

# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[231 PA. CODE CH. 1900]

[RECOMMENDATION 52]

#### Technical Amendments to Rule 1905 Relating to Protection From Abuse Actions; No. 335; Civil Procedural Rules Doc. No. 5

#### Order

*Per Curiam:*

*And Now*, this June 2, 2000, Pennsylvania Rule of Civil Procedure 1905 is amended as follows.

Whereas prior publication of proposed rulemaking would otherwise be required, it has been determined, pursuant to Rule of Judicial Administration 103(a)(3), that the amendments are of a perfunctory nature and that the immediate promulgation of this Order is required in the interests of justice and efficient administration.

This order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective immediately.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

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

#### Rule 1905. Forms for Use in PFA Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.

\* \* \* \* \*

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

\* \* \* \* \*

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

On [insert date and time], Defendant may enter the residence to retrieve his/her clothing and other personal effects, provided that Defendant is in the company of a law enforcement officer when such retrieval is made and [insert any other conditions ] \_\_\_\_\_

\* \* \* \* \*

9. Defendant is directed to pay temporary support for: [insert the names of the persons for whom support is to be paid] as follows: [insert amount, frequency and other terms and conditions of the support order]. This order for support shall remain in effect until a final support order is entered by this Court. However, this

order shall lapse automatically if the Plaintiff does not file a complaint for support with the **Domestic Relations Section of the court** within [ **fifteen days** ] **two weeks** of the date of this order. The amount of this temporary order does not necessarily reflect Defendant's correct support obligation, which shall be determined in accordance with the guidelines at the support hearing. Any adjustments in the final amount of support shall be credited, retroactive to this date, to the appropriate party.

\* \* \* \* \*

#### Explanatory Comment—2000

**Paragraph 2 of the final order has been amended to enable courts to include additional conditions for the retrieval of personalty by the defendant in a section of the final order which permits arrest without a warrant if the conditions are violated. Paragraph 9 of the final order has been amended to require the filing of a support complaint within two weeks, rather than fifteen days, of the entry of a final order under the Protection From Abuse Act to prevent the automatic lapse of any temporary support provisions included in the order. This change is consistent with the statutory provisions at 23 Pa.C.S. § 6108(a)(5).**

[Pa.B. Doc. No. 00-1029. Filed for public inspection June 16, 2000, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### COLUMBIA AND MONTOUR COUNTIES

#### Amendments to Local Court Rules No. 5.12(a)(b); No. 1 MV 2000

#### Order of Court

*And Now*, this 1st day of June 2000, the following amendments to the Local Rules of the Court of Common Pleas of Columbia and Montour Counties, 26th Judicial District are hereby adopted effective thirty (30) days after publication in the *Pennsylvania Bulletin*, in accordance with Pa.R.C.P. No. 239(d).

*By the Court*

SCOTT W. NAUS,  
*President Judge*

#### LOCAL RULE (L. R.) No. 512

#### Rule 5.12(a). Prosecution of Action.

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

(a) "Plaintiff has been advised of the requirement to attend the seminar entitled 'Kids First' or such other parenting seminar as selected and approved by the Court.

(b) "Defendant has been advised of the requirement to attend the seminar entitled 'Kids First' or such other custody parenting seminar as selected and approved by the Court.

2. An Information sheet concerning the Court's parenting seminar shall be attached to the complaint which includes the dates of the seminar(s).

3. Both parents must attend seminar within [twenty (20) days of the initial filing.]

**Rule 5.12(b). Child Custody Seminar.**

1. The Court Administrator will provide the dates for the seminar at the time of the filing of the Custody and/or Divorce Complaint.

2. Brochures and registration forms will be available from both the Clerk of Courts and Court Administrator.

3. The moving party is responsible for ensuring that the opposing party receives the seminar brochure and registration form.

4. The parents must submit the registration form and payment for registration no later than three (3) days prior to the selected seminar date.

5. Parents residing outside of Columbia/Montour counties may contact the presenter for possible alternative programs if unable to attend the seminar.

6. The Court has authorized the seminar presenter to approve individual changes to the registration, only upon a showing of good cause.

7. Parents must attend the seminar. A parent's visitation or custody may be affected by their failure to comply.

8. Parents proceeding in forma pauperis or on public assistance must provide proof of such to the presenter.

9. Upon successful completion of the seminar, the presenter will issue a certification of completion to the parties, and provide the Clerk of Courts with a seal of completion which shall be affixed by the Clerk of Courts to the front inside cover of the file.

