

**IN THE
SUPREME COURT OF PENNSYLVANIA**

IN RE: Technical Amendment of	:	No. 310
Rules of Civil Procedure 76 - 1361	:	Civil Procedural Rules
	:	Docket No. 5

ORDER

PER CURIAM:

AND NOW, this 12th day of April, 1999, the Pennsylvania Rules of Civil Procedure are amended as follows:

Rules 76, 102, 201, 206.5, 206.6, 210, 211, 213, 216, 217, 222, 224, 227.2, 227.3, 229, 230, 230.1, 234.6, 234.9, 237, 237.1, 237.6, 239, 240, 249, 1002, 1006, 1007.1, 1019, 1021, 1024, 1031, 1037, 1038, 1054, 1065, 1066, 1073.1, 1075.1, 1075.2, 1075.3, 1075.4, 1076, 1077, 1081, 1083, 1084, 1085, 1095, 1144, 1147, 1304, 1307, 1312, 1354, 1361 are amended to read as attached hereto.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective July 1, 1999.

NOTE: Underscored material is added.
Bracketed material is deleted

Rule 76. Definitions

"affidavit," a statement in writing of a fact or facts, signed by the person making it, that either (1) is sworn to or affirmed before an officer authorized by law to administer oaths, or before a particular officer or individual designated by law as one before whom it may be taken, and officially certified to in the case of an officer under [his] seal of office, or (2) is unsworn and contains a statement that it is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities;

"signature," includes mark when the individual cannot write, [his] the individual's name being written near it, and witnessed by another who writes his or her own name;

Rule 102. Number. [Gender.] Tense

The singular shall include the plural, and the plural, the singular. [Words used in the masculine gender shall include the feminine and neuter.] Words used in the past or present tense shall include the future.

Rule 201. Agreements of Attorneys

Agreements of attorneys relating to the business of the court shall be in writing, except such agreements at bar as are noted by the prothonotary upon the minutes or by the stenographer on [his] the stenographer's notes.

NOTE: The word "prothonotary" refers to the court official, irrespective of [his] title, who keeps the minutes of the court.

Rule 206.5. Rule to Show Cause. Discretionary Issuance. Stay. Form of Order

(d) The form of order required by subdivision (b) shall be substantially in the following form:

(CAPTION)

ORDER

AND NOW, this ____ day of _____, [199]_____, upon consideration of the foregoing petition, it is hereby ordered that

(5) argument shall be held on _____, [199]____ in Courtroom ____ of the _____ County Courthouse; and

(6) ***

NOTE: In counties in which an evidentiary hearing is held, the order should be modified by deleting paragraphs (4) and (5) and substituting new paragraph (4) to read as follows:

(4) an evidentiary hearing on disputed issues of material fact shall be held on _____, [199]_____ in Courtroom _____ of the _____ County Courthouse.

Rule 206.6. Rule to Show Cause. Issuance as of Course. Stay. Form of Order

(c) The petitioner shall attach to the petition a proposed order substantially in the following form:

(CAPTION)

ORDER

AND NOW, this _____ day of _____, [199]_____, upon consideration of the foregoing petition, it is hereby ordered that

(5) argument shall be held on _____, [199]_____ in Courtroom ____ of the _____ County Courthouse; and

(6) ***

NOTE: Paragraphs (4) and (5) are optional in a county adopting the alternative procedure. This accommodates local procedures which do not fix a hearing date until the answer and depositions have been filed.

In counties in which an evidentiary hearing is held, the order should be modified by deleting paragraphs (4) and (5) and substituting new paragraph (4) to read as follows:

(4) an evidentiary hearing on disputed issues of material fact shall be held on _____[, 199____] in Courtroom _____ of the _____ County Courthouse.

Rule 210. Form of Briefs

If briefs are filed they shall be typewritten, printed or otherwise duplicated and endorsed with the name of the case, the court[, term] and number and name and address of the attorney.

Rule 211. Oral Arguments

Any party or [his] the party's attorney shall have the right to argue any motion and the court shall have the right to require oral argument. With the approval of the court oral argument may be dispensed with by agreement of the attorneys and the matter submitted to the court either on the papers filed of record, or on such briefs as may be filed by the parties. The person seeking the order applied for shall argue first[,] and [he] may also argue in reply, but such reply shall be limited to answering arguments advanced by the

respondent. In matters where there may be more than one respondent, the order of argument by the respondents shall be as directed by the court.

