

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE: AMENDMENTS TO RULES 143 AND 144 OF THE COURT OF CHANCERY RULES, TITLE XIV

This 14th day of November 2024, IT IS HEREBY ORDERED that the Court of Chancery Rules, Title XIV are revised to amend Rules 143 and 144 as follows effective December 9, 2024.

Rule 143 is amended as follows:

Rule 143. Standing Magistrates in Chancery

The Chancellor may designate an attorney admitted to practice by the Delaware Supreme Court as a Magistrate in Chancery. A Magistrate in Chancery serves at the pleasure of the Chancellor. A Magistrate in Chancery must not otherwise engage in the practice of law.

Comment

In 2024, Rule 143 was revised to clarify the Chancellor's authority to appoint Magistrates in Chancery.

No substantive change in the interpretation of the rule was intended, and prior Delaware authorities interpreting the rule remain applicable.

Rule 144 is amended as follows:

Rule 144. Magistrate in Chancery Reports

(a) Case Assignment. The Chancellor may assign to a Magistrate in Chancery any action or dispute that a Chancellor or Vice Chancellor can hear.

(1) *Referred Action.* The Chancellor may assign a civil action to a Magistrate in Chancery.

(2) *Referred Dispute.* The Chancellor may assign a specific dispute within a civil action to a Magistrate in Chancery.

(3) When an action or dispute is assigned to a Magistrate in Chancery, the Rules of this Court apply as modified by Rule 144.

(b) Reports.

(1) A Magistrate in Chancery may issue any rulings, orders, or decisions necessary or convenient to bring the referred action or dispute to a conclusion. Any ruling, order, or decision by a Magistrate in Chancery is a "Report." A Magistrate in Chancery may issue any Report orally on the record or in writing.

(2) A Report must be filed on the docket and include factual findings and legal rulings sufficient to support the Report and permit de novo review by the Chancellor or a Vice Chancellor (a "Reviewing Judge"). A Report that concludes a referred action or dispute is a "Final Report."

(3) Before issuing a Report, a Magistrate in Chancery may issue the Report as a draft (a "Draft Report"). Unless denominated as a draft, a Report is not a Draft Report. A Draft Report may be provided orally on the record or in writing. The Magistrate in Chancery may modify the Draft Report in response to exceptions or as the Magistrate in Chancery deems appropriate.

(c) Exceptions.

(1) *Exceptions to a Draft Report.*

(A) A Magistrate in Chancery hears exceptions to a Draft Report and may address the exceptions in the Report.

(B) If a Magistrate in Chancery issued a Draft Report, then a party may only take exceptions to a Report that (i) were timely filed exceptions to the Draft Report and disallowed or (ii) address differences between the Draft Report and the Report.

(2) *Exceptions After a Final Report.*

(A) *Exceptions in a Civil Action Other Than on the Civil Miscellaneous Docket.* A party may take exceptions to any Report only after entry of the Final Report. If no party timely files a notice of exceptions after entry of a Final Report, then the Chancellor will adopt the Final Report and all prior Reports as orders of the Court. If a party timely files a notice of exceptions to a Final Report or any prior Report, then the Chancellor will assign a Reviewing Judge to hear the exceptions.

(B) *Exceptions in an Action on the Civil Miscellaneous Docket.* In an action on the civil miscellaneous docket, a party may take exceptions to any Report following the issuance of such Report. The schedule for such exceptions is governed by Rule 144(d)(4). If no party timely files a notice of exceptions after entry of a Report granting an uncontested petition, the Report shall be deemed adopted in its entirety as an order of the Court, and shall have the same effect as though issued by a Chancellor or Vice Chancellor, as of the date it was issued by the Magistrate in Chancery, nunc pro tunc.

(3) *Procedural Review of Exceptions to a Report.*

(A) A Reviewing Judge may order a procedural review of exceptions to a Report to determine whether the exceptions comply with Rule 144. If a Reviewing Judge orders a procedural review, then briefing on exceptions to the Report shall be stayed until the Magistrate in Chancery issues a Report on procedural review.

