

– This is an entirely new rule –

Rule 210.1. *Ex Parte* Communication.

- (a) Unless otherwise authorized by law or state court rule, no person shall communicate with the magisterial district judge in any way regarding matters pending before the magisterial district judge unless all parties:
 - (1) are present or have been copied if the communication is written or in electronic form; or
 - (2) have waived their presence or right to receive the communication.
- (b) If the magisterial district judge receives any unauthorized *ex parte* communication, the magisterial district judge shall inform all parties of the communication and its content.

Comment: Generally, communications should include all parties. No unauthorized *ex parte* communications with the magisterial district judge are to occur. Authorized *ex parte* communications include those made in connection with proceedings for emergency protective orders, *i.e.*, Pa.R.Civ.P.M.D.J. 1201 – 1211, which are *ex parte* proceedings. See Pa.R.Civ.P.M.D.J. 1207. Certain *ex parte* communications for scheduling, administrative, or emergency purposes that do not address substantive matters are permissible. See Rule 2.9(A)(1) of the Rules Governing Standards of Conduct of Magisterial District Judges.

Attorneys are bound by Rule 3.5 of the Rules of Professional Conduct. Magisterial district judges are bound by Rule 2.9 of the Rules Governing Standards of Conduct of Magisterial District Judges.

Attorneys and judges understand the impropriety of *ex parte* communications regarding matters pending before the magisterial district court but many participants are not attorneys or judges. This rule ensures that all parties receive the same information that is being presented to the magisterial district judge so that it may be challenged or supplemented.

Rule 320. Request to Withdraw Complaint; ~~[Settlement]~~ Settlements.

[A(1)](a) Withdrawal of Complaint.

(1) A plaintiff may withdraw the complaint prior to the commencement of the hearing by filing a written notice of withdrawal with the magisterial district court. Upon receipt of such notice, the magisterial district court shall **[note]**:

(i) **mark** the withdrawal of the complaint on the docket~~[,]~~;

(ii) cancel any scheduled hearing, ~~[(]except for a consolidated hearing on a cross-complaint pursuant to [Rule 315B),]~~ **Pa.R.Civ.P.M.D.J. 315B**; and

(iii) notify the parties in writing that the complaint has been withdrawn.

[(2)](2)A withdrawal of the complaint filed prior to the commencement of the hearing shall be deemed to be without prejudice. The plaintiff may file a new complaint on the same cause of action upon payment of all applicable fees and costs.

[B(1)](b) Settlements.

(1) Settlement Without Stipulated Judgment.

(i) ~~[The]~~ **Except as provided in subdivision (b)(2), pertaining to stipulated judgments,** parties may file a written notice of settlement of the complaint with the magisterial district court at any time prior to the entry of judgment. **The notice of settlement shall include the signatures of the parties.** Upon receipt of such notice, **the magisterial district judge shall:**

(A) ~~[the magisterial district court shall note the case settled on the docket,]~~ **mark the settlement of the complaint on the docket;**

(B) cancel any scheduled hearing ~~[(],~~ except for a consolidated hearing on a cross-complaint pursuant to ~~[Rule 315B),]~~ **Pa.R.Civ.P.M.D.J. 315B**; and

- (C)** notify the parties in writing that the complaint has been marked settled.

[(2)](ii)**[Where the parties have filed a notice of settlement with the magisterial district court] If the magisterial district court has previously marked the complaint as settled pursuant to subdivision (b)(1)(i)** and a subsequent breach of the settlement agreement occurs, a party may file a new complaint citing breach of the settlement agreement as the cause of action.

(2) Settlement with Stipulated Judgment.

- (i) The parties may file a written notice of a stipulated judgment as part of a settlement agreement at any time prior to the entry of judgment.**
- (ii) The notice shall be made on a form promulgated by the State Court Administrator that shall include:**
 - (A) the amount of the stipulated judgment, which shall include fees but not court costs;**
 - (B) a notice to the defendant advising that:**
 - (I) the defendant should review the settlement agreement to ensure familiarity with and acceptance of its terms;**
 - (II) a judgment will be entered against the defendant on the docket of the magisterial district court; and**
 - (III) the plaintiff shall have the right to request execution of the judgment if the defendant fails to make payments as agreed; and**
 - (C) the signatures of the parties.**
- (iii) Upon receipt of a notice compliant with the requirements of subdivision (b)(2)(ii), the magisterial district court shall:**

- (A) mark the entry of the stipulated judgment on the docket;**
- (B) cancel any scheduled hearing, except for a consolidated hearing on a cross-complaint pursuant to Pa.R.Civ.P.M.D.J 315B; and**
- (C) notify the parties in writing that the complaint has been marked settled.**

[C(1)](c) Cross-complaints.

- (1) [The] A withdrawal or settlement of the plaintiff's complaint pursuant to subdivision (a) or (b) shall not affect the right of the defendant to proceed with a cross-complaint filed pursuant to [Rule 315A] Pa.R.Civ.P.M.D.J. 315A, unless it includes the cross-complaint.**
- (2) The defendant may file a written notice of withdrawal of the cross-complaint in the manner set forth in [subdivision A] subdivision (a).**
- (3) The parties may file a written notice of settlement or stipulated judgment of the cross-complaint in the manner set forth in [subdivision B] subdivision (b).**

[Note:] Comment: A complaint filed pursuant to [subparagraph A(2) or B(2)] **subdivision (a)(2) or (b)(1)(ii) [shall not be treated as] is not** a “reinstatement” of the underlying action[,] and is subject to all prescribed fees and costs for filing and service of a complaint. Compare with **[Rule 314E] Pa.R.Civ.P.M.D.J. 314E**, which provides for reinstatement of the complaint under the limited circumstance of failure to make timely service.

This rule also applies to the withdrawal or settlement of a cross-complaint. Moreover, a cross-complaint will survive the withdrawal or settlement of the corresponding complaint **if it is not included in a notice filed pursuant to this rule.**

For purposes of this rule, “stipulated judgment” means a judgment that is entered by the magisterial district court without a hearing and at the request of and with the agreement of the parties. See Pa.R.Civ.P.M.D.J. 210.1, prohibiting unauthorized ex parte communication with the magisterial district judge.

[Prior Rule 320, addressing continuances, was rescinded by Order of December 16, 2004, effective July 1, 2005, and its provisions were added to Rule

209.] The provisions of prior Pa.R.Civ.P.M.D.J. 320, pertaining to continuances, were relocated to Pa.R.Civ.P.M.D.J. 209, effective July 1, 2005.