

THE COURTS

Title 255—LOCAL COURT RULES

BERKS COUNTY

Berks County Rules of Court; No. 10-162 Prothonotary; No. CP-06-AD-000016-2010 Clerk of Courts

Amended Order

And Now, this 4th day of June, 2010, the following amendments to Berks County Rules of Civil Procedure 211; 211.1; 211.8; 211.9; 1915.15; 1915.18; 1915.26; 1920.51.1; 1920.51.2; 1920.51.4; 1920.51.5; 1920.53; 1920.53.1 and 1920.55-2 are hereby adopted and shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*, in accordance with Pa.R.C.P. No. 239(d) and the amendment to Rule 1028(c) is hereby adopted and shall become effective upon publication on the Pennsylvania Judiciary's Web Application Portal in accordance with Pa.R.C.P. No. 239.8(d).

The District Court Administrator is *Ordered and Directed* to:

1. File seven (7) certified copies of this Order, including the newly adopted rules, with the Administrative Office of Pennsylvania Courts.

2. File two (2) certified copies and one (1) disk copy with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. File one (1) certified copy with the Domestic Relations Procedural Rules Committee of the Supreme Court of Pennsylvania.

4. File one (1) certified copy with the Berks County Law Library.

5. Keep continuously available for public inspection and copying, one (1) copy in the Office of the Prothonotary of Berks County.

JEFFREY L. SCHMEHL,
President Judge

ARGUMENT COURT

Rule 211. Schedule for Arguments. Matters for Panel. Matters for Single Judge.

Civil Argument Court shall be held on the days as scheduled in the Court calendar for that year, subject to change by court order fixing special argument court dates. **Family Court Argument and Support Argument shall be held as required by B.R.C.P. 211.8 and 211.9.**

* * * * *

Rule 211.1. Ordered or Placed on Argument List.

Preliminary objections shall be ordered for argument court as required by B.R.C.P. [1017(b)] 1028(c). All other cases may be ordered for argument court (a) by the party having the burden at argument by filing a praecipe and required documents with the prothonotary on or before the twenty-fourth (24th) day preceding such argument court date; (b) by the party not having the burden at argument by filing a praecipe and required documents with the prothonotary on or before the forty-fourth (44th) day preceding such argument court date; or (c) by special

order of the court at any time. No case shall be ordered or placed on any argument list unless at the day of its ordering the matter is at issue and notes of testimony directed to be filed have been transcribed and filed, unless (a) by agreement of counsel such transcription is dispensed with and an adequate statement of the material facts has been filed in lieu thereof; or (b) the case is specially ordered for argument by the court.

Rule 211.8. Argument Court Procedures for Family Argument.

(1) Instead of a praecipe as stated in B.R.C.P. 211.1 through 211.6, a party requesting that Family Argument be scheduled shall:

(a) Contact the assigned Judge to get a date, time and location for argument court. Such information shall be included on a scheduling order and filed along with the other required documents with the Prothonotary. The party shall simultaneously file with the Prothonotary the required copies of his brief of argument and a proof of service that copies of the scheduling order and brief of argument have been served on all other parties in the case; or

(b) File a blank scheduling order along with the other required documents with the Prothonotary. The party shall simultaneously file with the Prothonotary the required copies of his brief of argument and a proof of service that copies of the blank scheduling order and brief of argument have been served on all other parties in the case;

(c) If a blank scheduling order is filed, the assigned Judge shall set forth the date, time and location for argument court and notify all parties.

(2) An argument court brief shall be filed by the party not having the burden at argument court at least seven (7) days preceding the argument court date set forth in the scheduling order unless another date has been set by the Court. This brief of argument shall be accompanied by a proof of service that copies of the brief of argument have been served on all other parties in the case.

(3) A party filing for argument shall set forth in writing on such documents:

(a) the matter to be argued

(b) the party who has the burden at argument; and

(c) the name of the judge assigned to the case, if known.

Rule 211.9. Argument Court Procedures for Support Argument.