10. The presenter shall provide the Court Administrator with a list of non-attendees against whom the Court may issue contempt proceedings.

11. This seminar is in addition to the Special Master's conference and parents must comply with attendance before Special Master as governed in other local rules.

[Pa.B. Doc. No. 00-1030. Filed for public inspection June 16, 2000, 9:00 a.m.]

**GREENE COUNTY**

**Consolidated Rules of Court; C.A. No. 5 of 1992**

**Order**

*And Now*, this 30th day of May, 2000, it is Ordered:

1. The following amendment to the Greene County Rules of Procedure (G.Co.R.) is adopted as a Rule of this Court, effective July 1, 2000 or thirty (30) days after publication in the *Pennsylvania Bulletin*, whichever is later.

2. The Court Administrator of Greene County shall:

(a) File ten (10) certified copies of this Order and the following Rule with the Administrative Office of Pennsylvania Courts;

(b) Distribute two (2) certified copies of this Order and the following Rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

(c) File one (1) certified copy of this Order and the following Rule with the Pennsylvania Civil Procedure Rules Committee;

(d) File proof of compliance with this Order in the docket at the above number and term, which shall include a copy of each letter of transmittal; and

(e) Cause a copy of this Order and the following Rule to be published one (1) time in the *Greene Reports*.

It is further *Ordered* that on the effective date of the following local rule, all previous local rules shall remain in effect.

*By the Court*

H. TERRY GRIMES,  
*President Judge*

**RULE G1920.51: Master in Divorce.**

a. Filing fees for Divorce cases shall be increased by \$50.00. This fee shall be deposited into an account in the Office of the Prothonotary designated for the payment of Court Stenographer's fees with the Master to be responsible for seeking an Order from the Court for payment to the Court Stenographer. Upon receipt of the Order, the Prothonotary shall issue the check to the Court Stenographer.

b. The charge for each Count beyond the initial Count for Divorce shall be increased from \$5.00 to \$15.00 per Count, with the additional amount of \$10.00 per Count paid pursuant to this rule to be deposited into an account in the Office of the Prothonotary designated for the payment of Court Stenographer's fees. These fees shall be deposited and disbursed as set forth in Rule 1920.51(a) above.

c. An initial Master's fee deposit of \$400.00 shall be paid to the Prothonotary at the time the Request for Appointment of a Master is filed, with the payment of the deposit to be the responsibility of the moving party unless the Court shall direct otherwise.

d. Immediately after appointment, the Master shall schedule a Conciliation Conference to be attended by the parties and their respective counsel.

e. If hearings are required before the Master beyond the Conciliation Conference, an additional fee of \$1,000.00 per day shall be deposited in advance of the scheduled hearing. The Master is authorized to recommend how this fee shall be allocated between the parties.

f. The Master in Divorce shall be entitled to compensation of \$75.00 per hour for the first five (5) hours and \$60.00 per hour thereafter, upon approval by the Court of a reasonable number of hours.

g. Any unused portion of the funds deposited for the Master's fees shall be returned to the depositor upon direction of the Master of the Court.

[Pa.B. Doc. No. 00-1031. Filed for public inspection June 16, 2000, 9:00 a.m.]

**SNYDER AND UNION COUNTIES**

**Adoption of Local Rules; No. 27 Misc 2000**

**Order**

*And Now*, this 23rd day of February, 2000, effective thirty (30) days after publication of this Order in the *Pennsylvania Bulletin* the following local rules are adopted:

**17LR1901. Appearance by Attorney.**

The appearance of an attorney on behalf of a party to a proceeding filed pursuant to the Protection from Abuse Act, 23 Pa.C.S.A. § 6101, et seq. ("the Act"), shall terminate upon the entry of a final order or the discontinuance or withdrawal of the action, as that term is defined in Pa.R.C.P. No. 1901, whichever shall first occur.

**17LR1902.1. Discontinuance Prior to the Entry of Final Order.**

(a) In the event the Plaintiff wishes to discontinue an action after the entry of a temporary order, the Plaintiff shall file a praecipe in the following form:

PRAECIPE

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, I, \_\_\_\_\_, Plaintiff, being of the belief that I am no longer in danger from the Defendant, and that I am no longer in need of protection from him/her, do hereby request that the Temporary Order entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, be vacated, and that the Petition filed in this matter by me be marked as withdrawn.

