

THE COURTS

Title 255—LOCAL COURT RULES

DELAWARE COUNTY

Public Access Policy of The Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Court; No. 08-2750

And Now, this 6th day of May, 2010, in accordance with the Judicial Code, 42 Pa.C.S. § 4301(b), and pursuant to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts* adopted by the Pennsylvania Supreme Court effective July 1, 2010, *It Is Hereby Ordered* that the following procedures shall be utilized to ensure a policy is in place to govern public access to the records of the Magisterial District Courts within the 32nd Judicial District. This policy supplants the existing *Public Access Policy of the Unified Judicial System of Pennsylvania: Magisterial District Courts*, found at 204 Pa. Code §§ 213.1 and 213.11.

It Is Further Ordered that seven (7) certified copies of this *Order* shall be filed with the Administrative Office of the Pennsylvania Courts; that two (2) certified copies and one (1) diskette shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that one (1) certified copy shall be filed with the Civil Procedural Rules Committee of the Supreme Court of Pennsylvania; one (1) copy to the *Delaware County Legal Journal* for publication, and that one (1) copy shall be filed with the Office of Judicial Support—Civil—of the Court of Common Pleas of Delaware County.

1. Public Request Access

(a) Verbal requests for records are to be filled within 48 hours.

(b) Information subject to a sealing order, restricted by law or court rule, and the court's notes, drafts and work product are not accessible to the public.

(c) Magisterial district courts have the discretion to require that a "complex or voluminous" request be submitted in writing on a form supplied by AOPC. Exactly what is "complex or voluminous" may vary from court to court depending on factors such as court resources and case load.

(d) All denials for record requests must be issued in writing and the requestor, within 15 business days of notification of the decision, can appeal such a denial to the Administrator of the Administrative Office for Magisterial District Judges, 100 West Front Street, Media, PA 19063-3208.

2. Fee Schedule

(a) Copying per page—\$.25.

(b) Preparing, copying and refiled requested court documents—\$8.00 per 1/4 hour with a minimum of 1/4 hour.

(c) Estimated costs to be prepaid.

(d) Fees paid for services rendered are nonrefundable.

3. **The effective date of this Order shall be July 1, 2010.**

By the Court

JOSEPH P. CRONIN, Jr.,
President Judge

[Pa.B. Doc. No. 10-933. Filed for public inspection May 21, 2010, 9:00 a.m.]

LUZERNE COUNTY

Administrative Fee for Accelerated Rehabilitative Disposition Cases; No. 97 Misc. Criminal of 2010

Administrative Order

And Now, this 29th day of April, 2010, at 9:00 o'clock, a.m., it is hereby Ordered and Decreed that effective thirty (30) days after the publication in the *Pennsylvania Bulletin*, in accordance with Pa.R.C.P. 316, every person placed into the Accelerated Rehabilitative Disposition ("ARD") Program, shall pay, in addition to the cost of prosecution, restitution, fees and other costs, an Administrative Fee of Two Hundred (\$200.00) Dollars. This Fee shall be payable to the Luzerne County Clerk of Courts after acceptance of the Defendant by a Judge sitting on the Luzerne County Court of Common Pleas into the ARD Program for the administration and implementation of an approved ARD. This Fee shall be assessed upon the Defendant after the ARD hearing where the Defendant is accepted into the program. Upon receipt of the Fee, the Luzerne County Clerk of Courts shall transmit the money to the Office of the Luzerne County District Attorney.

It is further Ordered that the District Court Administrator shall file seven (7) certified copies of this Order with the Administrative Office of Pennsylvania Courts, two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, one (1) certified copy to the Criminal Procedural Rules Committee, one (1) certified copy to the Judicial Council of Pennsylvania Statewide Rules Committee, and one (1) copy to the *Luzerne Legal Register* for publication in the next issue. This Order shall also be published on the web site of the Administrative Office of Pennsylvania Courts (www.aopc.org) as well as Unified Judicial System's web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.

By the Court

THOMAS F. BURKE, Jr.,
President Judge

[Pa.B. Doc. No. 10-934. Filed for public inspection May 21, 2010, 9:00 a.m.]

