

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART IV. ADMISSION TO PRACTICE LAW

PART V. PROFESSIONAL ETHICS AND CONDUCT

[204 PA. CODE CHS. 71 AND 83]

Amendments to the Pennsylvania Bar Admission Rules and Rules of Disciplinary Enforcement Relating to Foreign Legal Consultants

Notice is hereby given that The Pennsylvania Board of Law Examiners and The Disciplinary Board of the Supreme Court of Pennsylvania are considering recommending to the Pennsylvania Supreme Court that it amend the Pennsylvania Bar Admission Rules as set forth in Annex A and the Pennsylvania Rules of Disciplinary Enforcement as set forth in Annex B to add provisions relating to foreign legal consultants.

In 1993, the ABA House of Delegates approved the Model Rule for the Licensing of Legal Consultants, which addresses the work of foreign lawyers in United States jurisdictions. The Model Rule responded, in part, to the concern of foreign lawyers that, while American lawyers enjoyed a broad right of practice in other countries (or sought such a right in countries that did not afford it), foreign lawyers generally could not engage in the practice of law in the United States, even if limited to advising on the law of their own countries, without attending an accredited American law school, sitting for the bar examination and becoming a full member of the bar. The ABA identified both a need for a streamlined admissions process for foreign lawyers seeking to establish a law practice providing limited legal services and a need for greater uniformity. The experience of those states that have adopted such a rule does not disclose regulatory problems resulting from licensing foreign legal consultants. The rule changes that the Board of Law Examiners and the Disciplinary Board are considering recommending are very similar to the ABA model rule.

Interested persons are invited to submit written comments regarding the proposed amendments. Comments should be sent to both the Executive Director, Pennsylvania Board of Law Examiners, 5070A Ritter Road, Suite 300, Mechanicsburg, PA 17055-4879 and 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 May 7, 2004.

*By The Pennsylvania Board of Law Examiners
Supreme Court of Pennsylvania*

MARK DOWS,
Executive Director

*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 IV. ADMISSION TO PRACTICE LAW

CHAPTER 71. PENNSYLVANIA BAR ADMISSION RULES

Subchapter C. RESTRICTED PRACTICE OF LAW FOREIGN LEGAL CONSULTANTS

Rule 341. Licensing of foreign legal consultants.

(a) *Required qualifications.* An applicant may be licensed to practice in this Commonwealth as a foreign legal consultant, without examination, if the applicant:

(1) is a member in good standing of a recognized legal profession in a foreign country, the members of which are admitted to practice as attorneys or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a public authority;

(2) for at least five of the seven years immediately preceding his or her application has been a member in good standing of such legal profession in the foreign country and has actually been engaged in the practice of law in the foreign country or elsewhere substantially involving or relating to the rendering of advice or the provision of legal services concerning the law of the foreign country;

(3) possesses the good moral character and general fitness requisite for a member of the bar of this Commonwealth;

(4) is at least 26 years of age;

(5) intends to practice as a foreign legal consultant in this Commonwealth and to maintain an office in this Commonwealth for that purpose; and

(6) has passed the Multistate Professional Responsibility Exam with the score required by the court to be achieved by successful applicants under Rule 203.

(b) *Application.* An applicant under this rule shall file with the Board an application in the form prescribed by the Board, which shall be accompanied by:

(1) a certificate from the professional body or public authority in the foreign country having final jurisdiction over professional discipline, certifying as to the applicant's admission to practice and the date thereof, and as to his or her good standing as such attorney or counselor at law or the equivalent;

(2) a letter of recommendation from one of the members of the executive body of such professional body or public authority or from one of the judges of the highest law court or court of original jurisdiction of the foreign country;

(3) a duly authenticated English translation of the certificate and the letter if, in either case, it is not in English;

(4) a statement indicating his or her understanding of, and commitment to observe the Rules of Professional Conduct and the Enforcement Rules to the extent applicable to the legal services authorized under Rule 342;

