

**SUPREME COURT OF PENNSYLVANIA
Minor Court Rules Committee**

NOTICE OF PROPOSED RULEMAKING

**Proposed Amendment of Pa.R.Civ.P.M.D.J. 305, 307, 308, 309, 310, 311, 312, 313,
314, 403, 405, 506, 508, and 517**

The Minor Court Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.Civ.P.M.D.J. 305, 307 – 314, 403, 405, 506, 508, and 517, pertaining to the service of a complaint, an order of execution, and an order for possession, 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 include the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be officially adopted by the Supreme Court.

Additions to the text 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 **June 8, 2026**. 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,

Rule 305. Setting the Date for Hearing; Delivery for Service; Notice to Defendant; Form.

Comment: The 60-day limitation in subdivision (a) was considered to provide sufficient time in which to effect service under the requirement of Pa.R.Civ.P.M.D.J. 307 that service be made at least ten days before the hearing. See **[Pa.R.Civ.P.M.D.J. 314E]** **Pa.R.Civ.P.M.D.J. 314(e)** as to reinstatement of complaints dismissed because of lack of service. The copies required in subdivisions (c) and (d) are provided by the Magisterial District Judge Automated System.

Rule 307. Service of the Complaint.

Service shall be made at least ten days before the hearing, in the following manner:

[(1)](a) Personal Service.

(1) Within the County. A copy of the complaint for each defendant shall be delivered by the magisterial district judge for service to the sheriff of[, or any certified constable in,] the county [in which] **where** the magisterial district of the magisterial district judge is situated[.] **or any certified constable of the Commonwealth.** [If this service is not available to the magisterial district judge, service may be made by any certified constable of the Commonwealth.]

(2) Outside the County. [If the complaint is delivered for service to the sheriff and] **if** service is to be made in a county other than the one in which the magisterial district of the magisterial district judge is situated, [the sheriff] **then service shall be made in one of the following ways:**

(i) the magisterial district judge shall deliver a copy of the complaint to the sheriff who shall deputize the sheriff of the county [in which] **where** service is to be made **for the purpose of making service;**

(ii) [A certified constable may serve the complaint anywhere in the Commonwealth.] the magisterial district judge shall deliver a copy of the complaint to any certified constable of the Commonwealth for service anywhere in the Commonwealth; or

(iii) the magisterial district judge shall send a copy of the complaint for service to a magisterial district judge in the county where service is to be made who shall deliver it for service to the sheriff of that county or any certified constable of the Commonwealth.

(2) If service is to be made in a county other than the one in which magisterial district judge's magisterial district is situated, the magisterial district judge, instead of acting in accordance with subdivision (1) may:

- (a) send the copy of the complaint for service to a magisterial district judge in the county in which service is to be made who shall deliver it for service to the sheriff of, or any certified constable in, that county. If this service is not available to the magisterial district judge, service may be made by any certified constable of the Commonwealth, or]

[(b)](3)In Philadelphia County. [if service is to be made in Philadelphia,] A copy of a complaint shall be served in Philadelphia County as follows:

- (i) **pursuant to subdivision (a)(2)(i) or (a)(2)(ii); or**
- (ii) **the magisterial district judge shall** send the copy of the complaint for service to the Court Administrator of the Philadelphia Municipal Court who shall deliver it for service to a writ server of that court or to the sheriff of Philadelphia.

[(3)](b) Service Other than Personal Service.

- (1) **Service by Mail.** [When] **if** service by mail is permitted by the rules in this chapter, it shall be at the option of the plaintiff and shall be made by the magisterial district judge by **[certified mail or comparable delivery method resulting in a return receipt in paper or electronic form. Such service may be made to any place in or outside the Commonwealth] first-class and certified mail.**

(i) **Service by certified mail requires a return receipt.**

(ii) **Service is complete if:**

(A) **the return receipt indicates receipt of the certified mail and bears the signature of the defendant or those persons designated by:**

(I) **Pa.R.Civ.P.M.D.J. Rule 308(b);**

(II) **Pa.R.Civ.P.M.D.J. Rule 309(c);**

(III) **Pa.R.Civ.P.M.D.J. Rule 310(d); or**

(IV) **Pa.R.Civ.P.M.D.J. Rule 312(b)(3); or**

(B) the return receipt acknowledges delivery of the certified mail consistent with the United States Postal Service (“USPS”) policy and the first-class mail is not returned within 15 days of mailing; or

(C) the return receipt or the returned mail indicates that delivery was refused, but the first-class mail is not returned within 15 days of mailing.

(iii) Service is incomplete if:

(A) the USPS returns the certified mail with a notation indicating that the mail was unclaimed by the defendant; or

(B) is otherwise inconsistent with subdivision (b)(1)(ii).

(C) If service by mail is incomplete, the plaintiff attempting service may utilize another method pursuant to these rules to effectuate service.

(2) Service by Commercial Carrier. If service by commercial carrier is permitted by the rules in this chapter and it is an available option in the magisterial court, it shall be at the option of the plaintiff and shall be made by the magisterial district judge by commercial carrier and first-class mail.

(i) Service by commercial carrier shall request that the commercial carrier provide a return receipt detailing the date of delivery, the delivery address, and the person who signed for the package upon delivery.

