



# **LANDLORD-TENANT APPELLATE GUIDE**

**Introduction to Landlord-Tenant Appeals  
in the Philadelphia Court of Common Pleas**

**Thursday, July 22, 2021**

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## Appeal to Court of Common Pleas

The losing party of a contested Municipal Court hearing can file an appeal in the Court of Common Pleas. Generally, the appellant is the tenant, but not always. Tenants only have 10 days to appeal judgments related to possession and 30 days to appeal money judgments. If the judgment is for both money and possession, it is safer to appeal within 10 days, even if only the money judgment is being contested.

### 1. Challenges of Appeal

The appellate process is more formal than Municipal Court and can be difficult to navigate *pro se*. In addition, in order to delay eviction, the tenant must escrow rent with the Court of Common Pleas. If the client wishes to proceed, you can refer them to Community Legal Services, the Landlord-Tenant Help Center, the Elder Justice and Civil Resource Center, or another appropriate legal services agency. If the client is unable to obtain free services, you can inform the client of the Lawyer Referral and Information Service (“LRIS”) at (215) 238-6333, which will put the client in touch with an attorney who will give a \$35 half hour consultation and then work out a payment arrangement for representation.

### 2. Timeline of Appellate Process / Strategic Value

Generally, an appeal after a contested hearing to the Court of Common Pleas takes about 90 days to be disposed of. During that time, if the tenant requests a Supersedeas and meets various requirements (like escrowing rent as required by the court), they cannot be evicted. Tenants may file appeals *pro se* and be guided by the Office of Judicial Records in City Hall about the process of obtaining a Supersedeas stay. Low-income tenants must escrow with the Court 1/3 of the monthly rent upon filing the appeal, 2/3 of the monthly rent within 20 days thereafter, and one month’s rent 30 days after the appeal filing date and every 30 days thereafter. Please note that it is a 30-day cycle, not a monthly cycle.

The filing deadline for escrowing rent is usually determined by the appeal filing date. *See CCP Trial Division - Civil Local Rule 1008(d)(2)(b)*. However, if rent had already been paid for the month in which the appeal is filed, the time frame for the escrow deposits is determined by the lease, not the date the appeal is filed. *See CCP Trial Division - Civil Local Rule 1008(d)(2)(a)*.

The different dates can often cause confusion for tenants who appeal. A supersedeas can easily be dismissed if the tenant makes a payment a day late or fails to make a full payment by the deadline. The dismissal is requested by praecipe sent to the prothonotary, so it is processed as a matter of course and does not require action of a judge.

### 3. *Time to File Appeal*

An appeal from a judgment for possession only, or for possession and money, must be filed within 10 calendar days, unless the appellant is a victim of domestic violence, in which case the appellant has 30 calendar days to file the appeal. An appeal from a judgment for money only must be filed within 30 calendar days.<sup>1</sup> If the appellant is represented by an attorney, the attorney must file the appeal electronically. Appeal of a contested judgment results in a *de novo* trial in the Court of Common Pleas. The plaintiff will have to file a new complaint and the defendant will have to file an answer (and new matter, if applicable). See *CCP Trial Division - Civil Local Rule 1001 (c)*.

All appeal periods are jurisdictional. If a tenant's appeal is not filed by the deadline, the Court loses jurisdiction over the case and the tenant's right to appeal is lost.

### 4. *Filings*

When filing an appeal on behalf of a client, file a Notice of Appeal along with a Praecipe to Proceed *In Forma Pauperis*, a Praecipe for Rule to File Complaint, and the Tenant's Supersedeas Affidavit (Non-Section 8). Samples can be found beginning on page 6. Upon acceptance of the appeal, the Court of Common Pleas will generate a Case Management Order, providing next steps and instructions to both tenant and landlord. See a sample on page 14.

The Case Management Order provides information on the scheduled trial date, mandatory settlement conference with a mediator, explains the steps of the supersedeas and provides directions as to what needs to be filed next and when it needs to be filed. Upon receipt of the Case Management Order, the tenant must effectuate service of the Case Management Order along with the Notice of Appeal, Praecipe to Proceed *In Forma Pauperis*, and Praecipe for Rule to File Complaint on the Landlord. This can be accomplished by bringing the packet of documents to the Sheriff's office for service on the landlord. See *Pa.R.C.P. 400.1*.

Upon receipt of the Affidavit of Service from the Sheriff, file the Certificate of Service for the Notice of Appeal, the Certificate of Service for the Praecipe to Proceed *In Forma Pauperis*, and the Certificate of Service for the Praecipe for Rule to File Complaint. Be sure to include a copy of the green return receipt from the Certified Mail with each Certificate of Service.

A mandatory settlement conference is scheduled a few weeks before the trial date. Attached to the Case Management Order are Pre-Mediation Statements for the tenant and

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<sup>1</sup> Phila. M.C.R. Civ. P. 124; 68 P.S. § 250.513.

for the landlord. Each party is directed to complete the form and provide it to the mediator at the settlement conference. No one other than that mediator and the tenant and/or tenant's counsel sees the tenant's Pre-Mediation Statement. It is not filed with the Court or provided to the Judge or the opposing party. A represented tenant does not have to attend the settlement conference in person since their attorney will be present on their behalf. However, the tenant must be available by phone for the duration of the conference.

Once the Notice of Appeal has been filed, it must be served on the landlord or landlord's counsel following the rules of the PA Rules of Civil Procedure for service in the First Judicial District – Pa.R.C.P. 400.1. When the landlord receives service of the Notice to Appeal, the landlord had twenty (20) days to file a Complaint, Notice to Defend, and Proof of Service. The tenant has twenty (20) days after receiving service of those documents to file an Answer to the Complaint or Preliminary Objections. These documents must conform with the PA Rules of Civil Procedure.

Compliance with the various filings is very important and failure to do so has serious and immediate consequences. A tenant's failure to file and serve a Rule to File Complaint with the Notice of Appeal can lead to a dismissal of the appeal. This dismissal is also granted by praecipe to the Clerk of Judicial Records (Prothonotary), so it is processed without needing action by a judge. A landlord's failure to file a complaint in a timely way after being served with the Notice of Appeal and Rule to File Complaint can lead to a prompt judgment of Non Pros against the landlord. A tenant's failure to file a timely answer or response to the complaint can result in a default judgment against the tenant. Failure to make a full escrow deposit timely can lead to a dismissal of the entire appeal. Even though it should only terminate the supersedeas, it often results in the appeal ending as a practical matter.

#### *5. Mandatory Settlement Conference*

A mandatory settlement conference is scheduled a few weeks before the trial date. Attached to the Case Management Order are Pre-Mediation Statements for the tenant and for the landlord. Each party is directed to complete the form and provide it to the mediator at the settlement conference. No one other than that mediator and the tenant and/or tenant's counsel sees the tenant's Pre-Mediation Statement. It is not filed with the Court or provided to the Judge or the opposing party. A represented tenant does not have to attend the settlement conference in person since their attorney will be present on their behalf. However, the tenant must be available by phone for the duration of the conference.

