

THE COURTS

Title 210—APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES

[210 PA. CODE CH. 65]

Amendments to the Superior Court Operating Procedures

The Superior Court of Pennsylvania has adopted amendments to its published Operating Procedures. These amendments are reflected in the Superior Court Operating Procedures with amendments to Pa. Code §§ 65.21 and 65.41.

These changes were approved on February 21, 2024, and March 28, 2024, effective on those dates.

(Additions appear in boldface. Deletions are bracketed and boldface.)

Annex A

TITLE 210. APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES

CHAPTER 65. OPERATING PROCEDURES OF THE SUPERIOR COURT

MOTIONS PRACTICE

§ 65.21. Motions Review Subject to Single Judge Disposition.

A. Except as otherwise provided in § 65.22, a single judge of this Court, whether commissioned or specially assigned, may entertain and may grant or deny any request for relief which under the Rules of Appellate Procedure may properly be sought. A party may file an answer to an application, Pa.R.A.P. 123(b); a speaking application shall be verified unless the interest of justice requires action without it, Pa.R.A.P. 123(c); oral argument will not be permitted unless otherwise ordered by the Court, Pa.R.A.P. 123(d). The action of a single judge may be reviewed by the Court.

Comment:

Section 65.21(A) merely reaffirms the procedure codified in Pa.R.A.P. 123. A single judge may grant or deny relief requested by a proper application, Pa.R.A.P. 123(e). However, the Court may by order or rule provide that an application or class of applications must be acted upon by the Court.

B. All petitions for extension of time shall be referred by the Prothonotary to the motions judge. Such petitions should be acted upon as soon as possible unless the motion judge feels an answer is necessary.

1. Petitions for extension shall be granted only on cause shown and in any event the filing of the brief is required, particularly in criminal cases, even though the right to argue is lost. However, if the petition for extension is accompanied by a substantive motion, such as a motion to quash, remand, or withdraw, Central Legal Staff shall review the motion in an expeditious manner pursuant to the procedures set forth in Section 65.21(D).

2. Notwithstanding any contrary procedures set forth above, all petitions for extension of time to file a brief in cases designated Children's Fast Track or Other Family Fast Track, upon receipt by the Prothonotary, shall be sent to Central Legal Staff for processing. All such

petitions shall be presented to a motions judge for disposition within three days of receipt of the petition by Central Legal Staff. Petitions for extension of time to file a brief in Children's Fast Track or Other Family Fast Track cases shall be granted only upon a showing of good cause and extraordinary circumstances. [**Generalities such as the purpose of the motion is not for delay or that counsel is too busy will not constitute either good cause or extraordinary circumstances.**] Extensions for time should rarely be granted, and when granted should rarely be for a period in excess of seven days.

C. All other motions, petitions or applications for relief subject to this rule, shall, upon receipt by the Prothonotary, be transmitted to Central Legal Staff.

D. Central Legal Staff, upon receiving an application for relief pursuant to subsection C, shall review the application, [**and**] prepare a recommendation and present the application and recommendation to the assigned motions judge at a time and place convenient to the motions judge. Central Legal Staff may also present recommendations for sua sponte orders deemed necessary to correct or clarify preliminary procedural matters.

E. The motions judge may decide the application on the basis of the application or may require the filing of an answer or briefs, or the motions judge may schedule a hearing thereon.

F. Unless ordered by the Court, oral argument will not be permitted.

G. It is within the discretion of a single judge to whom an application has been referred to decide the motion or to have it presented to a motions panel. Pa.R.A.P. 123(e).

(As amended, effective 1/1/97)

H. Once a case is scheduled before a panel, all motions filed thereafter shall be referred to that panel.

I. Motions for continuance are to be referred to the presiding judge of the panel who alone may decide the motion, or who may obtain a vote of the other judges of the panel by letter or phone.

J. Any motions for mandamus, prohibition and writs of habeas corpus where no direct appeal is pending shall be referred by the Chief Staff Attorney to the assigned motions judge.

Comment:

See *Municipal Publications v. Court of Common Pleas of Philadelphia County*, 507 Pa. 194, 489 A.2d 1286 (1985).

(Amended February 21, 2024, imd. effective)

DECISIONAL PROCEDURES

§ 65.41. Argument Before a Court En Banc.

A. When argument before a Court En Banc is granted, [**the President Judge**] any merits panel decision is withdrawn pending the decision of the Court En Banc and the order shall direct the Prothonotary to schedule such argument at the next available session. The judges to hear argument shall be selected by the President Judge. The presiding judge shall be the commissioned judge highest in seniority except when the Court En Banc includes the President Judge, who shall then be the presiding judge.

B. Where en banc argument is limited to one or more but less than all issues raised by an appellant, counsel shall be notified regarding the [**specific**] **particular** issues on which the Court En Banc desires to hear argument. **The parties' briefs, however, shall address all of the issues raised on appeal.**

C. Before or after argument before the Court En Banc, the Court may vote that en banc consideration was improvidently granted. In such event, the previous panel decision in the matter shall be reinstated or, if there is no previous panel decision in the matter, the case shall be listed before the next available panel of this Court.

D. The following rule only applies to a motion to discontinue an appeal after the Court has granted reargument before the Court en banc. Pa.R.A.P. 1973 applies to all other motions to discontinue an appeal.

1. While a case is pending disposition by the Court En Banc, a party may file an application to discontinue the appeal and the appeal will be discontinued only if a majority of the Commissioned Judges vote to grant the application to discontinue the appeal.

2. If a party files a praecipe to discontinue the appeal, the Court shall treat the praecipe as an application to discontinue the appeal and it will be subject to vote by the commissioned judges of the Court.