(ii) Completed Service by Commercial Carrier. Service is complete if:

(A) the return receipt bears the signature of the defendant or those persons designated in subdivision (b)(1)(ii) indicating receipt of the commercial carrier's package;

- (B) the return receipt acknowledges delivery of the commercial carrier's package consistent with the commercial carrier's policy and the first-class mail is not returned within 15 days; or
 - (C) the commercial carrier returns the package indicating that delivery was refused, but the first-class mail is not returned within 15 days of mailing.
- (iii) Incomplete Service by Commercial Carrier. Service is incomplete if:
- (A) the commercial carrier returns the package indicating that the package was unclaimed by the defendant; or
 - (B) is otherwise inconsistent with subdivision (b)(2)(ii)(A).
 - (C) If service by commercial carrier is incomplete, the plaintiff may utilize another method pursuant to these rules to effectuate service.

[Official Note] Comment: This rule provides [a number of] alternative methods of serving the complaint.

[Subdivision (1) permits a] A certified constable **is authorized** to serve the complaint anywhere in the Commonwealth. **[and] The rule** authorizes deputized service by sheriffs.

[Subparagraph (2)(a)] Subdivision (a)(2)(iii) permits service out of the county through magisterial district judges in the county **[in which] where** service is to be made, **a method of service which might be preferable to service under subdivision (1) by a certified constable of the county where the complaint was filed when that county is a considerable distance from the county of service.]**

[Subparagraph (2)(b)] Subdivision (a)(3) provides for service in Philadelphia **County** by writ servers of the Philadelphia Municipal Court or by the sheriff of Philadelphia, although **the magisterial district judge may elect** service **[may still be made in accordance with subdivision (1) if the magisterial district judge so desires] pursuant to subdivision (a)(2)(i) or (a)(2)(ii).**

[Subdivision (3)] Subdivision (b)(1) makes service by mail, [when] if permitted, available at the option of the plaintiff. It requires service by both first-class and certified mail. [This was done because service by mail will ordinarily reduce costs.] Service by mail may be more cost-effective than personal service.

Similarly, subdivision (b)(2) makes service by commercial carrier, if permitted by rule and available in the magisterial district court, an option for the plaintiff. However, some magisterial district courts may not offer commercial carrier service due to resources, volume, or geography. It requires service by both commercial carrier and first-class mail.

If the magisterial district court deems service to be complete, the civil action will proceed and a judgment may be entered against the defendant even if he or she is absent from the hearing. See Pa.R.Civ.P.M.D.J. 319. After a judgment has been entered in a civil action, the manner to assert that service was not properly made is by filing a *praecipe* for a writ of *certiorari* pursuant to Pa.R.Civ.P.M.D.J. 1009.

Rule 308. Service Upon Individuals.

Service of the complaint upon an individual defendant shall be made:

[(1)](a) by handing a copy to the defendant[, or];

[(2)](b) by handing a copy:

[(a)](1) to an adult member of the defendant's family at **[his] the defendant's** residence, but, if no adult member of the family is found, then to an adult person in charge of **[such] the** residence[, or];

[(b)](2) to the clerk or manager of a hotel, inn, apartment house, boarding house, or other place of lodging **[at which] where** the defendant resides[,]; or

[(c)](3) at any office or usual place of business of the defendant to **[his] the defendant's** agent or to the person **[for the time being in charge thereof,] in charge of the premises at the time of service;** or

[(3)](c) by **[mailing] delivering** a copy to the defendant **[by certified mail or comparable delivery method resulting in a return receipt in paper or electronic form] pursuant to Pa.R.Civ.P.M.D.J. 307(b)**. The return receipt shall show the signature of the defendant or those persons designated in **[subdivision (2) of this rule] subdivision (b)**. If the signature on the return receipt is that of any persons designated in **[subdivision (2) of this rule] subdivision (b)**, it shall be presumed, unless the contrary is shown, that the signer was an agent of the defendant.

[Official Note: Compare Pa.R.C.P. Nos. 402-403. Subdivisions (1), (2) and (3)]
Comment: Compare Pa.R.Civ.P. 402-403.

Subdivisions (a), (b), and (c) are not intended to be preferential in the order of their **[numbering] sequencing**.

The plaintiff may elect service by mail by using first-class mail together with either certified mail or delivery by a commercial carrier. See Pa.R.Civ.P.M.D.J. 307(b).

Rule 309. Service Upon Partnerships.

Service of the complaint upon a partnership shall be made:

[(1)](a) by handing a copy to a partner, manager, clerk, or other person **[for the time being in charge] in charge of the premises at the time of service**, at any regular place of business of the partnership[, or];

[(2)](b) on a partner in the same manner as an individual if there is no regular place of business[,]; or

[(3)](c) by **[mailing, via certified mail or comparable delivery method resulting in a return receipt in paper or electronic form, a copy to the regular place of business of the partnership.] delivering a copy to the regular place of business of the partnership pursuant to Pa.R.Civ.P.M.D.J. 307(b)**. The return receipt shall show that the complaint was received by the partnership.

[Official Note Compare Pa.R.C.P. No. 423] Comment: Compare Pa.R.Civ.P. 423.

