

Explanatory Comment

Rule 237.3 governing relief from judgment of *non pros* or by default has been amended in two respects. Current Rule 237.3(a) requires a verified copy of a complaint or answer, which the petitioner seeks leave to file, be attached to the petition for relief. The amendment removes the requirement that the copy be verified. It was reported to the Committee that both *pro se* litigants and attorneys often fail to attach a verified copy. The purpose of Rule 237.3 is to give a litigant who promptly responds to the entry of a judgment under this rule the ability to prosecute or defend a case. The rule does not achieve its purpose if a litigant is barred from doing so by a technical requirement.

The current rule was amended in 2001 to allow a party to attach a complaint or answer only to the petition for relief; the use of preliminary objections was prohibited notwithstanding the decision in *Peters Township Sanitary Auth. v. American Home and Land Dev. Co.*, 696 A.2d 899 (Pa. Cmwlth. 1997) (holding preliminary objections are an appropriate attachment to a petition to open a default judgment under Rule 237.3). Rule 237.3 has been amended to permit the use of preliminary objections as a pleading that may be attached to a petition for relief from default judgment. By allowing the use of preliminary objections, the amendment is intended to give a defendant the same opportunity to file a responsive pleading after the entry of a default judgment that is afforded to him or her prior to the entry of a default judgment.

Clarifying amendments have been made to the 1994 Explanatory Comment and the 2001 Explanatory Comment has been deleted.

By the Civil Procedural
Rules Committee

William Shaw Stickman IV
Chair