

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

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

#### Proposed Amendments to the Pennsylvania Rules of Disciplinary Enforcement Regarding Mandatory Electronic Filing of Annual Attorney Regis- tration Fee Forms

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania is considering recommending to the Pennsylvania Supreme Court that the Court amend Pennsylvania Rule of Disciplinary Enforcement 219 to provide for mandatory electronic filing of the annual attorney registration fee form.

Electronic filing of the annual fee form has been available since 2011 but is not mandatory. Each subsequent year has seen an increase in the number of attorneys utilizing online filing. For the 2015-2016 registration period, 57% of attorneys filed online. Important benefits will be realized through the use of mandatory electronic filing. These benefits are found in the alleviation of the cost burden to the Disciplinary Board of the mailing and processing of paper forms; the reduction of human error by removing human interaction from the reception of data, which under the proposed changes will be provided directly and instantaneously from the attorney; and, maintaining the Disciplinary Board's currency with broad-based technological changes and updates to how the court system does business. Pennsylvania attorneys will realize benefits in the form of a modern and efficient attorney registration system prepared to promptly and securely process data.

In considering the proposed amendments, the Disciplinary Board reviewed other states' attorney registration procedures, which revealed that New Jersey, Rhode Island, Connecticut, Illinois and Nebraska mandate electronic registration. All of the jurisdictions except Nebraska provide exemptions from the online filing requirements, either by specifically listing exceptions or by providing a procedure for requesting an exemption. This ensures that attorneys who are unable to fulfill the electronic requirement will still have the ability to register in another format.

Changes to comport with electronic filing are found in subdivisions (a), (c), (d), (h), (i), (j), (k) and (n).

Proposed language to subdivision (a) provides that all attorneys admitted to practice law in the Commonwealth shall be required to electronically file the annual fee form provided for in Rule 219. The fee form will be available for filing through a link on the Disciplinary Board's website or at the Unified Judicial System portal. A new Note explains that additional annual fees are imposed for use by the IOLTA Board and the Pennsylvania Lawyers Fund for Client Security. Importantly, subdivision (a) adds language to the effect that upon an attorney's written request submitted to the Attorney Registration Office and for good cause shown, the Attorney Registration Office shall grant an exemption from the electronic

filing requirement and permit the attorney to file the annual fee form in paper form. This language is proposed in recognition that there are valid circumstances under which an attorney may not be able to file the annual fee form by the electronic method. The new language provides flexibility to the Attorney Registration Office in handling requests for exemption, thus ensuring that an attorney who is unable to comply with the electronic mandate will be able to register using a paper form.

Subdivision (c) provides that the Attorney Registration Office shall transmit a notice by email to register electronically by July 1. New language to this subdivision states that failure by the attorney to receive notice shall not excuse the filing of the annual fee form or payment of the annual fee.

Subdivision (d) contains several important changes. In addition to the currently required residence and office addresses, an attorney will now be required to provide his or her current email, pursuant to subparagraph (d)(1)(ii). Subsection (d)(2) provides the new method for payment of the annual fee, which shall be made in one of two ways: electronically by credit or debit card at the time of electronic transmission of the form; or, by check or money order drawn on a U. S. bank, in U. S. dollars using a printable, mail in voucher. Payment by credit or debit card includes a nominal processing fee. This US Bank transaction fee has been in place since electronic filing was made available in 2011 and cannot be waived or eliminated.

Subsection (d)(3) requires an attorney who has filed the form to notify the Attorney Registration Office in writing of any change in information previously submitted. The notice may be sent by mail or facsimile transmission only, not by email. The Note after subparagraph (d)(1)(viii) reminds attorneys of their obligation to give written notice of any change in professional liability insurance. An exception to the notice requirement is that any change in information related to the financial account information that occurs after the filing of the fee form need not be reported until the next registration year. Requiring attorneys to report every change in account information throughout the year would be unduly burdensome to attorneys and to the Attorney Registration Office; therefore, it is proposed that annual reporting of such information is sufficient for purposes of Rule 219. Finally, new subsection (d)(5) provides that submission of the annual fee form through electronic means signifies the attorney's intent to sign the form. By submitting the form electronically, the attorney certifies that the electronic filing is true and correct.

Although electronic filing will now be mandatory, certain classes of attorneys will not be eligible to do so. The Board notes that these classes of attorneys have never been permitted to file electronically, as the Attorney Registration Office procedures pertaining to these attorneys are not compatible with electronic filing. These specific instances are found in subdivisions (h), (i), (j), (k), and (n).

Pursuant to subdivision (h), an attorney who has been administratively suspended for three years or less due to failure to complete registration is not eligible for electronic filing and must follow the procedure set forth in subsections (h)(1), (2), and (3). Pursuant to subdivision (i), an attorney who has retired must mail or deliver in person to the Attorney Registration Office an application

for retirement, accompanied by any applicable late fees and penalties. Pursuant to subsection (j)(2), an attorney on inactive status may request a resumption of active status form which must be mailed or delivered in person to the Attorney Registration Office. Pursuant to subdivision (k), an inactive attorney who has been administratively suspended for failure to file the annual fee form and pay the annual fee may request an administrative change in status form from the Attorney Registration Office, which must be filed by mail or delivered in person to said Office.

Subdivision (n) applies to former or retired justices or judges who wish to resume the practice of law. These individuals must file a notice with the Attorney Registration Office in writing, and include a waiver available through the Office and signed by the justice or judge. New language therein provides that an annual fee form will be provided to the retired or former justice or judge by the Attorney Registration Office and the form must be filed by mail or delivered in person to said Office, accompanied by the appropriate annual fee.

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](mailto:Dboard.comments@pacourts.us) on or before March 18, 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 B. MISCONDUCT

#### Rule 219. Annual registration of attorneys.

(a) Every attorney admitted to practice law in this Commonwealth shall pay an annual fee of \$125.00 and **electronically** file the annual fee form provided for in this rule **by July 1**. The fee shall be collected under the supervision of the Attorney Registration Office, which shall **[ send or cause to be sent to every attorney, except an attorney who has elected to file the form electronically, the annual fee form ]** make the annual fee form available for filing through a link on the Board's website (<http://www.padisiplinaryboard.org>) or directly at <https://ujportal.pacourts.us>. **[ The Attorney Registration Office shall transmit to those attorneys who have elected to file the form electronically a notice by e-mail to register by July 1. Failure to receive the annual fee form by mail or electronically shall not excuse payment of the fee. ]** The said fee shall be used to defray the costs of disciplinary administration and enforcement under these rules, and for such other purposes as the Board shall, with the approval of the Supreme Court, from time to time determine. **Upon an attorney's written request submitted to the Attorney Registration Office and**

**for good cause shown, the Attorney Registration Office shall grant an exemption from the electronic filing requirement and permit the attorney to file the annual fee form in paper form.**

**Official Note: Pa.R.P.C. 1.15(u) imposes an additional annual fee for use by the IOLTA Board, and Pa.R.D.E. 502(b) imposes an additional annual fee for use by the Pennsylvania Lawyers Fund for Client Security.**

(b) The following shall be exempt from paying the annual fee required by subdivision (a):

\* \* \* \* \*

(c) On or before May 15 of each year, the Attorney Registration Office shall transmit to all attorneys required by this rule to pay an annual fee **[ , except those attorneys who have elected electronic filing, a form required by subdivision (d) of this rule. On or before May 15 of each year subsequent to the year in which an attorney elects electronic filing, the Attorney Registration Office shall transmit to such attorney ]** a notice by e-mail to register **electronically** by July 1. **Failure to receive notice shall not excuse the filing of the annual fee form or payment of the annual fee.**

(d) On or before July 1 of each year, all attorneys required by this rule to pay an annual fee shall **electronically** file with the Attorney Registration Office **[ a signed or ]** an electronically endorsed form prescribed by the Attorney Registration Office in accordance with the following procedures:

(1) The form shall set forth:

(i) The date on which the attorney was admitted to practice, licensed as a foreign legal consultant, granted limited admission as an attorney participant in defender and legal services programs pursuant to Pa.B.A.R. 311, or issued a Limited In-House Corporate Counsel License, and a list of all courts (except courts of this Commonwealth) and jurisdictions in which the person has ever been licensed to practice law, with the current status thereof.

