

THE COURTS

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 8]

Proposed Amendments to Pa.R.Crim.P. 801

The Criminal Procedural Rules Committee is considering recommending that the Supreme Court of Pennsylvania amend Rule 801 (Qualifications for Defense Counsel in Capital Cases) to correct the description of the prosecutor and to clarify that experience as a prosecutor should be considered to satisfy the experiential requirements of the rule. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

The text of the proposed amendments to the rule precede the Report. Additions are shown in bold; deletions are in bold and brackets.

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

Jeffrey M. Wasileski, Counsel
Supreme Court of Pennsylvania
Criminal Procedural Rules Committee
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fax: (717) 231-9521
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no later than Friday, February 27, 2015.

By the Criminal Procedural Rules Committee

PAUL M. YATRON,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 8. SPECIAL RULES FOR CASES IN WHICH DEATH SENTENCE IS AUTHORIZED

PART A. Guilt and Penalty Determination Procedures

Rule 801. Qualifications for Defense Counsel in Capital Cases.

In all cases in which the [**district**] attorney for the **Commonwealth** has filed a Notice of Aggravating Circumstances pursuant to Rule 802, before an attorney may participate in any stage of the case either as retained or appointed counsel, the attorney must meet the educational and experiential criteria set forth in this rule.

* * * * *

Comment

The purpose of this rule is to provide minimum uniform statewide standards for the experience and education of appointed and retained counsel in capital cases, to thus

ensure such counsel possess the ability, knowledge, and experience to provide representation in the most competent and professional manner possible. These requirements apply to counsel at all stages of a capital case, including pretrial, trial, post-conviction, and appellate.

The educational and experience requirements of the rule may not be waived by the trial or appellate court. A court may allow representation by an out-of-state attorney *pro hac vice*, if satisfied the attorney has equivalent experience and educational qualifications, and is a member in good standing of the Bar of the attorney's home jurisdiction. See Pa.B.A.R. 301.

For purposes of the requirements of paragraph (1), experience in the role of either prosecutor or defense counsel should be considered.

An attorney may serve as "second chair" in a capital case without meeting the educational or experience requirements of this rule. "Second chair" attorneys may not have primary responsibility for the presentation of significant evidence or argument, but may present minor or perfunctory evidence or argument, if deemed appropriate in the discretion of the court. Service as a "second chair" in a homicide case will count as a trial for purposes of evaluating that attorney's experience under paragraph (1)(c) of this rule.

* * * * *

Official Note: Adopted June 4, 2004, effective November 1, 2004; amended April 13, 2007, effective immediately; amended October 1, 2012, effective November 1, 2012; amended December 10, 2013, effective February 10, 2014; **amended** , **2014, effective** , **2014.**

Committee Explanatory Reports:

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Report explaining the proposed amendments correcting a reference to the prosecutor and clarifying the experiential requirements of the rule published for comment at 44 Pa.B. 8011 (December 27, 2014).

REPORT

Proposed Amendments to Pa.R.Crim.P. 801

Qualifications of Capital Case Counsel; Prosecutorial Experience

Rule 801 was adopted by the Court on June 4, 2004.¹ Rule 801 provides standards for experience and continuing legal education required of criminal defense counsel representing defendants in proceedings involving possible capital punishment, including pretrial, trial, post-conviction, and appellate proceedings. Before an attorney may represent a defendant in a capital case, either as retained or appointed counsel, he or she must meet the following standards:

- be a member of the Bar in good standing;
- have at least five years of experience in criminal litigation;
- serve as lead or co-counsel in a minimum of 8 significant cases which were tried to verdict before a jury. Representation in appellate proceedings requires prior

¹Rule 801 was not developed by the Committee but rather was the product of a special *ad hoc* group formed by the Supreme Court.

appellate or post-conviction representation in a minimum of 8 significant cases. A “significant case” for purposes of this rule shall be a murder, including manslaughter and vehicular homicide, or a felony of the first or second degree.

- Within the preceding three years, undertake a minimum of 18 hours of training relevant to representation in capital cases, as approved by the Pennsylvania Continuing Legal Education Board. Rule 801(2)(b) provides an extensive list of areas of training that would satisfy this requirement.

The rule also provides for “second chair” counsel and *pro hac vice* representation.

The Committee has been presented with the question of whether experience acquired as a prosecutor could be counted toward the requirements of Rule 801(1). Although this is not explicitly stated in the rule, it seems logical that the experience acquired in significant cases be counted regardless upon which side a counsel served. Even though the function of a prosecutor is obviously different, many of the trial and practice skills are complementary. Such an interpretation would provide a reasonable inclusiveness in an already limited pool of counsel. Furthermore, the Committee understands that this is the common practice in most jurisdictions. Therefore, the Comment to Rule 801 would be revised to indicate that such experience should be considered in determining whether counsel meets the qualifications under the rule.

Additionally, there was a suggestion to broaden the language of the initial paragraph of the rule regarding the filing of the notice of aggravating circumstances from the term “district attorney” to “attorney for the Commonwealth.” There are times when the Office of the Attorney General prosecutes a murder as a capital offense, either arising out of their primary jurisdiction or after a case has been referred to them by a district attorney. Therefore, the terminology in the rule would be changed.

