

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 83]

Proposed Amendments to the Rules of Disciplinary Enforcement to Provide for Electronic Filing of the Annual Fee Form, Automatic Assessment of Late Payment Penalties, and a Request by an Attorney for Contact Information to be Non-public Information

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania is considering recommending to the Pennsylvania Supreme Court that the Court amend Pennsylvania Rules of Disciplinary Enforcement 218 and 219 as set forth in Annex A.

Enforcement Rule 219 establishes the procedure governing the annual registration of attorneys admitted to practice law in the Commonwealth. The proposed amendments to Rule 219 constitute a significant departure from prior procedure, in three respects.

First, additions to subdivisions (a), (c) and (d) give an attorney the option of filing the annual fee form by electronic medium. The new rule codifies electronic filing, which was implemented by the Disciplinary Board with the assistance of the Administrative Office of Pennsylvania Courts for use by attorneys beginning with the 2011-2012 registration year.

Second, new Rule 219 would eliminate the requirement of sending delinquency notices to attorneys who fail to timely register by July 1 and would provide for two non-waivable late payment penalties, the first to be automatically assessed on July 15 (fifteen days after the due date) and the second to be automatically assessed on September 1 (48 days after the initial delinquency assessment).

Delinquency notices are unnecessary because Rule 219 provides adequate notice to attorneys to register on an annual basis and to do so by July 1. All attorneys are required to be familiar with the rules, and Rule 219 provides constructive notice to all Pennsylvania attorneys of their obligation to complete registration by July 1. In addition, the notice provisions of subdivisions (a) and (c), which require the Attorney Registration Office, by May 15 of each year, to mail the annual fee form to all Pennsylvania attorneys or to electronically transmit an e-mail notice to those attorneys who have elected in the previous year to file the form electronically, are adequate to inform or remind attorneys of their duty to register and to do so by July 1. The Board does not believe that the Attorney Registration Office is obligated to send reminder notices to attorneys who are delinquent in complying with their obligation.

Rule 219 also gives attorneys sufficient time to complete registration in a timely manner. Because the Attorney Registration Office must, under subdivision (c), mail or e-mail the required notice to attorneys by May 15, an attorney has well over thirty days to meet the July 1 due date. Additionally, new subdivision (f), which establishes

the delinquency procedure, contains an automatic fifteen-day extension of time in which to complete registration.

New subdivision (f) provides that after the assessment of the second late payment penalty, the Attorney Registration Office will refer the names of non-compliant attorneys to the Supreme Court, which shall enter an order administratively suspending those attorneys. The late payment penalties should serve as an incentive to all attorneys to be timely in completing registration and as a penalty to those who intend to continue to practice beyond the July 1 deadline undeterred by the prospect of practicing in violation of our Supreme Court's Enforcement Rule.

The third procedural change to Rule 219 is contained in subdivision (d)(1)(ii). An attorney may request through the Attorney Registration Office that the contact information provided by the attorney on the annual fee form or submitted electronically not be published on the Board's website or otherwise disclosed. The request must be in writing and provide "good cause" for the grant of the request. Subdivision (d)(1)(ii) does not preclude the Board from making disclosure when the Board is served with a valid subpoena.

The proposed addition to subdivision (d) of Enforcement Rule 218, new subdivisions (g)(2)(iii) and (h)(1) of that rule, and additions to subdivisions (j) of Rule 219, are all designed to make clear that the lodestar for determining whether an attorney must file a formal petition to be reinstated to active status after becoming inactive, retired, administratively suspended, or suspended for a term not exceeding one year, is an uninterrupted term of license inactivity that exceeds three years, not the length of the attorney's current status. By way of explanation, the Supreme Court and the Board have always intended that an attorney whose licensing status is non-active for a period exceeding three years, must file a petition for reinstatement under Rule 218 to be reinstated. Under the current rules, there are three administrative registration statuses (inactive, retired, and administratively suspended) and one disciplinary status (suspension for a period not exceeding one year) that do not automatically require a petition for reinstatement if the attorney desires to return to active status. Each of the three administrative statuses could be held for less than three years, and the disciplinary status could expire within one year or less, but the combined length of any two or more of these statuses could exceed three years. For example, an attorney could be on inactive status for only six months at the time the attorney seeks a return to active status, but a contiguous preceding term of inactive status followed by a term of administrative suspension, when combined with the current six-month term of inactive status, might result in a total term of license inactivity exceeding three years, in which case the attorney must apply for reinstatement under the provisions of Rule 218(d). Simply stated, any attorney whose licensing status is other than active and who has not been on active status at any time within the preceding three years, must petition for reinstatement under the provisions of Rule 218 rather than any provision that may be found in Rule 219. Given the current structure of the rules and existing options that permit an attorney to change his or her registration status, the Board anticipates that some attorneys may hold several registration statuses during any given three-year period.

The current practice of the Attorney Registration Office is to permit an inactive attorney who is administratively suspended to resume inactive status upon the filing of the annual fee form, payment of the annual fee, and payment of all collection fees and late payment penalties. New subdivision (k) of Enforcement Rule 219 codifies that agency practice. Subsection (4) of subdivision (k) requires the attorney to pay an administrative processing fee of \$100.00, which fee will cover the time and cost of reviewing the attorney's records, calculating the fees and penalties, and changing the records to reflect the new status.

In contrast with an administrative transfer from administrative suspension to inactive status but also consistent with agency practice, new subdivision (k) explains that an active attorney who has been administratively suspended for failure to file the annual form and pay the annual fee must be reinstated to active status under subdivision (h) before becoming eligible to register as inactive or retired.

Finally, subdivision (k) of current Rule 219, which established a grace period of one year commencing on July 1, 2009 in which any attorney who was inactive by court order could request and achieve active status in order to avoid transfer to administrative suspension, is eliminated. Because of its historical significance in understanding how some attorneys who were previously inactive came to be administratively suspended, the substance of subdivision (k) is included in an explanatory Note that appears at the end of subdivision (k).

Interested persons are invited to submit written comments by mail or facsimile regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, 601 Commonwealth Avenue, Suite 5600, PO Box 62625, Harrisburg, PA 17106-2625, Facsimile number (717-231-3382) on or before July 1, 2011.

By The Disciplinary Board of the Supreme Court of Pennsylvania

ELAINE M. BIXLER,
Secretary

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter B. MISCONDUCT

Rule 218. Reinstatement.

* * * * *

(d) The procedure for petitioning for reinstatement from: retired status for more than three years [,]; inactive status for more than three years [or]; administrative suspension for more than three years [,]; **retired status, inactive status or administrative suspension if the formerly admitted attorney has not been on active status at any time within the past three years;** or after transfer to inactive status as a result of the sale of a law practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct, is as follows:

* * * * *

(g) (1) Upon the expiration of any term of suspension not exceeding one year and upon the filing thereafter by the formerly admitted attorney with the Board of a verified statement showing compliance with all the terms and conditions of the order of suspension and of Enforcement Rule 217 (relating to formerly admitted attorneys), the Board shall certify such fact to the Supreme Court, which shall immediately enter an order reinstating the formerly admitted attorney to active status, unless such person is subject to another outstanding order of suspension or disbarment.

(2) Paragraph (1) of this subdivision shall not be applicable and a formerly admitted attorney shall be subject instead to the other provisions of this rule requiring the filing of a petition for reinstatement, if:

(i) other formal disciplinary proceedings are then pending or have been authorized against the formerly admitted attorney;

(ii) the formerly admitted attorney has been on **retired status, inactive status or administrative suspension** for more than three years; [or]

(iii) **on the date of the entry of the order of suspension, the formerly admitted attorney was on retired status, inactive status or administrative suspension and had not been on active status at any time within the three-year period preceding the entry of the order;** or

(iv) the order of suspension has been in effect for more than three years.

(h) Attorneys who have been on inactive status, retired status or administrative suspension for three years or less may be reinstated **to the roll of those classified as active** pursuant to Enforcement Rule 219(h), (i), (j) [, (k)] or (m) (relating to periodic assessment of attorneys) as appropriate. This subdivision (h) does not apply to:

(1) **a formerly admitted attorney who, on the date of the filing of the request for reinstatement, had not been on active status at any time within the preceding three years; or**

(2) an attorney who has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct.

* * * * *

Rule 219. [**Periodic assessment**] **Annual registration** of attorneys [; **voluntary inactive status**].

(a) Every attorney admitted to practice law in this Commonwealth [,] shall pay an annual fee of \$135.00 [**under**] and **file the annual fee form provided for in this rule.** The [**annual**] fee shall be collected under the supervision of the Attorney Registration Office, which shall send [**and receive,**] or cause to be sent [**and received, the notices and forms provided for in this rule**] to every attorney, **except an attorney who has elected to file the form electronically, the annual fee form. The Attorney Registration Office shall transmit to those attorneys who have elected to file the form electronically a notice by e-mail to register by July 1. Failure to receive the annual fee form by mail or electronically shall not excuse payment of the fee.** The said fee shall be used to defray the costs of disciplinary administration and enforcement under these rules, and for such other purposes as the Board shall, with the approval of the Supreme Court, from time to time determine.

* * * * *

(c) On or before May 15 of each year the Attorney Registration Office shall transmit [**by ordinary mail**] to all [**persons**] attorneys required by this rule to pay an annual fee, **except those attorneys who have elected electronic filing**, a form required by subdivision (d) of this rule. **On or before May 15 of each year subsequent to the year in which an attorney elects electronic filing, the Attorney Registration Office shall transmit to such attorney a notice by e-mail to register by July 1.**

(d) On or before July 1 of each year all [**persons**] attorneys required by this rule to pay an annual fee shall file with the Attorney Registration Office a signed **or electronically endorsed** form prescribed by the Attorney Registration Office in accordance with the following procedures:

(1) The form shall set forth:

* * * * *

(ii) The current residence and office addresses of the attorney, each of which shall be an actual street address or rural route box number, and the Attorney Registration Office shall refuse to accept a form that sets forth only a post office box number for either required address. A preferred mailing address different from those addresses may also be provided on the form and may be a post office box number. The attorney shall indicate which of the addresses, the residence, office or mailing address, **as well as telephone and fax number** will be accessible through the website of the Board (<http://www.padisiplinaryboard.org/>) and by written or oral request to the Board. **Upon an attorney's written request submitted to the Attorney Registration Office and for good cause shown, the contact information provided by the attorney will be nonpublic information and will not be published on the Board's website or otherwise disclosed.**

* * * * *

Official Note: The Disciplinary Board will make the information regarding insurance available to the public upon written or oral request and on its web site. The requirement of Rule 219(d)(3) that every attorney who has filed an annual [**registration**] fee form or elects to file the form electronically must notify the Attorney Registration Office [**in writing**] of any change in the information previously submitted within 30 days after such change will apply to the information regarding insurance.

(vii) Such other information as the Attorney Registration Office may from time to time direct.

(2) Payment of the annual fee shall accompany the form. **IOLTA, trust, escrow and other fiduciary account checks tendered in payment of the annual fee will not be accepted. [Where] If the form and payment are incomplete or if a check in payment of the annual fee has been returned to the Board unpaid, the annual fee shall not be deemed to have been paid until a collection fee, and one or both of the late payment penalties prescribed in subdivision (f) of this rule if assessed, shall also have been paid.** The amount of the collection fee shall be established by the Board annually after giving due regard to the direct and indirect costs incurred by the Board during the preceding year for checks returned to the Board unpaid.

(3) Every [**person**] attorney who has filed [**such a**] the form or elects to file the form electronically

shall notify the Attorney Registration Office [**in writing**] of any change in the information previously submitted, **including e-mail address**, within 30 days after such change.

