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## GENERAL

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**Official Note:** The Order of the Supreme Court, June 25, 1946, adopting the Rules of Civil Procedure governing Actions at Law, fixed Jan. 1, 1947, as the effective date and made said Rules applicable to actions pending at that time.

### GENERAL

#### **Rule 1001. Definition. Scope.**

(a) As used in this chapter and in Rules 1506 and 1531 through 1535, “action” means a civil action brought in or appealed to any court which is subject to these rules.

(b) There shall be a “civil action” in which shall be brought all claims for relief heretofore asserted in

- (1) the action of assumpsit,
- (2) the action of trespass, and
- (3) the action in equity.

**Official Note:** The procedural distinctions between the forms of action in assumpsit, trespass and equity are abolished.

The following rules govern particular types of equitable relief: Rule 1506 (stockholder's derivative suits), Rule 1531 (injunctions), Rule 1532 (perpetuation of testimony), Rule 1533 (receivers), Rule 1534 (Accounting by Fiduciaries) and Rule 1535 (objections to security).

The action to prevent waste has been abolished. The relief formerly available in that action may be obtained in a civil action seeking equitable relief.

See Rule 1041.1 for special provisions governing asbestos litigation.

(c) Other forms of action which incorporate these rules by reference shall be known as "civil action—[type of action]."

**Official Note:** For example, the action of mandamus shall be known as "civil action—mandamus."

#### Source

The provisions of this Rule 1001 adopted June 25, 1946, effective January 1, 1947; amended through December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999; amended April 4, 1990, effective July 1, 1990, 20 Pa.B. 2281; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9; amended October 15, 2004, effective immediately, 34 Pa.B. 5889. Immediately preceding text appears at serial pages (302448) to (302449).

### Rule 1002. Authority of Attorney.

Any act other than verification required or authorized by this chapter to be done by a party may be done by the party's attorney.

#### Source

The provisions of this Rule 1002 adopted June 25, 1946, effective January 1, 1947; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial page (212289).

### Rule 1003. Waiver of Rules. Extension of Time.

Rules relating to the manner of commencing an action or the time for serving process or for filing or serving pleadings may be waived by agreement of the parties. The court on cause shown may extend or shorten the time within which pleadings shall be filed or process served.

#### Source

The provisions of this Rule 1003 adopted June 25, 1946, effective January 1, 1947.

## VENUE AND PROCESS

**Official Note:** The Order of the Supreme Court, June 25, 1946, adopting the Rules of Civil Procedure governing Actions at Law, fixed Jan. 1, 1947, as the effective date and made said Rules applicable to actions pending at that time.

### Rule 1006. Venue. Change of Venue.

(a) Except as otherwise provided by subdivisions (a.1), (b), and (c) of this rule, an action against an individual may be brought in and only in a county in which

(1) the individual may be served or in which the cause of action arose or where a transaction or occurrence took place out of which the cause of action arose or in any other county authorized by law, or

**Official Note:** For a definition of transaction or occurrence, see *Craig v. W. J. Thiele & Sons, Inc.*, 149 A.2d 35 (Pa. 1959).

(2) the property or a part of the property which is the subject matter of the action is located provided that equitable relief is sought with respect to the property.

(a.1) Except as otherwise provided by subdivision (c), a medical professional liability action may be brought against a health care provider for a medical professional liability claim only in a county in which the cause of action arose. This provision does not apply to a cause of action that arises outside the Commonwealth.

**Official Note:** See Section 5101.1(c) of the Judicial Code, 42 Pa.C.S. § 5101.1(c), for the definitions of “health care provider,” “medical professional liability action,” and “medical professional liability claim.”

(b) Actions against the following defendants, except as otherwise provided in subdivision (c), may be brought in and only in the counties designated by the following rules: political subdivisions, Rule 2103; partnerships, Rule 2130; unincorporated associations, Rule 2156; corporations and similar entities, Rule 2179.

**Official Note:** Partnerships, unincorporated associations, and corporations and similar entities are subject to subdivision (a.1) governing venue in medical professional liability actions. See Rules 2130, 2156 and 2179.

Subdivision (a.1) is a venue rule and does not create jurisdiction in Pennsylvania over a foreign cause of action where jurisdiction does not otherwise exist.

(c)(1) Except as otherwise provided by subdivision (c)(2), an action to enforce a joint or joint and several liability against two or more defendants, except actions in which the Commonwealth is a party defendant, may be brought against all defendants in any county in which the venue may be laid against any one of the defendants under the general rules of subdivisions (a) or (b).

(2) If the action to enforce a joint or joint and several liability against two or more defendants includes one or more medical professional liability claims, the action shall be brought in any county in which the venue may be laid against any defendant under subdivision (a.1). This provision does not apply to a cause of action that arises outside the Commonwealth.

(d)(1) For the convenience of parties and witnesses the court upon petition of any party may transfer an action to the appropriate court of any other county where the action could originally have been brought.

(2) Where, upon petition and hearing thereon, the court finds that a fair and impartial trial cannot be held in the county for reasons stated of record, the court may order that the action be transferred. The order changing venue shall be certified forthwith to the Supreme Court, which shall designate the county to which the case is to be transferred.

**Official Note:** For the recusal of the judge for interest or prejudice, see Rule 2.11 of the Code of Judicial Conduct.

(3) It shall be the duty of the prothonotary of the court in which the action is pending to forward to the prothonotary of the county to which the action is transferred, certified copies of the docket entries, process, pleadings, depositions and other papers filed in the action. The costs and fees of the petition for

transfer and the removal of the record shall be paid by the petitioner in the first instance to be taxable as costs in the case.

(e) Improper venue shall be raised by preliminary objection and if not so raised shall be waived. If a preliminary objection to venue is sustained and there is a county of proper venue within the State the action shall not be dismissed but shall be transferred to the appropriate court of that county. The costs and fees for transfer and removal of the record shall be paid by the plaintiff.

(f)(1) Except as provided by subdivision (f)(2), if the plaintiff states more than one cause of action against the same defendant in the complaint pursuant to Rule 1020(a), the action may be brought in any county in which any one of the individual causes of action might have been brought.

(2) Except as otherwise provided by subdivision (c), if one or more of the causes of action stated against the same defendant is a medical professional liability claim, the action shall be brought in a county required by subdivision (a.1).

#### Source

The provisions of this Rule 1006 amended through June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266; amended January 27, 2003, effective immediately, 33 Pa.B. 751; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9; amended June 15, 2011, effective August 1, 2011, 41 Pa.B. 3526; amended April 29, 2016, effective immediately, 46 Pa.B. 2409. Immediately preceding text appears at serial pages (357755) to (357757).

#### **Rule 1007. Commencement of Action.**

An action may be commenced by filing with the prothonotary

- (1) a praecipe for a writ of summons, or
- (2) a complaint.



**Official Note:** For the form of the writ of summons, see Rule 1351, *infra*.

See Rule 205.5 governing the requirement for filing a cover sheet with the pleading commencing the action.

**Source**

The provisions of this Rule 1007 amended July 18, 1991, effective January 1, 1992, 21 Pa.B. 3399; amended February 25, 2010, effective in ninety days, 40 Pa.B. 1395. Immediately preceding text appears at serial pages (302451) to (302452).

**Rule 1007.1. Jury Trial. Demand. Waiver.**

(a) In any action in which the right to jury trial exists, that right shall be deemed waived unless a party files and serves a written demand for a jury trial not later than twenty days after service of the last permissible pleading. The demand shall be made by endorsement on a pleading or by a separate writing.

**Official Note:** Rule 1007.1(a) gives no specific guidance on the existence of a right to jury trial. It could not, in the face of Rule 128(f).

(b) Where an appeal is taken from an award in compulsory arbitration and a jury trial has not theretofore been demanded, the right to a jury trial shall be deemed waived unless the appellant endorses a demand for a jury trial on the appeal, or unless the appellee files and serves a written demand for a jury trial not later than ten days after being served with the notice of appeal.

**Official Note:** Trial without jury shall be conducted in accordance with Rule 1038.

(c)(1) A demand for trial by jury may not be withdrawn without the consent of all parties who have appeared in the action.

(2) A demand for a trial by jury on behalf of a party shall be deemed withdrawn if at the time a case is called for trial that party, without satisfactory excuse, fails to appear or appears but is not ready. Any other party appearing and ready who has not already demanded a trial by jury shall forthwith demand a trial by jury or shall be deemed to have waived the same.

**Source**

The provisions of this Rule 1007.1 amended through April 23, 1985, effective July 1, 1985, 15 Pa.B. 1727; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (296879).

**Rule 1008. Copies for Service.**

[Rescinded]

**Official Note:** For the requirement of attested or certified copies for service, see Rule 401(c).

**Source**

The provisions of this Rule 1008 rescinded June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452. Immediately preceding text appears at serial page (87239).

**Rule 1009. Service.**

[Rescinded]

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

**Source**

The provisions of this Rule 1009 rescinded June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452. Immediately preceding text appears at serial pages (87239) to (87240), and (40033).

**Rule 1010. Reissuance, Reinstatement and Substitution of Writ or Complaint.**

[Rescinded]

**Official Note:** For reissuance, reinstatement and substitution of original process, see Rule 401(b).

**Source**

The provisions of this Rule 1010 rescinded June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452. Immediately preceding text appears at serial pages (40033) and (87241).

**Rule 1011. Acceptance of Service.**

[Rescinded]

**Official Note:** For acceptance of service, see Rule 402(b).

**Source**

The provisions of this Rule 1011 rescinded June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452. Immediately preceding text appears at serial page (87241).

**Rule 1012. Entry of Appearance. Withdrawal of Appearance. Notice.**

(a) A party may enter a written appearance which shall state an address at which pleadings and other legal papers may be served in the manner provided by Rule 440(a)(1) and a telephone number. The appearance may also include a telephone facsimile number as provided in Rule 440(d). Such appearance shall not constitute a waiver of the right to raise any defense including questions of jurisdiction or venue. Written notice of entry of an appearance shall be given forthwith to all parties.

**Official Note:** Entry of a written appearance is not mandatory.

The address endorsed on the entry of appearance must be one where the paper may be handed to or mailed to the attorney. See Rule 440(a)(1).

The inclusion of a telephone number for facsimile transmission constitutes an agreement to accept service of pleadings or other legal papers by that means. See Rule 440(d).

(b)(1) Except as provided in paragraph (2), an attorney may not withdraw his or her appearance without leave of court.



(2) An attorney may withdraw his or her appearance without leave of court if another attorney (i) has previously entered or (ii) is simultaneously entering an appearance on behalf of the party, and the change of attorneys does not delay any stage of the litigation.

(c) Leave of court to withdraw an appearance shall be sought by petition pursuant to subdivision (d) or subdivision (e) as may be applicable.

**Official Note:** Copies of the petition shall be served upon all other parties to the action pursuant to Rule 440.

(d)(1) If the whereabouts of the party on whose behalf the appearance was entered are known, the attorney shall

- (i) set forth the address of that party in the petition,
- (ii) serve notice of the petition on the party in the manner provided by Rule 440,
- (iii) file a certificate of service of the notice with the petition, and
- (iv) immediately notify the party by ordinary mail of the entry of an order granting leave to withdraw. The notice shall include a copy of the order.

(2) Other parties may use the address of the party set forth in the petition for the purpose of further proceedings in the action.

(e)(1) If the whereabouts of the party on whose behalf the appearance was entered are unknown, the attorney shall

- (i) set forth the last known address of that party in the petition,
- (ii) serve notice of the petition on the party by mail to the last known address set forth in the petition,
- (iii) file a certificate of service of the notice with the petition. The certificate shall set forth with particularity the efforts made to locate the party and to effect service of the notice, and
- (iv) shall immediately notify the party by ordinary mail to the last known address or by such other means as the court may direct of the entry of an order granting leave to withdraw. The notice shall include a copy of the order.

(2) Other parties may use the last known address of the party for the purpose of further proceedings in the action.

(f)(1) The entry of appearance under subdivision (a) shall be substantially in the following form:

**Caption**

**Praeceptum for Entry of Appearance**

To the Prothonotary:  
Enter my appearance on behalf of

\_\_\_\_\_  
(Plaintiff/Defendant/Additional Defendant)  
Papers may be served at the address set forth below.

\_\_\_\_\_  
 Attorney for Party Named Above and  
 Identification Number

\_\_\_\_\_  
 Firm

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 City, State, Zip Code

\_\_\_\_\_  
 Telephone Number

\_\_\_\_\_  
 Fax Number for Service of Papers  
 (Optional)

Date: \_\_\_\_\_  
 \_\_\_\_\_  
 Signature

(2) A praecipe for withdrawal of appearance without leave of court pursuant to subdivision (b)(2)(i) shall be substantially in the following form:

**Praecipe for Withdrawal of Appearance  
 Without Leave of Court  
 (Rule 1012(b)(2)(i))**

To the Prothonotary:  
 Withdraw my appearance on behalf of

\_\_\_\_\_  
 (Plaintiff/Defendant/Additional Defendant)  
 \_\_\_\_\_ has entered his/her appearance for the aforementioned party.

I hereby certify that this change is not intended to, nor will it, delay this proceeding to the best of my knowledge, information and belief.

Date: \_\_\_\_\_  
 \_\_\_\_\_  
 Signature

(3) The substitution of counsel under subdivision (b)(2)(ii) shall be substantially in the following form:

**Caption  
 Substitution of Counsel Without Leave of Court  
 (Rule 1012(b)(2)(ii))**

**Praecipe for Entry of Appearance**

To the Prothonotary:  
 Enter my appearance on behalf of

\_\_\_\_\_  
 (Plaintiff/Defendant/Additional Defendant)

I hereby certify that this change is not intended to, nor will it, delay this proceeding to the best of my knowledge, information and belief.

Papers may be served at the address set forth below.

\_\_\_\_\_  
 Attorney for Party Named Above and  
 Identification Number

\_\_\_\_\_  
 Firm

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 City, State, Zip Code

\_\_\_\_\_  
 Telephone Number

\_\_\_\_\_  
 Fax Number for Service of Papers  
 (Optional)

Date: \_\_\_\_\_  
 \_\_\_\_\_  
 Signature

**Praecipe for Withdrawal of Appearance**

To the Prothonotary:  
 Withdraw my appearance on behalf of

\_\_\_\_\_  
 (Plaintiff/Defendant/Additional Defendant)

**Source**

The provisions of this Rule 1012 adopted June 25, 1946, effective January 1, 1947; amended through December 5, 1985, effective January 1, 1986, 15 Pa.B. 4491; amended April 29, 2003, effective September 1, 2003, 33 Pa.B. 2356. Immediately preceding text appears at serial page (253200).

**Rule 1012.1. Admission Pro Hac Vice. Motion. Content.**

(a) As used in this rule,  
 “candidate” means an attorney who is not admitted to the bar of the Commonwealth of Pennsylvania, but is admitted to the bar of and authorized to practice law in the highest court of another state or foreign jurisdiction and seeks admission *pro hac vice*;

**Official Note:** Pa.B.A.R. 301 states that the attorney seeking admission *pro hac vice* cannot act as the attorney of record.

“sponsor” means an attorney who is admitted to the bar of the Commonwealth of Pennsylvania and moves for the admission of a candidate *pro hac vice*.

(b)(1) The sponsor shall file a written motion for admission *pro hac vice* in the action for which admission is sought. The motion shall: (i) aver that the information required by Section 81.504 of the IOLTA regulations has been provided to the IOLTA Board, and (ii) either aver that the fee required by Section 81.505(a) of the IOLTA regulations has been paid, include as an attachment a copy of a fee payment certification from the IOLTA Board, or aver that the payment of the fee is not required pursuant to Section 81.505(c) of the IOLTA regulations.

(2) The verifications required by subdivisions (c) and (d)(2) shall be attached to the motion.

(c) A candidate shall submit a verified statement

(1) identifying the jurisdictions in which he or she is or has been licensed and the corresponding bar license numbers. With respect to each jurisdiction identified, the candidate shall state whether he or she

(i) is or has ever been suspended, disbarred, or otherwise disciplined. The candidate shall provide a description of the circumstances for each occurrence of suspension, disbarment or other disciplinary action,

(ii) is subject to any disciplinary proceedings. The candidate shall provide a description of the circumstances under which the disciplinary action has been brought,

(2) setting forth the number of pending actions in all courts of record in Pennsylvania in which the candidate has applied for admission *pro hac vice*, and the number of actions in which the motion has been denied. If any motion for admission *pro hac vice* has been denied, the candidate shall list the caption, court and docket number of the action, and describe the reasons for the denial of the motion.

(3) stating that he or she shall comply with and be bound by the applicable statutes, case law and procedural rules of the Commonwealth of Pennsylvania, including the Pennsylvania Rules of Professional Conduct,

(4) stating that he or she shall submit to the jurisdiction of the Pennsylvania courts and the Pennsylvania Disciplinary Board with respect to acts and omissions occurring during the appearance in the matter for which admission *pro hac vice* is being sought,

(5) stating that he or she has consented to the appointment of the sponsor as the agent upon whom service of process shall be made for all actions, including disciplinary actions, that may arise out of the practice of law in the matter for which admission *pro hac vice* is sought.

(d)(1) The sponsor shall enter an appearance as attorney of record in the action on behalf of the party whom the candidate seeks to represent. Upon the motion being granted, the sponsor shall remain the attorney of record for that party, and shall sign and serve, or be served with as the case may be, all notices, orders, pleadings or other papers filed in the action, and shall attend all proceed-

ings before the court unless excused by the court. Attendance of the sponsor at a deposition in discovery shall not be required unless ordered by the court.

(2) The sponsor shall submit a verified statement

(i) stating that after reasonable investigation, he or she reasonably believes the candidate to be a reputable and competent attorney and is in a position to recommend the candidate's admission,

(ii) setting forth the number of cases in all courts of record in this Commonwealth in which he or she is acting as the sponsor of a candidate for admission *pro hac vice*, and

(iii) stating that the proceeds from the settlement of a cause of action in which the candidate is granted admission *pro hac vice* shall be received, held, distributed and accounted for in accordance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct, including the IOLTA provisions thereof, if applicable.

(e) The court shall grant the motion unless the court, in its discretion, finds good cause for denial.

**Official Note:** Good cause may include one or more of the following grounds:

(1) the admission may be detrimental to the prompt, fair and efficient administration of justice,

(2) the admission may be detrimental to legitimate interests of the parties to the proceedings other than the client whom the candidate proposes to represent,

(3) the client who the candidate proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk,

(4) the candidate is not competent or ethically fit to practice law,

(5) the candidate is, in effect, practicing as a Pennsylvania attorney, in light of the nature and extent of the activities of the candidate in the Commonwealth, without complying with the Pennsylvania requirements for the admission to the bar. The court may weigh the number of other admissions to practice sought and/or obtained by the candidate from Pennsylvania courts, the question of whether or not the candidate maintains an office in Pennsylvania although the candidate is not admitted to practice in Pennsylvania courts, and other relevant factors,

(6) the number of cases in all courts of record in this Commonwealth in which the Pennsylvania attorney is acting as the sponsor prohibits the adequate supervision of the candidate,

(7) failure to comply with this rule, or

(8) any other reason the court, in its discretion, deems appropriate.

(f) The court may revoke an admission *pro hac vice sua sponte* or upon the motion of a party, if it determines, after a hearing or other meaningful opportunity to respond, the continued admission *pro hac vice* is inappropriate or inadvisable.

#### Source

The provisions of this Rule 1012.1 adopted June 29, 2007, effective September 4, 2007, 37 Pa.B. 3225; amended December 10, 2013, effective February 10, 2014, 43 Pa.B. 7544. Immediately preceding text appears at serial pages (338885) to (338887).

1000-8.1

(370001) No. 472 Mar. 14

**Rule 1013. Sheriff's Return.**

[Rescinded]

**Official Note:** For the return of service, see Rule 405.**Source**

The provisions of this Rule 1013 rescinded June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452. Immediately preceding text appears at serial page (87241).

**Official Note:** The Order of the Supreme Court, June 25, 1946, adopting the Rules of Civil Procedure governing Actions at Law, fixed Jan. 1, 1947, as the effective date and made said Rules applicable to actions pending at that time.

**PLEADINGS****Rule 1017. Pleadings Allowed.**

(a) Except as provided by Rule 1041.1, the pleadings in an action are limited to

(1) a complaint and an answer thereto,

**Official Note:** The term "complaint" includes a complaint to join an additional defendant.

(2) a reply if the answer contains new matter a counterclaim or a cross-claim,

(3) a counter-reply if the reply to a counterclaim or cross-claim contains new matter,

(4) a preliminary objection and a response thereto.

**Official Note:** Pleading in asbestos litigation is governed by Rule 1041.1.

An answer needs to be filed to a preliminary objection only when the preliminary objection alleges facts not of record. See Rule 1028(c)(2), note.

(b) Rescinded.

**Official Note:** The grounds for preliminary objections are set forth in Rule 1028(a).

(c) No formal joinder of issues is required.

