
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 406 Session of
2001

INTRODUCED BY GERLACH, WAUGH, CORMAN, M. WHITE, TOMLINSON,
THOMPSON AND EARLL, FEBRUARY 12, 2001

REFERRED TO JUDICIARY, FEBRUARY 12, 2001

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for sanctions
3 for dilatory, obdurate and vexatious pleadings.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 2503 of Title 42 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 2503. Right of participants to receive counsel fees.

9 (a) General rule.--The following participants shall be
10 entitled to a reasonable counsel fee as part of the taxable
11 costs of the matter:

12 (1) The holder of bonds of a private corporation who
13 successfully recovers due and unpaid interest, the liability
14 for the payment of which was denied by the corporation.

15 (2) A garnishee who enters an appearance in a matter
16 which is discontinued prior to answer filed.

17 (3) A garnishee who is found to have in his possession
18 or control no indebtedness due to or other property of the

1 debtor except such, if any, as has been admitted by answer
2 filed.

3 (4) A possessor of property claimed by two or more other
4 persons, if the possessor interpleads the rival claimants,
5 disclaims all interest in the property and disposes of the
6 property as the court may direct.

7 (5) The prevailing party in an interpleader proceeding
8 in connection with execution upon a judgment.

9 (6) Any participant who is awarded counsel fees as a
10 sanction against another participant for violation of any
11 general rule which expressly prescribes the award of counsel
12 fees as a sanction for dilatory, obdurate or vexatious
13 conduct during the pendency of any matter.

14 (7) Any participant who is awarded counsel fees as a
15 sanction against another participant for dilatory, obdurate
16 or vexatious conduct during the pendency of a matter.

17 (8) Any participant who is awarded counsel fees out of a
18 fund within the jurisdiction of the court pursuant to any
19 general rule relating to an award of counsel fees from a fund
20 within the jurisdiction of the court.

21 (9) Any participant who is awarded counsel fees because
22 the conduct of another party in commencing the matter or
23 otherwise was arbitrary, vexatious or in bad faith.

24 (10) Any other participant in such circumstances as may
25 be specified by statute heretofore or hereafter enacted.

26 (b) Dilatory, obdurate and vexatious pleadings.--

27 (1) By presenting to the court, whether by signing,
28 filing, submitting or later advocating, a pleading, written
29 motion or other paper, an attorney or unrepresented party is
30 certifying that to the best of the person's knowledge,

1 information and belief, formed after an inquiry reasonable
2 under the circumstances:

3 (i) it is not being presented for an improper
4 purpose, such as to harass or to cause unnecessary delay;

5 (ii) the claims, defenses and other legal
6 contentions therein are warranted by existing law or by a
7 good faith argument for the extension, modification or
8 reversal of existing law or the establishment of new law;

9 (iii) the allegations and other factual contentions
10 have evidentiary support or, if specifically so
11 identified, are likely to have evidentiary support after
12 a reasonable opportunity for further investigation or
13 discovery; and

14 (iv) the denials of factual contentions are
15 warranted on the evidence or, if specifically so
16 identified, are reasonably based on a lack of information
17 or belief.

18 If, after notice and a reasonable opportunity to respond, the
19 court determines a violation, the court may, subject to the
20 conditions stated in paragraphs (2) and (3), impose an
21 appropriate sanction upon the attorneys, law firms or parties
22 that are responsible for the violation.

23 (2) A motion for sanction under this subsection shall be
24 made separately from other motions or requests and shall
25 describe the specific conduct alleged to violate paragraph
26 (1). It shall be served as provided by rule, but shall not be
27 filed with or presented to the court unless, within 31 days
28 after service of the motion, or such other period as the
29 court may prescribe, the challenged paper, claim, defense,
30 contention, allegation or denial is not withdrawn or

1 appropriately corrected. If warranted, the court may award to
2 the party prevailing on the motion the reasonable expenses
3 and attorney fees incurred in presenting or opposing the
4 motion. Absent exceptional circumstances, a law firm shall be
5 held jointly responsible for violations committed by its
6 partners, associates and employees.

7 (3) On its own initiative, the court may enter an order
8 describing the specific conduct that appears to violate
9 paragraph (1) and directing an attorney, law firm or party to
10 show cause why it has not violated paragraph (1) with respect
11 thereto.

12 Section 2. This act shall take effect in 60 days.