(1) Instead of a praecipe as stated in B.R.C.P. 211.1 through 211.6, a party requesting that Support Argument be scheduled shall:

(a) File exceptions to the finding of fact and recommendations of the Support Hearing Master with the Domestic Relations Section together with a request for transcript and the required fee.

(b) Once a month, the Domestic Relations Section shall forward the list of all cases that are ready for argument to the Administrative Family Court Judge for assignment.

(c) The assigned Judge shall set forth the date, time and location for argument court and notify all parties. Such notice may also include a briefing schedule, or the briefing schedule may be issued by separate order.

Rule 1028(c). Preliminary Objections.

(1) A party filing preliminary objections which are not endorsed with a notice to plead, as they involve issues raised under Pa.R.C.P. 1028(a)(2), (3) or (4), shall file simultaneously with the Prothonotary an original and one copy of the preliminary objections, a praecipe for argument or scheduling order, an argument brief and a proposed order granting the relief requested, accompanied by a proof of service of copies of those documents upon counsel for all other parties and any unrepresented parties by first class mail. The praecipe shall order that the case be listed for argument on an argument court date next following the expiration of twenty-four (24) days from the date of filing.

* * * * *

CUSTODY

Rule 1915.15. Forms.

* * * * *

(b) [The Order and notice requiring the parties to attend the Children in the Middle Program, or other equivalent program, shall be substantially in the following form:

(CAPTION)

ORDER OF COURT

AND NOW, this ____ day of _____, 200 , in order to minimize the effects of custody litigation upon minor children, it is hereby Ordered as follows:

- 1. All parties to this custody action shall complete the program known as "Children in the Middle", or an alternative approved program.
- 2. Each party shall register for the program by calling Family Guidance Center, 610-374-4963, 1235 Penn Avenue, Suites 205-206, Wyomissing, PA 19610, or the program of their choice as approved prior thereto by the Court, within ten (10) days of receiving this Order.
- 3. Registration forms shall be available in the Office of Court Administration on the Fourth Floor of the Berks County Services Center, 633 Court Street, Reading, Pennsylvania.
- 4. Each party shall diligently participate in and shall file a copy of the Certificate of Completion of the program in the Office of the Prothonotary of Berks County to the above docket number.
- 5. Each party shall bring a photocopy of the Certificate of Completion to the custody conference or hearing scheduled in this matter.
- 6. Failure to comply with this Order may result in dismissal of the action, striking of pleadings, or other appropriate sanctions, including citation for contempt.
- 7. This requirement will not be waived except upon written motion to the assigned Judge for good cause shown.
- 8. Parties who reside outside of Berks County may attend an equivalent program in that area,

provided they furnish official information regarding the program to the Court or to the Custody Master. They shall also be responsible for providing Certificates of Completion as set forth above.

BY THE COURT:

J.]

The Custody Scheduling Order and notice requiring the parties to attend the Children in the Middle Program, or other equivalent program; the Mediation Orientation Session; and the Custody Conciliation shall be substantially in the following form:

(CAPTION)

You have been sued in Court to obtain custody, partial custody or visitation of the minor child/children named in the attached Complaint/Petition. If you fail to appear as provided by this Order, an order for custody, partial physical custody or visitation may be entered against you or the court may issue a warrant for your arrest.

SCHEDULING ORDER

- 1. BOTH PARTIES LISTED ABOVE SHALL ATTEND AND COMPLETE THE "CHILDREN IN THE MIDDLE" PROGRAM, UNLESS OTHERWISE INDICATED BELOW. YOU SHALL CONTACT FAMILY GUIDANCE WITHIN THREE (3) DAYS OF RECEIVING THIS NOTICE TO SCHEDULE A TIME SLOT FOR COMPLETION OF THE PROGRAM (see contact information below). IF YOU FAIL TO COMPLY WITH THIS PROVISION OF THE ORDER, CONTEMPT CHARGES SHALL BE FILED AGAINST YOU WITH THE COURT.

