CHAPTER 200. BUSINESS OF COURTS

Rule 201. Agreements of Attorneys.

Agreements of attorneys relating to the business of the court shall be in writing, except such agreements at bar as are noted by the prothonotary upon the minutes or by the stenographer on the stenographer's notes.

Official Note: Adopted September 8, 1938, effective March 20, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

The word ''prothonotary'' refers to the court official, irrespective of title, who keeps the minutes of the court.

Source

The provisions of this Rule 201 amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial page (246944).

Rule 202. [Rescinded].

Official Note: Agreements as to contingent fees are governed by the Rules of Professional Conduct.

Source

The provisions of Rule 202 adopted September 8, 1938, effective March 20, 1939; amended June 23, 1975, effective immediately, 5 Pa.B. 1819; amended April 4, 1990, effective July 1, 1990, 20 Pa.B. 2278. Immediately preceding text appears at serial pages (143640) to (143641).

Rule 203. [Rescinded].

Official Note: Payments by attorneys are governed by the Rules of Professional Conduct.

Source

The provisions of Rule 203 adopted September 8, 1938, effective March 20, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended April 4, 1990, effective July 1, 1990, 20 Pa.B. 2278. Immediately preceding text appears at serial page (143641).

Rule 204. [Rescinded].

Official Note: Payments to persons in connection with litigation are governed by the Rules of Professional Conduct.

Source

The provisions of this Rule 204 adopted September 8, 1938, effective March 20, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended April 4, 1990, effective July 1, 1990, 20 Pa.B. 2278. Immediately preceding text appears at serial page (143641).

Rule 204.1. Pleadings and Other Legal Papers. Format.

All pleadings, motions and other legal papers must conform to the following requirements:

(1) The document shall be on 8 1/2 inch by 11 inch paper.

(2) The document shall be prepared on white paper (except for dividers and similar sheets) of good quality.

(3) The first sheet shall contain a 3-inch space from the top of the paper for all court stampings, filing notices, etc.

(4) The text must be double spaced, but quotations more than two lines long may be indented and single spaced. Margins must be at least one inch on all four sides.

(5) The lettering shall be clear and legible and no smaller than point 12. The lettering shall be on only one side of a page, except that exhibits and similar supporting documents may be lettered on both sides of a page.

(6) Documents and papers shall be firmly bound.

Source

The provisions of this Rule 204.1 adopted July 7, 2006, effective February 1, 2007, 36 Pa.B. 3807.

Rule 205. [Rescinded].

Explanatory Note

Rule 205 provided that the Code of Professional Responsibility of the American Bar Association, adopted August 12, 1969 and amended February 24, 1970, was the standard of conduct for attorneys of all courts of the Commonwealth. The Committee has long felt that such a rule was properly a rule of disciplinary enforcement rather than one of civil procedure.

On June 28, 1976, the Court promulgated the Pennsylvania Rules of Disciplinary Enforcement which will become effective on October 27, of this year. The Definition of Disciplinary Rules as provided by Rule of Disciplinary Enforcement 102 incorporated the same Code of Professional Responsibility as that specified in Rule of Civil Procedure 205. In view of the duplication of the rules, the rescission was appropriate.

Rule 205.1. Filing Legal Papers. Mailing. Personal Presentation by Attorney Not Necessary.

Any legal paper not requiring the signature of, or action by, a judge prior to filing may be delivered or mailed to the prothonotary, sheriff or other appropriate officer accompanied by the filing fee**,** if any. Neither the party nor the party's attorney need appear personally and present such paper to the officer. The signature of an attorney on a paper constitutes a certification of authorization to file it. The endorsement of an address where papers may be served in the manner provided by Rule 440(a) shall constitute a sufficient registration of address. The notation on the paper of the attorney's current Supreme Court identification number issued by the Court Administrator of Pennsylvania shall constitute proof of the right to practice in the Commonwealth. A paper sent by mail shall not be deemed filed until received by the appropriate officer.

Official Note: The address endorsed on the legal paper must be one where the paper may be handed to or mailed to the attorney. See Rule 440(a)(1).

The filing of legal documents prepared on recycled paper of good quality is encouraged.

Source

The provisions of this Rule 205.1 amended October 29, 1976, 6 Pa.B. 2737; amended March 21, 1995, effective April 8, 1995, 25 Pa.B. 1272; amended April 29, 2003, effective September 1, 2003, 33 Pa.B. 2356. Immediately preceding text appears at serial pages (255153) to (255154) and (281405).

Rule 205.2. Filing Legal Papers with the Prothonotary.

No pleading or other legal paper that complies with the Pennsylvania Rules of Civil Procedure shall be refused for filing by the prothonotary based on a requirement of a local rule of civil procedure or judicial administration, including local Rules 205.2(a) and 205.2(b).

Official Note: Rule 239.1(a) authorizes each court of common pleas to impose requirements governing the physical characteristics of pleadings and other legal papers. Rule 239.1(a) requires each court which has imposed requirements to promulgate a local rule, numbered Local Rule 205.2(a), listing the requirements.

Similarly, Rule 239.1(b) also authorizes each court to require pleadings and other legal papers to be accompanied by a cover sheet. Rule 239.1(b) requires each court which has imposed the requirement to promulgate a local rule, numbered Local Rule 205.2(b), stating the requirement and setting forth the form of the cover sheet.

Source

The provisions of Rule 205.2 adopted December 5, 1985, effective January 1, 1986, 15 Pa.B. 4491; 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 page (340379).

Rule 205.3. Filing Pleadings and Other Legal Papers with the Prothonotary. Originals and Copies.

(a) A party may file with the prothonotary an original pleading or other legal paper, or a copy including a facsimile copy provided that the copy shows that the original pleading or other legal paper was properly signed and, where applicable, verified. Except as otherwise provided by law, the copy shall be deemed the equivalent of the original document.

Official Note: This rule does not authorize the filing of legal papers with the prothonotary by facsimile transmission, but, rather, authorized the filing of a non-original facsimile or other copy. See Rule 205.1 governing the manner of filing with the prothonotary.

See Rule 76 for the definition of facsimile copy.

The facsimile copy must be on paper of good quality. See Pa.R.A.P. 124(a)(1).

(b) If a party has filed of record a copy of a pleading or other legal paper, any other party may require the filing of the original document by filing with the prothonotary and serving upon the party who filed the copy a notice to file the original document with the prothonotary within fourteen days of the filing of the notice.

Source

The provision of this Rule 205.3 adopted August 3, 1998, effective January 1, 1999, 28 Pa.B. 3928; amended December 29, 2008, effective immediately, 39 Pa.B. 304. Immediately preceding text appears at serial pages (331689) to (331690).

Rule 205.4. Electronic Filing and Service of Legal Papers.

(a)(1) A court by local rule may permit or require electronic filing of legal papers with the prothonotary and shall specify the actions and proceedings and the legal papers subject to the rule.

Official Note: This rule does not require the implementation of electronic filing by a local court.

If a court determines that legal papers may be filed electronically with the prothonotary, Rule 239.9(a) requires the court to promulgate Local Rule 205.4 which shall describe the electronic filing system program and set forth the practice and procedure for the matters required by this rule.

If a court provides that electronic filing is mandatory, it must also provide the necessary technical assistance to those parties who lack the capability to file legal papers electronically.

(2) As used in this rule, the following words shall have the following meanings:

''electronic filing,'' the electronic transmission of legal papers by means other than facsimile transmission,

''filing party,'' an attorney, party or other person who files a legal paper by means of electronic filing, and

''legal paper,'' a pleading or other paper filed in an action, including exhibits and attachments.

(b)(1) Legal papers shall be presented for filing in portable document format (''pdf'') or any other electronic format, if any, that the court by local rule designates. A paper presented for filing in a format other than portable document format shall be converted to portable document format and maintained by the prothonotary in that format.

Official Note: Rule 239.9(b)(2) requires that subdivision (b)(1) of Local Rule 205.4 specify the electronic format for presenting legal papers for filing.

(2) A legal paper filed electronically shall be deemed the original document.

(3) The electronic filing of a legal paper constitutes a certification

(i) by the filing party that a hard copy of the legal paper was properly signed and, where applicable, verified, and

(ii) as provided by Rule 1023.1(c) governing the signature to a legal paper, the violation of which shall be subject to the sanction provision of Rule 1023.1(d).

(4) The filing party shall maintain the signed hard copy of the document filed for two years after the later of

(i) the disposition of the case,

(ii) the entry of an order resolving the issue raised by the legal paper, or

(iii) the disposition by an appellate court of the issue raised by the legal paper.

(5) Any other party at any time may serve upon the filing party a notice to produce for inspection the signed hard copy within fourteen days of the service

of the notice. The court upon motion may grant appropriate sanctions for failure to produce the signed hard copy pursuant to the notice.

(c)(1) The prothonotary when authorized to accept filings by electronic transmission shall provide electronic access at all times.

(2) The prothonotary may designate a website for the electronic filing of legal papers. Access to the website shall be available by the attorney identification number issued by the Court Administrator of Pennsylvania. The court by local rule shall designate the manner of access to the website for a filing party who is not an attorney.

Official Note: Rule 239.9(b)(3) requires that subdivision (c)(2) of Local Rule 205.4 specify the manner of access to the website by a filing party who is not an attorney.

(3) The time and date of filing submission and receipt of the legal paper to be filed electronically shall be that registered by the electronic filing system. The prothonotary shall provide, through the electronic filing system's website, an acknowledgement that the legal paper has been received, including the date and time of receipt, in a form which can be printed for retention by the filing party.

(d)(1) A filing party shall pay the cost of the electronic filing of a legal paper by approved credit or debit card, or by advance deposit of sufficient funds with the prothonotary if the court by local rule so provides.

(2) A filing party who presents the legal paper for electronic filing in person at the office of the prothonotary shall pay the cost by a method prescribed by paragraph (1) or by check or cash.

(3) If a court has designated a third party to operate the electronic filing system, the filing party shall pay the cost of the electronic filing to the prothonotary or to the third party operator in the manner provided by local rule.

Official Note: Rule 239.9(b)(4) requires that subdivision (d)(1) of Local Rule 205.4 list the credit and debit cards approved by the court or the prothonotary, and state whether the filing fee may be paid by depositing, in advance, sufficient funds with the prothonotary.

Rule 239.9(b)(5) provides for subdivision (d)(3) of Local Rule 205.4 to govern the payment of the filing fee to a third party operator, if applicable.

(e)(1) A filing party shall be responsible for any delay, disruption, interruption of the electronic signals and legibility of the document electronically filed, except when caused by the failure of the electronic filing system's website.

Official Note: The filing party accepts the risk that a document filed by means of electronic filing may not be properly or timely filed with the prothonotary.

(2) No pleading or other legal paper that complies with the Pennsylvania Rules of Civil Procedure shall be refused for filing by the prothonotary or the electronic filing system based upon a requirement of a local rule or local administrative procedure or practice pertaining to the electronic filing of legal papers.

Official Note: See also Rule 205.2 governing filing legal papers with the prothonotary.

(3) If a pleading or other legal paper is not accepted upon presentation for filing or is refused for filing by the electronic filing system, the prothonotary or the electronic filing system, as may be appropriate, shall immediately notify

the party presenting the legal paper for filing of the date of presentation, the fact that the document was not accepted or refused for filing by the system, and the reason therefor.

(4)(i) The court upon motion shall resolve any dispute arising under paragraphs (1) and (2) of this subdivision.

(ii) If a party makes a good faith effort to electronically file a legal paper but it is not received, accepted or filed by the electronic filing system, the court may order that the paper be accepted and filed *nunc pro tunc* upon a showing that reasonable efforts were made to timely present and file the paper.

(f) When electronic filing is permitted as set forth in subdivision (a)(1), the court by local rule shall provide for

(1) a filing status message to the filing party,

(2) the maintenance by the prothonotary of an electronic file only, or of such electronic and such hard copy files as set forth in the rule,

Official Note: A hard copy file is not required by this rule. If the local rule requires a hard copy file, the requirement may extend to all cases or only to certain specified cases. For example, the court may require hard copy files for cases listed for trial or scheduled for argument while maintaining only electronic files for all other cases.

(3) additional procedures, if necessary, to ensure the security of the web site and the electronic files,

(4) procedures for the payment of prothonotary's fees and costs, and

(5) such other procedures and matters necessary to the operation of a system of electronic filing.

Official Note: Rule 239.9(b)(6) provides that subdivision (f) of Local Rule 205.4 must set forth the practice and procedure with respect to the matters required by subdivision (f) of this rule.

(g)(1) Copies of all legal papers other than original process filed in an action or served upon any party to an action may be served

(i) as provided by Rule 440 or

(ii) by electronic transmission, other than facsimile transmission, if the parties agree thereto or an electronic mail address is included on an appearance or prior legal paper filed with the court in the action. A paper served electronically is subject to the certifications set forth in subdivision (b)(3).

(2) Service by electronic transmission is complete when a legal paper is sent

(i) to the recipient's electronic mail address, or

(ii) to an electronic filing system website and an e-mail message is sent to the recipient by the electronic filing system that the legal paper has been filed and is available for review on the system's website.

Official Note: Upon the electronic filing of a legal paper other than original process, the electronic filing system may automatically send notice of the filing to all parties who have agreed to service by electronic transmission or whose e-mail address is included on an appearance or prior legal paper filed in connection with the action. If the electronic filing system sends notice of such filing, the party filing the legal paper only need serve those parties who are not served by the electronic filing system.

An electronic mail address set forth on letterhead is not a sufficient basis under this rule to permit electronic service of legal papers.

See Rule 236(d) providing for the prothonotary to give notice of orders and judgments, and also other matters, by facsimile transmission or other electronic means.

See Rule 440(d) governing service of legal papers other than original process by facsimile transmission.

(h) A judicial district which implements an electronic filing system pursuant to this rule is exempt from the requirements of Rule 205.5 governing cover sheets, provided the electronic filing system has the capability of gathering and transmitting to the Administrative Office of Pennsylvania Courts all the information required by Rule 205.5(e).

Source

The provisions of this § 205.4 adopted June 14, 1999, effective July 1, 1999, 29 Pa.B. 3189; amended November 28, 2000, effective January 1, 2001, 30 Pa.B. 6421; amended June 8, 2001, effective July 1, 2001, 31 Pa.B. 3305; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9; amended May 19, 2005, effective immediately, 35 Pa.B. 3289; amended March 27, 2006, effective immediately, 36 Pa.B. 1745; amended November 14, 2007, effective December 14, 2007, 37 Pa.B. 6258; amended February 25, 2010, effective in ninety days, 40 Pa.B. 1395. Immediately preceding text appears at serial pages (340380) and (331691) to (331693).

Rule 205.5. Cover Sheet.

(a)(1) This rule shall apply to all actions governed by the rules of civil procedure except the following:

(i) actions pursuant to the Protection from Abuse Act, Rules 1901 *et seq.*

(ii) actions for support, Rules 1910.1 *et seq.*

(iii) actions for custody, partial custody and visitation of minor children, Rules 1915.1 *et seq.*

(iv) actions for divorce or annulment of marriage, Rules 1920.1 *et seq.*

(v) actions in domestic relations generally, including paternity actions, Rules 1930.1 *et seq.*

(vi) voluntary mediation in custody actions, Rules 1940.1 *et seq.*

(2) At the commencement of any action, the party initiating the action shall complete the cover sheet set forth in subdivision (e) and file it with the prothonotary.

Official Note: When a defendant in an action before a magisterial district court appeals the decision to the court of common pleas, the plaintiff in the action before the magisterial district court shall complete the cover sheet when filing the complaint with the prothonotary.

(b) The prothonotary shall not accept a filing commencing an action without a completed cover sheet.

(c) The prothonotary shall assist a party appearing pro se in the completion of the form.

(d) A judicial district which has implemented an electronic filing system pursuant to Rule 205.4 and has promulgated those procedures pursuant to Rule 239.9 shall be exempt from the provisions of this rule.

Official Note: Pa.R.C.P. No. 205.4 provides for electronic filing and service of legal papers. Rule 205.4(h) permits a judicial district which has implemented an electronic filing system to

be exempt from the requirements of this rule provided that the information to be gathered by the cover sheet can be captured and transmitted to the Administrative Office of Pennsylvania Courts by the electronic filing system.

Pa.R.C.P. No. 239.9 provides for the promulgation of a local rule, numbered Local Rule 205.4, governing procedures for electronic filing specific to a judicial district.

(e) The Court Administrator of Pennsylvania, in conjunction with the Civil Procedural Rules Committee, shall design and publish the cover sheet. The latest version of the form shall be published on the web site of the Administrative Office of Pennsylvania Courts at www.pacourts.us.

Official Note: Cover sheets developed by a judicial district may be used in addition to the cover sheet required by this rule. See Rule 239.1, which requires a court that uses local cover sheets to promulgate a local rule, numbered Local Rule 205.2(b), setting forth the form of cover sheet.

Source

The provisions of this § 205.5 adopted February 25, 2010, effective in ninety days, 40 Pa.B. 1395; amended June 28, 2016, effective August 1, 2016, 46 Pa.B. 3797. Immediately preceding text appears at serial pages (369601) to (369602).

Rule 205.6. Confidential Information and Confidential Documents. Certification.

Unless public access is otherwise constrained by applicable authority, any attorney, or any party if unrepresented, who files a document pursuant to these rules with the prothonotary's office shall comply with the requirements of Sections 7.0 and 8.0 of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* (Policy) including a certification of compliance with the Policy and, as necessary, a Confidential Information Form, unless otherwise specified by rule or order of court, or a Confidential Document Form in accordance with the Policy.

Official Note: Applicable authority includes but is not limited to statute, procedural rule or court order. The *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* (Policy) can be found on the website of the Supreme Court of Pennsylvania at http://www.pacourts.us/public-records. Sections 7.0(D) and 8.0(D) of the Policy provide that the certification shall be in substantially the following form:

> I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

The Confidential Information Form and the Confidential Document Form can be found at http://www.pacourts.us/public-records. In lieu of the Confidential Information Form, Section 7.0(C) of the Policy provides for a court to adopt a rule or order permitting the filing of a document in two versions, a ''Redacted Version'' and an ''Unredacted Version.''

Source

The provisions of this Rule 205.6 adopted January 5, 2018, effective January 6, 2018, 48 Pa.B. 475; amended June 1, 2018, effective July 1, 2018, 48 Pa.B. 3519. Immediately preceding text appears at serial page (390034).

Rule 206. [Rescinded].

Source

The provisions of this Rule 206 amended October 16, 1981, effective October 16, 1981, 11 Pa.B. 3687; rescinded September 8, 1995, effective January 1, 1996, 25 Pa.B. 4092. Immediately preceding text appears at serial page (196997).

Rule 206.1. Petition. Definition. Content. Form.

(a) As used in this chapter, ''petition'' means

(1) an application to strike and/or open a default judgment or a judgment of non pros, and

(2) any other application which is designated by local rule, numbered Local Rule 206.1(a), to be governed by Rule 206.1 *et seq*.

Official Note: A petition for relief from a judgment by confession is governed by Rule 2959.

Motions are governed by Rule 208.1 *et seq*.

Rule 206.1(a)(2) authorizes each court of common pleas to designate applications which are to proceed in the manner of a petition under Rule 206.1 *et seq*. Rule 239.2(a) requires each court which has made that designation to promulgate a local rule, numbered Local Rule 206.1(a), listing the applications to be determined pursuant to Rule 206.1 *et seq*.

(b) A petition shall specify the relief sought and state the material facts which constitute the grounds therefor. All grounds for relief, whether to strike or open a default judgment, shall be asserted in a single petition.

(c) A petition shall be divided into paragraphs numbered consecutively. Each paragraph shall contain as far as practicable only one material allegation.

Official Note: Petitions are subject to Rule 440 governing service of legal papers other than original process, Rule 1023.1 governing the signing of documents, and Rule 1025 governing the endorsement of legal papers. Any requirements of a court relating to the format of a petition and cover sheet must be set forth in local rules numbered Local Rule 205.2(a) and Local Rule 205.2(b).

Source

The provisions of this Rule 206.1 adopted September 8, 1995, effective January 1, 1996, 25 Pa.B. 4092; 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 October 21, 2013, effective November 21, 2013, 43 Pa.B. 6648; amended June 28, 2016, effective August 1, 2016, 46 Pa.B. 3797. Immediately preceding text appears at serial pages (369602) to (369603).

Rule 206.2. Answer.

(a) An answer shall state the material facts which constitute the defense to the petition.

(b) An answer to a petition shall be divided into paragraphs, numbered consecutively, corresponding to the numbered paragraphs of the petition.

Source

The provisions of this Rule 206.2 adopted September 8, 1995, effective January 1, 1996, 25 Pa.B. 4092.

Rule 206.3. Verification.

A petition or an answer containing an allegation of fact which does not appear of record shall be verified.

Official Note: See Rule 76 for the definition of ''verified.''

Source

The provisions of this Rule 206.3 adopted September 8, 1995, effective January 1, 1996, 25 Pa.B. 4092.

Rule 206.4. Rule to Show Cause. Alternative Procedures. Exception.

(a)(1) Except as provided by subparagraph (2), a petition shall proceed upon a rule to show cause, the issuance of which shall be discretionary with the court as provided by Rule 206.5 unless the court by local rule adopts the procedure of Rule 206.6 providing for issuance as of course.

