

THE COURTS

Title 234—RULES OF CRIMINAL PROCEDURE

PART 1. GENERAL

[234 PA. CODE CH. 1]

Order Amending Rule 121; No. 360; Doc. No. 2

Order

Per Curiam:

Now, this 19th day of December, 2007, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 36 Pa.B. 4597 (August 19, 2006), and in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 865), and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the amendments to Rule of Criminal Procedure 121 are adopted in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective February 1, 2008.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

PART B. Counsel

Rule 121. Waiver of Counsel.

(A) GENERALLY.

(1) The defendant may waive the right to be represented by counsel.

(2) To ensure that the defendant's waiver of the right to counsel is knowing, voluntary, and intelligent, the judge or issuing authority, at a minimum, shall elicit the following information from the defendant:

(a) that the defendant understands that he or she has the right to be represented by counsel, and the right to have free counsel appointed if the defendant is indigent;

(b) that the defendant understands the nature of the charges against the defendant and the elements of each of those charges;

(c) that the defendant is aware of the permissible range of sentences and/or fines for the offenses charged;

(d) that the defendant understands that if he or she waives the right to counsel, the defendant will still be bound by all the normal rules of procedure and that counsel would be familiar with these rules;

(e) that the defendant understands that there are possible defenses to these charges that counsel might be aware of, and if these defenses are not raised at trial, they may be lost permanently; and

(f) that the defendant understands that, in addition to defenses, the defendant has many rights that, if not timely asserted, may be lost perma-

nently; and that if errors occur and are not timely objected to, or otherwise timely raised by the defendant, these errors may be lost permanently.

(3) The judge or issuing authority may permit the attorney for the Commonwealth or defendant's attorney to conduct the examination of the defendant pursuant to paragraph (A)(2). The judge or issuing authority shall be present during this examination.

* * * * *

Comment

Paragraph (A) recognizes that the right to self-representation is guaranteed by the sixth amendment to the Federal Constitution when a valid waiver is made, *Faretta v. California*, 422 U.S. 806 (1975).

Court decisions contain broad language in referring to the areas and matters to be encompassed in determining whether the defendant understands the full impact and consequences of his or her waiver of the right to counsel, but is nevertheless willing to waive that right. The appellate courts require, however, at a minimum, that the judge or issuing authority ask questions to elicit the information set forth in paragraph (A)(2).

Although it is advisable that the judge or issuing authority conduct the examination of the defendant, the rule does not prevent the attorney for the Commonwealth or an already-appointed or retained defense counsel from conducting all or part of the examination of the defendant as permitted by the judge or issuing authority. See *Commonwealth v. McDonough*, 571 Pa. 232, 812 A.2d 504 (2002).

On the issue of waiver of counsel in general, see, e.g., *Commonwealth v. Tyler*, 468 Pa. 193, 360 A.2d 617 (1976); *Commonwealth ex rel. Fairman v. Cavell*, 423 Pa. 138, 222 A.2d 722 (1966) (mere execution of a waiver of counsel form, without more, is insufficient to establish a valid waiver); *Commonwealth ex rel. McCray v. Rundle*, 415 Pa. 65, 202 A.2d 303 (1964); *Commonwealth ex rel. O'Lock v. Rundle*, 415 Pa. 515, 204 A.2d 439 (1964).

In referring to summary cases, paragraph (B) refers only to those summary cases in which there exists a right to counsel. See Rule 122.

While the rule continues to require a written waiver of counsel incorporating the contents specified in paragraph (B), in proceedings before an issuing authority, the form of waiver was deleted in 1985 because it is no longer necessary to control the specific form of written waiver by rule.

[In the state of the law existing at the time this rule was drafted, it is difficult to formulate a comprehensive list of questions which must be asked of the defendant in determining whether the defendant's tendered waiver of counsel is knowing, intelligent, and voluntary. Court decisions contain broad language in referring to the areas and matters to be encompassed in determining whether the defendant understands the full impact and consequences of his waiver of the right to counsel, but is nevertheless willing to waive that right. It is recom-

mended, however, that at a minimum, the judge or issuing authority ask questions to elicit the following information:

(1) That the defendant understands that he or she has the right to be represented by counsel, and the right to have free counsel appointed if the defendant is indigent.

(2) That the defendant understands the nature of the charges against the defendant and the elements of each of those charges.

(3) That the defendant is aware of the permissible range of sentences and/or fines for the offenses charged.

(4) That the defendant understands that if he or she waives the right to counsel, the defendant will still be found by all the normal rules of procedure and that counsel would be familiar with these rules.

(5) That the defendant understands that there are possible defenses to these charges which counsel might be aware of, and if these defenses are not raised at trial, they may be lost permanently.

(6) That the defendant understands that, in addition to defenses, the defendant has many rights that, if not timely asserted, may be lost permanently; and that if errors occur and are not timely objected to, or otherwise timely raised by the defendant, these errors may be lost permanently.

This area is presently one of some flux in the law; therefore, it is intended that what is set out above is only a beginning and, depending on the circumstances of the particular case, may not necessarily be sufficient to assure a valid waiver of counsel. On the issue in general, see, e.g., *Commonwealth v. Tyler*, 360 A.2d 617 (Pa. 1976); *Commonwealth ex rel. Fairman v. Cavell*, 222 A.2d 722 (Pa. 1966) (mere execution of a waiver of counsel form, without more, is insufficient to establish a valid waiver); *Commonwealth ex rel. McCray v. Rundle*, 202 A.2d 303 (Pa. 1964); *Commonwealth ex rel. O'Lock v. Rundle*, 204 A.2d 439 (1964).]

Under paragraph (C) of this rule, the colloquy relating to the defendant's attempted waiver of counsel must appear on the record. This requirement is not applicable to such waivers in proceedings under paragraph (B), because these proceedings are not in courts of record. However, the absence of such requirement is not intended to be construed as affecting the scope or nature of the inquiry to be made in a particular case.

It is intended that when the defendant has waived his or her right to counsel before the issuing authority for purposes of the preliminary hearing, such waiver shall not normally act as a waiver of the right to counsel in subsequent critical stages of the proceedings. Therefore, under paragraph (C) it is intended that a further waiver is subsequently to be taken by a judge of the court of common pleas.

[Although it is advisable that the judge or issuing authority should conduct the examination of the defendant, the rule does not prevent the attorney for the Commonwealth or an already-appointed or retained defense counsel from conducting all or part of the examination of the defendant as permitted by the judge or issuing authority.]

With respect to trials in court cases, when the defendant waives the right to counsel and elects to proceed pro se, it is generally advisable that standby counsel be appointed to attend the proceedings and be available to the defendant for consultation and advice. See *Commonwealth v. Africa*, 466 Pa. 603, 353 A.2d 855 ([Pa.] 1976). This is particularly true in cases expected to be long or complicated, or in which there are multiple defendants. See ABA Standards, The Function of the Trial Judge § 6.7 (Approved Draft 1972). The ability of standby counsel to assume control of the defense will minimize delay and disruption of the proceedings in the event that the defendant's self-representation terminates, e.g., either because such termination becomes necessary as a result of the defendant's unruly behavior, or because the defendant seeks to withdraw the waiver and be represented by counsel. With respect to pretrial proceedings or summary case trials it is intended that standby counsel may be appointed at the discretion of the presiding judicial officer.

Official Note: Rule 318 adopted October 21, 1977, effective January 1, 1978; amended November 9, 1984, effective January 2, 1985; renumbered Rule 121 and amended March 1, 2000, effective April 1, 2001[.]; **amended December 19, 2007, effective February 1, 2008.**

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Committee Explanatory Reports:

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Final Report explaining the December 19, 2007 changes to paragraph (A) concerning areas of inquiry for waiver colloquy published with the Court's Order at 38 Pa.B. 62 (January 5, 2008).