* * * * *

(f) [The Attorney Registration Office shall transmit by ordinary mail to every attorney who fails to timely file the form and pay the annual fee required by this rule, addressed to the last known mailing address of the attorney, a notice stating:

(1) That unless the attorney shall comply with the requirements of subdivision (d) of this rule within 30 days after the date of the notice, such failure to comply will be deemed a request to be administratively suspended, and at the end of such period the name of the attorney will be certified to the Supreme Court, which will enter an order administratively suspending the attorney.

(2) That upon the entry of an order of administrative suspension, the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys), a copy of which shall be enclosed with the notice.]

Any attorney who fails to complete registration by July 15 shall be automatically assessed a non-waivable late payment penalty established by the Board. A second, non-waivable late payment penalty established by the Board shall be automatically added to the delinquent account of any attorney who has failed to complete registration by September 1, at which time the continued failure to comply with this rule shall be deemed a request to be administratively suspended. Thereafter, the Attorney Registration Office shall certify to the Supreme Court the name of every attorney who has failed to comply with the registration and payment requirements of this rule, and the Supreme Court shall enter an order administratively suspending the attorney. The Chief Justice may delegate the processing and entry of orders under this subdivision to the Prothonotary. Upon entry of an order of administrative suspension, the Attorney Registration Office shall transmit by certified mail, addressed to the last known mailing address of the attorney, or by electronic means, the order of administrative suspension and a notice that the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys), a copy of which shall be included with the notice.

For purposes of assessing the late payment penalties prescribed by this subdivision (f), registration shall not be deemed to be complete until the Attorney Registration Office receives a completed annual fee form and satisfactory payment of the annual fee and of all outstanding collection fees and late payment penalties. If a check in payment of the delinquency has been returned to the Board unpaid, a collection fee, as established by the Board under subdivision (d)(2) of this rule, shall be added to the attorney's delinquent account and registration shall not be deemed to be complete until the delinquent account has been paid in full.

The amount of the late payment penalties shall be established by the Board annually pursuant to the provisions of subdivision (h)(3) of this Enforcement Rule.

(g) [**The Attorney Registration Office shall certify to the Supreme Court the names of every attorney who has failed to respond to a notice issued pursuant to subdivisions (f) and (l) of this rule within the 30-day period provided therein and the Court shall enter an order administratively suspending the attorney. A] The Attorney Registration Office shall provide to the Board Secretary a copy of any [such] certification [from] filed by the Attorney Registration Office [to] with the Supreme Court [shall be given to the Board Secretary] pursuant to the provisions of this Enforcement Rule. [The Chief Justice may delegate the processing and entry of orders under this subdivision to the Prothonotary.]**

(h) The procedure for reinstatement of an attorney who has been administratively suspended pursuant to subdivision (f) for three years or less [pursuant to subdivision (g)] is as follows:

(1) The formerly admitted attorney shall submit to the Attorney Registration Office the form required by subdivision (d)(1) along with payment of:

* * * * *

(iii) the late payment [penalty] penalties required by paragraph (3);

(iv) any unpaid collection fee;

(v) a reinstatement fee of \$300.00.

(2) Upon receipt of the annual fee form, a verified statement showing compliance with Enforcement Rule 217 (relating to formerly admitted attorneys), and the payments required by paragraph (1), the Attorney Registration Office shall so certify to the Board Secretary and to the Supreme Court. Unless the formerly admitted attorney is subject to another outstanding order of suspension or disbarment or the order has been in effect for more than three years, the filing of the certification from the Attorney Registration Office with the Prothonotary of the Supreme Court shall operate as an order reinstating the person to active status.

Where a check in payment of the fees and late payment penalties has been returned to the Board unpaid, the Attorney Registration Office shall immediately return the attorney to administrative suspension, and the arrears shall not be deemed to have been paid until a collection fee, as established by the Board under subdivision (d)(2) of this rule, shall also have been paid.

(3) A formerly admitted attorney who is administratively suspended [pursuant to subdivision (g)] must pay [a] the late payment [penalty with respect to that year] penalties incurred in the year in which the formerly admitted attorney is transferred to administrative suspension. The amount of the late payment [penalty] penalties shall be established by the Board annually after giving due regard to such factors as it considers relevant, including the direct and indirect costs incurred by the Board during the preceding year in processing the records of attorneys who fail to timely file the [statement] form required by subdivision (d) of this rule.

* * * * *

(j) *Inactive Status*: An attorney who is not engaged in practice in Pennsylvania, has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct, or is not required by virtue of his or her practice elsewhere to maintain active licensure in the Commonwealth may request [voluntary] inactive status or continue that status once assumed. The attorney shall be removed from the roll of those classified as active until and unless such [person requests] inactive attorney makes a request under paragraph (2) of this subdivision (j) for an administrative return to active status and satisfies all conditions precedent to the grant of such request; or files a petition for reinstatement under subdivision (d) of Enforcement Rule 218) (relating to procedure for reinstatement of an attorney who has been on inactive status for more than three years, or who is on inactive status and had not been on active status at any time within the prior three years) and is granted reinstatement [to the active rolls] pursuant to the provisions of that Enforcement Rule.

(1) An inactive attorney under this subdivision (j) shall continue to file the annual form required by subdivision (d) and shall pay an annual fee of \$70.00. Noncompliance with this provision will result in the inactive attorney incurring late payment penalties, incurring a collection fee for any check in payment that has been returned to the Board unpaid, and being placed on administrative suspension [after the Attorney Registration Office provides notice], pursuant to and in accordance with the provisions of [paragraph (f)] subdivision (f) of this rule. [An attorney who voluntarily assumed inactive status under former subdivision (j) of this rule shall continue to file the annual form required by subdivision (d) and pay an annual fee of \$70.00 commencing with the next regular assessment year. Noncompliance with this provision will result in the inactive attorney being placed on administrative suspension after notice in accordance with the provisions of paragraph (f).]

(2) [*Reinstatement*] *Administrative Change in Status from Inactive Status to Active Status*: An attorney on inactive status may request resumption of active status on a form provided by the Attorney Registration Office. Resumption of active status shall be granted unless the inactive attorney is subject to an outstanding order of suspension or disbarment [or], unless the inactive attorney has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct (see Enforcement Rule 218(h)), unless the inactive status has been in effect for more than three years, or unless the inactive attorney had not been on active status at any time within the preceding three years (see Enforcement Rule 218(h)), upon the payment of:

(i) the active fee for the assessment year in which the application for resumption of active status is made or the difference between the active fee and the inactive fee that has been paid for that year[,]; and

(ii) any [arrears accumulated prior to the assumption of inactive status] collection fee or late payment penalty that may have been assessed pursuant to subdivision (f), prior to the inactive attorney's request for resumption of active status.

[(3) In transmitting the annual fee form under subdivision (c) of this rule, the Attorney Registration Office shall include a notice of this subdivision (j).

Official Note: Under prior practice, an attorney who was neither retiring nor selling his or her law practice was given the option of assuming or continuing inactive status and ceasing the practice of law in Pennsylvania, and no annual fee was required. Under new subdivision (j), payment of an annual fee is required to assume and continue inactive status, and failure to pay the annual fee required by subdivision (j) and file the form required by subdivision (d) will result in an order administratively suspending the attorney.

(k) On the effective date of this subdivision (k), any attorney who is on inactive status:

(1) by order after having failed to pay the annual fee or file the form required by subdivisions (a) and (d) of this rule,

(2) by order pursuant to Rule 111(b), Pa.R.C.L.E., after having failed to satisfy the requirements of the Pennsylvania Rules for Continuing Legal Education,

(3) by order after having failed to pay any expenses taxed pursuant to Enforcement Rule 208(g), or

(4) by order after having failed to meet the requirements for maintaining a limited law license as a Limited In-House Corporate Counsel, a foreign legal consultant, an attorney participant in defender legal services programs pursuant to Pa.B.A.R. 311, or a military attorney, shall have a grace period of one year, commencing on July 1 of the year in which the next annual form under paragraph (d) is due, in which to request reinstatement to active status under an applicable provision of this rule, or to be reinstated to active status under Rule 218(a), as the case may be. Failure to achieve active status before the expiration of the grace period shall be deemed a request to be administratively suspended. An attorney who is on inactive status by court order will not be eligible to transfer to voluntary inactive status under subdivision (j) of this rule until the attorney first achieves active status. During the grace period, the inactive attorney shall remain ineligible to practice law. In transmitting the annual form under subdivision (c) of this rule, the Attorney Registration Office shall include a notice of this subdivision (k).

Official Note: Attorneys who voluntarily assumed inactive status under former paragraph (j) of Enforcement Rule 219 are governed by the provisions of paragraph (j). Attorneys who were transferred to inactive status by order after having failed to pay any expenses taxed pursuant to Enforcement Rule 208(g) are governed by the provisions of paragraph (m).]

Where a check in payment of fees and penalties has been returned to the Board unpaid, the Attorney Registration Office shall immediately return the attorney to inactive status, and the arrears

shall not be deemed to have been paid until a collection fee, as established by the Board under subdivision (d)(2), shall also have been paid.

Official Note: Subdivisions (h), (i) and (j) of this Enforcement Rule do not apply if, on the date of the filing of the request for reinstatement, the formerly admitted attorney has not been on active status at any time within the preceding three years. See Enforcement Rule 218(h)(1).

(k) *Administrative Change in Status From Administrative Suspension to Inactive Status:* An inactive attorney who has been administratively suspended for failure to file the annual form and pay the annual fee required by subdivision (j)(1) of this rule, may request an administrative change in status to inactive status. The Attorney Registration Office shall change the status of an attorney eligible for inactive status under this subdivision upon receipt of:

(1) the annual form required by subdivision (d);

(2) payment of the annual fee required by subdivision (j)(1);

(3) payment of all collection fees and late payment penalties assessed under subdivisions (d)(2) and (f); and

(4) payment of an administrative processing fee of \$100.00.

Where a check in payment of the fees and penalties has been returned to the Board unpaid, the Attorney Registration Office shall immediately return the attorney to administrative suspension, and the arrears shall not be deemed to have been paid until a collection fee, as established by the Board under subdivision (d)(2), shall also have been paid.

An active attorney who has been administratively suspended for failure to file the annual form and pay the annual fee required by this rule must comply with subdivision (h) before becoming eligible to register as inactive or retired.

Official Note: Former subdivision (k), which was adopted by Order dated April 16, 2009 (No. 75 Disciplinary Rules Docket No. 1, Supreme Court), effective May 2, 2009, established a grace period of one year commencing on July 1, 2009 in which any attorney who was on inactive status by order of the Supreme Court, could request and achieve reinstatement to active status under Enforcement Rule 218 or another applicable subdivision of Enforcement Rule 219 in order to avoid an automatic change in status to administrative suspension. The grace period was administratively extended to August 31, 2010, and any involuntarily inactive attorney who did not achieve active status by that date was transferred to administrative suspension on September 1, 2010.

* * * * *

[Pa.B. Doc. No. 11-838. Filed for public inspection May 20, 2011, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CH. 4]

Proposed Amendments to Rule 407

The Committee is soliciting public input on the following proposal. The Committee is reserving its Report until after public comment has been received.

The Committee requests that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Christine Riscili at juvenilerules@pacourts.us. Email is the preferred method for receiving comments in an effort to conserve paper and expedite the distribution of Comments to the Committee. Emailed comments need not be reproduced and sent via hard copy. The Committee will acknowledge receipt of your comment.

For those who do not have access to email, comments may be faxed to the Committee at 717-231-9541 or written comments may be mailed to:

Christine Riscili, Esq., Counsel
Supreme Court of Pennsylvania
Juvenile Court Procedural Rules Committee
Pennsylvania Judicial Center
601 Commonwealth Ave, Suite 6200
P. O. Box 62635
Harrisburg, PA 17106-2635.

All comments shall be received no later than June 15, 2011. No deadline extensions will be granted.

*By the Juvenile Court
Procedural Rules Committee*

CYNTHIA K. STOLTZ, Esq.,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 4. ADJUDICATORY HEARING

Rule 407. Admissions.

