

IN THE SUPREME COURT OF PENNSYLVANIA

IN RE: : NO. 125
ORDER AMENDING RULES 315, :
402, 510, 517, 1002 AND 1004 :
OF THE RULES OF CONDUCT, : Magisterial Docket No. 1
OFFICE STANDARDS AND :
CIVIL PROCEDURE FOR :
DISTRICT JUSTICES :
: Book 2

ORDER

PER CURIAM:

NOW, this 15th day of December, 2000, upon the recommendation of the Minor Court Rules Committee; the proposal having been published before adoption at 29 Pa.B. 6329 (December 18, 1999), and a Final Report to be published with this *Order*.

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 315, 402, 510, 517, 1002 and 1004 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices are amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective January 1, 2001.

Rule 315. CLAIM BY DEFENDANT

A. * * *

B. * * *

C. A money judgment for the plaintiff or for the defendant, but not for both, [**may**] **shall** be entered with respect to such cross complaints, any lesser amount found due on the claim asserted in one being deducted from the greater amount found due on the claim asserted in the other.

D. * * *

Note

* * *

Under subdivision C, a judgment shall be entered on both complaints where a cross-complaint has been filed, but the award of money shall only be for one party.

Amended Oct. 17, 1975, effective in 90 days; Jan. 29, 1976, effective in 30 days; April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; **amended December 15, 2000, effective January 1, 2001.**

Rule 402. REQUEST FOR ORDER OF EXECUTION; ENTRY OF JUDGMENT IN COURT OF COMMON PLEAS

A. Execution of a judgment for the payment of money rendered by a district justice may be ordered by a district justice in whose office the judgment was rendered or entered, provided the plaintiff files in that office

(1) not before the expiration of thirty (30) days after the date [of] the judgment **is entered by the district justice**, and

(2) within five (5) years of that date,

a request for an order of execution on a form which shall be prescribed by the State Court Administrator.

* * *

D. The plaintiff may enter the judgment in the court of common pleas in any county. When so entered, the indexing, revival and execution of the judgment shall be in accordance with procedures applicable in the court of common pleas. the judgment may be entered in the court of common pleas by filing with the prothonotary a copy of the record of the proceedings containing the judgment, certified to be a true copy by the district justice in whose office the judgment was rendered or by any other official custodian of the record. The judgment may [not] be entered in the court of common pleas [until] after thirty (30) days [after] **from** the date [of] **the** judgment **is entered by the district justice. The judgment may not be entered in the court of common pleas after five (5) years from the date the judgment is entered by the district justice.**

Note

* * *

As to Subdivision D, see the Judicial Code, Section 1516, 42 Pa.C.S. 1516. The thirty day limitation appears to be required by this Section. **Certification by the district justice should not be done before the expiration of thirty (30) days after the date of entry of the judgment. The only method available to renew a judgment would be to record the judgment in the Prothonotary's office prior to the expiration of the five-year period and then follow the applicable Rules of Civil Procedure for the Revival of a Judgment, Rule 1521 and 3025 et seq. Also, Subdivision D makes clear that when the judgment is entered in the court of common pleas, all further process shall come from the court of common pleas and that no further process shall be issued by the district justice.**

Amended Jan. 29, 1976, effective in 30 days; amended effective March 24, 1977; amended April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; March 27, 1992, effective June 25, 1992 [The March 27, 1992, Order provided in part: "In promulgating this Order, the Court recognizes that the District justice Automation Project will be affected by said Rule changes and that, therefore, those rules which affect the project will become effective as the District Justice offices are brought on-line."]; **amended December 15, 2000, effective January 1, 2001.**

Rule 510. SUBPOENA OF WITNESSES

A district justice may issue subpoenas throughout the Commonwealth to require the attendance of witnesses in any cause of action triable before [him] **the district justice. The subpoena may also require the person to produce at the time of hearing documents or things that are under the possession, custody or control of that person.**

Note

This rule is the same as Rule 317 [**of the trespass and assumpsit rules governing subpoenas in civil actions.**

Amended June 30, 1982, effective 30 days after July 17, 1982; **amended December 15, 2000, effective January 1, 2001.**

Rule 517. NOTATION OF TIME OF RECEIPT; SERVICE OF ORDER OF POSSESSION

The [**plaintiff**] **district justice** shall [**serve**] **mail a copy of** the order for possession [**by mailing a copy of it**] to the defendant by first class mail and shall deliver a copy of it for service to the sheriff of, or any **certified** constable in, the county in which the office of the district justice is situated. **If this service is not available to the district justice, service may be made by any certified constable of the Commonwealth.** The officer receiving the order for possession shall note upon the form the time and date that [**he received it.**] **it was received, and [He]** shall serve the order within forty-eight (48) hours by handing a copy of it to the defendant or to an adult person in charge for the time being of the premises possession of which is to be delivered or, if none of the above is found, by posting it conspicuously on those premises. The service copy of the order shall contain the following notice:

