

**CHAPTER 300. CIVIL ACTION**

- Rule  
 301. Definition. Scope.  
 302. Venue.  
 303. Commencement of the Action.  
 304. Form of Complaint.  
 305. Setting the Date for Hearing; Delivery for Service.  
 306. Numbering and Filing of Complaints.  
 307. Service of the Complaint.  
 308. Service Upon Individuals.  
 309. Service Upon Partnerships.  
 310. Service Upon Corporations.  
 311. Service Upon Unincorporated Associations.  
 312. Service on a Political Subdivision.  
 313. Service Outside the Commonwealth.  
 314. Return, Waiver and Failure of Service; Reinstatement.  
 315. Claim by Defendant.  
 316. Amendment to Complaint.  
 317. [Rescinded].  
 318. Informing Plaintiff of Notice of Intention to Defend.  
 319. Failure of a Party to Appear at the Hearing.  
 320. [Rescinded].  
 321. Hearings and Evidence.  
 322. Judgment.  
 323. Judgment—Payment in Installments.  
 324. Notice of Judgment or Dismissal and the Right to Appeal.  
 325. [Renumbered].

**SATISFACTION OF MONEY JUDGMENTS**

341. Request for Entry of Satisfaction; Service; Entry of Satisfaction.  
 342. Failure of Judgment Creditor to Enter Satisfaction; Supplementary Action.  
 381. Acts of Assembly Suspended.  
 382. Acts of Assembly Not Suspended.

**Explanatory Note:** In drafting these rules, the guiding policy was to provide a framework, insofar as the Pennsylvania constitutional system would permit, for a modern, workable small claims procedure, realizing that many magisterial district judges would not be lawyers and that members of the public using the system would be largely unrepresented by legal counsel. Thus, an attempt was made throughout these rules to achieve simplicity of phraseology, uncomplicated administration and as much standardization in the handling of civil actions by magisterial district judges as is possible.

**Rule 301. Definition. Scope.**

A. As used in this chapter, “action” means a civil action brought before a magisterial district judge.

B. Civil action includes any action within the jurisdiction of a magisterial district judge except an action by a landlord against a tenant for the recovery of the possession of real property.

C. As used in this chapter, “complaint” or Civil Action shall include, where applicable, the attached and completed Civil Action Hearing Notice form.

**Official Note:** Civil action includes actions formerly denominated “assumpsit” or “trespass” and civil claims for fines and penalties. See Section 1515(a)(3) of the Judicial Code, 42 Pa.C.S. § 1515(a)(3) prescribing the jurisdiction of magisterial district judges. The rules in this chapter will apply to all civil actions before magisterial district judges except an action by a landlord against a tenant for the recovery of possession of real property which are governed by Chapter 500 of these rules.

Statutes authorizing a civil fine or penalty include the following: (1) Section 10.1 of the Act of April 27, 1927, P. L. 465, No. 299, added by section 2 of the Act of December 21, 1988, P. L. 1315, No. 168, 35 P. S. § 1230.1 relating to clean indoor air; and Sections 617.1 and 817-A of the Act of July 31, 1968, P. L. 805, No. 247, as added by sections 62 and 77 of the Act of December 21, 1988, P. L. 1329, No. 170, 53 P. S. §§ 10617.1, 10817-A relating to violation of zoning and joint municipal zoning ordinances.

#### Source

The provisions of this Rule 301 amended April 25, 1979, effective May 25, 1979, 9 Pa.B. 1499; amended September 18, 1990, effective immediately, 20 Pa.B. 5042; amended March 27, 1992, effective 90 days from the date on which the Order is signed, 22 Pa.B. 1893 and 1900. Immediately preceding text appears at serial pages (152335) to (152336).

### Rule 302. Venue.

A. An action against an individual may be brought in and only in a magisterial district where:

- (1) the individual may be served, or
- (2) the cause of action arose, or
- (3) a transaction or occurrence took place out of which the cause of action arose.

B. An action against a partnership may be brought in and only in a magisterial district where:

- (1) the partnership regularly conducts business, or
- (2) the cause of action arose, or
- (3) a transaction or occurrence took place out of which the cause of action arose.

C. Except as otherwise provided by an Act of Assembly or by subdivision D of this rule, an action against a corporation or similar entity may be brought in and only in a magisterial district where:

- (1) its registered office or principal place of business is located, or
- (2) it regularly conducts business, or
- (3) the cause of action arose, or
- (4) a transaction or occurrence took place out of which the cause of action arose.

D. An action upon a policy of insurance against an insurance company, association or exchange, either incorporated or organized in Pennsylvania or doing business in this Commonwealth, may be brought in a magisterial district:

- (1) designated in subdivision C of this rule, or
- (2) where the insured property is located, or

(3) where the plaintiff resides, in actions upon policies of life, accident, health, disability, and live stock insurance or fraternal benefit certificates.

E. An action against an unincorporated association may be brought in and only in a magisterial district where:

- (1) the association regularly conducts business or any association activity, or
- (2) the cause of action arose, or
- (3) a transaction or occurrence took place out of which the cause of action arose.

F. An action against a political subdivision may be brought in and only in a magisterial district the whole or part of which is located in the political subdivision.

