

Chapter 12

Confessions of Judgment and Opening or Striking Confessed Judgments

12-1 INTRODUCTION

The confession of judgment for money is the means by which the holder of a note, or a person authorized by an agreement or instrument, such as a landlord or lender, can obtain a money judgment against the defendant without service of process and without having to comply with the same procedural requirements that would normally apply in a civil action. Confessions of judgment are void in some states, are subject to substantial limitations in other states, and are permitted in states authorizing a warrant of attorney in a signed instrument allowing confession of judgment without service of process.¹ Pennsylvania's practice in allowing the entry of judgments by confession has been held to be constitutional.²

Although Pennsylvania permits confessions of judgment, strict procedural requirements govern them. Because confession of judgment is a powerful tool, and because it effectively prevents the debtor from having her day in court, the power must be exercised fairly and with exacting precision.³ With respect to residential real property, a plaintiff may not levy, execute or garnish on the basis

¹ *Confessions of Judgment*, 102 U. of Pa. L. Rev. 524 (1954).

² *Jordan v. Fox, Rothschild, O'Brien & Frankel*, 20 F.3d 1250, 1270 (3d Cir. 1994).

³ *PNC Bank v. Bolus*, 655 A.2d 997, 1000 (Pa. Super. 1995).

of a confessed judgment until filing an appropriate action and proceeding to judgment as in any original action.⁴

Judgment may not be confessed against natural persons in connection with consumer credit transactions.⁵ A warrant of attorney to confess judgment is not enforceable against an assignee of a commercial lease because the assignee has not signed the original warrant of attorney.⁶

12-2 WARRANT OR POWER OF ATTORNEY

Examples of warrants of attorney are included in Appendix 12-2. As a general proposition, a warrant of attorney may not be used twice to confess a judgment, and once used, the power is exhausted.⁷ However, the parties are free to agree that multiple exercises of the warrant of attorney will be permitted.⁸

Severable portions of a debt can be collected with the use of a single warrant of attorney as each portion becomes due, provided that the instrument is not used to collect the same portion of the debt already confessed.⁹ The law does not permit a single warrant of attorney to be utilized to recoup a sum previously confessed but not recovered.¹⁰

12-3 PROCEDURE TO CONFESS JUDGMENT

An action for confession of judgment must be commenced by filing a complaint substantially in the form provided by Rule 2952.¹¹ However, if the instrument containing the warrant of attorney is more than 20 years old, or when the complaint lacks a copy of the

⁴ 41 P.S. § 407; *Higgins v. Pavidis*, 839 A.2d 445, 447 (Pa. Super. 2003); *Continental Bank v. Rosen*, 585 A.2d 49, 50 (Pa. Super. 1991) (“an elementary reading of the statute would suggest that the protections of the act apply to the attempted execution”).

⁵ Pa. R. Civ. P. 2950.

⁶ *Frantz Tractor Co., Inc. v. Wyoming Valley Nursery*, 120 A.2d 303, 305 (Pa. 1956); *JBG/ Rosenfeld Retail Props. v. Anspach*, 803 A.2d 783, 784 (Pa. Super. 2002).

⁷ *Atlantic Nat'l Trust, LLC v. Stivala Invs., Inc.*, 922 A.2d 919, 924 (Pa. Super. 2007). See also *Scott Factors, Inc. v. Hartley*, 228 A.2d 887, 888-89 (Pa. 1967); *B. Lipsitz Co. v. Walker*, 522 A.2d 562, 565 (Pa. Super. 1987); and *Continental Bank v. Tuteur*, 450 A.2d 32, 35 (Pa. Super. 1982).

⁸ Pa. R. Civ. P. 2953; *Atlantic Nat'l Trust, LLC v. Stivala Invs., Inc.*, 922 A.2d 919, 924 (Pa. Super. 2007).

⁹ *B. Lipsitz Co. v. Walker*, 522 A.2d 562, 566 (Pa. Super. 1987).

