

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

NOTICE OF PROPOSED RULEMAKING

Proposed Amendment of Pa.R.Civ.P. 1023.1, 1023.2, 1023.3, and 1023.4

The Civil Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.Civ.P. 1023.1, 1023.2, 1023.3, and 1023.4 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 prior to submission to the Supreme Court.

Any report accompanying this proposal was prepared by the 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 Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

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All communications in reference to the proposal should be received by **November 21, 2025**. 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.

By the Civil Procedural Rules Committee,

Casey Alan Coyle
Chair

Rule 1023.1. Scope. Signing of [Documents] Pleadings, Motions, and Other Papers. Representations to the Court. Violation.

- (a) **Scope.** Rules 1023.1 through 1023.4 do not apply to disclosures and discovery requests, responses, objections, and discovery motions that are subject to the provisions of general rules.
- (b) **Signature.** Every pleading, written motion, and other paper **[directed to the court]** shall be signed by at least one attorney of record in the attorney's **[individual]** name, or **[, if the]** **by a party personally if the party is [not] self-represented [by an attorney, shall be signed by the party].** **The paper shall state the signer's address, e-mail address, and telephone number.** This rule shall not be construed to suspend or modify the provisions of Rule 1024 or Rule 1029(e).
- (c) **Representations to the Court.** **[The signature of an attorney or pro se party constitutes a certificate that the signatory has read the pleading, motion, or other paper. By signing, filing, submitting, or later advocating such a document, the attorney or pro se party certifies that, to the best of that person's knowledge, information and belief, formed after an inquiry reasonable under the circumstances,]** **By presenting to the court a pleading, written motion, or other paper, whether by signing, filing, submitting, or later advocating it, an attorney or self-represented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:**
 - (1) it is not being presented for any improper purpose, such as to harass **[or to],** cause unnecessary delay, or needlessly **increase** in the cost of litigation~~[,]~~;
 - (2) the claims, defenses, and other legal contentions **[therein]** are warranted by existing law or by a nonfrivolous argument for **[the extension, modification or reversal of]** **extending, modifying, or reversing** existing law or **[the establishment of]** **for establishing** new law~~[,]~~;
 - (3) the factual allegations have evidentiary support or, if specifically so identified, **[are]** **will** likely **[to]** have evidentiary support after a reasonable opportunity for further investigation or discovery; and

- (4) the denials of factual **[allegations] contentions** are warranted on the evidence or, if specifically so identified, are reasonably based on **belief or** a lack of information **[or belief]**.
- (d) **Violation.** If, after notice and a reasonable opportunity to respond, the court determines that subdivision (c) has been violated, the court may, subject to the conditions stated in Rules 1023.2 through 1023.4, impose an appropriate sanction upon any attorney**[s]**, law firm**[s and parties]**, **or party** that **[have]** violated subdivision (c) or **[are] is** responsible for the violation.

[Note: ! The court in its discretion at any stage of the proceedings may deny a motion for sanctions without hearing or argument.

The grant or denial of relief (e.g., grant or denial of preliminary objections, motion for summary judgment or discovery application) does not, of itself, ordinarily warrant the imposition of sanctions against the party opposing or seeking the relief.

In most circumstances, a motion for sanctions with respect to factual allegations should be addressing whether there is evidentiary support for claims or defenses rather than whether there is evidentiary support for each specific factual allegation in a pleading or motion.

The inclusion in the rule of a provision for “an appropriate sanction” is designed to prevent the abuse of litigation. The rule is not a fee-shifting rule per se although the award of reasonable attorney’s fees may be an appropriate sanction in a particular case.

The provision requiring that a motion under this rule be filed before the entry of final judgment in the trial court is intended to carry out the objective of expeditious disposition and to eliminate piecemeal appeals. Where appropriate, such motions should be filed as soon as practicable after discovery of the violation.

