

THE COURTS

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CH. 4]

Proposed Rule 405

The Juvenile Court Procedural Rules Committee is soliciting public comment on proposed New Rule 405 before it considers any recommendations to the Supreme Court of Pennsylvania. These proposed modifications address the notice and demand requirements in presentation of a forensic lab report at an adjudicatory hearing without the presence of a live witness while satisfying the juvenile's right to confront witnesses.

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

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

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

All comments shall be received no later than Friday, July 25, 2014.

*By the Juvenile Court
Procedural Rules Committee*

HONORABLE TODD A. HOOVER,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 4. ADJUDICATORY HEARING

Rule 405. Forensic Laboratory Report Certification.

A. Certification in lieu of expert testimony.

1) If the requirements of this rule have been met, the attorney for the Commonwealth may seek to offer a forensic laboratory report into evidence in lieu of testimony in any adjudicatory hearing.

2) The report shall be supported by a certification, as provided in paragraph (E), from the expert who drafted the report and performed the analysis or examination.

B. Notice.

1) The attorney for the Commonwealth shall file and serve written notice upon the juvenile's attorney.

2) The notice shall include a statement informing the juvenile that:

a) if no written demand for testimony as provided in paragraph (C)(3) is made, the forensic laboratory report and certification are admissible in evidence; and

b) the expert who drafted the report does not have to testify.

3) Service shall occur no later than 20 days prior to the adjudicatory hearing.

4) Once entered into evidence, the report and certification shall qualify as if the expert had testified personally.

C. Demand.

1) Within 10 days of service of the notice, the juvenile's attorney may file and serve a written demand upon the attorney for the Commonwealth requiring the expert to testify at the adjudicatory hearing.

2) If a written demand is filed and served, the expert must testify.

3) If no demand is filed and served as required by paragraph (C)(1), the report and certification are admissible in evidence without the expert's testimony.

D. *Extension.* For cause shown, the judge may:

1) extend the time requirements of this rule; and/or

2) grant a continuance of the adjudicatory hearing.

E. *Certification.* The expert shall complete a certification providing:

1) the education, training, and experience that qualify the expert to perform the analysis or examination;

2) the entity by which the expert is employed and a description of the expert's regular duties;

3) the name and location of the laboratory where the analysis or examination was performed;

4) any state, national, or international accreditations of the laboratory at which the analysis or examination was performed;

5) that the analysis or examination was performed under industry-approved procedures or standards; and

6) the report accurately reflects the findings and opinions of the expert.

Comment

This rule was adopted in 201- to create a uniform procedure for delinquency proceedings similar to Pa.R.Crim.P. 574, which was adopted to address the issues raised by the U.S. Supreme Court's decision in *Melendez-Diaz v. Massachusetts*, 129 U.S. 2527 (2009). Its decision held that the 6th Amendment's confrontation right precluded presentation of laboratory reports without a live witness testifying at trial. In *Melendez-Diaz*, the U.S. Supreme Court noted with approval the use of "notice and demand" procedures. These procedures allow routine reports to be admitted without the expense of live expert testimony while protecting a defendant's confrontation rights.

Under the Pennsylvania Constitution, Art. 1, § 9, juveniles are to be afforded the same due process rights as adult defendants, including the right to confront witnesses. See *In re Davis*, 546 A.2d 1149 (Pa. Super. Ct.

1988); *Com. v. McNaughton*, 381 A.2d 929 (Pa. Super. Ct. 1977). See also *In re Winship*, 397 U.S. 358 (1970) and *In re Gault*, 387 U.S. 1 (1967).

This rule provides a “notice and demand” procedure for delinquency proceedings. Under this rule, the attorney for the Commonwealth may seek to admit a forensic laboratory report as evidence without expert testimony if the notice requirements are met and no demand for the presence of the expert is made. If the juvenile makes such a demand, the expert is required to testify before the report can be admitted into evidence.

Nothing in this rule is intended to: 1) preclude a stipulation agreed to by the parties for the admission of the report without the expert’s presence; 2) prevent further stipulation by the parties in light of the admission of the report and certification; or 3) change the discovery requirements pursuant to Rule 340.

Pursuant to paragraph (D), the court may permit filing of the notice or demand after the time period required in the rule if the party seeking the late filing shows cause for the delay. In the situation where the judge permits the late filing of the notice, the juvenile still has ten days to make the demand for the live testimony of the expert. This may necessitate a continuance of the adjudicatory hearing.

The certification in paragraph (E) does not require a description of the actual tests performed for the analysis. This information more properly belongs in the report itself. Because one of the goals of this rule is to permit the juvenile to make an informed decision regarding whether to demand the live testimony of the expert, the report should provide information sufficient to describe the methodology by which the results were determined.

For purposes of this rule, a laboratory is “accredited” when its management, personnel, quality system, operational and technical procedures, equipment, and physical facilities meet standards established by a recognized state, national, or international accrediting organization such as the American Society of Crime Laboratory Directors/Laboratory Accrediting Board (ASCLD/LAB) or Forensic Quality Services—International (FQS-I).

See Rule 345 for filing and service requirements.

EXPLANATORY REPORT

The Juvenile Court Procedural Rules Committee (Committee) is seeking public comment on an entirely new proposed Rule 405 regarding the notice and demand requirements in presentation of a forensic lab report at an adjudicatory hearing without the presence of a live witness.

This rule is being proposed to create a uniform procedure for delinquency proceedings similar to Pa.R.Crim.P. 574, which was adopted to address the issues raised by the U.S. Supreme Court’s decision in *Melendez-Diaz v. Massachusetts*, 129 U.S. 2527 (2009). Its decision held that the 6th Amendment’s confrontation right precluded presentation of laboratory reports without a live witness testifying at trial. In *Melendez-Diaz*, the U.S. Supreme Court noted with approval the use of “notice and demand” procedures. These procedures allow routine reports to be admitted without the expense of live expert testimony while protecting a defendant’s confrontation rights.

Under the Pennsylvania Constitution, Art. 1, § 9, juveniles are to be afforded the same due process rights as adult defendants, including the right to confront witnesses. See *In re Davis*, 546 A.2d 1149 (Pa. Super. Ct.

1988); *Com. v. McNaughton*, 381 A.2d 929 (Pa. Super. Ct. 1977). See also *In re Winship*, 397 U.S. 358 (1970) and *In re Gault*, 387 U.S. 1 (1967).

This rule provides a “notice and demand” procedure for delinquency proceedings. Under this rule, the attorney for the Commonwealth may seek to admit a forensic laboratory report as evidence without expert testimony if the notice requirements are met and no demand for the presence of the expert is made. If the juvenile makes such a demand, the expert is required to testify before the report can be admitted into evidence. See paragraph (B) for notice requirements and paragraph (C) for demand requirements.

An adjudicatory hearing may have to be continued if the court permits the filing of the notice or demand after the time period required if the party shows cause for the delay pursuant to paragraph (D). The demand period will run ten days from the date on the late filing of the notice.

Paragraph (E) provides for the requirements of the certification.

[Pa.B. Doc. No. 14-1190. Filed for public inspection June 6, 2014, 9:00 a.m.]

PART I. RULES

[237 PA. CODE CHS. 13, 15 AND 16]

Proposed Amendments to Rules 1302, 1515, 1608, 1610 and 1631

The Juvenile Court Procedural Rules Committee is soliciting public comment on modifications to Rules 1302, 1515, 1608, 1610, and 1631 before it considers any recommendations to the Supreme Court of Pennsylvania. These proposed modifications address inter-county transfer, docketing a change in custody, and clarifying the timing of a transition plan hearing.

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

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

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

All comments shall be received no later than Friday, July 25, 2014.

By the Juvenile Court
Procedural Rules Committee

HONORABLE TODD A. HOOVER,
Chair

Annex A
TITLE 237. JUVENILE RULES

PART I. RULES

Subpart B. DEPENDENCY MATTERS

CHAPTER 13. PRE-ADJUDICATORY PROCEDURES

PART A. VENUE

Rule 1302. Inter-County Transfer.

A. *Transfer.* A court may transfer a case to another county at any [time] stage of the dependency proceedings.

1) Prior to the transfer of the case, the transferring court and receiving court shall communicate regarding jurisdiction of the case.

2) If there is an agreement to transfer the case:

a) the transferring court shall enter an order transferring the case; and

b) the receiving court shall enter an order accepting jurisdiction and scheduling the next court proceeding in accordance with these Rules.

