

THE COURTS

Title 210—APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

[210 PA. CODE CH. 11]

Order Amending PA.R.A.P 1115; No. 196 Appellate
Procedural Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 25th day of September, 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 1115 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 as to all petitions for allowance of appeal filed more than 30 days after entry of the order.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE I. PRELIMINARY PROVISIONS

CHAPTER 11. APPEALS FROM COMMONWEALTH COURT AND SUPERIOR COURT

Rule 1115. Content of the Petition for Allowance of Appeal.

(a) *General rule.*—The petition for allowance of appeal need not be set forth in numbered paragraphs in the manner of a pleading, and shall contain the following (which shall, insofar as practicable, be set forth in the order stated):

* * * * *

(6) There shall be appended to the petition a copy of any opinions delivered relating to the order sought to be reviewed, as well as all opinions of government units or lower courts in the case, and, if reference thereto is necessary to ascertain the grounds of the order, opinions in companion cases. **If an application for reargument was filed in the Superior Court or Commonwealth Court, there also shall be appended to the petition a copy of any order granting or denying the application for reargument.** If whatever is required by this paragraph to be appended to the petition is voluminous, it may, if more convenient, be separately presented.

(7) There shall be appended to the petition the verbatim texts of the pertinent provisions of constitutional provisions, statutes, ordinances, regulations or other similar enactments which the case involves, and the citation to the volume and page where they are published, including the official edition, if any.

* * * * *
Explanatory Comment 2008

The purpose of the requirement in Subsection (a)(6) requiring the attachment of any order granting or denying an application for reargument (which also includes applications for “reconsideration” and “rehearing”, see Pa.R.A.P. 102) filed in the Superior Court or Commonwealth Court is to allow the Prothonotary of the Supreme Court to confirm compliance with the time requirements for filing a petition for allowance of appeal under Pa.R.A.P. 1113(a).

[Pa.B. Doc. No. 08-1832. Filed for public inspection October 10, 2008, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Proposed Amendment of Rule 234.2 Governing the Issuance and Service of Subpoenas; Proposed Recommendation No. 235

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 234.2 governing the issuance and service of subpoenas be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than November 26, 2008 to:

Karla M. Shultz, Esquire
Counsel
Civil Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, Pennsylvania 17055
or E-Mail to
civil.rules@pacourts.us

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 234.2. Subpoena. Issuance. Service. Compliance. Fees. Prisoners.

* * * * *

(c) The fee for one day’s attendance and round trip mileage shall be tendered upon demand at the time the person is served with a subpoena. If a subpoena is served

by mail, a check in the amount of one day's attendance and round trip mileage shall be enclosed with the subpoena.

Official Note: See 42 [Pa.C.S.A.] Pa.C.S. § 5903 for the compensation and expenses of witnesses. See also *Evans v. Otis Elevator Co.*, 403 Pa. 13, 168 A.2d 573 (1961), regarding the right of an expert witness to refuse to testify on behalf of an adverse party.

* * * * *

(e)(1) For the purposes of this subdivision, "guardian" shall mean any parent, custodian, or other person who has legal custody of a minor, or person designated by the court to be a temporary guardian for purposes of a proceeding.

(2)(i) A subpoena shall be served on a minor only with prior court approval and good cause shown.

(ii) The guardian of a witness who is a minor shall be served with a copy of the subpoena in the same manner as prescribed in subdivision (b).

Official Note: See Rule 76 for definition of "minor."

Explanatory Comment

To provide greater protection to minors, the Civil Procedural Rules Committee proposes the amendment of Rule 234.2 governing the issuance and service of subpoenas on a witness who is a minor. The amendment provides two specific requirements for the issuance and service of a subpoena on a witness who is a minor: (1) a court must review and grant permission before a subpoena may be issued to a witness who is a minor, and (2) the subpoena must also be served on the legal guardian of the witness.

By the Civil Procedural Rules Committee

STEWART L. KURTZ,
Chair

[Pa.B. Doc. No. 08-1833. Filed for public inspection October 10, 2008, 9:00 a.m.]

