

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 82]

Amendment of Rule 106 of the Pennsylvania Rules for Continuing Legal Education and Sections 11 and 12 of the Pennsylvania Continuing Legal Education Board Regulations; No. 244; Supreme Court Rules Doc. No. 1

#### Order

*Per Curiam:*

And Now, this 28th day of April, 2000, Rule 106 of the Pennsylvania Rules for Continuing Legal Education and Sections 11 and 12 of the Pennsylvania Continuing Legal Education Board Regulations are amended as follows.

To the extent that notice of proposed rulemaking would be required by Pa.R.J.A. No. 103, the amendment of the rules is hereby found to be required in the interest of efficient administration.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b) and shall be effective September 1, 2000.

#### Annex A

### TITLE 204 JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART V. PROFESSIONAL ETHICS AND CONDUCT

##### Subpart A. PROFESSIONAL RESPONSIBILITY

#### CHAPTER 82. CONTINUING LEGAL EDUCATION

##### SUBCHAPTER A. PROFESSIONAL RESPONSIBILITY

#### Rule 106. Providers.

(a) *Eligibility.*

1. \* \* \*
2. \* \* \*

#### [ 3. For Profit Providers:

a. A for profit corporation or association may apply to the Board for accreditation as a CLE provider or for approval of courses under Rule 107, and the Board may grant such accreditation or course approval to be effective on and after January 1, 1997.

b. Until authorized by these rules and the regulations of the Board, only CLE courses offered and conducted outside the territory of the Commonwealth of Pennsylvania by for profit corporations or associations may receive CLE credit from the Board. ]

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### Subchapter B. Continuing Legal Education Board Regulations

#### Section 11: Accreditation of Accredited Continuing Legal Education Providers.

\* \* \* \* \*

(g) The Board shall accredit for profit corporations and associations as CLE providers in accordance with the rules and these regulations. Such accreditation of a for profit provider shall be effective on and after January 1, 1997. CLE credit will only be given for CLE courses offered and conducted outside the territory of Pennsylvania by accredited for profit corporations or associations. **On and after September 1, 2000, CLE credit can be given for CLE courses offered by accredited for profit corporations or associations without regard to the geographic location of the course.**

#### Section 12: Accreditation of a Single Course or CLE Activity.

\* \* \* \* \*

(d) The Board shall accredit courses offered and conducted outside the territory of the Commonwealth of Pennsylvania by for profit corporations or associations where such courses meet the requirements of the rules and these regulations. Such accreditation shall apply to courses to be conducted on and after January 1, 1997. **The Board shall accredit courses offered on and after September 1, 2000 without regard to the geographic location of the course when such courses otherwise meet the requirements of the rules and these regulations.**

[Pa.B. Doc. No. 00-776. Filed for public inspection May 12, 2000, 9:00 a.m.]

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### [231 PA. CODE CH. 200]

#### Motion to Exclude Expert Testimony Which Relies Upon Novel Scientific Evidence; Proposed Recommendation No. 162

The Civil Procedural Rules Committee proposes to add new Rule of Civil Procedure 207.1 governing a motion to exclude expert testimony which relies upon novel scientific evidence. 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 June 7, 2000 to: Harold K. Don, Jr., Esquire, Counsel, Civil Procedural Rules Committee, 5035 Ritter Road, Suite 700, Mechanicsburg, Pennsylvania 17055 or E-Mail to [civil.rules@supreme.court.state.pa.us](mailto:civil.rules@supreme.court.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 207.1. Motion to Exclude Expert Testimony Which Relies Upon Novel Scientific Evidence.**

(a) If a party moves the court to exclude expert testimony which relies upon novel scientific evidence, on the basis that it is inadmissible under Pa.R.E. 702 or 703,

(1) the motion shall contain

(i) the name and credentials of the expert witness whose testimony is sought to be excluded,

(ii) a summary of the expected testimony of the expert witness, specifying with particularity that portion of the testimony of the witness which the moving party seeks to exclude,

(iii) the basis, set forth with specificity, for excluding the evidence,

(iv) the evidence upon which the moving party relies, and

(v) copies of all relevant curriculum vitae and expert reports,

(2) any other party need not respond to the motion unless ordered by the court,

(3) the court shall initially review the motion to determine if, in the interest of justice, the matter should be addressed prior to trial. The court, without further proceedings, may determine that any issue of admissibility of expert testimony be deferred until trial, and,

(4) if the court determines that the matter should be addressed prior to trial, the court shall order that a response be filed.