B. *Transmission of official court record.* If the case is transferred pursuant to paragraph (A):

1) the transferring court shall transfer certified copies of all documents, reports, and summaries in the child's official court record to the receiving court; and

2) the county agency of the transferring court shall transfer all its records to the county agency where jurisdiction has been transferred.

Comment

Prior to the transferring of a case to another judicial district, the judge of the transferring court is to communicate with the judge of the receiving court. See paragraph (A)(1). Communication is essential to ensure all the details of the case are conveyed and any issues are resolved. If there is an agreement between the judges to transfer, each judge is to issue an order. The transferring court is to enter an order: 1) transferring the case to the receiving court; and 2) ordering the official court record and county agency records to be transferred with the case. See paragraphs (A)(2)(a) & (B). Pursuant to paragraph (A)(2)(b), the receiving court shall: 1) enter an order accepting jurisdiction of the case; and 2) schedule the next court proceeding.

To ensure there is no interruption in services to the child, the transferring county is to continue services until the case has been transferred officially by the entrance of court orders pursuant to paragraphs (A)(2)(a) & (b).

See 42 Pa.C.S. § 6321.

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CHAPTER 15. DISPOSITIONAL HEARING

PART B. DISPOSITIONAL HEARING AND AIDS

Rule 1515. Dispositional Order.

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Comment

See 42 Pa.C.S. §§ 6310, 6351.

If the dispositional order changes custody of the child, the order should be filed and docketed in

Juvenile Court and in any existing custody case in Civil Court under the Domestic Relations docket.

When issuing a dispositional order, the court should issue an order that is "best suited to the safety, protection, and physical, mental, and moral welfare of the child." 42 Pa.C.S. § 6351(a). See *In re S.J.*, 906 A.2d 547, 551 (Pa. Super. Ct. 2006) (citing *In re Tameka M.*, 525 Pa. 348, 580 A.2d 750 (1990)), for issues addressing a child's mental and moral welfare.

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CHAPTER 16. POST-DISPOSITIONAL PROCEDURES

PART B(2). PERMANENCY HEARING

Rule 1608. Permanency Hearing.

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D. *Court's findings.*

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2) *Additional findings for fifteen of last twenty-two months.* If the child has been in placement for fifteen of the last twenty-two months, the court may direct the county agency to file a petition to terminate parental rights.

3) *Transition plan for children eighteen years of age or older.*

a) A hearing shall be held at least ninety days prior to the child turning eighteen years of age for the purpose of approving a transition plan.

b) Prior to the hearing, the child shall have the opportunity to make decisions about the transition plan and confer with the county agency about the details of the plan. The county agency shall provide the transition plan to the court and the plan shall, at a minimum, include:

- i) the specific plans for housing;
- ii) a description of the child's source of income;
- iii) the specific plans for pursuing educational or vocational training goals;
- iv) the child's employment goals and whether the child is employed;
- v) a description of the health insurance plan that the child is expected to obtain and any continued health or behavioral health needs of the child;
- vi) a description of any available programs that would provide mentors or assistance in establishing positive adult connections;
- vii) verification that all vital identification documents and records have been provided to the child;
- viii) a description of any other needed support services; and
- ix) notice to the child that the child can request resumption of juvenile court jurisdiction until the child turns twenty-one years of age if specific conditions are met.

c) At the hearing, the court shall review the transition plan for the child. If the court is not satisfied that the requirements of paragraph (D)(3)(b) have been met, a subsequent hearing shall be scheduled.

E. *Advanced communication technology.* Upon good cause shown, a court may utilize advanced communication technology pursuant to Rule 1129.

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Comment

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The court is to move expeditiously towards permanency. A goal change motion may be filed at any time.

Pursuant to paragraph (D)(3)(b), the county agency is to assist the child and provide all the support necessary in developing a transition plan. See 42 U.S.C. § 675(5)(A)—(H).

Pursuant to paragraph (D)(3)(c), the court is to approve a transition plan that is suitable for the child and that has been personalized at the direction of the child.

In addition to the permanency hearing contemplated by this rule, courts may also conduct additional and/or more frequent intermittent review hearings or status conferences, which address specific issues based on the circumstances of the case, and which assist the court in ensuring timely permanency.

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Rule 1610. Permanency Hearing for Children over Eighteen.

A. *Purpose and timing of hearing.* For every case for children over the age of eighteen, the court shall conduct a permanency hearing at least every six months for purposes of determining:

* * * * *

2) whether the transition plan of the child is consistent with Rule [1631(E)(2)] 1608(D)(3);

* * * * *

PART D. CESSATION OR RESUMPTION OF COURT SUPERVISION OR JURISDICTION

Rule 1631. Termination of Court Supervision.

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E. *Children eighteen years of age or older.*

[1) Before the court can terminate its supervision of a child who is eighteen years of age or older, a hearing shall be held at least ninety days prior to the child turning eighteen years of age.

2) Prior to the hearing, the child shall have the opportunity to make decisions about the transition plan and confer with the county agency about the details of the plan. The county agency shall provide the transition plan to the court and the plan shall, at a minimum, include:

- a) the specific plans for housing;
- b) a description of the child’s source of income;
- c) the specific plans for pursuing educational or vocational training goals;
- d) the child’s employment goals and whether the child is employed;
- e) a description of the health insurance plan that the child is expected to obtain and any continued health or behavioral health needs of the child;
- f) a description of any available programs that would provide mentors or assistance in establishing positive adult connections;

g) verification that all vital identification documents and records have been provided to the child;

h) a description of any other needed support services; and

i) notice to the child that the child can request resumption of juvenile court jurisdiction until the child turns twenty-one years of age if specific conditions are met.

3) At the hearing, the court shall review the transition plan for the child. If the court is not satisfied that the requirements of paragraph (E)(2) have been met, a subsequent hearing shall be scheduled.

4)] The court shall not terminate its supervision of the child without approving an appropriate transition plan pursuant to Rule 1608, unless the child, after an appropriate transition plan has been offered, is unwilling to consent to the supervision and the court determines termination is warranted.

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Comment

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Pursuant to 42 Pa.C.S. § 6351(a)(2.1), a court may transfer permanent legal custody to a person found by the court to be qualified to receive and care for the child. 42 Pa.C.S. § 6351(a)(2.1). See also *Justin S.*, 375 Pa.Super. 88, 543 A.2d 1192 (1988).

[Pursuant to paragraph (E)(2), the county agency is to assist the child and provide all the support necessary in developing a transition plan. See 42 U.S.C. § 675(5)(A)—(H).

Pursuant to paragraph (E)(3), the court is to approve a transition plan that is suitable for the child and that has been personalized at the direction of the child.]

If the court has resumed jurisdiction pursuant to Rule 1635, a new transition plan is to be developed for the child. Before the court can terminate supervision, the requirements of paragraph (E) are to be followed. In no case is a juvenile over twenty-one to remain under juvenile court supervision. See Rule 1635(E). See also Rule 1635(E) for termination of juvenile court jurisdiction if the court denies the motion for resumption of jurisdiction.

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EXPLANATORY REPORT

The Juvenile Court Procedural Rules Committee (Committee) is seeking public comment on modifications to Rules 1302, 1515, 1608, 1610, and 1631. These proposed modifications address inter-county transfer, docketing a change in custody, and clarifying the timing of a transition plan hearing.

Rule 1302

There have been questions regarding the methodology of transferring a case. These modifications seek to clarify the procedure.

Judges should be communicating informally with each other (e.g. telephone, email) to decide whether a case should be transferred and whether the receiving court is willing to agree to the transfer of the case. There is a multitude of issues that may arise in transfer cases, including where jurisdiction lies if a party has moved, custody has changed to an outside county person, or

another similar situation. There are also frequently many issues in the case and a better understanding of those issues can be relayed by a simple conversation.

After this communication, the judges decide together whether a case will be transferred. If transfer will occur, each judge must issue an order. The transferring court will enter an order: 1) transferring the case to the receiving court; and 2) ordering the official court record and county agency records to be transferred to the receiving court. At the same time, the receiving court will issue an order: 1) accepting jurisdiction of the case; and 2) scheduling the next court event.

At no time should a child be without services while transfer of a case is being discussed. The transferring county must continue to provide services until both orders have been issued.

Rule 1515

There are times when the judge in juvenile court issues an order changing the custody of the child that could affect an existing custody case. To ensure all parties are notified properly, the order changing custody must be docketed on both dockets: Juvenile Court and Civil Court.

Rule 1608, 1610, and 1631

Under the current Rules, the transition plan hearing is in the Termination of Court Supervision rule. After thoughtful consideration, the Committee believes it is more appropriately placed in the permanency hearing rule. The entire content of this procedure has been lifted from Rule 1631 and placed into Rule 1608.