SOMERSET COUNTY

[Correction]

Mortgage Foreclosure Diversion Program; Administrative Order No. 1-2010; No. 12 Miscellaneous 2010

(Editor's Note: This Order was originally published at 40 Pa.B. 1633, 1634 (March 27, 2010). An error in Exhibit "B" is corrected as follows.)

Order

And Now, this 12th day of March, 2010, recognizing that the number of mortgage foreclosure actions filed in the County of Somerset has recently expanded greatly, the Somerset County Court of Common Pleas hereby establishes a Mortgage Foreclosure Diversion Program in conjunction with Southwestern Pennsylvania Legal Services, Inc.

(a) When a complaint in mortgage foreclosure is filed seeking foreclosure on a mortgage on an owner-occupied residence the Prothonotary of Somerset County shall provide to the plaintiff or to plaintiff's counsel a Mortgage Foreclosure Diversion Program Notice, attached hereto as Exhibit "A", which shall be served upon the defendant or defendants in the foreclosure action along with a copy of the complaint as required by the Pennsylvania Rules of Civil Procedure. No Praeceptum For Default Judgment will be accepted by the Prothonotary without the certification of plaintiff or counsel as set forth in Exhibit "B".

(b) The defendant or defendants shall have the option to attend a Foreclosure Mitigation Counseling session scheduled and conducted by Southwestern Pennsylvania Legal Services, Inc. within twenty (20) days of the date of the service of the Complaint.

(c) Any defendant who attends a Foreclosure Mitigation Counseling session may seek a sixty (60) day stay in the mortgage foreclosure proceedings for the purpose of reaching a mutually acceptable agreement with the plaintiff to resolve the case. A representative of Southwestern Pennsylvania Legal Services, Inc. or other legal representative of the defendant or defendants must present a request for such stay in writing to the Administrative Judge of the Civil Division in the Somerset County Court of Common Pleas within ten (10) days of the date of the counseling session.

(d) If a defendant fails to attend a Foreclosure Mitigation Counseling session, fails to request a sixty (60) day stay, or the parties fail to reach an agreement resolving the case within the sixty (60) day stay, the foreclosure action may proceed in accordance with the Pennsylvania Rules of Civil Procedure.

(e) This program will take effect on April 26, 2010.

By the Court

JOHN M. CASCIO,
President Judge

EXHIBIT "A"

MORTGAGE FORECLOSURE DIVERSION PROGRAM NOTICE

You have been sued in Court to foreclose upon the mortgage associated with your home.

You are notified that you may seek a sixty (60) day postponement in this mortgage foreclosure proceeding if you attend a free Foreclosure Mitigation Counseling session within twenty (20) days of being served with the

complaint in this action and this notice, and make application for this stay. The purpose of this stay is to permit you an opportunity to work with the lender/plaintiff to reach an agreement to settle this proceeding. Application for this program can be made within this twenty (20) day period by contacting Southwestern Pennsylvania Legal Services at 814-443-4615.

If you are scheduled and fail to appear for this free Foreclosure Mitigation Counseling session, you will not receive a sixty (60) day postponement of these proceedings, and if you do not respond to the complaint, a default judgment may be entered against you.

IF YOU ARE NOT IN A POSITION TO PROMPTLY REMEDY THE ALLEGED MORTGAGE DEFAULT YOU SHOULD STRONGLY CONSIDER ATTENDING A FORECLOSURE MITIGATION COUNSELING SESSION. THESE SESSIONS WILL BE CONDUCTED BY A REPRESENTATIVE OF SOUTHWESTERN PENNSYLVANIA LEGAL SERVICES. YOU ALSO MAY BE ABLE TO SEEK ASSISTANCE FROM A LEGAL PROFESSIONAL AT THE FORECLOSURE MITIGATION COUNSELING SESSION.

IF YOU HAVE QUESTIONS ABOUT THIS MATTER, YOU MAY HAVE THEM ADDRESSED AT THE FORECLOSURE MITIGATION COUNSELING SESSION, OR YOU MAY CONTACT SOUTHWESTERN PENNSYLVANIA LEGAL SERVICES AT: 218 N. Kimberly Avenue, Suite 101, Somerset, PA 15501; 814-443-4615.