The following provisions of the Judicial Code, 42 Pa.C.S., provide additional relief from dilatory or frivolous proceedings: (1) Section 2503 relating to the right of participants to receive counsel fees and (2) Section 8351 et seq. relating to wrongful use of civil proceedings.

- (e) Section 8355 of the Judicial Code, 42 Pa.C.S. § 8355, is suspended absolutely, in accordance with the provisions of the Constitution of 1968, Article V, Section 10(c).

Note: Section 8355 of the Judicial Code provides for the certification of pleadings, motions and other papers.]

- (e) Suspended Statute. 42 Pa.C.S. § 8355, which provided for the certification of pleadings, motions, and other papers, is suspended absolutely, in accordance with the provisions of Pa. Const. art. V, § 10(c).

Comment: The court in its discretion at any stage of the proceedings may deny a motion for sanctions without hearing or argument.

The grant or denial of relief, e.g., grant or denial of preliminary objections, motion for summary judgment, or discovery application, does not, of itself, ordinarily warrant the imposition of sanctions against the party opposing or seeking the relief.

In most circumstances, a motion for sanctions with respect to factual allegations should address whether there is evidentiary support for claims or defenses rather than whether there is evidentiary support for each specific factual allegation in a pleading or motion.

“Appropriate sanction,” as used in subdivision (d) is intended to prevent the abuse of litigation. The rule is not a fee-shifting rule per se although the award of reasonable attorney's fees may be an appropriate sanction in a particular case.

42 Pa.C.S. § 2503 relating to the right of participants to receive counsel fees and 42 Pa.C.S. §§ 8351 et seq. relating to wrongful use of civil proceedings provide additional relief from dilatory or frivolous proceedings.

Historical Commentary

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

Explanatory Comment—2003

I. Obligations under the rule

New Rule 1023.1 requires that a pleading, written motion or other paper directed to the court be signed. The signing, or the filing, submitting or later advocating, a document is a certification as described in the rule. A court may impose sanctions for violation of the certification. Thus the rule imposes the duty on the attorney or, if

unrepresented, the party signing the document to satisfy himself or herself that there is a basis in fact and in law for the claim or defense set forth in the document.

Rule 1023.1, therefore, requires some prefiling inquiry into both the facts and the law to satisfy the affirmative duty imposed by the rule. However, this rule is not intended to chill an attorney's enthusiasm or creativity in pursuing factual or legal theories. The standard is one of reasonableness under the circumstances.

A court should avoid using the wisdom of hindsight and should test the signer's conduct by inquiring what was reasonable to believe at the time the pleading, motion, or other paper was submitted. What constitutes a reasonable inquiry depends on factors which may include

- how much time for investigation was available to the signer;
- whether the signer had to rely on a client for information as to the facts underlying the pleading, motion, or other paper;
- whether the pleading, motion, or other paper was based on a plausible view of the law; or
- whether the signer depended on forwarding counsel or another member of the bar.

This rule recognizes that sometimes a litigant may have good reason to believe that a claim or defense is valid but may need discovery, formal or informal, to gather and confirm the evidentiary basis for the claim or defense. If evidentiary support is not obtained after a reasonable opportunity for further investigation or discovery, the party has a duty under the rule not to persist with that contention. Rule 1023.1(c) does not require a formal amendment to pleadings for which evidentiary support is not obtained, but rather calls upon a litigant not thereafter to advocate such claims or defenses.

II. Practice under the rule

The rule leaves for resolution on a case-by-case basis, considering the particular circumstances involved, the question as to when Rule 1023.1 should be invoked. Ordinarily the written notice and demand for withdrawal or correction of the paper should be served promptly after the inappropriate paper is filed, and, if delayed too long, may be viewed as untimely. In other circumstances, it should not be served until the other party has had a reasonable opportunity for discovery. Given the "safe harbor" provisions discussed below, a party cannot delay invoking Rule 1023.1 until conclusion of the case (or judicial rejection of the offending contention).