The purpose of this move is to ensure hearings occur prior to the child's eighteenth birthday and that the county agency is prepared with achieving these requirements prior to that timeframe. In many instances, a transition plan takes time for thoughtful discussion of the available services with the child. Planning, making decisions, and providing services must occur. If a county agency waits until time of termination of a case, many plans would fail for lack of ample time to complete the plan. It is essential to consider thoughtfully all the details necessary to achieve independence while giving the child the time needed.

[Pa.B. Doc. No. 14-1191. Filed for public inspection June 6, 2014, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 300]

Order Adopting Rule 320 of the Rules of Civil Procedure Governing Actions and Proceedings before Magisterial District Judges; No. 368 Magisterial Doc.

Order

Per Curiam

And Now, this 19th day of May, 2014, upon the recommendation of the Minor Court Rules Committee; the proposal having been published for public comment at 43 Pa.B. 5701 (September 28, 2013):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 320 of the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings before Magisterial District Judges 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 July 20, 2014.

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 300. CIVIL ACTION

Rule 320. 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 (except for a consolidated hearing on a cross-complaint pursuant to Rule 315B), and notify the parties in writing that the complaint has been withdrawn.

(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 of the complaint 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 (except for a consolidated hearing on a cross-complaint pursuant to Rule 315B), and notify the parties in writing that the complaint has been marked settled.

(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.

C(1) The withdrawal or settlement of the plaintiff's complaint shall not affect the right of the defendant to proceed with a cross-complaint filed pursuant to Rule 315A.

(2) The defendant may file a written notice of withdrawal of the cross-complaint in the manner set forth in subdivision A.

(3) The parties may file a written notice of settlement of the cross-complaint in the manner set forth in subdivision B.

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.

FINAL REPORT¹
Recommendation 1-2014, Minor Court Rules
Committee

Adoption of New Rule 320 of the Pennsylvania Rules
of Civil Procedure before Magisterial District
Judges

Procedures for Withdrawing the Complaint or
Settling An Action

On May 19, 2014, effective July 20, 2014, upon recommendation of the Minor Court Rules Committee², the Supreme Court of Pennsylvania adopted new Rule 320³ of the Pennsylvania Rules of Civil Procedure before Magisterial District Judges.

I. Background and Discussion

The Minor Court Rules Committee (“Committee”) recommended adoption of new Rule 320 of the Pennsylvania Rules of Civil Procedure before Magisterial District Judges (“Rules”). The goal of this new rule is to establish procedures for the withdrawal of complaints by plaintiffs, for recording the settlement of actions by the parties, and to clarify the effect of withdrawals and settlements on the action and any cross-complaint filed pursuant to Rule 315A.

The Committee was advised of inconsistencies in statewide practice and uncertainty for litigants resulting from the absence of a rule based practice in the magisterial district courts for withdrawal of the complaint and recording of a settlement of the action. The Committee agreed that there should be a rule or rules providing for the withdrawal of complaints and settlement of actions. Additionally, the Committee thought it would be helpful 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 Rule 314E.⁴ The Committee published a proposal at Volume 43, *Pennsylvania Bulletin*, p. 5701 (43 Pa.B. 5701, September 28, 2013) that included such procedures.

II. Approved Rule Changes

New Rule 320 establishes procedures for the withdrawal of complaints by plaintiffs, and settlement of actions by the parties. Rule 320A permits a plaintiff to withdraw a complaint prior to the start of the hearing upon written notice to the magisterial district court. Upon receipt of such notice, the magisterial district court notes the withdrawal on the docket, cancels the scheduled hearing (if the defendant has not filed a cross-complaint), and notifies the parties in writing. With respect to the future rights of the parties, the withdrawal of a complaint is deemed to be without prejudice, and a plaintiff may file a new complaint upon payment of all applicable fees and costs. Under no circumstances should a new complaint filed pursuant to this rule be treated as a “reinstatement”, as that term is used in Rule 314E (*i.e.*, the limited circumstance of failure to make timely service of the complaint).

¹ The Committee’s Final Report should not be confused with the Official Notes to the Rules. Also, the Supreme Court of Pennsylvania does not adopt the Committee’s Official Notes or the contents of the explanatory Final Reports.

² Minor Court Rules Committee Recommendation 1-2014.

³ A prior 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 Rule 209 in order to have one rule containing all provisions related to continuances. The Committee recommended using number 320 for this new rule because it places the new rule in the logical procedural sequence.

⁴ Rule 314E provides that “a complaint that has been dismissed without prejudice for failure to make service pursuant to subdivision D of this rule may be reinstated at any time and any number of times.”

Similarly, Rule 320B permits the parties to file a 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 notes the case settled on the docket, cancels the scheduled hearing (if the defendant has not filed a cross-complaint), and notifies the parties in writing. If a subsequent breach of the settlement agreement occurs, the party should file a new complaint citing breach of the settlement agreement as the cause of action, subject to all applicable fees and costs. Under Rule 320B(2), the original complaint may not be “reinstated.”

Finally, Rule 320C addresses the effect of a withdrawal or settlement of the complaint on a cross-complaint filed by the defendant, and provides instruction on the method of having a cross-complaint marked withdrawn or settled. A cross-complaint filed pursuant to Rule 315A may be “any claim against the plaintiff that is within the jurisdiction of a magisterial district judge.” Further, “[s]uch a claim 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.” See Rule 315A. Therefore, the withdrawal or settlement of the underlying complaint does not automatically terminate the cross-complaint. Any scheduled hearing on a cross-complaint should proceed, unless the defendant takes affirmative action to withdraw the cross-complaint, or the court is notified that the cross-complaint has been settled.

[Pa.B. Doc. No. 14-1192. Filed for public inspection June 6, 2014, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Office of Judicial Records, Philadelphia Civil Rules
***204.1, *206.1(a), *1302, *1303, *1304, *1305 and**
***1308; President Judge General Court Regula-**
tion No. 2014-02

Order

And Now, this 23rd day of May, 2014, the Board of Judges of Philadelphia County having voted at the Board of Judges’ meeting held on May 15, 2014 to amend all Philadelphia Local Civil Rules to reflect the name change of the Office of the Prothonotary to the “Office of Judicial Records” and to further amend the following Philadelphia local civil rules: *204.1; *206.1(a); *1302; *1303; *1304; *1305; and *1308,

It Is Hereby Ordered that any reference to the “Prothonotary” in any Philadelphia local civil rule shall be changed to the “Office of Judicial Records” and that Philadelphia local civil rules *204.1; *206.1(a); *1302; *1303; *1304; *1305; and *1308 are amended as follows.

This General Court Regulation is issued in accordance with Pa.R.C.P. No. 239 and shall be filed with the Office of Judicial Records in a Docket maintained for General Court Regulations issued by the President Judge of the Court of Common Pleas of Philadelphia County. As required by Pa.R.C.P. No. 239(c), two certified copies of this General Court Regulation and amended local rules,

as well as a copy on a computer diskette, shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, one certified copy shall be submitted to the Administrative Office of Pennsylvania Courts, and one certified copy to the Supreme Court Civil Procedural Rules Committee. The previously-referenced rule changes shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*. Copies of the General Court Regulation and rules shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library, and the Law Library for the First Judicial District of Pennsylvania, and shall be posted on the website of the First Judicial District of Pennsylvania: <http://courts.phila.gov/regs>.

By the Court

HONORABLE SHEILA WOODS-SKIPPER,
President Judge
Court of Common Pleas

AMENDMENTS TO THE PHILADELPHIA CIVIL RULES

Adopted by the Board of Judges on 5-15-14

The Rules as Follows Contain the Amended Language

Change the reference to "Prothonotary" in all Civil Rules to "Office of Judicial Records."

Rule No. *204.1. Pleadings and other Legal Papers. Format.

(a) In order to accommodate the filing of documents in an electronic format as authorized by Philadelphia Civil Rule *205.4, all "legal papers," as defined in Pa.R.C.P. No. 205.4(a)(2), must conform to the following requirements:

- (1) All files must be no larger than 5MB each. . . .

* * * * *

Rule No. *206.1(a). Designation of Petitions.

(1) In addition to petitions to open default judgment and petitions to open judgment of non pros, the following applications are designated "petitions" and are governed by the procedures set forth in Pa.R.C.P. 206.1 et seq.:

- (i) Petition to Appoint Arbitrator;
- (ii) Petition to Appoint A Receiver;
- (iii) Petition to Compel Arbitration;
- (iv) Petition to Confirm Arbitration Award;
- (v) Petition to Confirm Settlement;
- (vi) Petition for Contempt;
- (vii) Petition to Set Aside Arbitration Award;
- (viii) Statutory Petitions; and
- (ix) Petition to Appoint a Sequestrator.