EXHIBIT "B"

IN THE COURT OF COMMON PLEAS OF SOMERSET COUNTY, PENNSYLVANIA

CERTIFICATION FOR DEFAULT JUDGMENT IN MORTGAGE FORECLOSURE

Plaintiff certifies that, to the best of the knowledge and belief of Plaintiff, a copy of the Somerset County "Mortgage Foreclosure Diversion Plan Program Notice" was served upon each Defendant for whom default judgment is being requested herewith at least twenty (20) days prior to this date, and Plaintiff has not been advised by counsel for Defendant or Southwestern Pennsylvania Legal Services of the institution of the sixty (60) day stay of proceedings based on Defendant's compliance therewith.

Plaintiff/Counsel for Plaintiff

Dated:

[Pa.B. Doc. No. 10-549. Filed for public inspection March 26, 2010, 9:00 a.m.]

WESTMORELAND COUNTY Adopting New Rule W 1960; No. 3 of 2010

Order

And Now, this 5th day of May, 2010 It Is Hereby Ordered that, Westmoreland County Rule of Civil Proce-

ture W 1960 is adopted. This Rule is effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

JOHN E. BLAHOVEC,
President Judge

Rule W 1960. Voluntary Alternative Dispute Resolution. Summary Divorce Master.

A. *Consent of Parties.* A consent motion may be presented to schedule a Summary Divorce Master's hearing in a divorce proceeding together with a certification that ninety days have passed since service of the Divorce Complaint, both parties have filed Affidavits of Consent under Section 3301(c) of the Divorce Code, and both parties have filed Inventory and Appraisal of Property forms. Because the Summary Divorce Master's hearing can only be scheduled with the consent of the parties, the Court shall, upon presentation of the consent motion and certification, determine from the attorneys or unrepresented parties that the motion is consensual and the waiver of rights is knowing and voluntary. Thereafter, the Court shall appoint a Summary Divorce Master.

1. The aforementioned consent motion shall certify:

a. The parties can read, write and understand the English language;

b. The parties are not being treated for any mental or emotional illness that hinders their judgment;

c. The parties are not under the influence of any medications, drugs or intoxicants;

d. Each litigant is giving up all rights of appeal voluntarily;

e. Each represented party discussed this matter/procedure carefully with their respective attorneys.

2. The parties, if not represented, or attorneys representing the respective parties shall sign the consent motion certifying that they are satisfied that they or their respective clients fully understand the rights they are waiving by agreeing to a hearing before a Summary Divorce Master, and to be bound by the Summary Divorce Master's decision.

B. *Attendance of Parties.* Individual parties shall attend the Summary Divorce Master's hearing. The summary hearing is not on-the-record and no court reporter is required.

C. *Binding Effect.* Summary Divorce Master's hearings are for final disposition and are binding upon the parties who have consented to the process. The parties are prohibited from presenting motions for reconsideration, filing exceptions or appealing from the Order of Court entered.

D. *Specific Issues to be Addressed by the Summary Divorce Master.* Each counsel or unrepresented party shall file, serve, and submit to the Summary Divorce Master a Statement of Proposed Issues. Any equitable distribution or alimony issues that are presented to the Summary Divorce Master may be floored and capped with a high/low agreement of counsel and the parties.

E. *Narrative Statements.* Counsel shall be required to file and serve concise narrative statements consisting of a brief of one (1) to two (2) pages in length setting forth an exposition of each party's respective positions on the facts and the law.

Note: The purpose of the narrative statement is to provide the Summary Divorce Master with a short over-

view of each party's case relative to equitable distribution and alimony, a proposed distribution plan, and any high/low agreement consented to by the parties prior to presentation by counsel.