Official Note: See Rule 440 requiring service of the petition upon every other party to the action.

(2) A judgment shall be stricken without the issuance of a rule to show cause when there is a defect on the face of the record that constitutes a ground for striking a default judgment.

(b) The procedure following issuance of the rule to show cause shall be in accordance with Rule 206.7.

Official Note: Subdivisions (b) through (e) of Rule 239.2 require every court to promulgate Local Rule 206.4(c) describing the court's procedures for the issuance of a rule to show cause.

Source

The provisions of this Rule 206.4 adopted September 8, 1995, effective January 1, 1996, 25 Pa.B. 4092; amended October 24, 2003, effective 9 months from the date of the Order, 33 Pa.B. 5506; amended November 2, 2005, effective immediately, 35 Pa.B. 6318; amended October 21, 2013, effective November 21, 2013, 43 Pa.B. 6648; amended June 28, 2016, effective August 1, 2016, 46 Pa.B. 3797. Immediately preceding text appears at serial pages (369603) to (369604).

Rule 206.5. Rule to Show Cause. Discretionary Issuance. Stay. Form of Order. Rule Inapplicable to Petition to Strike Default Judgment.

(a) Rescinded.

(b) A petitioner seeking the issuance of a rule to show cause shall attach to the petition a proposed order in the form prescribed by subdivision (d) and give notice to all other parties of the intention to request the court to issue the rule.

(c) If the petition is within the scope of Rule 206.1(a), is properly pleaded, and states prima facie grounds for relief, the court shall enter an order issuing a rule to show cause and may grant a stay of the proceedings.

(d) The form of order required by subdivision (b) shall be substantially in the following form:

(CAPTION)
ORDER

AND NOW, this _____ day of _____, ___, upon consideration of the foregoing petition, it is hereby ordered that

(1) a rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;

(2) the respondent shall file an answer to the petition within _____days of this date;

(3) the petition shall be decided under Pa.R.C.P. No. 206.7;

(4) depositions shall be completed within _____days of this date;

(5) argument shall be held on _____ , ___ in Courtroom _____ of the _____ County Courthouse; and

(6) notice of the entry of this order shall be provided to all parties by the petitioner.

BY THE COURT:

_____

J.

Official Note: In counties in which an evidentiary hearing is held, the order should be modified by deleting paragraphs (4) and (5) and substituting new paragraph (4) to read as follows:

(4) an evidentiary hearing on disputed issues of material fact shall be held on , ___ in Courtroom _____ of the _____ County Courthouse.

The court may provide in the order for disposition upon briefs rather than oral argument.

The court has inherent power to permit forms of discovery other than depositions.

The court may provide in the order for the filing of briefs.

(e) A judgment shall be striken without the issuance of a rule to show cause when there is a defect on the face of the record that constitutes a ground for striking a default judgment.

Source

The provisions of this Rule 206.5 adopted September 8, 1995, effective January 1, 1996, 25 Pa.B. 4092; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266; amended October 24, 2003, effective 9 months from the date of the Order, 33 Pa.B. 5506; amended March 27, 2006, effective immediately, 36 Pa.B. 1745; amended October 21, 2013, effective November 21, 2013, 43 Pa.B. 6648. Immediately preceding text appears at serial pages (318373) to (318374).

Rule 206.6. Rule to Show Cause. Issuance as of Course. Stay. Form of Order.

(a) A rule to show cause shall be issued as of course upon the filing of the petition. The rule shall direct that an answer be filed to the petition within twenty days after service of the petition on the respondent.

(b) The court may grant a stay of the proceedings.

(c) The petitioner shall attach to the petition a proposed order substantially in the following form:

(CAPTION)
ORDER

AND NOW, this _____ day of _____ , ___ , upon consideration of the foregoing petition, it is hereby ordered that

(1) a rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;

(2) the respondent shall file an answer to the petition within twenty days of service upon the respondent;

(3) the petition shall be decided under Pa.R.C.P. No. 206.7;

(4) depositions shall be completed within _____days of this date;

(5) argument shall be held on _____ , ___ in Courtroom _____ of the _____ County Courthouse; and

(6) notice of the entry of this order shall be provided to all parties by the petitioner.

BY THE COURT:

_____

J.

Official Note: Paragraphs (4) and (5) are optional in a county adopting the alternative procedure. This accommodates local procedures which do not fix a hearing date until the answer and depositions have been filed.

In counties in which an evidentiary hearing is held, the order should be modified by deleting paragraphs (4) and (5) and substituting new paragraph (4) to read as follows:

(4) an evidentiary hearing on disputed issues of material fact shall be held on _____ , ___ in Courtroom _____ of the _____ County Courthouse.

The court may provide in the order for disposition upon briefs rather than oral argument.

The court has inherent power to permit forms of discovery other than depositions.

Source

The provisions of this Rule 206.6 adopted September 8, 1995, effective January 1, 1996, 25 Pa.B. 4092; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial pages (200229) to (200230).

Rule 206.7. Procedure After Issuance of Rule to Show Cause.

(a) If an answer is not filed, all averments of fact in the petition may be deemed admitted for the purposes of this subdivision and the court shall enter an appropriate order.

(b) If an answer is filed raising no disputed issues of material fact, the court on request of the petitioner shall decide the petition on the petition and answer.

(c) If an answer is filed raising disputed issues of material fact, the petitioner may take depositions on those issues, or such other discovery as the court allows, within the time set forth in the order of the court. If the petitioner does not do so, the petition shall be decided on petition and answer and all averments of fact responsive to the petition and properly pleaded in the answer shall be deemed admitted for the purpose of this subdivision.

(d) The respondent may take depositions, or such other discovery as the court allows.

Source

The provisions of this Rule 206.7 adopted September 8, 1995, effective January 1, 1996, 25 Pa.B. 4092.

Rule 207. [Rescinded].

Source

The provisions of this Rule 207 rescinded September 8, 1995, effective January 1, 1996, 25 Pa.B. 4092. Immediately preceding text appears at serial page (196998).

Rule 207.1. Motion to Exclude Expert Testimony Which Relies Upon Novel Scientific Evidence

(a) If a party moves the court to exclude expert testimony which relies upon novel scientific evidence, on the basis that it is inadmissible under Pa.R.E. 702 or 703,

(1) the motion shall contain:

(i) the name and credentials of the expert witness whose testimony is sought to be excluded,

(ii) a summary of the expected testimony of the expert witness, specifying with particularity that portion of the testimony of the witness which the moving party seeks to exclude,

(iii) the basis, set forth with specificity, for excluding the evidence,

(iv) the evidence upon which the moving party relies, and

(v) copies of all relevant curriculum vitae and expert reports;

(2) any other party need not respond to the motion unless ordered by the court;

(3) the court shall initially review the motion to determine if, in the interest of justice, the matter should be addressed prior to trial. The court, without further proceedings, may determine that any issue of admissibility of expert testimony be deferred until trial; and

(4) the court shall require that a response be filed If it determines that the matter should be addressed prior to trial.

Official Note: This rule establishes procedures for motions to exclude expert testimony which relies upon novel scientific evidence. The rule does not address the requirements for the admission of expert testimony under Pa.R.E. 702 and 703, which are governed by case law. It also does not address motions under those rules on other grounds.

The court has discretion in the manner in which it determines the motion. While depositions of expert witnesses and evidentiary hearings are available to the court for this purpose, they should be utilized in limited circumstances. See the limitations set forth in Rule 4003.5 governing discovery of expert testimony.

In deciding whether to address prior to trial the admissibility of the testimony of an expert witness, the following factors are among those which the court should consider: the dispositive nature or significance of the issue to the case, the complexity of the issue involved in the testimony of the expert witness, the degree of novelty of the proposed evidence, the complexity of the case, the anticipated length of trial, the potential for delay of trial, and the feasibility of the court evaluating the expert witness' testimony when offered at trial.

When a ruling on a pre-trial motion to exclude the testimony of an expert witness is deferred until trial, the trial judge may choose to decide the motion (1) before the expert witness testifies on the basis of evidence offered outside the presence of the jury or (2) after the expert witness testifies on the basis of testimony offered at trial, in which event the trial judge will strike the testimony of the expert witness if it is found to be inadmissible under Pa.R.E. 702 or 703. However, hearings on preliminary matters must be conducted outside the presence of the jury "when the interests of justice require." See Pa.R.E. 104.

(b) A party is not required to raise the issue of the admissibility of testimony of an expert witness prior to trial unless the court orders the party to do so.

Source

The provisions of this Rule 207.1 adopted January 22, 2001, effective July 1, 2001, 31 Pa.B. 629.

Rule 208. [Rescinded].

Source

The provisions of this Rule 208 rescinded September 8, 1995, effective January 1, 1996, 25 Pa.B. 4092. Immediately preceding text appears at serial page (196998).

Rule 208.1. Motion. Definition. Scope.

(a) As used in this chapter, ''motion'' means any application to the court for an order made in any civil action or proceeding except as provided by subdivision (b)(1) and (2).

(b)(1) The rules of this chapter shall not apply to the following matters:

(i) preliminary objections (Rule 1028),

(ii) motions for judgment on the pleadings (Rule 1034) and for summary judgment (Rule 1035.1 et seq.),

(iii) requests for special relief, including preliminary injunctions,

(iv) motions relating to the conduct of the trial, including motions for nonsuit pursuant to Rule 218, motions relating to jury selection, motions to exclude expert testimony pursuant to Rule 207.1, motions in limine, and motions made during the course of the trial,

(v) motions for post-trial relief (Rule 227.1),

(vi) motions for delay damages (Rule 238),

(vii) petitions (Rule 206.1), and

(viii) petitions for relief from a judgment by confession (Rule 2959).

(2) The rules of this chapter shall not apply to motions arising in the following actions or proceedings:

(i) asbestos litigation and cases otherwise designated by the court for special management (Rules 1041.1 and 1041.2),

(ii) actions in replevin (Rule 1071 et seq.),

(iii) class actions (Rule 1701 et seq.),

(iv) family law actions (Rules 1901 through 1940.9), and

(v) proceedings in Orphans' Court.

(c) The rules of this chapter shall not modify the provisions of any other general rule governing a particular motion.

Source

The provisions of this Rule 208.1 adopted October 24, 2003, effective 9 months after the date of the Order, 33 Pa.B. 5506.

Rule 208.2. Motion. Form. Content.

(a) A motion shall

(1) contain a caption setting forth the name of the court, the number of the action, the name of the motion, and the name of the moving party,

(2) be divided into paragraphs numbered consecutively,

(3) set forth material facts constituting grounds for the relief sought, specify the relief sought and include a proposed order,

(4) include a certificate of service which sets forth the manner of service including the name of an attorney of record for each party that is represented by counsel, the party whom the attorney represents, a ''pro se'' designation for each party that is unrepresented, and the address at which service was made, and

(5) be signed and endorsed.

Official Note: Motions are subject to Rule 440 governing service of legal papers other than original process, Rule 1023.1 governing the signing of documents, and Rule 1025 governing the endorsement of legal papers. Any requirements of a court relating to the format of a motion and cover sheet must be set forth in local rules numbered Local Rule 205.2(a) and Local Rule 205.2(b).

(b) A motion need not be verified unless verification is required by general rule governing the particular motion or by order of court.

Official Note: Rule 239.3(a) authorizes a court to require that a motion include a brief statement of the applicable authority. Rule 239.3(a) requires each court which has imposed this requirement to promulgate a local rule, numbered Local Rule 208.2(c), stating the requirement.

Rule 239.3(b) also authorizes each court to provide a certification requirement for a motion as uncontested. Rule 239.3(b) requires each court which has imposed this requirement to promulgate a local rule, numbered Local Rule 208.2(d), stating the requirement.

Similarly, Rule 239.3(c) authorizes each court of common pleas to require the moving party in any motion relating to discovery to certify that counsel has conferred or attempted to confer with all interested parties in order to resolve the matter without court action. Rule 239.3(c) requires each court which has imposed this requirement to promulgate a local rule, numbered Local Rule 208.2(e), stating the requirement.

Source

The provisions of this Rule 208.2 adopted October 24, 2003, effective 9 months after the date of the Order, 33 Pa.B. 5506; amended October 15, 2004, effective immediately, 34 Pa.B. 5889; amended November 2, 2005, effective immediately, 35 Pa.B. 6318; amended June 28, 2016, effective August 1, 2016, 46 Pa.B. 3797. Immediately preceeding text appears at serial pages (369608) to (369609).

Rule 208.3. Alternative Procedures.

(a) Except as otherwise provided by subdivision (b), the court shall initially consider a motion without written responses or briefs. For a motion governed by this subdivision, the court may not enter an order that grants relief to the moving party unless the motion is presented as uncontested or the other parties to the proceeding are given an opportunity for an argument.

Official Note: Rule 208.3(a) does not prevent a court from denying the moving party's request for relief without the opportunity for an argument where the motion is procedurally defective, is untimely filed or fails to set forth adequate grounds for relief.

Parties may choose to submit responses and briefs at the time of the presentation, provided that copies have been served on every other party. However, parties are not required to do so.

Rule 239.3(d) requires every court to promulgate Local Rule 208.3(a) describing the local court procedure governing motions under this rule.

(b) A court, by local rule, numbered Local Rule 208.3(b), may impose requirements with respect to motions listed in the rule for the filing of a response, a brief or both. Where a response is required, any party opposing a motion governed by Local Rule 208.3(b) shall file the response within twenty days after service of the motion, unless the time for filing the response is modified by court order or enlarged by local rule.

Official Note: Motions are governed by the procedure in subdivision (a) unless the court by local rule designates particular types of motions to be governed by the procedure in subdivision (b).

The twenty-day response period may be extended or reduced by special order of court. A local rule may only extend the time period.

A response shall be filed by any party opposing a motion governed by subdivision (b) even if there are no contested issues of fact because the response is the opposing party's method of indicating its opposition.

Rule 208.3(b) authorizes each court of common pleas to impose requirements of responses and briefs with respect to designated motions. Rule 239.3(e) requires each court which has imposed such requirements to promulgate a local rule, numbered Local Rule 208.3(b), listing the motions and the requirements.

Rule 239.3(e) also provides that Local Rule 208.3(b) must describe the local court procedure governing motions under subdivision (b) and may allow the court to treat the motion as uncontested if a response is not filed.

Source

The provisions of this Rule 208.3 adopted 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 (369609) to (369610).

Rule 208.4. Initial Consideration of Motion. Court Orders. Issues of Disputed Fact.

(a) At the initial consideration of a motion, the court may enter an order that

(1) disposes of the motion, or

(2) sets forth the procedures the court will use for deciding the motion which may include one or more of the following:

(i) the filing of initial or supplemental responses,

(ii) the filing of initial or supplemental briefs,

(iii) the filing of affidavits, depositions and the like,

(iv) the issuance of a rule to show cause pursuant to subdivision (b) of this rule,

(v) the holding of an evidentiary hearing, and

(vi) the entry of an order providing for any other procedure for developing the record.

(b)(1) If the moving party seeks relief based on disputed facts for which a record must be developed, the court, upon its own motion or the request of any party including the moving party, may enter an order in the form set forth in paragraph (2) providing for the issuance of a rule to show cause. The procedure following issuance of the rule to show cause shall be in accordance with Rule 206.7.

Official Note: A court will not necessarily utilize the rule to show cause procedure of subdivision (b) because other methods for developing the record, such as the filing of affidavits, may be the most efficient and appropriate manner for developing a record.

(2) The order required by paragraph (1) shall be substantially in the following form:

(Caption)

ORDER

AND NOW, _____ (Date), upon consideration of the foregoing motion, it is hereby ordered that

(1) a rule is issued upon the respondent to show cause why the moving party is not entitled to the relief requested;

(2) the respondent shall file an answer to the motion within _____ days of this date;

(3) the motion shall be decided under Pa.R.C.P. No. 206.7;

(4) depositions shall be completed within ___ days of this date;

(5) argument shall be held on _____ (Date) in Courtroom _____ of the _____ County Courthouse; and

(6) notice of the entry of this order shall be provided to all parties by the moving party.

By the Court

_____

J.

Official Note: In counties in which an evidentiary hearing is held, the order should be modified by deleting paragraphs (4) and (5) and substituting new paragraph (4) to read as follows:

(4) an evidentiary hearing on disputed issue of material fact shall be held on _____ in Courtroom ___ of the _____ County Courthouse.

The court may provide in the order for disposition upon briefs rather than oral argument.

The court has inherent power to permit forms of discovery other than depositions.

The court may provide in the order for the filing of briefs.

Source

The provisions of this Rule 208.4 adopted October 24, 2003, effective 9 months after the date of the Order, 33 Pa.B. 5506.

Rule 209. [Rescinded].

Source

The provisions of this Rule 209 rescinded September 8, 1995, effective January 1, 1996, 25 Pa.B. 4092. Immediately preceding text appears at serial page (196998).

Rule 210. Form of Briefs.

Briefs shall be typewritten, printed, or otherwise duplicated, and endorsed with the name of the case, the court and number and the name, address, and telephone number of the attorney or the party if not represented by an attorney.

Official Note: Rule 239.4 authorizes each court of common pleas to impose additional requirements governing the form and content of a brief. Rule 239.4 requires each court which has imposed such requirements to promulgate a local rule, numbered Local Rule 210, listing the requirements.

Source

The provisions of this Rule 210 adopted September 8, 1938, effective March 20, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266; 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 page (379526).

Rule 211. Oral Arguments.

Any interested party may request oral argument on a motion. The court may require oral argument, whether or not requested by a party. The court may dispose of any motion without oral argument.

Source

The provisions of this Rule 211 adopted September 8, 1938, effective March 20, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266; amended October 26, 2015, effective January 1, 2016, 45 Pa.B. 6480. Immediately preceding text appears at serial page (369612).

Rule 212. Pre-Trial Conference.

(*Editor's Note*: Rule 212 was renumbered as Rule 212.3 pursuant to an order dated August 11, 1997, effective December 1, 1997.)

Rule 212.1. Civil actions to be tried by jury. Notice of earliest trial date. Time for completing discovery and filing pre-trial statement.

(a) In a civil action in which the damages sought exceed the jurisdictional limit for compulsory arbitration and which is to be tried by a jury, notice shall be given by the court of the earliest date on which the case may be tried. The notice should be given at least thirty days before the plaintiff's pre-trial statement is due to be filed. The notice may include a date by which discovery shall be completed.

Official Note: It is not intended by this rule to change the form and manner of notice of trial.

(b) A pre-trial statement shall be filed.

(1) by the plaintiff not later than sixty days prior to the earliest trial date,

(2) by the defendant not later than thirty days prior to the earliest trial date, and

(3) by an additional defendant not later than fifteen days prior to the earliest trial date.

Official Note: A copy of the pre-trial statement must be served upon every other party to the action. See Rule 440(a).

(c) (1) The times set forth in subdivision (b) may be made earlier by published local rule or by special order or as set forth in a trial list published in the county law journal or otherwise made available to the parties.

(2) The times set forth in subdivision (b) may be made later by published local rule or by special order in a particular case.

Official Note: In a county which requires that discovery be completed and expert reports be exchanged prior to listing a case for trial, the court by local rule may provide for the simultaneous filing of pre-trial statements.

The court by local rule may extend Rules 212.1 and 212.2 to apply to actions to be tried non-jury as well as by jury and to other forms of action in addition to civil actions.

Source

The provisions of this Rule 212.1 adopted August 11, 1997, effective December 1, 1997, 27 Pa.B. 4426.

Rule 212.2. Civil actions to be tried by jury. Pre-trial statement. Content. Sanctions.

(a) A pre-trial statement shall contain

(1) a brief narrative statement of the case;

(2) a list of the types and amounts of all damages claimed;

(3) a list of the names and addresses of all persons who may be called as witnesses by the party filing the statement, classifying them as liability or damage witnesses. A reference which does not state the name of the witness shall be permitted when the witness is described by title or representative capacity;

Official Note: A listing of ''anyone named in discovery'' is insufficient under this rule. A listing of a ''records custodian'' of a specific entity is a sufficient listing.

This rule does not contemplate that the pre-trial statement include a list of witnesses for use in rebuttal or for impeachment. These matters are governed by case law.

(4) a list of all exhibits which a party intends to use at trial;

Official Note: This rule does not contemplate that the pre-trial statement include a list of exhibits for use in rebuttal or for impeachment. These matters are governed by case law.

(5) a copy of the written report, or answer to written interrogatory consistent with Rule 4003.5, containing the opinion and the basis for the opinion of any person who may be called as an expert witness;

Official Note: The notes or records of a physician may be supplied in lieu of written reports.

(6) stipulations of the parties, if any; and

(7) such additional information as the court by local rule or special order may require.

(b) The exhibits listed in the pre-trial statement, or copies thereof, shall be made available by the party filing the statement.

(c) Where the trial judge determines that unfair prejudice shall occur as the result of non-compliance with subdivisions (a) and (b), the trial judge shall grant appropriate relief which may include

(1) The preclusion or limitation of the testimony of

(i) any witness whose identity is not disclosed in the pre-trial statement, or

(ii) any expert witness whose opinions have not been set forth in the report submitted with the pre-trial statement or otherwise specifically referred to in the pre-trial statement, consistent with Rule 4003.5, and

(2) the preclusion of exhibits not listed in the pre-trial statement and made available.

