

# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[ 231 PA. CODE CH. 3000 ]

#### Proposed Amendment of Rules 3111, 3129.3 and 3135 Governing Sheriff's Sales; Proposed Recommendation No. 255

The Civil Procedural Rules Committee proposes that Rules of Civil Procedure 3111, 3129.3 and 3135 governing sheriff's sales be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania. All communications in reference to the proposed recommendation should be sent no later than November 2, 2012 to:

Karla M. Shultz  
Counsel

Civil Procedural Rules Committee  
601 Commonwealth Avenue, Suite 6200  
P. O. Box 62635  
Harrisburg PA 17106-2635  
FAX 717-231-9526  
civilrules@pacourts.us

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 3000. JUDGMENTS

#### Subchapter D. ENFORCEMENT OF MONEY JUDGMENTS FOR THE PAYMENT OF MONEY

#### Rule 3111. Service of the writ on garnishee; effect.

\* \* \* \* \*

(c)(1) If a garnishment has not been acted upon within one year of the filing of the garnishment, the garnishee or the defendant may file a petition to terminate the garnishment. The petition shall include a notice that the plaintiff has twenty days to respond to the filing of the petition and that upon failure to do so, the garnishment may be terminated.

(2) Any response to the petition shall be filed within twenty days of the filing of the petition and set forth the reasons not to terminate the garnishment.

(3) If no response to the petition is filed, upon praecipe, the writ of garnishment shall be terminated.

*Official Note:* If a response is filed to the petition to terminate the garnishment, it shall be resolved pursuant to motion and answer practice. See Rule 208.1 et seq.

[ (c) ] (d) Service of the writ upon the garnishee shall also subject the garnishee to the mandate and injunctive orders of the writ restraining the garnishee from paying any debt to or for the account of the defendant and from delivering any property of the defendant which may be attached under these rules to anyone except the sheriff or

otherwise disposing thereof until further order of the court or discontinuance or termination of the attachment.

[ (d) ] (e) Violation of the mandate and injunctive orders of the writ may be punished as a contempt.

#### Rule 3129.3. Postponement of Sale. New Notice. Failure of Plaintiff to Attend Sale.

(a) Except as provided by subdivision (b) or special order of court, new notice shall be given as provided by Rule 3129.2 if a sale of real property is stayed, continued, postponed or adjourned.

(b)(1) If the sale is stayed, continued, postponed or adjourned to a date certain within one hundred thirty days of the scheduled sale, notice of which sale was given as provided by Rule 3129.2, and public announcement thereof, including the new date, is made to the bidders assembled at the time and place fixed for the sale, no new notice as provided by Rule 3129.2 shall be required, but there may be only two such stays, continuances, postponements or adjournments within the one hundred thirty day period without new notice.

(2) When the sale is stayed, continued, postponed or adjourned as provided by subdivision (b)(1), the plaintiff shall file with the prothonotary a notice of continued sheriff's sale at least fifteen days before the continued sale date. A copy of the notice of continued sheriff's sale shall also be filed with the sheriff's office with a certificate of service confirming the filing of the notice. The sheriff shall continue the sale to the next available sale date if the notice of continued sheriff's sale has not been timely filed. Non-compliance with this subdivision is not a basis for setting aside the sheriff's sale unless raised prior to the delivery of the sheriff's deed. The sale shall be set aside only upon a showing of prejudice.

*Official Note:* This subdivision supersedes other provisions of these rules limiting the number of times a sale may be continued.

(3)(i) The notice required by subdivision (b)(2) shall be substantially in the following form:

(Caption)

#### Notice of Continued Sheriff's Sale

The Sheriff's Sale scheduled for \_\_\_\_\_, \_\_ at \_\_: \_\_ M. in the above-captioned matter has been continued until \_\_\_\_\_, \_\_ at \_\_: \_\_ M.

Date: \_\_\_\_\_ By: \_\_\_\_\_  
(Attorney for Plaintiff)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Phone)

(ii) The certificate of service required by subdivision (b)(2) shall be in substantially the following form:

(Caption)

#### Certificate of Service

On this date, I mailed or delivered to the Sheriff's Office of \_\_\_\_\_ County a copy of the Notice of Continued Sheriff's Sale in the above-captioned matter.

