

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 83]

#### Amendment to the Rules of Disciplinary Enforcement Relating to Confidentiality of Information Obtained by the Lawyers Fund for Client Security

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania is considering recommending to the Pennsylvania Supreme Court that it amend the Pennsylvania Rules of Disciplinary Enforcement as set forth in Annex A to make clear that the Pennsylvania Lawyers Fund for Client Security may use information obtained during an investigation to pursue subrogated claims.

The Lawyers Fund for Client Security routinely receives information from the Office of Disciplinary Counsel regarding claims received by the Fund for losses caused by dishonest lawyers. The Fund is bound by the confidentiality requirements of Pa.R.D.E. 402 with respect to that information. See Pa.R.D.E. 521(a). In addition to reviewing the information provided by the Office of Disciplinary Counsel, the Fund conducts its own investigation of claims and makes a determination as to whether an award from the Fund should be made.

When the Fund pays a claim, it acquires certain rights of subrogation. See Pa.R.D.E. 521(e)(1). Although the Fund develops a significant amount of information outside of the information it receives from the Office of Disciplinary Counsel, there remains the possibility that pursuit of a subrogation claim by the Fund may disclose information received from the Office of Disciplinary Counsel.

If a proceeding against the lawyer whose conduct caused a claim results in public discipline, the confidentiality requirements of Pa.R.D.E. 402 cease to apply. However, if the proceeding against a lawyer is concluded by the resignation of the lawyer, the confidentiality requirements continue to apply. The proposed amendment to Pa.R.D.E. 402 set forth in Annex A is intended to make clear that pursuit of subrogation claims by the Fund in cases where public discipline has not been imposed will not violate the confidentiality requirements of Pa.R.D.E. 402.

Interested persons are invited to submit written comments regarding the proposed amendment to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, First Floor, Two Lemoyne Drive, Lemoyne, PA 17043, on or before July 7, 2003.

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

ELAINE M. BIXLER,  
*Executive Director and Secretary*

### Annex A

#### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART V. PROFESSIONAL ETHICS AND CONDUCT

#### Subpart B. DISCIPLINARY ENFORCEMENT

#### CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

#### Subchapter D. MISCELLANEOUS PROVISIONS

#### Rule 402. Confidentiality

\* \* \* \* \*

(b) This rule shall not be construed to:

\* \* \* \* \*

**(3) Prevent the Pennsylvania Lawyers Fund for Client Security from utilizing information obtained during any investigation to pursue subrogated claims.**

\* \* \* \* \*

[Pa.B. Doc. No. 03-1167. Filed for public inspection June 20, 2003, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### FAYETTE COUNTY

#### Rule of Judicial Administration 507; No. 739 of 2003

#### Order

*And Now*, this 3rd day of April, 2003, it is hereby ordered that Fayette County Rule of Civil Procedure 210.2 and Fayette County Rule of Criminal Procedure 101 be rescinded and pursuant to Rule 103 of the Pennsylvania Rules of Judicial Administration the above-stated Local Rule be adopted as follows.

The Prothonotary is directed to file ten certified copies of the Order and Local Rule with the Administrative Office of Pennsylvania Courts.

This rule shall not be valid for any purpose until filed in the Administrative Office of Pennsylvania Courts.

*By the Court*

CONRAD B. CAPUZZI,  
*President Judge*

#### Rule 507. Retention and Disposition of Court Reporter Notes

##### a. Raw Notes of Testimony

(1) Raw notes of testimony are those on paper tapes and/or other media in the original state which they existed when taken at the time of testimony.

(2) Once transcribed, raw notes of testimony may be destroyed 60 days after the filing of the transcript.

(3) Raw notes of testimony that have not been transcribed may be destroyed seven years from the date of testimony.

(4) Notwithstanding the above provisions, a party may petition on good cause shown for a court order directing that particular raw notes of testimony be retained for a longer period of time than otherwise required.

b. *Transcribed Notes of Testimony*

(1) Transcribed notes of testimony filed with the Prothonotary, Clerk of the Orphans' Court, or Clerk of Courts are subject to the retention periods set forth in the County Records Manual under those offices, and need not be retained by the Judicial District, court reporter or Court.