Source

The provisions of this § 212.2 adopted August 11, 1997, effective December 1, 1997, 27 Pa.B. 4426.

Rule 212.3. Pre-Trial Conference.

(a) In any action at any time the court, sua sponte or on motion of any party, may direct the attorneys for the parties or any unrepresented party to appear for a conference to consider:

(1) The simplification of the issues;

(2) The entry of a scheduling order;

(3) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;

(4) The limitation of the number of expert witnesses;

(5) Settlement and/or mediation of the case;

Official Note: See Rule 212.5 for procedures governing a settlement conference.

(6) Such other matters as may aid in the disposition of the action.

(b) A court may require, pursuant to a court order, various parties to attend a pre-trial conference, including an insurance or similar representative, who has authority to negotiate and settle the case.

(c) In the absence of a court order, at any pre-trial conference held after the filing of the pre-trial statements and that will involve settlement discussions:

(1) prior to the conference date, the attorneys for the parties, or the parties if unrepresented, shall engage in good faith efforts to resolve the case;

(2) an attorney who will be trying the case, or another attorney who has sufficient knowledge of the claims asserted, defenses presented, relief sought and legal issues raised, and has the authority to act on behalf of the client shall attend the pre-trial conference; and

(3) an insurance or similar representative, who has authority to negotiate and settle the case, must either attend the pre-trial conference or be promptly available by telephone.

(d) The court may make an order reciting the action taken at the conference and the agreements made by the parties as to any of the matters considered, and limiting the issues for trial to those not disposed of by admissions or agreements of the attorneys. Such order when entered shall control the subsequent course of the action unless modified at the trial to prevent manifest injustice.

(e) The court may establish by rule a pre-trial list on which actions may be placed for consideration as above provided, and may either confine the list to jury actions or to non-jury actions, or extend it to all actions.

Source

The provisions of this Rule 212 adopted September 8, 1938, effective March 20, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; renumbered Rule 212.3 and amended August 11, 1997, effective December 1, 1997, 27 Pa.B. 4426; amended December 15, 2010, effective January 15, 2011, 41 Pa.B. 214. Immediately preceding text appears at serial page (293818).

Rule 212.4. Applicability of Rules. Eminent Domain

(a) The name of a valuation expert and his or her statement of valuation required to be served on the opposing party by Section 703(2) of the Eminent Domain Code shall be served within the time provided for the filing of a pre-trial statement by Rule 212.1. A party failing to comply with this rule shall be subject to the sanctions set forth in Rule 212.2(c)

(b) Section 703(2) of the Eminent Domain Code, 26 P.S. § 1-703(2), is suspended only insofar as it provides for the name and report of the valuation expert to be served at least ten days before the commencement of the trial.

Source

The provisions of this Rule 212.4 adopted October 8, 2002, effective January 1, 2003, 23 Pa.B. 5262

Rule 212.5. Settlement Conference.

(a) At any time, the court, sua sponte or on motion of any party, may enter an order in the form provided in Rule 212.6 scheduling a settlement conference, the purpose of which is to resolve the litigation. Prior to the conference date, the attorneys for the parties, or the parties if unrepresented, shall engage in good faith efforts to resolve the case.

(b) At a settlement conference scheduled pursuant to this rule,

(1) an attorney who will be trying the case, or another attorney who has sufficient knowledge of the claims asserted, defenses presented, relief sought and legal issues raised, and has the authority to act on behalf of the client shall attend the settlement conference;

(2) an insurance or similar representative, who has authority to negotiate and settle the case must be present at the conference, unless the court permits the representative to ensure that he or she will be available by telephone; and

(3) the court shall have discretion to order the attendance of other individuals as reasonably necessary to accomplish resolution of the case.

Official Note: Rule 212.3 governs a pre-trial conference which includes consideration of matters relating to the trial of a case. A settlement conference pursuant to this rule considers only the settlement of litigation.

Source

The provisions of this Rule 212.5 adopted December 15, 2010, effective January 15, 2011, 41 Pa.B. 214.

Rule 212.6. Settlement Conference. Form of Order.

An order scheduling a settlement conference pursuant to Rule 212.5 shall be substantially in the following form:

(Caption)

Scheduling Order for Rule 212.5
Settlement Conference

For the above-captioned case, a settlement confer ence pursuant to Rule 212.5 has been scheduled before _____ at _____ Courthouse
(name of judge)
at _____ o'clock. All parties shall be in compliance with the requirements of Rule 212.5(b).

_____
J.

Source

The provisions of this Rule 212.6 adopted December 15, 2010, effective January 15, 2011, 41 Pa.B. 214.

Rule 213. Consolidation, Severance and Transfer of Actions and Issues within a County. Actions for Wrongful Death and Survival Actions.

(a) In actions pending in a county which involve a common question of law or fact or which arise from the same transaction or occurrence, the court on its own motion or on motion of any party may order a joint hearing or trial of any matter in issue in the actions, may order the actions consolidated, and may make orders that avoid unnecessary cost or delay.

(b) The court, in furtherance of convenience or to avoid prejudice, may, on its own motion or on motion of any party, order a separate trial of any cause of action, claim, or counterclaim, set-off, or cross-suit, or of any separate issue, or of any number of causes of action, claims, counter-claims, set-offs, cross-suits, or issues.

(c) [Rescinded]

(d) [Rescinded]

(e) A cause of action for the wrongful death of a decedent and a cause of action for the injuries of the decedant which survives his or her death may be enforced in one action, but if independent actions are commenced they shall be consolidated for trial.

(1) If independent actions are commenced or are pending in the same court, the court, on its own motion or the motion of any party, shall order the actions consolidated for trial.

(2) If independent actions are commenced in different courts, the court in which the second action was commenced, on its own motion or the motion of any party, shall order the action transferred to the court in which the first action was commenced.

(3) If an action is commenced to enforce one cause of action, the court, on its own motion or the motion of any party, may stay the action until an action is commenced to enforce the other cause of action and is consolidated therewith or until the commencement of such second action is barred by the applicable statute of limitation.

(f) When an action is commenced in a court which has no jurisdiction over the subject matter of the action it shall not be dismissed if there is another court of appropriate jurisdiction within the Commonwealth in which the action could originally have been brought but the court shall transfer the action at the cost of the plaintiff to the court of appropriate jurisdiction. It shall be the duty of the prothonotary or clerk of the court in which the action is commenced to transfer the record together with a certified copy of the docket entries to the prothonotary or clerk of the court to which the action is transferred.

Official Note: Adopted September 8, 1938, effective March 20, 1939; amended and effective June 7, 1940; amended and effective October 1, 1942; amended June 27, 1969 and effective September 1, 1969; amended June 23, 1975, effective immediately, 5 Pa.B. 1819. Subdivisions (c) and (d) have been rendered unnecessary in view of the abolition of the former Municipal Court of Philadelphia and the County Court of Allegheny County by the Constitution of 1968.

For transfer of actions from counties of improper venue, see Rule 1006(e).

Explanatory Note

Prior to 1969, two county courts existed in Pennsylvania. The Municipal Court of Philadelphia was created by the Act of July 12, 1913, P. L. 711, § 1, 17 P. S. § 681, and subsequently renamed the County Court of Philadelphia by the Act of July 17, 1961, P. L. 781, § 1, 17 P. S. § 705. The County Court of Allegheny County was created by the Act of May 5, 1911, P. L. 198, § 1, 17 P. S. § 621. Both of these courts were abolished by the Constitution of 1968.

Business of the Court Rules 213(c) and (d) refer to transfers between county courts and common pleas courts. Joinder of Parties Rule 2231(b) is predicated on the jurisdiction of the county courts. These sub-divisions are obsolete.

Trespass Rule 1044(c) refers to county courts. This reference is also obsolete.

Rules 213(c) and (d) and 2231(b) have been rescinded and the reference to a county court in Rule 1044(c) has been deleted. Appropriate notes have been added to each Rule.

Source

The provisions of this Rule 213 amended April 4, 1990, effective July 1, 1990, 20 Pa.B. 2276; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial pages (233995) to (233996).

Rule 213.1. Coordination of Actions in Different Counties.

(a) In actions pending in different counties which involve a common question of law or fact or which arise from the same transaction or occurrence, any party, with notice to all other parties, may file a motion requesting the court in which a complaint was first filed to order coordination of the actions. Any party may file an answer to the motion and the court may hold a hearing.

(b) The court in which the complaint was first filed may stay the proceedings in any action which is the subject of the motion.

(c) In determining whether to order coordination and which location is appropriate for the coordinated proceedings, the court shall consider, among other matters:

(1) whether the common question of fact or law is predominating and significant to the litigation;

(2) the convenience of the parties, witnesses and counsel;

(3) whether coordination will result in unreasonable delay or expense to a party or otherwise prejudice a party in an action which would be subject to coordination;

(4) the efficient utilization of judicial facilities and personnel and the just and efficient conduct of the actions;

(5) the disadvantages of duplicative and inconsistent rulings, orders or judgments;

(6) the likelihood of settlement of the actions without further litigation should coordination be denied.

(d) If the court orders that actions shall be coordinated, it may

(1) stay any or all of the proceedings in any action subject to the order, or

(2) transfer any or all further proceedings in the actions to the court or courts in which any of the action is pending, or

(3) make any other appropriate order.

(e) In the order of coordination, the court shall include the manner of giving notice of the order to all parties in all actions subject thereto and direct that specified parties pay the costs, if any, of coordination. The court shall also order that a certified copy of the order of coordination be sent to the courts in which the actions subject to the order are pending, whereupon whose courts shall take such action as may be appropriate to carry out the coordination order.

(f) The final order disposing of a coordinated action or proceeding shall be certified and sent to the court in which the action was originally commenced to be filed of record.

Source

The provisions of this Rule 213.1 adopted April 4, 1990, effective July 1, 1990, 20 Pa.B. 2276.

Rule 214. Preferences on Trial Lists.

Preference shall be given in the preparation of trial lists to

(1) cases in which a new trial has been granted, and

(2) such cases as the court upon application and cause shown may designate.

Source

The provisions of this Rule 214 adopted September 8, 1938, effective March 20, 1939; amended March 11, 1991, effective July 1, 1991, 21 Pa.B. 1274; amended July 23, 2002, effective immediately, 32 Pa.B. 3886. Immediately preceding text appears at serial pages (255164) to (255165).

Rule 215. [Rescinded].

Source

The provisions of this Rule 215 adopted September 8, 1938, effective March 20, 1939; amended March 11, 1991, effective July 1, 1991, 21 Pa.B. 1274; amended July 23, 2002, effective immediately, 32 Pa.B. 3886. Immediately preceding text appears at serial page (255165).

Rule 215.1. [Rescinded].

Official Note: The subject matter of former Rule 215.1 governing the duty of common pleas courts in Commonwealth Court jury trial cases is now governed by Rule 3735 of the Pennsylvania Rules of Appellate Procedure, adopted November 5, 1975 and effective July 1, 1976.

Rule 216. Grounds for Continuance.

(A) The following are grounds for continuance:

(1) Agreement of all parties or their attorneys, if approved by the Court;

(2) Illness of counsel of record, a material witness, or a party. If requested a certificate of a physician shall be furnished, stating that such illness will probably be of sufficient duration to prevent the ill person from participating in the trial;

(3) Inability to subpoena or to take testimony by deposition, commission, or letters rogatory, of any material witness, shown by affidavit which shall state:

(a) The facts to which the witness would testify if present or if deposed;

(b) The grounds for believing that the absent witness would so testify;

(c) The efforts made to procure the attendance or deposition of such absent witness; and

(d) The reasons for believing that the witness will attend the trial at a subsequent date, or that the deposition of the witness can and will be obtained.

(4) Such special ground as may be allowed in the discretion of the court;

(5) The scheduling of counsel to appear at any proceeding under the Pennsylvania Rules of Disciplinary Enforcement, whether:

(a) as counsel for a respondent-attorney before a hearing committee, special master, the Disciplinary Board or the Supreme Court;

(b) as a special master or member of a hearing committee; or

(c) as a member of the Disciplinary Board;

(6) The scheduling of counsel to appear at any proceeding involving the discipline of a justice, judge or magisterial district judge under Section 18 of Article V of the Constitution of Pennsylvania, whether:

(a) as counsel for a justice, judge, or magisterial district judge before the special tribunal provided for in 42 Pa.C.S. § 727, the Court of Judicial Discipline, the Judicial Conduct Board or any hearing committee or other arm of the Judicial Conduct Board; or

(b) as a member of the Court of Judicial Discipline, the Judicial Conduct Board or any hearing committee or other arm of the Judicial Conduct Board.

(B) Except for cause shown in special cases, no reason above enumerated for the continuance of a case shall be of effect beyond one application made in behalf of one party or group of parties having similar interests.

(C) No application for a continuance shall be granted if based on a cause existing and known at the time of publication or prior call of the trial list unless the same is presented to the court at a time fixed by the court, which shall be at least one week before the first day of the trial period. Applications for continuances shall be made to the court, or filed in writing with the officer in charge of the trial list, after giving notice of such application by mail, or otherwise, to all parties or their attorneys. Each court may, by local rule, designate the time of publication of the trial list for the purposes of this rule.

(D) No continuance shall be granted due to the absence from court of a witness duly subpoenaed, unless:

(1) Such witness will be absent because of facts arising subsequent to the service of the subpoena and which would be a proper ground for continuance under the provisions of Rule 216(A); or

(2) On the day when the presence of such witness is required a prompt application is made for the attachment of such absent witness; or

(3) The witness, having attended at court has departed without leave, and an application for attachment is made promptly after the discovery of the absence of such witness; or the court is satisfied that the witness has left court for reasons which would be a proper ground for continuance under Rule 216(A).

(E) Each Court may adopt local rules providing for the temporary passing of cases or governing applications for continuance because of the absence of a witness, not a party, who has not been served with a subpoena.

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(F) Rule 216(B)—(E) and Rule 217 shall not be applicable to a continuance granted for any of the reasons set forth in Rule 216(A)(5) or (6).

Source

The provisions of this Rule 216 adopted September 8, 1938, effective March 20, 1939; amended October 4, 1961, effective January 1, 1962; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended March 15, 1994, effective upon publication, 24 Pa.B. 1673; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266; amended May 19, 2005, effective immediately, 35 Pa.B. 3289. Immediately preceding text appears at serial pages (290401) to (290402) and (255167).

Rule 217. Costs on Continuance.

When a continuance is granted upon application made subsequent to the preliminary call of the trial list, the court may impose on the party making the application the reasonable costs actually incurred by the opposing party which would not have been incurred if the application had been made at or prior to such preliminary call.

Where a continuance has been so granted and costs imposed, the party upon whom such costs have been imposed, may not, so long as such costs remain unpaid, take any further step in such suit without prior leave of court.

A party upon whom such costs are so imposed and who was at fault in delaying the application for continuance may not recover such costs, if ultimately successful in the action; otherwise such costs shall follow the judgment in the action.

Source

The provisions of this Rule 217 adopted September 8, 1938, effective March 20, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial page (246949).

Rule 218. Party not Ready when Case is Called for Trial.

(a) Where a case is called for trial, if without satisfactory excuse a plaintiff is not ready the court may enter a nonsuit on motion of the defendant or a non pros on the court's own motion.

(b) If without satisfactory excuse a defendant is not ready, the plaintiff may

(1) proceed to trial, or,

(2) if the case called for trial is an appeal from compulsory arbitration, either proceed to trial or request the court to dismiss the appeal and reinstate the arbitration award.

Official Note: See Rule 1007.1(c)(2) for withdrawal of demand for trial by jury when a party who has filed a demand therefor fails to appear or is not ready.

(c) A party who fails to appear for trial shall be deemed to be not ready without satisfactory excuse.

Official Note: The mere failure to appear for trial is a ground for the entry of a nonsuit or a judgment of nonpros or the reinstatement of a compulsory arbitration award.

A nonsuit is subject to the filing of a motion under Rule 227.1(a)(3) for post-trial relief to remove the nonsuit and a judgment of non pros is subject to the filing of a petition under Rule 3051 for relief from a judgment of non pros.

A decision of the court following a trial at which the defendant failed to appear is subject to the filing of a motion for post-trial relief which may include a request for a new trial on the ground of a satisfactory excuse for the defendant's failure to appear.

Source

The provisions of this Rule 218 amended April 23, 1985, effective July 1, 1985, 15 Pa.B. 1727; amended April 4, 1990, effective July 1, 1990, 20 Pa.B. 2279; amended March 1, 1993, effective July 1, 1993, 23 Pa.B. 1300; amended July 30, 1998, effective January 1, 1999, 28 Pa.B. 3930. Immediately preceding text appears at serial page (200238).

Rule 219. View of Premises.

A party desiring to have the jury view any premises involved in the litigation, may make application thereof either prior to the call of the case for trial, or at the bar during the actual trial of the case. In all such cases, the allowance of the application shall be within the discretion of the court, which may impose upon the applicant such reasonable costs or expenses as may be involved in connection with such view, or may direct that any costs thereby incurred shall follow the judgment entered in such action as in other cases.

Source

The provisions of this Rule 219 adopted September 8, 1938, effective March 20, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

Rule 220. Challenge to the Array.

Every challenge to the array of jurors returned for trial of issues of fact shall be made in writing filed on or before the first day of the period at which such issues have been set down for trial.

Source

The provisions of this Rule 220 adopted September 8, 1938, effective March 20, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

Rule 220.1. Preliminary Instructions to Prospective and Selected Jurors.

(a) For purposes of this rule, ''prospective jurors'' means those persons who have been chosen to be part of the panel from which the trial jurors and alternate jurors will be selected. ''Selected jurors'' means those members of the panel who have been selected to serve as trial jurors or alternate jurors. ''Jury service'' means service as (1) members of the jury array, (2) prospective jurors, and (3) selected jurors.

(b) Persons reporting for jury service, upon their arrival for this service, shall be instructed in their duties.

(c) At a minimum, the persons reporting for jury service shall be instructed that until their service as prospective or selected jurors is concluded, they shall not:

(1) discuss any case in which they have been chosen as prospective jurors or selected jurors with others, including other jurors, except as otherwise authorized by the court;

(2) read or listen to any news reports about any such case;

(3) use a computer, cellular telephone, or other electronic device with communication capabilities while in attendance at trial or during deliberation. These devices may be used during breaks or recesses but may not be used to obtain or disclose information prohibited in subdivision (c)(4);

(4) use a computer, cellular telephone, or other electronic device with communication capabilities, or any other method, to obtain or disclose information

about any case in which they have been chosen as prospective or selected jurors. Information about the case includes, but is not limited to, the following:

(i) information about a party, witness, attorney, judge, or court officer;

(ii) news reports of the case;

(iii) information collected through juror research using such devices about the facts of the case;

(iv) information collected through juror research using such devices on any topics raised or testimony offered by any witness;

(v) information collected through juror research using such devices on any other topic the juror might think would be helpful in deciding the case.

(d) These instructions shall be repeated:

(1) to the prospective jurors at the beginning of voir dire;

(2) to the selected jurors at the commencement of the trial;

(3) to the selected jurors prior to deliberations; and

(4) to the selected jurors during trial as the trial judge deems appropriate.

(e) Jurors shall be instructed that it is their obligation immediately to inform the court of any violation of this rule.

Official Note: For comprehensive jury instructions on the use of electronic devices by jurors in civil cases, see Section 1.180 of the Pennsylvania Suggested Civil Jury Instructions, Pa. SSJI (Civ), § 1.180.

For guidance regarding the use of electronic devices in the courtroom by persons other than jurors, see Rule of Judicial Administration 1910.

Source

The provisions of this Rule 220.1 adopted July 7, 2015, effective October 1, 2015, 45 Pa.B. 3976.

Rule 220.2. Sanctions for Violation of Rule 220.1.

Any individual who violates the provisions of Rule 220.1 regarding the use of electronic devices by jurors or who violates any limitation imposed by local rule or by the trial judge regarding the prohibited use of electronic devices during court proceedings:

(a) may be found in contempt of court and sanctioned in accordance with 42 Pa.C.S. § 4132 et seq., and

(b) may be subject to sanctions deemed appropriate by the trial judge, including, but not limited to, the confiscation of the electronic device that is used in violation of this rule.

Source

The provisions of this Rule 220.2 adopted July 7, 2015, effective October 1, 2015, 45 Pa.B. 3976.

Rule 220.3. Voir Dire.

(a) Upon completion of the oath, the judge shall instruct the prospective jurors upon their duties and restrictions while serving as jurors, and of any sanctions for violation of those duties and restrictions, including those in Rules 220.1 and 220.2.

