

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [ 204 PA. CODE CH. 82 ]

#### Amendment of Rule 108 of the Rules for Continuing Legal Education; No. 626 Supreme Court Rules Doc.

##### Order

##### *Per Curiam*

*And Now*, this 23rd day of January, 2014, upon the recommendation of the Pennsylvania Continuing Legal Education Board; 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 Rule 108 of the Pennsylvania Rules for Continuing Legal Education is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b). These amendments apply to the one-year compliance period beginning on May 1, 2014, and to all compliance periods commencing thereafter.

##### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART V. PROFESSIONAL ETHICS AND CONDUCT

##### Subpart A. PROFESSIONAL RESPONSIBILITY

#### CHAPTER 82. CONTINUING LEGAL EDUCATION

##### Subchapter A. PROFESSIONAL RESPONSIBILITY

#### Rule 108. Credit for Continuing Legal Education Courses and Activity.

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(e) The number of credits earned by distance learning education that may be applied to the annual compliance requirement shall not exceed [ **four (4)** ] **six (6)**.

[Pa.B. Doc. No. 14-269. Filed for public inspection February 7, 2014, 9:00 a.m.]

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

#### Amendment of Rules 514(a) and 514(b) of the Pennsylvania Rules of Disciplinary Enforcement; No. 123 Disciplinary Rules Doc.

##### Order

##### *Per Curiam*

*And Now*, this 24th day of January, 2014, upon submission by the Board of the Pennsylvania Lawyers Fund for Client Security; the proposal having been published for public comment at 43 Pa.B. 4967 (August 31, 2013):

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 514(a) and 514(b) of the Pennsylvania Rules of Disciplinary Enforcement 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 for claims currently pending with the Pennsylvania Lawyers Fund for Client Security, claims filed with the Pennsylvania Lawyers Fund for Client Security on or after the above date and, awards approved by the Board of the Pennsylvania Lawyers Fund for Client Security after the effective date of this Order.

Mr. Chief Justice Castille files a dissenting statement.

##### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART V. PROFESSIONAL ETHICS AND CONDUCT

##### Subpart B. DISCIPLINARY ENFORCEMENT

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

##### Subchapter E. PENNSYLVANIA LAWYERS FUND FOR CLIENT SECURITY

#### DISHONEST CONDUCT OF ATTORNEY

#### Rule 514. Reimbursable losses.

(a) *General rule.* For the purposes of this subchapter, reimbursable losses consist of those losses of money, property or other things of value which meet all of the following requirements:

\* \* \* \* \*

(4) The loss was not incurred by:

(i) the spouse or other close relative, partner, associate, employer or employee of the Covered Attorney, or a business entity controlled by the Covered Attorney, or any entity controlled by any of the foregoing;

(ii) an insurer, surety or bonding agency or company, or any entity controlled by any of the foregoing;

(iii) any government unit;

(iv) any financial institution that may recover under a "banker's blanket bond" or similar commonly available insurance or surety contract; [ **or** ]

(v) a business organization having twenty or more employees; or

[ (v) ] (vi) an individual or business entity suffering a loss arising from personal or business investments not arising in the course of the client-attorney relationship.

(5) In cases of extreme hardship or special and unusual circumstances, **and subject to the provisions of paragraph (b)**, the Board may, in its discretion, and consistent with the purpose of the Fund, recognize a claim which would otherwise be excluded under this subchapter.

\* \* \* \* \*

(b) *Maximum recovery.* The maximum amount which may be disbursed from the Fund to any one Claimant with respect to the Dishonest Conduct of any one Covered

Attorney shall be \$100,000. **The maximum amount which may be disbursed from the Fund as a result of any one Covered Attorney shall be \$1,000,000. The Board may request the Supreme Court of Pennsylvania to exceed the \$1,000,000 maximum when the Board determines, in the exercise of its discretion, that exceeding the maximum is necessary to adequately compensate all victims of the Dishonest Conduct of the Covered Attorney and exceeding the maximum will not unduly burden the Fund.**

\* \* \* \* \*

**Dissenting Statement  
Mr. Chief Justice Castille**

I respectfully dissent in part, only insofar as the amendment to Pa.R.D.E. 514(a)(4)(v) excludes from the scope of entities that may assert a reimbursable loss “a business organization having twenty or more employees.” In my view, the purpose of the Fund does not include reimbursing large entities which are sufficiently positioned to insure against losses. I would prefer an amendment that applied to “a business organization having five or more employees.”

[Pa.B. Doc. No. 14-270. Filed for public inspection February 7, 2014, 9:00 a.m.]

## Title 234—RULES OF CRIMINAL PROCEDURE

[ 234 PA. CODE CHS. 1, 4 AND 10 ]

**Proposed New Pa.R.Crim.P. 1036, Proposed Amendment to Pa.Rs.Crim.P. 105, 1000, 1031—1035 and 1037 and Proposed Revision of the Comments to Pa.Rs.Crim.P. 103, 140, 141, 431, 441, 462, 1001, 1002 and 1030**

The Criminal Procedural Rules Committee is considering recommending that the Supreme Court of Pennsylvania adopt new Rule 1036, amend Rules 105, 1000, 1031—1035, and 1037 and revise the Comments to Rules 103, 140, 141, 431, 441, 462, 1001, 1002, and 1030 to accommodate the transfer of functions from the Philadelphia Traffic Court to the Philadelphia Municipal Court Traffic Division. 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 rules precedes 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  
601 Commonwealth Avenue, Suite 6200  
Harrisburg, PA 17106-2635  
fax: (717) 231-9521  
e-mail: criminalrules@pacourts.us

no later than Friday, March 7, 2014.

*By the Criminal Procedural Rules Committee:*

THOMAS P. ROGERS,  
*Chair*

### Annex A

#### TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

##### PART A. Business of the Courts

##### Rule 103. Definitions.

\* \* \* \* \*

##### Comment

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Neither the definition of law enforcement officer nor the definition of police officer gives the power of arrest to any person who is not otherwise given that power by law.

**See Rule 1036 for the definition of hearing officers of the Philadelphia Municipal Court Traffic Division as “issuing authorities” for limited purposes specified in the rule.**

The definition of signature was added in 2004 to make it clear when a rule requires a document generated by the minor judiciary or court of common pleas to include a signature or to be signed, that the signature may be in any of the forms provided in the definition. In addition, documents that institute proceedings or require the inclusion of an oath ordinarily are not documents generated by the minor courts or courts of common pleas and therefore any signature required on the document would not be included in this definition of signature; however, in the event such a document is generated by the minor courts or the courts of common pleas, the form of “signature” on this document is limited to handwritten, and the other forms of signature provided in the definition are not permitted.

Included in Chapter 5 Part C of the rules are additional definitions of words and phrases that apply specifically to bail in criminal cases. *See, e.g.*, Rule 524, which defines the types of release on bail.

**Official Note:** Previous Rules 3 and 212 adopted June 30, 1964, effective January 1, 1965, suspended January 31, 1970, effective May 1, 1970; present Rule 3 adopted January 31, 1970, effective May 1, 1970; amended June 8, 1973, effective July 1, 1973; amended February 15, 1974, effective immediately; amended June 30, 1977, effective September 1, 1977; amended January 4, 1979, effective January 9, 1979; amended July 12, 1985, effective January 1, 1986; January 1, 1986 effective date extended to July 1, 1986; amended August 12, 1993, effective September 1, 1993; amended February 27, 1995, effective July 1, 1995; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; renumbered Rule 103 and Comment revised March 1, 2000, effective April 1, 2001; amended May 10, 2002, effective September 1, 2002; amended March 3,

2004, effective July 1, 2004; amended April 30, 2004, effective July 1, 2004; amended August 24, 2004, effective August 1, 2005; amended February 4, 2005, effective immediately; amended May 6, 2009, effective immediately; amended June 21, 2012, effective in 180 days; amended , 2014, effective , 2014.

Committee Explanatory Reports:

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Report explaining the proposed revision of the Comment cross-referencing Rule 1036 limited definition of Philadelphia Municipal Court Traffic Division hearing officers as "issuing authorities" published for comment at 44 Pa.B. 777 (February 8, 2014).

Rule 105. Local Rules.

(A) For the purpose of this rule, the term "local rule" shall include every rule, administrative order, regulation, directive, policy, custom, usage, form or order of general application, however labeled or promulgated, which is adopted or enforced by a court of common pleas, by the Philadelphia Municipal Court, or by [ the Philadelphia Traffic Court ] the Philadelphia Municipal Court Traffic Division to govern criminal practice and procedure.

\* \* \* \* \*

Official Note: Rule 6 adopted January 28, 1983, effective July 1, 1983; amended May 19, 1987, effective July 1, 1987; renumbered Rule 105 and amended March 1, 2000, effective April 1, 2001; amended October 24, 2000, effective January 1, 2001; Comment revised June 8, 2001, effective immediately; amended October 15, 2004, effective January 1, 2005; amended September 9, 2005, effective February 1, 2006; amended January 25, 2008, effective February 1, 2009; amended January 30, 2009, effective February 1, 2009; amended , 2014, effective , 2014.