G. A transaction or occurrence which took place on a roadway, highway, railway or body of water designated as a boundary between magisterial districts shall be considered to have taken place in any of the magisterial districts so bounded.

H. The magisterial district judge or the defendant may raise improper venue at any time prior to the conclusion of the hearing. If the magisterial district judge finds that venue is improper and there is a court of proper venue within Pennsylvania, the complaint shall not be dismissed but may be transferred to the court having proper venue.

**Official Note:** This rule replaces the temporary venue provisions of § 14 of the Schedule to Article V, Pennsylvania Constitution, 1968. It combines, with some minor changes, the Pennsylvania Rules of Civil Procedure relating to venue. See:

- (1) Individuals: Pa. R.C.P. No. 1006(a).
- (2) Partnerships: Pa. R.C.P. No. 2130(a).
- (3) Corporations: Pa. R.C.P. No. 2179(a).
- (4) Insurance Policies: Pa. R.C.P.No. 2179(b).
- (5) Unincorporated Associations: Pa. R.C.P. No. 2156(a).
- (6) Political Subdivisions: Pa. R.C.P. No. 2103(b).

This rule is not intended to repeal special statutory venue provisions not included therein (see Rule 382(2)), such as the venue provisions of the Goods and Services Installment Sales Act, Act of October 28, 1966, P. L. 7, Art. XII, § 1205, 69 P. S. § 2205, nor is it intended to contravene the special venue provisions of § 811 of the Fair Debt Collection Practices Act, 15 U.S.C. 1692i, pertaining to actions brought by debt collectors against consumers.

For a definition of "transaction or occurrence" see *Craig v. W. J. Thiele & Sons, Inc.*, 395 Pa. 129, 149 A.2d 35 (1959).

Subdivision G is intended to take care of indistinct, "center line" or other confusing boundaries in the respects mentioned. When a complaint is transferred under subdivision H, it is treated as if originally filed in the transferee court on the date first filed in a court. If service of the complaint has already been made, no new service may be necessary, but the transferee court must set a new date, time and place for the new hearing and notify the parties thereof. It is the intent of this rule that cases may be transferred to any Pennsylvania court with appropriate jurisdiction and venue, including the Philadelphia Municipal Court. Likewise, nothing in this rule prohibits a court other than a magisterial district court from transferring a case to a magisterial district court with proper jurisdiction and venue, in accordance with the procedural rules of the transferring court. The jurisdictional limits of the magisterial district courts and the Philadelphia Municipal Court are governed by Sections 1515 and 1123 of the Judicial Code, respectively. 42 Pa.C.S. §§ 1515 and 1123.

There are no costs for transfer of the complaint and no additional filing costs when a case is transferred from one magisterial district court to another magisterial district court. There are no additional filing costs when a case is transferred from the Philadelphia Municipal Court to a magisterial district court.

There may be additional service costs when a case is transferred.

**Source**

The provisions of this Rule 302 amended April 25, 1979, effective May 25, 1979, 9 Pa.B. 1499; amended July 3, 2003, effective January 1, 2004, 33 Pa.B. 3491. Immediately preceding text appears at serial pages (288426) to (288428).

**Rule 303. Commencement of the Action.**

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

**Official Note:** This rule does not permit the commencement of an action by summons.

**Source**

The provisions of this Rule 303 amended April 25, 1979, effective May 25, 1979, 9 Pa.B. 1499. Immediately preceding text appears at serial page (21150).

**Rule 304. Form of Complaint.**

A. The complaint shall be made in writing on a form which shall be prescribed by the State Court Administrator.

B. The complaint shall be signed by the plaintiff or plaintiff's agent and verified as follows:

The facts set forth in this complaint are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

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Signature

C. The complaint shall set forth:

- (1) The names and addresses of the parties.
- (2) The amount claimed.
- (3) A brief and concise statement of the facts upon which the claim is based including:
  - (a) the date, time and place of the occurrence and a brief description of the damages sustained when the claim alleges tortious conduct; or

**Official Note:** A civil action in which the claim alleges tortious conduct was formerly called an action in trespass.

- (b) the date of the transaction and a brief description of the subject matter when the claim is contractual;

**Official Note:** A civil action in which the claim is contractual was formerly called an action in assumpsit.

- (c) the date and description of the occurrence when the claim is for a civil fine or penalty and the citation to the statute authoring the claim.
- (4) Such other information as shall be required on the complaint form.

**Official Note:** Rule 304 is designed to promote uniformity, simplification of procedure and better access by the public to the judicial services of magisterial district judges. The use of a form will help to accomplish this purpose and will also provide easier statistical and other administrative control by the Supreme Court.

**Source**

The provisions of the Rule 304 amended December 16, 1983, effective December 1, 1983, 13 Pa.B. 3875; amended September 18, 1990, effective immediately, 20 Pa.B. 5042. Immediately preceding text appears at serial page (87406).

