

# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### [231 PA. CODE CHS. 1910, 1915, 1920 AND 1930] Amendments to the Rules of Civil Procedure Relating to Domestic Relations Matters; Recommendation 73

The Domestic Relations Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend the Rules of Civil Procedure relating to domestic relations matters as set forth herein. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

Notes and explanatory comments which appear with proposed amendments have been inserted by the committee for the convenience of those using the rules. Reports, notes and comments will not constitute part of the rules and will not be officially adopted or promulgated by the Supreme Court.

The Committee solicits comments and suggestions from all interested persons prior to submission of this proposal to the Supreme Court of Pennsylvania. Please submit written comments no later than Friday, November 4, 2005 directed to:

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ROBERT C. CAPRISTO,  
*Chair*

#### Annex A

#### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1910. ACTIONS FOR SUPPORT

#### Rule 1910.11. Office Conference. Subsequent Proceedings. Order.

(a)(1) The office conference shall be conducted by a conference officer.

(2) A conference officer who is a lawyer employed by a judicial district shall not practice family law before a conference officer, permanent hearing officer or permanent or standing master employed by the same judicial district.

**Official Note:** Conference officers preside at office conferences under [Support] Rule 1910.11. Hearing officers preside at hearings under [Support] Rule 1910.12. The appointment of masters to hear actions in divorce or for annulment of marriage is authorized by [Divorce] Rule 1920.51.

\* \* \* \* \*

(c) At the conference, the parties shall furnish to the officer true copies of their most recent federal income tax returns, their pay stubs for the preceding six months,

verification of child care expenses and proof of medical coverage which they may have or have available to them. In addition, they shall provide copies of their income and expense statements in the form required by Rule 1910.27(c), completed as set forth below.

\* \* \* \* \*

(2) For cases which are decided according to *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984), the entire income and expense statement must be completed.

\* \* \* \* \*

(e) At the conclusion of the conference or promptly thereafter, the conference officer shall prepare a conference summary and furnish copies to the court and to both parties. The conference summary shall state:

- (1) the facts upon which the parties agree[ , ];
- (2) the contentions of the parties with respect to facts upon which they disagree[ , ]; and
- (3) the conference officer's recommendation[ , ]; if any, of
  - (i) the amount of support and by and for whom the support shall be paid[ , ]; and
  - (ii) the effective date of any order.

(f) If an agreement for support is not reached at the conference, the court, without hearing the parties, shall enter an interim order calculated in accordance with the guidelines and substantially in the form set forth in Rule 1910.27(e). [The order shall state] Each party shall be provided with a copy of the order and written notice that any party may, within ten days after the date of receipt or the date of the mailing of [ a copy of ] the order, whichever occurs first, file a written demand with the domestic relations section for a hearing before the court.

\* \* \* \* \*

(j)(1) Promptly after receipt of the notice of the scheduled hearing, a party may move the court for a separate listing where:

- (i) there are complex questions of law, fact or both[ , ]; or
- (ii) the hearing will be protracted[ , ]; or

\* \* \* \* \*

#### Rule 1910.12. Office Conference. Hearing. Record. Exceptions. Order.

\* \* \* \* \*

(b)(1) At the conclusion of a conference attended by both parties, if an agreement for support has not been reached, and the conference and hearing are not scheduled on the same day, the court, without hearing the parties, shall enter an interim order calculated in accordance with the guidelines and substantially in the form set forth in Rule 1910.27(e), and the parties shall be given notice of the date, time and place of a hearing. A record hearing shall be conducted by a hearing officer who must be a lawyer.

(2) If the defendant, having been properly served, fails to attend the conference, the court shall enter an interim order calculated in accordance with the guidelines and

substantially in the form set forth in Rule 1910.27(e). Within ten days after the date of receipt or the date of mailing of the order, whichever occurs first, either party may demand a hearing before a hearing officer. If no hearing is requested, the order shall become final.

(3) A hearing officer employed by a judicial district shall not practice family law before a conference officer, hearing officer or permanent or standing master employed by the same judicial district.

**Official Note:** Conference officers preside at office conferences under [Support] Rule 1910.11. Hearing officers preside at hearings under [Support] Rule 1910.12. The appointment of masters to hear actions in divorce or for annulment of marriage is authorized by [Divorce] Rule 1920.51.