Plaintiff -

Defendant -

ALL CHILDREN IN THE MIDDLE PROGRAMS ARE HELD AT:
The Family Guidance Center
1235 Penn Avenue, Suites 205-206,
Wyomissing, PA 19610
Phone: 610-374-4963

This Parenting Class is a presentation required for all parties participating in a Custody action. Each parent or party attends the Parenting Class separately. You must each pay the required fee directly to the Family Guidance Center. At the time of registration, you will be required to pay for the course.

NOTE: ALL PARTIES ARE REQUIRED TO ATTEND THE PROGRAM WHETHER OR NOT AN AGREEMENT IS SUBMITTED.

- 2. BOTH PARTIES LISTED ABOVE SHALL ALSO ATTEND A MEDIATION ORIENTATION SESSION ON:

Berks County Courthouse, 1st Floor, Hearing Room __, 633 Court Street, Reading, PA 19601

Time Plaintiff shall appear:

Time Defendant shall appear:

A Mediator is an independent professional trained to assist you in reaching an agreement about Custody. The parties shall each pay a fee of \$85 to the Prothonotary's Office prior to attending the scheduled Mediation Orientation session. Cash payments

can paid directly at the Prothonotary's Office or Money Order and/or Cashier's checks can be made payable and mailed to Prothonotary of Berks County, 633 Court Street, Reading, PA 19601. Please mark on your payment whether you are the Plaintiff or Defendant, along with your case number to ensure proper credit.

IF THERE IS ANY CONFLICT WITH THE DATE YOUR MEDIATION ORIENTATION SESSION HAS BEEN SCHEDULED, YOU MUST CONTACT THE MEDIATION COORDINATOR'S OFFICE AT (610) 478-6208 ext. 5772 WITHIN THREE (3) BUSINESS DAYS OF RECEIVING THESE PAPERS.

IF THE PARTIES REACH A CUSTODY AGREEMENT AT MEDIATION, AND THEY WANT THE AGREEMENT TO BE MADE AN ORDER OF COURT, THEY SHOULD SUBMIT THE AGREEMENT TO THEIR ATTORNEYS. IF THEY DO NOT HAVE ATTORNEYS, THEY MAY CONTACT THE BERKS COUNTY BAR ASSOCIATION FOR ASSISTANCE, OR SUBMIT THE SIGNED AGREEMENT OF UNDERSTANDING TO THE FAMILY COURT CUSTODY OFFICE AT THE ADDRESS LISTED BELOW. FAMILY COURT WILL CANCEL THE MEDIATION ORIENTATION AND REFUND THE MEDIATION FEES ONLY IF IT RECEIVES THE SIGNED CUSTODY AGREEMENT AT LEAST TWO (2) BUSINESS DAYS BEFORE THE SCHEDULED MEDIATION ORIENTATION.

IF YOU DO NOT REACH AN AGREEMENT FOR CUSTODY AT THE MEDIATION, YOU MUST ATTEND THE CUSTODY CONCILIATION CONFERENCE AS SCHEDULED:

3. YOUR CASE HAS BEEN SCHEDULED FOR CUSTODY CONCILIATION ON

LOCATED AT: Family Court Custody Office Berks County Services Center, 7th Floor 633 Court Street, Reading, PA 19601, Phone: 610-478-6208 ext. 5770

Custody Conciliation is held before a Custody Master, who will enter a Recommended Order at the close of the Conciliation Conference. The recommendation may also include proposed sanctions if any of the aforesaid fees are not paid by the parties.

YOUR CUSTODY CONCILIATION CONFERENCE WILL NOT BE CANCELLED UNLESS FAMILY COURT RECEIVES A SIGNED CUSTODY AGREEMENT AT LEAST TWO (2) BUSINESS DAYS BEFORE THE SCHEDULED CONCILIATION CONFERENCE.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER'S REFERRAL SERVICE OF BERKS COUNTY BAR ASSOCIATION 544 Court Street Reading, Pennsylvania 19601 (610) 375-4591

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Berks County is required by law to comply with the Americans with Disabilities Act of 1990. For information about ac-

cessible facilities and reasonable accommodations available to disabled individuals having business before the Court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the Court. YOU MUST ATTEND THE SCHEDULED CONFERENCE OR HEARING.