**Rule 305. Setting the Date for Hearing; Delivery for Service.**

The magisterial district judge, at the time the complaint is filed, shall:

- (1) Set a hearing date which shall be not less than 12 or more than 60 days from the date the complaint is filed.
- (2) Insert the hearing time and date and the address of the magisterial district court in the complaint form.
- (3) Deliver a copy of the complaint form with hearing time and date thereon to the plaintiff.
- (4) Deliver a copy of the complaint form with hearing time and date thereon for service on the defendant as hereinafter set forth, which copy shall contain the following notice:
  - (a) If you intend to enter a defense to this complaint you should so notify this office immediately.
  - (b) If you have a claim against the plaintiff which is within magisterial district court jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five days before the date set for the hearing.
  - (c) **YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT MAY BE ENTERED AGAINST YOU BY DEFAULT.**

**Official Note:** The 60 day limitation in subdivision (1) of this rule was considered to provide sufficient time in which to effect service under requirement of Rule 307 that service be made at least ten days before the hearing. See Rule 314E as to reinstatement of complaints dismissed because of lack of service. The copies required in subdivisions (3) and (4) are provided by the Magisterial District Judge Automated System. Giving the notice mentioned in subdivision (4)(a) is necessary if the defendant is to obtain judgment under Rule 319A because of the plaintiff's failure to appear. Subdivision (4)(b) gives notice of the right to file a cross-claim within magisterial district court jurisdiction. The procedure for filing such a claim is set forth in Rule 315, and the Note to that rule indicates possible procedures as to counterclaims not within magisterial district court jurisdiction. Subdivision (4)(c) provides for a warning concerning a default judgment, which may be rendered under Rule 319B.

**Source**

The provisions of this Rule 305 amended November 21, 1975, 5 Pa.B. 3020; amended March 27, 1992, effective 90 days from the date on which the Order is signed, 22 Pa.B. 1893 and 1900; amended April 5, 2002, effective July 1, 2002, 32 Pa.B. 2206. Immediately preceding text appears at serial page (281649).

**Rule 306. Numbering and Filing of Complaints.**

The magisterial district judge shall retain the original of the complaint. Complaints shall be numbered consecutively in order of filing, annually, and shall be filed as prescribed by the Court Administrator of Pennsylvania. Complaints filed in the case by a defendant shall take the same number as the plaintiff's complaint.

**Official Note:** It was felt that this rule contained all the provisions concerning office procedures that should be required by rule. The Court Administrator of Pennsylvania publishes the Magisterial District Judge Automated Office Clerical Procedures Manual that prescribes uniform filing, record keeping and other office procedures.

The phrase "[c]omplaints filed in the case by a defendant" includes cross-complaints filed pursuant to Rule 315 and supplementary actions filed pursuant to Rule 342.

**Source**

The provisions of Rule 306 amended April 5, 2002, effective January 1, 2003, 32 Pa.B. 2199. Immediately preceding text appears at serial page (281650).

**Rule 307. Service of the Complaint.**

Service shall be made at least ten days before the hearing, in the following manner:

(1) A copy of the complaint for each defendant shall be delivered by the magisterial district judge for service to the sheriff of, or any certified constable in, the county in which the magisterial district of the magisterial district judge is situated. If this service is not available to the magisterial district judge, service may be made by any certified constable of the Commonwealth. If the complaint is delivered for service to the sheriff and service is to be made in a county other than the one in which the magisterial district of the magisterial district judge is situated, the sheriff shall deputize the sheriff of the county in which service is to be made. A certified constable may serve the complaint anywhere in the Commonwealth.

(2) If service is to be made in a county other than the one in which the magisterial district judge's magisterial district is situated, the magisterial district judge, instead of acting in accordance with subdivision (1), may:

(a) send the copy of the complaint for service to a magisterial district judge in the county in which service is to be made who shall deliver it for service to the sheriff of, or any certified constable in, that county. If this service is not available to the magisterial district judge, service may be made by any certified constable of the Commonwealth, or

(b) if service is to be made in Philadelphia, send the copy of the complaint for service to the Court Administrator of the Philadelphia Municipal Court who shall deliver it for service to a writ server of that court or to the sheriff of Philadelphia.

(3) When service by mail is permitted by the rules in this chapter, it shall be at the option of the plaintiff and shall be made by the magisterial district judge by certified or registered mail. Such service may be made to any place in or outside the Commonwealth.

**Official Note:** This rule provides a number of alternative methods of serving the complaint. Subdivision (1) permits a certified constable to serve the complaint anywhere in the Commonwealth and authorizes deputized service by sheriffs. Subparagraph (2)(a) permits service out of the county through magisterial district judges in the county in which service is to be made, a method of service which might be preferable to service under subdivision (1) by a certified constable of the county where the complaint was filed when that county is a considerable distance from the county of service. Subparagraph (2)(b) provides for service in Philadelphia by writ servers of the Philadelphia Municipal Court or by the sheriff of Philadelphia, although service may still be made in accordance with subdivision (1) if the magisterial district judge so desires. Subdivision (3) makes service by mail, when permitted, at the option of the plaintiff. This was done because service by mail will ordinarily reduce costs.

#### Source

The provisions of this Rule 307 amended January 29, 1976, effective in 30 days, 6 Pa.B. 361; amended April 25, 1979, effective in 30 days, 9 Pa.B. 1499; amended July 16, 2001, effective August 1, 2001, 31 Pa.B. 4055. Immediately preceding text appears at serial pages (256500) to (256501).

