

THE COURTS

Title 25—LOCAL COURT RULES

BERKS COUNTY

Administrative Order Relative to Amendments of Rules of Civil Procedure and Judicial Administration; No. 13-161 Prothonotary; No. CP-06-AD-0000013-2013 Clerk of Courts

Order

And Now, this 5th day of August, 2013, the following amendments to Berks County Rules of Civil Procedure 14; 211.6; 211.8; 211.9; 212.1; 239; 1915.3; 1915.15; 1915.18; 1915.26; 1915.27; 1915.32; 1915.33; 1920.31(a)(1); 1920.42; 1920.46; 1920.51.4; and 1920.51.5; new Berks County Rule of Civil Procedure 1012.1 and amendment to Berks County Rule of Judicial Administration 402 are hereby adopted and shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*, in accordance with Pa.R.C.P. No. 239(d) and new Berks County Rule of Civil Procedure 205.4 and amendments to Berks County Rules of Civil Procedure 210 and 1028(c) are hereby adopted and shall become effective upon publication on the Pennsylvania Judiciary's Web Application Portal in accordance with Pa.R.C.P. No. 239.8(d).

(New language is bold, and removed language is shown by brackets in bold.)

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

1. File one (1) certified copy of this Order, including the newly adopted rules, with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies of this Order, including the newly adopted rules, and one (1) disk copy with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. File one (1) certified copy of this Order, including the newly adopted rules, with the Civil Procedural Rules Committee of the Supreme Court of Pennsylvania.
4. File one (1) certified copy of this Order, including the newly adopted rules, with the Domestic Relations Procedural Rules Committee of the Supreme Court of Pennsylvania.
5. File one (1) certified copy of this Order, including the newly adopted rules, with the Berks County Law Library.
6. Keep continuously available for public inspection and copying, one (1) copy of this Order, including the newly adopted rules, in the Office of the Prothonotary of Berks County.
7. Keep continuously available for public inspection and copying, one (1) copy of this Order, including the newly adopted rules, in the Office of the Clerk of Courts of Berks County.

By the Court

HONORABLE PAUL M. YATRON,
President Judge

Berks County Rules of Civil Procedure

Rule 14. Pretrial Status Conference.

[(b)] (a)

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(b)

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Rule 205.4. Electronic Filing and Service of Legal Papers.

(a)(1) Beginning on the date established by the President Judge by Administrative Order, parties shall file all "legal papers" as defined by Pa.R.C.P. No. 205.4(a)(2), with the Prothonotary through the Berks County Electronic Filing System "EFS" as more specifically provided here and in Pa.R.C.P. No. 205.4.

Explanatory Note: The term "legal paper" as defined in Pa.R.C.P. No. 205.4(a)(2) encompasses all pleadings and other papers filed with the Prothonotary, including exhibits and attachments—even if the legal papers are not adversarial in nature and do not require the non-filing party or parties to respond.

(2) As used in this rule, the following words shall have the following meanings:

CMS (Case Management System): A Court case management system manages the receipt, processing, storage and retrieval of data associated with a case and performs actions on the data.

Electronic Filing (E-Filing): The electronic transmission, acceptance, and processing of a filing. A submission consists of data, one or more documents, and/or images. The definition of electronic filing does not apply to facsimile or e-mail.

Electronic Service (E-Service): The electronic transmission of an original document to all other electronically-registered case participants via the electronic filing system. Upon the completion of any transmission to the electronic filing system, an electronic receipt shall be issued to the sender acknowledging receipt by the electronic filing system.

(b)(1) **Authorized Electronic Format of Legal Papers Electronically Filed.** All legal papers shall be filed in a portable document format ("pdf"). A paper presented for filing in hard copy or in a format other than portable document format shall be converted to portable document format and maintained by the Prothonotary in that format pursuant to Pa.R.C.P. No. 205.4(b)(1).

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(c)(2) **Website. Access to the Website.**

(i) **Website.** All legal papers shall be filed electronically through the Berks County Electronic Filing System "EFS" which shall be accessible through the County of Berks website, www.countyofberks.com, or at such other website as may be designated from time to time.

(ii) Use of the EFS shall be in accordance with the User Manual.

(iii) *Access to the Website.* To obtain access to the Berks County Electronic Filing System, counsel and any unrepresented party must apply for and receive a User Name, Password, and Personal Identification Number ("PIN").

(iv) Registered users shall be individuals, and not law firms, agencies, corporations, nor other groups.

(v) User access may be suspended to prevent fraud, to maintain security of the system and network, to prevent an unacceptable level of congestion, or to prevent a disruption to the EFS or another user.

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(d)(1) *Payment of Filing Fees*

The Prothonotary will accept filing fees through PayPal or as set forth in the User Manual. The Prothonotary will not accept advance deposits for future filings.

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(f)(1) *Filing Status Messages*

(i) Upon receipt of the legal paper, the Prothonotary shall provide the filing party with an acknowledgment, which includes the date and time the legal paper was received by the Berks County Electronic Filing System.

(ii) After review of the legal paper, the Prothonotary shall provide the filing party with e-mail notification, or notification on the Berks County Electronic Filing System, that the legal paper has been accepted for filing ("filed") or refused and not accepted for filing.

(f)(2) When an electronic document is accepted, the electronic document is the official record, except for documents containing a raised seal. Documents containing a raised seal shall be filed electronically, and the original with the raised seal shall be filed with the prothonotary's office as the official record.

(i) If a document filed in paper format is digitized, recorded, scanned or otherwise reproduced into an electronic record, document or image, the electronic record, document or image is the official record except for documents with raised seals.

(ii) Once a paper document is digitized, recorded, scanned or otherwise reproduced into an electronic record, document or image, the paper document may then be destroyed by the Prothonotary, unless the document is required to be preserved by law or order of court.