¹⁰ *B. Lipsitz Co. v. Walker*, 522 A.2d 562, 566 (Pa. Super. 1987); *Continental Bank v. Tuteur*, 450 A.2d 32, 36 (Pa. Super. 1982).

¹¹ Pa. R. Civ. P. 2951(a); Pa. R. Civ. P. 2952.

instrument bearing the defendant's signature, judgment may only be entered with leave of court after notice and the filing of the complaint.¹²

The complaint must contain the following: (1) the names and last known addresses of the parties; (2) the original or a photostatic copy or like reproduction of the instrument showing the defendant's signature, or if the original is not attached, an averment that the copy attached is a true and correct reproduction of the original, or if neither the original nor a reproduction can be attached, an explanation why they are not available; (3) an averment that judgment is not being entered by confession against a natural person in connection with a consumer credit transaction; (4) a statement of any assignment of the instrument; (5) either a statement that judgment has not been entered on the instrument in any jurisdiction or if it has been entered an identification of the proceedings; (6) if the judgment may be entered only after a default or the occurrence of a condition precedent, an averment of the default or of the occurrence of the condition precedent; (7) an itemized computation of the amount then due, based on matters outside the instrument if necessary, which may include interest and attorneys' fees authorized by the instrument; (8) a demand for judgment as authorized by the warrant; (9) if the instrument is more than 20 years old, or if the original or a photostatic copy or like reproduction of the instrument showing the defendant's signature is not attached to the complaint, an application for a court order granting leave to enter judgment after notice; and (10) signature and verification in accordance with the rules relating to a civil action.¹³

The complaint will neither contain a notice to defend nor be endorsed with a notice to plead, and no responsive pleading shall be required, even if the complaint contains a notice to defend or is endorsed with a notice to plead.¹⁴ A sample Complaint in Confession of Judgment is included as Appendix 12-3.

¹² Pa. R. Civ. P. 2951(b) and (c).

¹³ Pa. R. Civ. P. 2952(a).

¹⁴ Pa. R. Civ. P. 2952(b).

With the complaint, the plaintiff must file a confession of judgment substantially in the form provided by Rule 2962.¹⁵ The attorney for the plaintiff may sign the confession as attorney for the defendant unless a statute or the instrument containing the confession clause provides otherwise.¹⁶ A sample Confession of Judgment is also included in Appendix 12-3. The plaintiff must also provide the prothonotary or clerk of courts with a notice of judgment, along with properly stamped and addressed envelope(s) for purposes of notifying the defendant of the judgment by confession.¹⁷

Once the complaint and the confession of judgment are filed, the prothonotary or clerk of courts will enter judgment against the defendant in conformity with the confession of judgment.¹⁸ The prothonotary or clerk of courts must immediately give written notice of the judgment to the defendant via ordinary mail.¹⁹ The prothonotary or clerk of courts must also note in the docket that notice was given.²⁰

12-4 OPENING OR STRIKING CONFESSED JUDGMENT

A defendant must contest a confessed judgment by filing a petition to either “open” or “strike” the judgment. A defendant may not attack a confessed judgment collaterally in a separate or subsequent action.²¹ “Opening” a judgment is a remedy that addresses when the defendant has a valid defense on the merits to the plaintiff’s claim, and the reasons for denying judgment to the plaintiff do not appear on the face of the record.²² Opening a judgment can result in anything ranging from keeping the judgment in place, to reducing the amount of the judgment, to

¹⁵ Pa. R. Civ. P. 2955(a); Pa. R. Civ. P. 2962.

¹⁶ Pa. R. Civ. P. 2955(b).

¹⁷ Pa. R. Civ. P. 236(a)(1).

¹⁸ Pa. R. Civ. P. 2956.

¹⁹ Pa. R. Civ. P. 236(a)(1).

²⁰ Pa. R. Civ. P. 236(b).

²¹ *Magee v. J.G. Wentworth & Co., Inc.*, 761 A.2d 159, 162 (Pa. Super. 2000) (judgments by confession cannot be challenged through subsequent litigation when the rules provide mandatory procedures that are to apply within the context of confessed judgment proceedings expressed in Rule 2959).

