

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 81]

Proposed Amendments to the Rules of Professional Conduct Regarding Safekeeping Property

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania is considering recommending to the Pennsylvania Supreme Court that it adopt amendments to Comment (8) to Pennsylvania Rule of Professional Conduct 1.15 relating to safekeeping property, as set forth in Annex A.

As stated in the Scope of the Rules of Professional Conduct, the Comment accompanying each Rule explains and illustrates the meaning and purpose of the Rule. Comments do not add obligations to the Rules, but provide guidance for practicing in compliance with the Rules. Comment [8] to Rule 1.15 provides guidance in situations where third parties may have lawful claims against specific funds or other property in a lawyer's custody.

The proposed change will provide clarification of the lawyer's duty to protect certain third party claims by specifically stating that in such cases, when a letter of protection has been issued by an attorney or a lien on the funds exists under applicable law, the lawyer must refuse to surrender the property to the client unless the claims are resolved. The proposed amendment removes the phrase "the third party claim is not frivolous" which is subject to interpretation and may cause the lawyer difficulty in determining the scope of his or her responsibilities.

Interested persons are invited to submit written comments by mail or facsimile regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, 601 Commonwealth Avenue, Suite 5600, PO Box 62625, Harrisburg, PA 17106-2625, Facsimile number (717-231-3382), Email address Dboard.comments@pacourts.us on or before June 24, 2016.

By the Disciplinary Board of the Supreme Court of Pennsylvania

ELAINE M. BIXLER,
Secretary

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart A. PROFESSIONAL RESPONSIBILITY

CHAPTER 81. RULES OF PROFESSIONAL CONDUCT

Subchapter A. RULES OF PROFESSIONAL CONDUCT

§ 81.4. Rules of Professional Conduct.

The following are the Rules of Professional Conduct:

CLIENT-LAWYER RELATIONSHIP

Rule 1.15. Safekeeping Property.

* * * * *

Comment:

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(8) Third parties may have lawful claims against specific funds or other property in a lawyer's custody such as a client's creditor who has a lien on funds recovered in a personal injury action. A lawyer may have a duty under applicable law to protect such third-party claims against wrongful interference by the client. In such cases, when [the third party claim is not frivolous] a letter of protection has been issued by an attorney or a lien on the funds exists under applicable law, the lawyer must refuse to surrender the property to the client unless the claims are resolved. A lawyer should not unilaterally assume to arbitrate a dispute between the client and the third party. When there are substantial grounds for dispute as to the person entitled to the funds, the lawyer may file an action to have a court resolve the dispute.

* * * * *

[Pa.B. Doc. No. 16-811. Filed for public inspection May 13, 2016, 9:00 a.m.]

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

Proposed Amendments to the Pennsylvania Rules of Disciplinary Enforcement Regarding Access to Disciplinary Information and Confidentiality

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania is considering recommending to the Pennsylvania Supreme Court that it adopt the amendments to Pennsylvania Rule of Disciplinary Enforcement 402 to facilitate cooperation with other disciplinary agencies, as set forth in Annex A.

Enforcement Rule 402 establishes access to disciplinary information and confidentiality. Proposed changes will allow requests for nonpublic information by disciplinary enforcement agencies in other jurisdictions investigating misconduct by a respondent-attorney to be processed more quickly than the current rule allows. In the twenty-first century practice of law, it is an increasing occurrence that lawyers are admitted in more than one jurisdiction or rely on Rule of Professional Conduct 5.5(c) for the multijurisdictional practice of law. Permitting the free flow of information allows disciplinary enforcement agencies to make informed decisions and better use of often limited resources when regulating attorney conduct. The proposed changes will ensure the prompt and efficient flow of information between Pennsylvania's Office of Disciplinary Counsel and out-of-state disciplinary enforcement agencies. In so doing, cooperation between disciplinary agencies is increased and the public interest is served.