BY THE COURT:

DATE: _____ J.

Rule 1915.18. Form of Order Directing Expert Examination and Report.

An Order of Court directing [psychological or home study] custody evaluations [in a custody matter] pursuant to B.R.C.P. 1915.8 shall be in substantially the following form:

(CAPTION)

CUSTODY EVALUATION ORDER

AND NOW, this ____ day of _____, 20 __, [upon motion of (Name of Master), Custody/Support Master OR upon agreement of the parties], it is hereby ORDERED that the following persons shall be evaluated for child custody: (Names), and any other people in the discretion of the Evaluator who should be evaluated. Counsel for any party may submit a short letter to the evaluator to identify issues. Counsel shall have no further ex parte communication with the Evaluator.

These evaluations shall be performed by: (Expert's Name). The parties shall contact the Evaluator to schedule appointments within ten (10) days of the date of this Order. Should the required payment not be paid by the moving party to the Evaluator within thirty (30) days of the date of this Order, without an extension having been granted for good cause shown, this action shall be dismissed. Should the required payment not be paid by the responding party to the Evaluator within thirty (30) days of the date of this Order, the moving party shall have the option to follow through with his/her portion of the evaluation or request a further custody conference without an evaluation. The evaluation shall not start until payment is made by all parties, or the moving party exercises the above option.

The Evaluator shall supply the Court with a copy of such evaluations directed to: Assistant Family Court Administrator, 633 COURT STREET, C/O COURT ADMINISTRATION, READING, PA 19601. The contents of an expert report prepared pursuant to Pa. R.C.P. 1915.8 shall be disclosed to the parties, the Court, attorneys in the case and other experts involved in the case. Disclosure to an unauthorized person, including the child who is the subject of the action, may result in sanctions.

The cost of these evaluations shall be paid for as follows: Plaintiff shall be responsible for ___ % and Defendant shall be responsible for ___ % of the total cost of the evaluations.

The evaluator shall be provided with a copy of this Order.

BY THE COURT:

_____, J.

Rule 1915.26. Conciliation Conference.

* * * * *

(h) Notice of the Custody Master's findings of fact, conclusions of law and/or recommended order shall be served on counsel of record, parties without counsel of record, and on any other persons without counsel of record who were given notice of the hearing before the Custody Master. The notice shall state that each party has [**ten (10)**] **twenty (20)** days from the date of notice to file written exceptions with the Prothonotary to the findings of fact, conclusions of law or recommended order, and that upon failure to file such exceptions within [**ten (10)**] **twenty (20)** days, the recommended order of the Custody Master will be submitted to the Court for entry as an Order of Court.

DIVORCE

Rule 1920.51. Divorce Masters [to be Appointed].

A Divorce Master shall [**be appointed by the court to**] hear testimony and make a report and recommendation as to divorce and annulment actions under the Divorce Code (except claims for divorce under Section 3301(c) or Section 3301(d)(1)(i) of the Divorce Code), and as to related claims except claims for child custody or visitation, child support or paternity.

Rule 1920.51.1. Divorce Masters.

[**The court will maintain a list of Divorce Masters.**] **The Court shall hire Divorce Masters as independent contractors.** The Divorce Masters shall be members of the bar of this court[, **appointed to such positions by the court**].

Rule 1920.51.2. Appointment and Duties of Divorce Masters.

The [**court shall appoint a**] Divorce [**Master to**] **Masters shall** hear contested divorce and annulment actions and ancillary claims. The Divorce [**Master**] **Masters** shall hear testimony on all outstanding issues and shall file a report and recommendation in **each case** in compliance with Pa.R.C.P. 1920.53. and 1920.54.

Rule 1920.51.5. Deposit of Costs to Accompany Motion for Appointment of Divorce Master.

