

FINAL REPORT¹

Amending Rule 209 and Rescinding Rules 320 and 511 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices

CONTINUANCES

On December 16, 2004, effective July 1, 2005, upon recommendation of the Minor Court Rules Committee,² the Supreme Court of Pennsylvania amended Rule 209 and rescinded Rules 320 and 511 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices.³

I. Background and Discussion

In an ongoing effort to simplify and consolidate certain district justice rules, the Committee undertook a review of the rules relating to continuances. The Committee noted that there are currently three separate rules relating to continuances: Rule 209 (relating to grounds for continuances generally), Rule 320 (relating to continuances in civil actions), and Rule 511 (relating to continuances in possessory actions). The Committee was concerned about unnecessary duplication and confusion resulting from having three continuance rules. In addition, some members of the Committee expressed concern about the restrictions on the length of continuances, particularly in Rule 511, being unnecessarily complicated.

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. 1 Minor Court Rules 2004.

³ Supreme Court of Pennsylvania Order No. 213, Magisterial Docket No. 1 (December 16, 2004).

Accordingly, the Committee recommended that all provisions relating to continuances be consolidated in existing Rule 209,⁴ and that Rules 320 and 511 be rescinded.

II. Proposed Rule Changes

A. *Rule 209*

As indicated above, the Committee recommended that all provisions relating to continuances be consolidated in Rule 209. Subdivision A of the amended Rule retains the existing provisions from Rules 320 and 511 that continuances may be granted for cause or by agreement. Likewise, Subdivision B retains the existing provisions that continuances must be to a time and date certain, and that the district justice must note continuances on the docket and notify the parties.

Subdivision C of the amended Rule incorporates the limitations on continuances from Rules 320 and 511 with some changes. Specifically, the Rule provides that generally not more than one continuance may be granted to each party. In addition, the aggregate of all continuances is limited to extending the date of the hearing:

- not more than 90 days from the filing of the plaintiff's complaint in civil actions, or
- not more than 30 days from the filing of the plaintiff's complaint in possessory actions.

The Committee believes these time limitations are reasonable and will ensure that district justice cases proceed expeditiously, while allowing sufficient time for necessary continuances and taking into consideration the time frames for scheduling

⁴ The placement of this Rule in Chapter 200 (Rules of Construction; General Provisions) makes it applicable to both civil actions (Chapter 300) and possessory actions (Chapter 500).

the original hearing date,⁵ service,⁶ and the filing of cross-complaints.⁷ The introductory clause of Subdivision C also provides that the limitations on continuances apply except for good cause shown, giving the district justice discretion to grant continuances outside the limitations when necessary.

Subdivision D of the amended Rule incorporates, with only minor editorial changes, the existing provisions of Rule 209 relating to continuances because of scheduling conflicts with a party's attorney who must participate in attorney or judicial disciplinary proceedings.

B. Rules 320 and 511

In light of the amendments to Rule 209, the Committee further recommended that Rule 320 (relating to continuances in civil actions) and Rule 511 (relating to continuances in possessory actions) be rescinded.

⁵ See Rules 305 and 504.

⁶ See Rules 307 and 506.

⁷ See Rule 315 and 508.