

# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[231 PA. CODE CH. 1900]

#### Proposed Amendments to the Rules Relating to Protection From Abuse; Recommendation 42

The Domestic Relations Committee proposes the following amendments to the Rules of Civil Procedure relating to Protection From Abuse. The committee solicits comments and suggestions from all interested persons prior to submission of the proposed rule to the Supreme Court.

Written comments relating to the proposed amendments must be received no later than July 20, 1996 and must be directed to Linda C. Liechty, Esquire, Executive Director, Domestic Relations Committee, 429 Forbes Avenue, Suite 300, Pittsburgh, PA 15219, FAX (412) 565-2336.

The explanatory comment which appears in connection with the proposed amendments has been inserted by the Committee for the convenience of those using the rules. It will not constitute part of the rules nor will it be officially adopted or promulgated by the Court.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1900. ACTIONS PURSUANT TO THE PROTECTION FROM ABUSE ACT

##### Rule 1901. Definitions.

As used in this chapter:

*Act*—The Protection From Abuse Act No. 206 approved December 19, 1990, 23 Pa.C.S. § 6101 et seq.;

*Action*—A proceeding for protection from abuses defined in [ **Section 2** ] § 6102 of the Act;

*Court*—The court of common pleas.

*Emergency Order*—An order entered by a hearing officer, who is a person meeting the definition set forth at 23 Pa.C.S. § 6102.

*Protection From Abuse Examiner*—An attorney appointed by the court to hear protection from abuse matters as provided by these rules.

*Temporary Order*—An order entered by the court pursuant to 23 Pa.C.S. § 6107.

##### Rule 1901.1. Venue.

(a) Except as provided in subdivision (b), an action for protection from abuse may be brought in a county in which

- (1) the plaintiff resides, either temporarily or permanently, or is employed, or
- (2) the defendant may be served, or
- (3) the abuse occurred.

(b) If the relief sought includes possession of the residence or household to the exclusion of the defendant, the action shall be brought only in the county in which the residence or household is located.

##### Rule 1901.2. Scheduling.

Each judicial district shall establish and publish a schedule of times when the court will be available to hear temporary Protection From Abuse matters, with hearings to be held no less frequently than once a week.

*Official Note:* When the court is unavailable, emergency relief may be sought from the minor judiciary pursuant to 23 Pa.C.S. § 6110.

##### [ Rule 1902. Commencement of Action.

(a) Except as provided in subdivision (b), an action shall be commenced by filing with the prothonotary a petition setting forth the alleged abuses by the defendant.

(b) Filing in the office of the prothonotary of a certified order of a district justice entered pursuant to 23 Pa.C.S. § 6110 shall constitute the commencement of an action in the court of common pleas.

*Official Note:* See 23 Pa.C.S. § 6110 conferring emergency jurisdiction on district justices and requiring immediate certification of its order to the court. ]

##### Rule 1901.3. Commencement of Action.

(a) Except as provided in subdivision (b), an action shall be commenced by filing with the prothonotary or presenting to the court a petition setting forth the alleged abuses by the defendant. The petition shall be substantially in the form set forth in Rule 1905(b) and shall have as its first page the Notice of Hearing set forth in Rule 1905(a).

(b) Only in counties where representation is provided for every petitioner seeking emergency relief, an action may be commenced by filing a certified copy of the emergency order entered pursuant to 23 Pa.C.S. § 6110.

##### [ Rule 1903. Service of Order. Enforcement.

(a) [Rescinded].

*Official Note:* For service of the petition or certified order of the district justice, see Rule 1930.4.

(b) An order entered under 23 Pa.C.S. §§ 6107 and 6108 shall be served and enforced by such persons and in such manner as the court shall direct in the order. ]

##### Rule 1901.4. Service and Registration of Order.

(a) Service of the petition and temporary order shall be in accordance with Rule 1930.4.

(b) An Affidavit of Service substantially in the form set forth in Rule 1905(d) shall be filed with the prothonotary.

(c) A certified copy of every protection order shall be submitted for registration to

(1) the prothonotary of the county in which the order was entered, as well as any other county in which plaintiff believes protection may be necessary; or

(2) the statewide registry. Orders submitted to the statewide registry shall be accompanied by the supplemental information form set forth in Rule 1905(f).

**Official Note:** Counties will not be required to maintain registries after the statewide registry is established and is fully operational, pursuant to 23 Pa.C.S. § 6104(b).

