

Rule 206. Costs; Proceedings **[in Forma Pauperis]** *In Forma Pauperis*

A. Except as otherwise provided by law, the costs for filing and service of the complaint shall be paid at the time of filing.

B. Except as otherwise provided by **[subdivision]** paragraph C of this rule, the prevailing party in magisterial district **[judge]** court proceedings shall be entitled to recover taxable costs from the unsuccessful party. Such costs shall consist of all filing, personal service, witness, and execution costs authorized by Act of Assembly or general rule and paid by the prevailing party.

C. Taxable costs on appeal or **[certiorari]** *certiorari* shall be paid by the unsuccessful party, and a plaintiff who appeals shall be considered an unsuccessful party if he or she does not obtain on appeal a judgment more favorable than that obtained in the magisterial district **[judge]** court proceeding. A defendant who prevails on **[certiorari]** *certiorari* proceedings brought by the defendant or who obtains a favorable judgment upon appeal by either party shall not be liable for costs incurred by the plaintiff in the preceding magisterial district **[judge]** court proceeding and may recover taxable costs in that proceeding from the plaintiff. A plaintiff who is unsuccessful in the magisterial district **[judge]** court proceeding may recover taxable costs in that proceeding from the defendant if the plaintiff is successful on appeal, and in that event the defendant may not recover costs in the magisterial district **[judge]** court proceeding from the plaintiff.

D. This rule shall apply to all civil actions and proceedings except actions pursuant to the Protection **[f]**From Abuse Act or 42 Pa.C.S. §§ 62A01-62A20.

Note: "Execution" costs include those for executing an order for possession. The items constituting taxable costs in appeal or **[certiorari]** *certiorari* proceedings will be governed by law or general rule applicable in the court of common pleas.

Under **[subdivision]** paragraph B, "personal service ... costs" refers only to personal service since mail costs are to be borne by the plaintiff in all cases in accordance with Section 1725.1 of the Judicial Code, 42 Pa.C.S. § 1725.1.

This rule does not provide for the assessment of filing costs against an unsuccessful plaintiff who has been permitted to proceed **[in forma pauperis]** *in forma pauperis* and who remains indigent. See *Brady v. Ford*, [451 Pa. Super. 363,] 679 A.2d 837 (Pa. Super. [(1996)].

For special provisions governing actions pursuant to the Protection From Abuse Act, see Sections 6106(b) and (c) of the Domestic Relations Code, 23 Pa.C.S. §§

6106(b) and (c). For special provisions governing actions seeking relief for victims of sexual violence or intimidation, see 42 Pa.C.S. §§ 62A01-62A20.

E. Proceedings **[In Forma Pauperis]** *in forma pauperis*

[(i)](1) A party who is without financial resources to pay the costs of litigation shall be entitled to proceed **[in forma pauperis]** *in forma pauperis*.

[(ii)](2) Except as provided by subparagraph **[(iii)](3)**, the party shall file a petition and affidavit in the form prescribed by subparagraph **[(vi)](6)**. The petition may not be filed prior to the commencement of the action, which action shall be accepted in the first instance, without the payment of filing costs.

Except as prescribed by subparagraph **[(iii)](3)**, the **[Magisterial District Judge]** **magisterial district judge** shall act promptly upon the petition and shall enter a determination within five days from the date of the filing of the petition. If the petition is denied, in whole or in part, the **[Magisterial District Judge]** **magisterial district judge** shall briefly state the reasons therefor. The unsuccessful petitioner may proceed no further so long as such costs remain unpaid.

[(iii)](3) If the party is represented by an attorney, the **[Magisterial District Judge]** **magisterial district judge** shall allow the party to proceed **[in forma pauperis]** *in forma pauperis* upon the filing of a **[praecipe which]** *praecipe that* contains a certification by the attorney that the attorney is providing free legal service to the party and believes the party is unable to pay the costs.

[(iv)](4) A party permitted to proceed **[in forma pauperis]** *in forma pauperis* shall not be required to pay any costs imposed or authorized by Act of Assembly or general rule which are payable to any court or any public officer or employee.

The magisterial district judge shall inform a party permitted to proceed **[in forma pauperis]** *in forma pauperis* of the option to serve the complaint by mail in the manner permitted by these rules.

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

[(v)](5) If there is a monetary recovery by judgment or settlement in favor of the party permitted to proceed **[in forma pauperis]** *in forma pauperis*, the exonerated costs shall be taxed as costs and paid to the **[Magisterial District Judge]** **magisterial district judge** by the party paying the monetary recovery. In no event shall the exonerated costs be paid to the indigent party.

[(vi)](6) The petition for leave to proceed **[in forma pauperis] in forma pauperis** and affidavit shall be substantially in the following form:

[Caption]

Petition

I hereby request that I be permitted to proceed **[in forma pauperis] in forma pauperis** (without payment of the filing and service costs). In support of this I state the following:

1. I am the plaintiff in the above matter and because of my financial condition am unable to pay the costs for filing and service of this action.

2. I am unable to obtain funds from anyone, including my family and associates, to pay the costs of litigation.

3. I represent that the information below relating to my ability to pay the costs is true and correct:

(a) Name: _____
Address: _____

(b) Employment
[My present employer is: _____]

If you are presently employed, state

Employer: _____

Address: _____

Salary or wages per month: _____

Type of work: _____ [;]

[or I am presently unemployed.]

If you are presently unemployed, state

The date of my last employment was: _____

Salary or wages per month: _____

Type of work: _____

(c) Other income that I have received within the past twelve months

Business or profession: _____

Other self-employment: _____

Interest: _____

Dividends: _____

Pension and annuities: _____

Social security benefits: _____

Support payments: _____

Disability payments: _____
Unemployment compensation and supplemental benefits: _____
[Workman's] Workers' compensation: _____
Public assistance: _____
Other: _____

(d) Other contributions to household support
[(Wife) (Husband)] Spouse Name: _____
My **[(Wife) (Husband)] Spouse** is employed: _____
Employer: _____
Salary or wages per month: _____
Type of work: _____
Contributions from children: _____
Contributions from parents: _____
Other contributions: _____

(e) Property owned
Cash: _____
Checking account: _____
Savings account: _____
Certificates of deposit: _____
Real estate (including home): _____
Motor vehicle: Make _____, Year _____
Cost _____, Amount owed \$ _____
Stocks; bonds: _____
Other: _____

(f) Debts and obligations
Mortgage: _____
Rent: _____
Loans: _____
Other: _____

(g) Persons dependent upon me for support
[(Wife) (Husband)] Spouse Name: _____
Ages of Minor Children, if any: _____
[Name: _____ Age
Name: _____ Age
Name: _____ Age]
Other persons:
Name: _____
Relationship: _____

4. I understand that I have a continuing obligation to inform the Court of improvement in my financial circumstances which would permit me to pay the costs incurred herein.

5. I verify that the statements made in this petition are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. **[Sec.] § 4904**, relating to unsworn falsification to authorities.

Date: _____

Petitioner _____

Action by the Magisterial District Judge: _____

Date: _____ Magisterial District Judge: _____

Note: This Rule substantially follows Pa.R.C.P. No. 240. Under subparagraph E[(iv)](4), “any costs” includes all filing, service, witness, and execution costs.