

Rule 240. In Forma Pauperis

(d)(1) If the party is represented by an attorney, the prothonotary shall allow the party to proceed in forma pauperis upon the filing of a praecipe which

[(i)] contains a certification by the attorney that he or she is providing free legal service to the party and believes the party is unable to pay the costs[, and

(ii) is accompanied by the affidavit required by subdivision (c)].

(2) The praecipe shall be substantially in the form prescribed by subdivision (i).

(i) The praecipe required by subdivision (d) shall be substantially in the following form:

(Caption)

PRAECIPE TO PROCEED IN FORMA PAUPERIS

To the Prothonotary:

Kindly allow _____, (Plaintiff) (Defendant), to proceed in forma pauperis.

I, _____, attorney for the party proceeding in forma pauperis, certify that I believe the party is unable to pay the costs and that I am providing free legal service to the party. [The party's affidavit showing inability to pay the costs of litigation is attached hereto.]

Attorney for

Explanatory Comment

Prior to the present amendment, Rule 240(d) provided for a party represented by an attorney to proceed in forma pauperis upon the filing of a praecipe. The rule prescribed two requirements for the praecipe. First, the praecipe must have contained “a certification by the attorney that he or she is providing free legal service to the party and believes the party is unable to pay the costs”. Second, the praecipe must have been “accompanied by the affidavit required by subdivision (c)” which is filed in support of a petition for leave to proceed in forma pauperis and which demonstrates the party’s inability to pay the costs of litigation.

Subdivision (d) has been amended by deleting the requirement that the affidavit accompany the praecipe. As amended, the rule provides for the prothonotary to allow a party to proceed in forma pauperis solely upon a praecipe containing the certification of the party’s attorney. A conforming amendment to the form of the praecipe in subdivision (i) deletes the reference to the accompanying affidavit. These amendments bring the rule into conformity with Rule 552(d) of the Pennsylvania Rules of Appellate Procedure and Rule 206 E. (iii) of the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings before District Justices.

By the Civil Procedural
Rules Committee

Rea Boylan Thomas
Chair