

**CHAPTER 2970. CONFESSION OF JUDGMENT
FOR POSSESSION OF REAL PROPERTY**

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Rule 2970. Conformity. Scope.

Except as otherwise provided in this chapter, the procedure in an action to enter a judgment in ejectment for possession of real property by confession pursuant to an instrument, other than a residential lease executed by a natural person, authorizing such confession shall be in accordance with the rules relating to confession of judgment for money.

Official Note: Confession of judgment in ejectment is abolished with respect to a residential lease executed by a natural person.

Source

The provisions of this Rule 2970 amended April 4, 1990, effective July 1, 1990, 20 Pa.B. 2279; amended April 1, 1996, effective July 1, 1996, 26 Pa.B. 1814. Immediately preceding text appears at serial page (146747).

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(256983) No. 298 Sep. 99

Rule 2971. Commencement of Action.

(a) An action shall be commenced by filing with the prothonotary a complaint substantially in the form provided by Rule 2952. The complaint shall also contain

- (1) an averment, in place of that required by Rule 2952(a)(3), that the judgment is not being entered against a natural person in connection with a residential lease, and
- (2) a description of the property and
- (3) a demand for judgment in ejectment.

(b) The plaintiff shall file with the complaint a confession of judgment substantially in the form provided by Rule 2974.

Official Note: If the plaintiff seeks mesne profits in ejectment a separate action must be brought for the mesne profits.

Source

The provisions of this Rule 2971 amended April 1, 1996, effective July 1, 1996, 26 Pa.B. 1814. Immediately preceding text appears at serial page (146747).

Rule 2972. Successive Actions.

If an instrument authorizes judgment to be entered in ejectment and for money, the entry of judgment for money shall not prevent the entry of judgment in ejectment.

Official Note: The limits within which the plaintiff may have satisfaction under one or both of these judgments is a matter of substantive law.

Rule 2973. [Rescinded].**Source**

The provisions of this Rule 2973 rescinded April 1, 1996, effective July 1, 1996, 26 Pa.B. 1814. Immediately preceding text appears at serial page (146748).

Rule 2973.1. Execution.

Except as otherwise provided by subdivisions (b) and (c), a judgment in ejectment entered by confession shall be enforced in the manner provided by Rule 3160 et seq. governing the enforcement of a judgment in an action of ejectment.

Official Note: The form of praecipe required by subdivision (b) is in place of the form of praecipe prescribed by Rule 3254. The notice required by subdivision (c) is in addition to the procedural requirements of Rule 3160 et seq.

(b) Execution shall be commenced by filing a praecipe for a writ of possession in the form prescribed by Rule 2974.1.

(c) If no petition to open or strike the judgment has been filed, written notice shall be served upon the defendant in the judgment either

- (1) prior to execution as provided by Rule 2973.2, or
- (2) with the writ of possession as provided by Rule 2973.3.

Official Note: The written notice provided by this rule is required only in connection with execution proceedings. The notice is in addition to the notice of the entry of judgment required by Rule 236.

Source

The provisions of this Rule 2973.1 adopted April 1, 1996, effective July 1, 1996, 26 Pa.B. 1814.

Rule 2973.2. Notice Served Prior to Execution.

(a) A written notice in the form prescribed by Rule 2974.2 shall be served on the defendant at least thirty days prior to the filing of the praecipe for a writ of possession.

Official Note: If notice is served under this rule at least thirty days prior to the filing of the praecipe, notice need not be given under Rule 2973.3. Conversely, if notice is served under Rule 2973.3, notice need not be given under this rule.

Rule 2974.1 governing the form of the praecipe for the writ of possession requires a certification that notice has been given as provided by this rule.

Rule 2959(a)(3) requires a petition for relief from a confessed judgment to be filed within thirty days after service of notice pursuant to this rule.

- (b) The notice shall be served
- (1) upon a defendant in the judgment who has not entered an appearance
 - (i) by the sheriff or by a competent adult who is not a party to the action in the manner prescribed by Rule 402(a) for the service of original process upon a defendant, or
 - (ii) by the plaintiff mailing a copy in the manner prescribed by Rule 403, or
 - (iii) pursuant to special order of court as prescribed by Rule 430 if service cannot be made as provided in subparagraphs (i) or (ii), or
 - (2) upon a defendant in the judgment who has entered an appearance, by the plaintiff in the manner provided by Rule 440.
- (c) The person serving the notice shall file a return of service as provided by Rule 405.

Source

The provisions of this Rule 2973.2 adopted April 1, 1996, effective July 1, 1996, 26 Pa.B. 1814; amended May 14, 1999, effective July 1, 1999, 29 Pa.B. 2767; amended June 14, 1999, effective September 1, 1999, 29 Pa.B. 3191. Immediately preceding text appears at serial page (256985). (*Editor's Note:* The Supreme Court of Pennsylvania has suspended its order of June 14, 1999, published at 29 Pa.B. 3191 (June 26, 1999). See 29 Pa.B. 4859 (September 18, 1999).)