Rule 213. Consolidation, Severance and Transfer of Actions and Issues within a County. Actions for Wrongful Death and Survival Actions

(e) A cause of action for the wrongful death of a decedent and a cause of action for [his] the injuries of the decedent which survives his or her death may be enforced in one action, but if independent actions are commenced they shall be consolidated for trial.

Rule 216. Grounds for Continuance

(A) The following are grounds for a continuance:

(3) Inability to subpoena or to take testimony by deposition, commission, or letters rogatory, of any material witness, shown by affidavit which shall state:

(a) The facts to which the witness would testify if present or if [his deposition should be taken] deposed;

(b) The grounds for believing that the absent witness would so testify [or give his deposition];

(c) ***

(d) The reasons for believing that the witness will attend the trial at a subsequent date, or that [his] the deposition of the witness can and will be obtained;

Rule 217. Costs on Continuance

[If the] A party upon whom such costs are so imposed and who was at fault in delaying the application for continuance [he] may not recover such costs, if ultimately successful in the action; otherwise such costs shall follow the judgment in the action.

Rule 222. Attorneys as Witnesses

Where any attorney acting as trial counsel in the trial of an action is called as a witness [in] on behalf of a party whom [he] the attorney represents, the court may determine whether such attorney may thereafter continue to act as trial counsel during the remainder of the trial.

Rule 224. Regulation of Order of Proof

The court may compel the plaintiff in any action to produce all [his] evidence upon the question of the defendant's liability before [he calls] calling any witness to testify solely to the extent of the injury or damages. The defendant's attorney may then move for a non-suit. If the motion is refused, the trial shall proceed. The court may, however, allow witnesses to be called out of order if the court deems it wise so to do.

Rule 227.2. Court En Banc

All post-trial motions and other post-trial matters shall be heard and decided by the trial judge unless [he] the trial judge orders that the matter be heard by a court en banc of which [he] the trial judge shall be a member. If the trial judge for any reason cannot hear the matter, another judge shall be designated to act. No more than three judges shall constitute the court en banc.

Rule 227.3. Transcript of Testimony

NOTE: Pa.R.J.A., 5000.5(a) requires the request to be delivered to (1) the reporter, (2) the clerk of the trial court in which the proceeding took place or in which the reporter is employed, (3) the district court administrator or [his] the administrator's designee, and (4) in the case of an appeal, to the clerk of the appellate court. The request for transcription of the record may also be made in open court. See Pa.R.J.A. 5000.5(b).

Rule 229. Discontinuance

NOTE: Court approval of a discontinuance must be obtained in any action in which a minor is a party, Rule 2039(a), an action for wrongful death in which a minor is beneficially interested, Rule 2206(a), an action in which an [incompetent] incapacitated person is a party, Rule 2064, and a class action, Rule 1714.

A plaintiff who asserts a cause of action ex contractu and joins as defendants persons liable to [him] the plaintiff in different capacities may not discontinue as to a defendant primarily liable without discontinuing as to all defendants secondarily liable. Rule 2231(e).

Rule 230. Voluntary Nonsuit

(a) ***

NOTE: A plaintiff who asserts a cause of action ex contractu and joins as defendants persons liable to [him] the plaintiff in different capacities may not suffer a voluntary nonsuit as to a defendant primarily liable without suffering a voluntary nonsuit as to all defendants secondarily liable. Rule 2231(e).

(b) [After a] A plaintiff who has rested [his] the case in chief [he] may not suffer a voluntary nonsuit without leave of court and cannot do so after the close of all the evidence.

Rule 230.1. Compulsory Nonsuit at Trial

NOTE: See (1) Rule 231 (b) respecting the plaintiff's right to bring a second action on the same cause of action if a nonsuit has been entered; (2) Rule 227.1 (c) as to the time for filing a motion to remove a nonsuit; (3) Rule 224 authorizing nonsuit on the question of liability before testimony as to injury or damages; (4) Rules 2035 and 2057 forbidding motions for nonsuit against unrepresented minors or [incompetents] incapacitated persons on the ground of nonrepresentation; ***

Rule 234.6. Form of Subpoena

Return of Service (Reverse Side of Subpoena)

On the _____ day of _____, [19]_____, I, _____, served
(name of person served) _____ with the foregoing subpoena by:
(Describe method of service)

Rule 234.9. Notice and Acknowledgment of Receipt of Subpoena by Mail

ACKNOWLEDGMENT OF RECEIPT OF SUBPOENA

I acknowledge receipt of a copy of the subpoena in the above captioned matter.

