

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

[204 PA. CODE CH. 83]

Amendment to the Pennsylvania Rules of Disciplinary Enforcement Relating to Notice of Involuntary Commitments of Attorneys; Notice of Proposed Rulemaking

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania is considering recommending to the Supreme Court of Pennsylvania that it amend the Pennsylvania Rules of Disciplinary Enforcement, as set forth in Annex A, to change the time within which Disciplinary Counsel is to be notified that an attorney has been declared incompetent or involuntarily committed.

Rule 301(a) of the Pennsylvania Rules of Disciplinary Enforcement currently provides that the clerk of any court within Pennsylvania in which an attorney is declared incompetent or is involuntarily committed to an institution on the grounds of incompetency or disability must notify Disciplinary Counsel within 20 days of that disposition so that Disciplinary Counsel may, in turn, notify the Supreme Court so that the Court may transfer the attorney to inactive status. The Board has encountered situations in which the 20-day delay has compromised the Board's ability to protect the public from continued practice by the incompetent attorney, and thus the Board is proposing a significantly shortened notice period of 24 hours so that the Board is in a position to move quickly to have the attorney transferred to inactive status. The Board believes that notice to Disciplinary Counsel can be made part of the process of entering the order declaring the attorney incompetent or committing the attorney, and that the shortened notice period should thus not present a problem for the clerks of the courts.

Interested persons are invited to submit written comments regarding the proposed amendment to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, First Floor, Two Lemoyne Drive, Lemoyne, PA 17043, on or before January 17, 1997.

By The Disciplinary Board of the Supreme Court of Pennsylvania

ELAINE BIXLER,
Secretary

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter C. DISABILITY AND RELATED MATTERS

Rule 301. Proceedings where an attorney is declared to be incompetent or is alleged to be incapacitated.

(a) The clerk of any court within this Commonwealth in which an attorney is declared incompetent or is involuntarily committed to an institution on the grounds of incompetency or disability shall within [20 days] 24 hours of such disposition transmit a certificate thereof to Disciplinary Counsel, who shall file such certificate with the Supreme Court.

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[Pa.B. Doc. No. 96-2176. Filed for public inspection December 27, 1996, 9:00 a.m.]

[204 PA. CODE CH. 93]

Amendments to the Rules of Organization and Procedure of the Board Relating to the Retention of Records; Notice of Proposed Rulemaking

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania is considering amending its Rules of Organization and Procedure as set forth in Annex A.

The Rules of Organization and Procedure of the Board currently provide that the Board will maintain permanent records of all matters processed by the Board and the disposition thereof, but that the permanent retention of correspondence, transcripts, briefs and other similar documents which underlie the final disposition of a matter by the Board is not required. 204 Pa. Code § 93.54. The Rules are silent, however, as to how long correspondence, transcripts, briefs, etc. must be retained. The Board is proposing to amend its Rules to specify that the materials that are not retained permanently will be retained for ten years.

Interested persons are invited to submit written comments regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, First Floor, Two Lemoyne Drive, Lemoyne, PA 17043, on or before January 17, 1997.

By The Disciplinary Board of the Supreme Court of Pennsylvania

ELAINE BIXLER,
Secretary

Annex A

TITLE 204. JUDICIAL SYSTEM
GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart C. DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIACHAPTER 93. ORGANIZATION AND
ADMINISTRATION

Subchapter C. OFFICE OF THE SECRETARY

§ 93.54. Powers and duties of Office of the Secretary.

The Office of the Secretary shall have the power and duty:

(1) To maintain permanent records of all matters processed by the Board and the disposition thereof. This paragraph shall not be construed to require the permanent retention of correspondence, transcripts, briefs and other similar documents which underlie the final disposition of a matter by the Board, but shall include the findings of any hearing committee or special master and the action and any related opinion or opinions of the Board with respect thereto, and any other information which these rules expressly require to be made a matter of record. **Correspondence, transcripts, briefs and other similar documents which underlie the final disposition of a matter by the Board shall be retained for ten years.**

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[Pa.B. Doc. No. 96-2177. Filed for public inspection December 27, 1996, 9:00 a.m.]

PART VII. ADMINISTRATIVE OFFICE OF
PENNSYLVANIA COURTS

[204 PA. CODE CH. 213]

Public Access Policy of the Unified Judicial System of Pennsylvania: District Justice Records

Annex A

TITLE 204. JUDICIAL SYSTEM
GENERAL PROVISIONSPART VII. ADMINISTRATIVE OFFICE OF
PENNSYLVANIA COURTSCHAPTER 213. ACCESS TO DISTRICT JUSTICE
RECORDS POLICY

Subchapter A. GENERAL POLICY

STATEMENT OF GENERAL POLICY

§ 213.1. General.

It is the policy of the Administrative Office of Pennsylvania Courts (AOPC) that index, docket and case file information for all matters originating in a District Justice office are public records and shall be available for inspection and photocopying upon request in a reasonable manner. Confidentiality of records, however, is appropriate in certain limited circumstances, consistent with personal privacy and security as provided by law (e.g.,

identity of child victims of sexual or physical abuse, 42 Pa.C.S.A. § 5988(a)).

POLICY IMPLEMENTATION

§ 213.11. Case information available at the District Justice office.

(a) *Case Indexes.* Indexes are intended to facilitate access to case files and dockets. District Justice staff shall assist the requestor in identifying the specific cases and docket numbers of interest.

(b) *Case Dockets.* Printed copies of case dockets (i.e., Criminal Case Docket Transcript, Motor Vehicle Docket, Non-Traffic/Summary Docket, Civil Case Progress Record) shall be provided upon request.