Rule 2973.3. Notice Served with Writ of Possession. Prompt Hearing Limited to Issue of Waiver of Due Process Rights.

(a) A written notice in the form prescribed by Rule 2974.3 and a form of petition to strike the judgment and request for prompt hearing prescribed by Rule 2967 shall be served upon the defendant with the writ of possession.

Official Note: If notice is served under this rule with the writ of possession, notice need not be given under Rule 2973.2.

Rule 2974.1 governing the form of the praecipe for the writ of possession requires a certification that notice will be given as provided by this rule.

See Rule 2959(a)(3) which requires a petition for relief from a confessed judgment to be filed within thirty days after service of notice pursuant to this rule.

(b) A defendant who has been given notice pursuant to Rule 2973(a) may file with the sheriff a petition to strike the judgment in the form provided by Rule 2967. The petition shall be limited to the issue whether the defendant voluntarily, intelligently and knowingly waived the right to notice and hearing prior to the entry of the judgment. The defendant may include in the claim a demand for a prompt hearing. The sheriff shall immediately notify the plaintiff of the filing of the petition.

(c) The sheriff shall immediately present the matter to the court. The court shall hear the claim within three business days thereafter upon such notice to the parties as the court shall direct and shall promptly dispose of the matter on the testimony, admissions or other evidence.

(1) If the court finds that the plaintiff has shown by a preponderance of the evidence that the defendant voluntarily, intelligently and knowingly waived the right to notice and hearing prior to the entry of judgment, it shall enter an order so determining and the stay of the execution proceedings under subdivision (d) shall terminate automatically.

(2) If the court finds that the plaintiff has not made the required showing, it shall enter an order vacating the writ of possession and striking the judgment. Upon entry of the order, any property from which the defendant has been evicted pursuant to the writ of possession shall be returned to the defendant's possession.

(d) Execution proceedings shall be stayed during the period from the time the defendant files the hearing request form with the sheriff to the time the court makes the determination on the petition.

Source

The provisions of this Rule 2973.3 adopted April 1, 1996, effective July 1, 1996, 26 Pa.B. 1814; amended May 14, 1999, effective July 1, 1999, 29 Pa.B. 2767. Immediately preceding text appears at serial pages (213373) to (213374).

Rule 2973.4. Choice of Procedure. Notice Upon Subsequent Executions.

(a) A plaintiff who has given notice pursuant to Rule 2973.2 may not proceed thereafter under Rule 2973.3.

(b) The notice required by Rules 2973.2 and 2973.3 need not be given upon subsequent executions on a judgment if the notice was given prior to or upon a previous execution on that judgment and either

(1) the defendant filed a petition for relief from the judgment and the court denied the relief, or

(2) the defendant failed to file a petition for relief from the judgment within thirty days after service of the notice as required by Rule 2959(a)(3).

Source

The provisions of this Rule 2973.4 adopted April 1, 1996, effective July 1, 1996, 26 Pa.B. 1814.

FORMS

Rule 2974. Confession of Judgment. Form.

The confession of judgment required by Rule 2971(b) shall be substantially in the following form:

[CAPTION]

Pursuant to the authority contained in the warrant of attorney, the original or a copy of which is attached to the complaint filed in this action, I appear for the defendant(s) and confess judgment in ejectment in favor of the plaintiff(s) and against the defendant(s) for possession of the real property described as follows:

DESCRIPTION

ATTORNEY FOR DEFENDANT(S)

Official Note: On the judgment a writ of possession may issue in the form provided by Rule 3255.

Source

The provisions of this Rule 2974 amended April 1, 1996, effective July 1, 1996, 26 Pa.B. 1814. Immediately preceding text appears at serial page (196748).

Rule 2974.1. Praeipe for Writ of Possession.

The praecipec for a writ of possession shall be substantially in the following form:

[Caption]

PRAECIPE FOR WRIT OF POSSESSION UPON A
CONFESSED JUDGMENT

To the Prothonotary:

Issue writ of possession upon the judgment in ejectment entered by confession in the above matter.

Certification

I certify that

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- (1) This praecipe is based upon a judgment entered by confession, and (Delete three of the following paragraphs which are inapplicable.)
- (2) Notice pursuant to Rule 2973.2 has been served at least thirty days prior to the filing of this praecipe as evidenced by a return of service filed of record.
- (3) Notice pursuant to Rule 2973.3 will be served with the writ of possession.
- (4) Notice was served in connection with a prior execution on this judgment and, pursuant to Rule 2973.4(b), no further notice is required.
- (5) Notice is not required under Rule 2973.1(c) because a petition to open or strike the judgment was previously filed.

Attorney for

Source

The provisions of this Rule 2974.1 adopted April 1, 1996, effective July 1, 1996, 26 Pa.B. 1814; amended July 3, 1996, effective July 27, 1996, 26 Pa.B. 3531. Immediately preceding text appears at serial pages (213375) to (213376).

