THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

[204 PA. CODE CHS. 81 AND 83]

Proposed Amendments to the Pennsylvania Rules of Professional Conduct and the Rules of Disciplinary Enforcement to Reduce Loss Resulting from the Misappropriation of Client and Third Party Funds

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania (Board) is considering recommending to the Pennsylvania Supreme Court that the Court amend Pennsylvania Rules of Professional Conduct (RPC) 5.6, Comment (10) to RPC 1.7, Comment (1) to RPC 1.8, and Comment (4) to RPC 5.7, as set forth in Annex A; RPC 1.15 and Pennsylvania Rules of Disciplinary Enforcement ("Enforcement Rules" or "Pa.R.D.E.") 208 and 221, as set forth in Annex B; Enforcement Rule 219, as set forth in Annex C; Enforcement Rule 213, as set forth in Annex D; and Enforcement Rules 215, 217 and 218, as set forth in Annex E.

The adverse effects of a lawyer's theft of client funds can be felt on both a micro and a macro level. Typically, the client is misled and deprived of access to needed funds. When the dishonest lawyer is in charge of investing a client's funds, the client's life savings may be lost. Although victims may file a claim with the Pennsylvania Lawyers Fund for Client Security (Fund) for reimbursable losses resulting from the dishonest conduct of an attorney, many claimants are not fully compensated through the Fund because the maximum recovery by any one claimant is capped at $100,000. In every instance, the reputation of the bar and the courts is tarnished. Thefts involving substantial sums oftentimes result in criminal prosecution, and the media attention generated by the arrest and conviction of the offender provides harm to the reputation of the profession.

The systemic financial effect of lawyer theft can be catastrophic. By rule, claims filed with the Fund are confidential. Nonetheless, Fund personnel can attest that from time to time, the number of claims filed against a single attorney will be in double digits and the total compensable loss will amount to millions of dollars. The common thread running through many of the cases is that the client victim trusted his or her attorney, the attorney told the client that the client needed either to give the attorney the money outright or to establish a trust designed by the attorney to "protect" the client's assets, the attorney then raided the client's funds or appointed himself or herself as trustee to convert the entrusted funds, and no banks were used by the attorney to help safeguard the client funds. In other instances, the attorney used forged documents to mislead a bank into believing that the client had authorized transfers of funds to the attorney. In January of this year, the Supreme Court amended Enforcement Rule 514(b) to place a $1,000,000 cap on disbursements as a result of any one covered attorney, although the Court retained the discretion to exceed the maximum when necessary to adequately compensate all victims provided that the excess does not unduly burden the Fund. Currently, every attorney who is required to pay an active annual fee must pay an additional annual fee of $35.00 for use by the Fund. While the disciplinary system can revoke the lawyer's license and order restitution, a restitution order is generally uncollectible, as all of the funds are gone and there is no insurance coverage.

As a result of multiple large thefts as of late, a working group (group) comprised of the Board Chair, the Chair of the Rules Committee, the Board Secretary and representatives of the Office of Disciplinary Counsel (ODC) began to examine whether there was a *disciplinary* mechanism, in addition to the general deterrent effect of future suspension or disbarment, and short of barring attorneys from handling fiduciary funds, that would *prevent* large-scale defalcations. The group reviewed the rules and procedures in other jurisdictions and considered the views expressed by an *ad hoc* committee on trust and estate practice that had convened for a meeting at the request of the Board Chair. No definitive prophylactic solution was found. The unfortunate reality is that there is no sure-fire method of thwarting a lawyer who has felonious intent, access to fiduciary funds, and a determination to steal.

The group then focused its attention on whether there were any substantive or procedural rule changes that could at least lessen the opportunity for client losses. The group concluded that some restrictions on investment activities by lawyers would be beneficial in preventing some forms of misappropriation, provided, of course, that the rules imposing the restrictions are followed. Furthermore, public awareness of the restrictions could cause a client or prospective client to report to disciplinary authorities a perceived violation *before* other clients are victimized by the investment activities of a lawyer who is operating outside the rules.

The group also concluded that prompt detection of the "red flags" of misappropriation—for example, a bounced check on a trust account, an inordinate delay in distribution of funds, failure to distribute the full amount of funds due, failure to account, failure to return inquiries regarding the funds, or continual absence from the law office or abandonment of practice when undistributed funds are due and owing—followed by prompt investigation to confirm or rule out that misappropriation has occurred, is the strongest weapon in combatting multiple thefts, as the key to limiting loss is to remove the offending attorney from the practice of law and from access to fiduciary funds as quickly as possible. In relation to prompt detection, the Board has, for many years, actively promoted the public's awareness of the disciplinary rules and complaint procedures, by establishing a user-friendly website and by making informational brochures and complaint forms readily accessible to the public. The Board intends to revise its rules to permit the filing of disciplinary complaints electronically and by telephone. A system of mandatory overdraft notification has been in effect since 1995. *See* Pa.R.D.E. 221(h)—(p). Although the group noted that approximately twelve states have random audit programs, the group did not believe that current resources were adequate to establish and administer an effective random audit program in Pennsylvania. In addition, random audits do not deter or uncover all thefts.

In connection with prompt investigation, the group observed that a number of current procedural rules contain unnecessarily long due dates or have built-in delays that prevent ODC from obtaining quick access to the financial records that an attorney is required by paragraph (c) of RPC 1.15 (Safekeeping Property) and Enforcement Rule 221 (Funds of clients and third persons) to keep. A corollary observation based on experience is that some respondent-attorneys, for any variety of reasons—poor record keeping, ineffective record maintenance practices, substance abuse, or mental health issues—are, or claim to be, in the dark about a fiduciary account being "out of trust," and, at times, are unable to comply in whole or even in part with a request or demand by ODC to produce required records. Of course, ODC's inability to promptly obtain a respondent-attorney's complete financial records impedes ODC's ability to perform an audit and to discover the *full extent* of a respondent-attorney's misappropriation. In a number of cases, the Board has observed that "[a] failure to maintain adequate financial records epitomizes the type of professional misconduct from which the public is to be protected." *E.g., Office of Disciplinary Counsel v. Allen R. Washington*, No. 132 DB 1995, D.Bd. Rpt. 2/5/97 at p. 23, citing *In re Anonymous No. 10 DB 1991*, 20 Pa. D.&C.4th 159, 171 (1994).

Based on the significant investigative hardship and delay occasioned by an attorney's inability or refusal to cooperate with ODC in its effort to conduct a financial audit, the group concluded that two practice scenarios were unacceptable: an attorney being unaware of the status of his or her fiduciary accounts; and an attorney being unable or unwilling to produce his or her financial records when ODC has a basis to request or demand production of those records. The group decided that the former practice could be remedied by requiring, as do some states, an attorney to perform monthly reconciliations and to maintain proof of having conducted the same. The group believed that the latter practice could be best addressed by amending Enforcement Rules 208(f)(5) (relating to temporary suspension) and 221 (relating to the handling of funds of clients and third persons) to permit ODC to immediately seek the temporary suspension of the respondent-attorney. The group also recommended that the "required records" provision of RPC 1.15, which is paragraph (c) of that Rule, be: 1) amended to include the writing memorializing the fee arrangement, which writing is already required by RPC 1.5(b); and 2) clarified by *expressly* including the fee agreement and distribution statement in a contingent fee matter, as the creation of these two documents is required by RPC 1.5(c) although their maintenance is only required at this time by an inconspicuous statement in the Note to D.Bd. Rules § 95.2 (Investigation of the conversion of funds).

The group observed that the annual financial-reporting requirements of Rule 219 (relating to the filing of the annual fee form) could be strengthened to assist ODC in its investigative effort, in particular ODC's ability to issue subpoenas to banks and other financial institutions, and to provide a more complete record of fiduciary accounts that may be promptly frozen by an order of the Court issued pursuant to Enforcement Rule 208(f)(1)(i) (relating to emergency temporary suspension and the preservation of "funds, securities or other valuable property of clients or others which appear to have been misappropriated or mishandled . . ."). In addition, some respondent-attorneys fail to identify on their annual fee form all of the trust accounts maintained in Pennsylvania that held funds of a client or third person subject to PA RPC 1.15. Furthermore, currently there is no requirement that an attorney identify all trust accounts over which an attorney has sole or shared signature authority or authorization to transfer funds to or from the account, yet in misappropriation cases such accounts frequently hold or held the corpus of a theft. Nor is there a requirement that an attorney identify business operating accounts, yet such accounts frequently play a role in the maintenance or concealment of stolen funds.

Finally, in relation to the prompt removal of a respondent-attorney from practice after suspension or disbarment, the group determined that Enforcement Rules 215 (relating to voluntary resignation and disbarment on consent) and 217 (relating to formerly admitted attorneys) should be clarified and revised to: 1) ensure complete disengagement from the practice of law; 2) provide a respondent-attorney with an incentive to timely comply with the "wind up" and withdrawal provisions of Enforcement Rule 217; and 3) provide a consequence to the respondent-attorney for failure to fully and timely disengage. The group also decided to recommend that Enforcement Rule 217 be amended to give ODC more oversight of a respondent-attorney's compliance with the withdrawal and disengagement provisions of Rule 217. The group believed that it would be highly beneficial to protecting the public if Rule 215 were amended to allow an attorney's voluntary resignation to become public at the time that the resignation statement is filed with Disciplinary Counsel or the Secretary of the Board.

Based on the above analysis, the group recommended to the entire Rules Committee that the rules be revised to:

- impose certain restrictions on the brokering, offer or placement of investment products in relation to the provision of legal services;
- clarify the financial records required to be maintained, require account reconciliations on a monthly basis, require prompt availability and production of records upon request or demand, and allow for the temporary suspension of an uncooperative respondent-attorney;
- require attorneys to provide on the annual fee form additional account information that will assist ODC in the investigation of misappropriation cases and the preservation of fiduciary funds and other property;
- streamline unduly cumbersome procedures that impede investigations and that unnecessarily extend the time from initial detection of signs of theft to successful prosecution; and
- emphasize the importance of prompt and complete disengagement from the practice of law by a suspended or disbarred attorney, provide an incentive to timely disengage and consequence for failure to timely disengage, and give ODC enhanced oversight authority to ensure that a formerly admitted attorney has promptly and fully disengaged.

The Rules Committee reviewed and endorsed the above recommendations, and obtained the Board's approval of those recommendations. The Rules Committee approved for publication the proposed rules set forth in the attached Annex A through Annex E. The highlights of the proposed rules are summarized below in sections that correspond to the above bullet points.

Restrictions on Dealing in Investment Products (see Annex A)

RPC 5.6 would be amended to add new paragraph (b), which would preclude a lawyer from dealing in investment products—such as securities and life insurance

products, including annuity policies—unless separately licensed to do so. Before offering or selling any investment product in relation to the provision of legal services, an attorney must consult all applicable federal and state laws to determine eligibility, licensing and regulatory requirements. Brokers, agents, salespersons and various types of investment advisors are regulated on the state level by the Pennsylvania Securities Commission of the Pennsylvania Department of Banking and Securities, and on the federal level by the Securities & Exchange Commission (SEC) and the Financial Industry Regulatory Authority (FINRA). Some securities licenses are administered by the North American Securities Administrators Association (NASAA). A person must be licensed through the Pennsylvania Insurance Department to sell or solicit life insurance or a fixed annuity, and the sale of variable annuities requires additional licensure through the Pennsylvania Securities Commission and FINRA.

Proposed paragraph (c) would be added to RPC 5.6 to preclude even a separately-licensed lawyer from offering a particular investment product to a client, former client, or others with whom the lawyer has or had a fiduciary relationship if the lawyer or a person related to the lawyer has an ownership interest in the entity that manages the investment product. "Related person" is defined within paragraph (c) and borrows from the definition of "related person" currently found within paragraph (c) of RPC 1.8 (Conflict of Interest: Current Clients: Specific Rules). New Comment (5) to RPC 5.6 provides three reasons for the specific prohibition: 1) potential for a conflict of interest; 2) opportunity on the part of the lawyer to control or unduly influence the use or management of the funds; and 3) loss of client trust if the investment results in a substantial loss. It is important to emphasize that separately licensed attorneys can broker, offer, sell and place investment products, just not those in which the lawyer or a related person has an ownership interest in the managing entity.

The addition of proposed paragraphs (b) and (c) to RPC 5.6 calls for language cross-referencing one or both of those paragraphs in Comment (10) to RPC 1.7 (Conflict of Interest: Current Clients), Comment (1) to RPC 1.8, and Comment (4) to RPC 5.7 (Responsibilities Regarding Nonlegal Services).

Required Records and the Consequence of Failure to Produce (see Annex B)

A heading would be added to paragraph (c) of RPC 1.15 to make clear that the records identified in that paragraph are "Required records" subject to the "Required Records Doctrine," namely, that these records are "required by law to be kept in order that there may be suitable information of transactions which are the appropriate subjects of governmental regulation and the enforcement of restrictions validly established." *State Real Estate Com. v. Roberts*, 441 Pa. 159, 164-165, 271 A.2d 246, 248 (1970), *cert. denied*, 402 U.S. 905 (1971), quoting *Shapiro v. United States*, 335 U.S. 1, 17 (1948) (stating that under the required records doctrine, no privilege exists with regard to business records that are required by law to be maintained). Proposed paragraph (c) also adds the requirement that a lawyer must maintain the writing required by RPC 1.5(b) (relating to the requirement of a writing memorializing the basis or rate of the fee) and clarifies that the lawyer must preserve a copy of the fee agreement and distribution statement in contingent fee matters required under RPC 1.5(c), which requirement can be found in the Note to D.Bd. Rules § 95.2 (Investigation of the conversion of funds).

Proposed subparagraph (2) of paragraph (c) provides that if a lawyer uses an account to hold funds of more than one client, the lawyer must maintain an individual client ledger for each trust client. Properly-maintained individual client ledgers facilitate a lawyer's ability to conduct the monthly account reconciliations required by new subparagraph (c)(4) as well as an auditor's ability to promptly gauge the integrity of the account. Subparagraph (c)(4) also requires that a lawyer preserve for a period of five years copies of all records and computations sufficient to prove that the required reconciliations were conducted. As explained in language added to Comment (2):

> The requirement of monthly reconciliations should deter situations where an attorney's Trust Account contains a shortfall for any significant period of time. Additionally, if a lawyer fails to maintain the records identified in paragraph (c) or to perform the required monthly reconciliations, later claims by the lawyer that a shortfall (i.e., misappropriation) resulted from negligence, even if credible, will necessarily be balanced against the lawyer's abdication of responsibility to comply with essential requirements associated with acting as a fiduciary and serving in a position of trust.

Proposed subparagraph (c)(3)'s requirement that electronic data be backed up "at the end of any day on which entries have been entered into the records" is not burdensome because present-day computer programs have the ability to "save" data at regular intervals and routinely provide a "save" prompt at the time that the document is "closed." Enforcement Rule 221(e) and (f) incorporate the foregoing changes. The current requirement of paragraph (c) that required records be maintained for five years after termination of the attorney-client relationship or disposition of the property, whichever is later, remains unchanged.