Rule 1023.1 motions should not be made or threatened for minor, inconsequential violations of the standards prescribed by subdivision (c). They should not be employed as a discovery device or to test the legal sufficiency or efficacy of allegations in the

pleadings; other motions are available for those purposes. Nor should Rule 1023.1 motions be prepared to emphasize the merits of a party's position, to exact an unjust settlement, to intimidate an adversary into withdrawing contentions that are fairly debatable, to increase the costs of litigation, to create a conflict of interest between attorney and client, or to seek disclosure of matters otherwise protected by the attorney-client privilege or the work-product doctrine. The court may defer its ruling (or its decision as to the identity of the persons to be sanctioned) until final resolution of the case in order to avoid immediate conflicts of interest and to reduce the disruption created if a disclosure of attorney-client communications is needed to determine whether a violation occurred or to identify the person responsible for the violation.

The rule provides that requests for sanctions must be made as a separate motion, i.e., not simply included as an additional prayer for relief contained in another motion. The motion for sanctions cannot be filed until at least 28 days after service of a written notice and demand, upon the party whose conduct is claimed to violate the rule, that the offending document or portion of the document be withdrawn or appropriately corrected. If, during this period, the alleged violation is corrected, as by withdrawing (whether formally or informally) some allegation or contention, the motion may not be filed with the court. These provisions are intended to provide a type of "safe harbor" against motions under Rule 1023.1 in that a party will not be subject to sanctions under Rule 1023.1 on the basis of another party's motion unless, after having been served with the written notice and demand, it refuses to withdraw that allegation or contention or to acknowledge that it does not currently have evidence to support it. The timely withdrawal of an allegation or contention will protect a party against a motion for sanctions.

To stress the seriousness of a motion for sanctions and to define precisely the conduct claimed to violate the rule, the "safe harbor" period begins to run only upon service of the written notice and demand. In most cases, however, counsel should give informal notice to the other party, whether in person or by a telephone call or letter, of a potential violation before proceeding to prepare and serve the written notice and demand.

III. Sanctions

The rule does not attempt to enumerate the factors a court should consider in deciding whether to impose a sanction or what sanctions would be appropriate in the circumstances. The factors that a court may consider include the following:

- whether the improper conduct was willful or negligent;
- whether it was part of a pattern of activity or an isolated event;
- whether it infected the entire pleading or only one particular count or defense;
- whether the person has engaged in similar conduct in related litigation;
- whether it was intended to injure;

- what effect it had on the litigation process in time or expense;
- whether the responsible person is trained in the law;
- what amount is needed to deter that person from repetition in the same case; and
- what amount is needed to deter similar activity by other litigants.

The court has significant discretion in determining what sanctions, if any, should be imposed for a violation, subject to the principle that the sanctions should not be more severe than reasonably necessary to deter repetition of the conduct by the offending person or comparable conduct by similarly situated persons.

There are two provisions for the award of attorney's fees and expenses. The first provision, Rule 1023.2(b), authorizes the court, if requested in a motion and if so warranted, to award to the prevailing party "the reasonable expenses and attorney's fees incurred in presenting or opposing the motion."

The second provision, Rule 1023.4(a)(2)(iii), however, authorizes the court, "if imposed on motion and warranted for effective deterrence", to order payment to the movant of "some or all of the reasonable attorney's fees and other expenses incurred as a direct result of the violation." Any such award to the movant, however, should not exceed the expenses and attorney's fees for the services directly and unavoidably caused by the violation of the certification requirement. If, for example, a wholly unsupportable count is included in a multi-count complaint or counterclaim for the purpose of needlessly increasing the cost of litigation, any award of expenses should be limited to those directly caused by inclusion of the improper count, and not those resulting from the filing of the complaint or answer itself. The award should not provide compensation for services that could have been avoided by an earlier disclosure of evidence or an earlier challenge to the groundless claims or defenses. Moreover, partial reimbursement of fees may constitute a sufficient deterrent.

