

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

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

Amendment of Rule 215 of the Pennsylvania Rules of Disciplinary Enforcement; No. 42 Disciplinary Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 24th day of May 2005, Rule 215(c) of the Pennsylvania Rules of Disciplinary Enforcement is amended to read as follows.

This Order shall be processed in accordance with Rule 103(b) of the Pennsylvania Rules of Judicial Administration. The amendments adopted hereby shall take effect upon publication in the *Pennsylvania Bulletin* and shall govern all matters thereafter commenced and, insofar as just and practicable, matters then pending.

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 B. MISCONDUCT

Rule 215. [Resignations by attorneys under disciplinary investigation] Discipline on consent.

(a) **Voluntary resignation.**—An attorney who is the subject of an investigation into allegations of misconduct by the attorney may submit a resignation, but only by delivering to the Board a verified statement stating that the attorney desires to resign and that:

* * * * *

(b) **Order of disbarment.**—Upon receipt of the required statement, the Board shall file it with the Supreme Court and the Court shall enter an order disbarring the attorney on consent.

(c) **Confidentiality of resignation statement.**—The order disbarring the attorney on consent shall be a matter of public record, but for the purposes of Enforcement Rule 402(a)(1) (relating to confidentiality) the order shall not be an order for the imposition of public discipline. The statement required under the provisions of subdivision (a) of this rule shall not be publicly disclosed or made available for use in any proceeding other than a subsequent reinstatement proceeding except:

* * * * *

(d) **Other Discipline on Consent.**—At any stage of a disciplinary investigation or proceeding, a respondent-attorney and Disciplinary Counsel may file a joint Petition in Support of Discipline on Consent. The Petition shall include the specific

factual allegations that the attorney admits he or she committed, the specific Rules of Professional Conduct and Rules of Disciplinary Enforcement allegedly violated and a specific recommendation for discipline. The Petition shall be accompanied by an affidavit stating that the attorney consents to the recommended discipline and that:

(1) the consent is freely and voluntarily rendered; the attorney is not being subjected to coercion or duress; the attorney is fully aware of the implications of submitting the consent; and whether or not the attorney has consulted or followed the advice of counsel in connection with the decision to consent to discipline;

(2) the attorney is aware that there is presently pending an investigation into, or proceeding involving, allegations that the respondent-attorney has been guilty of misconduct as set forth in the Petition;

(3) the attorney acknowledges that the material facts set forth in the Petition are true; and

(4) the attorney consents because the attorney knows that if charges predicated upon the matter under investigation were filed, or continued to be prosecuted in the pending proceeding, the attorney could not successfully defend against them.

(e) **Handling of Petition.**—The Petition shall be filed with the Board. The filing of the Petition shall stay any pending proceeding before a hearing committee, special master or the Board. The Petition shall be reviewed by a panel composed of three members of the Board who may approve or deny.

(f) **Private discipline.**—If a panel approves a Petition consenting to an informal admonition or private reprimand, with or without probation, the Board shall enter an appropriate order, and it shall arrange to have the attorney appear before Disciplinary Counsel for the purpose of receiving an informal admonition or before a designated panel of three members selected by the Board Chair for the purpose of receiving a private reprimand.

(g) **Public discipline.**—If a panel approves a Petition consenting to public censure or suspension, the Board shall file the recommendation of the panel and the Petition with the Supreme Court. If the Court grants the Petition, the Court shall enter an appropriate order disciplining the attorney on consent. The order and the Petition shall be a matter of public record in accordance with Enforcement Rule 402.

(h) **Denial of Petition.**—If either the panel of the Board or the Supreme Court denies a Petition, the members of the Board who participated on the reviewing panel shall not participate in further consideration of the same matter. Any stayed proceedings shall resume as if the Petition had not been filed and neither the Petition nor the affidavit may be used against the attorney in any disciplinary proceeding or any other judicial proceeding.

(i) **Costs.**—The panel of the Board in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of the matter shall be paid by the attorney as a condition to the

grant of the Petition. All expenses taxed under this subdivision shall be paid by the attorney before the imposition of discipline under subdivision (f) or (g).

[Pa.B. Doc. No. 05-1113. Filed for public inspection June 10, 2005, 9:00 a.m.]

Title 225—RULES OF EVIDENCE

[225 PA. CODE ART. IV]

Rule 404 Amendment and Revision of Comment

The Committee on Rules of Evidence is planning to recommend that the Supreme Court of Pennsylvania approve the Amendment and Comment Revision to Pa.R.E. 404. These changes are being proposed to eliminate inconsistencies with other rule and conflicts with certain statutes.

This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's consideration in formulating this proposal. Please note that the Committee Report should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Report.

The text of the proposed changes precede the Report. Additions are bold, and deletions are bold and in brackets.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel:

Richard L. Kearns
Staff Counsel
Supreme Court of Pennsylvania
Committee on Rules of Evidence
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055

no later than July 11, 2005

By the Committee on Rules of Evidence

HONORABLE RICHARD A. LEWIS,
Chair

Annex A

TITLE 225. RULES OF EVIDENCE

ARTICLE IV. RELEVANCY AND ITS LIMITS

Rule 404. Character Evidence Not Admissible To Prove Conduct; Exceptions; Other Crimes.

(a) *Character Evidence Generally.* Evidence of a person's character or a trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion, except [**as follows**]:

(1) *Character of Accused.* In a criminal case, evidence of a pertinent trait of character of the accused is admissible when offered by the accused, or by the prosecution to rebut the same. **If evidence of a trait of character of the alleged victim of the crime is offered by an accused and is admitted under subsection (2), evidence of the same trait of character of the accused is admissible if offered by the prosecution.**

(2) *Character of [Complainant] Alleged Victim.*

(i) In a criminal case, **subject to limitations imposed by statute**, evidence of a pertinent trait of character of the [**complainant**] **alleged victim** is admissible when offered by the accused, or by the prosecution to rebut the same.

* * * * *

(b) *Other Crimes, Wrongs, or Acts.*

* * * * *

(4) In criminal cases, the prosecution shall provide reasonable notice in advance of trial, or during trial if the court excuses pretrial notice on good cause shown, of **the general nature** of any such evidence it intends to introduce at trial.

Comment—2005

[The basic principle of Pa.R.E. 404 is consistent with F.R.E. 404 and prior Pennsylvania case law. Pa.R.E. 404, with certain enumerated exceptions, provides that character evidence cannot be used to prove conduct. Under this rule, evidence that an employee had a character trait of absent-mindedness would not be admissible to prove that on a particular occasion he or she failed to fasten the safety latch on a piece of equipment. The rule does not preclude the use of character evidence for other purposes, including where character is an element of a claim or defense. See, e.g., *Dempsey v. Walso Bureau, Inc.*, 431 Pa. 562, 246 A.2d 418 (1968) (negligent employment); *Commonwealth ex rel. Grimes v. Grimes*, 281 Pa. Super 484, 422 A.2d 572 (1980) (parental fitness).

The exceptions to the rule differ from F.R.E. 404 as indicated below.