²² 12 Standard Pennsylvania Practice 2d § 71:4.

denying judgment altogether due to a complete defense or set-off. “Striking” a judgment, on the other hand, is a remedy available when fatal defects appear on the face of the record, justifying the striking of the judgment from the docket as though it had not been entered.²³

12-4:1 Procedure – Petition to Open or Strike

Relief from a judgment by confession must be sought by petition.²⁴ All grounds for relief, whether to strike or to open, must be raised in a single petition.²⁵ Any defenses not included in the petition are waived.²⁶ The petition can be filed in the county where judgment was originally entered, in any county to which the judgment was transferred, or in any other county in which the sheriff has received a writ of execution directing him/her to enforce the judgment.²⁷

If the defendant has received notice of a confessed judgment it is important to act quickly. The petition must be filed within 30 days after service of the notice of execution called for by Rule 2956.1(c)(2).²⁸ If it is not filed timely, the petition will be denied absent “compelling reasons” for the delay.²⁹ To deny a petition

²³. 12 Standard Pennsylvania Practice 2d § 71:4.

²⁴. Pa. R. Civ. P. 2959(a)(1).

²⁵. Pa. R. Civ. P. 2959(a)(1).

²⁶. Pa. R. Civ. P. 2959(c); *Davis v. Woxall Hotel, Inc.*, 577 A.2d 636, 638-39 (Pa. Super. 1990).

²⁷. Pa. R. Civ. P. 2959(a)(1).

²⁸. Pa. R. Civ. P. 2959(a)(3); *Magee v. J.G. Wentworth & Co., Inc.*, 761 A.2d 159, 161 (Pa. Super. 2000).

²⁹. Pa. R. Civ. P. 2959(a)(2). The following are examples of cases in which the reasons for delay were found not to be compelling: *Keiper v. Keiper*, 494 A.2d 454 (Pa. Super. 1985) (debtor had been aware of judgment for almost three decades, his successor had offered no adequate excuse for delay in filing petition to open judgment, and revival had been consented to three times after it had been prematurely entered on debtor’s confession of judgment and which had been of record for 34 years without attack); *First Seneca Bank & Trust Co. v. Laurel Mountain Dev. Corp.*, 471 A.2d 875 (Pa. Super.), *aff’d*, 485 A.2d 1086 (Pa. 1984) (debtor failed to challenge confessed judgment until 28 months had elapsed, offered no reasonable explanation for delay, and plaintiff was prejudiced by being led to believe that debtor did not intend to question debt); *First Valley Bank v. Donatelli*, 421 A.2d 321 (Pa. Super. 1980) (petitioners waited three years after their claimed payments before attempting to open judgments and bank was prejudiced because it was required to rely upon judgment notes to recover monies which bankrupt corporation was obliged to pay); *Landis v. Richmond*, 378 A.2d 365 (Pa. Super. 1977) (no explanation for 17-month delay in filing petition to open was averred); *Triangle Bldg. Supplies & Lumber Co. v. Zerman*, 363 A.2d 1287 (Pa. Super. 1976) (delay of nearly seven years, to open a confessed judgment); *Canter v. Canter*, 357 A.2d 659 (Pa. Super. 1976) (debtors failed to act promptly by waiting nearly three years before filing their petition to open); *First Nat’l Bank of Allentown v. Stoudt*, 352 A.2d 162 (Pa. Super. 1975) (judgment debtor received notice of entry of

for unexplained delay must generally result in prejudice to the judgment creditor by reason of the delay.³⁰

A petition must specify the relief sought and state the material facts which constitute the grounds therefor.³¹ If the petition states prima facie grounds for relief the court will issue a “rule to show cause” and may grant a stay of proceedings.³² A sample “rule to show cause” is included in Appendix 12-4:1. A “rule to show cause” will direct the plaintiff/judgment holder to respond to the petition by a date certain. This is known as the “return date” of the rule. After being served with a copy of the petition the plaintiff/judgment holder must file an answer on or before the return date of the rule.³³

The hearing on the petition generally does not involve the testimony of live witnesses but the court may take such testimony if it wishes. The “rule to show cause” order will typically set a time period for depositions.³⁴ During this period, depositions may be taken to muster the evidence in support of, or in opposition to, the petition. Because generally the court

judgment by certified mail but did not open for over two years and had begun to voluntarily pay judgment); *Beck v. Frampton*, 62 Pa. D. & C.2d 110 (Philadelphia Co. 1973) (trustee in bankruptcy on behalf of bankrupt debtor did not file until five years after the judgment was entered).

