

**CHAPTER 800. MINORS AND INCAPACITATED
PERSONS AS PARTIES**

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Source

The provisions in this Chapter 800 were adopted June 1, 1971, effective October 1, 1971, unless otherwise noted.

Rule 801. Definitions.

As used in this chapter:

(1) “Action” includes a civil action as defined by Rule 301 and an action by a landlord against a tenant for the recovery of possession of real property pursuant to Rule 501.

Official Note: This chapter applies to all actions, civil in nature, within the jurisdiction of a magisterial district judge.

(2) “Minor” means an individual under the age of eighteen years.

(3) “Incapacitated person” means an adult who has a guardian appointed by a court of competent jurisdiction pursuant to 20 Pa.C.S. § 5511.

(4) “Guardian”, except as otherwise indicated in Rules 808B and 816B, means—

(a) in the case of a minor, a guardian of the minor appointed by any court of competent jurisdiction or by a probated will, a parent of the minor or, if selected by the minor to represent him as guardian, any adult person.

(b) in the case of incapacitated persons, a guardian or other fiduciary appointed by a court of competent jurisdiction for the incapacitated person or the incapacitated person’s estate.

Official Note: The definition of “minor” is the same as that set forth in Pa.R.C.P. No. 76 and is in conformity with pertinent statutory provisions. *See*, for example, § 102 of the Probate, Estates and Fiduciaries Code, 20 Pa.C.S. § 102. “Incapacitated person” is defined as one who already has a guardian appointed pursuant to 20 Pa.C.S. § 5511, the reason for not adopting the rest of the definition in Pa.R.C.P. No. 2051 being principally that a magisterial district judge should not become involved in appointing guardians ad litem. The definition of “guardian” with respect to a minor is necessarily broad in view of the system adopted in Rule 805. The definition of “guardian” with respect to an incapacitated person follows generally that found in Pa.R.C.P. No. 2051.

Source

The provisions of this Rule 801 amended through January 29, 1976, effective immediately, 6 Pa.B. 361; amended September 18, 1990, effective immediately, 20 Pa.B. 5042; amended March 13, 2015, effective April 12, 2015, 45 Pa.B. 1492. Immediately preceding text appears at serial pages (370079) to (370080).

Rule 802. Minor May Be Party to Action.

A minor is not required to be represented by a guardian in an action before a magisterial district judge.

Official Note: Under this rule, a minor need not be represented by a guardian in a civil action before a magisterial district judge. This is a departure from the procedure in other tribunals prescribed by Pa.R.C.P. Nos. 2027 and 2031. This difference in procedure is due in part to the determination that magisterial district judges should not be required or allowed to appoint guardians ad litem, considering the expedition with which civil actions before magisterial district judges are required to be handled under the general rules of civil procedure applicable to magisterial district judges. Since magisterial district judges will not be permitted to appoint guardians ad litem (*see* Rule 819), it would be manifestly unfair to allow a minor plaintiff to bring suit by a “next friend” guardian but to require the appointment of a guardian by a court of common pleas before a suit could be brought against a minor defendant. It is considered that ample protection will be afforded the minor party under Rule 805. *See also* the note to Rule 807.

The rules in this chapter are not, of course, intended to change the law governing the basic legal liability of minors.

Source

The provisions of this Rule 802 amended September 18, 1990, effective immediately, 20 Pa.B. 5042; amended March 13, 2015, effective April 12, 2015, 45 Pa.B. 1492. Immediately preceding text appears at serial page (370080).

Rule 803. Entitlement of Complaint.

The complaint in an action before a magisterial district judge to which a minor is a party shall be entitled in the name of the minor, without reference to the party’s minority or any guardian. The minor shall be designated by the initials of his or her first and last name.

Official Note: The complaint will be entitled in the name of the minor, whether plaintiff or defendant. However, the minor shall be designated by the initials of his or her first and last name. If a guardian does represent the minor, this will be reflected by a notice of intent to represent attached to the complaint form as required by Rule 805B.

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*. *See* Rule 217.