FINAL REPORT¹

Amendments to Pa.R.Crim.P. 121

Waiver of Counsel Colloquy

On December 19, 2007, effective February 1, 2008, upon the recommendation of the Criminal Procedural Rules Committee, the Court approved the amendments to Rule 121 to emphasize the minimum areas of inquiry that are required for colloquies into waiver of counsel.

As part of the Committee's continuing review of the rules and case law, the Committee considered *Commonwealth v. Payson*, 723 A.2d 695 (Pa.Super. 1999), which held that the waiver of counsel colloquy was inadequate, in part, because the trial court did not follow the requirement to inquire into the six areas listed in the Rule 121 *Comment*. The Committee also noted that Payson is another in a long line of cases in which judges have failed to inquire into these six mandatory areas.

At the time Rule 121 was promulgated in 1977, the case law was evolving concerning waiver of counsel colloquies and the information the court must have in determining that the waiver is knowing and intelligent. In view of this, the listed areas of inquiry were placed in the *Comment* rather than the text of the Rule. The Committee at the time thought it best to allow precedent to develop rather than attempting to codify all possible areas of inquiry by rule. Subsequently, the requirements became firmer as case decisions reinforced the six areas of inquiry as minimum requirements for the colloquies.

¹ The Committee's Final Reports 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 Committee's explanatory Final Reports.

Although the case law is clear concerning the mandatory nature of the inquiry, the Committee acknowledged the continued lack of compliance by some courts, as demonstrated in the *Payson* case, and agreed that the mandatory nature of the inquiry requirements needed to be emphasized by moving the six areas of inquiry in the Rule 121 *Comment* into paragraph (A), which is the general application provision.

To conform with these proposed changes to paragraph (A), the *Comment* is reorganized by moving to the beginning of the *Comment* the provisions that address the areas of inquiry and the conduct of the colloquy.

Additionally, the Superior Court in *Payson* narrowly interpreted the language of Rule 121(C) to require that the colloquy must be conducted by the judge. This latter point was contrasted with the Supreme Court's decision in *Commonwealth v. McDonough*, 571 Pa. 232, 812 A.2d 504 (2002) that concluded that someone other than the judge, such as the attorney for the Commonwealth or defense counsel, could actually conduct the colloquy so long as the judge was present.

Therefore, in addition to the six areas of inquiry, a provision is added making the rule clear that the attorney for the Commonwealth or the defendant's attorney may conduct the examination and that the judge must still be present. A cross-reference to the Supreme Court's decision in *Commonwealth v. McDonough*, which provides authority for a judge to permit someone else to conduct the examination of the defendant concerning the waiver, is added to the new third paragraph of the *Comment*.

[Pa.B. Doc. No. 08-4. Filed for public inspection January 4, 2008, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CH. 5]

Proposed Amendments to Rule 510

The Juvenile Court Procedural Rules Committee is planning to recommend to the Supreme Court of Pennsylvania that the modification of Rule 510 be adopted and prescribed. The proposed modified Rule 510 sets forth the time requirement for a dispositional hearing for a non-detained juvenile. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory *Report* highlights the intent of the rules. Please note that the Committee's Reports 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 *Reports*.

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

A. Christine Riscili, Esq.
Staff Counsel
Supreme Court of Pennsylvania
Juvenile Court Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055

no later than Thursday, Jan. 31, 2008.

*By the Juvenile Court
Procedural Rules Committee*

FRANCIS BARRY MCCARTHY,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 5. DISPOSITIONAL HEARING

PART B. DISPOSITIONAL HEARING AND AIDS

Rule 510. Prompt Dispositional Hearing.

A. *General rule.*

1) ***Juvenile is detained.*** If the juvenile is detained, the dispositional hearing shall be held no later than twenty days after the ruling on the offenses under Rule 408.

2) ***Juvenile not detained.*** If the juvenile is not detained, the dispositional hearing shall be held no later than sixty days after ruling on the offenses pursuant to Rule 408.

B. *Continuances.* The dispositional hearing may be continued, if necessary. If the juvenile is detained, each continuance shall not exceed twenty days.

Comment

Under paragraph (B), if there is a continuance, the court should review the juvenile's case every twenty days until there is a final dispositional order.

[See 42 Pa.C.S. § 6341(b).]

Official Note: Rule 510 adopted April 1, 2005, effective October 1, 2005.

EXPLANATORY REPORT

Rule 510—Prompt Dispositional Hearing

The proposed rule adds a time requirement for a hearing when a juvenile is not detained. The dispositional hearing is to be held no later than sixty days after the Court has ruled on the offenses pursuant to Rule 408.

Once it has been determined that a juvenile has committed an offense(s), the disposition should be as timely as possible to effectuate the purposes of the Juvenile Act, including development of competencies, accountability, and protection to the community.

The Committee is proposing deletion of the Juvenile Act cite in the Comment because the Juvenile Act requires a hearing for treatment, supervision, and rehabilitation within sixty days of the ruling of the offenses. The proposed rule adds an additional time requirement that will provide that the dispositional hearing shall be held within sixty days of the ruling on the offenses.

[Pa.B. Doc. No. 08-5. Filed for public inspection January 4, 2008, 9:00 a.m.]

Title 252—ALLEGHENY COUNTY RULES

ALLEGHENY COUNTY

Adoption of Rule 249(1); Rules Doc. No. 1 to 2007

Order of Court

And Now, to-wit, this 18th of December, 2007, pursuant to action of the Board of Judges, the within new Local Rule 249(1) affecting the Civil Division of the Court of Common Pleas is adopted, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

JOSEPH M. JAMES,
President Judge

Local Rule 249. Special Assignments Among Judges. Commerce and Complex Litigation Center. Asbestos Judge. Class Action Judge. Elections Judge. Real Estate Tax Appeals Judge. Zoning.

(1) Commerce and Complex Litigation Center

(a) Creation. Administrative Order No. 13 of 2007 (AD07-000013) established a Commerce and Complex Litigation Center. This Center is within the Civil Division of the Court.

(b) Assignment of Cases to the Center.

(i) A description of the type of cases handled by the Center and of the procedures for assignment of cases to the Center is set forth in a *Description of the Docket and Procedures of the Commerce and Complex Litigation Center* prepared by the judges assigned to the Center.

(ii) The *Description* may be obtained from the Allegheny County Court of Common Pleas website at www.alleghenycourts.us by selecting civil and then selecting commerce and complex litigation center.

Editor's Note: Adopted December 18, 2007, effective 30 days after publication in the *Pennsylvania Bulletin*. This Local Rule 249(1) replaces Local Rule 249(1) that was adopted on October 4, 2006, effective December 4, 2006. There are no changes to Local Rule 249(2)—(8).

[Pa.B. Doc. No. 08-6. Filed for public inspection January 4, 2008, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CAMERON AND ELK COUNTIES

Promulgation of Local Rules; County Branch
Cameron Doc. No. 2007-1748; County Branch
Elk Doc. No. 2007-493

Order of Court

Now, November 7 and 8, 2007 (respectively), *It Is Ordered and Decreed* that the Local Rules of Court for the 59th Judicial District are hereby adopted and are effective 30 days after publication in the *Pennsylvania Bulletin*, excepting Rules L205.2(a), L205.2(b), L206.1(a), L206.4(c), L208.3(b), L210, L1028(c), L1034(a), and

L1035.2(a), which are effective upon publication on the UJS Portal (ujsportal.pacourts.us).

The District Court Administrator is hereby ordered to:

1. File seven certified copies of this Order and the Local Rules with the Administrative Office of Pennsylvania Courts;

2. Transmit one certified copy of this Order and the Local Rules to the Civil Procedural Rules Committee, which shall then transmit a copy to the Administrative Office of Pennsylvania Courts for publication on the Pennsylvania Judiciary Web Application Portal;

3. Transmit one certified copy of this Order and the Local Rules to the Domestic Relations Procedural Rules Committee;

4. File two certified copies and a computer diskette containing this Order and the Local Rules with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

5. Provide one copy of this Order and the Local Rules to the members of the Elk County Bar Association and the Cameron County Bar Association;

6. Keep copies of this Order and the Local Rules continuously available for public inspection and published on the Court's website www.co.elk.pa.us/judicial.