* * *

Note

* * *

Amended Oct. 17, 1975, effective in 90 days; April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; March 27, 1992, effective June 25, 1992 [The March 27, 1992, Order provided in part: "In promulgating this Order, the Court recognizes that the District justice Automation Project will be affected by said Rule changes and that, therefore, those rules which affect the project will become effective as the District Justice offices are brought on-line."]; March 28, 1996, effective March 29, 1996; **amended December 15, 2000, effective January 1, 2001.**

Rule 1002. TIME AND METHOD OF APPEAL

A. A party aggrieved by a judgment for money, or a judgment affecting the delivery of possession of real property arising out of a nonresidential lease, may appeal therefrom within thirty (30) days after the date of the entry of the judgment by filing with the prothonotary of the court of common pleas a notice of appeal on a form which shall be prescribed by the State Court Administrator together with a copy of the Notice of Judgment issued by the district justice. The prothonotary shall not accept an appeal from an aggrieved party which is presented for filing more than thirty (30) days after the date **of entry** of the judgment without leave of court and upon good cause shown.

B. A party aggrieved by a judgment for the delivery of possession of real property arising out of a residential lease may appeal therefrom within ten (10) days after the date of the entry of judgment by filing with the prothonotary of the court of common pleas a notice of appeal on a form which shall be prescribed by the State Court Administrator, together with a copy of the Notice of Judgment issued by the district justice. The prothonotary shall not accept an appeal from an aggrieved party which is presented for filing more than ten (10) days after the date **of entry** of judgment without leave of [**Court**] **court** and upon good cause shown.

Note

The thirty day limitation in subdivision A of this rule is the same as that found in the Judicial Code § 5571(b), 42 Pa.C.S. § 5571(b), as amended by § 10(67) of the Judiciary Act Repealer Act, Act of April 28, 1978, P.L. 202, No. 53. The ten day limitation in subdivision B of this rule is designed to implement the time for appeal set forth in § 513 of the Landlord and Tenant Act of 1951 (Act No.1995-33, approved July 6, 1995) (**Act No. 1995-33 was suspended by the Pa. Supreme Court on March 28, 1996 by Order of Court insofar as the Act is inconsistent with Rules of Civil Procedure Governing Actions and Proceedings Before District Justices, as adopted by that Order.**). The two subdivisions of this rule are intended to clarify that where the right of possession of residential real estate is at issue, the shorter, ten day period for appeal applies; where [**the judgment from which**] the appeal is taken [**is a judgment only**] **from any judgment** for money, or a judgment affecting a nonresidential lease, under these rules, the thirty day period of time for appeal applies. **A party may appeal the money portion of a judgment only within the thirty day appeal period specified in subsection A of this rule. It is the intent of this rule that no supersedeas under Pa. R.C.P.D.J. No. 1008 shall be issued by the Prothonotary after the ten (10) day period for filing an appeal, unless by order of court.**

* * *

Adopted June 1, 1971. Amended April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; March 27, 1992, effective June 25, 1992 [The March 27, 1992, Order provided in part: "In promulgating this Order, the Court recognizes that the District justice Automation Project will be affected by said Rule changes and that, therefore, those rules which affect the project will become effective as the District Justice offices are brought on-line."]; March 28, 1996, effective March 29, 1996; **amended December 15, 2000, effective January 1, 2001.**

Explanatory Comment - 2001

The January 1, 2001, amendments to Rule 1002(A) and (B) are to make the language within the Rule consistent. Previously, the Rule used the words "date of entry of judgment" and then "date of judgment". It is the opinion of the Committee that the phrase "date of entry of judgment" should be used and that it should be used consistently throughout the Rule.

The amendment to the Note is necessitated because Rule 514 requires that a judgment be rendered for the delivery of possession of the real property to the plaintiff and a separate entry of a judgment for money, whether it be for rent, damages, or costs. The separate entry of the judgment for money should be treated the same as a judgment in a civil action and there are no additional exigencies requiring an accelerated appeal period. The ten (10) day appeal period should only be applicable to the possession judgment and not to the money judgment.

The purpose of this amendment to the Note and this Explanatory Comment is to clarify the intent of the Rule to permit an appeal of the money judgment only within the thirty (30) day appeal period. See Cherry Ridge Development v. Chenoga, 703 A.2d 1061 (Pa.Super. 1997).

Rule 1004. FILING COMPLAINT OR PRAECIPE ON APPEAL; APPEALS INVOLVING CROSS-COMPLAINTS

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Note

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All judgments entered must be appealed to preserve all issues, if such issue can be properly pleaded in the court of common pleas. This is of particular importance under subdivision C, where both complaints must be appealed to preserve all issues. See *Borough of Downingtown v. Wagner*, 702 A.2d 593 (Pa. Cmwlth. 1997).

Adopted June 1, 1971. Amended Oct. 17, 1975, effective in 90 days; April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; **amended December 15, 2000, effective January 1, 2000.**