

## FINAL REPORT<sup>1</sup>

### *Amendment to Pa. R.C.P.D.J. No. 420*

#### **CLARIFICATION REGARDING THE RELIEF A DISTRICT JUSTICE MAY GRANT IN CONNECTION WITH OBJECTIONS TO LEVY**

On April 22, 2004, effective July 1, 2004, upon recommendation of the Minor Court Rules Committee,<sup>2</sup> the Supreme Court of Pennsylvania amended Rule 420 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices.<sup>3</sup>

The Committee reviewed Pa. R.C.P.D.J. No. 420 when, in the course of designing and revising forms relating to other rule changes, it was brought to the Committee's attention that the language in Rule 420B(2) was causing confusion about the relief that a district justice may grant in connection with an objection to levy. Specifically, Rule 420B(2), prior to this amendment, referred to a "[s]tay . . . of the levy. . . ." The Committee noted that a stay issued in accordance with Rule 410, a supersedeas, or a bankruptcy stay, will stay the entire execution. And, the Committee further noted that such a stay may take effect prior to the executing officer making a levy upon the defendant's property. However, the Committee could not contemplate any procedural occurrence in which the limited relief of staying the levy itself would be necessary or appropriate. The Committee also noted that, as a form of relief in connection with an objection to levy, a stay of the levy is procedurally impossible. In order for an objection to a levy to be raised, the levy must necessarily have already occurred. In such a situation, the appropriate relief may be a stay of the sale, which is provided for in Rule 420B(3).

Accordingly, the Committee recommended that Rule 420B(2) be amended to delete the reference to a stay, and thus remove any confusion about the relief that a district justice may grant in connection with an objection to levy.

In addition, the Committee recommended other minor revisions to the Official Note to address gender neutrality issues and to enhance clarity.

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<sup>1</sup> 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 Reports.

<sup>2</sup> Recommendation No. 6 Minor Court Rules 2003.

<sup>3</sup> Supreme Court of Pennsylvania Order No.208, Magisterial Docket No. 1, (April 22, 2004).