

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CHS. 87, 89 AND 93]

Amendments to Rules of Organization and Procedure of the Disciplinary Board of the Supreme Court of Pennsylvania; Order No. 81

By Order dated April 21, 2017, the Supreme Court of Pennsylvania amended Pa.R.D.E. 208(g), 215(i) and 219(l) related to taxing expenses and collecting costs. By this Order, the Board is making conforming changes to its Rules to reflect the adoption of those amendments.

The Disciplinary Board of the Supreme Court of Pennsylvania finds that:

(1) To the extent that 42 Pa.C.S. § 1702 (relating to rule making procedures) and Article II of the act of July 31, 1968 (P.L. 769, No. 240), known as the Commonwealth Documents Law, would otherwise require notice of proposed rulemaking with respect to the amendments adopted hereby, those proposed rulemaking procedures are inapplicable because the amendments adopted hereby relate to agency procedure and are perfunctory in nature.

(2) The amendments to the Rules of Organization and Procedure of the Board adopted hereby are not inconsistent with the Pennsylvania Rules of Disciplinary Enforcement and are necessary and appropriate for the administration of the affairs of the Board.

The Board, acting pursuant to Pa.R.D.E. 205(c)(12), orders:

(1) Title 204 of the *Pennsylvania Code* is hereby amended as set forth in Annex A hereto.

(2) The Secretary of the Board shall duly certify this Order, and deposit the same with the Administrative Office of Pennsylvania Courts as required by Pa.R.J.A. 103(c).

(3) The amendments adopted hereby shall take effect upon publication in the *Pennsylvania Bulletin*.

*By the Disciplinary Board of the
Supreme Court of Pennsylvania*

JULIA FRANKSTON-MORRIS, Esq.,
Secretary

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

CHAPTER 87. INVESTIGATIONS AND INFORMAL PROCEEDINGS

Subchapter D. ABATEMENT OF INVESTIGATION

§ 87.74. Discipline on consent.

* * * * *

(g) *Costs.* Enforcement Rule 215(i) provides that [**the panel of the Board in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of the matter shall be paid by the respondent-attorney as a condition to the grant of the Petition; and that**] all expenses taxed under this subdivision shall be paid by the attorney [**before the imposition of discipline under subsection (d) or (e)**] in accordance with Rule 208(g).

CHAPTER 89. FORMAL PROCEEDINGS

Subchapter D. ACTION BY BOARD AND SUPREME COURT

§ 89.205. Informal admonition, private reprimand or public reprimand following formal hearing.

* * * * *

(b) *Taxation of expenses.* Enforcement Rule 208(g)(2) provides that in the event a proceeding is concluded by informal admonition, private reprimand, or public reprimand, the Board in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of the proceeding shall be paid by the respondent-attorney, and that all expenses so taxed shall be paid by the respondent-attorney [**on or before the date fixed for the appearance of the respondent-attorney before Disciplinary Counsel for informal admonition or the Board for private or public reprimand**] within 30 days after the date of the entry of the order taxing the expenses against the respondent-attorney. The expenses taxable under this subsection shall be those prescribed by § 93.111 (relating to determination of reimbursable expenses).

(c) *Notice to appear.*

* * * * *

(4) The [**Office of the Secretary**] Finance Office shall notify the respondent-attorney of the expenses of the proceeding which have been taxed pursuant to subsection (b) by means of [**Form DB-41 (Notice of Taxation of Expenses)**] a **Notice of Taxation of Expenses**, which shall state that if the respondent-attorney fails to pay the taxed expenses [**on or before the date fixed for the appearance of the respondent-attorney before the Board for private or public reprimand or before Disciplinary Counsel for informal admonition**] within 30 days after the date of the entry of the order taxing such expenses, action will be taken by the Board pursuant to § 93.112 (relating to failure to pay taxed expenses) which will result in the entry of an order placing the respondent-attorney on administrative suspension.

* * * * *

§ 89.209. Expenses of formal proceedings.

Enforcement Rule 208(g)(1) provides that the Supreme Court in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of a proceeding which results in the imposition of discipline shall be paid by the respondent-attorney [**and that all**]. All expenses so taxed pursuant to orders of suspension that are not stayed in their entirety or disbarment shall be paid by the respondent-attorney within 30 days after notice transmitted to the

respondent-attorney of taxed expenses. In all other cases, expenses taxed under Rule 208(g)(1) shall be paid by the respondent-attorney within 30 days of entry of the order taxing the expenses against the respondent-attorney. Failure to pay such taxed expenses within 30 days after the date of the entry of the order will result in action taken by the Board pursuant to § 93.112 (relating to failure to pay taxed expenses) which will result in the entry of an order placing the respondent-attorney on administrative suspension.

CHAPTER 93. ORGANIZATION AND ADMINISTRATION

Subchapter G. FINANCIAL MATTERS

TAXATION OF COSTS

§ 93.111. Determination of reimbursable expenses.

* * * * *

(c) Administrative fee. Enforcement Rule [208(g)(3)] 208(g)(4) provides that the expenses taxable under § 89.205(b) (relating to informal admonition, private reprimand, or public reprimand following formal hearing) or § 89.209 (relating to expenses of formal proceedings) may include an administrative fee except that an administrative fee shall not be included where the discipline imposed is an informal admonition; and that the administrative fee shall be \$250.

§ 93.112. Failure to pay taxed expenses.

(a) Action by Board. Enforcement Rule 219(g) and (l) provide that the Board shall:

(1) Transmit by certified mail, return receipt requested, to every attorney who fails to pay any taxed expenses [taxed pursuant to] under § 89.205(b) (relating to taxation of expenses), or § 89.209 (relating to expenses of formal proceedings), addressed to the last known address of the attorney, a notice stating:

* * * * *

[Pa.B. Doc. No. 17-917. Filed for public inspection June 2, 2017, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 1000 AND 2000]

Proposed Amendment of Pa.R.C.P. Nos. 1018 and 1033 and Proposed Adoption of Pa.R.C.P. No. 2005

The Civil Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P. Nos. 1018 and 1033, and the adoption of new Pa.R.C.P. No. 2005 governing the designation of an unknown defendant by a fictitious name 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 August 4, 2017. 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

WILLIAM SHAW STICKMAN, IV, Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1000. ACTIONS

Subchapter A. CIVIL ACTION

PLEADINGS

Rule 1018. Caption.

Every pleading shall contain a caption setting forth the name of the court, the number of the action and the name of the pleading. The caption of a complaint shall set forth the form of the action and the names of all the parties, including a fictitious name for an unknown defendant as provided in Rule 2005, but in other pleadings it is sufficient to state the name of the first party on each side in the complaint with an appropriate indication of other parties.

* * * * *

Rule 1033. Amendment.

* * * * *

(b) An amendment correcting the name of a party against whom a claim has been asserted in the original pleading relates back to the date of the commencement of the action if, within ninety days after the period provided by law for commencing the action, the party received notice of the institution of the action such that it will not be prejudiced in maintaining a defense on the merits and the party knew or should have known that the action would have been brought against the party but for a mistake concerning the identity of the proper party.

(c) An amendment seeking to substitute the actual name of a defendant for a fictitious name as provided in Rule 2005 relates back to the date of the commencement of the action if, within the time provided by Rule 401 for service, the defendant to be named by the amendment has received actual or constructive notice of the institution of the action such that it will not be prejudiced in maintaining a

defense on the merits and the defendant knew or should have known that the action would have been brought against it but for lack of knowledge of the defendant's actual name.

CHAPTER 2000. ACTIONS BY REAL PARTIES IN INTEREST

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

Rule 2005. Unknown Defendant. Fictitious Name.

