

Book VII.
Title LVII.

That warnings, letters, edicts, orders (subscriptiones) do not have the force of an adjudication.

(Comminationes epistulas programmata subscriptiones auctoritatem rei judicate non habere.)

Bas. 9.3.95 et seq.

7.57.1. Emperor Antoninus to Ragatianus.

The threat of a judge (after judgment) that those who fail to pay the debt within a certain time should pay certain interest, does not have the force even of a stipulation.
Promulgated January 12 (213).

7.57.2. Emperor Alexander to Maximianus.

A letter of the rector of a province ordering you to pay money to a city does not have the force of judgment.¹
Promulgated March 12 (223).

7.57.3. The same to Loticus.

It has often been stated by rescript that decisions, made after hearing, cannot be reopened by a notation (subscriptio - made by the judge on a petition or some other paper).
Promulgated September 8 (223).

7.57.4. Emperor Gordian to Asclepiades.

An interlocutory order of the president, a part of the records, to the effect that "unless the party that has been summoned shall have complied, he shall pay twofold or fourfold," is more of a desire on the part of the person who makes that threat than a decision of a judge, since the law declares that an order of that sort does not have the force of a judgment.

Promulgated December 11 (239).

7.57.5. The same to Jucundus.

The judge who sits in a case should hear and examine the allegations of the parties. For there is no doubt that a notation made, on petition, putting the opposite party into possession (without legal decision) does not have the force of a judgment.²

¹ [Blume] It was not unusual for magistrates, particularly in Egypt, to send warning to parties, for example of a debt due. This was done on behalf of parties, but they were no part of judicial proceeding. Steinwenter, Versäumnisverfahren 23; 40 Z.S.S. 9.

² [Blume] The synopsis of this law in Bas. 9.3.89 is: "The judge must give a decision, after having heard the allegation of the parties. For his notation (subscriptio) does not suffice for a decision or for putting the opposite party in possession." As to the form and method of delivering a final decision, see C. 7.44.

Promulgated January 21 (241).

7.57.6. Emperor Philip and Caesar Philip to Cassianus.

An edict (programma) issued by the president, cannot obtain the force of a judgment. And it is clear that a warning cannot have such force.

7.57.7. Emperor Constantine to Bassius, City Prefect.

It would not be right that a decision usually rendered after a great contest should be given in a few hastily written letters.³

Given March 18 (320).

³ [Blume] Reference is not made to the shortness of a decision, but to the manner in which the words thereof are written. The decision, in other words, should not be by signs or a few abbreviated words. 9 Cujacius 1031.