3. If the commissioned judges vote to discontinue the appeal, the Court shall discontinue the appeal and reinstate the merits panel's opinion or memorandum opinion.

[D.] **4.** In the event that a party seeks to remove en banc status and reinstate a panel's decision, such request must be made by motion and is subject to full court review.

E. In the event that a party in another appeal has raised an issue for which the Court has granted [**Reargument**] **reargument**, the Court shall stay such appeal pending the decision of the en banc panel.

F. The Court may decide to stay the case *sua sponte* or upon a motion that a party files.

(Amended March 28, 2024, imd. effective)

[Pa.B. Doc. No. 24-636. Filed for public inspection May 10, 2024, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CHS. 200, 300 AND 500]

Order Amending Rules 210, 305, 318, 504, 506, and 507 and Adopting Rule 513.1 of the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges

Order

Per Curiam

And Now, this 25th day of April, 2024, upon the recommendation of the Minor Court Rules Committee;

the proposal having been published for public comment at 51 Pa.B. 1506 (March 20, 2021):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges 210, 305, 318, 504, 506, and 507 are amended and Rule 513.1 is adopted in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective January 1, 2025.

Additions to the rule are shown in bold and are underlined.

Deletions from the rule are shown in bold and brackets.

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 200. RULES OF CONSTRUCTION; GENERAL PROVISIONS

Rule 210. Practices Prohibited.

The following practices are specifically prohibited:

[(1)] **(a)** The use of depositions or interrogatories for discovery or use at a hearing.

[(2)] **(b)** Adding parties after the complaint is filed, **except as provided by Pa.R.Civ.P.M.D.J. 513.1.**

[(3)] **(c)** Attachment proceedings previous to judgment.

[(4)] **(d)** Entry of a judgment by warrant of attorney or by confession of judgment.

[Official Note] Comment:

In keeping with the policy of making the procedures in actions before magisterial district judges as simple and nontechnical as possible and in view of the time limitations imposed elsewhere in these rules, it was thought desirable to prohibit specifically the practices mentioned in the four subdivisions of this rule. *See also* [**Rules 204 and 381**] **Pa.R.Civ.P.M.D.J. 204 and 381.**

Pa.R.Civ.P.M.D.J. 513.1 permits an individual to file an intervention request in a landlord-tenant action.

CHAPTER 300. CIVIL ACTION

Rule 305. Setting the Date for Hearing; Delivery for Service; **Notice to Defendant; Form.**

The magisterial district judge, at the time the complaint is filed, shall:

[(1)] **(a)** Set a hearing date which shall be not less than 12 or more than 60 days from the date the complaint is filed.

[(2)] **(b)** Insert the hearing time and date and the address of the magisterial district court in the complaint form.

[(3)] **(c)** Deliver a copy of the complaint form with hearing time and date thereon to the plaintiff.

[(4)] **(d)** Deliver a copy of the complaint form with hearing time and date thereon for service on the defendant as hereinafter set forth, which copy shall contain the following notice:

[(a) If you intend to enter a defense to this complaint you should so notify this office immediately.

(b) If you have a claim against the plaintiff which is within magisterial district court jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five days before the date set for the hearing.

(c) YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT MAY BE ENTERED AGAINST YOU BY DEFAULT.]

Notice to Defendant

You have been sued in court. If you wish to appear at the hearing and defend against the claims set forth in the complaint, you should notify the court in writing. You may give notice by completing the enclosed Notice of Intent to Defend form and returning it to the court. Alternatively, you may send the court a signed statement identical in content to the enclosed form. If you do not intend to dispute this claim, you do not need to appear in court and a judgment may be entered against you in your absence.

If you give written notice of intent to defend and attend the hearing, but the plaintiff does not appear at the hearing, then the magisterial district judge will enter judgment in your favor or continue the case for cause. If you do not give written notice of intent to defend and attend the hearing, but the plaintiff does not appear at the hearing, the magisterial district judge will continue the case. If you do not appear at the hearing, either a judgment will be entered against you or the case will be continued for cause. If a judgment is entered against you, you may lose money or property or other rights important to you.

If you have a claim against the plaintiff that is within magisterial district court jurisdiction and that you intend to assert at the hearing, you must file it on a complaint form at this office at least five days before the date set for the hearing. No claim by the defendant will be permitted in a supplementary action filed for failure of a judgment creditor to enter satisfaction.

If you need information about hiring a lawyer to represent you in this matter, contact either your county bar association or legal services agency.

(e) The copy of the complaint form delivered for service upon the defendant shall be accompanied by the Notice of Intent to Defend form prescribed by the State Court Administrator.

[Official Note] Comment:

The 60-day limitation in [subdivision (1) of this rule] subdivision (a) was considered to provide sufficient time in which to effect service under the requirement of [Rule 307] Pa.R.Civ.P.M.D.J. 307 that service be made at least ten days before the hearing. See [Rule 314E] Pa.R.Civ.P.M.D.J. 314E as to reinstatement of complaints dismissed because of lack of service. The

copies required in [subdivisions (3) and (4)] subdivisions (c) and (d) are provided by the Magisterial District Judge Automated System. [Giving the notice mentioned in subdivision (4)(a) is necessary if the defendant is to obtain judgment under Rule 319A because of the plaintiff's failure to appear. Subdivision (4)(b) gives notice of the right to file a cross-claim within magisterial district court jurisdiction. The procedure for filing such a claim is set forth in Rule 315, and the Note to that rule indicates possible procedures as to counterclaims not within magisterial district court jurisdiction. Subdivision (4)(c) provides for a warning concerning a default judgment, which may be rendered under Rule 319B.]