\_\_\_\_\_  
Plaintiff

(b) Contemporaneously with the filing of the praecipe provided for in 17LR1902.1(a), the Plaintiff shall pay any and all applicable court costs. In the event that the Plaintiff asserts that the Plaintiff is unable to pay the said costs, Plaintiff shall submit the affidavit provided for in Pa.R.C.P. No. 240(h). The court will then review the said affidavit to determine if the court will waive the said court costs.

**17LR1910.2. Discontinuance After Entry of Final Order.**

(a) In the event the Plaintiff wishes to discontinue an action under the Act after the entry of a final order granting relief pursuant to the Act, the Plaintiff may, with the written concurrence of the Defendant, file a praecipe requesting said relief in the following form.

PRAECIPE

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, I, \_\_\_\_\_, Plaintiff, being of the belief that I am no longer in danger from the Defendant, and that I am no longer in need of protection from him/her, do hereby request that the final Order entered in this matter on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, be vacated and that the Petition filed in this matter by me be marked as withdrawn.

\_\_\_\_\_  
Plaintiff

I, \_\_\_\_\_, Defendant, do consent to the final Order entered in this matter on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, being vacated so that it is of no further force and effect.

\_\_\_\_\_  
Defendant

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

(b) The party responsible for the payment of costs, as provided for in the final order which the Plaintiff is requesting be vacated must pay those costs prior to the court entering an order vacating the final order.

**17LR1903.1. Modification of Final Order.**

A party filing a motion to modify a final order entered pursuant to the Act shall be responsible for paying the filing fee for the filing of such a motion. If the party moving for the modification is the party ordered in the final order to pay the initial court costs the initial court costs shall be paid prior to the filing of the motion seeking modification of the final order.

**17LR1903.2. Modification of Custody Provisions of Final Order.**

The modification of the custody provisions of a final order entered pursuant to the Act shall not be addressed in the underlying action. A party seeking the modification of the custody provisions of a final order entered pursuant to the Act shall initiate a new custody case by the filing of a custody complaint in the form mandated by Pa.R.C.P. No. 1915.15(a). If such a complaint is filed pro se it shall be referred directly to a judge of this court, and is not to be processed through the pro se custody conference mechanism utilized in other pro se custody cases.

The Court Administrator of the 17th Judicial District of Pennsylvania shall forward ten (10) certified copies of this Order to the Administrative Office of the Pennsylvania Courts for processing in accordance with Pa.R.J.A. No. 103(c)(2).

*By the Court*

HAROLD F. WOELFEL, Jr.,  
*President Judge*

[Pa.B. Doc. No. 00-1032. Filed for public inspection June 16, 2000, 9:00 a.m.]

**SNYDER AND UNION COUNTIES  
Adoption of Local Rules; Misc. No. 31-2000**

**Order**

*And Now*, this 22nd day of March, 2000, effective thirty (30) days after publication of this Order in the *Pennsylvania Bulletin* the following local rules are adopted:

1. Rule 6.1(a) shall be amended to read as follows:

6.1(a) As provided by Pa.R.C.P. No. 1018.1(c), the following offices are designated as the offices to be named in the Notice to Defend where legal help may be obtained:

For cases filed in Snyder County:  
Office of the Court Administrator  
Snyder County Courthouse  
P. O. Box 217  
Middleburg, PA 17842  
(570) 837-4359

For cases filed in Union County:  
Office of the Court Administrator  
Union County Courthouse  
103 South Second Street  
Lewisburg, PA 17837-1996  
(570) 524-8736

2. 17LR1308.1D is amended to read as follows:

D. In the event that a case shall be settled, withdrawn, or otherwise terminated by or between the parties at any time subsequent to the filing of a praecipe requesting the appointment of a Board of Arbitrators but prior to the naming of that board by the Court Administrator pursu-

ant to 17LR1302.1.C., the party filing the praecipe for the appointment of a Board of Arbitrators shall cause notice of settlement, withdrawal, or termination of the action to be served upon the Court Administrator. In the event that a case shall be settled, withdrawn, or otherwise terminated by or between the parties at any time subsequent to the notification to each arbitrator, as provided for in 17LR1302.1.C, but prior to the date scheduled for hearing, the party filing the praecipe for the appointment of a Board of Arbitrators shall be responsible for causing notice of the settlement, withdrawal, or termination to be served upon the Court Administrator and each of the arbitrators. In the event that the notice provided for in the preceding sentence is given in a timely manner, the board members shall not be entitled to any fees pursuant to 17LR1308.1. In the event that the notice is not given in a timely manner, and an arbitrator or the arbitrators appear for the scheduled hearing, the party who moved for appointment of the arbitrators shall be responsible for paying the fees provided for in 17LR1308.1.A. The foregoing notwithstanding, if the case is settled, withdrawn, or otherwise terminated by or between the parties on the date scheduled for the hearing, but prior to the scheduled starting time, the arbitrators shall be entitled to one-half (1/2) of the base fee as set forth in 17LR1308.1.A.

