

THE COURTS

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CHS. 1 AND 21]

Order Adopting New Rule 126 and Amending Rule 2119 of the Rules of Appellate Procedure; No. 257 Appellate Procedural Rules Doc.

Order

Per Curiam

And Now, this 24th day of November, 2015, upon the recommendation of the Appellate Court Procedural Rules Committee; the proposal having been published before adoption at 45 Pa.B. 1605 (April 4, 2015):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that new Pennsylvania Rule of Appellate Procedure 126 is adopted and Pennsylvania Rule of Appellate Procedure 2119 is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective January 1, 2016 for all filings as of that date.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE I. PRELIMINARY PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

DOCUMENTS GENERALLY

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

Rule 126. Citations of Authorities.

A party citing authority that is not readily available shall attach the authority as an appendix to its filing. When citing authority, a party should direct the court's attention to the specific part of the authority on which the party relies.

Official Note: Pa.R.A.P. 126 is intended to ensure that cited authority is readily available to the court and parties. This rule is not intended to supersede any internal operating procedure of an appellate court regarding the citation to memorandum decisions or unreported opinions. *See, e.g.,* Superior Court Internal Operating Procedure § 37, 210 Pa. Code § 65.37; Pa.R.A.P. 3716 and Commonwealth Court Internal Operating Procedure § 414, 210 Pa. Code § 69.414.

The second sentence of the rule encourages parties to provide pinpoint citations for cases and section or subsection citations for statutes or rules.

Although the rule does not establish rules for citation, the following guidelines regarding the citation of Pennsylvania cases and statutes are offered for parties' benefit:

Regarding cases, the rule does not require parallel citation to the National Reporter System and the official reports of the Pennsylvania appellate courts. Parties may cite to the National Reporter System alone.

Regarding statutes, Pennsylvania has officially consolidated only some of its statutes. Parties citing a statute enacted in the Pennsylvania Consolidated Statutes may use the format "1 Pa.C.S. § 1928." Parties citing an unconsolidated statute may refer to the Pamphlet Laws or other official collection of the Legislative Reference Bureau, with a parallel citation to *Purdon's Pennsylvania Statutes Annotated*, if available, using the format, "Act of February 14, 2008, P. L. 6, 65 P. S. §§ 67.101—67.3104" or "Section 3(a) of the Act of May 16, 1923, P. L. 207, *as amended*, 53 P. S. § 7106(a)." Parties are advised that *Purdon's* does not represent an official version of Pennsylvania statutes. *In re Appeal of Tenet HealthSystems Bucks Cnty., LLC*, 880 A.2d 721, 725-26 (Pa. Cmwlth. 2005), *appeal denied*, 897 A.2d 1185 (Pa. 2006).

Prior to Pa.R.A.P. 126, the format for citation was discussed only in Pa.R.A.P. 2119(b), a rule applicable to briefs. The format guidelines above are not mandatory, and a party does not waive an argument merely by failing to follow the format. The guidelines above do, however, provide assistance to parties looking for generally acceptable citation format in Pennsylvania.

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 21. BRIEFS AND REPRODUCED RECORD

CONTENT OF BRIEFS

Rule 2119. Argument.

(a) *General rule.*—The argument shall be divided into as many parts as there are questions to be argued; and shall have at the head of each part—in distinctive type or in type distinctively displayed—the particular point treated therein, followed by such discussion and citation of authorities as are deemed pertinent.

(b) *Citations of authorities.*—Citations of authorities [**must set forth the principle for which they are cited**] in briefs shall be in accordance with Pa.R.A.P. 126 governing citations of authorities. [**Citations of uncodified statutes shall make reference to the book and page of the Laws of Pennsylvania (Pamphlet Laws) or other official edition, and also to a standard digest, where the statutes may be found. Citations of provisions of the Pennsylvania Consolidated Statutes may be in the form: "1 Pa.C.S. § 1928 (rule of strict and liberal construction)" and the official codifications of other jurisdictions may be cited similarly. Quotations from authorities or statutes shall also set forth the pages from which they are taken. Opinions of an appellate court of this or another jurisdiction shall be cited from the National Reporter System, if published therein.**]

(c) *Reference to record.*—If reference is made to the pleadings, evidence, charge, opinion or order, or any other matter appearing in the record, the argument must set forth, in immediate connection therewith, or in a footnote thereto, a reference to the place in the record where the matter referred to appears [**(see Rule 2132 (references in briefs to the record))**] (*see* Pa.R.A.P. 2132).

(d) *Synopsis of evidence.*—When the finding of, or the refusal to find, a fact is argued, the argument must

contain a synopsis of all the evidence on the point, with a reference to the place in the record where the evidence may be found.

(e) *Statement of place of raising or preservation of issues.*—Where under the applicable law an issue is not reviewable on appeal unless raised or preserved below, the argument must set forth, in immediate connection therewith or in a footnote thereto, either a specific [**cross reference**] **cross-reference** to the page or pages of the statement of the case which set forth the information relating thereto [**required pursuant to Rule 2117(c) (statement of place of raising or preservation of issues)**] **as required by Pa.R.A.P. 2117(c)**, or substantially the same information.

(f) *Discretionary aspects of sentence.*—An appellant who challenges the discretionary aspects of a sentence in a criminal matter shall set forth in a separate section of the brief a concise statement of the reasons relied upon for allowance of appeal with respect to the discretionary aspects of a sentence. The statement shall immediately precede the argument on the merits with respect to the discretionary aspects of the sentence.

Official Note: [**The 2014 amendment to paragraph (b) eliminated the requirement for parallel citation to the Pennsylvania State Reports, which is the official court reports of the Pennsylvania Supreme Court, the Pennsylvania Superior Court Reports, which had been the official court reports of the Pennsylvania Superior Court, and the Pennsylvania Commonwealth Court Reports, which had been the official court reports of the Commonwealth Court.**]

Where a challenge is raised to the appropriateness of the discretionary aspects of a sentence, the “petition for allowance of appeal” specified in 42 Pa.C.S. § 9781(b) is deferred until the briefing stage, and the appeal is commenced by filing a notice of appeal pursuant to Chapter 9 rather than a petition for allowance of appeal pursuant to Chapter 11.

[Pa.B. Doc. No. 15-2166. Filed for public inspection December 11, 2015, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1910]

Proposed Amendment of Pa.R.C.P. No. 1910.16-4(d)

The Domestic Relations Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P. No. 1910.16-4(d) governing calculation of child support in divided or split custody cases for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of

those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Bruce J. Ferguson, Counsel
Domestic Relations Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
Fax: 717-231-9531
domesticrules@pacourts.us

All communications in reference to the proposal should be received by February 25, 2016. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Domestic Relations
Procedural Rules Committee*

DAVID J. SLESNICK, Esq.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1910. ACTIONS FOR SUPPORT

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

* * * * *

(d) *Divided or Split Physical Custody. When Each Party [Has Primary Custody of One or More of the Children] Owes Child Support to the Other Party. Varied Partial or Shared Custodial Schedules.*

(1) *Divided or Split Physical Custody. When Each Party [Has Primary Custody of One or More of the Children] Owes Child Support to the Other Party.* When calculating a child support obligation, and [**one or more of the children reside primarily with**] each party owes child support to the other party as a result of the custodial arrangement, the court shall offset the parties' respective child support obligations and award the net difference to the obligee as child support. [**For example, if**]

Example 1. If the parties have three children, one [**of whom resides with Father and two of whom reside with Mother**] child resides with the higher income party and two children reside with the lower income party, and their net monthly incomes are \$2,500 and \$1,250 respectively, [**Father's**] the higher income party's child support obligation is calculated as follows. Using the schedule in [**Rule**] Pa.R.C.P. No. 1910.16-3 for two children at the parties' combined net monthly income of \$3,750, the amount of basic child support to be apportioned between the parties is \$1,200. As [**Father's**] the higher income party's income is 67% of the parties' combined net monthly income, [**Father's**] the higher income party's support obligation for the

two children living with [Mother] the lower income party is \$804. The lower income party's child support obligation is calculated as follows. Using the schedule in [Rule] Pa.R.C.P. No. 1910.16-3 for one child, [Mother's] the lower income party's support obligation for the child living with [Father] the higher income party is \$276. Subtracting \$276 from \$804 produces a net basic support amount of \$528 payable to [Mother] the lower income party as child support.