(a) The plaintiff or joining party may designate an unknown defendant by a fictitious name in a complaint filed to commence an action provided that:

(1) a defendant's actual name is unknown to the plaintiff or joining party after having conducted a reasonable search with due diligence;

(2) the fictitious name is averred to be fictitious;

(3) a factual description of the unknown defendant is averred with sufficient particularity for identification in all but the defendant's actual name; and

(4) the plaintiff or joining party avers that a reasonable search to determine the actual name has been conducted.

Official Note: This rule does not authorize use of a fictitious name in an action commenced by a writ of summons.

(b) Within twenty days after the actual name of the defendant has been identified, the plaintiff or joining party shall file a motion to amend the complaint pursuant to this rule and Rule 1033 by replacing the fictitious name with the defendant's actual name. An affidavit shall be attached to the motion describing the nature and extent of the investigation that was made to determine the identity of the defendant, and the date upon and the manner in which the defendant's actual name was identified.

Official Note: Rules 1033 and this rule govern the requirements for amending a complaint to replace a fictitious name with the actual name of a defendant.

(c) A defendant introduced to an action by its actual name in an amended complaint, after the filing of a motion pursuant to subdivision (b) and the court's ruling, may respond by preliminary objection challenging compliance with this rule, asserting prejudice or any other ground set forth in Rule 1028.

(d) The court shall grant a motion to amend filed pursuant to subdivision (b), unless the court finds that the party seeking the amendment failed to exercise due diligence in identifying the actual name of the defendant.

(e) No subpoena in aid of discovery relating to a defendant identified by a fictitious name may be issued or be served without leave of court upon motion stating with particularity from whom information is sought and how the discovery will aid in identification of the unknown defendant. In deciding the motion, the court shall weigh the importance of the discovery sought against unreasonable annoyance, embarrassment, oppression, burden, or expense to any person or party from whom the discovery is sought, and prejudice to any person or entity suspect of being the unknown defendant. Leave to serve a subpoena in aid of discovery does not preclude a challenge to the subpoena by the person or entity served.

(f) No final judgment may be entered against a defendant designated by a fictitious name.

Explanatory Comment

The Civil Procedural Rules Committee is proposing new Rule 2005 governing the naming of unknown, or John/Jane Doe, defendants in a complaint. Currently, the Rules of Civil Procedure are silent as to the use of Doe defendants in litigation; however, case law shows that the naming of Doe defendants has occurred. Proposed Rule 2005 is intended to fill this gap by standardizing the procedure in which to assert a cause of action against a Doe defendant.

The proposed rule would require a complaint using a John/Jane Doe or similar designation to describe the defendant and its liability producing conduct with sufficient specificity so as to permit identification in all but the unknown defendant's actual name. The rule imposes a duty on the plaintiff or joining party to exercise due diligence in identifying the actual name of the defendant both before and after the complaint is filed. While a sufficient description of an unknown defendant is typically fact specific to a particular case, it may include the physical characteristics of the unknown defendant, the position or title of the job performed by the unknown defendant, the alleged conduct of the unknown defendant, and how the unknown defendant is connected to the action.

Once served, the previously designated Doe defendant may challenge the filing party's due diligence by filing preliminary objections, asserting prejudice or any other ground set forth in Rule 1028. A defendant originally named by a fictitious name is not precluded from asserting nor is the grant of a motion to amend determinative of a defense based on a statute of limitations or repose.

It is important to note that designating a Doe defendant as a mere placeholder or as use as a class of defendants, e.g., John Doe Defendants 1—10, is not a valid use of Rule 2005. The rule is not intended to create a practice of naming Doe defendants as a catch-all category in the event a probable defendant is not named in a complaint. Rule 2005 requires the information in the complaint concerning the Doe defendant to sufficiently describe that defendant for all intents and purposes except by its actual name.

Rule 2005 is not intended to affect the substantive rights of any litigant. The ability to substitute the actual name of the Doe defendant after the expiration of the statute of limitations does not impermissibly extend it. Rule 2005 does not extend the time for filing an action as prescribed by the applicable statute of limitations.

The proposed rule is intended solely to provide a procedural mechanism to substitute the actual name of a Doe-designated defendant where the action has been filed within the limitations period and the defendant has been adequately described in the complaint to demonstrate that it was *that defendant* against whom the action was asserted.

*By the Civil Procedural
Rules Committee*

WILLIAM SHAW STICKMAN, IV,
Chair

[Pa.B. Doc. No. 17-918. Filed for public inspection June 2, 2017, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 2 AND 12]

Order Amending Rules 240, 242 and 1242 of the Rules of Juvenile Court Procedure; No. 739 Supreme Court Rules Doc.

Order

Per Curiam

And Now, this 16th day of May, 2017, upon the recommendation of the Juvenile Court Procedural Rules Committee, the proposal having been published for public comment at 46 Pa.B. 3940 (July 23, 2016):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 240, 242, and 1242 of the Pennsylvania Rules of Juvenile Court Procedure 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 on July 1, 2017.

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 2. COMMENCEMENT OF PROCEEDINGS, ARREST PROCEDURES, WRITTEN ALLEGATION, AND PRE-ADJUDICATORY DETENTION

PART D. PRE-ADJUDICATORY DETENTION

Rule 240. Detention of Juvenile.

* * * * *

C. Prompt hearing. If the juvenile is not released, a detention hearing shall be held no later than seventy-two hours after the juvenile is placed in detention. **Neither the juvenile nor the juvenile's attorney shall be permitted to waive the detention hearing.**

* * * * *

Comment

If a juvenile is detained, the guardian should be notified immediately. *See* Rules 220 ([**Procedures**] **Procedure** in Cases Commenced by Arrest Without Warrant) and 313(B) ([**Taking into Custody from Intake**] **Detention from Intake—Notice to Guardian**) for notification of the guardian.

Nothing in paragraph (C) is intended to preclude the use of stipulations or agreements among the parties, subject to court review and acceptance at the detention hearing.

Under paragraph (D)(2), if the juvenile causes delay, the juvenile may continue to be held in detention. The additional period of detention should not exceed ten days. The court may continue such detention for successive ten-day intervals if the juvenile caused the delay. The time restrictions of paragraph (D) apply to a juvenile who is placed in detention, even if previously released.

For time restrictions on detention for juveniles scheduled for a transfer hearing to criminal proceedings, see Rule 391.

For statutory provisions on detention, see 42 Pa.C.S. §§ 6325, 6331, 6335. For the Juvenile Court Judges Commission's Detention Standards, see 37 Pa. Code § 200.101 *et seq.* (2003).

If a juvenile is detained, the juvenile is to be placed in a detention facility, which does not include a county jail or state prison. *See* Rule 120 and its Comment for definition of "detention facility."

Official Note: Rule 240 adopted April 1, 2005, effective October 1, 2005. Amended June 28, 2013, effective immediately. **Amended May 16, 2017, effective July 1, 2017.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 240 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 240 published with the Court's Order at 43 Pa.B. 3938 (July 13, 2013).

Final Report explaining the amendments to Rule 240 published with the Court's Order at 47 Pa.B. 3078 (June 3, 2017).

Rule 242. Detention Hearing.

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Comment

A detention hearing consists of two stages. The first stage of a detention hearing is a probable cause hearing. If probable cause is not found, the juvenile is to be released. If probable cause is found, then the court is to proceed to the second stage.

The second stage of a detention hearing is a detention determination hearing. The court should hear pertinent evidence concerning the detention status of the juvenile, review and consider all alternatives to secure detention, and determine if the detention of the juvenile is warranted.