3. 17LR1308.1B is amended to read as follows:

B. Each arbitrator shall be entitled to receive additional compensation at the rate of \$25.00 per hour in any case in which the actual time spent in the hearing exceeds three and one-half (3-1/2) hours. In the event the case is continued after the arbitrators have convened, either before or after testimony has begun, the time required of the arbitrators during the first scheduled hearing shall be aggregated with the time required during the second hearing. To the extent that such aggregated time is less than three and one-half (3-1/2) hours, the fee set forth in 17LR1308.1A shall be applicable. To the extent that such aggregated time exceeds three and one-half (3-1/2) hours, the hourly rate set forth herein shall be due for the hours in excess of three and one-half (3-1/2) hours.

The Court Administrator of the 17th Judicial District of Pennsylvania shall forward ten (10) certified copies of this Order to the Administrative Office of the Pennsylvania Courts for processing in accordance with Pa.R.J.A. No. 103(c)(2).

*By the Court*

HAROLD F. WOELFEL, Jr.,  
President Judge

[Pa.B. Doc. No. 00-1033. Filed for public inspection June 16, 2000, 9:00 a.m.]

## SOMERSET COUNTY

### Consolidated Rules of Court; Miscellaneous 1999

#### Adopting Order

*And Now*, this 1st day of June, 2000, it is hereby Ordered:

1. The following designated Somerset County Rules of Civil Procedure (SOM.R.C.P.) are amended to read in their entirety, as reflected in copies of rules as follows, effective thirty days after publication in *The Pennsylvania Bulletin*:

SOM.R.C.P. 1920. Divorce. General.

SOM.R.C.P. 1920.31. Procedure On Joinder Of Related Claims Of Alimony Pendente Lite And Child Support.

SOM.R.C.P. 1920.51. Appointment Of Master. Notice Of Hearing.

SOM.R.C.P. 1920.53. Master's Hearing And Report.

SOM.R.C.P. 1920.55. Exceptions To Report.

2. The following designated Somerset County Rules of Civil Procedure (SOM.R.C.P.), copy of which follows, are hereby adopted as rules of this Court, effective thirty days after publication in *Pennsylvania Bulletin*:

SOM.R.C.P. 1920.33. Procedure On Joinder Of Related Claim For Distribution Of Property.

SOM.R.C.P. 1915.8. Reports Of Physical And Mental Examinations.

3. The following designated Somerset County Rules of Civil Procedure (SOM.R.C.P.) are rescinded, effective thirty days after publication in the *Pennsylvania Bulletin*:

SOM.R.C.P. 1920.42. Notice Of Presentation Of Request For Divorce.

SOM.R.C.P. 1920.62. Indigents.

4. The Somerset County Court Administrator is directed to:

A. File seven (7) certified copies of this Order and the following rules with the Administrative Office of 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 and the rules with the Pennsylvania Civil Procedural Rules Committee and one (1) certified copy of this Order and the following rules with the Pennsylvania Domestic Relations Procedural Rules Committee.

D. File proof of compliance with this Order in the docket for these rules, which shall include a copy of each transmittal letter.

*By the Court*

EUGENE E. FIKE, II,  
President Judge

### Rules of Court

#### Divorce

#### Som.R.C.P. 1920. General.

A. Filing Fees and Required Advance Deposit of Costs.

1. In indigent cases, the sum of \$33.00 (Prothonotary—\$22.50; Sheriff—\$12.50) shall be paid to the Prothonotary upon filing the divorce complaint, unless such deposit is specifically excused by Court Order for inability to pay.

(Formerly R18-401A).