Proposed subparagraph (c)(3) of RPC 1.15 also provides that the required records be readily accessible and available for production to the Fund or ODC in a timely manner upon a request or demand by either agency made pursuant to the Enforcement Rules, the Disciplinary Board Rules, the Rules and Regulations of the Fund's Board, agency practice, or subpoena. Subdivisions (g) and (g)(2) of Enforcement Rule 221 incorporate those duties. New subdivision (g)(1) of Rule 221 provides that Disciplinary Counsel's request for records may take the form of a letter to the respondent-attorney briefly stating the basis for the request and identifying the type and scope of the records sought to be produced. Disciplinary counsel may serve the letter by personal service or by delivery of a copy of the letter to an employee, agent or responsible person at the respondent-attorney's office, at which point the respondent-attorney has five days to produce the records. If neither form of service is available, the rule allows service by mail. As set forth in the amendment to new subdivision (g)(3) of Rule 221 and the last sentence of proposed Comment (2) to RPC 1.15, the failure to maintain or produce the records may serve as a basis for temporary suspension of the lawyer's license under Pa.R.D.E. 208(f)(1) and 208(f)(5).

Rule 221(g)(1)'s letter-request procedure, when considered in combination with subdivision (g)(3) of Rule 221, satisfies any due process concerns. Administrative agencies typically obtain documents by search warrants or subpoenas; the subpoena process is preserved in RPC 1.15(c)(3) and Rule 221(g)(2). The Pennsylvania Supreme Court, however, has upheld the right to examine required

records without a subpoena. *Roberts, supra. Roberts'* lone dissenter's concern is negated by the fact that subdivision (g) requires production of records to ODC rather than a warrantless inspection by ODC on the business premises of the respondent-attorney. If the respondent-attorney does not comply with ODC's request, ODC may file a petition for temporary suspension, at which point the respondent-attorney, as stated in the proposed Note after subdivision (g)(3), may raise any claim of impropriety pertaining to ODC's request for required records. Review by a judicial officer, to the extent that such a review is required by law, is available to the respondent-attorney.

Although Enforcement Rule 221(g) does not incorporate a legal standard for production of required records, the standard is lax. Courts have upheld an administrative agency's request for production if the agency has some factual basis to support a suspicion or concern that the law has been violated even if the evidence does not establish a violation, or the circumstances justify the agency's seeking assurances that the law has not been violated; 2) the records sought are reasonably relevant to the inquiry; and 3) the demand is not too indefinite or overbroad. *United States v. Morton Salt Co.*, 338 U.S. 632, 642-643, 652 (1950), cited in *Roberts, supra; Unnamed Attorney v. Attorney Grievance Comm'n*, 313 Md. 357, 364-365, 545 A.2d 685, 689 (1988).

Enforcement Rule 208(f)(5) (relating to temporary suspension) currently provides that if issues of fact are raised by the respondent-attorney's response to the rule to show cause, the Board Chair may direct that a hearing be held before a member of the Board. New subdivision (g)(3) of Rule 221 would provide that if a ground for temporary suspension is the respondent-attorney's alleged failure to maintain or produce RPC 1.15 records, the presiding Board member shall be a lawyer-Member. A similar requirement is found in proposed subdivision (d)(3) of Enforcement Rule 213 (relating to an appeal of a challenge to a subpoena). *See* Annex D, *infra.* The Board believes that having a lawyer preside at these hearings will facilitate the prompt resolution of what is largely a legal issue. The second sentence of Pa.R.D.E. 221(g)(3) refers to "208(f)" without further specification; hence, subdivision (g)(3) anticipates that if the Supreme Court were to remand a petition for emergency temporary suspension under 208(f)(1) to the Board for a fact-finding hearing (a procedure not specified in 208(f)(1)), that hearing would also be presided over by a lawyer-Member of the Board.

Required Reporting of Additional Financial Information (see Annex C)

Proposed amendments to Enforcement Rule 219 would require every attorney who files the annual fee form to provide additional trust and investment account information: 1) trust accounts in the Commonwealth in which the attorney, or law firm through which the attorney practiced, deposits funds of a client or third person subject to PA RPC 1.15, *see* proposed Rule 219(d)(1)(iii), even if the attorney does not have signature authority over the law firm's account, as explained in the Note after Rule 219(d)(1)(iii); 2) every other account that held fiduciary funds, and over which the attorney had sole or shared signature authority, *id.* (d)(1)(iv); and 3) every business operating account, *id.* (d)(1)(v). As previously stated, this additional information will assist ODC in investigating theft and preserving funds, securities and other property.

A small yet important change to the text of subdivision (d)(1)(iii) capitalizes the "f" and "i" in "financial institution" and cross-references that term of art to the definition of "Financial Institution" in RPC 1.15(a)(4).

An amendment to new subdivision (d)(1)(vi) would require the attorney to sign an averment stating that the information on the annual fee form is true and correct to the best of the attorney's knowledge, information and belief, and submitted subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities; and that the attorney is subject to discipline by the Supreme Court and/or criminal prosecution for any false statement. The purpose of this additional requirement is to compel each attorney to take seriously the provision of the information contained thereon and to review the information if the task of completing the form is delegated to a subordinate. Attorneys who omit or provide false information should be aware that they may be subject to discipline and/or criminal prosecution. If the attorney is unable to certify the accuracy of the statement that he or she is familiar and in compliance with Rule 1.15, the attorney should study the Rule and bring himself or herself into compliance before signing and filing the form; the attorney may want to consult with counsel about self-reporting or issues of unauthorized practice if the form is not going to be timely filed.

Streamlining Unduly Burdensome Procedures (see Annex D)

Under proposed Rule 208(f)(5), which is found in Annex B, the time for a respondent-attorney to respond to a rule to show cause issued by the Board is reduced from 30 to ten days. By way of comparison, under current Rule 208(f)(1), a respondent-attorney has ten days to respond to a similar rule to show cause issued by the Court. The Board sees no reason to have a disparity in the time to respond to a rule issued by the Board and a rule issued by the Court. To the extent that a party desires to file with the Supreme Court a challenge to the recommendation of the Board, language added to the last sentence of Rule 208(f)(5) would limit the time for filing a petition for review to 14 days after entry of the Board's recommendation, and any answer or responsive pleading would be due within ten days after service of the petition for review.

Currently, Enforcement Rule 213 (Subpoena power, depositions and related matters) allows a party to move to quash a subpoena before a hearing committee member, precludes an appeal to the Board, and permits an appeal as of right to the Supreme Court. Subdivision (g)(3) of the Rule requires the Court to issue a rule to show cause upon the party who is not challenging the determination, returnable within ten days. Experience has shown that some respondent-attorneys have issued subpoenas to irrelevant witnesses, then exercised their right to appeal, which action caused the trial of the charges to be delayed for several months, required the Board to assign new dates for trial, and required the parties to re-subpoena or otherwise re-secure the attendance of relevant witnesses.

Under the proposed amendments to subdivision (d)(3), an appeal of a hearing committee determination would be limited to a lawyer-Member of the Board, who would be required to decide the appeal within five business days. The revised rule would specifically provide that there shall be no right to appeal to the Supreme Court and that any request for review shall not serve to stay the hearing or proceeding before the hearing committee unless the Court enters an order staying the proceedings.

In connection with the initial challenge to a subpoena before a hearing committee or special master under subdivisions (d)(1) and (2) of Rule 213, the revised rule

refers the reader to "the procedure established by the Board" and makes citation to D.Bd. Rules § 91.3(b) (relating to procedure). If the Court adopts the proposed changes to Rule 213(d) as set forth in Annex D, the Rules Committee intends to recommend to the full Board that § 91.3(b) be amended to provide that an answer to a motion to quash be filed within five *business* days after *receipt* of service of the motion instead of the current rule's requirement of an answer within five days. The slight enlargement of time to respond is designed to avoid instances where the party filing the motion to quash accomplishes service by mail on a Wednesday, the motion is received through the mails on a Friday or Saturday, and the response is due for filing in the Office of the Secretary to the Board the following Monday. On an appeal, the non-appealing party would also have five *business* days in which to file a response.

New subdivision (g)(1) of Rule 213 would continue to allow both ODC and a respondent-attorney to petition the Supreme Court to enforce a subpoena. An amendment, however, would require the petitioning party to attach to the petition a certification, made in good faith, that: 1) the party exhausted reasonable efforts to secure the presence of the witness or the evidence within the witness's custody or control, 2) the testimony, records or other physical evidence of the witness will not be cumulative of other evidence available to the party, and 3) the absence of the witness will substantially handicap the party from prosecuting or defending the charges, or from establishing a weighty aggravating or mitigating factor. Of course, Disciplinary Counsel or the respondent-attorney will be subject to discipline or other sanction by the Court if the certification contains a false statement.

Prompt and Complete Withdrawal from Practice by Formerly Admitted Attorneys (see Annex E)

There is a hiatus between the date that an attorney submits a resignation statement to ODC or the Board and the date that the Supreme Court enters the order disbarring the attorney on consent. An amendment to Enforcement Rule 215(c) (relating to confidentiality of resignation statement) would make the *fact of the submission* of the resignation statement public immediately upon delivery of the statement either to ODC or the Secretary of the Board. An addition to subdivision (a)(6) of Rule 215 would require the attorney to aver in the resignation statement that he or she is aware that the submission of the statement will become public upon delivery. The proposed changes do not affect current law requiring that the resignation statement itself not be publicly disclosed unless the statement loses its confidential status under one of the five exceptions to confidentiality enumerated in subdivision (c).

Additions to subdivisions (a), (b) and (c) of Rule 217 (relating to formerly admitted attorneys) emphasize to a newly-suspended or disbarred attorney the importance of providing the required notice of the suspension or disbarment to clients, third parties, and courts. The text of all three subdivisions provides some leeway in giving notice, in that notice "may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt." The Note after subdivision (a) and the cross-references to that Note in subdivisions (b) and (c) inform the formerly admitted attorney that notice can be made, for example, by certified mail return receipt requested, delivery in person, or electronic mailing, although the latter two methods require that the formerly admitted attorney secure some form of acknowledgement of *actual* receipt by the intended target.

Other additions to Rule 217 provide clear notice of additional action to be taken by the formerly admitted attorney. Subdivision (c)(3) requires the formerly admitted attorney to promptly give notice of the suspension or disbarment to all other tribunals and jurisdictions in which the attorney is admitted to practice.

Subdivision (d)(2) requires the formerly admitted attorney to promptly: resign all appointments of a fiduciary nature; close all bank accounts; relinquish possession, custody or control over all fiduciary funds; and cease and desist from using all forms of communication that expressly or implicitly convey eligibility to practice in the state courts of Pennsylvania.

New subdivision (e)(1) requires that at the time the formerly admitted attorney files the verified statement required by that subdivision, the formerly admitted attorney attach copies of the notices and proofs required by Rule 217 and serve a copy on ODC; aver in the statement itself that the formerly admitted attorney has attached the notices and proofs, and served ODC with a copy; and aver that the formerly admitted attorney has complied with all of the notice, withdrawal, disengagement, and cease-and-desist provisions of Rule 217. The formerly admitted attorney must aver that the statement is true and is being made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities. A formerly admitted attorney who files the verified statement without fully complying with Rule 217 should be aware that he or she may be subject to discipline and/or criminal prosecution. In addition, when an attorney resigns under Rule 215, the resigning attorney is required under subdivision (a)(7) of that Rule to aver in the resignation statement that the attorney will promptly comply with Rule 217's notice, withdrawal, resignation, and cease-and-desist provisions.

Orders of *temporary* suspension direct a respondent-attorney to comply with all of the provisions of Rule 217. A new Note after Rule 217(e)(1) clarifies that an attorney who is placed on temporary suspension may have to file two verified statements of compliance: the first in response to the order of temporary suspension, and the second if and when the Court enters a final order of suspension or disbarment. The Note explains that the second statement is to supplement the first by including the information and documentation not applicable at the time of the filing of the initial statement, and will include all of the information and documentation required by subdivision (e)(1) if the respondent-attorney has failed to file the initial statement.

In relation to the disciplinary system's desire to have a formerly admitted attorney fully comply with Rule 217, new subdivision (e)(3) provides both an incentive and a consequence. That subdivision states that in cases of disbarment or suspension exceeding one year, the waiting period for eligibility to apply for reinstatement to the practice of law shall not begin until the formerly admitted attorney files the verified statement of compliance. (The District of Columbia has similar filing and reinstatement-eligibility requirements. *See* D.C. Bar R. XI, §§ 14(g) and 16(c)) In addition, when an attorney resigns under Rule 215, the resigning attorney is required under subdivision (a)(9) of that Rule to aver in the resignation statement that the attorney is aware that the waiting period for eligibility to apply for reinstatement does not begin until the verified statement is filed. An amendment to subdivision (b) of Rule 218 (relating to reinstatement) reiterates that the eligibility-to-apply-for-reinstatement clock starts ticking when the verified statement is filed.

To ensure that a formerly admitted attorney does not lose "credit" where the Court enters an order of disbarment or suspension that has a retroactivity component, Rules 215(a)(9), 217(e)(3) and 218(b) provide that if the order of disbarment or suspension contains a provision that makes the discipline retroactive to an earlier date, the waiting period, once triggered by the filing of the verified statement, will be deemed to have begun on that earlier date. The Note after Rule 217(e)(1) warns, however, that a formerly admitted attorney who has failed to file a verified statement at the time of a *temporary* suspension should not expect a final order to include a reference to retroactivity.

The Board's intent is to recommend to the Court that the waiting-period provision of Rule 217(e)(3) and the corresponding amendment to Rule 218(b), be prospective in nature, in that these amendments would apply only to suspension and disbarment orders entered *after* the amendments take effect. The Board also intends to recommend to the Court that orders of suspension for a period exceeding one year and disbarment include a provision that will provide specific notice to the formerly admitted attorney of the reinstatement-eligibility requirement of Rule 217(e)(3). *Cf., e.g., In re Poole*, 44 A.3d 959 (D.C. 2012) (disbarment order explaining when effective date for reinstatement purposes begins to run and directing the Clerk to transmit a copy of the order to the respondent, "thereby giving him notice of the [rules] . . . and the effect of failure to comply therewith.").

New subdivision (e)(2) of Rule 217 provides that a formerly admitted attorney "shall" cooperate with Disciplinary Counsel and respond completely to questions by Disciplinary Counsel regarding compliance with the provisions of Rule 217. The primary purpose of this requirement is to allow ODC to obtain some assurance, beyond the verified statement itself, that the formerly admitted attorney has completed all of Rule 217's "wind up" steps.

A formerly admitted attorney's lack of cooperation could have consequences. If ODC were to move under Pa.R.D.E. 218(k) for injunctive relief based on "probable cause to believe that any formerly admitted attorney has failed to comply with . . . Rule 217 or is otherwise continuing to practice law," the formerly admitted attorney's lack of cooperation might be considered by a court as *a* factor in support of a finding of probable cause. Similarly, in a proceeding before the Supreme Court on a petition for contempt of the Court's disbarment or suspension order, lack of cooperation could serve as evidence of a violation and as evidence in aggravation of the discipline. Conversely, cooperation with ODC could be viewed as a positive factor if and when the formerly admitted attorney seeks reinstatement.

Interested persons are invited to submit written comments by mail, email, or facsimile regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, 601 Commonwealth Avenue, Suite 5600, PO Box 62625, Harrisburg, PA 17106-2625, Email address Dboard.comments@pacourts.us, Facsimile number (717-231-3382), on or before November 3, 2014.

By The Disciplinary Board of the Supreme Court of Pennsylvania

ELAINE M. BIXLER,
Secretary of the Board

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart A. PROFESSIONAL RESPONSIBILITY

CHAPTER 81. RULES OF PROFESSIONAL CONDUCT

Subchapter A. RULES OF PROFESSIONAL CONDUCT

§ 81.4. Rules of Professional Conduct.

The following are the Rules of Professional Conduct:

CLIENT-LAWYER RELATIONSHIP

Rule 1.7. Conflict of Interest: Current Clients.