The following are examples cases in which the reasons for the delay either were found to be compelling or the delay did not prejudice the plaintiff: *ESB Bank v. McDade*, 2 A.3d 1236 (Pa. Super. 2010) (40-month delay not unreasonable where creditor never sought to execute, debtor had no knowledge of creditor’s intent to utilize judgment as additional security for unrelated mortgages, creditor failed to identify residential property in complaint or notice of confessed judgment, and creditor certified that judgment was not being entered in connection with a consumer credit transaction); *Lincoln Bank v. C & H Agency, Inc.*, 456 A.2d 136 (Pa. 1982) (where the underlying debt on which judgments had been confessed was already satisfied, judgments were nullities and no prejudice resulted from delay); *Citizens Nat’l Bank of Evans City v. E. H. Bilowich Const. Corp.*, 449 A.2d 644 (Pa. Super. 1982) (petition to open not untimely with respect to wife-defendant where, although not filed until two years and 11 months following entry of judgment, signature of wife on judgment note had been forged and wife was not aware of forgery until time petition was filed); *Hennemuth v. Drann*, 19 Pa. D. & C.3d 115 (Lackawanna Co. 1980) (delay of 18 months in filing petition to open not unreasonable where one defendant was unaware of the judgment note’s existence until sheriff posted a levy notice and she never signed any of the documents in question); *Continental Bank v. Molinari*, 11 Pa. D. & C.3d 168 (Philadelphia Co. 1979) (petition to open filed with reasonable promptness less than three months after the entry of judgment and after attempts to settle).

³⁰. *See id.*

³¹. Pa. R. Civ. P. 206.1.

³². Pa. R. Civ. P. 2959(b).

³³. Pa. R. Civ. P. 2959(b).

³⁴. *See* Appendix 12-4:1.

does not hear live testimony to resolve the petition, but rather relies on deposition testimony, admissions, and other evidence, if any, it may be incumbent upon counsel for the defendant/petitioner to take the deposition of her own client and/or other supporting witnesses for submission to the court.³⁵ Similarly, if the plaintiff/respondent wishes to avoid opening the judgment, she must depose the witness(es) whose testimony supports denial of the petition.

In a jury trial, if evidence is produced that would require the issues to be submitted to the jury, the court must open the judgment.³⁶ If a judgment is opened in whole or in part, the issues to be tried are defined by the complaint if a complaint has been filed and by the petition, answer, and the order of the court opening the judgment.³⁷ No further pleadings may be filed.³⁸ The right to a jury trial on the opened judgment is waived unless a party files and serves a written demand for jury trial within 20 days after the order opening judgment.³⁹

12-4:2 Grounds for Opening or Striking Judgment

The entry of a valid judgment by confession can be accomplished only by strict adherence to the provisions of the warrant of attorney. Any doubt as to the validity of such a judgment must be resolved against the party entering the judgment.⁴⁰ If a defendant wishes to challenge any of the facts alleged in the complaint that would require going beyond the face of the record, the proper procedure is to petition to open.⁴¹ On the other hand, a motion to strike a judgment operates as a

³⁵ *Fourtees Co. v. Sterling Equip. Corp.*, 363 A.2d 1229, 1233 (Pa. Super. 1976) (where answer to petition to open or strike judgment is filed by plaintiff, the averments set forth in the plaintiff-respondent's answer must be accepted as true if the defendant proceeds without taking deposition; but, if depositions are taken, then court proceeds to a consideration of the case on the petition, answer and depositions).