An additional determination is required in paragraph (C)(3), although this is not a third stage of the detention hearing. It is important that the court address any special needs of the juvenile while the juvenile is in detention. The juvenile's attorney, the juvenile probation officer, or detention staff is to present any educational, health care, and disability needs to the court, if known at the time of the hearing. Special needs may include needs for special education, remedial services, health care, and disability. If the court determines a juvenile is in need of an educational decision maker, the court is to appoint an educational decision maker pursuant to Rule 147.

When addressing the juvenile's needs concerning health care and disability, the court's order should address the right of: 1) a juvenile to receive timely and medically appropriate screenings and health care services, 55 Pa. Code § 3800.32 and 42 U.S.C. § 1396d(r); and 2) a juvenile with disabilities to receive necessary accommodations, 42 U.S.C. § 12132, 28 C.F.R. § 35.101 *et seq.*, Section 504 of the Rehabilitation Act of 1973, *as amended*, 29 U.S.C. § 794, and implementing regulations at 45 C.F.R. § 84.1 *et seq.*

Pursuant to the Juvenile Act, the court has authority to order a physical or mental examination of a juvenile and medical or surgical treatment of a minor, who is suffering from a serious physical condition or illness, which requires prompt treatment in the opinion of a physician. The court may order the treatment even if the guardians

have not been given notice of the pending hearing, are not available, or without good cause inform the court that they do not consent to the treatment. 42 Pa.C.S. § 6339(b).

The procedures of paragraph (D) deviate from the procedures of the Juvenile Act. *See* 42 Pa.C.S. § 6331. Under paragraph (D), a petition does not have to be filed within twenty-four hours of the juvenile's detention; rather, the petition should be filed within twenty-four hours of the conclusion of the detention hearing if the juvenile is detained. *See* Rule [800] 800(11). If the juvenile is not detained, a petition may be filed at any time prior to the adjudicatory hearing. However, the juvenile's attorney should have sufficient notice of the allegations prior to the adjudicatory hearing to prepare for the defense of the juvenile. *See* Rule 330 for petition requirements, Rule 331 for service of the petition, and Rule 363 for time of service.

The victim may be present at the hearing. *See* Rule 132 and 18 P.S. § 11.201 *et seq.* Any persons may be subpoenaed to appear for the hearing. *See* Rule 123 and 42 Pa.C.S. § 6333. However, nothing in these rules requires the attendance of the victim unless subpoenaed. If the victim is not present, the victim is to be notified of the final outcome of the proceeding. *See* Victim's Bill of Rights, 18 P.S. § 11.201 *et seq.*

See 42 Pa.C.S. §§ 6332, 6336, and 6338 for the statutory provisions concerning informal hearings and other basic rights.

Official Note: Rule 242 adopted April 1, 2005, effective October 1, 2005. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended May 26, 2011, effective July 1, 2011. Amended July 18, 2012, effective October 1, 2012. Amended February 6, 2017, effective April 1, 2017. **Amended May 16, 2017, effective July 1, 2017.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 242 published with the Court's Order at 47 Pa.B. 941 (February 18, 2017).

Final Report explaining the amendments to Rule 242 published with the Court's Order at 47 Pa.B. 3078 (June 3, 2017).

Subpart B. DEPENDENCY MATTERS

CHAPTER 12. COMMENCEMENT OF PROCEEDINGS, EMERGENCY CUSTODY, AND PRE-ADJUDICATORY PLACEMENT

PART C. SHELTER CARE

Rule 1242. Shelter Care Hearing.

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D. *Prompt hearing.* The court shall conduct a hearing within seventy-two hours of taking the child into protective custody. **The parties shall not be permitted to waive the shelter care hearing.**

* * * * *

Comment

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Under paragraph (D), the court is to ensure a timely hearing. **Nothing in paragraph (D) is intended to preclude the use of stipulations or agreements**

among the parties, subject to court review and acceptance at the shelter care hearing.

* * * * *

Nothing in this rule prohibits informal conferences, narrowing of issues, if necessary, and the court making appropriate orders to expedite the case [**through court**]. The shelter care hearing may be used as a vehicle to discuss the matters needed and narrow the issues. The court is to [**insure**] **ensure** a timely adjudicatory hearing is held.

See 42 Pa.C.S. § 6339 for orders of physical and mental examinations and treatment.

See Rule 1330(A) for filing of a petition.

Official Note: Rule 1242 adopted August 21, 2006, effective February 1, 2007. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended July 13, 2015, effective October 1, 2015. **Amended May 16, 2017, effective July 1, 2017.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1242 published with the Court's Order at 45 Pa.B. 3987 (July 25, 2015).

Final Report explaining the amendments to Rule 1242 published with the Court's Order at 47 Pa.B. 3078 (June 3, 2017).

FINAL REPORT¹

Amendment of Pa.R.J.C.P. 240, 242, and 1242

On May 16, 2017, the Court amended Rules of Juvenile Court Procedure 240 and 1242 to preclude waiver of either a detention hearing or a shelter care hearing. Rule 242 was amended for perfunctory matters.

Rules 240 and 1242 have been amended to preclude waiver of detention hearings and shelter care hearings given the important function served by these hearings. *See* Pa.R.J.C.P. 242(A) & (C); Pa.R.J.C.P. 1242(A), (C), & (E). There may be circumstances when some matters may be uncontested. However, any stipulations or agreements among the parties about these circumstances should be entered onto the record at the hearing, subject to acceptance by the court.

[Pa.B. Doc. No. 17-919. Filed for public inspection June 2, 2017, 9:00 a.m.]

PART I. RULES

[237 PA. CODE CH. 13]

Order Amending Rules 1320 and 1321 of the Rules of Juvenile Court Procedure; No. 738 Supreme Court Rules Doc.

Amended Order

Per Curiam

And Now, this 16th day of May, 2017, upon the recommendation of the Juvenile Court Procedural Rules Committee, the proposal having been published for public comment at 46 Pa.B. 3949 (July 23, 2016):

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.

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 1320 and 1321 of the Pennsylvania Rules of Juvenile Court Procedure 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 on July 1, 2017.

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart B. DEPENDENCY MATTERS

CHAPTER 13. PRE-ADJUDICATORY PROCEDURES

PART B. APPLICATION FOR PRIVATE PETITION

Rule 1320. Application to File a Private Petition.

A. *Application [contents] Contents.* Any person, other than the county agency, may present an application to file a private petition with the court. The application shall include the following information:

* * * * *

8) the signature of the person and the date of the execution of the application for a petition.

B. Notice to County Agency. Upon receipt of an application, the court shall provide a copy of the application to the county agency. The county agency shall thereafter receive notice of the hearing.

Comment

[Rule 1330 requires that the county agency file a petition.] Any person, other than the county agency, [is to] shall first file an application to file a petition under this Rule. Rule 1800 suspends 42 Pa.C.S. § 6334[, which provides any person may file a petition] to the extent it is inconsistent with this Rule.

See Rule 1321 for hearing on application [and finding that a petition is to be filed by the county agent].

This rule is not intended to preclude the county agency from seeking to intervene and participate in the hearing on the application. See Rule 1133 (Motion to Intervene).

Official Note: Rule 1320 adopted August 21, 2006, effective February 1, 2007. Amended May 12, 2008, effective immediately. **Amended May 16, 2017, effective July 1, 2017.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1320 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1320 published with the Court's Order at 38 Pa.B. 2360 (May 24, 2008).

Final Report explaining the amendments to Rule 1320 published with the Court's Order at 47 Pa.B. 3079 (June 3, 2017).

Rule 1321. Hearing on Application for Private Petition.

