

CHAPTER 1000. APPEALS**APPELLATE PROCEEDINGS WITH RESPECT TO
JUDGMENTS AND OTHER DECISIONS OF MAGISTERIAL
DISTRICT JUDGES IN CIVIL MATTERS**

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Since these rules are a chapter of the rules of civil procedure governing actions and proceedings before magisterial district judges, the rules in Chapter 200 also apply.

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(402955) No. 554 Jan. 21

**APPELLATE PROCEEDING WITH RESPECT TO
JUDGMENTS AND OTHER DECISIONS OF MAGISTERIAL
DISTRICT JUDGES IN CIVIL MATTERS**

Rule 1001. Definitions.

As used in this chapter:

(1) “Appeal” means an appeal from a judgment to the court of common pleas.

(2) “*Certiorari*” means an examination by the court of common pleas of the record of proceedings before a magisterial district judge to determine questions raised under Rule 1009A.

(3) “Claimant” includes a defendant with respect to a defendant’s cross-complaint or supplementary action filed pursuant to Rule 342 in the action before the magisterial district judge.

(4) “Court of common pleas” means the court of common pleas of the judicial district in which is located the magisterial district wherein the questioned action of the magisterial district judge took place.

(5) “Defendant” includes a plaintiff with respect to the defendant’s cross-complaint or supplementary action filed pursuant to Rule 342 in the action before the magisterial district judge.

(6) “Judgment” means a judgment rendered by a magisterial district judge under Rules 319, 322, or 514.

(7) “Proof of service” means a verified written statement that service was made by personal service or by certified or registered mail, with the sender’s receipt for certified or registered mail attached thereto if service was made by mail.

(8) Service “by certified or registered mail” means the mailing of properly addressed certified or registered mail.

(9) “*Supersedeas*” means a prohibition against any further execution processes on the judgment affected thereby.

(10) “Victim of domestic violence” means a person who has obtained a protection from abuse order against another individual or can provide other evidence of abuse.

Official Note: Although one of the purposes of the definitions in this rule is to avoid needless repetition throughout these appellate rules, some of the definitions are intended to state or clarify the law as well.

In connection with the definition of “appeal” in subdivision (1), *see also* Rule 1007 and the Note thereto.

Under subdivision (2), *certiorari* is restricted to an examination of the record of the proceedings before the magisterial district judge, which will appear on the complaint forms prescribed by the State Court Administrator. *See Flaherty v. Atkins*, 152 A.2d 280 (Pa. Super. 1959). This is a narrow form of *certiorari*, both with respect to procedure and the matters which can be considered under Rule 1009A. Since an aggrieved party will be entitled to a broad form of appeal

de novo under these rules, there seems to be no justification for providing also for a broad form of *certiorari*. These restrictions on the writ of *certiorari* are authorized by § 26 of the Schedule to Article V of the 1968 Constitution. The writ of error, which at common law was probably available only to review the proceedings of a court of record (*see Beale v. Dougherty*, 3 Binn. 432 (1811)), is not a form of appellate process permitted by these rules. *See also County of Carbon v. Leibensperger*, 266 A.2d 632 (Pa. 1970) (court of common pleas cannot issue writ of prohibition).

Under subdivision (7), there is no requirement that the sender's receipt for certified mail be postmarked. There is no return receipt requirement for certified or registered mail. It is no longer necessary that the proof of service be under oath or affirmation; however, the statement is now made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

The definition of "*supersedeas*" in subdivision (9) points out the limited nature of a *supersedeas*. *See also* Rules 1008 and 1013 and the Notes thereto.

Under subdivision (10), the definition of a victim of domestic violence is derived from 68 P.S. § 250.513.

Source

The provisions of this Rule 1001 amended through December 16, 1983, effective December 1, 1983, 13 Pa.B. 3875; amended April 5, 2002, effective January 1, 2003, 32 Pa.B. 2199; amended August 19, 2020, effective January 1, 2021, 50 Pa.B. 4502. Immediately preceding text appears at serial pages (370084) and (386619).

APPEAL

Rule 1002. Time and Method of Appeal.

A. A party aggrieved by a judgment for money, or a judgment affecting the delivery of possession of real property arising out of a nonresidential lease, may appeal the judgment within 30 days after the date of the entry of the judgment by filing with the prothonotary of the court of common pleas a notice of appeal on a form that shall be prescribed by the State Court Administrator together with a copy of the Notice of Judgment issued by the magisterial district judge. The prothonotary shall not accept an appeal from an aggrieved party that is presented for filing more than 30 days after the date of entry of the judgment without leave of court and upon good cause shown.

B.(1) Except as otherwise provided in subdivision B(2), a party aggrieved by a judgment for the delivery of possession of real property arising out of a residential lease may appeal the judgment within 10 days after the date of the entry of judgment by filing with the prothonotary of the court of common pleas a notice of appeal on a form that shall be prescribed by the State Court Administrator, together with a copy of the Notice of Judgment issued by the magisterial district judge. The prothonotary shall not accept an appeal from an aggrieved party that is presented for filing more than 10 days after the date of entry of judgment without leave of court and upon good cause shown.

(2)(a) A tenant who is aggrieved by a judgment for the delivery of possession of real property arising out of a residential lease, and who is a victim of domestic violence, may appeal the judgment within 30 days after the date of the entry of judgment by filing with the prothonotary of the court of common pleas a notice of appeal on a form that shall be prescribed by the State Court Administrator, together with a copy of the Notice of Judgment issued by the magisterial district judge, and a domestic violence affidavit.

(b) The domestic violence affidavit shall be on a form prescribed by the State Court Administrator, and affirm that the tenant is a victim of domestic violence.

(c) The domestic violence affidavit shall contain the name of the tenant who is a victim of domestic violence, the name of the perpetrator, the perpetrator's relationship to the tenant who is a victim of domestic violence, and the docket number for any protection from abuse case involving the tenant who is a victim of domestic violence and the perpetrator, as well as a verification by the tenant.

(d) The domestic violence affidavit is not a public record and shall not be publically accessible.