(2) Transcribed notes of testimony filed in juvenile matters shall be retained by the appropriate office until the subject reaches the age of 25, or, 10 years after the last action in the case, whichever is later.

c. *Record Retention Disposal Log*

(1) Disposal of raw notes of testimony shall be accomplished as provided in Section 2.3 of the Record Retention & Disposition Schedule promulgated by the Supreme Court of Pennsylvania/Administrative Office of Pennsylvania Courts.

(2) When completing Disposal Log Forms, the raw notes need not be listed on the Records Disposal Log by caption and case number, but may be listed merely by the hearing date.

Comment: This Rule is derived from the Record Retention & Disposition Schedule referred to above.

[Pa.B. Doc. No. 03-1168. Filed for public inspection June 20, 2003, 9:00 a.m.]

**FAYETTE COUNTY**

**Rule of Judicial Administration 1901; No. 783 of 2003**

**Order**

*And Now*, this 8th day of April, 2003, it is hereby ordered pursuant to Rule 103 of the Pennsylvania Rules of Judicial Administration, Fayette County Rule of Judicial Administration 1901 be adopted, effective August 31, 2003, as follows.

The Prothonotary is directed to file ten certified copies of the Order and Local Rule with the Administrative Office of Pennsylvania Courts.

This rule shall not be valid for any purpose until filed in the Administrative Office of Pennsylvania Courts.

*By the Court*

CONRAD B. CAPUZZI,  
*President Judge*

**Rule 1901. Prompt Disposition of Matters; Termination of Inactive Cases**

(a) On the first business day of February, May, August, and November of each year, the Prothonotary shall prepare a list of cases proposed to be dismissed in every pending civil matter in which no paper has been filed and no action taken for two (2) or more years prior to that date. The cases on such list shall be called at 10:00 A.M. on the third Friday before the next session of Civil Jury Trials.

(b) Notice of the proposed dismissal of each matter on any list prepared pursuant to paragraph (b) shall be

given by the Prothonotary to counsel of record. If no action is taken and no written objection is docketed in any such matter prior to the commencement of the call of the list, the Prothonotary shall strike the matter from the list and enter an order as of course dismissing the matter with prejudice for failure to prosecute. If no good cause is shown at the call for continuing any matter remaining on the list, an order dismissing such action shall be entered by the Court forthwith.

(c) All notices required by this Rule shall be in writing and shall be given by the Prothonotary at least thirty (30) days before the date on which the list is to be called. Notice may be given to counsel of record in person or by ordinary mail and to a party by certified mail to the last address of record. If no such notice can be given as shown by affidavit of the Prothonotary, notice may be given by publication once in the Fayette Legal Journal and in one newspaper of general circulation in Fayette County.

[Pa.B. Doc. No. 03-1169. Filed for public inspection June 20, 2003, 9:00 a.m.]

**MONTGOMERY COUNTY**

**Revision and Renumbering of Local Rules of Criminal Procedure; No. 2003-00001-0002**

**Order**

*And Now*, this 27th day of May, 2003, the Court approves and adopts the following Revision and Renumbering of the Montgomery County Local Rules of Criminal Procedure. The Revision and Renumbering shall become effective thirty (30) days from the date of publication in the *Pennsylvania Bulletin*.

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.Crim.P. 105, 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 Criminal Procedural 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*

S. GERALD CORSO,  
*President Judge*

**Rule 431\*(E)—(R). Procedure when Defendant Arrested with Warrant.**

(D) Warrants of arrest shall be issued for execution only to police officers as defined in Rule 103 who have on file with the issuing authority signed and dated verifications that all facts set forth in any return of service being made by the police officer are being set forth in each such return of service as true and correct to the best of the police officer's knowledge, information and belief under the understanding that false statements therein are subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

(E) When an arrest warrant is returned where the defendant has been found, the issuing authority shall ensure that the return of service by the police officer confirms:

(1) that the defendant has signed a guilty plea and has paid the amount of fine and cost stated on the warrant; or

(2) that the defendant has signed a not guilty plea and has paid the full amount of collateral stated on the warrant; or

(3) that the defendant has paid fine and cost due as specified in the warrant if the warrant is for collection of fine and cost after guilty plea or conviction.