It Is Further Ordered that contemporaneously with the effective date of the within Local Rules, any previously adopted local rules of court are rescinded and vacated.

RICHARD A. MASSON,
President Judge

IN THE COURT OF COMMON PLEAS OF THE FIFTY-NINTH JUDICIAL DISTRICT OF PENNSYLVANIA

(Composed of Elk and Cameron Counties)

LOCAL RULES OF COURT—CIVIL

Rule L205.2(a)	Pleadings and Other Legal Papers.
Rule L205.2(b)	Pleadings and Other Legal Papers. Form.
Rule L206.1(a)	Petition.
Rule L206.4(c)	Rule to Show Cause.
Rule L208.3(b)	Motion. Alternative Procedures.
Rule L210	Briefs.
Rule L212.1	Trial.
Rule L212.2	Pre-trial Statement.
Rule L212.3	Pre-trial Conference.
Rule L216	Motion for Continuance.
Rule L227.1	Post-trial Conference.
Rule L230.2	Termination of Inactive Cases.
Rule L430	Service by Publication.
Rule L1018	Notice to Defend. Form.
Rule L1028(c)	Preliminary Objections.
Rule L1034(a)	Motion for Judgment on the Pleadings.
Rule L1035.2(a)	Motion for Summary Judgment.
Rule L1042.21	Medical Professional Liability Actions. Motion for Settlement Conference or Mediation.
Rule L1301	Compulsory Arbitration.
Rule L1910.4	Support. Commencement of Action.
Rule L1910.11	Support. Office Conference. Subsequent Proceedings. Order.
Rule L1910.12	Support. Office Conference. Hearing. Record. Exceptions. Order.

- Rule L1915.3** Custody and Visitation. Commencement of Action. Complaint. Order.
- Rule L1915.4-3** Custody Conference.
- Rule L1915.15** Complaint. Caption. Order. Form.
- Rule L1915.15(a)** Order and Notice. Form.
- Rule L1920.3** Divorce. Commencement of Action.
- Rule L1920.51** Appointment of Master.
- Rule L1920.53** Hearing by Master. Report.

LOCAL RULES OF COURT—MAGISTERIAL DISTRICT JUDGE (PCPMDJ)

Rule L112. Availability and Temporary Assignment of Magisterial District Judge.

Rule L205.2(a). Pleadings and Other Legal Papers.

1. All papers and documents consisting of more than one page shall be fastened or stapled on the top.

2. The first page of any pleading filed, except a pleading requiring a Notice to Defend, shall be an identification sheet, setting forth the following information and typed according to the format presented in Appendix A.

a. In capital letters, centered from left to right margin:

“IN THE COURT OF COMMON PLEAS OF THE
FIFTY-NINTH JUDICIAL DISTRICT OF
PENNSYLVANIA.”

b. In capital letters, on the left side of center, the complete names of all parties (if the party filing the attached pleading has made a previous filing, an appropriate and obvious shortened caption may be used).

c. Type on the right side of center:

i. The county branch, either Cameron or Elk.

ii. The type of action, i.e., Civil, Criminal, Orphans’ Court Division.

***Note:** The word **Division** shall not be used except for “Orphans’ Court Division.”

iii. The docket number, if assigned, beginning with the year, i.e., 2007-XXX.

iv. The name of the pleading.

v. The specific type of action in Civil cases, e.g. Divorce, Custody, etc. or in Orphans’ Court cases, e.g., Adoption

vi. The completed statement “Filed on behalf of _____ (party’s name and relationship to case).

vii. The completed statement showing the name, address, and telephone number of counsel of record.

3. The required number of photocopies and a self-addressed postage-paid mailing envelope must accompany requests for returning certified copies of pleadings to the filing party.

Rule L205.2(b). Pleadings and Other Legal Papers. Form.

**IN THE COURT OF COMMON PLEAS OF THE
FIFTY-NINTH JUDICIAL DISTRICT OF
PENNSYLVANIA**

SAMUEL HAZLET and * COUNTY BRANCH
ETHYL R. HAZLET, his wife, * (CAMERON)(ELK)
Plaintiffs * CIVIL

vs. * NO. _____

W. BARTON LEACH; * Answer to
A. JAMES CASNER, * Complaint Joining

T/D/B/A CASNER AND
LEACH REALTY, A
PARTNERSHIP,
Defendants

vs.

SUSAN SMITH,
Additional Defendant

vs.

JOHN DOE,
Additional Defendant

- * Additional Defendant
- *
- *
- *
- * Filed on behalf of:
- * SUSAN SMITH,
- * Additional Defendant
- *
- * Counsel of Record
- * for this Party:
- * Janice T. Gray, Esq.
- * Simes, Smith, Gray, &
- * Moynihan
- * Firm #123
- * 2496 Frick Building
- * Pittsburgh, PA 15219
- * (412) 555-1234

Rule L206.1(a). Petition.

1. All petitions, which allege facts not of record, must be verified and shall be endorsed with a notice to plead. Petitions shall be filed with the Prothonotary before being presented to the Court and shall include a proposed order of court for scheduling the hearing. Personal presentment is not required. Hearing on a petition will be scheduled for a time and date certain. The moving party shall notify opposing counsel and any unrepresented party of the date, time and place for hearing.

2. A petition submitted to the Court by facsimile or other electronic transmission will not be considered except in extraordinary or emergency situations. Any petition initially submitted by facsimile or other electronic transmission must be filed of record within two (2) business days thereafter.

3. The proposed order scheduling a hearing on the petition shall include the phrase “_____ hour(s) is allotted for the hearing.” Upon receipt of the scheduling order, if counsel or a self-represented party does not believe that the allotted time is reasonably sufficient, it is the duty of counsel or the party to contact the Court Administrator’s office, in writing, to request a continuance in order to reschedule the time necessary for the hearing.

4. The Court, in its discretion and for good cause shown, may grant a prompt written request from counsel or self-represented party to allow testimony by telephone or videoconference. The party requesting the opportunity to participate electronically shall bear the cost thereof unless the Court provides otherwise and shall arrange for the administration of an oath at the location from which the testimony will be given.

Rule L206.4(c). Rule to Show Cause.

1. A rule to show cause must strictly comply with Pa.R.C.P. 206.4. As with all other pleadings, a petition for a rule to show cause must be filed with Prothonotary prior to being presented to the Court. Personal presentment is not required.

2. A petition for a rule to show cause submitted to the Court by facsimile or other electronic submission will not be considered except in extraordinary or emergency situations. Any petition initially submitted by facsimile or other electronic transmission must be filed of record within two (2) business days thereafter.

3. A proposed order of court in the form prescribed by Pa.R.C.P. 206.5 shall be attached to the petition for a rule to show cause.

4. A proposed order of court in the form prescribed by Pa.R.C.P. 206.5 **shall not** be used to schedule an argu-

ment on general motions, preliminary objections, or a hearing on petitions that do not comply with Pa.R.C.P. 206.4.

Rule L208.3(b). Motion. Alternative Procedures.

1. All motions which request relief on matters of record shall be filed with the Prothonotary before being presented to the Court and shall include a proposed order of court for scheduling the argument. Personal presentment is not required. Argument on a motion will be scheduled for a time and date certain. The moving party shall notify opposing counsel and any unrepresented party of the date, time and place for argument. The Court, in its discretion, may decide the matter at argument or take the matter under advisement.

2. Motions submitted to the Court by facsimile or other electronic submission will not be considered except in extraordinary or emergency situations. Any motion initially submitted by facsimile or other electronic transmission must be filed of record within two (2) business days thereafter.

