

**SUPREME COURT OF PENNSYLVANIA  
CIVIL PROCEDURAL RULES COMMITTEE**

**NOTICE OF PROPOSED RULEMAKING**

**Proposed Amendment of Pa.R.Civ.P. 213 and 213.1**

The Civil Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.Civ.P. 213 and 213.1 for the reasons set forth in the accompanying publication report. Pursuant to Pa.R.J.A. 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 report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be 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 **October 31, 2025**. 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 Civil Procedural Rules Committee,

Casey Alan Coyle  
Chair

**Rule 213. Consolidation, Severance, and Transfer of Actions and Issues within a County. Actions for Wrongful Death and Survival Actions.**

- (a) **General Rule.** In actions pending in a county **[which] that** involve a common question of law or fact **and at least one party in common,** or **[which]** arise from the same transaction or occurrence, the court on its own motion or on the motion of any party may order a joint hearing or trial of any matter in issue in the actions, may order the actions consolidated, and may make orders that avoid unnecessary cost or delay.
- (b) **Court Order.** The court, in furtherance of convenience or to avoid prejudice, may, on its own motion or on motion of any party, order a separate trial of any cause of action, claim, or counterclaim, set-off, or cross-suit, or of any separate issue, or of any number of causes of action, claims, counterclaims, set-offs, cross-suits, or issues.

**[(c), (d) Rescinded June 23, 1975, imd. effective.]**

**Note: Subdivisions (c) and (d) have been rendered unnecessary in view of the abolition of the former Municipal Court of Philadelphia and the County Court of Allegheny County by the Constitution of 1968.**

**For transfer of actions from counties of improper venue, see Rule 1006(e).]**

**[(e)](c)Wrongful Death and Survival Actions.** A cause of action for the wrongful death of a decedent and a cause of action for the injuries of the decedent **[which] who** survives his or her death may be enforced in one action, but if independent actions are commenced they shall be consolidated for trial.

- (1) If independent actions are commenced or are pending in the same court, the court, on its own motion or the motion of any party, shall order the actions consolidated for trial.
- (2) If independent actions are commenced in different courts, the court in which the second action was commenced, on its own motion or the motion of any party, shall order the action transferred to the court in which the first action was commenced.
- (3) If an action is commenced to enforce one cause of action, the court, on its own motion or the motion of any party, may stay the action until an action is commenced to enforce the other cause of action and is consolidated therewith or until the commencement of such second action is barred by the applicable statute of limitation.

**[(f)](d) Transfer of Actions.**

- (1)** **[When] If** an action is commenced in a court **[which] that** has no jurisdiction over the subject matter of the action, it shall not be dismissed if there is another court of appropriate jurisdiction within the Commonwealth in which the action could originally have been brought **[but the]**.
- (2)** **The** court shall transfer the action at the cost of the plaintiff to the court of appropriate jurisdiction.
- (3)** **[It shall be the duty of the] The** prothonotary **[or clerk of the court] of the county** in which the action is commenced **[to] shall** transfer the record **[together with] and** a certified copy of the docket entries to the prothonotary **[or clerk of the court] of the county** to which the action is transferred.

**Comment:**

**Subdivision (c) has been preempted by the Federal Arbitration Act, 9 U.S.C. §§ 1 et seq. to the extent that it purports or operates to bar the arbitration of a claim otherwise subject to an arbitration agreement. See *Taylor v. Extendicare Health Facilities, Inc.*, 147 A.3d 490 (Pa. 2016).**

**For transfer of actions from counties of improper venue, see Rule 1006(e).**

**Historical Commentary**

**The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:**

**Explanatory Comment—1975**

Prior to 1969, two county courts existed in Pennsylvania. The Municipal Court of Philadelphia was created by the Act of July 12, 1913, P.L. 711, § 1, 17 P.S. § 681, and subsequently renamed the County Court of Philadelphia by the Act of July 17, 1961, P.L. 781, § 1, 17 P.S. § 705. The County Court of Allegheny County was created by the Act of May 5, 1911, P.L. 198, § 1, 17 P.S. § 621. Both of these courts were abolished by the Constitution of 1968.

