

# THE COURTS

## Title 246—MINOR COURT CIVIL RULES

### PART I. GENERAL

[ 246 PA. CODE CH. 200 ]

**Amendment of Rule 202 and New Rule 215 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges; No. 252 Magisterial Rules; Doc. No. 1**

#### Order

*Per Curiam:*

And Now, this 8th day of October, 2008, upon the recommendation of the Minor Court Rules Committee, the proposal having been published before adoption at Volume 38, *Pennsylvania Bulletin*, page 1817 (April 19, 2008), and a Final Report to be published with this Order:

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pa.R.C.P.M.D.J. No. 202 be, and hereby is, amended in the attached form, and new Pa.R.C.P.M.D.J. No. 215 be, and hereby is, adopted, in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective November 1, 2008.

#### Annex A

### TITLE 246. MINOR COURT CIVIL RULES

#### PART I. GENERAL

#### CHAPTER 200. RULES OF CONSTRUCTION; GENERAL PROVISIONS

##### Rule 202. Definitions.

As used in these rules, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise or the particular word or phrase is expressly defined in the chapter in which the particular rule is included:

“adult” means an individual eighteen years of age or older;

“advanced communication technology” is any communication equipment that is used as a link between parties in physically separate locations.

\* \* \* \* \*

Adopted Oct. 15, 1969, effective Jan. 1, 1970. Amended April 25, 1979, effective in 30 days, June 30, 1982, effective 30 days after July 17, 1982; Dec. 1, 1983, imd. effective; July 16, 2001, effective Aug. 1, 2001; Sept. 3, 2003, effective Jan. 1, 2004; Jan. 6, 2005; effective Jan. 29, 2005; June 1, 2006, effective Oct. 1, 2006; **Oct. 8, 2008, effective Nov. 1, 2008.**

##### Rule 215. Advanced Communication Technology (NEW).

Magisterial district judges may authorize the use of advanced communication technology during any civil proceeding or action governed by the Rules of Civil Procedure for Magisterial District Judges.

**Official Note:** This rule was adopted in 2008 to specify that magisterial district judges may use advanced communication technology in their courtrooms during adversarial proceedings. In an ex parte proceeding, such as an action pursuant to the Protection From Abuse Act, 23 Pa.C.S. § 6101 *et seq.*, magisterial district judges also may permit the use of advanced communication technology. Limited technology available in some magisterial district courts may preclude the use of certain advanced communication technology options. Compare Pa.R.Crim.P. 119.

**Adopted Oct. 8, 2008, effective Nov. 1, 2008.**

#### FINAL REPORT

#### **Amendment to Rule 202 and New Rule 215 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges**

#### DEFINITIONS; ADVANCED COMMUNICATION TECHNOLOGY

On October 8, 2008, effective November 1, 2008, upon recommendation of the Minor Court Rules Committee,<sup>1</sup> the Supreme Court of Pennsylvania approved an amendment to Rule 202, as well as adopted an entirely new Rule 215 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges.<sup>2</sup>

##### I. Background

In 2007, the Minor Court Rules Committee (“Committee”) became aware of several counties enacting local rules that allowed for use of advanced communication technology (“ACT”) in proceedings for emergency relief pursuant to the Protection From Abuse Act, 23 Pa.C.S. § 6101 *et seq.* Some counties apparently had taken this action, or were considering this action, in an attempt to fill a perceived gap in the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges. While there is a rule addressing the use of ACT in criminal proceedings (Pa.R.Crim.P. 119), there is no rule either prohibiting or permitting the practice on the civil side.

In order to foster a uniform, statewide practice, the Committee recommended a new rule authorizing the use of ACT in civil actions.

