

**SUPREME COURT OF PENNSYLVANIA
Minor Court Rules Committee**

NOTICE OF PROPOSED RULEMAKING

**Proposed Amendment of Pa.R.C.P.M.D.J. Nos. 301, 302, and 321 and
Proposed Adoption of Pa.R.C.P.M.D.J. No. 350**

The Minor Court Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P.M.D.J. Nos. 301, 302, and 321 and the adoption of Pa.R.C.P.M.D.J. No. 350. This proposal provides procedural rules for actions under 75 Pa.C.S. § 3369(j)(4), relating to violations issued via automated work zone speed enforcement systems for the reasons set forth in the accompanying Publication 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 neither will constitute a part of the rules nor be officially adopted by the Supreme Court.

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

**Pamela S. Walker, Counsel
Minor Court Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717-231-9546
minorrules@pacourts.us**

All communications in reference to the proposal should be received by **August 4, 2020**. 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 Minor Court Rules Committee,

Honorable Margaret A. Hunsicker
Chair

Rule 301. Definition; Scope

A. As used in this chapter,¹ “action” means a civil action brought before a magisterial district judge.

B. Civil action includes any action within the jurisdiction of a magisterial district judge except an action by a landlord against a tenant for the recovery of the possession of real property.

C. As used in this chapter, “complaint” or Civil Action shall include, where applicable, the attached and completed Civil Action Hearing Notice form.

Note: Civil action includes actions formerly denominated “assumpsit” or “trespass” **(commonly called contract and tort cases, respectively)** and civil claims for fines and penalties. See **[Section 1515(a)(3) of the Judicial Code,]** 42 Pa.C.S. § 1515(a)(3) prescribing the jurisdiction of magisterial district judges.

The rules in this chapter will apply to all civil actions before magisterial district judges except an action by a landlord against a tenant for the recovery of possession of real property which are governed by Chapter 500 of these rules.

Except as provided in Rule 350, the rules in this chapter apply to actions filed pursuant to 75 Pa.C.S. § 3369(j)(4), relating to automated work zone speed enforcement violations.

Statutes authorizing a civil fine or penalty include **[the following: (1) Section 10.1 of the Act of April 27, 1927, P.L. 465, No. 299, added by section 2 of the Act of December 21, 1988, P.L. 1315, No. 168, 35 P.S. § 1230.1 relating to clean indoor air; and Sections 617.1 and 817-A of the Act of July 31, 1968, P.L. 805, No. 247, as added by sections 62 and 77 of the Act of December 21, 1988, P.L. 1329, No. 170,] 53 P.S. §§ 10617.1, 10817-A relating to violations of zoning and joint municipal zoning ordinances.**

¹ Rules in 300 Series.

Rule 302. Venue

Official Note: This rule **[replaces the temporary venue provisions of § 14 of the Schedule to Article V, Pennsylvania Constitution, 1968. It]** combines, with some minor changes, the Pennsylvania Rules of Civil Procedure relating to venue. See:

- (1) Individuals: Pa.R.C.P. No. 1006(a).
- (2) Partnerships: Pa.R.C.P. No. 2130(a).
- (3) Corporations: Pa.R.C.P. No. 2179(a).
- (4) Insurance Policies: Pa.R.C.P. No. 2179(b).
- (5) Unincorporated Associations: Pa.R.C.P. No. 2156(a).
- (6) Political Subdivisions: Pa.R.C.P. No. 2103(b).

This rule is not intended to repeal special statutory venue provisions, **[not included therein (see Rule 382(3)),]** such as: **(1) venue provisions [of the Goods and Services Installment Sales Act, Act of October 28, 1966, P.L. 7, Art. XII, § 1205, 69 P.S. § 2205,] for actions involving installment sales of goods and services, 12 Pa.C.S. § 6307; (2) [nor is it intended to contravene the special] venue provisions [of § 811] of the Fair Debt Collection Practices Act, 15 U.S.C. 1692i, pertaining to actions brought by debt collectors against consumers; and (3) venue provisions for appeals from automated work zone speed enforcement violations, 75 Pa.C.S. § 3369(j)(4). See Rule 382(1).**

For a definition of “transaction or occurrence” see *Craig v. W.J. Thiele & Sons, Inc.*, **[395 Pa. 129,]** 149 A.2d 35 (**Pa.** 1959).

Subdivision G is intended to take care of indistinct, “center line” or other confusing boundaries in the respects mentioned. When a complaint is transferred under subdivision H, it is treated as if originally filed in the transferee court on the date first filed in a court. If service of the complaint has already been made, no new service may be necessary, but the transferee court must set a new date, time and place for the new hearing and notify the parties thereof. It is the intent of this rule that cases may be transferred to any Pennsylvania court with appropriate jurisdiction and venue, including the Philadelphia Municipal Court. Likewise, nothing in this rule prohibits a court other than a magisterial district court from transferring a case to a magisterial district court with proper jurisdiction and venue, in accordance with the procedural rules of the transferring court. The

jurisdictional limits of the magisterial district courts and the Philadelphia Municipal Court are governed by **[Sections 1515 and 1123 of the Judicial Code, respectively.]** 42 Pa.C.S. §§ 1515 and 1123, respectively.

There are no costs for transfer of the complaint and no additional filing costs when a case is transferred from one magisterial district court to another magisterial district court. There are no additional filing costs when a case is transferred from the Philadelphia Municipal Court to a magisterial district court.