A. *Admissions.* At any time after a petition is filed, the juvenile may [**tender an admission to the facts, adjudication of delinquency and/or disposition**] admit to a delinquent act.

1) *Requirements.*

a) Before the court [**can**] may accept an admission, [**the court shall determine that the admission is made voluntarily and knowingly. The court, at a minimum, shall ask questions to elicit the following information**] the juvenile must complete a written admission colloquy. The written admission colloquy shall be:

[**a**] Does the juvenile understand the nature of the allegations to which he or she is admitting?

[**b**] Is there a factual basis for the admission?

[**c**] Does the juvenile understand that he or she has the right to a hearing before the judge?

[**d**] Does the juvenile understand that he or she is presumed innocent until found delinquent?

[**e**] Is the juvenile aware of the dispositions that could be imposed?

[**f**] Is the juvenile aware that the judge is not bound by the terms of any agreement tendered unless the judge accepts such agreement?

[**g**] Has the juvenile spoken with his or her attorney or waived the right to counsel in accordance with Rule 152?

[**h**] Does the juvenile have any questions about admitting to the facts or delinquency based on the allegations?

[**i**] Has the juvenile had the opportunity to speak with a guardian about his or her decision?]

[**ii**] in substantially the form following this rule and entitled "Admission Colloquy";

[**iii**] completed and reviewed with the juvenile by the juvenile's attorney, unless the juvenile has waived counsel in accord with Rule 152; and

[**iv**] submitted to the court.

b) Before the court may accept an admission, the court shall determine in an on the record proceeding that the admission is knowingly, intelligently and voluntarily made. As part of this determination, the court shall conduct a searching inquiry concerning the following:

[**i**] Does the juvenile appear to be fluent in English? If not, has he received the assistance of an interpreter fluent in his native language?

[**ii**] Has the juvenile had the opportunity to speak with a parent or guardian about his decision?

[**iii**] Does the juvenile understand the nature of the allegations to which he is admitting?

[**iv**] Is there is a factual basis for the admission?

[**v**] Does the juvenile understand that by admitting to the delinquent act(s), he is giving up the right to be presumed innocent; the right to a hearing before a judge; the right to remain silent; the right to testify; the right to confront witnesses; the right to present witnesses and evidence; and, if convicted, the right to have a higher court review the trial court's decision, except on very limited grounds?

[**vi**] Has the juvenile's attorney, if counsel has not been waived pursuant to Rule 152, completed and reviewed the written admission colloquy in accord with paragraph (A)(1)(a)(ii)?

[**vii**] Is the juvenile aware of the dispositions that could be imposed and the ramifications of an adjudication of delinquency?

[**viii**] After reviewing the written admission colloquy, the court shall inquire further of the juvenile regarding any matters of concern apparent from such review.

[**ix**] Does the juvenile have any questions about the admission?

2) *Agreements.* If the [**parties agree**] Commonwealth and the juvenile have agreed upon the terms of [**an admission**] the adjudication and/or disposition, the [**tender**] agreement shall be presented to the court before or during the on the record proceeding referenced at paragraphs (A)(1)(b) hereof.

3) Court action. If the court accepts the [tender] agreement, the court shall enter an order incorporating [any agreement] it. If the court does not accept the [tender] agreement, the case shall proceed before another judge as if no [tender had] admission had ever been [made] proffered.

4) Limitations on withdrawals. An admission [cannot] may be withdrawn [after the court enters the dispositional order] at any time for any reason before disposition, in the court's discretion. Following disposition, an admission can only be withdrawn upon a demonstration of manifest injustice.

B. Incriminating statements. An incriminating statement made by a juvenile [in the discussions or conferences] at any juncture incident to an admission that is not ultimately accepted [by the court or otherwise] or is permitted to be withdrawn by the court shall not be used against the juvenile over objection in any [criminal] proceeding [or hearing] under the Juvenile Act, 42 Pa.C.S. § 6301 et seq. or in any adult criminal proceeding.

ADMISSION COLLOQUY

In re : JD
Juvenile : Delinquent Acts:
:
:
:
:

Answer all of the questions on this form. If you do not understand any question, ask your lawyer and/or the judge at the oral colloquy.

1) I admit that I did the following things: _____

Knowing and voluntary admission:

- 2) How old are you? _____
3) What grade have you completed in school? _____
4) Are you currently being treated for a mental illness? _____

5) In the last 24 hours, have you taken any drugs (prescription, over the counter, or illegal) and/or alcohol that would impair your ability to make an informed decision? _____

6) Has anyone threatened or forced you to sign this admission? _____

7) Have you been promised anything in return for your admission? _____

8) Has your lawyer explained to you that what you did was a delinquent act, and, therefore, against the law? _____

9) Do you understand if the court accepts your admission it will find you delinquent, which is the official finding that you broke the law? _____

Possible consequences of a finding of delinquency:

10) Do you understand that if you are found delinquent, the court may order a range of services or supervision, which could include placement outside of your home? _____

11) Do you understand that if you are found delinquent, your driving license may be suspended now or in the future? _____

12) Do you understand that if you are found delinquent your record may be used against you in a future hearing in juvenile or adult court? For example, if you commit a crime in the future, this finding of delinquency could result in a longer sentence in adult criminal court. _____

13) Do you understand that if you are found delinquent certain information may become available to the public, and when you apply for college, military, or a job, your potential college, military recruiter, or employer may be able to learn of your juvenile record? _____

Admission agreements:

14) Are you aware that the court does not have to accept any agreement between the Commonwealth and you, but if the court rejects an agreement, you have the right to a completely new proceeding before a different judge? _____

Appeals:

15) If you are found delinquent following an admission, you can have a higher court review your case for only three reasons:

- a) You argue that your admission was not knowingly, intelligently, and voluntarily made;
b) You argue that the court was not the proper court to accept your admission; or
c) You argue that the court's disposition (sentence) is illegal.

16) If you do not admit delinquency, you may have other rights if you take an appeal.

Lawyer's representation where counsel has not been waived, and the opportunity to speak with guardian:

17) Are you satisfied with what your lawyer did for you and how your lawyer explained everything? _____

18) Have you had the opportunity to speak with your parent(s) or guardian(s) about your decision to admit to the delinquent acts? _____

I promise that I have read the above form. I understand its full meaning and I am still admitting to the acts of delinquency. My admission is of my own free will. I believe that this admission is in

my best interest. The signature and initials on each page of this form are mine.

JUVENILE

DATE

I, _____ Esq., Lawyer for _____ state that I have reviewed this colloquy with my client and my client has indicated to me that he or she comprehends and understands what is set forth above.

LAWYER FOR JUVENILE

DATE

(Or leave blank if you waived counsel under Rule 152).

Comment

[Under paragraph (A)(1), the court is to determine if the admission is voluntarily and knowingly made. Nothing in this rule is intended to prevent the court from using a written form to ascertain the necessary information, provided the court asks questions of the juvenile, on the record, to authenticate the juvenile's completion and understanding of the form and the juvenile's agreement with the statements made.

Under paragraph (A)(3), if the disposition agreed upon by the parties is unavailable or the court does not agree with the terms of the tender, the case is to proceed as if no tender had been made.]

This new rule requires both a written admission colloquy and an on the record proceeding. Premised upon the supposition that the knowing, intelligent and voluntary nature of an admission will be better assessed when the trial judge speaks with the juvenile, this rule is designed to require a shorter, more understandable and meaningful written admission colloquy, and to mandate that the trial judge conduct a searching inquiry to ensure that the admission is voluntary, knowing and intelligent. In furtherance of this goal, the rule requires that the trial judge read the written admission colloquy and thoroughly explore any factors raised therein which could impact the knowing, voluntary and intelligent nature of the admission. The expectation is that at the conclusion of the written admission colloquy and on the record proceedings, the process will work to ensure a comprehensive review by the trial judge of the juvenile's admission.

Paragraph (A)(1)(a) sets forth the overarching criteria for the written admission colloquy.

Paragraph (A)(1)(b) sets forth the overarching criteria for the on the record proceeding during which the trial judge may accept the written admission colloquy, and details the information the trial judge must elicit from the juvenile during the on the record proceeding regarding acceptance of the colloquy. Ultimately, it falls to the trial judge to ensure that the juvenile has knowingly, intelligently, and voluntarily made an admission by asking questions to ascertain the ability of the juvenile to comprehend the written admission colloquy and to enter into the admission. In paragraph (A)(1)(b),

the rule sets forth its mandate that the trial judge shall review the written admission colloquy and examine carefully all potential concerns arising from the juvenile's answers. It should be readily apparent to the trial judge conducting the on the record proceeding whether the juvenile speaks fluent English. If there is any doubt, paragraph (A)(1)(b)(i) makes it incumbent upon the trial judge to protect the juvenile who for whatever reason does not read English well enough to understand the form. The expectation is that an appropriate individual will be provided to the juvenile, and will ensure that the juvenile fully understands the form and all of its consequences.

At (A)(1)(b)(v), the rule requires that during the on the record proceeding the trial judge ensures that the juvenile understands the basic constitutional rights which are being waived as a result of the juvenile's decision to admit delinquency.

Paragraph (A)(2) requires that if the Commonwealth and juvenile have agreed upon the terms of either the adjudication of delinquency or the disposition of the case, the agreement shall be presented to the trial judge during the on the record proceeding regarding the written admission colloquy.

Paragraph (A)(3) provides that the trial judge has the traditional discretion to accept or reject such agreement. If the court accepts the agreement, it shall be incorporated into the order accepting the written admission colloquy, and finding that the juvenile has knowingly, intelligently, and voluntarily entered into the admission. Importantly, if the trial judge does not accept the agreement, the juvenile shall have a right to a *de novo* proceeding before another judge, which shall occur as if no admission had ever been proffered.

Paragraph (A)(4) provides that if a juvenile desires to withdraw the admission even though the trial judge is willing to accept it, the admission can be withdrawn at any time for any reason before disposition so long as the trial judge, in its discretion, grants permission. Following disposition, the admission can only be withdrawn upon a demo.

Paragraph B provides that to the extent that the admission is not accepted in accord with paragraph (A)(3) or is accepted but then withdrawn by the juvenile in accord with paragraph (A)(4), any incriminating statements made by the juvenile shall not be used against the juvenile over objection in any juvenile or adult criminal proceeding.

As stated at the outset of this comment, the written admission colloquy is intended to be readily understandable to the juvenile, and to serve to raise potential areas necessitating furthering inquiry by the trial judge during the on the record proceedings.

No. 1 of the written admission colloquy asks the juvenile to state "that I did the following things:." The formal charges will be listed in the caption. The purpose of this inquiry is to permit the juvenile to state in his/her own words what he/she did. For instance, the juvenile could recite that he took Ms. Smith's purse, when the captioned act may just say "robbery." As further example, the juvenile might say I "beat up Joe," where the captioned act may just say "simple assault." As set forth above, the purpose of the written admission colloquy is to

emphasize for the trial judge areas necessitating further inquiry during the on the record proceeding. This is one place where that could occur.

No. 4 of the written admission colloquy asks whether the juvenile is currently being treated for mental illness. Presumably the trial judge will know whether the juvenile has been transported from a mental health facility, but it may not know if he is under current outpatient treatment for a mental illness. If the juvenile answers yes, further inquiry is mandated.

No. 5 of the written admission colloquy asks whether in the last 24 hours the juvenile has taken any drugs and/or alcohol that would impair the juvenile's ability to make an informed decision. If the juvenile answers yes, further inquiry is mandated.

Nos. 10 through 13 were intentionally drafted so that the colloquy would be generally applicable to all scenarios. Accordingly, the colloquy warns of possible consequences of a finding of delinquency, even though some or all of these consequences may not be applicable to a given case.