Example 2. If the parties have two children, one child resides with the higher income party and the parties share custody (50% - 50%) of the other child, and the parties' net monthly incomes are as set forth in Example 1, the child support obligation is calculated as follows. Using the schedule in Pa.R.C.P. No. 1910.16-3 for the one child primarily residing with higher income party at the parties' combined net monthly income of \$3,750, the amount of basic child support to be apportioned between the parties is \$836. The lower income party's income is 33% of the parties' combined net monthly income, and the support obligation for the child living with the higher income party is \$276. For the higher income party's obligation for the child with the 50% - 50% shared custody arrangement, using the schedule in Pa.R.C.P. No. 1910.16-3 for one child at the parties' combined net monthly income of \$3,750, the amount of basic child support to be apportioned between the parties is \$836. The higher income party's proportionate share of the combined net incomes is 67%, but is reduced to 47% after applying the shared parenting time adjustment for 50% custody under Pa.R.C.P. No. 1910.16-4(c). The higher income party's child support obligation for the shared custody child is \$393 ($\$836 \times 47\%$). As the higher income party's obligation is greater than the lower income party's obligation, the lower income party is the obligee and receives the net of the two obligations by subtracting \$276 from \$393, or \$117.

When calculating a combined child support and spousal or alimony *pendente lite* obligation, and one or more children reside with each party, the court shall offset the obligor's spousal and child support obligation with the obligee's child support obligation and award the net difference to the obligee as spousal and child support. When one or more of the children resides with each party then, in calculating the spousal support or alimony *pendente lite* obligation, the court shall deduct from the obligor's income both the support owed for the child or children residing with the obligee, as well as the direct support the obligor provides to the child or children living with the obligor, calculated in accordance with the guidelines as if the child or children were not living with the obligor.

[(2) **Varied Custodial Schedules.** When the parties have more than one child and each child spends different amounts of partial or shared custodial time with the obligor, the trier of fact shall add the percentage of time each child spends with the obligor and divide by the number of children to determine the obligor's percentage of custodial time. If the average percentage of time the children spend with the obligor is 40% or more, the provisions of subdivision (c) above apply.]

(2) **Varied Partial or Shared Custodial Schedules.** When the parties have more than one child and each child spends:

(a) different amounts of partial or shared custodial time with the higher income party; or

(b) different amounts of partial custodial time with the lower income party

the trier of fact shall add the percentage of time each child spends with that party and divide by the number of children to determine the party's percentage of custodial time. If the average percentage of custodial time the children spend with the party is 40% or more, the provisions of subdivision (c) apply.

Example 1. The parties have two children and one child spends 50% of the time with the [obligor and another] higher income party and the other child spends 20% of the time with the [obligor] higher income party. Add those percentages together and divide by the number of children (50% plus 20% = 70% divided by 2 children = 35% average of the time with the [obligor] higher income party). Pursuant to subdivision (c), the [obligor] higher income party does not receive a reduction in the support order for substantial parenting time.

Example 2. The parties have three children. Two children spend 50% of the time with the [obligor and] higher income party and the third child spends 30% of the time with the [obligor] higher income party. Add the percentages of custodial time for all three children together and divide by the number of children (50% plus 50% plus 30% = 130% divided by three children = 43.33% average percentage of time with the [obligor] higher income party). Pursuant to subdivision (c), the [obligor] higher income party receives a reduction in the support order for substantial parenting time.

Example 3. The parties have three children, the higher income party has primary custody (60% - 40%) of one child, the lower income party has primary custody (60% - 40%) of one child, and the parties share custody (50% - 50%) of the third child. The parties net monthly incomes are \$2,500 and \$1,250. As a result of the custodial arrangement, the lower income party owes support for the child in the primary custody of the higher income party and the higher income party owes support for the child in the primary custody of the lower income party and for the child shared equally between the parties. The lower income party's child support obligation is calculated as follows. Using the schedule in Pa.R.C.P. No. 1910.16-3 for one child at the parties' combined net monthly income of \$3,750, the amount of basic child support to be apportioned between the parties is \$836. The lower income party's proportionate share of the combined net incomes is 33%, but is reduced to 23% after applying the shared parenting time adjustment for 40% custody under Pa.R.C.P. No. 1910.16-4(c). The lower income party's child support obligation for this child is \$192 ($\$836 \times 23\%$). The higher income party's child support obligation is calculated as follows. Using the schedule in Pa.R.C.P. No. 1910.16-3 for two children at the parties' combined net monthly income of \$3,750, the amount of basic child support to be apportioned between the par-

ties is \$1,200. The higher income party has varying partial or shared custody of the two children (40% and 50%). Under subdivision (d)(2), the custodial time is averaged or in this case 45%. The higher income party's proportionate share of the combined net incomes is 67%, but is reduced to 52% after applying the shared parenting time adjustment for 45% custody under Pa.R.C.P. No. 1910.16-4(c). The higher income party's child support obligation for these children is \$624 (\$1,200 x 52%). Offsetting the support amounts consistent with subdivision (d)(1), the higher income party's obligation is greater than the lower income party's obligation, and the lower income party is the obligee receiving the net of the two obligations by subtracting \$192 from \$624, or \$432.

Official Note: In cases with more than one child and varied partial or shared custodial schedules, it is not appropriate to perform a separate calculation for each child and offset support amounts as that method does not consider the incremental increases in support for more than one child built into the schedule of basic child support.

In some of the examples, the terms "higher income party" and "lower income party" are used rather than the more usual "obligor" and "obligee." In circumstances similar to the examples, it is often not immediately apparent which party will be the "obligor" or the "obligee" until after completing the calculation.

(e) *Support Obligations When Custodial Parent Owes Spousal Support.* Where children are residing with the spouse obligated to pay spousal support or alimony *pendente lite* (custodial parent) and the other spouse (non-custodial parent) has a legal obligation to support the children, the guideline amount of spousal support or alimony *pendente lite* shall be determined by offsetting the non-custodial parent's obligation for support of the children and the custodial parent's obligation of spousal support or alimony *pendente lite*, and awarding the net difference either to the non-custodial parent as spousal support/alimony *pendente lite* or to the custodial parent as child support as the circumstances warrant.

* * * * *

PUBLICATION REPORT

The Committee is proposing an amendment to Pa.R.C.P. No. 1910.16-4(d), *Divided or Split Physical Custody. When Each Party Has Primary Custody of One or More of the Children.* The Committee received input from several county Domestic Relations Hearing Officers and members of the bar that the current rule is confusing and is not clear in some cases involving multiple children with divided or split custody.

Currently, Pa.R.C.P. No. 1910.16-4(d), in relevant part, states:

(d) *Divided or Split Physical Custody. When Each Party Has Primary Custody of One or More of the Children. Varied Custodial Schedules.*

(1) *Divided or Split Physical Custody. When Each Party Has Primary Custody of One or More of the Children.* When calculating a child support obligation, and one or more of the children reside primarily with each party, the court shall offset the parties' respective child support obligations and award the net difference to the obligee as child support.

* * * * *

(2) *Varied Custodial Schedules.* When the parties have more than one child and each child spends different amounts of partial or shared custodial time with the obligor, the trier of fact shall add the percentage of time each child spends with the obligor and divide by the number of children to determine the obligor's percentage of custodial time. If the average percentage of time the children spend with the obligor is 40% or more, the provisions of subdivision (c) above apply.

From the language of this rule, it is clear that when both parties have primary custody of one child, subdivision (d)(1) applies and the parties' support obligations to each other are offset with the higher income party as the obligor. Additionally, subdivision (d)(2) of the rule is applicable in determining if a shared parenting time adjustment should be applied when an obligor has partial or shared custody of at least two children.

However, the scenario not clearly addressed by the rule is the situation involving multiple children with the higher income party having primary custody of at least one child and the parties equally sharing custody of at least one child. As subdivision (d)(1) requires that both parties have primary custody of at least one child, the current subdivision (d)(1) is inapplicable to these facts. Likewise, this scenario would not fall under subdivision (d)(2) as this subdivision is only applicable in determining the shared parenting time adjustment when an obligor has shared or partial custody of at least two children.

Under current subdivision (d)(1) of the rule, if the parties have primary custody of at least one child, each party has a duty of support to the other party and the support obligations are offset. The net difference of the two obligations would be paid to the party with the lower initial support obligation. With that said, the logical conclusion is that the primary custody and shared custody scenario best fits under subdivision (d)(1) as, typically, the higher income party would owe support to the lower income party for the equally shared child,¹ and the lower income party would owe support for the child primarily in the custody of the higher income party.²

The Committee proposes amending subdivision (d)(1) clarifying the applicability of the subdivision to cases involving multiple children when both parties would owe child support to the other party based on the custodial arrangement. The obligee would be determined after offsetting the support obligations and any net difference between the two obligations would be paid to the obligee. To further illustrate this scenario, an example of the application of the rule to these facts has been added following subdivision (d)(1).