(c)(1) Except as provided in subdivision (c)(2), promptly after conclusion of the conference, a party may move the court for a separate listing of the hearing where:

(i) there are complex questions of law, fact or both[ , ]; or

(ii) the hearing will be protracted[ , ]; or

\* \* \* \* \*

(d) The hearing officer shall receive evidence, hear argument and file with the court a report containing a recommendation with respect to the entry of an order of support. The report may be in narrative form stating the reasons for the recommendation and shall include a proposed order substantially in the form set forth in Rule 1910.27(e) stating:

(1) the amount of support calculated in accordance with the guidelines[ , ];

(2) by and for whom it shall be paid[ , ]; and

\* \* \* \* \*

(e) The court, without hearing the parties, shall enter an interim order consistent with the proposed order of the hearing officer except upon good cause shown. [The order shall state] Each party shall be provided with a copy of the interim order and written notice that any party may, within ten days after the date of receipt or the date of mailing of the order, whichever occurs first, file with the domestic relations section written exceptions to [that] the report [with the domestic relations section] of the hearing officer and interim order.

(f) Within ten days after the date of receipt or the date of mailing of the report by the hearing officer, whichever occurs first, any party may file exceptions to the report or any part thereof, to rulings on objections to evidence, to statements or findings of facts, to conclusions of law, or to any other matters occurring during the hearing. Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are [demand] deemed waived unless, prior to entry of the final order, leave is granted to file exceptions raising those matters. If exceptions are filed, any other party may file exceptions within ten days of the date of service of the original exceptions.

(g) If no exceptions are filed within the ten-day period, the interim order shall constitute a final order.

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

**Rule 1915.4-2. Office Conference. Hearing. Record. Exceptions. Order.**

\* \* \* \* \*

(g) Within ten days after the date [of] the hearing officer's report [by the hearing officer] is mailed or received by the parties, whichever occurs first, any party may file exceptions to the report or any part thereof, to rulings on objections to evidence, to statements or findings of fact, to conclusions of law, or to any other matters occurring during the hearing. Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed waived unless, prior to entry of the final order, leave is granted to file exceptions raising those matters. If exceptions are filed, any other party may file exceptions within ten days of the date of service of the original exceptions.

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**CHAPTER 1920. ACTIONS OF DIVORCE OR FOR ANNULMENT OF MARRIAGE**

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

\* \* \* \* \*

(b) Within ten days of the date of receipt or the date of mailing of the master's report and recommendation, whichever occurs first, any party may file exceptions to the report or any part thereof, to rulings on objections to evidence, to statements or findings of fact, to conclusions of law, or to any other matters occurring during the hearing. Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed waived unless, prior to entry of the final decree, leave is granted to file exceptions raising those matters.

\* \* \* \* \*

**Rule 1920.55-3. Master's Report. Notice. Hearing De Novo. Final Decree.**

\* \* \* \* \*

(c) Within ten days [after] of the date the master's report is mailed or received, whichever occurs first, any party may file a written demand for a hearing de novo. If a demand is filed, the court shall hold a hearing de novo and enter a final decree.

(d) If no demand for de novo hearing is filed within the ten [days of the date the report is mailed] -day period, the court shall review the report and recommendation and, if approved, shall enter a final decree.

\* \* \* \* \*

**CHAPTER 1930. RULES RELATING TO DOMESTIC RELATIONS MATTERS GENERALLY**

**Rule 1930.4. Service of Original Process in Domestic Relations Matters.**

(a) *Persons Who May Serve.* Original process in all domestic relations matters may be served by the sheriff or a competent adult:

\* \* \* \* \*

(3) or pursuant to special order of court.

**Official Note:** See Rule 76 for the definition of "competent adult." **Service upon an incarcerated person in a domestic relations action must also include notice of any hearing in such action, and specific notice of the incarcerated individual's right to apply to the court for a writ of habeas corpus ad testificandum to enable him or her to attend the hearing. The writ is available where an incarcerated individual wishes to testify in person, as well as where the individual's testimony is sought by another. *Vanam v. Cowgill*, 363 Pa. Super. Ct. 602, 526 A.2d 1226 (1987). In determining whether a writ of habeas corpus ad testificandum should be issued, a court must weigh the factors set forth in *Salemo v. Salemo*, 381 Pa. Super. Ct. 632, 554 A.2d 563 (1989).**

\* \* \* \* \*

[Pa.B. Doc. No. 05-1815. Filed for public inspection September 30, 2005, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

SCHUYLKILL COUNTY

Amended Civil Rules of Procedure; S-1776-2005

### Order of Court

*And Now*, this 9th day of September, 2005, at 2:15 p.m., Schuylkill County Civil Rule of Procedure No. 1920.51(n)(1) and (2) is amended for use in the Court of Common Pleas of Schuylkill County, Pennsylvania, Twenty-First Judicial District, Commonwealth of Pennsylvania, effective thirty days after publication in the *Pennsylvania Bulletin*.

