

FINAL REPORT¹

Recommendation 1-2018, Minor Court Rules Committee

Amendment of Pa.R.C.P.M.D.J. No. 314

REINSTATEMENT OF COMPLAINT

I. Introduction

The Minor Court Rules Committee (“Committee”) recommended amendments to Rule 314 of the Pennsylvania Rules of Civil Procedure before Magisterial District Judges (“Rules”). Rule 314 addresses the reinstatement of a complaint following a dismissal without prejudice for failure to make timely service upon a defendant. The amendments distinguish the procedure for cases when the complaint is dismissed as to all defendants from dismissal for only some defendants.

II. Background and Discussion

Rule 314 addresses matters relating to service. Rule 314D provides for the dismissal of the complaint without prejudice for failure to make timely service on the defendant, and 314E provides for reinstatement of the complaint following a dismissal without prejudice for failure to make timely service.

The Committee received an inquiry regarding a dismissal without prejudice pursuant to Rule 314D and the ability to reinstate the complaint under Rule 314E when the complaint names multiple defendants, not all defendants have been served, the complaint is dismissed as to the unserved defendant(s), but the case moves forward against the served defendant(s), and proceeds to a hearing on the merits or a default judgment. In this scenario, a concern arises when the plaintiff subsequently locates an unserved defendant and requests reinstatement of the complaint pursuant to Rule 314E. The rule does not address this scenario, and reinstating an adjudicated case to proceed against the previously unserved defendants raises concerns with maintaining the integrity of the court’s original judgment, including the appeal period applicable to the parties.

The Committee discussed the inquiry, and agreed that it would be appropriate to recommend the amendment of the procedures set forth in Rule 314E to distinguish between scenarios when the complaint has been dismissed as to all defendants and when the complaint has been dismissed as to less than all defendants.

¹ The Committee’s Final Report should not be confused with the Official Notes to the Rules. Also, the Supreme Court of Pennsylvania does not adopt the Committee’s Official Notes or the contents of the explanatory Final Reports.

III. Rule Changes

The Committee recommended amendment of Rule 314 by expanding Rule 314E into two subparagraphs. Subparagraph E(1) provides that when the complaint is dismissed without prejudice as to all defendants for failure to make timely service, the complaint may be reinstated. Subparagraph E(2), in contrast, provides that when the complaint has been dismissed without prejudice for failure to make timely service as to less than all defendants, any further action against a previously unserved defendant must be initiated by filing a new complaint. The Official Note provides that the new action in subparagraph E(2) is subject to all applicable fees and costs for a new filing.

The Committee also recommended minor stylistic changes throughout Rule 314.