Subdivision (d) sets forth the notice that must be provided to a defendant with a complaint, advising the defendant to notify the court if the defendant intends to appear at the hearing, the consequences of failing to appear at the hearing, and the right of the defendant to file a cross-complaint against the plaintiff within magisterial district court jurisdiction. The defendant must notify the court of his or her intention to defend against the complaint in order for the defendant to obtain judgment because of the plaintiff's failure to appear. See Pa.R.Civ.P.M.D.J. 319A.

See Pa.R.Civ.P.M.D.J. 315 (procedures for filing a cross-complaint); but see Pa.R.Civ.P.M.D.J. 342B(2) (prohibiting a defendant from filing a cross-complaint in a supplementary action).

The Notice of Intent to Defend form referenced in subdivision (e) shall be included with the complaint served on the defendant. It provides a convenient method for the defendant to advise the court that he or she intends to appear at the hearing and defend against the claims set forth in the complaint. Alternatively, the defendant may give the court a signed statement identical in content to the form provided by the court.

(Editor's Note: The following Explanatory Comment is not currently codified in the Pennsylvania Code.)

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

EXPLANATORY COMMENT—1992

The Note to Rule 305 recognizes that forms generated by the District Justice Automation Project may be provided to parties for their convenience at the discretion of the District Justice.

Rule 318. Informing Plaintiff of Notice of Intention to Defend.

If the defendant gives the magisterial district court notice of intention to defend in accordance with [Rule 305(4)(a)] Pa.R.Civ.P.M.D.J. 305(d), the magisterial district court shall promptly give the plaintiff written notice that the defendant intends to enter a defense.

[Official Note: No specific form of notification from the defendant to the magisterial district court is required by this rule, but entries]

Comment:

The defendant may give the court notice of intention to defend by using the form provided to the

defendant pursuant to Pa.R.Civ.P.M.D.J. 305(e) or by a signed statement identical in content. See Pa.R.Civ.P.M.D.J. 305(e), cmt. (pertaining to the form notice provided to the defendant for his or her convenience). Entries on the docket will show that the defendant gave notice of intention to defend and that the magisterial district court gave written notice to the plaintiff.

(Editor's Note: The following Explanatory Comment is not currently codified in the Pennsylvania Code.)

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

EXPLANATORY COMMENT—1992

Rule 318 recognizes that a Notice of Intent to Defend form will be generated by the District Justice Automation Project. Correspondingly, the Note maintains the same procedure for recording that either the plaintiff or his attorney of record was notified of the defendant's intent to defend and requires an acknowledgment that the Notice of Intent to Defend form was used.

CHAPTER 500. ACTIONS FOR THE RECOVERY OF POSSESSION OF REAL PROPERTY

Rule 504. Setting the Date for Hearing; Delivery for Service; Notice to Tenant or Occupant.

The magisterial district judge, at the time the complaint is filed, shall:

[(1)] **(a)** Set a hearing date that shall be not less than seven or more than fifteen days from the date the complaint is filed.

[(2)] **(b)** Insert the hearing time and date and the address of the magisterial district judge's magisterial district in the complaint form.

[(3)] **(c)** Deliver a copy of the complaint form with hearing time and date thereon to the landlord or the landlord's agent.

[(4)] **(d)** Deliver a copy of the complaint form with hearing time and date thereon for service as hereinafter set forth, which copy shall contain the following notice:

[**(a) If you have a defense to this complaint, you may present it at the hearing.**

(b) If you have a claim against the landlord arising out of the occupancy of the premises, which is within magisterial district court jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office before the time set for the hearing.

(c) IF YOU DO NOT APPEAR AT THE HEARING, a judgment for possession and costs, and for damages and rent if claimed, may nevertheless be entered against you. A judgment against you for possession may result in YOUR EVICTION from the premises.]

Notice to Tenant or Occupant

TO THE TENANT: You have been sued in court. You may appear at the hearing and defend against the claims set forth in the complaint. If you do not intend to dispute this claim, you do not need to appear in court and a judgment may be entered against you in your absence.

Failure to appear at the scheduled hearing may result in a judgment entered against you for possession and costs, as well as damages and rent if claimed. A judgment against you for possession may result in your eviction from the premises.

If you have a claim against the landlord arising out of the occupancy of the premises, which is within magisterial district court jurisdiction and that you intend to assert at the hearing, you must file it on a complaint form at this office before the time set for the hearing.

TO AN OCCUPANT: If you are an occupant of the premises, you may be evicted if you take no action upon receipt of this complaint, even if you are not named in the complaint. You may be able to be added to the case and defend your interests in remaining at the premises by: (1) filing an intervention request at this office any time before the hearing on the complaint; and (2) proving at the hearing that you are a tenant of the landlord. See Pa.R.Civ.P.M.D.J. 513.1. If you have a claim against the landlord arising out of the occupancy of the premises and that is within the jurisdiction of the magisterial district judge, you must file it on a complaint form at the same time as the intervention request. If you are added to the case as a tenant, you may be liable for any judgment entered in favor of the landlord, including property damage, back rent, court costs, and fees.

* * *

If you need information about hiring a lawyer to represent you in this matter, contact either your county bar association or legal services agency.

[Official Note] Comment:

The hearing date in [subdivision (1) of this rule] **subdivision (a)** is required to be set not less than seven days from the filing of the complaint because of the requirement in [**Rule 506B**] **Pa.R.Civ.P.M.D.J. 506(b)** that service be made at least five days before the hearing. It was thought that the requirement that the hearing be held not more than 15 days from the filing of the complaint should provide ample time to make the type of service required in these cases.