**Official Note:** The Civil Procedural Rules Committee, by communication dated August 27, 1969, announced that amendment of this rule effective September 1, 1969 applied to pending actions.

**Source**

The provisions of this Rule 1017 adopted June 25, 1946, effective January 1, 1947; amended June 27, 1969, effective September 1, 1969; amended January 7, 1971, effective February 15, 1971; amended June 28, 1974, effective June 28, 1974; amended December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999; amended April 4, 1990, effective July 1, 1990, 20 Pa.B. 2281; amended July 18, 1991, effective January 1, 1992, 21 Pa.B. 3400; amended March 23, 2007, effective June 1, 2007, 37 Pa.B. 1480. Immediately preceding text appears at serial page (308940).

**Rule 1018. Caption.**

Every pleading shall contain a caption setting forth the name of the court, the number of the action and the name of the pleading. The caption of a complaint shall set forth the form of the action and the names of all the parties, but in other pleadings it is sufficient to state the name of the first party on each side in the complaint with an appropriate indication of other parties.

1000-8.2

**Official Note:** Civil Actions and proceedings shall be captioned “Court of Common Pleas of \_\_\_\_\_ County—Civil Action” or other appropriate form of action.

The caption of all legal papers filed in a medical professional liability action must contain the designation “Civil Action—Medical Professional Liability Action.” See Rule 1042.16.

**Source**

The provisions of this Rule 1018 adopted June 25, 1946, effective January 1, 1947; amended October 15, 2004, effective immediately, 34 Pa.B. 5889; amended December 27, 2004, effective immediately, 35 Pa.B. 349. Immediately preceding text appears at serial page (307553).

**Captioning and Docketing of Actions and Proceeding in the Courts of Common Pleas**

**ORDER**

**Effective February 8, 1969**

(a) Matters heretofore within the jurisdiction of the Orphans’ Court shall be captioned as follows: “Court of Common Pleas of \_\_\_\_\_ County-Orphan’s Court Division” and shall be filed and docketed in the office or offices in which the records of the Orphans’ Court were heretofore maintained, as provided in Section 15 of the Schedule to Article V of the Constitution.

(b) Civil actions and proceedings not covered by Subdivision (a) above shall be captioned as follows: “Court of Common Pleas of \_\_\_\_\_ County-Civil Action-Law” or “Civil Action-Equity”, as the case may be, and shall be filed with and docketed by the prothonotary or clerk of courts as heretofore.

(c) Criminal actions and proceedings shall be captioned as follows: “Court of Common Pleas of \_\_\_\_\_ County-Criminal”, and shall be filed with the clerk of courts as provided by Section 15 of the Schedule to Article V of the Constitution.

(d) Proceedings heretofore within the jurisdiction of the Juvenile Court shall be captioned as follows “Court of Common Pleas of \_\_\_\_\_ County-Juvenile” and shall be filed with the clerk of courts, as provided by Section 15 of the Schedule to Article V of the Constitution.

(e) Local rules may require that the caption contain further identification of the nature of the action or proceeding.

(f) No action or proceeding may be dismissed by reason of an erroneous caption or docketing, but the court on motion of any party or on its own motion may correct the caption or direct appropriate docketing.

(g) Actions and proceedings in Multi-County Judicial Districts shall be captioned as follows: “Court of Common Pleas of the \_\_\_\_\_ Judicial District, County Branch. . .”

**Rule 1018.1. Notice to Defend. Form.**

(a) Every complaint filed by a plaintiff and every complaint filed by a defendant against an additional defendant shall begin with a notice to defend in substantially the form set forth in subdivision (b). No other notice to plead to a complaint shall be required.

(b) [CAPTION]  
Notice

1000-8.3

**231 Rule 1018.1**

GENERAL

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.



YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Telephone Number)

**Official Note:** The above notice does not change any of the rules relating to the pleading of objections and defenses.

This rule applies to all complaints including those where service is by publication. For the mandatory content of the publication in such cases see Rule 430(b).

When a defendant is served outside the United States, Rule 1026(b) provides a sixty-day period for pleading.

(c) Each court shall be local rule designate the officer, organization, agency or person to be named in the notice from whom information can be obtained.

(d) A court may by local rule require the notice to be repeated in one or more designated languages other than English.

#### Source

The provisions of this Rule 1018.1 adopted January 23, 1975, effective July 1, 1975, 5 Pa.B. 326; amended July 1, 1975, effective August 1, 1975, 5 Pa.B. 1824; amended May 15, 1979, effective June 1, 1979, 9 Pa.B. 1854; amended June 10, 2003, effective September 1, 2003, 33 Pa.B. 2974. Immediately preceding text appears at serial pages (212294) and (271787).

#### **Rule 1019. Contents of Pleadings. General and Specific Averments.**

(a) The material facts on which a cause of action or defense is based shall be stated in a concise and summary form.

(b) Averments of fraud or mistake shall be averred with particularity. Malice, intent, knowledge, and other conditions of mind may be averred generally.

(c) In pleading the performance or occurrence of conditions precedent, it is sufficient to aver generally that all conditions precedent have been performed or have occurred. A denial of such performance or occurrence shall be made specifically and with particularity.

(d) In pleading an official document or official act, it is sufficient to identify it by reference and aver that the document was issued or the act done in compliance with law.

(e) In pleading a judgment, order or decision of a domestic or foreign court, judicial or administrative tribunal, or board, commission or officer, it is sufficient to aver the judgment, order or decision without setting forth matter showing jurisdiction to render it.

(f) Averments of time, place and items of special damage shall be specifically stated.

(g) Any part of a pleading may be incorporated by reference in another part of the same pleading or in another pleading in the same action. A party may incorporate by reference any matter of record in any State or Federal court of record whose records are within the county in which the action is pending, or any matter which is recorded or transcribed verbatim in the office of the prothonotary, clerk of any court of record, recorder of deeds or register of wills of such county.

(h) When any claim or defense is based upon an agreement, the pleading shall state specifically if the agreement is oral or written.

**Official Note::** If the agreement is in writing, it must be attached to the pleading. See subdivision (i) of this rule.

(i) When any claim or defense is based upon a writing, the pleader shall attach a copy of the writing, or the material part thereof, but if the writing or copy is not accessible to the pleader, it is sufficient so to state, together with the reason, and to set forth the substance of the writing.

#### Source

The provisions of this Rule 1019 adopted June 25, 1946, effective January 1, 1947; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266; amended November 28, 2000, effective January 1, 2001, 30 Pa.B. 6423. Immediately preceding text appears at serial pages (255201) to (255202).

### **Rule 1020. Pleading More Than One Cause of Action. Alternative Pleading. Failure to Join. Bar.**

(a) The plaintiff may state in the complaint more than one cause of action cognizable in a civil action against the same defendant. Each cause of action and any special damage related thereto shall be stated in a separate count containing a demand for relief.

**Official Note:** Rule 102 provides that the singular includes the plural and the plural includes the singular.

(b) If persons join as plaintiffs under Rules 2228, 2229(a) or (e), the complaint shall state the cause of action, any special damage, and the demand for relief of each plaintiff in a separate count, preceded by a heading naming the parties to the cause of action therein set forth.

(c) Causes of action and defenses may be pleaded in the alternative.

(d) If a transaction or occurrence gives rise to more than one cause of action heretofore asserted in assumpsit and trespass, against the same person, including causes of action in the alternative, they shall be joined in separate counts in the action against any such person. Failure to join a cause of action as required by this subdivision shall be deemed a waiver of that cause of action as against all parties to the action.

**Official Note:** Mandatory joinder is limited to related causes of action heretofore asserted in assumpsit and trespass. There is no mandatory joinder of related causes of action in equity.

See Rule 2226 et seq. governing joinder of parties.

See Rule 213(a) and (b) governing the consolidation and severance of causes of action.

**Source**

The provisions of this Rule 1020 adopted June 25, 1946, effective January 1, 1947; amended through December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial pages (297570) and (288323).

**Rule 1021. Claim for Relief. Determination of Amount in Controversy.**

(a) Any pleading demanding relief shall specify the relief sought. Relief in the alternative or of several different types, including an accounting, may be demanded.

(b) Any pleading demanding relief for unliquidated damages shall not claim any specific sum.

(c) In counties having rules governing compulsory arbitration the plaintiff shall state whether the amount claimed does or does not exceed the jurisdictional amount requiring arbitration referral by local rule.

(d) The court on its own motion or motion of any party may by discovery, pretrial conference, hearing or otherwise, determine the amount actually in controversy and enter an order of reference to arbitration.

**Source**

The provisions of this Rule 1021 adopted June 25, 1946, effective January 1, 1947; amended December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999; amended December 21, 1993, effective July 1, 1994, 24 Pa.B. 119; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial page (234003).

**Rule 1022. Paragraphing.**

Every pleading shall be divided into paragraphs numbered consecutively. Each paragraph shall contain as far as practicable only one material allegation.

**Source**

The provisions of this Rule 1022 adopted June 25, 1946, effective January 1, 1947.

**Rule 1023. [Rescinded].****Source**

The provisions of this Rule 1023 adopted June 25, 1946, effective January 1, 1947; amended March 11, 1991, effective July 1, 1991, 21 Pa.B. 1274; amended August 11, 1997, effective December 1, 1997, 27 Pa.B. 4426; reserved April 22, 2002, effective July 1, 2002, 32 Pa.B. 2315. Immediately preceding text appears at serial pages (255203) to (255204).

**Rule 1023.1. Scope. Signing of Documents. Representations to the Court. Violation.**

(a) Rules 1023.1 through 1023.4 do not apply to disclosures and discovery requests, responses, objections and discovery motions that are subject to the provisions of general rules.

(b) Every pleading, written motion, and other paper directed to the court shall be signed by at least one attorney of record in the attorney's individual name, or,

if the party is not represented by an attorney, shall be signed by the party. This rule shall not be construed to suspend or modify the provisions of Rule 1024 or Rule 1029(e).

(c) The signature of an attorney or pro se party constitutes a certificate that the signatory has read the pleading, motion, or other paper. By signing, filing, submitting, or later advocating such a document, the attorney or pro se party certifies that, to the best of that person's knowledge, information and belief, formed after an inquiry reasonable under the circumstances,

(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation,

(2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification or reversal of existing law or the establishment of new law,

(3) the factual allegations have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual allegations are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

(d) If, after notice and a reasonable opportunity to respond, the court determines that subdivision (c) has been violated, the court may, subject to the conditions stated in Rules 1023.2 through 1023.4, impose an appropriate sanction upon any attorneys, law firms and parties that have violated subdivision (c) or are responsible for the violation.

**Official Note:** The court in its discretion at any stage of the proceedings may deny a motion for sanctions without hearing or argument.

The grant or denial of relief (e.g., grant or denial of preliminary objections, motion for summary judgment or discovery application) does not, of itself, ordinarily warrant the imposition of sanctions against the party opposing or seeking the relief.

In most circumstances, a motion for sanctions with respect to factual allegations should be addressing whether there is evidentiary support for claims or defenses rather than whether there is evidentiary support for each specific factual allegation in a pleading or motion.

The inclusion in the rule of a provision for "an appropriate sanction" is designed to prevent the abuse of litigation. The rule is not a fee-shifting rule per se although the award of reasonable attorney's fees may be an appropriate sanction in a particular case.

The provision requiring that a motion under this rule be filed before the entry of final judgment in the trial court is intended to carry out the objective of expeditious disposition and to eliminate piecemeal appeals. Where appropriate, such motions should be filed as soon as practicable after discovery of the violation.

The following provisions of the Judicial Code, 42 Pa.C.S., provide additional relief from dilatory or frivolous proceedings: (1) Section 2503 relating to the right of participants to receive counsel fees and (2) Section 8351 et seq. relating to wrongful use of civil proceedings.

(e) Section 8355 of the Judicial Code, 42 Pa.C.S. § 8355, is suspended absolutely, in accordance with the provisions of the Constitution of 1968, Article V, Section 10(c).

**Official Note:** Section 8355 of the Judicial Code provides for the certification of pleadings, motions and other papers.

**Source**

The provisions of this Rule 1023.1 adopted April 22, 2002, effective July 1, 2002, 32 Pa.B. 2315; amended April 2, 2003, effective June 1, 2003, 33 Pa.B. 1926. Immediately preceding text appears at serial pages (288324) to (288325).

**Rule 1023.2. Motion for Sanctions.**

(a) An application for sanctions under this rule shall be made by motion, shall be made separately from other applications and shall describe the specific conduct alleged to violate Rule 1023.1(c).

(b) No such motion shall be filed unless it includes a certification that the applicant served written notice and demand to the attorney or pro se party who signed or filed the challenged pleading, motion or other paper. The certification shall have annexed a copy of that notice and demand, which shall identify with specificity each portion of the document which is believed to violate the provisions of this rule, set forth the basis for that belief with specificity, include a demand that the document or portion of the document, be withdrawn or appropriately corrected. An application for sanctions may be filed if the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected within twenty-eight days after service of the written demand. If warranted, the court may award to the party prevailing on the motion the reasonable expenses and attorney's fees incurred in presenting or opposing the motion.

(c) A motion requesting sanctions under this rule shall be filed in the trial court before the entry of final judgment.

**Source**

The provisions of this Rule 1023.2 adopted April 22, 2002, effective July 1, 2002, 32 Pa.B. 2315.

**Rule 1023.3. Sanctions upon Rule to Show Cause.**

On its own initiative, the court may enter an order describing the specific conduct that appears to violate Rule 1023.1(c) and directing an attorney, law firm or party to show cause why it has not violated Rule 1023.1(c) with respect thereto.

**Source**

The provisions of this Rule 1023.3 adopted April 22, 2002, effective July 1, 2002, 32 Pa.B. 2315.

**Rule 1023.4. Sanctions.**

(a)(1) A sanction imposed for violation of Rule 1023.1 shall be limited to that which is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated.

(2) Subject to the limitations in subdivision (b), the sanction may consist of, or include,

(i) directives of a nonmonetary nature, including the striking of the offensive litigation document or portion of the litigation document,

(ii) an order to pay a penalty into court, or,

(iii) if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of some or all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.

(3) Except in exceptional circumstances, a law firm shall be held jointly responsible for violations committed by its partners, associates and employees.

(b)(1) Monetary sanctions may not be awarded against a represented party for violation of Rule 1023.1(c)(2).

(2) Monetary sanctions may not be awarded on the court's initiative unless the court issues its order to show cause before a voluntary dismissal or settlement of the claims made by or against the party which is, or whose attorneys are, to be sanctioned.

(c) When imposing sanctions, the court shall describe the conduct determined to be a violation of Rule 1023.1 and explain the basis for the sanction imposed.

**Source**

The provisions of this Rule 1023.4 adopted April 22, 2002, effective July 1, 2002, 32 Pa.B. 2315.

**Rule 1024. Verification.**

(a) Every pleading containing an averment of fact not appearing of record in the action or containing a denial of fact shall state that the averment or denial is true upon the signer's personal knowledge or information and belief and shall be verified. The signer need not aver the source of the information or expectation of ability to prove the averment or denial at the trial. A pleading may be verified upon personal knowledge as to a part and upon information and belief as to the remainder.

**Official Note:** See Definition Rule 76 for definition of "verified."

(b) If a pleading contains averments which are inconsistent in fact, the verification shall state that the signer has been unable after reasonable investigation to ascertain which of the inconsistent averments, specifying them, are true but that the signer has knowledge or information sufficient to form a belief that one of them is true.

(c) The verification shall be made by one or more of the parties filing the pleading unless all the parties (1) lack sufficient knowledge or information, or (2) are outside the jurisdiction of the court and the verification of none of them can

be obtained within the time allowed for filing the pleading. In such cases, the verification may be made by any person having sufficient knowledge or information and belief and shall set forth the source of the person's information as to matters not stated upon his or her own knowledge and the reason why the verification is not made by a party.

**Source**

The provisions of this Rule 1024 adopted June 25, 1946, effective January 1, 1947; amended October 16, 1981, effective October 16, 1981, 11 Pa.B. 3687; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial pages (234004) and (246959).

**Rule 1025. Endorsement.**

Every pleading or other legal paper of a party represented by an attorney shall be endorsed with the name of the attorney, and every pleading or other legal paper of a party not represented by an attorney shall be endorsed with the name of the party, together in each case with an address where pleadings and other legal papers may be served in the manner provided by Rule 440(a) and a telephone number. The appearance may state a telephone facsimile number.

**Official Note:** The address endorsed on the legal paper must be one where the paper may be handed to or mailed to the attorney or party. See Rule 440(a).

The inclusion of a telephone number for facsimile transmission on an appearance or prior legal paper is an agreement to accept service of pleadings or other legal papers by that means. See Rule 440(d)(1).

**Source**

The provisions of this Rule 1025 adopted June 25, 1946, effective January 1, 1947; amended and effective March 28, 1966; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended April 4, 1990, effective July 1, 1990, 20 Pa.B. 2279; amended August 3, 1998, effective January 1, 1999, 28 Pa.B. 3928; amended April 19, 2003, effective September 1, 2003, 33 Pa.B. 2356. Immediately preceding text appears at serial page (295843).

**Rule 1026. Time for Filing. Notice to Plead.**

(a) Except as provided by Rule 1042.4 or by subdivision (b) of this rule, every pleading subsequent to the complaint shall be filed within twenty days after service of the preceding pleading, but no pleading need be filed unless the preceding pleading contains a notice to defend or is endorsed with a notice to plead.

**Official Note:** For the form of notice to defend see Rule 1018.1 and for the form of notice to plead see Rule 1361.

Additional time within which to plead may be sought under Rule 248.

Rule 1042.4 governs actions in which a professional liability claim is asserted.

(b) A defendant served outside the United States shall have sixty days from service of the complaint within which to plead.

**Source**

The provisions of this Rule 1026 amended through June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452; amended January 27, 2003, effective immediately, 33 Pa.B. 748; amended October 15, 2004, effective immediately, 34 Pa.B. 5889. Immediately preceding text appears at serial page (302461).

**Rule 1027. Service of Copies.**

[Rescinded]

**Official Note:** For the method of service of pleadings and legal papers other than original process see Rule 440.

**Source**

The provisions of this Rule 1027 rescinded June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452. Immediately preceding text appears at serial page (87249).

**Rule 1028. Preliminary Objections.**

(a) Preliminary objections may be filed by any party to any pleading and are limited to the following grounds:

(1) lack of jurisdiction over the subject matter of the action or the person of the defendant, improper venue or improper form or service of a writ of summons or a complaint;

**Official Note:** Of the three grounds available to challenge venue, only improper venue may be raised by preliminary objection as provided by Rule 1006(e). *Forum non conveniens* and inability to hold a fair and impartial trial are raised by petition as provided by Rule 1006(d)(1) and (2).

See Rule of Appellate Procedure 311(b) for interlocutory appeals as of right from orders sustaining jurisdiction and venue.

(2) failure of a pleading to conform to law or rule of court or inclusion of scandalous or impertinent matter;

(3) insufficient specificity in a pleading;

(4) legal insufficiency of a pleading (demurrer);

**Official Note:** The defense of the bar of a statute of frauds or statute of limitations can be asserted only in a responsive pleading as new matter under Rule 1030.

(5) lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action;

(6) pendency of a prior action or agreement for alternative dispute resolution;

**Official Note:** An agreement to arbitrate may be asserted by preliminary objection or by petition to compel arbitration pursuant to the Uniform Arbitration Act, 42 Pa.C.S. § 7304, or the common law, 42 Pa.C.S. § 7342(a).

(7) failure to exercise or exhaust a statutory remedy; and

(8) full, complete and adequate non-statutory remedy at law.

(b) All preliminary objections shall be raised at one time. They shall state specifically the grounds relied upon and may be inconsistent. Two or more preliminary objections may be raised in one pleading.

(c)(1) A party may file an amended pleading as of course within twenty days after service of a copy of preliminary objections. If a party has filed an amended pleading as of course, the preliminary objections to the original pleading shall be deemed moot.



(2) The court shall determine promptly all preliminary objections. If an issue of fact is raised, the court shall consider evidence by depositions or otherwise.

**Official Note:** Preliminary objections raising an issue under subdivision (a)(1), (5), (6), (7) or (8) cannot be determined from facts of record. In such a case, the preliminary objections must be endorsed with a notice to plead or no response will be required under Rule 1029(d).

However, preliminary objections raising an issue under subdivision (a)(2), (3) or (4) may be determined from facts of record so that further evidence is not required.

Rule 239.5 requires every court to promulgate Local Rule 1028(c) describing the local court procedure governing preliminary objections.

(d) If the preliminary objections are overruled, the objecting party shall have the right to plead over within twenty days after notice of the order or within such other time as the court shall fix.

(e) If the filing of an amendment, an amended pleading or a new pleading is allowed or required, it shall be filed within twenty days after notice of the order or within such other time as the court shall fix.

(f) Objections to any amended pleading shall be made by filing new preliminary objections.