The Board has evaluated the approaches of other jurisdictions and our inquiry has revealed that at least six other jurisdictions permit the disclosure of otherwise confidential information to out-of-state attorney disciplinary agencies.¹

Current subdivision (c) provides that until proceedings are open under subdivisions (a) or (b), all proceedings involving allegations of misconduct by or disability of an attorney shall be confidential, with some enumerated exceptions. One of these exceptions is found under subsection (c)(2), which states that proceedings are confidential unless the investigation is predicated upon a conviction of the respondent-attorney for a crime or reciprocal discipline. The proposed change to subsection (c)(2) adds the language “or disability under Enforcement Rule 216.” This comports with the language of Rule 216 pertaining to reciprocal discipline and disability.

Current subsection (c)(4) exempts from confidentiality the Supreme Court order transferring a respondent-attorney to disability inactive status pursuant to Rule 301. New subparagraph (c)(4)(i) emphasizes that only the Supreme Court order transferring the attorney to disability inactive status shall be a matter of public record, while new subparagraph (c)(4)(ii) provides that any other document involved in such disability matter is not to be publicly disclosed and is subject to the provisions of Enforcement Rules 301(e)(4) and 402(g). This language is added specifically to underscore the heightened privacy interests that attend a respondent-attorney’s health information and which are protected by the specific prohibition in Rule 301 against the release of those documents, except for very limited circumstances.

Current subdivisions (g) and (h) require out-of-state disciplinary enforcement agencies to adhere to waiver and notice requirements in order to obtain information. Proposed changes to subdivisions (g) and (h) will remove that burden from such agencies so as to give expedited access to requested information.

Interested persons are invited to submit written comments by mail or facsimile regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, 601 Commonwealth Avenue, Suite 5600, PO Box 62625, Harrisburg, PA 17106-2625, Facsimile number (717-231-3382), Email address Dboard.comments@pacourts.us on or before June 24, 2016.

By the Disciplinary Board of the Supreme Court of Pennsylvania

ELAINE M. BIXLER,
Secretary

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter D. MISCELLANEOUS PROVISIONS

¹ <http://courts.mi.gov/Courts/MichiganSupremeCourt/rules/Documents/subchapters/Subchapter%209.100%20Attorney%20Grievance%20Commission;%20Attorney%20Discipline%20Board.pdf>;
<http://lprb.mncourts.gov/rules/PublishingImages/2014%20Rules%20on%20Lawyers%20Professional%20Responsibility.pdf>;
<http://www.mass.gov/obcbbbo/Rule401.pdf>;
<http://www.gabar.org/barrules/handbookdetail.cfm?what=rule&id=156>;
<http://txboda.org/sites/default/files/TRDPEffective1-15-2014.pdf>;
<http://www.ncbar.gov/rules/regulations.asp?page=72>

Rule 402. Access to Disciplinary Information and Confidentiality.

* * * * *

(c) Until the proceedings are open under subdivision (a) or (b), all proceedings involving allegations of misconduct by or disability of an attorney shall be kept confidential unless:

(1) the respondent-attorney requests that the matter be public, or waives confidentiality for a particular purpose specified in writing;

(2) the investigation is predicated upon a conviction of the respondent-attorney for a crime, or reciprocal discipline **or disability under Enforcement Rule 216**;

(3) the proceeding is based on an order of temporary suspension from the practice of law entered by the Court pursuant to Enforcement Rule 208(f)(1) (relating to emergency temporary suspension orders and related relief);

(4) in matters involving alleged disability, the Supreme Court enters its order transferring the respondent-attorney to inactive status pursuant to Enforcement Rule 301 (relating to proceedings where an attorney is declared to be incompetent or is alleged to be incapacitated) [; **or]**, but

i. in such cases the order transferring the attorney to disability inactive status shall be a matter of public record, and

ii. any other document is subject to the provisions of Enforcement Rules 301(e)(4) and 402(g); or

(5) there is a need to notify another person or organization, including the Lawyers’ Fund for Client Security, in order to protect the public, the administration of justice, or the legal profession.

