

**SUPREME COURT OF PENNSYLVANIA
MINOR COURT RULES COMMITTEE**

NOTICE OF PROPOSED RULEMAKING

Proposed Amendment of Pa.R.C.P.M.D.J. No. 402

The Minor Court Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P.M.D.J. No. 402, addressing entry of judgment, for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

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All communications in reference to the proposal should be received by January 29, 2018. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Minor Court Rules Committee,

Anthony W. Saveikis
Chair

REPORT

Proposed Amendment of Pa.R.C.P.M.D.J. No. 402

ENTRY OF JUDGMENT

I. Introduction

The Minor Court Rules Committee (“Committee”) is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P.M.D.J. No. 402. This rule addresses entry of judgment in a magisterial district court or a court of common pleas. The Committee is proposing to (A) clarify the procedure for a request for an order of execution that will take place outside the county where the magisterial district court judgment was rendered, and (B) add the Philadelphia Municipal Court as an additional court where a magisterial district court judgment may be entered.

II. Discussion

(A) Request for an Order of Execution

The Committee has received inquiries in recent years regarding a magisterial district judge’s authority to reject a request for an order of execution that will take place outside the county where the judgment was rendered (*i.e.*, out-of-district execution), and, instead, require the plaintiff to go directly to a magisterial district court in the other county to pursue execution.

Pa.R.C.P.M.D.J. No. 402A currently provides:

Execution of judgment for the payment of money rendered by a magisterial district judge may be ordered by a magisterial district judge in whose office the judgment was rendered or entered provided the plaintiff files in that office

- (1) not before the expiration of 30 days after the date the judgment is entered by the magisterial district judge, and
- (2) within five years of that date,

a request for an order of execution.

In contrast, Pa.R.C.P.M.D.J. No. 402C provides:

A plaintiff may enter the judgment, for the purpose of requesting an order of execution thereon, in an office of a magisterial district judge other than that in which it was rendered only if levy is to be made outside the county

in which the judgment was rendered and the office in which the judgment is entered for execution is that of a magisterial district judge whose magisterial district is situated in the county in which levy is to be made.

The Committee was advised that some magisterial district courts have interpreted the discretionary language in Rules 402A and C as permitting a magisterial district court to reject a request for an order of execution that will take place outside the county where the judgment was rendered, and require the plaintiff to file the request in the other county. The Committee disagrees with this interpretation of the rule, and is of the opinion that the discretionary language used in Rules 402A and C is for the sole benefit of the plaintiff to elect where to enter the judgment for execution.

(B) Philadelphia Municipal Court

Currently, Rule 402 provides, among other things, that a plaintiff may enter a judgment rendered by a magisterial district court in the court of common pleas of any county. See Rule 402D(1). When entered in the court of common pleas, the judgment is subject to the indexing, revival and execution procedures applicable in the court of common pleas. *Id.* Entering a judgment in the court of common pleas, and submission of proof thereof to the magisterial district court, has the effect of vacating the underlying magisterial district court judgment, so that only one judgment remains in effect for execution purposes. See Rule 402D(4).

While reviewing Rule 302 (pertaining to venue) on a separate matter, a Committee member observed that the venue rule specifically permits the transfer of cases to and from the Philadelphia Municipal Court, while the rule on entry of judgments limits transfers to a magisterial district court or a court of common pleas. The Committee agreed that permitting entry of judgments in the Philadelphia Municipal Court would be useful to litigants, and discussed amending Rule 402 to add the Philadelphia Municipal Court as a court where a magisterial district court judgment may be entered.

The Philadelphia Municipal Court Rules of Civil Procedure permit entry of judgments from other courts: “[j]udgments of other Pennsylvania jurisdictions within the jurisdictional amount of this court may be transferred to this court by filing a certified copy of all the docket entries in the action and a certification of the amount of judgment or a certified copy of the transcript of the judgment.” See Phila. M.C.R. Civ.P. No. 125a. Judgments entered in Philadelphia Municipal Court are treated in the same manner as judgments entered in the Court of Common Pleas of Philadelphia County.

Judgment recovered in the Philadelphia Municipal Court shall be a lien upon property in the same manner and to the same extent that judgment recovered in the Court of Common Pleas of Philadelphia County is a lien. All such judgments shall be indexed in the judgment index or indices of

Philadelphia County in the same manner as judgments of the court of common pleas are indexed.

