

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION [204 PA. CODE CH. 29]

In Re: Promulgation of Financial Regulations Pursuant to Act 49 of 2009 (42 Pa.C.S. §§ 3733(a.1) and 3733.1); No. 335; Judicial Administration

Order

Per Curiam:

And now, this 29th day of October, 2009 it is *Ordered* pursuant to Article V, Section 10(c) of the Constitution of Pennsylvania and Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), that the Court Administrator of Pennsylvania is authorized to promulgate the attached Financial Regulations.

To the extent that notice of proposed rulemaking may be required by Pa.R.J.A. No. 103, the immediate promulgation of the regulations is hereby found to be in the interests of efficient administration.

This Order is to be processed in accordance with Pa.R.J.A. No. 103(b) and is effective December 8, 2009.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION

CHAPTER 29. MISCELLANEOUS PROVISIONS

Subchapter I. BUDGET AND FINANCE

42 Pa.C.S. JUDICIARY AND JUDICIAL PROCEDURE

PART IV. FINANCIAL MATTERS

CHAPTER 37. FACILITIES AND SUPPLIES

SUBCHAPTER C. JUDICIAL COMPUTER SYSTEM

§ 29.351. Definitions.

(a) *Pennsylvania Supreme, Superior and Commonwealth Courts. Initial Filing.*

1. Except for the provisions of subsection (g) below, for purposes of 42 Pa.C.S. §§ 3733(a.1) and 3733.1, a statutory fee of twelve dollars and twenty-five cents (\$12.25) shall be imposed on all items enumerated in the fee schedules of the Appellate Courts for which a filing and service fee is collected, excluding the following:

- i. Second and Subsequent Filings for Extension of Time;
- ii. Reargument/Reconsideration;
- iii. Services in Connection with Appeals to or Writs of Certiorari from the United States Supreme Court;
- iv. Miscellaneous Fees; and
- v. Subpoenas

(b) *Court of Common Pleas. Prothonotary. Civil Actions and Legal Proceedings.*

1. Except for the provisions of subsection (g) below, for purposes of 42 Pa.C.S. §§ 3733(a.1) and 3733.1, a statutory fee of twelve dollars and twenty-five cents (\$12.25) shall be imposed on a civil action or legal proceeding in a Court of Common Pleas whenever it is initiated upon the filing of the first legal paper therein of record with the prothonotary, which legal paper may be:

- i. Praecepte for a Writ of Summons;
- ii. Complaint;
- iii. Agreement for an Amicable Action;
- iv. Petition;
- v. Notice of Appeal from a court of limited jurisdiction; or,
- vi. Petition or grant of any other legal paper commencing an action or proceeding authorized by Act of Assembly or rule of court.

2. For purposes of these regulations, the initiation of a civil action or legal proceeding shall include, but is not limited to:

i. Actions governed by or authorized under the Pennsylvania Rules of Civil Procedure, such as Civil Action Ejectment, Equity, Ground Rent, Mandamus, Mortgage Foreclosure, Partition of Real Property, Quiet Title, Quo Warranto, Replevin, and the Prevention of Waste;

ii. Actions pertaining to Dependency, Annulments, Divorce, Custody, Partial Custody, Visitation of Minor Children, Support, and Paternity. With respect to Divorce actions, a separate statutory fee shall be imposed for each count in the complaint in addition to the count requesting divorce;

iii. Statutory actions such as Confirmation of Arbitration Awards, Conformation of Confessed Judgment, Declaratory Judgment, Opening or Striking Off a Judgment, Eminent Domain, Habeas Corpus, Proceedings on Liens (other than revival), Name Changes, Partition of Property Held by Husband and Wife as Tenants By the Entireties, Tax Sales of Real Property; or,

iv. Other actions not included in subsections (i), (ii) or (iii) such as: Appeals from Board of Elections, Appeals from Board of Viewers, Appeals from Zoning Boards, and Certiorari to Magisterial District Judges.

(c) *Court of Common Pleas. Orphans' Court Clerk, Register of Wills.*

1. Except for the provisions of subsection (g) below, for purposes of 42 Pa.C.S. §§ 3733(a.1) and 3733.1, a statutory fee of twelve dollars and twenty-five cents (\$12.25) shall be imposed on all petitions for grant of letters, and first filings in petitions concerning adoptions, incompetents' estates, minors' estates, and inter vivos trusts.

