

# THE COURTS

## Title 210—APPELLATE PROCEDURE

[ 210 PA. CODE CHS. 1, 9, 11, 19, 21 AND 25 ]

Amendment of Rules 102, 903, 904, 905, 1112, 1113, 1116, 1123, 1925, 1931, 1972, 2154, 2172, 2185, 2542 and 2545

The Appellate Court Procedural Rules Committee (Committee) proposes to amend Pennsylvania Rules of Appellate Procedure 102, 903, 904, 905, 1112, 1113, 1116, 1123, 1925, 1931, 1972, 2154, 2172, 2185, 2542 and 2545. The suggested amendments are designed to implement a broad Family Fast Track to speed up the appellate process in cases involving the rights of children—dependency, termination of parental rights, adoptions, custody and paternity. The suggested amendments are being submitted to the bench and bar for comments and suggestions prior to their submission to the Supreme Court.

Proposed new material is bold while deleted material is bold and bracketed.

Attached to this Recommendation is a Committee Report that addresses the problem identified by the Committee, the process by which it studied the problem and prepared the Recommendation, and a summary of the Recommendation. This report was prepared by this Committee for the convenience of the bench and bar. It will neither constitute part of the rule nor be officially adopted or promulgated.

All communications in reference to the proposed amendment should be sent no later than September 24, 2008, to:

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D. Alicia Hickok, Deputy Counsel  
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By the Appellate Court  
Procedural Rules Committee

HONORABLE MAUREEN E. LALLY-GREEN,  
*Chair*

PROFESSOR ABRAHAM J. GAFNI,  
*Vice Chair*

### Annex A

#### TITLE 210. APPELLATE PROCEDURE PART I. RULES OF APPELLATE PROCEDURE ARTICLE I. PRELIMINARY PROVISIONS CHAPTER 1. GENERAL PROVISIONS IN GENERAL

##### Rule 102. Definitions.

Subject to additional definitions contained in subsequent provisions of these rules which are applicable to

specific provisions of these rules, the following words and phrases when used in these rules shall have, unless the context clearly indicates otherwise, the meanings given to them in this rule:

\* \* \* \* \*

*Docket entries*—Includes the schedule of proceedings of a governmental unit.

**Family Fast Track Appeal**—Any appeal from an order involving dependency, termination of parental rights, adoptions, custody or paternity. See 42 Pa.C.S. §§ 6301 et seq.; 23 Pa.C.S. §§ 2511 et seq.; 23 Pa.C.S. §§ 2101 et seq.; 23 Pa.C.S. §§ 5301 et seq.; 23 Pa.C.S. §§ 5102 et seq.

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### ARTICLE II. APPELLATE PROCEDURE

#### CHAPTER 9. APPEALS FORM LOWER COURTS

##### Rule 903. Time for Appeal.

\* \* \* \* \*

(c) *Special provisions.* Notwithstanding any other provision of this rule:

\* \* \* \* \*

**(2) An appeal from any of the orders covered by the family fast track appeal shall be taken within 21 days of the entry of the order from which the appeal is taken.**

[ (2) ] (3) Where an election has been filed under Rule 311(b) (order sustaining venue or personal or *in rem* jurisdiction), the notice of appeal shall be filed within 30 days after the filing of the election.

[ (3) ] (4) In a criminal case in which no post-sentence motion has been filed, the notice of appeal shall be filed within 30 days of the imposition of the judgment of sentence in open court.

\* \* \* \* \*

##### Rule 904. Content of the Notice of Appeal.

(a) *Form.* [ The ] Except as otherwise prescribed by this rule, the notice of appeal shall be in substantially the following form:

\* \* \* \* \*

**(f) Content in family fast track appeals.**—In a family fast track appeal the notice of appeal shall include a statement advising the appellate court that the appeal is a family fast track appeal.

\* \* \* \* \*

##### Rule 905. Filing of Notice of Appeal.

(a) *Filing with clerk.*

(1) Two copies of the notice of appeal, the order for transcript, if any, and the proof of service required by Rule 906 (service of notice of appeal), shall be filed with the clerk of the trial court. If the appeal is to the Supreme Court, the jurisdictional statement required by Rule 909 shall also be filed with the clerk of the trial court.

**(2) If the appeal is a family fast track appeal, the concise statement of errors complained of on ap-**

peal as described in Rule 1925(b) shall be filed with the notice of appeal and served in accordance with Rule 1925(b)(1).

(3) Upon receipt of the notice of appeal the clerk shall immediately stamp it with the date of receipt, and that date shall constitute the date when the appeal was taken, which date shall be shown on the docket.

(4) If a notice of appeal is mistakenly filed in an appellate court, or is otherwise filed in an incorrect office within the unified judicial system, the clerk shall immediately stamp it with the date of receipt and transmit it to the clerk of the court which entered the order appealed from, and upon payment of an additional filing fee the notice of appeal shall be deemed filed in the trial court on the date originally filed.

(5) A notice of appeal filed after the announcement of a determination but before the entry of an appealable order shall be treated as filed after such entry and on the day thereof.

(b) *Transmission to appellate court.* The clerk shall immediately transmit to the prothonotary of the appellate court named in the notice of appeal a copy of the notice of appeal showing the date of receipt, the related proof of service and a receipt showing collection of any docketing fee in the appellate court required under Subdivision (c). **If the appeal is a family fast track appeal, the clerk shall stamp the notice of appeal with a "Family Fast Track" designation in red ink, advising the appellate court that the appeal is a family fast track appeal and shall transmit to the prothonotary of the appellate court named in the notice of appeal the concise statement of errors complained of on appeal required by Subdivision (a)(2) of this rule.** The clerk shall also transmit with such papers:

\* \* \* \* \*

**CHAPTER 11. APPEALS FROM COMMONWEALTH COURT AND SUPERIOR COURT**

**PETITION FOR ALLOWANCE OF APPEAL**

**Rule 1112. Appeals by Allowance.**

\* \* \* \* \*

(c) *Petition for allowance of appeal.* [ — ]

(1) Allowance of an appeal from a final order of the Superior Court or the Commonwealth Court may be sought by filing a petition for allowance of appeal with the Prothonotary of the Supreme Court within the time allowed by Rule 1113 (time for petitioning for allowance of appeal), with proof of service on all other parties to the matter in the appellate court below.

(2) If the petition for allowance of appeal is transmitted to the Prothonotary of the Supreme Court by means of first class mail, the petition shall be deemed received by the Prothonotary for the purposes of Rule 121(a) (filing) on the date deposited in the United States mail, as shown on a U.S. Postal Service Form 3817 certificate of mailing. The certificate of mailing shall show the docket number of the matter in the appellate court below and shall be either enclosed with the petition or separately mailed to the Prothonotary.

(3) Upon actual receipt of the petition for allowance of appeal the Prothonotary of the Supreme Court shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this subdivision, shall constitute the date when allowance of appeal was sought, which date

shall be shown on the docket. The Prothonotary of the Supreme Court shall immediately note the Supreme Court docket number upon the petition for allowance of appeal and give written notice of the docket number assignment in person or by first class mail to the prothonotary of the appellate court below who shall note on the docket that a petition for allowance of appeal has been filed to the petitioner and to the other persons named in the proof of service accompanying the petition.

**(4) In a family fast track appeal, the Prothonotary of the Supreme Court shall stamp the petition for allowance of appeal with a "Family Fast Track" designation in red ink, advising the Supreme Court that the petition for allowance of appeal is a family fast track appeal.**

\* \* \* \* \*

**Rule 1113. Time for Petitioning for Allowance of Appeal.**

(a) *General rule.*—Except as otherwise prescribed by this rule [ , ]:

(1) [ a ] A petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within 30 days after the entry of the order of the Superior Court or the Commonwealth Court sought to be reviewed.

(2) If a timely application or reargument is filed in the Superior Court or Commonwealth Court by any party, the time for filing a petition for allowance of appeal for all parties shall run from the entry of the order denying reargument or from the entry of the decision on reargument, whether or not that decision amounts to a reaffirmation of the prior decision. Unless the Superior Court or the Commonwealth Court acts on the application for reargument within 60 days after it is filed the court shall no longer consider the application, it shall be deemed to have been denied and the prothonotary of the appellate court shall forthwith enter an order denying the application and shall immediately give written notice in person or by first class mail of entry of the order denying the application to each party who has appeared in the appellate court. A petition for allowance of appeal filed before the disposition of such an application for reargument shall have no effect. A new petition for allowance of appeal must be filed within the prescribed time measured from the entry of the order denying or otherwise disposing of such an application for reargument.

\* \* \* \* \*

(d) *Family fast track appeals.*—In a family fast track appeal:

(1) A petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within 21 days after the entry of the order of the Superior Court sought to be reviewed.

