

Explanatory Comment

The Supreme Court of Pennsylvania has amended Rule 3051 governing relief from a judgment of *non pros* to clarify the requirements for opening a judgment of *non pros* entered for inactivity. In *Madrid v. Alpine Mountain Corp.*, 24 A.3d 380 (Pa. Super. 2011), the Superior Court of Pennsylvania ruled that under the current language of Rule 3051(b) it was compelled to conclude that a plaintiff is not entitled to relief from a judgment of *non pros* for inactivity without a showing that there was a reasonable explanation or legitimate excuse for the inactivity. Under this interpretation of Rule 3051(b), a judgment of *non pros* for inactivity cannot be opened even if the record did not establish actual prejudice unless the plaintiff could also show a reasonable explanation or legitimate excuse for the delay. Thus, while the defendant was required to show that the delay caused actual prejudice in order to obtain a judgment of *non pros* for inactivity, the plaintiff who cannot show a reasonable excuse for the delay may not challenge the entry of the judgment of *non pros* on the ground that the record failed to establish actual prejudice.

New subdivision (c) is intended to alter the ruling in *Madrid* by providing for the opening of a judgment of *non pros* dismissing a case for inactivity upon a showing that the defendant did not meet each of the three requirements for the entry of a judgment of non pros.

By the Civil Procedural
Rules Committee

Diane W. Perer
Chair