* * * * *

(g) Except as provided in [**subsection**] subdivision (h), if nonpublic information is requested pursuant to subdivision (d)(1)(i), (iii), **or** (iv) [**or** (v)] and the respondent-attorney has not signed an applicable waiver of confidentiality, the respondent-attorney shall be notified in writing at the last known address of the respondent-attorney of what information has been requested and by whom, together with a copy of the information proposed to be released to the requesting agency or board. The notice shall advise the respondent-attorney that the information will be released 20 days after mailing of the notice unless the lawyer objects to the disclosure. If the lawyer timely objects to the disclosure, the information shall remain confidential unless the requesting agency or board obtains an order of the Supreme Court requiring its release or the respondent-attorney withdraws the objection.

(h) If an agency or board requesting the release of information under subdivision (d)(1) other than the Judicial Conduct Board [**and the**], Pennsylvania Lawyers Fund for Client Security Board **and lawyer disciplinary enforcement agencies in other jurisdictions** has not obtained an applicable waiver of confidentiality from the respondent-attorney, and the agency or board requests that the information be released without giving notice to the respondent-attorney, the requesting agency or board shall certify that:

* * * * *

Title 225—RULES OF EVIDENCE

[225 PA. CODE ART. VI]

Order Approving the Revision of the Comment to Rule of Evidence 605; No. 696 Supreme Court Rules Doc.

Order

Per Curiam

And Now, this 29th day of April, 2016, upon the recommendation of the Committee on Rules of Evidence; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3) in the interests of efficient administration, and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the Comment to Pennsylvania Rule of Evidence 605 is revised in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective immediately.

Annex A

TITLE 225. RULES OF EVIDENCE ARTICLE VI. WITNESSES

Rule 605. Judge's Competency as a Witness.

The presiding judge may not testify as a witness at the trial or other proceeding.

Comment

This rule differs from the first sentence of F.R.E. 605 with the inclusion of "or other proceeding." Pa.R.E. 605 makes a judge absolutely incompetent to be a witness on any matter in any proceeding at which the judge presides. *Cf. Municipal Publications, Inc. v. Court of Common Pleas*, [507 Pa. 194,] 489 A.2d 1286 (Pa. 1985) (applying former Canon 3C of the Pennsylvania Code of Judicial Conduct, and holding that at a hearing on a motion to recuse a judge, the judge himself could not testify on the issues raised in the motion and continue to preside at the hearing); *see also Rule 2.11 of the Code of Judicial Conduct and the Rules Governing Standards of Conduct of Magisterial District Judges*.

The second sentence of F.R.E. 605 which provides, "A party need not object to preserve the issue," is not adopted. This is consistent with Pa.R.E. 103(a), which provides that error may not be predicated on a ruling admitting evidence in the absence of a timely objection, motion to strike, or motion in limine. Of course, the court should permit the making of the objection out of the presence of the jury. *See* Pa.R.E. 103(d).

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013; amended April 29, 2016, effective immediately.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Final Report explaining the April 29, 2016 amendment published with the Court's Order at 46 Pa.B. 2409 (May 14, 2016).

FINAL REPORT¹

Revision of the Comment to Rule of Evidence 605

On January 8, 2014, the Court rescinded the then-existing provisions of the Code of Judicial Conduct effective July 1, 2014, and adopted new Canons 1 through 4 of the Code of Judicial Conduct of 2014, also effective July 1, 2014. *See* 44 Pa.B. 455 (January 25, 2014). At the direction of the Court, the Committee on Rules of Evidence identified and updated references to the Code of Judicial Conduct and Rules Governing Standards of Conduct of Magisterial District Judges in the Comment to Rule 605.

[Pa.B. Doc. No. 16-813. Filed for public inspection May 13, 2016, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 200 AND 1000]

Order Amending Rules 223 and 1006 and Approving Revision of the Note to Rule 225 of the Rules of Civil Procedure; No. 639 Civil Procedural Rules Doc.

Order

Per Curiam

And Now, this 29th day of April, 2016, upon the recommendation of the Civil Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(b):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 223 and 1006 of the Pennsylvania Rules of Civil Procedure are amended, and the revision of the Note to Rule 225 of the Pennsylvania Rules of Civil Procedure is approved, as set forth in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective immediately.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 223. Conduct of the Trial. Generally.