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(f)(3) *Signatures and Verifications*

(i) The electronic filing of legal papers utilizing the User Name, Password and PIN issued as provided by this rule and Pa.R.C.P. No. 205.4, constitutes the party's signature on electronic documents as provided by Pa.R.C.P. No. 1023.1 and, if the filing party is an attorney, constitutes a certification of authorization to file it as provided in Pa.R.C.P. No. 205.1. Additionally, the following provisions apply:

(ii) *Filing Party.* The legal paper must include a signature block, and the name of the filer under whose User ID, Password and PIN the legal paper is submitted. The legal paper may be submitted

with the filer's scanned signature or "/s/" and the filer's name typed in the space where the signature would otherwise appear on the legal paper. If an attorney is the filing party, the Pennsylvania Supreme Court Attorney Identification number must be included under the signature line. The correct format for an attorney signature is as follows:

/s/ ATTORNEY NAME
PA Supreme Court ID #
Attorney for (Plaintiff/Defendant) XYZ Corporation
ABC Law Firm
ADDRESS
TELEPHONE NUMBER
E-MAIL ADDRESS
FAX NUMBER

(iii) An authorized electronic filer must not allow their user name and password to be used by anyone other than an agent who is authorized by the electronic filer.

(iv) Electronic filers shall notify the Prothonotary's Office immediately by calling 610-478-6970 if there has been any unauthorized use of their EFS user name and password.

(v) *Client Verifications and Documents Executed By Clients or Other Persons.* The Verification required by Pa.R.C.P. No. 206.1 and Pa.R.C.P. No. 1024 and the signature page(s) of any document or legal paper executed by any party other than the filing party must be scanned and attached to the electronic filing in a portable document format at the time the legal paper is submitted.

(vi) Documents requiring signatures of more than one party must be scanned and attached to the electronic filing in a portable document format at the time the legal paper is submitted.

(vii) The original of a sworn or verified document that is electronically filed (e.g. affidavit) or is contained with an electronic filing (e.g. verification) shall be maintained by the electronic filer and made available upon direction of the court or reasonable request of the signatory or opposing party.

Note: This subsection is designed to address issues which may arise regarding signatures on legal papers and documents. A filer's use of the User Name, Password and PIN issued through the Berks County Electronic Filing System is the filer's "electronic signature". However, legal papers often require verifications executed by non-filers. In addition, many legal papers or documents require multiple signatures. Deficiencies in content and execution could be subject to preliminary objections. In order to avoid prejudicial delay, this section requires that the filing party scan such legal papers, documents or signature pages and include them as part of the electronic filing at the time of submission. Original signed copies should be kept as provided for in Pa.R.C.P. No. 205.4(b)(4).

(f)(4) *Electronic Filing Fees and Costs*

(i) The Prothonotary shall collect an electronic filing fee for each legal paper or exhibit filed as established by the Prothonotary with the approval of the President Judge of the Berks County Court of Common Pleas.

(ii) In addition to such electronic filing fee, the Prothonotary is authorized to charge a fee as set from time to time for each page of a legal paper or exhibit which is filed in hard copy format and which must be converted to a portable document format.

(iii) All fees collected pursuant to this rule shall be set aside by the Prothonotary and remitted monthly to the Berks County Treasurer's Office.

(iv) All such fees and costs collected will be used for the implementation and maintenance of the Berks County Electronic Filing System "EFS" and additional development, enhancements and training.

(v) Electronic filers shall alert the EFS to any payment errors within forty-five (45) days of the payment date by calling the Prothonotary's Office at 610-478-6970.

(f)(5) Other Procedures Necessary to the Operation of a System of Electronic Filing

(i) If a legal paper is accepted, it shall be deemed to have been filed as of the date and time it was received by the Berks County Electronic Filing System; provided, however, that if a legal paper is submitted without the requisite fee, the legal paper shall be deemed to have been accepted for filing as of the date payment was received. The Prothonotary is authorized to refuse for filing a legal paper submitted without the requisite payment. If the pleading or legal paper other than original process is accepted for filing, it will be electronically served as authorized by Pa.R.C.P. No. 205.4(g)(1)(ii) and service shall be effectuated as provided in Pa.R.C.P. No. 205.4(g)(2)(ii).

(ii) *Termination Notice.* In addition to the procedures set forth in Pa.R.C.P. No. 230.2, in cases where a party is a registered user of the Berks County Electronic Filing System, notice of proposed termination may also be electronic.

(iii) An electronic filer is not required to file any paper copies unless specifically required by the court.

(iv) An electronic filer is not required to file multiple copies of documents as specified elsewhere in these local rules. If documents are to be served electronically, the electronic filer is not required to provide envelopes as specified elsewhere in these local rules, except for those parties who are to receive the document by regular mail or other means of service as required by other rules.

(v) Electronic filing is permitted at all times when the EFS is available. If the EFS is unavailable at the time a registered user attempts to file a document, the registered user shall make reasonable efforts to file the document as soon as the unavailability ends.

(vi) If a registered user believes the unavailability of the EFS prevented a timely filing to the party's prejudice, the registered user may submit a motion to the court within ten (10) days of the registered user's unsuccessful attempt to file the document. The motion shall state the date and time of the first unsuccessful attempt to file the document electronically, the date(s) and time(s) of any subsequent attempts to file the document electronically, and why the delay was prejudicial.

(vii) The filing deadline for any document filed electronically is 11:59:59 p.m. EST/EDT.

(viii) *Documents with Attachments.* Attachments, including exhibits, that are part of any filing, shall be filed electronically at the same time as the document.

(ix) An attachment or exhibit that exceeds the technical standards for the EFS or is unable to be electronically filed must be filed as ordered by the court. A Notice of Exhibit Attachment shall be filed in the EFS referencing such an exhibit with specificity and stating the reason why the exhibit was not filed electronically.