[Pa.B. Doc. No. 14-2673. Filed for public inspection December 26, 2014, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 600]

Proposed Rules 601—606 of the Pennsylvania Rules of Civil Procedure before Magisterial District Judges

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt new Rules 601—606 of the Pennsylvania Rules of Civil Procedure before Magisterial District Judges. The Committee has not yet submitted this proposal for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee’s considerations in formulating this proposal. The Committee’s Report should not be confused with the Committee’s Official Notes to the rules. The Supreme Court does not adopt the Committee’s Official Notes or the contents of explanatory reports.

The text of the proposed new rules precedes the Report, and is entirely new.

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

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Minor Court Rules Committee
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or email to: minorrules@pacourts.us

no later than January 30, 2015.

By the Minor Court Rules Committee

BRADLEY K. MOSS,
Chair

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 600. AUTOMATED RED LIGHT ENFORCEMENT APPEALS

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| Rule | |
| 601. | Definitions. |
| 602. | Time and Method of Appeal. |
| 603. | Service; Setting the Date for Hearing. |
| 604. | Hearings and Evidence. |
| 605. | Failure of a Party to Appear at the Hearing. |
| 606. | Judgment; Notice of Judgment and the Right to Appeal; Payment of Civil Fines; Enforcement of Judgment. |

Explanatory Comment

The rules in this chapter were adopted to provide for appeals from violations captured by automated red light enforcement systems. 75 Pa.C.S. § 3117, effective October 1, 2012, generally authorizes “[a] municipality, upon passage of an ordinance . . . to enforce [75 Pa.C.S.] § 3112(a)(3) (relating to traffic-control signals) by recording violations using an automated red light enforcement system approved by [PennDot].” *See* 75 Pa.C.S. § 3117(a). The statute requires that the municipality receive PennDot approval prior to the installation of the red light enforcement system. When a violation is captured by the system, a “system administrator” will prepare and send a violation notice to the registered vehicle owner identified by the system. *See* § 3117(i). A vehicle owner may request a hearing before a “hearing officer” to contest the alleged violation. *See* § 3117(n)(1). The statute provides that an appeal of the hearing officer’s decision will be made to a magisterial district judge. “If the owner requests in writing that the decision of the hearing officer be appealed to the magisterial district judge, the system administrator shall file the notice of violation and supporting documents with the magisterial district judge, who shall hear and decide the matter *de novo*.” *See* § 3117(n)(4).

Rule 601. Definitions.

As used in this chapter:

(1) *Appeal*: An appeal from a decision of a hearing officer following a hearing to contest an alleged violation of 75 Pa.C.S. § 3112(a)(3) as recorded by an automated red light enforcement system.

(2) *Automated Red Light Enforcement System*: A system authorized pursuant to 75 Pa.C.S. § 3117 to record violations of 75 Pa.C.S. § 3112(a)(3).

(3) *Hearing Officer*: A person designated by a municipality to conduct hearings contesting liability for violations of 75 Pa.C.S. § 3112(a)(3) as recorded by an automated red light enforcement system.

(4) *Magisterial District Court*: The magisterial district court in the magisterial district in which the notice of violation was issued.

(5) *Notice of Violation*: The document issued by a police officer employed by the police department with primary jurisdiction over the area where the violation of 75 Pa.C.S. § 3112(a)(3) occurred, and containing the information set forth in 75 Pa.C.S. § 3117(i)(3).

(6) *Owner*: The registered owner or co-owners of the vehicle identified in a notice of violation.

(7) *System Administrator*: The municipality or its designee that supervises and coordinates the administration of notices of violation issued pursuant to 75 Pa.C.S. § 3117.

Official Note: The above definitions are derived from the statute authorizing the use of automated red light enforcement systems by municipalities, 75 Pa.C.S. § 3117.

Rule 602. Time and Method of Appeal.

(A) The owner shall file a notice of appeal along with a copy of the determination of the hearing officer with the magisterial district court within thirty (30) days after the date of the determination. No bond or other security shall be required for appeal.

(B) The notice of appeal filed with the magisterial district court shall be on a form as prescribed by the State Court Administrator. The magisterial district court shall not accept a notice of appeal that is presented after the expiration of the time period specified above.

Official Note: Thirty days is the standard period of time for taking an appeal. See 42 Pa.C.S. § 5571; Pa.R.A.P. 903.

See Rules 1003, 1008A, which do not require the filing of a bond or other security in appeals from judgments entered in civil matters.

Rule 603. Service; Setting the Date for Hearing.

(A) Upon receipt of the notice of appeal, the magisterial district court shall set a hearing date, which shall be not less than twelve (12) or more than sixty (60) days from the date the notice of appeal is filed.

(B) The magisterial district court shall insert the hearing time and date, and the address of the magisterial district court in the notice of appeal form.

(C) The magisterial district court shall serve the notice of appeal, with the hearing time and date thereon, on the system administrator by mailing a copy of the notice of appeal to the system administrator at the address noted on the notice of violation. The service copy of the notice of appeal shall include an instruction that the system administrator shall file the notice of violation and supporting documents with the magisterial district court no later than the date of the hearing.

(D) The magisterial district court shall mail a copy of the notice of appeal form with the hearing time and date thereon to the owner.

(E) Upon receipt of the notice of appeal, the system administrator shall file a copy of the notice of violation

and supporting documents with the magisterial district judge no later than the date of the hearing.

Official Note: Rule 603 is derived from 75 Pa.C.S. § 3117(n)(4), as well as Rules 305, 307—308.

It is anticipated that the system administrator's address will be found on the determination of the hearing officer attached to the notice of appeal form.

