

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

#### [204 PA. CODE CH. 209]

#### Record Retention Schedule Amendments

Pursuant to the Judicial Code, 42 Pa.C.S. § 4301(b) and 4321, the following regulation has been approved by the Supreme Court and is hereby promulgated for the Appellate Court's Retention Schedule Amendment.

#### Annex A

#### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

#### CHAPTER 209. PENNSYLVANIA APPELLATE COURTS RECORDS RETENTION SCHEDULE

#### APPENDIX A

<i>Series</i>	<i>Description</i>	<i>Retention</i>	<i>Retained by Archives (Historical Value)</i>
Section I—Appellate Courts (General)			
(Original Jurisdiction case files not included in this schedule)			
	* * *	* *	
4.	These files include papers filed in civil matters both at law and equity including but not limited be to affidavits, agreements, answers, assignments, awards, bills, bonds, certificates, complaints, decrees, executions, exemplifications, memoranda, notes, notices, opinions, orders, petitions, petitions for review, powers of attorney, praecipes, reports, returns of service, rules, subpoenas, stipulations, transfers, waivers, writs of summons, petitions to enforce, petitions for access to confidential information.	<ol style="list-style-type: none"> <li>1. All matters involving title to real estate shall retained permanently.</li> <li>2. Equity, declaratory judgment, mandamus. Retain for two (2) years after final disposition.</li> <li>3. Matters marked withdrawn or discontinued. Retain for one (1) year after disposition.</li> <li>4. Matters dismissed for failure to prosecute. Retain for one (1) year after disposition.</li> <li>5. Matters filed pursuant to the Election Code. Retain for one (1) year after disposition.</li> <li>6. Liquidation and Rehabilitation matters under the Insurance Department Act. Retain for two (2) years after final discharge of the Insurance Commissioner as rehabilitator or liquidator.</li> </ol>	*Petitions for liquidation and/or rehabilitation and petitions for final discharge to be reviewed for historical value.

This regulation shall be effective immediately.

Filed in the Administrative Office of Pennsylvania Court on May 20, 2002.

ZYGMENT A. PINES,  
*Court Administrator of Pennsylvania*

[Pa.B. Doc. No. 02-973. Filed for public inspection June 7, 2002, 9:00 a.m.]

# Title 210—APPELLATE PROCEDURE

## PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CHS. 1 AND 21]

### Proposed Amendments to Pa.R.A.P. 124, 2135 and 2171

The Appellate Court Procedural Rules Committee proposes to amend Pennsylvania Rules of Appellate Procedure 124, 2135 and 2171. The amendments are being submitted to the bench and bar for comments and suggestions prior to their submission to the Supreme Court.

Proposed new material is bold while deleted material is bold and bracketed.

All communications in reference to the proposed amendments should be sent not later than July 20, 2002 to the Appellate Court Procedural Rules Committee, c/o Dean R. Phillips, Esquire, P. O. Box 3010, 925 Harvest Drive, Blue Bell, PA 19422.

An Explanatory Comment follows the proposed amendments and 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 Appellate Court Procedural Rules Committee*  
HONORABLE JOSEPH M. AUGELLO,  
*Chair*

### Annex A

#### TITLE 210. APPELLATE PROCEDURE

#### PART I. RULES OF APPELLATE PROCEDURE

#### ARTICLE I. PRELIMINARY PROVISIONS

#### CHAPTER 1. GENERAL PROVISIONS

#### DOCUMENTS GENERALLY

#### Rule 124. Form of Papers; Number of Copies.

(a) *Size and other physical characteristics.*—[No paper or other document may be filed in an appellate court on any paper other than paper approximating 8 1/2 inches by 11 inches in size. Any paper or other document filed in an appellate court shall be sufficient as to format and other physical characteristics if it substantially complies with the following requirements:] All documents filed in an appellate court shall be on 8 1/2 inch by 11 inch paper and shall comply with the following requirements:

(1) [Prepared] The document shall be prepared on white paper (except for covers, dividers and similar sheets) of good quality [with typed or printed matter 6 1/2 inches by 9 1/2 inches].

