

## **Rule 587. Motion for Dismissal.**

### **([A]a) Untimely Filing of Information.**

- (1) Upon motion and a showing that an information has not been filed within a reasonable time, the court may order dismissal of the prosecution, or in lieu thereof, make such other order as shall be appropriate in the interests of justice.
- (2) The attorney for the Commonwealth shall be afforded an opportunity to respond.

### **([B]b) Double Jeopardy.**

- (1) A motion to dismiss on double jeopardy grounds shall state specifically and with particularity the basis for the claim of double jeopardy and the facts that support the claim.
- (2) A hearing on the motion shall be scheduled in accordance with Rule 577 (Procedures Following Filing of Motion). The hearing shall be conducted on the record in open court.
- (3) At the conclusion of the hearing, the judge shall enter on the record a statement of findings of fact and conclusions of law and shall issue an order granting or denying the motion.
- (4) In a case in which the judge denies the motion, the findings of fact shall include a specific finding as to frivolousness.
- (5) If the judge makes a finding that the motion is frivolous, the judge shall advise the defendant on the record that a defendant has a right to file a petition for review of that determination pursuant to **[Rule of Appellate Procedure] Pa.R.A.P. [1573] 1311(a)(3)** within 30 days of the order denying the motion.
- (6) If the judge denies the motion but does not find it frivolous, the judge shall advise the defendant on the record that the denial is immediately appealable as a collateral order.

**Comment:** *Cf.* Pa.R.J.A. 1901 concerning termination of inactive cases.

A motion filed pursuant to this rule must comply with the provisions of Rule 575 (Motions and Answers) and Rule 576 (Filing and Service by Parties).

In any case in which a summary offense is joined with a misdemeanor, felony, or murder charge, and therefore is part of the court case, a dismissal of the prosecution pursuant to **[paragraph] subdivision ([A]a)(1)** would include the dismissal of the summary offense. See the Comment to Rule 502 (Instituting Proceedings in Court Cases).

“Hearing,” as used in **[paragraph] subdivision ([B]b)(2)** includes the taking of testimony, or the hearing of argument, or both. See Rule 115 for the procedures for the recording and transcribing of the hearing.

**[Paragraph] Subdivision ([B]b)(4)** requires the judge to make a specific finding whether the motion is being dismissed as frivolous. The judge should expressly cite on-point controlling case law that would make the claim frivolous. See, e.g., *Commonwealth v. Gains*, **[383 Pa.Super. 208, 217,]** 556 A.2d 870, 874 (**Pa. Super.** 1989) (“A frivolous claim is a claim clearly and palpably without merit; it is a claim which presents no debatable question.”). A mere adverse decision of the case does not mean the matter is frivolous.

Although the judge is required to advise the defendant of his or her appellate rights in **[paragraphs] subdivisions ([B]b)(5) and ([B]b)(6)** upon dismissing the motion, nothing in this rule is intended to preclude the defendant from proceeding to trial without first appealing the double jeopardy question. See, e.g., *Commonwealth v. Lee*, **[490 Pa. 346, 350,]** 416 A.2d 503, 504-05 (**Pa.** 1980) (“Unquestionably, appellant could have sought immediate appellate review of the question involved. For whatever reason, however, appellant proceeded to trial without first appealing the double jeopardy question. We believe that a defendant may choose to proceed to trial and if convicted, still challenge the propriety of the pretrial motion to dismiss on double jeopardy grounds on appeal.” (**[citations] footnote** omitted)).

For the procedures for challenging the denial of the motion to dismiss on double jeopardy grounds when the judge makes a finding that the motion is frivolous, see **[Rule of Appellate Procedure] Pa.R.A.P. [1573] 1311(a)(3)**.

Pursuant to **[Rule of Appellate Procedure] Pa.R.A.P.** 1701(d), the filing of a petition for review does not affect the judge’s power to proceed further in the case while the petition for review is pending.