(5) appropriate evidence of professional liability insurance, in such amount as the Board may prescribe, to assure his or her proper professional conduct and responsibility;

(6) such other evidence as to the applicant's educational and professional qualifications, good moral character and general fitness, and compliance with the requirements of Subdivision (a) of this Rule as the Board may require;

(7) a written statement agreeing to notify the Prothonotary of the Supreme Court and the Secretary of the Disciplinary Board of any change in the applicant's good standing as a member of the foreign legal profession referred to in Subdivision (a)(1) of this Rule and of any final action of the professional body or public authority referred to in Subdivision (b)(1) of this Rule imposing any disciplinary censure, suspension, or other sanction upon such person; and

(8) a duly acknowledged instrument, in writing, setting forth his or her address in this Commonwealth and designating the Prothonotary of the Supreme Court as his or her agent upon whom process may be served, with like effect as if served personally upon him or her; in any action or proceeding thereafter brought against him or her and arising out of or based upon any legal services rendered or offered to be rendered by him or her within or to residents of this Commonwealth, whenever after due diligence service cannot be made upon him or her at such address or at such new address in this Commonwealth as he or she shall have filed in the office of the Prothonotary by means of a duly acknowledged supplemental instrument in writing or shall have furnished in the last registration statement filed by him or her in accordance with Enforcement Rule 219(d) (relating to periodic assessment of attorneys).

(c) *Application fee.* An applicant for a license as a foreign legal consultant under this Rule shall pay an application fee fixed by the Board.

(d) *Action by the Board.* The board may, in its discretion, issue to an applicant its certificate recommending his or her licensure as a foreign legal consultant if the applicant has met the requirements of this rule. In considering whether to issue a certificate recommending an applicant to practice as a foreign legal consultant under this Rule, the Board may in its discretion take into account whether a member of the bar of this Commonwealth would have a reasonable and practical opportunity to establish an office for the giving of legal advice to clients in the applicant's country of admission. Any member of the bar who is seeking or has sought to establish an office in that country may request the Board to consider whether applicants from that country should be denied the opportunity to be licensed as foreign legal consultants under this Rule, or the Board may do so sua sponte.

(e) *Motion for licensure.* An applicant shall file a motion for licensure as a foreign legal consultant with the Prothonotary of the Supreme Court, accompanied by the certificate from the Board recommending such licensure. If the motion is in proper order, the Prothonotary shall:

(1) Enter the name of the applicant upon the docket of persons licensed as foreign legal consultants in this Commonwealth.

(2) Notify the Administrative Office of the licensure of the foreign legal consultant.

(3) If the requisite fee has been paid therefore, issue an engrossed certificate of licensure under seal.

(f) *Subsequent admission to bar.* In the event that a person licensed as a foreign legal consultant under this Rule is subsequently admitted as a member of the bar of this Commonwealth under Subchapter B (relating to admission to the bar generally), the license granted to such person under this Rule shall be deemed superseded by the license granted to such person to practice law as a member of the bar of this Commonwealth.

Rule 342. Practice by foreign legal consultants.

(a) *Prohibited activities.* A person licensed to practice as a foreign legal consultant under Rule 341 (relating to licensing of foreign legal consultants) may render legal services in this Commonwealth with respect to the law of the foreign country where the foreign legal consultant is admitted to practice law, subject, however, to the limitations that he or she shall not:

(1) appear for a person other than himself or herself as attorney in any court, or before any magistrate or other judicial officer, in this Commonwealth (other than upon admission pro hac vice pursuant to Rule 301 (relating to admission pro hac vice));

(2) prepare any instrument effecting the transfer or registration of title to real estate located in the United States of America;

(3) prepare:

(i) any will or trust instrument effecting the disposition on death of any property located in the United States of America and owned by a resident thereof, or

(ii) any instrument relating to the administration of a decedent's estate in the United States of America;