(d) *Court of Common Pleas. Clerk of Court.*

1. Except for the provisions of subsection (g) below, for purposes of 42 Pa.C.S. §§ 3733(a.1) and 3733.1, a statutory fee of twelve dollars and twenty-five cents (\$12.25) shall be imposed upon conviction, guilty plea, or when a defendant is granted entry into an Accelerated Rehabilitative Disposition (ARD) or other pretrial diversionary program based upon the initiation of any criminal proceeding. The initiation of a criminal proceeding shall include:

i. Cases commenced at the magisterial district judge level resulting in the issuance of a numbered docket transcript form (OTN), and subsequently waived or held to court;

ii. the appeal of a summary conviction to the Court of Common Pleas;

iii. cases involving juvenile defendants where a petition alleging delinquency has been filed in the Court of Common Pleas;

iv. cases involving juvenile defendants certified to the Court of Common Pleas, resulting in the issuance of a numbered docket transcript form (OTN); and

v. cases involving the severance of charges into separate cases resulting in the issuance of one or more additional numbered docket transcripts (OTNs).

2. Except for the provisions of subsection (g) below, for purposes of 42 Pa.C.S. §§ 3733(a.1) and 3733.1, a statutory fee of twelve dollars and twenty-five cents (\$12.25) shall be imposed for each filing of a deed, mortgage or property transfer for which a fee, charge or cost is now authorized. The documents identified as meeting the above conditions are listed below. The list is not exclusive and any other filing for which a fee is imposed, which can be considered a property transfer, is included and should have the fee imposed. Subject to later amendment, the following documents have been identified as meeting the statutory provisions:

- i. Deeds in any form;
- ii. Mortgages;
- iii. Mortgage assignments;
- iv. Mortgage releases;
- v. Mortgage satisfaction pieces;
- vi. Installment sales agreements;
- vii. Leases for a term of thirty (30) years or longer;
- viii. Easements; and
- ix. Rights of Way

(e) *Minor Judiciary. Civil and Criminal Proceedings.*

1. For purposes of 42 Pa.C.S. §§ 3733(a.1) and 3733.1 a statutory fee of twelve dollars and twenty-five cents (\$12.25) shall be imposed on the initiation of a legal proceeding. The initiation of a legal proceeding, in the following courts of the Minor Judiciary, shall include, but is not limited to, the following:

i. Magisterial District Judge. Civil Actions. Except for the provisions of subsection (g) below, a statutory fee of twelve dollars and twenty-five cents (\$12.25) shall be imposed in connection with the filing of a complaint in Trespass and Assumpsit or for the Recovery of Possession of Real Property (Landlord and Tenant Proceeding) or for any other Civil Action as provided in the Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges.

ii. Magisterial District Judge. Criminal Actions. Except for the provisions of subsection (g) below, a statutory fee of twelve dollars and twenty-five cents (\$12.25) shall be imposed upon a conviction, guilty plea or when a defendant is granted entry into an Accelerated Rehabilitative Disposition (ARD) or any other pretrial diversionary program based upon the filing of a criminal complaint or non-traffic citation charging an offense classified as mis-

demeanor or summary under a state statute or local ordinance as provided in the Pennsylvania Rules of Criminal Procedure.

iii. Magisterial District Judge, Pittsburgh Municipal Court, Philadelphia Municipal Court, and Philadelphia Traffic Court. Title 75 Summary Offenses Initiated by Traffic Citation. A statutory fee of ten dollars (\$10.00) shall be imposed upon a conviction or guilty plea based upon the filing of a traffic citation charging a violation of a Title 75 (relating to vehicles) offense classified as summary under a state statute or local ordinance as provided in the Pennsylvania Rules of Criminal Procedure.

iv. Pittsburgh Municipal Court. Civil Actions. Except for the provisions of subsection (g) below, a statutory fee of twelve dollars and twenty-five cents (\$12.25) shall be imposed in connection with the filing of a civil complaint seeking recovery of fines and penalties imposed by an ordinance of the City of Pittsburgh or by any ordinance or regulation relating to housing and health administered and enforced by the county health department where the violation occurs within the City of Pittsburgh.

v. Pittsburgh Municipal Court. Criminal Actions. Except for the provisions of subsection (g) below, a statutory fee of twelve dollars and twenty-five cents (\$12.25) shall be imposed upon a conviction, guilty plea or when a defendant is granted entry into an Accelerated Rehabilitative Disposition (ARD) or any other pretrial diversionary program based upon the filing of a criminal complaint or non-traffic citation charging an offense classified as misdemeanor or summary under a state statute or local ordinance as provided for in the Pennsylvania Rules of Criminal Procedure.

vi. Philadelphia Municipal Court. Civil Actions. Except for the provisions of subsection (g) below, a statutory fee of twelve dollars and twenty-five cents (\$12.25) shall be imposed in connection with the filing of a complaint for a Civil Action, as defined in the Philadelphia Municipal Court Rules of Civil Procedure.

vii. Philadelphia Municipal Court. Criminal Actions. Except for the provisions of subsection (g) below, a statutory fee of twelve dollars and twenty-five cents (\$12.25) shall be imposed upon conviction, guilty plea or when a defendant is granted entry into an Accelerated Rehabilitative Disposition (ARD) or any other pretrial diversionary program based upon the filing of a criminal complaint or non-traffic citation charging an offense classified as misdemeanor or summary under a state statute or local ordinance as provided for in the Pennsylvania Rules of Criminal Procedure.

