

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

[204 PA. CODE CH. 71]

Amendment of Rules 204 and 311 of the Pennsylvania Bar Admission Rules; No. 472; Supreme Court Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 28th day of April, 2009, Rules 204 and 311 of the Pennsylvania Bar Admission Rules are amended to read as follows.

To the extent that notice of proposed rulemaking would be required by Pennsylvania Rule of Judicial Administration No. 103 or otherwise, the immediate amendment of Pa.B.A.R. 204 and 311 is hereby found to be required in the interest of justice and efficient administration. This Order shall be processed in accordance with Pennsylvania Rule of Judicial Administration No. 103(b) and the amendment adopted hereby shall be effective immediately.

JOHN A. VASKOV,
Deputy Prothonotary
Supreme Court of Pennsylvania

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART IV. ADMISSION TO PRACTICE LAW

CHAPTER 71. PENNSYLVANIA BAR ADMISSION RULES

Subchapter B. ADMISSION TO THE BAR GENERALLY

IN GENERAL

Rule 204. Admission of domestic attorneys.

As an alternative to satisfying the requirements of Rule 203, an attorney, licensed to practice law in another state, may be admitted to the bar of this Commonwealth if the applicant meets the following requirements:

* * * * *

(3) Presentation of a certificate of good standing from the highest court or the agency having jurisdiction over admission to the bar and the practice of law in every state or jurisdiction in which the applicant has been admitted to practice law, stating that the applicant is in good professional standing at the bar of such court or such state. An applicant who is disbarred or suspended for disciplinary reasons from the practice of law in another jurisdiction at the time of filing an application for admission to the bar shall not be eligible for admission to the bar of this Commonwealth.

* * * * *

(5) Presentation of proof satisfactory to the [board] Board that the applicant has either taken and passed the bar examination in a reciprocal state or has devoted a major portion of time and energy to the practice of law in

a reciprocal state for five years of the last seven years immediately preceding the date on which an application was filed under this [rule] Rule.

(6) [No] An applicant [will be admitted under this Rule] who [at any time] has taken and failed the Pennsylvania bar examination will not be admitted under this Rule. This provision does not apply to individuals who have passed the bar examination upon a subsequent attempt.

* * * * *

(8) Has passed the Multistate Professional Responsibility Exam with the score required by the Court to be achieved by successful applicants under Rule 203.

For purposes of this rule, the phrase "practice of law" is defined as engaging in any of the following legal activities, provided such activities were performed in a state in which the applicant was admitted to practice law or in a state that affirmatively permitted such activity by a lawyer not admitted to practice law in the jurisdiction:

* * * * *

(vii) Service on active duty in the United States military service[,] as a judge advocate [or law specialist,] as [those terms are] defined in the Uniform Code of Military Justice, 10 U.S.C. [Sec.] § 801, as amended.

* * * * *

Subchapter C. RESTRICTED PRACTICE OF LAW ATTORNEY PARTICIPANTS IN DEFENDER OF LEGAL SERVICES PROGRAMS

Rule 311. Attorney participants in defender or legal services programs.

(a) Scope. This rule applies to an attorney who is not a member of the bar of this Commonwealth [and who] but is qualified to practice in the courts of another state and who[]:

(1) is enrolled in a graduate criminal law or poverty law and litigation program in an accredited law school located in this Commonwealth; or

(2) after having completed the study of law in an accredited law school, [] is employed by or associated with an organized legal services program in this Commonwealth providing legal assistance to indigents in civil matters or a public defender's office or defender association in this Commonwealth providing legal assistance to indigents in criminal matters.

(b) General Rule. An attorney to which this rule applies shall be admitted to practice before the courts and magisterial district [justices] judges of this Commonwealth in all matters in which the attorney is employed by or associated with a public defender's office, an organized defender association, or an organized legal services program which [association or program] is sponsored, approved or recognized by the local county bar association. Admission to practice under this rule shall be limited to the matters specified in the preceding sentence.

(c) Application. An applicant [Motions] for [restricted] limited admission to practice under this rule shall [be made by filing one copy thereof with the

Prothonotary. The motion shall be in writing] file with the Board an application on a form prescribed by the Board [and] which shall include or be accompanied by [:

(1) A certificate of the highest court or agency of any other state having jurisdiction over admission to the bar and the practice of law stating that the applicant is in good standing at the bar of such court or in such state.