##### II. Discussion

The Committee reviewed several counties’ local rules authorizing the use of ACT in civil actions and/or emergency protection from abuse actions. In addition, the Committee reviewed Pa.R.Crim.P. 103 (“Definitions”) and 119 (“Use of Two-Way Simultaneous Audio-Visual Communication in Criminal Proceedings”). Although the Committee recognized that two definitions pertaining to ACT are contained within the criminal definitions<sup>3</sup>, the Committee decided to include only one of those definitions—“advanced communication technology.” By choosing to exclude “advanced communication technology site,” the Committee believed that more individuals will be able to access the magisterial district courts, especially in times of crisis, such as when seeking emergency protection from abuse orders.

<sup>1</sup>Minor Court Rules Committee Recommendation 9-2008.

<sup>2</sup>Supreme Court of Pennsylvania Order No. 252, Magisterial Docket No. 1 (October 8, 2008).

<sup>3</sup>The criminal rules define both “advanced communication technology” and “advanced communication technology site.”

The Committee also weighed the benefits of the proposed Rule 215 in accommodating individuals with special circumstances. Some of the hypotheticals mentioned included the new rule's ability to assist individuals with disabilities; allow telephonic use for interpreters (such as "Language Line"); or permit remote testimony of a non-critical witness for whom travel would present extreme difficulty.

The Committee chose not to enumerate specific mandatory conditions in Rule 215, believing that each individual magisterial district judge should have the discretion to decide when, and if, ACT was appropriate for his or her courtroom. In addition, the Committee chose not to include any language about a party's objection to the use of ACT. The Committee believes that, as with any decision rendered by a magisterial district judge that a party considers unfavorable, the proper course of action would be an appeal or praecipe for writ of certiorari.

### III. *Approved Rule Changes*

To address the issues discussed above, the Committee proposed the following rule changes.

#### A. *Rule 202*

The Committee proposed the inclusion of a new definition in Rule 202—"advanced communication technology." The definition is derived from Pa.R.Crim.P. 103 ("Definitions"). However, the Committee decided against an exact replication of Pa.R.Crim.P. 103, recognizing the rapid pace of technological change. The Committee did not want to specify certain types of technology that very well could become obsolete in a short period of time. Instead, the Committee chose to allow each magisterial district judge to permit the use of technology that links parties in two physically separate locations.

#### B. *New Rule 215*

The Committee proposed an entirely new Rule 215 (Advanced Communication Technology) to provide a procedure for parties to participate in civil hearings using any manner of technological devices. As provided by the companion amendment to Rule 202, "advanced communication technology" is not strictly limited; instead, it allows the judge to decide when, and if, a method is most appropriate for the courtroom and/or hearing. The note to the rule will direct parties to the criminal rules for comparison. In addition, it will clarify that ACT is available in both adversarial and *ex parte* proceedings. Finally, it will caution parties that not all magisterial district courts possess the ability to use all types of ACT.

[Pa.B. Doc. No. 08-1923. Filed for public inspection October 24, 2008, 9:00 a.m.]

## PART I. GENERAL

### [ 246 PA. CODE CH. 200 ]

**Amendment of Rule 214 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges; No. 251 Magisterial Rules; Doc. No. 1**

#### **Order**

*Per Curiam:*

*And Now*, this 8th day of October, 2008, upon the recommendation of the Minor Court Rules Committee, the proposal having been published before adoption at

Volume 38, *Pennsylvania Bulletin*, page 2151 (May 10, 2008), and a Final Report to be published with this *Order*.

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pa.R.C.P.M.D.J. No. 214 be, and hereby is, amended in the attached form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective May 1, 2009.

#### **Annex A**

### **TITLE 246. MINOR COURT CIVIL RULES**

#### **PART I. GENERAL**

### **CHAPTER 200. RULES OF CONSTRUCTION; GENERAL PROVISIONS**

#### **Rule 214. Subpoena; Issuance; Service.**

[ A. ] (A) Magisterial district judges may issue subpoenas throughout the Commonwealth. **Magisterial district judges shall not issue subpoenas in blank.**

[ B. ] (B) Upon the request of a party **proceeding pro se, the authorized representative of a party, or an attorney of record**, the magisterial district judge may issue a subpoena signed and under the seal of the magisterial district judge. The magisterial district judge shall specify in the subpoena the name and address for service of the person subpoenaed; **the name of the party on whose behalf the person is being ordered to testify**; the date, time, and place at which the person is to appear; and a description of the documents or things that the person is to produce, if any.