Subject to the requirements of due process of law and of the constitutional rights of the parties, the court may make and enforce rules and orders covering any of the following matters, *inter alia*:

(1) Limiting the number of witnesses whose testimony is similar or cumulative;

(2) Limiting the number of attorneys representing the same party or the same group of parties, who may actively participate in the trial of the case or may examine or cross-examine a witness or witnesses;

(3) Regulating the number and length of addresses to the jury or to the court;

¹ The Committee's Final Report should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

(4) Regulating or excluding the public or persons not interested in the proceedings whenever the court deems such regulation or exclusion to be in the interest of the public good, order or morals.

Official Note: Trial courts in Pennsylvania customarily exercise discretion as to the exclusion of persons from the courtroom in the interest of good order and morals.

The exclusion of the taking of photographs or radio or television broadcasting is governed by [**Canon 3A(7) of the Code of Judicial Conduct**] Pa.R.J.A. No. 1910.

Rule 225. Summing [**up**] **Up**.

Attorneys for each party or group of parties may make an opening address to the jury and may also make an address to the jury after the close of the testimony.

Official Note: Rule 225 merely confers the right to make addresses to the jury as stated therein. The trial court by local rule or otherwise may regulate the number, length, and order of addresses. See Rule [**223(a)(3)**] **223(3)**.

CHAPTER 1000. ACTIONS

Subchapter A. CIVIL ACTION

VENUE AND PROCESS

Rule 1006. Venue. Change of Venue.

(a) Except as otherwise provided by subdivisions (a.1), (b), and (c) of this rule, an action against an individual may be brought in and only in a county in which

(1) the individual may be served or in which the cause of action arose or where a transaction or occurrence took place out of which the cause of action arose or in any other county authorized by law, or

Official Note: For a definition of transaction or occurrence, see *Craig v. W. J. Thiele & Sons, Inc.*, [**395 Pa. 129**,] 149 A.2d 35 (Pa. 1959).

(2) the property or a part of the property which is the subject matter of the action is located provided that equitable relief is sought with respect to the property.

(a.1) Except as otherwise provided by subdivision (c), a medical professional liability action may be brought against a health care provider for a medical professional liability claim only in a county in which the cause of action arose. This provision does not apply to a cause of action that arises outside the Commonwealth.

Official Note: See Section 5101.1(c) of the Judicial Code, 42 Pa.C.S. § 5101.1(c), for the definitions of “health care provider,” “medical professional liability action,” and “medical professional liability claim.”

(b) Actions against the following defendants, except as otherwise provided in subdivision (c), may be brought in and only in the counties designated by the following rules: political subdivisions, Rule 2103; partnerships, Rule 2130; unincorporated associations, Rule 2156; corporations and similar entities, Rule 2179.

Official Note: Partnerships, unincorporated associations, and corporations and similar entities are subject to subdivision (a.1) governing venue in medical professional liability actions. See Rules 2130, 2156 and 2179.

Subdivision (a.1) is a venue rule and does not create jurisdiction in Pennsylvania over a foreign cause of action where jurisdiction does not otherwise exist.

(c)(1) Except as otherwise provided by [**paragraph (2)**] **subdivision (c)(2)**, an action to enforce a joint or joint and several liability against two or more defendants, except actions in which the Commonwealth is a party defendant, may be brought against all defendants in any county in which the venue may be laid against any one of the defendants under the general rules of subdivisions (a) or (b).

(2) If the action to enforce a joint or joint and several liability against two or more defendants includes one or more medical professional liability claims, the action shall be brought in any county in which the venue may be laid against any defendant under subdivision (a.1). This provision does not apply to a cause of action that arises outside the Commonwealth.

(d)(1) For the convenience of parties and witnesses the court upon petition of any party may transfer an action to the appropriate court of any other county where the action could originally have been brought.

(2) Where, upon petition and hearing thereon, the court finds that a fair and impartial trial cannot be held in the county for reasons stated of record, the court may order that the action be transferred. The order changing venue shall be certified forthwith to the Supreme Court, which shall designate the county to which the case is to be transferred.

Official Note: For the recusal of the judge for interest or prejudice, see [**Canon 3C**] **Rule 2.11** of the Code of Judicial Conduct.