No. 14 provides that if the trial judge does not accept an agreement, the juvenile has a right to a *de novo* proceeding before a different judge.

No. 17 inquires as to the juvenile's satisfaction with counsel. If the juvenile has not waived counsel and indicates dissatisfaction, it falls to the trial judge to determine what remedies are appropriate.

No. 18 inquires into the juvenile's opportunity to speak with a parent or guardian and attorney concerning the juvenile's decision to admit delinquency. Again, if the juvenile has not had this opportunity, it falls to the trial judge to determine what remedies are appropriate.

The court is not to accept a plea of *nolo contendere*. See *In re B.P.Y.*, 712 A.2d 769 (Pa. Super. Ct. 1998).

This admission colloquy is downloadable from the Court's webpage at <http://www.pacourts.us/T/Boards/Committees/JuvenileCourt/Procedural/>.

Official Note: Rule 407 adopted April 1, 2005, effective October 1, 2005.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 407 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

[Pa.B. Doc. No. 11-839. Filed for public inspection May 20, 2011, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BRADFORD COUNTY

Local Civil Rules

Order

And Now, April 11, 2011, the court hereby adopts or amends the following local rules: 51; 216; 1301, 1308,

1915, 1919; and 1920, as amended, to be effective thirty (30) days after the publication in the *Pennsylvania Bulletin*.

It is further ordered that the District Court Administrator shall send one (1) certified copy of these rules to 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 Civil Procedural Rules Committee, and one (1) copy to the *Bradford County Law Journal* for publication in the next issue of the *Bradford County Law Journal*.

With regard to Local Civil Rule 205.2(b), 206.4(c), 208.2(d), 208.3(a); 210; 1028(c); 1034(a); 1035.2(a) in compliance with Pa.R.C.P. 239.8(b), the court directs that the District Court Administrator shall transmit a copy of said rules to the Civil Procedural Rules Committee which shall then forward a copy to the Administrative Office of Pennsylvania Courts for publication on the Pennsylvania Judiciary's Web Application Portal. Said rules shall be effective upon publication on the Pennsylvania Judiciary's Web Application Portal.

It is further ordered that these local rules shall be kept continuously available in the Prothonotary's Office for public inspection and copying.

By the Court

JEFFREY A. SMITH,
President Judge

Local Rule 51.

These rules shall be known as the Bradford County Rules of Civil Procedure and may be cited as "Brad.Co.R.C.P."

Local Rule 216.

A. Motions for continuance must be made in writing or of record in open court, unless excused by the court for cause.

(1) Before filing a motion for continuance, the moving party shall make reasonable efforts to obtain the consent of any interested party. **If a response from opposing parties cannot be obtained, all efforts to obtain consent, including dates and times thereof, shall be set forth in said motion.**

(2) Continuances upon the consent of the parties shall not be effective unless and until ordered by the court.

B. Motions for continuances shall be presented no later than ten (10) calendar days before the date of the proceeding for which the continuance is requested. Thereafter, no motions for continuance will be granted unless:

(1) the opportunity therefore did not previously exist;

(2) the party making the motion was not aware and reasonably could not be aware of the grounds for the motion; or

(3) required in the interests of justice.

(4) **The court may consider sanctions for any motion presented less than ten (10) calendar days before the scheduled proceeding and without sufficient cause for such untimely presentation.**

C. Generally a request for a continuance based on proceedings scheduled in another trial court will be granted only if the other court's scheduling order was issued before the order scheduling the proceedings for which the continuance is requested. If the motion is based on conflict with a matter scheduled in another trial court,

the scheduling order or other written documentation from the other court shall be attached to the motion.

D. The motion for continuance shall be substantially in the following form:

IN THE COURT OF COMMON
: PLEAS
VS. : OF BRADFORD COUNTY,
PENNSYLVANIA
: NO.

MOTION FOR CONTINUANCE

NOW COMES _____, (by and through (his) (her)
(name of party)
(its) attorney, _____,) and moves for a
(name of attorney)
continuance as follows:

1. The above-captioned matter is scheduled for

(nature of proceeding, i.e., argument, hearing, trial etc.)
on the ___ day of _____, 20___, at ___ m., before

(name of judge, master, etc.)

2. The moving party for said proceeding is

(name of party whose claim is to be heard)

3. The other parties in the case are:
_____ represented by: _____
_____ represented by: _____
_____ represented by: _____

4. The proceeding was scheduled by _____
(order or notice)
dated _____
(date)

5. The proceeding (has) (has not) been previously contin-
ued (_____ time(s)). (The moving party has obtained
a continuance _____ time(s)).

6. A continuance is requested because _____

(If a continuance is requested because of a conflicting
court matter, the scheduling notice or order must be
attached.)

7. [] No interested party objects to the continuance.
[] Only the following objected to the continuance
request:

_____ because _____
_____ because _____
_____ because _____

[] Consent to the continuance could not be obtained
from
_____ because _____
_____ because _____

(If a response has not been obtained from any interested
party, specify the date, time and manner of all efforts to
obtain consent of the continuance.)

8. I hereby certify that if a continuance is granted, I
will notify all witnesses who would be appearing at my
request and will provide a copy of this motion to opposing
counsel and unrepresented parties.

9. I specifically request a continuance
[] of not less than _____
[] of not more than _____ (or)
[] to the next available date.

Respectfully submitted,

ADDRESS

PHONE NO.

ATTORNEY SUPREME COURT NO.

E. All written motions for continuance shall be [ac-
companied] preceded by a proposed order which shall
be substantially in the following form:

IN THE COURT OF COMMON
: PLEAS
VS. : OF BRADFORD COUNTY,
PENNSYLVANIA
: NO.

ORDER

AND NOW, this ___ day of _____, 200___, upon
consideration of the attached motion of _____
(moving party)

requesting a continuance:
[] the motion is denied.
[] the motion is granted and the _____
(matter being continued)

scheduled for _____ at _____ m.
(date) (time)

before _____ is hereby continued until
(name of judge, master, etc.)

_____ at _____ m.
(date) (time)

The moving party shall promptly notify all interested
parties of this order.

BY THE COURT:

Local Rule 1301. Cases For Submission.

A. Compulsory arbitration as authorized by Section
7361 of the Judicial Code, 42 Pa.C.S.A. Section 101, et
seq, shall apply to all civil cases, except actions in equity,
where the amount in controversy, exclusive of interest
and costs, shall be [thirty] thirty-five thousand dollars
[(\$30,000.00)] (\$35,000.00) or less, including appeals
from a civil judgment of a district justice. Such actions

shall be submitted to and heard by a board of arbitration consisting of three attorneys.

B. The amount in controversy generally will be determined by the pleadings or by an agreement of the attorneys, however, the court, on its own motion or on the motion of any party, may determine, based upon affidavits, depositions, stipulations of counsel or after hearing or review of the record, that the amount actually in controversy does not exceed [**thirty**] **thirty-five** thousand dollars [**(\$30,000.00)**] **(\$35,000.00)** and may enter an order certifying the case to a board of arbitration. In the event that a case within the arbitration limits is consolidated with a case involving more than the arbitration limits after the former has been referred to a board of arbitrators, the order of consolidation shall remove the same from the jurisdiction of the board of arbitrators.

C. A civil action shall be referred to arbitration by order of court or when any party or its counsel (1) files a praecipe with the Prothonotary, certifying that the pleadings are closed and the matter is ready for arbitration and (2) pays the appropriate listing fee. A copy of the arbitration praecipe shall immediately be delivered to the Court Administrator and all other counsel.

D. Cases subject to compulsory arbitration will not be scheduled for a pre-trial conference, however, all cases will come under the caseload control of the court administrator.

Local Rule 1308. Arbitration Appeal.

An appeal from an award of arbitrators shall be filed in duplicate in the Office of the Prothonotary. A copy of the appeal shall be transmitted immediately by the Prothonotary to the Court Administrator. Immediately following the receipt of said copy, the Court Administrator shall schedule a pre-trial conference [**and shall send notice thereof to counsel of record and any unrepresented parties**] and prepare will the appropriate order scheduling same, which will directing pre-trial memoranda to be filed five (5) days prior to the pre-trial conference.

Local Rule 1915. Custody.

Local Rule 1915.15. Form of Complaint. Order.

(1) In addition to the information required by Pa.R.C.P. 1915.15, every complaint for custody, partial custody, or visitation shall contain one of the following averments:

A. "Plaintiff has been advised of the requirement to attend the seminar titled Education Program for Separated Parents."

or

B. "The parties have previously attended the Education Program for Separated Parents as evidenced by certificates of attendance (attached hereto) (contained in the official court file case number _____)."

(2) The order and notice shall also include the following:

"The parties are directed to pre-register with the Court Administrator and attend the Education Program for Separated Parents on one of the two dates listed below:

[**Tuesday**] **Saturday**, _____, [**6:00 p.m.**] **8:30 a.m.** to [**10:00**] **12:30 p.m.**

Saturday, _____, 8:30 a.m. to 12:30 p.m."

or

"The parties have previously attended the Education Program for Separated Parents as evidenced by certificates of attendance (attached hereto) (contained in the official court file case number _____)."

Local Rule 1919. Mandatory Seminar for Separated Families.

1. In all divorce and custody proceedings filed on or after December 1, 1994, and in such other cases as the court shall direct, where the interests of children under the age of 18 years are involved, within thirty (30) days of the date a custody, visitation or divorce claim is filed, the parties shall attend a four-hour seminar titled "Education Program for Separated Parents." If service of the complaint is not made within ten (10) days of filing, the plaintiff shall immediately notify the Court Administrator and shall thereafter provide the Court Administrator with proof of service within five (5) days of service.

[NOTE: See the "Education Program for Separated Parents" description following this rule.]

2. In all custody/visitation proceedings filed on or after December 1, 1994, each notice order and complaint shall include the additional information in accordance with Bradford County Civil Rule 1915.15

3. In all divorce proceedings filed on or after December 1, 1994, where the parties have a child or children under the age of eighteen years, every complaint shall contain the additional information required by Bradford County Civil Rule 1920.12. It shall also have attached thereto an order directing attendance at the seminar in the form set forth in Rule 1920.12(3).

4. The moving party shall serve the responding party with a copy of the court order directing attendance at the seminar at the time a divorce complaint is served. A program brochure/registration form shall also be provided by the moving party to the responding party at the time of service of the complaint.

5. The affidavit of service shall include a statement that the opposing party was advised of the requirement to attend the Education Program for Separated Parents and was served with the registration form.

6. Within seven (7) days after service, both parties are required to register for the program by mailing or personally presenting the pre-printed Education Program for Separated Parents registration form, along with a registration fee of \$35.00 (check or money order) to the Court Administrator, Bradford County Courthouse, 301 Main Street, Towanda, PA 18848. A waiver or reduction of the attendance fee can be granted only by the Court Administrator in consultation with the court.

7. Court approval is required for an extension of time to complete the seminar.

8. Parents living outside of Bradford County may contact the Court Administrator for possible alternative program attendance.

9. Upon completion of the seminar, each participant will receive a copy of a certificate verifying that they have attended the program. The original certificate will be placed in the official court file.

10. Failure to register for and complete the program may result in a finding of contempt and the imposition of sanctions.

[EDUCATION PROGRAM FOR SEPARATED
PARENTS

PROGRAM GOALS

"Education Program for Separated Parents" will provide parents with information, support and direction that will facilitate a healthy adjustment for their children. Bitterness often ensnares children caught between divorcing parents. In an effort to reduce the emotional toll on children and to limit acrimony, attendance at this four-hour educational seminar is required by the court of all parties in all divorce, custody and visitation actions, and such other family court actions as the court may deem appropriate. This program will also be open to educators and others involved in caring for children. Administration of the program will be through the Court of Common Pleas of Bradford County.