Rule *1302. Appointment of Arbitrators.

(a) The Director of the Arbitration Center shall maintain an Arbitrator List of attorneys who have been deemed to be qualified to sit as Arbitrators in the Compulsory Arbitration Program of the Court of Common Pleas of Philadelphia County.

(b) Minimum criteria for qualification includes membership of the Bar of the Supreme Court of Pennsylvania, active practice of law for a minimum of one year subsequent to admission to the Bar of the Supreme Court of

Pennsylvania for panelists and five years for Chairpersons, maintenance of a principal office in Philadelphia County, attendance of a court-approved arbitration seminar and trial of a civil case in any forum in the Commonwealth of Pennsylvania. The Director of the Arbitration Program shall make available an Application for Initial Certification as Arbitration Panelist form, substantially in the form set forth hereunder, requiring the necessary information for determination of qualifications.

(c) Attorneys not currently enrolled on the Arbitration List may request to be included thereon by completing the Court supplied Application Form.

(d) The Director of the Arbitration Center from the Court-approved Arbitration List panelists and chairperson for assignment.

(e) Arbitrators no longer maintaining their principal office in Philadelphia County are required to promptly advise the Director of the Arbitration Center in writing.

(f) The Director of the Arbitration Center may, from time to time, strike the name of an attorney from the Arbitrator List in accordance with this rule.

(g) An issue concerning disqualification of an Arbitrator from a particular case shall first be raised with the Arbitration Panel and, if appropriate, with the Director of the Arbitration Center.

Rule *1303. Scheduling of Arbitration Hearings. Relistings. Consolidations.

* * * * *

(b) *Deferred Status.*

- (1) *To Obtain Deferred Status.*

* * * * *

(ii) *Other Than Initial Filing.* Any party may seek deferral of a case by filing a Miscellaneous Arbitration Application substantially in the form set forth hereunder, setting forth the reasons for the Deferral. Before filing the Miscellaneous Arbitration Application with the Arbitration Center, counsel shall comply with the instructions set forth on said Form.

* * * * *

- (2) *Compulsory Arbitration Hearing Order*

* * * * *

(ii) *Other Deferred Cases.* When any party advises the Director of the Arbitration Center that the reasons for the deferral are no longer applicable, or upon Order of Court, the case shall be removed from Deferred Status and appropriate action shall be taken.

(c) *Continuances.* All requests for continuances shall be made as provided herein.

* * * * *

(2) *Written Request.* All requests for continuance of Arbitration Hearings shall be in writing on a Continuance & Deferral Application substantially in the form set forth hereunder and shall be filed in accordance with President Judge Administrative Order No. 2009-02. The Continuance & Deferral Application shall set forth the specific reasons for the continuance and the legal basis for the continuance, as provided in Pa.R.C.P. 216 and this rule, the position of all other counsel or unrepresented parties and the date and time mutually convenient to all parties, for the relisting of the Arbitration Hearing.

(3) *Procedure for Obtaining Continuance.* A Continuance & Deferral Application shall be filed with the Arbitration Center and as may otherwise be provided in the Application. A copy of the Continuance & Deferral Application must be served, as required, on opposing counsel and unrepresented parties contemporaneously with its filing with the Arbitration Center. Upon receipt of the Continuance & Deferral Application, the Director of the Arbitration Center, or his/her designee, shall rule on the request, and, in appropriate cases, may consult with the Administrative Judge of the Trial Division or his/her designee. There shall be no hearing or oral argument on the request for continuance or a ruling thereon, and the ruling is not subject to judicial scrutiny at the request of any party.

* * * * *

(d) *Advancement.* A hearing date may be advanced by filing a Continuance & Deferral Application with the Director of the Arbitration Program which shall allege that all parties agree to the advancement to a specific date.

* * * * *

(i) *Settlement Prior to Hearing Date.* Counsel shall give written notification to the Director of the Arbitration Center of any settlement prior to the Arbitration Hearing date and an appropriate Order will be issued. Failure to provide written notice prior to the Arbitration Hearing date will result in the entry of a judgment of non pros if the parties fail to appear for the Call of the List and hearing.

* * * * *

Rule *1304. Arbitration Facilities. Call of the List.

* * * * *

(b) *Call of the List.* There shall be a call of the list of all cases scheduled for the same time. If all parties fail to appear, without having previously obtained a continuance or advised the Director of the Arbitration Center in writing that the case has settled, the case shall be non-prossed.

Rule *1305. Conduct of Arbitration Hearings.

(a) *Rules of Evidence. Supervisory Authority.* Hearings shall be conducted in accordance with the established rules of evidence, liberally construed to promote justice. The Arbitration panel, which may seek the assistance of the Director of the Arbitration Center, shall have the general powers of a court including the power to determine the admissibility of evidence, to permit testimony to be offered by depositions and to decide the law and the facts of the case submitted to them. Provided, however, that the Arbitration panel may not continue any case assigned to it.

* * * * *

Rule *1308. Compensation of Arbitrators.

All arbitrators, whether panel members or chairpersons, shall be compensated at a rate of \$225.00 per day or \$125.00 for one-half day of service, or as may otherwise be established by the Administrative Judge of the Trial Division.

[Pa.B. Doc. No. 14-1193. Filed for public inspection June 6, 2014, 9:00 a.m.]

PHILADELPHIA COUNTY

Rescission of All Current Domestic Relations Local Rules Pertaining to Protection from Abuse, Support, Custody, and Divorce or Annulment; Adoption of Domestic Relations Local Rule 1901.1, Rule 1901.2, Rule 1901.3, Rule 1901.9, Rule 1901.10, Rule 1901.11, Rule 1901.12, Rule 1905.1, Rule 1920.1, Rule 1920.4, Rule 1920.42, Rule 1920.51, and Rule 1930; President Judge General Court Regulation No. 2014-01

Order

And Now, this 23rd day of May, 2014, the Board of Judges of Philadelphia County having voted at the Board of Judges' meeting held on May 15, 2014 to rescind all current Domestic Relations local rules pertaining to Protection from Abuse, Support, Custody, and Divorce or Annulment, and having voted to adopt new Domestic Relations local rules, as provided as follows,

It Is Hereby Ordered that all current Domestic Relations local rules pertaining to Protection from Abuse, Support, Custody, and Divorce or Annulment are rescinded, and it is further *Ordered* that the following Domestic Relations local rules are adopted: Rule 1901.1; Rule 1901.2; Rule 1901.3; Rule 1901.9; Rule 1901.10; Rule 1901.11; Rule 1901.12; Rule 1905.1; Rule 1920.1; Rule 1920.4; Rule 1920.42; Rule 1920.51; and Rule 1930, as follows.

This General Court Regulation is issued in accordance with Pa.R.C.P. No. 239 and shall be filed with the Office of Judicial Records in a Docket maintained for General Court Regulations issued by the President Judge of the Court of Common Pleas of Philadelphia County. As required by Pa.R.C.P. No. 239(c), two certified copies of this Administrative Order and amended local rule as well as a copy on a computer diskette shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, one certified copy shall be submitted to the Administrative Office of Pennsylvania Courts, and one certified copy to the Domestic Relations Procedural Rules Committee. The previously-referenced rule changes shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*. Copies of the General Court Regulation and rules shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library, and the Law Library for the First Judicial District of Pennsylvania, and shall be posted on the website of the First Judicial District of Pennsylvania: <http://courts.phila.gov/regs>.