A. *Hearing.* The court shall conduct a hearing within fourteen days of the presentation of the application for a petition to determine:

1) if there are sufficient facts alleged to support a petition of dependency; and

2) whether the person applying for the petition is a proper party to the proceedings.

B. Findings.

1) If the court finds sufficient facts to support a petition of dependency, **then the applicant may file a petition [may be filed]** pursuant to Rule 1330.

2) If the court finds the person making the application for a petition is a proper party to the proceedings, **then** the person shall be afforded all rights and privileges given to a party pursuant to law.

C. Joinder. Following grant of an application under this rule, the county agency shall be joined as a party in any further proceedings upon filing and service of a private petition pursuant to Rules 1330 and 1331.

Comment

Under paragraph (A), at a hearing, the court is to determine if: 1) there are sufficient facts alleged to support a petition of dependency; and 2) the applying person is a proper party to the proceedings. A petition of dependency may go forward whether or not the applying person is determined to be a party to the proceedings.

If a child is in custody, the hearing under paragraph (A) may be combined with the shelter care hearing pursuant to Rule 1242.

Official Note: Rule 1321 adopted August 21, 2006, effective February 1, 2007. **Amended May 16, 2017, effective July 1, 2017.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1321 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1321 published with the Court's Order at 47 Pa.B. 3079 (June 3, 2017).

FINAL REPORT¹

Amendment of Pa.R.J.C.P. 1320 and 1321

On May 16, 2017, the Supreme Court amended Rules of Juvenile Court Procedure 1320 and 1321 to clarify and revise the application procedures for the filing of a private dependency petition.

Pursuant to Rule 1320, any person other than a county agency may present an application to the court to file a private dependency petition with the court. If the court finds sufficient facts to support a petition, then a petition may be filed pursuant to Rule 1330.

A question arose about who files the petition after the court has approved an application: the county agency or the private party who filed the application? The rule was silent on this point. The Comment to Rule 1320 suggested that the county agency files the petition after the application has been approved while the title to the rule suggested that private petitions are permissible. Another matter considered was the manner in which the county agency is notified of the application and when the county agency should be joined as a party in the proceeding.

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.

The Comment to Rule 1320 has been revised to clarify that a private party must first file an application before proceeding with a private petition. To ensure that the county agency has notice of the application, Rule 1320 has been amended to add paragraph (B) to require the court to provide the county agency with a copy of the application and notice of the Rule 1321 hearing on the application. The Comment to Rule 1320 was further revised to add language indicating that the county agency is not precluded from seeking to intervene after the filing of an application.

Rule 1321(B) has been amended to clarify that the applicant may proceed with the filing of a private petition if the court finds sufficient facts to support a petition for dependency. Notwithstanding the pursuit of an adjudication by a private party, the county agency will be joined as a party to the dependency proceeding pursuant to new paragraph (C) upon the filing and service of a private dependency petition.

[Pa.B. Doc. No. 17-920. Filed for public inspection June 2, 2017, 9:00 a.m.]

Title 25—LOCAL COURT RULES

DAUPHIN COUNTY

Promulgation of Local Rules; No. 1793 S 1989

Order

And Now, this 15th day of May 2017, Dauphin County Local Rules 1920.43, 1920.51, 1920.51A, and 1920.74(a) are amended as follows:

Rule 1920.43. Pre-Hearing Divorce Matters, Special Relief, Advance Distribution, Discovery, Post-Divorce Issues (Other Than Exceptions To Master’s Report).

(a) [**Petitions for Special Relief and motions raising pre-trial and post-divorce issues other than Exceptions to Master’s Report in divorce cases may at the court’s discretion be assigned to the Divorce Master.] The Court may assign Petitions for Special Relief and Motions raising pre-trial and post-divorce issues to the Divorce Master.**

(b) Any Pre-Hearing or Post-Divorce Petition or Motion in a divorce matter shall comply with Dauphin County Local Rule 205.2(a)(3)(b) [**and shall include the following:]**.

(1) [**A certification by the filing party that (s)he disclosed the full text of the Petition or Motion and**

the Proposed Order to all parties by facsimile or electronic communication and that concurrence to both the Petition or Motion and Proposed Order has been given or denied by each party in accordance with Dauphin County Local Rule 208.2(d).] The filing party shall certify that (s)he disclosed the full text of the Petition or Motion and Proposed Order to all parties by facsimile or electronic communication and whether each party concurs or opposes the Petition or Motion and Proposed Order in accordance with Dauphin County Local Rule 208.2(d).

(2) [**If concurrence to both the Petition or Motion and the Proposed Order is denied by any party or any party has not responded in a timely manner, the Petition or Motion shall be deemed to be contested and the moving party shall attach:] If any party opposes the Petition or Motion and Proposed Order, or any party fails to respond in a timely manner, the Petition or Motion is contested and the moving party shall attach:**

(a) A Rule to Show Cause in accordance with Pa.R.C.P. 206.5;

(b) A Proposed Order;

(c) A Certificate of Service;

(d) A Self-Represented Party Entry of Appearance if unrepresented by legal counsel.

(3) If all parties concur, the Petition or Motion [**shall be deemed to be] is uncontested and the filing party shall attach the proposed agreed Order.**

(c) If the Petition or Motion is [**deemed to be] contested, [a Rule to Show Cause shall be issued by] a Family Court Judge shall issue a Rule to Show Cause.**

[(1) **When a response to the Rule to Show Cause is filed, the Court may direct the Divorce Master to address the issues in dispute. In that event, the moving party shall file an original and a copy of a Motion for Appointment of Master with the Prothonotary together with the \$75.00 administrative fee in accordance with Dauphin County Rule 1920.51.]**

(d)(1) **Either party shall file an original and one copy of the Request for Assignment form with the Prothonotary when a response to the Rule to Show Cause is filed or the time period for a response has expired. The Request for Assignment form shall be in the following form. This form is available at <http://www.dauphincounty.org/government/Court-Departments/Self-Help-Center/default.aspx>.**

Plaintiff

v.

Defendant

: IN THE COURT OF COMMON PLEAS
: DAUPHIN COUNTY, PENNSYLVANIA
:
: NO. _____ CV _____
:
: CIVIL ACTION
: IN DIVORCE

(ATTORNEY FOR MOVING PARTY) (SELF-REPRESENTED MOVING PARTY):

Name: _____

Address: _____

Phone: _____ FAX: _____ E-Mail: _____

(ATTORNEY FOR NON-MOVING PARTY) (SELF-REPRESENTED NON-MOVING PARTY):

Name: _____

Address: _____

Phone: _____ FAX: _____ E-Mail: _____

REQUEST FOR ASSIGNMENT TO DIVORCE MASTER OR JUDGE

Date Petition for Special Relief/Advance Distribution/Post-Divorce Relief was filed: _____

Date Rule to Show Cause was issued: _____

Date Response was filed: _____

The matter is ready for assignment to a Judge or Divorce Master.

Date

Signature

(2) The Court Administrator's Office shall assign the Petition and Response to a Family Law Judge for review. The Family Law Judge shall either schedule a hearing, enter an Interim Order and refer the matter to the Divorce Master, or refer the matter to the Divorce Master to address the issues in dispute.

(3) If the Family Law Judge refers the matter to the Divorce Master, the moving party shall file an original and one copy of a Motion for Appointment of Master with the Prothonotary together with the \$75.00 administrative fee in accordance with Dauphin County Local Rule 1920.51 plus any other filing fee required by the Prothonotary.

[(2)] (4) The Prothonotary shall promptly forward the Motion for Appointment of Master to the Court Administrator's Office. A Family Court Judge will appoint the Divorce Master to hear the [Pre-Hearing] pending matter.