(1) If a docket for a disposed case is not immediately available due to archiving, District Justice staff shall advise the requestor that the docket will be retrieved from the AOPC and made available through the District Justice Office.

(2) Requests for docket or case index information that cannot be satisfied without substantially impeding the orderly conduct of office business may be referred to the AOPC. See § 213.12 for AOPC case access requests.

(c) *Case Files.* Case files and all materials contained therein shall be available for on-site inspection and photocopying. The fee for photocopying shall not exceed \$0.50 per page. Security, possession, custody and control of case files shall continue to be the responsibility of the District Justice or his/her designated staff.

§ 213.12. Public access requests referred by the District Justice to AOPC and requests involving more than one magisterial district submitted directly to AOPC.

(a) *Request Form.* All requests must be submitted to the AOPC on a form specified by the AOPC. The completed form must include the date of the request and the requestor's signature acknowledging acceptance of all disclaimers printed on the form.

(b) *Extracts Provided.* AOPC policy is to provide only extracts of statistical, docket or case index information. The following information will not be released:

(1) The address of a party or witness, social security number, telephone number, fax number, pager number, driver's license number, vehicle registration number, state fingerprint identification number (SID), or other identifier which would present a risk to personal security or privacy.

(2) Names of juvenile victims of abuse or juveniles charged with crimes subject to the Juvenile Act, 42 Pa.C.S. § 6301 et seq.

(3) Names of individuals designated "confidential" by a district justice when the release of the name of the individual will impair a person's safety or privacy.

(4) Information likely to impair public safety.

(c) *Priority of Requests.* AOPC would like to promptly satisfy all requests; however, limited staff/computer resources require that governmental requests will be given priority.

(d) *Choice of Medium.* The requestor should indicate the preferred choice of medium (e.g., Internet, tape, diskette, paper) for receiving the requested information. AOPC will accommodate such preferences to the extent

that they are consistent with AOPC efforts to conserve staff and computer resources.

(e) *Costs of Processing Requests.* Costs shall be assessed based on the actual costs of the report medium, a pro-rata share of computer and staff time, plus shipping and handling. AOPC will provide a statement of costs to the requestor, which must be paid in full, before staff is assigned to the project.

(f) Formula for the assessment of costs as of January 1, 1997:

(1) Staff time for processing requests: 1/2 hour rate = \$14.00

(2) Computer equipment time for processing requests: 1/2 hour rate = \$25.00

(3) Costs of report medium: current market rate

(4) Costs of shipping and handling: postage plus market rate for supplies

Amended December 13, 1996; effective date January 1, 1997.

[Pa.B. Doc. No. 96-2178. Filed for public inspection December 27, 1996, 9:00 a.m.]

Title 210—APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES

[210 PA. CODE CH. 65]

Amendment of Internal Operating Procedures

Annex A

TITLE 210. APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES

CHAPTER 65. INTERNAL OPERATING PROCEDURES OF THE SUPERIOR COURT

MOTIONS PRACTICE

§ 65.22. Motions Review Subject to Motions Panel Disposition.

A. Motions to Quash or Dismiss Appeals, Petitions for Permission to Appeal pursuant to Pa.R.A.P. 312, 1301—1323 and 42 Pa.C.S. § 702(b), and Petitions for Review pursuant to Pa.R.A.P. 1501 *et seq.* shall be subject to review and disposition by a panel of three commissioned judges.

B. The President Judge shall set the motions panel. Each motions panel shall consist of three commissioned judges and shall serve for a period of two months. During each two-month period, the motions panel shall consider all motions identified in Paragraph A of this section which are filed during the two month period.

As amended, effective January 1, 1997.

[Pa.B. Doc. No. 96-2179. Filed for public inspection December 27, 1996, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Proposed Amendment of Rules 227.4 and 238 relating to Business of Courts; Recommendation No. 140

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 238 governing damages for delay and the note to Rule 227.4 governing post-trial practice be amended as set forth in this recommendation. The recommendation is being published to the bench and bar for comments and suggestions prior to its submission to the Supreme Court.

All communications in reference to the proposed recommendation should be sent not later than January 25, 1997 to: Harold K. Don, Jr., Esquire, Counsel, Civil Procedural Rules Committee, 5035 Ritter Road, Suite 700, Mechanicsburg, Pennsylvania 17055, or E-Mail to hdon@courts.state.pa.us.

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. 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 200. BUSINESS OF COURTS

Rule 227.4. Entry of Judgment upon Praecipe of a Party.

* * * * *

(1) * * *

(a) * * *

(b) * * *

Official Note: If a motion for delay damages has been filed [**and is opposed**], judgment may not be entered until that motion is decided **or otherwise resolved**. See Rule 238(c)(3)(i).

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Rule 238. Damages for Delay in an Action for Bodily Injury, Death or Property Damage.

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(c) Not later than ten days after the verdict or notice of the decision, the plaintiff may file a written motion requesting damages for delay and setting forth the computation. **The motion shall begin with the following notice:**

NOTICE

You are hereby notified to file a written answer to the attached motion for delay damages within twenty days from the filing of the motion or the delay damages sought in the motion may be added to the verdict or decision against you.

(1) Within [**ten**] **twenty** days after the motion is filed, the defendant may answer specifying the grounds for opposing the plaintiff's motion. The averments of the

answer shall be deemed denied. If an issue of fact is raised, the court may, in its discretion, hold a hearing before entering an appropriate order.