Committee Explanatory Reports:

\* \* \* \* \*

Report explaining the proposed amendments concerning the transfer of the Philadelphia Traffic Court functions to the Philadelphia Municipal Court published for comment at 44 Pa.B. 777 (February 8, 2014).

PART D. Procedures Implementing 42 Pa.C.S. §§ 4137, 4138, and 4139: Criminal Contempt Powers of District Justices, Judges of the Pittsburgh Magistrates Court, and Judges of the Traffic Court of Philadelphia

Rule 140. Contempt Proceedings Before Magisterial District Judges, Pittsburgh Magistrates Court Judges, and Philadelphia Traffic Court Judges.

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Comment

\* \* \* \* \*

By Orders dated November 29, 2004, 34 Pa.B. 6507 (December 11, 2004) and February 25, 2005, 35 Pa.B. 1662 (March 12, 2005), the Pennsylvania Supreme Court created an administrative judicial unit referred to as the Pittsburgh Municipal Court and assigned all matters within the jurisdiction of the Pittsburgh Magistrates Court to the Pittsburgh Municipal Court. As a result of these orders, the Pittsburgh Magistrates Court is no longer staffed while the Pittsburgh Municipal Court is

staffed by Allegheny County magisterial district judges assigned on a rotating basis. The terminology is retained in these rules because the Pittsburgh Magistrates Court, which is created by statute, has not been disestablished by the statute.

Pursuant to Act 17 of 2013, P.L. 55, No. 17 (June 19, 2013), the jurisdiction and functions of the Philadelphia Traffic Court were transferred to the Philadelphia Municipal Court Traffic Division. The terminology is retained in these rules because the Philadelphia Traffic Court, which is created by the Pennsylvania Constitution, has not been disestablished by constitutional amendment. Hearing officers of the Philadelphia Municipal Court Traffic Division do not have contempt powers of Philadelphia Traffic Court judges under 42 Pa.C.S. § 4139(d).

All contempt proceedings under this rule are to be entered on the issuing authority's miscellaneous docket, and a separate docket transcript for the contempt proceeding is to be prepared. If an appeal is taken, the issuing authority is required to forward the transcript and the contempt order to the clerk of courts. See Rule 141.

\* \* \* \* \*

Official Note: Rule 30 adopted October 1, 1997, effective October 1, 1998; renumbered Rule 140 and amended March 1, 2000, effective April 1, 2001; Comment revised March 26, 2004, effective July 1, 2004; amended March 1, 2012, effective July 1, 2012; Comment revised , 2014, effective , 2014.

Committee Explanatory Reports:

\* \* \* \* \*

Report explaining the proposed Comment revision concerning the transfer of the Philadelphia Traffic Court functions to the Philadelphia Municipal Court published for comment at 44 Pa.B. 777 (February 8, 2014).

Rule 141. Appeals from Contempt Adjudications by Magisterial District Judges, Pittsburgh Magistrates Court Judges, or Philadelphia Traffic Court Judges.

\* \* \* \* \*

Comment

\* \* \* \* \*

By Orders dated November 29, 2004, 34 Pa.B. 6507 (December 11, 2004) and February 25, 2005, 35 Pa.B. 1662 (March 12, 2005), the Pennsylvania Supreme Court created an administrative judicial unit referred to as the Pittsburgh Municipal Court and assigned all matters within the jurisdiction of the Pittsburgh Magistrates Court to the Pittsburgh Municipal Court. As a result of these orders, the Pittsburgh Magistrates Court is no longer staffed while the Pittsburgh Municipal Court is staffed by Allegheny County magisterial district judges assigned on a rotating basis. The terminology is retained in these rules because the Pittsburgh Magistrates Court, which is created by statute, has not been disestablished by the statute.

Pursuant to Act 17 of 2013, P.L. 55, No. 17 (June 19, 2013), the jurisdiction and functions of the Philadelphia Traffic Court were transferred to the Philadelphia Municipal Court Traffic Division. The terminology is retained in these rules because the Philadelphia Traffic Court, which is created by the

**Pennsylvania Constitution, has not been disestablished by constitutional amendment. Hearing officers of the Philadelphia Municipal Court Traffic Division do not have contempt powers of Philadelphia Traffic Court judges under 42 Pa.C.S. § 4139(d).**

As the Pennsylvania Supreme Court stated in *Commonwealth v. McMullen*, 599 Pa. 435, 961 A.2d 842 (2008), legislative limitations on a court's power to sentence for contempt are unconstitutional.

\* \* \* \* \*

**Official Note:** Rule 31 adopted October 1, 1997, effective October 1, 1998; renumbered Rule 141 and Comment revised March 1, 2000, effective April 1, 2001; amended February 28, 2003, effective July 1, 2003; Comment revised March 26, 2004, effective July 1, 2004; amended March 1, 2012, effective July 1, 2012; **Comment revised , 2014, effective , 2014.**

*Committee Explanatory Reports:*

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Report explaining the proposed Comment revision concerning the transfer of the Philadelphia Traffic Court functions to the Philadelphia Municipal Court published for comment at 44 Pa.B. 777 (February 8, 2014).

**CHAPTER 4. PROCEDURES IN SUMMARY CASES**

**PART D. Arrest Procedures in Summary Cases**

**PART D(1). Arrests With a Warrant**

**Rule 431. Procedure When Defendant Arrested With Warrant.**

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**Comment**

\* \* \* \* \*

For the procedures in summary cases within the jurisdiction of [ **Philadelphia Traffic Court or** ] Philadelphia Municipal Court **and the Philadelphia Municipal Court Traffic Division**, see Chapter 10.

**Official Note:** Rule 76 adopted July 12, 1985, effective January 1, 1986; Comment revised September 23, 1985, effective January 1, 1986; January 1, 1986 effective dates extended to July 1, 1986; Comment revised January 31, 1991, effective July 1, 1991; amended August 9, 1994, effective January 1, 1995; amended October 1, 1997, effective October 1, 1998; amended July 2, 1999, effective August 1, 1999; renumbered Rule 431 and amended March 1, 2000, effective April 1, 2001; amended August 7, 2003, effective July 1, 2004; Comment revised April 1, 2005, effective October 1, 2005; amended June 30, 2005, effective August 1, 2006; Comment revised March 9, 2006, effective August 1, 2006; **amended , 2014, effective , 2014.**

*Committee Explanatory Reports:*

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Report explaining the proposed Comment revision changing the cross-reference to the Philadelphia Traffic Court to the Traffic Division of the Philadelphia Municipal Court published for comment at 44 Pa.B. 777 (February 8, 2014).

**PART D(2). Arrests Without a Warrant**

**Rule 441. Procedure Following Arrest Without Warrant.**

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**Comment**

\* \* \* \* \*

For the procedures in summary cases within the jurisdiction of [ **Philadelphia Traffic Court or** ] Philadelphia Municipal Court **and the Philadelphia Municipal Court Traffic Division**, see Chapter 10.

\* \* \* \* \*

**Official Note:** Rule 71 adopted July 12, 1985, effective January 1, 1986; Comment revised September 23, 1985, effective January 1, 1986; January 1, 1986 effective dates extended to July 1, 1986; amended August 9, 1994, effective January 1, 1995; amended May 14, 1999, effective July 1, 1999; renumbered Rule 441 and amended March 1, 2000, effective April 1, 2001; amended August 7, 2003, effective July 1, 2004; amended June 30, 2005, effective August 1, 2006; **amended , 2014, effective , 2014.**

*Committee Explanatory Reports:*

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Report explaining the proposed Comment revision changing the cross-reference to the Philadelphia Traffic Court to the Traffic Division of the Philadelphia Municipal Court published for comment at 44 Pa.B. 777 (February 8, 2014).

**PART F. Procedures in Summary Cases for Appealing to Court of Common Pleas for Trial De Novo**

**Rule 462. Trial De Novo.**

\* \* \* \* \*

**Comment**

\* \* \* \* \*

For the procedures for appeals from the [ **Philadelphia Traffic Court** ] Philadelphia Municipal Court **Traffic Division**, see Rule 1037.

**Official Note:** Former Rule 86 adopted July 12, 1985, effective January 1, 1986; revised September 23, 1985, effective January 1, 1986; the January 1, 1986 effective dates extended to July 1, 1986; amended February 2, 1989, effective March 1, 1989; amended March 22, 1993, effective January 1, 1994; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; amended February 27, 1995, effective July 1, 1995; amended October 1, 1997, effective October 1, 1998; amended May 14, 1999, effective July 1, 1999; rescinded March 1, 2000, effective April 1, 2001, and paragraph (G) replaced by Rule 462. New Rule 462 adopted March 1, 2000, effective April 1, 2001; amended March 3, 2000, effective July 1, 2000; amended February 28, 2003, effective July 1, 2003; Comment revised March 26, 2004, effective July 1, 2004; amended January 18, 2007, effective August 1, 2007; amended December 16, 2008, effective February 1, 2009; Comment revised October 16, 2009, effective February 1, 2009; **amended , 2014, effective , 2014.**

*Committee Explanatory Reports:*

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**NEW RULE 462:**

\* \* \* \* \*

Report explaining the proposed Comment revision changing the cross-reference to the Philadelphia Traffic Court to the Traffic Division of the

**Philadelphia Municipal Court published for comment at 44 Pa.B. 777 (February 8, 2014).**

**CHAPTER 10. RULES OF CRIMINAL PROCEDURE FOR THE PHILADELPHIA MUNICIPAL COURT AND [ THE PHILADELPHIA TRAFFIC COURT ] THE PHILADELPHIA MUNICIPAL COURT TRAFFIC DIVISION**

**Rule 1000. Scope of Rules.**

(A) The rules in this chapter govern all proceedings in the Philadelphia Municipal Court, including summary cases; Municipal Court cases, as defined in Rule 1001(A); the filing of appeals from Municipal Court cases; the filing of petitions for writs of *certiorari*; and the preliminary proceedings in criminal cases charging felonies, Part A, and govern proceedings in summary traffic cases in [ **Traffic Court** ] **Municipal Court Traffic Division**, Part B.

