

FINAL REPORT¹

Amendment to Pa. R.C.P.D.J. No. 305

AMENDMENT TO RULE 305 TO REMOVE FROM THE RULE THE IMPLICATION THAT PARTIES CAN OBTAIN LEGAL ADVICE FROM DISTRICT JUSTICES OR COURT STAFF

On April 5, 2002, effective July 1, 2002, upon recommendation of the Minor Court Rules Committee², the Supreme Court of Pennsylvania amended Rule 305 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices³.

I. Background

The Committee undertook a review of Rule 305 in response to a request from the Administrative Office of Pennsylvania Courts (AOPC). The AOPC reported that it had received an inquiry from a district justice regarding the language on the Civil Action Hearing Notice, AOPC form 308-B-94. The last sentence in the third paragraph of the Notice to Defendant section of the form provides that if the defendant has "a claim against the plaintiff which is not within district justice jurisdiction, you [the defendant] may request information from this [district justice court] office as to the procedures you may follow." The district justice was concerned that this language, the inclusion of which is required by Rule 305(4)(b), implies that a party can obtain legal advice from district justices or court staff. Upon review of the Rule, the Committee agreed that such an implication does exist. Accordingly, the Committee recommended that Rule 305 be amended to remove from the rule the language that creates the implication that parties can obtain legal advice from district justices or court staff.

In conjunction with the amendment to the rule described above, the Committee also recognized the need for several technical or "housekeeping" amendments to this rule.

II. Discussion of Rule Changes

First, as noted above, the Committee recommended that the last sentence in Rule 305(4)(b) be deleted entirely as it creates the implication that parties can obtain legal advice from district justices or court staff. The Committee determined that the sentence may create more confusion and problems than it solves, and therefore should be deleted from the rule and the Civil Action Hearing Notice form.

¹ The Committee's Final Report should not be confused with the official Committee Notes to the Rules. Also, the Supreme Court of Pennsylvania does not adopt the Committee's Notes or the contents of the Committee's explanatory Final Reports.

² Recommendation No. 5 Minor Court Rules 2001.

³ Supreme Court of Pennsylvania Order No. 136, Magisterial Docket No. 1, Book No. 2 (April 5, 2002).

Also, the Committee recommended that both sentences in the section of the Notice to Defendant as required by Rule 305(4)(c) be capitalized to make this important section of the notice stand out more prominently.

Finally, in conjunction with the proposed amendments to Rule 305 described above, the Committee also recognized the need for minor changes to the rule and its Note to make other minor clarifications, to address gender neutrality issues, and to conform with modern drafting style.