

**IN THE
SUPREME COURT OF PENNSYLVANIA**

IN RE: Amendment of Rules of	:	No. 341
Civil Procedure Governing	:	Civil Procedural Rules
Notice of Orders, Decrees and	:	Docket No. 5
Judgments		

O R D E R

PER CURIAM:

AND NOW, this 28th day of November, 2000, the Pennsylvania Rules of Civil Procedure are amended as follows:

- (1) The note to Rule 205.4(g) is amended to read as attached hereto,
- (2) Rule 236 is amended to read as attached hereto, and
- (3) A note is added to Rule 440(d) to read as attached hereto.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective January 1, 2001.

NOTE: Underscored material is added.

Rule 205.4. Temporary Provisions for Electronic Filing and Service of Legal Papers

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

(1) as provided by Rule 440 or

(2) 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. Service is complete when the legal paper is sent. A paper served electronically is subject to the certifications set forth in subdivision (b)(1).

NOTE: 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, decrees 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.

Rule 236. Notice by Prothonotary of Entry of Order, Decree, 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 at the address stated in the certificate of residence filed by the plaintiff 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

NOTE: See Rule 2951(a) as to the requirement of filing a certificate of the residence of the plaintiff and of the defendant.

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

NOTE: See Rules 1012 and 1025 as to the requirement of an address within the Commonwealth 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.

NOTE: Rule 236 does not prescribe a particular method of giving notice. 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 decrees, 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.

Rule 440. Service of Legal Papers other than Original Process

(d) (1) A copy may be served by facsimile transmission if the parties agree thereto or if a telephone number for facsimile transmission is included on an appearance or prior legal paper filed with the court.

(2) The copy served shall begin with a facsimile cover sheet containing

(i) the name, firm, address, telephone number, of both the party making service and the party served,

(ii) the facsimile telephone number of the party making service and the facsimile telephone number to which the copy was transmitted,

(iii) the title of the legal paper served and

(iv) the number of pages transmitted.

(3) Service is complete when transmission is confirmed as complete.

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

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

Explanatory Comment

Rule 236(a)(2) provides for the prothonotary to give written notice of the entry of an order, decree or judgment but does not prescribe the manner of giving notice. Without limiting the prothonotary in the manner of giving notice, the amendment to Rule 236 adding new subdivision (d) authorizes the prothonotary to give notice by means of facsimile or other electronic transmission and describes the requirements therefor.

Subdivision (d) is drafted in permissive rather than mandatory language. This permits the prothonotaries of individual counties to use facsimile or other electronic transmission as the method of notice if it is feasible in the particular county. However, the prothonotary may serve by such means only if the person to be served has either requested such service in writing or included a facsimile or other electronic address on a prior legal paper filed in the action. The provision for an agreement to be served by facsimile or other electronic transmission is in accord with Rule 440(d) governing service by facsimile transmission and Rule 205.4(g) governing service by other electronic transmission.

New Rule 236(d) extends service by facsimile or other electronic transmission to "other matters". Other matters are in addition to orders, judgments and decrees and may include court notices, scheduling notices and other matters of an administrative nature.

Appropriate cross-references have been included in the rules by adding a note to Rule 205.4(g) and by amending the note to Rule 440(d).

By the Civil Procedural
Rules Committee

Rea Boylan Thomas
Chair