**Rule 1901.5. Enforcement.**

(a) A police officer shall arrest a defendant for violating an order issued by any court within this Commonwealth pursuant to the Act where the order is

- (1) registered in accordance with the Act; or
- (2) can be verified by radio, telephone or similar means of communication.

(b) A complaint for indirect criminal contempt shall be completed and signed by either the police officer or the plaintiff. Neither Plaintiff's presence nor signature shall be required.

Rule [ 1904 ] 1901.6. No responsive pleading required.

No pleading need be filed in response to the petition or the certified order and all averments not admitted shall be deemed denied.

**Official Note:** For procedures as to the time and manner of hearings and issuance of orders [ **ex parte or after hearing** ], see 23 Pa.C.S. § 6107. For provisions as to the scope of relief **available**, see 23 Pa.C.S. § 6108. For provisions as to contempt for violation of an order or consent agreement, see 23 Pa.C.S. § 6114.

**Rule 1901.7. Protection from Abuse Examiners.**

(a) The court may appoint attorneys as examiners to hear petitions for temporary relief pursuant to the Act.

(b) After hearing, the examiner shall submit a proposed order to the court, recommending that the request for a temporary order either be granted or denied, and setting forth the specific relief appropriate in that case.

(c) If the examiner recommends that a request for a temporary order be denied, or that the petition be dismissed, reasons for that recommendation shall be provided.

(d) The court shall issue its order forthwith, and in no case later than the day the recommendation is made by the examiner.

(e) No exceptions shall be filed to the recommendation of an examiner.

(f) There shall be no fees imposed on either party for costs relating to a hearing before an examiner.

Rule [ 1905 ] 1901.8. Decision. [ Post ] No post-trial relief.

(a) The decision of the court [ shall be governed by Rule 1038(b) and (c) ] may consist only of general findings but shall dispose of all claims for relief. The court's order shall be rendered substantially in the form set forth in Rule 1905(e).

(b) No motions for post-trial relief may be filed to the final order.

**Official Note:** The procedure relating to Motions for Reconsideration is set forth in Rule 1930.2.

**Rule 1905. Standard forms for use in protection from abuse matters.**

(a) The Notice of Hearing required by Rule 1901.3 shall be substantially in the following form:

(Caption)

**NOTICE OF HEARING**

**TO: Defendant,**

**YOU HAVE BEEN SUED IN COURT. The Plaintiff is the person suing you. Attached to this notice is a copy of the Petition which indicates Plaintiff's reasons for suing you, and a court order.**

**BE ADVISED THAT THE DATE, TIME AND PLACE OF THE FINAL HEARING ON THIS PETITION ARE SET FORTH IN THE ATTACHED ORDER OF COURT.**

**IF YOU DO NOT APPEAR FOR THE HEARING AT THE TIME AND PLACE STATED IN THE ORDER, THE COURT CAN MAKE AN ORDER IN YOUR ABSENCE WHICH MAY LIMIT YOUR RIGHTS TO CUSTODY, MONEY OR PROPERTY, OR PREVENT YOU FROM HAVING ANY CONTACT WITH PLAINTIFF OR THE CHILDREN NAMED IN THE PETITION, FROM ENTERING PLAINTIFF'S RESIDENCE, OR FROM ENTERING THE PLAINTIFF'S OR CHILDREN'S PLACE OF EMPLOYMENT, BUSINESS OR SCHOOL, YOU MAY LOSE OTHER RIGHTS AS WELL.**

**A COPY OF THE ORDER IS ATTACHED; YOU MUST OBEY IT UNTIL THE HEARING. IF YOU DO NOT OBEY IT, THE POLICE WILL ARREST YOU.**

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. YOU HAVE THE RIGHT TO HAVE AN ATTORNEY REPRESENT YOU AT THE HEARING. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Telephone)

**(b) The Petition in an action filed pursuant to the Act shall be substantially in the following form:  
(Caption)**

**PETITION FOR PROTECTION FROM ABUSE**

**PART 1: PLAINTIFF INFORMATION**

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

OR  ADDRESS IS CONFIDENTIAL

**PART 2: DEFENDANT INFORMATION**

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

Check if Defendant is 17 or younger

**PART 3: MY RESIDENCE IS:**

- OWNED or  RENTED BY:
- Plaintiff
- Plaintiff and Defendant
- Defendant
- Other:

(CONFIDENTIAL, PARENTS, FRIEND, ETC.)