(b) Voir dire shall be conducted to provide the opportunity to obtain at a minimum a full description of the following information, where relevant, concerning the prospective jurors and their households:

(1) Name;

(2) Date and place of birth;

(3) Residential neighborhood and zip code (not street address);

(4) Marital status;

(5) Nature and extent of education;

(6) Number and ages of children;

(7) Name, age and relationship of members of prospective juror's household;

(8) Occupation and employment history of the prospective juror, the juror's spouse and children and members of the juror's household;

(9) Involvement as a party or a witness in a civil lawsuit or a criminal case;

(10) Relationship, friendship or association with a law enforcement officer, a lawyer or any person affiliated with the courts of any judicial district;

(11) Relationship of the prospective juror or any member of the prospective juror's immediate family to the insurance industry, including employee, claims adjustor, investigator, agent, or stockholder in an insurance company;

(12) Motor vehicle operation and licensure;

(13) Physical or mental condition affecting ability to serve on a jury;

(14) Reasons the prospective juror believes he or she cannot or should not serve as a juror;

(15) Relationship, friendship or association with the parties, the attorneys and prospective witnesses of the particular case to be heard;

(16) Ability to refrain from using a computer, cellular telephone or other electronic device with communication capabilities in violation of the provisions of Rule 220.1; and

(17) Such other pertinent information as may be appropriate to the particular case to achieve a competent, fair and impartial jury.

Official Note: For example, under presently prevailing law as established by the Superior Court, *voir dire* should have been allowed with respect to the effect of pre-trial publicity on prospective jurors' ''attitudes regarding medical malpractice and tort reform.'' *Capoferri v. Children's Hosp. of Phila.*, 893 A.2d 133 (Pa. Super. 2006) (en banc).

(c) The court may provide for voir dire to include the use of a written questionnaire. However, the use of a written questionnaire without the opportunity for oral examination by the court or counsel is not a sufficient voir dire.

Official Note: The parties or their attorneys may conduct the examination of the prospective jurors unless the court itself conducts the examination or otherwise directs that the examination be conducted by a court employee. Any dispute shall be resolved by the court.

A written questionnaire may be used to facilitate and expedite the voir dire examination by providing the trial judge and attorneys with basic background information about the jurors, thereby eliminating the need for many commonly asked questions.

(d) The court may permit all or part of the examination of a juror out of the presence of other jurors.

Source

The provisions of this Rule 220.1 adopted September 15, 1993, effective January 1, 1994, 23 Pa.B. 4635; amended August 11, 1997, effective December 1, 1997, 27 Pa.B. 4426; amended March 11, 2008, effective June 1, 2008, 38 Pa.B. 1349; renumbered Rule 220.3 and amended July 7, 2015, effective October 1, 2015, 45 Pa.B. 3976. Immediately preceding text appears at serial pages (311796) and (360257).

Rule 221. Peremptory Challenges.

Each party shall be entitled to four peremptory challenges, which shall be exercised in turn beginning with the plaintiff and following in the order in which the party was named or became a party to the action. In order to achieve a fair distribution of challenges, the court in any case may

(a) allow additional peremptory challenges and allocate them among the parties;

(b) where there is more than one plaintiff or more than one defendant or more than one additional defendant, consider any one or more of such groups as a single party.

Source

The provisions of this Rule 221 adopted September 8, 1938, effective March 20, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended September 22, 1976, effective November 1, 1976, 6 Pa.B. 2877. Immediately preceding text appears at serial page (22252).

Rule 222. Attorneys as Witnesses.

Where any attorney acting as trial counsel in the trial of an action is called as a witness on behalf of a party whom the attorney represents, the court may determine whether such attorney may thereafter continue to act as trial counsel during the remainder of the trial.

Source

The provisions of this Rule 222 adopted September 8, 1938, effective March 20, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial pages (234000) to (234001).

Rule 223. Conduct of the Trial. Generally.

Subject to the requirements of due process of law and of the constitutional rights of the parties, the court may make and enforce rules and orders covering any of the following matters, *inter alia*:

(1) Limiting the number of witnesses whose testimony is similar or cumulative;

(2) Limiting the number of attorneys representing the same party or the same group of parties, who may actively participate in the trial of the case or may examine or cross-examine a witness or witnesses;

(3) Regulating the number and length of addresses to the jury or to the court;

(4) Regulating or excluding the public or persons not interested in the proceedings whenever the court deems such regulation or exclusion to be in the interest of the public good, order or morals.

Official Note: Trial courts in Pennsylvania customarily exercise discretion as to the exclusion of persons from the courtroom in the interest of good order and morals.

The exclusion of the taking of photographs or radio or television broadcasting is governed by Pa.R.J.A. No. 1910.

Source

The provisions of this Rule 223 adopted September 8, 1938, effective March 20, 1939; amended January 25, 1971, effective February 1, 1971; amended June 23, 1975, effective immediately, 5 Pa.B. 1819; amended November 3, 1999, effective January 1, 2000, 29 Pa.B. 5918; amended April 29, 2016, effective immediately, 46 Pa.B. 2409. Immediately preceding text appears at serial pages (380173) to (380174).

Rule 223.1. Conduct of the Trial. Trial by Jury.

(a) Before the taking of evidence, the trial judge shall instruct the jurors as provided in Rule 220.1.

(b) In conducting a trial by jury, the court may use one or more of the procedures provided in subdivisions (c) and (d) as may be appropriate in the particular case.

Official Note: This rule catalogs certain procedures which may be utilized in the conduct of a jury trial. Since the court has broad power and discretion in the manner in which it conducts a jury trial, it is not intended that this rule be construed as enlarging, restricting or in any way affecting that power and discretion.

See Rule 223.2 for juror note taking in civil cases.

(c) The court may permit jurors to view a premises or a thing in or on a premises.

Official Note: See Rule 219 governing view of premises.

(d) The court may

(1) permit specified testimony to be read back to the jury upon the jury's request,

(2) charge the jury at any time during the trial,

Official Note: The court is not limited to charging the jury after the closing argument by the attorneys.

(3) make exhibits available to the jury during its deliberations, and

(4) make a written copy of the charge or instructions, or a portion thereof, available to the jury following the oral charge or instructions at the conclusion of evidence for use during its deliberations.

Source

The provisions of this Rule 223.1 adopted November 3, 1999, effective January 1, 2000, 29 Pa.B. 5918; amended July 20, 2003, effective September 1, 2003, 33 Pa.B. 4071; amended December 23, 2011, effective February 1, 2012, 42 Pa.B. 377; amended July 7, 2015, effective October 1, 2015, 45 Pa.B. 3976. Immediately preceding text appears at serial pages (360258) to (360259).

Rule 223.2. Conduct of the Jury Trial. Juror Note Taking.

(a)(1) Whenever a jury trial is expected to last for more than two days, jurors, except as otherwise provided by subdivision (a)(2), may take notes during the proceedings and use their notes during deliberations.

Official Note: The court in its discretion may permit jurors to take notes when the jury trial is not expected to last for more than two days.

(2) Jurors are not permitted to take notes when the judge is instructing the jury as to the law that will govern the case.

(b) The court shall give an appropriate cautionary instruction to the jury prior to the commencement of the testimony before the jurors. The instruction shall include:

(1) Jurors are not required to take notes and those who take notes are not required to take extensive notes,

(2) Note taking should not divert jurors from paying full attention to the evidence and evaluating witness credibility,

(3) Notes are merely memory aids and are not evidence or the official record,

(4) Jurors who take few or no notes should not permit their independent recollection of the evidence to be influenced by the fact that other jurors have taken notes,

(5) Notes are confidential and will not be reviewed by the court or anyone else,

(6) A juror may not show his or her notes or disclose their contents to other jurors until deliberations begin, but may show the notes or disclose the contents during deliberations,

(7) Jurors shall not take their notes out of the courtroom except to use their notes during deliberations, and

(8) All juror notes will be collected after the trial is over and immediately destroyed.

Official Note: It is recommended that the trial judge instruct the jurors along the following lines:

We will distribute notepads and pens to each of you in the event you wish to take notes during the trial. You are under no obligation to take notes and those who take notes are not required to take extensive notes

Remember that one of your responsibilities as a juror is to observe the demeanor of witnesses to help you assess their credibility. If you do take notes, do not become so involved with note taking that it interferes with your ability to observe a witness or distracts you from hearing other answers being given by the witness.

Your notes may help you refresh your recollection of the testimony and should be treated as a supplement to, rather than a substitute for, your memory. Your notes are only to be used by you as memory aids and are not evidence or the official record.

Those of you who do not take notes should not permit your independent recollection of the evidence to be influenced by the fact that other jurors have taken notes. It is just as easy to write something down incorrectly as it is to remember it incorrectly and your fellow jurors' notes are entitled to no greater weight than each juror's independent memory. Although you may refer to your notes during deliberations, give no more or no less weight to the view of a fellow juror just because that juror did or did not take notes.

Each time that we adjourn, your notes will be collected and secured by court staff. Jurors shall not take their notes out of the courtroom except to use their notes during deliberations.

A juror may not show his or her notes or disclose their contents to other jurors until deliberations begin, but may show the notes or disclose their contents during deliberations. The only notes you may use during the deliberations are the notes you write in the courtroom during the proceedings on the materials distributed by the court staff.

Your notes are completely confidential and will not be reviewed by the court or anyone else. After the trial is over, your notes will be collected by court personnel and immediately destroyed.

(c) The court shall

(1) provide materials suitable for note taking,

Official Note: The materials provided by the court are the only materials that jurors may use for note taking.

(2) safeguard all juror notes at each recess and at the end of each trial day, and

(3) collect all juror notes as soon as the jury is dismissed and, without inspection, immediately destroy them.

(d)(1) Neither the court nor counsel may (i) request or suggest that jurors take notes, (ii) comment on their note taking, or (iii) attempt to read any notes.

(2) Juror notes may not be used by any party to the litigation as a basis for a request for a new trial.

Official Note: A court shall immediately deny a litigant's request that juror notes be placed under seal until they are reviewed in connection with a request for a new trial on any ground, including juror misconduct. The notes shall be destroyed without inspection as soon as the jury is dismissed.

Source

The provisions of this Rule 223.2 adopted July 30, 2003, effective September 1, 2003, 33 Pa.B. 4071; amended July 8, 2005, effective September 1, 2005, 35 Pa.B. 4087. Immediately preceding text appears at serial pages (308223) to (308224).

Rule 223.3. Conduct of the Trial. Actions for Bodily Injury or Death. Jury Instructions on Noneconomic Loss.

In any action for bodily injury or death in which a plaintiff has raised a claim for a damage award for noneconomic loss that is viable under applicable substantive law, the court shall give the following instructions to the jury.

The plaintiff has made a claim for a damage award for past and for future noneconomic loss. There are four items that make up a damage award for noneco-

nomic loss, both past and future: (1) pain and suffering; (2) embarrassment and humiliation; (3) loss of ability to enjoy the pleasures of life; and (4) disfigurement.

The first item to be considered in the plaintiff's claims for damage awards for past noneconomic loss and for future noneconomic loss is pain and suffering. You are instructed that plaintiff is entitled to be fairly and adequately compensated for all physical pain, mental anguish, discomfort, inconvenience, and distress that you find (he) (she) has endured from the time of the injury until today and that plaintiff is also entitled to be fairly and adequately compensated for all physical pain, mental anguish, discomfort, inconvenience, and distress you find (he) (she) will endure in the future as a result of (his) (her) injuries.

The second item that goes to make up noneconomic loss is embarrassment and humiliation. Plaintiff is entitled to be fairly and adequately compensated for such embarrassment and humiliation as you believe (he) (she) has endured and will continue to endure in the future as a result of (his) (her) injuries.

The third item is loss of enjoyment of life. Plaintiff is entitled to be fairly and adequately compensated for the loss of (his) (her) ability to enjoy any of the pleasures of life as a result of the injuries from the time of the injuries until today and to be fairly and adequately compensated for the loss of (his) (her) ability to enjoy any of the pleasures of life in the future as a result of (his) (her) injuries.

The fourth and final item is disfigurement. The disfigurement that plaintiff has sustained is a separate item of damages recognized by the law. Therefore, in addition to any sums you award for pain and suffering, for embarrassment and humiliation, and for loss of enjoyment of life, the plaintiff is entitled to be fairly and adequately compensated for the disfigurement (he) (she) has suffered from the time of the injury to the present and that (he) (she) will continue to suffer during the future duration of (his) (her) life.

In considering plaintiff's claims for damage awards for past and future noneconomic loss, you will consider the following factors: (1) the age of the plaintiff; (2) the severity of the injuries; (3) whether the injuries are temporary or permanent; (4) the extent to which the injuries affect the ability of the plaintiff to perform basic activities of daily living and other activities in which the plaintiff previously engaged; (5) the duration and nature of medical treatment; (6) the duration and extent of the physical pain and mental anguish which the plaintiff has experienced in the past and will experience in the future; (7) the health and physical condition of the plaintiff prior to the injuries; and (8) in case of disfigurement, the nature of the disfigurement and the consequences for the plaintiff.

Official Note: These instructions may be modified by agreement of the parties or by the court, based on circumstances of the case.

Source

The provisions of this Rule 223.3 adopted August 20, 2004, effective December 1, 2004, 34 Pa.B. 4879; amended August 20, 2004, effective December 1, 2004, 34 Pa.B. 6505. Immediately preceding text appears at serial pages (305434) to (305435).

Rule 224. Regulation of Order of Proof.

The court may compel the plaintiff in any action to produce all evidence upon the question of the defendant's liability before calling any witness to testify solely to the extent of the injury or damages. The defendant's attorney may then move

for a nonsuit. If the motion is refused, the trial shall proceed. The court may, however, allow witnesses to be called out of order if the court deems it wise so to do.

Source

The provisions of this Rule 224 adopted September 8, 1938, effective March 20, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial page (200245).

Rule 225. Summing Up.

Attorneys for each party or group of parties may make an opening address to the jury and may also make an address to the jury after the close of the testimony.

Official Note: Rule 225 merely confers the right to make addresses to the jury as stated therein. The trial court by local rule or otherwise may regulate the number, length, and order of addresses. *See* Rule 223(3).

Source

The provisions of this Rule 225 adopted September 8, 1938, effective March 20, 1939; amended April 29, 2016, effective immediately, 46 Pa.B. 2409. Immediately preceding text appears at serial page (380176).

Rule 226. Points for Charge. Motion for Directed Verdict.

(a) Points upon which the trial judge is requested to charge the jury shall be so framed that each may be completely answered by a simple affirmation or negation. Attorneys shall hand copies of requested points for charge to the trial judge and to the opposing attorneys before the closing addresses to the jury are begun. A requested point for charge that was presented to the trial judge becomes part of the record when the point is read into the record, or filed in the office of the prothonotary prior to filing a motion for post-trial relief regarding the requested point for charge.

Official Note: An appellate court will not review an objection to a ruling of a trial court regarding a point for charge unless the point for charge was (1) presented to the court and (2) made a part of the record by either reading the point into the record or filing it in the office of the prothonotary prior to filing a motion for post-trial relief.

(b) At the close of all the evidence, the trial judge may direct a verdict upon the oral or written motion of any party.

Source

Adopted September 8, 1938, effective March 20, 1939; Amended through October 19, 1983, effective January 1, 1984, 13 Pa.B. 3629; amended July 10, 2008, effective September 1, 2009. Immediately preceding text appears at serial pages (333796) and (305179).

Rule 227. Exceptions.

(a) It shall not be necessary on the trial of any action or proceeding to take exception to any ruling of the trial judge. An exception in favor of the party against whom the adverse ruling was made shall be deemed to have been taken with the same force and effect as if it had been requested, noted by the official stenographer and thereafter written out, signed and sealed by the trial judge.

(b) Unless specially allowed by the court, all exceptions to the charge to the jury shall be taken before the jury retires. On request of any party all such exceptions and arguments thereon shall be made out of hearing of the jury.

Source

The provisions of this Rule 227 adopted September 8, 1938, effective March 20, 1939; amended March 30, 1960, effective April 1, 1960; amended March 22, 1962, effective April 2, 1962; amended March 11, 1991, effective July 1, 1991, 21 Pa.B. 1274. Immediately preceding text appears at serial page (146609).

Rule 227.1. Post-Trial Relief.

(a) After trial and upon the written Motion for Post-Trial Relief filed by any party, the court may

(1) order a new trial as to all or any of the issues; or

(2) direct the entry of judgment in favor of any party; or

(3) remove a nonsuit; or

(4) affirm, modify or change the decision; or

(5) enter any other appropriate order.

Official Note: The motion for post-trial relief replaces the following motions and exceptions: motion for new trial, motion for judgment notwithstanding the verdict, motion upon the whole record after disagreement of a jury, motion in arrest of judgment, motion to remove a nonsuit and exceptions following the decision of the judge in a trial without jury.

The following rules provide for the filing of exceptions, e.g., Equity Rule 1534 (exceptions to a fiduciary's account), Partition Rule 1569 (exceptions to a master's report) and Divorce Rule 1920.55-2 (exceptions to a master's report), Support Rule 1910.12(e) (exceptions to a hearing officer's report) and Execution Rule 3136(d) (exceptions to sheriff's schedule of proposed distribution).

(b) Except as otherwise provided by Pa.R.E. 103(a), post-trial relief may not be granted unless the grounds therefor,

(1) if then available, were raised in pre-trial proceedings or by motion, objection, point for charge, request for findings of fact or conclusions of law, offer of proof or other appropriate method at trial; and

Official Note: If no objection is made, error which could have been corrected in pre-trial proceedings or during trial by timely objection may not constitute a ground for post-trial relief.

Pa.R.E. 103(a) provides that the specific ground for an overruled objection, or the substance of excluded evidence, need not be stated at or prior to trial, or without having made an offer of proof, if the ground of the objection, or the substance of the evidence sought to be introduced, was apparent from the context.

(2) are specified in the motion. The motion shall state how the grounds were asserted in pre-trial proceedings or at trial. Grounds not specified are deemed waived unless leave is granted upon cause shown to specify additional grounds.

(c) Post-trial motions shall be filed within ten days after

(1) verdict, discharge of the jury because of inability to agree, or nonsuit in the case of a jury trial; or

(2) notice of nonsuit or the filing of the decision in the case of a trial without jury.

If a party has filed a timely post-trial motion, any other party may file a post-trial motion within ten days after the filing of the first post-trial motion.

Official Note: A motion for post-trial relief may be filed following a trial by jury or a trial by a judge without a jury pursuant to Rule 1038. A motion for post-trial relief may not be filed to orders disposing of preliminary objections, motions for judgment on the pleadings or for summary judgment, motions relating to discovery or other proceedings which do not constitute a trial. *See U. S. National Bank in Johnstown v. Johnson*, 487 A.2d 809 (Pa. 1985).

A motion for post-trial relief may not be filed to matters governed exclusively by the rules of petition practice.

The filing of a motion for post-trial relief is prohibited by the following rules: Rule 1557 (order directing partition) and Rule 1930.2 (no post-trial practice in domestic relations matters).

(d) A motion for post-trial relief shall specify the relief requested and may request relief in the alternative. Separate reasons shall be set forth for each type of relief sought.

(e) If a new trial and the entry of judgment are sought in the alternative, the court shall dispose of both requests. If the court directs the entry of judgment, it shall also rule on the request for a new trial by determining whether it should be granted if the judgment is thereafter vacated or reversed, and shall specify the grounds for granting or denying the request for a new trial.

(f) The party filing a post-trial motion shall serve a copy promptly upon every other party to the action and deliver a copy to the trial judge.

(g) A motion for post-trial relief may not be filed in an appeal from the final adjudication or determination of a local agency or a Commonwealth agency as to which jurisdiction is vested in the courts of common pleas.

Official Note: See 2 Pa.C.S. § 101 for the definition of "local agency."

See section 933(a)(1) of the Judicial Code, 42 Pa.C.S. § 933(a)(1), which provides for jurisdiction of appeals from determinations of particular Commonwealth agencies to be in the courts of common pleas.

(h) A motion for post-trial relief shall be filed following a trial upon an appeal from the decision of viewers pursuant to the Eminent Domain Code.

Official Note: Subdivision (h) eliminates any distinction with respect to the filing of a motion for post-trial relief between jury and non-jury trials following an appeal from the decision of viewers in eminent domain proceedings.

(i) When an appellate court has remanded a case for further proceedings, a motion for post-trial relief relating to subsequent rulings in the trial court shall not be required unless

(1) the appellate court has specified that the remand is for a complete or partial new trial, or

(2) the trial court indicates in its order resolving the remand issues that a motion for post-trial relief is required pursuant to this rule.

Source

The provisions of this Rule 227.1 adopted April 21, 1977, effective July 30, 1977, 7 Pa.B. 1169; amended through April 23, 1985, effective July 1, 1985, 15 Pa.B. 1726; amended December 19, 1989, effective January 1, 1990, 20 Pa.B. 176; amended July 28, 1995, effective January 1, 1996, 25 Pa.B. 3337; amended December 5, 1996, effective immediately, 26 Pa.B. 6068; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9; amended July 21, 2004, effective immediately, 34 Pa.B.

4107; amended July 2, 2015, effective October 1, 2015, 45 Pa.B. 3801. Immediately preceding text appears at serial pages (335649) to (335650) and (331695).

Rule 227.2. Court en Banc.

All post-trial motions and other post-trial matters shall be heard and decided by the trial judge unless the trial judge orders that the matter be heard by a court en banc of which the trial judge shall be a member. If the trial judge for any reason cannot hear the matter, another judge shall be designated to act. No more than three judges shall constitute the court en banc.

Source

The provisions of this Rule 227.2 adopted June 30, 1983, effective July 1, 1983, 13 Pa.B. 2254; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial page (223268).