#### Source

The provisions of this Rule 1028 adopted June 25, 1946, effective January 1, 1947; amended March 28, 1973, effective July 1, 1973; amended July 18, 1991, effective January 1, 1992, 21 Pa.B. 3400; amended October 24, 2003, effective 9 months after the date of the Order, 33 Pa.B. 5506; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9; amended November 2, 2005, effective immediately, 35 Pa.B. 6318; amended June 28, 2016, effective August 1, 2016, 46 Pa.B. 3797. Immediately preceding text appears at serial pages (307556) and (366149).

#### **Rule 1029. Denials. Effect of Failure to Deny.**

(a) A responsive pleading shall admit or deny each averment of fact in the preceding pleading or any part thereof to which it is responsive. A party denying only a part of an averment shall specify so much of it as is admitted and shall deny the remainder. Admissions and denials in a responsive pleading shall refer specifically to the paragraph in which the averment admitted or denied is set forth.

(b) Averments in a pleading to which a responsive pleading is required are admitted when not denied specifically or by necessary implication. A general denial or a demand for proof, except as provided by subdivision (c) and (e) of this rule, shall have the effect of an admission.

(c) A statement by a party that after reasonable investigation the party is without knowledge or information sufficient to form a belief as the truth of an averment shall have the effect of a denial.

**Official Note:** Reliance on subdivision (c) does not excuse a failure to admit or deny a factual allegation when it is clear that the pleader must know whether a particular allegation is true or false. See *Cercone v. Cercone*, 254 Pa. Super. 381, 386 A.2d 1 (1978).

(d) Averments in a pleading to which no responsive pleading is required shall be deemed to be denied.

(e) In an action seeking monetary relief for bodily injury, death or property damage, averments in a pleading to which a responsive pleading is required may be denied generally except the following averments of fact which must be denied specifically:

(1) averments relating to the identity of the person by whom a material act was committed, the agency or employment of such person and the ownership, possession or control of the property or instrumentality involved;

(2) if a pleading seeks additional relief, averments in support of such other relief; and

(3) averments in preliminary objections.

**Official Note:** Subdivision (e) applies only to those actions for which damages for delay may be awarded pursuant to Rule of Civil Procedure 238.

#### Source

The provisions of this Rule 1029 adopted June 25, 1946, effective January 1, 1947; amended December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999; amended June 16, 1994, effective September 1, 1994, 24 Pa.B. 3213. Immediately preceding text appears at serial pages (159448) to (159449).

### Rule 1030. New Matter.

(a) Except as provided by subdivision (b), all affirmative defenses including but not limited to the defenses of accord and satisfaction, arbitration and award, consent, discharge in bankruptcy, duress, estoppel, failure of consideration, fair comment, fraud, illegality, immunity from suit, impossibility of performance, justification, laches, license, payment, privilege, release, res judicata, statute of frauds, statute of limitations, truth and waiver shall be pleaded in a responsive pleading under the heading "New Matter." A party may set forth as new matter any other material facts which are not merely denials of the averments of the preceding pleading.

**Official Note:** If a defendant pleads the affirmative defenses set forth in subdivision (b), they shall be deemed denied and the plaintiff need not reply.

(b) The affirmative defenses of assumption of the risk, comparative negligence and contributory negligence need not be pleaded.

**Official Note:** If a defendant pleads the affirmative defenses set forth in subdivision (b), they shall be deemed denied and the plaintiff need not reply.

Defenses which are not required to be pleaded are not waived. See Rule 1032(a).

**Source**

The provisions of this Rule 1030 adopted June 25, 1946, effective January 1, 1947; amended through December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999; amended June 3, 1994, effective July 1, 1994, 24 Pa.B. 3213. Immediately preceding text appears at serial pages (159449) and (146639).

**Rule 1031. Counterclaim.**

(a) The defendant may set forth in the answer under the heading “Counterclaim” any cause of action cognizable in a civil action which the defendant has against the plaintiff at the time of filing the answer.

**Official Note:** See Rule 2256 governing counter-claims in an action involving an additional defendant.

See Rule 213(a) and (b) governing consolidation and severance of causes of action.

(b) A counterclaim need not diminish or defeat the relief demanded by the plaintiff. It may demand relief exceeding in amount or different in kind from that demanded by the plaintiff.

**Source**

The provisions of Rule 1031 adopted June 25, 1946, effective January 1, 1947; amended December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9; amended March 23, 2007, effective June 1, 2007, 37 Pa.B. 1480. Immediately preceding text appears at serial page (315131).

**Rule 1031.1. Cross-claim.**

Any party may set forth in the answer or reply under the heading “Cross-claim” a cause of action against any other party to the action that the other party may be

(1) solely liable on the underlying cause of action or

**Official Note:** The term “underlying cause of action” refers to the cause of action set forth in the plaintiff’s complaint or the defendant’s counterclaim.

(2) liable to or with the cross-claimant on any cause of action arising out of the transaction or occurrence or series of transactions or occurrences upon which the underlying cause of action is based.

**Official Note:** Subparagraph (2) permits a cross-claimant to raise a claim that another party is liable over to the cross-claimant or jointly and severally liable with the cross-claimant.

The right to assert a cross-claim in a class action is limited by Rule 1706.1 to the grounds set forth in that rule.

**Source**

The provisions of this Rule 1031.1 adopted March 23, 2007, effective June 1, 2007, 37 Pa.B. 1480.

**Rule 1032. Waiver of Defenses. Exceptions. Suggestion of Lack of Subject Matter Jurisdiction or Failure to Join Indispensable Party.**

(a) A party waives all defenses and objections which are not presented either by preliminary objection, answer or reply, except a defense which is not required to be pleaded under Rule 1030(b), the defense of failure to state a claim upon which relief can be granted, the defense of failure to join an indispensable party, the objection of failure to state a legal defense to a claim, the defenses of failure

to exercise or exhaust a statutory remedy and an adequate remedy at law and any other nonwaivable defense or objection.

**Official Note:** Subdivision (a) accommodates developing law with respect to defenses or objections which cannot be waived.

(b) Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter or that there has been a failure to join an indispensable party, the court shall order that the action be transferred to a court of the Commonwealth which has jurisdiction or that the indispensable party be joined, but if that is not possible, then it shall dismiss the action.

**Official Note:** See Section 5103 of the Judicial Code, 42 Pa.C.S. § 5103, relating to the transfer of erroneously filed matters.

#### Source

The provisions of this Rule 1032 adopted June 25, 1946, effective January 1, 1947; amended June 3, 1994, effective July 1, 1994, 24 Pa.B. 3213; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (301341).

### Rule 1033. Amendment.

(a) A party, either by filed consent of the adverse party or by leave of court, may at any time change the form of action, add a person as a party, correct the name of a party, or otherwise amend the pleading. The amended pleading may aver transactions or occurrences which have happened before or after the filing of the original pleading, even though they give rise to a new cause of action or defense. An amendment may be made to conform the pleading to the evidence offered or admitted.

(b) An amendment correcting the name of a party against whom a claim has been asserted in the original pleading relates back to the date of the commencement of the action if, within ninety days after the period provided by law for commencing the action, the party received notice of the institution of the action such that it will not be prejudiced in maintaining a defense on the merits and the party knew or should have known that the action would have been brought against the party but for a mistake concerning the identity of the proper party.

#### Source

The provisions of this Rule 1033 adopted June 25, 1946, effective January 1, 1947; amended December 20, 2013, effective January 23, 2014, 44 Pa.B. 8; amended February 2, 2017, effective April 1, 2017, 47 Pa.B. 937. Immediately preceding text appears at serial page (382628).

### Rule 1034. Motion for Judgment on the Pleadings.

(a) After the relevant pleadings are closed, but within such time as not to unreasonably delay the trial, any party may move for judgment on the pleadings.

**Official Note:** Only the pleadings between the parties to the motion for judgment on the pleadings must be closed prior to filing the motion.

Rule 239.6 requires every court to promulgate Local Rule 1034(a) describing the local court procedure governing motions for judgment on the pleadings.

(b) The court shall enter such judgment or order as shall be proper on the pleadings.

**Source**

The provisions of this Rule 1034 adopted June 25, 1946, effective January 1, 1947; amended February 14, 1996, effective July 1, 1996, 26 Pa.B. 862; amended October 24, 2003, effective 9 months after the date of the Order, 33 Pa.B. 5506; amended November 2, 2005, effective immediately, 35 Pa.B. 6318; amended June 28, 2016, effective August 1, 2016, 46 Pa.B. 3797. Immediately preceding text appears at serial pages (370006) and (366153).

**Rule 1035. Motion for Summary Judgment.**

[Rescinded]

**Official Note:** In asbestos litigation, a motion for summary judgment filed by one defendant alleging a ground common to one or more other defendants is deemed filed on behalf of all such defendants. See Rule 1014.1(f).

**Source**

The provisions of this Rule 1035 adopted April 18, 1966, effective May 9, 1966; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended October 16, 1981, effective October 16, 1981, 11 Pa.B. 3687; amended April 4, 1990, effective July 1, 1990, 20 Pa.B. 228; rescinded February 14, 1996, effective July 1, 1996, 26 Pa.B. 862. Immediately preceding text appears at serial pages (190478) and (195285).

**Rule 1035.1. Motion for Summary Judgment. Definition.**

As used in Rule 1035.1 et seq., “record” includes any

- (1) pleadings,
- (2) depositions, answers to interrogatories, admissions and affidavits, and

**Official Note:** See Definition Rule 76 for the definition of “affidavit.” See Rule 1035.4 governing affidavits supporting or defending a motion for summary judgment.

- (3) reports signed by an expert witness that would, if filed, comply with Rule 4003.5(a)(1), whether or not the reports have been produced in response to interrogatories.

**Source**

The provisions of this Rule 1035.1 adopted February 14, 1996, effective July 1, 1996, 26 Pa.B. 862.

**Rule 1035.2. Motion.**

After the relevant pleadings are closed, but within such time as not to unreasonably delay trial, any party may move for summary judgment in whole or in part as a matter of law

- (1) whenever there is no genuine issue of any material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report, or
- (2) if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of

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proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury.

**Official Note:** Rule 1035.2 sets forth the general principle that a motion for summary judgment is based on an evidentiary record which entitles the moving party to judgment as a matter of law.

The evidentiary record may be one of two types. Under subdivision (1), the record shows that the material facts are undisputed and, therefore, there is no issue to be submitted to a jury.

An example of a motion under subdivision (1) is a motion supported by a record containing an admission. By virtue of the admission, no issue of fact could be established by further discovery or expert report.

Under subdivision (2), the record contains insufficient evidence of facts to make out a *prima facie* cause of action or defense and, therefore, there is no issue to be submitted to a jury. The motion in this instance is made by a party who does not have the burden of proof at trial and who does not have access to the evidence to make a record which affirmatively supports the motion. To defeat this motion, the adverse party must come forth with evidence showing the existence of the facts essential to the cause of action or defense.

Oral testimony alone, either through testimonial affidavits or depositions, of the moving party or the moving party's witnesses, even if uncontradicted, is generally insufficient to establish the absence of a genuine issue of material fact. See *Nanty-Glo v. American Surety Co.*, 163 A. 523 (Pa. 1932); *Penn Center House, Inc. v. Hoffman*, 553 A.2d 900 (Pa. 1989).

Only the pleadings between the parties to the motion for summary judgment must be closed prior to filing the motion.

In asbestos litigation, a motion for summary judgment filed by one defendant alleging a ground common to one or more other defendants is deemed filed on behalf of all such defendants. See Rule 1041.1(f).

Partial summary judgment, interlocutory in character, may be rendered on one or more issues of liability, defense or damages.

Rule 239.7 requires every court to promulgate Local Rule 1035.2(a) describing the local court procedure governing motions for summary judgment.

#### Source

The provisions of this Rule 1035.2 adopted February 14, 1996, effective July 1, 1996, 26 Pa.B. 862; amended October 24, 2003, effective 9 months after the date of the Order, 33 Pa.B. 5506; amended November 2, 2005, effective immediately, 35 Pa.B. 6318; amended June 28, 2016, effective August 1, 2016, 46 Pa.B. 3797. Immediately preceding text appears at serial pages (366153) to (366154).

### **Rule 1035.3. Response. Judgment for Failure to Respond.**

(a) Except as provided in subdivision (e), the adverse party may not rest upon the mere allegations or denials of the pleadings but must file a response within thirty days after service of the motion identifying

(1) one or more issues of fact arising from evidence in the record controverting the evidence cited in support of the motion or from a challenge to the credibility of one or more witnesses testifying in support of the motion, or

**Official Note:** If the moving party has supported the motion with oral testimony only, the response may raise the defense that there is a genuine issue of material fact because the cause

of action is dependent upon the credibility and demeanor of the witnesses who will testify at trial. See *Nanty-Glo v. American Surety Co.*, 309 Pa. 236, 163 A. 523 (1932); *Penn Center House, Inc. v. Hoffman*, 520 Pa. 171, 553 A.2d 900 (1989).

(2) evidence in the record establishing the facts essential to the cause of action or defense which the motion cites as not having been produced.

(b) An adverse party may supplement the record or set forth the reasons why the party cannot present evidence essential to justify opposition to the motion and any action proposed to be taken by the party to present such evidence.

(c) The court may rule upon the motion for judgment or permit affidavits to be obtained, depositions to be taken or other discovery to be had or make such other order as is just.

(d) Summary judgment may be entered against a party who does not respond.

**Official Note:** Procedural requirements with respect to argument and briefs are governed by local rule.

In certain counties, the failure to respond to a motion may result in the motion being deemed uncontested and the entry of the judgment sought.

See Rule 1035.2 providing for the entry of judgment in whole or in part.

(e)(1) Nothing in this rule is intended to prohibit a court, at any time prior to trial, from ruling upon a motion for summary judgment without written responses or briefs if no party is prejudiced. A party is prejudiced if he or she is not given a full and fair opportunity to supplement the record and to oppose the motion.

(2) A court granting a motion under subdivision (e)(1) shall state the reasons for its decision in a written opinion or on the record.

**Official Note:** Subdivision (e) does not abrogate the requirement that a motion for summary judgment be timely filed pursuant to Rule 1035.2 or case management order.

If a motion is not timely filed, subdivision (e) provides the court with the discretion as to the manner of proceeding, including whether to consider the motion at all. The court should not consider the motion except in the interests of justice.

#### Source

The provisions of this Rule 1035.3 adopted February 14, 1996, effective July 1, 1996, 26 Pa.B. 862; amended May 16, 2003, effective September 1, 2003, 33 Pa.B. 2587. Immediately preceding text appears at serial pages (212305) to (212306).

#### Rule 1035.4. Affidavits.

Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the signer is competent to testify to the matters stated therein. Verified or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits.

**Official Note:** See Section 2503 of the Judicial Code, 42 Pa.C.S. § 2503 for the award of counsel fees as part of taxable costs as a sanction for dilatory conduct or for conduct which is in bad faith.

See Rule of Professional Conduct 3.1 providing that a lawyer shall not assert or controvert an issue unless there is a basis for doing so that is not frivolous, Rule 3.2 providing for reasonable efforts to expedite litigation consistent with the interests of the client and Rule 3.3 prohibiting the making of false statements of material fact or law to a tribunal.

**Source**

The provisions of this Rule 1035.4 adopted February 14, 1996, effective July 1, 1996, 26 Pa.B. 862.

**Rule 1035.5. Procedure When Judgment Is Denied or Is Not Rendered Upon the Whole Case.**

If judgment is denied or is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court when considering the motion may, if practicable, ascertain from the pleadings, the evidence and the parties which material facts relevant to the motion exist without controversy and which are actually controverted. It shall thereupon make an order specifying the facts that are without controversy, including the extent to which the amount of damages or other relief is not in controversy and directing such further proceedings in the action as are just. Upon the trial of the action the facts so specified shall be deemed established and the trial shall be conducted accordingly.

**Source**

The provisions of this Rule 1035.5 adopted February 14, 1996, effective July 1, 1996, 26 Pa.B. 862.

**Rule 1036. Dismissal Upon Affidavit of Noninvolvement.**

(a) As used in this rule, “action” means an action subject to an Act of Assembly which provides for dismissal of the action as to a party based upon an affidavit of noninvolvement.

**Official Note:** Actions pursuant to the following Acts of Assembly are within the scope of this rule: Section 7502 of the Judicial Code, 42 Pa.C.S. § 7502, an action for negligence against a construction design professional and Section 506 of the Medical Care Availability and Reduction of Error (Mcare) Act, 40 P. S. § 1303.506 a medical professional liability action naming a health care provider as a defendant.

(b) Any party seeking dismissal of the action shall file a motion to dismiss which shall have attached thereto the affidavit of noninvolvement.

(c) Any party opposing the motion may file a response.

(d) Upon reviewing the motion and any response thereto and determining the existence of a prima facie case for dismissal of the action as to a party, the court shall enter an order

(1) allowing any party opposing the motion



- (i) to conduct limited discovery directed solely to the issue of involvement of any party seeking dismissal and
  - (ii) prior to the disposition of the motion, to file affidavits, depositions and such other evidentiary materials as would permit a jury to find that any party seeking dismissal was involved in any activities upon which the claim is based, and
- (2) scheduling an argument to decide the motion.
- (e) The argument shall be limited to the sole issue of whether any party opposing the motion has produced evidence which, when considered in a light most favorable to that party, would require the issue of the involvement of any party seeking dismissal to be submitted to a jury.

**Source**

The provisions of this Rule 1036 adopted December 11, 2000, effective January 1, 2001, 30 Pa.B. 6544; amended April 2, 2003, effective June 1, 2003, 33 Pa.B. 1926. Immediately preceding text appears at serial pages (272399) to (272400).

**Rule 1036.1. Reinstatement of Claim Dismissed Upon Affidavit of Noninvolvement.**

- (a) As used in this rule, “action” shall have the meaning as provided in Rule 1036(a).
- (b) If a party has been dismissed from an action upon an affidavit of noninvolvement pursuant to Rule 1036, any other party may file a motion to reinstate the dismissed party setting forth facts showing that statements made in the affidavit of noninvolvement were false or inaccurate.
- (c) Any party may file a response.
- (d) Upon reviewing the motion and any response thereto and determining the existence of a *prima facie* case of involvement of the dismissed party, the court shall enter an order
  - (1) allowing any party
    - (i) to conduct limited discovery directed solely to the issue of the involvement of the party which was dismissed.
    - (ii) prior to the disposition of the motion, to file affidavits, depositions and such other evidentiary materials as would permit a jury to find that any party which was dismissed was involved in any activities upon which the claim is based, and
  - (2) scheduling an argument to decide the motion.
- (e) The argument shall be limited to the sole issue of whether the moving party has produced evidence which, when considered in a light most favorable to that party, would require the issue of the involvement of any party which was dismissed to be submitted to a jury.

**Source**

The provisions of this Rule 1036.1 adopted January 22, 2009, effective March 1, 2009, 39 Pa.B. 676.

**JUDGMENT UPON DEFAULT OR ADMISSION**

**Official Note:** The Order of the Supreme Court, June 25, 1946, adopting the Rules of Civil Procedure governing Actions at Law, fixed Jan. 1, 1947, as the effective date and made said Rules applicable to actions pending at that time.

**Rule 1037. Judgment Upon Default or Admission. Assessment of Damages.**

(a) If an action is not commenced by a complaint, the prothonotary, upon praecipe of the defendant, shall enter a rule upon the plaintiff to file a complaint. If a complaint is not filed within twenty days after service of the rule, the prothonotary, upon praecipe of the defendant, shall enter a judgment of non pros.

**Official Note:** See Rule 237.1(a)(2) which requires the praecipe for judgment of non pros to contain a certification of written notice of intent to file the praecipe.

(b) The prothonotary, on praecipe of the plaintiff, shall enter judgment against the defendant for failure to file within the required time a pleading to a complaint which contains a notice to defend or, except as provided by subdivision (d), for any relief admitted to be due by the defendant's pleadings.

**Official Note:** See Rule 237.1 which requires the praecipe for default judgment to contain a certification of written notice of intent to file the praecipe.

While the prothonotary may enter a default judgment in an action legal or equitable, only the court may grant equitable relief. See subdivision (d).

(1) The prothonotary shall assess damages for the amount to which the plaintiff is entitled if it is a sum certain or which can be made certain by computation, but if it is not, the damages shall be assessed at a trial at which the issues shall be limited to the amount of the damages.

(2) In all actions in which the only damages to be assessed are the cost of repairs made to property

(i) the prothonotary on praecipe of the plaintiff, waiving any other damages under the judgment, and the filing of the affidavits provided by subparagraphs (ii) and (iii) shall assess damages for the cost of the repairs;

(ii) the praecipe shall be accompanied by an affidavit of the person making the repairs; the affidavit shall contain an itemized repair bill setting forth the charges for labor and material used in the repair of the property; it shall also state the qualifications of the person who made or supervised the repairs, that the repairs were necessary, and that the prices for labor and material were fair and reasonable and those customarily charged;

(iii) the plaintiff shall send a copy of the affidavit and repair bill to the defendant by registered mail directed to the defendant's last known address,

together with a notice setting forth the date of the intended assessment of damages, which shall not be less than ten days from the mailing of the notice and a statement that damages will be assessed in the amount of the repair bill unless prior to the date of assessment the defendant by written praecipe files with the prothonotary a request for trial on the issue of such damages; an affidavit of mailing of notice shall be filed.