Consequently, the Committee proposes amending subdivision (d)(2) clarifying the circumstances in which this subdivision is applicable in light of the proposed amendment to subdivision (d)(1) and modifying the heading to further illustrate the applicability of the subdivision. And, a third example has been added after subdivision (d)(2) with a factual scenario illustrating the interplay between subdivisions (d)(1) and (d)(2).

¹ As set forth in Pa.R.C.P. No. 1910.3(b)(2) and Pa.R.C.P. No. 1910.16-4(c)(2), the lower income party cannot be an obligor in a support case when a child spends equal time with both parties.

² This scenario is the typical case unless the trier-of-fact determines that *Colonna v. Colonna*, 855 A.2d 648 (Pa. 2004) applies to the facts of the case. If the trier-of-fact determines *Colonna* to be applicable to the case, then Pa.R.C.P. No. 1910.16-4(d) would not be applicable as the lower income party would not owe child support for the child in the primary custody of the higher income party; however, the higher income party would continue to owe support to the lower income party for the shared custody child and any other additional support the trier-of-fact determines appropriate under *Colonna* for the other child.

The Committee considered other methods of calculating support for multiple children with varying custody schedules, including averaging the custody time of all the children. The obligee would be the party with the higher amount of average custodial time with the children. However, the Committee believed this method led to unfavorable results when it considered various custodial arrangements. For example, the parties have three children with one child with the higher income party 100% of the time and the other two children 50% custody with each party would result in the average custodial time of 67% for the higher income party, who would be the obligee. The lower income party would pay support without any reduction due to substantial custody despite having two children 50% of the time. The Committee believed this to be unfair and inequitable, instead, preferred the method set forth in the proposed amendment.

Finally, the rule recommendation reflects a decision by the Committee to use gender neutral terms in the rules. In the future, as rules are amended or added, gender neutral terms will be substituted for specific gender terms (e.g. mother, father, husband, wife). With that policy determination in mind, in certain factual circumstances relevant to Pa.R.C.P. No. 1910.16-4(d), identifying the party who is the obligee or obligor is not readily apparent until completion of the entire calculation. An amended Note provides the rationale for the use of the terms "higher income party" and "lower income party" rather than the more frequently used terms "obligor" and "obligee."

[Pa.B. Doc. No. 15-2167. Filed for public inspection December 11, 2015, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 1920]

Proposed Amendment of Pa.R.C.P. No. 1920.33

The Domestic Relations Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania an amendment of Pa.R.C.P. No. 1920.33 governing joinder of related claims in divorce actions for the reasons set forth in the accompanying publication report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Bruce J. Ferguson, Counsel
Domestic Relations Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
Fax: 717-231-9531
domesticrules@pacourts.us

All communications in reference to the proposal should be received by February 26, 2016. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Domestic Relations
Procedural Rules Committee*

DAVID J. SLESNICK, Esq.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1920. ACTIONS OF DIVORCE OR FOR ANNULMENT OF MARRIAGE

Rule 1920.33. Joinder of Related Claims. [**Distribution of Property.**] **Equitable Division.** Enforcement.

(a) [**Each party shall file an inventory specifically describing all property owned or possessed at the date of separation.**] If a pleading or petition raises a claim for equitable division of marital property under Section 3502 of the Divorce Code, the parties shall file and serve on the other party an inventory, which shall include the information in subdivisions (1) through (3) and shall be substantially in the form set forth in Pa.R.C.P. No. 1920.75. Within 20 days of service of the moving party's inventory, the non-moving party shall file an inventory. A party may not file a motion for the appointment of a master or a request for court action regarding equitable [**distribution**] **division** until at least 30 days following the filing of that party's inventory. [**The other party shall file the inventory within 20 days of service of the moving party's inventory.**

The inventory shall set forth as of the date of separation:

(1) [**a specific description of all marital property in which either or both have a legal or equitable interest individually or with any other person and the name of such other person and all marital liabilities;**] a specific description of the marital assets, which either or both parties have a legal or equitable interest, individually or jointly with another person, the name of the co-owners, if applicable, and the marital liabilities, which either party incurred individually or jointly with another person, and the name of any co-debtors, if applicable;

(2) a specific description of [**all property or liabilities that are**] the assets or liabilities claimed to be non-marital and the basis for such claim; and

(3) the estimated value of [**each item of**] the marital and non-marital [**property**] assets and the amount of each marital and non-marital liability.

Official Note: Subdivision (c) [**of this rule**] provides for sanctions for failure to file an inventory as required by [**this**] subdivision (a). An inventory may be incomplete [**where the party filing it does not know of all of the property**] if a party lacks a comprehensive knowledge of the assets and liabilities involved in the claim for equitable [**distribution**] **division**. Consequently, the rule does not contemplate that a party will

be precluded from presenting testimony or offering evidence as to **[property] assets or liabilities** omitted from the inventory. The omission may be **[supplied by] remedied by inclusion of the omitted information in** the pre-trial statement required by subdivision (b).

(b) Within the time required by order of court or written directive of the master or, if none, at least **[sixty] 60** days before the scheduled hearing on the claim for **[the determination and distribution of property, each party] equitable division, the parties** shall file and serve upon the other party a pre-trial statement. The pre-trial statement shall include the following matters, together with any additional information required by special order of the court:

(1) a list of assets, which may be in chart form, specifying:

[(i) the marital assets, their value, the date of the valuation, whether any portion of the value is non-marital, and any liens or encumbrances thereon; and

(ii) the non-marital assets, their value, the date of the valuation, and any liens or encumbrances thereon;]

(i) The marital assets:

- a. the value;
- b. the date of the valuation;
- c. the value of any non-marital portion;
- d. the facts and documentation upon which the party relies to support the valuation; and
- e. any liens or encumbrances associated with the asset.

(ii) The non-marital assets:

- a. the value;
- b. the date of the valuation;
- c. the facts and documentation upon which the party relies to support the valuation; and
- d. any liens or encumbrances associated with the asset.

(2) the name and address of **[each expert] the expert witnesses** whom the party intends to call at trial **[as a witness]**. A report of each expert witness listed shall be attached to the pre-trial statement. The report shall describe the **[witness's] expert's** qualifications and experience **[and]**, state the substance of the facts and opinions to which the expert is expected to testify and **[a summary of] summarize** the grounds for each opinion;

(3) the name, address and a short summary of the testimony of **[each person] the witnesses**, other than the party, whom the party intends to call at trial **[as a witness]**;

(4) **[a list of all of the exhibits which the party expects to offer in evidence, each containing an identifying mark. Any exhibits that do not exceed three pages shall be attached to the pre-trial statement, and any exhibits which exceed three pages shall be described;] a list of exhibits that the party expects to offer in evidence. Exhibits not exceeding three pages shall be attached to the pre-trial state-**

ment and shall have an identifying exhibit number affixed to or incorporated into the document, and exhibits exceeding three pages shall be described specifically and shall have an exhibit number in its description;

(5) the party's gross income from all sources, **[each payroll deduction, and the party's net income, including] payroll deductions, net income, and** the party's most recent state and federal income tax returns and pay stubs;

(6) if the party intends to offer **[any]** testimony as to his or her expenses, an Expense Statement in the form required by **[Rule] Pa.R.C.P. No. 1910.27(c)(2)(B)**;

[(7) the value of a pension or retirement benefits, the marital portion thereof, and the facts and documentation upon which the party relies to support the valuation;

(8)] (7) if there is a claim for counsel fees, the amount of fees to be charged, the basis for the charge, and a detailed itemization of the services rendered;

[(9) where there is a dispute,] (8) the description and value of **[any items of] disputed** tangible personal property, **specifically the personalty contemplated by Pa.R.C.P. No. 1920.75(25)**, the method of evaluating each item, and the evidence, including documentation, to be offered in support of the valuation;

[(10) a list of marital debts including the amount of each debt as of the date of separation, the date on which the debt was initially incurred, the initial amount of the debt and its purpose, the amounts and dates of payments made since the date of separation, and the evidence that will be offered in support of the claim;]

(9) a list of liabilities, which may be in chart form, specifying:

(i) The marital liabilities:

- a. amount of the liability;
- b. date of the valuation;
- c. amount of any non-marital portion;
- d. the facts and documentation upon which the party relies to support the valuation; and
- e. amount, if any, of payments made on the liabilities after the date of separation.

(ii) The non-marital liabilities:

- a. amount of the liability;
- b. date of the valuation; and
- c. the facts and documentation upon which the party relies to support the valuation.

[(11)] (10) a proposed resolution of the economic issues **raised in the pleadings**.