The plaintiff may elect service by mail by using first-class mail together with either certified mail or delivery by a commercial carrier. See Pa.R.Civ.P.M.D.J. 307(b).

Rule 310. Service Upon Corporations.

Service of the complaint upon a corporation or similar entity shall be made:

[(1)](a) on an executive officer, partner, or trustee of the corporation[, or];

[(2)](b) on an agent or person **[for the time being in charge of, and only at,] in charge of the premises at the time of service at** any office or usual place of business of the corporation[, or];

[(3)](c) on an agent authorized by appointment to receive service of process[,]; or

[(4)](d) by **[mailing, via certified mail or comparable delivery method resulting in a return receipt in paper or electronic form, a copy to the regular place of business of the corporation] delivering a copy to the regular place of business of the corporation or similar entity pursuant to Pa.R.Civ.P.M.D.J. 307(b)**. The return receipt shall show that the complaint was received by the corporation or similar entity.

[Official Note Compare Pa.R.C.P. No. 424.] Comment: Compare Pa.R.Civ.P. 424.

The plaintiff may elect service by mail by using first-class mail together with either certified mail or delivery by a commercial carrier. See Pa.R.Civ.P.M.D.J. 307(b).

Rule 311. Service Upon Unincorporated Associations.

Service of the complaint upon an unincorporated association shall be made upon the manager, clerk, or other person **[for the time being in charge of] in charge of the premises at the time of service at** any place where **[such] the** association regularly conducts any business or association activity, provided the person served is not a plaintiff in the action.

[Official Note: Compare Pa.R.C.P. No. 2157(a).] Comment: Compare Pa.R.Civ.P. 423.

Service by mail is not allowed under this rule because of the irregularity of operation of many unincorporated associations.

Rule 312. Service on a Political Subdivision.

- (a)** As used in this rule, “political subdivision” means any county, city, borough, incorporated town, township, school district, vocational school district, county institution district, or municipal or other local authority.
- (b)** Service of the complaint upon a political subdivision shall be made:
- (1) by handing a copy to an agent duly authorized by the political subdivision to receive service of process, or to the mayor, or to the president, **[chairman] chairperson**, secretary, or clerk of the tax levying body **[thereof, or]**;
 - (2) in counties where there is no tax levying body by handing a copy to the **[chairman] chairperson** or clerk of the board of county commissioners[,]; or
 - (3) by **[mailing, via certified mail or comparable delivery method resulting in a return receipt in paper or electronic form, a copy to the office of the political subdivision] delivering a copy to the office of the political subdivision pursuant to Pa.R.Civ.P.M.D.J. 307(b)**. The return receipt shall show that the complaint was received by the political subdivision.

[Official Note Compare Pa.R.C.P. No. 422.] Comment: Compare Pa.R.Civ.P. 422.
The definition of “political subdivision” is derived from **[Pa.R.C.P. No. 76] Pa.R.Civ.P. 76**.

The plaintiff may elect service by mail by using first-class mail together with either certified mail or delivery by a commercial carrier. See Pa.R.Civ.P.M.D.J. 307(b).

Rule 313. Service Outside the Commonwealth.

[When] if service of the complaint is to be made upon a defendant outside the Commonwealth, it shall be made:

[(1)](a) by delivery **[in the manner prescribed by Rule 308, 309, 310 or 311] pursuant to Pa.R.Civ.P.M.D.J. 308(a)–(b), 309(a)–(b), 310(a)–(c), or 311**, whichever is applicable, by a Pennsylvania sheriff or **certified** constable or by any adult, other than the plaintiff, **as** designated by the magisterial district judge **[or]**;

[(2)](b) **[by certified mail or comparable delivery method resulting in a return receipt in paper or electronic form as provided by Rule 308, 309 or 310, whichever is applicable] by delivery pursuant to Pa.R.Civ.P.M.D.J. 307(b); or**

(a) if the mail is returned with a notation by the postal authorities or commercial carrier that receipt was refused, then the magisterial district judge may serve the complaint by sending a copy of the complaint by ordinary mail to the same address with the return address on the envelope. Service by ordinary mail is complete if the mail is not returned to the sender within fifteen days after the mailing; or

(b) if the mail is returned with a notation by the postal authorities or commercial carrier that it was unclaimed, the plaintiff shall make service by another means pursuant to these rules, or]

[(3)](c) **[in the manner provided or prescribed by] pursuant to** the law of the place **[in which] where** service is to be made for service in that place in an action in any of its courts of general jurisdiction.

[Official Note: See the Judicial Code, § 5322, 42 Pa.C.S. § 5322 (as amended by § 10(61) of the Judiciary Act Repealer Act, Act of April 28, 1978, P. L. 202, No. 53) and § 5329(1), 42 Pa.C.S. § 5329(1) (as amended by § 10(61) of the Judiciary Act Repealer Act, Act of April 28, 1978, P. L. 202, No. 53) and § 5329(1),] Comment: See 42 Pa.C.S. § 5322 and 42 Pa.C.S. § 5329(1) as to the bases of personal jurisdiction over persons outside the Commonwealth. The magisterial district judge may designate any Pennsylvania sheriff or **certified constable to make service **[under subdivision (1)] pursuant to subdivision (a)**, but such service should not be attempted if it would be offensive to the jurisdiction **[in which] where** service is to be made. **[See Uniform****

Interstate and International Procedures Act, § 2.02, Commissioners' Comment, 13 Uniform Laws Annotated 297.] See 42 Pa.C.S. §§ 5321, et seq. Alternatively, the magisterial district judge may designate any adult other than the plaintiff to make service **[under subdivision (1)] pursuant to subdivision (a)**. Although the magisterial district judge may not designate the plaintiff as the person to make such service, the plaintiff may suggest to the magisterial district judge the name of a person to make service.