2. In non-indigent cases, in addition to the sums required for the initial filing and service, the following sums shall be deposited with the Prothonotary:

a. Before any motion for Divorce Master is presented to the court, the moving party shall deposit the sum of \$250.00 with the Prothonotary on account of the costs for adjudication of the divorce cause of action; and

b. Before any motion for Special Master is presented to the court, the moving party seeking adjudication of equitable property division or other economic issues shall deposit the additional sum of \$800.00 with the Prothonotary on account of the costs for adjudication of those

issues, unless authorization to proceed otherwise is first obtained by Order of Court for cause.

(Formerly R18-401A(1) and R18-401B.)

3. The Court or a Master may require an additional deposit to cover the cost of employing an appraiser or other professional to provide necessary expert evidence to assist the Master in making his findings and recommendations, provided that the Court or the Master shall first confer with counsel and unrepresented parties concerning such employment and the cost thereof. Any objection by any party to such employment or to the cost thereof may be brought promptly to the attention of the Motions Judge.

(Formerly R18-401D.)

4. If it appears during the proceedings before the Master that additional amounts should be advanced to pay anticipated costs, and the parties are unwilling to advance the amount deemed necessary by the Master, the Master shall, by motion, request the Court to order additional payment from the parties. The Master shall include in the motion a certification as to whether the parties consent or object to the motion. The Master shall provide a copy of the motion to Counsel and unrepresented parties.

5. Any balance of advance deposits remaining after payment of costs and compensation shall be held by the Prothonotary for disposition in accordance with the allocation of costs between the parties by final decree.

6. No copy of any divorce or annulment decree shall be issued by the Prothonotary to any person unless all record costs in the case are paid, or unless the person to whom the copy is issued has by court order been excused from payment (in whole or in part) which may be granted only for inability to pay.

(Formerly R18-402.)

#### B. Master

For purposes of these rules, Masters are classified as "Divorce Master" whose duties and authority are limited to determining cause for divorce or annulment, and "Special Master" whose duty and authority are limited to determining distribution of property and, in connection therewith, alimony, counsel fees, costs and expenses.

*NOTE:* Issues of alimony pendente lite and support shall be referred to the Domestic Relations Department, not to a Master, see: *Thomas v. Thomas*, 39 Somerset Legal Journal 157 (1981).

(Formerly R18-1B01.)

#### C. Compensation of Masters.

1. A Divorce Master shall be compensated as follows:

a. All non-indigent cases—minimum \$200, plus additional compensation at the rate of \$75 per hour for each hour, or fraction thereof, in excess of two hours.

b. In all indigent cases—\$125, plus additional compensation at the rate of \$30 per hour for each hour, or fraction thereof, in excess of two hours.

(Formerly R18-301.)

2. A Special Master shall be compensated, in all cases, at a minimum of \$225, plus additional compensation at the rate of \$75 per hour for each hour, or fraction thereof, in excess of two hours.

(Formerly R18-301.)

#### D. Compensation of Stenographers.

1. In uncontested divorces, where there is testimony by plaintiff only, or testimony by defendant only on a counterclaim, and no testimony by the adverse party, the stenographer employed by the Master shall be entitled to an appearance fee of \$50.

2. In all other cases, the stenographer employed by the Master shall be entitled to an appearance fee of \$50 for a hearing lasting three hours or less, and \$100 for a hearing lasting more than three hours.

3. In all cases (including uncontested cases), the stenographer shall be paid a fee of \$1.85 per page for each page of the original transcript. The parties shall pay a charge of \$.50 per page for each page of copy which they may request, which shall be paid by the party requesting the copy and may not be taxed as costs in this action.

4. In cases in which the testimony is voluminous or extraordinary services are required, the Master shall be permitted to increase the stenographer's appearance fee, after consultation with counsel and subject to court review.

5. When the stenographer reports to the Master that the transcript is ready, the Master shall notify each party of intent to direct the Prothonotary to issue payment to the stenographer. The parties shall have ten (10) days within which to file objections with the Motions Judge, who shall promptly decide the same. If no objections are filed within such ten day period, the Master shall direct the Prothonotary to issue payment from the costs deposited by the moving party, directly to the stenographer.

6. Except as specifically set forth above, the ultimate liability or responsibility among the parties for the payment of stenographer's costs shall abide the final decree in the case.

(Formerly R18-303.)