Rule 604. Hearings and Evidence.

(A) The proceeding on appeal shall be conducted de novo.

(B) The hearing is subject to the standards of evidence set forth in Rule 321, except that photographs, videos, vehicle titles and police reports may also be entered as evidence by any party without affidavit or other evidence of its truth, accuracy or authenticity.

Official Note: See 75 Pa.C.S. § 3117(n)(4); Rule 321. Photographs, videos, vehicle titles and police reports were added to subdivision (B), and deemed necessary because they are the proofs most likely to be used to support the permitted defenses to a notice of violation, specifically, (1) that the person named in the notice of violation was not the vehicle operator at the time of the violation, (2) that the vehicle was reported as stolen during the time of the violation, and (3) that the person receiving notice of the violation was not the owner or lessor of the vehicle at the time of the offense. See 75 Pa.C.S. § 3117(g).

Rule 605. Failure of a Party to Appear at the Hearing.

When one or both parties fail to appear for the hearing:

(1) If the owner does not appear at the hearing, but the system administrator does appear, the magisterial district judge shall enter judgment for the system administrator.

(2) If the owner appears at the hearing, but the system administrator does not appear, the magisterial district judge shall enter judgment for the owner.

(3) If neither party appears at the hearing, the magisterial district judge shall enter judgment for the owner.

Official Note: Rule 605 is derived from Rule 319.

Rule 606. Judgment; Notice of Judgment and the Right to Appeal; Payment of Civil Fines; Enforcement of Judgment.

(A) Judgment shall be given at the conclusion of the hearing or within five (5) days thereafter and shall be entered on the notice of appeal form.

(B) Upon the entry of judgment, the magisterial district court shall promptly give or mail the owner and the system administrator written notice of the judgment.

(C) The written notice of judgment shall contain notice of the right of the parties to appeal, the time within which the appeal must be taken, and that the appeal is to the court of common pleas.

(D) Any civil fines payable pursuant to 75 Pa.C.S. § 3117(m) shall be made to the system administrator, and not to the magisterial district court.

Official Note: See Rules 322, 324 regarding entry of judgment.

A magisterial district court does not collect civil fines. See Rule 323. Enforcement of judgments for civil fines may be sought by following the procedures established in Rules 401—482, pertaining to entry of and execution upon judgments.

REPORT

*New Rules 601—606 of the Pennsylvania Rules of Civil Procedure before Magisterial District Judges***Appeals from Hearing Officer Determinations in Automated Red Light Enforcement Actions**I. *Introduction*

The Minor Court Rules Committee (“Committee”) is proposing new rules to accommodate statutory changes to the Vehicle Code providing for the use of automated red light enforcement systems in certain municipalities. As described in greater detail below, the proposed rules provide a framework for the newly authorized appeals from a hearing officer determination of an automated red light enforcement violation.

II. *Discussion*

In 2012, the General Assembly adopted the Act of July 2, 2012, P. L. 735, No. 84, which concerned motor vehicles. Among other things, the legislation authorized the use of automated red light enforcement systems in certain municipalities, subject to conditions and approvals by the Pennsylvania Department of Transportation. Section 4(a) of the Act provides that “[a] municipality, upon passage of an ordinance, is authorized to enforce section 3112(a)(3) [of the Vehicle Code] (relating to traffic-control signals) by recording violations using an automated red light enforcement system approved by the [Pennsylvania Department of Transportation].” 75 Pa.C.S. § 3117(a). Similar legislation providing for automated red light enforcement systems in Philadelphia was enacted in 2002. *See* Act of October 4, 2002, P. L. 845, No. 123, § 4, 75 Pa.C.S. § 3116.

The legislation requires that the municipality receive approval from the Pennsylvania Department of Transportation prior to the installation of the red light enforcement system. 75 Pa.C.S. § 3117(b). When a red light violation is captured by the system, a “system administrator” will prepare and send a violation notice to the registered vehicle owner identified by the system. 75 Pa.C.S. § 3117(i). The vehicle owner may request a hearing before a “hearing officer” to contest the alleged violation. 75 Pa.C.S. § 3117(n)(1). The statute provides that an appeal of the hearing officer’s decision will be made to a magisterial district judge. “If the owner requests in writing that the decision of the hearing officer be appealed to the magisterial district judge, the system administrator shall file the notice of violation and supporting documents with the magisterial district judge, who shall hear and decide the matter *de novo*.” 75 Pa.C.S. § 3117(n)(4). Notably, the legislation provides that “[a] penalty imposed under this section shall not be deemed a criminal conviction.” 75 Pa.C.S. § 3117(c)(5).

After reviewing the provisions of the legislation, the Committee concluded that these new appeals from hearing officer determinations were not covered by existing rules governing civil actions, and proceeded to draft rules accommodating such actions.

III. *Proposed Rule Changes*

The proposal begins with a table of contents and an explanatory comment regarding the new rules. Rule 601 provides definitions for terms used in the proposed new rules as derived from the statutory language. Rule 602 establishes the time and method of appeal, and requires that an appeal of a hearing officer determination must be filed with the magisterial district court within thirty days after the date of the determination. Rule 603 sets forth service requirements, as well as the timeframes for

setting the hearing date. Rule 604 provides that the hearing is conducted *de novo*, meaning that it is held as if initially filed in the magisterial district court, and it is not a review of the action before the hearing officer. Rule 604 also establishes the standards of evidence, including exceptions for photographs, videos, vehicle titles and police reports to be entered without affidavit or other evidence of their truth, accuracy or authenticity. Rule 605 sets forth the consequences of one or both parties failing to appear at the hearing. Finally, Rule 606 provides for the entry of judgment, the right to appeal a judgment, and the payment of civil fines.