**Official Note:** By Definition Rule 76, registered mail includes certified mail.

(c) In all cases, the court, on motion of a party, may enter an appropriate judgment against a party upon default or admission.

**Official Note:** For the form of notice to defend, see Rule 1018.1.

(d) In all cases in which equitable relief is sought, the court shall enter an appropriate order upon the judgment of default or admission and may take testimony to assist in its decision and in framing the order.

#### Source

The provisions of this Rule 1037 amended through December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999; amended June 3, 1994, effective July 1, 1994, 24 Pa.B. 3213; amended December 2, 1994, effective July 1, 1995, 24 Pa.B. 6259; amended April 12, 1999, effective July 12, 1999, 29 Pa.B. 2266; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial pages (296716) to (296717).

#### **Rule 1038. Trial Without Jury.**

(a) Except as otherwise provided in this rule, the trial of an action by a judge sitting without a jury shall be conducted as nearly as may be as a trial by jury is conducted and the parties shall have like rights and privileges, including the right to move for nonsuit.

(b) The decision of the trial judge may consist only of general findings as to all parties but shall dispose of all claims for relief. The trial judge may include as part of the decision specific findings of fact and conclusions of law with appropriate discussion.

(c) The decision may be made orally in open court at the end of the trial, and in that event shall be forthwith transcribed and filed in the office of the prothonotary, or it may be made thereafter in writing and filed forthwith. In either event the prothonotary shall notify all parties or their attorneys of the date of filing. The trial judge shall render a decision within seven days after the conclusion of the trial except in protracted cases or cases of extraordinary complexity.

**Official Note:** A decision includes what were formerly known as a decree nisi and an adjudication. A decision is not a final decree, also known as a judgment.

For post-trial relief following a trial without jury, see Rule 227.1.

For entry of judgment upon praecipe of a party, see Rule 227.4

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### Source

The provisions of this Rule 1038 adopted June 27, 1969, effective September 1, 1969; amended through December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999; amended April 12, 1999, effective July 12, 1999, 29 Pa.B. 2266; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial pages (296717) and (295847).

### **Rule 1038.1. Case Submitted on Stipulated Facts.**

A case may be submitted on stipulated facts for decision by a judge without a jury. The practice and procedure as far as practicable shall be in accordance with the rules governing a trial without jury.

**Official Note:** See Rules 1038 governing trial without jury and 227.1 et seq. governing post-trial practice.

### Source

The provisions of this Rule 1038.1 adopted August 9, 1996, effective January 1, 1997, 26 Pa.B. 4216.

### **Rule 1038.2. Abolition of Case Stated.**

The common law procedure of a case stated is abolished.

**Official Note:** The common law procedure of a case stated is no longer required in view of the practice of submitting a case on stipulated facts for decision by a judge without a jury. See Rule 1038.1.

### Source

The provisions of this Rule 1038.2 adopted August 9, 1996, effective January 1, 1997, 26 Pa.B. 4216.

### **Rule 1038.3. Equitable Relief. Advisory Verdict by Jury.**

In any case in which there is a claim for equitable relief, the court on its own motion or upon the petition of any party may submit to trial by jury any or all issues of fact arising from that claim. The advisory verdict of the jury shall be in the form of answers to specific questions and shall not be binding upon the court.

**Official Note:** Rule 1038.3 does not confer a right to trial by jury if the right did not exist prior to the consolidation of the action in equity with the civil action.

The rule preserves the practice under former Equity Rule 1513 of allowing a court in its discretion to submit such claims to trial by jury for an advisory verdict.

### Source

The provisions of this Rule 1038.3 adopted December 16, 2003, effective July 1, 2004, 34 Pa.B. 9.

### **Rule 1039. Entry of Judgment Upon Praeceptum of a Party.**

[Rescinded].

**Official Note:** For entry of judgment upon praecipe of a party, see Rule 227.4.

**Source**

The provisions of this Rule 1039 rescinded October 19, 1983, effective January 1, 1984, 13 Pa.B. 3629. Immediately preceding text appears at serial pages (83220), (31810) and (15675) to (15676).

**Rule 1040. Suspension of Acts of Assembly.**

All Acts of Assembly inconsistent with these rules are suspended to the extent of such inconsistency.

**Source**

The provisions of this Rule 1040 adopted December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999.

**Subchapter B. ACTION IN TRESPASS**

- Rule  
1041. [Rescinded].  
1041.1. Asbestos Litigation. Special Provisions.  
1041.2. Civil Action. Alternative Procedure.  
1042. [Rescinded].

**PROFESSIONAL LIABILITY ACTIONS**

- 1042.1. Professional Liability Actions. Scope. Definition.  
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1042.9. Sanctions.  
1042.10. Certificate of Merit. Form.  
1042.11. Notice of Intent to Enter Judgment of Non Pros for Failure to File a Written Statement from an Appropriate Licensed Professional. Form of Notice.  
1042.12. Entry of Judgment of Non Pros for Failure to File a Written Statement from an Appropriate Licensed Professional. Form of Praecepte.

**LEGAL PAPERS; CAPTION**

- 1042.16. Medical Professional Liability Actions. Legal Papers. Caption.

**SETTLEMENT CONFERENCE; MEDIATION**

- 1042.21. Medical Professional Liability Actions. Motion for Settlement Conference or Mediation.

**EXPERT REPORTS**

- 1042.26. Medical Professional Liability Actions. Expert Reports.  
1042.27. Requests for Production of Expert Reports. Responses. General Provisions.  
1042.28. Defendant's Request to Plaintiff for Production of Expert Reports. Response.

- 1042.29. Plaintiff's Request to Defendant or Additional Defendant for Production of Expert Reports. Response.
- 1042.30. Defendant's or Additional Defendant's Request to Another Defendant or Additional Defendant for Production of Expert Reports. Response.
- 1042.31. Failure to Produce Report. Sanctions. Summary Judgment.
- 1042.32. Additional and Supplemental Reports.
- 1042.36. Defendant's Request to Plaintiff. Form.
- 1042.37. Plaintiff's Request to Defendant or Additional Defendant.
- 1042.38. Defendant's or Additional Defendant's Request to Another Defendant or Additional Defendant. Form.

### SCHEDULING ORDER

- 1042.41. Medical Professional Liability Actions. Scheduling Order.

### PRE-TRIAL CONFERENCE

- 1042.51. Medical Professional Liability Actions. Motion for Pre-Trial Conference. Mediation. Report of Cases not Tried.
- 1042.71. Medical Professional Liability Actions. Damages. Findings.
- 1042.72. [Rescinded].
- 1043. [Rescinded].
- 1044. [Rescinded].
- 1045. [Rescinded].
- 1046. [Rescinded].
- 1047. [Rescinded].
- 1048. [Rescinded].

### Rule 1041. [Rescinded].

#### Source

The provisions of this Rule 1041 rescinded December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999. Immediately preceding text appears at serial page (85721).

### Rule 1041.1. Asbestos Litigation. Special Provisions.

(a) In an action involving any allegation for injury or death arising from exposure to asbestos, the rules of civil procedure governing a civil action shall apply except as provided by this rule.

**Official Note:** This rule applies whenever there is an allegation of injury or death arising from exposure to asbestos, although there may be additional allegations unrelated to exposure to asbestos. The rule also encompasses actions in which there is a claim arising from exposure to silica in addition to the asbestos claim.

(b) The caption of all legal papers filed in the action shall contain the designation "Civil Action—Asbestos."

**Official Note:** Rule of Judicial Administration 1902 requires the prothonotary to maintain a record of all asbestos actions.

(c) Within twenty days after service of the complaint, the defendant shall enter an appearance which shall constitute

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- (1) a denial of all averments of fact in the complaint,
- (2) an allegation of all affirmative defenses, and
- (3) a claim for indemnification and contribution from any other party.

(d) Except for the filing of preliminary objections pursuant to Rule 1028(a)(1), (2), (5) and (6) and a complaint to join an additional defendant, there shall be no further pleading after the complaint.

(e) Leave of court to join an additional defendant later than the sixty-day period described by Rule 2253 shall not be required, but the party joined, upon preliminary objection, may request that the joinder be stricken.

(f) A motion for summary judgment filed by one defendant alleging a ground common to one or more other defendants shall be deemed filed on behalf of all such defendants.

#### Source

The provisions of this Rule 1041.1 adopted April 4, 1990, effective July 1, 1990, 20 Pa.B. 2281; amended March 11, 1991, effective July 1, 1991, 21 Pa.B. 1274; amended November 19, 1991, effective January 1, 1992, 22 Pa.B. 5637. Immediately preceding text appears at serial page (157205).

### **Rule 1041.2. Civil Action. Alternative Procedure.**

(a) In an action which involves multiple parties, the court, on motion of any party or on its own motion, may require the parties to follow the practice and procedure prescribed by Rule 1041.1(a) and (c) through (f).

**Official Note:** The court is given discretion to determine if the procedure prescribed for asbestos litigation would be appropriate in other litigation involving, for example, mass torts, product liability or other toxic substances.

(b) If a significant number of cases is affected by the order, the court may require that the caption of legal papers filed contain a special designation identifying the category of case and that the prothonotary maintain a record of all such cases by separate docket, docketing code or other appropriate means.

#### Source

The provisions of this Rule 1041.2 adopted April 4, 1990, effective July 1, 1990, 20 Pa.B. 2281.

### **Rule 1042. [Rescinded].**

#### Source

The provisions of this Rule 1042 rescinded December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999. Immediately preceding text appears at serial page (85721).

**PROFESSIONAL LIABILITY ACTIONS****Rule 1042.1. Professional Liability Actions. Scope. Definition.**

(a) The rules of this chapter govern a civil action in which a professional liability claim is asserted by or on behalf of a patient or client of the licensed professional against

(1) a licensed professional, and/or

(2) a partnership, unincorporated association, corporation or similar entity where the entity is responsible for a licensed professional who deviated from an acceptable professional standard, and

(b) A professional liability claim asserted against a licensed professional includes a claim for lack of informed consent.

(c) As used in this chapter, “licensed professional” means

(1) any person who is licensed pursuant to an Act of Assembly as

(i) a health care provider as defined by Section 503 of the Medical Care Availability and Reduction of Error (Mcare) Act, 40 P. S. § 1303.503;

(ii) an accountant;

**Official Note:** See the CPA Law, Act of May 26, 1947, No. 318, as reenacted and amended, 63 P. S. § 9.1 et seq.

(iii) an architect;

**Official Note:** See the Architects Licensure Law, Act of December 14, 1982, P. L. 1227, No. 281, 63 P. S. § 34.1 et seq.

(iv) a chiropractor;

**Official Note:** See the Chiropractic Practice Act of Dec. 16, 1986, P. L. 1646, No. 188, 63 P. S. § 625.101 et seq.

(v) a dentist;

**Official Note:** See the Dental Law, Act of May 1, 1933, P. L. 216, 63 P. S. § 120 et seq.

(vi) an engineer or land surveyor;

**Official Note:** See The Engineer, Land Surveyor and Geologist Registration Law, Act of May 23, 1945, P. L. 913, as amended, 63 P. S. § 148 et seq.

(vii) a nurse;

**Official Note:** See the Professional Nursing Law, Act of May 22, 1951, P. L. 317, as amended, 63 P. S. § 211 et seq.

(viii) an optometrist;

**Official Note:** See the Optometric Practice and Licensure Act of June 6, 1980, P. L. 197, No. 57, 63 P. S. § 244.1 et seq.

(ix) a pharmacist;



**Official Note:** See the Wholesale Prescription Drug Distributors License Act of December 14, 1992, P. L. 1116, No. 145, 63 P. S. § 391.1 et seq.

(x) a physical therapist;

**Official Note:** See the Physical Therapy Practice Act of October 10, 1975, P. L. 383, No. 110, 63 P. S. § 1301 et seq.

(xi) a psychologist; and

**Official Note:** See the Professional Psychologists Practice Act of March 23, 1972, P. L. 136, No. 52, 63 P. S. § 1201 et seq.

(xii) a veterinarian.

**Official Note:** See the Veterinary Medicine Practice Act of December 27, 1974, P. L. 995, No. 326, 63 P. S. § 485.1 et seq.

(2) an attorney at law; and

**Official Note:** See Rule 76 for the definition of attorney at law.

(3) any professional described in paragraphs (1) and (2) who is licensed by another state.

#### Source

The provisions of this Rule 1042.1 adopted January 27, 2003, effective immediately, 33 Pa.B. 748; amended June 16, 2008, effective immediately, 38 Pa.B. 3481. Immediately preceding text appears at serial pages (295850) and (316383).

### Rule 1042.2. Complaint.

(a) A complaint shall identify each defendant against whom the plaintiff is asserting a professional liability claim.

**Official Note:** It is recommended that the complaint read as follows:

“Defendant \_\_\_\_\_ (name) is a licensed professional with offices in \_\_\_\_\_ County, Pennsylvania. Plaintiff is asserting a professional liability claim against this defendant.”

(b) A defendant may raise by preliminary objections the failure of the complaint to comply with subdivision (a) of this rule.

**Official Note:** The filing of preliminary objections pursuant to Rule 1042.2(b) is not a prerequisite to the filing of a notice of intent to enter a judgment of non pros on a professional liability claim pursuant to Rule 1042.6.

#### Source

The provisions of this Rule 1042.2 adopted January 27, 2003, effective immediately, 33 Pa.B. 748; amended June 16, 2008, effective immediately, 38 Pa.B. 3481. Immediately preceding text appears at serial pages (316383) to (316384).

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**Rule 1042.3. Certificate of Merit.**

(a) In any action based upon an allegation that a licensed professional deviated from an acceptable professional standard, the attorney for the plaintiff, or the plaintiff if not represented, shall file with the complaint or within sixty days after the filing of the complaint, a certificate of merit signed by the attorney or party that either

**Official Note:** The requirements of subdivision (a) apply to a claim for lack of informed consent.

(1) an appropriate licensed professional has supplied a written statement that there exists a reasonable probability that the care, skill or knowledge exercised or exhibited in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm, or

**Official Note:** It is not required that the “appropriate licensed professional” who supplies the necessary statement in support of a certificate of merit required by subdivision (a)(1) be the same person who will actually testify at trial. It is required, however, that the “appropriate licensed professional” who supplies such a statement be an expert with sufficient education, training, knowledge and experience to provide credible, competent testimony, or stated another way, the expert who supplies the statement must have qualifications such that the trial court would find them sufficient to allow that expert to testify at trial. For example, in a medical professional liability action against a physician, the expert who provides the statement in support of a certificate of merit should meet the qualifications set forth in Section 512 of the Medical Care Availability and Reduction of Error (MCARE) Act, 40 P. S. § 1303.512.

(2) the claim that the defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this defendant is responsible deviated from an acceptable professional standard, or

**Official Note:** A certificate of merit, based on the statement of an appropriate licensed professional required by subdivision (a)(1), must be filed as to the other licensed professionals for whom the defendant is responsible. The statement is not required to identify the specific licensed professionals who deviated from an acceptable standard of care. The purpose of this subdivision is to ensure that a claim of vicarious liability made against a defendant is supported by a certificate of merit. Separate certificates of merit as to each licensed professional for whom a defendant is alleged to be responsible are not required. Only a single certificate of merit as to a claim under subdivision (a)(2) is required.

(3) expert testimony of an appropriate licensed professional is unnecessary for prosecution of the claim.

**Official Note:** In the event that the attorney certifies under subdivision (a)(3) that an expert is unnecessary for prosecution of the claim, in the absence of exceptional circumstances the attorney is bound by the certification and, subsequently, the trial court shall preclude the plaintiff from presenting testimony by an expert on the questions of standard of care and causation.

(b)(1) A separate certificate of merit shall be filed as to each licensed professional against whom a claim is asserted.

**Official Note:** This subdivision relates to licensed professionals named as defendants. It should not be interpreted to require certificates of merit under subdivision (a)(2) or otherwise as to non-defendant licensed professionals.

(2) If a complaint raises claims under both subdivisions (a)(1) and (a)(2) against the same defendant, the attorney for the plaintiff, or the plaintiff if not represented, shall file

- (i) a separate certificate of merit as to each claim raised, or
- (ii) a single certificate of merit stating that claims are raised under both subdivisions (a)(1) and (a)(2).

(c)(1) A defendant who files a counterclaim asserting a claim for professional liability shall file a certificate of merit as required by this rule.

(2) A defendant or an additional defendant who has joined a licensed professional as an additional defendant or asserted a cross-claim against a licensed professional need not file a certificate of merit unless the joinder or cross-claim is based on acts of negligence that are unrelated to the acts of negligence that are the basis for the claim against the joining or cross-claiming party.

(d) The court, upon good cause shown, shall extend the time for filing a certificate of merit for a period not to exceed sixty days. A motion to extend the time for filing a certificate of merit must be filed by the thirtieth day after the filing of a notice of intention to enter judgment of non pros on a professional liability claim under Rule 1042.6(a) or on or before the expiration of the extended time where a court has granted a motion to extend the time to file a certificate of merit, whichever is greater. The filing of a motion to extend tolls the time period within which a certificate of merit must be filed until the court rules upon the motion.

**Official Note:** There are no restrictions on the number of orders that a court may enter extending the time for filing a certificate of merit provided that each order is entered pursuant to a new motion, timely filed and based on cause shown as of the date of filing the new motion.

The moving party must act with reasonable diligence to see that the motion is promptly presented to the court if required by local practice.

In ruling upon a motion to extend time, the court shall give appropriate consideration to the practicalities of securing expert review. There is a basis for granting an extension of time within which to file the certificate of merit if counsel for the plaintiff was first contacted shortly before the statute of limitations was about to expire, or if, despite diligent efforts by counsel, records necessary to review the validity of the claim are not available.

(e) If a certificate of merit is not signed by an attorney, the party signing the certificate of merit shall, in addition to the other requirements of this rule, attach to the certificate of merit the written statement from an appropriate licensed professional as required by subdivisions (a)(1) and (2). If the written statement is not attached to the certificate of merit, a defendant seeking to enter a judgment of non pros shall file a written notice of intent to enter a judgment of non pros for failure to file a written statement under Rule 1042.11.

#### Source

The provisions of this Rule 1042.3 adopted January 27, 2003, effective immediately, 33 Pa.B. 748; amended February 11, 2005, effective immediately, 35 Pa.B. 1416; amended December 5, 2005, effective immediately, 35 Pa.B. 6894; amended June 16, 2008, effective immediately, 38 Pa.B. 3481; amended March 20, 2013, effective May 1, 2013, 43 Pa.B. 1835; amended March 30, 2016, effective immediately, 46 Pa.B. 1895. Immediately preceding text appears at serial pages (366166) to (366167).

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**Rule 1042.4. Responsive Pleading.**

A defendant against whom a professional liability claim is asserted shall file a responsive pleading within the time required by Rule 1026 or within twenty days after service of the certificate of merit on that defendant, whichever is later.

**Source**

The provisions of this Rule 1042.4 adopted January 27, 2003, effective immediately, 33 Pa.B. 748.

**Rule 1042.5. Discovery**

Except for the production of documents and things or the entry upon property for inspection and other purposes, a plaintiff who has asserted a professional liability claim may not, without leave of court, seek any discovery with respect to that claim prior to the filing of a certificate of merit.

**Official Note:** Upon motion seeking leave of court, the court shall allow any discovery which is required for a licensed professional to make a determination as to whether a defendant deviated from accepted professional standards.

This rule does not preclude a defendant from seeking a protective order under Rule 4012 in response to a request for the production of documents and things or the entry upon property for inspection and other purposes.

**Source**

The provisions of this Rule 1042.5 adopted January 27, 2003, effective immediately, 33 Pa.B. 748.

**Rule 1042.6. Notice of Intent to Enter Judgment of Non Pros for Failure to File Certificate of Merit. Motion to Determine Necessity to File Certificate. Form of Notice.**

(a) Except as provided by subdivision (b), a defendant seeking to enter a judgment of non pros under Rule 1042.7(a) shall file a written notice of intention to file the praecipe and serve it on the party's attorney of record or on the party if unrepresented, no sooner than the thirty-first day after the filing of the complaint.

(b) A judgment of non pros may be entered as provided by Rule 1042.7(a) without notice if

- (1) the court has granted a motion to extend the time to file the certificate and the plaintiff has failed to file it within the extended time, or
- (2) the court has denied the motion to extend the time.