PART I. GENERAL

[231 PA.CODE CH. 200]

Proposed Promulgation of New Rule 233.1 Governing Frivolous Litigation by Pro Se Plaintiffs; Proposed Recommendation No. 234

The Civil Procedural Rules Committee proposes that new Rule of Civil Procedure 233.1 governing frivolous litigation by pro se plaintiffs be promulgated as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than November 26, 2008 to:

Karla M. Shultz, Esquire
Counsel
Civil Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, Pennsylvania 17055

or E-Mail to
civil.rules@pacourts.us

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 233.1. Frivolous Litigation. Pro Se Plaintiff. Motion to Dismiss.

(a) Upon the commencement of any action filed by a pro se plaintiff in the court of common pleas, a defendant may file a motion to dismiss the action on the basis that

(1) the pro se plaintiff is alleging the same or related claims against the same or related defendants, and

(2) these claims have already been resolved pursuant to a settlement agreement or a court proceeding.

(b) The court shall stay the action while the motion is pending.

(c) Upon granting the motion to dismiss, the court shall enter an order dismissing the action and may bar the pro se plaintiff from pursuing additional pro se litigation against the same defendant or related defendants raising the same or related claims without leave of court.

(d) If litigation is filed in violation of a court order entered pursuant to subdivision (c), the court may sua sponte or in an ex parte proceeding dismiss an action that is filed in violation of a court order entered under this rule.

Official Note: A pro se party is not barred from raising counterclaims or claims against other parties in litigation that the pro se plaintiff did not institute.

Explanatory Comment

It has come to the attention of the Civil Procedural Rules Committee that some pro se litigants are abusing the legal system by filing large numbers of frivolous motions or by repeatedly filing new litigation raising the same claims against the same defendant even though the claims have been previously adjudicated either through settlement or court proceedings, all of which is done for the purpose of harassing the defendant. New Rule 233.1 is intended to provide relief to a defendant who has been subjected to this type of harassment. Upon the filing of an action by a pro se plaintiff, a defendant may file a motion to dismiss a pending action provided that (1) the pro se plaintiff is alleging the same or related claims against the same or related defendants, and (2) the claims have already been resolved pursuant to a settlement agreement or a court proceeding. The new rule also gives the trial court discretion to bar the pro se litigant from filing further litigation against the same or related defendants raising the same or related claims without leave of court.

By the Civil Procedural Rules Committee

STEWART L. KURTZ,
Chair

[Pa.B. Doc. No. 08-1834. Filed for public inspection October 10, 2008, 9:00 a.m.]

PART I. GENERAL
[231 PA. CODE CH. 1000]

Proposed Amendment of Rule 1012.1 Governing Motions for Admission Pro Hac Vice; Proposed Recommendation No. 236

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 1012.1 governing motions for admission pro hac vice be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than November 26, 2008 to:

Karla M. Shultz, Esquire
 Counsel
 Civil Procedural Rules Committee
 5035 Ritter Road, Suite 700
 Mechanicsburg, Pennsylvania 17055

or E-Mail to
 civil.rulespa@courts.us

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1000. ACTIONS

Subchapter A. CIVIL ACTION

VENUE AND PROCESS

Rule 1012.1. Admission Pro Hac Vice. Motion. Content.

* * * * *

(b)(1) The sponsor shall file a written motion for admission pro hac vice in the action for which admission is sought. **The motion shall aver that (i) the information required by Section 81.504 of the IOLTA regulations has been provided to the IOLTA Board, and (ii) the motion shall either aver that the fee required by Section 81.505(a) of the IOLTA regulations has been paid, or shall include as an attachment a copy of a fee payment certification from the IOLTA Board, or shall aver that the payment of the fee is not required pursuant to Section 81.505(c) of the IOLTA regulations,**

(2) The verifications required by subdivisions (c) and (d)(2) shall be attached to the motion.