[Pa.B. Doc. No. 14-2674. Filed for public inspection December 26, 2014, 9:00 a.m.]

Title 25—LOCAL COURT RULES

BEAVER COUNTY

Local Rules of Civil Procedure; No. 11811-2014

Administrative Order

The following amendments to the Beaver County Local Rules of Civil Procedure are hereby adopted, effective thirty (30) days after publication in the *Pennsylvania Bulletin*, in accordance with Pa.R.C.P. No. 239(d). L.R. 210, L.R. 1028(c), L.R. 1034(a), L.R. 1035.2(a) and L.R. 4011 governing Form of Briefs, Disposition of Preliminary Objections, Disposition of Motions for Judgment on the Pleadings, Disposition of Motions for Summary Judgment and Limitation of Scope of Written Discovery and Depositions, are adopted. (Added language is bold.)

The District Court Administrator is Directed to:

- (1) file one (1) certified copy of the Local Rules with the Administrative Office of Pennsylvania Courts;
- (2) submit two (2) certified copies of the Local Rules and a copy on computer diskette or CD-ROM containing the text of the Local Rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;
- (3) submit one (1) certified copy of the Local Rules to the Civil Procedural Rules Committee of the Pennsylvania Supreme Court;
- (4) keep a copy continuously available for public inspection and copying in the Office of the Prothonotary of Beaver County; and
- (5) keep a copy continuously available for public inspection and copying in the Beaver County Law Library.

By the Court

JOHN D. McBRIDE,
President Judge

BUSINESS OF THE COURTS

LR210. Form of Briefs.

In addition to the requirements of Pa.R.C.P. No. 210, briefs shall comply with the following requirements:

A. Except for quotations, briefs shall be double spaced, **single sided** on white paper size 8 1/2 x 11 inches **and shall not exceed 10 pages, excluding exhibits and cover sheets, in length unless otherwise permitted by Order of Court for cause shown or by agreement of the parties by filed stipulation.**

B. Briefs shall contain:

1. a procedural history of the case;
2. a statement or counter-statement of facts;
3. a statement of the questions involved;
4. legible copies of any documents which are attached thereto;
5. an argument with citations to the authority relied upon.
6. a conclusion setting forth the requested relief sought.

C. Any exhibits attached thereto must be tabbed and identified.

CIVIL ACTION

LR1028(c). Procedures for Disposition of Preliminary Objections.

Except as otherwise permitted by Order of Court for cause shown or by agreement of the parties by filed stipulation, Preliminary Objections shall not exceed five (5) pages in length and supporting briefs as well as briefs in opposition shall not exceed 10 pages in length. Preliminary objections shall be placed on the argument list by the Court Administrator upon the filing of a Praeceptum for Argument by either party.

(1) A Praeceptum for Argument form can be secured from the Prothonotary. The original must be filed with the Prothonotary and a copy must be delivered by the filing party to the Court Administrator, along with a copy of the preliminary objections.

(2) Upon receipt of a copy of the Praeceptum for Argument and the preliminary objection, the Court Administrator shall place the case on a list to be argued, assign the case to a judge and send notice of the date, time and place of oral argument. In appropriate cases, the court may order the matter to be decided on briefs only unless a party requests oral argument thereafter.

(3) The briefing schedule is governed by LR211C unless otherwise ordered by the court.

LR1034(a). Disposition of a Motion for Judgment on the Pleadings.

Except as otherwise permitted by Order of Court for cause shown or by agreement of the parties by filed stipulation, Motions for Judgment on the Pleadings shall not exceed five (5) pages in length and supporting briefs as well as briefs in opposition shall not exceed 10 pages in length. Motions for Judgment on the Pleadings shall be placed on the argument list by the Court Administrator upon the filing of a Praeceptum for Argument by either party.

(1) A Praeceptum for Argument form can be secured from the Prothonotary. The original Praeceptum must be filed with the Prothonotary and a copy must be delivered by the filing party to the Court Administrator, along with a copy of the Motion for Judgment on the Pleadings.

(2) Upon receipt of a copy of the Praeceptum for Argument and the Motion for Judgment on the Pleadings, the Court Administrator shall place the case on the list to be argued, assign the case to a judge and send notice of the date, time and place of oral argument.

(3) The briefing schedule is governed by LR211C unless otherwise ordered by the court.

LR1035.2(a). Disposition of Motions for Summary Judgment.

Except as otherwise permitted by Order of Court for cause shown or by agreement of the parties by filed stipulation, Motions for Summary Judgment shall not exceed five (5) pages in length and supporting briefs as well as briefs in opposition shall not exceed 10 pages in length. Motions for Summary Judgment shall be placed on the argument list by the Court Administrator upon the filing of a Praeceptum for Argument by either party.

(1) A Praeceptum for Argument form can be secured from the Prothonotary. The original Praeceptum must be filed with the Prothonotary and a copy must be delivered by the filing party to the Court Administrator, along with a copy of the Motion for Summary Judgment.

(2) Upon receipt of a copy of the Praeceptum for Argument and the Motion for Summary Judgment, the Court Administrator shall place the case on the list to be argued, assign the case to a judge and send notice of the date, time and place of oral argument.