(2) If a timely application or reargument is filed in the Superior Court by any party, the time for filing a petition for allowance of appeal for all parties shall run from the entry of the order denying reargument or from the entry of the decision on reargument, whether or not that decision amounts to a reaffirmation of the prior decision. Unless the Superior Court acts on the application for reargument within 45 days after it is filed the Superior Court shall no longer consider the application, it shall be deemed to have been denied and the prothonotary of the Superior Court shall forthwith enter an order denying the application and shall

immediately give written notice in person or by first class mail of entry of the order denying the application to each party who has appeared in the Superior Court. A petition for allowance of appeal filed before the disposition of such an application for reargument shall have no effect. A new petition for allowance of appeal must be filed within the prescribed time measured from the entry of the order denying or otherwise disposing of such an application for reargument.

\* \* \* \* \*

**Rule 1116. Brief in Opposition to Petition.**

(a) **General rule.**—[Within] Except as otherwise prescribed by this rule, within 14 days after service of a petition for allowance of appeal an adverse party may file a brief in opposition. The brief in opposition need not be set forth in numbered paragraphs in the manner of a pleading, shall set forth any procedural, substantive or other argument or ground why the order involved should not be reviewed by the Supreme Court and shall comply with Rule 1115(a)(7) (content of petition for allowance of appeal). No separate motion to dismiss a petition for allowance of appeal will be received. A party entitled to file a brief in opposition under this rule who does not intend to do so shall, within the time fixed by these rules for filing a brief in opposition, file a letter stating that a brief in opposition to the petition for allowance of appeal will not be filed. The failure to file a brief in opposition will not be construed as concurrence in the request for allowance of appeal.

(b) **Family fast track appeals.**—In a family fast track appeal, within 10 days after service of a petition for allowance of appeal, an adverse party may file a brief in opposition.

\* \* \* \* \*

**Rule 1123. Denial of Appeal; Reconsideration.**

\* \* \* \* \*

(b) **Reconsideration.** Applications for reconsideration of denial of allowance of appeal are not favored and will be considered only in the most extraordinary circumstances. An application for reconsideration of denial of a petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within fourteen days after entry of the order denying the petition for allowance of appeal. In a family fast track appeal, the application for reconsideration of denial of a petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within 7 days after entry of the order denying the petition for allowance of appeal. Any application filed under this subdivision must:

\* \* \* \* \*

**CHAPTER 19. PREPARATION AND TRANSMISSION OF RECORD AND RELATED MATTERS**

**RECORD ON APPEAL FROM LOWER COURT**

**Rule 1925. Opinion in Support of Order.**

(a) **General rule.**—[Upon] Except as otherwise prescribed by this rule, upon receipt of the notice of appeal, the judge who entered the order giving rise to the notice of appeal, if the reasons for the order do not already appear of record, shall forthwith file of record at least a brief opinion of the reasons for the order, or for

the rulings or other errors complained of, or shall specify in writing the place in the record where such reasons may be found.

\* \* \* \* \*

(e) **Family fast track appeals.**—In a family fast track appeal:

(1) Upon receipt of the notice of appeal and the concise statement of errors complained of on appeal required by Rule 905(a)(2), the judge who entered the order giving rise to the notice of appeal, if the reasons for the order do not already appear of record, shall within 14 days file of record at least a brief opinion of the reasons for the order, or for the rulings or other errors complained of, or shall specify in writing the place in the record where such reasons may be found.

(2) The concise statement of errors complained of on appeal shall be filed and served with the notice of appeal required by Rule 905. See Pa.R.A.P. 905(a)(2).

\* \* \* \* \*

**Rule 1931. Transmission of the Record.**

(a) **Time for transmission.**—[The] Except as otherwise prescribed by this rule, the record on appeal, including the transcript and exhibits necessary for the determination of the appeal, shall be transmitted to the appellate court within 60 days after the filing of the notice of appeal. If an appeal has been allowed or if permission to appeal has been granted, the record shall be transmitted as provided by Rule 1122 (allowance of appeal and transmission of record) or by Rule 1322 (permission to appeal and transmission of record), as the case may be. The appellate court may shorten or extend the time prescribed by this subdivision for a class or classes of cases.

\* \* \* \* \*

(f) **Family fast track appeals.**—In a family fast track appeal, the record on appeal, including the transcript and exhibits necessary for the determination of the appeal, shall be transmitted to the appellate court within 30 days after the filing of the notice of appeal.

\* \* \* \* \*

**DISPOSITION WITHOUT REACHING THE MERITS**

**Rule 1972. Dispositions on Motion.**

(a) Except as otherwise prescribed by this rule, [Subject] subject to Rule 123 (applications for relief), any party may move:

\* \* \* \* \*

(b) In a family fast track appeal, a dispositive motion filed under Subdivisions (a)(1), (a)(2), (a)(5), (a)(6) or (a)(7) of this rule shall be filed within 10 days of the filing of the statement of errors complained of on appeal required by Rules 905(a)(2) and 1925(b), or within 10 days of the lower court's filing of a Rule 1925(e)(1) opinion, whichever period expires last, unless the basis for seeking to quash the appeal appears on the record subsequent to the time limit provided herein, or except upon application and for good cause shown.

\* \* \* \* \*

CHAPTER 21. BRIEFS AND REPRODUCED RECORD

CONTENT OF REPRODUCED RECORD

Rule 2154. Designation of Contents of Reproduced Record.

(a) General rule—Except when the appellant has elected to proceed under Subdivision (b) of this rule, or as otherwise provided in Subdivision (c) of this Rule, the appellant shall not later than 30 days before the date fixed by or pursuant to Rule 2185 (time for serving and filing briefs) for the filing of his brief, serve and file a designation of the parts of the record which he intends to reproduce and a brief statement of issues which he intends to present for review. If the appellee deems it necessary to direct the particular attention of the court to parts of the record not designated by the appellant, the appellee shall, within ten days after receipt of the designations of the appellant, serve and file a designation of those parts. The appellant shall include in the reproduced record the parts thus designated. In designating parts of the record for reproduction, the parties shall have regard for the fact that the entire record is always available to the court for reference and examination and shall not engage in unnecessary designation.

\* \* \* \* \*

(c) Family fast track appeals.

(1) In a family fast track appeal, the appellant shall not later than 23 days before the date fixed by or pursuant to Rule 2185 (time for serving and filing briefs) for the filing of his brief, serve and file a designation of the parts of the record which he intends to reproduce and a brief statement of issues which he intends to present for review. If the appellee deems it necessary to direct the particular attention of the court to parts of the record not designated by the appellant, the appellee shall, within 7 days after receipt of the designations of the appellant, serve and file a designation of those parts. The appellant shall include in the reproduced record the parts thus designated. In designating parts of the record for reproduction, the parties shall have regard for the fact that the entire record is always available to the court for reference and examination and shall not engage in unnecessary designation.

(2) In a family fast track appeal, the provisions of Subdivision (b) shall not apply.

\* \* \* \* \*

FORM OF BRIEFS AND REPRODUCED RECORD

Rule 2172. Covers.

\* \* \* \* \*

(b) Family fast track appeals.—In a family fast track appeal, the front cover shall include a statement advising the appellate court that the appeal is a family fast track appeal.

[(b)] (c) Reproduced record.—If the reproduced record is bound separately, the cover thereof shall be the same as provided in Subdivision (a), except that in place of the information set forth in Paragraph (a)(4) of this rule there shall appear "Reproduced Record" or "Supplemental Reproduced Record," as the case may be.

[(c)] (d) Repetition in body of document.—Unless expressly required by these rules, none of the material set forth in Subdivisions (a) and (b) shall be repeated in the brief or reproduced record.

[(d)] (e) Cover stock.—The covers of all briefs and reproduced records must be so light in color as to permit writing in ink thereon to be easily read and so firm in texture that the ink will not run.

\* \* \* \* \*

FILING AND SERVICE

Rule 2185. Time for Serving and Filing Briefs.

(a) General Rule.—[The] Except as otherwise provided by this rule, the appellant shall serve appellant's brief not later than the date fixed pursuant to Subdivision (b) of this rule, or within 40 days after the date on which the record is filed, if no other date is so fixed. The appellee shall serve appellee's brief within 30 days after service of appellant's brief and reproduced record if proceeding under Rule 2154(a). A party may serve a reply brief permitted by these rules within 14 days after service of the preceding brief but, except for good cause shown, a reply brief must be served and filed so as to be received at least three days before argument. In cross appeals, the second brief of the deemed or designated appellant shall be served within 30 days of service of the deemed or designated appellee's first brief. Except as prescribed by Rule 2187(b) (advance text of briefs), each brief shall be filed not later than the last day fixed by or pursuant to this rule for its service.

\* \* \* \* \*

(d) Family fast track appeals.

(1) In a family fast track appeal, the appellant shall serve appellant's brief within 30 days after the date on which the record is filed, if no other date is so fixed. The appellee shall serve appellee's brief within 20 days after service of appellant's brief and reproduced record. A party may serve a reply brief permitted by these rules within 7 days after service of the preceding brief but, except for good cause shown, a reply brief must be served and filed so as to be received at least three days before argument. In cross appeals, the second brief of the deemed or designated appellant shall be served within 20 days of service of the deemed or designated appellee's first brief.