(3) It shall be the duty of the prothonotary of the court in which the action is pending to forward to the prothonotary of the county to which the action is transferred, certified copies of the docket entries, process, pleadings, depositions and other papers filed in the action. The costs and fees of the petition for transfer and the removal of the record shall be paid by the petitioner in the first instance to be taxable as costs in the case.

(e) Improper venue shall be raised by preliminary objection and if not so raised shall be waived. If a preliminary objection to venue is sustained and there is a county of proper venue within the State the action shall not be dismissed but shall be transferred to the appropriate court of that county. The costs and fees for transfer and removal of the record shall be paid by the plaintiff.

(f)(1) Except as provided by [**paragraph (2)**] **subdivision (f)(2)**, if the plaintiff states more than one cause of action against the same defendant in the complaint pursuant to Rule 1020(a), the action may be brought in any county in which any one of the individual causes of action might have been brought.

(2) Except as otherwise provided by subdivision (c), if one or more of the causes of action stated against the same defendant is a medical professional liability claim, the action shall be brought in a county required by subdivision (a.1).

EXPLANATORY COMMENT

On January 8, 2014, the Supreme Court rescinded the then-existing provisions of the Code of Judicial Conduct effective July 1, 2014, and adopted new Canons 1 through 4 of the Code of Judicial Conduct of 2014, also effective July 1, 2014. See 44 Pa.B. 455 (January 25, 2014). At the direction of the Court, the Civil Procedural Rules Committee has identified and updated references to the Code of Judicial Conduct in the Rules of Civil Procedure to

reflect these changes. Technical amendments to the Note to Rule 225 have also been made which do not affect practice and procedure.

[Pa.B. Doc. No. 16-814. Filed for public inspection May 13, 2016, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 1 AND 11]

Order Approving the Revision of Comments to Rule 136 and Rule 1136 of the Rules of Juvenile Court Procedure; No. 695 Supreme Court Rules Doc.

Order

Per Curiam

And Now, this 29th day of April, 2016, upon the recommendation of the Juvenile Court Procedural Rules Committee, the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the Comments to Rule 136 and Rule 1136 of the Pennsylvania Rules of Juvenile Court Procedure are revised in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective immediately.

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 1. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 136. *Ex Parte* Communication.

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Comment

No *ex parte* communications with the court are to occur. Communications should include all parties, such as the filing of a motion, or conducting a conference or a hearing.

Attorneys are bound by the Rules of Professional Conduct. *See* Rules of Professional Conduct Rule 3.5(b). Judges are bound by the Code of Judicial Conduct. *See* Code of Judicial Conduct [**Canon 3(A)(4)**] **Rule 2.9**.

Attorneys and judges understand the impropriety of *ex parte* communications regarding matters pending before the court but many participants, such as probation officers and service providers, are not attorneys or judges. This rule ensures that all parties have received the same information that is being presented to the court so that it may be challenged or supplemented.

Administrative matters are not considered *ex parte* communications.

Official Note: Rule 136 adopted April 29, 2011, effective July 1, 2011. **Amended April 29, 2016, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 136 published with the Court's Order at 41 Pa.B. 2413 (May 14, 2011).

Final Report explaining the amendment of Rule 136 published with the Court's Order at 46 Pa.B. 2411 (May 14, 2016).

Subpart B. DEPENDENCY MATTERS

CHAPTER 11. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 1136. *Ex Parte* Communication.

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Comment

No *ex parte* communications with the court are to occur. Communications should include all parties, such as the filing of a motion, or conducting a conference or a hearing.

Attorneys are bound by the Rules of Professional Conduct. *See* Rules of Professional Conduct Rule 3.5(b). Judges are bound by the Code of Judicial Conduct. *See* Code of Judicial Conduct [**Canon 3(A)(4)**] **Rule 2.9**.

Attorneys and judges understand the impropriety of *ex parte* communications regarding matters pending before the court but many participants are not attorneys or judges. This rule ensures that all parties have received the same information that is being presented to the court so that it may be challenged or supplemented.

Administrative matters are not considered *ex parte* communications.

Official Note: Rule 1136 adopted April 29, 2011, effective July 1, 2011. **Amended April 29, 2016, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1136 published with the Court's Order at 41 Pa.B. 2413 (May 14, 2011).