[(3)] (5) The Divorce Master will schedule a [Pre-Hearing] Conference.

[(4) If an agreement is reached at the Pre-Hearing Conference, the] (6) The Divorce Master shall file a Memorandum memorializing the agreement reached at any Pre-Hearing Conference with the Prothonotary and shall forward the agreed Order to a Family Court Judge for review.

[(5) If an agreement is not reached at the Pre-Hearing Conference, the] (7) The Divorce Master shall schedule a hearing if an agreement is not reached at any Conference.

[(6) Following the hearing,] (8) The Divorce Master shall file [with the Prothonotary] a Report and Recommendation and Proposed Order [regarding the Pre-Hearing matter] with the Prothonotary within [ten (10) days] twenty (20) days in uncontested actions or thirty (30) days in contested actions from the date of the hearing[. A copy of] and mail a copy of the Report and Recommendation and Proposed Order [shall be mailed] to all counsel and/or self-represented parties.

(9) A party may file exceptions to the Report and Recommendation and Proposed Order in accordance with Pa.R.C.P. 1920.55-2(b).

[(7) The] (10) If no exceptions are filed, the Prothonotary shall promptly forward the Report and Recommendation and Proposed Order to the Court Administrator's Office for assignment to a Family Court Judge to issue an Order.

[(8) Within ten (10) days from the date of the Court Order, for good cause shown, e.g. immediate irreparable harm or other extraordinary circumstances, a party may petition the Court to reconsider the Order.

(d) At any point after the Divorce Complaint has been filed, a party may request the appointment of the master to address discovery by filing an original and a copy of a Motion for Appointment of Master with the Prothonotary together with the \$75.00 administrative fee in accordance with Dauphin County Local Rule 1920.51.]

(11) If exceptions are filed, the Prothonotary shall promptly forward the Exceptions to the Court Administrator's Office for assignment to a Family Court Judge for disposition.

(e) A party may file an original and one copy of a Motion For Appointment of Master with the Prothonotary together with the administrative fee of \$75.00 plus any other filing fee required by the Prothonotary to address discovery at any point after the filing of the Divorce Complaint.

1920.51. Equitable Distribution, Divorce, Annulment, Alimony Pendente Lite, Alimony, Counsel Fees, Costs and Expenses.

(1) The Divorce Master shall hear annulment, economic claims in Divorce including alimony pendente lite, alimony, equitable distribution, counsel fees, costs and expenses or any aspect thereof.

(2) Any party shall file [An] an original and a copy of the Motion for Appointment of Master [shall be filed] with the Prothonotary[, together with the administrative fee] if proceeding under Dauphin County Local Rule 1920.51. [If a Motion for Appointment of Master is filed under Dauphin County Local Rule

1920.43, an administrative fee of \$75.00.] If a [**motion for Appointment of Master is filed under Dauphin County Local Rule 1920.51 and the]** Master was previously appointed because of pretrial or discovery matters, the administrative fee of \$75.00 **plus any filing fee required by the Prothonotary** shall be paid to the Prothonotary. If a Master has not been previously appointed, an administrative fee of \$150.00 **plus any filing fee required by the Prothonotary** shall be paid to the Prothonotary. The Motion for Appointment of Master shall be in form prescribed by Dauphin County Local Rule 1920.74(a).

(3) The Motion shall include the following attachments:

(a) An updated Income and Expense Statement in the form required by Pa.R.C.P. 1910.27(c)(1).

(b) An updated Inventory and Appraisalment in the form required by Pa.R.C.P. 1920.75.

(c) A proposed Order appointing the Master and scheduling a Preliminary Conference in the form prescribed by Dauphin County Local Rule 1920.74(b).

(d) A Certificate of Service.

(e) A Self-Represented Entry of Appearance if the filing party is unrepresented by legal counsel.

(4) The Prothonotary shall forward the Motion for Appointment of Master to the Court Administrator's Office. **[The Court Administrator's Office] A Family Court Judge shall appoint the Divorce Master and the Divorce Master** shall schedule a Preliminary Conference **[with the Divorce Master] with the parties and their legal counsel.**

(5) At the Preliminary Conference, the Divorce Master shall address all outstanding pre-trial matters with counsel and the parties.

(6) Following the Preliminary Conference, the Divorce Master shall schedule a **[Pre-Hearing]** Settlement Conference with **[counsel and]** the parties **and their legal counsel.**

(7) Following both the Preliminary Conference and the **[Pre-Hearing]** Settlement Conference, the Divorce Master shall prepare a Memorandum memorializing any agreements and schedule the matter for a hearing on all remaining contested issues.

(8) The Divorce Master shall file the Memorandum with the Prothonotary and mail a copy of the Memorandum **[and Scheduling Order]** to all legal counsel and **[any]** self-represented parties in accordance with Pa.R.C.P. 1920.51.

(9) The Court shall pay a stenographer's appearance fee **[for]** if a court reporter not employed by **Dauphin County transcribes** the hearing testimony; however the cost of any transcripts requested by the parties **[or the Divorce Master]** shall be borne by the parties.

(10) The Divorce Master shall file **[with the Prothonotary]** a Report and Recommendation and Proposed Order **with the Prothonotary** in accordance with the Pennsylvania Rules of Civil Procedure.

(11) A copy of the Report and Recommendation and Proposed Order shall be mailed to **[all]** counsel and self-represented parties with written notice of the right to file Exceptions.

(12) If the parties request a transcript, the Divorce Master may delay the filing of the Report and Recommendation and Proposed Order or file a Supplemental Report and Recommendation and Proposed Order in accordance with the Pennsylvania Rules of Civil Procedure.

[(13) Upon Motion, the Court may for good cause shown, extend the time for the Divorce Master to file the Report and Recommendation and Proposed Order.]

[(14)] (13) If no timely Exceptions are filed, the Prothonotary shall promptly forward the Report and Recommendation and Proposed Order to the Court Administrator's Office for assignment to a Family Court Judge. If a Family Court Judge has handled a contested family law case for that family, the matter will be assigned to that **[judge]** Judge.

[(15)] (14) An original and a copy of Exceptions to the Divorce Master's Report and Recommendation shall be filed with the Prothonotary's Office along with a Prior Court Involvement Statement in accordance with Dauphin County Local Rule 1931. This form is available at <http://www.dauphincounty.org/government/Court-Departments/Self-Help-Center/Pages/default.aspx>.

[(16)] (15) The Prothonotary shall forward the Exceptions to the Report and Recommendation to the Court Administrator's Office for **[an]** assignment to a Family Court Judge. If a Family Court Judge has handled a contested family law case for that family, the matter will be assigned to that Judge.

[(17)] (16) The Court shall promptly issue an Order scheduling a conference, the filing of briefs and/or oral argument.

1920.51A. Administrative **[Filing]** Fees for Divorce Matters.

[A Motion for Appointment of Master and a proposed order shall be in the form prescribed by Dauphin County Local Rule 1920.74(a) and (b) and shall be filed with the Prothonotary. Simultaneously with the filing of the Motion for Appointment of Master in accordance with Dauphin County Local Rule 1920.43, an administrative fee of \$75.00 shall be paid to the Prothonotary. If a Motion for Appointment of Master is filed under Dauphin County Local Rule 1920.51 and a Motion had previously been filed under Dauphin County Local Rule 1920.43, an additional administrative fee of \$75.00 shall be paid to the Prothonotary. If a Motion for Appointment of Master had not been previously filed, an administrative fee of \$150.00 shall be paid to the Prothonotary. If a Motion for Appointment of Master is filed for Post-Divorce issues, an administrative fee of \$150.00 shall be paid to the Prothonotary if this is the first time that a request for a divorce master has been made. If a Divorce Master had been previously appointed, the administrative fee is \$75.00.]