42 Pa.C.S. § 1124. With regard to judgments of magisterial district courts, 42 Pa.C.S. § 1516, referenced in the Official Note to Rule 402, provides:

[a] judgment of a magisterial district judge shall not operate as a lien on real property until a transcript of the record showing a final judgment of a magisterial district judge has been filed in the manner prescribed by general rules in the office of the clerk of the court of common pleas of the county where the property is situated, or in the office of the clerk of the branch of the court of common pleas embracing such county.

42 Pa.C.S. § 1516.

The Committee did not find that these provisions prohibit entry of magisterial district court judgments in the Philadelphia Municipal Court. The Committee agreed that permitting entry of judgments in the Philadelphia Municipal Court would achieve consistency between the courts, and provide litigants with an additional venue to initiate the judgment enforcement process. Accordingly, the Committee agreed to add references to the Philadelphia Municipal Court in Rule 402, as well as to add references to the Philadelphia Municipal Court and a procedural rule of that court to the Official Note.

III. Proposed Changes

The Committee plans to propose an amendment to the Official Note to Rule 402 to clarify that the discretionary language used in paragraphs A, C and D is intended to reflect the options available to the plaintiff, and contrast those paragraphs with Rule 403A, which provides that “[u]pon the filing of the request form, the magisterial district judge ... shall issue the order of execution thereon.”

The Committee also plans to propose the amendment of Rule 402 to add references to the Philadelphia Municipal Court throughout paragraphs D and E of the rule. The Committee will also propose amending the Official Note to add references to the Philadelphia Municipal Court, as well as a pertinent reference to Phila. M.C.R. Civ.P. No. 126c.

The Committee will also propose minor stylistic changes throughout Rule 402.

Rule 402. Request for Order of Execution. Entry of Judgment in Court of Common Pleas **or Philadelphia Municipal Court**

A. Execution of a judgment for the payment of money rendered by a magisterial district judge may be ordered by a magisterial district judge in whose office the judgment was rendered or entered, provided the plaintiff files in that office

(1) not before the expiration of 30 days from the date the judgment is entered by the magisterial district judge, and

(2) within five years of that date,

a request for an order of execution.

B. The request form shall be attached to the order, return and other matters required by these rules.

C. The plaintiff may enter the judgment, for the purpose of requesting an order of execution thereon, in an office of a magisterial district judge other than that in which it was rendered only if levy is to be made outside the county in which the judgment was rendered and the office in which the judgment is entered for execution is that of a magisterial district judge whose magisterial district is situated in the county in which levy is to be made.

The plaintiff may enter the judgment in such other office by filing therein a copy of the record of the proceedings containing the judgment, certified to be a true copy by the magisterial district judge in whose existing office the judgment was rendered or by any other official custodian of the record.

D. (1) The plaintiff may enter the judgment in the court of common pleas in any county **or the Philadelphia Municipal Court**. When so entered, the indexing, revival and execution of the judgment shall be in accordance with procedures applicable in the court of common pleas **or the Philadelphia Municipal Court**.

(2) The judgment may be entered in the court of common pleas **or the Philadelphia Municipal Court** by filing with the prothonotary **or Philadelphia Municipal Court Administrator** a copy of the record of the proceedings containing the judgment, certified to be a true copy by the magisterial district judge in whose office the judgment was rendered or by any other official custodian of the record.

(3) The judgment may be entered in the court of common pleas **or the Philadelphia Municipal Court** after 30 days from the date the judgment is entered by the magisterial district judge. The judgment may not be entered in the court of common

pleas **or the Philadelphia Municipal Court** after five years from the date the judgment is entered by the magisterial district judge.

(4) (a) Within 14 days of entering the judgment in the court of common pleas **or the Philadelphia Municipal Court**, the plaintiff shall file satisfactory proof of the entry of judgment with the magisterial district court that entered the judgment, and the magisterial district court shall vacate the judgment from its docket.

(b) If after 14 days of entering the judgment in the court of common pleas **or the Philadelphia Municipal Court**, the plaintiff fails to comply with subparagraph 4(a) of this rule, the defendant may file such proof with the magisterial district court that entered the judgment, and the magisterial district court shall vacate the judgment from its docket.