***Subsection (a).* Subsection (a) of the rule differs from F.R.E. 404(a).**

Paragraph (a)(1) has not been amended to conform with the December 1, 2000 amendments to F.R.E. 404(a)(1), which provide that the prosecution may respond to the accused's offer of evidence of the character of the alleged victim of a crime by offering evidence of the same trait of character of the defendant.

Subsection (a)(2) is consistent with prior Pennsylvania case law. See, e.g., *Commonwealth v. Dillon*, 528 Pa. 417, 598 A.2d 963 (1991); *Commonwealth v. Amos*, 445 Pa. 297, 284 A.2d 748 (1971); see also Pa.R.E. 405 (regarding means of proof of the complainant's character for violence).

The exception provided at Pa.R.E. 404(a)(2)(iii) does not appear in the federal rule. It is consistent with Pennsylvania decisional law. See *Bell v. Philadelphia*, 341 Pa. Super. 534, 491 A.2d 1386 (1985).

***Subsection (b).* This paragraph is similar to F.R.E. 404(b) in recognizing legitimate evidentiary purposes for the introduction of evidence of other crimes, wrongs or bad acts. Unlike the Federal rule, however, Pennsylvania law provides a distinct standard for balancing the inherent prejudice of such evidence against its probative value. Under federal law, if evidence of other crimes, wrongs or bad acts is offered for a legitimate evidentiary purpose, the evidence is admissible if it meets the general standard of F.R.E. 403. F.R.E. 403 provides that relevant evidence is admissible unless its probative value is**

substantially outweighed by prejudicial danger. Under Pennsylvania law, evidence of other crimes, wrongs or bad acts offered for a legitimate evidentiary purpose is admissible only if its probative value outweighs the potential for prejudice. See *Commonwealth v. Morris*, 493 Pa. 164, 425 A.2d 715 (1981). Pa.R.E. 404(b)(3) codifies Pennsylvania decisional law and is an exception to the general rule defined by Pa.R.E. 403.]

Pa.R.E. 404 is an exception to the general rule set forth in Pa.R.E. 402 that all relevant evidence is admissible. Pa.R.E. 404 is, in principle, consistent with F.R.E. 404. However, the Pennsylvania rule uses more subdivisions to enhance clarity and readability. A few substantive differences accommodate Pennsylvania statutory and prior case law.

Section (a)

This section promulgates a general rule that evidence of a person's character or trait of character is not admissible to prove conduct in conformity therewith on a particular occasion. The rationale is that the relevance of such evidence is usually outweighed by its potential for creating unfair prejudice, particularly with a jury. Though this disqualifies it for admission under Rule 403, the importance of such evidence, and the frequency with which it is encountered, merits special treatment.

This general rule of inadmissibility is consistent with prior Pennsylvania case law. See, e.g., *Greenberg v. Aetna Ins. Co.*, 427 Pa. 494, 235 A.2d 582 (1967) (reversible error to permit the plaintiff to testify that he served in the United States Armed Forces in World War II and distinguished himself with a heroic record).

This section does not preclude the introduction of evidence of a person's character, or trait of character, to prove something other than conduct in conformity therewith. For example, a party must sometimes prove a person's characteristic because it is an element of the party's claim or defense. See, e.g., *Dempsey v. Walso Bureau, Inc.*, 431 Pa. 562, 246 A.2d 418 (1968) (alleged negligent employment of a violence-prone security guard); *Commonwealth ex rel. Grimes v. Grimes*, 281 Pa. Super 484, 422 A.2d 572 (1980) (parental fitness in a custody case); *Christiansen v. Silfies*, 667 A.2d 396 (Pa. Super. 1995) (alleged negligent entrustment of a truck to a man with a poor driving record).

A person's trait of character is not the same as a person's habit. The distinction is discussed in the Comment to Rule 406, *infra*. If a person's trait of character leads to habitual behavior, evidence of the latter is admissible to prove conduct in conformity therewith on a particular occasion, pursuant to Rule 406.

Like the federal rule, section (a) has three subsections of exceptions. They should be read together with section (a) of Rule 405, which describes two methods of proving a person's character, or trait of character.

Subsection (1), which deals with the character of a defendant in a criminal case, is essentially the same as subsection (1) of F.R.E. 404(a). It allows the defendant to "put his character in issue," usually by calling character witnesses to testify to his good

reputation for a law-abiding disposition, or other pertinent trait of character. If the defendant does so, the Commonwealth may (1) cross-examine such witnesses, subject to the limitations imposed by Rule 405(a), and (2) offer rebuttal evidence.

If a defendant in a criminal case chooses to offer evidence of a pertinent trait of character of an alleged victim under subsection (2)(i), then subsection (1) allows the Commonwealth to offer evidence that the defendant has the same trait of character. For example, in an assault and battery case, if the defendant introduces evidence that the alleged victim was a violent and belligerent person, the Commonwealth may counter by offering evidence that the defendant was also a violent and belligerent person. Thus, the jury will receive a balanced picture of the two participants to help it decide who was the first aggressor.

Subsection (2), unlike subsection (2) of F.R.E. 404(a), is divided into three subsections.

Subsection (i), like the federal rule, gives an accused the right to introduce evidence of a pertinent trait of character of alleged the victim of the crime with which the accused is charged. However, the Pennsylvania rule differs from the federal rule by recognizing statutory limitations on this right. In particular, 18 Pa.C.S. § 3104 (the Rape Shield Law) often prohibits the accused from introducing evidence of the alleged victim's past sexual conduct, including reputational evidence thereof. See Comment under Rule 412 (not adopted), *infra*.

Subsection (ii), which is essentially the same as the federal rule, applies only in homicide cases in which the defendant offers evidence that the deceased was the first aggressor. It allows the Commonwealth to rebut the defendant's evidence by introducing evidence of the deceased's good reputation for peacefulness.

Subsection (iii), which applies only to a civil action for assault and battery, is not part of the federal rule. It is based on *Bell v. Philadelphia*, 341 Pa. Super. 534, 491 A.2d 1386 (1985).

Section (b)

While Pa.R.E. 404(b) uses the comprehensive word "acts," the vast majority of cases applying it, and its federal counterpart, are criminal cases that deal with *bad* acts, i.e., acts that are also either crimes or non-criminal wrongs. However, the rule applies in civil cases, too, and it applies to good acts as well. See *Ansell v. Green Acres Contracting Co., Inc.*, 347 F.3d 515, 520 (3d Cir. 2003), interpreting the similar federal rule.

Evidence of other crimes, wrongs or bad acts, is powerful evidence. This is particularly so when it is offered against a defendant in a criminal case. By far the issue most often litigated under Rule 404(b) is whether such evidence can be introduced against an accused for some reason other than to prove that the accused acted in conformity with his (or her) prior bad conduct.

Section (b) is similar to section (b) of F.R.E. 404. Unlike the federal rule, it is divided into four subsections to enhance clarity:

Subsection(1), which uses the same language as the federal rule, treats evidence of other crimes, wrongs, or acts, the same as section (a) treats

evidence of a person's character, or trait of character, i.e., it makes such evidence inadmissible to prove conduct in conformity therewith.