[If service is made by ordinary mail under subdivision (2), the magisterial district judge shall note that fact on the docket with the remark that a sufficient time having elapsed the ordinary mail was not returned. The magisterial district judge shall attach to the original complaint form the returned certified or comparable delivery method resulting in a return receipt in paper or electronic form with the notation by the postal authorities or commercial carrier that the defendant refused to accept it.]

If service is to be made **[under subdivision (3)] pursuant to subdivision (c)**, the magisterial district judge may send the service copy of the complaint to an appropriate official of the jurisdiction **[in which] where** service is to be made. If service is made under **[subdivisions (1) or (3)] subdivisions (a) or (c)**, proof of service may be made on the form provided **[under Rule 314A] by Pa.R.Civ.P.M.D.J. 314(a)** with such alterations as may be necessary or in any manner provided by the law of the jurisdiction **[in which] where** the service is made for proof of service in an action in any of its courts of general jurisdiction. **[Compare Pa.R.C.P. No. 404.] Compare Pa.R.Civ.P. 404.**

Rule 314. Proof of Service; Return, Waiver and Failure of Service; Reinstatement.

[A.](a) Proof of Service. The person serving the complaint shall, at or before the time of the hearing, **[make] file proof** of service **with the magisterial district court [which] that** shall show:

- (1) the manner of service_;
- (2) the date, time, and place of service_; and_;
- (3) the name and relationship or title, if any, of the person on whom the complaint was served. The proof of service shall be filed with the **[original complaint.] file copy of the complaint.**

[B.](b) [When] Return Receipt. **If** service is made **[by certified mail or comparable delivery method resulting in a return receipt in paper or electronic form] pursuant to Pa.R.Civ.P.M.D.J. 307(b)**, the return receipt shall be filed with the **[original complaint] file copy of the complaint.**

[C.](c) Waiver. The appearance of a defendant in person_; **[or] by a** representative_; or **by** the filing by a defendant of a claim in the case shall be deemed a waiver of any defect in service but not a waiver of a defect in venue.

[D.](d) Dismissal for Failure to Make Timely Service. If the complaint is not served on the defendant in time to permit holding a hearing within 60 days of the filing of the complaint, the magisterial district judge shall dismiss the complaint without prejudice.

[E.](e) Reinstatement Following Failure to Make Timely Service.

- (1) **[When] If** the complaint is dismissed without prejudice for failure to make service pursuant to **[paragraph D of this rule] subdivision (d)** as to all defendants, upon written request of the plaintiff_; the complaint may be reinstated at any time and any number of times_; **subject to the statute of limitations.** The date of reinstatement shall be the date **[upon which] that** the request for reinstatement is filed.
- (2) **[When] If** the complaint has been filed against multiple defendants and subsequently dismissed without prejudice for failure to make service pursuant to **[paragraph D of this rule] subdivision (d)** as

to less than all defendants, any further action against an unserved defendant after a hearing on the merits or the entry of a default judgment must be initiated by the filing of a new complaint.

[Official Note: The] Comment: In subdivision (c), the provision concerning appearance not being a waiver of venue **[was inserted in paragraph C of this rule] is intended** to prevent the concentration of business in the office of a favorable magisterial district judge. Also, **[the public cannot generally be expected to] a self-represented party may not** be aware of venue provisions. **[See Rule 302H] See Pa.R.Civ.P.M.D.J. 302H** regarding improper venue.

[Paragraph D] Subdivision (d) is intended to prevent the accumulation of stale claims in the office of the magisterial district judge.

[Subparagraph E(1)] Subdivision (e)(1) provides for the reinstatement, upon written request of the plaintiff, of a complaint that has been dismissed without prejudice for failure to make service under **[paragraph D] subdivision (d)** against all defendants. *Compare* **[Pa.R.C.P. No. 401(b)] Pa.R.Civ.P. 401(b)**. The written request for reinstatement may be in any form and may consist of a notation on the **[permanent] file** copy of the complaint **[form]**, “Reinstatement of complaint requested,” **[subscribed] signed** by the plaintiff. The magisterial district judge shall mark all copies of the reinstated complaint, “Complaint reinstated. Request for reinstatement filed on _____ (date).” If it is necessary to **[use a new form for the reinstated complaint] produce a copy of the file copy of the complaint for the reinstatement request**, the reinstated complaint, except for service portions **[thereof]**, shall be an exact copy of the original complaint, although signatures may be typed or printed with the mark “/s/” indicating an actual signature. **[The language in subparagraph E(1) that a complaint may be reinstated “at any time”] Subdivision (e)(1)** will permit reinstatement after **[a]** faulty service without waiting for further proceedings in the case. Reinstatement must occur within the period of the statute of limitations from the date of the last filing or reinstatement. The cost for reinstating a complaint is specified in **[Section 1725.1 of the Judicial Code,] 42 Pa.C.S. § 1725.1. [In addition, there] There** may be additional server costs for service of the reinstated complaint.