Date: _____ [,19__]

Signature

Relationship to entity or
[A] authority to receive the
subpoena

Rule 237. Notice of Praecipe for Final Judgment or Decree

No praecipe for judgment on a verdict, or for judgment on a decision in a trial without a jury or for a final decree following a decree nisi in equity shall be accepted by the prothonotary unless it includes a certificate that a copy of the praecipe has been mailed to each other party who had appeared in the action or to [his] the attorney of record for each other party.

Rule 237.1. Notice of Praecipe for Entry of Judgment of Non Pros for Failure to File Complaint or by Default for Failure to Plead

(a)(1) ***

(2) No judgment of non pros for failure to file a complaint or by default for failure to plead shall be entered by the prothonotary unless the praecipe for entry includes a certification that a written notice of intention to file the praecipe was mailed or delivered

(i) ***

(ii) in the case of a judgment by default, after the failure to plead to a complaint and at least ten days prior to the date of the filing of the praecipe to the party against whom judgment is to be entered and to [his] the party's attorney of record, if any.

(b) ***

Rule 237.6 Form of Agreement To Extend Time

An agreement to extend time required by Rule 237.2 shall be substantially in the following form:

(Caption)

AGREEMENT PURSUANT TO RULE 237.2 TO EXTEND TIME TO PLEAD FOLLOWING TEN-DAY NOTICE

It is agreed that _____

(Plaintiff(s)) (Defendants(s))

(is)(are) granted an extension of time through _____[, 19] in which to file

_____ 1. a complaint.

_____ 2. an answer.

_____ 3. an answer or preliminary objections.

Rule 239. Local Rules

(c) To be effective and enforceable:

(4) One certified copy of the local rule shall be filed by the court promulgating the rule with the Civil Procedural Rules Committee, unless the rule relates to domestic relations matters, in which case it shall be filed with the Domestic Relations Procedural Rules Committee.

Rule 240. In Forma Pauperis

(d)(1) If the party is represented by an attorney, the prothonotary shall allow the party to proceed in forma pauperis upon the filing of a praecipe which

(i) contains a certification by the attorney that he or she is providing free legal service to the party and [that he] believes the party is unable to pay the costs, and

(ii) is accompanied by the affidavit required by subdivision (c).

(e) A party permitted to proceed in forma pauperis has a continuing obligation to inform the court of improvement in [his] the party's financial circumstances which will enable [him] the party to pay costs.

Rule 249. Authority of Individual Judge

(a)***

(b) [When a] A law judge may perform a function of the court, other than trying an action, [he may act] at any time and at any place within the judicial district.

(c) ***

Rule 1002. Authority of Attorney

Any act other than verification required or authorized by this chapter to be done by a party may be done by [his] the party's attorney.

Rule 1006. Venue. Change of Venue

(a) Except as otherwise provided by Subdivisions (b) and (c) of this rule, an action against an individual may be brought in and only in a county in which [he] the individual may be served or in which the cause of action arose or where a transaction or occurrence took place out of which the cause of action arose or in any other county authorized by law.

Rule 1007.1. Jury Trial. Demand. Waiver

(a) In any action in which the right to jury trial exists, that right shall be deemed waived unless a party files and serves a written demand for a jury trial not later than twenty

[(20)] days after service of the last permissible pleading. The demand shall be made by endorsement on a pleading or by a separate writing.

(b) Where an appeal is taken from an award in compulsory arbitration and jury trial has not theretofore been demanded, the right to a jury trial shall be deemed waived unless the appellant endorses a demand for a jury trial on [his] the appeal, or unless the appellee files and serves a written demand for a jury trial not later than ten [(10)] days after being served with the notice of appeal.

NOTE: ***

Rule 1019. Contents of Pleadings. General and Specific Averments

(h) A pleading shall state specifically whether any claim or defense set forth therein is based upon a writing. If so, the pleader shall attach a copy of the writing, or the material part thereof, but if the writing or copy is not accessible to [him] the pleader, it is sufficient so to state, together with the reason, and to set forth the substance in writing.