Official Note: An order of the court on the motion for delay damages shall not be subject to a motion for post-trial relief.

(2) If the defendant does not **file an answer and oppose the motion**, the [**court**] **prothonotary upon praecipe** shall add the damages for delay to the verdict or decision **in the amount set forth in the motion**.

(3)(i) If a motion for post-trial relief has been filed under Rule 227.1 and a motion for delay damages is [**opposed**] **pending**, a judgment may not be entered until **disposition has been made of** all motions filed under Rule 227.1 and this rule [**have been decided**].

(ii) If no motion for post-trial relief is filed within the ten-day period under Rule 227.1 but the defendant opposes the motion for delay damages, the plaintiff may enter judgment on the verdict or decision. Thereafter, upon deciding the motion for damages for delay, the court shall enter judgment for the amount of the delay damages, if any.

* * * * *

Explanatory Comment

A party may enter judgment upon a verdict or decision under Rule 227.4(1)(b) when a motion for post-trial relief is not decided within a 120-day period. One court of common pleas has ruled that the entry of judgment under Rule 227.4 prior to the disposition of an unopposed motion for delay damages under Rule 238 precludes the award of such damages.

This is a result the Committee did not intend. The following amendments are proposed to remedy this problem. First, Rule 238(c) will be revised by prescribing a form of notice to begin the motion for delay damages, advising the defendant to file an answer within twenty days or the damages for delay may be added to the verdict or decision. Second, Rule 238(c)(1) will be amended to enlarge from ten days to twenty days the time in which to answer a motion for delay damages. Third, Rule 238(c)(2) will provide that if the motion is not opposed by filing an answer, the prothonotary upon praecipe will add the delay damages as set forth in the motion. Finally, Rule 238(c)(3)(i) will prohibit the entry of judgment until there has been disposition of a pending motion for delay damages by order of court, by praecipe pursuant to Rule 238(c)(2) or by other resolution. The note to Rule 227.4(1)(b) will be revised to conform to the amended Rule 238(c)(3)(i).

By the Civil Procedural Rules Committee

EDWIN L. KLETT,
Chairperson

[Pa.B. Doc. No. 96-2180. Filed for public inspection December 27, 1996, 9:00 a.m.]

[231 PA. CODE CH. 1300]

Proposed Amendment of Rule 1303 Governing Compulsory Arbitration; Recommendation No. 138

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 1303 governing notice and hear-

ing be amended as set forth in this recommendation. The recommendation is being published to the bench and bar for comments and suggestions prior to its submission to the Supreme Court.

All communications in reference to the proposed recommendation should be sent not later than January 25, 1997 to: Harold K. Don, Jr., Esquire, Counsel, Civil Procedural Rules Committee, 5035 Ritter Road, Suite 700, Mechanicsburg, Pennsylvania 17055, or E-Mail to hdon@courts.state.pa.us.

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. 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 1300. COMPULSORY ARBITRATION

Subchapter A. RULES

Rule 1303. Hearing, Notice.

(a)(1) The procedure for fixing the date, time and place of hearing before a board of arbitrators shall be prescribed by local rule, provided that not less than thirty days' notice in writing shall be given to the parties or their attorneys of record.

Official Note: See Rule 248 as to shortening or extending the time for the giving of notice.

(2) **The local rule may provide that the written notice required by subdivision (a)(1) include the following statement: "This matter will be heard by a board of arbitrators at the time, date and place specified but, if one or more of the parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties."**

(b) When the board is convened for hearing, if one party is ready and the other is not the case shall proceed and the arbitrators shall make an award unless the court

(1) orders a continuance, or

(2) **hears the matter if the notice of hearing contains the statement required by subdivision (a)(2) and all parties present consent.**

Official Note: It is within the discretion of the court whether it should hear the matter or whether the matter should proceed in arbitration. If the court is to hear the matter, it should be heard on the same date as the scheduled arbitration hearing.

In hearing the matter, the trial court may take action not available to the arbitrators, including the entry of a nonsuit if the plaintiff is not ready or a non pros if neither party is ready. If the defendant is not ready, it may hear the matter and enter a decision.

For relief from a nonsuit, see Rule 227.1 governing post-trial practice. See also Rule 3051 governing relief from a judgment of non pros.

Explanatory Comment

If at a hearing before a board of arbitrators one party is ready and the other is not, Rule of Civil Procedure 1303 presently provides for the arbitration to proceed and an award to be made unless the court orders a continuance.

Under this rule, some courts have experienced the problem of a party failing to appear for the arbitration hearing and then appealing for a trial *de novo* before the court.

It is proposed that Rule 1303 be amended to provide an additional alternative in such a circumstance and allow a court of common pleas by local rule to provide that the court may hear the case if the notice of hearing so advised the parties and all parties present agree. If the court hears the matter, then the parties will have had their trial in the court of common pleas. Relief from the decision of the court will be by motion for post-trial relief and, where warranted, subsequent appeal to an appellate court.

By the Civil Procedural Rules Committee

EDWIN L. KLETT,
Chairperson

[Pa.B. Doc. No. 96-2181. Filed for public inspection December 27, 1996, 9:00 a.m.]

[231 PA. CODE CH. 3000]

Proposed Amendment of Rule 3201 et seq. Governing Sheriff's Interpleader; Recommendation No. 139

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 3201 et seq. governing sheriff's interpleader be amended as set forth in this recommendation. The recommendation is being published to the bench and bar for comments and suggestions prior to its submission to the Supreme Court.