(2) A] a statement [:

(i)] signed by a representative of the [law school showing compliance with Paragraph (a)(1) of this rule] public defender's office, defender association; or

[(ii) signed by a representative of an] organized legal services program [showing compliance with Paragraph (a)(2) of this rule] indicating that the attorney will be employed by or associated with such entity.

Any such statement shall also contain an undertaking by the [school or] public defender's office, defender association or legal services program to notify the Prothonotary immediately whenever the attorney ceases to be [enrolled in] employed by or associated with such office, association or program.

The application shall be processed in accordance with the provisions of Rules 212 through 222.

(d) Requirements. The requirements for issuance of a limited license under this rule are:

1. Completion of the study of law at and receipt without exception of an earned Bachelor of Laws or Juris Doctor degree from an accredited law school;

2. Admission to the practice of law in another state, on active status at the time of filing the application;

3. Absence of prior conduct by the applicant which in the opinion of the Board indicates character and general qualifications incompatible with the standards expected to be observed by members of the bar of this Commonwealth; and

4. Presentation of a certificate of good standing from the highest court or the agency having jurisdiction over the admission to the bar and the practice of law in every jurisdiction in which the applicant has been admitted to practice law, stating that the applicant is in good professional standing at the bar of such court or such state. An applicant who is disbarred or suspended for disciplinary reasons from the practice of law in another jurisdiction at the time of filing an application shall not be eligible for a limited license under this rule.

5. An applicant who has taken and failed the Pennsylvania bar examination will not be admitted under this Rule. This provision does not apply to individuals who have passed the bar examination upon a subsequent attempt.

(e) Application Fee. An applicant for limited admission to practice under this Rule shall pay an application fee fixed by the Board.

(f) Issuance of License. [(c) Subscription and action. The motion for admission shall be subscribed by a member of the bar of this Commonwealth in

good standing. If the motion and related documents are in proper order] At any time within six months of the receipt of a certificate from the Board recommending the issuance of a limited license to practice in a public defender's office, defender association or legal services program, an applicant may file a motion with the Prothonotary, on a form prescribed by the Board for issuance of such license. The motion shall be accompanied by the certificate from the Board recommending issuance of the license and the fee required by the Prothonotary. Upon receipt of the appropriate documents and fee, the Prothonotary shall enter the name of the applicant upon the docket of persons specially admitted to the bar of this Commonwealth subject to the restrictions of this rule and shall issue an appropriate certificate in evidence thereof.

[(d)] (g) Expiration of [admission] Admission. When an attorney admitted under this rule ceases to be [enrolled] employed by or associated [in] with an office, association or a program as set forth in the motion previously filed, a written statement to that effect shall be filed with the Prothonotary by a representative of the [law school] public defender's office, defender association or legal services program. Admission to practice under this rule shall expire after 30 months, unless the Court for good cause shown shall extend such period in an individual case, or when the attorney ceases to be [enrolled in] employed by or associated with such office, association or program, whichever shall first occur.

[(e)] (h) Enforcement [rules] Rules. The Enforcement Rules shall be applicable to an attorney admitted under this rule.

[Pa.B. Doc. No. 09-872. Filed for public inspection May 15, 2009, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 1]

Order Amending Rule of Criminal Procedure 119; No. 378; Doc. No. 2

Order

Per Curiam:

Now, this 4th day of May, 2009, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3) in the interests of justice and efficient administration, and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the Comment to Rule of Criminal Procedure 119 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 234. RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

PART A. Business of the Courts

Rule 119. Use of Two-Way Simultaneous Audio-Visual Communication in Criminal Proceedings.

* * * * *

Comment

* * * * *

Nothing in this rule is intended to limit any right of a defendant to waive his or her presence at a criminal proceeding in the same manner as the defendant may waive other rights. See, e.g., Rule 602 Comment. Negotiated guilty pleas when the defendant has agreed to the sentence, [and] probation revocation hearings, and hearings held pursuant to Rule 908(C) and the Post Conviction Relief Act, 42 Pa.C.S. §§ 9541 et seq., are examples of hearings in which the defendant's consent to proceed using two-way simultaneous audio-visual communication would be required. Hearings on post-sentence motions, bail hearings, bench warrant hearings, extradition hearings, and *Gagnon* I hearings are examples of proceedings that may be conducted using two-way simultaneous audio-visual communication without the defendant's consent. It is expected the court or issuing authority would conduct a colloquy for the defendant's consent when the defendant's constitutional right to be physically present is implicated.