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Comment:

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Personal Interest Conflicts

(10) The lawyer's own interests should not be permitted to have an adverse effect on representation of a client. For example, if the probity of a lawyer's own conduct in a transaction is in serious question, it may be difficult or impossible for the lawyer to give a client detached advice. Similarly, when a lawyer has discussions concerning possible employment with an opponent of the lawyer's client, or with a law firm representing the opponent, such discussions could materially limit the lawyer's representation of the client. In addition, a lawyer may not allow related business interests to affect representation, for example, by referring clients to an enterprise in which the lawyer has an undisclosed financial interest. **See Rule 5.6 for specific Rules that restrict or prohibit a lawyer's involvement in the offer, sale, or placement of investment products regardless of an actual conflict or the potential for conflict.** See Rule 1.8 for specific Rules pertaining to a number of personal interest conflicts, including business transactions with clients. See also Rule 1.10 (personal interest conflicts under Rule 1.7 ordinarily are not imputed to other lawyers in a law firm).

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Rule 1.8. Conflict of Interest: Current Clients: Specific Rules.

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Comment:

Business Transactions Between Client and Lawyer

(1) A lawyer's legal skill and training, together with the relationship of trust and confidence between lawyer and client, create the possibility of overreaching when the lawyer participates in a business, property or financial transaction with a client, for example, a loan or sales transaction or a lawyer investment on behalf of a client. The requirements of paragraph (a) must be met even when the transaction is not closely related to the subject matter of the representation, as when a lawyer drafting a will for a client learns that the client needs money for unrelated expenses and offers to make a loan to the client. The Rule applies to lawyers engaged in the sale of goods or services related to the practice of law, for example, the sale of title insurance or investment services to existing clients of the lawyer's legal practice. See Rule 5.7. **But see Rule 5.6 for specific Rules that restrict or prohibit a lawyer's involvement in the offer, sale,**

or placement of investment products regardless of an actual conflict or the potential for conflict. [It] Rule 1.8 also applies to lawyers purchasing property from estates they represent. It does not apply to ordinary fee arrangements between client and lawyer, which are governed by Rule 1.5, although its requirements must be met when the lawyer accepts an interest in the client's business or other nonmonetary property as payment of all or part of a fee. In addition, the Rule does not apply to standard commercial transactions between the lawyer and the client for products or services that the client generally markets to others, for example, banking or brokerage services, medical services, products manufactured or distributed by the client, and utilities services. In such transactions, the lawyer has no advantage in dealing with the client, and the restrictions in paragraph (a) are unnecessary and impracticable.

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LAW FIRMS AND ASSOCIATIONS

Rule 5.6. Restrictions on Right to Practice.

(a) A lawyer shall not participate in offering or making:

[(a)] (1) a partnership, shareholders, operating, employment, or other similar type of agreement that restricts the right of a lawyer to practice after termination of the relationship, except an agreement concerning benefits upon retirement or an agreement for the sale of a law practice consistent with Rule 1.17; or

[(b)] (2) an agreement in which a restriction on the lawyer's right to practice is part of the settlement of a client controversy.

(b) A lawyer shall not broker, offer to sell, sell, or place any investment product in relation to the provision of legal services unless separately licensed to do so.

(c) A lawyer shall not recommend or offer an investment product to a client, former client or any person with whom the lawyer has a fiduciary relationship, or invest funds belonging to such a person in an investment product, if the lawyer or a person related to the lawyer has an ownership interest in the entity that manages the investment product. For purposes of this paragraph, related persons include a spouse, child, grandchild, parent, grandparent or other relative or individual with whom the lawyer maintains a close familial relationship.

Comment:

(1) An agreement restricting the right of lawyers to practice after leaving a firm not only limits their professional autonomy but also limits the freedom of clients to choose a lawyer. Paragraph **[(a)] (a)(1)** prohibits such agreements except for restrictions incident to provisions concerning retirement benefits for service with the firm.

(2) Paragraph **[(b)] (a)(2)** prohibits a lawyer from agreeing not to represent other persons in connection with settling a claim on behalf of a client.

(3) This Rule does not apply to prohibit restrictions that may be included in the terms of the sale of a law practice pursuant to Rule 1.17.

(4) Paragraph (b) prohibits a lawyer from brokering, offering to sell, selling, or placing any investment product—such as securities and life insurance products, including annuity policies—unless separately licensed to do so. Licensing and registration requirements vary by state. Before offering or selling any investment product in relation to the provision of legal services, a lawyer must consult all applicable federal and state laws to determine eligibility, licensing and regulatory requirements. Paragraph (b) neither addresses the giving of investment advice nor is intended to supplant or otherwise affect federal and state laws that require licensing and registration in order to give investment advice.

(5) Paragraph (c) prohibits investment situations that are fraught with a potential for a conflict of interest or that provide an opportunity for the lawyer to control or unduly influence the use or management of the funds throughout the course of the investment. Clients who place their trust in their lawyer and assume or expect that the lawyer will protect them from harm are likely to feel deceived if substantial sums of money are lost on investments pursued at the lawyer's recommendation or prompting and the lawyer or a person related to the lawyer has an ownership interest in the entity that manages the investment product, even when the reason for the loss is limited to unexpected market conditions. The prohibition of paragraph (c) is in addition to the restrictions imposed by Rules 1.7(a)(2), 1.8(a) and 5.7.

Rule 5.7. Responsibilities Regarding Nonlegal Services.

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Comment:

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Providing Nonlegal Services that Are Not Distinct from Legal Services

(3) Under some circumstances, the legal and nonlegal services may be so closely entwined that they cannot be distinguished from each other. In this situation, confusion by the recipient as to when the protection of the client-lawyer relationship applies **[are] is** likely to be unavoidable. Therefore, Rule 5.7(a) requires that the lawyer providing the nonlegal services adhere to all of the requirements of the Rules of Professional Conduct.

(4) In such a case, a lawyer will be responsible for assuring that both the lawyer's conduct and, to the extent required by Rule 5.3, that of nonlawyer employees, comply in all respects with the Rules of Professional Conduct. When a lawyer is obliged to accord the recipients of such nonlegal services the protection of those Rules that apply to the client-lawyer relationship, the lawyer must take special care to heed the proscriptions of the Rules addressing conflict of interest (Rules 1.7 through 1.11, especially Rules 1.7(b) and 1.8(a), (b) and (f)), and to scrupulously adhere to the requirements of Rule 1.6 relating to disclosure of confidential information. The promotion of the nonlegal services must also in all respects comply with **Rule 5.6(b) and (c), relating to restrictions and prohibitions on dealing in investment products, and with** Rules 7.1 through 7.3, dealing with advertising and solicitation.

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Annex B

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart A. PROFESSIONAL RESPONSIBILITY

CHAPTER 81. RULES OF PROFESSIONAL CONDUCT

Subchapter A. RULES OF PROFESSIONAL CONDUCT

§ 81.4. Rules of Professional Conduct.

The following are the Rules of Professional Conduct:

CLIENT-LAWYER RELATIONSHIP

Rule 1.15. Safekeeping Property.

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(c) ***Required records.*** Complete records of the receipt, maintenance and disposition of Rule 1.15 Funds and property shall be preserved for a period of five years after termination of the client-lawyer or Fiduciary relationship or after distribution or disposition of the property, whichever is later. **A lawyer shall maintain the writing required by RPC 1.5(b) (relating to the requirement of a writing communicating the basis or rate of the fee) and the records identified in RPC 1.5(c) (relating to the requirement of a written fee agreement and distribution statement in a contingent fee matter).** A lawyer shall **also** maintain the following books and records for each Trust Account and for any other account in which Fiduciary Funds are held pursuant to Rule 1.15(l):

(1) all transaction records provided to the lawyer by the Financial Institution or other investment entity, such as periodic statements, cancelled checks **in whatever form**, deposited items and records of electronic transactions; and

(2) check register or separately maintained ledger, which shall include the payee, date**, purpose** and amount of each check, withdrawal and transfer, the payor, date, and amount of each deposit, and the matter involved for each transaction**; provided, however, that where an account is used to hold funds of more than one client, a lawyer shall also maintain an individual ledger for each trust client, showing the source, amount and nature of all funds received from or on behalf of the client, the description and amounts of charges or withdrawals, the names of all persons or entities to whom such funds were disbursed, and the dates of all deposits, transfers, withdrawals and disbursements**.

(3) The records required by this **[rule] Rule** may be maintained in **[electronic or]** hard copy form **or by electronic, photographic, or other media provided that the records otherwise comply with this Rule and that printed copies can be produced. Whatever method is used to maintain required records must have a backup so that the records are secure and always available**. If records are kept only in electronic form, then such records shall be backed up**, on a separate electronic storage device,** at least **[monthly on a separate electronic storage device] at the end of any day on which entries have been entered into the records**. **These records shall be readily accessible to the lawyer and available for production to the Pennsylvania Lawyers Fund for Client Security or the Office of Disciplinary Counsel in a timely manner upon a request or demand by either agency made pursuant to the Pennsylvania Rules of Disciplinary Enforcement, the Disciplinary Board Rules, the Pennsylvania Lawyers Fund for Client Security Board Rules and Regulations, agency practice, or subpoena.**

(4) A regular trial balance of the individual client trust ledgers shall be maintained. The total of the trial balance must agree with the control figure computed by taking the beginning balance, adding the total of moneys received in trust for the client, and deducting the total of all moneys disbursed. On not less than a monthly basis, a lawyer shall conduct a reconciliation for each fiduciary account. The reconciliation is not complete if the reconciled total cash balance does not agree with the total of the client balance listing. A lawyer shall preserve for a period of five years copies of all records and computations sufficient to prove compliance with this requirement.

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(g) The responsibility for identifying an account as a Trust Account shall be that of the lawyer in whose name the account is held. **Only a lawyer admitted to practice law in this jurisdiction or a person under the direct supervision of the lawyer shall be an authorized signatory or authorize transfers from a Trust Account or any other account in which Fiduciary Funds are held pursuant to Rule 1.15(l).**

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Comment:

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(2) A lawyer should maintain on a current basis books and records in accordance with sound accounting practices consistently applied and comply with any recordkeeping rules established by law or court order, including those records identified in paragraph (c). **With little exception, funds belonging to a client or third party must be deposited into a Trust Account as defined in paragraph (a)(11), and funds belonging to the lawyer must be deposited in a business operating account maintained pursuant to paragraph (j). Thus, unless the client gives informed consent, confirmed in writing, to a different manner of handling funds advanced by the client to cover fees and expenses, the lawyer must deposit those funds into a Trust Account pursuant to paragraph (i). If the lawyer pools such funds belonging to more than one client, under paragraph (c)(2) the lawyer must keep a ledger for each individual client, regularly recording all funds received from the client and their purpose, and all disbursements of earned fees and expenses incurred. As fees become earned, the lawyer must promptly transfer those funds to the operating account. If the lawyer pools client funds after settlement or verdict in a single Trust Account, the lawyer must maintain a ledger of receipts and disbursements for each individual client, regularly recording the dates of each transaction, the identity of payors and payees, and the purpose of each disbursement, withdrawal or transfer of funds. The requirement of monthly reconciliations should deter situations where an attorney's Trust Account contains a shortfall for any significant period of time. Additionally, if a lawyer fails to maintain the records identified in para-**

graph (c) or to perform the required monthly reconciliations, later claims by the lawyer that a shortfall (i.e., misappropriation) resulted from negligence, even if credible, will necessarily be balanced against the lawyer's abdication of responsibility to comply with essential requirements associated with acting as a fiduciary and serving in a position of trust. The failure to maintain or timely produce the records required by paragraph (c) hampers rule-mandated or agency-promulgated investigative inquiries by the Pennsylvania Lawyers Fund for Client Security and the Office of Disciplinary Counsel and may serve as a basis for emergency temporary suspension of the lawyer's license to practice law. See Pa.R.D.E. 208(f)(1), 208(f)(5) and 221(g)(3).

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Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter B. MISCONDUCT

Rule 208. Procedure.

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(f) *Emergency temporary suspension orders and related relief.*

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(5) The Board on its own motion, or upon the petition of Disciplinary Counsel, may issue a rule to show cause why the respondent-attorney should not be placed on temporary suspension whenever it appears that the respondent-attorney has disregarded an applicable provision of the Enforcement Rules, **[refused] failed to maintain or produce the records required to be maintained and produced under RPC 1.15(c) and subdivisions (e) and (g) of Enforcement Rule 221 in response to a request or demand authorized by Rule 221(g) or any provision of the Disciplinary Board Rules, failed** to comply with a valid subpoena**,** or engaged in other conduct that in any such instance materially delays or obstructs the conduct of a proceeding under these rules. The rule to show cause shall be returnable within **[30] ten** days. If the response to the rule to show cause raises issues of fact, the **[Chairman of the]** Board **Chair** may direct that a hearing be held before a member of the Board who shall submit a report to the Board upon the conclusion of the hearing. If the period for response to the rule to show cause has passed without a response having been filed, or after consideration of any response and any report of a Board member following a hearing under this paragraph, the Board may recommend to the Supreme Court that the respondent-attorney be placed on temporary suspension. The recommendation of the Board shall be reviewed by the Supreme Court as provided in subdivision (e) of this rule**, although the time for either party to file with the Court a petition for review of the recommendation or determination of the Board shall be fourteen days after the entry of the Board's recommendation or determination, and any answer or responsive pleading shall be filed within ten days after service of the petition for review**.

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Rule 221. Funds of clients and third persons. Mandatory overdraft notification.

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(e) An attorney shall maintain **and preserve for a period of five years after termination of the client-lawyer or Fiduciary relationship or after distribution or disposition of the property, whichever is later, the writing required by RPC 1.5 (relating to the requirement of a writing communicating the basis or rate of the fee), the records identified in RPC 1.5(c) (relating to the requirement of a written fee agreement and distribution statement in a contingent fee matter), and** the following books and records for each Trust Account and for any other account in which Rule 1.15 Funds are held:

(1) all transaction records provided to the attorney by the Financial Institution, such as periodic statements, canceled checks in whatever form, deposited items and records of electronic transactions; and

(2) check register or separately maintained ledger, which shall include the payee, date**, purpose** and amount of each check, withdrawal and transfer, the payor, date, and amount of each deposit, and the matter involved for each transaction**; provided, however, that where an account is used to hold funds of more than one client, a lawyer shall also maintain an individual ledger for each trust client, showing the source, amount and nature of all funds received from or on behalf of the client, the description and amounts of charges or withdrawals, the names of all persons or entities to whom such funds were disbursed, and the dates of all deposits, transfers, withdrawals and disbursements**.

(3) A regular trial balance of the individual client trust ledgers shall be maintained. The total of the trial balance must agree with the control figure computed by taking the beginning balance, adding the total of moneys received in trust for the client, and deducting the total of all moneys disbursed. On not less than a monthly basis, a lawyer shall conduct a reconciliation for each fiduciary account. The reconciliation is not complete if the reconciled total cash balance does not agree with the total of the client balance listing. A lawyer shall preserve for a period of five years copies of all records and computations sufficient to prove compliance with this requirement.

(f) The records required by this **[rule] Rule** may be maintained in **[electronic or]** hard copy form **or by electronic, photographic, or other media provided that the records otherwise comply with this Rule and that printed copies can be produced. Whatever method is used to maintain required records must have a backup so that the records are secure and always available**. If records are kept only in electronic form, then such records shall be backed up**, on a separate electronic storage device,** at least **[monthly on a separate electronic storage device] at the end of any day on which entries have been entered into the records**.

(g) **[The records required by this rule may be subject to subpoena and must be produced in connection with an investigation or hearing pursuant to these rules.] The records required to be maintained by RPC 1.15 shall be readily accessible to the lawyer and available for production to the Pennsylvania Lawyers Fund for Client Security and the Office of Disciplinary Counsel in a timely manner upon request or demand by either agency made pursuant to these Enforcement Rules, the Rules of**

the Board, the Pennsylvania Lawyers Fund for Client Security Board Rules and Regulations, agency practice, or subpoena.

