

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1910]

Order Amending Rules 1910.16-4, 1910.16-7, 1910.17 and 1910.27 of the Rules of Civil Procedure; No. 608 Civil Procedural Rules Doc.

Order

Per Curiam

And Now, this 25th day of September, 2014, upon the recommendation of the Domestic Relations Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 1910.16-4, 1910.16-7, 1910.17 and 1910.27 of the Pennsylvania Rules of Civil Procedure are amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective in 30 days on October 25, 2014.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.16-4. Support Guidelines. Calculation of Support Obligation. Formula.

* * * * *

(c) *Substantial or Shared Physical Custody.*

(1) When the children spend 40% or more of their time during the year with the obligor, a rebuttable presumption arises that the obligor is entitled to a reduction in the basic support obligation to reflect this time. This rebuttable presumption also applies in high income cases decided pursuant to Rule 1910.16-3.1. Except as provided in [subsections (2) and (3)] subsection (2) below, the reduction shall be calculated pursuant to the formula set forth in Part II of subdivision (a) of this rule. For purposes of this provision, the time spent with the children shall be determined by the number of overnights they spend during the year with the obligor.

* * * * *

Rule 1910.16-7. Support Guidelines. Awards of Child Support When There are Multiple Families.

(a) When the total of the obligor's basic child support obligations equals fifty percent or less of his or her monthly net income, there will generally be no deviation from the guideline amount of support on the ground of the existence of a new family. For example, where the obligor requests a reduction of support for one child of the first marriage on the basis that there is a new child of the second intact marriage, and the relevant monthly net incomes are \$2,500 for the obligor, \$500 for the former spouse and \$1,300 for the current spouse, the request for a reduction will be denied because the total support obligation of [\$1,141 (\$593 for the first child and

\$548] \$1,140 (\$584 for the first child and \$556 for the second child) is less than half of the obligor's monthly net income.

* * * * *

Rule 1910.17. Support Order. Effective Date. Change of Circumstances. Copies of Order. Priority of Distribution of Payments.

* * * * *

(d) The priorities for distribution of payments and/or collections from the obligor, without regard to the source of the funds or method of collection, are as follows:

- (1) **monthly** current child support.
- (2) medical, child care or other court-ordered child support-related expenses.
- (3) monthly ordered amount toward child support arrears.
- (4) **monthly** current spousal support or alimony pendente lite.

* * * * *

Rule 1910.27. Form of Complaint. Order. Income Statements and Expense Statements. Health Insurance Coverage Information Form. Form of Support Order. Form Petition for Modification. Petition for Recovery of Support Overpayment.

(a) The complaint in an action for support shall be substantially in the following form:

(Caption)
COMPLAINT FOR SUPPORT

* * * * *

WHEREFORE, Plaintiff requests that an order be entered on behalf of the aforementioned child(ren) [**and or**] **and/or** spouse for reasonable support and medical coverage.

Date	Plaintiff or Attorney for Plaintiff
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I verify that the statements made in this Complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date	Plaintiff
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* * * * *

(h) A petition for recovery of a support overpayment when a support order remains in effect shall be in substantially the following form:

(Caption)
Petition for Recovery of Support Overpayment
in Active Case.

- 1. Obligor and Obligee are parties in a support action at the docket number captioned above.
- 2. There is an overpayment owing to Obligor in an amount in excess of two months of the monthly support obligation.

Wherefore, Obligor requests that, pursuant to Pa.R.C.P. No. 1910.19(g)(1), the charging order be reduced by 20% or an amount sufficient to retire the overpayment by the time the charging order is terminated.

Date **Petitioner or Attorney for Petitioner**
I verify that the statements in this petition are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

(date) ([Obligor] Petitioner signature)

(i) A petition for recovery of a support overpayment when a support order has been terminated shall be in substantially the following form:

(Caption)
Petition for Recovery of Support Overpayment
in Closed Case.

* * * * *

Wherefore, the plaintiff requests that, pursuant to Pa.R.C.P. No. 1910.19(g)(2), an order be entered against the defendant and in favor of the plaintiff in the amount of the overpayment.

Date **Petitioner or Attorney for Petitioner**
I verify that the statements in this petition are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

(date) ([plaintiff] Petitioner signature)

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[Pa.B. Doc. No. 14-2088. Filed for public inspection October 10, 2014, 9:00 a.m.]

Title 252—ALLEGHENY COUNTY RULES

ALLEGHENY COUNTY

Public Access Policy for Official Case Records of the Magisterial District Courts of the Fifth Judicial District; Magisterial District Court Doc. No. DJ-2014-13

Administrative Order

And Now, this 22nd day of September, 2014, pursuant to the Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts, this Administrative Order shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin*:

It is *Ordered* that official paper case records of the Magisterial District Courts which are public records shall be made available to the public for inspection and photocopying under the following conditions:

1. Neither a written request nor fee is required for access to and/or photocopying of a minimal number of official case records; however, actual postage may be assessed.

