

# THE COURTS

## Title 207—JUDICIAL CONDUCT

### PART IV. COURT OF JUDICIAL DISCIPLINE

[ 207 PA. CODE CHS. 3, 4 AND 5 ]

#### Amendment to the Rules of Procedure of the Court of Judicial Discipline; Doc. No. 1 JD 94

##### Order

And Now, this 12th day of April, 2016, the Court, pursuant to Article 5, Section 18(b)(4) of the Constitution of Pennsylvania, having adopted the amendments to Rules of Procedures Nos. 303, 422, and 501, as more specifically hereinafter set forth, *It Is Hereby Ordered*:

That said Rules shall become effective immediately.  
*Per Curiam*

ROBERT J. COLVILLE,  
*President Judge*

##### Annex A

#### TITLE 207. JUDICIAL CONDUCT

### PART IV. COURT OF JUDICIAL DISCIPLINE

#### ARTICLE II. PROCEEDINGS BASED ON THE FILING OF FORMAL CHARGES

#### CHAPTER 3. INITIATION OF FORMAL CHARGES

Rule 303. [ **Board Complaints; Amendment and Consolidation. ] Amendments to Pleadings; Consolidation; Withdrawal.**

(A) *Amendments.* [ **Upon motion of the Board, the Conference Judge may, in his or her discretion, permit substantive amendments to a Board Complaint with the written consent of the Judicial Officer or after a hearing on the motion in open court. ] Upon motion, the Court or the Conference Judge may permit amendments to a Board Complaint with the written consent of the Judicial Officer or after hearing in open court where the Judicial Officer fails to demonstrate undue prejudice. Any party may file any other amended pleading by consent of the other party or by leave of court. The proposed amended pleadings shall be attached to any motion to amend.**

(B) *Consolidation.*

(1) The Conference Judge may, for purposes of trial, upon his or her own motion, after notice to the Board and the Judicial Officer, or upon motion of the Board or the Judicial Officer, consolidate some or all of the charges against an individual Judicial Officer contained in separate Board Complaints filed pursuant to Rule 301(A).

(2) The Conference Judge may, on his or her own motion, and after notice to the Board and the Judicial Officer, consolidate two or more Board Complaints against an individual Judicial Officer for purposes of imposing sanctions pursuant to Rule 504.

(3) In matters pending before the Court which involve a common question of law or fact or which arise from the same transaction or occurrence, a Conference Judge may, for any purpose, upon his or her own motion, after notice

to the Board and the Judicial Officers, or upon motion of the Board or a Judicial Officer, order the matters consolidated, and may make orders which avoid unnecessary costs or delay.

(C) *Withdrawal.* **Upon motion, a Board Complaint may be withdrawn by the Board with the written consent of the Judicial Officer or after a hearing in open court where the Judicial Officer fails to demonstrate undue prejudice. Such undue prejudice may occur at the time of withdrawal or at the time of possible future refileing.**

*Official Note:* This rule is derived from former interim Rule 18.

### CHAPTER 4. PRE-TRIAL PROCEEDINGS

#### DEFERRAL OF DISPOSITION

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

#### Rule 422. Deferral of Disposition.

(a) The Court may defer the litigation of a case where a direct criminal appeal is pending and the judicial officer still holds his or her judicial office, or for other good cause.

(b) In cases where the judicial officer has resigned, retired, or no longer holds office, including cases where the judicial office has been forfeited as a result of a criminal conviction of a felony, deferral is unlikely to be granted absent other substantial factors sufficient to overcome the presumption that a prompt disposition of the case is in the best interests of the judicial system.

*Official Note:* The Court regularly receives requests to defer the disposition of judicial discipline cases where the respondent judge is either awaiting trial on criminal charges, a criminal indictment is impending, or the judge has been convicted of criminal conduct but an appeal is pending. In such cases, the Court recognizes that the respondent judge's right to avoid incrimination under the Fifth Amendment to the United States Constitution, and applicable provisions in the Constitution of Pennsylvania, have a chilling effect on the ability of the judge to offer testimony at a trial on judicial disciplinary issues. At the same time, the Court must seek to protect public confidence in the judiciary and the integrity of the judicial system through a prompt disposition of cases pending before it. This Rule is intended to balance those competing interests by protecting a respondent judge's Constitutional rights and their property interest in holding elective office with the countervailing interest of ensuring public confidence in the judicial system.