### **Som.R.C.P. 1920.31. Procedure on Joinder Of Related Claims Of Alimony Pendente Lite And Child Support.**

A. All claims for alimony pendente lite and child support shall be processed through the Domestic Relations Section.

B. To initiate proceedings in the Domestic Relations Section when a claim for alimony pendente lite or child support has been asserted in a complaint or petition in a divorce action, the party asserting the claim shall file in the Domestic Relations Section: (i) a certified copy of the complaint or petition filed in the divorce action, and (ii) a complaint on forms approved and provided by the Domestic Relations Section. Upon filing of the Domestic Relations Section complaint, the claim for alimony pendente lite or child support shall proceed in accordance with practice and procedure for support. Income and expense statements, tax returns and pay stubs required by Pa.R.C.P. 1920.31 shall be filed by the parties in the Domestic Relations Section in accordance with support procedure.

C. Unless specifically ordered otherwise, all payment of child support and alimony pendente lite shall be made to the Domestic Relations Section.

### **Som.R.C.P. 1920.51. Appointment of Master. Notice of Hearing.**

A. All cases for divorce or annulment, except cases under Divorce Code Section 3301(c) (consent affidavits) and Section 3301(d)(1)(i) (undenied two year separation), shall be referred to a Divorce Master, and all claims for property division, alimony, counsel fees and costs, requir-

ing resolution by litigation shall be referred to a Special Master, unless otherwise ordered by the court for cause.

(Formerly R18-1B02.)

B. An appointed Master who is unable to serve shall promptly notify counsel for the moving party.

(Formerly R18-1B03.)

C. If it becomes necessary for any reason to vacate the appointment of any Master, the party who obtained the appointment shall prepare and present a proper motion and appropriate order (including a new appointment order if needed).

D. Paragraph (7) of the prescribed form of motion for appointment of a master (Pa.R.C.P. 1920-74) shall state:

1. In all cases: the name(s) of other counsel who are or may be interested in the case, or a statement that no other counsel is known or believed to be interested; and

2. In property division cases: whether or not a divorce decree has been entered, and whether or not the costs deposit has been paid pursuant to Som.R.C.P. 1920.A.2.

(Formerly R18-1B05.)

3. In property distribution cases: whether each party has filed an inventory as required by Pa.R.C.P. 1920.33.

E. Notice of the date, time and place of presenting the motion for appointment of a Divorce Master or Special Master, and of the right to appear and be heard thereon, together with a copy of the motion, shall be given to all counsel of record and unrepresented parties at least ten (10) days prior to presentation.

(Formerly R18-1B06.)

F. An Order appointing a Special Master shall operate as a scheduling praecipe for scheduling of Master's hearing. A copy of the Appointment Order shall be provided to the Court Administrator for placement of the case on a trial list.

G. Cases in which hearing is to be scheduled before a Special Master will be placed on the appropriate trial list as a non-jury case for scheduling during the civil trial session. Counsel for the parties and the Special Master shall appear at the Call of the Civil Trial List pursuant to Som.R.J.A. 1022. Hearings before the Special Master will be placed on the civil trial schedule prepared pursuant to the provisions of Som.R.J.A. 1023. Once scheduled, the hearing may only be continued by Order of the Court.

H. The Master shall be sworn to the faithful performance of duties as Master prior to hearing.

(Formerly R18-201.)

I. The Master shall sit in an appropriate room of the courthouse or other County facility as assigned by the Court Administrator.

(Formerly R18-202.)

J. Subpoenas for the appearance of witnesses before the Master shall be issued by the Prothonotary upon application of the Master, a party's attorney, or an unrepresented party.

(Formerly R18-203.)

K. It is the duty of the Master to make every reasonable effort and inquiry to ascertain the whereabouts of a defendant and to give proper notice of hearing. In all cases, such inquiries and responses thereto shall be placed of record at the Master's hearing.

L. The notice of hearing shall state the date, time and place of hearing; that the parties may appear and be heard and present witnesses; and the name and mailing address of the Master.

Notice of hearing shall be given to Counsel and unrepresented parties in accordance with Pa.R.C.P. 1920.51.

(Formerly R18-1A01.)

M. Where defendant is incarcerated:

1. The notice of hearing shall also state:

a. If defendant wishes to attend the hearing, he has the right to request the court to grant permission to do so and to make arrangements for him to be brought to the hearing; and

b. If the defendant wishes the court to permit him to attend the hearing and to make arrangements for him to be brought to the hearing, defendant must within ten (10) days write to the Master requesting to be present; and

c. If defendant makes such request in writing, within ten (10) days to be present at the hearing, application to the court will be made for him; and

d. If defendant does not make a written request within said ten-day period to be present at the hearing, it will be presumed that he desires not to be present.