Rule 1021. Claim for Relief. Determination of Amount in Controversy

(a) Any pleading demanding relief shall specify the relief sought [to which the party

deems himself entitled]. Relief in the alternative or of several different types, including an accounting may be demanded.

Rule 1024. Verification

(a) Every pleading containing an averment of fact not appearing of record in the action or containing a denial of fact shall state that the averment or denial is true upon the signer's personal knowledge or information and belief and shall be verified. The signer need not aver the source of [his] the information or expectation of ability to prove the averment or denial at the trial. A pleading may be verified upon personal knowledge as to a part and upon information and belief as to the remainder.

NOTE: See Definition Rule 76 for definition of "verified."

(b) If a pleading contains averments which are inconsistent in fact, the verification shall state that the signer has been unable after reasonable investigation to ascertain which of the inconsistent averments, specifying them, are true but that [he] the signer has knowledge or information sufficient to form a belief that one of them is true.

(c) The verification shall be made by one or more of the parties filing the pleading unless all the parties (1) lack sufficient knowledge or information, or (2) are outside the jurisdiction of the court and the verification of none of them can be obtained within the time allowed for filing the pleading. In such cases, the verification may be made by any person having sufficient knowledge or information and belief and shall set forth the source of [his] the person's information as to matters not stated upon his or her own knowledge and the reason why the verification is not made by a party.

Rule 1031. Counterclaim

(a) The defendant may set forth in the answer under the heading "Counterclaim" any cause of action heretofore asserted in assumpsit or trespass which [he] the defendant has against the plaintiff at the time of filing the answer.

NOTE: ***

Rule 1037. Judgment Upon Default or Admission. Assessment of Damages

(a) If an action is not commenced by a complaint, the prothonotary, upon praecipe of the defendant, shall enter a rule upon the plaintiff to file a complaint. If a complaint is not filed within twenty [(20)] days after service of the rule, the prothonotary, upon praecipe of the defendant, shall enter a judgment of non pros.

NOTE: ***

(b) ***

(1) ***

(2) In all actions in which the only damages to be assessed are the cost of repairs made to property

(i) ***

(ii) the praecipe shall be accompanied by an affidavit of the [repairman] person making the repairs; the affidavit [of the repairman] shall contain an itemized repair bill setting forth the charges for labor and material used in the repair of the property; it shall also state the qualifications of the person who made or supervised the repairs, that the repairs were necessary, and that the prices for labor and material were fair and reasonable and those customarily charged;

(iii) the plaintiff shall send a copy of the affidavit and repair bill to the defendant by registered mail directed to [his] the defendant's last known address, together with a notice setting forth the date of the intended assessment of damages, which shall be not less than ten [(10)] days from the mailing of the notice and a statement that damages will be assessed in the amount of the repair bill unless prior to the date of assessment the defendant by written praecipe files with the prothonotary a request for trial on the issue of such damages; an affidavit of mailing of notice shall be filed.

NOTE: ***

(c) ***

Rule 1038. Trial Without Jury

(a) ***

(b) The decision of the trial judge may consist only of general findings as to all parties but shall dispose of all claims for relief. The trial judge may[, if he wishes,] include as part of the decision specific findings of fact and conclusions of law with appropriate discussion.

(c) The decision may be made orally in open court at the end of the trial, and in that event shall be forthwith transcribed and filed in the office of the prothonotary, or it may be made there-after in writing and filed forthwith. In either event the prothonotary shall notify

all parties or their attorneys of the date of filing. The trial judge shall render [his] a decision within seven [(7)] days after the conclusion of the trial except in protracted cases or cases of extraordinary complexity.

Rule 1054. Specific Averments. Abstract of Title

(a) The plaintiff shall describe the land in [his] the complaint.

(b) A party shall set forth in [his] the complaint or answer an abstract of the title upon which [he] the party relies at least from the common source of the adverse titles of the parties.

Rule 1065. Specific Averments

The plaintiff shall describe the land in [his] the complaint.

Rule 1066. Form of Judgment or Order

(a) ***

(b) Upon granting relief to the plaintiff, the court

(1) shall order that the defendant be forever barred from asserting any right, lien, title or interest in the land inconsistent with the interest or claim of the plaintiff set forth in [his] the complaint, unless the defendant takes such action as the order directs within thirty [(30)] days thereafter. If such action is not taken within the [30] thirty-day period, the prothonotary on praecipe of the plaintiff shall enter final judgment.

