

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

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

#### Amendment of Rule 214 of the Pennsylvania Rules of Disciplinary Enforcement; No. 124 Disciplinary Rules Doc.

##### Order

*Per Curiam*

*And Now*, this 4th day of March, 2014, upon the recommendation of the Disciplinary Board of the Supreme Court of Pennsylvania; the proposal having been submitted without publication in the interests of justice 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 Rule 214 of the Pennsylvania Rules of Disciplinary Enforcement 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.

##### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART V. PROFESSIONAL ETHICS AND CONDUCT

##### Subpart B. DISCIPLINARY ENFORCEMENT

#### CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

##### Subchapter B. MISCONDUCT

#### Rule 214. Attorneys convicted of crimes.

\* \* \* \* \*

(h) As used in this rule, the term “crime” means an offense that is punishable by imprisonment in the jurisdiction of conviction, whether or not a sentence of imprisonment is actually imposed. **Notwithstanding any other provision of this subdivision (h), the term “crime” shall include criminal contempt, whether direct or indirect, and without regard to the sentence that may be imposed or that is actually imposed.** It does not include parking violations or summary offenses, both traffic and non-traffic, unless a term of imprisonment is actually imposed.

\* \* \* \* \*

[Pa.B. Doc. No. 14-576. Filed for public inspection March 21, 2014, 9:00 a.m.]

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[ 231 PA. CODE CH. 1930 ]

#### Order Adopting a Note to Rule 1930.4(c) of the Rules of Civil Procedure; No. 592 Civil Procedural Rules Doc.

##### Order

*Per Curiam*

*And Now*, this 4th day of March, 2014, 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 1930.4(c) of the Pennsylvania Rules of Civil Procedure is adopted 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 April 3, 2014.

##### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1930. RULES RELATING TO DOMESTIC RELATIONS MATTERS GENERALLY

#### Rule 1930.4. Service of Original Process in Domestic Relations Matters.

\* \* \* \* \*

(c) *Service by Mail*. Except in Protection from Abuse matters unless authorized by special order of court pursuant to subdivision (b) above, original process may also be served by mailing the complaint and order to appear, if required, to the defendant’s last known address by both regular and certified mail. Delivery of the certified mail must be restricted to addressee only, and a return receipt must be requested.

(1) If the certified mail is refused by defendant, but the regular mail is not returned within fifteen days, service may be deemed complete.

(2) If the mail is returned with notation by the postal authorities that it was unclaimed, service shall be made by another means pursuant to these rules.

**Official Note: Nothing in this rule is intended to preclude a judicial district from utilizing the United States Postal Service’s return receipt electronic option, or any similar service that electronically provides a return receipt, when using certified mail, return receipt requested.**

(d) *Acceptance of Service*. In lieu of service pursuant to this rule, the defendant or the defendant’s authorized agent may accept service of original process by filing with the prothonotary a separate document which shall be substantially in the following form:

\* \* \* \* \*

[Pa.B. Doc. No. 14-577. Filed for public inspection March 21, 2014, 9:00 a.m.]

**PART I. GENERAL**  
[ 231 PA. CODE CH. 3000 ]

**Order Amending Rules 3111, 3129.3 and 3135 of  
the Rules of Civil Procedure; No. 593 Civil  
Procedural Rules Doc.**

**Order**

*Per Curiam*

*And Now*, this 7th day of March, 2014, upon the recommendation of the Civil Procedural Rules Committee; the proposal having been published for public comment at 42 Pa.B. 6130 (September 29, 2012):

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 3111, 3129.3, and 3135 of the Pennsylvania Rules of Civil Procedure are amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective April 7, 2014.

**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** ]  
**Writ on Garnishee. Effect.**

(a) The writ shall be served by the sheriff upon the garnishee in the manner prescribed by Rule 402(a) except as otherwise provided by Rules 3112 and 3113. The sheriff shall furnish the garnishee with an additional copy of the writ for each defendant. If the garnishee served was not named in the writ he shall be added as a garnishee and return made accordingly.

(b) Service of the writ upon the garnishee shall attach all property of the defendant which may be attached under these rules which is in the possession of the garnishee. It shall also attach all property of the defendant which may be attached under these rules and which comes into the garnishee's possession thereafter until judgment against the garnishee even though no such property of the defendant was in the garnishee's possession at the time of service.

**Official Note:** For limitations on the power to attach tangible personal property see Rule 3108(a).

See Rule 3111.1 providing that service of the writ does not attach the first \$10,000 of each account of the defendant in which any funds are deposited electronically on a recurring basis and are identified as funds that upon deposit are exempt from attachment, or each account of the defendant in which funds on deposit exceed \$10,000 at any time, if all funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from attachment.