(4) prepare any instrument in respect of the marital or parental relations, rights or duties of a resident of the United States of America, or the custody or care of the children of such a resident;

(5) render professional legal advice on the law of this Commonwealth, of any other jurisdiction in which he or she is not authorized to practice law or of the United States of America (whether rendered incident to the preparation of legal instruments or otherwise);

(6) be, or in any way hold himself or herself out as, a member of the bar of the Supreme Court of Pennsylvania; or

(7) carry on his or her practice under, or utilize in connection with such practice, any name, title or designation other than one or more of the following:

(i) his or her own name;

(ii) the name of the law firm with which he or she is affiliated;

(iii) his or her authorized title in the foreign country of his or her admission to practice, which may be used in conjunction with the name of such country; and

(iv) the title "foreign legal consultant," which may be used in conjunction with the words "admitted to the practice of law in [name of the foreign country of his or her admission to practice]."

(b) *Rights and obligations.* Subject to the limitations set forth in Subdivision (a) of this Rule, a person licensed as a foreign legal consultant under Rule 341 shall be

considered a lawyer affiliated with the bar of this Commonwealth and shall be entitled and subject to:

(1) the rights and obligations set forth in the Rules of Professional Conduct or arising from the other conditions and requirements that apply to a member of the bar of this Commonwealth under the Enforcement Rules; and

(2) the rights and obligations of a member of the bar of this Commonwealth with respect to:

(i) affiliation in the same law firm with one or more members of the bar of this Commonwealth, including by:

(A) employing one or more members of the bar of this Commonwealth;

(B) being employed by one or more members of the bar of this Commonwealth or by any law firm that includes members of the bar of this Commonwealth or which maintains an office in this Commonwealth; and

(C) being a partner in any law firm that includes members of the bar of this Commonwealth or which maintains an office in this Commonwealth; and

(ii) attorney-client privilege, work-product privilege and similar professional privileges.

(c) *Discipline.* A person licensed to practice as a foreign legal consultant under Rule 341 shall be subject to professional discipline in the same manner and to the same extent as members of the bar of this Commonwealth. The license of a foreign legal consultant shall be revoked when he or she no longer meets the requirements and obligations for licensing set forth in Rule 341 (a)(1). A foreign legal consultant shall not be subject to the Pennsylvania Rules for Continuing Legal Education.

(d) *Service of process.* Service of process on the Prothonotary of the Supreme Court, pursuant to the designation filed under Rule 341(b)(8), shall be made by personally delivering to and leaving with the Prothonotary, or with a deputy or assistant authorized by him or her to receive such service, at his or her office, duplicate copies of such process together with a fee as set by the Prothonotary. Service of process shall be complete when the Prothonotary has been so served. The Prothonotary shall promptly send one of such copies to the foreign legal consultant to whom the process is directed, by certified mail, return receipt requested, addressed to the foreign legal consultant at the address specified by him or her as provided in Rule 341(b)(8).

Annex B

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter A. PRELIMINARY PROVISIONS

Rule 102. Definitions.

(a) *General rule.* Subject to additional definitions contained in subsequent provisions of these rules which are applicable to specific provisions of these rules, the following words and phrases when used in these rules shall have, unless the context clearly indicates otherwise, the meanings given to them in this rule:

* * * * *

***“Foreign legal consultant.”* A person who holds a current license as a foreign legal consultant issued**

under Rule 341 of the Pennsylvania Bar Admission Rules.

* * * * *

***“Practice of law.”* Includes the provision of legal services as a foreign legal consultant.**

* * * * *

***“Respondent-attorney” or “attorney.”* Includes any person subject to these rules.**

* * * * *

Subchapter B. MISCONDUCT

Rule 203. Grounds for discipline.

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(b) The following shall also be grounds for discipline:

* * * * *

(5) Ceasing to meet the requirements for licensure as a foreign legal consultant set forth in Pennsylvania Bar Admission Rule 341(a)(1) or (3).

