

Commonwealth of Pennsylvania



Supreme Court of Pennsylvania
RULES COMMITTEES
601 Commonwealth Avenue, Suite 6200
P.O. Box 62635
Harrisburg, PA 17106-2635
(717) 231-9555
Fax: (717) 231-9536

February 11, 2019

The Honorable Donna Oberlander, Chair
House Republican Policy Committee
121 Main Capitol Building
Harrisburg, PA 17120-2063

Dear Representative Oberlander:

Thank you for the invitation to testify before the House Republican Policy Committee regarding the proposed amendments to Pennsylvania Rule of Civil Procedure Nos. 1006, 2130, 2156, and 2179. I understand the hearing is an opportunity for the Policy Committee to learn about the potential substantive impacts of the amendments, if adopted, in order to provide comments to the Civil Procedural Rules Committee.

Rules Committee members and staff do not speak publically about proposed rule changes in order to protect the deliberative process. The importance of this protocol is accentuated in this case because the Policy Committee is likely to provide comments to the Rules Committee based on information gathered at the hearing. In lieu of testifying on the merits of the contemplated change – which I am unable to do – I thought the Policy Committee would find it helpful to better understand the procedural rulemaking process.

Procedural rulemaking is a multistep process governed by Pennsylvania Rule of Judicial Administration No. 103(a). Generally, a Rules Committee first publishes a proposal for public comment. The proposal consists of draft rule text illustrating the proposal and an explanatory comment containing the premise or rationale for the proposal. The purpose of public comments is to inform the Rules Committee and test the proposed premise. The public is invited to challenge, oppose, supplement, or

concur with the proposed premise, as well as suggest refinement to the proposed rule text.

After the comment period concludes, a Rules Committee will convene to discuss the public comments and reconsider the proposal. Based upon public comments, the Rules Committee may abandon a proposal, make changes and republish a proposal, or recommend a proposal to the Supreme Court of Pennsylvania. Should a proposal be submitted to the Supreme Court, a report would be transmitted with the proposal detailing the Rules Committee's explanation of the proposal and discussing matters raised in the public comments.

If a proposal is recommended, the final step in the process is the Supreme Court's review of the recommendation. At that stage, the Supreme Court can reject the recommendation, return the recommendation for further consideration by the Rules Committee, or approve it with or without modification.

At this early stage in the rulemaking process, the Rules Committee is still receiving public comments and will do so until February 22, 2019. Therefore, the Rules Committee has not yet studied the premise and rule text in light of public comments. The final stage of the rulemaking process, the Supreme Court's review, will not occur unless and until the Rules Committee determines to submit a proposed change to the Court.

On behalf of the Civil Procedural Rules Committee, I appreciate every effort to inform fully the Rules Committee. Kindly send me the written results of the hearing and I will enter them into the record as a public comment and share them with the Rules Committee.

Respectfully submitted,



Daniel A. Durst
Chief Rules Committees Counsel