Official Note: The 30-day limitation in subdivision A of this rule is the same as that found in the Judicial Code § 5571(b), 42 Pa.C.S. § 5571(b), as amended by Section 10(67) of the Judiciary Act Repealer Act, Act of April 28, 1978, P.L. 202, No. 53. The 10-day limitation in subdivision B(1) of this rule, as well as the 30-day limitation in subdivision B(2), is designed to implement the time for appeal set forth in Section 513 of the Landlord and Tenant Act of 1951 (Act No. 1995-33, approved July 6, 1995) (Act No. 1995-33 was suspended by the Pa. Supreme Court on March 28, 1996 by Order of Court insofar as the Act is inconsistent with Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges, as adopted by that Order.) This rule is intended to clarify the appeal timelines for different types of cases. When an appeal is taken from any judgment for money, or a judgment affecting a nonresidential lease, under these rules, the 30-day period of time for appeal applies. When the right of possession of residential real estate is at issue, and the tenant is not a victim of domestic violence, the shorter, 10-day period for appeal applies. When an appeal is taken from a judgment affecting a residential lease and the tenant is a victim of domestic violence, the 30-day appeal period applies. A party may appeal the money portion of a judgment only within the 30-day appeal period specified in subdivision A of this rule. It is the intent of this rule that no *supersedeas* under Rule 1008 shall be issued by the prothonotary after the 10-day period for filing an appeal, unless a tenant who is a victim of domestic violence files a domestic violence affidavit with the magisterial court within 30 days of the date of entry of judgment or by order of court.

The method of appeal is by filing with the prothonotary a "notice of appeal" on a form to be prescribed by the State Court Administrator. Copies of this same form will be used for service under Pa.R.C.P.M.D.J. No. 1005. This permits use of the same form for filing and service. No useful purpose would be served by having two forms, one called an "appeal" for filing and another called a "notice of appeal" for service.

The domestic violence affidavit set forth in subdivision B(2) shall be on a form prescribed by the State Court Administrator. The domestic violence affidavit shall contain the name of the tenant who is a victim of domestic violence, the name of the perpetrator, the perpetrator's relationship to the tenant who is a victim of domestic violence, and the docket number for any protec-

tion from abuse case involving the tenant who is a victim of domestic violence and the perpetrator. The affidavit shall contain the tenant's verification that the statements made in the affidavit are true and correct to the best of the tenant's knowledge, information, and belief, and that any false statements are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities. If the tenant filed the domestic violence affidavit with the magisterial district court prior to filing the appeal, the tenant shall attach a copy of the previously filed affidavit to the appeal rather than filing a new affidavit. The landlord shall only challenge the domestic violence affidavit by filing an appropriate motion in the court of common pleas. No action challenging the domestic violence affidavit on any grounds shall be filed in the magisterial district court. *See* Pa.R.C.P.M.D.J. No. 514.1.

The domestic violence affidavit is not a public record and it shall not be publically accessible. *See Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*, Section 9.0F.

The 1990 amendment is intended to encourage the complete utilization of the hearing process available before the magisterial district judge.

A copy of the Notice of Judgment must be filed since it will contain the separate entries required by Pa.R.C.P.M.D.J. No. 514A and will be needed by the prothonotary.

Source

The provisions of this Rule 1002 amended April 25, 1979, effective May 25, 1979, 9 Pa.B. 1499; amended March 27, 1992, effective 90 days from the date on which the Order is signed, 22 Pa.B. 1893 and 1900; amended March 28, 1996, effective March 29, 1996, 26 Pa.B. 1691; amended December 15, 2000, effective January 1, 2001, 30 Pa.B. 6882; corrected July 28, 2006, effective January 1, 2001, 36 Pa.B. 3997; amended August 19, 2020, effective January 1, 2021, 50 Pa.B. 4502. Immediately preceding text appears at serial pages (386619) to (386620).

Rule 1003. Bond for Appeal.

No bond or other security shall be required for appeal.

Official Note: No bond or other security is required for taking an appeal. Such a requirement would seem to be contrary to Article V, § 9, of the Constitution, although this section of the Constitution would not prevent requiring a bond for a supersedeas. *See* Rule 1008.

Rule 1004. Filing Complaint or Praecipe on Appeal. Appeals Involving Cross-Complaints.

A. If the appellant was the claimant in the action before the magisterial district judge, he shall file a complaint within twenty (20) days after filing his notice of appeal.

B. If the appellant was the defendant in the action before the magisterial district judge, he shall file with his notice of appeal a praecipe requesting the prothonotary to enter a rule as of course upon the appellee to file a complaint within twenty (20) days after service of the rule or suffer entry of a judgment of non pros.

C. When judgments have been rendered on complaints of both the appellant and the appellee and the appellant appeals from the judgment on his complaint or on both complaints, the appellee may assert his claim in the court of common pleas by pleading it as a counterclaim if it can properly be so pleaded in that

court. If the appellant appeals only from the judgment on his complaint, the appellee may appeal from the judgment on his complaint at any time within thirty (30) days after the date on which the appellant served a copy of his notice of appeal upon the appellee.

Official Note: The twenty days allowed the claimant-appellant under subdivision A will give him time to consider, among other things, matters under Rule 1007B. The procedure upon failure to file a complaint pursuant to a rule to do so entered under subdivision B will be governed by the Rules of Civil Procedure (Pa. R.C.P. No. 1037(a)).

The landlord's complaint in an appeal from a judgment concerning the possession of real property will contain the same material averments as those required under Rule 503C, an averment that the tenant claims possession of the property being substituted for an averment that he retains it if he has vacated the property or has been ejected from it. See, as to this general requirement of pleading, *Palethorp v. Schmidt*, 12 Pa. Super. 214 (1900). See also the note to Rule 1081(30).

Subdivision C permits the appellee, when there were cross-complaints in the action before the magisterial district judge and the appellant appeals from the judgment on his complaint or on both complaints, to assert his claim by way of a counterclaim in the court of common pleas if the claim is cognizable as a counterclaim in that court. However, even when this procedure is permissible, the appellee must, if he desires to use it, still give a notice of appeal under Rule 1002, with the time extension allowed by subdivision C (see the Judicial Code, § 5571(f) 42 Pa.C.S. § 5571(f)), if he intends to appeal from the judgment on his complaint and the appellant has not appealed from that judgment, although in such a case subdivision A of Rule 1004 will not be applicable. If the appellee can and intends to avail himself of the procedure permitted by subdivision C, he need not obey any rule to file a complaint served upon him under subdivision B.

All judgments entered must be appealed to preserve all issues, if such issue can be properly pleaded in the court of common pleas. This is of particular importance under subdivision C, where both complaints must be appealed to preserve all issues. See *Borough of Downingtown v. Wagner*, 702 A.2d 593 (Pa. Cmwlth. 1997).

Adopted June 1, 1971. Amended Oct. 17, 1975, effective in 90 days; April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; amended December 15, 2000, effective January 1, 2001.

Source

The provisions of this Rule 1004 amended through April 25, 1979, effective May 25, 1979, 9 Pa.B. 1499; amended December 15, 2000, effective January 1, 2001, 30 Pa.B. 6882. Immediately preceding text appears at serial pages (212924) to (212925).