(ii) The current **e-mail**, residence and office addresses of the attorney, **[ each ]** the latter two of which shall be an actual street address or rural route box number **[ , and the ]**. The Attorney Registration Office shall refuse to accept a form that sets forth only a post office box number for either **[ required ]** the residence or office address. A preferred mailing address different from those addresses may also be provided on the form and may be a post office box number. The attorney shall indicate which of the addresses, the residence, office or mailing address, as well as telephone and fax number will be accessible through the website of the Board (<http://www.padisiplinaryboard.org> [ / ]) and by written or oral request to the Board. Upon an attorney's written request submitted to the Attorney Registration Office and for good cause shown, the contact information provided by the attorney will be nonpublic information and will not be published on the Board's website or otherwise disclosed.

\* \* \* \* \*

(viii) Whether the attorney is covered by professional liability insurance on the date of registration in the minimum amounts required by Rule of Professional Conduct 1.4(c). Rule 1.4(c) does not apply to attorneys who do

not have any private clients, such as attorneys in full-time government practice or employed as in-house corporate counsel.

**Official Note:** The Disciplinary Board will make the information regarding insurance available to the public upon written or oral request and on its web site. The requirement of Rule 219(d)(3) that every attorney who has filed an annual fee form [ or elects to file the form electronically must notify ] must give written notice to the Attorney Registration Office of any change in the information previously submitted within 30 days after such change will apply to the information regarding insurance.

(ix) Such other information as the Attorney Registration Office may from time to time direct.

(2) Payment of the annual fee shall [ accompany the form ] be made in one of two ways: a) electronically by credit or debit card at the time of electronic transmission of the form through the online system of the Attorney Registration Office, which payment shall include a nominal fee to process the electronic payment; or b) by check or money order drawn on a U.S. bank, in U.S. dollars using a printable, mail-in voucher. IOLTA, trust, escrow and other fiduciary account checks tendered in payment of the annual fee will not be accepted. If the [ form and payment are ] annual fee form, voucher or payment is incomplete or if a check in payment of the annual fee has been returned to the Board unpaid, the annual fee shall not be deemed to have been paid until a collection fee, and one or both of the late payment penalties prescribed in subdivision (f) of this rule if assessed, shall also have been paid. The amount of the collection fee[ , ] shall be established by the Board annually after giving due regard to the direct and indirect costs incurred by the Board during the preceding year for checks returned to the Board unpaid.

(3) Every attorney who has filed the form [ or elects to file the form electronically ] shall notify the Attorney Registration Office in writing of any change in the information previously submitted, including e-mail address, within 30 days after such change, which notice shall be sent by mail or facsimile transmission, provided, however, that any change in the information required by subsections (d)(1)(iii), (iv) and (v) (collectively relating to financial account information) that occurs after the filing of the form required by subdivisions (a) and (d)(1) of this Rule need only be reported on the next regular annual fee form due July 1. Failure to timely register and file the next regular annual fee form shall not excuse this subsection's requirement of reporting changes in financial account information on an annual basis on or before July 1, and failure to make such a report shall constitute a violation of this rule.

(4) Upon original admission to the bar of this Commonwealth, licensure as a Foreign Legal Consultant, issuance of a Limited In-House Corporate Counsel License, or limited admission as an attorney participant in defender and legal services programs pursuant to Pa.B.A.R. 311, a person shall concurrently file a form under this subdivision for the current assessment year, but no annual fee shall be payable for the assessment year in which originally admitted or licensed.

(5) Submission of the annual fee form through electronic means signifies the attorney's intent to sign the form. By submitting the form electronically, the attorney certifies that the electronic filing is true and correct.

**Official Note:** Subsection (5) of subdivision (d) incorporates the language of *In Re: Provisions for Electronic Filing of Attorney Registration Statements*, No. 99 Disciplinary Rules Docket (Pa. Supreme Court, April 13, 2011).

(e) Upon receipt of a form, or notice of change of information contained therein, filed by an attorney in accordance with the provisions of subdivision (d) of this rule, and of payment of the required annual fee to practice law in this Commonwealth, receipt thereof shall be acknowledged on a certificate or license.

\* \* \* \* \*

(g) The Attorney Registration Office shall provide to the [ Board secretary ] Office of the Secretary a copy of any certification filed by the Attorney Registration Office with the Supreme Court pursuant to the provisions of this rule.

(h) An attorney who has been administratively suspended pursuant to subdivision (f) for three years or less is not eligible to file the annual fee form electronically. The procedure for reinstatement [ of an attorney who has been administratively suspended pursuant to subdivision (f) for three years or less ] is as follows:

(1) The formerly admitted attorney shall submit to the Attorney Registration Office the form required by subdivision (d)(1) along with payment of:

- (i) the current annual fee;
- (ii) the annual fee that was due in the year in which the attorney was administratively suspended;
- (iii) the late payment penalties required by paragraph (3);
- (iv) any unpaid collection fee; and
- (v) a reinstatement fee of \$300.00.

(2) Upon receipt of the annual fee form, a verified statement showing compliance with Enforcement Rule 217 (relating to formerly admitted attorneys), and the payments required by paragraph (1), the Attorney Registration Office shall so certify to the [ Board ] Office of the Secretary and to the Supreme Court. Unless the formerly admitted attorney is subject to another outstanding order of suspension or disbarment or the order has been in effect for more than three years, the filing of the certification from the Attorney Registration Office with the Prothonotary of the Supreme Court shall operate as an order reinstating the person to active status.

Where a check in payment of the fees and late payment penalties has been returned to the Board unpaid, the Attorney Registration Office shall immediately return the attorney to administrative suspension, and the arrears shall not be deemed to have been paid until a collection fee, as established by the Board under subdivision (d)(2) of this rule, shall also have been paid.

(3) A formerly admitted attorney who is administratively suspended must pay the late payment penalties incurred in the year in which the formerly [ admitted ] admitted attorney is transferred to administrative suspension. The amount of the late payment penalties shall

be established by the Board annually after giving due regard to such factors as it considers relevant, including the direct and indirect costs incurred by the Board during the preceding year in processing the records of attorneys who fail to timely file the form required by subdivision (d) of this rule.

