

FINAL REPORT¹

Amendment to the Note to Rule 506 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges

CHANGE TO THE NOTE: REFERENCE TO WAGE GARNISHMENT

On June 2, 2008, effective June 9, 2008, upon recommendation of the Minor Court Rules Committee,² the Supreme Court of Pennsylvania approved amendments to the Note to Rule 506 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges.³

I. INTRODUCTION

The Committee began reviewing Pa.R.C.P.M.D.J. No. 506 in March 2007 following an inquiry from a magisterial district judge. The judge was concerned that Pa.R.C.P. No. 3311 requires personal service upon a defendant in the original action if wage attachment is to be sought at a later time. However, Pa.R.C.P.M.D.J. No. 506 did not make any reference to this restriction in the Rules of Civil Procedure.

II. PROPOSED CHANGE TO THE NOTE TO RULE 506

The Committee amended the Note to M.D.J. Rule 506 to specify that if wage attachment is to be sought at a later time, personal service must be effectuated. The additional language of the Note provides concrete examples of how this personal service would play out in a landlord-tenant case. For instance, the new language specifies that if a defendant is not present at the rental unit to be personally served, the property may be posted for the underlying landlord-tenant action to proceed, but the sheriff/constable would need to return to personally serve the defendant prior to the hearing in order to satisfy Pa.R.C.P. No. 3311.

The new Note language references Pa.R.C.P. No. 3311 twice, to underscore that section's relevance and direct litigants to review the section. Pa.R.C.P. No. 3311 requires a plaintiff judgment creditor/landlord to certify, *inter alia*, "...that the defendant appeared or filed papers in the action or that the complaint was served by handing a copy to the defendant." See Pa.R.C.P. No. 3311, Certification by Judgment Creditor - Landlord Form, No. 8(b).

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

² Minor Court Rules Committee Recommendation 3-2008.

³ Supreme Court of Pennsylvania Order No. 243, Magisterial Docket No. 1 (June 2, 2008).

Finally, the Note highlights that more than one service attempt by the sheriff/constable could result in additional fees.