### **Rule 308. Service Upon Individuals.**

Service of the complaint upon an individual defendant shall be made:

(1) by handing a copy to the defendant, or

(2) by handing a copy:

(a) to an adult member of the defendant's family at his residence, but if no adult member of the family is found, then to an adult person in charge of such residence, or

(b) to the clerk or manager of a hotel, inn, apartment house, boarding house or other place of lodging at which the defendant resides, or

(c) at any office or usual place of business of the defendant to his agent or to the person for the time being in charge thereof, or

(3) by mailing a copy to the defendant. The return receipt card for certified or registered mail shall be marked "Restricted Delivery," and the return receipt shall show the signature of the defendant or an agent of the defendant authorized in writing to receive his restricted delivery mail. If the signature on the return receipt is that of a person other than the defendant, it shall be presumed, unless the contrary is shown, that the signer was an agent of the defendant authorized in writing to receive his restricted delivery mail.

**Official Note:** Compare Pa. R.C.P. No. 1009(b). Subdivisions (1), (2) and (3) are not intended to be preferential in the order of their numbering. Subdivision (3) reflects changes in postal regulations effective March 1, 1975. The presumption in that subdivision stems from the presumption of regularity in the conduct of governmental affairs.

**Source**

The provisions of this Rule 308 amended March 26, 1975, effective March 31, 1975, 5 Pa.B. 717.

**Rule 309. Service Upon Partnerships.**

Service of the complaint upon a partnership shall be made:

- (1) by handing a copy to a partner, manager, clerk or other person for the time being in charge, at any regular place of business of the partnership, or
  - (2) on a partner in the same manner as an individual if there is no regular place of business, or
  - (3) by mailing a copy to the regular place of business of the partnership.
- The return receipt shall show that the complaint was received by the partnership.

**Official Note:** Compare Pa. R.C.P. No. 2131(a).

**Rule 310. Service Upon Corporations.**

Service of the complaint upon a corporation or similar entity shall be made:

- (1) on an executive officer, partner or trustee of the corporation, or
  - (2) on an agent or person for the time being in charge of, and only at, any office or usual place of business of the corporation, or
  - (3) on an agent authorized by appointment to receive service of process, or
  - (4) by mailing a copy to the regular place of business of the corporation.
- The return receipt shall show that the complaint was received by the corporation or similar activity.

**Official Note:** Compare Pa. R.C.P. No. 2180(a).

**Source**

The provisions of this Rule 310 amended December 16, 1983, effective December 1, 1983, 13 Pa.B. 3875. Immediately preceding text appears at serial page (43142).

**Rule 311. Service Upon Unincorporated Associations.**

Service of the complaint upon an unincorporated association shall be made upon the manager, clerk or other person for the time being in charge of any place where such association regularly conducts any business or association activity, provided the person served is not a plaintiff in the action.

**Official Note:** Compare Pa. R.C.P. No. 2157(a). Service by mail is not allowed under this rule because of the irregularity of operation of many unincorporated associations.

**Rule 312. Service on a Political Subdivision.**

Service of the complaint upon a political subdivision shall be made:

- (1) by handing a copy to an agent duly authorized by the political subdivision to receive service of process, or to the mayor, or to the president, chairman, secretary or clerk of the tax levying body thereof, or
- (2) in counties where there is no tax levying body by handing a copy to the chairman or clerk of the board of county commissioners, or
- (3) by mailing a copy to the office of the political subdivision. The return receipt shall show that the complaint was received by the political subdivision.

**Official Note:** Compare Pa. R.C.P. No. 2104(c).

**Rule 313. Service Outside the Commonwealth.**

When service of the complaint is to be made upon a defendant outside the Commonwealth, it shall be made:

- (1) by delivery in the manner prescribed by Rule 308, 309, 310 or 311, whichever is applicable, by a Pennsylvania sheriff or constable or by any adult, other than the plaintiff designated by the magisterial district judge or
- (2) by certified or registered mail as provided by Rule 308, 309 or 310, whichever is applicable;
  - (a) if the registered or certified mail is returned with a notation by the postal authorities that receipt was refused, then the magisterial district judge may serve the complaint by sending a copy of the complaint by ordinary mail to the same address with a return address on the envelope. Service by ordinary mail is complete if the mail is not returned to the sender within fifteen days after the mailing; or
  - (b) if the mail is returned with a notation by the postal authorities that it was unclaimed, the plaintiff shall make service by another means pursuant to these rules, or
- (3) in the manner provided or prescribed by the law of the place in which service is to be made for service in that place in an action in any of its courts of general jurisdiction.