(1) **The party, authorized representative, or attorney of record requesting the subpoena shall provide the magisterial district court with the information required in paragraph (B).**

(2) **If the subpoena is to be issued, the magisterial district court shall fill in the information provided and return it to the requestor for service.**

[ C. ] (C) A subpoena may be served upon any person within the Commonwealth by a competent adult

\* \* \* \* \*

(D) **The person making service of a subpoena must file a return of service form in the magisterial district court in which the hearing is pending within 48 hours of service, and in no event later than the commencement of the hearing. Filing under this paragraph may be accomplished by sending a copy by facsimile transmission.**

(E) **If a subpoenaed witness is under the age of 18, the parent or guardian of the witness shall be served with a copy of the subpoena in the same manner as prescribed in paragraph (C).**

**Official Note:** [ See Rule 202 for definition of "subpoena." Compare Pa.R.C.P. Nos. 234.2 and 402(a). ]

[ The ] **When issuing a subpoena, the magisterial district judge has discretion to limit the scope of [ subpoenas ] the subpoena to persons, documents, or things that are relevant to the cause of action before the magisterial district judge.**

[ **Magisterial district judges may not issue subpoenas in blank.** ]

Paragraph (D) provides for filing by facsimile transmission. It is the intent of these rules that filing documents by facsimile transmission is permitted only when expressly provided for in the rules. Paragraph (D) also provides for use of a form promulgated by the Court Administrator of Pennsylvania.

Paragraph (E) provides that parties choosing to subpoena witnesses under the age of 18 must alert the magisterial district court of the witness' age and are responsible for any additional service costs.

See Rule 202 for definitions of "subpoena" and "attorney of record." Compare Pa.R.C.P. Nos. 234.2 and 402(a) and Pa.R.Crim.P. 107. See also Rule 207 regarding representation by an authorized representative.

For the scope of the contempt powers of magisterial district judges, see 42 Pa.C.S. § 4137. See also Pa.R.Crim.P. 140-142.

Adopted Sept. 3, 2003, effective Jan. 1, 2004. Amended Jan. 6, 2005, effective Jan. 29, 2005; Oct. 8, 2008, effective May 1, 2009.

#### FINAL REPORT

#### *Amendment to Rule 214 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges*

#### PARENTAL NOTIFICATION WHEN CHILD SUBPOENAED

On October 8, 2008, effective May 1, 2009, upon recommendation of the Minor Court Rules Committee,<sup>1</sup> the Supreme Court of Pennsylvania approved an amendment to Rule 214 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges.<sup>2</sup>

#### I. Background

The Minor Court Rules Committee ("Committee") was prompted to suggest the following changes based upon a February 28, 2008 order of the Pennsylvania Supreme Court.<sup>3</sup> The Court, upon recommendation of the Juvenile Court Procedural Rules Committee, promulgated changes in the Rules of Juvenile Court Procedure that, *inter alia*, would require parental notification when a subpoena is issued to a person under the age of eighteen.

#### II. Discussion

The Committee reviewed the Feb. 28, 2008 order adopting the Juvenile Court Procedural Rules Committee's recommendation.<sup>4</sup> The Committee discussed the benefits of the Juvenile Court Procedural Rules Committee's proposal. Providing a parent or guardian with important information about his or her child's whereabouts was one of the chief benefits recognized by the Committee in considering adopting similar rule language. In addition, the Committee felt that consistency throughout Pennsylvania's courts is important, and that if one set of court rules was undergoing a change, the measure should be seriously considered by the Committee. Ultimately, the Committee agreed that they should follow the proposal outlined by the Juvenile Court Procedural Rules Committee.

<sup>1</sup> Minor Court Rules Committee Recommendation 8-2008.

<sup>2</sup> Supreme Court of Pennsylvania Order No. 251, Magisterial Docket No. 1 (October 8, 2008).