Business of the Court Rules 213(c) and (d) refer to transfers between county courts and common pleas courts. Joinder of Parties Rule 2231(b) is predicated on the jurisdiction of the county courts. These sub-divisions are obsolete.

Trespass Rule 1044(c) refers to county courts. This reference is also obsolete.

Rules 213(c) and (d) and 2231(b) have been rescinded and the reference to a county court in Rule 1044(c) has been deleted. Appropriate notes have been added to each Rule.

### **Explanatory Comment—1990**

When multiple actions are brought within a single county, Rule 213(a) authorizes the court to order a joint hearing or trial, to consolidate the actions or to enter other orders to avoid unnecessary cost or delay. The actions subject to consolidation are those involving a common question of law or fact. The amendment expands the bases for consolidation to include actions “which arise from the same transaction or occurrence.” The trial court may determine that in a particular case it makes for sound judicial administration to try together all cases arising from the same transaction or occurrence. Many times, these actions will also involve a common question of law or fact.

The amendment is a variation of Rule 1020(d)(1) which requires the joinder in separate counts of all causes of action against the same person arising from the same transaction or occurrence. Rule 213 as amended applies where the actions involve the same or different persons and the court may provide for a joint trial, consolidate the actions or make such other order as it deems appropriate. Whereas Rule 1020(d)(1) is mandatory, Rule 213 will be permissive and any action taken by the court will be discretionary. But the basis of both rules is the avoidance of multiple trials and proceedings involving common facts or issues or arising from the same transaction or occurrence. The avoidance of duplication of effort is a benefit to both the parties and the courts.

The title of the rule has been revised to reflect that it applies to multiple actions brought in the same county, thus distinguishing it from new Rule 213.1, discussed below. The remaining revisions to the rule are stylistic only.

**Rule 213.1. Coordination of Actions in Different Counties.**

- (a) **General Rule.** In actions pending in different counties **[which] that** involve a common question of law or fact **and at least one party in common,** or **[which]** arise from the same transaction or occurrence<sub>;</sub>:
- (1) **[any] Any** party, with notice to all other parties, may file a motion requesting the court in which a complaint was first filed to order coordination of the actions.
- (2) Any party may file an answer to the motion<sub>.</sub> **[and the]**
- (3) **The** court may hold a hearing.
- (b) **Stay.** The court in which the complaint was first filed may stay the proceedings in any action **[which] that** is the subject of the motion.
- (c) **Determining Coordination.** In determining whether to order coordination and which location is appropriate for the coordinated proceedings, the court shall consider, among other matters:
- (1) whether the common question of fact or law is predominating and significant to the litigation;
- (2) the convenience of the parties, witnesses<sub>,</sub> and counsel;
- (3) whether coordination will result in unreasonable delay or expense to a party or otherwise prejudice a party in an action **[which] that** would be subject to coordination;
- (4) the efficient utilization of judicial facilities and personnel<sub>,</sub> and the just and efficient conduct of the actions;
- (5) the disadvantages of duplicative and inconsistent rulings, orders<sub>,</sub> or judgments; **and**
- (6) the likelihood of settlement of the actions without further litigation should coordination be denied.
- (d) **Court Order Granting Coordination.** If the court orders that actions shall be coordinated, it may<sub>;</sub>

- (1) stay any or all of the proceedings in any action subject to the order[, or];
- (2) transfer any or all further proceedings in the actions to the court or courts in which any of the actions is pending[.]; or
- (3) make any other appropriate order.

(e) **Notice of Coordination.**

- (1) In the order of coordination, the court shall:
  - (i) include the manner of giving notice of the order to all parties in all actions subject thereto; **[and]**
  - (ii) direct that specified parties pay the costs, if any, of coordination[.]; **and**
  - (iii) **[The court shall also]** order that a certified copy of the order of coordination be sent to the courts in which the actions subject to the order are pending[.].
- (2) **[whereupon those] Those courts receiving the certified copy of the order of coordination pursuant to subdivision (e)(2)(iii) shall take such action as may be appropriate to carry out the coordination order.**

(f) **Actions Filed After Coordination is Determined. After an order of coordination has been entered, any party in a subsequent action involving a common question of law or fact and at least one party in common, or arising from the same transaction or occurrence as the coordinated action, may file a motion pursuant to subdivision (a) with the coordination court to be added to the coordinated action. The coordination court shall determine the coordination according to the factors in subdivision (c).**

(g) **Final Order Disposing Coordinated Action.** The final order disposing of a coordinated action or proceeding shall be certified and sent to the court in which the action was originally commenced to be filed of record.

