

FINAL REPORT¹

Amendment to Rule 110 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges

INCREASE IN MINIMUM BOND AMOUNT

On October 27, 2005, effective January 1, 2006, upon recommendation of the Minor Court Rules Committee,² the Supreme Court of Pennsylvania amended Rule 110 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges.³

I. Background

The Minor Court Rules Committee (the Committee) undertook a review of Rule 110 (Bonds of Magisterial District Judges) at the direction of the Supreme Court of Pennsylvania and in response to a recommendation of the Special Courts Administration Subcommittee of the Supreme Court's Intergovernmental Task Force to Study the District Justice System (the Task Force Subcommittee).⁴ In its report to the Supreme Court, the Task Force Subcommittee recommended that Rule 110 be amended to increase the minimum amount of the bond that each magisterial district judge must file in accordance with the Rule.⁵ In response to this recommendation, the Supreme Court referred the matter to the Committee for its consideration, and the Committee recommended that Rule 110 be amended as explained below.

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

² Recommendation No. 3 Minor Court Rules 2005.

³ Supreme Court of Pennsylvania Order No. 220, Magisterial Docket No. 1 (October 27, 2005).

⁴ The Intergovernmental Task Force to Study the District Justice System was convened on May 30, 2001 "to examine the current state of the district justice court system" and to "propose clear standards for the decennial magisterial district reestablishment, identify immediate and long-term system problems and needs, and formulate solutions to ensure the prudent and effective administration of the district justice courts." Report of the Intergovernmental Task Force to Study the District Justice System vii (October 2001) (available online at <http://www.courts.state.pa.us/>) [hereinafter Task Force Report].

⁵ *Id.* at 51-52.

II. Discussion and Rule Changes

Prior to this amendment, Rule 110 provided that

[e]ach magisterial district judge is required to give bond in such sum, **not less than Two Thousand Five Hundred Dollars (\$2,500.00)**, as shall be directed by the president judge of the court of common pleas of the judicial district in which is located the magisterial district of the magisterial district judge, with one or more sufficient sureties, the bond shall be lodged with the Prothonotary of the court of common pleas, be conditioned on the faithful application of all moneys that come into the hands of the magisterial district judge as an officer, and be for the benefit of the Commonwealth and its political subdivisions and all persons who may sustain injury from the magisterial district judge in his official capacity.⁶

As the Task Force Subcommittee noted in its report, “[g]iven the case loads of and the amount of money collected by most district courts, the [\$2,500] minimum bond amount required by this rule is likely insufficient to cover” any loss that may result from the malfeasance of a [magisterial] district [judge] with regard to the handling of funds that are paid into his or her court.⁷ The Committee agreed, and determined that the minimum bond amount should be increased to a level that is more commensurate with the average bank account balances of the magisterial district courts. To assist the Committee in recommending an increased minimum bond amount, the Administrative Office of Pennsylvania Courts (the AOPC) was able to extract data from the Magisterial District Judge System (the MDJS)⁸ regarding average bank account balances in the district courts. Based on the MDJS data, the Committee recommended that the minimum bond amount to be required under Rule 110 be increased to \$25,000.⁹

The Committee was mindful that the Task Force Subcommittee’s recommendation included, in addition to an increase in the minimum bond amount, a

⁶ 246 Pa. Code Rule 110 (emphasis added).

⁷ Task Force Report at 51.

⁸ The MDJS is the statewide computer system that automates all case processing and accounting functions of the magisterial district courts.

⁹ The AOPC staff used the MDJS data to examine the month-end bank account balances for 567 courts over an 18 month period (December 2002 – August 2004) and found the average to be \$29,621.

proposal to tie an individual magisterial district judge's bond amount to his or her district court's bank account balance. Specifically, the Task Force Subcommittee recommended that the bond amounts be "based on the average balance of that [magisterial] district [judge's] district court bank account in the preceding twelve months" and that "local court administrators would be responsible for reviewing annual audit reports or other data to determine the average account balance, and then make recommendations to the president judge as to the appropriate bond amount for each [magisterial] district [judge] in the judicial district."¹⁰ While the Committee recognizes the merit in this proposal, the Committee chose an alternative to the Task Force Subcommittee's recommendation to avoid an unnecessary burden on court officials, whether on the president judges or on their designated agents, to monitor the more than 550 bank account balances annually and perhaps to change the bond amounts frequently. The Committee believes that a uniform minimum amount for all bonds for all courts will be more efficient and easier for compliance. As by this amendment, the minimum amount for the bond may be changed in the future if appropriate. In addition, the Committee notes that Rule 110 sets forth only the **minimum** bond amount, and a president judge is free to require higher bond amounts for some or all of the district courts in his or her judicial district.

Therefore, the Committee recommended that Rule 110 be amended to increase the minimum bond amount to \$25,000 while keeping the other essential provisions of the Rule as currently written. In addition to the substantive changes discussed here, the Committee recommended the addition of a clarifying Official Note, and minor technical or "housekeeping" changes to enhance readability and address gender neutrality.

¹⁰ Task Force Report at 51-52. The Task Force Subcommittee recommended that this provision be added to the Rule in addition to the minimum bond amount.