Source

The provisions of this Rule 803 amended September 18, 1990, effective immediately, 20 Pa.B. 5042; amended March 13, 2015, effective April 12, 2015, 45 Pa.B. 1492; amended June 1, 2018, effective November 1, 2018, 48 Pa.B. 3581. Immediately preceding text appears at serial pages (376574) to (376575).

Rule 804. Service of the Complaint.

Service of the complaint upon a minor defendant, or of a cross-complaint upon a minor plaintiff, shall be upon the minor in the manner prescribed for service of like process upon an adult party.

Official Note: See Rules 307, 308 and 315.

Source

The provisions of this Rule 804 amended March 13, 2015, effective April 12, 2015, 45 Pa.B. 1492. Immediately preceding text appears at serial page (309569).

Rule 805. Representation of Minor by Guardian.

A. A guardian may represent a minor party by filing with the magisterial district judge before whom the action is pending a written notice stating the guardian's name, address, entitlement to act as guardian under Rule 801(4)(a) and intention to represent the minor party as guardian. Such a notice shall be filed on a Guardian's Notice of Intent to Represent Minor Party form.

B. Upon receipt of a notice of intent to act as guardian, the magisterial district judge shall note thereon the time and date of its filing and attach it to the record copy of the complaint form.

C. Only one guardian may represent the minor party. If more than one person files a notice of intent to act as guardian, precedence shall be given in the order indicated in Rule 801(4)(a), and to the one first filing as between those of the same class.

Official Note: Subdivision A sets up a system which is intended to preserve expedition in the processing of civil cases before magisterial district judges in which a minor is a party and at the same time afford sufficient protection to the minor. Under this rule, read in connection with the definition of "guardian" in Rule 801(4)(a), guardians appointed by a court or by will and parents can represent the minor with or without the minor's consent, but others are subject to the minor's selection. Subdivision B requires the notice of intent to be attached to the complaint form, and subdivision C provides for an automatic selection as between competing "guardians". Of course, one who has filed a notice of intent to represent may withdraw, in which event the next guardian in precedence, if any, would represent the minor party.

Source

The provisions of this Rule 805 amended September 18, 1990, effective immediately, 20 Pa.B. 5042; amended March 27, 1992, effective 90 days from the date on which the Order is signed, 22 Pa.B. 1893 and 1900; amended March 13, 2015, effective April 12, 2015, 45 Pa.B. 1492. Immediately preceding text appears at serial page (309569).

Rule 806. Guardian to Supervise Action.

When a minor party is represented by a guardian—

(1) The guardian shall supervise and control the conduct of the action in behalf of the minor.

(2) Notices required to be given by the magisterial district judge shall, if the party to whom the notice must be given is a minor represented by a guardian, be given to the guardian.

Official Note: Compare Pa.R.C.P. No. 2027.

Source

The provisions of this Rule 806 amended March 13, 2015, effective April 12, 2015, 45 Pa.B. 1492. Immediately preceding text appears at serial pages (309569) to (309570).

Rule 807. Judgment; Costs.

A. Judgment may be entered for or against the minor party whether or not the minor party is represented by a guardian.

B. A judgment entered in the action shall be the obligation of the minor only. A guardian shall not be individually liable for the payment of any judgment entered against the minor or for the costs of the action.

Official Note: Subdivision A of this rule follows the concept adopted in Rule 802. In view of the right of appeal de novo from judgments rendered by magisterial district judges and the protections that are available under these rules, it was felt that such a judgment against a minor party should not be set aside, even as a discretionary matter, on the ground that the minor was not represented by a guardian. Compare *Hamilton v. Moore*, 335 Pa. 433, 6 A.2d 787 (1939).

As to subdivision B, compare Pa.R.C.P. No. 2038. Requiring a minor plaintiff's guardian to pay costs seemed undesirable and unnecessary with respect to civil actions before magisterial district judges.

Source

The provisions of this Rule 807 amended March 13, 2015, effective April 12, 2015, 45 Pa.B. 1492. Immediately preceding text appears at serial page (309570).

Rule 808. Compromise, Settlement, Discontinuance and Payment.