* * * * *

Official Note: New Rule 118 adopted August 7, 2003, effective September 1, 2003; renumbered Rule 119 and Comment revised June 30, 2005, effective August 1, 2006; amended January 27, 2006, effective August 1, 2006; **Comment revised May 4, 2009, effective August 1, 2009.**

Committee Explanatory Reports:

* * * * *

Final Report explaining the May 4, 2009 revision to the Comment adding PCRA hearings as a proceeding to which the defendant may consent to be held using ACT published with the Court's Order at 39 Pa.B. 2434 (May 16, 2009).

FINAL REPORT¹

Revision to the Comment to Pa.R.Crim.P. 119

CONSENT TO USE OF TWO-WAY SIMULTANEOUS AUDIO-VISUAL TECHNOLOGY AT POST CONVICTION RELIEF ACT HEARINGS

On May 4, 2009, effective August 1, 2009, upon the recommendation of the Criminal Procedural Rules Committee, the Court approved the revision of the Comment to Rule 119 (Use of Two-Way Simultaneous Audio-Visual) to clarify that a hearing held pursuant to Rule 908(C) for purposes of the Post-Conviction Relief Act (PCRA), may utilize two-way simultaneous audio-visual communication, but only if the defendant consents.

¹ The Committee's Final Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

This revision originated with a question to the Committee from a member of the Attorney General's Office regarding the interplay between Rule 119, that permits the use of two-way simultaneous audio-visual communication in certain criminal proceedings, and Rule 908, that provides the procedures for Post-Conviction Relief Act (PCRA) hearings. The inquirer queried whether Rule 119 technology may be used to conduct PCRA hearings as a matter of course or whether the defendant has a right to appear in person at a Rule 908 PCRA hearing.

The Committee examined the history of then-Rule 1508 (now Rule 908). Noting that the rule included from its inception the requirement that the judge permit the defendant to be present at the hearing, the Committee concluded that the defendant's interests in the hearing were such that the hearing could not be held using advanced communications technology over the defendant's objection. However, the Committee also believes that there might be circumstances under which a defendant would wish to waive personal appearance for this type of proceeding. For example, transportation to attend a PCRA hearing in a county distant from the defendant's place of incarceration might entail a lengthy absence and result in the loss of certain privileges at the place of incarceration.

Therefore, the Court has approved a revision of the Comment to Rule 119 to clarify that a PCRA hearing may be held using two-way simultaneous audio-visual communication if the defendant consents to proceed in this manner.

[Pa.B. Doc. No. 09-873. Filed for public inspection May 15, 2009, 9:00 a.m.]

[234 PA. CODE CHS. 4 AND 10]

Proposed New Pa.R.Crim.P. 1037 and Revisions to the Comment to Pa.R.Crim.P. 462

Introduction

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt new Rule 1037 regarding appeals for trial de novo from the Philadelphia Traffic Court. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Note that the Committee's Report 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.

The text of the proposed amendments to the rules precedes the Report. Additions are shown in bold; deletions are in bold and brackets.

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

Anne T. Panfil, Chief Staff Counsel
Supreme Court of Pennsylvania
Criminal Procedural Rules Committee
5035 Ritter Road, Suite 100
Mechanicsburg, PA 17055

fax: (717) 795-2106
e-mail: criminal.rules@pacourts.us

no later than Friday, June 19, 2009.

By the Criminal Procedural
Rules Committee

D. PETER JOHNSON,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

CHAPTER 4. PROCEDURES IN SUMMARY CASES

**PART F. Procedures in Summary Cases for
Appealing to Court of Common Pleas for Trial De
Novo**

Rule 462. Trial De Novo.

* * * * *

Comment

* * * * *

For the procedures for appeals from the Philadelphia Traffic Court, see Rule 1037.

