

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

**Proposed Recommendation No. 237**

**Proposed Amendment of Rule 3111.1 et seq. Governing  
Exemption from Levy and Attachment**

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 3111.1 et seq. governing exemption from levy and attachment be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than **November 26, 2008** to:

**Karla M. Shultz, Esquire  
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Civil Procedural Rules Committee  
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**or E-Mail to  
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The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

**Rule 3111.1. Exemptions from Levy and Attachment**

In the absence of a court order, service of the writ upon a bank or other financial institution as garnishee shall not attach [any]

(1) the first \$10,000 of each account of the defendant containing [of the defendant's funds on deposit with the bank or other financial institution in an account in which (1)] any funds which are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law, [or]

Note: See Rule 3146(b)(2) governing judgment against a bank or other financial institution as garnishee upon admission in answer to interrogatory.

(2) each account in which funds on deposit exceed \$10,000 at any time if all funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law, and

(3) the funds on deposit, not including any otherwise exempt funds, that do not exceed the amount of the general monetary exemption under 42 Pa.C.S. § 8123. The plaintiff shall have the right to file an objection if the plaintiff believes that the defendant has exhausted the statutory exemptions.

**Rule 3140. Notice by Garnishee**

(a)(1) Upon being served with the writ, the garnishee shall [promptly] within two business days forward a copy to the defendant.

(2) In addition to compliance with the requirements of Rule 3144, a garnishee which is a bank or other financial institution shall within two business days forward to the defendant and to the plaintiff a copy of the statement of accounts attached showing

(i) each account of the defendant having funds which have been attached and the amount of the funds in each account, and

(ii) each account of the defendant having funds which have not been attached because the account contains funds which are exempt under Rule 3111.1(1), the basis for the exemption of those funds, and the total amount of funds in each account.

Note: A garnishee which is a bank will send to the defendant copies of both the writ and the statement of accounts attached, but to the plaintiff only a copy of the statement of accounts attached.

(b) Upon filing answers to interrogatories pursuant to Rule 3144, the garnishee shall promptly forward a copy to the defendant.

(c) A copy is forwarded within the requirement of this rule when it is delivered to the defendant by an adult at any place within or without the Commonwealth in the manner prescribed by Rule 402(a) for service of original process or when it is mailed to the defendant by registered mail directed to the defendant's last known address.

Note: Registered mail includes certified mail. See Definition Rule 76.

Attachment of wages, salary and commissions to satisfy a money judgment arising from a residential lease pursuant to Section 8127(a)(3.1) of the Judicial Code is governed by Rule 3301 et seq.

**Rule 3141. Garnishee's Duty to Defend. Venue of Proceedings**

(a) Except as provided in Rule 3111.1, a [A] garnishee who forwards copies of the writ and answers to interrogatories to the defendant shall thereafter be under no duty to resist the attachment or defend the action against the defendant in any manner but may do so as provided by these rules.

Note: See Rule 3142 authorizing preliminary objections; Rule 3121 as to stay; Rule 3143(f), (g), (h), as to non pros; Rule 3145 as to defenses. Failure to answer interrogatories or to file a sufficient answer may result in judgment against the garnishee. See Rules 3146 and 3147.

(b) When the writ is issued to another county, preliminary objections, proceedings for stay, or release of property from attachment, answers to interrogatories or other matters relating to the attachment, may at the option of the garnishee be filed or taken by the garnishee in the county to which the writ is directed from which it issued. If filed or taken in the county to which the writ is directed, copies thereof and any order of the court thereon shall also be forwarded to the prothonotary of the county in which the writ issued, and to the plaintiff and the defendant or their attorneys, and shall contain or have attached an election of optional venue in the garnishee county. A copy of forwarded within the meaning of this rule if it is sent in the manner provided by Rule 3140(c).

**Rule 3253. Interrogatories in Attachment**

Interrogatories of the plaintiff to the garnishee shall be substantially in the following form:

**(Caption)**

**Interrogatories to Garnishee**

To \_\_\_\_\_:  
(Garnishee)

You are required to file answers to the following interrogatories within twenty (20) days after service upon you. Failure to do so may result in judgment against you:

1. At the time you were served or at any subsequent time did you owe the defendant any money or were you liable to the defendant on any negotiable or other written instrument, or did the defendant claim that you owed the defendant any money or were liable to the defendant for any reason?

2. At the time you were served or at any subsequent time was there in your possession, custody or control or in the joint possession, custody or control of yourself and one or more other persons any property of any nature owned solely or in part by the defendant?

3. At the time you were served or at any subsequent time did you hold legal title to any property of any nature owned solely or in part by the defendant or in which defendant held or claimed any interest?

4. At the time you were served or at any subsequent time did you hold as fiduciary any property in which the defendant had an interest?

5. At any time before or after you were served did the defendant transfer or deliver any property to you or to any person or place pursuant to your direction or consent and if so what was the consideration therefor?

6. At any time after you were served did you pay, transfer or deliver any money or property to the defendant or to any person or place pursuant to the defendant's direction or otherwise discharge any claim of the defendant against you?

7. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which funds are deposited electronically on a recurring basis and which are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law? If so, identify each account and state the amount of funds in each account, the reason for the exemption, [the amount being withheld under each exemption] and the entity electronically depositing those funds on a recurring basis.

8. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which the funds on deposit, not including any otherwise exempt funds, did not exceed the amount of the general monetary exemption under 42 Pa.C.S. § 8123? If so, identify each account.

(The plaintiff may set forth additional appropriate interrogatories.)

## **Explanatory Comment**

New Rule 3111.1 was promulgated in 2007 to address the failure of the rules of civil procedure to protect funds held in accounts of banks and other financial institutions that are exempt from execution, levy, and attachment pursuant to federal and state legislation. The current rule protects from attachment all funds in an account in which any funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy, or attachment. The amendment to subdivision (1) of Rule 3111.1 provides that only the first \$10,000 held in an account may not be attached whenever the account includes any funds that are identified as being exempt from execution, levy, or attachment. If an account holder believes the remainder is also exempt, he or she may petition the court for relief. Under new subdivision (2) any funds that exceed \$10,000 in an account may be attached unless all funds in the account are identified as exempt funds.

By the Civil Procedural  
Rules Committee

Stewart L. Kurtz  
Chair