* * * * *

Explanatory Comment

In 2007, the Supreme Court promulgated Rule 1012.1 governing motions for admission pro hac vice. In conjunction with this, the Supreme Court also amended Pa.B.A.R. 301 and promulgated new IOLTA regulations, both of which also govern admission pro hac vice. Pa.B.A.R. 301 requires that the motion for admission pro hac vice to aver that the fee required by the IOLTA regulations has been paid, or include as an attachment a copy of a fee payment certification from the IOLTA Board,

unless payment of the fee is not required pursuant to Section 81.505(c) of the IOLTA regulations, and the information required by Section 81.504 of the IOLTA regulations has been provided to the IOLTA Board. The requirements of Pa.B.A.R. 301 and the IOLTA regulations have been incorporated into Rule 1012.1 to aid the practitioner in satisfying the requirements for admission pro hac vice in civil cases.

By the Civil Procedural Rules Committee

STEWART L. KURTZ,
Chair

[Pa.B. Doc. No. 08-1835. Filed for public inspection October 10, 2008, 9:00 a.m.]

PART I. GENERAL
[231 PA. CODE CH. 3000]

Proposed Amendment of Rule 3111.1 et seq. Governing Exemption from Levy and Attachment; Proposed Recommendation No. 237

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 3111.1 et seq. governing exemption from levy and attachment be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than November 26, 2008 to:

Karla M. Shultz, Esquire
 Counsel
 Civil Procedural Rules Committee
 5035 Ritter Road, Suite 700
 Mechanicsburg, Pennsylvania 17055

or E-Mail to
 civil.rules@pacourts.us

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 3000. JUDGMENTS

Subchapter D. ENFORCEMENT OF MONEY JUDGMENTS FOR THE PAYMENT OF MONEY

Rule 3111.1. Exemptions from levy and attachment.

In the absence of a court order, service of the writ upon a bank or other financial institution as garnishee shall not attach

(1) [any of the defendant's funds on deposit with the bank or other financial institution in an account in which (1)] the first \$10,000 of each account of the defendant containing any funds which are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law, [or]

Official Note: See Rule 3146(b)(2) governing judgment against a bank or other financial institution as garnishee upon admission in answer to interrogatory.

(2) each account in which funds on deposit exceed \$10,000 at any time if all funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law, and

(3) the funds on deposit, not including any otherwise exempt funds, that do not exceed the amount of the general monetary exemption under 42 Pa.C.S. § 8123. The plaintiff shall have the right to file an objection if the plaintiff believes that the defendant has exhausted the statutory exemptions.

Rule 3140. Notice by garnishee.

(a)(1) Upon being served with the writ, the garnishee shall [promptly] within two business days forward a copy to the defendant.

(2) In addition to compliance with the requirements of Rule 3144, a garnishee which is a bank or other financial institution shall within two business days forward to the defendant and to the plaintiff a copy of the statement of accounts attached showing

(i) each account of the defendant having funds which have been attached and the amount of the funds in each account, and

(ii) each account of the defendant having funds which have not been attached because the account contains funds which are exempt under Rule 3111.1(1), the basis for the exemption of those funds, and the total amount of funds in each account.

Official Note: A garnishee which is a bank will send to the defendant copies of both the writ and the statement of accounts attached, but to the plaintiff only a copy of the statement of accounts attached.

(b) Upon filing his answer to interrogatories pursuant to Rule 3144 the garnishee shall promptly forward a copy to the defendant.

* * * * *

Rule 3141. Garnishee's duty to defend; venue of proceedings.

(a) [A] Except as provided in Rule 3111.1, a garnishee who forwards copies of the writ and answers to interrogatories to the defendant shall thereafter be under no duty to resist the attachment or defend the action against the defendant in any manner but may do so as provided by these rules.

* * * * *

Subchapter E. ENFORCEMENT OF JUDGMENTS IN SPECIAL ACTIONS

FORMS

Rule 3253. Interrogatories in attachment.

