

THE COURTS

Title 201—RULES OF JUDICIAL ADMINISTRATION

[201 PA. CODE CH. 40]

Proposed Amendments to the Uniform Rules Governing Court Reporting and Transcripts

The Administrative Office of Pennsylvania Courts is considering recommending to the Supreme Court of Pennsylvania the adoption of amendments to the *Uniform Rules Governing Court Reporting and Transcripts* eliminating the Committee on Court Reporting and Transcripts and providing for a minimum 30-day public comment period for any proposed transcript rate increase in a judicial district.

The proposed deletion of Rule of Judicial Administration 4003 and amendment of Rule of Judicial Administration 4008 will help to streamline the process and provide more transparency when a judicial district seeks to increase its transcript rates. The deletion of Rule 4003 is proposed given the lack of activity by the Committee for the past several years. The proposed amendment to Rule of Judicial Administration 4008 will require a judicial district that seeks to increase its transcript rates to solicit feedback for at least 30 days prior to submitting its proposal to the Court Administrator for review. The Administrative Office will serve as the entity proposing any changes to the *Uniform Rules Governing Court Reporting and Transcripts*, as it does generally with the Rules of Judicial Administration, along with public notice and opportunity for comment.

Proposed new material is underlined and in bold-face type, and deleted material is bracketed and in bold-face type.

All interested persons are invited to submit suggestions, comments, or objections. All communications in reference to this proposal should be submitted no later than September 3, 2019 to:

Administrative Office of Pennsylvania Courts
ATTN: Judicial Operations & Programs
601 Commonwealth Avenue
P.O. Box 61260
Harrisburg, PA 17106
Judicial.DistrictOperationsDept@pacourts.us
THOMAS B. DARR,
Court Administrator of Pennsylvania

Annex A

TITLE 201. RULES OF JUDICIAL ADMINISTRATION

CHAPTER 40. UNIFORM RULES GOVERNING COURT REPORTING AND TRANSCRIPTS

Rule 4003. [Committee on Court Reporting and Transcripts] Rescinded by Supreme Court Order dated _____.

[(A) The Committee on Court Reporting and Transcripts shall consist of the following members appointed by the Supreme Court of Pennsylvania, one of whom shall be designated as Chair and one of whom shall be designated as Vice-Chair:

(1) One representative of the Superior Court of Pennsylvania;

(2) One representative of the Commonwealth Court of Pennsylvania;

(3) Two president judges of the courts of common pleas chosen from among the judicial districts of the Commonwealth;

(4) Two members of the County Commissioners Association of Pennsylvania;

(5) The district court administrator of the Philadelphia County Court of Common Pleas;

(6) The district court administrator of the Allegheny County Court of Common Pleas;

(7) Two district court administrators chosen from among the judicial districts of the Commonwealth other than Philadelphia and Allegheny;

(8) Two providers of court reporting services representing the various methods currently in usage within Pennsylvania; and

(9) Two members of the Pennsylvania Bar.

(B) Initial appointments shall be for one-, two- or three-year terms, and these members may serve one additional three-year term. Thereafter appointments shall be for three years and members shall serve no more than two consecutive three-year terms. A replacement appointee shall serve for the balance of the unexpired term.

(C) The Committee shall review current rules and practices, and, upon concurrence of the Court Administrator, recommend revisions to the Uniform Rules Governing Court Reporting and Transcripts as may be necessary to effectuate the policy of these rules.

(D) The Administrative Office shall provide staff support to the Committee.]

Rule 4008. Transcript Costs Payable by a Requesting Party Other Than the Commonwealth or a Subdivision Thereof.

* * * * *

(F) Requests for Rate Increases

The president judge of a judicial district may request an increase in the rates prescribed in subdivision (A) or (D) by submitting a written request to the [Committee on Court Reporting and Transcripts] Court Administrator. Prior to submission, notice of the proposed increase shall be published for public comment for at least thirty days. Any comments received must be forwarded to the Court Administrator with the request. The request shall only be approved where it is established that the judicial district faces an economic hardship caused by the current rates and that the requested rates are reasonable. [If the Committee approves the request by majority vote, it shall be

forwarded to the Court Administrator for review.] If the Court Administrator determines that the increase is necessary, the request shall be forwarded to the Supreme Court.

