

DIALOGUE

Fall 2009
VOL. 13, NO. 4

News and Perspectives from the ABA Division for Legal Services

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Pennsylvania's Notice to Defend Helps Clients, Lawyers, Courts and Lawyer Referral Service (LRS)

By Charles J. Klitsch

When a defendant first learns he is being sued, most jurisdictions provide him with little guidance. The first filing – whether it is called a summons, complaint or notice of suit – usually informs a defendant of the right to respond and the time limit for doing so. However, most jurisdictions provide a defendant with little or no information about hiring an attorney.

Pennsylvania is an exception. By court rule, all initial pleadings in every court and all subsequent claims filed against additional defendants in the same action must include a notice advising the opposing party of the availability of the lawyer referral service (LRS) to help the party find appropriate legal representation.

Pennsylvania Rules of Civil Procedure, Rule 1018.1 provides:

1018.1 Notice to Defend. Form.

(a) Every complaint filed by a plaintiff and every complaint filed by a defendant against an additional defendant shall begin with a notice to defend in substantially the form set forth in subdivision (b). No other notice to plead to a complaint shall be required.

(b)
[CAPTION]
Notice

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and

a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

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)

Official Note

The above notice does not change any of the rules relating to the pleading of objections and defenses.

This rule applies to all complaints including those where service is by publication. For the mandatory content of the publication in such cases see Rule 430(b). When a defendant is served outside the United States, Rule 1026(b) provides a sixty-day period for pleading.

(c) Each court shall by local rule designate the officer, organization, agency or person to be named in the notice from whom information can be obtained.

(d) A court may by local rule require the notice to be repeated in one or more designated languages other than English.

The local rule in all Pennsylvania jurisdictions requires that the office listed must be the lawyer referral service that serves the area. Monroe County Local Rule 1018.1 is typical, and provides:

“In accordance with Pa. R.C.P. 1018.1(c), the Monroe County Bar

Association Lawyer Referral Service, 913 Main Street, P.O. Box 786, Stroudsburg, Pennsylvania 18360 telephone (570)424-7288, is designated the agency to be named in the notice to defend and in any similar notice required by any other applicable Rule of Civil Procedure.”

An example of a “similar notice” would be a notice of the initiation of a divorce action. The language of that Notice to Plead includes information specific to domestic relations cases, but the last paragraphs of such notices are always the same as in Rule 1018.1, and direct parties to lawyer referral services for information about legal representation.

In counties with substantial numbers of Spanish speakers, such as Philadelphia and Dauphin (Harrisburg), local rules require the Notice to Plead to appear in both English and Spanish. This notice requirement has been in place in Pennsylvania for over thirty years and it has worked very well.

The courts benefit from the rule. Prior to the notice requirement, court offices were flooded with calls from defendants wanting to know what to do and whether they needed representation. Providing litigants with contact information for a local lawyer referral service has freed time of court office employees for other tasks.

Plaintiff’s lawyers also benefit. It is a simple requirement and minimizes the number of defendants who call their offices with inquiries about the legal dispute.

Defense lawyers like the rule because they perceive the language of the notice to encourage defendants to seek representation.

Defendants benefit from the plain language information contained in the notice and the guidance they receive in seeking counsel.

Finally, lawyer referral services benefit in two ways. First, the notice results in more calls and more referrals. Second, a court’s “stamp of approval” on a bar association lawyer referral service as the resource for finding legal help has the long term effect of bolstering the service’s reputation in the community.

Other jurisdictions can emulate Pennsylvania’s positive experience with the notice to plead requirement. The logistics may vary, as legislation may be required in some states and a change in court rules in others.

Any attempt to institute a notice requirement will take the coordinated effort of bar leaders, members of the bench and possibly key legislators. However, for bar associations, their lawyer referral services and the public, the effort is clearly worthwhile.



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