(x) The Court may, on its own motion or for good cause shown, order a filing be made under seal. Filings requested to be made under seal shall be submitted to the Prothonotary's Office over the counter rather than through EFS.

(xi) Sealed or confidential documents may be submitted for electronic filing in a manner that maintains confidentiality under applicable law.

(xii) Filings not under seal are public and should not include personal information such as social security numbers, tax identification numbers, credit card numbers (other than the last 4 digits), financial account numbers, Driver's License numbers, and passport numbers. This sensitive data may be collected on the EFS so that the data can be viewed by authorized personnel while being protected from public view.

(xiii) Family Court documents shall be confidential and shall not be viewable in CMS by the public without an Order of Court.

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(g)(2) Service by Electronic Transmission

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(iii) Service shall be made to registered users through the EFS and to all others as otherwise provided in the Pa.R.C.P. Service by the EFS is complete upon transmission except that, for purposes of calculating the time for filing a response, a transmission on a Saturday, a Sunday, a holiday recognized by Berks County, or after 5:00 p.m. EST/EDT, shall be considered complete on the next day that is not a Saturday, Sunday or recognized Berks County holiday.

(iv) Other than original service, the electronic filer shall not be required to serve a paper copy of the electronic filing on the opposing part if the opposing party is a registered user on the EFS and the electronic filing has been served on them through the EFS.

(h) Civil and Family Court Cover Sheets will not be required in EFS cases because any required data will be collected through the EFS for transmission to the Administrative Office of Pennsylvania Courts as required by Pa.R.C.P. No. 205.5(e).

Rule 210. Form and Content of Briefs.

[(1)] (a)

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[(a)] (1)

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[(b)] (2)

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[(c)] (3)

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[(d)] (4)

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[(e)] (5)

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[(2)] (b)

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[(3)] (c)

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[(4)] (d)

Rule 211.6. Assignment of Cases for Argument.

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(b) Court Administration shall prepare a schedule . . . and shall post such schedule . . . online at [www.co.berks.pa.us/courts.com] www.countyofberks.com/courts . . .

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Rule 211.8. Argument Court Procedures for Family Argument.

[(1)] (a) . . . B.R.C.P. No.s 211.1 through 211.6 . . .

[(a)] (1)

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[(a)] (2)

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[(a)] (3)

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[(2)] (b)

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[(3)] (c)

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[(a)] (1)

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[(a)] (2)

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[(a)] (3)

Rule 211.9. Argument Court Procedures for Support Argument.

[(1)] (a) . . . B.R.C.P. No.s 211.1 through 211.6 . . .

[(a)] (1)

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[(b)] (2)

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[(c)] (3)

Rule 212.1. Filing of Certificate of Readiness and Scheduling of Pretrial Conferences.

(a) . . . The forms are available in the Prothonotary's Office and online at [www.co.berks.pa.us/courts.com] www.countyofberks.com/courts

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Rule 239. Notice of Adoption. Copies Thereof.

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(b) Upon request, the prothonotary shall furnish copies of the Berks County Rules of Court to any person requesting the same upon payment of such charge [**therefor**] as may be determined from time to time by the court. They are also available at [www.co.berks.pa.us/courts.com] www.countyofberks.com/courts.

Rule 1012.1. Admission Pro Hac Vice.

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(g) Attorneys admitted pro hac vice in a case using the Berks County Electronic Filing System (EFS) may file as a non-attorney user since the EFS system only allows attorney users with a valid Pennsylvania Supreme Court identification number.

Rule 1028(c). Preliminary Objections.

[(1)] (a) . . . Pa.R.C.P. No.s 1028(a)(2), (3) . . . Said argument date must be in accordance with the court calendar. The court calendar can be found online at [www.co.berks.pa.us/courts.com] www.countyofberks.com/courts.

[(2)] (b) . . . Pa.R.C.P. No.s 1028(a)(1), (5) . . .

[(a)] (1)

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[(b)] (2)

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[(c)] (3)

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[(3)] (c)

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[(4)] (d)

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[(i)] (1) . . . Pa.R.C.P. No. 1028(c)(1) . . .

[(ii)] (2) . . . Pa.R.C.P. No. 1028(c)(1) . . .

[(iii)] (3) . . . Pa.R.C.P. No. 1028(c)(1) . . .

[(5)] (e) . . . Pa.R.C.P. No.s 1028(a)(2), (3) . . .

[(6)] (f)

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[(7)] (g) . . . Pa.R.C.P. No.s 1028(a)(1), (5) . . .

Pa.R.C.P. No. 1029(d) . . .

[(8)] (h)

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[(9)] (i)

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[(10)] (j)

Rule 1915.3. Commencement of Action: Filing.

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(b) [An] A Scheduling Order shall be attached to the complaint substantially in the form provided by [Pa.R.C.P. 1915.15(c).] B.R.C.P. No. 1915.15(b). [The proposed Order when filed shall be completed and shall include in the space so designated the name, address and telephone number of the Lawyers' Referral Service of the Berks County Bar Association. The current address and telephone number is as follows:

LAWYERS' REFERRAL SERVICE OF BERKS COUNTY BAR ASSOCIATION
544 Court Street
Reading, PA 19601
Telephone No.: (610) 375-4591

When filed, the Order form shall be completed except for the conciliation conference date and time and the Judge's signature and date. The Prothonotary shall then obtain a date and time for a conciliation conference from the Custody Coordinator. The verified complaint and attached Order shall then be presented to the Judge assigned to the case for signature.]

