

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

NOTICE OF PROPOSED RULEMAKING

Proposed Amendment of Pa.R.C.P. Nos. 1653 and 1656

The Civil Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P. Nos. 1653 and 1656 governing actions upon mechanics' liens, for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 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 reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They will neither constitute a part of the rules nor will be officially 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:

**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 **September 2, 2016**. 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,

William S. Stickman IV
Chair

Rule 1653. Commencement of Action.

An action shall be commenced by filing **a complaint** with the prothonotary.

- [(a) a complaint, or**
- (b) an agreement for an amicable action.]**

The complaint shall be filed under the same docket number as the claim for the mechanics' lien.

Note: To file a claim for a mechanics' lien, see the Mechanics' Lien Law of 1963, 49 P.S. §1101-1902.

Rule 1656. The Complaint.

- (a)** The plaintiff shall set forth in the complaint
 - (1) the name and address of each party to the action and if the action is commenced by a subcontractor, the name and address of the contractor;
 - (2) **[the court and number and]** the date of the filing of the claim **[and a copy thereof as an exhibit]; and**
 - (3) a demand for judgment.

(b) The plaintiff shall attach a copy of the claim to the complaint as an exhibit.

Note: A claim for a mechanics' lien and the complaint to obtain judgment on the mechanics' lien shall be filed under the same docket number. See Rule 1653.

Explanatory Comment

The Civil Procedural Rules Committee is proposing the amendment of Rules 1653 and 1656 governing actions to obtain judgment on mechanics' liens to clarify and update both rules. Rule 1653 governing commencement of the action, is being amended in two respects. First, the rule currently allows for an action to obtain judgment on a mechanics' lien to be initiated by complaint or agreement for an amicable action. The proposed amendment would limit initiation of an action by complaint only. The agreement for an amicable action was deleted from Rule 1007 governing the commencement of general civil actions in 1991 because it was a device little used in modern practice, and could be achieved through alternate procedures. See Rule 1007, Explanatory Comment -- 1991. The proposed amendment of Rule 1653 will conform actions to obtain judgment on mechanics' liens to modern practice.

Second, the Rules of Civil Procedure are silent as to whether a claim for a mechanics' lien should be filed under the same or separate docket number as the complaint to obtain judgment on a mechanics' lien. The proposed amendment requires that the claim and the complaint should be filed under the same docket number to clarify procedure. The requirement to use one docket number would apply to all complaints filed after the effective date of the proposed amendment.

A proposed note has been added to Rule 1656 governing the complaint to aid practitioners as to the requirements for filing a mechanics' lien and the subsequent complaint to obtain judgment.

By the Civil Procedural
Rules Committee

William S. Stickman IV
Chair