

CHAPTER 2250. JOINDER OF ADDITIONAL DEFENDANTS

Rule	
2251.	Definitions.
2252.	Right to Join Additional Defendants.
2253.	Time for Filing Praecipe or Complaint.
2254.	[Rescinded].
2255.	Procedure.
2256.	Counterclaims.
2257.	Verdict, Specific Findings and Judgment.
2258—2263.	Superseded.
2274.	[Rescinded].
2275.	[Rescinded].

Editorial Comment

Rules 2251—2263, 2274, 2275 of the Rules of Civil Procedure, as adopted and promulgated by Orders filed February 14, 1939, and April 5, 1939, were amended and superseded in their entirety by Order filed December 30, 1942.

By Order filed April 5, 1939, the original Rules 2251—2263, 2274, 2275, were promulgated for the Municipal Court of Philadelphia. See Act March 30, 1939, P. L. 14, § 1, incorporated in 17 P. S. § 61.

Rule 2251. Definitions.

As used in this chapter

“action” means any civil action or proceeding brought in or appealed to any court of record which is subject to these rules.

Official Note: See Editorial Comment preceding Rule 2251.

Rule 2251 as originally adopted February 14, 1939, effective September 4, 1939, defined “action” as above set out, and, in addition, provided that “ ‘defendant’ means any party originally named as a defendant, any plaintiff against whom a counterclaim or setoff is asserted, and any party subsequently added to the record under the provisions of these rules.”

Source

The provisions of this Rule 2251 amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (255319).

Rule 2252. Right to Join Additional Defendants.

(a) Except as provided by Rule 1706.1, any party may join as an additional defendant any person not a party to the action who may be

(1) solely liable on the underlying cause of action against the joining party,
or

Official Note: The term “underlying cause of action” refers to the cause of action set forth in the plaintiff’s complaint or the defendant’s counter-claim.

(2) Rescinded.

(3) Rescinded.

2250-1

(4) liable to or with the joining party on any cause of action arising out of the transaction or occurrence or series of transactions or occurrences upon which the underlying cause of action against the joining party is based.

Official Note: Paragraph (4) permits a joining party to join an additional defendant who may be liable over on the underlying cause of action against the joining party or jointly and severally liable with the joining party.

The joinder of an additional defendant in a class action is limited by Rule 1706.1 to the grounds set forth in that rule.

(b) The joining party may file as of course a praecipe for a writ or a complaint.

(1) If the joinder is by writ, the joining party shall file a complaint within twenty days from the filing of the praecipe for the writ. If the joining party fails to file the complaint within the required time, any other party may seek a rule to file the complaint and an eventual judgment of non pros in the manner provided by Rule 1037(a) for failure to file a complaint.

(2) The complaint, in the manner and form required of the initial pleading of the plaintiff in the action, shall set forth the facts relied upon to establish the liability of the joined party and the relief demanded.

Official Note: For the form of notice to defend in a complaint to join an additional defendant, see Rule 1018.1.

(c) The writ to join an additional defendant shall be directed to the additional defendant and shall be substantially in the following form:

Commonwealth of Pennsylvania
County of _____

[Caption]

To _____: (Name of Additional Defendant)

You are notified that _____

(Name(s) of Defendant(s))

has (have) joined you as an additional defendant in this action, which you are required to defend.

Date _____

Seal of Court

(Name of Prothonotary (Clerk))

By _____
(Deputy)

(d) Rescinded.

Official Note: See Rule 1031.1 governing cross-claims for the procedure to assert a claim against a person already a party to an action.

Source

The provisions of this Rule 2252 amended through June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452; amended April 4, 1990, effective July 1, 1990, 20 Pa.B. 2282; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274; amended March 23, 2007, effective June 1, 2007, 37 Pa.B. 1480. Immediately preceding text appears at serial pages (302543) to (302544) and (309377).

Rule 2253. Time for Filing Praecipe or Complaint.