PROGRAM CONTENT

The three-and-one-half to four-hour program provides parents with information about the developmental stages and needs of children, with emphasis on fostering the child's emotional health during periods of stress. The program is informative, and supportive, and will provide parents a list of community resources. Also included as topics are: typical reactions of families to separation, stress indicators in children, pitfalls to avoid, and skills to help children work through stress.

WHEN

The program is presented [eighteen] twelve times per year, [alternating between Tuesday evenings, from 6:00 p.m. until 10:00 p.m., and] Saturday mornings from 8:30 a.m. to 12:30 p.m. in accordance with a schedule distributed along with the annual court calendar.

WHERE

The program is presented at the Bradford County Courthouse, Towanda, Pennsylvania, in court room no. 2.

ATTENDANCE

Attendance at the program is required of all parties involved in divorce and custody/visitation cases where the interests of children under the age of 18 years are at issue. The court may also order attendance in certain instances in other family court cases.

A waiver of attendance will be provided for individuals who have attended an equivalent program, however, documentation of participation in a similar program or counseling experience must be provided to the court. Allowance of any waiver is at the discretion of the court.

FEES

A fee of \$35.00 per party is required and is used to cover all costs of the program, including the presenter's fees, handouts, applications, and program administration. The Court Administrator, in consultation with the court, will determine whether any fee will be reduced or waived. **PRE-PAYMENT IS REQUIRED.** All fees must be in the form of check or money order.

PRESENTERS

The presenters have been approved by the court and will present the programs pursuant to an agreement with the court.

APPLICATION PROCESS

Upon initiation of a divorce/custody/visitation filing, both parties will receive a brochure about the program. The brochure will include a registration form describing registration and payment methods. This document will be served along with the pleading. Registration may be made by mail or in person at the Office of the Court Administrator and must be completed at least three days prior to the scheduled seminar. There are **NO WALK-IN ADMISSIONS.**

VERIFICATION

An alphabetical list of all parties participating in the program will be provided to the presenters prior to each session. This list will be used by the presenters, the facilitator, the security officer, and the court. Upon completion of the seminar, each parent will receive a copy of a certificate verifying that they have attended the course. The original certificate will be placed in the official court file.

SECURITY

A deputy sheriff or other security officer will be present throughout the seminar to ensure safety for all participants. The material that is presented is emotionally charged. Although every effort is made to maintain a light, open atmosphere in the presentation of the material, the orientation the participants bring to the seminar can produce very powerful reactions.

MONITORING AND EVALUATION

Each participant will complete a written evaluation of the seminar at its conclusion, indicating their individual assessment of the value of the program and any suggestions for future programs.]

Local Rule 1920. Actions of Divorce or Annulment. Local Rule 1920.12. Complaint.

(1) In addition to the information required by Pa.R.C.P. 1920.12, every complaint in divorce shall contain one of the following averments:

A. Plaintiff avers that there are no children under the age of eighteen (18) years born of the marriage; or

B. Plaintiff avers that there are children under the age of eighteen (18) years born of the marriage, namely: (list names and dates of birth).

(2) If there are children under the age of eighteen (18) years born of the marriage, the complaint shall include one of the following averments:

A. "Plaintiff has been advised of the requirement to attend the Education Program for Separated Parents,"

or

B. "The parties have previously attended the Education Program for Separated Parents as evidenced by certificates of attendance (attached hereto) (contained in the official court file case number _____.)"

(3) In the event there are children under the age of eighteen (18) years of age born of the marriage, and there is no averment that the parties previously attended the Education Program for Separated Parents, the divorce

complaint shall have attached thereto, an order in substantially the following form:

: IN THE COURT OF COMMON PLEAS
VS. : OF BRADFORD COUNTY, PENNSYLVANIA
: NO.

ORDER OF COURT

AND NOW, _____, 20__ , a complaint in divorce being filed herewith which avers that there are children of the marriage under the age of eighteen (18) years of age, and that the parties have not yet attended the "Education Program for Separated Parents", the court directs that the parties shall pre-register with the Court Administrator and shall attend the "Education Program for Separated Parents" on one of the two dates listed below:

- [Tuesday, _____, 6:00 p.m. to 10:00 p.m.]
Saturday _____, 8:30 a.m. to 12:30 p.m.

Saturday, _____, 8:30 a.m. to 12:30 p.m.

BY THE COURT:

_____ J.

Local Rule 205.2(b).

1. Upon the filing of [an action] a divorce or custody action pursuant to the Pennsylvania Rules of Civil Procedure, [including divorce and custody,] a cover sheet in substantially the form specified in Subsection (b)(3) of this rule shall be filed immediately in the office of court administration.

2. In the event any such action is filed pro se, the prothonotary shall provide a copy of the cover sheet form to the filing party [and], shall [notify court administration to assure compliance with this rule] assist in completion of said form, and shall forward it to court administration, along with a copy of the pleading filed.

3. The cover sheet shall be as follows:

[IN THE COURT OF COMMON PLEAS OF BRADFORD COUNTY, PENNSYLVANIA

_____ :
_____ :
_____ :
Plaintiffs :
_____ :
vs. :
_____ :
_____ :
_____ :
Defendants

Date Filed: _____
Docket No. _____
Related Cases _____

Jury Trial Demanded [] Yes [] No
Arbitration Case [] Yes [] No

Note: A civil action is to be listed for Arbitration unless (1) the amount in controversy exceeds \$30,000 exclusive of interest and costs or (2) the case involves title to real property not be printed

CIVIL/FAMILY COVER SHEET

CIVIL ACTION CASE TYPES
[] Civil Action (assumpsit, trespass, equity)
[] Professional Liability
[] Medical Professional Liability
[] Ejectment
[] Quiet Title
[] Replevin
[] Mandamus
[] Mortgage Foreclosure
[] Other _____
APPEALS
[] District Justice
[] Zoning Board
[] Drivers License Suspension
[] Registration License
[] Board of Assessment
[] Other _____

FAMILY COURT CASE TYPES
[] Child Custody/Visitation
[] Annulment
[] Divorce
Divorce Counts
[] Child Custody/Visitation
[] Equitable Distribution
[] Other _____
Plaintiff's DOB _____
Defendant's DOB _____

Filed by: _____
Supreme Court ID
No. _____

IMPORTANT: This form is not to be filed in the Prothonotary's Office, but should be taken directly to Court Administration for statistical and case management purposes immediately upon the filing of a new case or new petition/complaint (custody or divorce) in a family court case (It is not needed when filing petitions for special relief.]

**BRADFORD COUNTY
COURT OF COMMON PLEAS
DIVORCE/CUSTODY COVER SHEET**

This form must be filled out if you are filing a divorce or custody action in the Prothonotary's Office and must be given to Court Administration. PLEASE PRINT LEGIBLY.

DO NOT FILE IN THE PROTHONOTARY'S OFFICE

_____ DOB _____ : Date Filed: _____
 _____ DOB _____ :
 _____ DOB _____ : Docket No. _____
 Plaintiffs :
 vs. :
 _____ DOB _____ :
 _____ DOB _____ :
 _____ DOB _____ :
 Defendants

PLEASE CHECK ONE:

DIVORCE FILING—NO CHILDREN	<input type="checkbox"/>
DIVORCE FILING—CHILDREN UNDER 18/BUT NO CUSTODY COUNT	<input type="checkbox"/>
DIVORCE FILING—CUSTODY COUNT	<input type="checkbox"/>
CUSTODY COMPLAINT/MODIFICATION	<input type="checkbox"/>

FILED BY:

IMPORTANT: This form is not to be filed in the Prothonotary's Office, but should be taken directly to Court Administration for statistical and case management purposes immediately upon the filing of a new case or new petition/complaint (custody or divorce) in a family court case (It is not needed when filing petitions for special relief or contempt).

Local Rule 206.4(c).

A. The procedure specified in Pa.R.C.P. 206.5 is adopted to govern petition practice in the Forty-second Judicial District. A petition shall be filed in the Prothonotary's Office. Upon filing, the Prothonotary's Office shall transmit a copy of the petition, along with the proposed rule to show cause order, to the Court Administrator for the scheduling of a rule returnable date.

B. Following the scheduling of the return date, the **copy of the** petition and **original and copy of the** order to show cause shall be submitted to the Prothonotary's Office for filing and docketing and for conforming a copy of the rule return order. A conformed copy of the order shall be transmitted by the Prothonotary to the petitioning party for service.

C. The petitioning party shall file an affidavit of service, noting the date, method of service and parties served.

D. If an answer is filed, the court, upon review, will determine whether a hearing or argument should be scheduled and will enter an order accordingly. Concurrently with filing, counsel or any unrepresented party shall serve a time-stamped copy of the answer or objection upon the assigned judge.

E. Any request for a stay of execution pending disposition of a petition to open a default judgment shall be included in the petition to open default judgment to be considered and processed in accordance with this rule. **A separate proposed order granting said stay shall be submitted.**

F. **If the petition contains a request for immediate relief, a separate proposed order shall be submitted.**

Local Rule 208.2(d).

Any motions presented under this rule shall contain a certification stating that said motion is uncontested, with a proposed order granting relief, or the motion shall certify that the matter is at issue and submit a proposed show cause order in substantially the form set forth in Rule 206.5.

Local Rule 208.3(a).

A. Except for motions made orally during a trial or hearing, all motions shall be written, shall contain a caption setting forth the name of the court, the number of the action, and the names of the parties, and shall have affixed upon the front page of the motion, the name, address and Supreme Court ID number of the filing attorney. All motions which are or may be contested shall include a proposed order scheduling argument. The proposed order shall include the name, address and Supreme Court ID number of the filing attorney. The proposed order shall not be physically attached to the motion.

B. All motions shall be filed in the Prothonotary's Office. Upon filing, the Prothonotary's Office shall transmit a copy of the motion, along with the proposed scheduling order, to the Court Administrator.

C. Following the scheduling of the motion, the **copy of the** motion and **original and copy of the** order to show cause shall be submitted to the Prothonotary's Office for filing and docketing and conforming of a copy of the scheduling order. A copy of said conformed order shall be transmitted by the Prothonotary to the moving party for service.

D. The moving party shall file an affidavit of service, noting the date, method of service, and parties served.

Local Rule 210.

Briefs shall contain the particular theories, statutes, rules of court, or cases upon which the litigant relies. The failure to specifically cite a statute, rule of court, or case shall be deemed to be a waiver of any claim that said authority is applicable.

Local Rule 1028(c).

(3) All preliminary objections shall be written, shall contain a caption setting forth the name of the court, the number of the action, the names of the parties and shall have affixed upon each page of the motion, the name, address and Supreme Court ID number of the filing attorney. A motion for argument and a proposed scheduling order in substantially the following form shall be included:

**IN THE COURT OF COMMON PLEAS OF
BRADFORD COUNTY, PENNSYLVANIA**

VS. : NO.

MOTION FOR ARGUMENT

AND NOW, _____, I move the court to set the ___ day of _____, 20___, at ___ m. in Courtroom No. ___ Towanda, Pennsylvania, as the time and place for argument on preliminary objections.

I hereby state to the court that service will be made of a copy of the completed motion for argument upon all other parties or their attorneys of record in this proceeding; that if not already served, service will be made on the aforesaid of a copy of the pleading which raise the issues in dispute; that all will be done in accordance with the applicable rules regarding service. I further state that my affidavit of service will be filed thereafter.

BY: _____

ORDER

AND NOW, _____, the above motion for time and place for argument is granted. The party filing who filed the preliminary objections, shall file a brief at least fifteen days prior to said argument. Immediately thereafter a copy of said brief shall be served upon all counsel of record and all unrepresented parties.

At least five days prior to the argument, the responding party shall file a brief and shall serve said brief upon all counsel of record and all unrepresented parties. **The failure to cite a particular statute, rule of court, or case shall be deemed to be a waiver of any claim that said statute, rule, or case stands as applicable authority.**

BY THE COURT:

J.