Subsection (1) is consistent with prior Pennsylvania case law. See *Commonwealth v. Fortune*, 464 Pa. 367, 346 A.2d 783 (1975) (in murder case, reversible error to admit evidence that the defendant participated in six robberies other than the one that culminated in the murder with which he was charged); *Commonwealth v. Seiders*, 531 Pa. 582, 614 A.2d 689 (1992) (in statutory rape case, reversible error to admit evidence that the defendant had previously been convicted of indecent assault and endangering the welfare of children).

Subsection (1) rejects the alternate holding in *Commonwealth v. Amos*, 445 Pa. 297, 284 A.2d 748 (1971), a murder case in which the defendant pled self-defense, that it was error to preclude the defendant from introducing the alleged victim's criminal record to prove that the victim was a man of "quarrelsome and violent character," and thus the aggressor.

Subsection (2), like the federal rule, contains a non-exhaustive list of purposes, other than proving character in order to show action in conformity therewith, for which evidence of other crimes, wrongs, or acts committed by a person may be admitted. When the evidence is admitted for such a purpose, the party against whom it is offered is entitled, upon request, to a limiting instruction to the jury. See *Commonwealth v. Hutchinson*, 571 Pa. 45, 811 A.2d 556 (2002). See also Pa.R.E. 105.

Subsection (3) is an adjunct to subsection (2). However, subsection (3) applies only in criminal cases. Unlike the federal rule, it creates a special balancing test that makes it harder for a party, usually but not always the Commonwealth, to introduce relevant evidence of other crimes, wrongs, or acts committed by a person. Under Rules 402 and 403, most other evidence, as far as relevance is concerned, is admissible unless its probative value is outweighed by one or more of the six negative factors set forth in Rule 403. Under subsection (3), relevant evidence of other crimes, wrongs, or acts committed by a person is admissible only if its probative value outweighs its potential for prejudice. This is a codification of an evidential rule enunciated in *Commonwealth v. Morris*, 493 Pa. 164, 425 A.2d 715 (1981).

When weighing the potential for prejudice of evidence of other crimes, wrongs, or acts, the trial court may consider whether, and how much, such potential for prejudice can be reduced by cautionary instructions. See *Commonwealth v. Nolen*, 535 Pa. 77, 634 A.2d 192 (1993); *Commonwealth v. LaCava*, 542 Pa. 160, 666 A.2d 221 (1995); *Commonwealth v. Miles*, 545 Pa. 500, 681 A.2d 1295 (1996).

Subsection (4), which applies only in criminal cases, and only to the Commonwealth, requires that reasonable notice be given before evidence of other crimes, wrongs, or acts is introduced at trial. It is the same as the federal rule. Its purpose is to prevent unfair surprise, and to give the defendant reasonable time to prepare an objection to, or ready a rebuttal for, such evidence.

* * * * *

REPORT

Proposed Amendment and Comment Revision to Pa.R.E. 404

The current subsection (a)(1) gives a defendant in a criminal case the option to introduce evidence of a pertinent character trait of the alleged victim. However, unlike F.R.E. 404(a)(1), it fails to give the prosecution the right to counter by introducing evidence of the same character trait of the defendant. This change will give the trier of fact a balanced picture of the two participants.

In subsection (a)(2), the word "complainant" is changed to "alleged victim" to conform to the federal rules and the rules of other states. This subsection is subordinated to statutory limitations, specifically the Rape Shield law with which the current subsection conflicts.

With respect to subsection (b)(4), the notice provision is changed to conform with the federal rule and the rule in most states.

The Comment revisions reflect the changes in the text of the rule.

[Pa.B. Doc. No. 05-1114. Filed for public inspection June 10, 2005, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Technical Amendments to Rules 205.4, 216 and 237.1; No. 431 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 19th day of May, 2005, Pennsylvania Rules of Civil Procedure 205.4, 216 and 237.1 are amended to read as follows.

Whereas prior distribution and publication of these amendments would otherwise be required, it has been determined that the amendments are of a perfunctory nature and that immediate promulgation is required in the interests of justice and efficient administration.

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

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 205.4. Electronic Filing and Service of Legal Papers.

(a) As used in this rule, the following words shall have the following meanings:

* * * * *

"legal paper," a pleading or other paper filed in an action, but not including

* * * * *

(2) a notice of appeal from an award of a board of arbitrators or a notice of appeal or other legal paper, the filing of which is prescribed by the Rules of Civil Procedure Governing Actions and Proceedings before **Magisterial District [Justices] Judges**.

* * * * *

Rule 216. Grounds for Continuance.

(A) The following are grounds for a continuance:

* * * * *

(4) Such special ground as may be allowed in the discretion of the court[.];

(5) The scheduling of counsel to appear at any proceeding under the Pennsylvania Rules of Disciplinary Enforcement, whether:

* * * * *

(c) as a member of the Disciplinary Board[.];

(6) The scheduling of counsel to appear at any proceeding involving the discipline of a justice, judge or **magisterial district [justice] judge** under Section 18 of Article V of the Constitution of Pennsylvania, whether:

(a) as counsel for a justice, judge, or **magisterial district [justice] judge** before the special tribunal provided for in 42 Pa.C.S. § 727, the Court of Judicial Discipline, the Judicial Conduct Board or any hearing committee or other arm of the Judicial Conduct Board; or

* * * * *

Rule 237.1. Notice of Praecept for Entry of Judgment of Non Pros for Failure to File Complaint or by Default for Failure to Plead.

(a)(1) As used in this rule,

“judgment of non pros” means a judgment entered by praecipe pursuant to Rules 1037(a) and 1659;

Official Note: When a defendant appeals from a judgment entered in a **magisterial district [justice] judge** court, Pa.R.C.P.M.D.J. 1004(b) authorizes the appellant to file a praecipe for a rule as of course upon the appellee to file a complaint or suffer entry of a judgment of non pros. The entry of the judgment of non pros is governed by Pa.R.C.P. 1037(a) and is subject to this rule.

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[Pa.B. Doc. No. 05-1115. Filed for public inspection June 10, 2005, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Amendment of Local Rule 1920.51(f)(3)(x) and (xi); Family Court Administrative Regulation No. 05-02

Effective immediately, Rule 1920.51(f)(3)(x) and (xi) are amended to provide as follows:

(x) Either party may within twenty (20) days after the mailing date of the Master’s report and proposed Order, file with the Clerk of Family Court a Praecipe for a trial de novo by a Judge, and shall forthwith serve time-

stamped copies thereof on the opposing counsel of record or unrepresented party, [Clerk of the Family Court], and the Permanent Master. The case thereafter shall be listed before a Judge for a full evidentiary hearing.

(xi) In the event there is no demand for a trial filed within twenty (20) days following mailing of the Report and proposed Order of the Permanent Master, such Report and proposed Order shall be submitted to the Court for approval and entry of a Decree.

By the Court

MYRNA FIELD,
Administrative Judge

[Pa.B. Doc. No. 05-1116. Filed for public inspection June 10, 2005, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CARBON COUNTY

Adoption of Local Rule of Criminal Procedure 106—Continuances in Summary and Court Cases; No. 103 MI 00

Administrative Order No. 12-2005

And Now, this 27th day of May, 2005, in order to provide for efficient use of judicial resources and maintain proper caseflow management, it is hereby

Ordered and Decreed, that effective July 1, 2005, the Carbon County Court of Common Pleas *Adopts* new Local Rule of Criminal Procedure CARB.R.Crim.P. 106 governing continuances in summary and court cases.