3. The Court, in its discretion, may hear any argument by telephone or videoconference provided that counsel has submitted a prompt written request to the Court to participate electronically. The party requesting the opportunity to participate electronically shall bear the cost thereof unless the Court provides otherwise.

4. A court reporter will not attend arguments unless specifically directed by the Court.

5. Emergency motions shall be governed by the above procedure except that, after filing, the moving party shall notify the Prothonotary and the Court Administrator of the emergency situation and may request that the Court immediately consider the motion. The moving party shall make notify the opposing party(ies) of the substance of the motion and the time of filing and presentation to the Court.

6. Motions to compel discovery may be considered by the Court without the necessity for briefs and argument.

7. Motions involving disputed issues of fact will be disposed of in accordance with Pa.R.C.P. 208.4.

8. Motions involving questions of law only will be disposed of by the Court on briefs without oral argument unless the moving party files a praecipe for argument simultaneously with the motion.

9. No response is required to any motion unless required by Pa. Rule of Civil Procedure or unless required by the Court in the scheduling order. (e.g., Pa.R.C.P. 1035.3)

10. The proposed order scheduling an argument on the motion shall include the phrase "_____ hour(s) is allotted for the argument." Upon receipt of the scheduling order, if counsel or a self-represented party does not believe that the allotted time is reasonably sufficient, it is the duty of counsel or the party to contact the Court Administrator's office, in writing, to request a continuance in order to reschedule the time necessary for the argument.

Rule L210. Briefs.

1. Briefs shall be prepared in the form prescribed by Pa.R.C.P. 210. Briefs shall not be filed of record unless directed by the Court. Unless otherwise directed, briefs shall be submitted to the Court as follows:

a. The moving party shall submit a brief fourteen (14) days in advance of argument.

b. The responding party shall submit a brief seven (7) days in advance of argument.

Rule L212.1. Trial.

1. Trial sessions shall be held at such time as established by the annual court calendar to dispose of all trial-ready jury and non-jury cases.

2. Cases shall be placed on the civil trial list by filing a certificate of readiness and a praecipe to list with the Prothonotary, along with a certificate of service showing service on all other parties in interest or their counsel of record.

3. Any party or counsel of record filing a certificate of readiness shall certify thereon that: (1) all pleadings have been completed; (2) all pretrial discovery procedures have been completed; (3) all medical examinations have been completed and medical reports exchanged; and (4) the case is ready for trial.

4. Any party or counsel of record who is served with a copy of a certificate of readiness that has been filed by an adverse party shall have ten (10) days from the date of service in which to file exceptions thereto. A proposed order scheduling argument on the exceptions shall be submitted simultaneously with the filing of the exceptions and argument on the exceptions will be scheduled thereafter.

Rule L212.2. Pre-trial Statement.

1. No less than ten (10) days prior to the date scheduled for the pre-trial conference, each party shall file with the Prothonotary a pre-trial statement containing those items set forth in Pa.R.C.P. 212.2 and serve other counsel of record or self-represented litigant. In addition, the pre-trial statement shall set forth an estimate of the length of time which will be required to present the party's case in chief. Amendments to a pre-trial statement may be submitted up to 30 days prior to the date trial is to begin and not thereafter unless approved by the Court.

Rule L212.3. Pre-trial Conference.

1. For the purposes of this rule, "pre-trial conference" shall mean a type of conference described in Pa.R.C.P. 212.3.

2. Except as otherwise ordered by the Court, a pre-trial conference shall be held at a date and time directed by the Court Administrator. Pre-trial conferences are extended to all jury and non-jury actions not subject to arbitration under Rule L1301.

3. Counsel attending the pre-trial conference must have actual authority to stipulate on items of evidence and admissions, and must have actual settlement authority. If counsel does not have such authority, then the person or corporation having an actual interest in the case, whether as a party, as an insurance carrier or otherwise, shall be personally present at the pre-trial conference.

4. The attorney who will be in charge of the handling of the trial of the case as well as any other attorney who will handle the examination or cross-examination of witnesses must attend the pre-trial conference.

5. During the pre-trial conference, a date certain will be established for jury selection.

6. Immediately following the pre-trial conference, the Court will issue a case management order covering all matters addressed at pre-trial. Following the issuance of a case management order, the Court Administrator shall

schedule active jury and non-jury cases for trial on a date certain after consultation with counsel and any self-represented party.

Rule L216. Motion for Continuance.

1. All continuance motions must be filed with the Prothonotary before being presented to the Court. Personal presentment is not required.

2. A motion for continuance shall be in writing, shall be signed by counsel or self-represented litigant, shall set forth specifically the reason for the request, and shall contain a statement that opposing counsel or any self-represented litigant either objects or does not object to the proposed continuance. In addition, any motion for continuance filed by an attorney shall include a statement that the client represented by the attorney requesting the continuance has been made aware of the motion and has consented to the continuance.

3. Motions submitted to the Court by facsimile or other electronic transmission will not be considered except in extraordinary or emergency situations. Any motion initially submitted by facsimile or other electronic submission must be filed of record within two (2) business days thereafter.

4. All motions for continuances based upon a calendar conflict due to an appearance scheduled in another court must include a copy of the scheduling order or notice issued by the other court. Since the Court of Common Pleas of the 59th Judicial District routinely schedules cases on a date certain after consultation with all counsel, absent extraordinary circumstances, a motion for continuance based upon proceedings scheduled in another court of record or appellate court will be granted only if the other court's scheduling order was issued before the order scheduling the proceeding for which the continuance is sought.

Rule L227.1. Post-Trial Conferences.

1. In every case in which a motion for post-trial relief has been filed or, alternatively, at the Court's discretion, the Court Administrator shall schedule a post-trial conference to be held as soon as the business of the Court permits. The purpose of such conference shall be to determine the precise issue or issues that will be before the Court on said motion and the extent of the trial record that will need to be transcribed.

a. Absent a request for transcription of a portion of the record, the Court will dispose of the motion without transcript.

b. A party filing a post-trial motion who desires a transcript shall cause the transcript or portion thereof to be prepared before the motion is argued.

c. In all cases where a transcript is requested, the party requesting the transcript must present a motion and order to the Court specifically identifying that portion of the record that is requested, and in the event that less than all of the trial is to be transcribed, the date and witnesses that are requested.

d. The court reporter shall, upon written request of counsel, provide an estimate of the cost of the transcript. Unless otherwise directed by the Court, the court reporter shall not begin transcribing notes until a deposit is made by the requesting party in an amount equal to one-half of the estimate cost of the transcription. Upon completion of the transcript, the court reporter shall invoice the party requesting the transcript. The transcript shall not be filed nor a copy delivered to any party until the invoice is paid

in full. In the discretion of the Court and upon order specially made, the transcript invoice may be taxed as costs of suit.

Rule L230.2. Termination of Inactive Cases.

1. On or before September 1 of each year, the Prothonotary shall prepare a list of all civil matters in which there has been no activity of record for two years or more prior thereto by serving a notice of proposed dismissal of court case.

2. The Prothonotary shall serve notice of proposed dismissal for each case on counsel of record, and on the parties if not represented, at least sixty (60) days prior to the date of the proposed termination. The notice shall contain the date of the proposed termination and the procedure to avoid termination.

a. Where it would be unduly burdensome to research the captions, parties, and mailing addresses of Cameron County divorce cases that have been inactive for two years or more, such cases shall be terminated pursuant to Pa.R.C.P. 230.2, provided, however, the Cameron County Prothonotary shall serve notice of the proposed dismissal upon plaintiffs' counsel or self-represented plaintiffs, at least sixty (60) days prior to the date of the proposed termination.

b. The President Judge shall determine when the use of L230.2(a) is appropriate and shall issue an order of court authorizing the Cameron County Prothonotary to proceed under this rule.