Interrogatories of the plaintiff to the garnishee shall be substantially in the following form:

[Caption]
Interrogatories to Garnishee

"To _____ :
(Garnishee)

"You are required to file answers to the following interrogatories within twenty (20) days after service upon you. Failure to do so may result in judgment against you:

* * * * *

7. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which funds are deposited electronically on a recurring basis and which are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law? If so, identify each account and state the amount of funds in each account, the reason for the exemption, [the amount being withheld under each exemption] and the entity electronically depositing those funds on a recurring basis.

* * * * *

Explanatory Comment

New Rule 3111.1 was promulgated in 2007 to address the failure of the rules of civil procedure to protect funds held in accounts of banks and other financial institutions that are exempt from execution, levy, and attachment pursuant to federal and state legislation. The current rule protects from attachment all funds in an account in which any funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy, or attachment. The amendment to subdivision (1) of Rule 3111.1 provides that only the first \$10,000 held in an account may not be attached whenever the account includes any funds that are identified as being exempt from execution, levy, or attachment. If an account holder believes the remainder is also exempt, he or she may petition the court for relief. Under new subdivision (2) any funds that exceed \$10,000 in an account may be attached unless all funds in the account are identified as exempt funds.

By the Civil Procedural Rules Committee

STEWART L. KURTZ,
Chair

[Pa.B. Doc. No. 08-1836. Filed for public inspection October 10, 2008, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CH. 16]

Proposed Modifications to Rule 1613

The Juvenile Court Procedural Rules Committee is planning to recommend to the Supreme Court of Pennsylvania that the modification of Rule 1613 be adopted and prescribed. The proposed modified Rule 1613 provides each method for terminating court supervision in dependency cases. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the intent of the rule. 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, November 6, 2008.

By the Juvenile Court
Procedural Rules Committee:

FRANCIS BARRY MCCARTHY,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart B. DEPENDENCY MATTERS

CHAPTER 16. POST-DISPOSITIONAL PROCEDURES

PART B. PERMANENCY HEARING

Rule 1613. Termination of Court Supervision.

A. *Concluding Supervision.* Any party, or the court on its own motion, may move for the termination of supervision when court-ordered services from the county agency are no longer needed and:

- 1) the child has remained with the guardian and the circumstances which necessitated the dependency adjudication have been alleviated;
- 2) the child has been reunified with the guardian and the circumstances which necessitated the dependency adjudication and placement have been alleviated;
- 3) the child has been placed with a ready, willing, and able parent [has come forward] who was not previously identified by the county agency;
- [2] 4) the child has been adopted and services from the county agency are no longer needed;
- [3) the court has transferred jurisdiction to another court;]
- 5) the child has been placed in the custody of a permanent legal custodian and services from the county agency are no longer needed;
- 6) the child has been placed in the custody of a fit and willing relative and services from the county agency are no longer needed;
- 7) the child has been placed in another living arrangement intended to be permanent and services from the county agency are no longer needed;
- 8) the child has been adjudicated delinquent and services from the county agency are no longer needed;
- 9) the child has been emancipated by the court;

[4] 10) the child is eighteen years old and [no longer wants service] refusing further services from the county agency;

11) the child has died;

12) a court in another county of this Commonwealth has accepted jurisdiction; or

13) a court in another state has accepted jurisdiction.

[5) the court has found other reasons for termination of court supervision; or

6)a) the family has completed the terms of the family service plan or permanency plan; and

b) the child is returned to the guardian.]

B. *Ready, willing, and able parent.* When services from the county agency are no longer necessary because the court has determined that the child is not dependent pursuant to paragraph (A) ([2] 3) because a non-custodial parent has been found by the court to be able and available, the court shall enter an order awarding custody to that parent and the court order shall have the effect and be docketed as a decision entered pursuant to Pa.R.C.P.

* * * * *

Comment

For procedures on motions, see Rule 1344. For procedures on the dispositional order, see Rule 1515.

[See also,] For guidelines under paragraph (A), see 42 Pa.C.S. §§ 6301(b) & 6351(f.1).