By the Court

HONORABLE SHEILA WOODS-SKIPPER,
President Judge
Court of Common Pleas

Rescissions and Adoptions of Court of Common Pleas, Family Court Division, Domestic Relations Section, Local Rules

May 15, 2014 Board of Judges' Meeting

#

LOCAL RULES

All current Domestic Relations Local Rules pertaining to Protection from Abuse, Support, Custody and Divorce or Annulment are rescinded
The Following Local Rules are Adopted:

- # **LOCAL RULES**
- Protection from Abuse**
- 1 Rule 1901.1 - Scope
- 2 Rule 1901.2 - Scheduling. Continuances
- 3 Rule 1901.3 - Emergency Orders. Master for
Emergency Relief
- 4 Rule 1901.9 - Presence of Domestic Violence
Counselor/Advocate in Proceedings
- 5 Rule 1901.10 - Evidence. Medical Records,
Affidavits of Repair, Statements of Lost Earnings
- 6 Rule 1901.11 - Order by Consent. Consent
Agreement
- 7 Rule 1901.12 - Order by Default. Bench Warrant
- 8 Rule 1905.1 - Bilingual Forms

Divorce and Annulment

- 9 Rule 1920.1- Scope
- 10 Rule 1920.4- Service
- 11 Rule 1920.42- Documents required to be filed in
Divorce Actions under Section 3301(c) and Section
3301(d) of the Divorce Code.
- 12 Rule 1920.51- Proceedings before Master in
Divorce

Domestic Relations Matters Generally

- 13 Rule 1930
The rules of this chapter shall govern all civil
actions or proceedings brought in the Court of
Common Pleas for Philadelphia County in
Divorce, Support, Custody, and Protection From
Abuse under the Domestic Relations Code, and
shall be cited as "Phila.DR.R."

**Proposed Philadelphia County Local Rules
Pursuant to the Protection From Abuse Act**

Rule 1901.1. Scope.

The rules of this chapter shall govern all civil actions or proceedings brought in the Court of Common Pleas for Philadelphia County under the Protection from Abuse Act. 23 Pa.C.S. § 6101 et seq., and shall be cited as "Phila.DR.R."

Rule 1901.2. Scheduling. Continuances.

Cases shall be scheduled consistent with Pa.R.C.P. 1901.2. Upon application of any party or by agreement of the parties, the Court may grant a continuance for good cause shown. Upon the granting of a continuance, the temporary order shall remain in effect unless otherwise ordered.

Rule 1901.3. Emergency Orders. Master for Emergency Relief.

(a) A party may seek emergency relief pursuant to 23 Pa.C.S. § 6110 by filing a petition with the Emergency Hearing Master presiding at the Justice Juanita Kidd Stout Center for Criminal Justice, 1301 Filbert Street, Philadelphia, PA whenever the Court of Common Pleas is unavailable.

(b) For the purposes of this Rule, the Court of Common Pleas is unavailable from the close of business at the end

of each day to the resumption of business the next morning or from the end of the business week to the beginning of the next business week.

(c) Emergency Protection from Abuse Unit staff shall assist the plaintiff in filling out the necessary forms.

(d) The Emergency Hearing Master on duty shall review the petition for emergency relief and, when appropriate, grant an emergency order.

(e) The Emergency Hearing Master shall advise the plaintiff that the emergency order will automatically be certified to the Family Division of the Court of Common Pleas for a hearing before the assigned Court of Common Pleas Judge.

(f) When an emergency order is certified, the case shall be scheduled for hearing before the assigned Court of Common Pleas Judge within ten business days from the date on which the petition was filed.

(g) All certified emergency orders shall continue in effect until review by the assigned Court of Common Pleas Judge on the next business day.

(h) At the beginning of the next business day, all certified emergency orders and accompanying petitions shall be delivered to the Domestic Violence Unit, Family Division, which shall arrange for docketing and delivery to the assigned Court of Common Pleas Judge for prompt review. After review, the Judge shall enter temporary orders where necessary to protect the plaintiff and/or minor children until the scheduled hearing.

(i) The Philadelphia Police Department shall assist the plaintiff or any other competent adult in serving the petition and emergency order on the defendant. The notice to defend which shall accompany the petition for an emergency order shall advise the parties of how they may learn whether a temporary order has been issued and if so how they may obtain a copy of that order.

Rule 1901.9. Presence of Domestic Violence Counselor/Advocate in Proceedings.

(a) Upon request of a plaintiff, the Court shall allow a domestic violence counselor/advocate who has accompanied the plaintiff to Court to be present in the courtroom throughout the proceedings.

(b) Where a plaintiff is unrepresented by counsel, the domestic violence counselor/advocate may provide assistance to the plaintiff in his or her presentation of the facts relevant to the action.

(c) A domestic violence counselor/advocate is an individual who is engaged in a domestic violence program, who provides services to victims of domestic violence, who has undergone 40 hours of training and who is under the control of a direct services supervisor of a domestic violence program, the primary purpose of which is the rendering of counseling or assistance to victims of domestic violence.

Rule 1901.10. Evidence. Medical Records, Affidavits of Repair, Statements of Lost Earnings.

The Court shall receive into evidence without further proof copies of bills, hospital and physician reports, and all other records of licensed health care providers which are offered to substantiate claims of personal injury stemming from domestic abuse. The Court shall also receive into evidence without further proof copies of bills, records, reports, affidavits of repair, estimates of value, statements of lost earnings and similar documentation offered to substantiate any other reasonable losses suffered as a result of the abuse. Upon a proper showing, the

Court may continue the hearing to allow any other party to subpoena the person whose testimony is waived by this rule to appear at a later hearing at which time any adverse party may cross-examine him/her as to the document as if he/she were a witness for the party offering the document.

Rule 1901.11. Order by Consent. Consent Agreement.

(a) The parties may agree to the entry of a final order by consent.

(b) The consent agreement shall contain only those terms directly related to Protection From Abuse Act issues which are properly before the Court of Common Pleas.

(c) A consent agreement shall be signed by both parties. If the parties are represented, counsel shall witness their signatures.

(d) The signed consent agreement may be submitted to the Court at the hearing.

Rule 1901.12. Order by Default. Bench Warrant.

If a defendant who was properly served fails to appear in Court at the time of the hearing, the Court, in its discretion, may issue a bench warrant for the arrest of the defendant, or it may enter a final order by default, granting the plaintiff such relief as is proper under the Act.

Rule 1905.1. Bilingual Forms.

Bilingual forms shall be made available to litigants with limited English proficiency in the Spanish language, and in other languages, as the need arises.

**Proposed Philadelphia County Local Rules
Actions for Divorce and Annulment of Marriage**

Rule 1920.1. Scope.

The rules of this chapter shall govern all civil actions or proceedings brought in the Court of Common Pleas for Philadelphia County under the Divorce Code 23 Pa.C.S. § 3101 et seq., and shall be cited as "Phila.DR.R."

Rule 1920.4. Service.

(a) Upon good cause shown, the Court may enter a special order directing service by ordinary mail directed to defendant's last known residence or other address.

(b) The requirements of good cause shall be satisfied upon the filing of an affidavit by plaintiff setting forth the extent of unsuccessful efforts to make service if the address is known, or the nature and extent of a good faith investigation made to ascertain the present residence and whereabouts of a defendant whose whereabouts are unknown.

(1) Such affidavit shall set forth the following information:

(i) the time and place at which the parties last resided together as spouses;

(ii) the last time the parties were in contact with each other, and the defendant's address and telephone number at that time;

(iii) the name and address of the last employer of the defendant either during the time the parties resided together or at a later time, if known to the plaintiff;

(iv) the names and addresses and relationship to defendant of those relatives known to be close to the defendant;

(v) proof that inquiry has been made of applicable voter registration records in an effort to ascertain the address of the defendant;

(vi) any other information which could furnish a fruitful basis for one truly bent on learning the present whereabouts of the defendant;

(vii) such affidavit should detail the particular efforts made to ascertain the defendant's present address and to effect service.

(2) A petition seeking such relief shall be filed with the Court requesting entry of a special order for service. The proposed order accompanying such Petition shall set forth the specific address at which counsel or unrepresented party will serve process on the defendant by regular mail. No hearing shall be held on such Petition unless the Court directs otherwise.

(c) When service of the Complaint in Divorce is made by registered mail, or by Acceptance of Service pursuant to Pa.R.C.P. 402(b), service shall not be deemed complete unless (1) the signature on the return receipt or on the Acceptance of Service form is identified to be that of the defendant by affidavit or verification of the plaintiff or other person familiar with said signature, or (2) where service is accepted by an unauthorized agent of the defendant, an affidavit or verification as to the identity of the agent and his or her relationship to the defendant.

**Rule 1920.42. Documents required to be filed in
Divorce Actions under Section 3301(c) and Section 3301(d) of the Divorce Code.**

(a) Unless previously filed of record, the following documents shall be filed along with the Praeceptum to Transmit Record after all economic claims of record have been resolved or withdrawn:

(1) if the action is brought under Section 3301(c), the Affidavits required under Pa.R.C.P. 1920.42(a)(1);

(2) if the action is brought under Section 3301(d), the Affidavit required under Pa.R.C.P. 1920.42(a)(2);

(3) an Affidavit of Service as to the Complaint;

(4) in the case of actions brought under Section 3301(d), an Affidavit of Service as to the Affidavit required under Pa.R.C.P. 1920.42(a)(2);

(5) a proposed Final Decree in Divorce;

(6) if the proposed Final Decree in Divorce purports to incorporate a written agreement between the parties, a true and correct copy of the fully executed agreement;

(7) a stamped pre-addressed envelope addressed to the counsel of each represented party or, if unrepresented, to each unrepresented party;

(8) if the Defendant has failed to appear or has not filed an Affidavit of Consent in the action, an Affidavit of Non-Military Service;

(9) a copy of the Notice of Intent to File Praeceptum that was earlier sent to the opposing party or to his or her counsel of record; and

(10) current docket entries.