Rule L430. Service by Publication.

1. In all actions where service by publication is permitted, publication shall be made one time in a daily newspaper published in the county in which the action is brought, as no legal journal or publication exists in the 59th Judicial District.

Rule L1018. Notice to Defend. Form.

1. The officer to be named in the notice to defend from whom information concerning legal help can be obtained is:

a. For matters filed in Elk County:

Elk County Prothonotary
Elk County Courthouse
240 Main Street
Ridgway, PA 15853
(814) 776-5344

b. For matters filed in Cameron County:

Cameron County Prothonotary
Cameron County Courthouse
20 East Fifth Street
Emporium, PA 15834
(814) 486-3349

Rule L1028(c). Preliminary Objections.

1. Preliminary objections shall be filed with Prothonotary and shall include a proposed order scheduling argument on the preliminary objections, including a provision for the time allotted for the argument. Courtesy copies for the Court are not required. Briefs shall be filed in accordance with Pa.R.C.P. 210 and Rule L210.

Rule L1034(a). Motion for Judgment on the Pleadings.

1. A motion for judgment on the pleadings shall be filed with the Prothonotary before being presented to the Court and shall include a proposed order scheduling

argument on the motion. Personal presentment is not required. Courtesy copies of the motion for the Court are not required.

2. A brief shall be submitted contemporaneously with the motion or as directed in the scheduling order.

3. Motions submitted to the Court by facsimile or other electronic transmission will not be considered except in extraordinary or emergency situations. Any motion initially submitted by facsimile or other electronic submission must be filed of record within two (2) business days thereafter.

4. The opposing party shall file an answer or submit a reply brief to the motion within 20 days after service of the motion unless the time for filing the response is modified by court order.

5. Argument on the motion shall be scheduled after filing as a matter of course and without the necessity of filing a praecipe for argument. Argument shall be scheduled for a time and date certain. The moving party shall notify opposing counsel and any unrepresented party of the date, time and place for argument. The Court, in its discretion, may decide the matter at argument or take the matter under advisement.

6. The proposed order scheduling argument on the motion shall include the phrase “_____ hour(s) is allotted for the argument.” Upon receipt of the scheduling order, if counsel or a self-represented party does not believe that the allotted time is reasonably sufficient, it is the duty of counsel or the party to contact the Court Administrator’s office, in writing, to request a continuance in order to reschedule the time necessary for the argument.

7. The Court, in its discretion, may hear any argument by telephone conference or videoconference provided counsel has submitted a prompt written request to the Court to participate electronically. The party requesting to participate electronically shall bear the cost of participating electronically unless the Court provides otherwise.

8. A court reporter will not attend the argument unless specifically directed by the Court.

Rule L1035.2(a). Motion for Summary Judgment.

1. A motion for summary judgment shall be filed with the Prothonotary before being presented to the Court and shall include a proposed order scheduling argument on the motion. Personal presentment is not required. Courtesy copies of the motion for the Court are not required.

2. A brief shall be submitted contemporaneously with the motion or as directed in the scheduling order.

3. Motions submitted to the Court by facsimile or other electronic transmission will not be considered except in extraordinary or emergency situations. Any motion initially submitted by facsimile or other electronic submission must be filed of record within two (2) business days thereafter.

4. The opposing party shall file a response in accordance with Pa.R.C.P. 1035.3.

5. Argument on the motion shall be scheduled after filing as a matter of course and without the necessity of filing a praecipe for argument. Argument shall be scheduled for a time and date certain. The moving party shall notify opposing counsel and any unrepresented party of the date, time and place for argument. The Court, in its discretion, may decide the matter at argument or take the matter under advisement.

6. The proposed order scheduling argument on the motion shall include the phrase “_____ hour(s) is allotted for the argument.” Upon receipt of the scheduling order, if counsel or a self-represented party does not believe that the allotted time is reasonably sufficient, it is the duty of counsel or the party to contact the Court Administrator’s office, in writing, to request a continuance in order to reschedule the time necessary for the argument.

7. The Court, in its discretion, may hear any argument by telephone conference or videoconference provided counsel has submitted a prompt written request to the Court to participate electronically. The party requesting to participate electronically shall bear the cost of participating electronically unless the Court provides otherwise.

8. A court reporter will not attend the argument unless specifically directed by the Court.

Rule L1042.21. Medical Professional Liability Actions. Motion for Settlement Conference or Mediation.

1. Upon agreement of the parties that mediation would be appropriate for resolution of a case, a “stipulation for mediation” requesting a mediation conference and signed by all parties and counsel shall be filed of record and submitted to the Court. The stipulation shall specify that all parties involved agree to the mediation and believe that there is a realistic possibility of settlement. As only one judge presides in the 59th Judicial District, the Court shall request the appointment of a senior judge to act as the mediator.

2. Prior to the mediation conference,

a. All discovery must be completed.

b. A discussion of consent to settle must have taken place with all defendant doctors and health care providers.

c. The respective insurers must have completed all relevant claim evaluations.

d. All pre-trial dispositive motions, e.g., motions for summary judgment, must have been filed and resolved.

3. The date, time and place of the mediation conference shall be established by the mediator/judge.

4. Unless specifically requested by the mediator/judge, the parties shall not contact or forward documents to the mediator/judge.

5. The mediation session procedure shall be directed by the mediator/judge, but shall generally include an introduction of the parties, opening statements by counsel and any of the principals, if desired. Thereafter, caucuses will be conducted with the respective parties to permit the mediator/judge to develop and refine the parties’ positions.

6. Counsel who will actually try the case must attend the mediation conference, as must any unrepresented party. All parties, insurers and principals of parties with decision-making authority must attend the mediation conference in person unless excused by the mediator/judge. Any doctor who has not provided a signed statement indicating that he or she has discussed the case with his or her attorney of record and do or do not consent to a settlement must attend the mediator conference.

7. All mediation proceedings, including any statement made or writing submitted by a participant, shall not be disclosed to any person who is not directly involved with the mediation conference.

The parties' settlement positions and statements during mediation shall not be disclosed to the trial judge unless mutually agreed to by the parties. In the event of a non-jury trial, under no circumstances shall the parties' settlement positions and statements be disclosed to the trial judge.

No transcript or other recording may be made of the mediation conference and the mediation proceedings shall not be used by any adverse party for any reason in the litigation at issue provided, however, that a settlement agreement resulting from the mediation conference may be sought to be enforced.

8. The mediator/judge shall submit a confidential report to the trial judge indicating whether a settlement has been reached. The mediator/judge may recommend that further mediation be ordered if settlement has not been achieved.

Rule L1301. Compulsory Arbitration.

1. All civil matters where the amount in controversy, exclusive of interest and costs, does not exceed the maximum limitation prescribed by 42 Pa.C.S. 7361(b)(2) shall be tried before a Board of Arbitrators appointed from the list of available arbitrators for the 59th Judicial District.

2. The list of arbitrators shall consist of all active members of the Elk County and Cameron County Bar Associations in the 59th Judicial District, excepting only such attorney who files with the Prothonotary of each county in the district a written statement to the effect that he or she does not wish to be an arbitrator.

3. The Board of Arbitrators shall be chaired by a member of the Bar admitted to the practice of law for at least three (3) years.

4. Within ten (10) days after any party files a praecipe for arbitration, the Prothonotary shall appoint three arbitrators, with the first named to be the chairperson.

5. Appointment shall be rotated as evenly as possible among the members of the Bar, but no person shall be appointed to act as an arbitrator when another member of the same law firm has been appointed; or when an attorney is related by blood or marriage to any party involved; or when an attorney is a partner or associate of any attorney involved; or when an attorney informs the Prothonotary in writing that he or she is unable or does not wish to accept such appointment.

6. The party filing a praecipe shall immediately mail a copy of the praecipe to the adverse party or counsel.

7. If an appointed arbitrator dies or becomes incapable of acting before a hearing, the Prothonotary shall immediately appoint a substitute arbitrator.

