

FINAL REPORT¹

Amendment to Rule 416 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices

CLARIFICATION REGARDING DISTRIBUTION OF PROCEEDS OF SALE

On October 26, 2004, effective January 1, 2005, upon recommendation of the Minor Court Rules Committee,² the Supreme Court of Pennsylvania amended Rule 416 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices.³

The Committee undertook a review of Pa. R.C.P.D.J. No. 416 (Distribution of Proceeds. Priorities.) in response to an inquiry about who is to distribute the proceeds of a sale of personal property held in accordance with an order of execution. The Committee learned that some executing officers (sheriffs and constables) are forwarding the proceeds of the sale to the district justice court for distribution. The Committee believes that the appropriate procedure, and the intent of Rule 416C, is for the executing officer to distribute the proceeds of the sale directly to the party or parties entitled to receive the proceeds. The Committee noted that the district justice has very limited direct involvement in the execution process beyond the issuance of the order of execution and the determination of property claims and disputes, if any.⁴ Importantly, the Committee believes that there is no specific accounting mechanism in the district justice courts to properly receive, account for, and distribute the proceeds of a sale.

Accordingly, the Committee recommended that Rule 416C be amended to further clarify that the officer executing the order shall distribute the proceeds of the sale directly to the party or parties entitled to receive the proceeds. In addition, the Committee recommended wording in the Official Note to further clarify the executing officer's responsibilities, including segregating from personal funds, holding in escrow, and ensuring the safekeeping of any proceeds held prior to distribution. Finally, the Committee recommended minor technical or "housekeeping" amendments to the Rule to address gender neutrality and to conform to modern drafting style.

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 Reports.

² Recommendation No. 2 Minor Court Rules 2004.

³ Supreme Court of Pennsylvania Order No. 211, Magisterial Docket No. 1, (October 26, 2004).

⁴ See *generally* Pa. R.C.P.D.J. Nos. 401-482 (relating to execution of judgments for the payment of money).