<sup>3</sup> Supreme Court of Pennsylvania Order No. 438, Supreme Court Rules Docket No. 1.

<sup>4</sup> The recommendation was published before adoption at 37 Pa.B. 1306 (March 24, 2007), in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 915, March 16, 2007) and on the Juvenile Court Procedural Rules Committee's web site.

#### III. Approved Rule Changes

To address the issues discussed above, the Committee proposed amending Rule 214 to include a new paragraph (E) that closely tracks the Juvenile Court Procedural Rules Committee's recommendation to the Court.

While the Committee was implementing changes to follow the Juvenile Committee's work, it also recognized other needed changes within Rule 214. In paragraph (B), the Committee inserted several new terms. The paragraph previously stated only that subpoenas may be issued "upon the request of a party." The Committee's proposal added language clarifying that a magisterial district judge may also issue subpoenas upon the request of an "authorized representative" or "attorney of record." In 2006, the Supreme Court adopted a Committee recommendation that permits an individual with personal knowledge of the subject matter to appear on behalf of a party. See Rule 207(A)(1). The previous language of paragraph (B) was also changed to emphasize that a party representing him or herself (*pro se*) can request issuance of a subpoena. The Committee also advocated additions to paragraph (B) to make clear *who* is requesting the subpoenaed witness' testimony, as well as the procedure for obtaining and serving the subpoena.

The Committee suggested adding a new paragraph (D) to provide for return of service forms' submission to the magisterial district court. In addition, the note to Rule 214 was amended to include supplemental information about the new paragraphs (D) and (E) as well as providing other helpful information with regard to subpoenas in civil actions before magisterial district judges.

Finally, the sentence in the note about magisterial district judges' ability to issue subpoenas in blank was moved to paragraph (A). This change is to emphasize, in the rule itself, this prohibition.

[Pa.B. Doc. No. 08-1924. Filed for public inspection October 24, 2008, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### LEHIGH COUNTY

#### Civil Division—Fee Schedule; Case No. 2008-J-120

#### Order

*And Now*, this 10th day of October 10, 2008, upon consideration of the within Petition for Increase of Fee Schedule presented by Lehigh County Clerk of Judicial Records, Andrea E. Naugle, and in accordance with Act 164 of 1998, the Prothonotary Fee Law.

*It Is Ordered* that the Fee Schedule of the Lehigh County Clerk of Judicial Records—Civil Division is amended effective January 1, 2009.

*It Is Further Ordered* that the Fee Schedule of the Lehigh County Clerk of Judicial Records—Civil Division, which is attached to the within Petition as Exhibit "D," is approved and adopted effective January 1, 2009.

*By the Court*

WILLIAM H. PLATT,  
*President Judge*

*Note:* Copies of the fee schedule are available in the Clerk of Judicial Records' Office

**ANDREA E. NAUGLE**  
**LEHIGH COUNTY CLERK OF JUDICIAL RECORDS**  
**CIVIL DIVISION FEE SCHEDULE**  
**EFFECTIVE JANUARY 1, 2009**

(42 Pa.C.S. § 21071)

Act 98-164 Effective 1/21/99

Note: CTF=Children's Trust Fund Fee  
Mandated by State Legislation  
JCP=Judicial Computer Project Fee  
Mandated by State Legislation  
(Act 122-2002 Rev. 11/02)  
PAF=Prothonotary Automation Fee  
Authorized by Act 98-164  
LCE=Lehigh County E-filing created by  
Leh R.C.P. 205.3 effective 1/1/04