(1) Upon a request by Disciplinary Counsel under this subdivision (g), which request may take the form of a letter to the respondent-attorney briefly stating the basis for the request and identifying the type and scope of the records sought to be produced, a respondent-attorney must produce the records within five business days after personal service of the letter on the respondent-attorney or after the delivery of a copy of the letter to an employee, agent or other responsible person at the office of the respondent-attorney as determined by the address furnished by the respondent-attorney in the last registration statement filed by the respondent-attorney pursuant to Rule 219(d), but if the latter method of service is unavailable, within eight days after the date of mailing a copy of the letter to the last registered address or addresses set forth on the statement.

(2) When Disciplinary Counsel's request or demand for RPC 1.15 records is made under an applicable provision of the Disciplinary Board Rules or by subpoena under Enforcement Rule 213(a), the respondent-attorney must produce the records and must do so within the time frame established by those rules.

(3) Failure to produce **RPC 1.15 records in response to a request or demand for** such records may result in the initiation of proceedings pursuant to Enforcement Rule **[208(f)] 208(f)(1) or (f)(5)** (relating to emergency temporary suspension orders and related relief), **the latter of** which **specifically** permits disciplinary counsel to commence a proceeding for the temporary suspension of a respondent-attorney who **[refuses to comply with a valid subpoena] fails to maintain or produce RPC 1.15 records after receipt of a request or demand authorized by subdivision (g) of this Rule or any provision of the Disciplinary Board Rules. If at any time a hearing is held before the Board pursuant to Rule 208(f) as a result of a respondent-attorney's alleged failure to maintain or produce RPC 1.15 records, a lawyer-Member of the Board shall be designated to preside over the hearing.**

***Official Note*: If Disciplinary Counsel files a petition for temporary suspension, the respondent-attorney will have an opportunity to raise at that time any claim of impropriety pertaining to the request or demand for records.**

(h) An Eligible Institution shall be approved as a depository for Trust Accounts of attorneys if it shall be in compliance with applicable provisions of Rule 1.15 of the Pennsylvania Rules of Professional Conduct and the Regulations of the IOLTA Board and shall file with the Disciplinary Board an agreement (in a form provided by the Board) to make a prompt report to the Lawyers Fund for Client Security Board whenever any check or similar instrument is presented against a Trust Account when such account contains insufficient funds to pay the instrument, regardless of

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Annex C

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 219. Annual registration of attorneys.

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(d) On or before July 1 of each year all attorneys required by this rule to pay an annual fee shall file with the Attorney Registration Office a signed or electronically endorsed form prescribed by the Attorney Registration Office in accordance with the following procedures:

(1) The form shall set forth:

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(iii) The name of each **[financial institution] Financial Institution, as defined in RPC 1.15(a)(4),** in this Commonwealth in which the attorney **or law firm through which the attorney practiced** on May 1 of the current year or at any time during the preceding 12 months held funds of a client or a third person subject to Rule 1.15 of the Pennsylvania Rules of Professional Conduct. The form shall include the name and account number for each account in which the lawyer **[holds] or law firm through which the lawyer practiced held** such funds, and each IOLTA Account shall be identified as such. The form provided to a person holding a Limited In-House Corporate Counsel License or a Foreign Legal Consultant License need not request the information required by this subparagraph.

***Official Note*: If an attorney employed by a law firm receives fiduciary funds from or on behalf of a client and deposits or causes the funds to be deposited into a law firm account over which the attorney does not have signature authority, the attorney must nonetheless report the account of deposit under this subparagraph.**

(iv) Every account not reported under subparagraph (iii), that held funds of a client or third party, and over which the attorney had sole or shared signature authority or authorization to transfer funds to or from the account, during the same time period specified in subparagraph (iii). For each account, the attorney shall provide the name of the financial institution (whether or not the entity qualifies as a "Financial Institution" under RPC 1.15(a)(4)), location, and account number.

(v) Every business operating account maintained or utilized by the attorney in the practice of law during the same time period specified in subparagraph (iii). For each account, the attorney shall provide the name of the financial institution, location and account number.

[(iv)] (vi) A statement that the attorney is familiar and in compliance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct regarding the handling of funds and other property of clients and others and the maintenance of IOLTA Accounts, and with Rule 221 of the Pennsylvania Rules of Disciplinary Enforcement regarding the mandatory reporting of overdrafts on fiduciary accounts**; that the information is true and correct to**

the best of the attorney's knowledge, information and belief, and submitted subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities; and that the attorney is subject to discipline by the Supreme Court and/or criminal prosecution for any false statement.

[(v)] (vii) A statement that any action brought against the attorney by the Pennsylvania Lawyers Fund for Client Security for the recovery of monies paid by the Fund as a result of claims against the attorney may be brought in the Court of Common Pleas of Allegheny, Dauphin or Philadelphia County.

[(vi)] (viii) Whether the attorney is covered by professional liability insurance on the date of registration in the minimum amounts required by Rule of Professional Conduct 1.4(c). Rule 1.4(c) does not apply to attorneys who do not have any private clients, such as attorneys in full-time government practice or employed as in-house corporate counsel.

***Official Note*:** The Disciplinary Board will make the information regarding insurance available to the public upon written or oral request and on its web site. The requirement of Rule 219(d)(3) that every attorney who has filed an annual fee form or elects to file the form electronically must notify the Attorney Registration Office of any change in the information previously submitted within 30 days after such change will apply to the information regarding insurance.

[(vii)] (ix) Such other information as the Attorney Registration Office may from time to time direct.

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Annex D

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 213. Subpoena power, depositions and related matters.

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(d) *Challenges**; appeal of challenges to subpoena***. Any attack on the validity of a subpoena issued under this rule shall be handled as follows:

(1) A challenge to a subpoena authorized by subdivision (a)(1) shall be heard and determined by the hearing committee or special master before whom the subpoena is returnable **in accordance with the procedure established by the Board**. ***See*** **D.Bd. Rules § 91.3(b) (relating to procedure).**

(2) A challenge to a subpoena authorized by subdivision (a)(2) shall be heard and determined by a member of a hearing committee in the disciplinary district in which the subpoena is returnable **in accordance with the procedure established by the Board**. ***See*** **D.Bd. Rules § 91.3(b) (relating to procedure).**

(3) A determination under paragraph (1) or (2) may **[not]** be appealed to **a lawyer-Member of** the Board**[, but may be appealed to the Supreme Court under subdivision (g)]** within ten days after service **pursuant to D.Bd. Rules §§ 89.21 and 89.24** of the determination on the party bringing the appeal **by filing a petition with the Board setting forth in detail the grounds for challenging the determination**. **The appealing party shall serve a copy of the petition on the non-appealing party by mail on the date that the appealing party files the appeal, and the non-appealing party shall have five business days after delivery to file a response. No attack on the validity of a subpoena will be considered by the Designated lawyer-Member of the Board unless previously raised before the hearing committee. The Board Member shall decide the appeal within five business days of the filing of the non-appealing party's response, if any. There shall be no right of appeal to the Supreme Court. Any request for review shall not serve to stay any hearing or proceeding before the hearing committee or the Board unless the Court enters an order staying the proceedings.**

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(g) *Enforcement of subpoenas***[*; appeal of challenges to subpoenas*]**.

(1) Either Disciplinary Counsel or a respondent-attorney may petition the Supreme Court to enforce a subpoena **[or to review a determination under subdivision (d)(1) or (2) on the validity of a subpoena. No attack on the validity of a subpoena will be considered by the Court unless previously raised as provided in subdivision (d)] that was not the subject of a challenge pursuant to subdivision (d)(1) or (2), or that was the subject of a challenge and has not been finally quashed by either the hearing committee or the Board Member designated to hear the appeal, provided that the party filing the petition to enforce attaches a certification in good faith that: a) the party exhausted reasonable efforts to secure the presence of the witness or the evidence within the witness's custody or control, b) the testimony, records or other physical evidence of the witness will not be cumulative of other evidence available to the party, and c) the absence of the witness will substantially handicap the party from prosecuting or defending the charges, or from establishing a weighty aggravating or mitigating factor**. See also Enforcement Rule 208(f)(5) (relating to emergency temporary suspension orders and related relief).

***Official Note*:** The reference to Enforcement Rule 208(f)(5) is intended to make clear that, where the person who is resisting complying with a subpoena is the respondent-attorney, the provisions of this rule are cumulative of those in Enforcement Rule 208(f)(5).

(2) Upon receipt of a petition for enforcement of a subpoena, the Court shall issue a rule to show cause upon the person to whom the subpoena is directed, returnable within ten days, why the person should not be held in contempt. If the period for response has passed without a response having been filed, or after consideration of any response, the Court shall issue an appropriate order.

[(3) A petition for review of a determination made under subdivision (d)(1) or (2) must set forth in detail the grounds for challenging the determination. Upon timely receipt of a petition for review, the Court shall issue a rule to show cause upon the party to the proceeding who is not challenging the determination, returnable within ten days, why the determination should not be reversed. If the period

for response has passed without a response having been filed, or after consideration of any response, the Court shall issue an appropriate order.]

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Annex E

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 215. Discipline on consent.

(a) *Voluntary resignation.*—An attorney who is the subject of an investigation into allegations of misconduct by the attorney may submit a resignation, but only by delivering to **Disciplinary Counsel or the Secretary of** the Board a verified statement stating that the attorney desires to resign and that:

(1) the resignation is freely and voluntarily rendered; the attorney is not being subjected to coercion or duress; the attorney is fully aware of the implications of submitting the resignation; and whether or not the attorney has consulted or followed the advice of counsel in connection with the decision to resign;

(2) the attorney is aware that there is a presently pending investigation into allegations that the attorney has been guilty of misconduct the nature of which the verified statement shall specifically set forth;

(3) the attorney acknowledges that the material facts upon which the complaint is predicated are true; **[and]**

(4) the resignation is being submitted because the attorney knows that if charges were predicated upon the misconduct under investigation the attorney could not successfully defend against them**[.]**;

(5) the attorney is fully aware that the submission of the resignation statement is irrevocable and that the attorney can only apply for reinstatement to the practice of law pursuant to the provisions of Enforcement Rule 218(b) and (c);

(6) the attorney is aware that pursuant to subdivision (c) of this Rule, the fact that the attorney has tendered his or her resignation shall become a matter of public record immediately upon delivery of the resignation statement to Disciplinary Counsel or the Secretary of the Board;

(7) upon entry of the order disbarring the attorney on consent, the attorney will promptly comply with the notice, withdrawal, resignation and cease-and-desist provisions of subdivisions (a), (b), (c) and (d)(2) of Enforcement Rule 217;

(8) after the entry of the order disbarring the attorney on consent, the attorney will file a verified statement of compliance as required by subdivision (e)(1) of Enforcement Rule 217; and

(9) the attorney is aware that the waiting period for eligibility to apply for reinstatement to the practice of law under Enforcement Rule 218(b) shall not begin until the attorney files the verified statement of compliance required by Enforcement Rule 217(e)(1), and if the order of disbarment contains a provision that makes the disbarment retroactive to an earlier date, then the waiting period will be deemed to have begun on that earlier date.

(b) *Order of disbarment.*—Upon receipt of the required statement, the **Secretary of the** Board shall file it with the Supreme Court and the Court shall enter an order disbarring the attorney on consent.

(c) *Confidentiality* **[or]** ***of*** *resignation statement.*—**The fact that the attorney has submitted a resignation statement to Disciplinary Counsel or the Secretary of the Board for filing with the Supreme Court shall become a matter of public record immediately upon delivery of the resignation statement to Disciplinary Counsel or the Secretary of the Board.** The order disbarring the attorney on consent shall be a matter of public record. If the statement required under the provisions of subdivision (a) of this rule is submitted before the filing and service of a petition for discipline and the filing of an answer or the time to file an answer has expired, the statement shall not be publicly disclosed or made available for use in any proceeding other than a subsequent reinstatement proceeding except:

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Rule 217. Formerly admitted attorneys.

(a) A formerly admitted attorney shall promptly notify, or cause to be **promptly** notified, **[by registered or certified mail, return receipt requested,]** all clients being represented in pending matters, other than litigation or administrative proceedings, of the disbarment, suspension, administrative suspension or transfer to inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status and shall advise said clients to seek legal advice elsewhere. **The notice required by this subdivision (a) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the Secretary of the Board and shall serve a conforming copy on the Office of Disciplinary Counsel. *See* D.Bd. Rules § 91.92(b) (relating to filing of copies of notices).**

***Official Note*: Notice may be accomplished, for example, by delivery in person with the lawyer securing a signed receipt, electronic mailing with some form of acknowledgement from the client other than a "read receipt," and mailing by registered or certified mail return receipt requested.**

(b) A formerly admitted attorney shall promptly notify, or cause to be **promptly** notified, **[by registered or certified mail, return receipt requested,]** all clients who are involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the disbarment, suspension, administrative suspension or transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status. The notice to be given to the client shall advise the prompt substitu-

tion of another attorney or attorneys in place of the formerly admitted attorney. In the event the client does not obtain substitute counsel before the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status, it shall be the responsibility of the formerly admitted attorney to move in the court or agency in which the proceeding is pending for leave to withdraw. The notice to be given to the attorney or attorneys for an adverse party shall state the place of residence of the client of the formerly admitted attorney. **The notice required by this subdivision (b) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt.** ***See*** **Note after subdivision (a),** ***supra*****. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the Secretary of the Board and shall serve a conforming copy on the Office of Disciplinary Counsel.** ***See*** **D.Bd. Rules § 91.92(b) (relating to filing of copies of notices).**

(c) A formerly admitted attorney shall promptly notify, or cause to be **promptly** notified, of the disbarment, suspension, administrative suspension or transfer to inactive status**[, by registered or certified mail, return receipt requested]**:

(1) all persons or their agents or guardians**, including but not limited to wards, heirs and beneficiaries,** to whom a fiduciary duty is or may be owed at any time after the disbarment, suspension, administrative suspension or transfer to inactive status**[, and];**

(2) all other persons with whom the formerly admitted attorney may at any time expect to have professional contacts under circumstances where there is a reasonable probability that they may infer that he or she continues as an attorney in good standing**[.]; and**

(3) any other tribunal, court, agency or jurisdiction in which the attorney is admitted to practice.

The notice required by this subdivision (c) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. ***See*** **Note after subdivision (a),** ***supra*****. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by subdivision (c) and proofs of receipt with the Secretary of the Board and shall serve a conforming copy on the Office of Disciplinary Counsel.** The responsibility of the formerly admitted attorney to provide the notice required by this subdivision shall continue for as long as the formerly admitted attorney is disbarred, suspended, administratively suspended or on inactive status.

[(d)] (d)(1) Orders imposing suspension, disbarment, administrative suspension or transfer to inactive status shall be effective 30 days after entry. The formerly admitted attorney, after entry of the disbarment, suspension, administrative suspension or transfer to inactive status order, shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature. However, during the period from the entry date of the order and its effective date the formerly admitted attorney may wind up and complete, on behalf of any client, all matters which were pending on the entry date.