The Carbon County District Court Administrator is *Ordered and Directed* to do the following:

1. File seven (7) certified copies of this Administrative Order and Rule with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. File one (1) certified copy with the Pennsylvania Criminal Procedural Rules Committee.
4. Forward one (1) copy for publication in the *Carbon County Law Journal*.
5. Forward one (1) copy to the Carbon County Law Library.
6. Keep continuously available for public inspection copies of this Administrative Order and Rule in the Clerk of Court’s Office.

By the Court

ROGER N. NANOVIC,
President Judge

Rule 106 Continuances in Summary and Court Cases

All Motions for Continuance shall be filed at least three (3) working days before the scheduled event.

Any motion filed that is not in compliance with this rule shall be entertained only if the opportunity to timely file it did not exist previously or the interest of justice requires it.

[Pa.B. Doc. No. 05-1117. Filed for public inspection June 10, 2005, 9:00 a.m.]

JUNIATA AND PERRY COUNTIES**Repeal and Adoption of Rules of Civil Procedures; No. 192 of 2005; No. 2005-18****Order**

And Now, May 5, 2005, it is hereby ordered and decreed that all Perry County Rules of Civil Procedure filed prior to this date are repealed effective the date that the rules herein become effective.

The Court hereby adopts the following Perry/Juniata County Rules of Civil Procedure to be effective as follows:

(1) Local Rules 205.2(a), 206.1(a), 206.4(c), 208.2(c), 208.2(d), 208.3(a), 208.3(b), 210, 1028(c), 1034(a), and 1035.2(a) shall be effective upon publication on the UJS Web Portal (<http://ujportal.pacourts.us>),

(2) All remaining following local rules shall be effective 30 days after publication in the *Pennsylvania Bulletin*.

It is further ordered that the District Court Administrator shall file

(a) seven (7) certified copies of the Local Rules with the Administrative Office of Pennsylvania Courts,

(b) two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*,

(c) one (1) certified copy to the Civil Procedural Rules Committee, which shall then forward a copy to the Administrative Office of Pennsylvania Courts for publication on the AOPC web site,

(d) The Local Rules shall be kept continuously available for public inspection and copying in the Office of the Prothonotary and upon request and payment of reasonable costs of reproduction and/or mailing the Prothonotary shall furnish to any person a copy of the requested Local Rules.

By the Court

C. JOSEPH REHKAMP,
President Judge

Local Rules of Civil Procedure

The rules of construction found in the Pennsylvania Rules of Civil Procedure shall apply to all Local Rules of the Court of Common Pleas of the 41st Judicial District, Perry and Juniata County Branches.

BUSINESS OF THE COURTS**Rule 205.2 Filing Legal Papers with the Prothonotary**

Upon the filing of a pleading or other paper that complies with the Pennsylvania Rules of Civil Procedure, the Prothonotary shall docket the matter and coordinate with the Court Administrator's Office, to the extent

possible, to have the matter assigned to one Judge for the duration of the case. With the exception of any Petitions for Emergency Relief, all subsequent pleadings or papers filed to that docket number shall be assigned to the same Judge when and if available.

Rule 205.2(a) Requirements for Pleadings and Other Legal Papers

(1) All pleadings and other legal papers filed with the Prothonotary shall be on paper size 8 1/2 × 11 inches and secured by one staple located in the upper left hand corner.

(2) All pleadings and papers filed with the Prothonotary shall have a margin of at least one (1) inch on the top, bottom and left and at least a one-half (1/2) inch margin on the right of the page.

(3) All pleadings and papers shall be filed without blue backs, toppers or cover sheets of any kind.

Rule 206.1(a) Petition. Definition. Content. Form

(1) A petition is a request which seeks relief ancillary to a given cause of action and which avers facts not of record.

(2) The designated applications which are to proceed in a manner of a petition under Pa.R.C.P. No. 206.1 et. seq. would be an Application to Open a Default Judgment or a Judgment of Non Pros, a request for emergency relief and any application for relief other than a motion and not otherwise covered by these rules, for which a Rule to Show Cause is sought.

(3) *Emergency Relief.*

(a) Where a party files a petition seeking emergency relief, said petition shall be designated as such in the title of the petition.

(b) Upon filing the Petition for Emergency Relief, the attorney or pro se party may deliver the petition to the Court Administrator for presentation to the available Judge or deliver directly to the Judge if the Court Administrator is unavailable. Said delivery of the time stamped petition may be through the Prothonotary's Office, by hand delivery or by facsimile.

(c) The attorney or pro se party filing the Petition for Emergency Relief shall contact the Court Administrator as soon as it is determined that a Petition for Emergency Relief will be filed and shall seek to determine a time when a Judge will be available to review the petition. The attorney or pro se party shall arrange to present the Petition for Emergency Relief to the Court based on the Judge's availability.

(d) If the respondent to the Petition for Emergency Relief has counsel of record, the pro se petitioner or the petitioner's counsel shall, if possible, notify the respondent's counsel of record of the intent to file the petition as early as possible. If there is no counsel of record, the pro se petitioner or the petitioner's counsel shall, if possible, make a good faith effort to notify the pro se respondent of the intent to file the petition as early as possible.

Rule 206.3 Verification

A petition or answer to a petition containing an allegation of fact not otherwise on the record must be accompanied by a verification.

Rule 206.4(c) Rule to Show Cause. Alternative Procedures (Discretionary Issuance)

(1) Upon petition, the issuance of a Rule to Show Cause shall be discretionary pursuant to Pa.R.C.P. No. 206.5.

(2) The petition must be accompanied by an order in the form of a Rule to Show Cause pursuant to Pa.R.C.P. No.206.5. If appropriate to do so, the Court will issue the rule, set a time to respond thereto, set a deadline to file briefs, complete depositions or other appropriate discovery and schedule Argument or an Evidentiary Hearing.

(3) When any matter submitted to the Court requires oral argument, the party seeking oral argument shall submit a blank scheduling order to the Court upon filing the document with the Prothonotary. Thereafter, the Court may require the parties to submit briefs in support of their respective positions. Upon written request of a party, the Court may allow participation by telephone. Such request shall be made to the Court Administrator.

(4) After the Court issues the rule, counsel for the petitioner must serve the petition and rule upon all other parties or their counsel.

Rule 208.1 Motion. Definition. Scope

Motions are defined as set forth in Pa.R.C.P. 208.1.

Rule 208.2(c) Statement of Applicable Authority

All motions shall contain a specific citation to the relevant constitutional provision, case law, statute, regulation, rule of Court or other applicable legal authority that permits the Court to grant the relief requested.

Rule 208.2(d) Certification for Uncontested Motion

If the moving party determines that the motion is uncontested, the motion shall include the written consent by opposing counsel and all unrepresented parties or the motion shall include a certification that the moving party has been in contact with opposing counsel and all unrepresented parties and that opposing counsel and all unrepresented parties do not contest the motion.

