

INTRODUCTION

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt revisions to the Official Note to Rule 341, and Rule 402 of the Minor Court Civil Rules. The Committee has not yet submitted this proposal for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. The Committee's Report should not be confused with the Committee's Official Notes to the rules. The Supreme Court does not adopt the Committee's Official Notes or the contents of the Reports.

The text of the proposed changes precedes the Report. Additions are shown in bold; deletions are in bold and brackets.

We request that interested persons submit written suggestions, comments, or objections concerning this proposal to the Committee through counsel,

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Minor Court Rules Committee
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All comments shall be received no later than Friday, January 18, 2013.

October 24, 2012

BY THE MINOR COURT RULES COMMITTEE:

Mary P. Murray, Chair

Pamela S. Walker
Counsel

Rule 341. Request for Entry of Satisfaction; Service; Entry of Satisfaction.

A. If a judgment debtor has paid in full, settled, or otherwise complied with a judgment rendered in a magisterial district court, anyone interested in the judgment may request the entry of satisfaction of the judgment by filing a written request in the office of the magisterial district judge who rendered the judgment.

B. A request for entry of satisfaction by anyone other than the judgment creditor must be served upon the judgment creditor in accordance with the rules in the 300 Series regarding service of the complaint.

C. Within 90 days from the date of service of the request for entry of satisfaction, the judgment creditor shall enter satisfaction in the office of the magisterial district judge in which the request for entry of satisfaction was filed.

Official Note

Subdivision A provides a mechanism for a judgment debtor, or anyone interested in the judgment, to file a written request for entry of satisfaction in the office of the magisterial district judge who rendered the judgment. See Section 8104(a) of the Judicial Code, 42 Pa.C.S. § 8104(a).

Subdivision B is intended to provide a number of alternative methods of service. See Rules 307, 308, 309, 310, 311, 312 and 313. When permitted, service by mail should be at the option of the person filing the request for entry of satisfaction. The requester shall be required to pay for all costs associated with initiating entry of satisfaction. **If the requester is unable to locate or otherwise serve the request upon the judgment creditor, the requester may need to seek alternative service pursuant to Pa.R.C.P. 430.**

Upon the entry of satisfaction, the judgment debtor may file a true copy of the entry of satisfaction in any other magisterial district court in which the judgment may have been entered pursuant to Rule 402. Nothing in this rule is intended to suggest that it is the obligation of the judgment creditor to enter satisfaction in any court other than the court specified in subdivision C.

These procedures also apply to satisfaction of money judgments rendered in actions for the recovery of possession of real property (landlord/tenant actions). See Rules 514 and 518.

If a judgment creditor does not comply with the provisions of this rule, the judgment debtor may proceed under Rule 342.

A party may contest the entry of satisfaction by filing a petition to strike the entry of satisfaction with the court of common pleas.

Rule 402. Request for Order of Execution. Entry of Judgment in Court of Common Pleas.

A. Execution of a judgment for the payment of money rendered by a magisterial district judge may be ordered by a magisterial district judge in whose office the judgment was rendered or entered, provided the plaintiff files in that office

(1) not before the expiration of 30 days from the date the judgment is entered by the magisterial district judge, and

(2) within five years of that date,

a request for an order of execution.

B. The request form shall be attached to the order, return and other matters required by these rules.

C. The plaintiff may enter the judgment, for the purpose of requesting an order of execution thereon, in an office of a magisterial district judge other than that in which it was rendered only if levy is to be made outside the county in which the judgment was rendered and the office in which the judgment is entered for execution is that of the magisterial district judge whose magisterial district is situated in the county in which levy is to be made.

The plaintiff may enter the judgment in such other office by filing therein a copy of the record of the proceedings containing the judgment, certified to be a true copy by the magisterial district judge in whose existing office the judgment was rendered or by any other official custodian of the record.