(B) Any procedure that is governed by a statewide Rule of Criminal Procedure that is not specifically covered in Chapter 10 or by a Philadelphia local rule authorized by these rules and adopted pursuant to Rule 105 shall be governed by the relevant statewide rule.

**Comment**

The 2004 amendments make it clear that, except as otherwise provided in the rules, Chapter 10 governs all proceedings in the Philadelphia Municipal Court, including the procedures for instituting criminal cases charging felonies, preliminary arraignments, and preliminary hearings. See 42 Pa.C.S. § 1123 (Jurisdiction and Venue).

**Official Note:** Rule 6000 adopted December 30, 1968, effective January 1, 1969; amended March 28, 1973, effective March 28, 1973; amended July 1, 1980, effective August 1, 1980; renumbered Rule 1000 and amended March 1, 2000, effective April 1, 2001; amended August 24, 2004, effective August 1, 2005; amended June 30, 2005, effective August 1, 2006; amended September 9, 2005, effective February 1, 2006; **amended** , **2014, effective** , **2014.**

*Committee Explanatory Reports:*

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**Report explaining the proposed amendments concerning the abolition of the Philadelphia Traffic Court transfer of functions to the Philadelphia Municipal Court published for comment at 44 Pa.B. 777 (February 8, 2014).**

**Rule 1001. Disposition of Criminal Cases—Philadelphia Municipal Court.**

\* \* \* \* \*

**Comment**

This rule, which defines “Municipal Court case,” is intended to ensure that the Municipal Court will take dispositive action, including trial and verdict when appropriate, in any criminal case that does not involve a felony, excluding summary cases under the Vehicle Code. The latter are under the jurisdiction of the [ **Philadelphia Traffic Court, see 42 Pa.C.S. §§ 1301—1303, 1321** ] **Municipal Court Traffic Division, the successor of the Philadelphia Traffic Court, see Act 17 of 2013, P. L. 55, No. 17 (June 19, 2013) and 42 Pa.C.S. § 102, 325, 1121, 1127, 1302, 1321.**

Paragraph (D) was added in 2007 in accord with the 1998 amendment to article I, § 6 of the Pennsylvania Constitution that provides that “the Commonwealth shall

have the same right to trial by jury as does the accused.” See *Commonwealth v. Hargraves*, 883 A.2d 616 (Pa. Super. 2005), *allocatur denied*, 587 Pa. 711, 898 A.2d 1069 (2006). The filing and service requirement in paragraph (D) must be accomplished as provided in Rule 576. Once a case is bound over to Common Pleas Court, the trial judge may not remand the case to the Municipal Court for any reason, even if the right to jury trial is waived.

**Official Note:** Present Rule 6001 adopted March 28, 1973, effective March 28, 1973, replacing prior Rule 6001; amended June 28, 1974, effective July 1, 1974; paragraph (C) added February 10, 1975, effective immediately; title amended July 1, 1980, effective August 1, 1980; Comment revised January 28, 1983, effective July 1, 1983; amended June 19, 1996, effective July 1, 1996; amended August 28, 1998, effective immediately; renumbered Rule 1001 and Comment revised March 1, 2000, effective April 1, 2001; amended August 24, 2004, effective August 1, 2005; amended January 5, 2007, effective March 6, 2007; amended January 27, 2011, effective in 30 days; **amended** , **2014, effective** , **2014.**

*Committee Explanatory Reports:*

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**Report explaining the proposed Comment revision the transfer of functions from the Philadelphia Traffic Court to the Philadelphia Municipal Court published for comment at 44 Pa.B. 777 (February 8, 2014).**

**PART A. Philadelphia Municipal Court Procedures**

**Rule 1002. Procedure in Summary Cases.**

\* \* \* \* \*

**Comment**

\* \* \* \* \*

All summary offenses under the motor vehicle laws and parking violations are under the jurisdiction of the [ **Philadelphia Traffic Court. See 42 Pa.C.S. §§ 1301—1303, 1321** ] **Municipal Court Traffic Division, the successor of the Philadelphia Traffic Court, see Act 17 of 2013, P. L. 55, No. 17 (June 19, 2013) and 42 Pa.C.S. § 102, 325, 1121, 1127, 1302, 1321.**

**Official Note:** Rule 6002 adopted June 28, 1974, effective July 1, 1974; amended July 1, 1980, effective August 1, 1980; Comment revised January 28, 1983, effective July 1, 1983; amended July 12, 1985, effective January 1, 1986; January 1, 1986 effective date extended to July 1, 1986; amended February 1, 1989, effective July 1, 1989; amended August 9, 1994, effective January 1, 1995; renumbered Rule 1002 and amended March 1, 2000, effective April 1, 2001. Rule 1002 rescinded August 15, 2005, effective February 1, 2006, and replaced by new Rule 1002; amended May 6, 2009, effective February 1, 2010; Comment revised February 12, 2010, effective April 1, 2010; amended December 22, 2010, effective February 20, 2011; **amended** , **2014, effective** , **2014.**

*Committee Explanatory Reports:*

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**Report explaining the proposed Comment revisions concerning the transfer of functions from the Philadelphia Traffic Court to the Philadelphia Municipal Court published for comment at 44 Pa.B. 777 (February 8, 2014).**

PART B. Philadelphia [ Traffic Court ] Municipal Court Traffic Division Procedures

Rule 1030. Scope of Summary Traffic Court Rules.

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Comment

These rules were developed in 2005 to accommodate the procedures Philadelphia Traffic Court has implemented to address the issues in summary traffic cases unique to Philadelphia, to more efficiently handle the vast number of summary traffic cases, and to protect the defendants' rights to a fair and prompt disposition of their cases.

The jurisdiction and functions of the Philadelphia Traffic Court were transferred to the Philadelphia Municipal Court Traffic Division in 2013, see Act 17 of 2013, P.L. 55, No. 17 (June 19, 2013) and 42 Pa.C.S. § 102, 325, 1121, 1127, 1302, 1321.

See Rule 105 for the procedures for promulgating local rules.

Official Note: Adopted September 9, 2005, effective February 1, 2006; amended , 2014, effective , 2014.

Committee Explanatory Reports:

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Report explaining the proposed Comment revision concerning the transfer of functions from the Philadelphia Traffic Court to the Philadelphia Municipal Court published for comment at 44 Pa.B. 777 (February 8, 2014).

Rule 1031. Institution of Proceedings in Summary Traffic Cases.

(A) Summary traffic cases in Philadelphia shall be instituted by:

- (1) issuing a citation to the defendant as provided in Rules 405—409;
(2) filing a citation with the [ Traffic Court ] Philadelphia Municipal Court Traffic Division as provided in Rules 410—414; or
(3) arresting without a warrant when arrest is specifically authorized by law as provided in Rules 440 and 441.

(B) [ The Administrative Judge of Traffic Court, or in the event the position of Administrative Judge is vacant, the Traffic Court President Judge, may provide by local rule, as an exception to the trial notice procedures in Rule 408(B), when a citation is issued to the defendant as provided in Rule 405, that the law enforcement officer also shall give the defendant written notice of the date and time and location set for the summary trial. ] When provided by local rule as an exception to the trial notice procedures in Rule 408(B), the law enforcement officer also shall give the defendant written notice of the date and time and location set for the summary trial when a citation is issued to the defendant as provided in Rule 405.

\* \* \* \* \*

Official Note: Adopted September 9, 2005, effective February 1, 2006; amended , 2014, effective , 2014.

Committee Explanatory Reports:

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Report explaining the proposed amendments concerning the transfer of functions from the Philadelphia Traffic Court to the Philadelphia Municipal Court published for comment at 44 Pa.B. 777 (February 8, 2014).

Rule 1032. Pleas in Response to Citation.

In addition to the procedures in Rules 407 and 412 for entering a plea in a summary traffic case, the defendant, by means of electronic transmission as provided by local rule, may notify the [ Traffic Court ] Municipal Court Traffic Division of his or her plea, and either pay the fines and costs or post the requisite collateral.

\* \* \* \* \*

Official Note: Adopted September 9, 2005, effective February 1, 2006; amended , 2014, effective , 2014.

Committee Explanatory Reports:

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Report explaining the proposed amendments concerning the transfer of functions from the Philadelphia Traffic Court to the Philadelphia Municipal Court published for comment at 44 Pa.B. 777 (February 8, 2014).