(c) If a party fails to file either an inventory, as required by subdivision (a), or a pre-trial statement, as required by subdivision (b), the court may make an appropriate order under **[Rule] Pa.R.C.P. No. 4019(c)** governing sanctions.

(d)(1) **[A] Except upon good cause shown, a party who fails to comply with a requirement of subdivision (b) [of this rule shall, except upon good cause shown,]**

shall be barred from offering [any] testimony or introducing [any] evidence in support of or in opposition to claims for the matters [not covered therein] omitted.

(2) [A party shall, except upon good cause shown,] Except upon good cause shown, a party shall be barred from offering [any] testimony or introducing [any] evidence that is inconsistent with or [which] goes beyond the fair scope of the information set forth in the pre-trial statement.

(e) An order [distributing property under] entered by the court pursuant to Section 3502 of the Divorce Code may be enforced as provided by the rules governing actions for support and divorce[,] and in the Divorce Code.

Explanatory Comment—1994

23 Pa.C.S. § 3105(a) states that an agreement is enforceable by any means available pursuant to the Divorce Code for enforcement on an order, as though the agreement were an order of court, except as otherwise provided in the agreement. Thus, although Rule 1920.33 refers only to enforcement of orders, it also applies to enforcement of agreements.

PUBLICATION REPORT

The Committee is proposing an amendment of Pa.R.C.P. No. 1920.33. After a recent amendment to the rule, which eliminated the time frame to file an inventory in divorce cases raising equitable division of marital property, it was reported to the Committee that the current reading of the rule requires the parties to file an inventory in every divorce case regardless of whether equitable division had been raised in the pleadings. This result was an unintended consequence of the previous amendment.

As has been the case prior to the last amendment, the proposed language clarifies the rule to only require the filing of an inventory in divorce cases when a claim for equitable division has been raised in the pleadings by the parties. The language revision only conforms the rule, in part, to the past practice.

Other changes to the rule include revisions for easier readability, format changes, and deleting redundancy. Subdivision (b)(7) has been eliminated from the list of items included in pre-trial statements. The subdivision set forth a requirement of identifying the parties' pension and retirement benefits in the pre-trial statement as a separate item. Although the line item has been eliminated from the enumerated list, pensions and retirement benefits are assets and, as such, should be included under subdivision (b)(1).

[Pa.B. Doc. No. 15-2168. Filed for public inspection December 11, 2015, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 1930]

Proposed Amendments of Pa.R.C.P. Nos. 1930.2, 1930.4 and 1930.5

The Domestic Relations Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania amendments of Pa.R.C.P. Nos. 1930.2, 1930.4 and 1930.5 governing domestic relations matters generally for the reasons set forth in the accompanying publication

report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Bruce J. Ferguson, Counsel
Domestic Relations Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
Fax: 717-231-9531
domesticrules@pacourts.us

All communications in reference to the proposal should be received by February 26, 2016. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Domestic Relations
Procedural Rules Committee*

DAVID J. SLESNICK, Esq.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1930. RULES RELATING TO DOMESTIC RELATIONS MATTERS GENERALLY

Rule 1930.2. No Post-trial Practice. Motions for Reconsideration.

(a) There shall be no motions for post-trial relief in any domestic relations matter, **including Protection of Victims of Sexual Violence and Intimidation matters.**

Official Note: See Pa.R.C.P. No. 1957.

(b) A party aggrieved by the decision of the court may file a motion for reconsideration in accordance with [**Rule of Appellate Procedure**] Pa.R.A.P. 1701(b)(3). If the court does not grant the motion for reconsideration within the time permitted, the time for filing a notice of appeal will run as if the motion for reconsideration had never been [**filed**] **presented to the court.**

Official Note: Pennsylvania Rule of Appellate Procedure 903 states that [, **except as otherwise set forth by that rule,**] the Notice of Appeal shall be filed within [**thirty**] 30 days after the entry of the order from which the appeal is taken, **except as otherwise set forth in that rule.**

(c) [**The reconsidered decision, except as set forth in subdivision (e), shall be rendered within 120 days of the date the motion for reconsideration is granted. If it is not rendered within 120 days, the motion shall be deemed denied.**] The court shall render its reconsidered decision within 120 days of

the date the motion for reconsideration is granted, except as set forth in subdivision (e). If the court's decision is not rendered within 120 days, the motion shall be deemed denied.

(d) [The time for filing a notice of appeal will begin to run anew from the date of entry of the reconsidered decision, or, if the court does not enter a reconsidered decision within 120 days, from the 121st day.] If the court does not enter a reconsidered decision within 120 days, the time for filing a notice of appeal will begin to run anew from the date of entry of the reconsidered decision or from the 121st day after the motion for reconsideration was granted.

(e) [If the court grants the motion for reconsideration, and files same, within the 30 day appeal period, it may, at any time within the applicable 120 day period thereafter, issue an order directing that additional testimony be taken.] If the court grants the motion for reconsideration and files its order within the 30 day appeal period, the court may issue an order during the applicable 120 day period directing that additional testimony be taken. If [it does] the court issues an order for additional testimony, the reconsidered decision need not be rendered within 120 days, and the time for filing a notice of appeal will run from the date the reconsidered decision is rendered.

Rule 1930.4. Service of Original Process in Domestic Relations Matters.

(a) *Persons Who May Serve.* Original process in all domestic relations matters, including Protection of Victims of Sexual Violence and Intimidation matters, may be served by the sheriff or a competent adult:

- (1) by handing a copy to the defendant; [or]
- (2) by handing a copy:
 - (i) at the residence of the defendant to an adult member of the family with whom the defendant resides; but if no adult member of the family is found, then to an adult person in charge of such residence; [or]
 - (ii) at the residence of the defendant to the clerk or manager of the hotel, inn, apartment house, boarding house or other place of lodging at which the defendant resides; [or]
 - (iii) at any office or usual place of business of the defendant to the defendant's agent or to the person for the time being in charge [thereof.]; or
- (3) [or] pursuant to special order of court.

Official Note: See [Rule] Pa.R.C.P. No. 76 for the definition of "competent adult." [Service upon] Original process served on an incarcerated person in a domestic relations action must also include notice of any hearing in such action[,] and specific notice of the incarcerated individual's right to apply to the court for a writ of *habeas corpus ad testificandum* to enable him or her to participate in the hearing. The writ is available [where] if an incarcerated individual wishes to testify as provided by statute or rule, [as well as where the] or if the incarcerated individual's testimony is sought by another. *Vanaman v. Cowgill*, 526 A.2d 1226 (Pa. Super. 1987). See 23 Pa.C.S. § 4342(j) and [Rule] Pa.R.C.P. No. 1930.3. In determining whether a writ of

habeas corpus ad testificandum should be issued, a court must weigh the factors set forth in *Salemo v. Salemo*, 554 A.2d 563 (Pa. Super. 1989).

(b) *Service in Protection From Abuse and Protection of Victims of Sexual Violence and Intimidation Matters.* [In Protection from Abuse matters only, original process may also be served by an adult using any means set forth in subdivision (a) above.] If personal service cannot be completed within [forty-eight (48)] 48 hours after a Protection From Abuse or a Protection of Victims of Sexual Violence and Intimidation petition is filed, the court may[, by special order as set forth in subdivision (a)(3) above, authorize service by another means] authorize alternate service by special order as set forth in subdivision (a)(3), including, but not limited to, service by mail pursuant to subdivision (c) of this rule.

[(c) *Service by Mail.* Except in Protection from Abuse matters unless authorized by special order of court pursuant to subdivision (b) above, original process may also be served by mailing the complaint and order to appear, if required, to the defendant's last known address by both regular and certified mail. Delivery of the certified mail must be restricted to addressee only, and a return receipt must be requested.

(1) If the certified mail is refused by defendant, but the regular mail is not returned within fifteen days, service may be deemed complete.

(2) If the mail is returned with notation by the postal authorities that it was unclaimed, service shall be made by another means pursuant to these rules.]

(c) *Service by Mail.*

(1) Except in Protection from Abuse and Protection of Victims of Sexual Violence and Intimidation matters, original process in all domestic relations matters may be served by mailing the original process, a notice or order to appear, if required, and other orders or documents, as necessary, to the defendant's last known address by both regular and certified mail.

(a) Delivery of the certified mail shall be restricted to the addressee only and a return receipt shall be requested.

(b) If the certified mail is refused by the defendant, but the regular mail is not returned within 15 days, service may be deemed complete.

(c) If the mail is returned with notation by the postal authorities that it was unclaimed, service shall be made by another means pursuant to these rules.

(2) In Protection from Abuse and Protection of Victims of Sexual Violence and Intimidation matters, original process may be served by mail pursuant to this rule, if authorized by the court under subdivision (a)(3).