* * * * *

Rule 212. Substituted service.

In the event a respondent-attorney cannot be located and personally served with notices required under these rules, such notices may be served upon the respondent-attorney by addressing them to the address furnished by the respondent-attorney in the last registration statement filed by such person in accordance with Enforcement Rule 219(d) (relating to periodic assessment of attorneys) **or, in the case of a foreign legal consultant, by serving them on the Prothonotary of the Supreme Court pursuant to the designation filed by the foreign legal consultant under Pennsylvania Bar Admission Rule 341(b)(8).**

Rule 216. Reciprocal discipline.

(a) Upon receipt of a certified copy of an order demonstrating that an attorney admitted to practice in this Commonwealth has been disciplined by suspension or disbarment in another jurisdiction, the Supreme Court shall forthwith issue a notice directed to the respondent-attorney containing:

* * * * *

The Board shall cause this notice to be served upon the respondent-attorney by mailing it to the address furnished by the respondent-attorney in the last registration statement filed by such person in accordance with Enforcement Rule 219(d) (relating to periodic assessment of attorneys) **or, in the case of a foreign legal consultant, by serving it on the Prothonotary of the Supreme Court pursuant to the designation filed by the foreign legal consultant under Pennsylvania Bar Admission Rule 341(b)(8).**

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Rule 217. Formerly admitted attorneys.

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(h) Within ten days after the effective date of an order of disbarment or suspension for a period longer than one year, the formerly admitted attorney shall surrender to the Board the certificate issued by the Court Administrator of Pennsylvania under Rule 219(e) (relating to periodic assessment of attorneys; voluntary inactive status) for the current year, along with any certificate of good standing issued under Pennsylvania Bar Admission Rule 201(d) (relating to certification of good standing) [or],

certificate of admission issued under Pennsylvania Bar Admission Rule 231(d)(3) (relating to action by Prothonotary) **or certificate of licensure issued under Pennsylvania Bar Admission Rule 341(e)(3) (relating to motion for licensure)**. The Board may destroy the annual certificate issued under Rule 219(e), but shall retain any other documents surrendered under this subdivision and shall return those documents to the formerly admitted attorney in the event that he or she is subsequently reinstated.

* * * * *

Rule 219. Periodic assessment of attorneys; voluntary inactive status.

* * * * *

(d) On or before July 1 of each year all persons required by this rule to pay an annual fee shall file with the Administrative Office a signed statement on the form prescribed by the Administrative Office in accordance with the following procedures:

(1) The statement shall set forth:

(i) The date on which the attorney was first admitted to practice **or licensed as a foreign legal consultant** in this Commonwealth, and a list of all courts (except courts of this Commonwealth) and jurisdictions in which the person has ever been licensed to practice law, with the current status thereof.

* * * * *

(4) Upon original admission to the bar of this Commonwealth **or licensure as a foreign legal consultant**, a person shall concurrently file a statement under this subdivision for the current assessment year, but no annual fee shall be payable for the assessment year in which originally admitted **or licensed**.

* * * * *

**Subchapter E. CLIENT SECURITY FUND
DISHONEST CONDUCT OF ATTORNEY**

Rule 512. Covered attorney.

This subchapter covers conduct of an active member of the bar of the Supreme Court **or active foreign legal consultant** which conduct forms the basis of the application to the Board. The conduct complained of need not have taken place in this Commonwealth for application to the Board to be considered by the Board and an award granted, **except that an award shall not be granted with respect to conduct of a foreign legal consultant outside of this Commonwealth unless the conduct related to the provision of legal services to a resident of this Commonwealth.**

[Pa.B. Doc. No. 04-548. Filed for public inspection April 2, 2004, 9:00 a.m.]