**[Note: Rule 316 adopted June 30, 1964, effective January 1, 1965; amended June 8, 1973, effective July 1, 1973; amended February 15, 1974, effective immediately; renumbered Rule 315 and amended June 29, 1977 and November 22, 1977, effective as to cases in which the**

**indictment or information is filed on or after January 1, 1978; Comment revised January 28, 1983, effective July 1, 1983; amended August 12, 1993, effective September 1, 1993; renumbered Rule 587 and amended March 1, 2000, effective April 1, 2001; amended March 3, 2004, effective July 1, 2004; Comment revised March 9, 2006, effective September 1, 2006; amended June 4, 2013, effective July 4, 2013.**

***Committee Explanatory Reports:***

**Report explaining the August 12, 1993 amendments published at 22 Pa.B. 3826 (July 25, 1992).**

**Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).**

**Final Report explaining the March 3, 2004 amendment of paragraph (B) published with the Court's Order at 34 Pa.B. 1561 (March 20, 2004).**

**Final Report explaining the March 3, 2006 Comment revision concerning joinder of summary offenses with misdemeanor, felony, or murder charges published with the Court's Order at 36 Pa.B. 1392 (March 25, 2006).**

**Final Report explaining the June 4, 2013 provisions of the new paragraph (B) concerning motions to dismiss on double jeopardy grounds published with the Court's Order at 43 Pa.B. 3331 (June 22, 2013).]**

**Rule 529. Modification of Bail Order Prior to Verdict.**

**(A)a**) The issuing authority who is the magisterial district judge who was elected or assigned to preside over the jurisdiction where the crime occurred, upon request of the defendant or the attorney for the Commonwealth, or by the issuing authority sua sponte, and after notice to the defendant and the attorney for the Commonwealth and an opportunity to be heard, may modify a bail order at anytime before the preliminary hearing.

**(B)b**) A bail order may be modified by an issuing authority at the preliminary hearing.

**(C)c**) The existing bail order may be modified by a judge of the court of common pleas:

- (1) at any time prior to verdict upon motion of counsel for either party with notice to opposing counsel and after a hearing on the motion; or
- (2) at trial or at a pretrial hearing in open court on the record when all parties are present.

**(D)d**) Once bail has been set or modified by a judge of the court of common pleas, it shall not be modified except

- (1) by a judge of a court of superior jurisdiction, or
- (2) by the same judge or by another judge of the court of common pleas either at trial or after notice to the parties and a hearing.

**(E)e**) When bail is modified pursuant to this rule, the modification shall be explained to the defendant and stated in writing or on the record by the issuing authority or the judge.

**Comment:** In making a decision whether to modify a bail order, the issuing authority or judge should evaluate the information about the defendant as it relates to the release criteria in Rule 523 and the types of release on bail set forth in Rule 524.

In Municipal Court cases, the Municipal Court judge may modify bail in the same manner as a common pleas judge may under this rule. See Rule 1011.

The procedures for modification of a bail order by the issuing authority were amended in 2006 to permit the issuing authority to modify bail at any time before the

preliminary hearing on the issuing authority's own motion or request of a party when, for example, new information becomes available concerning the defendant that would affect the issuing authority's decision concerning the type of release and the conditions of release imposed at the preliminary arraignment. The 2006 amendments to **[paragraph] subdivision ([A]a)** are not intended to affect bail procedures in the Philadelphia Municipal Court.

Once bail has been modified by a common pleas judge, only the common pleas judge subsequently may modify bail, even in cases that are pending before a district justice. See Rules 543 and 536.

Pursuant to this rule, the motion, notice, and hearing requirements in **[paragraphs] subdivisions ([C]c)(1) and ([D]d)(2)** must be followed in all cases before a common pleas judge may modify a bail order unless the modification is made on the record in open court either when all parties are present at a pretrial hearing—such as a suppression hearing—or during trial.

See Pa.R.A.P. **[1762(b)(2)] 1610** for the procedures to obtain appellate court review of an order of a judge of the court of common pleas granting or denying release, or modifying the conditions of release.