Official Note: Nothing in this rule is intended to preclude a judicial district from utilizing the United States Postal Service's return receipt electronic option, or any similar service that electronically provides a return receipt, when using certified mail, return receipt requested.

(d) *Acceptance of Service.* In lieu of service pursuant to this rule, the defendant or the defendant's authorized agent may accept service of original process [**by filing with the prothonotary a separate document which shall be substantially in the following form:**] as set forth in Pa.R.C.P. No. 402(b).

[(Caption)

ACCEPTANCE OF SERVICE

I accept service of the _____
NAME OF DOCUMENT
 I certify that I am authorized to accept service on behalf of the defendant.

DATE **DEFENDANT OR AUTHORIZED AGENT**

MAILING ADDRESS

Official Note: If defendant accepts service personally, the second sentence should be deleted.

(e) [**Time for**] *Service Within the Commonwealth.* Original process shall be served on a defendant located within the Commonwealth within [**thirty**] 30 days of the filing of the [**petition or complaint**] original process.

(f) *Service Outside of the Commonwealth.* Original process shall be served on a defendant located outside the Commonwealth within [**ninety**] 90 days of the filing of the [**compliant**] original process:

- (1) by any means authorized by this rule; [**or**]
- (2) in the manner provided by the law of the jurisdiction in which defendant will be served; [**or**]
- (3) in the manner provided by treaty; or
- (4) as directed by the foreign authority in response to a letter rogatory or request.

In Protection from Abuse matters, [**the defendant**] a defendant outside of the Commonwealth must be personally served with original process [**outside of the Commonwealth**]. [**Such service**] Service may be made either in accordance with subdivisions (a) and (b) [**of this Rule**] governing personal service or as provided for by the law in the jurisdiction where the defendant resides or is located. If personal service cannot be completed within 48 hours after [**entry of the protection order**] the filing of the original process, service outside of the Commonwealth may be made by [**any**] other means authorized by this rule.

Official Note: Sections 5323 and 5329(2) of the Judicial Code, 42 Pa.C.S. §§ 5323 and 5329(2), provide additional alternative procedures for service outside the Commonwealth. For Protection from Abuse matters, personal service outside of the Commonwealth must [**first**] be attempted first before service can be made by certified and regular mail or by [**any of the**] other means prescribed in subsection (f) [**of this Rule**] for out-of-state service.

(g) *Reinstatement of [Complaint] Original Process.* If service is not made as required by subdivision (e) or (f) [**of this rule**], the prothonotary shall reinstate the original process upon praecipe accompanied by the original process, or praecipe indicating that the original

[**complaint**] process has been lost or destroyed accompanied by a substituted [**complaint, shall reinstate the complaint**] original process.

(1) [**A complaint**] Original process may be reinstated at any time and any number of times. A new party defendant may be named in a reinstated [**complaint**] original process.

(2) [**A reinstated complaint**] Reinstated original process shall be served as required by subdivision (e) or (f) [**of this rule**].

(h) *Proof of Service.* Proof of service shall be made as follows:

(1) The person [**making service of**] serving the original process shall [**make**] complete a return of service [**forthwith**] without delay. If service has not been [**made**] completed within the time allowed in subdivision (e) or (f), a return of no service shall be [**made upon the expiration of the period allowed for service**] completed.

(2) Proof of service shall set forth the date, time, place [**and**], manner of service, the identity of the person served, and any other facts necessary for the court to determine whether proper service has been made.

(3) Proof of service by a person other than the sheriff shall be by affidavit. If a person other than the sheriff [**makes**] completes a return of no service, the affidavit shall set forth with particularity the efforts made to effect service.

(4) Proof of service by mail shall include a return receipt signed by the defendant or, if the defendant has refused to accept mail service, the returned letter with the notation that the defendant refused to accept delivery [**,**] and an affidavit that the regular mail was not returned within [**fifteen**] 15 days after mailing.

(5) Proof of service or of no service shall be filed with the prothonotary.

(6) An executed Acceptance of Service shall be filed in lieu of a Proof of Service [**where defendant**] if the defendant or defendant's agent accepts service of the original process.

(i) *Appearance at Hearing or Conference.* [**Regardless of the method of service, a party who appears**] A party appearing for the hearing or conference will be deemed to have been served.

Rule 1930.5. Discovery in Domestic Relations Matters.

(a) There shall be no discovery in a simple support, custody [**or Protection from Abuse proceeding**], **Protection from Abuse, or Protection of Victims of Sexual Violence and Intimidation proceedings** unless authorized by order of court.

(b) Discovery shall be available without leave of court in accordance with [**R.C.P.**] Pa.R.C.P. No. 4001 et seq. in alimony, equitable distribution, counsel fee and expense, and complex support proceedings.

PUBLICATION REPORT

The Committee is proposing the amendments of Pa.R.C.P. Nos. 1930.2, 1930.4, and 1930.5. Due to the enactment of 42 Pa.C.S. §§ 62A01—62A20, providing for

the protection of victims of sexual violence and intimidation, and the Supreme Court adopting Chapter 1950 of the Pennsylvania Rules of Civil Procedure, ancillary rules dealing with post-trial relief, service of process, and discovery in Domestic Relations matters in the 1930 series of rules required amendment to incorporate the new legislation and rules into the existing rules. In addition, format, grammar, and stylistic changes were made to clarify the rules, provide for easier readability and ensure the rules were unambiguous.

[Pa.B. Doc. No. 15-2169. Filed for public inspection December 11, 2015, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Regis Insurance Company, In Liquidation, PA; Commonwealth Court No. 1 REG 2015; Administrative Judge Administrative Order No. 03 of 2015

Order

And now, this 20th day of November, 2015, upon consideration of the following Order of Liquidation involving Regis Insurance Company issued by the Commonwealth Court of Pennsylvania on October 30, 2015, it is hereby *Ordered* and *Decreed* that all cases in which Regis Insurance Company is a named party shall be placed in deferred status until further notice.

It is further *Ordered* and *Decreed* that all actions currently pending against any insured of Regis Insurance Company shall be placed in deferred status until further notice.

This Administrative Order is issued in accordance with the April 11, 1986 order of the Supreme Court of Pennsylvania, Eastern District, No. 55 Judicial Administration, Docket No. 1; and with the March 26, 1996 order of the Supreme Court of Pennsylvania, Eastern District, No. 164 Judicial Administration, Docket No. 1, as amended. This Order shall be filed with the Office of Judicial Records in a docket maintained for Orders issued by the First Judicial District of Pennsylvania, and one certified copy of this Order shall be filed with the Administrative Office of Pennsylvania Courts. Two certified copies of this Order, and a copy on a computer diskette, shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, shall be published in *The Legal Intelligencer*, and will be posted on the First Judicial District's website at <http://courts.phila.gov>. Copies shall be submitted to American Lawyer Media, the Jenkins Memorial Law Library, and the Law Library for the First Judicial District of Pennsylvania.

By the Court

HONORABLE KEVIN M. DOUGHERTY,
*Administrative Judge, Trial Division
Court of Common Pleas, Philadelphia County*
HONORABLE ARNOLD L. NEW,
*Supervising Judge, Trial Division—Civil Section
Court of Common Pleas, Philadelphia County*

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Regis Insurance Company In Liquidation;
No. 1 REG 2015

Order of Liquidation

And Now, this 30th day of October, 2015, upon consideration of the Petition for Review in the Nature of a Complaint for Order of Liquidation of Regis Insurance Company ("Regis") filed by Teresa D. Miller, Insurance Commissioner of the Commonwealth of Pennsylvania, and upon the unanimous consent of the Board of Directors of Regis and of the Board of Directors of Tiber Holding Corporation, the sole shareholder of Regis, it is hereby *Ordered* that:

1. The Petition for Liquidation is *Granted*, and Regis is ordered to be *Liquidated* pursuant to Article V of The Insurance Department Act of 1921, Act of May 17, 1921, P. L. 789, as amended, 40 P. S. §§ 221.1—221.63 ("Article V").

2. Insurance Commissioner Teresa D. Miller and her successor in office, if any, are hereby *Appointed* Statutory Liquidator of Regis and directed to take possession of Regis's property, business and affairs in accordance with Article V.

3. The Liquidator is hereby *Vested* with all the powers, rights and duties authorized under Article V and other applicable statutes and regulations.

