

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CHS. 85, 91 and 93]

#### Amendments to Rules of Organization and Procedure of The Disciplinary Board of the Supreme Court of Pennsylvania; Order No. 50; Doc. Nos. R-37 and R-109

The Rules of Organization and Procedure of the Board have been drafted to restate in full the substance of the Pennsylvania Rules of Disciplinary Enforcement. By an Order dated April 3, 1996 (No. 208, Disciplinary Docket No. 3), the Supreme Court to Pennsylvania amended the Pennsylvania Rules of Disciplinary Enforcement to clarify the application of Pa.R.D.E. 221 (relating to mandatory overdraft notification) to bank accounts maintained outside of Pennsylvania. By an Order dated July 17, 1996 (No. 252, Disciplinary Docket No. 3), and amended by Order dated August 29, 1996, the Supreme Court amended the Rules of Disciplinary Enforcement in connection with the establishment of a mandatory interest on lawyer trust accounts program.

By this Order, the Board is making conforming changes to its Rules to reflect those changes in the Rules of Disciplinary Enforcement.

The Disciplinary Board of the Supreme Court of Pennsylvania finds that:

(1) To the extent that 42 Pa.C.S. § 1702 (relating to rule making procedures) and Article II of the act of July 31, 1968 (P. L. 679, No. 240), known as the Commonwealth Documents Law, would otherwise require notice of proposed rulemaking with respect to the amendments adopted hereby, such proposed rulemaking procedures are inapplicable because the amendments adopted hereby relate to agency procedure or practice and are perfunctory in nature.

(2) The amendments to the Rules of Organization and Procedure of the Board adopted hereby are not inconsistent with the Pennsylvania Rules of Disciplinary Enforcement and are necessary and appropriate for the administration of the affairs of the Board.

The Board, acting pursuant to Rule 205(c)(10) of the Pennsylvania Rules of Disciplinary Enforcement, orders:

(1) Title 204 of the *Pennsylvania Code* is hereby amended as set forth in Annex A hereto.

(2) The Secretary of the Board shall duly certify this Order, and deposit the same with the Administrative Office of Pennsylvania Courts as required by Pa.R.J.A. 103(c).

(3) The amendments adopted hereby shall take effect upon publication in the *Pennsylvania Bulletin*. The amendments to 204 Pa. Code § 93.142(b) shall be applicable to the 1997-1998 assessment year.

(4) This order shall take effect immediately.

*By the Disciplinary Board of the Supreme Court of Pennsylvania*

ELAINE M. 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 PENNSYLVANIA

##### CHAPTER 85. GENERAL PROVISIONS

##### § 85.2. Definitions.

(a) Subject to additional definitions contained in subsequent provisions of this subpart which are applicable to specific chapters, subchapters or other provisions of this subpart, the following words and phrases, when used in this subchapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

\* \* \* \* \*

***IOLTA Account*—An IOLTA Account as defined in Rule 1.15(d)(3) of the Pennsylvania Rules of Professional Conduct.**

\* \* \* \* \*

##### CHAPTER 91. MISCELLANEOUS MATTERS

##### Subchapter H. OVERDRAFT NOTIFICATION

##### § 91.171. Definitions.

The following terms when used in this subchapter shall have the meanings given to them in this section:

"Fiduciary account." Enforcement Rule 221(a) provides that a fiduciary account of an attorney is:

(1) **An IOLTA Account; or**

(2) any **other account maintained in a financial institution** in which or with respect to which an attorney **holds funds:**

[ (1) holds funds ](i) of the client;

[ (2) holds funds ] (ii) in a fiduciary capacity customary to the practice of law, such as administrator, executor, trustee of an express trust, guardian or conservator; or

[ (3) holds funds ] (iii) as an escrow agent or other fiduciary, having been so selected as a result of a client-attorney relationship.

"Financial institution." Enforcement Rule 221(e) provides that the term, "financial institution" [ **includes** ] means banks, **bank and trust companies, trust companies**, savings and loan associations, credit unions, savings banks [ **and any other business which accepts for deposit funds held in trust by attorneys** ] or **foreign banking corporations, whether incorporated, chartered, organized or licensed under the laws of the Commonwealth of Pennsylvania or the United States, doing business in Pennsylvania and insured by the Federal Deposit Insurance Corporation, the National Credit Union Administration or an alternative share insurer.**

§ 91.172. Maintenance of fiduciary accounts.