NOTE:***

Rule 1073.1. Complaint. Specific Averments. Verification

(a) ***

(b) The complaint shall be verified by the plaintiff upon personal knowledge or information and belief or by any other person having sufficient knowledge or information and belief, who shall set forth the source of [his] the information as to matters not stated upon his or her own knowledge and the reason why the verification is not made by the plaintiff.

Rule 1075.1. Writ of Seizure Upon Notice and Hearing

(a) After the complaint has been filed, the plaintiff may move for the issuance of a writ of seizure whether or not the complaint has been served. The court shall fix the date and time of the hearing which shall not be less than forty-eight [(48)] hours after filing the motion for the writ of seizure.

(b) ***

(c) Notice of the hearing shall be substantially in the form provided by Rule 1353. It shall inform the defendant and any other person found in possession of the property of the place, date and time of the hearing. Service of the notice shall be made not less than twenty-four [(24)] hours before the hearing. When perishable property is to be seized or if other cause is shown, the court may set a shorter time for notice and hearing.

(d) ***

(e) The hearing shall be held whether or not the defendant or other person found in possession of the property appears. If the court is satisfied that notice as provided by this rule has been given or a reasonable attempt to give notice has been made, it shall determine from the complaint, affidavits, testimony, admissions or other evidence, whether the plaintiff has established the probable validity of [his] the claim and, if so, it may order a writ of seizure to be issued upon the filing of a bond as provided by Rule 1075.3.

(f) ***

(g) If the notice of the hearing has not been actually received notwithstanding a reasonable attempt to give notice, the defendant or any other person claiming the right to possession may, within seventy-two [(72)] hours after seizure, petition to vacate the writ of seizure.

Rule 1075.2. Ex Parte Issuance of Writ of Seizure

(a) After the complaint has been filed, a writ of seizure may be issued by the court ex parte at any time upon motion of the plaintiff, upon the filing of a bond as provided by Rule 1075.3 if plaintiff satisfies the court of the probable validity of [his] the claim to possession and that there is probable cause to believe that before notice can be given or hearing held,

(1) ***

(2) ***

(b) ***

(c) If a writ has been issued and the property has been seized, a hearing shall be held within seventy-two [(72)] hours after the seizure of the property. The notice of the hearing shall be substantially in the form provided by Rule 1353. It shall inform the

defendant and any other person found in possession of the property of the place, date and time of the hearing. Service of the notice shall be in the manner provided by Rule 1075.1(d).

(d) The hearing shall be held whether or not the defendant or other person found in possession of the property is served or appears. If the court determines that no notice as required by this rule has been given or no reasonable attempt to give such notice has been made, it shall vacate the writ and the property shall be returned to the person from whom it was taken. If the court is satisfied that notice as required by this rule has been given or a reasonable attempt to give such notice has been made, it shall determine from the complaint, affidavits, testimony, admissions or other evidence whether the plaintiff has established the probable validity of [his] the claim to possession and of the grounds for the ex parte issuance of the writ. If the court has determined that plaintiff has established such validity, it shall enter an order confirming the ex parte issuance of the writ.

(1) If the plaintiff fails to establish [his] the probable right to possession, the court shall vacate the writ and the property shall be returned to the person from whom it was taken. Thereafter, subject to the payment of expenses as hereinafter provided, the action shall then proceed as if no writ of seizure has been issued.

(2) If the plaintiff establishes [his] the probable right to possession but fails to establish the probable validity of the grounds for ex parte issuance of the writ, the court, upon payment by the plaintiff of the expenses as hereinafter provided, may permit [him] the plaintiff to retain possession pending judgment subject to the right of a party to file a counterbond or to exercise any other right under these rules.

(3) ***

(e) ***

Rule 1075.3. Writ of Seizure. Bond

(a) ***

(b) The plaintiff's bond shall be in double the value of the property averred in the complaint with security approved by the prothonotary, naming the Commonwealth as obligee, conditioned that if the plaintiff fails to maintain [his] the right to possession of the property [he] the plaintiff shall pay to the party entitled thereto the value of the property and all legal costs, fees and damages sustained by reason of the issuance of the writ.