(4) All preliminary objections shall be filed in the Prothonotary's Office. Upon receipt of the preliminary objections, the Prothonotary's Office shall transmit a copy of the same, along with the motion for argument thereon and the proposed scheduling order, to the Court Administrator.

(5) Following the scheduling of the preliminary objections, court administration shall return the copy of the preliminary objections to the Prothonotary's Office, along with the motion for argument thereon and the proposed scheduling order, for filing and docketing and for conforming a copy of the scheduling order. A conformed copy of the order shall be transmitted by the Prothonotary to the moving party for service. The moving party shall file an affidavit of service, noting the date of service, method of service, and parties served.

Local Rule 1034(a).

(1) All motions for judgment on the pleadings shall be written, shall contain a caption setting forth the name of the court, the number of the action, and the names of the parties and shall have affixed upon each page of the motion, the name, address and Supreme Court ID number of the filing attorney. A motion for argument and a proposed scheduling order in substantially the following form shall be included:

**IN THE COURT OF COMMON PLEAS OF
BRADFORD COUNTY, PENNSYLVANIA**

VS. : NO.

MOTION FOR ARGUMENT

AND NOW, _____, I move the court to set the ___ day of _____, 20___, at ___ m. in Courtroom No. ___ Towanda, Pennsylvania, as the time and place for argument on my motion for judgment on the pleadings.

I hereby state to the court that service will be made of a copy of the completed motion for argument upon all other parties or their attorneys of record in this proceeding; that if not already served, service will be made on the aforesaid of a copy of the motion for judgment on the pleadings which raises the issues in dispute; that all will be done in accordance with the applicable rules regarding service. I further state that my affidavit of service will be filed thereafter.

BY: _____

ORDER

AND NOW, _____, the above motion for time and place for argument is granted. The party filing who filed the motion for judgment on the pleadings, shall file a brief at least fifteen days prior to said argument. Immediately thereafter, a copy of said brief shall be served upon all counsel of record and all unrepresented parties.

The responding party shall file a brief at least five days prior to the argument and shall serve said brief upon all counsel of record and all unrepresented parties. **The failure to cite a particular statute, rule of court, or case shall be deemed to be a waiver of any claim that said statute, rule, or case stands as applicable authority.**

BY THE COURT:

(2) All motions for judgment on the pleadings shall be filed in the Prothonotary's Office. Upon receipt of the motion, the Prothonotary's Office shall transmit a copy of the motion, along with the motion for argument and proposed scheduling order, to the Court Administrator.

(3) Following the scheduling of the motion for judgment on the pleadings, court administration shall return the copy of the motion, along with the motion for argument and the scheduling order, to the Prothonotary's Office for filing and docketing and for conforming a copy of the scheduling order. A conformed copy of the order shall be transmitted by the Prothonotary to the moving party for service. The moving party shall file an affidavit of service, noting the date, method of service and parties served.

Local Rule 1035.2(a).

(1) All motions for summary judgment shall be written, shall contain a caption setting forth the name of the

court, the number of the action, the names of the parties and have affixed upon each page of the motion, the name, address and Supreme Court ID number of the filing attorney. A motion for argument and a proposed scheduling order in substantially the following form shall be included:

**IN THE COURT OF COMMON PLEAS OF
BRADFORD COUNTY, PENNSYLVANIA**

VS. : NO.

MOTION FOR ARGUMENT

AND NOW, _____, I move the court to set the ___ day of _____, 20 __, at ___ m. in Courtroom No. ___ Towanda, Pennsylvania, as the time and place for argument on my motion for summary judgment.

I hereby state to the court that service will be made of a copy of the completed motion for argument upon all other parties or their attorneys of record in this proceeding; that if not already served, service will be made on the aforesaid of a copy of the motion which raises the issues in dispute; that all will be done in accordance with the applicable rules regarding service. I further state that my affidavit of service will be filed thereafter.

BY: _____

ORDER

AND NOW, _____, the above motion for time and place for argument is granted. The party filing who filed the motion for summary judgment, shall file a brief at least fifteen days prior to said argument. Immediately thereafter, a copy of said brief shall be served upon all counsel of record and all unrepresented parties.

The responding party shall file a brief at least five days prior to the argument and serve said brief upon all counsel of record and all unrepresented parties. **The failure to cite a particular statute, rule of court, or case shall be deemed to be a waiver of any claim that said statute, rule, or case stands as applicable authority.**

BY THE COURT:

(2) All motions for summary judgment shall be filed in the Prothonotary's Office. Upon receipt of the motion, the Prothonotary's Office shall transmit a copy of the motion, along with the motion for argument and the proposed scheduling order, to the Court Administrator.

(3) Following the scheduling of the motion, court administration shall return the copy of the motion for summary judgment, motion for argument and the scheduling order to the Prothonotary's Office for filing and docketing and for conforming a copy of the scheduling order. A conformed copy of the order shall be transmitted by the Prothonotary to the moving party for service. The moving party shall file an affidavit of service, noting the date, method of service, and parties served.

[Pa.B. Doc. No. 11-840. Filed for public inspection May 20, 2011, 9:00 a.m.]

FRANKLIN AND FULTON COUNTIES

**In the Matter of the Adoption and Amendment of
Local Rules of Civil Procedure for Actions In-
volving the Custody of Minor Children; Misc.
Doc. No. 1910 of 2011**

Order Pursuant to Pa.R.C.P. 239

And Now, this 3rd day of May, 2011, in light of the enactment of new statutory provisions governing actions in custody,

It Is Hereby Ordered That the following Rules of the Court of Common Pleas of the 39th Judicial District of Pennsylvania, Franklin and Fulton County Branches, Civil Division, are amended, rescinded or adopted as indicated this date, to be effective thirty (30) days following the date of their publication in the *Pennsylvania Bulletin*:

Local Rule of Civil Procedure 39-1915.3 shall be amended as provided in the following.

Local Rule of Civil Procedure 39-1915.7 shall be adopted in the following form.

It Is Further Ordered That the District Court Administrator shall:

1. Cause seven (7) certified copies of the Local Rules to be filed with the Administrative Office of Pennsylvania Courts.

2. Distribute two (2) certified copies of the Local Rules and a computer diskette containing the text of the Local Rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. The computer diskette shall be formatted and labeled as provided under the Note to Pa.R.C.P. 239(c)(3).

3. Cause one (1) certified copy of the Local Rules to be filed with the Domestic Relations Procedural Rules Committee.

4. Ensure a copy of the amended Local Rules, as well as all Local Civil Rules, shall be continuously available for public inspection and copying in the office of the Prothonotary of Franklin County and the Office of the Prothonotary of Fulton County. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any Local Rule.

5. Provide one (1) certified copy of the Local Rules to the Franklin County Law Library, and one (1) certified copy of the Local Rules to the Fulton County Law Library.

6. Arrange for the publication of the Local Rules on the Franklin County Bar Association Website at www.franklinbar.org.

By the Court

DOUGLAS W. HERMAN,
President Judge

Rule 39-1915.3. Commencement of Action. Complaint. Order.

(a) *Commencement of Action*

(1) *Filing and Service Generally.* All Complaints and/or Petitions to Modify relating to custody of minor children shall be presented to the Court Administrator for assignment, after filing, in accordance with these rules. Filing shall be accompanied by the payment of the designated filing and administrative fees. After the signing of the

temporary order, the Order shall be filed with the Office of the Prothonotary and the Complaint and Order served in accordance with the Pennsylvania Rules of Civil Procedure governing the service of Custody Complaints.

(2) *Contents of Complaint.* The Complaint shall specifically designate the relief sought by the party who filed the pleading and include specific terms of legal custody (**sole or shared**) or physical custody [**partial custody or visitation**] (**sole, primary, partial, shared, or supervised**) sought by the Moving Party as well as the factual basis therefore. In addition to those averments required by the Pennsylvania Rules of Civil Procedure governing actions relating to Custody, the Complaint shall also contain:

(i) **an averment as to whether or not the Moving Party or a member of the Moving Party's household has been convicted of or has pleaded guilty or no contest to any of the enumerated offenses found at 23 Pa.C.S.A. Section 5329(a) or of an offense in another jurisdiction substantially equivalent to the enumerated offenses and the date of the conviction or plea;**

(ii) an averment as to the Moving Party's knowledge of the Non-Moving Party's representation or non-representation by counsel, and if represented, an averment as to the Non-Moving Party's counsel's name;

(iii) an averment as to the form and time and manner of furnishing a copy of the Complaint to the Non-Moving Party or to legal counsel; and

(iv) if a Temporary Order is requested, the Proposed Temporary Order shall be stated as a paragraph of the Complaint.

(3) *Time for Furnishing a Copy of the Complaint and Proposed Order to the Non-Moving Party; Record Proof.* When a Non-Moving Party is represented, a true, attested copy of the Complaint and Proposed Order shall be furnished to the Non-Moving Party's counsel **of record, and to the non-moving party**, not less than forty-eight (48) hours prior to its anticipated presentation to the Court. In the case of an unrepresented Non-Moving Party, a true, attested copy of the Complaint and Proposed Order shall be furnished directly to the Non-Moving Party not later than forty-eight (48) hours prior to its anticipated presentation to the Court; or it shall be furnished to the Non-Moving Party by regular First Class U.S. mail not later than the end of business five (5) actual days preceding the date of its anticipated presentation. The Moving Party shall allege in his/her Complaint the form and manner of [**providing service**] **furnishing notice** to the Non-Moving Party and whether said [**service**] **notice** was [**made**] **given** directly to the named Non-Moving Party or to named legal counsel.

(4) *Scheduling Presentations; Pleadings Delivered to Court Administrator.* To facilitate the proper giving of notice of the presentation of Custody Complaints, the Court Administrator shall establish a regular time each week for the presentation of Custody Complaints and the entry of Orders of Court establishing temporary custody arrangements pending a full hearing. Counsel may obtain the specific time for presentation of Complaints from the Court Administrator's Office and shall deliver a copy of the filed Complaint to the Court Administrator a minimum of five (5) days in advance of the scheduled time of any planned presentations of Custody Complaints and Proposed Orders of Court.

(5) *Formal Presentation to the Court Not Necessary.* Certain Complaints and Petitions may be presented in

the same manner and at the same times as all other petitions and need not be presented in open Court at the time assigned for presentation of Custody Complaints and Petitions in these cases:

(i) When the Proposed Temporary Order and Directive for Conciliation makes no provision at all for an interim custody of the child or children.

(ii) When the Proposed Temporary Order and Directive for Conciliation simply maintains the status quo as evidenced by a prior Court Order, a copy of which must be attached to the Complaint or Petition.

(iii) When all parties have stipulated to the entry of a Temporary Order and Directive for Conciliation, without respect to whether any party is represented by counsel. However, if counsel represents any party, they shall be so identified by name, and counsel's signature shall be required on the Stipulation.

Explanatory Comment—2011

To satisfy the requirement under (a)(2)(i) of this Subsection, parties to a custody action or their attorney may obtain information about Pennsylvania criminal convictions only for parties in a custody proceeding at www.jendaveprogram.us, or by calling 1-866-536-3286.

(b) *Reference to Conciliator and Assignment to Judge*

(1) *Assignment to Conciliator.* The Court Administrator shall assign all custody actions to a Conciliator designated by the Court, who shall conduct a Conciliation Conference with both legal counsel and the parties. Further, the Court Administrator shall assign the Conciliator, date, time and place for the Conciliation Conference after the Order has been signed by the Court. The Order of Court and Directive for Conciliation shall be in a form similar to Sample Form "A." (See Sample Form "A").

(2) *Assignment to Judge.* The Court Administrator shall assign all custody actions to a Judge after the Order has been signed by the Court and at the same time that the Court Administrator assigns the Conciliator, date, time and place for the Conciliation Conference.

