

SUPREME COURT OF PENNSYLVANIA

NOTICE OF PROPOSED RULEMAKING

Proposed Amendment of Pa.R.Civ.P. 230.2

The Supreme Court of Pennsylvania is considering the amendment of Pa.R.Civ.P. 230.2 for the reasons set forth in the accompanying publication report. Pursuant to Pa.R.J.A. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections.

Any report accompanying this proposal was prepared by the Civil Procedural Rules Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Court invites all interested persons to submit comments, suggestions, or objections in writing to:

**Karla M. Shultz, Counsel
Civil Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717-231-9526
civilrules@pacourts.us**

All communications in reference to the proposal should be received by **April 18, 2023**. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

Rule 230.2. Termination of Inactive Cases.

- (a) At least once a year, the court shall initiate proceedings to terminate cases in which there has been no activity of record for two years or more, and shall report such information to the Court Administrator of Pennsylvania on a form supplied by the Administrative Office of Pennsylvania Courts or in such format as requested from time to time by the Administrative Office of Pennsylvania Courts.

Note: This rule provides an administrative method for the termination of inactive cases.

- (b)(1) For each case identified pursuant to subdivision (a), the court shall serve a notice of proposed termination on counsel of record, and on the parties if not represented, thirty days prior to the date of the proposed termination. The notice shall contain the date of the proposed termination and the procedure to avoid termination.
- (2) The notice shall be served electronically pursuant to Rule 205.4(g)(1), or pursuant to Rule 440 on counsel of record and on the parties, if not represented, at the last address of record.

Note: If the notice mailed to an attorney is returned by the postal service, the prothonotary should check the website of the Disciplinary Board of the Supreme Court of Pennsylvania, www.padisciplinaryboard.org, for a current address.

See subdivision (f) for the form of notice.

- (c) If no statement of intention to proceed has been filed on or before the date of the proposed termination, the prothonotary shall enter an order as of course terminating the matter for failure to prosecute.

Note: The prothonotary may not enter an order terminating the action until more than thirty days after service of the notice of proposed termination.

A court officer may certify to the prothonotary those matters which have been inactive and in which no statement of intention to proceed has been filed.

- (d)(1) If an action has been terminated pursuant to this rule, an aggrieved party may petition the court to reinstate the action.
- (2) If the petition is filed within sixty days after the entry of the order of termination on the docket, the court shall grant the petition and reinstate the action.

Note: The provision under subdivision (d)(2) for filing a petition within sixty days is not intended to set a standard for timeliness in proceedings outside this rule.

- (3) If the petition is filed more than sixty days after the entry of the order of termination on the docket, the court shall grant the petition and reinstate the action upon a showing that
- (i) the petition was timely filed following the entry of the order for termination and
 - (ii) there is a reasonable explanation or a legitimate excuse for the failure to file both
 - (A) the statement of intention to proceed prior to the entry of the order of termination on the docket and,
 - (B) the petition to reinstate the action within sixty days after the entry of the order of termination on the docket.

Note: The provision under subdivision (d)(2) for filing a petition within sixty days of the entry of the order of termination on the docket is not a standard of timeliness. Rather, the filing of the petition during that time period eliminates the need to make the showing otherwise required by subdivision (d)(3).

- (e) Any case which is reinstated pursuant to subdivision (d) shall be subject to termination with prejudice upon a subsequent termination pursuant to subdivision (a). No subsequent reinstatements shall be granted.
- (f) The notice required by subdivision (b) shall be in the following form:

* * *
- (g) The statement of intention to proceed shall be in the following form:

* * *
- (h) Upon receipt of a statement of intention to proceed, the court **[may] shall** schedule a status conference and establish appropriate timelines to ensure a timely and efficient disposition of the case.

SUPREME COURT OF PENNSYLVANIA

PUBLICATION REPORT

Proposed Amendment of Pa.R.Civ.P. 230.2

The Supreme Court is considering the amendment of Pennsylvania Rule of Civil Procedure 230.2 governing the termination of inactive cases to make mandatory the scheduling of a status conference for all cases and establish a timeline for timely disposition when a statement of intention to proceed is returned following the issuance of a notice of proposed termination.

Pa.R.Civ.P. 230.2(a) provides that “[a]t least once a year, the court shall initiate proceedings to terminate cases in which there has been no activity of record for two years or more.” Parties receiving a notice of termination may file a notice of intention to proceed, which serves to preclude termination. The current version of Pa.R.Civ.P. 230.2(h) provides for *discretionary* court involvement following receipt of such notice: “Upon receipt of a statement of intention to proceed, the court *may* schedule a status conference and establish appropriate timelines to ensure a timely and efficient disposition of the case.” (emphasis added).

This discretionary provision has resulted in a practice, in some counties, in which the parties file sequential notices to proceed without engaging in any other case-related activity and without triggering further court involvement. Consequently, inactive civil cases appear to continue to languish on a court’s docket. To encourage timely and efficient disposition, the proposed amendment of subdivision (h) would require the court to schedule a status conference and establish appropriate timelines to ensure a timely and efficient disposition of the case when a statement of intention to proceed is returned to the court for an inactive case.

* * *

Any comments, concerns, and suggestions regarding this rulemaking proposal are invited.