Upon filing a motion for the appointment of a Divorce Master, the moving party shall pay [**a deposit of costs**] **to the Prothonotary a fee in [the] an amount [of \$500.00] as set from time to time by the Court. Once the appointment of the Divorce Master is ordered, this fee shall be non-refundable.**

Rule [1920.53.1] 1920.51.9. Divorce Master's Compensation.

The Divorce Masters shall be independent contractors and shall be compensated as determined from time to time by the Court.

Rule 1920.53. Hearing by Divorce Master.

(a) The Divorce Master shall have the same powers, in reference to hearing witnesses and admitting testimony, as a judge sitting without a jury, subject to the direction of the court from time to time, upon motion of either party. When objection is made to the competency or relevancy of testimony, the Divorce Master shall rule upon its admissibility. The testimony before a Divorce Master shall be recorded in the manner as from time to

time approved by the court. The testimony shall be transcribed in the event a party files timely exceptions to the report of the Divorce Master, as set forth in B.R.C.P. [**1920.55**] **1920.55-2.**

(b) The Divorce Master shall give at least 20 days' written notice of any hearing to all counsel of record and [**at least 25 days' written notice to**] any unrepresented party. Notice of the hearing shall be given in accordance with Pa. R.C.P. [**1920.51**] **1920.51(b).**

* * * * *

Rule 1920.55-2. Exceptions to Divorce Master's Report.

(a) If exceptions are filed to the report of a Divorce Master, the excepting party shall **concurrently attach a proposed form of Order set forth in (b) below. The deadlines set forth therein shall be strictly followed unless extended by the court upon cause shown. The excepting party must** within ten (10) days arrange for the transcribing of the testimony for filing with the court and pay **the estimated cost** to the stenographer within **twenty (20) days of the receipt of [said time] the [estimated cost thereof] estimate**, unless the court on motion shall grant an extension for cause shown. The completed transcript shall be filed within thirty (30) days of the filing of the exceptions unless the court on motion shall grant an extension for cause shown.

(b) [**Absent good cause shown, failure of the excepting party to act promptly in accordance with (a) above to pay the cost and secure the transcript shall result in the dismissal of said exceptions by the court upon motion.**] **The Order attached to the Exceptions to Divorce Master's Report shall be in substantially the following form:**

(CAPTION)

ORDER

AND NOW, this ____ day of _____ 20____, it appearing that Exceptions to the Report and Recommendation of the Special Master have been filed, it is hereby ORDERED as follows:

1. The (Defendant/Plaintiff) shall have the Master's hearing transcribed. If not already done, arrangements for transcription shall be made within ten (10) days from the date of this Order.

2. The (Defendant/Plaintiff) shall then have fifteen (15) days from the date the transcript is completed to file and serve on (Defendant/Plaintiff) and this Court a memorandum of fact and law as to the pending exceptions.

3. The (Defendant/Plaintiff) shall have fifteen (15) days thereafter to file and serve a memorandum of law and fact in opposition on the (Defendant/Plaintiff) and this Court.

4. Upon receiving (Defendant's/Plaintiff's) memorandum, the (Defendant/Plaintiff) shall file a proposed Order to have this matter scheduled for argument before the Court pursuant to B.R.C.P. 211.8.

BY THE COURT:

, J.

[Pa.B. Doc. No. 10-1066. Filed for public inspection June 13, 2010, 9:00 a.m.]

DELAWARE COUNTY

**Amendment of Local Rule 205(b) Cover Sheets;
08-2750****Order**

And Now, to wit, this 14th day of May, 2010, it is hereby *Ordered* that Delaware County Local Rule 205(b)(7) is *Rescinded*.

It Is Further Ordered that Delaware County Local Rule 205(b) is *Amended* as follows:

Explanatory Comment—2010

On February 5th, 2010, the Pennsylvania Supreme Court adopted Pa.R.C.P. 205.5, which requires submission Statewide of a uniform cover sheet on each new civil filing. In the interest of efficiency, it was decided that the state-mandated form replace, rather than be filed in addition to, the “Civil Cover Sheet and Entry of Appearance Form” formerly required by Delaware County Local Rule 241(a).