(b) The aforesaid procedure is only applicable in all cases under Section 3301(c) and Section 3301(d) where all issues between the parties have been resolved. The party filing the Praeceptum may withdraw a claim by so noting on the Praeceptum to Transmit Record. Any outstanding claims by the opposing party may only be withdrawn by a separate Praeceptum signed by that party or his attorney of record. If any claims are not specifically withdrawn or

resolved by attached written agreement, the case must be referred to a Master for disposition (unless bifurcated by Order of Court).

(c) If a Praeceptum to Transmit is defective, the Clerk of the Family Court may require that a corrected Praeceptum be filed, preceded by notification to the opposing party. No additional filing fee need be paid when the corrected Praeceptum is filed.

(d) In a case proceeding under Section 3301(c), if any objection is filed to the Praeceptum to Transmit Record, the following procedure shall be followed:

(1) The Clerk of the Family Court shall place any case wherein an objection has been filed on the next available list for the Family Court Motions Judge. All parties or their counsel shall be given at least ten (10) days notice prior to the listing date for the Court to determine whether the objection should be sustained or dismissed.

(2) If the Family Court Motions Judge determines that an objection should be sustained, an Order shall be entered which shall provide one of the following:

- (i) require the filing of additional pleadings;
- (ii) refer the case to the Permanent Master in Divorce, subject to the requirements set forth in Rule 1920.51;
- (iii) enter a Decree in Divorce with jurisdiction reserved over certain claims;
- (iv) grant such other relief as the Court deems necessary.

(3) If the Family Court Motion Judge determines that an objection should be dismissed, that Judge shall enter a Final Decree in Divorce.

(e) In any case where a Section 3301(d) Counter-affidavit is filed, the matter will be promptly listed before the Permanent Master in Divorce for purposes of a hearing on all non-economic issues raised therein. The written notice of said hearing shall clearly state that failure of the non-moving party to appear at the scheduled time will result in the dismissal of all objections and claims raised in the Counter-affidavit and the entry of a Final Decree in Divorce without additional notice to that party.

(1) If the non-moving party fails to appear for the scheduled listing of the case, the Master shall thereupon file a summary Report or Proposed Order recommending dismissal of the Counter-affidavit. If no exceptions are filed to the Report or Proposed Order within twenty days, then the Report or Proposed Order shall forthwith be presented to a Judge for approval and entry of an Order dismissing the Counter-affidavit. A Final Decree pursuant to Section 3301(d) or Order approving grounds for Divorce may then be entered following judicial review of the file.

(2) If both parties appear for the listing of the case, the Permanent Master in Divorce shall then conduct a conference to ascertain what issues are actually in dispute. Following conclusion of the conference, the Master may immediately proceed with a record hearing to dispose of any contest as to grounds, or he may defer the matter to another listing, for which notice shall be given while the parties are in attendance.

(i) After the completion of testimony relating to Grounds under Section 3301(d), the Permanent Master shall expeditiously prepare and file a Report which contains his or her findings as to whether the prerequi-

sites under that Section have been met. Copies of said Report shall be served on counsel and any unrepresented parties.

(ii) Within twenty (20) days after the date of the Report by the Permanent Master, any party may file written exceptions thereto. Any such exceptions shall thereafter be listed for argument before a Judge of the Family Court who shall dispose of the same on the basis of the record compiled before the Permanent Master. In the absence of exceptions within said twenty (20) day period, the Report shall be transmitted to a Judge for approval and entry of an Order consistent with the Master's recommendation as to Grounds for a Section 3301(d) Divorce. If no economic issues remain outstanding in the case, a Final Decree pursuant to Section 3301(d) may then be entered following judicial review of the file.

(iii) If economic issues are raised in a case for the first time through a Counter-affidavit, the Permanent Master shall submit a proposed Order to the Court whereby a deadline is set for the defendant to perfect his/her claims for economic relief through the filing of a Counterclaim or petition pursuant to Pa.R.C.P. 1920.15. If the defendant subsequently fails to comply with such Order, the Clerk of the Family Court, upon praecipe of the plaintiff, shall submit the file to a Judge for entry of a Final Decree.

(iv) If economic issues were raised in a case prior to the filing of a Counter-affidavit, or if the defendant perfects his/her claims for economic relief under the preceding paragraph, it shall be the responsibility of the parties to dispose of such issues through the filing of a Certification for Hearing pursuant to Pa.R.C.P. 1920.51.

Rule 1920.51. Proceedings before Master in Divorce.

(a) As used in this section, "Master" means a Permanent Master in Divorce who has been authorized by the Court to hear:

(1) matters relating to grounds for Divorce under Sections 3301(a), 3301(b), and 3301(d)(1)(ii), and for Annulment under Sections 3303, 3304 and 3305 of the Divorce Code;

(2) economic issues, including claims for equitable distribution of property, alimony, counsel fees, costs and expenses.

(b) Procedure for Divorce under Sections 3301(a) and 3301(b), and for Annulment:

(1) When a party wishes to proceed under fault grounds for Divorce or an Annulment, said party shall file a "Motion for Divorce Hearing on Fault Grounds or for Annulment" accompanied by a certification of service and a proposed Order of assignment setting forth the issues to be referred by the Court to the Master.

(2) Within ten (10) days following service of a Motion for Divorce Hearing on Fault Grounds or for Annulment, a party may file an Answer thereto for purposes of objecting to the proposed assignment of the case to a Master. It shall not constitute grounds for objection that discovery on economic issues has not been completed.

(3) The Motion for Divorce Hearing on Fault Grounds or for Annulment may be filed by either party as soon as twenty (20) days have elapsed following service of the complaint.

(4) Thirty (30) days advance notice of the hearing shall be given to the attorneys of record and any unrepresented parties. All parties shall be prepared to proceed at that time on the case,

(5) Unless otherwise ordered by the Court, an official Court interpreter of the Court of Common Pleas shall be utilized where a party or witness is unable to communicate in the English language.

(6) In uncontested proceedings, the moving party shall be prepared to present the following to the Master on the day of the hearing:

- (i) an Affidavit setting forth jurisdictional facts;
- (ii) a separate narrative Affidavit setting forth the specific facts relied upon as the basis for the fault allegations in the case, or where an Annulment is requested, the facts establishing grounds for such relief under Sections 3304 or 3305;
- (iii) in cases where no appearance of record has been entered for the defendant, an Affidavit of Non-Military Service as required by the Soldiers' and Sailors' Civil Relief Act; and
- (iv) in actions for Indignities under Section 3301(a)(6), a Certification of Counseling Notice.

(7) In contested cases, all testimony before the Master shall be recorded. Upon request of a party or on the Master's own motion, the attendance of witnesses before the Master may be secured through the issuance of a subpoena from the Clerk of Family Court.

(8) Copies of the Master's Report in Fault Grounds or Annulment cases shall be mailed to counsel of record and to any unrepresented parties. Such copies shall be accompanied by a proposed Decree and notice informing the parties that either side may file exceptions to the Report within twenty (20) days of the date said Report is filed.

(c) *Procedure on Economic Issues.*

(1) No hearing shall be scheduled before the Permanent Master to dispose of economic issues in a case unless one of the following has occurred:

(i) a Master's Report has been filed recommending a divorce under Section 3301(a), 3301(b) or 3301(d)(1)(ii) in a case where economic issues have been raised by a pleading. If no exceptions have been filed to said Report, or after exceptions thereto have been dismissed, the Court shall enter an Order in the following form:

ORDER APPROVING GROUNDS FOR DIVORCE

AND NOW, this ____ day of _____, 20____, pursuant to the Report of the Master in Divorce, it is hereby Ordered that a Decree in Divorce shall hereafter be entered following resolution by the Permanent Master of all claims of record relating to equitable distribution of marital property, alimony, counsel fees, costs and expenses, and related claims under Divorce Code of 1980, as amended;

(ii) A Praecipe to Transmit Record has been filed pursuant to Section 3301(c) or Section 3301(d)(i) in a case where economic claims have been raised of record. Said Praecipe to Transmit Record and the Notice of Intent that shall precede it shall be accompanied by all other documents required by Rule 1920.42. After any objection to said Praecipe has been dismissed, the Court shall enter an Order in the following form:

ORDER APPROVING GROUNDS FOR DIVORCE

AND NOW, this ____ day of _____, 20____, upon receipt of the record setting forth a cause of action under Section 3301(c) or Section 3301(d), a Decree in Divorce shall hereafter be entered following

resolution by the Master of all claims of record relating to equitable distribution of marital property, alimony, counsel fees, costs and expenses, and related claims under Divorce Code of 1980, as amended;

(iii) A bifurcated Decree In Divorce has been entered by the Court.