(2) In addition to the steps that a formerly admitted attorney must promptly take under other provisions of this Rule to disengage from the practice of law, a formerly admitted attorney shall promptly:

(i) resign all appointments as personal representative, executor, administrator, guardian, conservator, receiver, trustee, agent under a power of attorney, or other fiduciary position;

(ii) close every IOLTA, Trust, client and fiduciary account;

(iii) properly disburse or otherwise transfer all client and fiduciary funds in his or her possession, custody or control;

(iv) cease and desist from using all forms of communication that expressly or implicitly convey eligibility to practice law in the state courts of Pennsylvania, including but not limited to professional titles, letterhead, business cards, signage, websites, and references to admission to the Pennsylvania Bar; and

(v) in cases of disbarment or suspension exceeding one year, take all necessary steps to cancel or discontinue the next regular publication of all advertisements and telecommunication listings that expressly or implicitly convey eligibility to practice law in the state courts of Pennsylvania.

The attorney shall maintain records to demonstrate compliance with the provisions of this paragraph (2) and shall provide proof of compliance at the time the attorney files the verified statement required by subdivision (e)(1) of this Rule.

[(e)] (e)(1) Within ten days after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status order, the formerly admitted attorney shall file with the **Secretary of the** Board a verified statement **[showing] and serve a copy on Disciplinary Counsel. In the verified statement, the formerly admitted attorney shall**:

[(1)] (i) aver that the provisions of the order and these rules have been fully complied with; **[and]**

[(2)] (ii) list all other state, federal and administrative jurisdictions to which such person is admitted to practice**[. Such statement shall also set forth the residence or other address of the formerly admitted attorney where communications to such person may thereafter be directed.], aver that he or she has fully complied with the notice requirements of paragraph (3) of subdivision (c) of this Rule, and aver that he or she has attached copies of the notices and proofs of receipt required by (c)(3); or, in the alternative, aver that he or she was not admitted to practice in any other tribunal, court, agency or jurisdiction;**

(iii) aver that he or she has attached copies of the notices required by subdivisions (a), (b), (c)(1) and (c)(2) of this Rule and proofs of receipt, or, in the alternative, aver that he or she had no clients or third persons to whom a fiduciary duty was owed;

(iv) in cases of disbarment or suspension for a period exceeding one year, aver that he or she has attached his or her attorney registration certificate for the current year, certificate of admission, any certificate of good standing issued by the Prothonotary, and any other certificate required by subdivi-

sion (h) of this Rule to be surrendered; or, in the alternative, aver that he or she has attached all such documents within his or her possession, or that he or she is not in possession of any of the certificates required to be surrendered;

(v) aver that he or she has complied with the requirements of paragraph (2) of subdivision (d) of this Rule, and aver that he or she has attached proof of compliance, including resignation notices, evidence of the closing of accounts, copies of cancelled checks and other instruments demonstrating the proper distribution of client and fiduciary funds, evidence of the destruction or removal of indicia of Pennsylvania practice, and requests to cancel advertisements and telecommunication listings; or, in the alternative, aver that he or she has no applicable appointments, accounts, funds, or indicia of Pennsylvania practice;

(vi) aver that he or she has served a copy of the verified statement and its attachments on the Office of Disciplinary Counsel;

(vii) set forth the residence or other address where communications to such person may thereafter be directed; and

(viii) sign the statement.

The statement shall contain an averment that all statements contained therein are true and correct to the best of the formerly admitted attorney's knowledge, information and belief, and are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

***Official Note*: A respondent-attorney who is placed on temporary suspension is required to comply with subdivision (e)(1) and file a verified statement. Upon the entry of a final order of suspension or disbarment, the respondent-attorney must file a supplemental verified statement containing the information and documentation not applicable at the time of the filing of the initial statement, or all of the information and documentation required by subdivision (e)(1) if the respondent-attorney has failed to file the initial statement. Although the grant of retroactivity is always discretionary, a respondent-attorney who fails to file a verified statement at the time of temporary suspension should not expect a final order to include a reference to retroactivity.**

(2) A formerly admitted attorney shall cooperate with Disciplinary Counsel and respond completely to questions by Disciplinary Counsel regarding compliance with the provisions of this Rule.

(3) After the entry of an order of disbarment or suspension for a period exceeding one year, the waiting period for eligibility to apply for reinstatement to the practice of law shall not begin until the formerly admitted attorney files the verified statement required by subdivision (e)(1) of this Rule. If the order of disbarment or suspension contains a provision that makes the discipline retroactive to an earlier date, the waiting period will be deemed to have begun on that earlier date.

(f) The Board shall cause a notice of the suspension, disbarment, administrative suspension or transfer to inactive status to be published in the legal journal and a newspaper of general circulation in the county in which the formerly admitted attorney practiced. **The cost of publication shall be assessed against the formerly admitted attorney.**

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Rule 218. Reinstatement.

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(b) A person who has been disbarred may not apply for reinstatement until the expiration of at least five years from the effective date of the disbarment, except that a person who has been disbarred pursuant to Rule 216 (relating to reciprocal discipline and disability) may apply for reinstatement at any earlier date on which reinstatement may be sought in the jurisdiction of initial discipline. **Pursuant to Rule 217(e)(3), the waiting period for eligibility to apply for reinstatement to the practice of law shall not begin until the person files the verified statement required by subdivision (e)(1) of Rule 217. If the order of disbarment contains a provision that makes the disbarment retroactive to an earlier date, the waiting period will be deemed to have begun on that earlier date.**

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[Pa.B. Doc. No. 14-1988. Filed for public inspection September 26, 2014, 9:00 a.m.]

Title 207—JUDICIAL CONDUCT

PART II. CONDUCT STANDARDS

[207 PA. CODE CH. 33]

Formal Opinion 2014-1

Notice is hereby given that the Ethics Committee of the Pennsylvania Conference of State Trial Judges has adopted its Formal Opinion 2014-1 which is set forth as follows.

EDWARD D. REIBMAN,
Chairperson
Ethics Committee
Pennsylvania Conference of State Trial Judges

Annex A

TITLE 207. JUDICIAL CONDUCT

PART II. CONDUCT STANDARDS

CHAPTER 33. CODE OF JUDICIAL CONDUCT

Subchapter B. FORMAL OPINIONS

§ 14-1. Social Activities.

The Ethics Committee of the Pennsylvania Conference of State Trial Judges (the "Committee") regularly receives inquiries regarding the propriety of judges attending social activities.[i] By order of the Supreme Court of Pennsylvania, a new Code of Judicial Conduct (the "new Code") became effective on July 1, 2014. Although the new Code is more expansive than, and in some respects significantly different from, the prior Code of Judicial Conduct ("the old Code"), many of the relevant provisions of the old Code have been incorporated into the new Code. The Committee has issued a body of informal opinions under the old Code. It now issues this Formal

Opinion to provide broad guidance to those subject to the new Code as they transition to its provisions.[ii]

As is always the case, if a judge has a specific question concerning the application of these general guidelines to his or her prospective behavior, and wishes to enjoy the rule of reliance on the Committee's advice,[iii] the judge should make a written request for advice from the Committee.

Social Activities[iv]

In general, inquiries to the Committee concerning social activities have involved (A) attorneys, law firms and attorney associations; (B) charitable organizations; and (C) other types of events.

A. *Social Activities Involving Attorneys, Law Firms and Attorney Associations*

The Committee has approved attendance at the following social activities sponsored by attorneys, law firms and attorney organizations under the old Code; and, as a general matter, the result would be the same under the new Code:[v]

• A ceremonial and social function held by a plaintiffs' bar association. (2/21/01)

• A bar association event held at a private law firm. (4/16/01)

• A summer associate reception at a law firm where the judge's spouse is a partner. No clients will be in attendance; and all spouses/significant others are invited. (5/27/07)

• A plaintiffs' bar association awards dinner which is a fund raising event. (10/1/09)

• A CLE program conducted by a criminal defense organization where the program has been approved for CLE credit, is open to the general bar, is held in a public forum, and is free to judges. (4/28/10)

• A charity concert at a public venue when the tickets were purchased for the judge and the judge's spouse by the spouse's firm. The judge will not be sitting with the firm's clients. (5/7/10)

• The wedding of a former law clerk, who is now a local lawyer not currently involved in litigation before the judge. (9/19/12)

• A public event in a law firm's sky box suite where the firm has not appeared before the judge in any civil/criminal matter. (2/28/13)

The Committee has advised attendance at the following events could be violative of the old Code; and, as a general matter, the result would be the same under the new Code:

• Judge may not serve as a keynote speaker before an insurance industry group. (9/8/03)

• A legal seminar conducted solely for the members of the sponsoring firm. (9/8/04)

• A seminar given only for members of a certain law firm at the firm's office. (6/20/05)

• A spouse's firm retreat (including dinners and social events), even where the judge pays for his/her own airfare, lodging, and food.

• The retreat includes a dinner where the spouse would entertain clients and the judge would attend as the spouse's guest. (4/5/06)

• A private firm event featuring a well-known political commentator. The event is not held at the firm, but clients and prospective clients of the firm will be present. (9/15/08)

• A private party following a charity concert where the party is held by a spouse's firm for the purpose of entertaining clients. (5/7/10)

• An event open to the general bar, sponsored by a nonprofit, and held at a private law firm. The title of the event indicates that judges will be featured attendees. (8/26/10)

• An award breakfast honoring a retired U. S. Supreme Court Justice where clients of the firm will attend. (5/28/13)

In deciding whether to attend social functions sponsored by attorneys, law firms, and attorney associations, a judge should review the following non-exhaustive list of considerations implicated by the Code:

1. Is the event intended to improve the law, the legal system, or the administration of justice, or is it purely a social function?

2. Are the sponsoring attorneys currently involved or likely to be involved in litigation before the judge?

3. Is the event held at a law firm or off site?

4. Is attendance limited to attorneys in the sponsoring firm or is it open to other attorneys and/or the general public?

5. Will the firm's clients or potential clients attend the event?

6. Will an appearance at the social event convey the impression that the sponsors are in a special position to influence the judge?

7. Will the judge's presence be advertised in advance of the event or will the judge be recognized during the event?

8. In the case of an event sponsored by an attorney association, is the function limited to one sector of the bar, such as the plaintiffs' bar, defense counsel, prosecutors, etc.?

9. Will attendance at the function call into question the judge's impartiality?

10. Will attendance interfere with the performance of the judge's judicial duties?

B. *Social Activities Sponsored by Charitable Organizations*

The old Code stated judges were not permitted to ". . . solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of their office for that purpose . . . [or] . . . be a speaker or the guest of honor at an organization's fundraising events, but they may attend such events."[vi] Accordingly, under the old Code the Committee approved attendance at the following social events sponsored by charitable organizations while, in some cases, noting particular concerns about the event:[vii]

• A nonprofit organization's fundraising event; however, where the judge would be given a free ticket to the event, there was concern that the organization intended to showcase the judge, which would be prohibited. (2/5/99)

• A charitable event if the judge is not being showcased as a means to encourage others to contribute. (4/11/05)

• A charitable event including a free ticket, if doing so would not reflect adversely on impartiality, interfere with the judge's ability to perform, or give the appearance of impropriety. (4/11/05)

• A Citizens' Crime Commission (a 501(c)(3) nonprofit) cocktail party as long as the judge is neither listed in the program nor an honoree. (2/28/06)

• A "Dancing with the Stars" event, when the judge's name is not used in advance publicity; the judge is identified at the dance by name, not title; the judge will be identified in the program as "guest dancer;" the judge will purchase his own ticket; and attendees will not bid on the judge's dance or pay extra because the judge is participating. (1/21b/2009)

Under the new Code, Rule 3.7(B)(2) permits judges to be a guest speaker or guest of honor at fundraising dinners or events that are for the advancement of the legal system, and have their name listed in the program; but, otherwise, the new Code continues to prohibit judges from being the guest speaker or guest of honor at fundraising dinners or events for other causes.

With respect to a judge receiving a free ticket to an event, or receiving other things of value, Rule 3.13(A) of the new Code prohibits such acceptance if ". . . prohibited by law or would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality." However, subject to Rule 3.13(A) and the reporting requirements of Rule 3.15, Rule 3.13(C) permits judges to accept ". . . invitations to the judge and the judge's spouse, domestic partner, or guest to attend without charge: (a) an event associated with a bar-related function or other activity relating to the law, the legal system, or the administration of justice; or (b) an event associated with any of the judge's educational, religious, charitable, fraternal or civic activities permitted by this Code, if the same invitation is offered to nonjudges who are engaged in similar ways in the activity as is the judge. . . ."

Faced with reduced budgets and shrinking charitable contributions, organizations have turned to novel and creative fundraising efforts to swell the crowd or otherwise raise money by involving judges. Examples of using a judge as an attraction or celebrity participant include "Dancing with the Stars" events, competing with judges in sporting events, and the judge as a celebrity auctioneer. While celebrities and other government officials may lend their personal or professional status to an organization's fundraising efforts, a judge is prohibited from doing so. A judge may not permit an organization to capitalize on or exploit his or her attendance at or participation in such an event by advertising that fact on invitations or other promotional materials in advance of an event that is not for the advancement of the legal system. A judge who allows himself or herself to be used in this manner is engaged in the solicitation of funds in direct violation of the Code. These prohibitions apply regardless of the worthiness of the charity. See Formal Opinion 2011-1 (Certain Fundraising Activities).

Most importantly, the judge must determine whether he/she is the "draw" for the charitable activity and, if so, decline the invitation. If the judge will be "showcased," thus allowing the prestige of the office to be used for the benefit of a charity that is not for the advancement of the legal system, the judge is prohibited from attending.

C. *Other Types of Social Activities*

Many social events fall outside the basic categories outlined in this Formal Opinion and can only be addressed on a case-by-case basis. Attendance at the following events was permitted by the Committee under the old Code based upon the specific facts represented in the inquiry:

• The inauguration of a university president and related social events. (9/6b/00)

• An elected official's inaugural ball. (12/17/01)

• A judicial symposium held by a nonpartisan group including lodging, meals, and money to defray transportation costs. (12/14b/04)

• A privately funded seminar with a partisan agenda, if the identity of the sponsors is publicized. (12/14b/04)

However, the Committee advised against accepting dinner at a private club as the guest of a senior judge whom the inquiring judge recently appointed in several cases. (12/12/13)

Conclusion

Judges must expect to be the subject of constant public scrutiny. They must freely and willingly accept restrictions on their conduct that might be viewed as burdensome by the ordinary citizen. This does not mean, however, that judges must isolate themselves from society or decline all social invitations. Indeed, the new Code continues to encourage judges to be involved in the communities in which they serve. However, the need to maintain an impartial and independent judiciary gives rise to special concerns. Accordingly, judges must carefully consider the ramifications of all social activities, both personal and judicial, to ensure that they uphold the independence, integrity, and impartiality of the judiciary, avoid impropriety and the appearance of impropriety, and do not lend the prestige of their office to advance the private interests of others. To that end, therefore, judges must be attentive to strictures that continue to be imposed by the new Code in relation to social activities. These include factors to be considered in deciding whether to attend social functions sponsored by attorneys, law firms, and attorney associations as well as social events sponsored by charitable organizations.

This Formal Opinion is intended to provide judges with broad guidance regarding one of the Ethics Committee's most frequent areas of inquiry. And judges are reminded that to enjoy the rule of reliance on the Committee's advice, they should make a written request for advice from the Committee tailored to the particular situation confronted. If a judge has a question concerning the application of these guidelines, the judge should make a written request for advice from a member of the Committee. The new Code provides that, although such opinions are not *per se* binding on the Judicial Conduct Board, the Court of Judicial Discipline, or the Supreme Court of Pennsylvania, action taken in reliance thereon shall be considered in determining whether discipline should be recommended or imposed.

[i] This Formal Opinion does not purport to address political events.

[ii] While the entire new Code is relevant, the following are the particularly relevant provisions of the new Code:

Canon 3: A judge shall conduct the judge's personal and extrajudicial activities to minimize the risk of conflict with the obligations of judicial office.