Assets of the Estate

4. The Liquidator is vested with title to all property, assets, contracts and rights of actions (collectively "assets") of Regis of whatever nature and wherever located, as of the date of filing of the Petition for Liquidation. All assets of Regis are hereby found to be in custodia legis of this Court and this Court asserts jurisdiction as follows: (a) in rem jurisdiction over all assets of Regis wherever they may be located and regardless of whether they are held in the name of Regis or in any other name; (b) exclusive jurisdiction over all determinations as to whether assets belong to Regis or to another party; (c) exclusive jurisdiction over all determinations of the validity and amounts of claims against Regis; and (d) exclusive jurisdiction over the determination of the priority of all claims against Regis.

5. The filing or recording of this Order with the Clerk of the Commonwealth Court or with the Recorder of Deeds of the county in which Regis's principal office or place of business is located (Chester County), shall impart the same notice as is imparted by any deed, bill of sale or other evidence of title duly filed or recorded with that Recorder of Deeds.

6. The Liquidator is directed to take possession of all assets that are the property of Regis, and to administer the Regis assets in accordance with the orders of this Court. Specifically, the Liquidator is directed to:

(a) Inform all banks, investment bankers, companies, other entities or other persons having in their possession assets which are, or may be, the property of Regis, unless otherwise instructed by the Liquidator, to deliver the possession of the same immediately to the Liquidator, and not disburse, convey, transfer, pledge, assign, hypothecate, encumber or in any manner dispose of the same without the prior written consent of, or unless directed in writing by, the Liquidator.

(b) Inform all producers and other persons having sold policies of insurance issued by Regis to account for and

pay all unearned commissions and all premiums, collected or uncollected, for the benefit of Regis directly to the Liquidator within 30 days of notice of this Order and that no producer, reinsurance intermediary or other person shall disburse or use any monies which come into their possession and are owed to, or claimed by Regis for any purpose other than payment to the Liquidator.

(c) Inform any premium finance company that has entered into a contract to finance a policy that has been issued by Regis to pay any and all premium owed to Regis to the Liquidator.

(d) Inform all attorneys employed or retained by Regis or performing legal services for Regis as of the date of this Order that, within 30 days of notification, they must report to the Liquidator the name, company claim number (if applicable) and status of each matter they are handling on behalf of Regis; the full caption, docket number and name and address of opposing counsel in each case; an accounting of any funds received from or on behalf of Regis for any purpose in any capacity; and, further, that the Liquidator need not make payment for any unsolicited report.

(e) Inform any entity that has custody or control of any data processing information and records (including but not limited to source documents, all types of electronically stored information, or other recorded information) relating to Regis to transfer custody and control of such documents, in a form readable by the Liquidator, to the Liquidator as of the date of this Order, upon request.

(f) Inform any entity furnishing claims processing or data processing services to Regis to maintain such services and transfer any such accounts to the Liquidator as of the date of this Order, upon request.

7. The Liquidator is directed to continue telephone, data processing, water, electric, sewage, garbage, delivery, trash removal and utility services needed by the estate of Regis by establishing a new account for the Liquidator as of the date of this Order.

8. Regis's directors, officers and employees shall: (a) surrender peaceably to the Liquidator the premises where Regis conducts its business; (b) deliver all keys or access codes thereto and to any safe deposit boxes; (c) advise the Liquidator of the combinations and access codes of any safe or safekeeping devices of Regis or any password or authorization code or access code required for access to data processing equipment; and (d) deliver and surrender peaceably to the Liquidator all the assets, books, records, files, credit cards, and other property of Regis in their possession or control, wherever located, and otherwise advise and cooperate with the Liquidator in identifying and locating any of the foregoing.

9. Regis's directors, officers and employees are enjoined from taking any action, without approval of the Liquidator, to transact further business on behalf of Regis. They are further enjoined from taking any action that would waste the assets of Regis or would interfere with the Liquidator's efforts to wind up the affairs of Regis.

10. Except as otherwise provided in this Order, executory contracts to which Regis is a party as of the date of this Order may be affirmed or disavowed by the Liquidator.

11. The amount recoverable by the Liquidator from any reinsurer shall not be reduced as a result of this Order of Liquidation. Payment made directly by the reinsurer to any principal or other creditor of Regis shall not diminish the reinsurer's obligation to Regis except to the extent provided by law.

Continuation and Cancellation Policies

12. All Regis policies and contracts of insurance, whether issued within this Commonwealth or elsewhere, in effect on the date of this Order will continue in force for the lesser of the following: (1) thirty (30) days from the date of this Order; (2) until the normal expiration of the policy or contract providing insurance coverage; (3) until the insured has replaced the insurance coverage with equivalent insurance with another insurer or otherwise terminated the policy; or (4) until the Liquidator has effected a transfer of the policy obligation pursuant to Section 221.23(8).

Notice and Procedure for Filing Claims

13. All claims against the estate of Regis, together with proper proof thereof, shall be filed on or before June 27, 2016. No person shall participate in any distribution of the assets of Regis unless his, her or its claim has been filed with the Liquidator in accordance with the time limit established by the Liquidator, subject to the provisions for the late filing of claims pursuant to Section 537 of Article V, 40 P. S. § 221.37.

14. No judgment or order against Regis or its insureds entered after the date of filing of the Petition for Liquidation, and no judgment or order against Regis or its insureds entered at any time by default or by collusion, will be considered as evidence of liability or quantum of damages by the Liquidator in evaluating a claim against the estate of Regis.

15. In addition to the notice requirements of Section 524 of Article V, 40 P. S. § 221.24, the Liquidator shall publish notice in newspapers of general circulation, where Regis has its principal places of business that: (a) specifies the last day for the filing of claims; (b) explains the procedure by which claims may be submitted to the Liquidator; (c) provides the address of the Liquidator's office for the submission of claims; and (d) notifies the public of the right to present a claim, or claims, to the Liquidator.

16. Within thirty (30) days of giving notice of the order of liquidation, as set forth in Section 524 of Article V, 40 P. S. § 221.24, and of the procedures for filing claims against the estate of Regis, the Liquidator shall file a compliance report with the Court noting, in reasonable detail, the date that, and manner by which, these notices were given.

Administrative Expenses

17. The Liquidator shall pay as costs and expenses of administration pursuant to Section 544 of Article V, 40 P. S. § 221.44, the actual, reasonable and necessary costs of preserving or recovering the assets of Regis.

18. Distribution of the assets of Regis in payment of the costs and expenses of estate administration including, but not limited to, compensation for services of employees and professional consultants, such as attorneys, actuaries and accountants, shall be made under the direction and approval of the Court. This includes reimbursement to the Pennsylvania Insurance Department for expenses it has incurred in compensating professional consultants, attorneys and other persons it has engaged on behalf of Regis for the preservation of its assets.

Stay of Litigation

19. Unless the Liquidator consents thereto in writing, no action at law or in equity, including, but not limited to, an arbitration or mediation, the filing of any judgment, attachment, garnishment, lien or levy of execution pro-

cess against Regis or its assets, shall be brought against Regis or the Liquidator, or against any of their employees, officers or liquidation officers for acts or omissions in their capacity as employees, officers or liquidation officers of Regis or the Liquidator, whether in this Commonwealth or elsewhere, nor shall any such existing action be maintained or further prosecuted after the effective date of this Order. All above-enumerated actions currently pending against Regis in the courts of the Commonwealth of Pennsylvania or elsewhere are hereby stayed; relief sought in these actions shall be pursued, as is appropriate, either by filing a proof of claim against the estate of Regis pursuant to Section 538 of Article V, 40 P.S. § 221.38, or by applying to intervene.

20. All secured creditors or parties, pledges, lienholders, collateral holders or other person claiming secured, priority or preferred interests in any property or assets of Regis are hereby enjoined from taking any steps whatsoever to transfer, sell, assign, encumber, attach, dispose of, or exercise, purported rights in or against any property or assets of Regis except as provided in Section 543 of Article V, 40 P.S. § 221.43.

RENÉE COHN JUBELIRER,
Judge

[Pa.B. Doc. No. 15-2170. Filed for public inspection December 11, 2015, 9:00 a.m.]

County. Upon request and payment of reasonable cost of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any local rule.

6. Arrange to have the local rule changes published on the Franklin County Bar Association web site at www.franklinbar.org.

7. Arrange to have the local rule changes published on the Franklin County Government web site at www.franklincountypa.gov, and on the Fulton County Government web site at www.fultoncountypa.gov.

By the Court

CAROL L. VAN HORN,
President Judge

Rule 39-1018.1. Notice to Defend. Form.

The agency to be contacted for legal help as provided in Pa.R.C.P. 1018.1 is:

Franklin County Bar Association Find A Lawyer Service
100 Lincoln Way East, Suite E
Chambersburg, PA 17201
Telephone: 717-660-2118

www.franklinbar.org/find

[Pa.B. Doc. No. 15-2171. Filed for public inspection December 11, 2015, 9:00 a.m.]

