

**CHAPTER 2350. SUBSTITUTION OF PARTIES**

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**Application to Pending Actions.** The Order of the Supreme Court adopting Rules 2351-2375 fixed April 1, 1950 as the effective date of said Rules and provided that said Rules should apply to actions pending at that time.

**Rule 2351. 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, including actions to obtain judgment upon a mechanics’ lien claim but shall not include actions to enforce municipal liens and claims;

“successor” means anyone who by operation of law, election or appointment has succeeded to the interest or office of a party to an action.

**Official Note:** See Rule 2004 governing the substitution of a person to whom a voluntary transfer is made. See also the following rules governing the removal of a particular party and substitution of a successor: Rule 2033, (guardian of a minor), Rule 2060, (guardian ad litem of an incapacitated person) and Rule 2203, (plaintiffs in an action for wrongful death).

**Source**

The provisions of this Rule 2351 adopted September 30, 1949, effective April 1, 1950; amended May 27, 1964, effective June 30, 1964; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274; amended December 16, 2003, effective July 1, 2004, 34 Pa.B. 9. Immediately preceding text appears at serial page (296719).

**Rule 2352. Substitution of successor.**

(a) The successor may become a party to a pending action by filing of record a statement of the material facts on which the right to substitution is based.

(b) If the successor does not voluntarily become a party, the prothonotary, upon praecipe of an adverse party setting forth the material facts shall enter a rule upon the successor to show cause why the successor should not be substituted as a party.

**Source**

The provisions of this Rule 2352 adopted September 30, 1949, effective April 1, 1950; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274. Immediately preceding text appears at serial page (213351).

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**Rule 2353. Service of rule.**

- (a) The rule shall be served in any manner in which the original process in the action could have been served.
- (b) [Rescinded].
- (c) [Rescinded].

**Source**

The provisions of this Rule 2353 amended through June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452. Immediately preceding text appears at serial page (40103).

**Rule 2354. Status of successor; continuance.**

If the successor voluntarily becomes a party to the action or the rule is made absolute, the successor shall have all the rights and liabilities of a party to the action. The court may order such continuances and extensions as may be necessary to afford the successor a reasonable opportunity to appear and prosecute or defend the action.

**Source**

The provisions of this Rule 2354 adopted September 30, 1949, effective April 1, 1950; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2274. Immediately preceding text appears at serial page (213352).

**Rule 2355. Notice of Death of a Party. Substitution of Personal Representative.**

- (a) If a named party dies after the commencement of an action, the attorney of record for the deceased party shall file a notice of death with the prothonotary. The procedure to substitute the personal representative of the deceased party shall be in accordance with Rule 2352.

**Official Note:** Counsel for the deceased party should file the notice of death promptly upon learning of the death of the party and serve a copy upon every other party to the action.

See Section 3375 of the Decedents, Estates and Fiduciaries Code, 20 Pa.C.S. § 3375 which provides that if a plaintiff dies and a personal representative is not appointed within one year after a suggestion of the death, the court, upon petition, shall abate the action if the delay in taking out letters is not reasonably explained.

This rule does not address the case law discussing whether the commencement of an action by or against a deceased person is a nullity and therefore does not toll the running of the statute of limitations.

- (b) The notice of death required by subdivision (a) shall be substantially in the following form:

(CAPTION)

## NOTICE OF DEATH

The death of \_\_\_\_\_, a party to the above action, during the pendency of this action is noted upon the record.

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Attorney for the Deceased Party

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Address

**Source**

The provisions of this Rule 2355 adopted April 2, 2003, effective June 1, 2003, 33 Pa.B. 1927.

**Rule 2373. Act of Assembly not suspended.**

Section 12 of the Act approved May 16, 1923, P. L. 207, No. 153, 53 P. S. § 7181 shall not be deemed suspended or affected by the rules governing substitution of parties.

**Official Note:** This section relates to actions to enforce municipal liens and claims.

**Source**

The provisions of this Rule 2373 adopted September 30, 1949, effective April 1, 1950; amended June 3, 1994, effective July 1, 1994, 24 Pa.B. 3010. Immediately preceding text appears at serial page (99974).

**Rule 2374. Effective date; pending actions.**

These rules shall become effective on the first day of April, 1950, and shall apply to actions pending at that time. Adopted Sept. 30, 1949. Eff. April 1, 1950.

**Source**

The provisions of this Rule 2374 adopted September 30, 1949, effective April 1, 1950.

**Rule 2375. [Rescinded].**

**Official Note:** Former Rule 2375 suspended statutory provisions which were subsequently repealed.

**Source**

The provisions of this Rule 2375 adopted September 30, 1949, effective April 1, 1950; rescinded June 3, 1994, effective July 1, 1994, 24 Pa.B. 3010. Immediately preceding text appears at serial pages (99974), (40105) and (48436).

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