

# THE COURTS

## Title 210—APPELLATE PROCEDURE

### PART II. INTERNAL OPERATING PROCEDURES

[210 PA. CODE CH. 67]

#### Order Establishing Mediation Program; 126 M.D. No. 3

##### Order

*And Now*, this 15th day of September, 1999, *It Is Hereby Ordered* that effective January 1, 2000 counseled appeals of orders of the courts of common pleas and counseled petitions for review of state administrative agency action filed in Commonwealth Court's appellate jurisdiction and counseled actions filed in the Court's original jurisdiction may be referred at the discretion of the Court to the Court's Mediation Program to facilitate settlement and otherwise to assist in the expeditious resolution of matters before the Court. Cases that have not been selected by the Court for mediation may be referred at any time to the Mediation Program at the request of counsel or at the direction of any en banc or three-judge panel of the Court.

Tax appeals from orders of the Board of Finance and Revenue, which are now subject to a status conference program, and all pro se matters shall be exempt from the Mediation Program. Mediation shall be offered at no cost to the parties and shall be conducted by senior judges of the Court assigned on a periodic basis by the President Judge. A senior judge selected by the President Judge shall serve as the initial coordinator of the Mediation Program and shall screen cases for mediation and otherwise manage the Mediation Program in cooperation with the Chief Clerk of the Court.

*It Is Further Ordered* that within ten days after receipt of the notice of appeal, petition for review or complaint, the appellant, petitioner or plaintiff shall file with the Chief Clerk the required docketing statement on a form provided by the Court at the time of the notice of appeal, petition for review or complaint is filed. The appellant, petitioner or plaintiff shall also file a Statement of Issues with the docketing statement. The Statement of Issues shall be no more than two pages in length and shall set forth a brief summary of the issues and a summary of the case necessary for an understanding of the nature of the appeal, petition for review or complaint. Service of the Statement of Issues shall be made on all parties, and an original and five copies shall be filed with the Chief Clerk's Office along with a proof of service.

Cases shall be screened for referral to mediation immediately upon the filing of the docketing statement and any other form prescribed by the Court setting forth the issues and a summary of the case. After a case has been selected for mediation, the Chief Clerk shall notify counsel for all parties by letter of the referral to the Mediation Program and of the name of the mediation judge assigned to conduct mediation. The mediation judge shall promptly contact counsel to establish the location, date and time for mediation.

Within ten days of receiving notice of mediation, counsel shall provide the mediation judge with a mediation

statement of no more than five pages, setting forth the positions of counsel as to the key disputed and undisputed facts and legal issues in the case and stating whether prior settlement negotiations have occurred. The mediation statement shall also identify any motions filed and their disposition; the mediation judge may dispose of only those motions related to scheduling or to the mediation process. In actions arising under the Court's appellate jurisdiction, counsel for the appellant or the petitioner shall attach as exhibits to the mediation statement a copy of the judgment or order on appeal and any opinion or adjudication issued by the common pleas court or agency. Copies of the mediation statement need not be served upon opposing counsel unless so directed by the mediation judge. Documents prepared solely for mediation and the notes of the mediation judge shall not be filed with the Chief Clerk.

All cases referred to mediation shall remain subject to the Court's normal scheduling for briefing and/or oral argument. The Court's briefing and/or oral argument schedule shall not be modified by the Chief Clerk unless so directed by the mediation judge to accommodate mediation.

All mediation sessions must be attended by counsel for each party with authority to settle the matter and, if required, such other person with actual authority to negotiate a settlement, whether involving the Commonwealth of Pennsylvania, a local government unit or an individual litigant. The mediation judge may at his or her discretion require the parties (or real parties in interest) to attend mediation. In cases involving the Commonwealth government, upon direction of the mediation judge, counsel shall have available someone from the appropriate agency with authority to settle who can be reached during mediation to discuss settlement if such person is not already required to be in attendance by the mediation judge. The mediation judge may in the alternative obtain the name and title of the government official or officials authorized to settle on behalf of the state or local government unit.

No future mediation shall be conducted unless the mediation judge determines that further sessions are necessary to effectuate a settlement. The mediation judge assigned to mediate a case shall attend all future mediation sessions scheduled in the case. The mediation judge shall possess authority to impose any necessary sanctions for the failure of counsel to comply with the requirements of this order.