Rule 2974.2. Notice of Judgment and Execution Required by Rule 2973.2. Form.

The notice required by Rule 2973.2 shall be substantially in the following form:

(Caption)

Notice under Rule 2973.2 of Judgment and Execution

Notice of Defendant's Rights

To: _____
Defendant(s)

A judgment for possession of real property has been entered against you and in favor of the plaintiff without prior notice and hearing based on a confession of judgment contained in a promissory note or other document allegedly executed by you. The sheriff may remove you from the property at any time after thirty days after the date on which this notice is served on you.

You may have legal rights to defeat the judgment or to prevent your being removed from the property. ANY PETITION SEEKING RELIEF FROM THE JUDGMENT MUST BE FILED WITHIN THIRTY (30) DAYS AFTER THE DATE ON WHICH THIS NOTICE IS SERVED ON YOU OR YOU MAY LOSE YOUR RIGHTS.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE

SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name)

(Address)

(Telephone Number)

Attorney for Plaintiff

Address

Telephone Number

Source

The provisions of this Rule 2974.2 adopted April 1, 1996, effective July 1, 1996, 26 Pa.B. 1814; amended June 10, 2003, effective September 1, 2003, 33 Pa.B. 2974. Immediately preceding text appears at serial pages (217962) to (217963).

Rule 2974.3. Notice of Judgment and Execution Required by Rule 2973.3. Form.

The notice required by Rule 2973.3 shall be substantially in the following form:

(Caption)
Notice under Rule 2973.3 of Judgment and Execution Thereon

Notice of Defendant's Rights

To: _____
Defendant(s)

A judgment for possession of real property has been entered against you and in favor of the plaintiff without prior notice and hearing based on a confession of judgment contained in a promissory note or other document allegedly executed by you. The court has issued and the sheriff has served a writ of possession which directs the sheriff to remove you from possession of the real property.

You may have legal rights to defeat the judgment or to prevent your being removed from the property or to regain possession of the property if you have been removed, if you did not voluntarily, intelligently and knowingly give up your constitutional right to notice and hearing prior to the entry of judgment or

if you have defenses or other valid objections to the judgment. ANY PETITION SEEKING RELIEF FROM THE JUDGMENT AND TO REGAIN POSSESSION MUST BE FILED WITHIN THIRTY (30) DAYS AFTER THE DATE ON WHICH THIS NOTICE IS SERVED ON YOU OR YOU MAY LOSE YOUR RIGHTS.

If you have been removed from the property without notice or the opportunity for a hearing, you have a right to a prompt court hearing if you claim that you did not voluntarily, intelligently and knowingly give up your rights to notice and hearing prior to the entry of the judgment. If you wish to exercise this right, you must immediately fill out and sign the request for hearing which accompanies the writ of possession and deliver it to the Sheriff of _____ County at _____.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name)

(Address)

(Telephone Number)

Attorney for Plaintiff

Address

Telephone Number

Official Note: See Rule 2967 for the form of the Request for Hearing.

Source

The provisions of this Rule 2974.3 adopted April 1, 1996, effective July 1, 1996, 26 Pa.B. 1814 ; amended June 10, 2003, effective September 1, 2003, 33 Pa.B. 2974. Immediately preceding text appears at serial pages (217963) to (217964).

ACTS OF ASSEMBLY

Rule 2975. Application of Amendments to Pending Actions.

(a) The amendments promulgated in 1996 to the rules of civil procedure prohibiting the entry of a judgment by confession for possession in connection with

a residential lease shall apply to actions commenced after the effective date set forth in the Order of the Supreme Court.

Official Note: The amendments to Rules 2970 and 2971 relate to the prohibition against the entry of a judgment by confession arising from a consumer credit transaction.

(b) The amendments promulgated in 1996 to the rules governing execution on a judgment entered by confession for possession shall apply to executions commenced after the effective date set forth in the Order of the Supreme Court.

Official Note: The amendments to Rules 2973.1 through 2973.3 and 2974.1 through 2974.3 relate to execution upon a judgment entered by confession and relief from the judgment.

Source

The provisions of this Rule 2975 rescinded December 14, 1979, effective February 1, 1980, 10 Pa.B. 31; amended April 1, 1996, effective July 1, 1996, 26 Pa.B. 1814. Immediately preceding text appears at serial page (146748).

Rule 2976. Suspension of Acts of Assembly. Abolition of Practice and Procedure Under Repealed Statutes.

The practice and procedure provided in all former Acts of Assembly governing confession of judgment, which have been repealed by the Judiciary Act Repealer Act (JARA), Act of April 28, 1978, No. 53, and which are now part of the common law of the Commonwealth by virtue of Section 3(b) of JARA, are hereby abolished and shall not continue as part of the common law of the Commonwealth.

Source

The provisions of this Rule 2976 rescinded and replaced December 14, 1979, effective February 1, 1980, 10 Pa.B. 31; amended April 1, 1996, effective July 1, 1996, 26 Pa.B. 1814. Immediately preceding text appears at serial page (146749).

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