(i) *Retired Status*: An attorney who has retired [ **shall file with** ] **must file by mail or deliver in person** to the Attorney Registration Office an application for retirement **and payment of any applicable late fees or penalties pursuant to subdivision (f)**. Upon the transmission of such application from the Attorney Registration Office to the Supreme Court, the Court shall enter an order transferring the attorney to retired status, and the attorney shall no longer be eligible to practice law. The retired attorney will be relieved from [ **the** ] payment of the **annual** fee imposed by this rule upon active practitioners and Enforcement Rule 217 (relating to formerly admitted attorneys) shall not be applicable to the formerly admitted attorney unless ordered by the Court in connection with the entry of an order of suspension or disbarment under another provision of these rules. An attorney on retired status for three years or less may be reinstated in the same manner as an inactive attorney, except that the retired attorney shall pay the annual active fee for the three most recent years or such shorter period in which the attorney was on retired status instead of the amounts required to be paid by an inactive attorney seeking reinstatement. The Chief Justice may delegate the processing and entry of orders under this subdivision to the Prothonotary.

(j) *Inactive Status*: An attorney who is not engaged in practice in Pennsylvania, has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct, or is not required by virtue of his or her practice elsewhere to maintain active licensure in the Commonwealth may request inactive status or continue that status once assumed. The attorney shall be removed from the roll of those classified as active until and unless such inactive attorney makes a request under paragraph (2) of this subdivision (j) for an administrative return to active status and satisfies all conditions precedent to the grant of such request; or files a petition for reinstatement under subdivision (d) of Enforcement Rule 218 (relating to procedure for reinstatement of an attorney who has been on inactive status for more than three years, or who is on inactive status and had not been on active status at any time within the prior three years) and is granted reinstatement pursuant to the provisions of that Enforcement Rule.

(1) An inactive attorney under this subdivision (j) shall continue to file the annual form required by subdivision (d), **shall file the form through the online system identified in subdivision (a)**, and shall pay an annual fee of \$70.00 **in the manner provided in subdivision (d)(2)**. Noncompliance with this provision will result in the inactive attorney incurring late payment penalties, incurring a collection fee for any check in payment that has been returned to the Board unpaid, and being placed on administrative suspension[, ] pursuant to and in accordance with the provisions of subdivision (f) of this rule.

(2) *Administrative Change in Status from Inactive Status to Active Status*: An attorney on inactive status may request a resumption of active status [ **on a form provided by** ] **form from** the Attorney Registration Office. **The form must be filed by mail or delivered in person to the Attorney Registration Office.** Re-

sumption of active status shall be granted unless the inactive attorney is subject to an outstanding order of suspension or disbarment, unless the inactive attorney has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct (see Enforcement Rule 218(h)), unless the inactive status has been in effect for more than three years, or unless the inactive attorney had not been on active status at any time within the preceding three years (see Enforcement Rule 218(h)), upon the payment of:

\* \* \* \* \*

(k) *Administrative Change in Status From Administrative Suspension to Inactive Status*: An inactive attorney who has been administratively suspended for failure to file the annual form and pay the annual fee required by subdivision (j)(1) of this rule, may request an administrative change in status [ **to inactive status** ] **form from the Attorney Registration Office.** [ **The Attorney Registration Office** ] **The form must be filed by mail or delivered in person to the Attorney Registration Office and said Office** shall change the status of an attorney eligible for inactive status under this subdivision upon receipt of:

\* \* \* \* \*

(l) The Board shall transmit by certified mail[ , **return receipt requested,** ] to every attorney who fails to pay any expenses taxed pursuant to Enforcement Rule 208(g) (relating to costs), addressed to the last known address of the attorney, a notice stating:

\* \* \* \* \*

(n) A former or retired justice or judge who is not the subject of an outstanding order of discipline affecting his or her right to practice law and who wishes to resume the practice of law shall file with the Attorney Registration Office a notice in writing [ **to that effect** ]. The notice shall:

[ (i) ] (1) describe:

[ (A) ] (i) any discipline imposed within six years before the date of the notice upon the justice or judge by the Court of Judicial Discipline;

[ (B) ] (ii) any proceeding before the Judicial Conduct Board or the Court of Judicial Discipline settled within six years before the date of the notice on the condition that the justice or judge resign from judicial office or enter a rehabilitation program; **and**

[ (ii) ] (2) include a waiver **available through the Attorney Registration Office and signed** by the justice or judge, if the notice discloses a proceeding described in [ **paragraph (i)** ] **subsection (1)**, of the confidentiality of the record in that proceeding for the limited purpose of making the record available to the Board in any subsequent proceeding under these rules[ ; ].

[ (iii) ] **be accompanied by payment of the full annual fee for the assessment year in which the notice is filed.** ]

**An annual fee form will be provided by the Attorney Registration Office. The form must be filed by mail or delivered in person to said Office and be accompanied by payment of the full annual fee for the assessment year in which the notice is filed.**

[Pa.B. Doc. No. 16-311. Filed for public inspection February 26, 2016, 9:00 a.m.]

# Title 231—RULES OF CIVIL PROCEDURE

## PART I. GENERAL

### [ 231 PA. CODE CH. 200 ]

#### Proposed Amendment of Pa.R.C.P. No. 237.3

The Civil Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P. No. 237.3 governing relief from judgment of non pros or by default 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 will neither 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:

Karla M. Shultz, Counsel  
Civil Procedural Rules Committee  
Supreme Court of Pennsylvania  
Pennsylvania Judicial Center  
PO Box 62635  
Harrisburg, PA 17106-2635  
FAX: 717-231-9526  
civilrules@pacourts.us

All communications in reference to the proposal should be received by April 22, 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 Civil Procedural  
Rules Committee*

PETER J. HOFFMAN,  
*Chair*

### Annex A

## TITLE 231. RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### CHAPTER 200. BUSINESS OF COURTS

#### **Rule 237.3. Relief from Judgment of Non Pros or by Default.**

(a) A petition for relief from a judgment of non pros or of default entered pursuant to Rule 237.1 shall have attached thereto a [ **verified** ] copy of the complaint, **preliminary objections**, or answer which the petitioner seeks leave to file.

(b) If the petition is filed within ten days after the entry of the judgment on the docket, the court shall open the judgment if the proposed complaint, **preliminary objections**, or answer states a meritorious cause of action or defense.

**Official Note:** Rule 236 requires the prothonotary to give notice of the entry of any judgment and to note in the docket the giving of the notice.

The petitioner must act with reasonable diligence to see that the petition is promptly presented to the court if required by local practice.

*See Schultz v. Erie Insurance Exchange*, [ 505 Pa. 90, ] 477 A.2d 471 (Pa. 1984) for the requirements for opening a judgment by default and [ Pa.R.C.P. ] Rule 3051 as to a judgment of non pros. Rule 237.3 does not change the law of opening judgments. Rather, the rule supplies two of the three requisites for opening such judgments by presupposing that a petition filed as provided by the rule is timely and with reasonable explanation or legitimate excuse for the inactivity or delay resulting in the entry of the judgment. The requirement of this rule for proceeding within ten days is not intended to set a standard for timeliness in circumstances outside this rule.

**[ A defendant who seeks to file a pleading other than an answer is not entitled to the benefit of this rule but must comply with the requirements of *Schultz v. Erie Insurance Exchange*, supra. ]**

*See* Rules 206.1 through 206.7 governing petition practice.

#### Explanatory Comment—1994

#### **[ Rule 237.3. Relief from Judgment of Non Pros or by Default. ]**

Rule 237.3 governs relief from a judgment by default or of non pros. Subdivision (a) requires that a [ **verified** ] copy of the complaint, **preliminary objections**, or answer sought to be filed be attached to the petition for relief from the judgment. This enables the court to determine from the actual complaint, **preliminary objections**, or answer to be filed whether it alleges a meritorious cause of action or defense.