(1) **[Upon the filing of the Complaint, the plaintiff shall pay to the Prothonotary, in addition to any other charges, an administrative fee in the amount of \$125.00.]** DIVORCE COMPLAINT: The plaintiff shall pay a \$125.00 administrative fee plus any filing fees required by the Prothonotary at the time the divorce complaint is filed.

(2) MOTION FOR APPOINTMENT OF MASTER:

(a) The party filing the Motion for Appointment of Master shall pay a \$75.00 administrative fee plus any filing fees required by the Prothonotary if proceeding under Dauphin County Local Rule 1920.43.

(b) The filing party shall pay a \$150.00 administrative fee plus any filing fees required by the

Prothonotary if proceeding under Dauphin County Local Rule 1920.51 and a Master has not been previously appointed.

(c) The filing party shall pay a \$75.00 administrative fee plus any filing fees required by the Prothonotary if proceeding under Dauphin County Local Rule 1920.51 and a Master was previously appointed under Dauphin County Local Rule 1920.43.

1920.74(a). Form—Motion for Appointment of Master.

[(CAPTION)

(ATTORNEY FOR MOVING PARTY) (SELF-REPRESENTED MOVING PARTY):

Name:

Address:

Phone:

FAX:

E-Mail:

(ATTORNEY FOR NON-MOVING PARTY) (SELF-REPRESENTED NON-MOVING PARTY):

Name:

Address:

Phone:

FAX:

E-Mail:

MOTION FOR APPOINTMENT OF MASTER

_____, PLAINTIFF/DEFENDANT, moves the court to appoint the master with respect to all claims raised of record and in support of the motion states:

1. The plaintiff's current mailing address is

2. The defendant's current mailing address is

3. The respondent (has) (has not) appeared in the action (personally) (by his/her attorney, Esquire).

4. The statutory ground(s) for divorce (is) (are):

5. Discovery (is) (is not) complete.

Submitted By:

Date: _____

_____]

Plaintiff

: IN THE COURT OF COMMON PLEAS
: DAUPHIN COUNTY, PENNSYLVANIA

v.

: NO. _____ CV _____

Defendant

: CIVIL ACTION
: IN DIVORCE

(ATTORNEY FOR MOVING PARTY) (SELF-REPRESENTED MOVING PARTY):

Name: _____

Address: _____

Phone: _____ FAX: _____ E-Mail: _____

(ATTORNEY FOR NON-MOVING PARTY) (SELF-REPRESENTED NON-MOVING PARTY):

Name: _____

Address: _____

Phone: _____ FAX: _____ E-Mail: _____

MOTION FOR APPOINTMENT OF MASTER

1. Check one of the following boxes:

I file this motion in accordance with Dauphin County Local Rule 1920.51. I request that all issues raised be decided by the Divorce Master. I paid the \$150.00 administrative fee plus any filing fees required by the Prothonotary. The Divorce Master was not previously appointed for pre-trial or discovery matters.

I file this motion in accordance with Dauphin County Local Rule 1920.51. I request that all remaining issues raised be decided by the Divorce Master. I paid the \$75.00 administrative fee plus any filing fees required by the Prothonotary. The Divorce Master was previously appointed for pre-trial or discovery matters.

I file this motion in accordance with Dauphin County Local Rule 1920.43 and request that discovery, special relief matters, or other pre-trial or post-divorce issues excluding Exceptions to Master's Report be decided by the Divorce Master. I paid the \$75.00 administrative fee plus any filing fees required by the Prothonotary.

2. _____, (circle one) PLAINTIFF/DEFENDANT, moves the Court to appoint a Divorce Master.

3. The plaintiff's current mailing address is

_____.

4. The defendant's current mailing address is

_____.

5. The respondent (circle one) (has) (has not) appeared in the action (circle one) (personally) (by his/her attorney) _____, Esquire

6. The statutory ground(s) for divorce (is) (are):

_____.

7. Discovery (circle one) (is) (is not) complete.

8. I mailed a copy of this motion to all parties and/or their legal counsel at the addresses listed above on _____, 20____.

Respectfully submitted:

Date

Signature

These amendments shall be effective thirty (30) days from date of publication.

By the Court

RICHARD A. LEWIS,
President Judge

LYCOMING COUNTY

Amendments to the Rules of General Court Business; Doc. No. 17-00006

Order

And Now, this 5th day of May 2017, it is hereby Ordered and Directed as follows:

1. Lycoming County Rules of General Court Business L4002, L4007 and L4008 are hereby promulgated.

2. The Prothonotary is directed to do the following:

a. File one (1) certified copy of this order with the Administrative Office of Pennsylvania Courts;

b. Forward two (2) certified copies of this order and a computer disk containing the text of the local rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; and

c. Forward one (1) copy of this order to the chairperson of the Lycoming County Customs and Rules Committee.

3. The chairperson of the Lycoming County Custom and Rules Committee is directed to do the following:

a. Publish the revised rules on the Lycoming Law Association website at <http://www.lycolaw.org/rules/rules.html>; and

b. Compile the rule revisions within the complete set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*.

4. The new rules shall become effective 30 days after the publication of this order in the *Pennsylvania Bulletin*.

By the Court

NANCY L. BUTTS,
President Judge

L4002. Definitions.

The Senior Court Reporter is a court reporter, selected for that position by the president judge. The senior court reporter is designated as the individual under Pa.R.J.A. Nos. 4001—4016 to assure compliance with the timely delivery of all transcripts and to perform such other tasks under said rules that are permitted to be performed by the designee of the president judge or the district court administrator, except for the receipt of transcript payments.

L4007. Requests for Transcripts.

(A) Requests for ordinary transcripts shall be filed with the Prothonotary/Clerk of Courts or Register and Recorder, as appropriate, by using the transcript request form required by Pa.R.J.A. No. 4007(A).

(B) *Procedure for a litigant obtaining a transcript.*

(1) Unless all of the costs have been waived under Lyc.Co.R.G.C.B. L4008(B), before filing a transcript request form, the litigant shall first submit the transcript request form to the senior court reporter via email (preferred), or fax (570-327-2288), or U.S. or courthouse mail (48 West Third Street, Williamsport, PA 17701).

(a) Within five (5) business days from the date the form is received, the senior court reporter will complete the applicable portions of section V (“For Court use only”) of the transcript request form and return the form to the

litigant thereby notifying the litigant of the estimated cost. Senior court reporter contact information is available at www.lyco.org/Courts/Court-Reporters.

(b) The litigant ordering a transcript shall make a non-refundable deposit in the amount of 100% of the estimated cost of the transcript. The payment shall be made contemporaneously with the filing of the transcript request form, in the manner required by the office in which the form is filed.

(2) If a court order waiving all of the costs has been entered or a certification letter has been provided under Lyc.Co.R.G.C.B. L4008(B), the litigant need not submit the transcript request form to the senior court reporter. Instead, the litigant shall simply file the transcript request form with the appropriate filing office and attach the court order waiving the costs or the certification letter.

(3) Upon the filing of a transcript request form and the payment of any required deposit, the filing office shall notify the court reporter, who shall then prepare the transcript.

(4) If the actual costs are more than the deposit amount, the final balance shall be paid to the appropriate filing office within seven (7) calendar days from the date the requesting party is notified of the balance owed. If the actual costs are less than the deposit amount, the filing office shall issue a refund to the requesting party.

L4008. Transcript Costs Payable by a Requesting Party Other Than the Commonwealth or a Subdivision Thereof/Waiver of Costs.

