

(This is an entirely new rule.)

Rule 302.1 Dismissal for Lack of Personal Jurisdiction

A. The magisterial district judge may dismiss a complaint for lack of personal jurisdiction.

B. A party may request a hearing for the limited purpose of contesting personal jurisdiction. Such a request or the party's appearance at such a hearing shall not constitute a waiver of the right to raise any defense including questions of jurisdiction or venue.

C. The magisterial district judge shall issue written notice of the dismissal to the parties.

Official Note: This rule addresses dismissal due to lack of personal jurisdiction. Jurisdictional issues must be raised at a hearing. Personal jurisdiction is the power of a court to hear and determine a case as long as there are minimum contacts between the parties and the Commonwealth. Personal jurisdiction over persons in the Commonwealth is established by 42 Pa.C.S. § 5301. Personal jurisdiction over persons outside the Commonwealth is established by 42 Pa.C.S. § 5322. In contrast, venue refers to the geographical limitations on a court's authority to hear a case that it otherwise has jurisdiction over. See Rule 302 regarding venue.

Rule 302.1B is derived in part from Pa.C.R.P. 1012(a), and provides a method for a party to contest personal jurisdiction, without waiving such objection.

An appeal is the method for challenging a dismissal made on the grounds of lack of personal jurisdiction. See Rules 1001-1002.

(This is an entirely new rule.)

302.2 Transfer of Action for Lack of Subject Matter Jurisdiction

A. When an action is commenced in a magisterial district court but the court does not have jurisdiction over the subject matter of the action, the magisterial district court shall not dismiss the action if there is another court of appropriate jurisdiction within the Commonwealth in which the action could originally have been brought.

B. The magisterial district court shall transfer the action at the cost of the plaintiff to the court of appropriate jurisdiction.

C. The magisterial district court in which the action is commenced shall transfer the complaint to the prothonotary or clerk of the court to which the action is transferred.

Official Note: This rule authorizes a magisterial district court to transfer a case to another court within the Commonwealth when the magisterial district court does not have jurisdiction over the subject matter of the action. The subject matter jurisdiction of the magisterial district courts is governed by Section 1515 of the Judicial Code, 42 Pa.C.S. § 1515. In contrast, venue refers to the geographical limitations on a court's authority to hear a case that it otherwise has jurisdiction over. See Rule 302 regarding venue.

Rule 302.2 is derived in part from Section 5103(a) of the Judicial Code, 42 Pa.C.S. § 5103(a). "If an appeal or other matter is taken to or brought in a court or magisterial district of the Commonwealth which does not have jurisdiction of the appeal or other matter, the court or magisterial district judge shall not quash such appeal or dismiss the matter, but shall transfer the record thereof to the proper tribunal of this Commonwealth, where the appeal or other matter shall be treated as if originally filed in the transferee tribunal on the date when the appeal or other matter was first filed in a court or magisterial district of this Commonwealth." 42 Pa.C.S. § 5103(a). Rule 302.2 is also derived in part from Pa.R.C.P. No. 213(f) (authorizing transfer of actions for lack of subject matter jurisdiction).

When a complaint is transferred under this rule, it is treated as if it was originally filed in the transferee court on the date first filed in the magisterial district court. It is the intent of this rule that cases may be transferred to any Pennsylvania court with appropriate jurisdiction and venue, including the Philadelphia Municipal Court. Likewise, nothing in this rule prohibits a court other than a magisterial district court from transferring a case to a magisterial district court with proper jurisdiction and venue, in accordance with the procedural rules of the transferring court.

There may be additional costs when a case is transferred, including, but not limited to, service costs.

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

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C. **Except for a limited purpose hearing requested pursuant to Rule 302.1B, [T]**the appearance of a defendant in person or by representative or 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.

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Official Note

The hearing referenced in subdivision C is for the limited purpose of contesting personal jurisdiction. The provision concerning appearance not being a waiver of venue was inserted in subdivision C of this rule to prevent the concentration of business in the office of a favorable magisterial district judge. Also, the public cannot generally be expected to be aware of venue provisions. See Rule 302H regarding improper venue.

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Rule 1001. Definitions.

As used in this chapter¹:

(1) “Judgment” means a judgment rendered by a magisterial district judge under Rule 319, 322 or 514, **or a dismissal rendered by a magisterial district judge pursuant to Rule 302.1.**

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Official Note:

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The definition of “judgment” includes a dismissal due to lack of personal jurisdiction.

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¹ Rules in 1000 series. Since these rules are a chapter of the Rules of Civil Procedure Governing Actions and Proceedings before Magisterial District Judges, the rules in the 200 series will also apply.