Subdivision (b) eases the burden of a party against whom judgment has been entered and who moves promptly for relief from that judgment. If the petitioner files a petition for relief from the judgment within ten days after entry of the judgment on the docket, the rule requires the court to open the judgment if the proposed complaint, **preliminary objections**, or answer states a meritorious cause of action or defense. The rule provides a date certain from which to measure the ten-day period and the language establishing the beginning of that period is derived from Rule 1308 governing appeals in compulsory arbitration.

Case law has imposed three requirements for opening a judgment by default: a petition timely filed, a reasonable explanation or legitimate excuse for the inactivity or delay and a showing of a meritorious defense. Rule of Civil Procedure 3051 similarly states these three requisites for opening a judgment of non pros, substituting the showing of a meritorious cause of action rather than a meritorious defense. Rule 237.3(b) presumes that a petition filed within the required ten-day period is both timely and with reasonable explanation or legitimate excuse for the inactivity or delay. In this context, subdivision (b) requires that the judgment be opened if the petitioner attaches to the petition a [ **verified** ] complaint, **preliminary objections**, or answer which states a meritorious cause of action or defense. A note to the rule cautions that the rule is not intended to change the law relating to the opening of judgments in any way or to impose a new standard of timeliness in cases outside the limited circumstances set forth in the rule.

### Illustrations

In illustrations 1 through 3, the defendant has failed to plead within the required time to a complaint containing a notice to plead.

1. Prior to receiving a notice of intention to enter a default judgment, defendant seeks an agreement with the plaintiff for an extension of time in which to plead. The parties may certainly agree to an extension of time and proceed in accordance with their agreement. However, such an agreement is really unnecessary since the plaintiff cannot enter judgment without giving the ten-day notice required by the rule and the ten-day notice cannot be waived. Defendant may plead within the time up to the date of mailing or delivery of the notice plus ten days. This period of time may be more than might be provided by any agreement. In addition, there is no danger of a judgment being entered as the required notice has not been given.

2. Defendant has received the ten-day notice but cannot file the pleading within the ten-day period. Now, as provided by Rule 237.2, it is appropriate to seek an agreement to extend the time in which to plead since the plaintiff has given the notice which is prerequisite to the entry of judgment and actual entry of the judgment is imminent.

3. Defendant has received the ten-day notice and obtained an agreement extending the time to plead. However, defendant does not plead within the agreed time. Plaintiff may enter judgment by default without further notice as provided by Rule 237.2 and the form of agreement set forth in Rule 237.6.

In illustrations 4 [ **through 6** ] and 5, the plaintiff has entered a valid judgment by default against the defendant and the prothonotary has entered the judgment in the docket and noted the date thereof. Thereafter, the defendant files a petition to open the judgment.

4. The defendant files the petition to open the judgment within ten days of the date on which the prothonotary entered the judgment on the docket and seeks leave to file the answer attached to the petition. The defendant is entitled to the benefit of Rule 237.3(b) by timely filing the petition and attaching an answer. Rule 237.3(b) requires the court to open the judgment upon the defendant demonstrating to the court that the filing of the petition was within the ten-day period and that the answer attached to the petition states a meritorious defense.

**[ 5. The defendant files the petition to open the judgment within ten days of the date on which the prothonotary enters the judgment on the docket and seeks leave to file the preliminary objections attached to the petition. The defendant is not entitled to the benefit of Rule 237.3(b) because, although the petition is timely filed, the rule does not provide for preliminary objections to be attached to the petition. A defendant who wishes to file preliminary objections upon the opening of a judgment must proceed pursuant to case law and meet the standards set forth in *Schultz v. Erie Insurance Exchange*, 505 Pa. 90, 477 A.2d 471 (1984), cited in the note to the rule.**

**6.] 5.** The defendant files a petition to open the judgment more than ten days after the date of entry of the judgment on the docket. The petition to open is not within the scope of Rule 237.3(b) which requires that the petition be "filed within ten days after the entry of the

judgment on the docket". The defendant must proceed pursuant to case law and meet the standards of *Schultz v. Erie Insurance Exchange*, [ **505 Pa. 90,** ] 477 A.2d 471 (Pa. 1984).

Although these illustrations use the example of the entry of a judgment by default and a petition to open the judgment, they are adaptable and thus equally applicable to the entry of a judgment of non pros for failure to file a complaint and a petition to open such a judgment.

### [ Explanatory Comment—2001

**The amendment to the Note clarifies the procedure when a defendant, upon the opening of a default judgment, intends to file preliminary objections, a pleading not encompassed by this rule. Contrary to the holding of the Commonwealth Court in *Peters Township Sanitary Auth. v. American Home and Land Dev. Co.*, 696 A.2d 899 (Cmwlth Ct. 1997), preliminary objections are not an appropriate attachment to a petition to open a default judgment under Rule 237.3.**

**Clarifying amendments have been made to the 1994 Explanatory Comment.]**

### Explanatory Comment—2010

The 1994 Explanatory Comment to Rule 237.3 provides several illustrations of the application of the rule. A discrepancy exists between Illustration 1 and Rule 237.1(a)(2)(ii) governing notice of praecipe to enter judgment of non pros or by default. The 1994 Explanatory Comment provides that the defendant may plead within the time of receiving the notice of praecipe plus ten days. Rule 237.1(a)(2)(ii) states that the ten-day period shall be calculated forward from the date of the mailing or delivery of the notice. The 1994 Explanatory Comment has been amended to conform with the text of Rule 237.1(a)(2)(ii).

### Explanatory Comment

The Civil Procedural Rules Committee is proposing the amendment of Rule 237.3 governing relief from judgment of non pros or by default in two respects.

Current Rule 237.3(a) requires a verified copy of a complaint or answer, which the petitioner seeks leave to file, be attached to the petition for relief. The proposed amendment would remove the requirement that the copy be verified. It was reported to the Committee that both *pro se* litigants and attorneys often fail to attach a verified copy. The purpose of Rule 237.3 is to give a litigant who promptly responds to the entry of a judgment under this rule the ability to prosecute or defend a case. The rule does not achieve its purpose if a litigant is barred from doing so by a technical requirement.

The current rule was amended in 2001 to allow a party to attach a complaint or answer only to the petition for relief; the use of preliminary objections was prohibited notwithstanding the decision in *Peters Township Sanitary Auth. v. American Home and Land Dev. Co.*, 696 A.2d 899 (Pa. Cmwlth. 1997)(holding preliminary objections are an appropriate attachment to a petition to open a default judgment under Rule 237.3). It is proposed that Rule 237.3 be amended to permit the use of preliminary objections as a pleading that may be attached to a petition for relief from default judgment. By allowing the use of preliminary objections, the amendment is intended to give a defendant the same opportunity to file a responsive pleading after the entry of a default judgment that is afforded to him or her prior to the entry of a default judgment.

Clarifying amendments have been made to the 1994 Explanatory Comment and the 2001 Explanatory Comment has been deleted.

*By the Civil Procedural  
Rules Committee*

PETER J. HOFFMAN,  
*Chair*

[Pa.B. Doc. No. 16-312. Filed for public inspection February 26, 2016, 9:00 a.m.]