[Pa.B. Doc. No. 19-1173. Filed for public inspection August 2, 2019, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 400]

Order Amending Rule 402 of the Rules of Civil Procedure Before Magisterial District Judges; No. 436 Magisterial Rules Doc.

Order

Per Curiam

And Now, this 22nd day of July, 2019, upon the recommendation of the Minor Court Rules Committee, the proposal having been published for public comment at 45 Pa.B. 1252 (March 14, 2015) and 47 Pa.B. 7305 (December 2, 2017):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 402 of the Pennsylvania Rules of Civil Procedure Before Magisterial District Judges is amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on January 1, 2020.

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 400. ENFORCEMENT OF JUDGMENTS RENDERED BY MAGISTERIAL DISTRICT JUDGES FOR THE PAYMENT OF MONEY

Rule 402. Request for Order of Execution. Entry of Judgment in Court of Common Pleas or Philadelphia Municipal Court.

A.(1) Execution of a judgment for the payment of money rendered by a magisterial district judge may be ordered by a magisterial district judge in whose office the judgment was rendered or entered, provided the plaintiff files in that office

[(1)] (a) not before the expiration of 30 days from the date the judgment is entered by the magisterial district judge, and

[(2)] (b) within five years of that date, a request for an order of execution.

(2) The magisterial district judge in whose office the judgment was rendered or entered shall accept all timely requests for an order of execution on that judgment, including when the location of the property to be levied upon is located outside the county of the magisterial district where the judgment was rendered or entered.

B. The request form shall be attached to the order, return and other matters required by these rules.

C. The plaintiff may enter the judgment, for the purpose of requesting an order of execution thereon, in an office of a magisterial district judge other than that in which it was rendered only if levy is to be made outside the county in which the judgment was rendered and the office in which the judgment is entered for execution is that of [a] **the** magisterial district judge whose magisterial district is situated in the county in which levy is to be made.

The plaintiff may enter the judgment in such other office by filing therein a copy of the record of the proceedings containing the judgment, certified to be a true copy by the magisterial district judge in whose existing office the judgment was rendered or by any other official custodian of the record.

D.(1) The plaintiff may enter the judgment in the court of common pleas in any county or the Philadelphia Municipal Court. When so entered, the indexing, revival and execution of the judgment shall be in accordance with procedures applicable in the court of common pleas or the Philadelphia Municipal Court.

(2) The judgment may be entered in the court of common pleas or the Philadelphia Municipal Court by filing with the prothonotary or Philadelphia Municipal Court Administrator a copy of the record of the proceedings containing the judgment, certified to be a true copy by the magisterial district judge in whose office the judgment was rendered or by any other official custodian of the record.

(3) The judgment may be entered in the court of common pleas or the Philadelphia Municipal Court after 30 days from the date the judgment is entered by the magisterial district judge. The judgment may not be entered in the court of common pleas or the Philadelphia Municipal Court after five years from the date the judgment is entered by the magisterial district judge.

(4)(a) Within 14 days of entering the judgment in the court of common pleas or the Philadelphia Municipal Court, the plaintiff shall file satisfactory proof of the entry of judgment with the magisterial district court that entered the judgment, and the magisterial district court shall vacate the judgment from its docket.

(b) If after 14 days of entering the judgment in the court of common pleas or the Philadelphia Municipal Court, the plaintiff fails to comply with subparagraph 4(a) of this rule, the defendant may file such proof with the magisterial district court that entered the judgment, and the magisterial district court shall vacate the judgment from its docket.

(5) Except as provided in [paragraphs] subparagraphs D(4) and D(6) of this rule, once the judgment is entered in the court of common pleas or the Philadelphia Municipal Court all further process must come from [the court of common pleas] that court and no further process may be issued by the magisterial district judge.

(6) The magisterial district judge shall enter satisfaction on the docket of the magisterial district court proceedings upon the filing by any party in interest of a certified copy of the docket entries of the court of common pleas or the Philadelphia Municipal Court showing the judgment and satisfaction have been entered in [the court of common pleas] that court.

E.(1) As used in this rule, a judgment marked “expired” is a judgment that cannot be satisfied, revived, or vacated because the five-year period designated in Rule 402 has elapsed.

(2) If the plaintiff does not request an order of execution in a magisterial district court or enter the judgment in a court of common pleas or the Philadelphia Municipal Court within five years of the date the judgment was entered by the magisterial district judge, then the judgment shall be marked expired.

