

INTRODUCTION

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt amendments to Rules 506 and 507 of the Minor Court Civil Rules, as well as the Official Note to Rule 313. 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 changes precedes the Report. Additions are shown in bold; deletions are shown in bold and brackets.

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 August 30, 2013.

June 18, 2013

BY THE MINOR COURT RULES COMMITTEE:

Mary P. Murray, Chair

Pamela S. Walker
Counsel

REPORT

Proposed Amendments to Rules 506 and 507, and the Official Note to Rule 313 of the Minor Court Civil Rules

NOTATION OF MAILING DATE OF SERVICE COPY OF COMPLAINT

I. Introduction

The Minor Court Rules Committee (the “Committee”) is proposing amendments to Rules 506 and 507, and the Official Note to Rule 313 of the Minor Court Civil Rules. The proposed amendments address the existing requirement that notations be made on the service copy of the complaint regarding the first class mailing date to the defendant, requiring instead that the notation be made on the docket.

By way of background, the Committee was contacted by a judicial automation attorney with the Administrative Office of Pennsylvania Courts and a judge of the court of common pleas inquiring about the requirement set forth in Pa.R.C.P.M.D.J. No. 507A (“Rule 507A”), which provides that a “magisterial district judge shall note on the complaint form the date on which he mailed a service copy of the complaint to the defendant.” Both inquiries observed that, despite the requirement set forth in Rule 507A, the complaint form does not contain a field for such a notation. Moreover, the common pleas judge inquired whether the failure of the magisterial district judge to note the mailing date on the complaint would constitute a failure in service due to the failure to comply with the rule. Because proceedings in magisterial district courts, much more so than in other courts, rely heavily on the use of preprinted standardized forms, the Committee agreed that there should be consistency between the Rule 507A and the complaint form. The Committee published a proposal in the Pennsylvania Bulletin that amended Rule 507A by removing the notation requirement. See 40 Pa.B. 522 (January 23, 2010). In response to the publication, the Committee received comments from interested parties, and subsequently elected to modify the original proposal and republish for further comment.

II. Discussion

The Committee received comments following the first publication of the proposal, some of which pointed to a definite need to track the date of the service by first class mail so that it appears within the record. The Committee was persuaded by this correspondence, yet remained apprehensive that hinging proof of service upon a hand written notation was entirely reliable. The Committee subsequently decided to propose requiring a notation on the docket, rather than a written notice on the service copy of the complaint. The website of the Administrative Office of Pennsylvania Courts,

www.pacourts.us, provides online access to docket sheets, including landlord tenant cases, and the Committee anticipates that the notation regarding service by first class mail would be publicly accessible via this method.

III. Proposed Rule Changes

The Committee proposes adding a provision to Pa.R.C.P.M.D.J. No. 506A requiring that the magisterial district judge note on the docket the date of service by first class mail. Similarly, the Committee proposes amending Rule 507A by deleting the requirement that the judge note the date of first class mailing on the service copy of the complaint, and, instead, require that the notation be made on the docket. Finally, in the interest of consistency, the Committee also proposes amending the Official Note to Pa.R.C.P.M.D.J. No. 313, regarding service outside the Commonwealth, to delete the requirement that notation of service by ordinary mail should be made “on the original complaint form”, and, instead, require such notation on the docket.