

THE COURTS

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CHS. 100 AND 300]

Proposed Rule 113 (Use of Facsimile Signature) and Amendment of Rule 317 (Subpoena of Witnesses)

Introduction

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt proposed new Rule 113 (Use of Facsimile Signature) and amend Rule 317 (Subpoena of Witnesses). The proposal set forth when a district justice can authorize the use of a facsimile signature in lieu of an original signature on certain documents listed by the Administrative Office of Pennsylvania Courts. The proposal also allows the district justice to issue subpoenas requiring the production of documents or things. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

Please note that the Supreme Court does not adopt the Committee's *Comments* or *Explanatory Comments* to the Rules. Deletions are in bold and brackets, and additions are in bold.

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

District Justice Fred A. Pierantoni III
Interim Chair
Minor Court Rules Committee
City Hall
35 Broad Street
Pittston, PA 18640

no later than Wednesday, July 22, 1998.

By the Minor Court Rules Committee:

FRED A. PIERANTONI III,
Interim Chair

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 100. RULES AND STANDARDS WITH RESPECT TO OFFICES OF DISTRICT JUSTICES

[Proposed new Rule 113 of the Rules of Civil Procedure Governing Actions and Proceedings Before District Justices. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.]

Rule 113. Proposed {Use of Facsimile Signature}

A district justice may authorize the use of a facsimile signature in lieu of an original signature on certain documents listed by the Administrative Office of Pennsylvania Courts. Such list shall include, but not be limited to, district justice time payment orders, notices of hearing or judgment and DL-38 forms. An original signature shall be required on all checks, reports, dispositions, affidavits, arrest and search warrants, subpoenas, com-

mitments, complaints, court orders, emergency protection from abuse orders and certifications.

Comment

This is in recognition that offices that perform similar functions use signature stamps or signatures signed by a clerk. 42 Pa.C.S.A. 1303 provides for the use of a signature stamp for traffic court judges. Similar arrangements are used for the clerk of courts, prothonotary, and register of wills. In *Commonwealth v. Charles D. Emmanuel, Jr.*, 462 A.2d 653 (1983), the Pennsylvania Supreme Court, J. Flaherty, approved the use of a rubber stamp facsimile of the district attorney's signature on bills of information. Signature stamps are continually used by the clerks of courts, registers of wills, and prothonotaries for routine clerical functions.

Adopted _____, effective _____.

CHAPTER 300. CIVIL ACTION

[Proposed amended Rule 317 of the Rules of Civil Procedure Governing Actions and Proceedings Before District Justices. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.]

Rule 317. Subpoena of Witnesses.

A district justice may issue subpoenas throughout the Commonwealth to require the attendance of witnesses in any cause of action triable before [him] the district justice. The subpoena may also require the person to produce at the time of hearing documents or things that are under the possession, custody or control of that person.

Amended June 30, 1982, effective 30 days after July 17, 1982. Amended _____, effective _____.

(See Explanatory Comment—1969 following Rule 301)

Explanatory Comment—1998

In adding the second sentence of this Rule, it was felt that this would more fully explain the nature of the subpoena and was taken from the Pa. Rules of Civil Procedure, Rule 243.1(a). The district justice retains discretion to limit the production of documents or things to that which is relevant to the cause of action before the district justice.

[Pa.B. Doc. No. 98-919. Filed for public inspection June 12, 1998, 9:00 a.m.]

Title 255—LOCAL COURT RULES

FRANKLIN AND FULTON COUNTIES

Amendment of Local Civil Action Rule 19; Miscellaneous Docket; Volume CC, Page 163

Order of Court

May 20, 1998, Civil Action Rule 39-1920.3 is hereby amended as follows. This amendment is adopted for the Court of Common Pleas of the 39th Judicial District of Pennsylvania, both the Franklin and Fulton County

Branches and will be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

JOHN R. WALKER,
President Judge

Rule 39-1920.3. Commencement of the Action.

(c) All parties to a divorce action with children under the age of eighteen shall attend the Education Program for Divorcing Parents. The Program is a four-hour educational seminar which has been established by the Court to provide guidance to parents in helping their children adjust to the consequences of divorce. The procedures of the Program are as follows:

(1) Simultaneously with the filing of a Divorce Complaint, the moving party must file the vital statistics sheet along with two addressed envelopes for both parties who will then be notified by the Court establishing the program. A separate statement shall be filed with each Divorce Complaint listing the names, addresses and telephone numbers of the parties and the names and ages of all children under eighteen (18).

