

**SUPREME COURT OF PENNSYLVANIA  
MINOR COURT RULES COMMITTEE**

**NOTICE OF PROPOSED RULEMAKING**

**Proposed Adoption of Pa.R.C.P.M.D.J. No. 514.1 and Amendment of  
Pa.R.C.P.M.D.J. Nos. 501, 514-515, 1001-1002 and 1005**

The Minor Court Rules Committee is planning to propose to the Supreme Court of Pennsylvania the adoption of Pa.R.C.P.M.D.J. No. 514.1, as well as the amendment of Pa.R.C.P.M.D.J. Nos. 501, 514-515, 1001-1002 and 1005, providing for a 30-day appeal period for tenants who are victims of domestic violence in actions involving residential leases, 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 neither will constitute a part of the rules nor 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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All communications in reference to the proposal should be received by June 6, 2017. 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,  
Anthony W. Saveikis  
Chair

## REPORT

### Proposed Adoption of Pa.R.C.P.M.D.J. No. 514.1 and Amendment of Pa.R.C.P.M.D.J. Nos. 501, 514-515, 1001-1002 and 1005

#### APPEALS BY VICTIMS OF DOMESTIC VIOLENCE IN RESIDENTIAL LEASE ACTIONS

##### I. Introduction

The Minor Court Rules Committee (“Committee”) is planning to propose to the Supreme Court of Pennsylvania the adoption of Pa.R.C.P.M.D.J. No. 514.1, as well as the amendment of Pa.R.C.P.M.D.J. Nos. 501, 514-515, 1001-1002 and 1005. These rules will provide a 30-day appeal period in residential lease actions for tenants who are victims of domestic violence.

##### II. Discussion

In recent years, the Committee has been examining the procedural rules governing appeals from judgments of magisterial district courts in an effort (1) to clarify the appeal periods for all civil and landlord-tenant judgments, and (2) to provide additional time for appeal to victims of domestic violence when a judgment arises out of a residential lease and contains an award of possession. With regard to the second point, the Committee sought to incorporate certain provisions of the Landlord and Tenant Act of 1951 (“Act”), Act of April 6, 1951, P.L. 69, *as amended*, 68 P.S. § 250.513(b), into the rules. This section specifically provides that “within thirty days after a judgment by a lower court arising out of a nonresidential lease or *a residential lease involving a victim of domestic violence*, either party may appeal to the court of common pleas ... .” 68 P.S. § 250.513(b) (emphasis added). Provisions to incorporate a 30-day appeal period for victims of domestic violence in residential lease actions were included in prior proposed rules that were published in the Pennsylvania Bulletin in 2012 and 2014. See 42 Pa.B. 7525 (December 15, 2012); 44 Pa.B. 4342 (July 12, 2014). While most provisions of the 2012 and 2014 proposals have been discontinued and are no longer under review, the Committee has continued developing a proposal on a 30-day appeal period for victims of domestic violence in residential lease actions.

After much discussion and review, the Committee proposes the following approach: a defendant who is a victim of domestic violence, defined as “a person who has obtained a protection from abuse order against another individual or can provide other evidence of abuse,” may file a newly-created domestic violence affidavit with the magisterial district court within 10 days after the date of the entry of judgment so as to prohibit the issuance of an order for possession. By prohibiting the issuance of the order for possession will permit the defendant who has filed the domestic violence affidavit to appeal the magisterial district court judgment within the allowed 30-day

period without the risk of eviction. If the defendant does not file the affidavit with the magisterial district court within the 10-day period after the date of the entry of judgment, any further filings by the defendant to assert the 30-day appeal period due to domestic violence status must occur with the prothonotary, and may require additional filings, such as a request for *nunc pro tunc* relief. Additionally, any challenges by the plaintiff to the domestic violence affidavit would have to be made to the court of common pleas.

When the defendant files the domestic violence affidavit with the magisterial district court within 10 days after the date of the entry of judgment, both the magisterial district court and the plaintiff are put on notice that the defendant has asserted the 30-day appeal period due to domestic violence status. The Committee proposes that the affidavit contain the name of the victim and perpetrator, the perpetrator's relationship to the victim, the dates, locations and descriptions of domestic violence, and any protection from abuse orders sought or obtained against the perpetrator. The proposed affidavit will also contain the defendant's verification that the statements made in the affidavit are true and correct to the best of the defendant's knowledge, information and belief, and that any false statements are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

### **III. Proposed Changes**

**Rule 501:** The definition of "victim of domestic violence" has been added to Rule 501, as well as a reference in the note to 68 P.S. § 250.513 and Rule 1202. The Committee also proposes stylistic changes to Rule 501.

**Rule 514:** A provision is added to Rule 514D to require the magisterial district judge to provide notice of the 30-day appeal period for domestic violence victims on the written notice of judgment, as well as instructions for properly making such an appeal. The Committee also proposes stylistic changes to Rule 514.

**Rule 514.1:** New Rule 514.1 provides (1) specific instructions for the filing of the domestic violence affidavit with the magisterial district court to prohibit the issuance of an order for possession, (2) that the affidavit shall be on an AOPC form, (3) that the defendant shall serve the affidavit on the plaintiff, and (4) that the defendant will attach a copy of the affidavit to the notice of appeal. The note to Rule 514.1 advises that failure to file the domestic violence affidavit within 10 days following the entry of judgment means that the defendant will have to make the filing with the prothonotary, which could require additional filings such as a request for *nunc pro tunc* relief. The note also sets forth the content of the domestic violence affidavit, and explains that any filings by the plaintiff to strike the affidavit must be made pursuant to the Rules of Civil Procedure.

**Rule 515:** A reference to the new domestic violence affidavit is added to Rule 515B(2)(a) regarding the types of filings that will operate as a supersedeas. A provision has been added to the note to indicate that a supersedeas resulting from the filing of a domestic violence affidavit will terminate as of the filing of an appeal with the prothonotary or 30 days after the date of entry of the judgment, whichever is earlier.

The statutory citation regarding constable fees has been updated. The Committee also proposes stylistic changes to Rule 515.

**Rule 1001:** The definitions have been alphabetized, with corresponding changes to references in the note. A definition of “victim of domestic violence” has been added. The Committee also proposes stylistic changes to Rule 1001.

**Rule 1002:** Rule 1002B(2)(a) has been amended to provide for a 30-day appeal period for victims of domestic violence. Rule 1002B(2)(a) provides that a defendant who is a victim of domestic violence shall appeal the judgment within 30 days after the date of entry of the judgment by filing the notice of appeal along with the domestic violence affidavit. The note sets forth the content for the domestic violence affidavit. The Committee also proposes stylistic changes to Rule 1002.

**Rule 1005:** An updated citation to a definition is made in the note, as well as stylistic changes. The note provides that the notice of appeal includes all documents filed with the prothonotary, including the domestic violence affidavit if applicable.