The Prothonotary of Schuylkill County is Ordered and Directed to do the following:

- 1) File ten (10) certified copies of this Order and Rule with the Administrative Office of Pennsylvania Courts.
- 2) File two (2) certified copies of this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* together with a diskette reflecting the text in the hard copy version.
- 3) File one (1) certified copy of this Order and Rule with the Pennsylvania Civil Procedural Rules Committee.
- 4) Forward one (1) copy to the Schuylkill County Law Library for publication in the *Schuylkill Legal Record*.
- 5) Keep continuously available for public inspection copies of this Order and Rule.

It is further *Ordered* that said rule as it existed prior to the amendment is hereby repealed and annulled on the effective date of said rule as amended, but no right acquired thereunder shall be disturbed.

*By the Court*

WILLIAM E. BALDWIN,  
*President Judge*

PENNSYLVANIA BULLETIN, VOL. 35, NO. 40, OCTOBER 1, 2005

### Rule 1920.51 Appointment of Master.

(n)(1) In complex contested matters which require the hearing to be continued in progress, the Master may assess additional Master's fees of \$75.00 per each additional hour. Each additional conference, beyond the first, shall be considered for these purposes as a hearing.

(2) Where additional Master's fees are assessed, the moving party shall deposit the fee with the Prothonotary and concurrently file a Praeceptum substantially in the following form:

(CAPTION)

PRAECEPTUM FOR DEPOSIT OF ADDITIONAL  
MASTER'S FEE

To the Prothonotary:

As directed by the Master in the above-captioned case, deposit the sum of \$ \_\_\_\_\_ .00 for \_\_\_\_\_ additional Master's Hearing days at the rate of \$75.00 per hour in compliance with Sch.R.C.P. 1920.51(n).

\_\_\_\_\_  
Attorney for (Plaintiff/Defendant)

RECEIVED this day the sum of \$ \_\_\_\_\_ .00, additional Master's fee in the above-captioned case.

\_\_\_\_\_  
Prothonotary

[Pa.B. Doc. No. 05-1816. Filed for public inspection September 30, 2005, 9:00 a.m.]

## SUPREME COURT

Practice of Law by Attorneys Displaced by Hurricane Katrina; No. 377 Supreme Court Rules; Doc. No. 1

### Order

*Per Curiam*

*And Now*, this 19th day of September, 2005, it is hereby ordered that:

Based upon the extreme devastation caused to the states of Louisiana, Mississippi and Alabama by Hurricane Katrina, making it impossible to practice law in the areas affected by this storm, this Court hereby orders that the rules governing the practice of law in this Commonwealth be temporarily modified for attorneys displaced by Hurricane Katrina set forth as follows.

Attorneys holding a valid law license issued by the highest court of law in Louisiana, Mississippi or Alabama, who are: (i) in good standing in their respective states, (ii) persons of good character and fitness to practice law and (iii) who have been displaced from their home jurisdiction by Hurricane Katrina, are permitted to practice law in facilities located in Pennsylvania for a period of nine months from the date of this order, provided such practice is limited to furnishing legal services to their clients with respect to actions or matters arising out of the jurisdictions where they are licensed. Attorneys practicing pursuant to this Order shall not hold themselves out as licensed Pennsylvania attorneys or as authorized to practice Pennsylvania law.

Attorneys, who are not subject to the disciplinary system of the jurisdiction where they are licensed with respect to the legal services performed in Pennsylvania under this Order, shall be subject to the Pennsylvania Rules of Professional Conduct and Rules of Disciplinary Enforcement. All attorneys practicing pursuant to this Order shall submit an affidavit to the Pennsylvania Board of Law Examiners within five (5) days of commencing the practice of law in Pennsylvania alleging that the lawyer: (i) is licensed to practice law in Louisiana, Mississippi or Alabama, (ii) is in good standing in their respective state, (iii) is a person of good character and fitness to practice law and (iv) has been displaced from the practice of law by Hurricane Katrina.

This Order is not intended, in any way, to restrict or limit any attorney from practicing law in compliance with Rule of Professional Conduct 5.5.

[Pa.B. Doc. No. 05-1817. Filed for public inspection September 30, 2005. 9:00 a.m.]

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