

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE: LOCAL RULE OF CIVIL PROCEDURE 41.1(a);
LOCAL RULE OF CIVIL PROCEDURE 53.2.7(B); and
LOCAL RULE OF CIVIL PROCEDURE 53.2.7(E)**

ORDER

AND NOW, this Fifth Day of April , 2004, in accordance with the unanimous resolution of the Judges of the Court on this date, it is hereby

ORDERED, that whereas this court has determined that there is a need to immediately amend Local Rule of Civil Procedure 41.1(a), that that rule is amended as set forth below, effective April 5, 2004, and that, pursuant to 28 U.S.C. §2071(e), there shall be a forty-five day period commencing on that date for purposes of Notice to the Bar and Public and Solicitation of Comment, and, it is further

ORDERED, that whereas this court has determined that there is a need to immediately amend Local Rule of Civil Procedure 53.2.7(B), that that rule is amended as set forth below, effective April 5, 2004, and that, pursuant to 28 U.S.C. §2071(e), there shall be a forty-five day period commencing on that date for purposes of Notice to the Bar and Public and Solicitation of Comment, and, it is further

ORDERED, that whereas this court has determined that there is an need to immediately abrogate Local Rule of Civil Procedure 53.2.7(E), that that rule is abrogated and shall not be replaced, effective April 5, 2004, and that, pursuant to 28 U.S.C. §2071(e), there shall be a forty-five day period commencing on this date for Notice to the Bar and Public and Solicitation of Comment.

BY THE COURT:

JAMES T. GILES
Chief Judge

Amendment to Local Rule of Civil Procedure 41.1(a)

(a) Whenever in any civil action the Clerk shall ascertain that no proceeding has been docketed therein for a period of more than one year immediately preceding such ascertainment, the Clerk shall send notice to counsel of record, or, if none, to the parties that the action shall be dismissed, unless the court upon written application filed within thirty (30) days from the date of such notice and upon good cause shown, shall otherwise order ~~the action shall be dismissed~~. In the absence of such application to or order by the court, the Clerk shall, without special order, enter upon the record

“dismissed, ~~without~~ with prejudice under Rule 41.1,” and shall, upon application by defendant, tax the costs against the plaintiffs.

Amendment to Local Rule of Civil Procedure 53.2.7(B)

B. Upon demand for a trial de novo ~~and the payment to the Clerk required by paragraph 7 (E) of this Rule~~, the action shall be placed on the trial calendar of the Court and treated for all purposes as if it had not been referred to arbitration. In the event it appears to the judge to whom the case was assigned that the case will not be reached for trial de novo within ninety (90) days of the filing of the demand for trial de novo, the judge shall request the Chief Judge to reassign the case to a judge whose trial calendar will make it possible for the case to be tried de novo within ninety (90) days of the filing of the demand for trial de novo. Any right of trial by jury which a party would otherwise have shall be preserved inviolate.

Amendment affecting Local Rule of Civil Procedure Rule 53.2.7(E): Local Rule of Civil Procedure 53.2.7(E) is abrogated in its entirety and nothing will replace it. For purposes of clarity, this amendment may be rotated in the local rules as follows:

~~E. — Upon making a demand for trial de novo, the moving party shall, unless permitted to proceed in forma pauperis, deposit with the Clerk of Court a sum equal to the arbitration fees of \$100.00 for each arbitrator as provided in Section 2. The sum so deposited shall be returned to the party demanding a trial de novo in the event that party obtains a final judgment, exclusive of interest and costs, more favorable than the arbitration award. In the event the party demanding a trial de novo does not obtain a judgment more favorable than the arbitration award, the sum so deposited shall be paid to the Treasury of the United States.~~