

CHAPTER 2120. PARTNERSHIPS AS PARTIES

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Rule 2126. Definitions.

As used in this chapter:

Action—Any civil action or proceeding brought in or appealed to any court which is subject to these rules.

Firm name—Any name, fictitious or otherwise, by which a partnership conducts business or is commonly known whether or not such name has been filed or registered.

Liquidator—Any person legally engaged in winding up the affairs of a dissolved partnership.

Partner—Only a general partner or a limited partner who has become subject to the liability of a general partner.

Partnership—A general or limited partnership, whether it is also a registered limited liability partnership or electing partnership, and does not mean a limited liability company, unincorporated association, joint stock company or similar association.

Source

The provisions of this Rule 2126 adopted May 1, 1939, effective November 6, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended January 12, 2001, effective July 1, 2001, 31 Pa.B. 137; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (272403).

Rule 2127. Actions by Partnerships and Liquidators.

(a) A partnership having a right of action shall prosecute such right in the names of the then partners trading in the firm name, in the following manner: “A, B and C trading as X & Co.”

Official Note: For the rule applicable to the prosecution of set-offs, counterclaims and cross-actions by a partnership sued in the firm name, see Rule 2128(b).

(b) An action prosecuted by the liquidator of a dissolved partnership shall be prosecuted in the name of the liquidator in the following manner: "A, Liquidator of A, B, and C, late trading as X & Co."

(c) The failure of a partnership to comply with subdivision (a) of this rule shall not affect the right of the defendant to recover costs from both the partnership and the individual partners.

Source

The provisions of this Rule 2127 adopted May 1, 1939, effective November 6, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

Rule 2128. Actions Against Partnerships and Liquidators.

(a) An action against a partnership may be prosecuted against one or more partners as individuals trading as the partnership in the manner designated by Rule 2127(a), or against the partnership in its firm name.

(b) If a plaintiff prosecutes an action against a partnership in its firm name only, the partnership may prosecute any setoff, counterclaim or cross- action in its firm name.

(c) An action prosecuted against the liquidator of a dissolved partnership shall be prosecuted in the following manner: "A, Liquidator of A, B and C, late trading as X & Co."

(d) Whenever an action is prosecuted against a partnership in the names of the partners trading in the firm name and the partners or partnership shall have failed to file in the office of the prothonotary of the county or counties in which the partnership business is conducted a statement of membership as required by law, such partners shall not be permitted to plead a misnomer or the omission of the name of a partner of the partnership or the inclusion of the names of persons not partners of said partnership.

Official Note: Adopted May 1, 1939, effective November 6, 1939.

Rule 2129. Actions between partnerships and partners.

An action may be prosecuted by a partnership against one or more of the partners thereof, or against such partners together with persons not partners; or by one or more partners, or by such partners together with other persons not partners, against the partnership.

Source

The provisions of this Rule 2129 adopted May 1, 1939, effective November 6, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (272404).

Rule 2130. Venue.

(a) Except as otherwise provided by Rule 1006(a.1) and by subdivision (c) of this rule, an action against a partnership may be brought in and only in a county where the partnership regularly conducts business, or in the county where the cause of action arose or in a county where a transaction or occurrence took place out of which the cause of action arose or in the county where the property or a part of the property which is the subject matter of the action is located provided that equitable relief is sought with respect to the property.

Official Note: Rule 1006(a.1) governs venue in actions for medical professional liability.

(b) Except as otherwise provided by subdivision (c) of this rule, an action against a liquidator may be brought in and only in a county where the liquidator is liquidating the partnership business or in which the partnership last regularly conducted business, or in the county where the cause of action arose or in a county where a transaction or occurrence took place out of which the cause of action arose. This rule shall not apply to an action against a liquidator deriving authority under the laws of the United States.

(c) Subdivisions (a) and (b) of this rule do not restrict or affect the venue of an action against a partnership commenced by or for the attachment, seizure, garnishment, sequestration or condemnation of real or personal property or an action for the recovery of the possession of or the determination of the title to real or personal property.

Source

The provisions of this Rule 2130 adopted May 1, 1939, effective November 6, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274; amended January 27, 2003, effective immediately, 33 Pa.B. 751; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (295857).

