

THE COURTS

Title 225—RULES OF EVIDENCE

[225 PA. CODE ART. VIII]

Proposed Amendment of Comment to Pa.R.E. 803(1) and 803(2)

The Committee on Rules of Evidence proposed the amendment of Pa.R.E. 803(1) and 803(2) governing the present sense impression and excited utterance exceptions to Pa.R.E. 802 for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

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

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

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

Daniel A. Durst, Counsel
Committee on Rules of Evidence
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717.231.9536
evidencerules@pacourts.us

All communications in reference to the proposal should be received by January 15, 2018. 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 Committee on
Rules of Evidence*

JOHN P. KRILL, Jr.,
Chair

Annex A

TITLE 225. RULES OF EVIDENCE

ARTICLE VIII. HEARSAY

Rule 803. Exceptions to the Rule Against Hearsay— Regardless of Whether the Declarant Is Available as a Witness.

The following are not excluded by the rule against hearsay, regardless of whether the declarant is available as a witness:

Rule 803(1). Present Sense Impression.

(1) *Present Sense Impression.* A statement describing or explaining an event or condition, made while or immediately after the declarant perceived it. **When the declarant is unidentified, the proponent shall show by independent corroborating evidence that the declarant actually perceived the event or condition.**

Comment

[This rule is identical to F.R.E. 803(1).] This rule differs from F.R.E. 803(1) insofar as it requires independent corroborating evidence when the declarant is unidentified. See *Commonwealth v. Hood*, 872 A.2d 175 (Pa. Super. 2005).

For this exception to apply, declarant need not be excited or otherwise emotionally affected by the event or condition perceived. The trustworthiness of the statement arises from its timing. The requirement of contemporaneity, or near contemporaneity, reduces the chance of premeditated prevarication or loss of memory.

Rule 803(2). Excited Utterance.

(2) *Excited Utterance.* A statement relating to a startling event or condition, made while the declarant was under the stress of excitement that it caused. **When the declarant is unidentified, the proponent shall show by independent corroborating evidence that the declarant actually perceived the startling event or condition.**

Comment

[This rule is identical to F.R.E. 803(2).] This rule differs from F.R.E. 803(2) insofar as it requires independent corroborating evidence when the declarant is unidentified. See *Commonwealth v. Upshur*, 764 A.2d 69 (Pa. Super. 2000).

This exception has a more narrow base than the exception for a present sense impression, because it requires an event or condition that is *startling*. However, it is broader in scope because an excited utterance (1) need not describe or explain the startling event or condition; it need only *relate* to it, and (2) need not be made contemporaneously with, or immediately after, the startling event. It is sufficient if the stress of excitement created by the startling event or condition persists as a substantial factor in provoking the utterance.

There is no set time interval following a startling event or condition after which an utterance relating to it will be ineligible for exception to the hearsay rule as an excited utterance. In *Commonwealth v. Gore*, [262 Pa. Super. 540, 547,] 396 A.2d 1302, 1305 (Pa. Super. 1978), the court explained:

The declaration need not be strictly contemporaneous with the existing cause, nor is there a definite and fixed time limit. . . . Rather, each case must be judged on its own facts, and a lapse of time of several hours has not negated the characterization of a statement as an "excited utterance." . . . The crucial question, regardless of the time lapse, is whether, at the time the statement is made, the nervous excitement continues to dominate while the reflective processes remain in abeyance.

* * * * *

Official Note: Adopted May 8, 1998, effective October 1, 1998; Comment revised March 23, 1999, effective immediately; Comment revised March 10, 2000, effective immediately; Comment revised May 16, 2001, effective July 1, 2001; amended November 2, 2001, effective January 1, 2002; rescinded and replaced January 17, 2013, effective March 18, 2013; amended November 9, 2016, effective January 1, 2017; amended , 2018, effective , 2018.

Committee Explanatory Reports:

Final Report explaining the March 23, 1999 technical revisions to the Comment for paragraph 25 published with the Court's Order at 29 Pa.B. 1714 (April 3, 1999).

Final Report explaining the March 10, 2000 revision of the Comment for paragraph 25 published with the Court's Order at 30 Pa.B. 1641 (March 25, 2000).

Final Report explaining the May 16, 2001 revision of the Comment for paragraph 18 published with the Court's Order at 31 Pa.B. 2789 (June 2, 2001).

Final Report explaining the November 2, 2001 amendments to paragraph 6 published with the Court's Order at 31 Pa.B. 6384 (November 24, 2001).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 620 (February 2, 2013).

Final Report explaining the November 9, 2016 amendments to paragraph 6, 8, 10, and revision of the Comment for paragraph 7 and 9 published with the Court's Order at 46 Pa.B. 7436 (November 26, 2016).

Final Report explaining the _____, 2018 amendments to paragraph 1 and 2 published with the Court's Order at _____ Pa.B. _____ (_____, 2018).

REPORT**Proposed Amendment of Pa.R.E. 803(1) & 803(2)**

The Committee on Rules of Evidence is considering amendment of Pennsylvania Rule of Evidence 803(1) and 803(2) to reflect additional requirements established by case law.

The Committee received a request for rulemaking seeking to abolish the present sense impression and excited utterance exceptions to the rule against hearsay. See Pa.R.E. 802, 803(1), and 803(2). The basis for that request was the lack of scientific evidence to prove that such statements are inherently reliable. See also *U.S. v. Boyd*, 742 F.3d 792, 799 (7th Cir. 2014) (Posner, J. concurring). The Committee was not inclined to undertake the requested rulemaking.

During consideration of this request, the Committee reviewed the case law in Pennsylvania regarding the necessity of corroborating evidence for these exceptions. In *Carney v. Pennsylvania Railroad Company*, 240 A.2d 71 (Pa. 1968), a case predating the Pennsylvania Rules of Evidence, the Court addressed the admissibility of an unidentified bystander's statement as an excited utterance pursuant to the *res gestae* exception to the hearsay rule. In *Carney*, a civil action was filed against a railroad company as the result of an accident where a railroad-switching engine struck an automobile in which the decedents were passengers. At trial, the statement of an unidentified bystander that the engine came out too fast and had no lights on was admitted into evidence through testimony of the investigating police officer.