**Official Note:** See the Judicial Code, § 5322, 42 Pa.C.S. § 5322 (as amended by § 10(61) of the Judiciary Act Repealer Act, Act of April 28, 1978, P. L. 202, No. 53) and § 5329(1), 42 Pa.C.S. § 5329(1), as to the basis of personal jurisdiction over persons outside the Commonwealth. The magisterial district judge may designate any Pennsylvania sheriff or constable to make service under subdivision (1), but such service should not be attempted if it would be offensive to the jurisdiction in which service is to be made. See Uniform Interstate and International Procedures Act, § 2.02, Commissioners' Comment, 13 Uniform Laws Annotated 297. Alternatively, the magisterial district judge may designate any adult other than the plaintiff to make service under subdivision (1). Although the magisterial district judge may not designate the plaintiff as the person to make such service, the plaintiff may suggest to the magisterial district judge the name of a person to make service. If service is made by ordinary mail under subdivision (2), the magisterial district judge shall note that fact on the original complaint form with the remark that a sufficient time having elapsed the ordinary mail was not returned and shall attach to the original complaint form the returned certified or registered letter with the notation by the postal authorities that the defendant refused to accept it. If service is to be made under subdivision (3), the magisterial district judge may send the service copy of the complaint to an appropriate official of the jurisdiction in which service is to be made. If service is made under

subdivisions (1) or (3), proof of service may be made on the form provided under Rule 314A with such alterations as may be necessary or in any manner provided by the law of the jurisdiction in which the service is made for proof of service in an action in any of its courts of general jurisdiction.

#### Source

The provisions of this Rule 313 amended December 16, 1983, effective December 1, 1983, 13 Pa.B. 3875; amended December 6, 1999, effective July 1, 2000, 29 Pa.B. 6467; amended February 5, 2001, effective immediately, 31 Pa.B. 926. Immediately preceding text appears at serial pages (256502) and (262287).

### Rule 314. Return, Waiver and Failure of Service; Reinstatement.

A. The person serving the complaint shall, at or before the time of the hearing, make proof of service which shall show (1) the manner of service, (2) the date, time, and place of service and, (3) the name and relationship or title, if any, of the person on whom the complaint was served. The proof of service shall be filed with the original complaint.

B. When service is made by registered or certified mail, the return receipt shall be filed with the original complaint.

C. The appearance of a defendant in person or by representative or the filing by a defendant of a claim in the case shall be deemed a waiver of any defect in service but not a waiver of a defect in venue.

D. If the complaint is not served on the defendant in time to permit holding a hearing within 60 days of the filing of the complaint, the magisterial district judge shall dismiss the complaint without prejudice.

E. Upon written request of the plaintiff, a complaint that has been dismissed without prejudice for failure to make service pursuant to subdivision D of this rule may be reinstated at any time and any number of times. The date of reinstatement shall be the date upon which the request for reinstatement is filed.

**Official Note:** The provision concerning appearance not being a waiver of venue was inserted in subdivision C of this rule to prevent the concentration of business in the office of a favorable magisterial district judge. Also, the public cannot generally be expected to be aware of venue provisions. See Rule 302H regarding improper venue.

Subdivision D is intended to prevent the accumulation of stale claims in the office of the magisterial district judge.

Subdivision E provides for the reinstatement, upon written request of the plaintiff, of a complaint that has been dismissed without prejudice for failure to make service under subdivision D. Compare Pa. R.C.P. No. 401(b). The written request for reinstatement may be in any form and may consist of a notation on the permanent copy of the complaint form, "Reinstatement of complaint requested," subscribed by the plaintiff. The magisterial district judge shall mark all copies of the reinstated complaint, "Complaint reinstated. Request for reinstatement filed on \_\_\_\_\_ (date)." If it is necessary to use a new form for the reinstated complaint, the reinstated complaint, except for service portions thereof, shall be an exact copy of the original complaint, although signatures may be typed or printed with the mark "/s/" indicating an actual signature. The language in subdivision E that a complaint may be reinstated "at any time" will permit reinstatement after a faulty service without waiting for further proceedings in the case. Reinstatement must occur within the period of the statute of limitations from the date of the last

filing or reinstatement. The cost for reinstating a complaint is specified in Section 1725.1 of the Judicial Code, 42 Pa.C.S. § 1725.1. In addition, there may be additional server costs for service of the reinstated complaint.

#### Source

The provisions of this Rule 314 amended October 17, 1975, effective in 90 days; amended effective March 24, 1977; amended April 25, 1979, effective in 30 days; June 30, 1982 effective 30 days after July 17, 1982; March 27, 1992, effective June 25, 1992; amended February 12, 2002, effective immediately, 32 Pa.B. 1176; amended July 3, 2003, effective January 1, 2004, 33 Pa.B. 3491; amended April 22, 2004, effective July 1, 2004, 34 Pa.B. 2464. Immediately preceding text appears at serial pages (300287) to (300288).

### Rule 315. Claim by Defendant.

A. The defendant, by filing a complaint at least five days before the date set for the hearing, may assert in the case any claim against the plaintiff that is within the jurisdiction of a magisterial district judge. Such a claim need not arise from the same transaction or occurrence from which the plaintiff's claim arose, nor need it be the same type of claim.

B. The rules governing the form, processing, and service of a plaintiff's complaint shall apply also to the defendant's complaint. The magisterial district judge shall set a date and time for the consolidated hearing of both complaints that shall not be less than 12 or more than 30 days from the filing of the defendant's complaint. The magisterial district court shall promptly notify the parties of the date and time set for the consolidated hearing of both complaints.

C. A money judgment for the plaintiff or for the defendant, but not for both, shall be entered with respect to such cross-complaints, any lesser amount found due on the claim asserted in one being deducted from the greater amount found due on the claim asserted in the other.

