

INTRODUCTION

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt new Rule 320 of the Minor Court Civil Rules. The Committee has not yet submitted this proposal for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. The Committee's Report should not be confused with the Committee's Official Notes to the rules. The Supreme Court does not adopt the Committee's Official Notes or the contents of the explanatory reports.

The text of the proposed new rule precedes the Report.

We request that interested persons submit written suggestions, comments, or objections concerning this proposal to the Committee through counsel,

Pamela S. Walker, Counsel
Supreme Court of Pennsylvania
Minor Court Rules Committee
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
Fax: 717-231-9546
or email to: minorrules@pacourts.us

no later than December 2, 2013.

September 17, 2013

BY THE MINOR COURT RULES COMMITTEE:

Mary P. Murray, Chair

Pamela S. Walker
Counsel

REPORT

Proposed New Rule 320 of the Minor Court Civil Rules

PLAINTIFF WITHDRAWAL OF COMPLAINT; SETTLEMENT

I. Introduction

The Minor Court Rules Committee (“Committee”) is proposing a new Rule 320¹ of the Minor Court Civil Rules. The goal of this proposed new rule is to establish procedures for the withdrawal of complaints by plaintiffs, the settlement of actions by the parties, and to clarify the effect of withdrawals and settlements on the action.

II. Discussion

In reviewing matters of civil case processing, the Committee identified the need for a rule based practice in the magisterial district courts for withdrawal of the complaint and settlement of the action. It was noted that the Minor Court Civil Rules do not explicitly provide for such actions, resulting in inconsistent statewide practice and uncertainty for litigants. Additionally, the Committee wanted to clarify that civil actions ended by withdrawal of the complaint or settlement by the parties are not eligible for “reinstatement”, as that term is used in Pa.R.C.P.M.D.J. No. 314E (“Rule 314E”).

III. Proposed Rule Changes

The Committee identified the need for procedures addressing withdrawal of complaints and settlement of actions. First, the Committee addressed the situation where a plaintiff seeks to withdraw a complaint. The Committee proposes a new rule establishing that a plaintiff may withdraw a complaint prior to the start of the hearing upon written notice to the magisterial district court. Following receipt of such notice, the magisterial district court would note the withdrawal on the docket, cancel any scheduled hearing, and notify the parties in writing. With respect to the future rights of the parties, the Committee proposes that a withdrawal of the complaint would be deemed to be without prejudice, and a plaintiff may file a new complaint on the same cause of action upon payment of all applicable fees and costs. Under no circumstances would a new complaint filed pursuant to this rule be treated as a “reinstatement”, as that term is used

¹ Prior Pa.R.C.P.M.D.J. No. 320 (“Rule 320”), addressing continuances, was rescinded by Order of December 16, 2004, effective July 1, 2005. The provisions of prior Rule 320 were added to Pa.R.C.P.M.D.J. No. 209 in order to have one rule addressing continuances.

in Rule 314E in the limited circumstance of failure to make timely service of the complaint.

Next, the Committee addressed the situation where the parties seek to settle the action prior to the entry of judgment. The Committee proposes a new rule establishing that the parties may file a written notice of settlement with the magisterial district court at any time prior to the entry of judgment. Upon receipt of the written settlement notice, the magisterial district court would note the settlement on the docket, cancel any scheduled hearing, and notify the parties in writing. If a subsequent breach of the settlement agreement should occur, it would be necessary for a party to file a new complaint citing breach of the settlement agreement as the cause of action, subject to all applicable fees and costs. Under proposed Rule 320B(2), a party is not permitted to request a “reinstatement” of the original complaint.

Finally, the Committee intends that proposed Rule 320 would also apply to the withdrawal or settlement of a cross-complaint. However, because a cross-complaint “need not arise from the same transaction or occurrence from which the plaintiff’s claim arose, nor need it be the same type of claim,” the withdrawal or settlement of the plaintiff’s complaint does not operate to automatically terminate the cross-complaint. See Pa.R.C.P.M.D.J. No. 315A, providing for cross-complaints.