Rule 208.3(a) Alternative [Motions] Procedures

(1) All motions shall be accompanied by a proposed order setting forth the relief requested and shall indicate if briefs are requested including a proposed schedule for the same. If the moving party seeks relief based on disputed facts for which a record must be developed, the Court, upon its own motion or the request of any party including the moving party, may enter an order in the form set forth in paragraph (2) of Rule 208.4(b) providing for the issuance of a Rule to Show Cause. The procedure following issuance of the Rule to Show Cause shall be in accordance with Rule 206.7. The order required shall be substantially in the form outlined in Rule 208.4(b) (2).

(2) A motion need not be verified unless verification is required by general rule governing a particular motion or by order of Court.

(3) If a party seeks oral argument, the moving party shall submit a blank scheduling order to the Court upon filing the document with the Prothonotary. Thereafter, the Court may require the parties to submit briefs in support of their respective positions. Upon written request of a party, the Court may allow participation by telephone. Such request shall be made to the Court Administrator.

(4) Upon receipt of a motion and scheduling order, the Court shall determine if Argument or an Evidentiary Hearing is necessary and issue the appropriate order.

(5) If appropriate, the Court may enter an order without Argument or an Evidentiary Hearing, however, the Court shall not enter an order that grants relief to the moving party unless the motion is presented as uncontested or the other parties are given an opportunity for Argument or an Evidentiary Hearing.

(6) The Court, in its discretion, may deny the moving party's request for relief without the opportunity for Argument or an Evidentiary Hearing where the motion is procedurally defective, is untimely filed or fails to set forth adequate grounds for relief.

(7) The moving party shall serve a copy of the motion, any proposed order and any order scheduling Argument or an Evidentiary Hearing on opposing counsel and all unrepresented parties.

Rule 208.3(b) Alternative Procedures—Brief Required

Where the Court determines that a response or brief is required, an order shall be issued requiring the party to file an answer or brief within twenty (20) days of service of the motion, unless the time period is modified by the Court. The original brief shall be filed with the Prothonotary's Office with a Courtesy copy to the Court Administrator for transmittal to the appropriate Judge.

Rule 210 Form of Briefs

In addition to the requirements of Pa.R.C.P. No. 210, briefs shall contain:

1. a procedural history of the case;
2. a statement or counter-statement of facts;
3. a statement of the questions involved;
4. an argument with citations to the authority relied upon;
5. a conclusion setting forth the requested relief sought.

Unless special permission is obtained from the Court, briefs shall be no more than ten (10) pages in length.

Rule 211 Oral Argument

When any matter submitted to the Court requires oral argument, the party seeking oral argument shall submit a blank scheduling order to the Court upon filing the document with the Prothonotary. Thereafter, the Court may require the parties to submit briefs in support of their respective positions. Upon written request of a party, the Court may allow participation by telephone. Such request shall be made to the Court Administrator.

Rule 216 Continuances

(a) Grounds for continuances in any matter shall be those set forth in Pa.R.C.P. 216.

(b) *Procedure.*

(i) Where a party seeks a continuance for matters scheduled before a Judge, that party shall file with the Prothonotary a Motion for a Continuance and order that will allow the Court to either grant or deny said motion. The motion shall state the grounds for which a continuance is sought and whether any continuances have been granted previously. The moving party shall indicate whether the other parties object to said continuance or what efforts have been made in contacting other parties. The motion shall be filed and presented to the Court at least five (5) business days prior to the scheduled proceeding where the circumstances for the continuance allow. As soon as possible thereafter, the Court shall either grant the motion to be rescheduled by Court Administration at a later time or deny the motion for cause. Any denial of the motion shall be in writing and state the reason for the denial. The Court shall forward the Order granting or denying the continuance to the Prothonotary for filing. The moving party shall serve a

copy of the motion and order granting or denying the continuance to counsel of record, and all pro se parties.

(ii) If the proceeding relates to a support matter, the same procedure applies as in paragraph (i) of this rule above except, the moving party shall file the Motion for Continuance with the Domestic Relations Office. Said motion shall be forwarded to the Judge for consideration. The moving party shall notify Domestic Relations and indicate in the motion, if their office objects to said motion prior to the filing of the motion.

(iii) Where a party seeks a continuance for a matter scheduled before an arbitration panel, that party shall file, with the Prothonotary, a Motion for a Continuance and order that will allow the Court to either grant or deny said motion. The motion shall state the grounds for which a continuance is sought and whether any continuances have been granted previously. The moving party shall indicate whether the other parties object to said continuance or what efforts have been made in contacting other parties. The motion shall be filed and presented to the Court at least five (5) business days prior to the scheduled proceeding. Any continuances made less than five (5) business days prior to the scheduled arbitration date, except for extenuating circumstances, will require the moving party to pay a relist fee. The party filing the motion shall forward a copy of the motion and order to the Arbitration Panel Chairperson. As soon as possible thereafter, the Court shall either grant the motion to be rescheduled by Court Administration at a later time or deny the motion for cause. Any denial of the motion shall be in writing and state the reason for the denial. The Court shall forward the Order granting or denying the continuance to the Prothonotary for filing. The moving party shall serve a copy of the motion and order granting or denying the continuance to the Arbitration Panel Chairperson, counsel of record, and all pro se parties.

CIVIL ACTIONS

Rule 1028(c) Preliminary Objections

(1) Upon receipt of Preliminary Objections, the Court shall schedule a time and date for the Preliminary Objections to be heard. The moving party shall submit a scheduling order.

(2) When Preliminary Objections are submitted to the Court, which requires oral argument, the party seeking oral argument shall submit a blank scheduling order to the Court upon filing the document with the Prothonotary. Thereafter, the Court may require the parties to submit briefs in support of their respective positions. Upon written request of a party, the Court may allow participation by telephone. Such request shall be made to the Court Administrator.

(3) If the Preliminary Objections are cured by the filing of an amended pleading prior to the scheduled Argument or Hearing, it is the responsibility of the party that filed the Preliminary Objections to notify the Court that the scheduled Argument or Hearing is no longer required by filing a Praecipe to Withdraw said objections.

(4) If the Court determines that briefs will be necessary in order to dispose of the Preliminary Objections or if requested by a party, either before or after Argument, a briefing schedule shall be set by the Court. The original brief shall be filed with the Prothonotary's Office with a Courtesy copy to the Court Administrator for transmittal to the appropriate Judge.

(5) The moving party shall serve a copy of the motion, any proposed order and any order scheduling argument or setting up a briefing schedule on opposing counsel and all unrepresented parties.

Rule 1034(a) Motion for Judgment on the Pleadings

(1) Upon receipt of a Motion for Judgment on the Pleadings and scheduling order in accordance with Pa.R.C.P. 1034, the Court may schedule a time and date for Argument on the motion.

(2) When a Motion for Judgment on the Pleadings is submitted to the Court, which requires oral argument, the party seeking oral argument shall submit a blank scheduling order to the Court upon filing the document with the Prothonotary. Thereafter, the Court may require the parties to submit briefs in support of their respective positions. Upon written request of a party, the Court may allow participation by telephone. Such request shall be made to the Court Administrator.

(3) If the Court determines that briefs are necessary or if requested by a party, either before or after Argument, a briefing schedule shall be set by the Court. The original brief shall be filed with the Prothonotary's Office with a Courtesy copy to the Court Administrator for transmittal to the appropriate Judge.