Rule 1033. Procedures When Defendant Arrested with Warrant.

(A) When a defendant is arrested pursuant to a warrant issued as provided in Rule 430, the police officer without unnecessary delay shall take the defendant before the proper issuing authority and shall proceed as provided in this rule and by local rule.

(B) When the defendant appears in person or appears by means of two-way simultaneous audio-video equipment, the judge or [ bail commissioner ] arraignment court magistrate shall:

- (1) inform the defendant concerning the specific citations to which the defendant has not entered a plea as required by Rules 407 and 412;
(2) inform the defendant concerning the specific citations that have been adjudicated that have outstanding fines or costs for which the defendant is in default of a payment order or a payment plan; and
(3) advise the defendant of the right to retain counsel, and if, in the event of a conviction, there is a reasonable likelihood of a sentence of imprisonment and the defendant does not have the financial ability to retain counsel, advise the defendant that counsel will be appointed by Traffic [ Court ] Division as provided in Rule 1035.

(C) When the defendant appears before [ a bail commissioner, the bail commissioner ] an arraignment court magistrate, the arraignment court magistrate shall schedule the next court proceeding before the Traffic [ Court ] Division and give the defendant a hearing notice or subpoena, set collateral as provided in Rule 1034 and local rule, and release the defendant, or if the defendant is unable to post the collateral, commit the defendant.

(D) When the defendant appears before a Traffic [ Court judge ] Division judge or hearing officer,

- (1) if the matter is not ready to proceed, the Traffic [ Court judge ] Division judge or hearing officer shall schedule the next court proceeding and give the defendant a scheduling order, set collateral as provided in

Rule 1034 and local rule, and release the defendant, or if the defendant is unable to post the collateral, commit the defendant.

(2) If the matter is ready to proceed,

(a) when the defendant is arrested pursuant to a warrant issued as provided in Rule 430(A) or (B)(1)(a) or (B)(2), the defendant shall enter a plea. If the defendant pleads guilty, the Traffic [ **Court judge** ] **Division judge or hearing officer** shall impose sentence. If the defendant pleads not guilty, the summary trial shall be conducted.

(b) When the defendant is arrested following a trial *in absentia* pursuant to a warrant issued as provided in Rule 430(B)(3)(c) and (B)(4),

(i) the Traffic [ **Court judge** ] **Division judge or hearing officer** shall conduct an immediate hearing to determine defendant's financial ability to pay the full amount due.

(ii) If the Traffic [ **Court judge** ] **Division judge or hearing officer** determines the defendant is financially unable to pay the full amount due, the judge may order an installment payment plan as provided in Rule 456(C)(2).

(iii) If the judge **or hearing officer** determines the defendant is financially unable to pay the full amount due, and that there is a likelihood that imprisonment will be imposed at the conclusion of the hearing, the judge **or hearing officer** shall advise the defendant of the right to retain counsel, and, if the defendant does not have the financial ability to retain counsel, advise the defendant that counsel will be appointed by Traffic [ **Court** ] **Division** as provided in Rule 1035. A hearing may be held if retained or appointed counsel is available; otherwise, the hearing shall be rescheduled for a date certain, and the defendant shall be released on collateral as provided in Rule 1034.

(iv) At the conclusion of the hearing, the Traffic [ **Court judge** ] **Division judge or hearing officer** shall proceed as provided in Rule 456(C)(3).

(c) When the defendant is arrested after defaulting on the payment of fine or costs or restitution pursuant to a warrant issued as provided in Rule 430(B)(3)(b) and (B)(4),

(i) the Traffic [ **Court judge** ] **Division judge or hearing officer** shall conduct an immediate hearing to determine whether the defendant is financially able to pay the outstanding fines and costs as previously ordered.

(ii) If the judge **or hearing officer** determines the defendant is financially unable to pay as previously ordered, the judge may issue a revised payment order or payment plan.

(iii) If the judge **or hearing officer** determines the defendant is financially able to pay as previously ordered, and that there is a likelihood that imprisonment will be imposed at the conclusion of the hearing, the judge shall advise the defendant of the right to retain counsel, and if, the defendant does not have the financial ability to retain counsel, advise the defendant that counsel will be appointed by Traffic Court as provided in Rule 1035. A hearing may be held if retained or appointed counsel is available; otherwise the hearing shall be rescheduled for a date certain, and the defendant shall be released on collateral as provided in Rule 1034.

(iv) At the conclusion of the hearing, the Traffic [ **Court judge** ] **Division judge or hearing officer** shall proceed as provided in Rule 456(C)(3).

(d) When the defendant is arrested on multiple warrants in cases involving both unadjudicated citations and adjudicated citations with outstanding balances, the matter shall proceed as provided in paragraph (D)(2)(a) (summary trial), or paragraphs (D)(2)(b) or (D)(2)(c) (default hearings). These cases may be joined and the proceeding scheduled before the same Traffic [ **Court judge** ] **Division judge or hearing officer**.

#### Comment

Pursuant to **Philadelphia** Municipal Court Local Rule 540 and Traffic [ **Court** ] **Division** Local Rule 1033, when a defendant is arrested outside the normal business hours of Traffic [ **Court** ] **Division**, the defendant is to be taken without unnecessary delay before a Philadelphia Municipal Court [ **bail commissioner** ] **arraignment court magistrate** who shall proceed as provided in paragraph (C) and in Traffic [ **Court** ] **Division** Local Rule 1033.

"Proper issuing authority" as used in this rule is the [ **traffic court judge or bail commissioner** ] **Traffic Division judge or arraignment court magistrate** assigned to conduct these proceedings as provided in this rule, Municipal Court Local Rule 540, and Traffic [ **Court** ] **Division** Local Rule 1033.

For the procedures for contempt proceedings in Traffic [ **Court** ] **Division** cases, see Rules 140, 141, and 142.

For the summary appeal procedures, see Rules 460, 461, and 462.

See Rule 105 for the procedures for promulgating local rules.

**Official Note:** Adopted September 9, 2005, effective February 1, 2006; amended , 2014, effective , 2014.

#### Committee Explanatory Reports:

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**Report explaining the proposed amendments concerning the transfer of functions from the Philadelphia Traffic Court to the Philadelphia Municipal Court published for comment at 44 Pa.B. 777 (February 8, 2014).**

#### Rule 1034. Collateral.

(A) Except as provided in this rule, the procedures for collateral shall be as provided in Rule 452.

(B) When determining the amount of collateral, if any,

(1) if the defendant does not have a prior history of failure to appear for scheduled hearings, or there are other reasonable grounds to believe that the defendant will appear, or the defendant is without adequate resources to deposit collateral, the Traffic [ **Court judge or bail commissioner** ] **Division judge, hearing officer or arraignment court magistrate** shall consider releasing the defendant on his or her own recognizance, or sign own bail ("SOB"), or on a nominal amount of collateral.

(2) If the defendant has a prior history of failing to appear for Traffic [ **Court** ] **Division** scheduled hearings, and notice of the hearings was served personally on defendant, the Traffic [ **Court judge or bail commis-**

sioner ] **Division judge, hearing officer or arraignment court magistrate** may set collateral in an amount not to exceed the collateral that may be required for the payment of defendant's unadjudicated citations and the balance of outstanding fines and costs owed on adjudicated citations.

**Comment**

When the collateral is set in a monetary amount, the Traffic [ **Court judge or bail commissioner** ] **Division judge, hearing officer or arraignment court magistrate** may permit the defendant to be released from custody when 10% of the amount has been posted.

When determining the amount of collateral to set in paragraph (B)(2), the judge [ **or bail commissioner** ], **hearing officer or arraignment court magistrate** must take into consideration the defendant's financial resources and ability to post the amount set. The amount of collateral must be reasonable.

See Rule 105 for the procedures for promulgating local rules.

**Official Note:** Adopted September 9, 2005, effective February 1, 2006; **amended** , 2014, **effective** , 2014.

*Committee Explanatory Reports:*

\* \* \* \* \*

**Report explaining the proposed amendments concerning the transfer of functions from the Philadelphia Traffic Court to the Philadelphia Municipal Court published for comment at 44 Pa.B. 777 (February 8, 2014).**

**Rule 1035. Appointment of Counsel.**

A) When the Traffic [ **Court judge** ] **Division judge or hearing officer** has preliminarily determined that there is a likelihood that imprisonment will be imposed at the conclusion of a summary traffic proceeding,

(1) a hearing may be held if retained or appointed counsel is available; or

(2) if the defendant is without financial resources or is otherwise unable to employ counsel, the judge shall continue the proceeding, issue a scheduling order, and either appoint counsel or direct the defendant to report for a financial interview to determine eligibility to court-appointed counsel.

(B) When the defendant reports for the financial interview to determine eligibility to court-appointed counsel, the defendant shall provide supporting documentation, such as a driver's license, a DPW card, pay stubs, and any other relevant information. Upon review of the information provided by the defendant during the financial interview, the Traffic [ **Court judge** ] **Division judge or hearing officer** shall enter an appropriate order.

(C) Counsel's appointment shall terminate at the conclusion of the Traffic [ **Court** ] **Division** proceeding, unless the Traffic [ **Court** ] **Division** judge sentences the defendant to a period of incarceration, in which case, counsel's appointment shall continue through any appeal for a trial *de novo* in the court of common pleas.