## Title 246—MINOR COURT CIVIL RULES

### PART I. GENERAL

[ 246 PA. CODE CHS. 500 AND 1000 ]

#### Proposed Amendment of Pa.R.C.P.M.D.J. Nos. 515—516 and the Official Note to Pa.R.C.P.M.D.J. No. 1007

The Minor Court Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P.M.D.J. Nos. 515—516 and the Official Note to Pa.R.C.P.M.D.J. No. 1007, adding a cross-reference regarding termination of a supersedeas and making stylistic changes, for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being republished 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 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:

Pamela S. Walker, Counsel  
Minor Court Rules Committee  
Supreme Court of Pennsylvania  
Pennsylvania Judicial Center  
PO Box 62635  
Harrisburg, PA 17106-2635  
FAX: 717-231-9526  
minorrules@pacourts.us

All communications in reference to the proposal should be received by April 27, 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 Minor Court Rules Committee*

DONNA R. BUTLER,  
*Chair*

### Annex A

#### TITLE 246. MINOR COURT CIVIL RULES

##### PART I. GENERAL

#### CHAPTER 500. ACTIONS FOR THE RECOVERY OF POSSESSION OF REAL PROPERTY

##### Rule 515. Request for Order for Possession.

A. If the magisterial district judge has rendered a judgment arising out of a non-residential lease that the real property be delivered up to the plaintiff, the plaintiff may, after the 15th day following the date of the entry of the judgment, file with the magisterial district judge a request for an order for possession. The request shall include a statement of the judgment amount, return, and all other matters required by these rules.

B. (1) Except as otherwise provided in subparagraph [ (2) ] **B(2)**, if the magisterial district judge has rendered a judgment arising out of a residential lease that the real property be delivered up to the plaintiff, the plaintiff may after the 10th day but within 120 days following the date of the entry of the judgment, file with the magisterial district judge a request for an order for possession. The request shall include a statement of the judgment amount, return, and all other matters required by these rules.

(2) In a case arising out of a residential lease, if before the plaintiff requests an order for possession,

(a) an appeal or writ of certiorari operates as a supersedeas; or

(b) proceedings in the matter are stayed pursuant to a bankruptcy proceeding; and

(c) the supersedeas or bankruptcy stay is subsequently stricken, dismissed, lifted, or otherwise terminated so as to allow the plaintiff to proceed to request an order for possession,

the plaintiff may request an order for possession only within 120 days of the date the supersedeas or bankruptcy stay is stricken, dismissed, lifted, or otherwise terminated.

**Official Note:** The [ **fifteen days in subdivision** ] **15 days in paragraph A** of this rule, when added to the [ **16 day** ] **16-day** period provided for in Rule 519A, will give the defendant time to obtain a supersedeas within the appeal period. *See* Rules 1002, 1008, 1009, and 1013.

The 1995 amendment to section 513 of The Landlord and Tenant Act of 1951, 68 P. S. § 250.513, established a [ **ten-day** ] **10-day appeal** period from a judgment for possession of real estate arising out of a residential lease; therefore, the filing of the request for order for possession in subparagraph B(1) is not permitted until after the appeal period has expired. In cases arising out of a residential lease, the request for order for possession generally must be filed within 120 days of the date of the entry of the judgment.

Subparagraph B(2) provides that in a case arising out of a residential lease, if a supersedeas (resulting from an appeal or writ of certiorari) or bankruptcy stay is stricken, dismissed, lifted, or otherwise terminated, thus allowing the plaintiff to proceed with requesting an order for possession, the request may be filed only within 120 days of the date the supersedeas or bankruptcy stay is stricken, dismissed, lifted, or otherwise terminated. **See Rule 1008B, C(7)—(8), and Rule 1013B, C(7)—(8) and the notes thereto regarding termination of the**

**supersedeas. After a court of common pleas enters judgment, the judgment of the magisterial district judge is extinguished and may no longer be executed upon in any magisterial district court. All further process must take place in the court of common pleas.**

The time limits in which the plaintiff must request an order for possession imposed in [ **subdivision** ] **paragraph B** apply only in cases arising out of residential leases and in no way affect the plaintiff's ability to execute on the money judgment. *See* Rule 516, Note, and Rule 521A.

At the time the plaintiff files the request for an order for possession, the magisterial district court should collect server fees for all actions through delivery of possession. Thereafter, if the order for possession is satisfied 48 hours or more prior to a scheduled delivery of possession, a portion of the server costs may be refundable. *See* Rules 516 through 520 and [ **Section 2950(d) of the Judicial Code, 42 Pa.C.S. § 2950(d)** ] **44 Pa.C.S. § 7161(d)**.

**Rule 516. Issuance and Reissuance of Order for Possession.**

A. Upon the timely filing of the request form, the magisterial district judge shall issue the order for possession and shall deliver it for service and execution to the sheriff of, or any certified constable in, the county in which the office of the magisterial district judge is situated. If this service is not available to the magisterial district judge, service may be made by any certified constable of the Commonwealth. The order shall direct the officer executing it to deliver actual possession of the real property to the plaintiff. The magisterial district judge shall attach a copy of the request form to the order for possession.

B. (1) Except as otherwise provided in [ **subdivision** ] **paragraph C**, upon written request of the plaintiff the magisterial district judge shall reissue an order for possession for one additional [ **60 day** ] **60-day** period.

(2) If an order for possession is issued and subsequently superseded by an appeal, writ of certiorari, supersedeas, or a stay pursuant to a bankruptcy proceeding, and

(a) the appeal, writ of certiorari, or supersedeas is stricken, dismissed, or otherwise terminated; or

(b) the bankruptcy stay is lifted; and

(c) the plaintiff wishes to proceed with the order for possession,

the plaintiff must file with the magisterial district judge a written request for reissuance of the order for possession in accordance with subparagraph [ (1) ] **B(1)**.

C. In a case arising out of a residential lease a request for reissuance of an order for possession may be filed only within 120 days of the date of the entry of the judgment or, in a case in which the order for possession is issued and subsequently superseded by an appeal, writ of certiorari, supersedeas, or a stay pursuant to a bankruptcy proceeding, only within 120 days of the date the appeal, writ of certiorari, or supersedeas is stricken, dismissed, or otherwise terminated or the bankruptcy stay is lifted.

D. A written request for reissuance of the order for possession filed after an appeal, writ of certiorari, or supersedeas is stricken, dismissed, or otherwise terminated, or a bankruptcy stay is lifted, must be accompanied by a copy of the court order or other documentation

striking, dismissing, or terminating the appeal, writ of certiorari, or supersedeas, or lifting the bankruptcy stay.

**Official Note:** The order for possession deals only with delivery of possession of real property and not with a levy for money damages. A plaintiff who seeks execution of the money judgment part of the judgment must proceed under Rule 521A, using the forms and procedure there prescribed. The reason for making this distinction is that the printed notice requirements on the two forms, and the procedures involved in the two matters, differ widely.

[ **Subdivision** ] **Paragraph B** provides for reissuance of the order for possession for one additional [ **60 day** ] **60-day** period. However, pursuant to [ **subdivision** ] **paragraph C**, in cases arising out of a residential lease, the request for reissuance of the order for possession must be filed within 120 days of the date of the entry of the judgment or, in a case in which the order for possession is issued and subsequently superseded by an appeal, writ of certiorari, supersedeas, or a stay pursuant to a bankruptcy proceeding, only within 120 days of the date the appeal, writ of certiorari, or supersedeas is stricken, dismissed, or otherwise terminated, or the bankruptcy stay is lifted. The additional [ **60 day** ] **60-day** period need not necessarily immediately follow the original [ **60 day** ] **60-day** period of issuance. The written request for reissuance may be in any form and may consist of a notation on the permanent copy of the request for order for possession form, "Reissuance of order for possession requested," subscribed by the plaintiff. The magisterial district judge shall mark all copies of the reissued order for possession, "Reissued. Request for reissuance filed \_\_\_\_\_ (time and date)." A new form may be used upon reissuance, those portions retained from the original being exact copies although signatures may be typed or printed with the mark "/s/." There are no filing costs for reissuing an order for possession, for the reissuance is merely a continuation of the original proceeding. However, there may be additional server costs for service of the reissued order for possession.