Date: \_\_\_\_\_  
 By: \_\_\_\_\_  
 (Attorney for Plaintiff)  
 \_\_\_\_\_  
 (Address)  
 \_\_\_\_\_  
 (Phone)

(c) If the plaintiff or a representative of the plaintiff is not present at the sale, the real property shall not be sold. The sheriff shall return the writ of execution to the prothonotary and file a return pursuant to Rule 3139 indicating that the real property was not sold because the plaintiff or a representative of the plaintiff was not present at the sale. Thereafter, the writ may be reissued pursuant to Rule 3106.

**Rule 3135. Sheriff's deed to real property. Correction of deed.**

\* \* \* \* \*

(b) If the sheriff has made a defective return of the execution proceeding or has executed a defective deed, including the erroneous description of the real estate, the court upon petition of the purchaser or the purchaser's successors in title may correct the return or deed or order that a new return or deed be executed.

**(c) If the plaintiff has failed to give notice to a lienholder, junior in lien priority to the mortgage being foreclosed upon or the judgment being executed, the plaintiff, or its assigns, or the purchaser at the sheriff's sale may file a petition with rule to show cause requesting that:**

- (1) the lien held by the junior lienholder be divested, or
- (2) if the plaintiff, or its assigns, is the purchaser at the sheriff's sale, another sheriff's sale be held in which only the junior lienholder specified in the petition may be the only bidder allowed other than the senior lienholder who acquired the property at the sheriff's sale, or
- (3) such relief as may be approved by order of court.

**Explanatory Comment**

The Civil Procedural Rules Committee is proposing the amendment of Rules 3111, 3129.3 and 3135 governing sheriff's sales.

Current Rule 3111 governing the service of the writ on the garnishee provides for a continuing garnishment of defendant's property until the underlying judgment is satisfied. Because the garnishments can languish indefinitely without any action taken on them, the proposed amendment introduces a procedure that would allow a defendant or a third-party garnishee to petition the court for termination of the garnishment provided that there has been no activity on the garnishment for at least one year. The plaintiff has the opportunity to respond to the petition and set forth the reasons the garnishment should not be terminated.

Current Rule 3129.3 governs the procedures for postponing or continuing a sheriff's sale. The rule, however, is silent as to providing notice to the defendant when a sheriff's sale has been postponed to a date certain within 130 days of a scheduled sale. There has been an increasing problem with defendants not being notified that a sheriff's sale has been continued. To remedy this, the proposed amendment to Rule 3129.3 would require the plaintiff to file a notice of continued sheriff's sale with the

prothonotary at least 15 days before the continued sale date. A copy of the notice must also be filed in the sheriff's office along with a certificate of service confirming the filing of the notice.

The failure to timely file the notice results in the sheriff continuing the sale until the next available sale date. However, noncompliance is not a basis for setting aside the sale unless it is raised prior to the delivery of the sheriff's deed. A sale will only be set aside upon a showing of prejudice.

The proposed amendment to Rule 3135, which governs the correction of the sheriff's deed to real property, addresses the situation when a junior lienholder has failed to receive notice of mortgage foreclosure and has not been divested of its interest. Currently, the plaintiff is required to hold the sheriff's sale again even though the junior lienholder typically has no interest in purchasing the mortgage. To remedy this duplication of effort and resources, the proposed amendment would allow for a plaintiff, its assigns, or the purchaser at the previously held sheriff's sale to file a petition with a rule to show cause requesting that (1) the lien held by the junior lienholder be divested, (2) another sheriff's sale be held in which only the junior lienholder specified in the petition may be the only other bidder allowed other than the senior lienholder who acquired the property at the previously held sheriff's sale, or (3) other relief approved by the court.

*By the Civil Procedural Rules Committee*

DIANE W. PERER,  
*Chair*

[Pa.B. Doc. No. 12-1895. Filed for public inspection September 28, 2012, 9:00 a.m.]

# Title 25—LOCAL COURT RULES

## BUCKS COUNTY

### Protection From Abuse Actions; Administrative Order No. 19

#### Amended Administrative Order No. 19

*And Now*, this 13th day of September, 2012, Administrative Order No. 19, promulgated on October 5, 1984 and amended July 11, 1985, is hereby amended as follows:

In order to implement the Protection From Abuse Act of December 19, 1990, P. L. 1240, 23 Pa.C.S.A. Section 6101 et seq, as amended, the following policies, practices and procedures are hereby approved.