Rule 2131. Service of process.

[Rescinded]

Official Note: For service upon partnerships and unincorporated associations, see Rule 423.

Source

The provisions of this Rule 2131 rescinded June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452. Immediately preceding text appears at serial pages (42824) and (48430).

Rule 2131.1. Proof of service.

[Rescinded].

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

231 Rule 2131.2

GENERAL

Source

The provisions of this Rule 2131.1 adopted April 26, 1979, effective May 26, 1979, 9 Pa.B. 1507; rescinded June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452. Immediately preceding text appears at serial page (48430).

Rule 2131.2. Time to plead. Extensions.

[Rescinded].

Official Note: See Rule 1026(b) for the time in which a defendant served outside the United States must plead to the complaint.

Source

The provisions of this Rule 2131.2 adopted April 26, 1979, effective May 26, 1979, 9 Pa.B. 1507; rescinded June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452. Immediately preceding text appears at serial pages (48430) to (48431).

Rule 2132. Effect of judgments.

(a) A judgment entered against a defendant partnership sued in its firm name only shall support execution upon the partnership property only.

(b) A judgment entered against a defendant partnership sued in the name or names of the partners as individuals trading in the firm name shall support execution upon the partnership property and upon the individual property of any partner named as a party if jurisdiction has been validly obtained as provided by Rule 2131 and the requirements of clause (c) of this rule have been satisfied.

(c) [Rescinded].

Official Note: This subdivision is rescinded because notice is now provided by Rule 237.1.

Official Note: Adopted May 1, 1939, effective November 6, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

Source

The provisions of this Rule 2132 amended November 14, 1978, effective December 2, 1978, 8 Pa.B. 3410, amended December 14, 1979, effective February 1, 1980, 10 Pa.B. 9. Immediately preceding text appears at serial page (42826).

Rule 2133. Indexing of judgments.

(a) A judgment against a partnership shall be indexed against the partnership in its firm name.

(b) A judgment against the liquidator of a dissolved partnership shall be indexed against the liquidator as liquidator of the partnership and against the partnership in its firm name.

(c) A judgment against an individual partner shall be indexed against the partner as an individual.

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Source

The provisions of this Rule 2133 adopted May 1, 1939, effective November 6, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274. Immediately preceding text appears at serial page (190578).

Rule 2134. Subsequent actions against partners not named in prior action.

(a) Whenever a judgment is entered against a partnership such judgment shall not bar a subsequent action upon the same cause of action against any partner who was not individually named as a defendant in the action.

(b) In a subsequent action instituted under the authority of subdivision (a) of this rule, a partner against whom a judgment was entered in the original action shall not be joined as a party.

Official Note: Adopted May 1, 1939, effective November 6, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

Rule 2135. Fictitious name act saved.

These rules shall not be deemed to suspend or affect the operation of any Act of Assembly relating to the registration of fictitious names.

Official Note: Adopted May 1, 1939, effective November 6, 1939.

Rule 2148. [Rescinded].

Official Note: See Rule 449(a) for the preservation of sections of the Judicial Code which provide for service of process on persons who are outside the Commonwealth.

Source

The provisions of this Rule 2148 adopted April 26, 1979, effective May 26, 1979, 9 Pa.B. 1507; rescinded June 3, 1994, effective July 1, 1994, 24 Pa.B. 3010. Immediately preceding text appears at serial page (99955).

Rule 2149. [Rescinded].**Source**

The provisions of this Rule 2149 rescinded April 26, 1979, effective May 26, 1979, 9 Pa.B. 1507. Immediately preceding text appears at serial page (40094).

Rule 2150. [Rescinded].

Official Note: See Rule 449(b) for the abolition of practice and procedure under repealed statutes relating to service of process on persons who are outside the Commonwealth or who prevent or obstruct service of process.

231 Rule 2150

GENERAL

Source

The provisions of this Rule 2150 amended April 26, 1979, effective May 26, 1979, 9 Pa.B. 1507; amended June 3, 1994, effective July 1, 1994, 24 Pa.B. 3010. Immediately preceding text appears at serial page (99956).

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