**PART V. PROFESSIONAL ETHICS AND CONDUCT
[204 PA. CODE CH. 81]**

**Amendments to Rule of Professional Conduct 1.15
Relating to Safekeeping of Property**

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 Pennsylvania Rule of Professional Conduct 1.15 as

set forth in Annex A to clarify the requirements of that rule with respect to the safekeeping of property of clients and third persons.

Changes to R.P.C. 1.15 were included in the recommendations of the American Bar Association's Ethics 2000 Commission. The recommended changes to R.P.C. 1.15 were subsequently approved by the Pennsylvania Bar Association. The changes to R.P.C. 1.15 were not included, however, with the other changes to the Rules of Professional Conduct that were recommended to the Supreme Court of Pennsylvania because the Board wanted to study the possibility of making additional changes to R.P.C. 1.15. The Board is now seeking comments on a proposed revision of R.P.C. 1.15. The proposed text of R.P.C. 1.15 set forth in Annex A includes all the changes recommended as part of Ethics 2000 and also includes changes that the Board has developed based on the Model Rule on Financial Recordkeeping prepared by the American Bar Association.

Interested persons are invited to submit written comments regarding the proposed amendments 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 May 7, 2004.

*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 A. PROFESSIONAL RESPONSIBILITY

CHAPTER 81. RULES OF PROFESSIONAL CONDUCT

Subchapter A. RULES OF PROFESSIONAL CONDUCT

§ 81.4. Rules of Professional Conduct.

The following are the Rules of Professional Conduct:

CLIENT-LAWYER RELATIONSHIP

Rule 1.15. Safekeeping Property.

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation **or in a fiduciary capacity** separate from the lawyer's own property. Funds shall be kept in a separate account maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other property shall be identified as such and appropriately safeguarded. Complete records of **the receipt, maintenance and disposition** of such account funds and other property **and a copy of any writing required by Rule 1.5(b) or (c) with respect to each client whose funds or property are so held** shall be preserved for a period of five years after termination of the representation, **or after distribution of the property, whichever is later. At all times while a lawyer holds funds in connection with a representation or in a fiduciary capacity, the lawyer shall also maintain another account that is not used to hold such funds.**

(b) A lawyer may deposit a lawyer's own funds in a client trust account for the sole purpose of paying bank service charges on that account, but only in an amount necessary for that purpose.

(c) A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred, unless the client gives informed consent, confirmed in writing, to the handling of such funds in a different manner.

[(b)] (d) * * *

[(c)] (e) When in the course of representation a lawyer is in possession of property in which [both the lawyer and another person] two or more persons, one of whom may be the lawyer, claim interest, the property shall be kept separate by the lawyer until [there is an accounting and severance of their interests. If a dispute arises concerning their respective interests, the portion in dispute shall be kept separate by the lawyer until] the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.

[(d)] (f) Notwithstanding paragraphs [(a), (b) and (c)] (a) through (e), and except as provided below in paragraph [(e)] (g), a lawyer shall place all funds of a client or of a third person in an interest bearing account. All qualified funds received by the lawyer shall be placed in an interest On Lawyer Trust Account in a depository institution approved by the Supreme Court of Pennsylvania. All other funds of a client or a third person received by the lawyer shall be placed in an interest bearing account for the benefit of the client or third person or in another investment vehicle specifically agreed upon by the lawyer and the client or third party.

* * * * *

[(e)] (g) A lawyer shall be exempt from the provisions of paragraph [(d)] (f) only upon exemption requested and granted by the IOLTA Board. Exemptions shall be granted if: (i) the nature of the lawyer's practice does not require the routine maintenance of a trust account in Pennsylvania; (ii) compliance with paragraph [(d)] (f) would work an undue hardship on the lawyer or would be extremely impractical, based either on the geographical distance between the lawyer's principal office and the closest depository institution which is described in paragraph [(d)] (f)(2), or in other compelling and necessitous factors; or (iii) the lawyer's historical annual trust account experience, based on information from the depository institution in which the lawyer deposits trust funds, demonstrates that service charges on the account would significantly and routinely exceed any interest generated.