**Official Note:** This rule establishes procedures for motions to exclude expert testimony which relies upon novel scientific evidence. The rule does not address the requirements for the admission of expert testimony under Pa.R.E. 702 and 703, which are governed by case law. It also does not address motions under those rules on other grounds.

The court has discretion in the manner in which it determines the motion. While depositions of expert witnesses and evidentiary hearings are available to the court for this purpose, where appropriate the evidentiary record may be developed through affidavits, studies and treatises submitted by the parties, and supplemental reports signed by the expert witnesses. Also see the limitations set forth in Rule 4003.5 governing discovery of expert testimony.

In deciding whether to address prior to trial the admissibility of the testimony of an expert witness, the following factors are among those which the court should consider: the dispositive nature or significance of the issue to the case; the complexity of the issue involved in the testimony of the expert witness; the degree of novelty of the proposed evidence; the complexity of the case; the

anticipated length of trial; the potential for delay of trial; and the feasibility of the court evaluating the expert witness' testimony when offered at trial.

When a ruling on a pretrial motion to exclude the testimony of an expert witness is deferred until trial, the trial judge may choose to decide the motion (1) before the expert witness testifies on the basis of evidence offered outside the presence of the jury or (2) after the expert witness testifies on the basis of testimony offered at trial, in which event the trial judge will strike the testimony of the expert witness if it is found to be inadmissible under Pa.R.E. 702 or 703. However, hearings on preliminary matters must be conducted outside the presence of the jury "when the interests of justice require." See Pa.R.E. 104.

(b) A party is not required to raise prior to trial the issue of the admissibility of expert testimony which relies upon novel scientific evidence unless the court orders the party to do so.

*Explanatory Comment*

The purpose of new Rule 207.1 is to provide the procedure for pretrial motions concerning the admissibility of expert testimony which relies upon novel scientific evidence.

*By the Civil Procedural  
Rules Committee*

REA BOYLAN THOMAS,  
*Chair*

[Pa.B. Doc. No. 00-777. Filed for public inspection May 12, 2000, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### CLINTON COUNTY

#### Rules of Miscellaneous Procedure, Rules of Civil Procedure, Rules of Criminal Procedure and Orphans' Court Rules of the Court of Common Pleas; No. 29 January Term 1976

#### Order

The District Attorney having publicly announced the unavailability of an attorney for the Commonwealth on a 24-hour basis, *It Is Hereby Ordered* Clinton R.Crim.P. No. 101A.1, Approval of Police Complaints and Arrest Warrant Affidavits by District Attorney for the Commonwealth is hereby suspended until the District Attorney certifies, to the Court, compliance with Pa.R.Crim.P. No. 107.

*It Is Further Ordered* the Clerk of Court shall:

1. File seven certified copies with the Administrative Office of Pennsylvania Courts;

2. Distribute two certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

3. File one certified copy with the Criminal Procedural Rules Committee, c/o Ann Panfil, Esquire, 5035 Ritter Road, Mechanicsburg, PA 17055.

Effective this date.

*By the Court*

RICHARD N. SAXTON, Jr.,  
*President Judge*

[Pa.B. Doc. No. 00-778. Filed for public inspection May 12, 2000, 9:00 a.m.]

### LYCOMING COUNTY

#### Amendments to Juvenile Court Rules; 00-00666

##### Order

*And Now*, this 12th day of April, 2000, it is hereby *Ordered and Directed* that the Lycoming County Juvenile Court Rules are hereby rescinded, in their entirety.

The Prothonotary is directed to:

a. File seven (7) certified copies of this order with the Administrative Office of the Pennsylvania Courts.

b. Distribute two (2) certified copies of this order to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

c. File one (1) certified copy of this order with the Pennsylvania Criminal Procedural Rules Committee.

d. Forward one (1) copy of this order to the *Lycoming Reporter* for publication therein.

e. Forward one (1) copy to the chairman of the Lycoming County Customs and Rules Committee.

f. Keep continuously available for public inspection copies of this order.

The rescission of the Lycoming County Juvenile Court Rules shall become effective 30 days after the publication of this order in the *Pennsylvania Bulletin*.

*By the Court*

CLINTON W. SMITH,  
*President Judge*

[Pa.B. Doc. No. 00-779. Filed for public inspection May 12, 2000, 9:00 a.m.]

