

# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[ 231 PA. CODE CH. 1910 ]

#### Amendment of the Note to Rule 1910.10 of the Rules of Civil Procedure; No. 587 Civil Procedural Rules Doc.

#### Order

*Per Curiam*

And Now, this 16th day of September, 2013, upon the recommendation of the Domestic Relations Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3):

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the Note to Rule 1910.10 of the Pennsylvania Rules of Civil Procedure is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective in 30 days on October 16, 2013.

#### Annex A

#### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1910. ACTIONS FOR SUPPORT

#### Rule 1910.10. Alternative Hearing Procedures.

\* \* \* \* \*

**Official Note:** Pursuant to Rule 1910.10, the following counties have certified to the Domestic Relations Procedural Rules Committee that their support proceedings are conducted in accordance with the rule specified below.

\* \* \* \* \*

Franklin [ 1910.11 ] 1910.12

\* \* \* \* \*

[Pa.B. Doc. No. 13-1792. Filed for public inspection September 27, 2013, 9:00 a.m.]

## Title 246—MINOR COURT CIVIL RULES

### PART I. GENERAL

[ 246 PA. CODE CH. 300 ]

#### Proposed Rule 320

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt new Rule 320 of the Minor Court Civil Rules. The Committee has not yet submitted this proposal for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. The Committee's Report should not be confused with the

Committee's Official Notes to the rules. The Supreme Court does not adopt the Committee's Official Notes or the contents of the explanatory reports.

The text of the proposed new rule precedes the Report.

We request that interested persons submit written suggestions, comments, or objections concerning this proposal to the Committee through counsel,

Pamela S. Walker, Counsel  
Supreme Court of Pennsylvania  
Minor Court Rules Committee  
Pennsylvania Judicial Center

P. O. Box 62635

Harrisburg, PA 17106-2635

Fax: 717-231-9546

or email to: [minorrules@pacourts.us](mailto:minorrules@pacourts.us)

no later than December 2, 2013.

*By the Minor Court Rules Committee*

MARY P. MURRAY,  
*Chair*

#### Annex A

#### TITLE 246. MINOR COURT CIVIL RULES

#### PART I. GENERAL

#### CHAPTER 300. CIVIL ACTION

#### Rule 320. Plaintiff Request to Withdraw Complaint; Settlement.

A(1) A plaintiff may withdraw the complaint prior to the commencement of the hearing by filing a written notice of withdrawal with the magisterial district court. Upon receipt of such notice, the magisterial district court shall note the withdrawal of the complaint on the docket, cancel any scheduled hearing, and notify the parties in writing.

(2) A withdrawal of the complaint filed prior to the commencement of the hearing shall be deemed to be without prejudice. The plaintiff may file a new complaint on the same cause of action upon payment of all applicable fees and costs.

B(1) The parties may file a written notice of settlement with the magisterial district court at any time prior to the entry of judgment. Upon receipt of such notice, the magisterial district court shall note the case settled on the docket, cancel any scheduled hearing, and notify the parties in writing.

(2) Where the parties have filed a notice of settlement with the magisterial district court and a subsequent breach of the settlement agreement occurs, a party may file a new complaint citing breach of the settlement agreement as the cause of action.

**Official Note:** A complaint filed pursuant to subparagraph A(2) or B(2) shall not be treated as a "reinstatement" of the underlying action, and is subject to all prescribed fees and costs for filing and service of a complaint. Compare with Rule 314E, which provides for reinstatement of the complaint under the limited circumstance of failure to make timely service.

This rule also applies to the withdrawal or settlement of a cross complaint. Moreover, a cross complaint will survive the withdrawal or settlement of the corresponding complaint.

Prior Rule 320, addressing continuances, was rescinded by Order of December 16, 2004, effective July 1, 2005, and its provisions were added to Rule 209.

## REPORT

### *Proposed New Rule 320 of the Minor Court Civil Rules*

#### **Plaintiff Withdrawal of Complaint; Settlement**

##### I. Introduction

The Minor Court Rules Committee (“Committee”) is proposing a new Rule 320<sup>1</sup> of the Minor Court Civil Rules. The goal of this proposed new rule is to establish procedures for the withdrawal of complaints by plaintiffs, the settlement of actions by the parties, and to clarify the effect of withdrawals and settlements on the action.

##### II. Discussion

In reviewing matters of civil case processing, the Committee identified the need for a rule based practice in the magisterial district courts for withdrawal of the complaint and settlement of the action. It was noted that the Minor Court Civil Rules do not explicitly provide for such actions, resulting in inconsistent statewide practice and uncertainty for litigants. Additionally, the Committee wanted to clarify that civil actions ended by withdrawal of the complaint or settlement by the parties are not eligible for “reinstatement,” as that term is used in Pa.R.C.P.M.D.J. No. 314E (“Rule 314E”).