(2) Attendance at the seminar is mandatory and can only be waived for compelling reasons after presentation of a request to the Court.

(3) Within ten days of the notification of the Program as provided in paragraph 1 above, the parties are required to register by using the preprinted registration form contained in the Education Program for Divorcing Parents brochure. The Program shall be successfully completed by both parties within ninety days of the filing of the Complaint.

(4) A fee shall be assessed against each individual attending the seminar with said fee to be set on a regular basis by the Court. The fee must be paid and mailed in advance of the seminar along with the completed registration form to the address listed in the brochure. Any requests for a waiver or a reduction of the fee with proof of hardship must be presented to the Program Administrator as instructed in the brochure.

(5) Failure to register and complete the program will be brought to the attention of the court and may result in finding of contempt with the imposition of sanctions including a fine and/or imprisonment.

(6) Upon successful completion of the Program, the Program Administrator will provide a certificate directly to the Prothonotary's Office verifying the parties' participation in the course.

[Pa.B. Doc. No. 98-920. Filed for public inspection June 12, 1998, 9:00 a.m.]

SCHUYLKILL COUNTY
Amendments to Rules of Civil Procedure

Order

And Now, this 9th day of April, 1998, at 9:10 a.m., the Court hereby amends Schuylkill County Civil Rules of Procedure 206A(a) and (e), Rule 211 and Rule 1035 for use in the Court of Common Pleas of Schuylkill County, Pennsylvania (21st Judicial District). These rules shall be effective thirty days after publication in the *Pennsylvania Bulletin*.

The Prothonotary of Schuylkill County is Ordered and Directed to do the following:

1) File ten (10) certified copies of this Order and Rule with the Administrative Office of Pennsylvania Courts.

2) File two (2) certified copies of this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3) File one (1) certified copy of this Order and Rule with the Pennsylvania Civil Procedural Rules Committee.

4) Forward one (1) copy to the Schuylkill County Law Library for publication in the *Schuylkill Legal Record*.

5) Keep continuously available for public inspection copies of this Order and Rule.

By the Court

WILLIAM E. BALDWIN,
President Judge

Rule 206A. Motions.

(a) All motions or petitions for appointment, and for all miscellaneous matters, shall be governed by this rule. Motion for judgment of non pros shall follow petition practice and comply with PA State Rule 206.6.

(e) Every motion not certified as uncontested shall be accompanied by a memorandum containing a concise statement of the legal contentions and authorities relied upon in support of the motion and an affidavit of service upon the party against whom relief is sought, or to his attorney. Any party opposing the motion shall file and serve such answer or other response that may be appropriate, a memorandum in opposition, and an affidavit of service upon the other party within twenty (20) days after service of the originating motion and supporting brief, unless the Pennsylvania Rules of Civil Procedure mandate a period of time different than twenty (20) days. In the absence of timely response, the motion may be treated as uncontested. The Court may require or permit further briefing, if appropriate.

Rule 211. Argument/Oral Argument.

Unless otherwise requested by counsel in writing all matters will be decided based upon the written arguments set forth in the briefs of the litigants. Requests for oral argument shall be submitted in writing to the assigned judge, or when there has not been a specific assignment to the Court Administrator, and shall be submitted not later than the date that the last brief is due to be filed. Requests for oral argument shall include an explanation providing the reason that the argument contained in the brief does not adequately address the issue. Failure to request oral argument in writing, including matters in which argument is required by rule (e.g. Pa.R.C.P. 1910.12(g)), will be deemed by the court to constitute an agreement by the parties to waive oral argument, and allow disposition on the record.

Rule 1035. Motion for Summary Judgment.

A motion for summary judgment shall be accompanied by a praecipe to transmit pursuant to Sch.R.C.P. 205.3 indicating that the matter can be disposed of on the record and shall further be accompanied by the brief of the moving party. The answer and brief of any opposing party shall be filed within thirty (30) days after service of the original motion.

[Pa.B. Doc. No. 98-921. Filed for public inspection June 12, 1998, 9:00 a.m.]