Rule 3.1. Extrajudicial Activities in General.

Judges shall regulate their extrajudicial activities to minimize the risk of conflict with their judicial duties and to comply with all provisions of this Canon. However, a judge shall not:

(A) Participate in activities that will interfere with the proper performance of the judge's judicial duties;

(B) Participate in activities that will lead to frequent disqualification of the judge;

(C) Participate in activities that would reasonably appear to undermine the judge's independence, integrity, or impartiality;

(D) Engage in conduct that would reasonably appear to be coercive; or

(E) Make use of court premises, staff, stationery, equipment, or other resources, except for incidental use for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law.

Comment [1]: To the extent that time permits, and judicial independence and impartiality are not compromised, judges are encouraged to engage in appropriate extrajudicial activities that concern the law, the legal system, and the administration of justice, such as by speaking, writing, teaching, or participating in scholarly research projects. In addition, judges are permitted and encouraged to engage in educational, religious, charitable, fraternal or civic extrajudicial activities not conducted for profit, even when the activities do not involve the law. See Rule 3.7.

Comment [2]: Participation in both law-related and other extra-judicial activities helps integrate judges into their communities, and furthers public understanding of and respect for courts and the judicial system.

Comment [3]: . . . a judge's extrajudicial activities must not be conducted in connection or affiliation with an organization that practices invidious discrimination. See Rule 3.6.

Comment [4]: While engaged in permitted extrajudicial activities, judges must not coerce others or take action that would reasonably be perceived as coercive.

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Rule 3.4. Appointments to Governmental Positions and Other Organizations.

(A) judge shall not accept appointment to a governmental committee, board, commission, or other governmental position, unless it is one that concerns the law, the legal system, or the administration of justice.

(B) A judge may serve as a member, officer, or director of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice. A judge shall not personally solicit funds but may attend fundraising events for such organizations.

(C) Senior judges eligible for recall to judicial service may accept extrajudicial appointments not permitted by Rule 3.4(B) but during the term of such appointment shall refrain from judicial service.

Comment [1]: Rule 3.4 implicitly acknowledges the value of judges accepting appointments to entities that concern the law, the legal system, or the administration of justice. Even in such instances, however, a judge should assess the appropriateness of accepting an appointment, paying particular attention to the subject matter of the appointment and the availability and allocation of judicial resources, including the judge's time commitments, and giving due regard to the requirements of the independence and impartiality of the judiciary.

Comment [2]: A judge may represent his or her country, state, or locality on ceremonial occasions or in connection with historical, educational, or cultural activities. Such representation does not constitute acceptance of a governmental position.

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Rule 3.6. Affiliation with Discriminatory Organizations.

(A) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, disability or sexual orientation.

(B) A judge shall not use the benefits or facilities of an organization if the judge knows or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.

Comment [1]: A judge's public manifestation of approval of invidious discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired.

Comment [2]: An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity, disability or sexual orientation persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited.

Comment [3]: When a judge learns that an organization to which the judge belongs engages in invidious discrimination, the judge must resign immediately from the organization.

Comment [4]: A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule.

Comment [5]: The Rule does not apply to national or state military service.

Rule 3.7. Participation in Educational, Religious, Charitable, Fraternal or Civic Organizations and Activities.

(A) Avocational activities. Judges may write, lecture, teach, and speak on non-legal subjects and engage in the arts, sports, and other social and recreational activities, if such avocational activities do not detract from the dignity of their office or interfere with the performance of their judicial duties.

(B) Civic and Charitable Activities. Judges may participate in civic and charitable activities that do not reflect adversely upon their impartiality or interfere with the performance of their judicial duties. Judges may serve as an officer, director, trustee, or nonlegal advisor of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:

(1) A judge shall not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before the judge or will be regularly engaged in adversary proceedings in any court.

(2) A judge shall not personally solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of the judicial office for that purpose, but may be listed as an officer, director, or trustee of such an organization. A judge shall not be a speaker or the guest of honor at an organization's fundraising events that are not for the advancement of the legal system, but may attend such events.

(3) A judge shall not give investment advice to such an organization.

(C) Notwithstanding any of the above, a judge may encourage lawyers to provide *pro bono publico* legal services.

Comment [1]: The nature of many outside organizations is constantly changing and what may have been innocuous at one point in time may no longer be so. Cases in point are boards of hospitals and banks. Judges must constantly be vigilant to ensure that they are not involved with boards of organizations that are often before the court.

Comment [2]: Judges are also cautioned with regard to organizations of which they were members while in practice, and/or in which they remain members, such as the District Attorney's organization, the Public Defender's organization, and MADD, as examples only. Review should be made to make sure that a reasonable litigant appearing before the judge would not think that membership in such an organization would create an air of partiality on the part of the tribunal.

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Rule 3.13. Acceptance of Gifts, Loans, Bequests, Benefits, or Other Things of Value.

(A) A judge shall not accept any gifts, loans, bequests, benefits, or other things of value, if acceptance is prohibited by law or would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality.

(B) Unless otherwise prohibited by law, or by paragraph (A), a judge may accept the following without publicly reporting such acceptance:

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(3) ordinary social hospitality

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(8) gifts, awards, or benefits associated with the business, profession, or other separate activity of a spouse, a domestic partner, or other family member of a judge residing in the judge's household, but that incidentally benefit the judge.

(C) Unless otherwise prohibited by law or by paragraph (A), a judge may accept the following items, and must report such acceptance to the extent required by Rule 3.15:

(1) gifts incident to a public testimonial;

(2) invitations to the judge and the judge's spouse, domestic partner, or guest to attend without charge:

(a) an event associated with a bar-related function or other activity relating to the law, the legal system, or the administration of justice; or

(b) an event associated with any of the judge's educational, religious, charitable, fraternal or civic activities permitted by this Code, if the same invitation is offered to nonjudges who are engaged in similar ways in the activity as is the judge; and

(3) gifts, loans, bequests, benefits, or other things of value, if the source is a party or other person, including a lawyer, who has come or is likely to come before the judge, or whose interests have come or are likely to come before the judge.

(D) A judge must report, to the extent required by Rule 3.15, gifts, loans, bequests, benefits, or other things of value received by the business, profession, or other separate activity of a spouse, a domestic partner, or other family member of a judge residing in the judge's household, if the source is a party or other person, including a lawyer, who has come or is likely to come before the judge, or whose interests have come or are likely to come before the judge.

Comment [1]: Whenever a judge accepts a gift or other thing of value without paying fair market value, there is a risk that the benefit might be viewed as a means to influence the judge's decision in a case. Rule 3.13 restricts the acceptance of such benefits, according to the magnitude of the risk. Paragraph (B) identifies circumstances in which the risk that the acceptance would appear to undermine the judge's independence, integrity, or impartiality is low, and explicitly provides that such items need not be publicly reported. As the value of the benefit or the likelihood that the source of the benefit will appear before the judge increases, the judge is prohibited under para

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Comment [4]: Rule 3.13 applies only to acceptance of gifts or other things of value by a judge. Nonetheless, if a gift or other benefit is given to the judge's spouse, domestic partner, or member of the judge's family residing in the judge's household, it may be viewed as an attempt to evade Rule 3.13 and influence the judge indirectly. This concern is reduced if the judge merely incidentally benefits from a gift or benefit given to such other persons. A judge should, however, inform family and household members of the restrictions imposed upon judges, and urge them to consider these restrictions when deciding whether to accept such gifts or benefits.

* * * * *

In addition, the following are over-arching principles implicated generally in determining whether a judge may attend or otherwise participate in social functions: Canon 1 ("[a] judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety"); Rules 1.1 (judge to comply with the law) and 1.2 (judge to promote public confidence in the judiciary); and Comments 1 (principles apply to both the professional and personal conduct of a judge), 2 (judge to accept restrictions that might be viewed as burdensome if applied to other citizens), 3 (rule necessarily cast in general terms), 4 (judge to promote ethical conduct and support professionalism within the judiciary and legal profession), 5 (test for appearance of impropriety is whether conduct "would create in reasonable minds a perception" that the judge violated Code or engaged in "other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as judge," and 6 (judge to act in manner

consistent with Code while participating in outreach activities), Rule 1.3 (judge not to abuse the prestige of judicial office to advance personal or economic interests of the judge or others, or allow others to do so), and Comment 1; and Canon 2 ("A judge shall perform the duties of judicial office impartially, competently, and diligently"); Rule 2.1 (duties of judicial office ordinarily take precedence over judge's personal and extrajudicial activities), and Comments 1 (judge to arrange personal and extrajudicial activities to minimize interference with judge's duties) and 2 (judge to minimize risk of conflicts that would result in frequent disqualification), Rule 2.4 (B) (judge not to permit social interests or relationships to influence judicial conduct or judgment), and Rule 2.4 (C) (judge not to convey or permit others to convey impression judge can be influenced) and Comment (confidence in judiciary eroded if judicial decision-making is perceived to be subject to inappropriate outside influences).

The Terminology section of the new Code provides the following definitions:

Impartial, impartiality, impartially—Absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintenance of an open mind in considering issues that may come before a judge.

* * * * *

Impropriety—includes conduct that violates the law, court rules, or provisions of this Code, and conduct that undermines a judge's independence, integrity, or impartiality.

Independence—A judge's freedom from influence or controls other than those established by law or Rule.

Integrity—Probity, fairness, honesty, uprightness, and soundness of character.

[iii] Under both the old Code and the new Code, the Committee is designated by the Supreme Court "as the approved body to render advisory opinions regarding ethical concerns involving judges . . . subject to the Code of Judicial Conduct." As both Codes further provide, "Although such opinions are not, *per se*, binding upon the Judicial Conduct Board, the Court of Judicial Discipline or the Supreme Court of Pennsylvania," action taken in reliance thereon and pursuant thereto "shall be taken into account in determining whether discipline should be recommended or imposed."

[iv] For purposes of this Opinion, the words "activities," "events," and "functions" are used interchangeably.

[v] Each Ethics Committee Opinion is based on a specific set of facts outlined by the inquiring judge. These facts may not be fully set forth in the Digest version of the Opinion (for example, to maintain the confidentiality of the inquirer). *Readers are cautioned* that the Judicial Conduct Board, the Court of Judicial Discipline, and/or the Supreme Court will only consider a judge's reliance on an advisory opinion rendered in response to *that judge's personal inquiry* (not an Opinion rendered to another judge) in determining whether discipline should be recommended or imposed.

[vi] Canon 5B(2) of the old Code.

[vii] *See* Footnote 2. graph (A) from accepting the gift, or required under paragraph (C) and (D) to publicly report it.

[Pa.B. Doc. No. 14-1989. Filed for public inspection September 26, 2014, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 1 AND 11]

Order Adopting New Rules 182 and 1182 of the Rules of Juvenile Court Procedure; No. 647 Supreme Court Rules Doc.

Order

Per Curiam

And Now, this 11th day of September, 2014, upon the recommendation of the Juvenile Court Procedural Rules Committee; the proposal having been published for public comment before adoption at 43 Pa.B. 2306 (April 27, 2013), in the *Atlantic Reporter* (Third Series Advance Sheets, Vol. 62, No. 3, May 3, 2013), and on the Supreme Court's web-page, and an Explanatory Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the adoption of new Rules 182 and 1182 of the Rules of Juvenile Court Procedure are approved in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and the rules herein shall be effective October 1, 2016.

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 1. GENERAL PROVISIONS

PART D. MASTERS

Rule 182. Qualifications of Master.

A. *Education, Experience, and Training.* To be eligible to be appointed as a master to preside over cases governed by the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, an individual shall:

1) be a member, in good standing, of the bar of this Commonwealth;

2) have been licensed to practice law for at least five consecutive years; and

3) have completed six hours of instruction, approved by the Pennsylvania Continuing Legal Education Board prior to hearing cases, which specifically addresses all of the following topics:

a) the Juvenile Act;

b) the Pennsylvania Rules of Juvenile Court Procedure;

c) the penal laws of Pennsylvania;

d) the Child Protective Services Law;

e) evidence rules and methodology;

f) child and adolescent development; and

g) the collateral consequences of an adjudication of delinquency.

B. *Continuing Education.* A master shall complete six hours of instruction from a course(s) designed by the Juvenile Court Judges' Commission, in juvenile delinquency law, policy, or related social science research every two years from the initial appointment as master.

C. *Compliance.*

1) A master shall sign an affidavit attesting that he or she has met the requirements of this rule.

2) Prior to appointment as a master, the affidavit shall be sent to the President Judge or his or her designee of each judicial district where the attorney is seeking appointment as a master.

3) After submission of the initial affidavit pursuant to paragraph (C)(2), masters shall submit a new affidavit every two years attesting that the continuing education requirements of paragraph (B) have been met.

Comment

Pursuant to paragraphs (A)(1) & (2), masters are to be in good standing and have at least five consecutive years of experience as an attorney. It is best practice to have at least two years of experience in juvenile law.

Pursuant to paragraph (A)(3), the initial training program(s) is to be approved by the Pennsylvania Continuing Legal Education Board (Board). The program may be one course or multiple courses with at least six hours of instruction, equivalent to at least six CLE credits. When the Board is approving courses designed to address the requirements of this rule, it should consult with the Juvenile Court Judges' Commission to ensure proper course requirements are being met. Additionally, for this

initial training course(s), training already provided by the Juvenile Court Judges' Commission or the Office of Children and Families in the Courts may meet the requirements of this Rule.

For continuing education under paragraph (B), masters are to attend six hours of instruction from a course or multiple courses designed by the Juvenile Court Judges' Commission. This is to ensure uniform training among masters.

These requirements are additional requirements to the Pa.R.C.L.E. because they mandate specific training in juvenile delinquency law. However, the credit hours received do count towards the total maximum required under Pa.R.C.L.E. 105.

Pursuant to paragraph (C), a master is to certify to the court that the requirements of this rule have been met prior to the appointment as master, and submit new affidavits every two years thereafter.

***Official Note*:** Rule 182 adopted September 11, 2014, effective October 1, 2016.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 182 published with the Court's Order at 44 Pa.B. 6087 (September 27, 2014).

Subpart B. DEPENDENCY MATTERS

CHAPTER 11. GENERAL PROVISIONS

PART D. [PROCEEDINGS IN CASES BEFORE MASTER] MASTERS

Rule 1182. Qualifications of Master.

A. *Education, Experience, and Training.* To be eligible to be appointed as a master to preside over cases governed by the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, an individual shall:

1) be a member, in good standing, of the bar of this Commonwealth;

2) have been licensed to practice law for at least five consecutive years; and

3) have completed six hours of instruction, approved by the Pennsylvania Continuing Legal Education Board prior to hearing cases, which specifically addresses all of the following topics:

a) the Juvenile Act;

b) the Pennsylvania Rules of Juvenile Court Procedure;

c) the Child Protective Services Law;

d) evidence rules and methodology; and

e) child and adolescent development.

B. *Continuing Education.* A master shall complete six hours of instruction from a course(s) designed by the Office of Children and Families in the Courts, in juvenile dependency law, policy, or related social science research every two years from the initial appointment as master.

C. *Compliance.*

1) A master shall sign an affidavit attesting that he or she has met the requirements of this rule.

2) Prior to appointment as a master, the affidavit shall be sent to the President Judge or his or her designee of each judicial district where the attorney is seeking appointment as a master.

3) After submission of the initial affidavit pursuant to paragraph (C)(2), masters shall submit a new affidavit every two years attesting that the continuing education requirements of paragraph (B) have been met.

Comment

Pursuant to paragraphs (A)(1) & (2), masters are to be in good standing and have at least five consecutive years of experience as an attorney. It is best practice to have at least two years of experience in juvenile law.