The notice for the tenant set forth in [**subdivision (4) of this rule**] **subdivision (d)** varies somewhat from the notice required in civil actions under [**Rule 305**] **Pa.R.Civ.P.M.D.J. 305**. There are a number of reasons for this. First, there can be no default judgment in these possessory actions and, secondly, it was thought that cross-complaints of tenants in these cases should be limited to those arising out of the occupancy of the premises. **The notice in subdivision (d) is also intended for occupants of the property who are not named in the complaint.**

Rule 506. Service of Complaint.

[**A.**] **(a)** The magisterial district judge shall serve the complaint by mailing a copy of it to the tenant's last known address by first class mail and noting on the docket the date of such mailing, and by delivering a copy of it for service to the sheriff of, or any certified constable in, the county in which the office of the magisterial district judge is situated. If this service is not available to the magisterial district judge, service may be made by

any certified constable of the Commonwealth. The officer receiving the copy shall serve it by handing it to the tenant or to an adult person in charge for the time being of the premises possession of which is sought to be recovered **[or, if none of the above is found], if found, and** by posting it conspicuously on those premises.

[B.] (b) The copy shall be served at least five days before the hearing.

[Official Note] Comment:

Under **[subdivision A of this rule] subdivision (a)**, service must be made both by first class mail and delivery for service in the manner prescribed. **It is expected that the officer serving the complaint will exercise due diligence when attempting personal service upon the tenant. This may be demonstrated by, among other things, attempting service at varying times of day, making a reasonable number of knocks upon the tenant's door, knocking at all available doors of the premises, or announcing the officer's presence. Posting is required in all cases to facilitate notice to an occupant of the property.**

In actions where wage garnishment may be sought under **[Pa.R.C.P. No. 3311] Pa.R.Civ.P. 3311**, the landlord may authorize the sheriff or constable to make personal service upon the tenant. **[If the tenant is not present at the property the sheriff or constable is authorized to post the complaint so that the underlying landlord-tenant action may proceed.]** The landlord may authorize the sheriff or constable to make additional attempts to effectuate personal service upon the tenant so the landlord can later prove such service if attempting to garnish wages under **[Pa.R.C.P. No. 3311] Pa.R.Civ.P. 3311**. Additional service attempts by the sheriff or constable may result in additional fees.

Rule 507. Notation and Return of Service; Waiver of Service.

[A.] (a) The magisterial district judge shall note on the docket the date that a service copy of the complaint was mailed to the tenant, and the sheriff or constable serving a copy of the complaint shall, at or before the time of the hearing, make proof of service on the form provided, which shall show the manner of service and the day, hour, and place thereof, **as well as any unsuccessful attempts at service.**

[B.] (b) The appearance of a tenant in person or by representative or the filing of a claim in the case shall be deemed a waiver of any defect in service but not a waiver of a defect in venue.

[Official Note: This rule parallels the provisions of Rule 314A and C.]

(Editor's Note: The following rule is adopted and is printed in regular type to enhance readability.)

Rule 513.1. Intervention.

(a) *Time to File.* An individual may file an intervention request with the magisterial district court in an action commenced pursuant to Pa.R.Civ.P.M.D.J. 502 at any time before the hearing on the complaint.

(b) *Form.* The intervention request shall be on a form prescribed by the State Court Administrator, verified by the requester, and contain the following averments:

- (1) the requester is a tenant of the landlord;

- (2) the length of time the requester has occupied the property;

- (3) to whom the requester paid rent for the property; and

- (4) whether the requester is a party to a lease of the property with the landlord.

(c) *Docketing.* The magisterial district court shall enter the intervention request on the docket of the action commenced pursuant to Pa.R.Civ.P.M.D.J. 502.

(d) *Service.* The magisterial district court shall serve a copy of the intervention request by mailing it to the parties at the addresses as listed on the complaint form in the action or by handing it to the parties or the attorneys of record, if any. Notice of an intervention request shall constitute grounds for a continuance by the landlord.

(e) *Hearing.* The requester shall appear at the hearing and present evidence in support of the intervention request.

(f) *Findings.* If the magisterial district judge finds that the requester is a tenant of the landlord, the requester shall be added to the action as a tenant, and the action shall proceed pursuant to Pa.R.Civ.P.M.D.J. 512.

(g) *Cross-complaint by Requester.* If the requester has a claim against the landlord that arises out of the occupancy of the premises and that is within the jurisdiction of the magisterial district judge:

- (1) the requester shall file the cross-complaint on the form prescribed for civil complaints with the intervention request;

- (2) the requester's cross-complaint shall be served on the parties at the same time and in the same manner as the intervention request; and

- (3) if the requestor's intervention request is granted, the magisterial district judge shall conduct the hearing on the cross-complaint at the same time as the hearing in the underlying action.

Comment:

This rule establishes procedures for an individual to file an intervention request in an action commenced pursuant to Pa.R.Civ.P.M.D.J. 502 and present a defense to the complaint.

While Pa.R.Civ.P.M.D.J. 210(b) generally prohibits the addition of a party after the complaint is filed, Pa.R.Civ.P.M.D.J. 513.1 permits the addition of a party in the limited circumstance of an individual requesting to intervene in an action. Allowing the magisterial district court to consider such matters serves the general interests of the parties by avoiding delays that could occur by seeking relief at the court of common pleas.

At the hearing, the magisterial district judge will first consider and decide the request to intervene in the action. The requester must present evidence and testimony at the hearing in support of the request to intervene. Examples of evidence include, but are not limited to, a written lease, copies of cancelled checks, and receipts. See Pa.R.Civ.P.M.D.J. 512. If the magisterial district judge grants the intervention request, the requester shall be added to the action as a tenant and the hearing shall proceed on the underlying action.

If the requester is added to the case as a tenant, he or she may be liable for any judgment entered in favor of the landlord, including property damage, back rent, court costs and fees.