Rule 227.3. Transcript of Testimony.

All post-trial motions shall contain a request designating that portion of the record to be transcribed in order to enable the court to dispose of the motion. Within ten days after the filing of the motion, any other party may file an objection requesting that an additional, lesser or different portion of the record be transcribed. If no portion is indicated, the transcription of the record shall be deemed unnecessary to the disposition of the motion. The trial judge shall promptly decide the objection to the portion of the record to be transcribed.

Official Note: For rules governing transcript requests, and transcript fees and their payment, see Pa.R.J.A. Nos. 4007, 4008, and 4009.

Source

The provisions of this Rule 227.3 adopted October 19, 1983, effective January 1, 1984, 13 Pa.B. 3629; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266; amended November 16, 2016, effective January 1, 2017, 46 Pa.B. 7522. Immediately preceding text appears at serial page (377865).

Rule 227.4. Entry of Judgment upon Praecipe of a Party.

In addition to the provisions of any Rule of Civil Procedure or Act of Assembly authorizing the prothonotary to enter judgment upon praecipe of a party and except as otherwise provided by Rule 1042.72(e)(3), the prothonotary shall, upon praecipe of a party:

(1) enter judgment upon a nonsuit by the court, the verdict of a jury or the decision of a judge following a trial without jury, if

(a) no timely post-trial motion is filed; or

(b) one or more timely post-trial motions are filed and the court does not enter an order disposing of all motions within one hundred twenty days after the filing of the first motion. A judgment entered pursuant to this subparagraph shall be final as to all parties and all issues and shall not be subject to reconsideration;

Official Note: If a motion for delay damages has been filed, judgment may not be entered until that motion is decided or otherwise resolved. See Rule 238(c)(3)(i).

Rule 1042.72(e)(3) prohibits the entry of judgment in a medical professional liability action if a motion for post-trial relief under Rule 227.1 is pending with respect to the ground that a damage award for noneconomic loss is excessive.

(2) enter judgment when a court grants or denies relief but does not itself enter judgment or order the prothonotary to do so.

Official Note: See Rule 236 requiring the prothonotary to give notice of the entry of an order or judgment and Rule 237 requiring notice of filing of praecipe for judgment. For illustrative Rules of Civil Procedure specifically authorizing entry of judgment by the prothonotary on praecipe of a party, see Rules 1037, 1659, 3031(a), and 3146.

Source

The provisions of this Rule 227.4 adopted October 19, 1983, effective January 1, 1984, 13 Pa.B. 3629; amended July 28, 1995, effective January 1, 1996, 25 Pa.B. 3337; amended September 24, 1997, effective January 1, 1998, 27 Pa.B. 5245; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9; amended September 17, 2004, effective December 1, 2004, 34 Pa.B. 5351; amended November 2, 2007, effective January 1, 2008, 37 Pa.B. 6201. Immediately preceding text appears at serial page (306106).

Rule 228. Testimony as to Misconduct of a Juror.

Whenever in the course of a trial testimony is taken of a juror or other person as to alleged misconduct of a juror, or as to tampering with or an attempt to tamper with a juror, such testimony shall become a part of the record of the case. Such testimony shall be taken out of the hearing of the jury. Jurors may be interrogated in regard to such alleged misconduct or attempted tampering.

Source

The provisions of this Rule 228 adopted September 8, 1938, effective March 20, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

Rule 229. Discontinuance.

(a) A discontinuance shall be the exclusive method of voluntary termination of an action, in whole or in part, by the plaintiff before commencement of the trial.

(b)(1) Except as otherwise provided in subdivision (b)(2), a discontinuance may not be entered as to less than all defendants except upon the written consent of all parties or leave of court upon motion of any plaintiff or any defendant for whom plaintiff has stipulated in writing to the discontinuance.

(2) In an action governed by Rule 1042.3, a plaintiff may enter a discontinuance as to a defendant if a certificate of merit as to that defendant has not been filed.

Official Note: Rule 1042.3 requires the filing of a certificate of merit as to a defendant against whom a professional liability claim is asserted.

(c) The court, upon petition and after notice, may strike off a discontinuance in order to protect the rights of any party from unreasonable inconvenience, vexation, harassment, expense, or prejudice.

Official Note: Court approval of a discontinuance must be obtained in any action in which a minor is a party, Rule 2039(a), an action for wrongful death in which a minor is beneficially interested, Rule 2206(a), an action in which an incapacitated person is a party, Rule 2064, and a class action, Rule 1714.

A plaintiff who asserts a cause of action ex contractu and joins as defendants persons liable to the plaintiff in different capacities may not discontinue as to a defendant primarily liable without discontinuing as to all defendants secondarily liable. Rule 2231(e).

Source

The provisions of this Rule 229 adopted September 30, 1949, effective April 1, 1950; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended March 11, 1991, effective July 1, 1991, 21 Pa.B. 1274; amended July 18, 1991, effective January 1, 1992, 21 Pa.B. 3399; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266; amended January 27, 2003, effective immediately, 33 Pa.B. 748; amended March 9, 2015, effective April 8, 2015, 45 Pa.B. 1490. Immediately preceding text appeared at serial pages (331696), (306107) and (328339).

Rule 229.1. Settlement Funds. Failure to Deliver. Sanctions.

(a) As used in this rule,

''defendant'' means a party released from a claim of liability pursuant to an agreement of settlement;

''plaintiff'' means a party who, by execution of a release pursuant to an agreement of settlement, has agreed to forego a claim of liability against a defendant. The term includes a defendant who asserts a counterclaim;

''settlement funds'' means any form of monetary exchange to a plaintiff pursuant to an agreement of settlement, but not including the annuity or future installment portion of a structured settlement.

(b) The parties may agree in writing to modify or waive any of the provisions of this rule.

(c) If a plaintiff and a defendant have entered into an agreement of settlement, the defendant shall deliver the settlement funds to the attorney for the plaintiff, or to the plaintiff if unrepresented, within twenty calendar days from receipt of an executed release.

Official Note: If court approval of the settlement is required, Rule 229.1 is not operative until the settlement is so approved.

Upon receipt of the settlement funds, the plaintiff shall file a discontinuance or deliver a discontinuance to the defendant.

(d) If settlement funds are not delivered to the plaintiff within the time required by subdivision (c), the plaintiff may seek to

(1) invalidate the agreement of settlement as permitted by law, or

(2) impose sanctions on the defendant as provided in subdivision (e) of this rule.

(e) A plaintiff seeking to impose sanctions on the defendant shall file an affidavit with the court attesting to non-payment. The affidavit shall be executed by the plaintiff's attorney and be accompanied by

(1) a copy of any document evidencing the terms of the settlement agreement,

(2) a copy of the executed release,

(3) a copy of a receipt reflecting delivery of the executed release more than twenty days prior to the date of filing of the affidavit,

(4) a certification by the attorney of the applicable interest rate,

(5) the form of order prescribed by subdivision (h), and

(6) a certification by the attorney that the affidavit and accompanying documents have been served on the attorneys for all interested parties.

(f) Upon receipt of the affidavit and supporting documentation required by subdivision (e), the defendant shall have twenty days to file a response.

(g) If the court finds that the defendant violated subdivision (c) of this rule and that there is no material dispute as to the terms of the settlement or the terms of the release, the court shall impose sanctions in the form of interest calculated at the rate equal to the prime rate as listed in the first edition of the *Wall Street Journal* published for each calendar year for which the interest is awarded, plus one percent, not compounded, running from the twenty-first day to the date of delivery of the settlement funds, together with reasonable attorneys' fees incurred in the preparation of the affidavit.

(h) The affidavit shall be accompanied by an order in substantially the following form:

(Caption)

ORDER

AND NOW, _____, upon consideration of the affidavit of _____, attorney for _____, and the
(Plaintiff)
exhibits thereto, and upon a finding that payment was not made within twenty days of receipt of the executed release in the above captioned action, it is ORDERED that, in addition to the settlement funds of $ _____, _____ pay forthwith interest at the rate of _____ %
(Defendant)
on the aforementioned settlement funds from the twenty-first day to the date of delivery of the settlement funds, together with $ _____ in attorneys' fees.

_____
Judge

Official Note: The interest rate is determined in accordance with subdivision (g) of this rule.

The defendant is the party who has failed to deliver settlement funds as required by this rule. The plaintiff is the party who is seeking to impose sanctions on the defendant for that failure.

Source

The provisions of this Rule 229.1 adopted June 7, 2004, effective July 1, 34 Pa.B. 3103.

Rule 229.2. Petition to Transfer Structured Settlement Payment Rights.

(a) Words used in this rule, which are defined by the Structured Settlement Protection Act, shall have the meaning set forth in the Act.

Official Note: See Section 2 of the Act, 40 P. S. § 4002, which defines numerous terms including ''best interests,'' ''dependents,'' ''payee,'' ''structured settlement obligor,'' and ''structured settlement payment rights.''

(b) A petition to transfer structured settlement payment rights shall be filed in the county in which the payee is domiciled.

Official Note: See Section 4 of the Act, 40 P. S. § 4004, providing that the court of common pleas of the judicial district in which the payee is domiciled shall have jurisdiction over the petition.

(c) The parties to the petition shall be the payee and the transferee.

(d) The petition shall be verified by the transferee and shall contain:

(1) a statement setting forth the payment provisions of the structured settlement agreement and the payment rights that the payee seeks to transfer,

(2) separate paragraphs which in bold type set forth

(i) the net amount payable to the payee after deduction of all commissions, fees, costs, expenses, and charges, and

(ii) the following statement setting forth the interest rate:
''Based on the net amount that the payee will receive from this transaction ($ _____) and the amounts and timing of the structured settlement payments that would be assigned, the payee is, in effect, paying interest at a rate of _____ % per year.''

(3) four attachments:

(i) a Payee's Affidavit in Support of Petition, in the form prescribed by subdivision (f) as Attachment 1,

(ii) an initial order of court scheduling the hearing, in the form prescribed by subdivision (g),

(iii) a certification by an attorney for the transferee representing to the best of his or her knowledge, information and belief, formed after reasonable inquiry, that the transfer will comply with the requirements of the Act and will not contravene any other applicable federal or state statute or regulation or the order of any court or administrative authority, and

(iv) a final order of court granting the petition, in the form prescribed by subdivision (i).

Official Note: These four attachments are in addition to any other documents which are required to support the findings set forth in Section 3 of the Act, 40 P. S. § 4003.

Subdivision (d) requires that two documents be verified. As the two documents contain different information, each must be verified by a different person. The petition to transfer structured settlement payment rights must be verified by the transferee. The Payee's Affidavit in Support of Petition must be verified by the payee. The transferee is not required to verify the information set forth in the Payee's Affidavit.

(e)(1) If the petition and Payee's Affidavit in Support of Petition meet the requirements of this rule and contain factual allegations which, if established, will

support the findings set forth in Section 3 of the Act, the court shall promptly enter an order scheduling a hearing date. The transferee shall give notice of the hearing, in the form prescribed by subdivision (h), to the payee, the structured settlement obligor, the annuity issuer, the payee's spouse and any person who receives child support, alimony or alimony pendente lite from the payee.

(2) If the petition is denied without a hearing for failure to meet the requirements of this rule or to contain necessary factual allegations, which will support the findings set forth in Section 3 of the Act, the court shall state reasons for the denial and the payee may file an amended petition as of course.

(f) The Payee's Affidavit in Support of Petition shall be substantially in the following form:

(Caption)

Payee's Affidavit in Support of

Petition to Transfer Structured Settlement Rights

I, _____ , the payee, verify that the statements below are true and correct:

1. Payee's name, address and age: _____
_____.

2. Marital Status:

_____ Never Married; _____ Married;
_____ Separated; _____ Divorced

If married or separated, name of spouse: _____.

3. Minor children and other dependents:

Initials of minor children, names of other defendants, ages, and places of residence: _____
_____.

4. Income:

(a) Payee's monthly income and sources: _____
_____.

(b) If presently married, spouse's monthly income and sources: _____
_____.

5. Child support, alimony or alimony pendente lite:

Obligation to pay: _____ Yes _____ No

If yes, state the amount of the obligation, to whom payable, and whether there are arrearages: _____ .

6. Previous transfers:

Have you previously filed a petition to transfer payment rights under the structured settlement that is the subject of this petition? _____ Yes _____ No

If yes, for each petition that you filed,

(a) If the transfer was submitted for court approval, list the court, the case caption and case number, and state whether the court approved or disapproved the transfer: _____
_____
_____ .

(b) If the transfer was approved,

(i) State the name of the transferee and identify (listing due dates and payment amount(s)) the payments involved in the transfer: _____ _____ .

(ii) State the amount of money and the manner in which the money was used: _____ _____ .

(c) Have you ever transferred payments without court approval? If so, please explain: _____ _____ .

7. Reasons for transfer:

Describe in detail your reasons for the proposed transfer, including an explanation as to why a sale of a lesser amount of the structured settlement amount will not better serve your interests: _____ _____ .

8. Payment of debts:

If you seek the transfer in order to pay debts, list each debt, including the name of the creditor and the amount presently owed:

Debt	Creditor	Amount Owed
_____	_____	$ _____
_____	_____	$ _____
_____	_____	$ _____

Verification

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

DATE: _____ _____

Signature

(g) The initial order of court shall be substantially in the following form:

(CAPTION)

Initial Order of Court

On this _____ day of _____ , 2 _____ , it is ordered that a hearing on this Petition to Transfer Structured Settlement Payment Rights will be held on _____ , in Courtroom _____ at _____ o'clock. The payee shall bring income tax returns for the prior two (2) years to the hearing.

Within seven (7) days, the transferee shall give notice of the hearing date to the payee, the structured settlement obligor, the annuity issuer, the payee's spouse and any person receiving child support, alimony, or alimony pendente lite. The transferee shall attach a certificate of service to the notice of hearing date. A copy of the notice with the certificate of service shall be filed with the court prior to the hearing.

BY THE COURT:

_____

J.

(h) The notice of hearing shall be substantially in the following form:

(CAPTION)

Notice of Hearing on Petition to

Transfer Structured Settlement Payment Rights

To: _____

You are hereby given notice that _____
(name of payee)
has filed a petition to transfer structured settlement payment rights. A hearing in this matter has been scheduled on _____, 2 _____ at _____ o'clock in courtroom no. _____ , courthouse, _____ .
(address)

You are entitled to support, oppose or otherwise respond to the payee's petition, either in person or by counsel, by filing written comments with the court prior to the hearing or by attending the hearing.

_____ _____
Date Transferee

_____
_____
Address

_____
Telephone Number

(i) The final order of court shall be substantially in the following form:

(CAPTION)

Final Order of Court

On this _____ day of _____ , 2 _____ , it is ordered that the Petition to Transfer of Structured Settlement Payment Rights is granted.

The court specifically finds that:

(1) the payee has established that the transfer is in the best interests of the payee or the payee's dependents;

(2) based on the certification by an attorney for the transferee, and the court having not been made aware of any statute, regulation or order that would be incompatible with the proposed transfer, the transfer will not contravene any applicable federal or state statute or regulation, or the order of any court or administrative authority;

(3) the transfer complies with the remaining requirements of the Structured Settlement Protection Act, including Sections 3(a)(2), 3(a)(4), 3(a)(5) and 3(a)(6);

(4) the payments that are to be transferred are designated as follows:

_____
_____.

(5) the terms of this order shall survive the death of the payee and shall be binding on the payee's heirs, beneficiaries and assigns;

(6) the payee shall receive from the transferee, as of _____, the amount of $ _____, from which no funds are owed for counsel fees, administrative fees, or other costs, fees or expenses.

BY THE COURT: _____

J.

Official Note: The form of order does not preclude a court from adding additional language to the order as deemed appropriate in the individual circumstances of a case.

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*. *See* Rule 205.6.

Source

The provisions of this Rule 229.2 adopted June 15, 2007, effective September 1, 2007, 37 Pa.B. 4515; amended January 5, 2018, effective January 6, 2018, 48 Pa.B. 475; amended June 1, 2018, effective July 1, 2018, 48 Pa.B. 3519. Immediately preceding text appears at serial pages (390043) to (390044), (376525) to (376526) and (390045).

Rule 230. Voluntary Nonsuit.

(a) A voluntary nonsuit shall be the exclusive method of voluntary termination of an action in whole or in part by the plaintiff during the trial.

Official Note: A plaintiff who asserts a cause of action ex contractu and joins as defendants persons liable to the plaintiff in different capacities may not obtain a voluntary nonsuit as to a defendant primarily liable without obtaining a voluntary nonsuit as to all defendants secondarily liable. Rule 2231(e).

(b) A plaintiff may not obtain a voluntary nonsuit without leave of court upon good cause shown and cannot do so after the close of all the evidence.

Source

The provisions of this Rule 230 amended April 4, 1990, effective July 1, 1990, 20 Pa.B. 2279; amended March 11, 1991, effective July 1, 1991, 21 Pa.B. 1274; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266; amended October 3, 2002, effective January 1, 2003, 32 Pa.B. 5175. Immediately preceding text appears at serial page (280399).

Rule 230.1. Compulsory Nonsuit at Trial.

(a)(1) In an action involving only one plaintiff and one defendant, the court, on oral motion of the defendant, may enter a nonsuit on any and all causes of action if, at the close of the plaintiff's case on liability, the plaintiff has failed to establish a right to relief.

(2) The court in deciding the motion shall consider only evidence which was introduced by the plaintiff and any evidence favorable to the plaintiff introduced by the defendant prior to the close of the plaintiff's case.

Official Note: Subdivision (a) changes the prior practice whereby the entry of a compulsory nonsuit was precluded when any evidence had been presented by the defendant.

If a motion for compulsory nonsuit is granted, the plaintiff may file a written motion to remove the nonsuit. See Rule 227.1

(b) In an action involving more than one plaintiff, the court may not enter a compulsory nonsuit as to any plaintiff until the close of the case of all the plaintiffs.

(c) In an action involving more than one defendant, the court may not enter a nonsuit of any plaintiff prior to the close of the case of all plaintiffs against all defendants. The nonsuit may be entered in favor of

(1) all of the defendants, or

(2) any of the defendants who have moved for nonsuit if all of the defendants stipulate on the record that no evidence will be presented that would establish liability of the defendant who has moved for the nonsuit.

Official Note: The term "defendants" includes additional defendants.

Source

The provisions of this Rule 230.1 adopted October 19, 1983, effective January 1, 1984, 13 Pa.B. 3629; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266; amended May 30, 2001, effective July 1, 2001, 31 Pa.B. 3184. Immediately preceding text appears at serial page (255175).

(*Editor's Note*: The Supreme Court issued an order on April 23, 2014 (No. 594 Civil Procedural Rule Doc.), suspending Rule 230.2, which is under review and revision. The order does not affect the trial courts' ability to proceed pursuant to Pa.R.J.A. No. 1901. The order is effective immediately. See 44 Pa.B. 2747 (May 10, 2014).)

(*Editor's Note*: The Supreme Court issued an order on December 9, 2015 (No. 634 Civil Procedural Rules Doc.), reinstating and amending Rule 230.2, effective December 31, 2016. See 45 Pa.B. 7283 (December 26, 2015). This order will be codified in the December 2016 *Pennsylvania Code Reporter*.)

Rule 230.2. Termination of Inactive Cases.

(a) At least once a year, the court shall initiate proceedings to terminate cases in which there has been no activity of record for two years or more, and shall report such information to the Court Administrator of Pennsylvania on a form supplied by the Administrative Office of Pennsylvania Courts or in such format as requested from time to time by the Administrative Office of Pennsylvania Courts.

Official Note: This rule provides an administrative method for the termination of inactive cases.

(b)(1) For each case identified pursuant to subdivision (a), the court shall serve a notice of proposed termination on counsel of record, and on the parties if not represented, thirty days prior to the date of the proposed termination. The notice shall contain the date of the proposed termination and the procedure to avoid termination.

(2) The notice shall be served electronically pursuant to Rule 205.4(g)(1), or pursuant to Rule 440 on counsel of record and on the parties, if not represented, at the last address of record.

Official Note: If the notice mailed to an attorney is returned by the postal service, the prothonotary should check the website of the Disciplinary Board of the Supreme Court of Pennsylvania, www.padisciplinaryboard.org, for a current address.

See subdivision (f) for the form of notice.

(c) If no statement of intention to proceed has been filed on or before the date of the proposed termination, the prothonotary shall enter an order as of course terminating the matter for failure to prosecute.

Official Note: The prothonotary may not enter an order terminating the action until more than thirty days after service of the notice of proposed termination.

A court officer may certify to the prothonotary those matters which have been inactive and in which no statement of intention to proceed has been filed.

(d)(1) If an action has been terminated pursuant to this rule, an aggrieved party may petition the court to reinstate the action.

(2) If the petition is filed within sixty days after the entry of the order of termination on the docket, the court shall grant the petition and reinstate the action.

Official Note: The provision under subdivision (d)(2) for filing a petition within sixty days is not intended to set a standard for timeliness in proceedings outside this rule.

(3) If the petition is filed more than sixty days after the entry of the order of termination on the docket, the court shall grant the petition and reinstate the action upon a showing that

(i) the petition was timely filed following the entry of the order for termination and

(ii) there is a reasonable explanation or a legitimate excuse for the failure to file both

(A) the statement of intention to proceed prior to the entry of the order of termination on the docket and,

(B) the petition to reinstate the action within sixty days after the entry of the order of termination on the docket.