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
TRIAL DIVISION – CIVIL**

	:	_____ Term, _____
Plaintiff(s)	:	No. _____
vs.	:	Municipal Court Case Number: _____
	:	
Defendant(s)	:	<input type="checkbox"/> S.C. No. <input type="checkbox"/> L.T. No. <input type="checkbox"/> C.E. No. <i>(Check One)</i>

**NOTICE OF APPEAL  
From a Philadelphia Municipal Court Order**

\_\_\_\_\_, who was/were the Plaintiff(s) Defendant(s) in the Municipal Court action referenced above, files this Notice of Appeal of the Municipal Court’s Order which was entered on the dockets of the Municipal Court on \_\_\_\_\_. I have attached a copy of the Order from which I/we are appealing.

- Landlord – Tenant : possession only or possession and money judgment;
- Residential Lease (10 days)       Non-Residential Lease (30 days)
- Supersedeas is requested**       **Supersedeas is not requested**

\*A supersedeas stay that will prevent you from being evicted as long as you pay escrow due to the court on time.

Landlord – Tenant: money judgment only *(30 days)*

Small Claims or Code Enforcement: money judgment only *(30 days)*

Supplementary Orders *(30 days)*

Signature	Attorney I.D. #	
Address		
City	State	Zip Code
Phone Number		

\_\_\_\_\_  
Date

ATTORNEY NAME (ID # )  
FIRM  
ADDRESS  
ADDRESS  
PHONE NUMBER  
EMAIL  
*Attorney for Defendant*

IN THE COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY, PENNSYLVANIA

PLAINTIFF : \_\_\_\_\_ Term, \_\_\_\_\_  
: No.  
v. :  
DEFENDANT : Municipal Court No.  
: LT-00-00-00-0000.  
:

CERTIFICATE OF SERVICE

I hereby certify that on [DATE], a true and correct copy of the foregoing Notice of Appeal from a Philadelphia Municipal Court Order was served via U.S. First Class mail on the following:

OPPOSING COUNSEL  
ADDRESS  
ADDRESS  
*Attorney for Plaintiff*

Deputy Court Administrator of the Municipal Court  
ADDRESS  
ADDRESS

Dated: \_\_\_\_\_

Respectfully submitted,

\_\_\_\_\_  
ATTORNEY NAME  
FIRM  
*Attorney for Defendant*

NAME (ID # )  
E-MAIL  
FIRM  
ADDRESS  
Philadelphia, PA 19102  
(215)867-5309

*Attorney for Defendant*

IN THE COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY, PENNSYLVANIA

PLAINTIFF

v.

DEFENDANT

:  
:  
:  
:  
:  
:  
:  
:

MONTH Term, 2018  
No.

PRAECIPE TO PROCEED IN FORMA PAUPERIS

TO THE CLERK OF THE COURT:

Kindly allow Defendant, [NAME], to proceed *in forma pauperis*. I, [ATTORNEY], attorney for the party proceeding *in forma pauperis*, certify that I believe the party is unable to pay the costs and that I am providing free legal services to the party.

Respectfully submitted,

Dated: \_\_\_\_\_

\_\_\_\_\_  
[NAME]  
[FIRM]  
*Attorney for Defendant*

ATTORNEY NAME (ID #)  
FIRM  
ADDRESS  
ADDRESS  
PHONE NUMBER  
EMAIL

*Attorney for Defendant*

IN THE COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY, PENNSYLVANIA

PLAINTIFF	:	_____ Term, _____
	:	No.
v.	:	Municipal Court No.
	:	LT-00-00-00-0000.
DEFENDANT	:	
	:	

CERTIFICATE OF SERVICE

I hereby certify that on [DATE], a true and correct copy of the foregoing Praecipe to Proceed in Forma Pauperis was served via U.S. First Class mail on the following:

OPPOSING COUNSEL  
ADDRESS  
ADDRESS

*Attorney for Plaintiff*

Respectfully submitted,

Dated: \_\_\_\_\_

\_\_\_\_\_  
ATTORNEY NAME  
FIRM  
*Attorney for Defendant*

ATTORNEY NAME (ID #)  
FIRM  
ADDRESS  
ADDRESS  
EMAIL  
PHONE NUMBER

*Attorney for Defendant*

IN THE COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY, PENNSYLVANIA

_____	:	
PLAINTIFF	:	_____ Term, _____
	:	No.
v.	:	
	:	Municipal Court No.
DEFENDANT	:	LT-00-00-00-0000.
_____	:	

PRAECIPE TO ISSUE RULE TO FILE COMPLAINT

TO THE CLERK OF THE COURT:

In accordance with Philadelphia Court of Common Pleas Trial Division, Civil Local Rule 1001(f)(1)(ii), please issue a Rule upon the Plaintiff to file a Complaint in this matter within twenty (20) days of service or suffer a judgment of *non pros*.

Respectfully submitted,

Dated: \_\_\_\_\_

\_\_\_\_\_  
ATTORNEY NAME  
FIRM  
*Attorney for Defendant*

ATTORNEY NAME (ID #)  
FIRM  
ADDRESS  
ADDRESS  
EMAIL  
PHONE NUMBER

*Attorney for Defendant*

IN THE COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY, PENNSYLVANIA

_____	:	
PLAINTIFF	:	_____ Term, _____
	:	No.
v.	:	
	:	Municipal Court No.
DEFENDANT	:	LT-00-00-00-0000.
_____	:	

CERTIFICATE OF SERVICE

I hereby certify that on [DATE], a true and correct copy of the foregoing Praecipe for Rule to File Complaint was served via U.S. First Class mail on the following:

OPPOSING COUSEL  
ADDRESS  
ADDRESS  
*Attorney for Plaintiff*

Respectfully submitted,

Dated: \_\_\_\_\_

\_\_\_\_\_  
ATTORNEY NAME  
FIRM  
*Attorney for Defendant*

IN THE COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY, PENNSYLVANIA

_____	:	
PLAINTIFF	:	
	:	_____ Term, _____
	:	No.
v.	:	
	:	Municipal Court No.
DEFENDANT	:	LT-00-00-00-0000.
_____	:	

RULE TO FILE COMPLAINT

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2021, upon praecipe of Defendant,  
a Rule is hereby entered against the Plaintiff to file a Complaint within twenty (20) days of  
service or suffer a judgment of *non pros*.

\_\_\_\_\_  
Clerk of the Court/Deputy Clerk of the Court

(SEAL)

[Attorney Name] (ID # 000000)  
[Attorney Email]  
[Firm Name]  
[Firm Address]  
[Firm Address]  
[Attorney Phone Number]

*Attorney for Defendant*

IN THE COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY, PENNSYLVANIA

PLAINTIFF	:	
	:	_____ Term, _____
v.	:	No.
DEFENDANT	:	Municipal Court No.
	:	LT-00-00-00-0000.
	:	

TENANT’S SUPERSEDEAS AFFIDAVIT  
(NON-SECTION 8)

Kindly acknowledge that Defendant, [DEFENDANT], (the “Tenant”) has filed a Notice of Appeal from a Municipal Court judgment awarding to the Tenant’s landlord possession of real property that the Tenant occupies, and the Tenant does not have the financial ability to pay the lesser of three (3) times the Tenant’s monthly rent or the judgment for rent awarded by the Municipal Court. The Tenant’s total household income does not exceed the income guidelines set forth in the supplemental instructions for obtaining a stay pending appeal, and I have completed an In Forma Pauperis (IFP) petition to verify this.

Check one:  The Tenant has paid the rent this month.  The Tenant has not paid the rent this month.