Rule 1005. Service of Notice of Appeal and Other Papers.

A. The appellant shall by personal service or by certified or registered mail serve a copy of the notice of appeal upon the appellee and upon the magisterial district judge in whose office the judgment was rendered. If required by Rule 1004B to request a rule upon the appellee to file a complaint, the appellant shall also serve the rule by personal service or by certified or registered mail upon the appellee. The address of the appellee for the purpose of service shall be the address as listed on the complaint form filed in the office of the magisterial district judge or as otherwise appearing in the records of that office. If the appellee

has an attorney of record named in the complaint form filed in the office of the magisterial district judge, the service upon the appellee may be made upon the attorney of record instead of upon the appellee personally.

B. The appellant shall file with the prothonotary proof of service of copies of the notice of appeal, and proof of service of a rule upon the appellee to file a complaint if required to request such a rule by Rule 1004B, within 10 days after filing the notice of appeal.

C. In lieu of service and proof of service pursuant to subdivisions A and B of this Rule, the court of common pleas may, by local rule, permit or require that the appellant file with the notice of appeal a stamped envelope pre-addressed to the appellee at the address as listed on the complaint form filed in the office of the magisterial district judge or as otherwise appearing in the records of that office, or the attorney of record, if any, of the appellee, and a stamped envelope pre-addressed to the magisterial district judge in whose office the judgment was rendered. Copies of the notice of appeal, and Rule pursuant to 1004B, if applicable, shall thereupon be mailed by the prothonotary or court by first class mail, with such service and any return being noted on the court's docket.

D. The party filing a complaint under Rule 1004 shall forthwith serve it upon the opposite party in the appeal by leaving a copy for or mailing a copy to the address as shown in the magisterial district court records mentioned in subdivision A of this rule. If the opposite party has an attorney of record either in the magisterial district court or court of common pleas proceeding, service upon the opposite party may be made upon the attorney of record instead of upon the opposite party personally.

E. Service and proof of service may be made by attorney or other agent.

Official Note: Subdivision A requires service of a copy of the notice of appeal upon the magisterial district judge as well as upon the appellee, or the appellee's attorney of record. The notice of appeal includes all documents filed with the prothonotary, including a domestic violence affidavit, if applicable. This copy, when received by the magisterial district judge, may operate as a *supersedeas* under Rule 1008. As to subdivision B, there is no return receipt requirement for service by certified or registered mail and consequently no such receipt need be filed with the prothonotary, although if service is by certified or registered mail the sender's receipt must be attached to the proof of service. See Rule 1001(7) and the fourth paragraph of the Note to Rule 1001. The notice of appeal and the proof of service may be filed simultaneously. See also Rule 1006 and its Note. Subdivision C prescribes a pleading type service of the complaint, which may be made by ordinary mail, upon the opposite party in the appeal or the party's attorney of record.

Source

The provisions of this Rule 1005 amended through October 10, 1980, effective November 10, 1980, 10 Pa.B. 4032; amended March 27, 1992, effective 90 days from the date on which the Order is signed, 22 Pa.B. 1893 and 1900; amended August 19, 2020, effective January 1, 2021, 50 Pa.B. 4502. Immediately preceding text appears at serial pages (309579) to (309580).

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(402961) No. 554 Jan. 21

Rule 1006. Striking Appeal.

Upon failure of the appellant to comply with Rule 1004A or Rule 1005B, the prothonotary shall, upon praecipe of the appellee, mark the appeal stricken from the record. The court of common pleas may reinstate the appeal upon good cause shown.

Official Note: This rule is intended to provide sanctions for failing to act within the time limits prescribed.

Source

The provisions of this Rule 1006 amended October 10, 1980, effective November 10, 1980, 10 Pa.B. 4032. Immediately preceding text appears at serial page (43190).

Rule 1007. Procedure on Appeal.

A. The proceeding on appeal shall be conducted *de novo* in accordance with the Rules of Civil Procedure that would be applicable if the action was initially commenced in the court of common pleas.

B. Except as otherwise provided in subdivision C, the action upon appeal may not be limited with respect to amount in controversy, joinder of causes of action or parties, counterclaims, added or changed averments or otherwise because of the particulars of the action before the magisterial district judge.

C. When an appeal is taken from a supplementary action filed pursuant to Rule 342, only those issues arising from the Rule 342 action are to be considered.

Official Note: As under earlier law, the proceeding on appeal is conducted *de novo*, but the former rule that the proceeding would be limited both as to jurisdiction and subject matter to the action before the magisterial district judge (*see Crowell Office Equipment v. Krug*, 247 A.2d 657 (Pa. Super. 1968)) has not been retained. Under subdivision B, the court of common pleas on appeal can exercise its full jurisdiction and all parties will be free to treat the case as though it had never been before the magisterial district judge, subject of course to the Rules of Civil Procedure. The only limitation on this is contained in subdivision C, which makes clear that an appeal from a supplementary action filed pursuant to Rule 342 is not intended to reopen other issues from the underlying action that were not properly preserved for appeal.

In many judicial districts, appeals of magisterial district court judgments are submitted to compulsory arbitration pursuant to Pa.R.C.P. Nos. 1301—1314. If, after the arbitration, the prothonotary enters an award for possession on the docket in favor of the landlord and the tenant fails to maintain the *supersedeas* required by Rule 1008 prior to the prothonotary entering judgment on the award, then the landlord may terminate the *supersedeas* pursuant to Rule 1008B and request an order of possession from the magisterial district judge pursuant to Rule 515. If the prothonotary enters an award on the docket in favor of the tenant and the tenant fails to maintain the *supersedeas* prior to the prothonotary entering judgment on the award, the landlord may not obtain an order of possession between the time that the prothonotary enters the arbitration award on the docket and the time that the landlord files a notice of appeal.

Source

The provisions of this Rule 1007 amended April 5, 2002, effective January 1, 2003, 32 Pa.B. 2199; amended August 19, 2020, effective January 1, 2021, 50 Pa.B. 4491. Immediately preceding text appears at serial page (363299).

Rule 1008. Appeal as *Supersedeas*.

A. Receipt by the magisterial district judge of the copy of the notice of appeal from the judgment shall operate as a *supersedeas*, except as provided in subdivisions B and C of this rule.

B. When a tenant appeals from a judgment for the possession of real property, receipt by the magisterial district judge of the copy of the notice of appeal shall operate as a *supersedeas* only if the tenant at the time of filing the notice of appeal, deposits with the prothonotary a sum of money (or a bond, with surety approved by the prothonotary) equal to the lesser of three months' rent or the rent actually in arrears on the date of the filing of the notice of appeal, based upon the magisterial district judge's order of judgment, and, thereafter, deposits cash or bond with the prothonotary in a sum equal to the monthly rent that becomes due during the period of time the proceedings upon appeal are pending in the court of common pleas, such additional deposits to be made within 30 days following the date of the appeal, and each successive 30-day period thereafter.