(F) Issuing authorities shall require all police officers as defined in Rule 103 executing warrants of arrest as specified above to:

(1) accept payments directly from defendants in cash, check or money order made payable only to the issuing authority's magisterial district; and

(2) forthwith submit to the magisterial district from which the warrant of arrest issued all such payments made payable to issuing authority's magisterial district and so much of the cash payments collected as are due to the Court for security or fine and Court costs. (Authorized fees for service of warrants by police officers paid in cash may be withheld by the police officer so long as the required return of service has been made.)

(G) The issuing authority at the time of issuance of an arrest warrant shall direct that a defendant arrested on a warrant who is unable or unwilling to enter a written plea of guilty or not guilty, or who is unable or unwilling to pay the full amount of fine and cost, or is unable to post the amount of collateral stated be:

(1) held by the police officer pending the police officer's contacting the issuing authority either by telephone or in person to determine whether the defendant shall be given an immediate trial or provided a postponement; and

(2) given the opportunity to deposit sufficient collateral with the police officer when applicable for appearance on the new date. (If the issuing authority determines that a question of the defendant's financial ability to post sufficient collateral exists, then the issuing authority may release the defendant from custody pending a Pa.R.Crim.P. 456 hearing on the next available hearing day in the issuing authority's magisterial district and direct the police officer to make a notation on the warrant return released for a Rule 456 hearing by District Justice together with the date and time the order was entered.)

(H) No issuing authority serving on special assignment duty shall be required to respond to any request by a police officer to process a defendant arrested under Pa.R.Crim.P. Rule 431 unless the issuing authority on special assignment duty issued the arrest warrant being executed by the police officer.

(I) The issuing authority's warrant of arrest shall be the exclusive form for use by a police officer to issue a receipt for fines and costs or collateral accepted by the police officer where the defendant has been found.

(J) The issuing authority shall forthwith, upon receipt of a plea and payment, recall its issued warrant(s). The issuing authority shall thereafter confirm the timely return of the recalled warrant(s).

(K) The issuing authority shall not authorize payment or accept a return of service of an arrest warrant where the defendant has been found when the return of service is:

(1) not a carbon copy of the receipt issued to the defendant setting forth the amount of fine and costs or collateral received from the defendant; and

(2) is not signed by the defendant and the police officer; or

(3) which is not otherwise designated "released for a Rule 456 hearing by District Justice \_\_\_\_\_" as provided for herein;

(4) however, the issuing authority shall accept in lieu of the defendant's signature the police officer's certification, "defendant refused to sign" as full compliance with the procedures set forth herein for return of a warrant of arrest where the defendant has been found.

(L) The issuing authority shall authorize and make payment of a warrant fee for the execution of an arrest warrant when the defendant has not been found at the time the arrest warrant is executed and:

(1) the police officer has provided a notice to respond to the defendant as addressed on the warrant that includes therein:

i. a place for the defendant's signature; and

ii. a place for entry of a plea of guilty or not guilty; and

iii. a notice that all payments shall be made payable to the Magisterial Court of the issuing authority that issued the arrest warrant; and

iv. a notice of the total amount due including all costs for service of the warrant of arrest; and

v. the police officer has verified on return of the warrant that the police officer attempted service on the defendant as addressed and that the police officer left a notice to respond described herein;

(2) the issuing authority has received payment from the defendant together with a signed plea;

(3) the issuing authority shall then authorize and make payment for service of the warrant in the same manner as the return of service where the defendant is found.

(M) The issuing authority shall authorize and make payment of a nulla bono fee for the execution of an arrest warrant where the defendant has not been found when the arrest warrant was executed and:

(1) the police officer has made an actual attempt at service; and

(2) has properly completed an affidavit that the defendant was not found as addressed on the warrant; and

(3) the police officer leaves a notice to the defendant as addressed on the warrant in the same manner as prescribed in section (m) above.

(N) Issuing authorities shall require police officers to complete requests for payment due to police officers for all warrants of arrest where the defendant has been found and a proper return of service has been completed.

(O) The issuing authority shall complete payment forms for payments due to police officers for execution of warrants where the defendant was not found but has responded by written plea and payment as a result of the police officer having left notice at the defendant's residence.

(P) During normal business operation of magisterial office, all requests for payments for properly executed warrants and returns of service which have been submitted by approved police officers or completed by the issuing

authority's staff by noontime on Wednesday of any work week will be paid by 4 p.m. Friday of the same work week.