\* \* \* \* \*

(3) [The lettering shall be clearly legible and, except as otherwise prescribed in Rule 2171 (method of reproduction) for printed paperbooks, shall be not smaller than typewriting pica with line spacing (except for quotations) not closer than typewriting double spacing.] The text must be double spaced, but quotations more than two lines long may be indented and single spaced. Except as

provided in subdivision (2), margins must be at least one inch on all four sides.

(4) The lettering shall be clear and legible and no smaller than point 11. The lettering shall be on only one side of a page, except that exhibits and similar supporting documents and paperbooks may be lettered on both sides of a page.

(5) [Firmly bound.] Any metal fasteners or staples must be covered. Documents and papers must be firmly bound.

\* \* \* \* \*

(c) *Copies.*—Except as otherwise prescribed by these rules:

\* \* \* \* \*

(2) An original and [seven] eight copies of any other application in the Supreme Court and an original and three copies of any other application in the Superior Court or the Commonwealth Court shall be filed but the court may require that additional copies be furnished.

[Official Note: Subdivision (a) is intended to provide a “safe harbor” upon which the bar may rely in preparing appellate papers. The effect of the 8 1/2 inch by 11 inch requirement will be to effectively mandate the future use of letter-size paper throughout the unified judicial system, since the requirement extends to original records filed pursuant to Chapter 19 (preparation and transmission of record and related matters). The requirement is prospective only, however. It will not be necessary or appropriate to transcribe any existing legal-size or printed brief-size (6 inch by 9 inch) documents onto letter-size paper. Moreover, it is anticipated that a reasonable time (approximately six months after the requirement takes effect) will be required to permit the exhaustion of existing supplies of legal-size forms and other documents. After March 1, 1980 the clerk of a court should accept a document (whether an order, opinion, transcript, pleading, brief, reproduced record or otherwise) on other than letter-size paper only upon a showing of exceptional circumstances.

Paragraph (a)(5) is based on Third Circuit Rule 21(2)A(b).

Under these rules a reference to “two copies” or the like does not imply that a third document is required; the terminology is used so as to permit the filing party to retain the executed original and file only photocopies. Thus under Rule 905 (filing of notice of appeal) an original and two copies of the notice of appeal are not required; only two photocopies.

*Explanatory Note:* Supreme Court “short paper” (i.e. 11 inch rather than 13 or 14 inch legal size) rule is extended to the entire Pennsylvania judicial system. This result follows from a new requirement that all papers filed in an appellate court, including the original record made before the trial court, be submitted on short paper. The change also applies to printed paperbooks (briefs and reproduced records). The note to the rule makes clear that the change is prospective only, but that by early 1980 it is anticipated that the bar and all elements of the Pennsylvania judicial system will have converted over to the use of modern letter-size paper.]

ARTICLE II. APPELLATE PROCEDURE  
CHAPTER 21. BRIEFS AND REPRODUCED  
RECORD

CONTENT OF BRIEFS

Rule 2135. Length of Briefs.

[ Except by permission of the court, briefs (exclusive of pages containing the table of contents, tables of citations and any addendum containing opinions, *etc.*, or any other similar supplementary matter provided for by these rules) shall not exceed:

(1) 50 pages of conventional typographical printing or 70 pages of reproduction by any other process of duplicating or copying, in the case of principal briefs.

(2) 15 pages of conventional typographical printing or 25 pages of reproduction by any other process of duplicating or copying, in the case of reply briefs. ]

Unless otherwise provided by an appellate court:

(a) a principal brief shall not exceed 70 pages of production when produced on a word processor/computer or typewriter.

(b) a reply brief shall not exceed 25 pages of production when produced on a word processor/computer or typewriter.

**Official Note:** The 2002 amendment eliminates a confusing distinction between typewritten, word processor/computer and conventional offset printing methods of production which are no longer meaningful. In light of the 1979 amendments eliminating paperbooks and the advances in word processor/computer technology, offset printing of briefs has become obsolete as a method for production of briefs. The 2002 amendment permits typewritten briefs despite the fact that the vast majority of briefs are produced on word processor/computers.

A principal brief is any party's initial brief and, in the case of a cross appeal, the appellant's second brief, which responds to the initial brief in the cross appeal. See the notes to Pa.R.A.P. 2136. Reply briefs permitted by Rule 2113 and any subsequent brief permitted by leave of court are subject to the page limit set by this rule.