Upon application by the landlord, the court shall release appropriate sums from the escrow account on a continuing basis while the appeal is pending to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the appeal.

In the event the tenant fails to deposit the sums of money, or bond, required by this rule when such deposits are due, the prothonotary, upon *praecipe* filed by the landlord, shall terminate the *supersedeas*. Notice of the termination of the *supersedeas* shall be forwarded by first class mail to the attorneys of record, or, if a party is unrepresented, to the party's last known address of record.

When the deposit of money or bond is made pursuant to the rule at the time of filing the appeal, the prothonotary shall make upon the notice of appeal and its copies a notation that it will operate as a *supersedeas* when received by the magisterial district judge.

C. *Indigent Tenants*

(1) Residential tenants who seek to appeal from a magisterial district court judgment for possession and who do not have the ability to pay the lesser of three months' rent or the full amount of the magisterial district court judgment for rent shall file with the office of the prothonotary a tenant's affidavit, as set forth in subdivision C(2).

(2) The tenant's affidavit shall be substantially in one of the following two forms:

[Caption]

TENANT'S *SUPERSEDEAS* AFFIDAVIT
(NON-SECTION 8)

I, _____ (print name and address here), have filed a notice of appeal from a magisterial district court judgment awarding to my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three times my monthly rent or the judgment for rent awarded by the magisterial district court. My total household income does not exceed the income limits set forth in the supplemental instructions for obtaining a stay pending appeal and I have completed an *in forma pauperis* (IFP) affidavit to verify this. I have/ have not (cross out the one that does not apply) paid the rent this month.

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tenant share of the rent as set forth in the “Section 8 Tenant’s *Supersedeas* Affidavit” filed by the tenant.

(4) The prothonotary’s office of the court of common pleas in which the appeal is taken shall provide residential tenants who have suffered a judgment for possession with a “Supplemental Instructions for Obtaining a Stay of Eviction” as it appears on the Forms page of the website of the Unified Judicial System of Pennsylvania at www.pacourts.us.

Official Note: The Forms page is found on the home page of the Unified Judicial System of Pennsylvania at www.pacourts.us. The Supplemental Instructions include both instructions and income limits.

The income limits are stated in monthly amounts and are based upon the most recent poverty income guidelines issued by the Federal Department of Health and Human Services.

(5) When the requirements of subdivisions C(2)-(3) have been met, the prothonotary shall issue a *supersedeas*.

(6) Upon application by the landlord, the court shall release appropriate sums from the escrow account on a continuing basis while the appeal is pending to compensate the landlord for the tenant’s actual possession and use of the premises during the pendency of the appeal.

(7) If the tenant fails to make monthly rent payments to the prothonotary as described in subdivision C(3), the *supersedeas* may be terminated by the prothonotary upon *praecipe* by the landlord or other party to the action. Notice of the termination of the *supersedeas* shall be forwarded by first class mail to the attorneys of record, or, if a party is unrepresented, to the party’s last known address of record.

(8) If the court of common pleas determines, upon written motion or its own motion, that the averments within any of the tenant’s affidavits do not establish that the tenant meets the terms and conditions of subdivision C(1), *supra*, the court may terminate the *supersedeas*. Notice of the termination of the *supersedeas* shall be forwarded by first class mail to the attorneys of record, or, if a party is unrepresented, to the party’s last known address of record.

D. If an appeal is stricken or voluntarily terminated, any *supersedeas* based on it shall terminate. The prothonotary shall pay the deposits of rental to the landlord.

Official Note: Subdivision A provides for an automatic *supersedeas* in appeals from civil actions upon receipt by the magisterial district judge of a copy of the notice of appeal.

Subdivision B, however, does require the deposit of money or approved bond as a condition for *supersedeas* when the appeal is from a judgment for the possession of real property. A new subdivision C was created in 2008 to provide for appeals by indigent residential tenants who are unable to meet the bond requirements of subdivision B.

The request for termination of the *supersedeas*, upon the *praecipe* filed with the prothonotary, may simply state: “Please terminate the *supersedeas* in the within action for failure of the tenant to pay monthly rental as required by Pa.R.C.P.M.D.J. No. 1008 when it became due” and will be signed by the landlord. The prothonotary will then note upon the *praecipe*: “Upon con-

firmation of failure of the tenant to deposit the monthly rent when it became due, the *supersedeas* is terminated,” and the prothonotary will sign and clock the *praecipe*. A copy of the *praecipe* may thereupon be displayed to the magisterial district judge who rendered the judgment, and a request for issuance of an order for possession under Pa.R.C.P.M.D.J. No. 515 may be made.

The deposit of rent required hereunder is intended to apply in all cases, irrespective of the reasons that caused the filing of the complaint before the magisterial district judge in the first instance. Disposition of the monthly rental deposits will be made by the court of common pleas following its *de novo* hearing of the matter on appeal.

In many judicial districts, appeals of magisterial district court judgments are submitted to compulsory arbitration pursuant to Pa.R.C.P. Nos. 1301—1314. If, after the arbitration, the prothonotary enters an award for possession on the docket in favor of the landlord and the tenant fails to maintain the *supersedeas* required by Rule 1008 prior to the prothonotary entering judgment on the award, then the landlord may terminate the *supersedeas* pursuant to Rule 1008B and request an order of possession from the magisterial district judge pursuant to Rule 515. If the prothonotary enters an award on the docket in favor of the tenant and the tenant fails to maintain the *supersedeas* prior to the prothonotary entering judgment on the award, the landlord may not obtain an order of possession between the time that the prothonotary enters the arbitration award on the docket and the time that the landlord files a notice of appeal.

The money judgment portion of a landlord and tenant judgment (*see* Pa.R.C.P.M.D.J. Nos. 514 and 521) would be governed by subdivision A.

Source

The provisions of this Rule 1008 adopted June 1, 1971; amended April 25, 1979, effective in 30 days; amended June 30, 1982, effective August 16, 1982, 12 Pa.B. 2266; amended March 28, 1996, effective March 29, 1996, 26 Pa.B. 1691; amended May 2, 2008, effective May 15, 2008, 38 Pa.B. 2040; amended July 16, 2012, effective immediately, 42 Pa.B. 4913; amended August 16, 2013, effective September 15, 2013, 43 Pa.B. 4969; amended August 19, 2020, effective January 1, 2021, 50 Pa.B. 4491. Immediately preceding text appears at serial pages (363299) to (363300) and (368343) to (368344).