(2) A Master's hearing may only be scheduled on economic issues after one of the parties or their attorney of record has certified that:

- (i) an Order Approving Grounds for Divorce or a Bifurcated Decree has been entered;
- (ii) all discovery has been completed; and
- (iii) there are no motions or petitions outstanding in the case.

(3) All such Certifications for Hearing before the Master in Divorce shall be filed in the Office of the Clerk of the Family Court following payment of the required fee; provided, however, that no additional fee shall be required where fault grounds have been established pursuant to a hearing before the Permanent Master. At the time of filing the Certification, the attorney for the moving party shall also file with the Clerk of Family Court a verification that a copy of said Certification was served on the opposing attorney of record, or on the opposing party, if unrepresented.

(4) Within ten (10) days following the date of filing a Certification for Hearing before the Permanent Master, opposing counsel or the unrepresented party may file objections to the same in the Office of the Clerk of the Family Court. Any such objections shall state with particularity the basis for denying the representations in the Certification. All objections to Certifications for Hearing before the Permanent Master will be promptly listed for hearing before the Family Court Motions Judge.

(5) If no objections are filed to the Certification for Hearing pursuant to subsection (4) hereof, the case shall be scheduled for a hearing before a Permanent Master. Thirty (30) days advance notice of any such hearing shall be given to counsel and any unrepresented party, unless otherwise ordered by the Court.

(6) At least ten (10) days prior to the scheduled hearing before the Permanent Master, each party shall file a mandatory pre-trial memorandum in accordance with Pa.R.C.P. 1920.33(b). The pre-trial memorandum shall be filed with the Clerk of Family Court and a copy of the same shall be mailed or personally served on the same day to opposing counsel or any unrepresented party.

(7) The Master shall take non-record testimony from the parties only, unless, at the sole discretion of the Master, additional non-record testimony is required. The parties may offer into evidence, without formal proof, documentary evidence in the nature of appraisals, pension evaluations, statements from financial institutions, official or certified records of any governmental or judicial body, and other reports, bills and records relating to real estate, personal property, counsel fees and costs, provided that true and correct copies of all such evidence is provided to all parties or counsel of record at least ten (10) days prior to the hearing.

(8) Within thirty (30) days after conclusion of the final hearing on economic issues, the Permanent Master shall file with the Court a report containing findings of fact and conclusions of law along with a recommendation and proposed Decree and/or Order disposing of all issues of record. Copies of said findings and order shall be mailed

to the counsel of record, or unrepresented parties, together with a notice explaining the procedure for requesting a trial de novo by the Court.

(9) Within twenty (20) days after the mailing date of the Master's Report and proposed Decree, either party may file with the Clerk of Family Court a Praeceptum for a trial de novo before a Judge. Time stamped copies of any such Praeceptum shall forthwith be served on the opposing counsel of record or unrepresented party, and on the Master who heard the matter. The case thereafter shall be listed before a Judge for a full evidentiary hearing.

(10) In the event there is no demand for a trial filed within twenty (20) days following mailing of the Report and proposed Decree, such Report and proposed Decree shall be submitted to the Court for approval and entry of a Decree.

(11) Any willful violation of this Rule including a failure to comply with filing requirements, failing to provide the required pre-trial memorandum, not providing all parties or counsel copies of documentary evidence to be introduced at the hearing before the Master, or not attending a hearing, shall be grounds for contempt of Court and imposition of sanctions. The Master is empowered to recommend that anyone not complying with this Rule be cited for contempt of Court.

**Proposed Philadelphia County Local Rules
Rules Relating to Domestic Relations Matters
Generally**

Rule 1930.

The rules of this chapter shall govern all civil actions or proceedings brought in the Court of Common Pleas for Philadelphia County in Divorce, Support, Custody, and Protection From Abuse under the Domestic Relations Code, and shall be cited as "Phila.DR.R."

(a) The following shall be filed with the office of the Clerk of Family Court:

(1) the entry of appearance by an attorney on behalf of a party, which shall be substantially in the following form:

See Form on Page 14

(2) the entry of an appearance by a self-represented party pursuant to Pa.R.C.P.1930.8; which shall be substantially in the following form:

See Form on Page 15

(3) the original and four copies of all complaints, petitions, motions, mandatory filings, and all other pleadings and documents in the nature of pleadings.

(b) All local forms shall be posted on the First Judicial District's website: <http://courts.phila.gov/forms>.

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FAMILY DIVISION**

vs. _____
DOCKET NO. _____
PACSES No. _____

ATTORNEY'S ENTRY / WITHDRAWAL OF APPEARANCE
PLEASE ENTER/WITHDRAW OF RECORD MY APPEARANCE FOR:

CLIENT'S NAME

ATTORNEY'S NAME

ATTORNEY'S ADDRESS

CITY STATE ZIP CODE

ATTORNEY'S TELEPHONE NUMBER

ATTORNEY'S EMAIL ADDRESS

ATTORNEY'S ID NO. SIGNATURE OF ATTORNEY

DATE

Entry of Appearance Self Represented Party

VS. PLAINTIFF : IN THE COURT OF COMMON PLEAS
: OF PHILADELPHIA COUNTY, PENNSYLVANIA
: DOMESTIC RELATIONS SECTION
: DOCKET
DEFENDANT : PACSES CASE ID

TO THE DOCKETING DIVISION OF THE DOMESTIC RELATIONS SECTION:

I am the ___ plaintiff ___ defendant in the above captioned ___ support ___ custody ___ divorce ___ annulment ___ protection from abuse case.

I intend to represent myself in upcoming legal proceedings at the Philadelphia County Domestic Relations Section. Remove the counsel of record from my case, if applicable.

Papers may be served at the address set forth below:

Address

City, State, Zip Code

Home Phone Number

Mobile Phone Number

Fax Number

Email Address

For Self Represented Party:

Print Name

Signature

Pursuant to Pa.R.C.P. 1930.8(b) a self-represented party is under a continuing obligation to provide current contact information to the court, to other self-represented parties, and to attorneys of record.

[Pa.B. Doc. No. 14-1194. Filed for public inspection June 6, 2014, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CUMBERLAND COUNTY

Administrative Order; CP-21-MD-559-2014

Administrative Order

And Now, this 21st day of May, 2014, the creation of a Constable Review Board is hereby authorized in accordance with the following standards and procedures:

I. Definitions

a. "Constable." Any elected or appointed constable or deputy constable performing judicial duties for the Cumberland County Court of Common Pleas or any magisterial district court within the Ninth Judicial District.

b. "Judicial Duties." Services performed pursuant to 44 Pa.C.S.A. §§ 7161—7161.1 and further defined by the Pennsylvania Unified Judicial System's Constable Policies, Procedures and Standards of Conduct published by the Administrative Office of Pennsylvania Courts.

II. Scope

a. Constables are elected and perform numerous functions at the municipal level, apart from the services performed as independent contractors for the judiciary. The Constable Review Board's jurisdiction extends only to constables in the performance of judicial duties.

b. Consistent with the Pennsylvania Unified Judicial System's Constable Policies, Procedures and Standards of Conduct, the Constable Review Board may receive complaints by or against constables regarding:

1. the performance of judicial duties;
2. financial/payment disputes; or
3. other matters relevant to a constable's judicial duties.

c. The Constable Review Board does not have the authority to revise the Constable Policies, Procedures and Standards of Conduct issued by the Administrative Office of Pennsylvania Courts.

d. Nothing herein shall preclude any person or surety of a constable from filing a verified petition in accordance with 44 Pa.C.S. § 7172 alleging that a constable is incompetent to discharge official duties.

