

2006 Membership

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Karla M. Shultz, Esq., *Research Assistant*
Elizabeth J. Knott, *Administrative Assistant*

* Term expired 6-30-06

** Term expired 1-1-07

+ Term expired 6-30-07

Legal Authorization

Pa. Constitution, Article V, § 10(c)
42 Pa. C.S., § 1722

About the Committee

The Civil Procedural Rules Committee sets the rules of procedure and practice for civil actions in Pennsylvania's Courts of Common Pleas. This includes all aspects of civil matters, except those issues relating to the work of the orphans' court and family court divisions. It was first commissioned by the Supreme Court in 1937.

Committee members are appointed to three-year terms by the Court and each may serve a maximum of two full terms.

Civil

Procedural

Rules

Committee

5035 Ritter Road,
Suite 700
Mechanicsburg, PA 17055
(717) 795-2110
e-mail civil.rules@pacourts.us
[www.courts.state.pa.us/
Index/SupCtCmtes/
CivilRulesCmte/
Indexcivilrules.asp](http://www.courts.state.pa.us/Index/SupCtCmtes/CivilRulesCmte/Indexcivilrules.asp)

2006 Activities

The committee held four meetings in 2006 as follows:

March	Philadelphia
June	Pittsburgh
September	Pittsburgh
November	Philadelphia

2006 Amendments to the Rules of Civil Procedure

Descriptions of the various recommended rule changes are described below and are listed in the Status of Recommendations chart that follows this report.

Recommendations Promulgated by the Supreme Court

The following recommendations were promulgated in 2005 with effective dates in 2006:

Recommendation 190: Wage Attachment in Residential Landlord-Tenant Actions Adds a new chapter of rules, 3301 *et seq.*, to govern the attachment of wages, salary and commissions pursuant to Section 8127(a)(3.1) of the Judicial Code in actions or proceedings for amounts awarded to a judgment creditor-landlord arising out of a residential lease. The rules balance the interests of the landlord (plaintiff), tenant (defendant) and employer garnishee. Promulgated 12-21-05, effective 1-1-06.

Recommendation 201: Arbitration Awards in Consumer Credit Transactions New chapter of rules, 1326 *et seq.*, governing proceedings to compel arbitration and to confirm the award of arbitrators in collection claims in consumer credit transactions when arbitration is a common law or statutory arbitration under applicable provisions of the

Judicial Code. Promulgated 12-30-05, effective 2-1-06.

Recommendation 203: Execution upon Real Property Amendments to Rule 3135(a) governing the sheriff's deed to real property to increase the time in which the sheriff must execute and deliver the deed from ten to 20 days and to make it applicable to all execution sales. Promulgated 11-2-05, effective 1-1-06.

The Supreme Court promulgated the following recommendations in 2006:

Recommendation 204: Appeals from Awards in Compulsory Arbitration Amendment to Rule 1311.1 to increase the maximum amount of recoverable damages from \$15,000 to \$25,000 in appeals from awards made in compulsory arbitration. Promulgated 5-16-06, effective 7-1-06.

Recommendation 208: Notice by the Prothonotary Amendment to the note to subdivision (d) of Rule 236 governing the notice to be given by the prothonotary of the entry of an order or judgment to specifically provide for notice by courthouse mail, i.e., placing a copy of the order in the attorney's courthouse mailbox. Promulgated 5-16-06, effective 7-1-06.

Recommendation 209: Technical amendments to Rules 205.4(b)(1)(ii) (**electronic filing**) and 206.5 (**petitions**) and to the Explanatory Comment to Rule 1038.2. Promulgated 3-27-06, effective immediately.

Recommendation 210: Execution Sale of Real Property Amendment of Rule 3129.3 to permit two postponements of a sale of real property upon execution within 130 days of the scheduled sale without giving new notice.

Also, promulgation of new subdivision (c) to provide that when the plaintiff, whether in person or by representative, does not attend the sale of real property, the property will not be sold, and the sheriff will return the writ of

execution to the prothonotary and file a return pursuant to Rule 3139. The plaintiff may again seek to have the property sold, but must recommence the proceedings by having the writ of execution reissued pursuant to Rule 3106 and giving new notice under Rule 3129.2.

Promulgated 10-24-06, effective 1-1-07.

Recommendation 212: Format of Legal Papers New Rule 204.1 governing the format of pleadings and other legal papers filed with the court in civil actions and proceedings. The rule is almost identical to current Pennsylvania Rule of Appellate Procedure 124(a) and to new Rule of Criminal Procedure 575(C). The civil rule was promulgated concurrently with the criminal rule to provide uniformity in the format of legal papers in both civil and criminal matters. Promulgated 7-7-06, effective 2-1-07.

Recommendation 213: Compelling and Confirming Arbitration Awards Amendment to Rule 1329(d)(1) to change from 30 days to 20 days the amount of time one has to file an answer to the motion to show cause why arbitration should not be compelled. Promulgated 7-14-06, effective immediately.

Recommendations Pending

The following recommendations remain pending before the Supreme Court:

Recommendation 211: Admission Pro Hac Vice Proposed new Rule 1012.1 governing admission of an attorney *pro hac vice* in civil cases. The rule achieves a uniform statewide practice, provides information and guidance to the court in the evaluation of a motion for such an admission and imposes obligations upon both the attorney seeking admission and the attorney sponsoring the admission. The rule would supplement Pennsylvania Bar Admission Rule 301, which authorizes a court to grant admission *pro hac vice* provided that a

Pennsylvania attorney has agreed to act as the attorney of record.