(3) The briefing schedule is governed by LR211C unless otherwise ordered by the court.

DEPOSITIONS AND DISCOVERY

LR4011. Limitation of Scope of Written Discovery and Deposition.

A. Written discovery in all civil cases shall be limited to 30 written questions, including subparts, except in those cases governed by Pa.R.C.P. 1930.5 (domestic relations matters) and LR1301A et seq. (compulsory arbitration).

B. In order to avoid unreasonable annoyance or expense, all requests for discovery or depositions in cases governed by Rule LR1301A et seq. (compulsory arbitration) shall be limited in scope to the standard interrogatories, attached hereto as Form A and Form B, unless leave of court to seek additional discovery is first secured for cause shown.

C. In order to avoid unreasonable annoyance or expense, unless otherwise ordered by the Court for cause shown, or by agreement of the parties, discovery depositions shall be limited to 1 1/2 hours in length with an additional 1/2 hour per each additional party. The total accumulated time allotted each side for all discovery depositions shall not exceed five (5) hours.

[Pa.B. Doc. No. 14-2675. Filed for public inspection December 26, 2014, 9:00 a.m.]

BEAVER COUNTY

Probation as a Sanction for Custody and Protection From Abuse Contempts; No. 11811 2014

Administrative Order

Pursuant to the authority granted at 23 Pa.C.S.A. § 6114(b) (relative to imposition of sentence for Indirect Criminal Contempt for violating a Protection From Abuse Order), and 23 Pa.C.S.A. § 5323(G) (relative to imposition of punishment for Contempt for noncompliance with a Custody Order), findings of Contempt by Court Order are

punishable, in part, by imposition of a term of probation for a period of not more than six (6) months.

It is hereby Ordered and Directed that in each case in which the contemptuous conduct results in the Court imposing a period of probation as punishment, the contemner shall be assessed the same identical Supervision Fee as authorized by 18 P.S. § 11.1102 and this Court's Administrative Order dated April 7, 2009, i.e., \$60.00 per month. Said fee shall be assessed and collected by the Prothonotary against all contemnors placed on probation for violation of a Protection From Abuse Order or a Custody Order.

It is further Ordered and Directed that this Administrative Order shall be effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin*, as required by the Pennsylvania Rules of Judicial Administration (Pa.R.J.A. No. 103(c)(4)).

It is further Ordered and Directed that the District Court Administrator shall file one (1) certified copy of this Administrative Order with the Administrative Office of Pennsylvania Courts and submit two (2) certified paper copies of this Administrative Order and a copy on computer diskette or CD-ROM or agreed upon alternative format, to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

Finally, it is Ordered and Directed that a copy of this Administrative Order shall be kept continuously available for public inspection and copying in the Office of the Prothonotary of Beaver County and in the Beaver County Law Library.

By the Court

JOHN D. McBRIDE,
President Judge

[Pa.B. Doc. No. 14-2676. Filed for public inspection December 26, 2014, 9:00 a.m.]

SNYDER COUNTY

Judicial Administration; No. MC-0049-2014 Full Court

Order

And Now, this 5th day of December, 2014, the 17th Judicial District Local Rule of Judicial Administration Local Rule 17 CV-1915.4 and Local Rule 1940.3 are both amended to include the addition of the Kids First Program and mediation fee increase, and hereby adopt for use in Snyder County, Court of Common Pleas of the 17th Judicial District, Commonwealth of Pennsylvania, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

The 17th Judicial District Court Administrator is Ordered and Directed to do the following:

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

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

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

4) Copies shall be kept continuously available for public inspection in the Office of the Snyder County Prothonotary.

By the Court

MICHAEL T. HUDOCK,
President Judge

Rule 17-CV-1915.4. Prompt Disposition of Custody Cases: Mediation Orientation Session and Kids First Program.

(a). In any custody action the parties shall within forty-five (45) days of the date of filing of the pleading raising the custody claim attend the Court-approved, Kids First Program and mediation orientation session, as provided for in Pa.R.C.P. No. 1940.3 and 17CV1940.3. The Kids First Program and mediation orientation session shall be completed before any hearing is scheduled with the Court.

(b). The term "custody action" includes: any action for divorce containing a claim for custody, partial custody, or visitation; any initial action for custody, partial custody, or visitation; any counterclaim for custody, partial custody, or visitation; any petition for modification of an existing custody order; and any petition for contempt in regard to an existing order of custody.

(c). The parties governed by these rules include parents, persons in loco parentis, and grandparents.

(d). At the time of the filing of the custody action there shall be submitted to the Court a Mediation Orientation Session/Kids First Program Order containing the case caption which shall be substantially in the following form:

MEDIATION ORIENTATION SESSION/ KIDS FIRST PROGRAM ORDER

AND NOW, this _____ day of _____, 20____, it is hereby ORDERED that the above-named parties shall within ten (10) days of the date of receipt of a copy of this Order contact the Court-approved Mediation Program Administrator at 570-374-1718, to schedule both a Kids First Program session and a mediation orientation session, such sessions to be conducted within forty-five (45) days of the filing date of the custody pleading accompanying this Order. No hearing shall be scheduled before the Court until both Kids First Program and mediation orientation sessions have been completed.

FAILURE TO COMPLY WITH THE FOREGOING ORDER MAY RESULT IN THE IMPOSITION OF SANCTIONS (INCLUDING A DISMISSAL OF THE CUSTODY ACTION, DENIAL OF A HEARING, OR AWARD OF COUNSEL FEES) AND/OR A FINDING OF CONTEMPT.

