

## **Explanatory Comment**

Rules 1653 and 1656 governing actions to obtain judgment on mechanics' liens have been amended to clarify and update both rules. Rule 1653 governing commencement of the action, has been amended in two respects. First, the rule currently allows for an action to obtain judgment on a mechanics' lien to be initiated by complaint or agreement for an amicable action. The amendment limits initiation of an action by complaint only. The agreement for an amicable action was deleted from Rule 1007 governing the commencement of general civil actions in 1991 because it was a device little used in modern practice, and could be achieved through alternative procedures. See Rule 1007, Explanatory Comment -- 1991. The amendment of Rule 1653 conforms actions to obtain judgment on mechanics' liens to modern practice.

Second, the Rules of Civil Procedure are silent as to whether a claim for a mechanics' lien should be filed under the same or separate docket number as the complaint to obtain judgment on a mechanics' lien. The amendment requires that the claim and the complaint should be filed under the same docket number to clarify procedure. The requirement to use one docket number applies to all complaints filed after the effective date of the proposed amendment.

A note has been added to Rule 1656 governing the complaint to aid practitioners as to the requirements for filing a mechanics' lien and the subsequent complaint to obtain judgment.

By the Civil Procedural  
Rules Committee

William S. Stickman IV  
Chair