Official Note: Former Rule 86 adopted July 12, 1985, effective January 1, 1986; revised September 23, 1985, effective January 1, 1986; the January 1, 1986 effective dates extended to July 1, 1986; amended February 2, 1989, effective March 1, 1989; amended March 22, 1993, effective January 1, 1994; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; amended February 27, 1995, effective July 1, 1995; amended October 1, 1997, effective October 1, 1998; amended May 14, 1999, effective July 1, 1999; rescinded March 1, 2000, effective April 1, 2001, and paragraph (G) replaced by Rule 462. New Rule 462 adopted March 1, 2000, effective April 1, 2001; amended February 28, 2003, effective July 1, 2003; Comment revised March 26, 2004, effective July 1, 2004; amended January 18, 2007, effective August 1, 2007; amended December 16, 2008, effective February 1, 2009; **Comment revised 2009, effective 2009.**

Committee Explanatory Reports:

FORMER RULE 86:

* * * * *

NEW RULE 462:

* * * * *

Report explaining proposed Comment revision regarding new Rule 1037 and procedures for the appeal from the Philadelphia Traffic Court published at 39 Pa.B. 2435 (May 16, 2009).

CHAPTER 10. RULES OF CRIMINAL PROCEDURE FOR THE PHILADELPHIA MUNICIPAL COURT AND THE PHILADELPHIA TRAFFIC COURT

(Editor's Note: The following section is new. The text has been printed in regular print to enhance readability.)

PART B. Philadelphia Traffic Court Procedures

Rule 1037. Appeal from Summary Conviction.

(A) When a defendant appeals after the entry of a guilty plea or a conviction in any summary proceeding in the Philadelphia Traffic Court, upon the filing of the transcript and other papers by the Traffic Court, the Court of Common Pleas may schedule a status or settlement conference prior to the de novo summary trial.

(1) In the event the attorney for the Commonwealth or a designee and the defendant reach a negotiated plea, the plea may be entered before a Trial Commissioner and, upon approval by a judge of the Court of Common Pleas, the negotiated sentence will be recorded.

(2) In the event a negotiated plea is not reached or is not approved by the court, the case shall be heard de novo by a judge of the Court of Common Pleas sitting without a jury.

(B) The attorney for the Commonwealth may appear and assume charge of the prosecution. When no attorney appears on behalf of the Commonwealth, the affiant may be permitted to ask questions of any witness who testifies.

(C) In appeals from summary proceedings in the Philadelphia Traffic Court, the law enforcement officer who observed the alleged offense must appear and testify. The failure of a law enforcement officer to appear and testify shall result in the dismissal of the charges unless:

(1) the defendant waives the presence of the law enforcement officer in open court on the record;

(2) the defendant waives the presence of the law enforcement officer by filing a written waiver signed by the defendant and defense counsel, or the defendant if proceeding pro se, with the clerk of courts; or

(3) the trial judge determines that good cause exists for the law enforcement officer's unavailability and grants a continuance.

(D) If the defendant fails to appear for the trial de novo,

(1) when the appeal is from a mandatory sentence of imprisonment, the Court of Common Pleas judge shall dismiss the appeal, enter judgment in the Court of Common Pleas on the judgment of the Traffic Court judge, and issue a bench warrant and a commitment for the defendant. Execution of the sentence shall commence immediately upon defendant's arrest; and

(2) in all other cases, the Common Pleas Court judge may dismiss the appeal and enter the judgment in the Court of Common Pleas on the judgment of the Traffic Court judge.

(E) If the defendant withdraws the appeal, the Court of Common Pleas judge shall enter the judgment in the Court of Common Pleas on the judgment of the Traffic Court judge.

(F) At the time of sentencing, the Court of Common Pleas judge shall:

(1) if the defendant's sentence includes a fine or costs and the defendant has the financial means to pay the amount in a single remittance, the judge shall instruct the defendant to make the payment at the Philadelphia Traffic Court. If the defendant is without the financial means to pay the amount in a single remittance, the judge shall instruct the defendant to contact the Philadelphia Traffic Court to establish an installment payment plan;

(2) advise the defendant of the right to appeal to the Superior Court within 30 days of the imposition of sentence, and that, if an appeal is filed, the execution of sentence will be stayed and the judge may set bail;

(3) if a sentence of imprisonment has been imposed, direct the defendant to appear for the execution of sentence on a date certain unless the defendant files a notice of appeal within the 30-day period; and

(4) issue a written order imposing sentence, signed by the judge. The order shall include the information specified in paragraphs (F)(1) through (F)(3), and a copy of the order shall be given to the defendant and to the Traffic Court.

(G) After sentence is imposed by the Court of Common Pleas judge, and either after the expiration of the time to file an appeal to the appellate courts, or, if a sentence of imprisonment has been imposed, after the execution of the sentence of imprisonment, the case shall be returned to the Philadelphia Traffic Court for the collection of any outstanding fines and costs and for all other appropriate action.