Upon review, the Court stated: "It would be mere speculation and surmise on the part of the court and the jury as to whether or not the declarant, who was not present in court for cross-examination or subject to deposition or interrogatories by opposing counsel, actually perceived the engine coming out fast with no lights on it." *Id.* at 74. The Court held that the out-of-court assertion by the unidentified bystander did not demonstrate that the declarant actually viewed the event of which he spoke and, as such, that the admission of the statement constituted reversible error. In reaching its decision, the Court reasoned:

[T]he fundamental basis for admitting purely hearsay statements under the *res gestae* exception is the recognition that under certain circumstances, based on our experience, the utterances may be taken as particularly trustworthy and as an accurate reflection of what the declarant actually observed. See Wigmore, Evidence § 1747 (3d ed.) (1940). We are of the opinion that out-of-court assertions made by unidentified bystanders who may or may not have actually witnessed the litigated event are not properly admissible as part of the *res gestae* because their admission would not be consonant with the underlying philosophy of the hearsay rule and the *res gestae* exception. The mere fact that the police officer inferred from the statements that the declarant must have witnessed the collision, or that the declarant said he witnessed the collision, does not lend any more credence or trustworthiness to the out-of-court statements. In order to justify the admissibility of such testimony, it is incumbent upon the party seeking its admission to persuasively and convincingly demonstrate by the use of other corroborating evidence that the declarant actually viewed the event of which he speaks.

Id. at 75. The excited utterance exception was later codified in 1998 as Pa.R.E. 803(2).

In *Commonwealth v. Upshur*, 764 A.2d 69 (Pa. Super. 2000) (*en banc*), the Superior Court considered whether a statement made to a police officer by an unidentified motorist who, within minutes after a shooting, provided a description of the perpetrator could be admitted as an excited utterance. Relying on *Carney*, a majority held that the exception was inapplicable because there was no independent evidence that the motorist actually witnessed the shooting. Notably, the court observed that a statement by the declarant that he saw the event was not sufficient. The dissent argued that the Supreme Court softened the "actually witnessed" standard via *Commonwealth v. Pronkoskie*, 383 A.2d 858, 861-62 (Pa. 1978) when it stated that "generally the proponent of the evidence need only establish that a declarant was in a position to view an incident." The dissent went further and argued that the only matter that needed to be corroborated was whether the event itself occurred.

In sum, with *Upshur*, the state of the law is that the proponent of an excited utterance by an unidentified declarant needs to establish by independent evidence that the declarant actually witnessed the event or condition being perceived. Additionally, this is consistent with the requirement of Rule 602 for personal knowledge. Of note, the Comment to Rule 602 references both *Carney* and *Pronkoskie*. However, Rule 602 does not require other or independent evidence to prove that the witness possessed personal knowledge; rather, the witness can testify as to the basis of his or her personal knowledge.

In *Commonwealth v. Hood*, 872 A.2d 175 (Pa. Super. 2005), the proponent sought to admit two 911 calls from two unidentified callers that identified the shooter in a homicide based upon the excited utterance exception and, alternatively, the present sense exception pursuant to Pa.R.E. 803(1) ("A statement describing or explaining an event or condition, made while or immediately after the declarant perceived it."). This case is remarkable insofar as the Superior Court extended the holding of *Upshur* requiring independent corroborating proof that the unidentified declarant actually viewed the event to the present sense impression exception. The court's analysis relied upon *Carney*'s applicability to *res gestae* exceptions and the fact that the present sense impression was a *res*

gestae exception prior to codification. Further, it would be consistent to require collaborative proof if the exception applies to matters that the unidentified declarant is “perceiving.”

Currently, the strict application of Pa.R.E. 803(1) and Pa.R.E. 803(2) is independent of whether the declarant is identified. However, the case law, *supra*, has added a requirement of independent corroborating evidence that the declarant actually viewed the event when the declarant is unidentified. Accordingly, the Committee proposes amending Pa.R.E. 803(1) and Pa.R.E. 803(2) to reflect this requirement.

All comments, concerns, and suggestions concerning this proposal are welcome.

[Pa.B. Doc. No. 17-2010. Filed for public inspection December 8, 2017, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1920]

Proposed Amendments of Pa.R.C.P. Nos. 1920.14, 1920.42, 1920.46, 1920.51, 1920.72 and 1920.73

The Domestic Relations Procedural Rules Committee (Committee) is planning to propose to the Supreme Court amendments to Pa.R.C.P. Nos. 1920.14, 1920.42, 1920.46, 1920.51, 1920.72 and 1920.73, for the reasons set forth in the accompanying publication 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 will be officially adopted by the Supreme Court.

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

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

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

All communications in reference to the proposal should be received by March 2, 2018. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Domestic Relations
Procedural Rules Committee*

DAVID J. SLESNICK, Esq.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1920. ACTIONS OF DIVORCE OR FOR ANNULMENT OF MARRIAGE

Rule 1920.14. Answer. Denial. Affidavit under Section 3301(d) of the Divorce Code.

(a) The averments in the complaint as to the divorce or annulment, [**all other claims which**] **ancillary claims that** may be joined under the Divorce Code, and any petition for special relief under these rules shall be deemed denied unless admitted by an answer. Notwithstanding the foregoing, the court may require a response to a petition for special relief.

(b) The averments of the [**affidavit**] **Affidavit** under Section 3301(d) of the Divorce Code shall be deemed admitted unless denied by [**counteraffidavit**] **counter-affidavit**.

Official Note: [See Rule 1920.72(d) for the form of counteraffidavit.] See Pa.R.C.P. No. 1920.72(e)(3) for the form of the counter-affidavit.

Explanatory Comment—1994

Subdivision (b) requires that the averments [**of the plaintiff’s affidavit**] in an **Affidavit** under Section 3301(d) of the Divorce Code be denied by [**counteraffidavit**] **counter-affidavit**. [**If the defendant fails to file a counteraffidavit, all allegations are deemed admitted.**] **If the non-moving party fails to file a counter-affidavit, all allegations in the moving party’s affidavit are deemed admitted.**

Explanatory Comment—2007

Subdivision (a) has been amended to clarify that the averments in a petition for special relief in a divorce or annulment action are deemed [**to be**] denied unless admitted by an answer.