(Q) All arrest warrants issued pursuant to Pa.R.Crim.P. 431 by an issuing authority shall be required to be returned by the police officer to whom they were issued within ninety (90) days after the date issued. An issuing authority shall have the discretion to reissue any warrants so returned for an additional sixty (60) days upon good cause shown.

See Form

**Rule 507\*. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth.**

The District Attorney of Montgomery County, having filed a certificate pursuant to Pennsylvania Rule of Criminal Procedure 507(b), Criminal Complaints and Arrest Warrant Affidavits by police officers, as defined in the Rules of Criminal Procedure, charging criminal homicide offenses (including homicide by vehicle) shall not hereafter be accepted by any judicial officer unless the Complaint and Affidavit have the approval of an attorney for the Commonwealth prior to filing.

**Rule 528(C)\*. Procedure for Bail Bond.**

When a defendant or his/her private third-party surety has deposited a sum of money equal to ten (10) percent of the bail (but in no event less than fifty (\$50) dollars), then upon full and final disposition of the case, the deposit (less the retention) and any amount applied to the payment of fine, costs and attorney's fee shall be returned to the person who originally posted the deposit. Notice of the full and final disposition shall be sent by the Court to the person who originally posted the money at his/her address of record. Any money not claimed within sixty (60) days from the time of full and final disposition of the case shall be deemed as unclaimed and abandoned property subject to escheat pursuant to the applicable Pennsylvania Escheat Statute.

**Rule 528(D)(3)\*. Realty as Security for Monetary Condition of Release on Bail.**

The actual net value shall be the assessed value deducting therefrom all liens and encumbrances or meet the requirements of Montgomery County Rule of Criminal Procedure 531(A)\*(6).

**Rule 531(A)\*(6)—(11). Qualifications of Surety.**

(6) Residents or owners of realty in order to be qualified to act as sureties must own realty within the Commonwealth of Pennsylvania. In all cases or realty owned outside Montgomery County, the surety must provide the following:

- (a) Affidavit of Justification of each surety;
- (b) Written appraisal by a reputable licensed real estate broker in the county in which the property is situate;
- (c) Proof of entry of the bond in favor of the Commonwealth in the Prothonotary's Office of the county in which the property is situate;
- (d) Letter from the mortgage company indicating the unpaid balance due on the mortgage covering the said property, if any;
- (e) A lien and judgment search by a reputable title insurance company.

(7) *Justification of Personal Surety.* In justification of bail, personal surety shall be required to give the following information under oath:

- (a) name, address, age and occupation;
- (b) A general description of real estate in Montgomery County of which the surety is a freeholder;
- (c) A statement of the manner in which the surety obtained title, and upon failure to produce the evidence of title, the Deed Book or Will Book reference of the recording of the instrument by which the surety obtained title;
- (d) A statement of all encumbrances, including taxes, upon said real estate;
- (e) A statement of all other surety undertakings;
- (f) A statement of all the assessed, market and rental value of the real estate;
- (g) A statement that the surety is not contemplating or negotiating the sale of the real estate.
- (8) *Corporate Surety.*

(a) Every corporate surety company duly authorized to do business in Pennsylvania may become surety on any bail bond required to be filed in this Court provided that a current Certificate of Authority issued to it by the Insurance Department of the Commonwealth of Pennsylvania, evidencing such right, along with the current financial statement, shall be filed with the Clerk of Courts. No bond shall be executed by any corporate after May 15th of the same year until such a certificate is issued after March 31st of the same year and the financial statement shall have been filed with the Clerk of Courts.

(b) No bond shall be executed by any corporate surety where the aggregate maximum amount of unsettled and outstanding bail forfeitures, as determined by the Solicitor for the Clerk of Courts, is One Hundred Thousand (\$100,000.00) Dollars. The Solicitor for the Clerk of Courts shall immediately notify the Clerk of Courts, the District Attorney and the District Justices of Montgomery County, of any corporate surety having reached this maximum limit. The Clerk of Courts and District Justices shall immediately cease executing bonds by the corporate surety. When full financial settlement has been made with the County of Montgomery, the Solicitor for the Clerk of Courts shall notify the Clerk of Courts and District Justices that execution of bonds by the corporate surety may resume.