**PART 4: THE DEFENDANT AND I:**

- presently live together
- have never lived together
- lived together from \_\_\_\_\_ until \_\_\_\_\_

**PART 5: THE DEFENDANT:**

- is my current or former husband/wife.
- is my current or former sexual or intimate partner.
- is my \_\_\_\_\_

(STATE RELATIONSHIP)

**PART 6: LIST INFORMATION BELOW FOR ALL MINOR CHILDREN RESIDING IN YOUR HOUSEHOLD:**

Minor child's name:	Age:	Is Plaintiff the parent?	Is Defendant the parent?

**PART 7: Are you asking for temporary custody of the child(ren) you listed in Part 6?**

- yes
- no

**PART 8: Is there a court order or written agreement in effect concerning the child(ren) you listed in Part 6?**

yes  no

**PART 9: Check any of the following cases which you and this Defendant have had:**

Support  Custody  Divorce  Protection From Abuse

**PART 10: Has the Defendant ever filed a Protection From Abuse Action against you?**

yes  no **If yes, approximately when?**

**PART 11: The Defendant has abused me and/or my minor child(ren) as follows:**

**A. Recent acts of abuse: Approximate date(s):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**B. Past abuse (include previous injuries, arrests, PFAs, frequency of abuse):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PART 12: I  can  cannot pay the filing fees for this action.**

**PART 13: I have suffered economic losses as a result of the Defendant's abusive actions.**

Yes, amount:  No

**PART 14:  I am/  I and my minor child(ren) are in immediate danger of further abuse and a court order is necessary to protect us.**

**WHEREFORE, I request that this Honorable Court enter a Protection From Abuse Order that provides relief including but not limited to the relief which is provided in § 6108 of the Protection From Abuse Act.**

**I verify that the statements made in this petition are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.**

**Date:** \_\_\_\_\_

\_\_\_\_\_  
**Plaintiff**

**(c) The Temporary Order of Court entered pursuant to the Act shall be substantially in the following form:**

**(Caption)**

**TEMPORARY ORDER OF COURT**

**NOTICE TO THE DEFENDANT:**

**IF YOU VIOLATE THIS COURT ORDER, YOU WILL BE ARRESTED ON THE CHARGE OF INDIRECT CRIMINAL CONTEMPT WHICH IS PUNISHABLE BY A FINE OF UP TO \$1,000 AND A JAIL SENTENCE OF UP TO SIX MONTHS.**

**AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, upon consideration of the Petition in the above-captioned case and for good cause shown, it is ORDERED, ADJUDGED and DECREED as follows:**

**A final hearing for the Plaintiff and Defendant will be held on [DATE] at [TIME] before Judge [JUDGE'S NAME], [LOCATION OF COURTROOM].**

PENDING SAID HEARING, IT IS ORDERED THAT:

1. ABUSE PROHIBITED: Defendant, [DEFENDANT'S NAME], [DEFENDANT'S ADDRESS] is

(a) prohibited from having ANY CONTACT with Plaintiff or Plaintiff's minor child(ren) [NAMES OF THE PROTECTED CHILDREN].

(b) directed to refrain from abusing, harassing or stalking Plaintiff or the minor child(ren) named in (a); and

(c) prohibited from entering the place of employment, business or school of the Plaintiff or of the minor child(ren) named in (a).

2. EXCLUSION: Defendant is completely excluded from the residence where Plaintiff presently lives which

is located at \_\_\_\_\_

OR

is located at a confidential location within \_\_\_\_\_ County.

Until the final hearing in this case, exclusive possession of this residence is granted to Plaintiff; Defendant shall have no right or privilege to enter or be present on the premises.

IF DEFENDANT ENTERS PLAINTIFF'S RESIDENCE FOR ANY REASON WITHOUT THE WRITTEN PERMISSION OF THIS COURT, DEFENDANT SHALL BE ARRESTED ON THE CHARGE OF INDIRECT CRIMINAL CONTEMPT.

3. CUSTODY: Temporary custody of the parties' minor child(ren) is granted to and/or shall remain with Plaintiff pending the outcome of the final hearing. The police wherever the child(ren) may be located shall ensure that the child(ren) is/are placed in the care and control of Plaintiff. This provision shall not affect existing custody orders.