- 1. Actions for Protection From Abuse shall be commenced and prosecuted in accordance with the provisions of Pa.R.C.P. 1901, et seq. and 23 Pa.C.S.A. Section 6101 et seq.
- 2. Actions seeking emergency relief under the Protection From Abuse Act shall be commenced and prosecuted pursuant to the provisions of Pa.R.C.P.M.D.J. No. 1201 et seq. and 23 Pa.C.S.A. Section 6110 et seq.
- 3. If an emergency order for Protection From Abuse has issued, the plaintiff and, if available, the defendant, shall be informed of the following:

(a) that the magisterial district judge's order will expire at the close of business the next day the Courts are open, and that a further order may be issued only by the Common Pleas Court;

(b) that a certification of the magisterial district judge's record will be made immediately to the Common Pleas Court and will have the effect of commencing Common Pleas Court proceedings under the Act;

(c) that the plaintiff must complete a petition or a verified statement setting forth the abuse by the defendant, as required in 23 Pa.C.S. § 6110(c), which shall accompany the certified emergency order forwarded to the Common Pleas Court to as a basis for the extension of the emergency order, if granted by the Common Pleas Court, and also serve as a record for a hearing;

(d) that a hearing will be held in the Court of Common Pleas within the next ten business days;

(e) that plaintiff may obtain counsel as set forth above in paragraph 5; and

(f) that if plaintiff fails to appear at the hearing, the petition may be dismissed.

If practicable, notice of the time and place of the hearing shall be hand-delivered to the parties and each shall sign a receipt.

In cases in which defendant is not present, he shall be served with the information contained in this paragraph and notice of the hearing in the same manner and at the same time as service of the prohibition order under Rule 1209 of the Rules of Civil Procedure for District Magistrate Judges.

4. Actions for contempt of an order for Protection From Abuse shall be commenced in accordance with 23 Pa.C.S.A. Section 6113 et seq. and Pa.R.C.P. No. 1901.5 et seq. If a defendant is arrested for a violation of a Protection From Abuse Order issued by a Court of Common Pleas Judge, an emergency order issued by a Magisterial District Judge, or a duly registered foreign protection order, the defendant forthwith shall be preliminarily arraigned before a Magisterial District Judge.

5. At the preliminary arraignment, a defendant arrested for violation of a Protection From Abuse Order shall be notified of the following:

(a) that he is charged with criminal contempt for violation of the Protection From Abuse Order;

(b) that a hearing will be held in the Court of Common Pleas of Bucks County within the next ten business days;

(c) that defendant is entitled to be represented by counsel, and, if unable to afford counsel, free counsel will be appointed; and

(d) that if defendant fails to appear at the hearing, a bench warrant may be issued for defendant's arrest.

Bail shall be set to insure defendant's presence at the contempt hearing in accordance with Pa.R.Crim.P. 4004 including, without limitation, the condition that defendant not contact the plaintiff or members of the plaintiff's household, directly or indirectly, in the meantime.

Notice of the time and place of the hearing shall be hand-delivered to the parties and each shall sign a receipt. The office of the magisterial district judge shall notify an unrepresented plaintiff that a lawyer may be obtained from Legal Aid of Southeastern PA (1-877-429-5994) and/or the Bucks County Bar Association Lawyer Referral Service (1-888-991-9922).

The Administrative Order shall be effective thirty days after publication in the *Pennsylvania Bulletin* and shall be applicable to all pending actions.

*By the Court*

SUSAN DEVLIN SCOTT,  
*President Judge*

[Pa.B. Doc. No. 12-1896. Filed for public inspection September 28, 2012, 9:00 a.m.]

## ERIE COUNTY

### Revision and Restatement of the Rules of Civil Procedure; Civil Division; No. 90021-2012

#### Order

*And Now*, this 13th day of September, 2012, Rules 1920.16(1), 1920.51, 1920.53, 1920.55, 1920.73, and 1920.74 of the Local Rules of Civil Procedure for the Court of Common Pleas of Erie County, Pennsylvania are amended in the following form and they shall be effective 30 days after publication in the *Pennsylvania Bulletin*.

Rules 1920.16(1) and 1920.55 have been renumbered to 1920.31 and 1920.55-2 respectively, to correspond with the Pennsylvania Rules of Civil Procedure.

Rule 1920.75 of the Local Rules of Civil Procedure for the Court of Common Pleas of Erie County, Pennsylvania is deleted and rescinded effective 30 days after publication in the *Pennsylvania Bulletin*.