(c) Upon the filing of a notice under subdivision (a) of this rule, a plaintiff may file a motion seeking a determination by the court as to the necessity of filing a certificate of merit. The filing of the motion tolls the time period within which a certificate of merit must be filed until the court rules upon the motion. If it is determined that a certificate of merit is required, the plaintiff must file the certificate within twenty days of entry of the court order on the docket or the original time period, whichever is later.

**Official Note:** The motion may be filed at any time prior to the entry of a judgment of non pros.

Once the judgment of non pros is entered, a party cannot raise the claim that the filing of a certificate of merit was not required.

(d) The notice required by subdivision (a) of this rule shall be substantially in the following form:

(Caption)

Notice of Intention to Enter Judgment of Non Pros for Failure to File a Certificate of Merit

To: \_\_\_\_\_  
(Identify Party)

Pursuant to Pennsylvania Rule of Civil Procedure 1042.7, I intend to enter a judgment of non pros against you after thirty (30) days of the date of the filing of this notice if a certificate of merit is not filed as required by Rule 1042.3.

I am serving this notice on behalf of \_\_\_\_\_.  
(Name of party)

The judgment of non pros will be entered as to the following claims: \_\_\_\_\_

\_\_\_\_\_  
(State if a judgment is to be entered as to all claims. Otherwise, identify claims set forth in the complaint as to which a judgment of non pros will be entered.)

\_\_\_\_\_  
(Attorney)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Telephone Number)

Source

The provisions of this Rule 1042.6 adopted June 16, 2008, effective immediately, 38 Pa.B. 3481; amended March 20, 2013, effective May 1, 2013, 43 Pa.B. 1835. Immediately preceding text appears at serial pages (335365) to (335366).

**Rule 1042.7. Entry of Judgment of Non Pros for Failure to File Certification. Form of Praeipce.**

(a) The prothonotary, on praecipe of the defendant, shall enter a judgment of non pros against the plaintiff for failure to file a certificate of merit within the required time provided that

- (1) there is no pending motion for determination that the filing of a certificate is not required or no pending timely filed motion seeking to extend the time to file the certificate,
- (2) no certificate of merit has been filed,
- (3) except as provided by Rule 1042.6(b), the defendant has attached to the praecipe a certificate of service of the notice of intention to enter the judgment of non pros, and
- (4) except as provided by Rule 1042.6(b), the praecipe is filed no less than thirty days after the date of the filing of the notice of intention to enter the judgment of non pros.

**Official Note:** The prothonotary may not enter judgment if the certificate of merit has been filed prior to the filing of the praecipe.

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Rule 237.1 does not apply to a judgment of non pros entered under this rule.  
See Rule 208.2(a)(4) for the content of the certificate of service.

(b) The praecipe for the entry of a judgment of non pros shall be substantially in the following form:

(Caption)

Praecipe for Entry of Judgment of Non Pros  
Pursuant to Rule 1042.7

To the Prothonotary:

Enter judgment of non pros in the above-captioned matter against \_\_\_\_\_  
Identify Party

as to

(1) all claims against \_\_\_\_\_ .  
Identify Party

OR

(2) only the following claims against \_\_\_\_\_ :  
Identify Party

\_\_\_\_\_  
Identify Claims

\_\_\_\_\_  
Date: \_\_\_\_\_ Attorney for \_\_\_\_\_  
(Identify Party)

**Official Note:** Where applicable, a certificate of service of the notice of intention to enter judgment of non pros shall be attached to the praecipe.

**Source**

The provisions of this Rule 1042.7 adopted January 27, 2003, effective immediately, 33 Pa.B. 748; amended June 16, 2008, effective immediately, 38 Pa.B. 3481. Immediately preceding text appears at serial pages (316386) to (316387).

**Rule 1042.8. Motion to Strike. Defect of Certificate of Merit.**

If a court grants a motion to strike a claim for noncompliance with the requirements of Rule 1042.3(b), the court shall grant the plaintiff twenty days to file a certificate of merit which cures the defect.

**Source**

The provisions of this Rule 1042.8 adopted March 20, 2013, effective May 1, 2013, 43 Pa.B. 1835.

**Rule 1042.9. Sanctions.**

(a) If a plaintiff has filed a certificate of merit as to a particular defendant and that defendant is dismissed from the case through voluntary dismissal, verdict or order of court, the plaintiff, within thirty days of the written request of that defendant, shall provide him or her with the written statement obtained from the licensed professional upon which the certificate of merit as to that defendant was

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based. If a plaintiff's claims against other licensed professionals are still pending, the written statement shall be produced within thirty days of resolution of all claims against the other licensed professionals.

**Official Note:** Rule 4003.5 governs the discovery of expert testimony, including the written statements of licensed professionals furnished prior to the filing of a certificate of merit, until a defendant has been dismissed from the case.

(b) A court may impose appropriate sanctions, including sanctions provided for in Rule 1023.4, if the court determines that an attorney violated Rule 1042.3(a)(1) and (2) by improperly certifying that an appropriate licensed professional has supplied a written statement that there exists a reasonable probability that the care, skill or knowledge experienced or exhibited in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm.

**Source**

The provisions of this Rule 1042.8 adopted January 27, 2003, effective immediately, 33 Pa.B. 748; amended June 16, 2008, effective immediately, 38 Pa.B. 3481; renumbered Rule 1042.9 March 20, 2013, effective May 1, 2013, 43 Pa.B. 1835. Immediately preceding text appears at serial pages (335367) to (335368).

**Rule 1042.10. Certificate of Merit. Form.**

The certificate required by Rule 1042.3(a) shall be substantially in the following form:

(Caption)

Certificate of Merit as to \_\_\_\_\_  
(Name of Defendant)

I, \_\_\_\_\_, certify that:  
(Attorney or Party)

an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by this defendant in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

AND/OR

the claim that this defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

OR

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expert testimony of an appropriate licensed professional is unnecessary for prosecution of the claim against this defendant.

Date: \_\_\_\_\_  
\_\_\_\_\_ (Attorney or Party)

**Source**

The provisions of this Rule 1042.9 adopted January 27, 2003, effective immediately, 33 Pa.B. 748; amended December 5, 2005, effective immediately, 35 Pa.B. 6894; amended June 16, 2008, effective immediately, 38 Pa.B. 3481; renumbered Rule 1042.10 March 20, 2013, effective May 1, 2013, 43 Pa.B. 1835. Immediately preceding text appears at serial pages (335368) to (335369).

**Rule 1042.11. Notice of Intent to Enter Judgment of Non Pros for Failure to File a Written Statement from an Appropriate Licensed Professional. Form of Notice.**

(a) A defendant seeking to enter a judgment of non pros under Rule 1042.12 shall file a notice of intent to enter a judgment of non pros for failure to file a written statement from an appropriate licensed professional with the certificate of merit.

(b) The notice required by subdivision (a) of this rule shall be substantially in the following form:

(Caption)

Notice of Intention to Enter Judgment of Non Pros  
for Failure to File Written Statement from  
an Appropriate Licensed Professional

To: \_\_\_\_\_  
(Identify Party)

Pursuant to Pennsylvania Rule of Civil Procedure 1042.12, I intend to enter a judgment of non pros against you after thirty (30) days of the date of the filing of this notice if a written statement from an appropriate licensed professional is not filed as required by Rule 1042.3(e).

I am serving this notice on behalf of \_\_\_\_\_  
(Name of party)

The judgment of non pros will be entered as to the following claims:

\_\_\_\_\_  
\_\_\_\_\_  
(State if a judgment is to be entered as to all claims. Otherwise, identify claims set forth in the complaint as to which a judgment of non pros will be entered.)

\_\_\_\_\_  
(Attorney)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Telephone Number)



Source

The provisions of this Rule 1042.11 adopted March 20, 2013, effective May 1, 2013, 43 Pa.B. 1835.

**Rule 1042.12. Entry of Judgment of Non Pros for Failure to File a Written Statement from an Appropriate Licensed Professional. Form of Praecipe.**

(a) The prothonotary, on praecipe of the defendant, shall enter a judgment of non pros against the plaintiff for failure to file a written statement under Rule 1042.3(e) provided that

- (1) no written statement has been filed,
- (2) the defendant has attached to the praecipe a certificate of service of the notice of intention to enter the judgment of non pros, and
- (3) the praecipe is filed no less than thirty days after the date of the filing of the notice of intention to enter judgment of non pros.

**Official Note:** The prothonotary may not enter judgment if the written statement has been filed prior to the filing of the praecipe.

Rule 237.1 does not apply to a judgment of non pros entered under this rule.

See Rule 208.2(a)(4) for the content of the certificate of service.

(b) The praecipe for the entry of a judgment of non pros shall be substantially in the following form:

(Caption)

Praecipe for Entry of Judgment of Non Pros Pursuant to Rule 1042.12  
 To the Prothonotary:  
 Enter judgment of non pros in the above-captioned matter against \_\_\_\_\_  
 as to (Identify Party)  
 (1) all claims against \_\_\_\_\_ .  
 (Identify Party)  
 OR  
 (2) only the following claims against \_\_\_\_\_ :  
 (Identify Party)

\_\_\_\_\_  
\_\_\_\_\_

Identify Claims

Date: \_\_\_\_\_  
 \_\_\_\_\_  
 Attorney for \_\_\_\_\_  
 (Identify Party)

Source

The provisions of this Rule 1042.12 adopted March 20, 2013, effective May 1, 2013, 43 Pa.B. 1835.

**LEGAL PAPERS; CAPTIONS****Rule 1042.16 Medical Professional Liability Actions. Legal Papers. Caption.**

In an action in which there is a claim for medical professional liability, the caption of all legal papers, or the cover sheet in a county that requires a cover sheet, shall contain the designation “Civil Action—Medical Professional Liability Action.”

**Source**

The provisions of this Rule 1042.16 adopted December 27, 2004, effective immediately, 35 Pa.B. 349.

**SETTLEMENT CONFERENCE; MEDIATION****Rule 1042.21. Medical Professional Liability Actions. Motion for Settlement Conference or Mediation.**

(a) Prior to the exchange of expert reports in a medical professional liability action, a health care provider may file a motion with the court requesting a settlement conference or court ordered mediation.

(1) If the motion is filed without the consent of all other parties, the moving party shall certify that it believes there is a realistic possibility of settlement.

(2) If the motion requests court ordered mediation, the moving party shall describe in the motion the mediation which is sought and shall pay for the mediation.

(b) The court shall consider any objection to the motion before entering an order.

**Official Note:** See Section 5101.1(c) of the Judicial Code, 42 Pa.C.S. § 5101.1(c), for the definitions of “health care provider” and “medical professional liability action.”

**Source**

The provisions of this Rule 1042.21 adopted March 29, 2004, effective immediately, 34 Pa.B. 1926.

**EXPERT REPORTS****Rule 1042.26. Medical Professional Liability Actions. Expert Reports.**

(a) The rules of this chapter, Rules 1042.26 through 1042.38, govern a medical professional liability action in which a medical professional liability claim is asserted against a health care provider.

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**Official Note:** See Section 5101.1(c) of the Judicial Code, 42 Pa.C.S. § 5101.1(c), for the definitions of “health care provider,” “medical professional liability action” and “medical professional liability claim.”

The rules of this chapter create additional requirements for the pre-trial production of expert reports for cases within the scope of these rules.

(b) The rules of this chapter are applicable only in those jurisdictions where the court has not established case management deadlines by court order or otherwise.

**Official Note:** These rules do not apply if the court has set different times for the production of expert reports, whether those times are established before or after a party has initiated a proceeding under this chapter by the filing of a request for expert reports.

#### Source

The provisions of this Rule 1042.26 adopted March 29, 2004, effective immediately, 34 Pa.B. 1926.

### **Rule 1042.27. Requests for Production of Expert Reports. Responses. General Provisions.**

(a)(1) A party may request the production of expert reports as provided by Rules 1042.28(a), 1042.29(a) and 1042.30(a).

(2) The request shall specify the party to whom it is directed and the party making the request.

(b)(1) A party served with a request shall respond as provided by Rules 1042.28(b), 1042.29(a)(2) or (a)(3) or 1042.30(b) as may be appropriate.

(2) An expert report produced pursuant to these rules shall encompass all issues in the liability phase of the case, including issues of professional negligence and causation of harm, for which a party to whom a request has been directed will offer expert testimony at trial in support of claims made against the requesting party or in support of defenses raised to the requesting party's claims. The report shall reflect the best information available to the party producing the report at the time it is produced.

(3) The report shall be signed by the expert and shall comply with the requirements of Rule 4003.5.

**Official Note:** Rule 4003.5 governs the discovery of expert testimony and trial preparation material.

(c) While a request for the production of an expert report may be filed with the court, an expert report produced pursuant to these rules is discovery material that shall not be filed except as provided by Rule 4002.1.

**Official Note:** Rule 4002.1 governs filing discovery material.

#### Source

The provisions of this Rule 1042.27 adopted March 29, 2004, effective immediately, 34 Pa.B. 1926.

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**Rule 1042.28. Defendant's Request to Plaintiff for Production of Expert Reports. Response.**

(a)(1) A defendant against whom a claim of professional negligence has been made may serve on a plaintiff making that claim a Defendant's Request to Plaintiff for Production of Expert Reports. The request shall be substantially in the form prescribed by Rule 1042.36.

(2) The Defendant's Request may be served not earlier than ninety days after the defendant filed its original answer to the plaintiff's complaint.

**Official Note:** An additional defendant may serve a Defendant's Request to Plaintiff for Production of Expert Reports on a plaintiff pursuant to subdivision (a)(1) if the plaintiff is actively pursuing a claim against the additional defendant.

(b) A plaintiff to whom a request has been made under subdivision (a) shall, within one hundred eighty days after service of the request, furnish to the requesting party expert reports summarizing the expert testimony that will be offered by that plaintiff to support the claims of professional negligence made by that plaintiff against the requesting party.

**Source**

The provisions of this Rule 1042.28 adopted March 29, 2004, effective immediately, 34 Pa.B. 1926.

**Rule 1042.29. Plaintiff's Request to Defendant or Additional Defendant for Production of Expert Reports. Response.**

(a)(1) Within the times set forth in subdivisions (a)(2) and (a)(3), a plaintiff who has furnished a defendant or additional defendant expert reports summarizing the expert testimony that will be offered by the plaintiff to support his or her claims of professional liability made against that defendant or additional defendant, may serve on that defendant or additional defendant a Plaintiff's Request to Defendant or Additional Defendant for Production of Expert Reports. The request shall be substantially in the form prescribed by Rule 1042.37.

(2) A plaintiff who has furnished an expert report to the defendant or additional defendant in response to a request pursuant to Rule 1042.28 may thereafter serve a request on that defendant or additional defendant. Within sixty days after service of the request, the party to whom the request has been directed shall furnish to the requesting party expert reports summarizing the expert testimony that will be offered by that party to support the defenses to the requesting party's claims.

(3) A plaintiff who has furnished an expert report to the defendant or additional defendant without a request may serve a request on that defendant or additional defendant after ninety days following the filing of the certificate of merit as to the party to whom the request is directed. Within one hundred twenty days after service of the request, the party to whom the request has been directed shall furnish to the requesting party expert reports summarizing the expert testimony that will be offered by that party to support the defenses to the requesting party's claims.

(b) If the defendant or additional defendant to whom a Plaintiff's Request to Defendant or Additional Defendant for Production of Expert Reports has been directed has raised claims against other parties pursuant to Rule 2251 et seq., the

expert reports shall also summarize the expert testimony that will be offered by that party in support of the claims against other parties.

**Official Note:** Rule 2251 et seq. governs the joinder of additional defendants.

**Source**

The provisions of this Rule 1042.29 adopted March 29, 2004, effective immediately, 34 Pa.B. 1926.

**Rule 1042.30. Defendant's or Additional Defendant's Request to Another Defendant or Additional Defendant for Production of Expert Reports. Response.**

(a)(1) A defendant or additional defendant who has furnished expert reports summarizing the expert testimony offered by that party in support of claims against other parties pursuant to Rule 1042.29(b) may serve a Defendant's or Additional Defendant's Request to Another Defendant or Additional Defendant for Production of Expert Reports. The request shall be substantially in the form prescribed by Rule 1042.38.

(2) The request may not be made earlier than ninety days after a certificate of merit was served on the party to whom the request is directed.

(b) A party to whom a request for production of expert reports has been directed pursuant to subdivision (a) shall within sixty days after service of the request furnish to the requesting party expert reports summarizing the expert testimony that will be offered by that party supporting the defenses to the claims by the requesting party and any claims raised against the requesting party and any other parties joined pursuant to Rule 2251 et seq.

**Official Note:** Rule 2251 et seq. governs the joinder of additional defendants.

**Source**

The provisions of this Rule 1042.30 adopted March 29, 2004, effective immediately, 34 Pa.B. 1926.

**Rule 1042.31. Failure to Produce Report. Sanctions. Summary Judgment.**

(a) A party who has not received an expert report required to be produced under these rules may upon motion obtain a court order compelling the production of the report. In ruling on the motion, the court shall consider the complexity of the case, the diligence of the parties in making and responding to discovery requests, and other relevant factors. A party who has proceeded with reasonable diligence shall be given a reasonable time in which to complete necessary discovery and to produce an expert report.

**Official Note:** A party cannot justify the non-production of an expert report required by these rules simply by stating that discovery has not been completed or that the party failing to provide the report has not yet identified the experts whom he or she intends to call at trial. However, a party who has acted diligently should not be required to produce expert reports if discovery of significant information has not been completed because of difficulty obtaining discovery from other parties or third persons or because of the complexity of the case.

(b) A court may impose sanctions for non-compliance with an order entered pursuant to subdivision (a) including, where appropriate, an order barring a party from introducing expert testimony.

(c) A court shall promptly consider a motion for summary judgment which is based solely on a court order entered pursuant to subdivision (b), barring a party from introducing expert testimony.

**Source**

The provisions of this Rule 1042.31 adopted March 29, 2004, effective immediately, 34 Pa.B. 1926.

**Rule 1042.32. Additional and Supplemental Reports.**

Until a deadline set by the court for the production of expert reports has passed or unless the court has precluded such production, a party may serve additional and supplemental expert reports without leave of court. These reports may introduce new theories of liability or causation or new defenses, and may be prepared by other experts.

**Source**

The provisions of this Rule 1042.32 adopted March 29, 2004, effective immediately, 34 Pa.B. 1926.

**Rule 1042.36. Defendant’s Request to Plaintiff. Form.**

The Defendant’s Request to Plaintiff for Production of Expert Reports required by Rule 1042.28(a)(1) shall be substantially in the following form:

(CAPTION)

DEFENDANT’S REQUEST TO PLAINTIFF  
FOR PRODUCTION OF EXPERT REPORTS

TO: \_\_\_\_\_  
Name of Plaintiff

FROM: \_\_\_\_\_  
Name of Defendant

Pursuant to Pennsylvania Rule of Civil Procedure 1042.28(b), you are requested within one hundred eighty (180) days of service of this request to furnish to me, the defendant named above, expert reports summarizing the expert testimony that you will offer to support the claims of professional negligence that you have made against me. You are required to serve copies of all expert reports on all other parties.

Dated: \_\_\_\_\_  
Attorney for Defendant

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Source

The provisions of this Rule 1042.36 adopted March 29, 2004, effective immediately, 34 Pa.B. 1926.

**Rule 1042.37. Plaintiff's Request to Defendant or Additional Defendant.**

The Plaintiff's Request to Defendant or Additional Defendant for Production of Expert Reports required by Rule 1042.29(a)(1) shall be substantially in the following form:

(CAPTION)

Plaintiff's Request to Defendant or Additional Defendant  
for Production of Expert Reports

TO: \_\_\_\_\_

Name of Defendant/Additional Defendant

FROM: \_\_\_\_\_

Name of Plaintiff

1. I, the plaintiff named above, have furnished you, the defendant named above, expert reports summarizing the expert testimony that I will offer to support the claims of professional negligence or product liability that I have made against you.

2(A) Pursuant to Pennsylvania Rule of Civil Procedure 1042.29(a)(2), you are requested within sixty (60) days of service of this request to furnish to me expert reports summarizing the expert testimony that you will offer to support your defenses to the claims of professional negligence that I have made against you.

2(B) Pursuant to Pennsylvania Rule of Civil Procedure 1042.29(a)(3), you are requested within one hundred twenty (120) days of service of this request to furnish to me expert reports summarizing the expert testimony that you will offer to support your defenses to the claims of professional negligence that I have made against you.

3. If you have made claims against other parties pursuant to Pennsylvania Rule of Civil Procedure 2251 et seq. governing the joinder of additional defendants, your expert reports are required also to summarize the expert testimony that you will offer in support of these claims against those other parties.

4. You are required to serve copies of all expert reports on all other parties.

Date: \_\_\_\_\_

\_\_\_\_\_  
Attorney for \_\_\_\_\_, Plaintiff

**Official Note:** Delete Paragraph 2(A) or 2(B), whichever is not applicable.

Source

The provisions of this Rule 1042.37 adopted March 29, 2004, effective immediately, 34 Pa.B. 1926.