(D) At the time a sentence is imposed that includes a period of incarceration, if the defendant is represented by private counsel, the Traffic [ **Court** ] **Division** judge shall advise the defendant that, in the event private

counsel ceases to represent the defendant after the imposition of the sentence and before the sentence is carried out, if the defendant is unable to afford counsel, he or she has the right to have counsel appointed to represent the defendant to file an appeal for a trial *de novo*, and if appointed, counsel's appointment shall continue through the trial *de novo* in the court of common pleas.

**Comment**

No defendant may be sentenced to imprisonment or probation if the right to counsel was not afforded at trial. See *Alabama v. Shelton*, 535 U.S. 654, 122 S.Ct. 1764, 152 L.Ed.2d 888 (2002), *Scott v. Illinois*, 440 U.S. 367, 99 S.Ct. 1158, 59 L.Ed.2d 383 (1979), and *Argersinger v. Hamlin*, 407 U.S. 25, 92 S.Ct. 2006, 32 L.Ed.2d 530 (1972).

See Rules 460, 461, and 462 for the procedures for summary case appeals.

**Official Note:** Adopted September 9, 2005, effective February 1, 2006; **amended** , 2014, **effective** , 2014.

*Committee Explanatory Reports:*

\* \* \* \* \*

**Report explaining the proposed amendments concerning the transfer of functions from the Philadelphia Traffic Court to the Philadelphia Municipal Court published for comment at 44 Pa.B. 777 (February 8, 2014).**

Rule 1036. [ **Traffic Court Hearing Officers** ] (Reserved).

[ (A) **The Administrative Judge of Traffic Court, or in the event the position of Administrative Judge is vacant, the President Judge of Traffic Court, may appoint Traffic Court hearing officers to conduct post-hearing proceedings, including but not limited to, establishing or re-establishing payment plans, monitoring compliance with payment plans, holding warrant hearings, and performing additional duties as may be identified by local rule.**

(B) **The Administrative Judge by local rule shall establish the qualifications and educational requirements for the position of Traffic Court hearing officer.**

**Comment**

See Pa.R.Crim.P. 105 for the procedures for promulgating local rules.

**Official Note:** Adopted September 9, 2005, effective February 1, 2006.

*Committee Explanatory Reports:*

**Final Report explaining the provisions of the new rule published with the Court's Order at 35 Pa.B. 5242 (September 24, 2005). ]**

(*Editor's Note:* The following rule is new and printed in regular type to enhance readability.)

**Rule 1036. Philadelphia Municipal Court Traffic Division Hearing Officers.**

(A) As provided in this rule, Philadelphia Municipal Court Traffic Division hearing officers may be appointed to hear cases and issue adjudications in connection with prosecutions for summary offenses arising under Title 75 (relating to vehicles) and ordinances enacted pursuant to Title 75.

(1) Hearing officers are “issuing authorities” only for purposes of conducting summary trials, accepting pleas, conducting trials *in absentia*, setting collateral, and conducting post-trial proceedings, including but not limited to, establishing or re-establishing payment plans, monitoring compliance with payment plans, holding warrant hearings, and performing additional duties as may be identified by local rule.

(2) Hearing officers shall not conduct summary trials or hearings if there is a likelihood that imprisonment will be imposed at the conclusion of a summary traffic proceeding.

(B) The Philadelphia Municipal Court Traffic Division by local rule shall establish the qualifications and educational requirements for the position of Traffic Division hearing officer.

(C) The Code of Conduct for Employees of the Unified Judicial System shall be applicable to the Philadelphia Municipal Court Traffic Division hearing officers.

#### Comment

The position of “*Philadelphia Municipal Court Traffic Division hearing officer*” was established by legislation in 2013 as part of the transfer of jurisdiction and functions from the Philadelphia Traffic Court to the Philadelphia Municipal Court Traffic Division. See Act 17 of 2013, P. L. 55, No. 17 (June 19, 2013) and 42 Pa.C.S. § 102, 325, 1121, 1127, 1302, 1321.

**Official Note:** New Rule 1036 adopted \_\_\_\_\_, 2014, effective \_\_\_\_\_, 2014.

#### Committee Explanatory Reports:

Report explaining proposed new Rule 1036 concerning hearing officers of the Philadelphia Municipal Court Traffic Division published for comment at 44 Pa.B. 777 (February 8, 2014).

#### Rule 1037. Appeal from Summary Conviction.

(A) When a defendant appeals after the entry of a guilty plea or a conviction in any **Traffic Division** summary proceeding [ **in the Philadelphia Traffic Court** ], upon the filing of the transcript and other papers by the Traffic [ **Court** ] **Division**, the Court of Common Pleas may schedule a status or settlement conference prior to the *de novo* summary trial.

(1) In the event the attorney for the Commonwealth or a designee and the defendant reach a negotiated plea, the plea may be entered before a Trial Commissioner and, upon approval by a judge of the Court of Common Pleas, the negotiated sentence will be recorded.

(2) In the event a negotiated plea is not approved by the court, the case shall be heard *de novo* by a judge of the Court of Common Pleas sitting without a jury.

(B) The attorney for the Commonwealth may appear and assume charge of the prosecution. When no attorney appears on behalf of the Commonwealth, the affiant may be permitted to ask questions of any witness who testifies.

(C) In appeals from **Traffic Division** summary proceedings [ **in the Philadelphia Traffic Court** ], the law enforcement officer who observed the alleged offense must appear and testify. The failure of a law enforcement officer to appear and testify shall result in the dismissal of the charges unless:

(1) the defendant waives the presence of the law enforcement officer in open court on the record;

(2) the defendant waives the presence of the law enforcement officer by filing a written waiver signed by the defendant and defense counsel, or the defendant if proceeding *pro se*, with the clerk of courts; or

(3) the trial judge determines that good cause exists for the law enforcement officer’s unavailability and grants a continuance.

(D) If the defendant fails to appear for the trial *de novo*,

(1) when the appeal is from a mandatory sentence of imprisonment, the Court of Common Pleas judge shall dismiss the appeal, enter judgment in the Court of Common Pleas on the judgment of the Traffic [ **Court** ] **Division** judge, and issue a bench warrant and a commitment for the defendant. Execution of the sentence shall commence immediately upon defendant’s arrest; and

(2) in all other cases, the Common Pleas Court judge shall dismiss the appeal and enter the judgment in the Court of Common Pleas on the judgment of the Traffic [ **Court judge** ] **Division judge or hearing officer**.

(E) If the defendant withdraws the appeal, the Court of Common Pleas judge shall enter the judgment in the Court of Common Pleas on the judgment of the Traffic [ **Court judge** ] **Division judge or hearing officer**.

(F) At the time of sentencing, the Court of Common Pleas judge shall:

(1) if the defendant’s sentence includes a fine or costs and the defendant has the financial means to pay the amount in a single remittance, the judge shall instruct the defendant to make the payment at the Philadelphia [ **Traffic Court** ] **Municipal Court Traffic Division**. If the defendant is without the financial means to pay the amount in a single remittance, the judge shall instruct the defendant to contact the [ **Philadelphia Traffic Court** ] **Traffic Division** to establish an installment payment plan;

(2) advise the defendant of the right to appeal to the Superior Court within 30 days of the imposition of sentence, and that, if an appeal is filed, the execution of sentence will be stayed and the judge may set bail;

(3) if a sentence of imprisonment has been imposed, direct the defendant to appear for the execution of sentence on a date certain unless the defendant files a notice of appeal within the 30-day period; and

(4) issue a written order imposing sentence, signed by the judge. The order shall include the information specified in paragraphs (F)(1)—(F)(3), and a copy of the order shall be given to the defendant and to the Traffic Court.

(G) After sentence is imposed by the Court of Common Pleas judge, and either after the expiration of the time to file an appeal to the appellate courts, or, if a sentence of imprisonment has been imposed, after the execution of the sentence of imprisonment, the case shall be returned to the [ **Philadelphia Traffic Court** ] **Traffic Division** for the collection of any outstanding fines and costs and for all other appropriate action.

#### Comment

This rule was adopted in 2009 to provide the procedures for appeals from the [ **Philadelphia Traffic Court** ] **Traffic Division** to the Court of Common Pleas of the First Judicial District. Except as provided in this rule, the procedures of Rules 460, 461 and 462, governing

appeals for a trial *de novo* in summary cases, shall apply to summary case appeals [ **in the Philadelphia Traffic Court** ] **Traffic Division**.

For purposes of this rule, “judgment” means the determination of guilty and any sentence imposed on the defendant.

The date upon which payment is due upon a sentence of a fine or costs ordinarily will be 30 days following imposition of sentence.

**Official Note:** Rule 1037 adopted October 16, 2009, effective February 1, [ **2009** ] **2010; amended** , **2014, effective** , **2014**.