Rule 1920.42. [**Affidavit and Decree under § 3301(c) or § 3301(d)(1) of the Divorce Code. Notice of Intention to Request Entry of Divorce Decree in § 3301(c) and § 3301(d)(1)(i) Divorces. Counter-affidavit.**] **Obtaining Decrees under Section 3301(c) or Section 3301(d) of the Divorce Code. Affidavits and Counter-Affidavits. Requirements of the Affidavit of Consent. Ancillary Claims. Orders Approving Grounds for Divorce. Notice of Intention to File the Praecipe to Transmit Record. Praecipe to Transmit Record.**

[(a) **If a complaint has been filed requesting a divorce on the ground of irretrievable breakdown and**

(1) **both parties have filed an affidavit under § 3301(c) of the Divorce Code substantially in the form prescribed by Rule 1920.72(b), or**

(2) **either party has filed a § 3301(d) affidavit under § 3301(d) of the Divorce Code substantially in the form prescribed by Rule 1920.72(d) and has served it upon the other party along with a form counter-affidavit and the other party has admitted or failed to deny the averments of the § 3301(d) affidavit, the prothonotary on praecipe in the form prescribed by Rule 1920.73(b) shall transmit the**

record to the court, which shall review the record and enter the appropriate decree. No master shall be appointed.

(b) The affidavit required by § 3301(c) of the Divorce Code must have been executed

(1) ninety days or more after both filing and service of the complaint and

(2) within thirty days of the date the affidavit was filed.

(c) An affidavit of consent may be withdrawn only with leave of court.

(d)(1) Except as provided in (e), no decree shall be entered by the court under § 3301(c) or § 3301(d)(1)(i) of the Divorce Code unless a notice of intention to request entry of divorce decree, substantially in the form prescribed by Rule 1920.73(a), was mailed or delivered to the attorney of record of the party against whom the decree is to be entered or, if there is no attorney of record, to the party, along with a form counter-affidavit if none has been filed, at least twenty days prior to the date of the filing of the praecipe to transmit the record. A copy of the praecipe, which shall state the date and manner of service of the notice, shall be attached.

(2) The affidavit required under § 3301(d) of the Divorce Code shall be filed with the prothonotary and served upon the other party, along with a form counter-affidavit. The moving party must wait a minimum of 20 days after service of the § 3301(d) affidavit before serving the Notice of Intention to File Praecipe to Transmit the Record and another form counter-affidavit or filing the waiver of notice pursuant to Rule 1920.72(c).

(e) Notice of intention to request entry of divorce decree shall not be required prior to entry of a divorce decree

(1) where the parties have executed and filed with the prothonotary a waiver of notice substantially in the form set forth in Rule 1920.72(c); or

(2) under § 3301(d) where the court finds that no appearance has been entered on defendant's behalf and that defendant cannot be located after diligent search.

Official Note: This counter-affidavit will be filed only if the party against whom the decree is to be entered has not previously denied the allegations of the other party's affidavit or has not previously claimed economic relief by counterclaim or petition.]

(a) *Obtaining a divorce decree under Section 3301(c)(1) of the Divorce Code.*

(1) If a party has filed a complaint requesting a divorce on the ground of irretrievable breakdown, the court shall enter a decree in divorce after:

(i) proof of service of the complaint has been filed with the prothonotary;

(ii) the parties have signed Affidavits of Consent 90 days or more after service of the complaint and have filed the affidavits with the prothonotary within 30 days of signing, which may only be withdrawn by an order of court;

(iii) the ancillary claims under Pa.R.C.P. Nos. 1920.31 and 1920.33 have been withdrawn by the party raising the claims, have been resolved by agreement of the parties or order of court, have not been raised in the pleadings, or in the case of a bifurcated divorce, the court has retained jurisdiction of the ancillary claims;

(iv) either the party requesting the divorce decree has served on the other party a Notice of Intention to File the Praecipe to Transmit Record, which included a blank Counter-Affidavit under Section 3301(c)(1) and a copy of the proposed Praecipe to Transmit Record indicating the date and manner of service of the Notice of Intention to File the Praecipe to Transmit Record, or, alternatively, the parties have signed and filed Waivers of Notice of Intention to File the Praecipe to Transmit Record; and

(v) the party requesting the divorce decree has completed and filed with the prothonotary a Praecipe to Transmit Record. If the parties have not waived the Notice of Intention to File the Praecipe to Transmit Record, the moving party shall wait a minimum of 20 days after service of the Notice of Intention to File the Praecipe to Transmit Record before filing the Praecipe to Transmit Record.

Official Note: See Pa.R.C.P. No. 1920.72(b) for the Affidavit of Consent.

See Pa.R.C.P. No. 1920.73(a) for the Notice of Intention to File the Praecipe to Transmit Record.

See Pa.R.C.P. No. 1920.72(e)(1) for the Counter-Affidavit under Section 3301(c)(1) of the Divorce Code.

See Pa.R.C.P. No. 1920.73(b) for the Waiver of Notice of Intention to File the Praecipe to Transmit Record.

See Pa.R.C.P. No. 1920.73(c) for the Praecipe to Transmit the Record.

(2) To the extent that grounds for divorce have been established under Section 3301(c)(1) of the Divorce Code by the parties complying with subdivision (a)(1)(ii), if the parties have been unable to resolve the ancillary claims the court shall enter an Order Approving Grounds for Divorce when the requirements of subdivision (a)(1)(i) has been completed and the moving party:

(i) has served on the other party a Notice of Intention to File the Praecipe to Transmit Record or, alternatively, the other party waived this notice by signing and filing with the prothonotary a Waiver of Notice of Intention to File the Praecipe to Transmit Record; and

(ii) has completed and filed with the prothonotary a Praecipe to Transmit Record requesting the court enter an order approving grounds for divorce. If the parties have not waived the Notice of Intention to File the Praecipe to Transmit Record, the moving party shall wait a minimum of 20 days after service of the Notice of Intention to File the Praecipe to Transmit Record before filing the Praecipe to Transmit Record. If the court enters an order approving grounds for divorce, entry of the divorce decree shall be deferred until the ancillary claims have been resolved.

Official Note: See Pa.R.C.P. No. 1920.73(a) for the Notice of Intention to File the Praeceptum to Transmit Record.

See Pa.R.C.P. No. 1920.73(b) for the Waiver of Notice of Intention to File the Praeceptum to Transmit Record.

See Pa.R.C.P. No. 1920.73(c) for the Praeceptum to Transmit the Record.

(3) After the court issues an order approving grounds for divorce, a party may request, consistent with the judicial district's local rules and procedures, the court either hear the ancillary claims or appoint a master to hear the ancillary claims as outlined in Pa.R.C.P. No. 1920.51.

Official Note: See Pa.R.C.P. No. 1920.74 for the Motion for Appointment of Master.

