

**Rule 2355. Notice of Death of a Party. Substitution of Personal Representative**

(a) If a named party dies after the commencement of an action, the attorney of record for the deceased party shall file a notice of death with the prothonotary. The procedure to substitute the personal representative of the deceased party shall be in accordance with Rule 2352.

NOTE: Counsel for the deceased party should file the notice of death promptly upon learning of the death of the party and serve a copy upon every other party to the action.

See Section 3375 of the Decedents, Estates and Fiduciaries Code, 20 Pa.C.S. §3375 which provides that if a plaintiff dies and a personal representative is not appointed within one year after a suggestion of the death, the court, upon petition, shall abate the action if the delay in taking out letters is not reasonably explained.

This rule does not address the case law discussing whether the commencement of an action by or against a deceased person is a nullity and therefore does not toll the running of the statute of limitations.

(b) The notice of death required by subdivision (a) shall be substantially in the following form:

**(CAPTION)**

**NOTICE OF DEATH**

The death of \_\_\_\_\_, a party to the above action, during the pendency of this action is noted upon the record.

\_\_\_\_\_  
Attorney for the Deceased Party

\_\_\_\_\_  
Address

**Explanatory Comment**

The rules of civil procedure previously made no mention of the death of a party to an action. New Rule 2355 applies when a named party dies after an action has been commenced. The new rule alerts the parties to the necessity of noting the death upon the record and of substituting as a party to the action the personal representative of the deceased party. The rule provides a form of Notice of Death which is to be filed with the prothonotary. The rule also incorporates the procedure of Rule 2352 governing substitution of a successor.

By the Civil Procedural  
Rules Committee

R. Stanton Wettick, Jr.  
Chair