[Subparagraph E(2)] Subdivision (e)(2) addresses the scenario involving multiple defendants when timely service is not made upon all defendants, resulting in a dismissal without prejudice as to some defendants. **[Subparagraph E(2)] Subdivision (e)(2)** clarifies that the plaintiff may not reinstate the complaint after the hearing or entry of a default judgment in this circumstance, but must initiate an entirely new action by filing a new complaint, subject to the applicable fees and costs for a new filing.

Rule 403. Issuance and Reissuance of Order of Execution.

[A.](a)Generally. Upon the filing of the request form, the magisterial district judge shall note on the form the time and date of its filing and shall issue the order of execution thereon. The magisterial district judge shall deliver the order of execution for service and execution to the sheriff of, or any certified constable **[in the county in which the office of the magisterial district judge issuing the order is situated. If this service is not available to the magisterial district judge, service may be made by any certified constable]** of the Commonwealth.

[B.](b)Reissuance.

- (1) Upon written request filed by the plaintiff within five years from the date of entry of the judgment, an order of execution shall be reissued at any time, and any number of times.
- (2) If an order of execution is superseded by an appeal, writ of **[certiorari] certiorari**, **[supersedeas] supersedeas**, or a stay pursuant to a bankruptcy proceeding or other federal or state law, and

[(a)](i) the appeal, writ of **[certiorari] certiorari**, or **[supersedeas] supersedeas** is stricken, dismissed, or otherwise terminated;
or

[(b)](ii) the bankruptcy or other stay is lifted; and

[(c)](iii) the plaintiff wishes to proceed with the order of execution,

the plaintiff must file with the magisterial district judge a written request for reissuance of the order of execution in accordance with **[subparagraph (1)] subdivision (b)(1)**.

- [C.](3)**A written request for reissuance of the order of execution filed pursuant to **[subparagraph B(2)] subdivision (b)(2)** must be accompanied by a copy of the court order or other documentation striking, dismissing, or terminating the appeal, writ of **[certiorari] certiorari**, or **[supersedeas] supersedeas**, or lifting the bankruptcy or other stay.

[Official Note:] Comment: Under **[subdivision A] subdivision (a)**, the order may be executed by the sheriff of the county **[in which] where** the office of the issuing magisterial

district judge is situated[, **as well as by**] or any certified constable **[in that county] of the Commonwealth.**

If payment of the judgment was ordered to be made in installments **[under Rule 323] pursuant to Pa.R.Civ.P.M.D.J. 323**, the magisterial district judge should not issue an order of execution on the judgment unless it appears that there was a default in the installment payments.

[Subdivision B] Subdivision (b) will permit the reissuance of an order of execution upon a timely-filed written request of the plaintiff. *Compare [Pa.R.C.P. No. 3106(b)] Pa.R.Civ.P. 3106(b).* The written request for reissuance may be in any form and may consist of a notation on the permanent copy of the request for order of execution form, "Reissuance of order of execution requested," subscribed by the plaintiff. The magisterial district judge shall mark all copies of the reissued order of execution, "Reissued. Request for reissuance filed _____ (time and date)." A new form may be used upon reissuance, those portions retained from the original being exact copies although signatures may be typed or printed with the mark "/s/." There are no filing costs for reissuing an order of execution, for the reissuance is merely a continuation of the original proceeding. However, there may be additional server costs for service of the reissued order of execution.

The magisterial district court shall enter stays in compliance with federal or state law, such as the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq.*

Historical Commentary

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

EXPLANATORY COMMENT--1992

The Note to Rule 403 reflects that forms generated by the District Justice Automation Project may be provided to parties for their convenience at the discretion of the District Justices.

Rule 405. Service of Order of Execution.

[A.](a) Service of the order of execution shall be made by the sheriff of[, **or any certified constable in,**] the county **[in which] where** the office of the magisterial district judge is situated **or any certified constable in the Commonwealth** by levy within 60 days of the issuance or reissuance of the order. **[If this service is not available to the magisterial district judge, service may be made by any certified constable of the Commonwealth.]**

[B.](b) At the time of the levy, the officer executing the order of execution shall give the defendant a copy of the order or leave it at the place of levy, but if the place of levy is not the defendant's residence or usual place of business and the defendant has not been given a copy of the order the copy shall be mailed to the last known address of the defendant. If the levy is made upon property of the defendant in the possession of another person, a copy of the order shall similarly be made available to that person as well as to the defendant.

[Note:] Comment: The **[60 day limitation in subdivision A was] 60-day limitation in subdivision (a) is** considered **[to allow the executing officer] sufficient time [in which] for the executing officer** to make the levy. The executing officer may make as many levies as necessary within the **[60 day] 60-day** limitation under an order of execution.

Rule 506. Service of Complaint.