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**Rule 1042.38. Defendant's or Additional Defendant's Request to Another Defendant or Additional Defendant. Form.**

The Defendant's or Additional Defendant's Request to Another Defendant or Additional Defendant for Production of Expert Reports required by Rule 1042.30(a)(1) shall be substantially in the following form:

(CAPTION)

Defendant's or Additional Defendant's Request to Another Defendant or  
Additional Defendant for Production of Expert Reports

TO: \_\_\_\_\_

Name of Another Defendant/Additional Defendant

FROM: \_\_\_\_\_

Name of Defendant/Additional Defendant

I, the defendant/additional defendant named above, have furnished to you expert reports summarizing the expert testimony that I will offer to support the claims that I have made against you pursuant to Pennsylvania Rule of Civil Procedure 2251 et seq. governing joinder of additional parties.

Pursuant to Pa.R.C.P. 1042.30(b), you are requested within sixty (60) days to furnish me expert reports summarizing the expert testimony that you will offer to support your defenses to my claims against you and to support any claims you have raised against me pursuant to Pa.R.C.P. 2251 et seq.

If you have raised claims against other parties pursuant to Pa.R.C.P. 2251 et seq., your expert reports are required also to summarize the expert testimony that you will offer in support of your claims against these other parties.

You are required to serve copies of all expert reports on all other parties.

Date: \_\_\_\_\_

\_\_\_\_\_  
Attorney for \_\_\_\_\_

Defendant/Additional Defendant

**Source**

The provisions of this Rule 1042.38 adopted March 29, 2004, effective immediately, 34 Pa.B. 1926.

**SCHEDULING ORDER****Rule 1042.41. Medical Professional Liability Actions. Scheduling Order.**

(a) After one year from the date the first answer was filed in a medical professional liability action, any party to the action may file a motion requesting the court to issue a scheduling order. Upon presentation of the motion, the court shall within thirty days issue a scheduling order or schedule a case management conference.

(b) The scheduling order shall include schedules for the completion of discovery and the production of expert reports.

1000-26.20



(c) This rule shall not apply where the court by court order or otherwise has established schedules for completion of discovery and production of expert reports.

**Source**

The provisions of this Rule 1042.41 adopted March 29, 2004, effective immediately, 34 Pa.B. 1926.

**PRE-TRIAL CONFERENCE**

**Rule 1042.51. Medical Professional Liability Actions. Motion for Pre-Trial Conference. Mediation. Report of Cases not Tried.**

(a)(1) Any party to a medical professional liability action may file a motion requesting the court to schedule a pre-trial conference. The motion may be filed

(i) after the parties have produced expert reports as to liability pursuant to a request under Rule 1042.26 et seq. or a scheduling order under Rule 1042.41 or

(ii) whenever the motion includes a statement that all parties have exchanged expert reports as to liability.

(2) The pre-trial conference shall be scheduled within sixty days of the filing of the motion and shall be governed by the procedure of Rule 212.3.

(b) At the pretrial conference, the court shall

(1) set a date for another pre-trial conference or for trial or furnish the parties with a tentative trial date, and

(2) inquire of the parties whether they are willing to participate in mediation.

(c) On the first day of February and the first day of September of each year, the court administrator of each court of common pleas shall file with the Administrative Office of Pennsylvania Courts a list of all medical professional liability cases that have not been tried within nine months of a pre-trial conference scheduled pursuant to this rule.

(d) This rule shall not apply where a court has set a trial date.

**Source**

The provisions of this Rule 1042.51 adopted March 29, 2004, effective immediately, 34 Pa.B. 1926.

**Rule 1042.71. Medical Professional Liability Actions. Damages. Findings.**

At the request of any party to a medical professional liability action, the trier of fact shall make a determination, with separate findings for each plaintiff, specifying the amount of all of the following:

(1) except as provided under Section 508 of the MCARE Act, past damages for:

(i) medical and other related expenses in a lump sum;

- (ii) loss of earnings in a lump sum; and
- (iii) noneconomic loss in a lump sum.

**Official Note:** Section 508 of Act No. 13 of 2002, the MCARE Act, 40 P. S. § 1303.508, governs collateral sources.

- (2) future damages for:
  - (i) medical and other related expenses by year;
  - (ii) loss of earnings or earning capacity in a lump sum; and
  - (iii) noneconomic loss in a lump sum.

**Official Note:** Section 509(a) of the MCARE Act, 40 P. S. § 1303.509(a), provides for the separate findings set forth in this rule.

This rule applies to all medical professional liability actions, whether tried before a jury or a court without a jury.

The term “plaintiff” as used in Rule 1042.71 is synonymous with the term “claimant” as used in Section 509(a) of the MCARE Act, 13 P. S. § 1303.509(a), and as defined in Section 103 of the Act, 40 P. S. § 1303.103.

**Source**

The provisions of this Rule 1042.71 adopted August 20, 2004, effective October 1, 2004, 34 Pa.B. 4880.

**Rule 1042.72. [Rescinded].**

**Source**

The provisions of this Rule 1042.72 adopted September 17, 2004, effective December 1, 2004, 34 Pa.B. 5351; rescinded October 17, 2012, effective immediately, 42 Pa.B. 6872. Immediately preceding text appears at serial pages (335377) to (335378).

**Rule 1043. [Rescinded].**

**Source**

The provisions of this Rule 1043 rescinded December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999. Immediately preceding text appears at serial page (22267).

**Rule 1044. [Rescinded].**

**Source**

The provisions of this Rule 1044 rescinded December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999. Immediately preceding text appears at serial page (22268).

**Rule 1045. [Rescinded].**

**Source**

The provisions of this Rule 1045 rescinded December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999. Immediately preceding text appears at serial pages (22268) and (40039).

**Rule 1046. [Rescinded].**

**Source**

The provisions of this Rule 1046 rescinded December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999. Immediately preceding text appears at serial page (40039).

**Rule 1047. [Rescinded].**

**Source**

The provisions of this Rule 1047 rescinded December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999. Immediately preceding text appears at serial pages (40039) to (40040).

**Rule 1048. [Rescinded].**

**Source**

The provisions of this Rule 1048 rescinded December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999. Immediately preceding text appears at serial page (40040).

**Subchapter C. ACTION IN EJECTMENT**

- Rule  
1051. Conformity to Civil Action.  
1052. Venue.  
1053. Service. [Rescinded].  
1054. Specific Averments. Abstract of Title.  
1055. Pleading More Than One Cause of Action.  
1056. Counterclaim. Conditional Verdict.  
1057. Judgment. Execution.  
1058. Trial Without Jury.

**Rule 1051. Conformity to Civil Action.**

Except as otherwise provided in this chapter, the procedure in the action of ejectment shall be in accordance with the rules relating to a civil action.

**Source**

The provisions of this Rule 1051 adopted June 25, 1946, effective January 1, 1947; amended December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999. Immediately preceding text appears at serial page (40041).



**Rule 1052. Venue.**

The action may be brought in and only in a county in which the land or part of the land is located.

**Source**

The provisions of this Rule 1052 adopted June 25, 1946, effective January 1, 1947.

**Rule 1053. Service.**

[Rescinded]

**Official Note:** For service of original process, see Rule 410 governing service in actions involving real property.

**Source**

The provisions of this Rule 1053 reserved June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452. Immediately preceding text appears at serial pages (87259) and (87260).

**Rule 1054. Specific Averments. Abstract of Title.**

- (a) The plaintiff shall describe the land in the complaint.
- (b) A party shall set forth in the complaint or answer an abstract of the title upon which the party relies at least from the common source of the adverse titles of the parties.

**Source**

The provisions of this Rule 1054 adopted June 25, 1946, effective January 1, 1947; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial page (212313).

**Rule 1055. Pleading More Than One Cause of Action.**

The plaintiff may state in the complaint any cause of action for rents, profits or any other damages which arise from the defendant's possession of the land.

**Comment**

The inability to join the action for delinquent rent has necessitated two separate actions when possession of the property and delinquent rent are both sought. An action in ejectment is required to obtain possession of the property and an action in assumpsit is required to recover the rent. Although not permitted in the court of common pleas, such joinder is permitted by the Rules of Civil Procedure for Justices of the Peace. Pa. R.P.C.J.P. 503C (8) permits the complaint to include amount of rent, if any, which remains due and unpaid . . . ."

In addition to delinquent rent, there are other claims for damages which cannot presently be joined, such as installment payments due under an installment land contract where the purchaser enters into possession before the time appointed for the conveyance of title. Under the Installment Land Contract Law of 1968, Act of June 8, 1965, No. 81, 68 P. S. § 901 et seq., applicable to cities and counties of the first and second class, the seller upon termination may, subject to restrictions set forth in the Act, maintain actions for recovery of possession and for unpaid installments prior to the surrender of the land.

The amendment will permit the joinder of causes of action for delinquent rent or delinquent installments under an installment land contract entered into in any city or county of the Commonwealth. Damages for “use of or injury to the land,” presently permitted under the rule, are embraced in the new language, “damages which arise from the defendant’s possession of the land.”

Concurrently with the enlargement of the plaintiff’s right to joinder, the defendant’s right to counterclaim has also been enlarged. Under present Rule 1056, the defendant may counterclaim only if the plaintiff demands damages. The amendment deletes this language, thus eliminating the dependence of a counterclaim on the assertion of a claim by the plaintiff. This would permit a defendant under a residential lease to assert a claim for breach of warranty of habitability recognized by the decisions in *Pugh v. Holmes*, 253 Pa. Super. 76, 384 A.2d 1234 (1978), *Beasley v. Freedman*, 256 Pa. Super. 208, 389 A.2d 1087 (1978), and *Fair v. Negley*, 257 Pa. Super. 50, 390 A.2d 240 (1978).

#### Source

The provisions of this Rule 1055 adopted June 25, 1946, effective January 1, 1947; amended March 12, 1979, effective April 7, 1979, 9 Pa.B. 1167. Immediately preceding text appears at serial page (22272).

### Rule 1056. Counterclaim. Conditional Verdict.

(a) The defendant may plead a counterclaim which arises from the same transaction or occurrence or series of transactions or occurrences from which the cause of action arose.

(b) A conditional verdict may be entered in an appropriate case.

**Official Note:** Adopted June 25, 1946, effective January 1, 1947.

**Explanatory Note:** Ejectment Rule 1055 permits the joinder in an action of ejectment of a cause of action for “profits for the use of or damages or injury to the land.” The courts have been divided in their construction of the word “profits.” It has been construed not to include “rent,” and accordingly a cause of action for delinquent rent accruing prior to commencement of the action cannot be joined with ejectment. See *Hanson v. Wintersteen*, 32 D. & C.2d 138 (1963). However, “profits” has also been interpreted to include rent, thus permitting the joinder of the causes of action. See dictum, *Phillips v. Bailey*, 26 Chester Co. Rep. 338 (1978).

The inability to join the action for delinquent rent has necessitated two separate actions when possession of the property and delinquent rent are both sought. An action in ejectment is required to obtain possession of the property and an action in assumpsit is required to recover the rent. Although not permitted in the court of common pleas, such joinder is permitted by the Rules of Civil Procedure for Justices of the Peace. Pa. R.P.C.J.P. 503C (8) permits the complaint to include “the amount of rent, if any, which remains due and unpaid . . . .”

In addition to delinquent rent, there are other claims for damages which cannot presently be joined, such as installment payments due under an installment land contract where the purchaser enters into possession before the time appointed for the conveyance of title. Under the Installment Land Contract Law of 1968, Act of June 8, 1965, No. 81, 68 P. S. § 901 *et seq.*, applicable to cities and counties of the first and second class, the seller upon termination may, subject to restrictions set forth in the Act, maintain actions for recovery of possession and for unpaid installments prior to the surrender of the land.

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#### Source

The provisions of this Rule 1056 amended March 12, 1979, effective April 7, 1979, 9 Pa.B. 1167. Immediately preceding text appears at serial page (22272).

### Rule 1057. Judgment. Execution.

Judgment in the action shall be enforced as provided by Rules 3160 to 3165, inclusive.

**Official Note:** Adopted March 30, 1960, effective November 1, 1960.

### Rule 1058. Trial Without Jury.

The trial of actions in ejectment by a judge sitting without a jury shall be in accordance with Rule 1038.

**Official Note:** Added June 27, 1969, effective September 1, 1969.

The Civil Procedural Rules Committee, by communication dated Aug. 27, 1969, announced that amendment of this rule effective Sept. 1, 1969 applied to pending actions.

#### Source

The provisions of this Rule 1058 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 pages (40044) and (40045).

## Subchapter D. ACTION TO QUIET TITLE

Rule	
1061.	Conformity to Civil Action. Scope.
1062.	Venue.
1063.	Commencement of Action.
1064.	Service.
1065.	Specific Averments.
1066.	Form of Judgment or Order.
1067.	Trial Without Jury.
1068.	Acts of Assembly.

**Official Note:** The Order of the Supreme Court, June 25, 1946, adopting the Rules of Civil Procedure governing Actions at Law, fixed Jan. 1, 1947, as the effective date and made said Rules applicable to actions pending at that time.

**Rule 1061. Conformity to Civil Action. Scope.**

(a) Except as otherwise provided in this chapter, the procedure in the action to quiet title from the commencement to the entry of judgment shall be in accordance with the rules relating to a civil action.

**Official Note:** No right to trial by jury is conferred by this rule. See Rule 128(f).

(b) The action may be brought

- (1) to compel an adverse party to commence an action of ejectment;
- (2) where an action of ejectment will not lie, to determine any right, lien, title or interest in the land or determine the validity or discharge of any document, obligation or deed affecting any right, lien, title or interest in land;
- (3) to compel an adverse party to file, record, cancel, surrender or satisfy of record, or admit the validity, invalidity or discharge of, any document, obligation or deed affecting any right, lien, title or interest in land; or
- (4) to obtain possession of land sold at a judicial or tax sale.

**Source**

The provisions of this Rule 1061 adopted June 25, 1946, effective January 1, 1947; amended through December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999. Immediately preceding text appears at serial page (40045).

**Rule 1062. Venue.**

The action may be brought in and only in a county in which the land or a part of the land is located.

**Rule 1063. Commencement of Action.**

The action shall be commenced by filing with the prothonotary

- (1) a complaint, or
- (2) an agreement for an amicable action.

**Rule 1064. Service.**

In actions involving subsurface mineral, oil, or natural gas rights, if the plaintiff seeks to serve original process by publication pursuant to Rule 430 and obtains actual knowledge of a last known address of the defendant outside the county in which the property is located, the plaintiff shall explain in the affidavit required by Rule 430(a) the search for the defendant in that locale.



**Official Note:** For service of original process, *see* Rule 410 governing service in actions involving real property. *See* Rule 430 for additional requirements for service of original process by publication.

**Source**

The provisions of this Rule 1064 rescinded June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452; amended November 29, 2016, effective January 1, 2017, 46 Pa.B. 7933; amended December 30, 2016, effective January 1, 2017, 47 Pa.B. 178. Immediately preceding text appears at serial pages (385502) to (385503).

**Rule 1065. Specific Averments.**

(a) Except as provided in subdivision (b), the plaintiff shall describe the land in the complaint.

(b) In an action to quiet title involving subsurface mineral, oil, or natural gas rights, the complaint shall describe the land by attaching:

(1) a summary of the abstract of the mineral, oil, or natural gas title, or the full abstract of the mineral, oil, or natural gas title if the title documents are not available in the courthouse records, and

(2) a statement of acreage involved that includes a metes and bounds description, if available, or other description sufficient to identify the subject land.

**Source**

The provisions of this Rule 1065 adopted June 25, 1946, effective January 1, 1947; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266; amended November 29, 2016, effective January 1, 2017, 46 Pa.B. 7933; amended December 30, 2016, effective January 1, 2017, 47 Pa.B. 178. Immediately preceding text appears at serial page (385503).

**Rule 1066. Form of Judgment or Order.**

(a) The court shall grant appropriate relief upon affidavit that a complaint containing a notice to defend has been served and that the defendant has not filed an answer, or after a hearing or trial on the pleadings or merits.

(b) Upon granting relief to the plaintiff, the court

(1) shall order that the defendant be forever barred from asserting any right, lien, title or interest in the land inconsistent with the interest or claim of the plaintiff set forth in the complaint, unless the defendant takes such action as the order directs within thirty days thereafter. If such action is not taken within the thirty-day period, the prothonotary on praecipe of the plaintiff shall enter final judgment;

**Official Note:** See Rule 248, authorizing the modification of any time period prescribed by the rules on written agreement or order of court.

(2) shall enter a final judgment that a document, obligation or deed affecting a right, lien, title or interest in the land is cancelled or is valid, invalid or discharged or that a copy of a lost plan, document, obligation or deed is an authentic copy;

(3) shall enter a final judgment ordering the defendant, the prothonotary, or the recorder of deeds to file, record, cancel, surrender or satisfy of record, as the case may be, any plan, document, obligation or deed determined to be valid, invalid, satisfied or discharged, and to execute and deliver any document, obligation or deed necessary to make the order effective; or

(4) shall enter any other order necessary for the granting of proper relief.

#### Source

The provisions of this Rule 1066 adopted June 25, 1946, effective January 1, 1947; amended March 27, 1956, effective July 1, 1956; amended August 10, 1979, effective August 31, 1979, 9 Pa.B. 2929; amended April 12, 1999, effective July 12, 1999, 29 Pa.B. 2266; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255221).

### Rule 1067. Trial Without Jury.

The trial of actions to quiet title by a judge sitting without a jury shall be in accordance with Rule 1038.

#### Source

The provisions of this Rule 1067 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 (45825).

### Rule 1068. Acts of Assembly.

(a) The rules of civil procedure shall not be deemed to suspend or affect:

(1) The Act of May 28, 1895, P.L. 124, No. 92, as amended by the Act of April 28, 1899, P.L. 123, No. 101, 21 P.S. §§ 399, 497 to 499;

**Official Note:** This Act provides for the recording of subdivision plans.

(2) Section 506 of the Act of August 24, 1963, P.L. 1175, No. 497, 49 P.S. § 1506.

**Official Note:** This Act authorizes the entry of a rule to file a mechanics' lien or be barred.

(b) The Act approved June 10, 1881, P.L. 97, No. 105, as amended by the Act approved April 27, 1927, P.L. 461, No. 295, 21 P.S. § 688 is suspended absolutely, in accordance with the provisions of the Constitution of 1968, Article V, Section 10(c).

**Official Note:** This Act authorizes a rule to foreclose a mortgage or be barred.

**Source**

The provisions of Rule 1068 adopted March 11, 1991, effective July 1, 1991, 21 Pa.B. 1274.

**Subchapter E. ACTION IN REPLEVIN**

- Rule
- 1071. Conformity to Civil Action.
  - 1072. Venue.
  - 1073. Commencement of Action.
  - 1073.1. Complaint. Specific Averments. Verification.
  - 1074. Service of the Complaint. [Rescinded].
  - 1075. Seizure of Property Before Judgment.
  - 1075.1. Writ of Seizure Upon Notice and Hearing.
  - 1075.2. Ex Parte Issuance of Writ of Seizure.
  - 1075.3. Writ of Seizure. Bond.
  - 1075.4. Service of the Writ of Seizure.
  - 1075.5. Duration of Validity of Writ of Seizure.
  - 1076. Counterbond.
  - 1077. Disposition of Seized Property. Sheriff's Return.
  - 1078. Exemption of Property. Preliminary Objection.
  - 1079. Impounding Property.
  - 1079.1. Special Equitable Relief.
  - 1080. Objections to Bond.
  - 1081. Concealment of Property. Examination of Defendant.



- 1082. Counterclaim. Lien. Conditional Verdict.
- 1083. Judgment in Rem for Property When Defendant is Not Served and Does Not Appear.
- 1084. Judgment Before Trial When Defendant is Served or Appears.
- 1085. Judgment After Trial.
- 1086. Judgment. Enforcement.
- 1087. Trial Without Jury.
- 1088. Acts of Assembly Not Suspended.

**Official Note:** The Order of the Supreme Court, June 25, 1946, adopting the Rules of Civil Procedure governing Actions at Law, fixed Jan. 1, 1947, as the effective date and made said Rules applicable to actions pending at that time.

### **Rule 1071. Conformity to Civil Action.**

Except as otherwise provided in this chapter, the procedure in the action of replevin from the commencement to the entry of judgment shall be in accordance with the rules relating to a civil action.

#### **Source**

The provisions of this Rule 1071 adopted June 25, 1946, effective January 1, 1947; amended December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999. Immediately preceding text appears at serial page (40049).

### **Rule 1072. Venue.**

The action may be brought in a county in which a civil action may be brought or in the county in which the property to be replevied is found.

#### **Source**

The provisions of this Rule 1072 adopted June 25, 1946, effective January 1, 1947; amended through December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999. Immediately preceding text appears at serial page (40049).

### **Rule 1073. Commencement of Action.**

An action of replevin shall be commenced by filing a complaint with the prothonotary.