See Pa.R.Civ.P.M.D.J. 508 for provisions regarding cross-complaints in landlord-tenant actions, generally. Subdivision (g)(3) requires filing of a cross-complaint at the same time as the intervention request to ensure the underlying matter proceeds in a relatively expeditious manner.

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

ADOPTION REPORT

**Amendment of Rules 210, 305, 318, 504, 506, and 507
and Adoption of Rule 513.1 of the Pennsylvania
Rules of Civil Procedure Governing Actions and
Proceedings Before Magisterial District Judges**

On April 25, 2024, the Supreme Court amended Rules 210, 305, 318, 504, 506, and 507 and adopted Rule 513.1 of the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges, pertaining to notices and intervention in landlord-tenant actions. The Minor Court Rules Committee has prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, cmt. The statements contained herein are those of the Committee, not the Court.

Intervention

The Committee considered the situation of an individual in possession of a property who is not named in the complaint when a landlord-tenant action is commenced. Prior to these rule changes, the individual would not receive service of the complaint and may be unaware of the landlord's efforts to recover possession of the property. Even if the individual became aware of the action, former Pa.R.Civ.P.M.D.J. 210(2) specifically prohibited adding a party to an action after filing of the complaint. Cf. Pa.R.Civ.P. 2327 (establishing grounds for a party to intervene). The Committee discussed if Pa.R.Civ.P.M.D.J. 210 would benefit from a limited exception permitting an individual to file an intervention request in a landlord-tenant action for the purpose of defending his or her interests in remaining in the property.

The Committee recognizes that individuals can be in possession of property under myriad circumstances, ranging from squatting to being a named party on a lease. Individuals on this continuum will have varying degrees of rights consistent with their status. For example, a squatter will have no statutory or due process rights relative to the property while a tenant who is a party to a lease will have all the protections of the Landlord and Tenant Act, 68 P.S. §§ 250.101—250.602, as well as due process protections. The Committee examined whether an occupant of property who is a “tenant” should be permitted to intervene in the action and assert his or her rights even if not named in the complaint.

New Pa.R.Civ.P.M.D.J. 513.1 permits the filing of an intervention request in a landlord-tenant action. The requester must aver that he or she is a tenant of the landlord, the length of time the requester has occupied the property, to whom the requester has paid rent for the property, and if the requester is a party to a lease for the property with the landlord. See Pa.R.Civ.P.M.D.J. 513.1(b). The requester may file the intervention request up to the time of the hearing. See Pa.R.Civ.P.M.D.J. 513.1(a). Upon receipt of the intervention request, the magisterial district court will serve the request upon the parties to the action. See Pa.R.Civ.P.M.D.J. 513.1(d).

The magisterial district court will hold a hearing on the intervention request. See Pa.R.Civ.P.M.D.J. 513.1(e). The requester must testify and present evidence demonstrating that he or she has a tenant relationship with the landlord and is entitled to intervene in the matter. If the magisterial district judge grants the request to intervene in the action, the requester is added to the action as a tenant and the action will proceed. See Pa.R.Civ.P.M.D.J. 513.1(f). However, a requester who is added as a tenant in an action may be liable for any judgment in favor of the landlord, e.g., property damage, back rent, court costs and fees.

If the requester has a claim against the landlord arising out of the occupancy of the premises and within the jurisdictional limits of the magisterial district court, the requester may concurrently file a cross-complaint against the landlord together with the intervention request. See Pa.R.Civ.P.M.D.J. 513.1(g). If the intervention request is granted, the magisterial district court will hold a hearing on the cross-complaint at the same time as the underlying action. An intervenor is not permitted to file a cross-complaint against a tenant. Instead, the intervenor must file a separate action against a tenant.

Corollary amendments were made to Pa.R.Civ.P.M.D.J. 210, 504, 506, and 507. Pa.R.Civ.P.M.D.J. 210(b) establishes an exception to the general rule prohibiting the addition of parties after the complaint is filed and cross-references new Pa.R.Civ.P.M.D.J. 513.1. The “Notice to Tenant” set forth in Pa.R.Civ.P.M.D.J. 504 was revised to address intervention by an occupant and a cross-complaint by an intervenor. Pa.R.Civ.P.M.D.J. 506 was revised to require conspicuous posting of the complaint on the premises in all instances, even if personal service on a tenant is achieved. Requiring posting of all complaints is intended to provide an occupant with a reasonable opportunity to learn of a possessory action. Pa.R.Civ.P.M.D.J. 506 was amended to provide examples of minimally expected efforts to obtain personal service upon a tenant. Finally, Pa.R.Civ.P.M.D.J. 507 requires the sheriff or constable to document unsuccessful efforts at personal service in an effort to provide greater transparency.

Notices to Defendants and Tenants

The Committee examined measures intended to increase the numbers of defendants and tenants who timely respond to the complaint and notify the court of their intent to appear at the hearing, as well as to clarify notice language.

In civil actions, Pa.R.Civ.P.M.D.J. 305(d) provides for a “Notice to Defendant,” which is served on each defendant. It was amended as follows:

- directs the defendant to notify the court in writing of his or her intention to defend against the complaint;
- identifies consequences if a party fails to appear at the hearing; and
- advises the defendant to contact the county bar association or legal services agency for information about hiring an attorney.

A new form, “Notice of Intent to Defend,” will be included with the civil complaint served on defendants. It will provide a defendant with a convenient method to notify the court of the defendant's intention to appear at the hearing. A written and signed statement identical in content to the court-provided form is also acceptable. See Pa.R.Civ.P.M.D.J. 305(e), cmt. The comment to Pa.R.Civ.P.M.D.J. 318 was similarly amended.