(4) If the parties resolve the ancillary claims by agreement after the court approves the grounds for the divorce but before the court entering an order disposing of the ancillary claims, the parties shall notify the court of the agreement and request the entry of the appropriate divorce decree. To the extent the agreement does not address all of the claims raised by the parties in the pleadings, the party raising the claim shall withdraw the claim before the court entering a divorce decree.

(b) *Obtaining a divorce decree under Section 3301(c)(2) of the Divorce Code.*

(1) If a party has filed a complaint requesting a divorce on the ground of irretrievable breakdown and a party has been convicted of a personal injury crime against his or her spouse, the court shall enter a decree in divorce after:

(i) proof of service of the complaint has been filed with the prothonotary;

(ii) the party who is the victim of the personal injury crime:

(A) has signed an Affidavit of Consent consistent with subdivision (a)(1)(ii); and

(B) has signed an Affidavit to Establish Presumption of Consent alleging his or her status as a victim of a personal injury crime and that his or her spouse has been convicted of that crime;

(iii) the filed affidavits have been served on the other party, along with a blank Counter-Affidavit under Section 3301(c)(2), and the other party has admitted or failed to deny the averments in the Affidavit to Establish Presumption of Consent;

(iv) the ancillary claims under Pa.R.C.P. Nos. 1920.31 and 1920.33 have been withdrawn by the party raising the claims, have been resolved by agreement of the parties or order of court, have not been raised in the pleadings, or in the case of a bifurcated divorce, the court has retained jurisdiction of the ancillary claims;

(v) either the party requesting the divorce decree has served on the other party a Notice of Intention to File the Praeceptum to Transmit Record, which included a blank Counter-Affidavit under Section 3301(c)(2) and a copy of the proposed Praeceptum to Transmit Record indicating the date and manner of service of the Notice of Intention to File the Praeceptum to Transmit Record, or, alternatively, the

parties have signed and filed Waivers of Notice of Intention to File the Praeceptum to Transmit Record; and

(vi) the party requesting the divorce decree has completed and filed with the prothonotary a Praeceptum to Transmit Record. If the parties have not waived the Notice of Intention to File the Praeceptum to Transmit Record, the moving party shall wait a minimum of 20 days after service of the Notice of Intention to File the Praeceptum to Transmit Record before filing the Praeceptum to Transmit Record.

Official Note: See Pa.R.C.P. No. 1920.72(b) for the Affidavit of Consent.

See Pa.R.C.P. No. 1920.72(c) for the Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code.

See Pa.R.C.P. No. 1920.72(e)(2) for the Counter-Affidavit under Section 3301(c)(2) of the Divorce Code.

See Pa.R.C.P. No. 1920.73(a) for the Notice of Intention to File the Praeceptum to Transmit Record.

See Pa.R.C.P. No. 1920.73(b) for the Waiver of Notice of Intention to File the Praeceptum to Transmit Record.

See Pa.R.C.P. No. 1920.73(c) for the Praeceptum to Transmit the Record.

(2) To the extent that grounds for divorce have been established under Section 3301(c)(2) of the Divorce Code by a party complying with subdivision (b)(1)(ii)-(iii), if the parties have been unable to resolve the ancillary claims the court shall enter an Order Approving Grounds for Divorce when the requirements of subdivision (b)(1)(i) has been completed and the moving party:

(i) has served on the other party a Notice of Intention to File the Praeceptum to Transmit Record or, alternatively, the other party waived this notice by signing and filing with the prothonotary a Waiver of Notice of Intention to File the Praeceptum to Transmit Record; and

(ii) has completed and filed with the prothonotary a Praeceptum to Transmit Record requesting the court enter an order approving grounds for divorce. If the parties have not waived the Notice of Intention to File the Praeceptum to Transmit Record, the moving party shall wait a minimum of 20 days after service of the Notice of Intention to File the Praeceptum to Transmit Record before filing the Praeceptum to Transmit Record. If the court enters an order approving grounds for divorce, entry of the divorce decree shall be deferred until the ancillary claims have been resolved.

Official Note: See Pa.R.C.P. No. 1920.73(a) for the Notice of Intention to File the Praeceptum to Transmit Record.

See Pa.R.C.P. No. 1920.73(b) for the Waiver of Notice of Intention to File the Praeceptum to Transmit Record.

See Pa.R.C.P. No. 1920.73(c) for the Praeceptum to Transmit the Record.

(3) After the court issues an order approving grounds for divorce, a party may request, consistent with the judicial district's local rules and

procedures, the court either hear the ancillary claims or appoint a master to hear the ancillary claims as outlined in Pa.R.C.P. No. 1920.51.

Official Note: See Pa.R.C.P. No. 1920.74 for the Motion for Appointment of Master.

(4) If the parties resolve the ancillary claims by agreement after the court approves the grounds for the divorce but prior to the court entering an order disposing of the ancillary claims, the parties shall notify the court of the agreement and request the entry of the appropriate divorce decree. To the extent the agreement does not address all of the claims raised by the parties in the pleadings, the party raising the claim shall withdraw the claim prior to the court entering a divorce decree.

(c) *Obtaining a divorce decree under Section 3301(d) of the Divorce Code.*

(1) If a party has filed a complaint requesting a divorce on the ground of irretrievable breakdown and the requisite separation period has elapsed, the court shall enter a decree in divorce when the parties have completed the following requirements:

(i) proof of service of the complaint has been filed with the prothonotary;

(ii) a party has signed and filed an Affidavit under Section 3301(d) of the Divorce Code averring that the marriage is irretrievably broken and that the parties have been separate and apart for the required separation period;

(iii) the filed affidavit, along with a blank Counter-Affidavit under Section 3301(d) of the Divorce Code, has been served on the other party consistent with Pa.R.C.P. No. 1930.4, and the other party has admitted or failed to deny the averments in the Affidavit under Section 3301(d) of the Divorce Code;

Official Note: This subdivision requires service of the counter-affidavit on the non-moving party consistent with original process since the averments in the moving party's Affidavit under § 3301(d) of the Divorce Code are deemed admitted unless denied. Pa.R.C.P. No. 1930.4 is the Domestic Relations rule for service of original process.

