

**Rule 206. Costs[; Proceedings *In Forma Pauperis*].**

- [A.](a)** Except as otherwise provided by law, the costs for filing and service of the complaint shall be paid at the time of filing.
- [B.](b)** Except as otherwise provided by **[paragraph C] subdivision (c)** of this rule, the prevailing party in magisterial district court proceedings shall be entitled to recover taxable costs from the unsuccessful party. Such costs shall consist of all filing, personal service, witness, and execution costs authorized by Act of Assembly or general rule and paid by the prevailing party.
- [C.](c)** Taxable costs on appeal or *certiorari* shall be paid by the unsuccessful party, and a plaintiff who appeals shall be considered an unsuccessful party if he or she does not obtain on appeal a judgment more favorable than that obtained in the magisterial district court proceeding. A defendant who prevails on *certiorari* proceedings brought by the defendant or who obtains a favorable judgment upon appeal by either party shall not be liable for costs incurred by the plaintiff in the preceding magisterial district court proceeding and may recover taxable costs in that proceeding from the plaintiff. A plaintiff who is unsuccessful in the magisterial district court proceeding may recover taxable costs in that proceeding from the defendant if the plaintiff is successful on appeal, and in that event the defendant may not recover costs in the magisterial district court proceeding from the plaintiff.
- [D.](d)** This rule shall apply to all civil actions and proceedings except actions pursuant to the Protection From Abuse Act or 42 Pa.C.S. §§ 62A01-62A20.

**[Note: “Execution” costs include those for executing an order for possession. The items constituting taxable costs in appeal or *certiorari* proceedings will be governed by law or general rule applicable in the court of common pleas.**

**Under paragraph B, “personal service ... costs” refers only to personal service since mail costs are to be borne by the plaintiff in all cases in accordance with Section 1725.1 of the Judicial Code, 42 Pa.C.S. § 1725.1.**

**This rule does not provide for the assessment of filing costs against an unsuccessful plaintiff who has been permitted to proceed *in forma pauperis* and who remains indigent. See *Brady v. Ford*, 679 A.2d 837(Pa. Super. 1996).**

For special provisions governing actions pursuant to the Protection From Abuse Act, see Sections 6106(b) and (c) of the Domestic Relations Code, 23 Pa.C.S. §§ 6106(b) and (c). For special provisions governing actions seeking relief for victims of sexual violence or intimidation, see 42 Pa.C.S. §§ 62A01-62A20.

**E. Proceedings *in forma pauperis***

(1) A party who is without financial resources to pay the costs of litigation shall be entitled to proceed *in forma pauperis*.

(2) Except as provided by subparagraph (3), the party shall file a petition and affidavit in the form prescribed by subparagraph (6). The petition may not be filed prior to the commencement of the action, which action shall be accepted in the first instance, without the payment of filing costs.

Except as prescribed by subparagraph (3), the magisterial district judge shall act promptly upon the petition and shall enter a determination within five days from the date of the filing of the petition. If the petition is denied, in whole or in part, the magisterial district judge shall briefly state the reasons therefor. The unsuccessful petitioner may proceed no further so long as such costs remain unpaid.

(3) If the party is represented by an attorney, the magisterial district judge shall allow the party to proceed *in forma pauperis* upon the filing of a *praecipe* that contains a certification by the attorney that the attorney is providing free legal service to the party and believes the party is unable to pay the costs.

(4) A party permitted to proceed *in forma pauperis* shall not be required to pay any costs imposed or authorized by Act of Assembly or general rule which are payable to any court or any public officer or employee.

The magisterial district judge shall inform a party permitted to proceed *in forma pauperis* of the option to serve the complaint by mail in the manner permitted by these rules.

A party permitted to proceed *in forma pauperis* has a continuing obligation to inform the court of improvement in the party's financial circumstances which will enable the party to pay costs.

(5) If there is a monetary recovery by judgment or settlement in favor of the party permitted to proceed *in forma pauperis*, the exonerated costs shall be taxed as costs and paid to the magisterial district judge by the party paying the monetary recovery. In no event shall the exonerated costs be paid to the indigent party.

(6) The petition for leave to proceed *in forma pauperis* and affidavit shall be substantially in the following form:

[Caption]  
Petition

I hereby request that I be permitted to proceed *in forma pauperis* (without payment of the filing and service costs). In support of this I state the following:

1. I am the plaintiff in the above matter and because of my financial condition am unable to pay the costs for filing and service of this action.
2. I am unable to obtain funds from anyone, including my family and associates, to pay the costs of litigation.
3. I represent that the information below relating to my ability to pay the costs is true and correct:

(a) Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

(b) Employment

If you are presently employed, state

Employer \_\_\_\_\_

Address: \_\_\_\_\_

Salary or wages per month: \_\_\_\_\_

Type of work: \_\_\_\_\_

If you are presently unemployed, state

The date of my last employment was: \_\_\_\_\_

Salary or wages per month: \_\_\_\_\_

Type of work: \_\_\_\_\_

**(c) Other income that I have received within the past twelve months**

Business or profession: \_\_\_\_\_

Other self-employment: \_\_\_\_\_

Interest: \_\_\_\_\_

Dividends: \_\_\_\_\_

Pension and annuities: \_\_\_\_\_

Social security benefits: \_\_\_\_\_

Support payments: \_\_\_\_\_

Disability payments: \_\_\_\_\_

Unemployment compensation and supplemental benefits: \_\_\_\_\_

Workers' compensation: \_\_\_\_\_

Public assistance: \_\_\_\_\_

Other: \_\_\_\_\_

**(d) Other contributions to household support**

Spouse Name: \_\_\_\_\_

My spouse is employed: \_\_\_\_\_

Employer: \_\_\_\_\_

Salary or wages per month: \_\_\_\_\_

Type of work: \_\_\_\_\_

Contributions from children: \_\_\_\_\_

Contributions from parents: \_\_\_\_\_

Other contributions: \_\_\_\_\_

**(e) Property owned**

Cash: \_\_\_\_\_

Checking account: \_\_\_\_\_

Savings account: \_\_\_\_\_

Certificates of deposit: \_\_\_\_\_

Real estate (including home): \_\_\_\_\_

Motor vehicle: Make \_\_\_\_\_, Year \_\_\_\_\_,

Cost \_\_\_\_\_, Amount Owed \$ \_\_\_\_\_

Stocks and bonds: \_\_\_\_\_

Other: \_\_\_\_\_

**(f) Debts and Obligations**

Mortgage: \_\_\_\_\_

Rent: \_\_\_\_\_

Loans: \_\_\_\_\_

Other: \_\_\_\_\_

\_\_\_\_\_

**(g) Persons dependent upon me for support**

Spouse Name: \_\_\_\_\_

Ages of Minor Children, if any: \_\_\_\_\_

Other Persons:

Name: \_\_\_\_\_

Relationship: \_\_\_\_\_

4. I understand that I have a continuing obligation to inform the Court of improvement in my financial circumstances which would permit me to pay the costs incurred herein.