Pursuant to paragraph (A)(8), if a child has been adjudicated delinquent, the court may terminate court supervision unless dependency is necessary for placement. *In re Deanna S.*, 422 Pa. Super. 439, 619 A.2d 758 (1993). The court may also decide to retain dependency jurisdiction regardless of the delinquency adjudication because the child still needs dependency services.

For procedures on emancipation pursuant to paragraph (A)(9), see *Berks County Children and Youth Services v. Rowan*, 428 Pa. Super. 448, 631 A.2d 615 (1993). See also, 22 Pa. Code § 11.11, 55 Pa. Code § 145.62.

Pursuant to paragraph (A)(10), a child who was adjudicated dependent prior to reaching the age of eighteen and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, may remain in the course of instruction or treatment until the age of twenty-one. 42 Pa.C.S. § 6302. See also, 55 Pa. Code §§ 3130.5 & 3130.87; *In re S.J.*, 906 A.2d 547 (Pa. Super. Ct. 2006).

The court may not terminate jurisdiction solely because the dependent child is a runaway. *In re Deanna S.*, 422 Pa. Super. 439, 619 A.2d 758 (1993).

A child whose non-custodial parent is ready, willing, and able to provide adequate care for the child may not be found dependent. *In re M.L.*, 562 Pa. 646, 757 A.2d 849 (2000). See paragraph (B).

Pursuant to 42 Pa.C.S. § 6351(a)(2.1), a court may transfer permanent legal custody to a person found by the court to be qualified to receive and care for the child. 42 Pa.C.S. § 6351(a)(2.1). See also *Justin S.*, 375 Pa. Super. 88, 543 A.2d 1192 (1988).

* * * * *

EXPLANATORY REPORT**Rule 1613—Termination of Court Supervision.**

The proposed modified Rule 1613 provides each method for terminating a case. This change will eliminate any confusion as to how a dependency case can be terminated. This will also enable a more efficient tracking of the dependency cases and the reasons for their termination.

Paragraphs (A)(1) and (2) are preferred permanency choices under the Juvenile Act. 42 Pa.C.S. §§ 6301(b) and 6351(f.1)(1).

Paragraph (A)(3) is addressed by *In re M.L.*, 562 Pa.646, 757 A.2d 849 (2000). A child whose non-custodial parent is ready, willing, and able to provide adequate care for the child may not be found dependent. If this parent comes forward after the commencement of dependency proceedings, the court may terminate the dependency supervision and enter an order awarding custody to the parent. *See* paragraph (B).

Paragraphs (A)(4)—(7) are other permanency options provided for in the Juvenile Act. 42 Pa.C.S. § 6351(F.1)(2)—(5).

Pursuant to paragraph (A)(8), if a child has been adjudicated delinquent, the court may terminate court supervision unless dependency is necessary for placement. *In re Deanna S.*, 422 Pa. Super. 439, 619 A.2d 758 (1993). The court may also decide to retain dependency jurisdiction regardless of the delinquency adjudication so the child can obtain dependency services from the county agency.

The court may also decide to emancipate the child under paragraph (A)(9). *See Berks County Children and Youth Services v. Rowan*, 428 Pa. Super. 448, 631 A.2d 615 (1993). *See also*, 22 Pa. Code § 11.11, 55 Pa. Code § 145.62.

Pursuant to paragraph (A)(10), a child who was adjudicated dependent prior to reaching the age of eighteen and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, may remain in the course of instruction or treatment until the age of twenty-one. 42 Pa.C.S. § 6302. *See also*, 55 Pa. Code §§ 3130.5 and 3130.87; *In re S.J.*, 906 A.2d 547 (Pa. Super. Ct. 2006).

The court may also transfer the case to another court. *See* paragraphs (A)(12) and (13).

The court may not terminate jurisdiction solely because the dependent child is a runaway. *In re Deanna S.*, 422 Pa. Super. 439, 619 A.2d 758 (1993).

[Pa.B. Doc. No. 08-1837. Filed for public inspection October 10, 2008, 9:00 a.m.]