2. The yearly fee schedule for requests for access to and/or photocopying of voluminous or complex records at all magisterial district courts, except Pittsburgh Municipal Court, shall be:

(a) Individual staff preparation, copying and/or re-filing, for:

(i) 2014—\$19.93 per hour (prorated by fifteen minute intervals).

(ii) 2015—\$20.43 per hour (prorated by fifteen minute intervals).

(iii) 2016—\$21.04 per hour (prorated by fifteen minute intervals).

(b) After due consideration of staff resource limitations, the impact upon the orderly conduct of court business and the responsibility to maintain the security and control of official case records at a magisterial district court, the court may determine that a constable is needed to facilitate access to official case records at a rate of \$13.00 per hour, rounded off to the nearest whole dollar.

(c) After due consideration of staff resource limitations, the impact upon the orderly conduct of court business and the responsibility to maintain the security and control of official case records at a magisterial district court, where the court has determined that a constable is needed to facilitate access to official case records files, and photocopying is required, an additional constable may be designated by the court to make photocopies, at a rate of \$13.00 per hour, rounded off to the nearest whole dollar.

3. The yearly fee schedule for requests for access to and/or photocopying of voluminous or complex records at Pittsburgh Municipal Court shall be:

(a) Individual staff preparation, copying and/or re-filing, for:

(i) 2014—\$16.53 per hour (prorated at fifteen minute intervals)

(ii) 2015—\$16.94 per hour (prorated at fifteen minute intervals)

(iii) 2016—\$17.45 per hour (prorated at fifteen minute intervals)

4. Postage shall be charged at actual cost.

5. Photocopying shall be charged at \$0.25 per page.

6. Pre-payment of fees may be required at the discretion of the court.

7. Applicable fees may be waived if the court determines the requestor is indigent or for other good cause.

8. Fees paid for services are non-refundable.

By the Court

JEFFREY A. MANNING,
President Judge

[Pa.B. Doc. No. 14-2089. Filed for public inspection October 10, 2014, 9:00 a.m.]

Title 25—LOCAL COURT RULES

WASHINGTON COUNTY

Local Civil Rule L-810; Washington County Civil Litigation Mediation Program; No. 2014-1

Order

And Now, this 9th day of September, 2014; *It Is Hereby Ordered* that the previously-stated Washington County Local Civil Rule be restated as follows.

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

By the Court

DEBBIE O'DELL SENECA,
President Judge

L-810. Washington County Civil Litigation Mediation Program.

a. There will be at least two (2) sessions of the Civil Litigation Mediation Program held each calendar year. At each session, mediators will hold settlement/conciliation conferences for those cases selected for the Civil Litigation Mediation Program.

b. The mediators will be practicing attorneys from Washington County, with an emphasis in their practice on civil litigation. The mediators will be selected by the Civil Litigation Mediation Program Committee of the Washington County Bar Association, with the approval of the court.

c. The inclusion of cases in the Civil Litigation Mediation Program will be mandatory, except that asbestos cases will not be included in the Civil Litigation Mediation Program. The attendance of trial counsel, the plaintiff, the defendant/additional defendant and a representative of the defendant's/additional defendant's insurance carrier (if the defendant/additional defendant is insured) at the settlement/conciliation conference shall be mandatory. If the plaintiff, the defendant/additional defendant or the insurance carrier representative fail to appear, the settlement/conciliation conference will not be held and the non-appearing plaintiff, defendant/additional defendant (if self-insured or uninsured) or insurance company representative shall, within thirty (30) days, pay to the other party that party's attorney's fees and expenses in preparing for and attending the settlement/conciliation conference, as assessed and ordered by the mediator.

d. Each mediator will serve one (1) day per session of the Civil Litigation Mediation Program and will be expected to prepare for and hold two (2) settlement/conciliation conferences per day. Two (2) mediators will serve for each day session of the Program.

e. On or before May 15 and September 15, the Court Administrator will select the twenty (20) oldest cases (by date of filing) from the combined civil trial lists of all civil trial judges for inclusion in each session of the Civil Litigation Mediation Program.

f. Upon assignment of a mediator for each case selected for mediation, the mediator shall within ten (10) days of his or her assignment to a case notify the Court Administrator of the date and time of the settlement/conciliation conference. The mediator shall schedule the settlement/conciliation conference within sixty (60) days of the assignment of the case.

g. The parties to any case on the civil trial list may at any time by agreement voluntarily submit a case to mediation by the filing of the Civil Litigation Mediation Program consent Submission Form. These forms are available through the Court Administrator's office. However, any such submission shall not delay any scheduled trial of the matter. Further, upon motion of any party to submit a case to mediation, then on a civil trial list, the Court shall direct the parties to proceed to mediation if the scheduling of the mediation will not delay any scheduled trial in the matter.