NOTE: ***

Rule 1075.4. Service of the Writ of Seizure

(a) ***

(b) When a person in possession of the property who is not a party to the action is served with a writ of seizure, the sheriff shall notify [him] the person that he or she has been added as a defendant and is required to defend the action and shall so state in [his] the return and [said] the person shall thereupon become a defendant in the action. Copies of all prior pleadings and motions not previously furnished to [him] the person shall be forthwith served upon him or her by the plaintiff in the manner provided by Rule 440.

Rule 1076. Counterbond

(a) A counterbond may be filed with the prothonotary by a defendant or intervenor

claiming the right to the possession of the property, except a party claiming only a lien thereon, within seventy-two [(72)] hours after the property has been seized, or within seventy-two [(72)] hours after service upon the defendant when the taking of possession of the property by the sheriff has been waived by the plaintiff as provided by Rule 1077(a), or within such extension of time as may be granted by the court upon cause shown.

NOTE: A person not a party to the action who claims the right to possession of the property may intervene in the action as a defendant. See Rule 2327. Since intervention will ordinarily require more than [72] seventy-two hours, the applicant for intervention should also apply for an extension of the time within which to file a counterbond if he or she desires to obtain possession of the property after [he is permitted to intervene] intervention has been allowed.

After the allowance of intervention, the intervenor has the same status as an original party. See Rule 2330(a).

Extensions of time may be needed when there are hearings under Rule 1075.2.

(b) The counterbond shall be in the same amount as the original bond, with security approved by the prothonotary, naming the Commonwealth of Pennsylvania as obligee, conditioned that if the party filing it fails to maintain [his] the right to possession of the property he or she shall pay to the party entitled thereto the value of the property, and all legal costs, fees and damages sustained by reason of the delivery of the seized property to the party filing the counterbond.

Rule 1077. Disposition of Seized Property. Sheriff's Return

(a) When a writ of seizure is issued, the sheriff shall leave the property during the time allowed for the filing of a counterbond in the possession of the defendant or of any other person found in possession of the property if the plaintiff so authorizes [him] the sheriff in writing.

(b) Property taken into possession by the sheriff shall be held by [him] the sheriff until the expiration of the time for filing a counterbond. If the property is not ordered to be impounded and if no counterbond is filed, and if no proceedings are pending and undecided under Rule 1075.1(g) or Rule 1075.2(c), the sheriff shall deliver the property to the plaintiff.

(c) If the property is not ordered to be impounded and the person in possession at the time the sheriff executed the writ of seizure files a counterbond, the property shall be delivered to [him, but if he] that person. If that person does not file a counterbond, the property shall be delivered to the party first filing a counterbond.

(d) ***

(e) The return of the sheriff to the writ of seizure shall state the disposition made by [him] the sheriff of the property and the name and address of any person found in possession of the property.

Rule 1081. Concealment of Property. Examination of Defendant

The court, at any time during the pendency of the action, upon the petition of the plaintiff setting forth

(1) that [he] the plaintiff is without knowledge of the location of the property and has not [with reasonable diligence] been able with reasonable diligence to ascertain its location;
or

Rule 1083. Judgment in Rem for Property When Defendant Is Not Served and Does Not Appear

If the property has been seized by the sheriff, the court, upon motion of the plaintiff after forty-five [(45)] days from seizure of the property, may enter judgment in rem for the property against any defendant who has not been served and who has not appeared in the action.

NOTE: ***

Rule 1084. Judgment Before Trial When Defendant Is Served Or Appears

(a) If the defendant is served or appears in the action and judgment is entered before trial for the party in possession of the property, the judgment shall determine the party's right to

(1) [his right to] retain possession of the property, and

(2) [his right to] recover special damages, if any.

(b) If judgment is entered before trial for a party not in possession of the property, the judgment shall determine

(1) [his] the party's right to recover possession of the property,

(2) the money value of the property based upon the value set forth in the plaintiff's complaint, and

(3) [his] the party's right to recover special damages, if any.

Rule 1085. Judgment after Trial

(a) If judgment is entered after trial for the party in possession of the property, the judgment shall determine

(1) [his] the party's right to retain possession of the property, and

(2) the amount of any special damages sustained.

(b) If judgment is entered after trial for a party not in possession of the property, the judgment shall determine

(1) [his] the party's right to recover possession of the property,

(2) ***

(3) ***

Rule 1095. The Complaint

The plaintiff shall set forth in the complaint:

(3) the act or duty the defendant is required to perform and [his] the refusal to perform it;

(7) a prayer for the entry of a judgment against the defendant commanding [him to perform the act or duty he is required to perform] that the defendant perform the act or duty required to be performed and for damages, if any, and costs.