(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)(i) **When the sale is stayed, continued, postponed or adjourned as provided by subdivision (b)(1), the plaintiff shall file**

**(A) a notice of the date of continued sheriff's sale with the prothonotary at least fifteen days before the continued sale date, and**

**(B) a certificate of filing with the sheriff confirming the filing of the notice of the date of continued sheriff's sale with the prothonotary.**

**The sheriff shall continue the sale to the next available sale date if the notice of the date of continued sheriff's sale has not been timely filed. This continuance imposes a new obligation on the plaintiff to meet the requirements described in (b)(2)(i)(A) and (B).**

(ii) **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, including the provisions of subdivision (b)(1).

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

(Caption)

**Notice of the Date 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 filing required by subdivision (b)(2) shall be in substantially the following form:

(Caption)

**Certificate of Filing**

On this date, I filed with the Prothonotary of \_\_\_\_\_ County a copy of the Notice of the Date 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 ] Deed to Real Property. Correction of [ deed ] Deed.

(a) When real property is sold in execution and no petition to set aside the sale has been filed, the sheriff, at the expiration of twenty days but no later than 40 days after either the filing of the schedule of distribution or the execution sale if no schedule of distribution need be filed, shall execute and acknowledge before the prothonotary a deed to the property sold. The sheriff shall forthwith deliver the deed to the appropriate officers for recording and for registry if required. Confirmation of the sale by the court shall not be required.

**Official Note:** See Rule 3136(a) governing the filing of the schedule of distribution.

(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 Rules of Civil Procedure governing sheriff's sales have been amended in three respects:

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 garnishments can languish indefinitely without any action taken on them, the 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 of the date to which a sheriff's sale has been postponed. As a remedy, the amendment to Rule 3129.3 requires the plaintiff to file a notice of the date of continued sheriff's sale with the prothonotary at least 15 days before the continued sale date. The plaintiff must also file a certificate of filing with the sheriff's office confirming the filing of the notice with the prothonotary.

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 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 amendment allows 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. 14-578. Filed for public inspection March 21, 2014, 9:00 a.m.]

# Title 25—LOCAL COURT RULES

## BERKS COUNTY

### Accelerated Rehabilitative Disposition in Summary Cases; 14-96; No. 4 AD 2014

#### Administrative Order

*And Now*, this 11th day of January, 2014, pursuant to Pennsylvania Rules of Criminal Procedure 300—302, it is *Ordered* that the following procedures are adopted for an Accelerated Rehabilitative Disposition program for certain summary cases in the Magisterial District Courts within the Twenty-third Judicial District of Pennsylvania.

The District Court Administrator of Berks County is *Ordered* and *Directed* to provide copies to the appropriate entities pursuant to Pa.R.Crim.P. 105:

1. File one (1) certified copy of this Administrative Order and Local Rule with the Administrative Office of Pennsylvania Courts.
2. Distribute two (2) certified paper copies of this Administrative Order and Local Rule and one (1) computer diskette or CD-ROM containing this Order and Rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. Publish a copy of the Administrative Order and Local Rule on the Unified Judicial System's web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.
4. Keep continuously available for public inspection copies of the Administrative Order and Local Rule in the office of the Prothonotary or Clerk of Courts.

This Administrative Order shall become effective thirty days after publication in the *Pennsylvania Bulletin*.

*By the Court*

PAUL M. YATRON,  
*President Judge*

#### ACCELERATED REHABILITATIVE DISPOSITION (ARD)

#### Rule 300. Accelerated Rehabilitative Disposition in Summary Cases.

1. Upon request of the District Attorney of Berks County, a defendant charged with any one of the following summary offenses shall be eligible for Accelerated Rehabilitative Disposition (hereinafter ARD) to be supervised by the Magisterial District Judge (hereinafter MDJ) pursuant to Pa.R.Crim.P. 300—302 and 42 Pa.C.S.A. § 1520: criminal mischief, criminal trespass, disorderly conduct, harassment, public drunkenness, retail theft, truancy, or underage drinking.

#### Rule 301. Procedures for Accelerated Rehabilitative Disposition in Summary Cases before the Minor Judiciary.

1. The cost of the ARD program for summary cases is \$100.00.
2. The defendant shall make written application to the MDJ for admission into the summary ARD program.
  - a. Upon receipt of the application for admission into the summary ARD program, the MDJ shall forward to the District Attorney a copy of the defendant's application.

b. The District Attorney shall review said application and notify the MDJ of a decision to either approve or deny the application. If the District Attorney denies the application, the MDJ shall be notified of the reason(s) for denial.

3. If the District Attorney denies the defendant's application, the MDJ shall notify the defendant that his/her application has been denied and the case shall then proceed in accordance with Chapter 4 of the Pennsylvania Rules of Criminal Procedure. If the District Attorney approves the defendant's application, the MDJ shall notify the defendant of such approval and shall set a hearing date for admission into the program.