*By the Court*

ERNEST J. DiSANTIS, Jr.,  
*President Judge*

#### Local Rule 1920.31. Claims for Child And/Or Spousal Support.

(a) A claim for child and/or spousal support raised in an action for divorce by complaint, counterclaim or petition shall be substantially in the form set forth in Pa. R.C.P. 1910.27.

(b) Where a claim for child and/or spousal support is raised in an action for divorce, a true and correct copy of the complaint, counterclaim, or petition by which the claim for child and/or spousal support is raised shall be filed with the Non-Support Intake Office. The claim for child support shall be docketed in the Non-Support Intake Office and shall thereafter proceed in accordance with Pa. R.C.P. 1910.1 et seq. and local rules governing proceedings for child support. The docket entry in the Non-Support Intake Office shall include a reference to the appearance docket number of the divorce action.

#### Local Rule 1920.51. Hearing by the Court. Appointment of Master. Notice of Hearing.

(a) Upon Motion of either party or upon its own Motion, the Court may appoint a Master to hear testimony and return the record together with the Report and Recommendation to Court. The Motion shall be filed with the Office of the Prothonotary. If the Motion is filed by a party, then the Motion must be accompanied by the appropriate fee, as established by the Court. The moving party shall certify that all the parties have complied with the requirement of Pa.R.C.P. 1920.31, Pa.R.C.P. 1920.33 and Pa.R.C.P. 1920.46. The Motion and proposed Order requesting the appointment of a Master shall be in conformity with L.R.C.P. 1920.74.

(1) Masters shall be appointed in rotation from the list of permanent part-time Masters appointed as such by the Court to determine issues of divorce, equitable distribution of property, permanent alimony and all other issues relevant thereto. If all Court appointed Masters are conflicted out of serving, the Court may appoint a one-time Master for the hearing.

(2) A Master shall be appointed to hear a claim of child and/or spousal support only upon presentation of an Affidavit of the party supplementing the Motion for appointment of a Master showing special circumstances which justify a departure from the procedure of Erie L.R. 1920.16. Should it later appear that special circumstances justifying referral of a claim for child and/or spousal support do not exist, either party or the Master may petition the Court to refer the claim to the Non-Support Intake Office.

(3) Upon appointment of a Master to hear issues which require expedited disposition (including, but not limited to, alimony pendente lite, child and/or spousal support when referred to a Master, occupancy of the marital residence, maintenance of insurance policies, and Counsel fees and expenses), a preliminary record hearing will be held before the Master within thirty (30) days of the entry of the Order appointing a Master. Where discovery has not been completed or where all documents required to be filed by Pa.R.C.P. 1920.31 have not been filed prior to the preliminary hearing, the Master may, in his or her discretion, proceed with the hearing and filing of a report and recommendations (which may include recommended sanctions for failure to comply with Pa.R.C.P. 1920.31) or continue the hearing until said documents have been filed.

(b) *Pre-hearing Status Conference*

In actions where expedited disposition is not required,

(1) The Master shall within fifteen days after receiving notice of the Master's appointment schedule a date for a pre-hearing status conference to be held prior to the date of the Master's hearing and shall give notice of the time and place of the pre-hearing status conference by First Class Mail to counsel for represented parties and directly to any unrepresented party. Said notice shall be mailed at least five business days prior to the scheduled date of the conference. The conference shall be attended by Counsel of Record, only, if all parties are represented by counsel.

(2) At the pre-hearing status conference, the Master shall review:

(A) The positions of the parties on each Claim, including those issues on which settlement has been reached;

(B) Discovery which has been completed, including the inventory and pretrial statements pursuant to Pa.R.C.P. 1920.33;

(C) Any documentary evidence to be presented at the hearing;

(D) The names and addresses of each witness any party proposes to call at the hearing;

(E) All matters which may be stipulated by the parties at the hearing;

(F) Establish a schedule for filing of Pretrial Narrative Statements, completion of discovery and any other relevant matters; and

(G) Such other relevant matters as should be raised by either of the parties or the Master.

(c) *Post-Status Conference*

(1) After the pre-hearing status conference the Master shall:

(A) Prepare a summary of the discussions and action taken at the pre-hearing status conference, including a statement of any stipulations, and of any matters which have been settled between the parties and which will not be raised at the hearing before the Master;

(B) Establish a schedule for the filing or service of any additional pleadings or discovery which may be deemed necessary and set hearing date(s);

(C) Serve a copy of the summary and filing schedule on counsel for the parties, or on any unrepresented party; and

(D) Indicate the amount of additional master's fees to be paid by the litigants prior to hearing.