Rule 1144. Parties. Release of Liability

(a) The plaintiff shall name as defendants

(3) the real owner of the property, or if [he] the real owner is unknown, the grantee in the last recorded deed.

(b) Unless named as real owner, neither the mortgagor nor [his] the personal representative, heir or devisee of the mortgagor, need be joined as defendant if the plaintiff sets forth in [his] the complaint that [he] the plaintiff releases [him] such person from liability for the debt secured by the mortgage.

Rule 1147. The Complaint

The plaintiff shall set forth in the complaint:

(3) the names, addresses and interest of the defendants in the action and that the present real owner is unknown if [he] the real owner is not made a party;

NOTE: The plaintiff may also set forth in the complaint a release of the mortgagor and [his] the mortgagor's successors in interest. See Rule 1144(b) [supra].

Rule 1304. Conduct of Hearing. Generally

(c) A stenographic record or a recording of the hearing shall not be made unless a party does so at his or her own expense. If a party has a stenographic record or a recording made, he or her shall upon request furnish a copy to any other party upon payment of a proportionate share of the total cost of making the record or recording.

Rule 1307. Award. Docketing. Notice. Lien. Judgment. Molding the Award

(a) The prothonotary shall

(2) immediately send by ordinary mail a copy of the award, with notice of the date and time of its entry on the docket and the amount of arbitrators' compensation to be paid upon appeal, to each party's attorney of record, or to the party if [he] the party has no attorney of record; and

Rule 1312. Form of Oath, Award and Notice of Entry of Award

The oath, award of arbitrators and notice of entry shall be in substantially the following form:

(Caption)

OATH

We do solemnly swear (or affirm) that we will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth and that we will discharge the duties of our office with fidelity.

Chair[man]

AWARD

We, the undersigned arbitrators, having been duly appointed and sworn (or affirmed),
make the following award:

(Note: If damages for delay are awarded, they shall be separately stated.)

_____, Arbitrator, dissents. (Insert name if applicable.)

Date of Hearing: _____

Chair[man]

Date of Award: _____

NOTICE OF ENTRY OF AWARD

Now, the ___ day of _____, [19]_____ at _____, ____M., the above award was
entered upon the docket and notice thereof given by mail to the parties or their attorneys.

Rule 1354. Form of Writ of Seizure

The writ of seizure shall be directed to the sheriff and shall be in substantially the following form:

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF _____

(Caption)

WRIT OF SEIZURE

To the Sheriff of said County:

You are directed to seize the following property:

(specifically describe property)

If the property is found in the possession of [anyone] a person not already a defendant, you are directed to add [him] the person as a defendant, and notify [him] the person that he or she has been added as a defendant and is required to defend the action.

Date of Writ _____

(Name of Prothonotary)

(SEAL)

By: _____
(Deputy)

[NOTE: Former Rule 1354. Form of Writ of Replevin With Bond was rescinded.]

Rule 1361. Form of Notice to Plead

The notice to plead shall be directed to the adverse party and shall be in substantially the following form:

To: _____

(Name of Adverse Party)

You are hereby notified to file a written response to the enclosed (name of pleading) within twenty (20) days from service hereof or a judgment may be entered against you.

(Party Filing Pleading or [His] the Party's Attorney)

NOTE:***

Explanatory Comment

The 1999 technical amendments to the rules of civil procedure accomplish three purposes. First, the rules are made gender neutral. For example, rules which contained references to "he" have been revised by substituting the phrase "he or she" or by replacing the pronoun with the original noun, e.g., "the deponent".

Second, there are a few rules containing forms which are revised by eliminating the date reference to the 1900's in light of the turn of the century. For example, the form of order contained in Rule 206.5 governing petitions formerly began, "AND NOW, this ____ day of _____, 199_...". The form is amended by the substituting a blank line in place of "199_".

Third, the rules have been inconsistent in the use of a word or a word and

numeral to represent a number. For example, one rule might refer to "ten days" while another rule referred to "ten (10)" days. The rules are revised to use numerical representation by word only, e.g., "ten days". The use of a word and numeral remains only in forms such as the notice to plead prescribed by Rule 1361 which directs a party to file a response "within twenty (20) days from service hereof...."

By the Civil Procedural
Rules Committee

Edwin L. Klett
Chair