(B) A Magistrate in Chancery conducts the procedural review and files a Report recommending whether the exceptions comply with Rule 144 and, if the exceptions do not comply with Rule 144, whether the exceptions should be heard despite the procedural deficiency.

(C) A party may take exceptions to a Magistrate in Chancery's Report on procedural review.

(D) The Reviewing Judge may hear the exceptions despite the Magistrate in Chancery's recommendation on procedural review.

(d) Schedule for Exceptions.

(1) *Actions That Are Not Summary or Expedited.* A party taking exceptions must file a notice of exceptions within 11 days of the date of the Final Report or Draft Report. The party taking exceptions must file an opening brief in support of the exceptions within 20 days after filing the notice of exceptions. Any party opposing exceptions may file an answering brief within 20 days after the filing of the opening brief. The party taking exceptions may file a reply brief within 15 days after the filing of the answering brief.

(2) *Summary and Expedited Actions and Disputes.* A party taking exceptions must file a notice of exceptions within three days of the date of the Final Report or Draft Report. The parties must submit a proposed briefing schedule on exceptions to the Reviewing Judge within five days after the notice of exceptions is filed.

(3) *Withdrawing Exceptions.* If the party taking exceptions fails to file a timely opening brief, then the notice of exceptions is deemed withdrawn and the Reviewing Judge will enter an order adopting the Report.

(4) *Civil Miscellaneous Docket.* A party taking exceptions to a Report entered in an action on the Civil Miscellaneous Docket must file a notice of exceptions within 11 days of a Report or Draft Report, except that a party taking exceptions to a Report or Draft Report addressing an uncontested petition, or for which the Magistrate in Chancery has expedited exceptions, must file a notice of exceptions within three days of the Report or Draft Report and proceed under Rule 144(d)(2).

(e) Record for Taking Exceptions. The Reviewing Judge hears exceptions based on the record before the Magistrate in Chancery, unless the Reviewing Judge determines to expand the record for good cause shown.

(f) Motion for Reargument or Clarification. Any party may move for reargument or clarification under Rule 59(f) of any Report except a Draft Report. The Magistrate in Chancery hears motions filed under Rule 59(f).

(g) Agreements for Voluntary Final Adjudication Before a Magistrate in Chancery under 10 *Del. C.* § 350; Voluntary Waiver of Appeal by Parties under 10 *Del. C.* § 351.

(1) The parties to any referred action may stipulate to a final adjudication of any action or dispute by a Magistrate in Chancery, with the effect that a report shall have the same effect as a decision of the Chancellor or a Vice Chancellor. Appeals in actions governed by a stipulation entered under Rule 144(g) shall be determined in all respects by the same procedural and substantive standards as are applicable to appeals from decisions of the Chancellor or a Vice Chancellor of the Court of Chancery. Any stipulation must be filed with the Register in Chancery and include language substantially in the following form:

(A) the parties agree to submit this action to a Magistrate in Chancery for a final decision under 10 *Del. C.* § 350 and Court of Chancery Rule 144(g);

(B) the parties waive the right to seek judicial review of the Magistrate in Chancery's decision at the trial court level;

(C) the parties agree that the Magistrate in Chancery's final decision will constitute a decision of the Court of Chancery; and

(D) the parties confirm their understanding that any appeal from the decision will be subject to the same procedural and substantive standards as are applicable to appeals from decisions of the Chancellor or a Vice Chancellor.

(2) The parties in any action or dispute assigned to a Magistrate in Chancery may stipulate that the decision of the Magistrate in Chancery shall be final and binding and not subject to appeal. Any stipulation must be filed

with the Register in Chancery and include language substantially in the following form:

The parties agree under 10 *Del. C.* § 351 that the Report of the Magistrate in Chancery shall be final and binding and not subject to appeal.

Comment

In 2024, Rule 144 was revised to align its structure and language with other provisions of the Court of Chancery Rules. In addition, certain revisions were made to the procedures provided for in the rules.