It is important to note that each appellate court has the option of reducing the number of pages allowed for a brief, either by general rule, see Chapter 33 (Business of the Supreme Court), Chapter 35 (Business of the Superior Court), and Chapter 37 (Business of the Commonwealth Court), or by order in a particular case.

FORM OF BRIEFS AND REPRODUCED RECORD

Rule 2171. Method of Reproduction. Separate Brief and Record.

(a) *General Rule.*—Briefs and reproduced records may be [ produced ] reproduced by [ conventional typographical printing or by ] any duplicating or copying process which produces a clear black image on white paper. [ Briefs and records reproduced by conventional typographical printing shall be printed throughout from type at least as large as point 11 with 2 point lead. Briefs and records not repro-

duced by conventional typographical printing shall be firmly bound at the left margin so that they may be conveniently bound together as a volume. ] Briefs and records shall comply with the requirements of Rule 124 and shall be firmly bound at the left margin.

(b) *Separate brief and record.*—In all cases the reproduced record may be [ reproduced ] bound separately, and must be if it and the brief together contain more than 100 pages.

\* \* \* \* \*

[ *Explanatory Note:* Conforming changes are made to this rule. ]

Explanatory Comment

*Internal Recommendation 48*

*Proposed Amendments to Pa.R.A.P. 124, 2135 and 2171*

The proposed amendments to Pa.R.A.P. 124, 2135 and 2171 eliminates a confusing distinction between typewritten, word processors or computers and conventional offset printing methods of production which are no longer meaningful and provides for a uniform general approach to the number of pages permitted in all appellate courts. However, an appellate court may adopt a different page limit, either by general rule or by order in a particular case. See Note to Rule 2135.

The proposed amendments permit typewritten briefs despite the fact that the vast majority of briefs are produced on word processors or computers. It should be understood that a typewriter yields fewer characters per line due to the process of "kerning" by word processors which is the subtraction of space between two characters making them closer together. These proposed amendments, however, do not allow a commensurate expansion of page limits for typed briefs, without leave of court.

A principal brief is any party's initial brief, and, in the case of a cross appeal, the appellant's second brief, which responds to the initial brief in the cross appeal. Reply briefs permitted under Rule 2113 and any subsequent brief permitted by leave of court are subject to the page limit set by these proposed amendments.

Counsel should also note that the Supreme Court is requesting an original and eight copies of any application filed with the Court. Previously, only seven copies were required.

[Pa.B. Doc. No. 02-974. Filed for public inspection June 7, 2002, 9:00 a.m.]

[210 PA. CODE CH. 13]

Proposed Adoption of New Pa.R.A.P. 1316

The Appellate Court Procedural Rules Committee proposes to adopt new Rule 1316 of the Pennsylvania Rules of Appellate Procedure.

The proposed new Rule is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court.

An Explanatory Comment follows the proposed new Rule.

Proposed new material is bold.

All communications in reference to the proposed adoption should be sent not later than July 20, 2002 to the

Appellate Court Procedural Rules Committee c/o Dean R. Phillips, Esquire, P. O. Box 3010, 925 Harvest Drive, Blue Bell, PA 19422.

The Explanatory Comment which appears in connection with the proposed new rule has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rule nor will it be officially adopted or promulgated by the Court.

*By the Appellate Court Procedural Rules Committee*

HONORABLE JOSEPH M. AUGELLO,  
Chair

#### Annex A

### TITLE 210. APPELLATE PROCEDURE

#### PART I. RULES OF APPELLATE PROCEDURE

#### ARTICLE II. APPELLATE PROCEDURE

#### CHAPTER 13. INTERLOCUTORY APPEALS BY PERMISSION

#### Rule 1316. Incorrect Use of Petition for Permission to Appeal or Petition for Review.

A timely petition for permission to appeal from an order which is, in fact, immediately appealable as of right may be deemed to be a timely notice of appeal.