RELOCATION NOTICE

Anyone that has custody rights to any child MAY NOT relocate (move) from their current address unless:

(1) All parties having custody rights have been given written consent to the relocation.

OR

(2) The relocation has been authorized by Court Order.

Anyone intending to relocate MUST give at least sixty (60) days advance written notice of the relocation to ALL PARTIES pursuant to 23 Pa.C.S.A. § 5337. Any party may file an objection to the relocation with the Court pursuant to 23 Pa.C.S.A. § 5337.

The filing party shall serve this Order upon all other parties along with a copy of this custody pleading and file a proof of service with the Court.

There shall be a \$30.00 fee imposed on each party to defray the costs of the mediation, this fee shall be paid at the first (1st) Mediation Orientation session or Kids First Program session.

BY THE COURT:

J.

Copies to: Plaintiff
Defendant
Mediation Program Administrator

(e). After the Mediation Orientation Session/Kids First Program Order has been signed by the Court and filed of record the filing party shall, in addition to making service of any pleading filed by the party as required by law, at the same time and in the same manner serve a copy of the side Order on any other party. The filing party shall immediately file a proof of service with the Court. The Court shall be responsible for sending a copy of the Mediation Orientation Session/Kids First Program Order to the Mediation Program Administrator.

(f). Each party shall contact the court approved Mediation Program Administrator at the phone number set forth in the Mediation Orientation Session Order/Kids First Program Order to schedule their attendance and registration for both sessions.

(g). There shall be imposed on each party a \$30.00 fee to be paid to the Central Susquehanna Valley Mediation Center, Inc. This fee shall be paid at the first (1st) Kids First Program session for the purposes of deferring the cost of the services. This fee also includes the Mediation Orientation session to be completed thereafter. In extraordinary circumstances as determined by the Mediator this fee may be waived for either party.

Rule 17-CV-1940.3. Order for Orientation Session and Kids First Program.

(a). Except as set forth in subsection (d) or otherwise ordered by the Court all parties to a custody action shall participate in both the Kids First Program and mediation orientation sessions pursuant to 17CV1915.4. The mediation orientation session and Kids First Program shall be completed before any hearing is scheduled with the Court.

(b). The Kids First Program is a two and a 1/2 hour educational program designed for families to help their children cope with the difficulties of separation, divorce and family conflict. Participants are presented with information and experiences to help them learn how parental relationships have a direct effect on children, how children might respond by age and gender, how to reduce separation distress in children, how to deal with parent-child alliances, how parents might free themselves from entrenched conflict and how to develop a functional co-parenting relationship.

The mediation orientation session is an initial meeting between the parties and a qualified mediator which is intended to educate the parties concerning the mediation process so that an informed choice can be made by the parties about participation in mediation. The mediation orientation session shall be considered part of the mediation process and shall be confidential.

(c). The Mediation Program Administrator shall immediately notify the Court upon the occurrence of any of the following events:

(1.) A party fails to contact the Mediation Program to schedule a Kids First Program and mediation sessions within (10) ten days.

(2.) The party does not appear for a scheduled Kids First Program session.

(3.) The party does not appear for a scheduled Orientation session.

(4.) The parties are unable to complete either the orientation session, mediation or the Kids First Program.

(d). No orientation session shall be required if a party or a child of a party is or has been the subject of domestic violence or child abuse by another party either during the pendency of the custody action or with 24 months preceding the filing of the custody action. The parties shall, however, attend the Kids First Program before any hearing is scheduled with the Court, at the imposed fee of \$15.00.

[Pa.B. Doc. No. 14-2677. Filed for public inspection December 26, 2014, 9:00 a.m.]

UNION COUNTY
Judicial Administration; No. 14 796

Order

And Now, this 8th day of December, 2014, the 17th Judicial District Local Rule of Judicial Administration Local Rule 17 CV-1915.4 and Local Rule 17 CV-1940.3 are both amended to include the addition of the Kids First Program and mediation fee increase, and hereby adopt for use in Union County, Court of Common Pleas of the 17th Judicial District, Commonwealth of Pennsylvania, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

The 17th Judicial District Court Administrator is Ordered and Directed to do the following:

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

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

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

4) Copies shall be kept continuously available for public inspection in the Office of the Union County Prothonotary.

By the Court

MICHAEL T. HUDOCK,
President Judge

Rule 17-CV-1915.4. Prompt Disposition of Custody Cases: Mediation Orientation Session and Kids First Program.

(a). In any custody action the parties shall within forty-five (45) days of the date of filing of the pleading raising the custody claim attend the Court-approved, Kids First Program and mediation orientation session, as provided for in Pa.R.C.P. No. 1940.3 and 17CV1940.3. The

Kids First Program and mediation orientation session shall be completed before any hearing is scheduled with the Court.

(b). The term "custody action" includes: any action for divorce containing a claim for custody, partial custody, or visitation; any initial action for custody, partial custody, or visitation; any counterclaim for custody, partial custody, or visitation; any petition for modification of an existing custody order; and any petition for contempt in regard to an existing order of custody.

(c). The parties governed by these rules include parents, persons in loco parentis, and grandparents.