Pursuant to paragraph (A)(3), the initial training program(s) is to be approved by the Pennsylvania Continuing Legal Education Board (Board). The program may be one course or multiple courses with at least six hours of instruction, equivalent to at least six CLE credits. When the Board is approving courses designed to address the requirements of this rule, it should consult with the Office of Children and Families in the Courts to ensure proper course requirements are being met. Additionally, for this initial training course(s), training already provided by the Office of Children and Families in the Courts or the Juvenile Court Judges' Commission may meet the requirements of this Rule.

For continuing education under paragraph (B), masters are to attend six hours of instruction from a course or multiple courses designed by the Office of Children and Families in the Courts. This is to ensure uniform training among masters.

These requirements are additional requirements to the Pa.R.C.L.E. because they mandate specific training in juvenile dependency law. However, the credit hours received do count towards the total maximum required under Pa.R.C.L.E. 105.

Pursuant to paragraph (C), a master is to certify to the court that the requirements of this rule have been met prior to the appointment as master, and submit new affidavits every two years thereafter.

***Official Note*:** Rule 1182 adopted September 11, 2014, effective October 1, 2016.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 182 published with the Court's Order at 44 Pa.B. 6087 (September 27, 2014).

EXPLANATORY REPORT
September 2014

The Supreme Court of Pennsylvania has adopted new Rules 182 and 1182. The Rules are effective October 1, 2016.

These new rules were prompted by the Recommendation of the Interbranch Commission on Juvenile Justice (ICJJ). On page 46 of the ICJJ Report, the ICJJ recommended the need for "masters to be properly educated about the Juvenile Act, child development, and problems unique to the relationship between children and their families." Further, the ICJJ recommended that the Supreme Court develop mandatory continuing education standards for juvenile masters. *See* ICJJ Report at pg. 46.

In addition to the recommended educational requirements by the ICJJ for "delinquency" matters of juvenile court, the Committee believes educational requirements are just as important and necessary for "dependency" matters.

The purpose of these rule additions is to provide a minimum standard for education, experience, and train-

ing of masters. Judicial districts are encouraged to provide additional educational and training courses for its masters.

Rules 182 and 1182—Qualifications of Master

These new rules govern the qualifications of masters. Prior to presiding over juvenile cases, these attorneys must be a member, in good standing, of the Bar of this Commonwealth, have been licensed to practice law for five consecutive years, and have completed the initial basic training course(s). This basic knowledge of juvenile law and experience as an attorney is essential before an attorney may be appointed as a master.

In addition, these attorneys should have experience in diverse cases. It would be beneficial if the attorney handled juvenile cases prior to becoming a master with experience with several different types of allegations and at different stages of the process, including detention or shelter-care hearings, adjudicatory hearings, transfer or permanency hearings, dispositional hearings, and dispositional review hearings.

After the initial training requirement has been met, attorneys are required to continue their legal education by attending a mandatory course(s) offered by the Juvenile Court Judges' Commission or the Office of Children and Families in the Courts. Because masters are judicial officers, this requirement is an additional requirement to the Pa.R.C.L.E. because it mandates education specifically in juvenile delinquency or dependency law; whereas the Pa.R.C.L.E. do not mandate specific training areas. *See* paragraph (B). Six hours of this specific education must be completed every two years. However, these hours will count towards the twelve hours of continuing legal education mandated each year by Pa.R.C.L.E. 105.

Pursuant to paragraph (C), attorneys must attest that they have met the requirements of this rule prior to appointment as master to preside over juvenile matters. Every two years after the initial appointment as master, masters must submit a new affidavit attesting that they have met the continuing education requirements of paragraph (B).

[Pa.B. Doc. No. 14-1990. Filed for public inspection September 26, 2014, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CHESTER COUNTY

Imposition of Monthly Adult Probation and Parole Administrative Fee

Administrative Order No. 14-2014

And Now, this 26th day of August, 2014, it is hereby *Ordered* and *Decreed* that a monthly administrative fee of Ten dollars ($10.00) shall be imposed on any offender whom this Court sentences and for whom the Chester County Adult Probation and Parole Department is charged with the collection of Court imposed fines, costs, and restitution. Assessment of this fee will commence thirty (30) days after publication in the *Pennsylvania Bulletin*, and the monthly fee will be assessed on all individuals placed on supervision after that date and on all individuals on supervision as of that date. Payments of any and all Court-imposed financial obligations must be allocated to satisfy the payment of this fee, on a monthly basis.

This Administrative Fee shall be deposited into the County General Fund and then tracked into the Adult Probation and Parole Department Administrative Fee Account established by the Chief Adult Probation Officer. Disbursement of the funds collected from the assessment of this fee shall be allocated first to the salary and benefits of the Collection Unit of the Adult Probation and Parole Department Office, and second, to supplement any reduction in the Grant In Aid Revenues. Any excess revenues shall be disbursed only at the direction of the President Judge.

An accounting of this administrative fee shall be made quarterly to the President Judge.

It is *Further Ordered* that in accordance with Pa.R.Crim.P. 105(E) and (F), the District Court Administrator of Chester County shall:

1. Distribute two certified paper copies of the Administrative Order to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

2. Distribute to the Legislative Reference Bureau a copy of the Administrative Order on a computer diskette or on a CD-ROM, that complies with the requirements of 1 Pa. Code § 13.11(b).

3. Contemporaneously with publishing the Administrative Order in the *Pennsylvania Bulletin*, shall:

a. File one certified copy of the Administrative Order with the Administrative Office of Pennsylvania Courts; and

b. Publish a copy of the Administrative Order on the Unified Judicial System's web site at http://ujsportal.pacourts.us/localrules/ruleselection.aspx.

By the Court

JAMES P. MacELREE, II,
President Judge

[Pa.B. Doc. No. 14-1991. Filed for public inspection September 26, 2014, 9:00 a.m.]

CRAWFORD COUNTY

Modification of a Local Civil Rule of Procedure and the Rescinding of a Local Civil Rule of Procedure; No. AD 2014 621

Order

And Now, September 5, 2014, it is *Ordered* and *Decreed* that Cra.R.C.P. L212.1(5) is modified to include additional paragraphs adopted this date the language of which follows to be effective January 1, 2015 and is further modified to include Exhibit L212.1(5)(A) and Exhibit L212.1(5)(B).

Further, Cra.R.C.P. L230.2 regarding termination of inactive cases is rescinded in light of the fact Pa.R.C.P. 230.2 was suspended by the Pennsylvania Supreme Court as of April 23, 2014 and further, in light of the fact this Court will be following the procedures set forth in Pa.R.J.A. No. 1901 and Cra.Rule LJA1901 for termination of inactive cases.

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

1. Provide one certified copy of the local rule changes to the Administrative Office of Pennsylvania Courts.

2. Provide two (2) certified copies of the local rule changes and a computer diskette containing the text of the local rule changes to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* in a manner that complies with the requirements of 1 Pa. Code § 13.11(b).

3. Provide one (1) certified copy of the local rule changes to the Supreme Court of Pennsylvania Civil Procedural Rules Committee.

4. Make the local rule continuously available for public inspection and copying in the Office of the Prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any local rules.

5. Provide one (1) certified copy of the local rule changes to the Crawford County Law Library.

6. Keep such local rule changes, as well as all local civil rules available for the public on the Crawford County website at www.crawfordcountypa.net.

By the Court

ANTHONY J. VARDARO,
President Judge

Cra.R.C.P. L212.1(5) modification and added paragraphs

(5) *Status Conferences*

(a) Status conferences may be ordered by the Court on its own or upon written motion of a party, which motion shall set forth reasons in support of a request for a status conference. The Court may enter appropriate orders at the conclusion of the status conference.

(b) The Prothonotary in conjunction with the District Court Administrator shall enter an "Order Setting Mandatory Status Conference for Docket Inactivity" for the Court scheduling a mandatory status conference for any case for which there has been no docket activity for a period of 90 consecutive days. The order shall be in a form consistent with Exhibit L212.1(5)(A).

Each counsel of record or any party for which there is not counsel of record shall be given at least thirty (30) days written notice of the mandatory status conference in a manner consistent with Pa.R.Civ.P. 440 and Rule L440.

The Prothonotary shall not be required to schedule a mandatory status conference pursuant to this Rule for any case that is pending for termination pursuant to Cra.Rule LJA1901.

At least ten (10) days prior to the scheduled mandatory status conference, a party may file a "Motion for Cancellation of Mandatory Status Conference" in a form consistent with Exhibit L212.1(5)(B) which shall include a certification consistent with Exhibit 208.3(a) of the Local Rules that notice has been provided to all other parties through counsel of record or directly to any party that is unrepresented.

The Prothonotary, upon receiving any such "Motion for Cancellation of Mandatory Status Conference" shall promptly transmit that motion to the Court for consideration as to whether the mandatory status conference shall be cancelled by an Order of the Court.

If the Court enters an order cancelling a mandatory status conference pursuant to a "Motion for Cancellation of Mandatory Status Conference" any other party may move to reschedule that mandatory status conference in a manner consistent with Cra.R.C.P. L208-3a.

Exhibit L212.1(5)(A)

IN THE COURT OF COMMON PLEAS OF CRAWFORD COUNTY, PENNSYLVANIA
Civil Action—Law

Plaintiff	:	
vs.	:	A.D. No.
Defendant	:	

ORDER SETTING MANDATORY STATUS CONFERENCE FOR DOCKET INACTIVITY

AND NOW, this _____ day of _____, 20 ___, consistent with Cra.R.C.P. L212.1(5)(b) a mandatory status conference is set for the _____ day of _____, 20 ___ at _____ o'clock, _____ .M., in Courtroom No. _____ of the Crawford County Courthouse.

Counsel of record for each party and any unrepresented parties shall be prepared at the mandatory status conference to indicate how they intend to promptly move this case forward to allow trial to occur as quickly as possible.

FOR THE COURT

_____

Exhibit L212.1(5)(B)

IN THE COURT OF COMMON PLEAS OF CRAWFORD COUNTY, PENNSYLVANIA
Civil Action—Law

Plaintiff	:	
vs.	:	A.D. No.
Defendant	:	

MOTION FOR CANCELLATION OF MANDATORY STATUS CONFERENCE

AND NOW, this _____ day of _____, 20 ___, _____ moves to cancel the mandatory status conference scheduled in this matter for the _____ day of _____, 20 ___, at _____ o'clock, _____ .M., in Courtroom No. _____ of the Crawford County Courthouse for the following reason(s):

☐ 1. There has been ongoing active discovery in this case during the past 90 days, the pleadings are closed and a party has provided notice that discovery must be completed within 75 days pursuant to Cra.R.C.P. L212.1(4)(a). It is anticipated that a certificate of readiness pursuant to Cra.R.C.P. L212.1(4)(b) will be filed on or before the _____ day of _____, 20 ___.

☐ 2. All pleadings are closed, discovery has been completed and a certificate of readiness has been filed so that this matter is currently scheduled for trial during the _____ term of civil court.

☐ 3. The parties are awaiting a determination by the Court on a motion for _____, which was submitted to the Court for disposition on the _____ day of _____, 20 ___.

☐ 4. The only active matter at this docket number is a child custody case and the parties are currently satisfied with the existing custody order so there has been no recent docket activity.

☐ 5. (Please state any other reason for docket inactivity)

_____

_____

_____

☐ 6. While there has been no activity in this case for the last 90 days, the following activity has begun to occur or will be occurring so that this case is moved forward promptly to trial.

_____

_____

_____

_____

_____

Attorney for _____

[Pa.B. Doc. No. 14-1992. Filed for public inspection September 26, 2014, 9:00 a.m.]

CRAWFORD COUNTY

Termination of Inactive Cases Pursuant to Pa.R.J.A. No. 1901 and Cra.Rule LJA1901; A.D. 1997-702

Civil Action—Misc.
Order

And Now, September 5, 2014, the Court enters the following Administrative Order entered this day. The District Court Administrator is *Ordered* and *Directed* to:

1. Provide one certified copy of the Administrative Order dated September 5, 2014 to the Administrative Office of Pennsylvania Courts.

2. Provide two (2) certified copies of the Administrative Order and a computer diskette containing the text of the Administrative Order to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* in a manner that complies with the requirements of 1 Pa. Code § 13.11(b).

3. Provide one (1) certified copy of the Administrative Order to the Supreme Court of Pennsylvania Civil Procedural Rules Committee.

4. Make the Administrative Order continuously available for public inspection and copying in the Office of the Prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any local rules.

5. Provide one (1) certified copy of the Administrative Order to the Crawford County Law Library.

6. Keep such local rule changes, as well as all local civil rules available for the public on the Crawford County website at www.crawfordcountypa.net.

By the Court

ANTHONY J. VARDARO,
President Judge

Civil Action—Law
Administrative Order

And Now, September 5, 2014, pursuant to Pa.R.J.A. No. 1901 and Cra.Rule LJA1901 the Prothonotary of Crawford County is directed to compile a list of inactive cases as of January 1, 2015 and by the first day of January of each year thereafter comprised of all civil actions in which no steps or proceedings have been taken for two years or more prior thereto.

Each year commencing with 2015 the Crawford County Court Administrator shall at the beginning of each calendar year, consistent with Cra.R.C.P. L302, publish in the *Crawford County Legal Journal* the date of June 1 of that year or if the courthouse is not open on that date the next date the courthouse is open for business thereafter as the termination date for inactive cases.

The Prothonotary shall follow all notice requirements set forth in Cra.Rule LJA1901(B)(C)(D).

The Prothonotary shall refer any objections and responses to the notice of termination of inactive cases that have been filed pursuant to Cra.Rule LJA1901(E)(G) to the Court for disposition consistent with Cra.Rule LJA 1901(H).

On the date scheduled for termination of inactive cases, the Prothonotary shall provide to the Court a list of those inactive cases for which notice has been provided as aforesaid and no objection to the termination of the case has been filed with the Prothonotary.

Likewise, on that same date the Prothonotary shall provide to the Court a list of those inactive cases for which notice has been provided as aforesaid, together with any objections and responses to objection that have been filed so that the Court may enter an order pursuant to Cra.Rule LJA 1901(H) disposing of the matter either on the pleadings, or after hearing or argument.

By the Court

ANTHONY J. VARDARO,
President Judge

[Pa.B. Doc. No. 14-1993. Filed for public inspection September 26, 2014, 9:00 a.m.]

MERCER COUNTY

Local Rules of Court; Case No. 2014-2774

And Now, this 8th day of September, 2014, The Court Hereby *Approves, Adopts and Promulgates* Mercer County Local Rules of Court L-317; L-319; L-320 and L-1920.60, and Amendments to Local Rules L-208.3(a), and L-309. L-317; L-319; L-320 and L-1920.60 shall become effective thirty (30) days after the date of publication of these orders in the *Pennsylvania Bulletin*, pursuant to Rule 103(c) of the Pennsylvania Rules of Judicial Procedure, and Rule 239 of the Pennsylvania Rules of Civil Procedure. L-208.3(a) shall become effective upon publication on the UJS Portal, pursuant to Rule 239.8 of the Pennsylvania Rules of Civil Procedure.

It is further *Ordered and Directed* that the Court Administrator of Mercer County shall file one (1) certified copy each of these orders with the Administrative Office of Pennsylvania Courts, furnish two (2) certified copies each to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and file one certified copy each with the Civil Procedural Rules Committee and one

copy of Local Rule L-1920.60 with the Domestic Relations Procedural Rules Committee.