Comment

This rule was adopted in 2009 to provide the procedures for appeals from the Philadelphia Traffic Court to the Court of Common Pleas of the First Judicial District. Except as provided in this rule, the procedures of Rules 460, 461 and 462, governing appeals for a trial de novo in summary cases, shall apply to summary case appeals in the Philadelphia Traffic Court.

For purposes of this rule, “judgment” means the determination of guilty and any sentence imposed on the defendant.

The date upon which payment is due upon a sentence of a fine or costs ordinarily will be 30 days following imposition of sentence.

Official Note: Rule 1037 adopted _____, 2009, effective _____, 2009.

Committee Explanatory Reports:

Report explaining proposed new Rule 1037 concerning procedures for the appeal from the Philadelphia Traffic Court published at 39 Pa.B. 2435 (May 16, 2009).

REPORT

Proposed New Pa.R.Crim.P. 1037 and Revisions to the Comment to Pa.R.Crim.P. 462

PHILADELPHIA TRAFFIC COURT APPEALS

As part of its oversight of the rules governing procedures in the Philadelphia Traffic Court, the Committee was asked by the Traffic Court to examine several aspects of appeal procedures. As discussed more fully below, due to the high volume of cases and unique circumstances of the Traffic Court, practices have developed in the Philadelphia Traffic Court that are not explicitly provided for in the rules. The Committee therefore formed a Subcommittee¹ with several representatives of the Traffic Court and the First Judicial District to develop rule changes that would address some of these differences.

Upon the recommendation of this Subcommittee, the Committee is proposing new Rule 1037 that would provide the procedures for appeals from the Philadelphia

Traffic Court to the Court of Common Pleas. It would replace the Rule 462 appeal procedures for the Traffic Court. However, except where Rule 1037 differs, the procedures in Rules 460 and 461 still would apply.

The proposed new rule would address three areas: (1) general appeal procedures; (2) procedures addressing failures to appear for appeal; and (3) procedures related to the collection of fine and costs.

Appeal Procedures

As stated above, due to the high volume of cases in the Traffic Court and the significant numbers of appeals from Traffic Court, local practices have developed that vary from the strict letter of Rule 462 procedures. These variations do not adversely affect the rights of the parties and provide an efficient and effective method of adjudicating appeals arising from the Traffic Court. The Committee believes that an explicit recognition of these procedures in the rules would remove any confusion about them.

Currently, upon the filing of a Notice of Appeal in the Traffic Court, a summary trial date is assigned for an appearance at the Court of Common Pleas. The Traffic Court Docket and record is then forwarded to the Court of Common Pleas. On the summary trial date, a conference is conducted by a Trial Commissioner at which the defendant and a representative of the District Attorney's Office appear for purposes of negotiating a plea. If the parties agree on a plea, the plea is approved by a Common Pleas judge. If a plea cannot be agreed upon, a de novo summary trial is subsequently conducted by a Common Pleas judge. If the defendant pleads or is found guilty and sentenced, payment of any fine and costs is directed to the Traffic Court. The Traffic Court receives and distributes all payments of outstanding fines and costs and, as authorized by Rule 456, may issue and modify installment payment orders and may issue warrants for a defendant's arrest for nonpayment.

These procedures would be formally recognized in paragraphs (A), (F) and (G) of new Rule 1037. Paragraphs (B) and (C) would provide the existing Statewide practice of permitting the attorney of the Commonwealth, or in his or her absence, the affiant to conduct the trial de novo and requiring the law enforcement officer's appearance unless waived to be applicable in Traffic Court appeals.

Failure to Appear

The proposal also intends to clarify the procedures for the execution of bench warrants issued when the defendant has failed to appear for the trial de novo in the Court of Common Pleas, especially in those cases that involve a mandatory sentence of incarceration. It was unclear under the current practice whether the Common Pleas judge could dismiss the appeal and have a warrant issued for the defendant to be taken for service of the sentence. Therefore, paragraph (D) would provide that, in a failure to appear case, the appeal would be dismissed and the judgment of the Traffic Court entered in the Court of Common Pleas. If the case involves a sentence of mandatory incarceration, a bench warrant would be issued by the Court of Common Pleas along with the issuance of a commitment order. The warrant would contain the notation that defendant is already sentenced and would therefore be taken directly to serve his or her sentence.