The total amount of monthly rent that the Tenant personally pays to the landlord is \$\_\_\_\_\_.

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 in 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

Respectfully submitted,

Dated: \_\_\_\_\_

\_\_\_\_\_  
[ATTORNEY]  
Attorney for Defendant



3. **FOR TENANTS – SUPERSEDEAS:** If you are a tenant and you filed an appeal, you must pay money into an escrow account to remain in the property until your appeal is decided. This is called a supersedeas. The supersedeas will suspend the Municipal Court judgment and will prevent your eviction until your case is heard by a judge and a final decision is made on the appeal. **IF YOU FAIL TO PAY YOUR MONTHLY ESCROW IN FULL AND ON TIME, YOU COULD BE EVICTED BEFORE YOUR APPEAL IS HEARD.**

Begin by determining whether your income is higher than the income limits attached to this Order. If your income is not higher than the income limits complete a Tenant's Supersedeas Affidavit utilizing the First Judicial District's Electronic Filing System accessed at web address <http://courts.phila.gov> under the section labeled "On-line Services." Then follow the instructions for low income tenants below which apply to your circumstances, either A, B, or C. If your income is higher than the income limits follow the instructions for D.

- A. If you are a low income tenant, and there was a money judgment entered against you for non-payment of rent, and you **HAVE NOT** paid rents for the month in which the appeal is filed, you must:
1. File and In Forma Pauperis Petition (a petition for low income parties) utilizing the First Judicial District's Electronic Filing System. You must also serve a copy of the petition on the opposing party as described in Paragraph 4 below;
  2. Pay one-third (1/3) of your monthly rent into an escrow account utilizing the First Judicial District's Electronic Filing System at the time the appeal is filed;
  3. Pay the remaining two-thirds (2/3) of your monthly rent into the escrow account within twenty (20) days of the date the appeal was filed; and
  4. Pay your monthly rent on an ongoing basis into the escrow account the Office of Judicial Records, Room 296, City Hall and thirty (30) day intervals from the date the appeal was filed until the time of trial. (Note: The first thirty (30) day period ends ten (10) days after two-thirds (2/3) of the rent is due under 3.) It is important to count the 30 days exactly because the date of your payment will change depending on the number of days in a given month.
- B. If you are a low income tenant, and there was a money judgment against you for non-payment of rent, and you **HAVE** paid rent for the month in which the appeal is filed, you do not have to pay rent at the time you file your appeal. You must:
1. File and In Forma Pauperis Petition (a petition for low-income parties) utilizing the First Judicial District's Electronic Filing System. You must also serve a

copy of the petition on the opposing party as described in Paragraph 4 below;  
and

2. Pay your monthly rent on an ongoing basis escrow account with the Office of Judicial Records, Room 296, City Hall in thirty (30) day intervals from the date the appeal is filed until the time of trial. It is important to count the 30 days exactly because the date of your payment will change depending on the number of days in a given month.

C. If you are a low income tenant, and no money judgment was entered against you for non-payment of rent, you do not have to pay rent at the time you file your appeal. You must:

1. File and In Forma Pauperis Petition (a petition for low income parties) utilizing the First Judicial District's Electronic Filing System. You must also serve a copy of the petition on the opposing party as described in Paragraph 4 below;  
and
2. Pay your monthly rent on an ongoing basis into an escrow account with the Office of Judicial Records, Room 296, City Hall and thirty (30) day intervals from the date the appeal was filed until the time of trial. It is important to count the 30 days exactly because the date of your payment will change depending on the number of days in a given month.

D. If your income is higher than the income limits on the attached chart, you must:

1. Pay the \$195.54 appeal fee;
2. Pay the lesser of three (3) months' rent of the amount of rent awarded to the landlord in Municipal Court into an escrow account utilizing the First Judicial District's Electronic Filing System at the time the appeal is filed; and
3. Pay your monthly rent into the escrow account with the Office of Judicial Records, Room 296, City Hall in thirty (30) day intervals from the date the appeal was filed until the time of trial. It is important to count the 30 days exactly because the date of your payment will change depending on the number of days in a given month.

4. **SERVICE OF YOUR APPEAL:** If you are the person who is appealing the Municipal Court judgment, you must serve a copy of your Notice of Appeal and this Case Management Order on the opposing party. **This Court shall provide electronic notice of the filing of this appeal to the Municipal Court Administrator.**

- A. All documents filed with the Court must also be sent to the opposing party. This is called service. Service of your Notice of Appeal in this Case Management Order must be completed as provided by the rules applicable to service of original process in Philadelphia County, as set forth and Pa.R.C.P. 400.1. All other documents filed in this case may be made by (1) Regular First Class Mail, or (2) another method authorized by Pa.R.C.P. 440. Once service has been made, you are required to file Proof of Service promptly utilizing the First Judicial District's Electronic Filing System. Proof of Service forms are available in the Office of Judicial Records, Room 296, City Hall.
5. **FOR PLAINTIFFS:** If you are the person who brought the case in Municipal Court, you are referred to as the plaintiff. The opposing party is referred to as the defendant. You are required to file a Complaint, Notice to Defend, and Proof of Service within twenty (20) days after service of the Notice of Appeal. These documents must be served on the opposing party as described in Paragraph 4 above and filed utilizing the First Judicial District's Electronic Filing System. You must do this even if it is the defendant who is appealing the Municipal Court judgment. The Complaint must conform to the Pennsylvania Rules of Civil Procedure. The Municipal Court Landlord and Tenant Complaint does not meet these requirements. ***Failure to file your Complaint according to these rules may cause you to lose your case.***
6. **FOR DEFENDANTS:** If you were defending yourself in Municipal Court, you are referred to as the defendant. The opposing party is referred to as the plaintiff. You should receive a Complaint, Notice to Defend, and Proof of Service within twenty (20) days after service of the Notice of Appeal. When you receive the Complaint, you must file an Answer to the Complaint (including any Counterclaims) or file Preliminary Objections within twenty (20) days after being served with the Complaint. These documents must be served on the opposing party as described in Paragraph 4 above and filed using the First Judicial District's Electronic Filing System. Your Answer or Preliminary Objections must conform to the Pennsylvania Rules Of Civil Procedure. ***Failure to file an Answer according to these rules may cause you to lose your case.***
7. **DISCOVERY, MOTIONS, AND PETITIONS:** Discovery is the process that allows parties to request evidence or documents from the opposing party according to the Pennsylvania Rules of Civil Procedure. If a party has any objection to a discovery request, that objection must be specifically stated in a timely manner or it is waived. Parties should work together to resolve any discovery disputes. If there are disputes that cannot be resolved, discovery motions should be initiated by filing a Discovery Argument Request with the Discovery Unit utilizing the First Judicial District's Electronic Filing System. Discovery motions cost \$52.68.

All other motions, petitions, and responses filed in connection with this appeal should have a cover sheet marked "Landlord/Tenant Appeal from Municipal Court." The First Judicial District's Electronic Filing System will generate these cover sheets where applicable. Emergency Motions must be clearly identified as emergencies and will be assigned to the appropriate Landlord/Tenant Appeals Judge who will review the motion and issue an order providing any appropriate relief, and will also set forth how the motion will be answered, heard, and decided.