**[Note: Former Rule 4008 adopted July 23, 1973, effective 60 days hence; rescinded September 13, 1995, effective January 1, 1996, and replaced by Rule 4010. Present Rule 4008 adopted September 13, 1995, effective January 1, 1996. The January 1, 1996 effective dates extended to April 1, 1996; the April 1, 1996 effective dates extended to July 1, 1996; renumbered Rule 529 and amended March 1, 2000, effective April 1, 2001; Comment revised August 24, 2004, effective August 1, 2005; amended May 19, 2006, effective August 1, 2006.**

***Committee Explanatory Reports:***

**Final Report explaining the provisions of the new rule published with Court's Order at 25 Pa.B. 4116 (September 30, 1995).**

**Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).**

**Final Report explaining the August 24, 2004 Comment revision published with the Court's Order at 34 Pa.B. 5025 (September 11, 2004).**

**Final Report explaining the May 19, 2006 amendments concerning “pre-preliminary hearing” modification of bail by the issuing authority published with the Court’s Order at 36 Pa.B. 2633 (June 3, 2006).]**

## Rule 576. Filing and Service by Parties.

### **([A]a) [FILING] Filing.**

- (1) All written motions and any written answers, and any notices or documents for which filing is required, shall be filed with the clerk of courts.
- (2) Filing shall be:
  - ([a]i)** by personal delivery to the clerk of courts;
  - ([b]ii)** by mail addressed to the clerk of courts. Except as provided by law, filing by mail shall be timely only when actually received by the clerk of courts within the time fixed for filing; or,
  - ([c]iii)** in a judicial district that permits electronic filing pursuant to Rule 576.1, as provided in Rule 576.1(E).
- (3) The clerk of courts shall accept all written motions, answers, notices, or documents presented for filing. When a document, which is filed pursuant to **[paragraph] subdivision ([A]a)(1)**, is received by the clerk of courts, the clerk shall time stamp it with the date of receipt and make a docket entry reflecting the date of receipt, and promptly shall place the document in the criminal case file.
- (4) In any case in which a defendant is represented by an attorney, if the defendant submits for filing a written motion, notice, or document that has not been signed by the defendant's attorney, the clerk of courts shall accept it for filing, time stamp it with the date of receipt and make a docket entry reflecting the date of receipt, and place the document in the criminal case file. A copy of the time stamped document shall be forwarded to the defendant's attorney and the attorney for the Commonwealth within 10 days of receipt.
- (5) If a defendant submits a document *pro se* to a judge without filing it with the clerk of courts, and the document requests some form of cognizable legal relief, the judge promptly shall forward the document to the clerk of courts for filing and processing in accordance with this rule.

- (6) **Unified Practice.** Any local rule that is inconsistent with the provisions of this rule is prohibited, including any local rule requiring that a document has to be presented in person before filing or requiring review by a court or court administrator before a document may be filed.

**([B]b) [SERVICE] Service.**

- (1) All written motions and any written answers, and notices or documents for which filing is required, shall be served upon each party and the court administrator concurrently with filing.
- (2) Service on the parties shall be by:
- ([a]i)** personal delivery of a copy to a party's attorney, or the party if unrepresented; or
  - ([b]ii)** personal delivery of a copy to the party's attorney's employee at the attorney's office; or
  - ([c]iii)** mailing a copy to a party's attorney or leaving a copy for the attorney at the attorney's office; or
  - ([d]iv)** in those judicial districts that maintain in the courthouse assigned boxes for counsel to receive service, when counsel has agreed to receive service by this method, leaving a copy for the attorney in the attorney's box; or
  - ([e]v)** sending a copy to an unrepresented party by certified, registered, or first class mail addressed to the party's place of residence, business, or confinement; or
  - ([f]vi)** sending a copy by facsimile transmission or other electronic means if the party's attorney, or the party if unrepresented, has made a written request for this method of service for the document; or
  - ([g]vii)** delivery to the party's attorney, or the party if unrepresented, by carrier service.
- (3) Service on the court administrator shall be by:
- ([a]i)** mailing a copy to the court administrator; or



**([b]ii)** in those judicial districts that maintain in the courthouse assigned boxes for the court administrator to receive service, leaving a copy for the court administrator in the court administrator's box; or

**([c]iii)** leaving a copy for the court administrator at the court administrator's office; or

**([d]iv)** sending a copy to the court administrator by facsimile transmission or other electronic means if authorized by local rule; or

**([e]v)** delivery to the court administrator by carrier service.

**(4) Certificate of Service.**

**([a]i)** All documents that are filed and served pursuant to this rule shall include a certificate of service.

**([b]ii)** The certificate of service shall be in substantially the form set forth in the Comment, signed by the party's attorney, or the party if unrepresented, and shall include the date and manner of service, and the names, addresses, and phone numbers of the persons served.