(iv) the ancillary claims under Pa.R.C.P. Nos. 1920.31 and 1920.33 have been withdrawn by the party raising the claims, have been resolved by agreement of the parties or order of court, have not been raised in the pleadings, or in the case of a bifurcated divorce, the court has retained jurisdiction of the ancillary claims;

(v) either the party requesting the divorce decree has served on the other party a Notice of Intention to File the Praecipe to Transmit Record, which included a blank Counter-Affidavit under Section 3301(d) of the Divorce Code and a copy of the proposed Praecipe to Transmit Record indicating the date and manner of service of the Notice of Intention to File the Praecipe to Transmit Record, or, alternatively, the parties have signed and filed Waivers of Notice of Intention to File the Praecipe to Transmit Record; and

(vi) the party requesting the divorce decree has completed and filed with the prothonotary a Praecipe to Transmit Record. If the parties have not waived the Notice of Intention to File the

Praecipe to Transmit Record, the moving party shall wait a minimum of 20 days after service of the Notice of Intention to File the Praecipe to Transmit Record before filing the Praecipe to Transmit Record.

Official Note: See Pa.R.C.P. No. 1920.72(d) for the Affidavit under Section 3301(d) of the Divorce Code.

See Pa.R.C.P. No. 1920.72(e)(3) for the Counter-Affidavit under Section 3301(d) of the Divorce Code.

See Pa.R.C.P. No. 1920.73(a) for the Notice of Intention to File the Praecipe to Transmit Record.

See Pa.R.C.P. No. 1920.73(b) for the Waiver of Notice of Intention to File the Praecipe to Transmit Record.

See Pa.R.C.P. No. 1920.73(c) for the Praecipe to Transmit the Record.

(2) To the extent that grounds for divorce have been established under Section 3301(d) of the Divorce Code by a party complying with subdivision (c)(1)(ii)-(iii), if the parties have been unable to resolve the ancillary claims the court shall enter an Order Approving Grounds for Divorce when the requirements of subdivision (c)(1)(i) has been completed and the moving party:

(i) has served on the other party a Notice of Intention to File the Praecipe to Transmit Record or, alternatively, the other party waived this notice by signing and filing with the prothonotary a Waiver of Notice of Intention to File the Praecipe to Transmit Record; and

(ii) has completed and filed with the prothonotary a Praecipe to Transmit Record requesting the court enter an order approving grounds for divorce. If the parties have not waived the Notice of Intention to File the Praecipe to Transmit Record, the moving party shall wait a minimum of 20 days after service of the Notice of Intention to File the Praecipe to Transmit Record before filing the Praecipe to Transmit Record. If the court enters an order approving grounds for divorce, entry of the divorce decree shall be deferred until the ancillary claims have been resolved.

Official Note: See Pa.R.C.P. No. 1920.73(a) for the Notice of Intention to File the Praecipe to Transmit Record.

See Pa.R.C.P. No. 1920.73(b) for the Waiver of Notice of Intention to File the Praecipe to Transmit Record.

See Pa.R.C.P. No. 1920.73(c) for the Praecipe to Transmit the Record.

(3) After the court issues an order approving grounds for divorce, a party may request, consistent with the judicial district's local rules and procedures, the court either hear the ancillary claims or appoint a master to hear the ancillary claims as outlined in Pa.R.C.P. No. 1920.51.

Official Note: See Pa.R.C.P. No. 1920.74 for the Motion for Appointment of Master.

(4) If the parties resolve the ancillary claims by agreement after the court approves the grounds for the divorce but prior to the court entering an order disposing of the ancillary claims, the parties shall

notify the court of the agreement and request the entry of the appropriate divorce decree. To the extent the agreement does not address all of the claims raised by the parties in the pleadings, the party raising the claim shall withdraw the claim prior to the court entering a divorce decree.

Rule 1920.46. Affidavit of Non-Military Service.

If the defendant fails to appear in the action, the plaintiff shall file an affidavit regarding military service with the motion for appointment of a master, prior to a trial by the court, or with the plaintiff's affidavit required by [Rule 1920.42(a)(2)] Pa.R.C.P. No. 1920.42(c)(1)(ii).

Official Note: The Servicemembers Civil Relief Act, [50 App. U.S.C.A. § 521] 50 U.S.C. app Section 521, requires that in cases in which the defendant does not make an appearance, the plaintiff must file an affidavit of non-military service before the court may enter judgment. If the defendant is in the military service and an attorney has not entered an appearance on behalf of the defendant, [no judgment may] a judgment shall not be entered until the court appoints an attorney to represent the defendant and protect his or her interest.

[Rule 1920.42(a)(2) governs an] An action for divorce under Section 3301(d)(1)(i) of the Divorce Code is governed by Pa.R.C.P. No. 1920.42(c).

* * * * *

Rule 1920.51. Hearing by the Court. Appointment of Master. Notice of Hearing.

(a)(1) The court may hear the testimony or, upon [its own motion or the motion of either party] motion of a party or of the court, may appoint a master [with respect to all or any of the matters] to hear the matters and ancillary claims specified in subdivision (a)(2)(i) [to consider same] and issue a report and recommendation. The order of appointment shall specify the [matters which] matters and ancillary claims that are referred to the master.

(2)(i) The court may appoint a master in an action of divorce under Section 3301(a), (b), (c)(2), and (d)(1)(ii) of the Divorce Code, an action for annulment, and the ancillary claims for alimony, [alimony pendente lite, equitable distribution of marital property, child support, partial custody or visitation, or counsel fees, costs and expenses, or any aspect thereof] equitable division of marital property, partial custody, counsel fees, and costs and expenses.

Official Note: The appointment of a master in a Section 3301(c)(2) divorce may be necessary to establish the presumption of consent if a party denies the averments in the Affidavit to Establish Presumption of Consent on the Counter-Affidavit under Section 3301(c)(2) of the Divorce Code.

(ii) [If there are no claims other than divorce, no master may be appointed] The Court shall not appoint a master to determine grounds for divorce if [either] a party has asserted grounds for divorce pursuant to [§ 3301(c) or §] Section 3301(c)(1) or Section 3301(d)(1)(i) of the Divorce Code, unless a party raised ancillary claims in the pleadings. [A master may be appointed to hear ancillary economic claims in a divorce action pursuant to

§ 3301(c) or § 3301(d) of the Divorce Code. The master may be appointed to hear ancillary economic claims prior to the entry of a divorce decree if grounds for divorce have been established.] An appointment of a master for resolution of the ancillary claims in a Section 3301(c) or Section 3301(d) divorce may be before the entry of a divorce decree if grounds for divorce have been established and approved by the court.

(iii) Before the court hears or appoint a master to hear the ancillary claims, a party shall request the court enter an order approving grounds for divorce.

Official Note: See Pa.R.C.P. No. 1920.42(a)(2) for the procedures for obtaining an order approving grounds for a Section 3301(c)(1) divorce.