*Committee Explanatory Reports:*

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**Report explaining the proposed amendments concerning the transfer of functions from the Philadelphia Traffic Court to the Philadelphia Municipal Court published for comment at 44 Pa.B. 777 (February 8, 2014).**

#### REPORT

***Proposed New Pa.R.Crim.P. 1036, Proposed Amendment to Pa.Rs.Crim.P. 105, 1000, 1031—1035, and 1037, and Proposed Revision of the Comments to Pa.Rs.Crim.P. 103, 140, 141, 431, 441, 462 1001, 1002, and 1030***

#### **Rule Changes in Light of the Abolition of the Philadelphia Traffic Court**

On June 19, 2013, Act 17 of 2013 was signed into law by the Governor, effectively abolishing the Philadelphia Traffic Court.<sup>1</sup> By the terms of the Act, most of its functions have been transferred to a new Traffic Division of the Philadelphia Municipal Court. Given that there are numerous statewide rules that discuss procedures in the Traffic Court, correlative changes will be necessary. Additionally, certain structural changes, particularly the creation of the new office of hearing officer of the Municipal Court Traffic Division, will need to be incorporated into the rules.

The Committee has determined that the following rules listed below would need to be modified. Following each rule title is a brief description of the nature of the proposed changes:

##### *103 (Definitions)*

Would add a cross-reference to the Comment to new Rule 1036 regarding the limited definition of hearing officer as an “issuing authority” under that rule;

##### *105 (Local Rules)*

Would change the court’s name in the rule text;

##### *140 (Contempt Proceedings Before Magisterial District Judges, Pittsburgh Magistrates Court Judges, and Philadelphia Traffic Court Judges)*

Would add language to the Comment regarding the abolition of the Traffic Court and its impact on contempt powers;

##### *141 (Appeals from Contempt Adjudications Before Magisterial District Judges, Pittsburgh Magistrates Court Judges, and Philadelphia Traffic Court Judges)*

Would add language to the Comment regarding the abolition of the Traffic Court and its impact on contempt powers;

<sup>1</sup> As the Philadelphia Traffic Court is provided in the Pennsylvania Constitution, a constitutional amendment will be necessary before the Traffic Court is formally abolished in its entirety. That process is ongoing as of this publication.

##### *431 (Procedures When Defendant Arrested with Warrant)*

Would change the court’s name in a cross-reference in the Comment;

##### *441 (Procedures Following Arrest Without Warrant)*

Would change the court’s name in a cross-reference in the Comment;

##### *462 (Trial De Novo)*

Would change the court’s name in a cross-reference in the Comment;

##### *Chapter 10 (Rules of Criminal Procedure For the Philadelphia Municipal Court and the Philadelphia Traffic Court)*

Would change the title of the Chapter;

##### *1000 (Scope of Rules)*

Would change the court’s name in the rule text;

##### *1001 (Disposition of Criminal Cases—Philadelphia Municipal Court)*

Would change the court’s name in the Comment;

##### *1002 (Procedures in Summary Cases)*

Would change the court’s name in the Comment;

##### *Chapter 10 Part B (Philadelphia Traffic Court Procedures)*

Would change the title of the Part;

##### *1030 (Scope of Summary Traffic Court Rules)*

Would add a Comment provision regarding the abolition of the Traffic Court and transfer of function and jurisdiction to the Traffic Division;

##### *1031 (Institution of Proceedings in Summary Traffic Cases)*

Would reorganize the structure of paragraph (A) of the rule to remove references to the Administrative Judge of Traffic Court;

##### *1032 (Pleas in Response to Citation)*

Would change the court’s name in the rule text;

##### *1033 (Procedures When Defendant Arrested with Warrant)*

Would change the court’s name and the terminology of the presiding officers in the rule text and Comment;

##### *1034 (Collateral)*

Would change the court’s name and the terminology of the presiding officers in the rule text and Comment;

##### *1035 (Appointment of Counsel)*

Would change the court’s name and the terminology of the presiding officers in the rule text;

##### *1036 (Traffic Court Hearing Officers)*

New rule describing appointment, qualifications, and duties of Traffic Division Hearing Officers

##### *1037 (Appeals from Summary Convictions)*

Would change the court’s name and the terminology of the presiding officers in the rule text and Comment;

The majority of the proposed rule changes are correlative changes to terminology resulting from the transfer of the Traffic Court functions to the Traffic Division of the Philadelphia Municipal Court.

As noted above, the greatest change is the creation of the office of hearing officer of the Philadelphia Municipal Court Traffic Division. The position was created by Act 17 as the primary officer for proceedings before the Traffic

Division. Therefore, current Rule 1036, which provides for the hearing officers of the Traffic Court, would be rescinded and replaced by a new Rule 1036 that would provide for the appointment, qualifications, and duties of Traffic Division Hearing Officers. Hearing officers would be defined as "issuing authorities" for the limited purposes of the proceedings in the Traffic Division but would be precluded from conducting hearings in which there is a likelihood of imprisonment. Consistent with Act 17, hearing officers may be either lawyers or non-lawyers who would be governed by the Code of Conduct for Employees of the Unified Judicial System. Also consistent with Act 17, the responsibility for hearing officer training would be developed by local rule.<sup>2</sup>

[Pa.B. Doc. No. 14-271. Filed for public inspection February 7, 2014, 9:00 a.m.]

[ 234 PA. CODE CH. 5 ]

**Proposed Amendments to Pa.Rs.Crim.P. 528 and 535**

The Criminal Procedural Rules Committee is considering recommending that the Supreme Court of Pennsylvania amend Rule 528 (Monetary Condition for Release of Bail) and Rule 535 (Receipt for Deposit; Return of Deposit) to provide (1) procedures for applying bail monies that would be returnable to the defendant after full and final disposition of the case to the defendant's outstanding restitution, court fees, fine, and costs in the current case and (2) notice to depositors to warn of the possibility of the loss of security deposited. This Supplemental Report explains the proposed changes to the original proposal that were made in response to communications to the Committee from the Supreme Court of Pennsylvania after publication of our original explanatory Report. This revised proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Supplemental Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Supplemental Report 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 rules precedes 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  
 601 Commonwealth Avenue, Suite 6200  
 Harrisburg, PA 17106-2635  
 fax: (717) 231-9521  
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no later than Friday, March 7, 2014.

*By the Criminal Procedural Rules Committee:*

THOMAS P. ROGERS,  
*Chair*

<sup>2</sup> The Committee anticipates that the First Judicial District may need to adopt additional local rules to accommodate the transfer of the functions. These local rules would be subject to the Committee's approval pursuant to Rule 105.

Annex A

**TITLE 234. RULES OF CRIMINAL PROCEDURE  
 CHAPTER 5. PRETRIAL PROCEDURES IN COURT  
 CASES**

**PART C(1). Release Procedures**

**Rule 528. Monetary Condition of Release on Bail.**

\* \* \* \* \*

(E) The bail authority shall record on the bail bond the amount of the monetary condition imposed and the form of security that is posted by the defendant or by an individual acting on behalf of the defendant or acting as a surety for the defendant.

(F) **Except as limited in Rule 531 (Qualification of Surety), the defendant or another person may deposit the cash percentage of the bail. If the defendant posts the money, the defendant shall sign the bond, thereby becoming his or her own surety, and is liable for the full amount of bail if he or she fails to appear or to comply. When a person other than the defendant deposits the cash percentage of the bail, the clerk of courts or issuing authority shall explain and provide written notice to that person that:**

**(1) if the person agrees to act as a surety and signs the bail bond with the defendant, the person shall be liable for the full amount of bail if the defendant fails to appear or comply; or**

**(2) if the person does not wish to be liable for the full amount of bail, the person shall be permitted to deposit the money for the defendant to post, and will relinquish the right to make a subsequent claim for the return of the money pursuant to these rules. In this case, the defendant would be deemed the depositor, and only the defendant would sign the bond and be liable for the full amount of bail.**

**(3) Pursuant to Rule 535(E), if the bail was deposited by or on behalf of the defendant and the defendant is the named depositor, the amount otherwise returnable to the defendant may be used to pay and satisfy any outstanding restitution, fees, fines, and costs owed by the defendant as a result of a sentence imposed in the court case for which the deposit is being made.**

**Comment**

\* \* \* \* \*

If a percentage of the cash bail is accepted pursuant to these rules, when the funds are returned at the conclusion of the defendant's bail period, the court or bail agency may retain as a fee an amount reasonably related to the cost of administering the cash bail program. *See Schilb v. Kuebel*, 404 U.S. 357 (1971).

**[ Except as limited in Rule 531 (Qualification of Surety), the defendant or another person, such as a relative or neighbor, may deposit the cash percentage of the bail. If the defendant posts the money, the defendant must sign the bond, thereby becoming his or her own surety, and is liable for the full amount of bail if he or she fails to appear or to comply. When someone other than the defendant deposits the cash percentage of the bail, the clerk of courts or issuing authority must explain to that person that:**

1) if the person agrees to act as a surety and signs the bail bond with the defendant, the person will be liable for the full amount of bail if the defendant fails to appear or comply; or

2) if the person does not wish to be liable for the full amount of bail, the person will be permitted to deposit the money for the defendant to post, and will relinquish the right to make a subsequent claim for the return of the money pursuant to these rules. In this case, the defendant would be deemed the depositor, and only the defendant would sign the bond and be liable for the full amount of bail. *See Rule 535.* ]

Paragraph (F), which formerly was included in the Comment, was added to the rule in 2014 to clarify the manner in which the defendant or a third party may act as a surety for the defendant's bond. The rule now requires that written notice be given to the person posting the bail, especially a third party, of the possible consequences if the defendant receives a sentence that includes restitution, a fine, fees, and costs.