D. (1) The plaintiff may enter the judgment in the court of common pleas in any county. When so entered, the indexing, revival and execution of the judgment shall be in accordance with procedures applicable in the court of common pleas.

(2) The judgment may be entered in the court of common pleas by filing with the prothonotary a copy of the record of the proceedings containing the judgment, certified

to be a true copy by the magisterial district judge in whose office the judgment was rendered or by any other official custodian of the record.

(3) The judgment may be entered in the court of common pleas after 30 days from the date the judgment is entered by the magisterial district judge. The judgment may not be entered in the court of common pleas after five years from the date the judgment is entered by the magisterial district judge.

(4) Within 14 days of entering the judgment in the court of common pleas, the plaintiff shall file a copy of the common pleas docket with the magisterial district court that entered the judgment, and the magisterial district court shall vacate the judgment from its docket.

(5) Except as provided in subparagraph D([5]6) of this rule, once the judgment is entered in the court of common pleas all further process must come from the court of common pleas and no further process may be issued by the magisterial district judge.

(6) The magisterial district judge shall enter satisfaction on the docket of the magisterial district court proceedings upon the filing by any party in interest of a certified copy of the docket entries of the court of common pleas showing the judgment and satisfaction have been entered in the court of common pleas.

E. (1) As used in this rule, a judgment marked “expired” is a judgment that cannot be satisfied, revived, or vacated because the five year period designated in Rule 402 has elapsed.

(2) If the plaintiff does not request an order of execution in a magisterial district court or enter the judgment in a court of common pleas within five years of the date the judgment was entered by the magisterial district judge, then the judgment shall be marked expired.

Official Note

Under subdivision A of this rule, the execution proceedings are commenced by requesting an “order of execution.” The request may not be filed before the expiration of 30 days after the date the judgment is entered by the magisterial district judge. This will give the defendant an opportunity to obtain a supersedeas within the appeal period. The request must be filed within five years of the date the judgment is entered by the magisterial district judge. No provision has been made for revival of a judgment in magisterial district court proceedings.

Subdivision C provides for entering the judgment, for the purpose of requesting an order of execution, in an office of a magisterial district judge other than that in which the

judgment was rendered when levy is to be made outside the county in which the judgment was rendered. Compare Pa. R.C.P. No. 3002.

As to subdivision D, see Section 1516 of the Judicial Code, 42 Pa.C.S. § 1516. The 30 day limitation in the rule appears to be required by this Section. Certification by the magisterial district judge should not be done before the expiration of 30 days after the date of entry of the judgment. The only method available to renew a judgment would be to record the judgment in the Prothonotary's office prior to the expiration of the five-year period and then follow the applicable Rules of Civil Procedure for the revival of judgments. See Pa. R.C.P. No. 3025 et seq. Also, subdivision D makes clear that when the judgment is entered in the court of common pleas, all further process shall come from the court of common pleas and that no further process shall be issued by the magisterial district judge except that the magisterial district judge shall enter on the magisterial district court docket proof of satisfaction of a judgment that had been entered in the court of common pleas and subsequently satisfied in that court. This exception is necessary so that procedures exist for entering satisfaction of all judgments with the magisterial district court, regardless of whether the judgment has been certified to and satisfied in the court of common pleas. **A plaintiff filing a judgment in the court of common pleas is required to file a copy of the common pleas docket with the magisterial district court that entered the docket, and the magisterial district court will then vacate its judgment. This step ensures that only the enforceable common pleas judgment will be reportable as an outstanding liability of the defendant.**

Subdivision E provides that a judgment shall be marked expired if the plaintiff does not request an order of execution in a magisterial district court or enter the judgment in a court of common pleas within five years of the date the judgment was entered by the magisterial district judge. Limiting the time period for entry of the judgment to five years will give a plaintiff sufficient time to act without indefinitely penalizing a defendant.