- (a) The magisterial district judge shall serve the complaint by mailing a copy of it to the tenant's last known address by first-class mail and noting on the docket the date of such mailing, and by delivering a copy of it for service to the sheriff of[, **or any certified constable in,**] the county **[in which] where** the office of the magisterial district judge is situated[.] **or any certified constable of the Commonwealth.** **[If this service is not available to the magisterial district judge, service may be made by any certified constable of the Commonwealth.]** The officer receiving the copy shall serve it by handing it to the tenant or to an adult person in charge for the time being of the premises possession of which is sought to be recovered, if found, and by posting it conspicuously on those premises.
- (b) The copy shall be served at least five days before the hearing.

Comment: Under subdivision (a), service must be made both by first-class mail and delivery for service in the manner prescribed. It is expected that the officer serving the complaint will exercise due diligence **[when] while** attempting personal service upon the tenant. This may be demonstrated by, among other things, attempting service at varying times of day, making a reasonable number of knocks upon the tenant's door, knocking at all available doors of the premises, or announcing the officer's presence. Posting is required in all cases to facilitate notice to an occupant of the property.

In actions where wage garnishment may be sought under Pa.R.Civ.P. 3311, the landlord may authorize the sheriff or constable to make personal service upon the tenant. The landlord may authorize the sheriff or constable to make additional attempts to effectuate personal service upon the tenant so the landlord can later prove such service if attempting to garnish wages under Pa.R.Civ.P. 3311. Additional service attempts by the sheriff or constable may result in additional fees.

Rule 508. Claim by Tenant.

[A.](a) At any time before the hearing, the tenant may file a cross-complaint on the form prescribed for civil complaints, asserting any claim against the landlord that arises out of the occupancy of the premises and that is within the jurisdiction of the magisterial district judge.

[B.](b) If the tenant files such a cross-complaint, the magisterial district judge shall set a time and date for the hearing of both complaints together, which shall not be less than seven or more than fifteen days from the filing of the tenant's complaint.

[C.](c) The tenant's cross-complaint shall be served on the landlord at least five days before the hearing. At the option of the tenant, the magisterial district judge shall serve the cross-complaint by mailing a copy of it to the landlord. If the tenant does not request service by mail, the magisterial district judge shall deliver a copy of the cross-complaint for service to the sheriff of, **or any certified constable in,** the county **[in which] where** the office of the magisterial district judge is located~~.]~~ **or any certified constable of the Commonwealth.** **[If this service is not available to the magisterial district judge, service may be made by any certified constable of the Commonwealth.]** The officer receiving the copy shall serve it by handing it to the landlord or to an adult person in charge for the time being of the landlord's residence or usual place of business.

[Note:] Comment: As to **[subdivision A of this rule, see Rule 504, Note.] subdivision (a), see Pa.R.Civ.P.M.D.J. 504, cmt. [See also] See also** 42 Pa.C.S. § 1515(a)(3), as to waiver of jurisdictional limits, the tenant filing a cross-complaint being considered a "plaintiff" as to the cross-complaint within the meaning of this statute.

[Subdivision B] Subdivision (b) sets forth the time limits for setting hearings when a cross-complaint is filed. These limits recognize the need for reasonable expedition in these cases.

[Subdivision C] Subdivision (c) contains provisions for service of the cross-complaint. Mail service need not be by certified or registered mail.

Since a cross-complaint is in the nature of a responsive pleading there is no fee for filing it.

Rule 517. Notation of Time of Receipt; Service of Order for Possession.

- (a)** The magisterial district judge shall mail a copy of the order for possession to the tenant by first-class mail and shall deliver a copy of it for service to the sheriff of[, or any certified constable in,] the county [in which] where the office of the magisterial district judge is situated[.] **or any certified constable of the Commonwealth.** [If this service is not available to the magisterial district judge, service may be made by any certified constable of the Commonwealth.]
- (b)** The officer receiving the order for possession shall note upon the form the time and date that it was received, and shall serve the order within 48 hours by handing a copy of it to the tenant or to an adult person in charge for the time being of the premises possession of which is to be delivered or, if none of the above is found, by posting it conspicuously on those premises. **The date of the notice shall be the same as the date of the service.** The service copy of the order shall contain the following notice:
- (1) **For Nonresidential Leases:** If you, and all occupants of this property not authorized by the owner to be present thereon, do not vacate this property within 15 days after the date of this notice, the law authorizes me to use such force as may be necessary to enter upon the property, by the breaking in of any door or otherwise, and to eject you and all unauthorized occupants.
 - (2) **For Residential Leases:** If you, and all occupants of this property not authorized by the owner to be present thereon, do not vacate this property within 10 days after the date of this notice, the law authorizes me to use such force as may be necessary to enter upon the property by the breaking in of any door or otherwise, and to eject you and all unauthorized occupants.

[The date of the notice shall be the same as the date of the service.]

[Official Note: Under this rule, service] Comment: Service must be made both by first-class mail and [delivery for] personal service in the manner prescribed. The differing lengths of notices set forth for nonresidential leases and residential leases [are made necessary by reason of the 1995 amendment to Section 513 of the Landlord and Tenant Act of 1951,] reflect 68 P.S. § 250.513. [See Rule 515, Note.] See Pa.R.Civ.P.M.D.J. 515, cmt. The rule addresses the due process issue regarding notice best calculated to be received, see *Green v. Lindsey*, 456 U.S. 444 (1982), and provides the magisterial district court with an additional mechanism to notify a defendant of a pending possession order.