8. **CONTINUANCES:** Continuances are rarely granted. If you absolutely need to have your case continued to a later date, and you must send a written request marked "CONTINUANCE REQUESTS FOR LANDLORD/TENANT APPEAL FROM MUNICIPAL COURT" to Civil Motions Program, either by regular mail to Room 280, City Hall, Philadelphia, PA 19107, or by fax to (215) 686-3724. Requests must be received two weeks before your scheduled trial date. A copy of the request must be set to the opposing party. Continuance requests should state the reason a continuance is needed and whether or not the opposing party objects to your request.
9. **JURY TRIALS:** If you requested a jury trial, a proposed jury verdict form and any requested jury instructions must be presented to the trial judge and opposing party at the time of jury selection.
10. **DISCONTINUANCE OR SETTLEMENT:** If you wish to withdraw your appeal, or a settlement agreement has been worked out between the parties, you must send notification and/or a copy of your agreement to Stanley Thompson, Esquire, Director, Complex Litigation Center, either by regular mail to Room 622, City Hall, Philadelphia, PA 19107, or by fax to (215) 686-5137. If the release of escrow funds is necessary under the agreement, it will be assigned to the appropriate Landlord/Tenant Appeals Judge for approval.
11. **CHANGE IN YOUR ADDRESS OR PHONE NUMBER:** If your address or phone number changes before the date of trial, it is important that you update your information utilizing the First Judicial District's Electronic Filing System so that the Court has a way to contact you.

**BY THE COURT:**

**IDEE C. FOX  
SUPERVISING JUDGE  
TRIAL DIVISION – CIVIL**

**INCOME LIMITS FOR FILING SUPERSEDEAS**  
**AS A LOW INCOME TENANT**

<b>Number of Persons in Household</b>	<b>Maximum Gross Monthly Income</b>	<b>Maximum Gross Yearly Income</b>
<b>One</b>	<b>\$2,167.00</b>	<b>\$26,000.00</b>
<b>Two</b>	<b>\$2,475.00</b>	<b>\$29,700.00</b>
<b>Three</b>	<b>\$2,788.00</b>	<b>\$33,450.00</b>
<b>Four</b>	<b>\$3,096.00</b>	<b>\$37,150.00</b>
<b>Five</b>	<b>\$3,342.00</b>	<b>\$40,100.00</b>
<b>Six</b>	<b>\$3,592.00</b>	<b>\$43,100.00</b>
<b>Seven</b>	<b>\$3,838.00</b>	<b>\$46,050.00</b>
<b>Eight</b>	<b>\$4,088.00</b>	<b>\$49,050.00</b>

Revised: October 5, 2009

No.  
PLAINTIFF VS DEFENDANT

**CONFIDENTIAL PRE-MEDIATION STATEMENT: TENANT**

**BRING THIS FORM TO YOUR MEDIATION**

**NOTE: THIS DOCUMENT WILL BE USED FOR MEDIATION PURPOSES ONLY. NEITHER THE JUDGE NOR YOUR LANDLORD WILL SEE THIS DOCUMENT. AS SUCH, PLEASE ANSWER ALL QUESTIONS COMPLETELY AND TO THE BEST OF YOUR ABILITY. THE MEDIATOR WILL RETURN THIS DOCUMENT TO YOU AT THE CONCLUSION OF THE MEDIATION. NO COPIES WILL BE CREATED AND THIS DOCUMENT WILL NOT BE FILED WITH THE COURT.**

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**Full Name of Tenant:**

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**Full Name of Landlord:**

**Is there a lease agreement? \_\_\_ Yes \_\_\_ No**

**If yes, and the lease is in writing, please bring a copy to mediation.**

**Were the original terms of the lease: \_\_\_ Yearly or \_\_\_ Monthly**

**Rent due per month: \_\_\_\_\_**

**Amount paid as a security deposit: \_\_\_\_\_**

**Date lease began: \_\_\_\_\_ Date lease ends: \_\_\_\_\_**

**If there is unpaid rent, do you feel you owe your landlord the back rent? Why or why not? Please be as detailed as possible in your explanation.**

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**If your landlord is suing you for back rent, please list how much you think you owe for that period, detailing month by month the amount paid and unpaid.**

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**If you have paid no rent, or withheld rent, for a certain period, did you deposit the unpaid rent money in a bank account or into the Court's escrow account? If yes, how much has been paid into each account to date? If no, have you reserved money somewhere other than bank accounts to pay any back rent? If possible, please break down this amount by month.**

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**If you withheld rent for any period of time based on the conditions at the property, please summarize each issue and when they first occurred. Did you ever notify your landlord of any issues with the property? If so, when were repairs made?**

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**Would you like to continue living on the property? \_\_\_\_\_ Yes \_\_\_\_\_ No**

**If no, do you need time to find another place to live? If so, how long do you need?**

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**Are there any other issues you feel would help the mediator understand the specifics of your case?**

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If you need to provide the mediator with any other relevant information, please feel free to attach additional pages or write on the back of this page. Also, if there are any other documents that might be relevant to the issues in this case, please bring these documents to the mediation.

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(Signature of Tenant or Tenant's Attorney)

---

(Date)

No.  
PLAINTIFF VS DEFENDANT

**CONFIDENTIAL PRE-MEDIATION STATEMENT: LANDLORD**

**BRING THIS FORM TO YOUR MEDIATION**

**NOTE: THIS DOCUMENT WILL BE USED FOR MEDIATION PURPOSES ONLY. NEITHER THE JUDGE NOR YOUR LANDLORD WILL SEE THIS DOCUMENT. AS SUCH, PLEASE ANSWER ALL QUESTIONS COMPLETELY AND TO THE BEST OF YOUR ABILITY. THE MEDIATOR WILL RETURN THIS DOCUMENT TO YOU AT THE CONCLUSION OF THE MEDIATION. NO COPIES WILL BE CREATED AND THIS DOCUMENT WILL NOT BE FILED WITH THE COURT.**

---

**Full Name of Tenant:**

**Full Name of Landlord:**

---

**Is there a lease agreement? \_\_\_ Yes \_\_\_ No**

**If yes, and the lease is in writing, please bring a copy to mediation.**

**Were the original terms of the lease: \_\_\_ Yearly or \_\_\_ Monthly**

**Rent due per month: \_\_\_\_\_**

**Amount paid as a security deposit: \_\_\_\_\_**

**Date lease began: \_\_\_\_\_ Date lease ends: \_\_\_\_\_**

**Are you seeking money for back rent owed and/or costs associated with bringing this landlord-tenant action? \_\_\_ Yes \_\_\_ No**

**If yes, how much money do you think you are owed and back rent and other costs? If possible, please break down this amount by month and itemize any costs.**

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**Are you seeking an eviction? \_\_\_\_\_ Yes \_\_\_\_\_ No**  
**If yes, please explain why below.**

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**Have you ever received notice from the tenant to repair conditions at the property? If yes, when did you receive notice and did you make any repairs? If repairs were made, please provide details of each repair.**

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**Are there any other issues you feel would help the mediator understand the specifics of your case?**

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If you need to provide the mediator with any other relevant information, please feel free to attach additional pages or rights on the back of this page. Also, if there are any other documents that might be relevant to the issues in this case, please bring these documents to the mediation.