(d) *Master's Hearing*

(1) The Master shall establish a hearing date or dates at the pre-hearing status conference. These dates shall be included in the summary prepared pursuant to Section c (post status conference), as well as in the formal notice of Master's hearing as required by Pa.R.C.P. 1920.51(b). At least twenty (20) days written notice of the time and place of any Master's hearing shall be given to the attorneys of record (or the parties where no attorney has appeared in the case) by the Master by ordinary mail.

(2) Counsel and parties will be expected to be present and participate during the entirety of the Master's hearing; otherwise they shall be subject to sanctions or other remedies deemed appropriate by the Court.

(e) *Continuances*

(1) A request shall be granted by the Master if both parties consent in writing.

(2) All other requests for continuance shall be at the discretion of the Master, unless otherwise ordered by the Court.

(f) *Settlement*

(1) In the event the parties reach a negotiated settlement, then both parties must notify the Master of such agreement in writing, and both parties must request a postponement or cancellation of the Master's hearing, in order to postpone or cancel the Master's hearing.

(2) The parties may attend the scheduled Master's hearing at the time scheduled for the purpose of entering the substance of their agreement on the record.

(g) *Fees and Costs*

(1) The initial fees, costs and compensation of the Master shall be in accordance with Administrative Order In Re Divorce Masters Miscellaneous Docket No. 90001-07 and any amendments thereto.

(2) The Master shall determine additional fees due in accordance with the rate set by the Court and shall require an advance deposit of said amount prior to scheduling any further hearing. The Master shall have the authority to apportion the additional fees and advance deposits between the parties prior to trial, and the Master may reapportion such fees in the Master's Report.

(3) The Master shall receive compensation for a minimum of four hours for each day of a scheduled hearing that is not either:

(A) Continued in accordance with Erie L.R. 1920.51(e); or

(B) Cancelled with notice to the master in writing at least fourteen (14) days prior to the scheduled hearing date for the reason either that the case has been resolved or withdrawn.

(4) In the event the Master fails to grant the continuance, the parties may petition the Court for a continuance. The Court may grant a continuance and will determine the amount of additional master's fees, if appropriate.

(5) At the conclusion of the case, the Master shall prepare a certification indicating the amount of Master's fees paid the disposition thereof.

**Local Rule 1920.53. Hearing By Master. Report.**

If the issues of divorce or annulment are raised for determination by the Master, then these issues shall be first determined prior to a trial on the economic issues.

(a) Where the Master concludes that a recommendation to grant the divorce or annulment should be filed, the Master shall notify the parties of this conclusion in writing (a copy of which shall be attached to the Master's report) subsequent to the termination of the hearing(s). The Master shall forthwith proceed to hear testimony and take evidence on all other matters at issue in the action prior to the filing of a report and recommendation.

(b) Where the Master concludes that a recommendation to deny the divorce or annulment should be filed, the Master shall file a report and recommendation in accordance with the terms of Pa.R.C.P. 1920.53(A). No evidence or testimony shall be taken on any other matter at issue unless and until the Court determines that a divorce or annulment should be granted.

**Local Rule 1920.55-2. Master's Report. Notice. Exceptions. Final Decree.**

(a) In the event exceptions are not timely filed by either party, either party may praecipe the Court for the entry of a final order.

(b) Where the parties stipulate on the record that additional documentary evidence shall be submitted subsequent to the hearing(s), the Master shall file the report and recommendation within thirty (30) days of receipt of that evidence or in accordance with Pa.R.C.P. 1920.53(a)(1), whichever date is later.

(c) Exceptions must be timely filed at the Office of the Prothonotary, and shall be served on the opposing party or their counsel of record. Only matters raised on exceptions will be considered by the Court, and any matters not raised on exceptions shall be deemed to be waived.

(1) Within twenty (20) days of filing the exceptions, the moving party shall file their request for argument and proposed Order with the Court Administrator.

(2) Both parties shall file their briefs no later than ten (10) days prior to the scheduled argument. If the briefs are not timely filed, then the Court may dismiss the exceptions, refuse or limit argument on the exceptions, or enter any other relief deemed appropriate by the Court.

(3) Copies of exceptions and briefs shall be provided to all counsel of record (or to a party directly if unrepresented by counsel) the Master and to the Judge.