(9) *Surety Agents.*

(a) Every agent, acting on behalf of a corporate surety, may execute a bail bond required to be filed in this Court provided that a Power of Attorney issued by the corporate surety setting forth the maximum limit of liability per bail, along with proof of licensing by the Insurance Department of the Commonwealth of Pennsylvania, shall be filed with the Clerk of Courts. No bond shall be executed by any surety agent after the expiration of such Power of Attorney until a new Power of Attorney shall have been filed with the Clerk of Courts.

(b) No bond shall be executed by any surety agent of a corporate surety authorized to do business in Montgomery County where the aggregate maximum amount of unsettled and outstanding bail forfeitures for all corporate sureties for which the surety agent is writing bonds, as determined by the Solicitor for the Clerk of Courts, is One Hundred Thousand (\$100,000.00) Dollars. The Solicitor for the Clerk of Courts shall immediately notify the Clerk of Courts, the District Attorney and the District Justices of Montgomery County, of any surety agent having reached this maximum limit. The Clerk of Court and

District Justices shall immediately cease executing bonds by the surety agent. When full financial settlement has been made with the County of Montgomery, the Solicitor for the Clerk of Courts shall notify the Clerk of Courts and District Justices that execution of bonds by the surety agent may resume.

(10) *Professional Bail Bondsman.*

(a) Every professional bail bondsman, duly authorized to do business in Pennsylvania, may become surety on any bail bond required to be filed in this Court, provided that a currently valid registration and license from the Insurance Department of the Commonwealth of Pennsylvania, pursuant to 42 Pa.C.S. § 5742, evidencing such right, shall be filed with the Clerk of Courts. Every professional bail bondsman must present proof that he or she maintains an office in Montgomery County from which his or her business is conducted pursuant to 42 Pa.C.S. § 5744, and he or she must post and maintain a security with the Clerk the sum of Fifty Thousand (\$50,000.00) Dollars in United States currency or securities of the United States Government.

(b) No bond shall be executed by any professional bail bondsman where the aggregate maximum amount of unsettled and outstanding bail forfeitures, as determined by the Solicitor for the Clerk of Courts, is One Hundred Thousand (\$100,000.00) Dollars. The Solicitor for the Clerk of Courts shall immediately notify the Clerk of Courts, the District Attorney and the District Justices of Montgomery County, of any professional bail bondsman having reached this maximum limit. The Clerk of Court and District Justices shall immediately cease executing bonds by the professional bail bondsman. When full financial settlement has been made with the County of Montgomery, the Solicitor for the Clerk of Courts shall notify the Clerk of Courts and District Justices that execution of bonds by the professional bail bondsman may resume.

(11) *Effective Date.*

This rule shall apply to forfeitures entered on or after June 12, 2001.

**Rule 542\*(F), (G). Preliminary Hearing.**

(E) In all cases where there is a transcript taken by a court reporter of a Preliminary Hearing in a criminal case, the entire cost of the notes of testimony which shall include an original for the Court, and a copy each to the Commonwealth and the defendant, shall be borne equally between the Commonwealth and defense counsel. If any extra copies are ordered, the party requesting the extra copy shall be responsible for same.

(F) If a stenographic or other record of any preliminary hearing is made, and is subsequently transcribed, the original thereof shall, upon its preparation, be forthwith filed with the Clerk of Courts of Montgomery County. Where notes have been transcribed by an official or other reporter, it shall be the primary responsibility of the reporter to cause the original to be filed. In the event the reporter shall fail to do so, and where a party has transcribed a record using mechanical or electronic devices, the party responsible for ordering or preparing such transcription shall be responsible for filing the original of the notes. Where a mechanical or electronic device has been the primary source of a transcribed record, it shall be preserved and available for reference at trial. If a transcript of a record of the proceedings has not been filed with the Clerk of Courts prior to trial, or hearing on

pretrial motions heard immediately before trial, such record shall be unavailable for use to either party at trial or at such pretrial hearings.

**Rule 571\*(E), (F). Arraignment.**

(E) At the conclusion of a preliminary hearing in which a defendant is bound over for action by the Court of Common Pleas, or upon waiver of the preliminary hearing by a defendant, the issuing authority shall provide written notice of the date, place and time of arraignment in the Court of Common Pleas.

(F) Arraignment may be conducted by the Court Administrator or designated Deputy, and may be conducted by using advanced communication technology.