\_\_\_\_\_  
(Signature of Landlord or Landlord's Attorney)

\_\_\_\_\_  
(Date)

ATTORNEY NAME (ID #)  
FIRM  
ADDRESS  
ADDRESS  
PHONE NUMBER  
EMAIL  
*Attorney for Defendant*

IN THE COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY, PENNSYLVANIA

PLAINTIFF :  
: \_\_\_\_\_ Term, \_\_\_\_\_  
: No.  
v. :  
: Municipal Court No.  
DEFENDANT : LT-00-00-00-0000.  
:

**NOTICE OF PRAECIPE FOR ENTRY OF JUDGMENT OF NON PROS  
FOR FAILURE TO FILE COMPLAINT**

TO: [Plaintiff]  
[Address]  
[Address]

DATE: \_\_\_\_\_  
**IMPORTANT NOTICE**

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO FILE A COMPLAINT IN THIS CASE. UNLESS YOU ACT WITHIN **TEN (10) DAYS** FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BY ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR RIGHT TO SUE THE DEFENDANT AND THEREBY LOSE PROPERTY OR OTHER IMPORTANT RIGHTS.

YOU SHOULD TAKE THIS NOTICE TO A LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

PHILADELPHIA COUNTY BAR ASSOCIATION  
LAWYER REFERRAL INFORMATION SERVICE  
1101 Market Street  
Philadelphia, PA 19107  
(215) 238-6333

**AVISO IMPORTANTE**

USTED ESTÁ EN DEFECTO PORQUE USTED NO HA PODIDO ENTRAR EN UN ASPECTO ESCRITO, PERSONALMENTE O MEDIANTE ABOGADO Y ARCHIVO POR ESCRITO ANTE EL TRIBUNAL SUS DEFENSAS U OBJECIONES A LAS ALEGACIONES EXPUESTAS EN SU CONTRA. A MENOS QUE USTED ACTÚA DENTRO DE LOS **DIEZ DÍAS** SIGUIENTES A LA FECHA DE ESTA NOTIFICACIÓN, LA RESOLUCIÓN PODRÁ SER EN SU CONTRA SIN UNA AUDIENCIA Y USTED PUEDE PERDER SU PROPIEDAD U OTROS DERECHOS IMPORTANTES.

USTED DEBE TOMAR ESTE TRABAJO CON SU ABOGADO A LA VEZ. SI USTED NO TIENE UN ABOGADO, VAYA A O LLAMAR POR TELÉFONO A LA OFICINA SE ESTABLECE A CONTINUACIÓN. ESTA OFICINA PUEDE PROPORCIONARLE INFORMACIÓN SOBRE LA CONTRATACIÓN DE UN ABOGADO.

SI USTED NO PUEDE PERMITIRSE EL LUJO DE CONTRATAR A UN ABOGADO, ESTA OFICINA PUEDE SER CAPAZ DE PROPORCIONARLE INFORMACIÓN ACERCA DE LAS AGENCIAS QUE PUEDEN OFRECER SERVICIOS LEGALES A PERSONAS CON DERECHO A UNA TARIFA REDUCIDA O NINGUNA CUOTA.

SERVICIO DE REFERENCIA LEGAL  
1101 Market Street Philadelphia, PA 19107  
(215) 238-6333

BY: [ATTORNEY NAME] (ID # )  
FIRM  
ADDRESS  
ADDRESS  
PHONE NUMBER  
EMAIL

BY: \_\_\_\_\_  
[ATTORNEY NAME]  
Attorney for Defendant

[Attorney Name] (ID # 000000)  
[Attorney Email]  
[Firm Name]  
[Firm Address]  
[Firm Address]  
[Attorney Phone Number]

*Attorney for Defendant*

IN THE COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY, PENNSYLVANIA

_____	:	
PLAINTIFF	:	
	:	_____ Term, _____
v.	:	No.
	:	
DEFENDANT	:	Municipal Court No.
_____	:	LT-00-00-00-0000.
	:	

**PRAECIPE REQUESTING TERMINATION OF SUPERSEDEAS**

**TO THE OFFICE OF JUDICIAL RECORDS:**

Please terminate the supersedeas in the within action for failure of the appellant to pay monthly rental as required by Philadelphia Civil Rule \*1008 when it became due.

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

\_\_\_\_\_  
Appellee

*Upon confirmation of failure of the appellant to deposit the monthly rent when it became due, the supersedeas is terminated.*

**[DATE/TIME STAMP]**

\_\_\_\_\_  
**OFFICE OF JUDICIAL RECORDS**

## **Court of Common Pleas of Philadelphia County: Trial Division – Civil Local Rules**

### **Rule \*1001 General Provisions Applicable to Municipal Court Appeals.**

(a) *Types of Final Orders of the Municipal Court Appealable to the Court of Common Pleas.*

(1) Final orders issued by the Municipal Court in connection with money judgments pursuant to 42 Pa.C.S. §1123(a)(4) and (6), and Landlord—Tenant orders pursuant to 42 Pa.C.S. §1123(a)(3), are appealable to the Court of Common Pleas. The proceeding on appeal shall be conducted de novo in accordance with the Rules of Civil Procedures that Civil Division Rule \*1001 would be applicable if the action being appealed was initially commenced in the Court of Common Pleas.

(2) Final orders issued by the Municipal Court in connection with actions to enjoin a nuisance pursuant to 42 Pa.C.S. §1123(a)(7) and (8) are appealable to the Court of Common Pleas, but the appeal is limited to a review of the record.

**Note:** 42 Pa.C.S. §1123(a)(8)(a.1) provides that contempt orders issued in connection with nuisance actions shall be heard by the Superior Court of Pennsylvania.

(3) Supplementary Orders. Orders granting or denying a petition to open a default judgment and any other post-judgment orders are appealable to the Court of Common Pleas, but the appeal is limited to a review of the record.

(b) *Notice of Appeal.* A Notice of Appeal, substantially in the form set forth below as Attachment 1, shall be filed with the Office of Judicial Records, within the time periods set forth below, and the requisite filing fee shall be paid.

(c) *Time to File the Notice of Appeal.* A Notice of Appeal shall be filed as follows:

(1) Money judgment only: within 30 days after the date of the entry of a judgment for money on the dockets of the Municipal Court.

(2) Landlord-Tenant, residential lease, possession: within ten (10) days after the date of the entry of a judgment of possession of real property on the dockets of the Municipal Court, if the appeal is for possession of real property only or for both possession and money judgment arising out of a residential lease.

(3) Landlord-Tenant, residential lease, money judgment: within thirty (30) days after the date of the entry of a judgment of possession on the dockets of the Municipal Court, if the appeal is only for the money judgment arising out of a residential lease.

(4) Landlord-Tenant, non-residential lease: within 30 days after the date of the entry on the dockets of the Municipal Court of judgment for money, or a judgment for possession of real property arising out of a nonresidential lease.

(5) Supplementary Orders: within 30 days after the date of the entry of the order on the dockets of the Municipal Court.

(d) *Service.* The Notice of Appeal shall be served on the appellee as provided by the rules applicable to service of original process in Philadelphia County, as set forth in Pa.R.C.P. No. 400.1. Upon implementation of the Civil Electronic Filing System as provided in Philadelphia Civil Rule \*205.4, notice of the filing of the Notice of Appeal will be served on the Philadelphia Municipal Court electronically by the Civil Electronic Filing System.