Official Note: The provision under subdivision (d)(2) for filing a petition within sixty days of the entry of the order of termination on the docket is not a standard of timeliness. Rather, the filing of the petition during that time period eliminates the need to make the showing otherwise required by subdivision (d)(3).

(e) Any case which is reinstated pursuant to subdivision (d) shall be subject to termination with prejudice upon a subsequent termination pursuant to subdivision (a). No subsequent reinstatements shall be granted.

(f) The notice required by subdivision (b) shall be in the following form:

(Caption)

NOTICE OF PROPOSED TERMINATION OF COURT CASE

The court intends to terminate this case without further notice because the docket shows no activity in the case for at least two years.

You may stop the court from terminating the case by filing a statement of intention to proceed. The statement of intention to proceed should be filed with the Prothonotary of the Court at

_____
Address

on or before _____ .
Date

IF YOU FAIL TO FILE THE REQUIRED STATEMENT OF INTENTION TO PROCEED, THE CASE WILL BE TERMINATED BY THE PROTHONOTARY WITHOUT FURTHER NOTICE.

BY THE COURT:

_____ _____
Date of this Notice Officer

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(g) The statement of intention to proceed shall be in the following form:

(Caption)

Statement of Intention to Proceed

To the Court:

_____ intends to proceed with the above captioned matter.

Date: _____ _____

Attorney for _____

(h) Upon receipt of a statement of intention to proceed, the court may schedule a status conference and establish appropriate timelines to ensure a timely and efficient disposition of the case.

Source

The provisions of this Rule 230.2 adopted March 20, 2003, effective July 1, 2003, 33 Pa.B. 1712; amended December 9, 2015, effective December 31, 2016, 45 Pa.B. 7283. Immediately preceding text appears at serial pages (379782) and (378979).

Rule 231. Second Action.

(a) After a discontinuance or voluntary nonsuit the plaintiff may commence a second action upon the same cause of action upon payment of the costs of the former action.

(b) After the entry of a compulsory nonsuit the plaintiff may not commence a second action upon the same cause of action.

Official Note: For the right to move to take off a compulsory nonsuit, see Rule 227.1.

Source

The provisions of this Rule 231 amended April 4, 1990, effective July 1, 1990, 20 Pa.B. 2279. Immediately preceding text appears at serial page (143659).

Rule 232. Counterclaim. Termination of Plaintiff's Action.

(a) A discontinuance or nonsuit shall not affect the right of the defendant to proceed with a counterclaim theretofore filed.

(b) A counterclaim may not be terminated, in whole or in part, by the defendant, except by discontinuance or voluntary nonsuit, and subject to conditions similar to those applicable to the plaintiff.

Source

The provisions of this Rule 232 adopted September 30, 1949, effective April 1, 1950; amended April 4, 1990, effective July 1, 1990, 20 Pa.B. 2279. Immediately preceding text appears at serial pages (143659) to (143660).

Rule 233. [Rescinded].

Official Note: For service of legal papers other than original process, see Rules 440 and 441.

Source

The provisions of this Rule 233 reserved effective June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452. Immediately preceding text appears at serial pages (83217) to (83218).

Rule 233.1. Frivolous Litigation. *Pro Se* Plaintiff. Motion to Dismiss.

(a) Upon the commencement of any action filed by a *pro se* plaintiff in the court of common pleas, a defendant may file a motion to dismiss the action on the basis that:

(1) the *pro se* plaintiff is alleging the same or related claims which the *pro se* plaintiff raised in a prior action against the same or related defendants, and

(2) these claims have already been resolved pursuant to a written settlement agreement or a court proceeding.

(b) The court may stay the action while the motion is pending.

(c) Upon granting the motion and dismissing the action, the court may bar the *pro se* plaintiff from pursuing additional *pro se* litigation against the same or related defendants raising the same or related claims without leave of court.

(d) The court may *sua sponte* dismiss an action that is filed in violation of a court order entered under subdivision (c).

Official Note: A *pro se* party is not barred from raising counterclaims or claims against other parties in litigation that the *pro se* plaintiff did not institute.

(e) The provisions of this rule do not apply to actions under the rules of civil procedure governing family law actions.

Source

The provisions of this Rule 233.1 adopted March 8, 2010, effective April 8, 2010, 40 Pa.B. 1490.

Rule 234. [Rescinded].

Official Note: See Rule 234.1 et seq. governing subpoenas.

Source

The provisions of this Rule 234 adopted January 18, 1963, effective September 1, 1963; amended November 20, 1978, effective April 16, 1979, 8 Pa.B. 3551; rescinded December 14, 1989, effective January 1, 1990, 20 Pa.B. 7. Immediately preceding text appears at serial page (99836).

Rule 234.1. Subpoena to Attend and Testify.

(a) A subpoena is an order of the court commanding a person to attend and testify at a particular time and place. It may also require the person to produce documents or things which are under the possession, custody or control of that person.

Official Note: See Discovery Rule 4009.1 et seq. for a request upon a party and a subpoena upon a person not a party for the production of documents and things other than a deposition or a trial.

The twenty-day notice requirement of Rule 4009.21(a) is not applicable to a subpoena issued under Rule 234.1 in connection with a deposition. The provision of Rule 4007.1(d)(2) thatmaterials subpoenaed in connection with a deposition ''shall be produced at the deposition and not earlier, except upon the consent of all parties to the action,'' serves the same purpose as the notice requirement under Rule 4009.21(a).

(b) A subpoena may be used to command a person to attend and to produce documents or things only at

(1) a trial or hearing in an action or proceeding pending in the court, or

(2) the taking of a deposition in an action or proceeding pending in the court.

(c) A subpoena may not be used to compel a person to appear or to produce documents or things ex parte before an attorney, a party or a representative of the party.

(d) A subpoena shall be served reasonably in advance of the date upon which attendance is required.

Source

The provisions of this Rule 234.1 adopted December 14, 1989, effective January 1, 1990, 20 Pa.B. 7; amended April 7, 1997, effective July 1, 1997, 27 Pa.B. 1921; amended November 24, 1998, effective January 1, 1999, 28 Pa.B. 6069; amended March 9, 2015, effective April 8, 2015, 45 Pa.B. 1490. Immediately preceding text appears at serial pages (349153) and (344991).

Rule 234.2. Subpoena. Issuance. Service. Compliance. Fees. Prisoners.

(a) Upon the request of a party, the prothonotary shall issue a subpoena signed and under the seal of the court but otherwise in blank, substantially in the form prescribed by Rule 234.6.

(b) A copy of the subpoena may be served upon any adult within the Commonwealth by an adult.

Office Note: For service of a subpoena upon a minor who is a witness, see subdivision (e).

(1) in the manner prescribed by Rule 402(a);

(2) by any form of mail requiring a return receipt, postage prepaid, restricted delivery. Service is complete upon delivery of the mail to the person subpoenaed or any of the persons referred to in Rule 402(a)(2). The return receipt may be signed by the person subpoenaed or any of such persons; or

(3) by ordinary mail. The mail shall contain two copies of the Notice and Acknowledgment prescribed by Rule 234.9 and a self-addressed stamped envelope.

Official Note: A subpoena served by ordinary mail is not enforceable unless the witness acknowledges having received it. See Rule 234.5(a).

(c) The fee for one day's attendance and round trip mileage shall be tendered upon demand at the time the person is served with a subpoena. If a subpoena is

served by mail, a check in the amount of one day's attendance and round trip mileage shall be enclosed with the subpoena.

Official Note: See 42 Pa.C.S. § 5903 for the compensation and expenses of witnesses. See also *Evans v. Otis Elevator Co*., 403 Pa. 13, 168 A.2d 573 (1961), regarding the right of an expert witness to refuse to testify on behalf of an adverse party.

(d) A court may compel the attendance of any person confined in jail or prison by issuing, upon motion, an order directed to the custodian of the person so confined to release the person to the custody of a sheriff or other appropriate agent.

(e)(1) For the purposes of this subdivision, ''guardian'' shall mean any parent, custodian, or other person who has legal custody of a minor, or person designated by the court to be a temporary guardian for purposes of a proceeding.

(2)(i) Except as provided by subdivision (ii), if a witness is a minor, a copy of the subpoena shall be served upon the minor and the guardian of the minor within the Commonwealth by an adult in the manner prescribed in subdivision (b).

Official Note: See Rule 76 for definition of ''minor.''

(ii) Upon prior court approval and good cause shown, a copy of the subpoena may be served upon a minor who is a witness without serving a copy of the subpoena on the guardian. The copy of the subpoena shall be served upon the minor within the Commonwealth by an adult in the manner prescribed in subdivision (b).

Source

The provisions of this Rule 234.2 adopted December 14, 1989, effective January 1, 1990, 20 Pa.B. 7; amended April 7, 1997, effective July 1, 1997, 27 Pa.B. 1921; amended May 14, 1999, effective July 1, 1999, 29 Pa.B. 2767; amended July 23, 2009, effective September 1, 2009, 39 Pa.B. 4738. Immediately preceding text appears at serial pages (256263) to (256264).

Rule 234.3. Notice to Attend. Notice to Produce.

(a) A party may compel the attendance of another party or an officer or managing agent thereof for trial or hearing by serving upon that party a notice to attend substantially in the form prescribed by Rule 234.7. The notice shall be served reasonably in advance of the date upon which attendance is required. The notice may also require the party to produce documents or things.

(b) If the attendance of another party is not required, a party may compel the production of documents or things by the other party by serving upon that party a notice to produce substantially in the form prescribed by Rule 234.8.

(c) A notice to attend and a notice to produce shall be served in the manner provided by Rule 440 for service of legal papers other than original process.

Official Note: The notice to attend and the notice to produce may be issued only to parties and may be served within or outside the Commonwealth.

Source

The provisions of this Rule 234.3 adopted December 14, 1989, effective January 1, 1990, 20 Pa.B. 7.

Rule 234.4. Subpoena. Notice to Attend. Notice to Produce. Relief from Compliance. Motion to Quash.

(a) The party serving a subpoena or a notice to attend or a notice to produce may excuse compliance therewith.

(b) A motion to quash a subpoena, notice to attend or notice to produce may be filed by a party, by the person served or by any other person with sufficient interest. After hearing, the court may make an order to protect a party, witness or other person from unreasonable annoyance, embarrassment, oppression, burden or expense.

Source

The provisions of this Rule 234.4 adopted December 14, 1989, effective January 1, 1990, 20 Pa.B. 7; amended April 7, 1997, effective July 1, 1997, 27 Pa.B. 1921. Immediately preceding text appears at serial page (200254).

Rule 234.5. Failure to Comply with Subpoena. Notice to Attend or Notice to Produce.

(a) If a witness fails to comply with a subpoena, the court may issue a bench warrant and if the failure to comply is wilful may adjudge the witness to be in contempt. No bench warrant may be issued and no adjudication of contempt may be made for the nonappearance of a witness served by ordinary mail pursuant to Rule 234.2(b)(3) unless the witness has returned the signed form of acknowledgment prescribed by Rule 234.9.

(b) If a party fails to comply with a subpoena, a notice to attend or a notice to produce, the court may enter any order imposing appropriate sanctions authorized by Rule 4019(c) and, if the failure to comply is for the purpose of delay or

in bad faith, the court may impose on that party the reasonable expenses actually incurred by the opposing party by reason of such delay or bad faith, including attorney's fees. If the failure is wilful the court, after hearing may adjudge the party to be in contempt.

Source

The provisions of this Rule 234.5 adopted December 14, 1989, effective January 1, 1990, 20 Pa.B. 7.

Rule 234.6. Form of Subpoena.

A subpoena issued pursuant to Rule 234.1 shall be substantially in the following form:

Commonwealth of Pennsylvania
County of _____
(Caption)
SUBPOENA TO ATTEND AND TESTIFY

To _____ :
(Name(s) of Witness(es))

1. You are ordered by the Court to come to _____
(Specify courtroom or other place)
at _____ , Pennsylvania, on _____ at ___ o'clock, ___ . M., to testify on behalf of _____ in the above case, and to remain until excused.

2. And bring with you the following: _____
_____
_____ .

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Requested by: _____
(Attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: _____ By _____
Seal of the Court (Name of Prothonotary)

Official Note: This form of subpoena shall be used whenever a subpoena is issuable under Rule 234.1, including hearings in connection with depositions and before arbitrators, masters, commissioners, etc.

To require the production of documents or things in addition to testimony, complete paragraph 2.

Return of Service: (Reverse side of Subpoena)

On the _____ day of _____ , _____ , I _____ , served _____ with the foregoing subpoena by: (Describe method of service)
(name of person served)

_____

_____ .

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

Date: _____ _____

(signature)

Source

The provisions of this Rule 234.6 adopted December 14, 1989, effective January 1, 1990, 20 Pa.B. 7; amended April 7, 1997, effective July 1, 1997, 27 Pa.B. 1921; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial pages (228785) to (228788).

Rule 234.7. Form of Notice to Attend.

The notice to attend required by Rule 234.3(a) shall be substantially in the following form:

(Caption)

NOTICE TO ATTEND

To _____ :

(Name(s) of Party/Parties)

(1) You are directed to come to _____ at

(Court room or other place)

_____ , Pennsylvania, on _____ at _____ o'clock, ___ . M., to testify on behalf of _____ in the above case, and to remain until excused.

(2) And bring with you the following: _____

_____

_____

If you fail to attend or to produce the documents or things required by this notice to attend, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure.

Date: _____

_____

Party or Party's Attorney

_____

Address

_____

Telephone Number

Official Note: If the party to be served is a corporation or similar entity, designate the officer or managing agent whose attendance is being required.

Source

The provisions of this Rule 234.7 adopted December 14, 1989, effective January 1, 1990, 20 Pa.B. 7.

Rule 234.8. Form of Notice to Produce.

The notice to produce required by Rule 234.3(b) shall be substantially in the following form:

(Caption)
NOTICE TO PRODUCE

To _____ :
(Name(s) of Party/Parties)

You are directed to produce the following: _____

_____

_____

_____

at _____ , _____ , Pennsylvania,
(Courtroom or other place) (Address)
on _____ at _____ o'clock ___ . M.

If you fail to produce the documents or things required by this notice to produce, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure.

Date: _____

_____
(Party or Party's Attorney)

_____
(Address)

_____
(Telephone Number)

Source

The provisions of this Rule 234.8 adopted December 14, 1989, effective January 1, 1990, 20 Pa.B. 7.

Rule 234.9. Notice and Acknowledgment of Receipt of Subpoena by Mail.

The notice and acknowledgment of receipt of subpoena by mail required by Rule 234.2(b)(3) shall be substantially in the following form:

(Caption)
NOTICE

To _____
(Name of person to be served)

The enclosed subpoena is served pursuant to Pennsylvania Rule of Civil Procedure 234.2(b)(3). Complete the acknowledgment part of this form and return the copy of the completed form to the sender in the enclosed self-addressed stamped envelope.

Sign and date the acknowledgment. If you are served on behalf of a partnership, unincorporated association, corporation or similar entity, indicate under your signature your relationship to that entity. If you are served on behalf of another person and you are authorized to receive the subpoena, indicate under your signature your authority.

Date Notice Mailed: _____

_____
Party serving subpoena or
Attorney for Party

ACKNOWLEDGMENT OF RECEIPT OF SUBPOENA

I acknowledge receipt of a copy of the subpoena in the above captioned matter.
Date: _____ , _____

_____
Signature

_____
Relationship to entity or authority to receive the subpoena

Source

The provisions of this Rule 234.9 adopted December 14, 1989, effective January 1, 1990, 20 Pa.B. 7; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial pages (246951) to (246952).

Rule 235. Notice to Attorney General. Constitutionality of Statute. Charitable Bequest or Trust.

In any proceeding in a court subject to these rules in which an Act of Assembly is alleged to be unconstitutional or a charitable bequest or trust is involved and the Commonwealth is not a party, the party raising the question of constitutionality or the plaintiff in a proceeding involving a charitable bequest or trust shall promptly give notice thereof by registered mail to the Attorney General of Pennsylvania together with a copy of the pleading or other portion of the record raising the issue and shall file proof of the giving of the notice. The Attorney General may intervene as a party or may be heard without the necessity of intervention. The court in its discretion may stay the proceedings pending the giving of the notice and a reasonable opportunity to the Attorney General to respond thereto. If the circumstances of the case require the court may proceed without prior notice in which event notice shall be given as soon as possible; or the court may proceed without waiting action by the Attorney General in response to a notice.

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

Source

The provisions of this Rule 235 adopted November 30, 1964, effective June 1, 1965; amended March 11, 1991, effective July 1, 1991, 21 Pa.B. 1274; amended August 3, 1998, effective January 1, 1999, 28 Pa.B. 3929. Immediately preceding text appears at serial page (200258).

Rule 236. Notice by Prothonotary of Entry of Order or Judgment.

(a) The prothonotary shall immediately give written notice of the entry of

(1) a judgment entered by confession to the defendant by ordinary mail together with a copy of all documents filed with the prothonotary in support of the confession of judgment. The plaintiff shall provide the prothonotary with the required notice and documents for mailing and a properly stamped and addressed envelope; and

(2) any other order or judgment to each party's attorney of record or, if unrepresented, to each party. The notice shall include a copy of the order or judgment.

Official Note: See Rules 1012 and 1025 as to the requirement of an address on an appearance and a pleading.

(b) The prothonotary shall note in the docket the giving of the notice and, when a judgment by confession is entered, the mailing of the required notice and documents.

(c) Failure to give the notice or when a judgment by confession is entered to mail the required documents, or both, shall not affect the lien of the judgment.

(d) The prothonotary may give the notice required by subdivision (a) or notice of other matters by facsimile transmission or other electronic means if the party to whom the notice is to be given or the party's attorney has filed a written request for such method of notification or has included a facsimile or other electronic address on a prior legal paper filed in the action.

Official Note: Except as provided by subdivision (a)(1) relating to the entry of a judgment by confession, Rule 236 does not prescribe a particular method of giving notice. Methods of notice properly used by the prothonotary include, but are not limited to, service via United States mail and courthouse mail. Subdivision (d) governs facsimile transmission and other electronic means if the prothonotary chooses to use such a method.

A facsimile or other electronic address set forth on letterhead is not a sufficient basis under this rule to authorize the prothonotary to give notice electronically.

Notice by facsimile transmission or other electronic means is applicable not only to orders and judgments under subdivision (a) but also to "other matters" such as the scheduling of a conference, hearing or trial or other administrative matters. Where the technology involved provides an acknowledgment for the mailing or the receipt of the notice, the prothonotary should retain that acknowledgment as part of his or her file.

See Rule 205.4 governing filling and service of legal papers by electronic means other than facsimile transmission.

See Rule 440(d) governing service of legal papers other than original process by facsimile transmission.

Source

The provisions of this Rule 236 adopted October 4, 1973, effective December 1, 1973, amended March 9, 1977, effective April 10, 1977, 7 Pa.B. 839; amended March 11, 1991, effective July 1, 1991, 21 Pa.B. 1274; amended June 3, 1994, effective September 1, 1994, 24 Pa.B. 3017; amended November 28, 2000, effective January 1, 2001, 30 Pa.B. 6421; amended April 29, 2003, effective September 1, 2003, 33 Pa.B. 2356; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9; amended June 12, 2006, effective July 1, 2006, 36 Pa.B. 3085; amended December 29, 2008, effective immediately, 39 Pa.B. 304. Immediately preceding text appears at serial pages (302438) and (331697).

Rule 237. Notice of Praecipe for Final Judgment.

No praecipe for entry of judgment upon a nonsuit by the court, a verdict of a jury or a decision of a judge following a trial without a jury shall be accepted by the prothonotary unless it includes a certificate that a copy of the praecipe has been mailed to each other party who has appeared in the action or to the attorney of record for each other party.

Source

The provisions of this Rule 237 adopted March 28, 1973, effective July 1, 1973; 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 November 2, 2007, effective January 1, 2008, 37 Pa.B. 6201. Immediately preceding text appears at serial page (320271).

Rule 237.1. Notice of Praecipe for Entry of Judgment of Non Pros for Failure to File Complaint or by Default for Failure to Plead.

(a)(1) As used in this rule,

''judgment of non pros'' means a judgment entered by praecipe pursuant to Rules 1037(a) and 1659;

Official Note: When a defendant appeals from a judgment entered in a magisterial district court, Pa.R.C.P.M.D.J. 1004(b) authorizes the appellant to file a praecipe for a rule as of course upon the appellee to file a complaint or suffer entry of a judgment of non pros. The entry of the judgment of non pros is governed by Pa.R.C.P. No. 1037(a) and is subject to this rule.

''judgment by default'' means a judgment entered by praecipe pursuant to Rules 1037(b), 1511(a), 3031(a) and 3146(a).

(2) No judgment of non pros for failure to file a complaint or by default for failure to plead shall be entered by the prothonotary unless the praecipe for entry includes a certification that a written notice of intention to file the praecipe was mailed or delivered

(i) in the case of a judgment of non pros, after the failure to file a complaint and at least ten days prior to the date of the filing of the praecipe to the party's attorney of record or to the party if unrepresented, or

(ii) in the case of a judgment by default, after the failure to plead to a complaint and at least ten days prior to the date of the filing of the praecipe to the party against whom judgment is to be entered and to the party's attorney of record, if any.