**Rule 587\*(C). Motion for Dismissal.**

The Clerk of Courts shall annually prepare a list of all pending criminal actions in which no activity appears upon the docket for two years or more immediately prior thereto. The Clerk of Courts shall give notice thereof to the District Attorney, counsel of record, and to the parties for whom no appearance of counsel has been entered, that said cases shall be marked terminated upon the docket unless an Activity Status Certificate is filed with the Clerk of Courts within thirty (30) days after service of the notice by mail, in person or by publication on the District Attorney, counsel of record and to those parties for whom no appearance has been entered. Such cases shall be marked terminated on the docket unless an Activity Status Certificate is filed with the Clerk of Court within such time.

All matters so terminated may not be reinstated except with leave of Court.

The Clerk of Courts shall notify the Sheriff, District Attorney, and counsel for the defendant each time a case is marked terminated on the docket.

**Rule \*709. Paroles and Changing of Sentence.**

All petitions for parole or change of sentence shall contain the following:

- (1) The sentence of the Court verbatim;
- (2) The name of the Sentencing Judge;
- (3) A detailed history of the case;
- (4) The prior criminal record of the defendant, in detail;
- (5) Succinct statement of the reasons for making the application;
- (6) Employment open to defendant, accompanied by a letter from the defendant's proposed employer stating the wages the defendant will receive, if the application should be granted;
- (7) Where defendant proposes to reside; and
- (8) A signed statement by the warden of the defendant's department.

**Rule \*710. Termination of Probation.**

After the request of a defendant, or defendant's counsel, for termination of probation to the Chief Adult Probation Officer has been refused by such officer, a Petition for Termination of Probation may be filed in form substantially similar to that set forth in Rule \*709. A copy shall be served on the District Attorney, the Chief Adult Probation Officer, and the sentencing Judge. Thereafter, unless the sentencing Judge summarily grants the prayer for relief upon the averments of the Petition, a hearing shall be set thereon at the earliest possible date.

**Rule 722\*. Expungement of Record**

(A) A person desiring to expunge the record involving any criminal arrest or other criminal matter, except a Section 17 Disposition under the Drug Act shall:

(1) File a petition which shall contain the following:

i. The name, date of birth and social security number of the petitioner and any names or aliases which the petitioner has used.

ii. The address of the petitioner.

iii. The crime or crimes upon which the petitioner was arrested or the matter which the petitioner desires to have expunged, and a summary of all proceedings which took place after the arrest, including the names of all police departments involved, the name of the District Justice involved in the case, and the Official Tracking Number (OTN).

iv. The reason why the record or matter should be expunged.

v. Any previous criminal convictions of a felony or a misdemeanor in any jurisdiction in which the petitioner had been convicted. The petition should be under oath.

(2) The petition shall be captioned to the name or term and number of the original Court case if there is any such term and number in the proceedings, it shall be captioned "In the Matter of \_\_\_\_\_, Petition to Expunge," and given a miscellaneous number by the Clerk of Courts.

(3) After the filing of the said petition with the Clerk of Courts, the petitioner, by petitioner's counsel, shall obtain a Rule Returnable from the Court Administrator's Office

(4) A copy of said petition with the date of the Rule Returnable shall be served either on the District Attorney or the First Assistant District Attorney by petitioner. Said petition is to be served at least 25 days prior to the date of the Rule Returnable.

(5) If no answer is filed by the District Attorney's Office on the return date and petitioner files an affidavit of service that said petition was served as required by the rule, said rule is to be made absolute.

(6) If an answer is filed by the District Attorney's Office, the Court Administrator is to immediately set a hearing date at which time the Commonwealth may produce evidence, if necessary, and give arguments to the Court in opposition to the expungement, after which the petitioner has the right to produce evidence and arguments in favor of the expungement.

(7) If the Court grants the order of expungement, the petitioner or petitioner's counsel shall obtain all necessary certified copies of the order from the Clerk of Courts office and mail the certified copies of the expungement order to all criminal justice agencies enumerated in the proposed order of expungement with a self-addressed stamped envelope so that the criminal justice agencies can notify the petitioner or petitioner's counsel that their records have been expunged.

(8) Upon notification by the criminal justice agencies that the petitioner's records have been expunged, the petitioner and/or petitioner's counsel will notify the Clerk of Courts and they will expunge their records, notifying the petitioner and/or the petitioner's counsel of the same.

