

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

NOTICE OF PROPOSED RULEMAKING

Proposed Amendment of Pa.R.C.P. Nos. 1006, 2130, 2156, and 2179

The Civil Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P. No. 1006, 2130, 2156, and 2179 governing venue in medical professional liability actions, for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 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 reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They will neither constitute a part of the rules nor will be officially 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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Supreme Court of Pennsylvania
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All communications in reference to the proposal should be received by **February 22, 2019**. 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,

David L. Kwass
Chair

Rule 1006. Venue. Change of Venue.

(a) Except as otherwise provided by subdivisions **[(a.1), (b),] (b)** and (c) of this rule, an action against an individual may be brought in and only in a county **[in which] where**

[(1) the individual may be served, or in which the cause of action arose, or where a transaction or occurrence took place out of which the cause of action arose or in any other county authorized by law, or]

(1) the individual may be served;

(2) the cause of action arose;

(3) a transaction or occurrence took place out of which the cause of action arose;

Note: For a definition of transaction or occurrence, see *Craig v. W. J. Thiele & Sons, Inc.*, 149 A.2d 35 (Pa. 1959).

(4) venue is authorized by law; or

[(2)](5) the property or a part of the property, which is the subject matter of the action, is located provided that equitable relief is sought with respect to the property.

[(a.1) Except as otherwise provided by subdivision (c), a medical professional liability action may be brought against a health care provider for a medical professional liability claim only in a county in which the cause of action arose. This provision does not apply to a cause of action that arises outside the Commonwealth.

Note: See Section 5101.1(c) of the Judicial Code, 42 Pa.C.S. § 5101.1(c), for the definitions of “health care provider,” “medical professional liability action,” and “medical professional liability claim.”]

(b) Actions against the following defendants, except as otherwise provided in subdivision (c), may be brought in and only in the counties designated by the following rules: political subdivisions, Rule 2103; partnerships, Rule 2130; unincorporated associations, Rule 2156; corporations and similar entities, Rule 2179.

[Note: Partnerships, unincorporated associations, and corporations and similar entities are subject to subdivision (a.1) governing venue in medical professional liability actions. See Rules 2130, 2156 and 2179.]

Subdivision (a.1) is a venue rule and does not create jurisdiction in Pennsylvania over a foreign cause of action where jurisdiction does not otherwise exist.]

(c)[(1) **Except as otherwise provided by subdivision (c)(2), a**An action to enforce a joint or joint and several liability against two or more defendants, except actions in which the Commonwealth is a party defendant, may be brought against all defendants in any county in which the venue may be laid against any one of the defendants under the general rules of subdivisions (a) or (b).

[(2) If the action to enforce a joint or joint and several liability against two or more defendants includes one or more medical professional liability claims, the action shall be brought in any county in which the venue may be laid against any defendant under subdivision (a.1). This provision does not apply to a cause of action that arises outside the Commonwealth.]

(d)(1) For the convenience of parties and witnesses, the court upon petition of any party may transfer an action to the appropriate court of any other county where the action could originally have been brought.

(2) **[Where] If**, upon petition and hearing **[thereon]**, the court finds that a fair and impartial trial cannot be held in the county for reasons stated of record, the court may order that the action be transferred. The order changing venue shall be certified

[forthwith] to the Supreme Court, which shall designate the county to which the case is to be transferred.

Note: For the recusal of the judge for interest or prejudice, see Rule 2.11 of the Code of Judicial Conduct.

(3) It shall be the duty of the prothonotary of the court in which the action is pending to forward to the prothonotary of the county to which the action is transferred, certified copies of the docket entries, process, pleadings, depositions, and other papers filed in the action. The costs and fees of the petition for transfer and the removal of the record shall be paid by the petitioner in the first instance to be taxable as costs in the case.

(e) Improper venue shall be raised by preliminary objection and if not so raised shall be waived. If a preliminary objection to venue is sustained, and there is a county of proper venue within the State, the action shall not be dismissed but shall be transferred to the appropriate court of that county. The costs and fees for transfer and removal of the record shall be paid by the plaintiff.

(f)**[(1) Except as provided by subdivision (f)(2), i]** If the plaintiff states more than one cause of action against the same defendant in the complaint pursuant to Rule 1020(a), the action may be brought in any county in which any one of the individual causes of action might have been brought.

[(2) Except as otherwise provided by subdivision (c), if one or more of the causes of action stated against the same defendant is a medical professional liability claim, the action shall be brought in a county required by subdivision (a.1).]

Rule 2130. Venue.