2. The hearing date shall be fixed sufficiently far in advance to allow time for the procedures above prescribed.

3. If defendant makes a timely request to be present at the hearing, the Master shall within ten (10) days thereafter:

a. Notify defendant's counsel of record thereof and that counsel shall make the necessary application to the court, or

b. Make the application to the court for the defendant if he has no counsel of record.

*Note:* See *Jones v. Jones*, 29 Somerset Legal Journal 152, 1 D. & C.3d 401 (1974). In general, notice of divorce hearing is governed by Pa.R.C.P. 1920.51.

(Formerly R18-1A01.)

N. A copy of the Master's notice of hearing shall be attached to the proof of notice required by Pa.R.C.P. 1920.51(e).

(Formerly R18-1A03.)

#### **Som.R.C.P. 1920.53. Master's Hearing And Report.**

A. Except as hereinafter provided, the Master's report shall be filed within the time limits provided by applicable Pennsylvania Rules of Civil Procedure.

B. A Special Master shall not submit a report concerning equitable property division and related matters unless: (i) a Decree in Divorce or Annulment has been entered; or (ii) the issue of divorce was presented to the Special Master and a recommendation regarding divorce is included in the report; or (iii) the Court permits submission of the report by special Order.

C. Upon receipt of an order appointing a Special Master or a substitute Special Master to hear matters pertaining to equitable distribution of marital property, alimony or counsel fees and expenses, the Prothonotary shall note in the docket or other appropriate record, a date 180 days after the date of the appointment. If the Master's report has not been filed on or before the expiration of the 180 day period, the Prothonotary shall,

on the next business day, forward to the Motions Judge a copy of the docket entries in the case. The Motions Judge shall promptly notify the Court Administrator that a status conference is to be scheduled. The Court Administrator shall issue a scheduling order for prompt scheduling of the status conference and shall provide a copy of the scheduling order to the Master, counsel for any party appearing in the action and any unrepresented party.

1. The Master, counsel, and unrepresented parties shall be present for the status conference unless excused by the hearing Judge for cause.

2. At the status conference, all participants shall be prepared to provide the hearing Judge with clear and concise explanations for the delay in filing the Master's report. If the delay has been caused by the failure of the Master to fulfill his or her duties, the Court may, upon motion of a party or on its own motion, discharge the Master and appoint a substitute Master to complete the case, or the Court may proceed under the terms of subparagraph 3 below. Any Master who has been discharged under the provisions of this Rule will forfeit any compensation to which he or she may otherwise be entitled.

3. Prior to imposing sanctions described in subparagraph 2 above, the court may elect to issue an order to the offending party or to the Master directing compliance within a stated period of time. If the offending party or Master fails to comply with the terms of such an order, the court may impose the sanctions specified in subparagraph 2 above.

D. In indigent cases, the party proceeding as an indigent shall, at the Master's hearing, prove all averments in the petition for leave to proceed as an indigent, and respecting the adverse party's whereabouts, financial ability and resources.

(Derived from former R18-208).

E. The Master's Report shall include:

1. The following material, organized in the following order:

a. Facing page, stating:

- (1) Case caption
- (2) Title (Master's Report)
- (3) Detail of costs payable to Master and stenographer, and

(4) Index to remainder of Report.

b. Recommendation as to:

- (1) Collection of costs (see Som.R.C.P. 1920.62.D.); and
- (2) Relief granted or denied.

c. Transcript of proceedings before Master, which shall include a verbatim transcript of all proceedings before the Master, preceded by an introduction specifying:

- (1) Date(s), time(s) and place(s) of proceedings before the Master, and
- (2) The names and addresses of all persons present and their status in the case, and
- (3) A specific statement whether or not defendant was present or represented at the hearing.

d. Decree, in accordance with the recommendation, in the form prescribed by applicable Pennsylvania Rules of Civil Procedure, which shall also state liability for costs.

2. The information required by applicable Pennsylvania Rules Of Civil Procedure.

F. Upon completion of the Master's Report, the Master shall ascertain from the Prothonotary whether the balance of the costs deposit still held is sufficient to pay for the Master's compensation and any remaining stenographic and other costs, and:

1. If the balance of costs remaining is sufficient for payment of same, the Master shall file the report with the Prothonotary and proceed in accordance with Subsection F.3. of this Rule.