All communications in reference to the proposed recommendation should be sent not later than January 25, 1997 to: Harold K. Don, Jr., Esquire, Counsel, Civil Procedural Rules Committee, 5035 Ritter Road, Suite 700, Mechanicsburg, PA 17055, or E-Mail to hdon@courts.state.pa.us.

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. 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 3000. JUDGMENTS

Subchapter E. ENFORCEMENT OF JUDGMENTS IN SPECIAL ACTIONS

SHERIFF'S INTERPLEADER

Rule 3201. Scope.

These rules govern the procedure in sheriff's interpleader [under the Act of June 22, 1931, P. L. 883, 12 P. S. § 2358, et seq.,] when tangible personal property levied upon pursuant to a writ of execution is claimed to be the property of a person other than the defendant in the execution.

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Rule 3202. Property claim.

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(b) The claim shall be signed by the claimant or some one on [his] the claimant's behalf, and shall set forth

- (1) a list of the property claimed sufficient to identify it;
- (2) an estimate of the value of the property;
- (3) a statement of the source of the claimant's ownership of the property.

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Rule 3205. Appraisal of property; appraisal fees.

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(b) A party requesting an appraisal shall advance the sheriff's appraisal fee. The sheriff shall then appraise the property and immediately give notice of the amount of [his] the appraisal by ordinary mail to all parties to whom the sheriff's notice was mailed. The sheriff or any party in interest may apply to the court for an order fixing a special appraisal fee where the appraisal of a large quantity of property or the services of experts shall be required.

Official Note: The Sheriff's Fee [Bills] Act [re-main] remains unaffected by these rules. See [Act of May 9, 1949, P. L. 927, as last amended June 14, 1961, P. L. 350, 16 P. S. § 11301, et seq.; Act of June 1, 1933, P. L. 1141, 16 P. S. § 7861, et seq.] Act of July 6, 1984, P. L. 614, No. 127, 42 P. S. § 21101 et seq.

Rule 3206. Sheriff's determination in favor of claimant; objections; amount of bond; delivery of property; interpleader.

(a) If the sheriff determines that the claimant is prima facie the owner of the property in whole or in part, [he] the sheriff shall file in the prothonotary's office the claim, [his] the determination of ownership including the valuation of the property, and shall send by ordinary mail copies of the determination and valuation to the claimant, the plaintiff, the defendant, and all other execution creditors and claimants of the property.

* * * * *

(d) Upon abandonment of the levy, the sheriff shall return the claimed property to the person from whom it was taken. If the claimed property was found in the possession of a person other than the claimant, the sheriff shall, before returning it, give forty-eight (48) hours notice to the claimant of the abandonment of the levy and [his] the intention to return the property to a person other than the claimant.

* * * * *

Rule 3207. Sheriff's determination against claimant; objection; amount of bond; delivery of property; interpleader.

(a) If the sheriff determines that the claimant is prima facie not the owner of the property in whole or in part, [he] the sheriff shall file in the prothonotary's office the claim, [his] the determination of ownership including the valuation of the property, and shall send by ordinary mail copies of the determination and valuation to the claimant, the plaintiff, the defendant, and all other execution creditors and claimants of the property.

* * * * *

(d) If the claimant files [his] an objection with bond in a sum double the valuation of the property as determined by the sheriff or double the amount due under all

writs of execution against the defendant on which the sheriff has levied, whichever is smaller, the sheriff unless otherwise ordered by the court shall withdraw all levies on the claimed property. Upon payment by the claimant of the sheriff's costs, if any, for keeping and transporting the property, the sheriff shall deliver it to the person from whom it was taken, provided that, if the property was taken from a person other than the claimant and the claimant desires possession thereof, the sheriff shall deliver it to the claimant if **[he] the claimant** elects to file a bond in double the valuation of the property.

Official Note: As to possession in the case of two or more claimants, see Rule 3210.

(e) If the claimant files **[his] an** objection without bond the property shall remain subject to the levy and shall be sold in execution, unless otherwise ordered by the court. The proceeds shall be retained by the sheriff or paid into court until the determination of the interpleader.

* * * * *

Rule 3208. Bond; more than one execution.

(a) The bond shall name the Commonwealth of Pennsylvania as obligee, with security approved by the prothonotary, and shall be conditioned that claimant shall maintain **[his] the** claim to the property or pay its value to the persons entitled thereto with costs.

(b) The claimant may file **[his own] a** bond without security and without order of court as to household goods and furnishings levied on by the sheriff in the household of the claimant. The court may, upon petition of the claimant and after notice and hearing, permit the filing of the claimant's own bond without security as to any other property levied on by the sheriff.

(c) **[If the] A** claimant **who** files a bond in double the valuation of the property **[he]** shall not be required during the pendency of the interpleader proceedings to file another bond in any subsequent execution against the same property but the subsequent execution creditor shall be made a party to the pending interpleader proceedings.

* * * * *

Rule 3213. Judgment.

The judgment in the interpleader proceedings shall

- (1) determine the title to the claimed property as among the parties to the interpleader,
- (2) provide for the disposition of the proceeds of sale thereof,
- (3) fix the amount of
 - (i) special damages sustained by the claimant if **[he] the claimant** has sustained **[his] the** claim or **[the amount of]**
 - (ii) any liability of the claimant **[if] to whom** property has been delivered **[to him]** as to which **[he] the claimant** has not sustained **[his] the** claim and **[shall]**
- (4) include such counsel fees as may be awarded by the court as part of the costs.

* * * * *

Rule 3215. Effective date; pending actions.

[These rules shall become effective on First day of March, 1966, and shall apply only to property claims filed on or after that date.] Rescinded.