8. A member of a Board of Arbitrators who would be disqualified for any reason that would disqualify a judge under the Code of Judicial Conduct shall immediately withdraw as an arbitrator; and a substitute shall be immediately appointed by the Prothonotary.

9. If any case is settled or discontinued after the arbitrators have been appointed, and before a hearing, counsel for the plaintiff shall immediately notify all appointed arbitrators at least one (1) day prior to any scheduled hearing, and upon failure to do so, counsel shall pay each appointed arbitrator \$50.00.

10. The arbitrators shall be sworn and hold all hearings at the courthouse facilities of the appropriate county unless the parties or their counsel agree to an alternate location.

11. The arbitrators shall hold a hearing within sixty (60) days after their appointment unless the time is extended by agreement of all parties or their counsel. The chairperson shall give at least thirty (30) days notice of the hearing to all parties or their counsel. No hearing shall be continued to a date more than one hundred eighty (180) days from date of appointment unless upon good cause.

12. The arbitrators shall conduct the hearing and receive evidence in accordance with Pa.R.C.P. 1304 and 1305.

13. The arbitrators shall make their award in substantially the form set forth in Pa.R.C.P. 1312 and file it with the Prothonotary within one day after the hearing, unless the time is extended by the parties. If an appointed arbitrator dies, becomes incapable of acting, or refuses to perform his duties after a hearing, but before an award is made, the case shall be decided and the award signed by the remaining arbitrators. If they cannot agree, the case shall be heard de novo by three arbitrators, two of whom shall be the original arbitrators, and one of whom shall be immediately appointed by the Prothonotary. The decision of the majority of the appointed arbitrators shall be conclusive.

14. The award shall be docketed, notice given, molded, and judgment entered as prescribed by Pa.R.C.P. 1307.

15. Within 30 days from the date of filing of an award, any party may appeal to the Court as provided by Pa.R.C.P. 1308.

16. Parties to appeal, discontinuance of appeal, and appeal procedures shall be in accordance with Pa.R.C.P. 1309, 1310, and 1311.

17. Each appointed arbitrator shall be paid \$125.00 from county funds and an additional \$10.00 for travel from one county to another within the judicial district. The chairperson of the arbitration board shall be entitled to an additional \$25.00 in compensation, or a total of \$150.00, plus \$10.00 for travel from one county to another within the judicial district. In cases requiring hearings of unusual complexity, the Court, upon petition of the appointed arbitrators, may allow additional compensation. Upon petition of any party, the Court may, for cause shown, disallow compensation to any or all of the appointed arbitrators. The arbitrators' compensation shall not be taxed as costs nor follow the award.

Rule L1910.4. Support. Commencement of Action.

1. All claims for support must be initiated in the appropriate county Domestic Relations Section of the Court of Common Pleas of the 59th Judicial District by filing a complaint for support or a certified copy of the divorce complaint containing a count for support. An application for child support services must also be completed and submitted to the appropriate county Domestic Relations Section.

2. If an agreement regarding support is reached pursuant to a divorce, the support agreement shall be specifically set forth apart from the remaining provisions of the divorce agreement and shall be filed in the appropriate county Domestic Relations Section.

3. Each complaint in divorce that contains a count for child support shall allow for a separate domestic relations number to be assigned by the Domestic Relations Section.

4. Filing fees shall be determined by the Prothonotary.

Rule L1910.11. Support. Office Conference. Subsequent Proceedings. Order.

1. In Cameron County, Pa.R.C.P. 1910.11 is hereby adopted.

Rule L1910.12. Support. Office Conference. Hearing. Record. Exceptions. Order.

1. In Elk County, the Alternative Hearing Procedure, Pa.R.C.P. 1910.12, is hereby adopted.

Rule L1915.3. Custody and Visitation. Commencement of Action.

1. All complaints for custody, partial custody and visitation are to be filed with the appropriate county Prothonotary and shall be substantially in the form prescribed in Pa.R.C.P. 1915.15 and 1915.16.

Rule L1915.4-3. Non-Record Proceedings. Trial.

1. In Elk and Cameron Counties, Pa.R.C.P. 1915.4-3 is adopted.

2. In all claims for custody, partial custody and visitation, the custody conference officer shall conduct a custody conference.

3. A conference fee of \$100.00 shall be submitted at time of filing the custody complaint or petition to modify custody unless the Court prior to the filing of a custody complaint or petition to modify custody has granted plaintiff or petitioner in forma pauperis status. The fee is payable to the custody conference officer. The custody conference officer may petition the Court for additional fees in appropriate circumstances.

4. If an agreement is reached at the custody conference, said agreement shall be noted by the custody conference officer or reduced to a written proposal signed by both parties and shall be submitted to the Court for an order.

5. If no agreement is reached at the conference, the custody conference officer shall make a recommendation for an interim custody order to the Court. A custody pretrial conference will be scheduled with the Court, following which, if necessary, a custody trial will be scheduled.

6. Prior to the custody pre-trial conference, the parties shall complete and submit a pre-trial statement to the Court and opposing party.

7. Prior to a custody trial, the parties shall complete and submit a parenting plan to the Court and opposing party.

8. Unless specifically ordered by the Court, the minor children shall not appear at the custody pre-trial conference or the custody trial.

Rule L1915.15. Complaint. Caption. Order.

1. The complaint for custody, partial custody and visitation or a petition to modify custody shall be in the form prescribed by Pa.R.C.P. 1915.15.

2. The order accompanying said complaint shall be in the form prescribed in Pa.R.C.P. 1915.16, except that the order in custody matters shall not require the children to appear at the custody conference. The order shall direct the parties to appear for a conference at the Domestic Relations Section, 2nd Floor, Elk County Courthouse Annex, 300 Center Street, Ridgway, PA (see L1915.15.). Service of the hearing notices is the responsibility of the moving party.

3. The officer to be named in the order to appear from whom information concerning legal help can be obtained is:

a. For matters filed in Elk County:

Elk County Prothonotary
Elk County Courthouse
Main Street
Ridgway, PA 15853
(814) 776-5344

b. For matters filed in Cameron County:

Cameron County Prothonotary
Cameron County Courthouse
20 E. Fifth Street
Emporium, PA 15834
(814) 486-3349

Rule L1915.15(a). Order and Notice. Form.

IN THE COURT OF COMMON PLEAS OF THE
FIFTY-NINTH JUDICIAL DISTRICT OF
PENNSYLVANIA

_____	* COUNTY BRANCH
Plaintiff	* (ELK)(CAMERON)
	*
vs.	* CIVIL ACTION - CUSTODY
	*
_____	* NO.
Defendant	

ORDER AND NOTICE

You, _____, Defendant, have been sued in court to obtain or modify custody, partial custody or visitation of the child(ren): _____.

You are ordered to appear in person at the Elk County Domestic Relations Section, 2nd Floor, Elk County Courthouse Annex, 300 Center Street, Ridgway, PA, on _____ at _____ a.m./p.m. for

- _____ a conciliation or mediation conference
- _____ a pretrial conference
- _____ a hearing before the court.

If you fail to appear as provided by this order, an order for custody, partial custody or visitation may be entered against you or the court may issue a warrant for you arrest.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. 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.

Prothonotary		Prothonotary
Elk County	OR	Cameron County
Courthouse		Courthouse
Main St.,		E. 4th Street,
Ridgway, PA 15853		Emporium, PA 15834
(814) 776-5344		(814) 486-3349

BY THE COURT:

DATE: _____

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Elk/Cameron County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

Rule L1920.3. Divorce. Commencement of Action.

1. A complaint for divorce shall be filed with the appropriate county Prothonotary of the Court of Common Pleas of the 59th Judicial District.