(a) Except as provided by Rule 1041.1(e), neither praecipe for a writ to join an additional defendant nor a complaint if the joinder is commenced by a complaint, shall be filed later than

(1) sixty days after the service upon the original defendant of the initial pleading of the plaintiff or any amendment thereof, or

(2) the time for filing the joining party's answer as established by Rule 1026, Rule 1028 or order of court,

whichever is later, unless such filing is allowed by order of the court or by the written consent of all parties approved by and filed with the court. The praecipe for a writ to join an additional defendant or the complaint joining the additional defendant shall be filed within twenty days after notice of the court order or the court approval of the written consent or within such other time as the court shall fix.

Official Note: Rule 1041.1(e) provides that in asbestos litigation leave of court is not required to join an additional defendant out of time but the joined party may request by preliminary objection that the joinder be stricken.

(b) Any party may object to a motion to join an additional defendant after the period prescribed by subdivision (a) on the ground that the party will be prejudiced by the late joinder. The plaintiff may also object to the late joinder on the ground that the joining party has not shown a reasonable justification for its delay in commencing joinder proceedings.

(c) A person not previously a party who is joined as an additional defendant may object to the joinder by filing preliminary objections asserting prejudice or any other ground set forth in Rule 1028.

Official Note: The person joined may object to the joinder whether the joinder was effected by order or consent.

Source

The provisions of this Rule 2253 amended April 4, 1990, effective July 1, 1990, 20 Pa.B. 2281; amended January 6, 2005, effective immediately, 35 Pa.B. 501; amended March 23, 2007, effective June 1, 2007, 37 Pa.B. 1480. Immediately preceding text appears at serial pages (309377) to (309378).

Rule 2254. [Rescinded].

Official Note: For service of original process and pleadings upon additional defendants, see Rule 425.

Source

The provisions of this Rule 2254 adopted February 14, 1939; rescinded June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452. Immediately preceding text appears at serial pages (87338) to (87340).

Rule 2255. Procedure.

(a) The procedure, including pleadings, between the party joining an additional defendant and the additional defendant shall be the same as though the party joining the additional defendant were a plaintiff and the additional defendant were a defendant.

(b) Rescinded.

(c) No judgment on the pleadings may be entered in favor of any party against an additional defendant for failure to answer the complaint of the party joining the additional defendant, but all allegations of fact in such complaint to which an answer is required and which are not sufficiently answered shall be conclusive upon the additional defendant.

(d) The plaintiff shall recover from an additional defendant found liable to the plaintiff alone or jointly with the defendant as though such additional defendant had been joined as a defendant and duly served and the initial pleading of the plaintiff had averred such liability.

Source

The provisions of this Rule 2255 amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274; amended March 23, 2007, effective June 1, 2007, 37 Pa.B. 1480. Immediately preceding text appears at serial pages (309378) to (309379).

Rule 2256. Counterclaims.

(a) An original defendant who asserts against the plaintiff a counterclaim not founded upon the transaction, occurrence or series of transactions or occurrences out of which the original cause of action arose may not join an additional defendant.

(b) An additional defendant may not assert a counterclaim which is not founded upon the transaction, occurrence or series of transactions or occurrences out of which the original cause of action arose.

(c) Rescinded.

Source

The provisions of this Rule 2256 amended March 23, 2007, effective June 1, 2007, 37 Pa.B. 1480. Immediately preceding text appears at serial page (309379).

Rule 2257. Verdict, Specific Findings and Judgment.

Upon the court's own motion or the request of any party, the jury, or the court, if the action is tried without a jury, shall return, in addition to a general verdict or finding, such specific findings as will determine the issues among all parties. Questions submitted to the jury for special findings shall be prepared or approved by the court and shall be in writing.

See Editorial Comment preceding Rule 2251.

Rule 2257 as originally adopted February 14, 1939, effective September 4, 1939, read as follows:

“(a) The answer shall be framed in the same manner and form as is required for the pleading of a defendant in an action of assumpsit.

“(b) A copy of the answer of the additional defendant shall be served upon every other party of record within five days after the filing of the answer.

“(c) All allegations of fact in the petition which establish any liability of the additional defendant to or with the party bringing him on the record and which are not answered or not sufficiently answered by the additional defendant shall become conclusive as between, but only as between, the additional defendant and the party bringing him on the record.”