## **Historical Commentary**

**The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:**

### **Explanatory Comment—1990**

Rule 213.1 addresses a subject formerly not covered by the rules of civil procedure, the coordination of actions brought in courts of common pleas of different counties. It provides a procedure to regulate actions which are brought in different counties but which involve common questions of law or fact or which arise from the same transaction or occurrence. The basis for the rule is the same as for Rule 213, i.e., the avoidance of multiple trials and proceedings in these actions and the resultant economy to both the parties and the judicial system.

A problem sought to be relieved by this rule is the instance where actions proceed simultaneously in more than one county and no court will defer to another and no party is willing to litigate the claim in a county other than the one of his choosing. This situation leads to duplication of effort by the courts and the parties and may result in inconsistent rulings and orders.

Pennsylvania does not have legislation governing this area. There are no guidelines similar to those of the federal Manual for Complex Litigation, nor is there a supervisory body such as the Judicial Panel on Multidistrict Litigation and none is proposed by the new rule. Rather, the rule provides a mechanism for the various courts of common pleas to work together when litigation crosses county lines.

The rule covers five subjects: the request for coordination (subdivision (a)), the stay of proceedings (subdivision (b)), the criteria for coordination (subdivision (c)), the order of coordination (subdivision (d)), and notice of the order (subdivision (e)).

Subdivision (a) provides the procedure for obtaining an order of coordination: motion, answer and hearing. The procedure is deliberately left general and flexible. The two stated requirements are that the motion must be “with notice to all other parties” and that the request be made to “the court in which a complaint was first filed”. Notice must be given to all parties in all actions which are to be coordinated. The court in which the first complaint was filed establishes a forum for the coordination proceedings.

Subdivision (b) provides the court before which a motion is pending with the necessary authority to stay all actions which eventually may be subject to the order of coordination.

Subdivision (c) sets forth in the criteria to be considered by the court in determining whether to enter an order of coordination. Several of the criteria specified by subdivision (b) are similar to the criteria for certification of a class action under Rule 1708. The similarity is not surprising since the two provisions have the identical function, as expressed by Rule 1708, of determining whether the particular procedural device is “a fair and efficient method of adjudicating the controversy.”

Subdivision (d) is concerned with the order of coordination. The court is authorized to stay proceedings in any action subject to the order, transfer an action to another court or “make any other appropriate order.” Under subdivision (b) the court is empowered to stay actions which are the subject of the motion for coordination pending the determination of the motion. Subdivision (d) authorizes the court to further stay actions once the decision to coordinate has been made.

Subdivision (d)(2) governs the transfer of actions. This type of transfer is new to Pennsylvania practice. It has long been the practice that an action may be transferred only under Rule 1006(d) by the court in which the action is pending to another court for the convenience of the parties and witnesses or in order to obtain a fair and impartial trial. In subdivision (d)(2), the court is reaching out to and taking control of actions pending not only in the forum county but in other counties of the Commonwealth as well. The power of the court under Rule 213.1 is statewide.

Subdivision (d)(2) mentions transfer to the “court or courts in which any of the actions is pending.” This language implies that the order of coordination need not necessarily provide for only one coordinated action. Rather, if appropriate, there might be more than one coordinated action. Actions which are ready for trial might be the subject of one coordinated action while recently commenced actions might be the subject of a second coordinated action. Regionalization of certain litigation might be beneficial to the courts and parties under certain circumstances. However, the propriety of such procedures would depend on numerous factors, including the risk of inconsistent and duplicative orders. These coordination alternatives are only illustrative of the imaginative procedures available under the rule.