(2) In a family fast track appeal, the provisions of Subdivisions (b) and (c) shall not apply.

\* \* \* \* \*

CHAPTER 25. POST-SUBMISSION PROCEEDINGS

APPLICATION FOR REARGUMENT

Rule 2542. Time for Application for Reargument. Manner of Filing.

(a) Time.—[An] Except as otherwise prescribed by this rule, an application for reargument shall be filed with the prothonotary within 14 days after entry of the judgment or other order involved.

\* \* \* \* \*

(c) Family fast track appeals.—In a family fast track appeal, an application for reargument shall be filed with the prothonotary within 7 days after entry of the judgment or other order involved.

\* \* \* \* \*

**Rule 2545. Answer in Opposition to Application.**

(a) **General rule.**—[Within ] Except as otherwise prescribed in Subdivision (b) of this rule, within 14 days after service of an application for reargument, an adverse party may file an answer in opposition. The answer in opposition need not be set forth in numbered paragraphs in the manner of a pleading. The answer shall set forth any procedural, substantive or other argument or ground why the court should not grant reargument. No separate motion to dismiss an application for reargument will be received. A party entitled to file an answer in opposition under this rule who does not intend to do so shall, within the time fixed by these rules for filing an answer in opposition, file a letter stating that an answer in opposition to the application for reargument will not be filed. The failure to file an answer in opposition will not be construed as concurrence in the request for reargument.

(b) **Family fast track appeals.**—In a family fast track appeal, within 7 days after service of an application for reargument, an adverse party may file an answer in opposition.

**COMMITTEE REPORT****The Problem**

While timeliness is important in all court disputes, it is particularly important in cases involving the rights and interests of children—especially those who are involved in and forced to remain in unstable and sometimes violent circumstances. Because childhood is so short, time-wise, and children need stable and safe environments, it is critical that timely and efficient decision-making occurs by those who exercise legal decision making authority over children. This is especially so in cases involving custody, paternity, dependency, termination of parental rights and adoption.

We observe that the Superior Court does operate a system wherein, among others, appeals involving custody, paternity, dependency, termination of parental rights and adoption are treated by the Court on a “fast track” basis (“family fast track”). The current family fast track system expedites these appeals once they arrive at the chambers of the judges of the Superior Court. This process, however, does not expedite the process from decision by the trial court until the appeal reaches the chambers of the Superior Court judges.

After careful study, the Committee believes that a series of amendments to the appellate rules will improve case management throughout the entire appellate process (not just the time spent in the chambers of the Superior Court judges). These amendments are intended to facilitate a quicker addressing of these cases at the appellate stage with due and appropriate regard to meaningful appellate review and decision making.

**The Process involved in Developing this Proposal**

The Pennsylvania Supreme Court created the Office of Children and Families in the Courts within the Administrative Office of Pennsylvania Courts in 2006. The mission of the Office of Children and Families in the Courts is to achieve more rapid placement of abused and neglected children in permanent homes. There are about 20,000 such children in the Commonwealth. Sandra Moore, Administrator of the Office of Children and Families in the Courts, provided substantial support to the Committee—initially by assisting the Committee in identifying the problem and subsequently in assisting the Committee in obtaining additional input from judges,

advocates and child care professionals as to how best to address case management of appeals involving children as the appeals move from the trial courts to the appellate court and through the appellate process.

Once the problem was identified, the Chair of the Committee, Superior Court Judge Maureen Lally-Green and Committee Member Frederick Frank, Esquire, were appointed as Co-Chairs of a subcommittee to address the feasibility and the mechanism for expediting certain appeals involving children. The subcommittee included representatives of the Appellate Court Procedural Rules Committee, the Domestic Relations Procedural Rules Committee, the Juvenile Procedural Rules Committee and the Orphans’ Court Procedural Rules Committee. The Chairs of the subcommittee met with, and sought input from, the Administrative Judges in a number of judicial districts and the Juvenile Judges Section of the Conference of State Court Trial Judges. The Chairs also met with, and sought input from, members of the bar and the participants in several roundtables sponsored by the Office of Children and Families in the Courts. The subcommittee, with the assistance of Counsel, then drafted the attached Recommendation, which is now being published for review and comment.

**Summary of Recommendation**

The Recommendation suggests the following amendments to the following Pennsylvania Rules of Appellate Procedure:

- Rule 102 (“Definitions”)—defining the term “Family Fast Track Appeal” as “any appeal from an order involving dependency, termination of parental rights, adoptions, custody or paternity.”
- Rule 903 (“Time for Appeal”)—reducing the time for filing a notice of appeal in a family fast track appeal from 30 days to 21 days.
- Rule 904 (“Content of the Notice of Appeal”)—requiring that the notice of appeal in a family fast track appeal include a statement advising the appellate court that the appeal is a family fast track appeal.
- Rule 905 (“Filing of the Notice of Appeal”)—requiring that the concise statement of errors complained of on appeal as described in Rule 1925 be filed with the notice of appeal in a family fast track appeal and served in accordance with Rule 1925, and further requiring the clerk of the appellate court to stamp the notice of appeal with a family fast track designation in red ink.
- Rule 1112 (“Appeals by Allowance”)—requiring the clerk to stamp a petition for allowance of appeal filed in a family fast track appeal with a family fast track designation in red ink.
- Rule 1113 (“Time for Petitioning for Allowance of Appeal”)—reducing the time for filing a petition for allowance of appeal in a family fast track appeal from 30 days to 21 days; and reducing the time after which an application for reconsideration filed in the Superior Court in a family fast track appeal is deemed denied from 60 days to 45 days.
- Rule 1116 (“Brief in Opposition to Petition”)—reducing the time for filing a brief in opposition to a petition for allowance of appeal in a family fast track appeal from 14 days to 10 days.
- Rule 1123 (“Denial of Appeal; Reconsideration”)—reducing the time for filing an application for recon-

sideration of denial of a petition for allowance of appeal in a family fast track appeal from 14 days to 7 days.

- Rule 1925 (“Opinion in Support of Order”)—requiring the judge who entered the order giving rise to a family fast track appeal to file a opinion of the reasons for the order within 14 days of receipt of the notice of appeal and concise statement of errors complained of on appeal, if the reasons do not appear of record; and reiterating the requirement in Rule 905 that the concise statement of errors complained of on appeal as described in Rule 1925 be filed with the notice of appeal in a family fast track appeal and served in accordance with Rule 1925.
- Rule 1931 (“Transmission of the Record”)—reducing the time for the transfer of the record on appeal from the lower court to the appellate court after the filing of the notice of appeal in a family fast track appeal from 60 days to 30 days.
- Rule 1972 (“Dispositions on Motion”)—requiring that any dispositive motion in a family fast track appeal seeking to transfer to another appellate court, seeking to dismiss for failure to preserve question below or for having waived the right to appeal, or seeking to quash for any reason on the record other than mootness or lack of jurisdiction, be filed within 10 days of the filing of the statement of errors complained of on appeal, or the filing of the Rule 1925 opinion, whichever period expires last.
- Rule 2154 (“Designation of Contents of Reproduced Record”)—reducing the time for the appellant in a family fast track appeal to file a designation of the reproduced record from 40 days before the date fixed for the filing of the brief of the appellant to 23 days; reducing the time for the appellee to file a designation of the reproduced record after receipt of the appellant’s designation from 10 days to 7 days; and eliminating the large record exception in a family fast track appeal.
- Rule 2172 (“Covers”)—requiring that the front covers of a brief and petition for allowance of appeal in a family fast track appeal include a statement advising the appellate court that the appeal is a family fast track appeal.
- Rule 2185 (“Time for Serving and Filing Briefs”)—reducing the time to file and serve the brief of the appellant in a family fast track appeal after the date on which the record is filed from 40 days to 30 days; reducing the time to file and serve the brief of the appellee from 30 days to 20 days; reducing the time to file and serve the reply brief from 14 days to 7 days; and reducing the time in cross appeals to file and serve the second brief of the deemed or designated appellant from 30 days to 20 days.
- Rule 2542 (“Time for Application for Reargument. Manner of Filing”)—reducing the time for filing an application for reargument in a family fast track appeal from 14 days to 7 days.

- Rule 2545 (“Answer in Opposition to Application”)—reducing the time for filing an answer to an application for reargument in a family fast track appeal from 14 days to 7 days.

[Pa.B. Doc. No. 08-1575. Filed for public inspection August 29, 2008, 9:00 a.m.]

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## PART I. RULES OF APPELLATE PROCEDURE [ 210 PA. CODE CH. 19 ]

### Order Amending Pa.R.A.P. 1921; No. 194; Appellate Procedural Rules; Doc. No. 1

#### Order

*Per Curiam:*

*And Now*, this 13th day of August, 2008, upon the recommendation of the Appellate Court Procedural Rules Committee, this recommendation having been submitted without publication in the interest of justice, pursuant to Pa.R.J.A. No. 103(a)(3):

*It Is Ordered*, pursuant to Article V, Section 10 of the Constitution of Pennsylvania, that Pennsylvania Rule of Appellate Procedure 1921 is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall become effective immediately.

