

RULE [58] **408**. NOT GUILTY PLEAS - NOTICE OF TRIAL.

[(a)] (A) A defendant may plead not guilty by:

- (1) appearing before the issuing authority, entering the plea, and depositing such collateral for appearance at trial as the issuing authority shall require; or
- (2) notifying the issuing authority in writing of the plea and forwarding as collateral for appearance at trial an amount equal to the fine and costs specified in the citation, plus any additional fee required by law. If the fine and costs are not specified, the defendant shall forward the sum of \$50 as collateral for appearance at trial.

[(b)] (B) The issuing authority, upon receiving a plea of not guilty, shall:

- (1) fix a date and hour for trial;
- (2) notify the defendant and the law enforcement officer of the date and hour fixed for trial; and
- (3) advise the defendant that failure to appear for trial shall constitute consent to trial in the defendant's absence and if the defendant is found guilty, the collateral deposited shall be forfeited and applied toward the fine and costs, and the defendant shall have the right to appeal within thirty days for a trial *de novo*.

COMMENT: [Paragraph (a) of this rule is derived from previous Rules 52A2.(b)(i) and 54. Paragraph (b) of this rule replaces previous Rule 55.]

It is intended that the defendant will appear in person before the issuing authority to plead not guilty when the defendant cannot afford to deposit the amount of collateral specified in the citation or the \$50 when no amount is specified. A plea entered by mail must be accompanied by the full amount of collateral. See Rule [81] **452**. All checks deposited as collateral shall be made payable to the magisterial district number set forth on the citation.

When fixing the date and hour for trial, the issuing authority should determine whether the trial must be delayed because the defendant's criminal record must be ascertained prior to trial as specifically required by statute for purposes of grading the offense charged.

NOTE: Previous Rule 58, adopted September 18, 1973, effective January 1, 1974; amended to correct printing error June 28, 1976, effective immediately [.] ; rescinded July 12, 1985, effective January 1, 1986, and not replaced in the present rules. Present Rule 58 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; amended January 31, 1991, effective July 1, 1991 [.] ; **renumbered Rule 408 and amended March 1, 2000, effective April 1, 2001.**

* * * * *

COMMITTEE EXPLANATORY REPORTS:

Report explaining the January 31, 1991 amendments published at 20 Pa.B. 4788 (September 15, 1990); Supplemental Report published at 21 Pa. B. 621 (February 16, 1991).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at Pa.B. (, 2000).