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(c)(2) If a claim for custody, partial custody or visitation is asserted in a divorce complaint [or in a subsequent pleading], it shall receive [the same] a separate term and number as the divorce action. Such pleading shall contain the information required by Pa.R.C.P. No. 1915.15. If a custody count is filed as part of a divorce complaint or counterclaim to a divorce complaint, the filer must attach a stipulated custody agreement or custody scheduling order simultaneously with the filing. If the filer does not want the custody matter to proceed forward at the time the divorce complaint or counterclaim is being filed, the custody count may not be included with the divorce complaint or counterclaim. If a stipulated custody agreement or scheduling order is not attached when a custody count is filed as part of a divorce complaint or counterclaim, the custody count may be dismissed.

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Rule 1915.15. Forms.

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(b) The Scheduling Order shall be substantially in the form provided on the Court's website www.countyofberks.com/courts. [and notice requiring the parties to attend the Children in the Middle Program, or other equivalent program, shall be substantially in the following form:

(CAPTION)
ORDER OF COURT

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

1. All parties to this custody action shall complete the program known as "Children in the Middle", or an alternative approved program.

2. Each party shall register for the program by calling Family Guidance Center, 610-374-4963, 1235 Penn Avenue, Suites 205-206, Wyomissing, PA 19610, or the program of their choice as approved prior thereto by the Court, within ten (10) days of receiving this Order.

3. Registration forms shall be available in the Office of Court Administration on the Fourth Floor of the Berks County Services Center, 633 Court Street, Reading, Pennsylvania.

4. Each party shall diligently participate in and shall file a copy of the Certificate of Completion of the program in the Office of the Prothonotary of Berks County to the above docket number.

5. Each party shall bring a photocopy of the Certificate of Completion to the custody conference or hearing scheduled in this matter.

6. Failure to comply with this Order may result in dismissal of the action, striking of pleadings, or other appropriate sanctions, including citation for contempt.

7. This requirement will not be waived except upon written motion to the assigned Judge for good cause shown.

8. Parties who reside outside of Berks County may attend an equivalent program in that area, provided they furnish official information regarding the program to the Court or to the Custody Master. They shall also be responsible for providing Certificates of Completion as set forth above.

BY THE COURT:

J.]

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

An Order of Court directing psychological or home study evaluations in a custody matter pursuant to B.R.C.P. No. 1915.8 shall be in substantially in the form provided on the Court's website www.countyofberks.com/courts [the following form:

Plaintiff : IN THE COURT OF COMMON PLEAS
OF BERKS COUNTY, PENNSYLVANIA
CIVIL ACTION—LAW
CHILD CUSTODY
No.
vs.
Defendant : Assigned to: J.

CUSTODY EVALUATION ORDER

AND NOW, this _____ day of _____, 2013, upon motion of _____, Esq., Custody/Support Master, it is hereby ORDERED that the following persons shall be evaluated for child custody: _____, and any other people in the discretion of the Evaluator who should be evaluated. Counsel for any party may submit a short letter to the evaluator to identify issues. Counsel shall have no further ex parte communication with the Evaluator.

These evaluations shall be performed by: _____ The parties shall contact the Evaluator to schedule

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

The Evaluator shall supply the Court, the attorneys of record, and unrepresented parties with a copy of the evaluation report. The Court's copy shall be directed to: Assistant Family Court Administrator, 4th Flr.-SC, 633 Court St., Reading, PA 19601. The contents of an expert report prepared pursuant to Pa.R.C.P. 1915.8 shall be disclosed to the parties, the Court, attorneys in the case and other experts involved in the case. Disclosure to an unauthorized person, including the child who is the subject of the action, may result in sanctions.

The cost of these evaluations shall be paid for as follows: Father shall be responsible for % of the total costs of the evaluations and Mother shall be responsible for % of the total costs of the evaluations.

An additional custody conference shall be held in this matter after receipt of the Evaluation Report.

BY THE COURT:

, JUDGE]

Rule 1915.26. Conciliation Conference.

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(h) . . . The notice shall state that each party has [ten (10)] twenty (20) days from the date of notice to file written exceptions . . . and that upon failure to file such exceptions within [ten (10)] twenty (20) days . . .

Rule 1915.27. Nonappearance at Hearing Before Custody Master.

(a)

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[(a)] (b)

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[(b)] (c)

Rule 1915.32. Appendix.

Any Order for custody, partial custody or visitation entered by the Court, either by stipulation or after hearing held, shall have affixed to it [an appendix] one or more appendixes that shall be made a part of the Court Order. The [appendix] appendixes shall be substantially in the form provided on the Court's website www.countyofberks.com/courts. [in the following form:

APPENDIX TO CUSTODY ORDER

Certain rules of conduct which generally apply to custody matters are set forth below and are binding on all parties. Violation of any of these rules

could become the subject of contempt proceedings before this Court, or could be grounds for modification of this Order. Custody orders are civil court orders and are not enforceable by police or other law enforcement. The word "child" is used below, but these rules apply to all the children in the Order. If any of these general rules conflict with any specific provisions of the Order, the Order shall control.

1. In addition to the rights in the Order, all parties shall also have the following rights with respect to the child:

A. The right to reasonable telephone contact with the child when they are in the other party's custody.

B. The right to be fully informed concerning the progress of the child in school and the child's medical status, including the right to obtain information directly from the child's school or medical practitioner.

C. The right to be informed in advance before any important decision is made concerning the child and the opportunity to participate in those decisions.

2. In the event of any serious illness of the child at any time, the party then having custody of the child shall immediately communicate with the other parties by telephone or by any other means, informing the other parties as to the nature of such illness. During such illness, each party shall have the right to visit the child as he or she desires consistent with the proper medical care of the child.

3. None of the parties shall alienate or permit an attempt by anyone else to alienate the child from the other parties. While in the presence of the child none of the parties shall make any remarks or do anything which is derogatory or uncomplimentary to the other parties and it shall be the duty of each party to uphold the other parties as ones the child should respect and love.