4. WEAPONS: Defendant is directed to turn over immediately to the local police department for delivery to [INSERT THE NAME OF THE PERSON OR AGENCY] any weapons used or threatened to be used by Defendant in an act of abuse against Plaintiff or the minor child(ren). Defendant is prohibited from acquiring or possessing any other weapons for the duration of this order.

5. SERVICE: This order may be served by any competent adult pursuant to Pennsylvania Rule of Civil Procedure 1930.4. [INSERT ADDITIONAL DIRECTIONS FOR SERVICE, IF NECESSARY].

6. COSTS OF FILING, SERVICE, AND CERTIFICATION: The costs of this action are waived pending the entry of the final order of court.

7. Plaintiff's request for temporary support and attorney's fees, if any, shall be considered by this Court at the final hearing on the Petition.

NOTICE TO LAW ENFORCEMENT OFFICIALS

The police who have jurisdiction over the Plaintiff's residence OR any location where a violation of this order occurs OR where the Defendant may be located, shall enforce this order.

If Defendant violates any provisions of this order, Defendant SHALL be arrested on the charge of Indirect Criminal Contempt. An arrest for violation of this order may be without warrant, based solely on probable cause, whether or not the violation is committed in the presence of the police.

Subsequent to an arrest, the police officer shall seize all weapons used or threatened to be used during the violation of the protection order or during prior incidents of abuse. The [INSERT THE APPROPRIATE NAME OR TITLE] shall maintain possession of the weapons until further order of this Court.

If the Defendant is placed under arrest for violation of the order, the Defendant shall be taken to [INSERT THE APPROPRIATE AUTHORITY OR AUTHORITIES BEFORE WHOM DEFENDANT IS TO BE ARRAIGNED]. A "Complaint for Indirect Criminal Contempt" shall then be completed and signed by the police officer OR the Plaintiff, Plaintiff's presence and signature are not required to file the complaint.

If sufficient grounds for violation of this order are alleged, the Defendant shall be arraigned, bond set and both parties given notice of the date of the hearing.

BY THE COURT:

\_\_\_\_\_  
J.

(d) The form of the Affidavit of Service in a Protection From Abuse matter shall be substantially in the following form:

(Caption)

AFFIDAVIT OF SERVICE

I, \_\_\_\_\_, the undersigned, hereby state that I served a copy of the Petition and Temporary Order in the above-captioned action upon the Defendant by handing the papers to \_\_\_\_\_ at the following address: \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_, at approximately \_\_\_\_ o'clock \_\_ .m.

I verify that the statements made in this Affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Address)

(e) The Final Order of Court entered pursuant to the Act shall be substantially in the following form:

(Caption)

**FINAL ORDER OF COURT**

**NOTICE TO THE DEFENDANT: IF YOU VIOLATE PARAGRAPH 1 OR 2 OF THIS COURT ORDER, YOU WILL BE ARRESTED ON THE CHARGE OF INDIRECT CRIMINAL CONTEMPT WHICH IS PUNISHABLE BY A FINE OF UP TO \$1,000 AND A JAIL SENTENCE OF UP TO SIX MONTHS.**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, upon consideration of the Petition in the above-captioned case, \_\_\_\_\_, it is ORDERED, ADJUDGED and DECREED as follows:

Note: The space in the preceding paragraph is provided to allow inclusion of the information about the terms under which the order was entered, e.g. that the defendant, though properly served, failed to appear, or that the order was entered with the consent of the parties.

1. Except as otherwise provided in paragraph 3, Defendant, [DEFENDANT'S NAME], [DEFENDANT'S ADDRESS] is

(a) prohibited from having ANY CONTACT with Plaintiff, [PLAINTIFF'S NAME], or Plaintiff's minor child(ren) [NAMES OF PROTECTED CHILDREN].

(b) directed to refrain from abusing, harassing or stalking Plaintiff or the minor child(ren) named in (a); and

(c) prohibited from entering the place of employment, business or school of the Plaintiff or of the minor child(ren) named in (a).

2. Defendant is completely excluded from the residence at [ADDRESS FROM WHICH DEFENDANT IS EXCLUDED] or any other residence where Plaintiff may live. Exclusive possession of the residence is granted to Plaintiff; Defendant shall have no right or privilege to enter or be present on the premises.