ACTS OF ASSEMBLY NOT SUSPENDED

Rule 3231. Acts of Assembly not suspended.

* * * * *

(33) **Rescinded.**

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(35) **Rescinded.**

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Rule 3234. Sheriff's interpleader proceedings.

Rescinded.

Official Note: The statutes formerly preserved by this rule have been repealed.

Rule 3241. Acts of Assembly suspended.

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(80) **Rescinded.**

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Rule 3246. Sheriff's interpleader proceedings.

Rescinded.

Official Note: The statutes formerly suspended by this rule have been repealed.

Explanatory Comment

The Act of June 22, 1931, P. L. 883, 12 P. S. § 2358 et seq., when enacted formed the basis for both the substantive and procedural law governing sheriff's interpleader. The rules of civil procedure governing the same subject promulgated in 1965 suspended the procedural provisions of the statute but preserved certain other provisions. However, the Act of 1931 was repealed in its entirety in 1978 by Section 2(a) of the Judiciary Act Repealer Act (JARA), 42 Pa.C.S. § 20002(a)[1124].

Proposed Amendments

The recommendation proposes the following amendments to the rules but these amendments do not affect practice and procedure:

- 1. Rule 3201 and the note to Rule 3205(b) are amended to delete references to the repealed Act of 1931 or other repealed statutes.
- 2. Rules 3202(b), 3205(b), 3206(a) and (d), 3207(a), (d) and (e), 3208 and 3213 are amended to be gender neutral.
- 3. Rule 3215 governing the effective date of the rules when originally promulgated in 1966 is rescinded as obsolete.
- 4. Rules 3231(33) and (35), 3234, 3241(80) and 3246 governing Acts of Assembly are rescinded as obsolete. The statutes preserved and suspended by these rules have been repealed.

Statutory Provisions

The rules of civil procedure preserve the following four sections of the Act of 1931 which are now repealed and which can no longer be found as part of Purdon's Pennsylvania Statutes or the Pennsylvania Consolidated Statutes. However, the Committee believes that the present rules are sufficient in themselves and that there

is no need to incorporate into the rules the substance of these statutory provisions:

I. Section 3 of the Act of 1931, preserved by Rule 3234(1):

§ 2360. Bond to inure to benefit of plaintiff

Such bond shall inure to the benefit of the plaintiff in the execution or process, or of any other person who may be adjudged to have the right or title to said goods or chattels, or any part thereof, and successive suits may be brought thereon to the use of such persons until the amount thereof is exhausted.

II. Sections 13 and 14 of the Act of 1931, preserved by Rule 3234(2) and (3), which provided in relevant part:

§ 2370. When title found not to be in claimant; costs; when title found to be in claimant; damages

If upon the trials of said issue the title to said goods and chattels be found not to be in the claimant, he shall pay all the costs of said proceeding, including the allowance of a fee to counsel for the plaintiff in the execution or process as shall be fixed by the court, and the proceeds of said goods and chattels, if in court, shall be paid to the party entitled thereto as thus ascertained. . . .

If upon the trials of said issue the title to said goods and chattels be found in the claimant, a verdict and judgment may be entered against the plaintiffs in the executions or processes for the damages suffered by the

claimant by reason of the levies or attachments on same, including the allowance of a counsel fee to be fixed by the court. . . .

§ 2371. Costs to follow judgment

In all issues framed under this act, all the costs of the proceeding shall follow the judgment and be paid by the losing party as in other cases.

III. Section 16 of the Act of 1931, preserved by Rule 3234(5):

§ 2373. Rights of lien holder

Nothing herein contained shall be construed to affect the rights of any lien holder other than the plaintiffs in each execution and process herein provided for.

IV. Section 19 of the Act, preserved by Rule 3234(7):

§ 2376. Statements by sheriff

Any statement by the sheriff, in any petition, rule, notice, or return of service, regarding the person or persons found in possession of the goods and chattels claimed, or any of them, shall not be conclusive against the claimant or any other person or party interested therein.

By the Civil Procedural Rules Committee

EDWIN L. KLETT,
Chairperson

Table of Statutes Repealed and Rules Affected

<i>Rule</i>	<i>Act</i>	<i>Citation</i>	<i>Repealer</i>
3231(33)	Act of May 7, 1929, P. L. 1595	12 P. S. § 2342 et seq.	JARA § 2(a)[1110]
3231(35)	Act of June 22, 1931, P. L. 883	12 P. S. §§ 2358 to 2377, inclusive	JARA § 2(a)[1124]
3234(1)	§ 3 of the Act of June 22, 1931, P. L. 883	12 P. S. § 2360	JARA § 2(a)[1124]
3234(2)	§ 13 of the Act of June 22, 1931, P. L. 883	12 P. S. § 2370	JARA § 2(a)[1124]
3234(3)	§ 14 of the Act of June 22, 1931, P. L. 883	12 P. S. § 2371	JARA § 2(a)[1124]
3234(4)	§ 15 of the Act of June 22, 1931, P. L. 883	12 P. S. § 2372	JARA § 2(a)[1124]
3234(5)	§ 16 of the Act of June 22, 1931, P. L. 883	12 P. S. § 2373	JARA § 2(a)[1124]
3234(6)	§ 17 of the Act of June 22, 1931, P. L. 883	12 P. S. § 2374	JARA § 2(a)[1124]
3234(7)	§ 19 of the Act of June 22, 1931, P. L. 883	12 P. S. § 2376	JARA § 2(a)[1124]
3241(80)	§ 1 of the Act of April 11, 1899, P. L. 35	12 P. S. § 2637	JARA § 2(a)[835]
3246(1)	§ 1 of the Act of May 7, 1929, P. L. 1595	12 P. S. § 2342	JARA § 2(a)[1110]
3246(2)	§§ 1, 2, 4 to 13, and 18 of the Act of June 22, 1931, P. L. 883	12 P. S. §§ 2358, 2359, 2361 to 2370 and 2375	JARA § 2(a)[1124]
3246(2.1)	§ 10 of the Act of June 22, 1931, P. L. 883, 12 P. S. § 2367, as affected by the Appellate Court Jurisdiction Act of June 3, 1971, No. 6, Sec. 1, (Sec. 509(a))	17 P. S. § 211.509(a)(91)	JARA § 2(a)[1124]