Title 255—LOCAL COURT RULES

FRANKLIN AND FULTON COUNTIES

Amendment of Local Rules of Civil Procedure; Misc. Doc. 2015-4236

Order Pursuant to Pa.R.C.P. 239

November 13, 2015, *It Is Hereby Ordered* that the following Rules of the Court of Common Pleas of the 39th District of Pennsylvania, Franklin and Fulton County Branches are amended as indicated, to be effective (30) days after publication in the *Pennsylvania Bulletin*.

Local Rule of Civil Procedure 39-1018.1 is amended in the following form.

It Is Further Ordered that the District Court Administrator shall:

1. File a copy of this order and certified copy of the local rule with the Administrative Office of Pennsylvania Courts (AOPC).

2. File with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* two (2) certified paper copies and one (1) computer diskette or CD-ROM copy which complies with 1 Pa. Code Section 13.11(b) containing the text of the local rule.

3. File one (1) certified copy of the local rule with the Civil Procedural Rules Committee.

4. Provide one (1) certified copy of the local rule changes to the Franklin County Law Library and one (1) certified copy to the Fulton County Law Library.

5. Keep such local rule changes, as well as all local civil rules, continuously available for public inspection and copying in the Office of the Prothonotary of Franklin County and the Office of the Prothonotary of Fulton

SNYDER COUNTY

Judicial Administration; CP-55-AD-1 2015

Order

And Now, this 24th day of November, 2015, the 17th Judicial District Local Rule of Judicial Administration 17CV1915.3 through 17CV1915.13-1 is adopted 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 one (1) certified copy 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 to 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

CUSTODY MATTERS

17CV1915.3. Custody Petitions and Procedure.

A. All counts in a divorce complaint and all petitions relating to custody, partial custody, or visitation, of minor children shall be processed in accordance with 17CV1915.3, et seq.

B. As part of the pre-trial procedures, the Court Administrator shall refer all custody-related complaints or petitions, other than a petition for special relief, to mediation at the Susquehanna Valley Mediation Service and the Kids First program.

C. Upon receipt of notice that the parties did not resolve the matter through mediation and that the parties have attended Kids First, the Court shall refer the matter to the Custody Hearing Officer for the scheduling of the initial conference with the parties and their respective counsel.

D. Any pleading which requests the scheduling of a proceeding and also requests entry of a temporary order to maintain de facto custody provisions pending mediation or the initial conference shall set forth with specificity those facts supporting the request for the temporary custody order pending mediation or the initial conference.

17CV1915.4. Custody Hearing Officer.

A. The Custody Hearing Officer shall be appointed by the Court to meet with the parties and their legal counsel in a custody action to conciliate the matter, attempt to resolve issues and reach an agreed Parenting Plan/Custody Order and/or if this cannot be accomplished, to define and narrow the issues to be heard by a Judge.

B. Custody Hearing Officer—Not a Witness

To facilitate the conference process and encourage frank, open and meaningful exchanges between the parties and their respective counsel, statements made by the parties, or their witnesses, made in a conference before the Custody Hearing Officer shall not be admissible as evidence in a Custody Trial before the Court.

The Custody Hearing Officer shall not be a witness for or against any party in a Custody Trial before the Court or in any other proceeding whatsoever absent Court Order.

17CV1915.4-1. Initial Conference.

A. The parties and their respective counsel shall appear at the initial conference before the Custody Hearing Officer.

B. If the parties reach an agreement resolving all of the issues raised, the Custody Hearing Officer shall forward an order to the Court for approval setting forth the terms of such agreement.

C. If the parties do not reach an agreement resolving all issues raised, the Custody Hearing Officer will conduct a non-record proceeding to establish a recommended interim order as to legal and physical custody which will govern pending further proceedings. This non-record proceeding may be a conference with attorneys, conference with parties, and/ or the taking of testimony under oath and receipt of other evidence and arguments of counsel as the hearing officer deems appropriate, based upon the particular issues raised.

D. At the conclusion of the proceeding, the Custody Hearing Officer shall: 1) give the parties oral notice of the essential aspects of the recommended interim order and reasons for the recommendation; 2) make an initial determination as to the use of psychological evaluations or home studies, or the appointment of a Guardian ad Litem in accordance with 17CV1915.5.

17CV1915.4-2. Exceptions and Reconsideration of Interim Order.

A. No exceptions may be filed to an interim order entered in a custody action. Any matter not stipulated to

at the initial conference may be reviewed at the pre-trial conference or resolved at trial.

B. Should a significant change in circumstances arise after entry of an interim order and before the pre-trial conference necessitating a modification of the interim order, which modification cannot be amicably agreed upon pending the pretrial conference, either party may file a motion for reconsideration of the interim order, setting forth all pertinent facts in support thereof or verified by the filing party. The Court Administrator shall refer such motion to the hearing officer. Based on the allegations of the motion, the hearing officer may take any one or more of the following actions deemed appropriate under the circumstances: 1) enter an order summarily denying the motion; or 2) hold a telephone or other conference with counsel for both parties; or 3) after providing the opposing party an opportunity to respond, enter a modified interim order; or 4) direct that the matter be resolved at the pre-trial conference.

17CV1915.4-3. Approval of Recommended Orders.

Any recommended interim order of the Custody Hearing Officer shall be submitted to the court for approval and upon court approval shall have the effect of a pre-trial order.

17CV1915.4-4. Settlement.

A custody case will be removed from the initial conference or pre-trial schedule and/or the custody trial list only upon the filing of the settlement agreement or Court order.

17CV1915.4-5. Pre-trial Conference.

At the time set for the pre-trial conference, both parties shall submit a pre-trial memorandum in the form prescribed by the Court. Both parties and their respective counsel shall appear before the Court for presentation of the issues and discussion of possible settlement and disposition of any matters referred to the Court.

17CV1915.5. Physical/Mental/Psychological Examinations and Home Studies.

A. Upon agreement of the parties at the initial conference, the Custody Hearing Officer may include in the recommended interim order that the Court appoint a Guardian ad Litem pursuant to Pa.R.C.P. 1915.11-2 and/or a directive that the parties obtain physical, mental or psychological examinations and/or home studies, prior to the date of the pre-trial conference or trial and may establish a date by which the parties must make the initial arrangements.

B. Any request by the parties for evaluations made after the initial conference and not made at the pre-trial conference or entered into by stipulation must be made by Petition for Rule to Show Cause alleging specific facts and reasons for the request.

C. Unless otherwise directed by the Court or Custody Hearing Officer or agreed upon by the parties, the expense of any evaluation shall be borne initially by the party requesting the evaluation and shall be paid in accordance with Pa.R.C.P. No. 1915.8. A final allocation of the expense may be made by the Court upon entry of an order or decision rendered on any issues raised in the proceeding.

D. Any evaluation filed with the Court shall not be available for public inspection and shall be sealed by the prothonotary.

17CV1915.13-1. Petition for Special Relief. Ex Parte Hearing and Temporary Order.

A. Where a party believes there is an immediate clear and present danger to the child(ren), that party may file a petition for special relief. The petition for special relief must be presented as a separate document headed "Petition for Special Relief." The petition shall conform to the requirements of Pa.R.C.P. No. 1915.15, as may be applicable, and must allege facts which clearly specify the clear and present danger to the welfare of the child(ren).

B. Upon filing the petition for special relief to the court for consideration of the allegations, the court shall either:

1. refer the petition to the Custody Hearing Officer for an immediate ex parte hearing, which shall be held within two (2) business days of the presentation of the petition to the court; or,

2. direct that an initial conference be scheduled before the Custody Hearing Officer pursuant to Rule 17CV1915.4-1; or,

3. if it is ascertained that an initial conference has already been held and an interim order already issued under Rule 17CV1915.4-3:

- a. direct that the Custody Hearing Officer consider the petition for special relief as a reconsideration request under Rule 17CV1915.4-2; or
- b. direct that the issues raised be disposed of at the pre-trial conference or trial.

C. If an ex parte hearing is ordered, the party seeking special relief must appear before the Custody Hearing Officer at the time scheduled for the ex parte hearing to present testimony. The Custody Hearing Officer shall determine if probable cause exists to believe there is an immediate clear and present danger to the welfare of the child(ren) involved.