(4) The moving party shall serve a copy of the motion, any proposed order and any order scheduling Argument or setting up a briefing schedule on opposing counsel and all unrepresented parties.

Rule 1035.2(a) Motion [for Summary Judgment]

Motions for Summary Judgment shall be disposed of in the same manner as Motions for Judgment on the Pleadings under Local Rule 1034(a).

COMPULSORY ARBITRATION

Rule 1301 Scope [Cases for Submission]

A. Compulsory arbitration of matters, as authorized by Section 7361 of the Judicial Code, 42 Pa.C.S. § 7361, shall apply to all civil cases wherein the amount in controversy, exclusive of interest and costs, shall be thirty-five thousand dollars (\$35,000.00) or less, including appeals from a civil judgment of a Magisterial District Judge, except those involving title to real estate, actions in equity, or actions for declaratory relief. Such actions shall be submitted to and heard by a Board of Arbitration consisting of three attorneys.

B. The amount in controversy generally will be determined by the pleadings or by an agreement of the attorneys, however, the Court, on its own motion or on the motion of any party, may, based upon affidavits, depositions, stipulations of counsel or after hearing, determine that the amount actually in controversy does not exceed thirty-five thousand dollars (\$35,000.00) and enter an order certifying the case to a board of arbitration. In the event that a case within the arbitration limits is consolidated with a case involving more than the arbitration limits after the former has been referred to a Board of Arbitrators, the order of consolidation will remove the same from the jurisdiction of the Board of Arbitrators.

C. An action will be referred to arbitration when either party or its counsel files a praecipe with the Prothonotary certifying that the pleadings are closed and the matter is ready for arbitration and shall include the estimated amount of time needed for the arbitration and list all counsel of record. A copy of the arbitration praecipe shall immediately be delivered to Court Administration and all other counsel.

D. Cases subject to compulsory arbitration will not be scheduled for a pre-trial conference.

Rule 1301.1 Agreement of Reference

Cases, whether or not in litigation and regardless of the amount in controversy, may be heard by a Board of Arbitration upon agreement of counsel for all parties in the case. Such agreement shall be evidenced by providing in writing a document signed by counsel for all sides and shall be filed with the Prothonotary, who will forward a copy to Court Administration. Said agreement shall define the issues involved for determination by the Board of Arbitrators and may contain stipulations with respect to facts.

Rule 1302 List of Arbitrators. Appointment to Board. Oath

A. Court Administration shall maintain a Master List of Arbitrators consisting of attorneys actively engaged in the practice of law primarily in the 41st Judicial District.

B. Court Administration shall assign each case for which a praecipe has been received to an Arbitration Board consisting of three (3) members chosen from the Master List. At least one Arbitrator shall have practiced law for at least three (3) years. Six Arbitrators will be selected for Perry County and the Chairman shall assign the cases to said Arbitrators. No two members shall be appointed from the same firm or association of attorneys, nor shall an attorney be appointed to a Board who shall be related by blood or marriage or who shall be a law partner or an associate of any Arbitrator or attorney of record in the case. Any attorney, who shall be disqualified for appointment to a Board for any of the foregoing reasons, shall be appointed to another Board for which he shall not be disqualified.

C. The Chairman of the Arbitration Board shall be selected by the Court Administrator from the Master List. The Chairman must have been admitted to the practice of law for at least 3 years. Following his or her selection the Chairman shall be responsible for notifying each other member of the Arbitration Board the case upon which he or she will serve. In determining what case a member of the Arbitration Board shall serve in the Chairman shall take into consideration all potential conflicts of interest which a member may have. The Chairman shall provide notice of the date and time for each Arbitration Hearing as required by Local Rule 1303.

D. The Court of Common Pleas in conjunction with the Board of Commissioners will establish, from time to time, the amount and method of compensation for Arbitrators. The members of the board shall not be entitled to receive their fees until after filing a report and award with the Prothonotary. A copy of said award shall be forwarded to Court Administration by the Chairperson for each case listed.

E. Any continuances made less than five (5) business days prior to the scheduled arbitration date in accordance with Local Rule 216, except for extenuating circumstances will require the moving party to pay a \$25.00 relist fee to the Prothonotary's Office. The Prothonotary will notify the Court Administrator, when said fee has been paid.

Rule 1303 Hearing. Notice

A. At the beginning of each year, the Court Administrator shall affix one day in each calendar quarter for the holding of Arbitration Hearings. All such hearings shall be held at either the Perry County or Juniata County Court House unless otherwise scheduled by the Court Administrator.

B. Upon being selected, the Chairman of the Arbitration Board shall review all cases set for arbitration on the date established by the Court Administrator and assign members of the Arbitration Board to the cases in accordance with Local Rule 1302 and the meeting room and time for the Arbitration Hearing.

C. The Chairman shall notify each of the members of the Arbitration Board of their respective assignment(s) and each of the members of the Arbitration Board, counsel of record and all unrepresented parties of the time and location of the hearings scheduled for that Arbitration day. Such notice shall be in writing and shall provide not less than thirty (30) days notice to the parties or their attorneys of record. The Chairman may send out said notice to all indicated parties or provide the same to the Prothonotary for service.

Rule 1308 Appeal. Arbitrators' Compensation. Notice

An Appeal from an Award of Arbitrators shall be filed in the Office of the Prothonotary in duplicate and shall be accompanied by the non-refundable filing fee. A copy of said Appeal shall be transmitted immediately to Court Administration. Court Administration will schedule a Pre-trial Conference on the case immediately following receipt of said Appeal. The Prothonotary shall send notice thereof to counsel of record and unrepresented parties.

Rule 1312 Form of Oath, Award and Notice of Entry of Award

A. The oath or affirmation shall be administered by the Prothonotary.

B. The Arbitration Report and Award shall be in the form set forth in Pa.R.C.P. 1312.

ABUSE ACT ACTIONS

Rule 1901.2 Scheduling

A hearing will be scheduled by Court Administration within ten (10) days from the filing of a petition. The Court will grant liberally, at the time of the hearing, continuance requests in an effort to resolve the matter short of a full hearing.

CUSTODY & VISITATION

Rule 1915.1 Scope. Definitions

These rules shall govern all actions for custody, partial custody, and visitation, including original actions to modify decrees and contempt. The rules shall be interpreted as supplementing the Rules of Civil Procedure governing custody actions. Pa.R.C.P. 1915.1 et seq.

Rule 1915.3-1 Commencement of Action

The original and three (3) copies of a Custody Complaint, or Divorce Complaint with a Custody Count or Petition for Modification or for Contempt and a Scheduling Order for Custody Court shall be filed with the Prothonotary who shall thereafter forward the original to the Court for scheduling a date in Custody Court. Said documents shall contain the information as required by Local Rules 1915.15 and 1920.12 as provided therein.

Service of any complaint or petition, notice and order referenced herein above shall be in accordance with Pa.R.C.P. 1930.4.