(B) Section 17 Disposition

(1) When a defendant has successfully completed a Section 17 Disposition under the Drug Act, the Adult

Probation Office of Montgomery County shall certify that fact to the Clerk of Courts of Montgomery County within 14 days.

(2) The Clerk of Courts of Montgomery County shall prepare an expungement order for the Court to sign in accordance with Pennsylvania Rule of Criminal Procedure 722 within 14 days.

(3) After the Court has signed the expungement order, the Clerk of Courts shall send the Order to the defendant and/or defendant's attorney within 14 days for service on all appropriate criminal justice agencies.

(4) Upon notification by the defendant and/or defendant's attorney that the defendant's record has been expunged by the appropriate criminal justice agencies, the Clerk of Courts will expunge its record and notify the defendant and/or defendant's attorney.

**CRIMINAL COURT FORMS**

See Rule 431\*(E)—(R)

**VERIFICATION**

I, \_\_\_\_\_, state that I am a police officer as defined in Rule 103 of the Pennsylvania Rules of Criminal Procedure; and that the facts that I shall from time to time set forth in any Return of Service required to be filed with the issuing authority for each warrant of arrest issued to me pursuant to Pa.R.Crim.P. 431 shall be true and correct to the best of my knowledge, information and belief, and that this statement is made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

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

[Pa.B. Doc. No. 03-1170. Filed for public inspection June 20, 2003, 9:00 a.m.]

**NORTHAMPTON COUNTY****Administrative Order 2003-2—Assessment and Collection of Juvenile Court Costs; Misc. 263-2003****Order of Court**

*And Now*, this 5th day of June, 2003, is hereby Ordered that court costs assessed in juvenile delinquency cases shall be collected by the Clerk of Court Criminal Division. The Juvenile Probation Department shall be responsible for calculating costs and entering them into the FACTS case management system. All payments shall be made to the Clerk of Court Criminal Division.

Costs to be assessed shall include the following:

—Access to Justice Fee—ten dollars (\$10.00)—Applicable to all cases.

—Victim's Compensation Fee—twenty-five dollars (\$25.00)—Applicable to all cases.

—Statutory Fee for Felony Offenses—five dollars (\$5.00)—Applicable to any case where there is an adjudication of delinquency for a felony offense.

—Statutory Fee for Misdemeanor Offenses—one dollar fifty cents (\$1.50)—Applicable to any case where there is an adjudication of delinquency for any misdemeanor offense.

*—DUI/Drug Fee*

1. One hundred dollars (\$100.00) for Drug Related Offenses and Driving Under the Influence Offenses where the blood alcohol level is less than or equal to .15%.

2. Three Hundred Dollars (\$300.00) for Driving Under the Influence Offenses where the blood alcohol level is greater than .15%.

*—DNA Detection Act Fee—*Two hundred fifty (\$250.00) for all cases to which this act applies.

This Administrative Order shall become effective July 1, 2003.

*By the Court*

ROBERT A. FREEDBERG,  
*President Judge*

[Pa.B. Doc. No. 03-1171. Filed for public inspection June 20, 2003, 9:00 a.m.]

### NORTHAMPTON COUNTY

#### Administrative Order 2003-3—Family Court Rules N1910.5, N1910.6, N1910.11; C-48-CV-2003-4094

##### Order of Court

*And Now*, this 5th day of June, 2003, the following rules, N1910.5, N1910.6, and N1910.11 are hereby adopted. The effective date of the rules is July 14, 2003.

*By the Court*

ROBERT A. FREEDBERG,  
*President Judge*

##### Rule N1910.6—Special Relief Emergency Support Order

(1) Where there is an imminent prospect of cessation or material interruption of the basic necessities of health, education or welfare, a party may apply for a special order of support prior to the conference before a Domestic Relations conference officer. Applications for such relief shall use the Application, Notice, Certificate of Service and Response Form available at the Domestic Relations Office.

(2) All applications must be completed in full and include as an attachment, proof/verification of income in the nature of a pay stub, tax return, W-2 statement or other suitable proof of income. The completed application must be filed with the Domestic Relations Section and a copy of the completed application with the notice and a blank response form shall be served by the Sheriff or a competent adult upon the defendant in the manner set forth in Pa.R.C.P. 1930.4. A certificate of service shall be promptly filed with the Domestic Relations Section certifying service upon the defendant of the application, notice and blank response form.