### CHAPTER 5. TRIAL PROCEDURES

#### Rule 501. Appointment of Panel.

(A) The President Judge may appoint a Panel which shall be authorized to act on behalf of the Court. The Panel shall conduct the trial on the Board Complaint.

(B) The Panel shall consist of no fewer than three members of the Court, one of whom shall be the Conference Judge, [ **adopted** ] **appointed** pursuant to Rule 301(B) [ , and, whenever possible, one of whom shall be a non-lawyer elector ]. **The Conference Judge shall preside at the trial.**

**Official Note:** This rule is derived from former interim Rule 24.

[Pa.B. Doc. No. 16-689. Filed for public inspection April 22, 2016, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### ARMSTRONG COUNTY

#### Adoption of New Local Rules of Court—2002; No. CP-03-AD-0000189-2002

##### Order of Court

*And Now*, this 4th day of April, 2016, it is hereby *Ordered* as follows:

1. Local Rule of Criminal Procedure Numbered 117 is hereby amended to read as follows:

**Rule 117. Magisterial District Judges. Coverage. Admission to Bail by Jail Warden or Designee.**

(a) All Magisterial District Judge Offices shall be open for regular business from 8:00 A.M. to 4:30 P.M., prevailing time, Monday through Friday, except for County holidays.

(b) Magisterial District Judges shall be available twenty-four hours per day every day to provide continuous coverage for the services recited in Pa.R.Cr.P. 117(A) and for services required in any Protection from Abuse Act case. A Magisterial District Judge shall be deemed to have satisfied this directive by remaining on-call during non-regular business hours on a rotating basis pursuant to a schedule prepared by the Court. The schedule, and any amendments or alterations thereof, shall be distributed and publicized in accord with past practice.

(b.1) Notwithstanding any provision of subsection (b), above, to the contrary, the on-call magisterial district judge may preliminarily arraign, using advanced communication technology, any arrestee who has been transported to and lodged in the Armstrong County Jail (as permitted by 61 P.S. § 798) in any ten-hour cycle commencing at 9:00 p.m. and ending at 7:00 a.m. prevailing time. Such on-call magisterial district judge shall make inquiry of jail personnel prior to 7:00 a.m. to determine if any preliminary arraignment need be conducted, and if so, shall forthwith conduct the same.

(c) On forms prescribed by the Court, a Magisterial District Judge may request additions or amendments to the schedule prepared by the Court in order to provide for vacations, emergencies, and the like.

(d) In addition to those persons who are authorized by statute or the Pennsylvania Rules of Criminal Procedure to admit an arrestee to bail, the Warden of the Armstrong County Jail, or the designee of the Warden, shall have the authority to do the same in accordance with and subject to the limitations of the Pennsylvania Rules of Criminal Procedure.

2. The Court Administrator shall take all steps required by Pa.R.Crim.P. 105 for the publication, distribution and dissemination of the amendments and supplements provided for herein.

3. This Order shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin* and on the Unified Judicial System's web site.

*By the Court*

KENNETH G. VALASEK,  
*President Judge*

[Pa.B. Doc. No. 16-690. Filed for public inspection April 22, 2016, 9:00 a.m.]

### ARMSTRONG COUNTY

#### Adoption of New Local Rules of Court—2002; No. CP-03-AD-0000189-2002

##### Order of Court

*And Now*, this 31st day of March, 2016, it is hereby *Ordered* as follows:

1. Local Rule of Civil Procedure numbered 2039 is hereby amended to read as follows:

**Rule 2039. Compromise, Settlement, Discontinuance. Distribution. Petition. Contents.**

(a) Every petition for approval by the Court of a proposed compromise, settlement or discontinuance of an action for injury to the person of a minor shall contain a description of the injury, a brief account of the circumstances under which it was sustained, a statement of the nature of the evidence relied on to establish liability, any limits on the defendant's financial responsibility, a list of the expenses incurred, the fees of counsel, and arrangements for payment of unpaid bills. The petition shall be accompanied by a written report of the attending physician stating the extent of the injury, the treatment given and the prognosis for the injured party.