The mediation judge shall not disclose the substance of the mediation settlement discussions and proceedings, and counsel likewise shall not disclose such discussions and proceedings to anyone other than to their clients or to co-counsel. No information obtained during settlement discussions shall be construed as an admission against interest, and counsel shall not use any information obtained during settlement discussions as the basis for any motion or application other than one related to the Court's briefing or argument scheduling. Where settlement is reached, counsel shall prepare a written settlement agreement and obtain all necessary signatures of the parties and counsel. The agreement shall be binding

upon the parties to the agreement, and after execution counsel shall file a stipulation of dismissal within ten days thereof. Where necessary or upon the request of counsel the mediation judge may enter an appropriate order approving the settlement and remanding the case to the tribunal below for its enforcement and/or implementation.

Any case not resolved by mediation shall remain on the Court's docket and proceed as if mediation had not occurred. The mediation judge shall not participate in any decision on the merits of the case. Upon the termination of mediation either through settlement and dismissal or through a continuation of the case on the Court's docket, the mediation judge shall dispose of all documents obtained during mediation unless the mediation judge determines to retain any part of non-confidential documents until final disposition of a case. In any event, the mediation statements and any other confidential documents submitted to the mediation judge shall be destroyed immediately upon the termination of mediation.

The Court's order establishing a Mediation Program shall be published in the *Pennsylvania Bulletin* and in legal newspapers throughout the Commonwealth prior to the effective date of the Mediation Program. The order shall be posted in the Chief Clerk's Office and a copy thereof shall be mailed to all counsel whose cases have been selected for mediation. The Court also shall amend its Internal Operating Procedures to incorporate the mediation procedures and shall give notice thereof simultaneously with notice of the Court's order establishing the Mediation Program. This order may be amended at the discretion of the Court.

JOSEPH T. DOYLE,  
*President Judge*

[Pa.B. Doc. No. 99-1658. Filed for public inspection October 1, 1999, 9:00 a.m.]

# Title 255—LOCAL COURT RULES

## BEAVER COUNTY

### Amendments to Local Orphan's Court Rules; Rule L.15.1.E, Amendment to the Order of September 7, 1999 Amending the Form Used for Petition for Involuntary Termination

#### Order

Now, this 14th day of September, 1999, the Court hereby adopts the following Beaver County Local Orphan's Court Rules, 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 the Pennsylvania Courts, two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, one (1) certified copy to the Civil Procedure Rules Committee and one (1) copy to the *Beaver County Law Journal* for publication in the next issue of the *Beaver County Law Journal*.

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

*By the Court*

ROBERT C. REED,  
*President Judge*

IN THE COURT OF COMMON PLEAS OF BEAVER COUNTY  
PENNSYLVANIA

ORPHAN'S COURT DIVISION

IN RE: ADOPTION OF \_\_\_\_\_ : No. \_\_\_\_\_ of \_\_\_\_\_

PETITION FOR INVOLUNTARY TERMINATION OF PARENTAL RIGHTS  
(Section 2512—Adoption Act)

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_, comes the Petitioner(s), and sets forth the following facts:

1. Names of Petitioner(s) \_\_\_\_\_

2. Describe the relationship of the Petitioner(s) to the child \_\_\_\_\_

3. Regarding the child(ren), provide the following information:

Name	Age	DOB	Sex	Religious Affiliation

4. Regarding the parent(s) who are the subject of the Petition, provide the following:

Name	Age	Address	Religious Affiliation

5. Was the mother married at any time during one year prior to the birth of the child(ren)?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, provide the name of each husband and mother's maiden name:

\_\_\_\_\_

\_\_\_\_\_

6. The Petitioner(s) is authorized to seek termination pursuant to Section 2512 of the Adoption Act on the basis that the petitioner(s) is/are (check the applicable status):

- \_\_\_\_\_ a parent who seeks termination with respect to the other parent;
- \_\_\_\_\_ an agency;
- \_\_\_\_\_ an individual having custody or standing in loco parentis to the child, who has filed a report of intention to adopt as per Section 2531 of the Adoption Act;
- \_\_\_\_\_ an attorney representing a child or a guardian ad litem representing a child who has been adjudicated dependent under 42 Pa.C.S. § 6431(c) (relating to adjudication).