Final Report explaining the amendment of Rule 1136 published with the Court's Order at 46 Pa.B. 2411 (May 14, 2016).

FINAL REPORT¹

Revision of the Comments to Juvenile Court Procedural Rules 136 & 1136

On January 8, 2014, the Court rescinded the then-existing provisions of the Code of Judicial Conduct effective July 1, 2014, and adopted new Canons 1 through 4 of the Code of Judicial Conduct of 2014, also effective July 1, 2014. *See* 44 Pa.B. 455 (January 25, 2014). At the direction of the Court, the Juvenile Court Procedural Rules Committee identified and updated references to the Code of Judicial Conduct in the Comments to Rule 136 and 1136.

[Pa.B. Doc. No. 16-815. Filed for public inspection May 13, 2016, 9:00 a.m.]

¹ The Committee's Final Report should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CHS. 100 AND 300]

Order Amending Rules 112 and 323 of the Rules of Civil Procedure before Magisterial District Judges; No. 397 Magisterial Doc.

Order

Per Curiam

And Now, this 29th day of April, 2016, upon the recommendation of the Minor Court Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 112 and 323 of the Pennsylvania Rules of Civil Procedure before Magisterial District Judges are amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective immediately.

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 100. RULES AND STANDARDS WITH RESPECT TO OFFICES OF MAGISTERIAL DISTRICT JUDGES

Rule 112. Availability and Temporary Assignments of Magisterial District Judges.

[(A)] A. The president judge of each judicial district shall be responsible for ensuring the availability during regular business hours within the judicial district of at least one magisterial district judge to handle matters requiring attention in civil and possessory actions.

[(B)(1)] B.(1) The president judge or his or her designee may assign temporarily the magisterial district judge of any magisterial district to serve another magisterial district whenever such assignment is needed:

- (a) To satisfy the requirements of paragraph [(A)] A.
- (b) When a magisterial district judge has disqualified himself or herself either at the request of a party or sua sponte.
- (c) To otherwise provide for the efficient administration of justice.
- (2) Whenever a temporary assignment is made under this rule, notice of such assignment shall be conspicuously posted in all magisterial district courts affected by the temporary assignment.

(3) A magisterial district judge temporarily assigned under this rule shall have the jurisdiction and authority of the office the duties of which he or she is temporarily performing and may continue to exercise jurisdiction and authority in his or her own magisterial district.

Official Note: This rule was amended in 2007 to further provide for availability and temporary assignment of magisterial district judges in civil and possessory actions similar to that provided for in criminal matters. See Pa.R.Crim.P. 117. Nothing in this rule is intended to affect or conflict with the temporary assignment or

coverage requirements for criminal matters as specified in the Rules of Criminal Procedure. Unlike the criminal coverage rules, paragraph [(A)] A of this rule is intended to provide for availability only during regular business hours. None of the matters contemplated under paragraph [(A)] A would require after-hours coverage.

This rule is not intended to affect the availability requirements for emergency relief under the Protection From Abuse Act or 42 Pa.C.S. §§ 62A01—62A20. See Pa.R.C.P.M.D.J. Nos. 1201—1211. In addition, the court of common pleas of each judicial district is responsible to ensure that a judge or magisterial district judge “is available on a 24-hour-a-day, 365-day-a-year basis to accept and decide on petitions for an emergency court order under” the Older Adult Protective Services Act, 35 P.S. § [10225.307] 10225.307(a). Actions commenced under the Older Adult Protective Services Act are governed by statute and local procedures, not by these rules.

Examples of matters contemplated under paragraph [(A)] A that may require the attention of a magisterial district judge include the issuance of orders of execution under [Pa. R.C.P.M.D.J.] Pa.R.C.P.M.D.J. No. 403, stays of execution under [Pa. R.C.P.M.D.J.] Pa.R.C.P.M.D.J. Nos. 410 and 413, and orders for possession under [Pa. R.C.P.M.D.J.] Pa.R.C.P.M.D.J. No. 516, so that such matters are handled in a timely manner even in the absence of the magisterial district judge to whom the case would ordinarily be assigned. Litigants may be required to wait a reasonable period of time for a magisterial district judge to complete an arraignment, hearing, or trial. It is expected that the president judge will continue the established procedures in the judicial district or establish new procedures to ensure sufficient availability of magisterial district judges consistent with paragraph [(A)] A.