**See Rule 1008B, C(7)—(8), and Rule 1013B, C(7)—(8) and the notes thereto regarding termination of the supersedeas. After a court of common pleas enters judgment, the judgment of the magisterial district judge is extinguished and may no longer be executed upon in any magisterial district court. All further process must take place in the court of common pleas.**

The time limits in which the plaintiff must request reissuance of an order for possession imposed in [ **subdivision** ] **paragraph C** apply only in cases arising out of residential leases and in no way affect the plaintiff's ability to execute on the money judgment. *See* Rule 521A.

**CHAPTER 1000. APPEALS**

**APPEAL**

**Rule 1007. Procedure on Appeal.**

A. The proceeding on appeal shall be conducted de novo in accordance with the Rules of Civil Procedure that would be applicable if the action was initially commenced in the court of common pleas.

B. Except as otherwise provided in [ **subdivision** ] **paragraph C**, the action upon appeal may not be limited with respect to amount in controversy, joinder of causes of action or parties, counter-claims, added or changed aver-



ments or otherwise because of the particulars of the action before the magisterial district judge.

C. When an appeal is taken from a supplementary action filed pursuant to Rule 342, only those issues arising from the Rule 342 action are to be considered.

**Official Note:** As under earlier law, the proceeding on appeal is conducted de novo, but the former rule that the proceeding would be limited both as to jurisdiction and subject matter to the action before the magisterial district judge (see *Crowell Office Equipment v. Krug*, [ 213 Pa. Super. 261, ] 247 A.2d 657 (Pa. Super. 1968)) has not been retained. Under [ subdivision ] paragraph B, the court of common pleas on appeal can exercise its full jurisdiction and all parties will be free to treat the case as though it had never been before the magisterial district judge, subject of course to the Rules of Civil Procedure. The only limitation on this is contained in [ subdivision ] paragraph C, which makes clear that an appeal from a supplementary action filed pursuant to Rule 342 is not intended to reopen other issues from the underlying action that were not properly preserved for appeal.

**See Rule 1008B, C(7)—(8), and Rule 1013B, C(7)—(8) and the notes thereto regarding termination of the supersedeas. After a court of common pleas enters judgment, the judgment of the magisterial district judge is extinguished and may no longer be executed upon in any magisterial district court. All further process must take place in the court of common pleas.**

## REPORT

### *Proposed Amendment of Pa.R.C.P.M.D.J. Nos. 515—516 and the Official Note to Pa.R.C.P.M.D.J. No. 1007*

#### Request for Order of Possession

##### I. Introduction

The Minor Court Rules Committee (“Committee”) is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P.M.D.J. Nos. 515—516 and the Official Note to Pa.R.C.P.M.D.J. No. 1007. These rules address the timeframe for requesting an order for possession, and the procedure on appeal from a judgment of a magisterial district court, respectively. The Committee is proposing to add cross-references regarding termination of a supersedeas and to make stylistic changes.

##### II. Discussion

Currently, Rules 515 and 516 address a request for an order for possession, as well as issuance and reissuance of the order. In a residential landlord tenant case, when a judgment for possession has been rendered by a magisterial district judge, the plaintiff may request an order for possession after the 10th day and within 120 days following the date of entry of the judgment. See Rule 515B. In the event an appeal of the judgment operates as a supersedeas or the matter is stayed pursuant to bankruptcy proceedings, the plaintiff may request an order for possession only within 120 days of the date the supersedeas or bankruptcy stay is stricken, dismissed, lifted, or otherwise terminated. See Rule 515B(2). An order of possession is valid for a 60-day period, and may be reissued for one additional 60-day period. See Rules 516B(1), 519C. In residential lease cases, a plaintiff must file a written request for reissuance of an order for possession when the order has been issued, and, subsequently, an appeal operates as a supersedeas or bankruptcy proceedings stay the matter. See Rule 516C. Rule 1007 sets forth the procedures for the appeal in the court of common pleas.

The Committee received correspondence suggesting that it review the rules governing the filing of a request for an order for possession when an appeal has been filed. Specifically, the Committee was asked to review the following hypothetical situation: a magisterial district judge enters judgment in a residential landlord tenant case, the tenant appeals and obtains a supersedeas, the appeal goes before a board of arbitrators pursuant to Pa.R.C.P. Nos. 1301—1314, an arbitration award is entered, and the supersedeas is terminated for nonpayment of rent into escrow prior to expiration of the thirty day period for entry of the award in the court of common pleas. In this scenario, it was suggested that there is ambiguity about where the plaintiff should file a request for an order for possession, in light of the termination of the supersedeas.

The Committee discussed the scenario described above, and agreed that only a judgment entered by the court of common pleas should preclude the plaintiff from requesting an order for possession from the magisterial district court in the absence of a supersedeas or stay. Once the court of common pleas has entered a judgment on an appeal (including entry of judgment of a compulsory arbitration award pursuant to Pa.R.C.P. No. 1307(c)), the judgment of the magisterial district court is extinguished, and may no longer be executed upon in any magisterial district court. However, prior to the entry of judgment by the court of common pleas, the plaintiff may request an order for possession from the magisterial district court, so long as no supersedeas or bankruptcy stay remains in effect. The Committee published a proposal for public comment that attempted to clarify the suggested ambiguity, as well as update a statutory reference to constable fees. See 45 Pa.B. 1111 (Mar. 7, 2015).

After reviewing comments received on the proposal, the Committee decided to modify and republish it for public comment. Rule 1008B, C(7)—(8) and Rule 1013B, C(7)—(8) set forth the procedure for termination of a supersedeas. The notes to Rules 1008 and 1013 provide that upon termination of the supersedeas by a prothonotary for failure to deposit the monthly rent when due, “[a] copy of the praecipe [with the termination notated by the prothonotary] may thereupon be displayed to the magisterial district judge who rendered the judgment, and a request for issuance of an order for possession under Pa.R.C.P.M.D.J. No. 515 may be made.” Cross-references to these notes will clarify the procedure for seeking an order for possession after the termination of a supersedeas.

##### III. Proposed Changes

The Committee plans to propose the amendment of the Official Notes to Rules 515—516 and 1007 by adding the following language:

*See Rule 1008B, C(7)—(8), and Rule 1013B, C(7)—(8) and the notes thereto regarding termination of the supersedeas. After a court of common pleas enters judgment, the judgment of the magisterial district judge is extinguished and may no longer be executed upon in any magisterial district court. All further process must take place in the court of common pleas.*

The Committee also plans to propose minor stylistic changes to Rules 515—516 and 1007, as well as an amendment of the Official Note to Rule 515 to reflect that constable fees are governed by 44 Pa.C.S. § 7161(d).

[Pa.B. Doc. No. 16-313. Filed for public inspection February 26, 2016, 9:00 a.m.]