#### Annex A

### TITLE 210. APPELLATE PROCEDURE

#### CHAPTER 19. PREPARATION AND TRANSMISSION OF RECORD AND RELATED MATTERS

#### RECORD ON APPEAL FROM LOWER COURT

##### Rule 1921. Composition of Record on Appeal.

The original papers and exhibits filed in the lower court, **hard copies of legal papers filed with the prothonotary by means of electronic filing**, the transcript of proceedings, if any, and a certified copy of the docket entries prepared by the clerk of the lower court shall constitute the record on appeal in all cases.

**Official Note:** The rule is intended as a codification of present practice. An appellate court may consider only the facts which have been duly certified in the record on appeal. *Commonwealth v. Young*, 456 Pa. 102, 115, 317 A.2d 258, 264 (1974).

#### Explanatory Comment—2008

**Pa.R.C.P. No. 2054(a)(1) authorizes a court by local rule to permit or require electronic filing of legal papers with the prothonotary. Therefore, the amendment to Rule 1921 provides that where such electronic filing is utilized, hard copies of legal papers electronically filed shall become part of the record on appeal.**

[Pa.B. Doc. No. 08-1576. Filed for public inspection August 29, 2008, 9:00 a.m.]

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# Title 231—RULES OF CIVIL PROCEDURE

## PART I. GENERAL

[ 231 PA. CODE CH. 1900 ]

Order Amending Rule 1905; No. 497; Doc. No. 5

### Order

*Per Curiam:*

*And Now*, this 13th day of August, 2008, Rule 1905 of the Pennsylvania Rules of Civil Procedure is amended as attached as follows.

This order shall be processed in accordance with Pa.R.J.A. No. 103(b) and shall be effective in ninety days, on November 11, 2008.

### Annex A

#### TITLE 231. RULES OF CIVIL PROCEDURE

#### CHAPTER 1900. ACTIONS PURSUANT TO THE PROTECTION FROM ABUSE ACT

#### Rule 1905. Forms for Use in PFA Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.

\* \* \* \* \*

(b) The petition in an action filed pursuant to the Act shall be substantially in the following form, **but the first page (paragraphs 1 through 4), following the Notice of Hearing and Order, must be exactly as set forth in this rule:**

[ (Caption)

#### PETITION FOR PROTECTION FROM ABUSE

1. Plaintiff's name is: \_\_\_\_\_

2. I am filing this petition on behalf of:  Myself and/or  Another Person.

If you checked "myself," please answer all questions referring to yourself as "Plaintiff." If you checked "another person," please answer all questions referring to that person as the "Plaintiff," and provide your address here, unless confidential:

If you checked "Another Person," indicate your relationship with Plaintiff:

- parent of minor Plaintiff(s)
- applicant for appointment as guardian ad litem of minor Plaintiff(s)
- adult household member with minor Plaintiff(s)
- court appointed guardian of incompetent Plaintiff(s)

3. Name(s) of ALL person(s), including Plaintiff and minor children, who seek protection from abuse: \_\_\_\_\_

- 4.  Plaintiff's address is confidential or  Plaintiff's address is: \_\_\_\_\_

5. Defendant is believed to live at the following address: \_\_\_\_\_

Defendant's Social Security Number

(if known) is: \_\_\_\_\_

Defendant's date of birth is: \_\_\_\_\_

Defendant's place of employment is: \_\_\_\_\_

Check here if you have reason to believe that Defendant is a licensed firearms dealer is employed by a licensed firearms dealer or manufacturer; is employed as a writer, researcher or technician in the firearms or hunting industry or is required to carry a firearm as a condition of employment.

Check here if Defendant is 17 years old or younger. ]

|   |   |
|---|---|
| <b>PETITION FOR PROTECTION<br/>FROM ABUSE</b> | IN THE COURT OF COMMON PLEAS OF<br>_____<br>COUNTY, PENNSYLVANIA<br>NO. _____ |
|---|---|

**1. PLAINTIFF**

|  |  |  |  |
|--|--|--|--|
|  |  |  |  |
|--|--|--|--|

First Middle Last Plaintiff's DOB

Plaintiff's Address:

Plaintiff's address is confidential or  Plaintiff's address is:

**V.**

**2. DEFENDANT**

|  |
|--|
|  |
|--|

First Middle Last Suffix

**Defendant's Address:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

| DEFENDANT IDENTIFIERS |  |        |  |
|-----------------------|--|--------|--|
| DOB                   |  | HEIGHT |  |
| SEX                   |  | WEIGHT |  |
| RACE                  |  | EYES   |  |
| HAIR                  |  |        |  |
| SSN                   |  |        |  |
| DRIVER'S LICENSE #    |  |        |  |
| EXP DATE              |  | STATE  |  |

**CAUTION:**

- Weapon Involved**
- Weapon Present on the Property**
- Weapon Requested Relinquished**

Defendant's place of employment is:

Check here if you have reason to believe that Defendant is a licensed firearms dealer; is employed by a licensed firearms dealer or manufacturer; is employed as a writer, researcher or technician in the firearms or hunting industry; or is required to carry a firearm as a condition of employment.

**3. I am filing this Petition on behalf of:**  Myself and/or  Another Person

If you checked "myself", please answer all questions referring to yourself as "Plaintiff". If you ONLY checked "another person", please answer all questions referring to that person as the "Plaintiff", and provide your name and address here, as filer, unless confidential.

Filer's Name:

|  |
|--|
|  |
|--|

First Middle Last Suffix

Filer's address is confidential or  Filer's address is:

If you checked "Another Person", indicate your relationship with Plaintiff:

- parent of minor Plaintiff(s)
- applicant for appointment as guardian ad litem of minor Plaintiff(s)
- adult household member with minor Plaintiff(s)
- court appointed guardian of incompetent Plaintiff(s)

**4. Name(s) of all persons, including minor child/ren who seek protection from abuse:**

\_\_\_\_\_



[ 6 ] 5. Indicate the relationship between Plaintiff and Defendant.

CHECK ALL THAT APPLY:

- spouse or former spouse of Defendant
- parent of a child with Defendant
- current or former sexual or intimate partner with Defendant
- child of Plaintiff
- child of Defendant
- family member related by blood (consanguinity) to Defendant
- family member related by marriage or affinity to Defendant
- sibling (person who shares parenthood) of Defendant
- current or former cohabitant (person who lives with) Defendant ]**

**Check here if Defendant is 17 years old or younger.**

[ 7 ] 6. Have Plaintiff and Defendant been involved in any of the following court actions?

- Divorce  Custody  Support  Protection From Abuse

[ 8 ] 7. Has Defendant been involved in any criminal court action? \_\_\_\_\_

[ 9 ] 8. Plaintiff and Defendant are the parents of the following minor child/ren:

[ 10 ] 9. If Plaintiff and Defendant are parents of any minor child/ren together, is there an existing court order regarding their custody? \_\_\_\_\_

[ 11 ] 10. The following other minor child/ren presently live with Plaintiff:

[ 12 ] 11. The facts of the most recent incident of abuse are as follows:

\* \* \* \* \*

[ 13 ] 12. If Defendant has committed prior acts of abuse against Plaintiff or the minor child/ren, describe these prior incidents, including any threats, injuries, or incidents of stalking, and indicate approximately when such acts of abuse occurred (attach additional sheets of paper if necessary):

\* \* \* \* \*

[ 14 ] 13. (a) Has Defendant used or threatened to use any firearms or other weapons against Plaintiff or the minor child/ren? If so, please describe the use or threatened use below and list on Attachment A to Petition, which is incorporated by reference into this petition, any firearms, other weapons or ammunition Defendant used or threatened to use against Plaintiff and/or the minor child/ren:

\* \* \* \* \*

[ 15 ] 14. Identify the sheriff, police department or law enforcement agency in the area in which Plaintiff lives that should be provided with a copy of the protection order:

\* \* \* \* \*

[ 16 ] 15. There is an immediate and present danger of further abuse from Defendant.