CERTIORARI

Rule 1009. Praecipe for Writ of Certiorari.

A. Unless he was the plaintiff in the action before the magisterial district judge, a party aggrieved by a judgment may file with the prothonotary of the court of common pleas a praecipe for a writ of certiorari claiming that the judgment should be set aside because of lack of jurisdiction over the parties or subject matter, improper venue or such gross irregularity of procedure as to make the judgment void. If the party aggrieved by the judgment was the plaintiff in the action before the magisterial district judge, he may file a praecipe for a writ of certiorari only on the last mentioned ground.

B. If lack of jurisdiction over the parties or the subject matter is claimed, the praecipe may be filed at any time after judgment. Otherwise it shall be filed within thirty (30) days from the date of the judgment.

C. The praecipe shall identify the judgment complained of and the magisterial district judge in whose office the record of the proceedings containing the judgment is filed.

D. The praecipe and the writ shall be on a form which shall be prescribed by the State Court Administrator.

Official Note: Subdivision A sets forth the grounds for certiorari. See the comments concerning the limited nature of certiorari in the note to Rule 1001. The plaintiff in the action before the magisterial district judge, and the word “plaintiff” as used in this rule does not include a defendant who has sued on a cross-complaint, may file a praecipe for a writ of certiorari only on the ground of gross irregularity. Having instituted the proceedings before the magisterial district judge, the plaintiff should not be permitted to challenge jurisdiction or venue.

Under subdivision B, the praecipe for the writ of certiorari must be filed within thirty days after the date of the judgment, except when a question of jurisdiction is raised. There is no time limit on raising a question of jurisdiction by certiorari. *Flaherty v. Atkins*, 189 Pa. Super. 550, 152 A.2d 280 (1959). A party who files his praecipe after the thirty day period has run can be heard only on the question of jurisdiction (if permitted to raise that question under subdivision A) even though he claims improper venue or gross irregularity along with his claim of lack of jurisdiction.

Source

The provisions of this Rule 1009 amended through April 25, 1979, effective May 25, 1979, 9 Pa.B. 1499. Immediately preceding text appears at serial page (25119).

Rule 1010. Bond for Writ of Certiorari.

No bond or other security shall be required for issuance of the writ of certiorari.

Official Note: As in the case of appeals (see Rule 1003), no bond or other security is required for certiorari, but see Rule 1013 with respect to supersedeas on certiorari.

Rule 1011. Issuance and Service of Writ of Certiorari.

A. Upon receipt of the praecipe for a writ of certiorari, the prothonotary shall issue the writ and direct it to the magisterial district judge in whose office the record of the proceedings containing the judgment is filed. The writ shall be delivered for service to the party who filed the praecipe.

B. The party obtaining the writ shall serve it, by personal service or by certified or registered mail, upon the magisterial district judge to whom it was directed. In like manner, he shall also serve a copy of the writ upon the opposite party. The address of the opposite party for the purpose of service shall be his address as listed on the complaint form filed in the office of the magisterial district judge or as otherwise appearing in the records of that office. If the opposite party has an attorney of record named in the complaint form filed in the office of the magisterial district judge, the service upon the opposite party may be made upon the attorney of record instead of upon the opposite party personally.

C. If proof of service of the writ upon the magisterial district judge and the opposite party is not filed with the prothonotary within five (5) days after delivery of the writ for service, the prothonotary shall, upon praecipe of the opposite party, mark the writ stricken from the record and the writ shall not be reinstated nor shall any new writ issue.

D. Service and proof of service may be made by attorney or other agent.

Official Note: The provisions as to service of the writ parallel those for service of notices of appeal. Subdivision C contains sanctions for failing to comply with the prescribed time limits, and reinstatement of the writ or the issuance of a new one is not allowed.

Source

The provisions of this Rule 1011 amended November 21, 1975, 5 Pa.B. 3020. Immediately preceding text appears at serial page (21214).

Rule 1012. Return by Magisterial District Judge.

The magisterial district judge to whom the writ of certiorari is directed shall, within ten (10) days after its receipt by him, make return to the writ by transmitting to the prothonotary a certified true copy of the record of the proceedings containing the judgment.

Official Note: The certified true copy of the record of the proceedings containing the judgment will be a certified true copy of the filled out complaint form prescribed by the State Court Administrator.

Rule 1013. Writ of Certiorari as Supersedeas.

A. Receipt of the writ of *certiorari* by the magisterial district judge to whom it was directed shall operate as a *supersedeas*, except as provided in subdivisions B and C of this rule.

B. When a tenant obtains a writ of *certiorari* involving a judgment for the possession of real property, receipt of the writ by the magisterial district judge shall operate as a *supersedeas* only if the tenant obtaining the writ at the time of filing the writ, deposits with the prothonotary a sum of money (or a bond, with surety approved by the prothonotary) equal to the lesser of three months' rent or the rent actually in arrears on the date of the filing of the *praecipe* for writ of *certiorari* ("*praecipe*"), as determined by the magisterial district judge, and, thereafter, deposits cash or bond with the prothonotary in a sum equal to the monthly rent that becomes due during the period of time the proceedings upon writ are pending in the court of common pleas, such additional deposits to be made within 30 days following the date of the filing of the *praecipe*, and each successive 30-day period thereafter.

Upon application by the landlord, the court shall release appropriate sums from the escrow account on a continuing basis while the writ is pending and while the ensuing proceeding is pending (in the event the writ is granted) to compensate the

landlord for the tenant's actual possession and use of the premises during the pendency of the writ and during the pendency of the ensuing proceeding (in the event the writ is granted).

In the event that the tenant filing the *praecipe* fails to deposit the sums of money, or bond, required by this rule when such deposits are due, the prothonotary, upon *praecipe* filed by the landlord, shall terminate the *supersedeas*. Notice of the termination of the *supersedeas* shall be forwarded by first class mail to the attorneys of record, or, if a party is unrepresented to the party's last known address of record.

When the deposit of money or bond is made pursuant to this Rule at the time of the filing of the *praecipe*, the prothonotary shall make upon the writ and its copies a notation that the writ will operate as a *supersedeas* when received by the magisterial district judge.

C. *Indigent Tenants*

(1) Residential tenants who seek to file a *praecipe* involving a magisterial district court judgment for possession and who do not have the ability to pay the lesser of three months' rent or the full amount of the magisterial district court judgment for rent shall file with the office of the prothonotary a tenant's affidavit, as set forth in subdivision B(2).