**Official Note:** This Rule permits the appellate court to treat a timely, but erroneous, petition pursuant to Pa.R.A.P. 1311 for permission to appeal an order which is, in fact, immediately appealable as of right, as a timely notice of appeal. This Rule supersedes *Thermo-Guard, Inc. v. Cochran*, 598 A.2d 188 (Pa. Super. 1991) which had stated, as dictum, that "in the future, where a petition for permission to appeal seeking review of a final order, appealable as of right, or of an interlocutory order made appealable as of right . . . is filed, this court should simply deny the petition." However, under Rule 1311 a party may not file a petition for permission to appeal an interlocutory order unless the order contains the statement prescribed in 42 Pa.C.S. § 702(b). Where the trial court refuses an application to amend an order to set forth expressly the statement specified in 42 Pa.C.S. 702(b) and that order was in fact appealable as of right, the appellate court may not treat a Chapter 15 petition for review of the trial court's refusal as a notice of appeal.

#### Explanatory Comment

##### *Internal Committee Recommendation 47*

Proposed new Pa.R.A.P. 1316 would permit the appellate court to treat a timely Petition for Permission to Appeal as a Notice of Appeal where appellant sought permissive review of an order immediately appealable as of right. The proposed new Rule avoids the harsh result of waiver of appellate rights where appellant erroneously files a Petition for Permission to Appeal from a final order (see Pa.R.A.P. 341(b)), or an order otherwise immediately appealable as of right. See Pa.R.A.P. 311, 313 and 341.

See proposed Note to Rule 1316 for a more detailed explanation of the Recommendation.

[Pa.B. Doc. No. 02-975. Filed for public inspection June 7, 2002, 9:00 a.m.]

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### [231 PA. CODE CH. 1910]

#### Amendments to the Rules of Civil Procedure Relating to Domestic Relations Matters

#### Recommendation 60

The Domestic Relations Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rule of Civil Procedure 1910.16. Following the text of the proposed amendments is an explanatory Report which highlights the Committee's considerations in formulating this recommendation. The Report should not be confused with explanatory comments or notes to the rules. The Report, notes and explanatory comments will not constitute part of the rules and will not officially be adopted or promulgated by the Supreme Court.

The Committee solicits comments and suggestions from all interested persons prior to submission of this proposal to the Supreme Court of Pennsylvania. Written comments relating to the proposed rules must be received no later than Friday, August 16, 2002. Please direct comments to:

Patricia A. Miles, Esquire  
Counsel, Domestic Relations Procedural Rules Committee  
5035 Ritter Road, Suite 700  
Mechanicsburg, Pennsylvania 17055  
Fax (717) 795-2116  
e-mail patricia.miles@supreme.court.state.pa.us

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1910. ACTIONS FOR SUPPORT

#### Rule 1910.16. Support Order. Allocation.

\* \* \* \* \*

(b) An **allocated** or unallocated order in favor of [the] a spouse and/or one or more children shall be a final order as to all claims covered in the order. No motion for post-trial relief may be filed to the final order.

\* \* \* \* \*

#### Explanatory Comment 2002

The amendments to subdivision (b) of this rule are intended to allow immediate appeal of an alimony pendente lite order or a spousal support order entered during the pendency of a divorce matter, overruling *Fried v. Fried*, 501 A.2d 211 (Pa. 1985), and its progeny. See Pa.R.A.P. 1731(b) regarding supersedeas on appeal of certain domestic relations orders.

#### RECOMMENDATION 60 COMMITTEE REPORT

##### *Proposed Amendments to Pa.R.C.P. 1910.16 Relating to the Appeal of Spousal Support and Alimony Pendente Lite Orders*

Members of the family law bar asked the Domestic Relations Procedural Rules Committee to address the long-standing problems created by the inability to appeal certain spousal support or alimony pendente lite orders.

The proposed amendments to Rule 1910.16(b) are intended to overrule *Fried v. Fried*, 501 A.2d 211 (Pa. 1985), and its progeny.

In *Fried*, the Pennsylvania Supreme Court held that interim orders in divorce cases, including orders granting or denying alimony pendente lite, are interlocutory and thus cannot be reviewed until final disposition of the divorce action. The *Fried* court reasoned that “[i]n the event that an initial award of interim relief is granted in error, the court has the power to make adjustments in the final settlement via the equitable distribution of marital property, permanent alimony, and/or the final award of attorney’s fees and costs.” The Superior Court has applied the same logic since the mid-1980s to hold that an award or denial of spousal support entered during the pendency of a divorce action cannot be appealed until all claims connected with the divorce action are resolved. See, e.g., *Shellhamer v. Shellhamer*, 688 A.2d 1219 (Pa. Super. 1997); *Ritter v. Ritter*, 518 A.2d 319 (Pa. Super. 1986). In *Leister v. Leister*, 684 A.2d 192 (Pa. Super. 1996), the court held that even if the support action is filed separately from the divorce action, a spousal support award cannot be appealed until final disposition of the divorce action.