There may be additional service costs when a case is transferred.

Rule 321. Hearings and Evidence

The magisterial district judge shall be bound by the rules of evidence, except that a bill, estimate, receipt or statement of account which appears to have been made in the regular course of business may be introduced in evidence by any party without affidavit or other evidence of its truth, accuracy or authenticity.

Official Note: The exception to the rules of evidence provided by this rule was inserted because the Pennsylvania statutes making certain business entries admissible in evidence **[(see the Judicial Code, § 6108, 42 Pa.C.S. § 6108)]** apparently do not apply to bills, receipts and the like which are made in the regular course of business but are not made as “records.” **See 42 Pa.C.S. § 6108.** The fact that this exception permits the introduction of these items of evidence without affidavit or other evidence of their truth, accuracy or authenticity does not, of course, preclude the introduction of evidence contradicting them. The exception was deemed necessary because the items of evidence made admissible thereby are probably the proofs most commonly used in minor judiciary proceedings. **See Rule 350D(2) for additional exceptions applicable to appeals from automated work zone speed enforcement violations.**

(This is an entirely new Rule.)

Rule 350. Automated Work Zone Speed Enforcement Violation Appeals

A. As used in this Rule:

(1) “Defendant” 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).

(2) “Plaintiff” means 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).

B. *Venue.* An action 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) occurred.

C. *Complaint.* Upon receipt of a written request from a defendant to appeal a determination by a hearing officer pursuant to 75 Pa.C.S. § 3369(j)(4), the plaintiff shall file a complaint in the form set forth in Rule 304.

D. (1) *Hearing.* The proceeding shall be conducted *de novo* in accordance with these rules as if the action was initially commenced in a magisterial district court.

(2) *Evidence.* The hearing is subject to the standards of evidence set forth in Rule 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.

Official Note: 75 Pa.C.S. § 3369 establishes 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. This rule was adopted to address the provisions of the statute that permits a *de novo* appeal to a magisterial district court from a decision of a hearing officer following an administrative hearing to contest an alleged violation of 75 Pa.C.S. § 3369(c). 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.

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

Any civil fines payable pursuant to 75 Pa.C.S. § 3369(e) shall be made to the plaintiff and not to the magisterial district court. See Rule 323.

SUPREME COURT OF PENNSYLVANIA
Minor Court Rules Committee

PUBLICATION REPORT

**Proposed Amendment of Pa.R.C.P.M.D.J. Nos. 301, 302, and 321 and
Proposed Pa.R.C.P.M.D.J. No. 350**

The Minor Court Rules Committee (“Committee”) is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P.M.D.J. Nos. 301, 302, and 321 and the adoption of Pa.R.C.P.M.D.J. No. 350. This proposal would establish procedural rules for actions under 75 Pa.C.S. § 3369(j)(4), relating to violations issued via automated work zone speed enforcement systems (“AWZSES”).

On October 19, 2018, the Governor signed into law Act 86 of 2018 (“Act”), which authorized the use of AWZSES in active work zones along the Pennsylvania Turnpike and “[f]ederal aid highways only under the jurisdiction of [PennDOT].” See 75 Pa.C.S. § 3369(a). The Act established civil penalties for a speeding offense in a highway work zone captured by an automated work zone speed enforcement system. When the AWZSES captures a speeding violation in an active work zone, a system administrator (*i.e.*, agency vendor) will prepare and send a violation notice to the registered vehicle owner identified by the system. See *id.* § 3369(d). The vehicle owner may request a hearing before a hearing officer to contest the alleged violation. See *id.* § 3369(j)(1). The Act provides that a vehicle owner may appeal the hearing officer’s decision to a magisterial district judge:

If the owner requests in writing that the decision of the hearing officer be appealed, the system administrator shall file the notice of violation and supporting documents with the office of the magisterial district judge for the magisterial district where the violation occurred, and the magisterial district judge shall hear and decide the matter *de novo*.

See id. § 3369(j)(4).

The Pennsylvania Department of Transportation (“PennDot”) and the Pennsylvania Turnpike Commission (“PTC”) are moving forward with implementation of AWZSES. In anticipation of appeals from hearing officer determinations filed pursuant to 75 Pa.C.S. § 3369(j)(4), the Committee is considering proposing to the Supreme Court of Pennsylvania changes to the Rules of Civil Procedure before Magisterial District Judges to (1) clarify that Pa.R.C.P.M.D.J. Nos. 301–382 apply to AWZSES violation appeals; and (2) provide venue and evidentiary exceptions for these actions.

In Rule 301, which sets forth the scope Rules 301–382, the Committee proposes adding a paragraph to the Note to explain that the rules apply to actions filed pursuant to 75 Pa.C.S. § 3369(j)(4), relating to automated work zone speed enforcement violations. The Committee also proposes amending the last paragraph of the Note to delete a repealed statute. Next, the Committee proposes amending the Note to Rule 302 to include actions under the Act to the list of actions with special venue provisions, as well as other amendments to enhance readability. In the Note to Rule 321, the Committee proposes adding a cross-reference to proposed new Rule 350D(2), which provides additional exceptions to existing business records exceptions. Finally, the Committee proposes new Rule 350, which contains the special venue rule and evidentiary exceptions, as well as clarifies the nature of the parties and proceeding.