³⁶ Pa. R. Civ. P. 2959(e).

³⁷ Pa. R. Civ. P. 2960.

³⁸ Pa. R. Civ. P. 2960.

³⁹ Pa. R. Civ. P. 2960.

⁴⁰ *Scott Factors, Inc. v. Hartley*, 228 A.2d 887, 888 (Pa. 1967); *Centennial Bank v. Germantown-Stevens Acad.*, 419 A.2d 698, 699 (Pa. Super. 1980); *Florida Crab House, Inc. v. Hake*, 393 A.2d 801, 803 (Pa. Super. 1978).

⁴¹ *Manor Bldg. Corp. v. Manor Complex Assocs., Ltd.*, 645 A.2d 843, 848 (Pa. Super. 1994).

demurrer to the record and will only be granted if a fatal defect or irregularity appears on the face of the record or judgment.⁴² The defect which is a matter of record or which appears from the face of the judgment must be alleged in the petition.⁴³

The complaint and confession of judgment clause must be read together to determine whether there are defects on the face of the record.⁴⁴ The facts averred in the complaint are to be taken as true for purposes of a motion to strike. If the factual averments are disputed, the remedy is by a proceeding to open the judgment and not a motion to strike.⁴⁵

12-4:2.1 Absence of Authority

If the entry of judgment authorized by the confession clause is conditioned on the occurrence of default, the failure of the complaint to plead that a default has occurred is a defect apparent on the face of the record and the judgment is subject to be stricken.⁴⁶ However, the complaint will be read as a whole; if the default is adequately alleged, the judgment will not be stricken.⁴⁷

In one case filed by a landlord based on a default for failure to pay for repairs, a confessed judgment was stricken because the warrant did not authorize a judgment for an estimate of repairs not made, nor did it authorize a confession of judgment for unspecified, general repairs in an amount believed necessary by the lessor.⁴⁸ Rather, a judgment for the cost of repairs was authorized only if supported by an expense actually incurred for repairs made by the lessor.⁴⁹

⁴². *Manor Bldg. Corp. v. Manor Complex Assocs., Ltd.*, 645 A.2d 843, 846 (Pa. Super. 1994).

⁴³. *Manor Bldg. Corp. v. Manor Complex Assocs., Ltd.*, 645 A.2d 843, 846 (Pa. Super. 1994).

⁴⁴. *Parliament Indus., Inc. v. Wm. H. Vaughan & Co.*, 459 A.2d 720 (Pa. 1983); *Manor Bldg. Corp. v. Manor Complex Assocs., Ltd.*, 645 A.2d 843, 846 (Pa. Super. 1994).

⁴⁵. *Manor Bldg. Corp. v. Manor Complex Assocs., Ltd.*, 645 A.2d 843, 846 (Pa. Super. 1994); *Van Arkel & Moss Props., Inc. v. Kendor, Ltd.*, 419 A.2d 593, 595 (Pa. Super. 1980).

⁴⁶. *Dameron v. Woods Rest., Inc.*, 451 A.2d 681, 683 (Pa. Super. 1982).

⁴⁷. *Dameron v. Woods Rest., Inc.*, 451 A.2d 681, 683 (Pa. Super. 1982).

⁴⁸. *Langman v. Metro. Acceptance Corp.*, 465 A.2d 5, 7 (Pa. Super. 1983).

⁴⁹. *Langman v. Metro. Acceptance Corp.*, 465 A.2d 5, 7 (Pa. Super. 1983).