The ten-day notice period in subdivision (a)(2)(i) and (ii) shall be calculated forward from the date of the mailing or delivery, in accordance with Rule 106.

Official Note: The final sentence of Rule 237.1(a)(2) alters the practice described in the decision of *Williams v. Wade*, 704 A.2d 132 (Pa. Super. 1997).

(3) A copy of the notice shall be attached to the praecipe.

(4) The notice and certification required by this rule may not be waived.

Official Note: A certification of notice is a prerequisite in all cases to the entry by praecipe of a judgment of non pros for failure to file a complaint or by default for failure to plead to a complaint. Once the ten-day notice has been given, no further notice is required by the rule even if the time to file the complaint or to plead to the complaint has been extended by agreement.

See Rule 237.4 for the form of the notice of intention to enter a judgment of non pros and Rule 237.5 for the form of the notice of intention to enter a judgment by default.

(b) This rule does not apply to a judgment entered

(1) by an order of court,

(2) upon praecipe pursuant to an order of court, or

(3) pursuant to a rule to show cause.

Official Note: See Rule 3284 which requires that in proceedings to fix fair market value of real property sold, notice must be given pursuant to the requirements of Rule 237.1 *et seq.*

Source

The provisions of this Rule 237.1 adopted December 14, 1979, effective February 1, 1980, 10 Pa.B. 9; amended December 2, 1994, effective July 1, 1995, 24 Pa.B. 6259; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266; amended July 23, 2002, effective immediately, 32 Pa.B. 3884; amended May 19, 2005, effective immediately, 35 Pa.B. 3289; amended December 2, 2009, effective January 4, 2010, 40 Pa.B. 19. Immediately preceding text appears at serial page (346774).

Rule 237.2. Agreement to Extend Time to Plead Following Notice of Intention to Enter Judgment. Judgment of Non Pros or by Default.

After the notice of intention to enter judgment required by Rule 237.1 has been given, the parties may agree in writing to extend the time within which to file a complaint, an answer or preliminary objections. The agreement shall be in the form prescribed by Rule 237.6 and shall be signed on behalf of both parties. If the required action is not taken within the time specified in the agreement, judgment of non pros or by default may be entered by the prothonotary without further notice under Rule 237.1.

Official Note: Rule 237.1(a)(4) provides that the requirements of notice and certification required by that rule may not be waived.

Source

The provisions of this Rule 237.2 adopted December 2, 1994, effective July 1, 1995, 24 Pa.B. 6259.

Rule 237.3. Relief from Judgment of *Non Pros* or by Default.

(a) A petition for relief from a judgment of *non pros* or of default entered pursuant to Rule 237.1 shall have attached thereto a copy of the complaint, preliminary objections, or answer which the petitioner seeks leave to file.

(b)(1) If the petition is filed within ten days after the entry of a judgment of *non pros* on the docket, the court shall open the judgment if the proposed complaint states a meritorious cause of action.

(2) If the petition is filed within ten days after the entry of a default judgment on the docket, the court shall open the judgment if one or more of the proposed preliminary objections has merit or the proposed answer states a meritorious defense.

Official Note: Rule 236 requires the prothonotary to give notice of the entry of any judgment and to note in the docket the giving of the notice.

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

See Schultz v. Erie Insurance Exchange, 477 A.2d 471 (Pa. 1984) for the requirements for opening a judgment by default and Rule 3051 as to a judgment of *non pros*. Rule 237.3 does not change the law of opening judgments. Rather, the rule supplies two of the three requisites for opening such judgments by presupposing that a petition filed as provided by the rule is timely and with reasonable explanation or legitimate excuse for the inactivity or delay resulting in the entry of the judgment. The requirement of this rule for proceeding within ten days is not intended to set a standard for timeliness in circumstances outside this rule. *See* Rules 206.1 through 206.7 governing petition practice.

Explanatory Comment—1994

Rule 237.3 governs relief from a judgment by default or of *non pros*. Subdivision (a) requires that a copy of the complaint, preliminary objections, or answer sought to be filed be attached to the petition for relief from the judgment. This enables the court to determine from the actual complaint, preliminary objections, or answer to be filed whether the complaint alleges a meritorious cause of action, one or more of the preliminary objections has merit, or the answer alleges a meritorious defense.

Subdivision (b) eases the burden of a party against whom judgment has been entered and who moves promptly for relief from that judgment. If the petitioner files a petition for relief from a judgement of *non pros* within ten days after entry of the judgment on the docket, the rule requires the court

to open the judgment if the proposed complaint states a meritorious cause of action. If the petitioner files a petition for relief from a default judgment within ten days after entry of the judgment on the docket, the rule requires the court to open the judgment if one or more of the proposed preliminary objections has merit or the proposed answer states a meritorious defense. The rule provides a date certain from which to measure the ten-day period and the language establishing the beginning of that period is derived from Rule 1308 governing appeals in compulsory arbitration.

Case law has imposed three requirements for opening a judgment by default: a petition timely filed, a reasonable explanation or legitimate excuse for the inactivity or delay and a showing of a meritorious defense. Rule of Civil Procedure 3051 similarly states these three requisites for opening a judgment of *non pros*, substituting the showing of a meritorious cause of action rather than a meritorious defense. Rule 237.3(b) presumes that a petition filed within the required ten-day period is both timely and with reasonable explanation or legitimate excuse for the inactivity or delay. In this context, subdivision (b) requires that the judgment be opened if the petitioner attaches to the petition a complaint which states a meritorious cause of action, one or more preliminary objections which has merit, or an answer which states a meritorious defense. A note to the rule cautions that the rule is not intended to change the law relating to the opening of judgments in any way or to impose a new standard of timeliness in cases outside the limited circumstances set forth in the rule.

Illustrations

In illustrations 1 through 3, the defendant has failed to plead within the required time to a complaint containing a notice to plead.

1. Prior to receiving a notice of intention to enter a default judgment, defendant seeks an agreement with the plaintiff for an extension of time in which to plead. The parties may certainly agree to an extension of time and proceed in accordance with their agreement. However, such an agreement is really unnecessary since the plaintiff cannot enter judgment without giving the ten-day notice required by the rule and the ten-day notice cannot be waived. Defendant may plead within the time up to the date of mailing or delivery of the notice plus ten days. This period of time may be more than might be provided by any agreement. In addition, there is no danger of a judgment being entered as the required notice has not been given.

2. Defendant has received the ten-day notice but cannot file the pleading within the ten-day period. Now, as provided by Rule 237.2, it is appropriate to seek an agreement to extend the time in which to plead since the plaintiff has given the notice which is prerequisite to the entry of judgment and actual entry of the judgment is imminent.

3. Defendant has received the ten-day notice and obtained an agreement extending the time to plead. However, defendant does not plead within the agreed time. Plaintiff may enter judgment by default without further notice as provided by Rule 237.2 and the form of agreement set forth in Rule 237.6.

In illustrations 4 and 5, the plaintiff has entered a valid judgment by default against the defendant and the prothonotary has entered the judgment in the docket and noted the date thereof. Thereafter, the defendant files a petition to open the judgment.

4. The defendant files the petition to open the judgment within ten days of the date on which the prothonotary entered the judgment on the docket and seeks leave to file the answer attached to the petition. The defendant is entitled to the benefit of Rule 237.3(b)(2) by timely filing the petition and attaching an answer. Rule 237.3(b)(2) requires the court to open the judgment upon the defendant demonstrating to the court that the filing of the petition was within the ten-day period and that the answer attached to the petition states a meritorious defense.

5. The defendant files a petition to open the judgment more than ten days after the date of entry of the judgment on the docket. The petition to open is not within the scope of Rule 237.3(b) which requires that the petition be ''filed within ten days after the entry of the judgment on the docket''. The defendant must proceed pursuant to case law and meet the standards of *Schultz v. Erie Insurance Exchange*, 477 A.2d 471 (Pa. 1984).

Although these illustrations use the example of the entry of a judgment by default and a petition to open the judgment, they are adaptable and thus equally applicable to the entry of a judgment of non pros for failure to file a complaint and a petition to open such a judgment.

Explanatory Comment—2010

The 1994 Explanatory Comment to Rule 237.3 provides several illustrations of the application of the rule. A discrepancy exists between Illustration 1 and Rule 237.1(a)(2)(ii) governing notice of praecipe to enter judgment of *non pros* or by default. The 1994 Explanatory Comment provides that the defendant may plead within the time of receiving the notice of praecipe plus ten days. Rule 237.1(a)(2)(ii) states that the ten-day period shall be calculated forward from the date of the mailing or delivery of the notice. The 1994 Explanatory Comment has been amended to conform with the text of Rule 237.1(a)(2)(ii).

Source

The provisions of this Rule 237.3 adopted December 2, 1994, effective July 1, 1995, 24 Pa.B. 6259; amended January 19, 2001, effective July 1, 2001, 31 Pa.B. 627; amended December 2, 2010, effective immediately, 41 Pa.B. 7; amended October 4, 2016, effective January 1, 2017, 46 Pa.B. 6610. Immediately preceding text appears at serial pages (354865) to (354867).

Rule 237.4. Form of Notice of Praecipe to Enter Judgment of Non Pros.

The notice required by Rule 237.1(a)(2) shall be substantially in the following form:

(CAPTION)

To: _____
(Plaintiff)
(NOTE: Serve on unrepresented plaintiff or on plaintiff's attorney)

Date of Notice: _____

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO FILE A COMPLAINT IN THIS CASE. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR RIGHT TO SUE THE DEFENDANT AND THEREBY LOSE PROPERTY OR OTHER IMPORTANT RIGHTS.

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.

200-36.1

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 of Office)

_____
(Address of Office)

_____
(Telephone Number)

_____
(Signature of Defendant
or Attorney

_____
(Address)

Official Note: The office shall be that designated by the court under Rule 1018.1(c).

Source

The provisions of this Rule 237.4 adopted December 2, 1994, effective July 1, 1995, 24 Pa.B. 6259; amended January 12, 1995, effective immediately, 25 Pa.B. 315; amended June 10, 2003, effective September 1, 2003, 33 Pa.B. 2974. Immediately preceding text appears at serial pages (274649) to (274650).

Rule 237.5. Form of Notice of Praecipe to Enter Judgment by Default.

The notice required by Rule 237.1(a)(2) shall be substantially in the following form:

(CAPTION)

To: _____
(Defendant)
Date of Notice: _____

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS.

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 of Office)

_____
(Address of Office)

_____
(Telephone Number)

_____
(Signature of Plaintiff
or Attorney)

_____
(Address)

Official Note: The office shall be that designated by the court under Rule 1018.1(c).

Source

The provisions of this Rule 237.5 adopted December 2, 1994, effective July 1, 1995, 24 Pa.B. 6259; amended January 12, 1995, effective immediately, 25 Pa.B. 315; amended June 10, 2003, effective September 1, 2003, 33 Pa.B. 2974. Immediately preceding text appears at serial pages (274650) to (274651).

Rule 237.6. Form of Agreement to Extend Time.

An agreement to extend time required by Rule 237.2 shall be substantially in the following form:

(Caption)

AGREEMENT PURSUANT TO RULE 237.2 TO EXTEND TIME TO PLEAD FOLLOWING TEN-DAY NOTICE

It is agreed that_____

(Plaintiff(s)) (Defendant(s))

(is) (are) granted an extension of time through _____ ,

_____ in which to file

__ 1. a complaint.

__ 2. an answer.

__ 3. an answer or preliminary objections.

After the above date, a judgment of non pros or by default, as may be appropriate, may be entered upon praecipe without further notice.

Date: _____

Attorney for _____

Date: _____

Attorney for _____

Source

The provisions of this Rule 237.6 adopted December 2, 1994, effective July 1, 1995, 24 Pa.B. 6259; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial page (234183).

Rule 238. Damages for Delay in an Action for Bodily Injury, Death or Property Damage.

(a)(1) At the request of the plaintiff in a civil action seeking monetary relief for bodily injury, death or property damage, damages for delay shall be added to the amount of compensatory damages awarded against each defendant or additional defendant found to be liable to the plaintiff in the verdict of a jury, in the decision of the court in a nonjury trial or in the award of arbitrators appointed under section 7361 of the Judicial Code, 42 Pa.C.S. § 7361, and shall become part of the verdict, decision or award.

(2) Damages for delay shall be awarded for the period of time from a date one year after the date original process was first served in the action up to the date of the award, verdict or decision.

(3) Damages for delay shall be calculated at the rate equal to the prime rate as listed in the first edition of the *Wall Street Journal* published for each calendar year for which the damages are awarded, plus one percent, not compounded.

(b)(1) The period of time for which damages for delay shall be calculated under subdivision (a)(2) shall exclude the period of time, if any,

(i) after the defendant made a written offer which complied with the requirements of subdivision (b)(2), provided that the plaintiff obtained a recovery which did not exceed the amount described in subdivision (b)(3), or

(ii) during which the plaintiff caused delay of the trial.

Official Note: This rule does not preclude the suspension of damages for delay as a pretrial sanction under Discovery Rule 4019.

In additional defendant proceedings, the additional defendant will be considered the defendant, for purposes of this subdivision, and the plaintiff will be considered either the original defendant if liability over is claimed, or the original plaintiff if direct liability is claimed, or both if both forms of liability are claimed.

(2) The written offer of settlement required by subdivision (b)(1)(i) shall contain an express clause continuing the offer in effect for at least ninety days or until commencement of trial, whichever occurs first, and shall either

(i) be in a specified sum with prompt cash payment, or

(ii) contain a structured settlement plus any cash payment. An offer that includes a structured settlement shall disclose the terms of payment underwritten by a financially responsible entity, the identity of the underwriter and the cost.

Official Note: The offer of the cost of the structured settlement and any cash payment must remain open for ninety days. The cost of the entire structured settlement must remain the same while the terms of the payment may vary and have to be recalculated at the time of acceptance due to market fluctuation over the ninety-day period during which the offer must remain open.

(3) The plaintiff's recovery required by subdivision (b)(1)(i), whether by award, verdict or decision, exclusive of damages for delay, shall not be more than 125 percent of either the specified sum or the cost of the structured settlement plus any cash payment to the plaintiff.

(c) Not later than ten days after the verdict or notice of the decision, the plaintiff may file a written motion requesting damages for delay and setting forth the computation. The motion shall begin with the following notice:

NOTICE

You are hereby notified to file a written answer to the attached motion for delay damages within twenty days from the filing of the motion or the delay damages sought in the motion may be added to the verdict or decision against you.

(1) Within twenty days after the motion is filed, the defendant may answer specifying the grounds for opposing the plaintiff's motion. The averments of the answer shall be deemed denied. If an issue of fact is raised, the court may, in its discretion, hold a hearing before entering an appropriate order.

Official Note: An order of the court on the motion for delay damages shall not be subject to a motion for post-trial relief.

(2) If the defendant does not file an answer and oppose the motion, the prothonotary upon praecipe shall add the damages for delay to the verdict or decision in the amount set forth in the motion.

(3)(i) If a motion for post-trial relief has been filed under Rule 227.1 and a motion for delay damages is pending, a judgment may not be entered until disposition has been made of all motions filed under Rule 227.1 and this rule.

(ii) If no motion for post-trial relief is filed within the ten-day period under Rule 227.1 but the defendant opposes the motion for delay damages, the plaintiff may enter judgment on the verdict or decision. Thereafter, upon deciding the motion for damages for delay, the court shall enter judgment for the amount of the delay damages, if any.

(d)(1) In an action heard by a board of arbitrators on which damages for delay are requested, at least twenty days prior to the hearing the plaintiff shall notify the defendant of the intention to request delay damages and the date from which they are to be calculated. A defendant who objects to the request shall submit to the plaintiff within ten days prior to the hearing a statement setting forth the objections and whether

(i) the defendant made an offer in writing and, if so, the amount and the date of the offer; and

(ii) there was a period of time during which delay of the arbitration hearing was attributable to the plaintiff. Each party shall submit to the board at the hearing a sealed envelope containing the plaintiff's request and the defendant's statement. Immediately upon making an award, the board of arbitrators shall review the contents of the envelopes and add damages for delay, if any, to the award. If the defendant opposes the request, the board may hold a hearing on the issue of damages for delay and shall immediately thereafter determine the amount of damages for delay, if any. Damages for delay shall be separately stated in the report and award of the arbitrators.

Official Note: This rule contemplates that the board of arbitrators will make its award immediately upon conclusion of the hearing and that it will then proceed to consider the issue of damages for delay.

(2) The damages for delay shall not be included in determining whether the amount in controversy is within the jurisdiction of the arbitrators.

(e) This rule shall not apply to

(1) eminent domain proceedings;

Official Note: See Article VI, section 611 of the Eminent Domain Code of 1964, Special Session, June 23, P.L. 84, 26 P.S. § 1-611, governing compensation for delay in payment.

(2) actions in which damages for delay are allowable in absence of this rule.

Official Note: See *Marrazzo v. Scranton Nehi Bottling Co., Inc*., 438 Pa. 72, 263 A.2d 336 (1970), for instances in which compensation for delay may be allowed in actions for destruction or involuntary conversion of property where the compensation can be measured by market value or other definite standards.

(f) This rule shall apply to actions pending on or after the effective date of this rule in which damages for delay have not been determined.

Addendum to Explanatory Comment (2018)

The prime rate as set forth in the first edition of the *Wall Street Journal* for a particular year is the basis for calculating damages for delay under Pa.R.C.P. No. 238 as revised November 7, 1988. The prime rate published in the first edition of the *Wall Street Journal* for each of the years specified is as follows:

Date of Publication	*Prime Rate Percentage*
January 2, 2018	4 1/2
January 3, 2017	3 3/4
January 4, 2016	3 1/2
January 2, 2015	3 1/4
January 2, 2014	3 1/4
January 2, 2013	3 1/4
January 3, 2012	3 1/4

Date of Publication	*Prime Rate Percentage*
January 3, 2011	3 1/4
January 4, 2010	3 1/4
January 2, 2009	3 1/4
January 2, 2008	7 1/4
January 2, 2007	8 1/4
January 3, 2006	7 1/4
January 3, 2005	5 1/4
January 2, 2004	4
January 2, 2003	4 1/4
January 2, 2002	4 3/4
January 2, 2001	9 1/2
January 3, 2000	8 1/2
January 4, 1999	7 3/4
January 2, 1998	8 1/2

Official Note: The prime rate for the years 1980 through 1997 may be found in the Addendum to the Explanatory Comment published in the *Pennsylvania Bulletin*, volume 33, page 634 (2/1/03) and on the web site of the Civil Procedural Rules Committee at http://www.pacourts.us.

Source

The provisions of this Rule 238 adopted November 20, 1978, effective April 16, 1979, 8 Pa.B. 3551; amended December 16, 1983, effective July 1, 1984, 13 Pa.B. 3999; amended November 7, 1988, effective immediately, 18 Pa.B. 5334. The provisions of the Addendum to the Explanatory Comment amended February 2, 1990, effective January 2, 1990, 20 Pa.B. 487; amended February 1, 1991, effective January 2, 1991, 21 Pa.B. 414; amended March 6, 1992, effective January 2, 1992, 22 Pa.B. 947; amended March 26, 1993, effective January 4, 1993, 23 Pa.B. 1443; amended February 18, 1994, effective January 3, 1994, 24 Pa.B. 960; amended January 27, 1995, effective January 3, 1995, 25 Pa.B. 316; amended February 9, 1996, effective January 2, 1996, 26 Pa.B. 585; amended January 17, 1997, effective January 2, 1997, 27 Pa.B. 293; amended September 24, 1997, effective January 1, 1998, 27 Pa.B. 5245; amended January 23, 1998, effective January 24, 1998, 28 Pa.B. 359; amended January 22, 1999, effective January 4, 1999, 29 Pa.B. 449; amended January 29, 2000, effective January 3, 2000, 30 Pa.B. 519; amended January 19, 2001, effective January 21, 2001, 31 Pa.B. 410; amended February 1, 2002, effective February 2, 2002, 32 Pa.B. 548; amended July 29, 2002, effective immediately, 32 Pa.B. 3885; amended January 31, 2003, effective January 2, 2003, 33 Pa.B. 634; amended January 31, 2004, effective January 2, 2004, 34 Pa.B. 557; amended January 21, 2005, effective January 3, 2005, 35 Pa.B. 500; amended January 20, 2006, effective January 3, 2006, 36 Pa.B. 272; amended January 19, 2007, effective January 2, 2007, 37 Pa.B. 312; amended January 18, 2008, effective January 19, 2008, 38 Pa.B. 337; amended January 16, 2009, effective January 17, 2009, 39 Pa.B. 304; amended January 22, 2010, effective January 23, 2010, 40 Pa.B. 518; amended January 14, 2011, effective January 15, 2011, 41 Pa.B. 333; amended January 20, 2012, effective January 21, 2012, 42 Pa.B. 377; amended January 25, 2013, effective January 26, 2013, 43 Pa.B. 525; amended January 17, 2014, effective January 18, 2014, 44 Pa.B. 323; amended January 16, 2015, effective January 17, 2015, 45 Pa.B. 291; amended January 15, 2016, effective January 16, 2016, 46 Pa.B. 332; amended January 13, 2017, effective January 14, 2017, 47 Pa.B. 178; amended January 12, 2018, effective January 13, 2018, 48 Pa.B. 224. Immediately preceding text appears at serial pages (377621) to (377622) and (386141) to (386142).

