

## FINAL REPORT<sup>1</sup>

*Amendments or Revisions to the Notes to Rules 314 and 504 of the Rules of Conduct,  
Office Standards and Civil Procedure for District Justices*

### **CLARIFICATION REGARDING DISMISSAL AND REINSTATEMENT OF COMPLAINTS IN CIVIL AND LANDLORD/TENANT MATTERS**

On February 12, 2002, effective immediately, upon recommendation of the Minor Court Rules Committee, the Supreme Court of Pennsylvania amended or revised the Notes to Rules 314 and 504 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices.

#### **I. Background**

In the course of drafting other proposed rule changes, the Committee had occasion to consider whether or not a landlord/tenant complaint could be reinstated after it had been dismissed because the plaintiff failed to appear at the hearing. Upon review and discussion, the Committee found that there was confusion regarding the proper use of "dismissal" as a disposition, and when a complaint could properly be reinstated after having been dismissed. Accordingly, the Committee recommended amendments or Note revisions, as explained below, to clarify these procedures.

In conjunction with the clarification regarding dismissal and reinstatement, the Committee also recognized the need for several technical or "housekeeping" amendments to Rules 314 and 504.

#### **II. Discussion of Rule Changes**

##### **A. *Clarification Regarding Dismissal Upon Failure of the Plaintiff to Appear for Landlord/Tenant Hearing and Related Amendments to Rules 314 and 504***

As noted above, the Committee considered whether or not a landlord/tenant complaint could be reinstated after it had been dismissed because the plaintiff failed to appear at the hearing.

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<sup>1</sup> The Committee's Final Report should not be confused with the official Committee Notes to the Rules. Also, the Supreme Court of Pennsylvania does not adopt the Committee's Notes or the contents of the Committee's explanatory Final Reports.

The Committee noted that the Note to Rule 504 (referring to a landlord/tenant complaint) states, in part, ". . . the complaint may be reinstated upon written request of the plaintiff as in trespass and assumpsit cases. See Pa. R.C.P.D.J. No. 314(E) and the Note to Pa. R.C.P.D.J. No. 314." Pa. R.C.P.D.J. No. 504, Note. The Committee further noted, however, that both Rule 314E and Rule 504 refer to reinstatement in the context of failure to make service. Neither of these rules would seem to expressly permit the reinstatement of a landlord/tenant complaint after it is dismissed because the plaintiff fails to appear for the hearing. After discussion, the Committee agreed that the rules should not provide for reinstatement of a landlord/tenant complaint after it has been dismissed because the plaintiff failed to appear for the hearing. Rather, the Committee agreed that, if the plaintiff wishes to proceed after such a dismissal, the plaintiff must file a new complaint.

Accordingly, the Committee considered the broader issue of the proper use of dismissal as a disposition, and, as it relates to landlord/tenant cases, recommended the following:

1. deleting from the Note to Rule 504 the provision regarding reinstatement and the reference to Rule 314E. The Committee does not believe that these references are necessary in the landlord/tenant rules because, unlike the civil action rules, the landlord/tenant rules do not provide for the dismissal of a complaint for failure to make service. Indeed, the Committee believes that no such provision is necessary because of the nature of service in landlord/tenant cases (first class mail and posting being all that is necessary for good service). By deleting the reference to reinstatement in Rule 504, the Committee hopes to eliminate any confusion about reinstatement after a landlord/tenant complaint is dismissed because the plaintiff fails to appear.

2. amending Rule 314E to make absolutely clear that reinstatement under this rule applies only to complaints that have been dismissed without prejudice for failure to make service pursuant to Rule 314D.

## **B. Technical and "Housekeeping" Amendments**

In conjunction with the substantive changes discussed above, the Committee identified a number of technical and "housekeeping" amendments needed in Rules 314 and 504.

In the Note to Rule 504, the Committee recommended a change to the second sentence of the first paragraph to substitute the phrase "complaint be served" with the phrase "hearing be held" to make the language in the note consistent with the rule. The existing reference to complaint being served ". . . not more than fifteen days from the

filing of the complaint. . ." is not consistent with the rule and has created some confusion.<sup>2</sup>

In both rules, the Committee recommended minor changes to correct citation form and cross references, to address gender neutrality issues in the rules, and to make references to other rules more consistent.

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<sup>2</sup> This particular change was actually considered by the Committee in 1997 and was identified as the Committee's Recommendation No. 1 of 1997. However, for unknown reasons, the Committee never published the recommendation and there is some confusion as to whether or not it was "officially" submitted to the Supreme Court for approval. Therefore, this change was incorporated into this Recommendation and replaces Recommendation No. 1 of 1997.