Historical Commentary

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

EXPLANATORY COMMENT--1992

Rule 517 provides for service of the order for possession by first class mail and by delivery for service in the manner prescribed. This Rule now addresses the due process issue regarding notice best calculated to be received, *see Green v. Lindsey*, 456 U.S. 444, 102 S.Ct. 1874, 72 L.Ed.2d 249 (1982), and provides District Justices with a second and additional mechanism through which to notify defendants of pending possession orders.

The Note to Rule 517 accommodates the requirement of Rule 517.

SUPREME COURT OF PENNSYLVANIA
Minor Court Rules Committee

PUBLICATION REPORT

**Proposed Amendment of Pa.R.Civ.P.M.D.J. 305, 307, 308, 309, 310, 311, 312, 313,
314, 403, 405, 506, 508, and 517**

The Minor Court Rules Committee (“Committee”) is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.Civ.P.M.D.J. 305, 307, 308, 309, 310, 311, 312, 313, 314, 403, 405, 506, 508, and 517, pertaining to the service of a complaint, an order of execution, and an order for possession in a magisterial district court proceeding.

Background

The Committee has been examining issues related to the service of complaints in the magisterial district courts by United States Postal Service (“USPS”) certified mail. See Pa.R.Civ.P.M.D.J. 307(3). Committee members reported circumstances of the return receipts, *i.e.*, “green cards” either not being returned to the court at all or not returning to the court in a timely manner. Committee members also reported electronic tracking of certified mail reflecting that the mail was accepted by an “individual” without capturing a recipient’s name.

Additionally, in March 2020, USPS implemented changes to its policy for delivery of registered or certified restricted mail. According to its website, the USPS modified the “customer signature capture procedures. While maintaining a safe, appropriate distance, [postal] employees will request the customer’s first initial and last name so that the employee can enter the information on the electronic screen or hard copy items such as return receipts.” See United States Postal Service, *Covid-19 Continuity of Operations Update* (March 20, 2020), available at <https://about.usps.com/newsroom/service-alerts/pdf/usps-continuity-of-operations-03-20-2020.pdf> (last viewed March 24, 2026). Unfortunately, the revised procedure, as written, did not comply with Pa.R.Civ.P.M.D.J. 308(3), which requires a signed return receipt. The policy was reversed in 2021.

In response to these challenges, the Committee reviewed the procedure adopted by the Court for service of original process in domestic relations matters. See Pa.R.Civ.P. 1930.4; 52 Pa.B. 3579 (June 25, 2022). The rule provides that if service by mail is elected, the party is required to use both: (1) first-class mail; and (2) certified restricted mail or commercial carrier. See Pa.R.Civ.P. 1930.4(b)(1). The concept of service by mail being accomplished by both first-class mail and certified mail is also utilized in the Rules of Criminal Procedure. See Pa.R.Crim.P. 511A. (“The summons shall be served upon the defendant by both first-class mail and certified mail, return receipt requested.”) While

considering a procedure akin to Pa.R.Civ.P. 1930.4, the Committee had the opportunity to review other aspects of the service of complaints and orders of execution in the magisterial district courts.

Service by Constables

As the Committee began considering matters relating to service by mail, it also examined the language in Pa.R.Civ.P.M.D.J. 307 relating to service by constables. Currently, if a plaintiff elects to use personal service, then the complaint must be served on the defendant by the sheriff of or “any certified constable in the county in which the magisterial district of the magisterial district judge is situated.” See Pa.R.Civ.P.M.D.J. 307(1). Only if that service “is not available to the magisterial district judge, service may be made by any certified constable of the Commonwealth.” *Id.* The subdivision concludes by providing that: “A constable may serve the complaint anywhere in the Commonwealth.” *Id.* Similar language requiring the use of a certified constable in the county where the magisterial district judge is located is also used in Pa.R.Civ.P.M.D.J. 403(A) and 506(a), pertaining to service of an order of execution and a landlord-tenant complaint, respectively.

The Committee questions whether prioritizing service by a certified constable from the county where the magisterial district court is located is always the best option for selecting a server. For example, the nearest constable may be located in a neighboring county, but the magisterial district court is constrained by Rule 307(1) to first determine whether there is a constable available in the county where the court is located. It seems that litigants utilizing the magisterial district courts would benefit from having access to the most efficient form of service rather than presuming that such service will automatically flow from using an in-county constable. The Committee further questioned the advantage to litigants of requiring a magisterial district court to consult with every certified constable in the county before being permitted to assign service to a constable located outside the county, even if the out-of-county constable is available and nearer to the area needing service.

Moreover, it is well-established that constables are independent contractors. “A constable is an independent contractor and is not an employee of the Commonwealth, the judiciary, the township, or the county in which he works.” See *In re Act 147 of 1990*, 598 A.2d 985, 986 (Pa. 1991). Accordingly, the Committee believes that a magisterial district judge should have the ability to choose the constable in each case rather than being restricted by geographic barriers.