\* \* \* \* \*

(c) The Temporary Order of Court, or any continued, amended or modified Temporary Order of Court, entered pursuant to the Act shall be substantially in the following form, but the first page must be exactly as set forth in this rule:

[ (Caption)

**TEMPORARY PROTECTION FROM ABUSE ORDER**

**Defendant's Name:** \_\_\_\_\_

**Defendant's Date of Birth:** \_\_\_\_\_

**Defendant's Social Security Number:** \_\_\_\_\_

**Names of All Protected Persons, including Plaintiff and minor child/ren:**

\_\_\_\_\_  
\_\_\_\_\_ ]

|   |  |
|---|--|
| <b>TEMPORARY PROTECTION<br/>FROM ABUSE ORDER</b><br><input type="checkbox"/> Amended Order <input type="checkbox"/> Continued Order | IN THE COURT OF COMMON PLEAS OF<br>COUNTY, PENNSYLVANIA<br>NO. _____ |
|---|--|

**PLAINTIFF**

|  |  |  |
|--|--|--|
|  |  |  |
|--|--|--|

First Middle Last Plaintiff's DOB

Name(s) of all protected persons, including minor child/ren and DOB:

\_\_\_\_\_

\_\_\_\_\_

**V.**

**DEFENDANT**

|  |  |  |
|--|--|--|
|  |  |  |
|--|--|--|

First Middle Last Suffix

Defendant's Address:

\_\_\_\_\_

\_\_\_\_\_

| DEFENDANT IDENTIFIERS |  |        |  |
|-----------------------|--|--------|--|
| DOB                   |  | HEIGHT |  |
| SEX                   |  | WEIGHT |  |
| RACE                  |  | EYES   |  |
| HAIR                  |  |        |  |
| SSN                   |  |        |  |
| DRIVER'S LICENSE #    |  |        |  |
| EXP DATE              |  | STATE  |  |

**CAUTION:**

- Weapon Involved**
- Weapon Present on the Property**
- Weapon Ordered Relinquished**

**The Court Hereby Finds:** That it has jurisdiction over the parties and subject matter, and the Defendant will be provided with reasonable notice and opportunity to be heard.

**The Court Hereby Orders:**

- Defendant shall not abuse, harass, stalk or threaten any of the above persons in any place where they might be found.
- Except for such contact with the minor child/ren as may be permitted under paragraph 5 of this order, Defendant shall not contact Plaintiff, or any other person protected under this order, by telephone or by any other means, including through third persons.
- Additional findings of this order are set forth below.

**Order Effective Date** \_\_\_\_\_

**Order Expiration Date** \_\_\_\_\_

**NOTICE TO THE DEFENDANT**

Defendant is hereby notified that violation of this order may result in arrest for indirect criminal contempt, which is punishable by a fine of up to \$1,000 and/or up to six months in jail. 23 Pa.C.S.A. §6114. Consent of Plaintiff to Defendant's return to the residence shall **not** invalidate this order, which can only be changed or modified through the filing of appropriate court papers for that purpose. 23 Pa.C.S.A. §6108 (g). If Defendant is required to relinquish any firearms, other weapons or ammunition or any firearm license, those items must be relinquished to the sheriff within 24 hours of the service of this order. As an alternative, Defendant may relinquish any firearm, other weapon or ammunition listed herein to a third party provided Defendant and the third party first comply with all requirements to obtain a safekeeping permit. If, due to their current location, firearms, other weapons or ammunition cannot reasonably be retrieved within the time for relinquishment, Defendant shall provide an affidavit to the sheriff listing the firearms, other weapons or ammunition and their current location no later than 24 hours after the service of this order. Defendant is further notified that violation of this order may subject him/her to state charges and penalties under the Pennsylvania Crimes Code and to federal charges and penalties under the Violence Against Women Act, 18 U.S.C. §§2261-2262.

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, upon consideration of the attached Petition for Protection From Abuse, the court hereby enters the following Temporary Order:

- Plaintiff's request for a Temporary Protection Order is denied.**
- Plaintiff's request for a Temporary Protection Order is granted.**

1. Defendant shall not abuse, harass, stalk or threaten any of the above persons in any place where they might be found.

\* \* \* \* \*

(e) The Final Order of Court, **or any amended, modified or extended Final Order of Court**, entered

pursuant to the Act shall be substantially in the following form, **but the first page must be exactly as set forth in this rule:**

**[ (Caption)  
FINAL ORDER OF COURT**

**Defendant's Name:** \_\_\_\_\_  
**Defendant's Date of Birth:** \_\_\_\_\_  
**Defendant's Social Security Number:** \_\_\_\_\_

**Names and Dates of Birth of All Protected Persons, including Plaintiff and minor children:**

| Names | Dates of Birth |
|-------|----------------|
|       |                |
|       |                |
|       |                |

\_\_\_\_\_ ]

|  |   |
|--|---|
| <b>FINAL PROTECTION FROM<br/>ABUSE ORDER</b><br><input type="checkbox"/> Extended Order <input type="checkbox"/> Amended Order | IN THE COURT OF COMMON PLEAS OF<br>_____<br>COUNTY, PENNSYLVANIA<br>NO. _____ |
|--|---|

**PLAINTIFF**

|  |  |
|--|--|
|  |  |
|--|--|

First Middle Last Plaintiff's DOB

**Name(s) of all protected persons, including minor child/ren and DOB:**

\_\_\_\_\_  
 \_\_\_\_\_

**V.**

**DEFENDANT**

|  |
|--|
|  |
|--|

First Middle Last Suffix

**Defendant's Address:**

\_\_\_\_\_  
 \_\_\_\_\_

**DEFENDANT IDENTIFIERS**

|                    |        |  |
|--------------------|--------|--|
| DOB                | HEIGHT |  |
| SEX                | WEIGHT |  |
| RACE               | EYES   |  |
| HAIR               |        |  |
| SSN                |        |  |
| DRIVER'S LICENSE # |        |  |
| EXP DATE           | STATE  |  |

**CAUTION:**

- Weapon Involved**
- Weapon Present on the Property**
- Weapon Ordered Relinquished**

**The Court Hereby Finds:** That it has jurisdiction over the parties and subject matter, and the Defendant has been provided with reasonable notice and opportunity to be heard.

**The Court Hereby Orders:**

- Defendant shall not abuse, harass, stalk or threaten any of the above persons in any place where they might be found.
- Except as provided in paragraph 5 of this order, Defendant shall not contact Plaintiff, or any other person protected under this order, by telephone or by any other means, including through third persons.
- Additional findings of this order are set forth below.

**Order Effective Date** \_\_\_\_\_

**Order Expiration Date** \_\_\_\_\_

**NOTICE TO THE DEFENDANT**

Violation of this order may result in your arrest on the charge of indirect criminal contempt which is punishable by a fine of up to \$1,000 and/or a jail sentence of up to six months, 23 Pa.C.S.A. §6114. Violation may also subject you to prosecution and criminal penalties under the Pennsylvania Crimes Code. A violation of this order may result in the revocation of the safekeeping permit, which will require the immediate relinquishment of your firearms, other weapons and ammunition to the sheriff. Plaintiff's consent to contact by Defendant shall **not** invalidate this order which can only be modified by further order of court. 23 Pa.C.S.A. §6108(g).

This order is enforceable in all fifty (50) States, the District of Columbia, Tribal Lands, U.S. Territories and the Commonwealth of Puerto Rico under the Violence Against Women Act, 18 U.S.C. §2265. If you travel outside of the State and intentionally violate this order, you may be subject to federal criminal proceedings under that Act. 18 U.S.C §§2261-2262. If you possess a firearm or any ammunition while this order is in effect, you may be charged with a federal offense even if this Pennsylvania order does not expressly prohibit you from possessing firearms or ammunition. 18 U.S.C §922(g)(8).

CHECK ALL THAT APPLY:

Plaintiff or Protected Person(s) is/are:

- spouse or former spouse of Defendant
- parent of a child with Defendant
- current or former sexual or intimate partner with Defendant
- child of Plaintiff
- child of Defendant
- family member related by blood (consanguinity) to Defendant
- family member related by marriage or affinity to Defendant
- sibling (person who shares parenthood) of Defendant
- current or former cohabitant (person who lives with) Defendant**

Defendant was served in accordance with Pa.R.C.P. 1930.4 and provided notice of the time, date and location of the hearing scheduled in this matter.

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, the court having jurisdiction over the parties and the subject-matter, it is ORDERED, ADJUDGED AND DECREED as follows:

\* \* \* \* \*

**Explanatory Comment—2008**

The Protection From Abuse petition form, temporary order form and final order form are being modified to conform to the model template used in Project Passport. Project Passport was designed to improve recognition and enforcement of protection orders within and between states and tribes by encouraging states and tribes to adopt a recognizable first page for protection orders. Use of the model template is supported by the National Center for State Courts and the National American Indian Court Judges Association.

The critical aspects of the model template for the first page are common data elements jointly identified by multi-disciplinary teams. Using a recognizable first page for protection orders with this essential data readily available and easily recognizable on a protection order, particularly on "foreign protection orders," helps strengthen the safety net for domestic violence survivors and their children by offering greater consistency in the issuance and enforcement of protection orders.

Implementation of the model first page for Project Passport requires several changes to the Pennsylvania Protection From Abuse petition, temporary order and final order forms. The petition form caption, as well as the plaintiff's or filer's name, relationship to the plaintiff, names and dates of birth of the protected persons, plaintiff's address, defendant's address, social security number, place of employment, and age, were moved to the Project Passport first page. The petition paragraphs are also renumbered. On the temporary order and final order forms, the captions and the defendant's name, date of birth and social security number, as well as the names of the plaintiff and protected persons and dates of birth, were moved to the Project Passport first page. The Project Passport first page for the petition and temporary and final orders all include physical identifiers for the defendant and an indication if weapons were involved, present on the property or relinquished. The first page of the final order also includes the effective

**and expiration dates of the protection order and the notice to the defendant.**

[Pa.B. Doc. No. 08-1577. Filed for public inspection August 29, 2008, 9:00 a.m.]