Rule 1915.3-2 Appointment of Conciliator and Duties

The Court shall appoint a member(s) of the Bar or other appropriate person, as an official of the Court, to:

- (a) Conciliate custody cases filed with the Court;
- (b) Recommend to the Court that Interim or Temporary Orders be entered in appropriate custody cases;
- (c) Recommend appointment of counsel for the child;
- (d) Recommend the utilization of home studies and/or expert witnesses and make a recommendation regarding the payment of the fees related to the same.
- (e) Recommend that the Court require one or more parties to attend the Parent Education Seminar in accordance with Local Rule 1919 if the same had been previously waived by the Court.
- (f) Address the issue of resolutions for contempt proceedings filed by a party in a case and make recommendations to the Court for hearing or resolution. The conciliator may not represent parties in custody matters before the Court while serving as Conciliator for the Court. The compensation of Custody Conciliators shall be set by order of Court.

Rule 1915.3-3 Conciliation Process

(a) Request for Conciliation Conference.—

After the parties have appeared for Custody Court, a Custody Conciliation Conference may be requested orally at Custody Court or thereafter by either party filing a request to schedule for conciliation. All custody matters not specifically reserved to the Court shall be scheduled for a conference before the conciliator not more than forty-five (45) days from the date of assignment by the Court.

(b) Court Ordered Participation in Conciliation—

The Court on its own motion and at any time may require the parties to attend conciliation.

(c) Attendance by the Parties—

All parties are mandated to be present at the Conciliation Conference unless attendance of the party is specifically waived by the Conciliator. Failure of a party to appear at the conference after proof of service has been filed by Petitioner may provide grounds for the entry of a Temporary Order by the Court upon the recommendation of the Conciliator. Conciliation shall commence at the designated time with or without counsel for the parties being present.

(d) Attendance of Children—

Children shall not attend the conciliation conference unless said attendance is specifically directed by the conciliator. If a party desires the child(ren) to be present at the Conciliation Conference, he/she shall make said request in writing of the Conciliator and shall furnish a copy of said request to the other party no later than seven (7) days prior to the scheduled conference. The Conciliator shall determine the appropriateness of the request on a case-by-case basis after consultation with counsel for both parties or a pro se party.

(e) Service of Motion for Custody Conciliation and Scheduling Order—

Counsel for the moving party shall serve a copy of the Scheduling Order for Conciliation upon the Respondent in accordance with Pennsylvania Rules of Civil Procedure. The petitioner shall file an Affidavit of Service verifying that the defendant was served at least ten (10) calendar days prior to the Conciliation Conference.

(f) Continuances

Continuances may be granted:

(1) If the parties believe they have an agreement which has not been fully executed, by their mutual agreement and upon 1 (one) business day's notice to the Conciliator, the conciliation may be generally continued for thirty (30) days to allow the parties to execute the agreement. Said agreement shall be finalized in accordance with Local Rule 1915.3-8. If after thirty (30) days the parties have neither presented an Agreement nor requested the conciliation to be re-scheduled, then the Conciliator will relinquish jurisdiction and a new motion and scheduling order will be required to schedule a new date for the conciliation. If before the end of the thirty day continuance it appears that the parties are unable to reach an agreement, either party may make a request that the conciliation be re-scheduled to the Conciliator.

(2) If a party or counsel desires a continuance of the Conciliation Conference for any reason other than an agreement, that party shall file a motion for a continuance with the Prothonotary. The motion shall state the grounds for which a continuance is sought and whether any continuances have been granted previously. The moving party shall indicate whether the other parties object to said continuance or what efforts have been made in contacting other parties. The motion shall be filed and presented to the Court at least five (5) business days prior to the scheduled proceeding where the circumstances for the continuance allow. The moving party shall serve said continuance and order to counsel of record or the parent, if they are proceeding unrepresented, at the last known address of record via first class mail postage pre-paid. The rescheduled date shall not be more than ninety (90) days from the date of assignment by the Court Administrator.

Rule 1915.3-4 Pre-Hearing Statement

(a) At the conference, each party shall provide the conciliator and each other with a pre-hearing statement substantially in the form provided in Local Rule 1915.26 insofar as said information is then available.

(b) A party is under a duty seasonably to amend a Pre-Hearing Statement if he or she obtains information upon the basis of which he or she knows that

i. the response was incorrect when made, or

ii. the response though correct when made is no longer true. A duty to supplement a Pre-Hearing Statement may be imposed by Order of Court.

(c) Nothing herein shall be considered to give any rights to discovery in custody matters otherwise prohibited by Pa.R.C.P. 1930.5.

Rule 1915.3-5 Statements by Parties at Conciliation

To facilitate the conciliation process and encourage frank, open and meaningful exchanges between the parties and their respective counsel, statements made by the parties, or their witnesses, shall not be admissible as evidence in Court. The custody conciliator shall not be subject to the subpoena power of this Court to force testimony regarding information revealed during the Conciliation Conference or be a witness for or against any party, neither shall the conciliator permit the recording in any way of the proceeding.

Rule 1915.3-6 Conduct of Parties at Conciliation

The Conciliation Conference is an informal proceeding designed to assist the parties in identifying areas of agreement or disagreement and developing a parenting plan that is in the best interests of the children. The proceeding is neither confrontational nor adversarial.

Participation shall be limited to the parties and/or their counsel. All participants shall act in a cooperative manner and comply with the directives of the Conciliator.

If at any time during the conciliation process a party and/or their counsel engages in conduct inconsistent with the Rules of Professional Conduct or disrupts the conciliation process or interferes with the function of the Conciliator, the Conciliator may recess the proceeding, remove the violator and reconvene if appropriate. If a party is removed, an order may be entered in his or her absence. If an attorney is removed, his or her client can choose to continue in the process if they so desire. Any violator may be referred to a contempt proceeding.

Rule 1915.3-7 Report of Conciliator and Proposed Order

The Conciliator has fourteen (14) days within which to file a Conference Summary Report with the Prothonotary who shall forward the same to the Court. This report shall contain facts gathered by the conciliator during the conference. This report shall become a part of the Court records and a copy thereof shall be provided to the parties. The Conciliator at his or her sole discretion may recommend to the Court Interim or Temporary orders for consideration pending a custody hearing before the Court.

If recommended by the conciliator or requested by either party by the filing of a praecipe within ten (10) days of the date of mailing of the recommended Order, the Court shall direct the matter for hearing.

Rule 1915.3-8 Settled Case

If at any time prior to a scheduled proceeding, the parties are able to reach an agreement, counsel shall file within thirty (30) days an original and three (3) copies of the fully executed stipulation with three proposed orders of Court with the Prothonotary who shall forward the same to the Court for disposition. Counsel shall forward a copy of the executed stipulation to the Conciliator.

Rule 1915.5 Question of Jurisdiction or Venue. No Responsive Pleading by Defendant Required. Counterclaim. Discovery

Preliminary Objections to Jurisdiction and Venue- If a question of jurisdiction or venue is raised in Preliminary Objections, filed prior to the Conciliation Conference, such objections shall be filed with the Prothonotary and referred to the Court for disposition and the Conciliator shall continue the Conciliation Conference generally pending disposition of the Preliminary Objections. Following the disposition of Preliminary Objections, the Court may refer the matter to Conciliation. If the responding party intends to file counterclaims or cross-claims, the same shall be filed prior to the Conciliation Conference, where possible.