4. Both parties shall provide each other with the addresses and telephone numbers of where they will be staying anytime they take a trip with the child out of the jurisdiction of Berks County in excess of three (3) days.

5. The parties shall not conduct arguments or heated conversation in the presence of the child or when the child can overhear the argument.

6. The parties shall at all times consider the child's best interests, and act accordingly. It is in a child's best interest for the parties to understand that the child is trying desperately to cope with the fact of his or her parents' separation, and needs help in loving both parents and any other involved parties.

7. Neither party shall question the child as to the personal life of any other party except insofar as necessary to insure the personal safety of the child. By this we mean that the child will not be used as a spy on any other party. It is harmful to a child to be put in the role of spy.

8. The parties should remember that they cannot teach the child proper moral conduct if that party is indulging in improper conduct. Children are

quick to recognize hypocrisy, and the party who maintains a double standard will lose the respect of the child.

9. Weekend and evening custody shall be subject to the following general rules:

A. Arrangements should be worked out beforehand between the parties without forcing the child to make choices and run the risk of displeasure. However, the child shall be consulted as to their schedules when appropriate.

B. Custodial rights shall be exercised at reasonable hours and under circumstances reasonably acceptable to the other parties and to the needs and desires of the child.

C. If a party finds himself or herself unable to pick up or drop off the child at the designated or agreed to time, he or she should give immediate notice to the other parties to avoid subjecting the child to unnecessary worry or failed expectations.

D. The party having custody of the child should prepare them both physically and mentally for the transfer of custody to another party and should have them available at the time and place designated in the Order or mutually agreed upon.

E. If any party or the child has plans which conflict with their scheduled custodial time and they wish to change their custodial time, the parties should make arrangements for an adjustment acceptable to the schedules of everyone involved. Predetermined schedules are not written in stone, and the parties should be flexible for the sake of the child.

F. If a party shows up to begin their custodial time with the child and the party is under the influence of alcohol or drugs, the custodial time may be considered forfeited on those grounds alone.

10. If any party feels that another party has violated this Order, they may petition the Court as set forth in Pa.R.C.P. 1915.12.]

Rule 1915.33. Continuance Requests.

Continuance requests for custody conferences before the Custody Master shall be faxed, mailed, e-mailed or personally delivered to the Custody Office in the form of a letter. . . .

Rule 1920.31(a)(1).

* * * * *

(C) If a claim for custody, partial custody or visitation is asserted in a divorce complaint [or in a subsequent pleading], it shall receive [the same] a separate term and number as the divorce action. Such pleading shall contain the information required by Pa.R.C.P. No. 1915.15. If a custody count is filed as part of a divorce complaint or counterclaim to a divorce complaint, the filer must attach a stipulated custody agreement or custody scheduling order simultaneously with the filing. If the filer does not want the custody matter to proceed forward at the time the divorce complaint or counterclaim is being filed, the custody count may not be included with the divorce complaint or counterclaim. If a stipulated custody agreement or scheduling order is not attached when a custody count is filed as part of a divorce complaint or counterclaim, the custody

count may be dismissed. An additional filing fee in an amount as posted by the Prothonotary shall be required.

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Rule 1920.42. Filing of Praecepta to Transmit Record.

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(c) An administrative fee [of \$85.00] in an amount set by the President Judge through an Administrative Order, in addition to any fees imposed by the Commonwealth, shall be paid upon the filing of the praecipia to transmit the record.

Rule 1920.46. Affidavit of Nonmilitary Service. Appointment of Counsel for Defendant in Military Service.

[(c)] (a) . . . Pa.R.C.P. No. 1920.46 . . .

[(d)] (b)

Rule 1920.51.4. Motion and Order for Appointment of Divorce Master.

* * * * *

(c) At least [ten] twenty days prior to filing the motion for the appointment of a Divorce Master, the moving party shall serve all counsel of record and any unrepresented party with a copy of said motion and written notice of intention to file the motion. . . .

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

Upon filing a motion for the appointment of a Divorce Master, the moving party shall pay [a deposit of costs in the amount of \$500.00.] an amount as set by the President Judge through an Administrative Order.

Berks County Rules of Judicial Administration

Rule 402. Record of Filing.

The Prothonotary or clerk of courts shall time-stamp all papers filed the day and hour of filing the same, and no parole evidence shall be received to contradict such endorsement. For electronically filed documents, the date and time shall be the time the legal paper was received by the Berks County Electronic Filing System as more specifically set forth in B.R.C.P. No. 205.4.

[Pa.B. Doc. No. 13-1579. Filed for public inspection August 23, 2013, 9:00 a.m.]

FRANKLIN AND FULTON COUNTIES Adoption and Amendment of Local Rules of Civil Procedure; Misc. Doc. Volume 2013, Page 2648

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

August 7th, 2013, *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, Domestic Relations Division, are amended or adopted as indicated, to be effective thirty (30) days after publication in the *Pennsylvania Bulletin*:

Local Rule of Civil Procedure 39-1910.10 is amended in the following form.

Local Rule of Civil Procedure 39-1910.12 is adopted in the following form.

It Is Further Ordered that The District Court Administrator shall:

1. File a copy of this order and certified copy of the local rule with the Administrative Office of Pennsylvania Courts (AOPC).

2. File with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* two (2) certified paper copies and one (1) computer diskette or CD-ROM copy which complies with 1 Pa. Code § 13.11(b) containing the text of the local rule.

3. File one certified copy of the local rule with the Domestic Relations Procedural Rules Committee.

4. Provide one (1) certified copy of the local rule changes to the Franklin County Law Library and one (1) certified copy to the Fulton County Law Library.