Official Note: The discretionary language used throughout paragraphs A(1), C, and D is intended to reflect the various options available to the plaintiff for executing upon a judgment rendered by a magisterial district judge.

Under [subdivision A] paragraph A(1) of this rule, the execution proceedings are commenced by requesting an “order of execution.” The request may not be filed before the expiration of 30 days after the date the judgment is entered by the magisterial district judge. This will give the defendant an opportunity to obtain a supersedeas within the appeal period. The request must be filed within five years of the date the judgment is entered by the magisterial district judge. No provision has been made for revival of a judgment in magisterial district court proceedings.

Under paragraph A(2), if the plaintiff requests an order of execution in the magisterial district court where the judgment was entered and the property to be levied upon is outside the county of that magisterial district, then the magisterial district judge shall accept the request and use the available automated system to facilitate the transfer of the request to the magisterial district court in the magisterial district where the property is located. The magisterial district judge who receives a request to levy upon property located outside the county of the magisterial district shall neither reject it solely on this basis nor direct the plaintiff to file it with the other court. This requirement is consistent with Rule 403A, which provides that “[u]pon the filing of the request form, the magisterial district judge . . . shall issue the order of execution thereon.”

[Subdivision] Paragraph C provides for entering the judgment, for the purpose of requesting an order of execution, in an office of a magisterial district judge other than that in which the judgment was rendered when levy is to be made outside the county in which the judgment was rendered. *Compare* Pa.R.C.P. No. 3002.

As to [subdivision] paragraph D, *see* Section 1516 of the Judicial Code, 42 Pa.C.S. § 1516. The [30 day] 30-day limitation in the rule appears to be required by this Section. Certification by the magisterial district judge should not be done before the expiration of 30 days after the date of entry of the judgment. The only method available to renew a judgment would be to record the judgment in the [Prothonotary’s] prothonotary’s or Philadelphia Municipal Court Administrator’s office prior to the expiration of the five-year period and then follow the applicable Rules of Civil Procedure for the revival of judgments. *See* Pa.R.C.P. No. 3025 *et seq.*; *see also* Phila. M.C.R. Civ.P. No. 126c. Also, [subdivision] paragraph D makes clear that when the judgment is entered in the court of common pleas or the Philadelphia Municipal Court, all further process

shall come from [the court of common pleas] that court and that no further process shall be issued by the magisterial district judge except that the magisterial district judge shall enter on the magisterial district court docket vacating of the judgment due to its entry at the court of common pleas or the Philadelphia Municipal Court, or proof of satisfaction of a judgment that had been entered in the court of common pleas or the Philadelphia Municipal Court and subsequently satisfied in that court. This exception is necessary so that procedures exist for entering satisfaction of all judgments with the magisterial district court, regardless of whether the judgment has been certified to and satisfied in the court of common pleas or the Philadelphia Municipal Court. A plaintiff filing a judgment in the court of common pleas or the Philadelphia Municipal Court is required to file satisfactory proof of the entry of judgment with the magisterial district court that entered the judgment, and the magisterial district court will then vacate its judgment. This step ensures that only the enforceable common pleas or Philadelphia Municipal Court judgment will be reportable as an outstanding liability of the defendant.

[Subdivision] Paragraph E provides that a judgment shall be marked expired if the plaintiff does not request an order of execution in a magisterial district court or enter the judgment in a court of common pleas or the Philadelphia Municipal Court within five years of the date the judgment was entered by the magisterial district judge. Limiting the time period for entry of the judgment to five years will give a plaintiff sufficient time to act without indefinitely penalizing a defendant.

FINAL REPORT¹

Recommendation 3-2018, Minor Court Rules Committee

Amendment of Pa.R.C.P.M.D.J. No. 402

Entry of Judgment

I. Introduction

The Minor Court Rules Committee (“Committee”) recommended amendments to Rule 402 of the Pennsylvania Rules of Civil Procedure before Magisterial District Judges (“Rules”). Rule 402 addresses entry of judgment with a court for the purpose of seeking execution. The amendments will (1) clarify the procedure for a request for an order of execution that will take place outside the magisterial district court where the judgment was rendered, and (2) add the Philadelphia Municipal Court as an additional court where a magisterial district court judgment may be entered for the purpose of seeking an order of execution.