h. For all cases which are selected for mandatory mediation and are not either: (1) settled or (2) referred to arbitration or (3) mediated due to the failure of one or more of the parties to pay the \$300.00 mediation fee, those cases, pursuant to Pa.R.C.P. 214(s), will be given preference on the trial list. The trial of those cases given preference will be held as soon as is practicable after the date of the settlement/conciliation conference. Cases voluntarily submitted into the Mediation Program will not be given preference on the trial list.

i. If a case is otherwise determined by the Court to be ready for trial, the fact that a settlement/conciliation conference has been scheduled but not yet held will not delay the trial of a case. If the settlement/conciliation is not held, the mediation fee referred to in paragraph (k) will be refunded to each party.

j. At least ten (10) days prior to the settlement/conciliation conference, each party shall file a settlement/conference statement which must include the following:

1. party's succinct statement or position regarding liability and damages;
2. significant legal issues involved, with citation of legal authority;
3. medical reports;
4. expert reports;
5. itemized list of damages;
6. last settlement posture and rationale.

This requirement will be deemed to be satisfied if a party has previously filed a pre-trial statement pursuant to Washington County Local Rule L-212.2 in which case that party will be required to file only a settlement/conciliation statement providing updated information not set forth in the pre-trial statement, but required by the settlement conciliation conference statement.

If a party fails to file timely the settlement/conciliation conference statement, the settlement/conciliation conference will not be held and the party who fails to file timely the required statement will pay the attorney's fees and expenses of those parties who have filed timely their statements.

k. Each party to a case selected for mediation will pay a mediation fee of \$300.00 to be made payable to the Washington County Civil Litigation Mediation Program Trustee Account and to be submitted to the Court Administrator's Office. For those cases subject to mandatory mediation, the \$300.00 mediation fee shall be paid within ten (10) days of the date of the Notice of Scheduling of Settlement/Conciliation Conference. For those cases voluntarily submitted to mediation, the \$300.00 mediation fee shall be paid with the filing of the Consent to Submit Case to Civil Litigation Mediation Program. Failure to pay the \$300.00 mediation fee shall result in the cancellation of the settlement/conciliation conference and shall

subject the offending party to the sanctions set forth in Paragraph (j) of the Mediation Program.

1. Within ten (10) days from the date of the settlement/conciliation conference, the mediator shall file with the Prothonotary a settlement/conference report which shall set forth the following:

1. Plaintiff's final settlement demand;
2. Defendant's final settlement offer;
3. Mediator's assessment of liability;
4. Mediator's assessment of damages;
5. Mediator's opinion regarding potential range of verdict and settlement value of case;
6. Mediator's recommendation regarding settlement of case.

All parties and the Court Administrator will be provided with a copy of the mediator's settlement/conciliation conference report.

m. Notwithstanding the preceding subsections and L-1042.1—1042.20, the Court may in its discretion set a civil case for an alternative dispute resolution ("ADR") before a private mediator. The method of selection of the private mediator shall be in the discretion of the Court. All parties shall bear equally the costs of any Court-ordered private mediation; provided, however, that the Court will take appropriate steps to assure that no referral to ADR results in an unfair or unreasonable economic burden on any party.

Note: When selecting a case for ADR before a private mediator, the Court should consider various criteria, including the nature of the claims involved and their complexity, whether any of the litigants is pro se, the potential for a successful resolution, and the interests of justice.

(1) The method of ADR shall be addressed to the discretion of the private mediator.

(2) The fact that a case is selected for ADR shall not delay the scheduled trial of a case.

(3) Nothing in this rule shall prevent the parties from voluntarily engaging in ADR before a private mediator on their own initiative.

Explanatory Comment

This local rule reflects the strong judicial policy in favor of parties voluntarily settling lawsuits expressed by the Supreme Court of Pennsylvania in *Rothman v. Fillette*, 469 A.2d 543 (Pa. 1983). The use of Court-directed ADR processes reduce the expense of litigation and often times leads to a quicker and more satisfying alternative when compared to continuing on a more traditional path of litigation. An ancillary benefit to ADR is the potential of reducing the burden on the finite resources of the Court.

[Pa.B. Doc. No. 14-2090. Filed for public inspection October 10, 2014, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that Neil M. Day, (#79140) having been suspended from the practice of law in the State of New Jersey for a period of three months by Order of the Supreme Court of New Jersey dated April 8, 2014; the Supreme Court of Pennsylvania issued an Order dated September 23, 2014 suspending Neil M. Day from the practice of law in this Commonwealth for a period of three months. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,

Secretary

*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 14-2091. Filed for public inspection October 10, 2014, 9:00 a.m.]