Similar changes were made to Pa.R.Civ.P.M.D.J. 504(d), pertaining to landlord-tenant actions. The “Notice of Intent to Defend” is not referenced in Pa.R.Civ.P.M.D.J. 504 because the landlord must appear at the hearing. See Pa.R.Civ.P.M.D.J. 512B.

The Committee published a proposal pertaining to interventions and notices for public comment at 51 Pa.B.

1506 (March 20, 2021). The comment period ran through May 19, 2021. The Committee made post-publication changes to the proposal.

These rule changes become effective on January 1, 2025.

[Pa.B. Doc. No. 24-637. Filed for public inspection May 10, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CHESTER COUNTY

Increase of Accelerated Rehabilitative Disposition (ARD) Administrative Fees; 2024-0061R-CM

Administrative Order No. 4-2024

And Now, this 29th day of April, 2024, in accordance with the request by the Chester County District Attorney to adjust ARD fees in response to past inflation, and with the concurrence of the Chester County Public Defender, pursuant to Chester County Criminal Procedural Rule 316(A).1, it is hereby *Ordered* and *Decreed* that the Chester County District Attorney’s Office is authorized to increase the ARD Administrative Fees from \$440.00 to \$550.00 and to increase the Adult Probation Administrative Fee for ARD from \$60.00 (per 6 months) to \$70.00 (per 6 months) effective June 11, 2024.

The ARD Administrative Cost shall include \$150.00 to the County of Chester and \$400.00, increased from \$290.00, to the Chester County District Attorney’s Office, for purposes of administering the ARD Program.

A copy of the new approximate costs/fees for the ARD Program is hereby as follows as “Appendix A.”

By the Court

JOHN L. HALL,
President Judge

APPROXIMATE TOTAL COSTS FOR ALL ARD CANDIDATES

<i>Fees</i>	<i>DUI-6 months</i>	<i>DUI-12 months</i>	<i>Non-DUI</i>	<i>DUI/Drug Court**</i>
Act 30-2007	\$50.00	\$50.00	\$50.00	\$50.00
Act 198	\$100.00	\$100.00	XXXX	\$100.00
Adult Probation Administrative Fee	\$70.00	\$140.00	\$140.00—1 yr \$280.00—2 yr	\$280.00
Adult Probation Supervision Fee	\$240.00	\$480.00	\$480.00—1 year \$960.00—2 year	\$960.00
ARD Administrative Cost	\$550.00	\$550.00	\$550.00	\$550.00
Common Pleas Court Costs	\$268.70*	\$268.70*	\$268.70*	\$268.70*
Crime Victims Fees	\$60.00	\$60.00	\$60.00	\$60.00
Emergency Medical Services	\$50.00	\$50.00	XXXX	\$50.00
Laboratory User Fee	\$168.00*	\$168.00*	XXXX	\$168.00*
State Court Costs	\$144.05*	\$144.05*	\$144.05*	\$144.05*
Chester County DUI Program	\$300.00	\$300.00	XXXX	\$300.00
Approximate Total Costs	\$2,000.75	\$2,310.75	\$1,692.75—1 yr \$2,312.75—2 yr	\$2,930.75

* Common Pleas and State Court costs vary depending upon the number and type of charges.

As a condition of acceptance into the ARD Program for a charge of Driving Under the Influence, the defendant may be required to plead guilty to certain summary offenses. This will result in additional fines and costs.

If treatment is recommended by Adult Probation, the minimum program will be 12 outpatient sessions at a state licensed addiction treatment provider costing approximately \$400.00.

** Costs for ARD-Drug Court do not include treatment fees, which will be assessed, as needed, by the treatment provider.

[Pa.B. Doc. No. 24-638. Filed for public inspection May 10, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

NORTHAMPTON COUNTY

Administrative Order 2024-06; Adopting an Addendum to the Third Judicial District's Americans with Disabilities Act (Title II) Policy; No.: C-48-AD-49-2024

Administrative Order

And Now, this 29th day of April, 2024, it is *Ordered* and *Decreed* that the Addendum to the Third Judicial District's Americans with Disabilities Act (Title II) Policy, following hereto as Exhibit "A", is hereby adopted.

It is further *Directed* that the Court Administrator of Northampton County shall comply with all publishing requirements set forth in Pa.R.J.A. 103(c)(5)-(6). This addendum will take effect on Monday, June 10, 2024.

By the Court

CRAIG A. DALLY,
President Judge

Exhibit A

Addendum to the Third Judicial District's Americans with Disabilities Act (Title II) Policy.

It is the policy of the Third Judicial District to prohibit discrimination against all individuals, including those with substance use disorder, in accessing or participating in judicial proceedings or other Court services, programs, or activities.

The United States Department of Justice maintains that blanket or per se bans barring or otherwise limiting persons under court supervision (including pretrial probation and release, post-conviction probation and parole, and Problem-Solving Courts-including Adult, Juvenile, or Family Drug Court; DUI Court, Adult or Juvenile Mental Health Court; veterans Treatment Court; Domestic Violence Court) from accessing physician-prescribed medications and treatment is a violation of the Americans with Disabilities Act (ADA).

The Third Judicial District shall conform to the position of the United States Department of Justice in the following respects:

- Absent an individualized determination, as more fully described below, no judge, unit, or member of this judicial district may prohibit or otherwise limit an individual's use of medication that they have been lawfully prescribed, and that they are taking as prescribed, to treat substance use disorder.
- Decisions about whether a person should be prescribed medication, and about medication type and dosage, are to be made only by a licensed prescriber on an individualized basis.
- No judge, unit, or member of this judicial district will interfere with a licensed prescriber's decisions about an individual's appropriate medication and treatment regimen.
- No judge, unit, or member of this judicial district will express a preference for, or mandate, one medication over another nor in any way penalize or restrict an individual participating in a court proceeding or program from taking their medication as prescribed.