5. I verify that the statements made in this petition are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Petitioner: \_\_\_\_\_

Action by the Magisterial District Judge: \_\_\_\_\_

Date: \_\_\_\_\_

Magisterial District Judge: \_\_\_\_\_

Note: This Rule substantially follows Pa.R.C.P. No. 240. Under subparagraph E(4), “any costs” includes all filing, service, witness, and execution costs.]

**Comment: “Execution” costs include those for executing an order for possession. The items constituting taxable costs in appeal or certiorari proceedings will be governed by law or general rule applicable in the court of common pleas.**

**Under subdivision (b), “personal service ... costs” refers only to personal service since mail costs are to be borne by the plaintiff in all cases in accordance with 42 Pa.C.S. § 1725.1.**

**This rule does not provide for the assessment of filing costs against an unsuccessful plaintiff for whom fees and costs were waived pursuant to Pa.R.J.A. 1990 (Application to Waive Fees and Costs (In Forma Pauperis)) and who remains indigent. See Brady v. Ford, 679 A.2d 837 (Pa. Super. 1996).**

**For special provisions governing actions pursuant to the Protection From Abuse Act, see 23 Pa.C.S. §§ 6106(b) and (c). For special provisions governing**

**actions seeking relief for victims of sexual violence or intimidation, see 42 Pa.C.S. §§ 62A01-62A20.**

**The provisions of prior subdivision E relating to petitions to proceed *in forma pauperis* have been moved to Pa.R.Civ.P.M.D.J. 206.1. See also Pa.R.J.A. 1990 (Application to Waive Fees and Costs (*In Forma Pauperis*)).**

### **Historical Commentary**

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

#### **EXPLANATORY COMMENT–1990**

Rule 206 governing costs is revised by adding a new subdivision A and designating present subdivisions A and B as subdivisions B and C respectively. New subdivision A states the present practice of requiring the payment of the fees for filing the complaint at the time the action is commenced. The subdivision acknowledges that a statute or the principle of an *in forma pauperis* may dictate a different practice in a particular case.

New subdivisions B and C incorporate prior subdivision A and B without change except for a corrected cross-reference in subdivision B. There is no change in practice or procedure with respect to costs.

#### **EXPLANATORY COMMENT–1992**

Rule 206 provides for the right to proceed *in forma pauperis*. Even though the Judicial Code provides for *in forma pauperis* proceedings for all courts under the Unified Judicial System, such proceedings have never been instituted at the minor courts level. This Rule is substantially identical to Pa.R.C.P. No. 240 and applies to all civil actions and proceedings except for proceedings pursuant to the Protection From Abuse Act.

In addition, the Note to Rule 206 conforms Rule 206 with the provisions of Section 1725.1 of the Judicial Code. Rule 206A provides for the assessment and collection of costs and fees in civil cases, and the Rule sets forth that costs to be recovered by the successful litigant shall include all service costs and fees. Since the Rule was inconsistent with Section 1725.1, which establishes that the cost of postage and registered mail in civil cases shall be borne by the plaintiff, the Note eliminates this inconsistency by specifying that service costs or fees refer only to personal service since mail costs are to be borne by the plaintiff.

Furthermore, the Note provides that District Justices shall accept the Civil Action Complaint without payment of the appropriate filing fees when said complaint is filed with an *in forma pauperis* petition.

– The following text is entirely new –

**Rule 206.1 Application to Waive Fees and Costs (*In Forma Pauperis*).**

- (a) **Generally.** A party who is without financial resources may seek or obtain a waiver of certain fees and costs pursuant to Pa.R.J.A. 1990.
- (b) **Service Instructions.** If a party is permitted to proceed without paying fees and costs pursuant to Pa.R.J.A. 1990, the magisterial district judge shall inform the party of the option to serve the complaint by mail in the manner permitted by these rules.

**Comment:** Pennsylvania Rule of Judicial Administration 1990 (Application to Waive Fees and Costs (*In Forma Pauperis*)) sets forth the procedure for seeking or obtaining a waiver of the payment of certain fees and costs. See Pa.R.J.A. 1990(b). The eligibility criteria at Pa.R.J.A. 1990(c) should inform the party whether to proceed by application or *praecipe*.

See Pa.R.Civ.P.M.D.J. 1016, 1018, 1019, and 1020 for procedures to request reconsideration of a determination of a magisterial district judge denying an application to waive fees and costs.

## **Rule 350. Appeals from Civil Traffic Violations.**

- (a) As used in this rule:
- (1) “Appellant” means the owner of a vehicle who has requested the appeal of a determination by a hearing officer pursuant to 75 Pa.C.S. § 3369(j)(4), pertaining to automated work zone speed enforcement violations, or 75 Pa.C.S. § 3345.1(i.4)(4), pertaining to civil violations for passing a stopped school bus with flashing red signal lights and an activated side stop signal arm.
  - (2) “Appellee” means:
    - (i) in matters brought pursuant to 75 Pa.C.S. § 3369(j)(4), the Pennsylvania Department of Transportation, the Pennsylvania Turnpike Commission, or the system administrator designated by those agencies pursuant to 75 Pa.C.S. § 3369(h)(3)(i); or
    - (ii) in matters brought pursuant to 75 Pa.C.S. § 3345.1(i.4)(4), a school entity, as defined in 75 Pa.C.S. § 3345.1(m), or a system administrator that has entered into an agreement with the school entity pursuant to 75 Pa.C.S. § 3345.1(g).
- (b) **Venue.** An appeal filed pursuant to this rule shall only be filed in the magisterial district court in the magisterial district where the violation of 75 Pa.C.S. § 3369(c) or 75 Pa.C.S. § 3345.1(a.1)(1) occurred.
- (c) **Notice of Appeal.**
- (1) An appellant may appeal a determination of a hearing officer pursuant to 75 Pa.C.S. § 3369(j)(4) or 75 Pa.C.S. § 3345.1(i.4)(4) by filing a notice of appeal on a form prescribed by the State Court Administrator together with a copy of the hearing officer's determination within 45 days after the date of its issuance.
  - (2) The appellant shall pay all costs for filing and service of the notice of appeal at the time of filing or, if without the financial resources to pay the costs of litigation, the appellant shall file **[a petition to proceed *in forma pauperis* pursuant to Pa.R.Civ.P.M.D.J. 206E.] an application or *praecipe* to waive fees and costs pursuant to Pa.R.J.A. 1990.**

- (3) After setting the hearing date pursuant to Pa.R.Civ.P.M.D.J. 305, the magisterial district judge shall serve the notice of appeal on the appellee by mailing a copy to the appellee at the address listed on the hearing officer's determination by certified mail or comparable delivery method resulting in a return receipt in paper or electronic form. The return receipt shall show that the notice of appeal was received by the appellee.