**(5)** In a judicial district that permits electronic filing pursuant to Rule 576.1, service shall be made as provided in Rule 576.1(D)(2) and (H)(1).

**([C]c)** Any non-party requesting relief from the court in a case shall file the motion with the clerk of courts as provided in **[paragraph] subdivision ([A]a)**, and serve the defendant's attorney, or the defendant if unrepresented, the attorney for the Commonwealth, and the court administrator as provided in **[paragraph] subdivision ([B]b)**.

**Comment:** For the procedures for electronic filing and service as a local option, see Rule 576.1.

**[Paragraph] Subdivision ([A]a)(1)** requires the filing of all written motions, and answers. The provision also applies to notices and other documents only if filing is required by some other rule or provision of law. See, e.g., the notice of withdrawal of charges provisions in Rule 561 (Withdrawal of Charges by Attorney for the

Commonwealth), the notice of alibi defense and notice of insanity defense or mental infirmity defense provisions in Rule 573 (Pretrial Discovery and Inspection), the notice that offenses or defendants will be tried together provisions in Rule 582 (Joinder—Trial of Separate Indictments or Informations), the notice of aggravating circumstances provisions in Rule 802 (Notice of Aggravating Circumstances), and the notice of challenge to a guilty plea provisions in Municipal Court cases in Rule 1007 (Challenge to Guilty Plea).

When a motion, notice, document, or answer is presented for filing pursuant to **[paragraph] subdivision ([A]a)(1)**, the clerk of courts must accept it for filing even if the motion, notice, document, or answer does not comply with a rule or statute or appears to be untimely filed. It is suggested that the judicial district implement procedures to inform the filing party when a document is not in compliance with these rules or a local rule so the party may correct the problem.

See *Commonwealth v. Jones*, 700 A.2d 423 (Pa. 1997); and *Commonwealth v. Little*, 716 A.2d 1287 (Pa. Super. 1998) concerning the timeliness of filings by prisoners proceeding *pro se* (the “prisoner mailbox rule”).

**[The 2004 amendments to paragraph (A)(4) modified the procedure by which the clerks of courts handle filings by represented defendants when the defendant’s attorney has not signed the document being filed by the defendant. As amended, paragraph Subdivision ([A]a)(4) requires, in all cases in which a represented defendant files a document, that the clerk of courts make a docket entry of the defendant’s filing and place the document in the criminal case file, and then forward a copy of the document to both the attorney of record and the attorney for the Commonwealth. See *Commonwealth v. Castro*, 766 A.2d 1283 (Pa. Super. 2001). Compare Pa.R.A.P. [3304] 121(g) (Hybrid [R]representation). The requirement that the clerk time stamp and make docket entries of the filings in these cases only serves to provide a record of the filing, and does not trigger any deadline nor require any response. See Rules 120 (Attorneys—Appearance and Withdrawals) and 122 (Assignment of Counsel) concerning the duration of counsel’s obligation under the rules.**

**[Paragraph] Subdivision ([A]a)(4)** only applies to cases in which the defendant is represented by counsel, not cases in which the defendant is proceeding *pro se*.

The purpose of **[paragraph] subdivision ([A]a)(5)** is to ensure documents raising cognizable legal issues submitted to the judge are transmitted to the clerk of courts, and does not relieve the defendant from complying with the other requirements of the rules. When a document is forwarded to the clerk from a judge, if the defendant is unrepresented, the clerk is to proceed as provided in **[paragraph] subdivision ([A]a)(3)** and the defendant is to be treated like any other party. If the defendant is represented, the clerk is to proceed pursuant to **[paragraph] subdivision ([A]a)(4)**.