(d). At the time of the filing of the custody action there shall be submitted to the Court a Mediation Orientation Session/Kids First Program Order containing the case caption which shall be substantially in the following form:

MEDIATION ORIENTATION SESSION/ KIDS FIRST PROGRAM ORDER

AND NOW, this _____ day of _____, 20____, it is hereby ORDERED that the above-named parties shall within ten (10) days of the date of receipt of a copy of this Order contact the Court-approved Mediation Program Administrator at 570-374-1718, to schedule both a Kids First Program session and a mediation orientation session, such sessions to be conducted within forty-five (45) days of the filing date of the custody pleading accompanying this Order. No hearing shall be scheduled before the Court until both Kids First Program and mediation orientation sessions have been completed.

FAILURE TO COMPLY WITH THE FOREGOING ORDER MAY RESULT IN THE IMPOSITION OF SANCTIONS (INCLUDING A DISMISSAL OF THE CUSTODY ACTION, DENIAL OF A HEARING, OR AWARD OF COUNSEL FEES) AND/OR A FINDING OF CONTEMPT.

RELOCATION NOTICE

Anyone that has custody rights to any child MAY NOT relocate (move) from their current address unless:

(1) All parties having custody rights have been given written consent to the relocation.

OR

(2) The relocation has been authorized by Court Order.

Anyone intending to relocate MUST give at least sixty (60) days advance written notice of the relocation to ALL PARTIES pursuant to 23 Pa.C.S.A. § 5337. Any party may file an objection to the relocation with the Court pursuant to 23 Pa.C.S.A. § 5337.

The filing party shall serve this Order upon all other parties along with a copy of this custody pleading and file a proof of service with the Court.

There shall be a \$30.00 fee imposed on each party to defray the costs of the mediation, this fee shall be paid at the first (1st) Mediation Orientation session or Kids First Program session.

BY THE COURT:

J.

Copies to: Plaintiff
Defendant
Mediation Program Administrator

(e). After the Mediation Orientation Session/Kids First Program Order has been signed by the Court and filed of record the filing party shall, in addition to making service of any pleading filed by the party as required by law, at the same time and in the same manner serve a copy of the side Order on any other party. The filing party shall immediately file a proof of service with the Court. The Court shall be responsible for sending a copy of the Mediation Orientation Session/Kids First Program Order to the Mediation Program Administrator.

(f). Each party shall contact the court approved Mediation Program Administrator at the phone number set forth in the Mediation Orientation Session Order/Kids First Program Order to schedule their attendance and registration for both sessions.

(g). There shall be imposed on each party a \$30.00 fee to be paid to the Central Susquehanna Valley Mediation Center, Inc. This fee shall be paid at the first (1st) Kids First Program session for the purposes of deferring the cost of the services. This fee also includes the Mediation Orientation session to be completed thereafter. In extraordinary circumstances as determined by the Mediator this fee may be waived for either party.

Rule 17-CV-1940.3. Order for Orientation Session and Kids First Program.

(a). Except as set forth in subsection (d) or otherwise ordered by the Court all parties to a custody action shall participate in both the Kids First Program and mediation orientation sessions pursuant to 17CV1915.4. The mediation orientation session and Kids First Program shall be completed before any hearing is scheduled with the Court.

(b). The Kids First Program is a two and a 1/2 hour educational program designed for families to help their children cope with the difficulties of separation, divorce and family conflict. Participants are presented with information and experiences to help them learn how parental relationships have a direct effect on children, how children might respond by age and gender, how to reduce separation distress in children, how to deal with parent-child alliances, how parents might free themselves from entrenched conflict and how to develop a functional co-parenting relationship.

The mediation orientation session is an initial meeting between the parties and a qualified mediator which is intended to educate the parties concerning the mediation process so that an informed choice can be made by the parties about participation in mediation. The mediation orientation session shall be considered part of the mediation process and shall be confidential.

(c). The Mediation Program Administrator shall immediately notify the Court upon the occurrence of any of the following events:

(1.) A party fails to contact the Mediation Program to schedule a Kids First Program and mediation sessions within (10) ten days.

(2.) The party does not appear for a scheduled Kids First Program session.

(3.) The party does not appear for a scheduled Orientation session.

(4.) The parties are unable to complete either the orientation session, mediation or the Kids First Program.

(d). No orientation session shall be required if a party or a child of a party is or has been the subject of domestic violence or child abuse by another party either during the

pendency of the custody action or with 24 months preceding the filing of the custody action. The parties shall, however, attend the Kids First Program before any hearing is scheduled with the Court, at the imposed fee of \$15.00.

[Pa.B. Doc. No. 14-2678. Filed for public inspection December 26, 2014, 9:00 a.m.]

WASHINGTON COUNTY

New Rule 1901—Prompt Disposition of Matters; Termination of Inactive Cases; Rescind Rule L-230.2—Inactive Cases; No. 2013-1

Order

And Now, this 4th, day of December, 2014; *It Is Hereby Ordered* that Local Rule 1901—Prompt Disposition of Matters; Termination of Inactive Cases be adopted as follows and that Local Rule 230.2—Inactive Cases be rescinded.

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

By the Court

JOSEPH M. JAMES,
Administrative Judge

Local Rule of Judicial Administration—1901. Prompt Disposition of Matters; Termination of Inactive Cases.

(a) The Court Administrator, no less than once per year, shall prepare, or cause the Prothonotary to prepare, a list of civil cases for general call in which no steps or proceedings have been taken for two years or more prior thereto, and shall give notice thereof to counsel of record, and to the parties for whom no appearance has been entered, as provided by Pa.R.J.A 1901(c). Thereafter, if a written objection, or written intention to proceed, is not docketed in such a manner prior to the commencement of the general call, the Court Administrator shall strike the matter from the list, and cause an order to be entered as of course dismissing the matter with prejudice for failure to prosecute, under the provisions of this rule.