(3) *Conciliator.* The Conciliator shall be a member of the Bar of this Court who, along with any other members of his/her professional practice, shall not be engaged in the practice of law in the field of Domestic Relations. The Conciliator shall not be subject to the subpoena power of this Court to force testimony regarding information revealed during the Conciliation Conference.

(4) *Service.* [**Counsel for the**] **The Moving Party** shall serve a copy of the [**Complaint and**] **Order for Conciliation and accompanying Pleading** upon the Non-Moving Party in accordance with the Pennsylvania Rules of Civil Procedure. **The Moving party shall also serve a copy of the Order for Conciliation and accompanying Pleading upon the assigned Conciliator within ten (10) days of the date of the Order. Failure of the Moving party to comply with the service requirements upon the Conciliator may result in the cancellation of the Conciliation Conference unless actual notice has been provided by the Non-Moving Party.** The Moving Party [**shall serve a copy of the Complaint and Order for Conciliation upon the assigned Conciliator and**] shall certify service by filing a Certificate of Service with the Office of the Prothonotary. **Additionally, the Court Administrator shall notify the Conciliator of the list of cases scheduled for Conciliation one (1) week in advance.**

(5) *Administrative Fee.* The Moving Party shall deposit a nonrefundable administrative fee of [**\$200.00**] **\$250.00** with the Office of the Prothonotary upon the filing of the Complaint. The Conciliator shall be compensated at the rate of [**\$200.00**] **\$250.00** for each Custody Conciliation scheduled. Each conference is expected to last one (1) hour. In the event the Conciliation lasts more than one hour, the Conciliator may petition the Court for additional compensation at the rate of [**\$100.00**] **\$150.00** per hour. This additional fee shall be added to the cost of the action and shall be collected by the Prothonotary as directed by the Court. The fee may be changed from time to time upon direction from the Court without the necessity for amending these Rules. The Prothonotary shall post the administrative fee for such filings in its office. The fee shall be paid to the Conciliator by the Prothonotary [**upon receipt of the conciliator's billing statement**].

(i) In the event the Moving Party is unable to pay the administrative fee, such party may apply for an Order to Proceed In Forma Pauperis. If the Court authorizes In Forma Pauperis status, the administrative fee shall be paid by the County of Franklin.

(ii) In the event a party files a request for an additional Conciliation, the party shall pay an additional administrative fee for such Conciliation Conference which must be paid prior to the scheduling of an additional Conciliation Conference.

(iii) In the event a party requests a general continuance of a scheduled Conciliation Conference, if the rescheduled Conciliation Conference is scheduled more than six (6) months after the continued Conciliation Conference, the party shall pay an additional administrative fee of [**\$200.00**] **\$250.00** for such Conciliation Conference which must be paid prior to the scheduling of an additional Conciliation Conference.

(6) *Authority of Conciliator.* The Conciliator shall have the following authority and responsibility:

(i) To conciliate custody cases, which specifically includes meeting with the parties and children, if appropriate. If a party desires the children to be present at the Conciliation Conference, he/she shall make said request of the Conciliator no later than seven (7) days prior to the scheduled conference. The Conciliator shall determine the appropriateness of the request on a case-by-case factual basis after consultation with counsel for both parties or with a pro se party;

(ii) To address the need for home studies, as appropriate;

(iii) To address the issue of utilization of expert witnesses, as appropriate;

(iv) **To recommend to the Court, where appropriate, the need for evaluation of either party or members of their household pursuant to 23 Pa.C.S.A. § 5329; and**

(v) To recommend a resolution of the custody conflict which recommendation shall be included in the Summary Report and submitted to the Court for further action.

If the parties are not able to agree upon the need for home studies and/or the need for any other expert witnesses, either party may petition the Court pursuant to Pa.R.C.P. 1915.8 for the appointment of an expert and the payment of his or her fees.

(7) *Memorandum by Parties.* At least three (3) days prior to the scheduled Conciliation Conference, **each party shall furnish to** the Conciliator and counsel for the opposing party, or the pro se party individually, [**shall receive**] a Memorandum addressing the following:

(i) Factual background, including a brief history of the case;

(ii) **Disclosure of any criminal convictions of the offenses enumerated in 23 Pa.C.S.A. Section 5329 for the party or any member of that party's household, stating for each offense:**

a. The date of the conviction;

b. The nature of the offense;

c. Any evaluation, counseling or other treatment undergone as a result; and

d. Safety concerns for the subject child related to the offense, if any.

(iii) Names and ages of the children;

(iv) A proposed order for resolution of matters;

(v) Issues, both factual and legal, for resolution;

(vi) Whether a home study is requested; and

(vii) Whether the parties will agree to a particular psychologist/psychiatrist for evaluation or request psychological evaluations.

The parties are directed to supplement the Memorandum from time to time if new information becomes available prior to conciliation.

(8) *Summary by Conciliator.* Following the conclusion of each conference and within seven (7) business days thereof, the Conciliator shall file with the Prothonotary a Summary Report and Proposed Order of Court, if applicable, in the original plus two (2) copies. **The Conciliation Memorandums of the parties shall be attached to the original Summary Report for filing.**

(i) In the event the parties reach a comprehensive agreement at the Conciliation Conference, the Summary Report shall so state and the Proposed Order of Court shall reflect the terms of the agreement and shall be titled a Final Order of Court.

(ii) In the event the parties reach a partial agreement, or fail to reach any agreement to modify the existing order, said Summary Report shall include the following:

a. Custody status at the time of conciliation;

b. Summary of the parties' positions;

c. Identification of legal and factual issues before the Court; and

d. The Conciliator's recommendation and rationale therefore.

(iii) The Proposed Order of Court shall reflect the terms of any partial agreement reached and the need for home studies, psychological evaluations, or [**both**] **need for evaluation of either party or members of their household pursuant to 23 Pa.C.S.A. § 5329.** If the proposed order of court amends the temporary order entered at the custody presentation, the order shall also include a provision stating that the order will become a final appealable order of court one hundred eighty-one (181) days after the date of filing of the complaint/petition and shall include the exact date that the order will become final.

(iv) The Prothonotary shall serve copies of the Summary Report and any Order entered upon the parties, or their legal counsel if represented, in accordance with Pa.R.C.P. 236.

(c) *Entry of Court Order.* Upon review of the Conciliator's Summary, the Court may issue an Order addressing the appropriate issues. A copy of said Order of Court shall be furnished to legal counsel for the parties or in the event a party is unrepresented, to the party directly, according to the procedures outlined in local rule 39-1915.3(b)(8).

(d) *Scheduling of Pre-Trial Conferences and Hearings.* Upon the completion of home studies and psychological evaluations (if applicable), and at any time after the entry of the Order of Court approving the Conciliator's Summary, either party may present a Motion and Proposed Order for scheduling a Pre-Trial Conference with the Court. (See Sample Form "B").

(1) *Education Program for Divorcing Parents.* The Order of Court for Pre-Trial Conference shall contain language requiring the parties to the proceedings to attend and successfully complete the Education Program for Divorcing Parents.

(i) The party filing the Motion for Pre-Trial Conference shall provide the Prothonotary with a pre-addressed, envelope for each party to the custody action.

(ii) The Court Administrator's office shall send to each party the pamphlet regarding the Education Program for Divorcing Parents.

(2) *Scheduling.* [Every effort shall be made by the Court Administrator's office to] The assigned Judge shall schedule a Pre-Trial Conference within [thirty (30)] sixty (60) days of the submission of a Motion by either party requesting said conference [taking into consideration the availability of the Court]. Each party's presentation at the Pre-trial Conference shall not exceed a time limit of fifteen (15) minutes.

(3) *Pre-Trial Conference Memorandum.* At least three (3) days prior to the scheduled Pre-Trial Conference, a Pre-Trial [memorandum] Conference Memorandum containing the following matters shall be filed of record, and a copy provided to the assigned Judge:

- (i) Statement of the case;
- (ii) Issues to be resolved;

(iii) **Disclosure of criminal convictions and related information required by 39-1915.3(b)(7)(ii) if not previously disclosed in a Conciliation Memorandum;**

(iv) Names and addresses of all factual witnesses, and a brief summary concerning the anticipated testimony of each listed witness and a certification by counsel that all witnesses listed have been directly contacted by counsel or by pro se party to confirm the substance of the testimony proffered;

- (v) Names and addresses of all expert witnesses;
- (vi) Identification of exhibits for trial; **and**
- (vii) Expected length of trial.

Failure to produce the information set forth in this Rule may be grounds for imposition of sanctions upon legal counsel or the party directly if appearing pro se.

(4) *Appearance by the Parties.* At the scheduled Pre-Trial Conference, both counsel shall be present and the parties shall be personally present.

(i) In the event that neither legal counsel nor a party appears, the Pre-Trial Conference shall be held in that party's absence upon proof of service of the Order of Court for Pre-Trial Conference in accordance with the Pennsylvania Rules of Civil Procedure.

(ii) Although the Court may not discuss the case with represented parties, they are directed to be present in the event issues arise where the parties' input may be beneficial.

(5) *Hearing Date.* In the event that an agreement is not reached at the Pre-Trial Conference, a hearing date shall be established by the Court [Administrator] at the conclusion of said conference.

SAMPLE FORM "A"

**IN THE COURT OF COMMON PLEAS OF THE
39TH JUDICIAL DISTRICT PENNSYLVANIA—
FRANKLIN/FULTON COUNTY BRANCH**

} Plaintiff	:	Civil Action—Law
	:	
	:	No. F.R.
vs.	:	
	:	
} Defendant	:	In Custody
	:	Judge:

**ORDER OF COURT AND DIRECTIVE FOR
CONCILIATION**

NOW, this ____ day of _____, 20 ____, this Order will notify _____, Defendant, that you have been sued in Court to obtain custody of the child(ren): _____, date of birth _____.

It is ordered and directed that _____, Esquire, the Court's Child Custody Conciliation Officer, is hereby directed to conduct a Conciliation Conference on _____, 20 ____, at ____ o'clock __.M at the Assigned Room, Third Floor, Franklin County Courthouse, Chambersburg, Pennsylvania. The anticipated length of the Conciliation Conference is one (1) hour. The parties along with their legal counsel shall appear in person at the designated time for the Conciliation Conference. A memorandum shall be furnished to the Conciliator at least three (3) days prior to the scheduled Conciliation Conference pursuant to 39th Judicial District Civil Rule No. 1915.3(b)(7).

Failure to provide said memorandum may result in the imposition of sanctions. At the Conciliation Conference, an effort will be made to see if the issues can be resolved by an agreement between the parties. If an agreement cannot be reached, the Conciliator will assist in defining and narrowing the issues to reduce the time required for hearing by the Court. At the conclusion of the conference, the Conciliator will prepare a Conference Summary Report for further action by the Court.

You have the right to be represented by an attorney who may attend the Conciliation Conference with you. If you have not secured an attorney by the date of the scheduled Conciliation Conference, you shall nonetheless personally appear at the time scheduled for the Conciliation Conference without an attorney.

The Plaintiff has deposited a sum of [\$200.00] \$250.00 with the Prothonotary for the cost of the Concili-

ation Conference and the Court reserves the right to further assign or divide these costs.

_____, Defendant, is notified that if you fail to appear as provided by this Order, an Order of Court for Custody, partial custody or visitation may be entered against you or the court may issue a warrant for your arrest.

Pending the hearing, with emphasis placed on the arrangements for the six (6) months preceding the filing of this Complaint and with particular attention paid to the role of primary caretaker, the Court hereby establishes the following temporary Order for custody pending a hearing:

[The appropriate language should be inserted at this point detailing the custody arrangements sought by the Plaintiff keeping in mind the emphasis to be placed upon the prior six (6) months and the role of primary caretaker. It is suggested one (1) inch of blank space be left for judge's comments or changes to the proposed Order.]