**[Paragraph] Subdivision ([A]a)(6)**, titled “Unified Practice,” was added in 2004 to emphasize that local rules must not conflict with the statewide rules. Although this prohibition on local rules that are inconsistent with the statewide rules applies to all Criminal Rules through Rule 105 (Local Rules) and Rule of Judicial Administration 103 (Procedures for Adoption, Filing, and Publishing Rules), the reference to the specific prohibitions is included because these types of local rules have been identified by practitioners as creating significant impediments to the statewide practice of law within the unified judicial system. See the first paragraph of the *Note* to Pa.R.J.A. No. 103. The term “local rule” includes every rule, regulation, directive, policy, custom, usage, form or order of general application. See Pa.R.J.A. No. 103(d)(1).

Any local rule that requires personal appearance in addition to filing with the clerk of courts is inconsistent with this rule.

See Rule 113 (Criminal Case File and Docket Entries) for the requirements concerning the contents of the criminal case file and the minimum information to be included in the docket entries.

**[Paragraph] Subdivision ([B]b)(1)** requires that, concurrently with filing, the party must serve a copy on the court administrator. This requirement provides flexibility to accommodate the various practices for scheduling. However, it is not intended to replace the requirement that the party must file with the clerk of courts.

When a judge is assigned to a case, in addition to the requirements of **[paragraph] subdivision ([B]b)(1)**, it is suggested counsel send the judge a courtesy copy of any filings.

Under any system of scheduling, once a hearing or argument is scheduled, the court or court administrator must give notice of the hearing or argument to the parties, and a copy of the notice must be filed in the criminal case file and a docket entry made. See Rule 114(C)(2).

Although **[paragraph] subdivision ([B]b)(2)([d]iv)** permits the use of assigned mailboxes for service under this rule, the Attorney General’s office never may be served by this method.

A facsimile number or an electronic address set forth on letterhead is not sufficient to authorize service by facsimile transmission or other electronic means under **[paragraph] subdivision ([B]b)(2)([f]vi)**. The authorization for service by facsimile transmission or other electronic means under this rule is document specific and only valid for an individual document. Counsel will have to renew the authorization for each document.

Nothing in this rule is intended to preclude a judicial district from utilizing the United States Postal Service's return receipt electronic option, or any similar service that electronically provides a return receipt, when using certified mail, return receipt requested.

For the definition of "carrier service," see Rule 103.

**[Paragraph] Subdivision ([B]b)(4)** requires the filing party to include with the document filed a certificate of service. The certificate of service should be in substantially the following form:

\* \* \*

**[Note: Former Rule 9022 adopted October 21, 1983, effective January 1, 1984; amended March 22, 1993, effective January 1, 1994; amended July 9, 1996, effective September 1, 1996; renumbered Rule 576 and amended March 1, 2000, effective April 1, 2001. Former Rule 9023 adopted October 21, 1983, effective January 1, 1984; amended June 2, 1994, effective September 1, 1994; renumbered Rule 577 and amended March 1, 2000, effective April 1, 2001; rescinded March 3, 2004, effective July 1, 2004. Rules 576 and 577 combined and amended March 3, 2004, effective July 1, 2004, Comment revised June 4, 2004, effective November 1, 2004; Comment revised September 18, 2008, effective February 1, 2009; Comment revised September 21, 2012, effective November 1, 2012; amended January 25, 2018, effective May 1, 2018.**

***Committee Explanatory Reports:***

**Final Report explaining the March 22, 1993 amendments to former Rule 9022 published with the Court's Order at 23 Pa.B. 1699 (April 10, 1993).**

**Report explaining the June 2, 1994 amendments to former Rule 9023 published at 23 Pa.B. 5008 (October 23, 1993).**

**Final Report explaining the July 9, 1996 amendments to former Rule 9022 published with the Court's Order at 26 Pa.B. 3532 (July 27, 1996).**

**Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).**

**Final Report explaining the March 3, 2004 changes amending and combining Rule 576 with former Rule 577 published with the Court's Order at 34 Pa.B. 1561 (March 20, 2004).**

**Final Report explaining the September 18, 2008 revision of the Comment concerning the United States Postal Service's return receipt electronic option published with the Court's Order at 38 Pa.B. 5428 (October 4, 2008).**

