

## 2007 Membership

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\* Term expired 6-30-07

\*\* Effective 6-30-07

+ Retired 12-31-07

## Legal Authorization

Pa. Constitution, Article V, § 10(c)  
42 Pa. C.S., § 1722

## About the Committee

The Civil Procedural Rules Committee sets the rules of procedure and practice for civil actions in Pennsylvania's Courts of Common Pleas. This includes all aspects of civil matters, except those issues relating to the work of the orphans' court and family court divisions. It was first commissioned by the Supreme Court in 1937.

Committee members are appointed to three-year terms by the Court and each may serve a maximum of two full terms.

**Civil**

**Procedural**

**Rules**

**Committee**

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## 2007 Activities

The committee held four meetings in 2007 as follows:

March	Philadelphia
June	Pittsburgh
September	Pittsburgh
November	Philadelphia

## 2007 Amendments to the Rules of Civil Procedure

Descriptions of the various recommended rule changes are described below and are listed in the Status of Recommendations chart that follows this report.

### *Recommendations Promulgated by the Supreme Court*

The following recommendations were promulgated in 2006 with effective dates in 2007:

**Recommendation 210: Execution Sale of Real Property** Amendment of Rule 3129.3 to permit two postponements of a sale of real property upon execution within 130 days of the scheduled sale without giving new notice. Also, promulgation of new subdivision (c) to provide that when the plaintiff or a representative does not attend the sale of real property, the property will not be sold, and the sheriff will return the writ of execution to the prothonotary and file a return pursuant to Rule 3139. The plaintiff may again seek to have the property sold, but must recommence the proceedings. Promulgated 10-24-06, effective 1-1-07.

**Recommendation 212: Format of Legal Papers** New Rule 204.1 governing the format of pleadings and other legal papers filed with the court in civil actions and proceedings. The rule is almost identical to current Pennsylvania

Rule of Appellate Procedure 124(a) and to new Rule of Criminal Procedure 575(C). It was promulgated to foster uniformity of format. Promulgated 7-7-06, effective 2-1-07.

The Supreme Court promulgated the following recommendations in 2007:

**Recommendation 211: Admission Pro Hac Vice** New Rule 1012.1 governing admission of an attorney *pro hac vice* in civil cases. The rule achieves a uniform statewide practice, provides information and guidance to the court in the evaluation of a motion for such an admission and imposes obligations upon both the attorney seeking admission and the attorney sponsoring the admission. It supplements Pennsylvania Bar Admission Rule 301, which authorizes a court to grant admission *pro hac vice* provided that a Pennsylvania attorney has agreed to act as the attorney of record. Promulgated 6-29-07, effective 9-4-07.

**Recommendation 214: Petition to Transfer Structured Settlement Payment Rights** New Rule 229.2 governing transfer of structured settlement payment rights to provide additional information necessary for a trial court to determine whether a petition to transfer such rights satisfies the best interest standard. Promulgated 6-15-07, effective 9-1-07.

**Recommendation 215: Exemption of Funds from Execution** New Rule 3111.1 to explicitly state that a defendant's funds on deposit in particular accounts with a bank or other financial institution are exempt from execution. Numerous federal and state statutes provide that funds paid to individuals, such as Social Security payments, are exempt from execution, levy and attachment. This rule brings the Pennsylvania Rules of Civil Procedure into compliance with such statutes. Promulgated 2-7-07, effective 4-1-07.

**Recommendation 216: Mortgage Foreclosure** Amendments to the rules governing the action of mortgage foreclosure and proceedings in execution, both as to money judgments and

judgments of mortgage foreclosure, to implement provisions under Section 9604(a) of the Uniform Commercial Code. Promulgated 3-13-07, effective 6-1-07.

**Recommendation 217: Video Depositions** Amendments to Rule 4017.1 to allow a party to take video depositions as a matter of course and to changed the terminology from “video-tape deposition” to “video deposition.” Promulgated 4-25-07, effective 7-1-07.

**Recommendation 218: Cross-claims and Joinder of Additional Defendants** New Rule 1031.1 to assert that a claim by one party against another party is to be pleaded as a cross-claim. Also, amendment to Rule 2252(a) governing joinder of additional defendants to limit to the joinder a person not already a party to an action. Amendment to Rule 2253(a) to allow a joining party to join an additional defendant without leave of court if the joinder is accomplished within one of two time frames, whichever is longer. Promulgated 3-23-07, effective 6-1-07.

**Recommendation 219: Electronic Filing and Service of Legal Papers** Amendment to Rule 205.4 to accommodate both permissive and mandatory electronic filing systems and to make the practice more useful to both the attorney and the court. Also, new Rule 239.9 requiring that a county implementing an electronic filing system must promulgate a local rule setting forth in detail the county’s system. Promulgated 11-14-07, effective 12-14-07.

**Recommendation 221: Pre-Complaint Discovery** New Rule 4003.8 to establish a two-prong test for pre-complaint discovery, viz., that (1) the information sought must be material and necessary to the filing of the complaint, and (2) the discovery will not cause any unreasonable annoyance, burden, embarrassment or expense to anyone. Promulgated 9-20-07, effective 11-1-07.

