

INTRODUCTION

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt new Rules 302.1 and 302.2 of the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings before Magisterial District Judges. 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 rules precedes the Report.

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

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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 March 28, 2014.

January 14, 2014

BY THE MINOR COURT RULES COMMITTEE:

Mary P. Murray, Chair

Pamela S. Walker
Counsel

REPORT

Proposed New Rules 302.1 and 302.2 of the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings before Magisterial District Judges

DISMISSALS AND TRANSFERS FOR LACK OF JURISDICTION

I. Introduction

The Minor Court Rules Committee (“Committee”) is proposing new Rules 302.1 and 302.2 of the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings before Magisterial District Judges. The goal of these proposed new rules is to clarify procedures when a case is brought in a magisterial district court, but the court is lacking either personal jurisdiction or subject matter jurisdiction.

II. Discussion

The Minor Court Rules Committee has been examining procedures related to withdrawals, settlements and dismissals of cases in the magisterial district courts.¹ In conducting its review, the Committee observed that the rules lacked procedures for addressing cases where the court is lacking either personal jurisdiction over a party or subject matter jurisdiction.

With regard to personal jurisdiction, the Committee noted that the rules are silent on the action to be taken by a magisterial district court if such jurisdiction is found to be lacking. The Committee agreed that such a rule could provide useful guidance to the magisterial district courts, and drafted proposed new Rule 302.1 to cover these scenarios.

With regard to subject matter jurisdiction, the Committee noted that the rules are silent on the action to be taken by a magisterial district court if such jurisdiction is found to be lacking. The Committee observed that Section 5103(a) of the Judicial Code, 42 Pa.C.S. § 5103(a) provides “[i]f 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

¹ Proposed rules pertaining to withdrawals and settlements were published for public comment at 44 Pa.B. 10 (January 4, 2014).

in a court or magisterial district of this Commonwealth.” 42 Pa.C.S. § 5103(a). The Committee further noted that the Pennsylvania Rules of Civil Procedure currently provide for transfers of matters due to lack of subject matter jurisdiction. See Pa.R.C.P. 213(f). While Pa.R.C.P.M.D.J. No.302H provides for transfers in cases of improper venue, it does not address cases lacking subject matter jurisdiction. The Committee drafted proposed new Rule 302.2 to address these scenarios.

III. Proposed Rule Changes

Proposed new Rule 302.1 provides that a magisterial district judge may dismiss a complaint at any time for lack of personal jurisdiction, and shall issue a written notice of such dismissal. The Official Note provides that jurisdictional issues must be raised at a hearing, and that a party aggrieved by a decision regarding jurisdiction should follow the procedures for filing a praecipe for a writ of certiorari as set forth in Pa.R.C.P.M.D.J. No. 1009.

Proposed new Rule 302.2 is derived in part from 42 Pa.C.S. § 5103(a) and Pa.R.C.P. 213(f). The proposed new rule provides for the transfer of actions for lack of subject matter jurisdiction, and notes that there may be additional costs to the plaintiff when a case is transferred, including, but not limited to, service costs.