4. A defendant accepted into ARD may be referred to any of the following programs and shall pay any costs associated with a program:

- a. The Underage Drinking Program of Berks County
- b. STOPLIFT Adult Shoplifting Intervention Program
- c. STOPLIFT Juvenile Shoplifting Intervention Program
- d. Adult Probation Community Service Program
- e. Juvenile Probation Community Service Program
- f. A recommended program subject to approval by the District Attorney.

5. Community service program hours shall be assigned in 4-hour increments and shall not exceed 40 hours for offenders referred to the Adult Probation Community Service Program or shall not exceed 20 hours for offenders referred to the Juvenile Probation Community Service Program.

6. All costs and restitution, if any, must be paid before completion of the ARD program.

7. If the MDJ deems that the defendant has met all of the requirements of the ARD program, the summary charge filed against the defendant shall be dismissed. In the MDJS, the summary case appears "ARD Open" while the defendant is on ARD. Upon completion of the ARD program, the MDJ shall record a "Dismissed by ARD" disposition to close the case. If the MDJ deems that the defendant has failed to complete all of the requirements of the ARD Program, the defendant shall be terminated from the ARD program, and the case shall proceed in accordance with Chapter 4 of the Pennsylvania Rules of Criminal Procedure. No summary case shall remain active for purposes of ARD supervision in excess of six (6) months.

In the MDJS, "ARD Open" and "Dismissed by ARD" shall not be used for any summary case that is not processed through the District Attorney's ARD program for summary cases.

8. Each MDJ shall submit to the District Attorney a monthly report on the disposition of all cases eligible for ARD, where applications were submitted for admission into the program. The District Attorney shall compile these monthly reports and monitor the cases. The monthly report submitted by each MDJ shall include: a record of defendants who participate in the ARD program; those who were eligible but not admitted to ARD and the reasons for not admitting the defendant; those who complete the ARD program; those who do not complete the program; and those defendants that pay in full the costs associated with the program.

9. The ARD application referred to in paragraph 2 shall be in substantially the following form:

Commonwealth of Pennsylvania : Magisterial District 23-\_\_\_\_\_
vs. : Docket No.: \_\_\_\_\_

APPLICATION FOR ACCELERATED REHABILITATIVE DISPOSITION (ARD) FOR A SUMMARY CASE

Defendant is applying for ARD for a summary case and represents the following:

(Please print the requested information.)

- 1. Defendant's present address and telephone number: \_\_\_\_\_
2. Defendant's date of birth: \_\_\_\_\_
3. Prior Arrest(s): (Circle one) YES/NO
4. Date citation filed: \_\_\_\_\_
5. Law Enforcement Officer: \_\_\_\_\_
6. Offense: \_\_\_\_\_

COPY OF CITATION MUST BE FILED WITH APPLICATION

I am requesting that my summary case be considered for ARD. I understand that if the District Attorney denies my application for ARD, my summary case will then proceed in accordance with Chapter 4 of the Pennsylvania Rules of Criminal Procedure.

Signature of Defendant Date

This application for ARD has been approved denied.

Reason:

Signature of District Attorney Date

[Pa.B. Doc. No. 14-579. Filed for public inspection March 21, 2014, 9:00 a.m.]

BUTLER COUNTY Register of Wills and Clerk of Orphans' Court Schedule of Fees and Costs; OC No. 2009-1000

Administrative Order

And Now, this February 25, 2014, pursuant to the provisions of 42 P. S. 21022.1 and 42 P. S. 21032.1, the fee bills of the Register of Wills and the Clerk of Orphans' Court of Butler County, Pennsylvania are hereby amended as indicated on the proposed fee bill attached to the foregoing Petition.

Self-made photocopies shall be Fifty-Cents (\$0.50) each effective April 01, 2014 upon due advertisement as required by the PA Rules of Court.

It Is Further Ordered that the Court direct the Court Administrator to:

(a) File one (1) certified copies of this Administrative Order with the AOPC;

(b) File two (2) certified copies of this Administrative Order and one (1) CD with the Legislative Reference Bureau for publication in the Pennsylvania Bulletin;

(c) File one (1) certified copy of this Administrative Order with the PA Supreme Court Orphans' Court Rules Committee;

(d) Forward one (1) copy of this Administrative Order to be published in the Butler County Legal Journal;

(e) Forward one (1) copy of this Administrative Order to the Butler County Law Library; and

(f) Keep continuously available for public inspection copies of this Administrative Order in the Butler County Register of Wills & Clerk of Orphans' Court offices and the office of the Court Administrator.

By the Court

THOMAS J. DOERR, President Judge

[Pa.B. Doc. No. 14-580. Filed for public inspection March 21, 2014, 9:00 a.m.]