The sanction should be imposed on the persons--whether attorneys, law firms, or parties--who have violated the rule or who may be determined to be responsible for violation. The person signing, filing, submitting, or advocating a document has a nondelegable responsibility to the court and, in most situations, is the person to be sanctioned for a violation. Absent exceptional circumstances, a law firm is to be held also responsible when one of its partners, associates, or employees is determined to have violated the rule. Since such a motion may be filed only if the offending paper is not withdrawn or corrected within 28 days after service of the written notice and demand, it is appropriate that the law firm ordinarily be viewed as jointly responsible under established principles of agency.

Explicit provision is made for litigants to be provided notice of the alleged violation and an opportunity to respond before sanctions are imposed. Whether the matter should

be decided solely on the basis of written submissions or should be scheduled for oral argument (or for evidentiary presentation) will depend on the circumstances. If the court imposes a sanction, it must, unless waived, indicate its reasons in a written order or on the record; a court is not required to explain its denial of a motion for sanctions.

Rule 1023.2. Motion for Sanctions.

- [(a) An application for sanctions under this rule shall be made by motion, shall be made separately from other applications and shall describe the specific conduct alleged to violate Rule 1023.1(c).**
- (b) No such motion shall be filed unless it includes a certification that the applicant served written notice and demand to the attorney or pro se party who signed or filed the challenged pleading, motion or other paper. The certification shall have annexed a copy of that notice and demand, which shall identify with specificity each portion of the document which is believed to violate the provisions of this rule, set forth the basis for that belief with specificity, include a demand that the document or portion of the document, be withdrawn or appropriately corrected. An application for sanctions may be filed if the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected within twenty-eight days after service of the written demand. If warranted, the court may award to the party prevailing on the motion the reasonable expenses and attorney's fees incurred in presenting or opposing the motion.**
- (c) A motion requesting sanctions under this rule shall be filed in the trial court before the entry of final judgment.]**

(This is entirely new text.)

- (a) General Rule.** A motion for sanctions shall be made separately from any other motion.
- (b) Written Notice and Demand.**
 - (1)** Before filing the motion for sanctions, the moving party shall serve a written notice and demand.
 - (2)** The written notice and demand shall:
 - (i)** identify with specificity each portion of the pleading, motion, or other paper that is believed to violate Rule 1023.1(c);
 - (ii)** set forth the basis for that belief with specificity; and
 - (iii)** include a demand that the pleading, motion, or other paper, or a portion thereof, be withdrawn or appropriately corrected.

(c) **Content.** A motion for sanctions shall:

- (1) describe the specific conduct that allegedly violates Rule 1023.1(c);
- (2) include a certification that the moving party served a written notice and demand required by subdivision (b) to the attorney or the party, if unrepresented, who signed or filed the challenged pleading, motion, or other paper; and
- (3) include a copy of the written notice and demand.

(d) **Motion.**

- (1) A motion for sanctions may be filed if the challenged pleading, motion, or other paper is not withdrawn or appropriately corrected within 28 days after service of the written notice and demand required by subdivision (b)(1). If warranted, the court may award the party prevailing on the motion the reasonable expenses and attorney's fees incurred in presenting or opposing the motion.
- (2) A motion for sanctions shall be filed in the trial court before the entry of final judgment.

(e) **Service.**

- (1) The written notice and demand and the motion for sanctions shall be served on:
 - (i) the attorney who signed or filed the challenged pleading, motion, or other paper, the party represented by the attorney, and the attorney's law firm; or
 - (ii) the party, if unrepresented.
- (2) If the law firm under subdivision (e)(1)(i) is organized as a partnership, the managing partner, officer, or registered agent of the partnership shall be served.
- (3) If the law firm under subdivision (e)(1)(i) is organized as a corporation or similar entity, the executive officer, partner, or trustee of the corporation or similar entity shall be served.