# Title 255—LOCAL COURT RULES

## BEAVER COUNTY

### Local Criminal Rule 590; No. AD 10 of 2016

#### Administrative Order

February 4, 2016

It is hereby Ordered and Directed that:

1. The District Court Administrator's Office shall not list a case for Plea and Sentence on an Expedited List unless counsel for the Commonwealth and counsel for the Defendant have filed with said Office:

A. A written Plea Memo signed by both counsel, the Defendant, the victim (if any) and the Prosecuting Officer;

B. A printed record of the Defendant's prior criminal history (if any), which shall not be filed with the original records in the Clerk of Courts Office; and

C. Printed Sentencing Guidelines.

2. The District Court Administrator's Office shall not list a case for Accelerated Rehabilitative Disposition consideration on an Expedited List unless counsel for the Commonwealth and counsel for the Defendant have filed with said Office:

A. A written Memo signed by both counsel, the Defendant, the victim (if any) and the Prosecuting Officer. The victim's signature may be waived by the Court if the Prosecutor (as an officer of the Court) assures the Court of the victim's consent by means other than the victim's signature. The Memo must contain language to the affect that the District Attorney's Office has conducted a search of the Defendant's prior criminal record with negative results.

3. In every criminal case listed for Judicial Pre-Trial Conference by the District Court Administrator's Office or by Court Order, the Prosecuting Attorney is required to file the following documentation at the scheduled Judge's Chambers, with a copy to counsel for the Defendant, not less than 24 hours prior to the scheduled Pre-Trial Conference:

A. A printed record of the Defendant's prior criminal history (if any), which shall not be filed with the original records in the Clerk of Courts Office;

B. Printed Sentencing Guidelines; and

C. The Prosecutor's offer to settle the case prior to Bench or Jury Trial (if any).

4. The District Court Administrator's Office shall not list a case for Plea and Sentence or Accelerated Rehabilitative Disposition consideration on a Special Plea List unless counsel for the Commonwealth and counsel for the Defendant have filed with said Office:

A. A written Plea Memo signed by both counsel, the Defendant, the victim (if any) and the Prosecuting Officer. The victim's signature may be waived by the Court if the Prosecutor (as an officer of the Court) assures the Court of the victim's consent by means other than the victim's signature. The Plea Memo must contain language to the affect that the District Attorney's Office has conducted a search of the Defendant's prior criminal record with negative results.

B. A printed record of the Defendant's prior criminal history (if any), which shall not be filed with the original records in the Clerk of Courts Office; and

C. Printed Sentencing Guidelines.

The District Court Administrator is Directed to publish this Administrative Order in the *Pennsylvania Bulletin*, file one (1) certified copy with the Administrative Office of Pennsylvania Courts, and publish a copy on the Unified Judicial System's web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.

This Administrative Order shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin* and shall be filed of record in the Office of the Clerk of Courts of Beaver County. Copies shall be served upon the District Attorney of Beaver County and the Public Defender of Beaver County. Copies shall also be filed with and maintained in the Beaver County Law Library and the Office of the Beaver County District Court Administrator, where they shall be available to members of the Defense Bar and the public free of charge.

By the Court

JOHN D. McBRIDE,  
*President Judge*

[Pa.B. Doc. No. 16-314. Filed for public inspection February 26, 2016, 9:00 a.m.]

## BEAVER COUNTY

### Local Rules of Civil Procedure; No. 10013 of 2016

#### Amended Administrative Order

February 22, 2016

The following amendment to the Beaver County Local Rules of Civil Procedure is hereby adopted, effective thirty (30) days after publication in the *Pennsylvania Bulletin* and publication on the Pennsylvania Judiciary's web application, in accordance with Pa.R.C.P. No. 239(d).

LR1018.1 is amended to read:

#### LR1018.1. Notice to Defend.

The following organization shall be named in the Notice to Defend as the organization from whom legal help can be obtained:

Lawyer Referral Service of the Beaver County Bar  
Association  
788 Turnpike Street  
Beaver, PA 15009  
Telephone Number: 724-728-4888  
<http://bcba-pa.org/lawyer-referral-service/>

*Note:* The sole purpose of this amendment is to add the Beaver County Bar Association's website address.

The District Court Administrator is Directed to:

(1) file one (1) certified copy of the Local Rules with the Administrative Office of Pennsylvania Courts;

(2) submit two (2) certified copies of the Local Rules and a copy on computer diskette or CD-ROM containing the text of the Local Rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

(3) submit one (1) certified copy of the Local Rules to the Civil Procedural Rules Committee of the Pennsylvania Supreme Court;

(4) keep a copy continuously available for public inspection and copying in the Office of the Prothonotary of Beaver County; and

(5) keep a copy continuously available for public inspection and copying in the Beaver County Law Library.

*By the Court*

JOHN D. McBRIDE,  
*President Judge*

[Pa.B. Doc. No. 16-315. Filed for public inspection February 26, 2016, 9:00 a.m.]

ERIE COUNTY

**Order Amending Rules 208.3(a), 208.3(b), 1028(c), 1034(a) and 1035.2(a) of the Rules of Civil Procedure; Doc. No. 90014-2016**

**Order**

*And Now*, to wit, this 3rd day of February, 2016, and consistent with the recent amendments clarifying Pa.R.C.P. 211, it is hereby *Ordered* that Erie County Local Rules of Civil Procedure 208.3(a), 208.3(b), 1028(c), 1034(a), and 1035.2(a) are amended as follows (new language appears in bold; removed language appears bracketed and bold). In accordance with Pa.R.C.P. 239.8, these amendments shall be effective upon publication on the Pennsylvania Judiciary's Web Application Portal.

JOHN J. TRUCILLA,  
*President Judge*

**Rule 208.3(a). Motions. Non-Dispositive. Procedures.**

(1) \* \* \*

(2) The original of any motion shall be filed with the Prothonotary and a copy thereof shall be provided to the assigned judge. If a judge has not yet been assigned, the party seeking to present a motion shall first submit a request for judicial assignment with the trial court administrator and obtain assignment to a judge to whom the motion shall be presented. (See Erie L.R. 302 with respect to the filing of requests for judicial assignment.) The judge to whom the case has been assigned [ **will** ] **may** schedule argument and, **if granted**, either notify all parties or advise the moving party to notify all other parties of the time, date and location of argument. (See **Pa.R.C.P. 211, the granting of argument is discretionary with the Court.**)

(3) \* \* \*

(4) \* \* \*

(5) \* \* \*

**Rule 208.3(b). Motions. Non-Dispositive. Responses.**

With respect to any motion which is contested, a response shall be filed within twenty (20) days after service of the motion. All motions which are contested shall be accompanied by a rule to show cause for the scheduling of a hearing or argument as appropriate. Where no response is filed, the moving party shall notify the court and the motion shall be deemed to be uncontested and the Court may proceed to issue a ruling upon the motion. [ **Oral argument shall be scheduled by the Court unless the parties waive oral argument.** ] **Oral argument is discretionary with the Court.** Nothing set forth herein shall be deemed to limit the discretion of the Court to enter an order in accordance with Pa.R.C.P. 208.4 upon initial consideration of a motion.

**Rule 1028(c). Preliminary Objections.**

1. \* \* \*

2. \* \* \*

3. After passage of the filing date for the non-moving party's brief, the assigned judge [ **shall** ] **may** schedule the matter for an argument on the preliminary objections[ , **unless all parties waive argument** ]. Notice of argument, **if scheduled**, shall be given by the court to each attorney of record and to unrepresented parties by United States mail facsimile transmission or personal delivery.