5. Keep such local rule changes, as well as all local civil rules, continuously available for public inspection and copying in the Office of the Prothonotary of Franklin County, the Domestic Relations Section 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 and/or Domestic Relations shall furnish to any person a copy of any local rule.

6. Arrange to have the local rule changes published on the Franklin County Bar Association web site at www.franklinbar.org.

7. Arrange to have the local rule changes published on the Franklin County Government web site at www.franklincountypa.gov.

It Is Further Ordered that any prior Order issued by this Court promulgating Local Rule of Civil Procedure 39-1910.12 and amending Local Rule of Civil Procedure 39-1910.10 pursuant to Pa.R.C.P. 239.8 is hereby *Vacated* as said Order erroneously referenced Pa.R.C.P. 239.8.

By the Court

DOUGLAS W. HERMAN,
President Judge

Rule 39-1910.10. Support Hearing Procedures.

Actions in support in the Franklin County Branch shall proceed as prescribed by Pa.R.C.P. 1910.12 and 39th Jud. Dist. R.C.P. 39-1910.12. The "hearing officer" referred to in Pa.R.C.P. 1910.12 is designated as the Support Master. Actions in support in the Fulton County Branch shall proceed as prescribed by Pa.R.C.P. 1910.11 and 39th Jud. Dist. R.C.P. 39-1910.11.

Rule 39-1910.12. Office Conference, Master Hearing, Record, and Exceptions. (Franklin County Branch).

a. *Procedure, generally*: Support actions shall proceed in accordance with the alternative hearing procedure set forth in Pa.R.C.P. 1910.12.

b. *Procedure following office conference*: The interim order entered following office conference pursuant to Pa.R.C.P. 1910.12(b)(1) shall state that any party may within twenty days after mailing of a copy of the order file a written demand with Domestic Relations Section for a hearing before the Support Master. A demand for hearing before the Support Master shall not stay the order entered under Pa.R.C.P. 1910.12(b)(1) unless the Court so directs. If no party files a demand for hearing before the Support Master within the 20 day period, the

order shall constitute a final order. If a demand for hearing is filed, the Domestic Relations Section shall schedule a de novo hearing before the Support Master and give notice to the parties. Prior to the hearing before the Support Master, the party demanding a hearing may withdraw the demand without the consent of the opposing party. The opposing party may file a separate demand for hearing (cross appeal) to preserve the opposing party's right to a hearing on the opposing party's issues; however said demand must be filed within the original 20 day period as set forth above or it will be deemed untimely.

c. *Demand for hearing; issues*: The demand for hearing shall be in writing on a form to be provided by the Domestic Relations Section and it shall indicate issues that the party wishes the Support Master to address at the hearing. The party must select the type of hearing being requested, routine hearing or complex hearing.

1. A Routine Hearing is a hearing that is expected to need not more than 60 minutes to complete and which will not involve complex questions of law or fact.

2. A Complex Hearing is one that is expected to require more than 60 minutes to complete and/or will involve complex questions of law or fact. Discovery shall be permitted pursuant to Pa.R.C.P. 1910.12(c)(3). The party requesting a complex hearing must petition the court, using the demand for hearing form (mentioned above), for allowance to schedule a complex hearing.

3. Failure of the party to select either a routine hearing or a complex hearing on the "Demand for Hearing" form will result in the Domestic Relations Section scheduling the matter for a routine hearing lasting not more than 60 minutes.

d. *Filing fee; pauper status*: Except as set forth in subsection (3) below, the party shall pay a \$25.00 filing fee to the Domestic Relations Section at the time of filing the demand for hearing.

1. The demand for hearing shall not be accepted and no hearing shall be scheduled by Domestic Relations if not accompanied by the filing fee.

2. The filing fee is non-refundable.

3. If a party is unable to pay the filing fee, the party must seek leave of court using a form to be provided by the Domestic Relations Section in order to have the fee waived.

e. *Proceedings Before the Master*: Proceedings before the Support Master shall be conducted substantially as follows:

1. *Record de novo hearing before the Master*: All hearings scheduled before the Support Master shall be de novo, on-the-record hearings. All witnesses shall be under oath and a digital or stenographic record of the testimony shall be made. The notes of testimony shall not be transcribed unless:

A. Required by the Support Master to prepare the report and recommendation to the Court, or

B. Ordered and paid for by the party or parties following the filing of Exceptions by a party in accordance with paragraph (h) below.

2. *Pre-Trial Memorandum*: For either a routine or complex hearing, the Support Master may require a pre-trial memorandum to be prepared in advance of the hearing before the Support Master.

A. If required by the Support Master, the Pre-Trial Memorandum shall be filed at Domestic Relations at least 7 days before the hearing. The following shall apply:

1) Failure of the appealing party to file a pre-trial hearing memorandum may be considered an abandonment of claims and a withdrawal of the appeal. The court may impose other sanctions as appropriate.

2) Failure of the opposing/responding party to file a pre-trial hearing memorandum may be treated as not contesting the appellant's claims and may be deemed a waiver of all other issues on appeal. The court may impose other sanctions as appropriate.

3) For a routine hearing, the pre-trial hearing memorandum shall contain the following: an explanation of each issue expected to be raised at the hearing; a description of the facts to be proven related to the support action; identification of witnesses and the facts to which each witness will testify; a description of exhibits other than those required by the Pennsylvania Rules of Civil Procedure; and the relief being sought.

4) For a complex hearing, the pre-trial hearing memorandum shall contain in addition to all the items listed above, the following information: identification of legal authority (statutes, court cases, or rules) relating to the party's position on each issue raised; and an indication of the length of hearing needed to present all the evidence and witnesses' testimony for both sides of the support action.

B. Upon receiving the parties' Pre-Trial Memorandum, the Domestic Relations Section shall mail copies of the same to each party prior to the hearing before the court.

