

SUPREME COURT OF PENNSYLVANIA

Order Adopting Rule 205.6 and Amending Rules 229.2, 240, 1018, 2028 of PA RCP

Supreme Court of Pennsylvania (January 5, 2018)

SUMMARY

This Pennsylvania Supreme Court order adopts Pennsylvania Rule of Civil Procedure 205.6 concerning confidential information, confidential documents, and required certifications under the Unified Judicial System Public Access Policy. It also amends Rules 229.2, 240, 1018, and 2028 concerning structured settlement transfers, in forma pauperis proceedings, captions, and actions involving minors.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
JURISDICTION	Pennsylvania
DECIDED	January 5, 2018
DISPOSITION	other
PROCEDURAL POSTURE	The Supreme Court of Pennsylvania promulgated a new Pennsylvania Rule of Civil Procedure 205.6 and amended Rules 229.2, 240, 1018, and 2028.
PRECEDENTIAL VALUE	Rulemaking order with binding procedural rules; not an adversarial precedential opinion.

TOPICS

[civil procedure](#) [pleadings](#) [guardianships](#) [family law procedure](#) [consumer protection](#)

PRACTICE AREAS

[civil procedure](#) [guardianships](#) [family law](#) [consumer protection](#)

QUESTIONS PRESENTED

1. What requirements should govern the filing and certification of confidential information and confidential documents in Pennsylvania civil proceedings?
2. How should the required affidavit for a petition to transfer structured-settlement payment rights be revised?

3. How should in forma pauperis procedures apply to civil actions, proceedings, appeals, and domestic-relations matters?
4. How should pleadings be captioned when minors are parties?
5. What averments and designations are required in actions brought by or against minors?

HOLDINGS

1. A person filing a document under the Pennsylvania Rules of Civil Procedure must comply with Sections 7.0 and 8.0 of the Public Access Policy, including the required certification and, when applicable, a Confidential Information Form or Confidential Document Form, unless otherwise provided by rule or court order.
2. A party without financial resources to pay litigation costs is entitled to proceed in forma pauperis subject to the procedures, certifications, continuing obligations, fee consequences, and exceptions specified in amended Rule 240.
3. Pennsylvania pleadings must use the captioning and party-designation requirements in Rules 1018 and 2028, including designating a minor by the initials of the minor's first and last names and identifying the guardian in an action brought by a minor.
4. A petition to transfer structured-settlement payment rights must include a payee affidavit substantially in the form prescribed by amended Rule 229.2, including information concerning marital status, dependents, income, prior transfers, reasons for the proposed transfer, and debts.

KEY QUOTATIONS

“[This is an entirely new rule.] Rule 205.6. Confidential Information and Confidential Documents. Certification.”

“A party who is without financial resources to pay the costs of litigation is entitled to proceed [in forma pauperis] in forma pauperis.”

FACTUAL BACKGROUND

No underlying litigant-specific facts are presented. The order addresses statewide civil-procedure filing, captioning, indigency, structured-settlement, and minor-party procedures, including compliance with Pennsylvania's Public Access Policy for court records.

PROCEDURAL HISTORY

The document is a per curiam rulemaking order rather than an adversarial case opinion. It adopts requirements concerning confidential information and documents and revises civil-procedure provisions governing structured-settlement transfers, in forma pauperis proceedings, captions, and actions involving minors.

DISPOSITION

other

CASES CITED

- Neitzke v. Williams, 490 U.S. 319, 109 S. Ct. 1827, 104 L. Ed. 2d 338 (1989)

OPINION

PER CURIAM.

[This is an entirely new rule.] Rule 205.6. Confidential Information and Confidential Documents. Certification. Unless public access is otherwise constrained by applicable authority, any attorney, or any party if unrepresented, who files a document pursuant to these rules with the prothonotary's office shall comply with the requirements of Sections 7.0 and 8.0 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts (Policy) including a certification of compliance with the Policy and, as necessary, a Confidential Information Form, unless otherwise specified by rule or order of court, or a Confidential Document Form in accordance with the Policy.

Note: Applicable authority includes but is not limited to statute, procedural rule or court order. The Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts (Policy) can be found on the website of the Supreme Court of Pennsylvania at <http://www.pacourts.us/public-records>. Sections 7.0(D) and 8.0(D) of the Policy provide that the certification shall be in substantially the following form: I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

The Confidential Information Form and the Confidential Document Form can be found at <http://www.pacourts.us/public-records>. In lieu of the Confidential Information Form, Section 7.0(C) of the Policy provides for a court to adopt a rule or order permitting the filing of a document in two versions, a "Redacted Version" and an "Unredacted Version." Rule 229.2.

Petition to Transfer Structured Settlement Payment Rights. (a) *** (b) *** (c) *** (d) *** (e) *** (f) The Payee's Affidavit in Support of Petition shall be substantially in the following form: (Caption) Payee's Affidavit in Support of Petition to Transfer Structured Settlement Rights I, _____, the payee, verify that the statements below are true and correct: 1.

Payee's name, address and age: _____
_____.

