

FINAL REPORT¹

Renaming Chapter 400 and Adopting New Rule 401.1 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges

ENFORCEMENT OF JUDGMENTS; ASSIGNMENT OF JUDGMENTS; PARTIES

On May 17, 2005, effective July 1, 2006, upon recommendation of the Minor Court Rules Committee,² the Supreme Court of Pennsylvania renamed Chapter 400 and adopted new Rule 401.1 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges.³

I. Background

The Minor Court Rules Committee (hereinafter the Committee) considered issues relating to the assignment of civil judgments after the Committee learned that some magisterial district judges are receiving notices that judgments have been assigned along with requests for the issuance of amended notices of judgment. The Committee learned that in some areas of the Commonwealth it is becoming common for “judgment enforcement” businesses to purchase civil judgments from plaintiffs who are having difficulty enforcing the judgments. Then, so as to avail themselves of enforcement procedures in an effort to collect the judgments, these businesses request that the magisterial district judge note the assignment on the docket and issue an amended notice of judgment showing the assignee as the real party in interest.

The Committee determined that, although the assignment of common pleas level judgments is not an uncommon practice, it is much less common at the district court level. In addition, there is no procedural mechanism for a magisterial district judge to note the assignment of a judgment on the docket or to issue an amended notice of judgment reflecting the assignment and the name of the real party in interest. The Committee noted that the practice of assigning judgments is recognized in the Rules of Civil Procedure. Specifically, Rule 3026 (Parties) provides in part that “[i]f the judgment has been assigned or transferred, the caption shall contain the name of the original judgment plaintiff and the name of the real party in interest.” Pa.R.C.P. No. 3026(b).

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. 4 Minor Court Rules 2004.

³ Supreme Court of Pennsylvania Order No. 219 Magisterial Docket No. 1 (May 17, 2005).

The Committee determined it would be helpful to district courts and parties if the rules of civil procedure for magisterial district judges would provide some guidance regarding assignments. Therefore, the Committee recommended a new Rule 401.1 to address assignments.

II. Discussion of Rule Changes

As noted above, to address the assignment of civil judgments at the district court level the Committee recommended a new Rule 401.1 entitled “Assignment of Judgment; Parties.” The new rule is placed in Chapter 400 so as to be included with other rules relating to execution and enforcement of money judgments. The rule provides for a docket entry to indicate that a judgment has been assigned, as well as for the issuance of an amended notice of judgment reflecting the name of the original plaintiff (assignor) and the real party in interest (assignee).

The Official Note to the new rule makes clear that the assignee must produce an assignment of judgment, properly executed by the assignor, before the magisterial district judge notes the assignment on the docket or issues an amended notice of judgment. To ensure that the magisterial district judge receives accurate and complete information regarding the assignment, the Committee anticipates that the Administrative Office of Pennsylvania Courts (AOPC) will develop an acknowledgement form to be produced by the statewide district court computer system (MDJS),⁴ and that all assignments filed in the district courts would be filed using this form. In addition, the Official Note makes clear that if the judgment has been entered in the court of common pleas prior to the assignment, the magisterial district judge may not take any action.⁵

In addition to the new rule, the Committee also recommended that the title of Chapter 400 be changed to “ENFORCEMENT OF JUDGMENTS RENDERED BY MAGISTERIAL DISTRICT JUDGES FOR THE PAYMENT OF MONEY” to more accurately describe the rules in the chapter.

⁴ See Pa.R.C.P.D.J. No. 212 (Design of Forms). The July 1, 2006 effective date of this rule change was established to allow sufficient time for the AOPC to develop forms and to make other significant MDJS programming changes needed to implement the rule change.

⁵ See Pa.R.C.P.D.J. No. 402D (4) (“[O]nce the judgment is entered in the court of common pleas all further process must come from the court of common pleas and no further process may be issued by the magisterial district judge.”).