#### **Source**

The provisions of this Rule 1073 adopted June 23, 1975, effective October 1, 1975, 5 Pa.B. 1824.

### **Rule 1073.1. Complaint. Specific Averments. Verification.**

- (a) The plaintiff shall include in the complaint:
  - (1) a description of the property to be replevied.
  - (2) its value,
  - (3) its location if known, and

**Official Note:** See Rule 1081 authorizing the court at any time during the pendency of the action to order the defendant to appear for oral examination as to the whereabouts of the claimed property.

(4) the material facts upon which plaintiff's claim is based.

(b) The complaint shall be verified by the plaintiff upon personal knowledge or information and belief or by any other person having sufficient knowledge or information and belief, who shall set forth the source of the information as to matters not stated upon his or her own knowledge and the reason why the verification is not made by the plaintiff.

**Source**

The provisions of this Rule 1073 adopted June 23, 1975, effective October 1, 1975, 5 Pa.B. 1824; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial pages (212319) to (212320).

**Rule 1074. Service of the Complaint.**

[Rescinded]

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

**Source**

The provisions of this Rule 1074 rescinded June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452. Immediately preceding text appears at serial page (87268).

**Rule 1075. Seizure of Property Before Judgment.**

The property which is the subject matter of the action may be seized by the sheriff before judgment pursuant to a writ of seizure. The writ of seizure shall be issued only upon an order of court entered upon notice and hearing pursuant to Rule 1075.1 or ex parte pursuant to Rule 1075.2.

**Source**

The provisions of this Rule 1075 adopted June 23, 1975, effective October 1, 1975, 5 Pa.B. 1824.

**Rule 1075.1. Writ of Seizure Upon Notice and Hearing.**

(a) After the complaint has been filed, the plaintiff may move for the issuance of a writ of seizure whether or not the complaint has been served. The court shall fix the date and time of the hearing which shall not be less than forty-eight hours after filing the motion for the writ of seizure.

(b) A copy of the complaint shall be attached to the motion. If the motion includes additional facts not averred in the complaint, it shall be verified in the same manner as a complaint.

(c) Notice of the hearing shall be substantially in the form provided by Rule 1353. It shall inform the defendant and any other person found in possession of the property of the place, date and time of the hearing. Service of the notice shall

be made not less than twenty-four hours before the hearing. When perishable property is to be seized or if other cause is shown, the court may set a shorter time for notice and hearing.

(d) The motion and notice of the hearing may be served by any competent adult by leaving a copy at the address endorsed on an appearance or prior pleading, but if there is no such endorsement, then in the manner provided by Rule 402(a) for the service of original process or, if that is not possible, then by any other means reasonably calculated to give notice. The return of service shall be governed by Rule 405.

(e) The hearing shall be held whether or not the defendant or other person found in possession of the property appears. If the court is satisfied that notice as provided by this rule has been given or a reasonable attempt to give notice has been made, it shall determine from the complaint, affidavits, testimony, admissions or other evidence, whether the plaintiff has established the probable validity of the claim and, if so, it may order a writ of seizure to be issued upon the filing of a bond as provided by Rule 1075.3.

(f) The failure of a defendant or other person found in possession of the property to appear or be represented at the hearing shall not be considered a waiver of any right to defend the action or to file a counterbond.

(g) If the notice of the hearing has not been actually received notwithstanding a reasonable attempt to give notice, the defendant or any other person claiming the right to possession may, within seventy-two hours after seizure, petition to vacate the writ of seizure.

#### Source

The provisions of this Rule 1075.1 adopted June 23, 1975, effective October 1, 1975, 5 Pa.B. 1824; amended through June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266; amended May 14, 1999, effective July 1, 1999, 29 Pa.B. 2767; amended June 14, 1999, effective September 1, 1999, 29 Pa.B. 3191. Immediately preceding text appears at serial pages (255224) and (256967). (*Editor's Note:* The Supreme Court of Pennsylvania has suspended its order of June 14, 1999, published at 29 Pa.B. 3191 (June 26, 1999). See 29 Pa.B. 4859 (September 18, 1999).)

#### **Rule 1075.2. Ex Parte Issuance of Writ of Seizure.**

(a) After the complaint has been filed, a writ of seizure may be issued by the court ex parte at any time upon motion of the plaintiff, upon the filing of a bond as provided by Rule 1075.3 if plaintiff satisfies the court of the probable validity of the claim to possession and that there is probable cause to believe that before notice can be given or hearing held.

(1) the value of the property and the plaintiff's interest therein will be adversely affected by the continued possession and use by the defendant; or

(2) the defendant or other person in possession will conceal, dispose, encumber, waste the property or the revenues therefrom, if any, or remove the same from the county.

If the motion includes additional facts not averred in the complaint, it shall be verified in the same manner as a complaint.

(b) A copy of the complaint and the motion for ex parte issuance of the writ of seizure shall be served with the writ of seizure.

(c) If a writ has been issued and the property has been seized, a hearing shall be held within seventy-two hours after the seizure of the property. The notice of the hearing shall be substantially in the form provided by Rule 1353. It shall inform the defendant and any other person found in possession of the property of the place, date and time of the hearing. Service of the notice shall be in the manner provided by Rule 1075.1(d).

(d) The hearing shall be held whether or not the defendant or other person found in possession of the property is served or appears. If the court determines that no notice as required by this rule has been given or no reasonable attempt to give such notice has been made, it shall vacate the writ and the property shall be returned to the person from whom it was taken. If the court is satisfied that notice as required by this rule has been given or a reasonable attempt to give such notice has been made, it shall determine from the complaint, affidavits, testimony, admissions or other evidence whether the plaintiff has established the probable validity of the claim to possession and of the grounds for the ex parte issuance of the writ. If the court has determined that plaintiff has established such validity, it shall enter an order confirming the ex parte issuance of the writ.

(1) If the plaintiff fails to establish the probable right to possession, the court shall vacate the writ and the property shall be returned to the person from whom it was taken. Thereafter, subject to the payment of expenses as hereinafter provided, the action shall then proceed as if no writ of seizure has been issued.

(2) If the plaintiff establishes the probable right to possession but fails to establish the probable validity of the grounds for ex parte issuance of the writ, the court, upon payment by the plaintiff of the expenses as hereinafter provided, may permit the plaintiff to retain possession pending judgment subject to the right of a party to file a counterbond or to exercise any other right under these rules.

(3) The expenses referred to in subdivisions (1) and (2) above shall be limited to reasonable expenses of a defending party which may include attorney's fees in litigating the issues of probable right to possession or probable validity of the grounds for ex parte issuance of the writ. The allowance of any expenses shall in all cases be discretionary with the court. A plaintiff required to pay such expenses may not without leave of court take any further steps in the action so long as such expenses remain unpaid.

**Official Note:** The expenses referred to in subdivision (d) are imposed upon plaintiff for the failure to sustain the ex parte issuance of the writ of seizure. They are distinct from special damages which will be adjudicated at the final disposition. See Rules 1084 and 1085.

(e) The failure of a defendant or other person found in possession of the property to appear or be represented at the hearing shall not be considered a waiver of any right to defend the action or to file a counterbond.



**Source**

The provisions of this Rule 1075.4 adopted June 23, 1975, effective October 1, 1975, 5 Pa.B. 1824; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial pages (212321) to (212322).

**Rule 1075.3. Writ of Seizure. Bond.**

(a) The writ of seizure shall be substantially in the form provided by Rule 1354.

(b) The plaintiff's bond shall be in double the value of the property averred in the complaint with security approved by the prothonotary, naming the Commonwealth as obligee, conditioned that if the plaintiff fails to maintain the right to possession of the property the plaintiff shall pay to the party entitled thereto the value of the property and all legal costs, fees and damages sustained by reason of the issuance of the writ.

**Official Note:** For enforcement of judgment and execution on the bond see Rule 3170 et seq.

**Source**

The provisions of this Rule 1075.3 adopted June 23, 1975, effective October 1, 1975, 5 Pa.B. 1824; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial pages (212322) to (212323).

**Rule 1075.4. Service of the Writ of Seizure.**

(a) The sheriff shall serve the writ of seizure, together with a copy of the complaint and motion for ex parte issuance of the writ if the writ has been issued ex parte, upon the defendant and any person not a party who is found in possession of the property, in the manner provided by Rule 402(a) for service of original process and shall take possession of the property.

(b) When a person in possession of the property who is not a party to the action is served with a writ of seizure, the sheriff shall notify the person that he or she has been added as a defendant and is required to defend the action and shall so state in the return and the person shall thereupon become a defendant in the action. Copies of all prior pleadings and motions not previously furnished to the person shall be forthwith served upon him or her by the plaintiff in the manner provided by Rule 440.

**Source**

The provisions of this Rule 1075.4 adopted June 1, 1975, effective October 1, 1975, 5 Pa.B. 1824; amended through June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266; amended June 14, 1999, effective September 1, 1999, 29 Pa.B. 3191. Immediately preceding text appears at serial page (256969). (*Editor's Note:* The Supreme Court of Pennsylvania has suspended its order of June 14, 1999, published at 29 Pa.B. 3191 (June 26, 1999). See 29 Pa.B. 4859 (September 18, 1999).)

**Rule 1075.5. Duration of Validity of Writ of Seizure.**

The writ of seizure shall remain valid until served and need not be reissued.

**Source**

The provisions of this Rule 1075.5 adopted June 1, 1975, effective October 1, 1975, 5 Pa.B. 1824.

**Rule 1076. Counterbond.**

(a) A counterbond may be filed with the prothonotary by a defendant or intervenor claiming the right to the possession of the property, except a party claiming only a lien thereon, within seventy-two hours after the property has been seized, or within seventy-two hours after service upon the defendant when the taking of possession of the property by the sheriff has been waived by the plaintiff as provided by Rule 1077(a), or within such extension of time as may be granted by the court upon cause shown.

**Official Note:** A person not a party to the action who claims the right to possession of the property may intervene in the action as a defendant. See Rule 2327. Since intervention will ordinarily require more than seventy-two hours, the applicant for intervention should also apply for an extension of the time within which to file a counterbond if he or she desires to obtain possession of the property after intervention has been allowed.

After the allowance of intervention, the intervenor has the same status as an original party. See Rule 2330(a).

Extensions of time may be needed when there are hearings under Rule 1075.2.

(b) The counterbond shall be in the same amount as the original bond, with security approved by the prothonotary, naming the Commonwealth of Pennsylvania as obligee, conditioned that if the party filing it fails to maintain the right to possession of the property he or she shall pay to the party entitled thereto the value of the property, and all legal costs, fees and damages sustained by reason of the delivery of the seized property to the party filing the counterbond.

**Source**

The provisions of this Rule 1076 adopted June 25, 1946, effective January 1, 1947; amended June 23, 1975, effective October 1, 1975, 5 Pa.B. 1824; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial pages (212323) to (212324).

**Rule 1077. Disposition of Seized Property. Sheriff's Return.**

(a) When a writ of seizure is issued, the sheriff shall leave the property during the time allowed for the filing of a counterbond in the possession of the defendant or of any other person found in possession of the property if the plaintiff so authorizes the sheriff in writing.

(b) Property taken into possession by the sheriff shall be held by the sheriff until the expiration of the time for filing a counterbond. If the property is not ordered to be impounded and if no counterbond is filed, and if no proceedings

are pending and undecided under Rule 1075.1(g) or Rule 1075.2(c), the sheriff shall deliver the property to the plaintiff.

(c) If the property is not ordered to be impounded and the person in possession at the time the sheriff executed the writ of seizure files a counterbond, the property shall be delivered to that person. If that person does not file a counterbond, the property shall be delivered to the party first filing a counterbond.

(d) When perishable property is seized the court may make such order relating to its sale or disposition as shall be proper.

(e) The return of the sheriff to the writ of seizure shall state the disposition made by the sheriff of the property and the name and address of any person found in possession of the property.

#### Source

The provisions of this Rule 1077 adopted June 25, 1946, effective January 1, 1947; amended July 23, 1975, effective October 1, 1975, 5 Pa.B. 1824; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial page (212324).

### **Rule 1078. Exemption of Property. Preliminary Objection.**

The objection of immunity or exemption of property from replevin shall be raised by preliminary objection.

#### Source

The provisions of this Rule 1078 adopted June 25, 1946, effective January 1, 1947.

### **Rule 1079. Impounding Property.**

(a) Prior to the delivery of the property by the sheriff to any party, a petition may be filed by any party requesting the court to order the property to be impounded in the custody of the sheriff or such other person as the court may direct.

(b) The court shall order the property to be impounded if

(1) the circumstances are such that the petitioner if found entitled to the property would not be adequately compensated for its loss by the payment of its pecuniary value, and

(2) the petitioner furnishes security for the payment of storage charges and other expenses incidental to impounding of the property.

(c) Upon the final determination of the action, the property shall be delivered to the successful party and the storage charges and other expenses incidental thereto shall be assessed as costs in the action.

#### Source

The provisions of this Rule 1079 adopted June 25, 1946, effective January 1, 1947.

**Rule 1079.1. Special Equitable Relief.**

The pendency of an action shall not impair the right of any party to separate and independent equitable relief.

**Source**

The provisions of this Rule 1079.1 adopted June 23, 1975, effective October 1, 1975, 5 Pa.B. 1824.

**Rule 1080. Objections to Bond.**

The court, upon petition filed by any party, and after notice and hearing, may

- (1) review the action of the prothonotary in approving or rejecting the security offered;
- (2) increase or decrease the amount of any bond or require additional security for cause shown;
- (3) strike off a bond improperly filed; or
- (4) permit the substitution of a bond and enter an exoneration of a prior bond.

**Source**

The provisions of this Rule 1080 adopted June 25, 1946, effective January 1, 1947.

**Rule 1081. Concealment of Property. Examination of Defendant.**

The court, at any time during the pendency of the action, upon the petition of the plaintiff setting forth

- (1) that the plaintiff is without knowledge of the location of the property and has not been able with reasonable diligence to ascertain its location; or
- (2) that the sheriff has been unable to locate the property; or
- (3) that the defendant has concealed, removed or transferred the property, may order the defendant to appear and be examined orally under oath as to the whereabouts of the property. The court may enforce its order by attachment. If a writ of seizure has been issued, the court may order the defendant to deliver the property to the sheriff if it is within the county or has been removed from the county for the purpose of preventing its recovery.

**Source**

The provisions of this Rule 1081 adopted June 25, 1946, effective January 1, 1947; amended June 23, 1975, effective October 1, 1975, 5 Pa.B. 1824; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial pages (212325) to (212326).

**Rule 1082. Counterclaim. Lien. Conditional Verdict.**

(a) A claim secured by a lien on the property may be set forth as a counterclaim. No other counterclaim may be asserted.

(b) If any party is found to have a lien upon the property the court may enter a conditional verdict in order to enforce the rights of all parties.

**Source**

The provisions of this Rule 1082 adopted June 25, 1946, effective January 1, 1947; amended June 30, 1965, effective January 1, 1966.

**Rule 1083. Judgment in Rem for Property When Defendant is Not Served and Does Not Appear.**

If the property has been seized by the sheriff, the court, upon motion of the plaintiff after forty-five days from seizure of the property, may enter judgment in rem for the property against any defendant who has not been served and who has not appeared in the action.

**Official Note:** If defendant has been served or appeared in the action, a default judgment may be entered for want of an answer.

**Source**

The provisions of this Rule 1083 adopted June 25, 1946, effective January 1, 1947; amended June 23, 1975, effective October 1, 1975, 5 Pa.B. 1824; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial page (212326).

**Rule 1084. Judgment Before Trial When Defendant is Served or Appears.**

- (a) If the defendant is served or appears in the action and judgment is entered before trial for the party in possession of the property, the judgment shall determine the party's right to
- (1) retain possession of the property, and
  - (2) recover special damages, if any.
- (b) If judgment is entered before trial for a party not in possession of the property, the judgment shall determine
- (1) the party's right to recover possession of the property,
  - (2) the money value of the property based upon the value set forth in the plaintiff's complaint, and
  - (3) the party's right to recover special damages, if any.
- (c) Special damages shall be assessed by a trial at which the issues shall be limited to the amount of the damages.

**Source**

The provisions of this Rule 1084 adopted June 25, 1946, effective January 1, 1947; amended June 23, 1975, effective October 1, 1975, 5 Pa.B. 1820; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial pages (212326) to (212327).

**Rule 1085. Judgment After Trial.**

- (a) If judgment is entered after trial for the party in possession of the property, the judgment shall determine
- (1) the party's right to retain possession of the property, and
  - (2) the amount of any special damages sustained.

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(b) If judgment is entered after trial for a party not in possession of the property, the judgment shall determine

- (1) the party's right to recover possession of the property,
- (2) the money value of the property, and
- (3) the amount of any special damages sustained.

### Source

The provisions of this Rule 1085 adopted June 25, 1946, effective January 1, 1947; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial page (212327).

## Rule 1086. Judgment. Enforcement.

Judgment shall be enforced as provided in Rules 3170 to 3173, inclusive.

### Source

The provisions of this Rule 1086 adopted June 25, 1946, effective January 1, 1947; amended March 30, 1960, effective November 1, 1960.

## Rule 1087. Trial Without Jury.

The trial of actions in replevin by a judge sitting without a jury shall be in accordance with Rule 1038.

### Source

The provisions of this Rule 1087 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 (28059).

## Rule 1088. Acts of Assembly Not Suspended.

The rules of civil procedure shall not be deemed to suspend or affect:

- (1) Section 1 of the Act approved May 7, 1925, P. L. 557, No. 300, 6 P. S. § 11.

**Official Note:** This Act authorizes determination of a common law lien in an action of replevin.

- (2) Section 7 of the Act approved June 10, 1931, P. L. 492, No. 156, 3 P. S. § 635.

**Official Note:** This Act regulates the straying of cattle.

### Source

The provisions of this Rule 1088 adopted March 11, 1991, effective July 1, 1991, 21 Pa.B. 1274.

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**Subchapter F. ACTION IN MANDAMUS**

Rule	
1091.	Conformity to Civil Action.
1092.	Venue.
1093.	Commencement of Action.
1094.	Parties Defendant.
1095.	The Complaint.
1096.	Counterclaim.
1097.	Service [Rescinded].
1098.	Peremptory Judgment.
1099.	Trial Without Jury.
1100.	Suspension of Acts of Assembly.

**Rule 1091. Conformity to Civil Action.**

Except as otherwise provided in this chapter, the procedure in the action of mandamus shall be in accordance with the rules relating to a civil action.

**Source**

The provisions of this Rule 1091 adopted June 25, 1946, effective January 1, 1947; amended December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999. Immediately preceding text appears at serial page (28060).

**Rule 1092. Venue.**

(a) An action brought in a court of common pleas by the Commonwealth on the relation of the Attorney General may be brought only in

- (1) the county where a political subdivision is located when the action is against the political subdivision or an officer thereof, or
- (2) the county where the registered office or principal place of business of a corporation or similar entity is located when the action is against the corporation or similar entity or an officer thereof.

(b) An action brought in a court of common pleas in the name of the Commonwealth on the relation of the District Attorney may be brought against a political subdivision or an officer thereof only in the county where the political subdivision is located.

(c) An action brought in a court of common pleas in the name of a party to enforce a right or to compel performance of a public act or duty in which the party has a beneficial interest distinct from that of the general public may be brought only in

- (1) the county in which the cause of action arose when the action is against an officer, department, board, commission or instrumentality of the Commonwealth, or
- (2) the county where a political subdivision is located when the action is against the political subdivision or an officer thereof, or

(3) the county where a corporation or similar entity has its registered office or principal place of business when the action is against the corporation or similar entity or an officer thereof.

**Official Note:** The right to bring an action of mandamus is defined by Section 1 of the Act approved June 8, 1893, P. L. 345, as amended, 12 P. S. § 1911.

**Source**

The provisions of this Rule 1092 adopted June 25, 1946, effective January 1, 1947.

**Rule 1093. Commencement of Action.**

An action may be commenced by filing with the prothonotary

- (1) a complaint, or
- (2) an agreement for an amicable action.

**Source**

The provisions of this Rule 1093 adopted June 25, 1946, effective January 1, 1947.

**Rule 1094. Parties Defendant.**

(a) When an action is commenced to compel performance of a public act or duty by a political subdivision of the Commonwealth, it shall be sufficient to name as defendants such officers in their official capacities as are concerned in the act or duty.

(b) When an action is commenced against a corporation or similar entity, it shall be joined as a defendant with the particular person or body of persons concerned in the performance of the act or duty.

(c) When a public act or duty is required to be performed by an executive or administrative department, by a departmental administrative board or commission or by an independent administrative board or commission of the Commonwealth or by a board or body of a political subdivision, it shall be sufficient to name the department, board, commission or body as the defendant without joining as a defendant the head of the department or the members of the board, commission or body.

**Source**

The provisions of this Rule 1094 adopted June 25, 1946, effective January 1, 1947.