**IF DEFENDANT ENTERS PLAINTIFF'S RESIDENCE FOR ANY REASON WITHOUT THE WRITTEN PERMISSION OF THIS COURT, DEFENDANT SHALL BE ARRESTED ON THE CHARGE OF INDIRECT CRIMINAL CONTEMPT.**

**NOTICE TO LAW ENFORCEMENT OFFICIALS**

The police who have jurisdiction over the Plaintiff's residence OR any location where a violation of this order occurs OR where the Defendant may be located, shall enforce this order.

If Defendant violates any provision of paragraph 1 or 2 above, Defendant SHALL be arrested on the charge of Indirect Criminal Contempt. An arrest for violation of this order may be without warrant, based solely on probable cause, whether or not the violation is committed in the presence of the police.

Subsequent to an arrest, the police officer shall seize all weapons used or threatened to be used during the violation of the protection order or during prior incidents of abuse. The [INSERT THE APPROPRIATE NAME OR TITLE] shall maintain possession of the weapons until further order of this Court.

When the Defendant is placed under arrest for violation of the order, the Defendant shall be taken to [INSERT THE APPROPRIATE AUTHORITY OR AUTHORITIES BEFORE WHOM DEFENDANT IS TO BE ARRAIGNED]. A "Complaint for Indirect Criminal Contempt" shall then be completed and signed by the police officer OR the Plaintiff. Plaintiff's presence and signature are not required to file the complaint.

If sufficient grounds for violation of this order are alleged, the Defendant shall be arraigned, bond set and both parties given notice of the date of the hearing.

3. Custody of the parties' minor child(ren), [NAMES OF THE CHILDREN SUBJECT TO THE PROVISIONS OF THIS PARAGRAPH], shall be as follows: [STATE TO WHOM PRIMARY PHYSICAL CUSTODY AWARDED; STATE TERMS OF PARTIAL CUSTODY OR VISITATION, IF ANY].

4. If there is no existing support or alimony pendente lite order, the Defendant is directed to pay temporary support for: [INSERT THE NAMES OF THE PERSONS FOR WHOM SUPPORT IS TO BE PAID] as follows: [INSERT AMOUNT, FREQUENCY AND OTHER TERMS AND CONDITIONS OF THE SUPPORT ORDER]. This order for support shall remain in effect until a final support order is entered by this Court. However, this order shall lapse automatically if the Plaintiff does not file a complaint for support with the

court within fifteen days of the date of this order. The amount of this temporary order does not necessarily reflect Defendant's correct support obligation, which shall be determined in accordance with the guidelines at the support hearing. Any adjustments in the final amount of support shall be credited, retroactive to this date, to the appropriate party.

5. The costs of this action are waived as to the Plaintiff and imposed on Defendant.

6.  Defendant shall pay \$ \_\_\_\_\_ to Plaintiff as compensation for Plaintiff's losses, which are as follows: \_\_\_\_\_

OR

Plaintiff is granted leave to present a petition, with appropriate notice to Defendant, to [INSERT THE NAME OF THE JUDGE OR COURT TO WHICH THE PETITION SHOULD BE PRESENTED] requesting recovery of out-of-pocket losses. The petition shall include an exhibit itemizing all claimed out-of-pocket losses, copies of all bills and estimates of repair, and an order scheduling a hearing. No fee shall be required by the Prothonotary's office for the filing of this petition.

7. All provisions of this order shall expire in one year, on [INSERT EXPIRATION DATE].

Note: Additional provisions may be added here as needed and as authorized by § 6108 of the Act.

BY THE COURT:

\_\_\_\_\_  
J.

Consented:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(f) The supplemental information form required by Rule 1901.4 shall be substantially in the following form:

(Caption)

SUPPLEMENTAL INFORMATION

Order entered in the \_\_\_\_\_ Judicial District

Contact/Person from whom copy of order can be obtained: \_\_\_\_\_

Contact's telephone number: \_\_\_\_\_

Defendant Identifying Information:

Social Security # \_\_\_\_\_ Sex \_\_\_\_\_ Age \_\_\_\_\_ D.O.B. \_\_\_\_\_

Height \_\_\_\_\_ Weight \_\_\_\_\_ Eyes \_\_\_\_\_ Hair \_\_\_\_\_

Race/Ethnic Background \_\_\_\_\_

Distinguishing features (scars, tattoos, facial hair, disability, etc.) \_\_\_\_\_

Alias(es) \_\_\_\_\_

Cautionary Statement: \_\_\_\_\_

Note: The cautionary statement is intended to include information about defendant which may be of use to the police officers responsible for enforcing the order, e.g. black belt in karate.

