

I. Rule 205.4(b)(1)(ii) and Explanatory Comment

Rule 205.4(b)(1)(ii) and the Explanatory Comment are amended as follows:

Rule 205.4. Electronic Filing and Service of Legal Papers

(b) ***

(1) The electronic filing of a legal paper constitutes

(i) ***

(ii) a certification as provided by the signature to a legal paper under Rule [1023(b)] 1023.1(c), the violation of which shall be subject to the sanction provision of Rule [1023(c)] 1023.1(d).

EXPLANATORY COMMENT--1999

(Revised March 2006)

Rule 205.4 governing electronic filing and service of legal papers is a [temporary rule and is intended as a further] step in the process of introducing the concept of electronic documents into a system accustomed solely to paper documents. [It is anticipated that changes in the procedural rules will be needed as technology progresses and the actual experiences of those counties which utilize this rule demonstrate the need for modifications. For that reason, a termination date of December 31, 2001 has been set for this rule.] The purpose of the rule is not to provide a comprehensive manual but, rather, a framework upon which a local court can proceed with the electronic filing and service of legal documents while allowing the flexibility to adapt the process on the basis of actual experience.

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The rule addresses several aspects of electronic filing. It provides definitions of key terms, contains a description of the form, content and handling of documents, and an enumeration of the responsibilities of the prothonotary and the parties. The rule concludes with the procedure for electronic service of legal papers.

Subdivision (a)(2) is the definitional provision. The subject of the rule, "electronic filing", is defined as the electronic transmission of legal papers but the term excludes facsimile transmission which is governed by Rule 205.3.

Most importantly, the term "legal paper" is defined as excluding original process unless the court by local rule provides otherwise. For the purposes of this temporary rule, the local court is in a better position to make the determination of whether to include original process based upon a knowledge of the court's technological capabilities.

Subdivision (b) is concerned with the form and content of the legal papers themselves. Three computer formats are explicitly designated for legal papers which are filed electronically. Adobe PDF was chosen because it is becoming a nationally recognized standard format and has a great deal of flexibility in terms of its ability to include other media beside the printed word. WordPerfect for Windows and Microsoft Word for Windows are included as they are the two most commonly used word-processor software packages.

Regarding legal papers themselves, Rule 205.4(b)(1) provides that the electronic filing of a legal paper constitutes the same certification as a signature on a traditionally filed legal paper under Rule ~~[1023]~~ 1023.1.

II. Rule 206.5(c)

Rule 206.5(c) is amended as follows:

Rule 206.5. Rule to Show Cause. Discretionary Issuance. Stay. Form of Order

(c) If the petition is within the scope of [subdivision (a),] 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 proceedings.

III. Rule 1038.2

Footnote 2 to the Explanatory Comment to Rule 1038.2 is amended as follows:

Rule 1038.2. Abolition of Case Stated

Explanatory Comment

New Rule 1038.2 abolishes the case stated, a device which has been described as “a misunderstood procedure” and “a trap for the unwary.” The abolition eliminates confusion as “parties often call something a ‘case stated’ when they really mean a stipulation.”²

² See the concurring opinion in *McCarron v. Upper Gwynedd Township et al.*, 139 Pa. Cmwlth. Ct. 528, 591 A.2d 1151, 1159 [(1990)] (1991).

Explanatory Comment

The Supreme Court of Pennsylvania has promulgated technical amendments to the following three rules of civil procedure. These amendments do not affect practice or procedure.

I. Rule 205.4

Rule 205.4(b)(1)(ii) contained obsolete references to Rule 1023 rescinded in 2002. The rule has been amended to cross-refer to the successor rule, Rule 1023.1. The 1999 Explanatory Comment to the rule is amended to reflect this change and also to delete the obsolete description of the rule as “temporary.”

II. Rule 206.5

Rule 206.5(c) contained an obsolete reference to rescinded “subdivision (a).” The rule has been amended to cross-refer to “Rule 206.1(a)” promulgated in 2003.

III. Rule 1038.2

Footnote 2 to the Explanatory Comment to rule 1038.2 contains a reference to the *McCarron* case. The year of the decision in the footnote, 1990, was erroneous and has been corrected to read “1991.”

By the Civil Procedural
Rules Committee

R. Stanton Wettick, Jr.
Chair