See Pa.R.C.P. No. 1920.42(b)(2) for the procedures for obtaining an order approving grounds for a Section 3301(c)(2) divorce.

See Pa.R.C.P. No. 1920.42(c)(2) for the procedures for obtaining an order approving grounds for a Section 3301(d) divorce.

[(iii) No master may be appointed] (iv) The Court shall not appoint a master in a claim for legal, physical or shared custody or paternity.

Official Note: Section 3321 of the Divorce Code, 23 Pa.C.S. § 3321, prohibits the appointment of a master as to the claims of custody and paternity. However, as set forth in Pa.R.C.P. No. 1920.91(3), Section 3321 has been suspended insofar as that section prohibits the appointment of masters in partial custody cases.

* * * * *

Rule 1920.72. Form of Complaint. [Affidavit under § 3301(c) or §] Affidavits under Section 3301(c) or Section 3301(d) of the Divorce Code. [Counter-affidavit] Counter-Affidavits. [Waiver of Notice of Intention to Request Decree under § 3301(c) and § 3301(d).]

(a) The complaint in an action [of divorce under §] for a divorce under Section 3301(c) or Section 3301(d) shall begin with the Notice to Defend and Claim Rights required by [Rule] Pa.R.C.P. No. 1920.71 and shall be substantially in the following form:

* * * * *

(b) The [affidavit of consent] Affidavit of Consent required by Section 3301(c) of the Divorce Code and [Rule 1920.42(a)(1)] Pa.R.C.P. No. 1920.42(a)(1)(ii) or (b)(1)(ii) shall be substantially in the following form:

(Caption)

AFFIDAVIT OF CONSENT

1. A Complaint in divorce under Section 3301(c) of the Divorce Code was filed on _____ and served on the defendant on _____ .
(Date) (Date)

2. The marriage of plaintiff and defendant is irretrievably broken and [ninety] 90 days have elapsed from the date of filing and service of the Complaint.

3. I consent to the entry of a final decree of divorce after service of notice of intention to request entry of the decree.

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

Date: _____
 [(Plaintiff)/(Defendant)]
 (PLAINTIFF) (DEFENDANT)

[(c) The waiver permitted by Rule 1920.42(e) shall be in substantially the following form:
 (Caption)

Waiver of Notice of Intention to Request Entry of a Divorce Decree under § 3301(c) and § 3301(d) of the Divorce Code

1. I consent to the entry of a final decree of divorce without notice.
2. I understand that I may lose rights concerning alimony, division of property, lawyer's fees or expenses if I do not claim them before a divorce is granted.
3. I understand that I will not be divorced until a divorce decree is entered by the Court and that a copy of the decree will be sent to me immediately after it is filed with the prothonotary.

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
 (PLAINTIFF) (DEFENDANT)]

(c) The Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code and Pa.R.C.P. No. 1920.42(b)(1)(ii)(B) shall be substantially in the following form:

(Caption)

AFFIDAVIT TO ESTABLISH PRESUMPTION OF CONSENT UNDER SECTION 3301(c)(2) OF THE DIVORCE CODE

1. I am the victim of a "personal injury crime" as defined in 23 Pa.C.S. § 3103.
2. My spouse was convicted of the crime averred in Paragraph 1 on insert date in the Court of Common Pleas of insert county name County. The docket number(s) is/are insert docket number.

3. The personal injury crime(s) for which my spouse was convicted:

Check all that apply:

- 18 Pa.C.S. Ch. 25 (relating to criminal homicide)
- 18 Pa.C.S. Ch. 27 (relating to assault)
- 18 Pa.C.S. Ch. 29 (relating to kidnapping)
- 18 Pa.C.S. Ch. 30 (relating to human trafficking)
- 18 Pa.C.S. Ch. 31 (relating to sexual offenses)
- 18 Pa.C.S. § 3301 (relating to arson and related offenses)
- 18 Pa.C.S. Ch. 37 (relating to robbery)
- 18 Pa.C.S. Ch. 49 Subch. B (relating to victim and witness intimidation)

- 75 Pa.C.S. § 3732 (relating to homicide by vehicle)
- 75 Pa.C.S. § 3742 (relating to accidents involving death or personal injury)

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
 (PLAINTIFF) (DEFENDANT)

(d) The [affidavit required by §] Affidavit under Section 3301(d) of the Divorce Code [and Pa.R.C.P. No. 1920.42(a)(2)] required by Pa.R.C.P. No. 1920.42(c)(1)(ii) shall be substantially in the following form:

(Caption)
 NOTICE

If you wish to deny any of the statements outlined in this affidavit, you must file a counter-affidavit within 20 days after this affidavit has been served on you or the statements will be admitted.

AFFIDAVIT UNDER SECTION 3301(d) OF THE DIVORCE CODE

1. The parties to this action separated on insert date.
2. Check (a) or (b):
 - (a) The date of separation was prior to December 5, 2016, and the parties have continued to live separate and apart for a period of at least two years.
 - (b) The date of separation was on or after December 5, 2016, and the parties have continued to live separate and apart for a period of at least one year.

3. The marriage is irretrievably broken.

4. I understand that I may lose rights concerning alimony, division of property, lawyer's fees or expenses if I do not claim them before a divorce is granted.

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
 (PLAINTIFF) (DEFENDANT)

(e)(1) [The counter-affidavit prescribed by Pa.R.C.P. No. 1920.42(d)(2) for a divorce under § 3301(c) of the Divorce Code shall be substantially in the following form:] The Counter-Affidavit under Section 3301(c)(1) of the Divorce Code required by Pa.R.C.P. No. 1920.42(a)(1)(iv) shall be substantially in the following form:

(Caption)

COUNTER-AFFIDAVIT UNDER [§ 3301(c)] SECTION 3301(c)(1) OF THE DIVORCE CODE

I wish to claim economic relief which may include alimony, division of property, lawyer's fees or expenses or other important rights.

[I understand that I must file my economic claims with the prothonotary in writing and serve them on the other party. If I fail to do so before the date set forth on the Notice of Intention to Request

Divorce Decree, the divorce decree may be entered without further notice to me, and I shall be unable thereafter to file any economic claims.]

I UNDERSTAND THAT I MUST ALSO FILE ALL OF MY ECONOMIC CLAIMS WITH THE PROTHONOTARY IN WRITING AND SERVE THEM ON THE OTHER PARTY. IF I FAIL TO DO SO BEFORE THE DATE SET FORTH ON THE NOTICE OF INTENTION TO FILE THE PRAECIPE TO TRANSMIT RECORD OR AN ORDER APPROVING GROUNDS FOR DIVORCE, THE DIVORCE DECREE OR ORDER MAY BE ENTERED WITHOUT FURTHER NOTICE TO ME, AND I MAY BE UNABLE THEREAFTER TO FILE ANY ECONOMIC CLAIMS.