[Pa.B. Doc. No. 96-2182. Filed for public inspection December 27, 1996, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BRADFORD COUNTY

Rules of Civil Procedure No. 1915.15, 1919 and
1920.12; No. 96IR000066

Order

And Now, this 6th day of December 1996, the Court hereby amends the above-referenced local rules by adopting the following Bradford County Rules of Civil Procedure, to be effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin*.

It is further ordered that the District Court Administrator shall file seven (7) certified copies of this Rule with the Administrative Office of Pennsylvania Courts, two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, one (1) certified copy to the Domestic Relations Rules Committee and one (1) copy to the *Bradford County Law Journal* for publication in the next issue of the *Bradford County Law Journal*.

It is further ordered that this local rule shall be kept continuously available for public inspection and copying in the Prothonotary's Office.

By the Court

JEFFREY A. SMITH,
President Judge

Rule 1915. Custody.

Rule 1915.15. Form of Complaint. Order.

(1) In addition to the information required by Pa.R.C.P. 1915.15, every Complaint for Custody, Partial Custody, or Visitation shall contain one of the following averments:

A. Plaintiff has been advised of the requirement to attend the seminar titled "Children Cope With Divorce"

(or)

B. The parties have previously attended the "Children Cope With Divorce" program as evidenced by certificates of attendance contained in the official court file.

(2) The Order and Notice shall also include the following:

"The parties are directed to **pre-register with the Court Administrator** and attend the "Children Cope With Divorce" seminar on one of the two dates listed below:

Tuesday, _____, 6:00 p.m. to 10:00 p.m.

Saturday, _____, 8:30 a.m. to 12:30 p.m."

(or)

"The parties have previously attended the "Children Cope With Divorce" program as evidenced by certificates of attendance contained in the official court file.

Rule 1919. Mandatory Seminar for Separating Families.

1. In all divorce and custody proceedings filed on or after December 1, 1994, and in such other cases as the Court shall direct, where the interests of children under the age of 18 years are involved, the parties shall, within thirty (30) days of the date of custody, visitation or

divorce claim is filed, attend a four-hour seminar entitled "Children Cope With Divorce." If service of the complaint is not made within ten (10) days of filing, the Plaintiff shall immediately notify the Court Administrator and shall thereafter provide the Court Administrator with proof of service within five (5) days of service.

Note: See the "Children Cope With Divorce" program description following this Rule.

2. In all custody/visitation proceedings filed on or after December 1, 1994, each Notice Order and complaint shall include the additional information in accordance with Bradford County Civil Rule 1915.15.

3. In all divorce proceedings filed on or after December 1, 1994, where the parties have a child or children under the age of eighteen years, every complaint shall contain the additional information required by Bradford County Civil Rule 1920.12. It shall also have attached thereto an Order directing attendance at the Seminar in the form set forth in Rule 1920.12(3).

4. The moving party shall serve the responding party with a copy of the Court Order directing attendance at the Seminar at the time a divorce complaint is served. A program brochure/registration form and a copy of the Instruction Sheet shall also be provided by the moving party to the responding party at the time of service of the complaint.

5. The affidavit of service shall include a statement that the opposing party was advised of the requirement to attend the "Children Cope With Divorce" program and served with the registration form and Instruction Sheet.

6. Within seven (7) days after service, both parties are required to register for the program by mailing or personally presenting the pre-printed "Children Cope With Divorce" registration form, along with a registration fee of \$35.00 to the ["Facilitator",] Court Administrator ['s Office], Bradford County Courthouse, 301 Main Street, Towanda, PA 18848. Any waiver or reduction of attendance fee can only be granted by the [**Facilitator**] **Court Administrator**, in consultation with the Court.

7. Court approval is required for an extension of time to complete the seminar.

8. Parents living outside of Bradford County shall contact the [**Program Facilitator**] **Court Administrator** for possible alternative program attendance.

9. Upon completion of the seminar, each [**parent**] **participant** will receive a copy of a certificate verifying that they have attended the program. The original certificate will be placed in the official court file. No custody trial shall be held or final order entered until both parties have completed the program unless the Court has waived this requirement for good cause shown.

10. Failure to register for and complete the program may result in a finding of contempt and the imposition of sanctions.

CHILDREN COPE WITH DIVORCE

Program Goals

"Children Cope With Divorce" will provide parents with information, support and direction that will facilitate a healthy adjustment for their children. Bitterness often ensnares children caught between divorcing parents. In an effort to reduce the emotional toll on children and limit acrimony, attendance at this four-hour educational seminar is required by the court of all parties in all

divorce, custody and visitation actions, and such other family court actions as the Court may deem appropriate. This program will also be open to educators and other persons involved in caring for children. Administration of the program will be through the Court of Common Pleas of Bradford County.