Rules 2258—2263. Superseded.

See Editorial Comment preceding Rule 2251.

Rules 2258-2263 as originally adopted Feb. 14, 1939, effective Sept. 4, 1939, were superseded by Order filed Dec. 30, 1942 which adopted provisions relating to “Joinder of Additional Defendants” as now set forth in Rules 2251-2257, 2274, 2275 herein.

Rules 2258-2263 read as follows:

“Rule 2258. Supplementary statement of plaintiff.

“(a) A plaintiff desiring to assert a claim against an additional defendant shall file a supplementary statement of his cause of action against such additional defendant within twenty days after service upon the plaintiff of a copy of the answer of the additional defendant, unless the court shall extend the time for filing such supplementary statement upon cause shown. The allegations of the supplementary statement may be made upon information without prejudice to the right of the plaintiff to maintain the correctness of the allegations in his original pleading.

“(b) Upon the filing of such supplementary statement, the subsequent proceedings between the plaintiff filing such supplementary statement and the additional defendant shall be in conformity with the statutes and rules relating to pleading and practice between parties plaintiff and defendant in actions at law, except where otherwise provided by these rules.

“(c) The failure of the plaintiff to file a supplementary statement within the period fixed by clause (a) of this rule shall bar him from any recovery against such additional defendant.

“Rule 2259. Counterclaims and setoffs.

“(a) A defendant who asserts against the plaintiff any counterclaim or setoff except one which is founded upon the transaction, occurrence or series of transactions or occurrences giving rise to the original cause of action may not bring an additional defendant upon the record.

“(b) An additional defendant may assert in his answer, against any party asserting a claim against him, any counterclaim or setoff which he would be entitled to assert if independently sued in a separate action by such party, except that an additional defendant who asserts against any such party any counterclaim or setoff except one which is founded upon the transaction, occurrence or series of transactions or occurrences giving rise to the original plaintiff’s cause of action may not bring a further additional defendant upon the record.

“(c) In any action in which a counterclaim or setoff is asserted by a defendant against a plaintiff, the plaintiff shall have all the rights of a defendant under these rules to bring additional parties upon the record. Such additional parties shall have all the rights of additional defendants under these rules.

“Rule 2260. Pre-trial conference. Upon the expiration of the period for the filing of pleadings by all parties the court shall direct a pre-trial conference under Rule 212.

“Rule 2261. Control of court over litigants. The court in its discretion may determine the extent to which any party of record may participate in proceedings which do not directly involve his rights or liabilities and may determine the order in which the parties shall present their evidence.

“Rule 2262. Verdict, specific findings and judgment.

“(a) In every action before a jury in which an additional party has been brought upon the record, all questions submitted to the jury for specific findings shall be in writing and shall be prepared or approved by the court. The jury shall take such questions with it upon retiring for deliberation, and the foreman of the jury shall write after each question the finding of the jury in response thereto.

“(b) In every action in which an additional party has been brought upon the record, the court or the jury, as the case may be, in addition to any general verdict or finding, shall make such specific findings as will determine the liabilities of all parties inter se. The judgments entered in such action shall determine the liabilities of all parties inter se.

“Rule 2263. Practice. Except where otherwise provided by these rules, the pleadings and practice after service of the petition and order shall be in conformity with the statutes and rules relating to pleadings and practice in actions at law.”

Rule 2274. [Rescinded].

Official Note: See Rule 52 governing effective date of rules and amendments to rules and the application of new rules and amendments to pending actions.

Source

The provisions of this Rule 2274 rescinded March 23, 2007, effective June 1, 2007, 37 Pa.B. 1480. Immediately preceding text appears at serial page (309381).

2250-6

Rule 2275. [Rescinded].

Official Note: Former Rule 2275 suspended statutory provisions which were subsequently repealed.

Source

The provisions of this Rule 2275 rescinded June 3, 1994, effective July 1, 1994, 24 Pa.B. 3010. Immediately preceding text appears at serial pages (146741) to (146742).

[Next page is 2300-1.]

2250-8

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