Defendant's Telephone # \_\_\_\_\_

Rule 1909. Suspension of acts of assembly.

Section 6110 of the Protection From Abuse Act, 23 Pa.C.S. § 6610, is suspended insofar as it relates to commencement of proceedings by filing a certified copy of an emergency order.

Explanatory Comment—Rule 1901

Attorneys who are appointed by the court to hear petitions for temporary relief pursuant to the Protection From Abuse Act are called "examiners" because the terms "hearing officer" and "master", per 23 Pa.C.S. § 6102 and 42 Pa.C.S. § 1126, respectively, have other specific meanings within the context of the Act.

[Pa.B. Doc. No. 96-853. Filed for public inspection May 24, 1996, 9:00 a.m.]

# Title 249—PHILADELPHIA RULES

## PHILADELPHIA COUNTY Amended Rules of Civil Procedure

### Order

*And Now*, this 9th day of May 1996, the following amendment to the Rules of Civil Procedure Rule No. 124. Stay of Execution Pending Appeal, was amended at the Board of Judges meeting, as General Court Regulation 96-6-MC.

*This Order*, becomes effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

ALAN K. SILBERSTEIN,  
*President Judge*

**Rule 124. Time and Method of Appeal and Stay of Execution Pending Appeal.**

a. A party aggrieved by a judgment for money, or a judgment for possession of real property arising out of a nonresidential lease, may appeal therefrom within thirty (30) days after the date of the entry of the judgment by filing with the prothonotary of the Court of Common Pleas a notice of appeal together with a copy of the Municipal Court disposition sheet. The prothonotary shall not accept an appeal from an aggrieved party which is presented for filing more than thirty (30) days after the date of judgment without leave of the Court of Common Pleas and upon good cause shown.

b. A party aggrieved by a judgment for possession of real property arising out of a residential lease, may appeal therefrom within ten (10) days after the date of the entry of the judgment by filing with the prothonotary of the Court of Common Pleas a notice of appeal together with a copy of the Municipal Court disposition sheet. The prothonotary shall not accept an appeal from an aggrieved party which is presented for filing more than ten (10) days after the date of judgment without leave of the Court of Common Pleas and upon good cause shown.

[ a. When a copy of a perfected appeal to the Court of Common Pleas is duly filed with the Municipal Court Administrator, execution shall not issue as to all parties and shall be stayed until said appeal is terminated without adjudication on the merits.

b. The stay of execution shall be vacated upon filing with the Municipal Court Administrator a copy of docket entries evidencing final termination of such appeal in favor of claimant without adjudication on the merits in the Philadelphia Court of Common Pleas. ]

c. (1) Except as provided in subsection (c)(2), [ Appeals ] appeals to the Court of Common Pleas shall be governed by Rule 300 et seq. of the Philadelphia Court of Common Pleas Rules (Civil Division).

(2) When an appeal is from a judgment on the merits for the possession of real property, receipt by the Municipal Court Administrator of a copy of the notice of appeal shall operate as a supersedeas

only if the tenant/appellant, at the time of filing the appeal, deposits with the prothonotary of the Court of Common Pleas of Philadelphia County a sum of money equal to the lesser of three (3) months' rent or the rent actually in arrears on the date of the filing of the appeal, based upon the Municipal Court judgment, and thereafter deposits cash with the prothonotary in a sum equal to the monthly rent which becomes due during the period of time the proceedings on appeal are pending in the Court of Common Pleas, such additional deposits to be made within thirty (30) days following the date of the appeal, and each successive thirty (30) day period thereafter. Upon application by the landlord/appellee and approval by the Court of Common Pleas, the Court of Common Pleas shall release appropriate sums from the escrow account on a continuing basis while the appeal is pending to compensate the landlord/appellee for the tenant/appellant's actual possession and use of the premises during the pendency of the appeal. In the event the appellant fails to deposit the sums of money required by this rule when such deposits are due, the prothonotary of the Court of Common Pleas, upon praecipe filed by the landlord/appellee, shall terminate the supersedeas. Notice of the termination of the supersedeas shall be forwarded via first class mail to all parties and to the Municipal Court Administrator, but if any party has an attorney of record named in filings with the court, notice shall be given to the attorney instead of to the party. Notice to a party that does not have an attorney of record is sufficient if mailed to the party's last known address of record. Where the deposit of money is made pursuant to this subsection at the time of filing the appeal, the prothonotary of the Court of Common Pleas shall make upon the notice of appeal and its copies a notation that it will operate as a supersedeas when received by the Municipal Court Administrator. If an appeal is stricken or voluntarily terminated, any supersedeas based on it shall terminate. The prothonotary, upon order of the Court of Common Pleas, shall pay the deposits of rental to the party who sought possession of the real property.