Under paragraph [(B)] B, one or more magisterial district judges may be temporarily assigned to serve one or more magisterial districts.

[Paragraph (B)(1)(b)] Clause B(1)(b) makes explicit the authority of the president judge to temporarily assign a magisterial district judge when another magisterial district judge has disqualified himself or herself from hearing a matter. Disqualification may occur upon the request of a party or sua sponte. See Rule [8] 2.11 of the **Rules Governing Standards of Conduct of Magisterial District Judges**, [207 Pa. Code Ch. 51, R. 8]. As with all judicial officers, a request for disqualification must be made directly to the magisterial district judge.

See Pa. Const. art. V, § 10(a). This rule does not provide for temporary assignments of senior magisterial district judges by president judges. See also [Rule 17 of the Standards of Conduct of Magisterial District Judges, 207 Pa. Code Ch. 51, R. 17] Rule 605 of the **Pennsylvania Rules of Judicial Administration**. Nothing in this rule is intended to conflict with [Rule 17] Pa.R.J.A. No. 605.

CHAPTER 300. CIVIL ACTION

Rule 323. Judgment—Payment in Installments.

The magisterial district judge may in [his] the entry of judgment order the payment of the same in periodic installments [which] that shall not extend beyond [twelve (12)] 12 months from the date of judgment.

Official Note: Since many of the defendants coming before magisterial district judges are apt to be in financial difficulties, it was thought advisable to provide for payment in installments. The payments are to be made to the plaintiff and not to the magisterial district judge. See Rule [13] 3.9 of the Rules Governing Standards of Conduct of Magisterial District Judges.

FINAL REPORT¹

Recommendation 1-2016, Minor Court Rules Committee

Amendment of Rules 112 and 323 of the Rules of Civil Procedure Before Magisterial District Judges

Updating References to the Rules Governing Standards of Conduct of Magisterial District Judges

I. Introduction

The Minor Court Rules Committee (“Committee”) recommended the amendment of Rules 112 and 323 of the Pennsylvania Rules of Civil Procedure before Magisterial District Judges (“Rules”). These amendments will update references to the Rules Governing Standards of Conduct of Magisterial District Judges.

II. Background and Discussion

On September 18, 2014, the Court rescinded the then-existing provisions of the Rules Governing Standards of Conduct of Magisterial District Judges effective December 1, 2014, and adopted new Rules Governing Standards of Conduct of Magisterial District Judges. See 44 Pa.B. 6205 (October 4, 2014). Subsequently, on March 26, 2015, the Court rescinded Rules 16–22 and 81 of the Rules Governing Standards of Conduct of Magisterial District Judges, and moved the content of those rules to the Rules of Judicial Administration. See 45 Pa.B. 1838 (April 11, 2015); Pa.R.J.A. Nos. 601–607. In light of these changes, the Committee reviewed the Rules of Civil Procedure before Magisterial District Judges to identify references to the rescinded rules.

The Committee identified references to rescinded Rules 8 and 17 in the Official Note to Rule 112, which addresses the availability and temporary assignments of magisterial district judges. The Committee also identified references to rescinded Rule 13 in the Official Note to Rule 323.

III. Rule Changes

The Committee recommended amending the Official Note to Rule 112 to change references to rescinded Rules 8 and 17 to new Rule 2.11 and Rule 605 of the Pennsylvania Rules of Judicial Administration, respectively. The Committee also recommended making stylistic and corrective changes to Rule 112.

The Committee also recommended amending the Official Note to Rule 323 to change the reference to rescinded Rule 13 to new Rule 3.9. The Committee also recommended making stylistic and corrective changes to Rule 323.

[Pa.B. Doc. No. 16-816. Filed for public inspection May 13, 2016, 9:00 a.m.]

¹ The Committee’s Final Report should not be confused with the Official Notes to the Rules. Also, the Supreme Court of Pennsylvania does not adopt the Committee’s Official Notes or the contents of the explanatory Final Reports.