REPORT

Proposed Amendments to the Official Note to Rule 341, and Rule 402 of the Minor Court Civil Rules

CIVIL ACTIONS: TIME LIMITS FOR REQUESTING AN ORDER OF EXECUTION OR ENTERING JUDGMENT IN A COURT OF COMMON PLEAS

I. Introduction and Background

The Minor Court Rules Committee (the “Committee”) is proposing amendments to the rules of procedure governing civil actions before magisterial district judges. The goal of these changes is to clarify (1) a defendant’s options when a plaintiff cannot be located or otherwise served with a request for entry of satisfaction of judgment, and (2) the status of a judgment when a plaintiff has not executed it or entered it at a court of common pleas within the five year period set forth in Pa.R.C.P.M.D.J. No. 402, as well as to require that a plaintiff provide a copy of the common pleas docket when the plaintiff has entered a magisterial district court judgment with the court of common pleas.

The Committee received reports that some defendants have encountered difficulties when attempting to serve plaintiffs with requests to enter satisfaction of judgment because the plaintiffs have either moved, died, or are otherwise unavailable (e.g., corporate dissolution). Under current Pa.R.C.P.M.D.J. No. 341, the judgment creditor must be served with the request and enter satisfaction of the judgment. Additionally, the Committee was advised that where a plaintiff enters a judgment at a court of common pleas pursuant to Pa.R.C.P.M.D.J. No. 402D, the judgment in the magisterial district court remains open and active because the magisterial district court is not advised of the action at common pleas. Moreover, it is incumbent upon the plaintiff to adhere to the requirement in Pa.R.C.P.M.D.J. No. 402D(4), and not take further action in the magisterial district court. Finally, the Committee also considered the scenario where five years from the date of the judgment has elapsed, and the plaintiff has not taken any action to either execute on the judgment in a magisterial district court, or enter it in a court of common pleas pursuant to Pa.R.C.P.M.D.J. No. 402. In all of these instances, defendants can be subject to adverse credit reporting because of these magisterial district court judgments, yet they have no effective means to update the record.

II. Proposed Rule Changes

A. *Official Note to Rule 341:* The Committee observed that rules governing civil practice before magisterial district judges do not provide for motions practice or a mechanism by which a defendant could demonstrate efforts to serve the plaintiff with

the request for entry of satisfaction of judgment. Accordingly, the Committee is proposing amending the Official Note to Rule 341 to direct the defendant to the alternative service procedures in the courts of common pleas, specifically Pa.R.C.P. 430. In doing so, a defendant may be able to demonstrate to a judge of that court good faith efforts to locate the plaintiff, and receive an order directing a method of service, which, when satisfied, could satisfy the requirements of Pa.R.C.P.M.D.J. No. 341.

B. *Rule 402*: First, the Committee examined the situation where a plaintiff enters a judgment rendered by a magisterial district court with the court of common pleas. In these instances, the magisterial district court judgment remains open and active, and there is no current reporting mechanism that notifies the magisterial district court that the plaintiff has filed the judgment with the court of common pleas. Thus, the defendant could be subject to having two open judgments - one on the records of the magisterial district court, and the other at the court of common pleas. The Committee seeks to cure this problem by amending Rule 402 to add a requirement that a plaintiff that has entered a judgment in the court of common pleas must file a copy of the common pleas docket with the magisterial district court that entered the judgment, and that court will vacate the judgment from its docket. With this proposed change, the Committee anticipates that defendants will not be adversely affected by having two open judgments.

Next, the Committee examined situations where a plaintiff does not execute on a judgment or enter it at the court of common pleas within the five year period prescribed by Pa.R.C.P.M.D.J. No. 402, rendering the judgment unenforceable. The Committee discussed the need to more accurately reflect the status of such judgments, and suggests marking such judgments “expired” after the five year period has elapsed. Doing so will properly indicate that such a judgment is one that can no longer be enforced via the processes set forth in Pa.R.C.P.M.D.J. No. 402.