### Note

On March 28, 1996, the Pennsylvania Supreme Court promulgated amendments to the Pennsylvania District Justice Rules of Civil Procedure and instructed the Philadelphia Municipal Court to promulgate rules consistent with the amendments to the District Justice Rules. The amendments to Philadelphia Municipal Court Rule of Civil Procedure 124 are consistent with the Supreme Court's amendments within Pennsylvania District Justice Rules of Civil Procedure 1002 and 1008. In view of the Supreme Court's directive, these rules shall supersede any local rule of the Court of Common Pleas to the extent that said local rules are inconsistent with this rule.

### Order

*And now*, this 9th day of May 1996, the following amendment to the Rules of Civil Procedure Rule No. 126. Execution and Revival of Judgments: Sheriff's Interpleader, was amended at the Board of Judges meeting, as General Court Regulation 96-7-MC.



*This Order*, becomes effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

ALAN K. SILBERSTEIN,  
*President Judge*

**Rule 126. Execution and Revival of Judgments: Sheriff's Interpleader.**

a. Except as provided below, execution shall not issue until the time for appeal which could be filed with the Court of Common Pleas has expired[, **except that execution upon landlord-tenant judgments for writs of possession may issue within five (5) days after judgments** ].

b. **Subsequent to entry of judgment of possession of real property arising out of a nonresidential lease, the writ of possession may issue on or after fifteen (15) days after judgment, and the alias writ of possession may issue on or after sixteen (16) days after issuance of the writ of possession. Subsequent to entry of judgment of possession of real property arising out of a residential lease, the writ of possession may issue on or after ten (10) days after judgment, and the alias writ of possession may issue on or after eleven (11) days after issuance of the writ of possession.**

[ b. ] c. Enforcement and revival of judgments shall be in the same manner as if commenced in the Court of Common Pleas, except that authorized Landlord-Tenant Officers may serve and enforce all writs of possession and alias writs of possession.

[ c. ] d. Sheriff's interpleader proceedings shall be in accordance with the Rules governing actions in the Court of Common Pleas.

[ d. ] e. An alias writ of possession may not be issued after six (6) months from the date of the judgment for possession without leave of court.

**Note**

**On March 28, 1996, the Pennsylvania Supreme Court promulgated amendments to the Pennsylvania District Justice Rules of Civil Procedure and instructed the Philadelphia Municipal Court to promulgate rules consistent with the amendments to the District Justice Rules. The amendments to Philadelphia Municipal Court Rule of Civil Procedure 126 are consistent with the Supreme Court's amendments within Pennsylvania District Justice Rules of Civil Procedure 515 and 519.**

[Pa.B. Doc. No. 96-854. Filed for public inspection May 24, 1996, 9:00 a.m.]

**PHILADELPHIA COUNTY**

**Juvenile Court Masters; Administrative Regulation 96-5**

In addition to the Permanent Juvenile Masters, to wit, Richard Gordon, Esq. and Henry Oliver, Esq., the following are authorized to sit as Master in Delinquent and Dependent matters:

1. Tami Pernie, Esq.
2. Stephen Marino, Esq.
3. Domenic Mascinatino, Esq.
4. Vincent Furlong, Esq.

Under no circumstances shall anyone, other than above-named, be authorized to act as Master in Juvenile Court, unless expressly authorized in writing by the Administrative Judge of Family Court.

All prior designations of authorized Masters in Juvenile Division are hereby revoked.

PAUL P. PANEPINTO,  
*Administrative Judge*  
*Family Court Division*

[Pa.B. Doc. No. 96-855. Filed for public inspection May 24, 1996, 9:00 a.m.]

**Title 25—LOCAL COURT RULES**

**FAYETTE COUNTY**

**Amended Rule; Local Rule 211: Motions Court; No. 825 of 1996, G.D.**

**Order**

*And Now*, this 6th day of May, 1996, it is hereby ordered that the above-stated Local Rule be as hereafter set forth. This amendment shall be effective 30 days after the publication in the *Pennsylvania Bulletin*.