**Local Rule 1920.73. Praecipe to Transmit Record.**

(a) The Praecipe to Transmit Record shall follow the form set forth in Pennsylvania Rules of Civil Procedure 1920.73(b).

(b) If the parties have dependent children 18 years or under, a copy of the parties' completion certification form or waiver of the "Children Cope with Divorce" program may be attached to the Praecipe to Transmit Divorce, if completed by the parties. Although, in accordance with 23 Pa.C.S. § 5332, the Court may require the parties to attend the program, the failure of a party to attend the program shall not impede the transmittal of the record. As such, upon proper praecipe, a final decree may be issued even if one or both parties have not attended the Children Cope with Divorce" program. Notwithstanding the above, parties who are otherwise obliged to attend the program by Court Order, must still attend the program.

**Local Rule 1920.74. Motion for Appointment of Master.**

MOTION FOR APPOINTMENT OF MASTER

\_\_\_\_\_ (Plaintiff) (Defendant), moves the Court to appoint a Master with respect to the following claims:

- \_\_\_\_\_ Divorce
- \_\_\_\_\_ Annulment
- \_\_\_\_\_ Alimony
- \_\_\_\_\_ Alimony Pendente Lite
- \_\_\_\_\_ Distribution of Property
- \_\_\_\_\_ Counsel Fees
- \_\_\_\_\_ Costs & Expenses
- \_\_\_\_\_ Support

1. Discovery is complete as to the claim(s) for which the appointment of a Master is requested.

(a) Plaintiff's Inventory filed: \_\_\_\_\_ .

(b) Defendant's Inventory filed: \_\_\_\_\_ .

(c) Plaintiff's Income & Expense statement filed: \_\_\_\_\_ .

(d) Defendant's Income & Expense statement filed: \_\_\_\_\_ .

If no Inventory and/or Income and Expense Statement has been filed, a copy of the Court Order allowing appointment of a Master must accompany this Motion.

2. The non-moving party (has) (has not) appeared in the action (personally) (by his attorney, \_\_\_\_\_, Esquire).

3. The Statutory ground(s) for divorce (is)(are) \_\_\_\_\_ .

4. Delete the inapplicable paragraph(s):

(a) The action is not contested.

(b) An agreement has been reached with respect to the following claims: \_\_\_\_\_ .

(c) The action is contested with respect to the following claims: \_\_\_\_\_ .

5. The action (involves) (does not involve) complex issues of law or fact.

6. The hearing is expected to take \_\_\_\_\_ (hours) (days).

7. The full name, address and telephone number of the non-moving party (or their attorney, if represented) is \_\_\_\_\_ .

8. Additional information, if any, relevant to the Motion: \_\_\_\_\_ .

As the moving party or attorney for the moving party, I certify that all parties have complied with the requirements of Pa.R.C.P. 1930.50 (Discovery), 1920.31 (Filing of Income & Expense Statement), 1920.33 (Filing of Inventory), and 1920.46 (Military Service).

DATE: \_\_\_\_\_  
Signature of moving counsel or party  
Typed Name, Address and Phone  
\_\_\_\_\_  
\_\_\_\_\_  
( ) \_\_\_\_\_

**ORDER:**

**IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA CIVIL ACTION—LAW**

PLAINTIFF, )  
Plaintiff )  
v. ) No. 11390 - 2005  
DEFENDANT, )  
Defendant )

**ORDER APPOINTING MASTER**

AND NOW, this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, upon consideration of the foregoing Motion for Appointment of Master, it is hereby Ordered, Adjudged and Decreed that \_\_\_\_\_, Esquire, is hereby appointed Master with respect to all claims of record as of the time of the Master’s hearing and all issues otherwise raised or preserved by the pleadings.

BY THE COURT:

[Pa.B. Doc. No. 12-1897. Filed for public inspection September 28, 2012, 9:00 a.m.]

\_\_\_\_\_

**SUSQUEHANNA COUNTY  
Legal Journal; No. 2012-57 MD**

**Administrative Order**

And Now, this the 17th day of April 2012, the Court hereby designates the *Susquehanna County Legal Journal* as the legal publication for Susquehanna County and all notices and special service required by Rule or Statute to appear in a legal journal of the County shall be published by the *Susquehanna County Legal Journal*.

By the Court

KENNETH W. SEAMANS,  
President Judge

[Pa.B. Doc. No. 12-1898. Filed for public inspection September 28, 2012, 9:00 a.m.]

