

Enforcement of Judgments for the Payment of Money

Local Rule 3121 Stay of Execution. Setting Aside Execution.

(1) **Notice.**

Notice shall be given to the party executing the judgment when application will be made for a stay of execution.

(2) **Delivery of Copy of Order Staying Execution to Sheriff.**

Orders staying execution, certified to be true and correct by the Prothonotary, an attorney or a party litigant, shall be provided to the Sheriff.

Note: When a writ of execution is stayed after the Sheriff has served or has attempted to serve the writ, poundage will be calculated based on the face amount of the writ unless the plaintiff files an affidavit within three business days the actual amount paid or to be paid to the plaintiff in cash or in kind as consideration for staying the writ or satisfying the judgment. If an affidavit is filed, the Sheriff's poundage will be calculated based on the consideration set forth in the affidavit.

Editor's Note: Effective December 4, 2006.

Local Rule 3129.2 Notice of Sale. Real Property.

(1) **Conditions of Sale in Notice.**

The following procedures and conditions of sale shall govern every Sheriff's sale of real estate, and shall be set forth in any published notice:

- (a) If the successful bidder at the sale is the plaintiff in the writ of execution upon which the real estate is being sold, the successful bidder shall pay the full amount of the purchase money to the Sheriff on or before the first Monday of the following month, unless the time is extended by the Court. Upon the failure of the successful bidder to so pay the purchase money, the Sheriff shall return the writ "real estate unsold," stating in the return that the sale was held pursuant to the writ, that the plaintiff was the successful bidder at the sale, and that the plaintiff failed to pay the bid and complete the sale. The plaintiff shall thereupon forfeit all moneys advanced on the writ, which moneys shall be applied by the Sheriff first to costs on the writ and then to liens in order of their priority.

- (b) If the successful bidder at the sale is not the plaintiff in the writ of execution upon which the real estate is being sold, and:
- (i) If the sale is held on the first Monday of the month, and an adjourned Sheriff's sale is held within six days thereafter, the successful bidder may pay either the full amount bid at the time of the sale or ten percent (10%) of the bid in cash (but not less than seventy-five dollars (\$75.00)), and thereafter pay the balance before the time of the adjourned sale. If the successful bidder fails to pay the balance before the time of the adjourned sale, the Sheriff shall resell the real estate at the adjourned sale, and the payment made at the original sale shall be applied by the Sheriff to any deficiency in the price at which the real estate is resold; or
 - (ii) If the sale is held on any day other than the first Monday of the month, the successful bidder shall pay the full amount bid at the time of sale, and upon failure of the successful bidder to do so, the Sheriff shall thereupon at that time resell the real estate.

(2) **Filings With the Sheriff Prior to Sale:**

All writs and copies of orders certified from the record by the Prothonotary directing judicial sales of real estate must be filed with the Sheriff in accordance with the policies of the Sheriff's office.

Note: As a matter of information, counsel should know that the Sheriff's office requires that the following be filed in the Sheriff's office prior to the sale:

- (a) The following must be filed with the Sheriff, along with the writs and copies of orders, not less than twenty-five days before the date of sale:
- (1) Original writ of execution
 - (2) One copy of writ of execution for each defendant*
 - (3) A stamped envelope addressed to each defendant*
 - (4) One self-addressed stamped envelope
 - (5) Affidavit of Compliance with Act 91 of 1983 or Affidavit of Inapplicability of Act 91 of 1983, as appropriate
 - (6) Affidavit of last known mailing address of the Defendant
 - (7) Affidavit Pursuant to Pa.R.Civ.P. 3129.1 (list of interested persons and entities)
 - (8) Notice of Sheriff's Sale
 - (9) Long description of the property (deed description)
 - (10) Three copies of Sheriff Form 56 (short description of property for newspaper advertising)

- (11) One short description in all CAPITAL LETTERS (for preparation of handbill), which must contain the signature, address and telephone number of the person presenting the writ or order.
- (12) Sheriff's Form 14 (Directions to post property with handbill. Include property street address, borough, municipality and ward.)
- (13) If Defendant(s) are to be served - a Notice of Sheriff's Sale for each Defendant and "Instructions to Sheriff" form for each Defendant, noting Defendant's name and address.

* Not required for mortgage foreclosure or tax sale.

(b) A copy of the return of service filed in accordance with Pa.R.Civ.P. 3129.2(c)(2) must be filed with the Sheriff not less than five days prior to the sale. The return of service must have the original returned mailing cards attached, if applicable.

(c) A deposit of money for costs and expenses is required.

Note: Sheriff's Forms and sample notices can be obtained from the Sheriff's office, 436 Grant Street, First Floor, Pittsburgh, PA 15219.

(3) Dates of Sales of Real Property.

Judicial sales of real estate shall be held on the second Monday of September and the first Monday of all other months. When any of the above dates falls on a legal holiday, the Judicial sales of real estate shall be held on the Tuesday following.

(4) Notice to Internal Revenue Service.

In any case where notice is required to be given to the Internal Revenue Service, in accordance with the provisions of the Federal Tax Lien Act of 1966, 26 U. S. C. § 7425(b) and (c), a copy of such notice, certified by counsel to be a correct copy and indicating the date of service upon or delivery to the Internal Revenue Service, shall be filed with the Prothonotary' prior to the date fixed for the sale.

Local Rule 3139 Notice of Sheriff's Return.

Postcard notice of the filing of the Sheriff's return shall be given by the Sheriff to the judgment debtor at the judgment debtor's last known address.

Editor's Note: Effective December 4, 2006.

Local Rule 3146 Judgment Against Garnishee Upon Default or Admission in Answer to Interrogatories.

- (1) The hearing to assess the amount of the judgment shall be scheduled before the Motions Judge. Written notice to the garnishee in the form provided by Pa.R.C.P. 3146(a)(2) shall be served in accordance with Pa.R.C.P. 440 at least twenty days prior to the scheduled hearing. The Plaintiff shall serve the garnishee with a copy to the Defendant. Service shall be evidenced by a certificate of service.
- (2) The agency to be named in the notice provided by Pa.R.C.P. 3146 shall be:

Lawyer Referral Service
Allegheny County Bar Association
11th Floor Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
Telephone: (412) 261-5555

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