When *Fried* was decided, the Divorce Code of 1980 had been in effect only five years. In *Fried*, the Supreme Court noted that under the prior divorce law, “Pennsylvania courts held that an award of alimony pendente lite and counsel fees made during the pendency of a divorce action was a final and appealable order based upon the theory that the money paid pursuant to the order was unrecoverable, i.e. irreparably lost.” 501 A.2d at 214 (citations omitted). In deciding to reexamine the issue under the new divorce law, the Supreme Court also referenced the Superior Court’s reasoning in *Sutliff v. Sutliff*, 474 A.2d 599 (1984), decided only one year earlier, “that both grants and denials of such interim relief are final, appealable orders because the relief is not part of the merits of the main cause of action; the matter is too important to be denied review; and, if postponed, the claimed right would be irreparably lost.” *Id.* at 213 (citation omitted). However, because the Divorce Code of 1980, unlike prior law, provided for equitable distribution of marital property, permanent alimony and a final award of counsel fees and costs, the *Fried* court determined that a court could make adjustments in the final award such that the inability to immediately appeal an interim financial award would not result in the irreparable loss of claimed rights.

Over the years since *Fried* was decided, it became clear to the matrimonial bar that trial courts were not, in general, reviewing interim spousal support or alimony pendente lite awards or making adjustments in equitable distribution or post-divorce alimony orders at the final disposition in the divorce action. Moreover, in some cases it would never be possible to remedy the damage done when a spouse’s claim for spousal support or alimony pendente lite is wrongly denied early in the case. That spouse may forfeit rights simply because he or she is financially unable to proceed.

In practice, the result of *Fried* is consistent with the predictions in now-Chief Justice Zappala’s dissenting opinion in that case. In his dissent, he asserted that the court-created presumptions upon which the majority based its opinion were flawed and inconsistent with the economic realities of most divorces. Those presumptions are that a spouse who was improperly denied interim relief under the Divorce Code would be entitled to

permanent alimony, and that there would be sufficient marital property from which a spouse could recoup his or her loss. He also asserted that the majority ignored the divergent purposes behind the various types of interim economic relief. Further, he correctly predicted that the practical effect of the majority’s decision was that a spouse wrongfully denied interim economic relief would be unable to maintain or defend the divorce action, thereby thwarting the purpose of the relief.

The *Fried* court stated that its decision reflected the policy against piecemeal litigation. However, *Fried* has had the opposite effect in cases in which orders are allocated between a child and a spouse. Pa.R.C.P. 1910.16(b) currently provides that an unallocated order in favor of a spouse and one or more children is a final order as to all claims covered in the order. Unallocated orders are appealable because the child support portion is indistinguishable. The spousal support portion of an allocated order is not. *Ritter*, supra. An allocated order is almost always the result of a single proceeding with a single record and based upon identical facts as to the incomes and financial circumstances of the parties. The child support portion of the order is final and appealable, while the spousal support or alimony pendente lite portion may not be appealable until months or years later when the divorce action is concluded. Requiring two separate appeals is costly for the litigants and contrary to the goal of judicial economy.

The Committee believes that the rationale for permitting appeals of orders awarding or denying spousal support and alimony pendente lite under prior divorce law is equally applicable now. Therefore, the Committee intends to recommend to the Pennsylvania Supreme Court that it amend Rule 1910.16 to provide that such orders are final and thus appealable.

[Pa.B. Doc. No. 02-976. Filed for public inspection June 7, 2002, 9:00 a.m.]

## Title 25—LOCAL COURT RULES

### FAYETTE COUNTY

#### Local Rule 303—Arraignment; Criminal Division; No. 63 CV 2002

#### Order

*And Now*, this 10th day of May, 2002, pursuant to Rule 6 of the Pennsylvania Rules of Criminal Procedure, it is hereby ordered that Fayette County Rule of Criminal Procedure 303(d) be amended as follows.

The Clerk of Courts is directed as follows:

(1) Seven certified copies of the Local Rule shall be filed with the Administrative Office of Pennsylvania Courts.