\_\_\_\_\_

**VENANGO COUNTY  
Promulgation of Local Rules of Juvenile Court Procedure; MD. No. 81-2008**

**Order of the Court**

And Now, 24th day of August, 2012, it is hereby Ordered and Decreed that Venango County Court of

Common Pleas Local Rules of Juvenile Court Procedure 1101, 1102, 1105, 1242, 1242(A)(2), 1242E, 1242F, 1390, 1391, 1392, 1393, 1394, 1395, and 1396, are adopted. These rules shall be continuously available for public inspection and copying in the office of the prothonotary/clerk of courts. Upon request and payment of reasonable costs of reproduction and mailing, the prothonotary/clerk shall furnish to any person a copy of any local rule. The said local rules shall become effective and enforceable thirty (30) days after the date of publication in the *Pennsylvania Bulletin*.

By the Court

OLIVER J. LOBAUGH,  
President Judge

**V.C.R.J.C.P. 1101. Construction.**

These rules shall be construed using the same rules of construction used in construing the Pennsylvania Rules of Juvenile Court Procedure.

**V.C.R.J.C.P. 1102. Citing the Local Rules of Juvenile Court Procedure.**

These rules shall be cited as “V.C.R.J.C. P. \_\_\_\_\_.”

**V.C.R.J.C.P. 1105. Local Rules. Noncompliance.**

No case shall be dismissed nor request for relief granted or denied because of failure to comply with one or more of these local rules. In any case of noncompliance, the Court will alert the party to the specific provision at issue and will provide a reasonable time for subsequent compliance.

**V.C.R.J.C.P. 1242. General Conduct of Shelter Care Hearing.**

The Court shall make a determination if the subject child is in need of Shelter Care. At the Shelter Hearing the Court shall determine if and where the child shall be placed, what services the child requires and determine an appropriate visitation schedule.

**V.C.R.J.C.P. 1242A(2). Appointment of Counsel for Parents.**

In all Dependency Cases an attorney will be provided to the parents and or custodians to represent them during the pendency of the case.

**V.C.R.J.C.P. 1242E. Parents’ Rights Video.**

The parties shall view the parents’ rights video at the Shelter Review Hearing if the child is in placement. In the event that there is no shelter placement, the parties shall view the video prior to the Facilitation. This video is mandatory for parents and guardians and the video is available for anyone else who wants to view the video.

**V.C.R.J.C.P. 1242F. Additional Shelter Hearing Provisions.**

In addition the Court may also:

Determine whether the child and/or the parent, guardian, and/or custodian should be referred for appropriate services; and,

The Agency/Petitioner shall provide a copy of the shelter application to the parties prior to the commencement of the hearing. The Agency/Petitioner may serve the attorneys via e-mail or fax in addition to the other methods of service.

**Chapter 13**  
**Part F. Facilitation**

**V.C.R.J.C.P. 1390. Facilitation.**

Immediately preceding the Dependency Hearing on a petition to adjudicate a child to be dependent, or at a time otherwise directed by the Court, Facilitation may be conducted.

**V.C.R.J.C.P. 1391. Facilitation defined.**

Facilitation is a confidential process in which a neutral third person, appointed by the court, acts to encourage and to assist the parties in achieving a non-adversarial resolution to the allegations set forth in the petition alleging the child to be dependent. The Facilitator assists the parties in problem identification and resolution. During the facilitation process, the parties may agree to orally amend the allegations of the petition and the terms of the proposed plan for parent participation. The Facilitator will assist the parties in resolving issues regarding the child's placement; the plan for visitation by the parent, guardian, and/or custodian; the responsibilities, duties and requisite services for the family's care and treatment; the roles of other individuals in the family's service plan; and other matters relative to insuring the child's safety and best interests.

**V.C.R.J.C.P. 1392. Participants to the Facilitation.**

The parent, guardian, and/or custodian; the attorney representing the parent, guardian, and/or custodian; the guardian ad litem; court appointed special advocate (CASA); and the Agency may participate in the facilitation process. If Facilitation occurs, the child shall attend the Facilitation, unless the child has been excused pursuant to Pa. R. J.C.P. 1128(B). The child's relatives; the foster parent; persons providing support for the parent, guardian or custodian; and/or other persons who have significant or caretaking relationships to the child may be in attendance at the Facilitation unless excluded by the court. Facilitations are not otherwise open to the public except as may be approved by the Court for the purposes of training or research.