D. Rescinded.

**Official Note:** Paragraph A of this rule permits the defendant to file a cross-complaint against the plaintiff at least five days before the date originally set for the hearing, if it is for a claim cognizable by a magisterial district judge. See Section 1515(a)(3) of the Judicial Code, 42 Pa.C.S. § 1515(a)(3), as to waiver of jurisdictional limits, a defendant filing a cross-complaint being considered a "plaintiff" as to the cross-complaint within the meaning of this statute. The requirement that a cross-complaint be filed at least five days before the hearing is intended to give the magisterial district judge time to notify the parties of any new hearing date and time. Notice under paragraph B is not a substitute for proper service. If the defendant does not file an action at least five days before the hearing, the defendant may still file a complaint against the plaintiff but it will not be processed as a cross-complaint.

No provision has been made for a stay of the magisterial district court proceedings upon notice by the defendant of intention to commence an action in the court of common pleas on a claim against the plaintiff not within magisterial district judge jurisdiction. It was thought that no such provision was necessary, for if the plaintiff prevails in the magisterial district court action the defendant may appeal, the appeal operates as an automatic supersedeas of the money judgment, the case is heard de novo, and the defendant may assert a claim in the court of common pleas, possibly as a counterclaim. See Rules 1002, 1007, and 1008.

Since a cross-complaint is in the nature of a responsive pleading, there is no fee for filing it.

No cross-complaint may be filed in a supplementary action filed under Rule 342. See Rule 342 and Note.

**Source**

The provisions of this Rule 315 amended through January 29, 1976, 6 Pa.B. 361; amended April 25, 1979, effective May 25, 1979, 9 Pa.B. 1499; amended December 15, 2000, effective January 1, 2001, 30 Pa.B. 6882; amended April 5, 2002, effective January 17, 2003, 32 Pa.B. 2199; amended June 1, 2006, effective October 1, 2006, 36 Pa.B. 2955. Immediately preceding text appears at serial pages (309529) to (309530).

**Rule 316. Amendment to Complaint.**

Amendments to the complaint may be made only at the hearing in the presence of the adverse party or his representative. Amendments other than those made as to form shall constitute grounds for continuance.

**Official Note:** It was felt that the usual notice requirements involved with respect to amendments made prior to the hearing are too difficult and burdensome to be made applicable to magisterial district court proceedings. Consequently, this rule forbids amendments other than those made at the hearing in the presence of the adverse party.

**Rule 317. [Rescinded].**

**Official Note:** See Rule 213 governing subpoenas.

**Source**

The provisions of this Rule 317 amended May 3, 1999, effective immediately, 29 Pa.B. 3198; rescinded September 3, 2003, effective January 1, 2004, 33 Pa.B. 4663. Immediately preceding text appears at serial pages (288435) to (288436).

**Rule 318. Informing Plaintiff of Notice of Intention to Defend.**

If the defendant gives the magisterial district court notice of intention to defend in accordance with Rule 305(4)(a), the magisterial district court shall promptly give the plaintiff written notice that the defendant intends to enter a defense.

**Official Note:** No specific form of notification from the defendant to the magisterial district court is required by this rule, but entries on the docket will show that the defendant gave notice of intention to defend and that the magisterial district court gave written notice to the plaintiff.

**Source**

The provisions of this Rule 318 amended November 21, 1975, 5 Pa.B. 3020; amended March 27, 1992, effective 90 days from the date on which the Order is signed, 22 Pa.B. 1893 and 1900; amended June 1, 2006, effective October 1, 2006, 36 Pa.B. 2955. Immediately preceding text appears at serial pages (309530) to (309531).

**Rule 319. Failure of a Party to Appear at the Hearing.**

A. If a plaintiff who has been given notice of the defendant's intention to defend does not appear at the hearing, but the defendant does appear, the magisterial district judge shall enter judgment for the defendant or continue the case for cause. If the plaintiff does not appear at the hearing and the defendant does, but the plaintiff has not been given notice of the defendant's intention to defend, the case shall be continued.

B. If the defendant does not appear at the hearing, the magisterial district judge shall, whether or not the plaintiff appears, enter judgment for the plaintiff or continue the case for cause. If judgment is entered for the plaintiff, the magisterial district judge shall assess damages for the amount to which the plaintiff is entitled if it is for a sum certain or which can be made certain by computation, but if it is not, the damages shall be assessed by the magisterial district judge at a hearing at which the issues shall be limited to the amount of the damages. If such a hearing is to be held, the magisterial district judge shall give the defendant written notice of the time and date of the hearing, which shall be not less than ten (10) days from the date of the notice.

**Official Note:** The first sentence of subdivision A of this rule provides for a judgment for the defendant rather than merely a dismissal of the plaintiff's complaint. This provision is intended to prevent the plaintiff from bringing the action again before a magisterial district judge, although he can appeal. The continuance called for in the second sentence of subdivision A will constitute a form of notice to defend and if the plaintiff does not appear at the second hearing judgment will be entered against him.

As to the provisions concerning assessment of damages in subdivision B, compare Pa. R.C.P. Nos. 1037(b) and 1047(b).

