The Committee is not making any changes to that proposal, however it is now being incorporated into the subpoena rule proposal as both proposals affect Rule 202.

<sup>3</sup> Recommendation No. 3 Minor Court Rules 2001 includes a recommendation to renumber existing Rule 325 as new Rule 210.

that the district justice has the discretion to limit the production of documents or things to those that are relevant to the cause of action before the district justice. This same note was included in Rule 317.

*C. Rules 317 and 510*

In light of the Committee's proposed new Rule 213, the Committee further proposes that Rule 317 (relating to subpoena of witnesses in civil actions) and Rule 510 (relating to subpoena of witnesses in landlord and tenant actions) be rescinded.

*D. Rule 421*

The Committee proposes a number of amendments to Rule 421. First, regarding subpoenas, the Committee proposes that subdivision C, relating to subpoenas in determination of property claim hearings, be rescinded.

Secondly, in subdivision B, the Committee proposes minor changes to make the notice of determination requirement consistent with the notice requirement in Rule 324 relating to notice of judgment in civil actions.

Third, in subdivision D, the Committee proposes that the time period for filing a Statement of Objection run from "the date of entry of the order or determination" to make this time period consistent with the general appeal periods in civil and landlord/tenant actions that run from the date of entry of the judgment.

Finally, the Committee proposes minor changes to the rule to address gender neutrality issues, to correct cross-references in the Note, and to conform to modern drafting style.

[Pa.B. Doc. No. 01-2319. Filed for public inspection December 28, 2001, 9:00 a.m.]

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## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Disbarment

Notice is hereby given that Jeffrey C. Keith having been disbarred from the practice of law in the State of Ohio, the Supreme Court of Pennsylvania issued an Order dated December 13, 2001 Disbarring Jeffrey C. Keith from the practice of law in this Commonwealth.

ELAINE M. BIXLER,  
*Executive Director and Secretary  
The Disciplinary Board of the  
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 01-2320. Filed for public inspection December 28, 2001, 9:00 a.m.]

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