[(f)] (h) * * *

[(g)] (i) * * *

* * * * *

[(h)] (j) * * *

* * * * *

[(i)] (k) * * *

(l) The following books and records shall be maintained for each account (a "trust account") in which a lawyer holds funds in connection with a representation or in a fiduciary capacity:

(1) bank statements and check registers (which shall include the payee, date, amount and the client matter involved);

(2) all transaction records returned by the bank, including canceled checks in whatever form and records of electronic transactions; and

(3) records of deposits and a ledger separately listing each deposited item and the client or third person for whom the deposit is being made.

(m) The records required by this rule may be maintained in electronic or other form if they can be retrieved in printed hard copy. Electronic records must be regularly backed up by an appropriate storage device.

Comment:

1. A lawyer should hold property of others with the care required of a professional fiduciary. Securities should be kept in a safe deposit box, except when some other form of safekeeping is warranted by special circumstances. All property which is the property of clients or third persons [should], including prospective clients, must be kept separate from the lawyer's business and personal property and, if monies, in one or more trust accounts. Separate trust accounts may be warranted when administering estate monies or acting in similar fiduciary capacities. Whenever a lawyer holds funds of another person, the lawyer must maintain at least two accounts: one in which those funds are held and another in which the lawyer's own funds may be held.

2. While normally it is impermissible to commingle the lawyer's own funds with client funds, paragraph (b) provides that it is permissible when necessary to pay bank service charges on that account. Accurate records must be kept regarding that part of the funds which are the lawyer's.

3. Lawyers often receive funds from [third parties from] which the lawyer's fee will be paid. [If there is risk that the client may divert the funds without paying the fee, the] The lawyer is not required to remit [the portion from which the fee is to be paid] to the client funds that the lawyer reasonably believes represent fees owed. However, a lawyer may not hold funds to coerce a client into accepting the lawyer's contention. The disputed portion of the funds [should] must be kept in a trust account and the lawyer should suggest means for prompt resolution of the dispute, such as arbitration. The undisputed portion of the funds shall be promptly distributed.

4. [Third parties, such as a client's creditors,] Paragraph (e) also recognizes that third parties may have [just] lawful claims against specific funds or other property in a lawyer's custody such as a client's creditor who has a lien on funds recovered in a personal injury action. A lawyer may have a duty under applicable law to protect such third-party claims against wrongful interference by the client [, and accordingly, may]. In such cases, when the third party claim is not frivolous under applicable law, the lawyer must refuse to surrender the property to the

client unless the claims are resolved. [However, a] A lawyer should not unilaterally assume to arbitrate a dispute between the client and the third party. When there are substantial grounds for dispute as to the person entitled to the funds, the lawyer may file an action to have a court resolve the dispute.

5. The obligations of a lawyer under this Rule are independent of those arising from activity other than rendering legal services. For example, a lawyer who serves only as an escrow agent is governed by the applicable law relating to fiduciaries even though the lawyer does not render legal services in the transaction, and is not governed by this Rule.

6. [A "client's security fund" provides a means through the collective efforts of the bar to reimburse persons who have lost money or property as a result of dishonest conduct of a lawyer. Where such a fund has been established, a lawyer should participate.] A lawyer must participate in the Pennsylvania Lawyers Fund for Client Security. It is a means through the collective efforts of the bar to reimburse persons who have lost money or property as a result of dishonest conduct of a lawyer.

7. Paragraphs (g) through (k) provide for the Interest on Lawyer Trust Account (IOLTA) program and distinguish two types of funds of clients and third parties held by a lawyer: qualified funds, which must be placed in an IOLTA account, and other funds, which are to be placed in an interest bearing account unless the client or third party agrees otherwise. There are further instructions in Rules 219 and 221 of the Pennsylvania Rules of Disciplinary Enforcement and in the Regulations of the Interest on Lawyers Trust Account Board, 204 Pa. Code, § 81.01 et seq., which are referred to as the IOLTA Regulations.