##### III. Proposed Rule Changes

The Committee identified the need for procedures addressing withdrawal of complaints and settlement of actions. First, the Committee addressed the situation where a plaintiff seeks to withdraw a complaint. The Committee proposes a new rule establishing that a plaintiff may withdraw a complaint prior to the start of the hearing upon written notice to the magisterial district court. Following receipt of such notice, the magisterial district court would note the withdrawal on the docket, cancel any scheduled hearing, and notify the parties in writing. With respect to the future rights of the parties, the Committee proposes that a withdrawal of the complaint would be deemed to be without prejudice, and a plaintiff may file a new complaint on the same cause of action upon payment of all applicable fees and costs. Under no circumstances would a new complaint filed pursuant to this rule be treated as a “reinstatement,” as that term is used in Rule 314E in the limited circumstance of failure to make timely service of the complaint.

Next, the Committee addressed the situation where the parties seek to settle the action prior to the entry of judgment. The Committee proposes a new rule establishing that the parties may file a written notice of settlement with the magisterial district court at any time prior to the entry of judgment. Upon receipt of the written settlement notice, the magisterial district court would note the settlement on the docket, cancel any scheduled hearing, and notify the parties in writing. If a subsequent breach of the settlement agreement should occur, it would be necessary for a party to file a new complaint citing breach of the settlement agreement as the cause of action, subject to all applicable fees and costs. Under proposed Rule 320B(2), a party is not permitted to request a “reinstatement” of the original complaint.

<sup>1</sup> Prior Pa.R.C.P.M.D.J. No. 320 (“Rule 320”), addressing continuances, was rescinded by Order of December 16, 2004, effective July 1, 2005. The provisions of prior Rule 320 were added to Pa.R.C.P.M.D.J. No. 209 in order to have one rule addressing continuances.

Finally, the Committee intends that proposed Rule 320 would also apply to the withdrawal or settlement of a cross-complaint. However, because a cross-complaint “need not arise from the same transaction or occurrence from which the plaintiff’s claim arose, nor need it be the same type of claim,” the withdrawal or settlement of the plaintiff’s complaint does not operate to automatically terminate the cross-complaint. See Pa.R.C.P.M.D.J. No. 315A, providing for cross-complaints.

[Pa.B. Doc. No. 13-1793. Filed for public inspection September 27, 2013, 9:00 a.m.]

## Title 252—ALLEGHENY COUNTY RULES

### ALLEGHENY COUNTY

#### **Criminal Division Rule of the Court of Common Pleas; No. 2 of 2013 Rules Doc.**

##### **Order of Court**

*And Now*, to-wit, this 11th day of September, 2013, *It Is Hereby Ordered, Adjudged and Decreed* that the following Rule of the Court of Common Pleas of Allegheny County, Pennsylvania, Criminal Division, adopted by the Board of Judges, shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin*:

#### **Rule of Criminal Procedure 507.3. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth in Cases Where Victims are 65 years old or Older.**

*By the Court*

DONNA JO McDANIEL,  
*President Judge*

#### **All.C.R.Crim.P. 507.3. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth in Cases Where Victims are 65 years old or Older.**

The District Attorney of Allegheny County, Stephen A. Zappala, Jr., having filed a certification pursuant to Pa.R.Crim.P. 507, criminal complaints and arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedure, charging Rape (18 Pa.C.S. § 3121), Statutory Sexual Assault (18 Pa.C.S. § 3122.1), Involuntary Deviate Sexual Intercourse (18 Pa.C.S. § 3123), Sexual Assault (18 Pa.C.S. § 3124.1), Aggravated Indecent Assault (18 Pa.C.S. § 3125), Neglect of a Care Dependent Person (18 Pa.C.S. § 2713), Aggravated Assault (18 Pa.C.S. § 2702), Robbery (18 Pa.C.S. § 3701), Theft by Deception (18 Pa.C.S. § 3922—Felony grade), Identity Theft (18 Pa.C.S. § 4120), Misapplication of Entrusted Property and Property of Government or Financial Institutions (18 Pa.C.S. § 4113), and Home Improvement Contracts (73 P.S. § 517.7), and Criminal Attempt (18 Pa.C.S. § 901), Criminal Conspiracy (18 Pa.C.S. § 903) or Criminal Solicitation (18 Pa.C.S. § 902) to commit any of the offenses listed above, where the victim is 65 years old or older, shall not hereafter be accepted by any judicial officer unless the criminal complaint and probable cause affidavit have the approval of an attorney for the Commonwealth prior to filing.

