

Explanatory Comment

Reinstatement of a claim dismissed upon an affidavit of noninvolvement is required by two statutes: Section 7502 of the Judicial Code, 42 Pa.C.S. §7502, relating to construction design professionals and Section 506 of the MCARE Act, 40 P.S. §1303.506, relating to healthcare providers. Currently, the rules of civil procedure are silent as to reinstatement. New Rule 1036.1 supplies this need.

This new rule is virtually identical to Rule 1036 governing dismissal upon an affidavit of noninvolvement. It sets forth a procedure that requires the party seeking reinstatement to file a motion setting forth facts which show that statements made in the affidavit of noninvolvement were false or inaccurate. Upon initially reviewing the motion, if the court determines that the party seeking reinstatement has established a *prima facie* case, any party may conduct discovery limited to the issue of the involvement of the dismissed party. At final argument on the matter, the court makes a determination as to whether the party seeking reinstatement has produced enough evidence to require submission of the issue of the involvement of the dismissed party to a jury.

By the Civil Procedural
Rules Committee

Stewart L. Kurtz
Chair