Until the Civil Electronic Filing System is implemented, the appellant must serve a copy of the Notice of Appeal on the Philadelphia Municipal Court as required by Pa.R.C.P. No. 400.1.

(e) *Return of Service.* The appellant must file a return of service as required by Pa.R.C.P. No. 405.

(f) *Pleadings and Legal Papers.*

(1) Appeals filed pursuant to Philadelphia Civil Rule \*1001(a)(1).

i. If the appellant was the plaintiff or claimant in the action before the Municipal Court, he shall file a complaint within twenty (20) days after filing the Notice of Appeal.

ii. If the appellant was the defendant in the action before the Municipal Court, he shall file with the Notice of Appeal a praecipe requesting the Office of Judicial Records to enter a rule as of course upon the appellee to file a complaint within twenty (20) days after service of the rule or suffer entry of a judgment of non pros.

iii. When judgments have been rendered on complaints of both the appellant and the appellee and the appellant appeals from the judgment on his complaint or on both complaints, the appellee may assert his claim in the Court of Common Pleas by pleading it as a counterclaim if it can properly be so pleaded in that court. If the appellant appeals only from the judgment on his complaint, the appellee may appeal from the judgment on his complaint at any time within thirty (30) days after the date on which the appellant served a copy of his Notice of Appeal upon the appellee.

**Note:** Pa.R.C.P.M.D.J. No. 1004 is the source of section (f)(1).

iv. All further pleadings and proceedings shall be in accordance with the Rules of Civil Procedures that would be applicable if the action being appealed was initially commenced in the Court of Common Pleas.

(2) Appeals filed pursuant to Rule \*1001(a)(2) and (3).

i. Within twenty (20) days of the filing of the Notice of Appeal, the appellant must file a motion with the Office of Judicial Records in compliance with Pa.R.C.P. No. 208.1 et seq. and Phila.Civ.R. \*208.2(c) et seq., setting forth the relief requested, and shall attach:

a. a copy of the Statement of Claim, the Landlord/Tenant Complaint or Code Enforcement Complaint which was filed in the Municipal Court;

b. the stenographic record of the proceeding before the Municipal Court, if available, or proof that transcription of the stenographic record has been ordered; and

c. all other documents required to be filed by Philadelphia Civil Rule 208.1 et seq. which is necessary to enable the court to decide the issue presented.

ii. All further legal papers and proceedings shall be in accordance with Pa.R.C.P. No. 208.1 et seq. and Phila.Civ.R. \*208.2(c) et seq. and with the Rules of Civil Procedures that would be applicable if the action being appealed was initially commenced in the Court of Common Pleas.

*(g) Hearing or Trial.*

(1) Appeals filed pursuant to Rule \*1001(a)(1) shall be scheduled for a hearing at the Arbitration Center, and the case shall proceed as an “Arbitration” Case Type.

(2) Appeals filed pursuant to Rule \*1001(a)(2) and (3) shall proceed as motions, pursuant to Pa.R.C.P. No. 208.1 et seq. and Phila.Civ.R. \*208.2(c) et seq. The appeal shall be limited to a determination by the Court whether the Municipal Court committed an error of law or abused its discretion in ruling upon the petition or motion which is the subject of the appeal. Upon the issuance of a dispositive order by the Court of Common Pleas, the action shall be remanded to the Municipal Court for further processing consistent with the order.

*(h) Striking Appeal.* Upon failure of the appellant who was the plaintiff in the Municipal Court action to file a complaint within twenty (20) days of the filing of the appeal as required by section (f)(1)(i), or upon the failure of the appellant who was the defendant in the Municipal Court action to serve upon the appellee (who was the plaintiff in the Municipal Court action) of a rule to file a complaint, or upon the failure of an appellant to file a motion as required by section (f)(2), the Office of Judicial Records shall, upon praecipe of the appellee, mark the appeal stricken from the record. The Court of Common Pleas may reinstate the appeal upon good cause shown.

**Note:** Adopted by the Board of Judges of the Court of Common Pleas on May 15, 2008, effective September 1, 2008.

**Rule \*1008. Municipal Court Appeals as Supersedeas.**

*(a) General Rule.* Except as provided in section (b), (c) and (d) below, service of a copy of the Notice of Appeal on the Municipal Court operates as a supersedeas.

*(b) Supersedeas in Appeals of Judgments of Possession of Real Property Pursuant to Non-Residential Leases.* When the appeal is from a judgment for possession of real property pursuant to a non-residential lease, receipt by the Municipal Court of a copy of the Notice of Appeal shall operate as a supersedeas only if the appellant/ tenant, at the time of the filing of the Notice of Appeal, deposits with the Office of Judicial Records a sum of money (or a bond, with surety approved by the Office of Judicial Records) 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 on the Municipal Court judgment, and thereafter deposits each month with the Office of Judicial Records an amount equal to the monthly rent which becomes due while the appeal is pending in the Court of Common Pleas. The additional deposits shall be made

within thirty (30) days following the date of the filing of the Notice of Appeal, and each successive thirty (30) day period thereafter.

(c) *Supersedeas in Appeals of Judgments of Possession of Real Property Pursuant to Residential Leases.* When the appeal is from a judgment for possession of real property pursuant to a residential lease, and there is no allegation that the appellant/tenant is indigent, receipt by the Municipal Court of a copy of the Notice of Appeal shall operate as a supersedeas only if the appellant/tenant, at the time of the filing of the Notice of Appeal, deposits with the Office of Judicial Records a sum of money (or a bond, with surety approved by the Office of Judicial Records) 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 on the Municipal Court judgment, and thereafter deposits each month with the Office of Judicial Records an amount equal to the monthly rent which becomes due while the appeal is pending in the Court of Common Pleas. The additional deposits shall be made within thirty (30) days following the date of the filing of the Notice of Appeal, and each successive thirty (30) day period thereafter.

(d) *Supersedeas in Appeals of Judgments of Possession of Real Property Pursuant to Residential Leases. Indigent Tenants.*

(1) Residential tenants who seek to appeal from a Municipal Court judgment for possession and who do not have the ability to pay the lesser of three months' rent or the full amount of the Municipal Court judgment for rent shall file with the Office of Judicial Records, as applicable, either a ***Tenant's Supersedeas Affidavit (Non-Section 8)***, substantially in the form set forth below, or ***Tenant's Supersedeas Affidavit (Section 8)***, substantially in the form set forth below.

***Explanatory Note:*** On April 15, 2008, at the recommendation of the Minor Court Rules Committee ("Committee"), the Supreme Court of Pennsylvania approved amendments to Pa.R.C.P.M.D.J. No. 1008 (effective May 15, 2008). The recommendation was based on federal district court lawsuits challenging the constitutionality of Pa.R.C.P.M.D.J. No. 1008B as applied to indigent tenants. The Committee noted in its Report that federal district courts had held that indigent residential tenants' rights were being violated by Rule 1008B's requirement that tenants post three times the monthly rent or the rent determined to be in arrears so that they could remain in the home while appealing a magisterial district judge's award of possession to the landlord.