A. If a minor party is represented by a guardian, the guardian may compromise or settle the action on behalf of the minor or may discontinue the action if it was brought by the minor. A minor party not represented by a guardian may compromise or settle the action or may discontinue the action if it was brought by the minor.

B. The amount of a compromise, settlement or judgment in favor of a minor party shall be paid to the guardian of the estate of the minor qualified to receive the fund if the minor party has one or one is to be appointed. If the minor has no such guardian, and none is to be appointed, the amount shall be paid to the

guardian of the person or to the natural guardian or to the person or agency by whom the minor is maintained or to the minor.

Official Note: Compare Pa.R.C.P. No. 2039.

Source

The provisions of this Rule 808 amended January 29, 1976, 6 Pa.B. 361; amended September 18, 1990, effective immediately, 20 Pa.B. 5042; amended March 13, 2015, effective April 12, 2015, 45 Pa.B. 1492. Immediately preceding text appears at serial page (309570).

Rule 809. Incapacitated Person May Be Party To Action.

An incapacitated person may be a party to an action before a magisterial district judge if the incapacitated person is represented by a court appointed guardian.

Official Note: Since an “incapacitated person” as defined in Rule 801(3) is an adult who already has a guardian appointed pursuant to 20 Pa.C.S. § 5511, this rule requires that the incapacitated person be represented by a court appointed guardian. See Rule 812A. Under Rule 819, the magisterial district judge cannot appoint a guardian or guardian ad litem.

See also Rules 813 and 815 and the notes to those rules.

Source

The provisions of this Rule 809 amended March 13, 2015, effective April 12, 2015, 45 Pa.B. 1492. Immediately preceding text appears at serial page (309571).

Rule 810. Entitlement of Complaint.

The complaint in an action before a magisterial district judge to which an incapacitated person is a party shall be entitled in the name of the incapacitated person, followed by the phrase “an incapacitated person, represented by A, Guardian.” The address of the incapacitated person and that of the guardian shall be shown on the complaint form.

Official Note: Since the rules in this chapter relating to incapacitated persons deal with persons who already have guardians, the complaint is entitled to show that the incapacitated person, whether plaintiff or defendant, is represented by a guardian. Compare Pa.R.C.P. No. 2054.

Source

The provisions of this Rule 810 amended September 18, 1990, effective immediately, 20 Pa.B. 5042; amended March 13, 2015, effective April 12, 2015, 45 Pa.B. 1492. Immediately preceding text appears at serial page (309571).

Rule 811. Service of the Complaint.

Service of the complaint upon a defendant who is an incapacitated person, or of a cross-complaint upon a plaintiff who is an incapacitated person, shall be upon the incapacitated person’s guardian. This service shall be made in accordance with Rules 307, 308 and 315.

Official Note: Service is required to be upon the guardian. These rules generally assume the existence of a guardian whose identity is known. Compare Pa.R.C.P. No. 421.

Source

The provisions of this Rule 811 amended July 16, 2001, effective August 1, 2001, 31 Pa.B. 4055; amended March 13, 2015, effective April 12, 2015, 45 Pa.B. 1492. Immediately preceding text appears at serial page (309571).

Rule 812. Guardian to Represent Incapacitated Person and Supervise Action.

A. The guardian of a party who is an incapacitated person shall represent the incapacitated person and shall supervise and control the conduct of the action in behalf of the incapacitated person.

B. Notices required to be given by the magisterial district judge shall, if the party to whom the notice must be given is an incapacitated person, be given to the guardian of the incapacitated person.

Official Note: Compare Pa.R.C.P. Nos. 421, 2053.

Source

The provision of this Rule 812 amended March 13, 2015, effective April 12, 2015, 45 Pa.B. 1492. Immediately preceding text appears at serial page (309571).

Rule 813. Procedure When Incapacitated Person Not Designated as Such.

A. Except as provided in subdivisions B and C of this rule, if during the pendency of the action the magisterial district judge finds that a party not designated in the complaint as an incapacitated person represented by a guardian is an incapacitated person, the magisterial district judge shall dismiss the proceeding without prejudice. Such a finding shall be based on the fact that the party has a guardian appointed by a court of competent jurisdiction pursuant to 20 Pa.C.S. § 5511.