8. Paragraph (l) specifies the records that must be kept by a lawyer with respect to trust accounts. Those records may be kept in electronic form so long as they can be retrieved in printed hard copy. If records are kept in that form, it is essential that a back-up copy be prepared on a regular basis.

9. The records required by this rule may be subject to subpoena in connection with an investigation or hearing pursuant to the Enforcement Rules. Failure to produce such records may result in the initiation of proceedings pursuant to Rule 208(f)(5) of the Pennsylvania Rules of Disciplinary Enforcement, which permits Disciplinary Counsel to commence a proceeding for the temporary suspension of a respondent-attorney who refuses to comply with a valid subpoena.

10. A lawyer who fails to comply with the requirements of this rule in respect of the maintenance, availability and preservation of accounts and records or who fails to produce or to respond completely to questions regarding such records as required shall be deemed to be in violation of paragraphs (a) and (e) and also Rule 8.1(a).

[Pa.B. Doc. No. 04-549. Filed for public inspection April 2, 2004, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 1900, 1910, 1915, 1920 AND 1930]

Amendments to the Rules of Civil Procedure relating to Domestic Relations Matters; No. 405 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 18th day of March, 2004, Rules 1905, 1910.25, 1910.27, 1915.12, 1915.15, 1915.16, 1920.71, 1920.73 and 1930.6 of the Pennsylvania Rules of Civil Procedure are amended as follows.

This order shall be processed in accordance with Pa. R.J.A. 103(b) and shall be effective on June 16, 2004.

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.

(a) The Notice of Hearing and Order required by Rule 1901.3 shall be substantially in the following form:

(Caption)

NOTICE OF HEARING AND ORDER

* * * * *

A hearing on the matter is scheduled for the ____ [,] day of ____ [19] 20__ , at __ .m., in Courtroom ____ at ____ Courthouse, ____ , Pennsylvania.

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. YOU HAVE THE RIGHT TO HAVE A LAWYER REPRESENT YOU AT THE HEARING. THE COURT WILL NOT, HOWEVER, APPOINT A LAWYER FOR YOU. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU CAN GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE. IF YOU CANNOT FIND A LAWYER, YOU MAY HAVE TO PROCEED WITHOUT ONE.

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CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.25. Enforcement. Support Order. Civil Contempt. Petition. Service. No Answer Required.

* * * * *

(b) The petition shall begin with an order of court in substantially the following form:

[CAPTION]
ORDER OF COURT

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU CAN GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

* * * * *

Rule 1910.27. Form of Complaint. Order. Income and Expense Statement. Health Insurance Coverage Information Form. Form of Support Order. Form Petition for Modification.

* * * * *

(b) The order to be attached at the front of the complaint set forth in subdivision (a) shall be in substantially the following form:

(Caption)
ORDER OF COURT

You, _____, defendant, are ordered to appear at _____ before _____, a conference officer of the Domestic Relations Section, on the _____ day of _____, [19] 20____, at ____M., for a conference, after which the officer may recommend that an order for support be entered against you.

* * * * *

YOU HAVE THE RIGHT TO A LAWYER, WHO MAY ATTEND THE CONFERENCE AND REPRESENT YOU. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU MAY GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

* * * * *

(g) The order to be attached at the front of the petition for modification set forth in subdivision (f) shall be in substantially the following form:

(Caption)
ORDER OF COURT

* * * * *

YOU HAVE THE RIGHT TO A LAWYER, WHO MAY ATTEND THE CONFERENCE AND REPRESENT YOU. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU MAY GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

* * * * *

CHAPTER 1915. ACTIONS FOR CUSTODY, PARTIAL CUSTODY AND VISITATION OF MINOR CHILDREN

Rule 1915.12. Civil Contempt for Disobedience of Custody Order. Petition. Form of Petition. Service. Order.