2. If the balance of costs remaining is not sufficient for payment of same, the Master shall lodge the Master's Report with the Prothonotary, sealed, which shall be available for review by no one other than the Master and the court, and the Master shall immediately send notice to counsel, the parties and the Motions Judge, advising that: (i) the Report has been lodged with the Prothonotary, (ii) upon payment of costs, the Report will be filed officially with the Prothonotary, (iii) that the moving party has a period of twenty (20) days within which to file a motion requesting relief from payment of the balance of costs, and (iv) if the costs are not paid, or if a motion for relief from payment of costs is not filed within such twenty (20) day period, the court will enter an order directing the moving party to pay the balance of costs. A motion for relief from payment of costs shall be transmitted to the Motions Judge for decision, *sec reg.* The ultimate responsibility between the parties for the costs and Master's compensation shall abide the final Decree.

Upon payment of the balance of costs, or upon entry of an order determining payment of costs, under this subsection, the Report shall be considered filed and the Master shall proceed as specified in Subsection F.3. of this Rule.

3. When the Report is filed or considered filed under Subsection E.1. or 2. of this Rule, the Master shall: (i) give notice of filing as prescribed by Pa.R.C.P. 1920.53, and (ii) file an affidavit of service of said notice.

4. The notice of filing of the report shall state the fact of filing, that any party has the right to file within ten (10) days after mailing of the notice, exceptions (objections) pursuant to Pa.R.C.P. 1920.55, that if any exception is filed it will be heard by the court, and if no exception is filed the Report will be presented to the court for the granting of a final Decree in divorce (or annulment), and determining equitable distribution and other collateral economic issues, as applicable.

(Formerly R18-209).

G. In any case, where there are insufficient costs on deposit to compensate the Master and the stenographer, the court, upon motion filed by the Master, or on its own motion, may proceed to determine whether the moving party should be required to advance the balance of costs necessary to compensate the Master and stenographer and to pay any additional costs in the action.

#### **Som.R.C.P. 1920.55. Exceptions To Report.**

Any timely exception to a Master's Report shall be scheduled for disposition by the court pursuant to the scheduling procedures set forth in Somerset County Local Rules of Procedure and applicable Pennsylvania Rules of Civil Procedure.

If no exception is filed, the Prothonotary shall, after the expiration of the ten day period for filing exceptions, present the whole record to the Motions Judge for appropriate disposition. In such presentation, the Protho-

notary shall note in writing for the Motions Judge any irregularities or unusual aspects of the proceedings.

(Formerly R18-210.)

**Som.R.C.P. 1920.33. Procedure On Joinder Of Related Claim For Distribution Of Property.**

A. In a case involving a claim for distribution of property, a Motion for Appointment Of Special Master may be presented only if (i) ninety (90) days have elapsed from service of the pleading or petition containing the claim for distribution of property, and (ii) the moving party has filed an inventory in the form required by Pa.R.C.P. 1920.33(a).

*Note:* Pa.R.C.P. 1920.33(a) requires both parties to file an inventory within 90 days after service of a pleading or petition containing a claim for distribution of property.

B. If the responding party has failed to comply with the provisions of Pa.R.C.P. 1920.33(a) within thirty (30) days after appointment of the Special Master, the Special Master shall report the failure to the Motions Judge for imposition of sanctions pursuant to Pa.R.C.P. 1920.33(c).

C. Within thirty (30) days after the appointment of the Special Master, each party shall file and serve upon the other party, a pretrial statement pursuant to the provi-

sions of Pa.R.C.P. 1920.33(b). If a party fails to file and serve a pretrial statement within the thirty day time period required by this Rule, the Special Master shall so report to the Court for imposition of sanctions pursuant to the provisions of Pa.R.C.P. 1920.33(c) and (d)(1).

D. No hearing shall be scheduled before the Special Master until both parties have complied with the provisions of Pa.R.C.P. 1920.33(a) and (b) or an Order has been entered by the Court pursuant to the Special Master's report of failure of a party to comply.

**Som.R.C.P. 1915.8. Reports Of Physical And Mental Examinations.**

Reports of examinations of persons pursuant to Pa.R.C.P. 1915.8 are confidential. Copies of reports shall be provided only to counsel for the parties and unrepresented parties. No further copies shall be made unless authorized by the Court. Counsel and parties shall not disclose the contents of such a report to any other person unless authorized by the Court. Disclosure to an unauthorized person, including the child who is the subject of the action, shall result in sanctions.

[Pa.B. Doc. No. 00-1034. Filed for public inspection June 16, 2000, 9:00 a.m.]

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