<b>Document Type</b>	<b>Fee</b>
<b>Acknowledgment of Deeds</b>	\$ 9.25
<b>APPEALS</b>	
<b>Appeal of Appellate Court</b>	\$ 55.00
Plus check made payable to "Prothonotary of Superior/ Commonwealth Court" for \$60.00	
<b>Appeal from District Justice</b>	\$131.25
<b>Appeal from Arbitration</b>	\$600.00*
*plus any add'l compensation authorized, but not to exceed 50% of the amount in controversy. Shall not be taxable as costs or be recoverable in any proceeding.	
<b>Assignments</b>	\$ 9.25
<b>Building Agreements / Stip</b>	\$ 18.75
<b>CERTIFICATION</b>	
Certification-(Except UCC)	\$ 5.50
Divorce Decree, Name Change	
Certification of Entire Record	\$ 18.75
<b>COMMENCEMENT OF ACTION</b>	
Action at Law or Equity (plus .50 extra for indexing more than 5 pltfs. or defts.)	\$131.25
Miscellaneous Civil Filing	\$ 37.50
Custody Actions	\$158.25
Modification of Custody (per petition)	\$ 25.00
Contempt of Custody (per petition)	\$ 25.00
Intervenor	\$ 25.00
Divorce—(No Fault) <i>Plus add'l counts</i>	\$216.75
Alimony	\$ 39.25
Alimony pendente lite, counsel fees & costs	\$ 39.25
Custody & Visitation	\$ 46.25
Equitable Distribution/Property Rights	\$ 39.25
Support	\$ 39.25
Other, each	\$ 39.25
Vital Statistics	\$ .50
Praecipe to Transmit	\$ 29.25
<i>Master Fees</i>	

<b>Document Type</b>	<b>Fee</b>
Before 97-FC-818	\$305.00
After 97-FC-818	\$250.00
Name change final order	\$ 5.50
Any action or proceeding to open/strike a judgment	\$111.50
Proceedings on any lien other than revival-(Mechanic's Lien Complaint)	\$101.50
*Actions started by a political subdivision (Includes tax and surcharges)	\$ 39.75
<b>COPIES</b>	
Photo copy per page	\$ .25
Docket printout by mail	\$ 3.25
Photo coping by clerk	
1st page by mail	\$ 1.00
Each add'l page	\$ .50
Microfilm Copies	\$ 1.00
<b>JUDGMENTS</b>	
Confession (notes, bonds, etc.)	\$ 47.25
District Justice Transcript	\$ 47.25
Certification of Judgment	\$ 47.25
Domestic Relations	\$ 47.25
Exemplification/Foreign Judgment (Incoming Exemplified Records)	\$ 47.25
Exemplification of Judgment (Outgoing Exemplified Records)	\$ 18.75
Liens	\$ 47.25
Default, Non-Pros, Demurrer, Lis Pendens	\$ 17.50
Verdict, Award, Court Order, Agreement & Final Decree	\$ 17.50
Release of Judgment	\$ 9.25
Reassess of Judgment	\$ 9.25
Subordination of Judgment	\$ 9.25
Withdraw of Judgment	\$ 9.25
<b>LETTER OF ATTORNEY</b>	
Recording—each name	\$ 9.25
Revoking—each name	\$ 9.25
<b>NOTARY PUBLIC</b>	
Notary Certificate	\$ 3.75
Notary Signature Registration	\$ 3.75
<b>*POLITICAL SUBDDIVISION</b>	
Action at Law or Equity	\$ 39.75
Appeal from District Justice	\$ 39.50
District Justice Transcript	\$ 39.50
Execution	\$ 10.00
Judgment	\$ 10.00
Liens <b>with</b> Satisfaction Fee	\$ 39.75
1. Federal Liens ( <b>effective 2006</b> )	
2. Mechanic Liens	
3. Municipal Liens	
4. State Liens ( <b>effective 2004</b> )	

Document Type	Fee
<b>5. Unemployment Liens (effective 2006)</b>	
Satisfaction <b>not pre-paid</b>	\$ 9.25
Correction Notices	\$ 10.00
<b>1. Federal Liens</b>	
Re-file Notice	\$ 10.00
Suggestion of Non-payment Federal, State, Unemployment	\$ 10.00

**POUNDAGE**

(The handling fee of monies paid into court)