(a) A petition for civil contempt shall begin with a notice and order to appear in substantially the following form:

NOTICE AND ORDER TO APPEAR

Legal proceedings have been brought against you alleging you have [wilfully] wilfully disobeyed an order of court for (custody) (partial custody) (visitation).

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU CAN GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

* * * * *

Rule 1915.15. Form of Complaint. Caption. Order. Petition to Modify a Partial Custody or Visitation Order.

* * * * *

(c) The order to be attached at the front of the complaint or petition for modification shall be in substantially the following form:

(Caption)
ORDER OF COURT

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU CAN GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION

ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

* * * * *

Rule 1915.16. Form of Order and Notice. Joinder. Intervention.

(a) The order and notice joining a party in an action under Rule 1915.6(a) shall be substantially in the following form:

(Caption)
ORDER AND NOTICE

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU CAN GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

* * * * *

(b) The order for notice of the pendency of the action and the right to intervene required by Rule 1915.6(b) shall be substantially in the following form:

(Caption)
ORDER AND NOTICE

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU CAN GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

* * * * *

CHAPTER 1920. ACTIONS OF DIVORCE OR FOR ANNULMENT OF MARRIAGE

Rule 1920.71. Form of Notice.

The notice required by Rule 1920.12(c) shall be in the following form:

NOTICE TO DEFEND AND CLAIM RIGHTS

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU CAN GET LEGAL HELP]. THIS

OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

* * * * *

Rule 1920.73. Notice of Intention to Request Entry of Divorce Decree. Praecepto to Transmit Record Forms.

(a)(1) The notice of the intention to request entry of divorce decree prescribed by Rule 1920.42(d) shall be substantially in the following form if there is an attorney of record:

(Caption)
NOTICE OF INTENTION TO REQUEST ENTRY OF DIVORCE DECREE

* * * * *

____ (PLAINTIFF/DEFENDANT) intends to file with the court the attached Praecepto to Transmit Record on or after _____, [19] 20__ requesting that a final decree in divorce be entered.

* * * * *

(2)(i) The notice of the intention to request entry of a § 3301(c) divorce decree prescribed by Rule 1920.42(d) shall be substantially in the following form if there is no attorney of record:

(Caption)
NOTICE OF INTENTION TO REQUEST ENTRY OF § 3301(c) DIVORCE DECREE

* * * * *

You have signed a § 3301(c) affidavit consenting to the entry of a divorce decree. Therefore, on or after _____, [19] 20__, the other party can request the court to enter a final decree in divorce.

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU CAN GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name)

(Address)

(Telephone Number)

* * * * *

(ii) The notice of the intention to request entry of § 3301(d) divorce decree prescribed by Rule 1920.42(d) shall be substantially in the following form if there is no attorney of record:

(Caption)
NOTICE OF INTENTION TO REQUEST ENTRY
OF § 3301(d) DIVORCE DECREE

* * * * *

You have been sued in an action for divorce. You have failed to answer the complaint or file a counter-affidavit to the § 3301(d) affidavit. Therefore, on or after _____, [19] 20__, the other party can request the court to enter a final decree in divorce.

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU CAN GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

* * * * *

CHAPTER 1930. RULES RELATING TO DOMESTIC
RELATIONS MATTERS GENERALLY

Rule 1930.6. Paternity Actions.

* * * * *

(c) *Commencement of Action.* An action shall be initiated by filing a verified complaint to establish paternity

and for genetic testing substantially in the form set forth in subdivision (1) below. The complaint shall have as its first page the Notice of Hearing and Order set forth in subdivision (2) below.

* * * * *

(2) The Notice of Hearing and Order required by this rule shall be substantially in the following form:

(Caption)
NOTICE OF HEARING AND ORDER

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU CAN GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

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