The defendant must be permitted to substitute the form(s) of security deposited as provided in Rule 532.

The method of valuation when realty is offered to satisfy the monetary condition pursuant to paragraphs (D)(3) and (D)(4) is determined at the local level. If no satisfactory basis exists for valuing particular tracts of offered realty, especially tracts located in remote areas, acceptance of that realty is not required by this rule.

**Official Note:** Former Rule 4007 adopted July 23, 1973, effective 60 days hence, replacing prior Rule 4013; amended January 28, 1983, effective July 1, 1983; rescinded September 13, 1995, effective January 1, 1996, and replaced by Rule 4011. Present Rule 4007 adopted September 13, 1995, effective January 1, 1996. The January 1, 1996 effective dates extended to April 1, 1996; the April 1, 1996 effective dates extended to July 1, 1996; renumbered Rule 528 and amended March 1, 2000, effective April 1, 2001; amended September 21, 2012, effective November 1, 2012; amended , 2013, effective , 2013.

*Committee Explanatory Reports:*

\* \* \* \* \*

Report explaining the proposed changes to Rule 535 concerning retention of bail to be applied to fees, fines, costs, and restitution published for comment at 42 Pa.B. 6253 (October 6, 2012); Supplemental Report explaining the revised proposed amendment providing for the advice required to be given concerning possible forfeiture of the deposit published for comment at 44 Pa.B. 781 (February 8, 2014).

#### PART C(2). General Procedures in all Bail Cases

##### Rule 535. Receipt for Deposit; Return of Deposit.

(A) Any deposit of cash in satisfaction of a monetary condition of bail shall be given to the issuing authority, the clerk of courts, or another official designated by the president judge by local rule pursuant to Rule 117(C). The issuing authority, clerk, or other official who accepts the deposit shall give the depositor an itemized receipt, and shall note on the bail bond the amount deposited and the name of the person who made the deposit. The defendant shall sign the bail bond, and be given a copy of the signed bail bond.

(1) When the issuing authority accepts a deposit of bail, the issuing authority shall note on the docket transcript the amount deposited and the name of the person who made the deposit. The issuing authority shall have the deposit, the docket transcript, and a copy of the bail bond delivered to the clerk of courts.

(2) When another official is designated by the president judge to accept a bail deposit, that official shall deliver the deposit and the bail bond to either the issuing authority, who shall proceed as provided in paragraph (A)(1), or the clerk of courts, who shall proceed as provided in paragraph (A)(3).

(3) When the clerk of courts accepts the deposit, the clerk shall note in the list of docket entries the amount deposited and the name of the person who made the deposit, and shall place the bail bond in the criminal case file.

[ (4) At the time bail is being deposited, no inquiry shall be made of the depositor whether he or she consents to have the deposit retained to be applied toward the defendant's fines, costs, or restitution, if any. ]

(B) When the deposit is the percentage cash bail authorized by Rule 528, the depositor shall be notified that by signing the bail bond, the depositor becomes a surety for the defendant and is liable for the full amount of the monetary condition in the event the defendant fails to appear or comply as required by these rules **and that, if the defendant is the named depositor, the amount otherwise returnable may be used to pay and satisfy any outstanding restitution, fees, fines, and costs owed by the defendant as a result of a sentence imposed in the court case for which the deposit is being made.**

(C) The clerk of courts shall place all cash bail deposits in a bank or other depository approved by the court and shall keep records of all deposits.

(D) [ Within ] Unless the court has issued an order issued pursuant to paragraph (E), within 20 days of the full and final disposition of the case, the deposit shall be returned to the depositor, less any bail-related fees or commissions authorized by law, and the reasonable costs, if any, of administering the percentage cash bail program.

(E) In any case in which the defendant is the named depositor, upon the full and final disposition of the case, the court may order, upon motion of the attorney for the Commonwealth, that any money deposited pursuant to this rule by or on behalf of the defendant that is otherwise returnable to the defendant be held and applied to the payment of any restitution, fees, fines, and costs imposed upon the defendant in the case for which the deposit had been made unless the defendant shows that he or she would suffer an undue hardship.

[ (E) ] (F) When a case is transferred pursuant to Rule 130(B) or Rule 555, the full deposit shall be promptly forwarded to the transfer judicial district, together with any bail-related fees, commissions, or costs paid by the depositor.

#### Comment

When the president judge has designated another official to accept the bail deposit as provided in Rule 117, the other official's authority under Rule 117 and this rule is limited to accepting the deposit, having the defendant

sign the bail bond, releasing the defendant, and delivering the bail deposit and bail bond to the issuing authority or the clerk of courts.

Paragraph (A) was amended in 2006 to make it clear that the clerk of courts or other official accepting a deposit of cash bail is not permitted to request that the depositor agree to have the cash bail deposit retained after the full and final disposition of the case to be applied toward the payment of the defendant's fines, costs, or restitution, if any. *See, e.g., Commonwealth v. McDonald*, 476 Pa. 217, 382 A.2d 124 (1978), which held that a deposit of cash to satisfy a defendant's monetary bail condition that is made by a person acting as a surety for the defendant may not be retained to pay for the defendant's court costs and/or fines.

**Paragraph (E) was added in 2014 to permit the attorney for the Commonwealth to seek, at the full and final disposition of any case in which the defendant is the named depositor of bail money, to have the deposited bail money applied to any restitution, fees, fines, and costs imposed on the defendant in the case for which the deposit had been made. This new provision, adopted pursuant to the authority granted in 42 Pa.C.S. § 5702, is a procedural mechanism by which the court may retain money previously deposited with the court to satisfy the defendant's obligations but only in the current criminal case. This procedure also secures the right of the defendant to proffer reasons why retention of the bail money would be an undue hardship. *See Commonwealth v. McDonald, supra.***

**The procedure stated in this rule is the only procedure by which bail may be retained to pay for assessments imposed on the defendant. Any local practice that permits the retention of bail other than as provided in this rule is inconsistent with the statewide rules and subject to the provisions in Rule 105(B).**

**For the manner of distribution of any funds applied to the outstanding restitution, fees, fines, and costs owed by the defendant, see the Pennsylvania Supreme Court's Uniform Disbursement Schedule, *In Re: Promulgation of Financial Regulations Pursuant to Act 49 of 2009 (42 PA.C.S. §§ 3733(A.1) and 3733.1)*, No. 335 Judicial Administration Docket (October 29, 2009), 204 Pa. Code § 29.353.**

**The procedures in paragraph (E) contemplate the decision to retain the bail to be made at the court of common pleas. There may be court cases in which bail had been set that are resolved at the magisterial district court, for example, in cases in which a plea agreement is entered to withdraw misdemeanor or felony charges in exchange for a plea to summary charges or misdemeanor charges within the jurisdiction of the magisterial district judge. In such cases, the magisterial district judge may not order the retention of bail money for the payment of assessments unless the parties agree.**

**Any order issued pursuant to paragraph (E) shall be in conformance with Rule 114.**

Given the complexities of posting real estate to satisfy a monetary condition of release, posting of real estate may not be feasible outside the normal business hours.

Paragraph (B) requires the issuing authority or the clerk of courts who accepts a percentage cash bail deposit to explain to the person who deposits the money the

consequences of acting as a surety. There will be cases in which a person merely deposits the money for the defendant to post, and is not acting as the defendant's surety. In this situation, the defendant is the depositor and should receive the receipt pursuant to paragraph (A). *See* Rule 528. ***See also Rule 528 for the notice the clerk of courts or issuing authority must provide when a person other than the defendant deposits the cash percentage of the bail.***

When cash bail that is deposited in a bank pursuant to paragraph (C) is retained by a county in an interest-bearing account, case law provides that the county retains the earned interest. *See Crum v. Burd*, 131 Pa. Cmwlth. 550, 571 A.2d 1 (1989), *allocatur* denied 525 Pa. 649, 581 A.2d 574 (1990).

The full and final disposition of a case includes all avenues of direct appeal in the state courts. Therefore, the return of any deposits would not be required until after either the expiration of the appeal period or, if an appeal is taken, after disposition of the appeal. *See* Rule 534.

Any fees, commissions, or costs assessed pursuant to paragraph (D) must be reasonably related to the county's actual bail administration costs. Each county should establish local procedures to ensure adequate notice and uniform application of such fees, commissions, or costs. *See, e.g., Buckland v. County of Montgomery*, 812 F.2d 146 (3rd Cir. 1987).

When a case is transferred pursuant to Rules 130(B) and 555, paragraph [ (E) ] (F) and Rules 130(B) and 555 require that any bail-related fees, commissions, or costs collected pursuant to paragraph (D) be forwarded to the transfer judicial district. Fees, commissions, or costs that have been assessed but not paid at the time of transfer may not be collected in the transferring judicial district.

When bail is terminated upon acceptance of the defendant into an ARD program, such action constitutes a "full and final disposition" for purposes of this rule and Rule 534 (Duration of Obligation). *See* Rule 313.