I verify that the statements made in this counter-affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: _____
(PLAINTIFF) (DEFENDANT)

NOTICE: IF YOU DO NOT WISH TO CLAIM ECONOMIC RELIEF, YOU SHOULD NOT FILE THIS COUNTER-AFFIDAVIT.

[(2) The counter-affidavit prescribed by § 3301(d) of the Divorce Code and Pa.R.C.P. No. 1920.42(d)(2) shall be substantially in the following form:]

(2) The Counter-Affidavit under Section 3301(c)(2) of the Divorce Code required by Pa.R.C.P. No. 1920.42(b)(1)(iii) shall be substantially in the following form:

(Caption)

**COUNTER-AFFIDAVIT
UNDER SECTION 3301(c)(2) OF THE DIVORCE
CODE**

1. Check either (a) or (b):

(a) I do not oppose the entry of a divorce decree.

(b) I oppose the entry of a divorce decree because:

(Check (i), (ii), or both)

(i) I have not been convicted of a "personal injury crime" as defined in 23 Pa.C.S. § 3103.

(ii) My spouse was not the victim of a personal injury crime for which I have been convicted.

2. Check (a), (b), or (c):

(a) I do not wish to make any claims for economic relief. I understand that I may lose rights concerning alimony, division of property, lawyer's fees or expenses if I do not claim them before a divorce is granted.

(b) I wish to claim economic relief, which may include alimony, division of property, lawyer's fees, costs and expenses, or other important rights.

I UNDERSTAND THAT IN ADDITION TO CHECKING 2(b), I MUST ALSO FILE ALL OF MY ECONOMIC CLAIMS WITH THE PROTHONOTARY IN WRITING AND SERVE THEM ON THE OTHER PARTY. IF I FAIL TO DO SO BEFORE THE DATE SET FORTH ON THE NOTICE OF INTENTION TO REQUEST DIVORCE DECREE OR AN ORDER APPROVING GROUNDS FOR DIVORCE, THE DI-

VORCE DECREE OR ORDER MAY BE ENTERED WITHOUT FURTHER NOTICE TO ME, AND I MAY BE UNABLE THEREAFTER TO FILE ANY ECONOMIC CLAIMS.

(c) Economic claims have been raised and are not resolved.

I verify that the statements made in this counter-affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: _____
(PLAINTIFF) (DEFENDANT)

NOTICE: IF YOU DO NOT WISH TO OPPOSE THE ENTRY OF A DIVORCE DECREE AND YOU DO NOT WISH TO MAKE ANY CLAIM FOR ECONOMIC RELIEF, YOU SHOULD NOT FILE THIS COUNTER-AFFIDAVIT.

(3) The Counter-Affidavit under Section 3301(d) of the Divorce Code required by Pa.R.C.P. No. 1920.42(c)(1)(iii) shall be substantially in the following form:

(Caption)

**COUNTER-AFFIDAVIT UNDER [§] SECTION 3301(d)
OF THE DIVORCE CODE**

1. Check either (a) or (b):

(a) I do not oppose the entry of a divorce decree.

(b) I oppose the entry of a divorce decree because:
Check (i), (ii), (iii) or all:

(i) The parties to this action have not lived separate and apart for the required separation period: two years for parties that separated prior to December 5, 2016, and one year for parties that separated on or after December 5, 2016.

(ii) The marriage is not irretrievably broken.

(iii) There are economic claims pending.

(2) Check (a), (b) or (c):

(a) I do not wish to make any claims for economic relief. I understand that I may lose rights concerning alimony, division of property, lawyer's fees or expenses if I do not claim them before a divorce is granted.

(b) I wish to claim economic relief, which may include alimony, division of property, lawyer's fees [or], costs and expenses, or other important rights.

I UNDERSTAND THAT IN ADDITION TO CHECKING [(b) ABOVE] (2)(b), I MUST ALSO FILE ALL OF MY ECONOMIC CLAIMS WITH THE PROTHONOTARY IN WRITING AND SERVE THEM ON THE OTHER PARTY. IF I FAIL TO DO SO BEFORE THE DATE SET FORTH ON THE NOTICE OF INTENTION TO REQUEST DIVORCE DECREE, THE DIVORCE DECREE MAY BE ENTERED WITHOUT FURTHER NOTICE TO ME, AND I SHALL BE UNABLE THEREAFTER TO FILE ANY ECONOMIC CLAIMS.

(c) Economic claims have been raised and are not resolved.

I verify that the statements made in this counter-affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
 (PLAINTIFF) (DEFENDANT)

NOTICE: IF YOU DO NOT WISH TO OPPOSE THE ENTRY OF A DIVORCE DECREE AND YOU DO NOT WISH TO MAKE ANY CLAIM FOR ECONOMIC RELIEF, YOU SHOULD NOT FILE THIS COUNTER-AFFIDAVIT.

Rule 1920.73. Notice of Intention to [**Request Entry of Divorce Decree**] **File Praecepte to Transmit Record. Waiver of Notice of Intention to File Praecepte to Transmit Record. Praecepte to Transmit Record. [Forms.]**

(a)(1) The [**notice of the intention to request entry of divorce decree prescribed by Rule 1920.42(d)**] **Notice of Intention to File the Praecepte to Transmit Record required by Pa.R.C.P. No. 1920.42(a)(1)(iv), (b)(1)(v), and (c)(1)(v), shall be substantially in the following form if there is an attorney of record:**

(Caption)

[**NOTICE OF INTENTION TO REQUEST ENTRY OF DIVORCE DECREE**]
NOTICE OF INTENTION TO FILE THE PRAECIPE TO TRANSMIT RECORD

TO: _____
 (PLAINTIFF/DEFENDANT)

_____ (PLAINTIFF/DEFENDANT) intends to file with the court the attached Praecepte to Transmit Record on or after _____, 20__ requesting [**that a final decree in divorce be entered**] **the court enter a final decree in divorce or an order approving grounds for divorce as indicated on the proposed Praecepte to Transmit Record, which is attached.**

 Attorney for (PLAINTIFF/DEFENDANT)