**PART I. GENERAL**

**[ 231 PA. CODE CH. 1910 ]**

**Order Amending Rule 1910.21; No. 496; Doc. No. 5**

**Order**

*Per Curiam:*

And Now, this 13th day of August, 2008, Rule 1910.21 of the Pennsylvania Rules of Civil Procedure is amended as follows.

This order shall be processed in accordance with Pa.R.J.A. No. 103(b) and shall be effective immediately.

**Annex A**

**TITLE 231. RULES OF CIVIL PROCEDURE**

**CHAPTER 1910. ACTIONS FOR SUPPORT**

**Rule 1910.21. Support Order. Enforcement. Withholding of Income.**

\* \* \* \* \*

(c) **Order for Withholding.** An order for income withholding must include a provision directing that no commutation or compromise and release of worker's compensation benefits, severance pay or any payment in lieu thereof shall be paid to the defendant until the order for withholding is dissolved by further order of court.

\* \* \* \* \*

(f) *Income Withholding When the Obligor Defaults on Support Order.*

(1) When an obligor is subject to an order for income withholding and payment is received from the employer within 15 days from the date upon which the obligor's obligation would be considered overdue (i.e. the date upon which delinquent support is equal to one month's support obligation), the payment shall be considered timely and any past due support shall not be converted to overdue support or subject to automated enforcement mechanisms.

(2) When nonpayment of the support order by the obligor causes overdue support to accrue, the court may increase the order for income withholding until the overdue support is paid in full. The court may also direct the employer to withhold any periodic or lump sum distributions of income which may be payable to the obligor in addition to regular income until further order of court.

\* \* \* \* \*

**Explanatory Comment—2008**

New subdivision 1910.21(f)(1) is intended to address circumstances in which an employer timely withholds income from an obligor pursuant to an income withholding order, but a delay occurs in receipt of the funds by the State Collection and Disbursement Unit. In those cases, it would be inappropriate to consider the obligor's payment as untimely and convert past due support to overdue

support because an obligor subject to an income withholding order has no control over the timing of the transmission of the funds from the employer. This new rule addresses solely timing issues by providing a 15-day grace period. It does not apply to obligors who are not subject to an order for income withholding.

[Pa.B. Doc. No. 08-1578. Filed for public inspection August 29, 2008, 9:00 a.m.]

PART I. GENERAL

[ 231 PA. CODE CH. 1910 ]

Order Amending Rules 1910.16-6, 1910.16-7, 1910.21 and 1910.27; No. 495; Doc. No. 5

Order

*Per Curiam:*

And Now, this 13th day of August, 2008, Rules 1910.16-6, 1910.16-7, 1910.21 and 1910.27 of the Pennsylvania Rules of Civil Procedure are amended as follows.

This order shall be processed in accordance with Pa.R.J.A. No. 103(b) and shall be effective in sixty days on October 12, 2008.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

CHAPTER 1910. ACTIONS FOR SUPPORT

**Rule 1910.16-6. Support Guidelines. Adjustments to the Basic Support Obligation. Allocation of Additional Expenses.**

Additional expenses permitted pursuant to this Rule 1910.16-6 may be allocated between the parties even if the parties' incomes do not justify an order of basic support.

\* \* \* \* \*

(b) *Health Insurance Premiums.*

(1) A party's payment of a premium to provide health insurance coverage on behalf of the other party and/or the children shall be allocated between the parties in proportion to their net incomes, including the portion of the premium attributable to the party who is paying it, as long as a statutory duty of support is owed to the party who is paying the premium. **If health insurance coverage for a child who is the subject of the support proceeding is being provided and paid for by a third party resident of the household, the cost shall be allocated between the parties in proportion to their net incomes.** If the obligor is paying the premium, then the obligee's share is deducted from the obligor's basic support obligation. If the obligee is paying the premium, then the obligor's share is added to his or her basic support obligation. Employer-paid premiums are not subject to allocation.

\* \* \* \* \*

(3) Pursuant to 23 Pa.C.S.A. § 4326(a), [the non-custodial parent bears the initial responsibility of providing health care coverage for the children if it is available at a reasonable cost on an employment-related or other group basis.] in every support proceeding, the court must ascertain each parent's ability to provide medical support for the parties'

children and the support "order shall include a requirement for medical support to be provided by either or both parents, provided that such medical support is accessible to the children."

(i) The non-custodial parent bears the initial responsibility of providing health care coverage for the children if it is available at a reasonable cost. "Reasonable cost" to an obligor shall be defined as an amount that does not exceed 5% of the obligor's net monthly income and, when added to the amount of basic child support plus additional expenses the obligor is ordered pay, does not exceed 50% of the obligor's net monthly income.

(ii) Unless health care coverage for the parties' children is provided by the obligee or a third party, the court shall issue the National Medical Support Notice required by 23 Pa.C.S.A. § 4326(d.1) to the obligor's employer in response to notification that the obligor is employed. The notice shall direct the employer to enroll the children of the obligor who are the subject of the support proceeding if the coverage is available at a reasonable cost to the obligor. However, the notice shall direct that enrollment shall not occur earlier than 25 days from the date of the National Medical Support Notice to allow the obligor time to object. Concurrent with the issuance of the National Medical Support Notice, the court shall provide notice to the obligor setting forth the process to object to the enrollment based upon unreasonable cost, mistake of fact or availability of alternative health care coverage for the children. If there is more than one employer-provided health care coverage option, the obligor shall select the plan, subject to the obligee's right to seek a court order designating a different option.

(iii) Absent the availability of health care coverage to the obligor for the parties' children at a reasonable cost, the court shall order the obligee to provide health care coverage for the children if it is available at a reasonable cost. "Reasonable cost" to the obligee shall be defined as an amount not to exceed 5% of the obligee's net monthly income.

(iv) If health care coverage is not available to either party at a reasonable cost, the court may order the custodial parent to apply for government-sponsored coverage, such as the Children's Health Insurance Program ("CHIP"), with any co-premium or other cost apportioned between the parties in proportion to their respective net monthly incomes.

(v) Within thirty days after the entry of the support order, the party ordered to provide health care coverage shall provide written proof to the other party that medical insurance has been obtained, including insurance cards and all other materials set forth in the form order in Rule 1910.27(e). There shall be a continuing obligation to provide the other party and the court with proof of any changes in coverage.

(vi) The court shall give preference to health care coverage that is readily accessible to the child, as defined by geographic coverage area, access to local treatment providers or other relevant factors.

*Official Note:* The maximum amount of any attachment for child and medical support is set forth by the federal Consumer Credit Protection Act (Public Law 90-321, Section 303(b); 15 U.S.C. § 1601 et seq.).

\* \* \* \* \*

**Explanatory Comment—2008**

Federal and state statutes require clarification to subdivision (b) to ensure that all court orders for support address the children's ongoing need for medical care. In those instances where the children's health care needs are paid by the state's medical assistance program, and eligibility for the Children's Health Insurance Program ("CHIP") is denied due to the minimal income of the custodial parent, the obligor remains required to enroll the parties' children in health insurance that is, or may become, available that is reasonable in cost.

Government-sponsored health care plans represent a viable alternative to the often prohibitive cost of health insurance obtainable by a parent. Except for very low income children, every child is eligible for CHIP, for which the parent with primary physical custody must apply and which is based on that parent's income. A custodial parent may apply for CHIP by telephone or on the Internet. While co-premiums or co-pays increase as the custodial parent's income increases, such costs are generally modest and should be apportioned between the parties. Moreover, health care coverage obtained by the custodial parent generally yields more practical results, as the custodial parent resides in the geographic coverage area, enrollment cards are issued directly to the custodial parent, and claims may be submitted directly by the custodial parent.

\* \* \* \* \*

**Rule 1910.16-7. Support Guidelines. Awards of Child Support When There Are Multiple Families.**

\* \* \* \* \*

(d) When an obligor is subject to more than one order for child support, spousal support and/or alimony pendente lite, the priority for distribution of payments and/or collections for the obligor, without regard to the source of funds or method of collection, are as follows unless the court specifically orders a different distribution priority:

- (1) current child support.
- (2) medical, child care or other court-ordered child support-related expenses.
- (3) [ **current spousal support or alimony pendente lite** ] **child support arrears.**

- (4) [ **child support arrears** ] **current spousal support or alimony pendente lite.**
- (5) spousal support or alimony pendente lite arrears.
- (6) court costs **and fees.**

\* \* \* \* \*

**Explanatory Comment—2008**

The order of priority of the distribution of payments is revised to reflect changes in federal law which presume that cash and medical-related child support are established and paid in that sequence, and that obligations to children take priority over spousal-only obligations. An unallocated order for child and spousal support has the same priority as a child support order.