**Official Note:** Former Rule 4015, previously Rule 4009, adopted November 22, 1965, effective June 1, 1966; renumbered Rule 4015, former paragraph (b) integrated into paragraph (a) and new paragraph (b) adopted July 23, 1973, effective 60 days hence; rescinded September 13, 1995, effective January 1, 1996, and replaced by present Rule 4015. Present Rule 4015 adopted September 13, 1995, effective January 1, 1996. The January 1, 1996 effective dates extended to April 1, 1996; the April 1, 1996 effective dates extended to July 1, 1996; renumbered Rule 535 and amended March 1, 2000, effective April 1, 2001; amended April 20, 2000, effective July 1, 2000; amended March 3, 2004, effective July 1, 2004; amended June 30, 2005, effective August 1, 2006; amended March 9, 2006, effective August 1, 2006; amended , 2014, effective , 2014.

*Committee Explanatory Reports:*

\* \* \* \* \*

**Report explaining the proposed changes to paragraph (D) Rule 535 concerning defendant's deposits of bail to be applied to fees, fines, costs, and restitution published for comment at 42 Pa.B. 6253 (October 6, 2012); Supplemental Report explaining revised proposed amendments concerning defendant's deposits of bail to be applied to restitution, fees, fines, and costs in the current case published for comment at 44 Pa.B. 781 (February 8, 2014).**

**SUPPLEMENTAL REPORT**

***Proposed Amendments to Pa.Rs.Crim.P. 528 and 535***

**Use of Bail Money for Payment of Restitution, Fees, Fines, and Costs**

The Committee has been examining procedures that would permit retention of a defendant's bail money that would be returnable to the defendant after full and final disposition of the case in order for it to be applied to the defendant's outstanding restitution, court fees, fine, and costs. The Rules of Criminal Procedure traditionally have precluded directly applying bail money in this manner, based on the concept that the purpose of bail is to ensure the presence of the defendant during the pendency of the case and not to obtain a "deposit" on future assessments. However, the Committee concluded that a change that would permit the retention of returnable bail money to satisfy a defendant's existing obligations to the court was a valid exercise of the rule-making authority and that such a change has the potential to be a useful tool for the more efficient collection of owed moneys, including restitution, reducing collection costs for the court and even for the defendant who would otherwise face additional costs where the court is forced to seek collections processes.

The Committee previously developed a proposal, which was published for comment at 42 Pa.B. 6253 (October 6, 2012), that would have amended Rule 535 and revised of the Comment to Rule 528 to permit the clerk of courts to automatically apply any bail monies that otherwise would be returnable to the defendant after full and final disposition of the case to any of the defendant's outstanding restitution, court fees, fines, costs, and bail judgments. The proposal would have been limited to only money that has been deposited by the defendant and would have permitted relief where its application would work a hardship on the defendant.

Following publication of this proposal, the Committee received further direction from the Supreme Court of Pennsylvania to narrow the scope of the proposal by requiring the prosecution to make a motion for holding deposited funds for payment of outstanding restitution, fees, fines, and costs assessed in the case for which the deposit had originally been made. Additionally, the exemption for third party sureties and for cases in which the defendant would suffer an undue hardship were to be more explicitly stated and fuller notice be provided to the depositor of the potential loss of the deposit.

The Committee has therefore revised the proposal to enhance the protection afforded to third party depositors by requiring detailed notice that the bail authority must provide to depositors to warn them of the possibility of the loss of security deposited if they allow the defendant to be the named depositor. Rule 528 would be amended to move into the rule text the language currently in the Comment that describes the manner by which a depositor may be named and the consequences for a third party of allowing the defendant to be named depositor when the third party has supplied the bail money, including the possibility of the money being applied to assessments. This notice requirement would be reiterated in Rule 535(B).

Additionally, a new paragraph (E) would be added to Rule 535 that would establish the procedures for retaining the bail money. A motion by the attorney for the Commonwealth would be required before the bail money could be retained and could only be retained for the payment of assessments placed on the case for which the money had originally been deposited with the defendant

being the named depositor. The paragraph would also contain the exemption when the defendant shows that retention of the bail money would be a hardship.

An additional change would be the removal of current paragraph (A)(4) of Rule 535 that prohibits inquiring whether the defendant consents to applying deposited bail money towards fines, costs, etc., because the defendant's consent to having the bail money retained would no longer be needed if the defendant was the named depositor and third party depositors would be provided more detailed notice of the potential consequences.

The Comment to Rule 535 would be revised to describe the rationale and basis for this change as well as cross-reference the Court's Uniform Disbursement Schedule that details the manner in which the retained money would be dispersed. The Comment would also state that the proposal would not apply to cases before a magisterial district judge unless the parties agree.

There was a concern raised by the Committee that some counties may be retaining bail presently, despite being contrary to the rules, so the proposal includes language in the Rule 535 Comment that any local practice that varied from that in Rule 535 would be inconsistent with the statewide rules.

[Pa.B. Doc. No. 14-272. Filed for public inspection February 7, 2014, 9:00 a.m.]

**Title 237—JUVENILE RULES**

**PART I. RULES**

**[ 237 PA. CODE CHS. 1 AND 11 ]**

**Order Amending the Comments to Rules 150 and 1150 of the Rules of Juvenile Court Procedure; No. 619 Supreme Court Rules Doc.; Correction**

An error occurred in the order published at 43 Pa.B. 7547 (December 28, 2013). Existing text in the Comment to Rule 1150 was not indicated by ellipses. The correct version of Rule 1150 follows. The remainder of the order was accurate as printed.

**Annex A**

**TITLE 237. JUVENILE RULES**

**PART I. RULES**

**Subpart B. DEPENDENCY MATTERS**

**CHAPTER 11. GENERAL PROVISIONS**

**PART B(2). COUNSEL**

**Rule 1150. Attorneys—Appearances and Withdrawals.**

\* \* \* \* \*

**Comment**

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See the Comment to Rule 1634 for assisting children in filing resumption of jurisdiction motions. It is best practice for the court to appoint the guardian *ad litem* or legal counsel who was previously assigned to the child as legal counsel in the re-opened case. If there are extenuating circumstances preventing the attorney from representing the child, the attorney should make this known at the time of the filing of the motion for resumption of jurisdiction so the court can assign a new attorney.

For admission *pro hac vice*, see Pa.B.A.R. 301.

**Official Note:** Rule 1150 adopted August 21, 2006, effective February 1, 2007. Amended October 21, 2013, effective December 1, 2013. **Amended December 10, 2013, effective February 10, 2014.**

*Committee Explanatory Report:*

\* \* \* \* \*

**Final Report explaining the amendments to Rule 1150 published with the Court's Order at 43 Pa.B. 7547 (December 28, 2013).**

[Pa.B. Doc. No. 14-273. Filed for public inspection February 7, 2014, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Disbarment

Notice is hereby given that Steven Todd Berman having been disbarred by consent from the practice of law in the District of Columbia by Order of the District of Columbia Court of Appeals filed June 27, 2013, the Supreme Court of Pennsylvania issued an Order on January 27, 2014, ordering that Steven Todd Berman be Disbarred from the practice of law in this Commonwealth, effective February 26, 2014. 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. 14-274. Filed for public inspection February 7, 2014, 9:00 a.m.]

### Notice of Disbarment

Notice is hereby given that Steven L. Ellman having been disbarred from the practice of law in the State of California by Order of the Supreme Court of California filed October 25, 2011, the Supreme Court of Pennsylvania issued an Order on January 27, 2014, ordering that Steven L. Ellman be Disbarred from the practice of law in this Commonwealth, effective February 26, 2014. 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. 14-275. Filed for public inspection February 7, 2014, 9:00 a.m.]

### Notice of Disbarment

Notice is hereby given that Bradford John Rieger having been disbarred from the practice of law in the State of Connecticut by Order of the Connecticut Superior Court, Judicial District of New Haven, dated June 18, 2013; the Supreme Court of Pennsylvania issued an Order on January 27, 2014, disbaring Bradford John Rieger from the Bar of this Commonwealth, effective February 26, 2014. 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. 14-276. Filed for public inspection February 7, 2014, 9:00 a.m.]

### Notice of Suspension

Notice is hereby given that Faye Esther Bennett having been suspended from the practice of law in the State of Florida for a period of ninety-one days by Order of the Supreme Court of Florida dated November 28, 2012, the Supreme Court of Pennsylvania issued an Order dated January 27, 2014 suspending Faye Esther Bennett from the practice of law in this Commonwealth for a period of ninety-one, effective February 26, 2014. 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. 14-277. Filed for public inspection February 7, 2014, 9:00 a.m.]

### Notice of Suspension

Notice is hereby given that Wilfrid LeBlanc, Jr., having been suspended from the practice of law in the State of New Jersey by Order of the Supreme Court of New Jersey dated April 24, 2013; the Supreme Court of Pennsylvania issued an Order dated January 27, 2014 suspending Wilfrid LeBlanc, Jr. from the practice of law in this Commonwealth for a period of two years, effective February 26, 2014. 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. 14-278. Filed for public inspection February 7, 2014, 9:00 a.m.]