(2) The tenant's affidavit shall be substantially in one of the following two forms:

[Caption]

TENANT'S *SUPERSEDEAS* AFFIDAVIT
(NON-SECTION 8)

I, _____ (print name and address here), have filed a *praecipe* for a writ of *certiorari* to review a magisterial district court judgment awarding to my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three times my monthly rent or the judgment for rent awarded by the magisterial district court. My total household income does not exceed the income limits set forth in the instructions for obtaining a stay pending issuance of a writ of *certiorari* and I have completed an *in forma pauperis* (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

1000-15

OR

[Caption]

SECTION 8 TENANT'S *SUPERSEDEAS* AFFIDAVIT

I, _____ (print name and address here), have filed a *praecipe* for a writ of *certiorari* to review a magisterial district court judgment awarding my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three times my monthly rent or the actual rent in arrears. My total household income does not exceed the income limits set forth in the Instructions for obtaining a stay pending issuance of writ of *certiorari* and I have completed an *in forma pauperis* (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

The total amount of monthly rent that I personally pay to the landlord is \$ _____. I hereby certify that I am a participant in the Section 8 program and I am not subject to a final (*i.e.*, non-appealable) decision of a court or government agency that terminates my right to receive Section 8 assistance based on my failure to comply with program rules.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date

SIGNATURE OF TENANT

(3)(a) If the rent has already been paid to the landlord in the month in which the *praecipe* is filed, the tenant shall pay into an escrow account with the prothonotary the monthly rent in 30-day intervals from the date the *praecipe* was filed; or

(b) If the rent has not been paid at the time of filing the *praecipe*, the tenant shall pay:

(i) at the time of filing the *praecipe*, a sum of money equal to one third (1/3) of the monthly rent;

(ii) an additional deposit of two thirds (2/3) of the monthly rent within 20 days of filing the *praecipe*; and

(iii) additional deposits of one month's rent in full each 30 days after filing the *praecipe*. The amount of the monthly rent is the sum of money found by the magisterial district judge to constitute the monthly rental for the leasehold premises pursuant to Rule 514A. However, when the tenant is a participant in the Section 8 program, the tenant shall pay the tenant share of the rent as set forth in the "Section 8 Tenant's *Supersedeas* Affidavit" filed by the tenant.

(4) The prothonotary's office of the court of common pleas in which the *praecipe* is filed shall provide residential tenants who have suffered a judgment for possession with a "Supplemental Instructions for Obtaining a Stay of Evic-

tion” as it appears on the Forms page of the website of the Unified Judicial System of Pennsylvania at www.pacourts.us.

Official Note: The Forms page is found on the home page of the Unified Judicial System of Pennsylvania at www.pacourts.us. The Supplemental Instructions include both instructions and income limits.

The income limits are stated in monthly amounts and are based upon the most recent poverty income guidelines issued by the Federal Department of Health and Human Services.

(5) When the requirements of subdivisions C(2)-(3) have been met, the prothonotary shall issue a *supersedeas*.

(6) Upon application by the landlord, the court shall release appropriate sums from the escrow account on a continuing basis while the writ is pending and while the ensuing proceeding is pending (in the event the writ is granted) to compensate the landlord for the tenant’s actual possession and use of the premises during the pendency of the writ and during the pendency of the ensuing proceeding (in the event the writ is granted).

(7) If the tenant fails to make monthly rent payments to the prothonotary as described in subdivision C(3), the *supersedeas* may be terminated by the prothonotary upon *praecipe* by the landlord or other party to the action. Notice of the termination of the *supersedeas* shall be forwarded by first class mail to the attorneys of record, or, if a party is unrepresented, to the party’s last known address of record.

(8) If the court of common pleas determines, upon written motion or its own motion, that the averments within any of the tenant’s affidavits do not establish that the tenant meets the terms and conditions of subdivision C(1), *supra*, the court may terminate the *supersedeas*. Notice of the termination of the *supersedeas* shall be forwarded by first class mail to the attorneys of record, or, if a party is unrepresented, to the party’s last known address of record.

D. If a writ of *certiorari* is stricken, dismissed, or discontinued, any *supersedeas* based on it shall terminate. The prothonotary shall pay the deposits of rental to the landlord.

Official Note: As in appeals (*see* Pa.R.C.P.M.D.J. No. 1008), *certiorari* operates as an automatic *supersedeas* in civil actions when the writ is received by the magisterial district judge. If the writ involves a judgment for the possession of real property, however, it will operate as a *supersedeas* upon receipt by the magisterial district judge only if money is paid or a bond is filed conditioned as stated in the rule. This Rule has been amended to require a payment equal to the lesser of three months’ rent or the rent actually in arrears in order for the writ involving a judgment for the possession of real property to act as a *supersedeas* to ensure consistency between this Rule and Pa.R.C.P.M.D.J. No. 1008 (Appeal as *Supersedeas*). A new subdivision C was created in 2008 to provide a *praecipe* for writ of *certiorari* process for indigent residential tenants who are unable to meet the bond requirements of subdivision B.

The request for termination of the *supersedeas*, upon the *praecipe* filed with the prothonotary, may simply state: “Please terminate the *supersedeas* in the within action for failure of the tenant to pay monthly rental as required by Pa.R.C.P.M.D.J. No. 1013 when it became due” and will be signed by landlord. The prothonotary will then note upon the *praecipe*: “Upon confir-

mation of failure of the tenant to deposit the monthly rent when it became due the *supersedeas* is terminated,” and the prothonotary will sign and clock the *praecipe*. A copy of the *praecipe* may thereupon be displayed to the magisterial district judge who rendered the judgment, and a request for issuance of an order for possession under Pa.R.C.P.M.D.J. No. 515 may be made.

The money judgment portion of a landlord and tenant judgment (*see* Pa.R.C.P.M.D.J. Nos. 514 and 521) would be governed by subdivision A of this rule.

SUPPLEMENTAL INSTRUCTIONS FOR OBTAINING A STAY OF EVICTION

* * * * **IMPORTANT** * * * * **PLEASE READ THESE INSTRUCTIONS CAREFULLY!**

This document contains important information about your case. Failure to comply with any instructions provided in these materials may cause you to be evicted before your appeal or writ is heard.

1. **FOR TENANTS—SUPERSEDEAS:** If you are a tenant and you filed the notice of appeal or praecipe for writ of certiorari, you must pay money into an escrow account to remain in the property until your appeal or writ is decided. This is called a “supersedeas.” The supersedeas will suspend the magisterial district court judgment and will prevent your eviction until your case is heard by a judge and a final decision is made on the appeal or writ. **IF YOU FAIL TO PAY YOUR MONTHLY RENT INTO ESCROW IN FULL AND ON TIME, YOU COULD BE EVICTED BEFORE YOUR APPEAL OR WRIT IS HEARD.**

Begin by looking at the income limits attached to these instructions.