It is further *Ordered and Directed* that these Local Rules shall be kept continuously available for public inspection and copying in the Offices of the Prothonotary of Mercer County. Upon request and payment of reasonable costs of reproduction and mailing, these offices shall furnish to any person a copy of these Local Rules.

These Rules and Amendments shall be published in the *Mercer County Law Journal*.

By the Court

THOMAS R. DOBSON,
President Judge

Amendment to Mercer County Local Rule of Civil Procedure L-208.3(a)

2(b) shall be amended to read:

Matters placed on Motions Court must be filed no later than 4:30 p.m. on the preceding Tuesday with the Court Administrator.

Amendment to Local Rule of Civil Procedure L-309

(c) add "this subsection shall only apply to cases filed on or before December 31, 2014, so that it reads:

(c) Unless an extension of time is agreed to in writing by all parties or allowed by the court upon cause shown, all discovery shall be completed within sixty (60) days after any party has given notice to do so. Such notice may be given at any time after a case is at issue, shall specifically refer to the time limitation provided herein, and shall be filed in the office of the Prothonotary with copies served upon all other parties. **This subsection shall only apply to cases filed on or before December 31, 2014.**

Proposed Local Rule of Civil Procedure L-317

(A) The Prothonotary of Mercer County shall notify the Mercer County Court Administrator within five (5) days of the filing of every new civil complaint.

(B) The Mercer County Court Administrator shall assign the case to a judge on a rotating basis.

(C) A status conference shall be held no sooner than 60 days after the filing of the complaint nor later than 90 days.

(1) At said conference, the Court shall, after consultation with the parties, designate whether the matter is an arbitration case, regular case or a complex case. Each party shall present to the Court at said conference a summary of their case. Said summary shall be no longer than 3 pages in length (double spaced).

(2) If the matter is designated an arbitration case, the Court shall enter a case management order requiring that all discovery be completed within three (3) months of the order and the matter listed for an arbitration hearing within 60 days of the end of discovery. The parties may agree to forego discovery prior to the arbitration hearing and do discovery only if there is an appeal from the Board of Arbitrator's decision. If this option is chosen, the Court shall immediately refer the case to arbitration.

(i) The parties shall notify the assigned judge no later than one (1) month whether or not the parties have settled their dispute. If the dispute is not settled, the court will enter an order requiring a Board of Arbitrators be appointed.

(ii) If an appeal is taken from the decision of the Board of Arbitration, the Prothonotary shall notify the assigned judge who will enter an order placing the matter on the next available trial term.

(3) If the matter is designated a regular case, the court shall enter a case management order requiring that all discovery be completed within six (6) months of the order, that all summary judgment motions be filed within seven (7) months of the date of the order and placing the matter on the trial list for a month no sooner than eight (8) months nor more than ten (10) months from the date of the order.

(i) A review conference shall be held before the assigned judge no sooner than four (4) months nor more than five (5) months of the initial conference, or earlier if a party requests.

(ii) If a summary judgment is filed, the court shall enter an order resolving the motion within thirty (30) days of argument on said motion.

(4) If the matter is designated a complex case, the court shall enter a case management order requiring that all discovery be completed within fifteen (15) months of the date of the order; that all summary judgments be filed within seventeen (17) months of the date of that order and placing the matter on the trial list for a month no sooner than nineteen (19) months nor more than twenty-one (21) months from the date of the order.

(i) Review conferences shall be held every five (5) months before the assigned judge, or earlier if a party requests.

(ii) If a summary judgment motion is filed, the court shall enter an order resolving the motion within forty-five (45) days of oral argument on said motion.

(D) Case designations shall be in accordance with the following:

(1) Arbitration case—a case shall be designated as an arbitration case where the demand for relief is $25,000.00 or less;

(2) Complex case—a case shall be any case involving a mass tort, professional malpractice, more than four (4) parties, any case where the demand for relief exceeds $500,000.00 or any case the parties and the court agree should be designated a complex case;

(3) Regular case—any case that is not designated either an arbitration case or a complex case.

(E) All times for discovery, filing summary judgment motions or placing the matter on the trial list may only be modified by court order.

(F) All expert reports shall be provided to opposing counsel no later than the time set for the end of discovery under the terms of this Rule.

(G) All motions filed in the case shall be heard by the assigned judge unless that judge is not available and need not be heard at Motion's Court.

Proposed Local Rule of Civil Procedure L-319

(A) On or before the 31st day of January each year, the Prothonotary shall provide to the President Judge a list of all cases filed on or before December 31, 2014, that are over 12 months old as of that date and that are still active.

(B) A review conference shall be held before the President Judge or his designee on or before the 30th day of September of that year. The conference shall be used to

determine whether or not to dismiss the matter for lack of prosecution and enter a case management order or amend an existing case management order.

Proposed Local Rule of Civil Procedure L-320

On or before March 31 of each year starting March 31, 2015, the Prothonotary of Mercer County shall send out notices pursuant to Pa.R.J.A. 1901 in the form herein set below to each party in all cases over 2 years old as of December 31 of the preceding year.

Where a hearing is requested, it shall be scheduled in due course.

Proposed Local Rule of Court L-1920.60

On or before the 31st day of January of each year, the Prothonotary of Mercer County shall provide a list of all pending divorce cases as of December 31st of the prior year and that were filed more than 18 months prior to said December 31st to the President Judge. The President Judge or his designee shall hold a review conference for each case on or before October 31st of each year.

[Pa.B. Doc. No. 14-1994. Filed for public inspection September 26, 2014, 9:00 a.m.]

WASHINGTON COUNTY

Rule L-552: Administrative Processing and Identification; No. 2014-1

Order

And Now, this 5th day of September, 2014; *It Is Hereby Ordered* that the previously-stated Washington County Local Criminal Rule is adopted as follows.

These rules will become effective thirty days after publication in the *Pennsylvania Bulletin*.

By the Court

DEBBIE O'DELL SENECA,
President Judge

Rule L-552. Administrative Processing and Identification.

The Washington County Court of Common Pleas created a countywide booking center program to comply with criminal processing and Megan's Law/Adam Walsh Act registry requirements, and recognizes the value to the law enforcement community of the operation of the Booking Center Program.

(a) The Central Booking Center of Washington County is located on the second floor of the Family Court Center, 29 West Cherry Avenue, Washington, PA, 15301.

(b) An Interim Booking Center is located in the Washington County Correctional Facility, 100 West Cherry Avenue, Washington, PA 15301. It is operational to process adult offenders from 4:30 p.m. to 7:00 a.m. Monday through Friday, and on weekends and holidays. During the hours of operation of the Interim Booking Center, adult offenders may be delivered to the Washington County Correctional Facility prior to preliminary arraignment conditioned upon the simultaneous delivery of a copy of the criminal complaint and affidavit. Arresting officers are responsible for the delivery of the criminal complaint and affidavit via facsimile to the on-call Magisterial District Judge prior to the preliminary arraignment.

(c) The purpose of the Booking Center Program is to efficiently process defendants charged with criminal actions with the express intent of returning officer(s) to their communities. The processing shall include, but not be limited to, fingerprinting, photographing and determining prior records of defendants being processed.

(d) Pursuant to 18 Pa.C.S.A. § 9112, an arresting authority shall be responsible for taking the fingerprints of persons arrested for misdemeanors, felonies or summary offenses which become misdemeanors on a second arrest after conviction of a summary offense. The Booking Centers shall serve as the designated fingerprinting sites for all arresting authorities in Washington County.

(e) All persons arrested for any misdemeanor or felony, or summary offenses which become misdemeanors on a second arrest after conviction of a summary offense (e.g., retail theft, library theft, or scattering rubbish) under the following:

(1)(e) 18 Pa.C.S.A. § 106(a) (all felonies and misdemeanors),

(2)(e) 35 Pa.C.S.A. Chapter 6 (relating to a violation of The Controlled Substance, Drug, Device and Cosmetic Act),

(3)(e) 75 Pa.C.S.A. § 3735 (relating to homicide by vehicle while driving under influence),

(4)(e) 75 Pa.C.S.A. § 3802 (relating to driving under influence of alcohol or controlled substance), or

(5)(e) 23 Pa.C.S.A. § 6113 or § 6114 (relating to Indirect Criminal Contempt for violation of a Protection From Abuse Order)

whether by warrant, arrest without warrant, or by summons, shall be processed at the Booking Center.

(f) Pursuant to the Juvenile Act, 42 Pa.C.S.A. § 6308 and § 6309, juvenile offenders will be fingerprinted and photographed at the Central Booking Center. Juveniles will only be fingerprinted and photographed upon an adjudication of delinquency; except in cases where the juvenile's case is to be transferred for criminal proceedings pursuant to 42 Pa.C.S.A. § 6355, or is otherwise to be prosecuted under the criminal law and procedures pursuant to 42 Pa.C.S.A. § 6355, or a magisterial district judge directs the fingerprinting and photographing of a juvenile in a case which includes summary offenses which become misdemeanors on a second arrest after conviction of a summary offense (e.g., retail theft, library theft, or scattering rubbish).

(g) A booking center fund fee of two hundred dollars ($200.00) shall be assessed and collected by the Washington County Clerk of Courts to an offender who receives Accelerated Rehabilitative Disposition (ARD) or probation without verdict, pleads guilty to or nolo contendere to or is convicted of a crime under the following:

(1)(g) 18 Pa.C.S.A. § 106(a) (all felonies and misdemeanors),

(2)(g) 35 Pa.C.S.A. Chapter 6 (relating to a violation of The Controlled Substance, Drug, Device and Cosmetic Act),

(3)(g) 75 Pa.C.S.A. § 3735 (relating to homicide by vehicle while driving under influence), and

(4)(g) 75 Pa.C.S.A. § 3802 (relating to driving under influence of alcohol or controlled substance).

The fee shall be collected and deposited into the Booking Center Fund Account which shall be under the sole supervision of the Court of Common Pleas. The Court

hereby establishes the Booking Center Fund Account, the moneys in which shall be used to maintain and operate the Booking Centers.

(h) The fee established in paragraph (f) shall not apply to those Defendants whose cases are dismissed by the Magisterial District Judge, withdrawn or nolle prossed by the Commonwealth or who enter a guilty plea to a summary offense at the time of the preliminary hearing.

(i) At the end of the preliminary arraignment, if the adult offender is not then incarcerated at the Washington County Correctional Facility, the Magisterial District Judge shall order, as a condition of bond, the defendant to appear at the Central Booking Center to be fingerprinted and photographed within 48 hours, or the next business day if the 48 hour period expires on a non-business day. When an issuing authority issues a summons rather than an arrest warrant, the issuing authority shall send a notice with the summons directing recipient to appear at the Central Booking Center prior to his/her preliminary hearing. The Magisterial District Judge shall order, as a condition of bond, any person required to be fingerprinted and photographed pursuant to paragraph (d) above, who has not been fingerprinted prior to his/her preliminary hearing, to appear at the Central Booking Center within five (5) days of the preliminary hearing for the purpose of being fingerprinted and photographed.

(k) In cases of private prosecutions, except retail theft prosecutions, the defendant may only be fingerprinted and photographed after conviction of the alleged offense. An order shall be issued from the Court of Common Pleas after such conviction directing the Defendant to report to the Central Booking Center to be fingerprinted and photographed.

(l) This expansion of the Booking Center operation shall commence on July 7, 2014.

[Pa.B. Doc. No. 14-1995. Filed for public inspection September 26, 2014, 9:00 a.m.]

WASHINGTON COUNTY

Rule 117—Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail; No. 2014-1

Order

And Now, this 3rd day of September, 2014; *It Is Hereby Ordered* that the previously-stated Washington County Local Criminal Rule be adopted as follows.

These rules will become effective thirty days after publication in the *Pennsylvania Bulletin*.

By the Court

DEBBIE O'DELL SENECA,
President Judge

Local Criminal Rule L-117. Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail.

(A)(1) Magisterial district judges shall provide continuous coverage for the issuance of search warrants (pursuant to Rule 203) and arrest warrants (pursuant to Rule 513).

(A)(2) Magisterial district judges shall remain on-call during non-regular business hours for the issuance of emergency orders under the Protection From Abuse Act, and to provide the services set forth in 117(A)(2)(a)(b)(c) and (d), in accordance with the rotation schedule set forth by the District Court Administrator.

(A)(3) Magisterial district judges shall be available during normal business hours for all other business, as set by the president judge.

(B) The designated on-call magisterial district judge shall be available during weekdays at 11:00 p.m. and 7:30 a.m., and during weekends and holidays at 7:30 a.m., 3:30 p.m., and 11:00 p.m., pursuant to Pennsylvania Rule of Criminal Procedure 117(B).

(C) Magisterial district judges, the clerk of courts and the warden of the appropriate Correctional family, or his designee, shall be authorized to accept bail in accordance with the provisions, and subject to the limitations, of the Pennsylvania Rules of Criminal Procedure.

[Pa.B. Doc. No. 14-1996. Filed for public inspection September 26, 2014, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Administrative Suspension

Notice is hereby given that the following attorneys have been Administratively Suspended by Order of the Supreme Court of Pennsylvania dated August 6, 2014, pursuant to Rule 111(b) Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective September 5, 2014 for Compliance Group 3.

Notice with respect to attorneys having Pennsylvania registration addresses, which have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

Bennie, Joseph John
Cherry Hill, NJ

Berger, Karen Renee
West Orange, NJ

Brent, Adam Luke
Franklinville, NJ

Bridge, William Joseph
Dallas, TX

Bryant, Stephanie J.
Washington, DC

Burnicki, Caroline N.
Boston, MA

Causey, Sara Elizabeth
Wilmington, DE

Chernosky, David Joseph
Fairview Park, OH

Connell, Janine Marie
New Brunswick, NJ

Davis, Ellen Terry
New York, NY

Dorn, Susan E.
Washington, DC

Doroghazi, Stephen R.
Houston, TX

Friedman, Jonathan Michael
Cherry Hill, NJ

Gebauer, Jay A.
Princeton, NJ

Gelston, Fred H.
West Palm Beach, FL

Grueneberg, Rudi
Marlton, NJ

Jensen, James Clark
Morristown, NJ

Jones, Sheryl Williams
Alexandria, VA

Koonz, Barbara Jane
Chesterfield, NJ

Lewandowski, Mark C.
Montclair, NJ

Massinger, Douglas William
Ocala, FL

McGonigle, Thomas P.
Wilmington, DE

Menking, Bonner
Gaithersburg, MD

Mitchell, Jaclyn L.
North Bellmore, NY

Mitnick, Craig R.
Voorhees, NJ

Moore, Sr., Marc Alan
East Liverpool, OH

Morris, Stefanie LaDawn
Newark, DE

Paradise, Leigh Ivory Clark
Bear, DE

Parise, Michael John
Mount Laurel, NJ

Pasker, Leon E.
San Francisco, CA

Rhodus, Jennifer Louise
Redlands, CA

Rivera, Orlando Mitchel
Cherry Hill, NJ

Russo, John Francis
Ridgewood, NJ

Schober, Alison Elizabeth
Egg Harbor Township, NJ

Schwartz, Glenn Facher
Short Hills, NJ

Shanahan, William Conner
Haddonfield, NJ

Shults, David A.
Hornell, NY

Spivak, Gayl Cheryl
Westmont, NJ

Tark, Lori Ross
Sagamore Hills, OH

Teresinski, Laura Katherine
Alexandria, VA

Tribone, Thomas Anthony
Arlington, VA

Turco, Victoria Ann
Potomac, MD

Weiner, Paul I.
Morristown, NJ

Wiessner, Jr., Dennis E.
Falls Church, VA

SUZANNE E. PRICE,
Attorney Registrar
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 14-1997. Filed for public inspection September 26, 2014, 9:00 a.m.]