Comment: Subdivision (d) is intended to carry out the objective of expeditious disposition and to eliminate piecemeal appeals. If appropriate, such motions should be filed as soon as practicable after discovery of the violation.

Historical Commentary

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

Explanatory Comment

See Explanatory Comment following Rule 1023.1.

Rule 1023.3. Sanctions upon Rule to Show Cause.

(a) Rule to Show Cause.

(1) [On its own initiative, the] The court [may] shall enter an order [describing the specific conduct that appears to violate Rule 1023.1(c) and] directing an attorney, law firm, or party to show cause why [it has not violated Rule 1023.1(c) with respect thereto] the conduct specifically described in the order has not violated Rule 1023.1(c).

(2) The rule to show cause shall be served on the attorney, the party represented by the attorney, and the attorney's law firm, or the party if unrepresented.

(b) Order. After the issuance of a rule to show cause and, if appropriate a hearing, the court may enter an order imposing sanctions.

Historical Commentary

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

Explanatory Comment

See Explanatory Comment following Rule 1023.1.

Rule 1023.4. Sanctions.

(a) Nature of a Sanction.

- (1) A sanction imposed for violation of Rule 1023.1 shall be limited to **[that which is sufficient] what suffices** to deter repetition of **[such] the** conduct or comparable conduct by others similarly situated.
- (2) Subject to the limitations in subdivision (b), the sanction may **[consist of, or]** include~~[,]~~:
 - (i) directives of a nonmonetary nature, including the striking of the offensive **[litigation document or portion of the litigation document,] pleading, motion, or other paper, or a portion thereof;**
 - (ii) an order to pay a penalty into court~~[,]~~; or~~[,]~~
 - (iii) if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of some or all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.
- (3) Except in exceptional circumstances, a law firm shall be held jointly responsible for violations committed by its partners, associates, and employees.

[(b)(1) Monetary sanctions may not be awarded against a represented party for violation of Rule 1023.1(c)(2).

- (2) Monetary sanctions may not be awarded on the court's initiative unless the court issues its order to show cause before a voluntary dismissal or settlement of the claims made by or against the party which is, or whose attorneys are, to be sanctioned.]**

(b) Limitations on Sanctions. The court shall not impose a sanction:

- (1) against a represented party for violation of Rule 1023.1(c)(2); or**
- (2) on its own, unless it issues an order to show cause before a voluntary dismissal or settlement of the claims made by or against the party that is, or whose attorneys are, to be sanctioned.**

- (c) Requirements for Order. [When imposing sanctions, the court shall describe the conduct determined to be a violation of Rule 1023.1 and explain the basis for the sanction imposed.] An order imposing a sanction shall describe the sanctioned conduct and explain the basis for the sanction.

Comment: The factors that a court may consider in deciding whether to impose a sanction or what sanctions would be appropriate in the circumstances include the following:

- whether the improper conduct was willful or negligent;
- whether it was part of a pattern of activity or an isolated event;
- whether it infected the entire pleading or only one particular count or defense;
- whether the person has engaged in similar conduct in related litigation;
- whether it was intended to injure;
- what effect it had on the litigation process in time or expense;
- whether the responsible person is trained in the law;
- what amount is needed to deter that person from repetition in the same case; and
- what amount is needed to deter similar activity by other litigants.

Historical Commentary

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

Explanatory Comment

See Explanatory Comment following Rule 1023.1.

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

PUBLICATION REPORT

Proposed Amendment of Pa.R.Civ.P. 1023.1, 1023.2, 1023.3, and 1023.4

The Civil Procedural Rules Committee is considering recommending the amendment of Pennsylvania Rules of Civil Procedure 1023.1, 1023.2, 1023.3, and 1023.4 relating to sanctions for violating the certification of pleadings, written motions, or other papers subject to Pa.R.Civ.P. 1023.1.