¹The Subcommittee consisted of Dominic Rossi, Philadelphia Deputy Court Administrator, Legal Services; Traffic Court Administrative Judge Bernice De Angelis; David Wasson, Chief Deputy Court Administrator, First Judicial District; and Robert DeEmilio, Deputy Court Administrator of the Philadelphia Traffic Court. Charles J. Grant, Esq. and John Delaney, Esq. were the Criminal Procedural Rules Committee representatives.

It should be noted that the hearing requirement of Rule 150 (Bench Warrants) is currently being satisfied in the First Judicial District by the fact that a Trial Commissioner conducts these hearings at the Philadelphia County Prison whenever a defendant is arrested on a bench warrant or surrenders himself or herself at the Traffic Court.

Fines and Costs

The proposal also authorizes an exemption from the general policy of the Pennsylvania Supreme Court that once a case has gone up from a minor court to a court of common pleas, no remand to the minor court should be allowed.² After the initial policy of no remands was developed, the Philadelphia Traffic Court was excluded from the policy for purposes of the payment and collection of fine and costs. This exemption was stated as part of an amendment to Traffic Court procedures adopted by the Court in 2005.³ Specifically, the Final Report to that Recommendation stated:

b. Trial de novo

Another issue concerns the 2003 changes to the Criminal Rules that clarify once a case is appealed for a trial de novo, the case is to remain in the common pleas court for disposition. This procedure is contrary to what is occurring in Philadelphia. Both Traffic Court and Philadelphia Common Pleas Court have serious concerns about the significant burden the statewide procedure would have on the Common Pleas Court, especially given the extraordinary number of cases involved and the amount of the fines and costs owed. Both courts note the current practice of returning the cases to Traffic Court for collection following the trial de novo works efficiently and has been successful.

However, because this exemption was not stated in the rules themselves, questions about these procedures continue to persist. Therefore, paragraph (G) would provide that, either after the expiration of the time to file an appeal to the appellate courts, or, if a sentence of imprisonment has been imposed, after the execution of the sentence of imprisonment, the case is to be remanded to the Traffic Court for the collection of any outstanding fines and costs. The Traffic Court would also perform "all other appropriate action" such as requesting that the Pennsylvania Department of Transportation suspend the defendant's operating privilege if the defendant failed to comply with the payment plan, and be able to use the remedies set forth in Rule 456 if the defendant failed to comply with the payment plan.

Finally, in order to ensure the defendant understands this process, upon sentencing after the appeal, Common Pleas judge is required to advise the defendant that he or she has 30 days to pay the fines and costs in full or to contact the Traffic Court to renegotiate the payment plan.

[Pa.B. Doc. No. 09-874. Filed for public inspection May 15, 2009, 9:00 a.m.]

Title 255—LOCAL COURT RULES

MERCER COUNTY

Administrative Fee for Non-DUI ARD; Criminal No. 1 AD 2009

Administrative Order

And Now, April 22, 2009, non-DUI ARDs shall pay an administrative ARD fee of \$150, the same fee as DUI ARDs. Because it is a fee generated outside of Chapter 75 of *Purdon's (Motor Vehicle Code)*, it is not subject to the distribution scheme of 42 Pa.C.S.A. § 3571 and § 3573. Accordingly, \$100 of said fee shall be placed in the Mercer County Court DUI Administration Fund; and \$50 shall be distributed to the Clerk of Courts' Automation Fee Account.

By the Court

FRANCIS J. FORNELLI,
President Judge

[Pa.B. Doc. No. 09-875. Filed for public inspection May 15, 2009, 9:00 a.m.]

MERCER COUNTY

Civil Division L1920.52; No. 2009-1620

Order

And Now, this 23rd day of April, 2009, the court hereby *Approves, Adopts and Promulgates* Mercer County Local Rule of Civil Procedure L1920.52, effective thirty (30) days after the date of publication of this Rule in the *Pennsylvania Bulletin*, pursuant to Rule 239 of the Pennsylvania Rules of Civil Procedure.

It is also *Ordered and Directed* that the Court Administrator of Mercer County shall file seven (7) certified copies of this Rule with the Administrative Office of Pennsylvania Courts, furnish two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and file one certified copy with the Civil Procedural Rules Committee.

It is further *Ordered and Directed* that Local Rules shall be kept continuously available for public inspection and copying in the Office of the Prothonotary of Mercer County. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of the Local Rules.

A copy of this New Rule shall be published in the *Mercer County Law Journal*.