### LYCOMING COUNTY

#### Amendments to Rules of Civil Procedure; 00-00666

##### Order

*And Now*, this 13th day of April, 2000, it is hereby *Ordered and Directed* as follows:

1. Lycoming County Rule of Civil Procedure L 1914 is hereby rescinded.

2. Lycoming County Rule of Civil Procedure L 1914, as follows, is hereby promulgated.

3. The Prothonotary is directed to:

a. File seven (7) certified copies of this order with the Administrative Office of the Pennsylvania Courts.

b. Distribute two (2) certified copies of this order to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

c. File one (1) certified copy of this order with the Pennsylvania Civil Procedural Rules Committee.

d. Forward one (1) copy of this order to the *Lycoming Reporter* for publication therein.

e. Forward one (1) copy to the chairman of the Lycoming County Customs and Rules Committee.

f. Keep continuously available for public inspection copies of this order.

4. The rule revision approved by this order shall become effective 30 days after its publication in the *Pennsylvania Bulletin*.

*By the Court*

CLINTON W. SMITH,  
*President Judge*

### PARENT EDUCATION PROGRAM

#### L1914. Seminar For Separating Families.

In such divorce and/or custody proceedings filed after the effective date of this rule as the court shall direct, where the interests of children under the age of eighteen (18) years are involved, the parties shall attend the "Lycoming County Parent Education Program." The program will be conducted by a service provider designated by the court, which shall be charged with implementing the program in accordance with guidelines issued by the court. This course must be completed once only, even if subsequent custody matters are filed involving the same children.

**Note:** A great deal of valuable research has been conducted to determine the nature of psychological impacts of divorce/parental separation upon children and their parents. This research has yielded specific and consistent results in terms of common reactions, stages and problematic behaviors, as well as successful psycho-educational models and prevention techniques designed to minimize the short and long term negative impacts associated with the divorce. This parent education program utilizes such knowledge in a proactive-prevention approach in order to minimize the negative psychological impact of divorce upon children in particular, as well as parents. This model provides critical education to parents regarding what to anticipate in terms of their children's adjustment process as well as their own. The fact that the *parent's behavior* and adjustment is very critical to the child's adjustment is emphasized. The model serves to help prevent severe long-term maladaptive reactions and to minimize more immediate negative emotional fallout which occurs in children as a result of the divorce/separation of parents. Another potential indirect benefit of the program would be the reduction in the use of the courts to resolve issues regarding children.

Court mandated parent education classes are becoming very common in the United States as the preventative value and effectiveness of such programs are recognized. Throughout the divorce process parents usually become very self absorbed with diminishing abilities to parent effectively (or even adequately). This occurs at a time when children's needs are tremendous for both proper parenting in terms of guidance and emotional support. For many of these couples, a court mandated parenting education class will be the only modality in which they receive critical information or assistance in the divorce

process. Most families will not receive or seek professional psychotherapy or community counseling-educational programs.

This parent education model utilizes a two part class (two hours each class), and a detailed (and understandable) handbook or "manual" is distributed for parents to utilize in class and keep. In addition to reviewing the handbook, the classes consist of a lecture, video and discussion periods. Classes will be scheduled at various times to avoid conflicts with work schedules.

#### A. Participation by Court Order.

1. Participation in the program shall be directed in all custody proceedings where the parties are unable to resolve their custody dispute at the initial conference before the custody conference officer, unless the parties have previously completed the program or the court excuses such participation for good cause shown. In addition, participation may be directed by the court as a result of custody contempt or protection from abuse proceedings brought before the court.

2. Within seven (7) days after entry of the order directing the parties to attend the program, both parties are required to register for the seminar by mailing or personally presenting the pre-printed "Lycoming County Parent Education Program" registration form, along with a registration fee of fifty dollars (\$50.00) or a request for waiver of the fee, to the service provider at the address set forth on the registration form. Any parent who obtains an order to proceed in forma pauperis (without payment of costs) will automatically have the registration fee waived, but a copy of the order must be attached to the request for waiver of the fee. A parent may request that the fee be waived even without an order to proceed in forma pauperis, as long as no order was entered denying a request to proceed in forma pauperis, but he or she must provide sufficient information to the service provider in the request for waiver of the fee to support the request. If the court has granted in forma pauperis status to a parent but the service provider determines nevertheless that it cannot waive the fee, for any reason, it shall issue a notice excusing the parent from participation in the program.