**Rule 320. [Rescinded].**

**Official Note:** See Rule 209 governing continuances.

**Source**

The provisions of this Rule 320 amended March 27, 1992, effective 90 days from the date on which the Order is signed, 22 Pa.B. 1893 and 1900; amended March 15, 1994, effective upon publication, 24 Pa.B. 1675; amended December 16, 2004, effective July 1, 2005, 35 Pa.B. 10. Immediately preceding text appears at serial page (288437).

**Rule 321. Hearings and Evidence.**

The magisterial district judge shall be bound by the rules of evidence, except that a bill, estimate, receipt or statement of account which appears to have been made in the regular course of business may be introduced in evidence by any party without affidavit or other evidence of its truth, accuracy or authenticity.

**Official Note:** The exception to the rules of evidence provided by this rule was inserted because the Pennsylvania statutes making certain business entries admissible in evidence (see

the Judicial Code, § 6108, 42 Pa.C.S. § 6108) apparently do not apply to bills, receipts and the like which are made in the regular course of business but are not made as “records.” The fact that this exception permits the introduction of these items of evidence without affidavit or other evidence of their truth, accuracy or authenticity does not, of course, preclude the introduction of evidence contradicting them. The exception was deemed necessary because the items of evidence made admissible thereby are probably the proofs most commonly used in minor judiciary proceedings.

**Source**

The provisions of this Rule 321 amended April 25, 1979, effective May 25, 1979, 9 Pa.B. 1499. Immediately preceding text appears at serial page (25078).

**Rule 322. Judgment.**

Judgment shall be given at the conclusion of the hearing or within five (5) days thereafter and shall be entered on the complaint form. The judgment shall include a separate entry for costs in favor of the party entitled thereto.

**Official Note:** The five day provision of this rule is in keeping with the general principle of insuring the expeditious handling of these actions. A general provision for costs has also been included.

**Source**

The provisions of this Rule 322 amended September 18, 1990, effective immediately, 20 Pa.B. 5042. Immediately preceding text appears at serial page (87411).

**Rule 323. Judgment—Payment in Installments.**

The magisterial district judge may in his entry of judgment order the payment of the same in periodic installments which shall not extend beyond twelve (12) months from the date of judgment.

**Official Note:** Since many of the defendants coming before magisterial district judges are apt to be in financial difficulties, it was thought advisable to provide for payment in installments. The payments are to be made to the plaintiff and not to the magisterial district judge. See Rule 13 of the Rules Governing Standards of Conduct of Magisterial District Judges.

**Source**

The provisions of this Rule 323 amended December 16, 1983, effective December 1, 1983, 13 Pa.B. 3875; amended March 27, 1992, effective 90 days from the date on which the Order is signed, 22 Pa.B. 1893 and 1900. Immediately preceding text appears at serial page (152349).

**Rule 324. Notice of Judgment or Dismissal and the Right to Appeal.**

A. Upon the entry of the judgment, the magisterial district court shall promptly give or mail to the parties written notice of judgment or dismissal.

B. The written notice of judgment or dismissal shall contain:

(1) notice of the right of the parties to appeal, the time within which the appeal must be taken, and that the appeal is to the court of common pleas,

(2) notice that, except as otherwise provided in the rules, if the judgment holder elects to enter the judgment in the court of common pleas, all further process must come from the court of common pleas and no further process may be issued by the magisterial district judge, and

(3) notice that unless the judgment is entered in the court of common pleas anyone interested in the judgment may file a request for entry of satisfaction with the magisterial district judge if the judgment debtor pays in full, settles, or otherwise complies with the judgment.

**Official Note:** As to paragraph B(2), see Rule 402D and Note. As to paragraph B(3), see Rule 341.

#### Source

The provisions of this Rule 324 amended November 21, 1975, 5 Pa.B. 3020; amended through December 16, 1983, effective December 1, 1983, 13 Pa.B. 3875; amended March 27, 1992, effective 90 days from the date on which the Order is signed, 22 Pa.B. 1893 and 1900; amended April 5, 2002, effective January 1, 2003, 32 Pa.B. 2199; amended June 1, 2006, effective October 1, 2006, 36 Pa.B. 2955. Immediately preceding text appears at serial page (309533).

### **Rule 325. [Renumbered].**

#### Source

The provisions of this Rule 325 renumbered April 5, 2002, effective January 1, 2003, 32 Pa.B. 2199. Immediately preceding text appears at serial pages (256508) to (258509).

## **SATISFACTION OF MONEY JUDGMENTS**

### **Rule 341. Request for Entry of Satisfaction; Service; Entry of Satisfaction.**

A. If a judgment debtor has paid in full, settled, or otherwise complied with a judgment rendered in a magisterial district court, anyone interested in the judgment may request the entry of satisfaction of the judgment by filing a written request in the office of the magisterial district judge who rendered the judgment.

B. A request for entry of satisfaction by anyone other than the judgment creditor must be served upon the judgment creditor in accordance with the rules in the 300 Series regarding service of the complaint.

C. Within 90 days from the date of service of the request for entry of satisfaction, the judgment creditor shall enter satisfaction in the office of the magisterial district judge in which the request for entry of satisfaction was filed.

**Official Note:** Subdivision A provides a mechanism for a judgment debtor, or anyone interested in the judgment, to file a written request for entry of satisfaction in the office of the magisterial district judge who rendered the judgment. See Section 8104(a) of the Judicial Code, 42 Pa.C.S. § 8104(a).