(2) Two certified copies of the Local Rule shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) One certified copy of the Local Rule shall be sent to the State Criminal Procedural Rules Committee.

(4) One certified copy shall be sent to the Fayette County Law Library.

(5) One certified copy shall be sent to the Editor of the *Fayette Legal Journal*.

This amendment shall be effective 30 days after the date of publication in the *Pennsylvania Bulletin*.

By the Court

WILLIAM J. FRANKS,  
*President Judge*

**Rule 303. Arraignment.**

(d) The waiver of arraignment and entry of plea shall be in substantially the following form:

**IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA**

**CRIMINAL DIVISION**

COMMONWEALTH OF PENNSYLVANIA	:	
	:	
VS.	:	
	:	
NAME	:	
	:	
ADDRESS	:	
	:	
CITY, STATE, ZIP	:	NO.

**WAIVER OF ARRAIGNMENT AND ENTRY OF PLEA**

I, \_\_\_\_\_, Defendant, in the above case, being advised of the offense charged in the Information, of my rights to an Arraignment, and of my right to file certain pretrial motions (including a Request for a Bill of Particulars) within seven (7) days of this Waiver, a Request for Pretrial Discovery and/or Inspection within fourteen (14) days of this Waiver, and any Omnibus Pretrial Motions within thirty (30) days of this Waiver, do hereby waive Court Arraignment, enter a plea of \_\_\_\_\_ and request a \_\_\_\_\_ trial.

_____	_____
Date	Defendant
_____	_____
Witness	Attorney for Defendant (print)

**ENTRY OF APPEARANCE**

TO THE CLERK OF COURTS: Enter my Appearance as attorney for the above-named defendant and please forward a copy of the Information(s) filed against the defendant in accordance with P.A.R.Crim.P. 120 in the above case.

\_\_\_\_\_  
ATTORNEY FOR DEFENDANT (signature)  
I D. NO. \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
PHONE NO. \_\_\_\_\_

[Pa.B. Doc. No. 02-977. Filed for public inspection June 7, 2002, 9:00 a.m.]

**LACKAWANNA COUNTY**

**Repeal and Adoption of Rules of Civil Procedure;  
No. 94-CV-102**

**Order**

And Now, this 16th day of May, 2002, it is hereby Ordered and Decreed that the following Lacka. Co. R.C.P. 212.5 is adopted to govern the court-annexed mediation program in civil cases in the Court of Common Pleas of Lackawanna County.

The adoption of Lacka. Co. R.C.P. 212.5 shall become effective thirty (30) days from the date of its publication in the *Pennsylvania Bulletin* pursuant to Pa. R.Civ.P. 239. The Lackawanna County Court Administrator shall file seven (7) certified copies of the new local rule with the Administrative Office of the Pennsylvania Courts and shall forward two (2) certified copies of the same to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One certified copy of Lacka. Co. R.C.P. 212.5 shall be filed with the Civil Procedural Rules Committee for the Supreme Court of Pennsylvania and new Local Rule 212.5 shall be available for public inspection and copying in the office of the Clerk of Judicial Records, Civil Division.

By the Court

CHESTER T. HARHUT,  
*President Judge*

**Lacka. Co. R.C.P. 212.5**

(a) *Mediation.* With the consent of the parties, the Court Administrator or a judge may submit a civil case to the court-annexed Mediation Program.

(b) *Certification of Mediators.* The President Judge shall certify as many mediators as determined to be necessary under this Rule. An individual may be certified as a mediator only if [s]he has been admitted to practice law in Pennsylvania for at least ten years and has been determined by the President Judge to be competent to perform the duties of a mediator. The Court Administrator shall maintain a list of all persons who have been certified as mediators.

(c) *Compensation of Mediators.* The services of the mediators shall be provided pro bono and no mediator shall be called upon more than twice in a single calendar year to act as a mediator without prior approval of the mediator.

(d) *Application for Mediation.* The parties may request mediation by submitting a written application to the Court Administrator in the form attached as Form No. 6.

(e) *Assignment for Mediation.* If the parties have jointly requested mediation, the Court Administrator shall designate the assigned mediator, and shall direct the mediator to establish the date, time and place for the initial mediation session within thirty days from the date of the referral order. The Clerk of Judicial Records shall make the original case file available to the mediator for purposes of the mediation session.