The revision makes the following changes:

Rules 144(a)(1)-(2) clarify that the Chancellor may assign to a Magistrate in Chancery a civil action or a specific dispute within a civil action.

Rule 144(a)(3) clarifies that when an action or dispute is referred to a Magistrate in Chancery, the Court of Chancery Rules, as modified by Rule 144, apply in such proceeding.

Rules 144(b)(1)-(3) clarify the nomenclature used when a Magistrate in Chancery issues rulings.

Rule 144(c)(1)(A) authorizes Magistrates in Chancery to hear and decide exceptions to a Draft Report.

Rule 144(c)(1)(B) prohibits parties from taking exceptions to a Report where that party failed to take timely exceptions to a draft form of that Report.

Rule 144(c)(2)(A) provides that in a civil action other than those on the civil miscellaneous docket, a party may take exceptions only after entry of a Final Report. Rule 144(c)(2)(A) also establishes a deadline for filing such exceptions.

Rule 144(c)(2)(B) provides that in an action on the civil miscellaneous docket, a party may take exceptions to any Report without waiting for a Final Report to be issued.

Rule 144(c)(2)(B) also establishes a deadline for filing such exceptions.

Rule 144(c)(3) codifies the Court's current procedure for reviewing exceptions to a Report to determine whether the exceptions comply with Rule 144.

Rule 144(c)(3)(A) establishes the authority of a Reviewing Judge to order a procedural review of exceptions to a Report by a Magistrate in Chancery.

Rule 144(c)(3)(B) was added to authorize a Magistrate in Chancery to conduct a procedural review and to issue a Report recommending whether the exceptions comply with Rule 144.

Rule 144(c)(3)(C) clarifies that parties may take exceptions to a Magistrate in Chancery's Report addressing procedural review.

Rule 144(c)(3)(D) clarifies that the Reviewing Judge may hear exceptions even if the Magistrate in Chancery has concluded that the exceptions should be dismissed for failure to comply with Rule 144.

Rules 144(d)(1)-(2) provide that, for civil actions other than those on the civil miscellaneous docket, the time for taking exceptions does not begin until after the Magistrate in Chancery has issued a Final Report that concludes a referred action or dispute. Under the prior Rule 144, parties could file exceptions to any non-draft Report in a non-expedited matter within 11 days of entry of the Report and could file exceptions to any non-draft Report in an expedited matter within three days of entry of the Report, unless the exceptions period was stayed. The combined effect of the revisions to Rule 144(b)(2) and Rule 144(d)(1)-(2) is to stay the period for filing exceptions until the matter before the Magistrate in Chancery has concluded, at which point any party may file exceptions to any Report previously issued by the Magistrate in Chancery. If no party timely files exceptions, the Chancellor will adopt the Final Report and all prior Reports as orders of the court.

Rule 144(d)(3) clarifies that parties that fail to file timely opening briefs in support of filed exceptions are deemed to have withdrawn the exceptions.

Rule 144(d)(4) establishes the period for filing exceptions in an action on the civil miscellaneous docket.

Rule 144(e) clarifies that the Reviewing Judge hears exceptions based on the record established before the Magistrate in Chancery and that the Reviewing Judge may permit expansion of the record for good cause.

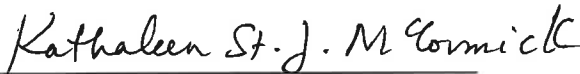
Rule 144(f) confirms that any party may move for reargument or clarification of a Magistrate in Chancery's Report under Rule 59(f).

Rule 144(g)(1) provides litigants with proposed language to stipulate to a final adjudication of any action or dispute before a Magistrate in Chancery.

Rule 144(g)(2) provides litigants with proposed language to stipulate that the decision of the Magistrate in Chancery shall be final and binding and not subject to appeal.

Otherwise, no substantive change in the interpretation of the rule is intended, and prior Delaware authorities interpreting the rule remain applicable.

FOR THE COURT:


Kathaleen St. Jude McCormick
Chancellor