PART I. RULES**[237 PA. CODE CHS. 1 AND 5]****Proposed Modifications to Rules 120, 515 and 520**

The Juvenile Court Procedural Rules Committee is planning to recommend to the Supreme Court of Pennsylvania that the modification of Rules 120, 515 and 520 be adopted and prescribed. The proposed modified Rule 120 sets forth a new definition for "disposition." The proposed modified Rule 515 clarifies when the court enters a dispositional order. The proposed modified Rule 520 adds

a Comment referencing the new definition of disposition because the disposition is the triggering point for the filing of a post-dispositional motion. 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, November 6, 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 1. GENERAL PROVISIONS****PART A. BUSINESS OF COURTS****Rule 120. Definitions.**

* * * * *

DETENTION FACILITY is any facility, privately or publicly owned and operated, designated by the court and approved by the Department of Public Welfare to detain a juvenile temporarily. The term detention facility, when used in these rules, shall include shelter-care.

DISPOSITION is a final determination made by the court after an adjudication of delinquency or any determination that ceases court action on a case.

* * * * *

Comment

Under the term "court," to determine if masters are permitted to hear cases, *see* Rule 187. *See* Rule 210 for the power of magisterial district judges to issue arrest warrants.

The term "disposition" includes all final determinations made by the court. A disposition includes a response to an adjudication of delinquency, such as sending the juvenile to a placement facility or placing the juvenile on probation. It also includes other types of final determinations made by the court. Other final determinations include a finding that the juvenile did not commit a delinquent act pursuant to Rule 408 (B), a finding that the juvenile is not in need of treatment, rehabilitation, or supervision pursuant to Rule 409 (A)(1), dismissing the charges "with prejudice" prior to an adjudicatory hearing, or any other final action by the court that closes or terminates the case.

* * * * *

CHAPTER 5. DISPOSITIONAL HEARING

PART B. DISPOSITIONAL HEARING AND AIDS

Rule 515. Dispositional Order.

A. *Generally.* When the court enters a disposition **after an adjudication of delinquency pursuant to Rule 409(A)(2)**, the court shall issue a written order, which provides balanced attention to the protection of the community, accountability for the offenses committed, and development of the juvenile's competencies to enable the juvenile to become a responsible and productive member of the community. The order shall include:

* * * * *

PART C. POST-DISPOSITIONAL MOTIONS

Rule 520. Post-Dispositional Motions.

* * * * *

Comment

The purpose of this rule is to promote the fair and prompt disposition of all issues relating to admissions, adjudication, and disposition by consolidating all possible motions to be submitted for court review, and by setting reasonable but firm time limits within which the motion is to be decided. Because the post-dispositional motion is optional, a party may choose to raise any or all properly preserved issues in the trial court, in the appellate court, or both.

For the definition of "disposition," see Rule 120 and its *Comment*.

* * * * *

EXPLANATORY REPORT

Rule 120—Definitions.

The Committee is proposing a new definition for "disposition." It has come to the Committee's attention that there are several instances in which a case is terminated in juvenile court and the guidelines for the timing of appeals in those cases are unclear. The new definition clearly sets forth which cases could be included in a post-dispositional motion pursuant to Rule 520, which affects the timing of appeals.

A disposition includes all final determinations made by the court. The common interpretation of a disposition is when the court adjudicates the juvenile delinquent and finds the juvenile in need of treatment, supervision, and rehabilitation, and makes a decision to place the juvenile in a placement facility, on alternative care, or on probation. However, disposition also includes: 1) a finding that the juvenile did not commit a delinquent act; 2) a finding that the juvenile is not in need of treatment, supervision, or rehabilitation; 3) dismissal of the case "with prejudice" prior to the commencement of an adjudicatory hearing; or 4) any other action that terminates or closes the juvenile case.

Rule 515—Dispositional Order.

The addition of "after an adjudication of delinquency pursuant to paragraph (A)(2)" indicates when a dispositional order will be entered under this rule. This rule is designed to address cases when the court has found the juvenile to have committed a delinquent act and that the juvenile is in need of treatment, supervision, or rehabilitation.