(f) Recorders of Deeds. Except for the provisions of subsection (g) below, for purposes of 42 Pa.C.S. §§ 3733(a.1) and 3733.1, a statutory fee of twelve dollars and twenty-five cents (\$12.25) shall be imposed for each filing of a deed, mortgage or property transfer for which a fee, charge or cost is now authorized. The documents identified as meeting the above conditions are listed below. The list is not exclusive and any other filing for which a fee is imposed, which can be considered a property transfer, is included. Subject to later amendment, the following documents have been identified as meeting the statutory provisions:

- i. Deeds in any form;
- ii. Mortgages;
- iii. Mortgage assignments;
- iv. Mortgage releases;

- v. Mortgage satisfaction pieces;
- vi. Installment sales agreements;
- vii. Leases for a term of thirty (30) years or longer;
- viii. Easements; and
- ix. Rights of Way

(g) *Temporary Surcharge.*

i. For a period of twenty-five (25) months beginning on December 8, 2009 and ending on January 7, 2012 pursuant to Act 49 of 2009, a temporary surcharge of eleven dollars and twenty-five cents (\$11.25) shall be collected by all collectors of the JCS/ATJ fee to supplement the twelve dollars and twenty-five cents (\$12.25) statutory fee described above.

ii. The temporary surcharge may not be imposed upon a conviction or guilty plea based upon the filing of a traffic citation charging a Title 75 (relating to vehicles) offense classified as summary under a state statute or local ordinance as provided in the Pennsylvania Rules of Criminal Procedure.

Source

The provisions of this § 29.351 adopted June 29, 1990, effective June 29, 1990, 20 Pa.B. 3969; amended October 24, 2002, effective immediately, 32 Pa.B. 5507. Immediately preceding text appears at serial pages (200604) and (286917).

§ 29.352. Methods of Reporting.

All system and related personnel are to follow the procedures set forth by the Department of Revenue for the reporting of fees.

Source

The provisions of this § 29.352 adopted June 29, 1990, effective June 29, 1990, 20 Pa.B. 3969.

§ 29.353. General Principles.

The Supreme Court of Pennsylvania, pursuant to general authority set forth by Art. V, § 10 of the Pennsylvania Constitution, and 42 Pa.C.S. § 1721, has authorized the Court Administrator of Pennsylvania to promulgate regulations in accordance with all applicable statutory provisions pertaining to the distribution and disbursement of all fines, fees, costs, reparations, restitution, penalties and other remittances imposed and collected by the Criminal Division of the Courts of Common Pleas, Philadelphia Municipal Court, any other entity on behalf of the Court using the Common Pleas Criminal Court Case Management System (CPCMS), and those Magisterial District Courts which are using the "redesigned" Magisterial District Judge System (MDJS).

These regulations are effective December 8, 2009.

I. Schedule for standard distribution of funds collected by the Criminal Division of the Courts of Common Pleas, Philadelphia Municipal Court, any other entity on behalf of the Court using the CPCMS and those Magisterial District Courts using the "redesigned" MDJS.

A. All fines, fees, costs, reparations, restitution, penalties and other remittances imposed and collected by the Criminal Division of the Courts of Common Pleas, Philadelphia Municipal Court, any other entity on behalf of the Court using the CPCMS and those Magisterial District Courts using the "redesigned" MDJS shall be distributed in the following prioritized order:

1. The collection agency fee provided for in 42 Pa.C.S. § 9730.1 shall be paid first, but only in cases wherein the

private collection agency has secured the funds from the defendant or a third party and the payment is made to the court. No more than 25% of each payment secured from the defendant by the private collection agency may be applied towards this fee.

2. The Crime Victim Compensation Fund and Victim Witness Services Fund shall be paid, but only in cases in which the defendant has been sentenced to incarceration, probation or is admitted into an accelerated rehabilitative disposition program (see 18 P.S. § 11.1101). Otherwise, these costs shall be distributed in accordance with subsection (A)(6) of these regulations.

3. At least 50% of any additional payment shall go to restitution until it is paid in full (see 42 Pa.C.S. § 9728(g.1)). When restitution is ordered to more than one recipient at the same time, the court shall set the priority of payment as follows, in accordance with 18 Pa.C.S. § 1106(c)(1)(ii)(A)—(D):

- i. the victim;
- ii. the Crime Victim's Compensation Board;
- iii. any other governmental agency which has provided reimbursement to the victim as a result of the defendant's criminal conduct;
- iv. any insurance company which has provided reimbursement to the victim as a result of the defendant's criminal conduct.