**Final Report explaining the September 21, 2012 revision of the Comment correcting a typographical error in the thirteenth paragraph published with the Court's Order at 42 Pa.B. 6251 (October 6, 2012).**

**Final Report explaining the January 25, 2018 amendment regarding electronic filing and service pursuant to Rule 576.1 published with the Court's Order at 48 Pa.B. 861 (February 10, 2018).]**

### **Rule 113. Criminal Case File and Docket Entries.**

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**Comment:** This rule sets forth the mandatory contents of the list of docket entries and the criminal case files. This is not intended to be an exhaustive list of what is required to be recorded in the docket entries. The judicial districts may require additional information be recorded in a case or in all cases.

The list of docket entries is a running record of all information related to any action in a criminal case in the court of common pleas of the clerk's county, such as dates of filings, of orders, and of court proceedings. The clerk of courts is required to make docket entries at the time the information is made known to the clerk, and the practice in some counties of creating the list of docket entries only if an appeal is taken is inconsistent with this rule.

Nothing in this rule is intended to preclude the use of automated or other electronic means for time stamping or making docket entries.

This rule applies to all proceedings in the court of common pleas at any stage of a criminal case.

The requirement in paragraph (C)(2) that all attorneys and their addresses be recorded makes certain there is a record of all attorneys who have appeared for any litigant in the case. The requirement also ensures that attorneys are served as required in Rules 114 and 576. See *also* Rule 576(**B**)(4) concerning certificates of service.

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**Rule 543. Disposition of Case at Preliminary Hearing.**

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- (C) When the defendant has appeared and has been held for court, the issuing authority shall:
  - (1) set bail as permitted by law if the defendant did not receive a preliminary arraignment; or
  - (2) continue the existing bail order, unless the issuing authority modifies the order as permitted by Rule 529(**[A]a**);

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## Rule 567. Notice of Alibi Defense.

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**Comment:** This rule, which is derived from paragraphs (C)(1)(a), (c)—(g), and (D) of Rule 573 (Pretrial Discovery and Inspection) and was made a separate rule in 2006, sets forth the notice procedures when a defendant intends to raise an alibi defense at trial.

The reference in paragraph (A) to Rule 579 (Time for Omnibus Pretrial Motion and Service) contemplates consideration of the exceptions to the time for filing set forth in Rule 579(A).

The notice-of-alibi provision is intended to comply with the requirement of *Wardius v. Oregon*, 412 U. S. 470 (1973), by the inclusion of reciprocal disclosure responsibilities placed upon the Commonwealth in paragraph (C). See also *Commonwealth v. Contakos*, [455 Pa. 136,] 314 A.2d 259 (Pa. 1974).

Any motion under this rule must comply with the provisions of Rule 575 (Motions and Answers) and Rule 576 (Filing and Service by Parties).

See Rule 576(**[B]b**)(4) and Comment for the contents and form of the certificate of service.

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**Rule 568. Notice of Defense of Insanity or Mental Infirmity; Notice of Expert Evidence of a Mental Condition.**

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**Comment:** This rule, which is derived from paragraphs (C)(1)(b), (c)—(f), and (D) of Rule 573 (Pretrial Discovery and Inspection) and was made a separate rule in 2006, sets forth the notice procedures when a defendant intends to raise a defense of insanity or mental infirmity, or introduce evidence relating to a mental disease or defect or any other mental condition at trial.

For the procedures related to the determination of mental retardation precluding imposition of a sentence of death, see Chapter 8 Part (B).

The reference in paragraph (A) to Rule 579 (Time for Omnibus Pretrial Motion and Service) contemplates consideration of the exceptions to the time for filing set forth in Rule 579(A).

See Rule 569 (Examination of Defendant by Mental Health Expert) for the procedures for the examination of the defendant by the Commonwealth's expert when the defendant provides notice of an intention to raise a defense of insanity or mental infirmity or an intention to introduce expert evidence concerning his or her mental condition.

Any motion under this rule must comply with the provisions of Rule 575 (Motions and Answers) and Rule 576 (Filing and Service by Parties).

See Rule 576(**[B]b**)(4) and Comment for the contents and form of the certificate of service.