(5) Except as provided in **sub**paragraphs D(4) and D(6) of this rule, once the judgment is entered in the court of common pleas **or the Philadelphia Municipal Court** all further process must come from **[the court of common pleas] that court** and no further process may be issued by the magisterial district judge.

(6) The magisterial district judge shall enter satisfaction on the docket of the magisterial district court proceedings upon the filing by any party in interest of a certified copy of the docket entries of the court of common pleas **or the Philadelphia Municipal Court** showing the judgment and satisfaction have been entered in **[the court of common pleas] that court**.

E. (1) As used in this rule, a judgment marked “expired” is a judgment that cannot be satisfied, revived, or vacated because the five-year period designated in Rule 402 has elapsed.

(2) If the plaintiff does not request an order of execution in a magisterial district court or enter the judgment in a court of common pleas **or the Philadelphia Municipal Court** within five years of the date the judgment was entered by the magisterial district judge, then the judgment shall be marked expired.

Official Note: **The discretionary language used throughout paragraphs A, C and D is intended to reflect the various options available to the plaintiff for executing upon a judgment rendered by a magisterial district judge. In contrast, Rule 403A provides that “[u]pon the filing of the request form, the magisterial district judge ... shall issue the order of execution thereon.”**

Under **[subdivision] paragraph** A of this rule, the execution proceedings are commenced by requesting an “order of execution.” The request may not be filed before the expiration of 30 days after the date the judgment is entered by the magisterial

district judge. This will give the defendant an opportunity to obtain a supersedeas within the appeal period. The request must be filed within five years of the date the judgment is entered by the magisterial district judge. No provision has been made for revival of a judgment in magisterial district court proceedings.

[Subdivision] Paragraph C provides for entering the judgment, for the purpose of requesting an order of execution, in an office of a magisterial district judge other than that in which the judgment was rendered when levy is to be made outside the county in which the judgment was rendered. **[Compare] Compare** Pa.R.C.P. No. 3002.

As to **[subdivision] paragraph D**, **[see] see** Section 1516 of the Judicial Code, 42 Pa.C.S. § 1516. The 30-day limitation in the rule appears to be required by this Section. Certification by the magisterial district judge should not be done before the expiration of 30 days after the date of entry of the judgment. The only method available to renew a judgment would be to record the judgment in the **[P]rothonotary's or Municipal Court Administrator's** office prior to the expiration of the five-year period and then follow the applicable Rules of Civil Procedure for the revival of judgments. **[See] See** Pa.R.C.P. No. 3025 **[et seq.] et seq.; see also Phila. M.C.R. Civ.P. No. 126c.** Also, **[subdivision] paragraph D** makes clear that when the judgment is entered in the court of common pleas **or the Philadelphia Municipal Court**, all further process shall come from **[the court of common pleas] that court** and that no further process shall be issued by the magisterial district judge except that the magisterial district judge shall enter on the magisterial district court docket vacating of the judgment due **to** its entry at the court of common pleas **or the Philadelphia Municipal Court**, or proof of satisfaction of a judgment that had been entered in the court of common pleas **or the Philadelphia Municipal Court** and subsequently satisfied in that court. This exception is necessary so that procedures exist for entering satisfaction of all judgments with the magisterial district court, regardless of whether the judgment has been certified to and satisfied in the court of common pleas **or the Philadelphia Municipal Court**. A plaintiff filing a judgment in the court of common pleas **or the Philadelphia Municipal Court** is required to file satisfactory proof of the entry of judgment with the magisterial district court that entered the judgment, and the magisterial district court will then vacate its judgment. This step ensures that only the enforceable common pleas **or Philadelphia Municipal Court** judgment will be reportable as an outstanding liability of the defendant.

[Subdivision] Paragraph E provides that a judgment shall be marked expired if the plaintiff does not request an order of execution in a magisterial district court or enter the judgment in a court of common pleas **or the Philadelphia Municipal Court** within five years of the date the judgment was entered by the magisterial district judge. Limiting the time period for entry of the judgment to five years will give a plaintiff sufficient time to act without indefinitely penalizing a defendant.