\* \* \* \* \*

**Rule 1910.21. Support Order. Enforcement. Withholding of Income.**

\* \* \* \* \*

(g) *Priority of Income Withholding.* If there are multiple support obligations in effect against the income of the obligor, the court shall allocate among the obligees the amount of income available for withholding, giving priority to current child support, **child support-related expenses and child support arrears** to the limit provided by law and stating the priority of payment to the obligee.

\* \* \* \* \*

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

\* \* \* \* \*

(d) The form used to obtain information relating to health insurance coverage from a party shall be in substantially the following form:

(Caption)

**HEALTH INSURANCE COVERAGE INFORMATION  
REQUIRED BY THE COURT**

This form must be completed and returned to the domestic relations section.

**IF YOU FAIL TO PROVIDE THE INFORMATION REQUESTED, THE COURT MAY FIND THAT YOU ARE IN CONTEMPT OF COURT.**

Do you provide insurance coverage for the dependents named below? (Check each type of insurance which you provide).

| Full Name SS # | Type of Coverage         |                          |                          |                          |                          |                          |
|----------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
|                | Hospitalization          | Medical                  | Dental                   | Eye                      | Prescription             | Other                    |
| _____          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| _____          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| _____          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| _____          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| _____          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| _____          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Note: Before forwarding the form to the party, the domestic relations section should fill in the names and Social Security numbers of the dependents about whom the information is sought.

Provide the following information for all types of insurance you maintain, whether or not any of the above-named dependents is covered at this time:

Insurance company (provider): \_\_\_\_\_  
 Group #: \_\_\_\_\_ Plan #: \_\_\_\_\_ Policy #: \_\_\_\_\_  
 Effective coverage date: \_\_\_\_\_ Type of coverage: \_\_\_\_\_  
**Employee [ Cost ] cost of coverage for dependents:** \_\_\_\_\_

Insurance company (provider): \_\_\_\_\_  
 Group #: \_\_\_\_\_ Plan #: \_\_\_\_\_ Policy #: \_\_\_\_\_  
 Effective coverage date: \_\_\_\_\_ Type of coverage: \_\_\_\_\_  
**Employee [ Cost ] cost of coverage for dependents:** \_\_\_\_\_

Insurance company (provider): \_\_\_\_\_  
 Group #: \_\_\_\_\_ Plan #: \_\_\_\_\_ Policy #: \_\_\_\_\_  
 Effective coverage date: \_\_\_\_\_ Type of coverage: \_\_\_\_\_  
**Employee [ Cost ] cost of coverage for dependents:** \_\_\_\_\_

Insurance company (provider): \_\_\_\_\_  
 Group #: \_\_\_\_\_ Plan #: \_\_\_\_\_ Policy #: \_\_\_\_\_  
 Effective coverage date: \_\_\_\_\_ Type of coverage: \_\_\_\_\_  
**Employee [ Cost ] cost of coverage for dependents:** \_\_\_\_\_

If the above-named dependents are not currently covered by insurance, please state the earliest date coverage could be provided. \_\_\_\_\_

(e) The form of a support order shall be substantially as follows:

(Caption)  
 (FINAL) (TEMPORARY) (MODIFIED)  
 ORDER OF COURT

AND NOW, \_\_\_\_\_, based upon the Court's determination that Payee's monthly net income is \$ \_\_\_\_\_, and Payor's monthly net income is \$ \_\_\_\_\_, it is hereby ordered that the Payor pay to the Domestic Relations Section, Court of Common Pleas, \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) a month payable (WEEKLY/BIWEEKLY/SEMI-MONTHLY/MONTHLY) as follows; \_\_\_\_\_ Arrears set at \$ \_\_\_\_\_ as of \_\_\_\_\_ are due in full IMMEDIATELY. Contempt proceedings, credit bureau reporting and tax refund offset certification will not be initiated, and judgment will not be entered, as long as payor pays \$ \_\_\_\_\_ on arrears on each payment date. Failure to make each payment on time and in full will cause all arrears to become subject to immediate collection by all of the means listed above.

For the support of: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Said money to be turned over by the domestic relations section to: \_\_\_\_\_

Payments must be made (STATE ACCEPTABLE FORMS OF PAYMENT). All checks and money orders must be made payable to (NAME OF ENTITY TO WHOM CHECKS SHOULD BE MADE PAYABLE) and mailed to (NAME OF OFFICE) at (MAILING ADDRESS). Each payment must bear your (FILE/CASE/FOLIO/DOMESTIC RELATIONS) number in order to be processed. Do not send cash by mail.

Unreimbursed medical expenses are to be paid \_\_\_\_\_% by defendant and \_\_\_\_\_% by plaintiff. (PLAINTIFF/DEFENDANT/NEITHER) to provide medical insurance coverage. Within 30 days after the entry of this order, the [ (PLAINTIFF/DEFENDANT) ] **the party ordered to provide medical insurance** shall submit to the [ **person having custody of the child (ren) other party** ] written proof that medical insurance

coverage has been obtained or that application for coverage has been made. Proof of coverage shall consist, at a minimum, of: 1) the name of the health care coverage provider(s); 2) any applicable identification numbers; 3) any cards evidencing coverage; 4) the address to which claims should be made; 5) a description of any restrictions on usage, such as prior approval for hospital admissions, and the manner of obtaining approval; 6) a copy of the benefit booklet or coverage contract; 7) a description of all deductibles and co-payments; and 8) five copies of any claim forms.

\* \* \* \* \*

[Pa.B. Doc. No. 08-1579. Filed for public inspection August 29, 2008, 9:00 a.m.]

**PART I. GENERAL**  
**[ 231 PA. CODE CH. 1920 ]**  
**Order Amending Rule 1920.46; No. 498; Doc. No. 5**  
**Order**

*Per Curiam:*

*And Now*, this 13th day of August, 2008, the Note to Rule 1920.46 of the Pennsylvania Rules of Civil Procedure is amended as follows.

This order shall be processed in accordance with Pa.R.J.A. No. 103(b) and shall be effective immediately.

**Annex A**  
**TITLE 231. RULES OF CIVIL PROCEDURE**  
**CHAPTER 1920. ACTIONS OF DIVORCE OR FOR ANNULMENT OF MARRIAGE**  
**Rule 1920.46. Affidavit of Non-Military Service.**

\* \* \* \* \*

**Official Note:** The [ **Soldier's and Sailor's** ] **Servicemembers Civil Relief Act [ of 1940 ], 50 App. U.S.C.A. [ App. ] § [ 520 ] 521**, requires that in cases [ **of default in appearance by** ] in which the defendant **does not make an appearance**, the plaintiff must file an affidavit of nonmilitary service before [ **entering** ] **the court may enter** judgment. If the defendant is in the military service and an attorney has not entered an appearance on behalf of the defendant, no judgment may



be entered until the court appoints an attorney to represent the defendant and protect his or her interest.

\* \* \* \* \*

[ Explanatory Comment—1994

Section 602 of the Act of June 29, 1953, P. L. 304, 35 P. S. § 450.602, requires a certificate of each divorce and annulment of marriage decreed in the Commonwealth to be transmitted to the Department of Health. ]

Explanatory Comment—2003

35 P. S. § 450.602 previously required a certificate of each divorce or annulment decreed in the Commonwealth to be transmitted to the Vital Statistics Division of the Commonwealth of Pennsylvania Department of Health. The statute was amended October 30, 2001 (P. L. 826, No. 82), § 1, effective in 60 days, to require that the prothonotary submit a monthly statistical summary of divorces and annulments, rather than individual forms for each decree. Thus, subdivision (a) of Rule 1920.46, requiring the filing of the vital statistics form, is no longer necessary. Former subdivision (b) now comprise the entirety of the rule and the title has been amended to reflect that the rule applies only to the affidavit regarding military service.

[Pa.B. Doc. No. 08-1580. Filed for public inspection August 29, 2008, 9:00 a.m.]

Title 255—LOCAL COURT RULES

ADAMS COUNTY

Amendments to Rule 1920; Administrative Order No. 15 of 2008; 08-M-12

Order of Court

And Now, this 14th day of August, 2008, Adams County Local Rule of Civil Procedure 1920(1) is amended to read as follows:

Rule 1920(1). Exceptions.

A. *Filing.* Exceptions to the Master's report, or any motions or reasons for a new trial, which either party desire to make, shall be filed with the Prothonotary, and a copy thereof served at the same time upon opposing counsel or party if they are not represented by counsel.

B. *Brief in Support.* If either party files Exceptions to the Master's report, the party filing Exceptions shall file and serve a brief in support of their Exceptions within twenty (20) days of their filing of Exceptions. The brief in support shall be filed with the Prothonotary and served upon the opposing counsel or party if they are not represented by counsel. Failure to file and serve a supporting brief within twenty (20) days of filing Exceptions shall result in the Exceptions being deemed withdrawn and, upon praecipe by either party, the Court shall enter an Order dismissing the Exceptions.