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**Rule 573. Pretrial Discovery and Inspection.**

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**Comment:**

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See Rule 576(**[B]****b**)(4) and *Comment* for the contents and form of the certificate of service.

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**Rule 575. Motions and Answers.**

(A) MOTIONS

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(2) A written motion shall comply with the following requirements:

\* \* \*

(f) The motion shall include a certificate of service as required by Rule 576(**[B]b**)(4).

\* \* \*

(B) ANSWERS

\* \* \*

(3) A written answer shall comply with the following requirements:

\* \* \*

(c) The answer shall include a certificate of service as required by Rule 576(**[B]b**)(4).

\* \* \*

**Comment:** For the definition of “motion,” see Rule 103.

See Rule 1005 for the procedures for pretrial applications for relief in the Philadelphia Municipal Court.

“Rules to Show Cause” and “Rules Returnable” were abolished in 2004 because the terminology is arcane, and the concept of these “rules” has become obsolete. These “rules” have been replaced by the plain language “notice of hearings” provided in Rule 577(A)(2).

Pursuant to paragraphs (A)(2)(f) and (B)(3)(c), and Rule 576(**[B]b**)(4), all filings by the parties must include a certificate of service setting forth the date and manner of service, and the names, addresses, and phone numbers of the persons served.

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The prohibition on local rules mandating cover sheets was added because cover sheets are no longer necessary with the addition of the Rule 576(**B**)b(1) requirement that the court administrator be served a copy of all motions and answers.

Although paragraph (D) precludes local rules that require a proposed order be included with a motion, a party should consider whether to include a proposed order. Proposed orders may aid the court by defining the relief requested in the motion or answer.

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## **Rule 576.1. Electronic Filing and Service of Legal Papers.**

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### **(H) Service**

- (1) Upon the submission of a legal paper for electronic filing, the system shall provide an electronic notification to other parties and attorneys to the case who are participating in electronic filing that the legal paper has been submitted. This notification upon submission shall satisfy the service requirements of Rules 114(B) and 576(**[B]b**) on any attorney or party who has established a system account.
- (2) Upon the acceptance by the clerk of courts office of a legal paper for electronic filing, the system shall provide an electronic notification to other parties and attorneys to the case who are participating in electronic filing that the legal paper has been accepted.
- (3) Service of electronic filings on any attorney or party who has not established a UJS web portal account or who is unable to file or receive legal papers electronically or otherwise unable to access the system shall be made by the procedures provided under Rules 114(B) and 576(**[B]b**).

### **Comment:**

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See Rule 576(**[B]b**) governing service of motions and any written answers, and any notices or documents for which filing is required by facsimile transmission or other means.

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**Rule 580. Disposition of Pretrial Motions.**

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**Comment:** See Rule 587(**[B]b**) for the procedures for motions to dismiss on double jeopardy grounds.

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## Rule 605. Mistrial.

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**Comment:** This rule replaces the practice of moving for the withdrawal of a juror.

Examples of “manifest necessity” can be found in *Commonwealth v. Stewart*, [456 Pa. 447,] 317 A.2d 616 (Pa. 1974); *Commonwealth v. Brown*, [451 Pa. 395,] 301 A.2d 876 (Pa. 1973); *United States ex rel. Russo v. Superior Court of New Jersey, Law Division, Passaic County*, 483 F.2d 7 (3rd Cir. 1973), cert. denied, 414 U. S. 1023 (1973); *United States v. Tinney*, 473 F.2d 1085 (3rd Cir. 1973), cert. denied, 412 U. S. 928 (1973); *United States v. Jorn*, 440 U. S. 470 (1971); and *United States v. Perez*, 9 Wheat. 579 (1824); see also *Illinois v. Somerville*, 410 U. S. 458 (1973).

See Rule 587([B]b) for the procedures when a motion to dismiss on double jeopardy grounds is filed.

\* \* \*

**Rule 1011. Bail.**

- (A) Prior to verdict, an existing bail order may be modified by a Municipal Court judge in a Municipal Court case in the same manner as a judge of the court of common pleas may modify a bail order pursuant to Rule 529(**[C]c**), (**[D]d**), and (**[E]e**).

\* \* \*