Recommendation 215: Exemption of Funds from Execution Proposed new Rule 3111.1 to explicitly state that a defendant's funds on deposit in particular accounts with a bank or other financial institution are exempt from execution. The accounts include those in which funds are deposited electronically on a recurring basis and the funds of which are identified as being exempt from execution, levy or attachment under Pennsylvania or federal law.

Recommendation 216: Mortgage Foreclosure Proposed amendments to the rules governing the action of mortgage foreclosure and proceedings in execution, both as to money judgments and judgments of mortgage foreclosure, to implement provisions under Section 9604(a) of the Uniform Commercial Code.

Recommendation 218: Cross-claims and Joinder of Additional Defendants Proposed new Rule 1031.1 to assert that a claim by one party against another is a matter of pleading rather than joinder of parties, to be pleaded as a cross-claim.

Also, amendments to Rule 2252(a) governing joinder of additional defendants to limit to the joinder of a person not already a party to an action. Amendment to Rule 2253(a) to allow a joining party to join an additional defendant without leave of court if the joinder is accomplished within one of two time frames, whichever is longer.

The following recommendations were published during 2006 for comment and remain pending before the committee:

Recommendation 214: Petition to Transfer Structured Settlement Payment Rights Proposed new Rule 229.2 governing the transfer of structured settlement payment rights to provide additional information necessary for a trial court to determine whether a petition to

transfer structured settlement payment rights satisfies the best interest standard.

Recommendation 217: Video Depositions Amendments to Rule 4017.1 to allow a party to take video depositions as a matter of course and to changed the terminology from “video-tape deposition” to “video deposition.”

Recommendation 219: Electronic Filing and Service of Legal Papers Amendment to Rule 205.4 to accommodate both permissive and mandatory electronic filing systems and to make the practice more useful to both the attorney and the court.

Proposed new Rule 239.9 to require that a county implementing an electronic filing system must promulgate a local rule setting forth in detail the county’s system.

Recommendation 220: Service of Original Process Proposed amendment to Rule 400.1 to allow competent adults in addition to the sheriff to serve original process in Allegheny County. This exception currently exists in Philadelphia and has been requested by the

Allegheny County Court of Common Pleas in light of the inability of the sheriff’s office to provide security in the civil division and administrative offices of the judicial district due to “budgetary constraints and understaffed work force.”

Recommendation 221: Pre-Complaint Discovery Proposed Rule 4003.8 to establish a two-prong test for pre-complaint discovery, viz., that (1) the information sought must be material and necessary to the filing of the complaint, and (2) the discovery will not cause any unreasonable annoyance, burden, embarrassment or expense on anyone.

Continuing Responsibilities

The committee continued to furnish assistance to the Supreme Court and to act as a clearinghouse for numerous amendments suggested by members of the bench and bar. The chair and counsel answered countless inquiries regarding the Rules of Civil Procedure from local courts and attorneys and from courts and attorneys in sister states. **AOPC**

Status of Recommendations		
Recommendation	Subject	Status
190	New Rule 3301 <i>et seq.</i> governing wage attachment pursuant to Section 8127(a)(3.1) of the Judicial Code	Promulgated 12-21-05, effective 1-21-06
201	New Rule 1326 <i>et seq.</i> governing compelling arbitration and confirmation of arbitration award in consumer credit transactions	Promulgated 12-30-05, effective 2-1-06
203	Amendment of Rule 3135 and note to Rule 3132 governing execution sales	Promulgated 11-2-05, effective 1-1-06
204	Amendment of Rule 1311.1 governing an appeal from an award in compulsory arbitration	Promulgated 5-16-06, effective 7-1-06
208	Amendment of Note to Rule 236(d) regarding notice by the prothonotary	Promulgated 6-12-06, effective 7-1-06
209	Technical amendments to Notes to Rules 205.4 and 206.5	Promulgated 3-27-06, effective immediately
210	Amendment of Rule 3129.3 and promulgation of new Rule 3129.4 governing execution sales of real property	Promulgated 10-24-06, effective 1-1-07
211	Promulgation of new Rule 1012.1 governing admission <i>pro hac vice</i>	Pending with Court
212	Promulgation of new Rule 204.1 governing format of legal papers	Promulgated 7-7-06, effective 2-1-07
213	Technical amendment of Rule 1330 governing proceedings to compel arbitration and confirm arbitration awards in consumer credit transactions	Promulgated 7-14-06, effective immediately
214	Promulgation of new Rule 229.2 governing petition to transfer structured settlement payment rights	Pending with committee
215	Promulgation of new Rule 3111.1 governing exemption from execution of certain recurring electronic deposits	Pending with Court

Table 3.3.1

Status of Recommendations, continued		
Recommendation	Subject	Status
216	Amendments to rules governing mortgage foreclosure to accommodate § 9604(a) of the Uniform Commercial Code	Pending with Court
217	Amendment to Rule 4017.1 governing videotape depositions	Pending with committee
218	Promulgation of new Rule 1031.1 governing cross-claims and amendment of Rule 2251 <i>et seq.</i> governing joinder of additional defendants	Pending with Court
219	Amendment of Rule 205.4 governing electronic filing of legal papers and promulgation of Rule 239.9 governing local rules	Published for comment
220	Amendment of Rule 400.1 governing service of original process in the First Judicial District	Published for comment
221	Promulgation of new Rule 4003.8 governing pre-complaint discovery	Published for comment

Table 3.3.1, cont'd.