By the Court

FRANCIS J. FORNELLI,
President Judge

Rule L1920.52. Hearing By Master. Reporter Fee. Continuances.

(a) The Court Reporter fee for Master's Hearings will be one hundred (\$100) dollars per party.

(1) If there are no continuances of the Master's Hearing, the parties may request and will receive a refund of fifty (\$50) per party once the Hearing has been completed.

²The most recent statement of this policy was contained in a September 28, 2006 letter from then-Chief Justice Cappy to all President Judges, emphasizing this point.

³See 35 Pa.B. 5239 (September 24, 2005).

(2) The Hearing may be continued without a loss of the refund if the continuance is requested more than ten (10) days prior to the Hearing date; or if the President Judge has approved a continuance necessitated by a required appearance in the Common Pleas Court or other extenuating circumstance within ten (10) days of the hearing.

(b) Once a Master's Hearing has been scheduled, any settlement reached by the parties less than ten (10) days prior to the Hearing must be placed on the record before the Master. The parties and their counsel must still attend the Hearing although participation may occur by telephone if feasible.

(c) All requests for continuances of a Master's Hearing (not conference) must be made in writing to the Master.

(1) If opposing counsel does not consent and/or the Master does not grant the request, a Motion to Continue may be filed with the President Judge.

[Pa.B. Doc. No. 09-876. Filed for public inspection May 15, 2009, 9:00 a.m.]

WASHINGTON COUNTY

Local Rules; Actions for Support L-1910.5—Complaint, Order of Court, Continuances; Action of Divorce or Annulment of Marriage L-1920.33—Joinder of Related Claims, Distribution of Property, Enforcement; and Rules Relating to Domestic Relations Matters Generally L-1930.8—Sanctions; Civil Division; No. 2009-1

Order

And Now, this 23rd day of April, 2009; *It Is Hereby Ordered* that the above-stated Washington County Local Rules be adopted as follows.

These rules will become effective thirty days after publication in the *Pennsylvania Bulletin*.

By the Court

DEBBIE O'DELL SENECA,
President Judge

ACTIONS FOR SUPPORT

L-1910.5. Complaint. Order of Court. Continuances.

(d) Motions for continuances of proceedings before the Hearing Officer or Conference Officers will be presented by the moving party to the Family Court Judge to whom the case is assigned in Motions Court prior to the scheduled proceeding. The moving party will file the order granting or denying the continuance in the Domestic Relations Section. The moving party will file a copy of the Notice of Presentation of the Continuance Motion and the Continuance Motion in the Domestic Relations Section prior to presenting the motion for continuance to the Court.

(e) A \$25.00 fee will be charged for continuances. Except in the case of an emergency, when a party seeks and receives a continuance on the day of a scheduled conference or hearing the party will be charged a \$75.00 fee. A party who receives a continuance and who fails to file a copy of the Notice of Presentation and the Continuance Motion in the Domestic Relations Section prior to presenting the motion for continuance to the Court as required in paragraph b, shall be charged an additional \$50.00 fee. The fee will be paid by the moving party to

the Domestic Relations Section when the signed Motion and Continuance Order are filed. The fee shall be paid in the form of a check or money order payable to the Washington County Domestic Relations Section.

(g) The Notice of Presentation of the Continuance Motion shall include the date of service of the motion upon the opposing counsel or the opposing party, if unrepresented, and the date of service of the motion upon the Domestic Relations Section.

ACTION OF DIVORCE OR ANNULMENT OF MARRIAGE

L-1920.33. Joinder of Related Claims. Distribution of Property. Enforcement.

(c)(1) During a proceeding before a Master in a Divorce Case, a party who fails to comply with the requirements of subdivision (a) and (b) of Pa.R.C.P. No. 1920.33 shall, except upon good cause shown, be barred from offering any testimony or introducing any evidence in support of or in opposition to claims for the matters not covered therein.

(c)(2) During a proceeding before a Master in a Divorce Case, a party shall, except upon good cause shown, be barred from offering any testimony or introducing any evidence that is inconsistent with or which goes beyond the fair scope of the information set forth in the pre-trial statement.

RULES RELATING TO DOMESTIC RELATIONS MATTERS GENERALLY

L-1930.8. Sanctions.