(b) The Court will not entertain a petition under Pa.R.C.P. 2039 unless the minor's guardian has commenced an action in this Court by filing either a praecipe for writ of summons or a complaint, with subsequent service of the writ or the complaint.

(c) In each and every case, the Court will conduct a hearing on the petition. The petitioner shall file a proposed scheduling order for the hearing at the time the petition is filed. The subject child or children shall be present for the hearing.

(d) A certified copy of the petition and a certified copy of the scheduling order shall be served by the petitioner upon any non-petitioning parent at least ten days in advance of the hearing unless the written consent, joinder or statement of no objection of the non-petitioning parent to the proposed compromise, settlement, discontinuance and distribution is attached to the petition.

##### Comment

The jurisdictional power of the Court to try the action is a prerequisite to the Court's authority to approve its compromise, settlement or discontinuance; hence the requirement for service of original process. See *Roche v. Scavicchio*, 70 Pa.D&C 75 (Phila. 1950).

3. The Court Administrator shall take all steps required by Pa.R.C.P. No. 239 for the publication, distribution and dissemination of the amendments and supplements provided for herein.

4. This Order shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

*By the Court*

KENNETH G. VALASEK,  
*President Judge*

[Pa.B. Doc. No. 16-691. Filed for public inspection April 22, 2016, 9:00 a.m.]

---

### ARMSTRONG COUNTY

#### Adoption of New Local Rules of Court—2002; No. CP-03-AD-0000189-2002

##### Order of Court

*And Now*, this 31st day of March, 2016, it is hereby *Ordered* that Local Orphans' Court Rule 12.16 be *Rescinded*.

1. The Court Administrator shall take all steps required by Pa.R.C.P. No. 239 for the publication, distribution and dissemination of the amendments and supplements provided for herein.

2. This Order shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

*By the Court*

KENNETH G. VALASEK,  
*President Judge*

[Pa.B. Doc. No. 16-692. Filed for public inspection April 22, 2016, 9:00 a.m.]

---

### DAUPHIN COUNTY

#### Promulgation of Local Rules; No. 1793 S 1989

##### Order

*And Now*, this 8th day of April 2016, Dauphin County Local Rule of Civil Procedure 1920.51A is amended and Rule 1920.55-2 is promulgated as follows:

1920.51A. Filing Fee [; **Compensation of Master and Stenographer** ].

[ (3) **The Court shall pay an appearance fee by a**

**stenographer if one is hired to record the masters' proceedings. The cost of transcripts shall be borne by the parties. ]**

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

#### **1920.55-2. Transcripts—Hearings Before Divorce Master.**

(a) If a settlement agreement is placed on the record and transcribed by a Court Reporter, the cost of transcription shall be paid by the Court. The Court Reporter will file the original transcript with the Prothonotary and provide a copy to each party.

(b) At the close of testimony, the Divorce Master will ask if the parties want a transcript and the Court Reporter will provide an estimate of the cost of the transcript. The Divorce Master will apportion the cost of the transcript in the order issued after hearing. It is the responsibility of the party(ies) to contact the Court Reporter and make payment arrangements.

(c)(1) If the Divorce Master needs the Master's hearing record transcribed to aid in drafting a Report and Recommendation, the Master shall apportion the transcript costs between the parties and set a deadline for the fee to be paid. The Court Reporter will file the original and provide a copy to the Master. Copies will not be provided to the parties unless requested and the party pays the cost to the Court Reporter.

(2) The Divorce Master may ask the Court Reporter to provide a rough draft in electronic format to the Master for use in preparation of the Report and Recommendation at a reduced cost. If the parties subsequently request a formal transcript, they will receive a credit toward the cost.

(d) If Exceptions to the Report and Recommendation of the Divorce Master are filed, an official transcript must be filed. The Divorce Master shall make a recommendation as to the allocation of costs of the transcript.

These amendments shall be effective thirty days after publication in the *Pennsylvania Bulletin*.

*By the Court*

RICHARD A. LEWIS,  
*President Judge*

[Pa.B. Doc. No. 16-693. Filed for public inspection April 22, 2016, 9:00 a.m.]