**Rule 1095. The Complaint.**

The plaintiff shall set forth in the complaint:

- (1) the name and description of the plaintiff and defendant;
- (2) the facts upon which plaintiff relies for the relief sought;
- (3) the act or duty the defendant is required to perform and the refusal to perform it;
- (4) the interest of the plaintiff in the result;



- (5) the damages, if any;
- (6) the want of any other adequate remedy at law;
- (7) a prayer for the entry of a judgment against the defendant commanding that the defendant perform the act or duty required to be performed and for damages, if any, and costs.

**Source**

The provisions of this Rule 1095 adopted June 25, 1946, effective January 1, 1947; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial page (212330).

**Rule 1096. Counterclaim.**

No counterclaim may be asserted.

**Source**

The provisions of this Rule 1096 adopted June 25, 1946, effective January 1, 1947.

**Rule 1097. Service.**

[Rescinded]

**Official Note:** For service upon the Commonwealth or a political subdivision, see Rule 422. For service upon a corporation, see Rule 422. For service upon a corporation, see Rule 424.

**Source**

The provisions of this Rule 1097 rescinded June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452. Immediately preceding text appears at serial page (28062).

**Rule 1098. Peremptory Judgment.**

At any time after the filing of the complaint, the court may enter judgment if the right of the plaintiff thereto is clear. Judgment shall not be entered without prior notice to all parties unless the exigency of the case is such as to require action before notice, in which event notice shall be given as soon as possible.

**Official Note:** The practice of filing a petition to open a peremptory judgment as a prerequisite to an appeal has been discontinued. Pennsylvania Rule of Appellate Procedure 311(a)(5) provides that an appeal may be taken as of right from a peremptory judgment in mandamus.

**Source**

The provisions of this Rule 1098 adopted June 25, 1946, effective January 1, 1947; amended November 19, 1974, 4 Pa.B. 2449; amended March 11, 1991, effective July 1, 1991, 21 Pa.B. 1274; amended July 28, 1995, effective January 1, 1996, 25 Pa.B. 3337. Immediately preceding text appears at serial pages (157225) to (157226).

**Rule 1099. Trial Without Jury.**

The trial of actions in mandamus by a judge sitting without a jury shall be in accordance with Rule 1038.

**Source**

The provisions of this Rule 1099 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 (52298).

**Rule 1100. Suspension of Acts of Assembly.**

Section 1 of the Act approved May 9, 1889, P. L. 154, No. 171, 52 P. S. § 1, insofar as it relates to actions of mandamus to recover bodies of entombed coal miners, is suspended in accordance with the provisions of the Constitution of 1968, Article V, Section 10(c).

**Source**

The provisions of this Rule 1100 adopted March 11, 1991, effective July 1, 1991, 21 Pa.B. 1274.

**Subchapter G. ACTION IN QUO WARRANTO**

- Rule  
 1111. Conformity to Civil Action.  
 1112. Venue.  
 1113. Commencement of Action.  
 1114. Trial Without Jury.

**Rule 1111. Conformity to Civil Action.**

Except as otherwise provided in this chapter, the procedure in the action of quo warranto shall be in accordance with the rules relating to civil action.

**Source**

The provisions of this Rule 1111 adopted June 25, 1946, effective January 1, 1947; amended December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999. Immediately preceding text appears at serial page (52298).

**Rule 1112. Venue.**

(a) An action brought in a court of common pleas by the Commonwealth on the relation of the Attorney General may be brought only in

- (1) the county where a political subdivision is located when the action is against an officer thereof, or
- (2) the county where a municipal corporation is located when the action concerns the validity of its charter, or
- (3) the county where a corporation or similar entity has its registered office or principal place of business when the action concerns the validity of its charter or the exercise of a right, franchise or privilege or is against an officer thereof.

(b) An action brought in a court of common pleas in the name of the Commonwealth on the relation of the District Attorney may be brought only in the county where the political subdivision is located when the action is against an officer thereof.

(c) An action brought in a court of common pleas in the name of a party who has an interest distinct from that of the general public may be brought only in

(1) the county in which the cause of action arose when the action is against an officer of the Commonwealth, or

(2) the county where the political subdivision is located when the action is against an officer thereof, or

(3) the county where the corporation or similar entity has its registered office or principal place of business when the action is against an officer thereof.

**Source**

The provisions of this Rule 1112 adopted June 25, 1946, effective January 1, 1947.

**Rule 1113. Commencement of Action.**

An action shall be commenced by filing a complaint with the prothonotary.

**Source**

The provisions of this Rule 1113 adopted June 25, 1946, effective January 1, 1947.

**Rule 1114. Trial Without Jury.**

The trial of actions in quo warranto by a judge sitting without a jury shall be in accordance with Rule 1038.

**Source**

The provisions of this Rule 1114 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 (52299).

**Subchapter H. ACTION OF DIVORCE  
[Rescinded]**

**Rule 1121. [Rescinded].**

**Source**

The provisions of this Rule 1121 rescinded June 27, 1980, effective July 1, 1980, 10 Pa.B. 2967. Immediately preceding text appears at serial page (40053).

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**Rule 1122. [Rescinded].**

**Source**

The provisions of this Rule 1122 rescinded June 27, 1980, effective July 1, 1980, 10 Pa.B. 2967. Immediately preceding text appears at serial page (40053).

**Rule 1123. [Rescinded].**

**Source**

The provisions of this Rule 1123 rescinded June 27, 1980, effective July 1, 1980, 10 Pa.B. 2967. Immediately preceding text appears at serial page (40053).

**Rule 1124. [Rescinded].**

**Source**

The provisions of this Rule 1124 rescinded June 27, 1980, effective July 1, 1980, 10 Pa.B. 2967. Immediately preceding text appears at serial pages (40053) and (40055).

**Rule 1125. [Rescinded].**

**Source**

The provisions of this Rule 1125 rescinded June 27, 1980, effective July 1, 1980, 10 Pa.B. 2967. Immediately preceding text appears at serial page (40055).

**Rule 1126. [Rescinded].**

**Source**

The provisions of this Rule 1126 rescinded June 27, 1980, effective July 1, 1980, 10 Pa.B. 2967. Immediately preceding text appears at serial pages (40055) and (40056).

**Rule 1127. [Rescinded].**

**Source**

The provisions of this Rule 1127 rescinded June 27, 1980, effective July 1, 1980, 10 Pa.B. 2967. Immediately preceding text appears at serial pages (40056) and (40057).

**Rule 1128. [Rescinded].**

**Source**

The provisions of this Rule 1128 rescinded June 27, 1980, effective July 1, 1980, 10 Pa.B. 2967. Immediately preceding text appears at serial page (40057).

**Rule 1129. [Rescinded].**

**Source**

The provisions of this Rule 1129 rescinded June 27, 1980, effective July 1, 1980, 10 Pa.B. 2967. Immediately preceding text appears at serial page (15701).

**Rule 1130. [Rescinded].**

**Source**

The provisions of this Rule 1130 rescinded June 27, 1980, effective July 1, 1980, 10 Pa.B. 2967. Immediately preceding text appears at serial page (15701).

**Rule 1131. [Rescinded].**

**Source**

The provisions of this Rule 1131 rescinded June 27, 1980, effective July 1, 1980, 10 Pa.B. 2967. Immediately preceding text appears at serial page (15701).

**Rule 1132. [Rescinded].**

**Source**

The provisions of this Rule 1132 rescinded June 27, 1980, effective July 1, 1980, 10 Pa.B. 2967. Immediately preceding text appears at serial page (15702).

**Rule 1133. [Rescinded].**

**Source**

The provisions of this Rule 1133 rescinded June 27, 1980, effective July 1, 1980, 10 Pa.B. 2967. Immediately preceding text appears at serial pages (15702) and (40059).

**Rule 1134. [Rescinded].**

**Source**

The provisions of this Rule 1134 rescinded June 27, 1980, effective July 1, 1980, 10 Pa.B. 2967. Immediately preceding text appears at serial page (40059).

**Rule 1135. [Rescinded].**

**Source**

The provisions of this Rule 1135 rescinded June 27, 1980, effective July 1, 1980, 10 Pa.B. 2967. Immediately preceding text appears at serial page (40059).

**Rule 1136. [Rescinded].**

**Source**

The provisions of this Rule 1136 rescinded June 27, 1980, effective July 1, 1980, 10 Pa.B. 2967. Immediately preceding text appears at serial pages (40059) and (40060).

**Rule 1137. [Rescinded].**

**Source**

The provisions of this Rule 1137 rescinded June 27, 1980, effective July 1, 1980, 10 Pa.B. 2967. Immediately preceding text appears at serial page (40060).

**Subchapter I. ACTION OF MORTGAGE FORECLOSURE**

Rule	
1141.	Definition. Conformity to Civil Action.
1142.	Venue.
1143.	Commencement of Action.
1144.	Parties. Release of Liability.
1145.	Service. [Rescinded].
1146.	Pleading More Than One Cause of Action.
1147.	The Complaint.
1148.	Counterclaim.
1149.	Judgment. Execution.
1150.	Trial Without Jury.

**Official Note:** Application to Pending Actions. The Order of the Supreme Court adopting Rules 1141-1148 fixed April 1, 1950 as the effective date of said Rules and provided that said Rules should apply to actions pending at that time.

**Rule 1141. Definition. Conformity to Civil Action.**

(a) As used in this chapter,

“action” means an action to foreclose a mortgage upon any estate, leasehold or interest in land, or upon both personal property and an estate, leasehold or interest in land pursuant to Section 9604(a) of the Uniform Commercial Code, but shall not include an action to enforce a personal liability.

**Official Note:** Section 9604(a) of the Uniform Commercial Code, 13 Pa.C.S. § 9604(a), provides that if a security agreement covers both personal and real property, the secured party may elect to proceed as to both the real property and the personal property in accordance with its rights with respect to the real property, in which case the other provisions of Article 9 of the Uniform Commercial Code do not apply.

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

**Source**

The provisions of this Rule 1141 adopted September 30, 1949, effective April 1, 1950; amended December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9; amended March 13, 2007, effective June 1, 2007, 37 Pa.B. 1411. Immediately preceding text appears at serial page (302480).

**Rule 1142. Venue.**

The action may be brought in and only in a county in which the land or a part of the land is located.

**Source**

The provisions of this Rule 1142 adopted March 11, 1991, effective July 1, 1991, 21 Pa.B. 1274. Immediately preceding text appears at serial page (142371).

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**Rule 1143. Commencement of Action.**

An action shall be commenced by filing a complaint with the prothonotary.

**Source**

The provisions of this Rule 1143 adopted September 30, 1949, effective April 1, 1950.

**Rule 1144. Parties. Release of Liability.**

(a) The plaintiff shall name as defendants

- (1) the mortgagor;
- (2) the personal representative, heir or devisee of a deceased mortgagor, if known; and
- (3) the real owner of the property, or if the real owner is unknown, the grantee in the last recorded deed.

(b) Unless named as real owner, neither the mortgagor nor the personal representative, heir or devisee of the mortgagor, need be joined as defendant if the plaintiff sets forth in the complaint that the plaintiff releases such person from liability for the debt secured by the mortgage.

**Source**

The provisions of this Rule 1144 adopted September 30, 1949, effective April 1, 1950; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial page (212336).

**Rule 1145. Service.**

[Rescinded]

**Official Note:** For service of original process, see Rule 410 governing service in actions involving real property.

**Source**

The provisions of this Rule 1145 rescinded June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452. Immediately preceding text appears at serial pages (87281) to (87282).

**Rule 1146. Pleading More Than One Cause of Action.**

The plaintiff may state in the complaint two or more grounds for foreclosure but may not state more than one cause of action.

**Source**

The provisions of this Rule 1146 adopted September 30, 1949, effective April 1, 1950.

**Rule 1147. The Complaint.**

(a) The plaintiff shall set forth in the complaint:

- (1) the parties to and the date of the mortgage, and of any assignments, and a statement of the place of record of the mortgage and assignments;
- (2) a description of the land subject to the mortgage;

- (3) the names, addresses and interest of the defendants in the action and that the present real owner is unknown if the real owner is not made a party;
- (4) a specific averment of default;
- (5) an itemized statement of the amount due; and
- (6) a demand for judgment for the amount due.

**Official Note:** The plaintiff may also set forth in the complaint a release of the mortgagor and the mortgagor's successors in interest. See Rule 1144(b).

If the mortgage is a residential mortgage under Act No. 6 of 1974, 41 P. S. 101, the complaint should set forth an averment of compliance with the provisions of Section 403 of Act No. 6, 41 P. S. 403.

(b) If the plaintiff is proceeding against both personal and real property covered by a mortgage as provided by Section 9604(a) of the Uniform Commercial Code, the plaintiff shall set forth in the complaint.

- (1) the matters required by subdivision (a), and
- (2) a description of the personal property subject to the mortgage.

**Official Note:** Section 9604(a) of the Uniform Commercial Code, 13 Pa.C.S. § 9604(a), relates to the rights of a secured party when the agreement covers real and personal property. Compliance with subdivision (b) of this rule is a prerequisite to executing in one proceeding pursuant to Rule 3180(b) against both the real and personal property secured by the mortgage.

#### Source

The provisions of this Rule 1147 adopted September 30, 1949, effective April 1, 1950; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266; amended March 13, 2007, effective June 1, 2007, 37 Pa.B. 1411. Immediately preceding text appears at serial pages (255241) to (255242).

### Rule 1148. Counterclaim.

A defendant may plead a counterclaim which arises from the same transaction or occurrence or series of transactions or occurrences from which the plaintiff's cause of action arose.

#### Source

The provisions of this Rule 1148 adopted September 30, 1949, effective April 1, 1950.

### Rule 1149. Judgment. Execution.

Judgment in the action shall be enforced as provided by Rules 3180 to 3183, inclusive.

**Official Note:** Rule 3180 et seq. govern the enforcement of a judgment whether against an estate, leasehold or interest in land or against both personal property and an estate, leasehold or interest in land if the plaintiff has elected to proceed as to both pursuant to Section 9604(a) of the Uniform Commercial Code.

#### Source

The provisions of this Rule 1149 adopted March 30, 1960, effective November 1, 1960; amended March 13, 2007, effective June 1, 2007, 37 Pa.B. 1411. Immediately preceding text appears at serial page (255242).



**Rule 1150. Trial Without Jury.**

The trial of actions to foreclose a mortgage by a judge sitting without a jury shall be in accordance with Rule 1038.

**Source**

The provisions of this Rule 1150 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 (15707).

**Subchapter J. ACTION FOR GROUND RENT**

Rule	
1161.	Enforcement of Personal Liability. Conformity to Civil Action.
1162.	Enforcement in Rem. Conformity to Mortgage Foreclosure.
1163.	Other Remedies.
1164.	Trial Without Jury.

**Rule 1161. Enforcement of Personal Liability. Conformity to Civil Action.**

(a) An action in personam to recover any amount due on a ground rent shall be in accordance with the rules governing a civil action.

(b) Execution upon a judgment in such action shall be in accordance with the rules governing the enforcement of judgments for the payment of money.

**Official Note:** See Execution Rules 3101 to 3149, 3231, 3241, 3249, 3250, 3251 to 3253.

**Source**

The provisions of this Rule 1161 adopted March 30, 1960, effective November 1, 1960; amended December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999. Immediately preceding text appears at serial page (15707).

**Rule 1162. Enforcement in Rem. Conformity to Mortgage Foreclosure.**

(a) An action in rem to enforce a ground rent shall be in accordance with the rules governing the action of mortgage foreclosure, except that for the purposes of this chapter the terms "ground rent", "covenantor" and "covenantee" shall be substituted for the words "mortgage", "mortgagor" and "mortgagee" in those rules.

(b) Enforcement of a judgment in such action shall be in accordance with the rules governing enforcement of judgment in an action of mortgage foreclosure.

**Official Note:** See Rules 3180 et seq.

**Source**

The provisions of this Rule 1162 adopted March 30, 1960, effective November 1, 1960.

**Rule 1163. Other Remedies.**

The procedures set forth in Rules Nos. 1161 and 1162 shall be in addition to any right to distrain for rent due, the right of entry or any other remedy provided by law.

**Source**

The provisions of this Rule 1163 adopted March 30, 1960, effective November 1, 1960.

**Rule 1164. Trial Without Jury.**

The trial of actions to enforce a ground rent by a judge sitting without a jury shall be in accordance with Rule 1038.

**Source**

The provisions of this Rule 1164 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 (15708).

**Subchapter K. FOREIGN ATTACHMENT  
[Rescinded]****Rule 1251. [Rescinded].****Source**

The provisions of this Rule 1251 adopted April 12, 1954, effective October 1, 1954; amended October 1, 1982, effective January 1, 1983, 12 Pa.B. 4111; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (87285).

**Rule 1252. [Rescinded].****Source**

The provisions of this Rule 1252 adopted April 12, 1954, effective October 1, 1954; amended through December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial pages (87285) to (87286).

**Rule 1253. [Rescinded].****Source**

The provisions of this Rule 1253 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (87286).

**Rule 1254. [Rescinded].****Source**

The provisions of this Rule 1254 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (87286).

**Rule 1255. [Rescinded].****Source**

The provisions of this Rule 1255 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial pages (87286) and (79607).

**Rule 1256. [Rescinded].****Source**

The provisions of this Rule 1256 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (99885).

**Rule 1257. [Rescinded].****Source**

The provisions of this Rule 1257 adopted April 12, 1954, effective October 1, 1954; amended through June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (99885).

**Rule 1258. [Rescinded].****Source**

The provisions of this Rule 1258 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (99885).

**Rule 1259. [Rescinded].****Source**

The provisions of this Rule 1259 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial pages (99885) to (99886).

**Rule 1260. [Rescinded].****Source**

The provisions of this Rule 1260 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (99886).

**Rule 1261. [Rescinded].****Source**

The provisions of this Rule 1261 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (99887).

**Rule 1262. [Rescinded].****Source**

The provisions of this Rule 1262 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (99887).

**Rule 1263. [Rescinded].****Source**

The provisions of this Rule 1263 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (99887).

**Rule 1264. [Rescinded].****Source**

The provisions of this Rule 1264 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (99887).

**Rule 1265. [Rescinded].****Source**

The provisions of this Rule 1265 adopted April 12, 1954, effective October 1, 1954; amended through June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial pages (99887) to (99888).

**Rule 1266. [Rescinded].****Source**

The provisions of this Rule 1266 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (99888).

**Rule 1267. [Rescinded].****Source**

The provisions of this Rule 1267 adopted April 12, 1954, effective October 1, 1954; amended through June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial pages (99888) to (99889).

**Rule 1268. [Rescinded].****Source**

The provisions of this Rule 1268 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (99889).

**Rule 1269. [Rescinded].****Source**

The provisions of this Rule 1269 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (99889).

**Rule 1270. [Rescinded].****Source**

The provisions of this Rule 1270 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (99889).

**Rule 1271. [Rescinded].****Source**

The provisions of this Rule 1271 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (99890).

**Rule 1272. [Rescinded].****Source**

The provisions of this Rule 1272 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (87293).

**Rule 1273. [Rescinded].****Source**

The provisions of this Rule 1273 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (87293).

**Rule 1274. [Rescinded].****Source**

The provisions of this Rule 1274 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (87294).

**Rule 1275. [Rescinded].****Source**

The provisions of this Rule 1275 adopted April 12, 1954, effective October 1, 1954; amended December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (87294).

**Rule 1276. [Rescinded].****Source**

The provisions of this Rule 1276 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial pages (87294) and (15719).

**Rule 1277. [Rescinded].****Source**

The provisions of this Rule 1277 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (15719).

**Rule 1278. [Rescinded].****Source**

The provisions of this Rule 1278 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (15720).

**Rule 1279. [Rescinded].****Source**

The provisions of this Rule 1279 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (15720).

**Subchapter L. FRAUDULENT DEBTOR'S ATTACHMENT  
[Rescinded]****Rule 1285. [Rescinded].****Source**

The provisions of this Rule 1285 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (99891).

**Rule 1286. [Rescinded].****Source**

The provisions of this Rule 1286 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (99891).

**Rule 1287. [Rescinded].**

**Source**

The provisions of this Rule 1287 rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial pages (99891) to (99892).

**Rule 1288. [Rescinded].**

**Source**

The provisions of this Rule 1288 rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (99892).

**Rule 1289. [Rescinded].**

**Source**

The provisions of this Rule 1289 adopted April 12, 1954, effective October 1, 1954; amended through June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (99892).

**Rule 1290. [Rescinded].**

**Source**

The provisions of this Rule 1290 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (61384).

**Rule 1291. [Rescinded].**

**Source**

The provisions of this Rule 1291 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (61384).

**Rule 1292. [Rescinded].**

**Source**

The provisions of this Rule 1292 adopted April 12, 1954, effective October 1, 1954; rescinded September 29, 1989, effective October 1, 1989, 19 Pa.B. 4452. Immediately preceding text appears at serial page (61384).

[Next page is 1300-1.]