The Committee previously published a proposal to amend Pa.R.Civ.P. 1023.1 and 1023.4 to require the imposition of attorneys' fees for the violation of Pa.R.Civ.P. 1023.1(c). See 53 Pa.B. 8211 (December 30, 2023). In light of the comments received objecting to the proposal, the Committee discontinued rulemaking insofar as making the imposition of sanctions mandatory. Instead, the Committee is proposing clarification of the current rules.

The Committee observed that the current Pa.R.Civ.P. 1023.1-1023.4 are based on and, with certain exceptions, largely follow the provisions of Fed.R.Civ.P. 11. Fed.R.Civ.P. 11 was restyled and amended in 2007 for easier readability. As an initial step, the Committee proposes amending Pa.R.Civ.P. 1023.1-1023.4 to comport with the style of Fed.R.Civ.P. 11 where practicable.

The proposed amendment in Pa.R.Civ.P. 1023.4(a)(2)(i) departs from the restyling of Fed.R.Civ.P. 11 describing the types of non-monetary directives that may be included in a sanction. The gist of the language "the striking of the offensive litigation document or portion of the litigation document," would be retained; Fed.R.Civ.P. 11(c)(4), on the other hand, simply states that a sanction may include "non-monetary directives." The Committee proposes retaining the substance of the current provision because it believes this language is more descriptive of what a non-monetary directive is and would aid the bench and bar.

After further review, the Committee proposes some substantive amendments of these rules. The Committee identified a concern with Pa.R.Civ.P. 1023.4(a)(3) resulting in proposed amendments that would depart from the Fed.R.Civ.P. 11. Pa.R.Civ.P. 1023.4(a)(3) provides that a law firm will be held jointly responsible for violations committed by its partners, associates, and employees unless there are exceptional circumstances. The Committee observed that Pa.R.Civ.P. 1023.2 requires service of the written notice and demand and any subsequent motion for sanctions on the attorney, or self-represented party, who signed the legal paper; it does not provide any notice to the law firm of a possible violation of the rules that may subject that law firm to

sanctions or an opportunity to intervene even though the rule potentially imposes joint responsibility on the law firm for those sanctions. To provide notice, the Committee proposes amending Pa.R.Civ.P. 1023.2 to specify the persons upon whom the written notice and demand and the motion for sanctions should be served: the attorney who filed the challenged legal paper, the party represented by the attorney, and the attorney's law firm. Self-represented parties will also be served. Additional provisions direct the person or officer to be served on behalf of law firms organized as partnerships and corporations or similar entities.

As a result of proposed amendment to Pa.R.Civ.P. 1023.2, the Committee proposes amending Pa.R.Civ.P. 1023.3(a)(1) to require the court to issue an order for a rule to show cause directing the attorney, law firm, or party to show cause why the conduct specifically described in the order has not violated Pa.R.Civ.P. 1023.1(c). The Committee proposes removing the discretionary aspect for the issuance of the rule to show cause because there should be a determination on the allegations set forth in the motion. The Committee invites comment on this aspect of the proposal. New Pa.R.Civ.P. 1023.3(a)(2) would require the rule to show cause to be served on the attorney, the party represented by the attorney, and the attorney's law firm. This again will provide an opportunity for the law firm to be apprised of the possibility of the imposition of sanctions. Subdivision (b) would permit the court to issue an order imposing sanctions after the issuance of the rule to show cause and any hearing.

Next, the Committee proposes amending Pa.R.Civ.P. 1023.4(b), which currently provides for a limitation on monetary sanctions. The Committee proposes amending this provision to eliminate this limitation so that it would apply to all types of sanctions.

The Committee also proposes adding a Comment to Pa.R.Civ.P. 1023.4 to provide guidance on the factors that may be considered when imposing sanctions under these rules. These factors are currently found in the 2003 Explanatory Comment to Pa.R.Civ.P. 1023.1 and have been imported into the new Comment.

The Committee invites all comments, objections, concerns, and suggestions regarding this proposed rulemaking.