(1) If a written objection, or written intention to proceed, is docketed prior to the general call, a hearing shall be promptly scheduled by the court to determine if good cause exists for continuing the matter. No case in which a period of inactivity is greater than two years shall proceed in the absence of good cause.

(i) The hearing shall be conducted by the judge to whom the case is assigned. If the case is unassigned, the Court Administrator shall assign the case.

(ii) A copy of the written objection, or written intention to proceed, shall be served on the Court Administrator.

(iii) In any matter which is permitted to proceed, the court shall enter a case management order to govern further proceedings in the case.

(b) The Court Administrator, no less than once per year, shall prepare, or cause the Clerk of Courts to prepare, a list of criminal cases for general call in which no steps or proceedings have been taken for two years or more prior thereto, and shall give notice thereof to the district attorney, or private prosecutor, and the defendant, as provided by Pa.R.J.A. 1901(c).

(i) If an intention to proceed with a matter is evidenced at the general call, the court shall promptly schedule a hearing to determine if good cause exists for continuing the matter. No case in which a period of inactivity is greater than two years shall proceed in the absence of good cause.

(ii) The hearing shall be conducted by the judge to whom the case is assigned. If the case is unassigned, the Court Administrator shall assign the case.

(c) Notice of proposed termination shall be made to the last address of record of the parties or their counsel of record, and set forth a brief identification of the matter to be terminated. If notice by mail cannot be given, or has been returned undeliverable, the Court Administrator shall cause notice of proposed termination to be given by publication in the Washington County Reports.

(ii) A separate general call shall be designated when notice of proposed termination is made by publication, and such date shall be set by the Court Administrator.

[Pa.B. Doc. No. 14-2679. Filed for public inspection December 26, 2014, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Michelle Hamilton Davy, (#58214) having been disbarred from the practice of law in the State of Maryland by Order of the Court of Appeals of Maryland dated September 5, 2013; the Supreme Court of Pennsylvania issued an Order on December 10, 2014, disbaring Michelle Hamilton Davy from the Bar of this Commonwealth, effective January 9, 2015. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Secretary

*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 14-2680. Filed for public inspection December 26, 2014, 9:00 a.m.]

SUPREME COURT

Practice of Law by and Qualifications of Law Clerks Employed in the Unified Judicial System of Pennsylvania; No. 438 Judicial Administration Doc.

Order

Per Curiam

And Now, this 11th day of December, 2014, *It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that this Court's *Per Curiam* Order dated December 21, 2004 is amended to provide as follows.

All law clerks employed in the Unified Judicial System are prohibited from appearing as counsel in the division/section of the court in which they are employed or in which the judge by whom they are employed serves. Further, in courts which have no formally established divisions or sections, the law clerks are prohibited from appearing as counsel in the court itself. See also Pa.R.A.P. 3121 (prohibiting the practice of law by appellate court staff except in limited circumstances).

Any outside employment or commercial activities by law clerks must be reported in writing in advance to their employing judge or supervisor and to the Chief Justice or president judge, depending on which court employs the law clerk.

Law clerks must either be members of the Bar of Pennsylvania, or must have received without exception an earned Bachelor of Laws or Juris Doctor degree from a law school that was an accredited law school at the time the law clerk matriculated or graduated.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective nine months from the date of this *Order* for all current and future law clerks.

[Pa.B. Doc. No. 14-2681. Filed for public inspection December 26, 2014, 9:00 a.m.]

Reestablishment of the Magisterial Districts within the 28th Judicial District; No. 340 Magisterial Rules Doc.

Amended Order

And Now, this 10th day of December, 2014, all prior orders regarding the Reestablishment of the Magisterial Districts of the 28th Judicial District (Venango County) of the Commonwealth of Pennsylvania, are hereby *Rescinded*. It is hereby *Ordered* that Magisterial District 28-3-02 shall be eliminated effective January 1, 2015 and

Magisterial Districts 28-3-01 and 28-3-04 realigned effective January 1, 2015. Magisterial District 28-3-03 shall be reestablished.

Said Magisterial Districts shall be as follows:

Magisterial District 28-3-01 City of Oil City
 Magisterial District Cooperstown Borough
 Judge Andrew F. Fish Pleasantville Borough
 Rouseville Borough
 Allegheny Township
 Cherrytree Township
 Cornplanter Township
 Jackson Township
 Oakland Township
 Oil Creek Township
 Plum Township

Magisterial District 28-3-03 City of Franklin
 Magisterial District Polk Borough
 Judge Michael D. Snyder Utica Borough
 Canal Township
 Frenchcreek Township
 Mineral Township
 Sandycreek Township
 Victory Township

Magisterial District 28-3-04 Barkeyville Borough
 Magisterial District Clintonville Borough
 Judge Patrick E. Lowrey Emlenton Borough
 Sugar Creek Borough
 Clinton Township
 Cranberry Township
 Irwin Township
 Pinegrove Township
 Richland Township
 President Township
 Rockland Township
 Scrubgrass Township

By the Court

RONALD D. CASTILLE,
Chief Justice of Pennsylvania

[Pa.B. Doc. No. 14-2682. Filed for public inspection December 26, 2014, 9:00 a.m.]