If the court finds that a juvenile did not commit the alleged delinquent acts pursuant to Rule 408 (B), it will

enter an order releasing the juvenile under Rule 408. If the court finds that the juvenile is not in need of treatment, supervision, or rehabilitation pursuant to Rule 409(A)(1), it will enter an order releasing the juvenile pursuant to Rule 409. If the court dismisses the case "with prejudice" prior to the commencement of an adjudicatory hearing or terminates the case for any other reason, the court will enter an order to that effect.

Rule 520—Post-Dispositional Motions.

This proposed addition to the Comment of this Rule is a reference to the new definition of "disposition." All scenarios included under this definition trigger when a post-dispositional motion may be filed.

[Pa.B. Doc. No. 08-1838. Filed for public inspection October 10, 2008, 9:00 a.m.]

Title 255—LOCAL COURT RULES

MONTGOMERY COUNTY

Rescission and Adoption of New Rule 205.4*—Electronic Filing and Service of Legal Papers

Order

And Now, this 29th day of September, 2008, the Court rescinds Montgomery County Local Rule of Civil Procedure 205.4*—Electronic Filing and Service of Legal Papers, and approves and adopts the following Montgomery County Local Rule of Civil Procedure 205.4*—Electronic Filing and Service of Legal Papers. This new Rule shall become effective thirty days after publication in the *Pennsylvania Bulletin*.

The Court Administrator is directed to publish this Order once in the Montgomery County Law Reporter and in *The Legal Intelligencer*. In further conformity with Pa.R.C.P. 239, seven (7) certified copies of the within Order shall be filed by the Court Administrator with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One (1) certified copy shall be filed with the Civil Procedural Rules Committee. One (1) copy shall be filed with the Prothonotary, one (1) copy with the Clerk of Courts, and (1) copy with the Court Administrator of Montgomery County, one (1) copy with the Law Library of Montgomery County and one (1) copy with each Judge of this Court.

By the Court:

RICHARD J. HODGSON,
President Judge

Rule 205.4*. Electronic Filing and Service of Legal Papers.

Rescinded.

Note—version of Local Rule originally adopted on January 18, 2002.

Rule 205.4*. Electronic Filing and Service of Legal Papers.

(a)(1) The Montgomery County Court of Common Pleas hereby permits the electronic filing of legal papers and the electronic service of such papers, under the terms described in this Local Rule.

NOTICE OF ENTRY OF AWARD

Now, this ___ day of _____, _____, at _____, ___ M., the above award was entered upon the docket and notice thereof was given by mail to the parties or their attorneys.

Arbitrators' compensation to be paid upon appeal:
 \$ _____

ATTEST:

 Prothonotary
 JOHN E. BLAHOVEC,
President Judge

[Pa.B. Doc. No. 08-1840. Filed for public inspection October 10, 2008, 9:00 a.m.]

**DISCIPLINARY BOARD OF
 THE SUPREME COURT**

Notice of Disbarment

Notice is hereby given that Arthur D. Machado having been resigned from the practice law in the State of Connecticut by Acceptance of Resignation and Waiver of the Connecticut Superior Court, Judicial District of New Haven, entered on November 6, 2007, by Order dated September 25, 2008, the Supreme Court of Pennsylvania disbarred Arthur D. Machado from the practice of law in this Commonwealth, effective October 25, 2008. In accordance with Rule 217(f), Pa.R.D.E., since this formerly

admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 08-1841. Filed for public inspection October 10, 2008, 9:00 a.m.]

Notice of Disbarment

Notice is hereby given that Robert W. Rhoades having been disbarred by consent from the practice of law in the State of New Jersey by Order of the Supreme Court of New Jersey date October 9, 2007, by Order dated September 25, 2008, the Supreme Court of Pennsylvania disbarred Robert W. Rhoades from the practice of law in this Commonwealth, effective October 25, 2008. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 08-1842. Filed for public inspection October 10, 2008, 9:00 a.m.]