F. *Pre-Trial Motions.* The Summary Divorce Master shall rule on any pre-trial motions before the Summary Divorce Master's hearing. Any pre-trial motion shall be submitted to the Summary Divorce Master no later than ten (10) days prior to the hearing. Within five days prior to the Summary Divorce Master's hearing, the Summary Divorce Master shall inform counsel or unrepresented parties in writing of the rulings on the Pre-Trial Motions submitted. The parties are prohibited from presenting motions for reconsideration, filing exceptions, or appealing from the Summary Divorce Master's rulings on Pre-Trial Motions.

G. *Pre-hearing Conference.* The Summary Divorce Master is encouraged to facilitate a settlement by holding a pre-hearing conference. In the event a settlement is not reached at the conclusion of the conference, the Summary Divorce Master shall conduct a final colloquy and have the parties sign confirming that they fully understand that this proceeding will result in a final non-reviewable decision rendered by the Summary Divorce Master. The colloquy shall include the provisions set forth in the sample colloquy at the end of this local rule.

H. *Presentation of the Case.* Each side shall be entitled to one (1) hour to present its case unless additional time is permitted by the Summary Divorce Master for good cause. The presentation of the case may involve a combination of argument, summarization of the evidence which would be presented at a regular master's proceeding, and a statement of the applicable law. Arguing the reasonable inferences that may be drawn from the discovery is permissible. No live testimony will be presented except in cases where credibility will determine the major issues. In such cases, no more than two (2) witnesses for each side may be called for direct and cross-examination. Time spent in direct examination and cross-examination of witnesses counts against the respective one (1) hour allotted time. Counsel or unrepresented parties may quote from depositions, if applicable, and may use exhibits and videotapes. The plaintiff shall proceed first.

I. *Summary Divorce Master's Determination and Final Order of Court.* The Summary Divorce Master shall render a final disposition on all issues within five (5) business days after the presentations are completed. The Summary Divorce Master shall file the final disposition and forward copies to counsel and unrepresented parties within five (5) business days.

J. *Existing Offer and Demand.* The existing offer and demand shall remain unaltered through the Summary Divorce Master's hearing.

K. *Cost of the Proceeding.* The cost of the Summary Divorce Master's proceeding shall be a total of one thousand dollars (\$1,000.00) divided equally by the parties. The Summary Divorce Master shall have discretion to increase the cost of the proceeding if additional time is required for the presentation of the case and/or additional research is required on a complex issue.

Note: This local rule is modeled after the voluntary alternative dispute summary jury trial process that is utilized by counties throughout the Commonwealth of Pennsylvania and is not meant to amend any procedures relating to adjudicating matters before a divorce master as provided by the Pennsylvania Rules of Civil Procedure.

COLLOQUY

- 1. I have informed my attorney all of the facts and circumstances known to me about this case.
- 2. I am satisfied with the representation provided by my legal counsel.
- 3. I am not under the influence of any drugs, alcohol or medications.
- 4. I am able to read, write and understand the English language.
- 5. I understand that I have the right to have this divorce matter and the issues relating to equitable distribution (i.e. division of all marital property) heard by way of a full trial before a Master assigned by a Court of Common Pleas to convene a hearing and prepare a report at the conclusion of the hearing deciding all of the issues of equitable distribution. I understand that I have the right to have my legal counsel appeal the decision of the Master to a Court of Common Pleas Judge through the filing of exceptions. Thereafter, my legal counsel will be permitted to file a brief and argue my position to a judge and an order of court will be issued thereafter. I then

have the right to file an appeal with the appellate courts. **I acknowledge and understand that by electing to have my case heard through this Summary Divorce Master's proceeding, the decision that is rendered by the Summary Divorce Master is final and non-reviewable. I acknowledge and understand that I give up my right to appeal the decision of the Summary Divorce Master to any Court and that I have absolutely no right to appeal the decision.**

6. I certify that I have discussed my case and the applicable procedures carefully with my legal counsel and knowingly and without any undue influence or duress wish to proceed with having my case assigned and heard by a Summary Divorce Master who will render a final decision that will conclude this divorce action and that I will be divorced thereafter.

_____ (Date) _____ (Signature)
 _____ (Notarial Seal)

[Pa.B. Doc. No. 10-935. Filed for public inspection May 21, 2010, 9:00 a.m.]