B. If the party as to whom such a finding is made is one of several plaintiffs or defendants, the proceedings shall be dismissed only as to the incapacitated person.

C. A complaint filed by a party who is an incapacitated person but not designated as such in the complaint may be amended by the incapacitated person's guardian, at any time during the pendency of the action before judgment, to state that the party is an incapacitated person represented by a guardian. A complaint filed against a party who is an incapacitated person but not designated as such may be amended to state that the party is an incapacitated person represented by a guardian only with the written consent of the guardian, which shall be attached to the record copy of the complaint form.

Official Note: With the exceptions stated, subdivision A of this rule requires that the proceedings be dismissed without prejudice when the magisterial district judge finds that a party not designated in the complaint as an incapacitated person represented by a guardian is actually an incapacitated person, that is, one who already has a guardian appointed pursuant to 20 Pa.C.S. § 5511 (*see* Rule 801(3)). This rule is intended to take care of a situation in which the appointment of a guardian is not disclosed or not known at the time the complaint is filed.

The exception in the first sentence of subdivision C contemplates a case in which the incapacitated person files a complaint without disclosing the appointment of a guardian and this fact comes to light during the pendency of the action. This exception will allow the guardian to make what is in effect a ratifying amendment to the complaint, so that the case can go on to judgment. The exception in the second sentence of subdivision C permits an amendment with the written consent of the guardian in actions brought against undesignated incapacitated persons, the guardian's consent being required because service will not normally have been made upon the guardian under these circumstances and to allow reissuance and new service of the complaint, as amended, would be incompatible with the general civil procedure for magisterial district judges. Neither of the amendments provided for in subdivision C need be made in compliance with Rule 316 or Rule 509.

Source

The provision of this Rule 813 amended March 13, 2015, effective April 12, 2015, 45 Pa.B. 1492. Immediately preceding text appears at serial pages (309571) to (309572).

Rule 814. Judgment and Costs.

A judgment entered in the action shall be the obligation of the incapacitated person only. A guardian shall not be individually liable for the payment of any judgment entered against the incapacitated person or for the costs of the action.

Official Note: See Pa.R.C.P. No. 2063.

Source

The provisions of this Rule 814 amended March 13, 2015, effective April 12, 2015, 45 Pa.B. 1492. Immediately preceding text appears at serial page (309572).

Rule 815. Judgment—Unrepresented Incapacitated Person.

A. Except as provided in subdivision B of this rule, if after judgment the magisterial district judge finds that a party not designated in the complaint as an incapacitated person represented by a guardian was an incapacitated person, the magisterial district judge shall, unless the party's guardian files consent in writing to the judgment, vacate the judgment and dismiss the proceedings without prejudice. Such a finding shall be based on the fact that the party had a guardian appointed pursuant to 20 Pa.C.S. § 5511 by a court of competent jurisdiction.

B. A judgment in favor of a defendant shall not be vacated or set aside on the ground that the defendant was an incapacitated person not represented by a guardian.

Official Note: Except as provided in subdivision B, if after judgment the magisterial district judge finds that a party not designated in the complaint as an incapacitated party represented by a guardian was an incapacitated person as defined in Rule 801(3), the magisterial district judge must, unless the party's guardian files consent in writing to the judgment, vacate the judgment and dismiss the proceedings without prejudice. If the guardian does file consent to the judgment, it should be attached to the record copy of the complaint form. It was thought best not to give the magisterial district judge the kind of discretion in this matter inherent in Pa.R.C.P. No. 2056(d) and in *Hamilton v. Moore*, 335 Pa. 433, 6 A.2d 787 (1939). Of course,

if the incapacitated person was one of several plaintiffs or defendants affected by the judgment, the judgment will be vacated, and the proceedings dismissed, only as to the incapacitated person.

The exception in subdivision B forbids vacating or setting aside a judgment in favor of a defendant on the ground that a party was an incapacitated person not represented by a guardian. The reason for this exception is that the rules as to incapacitated persons as parties are for their protection and not for the protection of adverse parties. The word “defendant” as used here includes a plaintiff with respect to a cross-complaint of the defendant but does not include the defendant who files a cross-complaint.