(d) **Hearing; Evidence.**

- (1) The proceeding shall be conducted *de novo* in accordance with these rules as if the action was initially commenced in a magisterial district court with the appellee having the burden of proof.
- (2) The hearing is subject to the standards of evidence set forth in Pa.R.Civ.P.M.D.J. 321, except that photographs, videos, vehicle titles, police reports, and records of the Pennsylvania Department of Transportation may also be entered as evidence by any party without affidavit or other evidence of their truth, accuracy, or authenticity.

**Comment:** 75 Pa.C.S. § 3369 established a program to provide for automated speed enforcement systems in active work zones on certain highways under the jurisdiction of the Pennsylvania Department of Transportation and the Pennsylvania Turnpike Commission. Similarly, 75 Pa.C.S. § 3345.1 provides for automated side stop signal arm enforcement systems to identify the owners of vehicles failing to stop for a school bus with flashing red lights and an activated side stop signal arm, as well as for the imposition of civil fines upon those found in violation. This rule was adopted to address the statutory provisions **[that]** permitting a *de novo* appeal to a magisterial district court from a determination of a hearing officer following an administrative hearing to contest an alleged violation of 75 Pa.C.S. § 3369(c) or 75 Pa.C.S. § 3345.1(a.1)(1). Because these actions are *de novo* appeals, they shall proceed as any other civil action commenced in a magisterial district court except as provided by this rule.

Insofar as other procedures under these rules may be applicable, the appellant shall be deemed the “defendant” and the appellee shall be deemed the “plaintiff.”

The initiating document in an appeal filed pursuant to Pa.R.Civ.P.M.D.J. 350 is the notice of appeal, which shall be used in lieu of a complaint. **See also Pa.R.Civ.P.M.D.J. 206.1 pertaining to an application or *praecipe* to waive fees and costs (*in forma pauperis*) if the appellant is without the financial resources to cover the cost of litigation.**

Photographs, videos, vehicle titles, police reports, and records of the Pennsylvania Department of Transportation were added to the existing business record exceptions in Pa.R.Civ.P.M.D.J. 321 because they are the proofs most likely to be used to support the permitted defenses to 75 Pa.C.S. § 3369(c) and 75 Pa.C.S. § 3345.1(a.1)(1).

The appellant shall pay civil fines incurred pursuant to 75 Pa.C.S. § 3369(e) or 75 Pa.C.S. § 3345.1(c) to the appellee and not to the magisterial district court. See Pa.R.Civ.P.M.D.J. 323, cmt. (clarifying that payments are made to the prevailing party and not the magisterial district court). If the magisterial district judge enters judgment in favor of the appellant, *i.e.*, the vehicle owner, the appellant is entitled to recover taxable costs from the appellee. **[See Pa.R.Civ.P.M.D.J. 206B] See Pa.R.Civ.P.M.D.J. 206(b)** (“The prevailing party in magisterial district court proceedings shall be entitled to recover taxable costs from the unsuccessful party. Such costs shall consist of all filing, personal service, witness, and execution costs authorized by Act of Assembly or general rule and paid by the prevailing party.”) Procedures for enforcement of judgments, including judgments in favor of the appellant for taxable costs from the appellee, are set forth in Pa.R.Civ.P.M.D.J. 401 *et seq.* See 75 Pa.C.S. §§ 3345.1(i.4)(4) and 3369(j)(4) for limits on the judgment.

See Pa.R.Civ.P.M.D.J. 1001 *et seq.* for procedures to appeal a judgment rendered by a magisterial district judge or to file a *praecipe* for a writ of *certiorari* in civil actions, including actions brought pursuant to this rule.

**Rule 514. Judgment; Notice of Judgment or Dismissal and the Right to Appeal.**

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**[Note:] Comment:**

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The separate entries provided in subdivision A are made necessary as a result of the rental deposit provisions for appeal or *certiorari* contained in **[Rules 1008B and 1013B] Rules 1008(b)-(c) and 1013(b)-(c)**, as well as the wage attachment provisions contained in **[Section 8127 of the Judicial Code,] 42 Pa.C.S. § 8127.**

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**Historical Commentary**

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

**EXPLANATORY COMMENT--1992**

Rule 514 provides for the written notice of a decision in a Landlord-Tenant case. Said Rule requires that District Justices provide written notification of the judgment to the parties regardless if the parties appeared at the hearing.

## **Rule 515. Request for Order for Possession.**

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### **[Official Note:] Comment:**

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In many judicial districts, appeals of magisterial district court judgments are submitted to compulsory arbitration pursuant to **[Pa.R.C.P. Nos. 1301–1314] Pa.R.Civ.P. 1301–1314**. If, after the arbitration, the prothonotary enters an award for possession on the docket in favor of the landlord and the tenant fails to maintain the *supersedeas* required by Rule 1008 prior to the prothonotary entering judgment on the award, then the landlord may terminate the *supersedeas* pursuant to **[Rule 1008B] Rule 1008(b) or Rule 1008(c)** and request an order of possession from the magisterial district judge pursuant to Rule 515. If the prothonotary enters an award on the docket in favor of the tenant and the tenant fails to maintain the *supersedeas* prior to the prothonotary entering judgment on the award, the landlord may not obtain an order of possession between the time that the prothonotary enters the arbitration award on the docket and the time that the landlord files a notice of appeal.

...

### **Historical Commentary**

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

#### **EXPLANATORY COMMENT–1992**

Rule 515 clarifies that an order for possession cannot be taken until the sixteenth (16th) day following the date of judgment, and the Rule provides that the amount of judgment be set forth on the order for possession form.

In addition, the Rule recognizes that the “request, order, return and other matters” will be on separate forms, under the District Justice Automation Project.

