

THE COURTS

PART I. GENERAL

[231 PA. CODE CHS. 200 AND 2950]

Rescission of Rule 2951(a) and Amendment of Rules 205.3, 236, 2955, 2956, 2957, 2962 and 2963 Governing Confession of Judgment; Civil Procedural Rules; No. 506; Doc. No. 5

[39 Pa.B. 304]

[Saturday, January 17, 2009]

Order

Per Curiam:

And Now, this 29th day of December, 2008, Pennsylvania Rule of Civil Procedure 2951(a) is rescinded. Pennsylvania Rules of Civil Procedure 205.3, 236, 2955, 2956, 2957, 2962 and 2963 are amended to read as follows.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b) and shall be effective immediately.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 205.3. Filing Pleadings and Other Legal Papers with the Prothonotary. Originals and Copies.

(a) A party may file with the prothonotary an original pleading or other legal paper, or a copy including a facsimile copy provided that the copy shows that the original pleading or other legal paper was properly signed and, where applicable, verified. Except as otherwise provided by law, the copy shall be deemed the equivalent of the original document.

Official Note: This rule does not authorize the filing of legal papers with the prothonotary by facsimile transmission, but, rather, authorizes the filing of a non-original

facsimile or other copy. See Rule 205.1 governing the manner of filing with the prothonotary.

See Rule 76 for the definition of facsimile copy.

The facsimile copy must be on paper of good quality. See Pa.R.A.P. 124(a)(1).

[This rule is not intended to alter the requirement of Rule 2951(c)(2) that a judgment by confession be entered pursuant to complaint if the original cannot be produced for filing.]

* * * * *

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 **[at the address stated in the certificate of residence filed by the plaintiff]** 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

[Official Note: See Rule 2951(a) as to the requirement of filing a certificate of the residence of the plaintiff and of the defendant.]

* * * * *

CHAPTER 2950. CONFESSION OF JUDGMENT FOR MONEY

Rule 2951. **[Methods] Method** of Proceeding.

[(a)(1) Upon filing of the documents by subparagraph (2), the prothonotary shall enter judgment by confession on a note, bond or other instrument confessing judgment or authorizing confession by an attorney at law or other person against the person who executed it in favor of the original holder or, unless expressly forbidden in the instrument, in favor of the assignee or other transferee, without the agency of an attorney and without the filing of a complaint, for the amount which may appear to be due from instrument. The judgment may include interest computable from the instrument.

(2) The documents to be filed in support of the entry of judgment are

(i) the instrument,

(ii) an affidavit that the judgment is not being entered by confession against a natural person in connection with a consumer credit transaction, and

(iii) a certificate of residence of the plaintiff and of the defendant.

Official Note: Section 2737(3) of the Judicial Code provides that the prothonotary shall have the power and the duty to "enter all civil judgments, including judgments by confession."

A judgment by confession may be entered only in the name of a holder, assignee or other transferee. See Rule 2954.

For collection of attorneys' fees under such a judgment see Rule 2957. If an instrument authorizes confession for a penal sum, judgment may be entered in that amount.

If a judgment by confession on an instrument is to be entered in a judicial district which has implemented electronic filing, an electronic copy of the instrument should be filed in support thereof. Should an issue arise concerning the instrument, any party at any time may request the production of the original instrument for inspection pursuant to Pa.R.C.P. No. 205.4(b)(5).

(b)](a) [If judgment by confession is authorized by the instrument but may not be entered by the prothonotary under subdivision (a), an] An action shall be commenced by filing with the prothonotary a complaint substantially in the form provided by Rule 2952. [Even though the instrument is one on which judgment could be entered by the prothonotary under subdivision (a), the plaintiff may proceed under this subdivision.

(c) The action must be brought under subdivision (b) if

(1) the instrument is more than ten years old or

(2) the original cannot be produced for filing or

(3) it requires the occurrence of a default or condition precedent before judgment may be entered, the occurrence of which cannot be ascertained from the instrument itself, or

(4) the computation of the amount due requires consideration of matters outside the instrument.

(d)](b) If the instrument is more than twenty years old, judgment may be entered only by leave of court after notice and the filing of a complaint [under Subdivision (b)].

[(e)](c) When [the plaintiff proceeds under Subdivision (b) and] the original or a photostatic copy or like reproduction of the instrument showing the defendant's signature is not attached to the complaint, judgment may be entered only by leave of court after notice.

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Rule 2955. Confession of Judgment.

(a) [In an action commenced by a complaint under Rule 2951(b), the] The plaintiff shall file with the complaint a confession of judgment substantially in the form provided by Rule 2962.

* * * * *

Official Note: There are local rules in some counties requiring the filing of an affidavit of non-military service. See also the [Soldiers, and Sailors] Service- members, Civil Relief Act, 50 U.S.C.A. Appendix § [520] 521.

Rule 2956. Entry of Judgment.

The prothonotary shall enter judgment in conformity with the confession.

Official Note: As to instruments more than 20 years old see Rules 2951[(d)](b) and 2952(a)(9).

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Rule 2957. Praecipe for Writ of Execution; Amount; Items Claimed; Certification.

(a) Plaintiff may include the amount due, interest, attorneys' fees and costs in the praecipe for a writ of execution under Rule 2963(5). [Where judgment has been entered under Rule 2951(a) and there has been a record appearance of counsel at any stage of the proceedings and attorneys' fees are authorized in the instrument, these fees may be included in the praecipe for a writ of execution.]

* * * * *

FORMS

Rule 2962. Confession of Judgment Where Action Commenced by Complaint. Form.

The confession of judgment required by Rule 2955 shall be substantially in the following form:

* * * * *

[Official Note: This form is not to be used when judgment by confession is entered by the prothonotary under Rule 2951(a).]

Rule 2963. Praeceptum for Writ of Execution. Certification. Form.

The praecipe for a writ of execution upon a confessed judgment shall be substantially in the following form:

* * * * *

(5) Amount due	\$ _____
Interest from _____	\$ _____
Attorneys' fees* *	\$ _____
[[Costs to be added]] (Costs to be added)	\$ _____

[* * Where judgment has been entered under Rule 2951(a), attorneys' fees may be included if they are authorized in the instrument and there has been a record appearance of counsel at any stage of the proceedings.]

* * * * *

Explanatory Comment

Current Rule 2951 provides for two methods of confessing judgment. Subdivision (a) allows the prothonotary, upon the filing of certain documents in support of the entry of judgment, to enter judgment by confession without the filing of a complaint or a confession of judgment signed by an attorney. Subdivision (b), on the other hand, requires both the filing of a complaint and a confession of judgment signed by an attorney. It has been reported that the method prescribed in subdivision (a) has been abused by lay persons. Furthermore, it is the practice of counsel representing creditors to enter judgments by confession pursuant to subdivision (b). They seldom confess judgment pursuant to subdivision (a) and subdivision (b) fully protects the creditor who seeks to obtain a judgment by confession. Rule 2951 has been amended by rescinding subdivision (a) so that all actions for confessing judgment must be commenced by filing a complaint. Rules 205.3, 236, 2955, 2956, 2957, 2962 and 2963 have also been amended to conform to the rescission of Rule 2951(a).

*By the Civil Procedural
Rules Committee*

STEWART L. KURTZ,
Chair

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