**Recommendation No. 223: Lien of Award in Compulsory Arbitration** Rescission of Rule

1307(b) to eliminate the creation of a lien on real estate when an award of arbitrators is entered by the prothonotary on the docket. If a defendant does not appeal the award, the plaintiff may enter judgment and obtain a lien. If the defendant appeals the award, a lien may attach upon verdict of a jury or decision of the court. Promulgated 11-2-07, effective 1-1-08.

**Recommendation No. 224: Post-Trial Practice** Amendments to Rule 227.4 (a)(1) and Rule 237 to remedy an omission to include a nonsuit by the court together with the verdict of a jury and the decision of a judge. Promulgated 11-2-07, effective 1-1-08.

*Recommendations Pending*

The following recommendations remain pending before the Supreme Court:

**Recommendation No. 222: Juror’s Use of Electronic Devices** Proposed Rule 223.1(d) to inform and remind jurors that cellular phones and laptop computers are not to be used by jurors as they perform their duties during the trial or jury deliberations.

**Recommendation No. 225: Voir Dire** Proposed addition of a note to Rule 220.1(a)(16) governing voir dire to provide an example of the type of information that may be sought from potential jurors to achieve a competent, fair, impartial jury in a particular case.

**Recommendation 226: Points for Charge** Proposed amendment to Rule 226 adding a note to resolve the problem of making points for charge part of the record for appellate review.

The following recommendations were published during 2007 for comment and remain pending before the committee:

**Recommendation No. 227: Certificate of Merit** Proposed amendments to Rule 1042

pertaining to certificate of merit in professional liability actions as follows:

- Rule 1042.1(a) - clarification that the rule includes actions against a partnership, unincorporated association, corporation or similar entity responsible for a licensed professional who deviates from an acceptable professional standard. Also, new subdivision (c) to clarify that an action against a health care provider may include a claim for lack of informed consent.
- Rule 1042.2(b) - amendment to reflect case law relating to the requirement for preliminary objections as a prerequisite to filing a *praecipe* for a judgment of *non pros* for failure to file a certificate of merit.
- Rule 1042.6(a) - new rule to require a defendant to give a 30-day notice of intention to file a *praecipe* for a judgment of *non pros* for failure to file a certificate of merit.
- Rule 1042.6(c) - new rule to provide that once a notice of intention to seek a judgment

of *non pros* has been filed, the plaintiff may file a motion to seek court determination that the certificate of merit is not required.

**Recommendation No. 228: Contention Interrogatories** Proposed addition of Civil Discovery Standard No. 8 of the American Bar Association (2004), a guideline for the use of contention interrogatories, as a note to Rule 4003.1(c) governing discovery of contention and opinions and as the second paragraph to the present note to Rule 4005(a) governing written interrogatories to a party.

## Continuing Responsibilities

The committee continued to furnish assistance to the Supreme Court and to act as a clearinghouse for numerous amendments suggested by members of the bench and bar. The chair and counsel answered countless inquiries regarding the Rules of Civil Procedure from local courts and attorneys and from courts and attorneys in sister states. **AOPC**

<b>Status of Recommendations</b>		
<b>Recommendation</b>	<b>Subject</b>	<b>Status</b>
210	Amendment of Rule 3129.3 and promulgation of new Rule 3129.4 governing execution sales of real property	Promulgated 10-24-06, effective 1-1-07
211	Promulgation of new Rule 1012.1 governing admission <i>pro hac vice</i>	Promulgated 6-29-07, effective 9-4-07
212	Promulgation of new Rule 204.1 governing format of legal papers	Promulgated 7-7-06, effective 2-1-07
214	Promulgation of new Rule 229.2 governing petition to transfer structured settlement payment rights	Promulgated 6-15-07, effective 9-1-07
215	Promulgation of new Rule 3111.1 governing exemption from execution of certain recurring electronic deposits	Promulgated 2-7-07, effective 4-1-07
216	Proposed amendments to rules governing mortgage foreclosure to accommodate Section 9604(a) of the Uniform Commercial Code	Promulgated 3-13-07, effective 6-1-07
217	Proposed amendment to Rule 4017.1 governing videotape depositions	Promulgated 4-25-07, effective 7-1-07
218	Proposed new Rule 1031.1 governing cross-claims and amendment of Rule 2251 <i>et seq.</i> governing joinder of additional defendants	Promulgated 3-23-07, effective 6-1-07
219	Amendment of Rule 205.4 governing electronic filing of legal papers and promulgation of Rule 239.9 governing local rules	Promulgated 11-24-07, effective 12-14-07
221	Promulgation of new Rule 4003.8 governing pre-complaint discovery	Promulgated 9-20-07, effective 11-1-07
222	Amendment of Rule 223 governing jurors' use of electronic devices	Pending with Court
223	Rescission of Rule 1307(b) governing lien of award in compulsory arbitration	Promulgated 11-2-07, effective 1-1-08

continued...

**Table 3.3.1**

<b>Status of Recommendations, continued</b>		
<b>Recommendation</b>	<b>Subject</b>	<b>Status</b>
224	Amendment of Rule 227.4 governing post trial practice	Promulgated 11-2-07, effective 1-1-08
225	Amendment of Note to Rule 220.1(a)(16) governing voir dire	Pending with Court
226	Addition of note to Rule 226(a) governing points for charge	Pending with Court
227	Amendment of Rule 1042.1 <i>et seq.</i> governing certificate of merit	Pending with committee
228	Addition of notes to Rules 4003.1 and 4005 governing interrogatories	Pending with committee

**Table 3.3.1, cont'd.**