

## MINOR COURT PROCEDURAL RULES COMMITTEE ADOPTION REPORT

### Amendment of Pa.R.Civ.P.M.D.J. 301, 302, and 321 and Adoption of Pa.R.Civ.P.M.D.J. 350

On April 12, 2022, the Supreme Court amended Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges 301, 302, and 321 and adopted new Rule 350 (“Rules”). These rule changes relate to appeals from hearing officer adjudications of automated work zone speed enforcement system violations (“AWZSES”). The Minor Court Procedural Rules Committee (“Committee”) has prepared this Adoption Report describing the rulemaking process as it relates to these Rules. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, Comment. The statements contained herein are those of the Committee, not the Court.

Act 86 of 2018 (“Act”) authorized the use of automated work zone speed enforcement systems (“AWZSES”) in active work zones along the Pennsylvania Turnpike and “[f]ederal aid highways only under the jurisdiction of the [PennDOT].” See 75 Pa.C.S. § 3369(a). The Act also established civil penalties for a speeding offense in a highway work zone recorded by an AWZSES. When the AWZSES records a speeding violation in an active work zone, a system administrator (*i.e.*, agency vendor) will prepare and send a violation notice to the registered vehicle owner identified by the system. See *id.* § 3369(d). The vehicle owner may request a hearing before a hearing officer to contest the alleged violation. See *id.* § 3369(j)(1). The Act permits a vehicle owner to appeal the hearing officer’s decision before a magisterial district judge:

If the owner requests in writing that the decision of the hearing officer be appealed, the system administrator shall file the notice of violation and supporting documents with the office of the magisterial district judge for the magisterial district where the violation occurred, and the magisterial district judge shall hear and decide the matter *de novo*.

See *id.* § 3369(j)(4). PennDOT and the Pennsylvania Turnpike Commission (collectively, “agencies”) implemented AWZSES and it is operational. In anticipation of appeals from hearing officer determinations filed pursuant to 75 Pa.C.S. § 3369(j)(4), the Committee drafted Rule amendments to (1) clarify that Pa.R.Civ.P.M.D.J. 301–382 apply to AWZSES violation appeals; and (2) provide certain exceptions for these actions due to their unique nature as *de novo* appeals from hearing officer determinations. The Committee published a proposal relating to AWZSES appeals for public comment at 50 Pa.B. 3104 (June 27, 2020) and accepted comments through August 4, 2020. The Committee then made further revisions to the proposal based on feedback received.

The Committee published for public comment additional changes to the proposal at 51 Pa.B. 5596 (September 4, 2021). Rule 301 is amended to provide the Rules apply to AWZSES appeals, except as otherwise provided by new Rule 350. Rule 302 is amended to include AWZSES appeals to the list of actions with special venue provisions, as well as other amendments to enhance readability. Rule 321 is amended to add a cross-reference to new Rule 350(D)(2), providing exceptions to evidentiary requirements for AWZSES appeals. These amendments are nearly identical to the Rule amendments published in 2020.

New Rule 350 contains a special venue rule, evidentiary exceptions, and clarifies the nature of the parties and proceeding in an AWZSES violation appeal. New Rule 350 requires a vehicle owner appealing from a hearing officer determination to file a notice of appeal along with a copy of the hearing officer determination with the magisterial district court. The notice of appeal takes the place of a complaint as the initiating document in the civil action. The vehicle owner is the appellant in the action and the agency or its designee is the appellee. To the extent other procedural rules are applicable to these appeals, the parties may also be deemed the defendant and plaintiff, respectively. The vehicle owner is responsible for remitting the filing fee with the notice of appeal unless they concurrently file a petition to proceed *in forma pauperis* pursuant to Rule 206(E) (for a party without financial resources to pay the costs of litigation). Notably, the Act does not address the payment of court costs and fees for appeal to the magisterial district court from the determination of the hearing officer. Filing fees and court costs are established by statute. See, e.g., 42 Pa.C.S. §§ 1725.1(a)(1), 3733, and 3733.1. Currently, filing fees and courts costs in these actions are approximately \$96.00, not including service.

Finally, new Rule 350 provides that if the vehicle owner is successful on appeal, then they are entitled to recover taxable costs. While it may be unusual for a state agency or its designee to be a party in a civil matter in magisterial district court, the Legislature has designated the AWZSES appeals as civil rather than criminal actions. There are no provisions in the Act exempting the parties from filing fee requirements pursuant to 42 Pa.C.S. § 1725.1(a) or from the awarding of costs to a successful appellant pursuant to 42 Pa.C.S. § 1726. See also Pa.R.Civ.P.M.D.J. 206(B). Procedures for a prevailing litigant to enforce a judgment are set forth at Rules 401 *et seq.*

With respect to procedures for filing an appeal or writ of *certiorari* in these matters, the Comment to Rule 350 directs the reader to Rules 1001 *et seq.* An appeal from a judgment rendered by a magisterial district court should be made to the court of common pleas for the judicial district. See Pa.R.Civ.P.M.D.J. 1001 *et seq.* As provided by statute, “[e]xcept as otherwise prescribed by any general rule adopted pursuant to section 503 (relating to reassignment of matters), each court of common pleas shall have exclusive jurisdiction of appeals from final orders of the minor judiciary established within the judicial district.” See 42 Pa.C.S. § 932.

These amendments become effective October 1, 2022.