While prioritizing in-county certified constables is the current practice, it should be noted that this is due to procedural rule rather than statute, as service matters are delegated to the Court as one of its Constitutional authorities. “The Supreme Court shall have the power to prescribe general rules governing practice, procedure and the conduct

of all courts, justices of the peace and all officers serving process or enforcing orders, judgments or decrees of any court or justice of the peace ...” See Pa. Const., art. V, § 10(c). Thus, the Court has the authority to amend the service rules.

Having reviewed these aspects of service by constables, the Committee is considering proposing to the Supreme Court the amendment Pa.R.Civ.P.M.D.J. 307(1)–(2), 403(A), 405(A.), 506(a), 508(C), and 517(a) to eliminate the requirement that a certified constable in the county must be unavailable to make service before utilizing the services of an out-of-county constable. The Committee agreed the qualifying phrase, “in the county,” should be deleted and, instead, provide for service by any certified constable. The use of the phrase “any certified constable” is not intended to circumvent any local policies and procedures enacted pursuant to Pa.R.J.A. 1907.2(b) .

Service in Philadelphia County

Next, the Committee examined current Pa.R.Civ.P.M.D.J. 307(3), which provides an alternative method of serving a complaint in Philadelphia County. Currently, the rule provides that if service is to be made in Philadelphia County, then the magisterial district judge is to “send the copy of the complaint for service to the Court Administrator of the Philadelphia Municipal Court who shall deliver it for service to a writ server of that court or to the sheriff of Philadelphia.” See Pa.R.Civ.P.M.D.J. 307(2)(b).

Because two other methods of service outside the county where the magisterial district court is located also apply to service in Philadelphia County, *i.e.*, deputizing the sheriff and service by any certified constable, the Committee thought it would be beneficial to add a cross-reference to those sections to proposed Rule 307(a)(3)(i). The rule will now clarify all methods that can be used to make service in Philadelphia County.

Service by Mail

After reviewing the service by mail requirements in Pa.R.Civ.P. 1930.4, which relies on service by USPS first-class and certified mail to determine whether service has been perfected, the Committee proposes similar revisions to current Rule 307(3). First, proposed Rule 307(b)(1)(ii) provides that service of process is complete if: (1) the return receipt for the certified mail indicates delivery of the mail and the signature of the defendant or another permissible person; (2) the return receipt indicates delivery consistent with USPS policy and the first-class mail is not returned within 15 days of mailing; and (3) the return receipt indicates that the delivery was refused and the first-class mail is not returned within 15 days of the mailing. In contrast, subdivision (b)(1)(iii) provides that service of process is incomplete if USPS returns the certified mail with a notation that it was unclaimed by the defendant or the service is otherwise inconsistent with those methods identified as good service. Subdivision (b)(1)(iii)(C) also notes that if

service by mail is incomplete, then the party attempting service may utilize another method to effectuate service.

A reference in the existing rule to “a return receipt in paper or electronic form” was deleted in favor of a statement that service by certified mail requires a return receipt. *Compare* current Pa.R.Civ.P.M.D.J. 307(3) *and* proposed Pa.R.Civ.P.M.D.J. 307(b)(1)(i). When the concept of “comparable delivery method,” *i.e.*, commercial carrier, was added to the rules in 2014, the concept of the receipt being available by “electronic form” was relatively new and worthy of mention. However, currently, an electronic receipt is no longer novel and less worthy of special mention.

It is the Committee’s intention that these changes will alleviate the full reliance on USPS certified mail to determine if service has been perfected. However, the Committee acknowledges that there may be instances of a magisterial district court deeming service to be complete in error and the action proceeding in the defendant’s absence. Therefore, commentary was added to proposed Pa.R.Civ.P.M.D.J. 307 to highlight a *praecipe* for a writ of *certiorari* pursuant to Pa.R.Civ.P.M.D.J. 1009 as the mechanism for challenging incomplete service. Amendments to incorporate the new provisions of Pa.R.Civ.P.M.D.J. 307 were also incorporated in Rules 308 – 314, which relate to various aspects of service.

Service by Commercial Carrier

In 2014, the Court amended the service rules to authorize service by “comparable delivery method.” See, *e.g.*, Pa.R.Civ.P.M.D.J. 307(b); 44 Pa.B. 5183 (August 2, 2014). The Committee is considering recommending to the Court that the term “comparable delivery method” be updated to “commercial carrier.” This is the term utilized in Pa.R.Civ.P. 1930.4(c) and Pa.R.A.P. 121(c)(3). The Committee agrees it is preferable to use consistent language across the bodies of rules if possible. Moreover, “commercial carrier” is more reflective of a business that is engaged in the delivery of packages.

The rule pertaining to service by commercial carrier mirrors the requirements for service by mail, insofar as it requires simultaneous efforts at service by both first-class mail and commercial carrier. See proposed Pa.R.Civ.P.M.D.J. 307(b)(2).

Finally, stylistic changes were made throughout the rule, including, but not limited to, the addition of subdivision titles, citation revisions, corollary changes, and grammatical changes. The Committee welcomes all comments, concerns, and suggestions regarding this proposal.