No party shall be permitted to relocate the residence of the child/ren to significantly impair the ability of another person to exercise custody UNLESS every individual who has custody rights to the child/ren consents to the proposed relocation OR the Court approves the proposed relocation. A person proposing to relocate MUST comply with the notice requirements pursuant to 23 Pa.C.S.A. Section 5337(c).

Defendant is hereby notified that if (s)he disputes the Plaintiff's averments regarding the current status of the custody arrangements and this Order is entered on the basis of those averments, (s)he has the right to request a prompt conference with the Court. If the matter of the temporary custody arrangements is not resolved at the Conference, the Court may in atypical factual situations and at its sole discretion schedule a brief hearing limited to the issues of determining temporary custody arrangements pending the scheduled Conciliation Conference.

The parties and their legal counsel, if applicable, are hereby directed to engage in meaningful negotiations to resolve this matter before the Conciliation Conference.

This Order shall become a final appealable order 181 days after the date of filing of the attached Complaint/Petition, that is, on ____ [fill in date 181 days after the date of filing of the complaint/petition] _____, unless prior to that date (1) a party files a praecipe, motion or request for a trial, or (2) there is filed a final intervening order

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Pennsylvania Bar Association
Lawyer Referral Service
1-800-692-7375 (PA ONLY) or 1-717-238-6715

AMERICANS WITH DISABILITIES ACT OF 1990

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

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.

By the Court,

J.

**SAMPLE FORM "B"
IN THE COURT OF COMMON PLEAS
OF THE 39TH JUDICIAL DISTRICT
PENNSYLVANIA—FRANKLIN/
FULTON COUNTY BRANCH**

_____,
Plaintiff : Civil Action—Law
: :
: : No. F.R.
vs. : :
: :
_____,
Defendant : In Custody
: Judge:

ORDER OF COURT

AND NOW, this _____ day of _____, 20 ____, upon consideration of the within Motion,

IT IS HEREBY ORDERED, that a Pre-Trial Conference in the above-captioned custody matter is scheduled for _____, 20 ____, at _____ o'clock __.m. in the Chambers of the Honorable _____, Franklin County Courthouse, Chambersburg, Pennsylvania.

A Pre-Trial Memorandum shall be **filed of record and a copy** furnished to the Court at least three (3) days prior to the scheduled Pre-Trial Conference pursuant to 39th Judicial District Civil Rule No. 1915.3(d). Failure to provide said Pre-Trial Memorandum may be grounds for imposition of sanctions.

Failure of a party or legal counsel to appear upon proper notice shall result in the holding of the conference in absentia and the entry of an Order of Court that may be to the detriment of the absent party.

IT IS FURTHER HEREBY ORDERED that all parties to this custody proceeding shall enroll in, attend and successfully complete the Education Program for Divorcing Parents, a four-hour educational seminar which has been established by the Court to provide guidance to the parties in helping children to adjust to custody changes. Failure of any party to comply with this provision of this Order may result in a finding of contempt with the imposition of sanctions including fine or imprisonment or both.

BY THE COURT,

J.

**IN THE COURT OF COMMON PLEAS
OF THE 39TH JUDICIAL DISTRICT
PENNSYLVANIA—FRANKLIN/
FULTON COUNTY BRANCH**

_____,
Plaintiff : Civil Action—Law
: :
: : No. F.R.
vs. : :
: :
_____,
Defendant : In Custody
: Judge:

**MOTION FOR SCHEDULING OF
A PRE-TRIAL CONFERENCE**

AND NOW comes _____, Esquire, legal counsel for the above-captioned Plaintiff and moves the Court as follows:

1. A Conciliation Conference in the above-captioned matter was held on _____.

2. A Summary Report and proposed Order of Court was prepared by the Conciliator and filed of record on _____.

3. An Order of Court was signed on _____ containing further directives in this matter.

4. The undersigned legal counsel hereby certifies that all Court-ordered directives have been complied with and the matter is now ready for a hearing.

5. Notification of this Motion has been given to _____, Esquire, attorney for (Plaintiff/Defendant) who concurs with/opposes the request.

6. WHEREFORE, it is respectfully requested that an Order be entered by the Court establishing a date and a time for a Pre-Trial Conference.

Date: _____ By: _____
(Signature), Esquire
Counsel for (Plaintiff/Defendant)

I verify that the statements made in this Motion are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

Date: _____

(*Editors Note:* The following text is new and printed in regular type to enhance readability.)

Rule 39-1915.7. Consent Order.

(e) **Required Submissions to the Court**

(1) *Form.* Any agreement between the parties for legal or physical custody of a minor child shall be submitted the Court in the form of a motion entitled "Stipulation and Agreement," bearing the signature of each parent, and their counsel of record, if any, and requesting the entry of the agreed upon terms as an Order of Court. The motion shall be accompanied by a Proposed Order for entry by the Court.

(2) *Contents of Stipulation and Agreement Where No Complaint has been Filed.* If no Complaint for Custody or Petition for Modification has been filed, the motion requesting entry of the Proposed Order of Court shall contain:

(i) Averments required under 23 Pa.C.S.A. Section 5429(a), to enable the Court to determine whether jurisdictional requirements have been met, including:

a. The child's present address or whereabouts;

b. The child's residence address(es) for the five (5) years preceding the filing of the Stipulation and Agreement, and the names of the persons with whom the child resided during such period;

c. An averment whether any party has participated as a party or witness or in any other capacity in any other proceeding concerning the legal or physical custody of the child, and, if any such actions exist, stating the presiding court, case number, and nature of such proceeding; and

d. An averment whether any party knows the names and addresses of any person not a party to the proceeding

who has any form of physical custody of the child, or claims rights of legal or physical custody to the child, stating for any such person(s) their name(s) and address(es).

(ii) An averment whether or not either party or a member of their household has been convicted, pled guilty, or entered a plea of no contest, to any of the offenses enumerated at 23 Pa.C.S.A. Section 5329(a), or of an offense in another jurisdiction substantially equivalent to the enumerated offenses; and

(iii) An averment whether or not either party or a member of their household has engaged in past violent or abusive conduct, as described at 23 Pa.C.S.A. Section 5303(a)(3), and, if so, whether the parties believe there is any risk of harm to the child or abused party.

(3) *Contents of Proposed Order.* The agreed upon Proposed Order for custody shall contain:

(i) The terms of the agreement, as to both legal and physical custody of the subject child;

(ii) An averment pursuant to 23 Pa.C.S.A. Section 5323(c), giving notice of the parties' obligations under Section 5337, related to relocation, substantially equivalent to that set forth in Sample Form A to Rule 39-1915.3;

(iii) If either party has engaged in past violent or abusive conduct, and, if a risk of harm exists to the child or the abused party, conditions for protection of the child or abused party as required pursuant to 23 Pa.C.S.A. Section 5323(e).

[Pa.B. Doc. No. 11-841. Filed for public inspection May 20, 2011, 9:00 a.m.]

MONTGOMERY COUNTY

**Amendment of Orphans' Court Local Rule 3.4A—
Form. Additional Requirements. Cover Sheet.**

Order

And Now, this 29th day of March, 2011, the Court hereby amends Montgomery County Orphans' Court Local Rule 3.4A—Form. Additional Requirements. Cover Sheet. This Amended Local Rule shall become effective on May 1, 2011, and shall be posted on the Montgomery County website, as an Orphans' Court Local Rule.

The Clerk of the Orphans' Court is directed to publish this Order once in the *Montgomery County Law Reporter* and in *The Legal Intelligencer*. In conformity with Pa.R.J.A. 103(c), the Clerk of the Orphans' Court shall forward ten (10) certified copies of this Order to the Administrative Office of Pennsylvania Courts for distribution in accordance with Pa.R.J.A. 103(c)(2). In addition, the Clerk of the Orphans' Court shall deliver one (1) copy to the Court Administrator of Montgomery County, one (1) copy to the Law Library of Montgomery County and one (1) copy to each Judge of the Orphans' Court Division of this Court.

By the Court

RICHARD J. HODGSON,
President Judge

Local Rule 3.4A. Form. Additional Requirements. **Cover Sheet.**

(1) *Typing. Endorsement.* Every pleading shall be endorsed with the name of counsel and where practicable typewritten and double-spaced, or printed.

(2) *Signature and Verification.* Every pleading shall be signed by the attorney and where facts are averred shall be verified by one or more of the parties. If this is impracticable, it may be signed and verified by someone familiar with the facts, in which case the reason for the failure of the parties to sign shall be set forth.

(3) *Decree.* The **proposed** decree shall have a caption and shall be attached to the face of the petition.

(4) *Cover Sheet.* Every pleading (other than a legal paper filed electronically) shall be accompanied by a completed Cover Sheet, in the form available from the Clerk of the Orphans' Court of Montgomery County and available on the Montgomery County website at the following link: <http://rwoc.montcopa.org/forms>. The Cover Sheet must be typed or printed and must include the address and signature of the attorney for the filing party. If the party is not represented by any attorney, the party must sign the Cover Sheet and include his or her address. Where an attorney or party has not previously entered his or her appearance with respect to the matter, the Cover Sheet for a pleading shall be deemed to be an entry of appearance by the attorney or party who signs the Cover Sheet.

[Pa.B. Doc. No. 11-842. Filed for public inspection May 20, 2011, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Administrative Suspension

Notice is hereby given that the following attorneys have been Administratively Suspended by Order of the Supreme Court of Pennsylvania dated April 4, 2011, under Rule 111(b) Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective May 4, 2011, for Compliance Group 2.

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.

Andrews, Jr., Rawle
Washington, DC

Arroyo, Anthony Kelly
Washington, DC

Barbin, Bradley Davis
Columbus, OH

Boland, Mark
Washington, DC

Booth-Barbarin, Ann Victoria
Wilmington, DE

Bradman, Heyward A.
Miami, FL

Brennan, Frank P.
Cherry Hill, NJ

Buccerone, Carolyn
Hoboken, NJ

Cantrel, Jr., Francis John
Chevy Chase, MD

Carter, Wanda Lynette
Bowie, MD

Chau, Anna Christina
Oakland Gardens, NY

Clarke, Millicent
Freeport, NY

Cox, John Needham
Charlotte, NC

Curci, Brian Eric
Princeton, NJ

Eisdorfer, Allen
Colonia, NJ

Frick, Charles Alexander
Baltimore, MD

Girgis, Peter
Morristown, NJ

Gould, Rodney E.
Framingham, MA

Gray, David R.
Naples, FL

Hall, Maria Anne
Washington, DC

Hanton, Melvin
East Windsor, NJ

Henderson, Paul Thomas
Potomac, MD

Hutchison, Gregg Hugh
Princeton, NJ

Kishbaugh, John Eric
Voorhees, NJ

Kraai, Megan Messner
Towson, MD

Kronenwetter, Patrick J.
Chicago, IL

Manuel, Michael Thomas
Clayton, DE

McClenney, Joan M
Cherry Hill, NJ

McGowan, Siobhan
Fort Lee, NJ

Munnell, Charles Howard
Houston, TX

Murray, Neal Joseph
Cherry Hill, NJ

Nason, Deborah P.
Wilmington, DE

Orlando, Christine Susan
Haddonfield, NJ

Riley, III, Francis Xavier
Princeton, NJ

Russell, Arthur Daniel
Nutley, NJ

Schwendeman, Gregory John
Indianapolis, FL

Sims, Jacqueline Marie
Randallstown, MD

Smith, Lisa Lynne
APO, AE

Stewart, Lenore Dorian Elizabeth
Fairfax, VA

Stokwitz, Stephen S.
San Antonio, TX

Teller, Jonathan
New York, NY

Thompson, II, Frank Delano
New York, NY

Winitzky, Jeffrey Daniel
Marlton, NJ

Zolty, Ian Gordon
Mount Laurel, NJ

SUZANNE E. PRICE,
Attorney Registrar
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 11-843. Filed for public inspection May 20, 2011, 9:00 a.m.]