3. *Rules of Evidence shall apply:* The hearing before the Support Master shall be a formal judicial proceeding and the Pennsylvania Rules of Evidence shall apply. The Support Master shall decide all questions of law including rulings on motions and objections.

4. *Master's Report, Content:* Within 14 days following the conclusion of the Master's hearing, and 30 days in a complex case, the Master shall file and transmit to the assigned judge a report containing a Recommended Order of Court. The Master's Report may be in narrative form, but shall comply with the specific requirements of subsections (A) or (B) below.

A. *Complaint for Support:* In cases where a hearing has been held upon a Complaint for Support, the Support Master's Report shall contain, at a minimum:

- 1) A summary of the testimony.
- 2) Findings of fact.
- 3) A recommendation containing the amount of support to be paid and by whom and for whom it is to be paid and the effective date of the recommended order.
- 4) A discussion of the reasons for the recommendation.
- 5) A summary of the Master's calculations.

B. *Petition for Modification:* In cases in which a Hearing has been held upon a Petition for Modification of an Existing Support Order, the Support Master's Report shall contain at a minimum:

- 1) A summary of the testimony.
- 2) Findings of fact.
- 3) A recommendation that the Petition for Modification be granted or denied. In cases in which the Master recommends that the Petition for Modification be granted, the recommendation shall include the recommended modified order of support containing the amount of support to be paid and by whom and for whom it is to be paid and the effective date of the recommended order.
- 4) A discussion of the reasons for the recommendation.
- 5) A summary of the Master's calculations.

5. *Service of Report; Exceptions to Report; Final Order:* The Domestic Relations Section shall give notice of the filing of the Support Master's Report and Recommended Order by forwarding a copy of the same to the parties and their counsel, if any, by ordinary mail. In addition, the Domestic Relations Section shall advise counsel and pro se parties of their right to file exceptions to the Report and Recommended Order and that the failure to file exceptions shall result in the Support Master's Recommended Order becoming the Order for Support.

f. *Exceptions to Report; time for filing:* Within 20 days after the date of mailing of the Support Master's Report, any party may file Exceptions to the report or any part thereof. Exceptions shall comply with the specific requirements set forth in sections (j) through (m) below. If exceptions are not filed within 20 days, the Support Master's Recommended Order shall then become a final Order for Support. If exceptions are filed, any other party may file exceptions within 20 days of the date of service of the original exceptions. A form entitled "Exceptions to the Support Master's Recommendation" is available at the Domestic Relations Section.

g. *Interim Order not stayed:* The Order recommended by the Support Master shall continue in effect until the exceptions have been resolved by the Court.

h. *Request for transcript:* The party who first files Exceptions shall obtain an order directing that the notes of testimony be transcribed. The party filing the Exceptions shall bear the cost of producing the transcript. If both parties file Exceptions, the cost of the transcript shall be shared equally. The Court may reallocate the costs of the transcript as part of the final order. A form entitled "Request for Transcript" is available at the Domestic Relations Section.

i. *Pauper status; no cost:* Any party who has been granted pauper status pursuant to section (d)(3) above shall not be assessed any cost for producing the transcript.

j. *Exceptions, specificity:* Each Exception to the Master's Report regarding child support, spousal support, or alimony pendent lite shall be set forth specifically and concisely the ground for each exception based upon factual findings or a claim of error of law.

1. *Finding of Fact:* An exception asserting that the Support Master made a finding of fact unsupported by the evidence of record or failed to find a fact that the evidence supports shall:

- A. Identify the erroneous finding;
- B. State specifically the finding which should have been made by the Support Master; and

C. Identify any documents in evidence which support, or any witnesses whose testimony supports the finding which should have been made by the Support Master.

2. *Error of Law*: An exception asserting that the Support Master made an error of law shall identify the statute, rule, regulation, judicial decision or appellate case law not applied or improperly applied by the Support Master.

k. *Exceptions; incomes and support amount*: All Exceptions shall include a statement of:

1. The excepting party's claim as to the obligor's income available for support, together with a statement of the record evidence of the obligor's income;

2. The excepting party's claim as to the obligee's income available for support, together with a statement of the record evidence of the obligee's income; and

3. The amount of support which should have been ordered.

l. *Assignment of Judge*: A party shall, at the time exceptions are filed, also file with the Domestic Relations Section a request for decision on the party's exceptions. The Domestic Relations Section shall assign a judge and transmit the paperwork to the judge through Court Administration. The assigned judge, as necessary, may issue an order requiring a response to the exceptions, or schedule oral argument or may issue an order setting a briefing schedule. A form entitled "Request for Decision on the Exceptions" is available at the Domestic Relations Section.

m. *Sanctions for Non-compliance*: Exceptions which are not in compliance with this rule or which are not briefed as ordered may be deemed to have been waived. The Court may impose other sanctions for non-compliance as appropriate in the Court's discretion.

[Pa.B. Doc. No. 13-1580. Filed for public inspection August 23, 2013, 9:00 a.m.]

PIKE COUNTY

Local Rule Criminal Rule 131(B); No. 1209-2013-Civil; No. 123-2013-MD

Order

And Now, this 29th day of July, 2013, the Court *Orders* the following:

1. Local Rule of Criminal Procedure 131(B) is hereby effective as of October 1, 2013 after publication in the *Pennsylvania Bulletin* and the Pennsylvania Unified Judicial System's Webportal;

2. The Court Administrator of the 60th Judicial District is hereby *Ordered* to do the following:

a. File one (1) certified copy of this *Order* and the pertinent Rule with the Criminal Procedural Committee;

b. File two (2) certified copies and a computer diskette containing this *Order* and the pertinent Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

c. File seven (7) certified copies of this *Order* and the pertinent Rule with the Administrative Office of Pennsylvania Courts;

d. Publish the Rule to the Pennsylvania Unified Judicial System's Webportal;

e. Provide one (1) copy of this *Order* and the Local Rule to each member of the Pike County Bar Association who maintain an active practice in Pike County; and

f. Keep continuously available for public inspection, copies of this *Order* and the Local Rules.