Enforcement Rule 221(b) provides that [ a fiduciary account of ] an attorney [ may be maintained ] shall maintain a fiduciary account with respect to his or her practice in Pennsylvania only in a financial institution approved by the Supreme Court of Pennsylvania for the maintenance of such accounts.

CHAPTER 93. ORGANIZATION AND ADMINISTRATION

Subchapter G. FINANCIAL MATTERS ANNUAL ASSESSMENT OF ATTORNEYS

§ 93.142. Filing of annual statement by attorneys.

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(b) Filing of annual statement. Enforcement Rule 219(d) provides that [ : (1) On ] on or before July 1 of each year all persons required by the rule to pay an annual fee shall file with the Administrative Office a signed statement on the form prescribed by the Administrative Office [ setting forth ] in accordance with the following procedures:

(1) The statement shall set forth:

\* \* \* \* \*

(iii) The name of each financial institution in Pennsylvania in which [ funds of a client are or were held by ] the attorney on May 1 of the current year or at any time during the preceding 12 months held funds [ : (A) ] of a client or a third person subject to Rule 1.15 of the Pennsylvania Rules of Professional Conduct. The statement shall include the name and account number for each account in which the lawyer holds such funds, and each IOLTA Account shall be identified as such. [ ;

(B) in a fiduciary capacity customary to the practice of law, such as administrator, executor, trustee of an express trust, guardian or conservator; or

(c) as an escrow agent or other fiduciary, having been designated as such by a client or having been so selected as a result of a client-attorney relationship.

(iv) A certification reading as follows: "I certify that all fiduciary accounts that I maintain are in financial institutions approved by the Supreme Court of Pennsylvania for the maintenance of such accounts pursuant to Pennsylvania Rule of Disciplinary Enforcement 221 (relating to mandatory overdraft notification) and that each fiduciary account has been identified as such to the financial institution in which it is maintained."

(v) [ (iv) A statement that the attorney is familiar and in compliance with Rule 1.15 of the Pennsylvania Rules of Professional conduct regarding the handling of funds and other property of clients and others and the maintenance of IOLTA Accounts, and with Rule 221 of the Pennsylvania Rules of Disciplinary Enforcement

regarding the mandatory reporting of overdrafts on fiduciary accounts.

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[Pa.B. Doc. No. 97-503. Filed for public inspection April 4, 1997, 9:00 a.m.]

Title 25—LOCAL COURT RULES

DELAWARE COUNTY

Judge Pro Tempore Program; Doc. No. 97 03898

Order

And Now, to wit, this 10th day of March, 1997, pursuant to the section of our September 17, 1996 Order regarding "Changes in Procedure," it is hereby Ordered and Decreed that

1. The time period in which Judges Pro Tempore may schedule conferences has been extended until May 15, 1997;

2. Phase II of the Judge Pro Tempore Program, namely non-jury trials, will begin on or about April 1, 1997; and

3. Paragraph Five (5) of the September 17, 1996 Order is amended to note that those cases, and only those cases, in which the litigants or claims personnel are located out-of-state, those litigants/claims personnel are not required to be present at the settlement conference if this would entail a hardship. However, those litigants/claims personnel must be active participants by telephone (telephone conference call) and continually present throughout the settlement conference. It will not be enough for the litigants/claims personnel to be "available by telephone." Please note that, other than in the aforementioned cases, judges pro tempore have no discretion as to whether or not litigants/claims personnel will attend the settlement conference, as this is clearly required by the September 17, 1996 Order.

As required by Pa.R.C.P. No. 239, the original Order shall be filed with the Office of Judicial Support and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Civil Procedure Rules Committee. Copies of the Order will also be submitted to Legal Communications, Ltd., The Legal Intelligencer, and the Delaware County Legal Journal.

By the Court

A. LEO SERENI, President Judge

[Pa.B. Doc. No. 97-504. Filed for public inspection April 4, 1997, 9:00 a.m.]