**Rule 516. Issuance and Reissuance of Order for Possession.**

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**[Official Note:] Comment:**

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In many judicial districts, appeals of magisterial district court judgments are submitted to compulsory arbitration pursuant to **[Pa.R.C.P. Nos. 1301–1314] Pa.R.Civ.P. 1301–1314**. If, after the arbitration, the prothonotary enters an award for possession on the docket in favor of the landlord and the tenant fails to maintain the supersedeas required by Rule 1008 prior to the prothonotary entering judgment on the award, then the landlord may terminate the supersedeas pursuant to **[Rule 1008B] Rule 1008(b) or Rule 1008(c)** and request an order of possession from the magisterial district judge pursuant to Rule 515. If the prothonotary enters an award on the docket in favor of the tenant and the tenant fails to maintain the *supersedeas* prior to the prothonotary entering judgment on the award, the landlord may not obtain an order of possession between the time that the prothonotary enters the arbitration award on the docket and the time that the landlord files a notice of appeal.

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## **Rule 1007. Procedure on Appeal.**

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### **[Official Note:] Comment:**

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In many judicial districts, appeals of magisterial district court judgments are submitted to compulsory arbitration pursuant to **[Pa.R.C.P. Nos. 1301–1314] Pa.R.Civ.P. 1301–1314**. If, after the arbitration, the prothonotary enters an award for possession on the docket in favor of the landlord and the tenant fails to maintain the supersedeas required by Rule 1008 prior to the prothonotary entering judgment on the award, then the landlord may terminate the supersedeas pursuant to **[Rule 1008B] Rule 1008(b) or Rule 1008(c)** and request an order of possession from the magisterial district judge pursuant to Rule 515. If the prothonotary enters an award on the docket in favor of the tenant and the tenant fails to maintain the supersedeas prior to the prothonotary entering judgment on the award, the landlord may not obtain an order of possession between the time that the prothonotary enters the arbitration award on the docket and the time that the landlord files a notice of appeal.

**Rule 1008. Appeal as *Supersedeas*.**

**[A.](a)** Receipt by the magisterial district judge of **[the] a** copy of the notice of appeal from the judgment shall operate as a *supersedeas*, except as provided in **[subdivisions B and C of this rule] subdivisions (b) and (c)**.

**[B.](b) Appeal from Judgment for Possession of Real Property.**

**(1) Tenant Escrow.** When a tenant appeals from a judgment for the possession of real property, receipt by the magisterial district judge of the copy of the notice of appeal shall operate as a *supersedeas* only if the tenant:

**(i)** at the time of filing the notice of appeal, deposits with the prothonotary **either** a sum of money **[(or a bond, with surety approved by the prothonotary)]**, equal to the lesser of three months' rent or the rent actually in arrears on the date of the filing of the notice of appeal, based upon the **[magisterial district judge's order of judgment,] judgment entered by the magisterial district judge;** and[,]

**(ii)** thereafter, deposits **[cash] either a sum of money** or bond with the prothonotary **[in a sum]** equal to the monthly rent that becomes due during the period of time the proceedings upon appeal are pending in the court of common pleas**[, such additional]. Subsequent** deposits **[to] shall** be made within 30 days following the date of the appeal[,] and each successive 30-day period thereafter.

**(2) Release of Escrow to Landlord.** Upon **the landlord's** application **[by the landlord]**, the court shall release appropriate sums from the escrow account on a continuing basis while the appeal is pending to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the appeal.

**(3) Notation. When the deposit of money or bond is made pursuant to subdivision (b)(1)(i), the prothonotary shall make a notation upon the notice of appeal and its copies a notation that it shall operate as a *supersedeas* when received by the magisterial district judge.**

**(4) [In the event] Failure to Deposit Sums of Money or Bond.** If the tenant fails to deposit the **required** sums of money[,] or bond[,

**required by this rule]** when such deposits are due, the prothonotary, upon *praecipe* filed by the landlord, shall terminate the *supersedeas*. Notice of the termination of the *supersedeas* shall be forwarded by first class mail to the attorneys of record, or, if a party is unrepresented, to the party's last known address of record.

**[When the deposit of money or bond is made pursuant to the rule at the time of filing the appeal, the prothonotary shall make upon the notice of appeal and its copies a notation that it will operate as a supersedeas when received by the magisterial district judge.]**

**[C.](c) Indigent Tenants.**

- (1) **Inability to Deposit Escrow.** Residential tenants who seek to appeal from a magisterial district court judgment for possession and who do not have the ability to **[pay] deposit** the lesser of three months' rent or the full amount of the magisterial district court judgment for rent shall file with the office of the prothonotary a tenant's affidavit, as set forth in **[subdivision C(2)] subdivision (c)(2)**.
- (2) The tenant's affidavit shall be substantially in one of the following two forms:

[Caption]

TENANT'S *SUPERSEDEAS* AFFIDAVIT **[(NON-SECTION 8)]**

**NON-HOUSING CHOICE VOUCHER PROGRAM PARTICIPATION**

I, \_\_\_\_\_ (print name and address here), have filed a notice of appeal from a magisterial district court judgment awarding to my landlord possession of real property that I occupy[, **and**]. I do not have the financial ability to **[pay] deposit** the lesser of three times my monthly rent or the judgment for rent awarded by the magisterial district court. My total household income does not exceed the income limits set forth in the supplemental instructions for obtaining a stay pending appeal and I have completed an **[in forma pauperis (IFP) affidavit] application to waive fees and costs (in forma pauperis)** to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made

subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

\_\_\_\_\_  
Date

\_\_\_\_\_  
SIGNATURE OF TENANT

OR

[Caption]

**[SECTION 8] TENANT'S SUPERSEDEAS AFFIDAVIT**

**HOUSING CHOICE VOUCHER PROGRAM PARTICIPATION**

I, \_\_\_\_\_ (print name and address here), have filed a notice of appeal from a magisterial district court judgment awarding my landlord possession of real property that I occupy[, and]\_. I do not have the financial ability to **[pay] deposit** the lesser of three times my monthly rent or the actual rent in arrears. My total household income does not exceed the income limits set forth in the supplemental instructions for obtaining a stay pending appeal and I have completed an **[in forma pauperis (IFP) affidavit] application to waive fees and costs (in forma pauperis)** to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

The total amount of monthly rent that I personally pay to the landlord is \$ \_\_\_\_\_. I hereby certify that I am a participant in the **[Section 8 program] Housing Choice Voucher Program, also known as Section 8,** and I am not subject to a final (*i.e.*, non-appealable) decision of a court or government agency that terminates my right to receive **[Section 8] Housing Choice Voucher Program** assistance based on my failure to comply with program rules.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

\_\_\_\_\_  
Date

\_\_\_\_\_  
SIGNATURE OF TENANT

**(3) Deposit of Rent into Escrow.**

**[(a)](i)** If the rent has already been paid to the landlord in the month in which the notice of appeal is filed, the tenant shall **[pay] deposit** into an escrow account with the prothonotary the monthly rent in 30-day intervals from the date the notice of appeal was filed; or