The Prothonotary of Fayette County is *Ordered* and *Directed* to do the following:

(1) File seven (7) certified copies of this Order and Amended Rule with the Administrative Office of Pennsylvania Courts.

(2) File two (2) certified copies of this Order and Amended Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) File one (1) certified copy of this Order and Amended Rule with the Pennsylvania Civil Rules Committee.

(4) Forward one (1) copy for publication in the *Fayette Legal Journal*.

(5) Forward one (1) to the Fayette County Law Library, one (1) copy to the Clerk of Courts and one (1) copy to the Clerk of the Orphans' Court.

(6) Keep continuously available for public inspection copies of this Order and Amended Rule.

It is further *Ordered* that said rule as it existed prior to the amendment is hereby repealed and annulled on the effective date of said rule as amended, but no right acquired thereunder shall be disturbed.

*By the Court*

WILLIAM J. FRANKS,  
*President Judge*

**Rule 211. Motions Court.**

(a) Motions Court will be held daily at 9:00 o'clock a.m. in the courtroom of the assigned Judge.

(b) The purpose of Motions Court is to afford all parties an opportunity to present to the Court matters which require action by the court, including Orphans' Court and Criminal Court matters.

(c) As used herein, the term "motion" shall include every type of motion, petition, preliminary objection or other request for action by the Court.

(d) A motion shall be considered by the Court only as provided by these rules, except under exigent circumstances.

(e) The Court Administrator shall maintain a Motions Docket and shall make daily entries of all motions filed and the disposition thereof. The moving party SHALL FILE THE ORIGINAL motion, certificate and any attachments in the appropriate office before presentment in Motions Court. An original proposed order, a copy of the certificate and motion, ASSEMBLED IN THAT ORDER, shall be delivered to the Court Administrator and every other party of record. Such copies and notice shall be given so as to be received at least two business days before presentation in Motions Court, unless there are emergency circumstances specified in the motion requiring presentation within a shorter time.

(f) The Court Administrator shall assign each motion to a Judge for disposition. The Judge will conduct such hearing, allow such argument, and enter such order as is appropriate. The Judge may continue the consideration of any motion to a later date to allow other parties of record to be heard.

(g) All motions shall be accompanied by a certificate and shall be substantially in the following form:

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA

:  
:  
:  
:  
:  
:  
:  
: NO. \_\_\_\_\_ OF \_\_\_\_\_

**CERTIFICATE**

1. The undersigned, \_\_\_\_\_, represents, \_\_\_\_\_, the moving party herein.

2. I certify that a copy of the attached motion was served on \_\_\_\_\_

on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_ by mail/facsimile/hand delivery.

3. The attached motion will be presented in Motions Court on \_\_\_\_\_, \_\_\_\_\_, 19 \_\_\_\_ at 9:00 o'clock a.m.

4. The attached motion shall be classified as a ROUTINE/PRIORITY motion as defined by Fayette County Rule 211.1(a)/Rule 211.2(a).

5. No Judge/Judge \_\_\_\_\_ has previously ruled on a matter relevant to the attached motion. (SEE ATTACHED PERTINENT ORDER(S).)

6. The SPECIFIC citation for the Court's authority to grant the relief requested is \_\_\_\_\_

7. Estimated court time: \_\_\_\_\_

Respectfully submitted,

DATE

[Pa.B. Doc. No. 96-856. Filed for public inspection May 24, 1996, 9:00 a.m.]

**COMMONWEALTH COURT**

**Need for Correct Street Address on Correspondence**

It has recently come to the attention of the Chief Clerk of the Commonwealth Court that the postal authorities have tightened their procedures with respect to the need for a street address on mail. Many law firms provide addresses with building names or numbers without street addresses. In recent weeks, we have discovered that mail addressed to particular buildings without street addresses has been returned to this office as undeliverable. Unfortunately, in many instances we are unable to locate the specific street address. In the future, when filing a new action, a motion or entering an appearance, please ensure that your complete address, including the street and number, or post office box, is on your filing. Please note that the appropriate mailing address for the Commonwealth Court is P. O. Box 11730, Harrisburg, PA 17108.

CHARLES R. HOSTUTLER,  
*Chief Clerk*

[Pa.B. Doc. No. 96-857. Filed for public inspection May 24, 1996, 9:00 a.m.]