

**SUPREME COURT OF PENNSYLVANIA
CIVIL PROCEDURAL RULES COMMITTEE**

NOTICE OF PROPOSED RULEMAKING

Proposed Adoption of Pa.R.C.P. No. 202.1

The Civil Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the adoption of new Rule 202.1 governing representation of parties for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They will neither constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

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All communications in reference to the proposal should be received by **September 25, 2020**. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Civil Procedural Rules Committee,

John J. Hare
Chair

**SUPREME COURT OF PENNSYLVANIA
CIVIL PROCEDURAL RULES COMMITTEE**

PUBLICATION REPORT

The Civil Procedural Rules Committee is considering proposing new Rule 202.1 to govern representation of parties in the courts of common pleas. It is based on Allegheny County Local Rule 200 and would permit under certain parameters for a partnership, corporation or similar entity, or an unincorporated association to appear *pro se*.

In developing the proposed rule, the Committee initially examined a conflict in the case law concerning representation of incorporated entities in appeals from magisterial district courts. In *Jamestown Condominium, an unincorporated association v. Sofayov* (No. 2642 C.D. 2015, filed January 13, 2017), the Commonwealth Court determined that a general partner of a limited partnership who is not authorized to practice law could appear *pro se* on behalf of the limited partnership. The case was commenced in Allegheny County magisterial district court and the general partner, who was not a lawyer, appeared *pro se* on behalf of the limited partnership. Upon appeal to the court of common pleas, absent a statewide rule, Allegheny Local Rule 200 authorized a general partner of a limited partnership to appear *pro se* provided that the relief sought is within the jurisdictional limits of the magisterial district court.

However, in *David R. Nicholson Building, LLC v. Jablonski*, 163 A.3d 1048 (Pa. Super. 2017), the Superior Court determined that the sole member of a limited liability company could not appear *pro se* on behalf of his entity even in the case where the amount in controversy was within the jurisdictional limit of the magisterial district courts. This case was commenced in Union County magisterial district court. Upon appeal to the court of common pleas, no state or local rule permitted the limited liability company to appear *pro se*.

Additionally, the Committee observed that representation of partnerships, corporations, and unincorporated associations is already permitted by a non-lawyer in proceedings before the minor judiciary. In the magisterial district courts, Pa.R.C.P.M.D.J. No. 207 authorizes non-lawyers to represent individuals, partnerships, corporations, and unincorporated associations. The rule allows the representation of (1) individuals to include an authorized representative, (2) partnerships to include a partner, or employee or authorized agent of the partnership, and (3) corporations and unincorporated associations to be represented by an officer, employee, or authorized agent.

The Philadelphia Municipal Court also permits similar representation pursuant to Phila. M.C.R. Civ.P No. 131.

It was also reported to the Committee that some courts of common pleas are establishing housing courts. Many landlords are small incorporated businesses, who, even if incorporated, may represent themselves in the magisterial district courts pursuant to Pa.R.C.P.M.D.J. No. 207. Yet, on appeal of the same case from the minor judiciary to the court of common pleas, continuation of such representation is not currently permitted; an incorporated entity must then seek out representation by an attorney for the same matter adjudicated in the magisterial district court. A request was made to create continuity of representation in both the minor courts to the court of common pleas for these cases.

Finally, the Committee reviewed Allegheny County Local Rule 200. It authorizes a partner or officer to represent a partnership, corporation, or unincorporated association in the Court of Common Pleas of Allegheny County. Unlike Pa.R.C.P.M.D.J. 207 and Phila. M.C.R.Civ.P. No. 131, it is more limited. The local rule permits only a partner or an officer to represent a partnership, corporation, or unincorporated association. The local rule is also limited in scope. It applies only to (1) a civil action commenced in or appealed to the court of common pleas in which the relief sought does not exceed the jurisdictional limits of the magisterial district court, or (2) an appeal from a judgment entered in a magisterial district court for the recovery of the possession of real property.

Proposed new Rule 202.1 is intended to permit limited *pro se* representation of a partnership, a corporation or similar entity, or an unincorporated association. Such representation would be permitted only in appeals from the minor judiciary; no action could be initially commenced in the court of common pleas by a partnership, corporation or similar entity, or unincorporated association appearing *pro se*. Specifically, such representation would be permitted in an appeal of a civil action or a landlord-tenant action for the recovery of the possession of real property from (1) a magisterial district court provided the relief sought in the court of common pleas does not exceed the jurisdictional limit¹ of the magisterial district court, or (2) the Philadelphia Municipal Court provided the relief sought in the court of common pleas does not exceed the jurisdictional limit² of the Philadelphia Municipal Court.

The proposed rule would intentionally limit the relief sought in the court of common pleas to the jurisdictional limits of the minor judiciary to promote continuity of

¹ The current jurisdictional limit for civil actions in the magisterial district courts is \$12,000. See 42 Pa.C.S. § 1515(a)(3).

² The current jurisdictional limit for civil actions in the Philadelphia Municipal Court is \$12,000. See 42 Pa.C.S. § 1123(a)(4)

representation on the exact same case as well as to prevent a party from abusing proceedings before the minor judiciary as entrée to *pro se* representation in the court of common pleas to seek a greater relief.

Any and all representation pursuant to the rule would terminate at the conclusion of trial and would not extend to appellate proceedings.

Accordingly, the Committee invites all comments, objections, concerns, and suggestions regarding this proposed rulemaking.

Rule 202.1. Representation of Parties.

(a) *Individuals or Sole Proprietorships.* An individual or a sole proprietorship may represent themselves, or be represented by an attorney.

(b) *Partnerships, Corporations or Similar Entities, and Unincorporated Associations.* Except as provided in subdivision (c), a partnership, a corporation or similar entity, or an unincorporated association, shall be represented by an attorney. A corporation shall be represented by an attorney regardless of the amount in controversy if the action involves a dispute between shareholders or officers of the same corporation.

(c) *Pro Se Representation of Partnerships, Corporations or Similar Entities, and Unincorporated Associations.*

(1) A partnership, corporation or similar entity, or unincorporated association may be represented by a partner or officer in an appeal of a civil action for money damages or landlord-tenant action for the recovery of the possession of real property from:

(i) the Magisterial District Court, in which the relief sought in the court of common pleas does not exceed the jurisdictional limit of the Magisterial District Court; or

(ii) the Philadelphia Municipal Court, in which the relief sought in the court of common pleas does not exceed the jurisdictional limit of the Philadelphia Municipal Court; or

(2) Representation pursuant to this subdivision in the court of common pleas shall terminate at the conclusion of trial and shall not extend to appellate proceedings.

Note: See 42 Pa.C.S. § 1515(a)(3) for the jurisdictional limit in the magisterial district courts and 42 Pa.C.S. § 1123(a)(4) for the jurisdictional limit in the Philadelphia Municipal Court.

See Rules 2026 *et seq.* as to representation of minors and 2051 *et seq.* as to representation of incapacitated persons by guardians.