- No judge, unit, or member of this judicial district will condition admission to, participation in, or successful completion of a Problem-Solving Court or other court program, service, or activity on reducing, weaning off, or abstaining from taking prescribed medication.

- No judge, unit, or member of this judicial district will rely upon prior illicit use of medication for substance use disorder as grounds for prohibiting current use of medication for substance use disorder that comes from a licensed prescriber.

- Individuals with substance use disorder who are participating in a court proceeding or program may be required to comply with the treatment recommendations of a licensed prescriber.

This Policy is not intended to interfere with appropriate exercises of judicial discretion in individual cases. To that end, nothing in this Policy limits a judge's discretion to order that an individual be evaluated for medical treatment or comply with a treatment plan as a condition of release, probation, supervision, or participation in a Problem-Solving Court or other court or probation program. In issuing such an order, a judge should make an individualized determination, based on the information available, which may include an individual's criminal, medical, and probation history. An individual's previous illicit use of a medication is not grounds for prohibiting their use of that medication going forward as directed by their licensed provider.

Judges have the authority to monitor medication compliance in the context of a term of probation, supervision, or condition of release and to further the court's public safety obligation. When a judge is concerned about an individual's use or misuse of medication, the judge may act to mitigate and reduce the risk of abuse, misuse, and diversion of medication. In many cases, appropriate action will include, among other things, communication with the prescriber by a probation officer or other UJS personnel as directed by the judge.

Compliance with the ADA does not require that a court allow an individual to participate in, or benefit from, its services or programs if the person poses a "direct threat to the health or safety of others." 28 C.F.R. § 35.139. A determination that an individual poses a direct threat must be grounded in current medical knowledge or the best available objective evidence to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk. *Id.* A court may not conclude that an individual prescribed medication poses a "direct threat" based on generalizations or scientifically unsupported assumptions about medications or persons who are prescribed medication.

Individuals who believe there has been a violation of this Policy may file a grievance pursuant to the Third Judicial District's Americans with Disabilities Act (Title II) Grievance Procedure, which may be found online at: <https://www.nccpa.org/publications/ada-rja.pdf>.

[Pa.B. Doc. No. 24-639. Filed for public inspection May 10, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

WASHINGTON COUNTY

Adoption of Local Rule of Criminal Procedure L-107; No. 2024-1

Administrative Order

And Now, this 22nd day of April, 2024, having received approval from the appropriate statewide rules committee in accordance with Pennsylvania Rule of Judicial Administration 103(d)(4), it is hereby *Ordered, Adjudged, and Decreed* that Washington County Local Rule of Criminal Procedure L-107 is adopted as follows:

* * * * *

Rule L-107. Subpoena.

A subpoena is an order of court and may only be issued attendant to a proceeding at a specified date and time before the court. The subpoena must state the name of the party seeking the order and the identity, address, and phone number of the attorney, if any, who requested the issuance of the subpoena.

(A) *Issuance by Minor Judiciary.* Upon the request of a party, the issuing authority may issue a subpoena.

(1) The individual requesting the subpoena shall provide the issuing authority with the information required in paragraph (C)(1).

(2) If the subpoena is to be issued, the issuing authority shall fill in the information provided.

(3) The subpoena shall be signed by and under the seal of the issuing authority.

(4) Nothing herein shall prohibit a judge of the court of common pleas from issuing a subpoena for a case before an issuing authority.

(B) *Service.*

(1) A subpoena shall be served by:

(a) a competent adult personally delivering the subpoena to a witness;

(b) certified or registered mail, return receipt requested, or by first-class mail, to a witness; or

(c) carrier service delivering the subpoena to a witness.

(2) If a subpoenaed witness is under the age of majority, a parent or guardian of the witness shall be served a copy of the subpoena, unless otherwise ordered by the court for good cause shown.

(3) All subpoenas directed to the 27th Judicial District or any of its judicial officers or employees shall be served on the District Court Administrator, who has been designated as the agent for acceptance of service of subpoenas. Subpoenas directed to a magisterial district court or a court-related filing office for certified copies of official case records are not subject to this provision.

(4) Service of a subpoena shall be the responsibility of the requesting party.

(C) *Contents.*

(1) The subpoena shall:

(a) order the witness named to appear before the court at the date, time, and place specified to give testimony and to bring any records, books, papers, documents, data,

or other items identified or described in the subpoena;

(b) state on whose behalf the witness is being ordered to testify;

(c) state the name, address, and phone number of the individual who applies for the subpoena; and

(d) inform the witness that the failure to comply with the subpoena may be considered by the court as grounds for contempt and that a bench warrant may be issued for the arrest of the witness.

(2) Prior to the issuance of a bench warrant for failure to obey the subpoena, the judge or issuing authority must ensure that the individual has received sufficient notice of the proceeding and a reasonable amount of time to comply. The requesting party has the burden of presenting and proving proof of service.

(3) The entire contents of a subpoena, including the identity of the subpoenaed person and to whom the subpoena was issued, are not public records.

Note: Concerning subpoenas for medical records, see 42 Pa.Con.Stat. Ann. §§ 6151—6160.

(D) *Notice.*

(1) Notice to parties of the issuance of a subpoena is not required.

(2) Notwithstanding any other provisions of this rule, a subpoena may only be issued to the following individuals or entities with notice of at least seven (7) business days prior to the proceeding, unless waived by the individual or entity.

(a) judicial officers and employees of the 27th Judicial District;

(b) the District Attorney and his or her employees; or

(c) the Public Defender and his or her employees.

(3) The court upon ex parte motion may excuse compliance with the notice requirements of this rule for good cause shown; any order, along with a copy of the subpoena for which notice is excused, may be filed under seal until further order of court.