By the Court

HONORABLE JOSEPH F. KAMEEN,
President Judge

Local Rule of Criminal Procedure 131(B).

The Pike County Court of Common Pleas, having considered the increase in criminal prosecutions over the past several years and the fact that more than 75% of the preliminary hearings before Magisterial District Judges are resolved by waivers to the Court of Common Pleas, now concludes that in order to make the most efficient use of prosecutors, public defenders and the other resources of the MDJ offices as well as the County Judicial District, the creation of a Central Court for conduct of Preliminary Hearings is appropriate and will allow for a more effective and efficient use of judicial personnel and facilities. This central court shall be identified as the Criminal Central Court of Pike County (hereinafter Central Court).

The Pike County Court of Common Pleas hereby directs that the Magisterial District Courts of Pike County shall utilize the Central Court which is hereby created to hear all Preliminary Hearings in criminal cases with the exception of any criminal homicide case as defined under 18 Pa.C.S.A. § 2501, § 2502, § 2503, § 2505, § 2506, and § 2507 and 18 Pa.C.S.A. § 2603, § 2604 and § 2605. (The homicide cases set forth above shall be scheduled for a Preliminary Hearing before the Magisterial District Judge of the jurisdiction in which the crime was committed unless the hearing is otherwise scheduled by Court Order.)

The President Judge shall issue an Administrative Order setting the place and time for all proceedings before Central Court.

[Pa.B. Doc. No. 13-1581. Filed for public inspection August 23, 2013, 9:00 a.m.]

WASHINGTON COUNTY

Local Rule L-1915.37 Limited Representation in Custody; No. 2013-1

Order

And Now, this 6th day of August, 2013; *It Is Hereby Ordered* that the previously-stated Washington County Local Custody Rule be adopted as follows.

This rule will become effective thirty days after publication in the *Pennsylvania Bulletin*.

By the Court

DEBBIE O'DELL-SENECA,
President Judge

L-1915.37. Limited Representation in Custody.

(a) Any individual who is referred under the Washington County Bar Association Limited Representation Custody Program to a participating member of the Washington County Bar Association for representation as a litigant in a Custody Action, shall be granted leave to proceed in Forma Pauperis. Counsel representing these

individuals shall present to the Prothonotary a Praeipe to Proceed in Forma Pauperis which shall be endorsed by Counsel and which shall have attached to it a Certificate of Eligibility. The Praeipe shall be in the attached format contained in Appendix O.

(b) Any participating member of the Washington County Bar Association who provides representation to the litigant under the Washington County Bar Association Limited Representation Custody Program shall be permitted to enter a Limited Appearance. The Appearance shall be in the attached format contained in Appendix P.

(c) Upon completion of the representation under the above described referral program, the attorney shall file a Praeipe for Withdrawal of Limited Appearance. This Praeipe shall be filed without leave of court. The litigant shall be given notice of the filing of the Praeipe for Withdrawal of Limited Appearance 5 days before the filing of the Praeipe with the Prothonotary. The Praeipe may contain information about another attorney who may be entering his/her appearance. The Praeipe shall direct the Prothonotary to send all future notices directly to the client and shall set forth the client's last known address unless there is a substitute attorney. The Withdrawal of Appearance shall be in the attached format contained in Appendix Q.

APPENDIX O

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

_____) CIVIL DIVISION
)
PLAINTIFF,) NO.: _____
)
vs.)
)
_____)
)
DEFENDANT.)

PRAEIPE TO PROCEED IN FORMA PAUPERIS

To the Prothonotary:

Kindly allow _____, the Plaintiff/Defendant, to proceed In Forma Pauperis. Attached is a Certificate of Eligibility prepared by SPLAS.

I certify that I believe the party is unable to pay the costs and that I am providing legal services to the party pursuant to the Limited Representation Custody Program of the WCBA.

Respectfully submitted,
FIRM NAME
BY: _____, Esquire
Attorney for _____
P.A.I.D. No.: _____
Address
Telephone Number

APPENDIX P

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

_____) CIVIL DIVISION
)
PLAINTIFF,) NO.: _____
)
vs.)
)
_____)
)
DEFENDANT.)

PRAEIPE FOR ENTRY OF LIMITED APPEARANCE

To the Prothonotary:

Kindly enter my Limited Appearance as counsel for _____ Plaintiff/Defendant, in the above-captioned case. This Appearance is Limited to providing representation as set forth in the Limited Representation Custody Program of the WCBA.

Respectfully submitted,
FIRM NAME
BY: _____, Esquire
Attorney for _____
P.A.I.D. No.: _____
Address
Telephone Number

APPENDIX Q

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

_____) CIVIL DIVISION
)
PLAINTIFF,) NO.: _____
)
vs.)
)
_____)
)
DEFENDANT.)

PRAEIPE FOR WITHDRAWAL OF LIMITED APPEARANCE

To the Prothonotary:

Kindly withdraw my Limited Appearance as counsel for _____ Plaintiff/Defendant, in the above-captioned case. Withdrawal of this Appearance is permitted pursuant to L-1915.37. All future notices should be sent directly to _____ at the last known address for this party.

I certify that five (5) days' notice of the filing of this Praeipe was given by first class mail to the last known address of _____

Respectfully submitted,
BY: _____, Esquire
Attorney for _____
P.A.I.D. No.: _____
Address
Telephone Number

[Pa.B. Doc. No. 13-1582. Filed for public inspection August 23, 2013, 9:00 a.m.]