12-4:2.2 Defense to Merits of Judgment Holder’s Claim

The facts which entitle the plaintiff to confess judgment must be filed of record or the judgment will be stricken.⁵⁰ Further, only the real party in interest may confess judgment.⁵¹ Where the party against whom judgment is being entered was not the party who originally signed the confession and warrant of attorney, such as a successor corporation, the liability of the defendant must be self-sustaining from the record, or the basis of successor liability must be adequately alleged in the complaint.⁵² A commercial lessee will not be bound by a warrant of attorney to confess judgment in the original lease agreement where the lessee was an assignee who did not sign the original lease, even though the lessee, in the assignment, agreed to assume all responsibilities and duties of the lease.⁵³ However, an unliquidated counterclaim or set-off cannot be asserted as a ground for opening a confessed judgment.⁵⁴

12-4:2.3 Improper Amount

If the amount confessed clearly includes charges outside the warrant of confession the judgment will be stricken.⁵⁵ With respect to the amount due, the plaintiff need only aver a default and allege the amounts due.⁵⁶ Unless it is evident from the face of the instrument that the judgment is grossly excessive or includes amounts not authorized by the instrument, a challenge to the accuracy of such amounts should be resolved by a petition to open the judgment.⁵⁷

The itemization contemplated by Rule 2952 permits the listing of the principal amount due in one lump sum.⁵⁸

⁵⁰ *Fourtees Co. v. Sterling Equip. Corp.*, 363 A.2d 1229 (Pa. Super. 1976).

⁵¹ *Fourtees Co. v. Sterling Equip. Corp.*, 363 A.2d 1229 (Pa. Super. 1976).

⁵² *Centennial Bank v. Germantown-Stevens Acad.*, 419 A.2d 698, 699 (Pa. Super. 1980) (warrant of attorney must be self-sustaining, must be in writing, and must be signed by the person to be bound by it, not foisted upon anyone by implication or by a non-specific reference).

⁵³ *JBG/Rosenfeld Retail Props. v. Anspach*, 803 A.2d 783 (Pa. Super. 2002).

⁵⁴ *Nadolny v. Scoratow*, 195 A.2d 87, 89 n.4 (Pa. 1963); *Hopewell Estates, Inc. v. Kent*, 646 A.2d 1192, 1195 (Pa. Super. 1994).

⁵⁵ *PNC Bank v. Bolus*, 655 A.2d 997, 998-99 (Pa. Super. 1995).

⁵⁶ *Van Arkel & Moss Props. v. Kendor, Ltd.*, 419 A.2d 593, 595 (Pa. Super. 1980).

⁵⁷ *Van Arkel & Moss Props. v. Kendor, Ltd.*, 419 A.2d 593, 595 (Pa. Super. 1980); *J.F. Realty Co. v. Yerkes*, 398 A.2d 215, 217-18 (Pa. Super. 1979).

⁵⁸ *Davis v. Woxall Hotel, Inc.*, 577 A.2d 636 (Pa. Super. 1990).

12-4:2.4 Procedural Irregularities in Confessing Judgment

Sometimes procedural irregularities can justify striking a judgment. However, the court must determine whether an error is technical or prejudicial.⁵⁹ The courts tend to overlook formal defects where no prejudice results to the defendant. For example, a failure by the plaintiff's attorney to sign the complaint was overlooked where an affidavit was attached to the complaint, was properly signed and notarized, and no prejudice resulted to the defendant.⁶⁰ Where the second page of a lease was inadvertently omitted from the complaint and where an amendment was made part of the official record, no prejudice resulted to the defendant.⁶¹

Formal defects, mistakes, and omissions in confessions of judgment may be corrected by amendment where the cause of action is not changed, where the ends of justice require the allowance of such amendment, and where the substantive rights of defendant or of any third persons will not be prejudiced thereby.⁶² A verification signed by the plaintiff's attorney, rather than by the plaintiff, was not of sufficient magnitude to justify striking a confessed judgment.⁶³ On the other hand, one court refused to allow a plaintiff to file a complaint nunc pro tunc because it affected the substantial due process rights of the defendant.⁶⁴

12-5 ENFORCING CONFESSED JUDGMENT

Except as provided in Rule 2956.1 (b) and (c),⁶⁵ confessed judgments are enforced in the same way as a judgment obtained in a civil action.⁶⁶ Depending on the type of notice given to the defendant, execution could be delayed by at least 30 days.⁶⁷ If a petition to open or strike has been filed by the defendant, then

^{59.} *Atlantic Nat'l Trust, LLC v. Stivala Invs., Inc.*, 922 A.2d 919, 923 (Pa. Super. 2007).