The Committee cited in its Report the federal district court case *Wendolyn Pleasant and Tenants' Action Group v. Joseph H. Evers*, 1998 WL 205431 (E.D. Pa. Apr. 24, 1998), C.A.NO. 97-4124 (Ludwig, J.) and noted: "In *Evers*, Community Legal Services challenged Philadelphia Municipal Court's Rule of Procedure 124, which required a deposit to be paid in almost the same fashion as Pa.R.C.P.M.D.J. No 1008B. During the early phases of the protracted litigation, a temporary restraining order was entered enjoining the use of the Municipal Court rule. Ultimately, *Evers* led Municipal Court to change its practices and create a standing procedure for indigent residential tenants' appeals. That procedure is still used today."

The procedure recommended by the Committee and approved by the Supreme Court in its April 15, 2008 order is essentially the *Evers* procedure which, as the Committee noted, has been in effect in Philadelphia County since 1998; however, that procedure was never adopted as an official court rule. Independently of the Committee's effort to address the constitutionality of Pa.R.C.P.M.D.J. No. 1008 as applied to indigent residential tenants in all counties other than Philadelphia, the Court of Common Pleas of Philadelphia County was in

the process of incorporating the Evers requirements in comprehensive local rules addressing appeals from the Philadelphia Municipal Court. Philadelphia Civil Rules \*1001 and \*1008 represent the culmination of that effort and, in order to foster statewide uniformity, incorporate most, if not all, of the provisions found in Pa.R.C.P.M.D.J. No. 1001 to 1008.

(2)(a) 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 into an escrow account with the Office of Judicial Records the monthly rent as it becomes due under the lease for the months subsequent to the filing of the Notice of Appeal; or

(b) If the rent has not been paid at the time of filing the Notice of Appeal, the tenant shall pay:

(i) at the time of filing the Notice of Appeal, a sum of money equal to one third (1/3) of the monthly rent;

(ii) an additional deposit of two thirds (2/3) of the monthly rent within twenty (20) days of filing the Notice of Appeal; and

(iii) additional deposits of one month's rent in full each thirty (30) days after filing the Notice of Appeal. The amount of the monthly rent is the sum of money found by the Municipal Court to constitute the monthly rental for the leasehold premises. However, when the tenant is a participant in the Section 8 program, the tenant shall pay the tenant share of the rent as set forth in the "Section 8 Tenant's Supersedeas Affidavit" filed by the tenant.

(3) The Office of Judicial Records shall provide residential tenants who have suffered a judgment for possession with "Supplemental Instructions for Obtaining a Stay of Eviction," substantially in the form set forth below.

**Note:** 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.

(4) When the requirements of paragraphs (1) and (2) have been met, the Office of Judicial Records shall issue a supersedeas.

(5) Upon application by the landlord, the Court of Common Pleas 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.

(6) If the tenant fails to make monthly rent payments to the Office of Judicial Records as described in paragraph (2), the supersedeas may be terminated by the Office of Judicial Records upon praecipe by the landlord or other party to the action, substantially in the form set forth below which is to be filed together with a certificate that a copy of the praecipe has been mailed to each other party who has appeared in the action. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented, to the party's last known address of record; however, upon implementation of the Civil Electronic Filing System as provided in Philadelphia Civil Rule \*205.4, notice of

the termination of the supersedeas will be served on the Philadelphia Municipal Court electronically by the Civil Electronic Filing System. The landlord may obtain a writ of possession from the Municipal Court ten (10) days after the supersedeas is terminated by the Office of Judicial Records.

***Explanatory Note:*** Although the Office of Judicial Records must provide notice of the termination of the supersedeas for non-payment of the monthly rental payments as provided in this subsection, in order to allow the notice to be delivered to the tenant before the eviction can proceed, the landlord must wait ten (10) days before obtaining a writ of possession from the Municipal Court after termination of the supersedeas by the Office of Judicial Records.

(7) 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 paragraph (1), supra, the Court may terminate the supersedeas. Notice of the termination of the supersedeas shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented, to the party's last known address of record; however, upon implementation of the Civil Electronic Filing System as provided in Philadelphia Civil Rule \*205.4, notice of the termination of the supersedeas will be served on the Philadelphia Municipal Court electronically by the Civil Electronic Filing System.

(8) If an appeal is stricken or voluntarily terminated, any supersedeas based on it shall terminate. The Office of Judicial Records shall pay the deposits of rental to the party who sought possession of the real property.

***Explanatory Note:*** Pa.R.C.P.M.D.J. No. 1008 is the source of this local rule. The content of the Note which appears immediately after Pa.R.C.P.M.D.J. No. 1008 explaining the various provisions has been edited as appropriate and is adopted as a Note to this local rule.

***Note:*** Subdivision (a) provides for an automatic supersedeas in appeals from civil actions upon receipt by the Municipal Court of a copy of the Notice of Appeal filed with the Office of Judicial Records of the Court of Common Pleas. Subdivisions (b) and (c), however, do require the deposit of money or approved bond as a condition for supersedeas where the appeal is from a judgment for the possession of real property. Subdivision (d) provides for appeals by indigent residential tenants who are unable to meet the bond requirements of subdivision (b) or (c).

The request for termination of the supersedeas, upon the praecipe filed with the Office of Judicial Records, may simply state: "Please terminate the supersedeas in the within action for failure of the appellant to pay monthly rental as required by Philadelphia Civil Rule \*1008 when it became due" and will be signed by appellee. The Office of Judicial Records will then note upon the praecipe: "Upon confirmation of failure of the appellant to deposit the monthly rent when it became due, the supersedeas is terminated," and the Office of Judicial Records will sign and date and time stamp the praecipe. A copy of the praecipe may thereupon be filed with the Municipal Court which rendered the judgment, and a request for issuance of an order for possession pursuant to Phila.M.C.R.Civ.P. No. 126 may be made.

The deposit of rent required is intended to apply in all cases, irrespective of the reasons which caused the filing of the complaint before the Municipal Court in the first instance. 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.

The money judgment portion of a landlord and tenant judgment would be governed by subdivision (a). Adopted by the Board of Judges of the Court of Common Pleas on May 15, 2008. Promulgated by Order dated May 20, 2008. Effective thirty (30) days after publication in the Pennsylvania Bulletin.

*Note: Adopted by the Board of Judges of the Court of Common Pleas on May 15, 2008, effective September 1, 2008. Amended by Administrative Order 01 of 2017 issued on March 8, 2017 by Judge Jacqueline Allen, Trial Division Administrative Judge; published in the Pennsylvania Bulletin on March 25, 2017 and effective April 24, 2017.*

The complete Philadelphia Court of Common Pleas Trial Civil Rules can be found at:  
<https://www.courts.phila.gov/pdf/rules/CP-Trial-Civil-Compiled%20Rules.pdf>

## **PA Rules of Civil of Procedure - Excerpts**

### **231 Pa. Code § 236**

Rule 236 - Notice by Prothonotary of Entry of Order or Judgment

(a) The prothonotary shall immediately give written notice of the entry of

(1) a judgment entered by confession to the defendant by ordinary mail together with a copy of all documents filed with the prothonotary in support of the confession of judgment. The plaintiff shall provide the prothonotary with the required notice and documents for mailing and a properly stamped and addressed envelope; and

(2) any other order or judgment to each party's attorney of record or, if unrepresented, to each party. The notice shall include a copy of the order or judgment.

(b) The prothonotary shall note in the docket the giving of the notice and, when a judgment by confession is entered, the mailing of the required notice and documents.

(c) Failure to give the notice or when a judgment by confession is entered to mail the required documents, or both, shall not affect the lien of the judgment.