2. The officer to be named in the notice to defend from whom legal help can be obtained is:

a. For matters filed in Elk County:

Elk County Prothonotary
Elk County Courthouse
Main Street
Ridgway, PA 15853
(814) 776-5344

b. For matters filed in Cameron County:

Cameron County Prothonotary
Cameron County Courthouse
20 E. Fifth Street
Emporium, PA 15834
(814) 486-3349

3. The request for the entry of a decree in divorce which includes the approval or incorporation of a settlement agreement shall be denied unless the claims addressed in the settlement agreement, i.e., custody, support, alimony, alimony pendente lite, counsel fees, expenses and costs, and equitable distribution of property, have been raised of record in accordance with 23 Pa.C.S.A. 3104.

Rule L1920.51. Appointment of Master.

1. The Court shall, whenever necessary, appoint a permanent master who shall be an attorney. The party requesting the appointment of a master shall file with the appropriate county Prothonotary a motion for the appointment of a master in substantially the form prescribed in Pa.R.C.P. 1920.74. The permanent master's base fee for all claims related to a divorce shall be \$500. Said fee is payable to the permanent master and shall be submitted with the motion for the appointment of a master at time of filing of the motion. The permanent master may petition the Court for additional fees in appropriate circumstances and the allocation of the permanent master's fee may be determined in the master's report and recommendation.

2. All claims for equitable distribution, alimony, alimony pendente lite, attorney's fees and costs must be raised of record before being referred to a permanent master for hearing.

3. The permanent master shall prepare a case management order and schedule the master's pre-hearing conference or hearing.

4. The permanent master shall conduct the conference/hearing in accordance with Pa.R.C.P. 1920.55-2 and the established rules of law and evidence. The permanent master shall have the general power of a court, including, but not limited to:

a. The power to issue subpoenas and the power to issue an attachment upon allowance by the court for failure to comply therewith.

b. The power to administer oaths or affirmations to witnesses, to determine the admissibility of evidence, to permit testimony to be offered by deposition, and to decide the law and facts of the case submitted.

c. The power to compel the production of all books, paper, and documents which shall be deemed material to the case.

5. The permanent master shall tape record the hearing for later transcription upon request by any party. The party requesting the same shall pay the cost thereof.

6. Forms and procedures with respect to a claim for custody and/or visitation incident to a divorce shall be as prescribed by Local Rule L1915.3, L1915.4-2 and L1915.15.

Rule L1920.53. Hearing by Master. Report.

1. All actions requesting a divorce pursuant to 23 Pa.C.S.A. 3301(a) or an annulment pursuant to 23 Pa.C.S.A. 3303 shall be referred to the permanent master upon the filing of a motion for the appointment of a master substantially in the form prescribed by Pa.R.C.P. 1920.74 with the appropriate county Prothonotary. The permanent master's fee shall be \$500. Said fee is payable to the permanent master and shall be submitted with the motion for the appointment of a master at time of filing. The permanent master may petition the Court for additional fees in appropriate circumstances.

2. The permanent master shall give at least ten (10) days written notice of the time and place of the hearing to both parties or their attorneys.

Rule L1920.55-2. Master's Report. Notice. Exceptions. Final Decree.

1. In Elk and Cameron Counties, Pa.R.C.P. 1920.55-2 is hereby adopted.

MAGISTERIAL DISTRICT JUDGES**PCPMDJ Rule L112 Availability and Temporary Assignments of Magisterial District Judges**

1. The Court shall file an order of court establishing an annual on-call schedule for magisterial district judges to be available at all times to handle matters requiring immediate attention and possessory matters.

2. The on-call schedule may be amended upon cause shown by the assigned on-call magisterial district judge and the agreement of another magisterial district judge within the district to be the substitute on-call magisterial district judge.

3. The order of court establishing the annual on-call schedule and any subsequent orders amending the annual on-call schedule shall be conspicuously posted in the offices of the magisterial district courts within the judicial district and the Court Administrator shall distribute copies to all law enforcement agencies and other agencies affected.

[Pa.B. Doc. No. 08-7. Filed for public inspection January 4, 2008, 9:00 a.m.]

DAUPHIN COUNTY

Local Rule 573; No. 4-29 MD 2007

Order

And Now, this 20th day of December, 2007, Dauphin County Local Rule 573 is amended as follows:

Rule 573. Discovery of Children and Youth Records in Non-Dependency Cases

Pursuant to the Juvenile Act, 42 Pa.C.S. § 6307, and the Child Protective Services Law, 23 Pa.C.S. § 6840, any party to litigation seeking discovery of confidential reports and records of Dauphin County Services for Children and Youth (Child Protective Service Agency) shall file a [**petition for a Show Cause Order**] motion stating with particularity the scope, necessity, and authority for the discovery sought.

The [**petition and rule**] motion shall be served on any adverse party, on the Dauphin County Children and Youth Agency, and on the guardian ad litem (if any) for the child.

Any objection must identify that portion of the reports of records sought to be withheld and state with particularity any privilege asserted thereto.

Thereafter, the court shall either a) schedule a hearing on the motion; or b) schedule an in-camera conference; or c) issue an order based on the averments in the motion and in any response filed thereto.

Comments:

Nothing in this rule shall preclude a party from filing a motion for a protective order.

Certain privileges are absolute and are not overcome by a defendant's Sixth Amendment right to cross-examine a witness or to due process of law. Examples of the foregoing are:

- Domestic Violence Advocate/Counselor: 23 Pa.C.S. § 6116; *V.B.T. v. Family Services of Western Pa.*, 705 A.2d 1325 (Pa.Super. 1998)
- Sexual Assault Counselor Privilege: 42 Pa.C.S. § 5945; *Commonwealth v. Wilson*, 602 A.2d 1290 (Pa. 1992)
- Psychotherapist Privilege: 42 Pa.C.S. § 5944; *Commonwealth v. Counterman*, 719 A.2d 284 (Pa. 1998)

Comment

[**This rule was rescinded effective February 1, 2007, by passage of the amendments to the Pa. R.J.C.P.**

This rule is readopted effective February 1, 2007.]

This rule is intended to apply not only in criminal cases. This procedure should be used when such records are requested in custody cases or in any other civil case.

These amendments shall be effective thirty days after publication in the *Pennsylvania Bulletin*.

By the Court

RICHARD A. LEWIS,
President Judge

[Pa.B. Doc. No. 08-8. Filed for public inspection January 4, 2008, 9:00 a.m.]

LEHIGH COUNTY

Clerk of Courts; Criminal Division—Fee Schedule;
Case No: AD-25-2007

Order

And Now, this 10th day of December, 2007, upon consideration of the within Petition for Increase of Fees, presented by Lehigh County Clerk of Courts, Andrea E. Naugle, and in accordance with Act 36 of 2000, the Criminal Fee Law,

It Is Ordered that the Fee Schedule of the Lehigh County Clerk of Courts—Criminal Division is amended,

It Is Further Ordered that the Fee Schedule of the Lehigh County Clerk of Courts—Criminal Division, as follows is approved and hereby shall become effective January 2, 2008. Filings received by the Lehigh County Clerk of Courts—Criminal Division beginning January 2, 2008 shall incur costs according to the new Fee Schedule.