If your income is below the income limits, complete a Tenant’s Affidavit, pursuant to Pa.R.C.P.M.D.J. No. 1008(C)(2) or 1013(C)(2). These affidavits are available on the website of the Administrative Office of Pennsylvania Courts (www.aopc.org). Then follow the instructions for low-income tenants below. There are several different options available; pick the option (A, B, or C) that best describes your situation.

If your income is higher than the income limits attached to these instructions, follow the instructions for D.

A. If you are a low-income tenant and there was a money judgment entered against you for non-payment of rent, and you **HAVE NOT** paid rent for the month in which the notice of appeal or praecipe for writ of certiorari is filed, you must:

1. File an in forma pauperis petition (a petition for low-income parties) pursuant to Pa.R.C.P. No. 240;
2. Pay one-third of your monthly rent into an escrow account with the prothonotary’s office at the time the notice of appeal or praecipe for writ of certiorari (“praecipe”) is filed;
3. Pay the remaining two-thirds (2/3) of your monthly rent into the escrow account within twenty (20) days of the date the notice of appeal or praecipe was filed; and

4. Pay your monthly rent on an ongoing basis into the escrow account in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of your trial.

B. If you are a low-income tenant, and there was a money judgment against you for non-payment of rent, and you HAVE paid rent for the month in which the notice of appeal or praecipe for writ of certiorari (“praecipe”) is filed, you do not have to pay rent at the time you file your notice of appeal or praecipe. You must:

1. File an in forma pauperis petition (a petition for low-income parties), pursuant to Pa.R.C.P. No. 240;

2. Pay your monthly rent on an ongoing basis into an escrow account with the prothonotary in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of trial. It is important to count the thirty (30) days exactly because the date of your payment will change depending on the number of days in a given month.

C. If you are a low-income tenant, and no money judgment was entered against you for non-payment of rent, you do not have to pay rent at the time you file your notice of appeal or praecipe for writ of certiorari (“praecipe”). *This option is to be used if at the magisterial district court hearing, the judge determined that you owed “zero” or “nothing” in rent.* You must:

1. File an in forma pauperis petition (a petition for low-income parties), pursuant to Pa.R.C.P. No. 240;

2. Pay your monthly rent on an ongoing basis into an escrow account with the prothonotary in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of your trial. It is important to count the thirty (30) days exactly because the date of your payment will change depending on the number of days in a given month.

D. If your income is higher than the income limits on the attached chart, you must:

1. Pay the fee to file a notice of appeal or praecipe for writ of certiorari (“praecipe”);

2. Pay the lesser of three (3) months’ rent or the amount of rent awarded to the landlord in magisterial district court into an escrow account with the prothonotary’s office at the time the notice of appeal or praecipe is filed; and

3. Pay your monthly rent into the escrow account in thirty (30) day intervals from the date the notice of appeal or praecipe was filed until the time of trial. It is important to count the thirty (30) days exactly because the date on your payment will change depending on the number of days in a given month.

INCOME LIMITS
2008 HHS Poverty Income Guidelines
Expressed in Monthly Amounts

Size of Family Unit	Poverty Guideline Monthly Amount
1	\$866.66
2	1,166.66
3	1,466.66
4	1,766.66
5	2,066.66
6	2,366.66
7	2,666.66
8	2,966.66
For each additional person, add	300.00

Source

The provisions of this Rule 1013 amended through June 30, 1982, effective August 16, 1982, 12 Pa.B. 2266; amended March 28, 1996, effective March 29, 1996, 26 Pa.B. 1691; amended May 2, 2008, effective May 15, 2008, 38 Pa.B. 2040; amended July 16, 2012, effective immediately, 42 Pa.B. 4913; amended August 16, 2013, effective September 15, 2013, 43 Pa.B. 4969; amended August 19, 2020, effective January 1, 2021, 50 Pa.B. 4491. Immediately preceding text appears at serial pages (363304), (368345) to (368346), (363307) to (373308) and (370085).

Rule 1014. Orders of Court in Certiorari Proceedings.

A. If the court of common pleas finds in favor of the party obtaining the writ, it shall enter an order that the judgment is set aside without prejudice to the cause of action.

B. If the court of common pleas finds against the party obtaining the writ, it shall enter an order that the writ is dismissed.

Official Note: Subdivision A states the rule that if the court finds in favor of the party obtaining the writ, it merely sets the judgment below aside without prejudice to the cause of action. The grounds for certiorari do not go to the merits of the case but only to matters that usually can be cured by later selecting a proper tribunal. See *Statler v. Alexander Film Co.*, 21 D & C 512 (1934).

Subdivision B provides for dismissal of the writ if the finding is against the party obtaining it. This leaves the judgment below in full force and effect. See Rule 1013C.

Rule 1015. Certiorari and Appeal Not Permitted.

A judgment may not be the subject of both certiorari and appeal. The prothonotary shall mark stricken from the record any writ of certiorari concerning a

judgment as to which an appeal is pending if proof of service of copies of the notice of appeal has been filed. If the appeal is stricken or voluntarily terminated, the writ of certiorari shall be reinstated upon praecipe of the party obtaining the writ.

Official Note: This rule forbids bringing both certiorari and an appeal. An appeal involves a trial de novo on the merits, although in many cases first in the form of compulsory arbitration, without regard to any defects in the proceedings below, whereas certiorari does attack defects, not going to the merits, in the proceedings below. To attempt to combine these two procedures would cause administrative difficulties hardly worth the effort, considering that a successful certiorari would often merely allow the case to be tried again, either before another magisterial district judge or in the court of common pleas, and that an appeal actually is a second trial although it may have changed aspects (see Rule 1007B). Probably because of these administrative difficulties, the courts of common pleas have rather uniformly prohibited joining the two remedies of appeal and certiorari and have either required an election or forced the prosecution of the first type filed to the exclusion of the other. See, for example, *Ward v. Harligan*, 1 W.N.C. 72 (1874); *Russell v. Shirk*, 3 C.C. 287 (1888). Since under the 1968 Constitution a party is entitled as of right to an appeal (Art. V, § 9) but not to certiorari (Art. V, Schedule, 26), it was decided to provide in this rule that the remedy of appeal would take precedence in all cases and that a writ of certiorari addressed to a judgment under appeal (from the time of filing proof of service) would be stricken. This would apply even in the perhaps rare case when one party appeals and the other files certiorari.

STATEMENT OF OBJECTION

Rule 1016. Statement of Objection.