3. Unless the scheduling requirements of the service provider delay attendance, the parties shall complete the program within sixty (60) days of the entry of the order directing their attendance. Court approval is required for an extension of time to complete the program.

4. Upon completion of the program, the service provider shall issue a certificate of completion. The original shall be filed with the court and each parent shall receive a copy. Hearing on a party's request for custody or modification of custody may be deferred by the court until that party completes the program. A non-moving party's failure to complete the program as directed shall not delay the proceedings, but such may be considered by the court in its disposition of the matter.

#### B. Voluntary Participation.

1. Any party to a divorce or custody action may attend the program voluntarily, after registering in accordance with the procedure outlined in subsection A.2. of this rule.

#### 2. Notice of Program Availability

a. If the divorce complaint includes a count for custody or partial custody, the following language shall be in-

cluded in the notice attached to a complaint pursuant to Pa.R.C.P. 1920.12(c):

If you have minor children, you are advised that you may attend the Lycoming County Parent Education Program which is intended to assist you in parenting your children during divorce. There is a \$50.00 registration fee, which may be waived for those who cannot afford it. Registration forms and instructions on how to register are available in room 403 of the Lycoming County Courthouse.

b. In the order attached to a custody petition pursuant to Pa.R.C.P. 1915.15(c), the following language shall be included:

You are advised that you may attend the Lycoming County Parent Education Program which is intended to assist you in parenting your children during divorce or separation. There is a \$50.00 registration fee, which may be waived for those who cannot afford it. Registration forms and instructions on how to register are available in room 403 of the Lycoming County Courthouse. Should the custody issues raised by the attached petition remain unresolved after the conference, attendance will be mandatory.

[Pa.B. Doc. No. 00-780. Filed for public inspection May 12, 2000, 9:00 a.m.]

## MONTGOMERY COUNTY

### Custody Mediation Advisory Panel Pursuant to Local Rule of Civil Procedure \*1940.10; Administrative Order 2000

#### Order

And Now, this 26 day of April 1, 2000, pursuant to Montgomery County Local Rule of Civil Procedure \*1940.10, the Court hereby directs that the Advisory Panel to the Custody Mediation Orientation Program shall be comprised of the following members:

—the Montgomery County District Court Administrator;

—the Co-Chairs of the Montgomery Bar Association's Family Law Section Mediation Sub-Committee;

—two (2) active members of the Montgomery Bar, and

—two (2) "mental health professionals."

The names of the two active members of the Bar and the two mental health professionals shall be submitted to the Court for approval each year by the Mediation Subcommittee Co-Chairs.

The Court Administrator is directed to publish this Order once in the *Montgomery County Law Reporter* and in the *Legal Intelligencer*. In conformity with Pa.R.C.P. 239, seven (7) certified copies of the within Order shall be filed by the Court Administrator with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One (1) certified copy shall be filed with the Domestic Relations Rules Committee. One (1) copy shall be filed with the

Prothonotary, one (1) copy with the Clerk of Courts, and (1) copy with the Court Administrator of Montgomery County, one (1) copy with the Law Library of Montgomery County and one (1) copy with each Judge of this Court.  
*By the Court*

JOSEPH A. SMYTH,  
*President Judge*

[Pa.B. Doc. No. 00-781. Filed for public inspection May 12, 2000, 9:00 a.m.]

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## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Disbarment

Notice is hereby given that James Daniel Harrison, having been disbarred from the practice of law in the State of New Jersey, the Supreme Court of Pennsylvania issued an Order dated April 28, 2000 disbaring James Daniel Harrison from the practice of law in this Commonwealth, to become effective May 28, 2000. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,  
*Executive Director & Secretary  
The Disciplinary Board of the  
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 00-782. Filed for public inspection May 12, 2000, 9:00 a.m.]

# SUPREME COURT

Appointment to Committee on Rules of Evidence;  
No. 243 Supreme Court Rules; Doc. No. 1

### Order

*Per Curiam:*

*And Now*, this 25th day of April, 2000, Vincent J. Grogan, Esquire, Allegheny County, is hereby appointed as a member of the Committee on Rules of Evidence to complete the remaining term of The Honorable Thomas C. Raup expiring on October 1, 2001.

[Pa.B. Doc. No. 00-783. Filed for public inspection May 12, 2000, 9:00 a.m.]