

CHAPTER 1650. ACTIONS IN MECHANICS' LIENS

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Rule 1651. Definitions. Conformity Civil Action.

(a) As used in this chapter

Claim—a mechanics' lien claim which has been filed;

Action—an action to obtain judgment upon a claim.

(b) Except as otherwise provided in this chapter, the procedure to obtain judgment upon a claim shall be in accordance with the rules relating to a civil action.

Official Note: The procedure governing the filing of a claim is provided by the Mechanics' Lien Law of 1963, 49 P. S. § 1101 et seq. The rules relate to the procedure between filing of the lien and reduction of the claim to judgment.

Source

The provisions of this Rule 1651 adopted November 29, 1983, effective January 1, 1964; amended December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999. Immediately preceding text appears at serial page (15809).

Rule 1652. Venue.

(a) The action shall be commenced in and only in the county in which the claim has been filed.

(b) Where the property liened is located in more than one county and claims have been filed in more than one county, the action may be brought in any such county.

Official Note: Subdivision (b) parallels Section 701(c) of the Mechanics' Lien Law of 1963, 49 P. S. § 1701(c).

Rule 1653. Commencement of Action.

An action shall be commenced by filing a complaint with the prothonotary. The complaint shall be filed under the same docket number as the claim for the mechanics' lien.

Official Note: To file a claim for a mechanics' lien, see the Mechanics' Lien Law of 1963, 49 P.S. §§ 1101—1902, *as amended*.

Source

The provisions of this Rule 1653 amended June 27, 2017, effective October 1, 2017, 47 Pa.B. 3805. Immediately preceding text appears at serial page (255283).

Rule 1654. Defendant.

(a) The plaintiff shall name as defendant the owner named in the claim and the owner, if known, at the time the action is commenced.

(b) If the last owner of record prior to the commencement of the action has died, the plaintiff shall name as a defendant the personal representative, heir or devisee of such owner, if known.

Official Note: For definition of owner see section 201(3) of Mechanics' Lien Law of 1963, 49 P. S. § 1201(3).

Source

The provisions of this Rule 1654 amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial page (195290).

Rule 1655. [Rescinded].

Official Note: For service of original process, see Rule 400 et seq.

Source

The provisions of this Rule 1655 adopted November 29, 1963, effective January 1, 1964; rescinded June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452. Immediately preceding text appears at serial page (87314).

Rule 1656. The Complaint.

(a) The plaintiff shall set forth in the complaint

(1) the name and address of each party to the action and, if the action is commenced by a subcontractor, the name and address of the contractor;

(2) the date of the filing of the claim; and

(3) a demand for judgment.

(b) The plaintiff shall attach a copy of the claim to the complaint as an exhibit.

Official Note: A claim for a mechanics' lien and the complaint to obtain judgment on the mechanics' lien shall be filed under the same docket number. *See* Rule 1653.

Source

The provisions of this Rule 1656 adopted November 29, 1963, effective January 1, 1964; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266; amended June 27, 2017, effective October 1, 2017, 47 Pa.B. 3805. Immediately preceding text appears at serial page (255284).

Rule 1657. Joinder of Causes of Action Prohibited.

No other cause of action may be joined with an action to obtain judgment on a claim except that where the improvement is located in more than one county

and claims have been filed in more than one of said counties the plaintiff may join the claims in a single action.

Official Note: adopted November 29, 1963, effective January 1, 1964.

Under Section 306(a) of the Mechanics' Lien Law of 1963, 49 P. S. § 1306(a), the claimant may join in one mechanics' lien claims against the same property arising from work done under separate contracts or against more than one structure if intended to form part of the same plant.

Rule 1658. Set-Off. Counterclaim.

A set-off arising from the same transaction or occurrence upon which the claim is based may be pleaded as new matter. No counterclaim may be asserted.

Official Note: adopted November 29, 1963, effective January 1, 1964; amended May 27, 1964, effective June 30, 1964.

Rule 1659. Compelling Commencement of Action.

If a claimant has filed a claim and does not file a complaint, the prothonotary, upon praecipe of an owner, shall enter a rule as of course upon the claimant to file a complaint within twenty days after service of the rule, or be forever barred from so doing. If the claimant fails to do so, the prothonotary, upon praecipe of the owner and proof of service, shall enter judgment for the defendant.

Official Note: See Rule 440 as to method of service of rule and Rule 405(b) as to form of affidavit.

Source

The provisions of this Rule 1659 adopted November 29, 1963, effective January 1, 1964; amended June 3, 1994, effective July 1, 1994, 24 Pa.B. 3010; amended December 2, 1994, effective July 1, 1995, 24 Pa.B. 6259; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial page (195291).

Rule 1660. Judgment. Execution.

Judgment in the action shall be enforced as provided by Rule 3190.

Official Note: adopted November 29, 1963, effective January 1, 1964.

See Section 706(c) of the Mechanics' Lien Law of 1963, 49 P. S. § 1706(c) for special execution provisions where only part of a single tract is subject to the lien.

Rule 1661. Trial Without Jury.

The trial of actions upon mechanics' lien by a judge sitting without a jury shall be in accordance with Rule 1038.

Source

The provisions of this Rule 1661 adopted June 27, 1969, effective September 1, 1969; amended December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999. Immediately preceding text appears at serial page (31823).

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