Title 25—LOCAL COURT RULES

DELAWARE COUNTY

Amendment to Register of Wills and Clerk of Orphans’ Court Division Fee Schedules; File No. 224-2016

Order

And Now, to wit, this 13th day of April, 2016, upon consideration of request of the Register of Wills and Clerk of Orphans’ Court to impose a three percent (3%) Convenience Fee for the use of Credit and Debit Cards as an acceptable form of payment by the public for the fees associated with this office, it is hereby *Ordered* and *Decreed* that said Convenience Fee shall be adopted, and the Fees of the Register of Wills and Clerk of Orphans’ Court Division, which were adopted through Orders signed by the Honorable Edward J. Zetusky, Jr., past President Judge, on January 31, 2007, shall be amended to reflect a three percent (3%) Convenience Fee to go into effect on June 1, 2016.

By the Court

CHAD F. KENNEY,
President Judge

In the Office of the Register of Wills and Clerk of Orphans’ Court Division of Delaware County, PA

Notice

Notice is hereby given that effective June 1, 2016, the office of the Register of Wills and Clerk of Orphans’ Court Division will begin accepting credit cards and debit cards as a form of payment for the following:

- Applications for Marriage Licenses
- Plain, Certified and Exemplified copies of Marriage Licenses

Please note: Credit and debit cards will not be accepted as a form of payment for any other fees of the Register of Wills and Orphans’ Court at this time.

As per the Order of the Honorable Chad F. Kenney, President Judge, dated April 13, 2016, a three percent (3%) Convenience Fee will be imposed for use of credit and debit cards as a form of payment for the fees of this office.

JENNIFER HOLSTEN MADDALONI, Esq.,
Register of Wills and Clerk of Orphans’ Court Division

[Pa.B. Doc. No. 16-817. Filed for public inspection May 13, 2016, 9:00 a.m.]

ERIE COUNTY

Possession and Use of Electronic Devices; Doc. No. 55 of 2016

Administrative Order

And Now, to wit, this 27th day of April, 2016, in accordance with Pa.R.J.A. 1910 and Pa.R.Crim.P. 112, it is hereby *Ordered*, *Adjudged* and *Decreed* as follows:

1. Broadcasting, televising, recording, taking photographs, otherwise electronically duplicating proceedings, or in any way transmitting communications regarding the

proceedings is, without specific prior authorization of a Judge of the Erie County Court of Common Pleas, prohibited within the courtrooms and hearing rooms of the Erie County Court of Common Pleas and the areas surrounding the entrances and exits to any hearing room or courtroom. This prohibition includes live blogging, tweeting and/or posting quotations via social media.

2. Guests and media present within the courtrooms or other hearing rooms of the Erie County Court of Common Pleas may possess cell phones, smart phones, tablets, and other communicative electronic devices. All such devices must be silenced and non-vibrating and remain silent and nondisruptive in the aforementioned areas. Unless specifically authorized by the presiding judge, guests and media may not utilize such devices within the courtroom or in the area immediately surrounding the entrances and exits to the courtroom.

3. This Order does not preclude:

a. the use of electronic devices by counsel and/or their agents and employees in the presentation of their case as otherwise authorized by law;

b. the use of electronic devices in non-legal proceedings such as ceremonial proceedings, mock trials or other similar proceedings;

c. the use of cameras or other equipment utilized by court personnel or the Erie County Sheriff's Department for the purpose of insuring courtroom security;

4. This Order shall not in any way be construed to restrict the authority of any judge of the Erie County Court of Common Pleas from authorizing broadcasting and electronic recording in accordance with Pa.R.J.A. 1910 and/or Pa.R.Crim.P. 112.

5. Any person found in violation of the provisions of this order regarding the use of electronic devices will be subject to removal from the courtroom/hearing room, potential confiscation of such device and/or applicable penalties for contempt of court (including fines or summary incarceration).

By the Court

JOHN J. TRUCILLA,
President Judge

[Pa.B. Doc. No. 16-818. Filed for public inspection May 13, 2016, 9:00 a.m.]