**[(b)](ii)** If the rent has not been paid at the time of filing the notice of appeal, the tenant shall **[pay] deposit**:

**[(i)](A)** at the time of filing the notice of appeal, a sum of money equal to **[one third (1/3)] one-third** of the monthly rent;

**[(ii)](B)** an additional deposit of **[two thirds (2/3)] two-thirds** of the monthly rent within 20 days of filing the notice of appeal; and

**[(iii)](C)** additional deposits of one month's rent in full each 30 days after filing the notice of appeal. The amount of the monthly rent is the sum of money found by the magisterial district judge to constitute the monthly rental for the leasehold premises pursuant to Rule 514A, **pertaining to the contents of the magisterial district judge's judgment.** However, when the tenant is a participant in the **[Section 8 program] Housing Choice Voucher Program**, the tenant shall **[pay] deposit** the tenant share of the rent as set forth in the **["Section 8 Tenant's Supersedeas Affidavit"] "Tenant's Supersedeas Affidavit, Housing Choice Voucher Program Participation"** filed by the tenant.

**(4) Instructions.** The prothonotary's office of the court of common pleas in which the appeal is taken shall provide residential tenants who have suffered a judgment for possession with a "Supplemental Instructions for Obtaining a Stay of Eviction" as it appears on the Forms page of the website of the Unified Judicial System of Pennsylvania at **[www.pacourts.us] https://www.pacourts.us**.

**[Note: The Forms page is found on the home page of the Unified Judicial System of Pennsylvania at [www.pacourts.us](http://www.pacourts.us). The Supplemental Instructions include both instructions and income limits.**

The income limits are stated in monthly amounts and are based upon the most recent poverty income guidelines issued by the Federal Department of Health and Human Services.]

- (5) **Issuance.** When the requirements of **[subdivisions C(2)-(3)] subdivisions (c)(2) – (c)(3)** have been met, the prothonotary shall issue a *supersedeas*.
- (6) **Release of Escrow Deposits to Landlord.** Upon application by the landlord, the court shall release appropriate sums from the escrow account on a continuing basis while the appeal is pending to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the appeal.
- (7) **Failure to Make Monthly Deposits.** If the tenant fails to make monthly rent **[payments] deposits** to the prothonotary as described in **[subdivision C(3)] subdivision (c)(3)**, the *supersedeas* may be terminated by the prothonotary upon *praecipe* by the landlord or other party to the action. Notice of the termination of the *supersedeas* shall be forwarded by first class mail to the attorneys of record, or, if a party is unrepresented, to the party's last known address of record.
- (8) **Failure to Satisfy Conditions.** If the court of common pleas determines, upon written motion or its own motion, that the averments within any of the tenant's affidavits do not establish that the tenant meets the terms and conditions of **[subdivision C(1), *supra*] subdivision (c)(1)**, the court may terminate the *supersedeas*. Notice of the termination of the *supersedeas* shall be forwarded by first class mail to the attorneys of record, or, if a party is unrepresented, to the party's last known address of record.

**[D.](d) Striking or Termination of Appeal.** If an appeal is stricken or voluntarily terminated, any *supersedeas* based on it shall terminate. The prothonotary shall **[pay] release** the deposits of **[rental] rent** to the landlord.

**[Note: Subdivision A] Comment: Subdivision (a)** provides for an automatic *supersedeas* in appeals from civil actions upon receipt by the magisterial district judge of a copy of the notice of appeal. **The money judgment portion of a landlord and tenant judgment is governed by subdivision (a). See Pa.R.Civ.P.M.D.J. 514 and 521 (pertaining to the judgment and execution by levy).**

**[Subdivision B] Subdivisions (b) and (c), however, [does] require the deposit of money or approved bond as a condition for *supersedeas* when the appeal is from a judgment for the possession of real property. If the tenant fails to make the deposit required by subdivision (b) or (c), the landlord may file a *praecipe* with the prothonotary to terminate the *supersedeas*. The *praecipe* for termination filed with the prothonotary may state: “Please terminate the *supersedeas* in the within action for failure of the tenant to deposit monthly rent as required by Pa.R.Civ.P.M.D.J. 1008 when it became due” and shall be signed by the landlord. The prothonotary shall then note on the *praecipe*: “Upon confirmation of failure of the tenant to deposit the monthly rent when it became due, the *supersedeas* is terminated,” and the prothonotary shall sign and docket the *praecipe*. The landlord may present a copy of the *praecipe* to the magisterial district judge who rendered the judgment and file a request for issuance of an order for possession pursuant to Pa.R.Civ.P.M.D.J. 515.**

**[A new subdivision C was created in 2008 to provide for] Subdivision (c) governs appeals by indigent residential tenants who are unable to meet the bond requirements of [subdivision B] subdivision (b). The federal Housing Choice Voucher Program may also be known as “Section 8.”**

**The Forms page referenced in subdivision (c)(4) is found on the home page of the Unified Judicial System of Pennsylvania at <https://www.pacourts.us/forms>. The Supplemental Instructions include both instructions and income limits. The income limits are stated in monthly amounts and are based upon the most recent poverty income guidelines issued by the Federal Department of Health and Human Services.**

**[The request for termination of the *supersedeas*, upon the *praecipe* filed with the prothonotary, may simply state: “Please terminate the *supersedeas* in the within action for failure of the tenant to pay monthly rental as required by Pa.R.C.P.M.D.J. No. 1008 when it became due” and will be signed by the landlord. The prothonotary will then note upon the *praecipe*: “Upon confirmation of failure of the tenant to deposit the monthly rent when it became due, the *supersedeas* is terminated,” and the prothonotary will sign and clock the *praecipe*. A copy of the *praecipe* may thereupon be displayed to the magisterial district judge who rendered the judgment, and a request for issuance of an order for possession under Pa.R.C.P.M.D.J. No. 515 may be made.]**

The deposit of rent **[required hereunder]** is intended to apply in all cases, **[irrespective] regardless** of the reasons that caused the filing of the complaint before the magisterial district judge in the first instance. **[Disposition] Unless previously released to the landlord pursuant to subdivisions (b)(2) or (c)(6), disposition** of the

monthly rental deposits will be made by the court of common pleas following its *de novo* hearing of the matter on appeal.