(f) *Mediation Session.* The mediator shall establish the date, time and place of the mediation session. Unless specifically requested by the mediator, the parties shall not contact or forward documents to the mediator. Counsel who are primarily responsible for the case and any unrepresented party shall attend the mediation session. All parties, insurers and principals of parties with decision-making authority must attend the mediation

session in person, unless their attendance is excused by the mediator for good cause shown, in which event they must be available by telephone during the entire mediation session. All parties, insurers, principals and counsel must be prepared to discuss all liability and damage issues and to participate in meaningful settlement negotiations.

(g) *Confidentiality.* All mediation proceedings, including any statement made or writing submitted by a participant, shall not be disclosed to any person who is not directly involved with the mediation session. The parties' settlement positions and statements during mediation shall not be disclosed to the trial judge unless mutually agreed to by the parties, but in the event that the case involves a non-jury trial, under no circumstances shall the parties' settlement positions and statements be disclosed to the assigned judge. No transcript or other recording may be made of the mediation session and the mediation proceedings shall not be used by any adverse party for any reason in the litigation at issue.

(h) *Mediation Report.* The mediator shall submit a confidential report to the assigned judge indicating whether a settlement has been reached. In the event that a settlement has not been achieved, the mediator's report shall include a recommendation as to whether further mediation should be ordered.

**FORM NO. 6**

JOINT REQUEST FOR MEDIATION

PLAINTIFF(S): \_\_\_\_\_

DEFENDANT(S): \_\_\_\_\_

INSURER(S): \_\_\_\_\_

PLAINTIFF'S ATTORNEY: \_\_\_\_\_

DEFENDANT'S ATTORNEY: \_\_\_\_\_

ASSIGNED JUDGE: \_\_\_\_\_

TYPE OF CASE: \_\_\_\_\_

STATUS OF CASE: \_\_\_\_\_

THE REASON THE PARTIES REQUESTING MEDIATION BELIEVE THIS CASE IS APPROPRIATE FOR MEDIATION: \_\_\_\_\_

Respectfully submitted,

Counsel for \_\_\_\_\_

[Pa.B. Doc. No. 02-978. Filed for public inspection June 7, 2002, 9:00 a.m.]

**SOMERSET COUNTY**

**Consolidated Rules of Court; No. 41 Misc. 2002**

**Adopting Order**

And Now, this 15th day of May, 2002, it is hereby Ordered:

1. The following designated Somerset County Rule of Civil Procedure (Som.R.C.P.), copy of which is attached hereto, is adopted as a rule of this Court, effective thirty (30) days after publication in the *Pennsylvania Bulletin*:

Som.R.C.P. 1915.4 Scheduling Of Custody Hearings.

2. 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 attached hereto, effective thirty (30) days after publication in the *Pennsylvania Bulletin*:

Som.R.C.P. 1910.51. Notice Of Intent To Report To Consumer Credit Agency.

Som.R.C.P. 1910.60. Review of Domestic Relations Orders.

3. Som.R.C.P. 1910.12, paragraph E., relating to procedure for scheduling of hearings before the Domestic Relations Hearing Officer, is amended to read as follows, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

4. The Somerset County Court Administrator shall:

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 and the following Rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

C. File one (1) certified copy of this Order and the following 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*

**Som.R.C.P. 1910.12.**

D. If an agreement for support is reached at the conference, the written Order and recommendation referred to in Som.R.C.P. 1910.11(d) shall be transmitted to the Court in accordance with established assignment and Motions Judge practice. Upon receipt of the written Order and recommendation, the Judge shall either approve the recommendation and enter the Order, or disapprove the recommendation. Upon approval, the Domestic Relations Section shall promptly distribute a copy of the Order to each party and counsel.

E. If the parties do not reach agreement at the conference, or if the responding party does not appear at the conference, the Conference Officer shall submit to the Court, in accordance with established assignment and Motions Judge practice, a recommended Interim Order, to be entered by the Court as required by Pa.R.C.P. 1910.12, and unless the parties advise the Domestic Relations Section that a hearing is not requested, the case shall be

scheduled for a hearing before the Hearing Officer. However, the parties, also, shall retain the option of agreeing to the Interim Order, and if the Domestic Relations Section is so notified in writing prior to the hearing, the hearing will be canceled and the Interim Order will be entered as the final Order.