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

(1) In addition to the information required by Pa.R.C.P. 1915.15, every complaint for Custody, Partial Custody, Visitation or Modification shall contain one of the following averments:

A. Plaintiff has been advised of the requirement to attend the seminar titled "Education Program for Separated Parents" offered by Penn State. or

B. The parties have previously attended the "Education Program for Separated Parents" program as evidenced by certificates of attendance contained in the official Court file to the following referenced case number _____ and/or verification of certificate attached hereto.

(2) The Order and Notice shall also include the following:

A. "The Court directs that within sixty (60) days after service, both parties shall register and attend the program by mailing the pre-printed "Education Program for Separated Parents" registration form, along with a registration fee of \$45.00 to Education Program for Separated Parents, Penn State Justice and Safety Institute, The Pennsylvania State University, 305 Lubert Building, Innovation Park at Penn State, University Park, PA 16802-7009."

or

B. "The parties have previously attended the "Education Program for Separated Parents" as evidenced by certificates of attendance in the official Court file to the following referenced case number _____."

Rule 1915. 26 Pre-Hearing Information

The Pre-Hearing Information required pursuant to Local Rule 1915.3-4 shall be in substantially the following form:

**Pre-Hearing Information
(to be submitted at the Conciliation Conference)***Proposed Parenting Plan:*

1. Names, addresses, ages and employment of parents and/or guardians (if different from Custody Complaint or Petition for Modification)

2. Names and ages of all children involved—state with whom living (if different from Custody Complaint or Petition for Modification)

3. Names and addresses of other parties involved (if any—Children and Youth, grandparents, foster parents, etc)

4. Has any party ever been referred to a Children and Youth Agency for alleged abuse or neglect for the subject children or any other children?

5. Has there been a Protection from Abuse Order entered against any party in the past twenty-four (24) months? If so, when?

6. Status of current Custody Orders or custody arrangements.

7. What schedule do you propose for consideration?

8. Addresses of children for past 5 years, state who had custody at each location (if different from Custody Complaint or Petition for Modification)

9. State who you believe should have legal custody (i.e. the right to make major decisions regarding the subject children.)

10. State what living arrangements you consider to be in the child(ren)'s best interests (i.e. where children should spend weekdays, weekends, holidays, vacations, where they should attend school.)

11. State any special needs your child/children may have.

12. State the kind of environment that you can provide (i.e. information about your home, neighborhood, school district, family and friend support, child care, work schedule, your availability).

13. What other issues are relevant to the resolution of this custody dispute?

Pre-Hearing Information:

1. List of Witnesses you intend to call:
 - a. fact witnesses.
 - b. Expert witnesses (attach copies of any reports currently available.)
2. Issues for resolution (e.g. suitability of physical environment, suitability of parent, unusual opportunities for enrichment, particular skills of a parent, transportation, issues related to other household members).
3. Estimated length of trial.
4. Any other reports to be used.

Rule 1919 Mandatory Seminar for Separating Parents

1. In all divorce and custody proceedings filed on or after May 1, 2004, and in such other cases as the Court shall direct, where the interests of children under the age of 18 years are involved, the parties shall, within sixty (60) days of the date a claim is filed, attend a four-hour mandatory seminar entitled "Education Program for Separated Parents."

2. In all custody/visitation proceedings filed on or after May 1, 2004, each Notice Order and complaint shall include the additional information in accordance with Perry or Juniata County Civil Rule 1915.15.

3. In all divorce proceedings filed on or after May 1, 2004, where the parties have a child or children under the age of eighteen years, every complaint shall contain the additional information required by Perry or Juniata County Civil Rule 1920.12. It shall also have attached thereto an Order directing attendance at the Seminar in the form set forth in Perry or Juniata County Civil Rule 1920.12(3).

4. The moving party shall serve the responding party with a copy of the Court Order directing attendance at the Seminar at the time a Divorce Complaint is served. A program brochure/registration form shall also be provided by the moving party to the responding party at the time of service of the complaint. A supply of said brochure/registration forms can be obtained in the Office of the Prothonotary or Court Administrator.

5. The affidavit of service shall include a statement that the opposing party was advised of the requirement to attend the "Education Program for Separated Parents" and served with the registration form.

6. Within sixty (60) days after service, both parties are required to register and attend the program by mailing the pre-printed "Education Program for Separated Parents" registration form, along with a registration fee of \$45.00 to Education Program for Separated Parents, Penn State Justice and Safety Institute, The Pennsylvania State University, 305 Lubert Building, Innovation Park at Penn State, University Park, PA 16802-7009. Any re-

quests for waiver or reduction of attendance fee can only be granted by Penn State.

7. Court approval is required for an extension of time to complete the seminar. Said requests for extension shall be made in writing and forwarded to Court Administration.

8. Failure to register and complete the program will be brought to the attention of the Court and may result in a finding of contempt and the imposition of sanctions.

DIVORCE OR ANNULMENT

Rule 1920.12 Complaint

1. In addition to the information required by Pa.R.C.P. 1920.12, every Complaint in Divorce shall contain one of the following averments:

a. Plaintiff avers that there are no children under the age of eighteen (18) years born of the marriage; or

b. Plaintiff avers that there are children under the age of eighteen (18) years born of the marriage namely, to wit: (list names and dates of birth.)

2. If there are children under the age of eighteen (18) years born of the marriage, the complaint shall include one of the following averments:

a. Plaintiff has been advised of the requirement to attend the seminar "Education Program for Separated Parents;" or

b. The parties have previously attended the "Education Program for Separated Parents" as evidenced by certificates of attendance contained in the official Court file to the following referenced case number (list case number.)

3. In the event there are children under the age of eighteen (18) years of age born of the marriage, and there is no averment that the parties previously attended the "Education Program for Separated Parents," the divorce complaint shall have attached thereto, an order in substantially the following [order] form:

: IN THE COURT OF COMMON PLEAS
 vs. : OF THE 41ST JUDICIAL DISTRICT
 : (INSERT) COUNTY, PENNSYLVANIA
 : NO.

ORDER OF COURT

AND NOW, _____, the Court directs that within sixty (60) days after service, both parties shall register and attend the program by mailing the pre-printed "Education Program for Separated Parents" registration form, along with a registration fee of \$45.00 to Education Program for Separated Parents, Penn State Justice and Safety Institute, The Pennsylvania State University, 305 Lubert Building, Innovation Park at Penn State, University Park, PA 16802-7009.

cc: Plaintiff
 Defendant
 Court Administration

Rule 1920.51 Payment of Deposit for Appointment of Master.

A deposit as determined by the Court in separate order shall be paid to the Prothonotary at the filing of the Motion for the appointment of a master. Said deposit shall be applied to the Master's bill of cost as submitted by the Master and approved by the Court.

Rule 1920.51(a)(1) Hearing by the Court. Appointment of Master. Notice of Hearing

The Order of Appointment shall note that the appointment is for all issues in all pleadings before the Court unless the same are specifically excluded.

Rule 1920.55-2 Master's Report. Notice. Exceptions. Final Decree

If exceptions are filed, the first party filing exceptions must pay in full all outstanding master's fees and costs as

set forth on the Master's Bill of costs, regardless of the recommendation of the Master as to allocation of the payment. The Court may address the issue of master's fees and costs at the time of the disposition of the exceptions.

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