Source

The provisions of this Rule 815 amended March 13, 2015, effective April 12, 2015, 45 Pa.B. 1492. Immediately preceding text appears at serial pages (309572) and (370081).

Rule 816. Compromise, Settlement, Discontinuance and Payment.

A. The guardian of a party who is an incapacitated person may compromise or settle the action on behalf of the incapacitated person or may discontinue the action if it was brought by or on behalf of the incapacitated person.

B. The amount of a compromise, settlement or judgment in favor of a party who is an incapacitated person shall, if it is known that the party is an incapacitated person, be paid to the guardian of the estate qualified to receive the fund if the incapacitated person has one or one is to be appointed. If the incapacitated person has no such guardian and none is to be appointed, the amount shall be paid to the guardian of the person or to the person or agency by whom the incapacitated person is maintained.

Official Note: Compare Pa.R.C.P. No. 2064. See the note to Rule 808.

Source

The provisions of this Rule 816 amended January 29, 1976, 6 Pa.B. 361; amended March 13, 2015, effective April 12, 2015, 45 Pa.B. 1492. Immediately preceding text appears at serial page (370081).

Rule 817. [Rescinded].

Rule 817 was rescinded in 2015 because the rule was no longer necessary due to a change to the statutory definition of an incapacitated person. By definition, an incapacitated person is an adult; thus, Rule 817 is no longer needed. See 20 Pa.C.S. § 5501.

Source

The provisions of this Rule 817 rescinded March 13, 2015, effective April 12, 2015, 45 Pa.B. 1492. Immediately preceding text appears at serial page (370081).

Rule 818. Representation in Rule 420 and 519.1 Matters.

A guardian of a party in interest who is a minor or an incapacitated person may represent the minor or incapacitated person in hearings held under Rule 420 and Rule 519.1. On behalf of the minor or incapacitated person, the guardian may make any appeal or file any objection, claim, exception or request mentioned in those rules.

Official Note: This rule allows guardians of minors or incapacitated persons, as defined in Rule 801(4), to represent them in Rule 420 and Rule 519.1 matters and matters preliminary thereto.

Source

The provisions of this Rule 818 amended December 20, 2013, effective February 20, 2014, 44 Pa.B. 14; amended March 13, 2015, effective April 12, 2015, 45 Pa.B. 1492. Immediately preceding text appears at serial pages (370081) to (370082).

Rule 819. Magisterial District Judge May Not Appoint Guardian.

A magisterial district judge shall not appoint guardians or guardians ad litem.

Official Note: Magisterial district judges shall not be required or allowed to appoint guardians ad litem, considering the expedition with which civil actions before magisterial district judges are required to be handled under the general rules of civil procedure applicable to magisterial district judges.

Rule 820. Appellate Proceedings.

A guardian of a party who is a minor or an incapacitated person may initiate in an appropriate court of common pleas an appeal, certiorari proceedings or a statement of objection to Rule 420 and Rule 519.1 orders and determinations.

Official Note: It was thought advisable to include a provision giving guardians of minors and incapacitated persons, as defined in Rule 801(4), the right to initiate appeals, certiorari proceedings and statements of objection to Rule 420 and Rule 519.1 orders and determinations. In doing so, of course, they will have to comply with applicable provisions of the rules governing appellate proceedings. Once the case is in the court of common pleas, however, provisions of the Rules of Civil Procedure relating to guardians ad litem and other procedures will apply.

Source

The provisions of this Rule 820 amended December 20, 2013, effective February 20, 2014, 44 Pa.B. 14; amended March 13, 2015, effective April 12, 2015, 45 Pa.B. 1492. Immediately preceding text appears at serial page (370082).

Rule 881. Acts of Assembly Suspended.

All Acts of Assembly or parts thereof that are inconsistent with the rules in this chapter are suspended to the extent of such inconsistency.

Source

The provisions of this Rule 881 amended April 25, 1979, effective May 25, 1979, 9 Pa.B. 1499. Immediately preceding text appears at serial page (21207).

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