2. Marital Status: _____
____ Never Married; ____ Married; ____ Separated; ____ Divorced If married or separated, name of spouse: _____.

3. Minor children and other dependents: Initials of minor children, [N]names of other dependents, ages, and places of residence:

_____.

4. Income: (a) Payee's monthly income and sources: _____. 2 (b) If presently married, spouse's monthly income and sources: _____. 5. Child support, alimony or alimony pendente lite Obligation to pay: ___ Yes ___ No If yes, state the amount of the obligation, to whom payable, and whether there are arrearages:_____.

6. Previous transfers Have you previously filed a petition to transfer payment rights under the structured settlement that is the subject of this petition? ___Yes ___ No If yes, for each petition that you filed, (a) If the transfer was submitted for court approval, list the court, the case caption and case number, and state whether the court approved or disapproved the transfer:

_____. (b) If the transfer was approved, (i) State the name of the transferee and identify (listing due dates and payment amount(s)) the payments involved in the transfer:_____. (ii) State the amount of money and the manner in which the money was used:_____.

3 (c) Have you ever transferred payments without court approval? If so, please explain:

_____. 7. Reasons for transfer Describe in detail your reasons for the proposed transfer, including an explanation as to why a sale of a lesser amount of the structured settlement amount will not better serve your interests:_____. 8.

Payment of debts If you seek the transfer in order to pay debts, list each debt, including the name of the creditor and the amount presently owed: Debt Creditor Amount Owed _____ \$_____ \$_____ Verification 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: _____ Signature (g) *** (h) *** (i) *** 4 Note: The form of

order does not preclude a court from adding additional language to the order as deemed appropriate in the individual circumstances of a case.

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 205.6. Rule 240. [In Forma Pauperis] 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.

Note: The term “all civil actions and proceedings” includes all domestic relations actions except those brought pursuant to the Protection From Abuse Act, [which are governed by] 23 Pa.C.S. § 6106, and Protection of Victims of Sexual Violence or Intimidation Act, 42 Pa.C.S. §§ 62A01-62A20. (b) A party who is without financial resources to pay the costs of litigation is entitled to proceed [in forma pauperis] 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 5 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] 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] in forma pauperis upon the filing of a [praecipe] 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] praecipe shall be substantially in the form prescribed by subdivision (i). (e) A party permitted to proceed [in forma pauperis] 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] in forma pauperis shall not be required to 6 (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] 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] 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 7

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: _____ 9 (g) Persons
 dependent upon you for support (Wife)(Husband) Name:
 _____ Children, if any: [Name] Initials:

 Age: _____ Other Persons:
 Name: _____
 Relationship: _____ 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] PRAECIPE TO PROCEED [IN FORMA PAUPERIS] IN FORMA PAUPERIS To the Prothonotary: Kindly allow _____, (Plaintiff) (Defendant) to proceed [in forma pauperis] in forma pauperis.

10 I, _____, attorney for the party proceeding [in forma pauperis] 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] 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.

Note: A frivolous action or proceeding has been defined as one that “lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U. S. 319, 109 S.Ct. 1827, 104 L.Ed.2d 338 (1989). (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] 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). Note: The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 205.6. Rule 1018. Caption.

Every pleading shall contain a caption setting forth the name of the court, the number of the action and the name of the pleading. The caption of a complaint shall set forth the form of the action and the names of all the parties, but in other pleadings it is sufficient to state the name of the first party on each side in the complaint with an appropriate indication of other parties.

11 Note: Civil Actions and proceedings shall be captioned “Court of Common Pleas of _____ County - Civil Action” or other appropriate form of action. The caption of all legal papers filed in a medical professional liability action must contain the designation “Civil Action -- Medical Professional Liability Action.” See Rule 1042.16.

The caption of all legal papers filed in a civil action by and against a minor must designate the minor by the initials of his or her first and last name. See Rule 2028. Rule 2028. Actions By and

Against Minors. Averments in Plaintiff's Pleading. (a) An action in which a minor is plaintiff shall be entitled "A, a Minor, by B, Guardian," against the party defendant.

The minor shall be designated by the initials of his or her first and last name. Note: Under the above rule the representative of a minor plaintiff is termed a "guardian" regardless of whether under prior practice he or she would be termed a legal guardian or a next friend. (b) The initial pleading filed in behalf of a minor plaintiff shall state the name and address of his or her guardian and the guardian's relationship, if any, to the subject matter of the action or to any of the parties thereto.

In case the person selected as guardian is a guardian appointed by any court of competent jurisdiction or by a will duly probated, the initial pleading shall contain a reference to the record of the appointment. (c) An action in which a minor is the defendant shall be commenced against the minor [by name] in the manner in which a like action is commenced against an adult.

The minor shall be designated by the initials of his or her first and last name. Note: An action against a minor is begun in the same manner as an action against an adult, although by Rule 2034[, infra,] as under prior practice, the subsequent appointment of a guardian to 12 represent the minor is essential to the rendition of a valid judgment against the minor.

Note: The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 205.6.