

SUPREME COURT OF PENNSYLVANIA

In Re: Order Amending Rule 401 of the Pennsylvania Rules of Civil Procedure

Supreme Court of Pennsylvania (December 16, 2021)

SUMMARY

This Adoption Report explains the Pennsylvania Civil Procedural Rules Committee's recommended amendments to Pennsylvania Rule of Civil Procedure 401. The amendments replace the requirement that a prothonotary “write” on original process with a requirement to “designate” it for reissuance or reinstatement, and clarify when a new defendant may be added. The amendment became effective April 1, 2022.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
JURISDICTION	Pennsylvania
DECIDED	December 16, 2021
DISPOSITION	other
PROCEDURAL POSTURE	The Supreme Court of Pennsylvania adopted amendments to Pennsylvania Rule of Civil Procedure 401 following a rulemaking process conducted with the assistance of the Civil Procedural Rules Committee.
PRECEDENTIAL VALUE	Rulemaking adoption report; not a conventional precedential merits opinion

TOPICS

service of process pleadings civil procedure

PRACTICE AREAS

civil procedure process and service

QUESTIONS PRESENTED

1. How should Rule 401(b)(1) apply to electronically filed writs of summons and complaints when process is reissued or reinstated?
2. When may a new defendant be named in a reissued writ or reinstated complaint under Rule 401(b)(2)?

HOLDINGS

1. The rule was amended to require the prothonotary to designate, rather than write on, the original process or a copy presented for reissuance or reinstatement, thereby accommodating electronically filed documents.
2. A new defendant may be named in a reissued writ or reinstated complaint under Rule 401(b)(2) only if the writ or complaint has not been served on any originally named defendant.

KEY QUOTATIONS

“A new party defendant may be named in a reissued writ or a reinstated complaint.” (at 2)

“The amendment of Pa.R.Civ.P. 401 becomes effective April 1, 2022.” (at 2)

FACTUAL BACKGROUND

Rule 401 requires original process to be served within the Commonwealth within 30 days after issuance of a writ of summons or filing of a complaint. The Committee identified uncertainty about how prothonotaries should mark electronically filed process for reissuance or reinstatement and ambiguity about when a new defendant may be added after process has been served on an originally named defendant. The amendment addressed both issues by replacing the requirement to write on original process with a requirement to designate the process and by limiting the addition of new defendants under Rule 401(b)(2).

PROCEDURAL HISTORY

The Civil Procedural Rules Committee received requests to clarify Rule 401(b), published the proposed amendment to subdivision (b)(2) for public comment, reviewed supporting and opposing comments, and prepared an Adoption Report. The Supreme Court amended Rule 401 on December 16, 2021, with the amendment effective April 1, 2022.

DISPOSITION

other

CASES CITED

- *Yates v. Pacor*, 507 A.2d 1258 (Pa. Super. 1986)

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