4. Judicial Computer Project/Access To Justice/Criminal Justice Enhancement Account (JCS/ATJ/CJEA) Fee (see 42 Pa.C.S. §§ 3733(a.1) and 3733.1).

5. Electronic monitoring fees, offender supervision fees (as set forth in 18 P.S. § 11.1102(c)), alcohol highway safety school fees, service fees (such as sheriff's fees set forth in 42 P.S. § 21101 et seq., and constable's fees set forth in 42 Pa.C.S. § 2950), transcript fees, witness fees (as provided for in 42 Pa.C.S. § 5903), and other similar fees shall be paid based upon a pro-rated formula, unless the fees are prioritized by court order or the judicial district. The Administrative Office of Pennsylvania Courts may preclude a fee from being classified as an "other similar fee." The amount of the payment allocated to each outstanding item shall be determined by dividing the outstanding balance for the individual item by the combined total of the outstanding balances for all items. The resulting number is then multiplied by the amount of the payment to determine how much of the payment shall be allocated to the outstanding balance of the individual item involved.

For example, a defendant owes \$80.00 in electronic monitoring fees, \$10.00 in offender supervision fees, and \$10.00 in service fees, for a total of \$100.00 in outstanding fees. Defendant makes a payment of \$10.00 in his/her case. To determine the amount to be allocated to electronic monitoring fees, divide the outstanding balance of the electronic monitoring fee (\$80.00) by the combined total outstanding balances of all items (\$80.00 + 10.00 + 10.00 = \$100.00). The result in this example is .8 (80/100). Multiply the resulting figure by the amount of the payment to determine the allocation to electronic monitoring fees, which in this example is \$8.00 (.8 × \$10.00 = \$8.00).

6. All other fines, fees, costs, reparations, penalties and other remittances except for judgment or satisfaction fees shall be distributed based upon a pro-rated formula. Specifically, the amount of the payment allocated to each outstanding item shall be determined by dividing the outstanding balance for the individual item by the com-

bined total of the outstanding balances for all items. The resulting number is then multiplied by the amount of the payment to determine how much of the payment shall be allocated to the outstanding balance of the individual item involved.

For example, a defendant owes \$80.00 in costs, \$10.00 in fines, and \$10.00 in fees, for a total of \$100.00 in outstanding costs, fines and fees. Defendant makes a payment of \$20.00 in his/her case. To determine the amount to be allocated to the fines, divide the outstanding balance of the fines (\$10.00) by the combined total outstanding balances of all items (\$80.00 + 10.00 + 10.00 = \$100.00). The result in this example is .1 (10/100). Multiply the resulting figure by the amount of the payment to determine the allocation to the fines, which in this example is \$2.00 (.1 × \$20.00 = \$2.00).

7. Fees charged by the clerk of courts, prothonotary, other entity in the county responsible for the distribution and disbursement of all fines, fees, costs, reparations, restitution, penalties, or other remittances, or the Clerk of Philadelphia Municipal Court for the entry or satisfaction of a civil judgment related to a criminal proceeding, as set forth in 42 Pa.C.S. § 1725, 42 P.S. §§ 21042 and 21071, shall be paid last. The amount of the payment allocated to each fee shall be determined by dividing the outstanding balance for the individual fee by the combined total of the outstanding balances for both fees. The resulting number is then multiplied by the amount of the payment to determine how much of the payment shall be allocated to the outstanding balance of the individual fee involved.

For example, a defendant owes \$60.00 in judgment fees and \$40.00 in satisfaction fees for a total of \$100.00 in outstanding fees. Defendant makes a payment of \$10.00 in his/her case. To determine the amount to be allocated to judgment fee, divide the outstanding balance of the judgment fee (\$60.00) by the combined total outstanding balances of all items (\$60.00 + 40.00 = \$100.00). The result in this example is .6 (60/100). Multiply the resulting figure by the amount of the payment to determine the allocation to judgment fee, which in this example is \$6.00 (.6 × \$10.00 = \$6.00).

B. Each payment shall be applied to a single case, unless otherwise ordered by the court.

II. The county probation department or other agent designated to collect all fines, fees, costs, reparations, restitution, penalties and other remittances pursuant to 42 Pa.C.S. § 9728 shall use the CPCMS when performing collection-related activities.

III. Nothing in these regulations shall be applicable to the collection and/or distribution of any filing fee which is authorized by law. Filing fees shall include but not be limited to the clerk of courts automation fee set forth in 42 Pa.C.S. § 1725.4(b).

Source

The provisions of this § 29.353 adopted September 30, 2003, effective immediately, 33 Pa.B. 5173; amended March 23, 2005, effective April 1, 2005, 35 Pa.B. 2095. Immediately preceding text appears at serial pages (299601) to (299602) and (307445).

[Pa.B. Doc. No. 09-2095. Filed for public inspection November 13, 2009, 9:00 a.m.]