II. Background and Discussion

Request for an Order of Execution

The Committee received inquiries in recent years regarding a magisterial district judge’s authority to reject a request for an order of execution that will occur outside the county where the judgment was rendered (*i.e.*, an out-of-district execution²), and, instead, require that the plaintiff go directly to a magisterial district court in the other county to pursue execution. The Committee believed

¹ The Committee’s Final Report should not be confused with the Official Notes to the Rules. Also, the Supreme Court of Pennsylvania does not adopt the Committee’s Official Notes or the contents of the explanatory Final Reports.

² A plaintiff may seek an out-of-district execution because the defendant owns tangible, non-perishable, personal property that can be levied upon outside the district where the action took place. The Magisterial District Judge System (“MDJS”) has automated procedures in place to accommodate out-of-district executions.

that this scenario was not consistent with the Rules, and found that clarification of Rule 402 would be useful for the bench and bar.

Rule 402A addresses entering the judgment for execution in the magisterial district where it was rendered and is silent on the question of where the execution will take place. Rule 402A provides:

Execution of judgment for the payment of money rendered by a magisterial district judge *may* be ordered by a magisterial district judge in whose office the judgment was rendered or entered provided the plaintiff files in that office

(1) not before the expiration of 30 days from the date the judgment is entered by the magisterial district judge, and

(2) within five years of that date,

a request for an order of execution.

Pa.R.C.P.M.D.J. No. 402A (emphasis added).

In contrast, Rule 402C provides:

A plaintiff *may* enter the judgment, for the purpose of requesting an order of execution thereon, in an office of a magisterial district judge other than that in which it was rendered only if levy is to be made outside the county in which the judgment was rendered and the office in which the judgment is entered for execution is that of a magisterial district judge whose magisterial district is situated in the county in which levy is to be made.

Pa.R.C.P.M.D.J. No. 402C (emphasis added).

The discretionary language used in Rules 402A and C is for the sole benefit of the plaintiff to elect where to enter the judgment for execution. Moreover, the directive language of Rule 403A provides that “[u]pon the filing of the request form, the magisterial district judge shall note on the form the time and date of its filing and *shall* issue the order of execution thereon.” (Emphasis added.)

The Committee recommended adding new subparagraph A(2) to Rule 402, as well as amending the Official Note to Rule 402, to clarify that the magisterial district judge in whose office the judgment was rendered or entered shall accept all timely requests for an order of execution on that judgment, even when the property to be levied upon is located outside the county of the magisterial district where the judgment was rendered or entered.

Entering Judgments in the Philadelphia Municipal Court

In addition to providing for entering judgments in magisterial district courts, Rule 402 also provides that a plaintiff may enter a judgment rendered by a magisterial district court in the court of common pleas of any county. *See* Rule 402D(1). When entered in the court of common pleas, the judgment is subject to the indexing, revival, and execution procedures applicable in the court of common pleas. *Id.* Entering a judgment in the court of common pleas, and submission of proof thereof to the magisterial district court, has the effect of vacating the underlying magisterial district court judgment, so that only one judgment remains in effect for execution purposes. *See* Rule 402D(4).

While reviewing Rule 302 (pertaining to venue) on a separate matter, the Committee observed that the venue rule specifically permits the transfer of cases to and from the Philadelphia Municipal Court, while the rule on entry of judgments limits transfers to a magisterial district court or a court of common pleas. The Committee agreed

that permitting entry of judgments in the Philadelphia Municipal Court would be useful to litigants, and discussed amending Rule 402 to add the Philadelphia Municipal Court as a court where a plaintiff may enter a magisterial district court judgment.

The Philadelphia Municipal Court Rules of Civil Practice permit entry of judgments from other courts: “[j]udgments of other Pennsylvania jurisdictions within the jurisdictional amount of this court may be transferred to this court by filing a certified copy of all the docket entries in the action and a certification of the amount of judgment or a certified copy of the transcript of the judgment.” *See* Phila. M.C.R. Civ.P. No. 125a. Judgments entered in Philadelphia Municipal Court are treated in the same manner as judgments entered in the Court of Common Pleas of Philadelphia County.

Judgment recovered in the Philadelphia Municipal Court shall be a lien upon property in the same manner and to the same extent that judgment recovered in the Court of Common Pleas of Philadelphia County is a lien. All such judgments shall be indexed in the judgment index or indices of Philadelphia County in the same manner as judgments of the court of common pleas are indexed.