In many judicial districts, appeals of magisterial district court judgments are submitted to compulsory arbitration pursuant to **[Pa.R.C.P. Nos. 1301-1314] Pa.R.Civ.P. 1301 – 1314**. If, after the arbitration, the prothonotary enters an award for possession on the docket in favor of the landlord and the tenant fails to maintain the *supersedeas* required by **[Rule 1008] subdivisions (b) or (c)** prior to the prothonotary entering judgment on the award, then the landlord may terminate the *supersedeas* pursuant to **[Rule 1008B] subdivision (b)(4) or (c)(7)** and request an order of possession from the magisterial district judge pursuant to **[Rule 515] Pa.R.Civ.P.M.D.J. 515**. If the prothonotary enters an award on the docket in favor of the tenant and the tenant fails to maintain the *supersedeas* prior to the prothonotary entering judgment on the award, the landlord may not obtain an order of possession between the time that the prothonotary enters the arbitration award on the docket and the time that the landlord files a notice of appeal.

**[The money judgment portion of a landlord and tenant judgment (see Pa.R.C.P.M.D.J. Nos. 514 and 521) would be governed by subdivision A.]**

**Rule 1013. Writ of *Certiorari* as *Supersedeas*.**

**[A.](a)** Receipt of **[the] a** writ of *certiorari* by the magisterial district judge to whom it was directed shall operate as a *supersedeas*, except as provided in **[subdivisions B and C of this rule] subdivisions (b) and (c)**.

**[B.](b) Writ of Certiorari; Possession of Real Property.**

**(1) Tenant Escrow.** When a tenant obtains a writ of *certiorari* involving a judgment for the possession of real property, receipt of the writ by the magisterial district judge shall operate as a *supersedeas* only if the tenant **obtaining the writ**:

**(i)** at the time of filing the writ, deposits with the prothonotary **either** a sum of money **[([)or a bond, with surety approved by the prothonotary(])]**, equal to the lesser of three months' rent or the rent actually in arrears on the date of the filing of the *praecipe* for writ of *certiorari* ("*praecipe*"), **[as determined by the] based upon the judgment entered by the** magisterial district judge; and[,]

**(ii)** thereafter, deposits **[cash] either a sum of money** or bond with the prothonotary **[in a sum]** equal to the monthly rent that becomes due during the period of time the proceedings upon writ are pending in the court of common pleas[, **such additional**]. **Subsequent** deposits **[to] shall** be made within 30 days following the date of the filing of the *praecipe*[,] and each successive 30-day period thereafter.

**(2) Release of Escrow to Landlord.** Upon **the landlord's** application **by the landlord**, the court shall release appropriate sums from the escrow account on a continuing basis while the writ is pending and, **if the writ is granted** while the ensuing proceeding is pending**[(in the event the writ is granted) to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the writ and during the pendency of the ensuing proceeding (in the event the writ is granted)], to compensate the landlord for the tenant's actual possession and use of the premises**.

**(3) Notation.** When the deposit of money or bond is made pursuant **to subdivision (b)(1)(i) at the time of the filing of the praecipe, the prothonotary shall make a notation upon the writ and its**

**copies that it shall operate as a supersedeas when received by the magisterial district judge.**

- (4) **Failure to Deposit Sums of Money or Bond.** [In the event that] **Notice of Default.** If the tenant filing the *praecipe* fails to deposit the **required** sums of money[, ] or bond[, **required by this rule**] when such deposits are due, the prothonotary, upon *praecipe* filed by the landlord, shall terminate the *supersedeas*. Notice of the termination of the *supersedeas* shall be forwarded by first class mail to the attorneys of record, or, if a party is unrepresented to the party's last known address of record.

**[When the deposit of money or bond is made pursuant to this Rule at the time of the filing of the *praecipe*, the prothonotary shall make upon the writ and its copies a notation that the writ will operate as a *supersedeas* when received by the magisterial district judge.]**

**[C.](c) Indigent Tenants.**

- (1) **Inability to Deposit Escrow.** Residential tenants who seek to file a *praecipe* involving a magisterial district court judgment for possession and who do not have the ability to **[pay] deposit** the lesser of three months' rent or the full amount of the magisterial district court judgment for rent shall file with the office of the prothonotary a tenant's affidavit, as set forth in **[subdivision B(2)] subdivision (c)(2).**
- (2) The tenant's affidavit shall be substantially in one of the following two forms:

[Caption]

TENANT'S *SUPERSEDEAS* AFFIDAVIT **[(NON-SECTION 8)]**

**NON-HOUSING CHOICE VOUCHER PROGRAM PARTICIPATION**

I, \_\_\_\_\_ (print name and address here), have filed a *praecipe* for a writ of *certiorari* to review a magisterial district court judgment awarding to my landlord possession of real property that I occupy[, and]. I do not have the financial ability to **[pay] deposit** the lesser of three times my monthly rent or the judgment for rent awarded by the magisterial district court. My total household income does not exceed the income limits set forth in the instructions for obtaining a stay pending issuance of a writ

of *certiorari* and I have completed an **[in forma pauperis (IFP) affidavit] application to waive fees and costs (in forma pauperis)** to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

\_\_\_\_\_  
Date

\_\_\_\_\_  
SIGNATURE OF TENANT

OR

[Caption]

SECTION 8 TENANT'S *SUPERSEDEAS* AFFIDAVIT

**HOUSING CHOICE VOUCHER PROGRAM PARTICIPATION**

I, \_\_\_\_\_ (print name and address here), have filed a *praecipe* for a writ of *certiorari* to review a magisterial district court judgment awarding my landlord possession of real property that I occupy[, and]. I do not have the financial ability to **[pay] deposit** the lesser of three times my monthly rent or the actual rent in arrears. My total household income does not exceed the income limits set forth in the Instructions for obtaining a stay pending issuance of writ of *certiorari* and I have completed an **[in forma pauperis (IFP) affidavit] application to waive fees and costs (in forma pauperis)** to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

The total amount of monthly rent that I personally pay to the landlord is \$ \_\_\_\_\_. I hereby certify that I am a participant in the **[Section 8 program] Housing Choice Voucher Program, also known as Section 8,** and I am not subject to a final (*i.e.*, non-appealable) decision of a court or government agency that terminates my right to receive **[Section 8] Housing Choice Voucher Program** assistance based on my failure to comply with program rules.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

\_\_\_\_\_

\_\_\_\_\_

Date

SIGNATURE OF TENANT

**(3) Deposit of Rent into Escrow.**

**[(a)](i)** If the rent has already been paid to the landlord in the month in which the *praecipe* is filed, the tenant shall **[pay] deposit** into an escrow account with the prothonotary the monthly rent in 30-day intervals from the date the *praecipe* was filed; or

**[(b)](ii)** If the rent has not been paid at the time of filing the *praecipe*, the tenant shall **[pay] deposit**:

**[(i)](A)** at the time of filing the *praecipe*, a sum of money equal to **[one third (1/3)] one-third** of the monthly rent;

**[(ii)](B)** an additional deposit of **[two thirds (2/3)] two-thirds** of the monthly rent within 20 days of filing the *praecipe*; and

**[(iii)](C)** additional deposits of one month's rent in full each 30 days after filing the *praecipe*. The amount of the monthly rent is the sum of money found by the magisterial district judge to constitute the monthly rental for the leasehold premises pursuant to Rule 514A, **pertaining to the contents of the magisterial district judge's judgment.** However, when the tenant is a participant in the **[Section 8 program] Housing Choice Voucher Program**, the tenant shall pay the tenant share of the rent as set forth in the **[“Section 8 Tenant's Supersedeas Affidavit”] “Tenant's Supersedeas Affidavit, Housing Choice Voucher Program Participant”** filed by the tenant.