Program Content

The four-hour program provides parents with information about the developmental stages and needs of children with emphasis on fostering the child's emotional health during periods of stress. The program is informative, supportive and will give parents a list of community resources.

Topics will also include typical reactions of families, stress indicators in children, pitfalls to avoid, and skills to help children work through stress.

When

The program is presented twice each month, alternating between Tuesday evenings, from 6:00 p.m. until 10:00 p.m. and Saturday mornings from 8:30 a.m. to 12:30 p.m.

Where

The program is presented at The Children's House, near the Towanda Memorial Hospital.

Attendance

Attendance at the program is required of all parties involved in divorce and custody/visitation cases where the interests of children under the age of 18 years are at issue. The Court may also order attendance in certain instances in other family court cases.

A waiver of attendance will be provided for individuals who have attended a program of equal value. They will need to document for the Court participation in a similar program or counseling experience where the educational information was covered. Any waiver must be determined by **[mutual agreement among the presenter,]** the Court. **[and individual]**.

Fees

A fee of \$35.00 per party is required and is used to cover all costs of the program, including the presenter's fees, handouts, applications, and program administration. The **[Facilitator] Court Administrator**, in consultation with the Court, will determine whether any fee will be reduced or waived. **PRE-PAYMENT IS REQUIRED.**

Presenters

The presenters have received training from Families First, Atlanta, GA and will present the programs pursuant to an agreement with the Court.

Application Process

Upon initiation of a divorce/custody/visitation filing, both parties will receive a brochure about the program. The brochure will include a registration form and an instruction sheet describing registration and payment methods. These documents will be served along with the pleading. Registration will be by mail or in person at the

Office of the Court Administrator at least three days prior to the scheduled seminar. The registration process is designed to maximize safety to the participants. *For safety purposes*, participants are asked to indicate if they prefer not to attend the same seminar as the other parent. There are **NO WALK-IN ADMISSIONS.**

Verification

An alphabetical list of all parties participating in the program will be provided to the presenters prior to each session. This list will be used by the presenters, the facilitator and the Court. Upon completion of the seminar, each parent will receive a copy of a certificate verifying that they have attended the course. The original certificate will be placed in the official court file.

Security

A peace officer will be present throughout the seminar to ensure safety for all participants. The material that is presented is emotionally charged. Although every effort is made to maintain a light, open atmosphere in the presentation of the material, the orientation the participants bring to the seminar can produce very powerful reactions.

Monitoring and Evaluation

Each participant will complete a written evaluation of the seminar at its conclusion, indicating their individual assessment of the value of the program and any suggestions for future programs.

Rule 1920. Actions of Divorce or Annulment.

Rule 1920.12. Complaint.

(1) In addition to the information required by Pa.R.C.P. 1920.12, every Complaint in Divorce shall contain one of the following averments:

A. Plaintiff avers that there are no children under the age of eighteen (18) years born of the marriage; or

B. Plaintiff avers that there are children under the age of eighteen (18) years born of the marriage namely, to wit: (list names and dates of birth).

(2) If there are children under the age of eighteen (18) years born of the marriage, the complaint shall include one of the following averments:

A. Plaintiff has been advised of the requirement to attend the seminar "Children Cope With Divorce";

(or)

B. The parties have previously attended the "Children Cope With Divorce" program as evidenced by certificates of attendance contained in the official court file.

(3) **In the event there are children under the age of eighteen (18) years of age born of the marriage, and there is no averment that the parties previously attended the "Children Cope With Divorce" program, the divorce complaint shall have attached thereto, an order in substantially the following [Order] form:**

VS. : IN THE COURT OF COMMON PLEAS
 : OF BRADFORD COUNTY, PENNSYLVANIA
 : NO.

ORDER OF COURT

AND NOW, _____ 199 , a Complaint in Divorce being filed herewith which avers that there are children of the marriage under the age of eighteen (18) years of age, **and that the parties have not yet attended the "Children Cope with Divorce" program**, the Court directs that the parties shall **pre-register with the Court Administrator and attend the "Children Cope With Divorce" seminar** on one of the two dates listed below:

Tuesday, _____, 6:00 p.m. to 10:00 p.m.

Saturday, _____, 8:30 a.m. to 12:30 p.m.

BY THE COURT:

_____ J.

[Pa.B. Doc. No. 96-2183. Filed for public inspection December 27, 1996, 9:00 a.m.]

LUZERNE COUNTY

**Jurisdictional Maximum Monetary Limits for
 Compulsory Arbitration; No. 7433-C-96**

Order

And Now this 10th day of December, 1996, at 9 o'clock a.m., in order to increase the jurisdictional maximum monetary limits of compulsory arbitration in Luzerne County, it is

Ordered, Adjudged and Decreed that Luzerne County Local Rule 260 governing arbitration is hereby renumbered Rule 1301 and subsection (a) of said Rule is amended to provide as follows:

Rule 1301.

(a) All civil actions in which the amount in controversy, exclusive of interest and costs, is FORTY THOUSAND (\$40,000.00) DOLLARS or less shall be submitted to and heard and decided by a Board of Arbitrators pursuant to and in accordance with the provisions of 42 Pa.C.S.A. Sec. 7361 and Pa.R.C.P. 1301 et seq.

It Is Further Ordered and Directed that the amendment shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin* and that seven (7) certified copies shall be filed with the Administrative Office of the Pennsylvania Courts; that two (2) certified copies shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; one (1) certified copy shall be filed with the Civil Procedural Rules Committee; and one (1) certified copy shall be available for inspection in the Prothonotary's Office and the Court Administrator's Office.