(a) Except as otherwise provided **[by Rule 1006(a.1) and]** by subdivision (c) of this rule, an action against a partnership may be brought in and only in a county where **[the partnership regularly conducts business, or in the county where the cause of action arose or in a county where a transaction or occurrence took place out of which the cause of actions arose or in the county where the property or a part of the property which is the subject matter of the action is located provided that equitable relief is sought with respect to the property.]**

(1) the partnership regularly conducts business;

(2) the cause of action arose;

(3) a transaction or occurrence took place out of which the cause of action arose; or

(4) the property or a part of the property, which is the subject matter of the action, is located provided that equitable relief is sought with respect to the property.

[Note: Rule 1006(a.1) governs venue in actions for medical professional liability.]

(b) Except as otherwise provided by subdivision (c) of this rule, an action against a liquidator may be brought in and only in a county where **[the liquidator is liquidating the partnership business or in which the partnership last regularly conducted business, or in the county where the cause of action arose or in a county where a transaction or occurrence took place out of which the cause of action arose.]**

(1) the liquidator is liquidating the partnership business;

(2) the partnership last regularly conducted business;

(3) the cause of action arose; or

(4) a transaction or occurrence took place out of which the cause of action arose.

This rule shall not apply to an action against a liquidator deriving authority under the laws of the United States.

(c) Subdivisions (a) and (b) of this rule do not restrict or affect the venue of an action

(1) against a partnership commenced by or for the attachment, seizure, garnishment, sequestration, or condemnation of real or personal property, or

(2) **[an action]** for the recovery of the possession of or the determination of the title to real or personal property.

Rule 2156. Venue.

(a) Except as otherwise provided **[by Rule 1006(a.1) and]** by subdivision (b) of this rule, an action against an association may be brought in and only in a county where **[the association regularly conducts business or any association activity, or in the county where the cause of action arose or in a county where a transaction or occurrence took place out of which the cause of actions arose or in the county where the property or a part of the property which is the subject matter of the action is located provided the equitable relief is sought with respect to the property.]**

(1) the association regularly conducts business or any association activity;

(2) the cause of action arose;

(3) a transaction or occurrence took place out of which the cause of action arose; or

(4) the property or a part of the property, which is the subject matter of the action, is located provided that equitable relief is sought with respect to the property.

[Note: Rule 1006(a.1) governs venue in actions for medical professional liability.]

(b) Subdivision (a) of this rule shall not restrict or affect the venue of an action

(1) against an association commenced by or for the attachment, seizure,

garnishment, sequestration, or condemnation of real or personal property, or

(2) **[an action]** for the recovery of the possession of or the determination of the title to real or personal property.

Rule 2179. Venue.

(a) Except as otherwise provided by an Act of Assembly[, **by Rule 1006(a.1)**] or by subdivision (b) of this rule, a personal action against a corporation or similar entity may be brought in and only in

(1) the county where its registered office or principal place of business is located;

(2) a county where it regularly conducts business;

(3) the county where the cause of action arose;

(4) a county where a transaction or occurrence took place out of which the cause of action arose[**,**]; or

(5) a county where the property or a part of the property, which is the subject matter of the action, is located provided that equitable relief is sought with respect to the property.

[Note: Rule 1006(a.1) governs venue in actions for medical professional liability.]

(b) An action upon a policy of insurance against an insurance company, association or exchange, either incorporated or organized in Pennsylvania or doing business in this Commonwealth, may be brought

(1) in a county designated in **[S]**subdivision (a) of this rule; **[or]**

(2) in the county where the insured property is located; or

(3) in the county where the plaintiff resides, in actions upon policies of life, accident, health, disability, and **[live stock] livestock** insurance or fraternal benefit certificates.

Explanatory Comment

The Civil Procedural Rules Committee is proposing amendment of Rule 1006 to rescind subdivision (a.1), which limits venue in medical professional liability actions to the county in which the cause of action arose. The current rule provides special treatment of a particular class of defendants, which no longer appears warranted. Data compiled by the Supreme Court on case filings on medical professional liability actions (<http://www.pacourts.us/news-and-statistics/research-and-statistics/>) indicates that there has been a significant reduction in those filings for the past 15 years. Additionally, it has been reported to the Committee that this reduction has resulted in a decrease of the amount of claim payments resulting in far fewer compensated victims of medical negligence.

The proposed rescission of subdivision (a.1) is intended to restore fairness to the procedure for determining venue regardless of the type of defendant. The proposal would apply to medical professional liability actions filed after the effective date of the amended rule. Conforming and stylistic amendments have also been made to Rules 2130, 2156, and 2179.

By the Civil Procedural
Rules Committee

David L. Kwass
Chair