By the Court

JOSEPH P. CRONIN, Jr.,
President Judge

[Pa.B. Doc. No. 10-1067. Filed for public inspection June 11, 2010, 9:00 a.m.]

DELAWARE COUNTY

Amendment of Local Rule 241 Certificate of Readiness for Trial and Automatic Certification Except Arbitration Cases; 08-2750**Order**

And Now, to wit, this 14th day of May, 2010, it is hereby *Ordered* that Delaware County Local Rule 241 is *Amended* as follows:

This Rule shall now be titled, “**Commencement of Action, Assignment of Cases, and Assessment of Damages Cases.**”

(a) When suit is commenced, the plaintiff shall complete and file with the Office of Judicial Support, in duplicate, the Court of Common Pleas Civil Cover Sheet

in accordance with Pa.R.C.P. 205.5. In asbestos cases, a Special Case Information Form shall be filed in addition to the Civil Cover Sheet.

By the Court

JOSEPH P. CRONIN, Jr.,
President Judge

[Pa.B. Doc. No. 10-1068. Filed for public inspection June 11, 2010, 9:00 a.m.]

MONTGOMERY COUNTY

**Amendment of Local Rule of Civil Procedure
*205.2(b)—Cover Sheet; No. 2010-00007****Order**

And Now, this 24th day of May, 2010, the Court hereby amends Montgomery County Local Rule of Civil Procedure *205.2(b)—Cover Sheet. This Amended Rule shall become effective upon publication on the Pennsylvania Judiciary’s Web Application Portal.

The Court Administrator is directed to publish this Order once in the *Montgomery County Law Reporter* and in *The Legal Intelligencer*. In conformity with Pa.R.C.P. 239.8, two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and one (1) certified copy shall be filed with the Civil Procedural Rules Committee. One (1) copy shall be filed with the Prothonotary, one (1) copy with the Clerk of Courts, and (1) copy with the Court Administrator of Montgomery County, one (1) copy with the Law Library of Montgomery County and one (1) copy with each Judge of this Court.

By the Court

RICHARD J. HODGSON,
President Judge

Rule *205.2(b). Cover Sheet.

[(1) Initial Pleadings. A Civil Cover Sheet, in such form as prescribed by the Court, shall be attached to any document commencing an action. The failure to file the cover sheet as required may result in an Order imposing sanctions.]

[(2) Petitions or Motions.] The cover [sheet] sheets required by Rules 208.3(b), 1028(c), 1034(a) and 1035.2(a) shall be as follows:

(a) Cover Sheet of the Moving Party

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

VS.

:
:
: NO.
:
:

COVER SHEET OF MOVING PARTY

Date of Filing _____ Moving Party _____

Counsel for Moving Party _____ I.D. No. _____

Document Filed (Specify) _____

Matter is (Check One) _____ (Appealable) _____ (Interlocutory)

Oral Argument _____ (Yes) _____ (No)

CERTIFICATIONS - Check **ONLY** if appropriate:

_____ Counsel certify that they have conferred in a good faith effort to resolve the subject **discovery** dispute.
(Required by Local Rule 208.2(e) on motions relating to discovery.)

_____ Counsel for moving party certifies that the subject **civil motion** is **uncontested** by all parties involved in the case. (If checked, skip Rule to Show Cause section below.)

By: _____
Counsel for Moving Party

RULE TO SHOW CAUSE - Check **ONE** of the choices Listed Below:

_____ Respondent is directed to show cause why the moving party is not entitled to the relief requested by filing an **answer** in the form of a **written response** at the **Office of the Prothonotary** on or before the _____ day of _____, 20__.

_____ Respondent is directed to show cause, in the form of a **written response**, why the attached Family Court Discovery Motion is not entitled to the relief requested. Rule Returnable and Argument the _____ day of _____, 20__ at **1:00 p.m.** at **321 Swede Street, Norristown, Pa.**

_____ Respondent is directed to file a **written response** in conformity with the Pennsylvania Rules of Civil Procedure.

_____ Rule Returnable at time of trial.

By: _____
Court Administrator