^{60.} *Associates Commercial Corp. v. Johnson & Morgan Contractors*, 19 Pa. D. & C.3d 387, 390 (Centre Co. 1981).

^{61.} *Provo Leasing Corp. v. Safin*, 402 A.2d 510, 512 (Pa. Super. 1979)

^{62.} *George H. Althof, Inc. v. Spartan Inns of Am., Inc.*, 441 A.2d 1236, 1238 (Pa. Super. 1982).

^{63.} *George H. Althof, Inc. v. Spartan Inns of Am., Inc.*, 441 A.2d 1236, 1238 (Pa. Super. 1982).

^{64.} *Citizens Nat'l Bank of Evans City v. Rose Hill Cemetery Ass'n of Butler*, 281 A.2d 73, 75 (Pa. Super. 1971)

^{65.} Pa. R. Civ. P. 2956.1 (b) and (c).

^{66.} Pa. R. Civ. P. 2956.1(a) and (c)(2)(i).

^{67.} Pa. R. Civ. P. 2956.1 (c)(2)(ii) and (iii).

execution may not commence until the petition has been decided.⁶⁸ However, the lien of the judgment or of any levy or attachment is preserved while the proceedings to strike off or open the judgment are pending.⁶⁹ Timely filing of the petition to strike and/or open means within 30 days from a notice of execution.⁷⁰

Assuming no petition to open or strike has been filed, and further assuming that the confession did not arise from a retail installment sale, contract, or account under the Goods and Services Installment Sales Act,⁷¹ execution is commenced by filing a special Praecipe for Writ of Execution that specifically applies to confessed judgments,⁷² and must provide written notice to the defendant pursuant to Rules 2958.1, 2958.2, or 2958.3.⁷³ The notice may be given prior to execution under Rule 2958.1 or as part of the execution process under Rule 2958.2 or 2958.3, whichever is applicable. Notice prior to execution under Rule 2958.1 may be given in all cases. However, the notice served with the notice of sale of real property under Rule 2958.2 is limited to execution upon real property or real property and personal property subject to section 9501(d) of the Uniform Commercial Code.⁷⁴ The notice served with the writ of execution under Rule 2958.3 is limited to an execution upon personal property or personal and real property.⁷⁵

Written notice under subdivision (c)(2) is required only in connection with execution proceedings and is in addition to the procedural requirements of Rule 3101 et seq.⁷⁶ The notice is in addition also to the notice of the entry of the judgment given by the prothonotary under Rule 236.⁷⁷

⁶⁸. Pa. R. Civ. P. 2956.1(c).

⁶⁹. Pa. R. Civ. P. 2959(f).

⁷⁰. *Magee v. J.G. Wentworth & Co., Inc.*, 761 A.2d 159, 161 (Pa. Super. 2000).

⁷¹. 69 P.S. § 1101, et seq. This statute only protects persons who purchase personal property or services on installment credit for family or personal use, as distinguished from business users. See *Butera v. Atlantic Richfield Co.*, 63 Pa. D. & C.2d 232, 234 (Montgomery Co. 1973). A rental contract can qualify for protection where the customer, at his/her option, can become the owner of the product once he/she had fulfilled the terms of the contract. *Commonwealth v. Riverview Leasing, Inc.*, 648 A.2d 580 (Pa. Commw. 1994).

⁷². Pa. R. Civ. P. 2956.1(c)(1); Pa. R. Civ. P. 2957.

⁷³. Pa. R. Civ. P. 2956.1(c).

⁷⁴. See Notes to Pa. R. Civ. P. 2956.1.

⁷⁵. See Notes to Pa. R. Civ. P. 2956.1.

⁷⁶. See Notes to Pa. R. Civ. P. 2956.1.

⁷⁷. See Notes to Pa. R. Civ. P. 2956.1.

Other than as described above, the process for collecting a judgment for money by confession is generally as described in Chapter 17.