The Master in a Divorce Case, the Hearing Officer in an Action for Support, or a Child Custody Conference Officer in a Child Custody Case may invoke appropriate sanctions for failure to comply with Pennsylvania Rules of Civil Procedure or Local Rules or for conduct which is vexatious or which unreasonably serves to delay proceedings or make them more complicated. Appropriate sanctions include, but are not limited to, one or more of the following: a negative inference may be drawn against the party; the meeting, conference or hearing may be rescheduled with the assessment of a continuance fee; the party who fails to comply with the rules may be barred from offering any testimony or introducing any evidence on the issue at bar; or other sanctions reasonably designed to ensure compliance with these rules and respect for the proceedings may be imposed.

[Pa.B. Doc. No. 09-877. Filed for public inspection May 15, 2009, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Transfer of Attorneys to Inactive Status

Notice is hereby given that the following attorneys have been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated April 3, 2009, under Rule 111(b) Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which they are assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective May 3, 2009, for Compliance Group 2 due August 31, 2008.

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

Abatemarco, Peter Vincent
Flemington, NJ

Alice, John Anthony
Woodbury, NJ

Ardizzone, Dale Steadwell
Charlotte, NC

Bailey, Kathy Dianne
Washington, DC

Bisceglie Jr., Angelo R.
West Paterson, NJ

Brentzel, Cathy Marie
Washington, DC

Clarke, Caroline Nadine
Trenton, NJ

Connolly, David Joseph
Nokomis, FL

DiLazzerro, Jeffrey Alan
Vineland, NJ

Dickey Jr., William H.
Charlottesville, VA

Dimento, Anthony F.
Cherry Hill, NJ

Dolan, James Lawrence
East Syracuse, NY

Donegan Jr., John F.
Cherry Hill, NJ

Duclair, Andrew Moises
Voorhees, NJ

Fazio, Roy Christopher
Englewood, CO

Flynn, Richard M.
Gloucester, NJ

Fornias III, Edward J.
Wilmington, DE

Friedman, Jeffrey Scott
Wilmington, DE

Gizis, Dawn Michele
Oxford, NJ

Gordon, John Edward
Trappe, MD

Grill, Michael Nicholas
Scotch Plains, NJ

Grossman, Joseph S.
Charlotte, NC

Haley, Roger T.
Trenton, NJ

Hammons Jr., Terrence Gordon
England

Handler, Carole Enid
Los Angeles, CA

Harrington, Michael Matthew
Boston, MA

Hatfield, Yvette Cecilia
Bowie, MD

Herbert, Lenese Corine
Albany, NY

Howard, James Elliot
Brooklyn, NY

Karson III, Miles K.
Washington, DC

Kassen, Louis A.
Cherry Hill, NJ

Kish, Jessica Helene
Concord, MA

Knapp, Josiah
Cherry Hill, NJ

Le Bon, Raymond T.
Edgewater Park, NJ

Lemmer, William Clarence
Houston, TX

Levy, Jonathan Deitz
Princeton, NJ

Luo, Li-Hua
China

Marenberg, Roxane Sokolove
San Jose, CA

Mariano, Randy A.
Wilmington, DE

Martha, J. Paul
San Diego, CA

Martin Jr., Clarence Augustus
Los Angeles, CA

McClure, Ann
Hartford, CT

McCormick, Brian Arthur
Annapolis, MD

Mills, James D.
Venice, FL

Mincarelli, Jan Paul
Washington, DC

Misci Jr., John A.
Blackwood, NJ

Mulvaney, Amanda Leigh
Hackettstown, NJ

North, Thomas M.
Woodbury, NJ

Olsen, Christopher George
Mount Laurel, NJ

Pappas, Clement Dimitri Dean
Carneys Point, NJ

Paul, Michael G.
Metuchen, NJ

Phiefer, Leslie Lyn
Lafayette, NJ

Rosen, Daniel Mark
Boston, MA

Ruch Jr., Joseph J.
Washington, DC

Santore Jr., August Nunzio
Berkeley Heights, NJ

Senko, Vincent J.
Harrisonburg, VA

Senter, Julian F.
Baltimore, MD

Silverman, Ian Robert
Arlington, MA

Sokol, William George
Mount Laurel, NJ

Sterling, Marc Howard
Hong Kong

Stickles, Steven A.
Steubenville, OH

Tobin, Frances
Atherton, CA

Torkelson, Christopher E.
Trenton, NJ

Weinig, Gregory John
Wilmington, DE

Wolfe, Mauro M.
Mountainside, NJ

Zuckerman, Joel Robert
Boyd, MD

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

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