Subdivision (d)(3) provides an opportunity for creative judicial management. Unlike Section 1407 of the Judicial Code of the United States, 28 U.S.C.A. § 1407, which provides for the transfer of actions “for coordinated or consolidated pretrial proceedings”, the purposes for which actions may be coordinated are not specified in Rule 213.1. The court may “make any other appropriate order.” For instance, actions may be consolidated generally, for pretrial proceedings, for determination of specified issues of law or fact or for trial. The order is limited only by its function of providing a fair and efficient method of adjudicating the controversy.



Subdivision (e) concerns notice of the order. The court will specify the manner of giving notice to all parties in all actions subject to the order. A certified copy of the order is to be sent to the courts in which the actions to be coordinated are pending so that they might “take such action as may be appropriate to carry out the coordination order.”

In providing a framework rather than detailed procedures, the rule applies to both complex and simpler litigation which crosses county lines. One court will be able to take charge of multiple class actions commenced in several counties. One court will be able to oversee litigation arising from two petitions to open a judgment, one petition filed in the county in which the judgment was entered and the other in the county to which it was transferred.

**SUPREME COURT OF PENNSYLVANIA  
CIVIL PROCEDURAL RULES COMMITTEE**

**PUBLICATION REPORT**

**Proposed Amendment of Pa.R.Civ.P. 213 and 213.1**

The Civil Procedural Rules Committee is considering recommending the amendment of Pennsylvania Rules of Civil Procedure 213 and 213.1 relating to the consolidation of actions and the coordination of actions, respectively.

The Committee commenced rulemaking in the wake of the Supreme Court's decision in *HTR Restaurants, Inc. v. Erie Insurance Exchange*, 307 A.3d 49 (Pa. 2023), in which the Court held that Pa.R.Civ.P. 213.1 did not permit the coordination of actions commenced after a coordination order has been entered, *i.e.*, tag-along cases. The Court referred to the Committee the question of whether the rule should be amended to provide a coordination procedure for tag-along cases similar to the Federal Multi-District model or a variation permitted in other states. *Id.* at 70.

The Committee first examined the text of Pa.R.Civ.P. 213.1 in its entirety. Subdivision (a) of the rule sets the standard for coordination of actions pending in different counties as those “involv[ing] a common question of law or fact or aris[ing] from the same transaction or occurrence.” The Committee determined that the first standard, involving a common question of law or fact, has the potential for an overly broad application and could allow the coordination of actions by various parties simply because a matter may involve a common question of law or fact. Using the example of *HTR Restaurants*, the Committee noted that these actions all involved many plaintiffs but had one defendant in common. To ensure that coordinated actions involve very similar cases, the Committee proposes amending the prefatory clause so that the first standard is to allow coordination for actions involving a common question of law or fact and at least one party in common.

Additionally, the Committee observed that Pa.R.Civ.P. 213(a) governing the consolidation of actions had the same language; it proposes similarly amending this rule. Commentary has also been added to Pa.R.Civ.P. 213 advising that subdivision (c) governing the consolidation of wrongful death and survival actions has been preempted by the Federal Arbitration Act, 9 U.S.C. §§ 1 *et seq.* to the extent it purports or operates to bar the arbitration of a claim otherwise subject to an arbitration agreement. *See Taylor v. Extendicare Health Facilities, Inc.*, 147 A.3d 490 (Pa. 2016).

Turning to the specific referral in *HTR Restaurants*, the Committee determined that amendment of Pa.R.Civ.P. 213.1 to add a mechanism to allow the tag-long cases to be coordinated with a pending coordinated action had merit because it would increase judicial efficiency. With this concept in mind, the Committee did not favor the Federal or

any state model using a panel to make determination of coordination of tag-along cases. Rather, the Committee proposes amending Pa.R.Civ.P. 213.1 to amend subdivision (f) to allow any party of a tag-along case the option to request coordination with an already-coordinated action by filing a motion to coordinate as set forth in subdivision (a) of the rule. This motion is intended to be determined in accordance with the other provisions of the rule determining the initial coordination of actions. The motion would necessarily need to be filed with the coordination court for this determination. The proposed amendment would require the coordination court to determine the motion on the factors set forth in subdivision (c) of the rule. Further, the proposed amendment would not eliminate the coordination court's discretion to require a hearing on the coordination of the tag-along case.

The Committee invites all comments, objections, concerns, and suggestions regarding this proposed rulemaking.