By the Court

PATRICK J. TOOLE, Jr.,
President Judge

[Pa.B. Doc. No. 96-2184. Filed for public inspection December 27, 1996, 9:00 a.m.]

LUZERNE COUNTY

**Local Rule 510: Time and Manner of Motion Pre-
 sentation; No. 7434C of 1996**

Order

And Now this 18th day of October, 1996, at 9 o'clock a.m., the Court hereby rescinds Luzerne County Rule of Procedure No. 510 and adopts the following Rule 510 which shall become effective December 30, 1996:

Rule 510. Time and Manner of Motion Presentation. Unless otherwise provided by Law or Rule, any person desiring to present any petition, motion or application requiring the signature of or action by any Judge shall personally present the same, with, if necessary, an appropriate Brief, to the designated Motion Judge on any regular business day between the hours of 8:30 a.m. and 9:15 a.m. The person presenting the petition, motion or application must be prepared to answer any questions concerning the matter being presented for consideration.

No petition, motion or application involving any criminal case shall be presented to the Motion Judge for consideration unless and until all parties have been served with a copy of said petition, motion or application and advised in writing of the date and time said matter will be presented to the Court for consideration.

It Is Further Ordered and Directed that:

(1) Seven (7) certified copies of this Order and Rule shall be filed with the Administrative Office of the Pennsylvania Courts.

(2) Two (2) certified copies of this Order and Rule shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) One (1) certified copy of this Order and Rule shall be filed with the Pennsylvania Criminal Procedural Rules Committee.

(4) One (1) copy of this Order and Rule shall be forwarded to the Luzerne County Law and Library Association for publication in the Luzerne Legal Register.

(5) That the Court Administrator shall keep continuously available for public inspection copies of this Order and Rule.

By the Court

PATRICK J. TOOLE, Jr.,
President Judge

[Pa.B. Doc. No. 96-2185. Filed for public inspection December 27, 1996, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Transfer of Attorneys to Inactive Status

Notice is hereby given that the following attorneys have been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated November 13, 1996, pursuant to Rule 111(b), Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective December 13, 1996 for Compliance Group 1 due April 30, 1996.

Notice with respect to attorneys having Pennsylvania registration addresses, who have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

ELAINE M. BIXLER,
Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

STUART H. ADAMS JR.
Washington, DC

DAVID P. AFFINITO
Kinnelon, NJ

JOHN DIXON BARTLE
Richfield Springs, NY

KATHLEEN L. BEIERMEISTER
Newark, NJ

MAYA BOHSALI
Houston, TX

GRACIELA CABRET
Auburn, AL

RICHARD R. CAPONE
Cherry Hill, NJ

WAYNE MICHAEL CHARIFF
Binghamton, NY

JOHN PAUL CLARKE
Haddonfield, NJ

LAMAR CRAVENS
San Antonio, TX

GEORGE RAYMOND CURE IV
Washington, DC

KENNETH MICHAEL DILLON
Collingswood, NJ

PATRICK J. DONLIN SR.
Warren, OH

SHERYL ANN DONNELLA
Atlanta, GA

JAMES BARRETT EVANS JR.
Haddonfield, NJ

TIMOTHY DENNIS FARLEY
Wakefield, RI

JOEL ALAN FISCHMAN
Washington, DC

JOHN FRANCIS FOLEY
Silver Spring, MD

MARGARET V. W. FOSTER
Charlottesville, VA

ELIZABETH L. FOUNTAIN
Washington, DC

SHARON MARIE FRIEL
Glastonbury, CT

PAULA SHEILA GELBARD
Hartford, CT

DAVID GEVANTER
Massapequa Park, NY

ALAN S. GOLDSTEIN
New York, NY

ANTHONY ROGERS HIGGINS
Fairfield, NJ

GREGORY WILLIS HOMER
Washington, DC

ELDRED DEWITT INGRAHAM
Alexandria, VA

R. MICHAEL KENNEDY JR.
Mt. Laurel, NJ

STEVEN A. KLUXEN
Jackson, NJ

JOSEPH J. LONGOBARDI III
Wilmington, DE

TIMOTHY DENNIS LYONS
Westfield, NJ

BARBARA GAYLE McCLUNG
Emeryville, CA

SANDRA SCHAFFNER McCRARY
Vienna, VA

GREGORY HALL MELICK
Cleveland, OH

JOSEPH R. MESAR
New York, NY

THOMAS FRANCIS MILITANO
Moorestown, NJ

SUSAN B. MUSTOKOFF
Princeton, NJ

LORISE ELAINE MYERS
North Miami, FL

JAY WILLIAM NASH
Belleville, NJ

GAIL M. NEASE
Frisco, CO

ANTHONY PANTANO
Paramus, NJ

FRANK MILTON PASCAL
Washington, DC

PRATHER G. RANDLE
Memphis, TN

F. ANNE ROSS
Manchester, NH

ROBIN CARROLL SCHARD
Wildwood Crest, NJ

JOANNE E. SCIULLO
Wilmington, DE

MARTIN P. SHEEHAN
Wheeling, WV

DONALD MELVIN TEMPLE
Washington, DC

ALAN BENES VLCEK
Jacksonville, FL

LYDIA ANTIONETTE WADE
Washington, DC

ANNA WALDHERR
Mineola, NY

CAROL-ANN WILSON
Loris, SC

CLIFFORD A. WILSON
Houston, TX

[Pa.B. Doc. No. 96-2186. Filed for public inspection December 27, 1996, 9:00 a.m.]