[Pa.B. Doc. No. 13-1794. Filed for public inspection September 27, 2013, 9:00 a.m.]

# Title 255—LOCAL COURT RULES

## SCHUYLKILL COUNTY

### Amend Civil Rule of Procedure 1915.3a Parent Education Program; S-1847-13

#### Order of Court

*And Now*, this 11th day of September, 2013, at 2:15 p.m., Schuylkill County Civil Rule of Procedure No. 1915.3a, Parent Education Program is amended for use in the Court of Common Pleas of Schuylkill County, Pennsylvania, Twenty-First Judicial District, Commonwealth of Pennsylvania, effective thirty days after publication in the *Pennsylvania Bulletin*.

The Prothonotary of Schuylkill County is Ordered and Directed to do the following:

1) File seven (7) certified copy of this Order and Rule with the Administrative Office of the Pennsylvania Courts.

2) Forward two (2) certified copies of this Order and Rule and a computer diskette containing the text of the local rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3) Forward one (1) certified copy of this Order and Rule with the Civil Procedural Rules Committee of the Supreme Court of Pennsylvania.

4) Forward one (1) copy to the Law Library of Schuylkill County for publication in the *Schuylkill Legal Record*.

5) Copies shall be kept continuously available for public inspection in the Office of the Schuylkill County Prothonotary and the Schuylkill County Law Library.

It is further *Ordered* that said rule as it existed prior to the amendment is hereby repealed and annulled on the effective date of said rule as amended, but no right acquired thereunder shall be disturbed.

*By the Court*

WILLIAM E. BALDWIN,  
*President Judge*

#### Rule 1915.3a. Parent Education Program.

(a) The Court Administrator shall determine the dates, times, and location of the Parent Education Program designated by the Court.

(b) Brochures and registration forms for the Parent Education program will be available at the Custody Office, Schuylkill County Law Library, and the Prothonotary's Office.

(c) Parties residing outside of Schuylkill County may contact the presenter for possible alternative programs or alternative scheduling if they are unable to attend the scheduled program.

(d) The presenter of the Program is authorized to approve individual requests for changes to the registration requirements and scheduling, only upon a showing of good cause.

(e) Upon successful completion of the program, the presenter shall issue a certificate of completion to the party and provide the Court Administration of Schuylkill County with a certification of completion which shall be docketed and made part of the record.

(f) The affidavit of service or the certificates of service of a complaint/modification for (shared legal custody) (sole legal custody) (partial physical custody) (primary physical custody) (shared physical custody) (sole physical custody) (supervised physical custody) of the child(ren) shall contain a statement that the opposing party or counsel of record for the opposing party has been served with the Parent Education brochure and registration form.

(g) A party to a custody proceeding who has successfully completed the Parent Education program will be excused from attending another program if the party files of record an affidavit stating that the party has attended and successfully completed the Parent Education program designated by the Court with a copy of the certificate of completion attached as an exhibit.

[Pa.B. Doc. No. 13-1795. Filed for public inspection September 27, 2013, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Disbarment

Notice is hereby given that Hugh D. Jaeger having been excluded from the practice of patent, trademark and other non-patent law before the United States Patent and Trademark Office by Order of the United States Patent and Trademark Office dated February 6, 2013, the Supreme Court of Pennsylvania issued an Order on September 12, 2013, ordering that Hugh D. Jaeger be Disbarred from the practice of law in this Commonwealth, effective October 12, 2013. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,  
*Secretary*  
*The Disciplinary Board of the*  
*Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 13-1796. Filed for public inspection September 27, 2013, 9:00 a.m.]

### Notice of Disbarment

Notice is hereby given that Kevin H. Main having been suspended from the practice of law in the State of New Jersey for a period of 2 years by Order of the Supreme Court of New Jersey dated April 24, 2013, the Supreme Court of Pennsylvania issued an Order on September 12, 2013, suspending Kevin H. Main from the Bar of this Commonwealth for a period of 2 years, effective October 12, 2013. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,  
*Secretary*  
*The Disciplinary Board of the*  
*Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 13-1797. Filed for public inspection September 27, 2013, 9:00 a.m.]

**Notice of Suspension**

Notice is hereby given that John Andrew Klamo having been suspended from the practice of law in the State of New Jersey for a period of 3 months by Order of the Supreme Court of New Jersey dated April 24, 2013; the Supreme Court of Pennsylvania issued an Order dated September 12, 2013 suspending John Andrew Klamo from the practice of law in this Commonwealth for a period of 3 months. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,  
*Secretary*  
*The Disciplinary Board of the*  
*Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 13-1798. Filed for public inspection September 27, 2013, 9:00 a.m.]

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