C. *Responsive Brief.* If a brief in support of Exceptions has been timely filed and served, the party opposing the Exceptions shall file a brief in opposition within fifteen (15) days after service of the brief in support of Exceptions.

This brief shall be filed with the Prothonotary and served upon the opposing counsel or party if they are not represented by counsel.

D. *Oral Argument.* Absent a specific waiver by both parties in writing, oral argument shall be scheduled by the Court.

E. *Procedure.* Upon the filing of Exceptions pursuant to this Rule, the Prothonotary shall immediately docket the Exceptions and expeditiously transmit the file to the family law Judge.

F. *Transmittal of the record.* If no Exceptions are filed by either party in the time prescribed by the Pennsylvania Rules of Civil Procedure, or if Exceptions have been filed and an Order has been entered disposing of the Exceptions, the Court will, upon praecipe of either party, enter the final decree.

This rule shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

The Adams County Court Administrator is directed to:

A. File seven (7) certified copies of this Order with the Administrative Office of Pennsylvania Courts.

B. Distribute two (2) certified copies and a computer diskette to the Legislative reference bureau for publication in the *Pennsylvania Bulletin*.

C. File one (1) certified copy of this Order with the Civil Procedural Rules Committee.

By the Court

JOHN D. KUHN,  
President Judge

[Pa.B. Doc. No. 08-1581. Filed for public inspection August 29, 2008, 9:00 a.m.]

ADAMS COUNTY

Oder Adopts Judicial Administration No. 3.0.F; Administrative Order No. 16 of 2008; 08-M-13

Order of Court

And Now, this 14th day of August, 2008, the Court hereby adopts Local Rule of Judicial Administration No. 3.0.F which shall provide as follows:

3.0.F. *Backers.*—The use of backers, mini-backers, top-pers or other cover stock is discouraged. No substantive content of any pleading or document shall be contained on the backer, mini-backer, topper or other cover stock. The Clerk of Courts and the Prothonotary shall not physically retain or preserve any backer, mini-backer, topper or other cover stock, nor retain or preserve any information contained thereon.

This rule shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

The Adams County Court Administrator is directed to:

A. File seven (7) certified copies of this Order with the Administrative Office of Pennsylvania Courts.

B. Distribute two (2) certified copies and a computer diskette to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

C. File one (1) certified copy of this Order with both the Civil Procedural Rules Committee and Criminal Procedural Rules Committee.

D. File a copy of this Order with the Prothonotary and the Clerk of Courts of Adams County.

*By the Court*

JOHN D. KUHN,  
*President Judge*

[Pa.B. Doc. No. 08-1582. Filed for public inspection August 29, 2008, 9:00 a.m.]

### CARBON COUNTY

#### Amendment of Civil Procedure Rules 1018.1; Notice to Defend and Form, 1303—Arbitration Hearing and Notice, 2102(b) Style of Action in Real Estate Assessment Appeals; No. 04-1727

##### Administrative Order No. 16-2008

And Now, this 15th day of August, 2008, it is hereby *Ordered and Decreed* that, effective October 1, 2008, Carbon County Rules of Civil Procedure CARB.R.C.P. 1018.1 governing the Notice to Defend and Form, CARB.R.C.P. 1303 governing the Hearing and Notice in arbitration cases, and CARB.R.C.P. 2102(b) governing the Style of Action in a real estate assessment appeals be and are hereby *Amended* as attached hereto.

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

1. File seven (7) certified copies of this Administrative Order 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 Civil 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 the Order in the Prothonotary's Office.

*By the Court*

ROGER N. NANOVIC,  
*President Judge*

##### Rule 1018.1—Notice to Defend. Form.

As required by Pa.R.C.P. 1018.1(c), the following shall be designated in the notice to defend as the person from whom legal referral can be obtained:

North Penn Legal Services  
1203 North Street  
Jim Thorpe, PA 18229  
(570) 325-5050

##### Rule 1303—Hearing. Notice.

Notice of the appointment of arbitrators and the date, time and place of arbitration in accordance with Pa.R.C.P. 1303 shall be made by the Prothonotary's Office. The Notice shall include the following language: "The matter will be heard by a board of arbitrators at the time, date, and place specified but, if one or more of the parties is

not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties. There is no right to a trial de novo on appeal from a decision entered by a judge."

All continuance requests must be filed no later than seven (7) days before the scheduled Arbitration hearing. The attorney/party must notify all other attorneys/pro se parties and members of the panel of the granting of the continuance motion. In the event such notice is not provided and a panel member appears, the defaulting party shall be responsible for paying the panel member the current arbitration fee of \$150.00. Any continuances requested within the seven (7) days of the scheduled Arbitration hearing shall require the personal appearance of the attorney/pro se party before the Judge to explain the extenuating circumstances necessitating the late filing.

Any appointed arbitrator must notify Court Administration of their inability to serve within ten (10) days of the scheduled event so that a suitable replacement can be secured.

If a case is settled less than two (2) days before the Arbitration hearing, one of the attorneys/pro se parties must appear before the Board of Arbitrators and have an Award entered by agreement. If it is settled more than two (2) days before the Arbitration hearing, Plaintiff's attorney/Plaintiff must file a praecipe to strike the case from the arbitration list because the case is settled and must notify all other attorneys/pro se parties and the panel members.

##### Rule 2102(b)—Style of Action.

(1) In all cases where an appeal is taken from a real estate assessment fixed by the Carbon County Board of Assessment and Appeals, the petition for allowance of appeal shall have attached to it a photocopy of the appealed from order of the said board and a proposed preliminary decree which shall provide:

(A) The appeal is allowed.

(B) Within 5 days from the date of the preliminary decree, appellant shall serve a copy of the petition and preliminary decree upon the said board, the governing body of the municipality, and the board of school directors of the school district in which the real estate is situate and upon the property owner, if he is not the appellant. Said service shall be made by either personal service or certified mail, with proof of service thereof to be filed at the Carbon County Prothonotary's Office.

(C) The taxing authorities aforesaid and the property owner, if he is not the appellant, be and are hereby entitled to intervene as parties appellee; and

(D) The Carbon County Board of Assessment and Appeals is directed to certify to the Court all evidence including photos, maps, appraisals, submitted below to become part of the Court record.

2. Within forty-five (45) days after required service of the petition and preliminary decree, all parties of record shall file pre-hearing statements and serve a copy on all other parties of record. The pre-hearing statement shall include:

A. A summary of the facts which will be offered by oral and documentary evidence at the hearing;

B. A list of exhibits to be offered;

C. A list of the names and addresses of all witnesses to be called;

D. Copies of any appraisal reports, or if no report is available, a summary of the testimony of any expert who will be called as a witness;

E. A statement of the current valuation which is the basis for the appeal;

F. A statement setting forth the appellant's position as to the correct valuation which shall include appellant's position as to correct market value, assessment ratio, and assessment;

G. A statement that there have been negotiations between the parties and a good faith attempt to settle the case; and

H. The statement shall be signed by the parties or their counsel.

3. Upon docketing of all pre-hearing statements, a pre-hearing conference shall be scheduled. Notice pursuant to Pa.R.C.P. 440 shall be given by the Prothonotary's Office to all affected taxing authorities whether or not parties of record. Each party of record shall either be personally present, or shall be represented by counsel authorized to act on behalf of the absent party of record with respect to the trial of the case or its settlement.

4. At the pre-hearing conference, the parties of record shall consider:

A. Possible stipulations as to evidence and facts;

B. Simplification of the issue; and

C. Settlement.

5. Following the pre-hearing conference, the Court shall enter an appropriate order or schedule a hearing.

[Pa.B. Doc. No. 08-1583. Filed for public inspection August 29, 2008, 9:00 a.m.]

## CARBON COUNTY

### Fee Schedule for Carbon County; Civil Division; Arbitrators; No. 04-1728

#### Administrative Order No. 15-2008

*And Now*, this 15th day of August, 2008, it is hereby *Ordered* and *Decreed* that, effective January 1, 2009, Carbon County *Adopts* the following fee schedule for Arbitrators appointed under Pennsylvania Rules of Compulsory Arbitration:

1. Each member of the board of arbitrators who signs the award shall receive a fee of \$150.00 for all cases involving two (2) hours or less, plus \$75.00 for each hour of hearing over two (2) hours. (Except by special order, cases heard together count as one award for purposes of this Order). In cases requiring hearings of unusual duration or involving questions of unusual complexity, the Court on petition of the members of the board and for cause shown, may allow additional compensation.

2. In cases where an award is to be entered by the arbitrators pursuant to an agreement of settlement entered within two (2) days before the scheduled hearing, each member of the board shall receive a fee of \$75.00.

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

1. File seven (7) certified copies of this Administrative Order 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 Civil 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 the Order in the Prothonotary's Office.

*By the Court*

ROGER N. NANOVIC,  
*President Judge*

[Pa.B. Doc. No. 08-1584. Filed for public inspection August 29, 2008, 9:00 a.m.]