4. \* \* \*

**Rule 1034(a). Motion for Judgment on the Pleadings.**

1. \* \* \*

2. \* \* \*

3. After the passage of the filing date for the non-moving party's brief, the assigned judge [ **shall** ] **may** schedule the matter for argument[ , **unless all parties waive argument** ]. Notice of argument, **if scheduled**, shall be given by the court to each attorney of record and to unrepresented parties by United States mail, facsimile transmission or personal delivery.

4. \* \* \*

(A) \* \* \*

(B) \* \* \*

(C) [ **Prohibit** ] **If argument is granted, prohibit** the noncomplying party from participating in oral argument although all parties will be given notice of oral argument and shall be permitted to be present at oral argument and/or

(D) \* \* \*

**Rule 1035.2(a). Motion for Summary Judgment.**

1. *Procedure for Filing Summary Judgment Motions.*

(A) \* \* \*

(B) \* \* \*

(i) \* \* \*

(ii) \* \* \*

(iii) [ **Prohibit** ] **If argument is granted, prohibit** the noncomplying party from participating in oral argument although all parties will be given notice of oral argument and shall be permitted to be present at oral argument and/or

(iv) \* \* \*

2. *Scheduling of Argument*

(A) There [ **shall** ] **may** be oral argument in accordance with Pa.R.C.P. No. 211[ , **unless all parties waive argument** ]. [ **Notice** ] **If granted, notice** of argument shall be given by the Court to each attorney of record and to unrepresented parties by United States mail, Facsimile transmission, or personal delivery.

(B) After the passage of the filing date of the brief of the non-moving party, the Court [ **shall** ] **may** schedule argument on the motion with notice to all parties. [ **After argument, The** ] **the** Court shall notify the parties of its decision.

[Pa.B. Doc. No. 16-316. Filed for public inspection February 26, 2016, 9:00 a.m.]

## LEHIGH COUNTY

**Assessment of Costs for DUI Blood Analysis  
Laboratory Fees; 39-AD-3-2016****Administrative Order**

*And Now* this 4th day of February, 2016, it is *Hereby Ordered*, all persons convicted of violating Section 3802 of the Vehicle Code, 75 Pa.C.S. § 3802 (relating to driving under the influence of alcohol or controlled substance) and every person admitted to Accelerated Rehabilitative Disposition (ARD) for said offense shall, in addition to any fines, penalties or costs, in every case where blood analysis for blood drug content, be sentenced to pay a laboratory fee as follows. The fees so collected shall be paid into the General Fund of the County of Lehigh, but separately identified in the County's records so that the amounts collected during any given period can be readily ascertained.

- a. Quantitative GCMS, BLD—\$105.50
- b. Drugs of Abuse, 9 Panel—\$61.30
- c. Benzodiazepines, LCMS—\$105.50
- d. Opiates—\$105.50
- e. Expanded Toxicology SCR—\$80.75
- f. Carisoprodol—\$85.45
- g. Zolpidem, Blood—\$188.13
- h. Cocaine—\$105.50
- i. Amphetamine, Quantitative Opiates—\$105.50
- j. Phencyclidine (PCP)—\$105.50
- k. Oxycodone—\$105.50
- l. Methadone—\$105.50
- m. Synthetic cannabinoids—\$207.00
- n. Trazodone—\$188.13
- o. Clonazepam—\$105.50

*It Is Ordered* that this Administrative Order shall be effective thirty (30) days after publication thereof in the *Pennsylvania Bulletin*, and shall govern all matters then pending.

*It Is Further Ordered* that in accordance with Pa.R.Crim.P. 105, the Court Administrator of Lehigh County shall:

- (a) File one (1) certified copy hereof with the Criminal Procedural Rules Committee;
- (b) Distribute two (2) certified copies hereof and one (1) CD-Rom copy that complies with the requirements of Pa. Code § 13.11(b), with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;
- (c) File one (1) certified copy hereof with the Administrative Office of the Pennsylvania Courts;
- (d) Publish one (1) copy of this Order on the Unified Judicial System's web site at: <http://ujportal.pacourts.us/localrules/ruleselection.aspx>;
- (e) Supervise the distribution hereof to all Judges of this Court.

*By the Court*

EDWARD D. REIBMAN,  
*President Judge*

[Pa.B. Doc. No. 16-317. Filed for public inspection February 26, 2016, 9:00 a.m.]

## LEHIGH COUNTY

**Crime Victim's Compensation Fund, Victim Witness Services Fund; 39-AD-2-2016****Administrative Order**

*And Now* this 4th day of February, 2016, it is *Hereby Ordered*, pursuant to Title, Section 11.1101, this Court *Approves* the increased assessment of the Crime Victim's Compensation Fund and Victim Witness Services Fund to a total of \$100, unless otherwise ordered by the Court. This Cost shall be imposed at both the Magisterial District Courts and the Court of Common Pleas of this Judicial District notwithstanding any statutory provision to the contrary.

Pursuant to Title 18, Section 11.1101, Subsection (b), disposition of this assessment shall be as follows:

(1) Thirty-five dollars of the costs imposed where the accused pleaded guilty or nolo contendere, or was placed in a diversionary program, plus 30% of the costs imposed which exceed \$60 (i.e. a total of \$47) shall be paid into the Crime Victim's Compensation Fund, and

(2) Twenty-five dollars of the costs imposed where the accused pleaded guilty or nolo contendere, or was placed in a diversionary program, plus 70% of the costs imposed which exceed \$60 (a total of \$53) shall be paid into the Victim Witness Services Fund.

The costs paid under Subsection (b)(2) that exceed \$60 shall be returned by the Pennsylvania Commission on Crime and Delinquency to the County of Lehigh for victim witness services.

*It Is Ordered* that this Administrative Order shall be effective thirty (30) days after publication thereof in the *Pennsylvania Bulletin*, and shall govern all matters then pending.

*It Is Further Ordered* that in accordance with Pa.R.Crim.P. 105, the District Court Administrator shall:

- (a) File one (1) certified copy hereof with the Criminal Procedural Rules Committee;
- (b) Distribute two (2) certified copies hereof to and (1) CD-Rom copy that complies with the requirement of Pa. Code § 13.11(b), with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;
- (c) File one (1) certified copy hereof with the Administrative Office of the Pennsylvania Courts;
- (d) Publish one (1) copy of this Order on the Unified Judicial System's web site at: <http://ujportal.pacourts.us/localrules/ruleselection.aspx>;
- (e) Supervise the distribution hereof to all Judges of this Court and the Magisterial District Judges of the County of Lehigh.

*By the Court*

EDWARD D. REIBMAN,  
*President Judge*

[Pa.B. Doc. No. 16-318. Filed for public inspection February 26, 2016, 9:00 a.m.]

# DISCIPLINARY BOARD OF THE SUPREME COURT

## Notice of Disbarment

Notice is hereby given that Patrick Judge, Jr. (# 77131) having been disbarred from the practice of law in the State of New Jersey by Order of the Supreme Court of New Jersey dated July 31, 2015, the Supreme Court of Pennsylvania issued an Order on December 3, 2015, disbaring Patrick Judge, Jr. from the Bar of this Commonwealth, effective January 2, 2016. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,

*Secretary*

*The Disciplinary Board of the  
Supreme Court of Pennsylvania*

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