(A) *Costs.* The costs for transcripts are established at the maximum rate allowed by Pa.R.J.A. No. 4008(A).

(B) *Petition to Waive All or a Portion of the Transcript Costs/Letter of Certification.*

(1) If a litigant seeks to waive all or a portion of the costs of a transcript, that request shall be in the form of a petition which shall be filed in the appropriate filing office. If the court waives all of the transcript costs, the litigant shall proceed in accordance with L4007(B)(2). If the court waives only a portion of the transcript costs or denies the petition, the litigant shall proceed in accordance with L4007(B)(1).

(2) Litigants who have been approved for representation by legal aid services are not required to prove economic hardship and shall be entitled to obtain ordinary transcripts at no cost. In lieu of a petition to waive the transcript costs, legal aid services may provide a letter of certification verifying that the client meets financial eligibility for legal aid services and that the matter is under appeal or that the transcript being requested is necessary to advance the litigation. If a certification letter is provided, the litigant shall proceed in accordance with L4007(B)(2).

(C) *Additional Costs.* A trial judge may impose a reasonable surcharge in cases such as mass tort, medical malpractice or other unusually complex litigation, where there is a need for court reporters to significantly expand their dictionary. Such surcharges are at the discretion of the trial judge.

[Pa.B. Doc. No. 17-922. Filed for public inspection June 2, 2017, 9:00 a.m.]

TIOGA COUNTY

Judicial Administration Local Rule 4001 Et. Seq.;
113 MS 17

And Now, this 16th day of December, 2016, the Court hereby adopts the Uniform Rules Governing Reporting and Transcripts (Rule 4001 et seq.).

The President Judge and the District Court Administrator appoint the Chief Court Monitor as designee for purposes of the administration of this local rule.

This rule shall not interfere with or otherwise limit the income of the court monitors. Court monitors shall continue to be properly compensated for their professional services as related to the preparing of transcripts.

I. PROCEDURES

A. Format:

i. Requests for transcripts shall be set forth of a standardized form provided by the Court Administrator of the Administrative Office of Pennsylvania Courts

B. Requests for Transcripts

i. For an ordinary transcript, the party requesting the full or partial transcript of a trial or other proceeding shall file the original request with the appropriate filing office of the Court (Clerk of Courts/Prothonotary, or Orphans' Court).

C. Service

i. The requesting party shall service copies of the formal request to:

1. The Presiding Judge
2. The court monitor(s) assigned to the proceeding
3. The Chief Court Monitor
4. Opposing counsel or party, if party is unrepresented

D. Filing:

i. In courts where daily, expedited, same-day or rough draft transcripts are available, requests for transcripts shall be filed in writing in the appropriate filing office at least 10 days prior to the proceeding.

1. Copies of the written request shall be served as provided by Section (C) supra.

2. In the event of an emergency, a party may request by oral motion a daily, expedited, same-day or rough draft transcript.

E. Private Litigant Requests

i. When a private litigant request a transcript, the litigant ordering the transcript shall make payment in the amount of 75% of the estimated total cost of the transcript.

F. Payment of Costs

i. Deposit checks are to be made payable to the Court of Common Pleas of Tioga County and shall be delivered to the Chief Court Monitor.

G. Preparation of Transcripts

i. Upon receipt of the 75% deposit, the court monitor(s) assigned to the proceeding shall be directed by the Chief Court Monitor to prepare the transcript.

H. Notice of Completion

i. The court monitor(s) shall notify the ordering party and the Chief Court Monitor of the completion of the

transcript and shall deliver a copy of the transcript to the Judge presiding over the matter.

I. Payment for Balance:

i. Checks for the final balance are to be made payable to the Court of Common Pleas of Tioga County and shall be delivered to the Chief Court Monitor.

J. Requirement of Signature of Presiding Judge:

i. Upon payment of balance owed, the court monitor(s) shall obtain the signature of the presiding Judge on the original transcript and shall deliver the original transcript to the appropriate filing office. After the original transcript has been delivered to the appropriate filing office, if ordered pursuant to Section II(E) infra, copies shall be delivered to the parties.

K. Request for Litigant (Economic Hardship)

i. When a litigant requests a transcript, but cannot pay for the transcript because of alleged economic hardship, the Court shall determine economic hardship pursuant to the procedures set forth in Paragraph II(C) infra.

ii. In cases of economic hardship where the matter is under appeal or a transcript is necessary to advance litigation, the costs of procuring the transcript shall be waived or otherwise adjusted by the Court.

iii. In cases of economic hardship where there is no appeal pending or there exists no obvious need for the transcript to advance litigation, the requesting party must demonstrate reasonable need before the Court shall waive or adjust the cost of obtaining the transcript.

II. RATES

Transcript costs payable by a requesting party other than the Commonwealth or a subdivision thereof shall be governed as follows:

A. Costs Payable:

The costs payable by the initial ordering party for a transcript delivered via electronic format shall not exceed:

- i. For an ordinary transcript, \$2.50 per page
- ii. For an expedited transcript, \$3.50 per page
- iii. For a daily transcript, \$4.50 per page
- iv. For a same-day delivery, \$6.50 per page
- v. For a realtime feed—not available
- vi. For a complex litigation—not available
- vii. For rough drafts, \$1.00 per page

B. Bound Paper Format

When a transcript is prepared in a bound paper format, the costs shall be in accordance with Section II(A) supra relating to electronic format plus a surcharge of \$0.25 per page. Bound paper format copies shall not be delivered in condensed form.

C. Economic Hardship

i. Transcript costs for ordinary transcripts in matters under appeal, or where the transcript is necessary to advance litigation, shall be waived for a litigant who has been permitted by the Court to proceed in forma pauperis or whose income is less than 125% of the poverty line as defined by the U.S. Department of Health and Human Services (HHS) poverty guidelines for the current year.

ii. Transcript costs for ordinary transcripts in matters under appeal, or where the transcript is necessary to advance the litigation, shall be reduced by one-half for a

litigant whose income is less than 200% of the poverty line as defined by the HHS poverty guidelines for the current year.

iii. Transcript costs for ordinary transcript matters that are not subject to appeal, where the transcript is not necessary to advance the litigation, or for expedited, daily, same-day or rough draft transcripts may be waived at the Court's discretion for parties who qualify for economic hardship under Section II(C)(1) or II(C)(2) supra and upon good cause shown.

iv. The application for waiver of all or a portion of the costs for ordinary transcripts shall be supported by an affidavit substantially in the form required by Rule 240(h) of the Pennsylvania Rules of Civil Procedure.

v. A hearing shall be conducted to determine if economic hardship has been demonstrated.

vi. Litigants who have been approved for representation by Legal Aid Services are not required to prove economic hardship. Litigants represented by Legal Aid Services must provide the Court with a letter from their Legal Aid attorney stating that the matter is under appeal or that the transcript being requested is necessary to advance the current litigation

D. Assignment and Allocation of Transcript Costs:

i. The requesting party, or the party required by general rule to file a transcript, shall be responsible for the cost of the transcript. Costs shall not be assessed against any party for transcripts prepared at the initiation of the Court.

ii. When more than one party requests the transcript, or are required by general rule to file the transcript, the costs shall be divided equally among the parties.

E. Copies of Transcripts:

A request for a copy of any transcript previously ordered, transcribed, and filed of record shall be provided according to the following schedule:

- i. \$0.75 per page bound, paper format; and,
- ii. \$0.50 per page for an electronic copy.

All copies of transcripts shall be requested from and provided by the court monitor(s). Filing offices must direct requests for copies of transcripts to the court monitor(s).

By the Court

GEORGE W. WHEELER,
President Judge

[Pa.B. Doc. No. 17-923. Filed for public inspection June 2, 2017, 9:00 a.m.]