7. The grounds for termination of parental rights upon which the petitioner(s) rely are: (check applicable grounds)

- \_\_\_\_\_ the parent by conduct continuing for a period of at least (6) months immediately preceding the filing of the petition either has evidenced a settled purpose of relinquishing parental claim to a child or has refused or failed to perform parental duties;
- \_\_\_\_\_ the repeated and continued incapacity, abuse, neglect or refusal of the parent has caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being and the conditions and causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied by the parent;
- \_\_\_\_\_ the parent is the presumptive but not the natural father of the child;
- \_\_\_\_\_ the child is in the custody of an agency, having been found under such circumstances that the identity or whereabouts of the parent is unknown and cannot be ascertained by diligent search and the parent does not claim the child within three months after the child is found;
- \_\_\_\_\_ the child has been removed from the care of the parent by the Court or under a voluntary agreement with an agency for a period of at least six months, the conditions which led to the removal or placement of the child continue to exist, the parent cannot or will not remedy those conditions within a reasonable period of time, the services or assistance reasonably available to the parent are not likely to remedy the conditions which led to the removal or placement of the child within a reasonable period of time and termination of the parental rights would best serve the needs and welfare of the child.
- \_\_\_\_\_ in the case of a newborn child, the parent knows or has reason to know of the child's birth, does not reside with the child, has not married the child's other parent, has failed for a period of four months immediately preceding the filing of the petition to make reasonable efforts to maintain substantial and continuing contact with the child and has failed during the same four month period to provide substantial financial support for the child;
- \_\_\_\_\_ the parent is the father of a child who was conceived as a result of a rape;
- \_\_\_\_\_ the child has been removed from the care of the parent by the Court or under a voluntary agreement with an agency, twelve (12) months or more have elapsed from the date of removal or placement, the conditions which led to the removal or placement of the child continue to exist and termination of parental rights would best serve the needs and welfare of the child.

8. The facts which support each of the grounds checked above, and which establish that termination of parental rights would be in the best interests of the child, are set forth as follows (provide a statement of the facts underlying your petition, or a report from Children and Youth Services.)

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

9. If the petitioner(s) is not an agency, has a Petition for Adoption been filed or is adoption presently contemplated?  
Yes \_\_\_\_\_ No \_\_\_\_\_

Is the child(ren) placed in the care of the petitioners?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, give the date of placement \_\_\_\_\_

10. The petitioner(s) will assume custody of the child(ren) if this petition is granted.

11. If the father of the child(ren) has not been identified, has a claim of paternity been filed?

Yes \_\_\_\_\_ No \_\_\_\_\_

12. Is either parent entitled to benefits under the Soldiers' and Sailors' Civil Relief Act (50 U.S.C.A. § 501, et seq).

13. The following exhibits are attached:

- \_\_\_\_\_ birth certificate of child(ren);
- \_\_\_\_\_ consent of parent for petitioner under age eighteen (18).
- \_\_\_\_\_ statement of facts or report from Children and Youth Services

14. **VERIFICATION:**

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

**WHEREFORE**, the Petitioner(s) request that a hearing be scheduled and a citation issued to the respondent(s) directing them to appear before the Court at a day and time scheduled.

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

[Pa.B. Doc. No. 99-1659. Filed for public inspection October 1, 1999, 9:00 a.m.]

**DAUPHIN COUNTY**

**Promulgation of Local Rules; No. 1689 S 1989**

**Order**

And Now, this 15th day of September, 1999, the Dauphin County Local Rules of Civil Procedure are amended as follows:

**Rule 215.1. Jury Trials**

\* \* \*

(3) COMPILATION OF TRIAL LIST

\* \* \*

(c) A trial list preference may be requested in all cases in which a jury previously has been impanelled and sworn, or which were listed and available for trial in the preceding civil trial session but were not reached [at the conclusion of the session]. Such preference shall be presented in the form of an application for preference. The application must be filed with the Prothonotary at least three weeks prior to the first day of the trial session. Copies must be served upon all other counsel and the Court Administrator's Office. The Calendar Judge will determine the order of preference.

\* \* \*

(4) [CALL OF LIST—A single call of the trial list will be held one (1) week prior to the first day of each session of civil jury trials, as specified in the Court calendar.]

[(5)] CALENDAR JUDGE—The Calendar Judge will have supervision of the cases on the Civil Jury Trial List, including the following:

\* \* \*

(d) [Conduct of the call of the list.]

[(e)] Assignment of cases.

These amendments shall be effective January 1, 2000.

*By the Court*

CLARENCE C. MORRISON,  
*President Judge*

[Pa.B. Doc. No. 99-1660. Filed for public inspection October 1, 1999, 9:00 a.m.]

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