

FINAL REPORT

Amendment to Rule 214 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges

PARENTAL NOTIFICATION WHEN CHILD SUBPOENAED

On October 8, 2008, effective May 1, 2009, upon recommendation of the Minor Court Rules Committee,¹ the Supreme Court of Pennsylvania approved an amendment to Rule 214 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges.²

I. Background

The Minor Court Rules Committee (“Committee”) was prompted to suggest the following changes based upon a February 28, 2008 order of the Pennsylvania Supreme Court³. The Court, upon recommendation of the Juvenile Court Procedural Rules Committee, promulgated changes in the Rules of Juvenile Court Procedure that, *inter alia*, would require parental notification when a subpoena is issued to a person under the age of eighteen.

II. Discussion

The Committee reviewed the Feb. 28, 2008 order adopting the Juvenile Court Procedural Rules Committee’s recommendation⁴. The Committee discussed the benefits of the Juvenile Court Procedural Rules Committee’s proposal. Providing a parent or guardian with important information about his or her child’s whereabouts was one of the chief benefits recognized by the Committee in considering adopting similar rule language. In addition, the Committee felt that consistency throughout Pennsylvania’s courts is important, and that if one set of court rules was undergoing a change, the measure should be seriously considered by the Committee. Ultimately, the Committee agreed that they should follow the proposal outlined by the Juvenile Court Procedural Rules Committee.

¹ Minor Court Rules Committee Recommendation 8-2008.

² Supreme Court of Pennsylvania Order No. 251, Magisterial Docket No. 1 (October 8, 2008).

³ Supreme Court of Pennsylvania Order No. 438, Supreme Court Rules Docket No. 1.

⁴ The recommendation was published before adoption at 37 Pa.B. 1306 (March 24, 2007), in the Atlantic Reporter (Second Series Advance Sheets, Vol. 915, March 16, 2007) and on the Juvenile Court Procedural Rules Committee’s website.

III. Approved Rule Changes

To address the issues discussed above, the Committee proposed amending Rule 214 to include a new paragraph (E) that closely tracks the Juvenile Court Procedural Rules Committee's recommendation to the Court.

While the Committee was implementing changes to follow the Juvenile Committee's work, it also recognized other needed changes within Rule 214. In paragraph (B), the Committee inserted several new terms. The paragraph previously stated only that subpoenas may be issued "upon the request of a party." The Committee's proposal added language clarifying that a magisterial district judge may also issue subpoenas upon the request of an "authorized representative" or "attorney of record." In 2006, the Supreme Court adopted a Committee recommendation that permits an individual with personal knowledge of the subject matter to appear on behalf of a party. See Rule 207(A)(1). The previous language of paragraph (B) was also changed to emphasize that a party representing him or herself (*pro se*) can request issuance of a subpoena. The Committee also advocated additions to paragraph (B) to make clear *who* is requesting the subpoenaed witness' testimony, as well as the procedure for obtaining and serving the subpoena.

The Committee suggested adding a new paragraph (D) to provide for return of service forms' submission to the magisterial district court. In addition, the note to Rule 214 was amended to include supplemental information about the new paragraphs (D) and (E) as well as providing other helpful information with regard to subpoenas in civil actions before magisterial district judges.

Finally, the sentence in the note about magisterial district judges' ability to issue subpoenas in blank was moved to paragraph (A). This change is to emphasize, in the rule itself, this prohibition.