4.5% on the first \$1,000 and 1.5% on each add'l \$1,000 or fraction thereof

**PROTECTION FROM ABUSE**

PFA filing	\$152.15
PA State Police Registry	\$ 25.00
PFA Contempt or Bench Warrant	\$ 18.75
<b>Removal or Transfer</b>	\$ 18.75

**REPORTS**

Detailed Case Type Reports	\$ 23.00
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**REVIVALS**

Amicable/Agreement	\$ 17.50
Adverse/Writ	\$ 29.25
Averments, suggestion of non-payment, (Continuing any lien not reduced to a judgment)	\$ 17.50

<b>Satisfactions</b> —not prepaid	\$ 9.25
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<b>School Audits</b>	\$ 9.25
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<b>Subordination, withdrawal, postponement</b>	\$ 9.25
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**SUBPOENA**

Subpoena—To Attend and Testify	\$ 3.75
Subpoena—To Produce Documents	\$ 3.75

<b>Surety Financial Statement</b>	\$ 17.50
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**WRITS**

Execution	\$ 29.25
Attachment Execution	\$ 29.75
Writs (Seizure, Possession, and Habeas)	\$ 29.25

**No personal checks will be accepted**

Business checks should be made payable to:

**CLERK OF JUDICIAL RECORDS—CIVIL DIVISION**

All checks returned for insufficient funds will be assessed a **\$20.00** service charge.

Pursuant to 42 P. S. § 21073(b), the Clerk of Judicial Records—Civil Division *shall not* be required to enter on the docket any suit, action or order of court or enter any judgment thereon or perform any service whatsoever for any person, political subdivision or the Commonwealth until the requisite fee is paid.

\*The maximum fee to be charged a political subdivision for any one of the services provided for herein shall be \$10.00. Total fee may include satisfaction/discontinuance, automation fees, JCS fee and Tax

**The Service Fee for the use of a credit/debit card will be as follows:**

Transaction Fee	Service Fee
\$ 0.00 to \$100.00	\$2.00
\$101.00 to \$200.00	\$4.00
\$201.00 to \$300.00	\$6.00 . . . etc.

\*Actions started by a political subdivision (Includes tax and surcharges)

[Pa.B. Doc. No. 08-1925. Filed for public inspection October 24, 2008, 9:00 a.m.]

**MONTGOMERY COUNTY**

**Amendment of Rule 1012\*—Entry and Withdrawal of Appearance; Civil Procedure; No. 08-00007**

**Order**

*And Now*, this 7th day of October, 2008, the Court amends Montgomery County Local Rule of Civil Procedure 1012\*—Entry and Withdrawal of Appearance. This amended 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 certified copy shall be filed with the Civil Procedural Rules Committee. One (1) copy shall be filed with the Prothonotary, one copy with the Clerk of Courts, and one (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 1012\*. Entry and Withdrawal of Appearance.**

(a) Every initial pleading or legal paper filed with the Prothonotary or the Domestic Relations Office by an attorney [ **shall** ] **should** be accompanied by a written entry of appearance. This written appearance will facilitate proper notification being given to all counsel of record of pending matters listed by the Court Administrator. **In the event an initial pleading or legal paper, including an initial responsive pleading or legal paper, filed by an attorney is not accompanied by a written entry of appearance, the Prothonotary or the Domestic Relations Office shall enter the name of said attorney as counsel of record for the party on whose behalf the pleading or legal paper is being filed. [ In like manner, a ]** A written withdrawal of appearance shall be required when counsel is removing himself or herself from an action.

(b) No attorney shall represent the interest of a party to any civil action in the Court or before a Domestic Relations Hearing Officer, or special Master or Conciliator appointed by the Court unless or until the attorney files a

written entry of appearance, **or until said attorney's name appears of record on the docket per section (a) above.**

(c) Whenever any attorney changes his or her address, it shall be the duty of said attorney to notify immediately the Court Administrator of Montgomery County in writing of such change.

**[ Court Administrator's note: rescinded ]**

[Pa.B. Doc. No. 08-1926. Filed for public inspection October 24, 2008, 9:00 a.m.]

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