**V.C.R.J.C.P. 1393. Facilitation Procedure.**

All cases pending a Dependency Hearing may first be submitted for facilitation.

a. All parties are required to attend the Facilitation and each party shall be permitted to participate in the Facilitation to the extent each party desires to do so and, if participating in the Facilitation Process, shall mediate the issues in good faith. The parties are not compelled to reach any agreement.

b. The Facilitator shall first determine whether the parties named in the petition have been apprised of their rights and if they are represented by Counsel. The Facilitator shall explain the process and identify the issues that are to be discussed in Facilitation any party attending the Facilitation must have Counsel present unless the right to Counsel is affirmatively waived

c. Each allegation of the petition alleging the child to be Dependent shall be reviewed. The parties shall be given an opportunity to explain their position with regard to each allegation, however, no party shall be compelled to speak concerning the Dependency Allegations, but may always be permitted to participate in the discussions and potential agreements with regard to the parent participation plan, family service plan, or other proposed services. Where appropriate and, by agreement of the parties, each allegation may be modified.

d. Once the petition is facilitated, the Facilitator shall assist the participants in determining the nature and types of services in which the child or parent, guardian, custodian, or other person should be required to participate. Agreements reported to the Court following facilitation must be based on the autonomous decisions of the parties and not the decisions of the Facilitator.

e. The Facilitator shall orally present the results of the facilitation to the Court at the Dependency Hearing and, if appropriate, the Dispositional Hearing. The report shall include a recitation of the parties' respective admissions and denials to the allegations of the petition, the parties' agreement as to the proposed provisions of the parent participation plan, family service plan, and proposed services. Any allegation which is denied by a party shall simply be reported by the Facilitator to the Court as being denied without further explanation.

f. At the Dependency Hearing, the Court will review the stipulations of fact that have been agreed upon at the Facilitation by the parties in the form of allegations that have been admitted as alleged or admitted as modified. The Court will then determine if the stipulations of fact are sufficient for the Court to enter a finding of dependency and/or whether a further fact-finding hearing will be necessary. With regard to any agreement reached by the parties with respect to the Parent Participation Plan, Family Service Plan or proposed services, the Court may adopt the parties' agreement as an order of the Court if it determines the agreement is in the best interests of the child. Any issues that are not resolved through facilitation or not adopted as an order of the Court may be referred back by the Court for additional facilitation, may be resolved by order of the court based on a summary presentation, or may be scheduled by the Court for subsequent hearing.

g. The rules of evidence do not apply in facilitation.

**V.C.R.J.C.P. 1394. Termination of Facilitation.**

The Facilitator may terminate facilitation whenever the Facilitator believes that continuation of the process would harm or prejudice the child or one or more of the parties. The Facilitator may bifurcate the process whenever the Facilitator determines that a party's prior history of domestic violence would impede another party's ability to openly discuss issues should the other person be present.

**V.C.R.J.C.P. 1395. Confidentiality.**

Statements and issues discussed in Facilitation are confidential and may not be used as statements against interest or otherwise against a party in any Dependency Hearing, fact finding, or in any civil or criminal proceeding unless consent by the declarant is given. Facilitators shall not be subject to process requiring the disclosure of any matter discussed during the Facilitation, but rather, such matters shall be considered confidential and privileged in nature. The confidentiality requirement may not be waived by the parties, and a successful objection to the obtaining of testimony or physical evidence from Facilitation may be made by any party or by the facilitators. Nothing in this rule shall prevent persons subject to Mandated Reporting Requirements from complying with said laws and they shall be permitted to make all disclosures and reports required by law and the Facilitator shall inform the parties accordingly.

**V.C.R.J.C.P. 1396. Qualification of Facilitators.**

All Facilitators shall be appointed by the Court. In determining the appointment of a Facilitator, the Court may require any of the following training to be completed:

a. A series of court-approved classes or seminars on the principles of Family Group Decision Making and/or dependency mediation as offered by the Court,

b. Classes or seminars offered by American Humane Association,

c. Classes or seminars offered by model courts designated by the National Council of Juvenile and Family Court Judges;

d. Dependency mediation courses that may be offered by the Association of Family and Conciliation Courts;

e. Classes or seminars on the law governing dependent children;

f. Classes or seminars on issues related to poverty, racial and cultural diversity, strength based practices, and positive youth development;

g. In addition to the foregoing, the Court may require a Facilitator to complete such other training as the Court determines to be necessary and appropriate.

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