

Confession of Judgment under current PA law

Rules 2950-2974.3 of the
Pennsylvania Rules of
Civil Procedure

Purposes of Confession

- Confession is permitted for a judgment for money under Rules 2950-2967, as long as confession is authorized in writing, the underlying transaction is not a consumer credit transaction, and the instrument is less than 20 years old.
- Confession is permitted for possession of real property under Rules 2970-2974.3, as long as confession is authorized in writing, and the underlying transaction is not a residential lease.

Confession for money

- May be filed under Rule 2951 by filing the ORIGINAL authorizing instrument, a certificate of residence of the plaintiff and the defendant, and an affidavit that no judgment is being taken on a consumer debt; provided that the instrument is less than 10 years old, the instrument does not require a default before judgment, and the amount of the debt can be determined from the face of the instrument. Otherwise, plaintiff must file a Complaint in the form provided by Rule 2952.

Contents of Complaint- 2952

- Names and address of parties
- Original instrument or copy which is certified to be true and correct reproduction of the original.
- No judgment against a natural person on a consumer credit transaction.
- Statement of any assignment.
- Statement of any other entry of judgment.
- Allegation of default if instrument requires.
- Itemized computation of damages.
- Demand for judgment as authorized.
- If instrument is 20 years old, leave of Court required.
- Signature and verification.

Other rules

- 2953-Successive actions if authorized, and may file for both money judgment and possession if authorized.
- 2954-Judgment in name of holder or assignee of the instrument.
- 2955-Complaint accompanied by Confession form under Rule 2962
- 2956-Judgment entered by Prothonotary
- 2956.1-Note need to conform confessed judgment if Goods or Services Installment Sale or before residential execution. Note need to service one of three separate notices-2958.1 or 2958.2 or 2958.3
- 2957-Procedure and form required for filing execution on a confessed judgment.

Rule 2958.1

- Notice in the form established by Rule 2964 must be served upon all Defendants 30 days prior to filing of a praecipe for writ of execution.
- Service by sheriff OR competent adult.
- Service by Plaintiff by certified mail under Rule 403.
- Service by special order of Court.
- Service by mail if Defendant has appeared.
- Return of service must be filed.

Rule 2958.2

- Covers confession of judgment filed with a writ of execution on real property or real property and personal property to be sold with the real property under UCC 9604(a).
- Notice in the form established by Rule 2965 must be served upon all Defendants 30 days prior to the Sheriff's sale.
- Sale governed by Rule 3129.2(c). Both notices must be served together.

Rule 2958.3

- Covers confession of judgment filed with a writ of execution on personal property or real property and personal property NOT subject to 2958.2(a)(2).
- Notice in the form established by Rule 2966 must be served upon all Defendants along with the writ of execution and the Rule 2967 form petition to strike the judgment. If petition filed, issue limited to knowing, intelligent, and voluntary waiver of judgment before hearing. Sheriff must notify Plaintiff and present the matter to the Court for hearing within three (3) business days. Stay pending hearing. If waiver voluntary, stay lifted. If not voluntary, judgment stricken.

Rule 2958.4

- If Plaintiff proceeds under 2958.1, may not thereafter switch to 2958.2 or 2958.3.
- Notice need not be given over again for subsequent executions if given once and defendant did not file a petition within thirty days of previous notice, or if defendant filed petition and the Court denied relief.

Rule 2959

- Relief from confessed judgment must be by petition, which state all grounds to open or strike judgment (except for ground of lack of voluntary waiver 2959(a)(2)).
- Must be filed with thirty (30) days of service of notice of confessed judgment.
- Plaintiff must file answer prior to return date for rule on petition.
- Defenses and objections not listed in petition and answer are waived.
- If evidence introduced sufficient to require that defenses be submitted to a jury at trial, judgment must be opened.

Rule 2960

- If judgment opened, issues raised in petition and answer go to trial without further pleading. Demand for jury trial must be filed within twenty (20) days of order opening judgment (see Rule 1007.1 if compulsory arbitration applies).

Confession for possession of real property

- May be filed under Rule 2970 if authorized by instrument, other than residential lease.
- Tracks rules for confession for money.
- Rule 2971 requires Complaint in the form established by Rule 2952, with a description of the property, and a demand for judgment.
- Complaint must be accompanied with a confession in the form established by Rule 2974.

Rule 2972

- If authorized by instrument, entry of judgment for money will not preclude judgment for possession.

Rule 2973.1

- Confessed judgment in ejectment enforced in the manner provided by Rule 3160.
- Praecipe for a writ of possession.
- If no petition to open or strike has been filed, notice must be served upon defendant either before execution (Rule 2973.2) or with the writ of possession (Rule 2973.3).

Rule 2973.2

- Notice in the form established by Rule 2974.2 must be served upon all Defendants 30 days prior to filing of a praecipe for a writ of possession.
- Service by sheriff OR competent adult.
- Service by Plaintiff by certified mail under Rule 403.
- Service by special order of Court.
- Service by mail if Defendant has appeared.
- Return of service must be filed.

Rule 2973.3

- Covers confession of judgment in ejectment filed with a writ of possession.
- Notice in the form established by Rule 2974.3 must be served upon all Defendants along with the writ of possession and the Rule 2967 form petition to strike the judgment. If petition filed, issue limited to knowing, intelligent, and voluntary waiver of judgment before hearing.
- Sheriff must notify Plaintiff and present the matter to the Court for hearing within three (3) business days. Stay pending hearing.
- If waiver voluntary, stay lifted. If not voluntary, judgment stricken.

Rule 2973.4

- If Plaintiff proceeds under 2973.2, may not thereafter switch to 2973.3.
- Notice need not be given over again for subsequent executions if given once and defendant did not file a petition within thirty days of previous notice, or if defendant filed petition and the Court denied relief