D. Upon making a determination that ex parte relief is warranted, the Custody Hearing Officer shall forward to the court for approval a recommended temporary emergency order, which will include a provision scheduling a hearing before the Court, to be held within ten (10) business days of the ex parte hearing. Prior to the hearing before the Court, the petition for emergency custody relief and the temporary emergency order containing notice of the 10-day hearing shall be served on the opposing party by the petitioning party in the same manner as original process. In addition to service on the opposing party, the petitioner shall make reasonable efforts to provide a copy of the documents to any attorney whom the petitioning party reasonably believes may represent the interests of the other party. Upon making a determination that ex parte relief is not warranted, the custody hearing officer shall forward to the Court for approval a recommended order denying the petition for special relief. Such order may schedule the matter for disposition at: an initial conference under Rule 17CV1915.4-1; as a reconsideration request under Rule 17CV1915.4-2; or, if already scheduled for a pre-trial conference or trial on other issues, direct that the emergency issues be determined with all other issues at the pre-trial conference or trial.

[Pa.B. Doc. No. 15-2172. Filed for public inspection December 11, 2015, 9:00 a.m.]

**UNION COUNTY
Judicial Administration; 15 688**

Order

And Now, this 23rd day of November, 2015, the 17th Judicial District Local Rule of Judicial Administration 17CV1915.3 through 17CV1915.13-1 is adopted 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 one (1) certified copy 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 to 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

CUSTODY MATTERS

17CV1915.3. Custody Petitions and Procedure.

A. All counts in a divorce complaint and all petitions relating to custody, partial custody, or visitation, of minor children shall be processed in accordance with 17CV1915.3, et seq.

B. As part of the pre-trial procedures, the Court Administrator shall refer all custody-related complaints or petitions, other than a petition for special relief, to mediation at the Susquehanna Valley Mediation Service and the Kids First program.

C. Upon receipt of notice that the parties did not resolve the matter through mediation and that the parties have attended Kids First, the Court shall refer the matter to the Custody Hearing Officer for the scheduling of the initial conference with the parties and their respective counsel.

D. Any pleading which requests the scheduling of a proceeding and also requests entry of a temporary order to maintain de facto custody provisions pending mediation or the initial conference shall set forth with specificity those facts supporting the request for the temporary custody order pending mediation or the initial conference.

17CV1915.4. Custody Hearing Officer.

A. The Custody Hearing Officer shall be appointed by the Court to meet with the parties and their legal counsel in a custody action to conciliate the matter, attempt to resolve issues and reach an agreed Parenting Plan/Custody Order and/or if this cannot be accomplished, to define and narrow the issues to be heard by a Judge.

B. Custody Hearing Officer—Not a Witness

To facilitate the conference process and encourage frank, open and meaningful exchanges between the par-

ties and their respective counsel, statements made by the parties, or their witnesses, made in a conference before the Custody Hearing Officer shall not be admissible as evidence in a Custody Trial before the Court.

The Custody Hearing Officer shall not be a witness for or against any party in a Custody Trial before the Court or in any other proceeding whatsoever absent Court Order.

17CV1915.4-1. Initial Conference.

A. The parties and their respective counsel shall appear at the initial conference before the Custody Hearing Officer.

B. If the parties reach an agreement resolving all of the issues raised, the Custody Hearing Officer shall forward an order to the Court for approval setting forth the terms of such agreement.

C. If the parties do not reach an agreement resolving all issues raised, the Custody Hearing Officer will conduct a non-record proceeding to establish a recommended interim order as to legal and physical custody which will govern pending further proceedings. This non-record proceeding may be a conference with attorneys, conference with parties, and/or the taking of testimony under oath and receipt of other evidence and arguments of counsel as the hearing officer deems appropriate, based upon the particular issues raised.

D. At the conclusion of the proceeding, the Custody Hearing Officer shall: 1) give the parties oral notice of the essential aspects of the recommended interim order and reasons for the recommendation; 2) make an initial determination as to the use of psychological evaluations or home studies, or the appointment of a Guardian ad Litem in accordance with 17CV1915.5.

17CV1915.4-2. Exceptions and Reconsideration of Interim Order.

A. No exceptions may be filed to an interim order entered in a custody action. Any matter not stipulated to at the initial conference may be reviewed at the pre-trial conference or resolved at trial.

B. Should a significant change in circumstances arise after entry of an interim order and before the pre-trial conference necessitating a modification of the interim order, which modification cannot be amicably agreed upon pending the pretrial conference, either party may file a motion for reconsideration of the interim order, setting forth all pertinent facts in support thereof or verified by the filing party. The Court Administrator shall refer such motion to the hearing officer. Based on the allegations of the motion, the hearing officer may take any one or more of the following actions deemed appropriate under the circumstances: 1) enter an order summarily denying the motion; or 2) hold a telephone or other conference with counsel for both parties; or 3) after providing the opposing party an opportunity to respond, enter a modified interim order; or 4) direct that the matter be resolved at the pre-trial conference.

17CV1915.4-3. Approval of Recommended Orders.

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A custody case will be removed from the initial conference or pre-trial schedule and/or the custody trial list only upon the filing of the settlement agreement or Court order.

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At the time set for the pre-trial conference, both parties shall submit a pre-trial memorandum in the form prescribed by the Court. Both parties and their respective counsel shall appear before the Court for presentation of the issues and discussion of possible settlement and disposition of any matters referred to the Court.

17CV1915.5. Physical/Mental/Psychological Examinations and Home Studies.

A. Upon agreement of the parties at the initial conference, the Custody Hearing Officer may include in the recommended interim order that the Court appoint a Guardian ad Litem pursuant to Pa.R.C.P. 1915.11-2 and/or a directive that the parties obtain physical, mental or psychological examinations and/ or home studies, prior to the date of the pre-trial conference or trial and may establish a date by which the parties must make the initial arrangements.

B. Any request by the parties for evaluations made after the initial conference and not made at the pre-trial conference or entered into by stipulation must be made by Petition for Rule to Show Cause alleging specific facts and reasons for the request.

C. Unless otherwise directed by the Court or Custody Hearing Officer or agreed upon by the parties, the expense of any evaluation shall be borne initially by the party requesting the evaluation and shall be paid in accordance with Pa.R.C.P. No. 1915.8. A final allocation of the expense may be made by the Court upon entry of an order or decision rendered on any issues raised in the proceeding.

D. Any evaluation filed with the Court shall not be available for public inspection and shall be sealed by the prothonotary.

17CV1915.13-1. Petition for Special Relief. Ex Parte Hearing and Temporary Order.

A. Where a party believes there is an immediate clear and present danger to the child(ren), that party may file a petition for special relief. The petition for special relief must be presented as a separate document headed "Petition for Special Relief." The petition shall conform to the requirements of Pa.R.C.P. No. 1915.15, as may be applicable, and must allege facts which clearly specify the clear and present danger to the welfare of the child(ren).

B. Upon filing the petition for special relief to the court for consideration of the allegations, the court shall either:

1. refer the petition to the Custody Hearing Officer for an immediate ex parte hearing, which shall be held within two (2) business days of the presentation of the petition to the court; or,

2. direct that an initial conference be scheduled before the Custody Hearing Officer pursuant to Rule 17CV1915.4-1; or,

3. if it is ascertained that an initial conference has already been held and an interim order already issued under Rule 17CV1915.4-3:

- a. direct that the Custody Hearing Officer consider the petition for special relief as a reconsideration request under Rule 17CV1915.4-2; or
- b. direct that the issues raised be disposed of at the pre-trial conference or trial.

C. If an ex parte hearing is ordered, the party seeking special relief must appear before the Custody Hearing Officer at the time scheduled for the ex parte hearing to

present testimony. The Custody Hearing Officer shall determine if probable cause exists to believe there is an immediate clear and present danger to the welfare of the child(ren) involved.

D. Upon making a determination that ex parte relief is warranted, the Custody Hearing Officer shall forward to the court for approval a recommended temporary emergency order, which will include a provision scheduling a hearing before the Court, to be held within ten (10) business days of the ex parte hearing. Prior to the hearing before the Court, the petition for emergency custody relief and the temporary emergency order containing notice of the 10-day hearing shall be served on the opposing party by the petitioning party in the same manner as original process. In addition to service on the opposing party, the petitioner shall make reasonable

efforts to provide a copy of the documents to any attorney whom the petitioning party reasonably believes may represent the interests of the other party. Upon making a determination that ex parte relief is not warranted, the custody hearing officer shall forward to the Court for approval a recommended order denying the petition for special relief. Such order may schedule the matter for disposition at: an initial conference under Rule 17CV1915.4-1; as a reconsideration request under Rule 17CV1915.4-2; or, if already scheduled for a pre-trial conference or trial on other issues, direct that the emergency issues be determined with all other issues at the pre-trial conference or trial.

[Pa.B. Doc. No. 15-2173. Filed for public inspection December 11, 2015, 9:00 a.m.]