42 Pa.C.S. § 1124. With regard to judgments of magisterial district courts, 42 Pa.C.S. § 1516, referenced in the Official Note to Rule 402, provides:

[a] judgment of a magisterial district judge shall not operate as a lien on real property until a transcript of the record showing a final judgment of a magisterial district judge has been filed in the manner prescribed by general rules in the office of the clerk of the court of common pleas of the county where the property is situated, or in the office of the clerk of the branch of the court of common pleas embracing such county.

42 Pa.C.S. § 1516.

Permitting entry of judgments in the Philadelphia Municipal Court would achieve consistency between the courts, and provide litigants with an additional venue to initiate the judgment enforcement process.

III. *Rule Changes*

With regard to requests for out-of-district executions, the Committee recommended amending Rule 402 and the Official Note to Rule 402. New paragraph A(2) provides that the magisterial district judge in whose office the judgment was rendered or entered shall accept all timely requests for an order of execution on that judgment, even when the property to be levied upon is located outside the county of the magisterial district where the judgment was rendered or entered. The amendments to the Official Note also explain that the discretionary language used throughout Rule 402 is intended to reflect the various options available to the plaintiff for executing upon a judgment rendered by a magisterial district judge. The Committee also recommended noting the contrast with Rule 403A, which provides that “[u]pon the filing of the request form, the magisterial district judge . . . shall issue the order of execution thereon.”

The Committee recommended adding the Philadelphia Municipal Court as a court where a magisterial district court judgment can be entered for the purpose of pursuing execution. This is reflected by adding the Philadelphia Municipal Court throughout paragraphs D and E of the rule, as well as pertinent references in the Official Note.

The Committee recommended minor stylistic changes throughout Rule 402.

[Pa.B. Doc. No. 19-1174. Filed for public inspection August 2, 2019, 9:00 a.m.]

Title 255—LOCAL COURT RULES

ARMSTRONG COUNTY

Adoption of New Local Court Rule—Custody; CP-03-AD-0000001-2019

Order of Court

And Now, this 16th day of July, 2019, *It Is Hereby Ordered and Decreed* that Armstrong County Local Rule 1915.4-3 is amended. Effective thirty (30) days after publication in the *Pennsylvania Bulletin* the Armstrong County Court of Common Pleas adopts the following Local Rule 1915.4-3(g).

The Armstrong County District Court Administrator is Ordered and Directed to do the following:

1. File one (1) copy to the Administrative Office of Pennsylvania Courts via email to adminrules@pacourts.us.
2. File two (2) paper copies and one (1) electronic copy in a Microsoft Word format only to bulletin@palrb.us with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. Publish the Rule on the Armstrong County Court website at www.accourts.com.
4. Incorporate the local rule into the set of local rules on the Armstrong County website within thirty (30) days after the publication of the local rule in the *Pennsylvania Bulletin*.
5. File one (1) copy of the local rule in the office of the Armstrong County Prothonotary for public inspection and copying.

By the Court

JAMES J. PANCHIK,
President Judge

Local Rule 1915.4-3. Custody Conciliation Conference.

g) In all cases where a final, comprehensive custody consent agreement is not reached, the CCO shall provide a written report to the Court within five days of the conference, which may contain the following:

(1) recommendations with regard to the necessity of psychological evaluations, home study evaluations, drug and alcohol evaluations and/or treatment, co-parenting or reunification counseling, supervised custody, visit coaching, and/or the appointment of a guardian ad litem;

(2) the CCO's review of jurisdiction, venue, standing and relocation issues;

(3) progress, if any, on issues before the CCO, as well as any recommendations for temporary custody/partial custody orders, including the need for an expedited hearing in emergency and relocation cases;

(4) the scheduling of a pre-trial conference.

[Pa.B. Doc. No. 19-1175. Filed for public inspection August 2, 2019, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that John Omololu Shasanmi (# 311041), having been disbarred in New York, the Supreme Court of Pennsylvania issued an Order on July 18, 2019, disbaring John Omololu Shasanmi from the Bar of this Commonwealth, effective August 17, 2019. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

MARCEE D. SLOAN,
Board Prothonotary

[Pa.B. Doc. No. 19-1176. Filed for public inspection August 2, 2019, 9:00 a.m.]