(3) The defendant must respond to the application by submitting his completed response form within ten (10) days after service.

(4) Thereafter, the case file will be transmitted to the Administrative Judge for Domestic Relations for disposi-

tion. Any order of support entered pursuant to the application will be temporary in nature pending the Domestic Relations conference, effective as of the date the application was filed and enforceable by the Domestic Relations Section pursuant to the Pennsylvania Rules of Civil Procedure. Credit will be given for all monies paid pursuant to a temporary order, against the final order.

##### Rule N1910.5—Orders, Motions and Rules to Show Cause

(1) All motions, orders, stipulations, petitions for special relief in Domestic Relations matters and rules to show cause requiring a scheduled hearing must be submitted directly to the Domestic Relations Section Director for action by the Administrative Judge of Domestic Relations. NO such matters shall be submitted through Motions Court.

(2) Any matter bearing a Domestic Relations Section term number or a matter directly effecting the administration of a Domestic Relations file shall not be listed on any Miscellaneous or Civil Non-Jury List without the approval of the Administrative Judge of Domestic Relations.

##### Rule 1910.11—I.b—Continuances of Scheduled Conferences

(1) The Domestic Relations Section, when aware that attorneys represent one or both parties, shall consult with counsel prior to scheduling support conferences.

(2) All applications for continuances shall be submitted directly to the Domestic Relations Section Director.

(3) Pa.R.C.P. No. 1910.6 requires the Domestic Relations Section to provide a twenty (20) day notice for a hearing before a Domestic Relations Conference Officer. Any continuance granted within the twenty (20) day period shall result in the loss of slot reserved by the Conference Officer for such hearings. For this reason, the Domestic Relations Section shall require applications for continuances to be submitted within twenty-five (25) days of the hearing date, so that the slot may be reassigned to another case. All timely applications for continuances shall be ruled upon by the Domestic Relations Section Director and will be granted for good cause.

(4) Applications for continuance shall be signed by the parties and/or their counsel of record and submitted on the Northampton County Application for Continuance Form. It should be noted that the continuance of any scheduled conference will result in a significant delay in rescheduling the conference.

(5) Applications filed less than twenty-five (25) days before the scheduled conference shall be denied by the Domestic Relations Section Director.

(6) Either party may appeal a Domestic Relations Section ruling on a continuance application by presenting the continuance ruling to the Administrative Judge for Domestic Relations for review. Agreement of counsel and/or conflicts with other scheduled court appearances shall not be sufficient reason to grant a continuance of a scheduled conference.

[Pa.B. Doc. No. 03-1172. Filed for public inspection June 20, 2003, 9:00 a.m.]

**SOMERSET COUNTY****Consolidated Rules of Court; No. 35 Misc. 2003****Adopting Order**

*And Now*, this 30th day of May, 2003, it is hereby *Ordered*:

1. Somerset County Rule of Judicial Administration 4010 (Som.R.J.A. 4010), Dockets For Proceedings In Civil Division, is amended by adding a new subparagraph H. Mental Health Docket, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

2. The Somerset County Court Administrator is directed to:

A. File seven (7) certified copies of this Order and the attached 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 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*

**Records of the Courts—Dockets****Som. R.J.A. 4010. Dockets for Proceedings in Civil Division***G. Older Adults Protective Services Docket.*

All proceedings under the Older Adults Protective Services Act, 1987, November 6, P. L. 381, No. 79 § 1 et seq., 35 P. S. § 10225.101 et seq., as amended, shall be entered in a docket designated "Older Adults Protective Services Docket."

NOTE: See Som. R.C.P. 1908 governing proceedings under the Older Adults Protective Services Act.

*H. Mental Health Docket.*

All proceedings under the Mental Health and Mental Retardation Act of 1966, Special Sess. No. 3, Oct. 20, P. L. 96 Art. I, § 101, as amended, 50 P. S. § 4101 et seq., and under the Mental Health Procedures Act, 1976, July 9, P. L. 817, No. 143, § 101, as amended, 50 P. S. § 7101 et seq., shall be entered in a docket designated as "Mental Health Docket."

[Pa.B. Doc. No. 03-1173. Filed for public inspection June 20, 2003, 9:00 a.m.]