F. When a hearing is to be scheduled before the Hearing Officer, the Domestic Relations Section shall schedule the hearing, issue a scheduling order, and distribute a copy thereof to all parties and counsel.

#### **Domestic Relations**

#### **Som.R.C.P. 1910.51. Notice Of Intent To Report To Consumer Credit Agency.**

The notice to be given to a support obligor of intent to report arrearages to a consumer credit agency, pursuant to the provisions of 23 Pa.C.S.A. § 4303(a)(2), shall be in the following form:

IN THE COURT OF COMMON PLEAS OF SOMERSET  
COUNTY, PENNSYLVANIA  
DOMESTIC RELATIONS SECTION

Plaintiff Name:  
Defendant Name:  
Defendant SSN:  
Docket Number:  
PACSES Case Number:  
Other State ID Number:  
Please note: All correspondence must include the  
PACSES Case Number.

#### NOTICE OF CREDIT BUREAU REPORTING

Dear

By the authority of Federal, 42 U.S.C. Section 666, and State Law, 23 Pa.C.S. § 4303(a)(2), the Domestic Relations Section of Somerset County is empowered to report information regarding your support account(s) to any consumer credit bureau. From this point forward this agency will be providing a report of the amount of arrears you owe as support to credit bureaus monthly. Once the arrears have been paid, a report will be sent to the credit bureaus effectively terminating the reporting. The delinquency was calculated based on the balance at the end of the previous month which was \$ \_\_\_\_\_. This balance may have been adjusted since that date. The amount of your arrears are \$ \_\_\_\_\_ as of \_\_\_\_\_.

You have the right to contest the accuracy of the information to be provided within twenty (20) days of the date appearing on Notice. To contest the information, you must, in writing or in person, state your objections. The information that can be contested is name, SSN, address, or balance due. The objections must be received by this office within the twenty (20) day period. If you do not contest the accuracy of the information within the specified time frame or pay the balance due in full, informa-

tion about your arrears will begin to be reported to the credit bureau.

Sincerely,

#### **Support**

#### **Som.R.C.P. 1910.60. Review Of Domestic Relations Orders.**

A. When a right of review is not provided otherwise by statute or rule of court, a person or entity aggrieved by an order or other action of the Domestic Relations Section shall have the right to contest the order or action by filing a written request for review with the Domestic Relations Section within ten (10) days after the entry of the order or other action. Upon receipt of the written request for review, the Domestic Relations Section shall schedule a conference before a Conference Officer to determine whether the order or other action was properly taken. Promptly after the conference, the Domestic Relations Conference Officer shall issue a decision either upholding or reversing the order or action.

B. A person or entity may appeal from a decision by the Domestic Relations Conference Officer, by filing a notice of appeal with the Domestic Relations Section, within ten (10) days after entry of the decision by the Domestic Relations Conference Officer. Hearing will then be scheduled before the Permanent Hearing Officer in accordance with the procedure for scheduling hearings challenging support orders. After hearing, the Permanent Hearing Officer shall promptly issue recommendation and proposed order for approval by the Court.

C. A person or entity may file exceptions to the order entered on the Permanent Hearing Officer's recommendation, by filing exceptions with the Domestic Relations Section, within ten (10) days after entry of the order. Argument on the exceptions will be scheduled in accordance with the procedure for scheduling exceptions to support orders.

#### **Custody**

#### **Som.R.C.P. 1915.4. Scheduling Of Custody Hearings.**

When a custody case is ready to be scheduled for hearing, the case will be placed on the next available civil trial list as a nonjury case for scheduling pursuant to Som.R.J.A. 1020. Counsel for the parties shall appear at the Call of the Civil Trial List pursuant to Som.R.J.A. 1022. Hearings will be placed on the civil trial schedule prepared pursuant to the provisions of Som.R.J.A. 1023, if time is available during the trial session. If time is not available during the trial session, the hearing will be scheduled as soon as reasonably practical. If the case cannot be scheduled prior to the next civil trial session, the case will automatically be placed on the next civil trial list.

[Pa.B. Doc. No. 02-979. Filed for public inspection June 7, 2002, 9:00 a.m.]