TIOGA COUNTY

**Judicial Administration Local Rule 4001 Et. Seq.;
No. 113 MS 17**

Order

And Now, this 16th day of May, 2017, the Court hereby Amends and adopts the following Uniform Rules Governing Reporting and Transcripts (Rule 4001 et seq.) for use in the Court of Common Pleas of the 4th Judicial District, Tioga County, Pennsylvania.

By the Court

GEORGE W. WHEELER,
President Judge

L.R. No. 4001 et seq. Amended.

The President Judge and the District Court Administrator appoint the Court Monitor as designee for purposes of the administration of this local rule.

This rule shall not interfere with or otherwise limit the income of the court monitors. Court monitors shall continue to be properly compensated for their professional services as related to the preparing of transcripts.

I. PROCEDURES

A. Format:

i. Requests for transcripts shall be set forth on a standardized form provided by the District Court Administrator. This form shall be available on the Tioga County website at: www.tiogacountypa.us or in the Court Administration Office.

B. Requests for Transcripts

i. For an ordinary transcript, the party requesting the full or partial transcript of a trial or other proceeding shall file the original request with the appropriate filing office of the Court (Clerk of Courts/Prothonotary, or Orphans' Court).

C. Service

i. The requesting party shall service copies of the formal request to:

1. The Presiding Judge
2. The court monitor(s) assigned to the proceeding
3. District Court Administrator
4. Opposing counsel or party, if party is unrepresented

D. Filing:

i. In courts where daily, expedited, same-day or rough draft transcripts are available, requests for transcripts shall be filed in writing in the appropriate filing office at least 10 days prior to the proceeding.

1. Copies of the written request shall be served as provided by Section (C) supra.

2. In the event of an emergency, a party may request by oral motion a daily, expedited, same-day or rough draft transcript.

E. Private Litigant Requests

i. When a private litigant request a transcript, the litigant ordering the transcript shall make payment in the amount of 75% of the estimated total cost of the transcript.

F. Payment of Costs

i. Deposit checks are to be made payable to the Tioga County Treasurer and shall be delivered to the Court Monitor or Court Administrator.

G. Preparation of Transcripts

i. Upon receipt of the 75% deposit, the court monitor(s) assigned to the proceeding shall prepare the transcript.

H. Notice of Completion

i. The court monitor(s) shall notify the ordering party and of the completion of the transcript and shall deliver a copy of the transcript. Upon final payment of any balance due for said transcript, the Court Monitor shall obtain the signature of the Presiding Judge on the original transcript and file the original transcript in the appropriate filing office.

ii. When a transcript is requested for which the Court or County is responsible for the cost(s), the Court Monitor shall prepare the transcript without the necessity of a deposit.

iii. Checks for the final balance are to be made payable to the Tioga County Treasurer and shall be delivered to the Court Monitor or Court Administrator.

I. Request for Litigant (Economic Hardship)

i. When a litigant requests a transcript, but cannot pay for the transcript because of alleged economic hardship, the Court shall determine economic hardship based upon application of the litigant to waive or reduce the cost(s) pursuant to the PA Rules of Criminal Procedure 240. Such application shall be filed in the appropriate filing office with the request for the transcript.

ii. In cases of economic hardship where the matter is under appeal or a transcript is necessary to advance litigation, the costs of procuring the transcript shall be waived or otherwise adjusted by the Court.

iii. In cases of economic hardship where there is no appeal pending or there exists no obvious need for the transcript to advance litigation, the requesting party must demonstrate reasonable need before the Court shall waive or adjust the cost of obtaining the transcript.

iv. Litigants represented by legal aid services are not required to prove economic hardship. Legal aid services must verify on the Transcript Request Form that the matter is under appeal or that the transcript being requested is necessary to advance current litigation.

II. RATES

Transcript costs payable by a requesting party other than the Commonwealth or a subdivision thereof shall be governed as follows:

A. Costs Payable:

The costs payable by the initial ordering party for a transcript delivered via electronic format shall not exceed:

- i. For an ordinary transcript, \$2.50 per page
- ii. For an expedited transcript, \$3.50 per page
- iii. For a daily transcript, \$4.50 per page
- iv. For a same-day delivery, \$6.50 per page
- v. For a real-time feed—not available
- vi. For a complex litigation—not available
- vii. For rough drafts, \$1.00 per page

Transcript costs payable by the Commonwealth or a subdivision thereof shall be governed as follows:

- I. For an ordinary transcript, \$2.50 per page
- II. For an expedited transcript, \$3.50 per page
- III. For a daily transcript, \$4.50 per page
- IV. For a same-day delivery, \$6.50 per page
- V. For a real-time feed—not available
- VI. For a complex litigation—not available
- VII. For rough drafts, \$1.00 per page

B. Bound Paper Format

When a transcript is prepared in a bound paper format, the costs shall be in accordance with Section II(A) supra relating to electronic format plus a surcharge of \$0.25 per

page, which will be paid to the County. Bound paper format copies shall not be delivered in condensed form.

C. Economic Hardship

i. Transcript costs for ordinary transcripts in matters under appeal, or where the transcript is necessary to advance litigation, shall be waived for a litigant who has been permitted by the Court to proceed in forma pauperis or whose income is less than 125% of the poverty line as defined by the U.S. Department of Health and Human Services (HHS) poverty guidelines for the current year.

ii. Transcript costs for ordinary transcripts in matters under appeal, or where the transcript is necessary to advance the litigation, shall be reduced by one-half for a litigant whose income is less than 200% of the poverty line as defined by the HHS poverty guidelines for the current year.

iii. Transcript costs for ordinary transcript matters that are not subject to appeal, where the transcript is not necessary to advance the litigation, or for expedited, daily, same-day or rough draft transcripts may be waived at the Court's discretion for parties who qualify for economic hardship under Section II(C)(1) or II(C)(2) supra and upon good cause shown.

iv. The application for waiver of all or a portion of the costs for ordinary transcripts shall be supported by an affidavit substantially in the form required by Rule 240(h) of the Pennsylvania Rules of Civil Procedure.

v. A hearing shall be conducted to determine if economic hardship has been demonstrated.

vi. Litigants who have been approved for representation by Legal Aid Services are not required to prove economic hardship. Litigants represented by Legal Aid Services must provide the Court with a letter from their Legal Aid attorney stating that the matter is under appeal or that the transcript being requested is necessary to advance the current litigation

D. Assignment and Allocation of Transcript Costs:

i. The requesting party, or the party required by general rule to file a transcript, shall be responsible for the cost of the transcript. Costs shall not be assessed against any party for transcripts prepared at the initiation of the Court.

ii. When more than one party requests the transcript, or are required by general rule to file the transcript, the costs shall be divided equally among the parties.

E. Copies of Transcripts:

A request for a copy of any transcript previously ordered, transcribed, and filed of record shall be provided according to the following schedule:

- i. \$0.75 per page bound, paper format; and,
- ii. \$0.50 per page for an electronic copy.

All copies of transcripts shall be requested from and provided by the court monitor(s). Filing offices must direct requests for copies of transcripts to the court monitor(s).

[Pa.B. Doc. No. 17-924. Filed for public inspection June 2, 2017, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Harris Craig Legome (# 63113), having been disbarred from the practice of law in the state of New Jersey, the Supreme Court of Pennsylvania issued an Order on May 19, 2017, disbarring Harris Craig Legome from the Bar of this Commonwealth, effective June 18, 2017. 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*.

MARCEE D. SLOAN,
Prothonotary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 17-925. Filed for public inspection June 2, 2017, 9:00 a.m.]