(d) The prothonotary may give the notice required by subdivision (a) or notice of other matters by facsimile transmission or other electronic means if the party to whom the notice is to be given or the party's attorney has filed a written request for such method of notification or has included a facsimile or other electronic address on a prior legal paper filed in the action.

### **231 Pa. Code § 240**

Rule 240 - In Forma Pauperis

(a) This rule shall apply to all civil actions and proceedings except actions pursuant to the Protection From Abuse Act and Protection of Victims of Sexual Violence or Intimidation Act.

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

(c) Except as provided by subdivision (d), the party shall file a petition and an affidavit in the form prescribed by subdivision (h). The petition may not be filed prior to the commencement of an action or proceeding or the taking of an appeal.

(1)

(i) If the petition is filed simultaneously with the commencement of the action or proceeding or with the taking of the appeal, the prothonotary shall docket the matter and petition without the payment of any filing fee.

(ii) If the court shall thereafter deny the petition, the petitioner shall pay the filing fee for commencing the action or proceeding or taking the appeal. A party required to pay such fee may not without leave of court take any further steps in the action, proceeding or appeal so long as such fee remains unpaid. Not sooner than ten days after notice of the denial of the petition pursuant to Rule 236, the prothonotary shall enter a judgment of non pros in the action or proceeding or strike the appeal if the fee remains unpaid. The action, proceeding or appeal shall be reinstated only by the court for good cause shown.

(2) If the action or proceeding is commenced or the appeal is taken without the simultaneous filing of a petition, the appropriate filing fee must be paid and shall not be refunded if a petition is thereafter filed and granted.

(3) Except as provided by subdivision (j)(2), the court shall act promptly upon the petition and shall enter its order within twenty days from the date of the filing of the petition. If the petition is denied, in whole or in part, the court shall briefly state its reasons.

(d)

(1) If the party is represented by an attorney, the prothonotary shall allow the party to proceed in forma pauperis upon the filing of a praecipe which contains a certification by the attorney that he or she is providing free legal service to the party and believes the party is unable to pay the costs.

(2) The praecipe shall be substantially in the form prescribed by subdivision (i).

(e) 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.

(f) A party permitted to proceed in forma pauperis shall not be required to

(1) pay any cost or fee imposed or authorized by Act of Assembly or general rule which is payable to any court or prothonotary or any public officer or employee, or

(2) post bond or other security for costs as a condition for commencing an action or proceeding or taking an appeal.

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

(h) The affidavit in support of a petition for leave to proceed in forma pauperis shall be substantially in the following form:

(Caption)

1. I am the (plaintiff) (defendant) in the above matter and because of my financial condition am unable to pay the fees and costs of prosecuting or defending the action or proceeding.

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 fees and 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

Date of last employment: \_\_\_\_\_

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

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

(c) *Other income 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 (Wife) (Husband) Name:*

\_\_\_\_\_

If your (wife) (husband) is employed, state

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 you for support*

(Wife) (Husband) Name: \_\_\_\_\_

Children, if any:

Initials: \_\_\_\_\_

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

Age:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Other Persons: Name: \_\_\_\_\_

Relationships:

\_\_\_\_\_

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 affidavit 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

(i) The praecipe required by subdivision (d) shall be substantially in the following form:

**(Caption)**

**PRAECIPE TO PROCEED IN FORMA PAUPERIS**

To the Clerk of Judicial Records:

Kindly allow

\_\_\_\_\_

, (Plaintiff) (Defendant) to proceed in forma pauperis.

I,

\_\_\_\_\_

, attorney for the party proceeding in forma pauperis, certify that I believe the party is unable to pay the costs and that I am providing free legal service to the party.

\_\_\_\_\_

Attorney for

(j)

(1) If, simultaneous with the commencement of an action or proceeding or the taking of an appeal, a party has filed a petition for leave to proceed in forma pauperis, the court prior to acting upon the petition may dismiss the action proceeding or appeal if the allegation of poverty is untrue or if it is satisfied that the action, proceeding or appeal is frivolous.

(2) If the petitioner commences the action by writ of summons, the court shall not act on the petition for leave to proceed in forma pauperis until the complaint is filed. If the complaint

has not been filed within ninety days of the filing of the petition, the court may dismiss the action pursuant to subdivision (j)(1).

Amended by Pennsylvania Bulletin, Vol 48, No. 03. January 20, 2018, effective 1/20/2018

### **231 Pa. Code § 400.1**

#### **Rule 400.1 - Provisions for All Courts of the First Judicial District**

(a) In an action commenced in the First Judicial District, original process may be served

(1) within the county by the sheriff or a competent adult, or

(2) in any other county by deputized service as provided by Rule 400(d) or by a competent adult forwarding the process to the sheriff of the county where service may be made.

(b) In an action commenced in any other county, original process may be served in Philadelphia County by deputized service as provided by Rule 400(d) or by a competent adult.

(c) Rescinded.

#### *231 Pa. Code § 400.1*

The provisions of this Rule 400.1 adopted May 11, 1990, effective immediately, 20 Pa.B. 2737; amended July 2, 1998, effective August 1, 1998, 28 Pa.B. 3373; amended May 14, 1999, effective July 1, 1999, 29 Pa.B. 2767; amended June 14, 1999, effective September 1, 1999, 29 Pa.B. 3191.

### **231 Pa. Code § 440**

#### **Rule 440 - Service of Legal Papers other than Original Process**

(a)

(1) Copies of all legal papers other than original process filed in an action or served upon any party to an action shall be served upon every other party to the action. Service shall be made

(i) by handling or mailing a copy to or leaving a copy for each party at the address of the party's attorney of record endorsed on an appearance or prior pleading of the party, or at such other address as a party may agree, or **(ii)** by transmitting a copy by facsimile to the party's attorney of record as provided by subdivision (d).

(2)

(i) If there is no attorney of record, service shall be made by handing a copy to the party or by mailing a copy to or leaving a copy for the party at the address endorsed on an appearance or prior pleading or the residence or place of business of the party, or by transmitting a copy by facsimile as provided by subdivision (d).

(ii) If such service cannot be made, service shall be made by leaving a copy at or mailing a copy to the last known address of the party to be served.

(b) Service by mail of legal papers other than original process is complete upon mailing.

(c) If service of legal papers other than original process is to be made by the sheriff, he shall notify by ordinary mail the party requesting service to be made that service has or has not been made upon a named party or person.

(d)

(1) A copy may be served by facsimile transmission if the parties agree thereto or if a telephone number for facsimile transmission is included on an appearance or prior legal paper filed with the court.

(2) The copy served shall begin with a facsimile cover sheet containing

(i) the name, firm, address, telephone number, of both the party making service and the party served,

(ii) the facsimile telephone number of the party making service and the facsimile telephone number to which the copy was transmitted, (iii) the title of the legal paper served and

(iv) the number of pages transmitted.

(3) Service is complete when transmission is confirmed as complete.

*231 Pa. Code § 440*

The provisions of this Rule 440 adopted July 5, 1985, effective January 1, 1986, 15 Pa.B. 2452; amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5333; amended August 3, 1998, effective January 1, 1999, 28 Pa.B. 3928; amended June 14, 1999, effective July 1, 1999, 29 Pa.B. 3189; amended November 28, 2000, effective January 1, 2001, 30 Pa.B. 6421; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9 .