III. Authority

a. The Constable Review Board may make recommendations to the President Judge with respect to practices and procedures as they relate to constables generally and make recommendation regarding the judiciary's continued use of a constable's services.

b. If a matter involves a financial dispute or other matter within Cumberland County's control, the Constable Review Board may make recommendations to the Cumberland County Controller regarding payment for services.

c. The Constable Review Board shall forward any findings of suspected criminal activity to the Cumberland County District Attorney.

d. The President Judge remains the ultimate authority with regard to a constable's performance of judicial duties within the Ninth Judicial District. In that respect, the President Judge may, at any time, temporarily place a moratorium on the use of a particular constable pending review and recommendation of the Constable Review Board on any pending complaint.

IV. Membership of the Constable Review Board

- a. A judge of the Court of Common Pleas;
- b. A Magisterial District Judge;
- c. The Court Administrator or her designee;
- d. A Constable and an alternate; and
- e. The County Controller or his designee.

V. *Filing a Complaint*

a. The complaint shall be in writing, signed by the complainant, and contain a statement of the alleged misconduct, financial dispute, or other matter related to the performance of judicial duties.

b. The complaint may be submitted by mail, e-mail, fax, or any other electronic means by which a paper copy may be generated. The contact information for filing the complaint is as follows:

Court Administrator
Cumberland County Courthouse
One Courthouse Square
Carlisle, PA 17013
FAX: 717-240-6460
Email: courtadmin@ccpa.net

c. The written complaint shall substantially conform to the form set forth at VIII herein.

d. The complaint shall initially be forwarded to the Court Administrator. Upon receipt of a complaint, the Court Administrator shall:

1. Note the date of receipt on the complaint.
2. Create a file to contain the complaint and all subsequent communications regarding the complaint.

3. Within three (3) business days, the Court Administrator shall forward a copy of the complaint to the respondent constable, if the complaint is against a constable or to any other respondent if the complaint is by a constable.

4. At the same time as the transmission of the copy of the complaint to the constable/or respondent, the Court Administrator shall provide written notice to the constable/respondent that he or she must provide to the Court Administrator a written response to the complaint within twenty (20) days, or less if the President Judge so orders, from the date of such notice. The notice shall further provide that if a constable/respondent fails to respond, such failure may result in a decision by the judiciary based on the information available for review.

VI. *Constable Review Board Action*

a. Upon receipt of a respondent's written response, or expiration of the response period, whichever comes first, the Court Administrator shall, within three (3) business days forward a copy of the complaint, response, and all corroborating documentation to each Constable Review Board member for review.

b. Within thirty (30) days of receipt of the file information, the Constable Review Board shall:

1. in matters falling outside the Constable Review Board's authority, forward the complaint file to the President Judge with written notification to the President Judge, and the complainant, that the complaint falls outside the scope of the Board's authority and list the reason(s) for that finding.

2. in matters involving payment and/or possible termination or suspension of the Court's use of a constable, interview the complainant, the constable and all other relevant witnesses. If scheduling conflicts prevent the Board from meeting to conduct interviews before the Board as a whole, the Board may request the President Judge to select two Board members to conduct interviews who shall prepare and submit a report to the Board.

Unless the President Judge grants an extension of time, interviews shall be completed and a recommendation to the President Judge shall be made within the thirty (30)-day time period.

3. in all other matters, the Constable Review Board may conduct interviews or make a recommendation to the President Judge based exclusively upon the complaint, response, and all other written documentation submitted.

VII. *Notice by President Judge*

a. Within thirty (30) days of receipt of the Constable Review Board's recommendation, the President Judge shall issue a written notice to the complainant and any constable of the Court's decision.

VIII. *Form Complaint*

CONSTABLE REVIEW BOARD FOR THE NINTH JUDICIAL DISTRICT OF PENNSYLVANIA COMPLAINT

A. COMPLAINANT:

Your Name: _____

Address: _____

Telephone # _____

B. CONSTABLE COMPLAINED OF:

Name: _____

Contact Info (if known): _____

C. STATEMENT OF COMPLAINT: PLEASE BE SPECIFIC—relevant dates, names of witnesses and any relevant documents. Explain the conduct or practice complained of, the date(s), names of witnesses and attach copies of relevant documents. You may attach as many additional pages as necessary to fully set forth your complaint.

Date: _____ Signature: _____

The Complaint may be e-mailed, faxed, or mailed to the following:

Court Administrator
Cumberland County Courthouse
One Courthouse Square
Carlisle, PA 17013
FAX: 717-240-6460
Email: courtadmin@ccpa.net

This order shall take effect June 1, 2014, or thirty (30) days from the date of publication in the *Pennsylvania Bulletin*.

By the Court

KEVIN A. HESS,
President Judge

[Pa.B. Doc. No. 14-1195. Filed for public inspection June 6, 2014, 9:00 a.m.]

MONTGOMERY COUNTY

Adoption of Local Rule of Civil Procedure 1920.73(c); Notice of Intention to Request Entry of Divorce Decree; Praecepto to Transmit Record; Motion for Entry of Grounds Order and Appointment of Equitable Distribution Master; Forms

Order

And Now, this 20th day of May, 2014, the Court hereby Adopts Montgomery County Local Rule of Civil Procedure 1920.73(c). Notice of Intention to Request Entry of Divorce Decree. Praecepto to Transmit Record. Motion for Entry of Grounds Order and Appointment of Equitable Distribution Master. Forms. This Rule shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

The Court Administrator is directed to publish this Order once in the *Montgomery County Law Reporter* and in *The Legal Intelligencer*. In conformity with Pa.R.C.P. 239, one (1) certified copy of this Order shall be filed with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and one (1) certified copy shall be filed with the Domestic Relations Procedural Rules Committee. One (1) copy shall be filed with the Law Library of Montgomery County, and one (1) copy with each Judge of this Court.

By the Court

WILLIAM J. FURBER, Jr.,
President Judge

Rule 1920.73(c). Notice of Intention to Request Entry of Divorce Decree. Praecepto to Transmit Record. Motion for Entry of Grounds Order and Appointment of Equitable Distribution Master. Forms.

(1) A Praecepto to Transmit the Record to request a final Decree in Divorce shall be filed where:

(a) there have been no claims for equitable distribution of marital property, alimony or counsel fees, costs, and expenses raised in the pleadings, or

(b) all claims have been withdrawn and grounds for divorce have been established, and the Moving party is seeking a final decree in divorce, or

(c) the parties have reached a written agreement, which resolves all issues of equitable distribution of marital property, alimony and counsel fees, costs, and expenses, and grounds for divorce have been established, and the Moving party is seeking a final decree in divorce which incorporates the written agreement.

See Form Praecepto to Transmit the Record

(2) A Motion for Entry of Grounds Order and Appointment of Equitable Distribution Master shall be filed where:

(a) there are pending claims for equitable distribution of marital property, alimony or counsel fees raised in the pleadings, and

(b) no written agreement has been reached by the parties; and

(c) grounds for divorce exist and can be established.

See Form Motion for Entry of Grounds Order and Appointment of Equitable Distribution Master

(3) The Moving party, filing the Motion for Entry of Grounds Order and Appointment of Equitable Distribution Master, upon filing said Motion shall:

(a) pay a required fee to the Prothonotary at the time of filing the Motion; and

(b) certify in the Motion that discovery is complete by including a listing of all assets and liabilities, including values as of the date of filing of the Motion; and

(c) attach to the Motion the Moving party's Initial Hearing Statement, which shall include a completed Inventory and Appraisal, pursuant to Local Rule 1920.33(f); and

(d) the Motion and Initial Hearing/Inventory Statement, pursuant to Local Rule 1920.33(f), shall be filed with the Court and served upon the Non-Moving party, and a Certificate of Service of same shall be filed with the Court.

(4) The Non-Moving party shall have forty-five (45) days from the date of service of the Moving party's Motion and Initial Hearing/Inventory Statement in which to complete all discovery, and provide the same certification to the Court and the Moving party, that the Non-Moving party's discovery is complete and includes a listing of all assets and liabilities, including values as of the date of filing of the certification by the Non-Moving party:

(a) the listing of all assets and liabilities shall be in the form of an Initial Hearing/Inventory Statement, pursuant to Local Rule 1920.33(f), and shall be filed with the Court and served upon the Moving party, and a Certificate of Service of same shall be filed with the Court.

(5) The failure of either party to comply with any provisions of this Rule may result in Sanctions to that non-compliant party and/or the barring of the non-compliant party's testimony or introduction/admission of evidence at the time of the equitable distribution proceedings.

Comment: the forms referenced in this rule are available online at www.montcopa.org/prothonotary.

[Pa.B. Doc. No. 14-1196. Filed for public inspection June 6, 2014, 9:00 a.m.]