(E) *Protection of Persons or Entities.* Upon motion or sua sponte, the court may quash, vacate, or modify a subpoena, enter a protective order, deny a request, or otherwise issue any appropriate order as justice requires, if the subpoena:

(1) lacks service;

(2) fails to allow reasonable time for compliance;

(3) requires disclosure of privileged or other protected matter and no exception or waiver applies;

(4) is unreasonable, oppressive, or unduly burdensome;

(5) exceeds the scope of discovery otherwise permitted under the rules of criminal procedure; or

(6) is contrary to statute, regulation, or rule of court.

(F) *Automation.* The District Attorney, Public Defender, and/or employed Conflict Counsel may, if having adopted an automation program for case management which will create and track subpoenas, affix an electronic signature of the President Judge if he or she so approves for its use. The electronic signature shall have the same force and effect as a subpoena containing an original ink signature and pressed seal.

(1) Records of subpoenas issued in this fashion must be produced upon direction of the court, and may be filed if so ordered. The records shall be maintained for the same period as the case record for the underlying criminal matter is required to be retained by the custodian of the record.

(G) *Signature.* Subpoenas may only be issued or authorized by the court. The President Judge may issue an administrative order permitting another to sign subpoenas in accordance with Pa.R.Crim.P. 103. Absent such authorization, the clerk of courts is specifically prohibited from issuing a subpoena on behalf of the court.

(1) The signature on a subpoena may be electronically affixed or stamped. The electronic signature or stamp shall have the same force and effect as a subpoena containing an original ink signature and pressed seal.

(H) *Docketing.* The docketing of subpoenas shall be in a manner prescribed by the President Judge or his or her designee.

(I) *Fees.* A fee for the issuance of a subpoena in the court of common pleas may be charged and collected in such manner as ordered by the President Judge.

(J) *Grand Jury.* This rule shall not apply to any subpoena issued by a county-wide investigating grand jury pursuant to 42 Pa.Con.Stat. Ann. § 4548.

* * * * *

It is further *Ordered* that the form of the subpoena is as follows and shall be made available on the website of the Court at www.washingtoncourts.us. Requests for subpoena shall be made to the judge of the term for Protection from Abuse cases as designated in the Administrative Regulations, based on the date of the request. The Clerk of Courts is directed to cease collection of a fee for subpoenas until further order of court.

The local rule of criminal procedure shall be effective thirty (30) days following publication in the *Pennsylvania Bulletin* pursuant to Pa.R.J.A. 103(c)(5). The District Court Administrator is directed to:

1. File copies of this Administrative Order and the adopted local rules with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

2. File one (1) electronic copy of this Administrative Order and the adopted local rules with the Administrative Office of Pennsylvania Courts;

3. Arrange for the publication of the local rules on the website for the Twenty-seventh Judicial District, www.washingtoncourts.us, within thirty (30) days of the effective date; and

4. Cause a copy hereof to be published in the *Washington County Reports* once a week for two (2) successive weeks at the expense of the County of Washington.

By the Court

GARY GILMAN,
President Judge

[Pa.B. Doc. No. 24-640. Filed for public inspection May 10, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

WESTMORELAND COUNTY

Hearing by Master, Fees Exceeding \$5000; No. 3 of 2024

Administrative Order of Court

And Now, this 23rd day of April 2024, *It Is Hereby Ordered* that, effective 30 days after publication in the *Pennsylvania Bulletin*, Westmoreland County Rule of Civil Procedure W1920.53 is hereby rescinded and adopted in the following form:

By the Court

CHRISTOPHER A. FELICIANI,
President Judge

Rule W1920.53. Hearing by Master. Report. Master's Fees.

In the event the court-appointed Master's fees exceed Five Thousand Dollars (\$5000.00), the Master shall present a Petition for approval of such fees to the Judge to whom the case has been assigned.

Rescinded May 7, 2004; New Rule W1920.53 adopted May 7, 2004, effective June 1, 2004; Rescinded _____, and New Rule 1920.53 adopted in amended form.

[Pa.B. Doc. No. 24-641. Filed for public inspection May 10, 2024, 9:00 a.m.]

SUPREME COURT

Petition to Eliminate Magisterial District Court 32-1-31 Prior to Original Scheduled Elimination Date; No. 541; Magisterial Rules Docket

Order

Per Curiam

And Now, this 26th day of April, 2024, upon consideration of the Petition to Eliminate Magisterial District Court 32-1-31 Prior to the Original Scheduled Elimination Date, it is hereby *Ordered And Decreed* that Petition is granted. By Order dated February 3, 2023, Magisterial District Court 32-1-31 was scheduled for elimination effective January 3, 2028. Magisterial Districts 32-1-30 and 32-1-32, within Delaware County, were also to be realigned, effective January 3, 2028. Due to an early judicial vacancy, Magisterial District Court 32-1-31, within Delaware County, shall be eliminated effective September 3, 2024, and Magisterial Districts 32-1-30 and 32-1-32, within Delaware County, shall be realigned, effective September 3, 2024.

Said Magisterial Districts shall be as follows:

Magisterial District 32-1-30 Magisterial District Judge George B. Dawson	<i>Effective 9/3/24:</i> Eddystone Borough Rutledge Borough Ridley Township, Wards 1, 2, 3, 5, 6, 7, 8, 9
Magisterial District 32-1-32 Magisterial District Judge Michael F. Culp	<i>Effective 9/3/24:</i> Morton Borough Ridley Township, Ward 4 Springfield Township, Wards 1-1, 1-2, 2-1, 2-2, 2-3, 3, 4, 5, 7

[Pa.B. Doc. No. 24-642. Filed for public inspection May 10, 2024, 9:00 a.m.]