**(4) Instructions.** The prothonotary's office of the court of common pleas in which the *praecipe* is filed shall provide residential tenants who have suffered a judgment for possession with a “Supplemental Instructions for Obtaining a Stay of Eviction” as it appears on the Forms page of the website of the Unified Judicial System of Pennsylvania at **[www.pacourts.us] https://www.pacourts.us**.

**[Note: The Forms page is found on the home page of the Unified Judicial System of Pennsylvania at [www.pacourts.us](http://www.pacourts.us). The Supplemental Instructions include both instructions and income limits.**

**The income limits are stated in monthly amounts and are based upon the most recent poverty income guidelines issued by the Federal Department of Health and Human Services.]**

- (5) **Issuance.** When the requirements of **[subdivisions C(2)-(3)] subdivisions (c)(2)–(3)** have been met, the prothonotary shall issue a *supersedeas*.
- (6) **Release of Escrow Deposits to Landlord.** Upon application by the landlord, the court shall release appropriate sums from the escrow account on a continuing basis while the writ is pending and while the ensuing proceeding is pending (in the event the writ is granted) to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the writ and during the pendency of the ensuing proceeding (in the event the writ is granted).
- (7) **Failure to Make Monthly Deposits.** If the tenant fails to make monthly rent **[payments] deposits** to the prothonotary as described in **[subdivision C(3)] subdivision (c)(3)**, the *supersedeas* may be terminated by the prothonotary upon *praecipe* by the landlord or other party to the action. Notice of the termination of the *supersedeas* shall be forwarded by first class mail to the attorneys of record, or, if a party is unrepresented, to the party's last known address of record.
- (8) **Failure to Satisfy Conditions.** If the court of common pleas determines, upon written motion or its own motion, that the averments within any of the tenant's affidavits do not establish that the tenant meets the terms and conditions of **[subdivision C(1), *supra*] subdivision (c)(1)**, the court may terminate the *supersedeas*. Notice of the termination of the *supersedeas* shall be forwarded by first class mail to the attorneys of record, or, if a party is unrepresented, to the party's last known address of record.

**[D.](d)Striking or Termination of Writ.** If a writ of *certiorari* is stricken, dismissed, or discontinued, any *supersedeas* based on it shall terminate. The prothonotary shall **[pay] release** the deposits of **[rental] rent** to the landlord.

**[Note:] Comment:** As in appeals [(see Pa.R.C.P.M.D.J. No. 1008)], *certiorari* operates as an automatic *supersedeas* in civil actions when the writ is received by the magisterial district judge. See Pa.R.Civ.P.M.D.J. 1008(a) (pertaining to the appeal as *supersedeas*). The money judgment portion of a landlord and tenant judgment is governed by subdivision (a). See Pa.R.Civ.P.M.D.J. 514 and 521 (Judgment; Notice of Judgment or Dismissal and the Right to Appeal; Execution by Levy).

If the writ involves a judgment for the possession of real property, however, it will operate as a *supersedeas* upon receipt by the magisterial district judge only if money is **[paid] deposited** or a bond is filed conditioned as stated in **[the rule] subdivision (b) or (c)**. [This Rule has been amended to require a payment equal to the lesser of three months' rent or the rent actually in arrears in order for the writ involving a judgment for the possession of real property to act as a *supersedeas* to ensure consistency between this Rule and Pa.R.C.P.M.D.J. No. 1008 (Appeal as *Supersedeas*).] **If the tenant fails to make the deposit required by subdivision (b) or (c), the landlord may file a *praecipe* with the prothonotary to terminate the *supersedeas*. The *praecipe* for termination of the *supersedeas* filed with the prothonotary may state: "Please terminate the *supersedeas* in the within action for failure of the tenant to deposit monthly rent as required by Pa.R.Civ.P.M.D.J. 1013 when it became due" and shall be signed by landlord. The prothonotary shall then note upon the *praecipe*: "Upon confirmation of failure of the tenant to deposit the monthly rent when it became due, the *supersedeas* is terminated," and the prothonotary shall sign and docket the *praecipe*. The landlord may present a copy of the *praecipe* to the magisterial district judge who rendered the judgment, and a request for issuance of an order for possession under Pa.R.Civ.P.M.D.J. 515 may be made.**

**[A new subdivision C was created in 2008 to provide] Subdivision (c) provides a *praecipe* for writ of *certiorari* process for indigent residential tenants who are unable to meet the bond requirements of [subdivision B] subdivision (b). The federal Housing Choice Voucher Program may also be known as "Section 8."**

**The Forms page referenced in subdivision (c)(4) is found on the home page of the Unified Judicial System of Pennsylvania at <https://www.pacourts.us/forms>. The Supplemental Instructions include both instructions and income limits. The income limits are stated in monthly amounts and are based upon the most recent poverty income guidelines issued by the Federal Department of Health and Human Services.**

[The request for termination of the *supersedeas*, upon the *praecipe* filed with the prothonotary, may simply state: "Please terminate the *supersedeas* in the within action for failure of the tenant to pay monthly rental as required by Pa.R.C.P.M.D.J. No. 1013 when it became due" and will be signed by landlord. The

prothonotary will then note upon the *praecipe*: “Upon confirmation of failure of the tenant to deposit the monthly rent when it became due the *supersedeas* is terminated,” and the prothonotary will sign and clock the *praecipe*. A copy of the *praecipe* may thereupon be displayed to the magisterial district judge who rendered the judgment, and a request for issuance of an order for possession under Pa.R.C.P.M.D.J. No. 515 may be made.

The money judgment portion of a landlord and tenant judgment (see Pa.R.C.P.M.D.J. Nos. 514 and 521) would be governed by subdivision A of this rule.]

## **Rule 1014. Orders of Court in Certiorari Proceedings.**

...