By the Court

ALAN M. BLACK,
President Judge

**ANDREA E. NAUGLE, CLERK OF COURTS
LEHIGH COUNTY CLERK OF COURTS—
CRIMINAL DIVISION
FEE SCHEDULE**

<i>Current</i>		<i>Effective 1/2/2008</i>
\$169.60	for all proceedings in all cases disposed of at any time during or after trial	\$187.55
\$127.20	for all proceedings in all cases disposed of before trial	\$140.65
\$21.20	for all proceedings in summary matters	\$23.40
\$8.45	for all certifications	\$9.30
\$20.90 *	for all other matters filed in the office and for all reports prepared by the clerk	\$22.55
\$47.40 *	for filing an appeal from a summary conviction before a District Justice (additional \$17.55 for nunc pro tunc petition)	\$51.85
\$47.70	for an appeal from the Court of Common Pleas to an appellate court	\$52.75
\$58.00 *	for filing a new/renewal petition for private detective matter	\$63.60
\$7.40	for photo identification card	\$8.15

* Includes \$5.00 automation fee

POUNDAGE:

From:

A fee of 4.77¢ per dollar for the first \$1,000 and 1.59¢ per dollar for each additional \$1,000 or fraction thereof for the handling of money paid into court

Increased to:

A fee of 5.28¢ per dollar for the first \$1,000 and 1.76¢ per dollar for each additional \$1,000 or fraction thereof for the handling of money paid into court

Photo-copying and computer docket printouts by clerk at office convenience

\$.50—	Each page requested for pick up	\$.50
\$1.00—	Mail; 1st page	\$1.00
\$.50—	Each additional page	\$.50
\$1.00—	Microfilm copy	\$1.00

[Pa.B. Doc. No. 08-9. Filed for public inspection January 4, 2008, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Transfer of Attorneys to Inactive Status

Notice is hereby given that the following attorneys have been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated November 15, 2007, under Pennsylvania Rules of Disciplinary Enforcement 219 which requires that every attorney admitted to practice in any court of this Commonwealth must pay an annual assessment of \$175. The Order became effective December 15, 2007.

Notice with respect to attorneys having Pennsylvania registration addresses, which have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

Al-Hashimi, Adnan H.
Saudi Arabia

Allen, Louis B.
Mount Holly, NJ

Anderson, Catherine S.
Manassas, VA

Anstey, Daniel
New York, NY

Badalamente, Shannon
Mount Airy, GA

Baidas, Carole A.
Fontana, CA

Becchi, Rosemary D.
Washington, DC

Begley, Kevin J.
Parlin, NJ

Bernard, Ross M.
New York, NY

Blaney, Dana M.
Bridgeton, NJ

Blumberg, Jill H.
New York, NY

Bocco Jr., Dominic G.
Cherry Hill, NJ

Boland, Mark
Washington, DC

Bradel, Dallas A.
South Hamilton, MA

Braverman, Fred R.
Cherry Hill, NJ

Britt, Anthony B.
Miami, FL

Burns, Martin
Las Vegas, NV

Cessario, Lorraine C.
Elkton, MD

Chapman, Timothy J.
New York, NY

Cherdak, Erik B.
North Potomac, MD

Cohn, Debra L. W.
New York, NY

Connor, Tracy E.
Alexandria, VA

Conway, Danielle M.
Honolulu, HI

Conway, James P.
Millsboro, DE

Croom IV, John H.
Claymont, DE

Cunningham, Tina L.
Starkville, MS

D'Amico, Theresa A.
Miami, FL

Daniel, Maria A.
Sicklerville, NJ

Dash, B. Alan
Moorestown, NJ

Dibble, Jaime S.
Arlington, VA

DiLisio, Carl A.
Chesterfield, MO

Dopkin, Matthew B.
Westmont, NJ

Dorwart, Karl A.
High Bridge, NJ

Dryden, David W.
Dover, DE

Edwards, Trevor
Akron, OH

Embert, Amy J.
Palo Alto, CA

Gaughan, Michael P.
Plainsboro, NJ

Glasser, Philip R.
Overland Park, KS

Goldman, Benjamin J.
Ann Arbor, MI

Grogan, Eric L.
Cedar Knolls, NJ

Guerin, Amy R.
Burlington, NJ

Haaf, Shannon
Stevenson, MD

Hall, Elizabeth P.
Wilmette, IL

Hamilton, Daniel J.
Somerville, NJ

Harmon, Alton A. J.
Boston, MA

Hartman, Fred W.
Charlotte, NC

Heath, Charles D.
Des Moines, IA

Hicks, William B.
Charleston, WV

Holston, Brenda W.
Menlo Park, CA

Hopper, Diane B.
Cincinnati, OH

Housel, Theodore F. L.
Mays Landing, NJ

Huddleston, Natalie B.
Phoenix, AZ

Iannozi, Thomas J.
London England

Igoe, William B.
Chicago, IL

Ivanoff, Lucy
Harrisonburg, VA

Ivery, Nicole T.
Columbia, SC

Javakov, Zara
Brooklyn, NY

Jayaraman, Mythri A.
Annandale, VA

Johnson, Mark S.
Lithonia, GA

Kang, Raymond M.
Belle Mead, NJ

Kenison, Timothy D.
Palm Beach Gardens, FL

Kim, Elizabeth H. J.
Santa Monica, CA

Kirkham, Ashley S.
New York, NY

Korber, Jeff E.
Encinitas, CA

Kozolchyk, Raphael A.
Washington, DC

Krolikowski, Joseph
Atlanta, GA

Kulikowski III, John F.
Fairfield, CT

La Barca, Anjella M.
Scarsdale, NY

Lambert, Mary-Jean
Las Vegas, NV

Lemieux, James M.
Geneva, OH

Lemire Garlic, Nicole L.
Hamilton, NJ

Mankowski, Michael B.
Hoboken, NJ

Mariano, Randy A.
Wilmington, DE

Marrone, Nicole S.
Washington, DC

Mathewson, Jessica P.
New York, NY

Maynard, Adam L.
Charleston, WV

McCartney, James W.
San Juan, Puerto Rico

McGeehan, Ann O.
Belgium

Melendez, Julia M.
Easton, MD

Mendy, Edward B.
New Orleans, LA

Mesterhazy, Paul M.
Springfield, VA

Mitchell, Kevin J.
Audubon, NJ

Mohin, Brian J.
Hartwick, NY

Morrison, Susan B.
Tampa, FL

Motta, Alison H.
Aurora, IL

Muir, Gregory R.
San Jose, CA

Muldoon, Carolyn A.
Rochester, NY

Nabipour, Lisa N.
Orlando, FL

O'Donnell, Patricia U.
New York, NY

Oliver, Yolanda R.
Bowie, MD

Orzechowski, Karen L.
Washington, DC

Paul, Jordan C.
Ellicott City, MD

Pemberton, Christian A.
Sicklerville, NJ

Pietras, Lisa J.
Wilmington, DE

Pollard, Marcia S.
Palm Beach Gardens, FL

Quay, Curtis R.
San Diego, CA

Rednor, Howard S.
Trenton, NJ

Reid, Roy M.
Raleigh, NC

Ribeiro, Traci-Leigh M.
Chicago, IL

Roberson, Gerald D.
Washington, DC

Rockefeller, Nicholas
Washington, DC

Ruffenach, David J.
Egg Harbor Township, NJ

Ruiz, Anita A.
Hamilton, NJ

Sheldon, Steven J.
Florham Park, NJ

Snock, Lesley
Avalon, NJ

Spence, Gregory K.
Stamford, CT

Suber, Elke F.
Redmond, WA

Talbot, Kathryn E.
Haddonfield, NJ

Teague, Jill L.
Haddonfield, NJ

Thoman, Todd H.
Great Meadows, NJ

Tortella, Jessica L.
Woodbury Heights, NJ

Trazzi, Damon A.
Timonium, MD

Turner, Wayne T.
Brooklyn, NY

Vaske, Brean C.
Lexington, KY

Velasco, Joseph L.
Edison, NJ

Wells, Michael
Orlando, FL

Williams, Althea J.
Lumberton, NC

Williams, William R.
Kingwood, TX

Williamson, Temperance L.
Delran, NJ

Wilson, William T.
St. Charles, IL

Woodhouse, Nicholas L.
Norfolk, VA

Yantis, Matthew A.
Fernandina, FL

Zeigler, Jason B.
Syracuse, NY

Zhang, Yi
Beijing China

Zurita, James H.
Burke, VA

ELAINE M. BIXLER,
Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

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