Rule 239. Local Rules.

The requirements for the promulgation and amendment of local rules of civil procedure are set forth in Pennsylvania Rule of Judicial Administration 103(d).

Official Note: Effective August 1, 2016, Pennsylvania Rule of Judicial Administration 103 was amended to consolidate and include all local rulemaking requirements. Accordingly, the requirements under Rule 239 for the promulgation and amendment of local rules of civil proce-

dure were rescinded and replaced. All local rules previously promulgated in accordance with the requirements of this rule prior to rescission remain effective upon compilation and publication pursuant to Pa.R.J.A. No. 103(d)(7).

Source

The provisions of this Rule 239 adopted January 28, 1983, effective July 1, 1983, 13 Pa.B. 685; amended May 19, 1987, effective July 1, 1987, 17 Pa.B. 2137; amended December 29, 1992, effective July 1, 1993, 23 Pa.B. 248 and 701; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266; amended November 28, 2000, effective January 1, 2001, 30 Pa.B. 6421; amended October 24, 2003, effective 9 months after the date of the Order, 33 Pa.B. 5506; amended June 30, 2004, effective immediately, 34 Pa.B. 3677; amended October 15, 2004, effective immediately, 34 Pa.B. 5890; amended December 15, 2010, effective immediately, 41 Pa.B. 215; amended June 28, 2016, effective August 1, 2016, 46 Pa.B. 3797. Immediately preceding text appears at serial pages (379938) and (354873) to (354874).

Rule 239.1. Pleadings and Legal Papers. Local Rules 205.2(a) and 205.2(b).

(a) A court may impose requirements governing the physical characteristics of pleadings and other legal papers. A court which imposes such requirements must promulgate a local rule, numbered Local Rule 205.2(a), listing those requirements.

(b) A court may require pleadings and other legal papers to be accompanied by a cover sheet in the form set forth in the local rule. A court which imposes such requirements must promulgate a local rule, numbered Local Rule 205.2(b), stating the requirements and setting forth the form of the cover sheet.

Source

The provisions of this Rule 239.1 adopted October 24, 2003, effective 9 months after the date of the Order, 33 Pa.B 5506.

Rule 239.2. Petitions. Rule to Show Cause. Local Rules 206.1(a) and 206.4(c).

(a) If, pursuant to Rule 206.1(a)(2), a court has designated applications which are to proceed under Rule 206.1 et seq., the court must promulgate a local rule, numbered Local Rule 206.1(a), listing those applications.

(b) Every court shall promulgate a local rule, numbered Local Rule 206.4(c), which describes the court's procedures for the issuance of a rule to show cause.

(c)(1) If a court has by local rule adopted the procedure of Rule 206.6 providing for the issuance of a rule to show cause as of course, Local Rule 206.4(c) shall expressly

(i) state that the rule shall issue as a matter of course pursuant to Rule 206.6, and

(ii) describe the steps that the moving party must take for the rule to issue.

(2) Local Rule 206.4(c) shall also describe the manner by which the court considers a petitioner's request for a stay of execution pending disposition of a petition to open a default judgment.

(d) If a court follows the procedure of Rule 206.5 under which the issuance of a rule to show cause is discretionary, Local Rule 206.4(c)

(1) shall describe the manner in which the request for the issuance of the rule is scheduled, argued, and decided, and

(2) may impose requirements for the filing of briefs addressing whether a rule to show cause should issue.

(e) In addition to the matters set forth in subdivision (b) or (c), Local Rule 206.4(c) may impose requirements upon the moving party to

(1) transmit the original and/or copies of the petition and related legal papers to a judge or other court personnel, and

(2) notify other parties of the date, time and location of a court proceeding.

Official Note: Local Rule 206.4(c) shall not modify the provisions of Rules 206.1 through 206.2 governing the contents of a petition or answer, Rule 206.3 governing verification, or Rule 206.7 governing the procedure after issuance of a rule to show cause.

Local Rule 206.4(c) shall not alter the form of the order of court required by Rule 206.5(d), which sets forth the dates by which an answer shall be filed and depositions shall be completed, and the date of the final argument. Pursuant to the Note to Rule 206.5(d), the form of the order may be modified to provide for an evidentiary hearing on disputed issues of fact, the use of forms of discovery other than depositions, the filing of briefs, and disposition without oral argument.

Source

The provisions of this Rule 239.2 adopted October 24, 2003, effective 9 months after the date of the Order, 33 Pa.B 5506; amended October 15, 2004, effective immediately, 34 Pa.B. 5889. Immediately preceeding text appears at serial pages (304780) and (301329).

Rule 239.3. Motions. Local Rules 208.2(c), 208.2(d), 208.2(e), 208.3(a) and 208.3(b).

(a) A court may impose a requirement that a motion include a brief statement of the applicable authority. A court which has imposed this requirement must promulgate a local rule, numbered Local Rule 208.2(c), stating the requirement.

(b) A court may impose a certification requirement for motions that are presented as uncontested. A court which imposes such a certification requirement must promulgate a local rule, numbered Local Rule 208.2(d), stating the requirement.

(c) A court may require any motion relating to discovery to include a certification signed by counsel for the moving party certifying that counsel has conferred or attempted to confer with all interested parties in order to resolve the matter without court action. A court which requires such a certification must promulgate a local rule, numbered Local Rule 208.2(e), stating the requirement.

(d) Every court shall promulgate a local rule, numbered Local Rule 208.3(a), which describes the court's motion procedure under Rule 208.3(a). Local Rule 208.3(a)

(1) shall describe the manner in which

(i) motions are scheduled, argued and decided and

(ii) emergency motions are scheduled, argued, and decided if they are governed by a different procedure, and

(2) may impose requirements upon a party to

(i) transmit the original and/or copies of the motion and related legal papers to a judge or other court personnel; and

(ii) notify other parties of the time, date and location of a court proceeding.

(e) If, pursuant to Rule 208.3(b), a court has imposed requirements for the filing of a response, a brief or both with respect to designated motions, the court

shall promulgate a local rule, numbered Local Rule 208.3(b), which lists those motions and requirements and which describes the court's motion practice under Rule 208. 3(b). Local Rule 208.3(b) shall conform to the requirements of subdivision (d) of this rule and may provide that the motion shall be treated as uncontested if a response is not filed.

Source

The provisions of this Rule 239.3 adopted October 24, 2003, effective 9 months after the date of the Order, 33 Pa.B 5506; amended October 15, 2004, effective immediately, 34 Pa. B. 5889. Immediately preceding text appears at serial pages (301329) to (301330).

Rule 239.4. Briefs. Local Rule 210.

A court may impose requirements governing the form and content of a brief. A court which imposes such requirements must promulgate a local rule, numbered Local Rule 210, listing those requirements.

Source

The provisions of this Rule 239.4 adopted October 24, 2003, effective 9 months after the date of the Order, 33 Pa.B 5506.

Rule 239.5. Preliminary Objections. Local Rule 1028(c).

(a) Every court shall promulgate a local rule, numbered Local Rule 1028(c), which describes the court's procedures for the disposition of preliminary objections and which

(1) shall set forth the manner in which preliminary objections are scheduled, argued and decided, and

(2) may impose requirements upon a party to

(i) transmit the original and/or copies of the preliminary objections and related legal papers to a judge or other court personnel,

(ii) notify other parties of the date, time and location of a court proceeding, and

(iii) file briefs.

Official Note: Under Rules 1026 and 1029, an answer to preliminary objections shall be filed within twenty days after service of the preliminary objection whenever preliminary objections raise issues of fact and are endorsed with a notice to plead. This requirement shall not be altered by a local rule.

(b) This rule shall not apply to family law actions governed by Rules 1901 through 1940.9 or actions pursuant to the Eminent Domain Code of 1964.

Source

The provisions of this Rule 239.5 adopted October 24, 2003, effective 9 months after the date of the Order, 33 Pa.B 5506.

Rule 239.6. Motion for Judgment on the Pleadings. Local Rule 1034(a).

Every court shall promulgate a local rule, numbered Local Rule 1034(a), which describes the court's procedures for the disposition of a motion for judgment on the pleadings and which

(1) shall set forth the manner in which motions for judgment on the pleadings are scheduled, argued and decided, and

(2) may impose requirements upon a party to

(i) transmit the original and/or copies of the motion and related legal papers to a judge or other court personnel,

(ii) notify other parties of the date, time and location of a court proceeding,

(iii) file a response within twenty days after service of the motion, and

(iv) file briefs.

Source

The provisions of this Rule 239.6 adopted October 24, 2003, effective 9 months after the date of the Order, 33 Pa.B 5506.

Rule 239.7. Motion for Summary Judgment. Local Rule 1035.2(a).

Every court shall promulgate a local rule, numbered Local Rule 1035.2(a), which describes the court's procedures for the disposition of motions for summary judgment and which

(1) shall set forth the manner in which motions for summary judgment are scheduled, argued and decided, and

(2) may impose requirements upon a party to

(i) transmit the original and/or copies of the motion and related legal papers to a judge or other court personnel,

(ii) notify other parties of the date, time and location of a court proceeding, and

(iii) file briefs.

Official Note: The procedural requirements of Rule 1035.1 et seq., including the thirty-day period of Rule 1035.3(a) in which to file a response to the motion, shall not be altered by a local rule.

Source

The provisions of this Rule 239.7 adopted October 24, 2003, effective 9 months after the date of the Order, 33 Pa.B 5506.

Rule 239.8. Local Rules. Promulgation. Publication. Effective Date.

The requirements for the promulgation and amendment of local rules of civil procedure are set forth in Pennsylvania Rule of Judicial Administration 103(d).

Official Note: Effective August 1, 2016, Pennsylvania Rule of Judicial Administration 103 was amended to consolidate and include all local rulemaking requirements. Accordingly, the requirements under Rule 239.8 for the promulgation and amendment of local rules of civil pro-

cedure were rescinded and replaced. All local rules previously promulgated in accordance with the requirements of this rule prior to rescission remain effective upon compilation and publication pursuant to Pa.R.J.A. No. 103(d)(7).

Source

The provisions of this Rule 239.8 adopted October 24, 2003, effective 9 months after the date of the Order, 33 Pa.B 5506; amended June 30, 2004, effective immediately, 34 Pa.B. 3677; amended November 2, 2005, effective immediately, 35 Pa.B. 6318; amended December 15, 2010, effective immediately, 41 Pa.B. 215; amended June 28, 2016, effective August 1, 2016, 46 Pa.B. 3797. Immediately preceeding text appears at serial page (354878).

Rule 239.9. Electronic Filing. Local Rule 205.4.

(a) If a court permits or requires the electronic filing of legal papers with the prothonotary, the court must promulgate a local rule designated Local Rule 205.4 which sets forth in detail the practice and procedure to file a legal paper electronically and includes the matters set forth in this rule.

(b) Local Rule 205.4 shall include the following subdivisions as required by Pa.R.C.P. No. 205.4:

(1) subdivision (a)(1) stating whether the electronic filing system is permissive or mandatory and specifying the actions and proceedings and the legal papers subject to the rule,

(2) subdivision (b)(1) setting forth one or more formats in which legal papers shall be submitted to the prothonotary for filing. The formats shall include portable document format (pdf) and such other electronic format, if any, that the court may designate,

(3) subdivision (c)(2) providing a method of access to the electronic filing website for persons who are not attorneys,

(4) subdivision (d)(1) listing the credit and debit cards approved by the court or the prothonotary, and stating whether the filing fee may be paid by depositing, in advance, sufficient funds with the prothonotary,

(5) subdivision (d)(3) providing the manner of payment when the court has designated a third party to operate the electronic filing system, and

(6) subdivision (f) providing the practice and procedure to govern the matters provided for in Rule 205.4(f).

(c) Local Rule 205.4 may contain such additional subdivisions as the court deems necessary to provide a full and complete description of the electronic filing system.

Source

The provisions of this Rule 239.9 adopted November 14, 2007, effective December 14, 2007, 37 Pa.B. 6258; amended June 28, 2016, effective August 1, 2016, 46 Pa.B. 3797. Immediately preceding text appears at serial pages (354878) and (360813).

Rule 240. *In Forma Pauperis.*

(a) This rule shall apply to all civil actions and proceedings except actions pursuant to the Protection From Abuse Act and Protection of Victims of Sexual Violence or Intimidation Act.

Official Note: The term ''all civil actions and proceedings'' includes all domestic relations actions except those brought pursuant to the Protection From Abuse Act, 23 Pa.C.S. § 6106, and Protection of Victims of Sexual Violence or Intimidation Act, 42 Pa.C.S. §§ 62A01—62A60.

(b) A party who is without financial resources to pay the costs of litigation is entitled to proceed *in forma pauperis.*

(c) Except as provided by subdivision (d), the party shall file a petition and an affidavit in the form prescribed by subdivision (h). The petition may not be filed prior to the commencement of an action or proceeding or the taking of an appeal.

(1) (i) If the petition is filed simultaneously with the commencement of the action or proceeding or with the taking of the appeal, the prothonotary shall docket the matter and petition without the payment of any filing fee.

(ii) If the court shall thereafter deny the petition, the petitioner shall pay the filing fee for commencing the action or proceeding or taking the appeal. A party required to pay such fee may not without leave of court take any further steps in the action, proceeding or appeal so long as such fee remains unpaid. Not sooner than ten days after notice of the denial of the petition pursuant to Rule 236, the prothonotary shall enter a judgment of *non pros* in the action or proceeding or strike the appeal if the fee remains unpaid. The action, proceeding or appeal shall be reinstated only by the court for good cause shown.

(2) If the action or proceeding is commenced or the appeal is taken without the simultaneous filing of a petition, the appropriate filing fee must be paid and shall not be refunded if a petition is thereafter filed and granted.

(3) Except as provided by subdivision (j)(2), the court shall act promptly upon the petition and shall enter its order within twenty days from the date of the filing of the petition. If the petition is denied, in whole or in part, the court shall briefly state its reasons.

(d)(1) If the party is represented by an attorney, the prothonotary shall allow the party to proceed *in forma pauperis* upon the filing of a *praecipe* which contains a certification by the attorney that he or she is providing free legal service to the party and believes the party is unable to pay the costs.

(2) The *praecipe* shall be substantially in the form prescribed by subdivision (i).

(e) A party permitted to proceed *in forma pauperis* has a continuing obligation to inform the court of improvement in the party's financial circumstances which will enable the party to pay costs.

(f) A party permitted to proceed *in forma pauperis* shall not be required to

(1) pay any cost or fee imposed or authorized by Act of Assembly or general rule which is payable to any court or prothonotary or any public officer or employee, or

(2) post bond or other security for costs as a condition for commencing an action or proceeding or taking an appeal.

(g) If there is a monetary recovery by judgment or settlement in favor of the party permitted to proceed *in forma pauperis*, the exonerated fees and costs shall be taxed as costs and paid to the prothonotary by the party paying the monetary recovery. In no event shall the exonerated fees and costs be paid to the indigent party.

(h) The affidavit in support of a petition for leave to proceed *in forma pauperis* shall be substantially in the following form:

(Caption)

1. I am the (plaintiff) (defendant) in the above matter and because of my financial condition am unable to pay the fees and costs of prosecuting or defending the action or proceeding.

2. I am unable to obtain funds from anyone, including my family and associates, to pay the costs of litigation.

3. I represent that the information below relating to my ability to pay the fees and costs is true and correct:

(a) Name: _____
Address: _____
_____

(b) *Employment*
If you are presently employed, state
Employer: _____
Address: _____
_____
Salary or wages per month: _____
Type of work: _____
If you are presently unemployed, state
Date of last employment: _____
Salary or wages per month: _____
Type of work: _____

(c) *Other income within the past twelve months*
Business or profession: _____
Other self-employment: _____
Interest: _____
Dividends: _____
Pension and annuities: _____
Social security benefits: _____
Support payments: _____
Disability payments: _____
Unemployment compensation and
supplemental benefits: _____
Workers' compensation: _____
Public assistance: _____
Other: _____
_____

(d) *Other contributions to household support*
(Wife) (Husband) Name: _____
If your (wife) (husband) is employed, state
Employer: _____
Salary or wages per month: _____
Type of work: _____
Contributions from children: _____
Contributions from parents: _____
Other contributions: _____

(e) *Property owned*
Cash: _____
Checking account: _____
Savings account: _____
Certificates of deposit: _____
Real estate (including home): _____
Motor vehicle: Make _____ , Year _____
Cost _____ , Amount Owed $ _____
Stocks and bonds: _____
Other: _____

(f) *Debts and Obligations*
Mortgage: _____
Rent: _____
Loans: _____
Other: _____
_____

(g) *Persons dependent upon you for support*
(Wife) (Husband) Name: _____
Children, if any:
Initials: _____ Age: _____
_____ _____
_____ _____
Other Persons:Name: _____
Relationship: _____

4. I understand that I have a continuing obligation to inform the court of improvement in my financial circumstances which would permit me to pay the costs incurred herein.

5. I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.
Date: _____ _____
Petitioner

(i) The praecipe required by subdivision (d) shall be substantially in the following form:

(Caption)

PRAECIPE* TO PROCEED *IN FORMA PAUPERIS
To the Prothonotary:

Kindly allow _____, (Plaintiff) (Defendant) to proceed *in forma pauperis*.

I, _____, attorney for the party proceeding *in forma pauperis*, certify that I believe the party is unable to pay the costs and that I am providing free legal service to the party.

_____
Attorney for

(j)(1) If, simultaneous with the commencement of an action or proceeding or the taking of an appeal, a party has filed a petition for leave to proceed *in forma pauperis*, the court prior to acting upon the petition may dismiss the action, proceeding or appeal if the allegation of poverty is untrue or if it is satisfied that the action, proceeding or appeal is frivolous.

Official Note: A frivolous action or proceeding has been defined as one that ''lacks an arguable basis either in law or in fact.'' *Neitzke v. Williams*, 490 U.S. 319, 109 S.Ct. 1827, 104 L.Ed.2d 338 (1989).

(2) If the petitioner commences the action by writ of summons, the court shall not act on the petition for leave to proceed *in forma pauperis* until the complaint is filed. If the complaint has not been filed within ninety days of the filing of the petition, the court may dismiss the action pursuant to subdivision (j)(1).

Official Note: The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*. *See* Rule 205.6.

Source

The provisions of this Rule 240 adopted March 25, 1983, effective April 1, 1983, 13 Pa.B. 1125; amended March 11, 1991, effective July 1, 1991, 21 Pa.B. 1274; amended November 26, 1991, effective January 1, 1992, 21 Pa.B. 5715; amended April 3, 1992, effective immediately, 22 Pa.B. 2221; amended June 3, 1994, effective September 1, 1994, 24 Pa.B. 3018; amended April 19, 1995, effective July 1, 1995, 25 Pa.B. 1767; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266; amended June 8, 2001, effective July 1, 2001, 31 Pa.B. 3305; amended October 22, 2009, effectively immediately, 39 Pa.B. 6426; amended March 2, 2012, effective April 2, 2012, 42 Pa.B. 1363; amended January 5, 2018, effective January 6, 2018, 48 Pa.B. 475; amended June 1, 2018, effective July 1, 2018, 48 Pa.B. 3519. Immediately preceding text appears at serial pages (390059) to (390063).

Rule 247. [Rescinded].

Official Note: Former Rule 247 is no longer necessary. Jurisdiction in the courts of common pleas of appeals from arbitration awards in public employment disputes between local government units and their employes is now provided by Section 933(b) of the Judicial Code, 42 Pa.C.S. § 933(b), effective June 27, 1978.

Source

The provisions of this Rule 247 adopted June 25, 1976, 6 Pa.B. 1472, amended May 24, 1979, effective December 30, 1978, 9 Pa.B. 1854. Immediately preceding text appears at serial pages (40028) and (40029).

Rule 247.1. [Rescinded].

Source

The provisions of this Rule 247.1 rescinded March 16, 1981, effective May 15, 1981, 11 Pa.B. 1078. Immediately preceding text appears at serial page (48421).

Rule 248. Modification of Time.

The time prescribed by any rule of civil procedure for the doing of any act may be extended or shortened by written agreement of the parties or by order of court.

Source

The provisions of this Rule 248 adopted January 4, 1952, effective July 1, 1952.

Rule 249. Authority of Individual Judge.

(a) Except where the court is required to act en banc, a judge may perform any function of the court, including the entry of interlocutory or ex parte orders and other matters in the nature thereof.

(b) A judge may perform a function of the court, other than trying an action, at any time and at any place within the judicial district.

(c) Each court may regulate the assignment of business among its judges.

Source

The provisions of this Rule 249 adopted January 4, 1952, effective July 1, 1952; 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 (286950).

Rule 250. Scope of Chapter.

The rules of this chapter shall apply to all civil actions and proceedings.

Source

The provisions of this Rule 250 adopted September 30, 1949, effective April 1, 1950; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (301336).

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