Subdivision B is intended to provide a number of alternative methods of service. See Rules 307, 308, 309, 310, 311, 312 and 313. When permitted, service by mail should be at the option of the person filing the request for entry of satisfaction. The requester shall be required to pay for all costs associated with initiating entry of satisfaction.

Upon the entry of satisfaction, the judgment debtor may file a true copy of the entry of satisfaction in any other magisterial district court in which the judgment may have been entered pursuant to Rule 402. Nothing in this rule is intended to suggest that it is the obligation of the judgment creditor to enter satisfaction in any court other than the court specified in subdivision C.

These procedures also apply to satisfaction of money judgments rendered in actions for the recovery of possession of real property (landlord/tenant actions). See Rules 514 and 518.

If a judgment creditor does not comply with the provisions of this rule, the judgment debtor may proceed under Rule 342.

A party may contest the entry of satisfaction by filing a petition to strike the entry of satisfaction with the court of common pleas.

#### Source

The provisions of this Rule 341 adopted April 5, 2002, effective January 1, 2003, 32 Pa.B. 2199; amended September 9, 2008, effective October 1, 2008, 38 Pa.B. 5164. Immediately preceding text appears at serial pages (319887) to (319888).

### **Rule 342. Failure of Judgment Creditor to Enter Satisfaction; Supplementary Action.**

A. If the judgment creditor does not enter satisfaction within the 90 day period after service of the request as specified in Rule 341C, the judgment debtor may commence a supplementary action for damages by filing a civil complaint in the office of the magisterial district judge in which the request for entry of satisfaction was filed.

B. (1) Except as provided in subparagraph B(2), upon the filing of a complaint as provided in subdivision A, the action shall proceed as a civil action in accordance with the rules of the 300 Series.

(2) No claim under Rule 315 will be permitted in a supplementary action filed pursuant to this Rule.

**Official Note:** A judgment debtor may seek damages pursuant to Section 8104(b) of the Judicial Code, 42 Pa.C.S. § 8104(b). The action commenced under subdivision A of this Rule is a supplementary proceeding in the matter in which the judgment was entered. As such, it must be filed in the office of the magisterial district judge in which the request for entry of satisfaction was filed. Also, it must be indexed to the same docket number as, and made a part of the record of, the underlying action. See Rule 306 and Note. Because the supplementary action is merely a continuation of the underlying action, there are no filing costs for it, however there may be costs for service of the action. The requester shall be required to pay for all costs associated with initiating entry of satisfaction.

Subdivision B provides that, once a supplementary action is filed under subdivision A, the proceedings in the action, including the form of the complaint, setting the hearing date, service, and hearing, should proceed as if a regular civil action, except that no cross-complaints under

Rule 315 will be permitted. See Rules 304 through 381. While it is not the intent of this rule to limit defenses that may be raised in a supplementary action, only those issues arising from the Rule 342 supplementary action are to be considered at the hearing. Therefore, subparagraph B(2) makes clear that no cross-complaints are permitted to be filed.

When rendering judgment in an action filed pursuant to this rule, the magisterial district judge may determine if the judgment debtor is entitled to damages under Section 8104(b) of the Judicial Code, 42 Pa.C.S. § 8104(b), and whether satisfaction should be entered on the underlying judgment.

A party may appeal from a judgment in an action filed pursuant to this rule, but issues on appeal are limited to those raised in the action filed under this rule. See Rule 1007.

#### Source

The provisions of this Rule 342 adopted April 5, 2002, effective January 1, 2003, 32 Pa.B. 2199; amended September 8, 2008, effective October 1, 2008, 38 Pa.B. 5164. Immediately preceding text appears at serial pages (319888) and (309535).

### **Rule 381. Acts of Assembly Suspended.**

All Acts of Assembly or parts thereof inconsistent with the rules governing the civil action are suspended to the extent of such inconsistency.

#### Source

The provisions of this Rule 381 amended through June 30, 1982, effective August 16, 1982, 12 Pa.B. 2266; amended September 18, 1990, effective immediately, 20 Pa.B. 5042. Immediately preceding text appears at serial page (87412).

### **Rule 382. Acts of Assembly Not Suspended.**

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

(1) Any Act of Assembly providing for special venue in certain types of cases, except that with respect to actions before magisterial district judges “magisterial district” shall be substituted for “county” when the latter word is used in such an act designating venue.

**Official Note:** See, for example, the special venue provisions in the Acts mentioned in the next to the last paragraph of the note to Rule 302. This subdivision is intended to preserve the substance of unusual statutory venue provisions which reflect public policy rather than mere procedure.

(2) Any Act of Assembly providing for service upon a statutory agent.

(3) Any Act of Assembly creating or defining a right of action in trespass or assumpsit, whether or not described in those terms, or dealing with damages therefor, except insofar as such an act may provide for procedure.

**Official Note:** See, for example, the actions mentioned in the notes to Rules 301 and 501.

**Source**

The provisions of this Rule 382 amended through December 16, 1983, effective December 1, 1983, 13 Pa.B. 3875. Immediately preceding text appears at serial pages (72973) to (72974).

[Next page is 400-1.]