A. Any party in interest aggrieved by an order or determination made by a magisterial district judge under Rule 420 or Rule 519.1 may obtain a reconsideration thereof in the court of common pleas by filing a statement of objection to the order or determination with the prothonotary and with the magisterial district judge in whose office the order or determination was made.

B. The statement of objection shall be filed with the prothonotary and the magisterial district judge within ten (10) days after the date of the order or determination to which objection is made.

Official Note: This rule and Rules 1017—1020 provide a system for reconsideration in the court of common pleas of orders and determinations of magisterial district judges dealing with execution matters, and abandonment of manufactured homes.

Under subdivision B of this rule, the statement of objection must be filed within ten days after the date of the questioned order or determination. The time limit for filing a statement of objection need not be the same as that for filing a notice of appeal from a judgment. See the Judicial Code, § 5571(c)(4), 42 Pa.C.S. § 5571(c)(4), as amended by § 10(67) of the Judiciary Act Repealer Act, Act of April 28, 1978, P.L. 202, No. 53. It may be noted that under Pa. R.C.P. Nos. 3206(b) and 3207(b) objections to sheriff's determinations must be made within ten days after the date of mailing of the determination.

Source

The provisions of this Rule 1016 amended April 25, 1979, effective May 25, 1979, 9 Pa.B. 1499; amended December 20, 2013, effective February 20, 2014, 44 Pa.B. 14. Immediately preceding text appears at serial pages (368348) and (334179).

Rule 1017. Form and Content of Statement of Objection.

The statement of objection, which shall be on a form which shall be prescribed by the State Court Administrator, shall merely state that the party filing it objects to the order or determination described in the statement.

Official Note: This rule prescribes the form and content of the statement of objection. Compare Pa. R.C.P. Nos. 3206(b), 3207(b).

Rule 1018. Duties of Magisterial District Judge Upon Receipt of Statement of Objection.

A. Immediately upon receipt of the statement of objection, the magisterial district judge shall send a copy of it by ordinary mail to all other parties in interest.

B. Within ten (10) days after receiving the statement of objection, the magisterial district judge shall file with the prothonotary a certified true copy of the record of actions taken by the magisterial district judge under Rule 420 or Rule 519.1, but copies of only those appeals, objections, claims, exceptions or requests considered under Rule 420 or Rule 519.1 that are pertinent to the statement of objection need be attached to that record.

Official Note: As to the procedure in subdivision A, compare Pa. R.C.P. Nos. 3206(b), 3207(b).

Subdivision B is intended to bring before the court copies of the documents on file in the office of the magisterial district judge pertaining to the matter in question. The attachments to the record of Rule 420 or Rule 519.1 actions referred to in this subdivision are notations by the magisterial district judge of appeals taken under Rule 408C and objections to levy under Rule 413, property claims under Rule 413, exceptions to distribution under Rule 416C, requests to set aside sale under Rule 420C filed in the office of the magisterial district judge, and determinations of manufactured home abandonment under Rule 519.1.

Source

The provisions of this Rule 1018 amended December 20, 2013, effective February 20, 2014, 44 Pa.B. 14. Immediately preceding text appears at serial page (334179).

Rule 1019. Consideration of Statement of Objection by Court of Common Pleas.

A. Upon consideration of the statement of objection, the court of common pleas shall take such action and make such orders as shall be just and proper.

B. The matters raised by the statement of objection shall be considered de novo by the court of common pleas.

Official Note: Consideration of the matters raised by the statement of objection will be de novo and the court is given broad latitude and discretion in disposing of these matters. Although the proceedings are de novo, this will not excuse failure to comply with whatever time limitations are imposed (see Rules 408C, 413, 416C, 420C, and 519.1) for raising before the magisterial district judge the matters now before the court of common pleas.

Source

The provisions of this Rule 1019 amended December 20, 2013, effective February 20, 2014, 44 Pa.B. 14. Immediately preceding text appears at serial pages (334179) to (334180).

Rule 1020. Statement of Objection to Operate as Stay.

Until further order of the court of common pleas, receipt by the magisterial district judge of the statement of objection shall operate as a stay of any execution proceedings that may be affected by the proceedings on the statement.

Official Note: Under this rule, receipt by the magisterial district judge of the statement of objection operates initially as an automatic stay of the affected execution proceedings.

Rule 1081. Acts of Assembly Suspended.

All Acts of Assembly or parts thereof inconsistent with the rules governing appellate proceedings with respect to judgments and other decisions of magisterial district judges in civil actions are suspended to the extent of such inconsistency.

The following Acts of Assembly are suspended insofar as they are inconsistent with the foregoing rules:

- (1) Act of July 6, 1995, amending the Act of April 6, 1951, (P. L. 69, No. 20), known as Act 33 of 1995;
- (2) Act of July 6, 1995, amending the Act of April 6, 1951, (P. L. 69, No. 20), known as Act 36 of 1995.

Adopted June 1, 1971. Amended April 25, 1979, effective in 30 days; June 30, 1982, effective in 30 days after July 17, 1982; March 28, 1996, effective March 29, 1996.

Source

The provisions of this Rule 1081 amended through June 30, 1982, effective August 16, 1982, 12 Pa.B. 2266; amended March 28, 1996, effective March 29, 1996, 26 Pa.B. 1691. Immediately preceding text appears at serial pages (168563) to (168564).

Rule 1082. Acts of Assembly Not Suspended.

The following Acts of Assembly shall not be deemed suspended or affected:

- (1) Section 1 of the Act of January 24, 1966, P. L. (1965) 1534, as amended by § 1 of the Act of August 11, 1967, P. L. 204, No. 68 and by § 2 of the Act of June 11, 1968, P. L. 159, No. 89, 35 P. S. § 1700-1.

Official Note: This Section provides, inter alia, that no tenant shall be evicted for any reason while rent is deposited in escrow because the dwelling in question has been certified as unfit for human habitation.

(2) Section 726 of the Judicial Code, 42 Pa.C.S. § 726.

Official Note: This Section deals with extraordinary jurisdiction of the Supreme Court.

(3) Section 5103(a) of the Judicial Code, 42 Pa.C.S. § 5103(a).

Official Note: This Section provides for a transfer of the cause if the appeal is taken to the wrong court.

(4) Section 5571(b), (c)(4) and (f) of the Judicial Code, as amended with respect to subsections (b) and (c)(4) by § 10(67) of the Judiciary Act Repealer Act, Act of April 28, 1978, P. L. No. 53.

Source

The provisions of this Rule 1082 amended April 25, 1979, effective May 25, 1979, 9 Pa.B. 1499. Immediately preceding text appears at serial pages (31616) to (31617).

[Next page is 1200-1.]

1000-24