**[Note:] Comment:** Subdivision A states the rule that if the court finds in favor of the party obtaining the writ, it merely sets the judgment below aside without prejudice to the cause of action. The grounds for certiorari do not go to the merits of the case but only to matters that usually can be cured by later selecting a proper tribunal. **[See *Statler v. Alexander Film Co.*, 21 D. & C. 512 (1934).] See *Statler v. Alexander Film Co.*, 21 D. & C. 512 (Westmoreland 1934).**

Subdivision B provides for dismissal of the writ if the finding is against the party obtaining it. This leaves the judgment below in full force and effect. **[See Rule 1013C] See Pa.R.Civ.P.M.D.J. 1013(d).**

**Rule 1016. Statement of Objection.**

**[A.](a) Filing.** Any party in interest aggrieved by an order or determination made by a magisterial district judge under **[Rule 420 or Rule 519.1] Pa.R.Civ.P.M.D.J. 420 or 519.1 or Pa.R.J.A. 1990** may obtain a reconsideration thereof in the court of common pleas by filing a statement of objection to the order or determination with the prothonotary and with the magisterial district judge in whose office the order or determination was made.

**[B.](b) Timing.** The statement of objection shall be filed with the prothonotary and the magisterial district judge within ten **[(10)]** days after the date of the order or determination to which objection is made.

**(c) Costs. A statement of objection filed in response to the denial of an application to waive fees and costs (in forma pauperis) shall be made without payment of fees or costs. All other filings are subject to standard fees and costs.**

**[Official Note:] Comment:** This rule and Rules 1017–1020 provide a system for reconsideration in the court of common pleas of orders and determinations of magisterial district judges dealing with execution matters, **[and] abandonment of manufactured homes, and applications to waive fees and costs (in forma pauperis).**

Under **[subdivision B of this rule] subdivision (b)**, the statement of objection must be filed within ten days after the date of the questioned order or determination. The time limit for filing a statement of objection need not be the same as that for filing a notice of appeal from a judgment. **[See the Judicial Code, § 5571(c)(4),] See** 42 Pa.C.S. § 5571(c)(4)[, as amended by § 10(67) of the Judiciary Act Repealer Act, Act of April 28, 1978, P. L. 202, No. 53]. It may be noted that under **[Pa. R.C.P. Nos. 3206(b) and 3207(b)] Pa.R.Civ.P. 3206(b) and 3207(b)** objections to sheriff's determinations must be made within ten days after the date of mailing of the determination.

**Subdivision (c) prohibits charging or assessing fees and costs against a party who files a statement of objection relating to a denial of an application for waiver of fees and costs. Charging such fees is not practical under the circumstances insofar as the party has already averred an inability to pay fees and costs without financial hardship.**

**Rule 1018. Duties of Magisterial District Judge Upon Receipt of Statement of Objection.**

**[A.](a)Service.**

- (1) [Immediately] Except as otherwise provided in subdivision (a)(2), immediately** upon receipt of the statement of objection, the magisterial district judge shall send a copy of it by ordinary mail to all other parties in interest.
- (2) The magisterial district judge shall not serve a copy of the statement of objection filed in response to the denial of an application to waive fees and costs (in forma pauperis) on any other party in interest in the underlying matter.**

**[B.](b)Certified Record.** Within ten ~~[(10)]~~ days after receiving the statement of objection, the magisterial district judge shall file with the prothonotary a certified true copy of the record of actions taken by the magisterial district judge under **[Rule 420 or Rule 519.1] Pa.R.Civ.P.M.D.J. 420 or 519.1 or Pa.R.J.A. 1990**, but copies of only those **[appeals, objections, claims, exceptions or requests considered under Rule 420 or Rule 519.1] documents** that are pertinent to the statement of objection need be attached to **[that] the** record.

**[Official Note] Comment:** As to the procedure in **[subdivision A] subdivision (a)(1)**, compare **[Pa.R.C.P. Nos. 3206(b), 3207(b)] Pa.R.Civ.P. 3206(b), 3207(b)**.

**A statement of objection filed for reconsideration of an application for waiver of fees and costs is not served on the opposing party because such applications are considered on an ex parte basis. See Pa.R.J.A. 1990(e)(3), cmt. ¶ 4.**

**[Subdivision B] Subdivision (b)** is intended to bring before the court copies of the documents on file in the office of the magisterial district judge pertaining to the matter in question. The attachments to the record of Rule 420 or Rule 519.1 actions referred to in this subdivision are notations by the magisterial district judge of appeals taken under Rule 408C and objections to levy under Rule 413, property claims under Rule 413, exceptions to distribution under Rule 416C, requests to set aside sale under Rule 420C filed in the office of the magisterial district judge, and determinations of manufactured home abandonment under Rule 519.1. **The attachments to the record of Pa.R.J.A. 1990 actions are the application for waiver of fees and costs and the court's order denying the petition, together with any supplemental information provided to the court. See Pa.R.J.A. 1990 (c)(2), (e)(3), and (e)(5).**

**Rule 1019. Consideration of Statement of Objection by Court of Common Pleas.**

**[A.](a)** Upon consideration of the statement of objection, the court of common pleas shall take such action and make such orders as shall be just and proper.

**[B.](b)** The matters raised **[by] in** the statement of objection shall be considered **[de novo] de novo** by the court of common pleas.

**(c) The court of common pleas shall review a statement of objection filed regarding the denial of an application to waive fees and costs (in forma pauperis) pursuant to the standards set forth in Pa.R.J.A. 1990, governing such applications.**

**[Official Note] Comment:** Consideration of the matters raised by the statement of objection will be **[de novo] de novo** and the court is given broad latitude and discretion in disposing of these matters. Although the proceedings are **[de novo] de novo**, this will not excuse failure to comply with **[whatever]** time limitations **[are]** imposed **[(see Rules 408C, 413, 416C, 420C, and 519.1)]** for raising before the magisterial district judge the matters now before the court of common pleas. **See Pa.R.Civ.P.M.D.J. 408C, 413, 416C, 420C, and 519.1.**

**Rule 1020. Statement of Objection to Operate as Stay.**

Until further order of the court of common pleas, receipt by the magisterial district judge of the statement of objection shall operate as a stay of any **[execution]** proceedings that may be affected by the proceedings on the statement.

**[Note: Under this rule, receipt]** **Comment: Receipt** by the magisterial district judge of the statement of objection operates initially as an automatic stay of the affected **[execution]** proceedings. **This includes execution matters pursuant to Pa.R.Civ.P.M.D.J. 408C, 413, 416C, 420C, and 519.1, as well as a denial of an application to waive fees and costs (*in forma pauperis*) filed pursuant to Pa.R.J.A. 1990.**