(2)(i) The [**notice of the intention to request entry of a § 3301(c) divorce decree prescribed by Rule 1920.42(d)**] **Notice of Intention to File the Praecepte to Transmit Record required by Pa.R.C.P. No. 1920.42(a)(1)(iv) or (b)(1)(v) shall be substantially in the following form if there is no attorney of record:**

(Caption)

[**NOTICE OF INTENTION TO REQUEST ENTRY OF § 3301(c) DIVORCE DECREE**]
NOTICE OF INTENTION TO FILE THE PRAECIPE TO TRANSMIT RECORD SECTION 3301(c) OF THE DIVORCE CODE

TO: _____
 (PLAINTIFF/DEFENDANT)

You have signed [**a § 3301(c) affidavit**] **an Affidavit of Consent under Section 3301(c) of the Divorce Code** consenting to the entry of a divorce decree. Therefore, on or after _____, 20__, the other party can request the court to enter a final decree in divorce **or an order approving grounds for divorce as indicated on the proposed Praecepte to Transmit Record, which is attached.**

Unless you have already filed with the court a written claim for economic relief, you must do so by the date in the paragraph above, or the court may grant the divorce

or an order approving grounds for divorce and you [**will**] **may** lose forever the right to ask for economic relief. The filing of the form counter-affidavit alone does not protect your economic claims.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

 (Name)

 (Address)

 (Telephone Number)

Official Note: The above lines are to be completed with the name, address and telephone number of the officer, organization, agency or person designated by the court in accordance with Rule 1018.1(c).

The date to be inserted in the first paragraph of the notice must be at least twenty days after the date on which the notice was mailed or delivered.

(ii) The [**notice of the intention to request entry of § 3301(d) divorce decree prescribed by Rule 1920.42(d)**] **Notice of Intention to File the Praecepte to Transmit Record required by Pa.R.C.P. No. 1920.42(c)(1)(v) shall be substantially in the following form if there is no attorney of record:**

(Caption)

[**NOTICE OF INTENTION TO REQUEST ENTRY OF § 3301(d) DIVORCE DECREE**]
NOTICE OF INTENTION TO FILE THE PRAECIPE TO TRANSMIT RECORD UNDER SECTION 3301(d) OF THE DIVORCE CODE

TO: _____
 (PLAINTIFF/DEFENDANT)

You have been sued in an action for divorce. You have failed to answer the complaint or file a counter-affidavit to the [**§ 3301(d) affidavit**] **Affidavit under Section 3301(d) of the Divorce Code.** Therefore, on or after _____, 20__, the other party can request the court to enter a final decree in divorce **or an order approving grounds for divorce as indicated on the proposed Praecepte to Transmit Record, which is attached.**

If you do not file with the prothonotary of the court an answer with your signature notarized or verified or a counter-affidavit by the above date, the court can enter a final decree in divorce **or an order approving grounds for divorce.** A counter-affidavit [**which**] **that** you may file with the prothonotary of the court is attached to this notice.

Unless you have already filed with the court a written claim for economic relief, you must do so by the above date, or the court may grant the divorce **or an order approving grounds for divorce** and you [**will**] **may**

lose forever the right to ask for economic relief. The filing of the form counter-affidavit alone does not protect your economic claims.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name)

(Address)

(Telephone Number)

Official Note: The above lines are to be completed with the name, address and telephone number of the officer, organization, agency or person designated by the court in accordance with Rule 1018.1(c).

The date to be inserted in the first paragraph of the notice must be at least twenty days after the date on which the notice was mailed or delivered.

[(b) The praecipe to transmit the record prescribed by Rule 1920.42 shall be in substantially the following form:

(Caption)

PRAECIPE TO TRANSMIT RECORD

To the Prothonotary:

Transmit the record, together with the following information, to the court for entry of a divorce decree:

1. Ground for divorce: irretrievable breakdown under § (3301(c)) and (3301(d)(1)) of the Divorce Code. (Strike out inapplicable section).

2. Date and manner of service of the complaint:

3. Complete either paragraph (a) or (b).

(a) Date of execution of the affidavit of consent required by § 3301(c) of the Divorce Code: by plaintiff: _____; by defendant _____.

(b)(1) Date of execution of the affidavit required by § 3301(d) of the Divorce Code: _____;

(2) Date of filing and service of the § 3301(d) affidavit upon the opposing party: _____.

4. Related claims pending: _____.

5. Complete either (a) or (b).

(a) Date and manner of service of the notice of intention to file praecipe to transmit record, a copy of which is attached: _____

(b) Date plaintiff's Waiver of Notice was filed with the prothonotary: _____

Date defendant's Waiver of Notice was filed with the prothonotary: _____

(Attorney for) (PLAINTIFF) (DEFENDANT)]

(b) The waiver permitted by Pa.R.C.P. No. 1920.42(a)(2)(i), (b)(2)(i), and (c)(2)(i) shall be substantially in the following form:

(Caption)

WAIVER OF NOTICE OF INTENTION TO FILE THE PRAECIPE TO TRANSMIT RECORD

1. Without further notice, I consent to the entry of:

- a final decree of divorce; or
- an order approving grounds for divorce.

2. I understand that I may lose rights concerning alimony, division of property, lawyer's fees, or expenses if I do not claim them before a divorce is granted.

3. I understand that I will not be divorced until a divorce decree is entered by the Court and that a copy of the decree will be sent to me immediately after it is filed with the prothonotary.

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
(PLAINTIFF) (DEFENDANT)

(c) The Praecipe to Transmit Record required by Pa.R.C.P. No. 1920.42(a)(1)(v), (b)(1)(vi), and (c)(1)(vi) shall be substantially in the following form:

(Caption)

PRAECIPE TO TRANSMIT RECORD

To the Prothonotary:

Transmit the record, together with the following information, to the court for:

Check one of the following:

- entry of a divorce decree;
- entry of a divorce decree with marital settlement agreement attached;

entry of a bifurcated divorce decree with the Court retaining jurisdiction over unresolved ancillary claims; or

an order approving grounds for divorce with the Court retaining jurisdiction over unresolved ancillary claims.

1. Check the applicable section of the Divorce Code.

Grounds for divorce: irretrievable breakdown under:

- Section 3301(c)(1)
- Section 3301(c)(2)
- Section 3301(d)

2. Service of the Complaint:

- (a) Date served: _____.
- (b) Manner of service: _____.

3. Complete either paragraph (a) or (b).

(a) Section 3301(c)(1) or (2) of the Divorce Code— Insert the date each party signed their Affidavit of Consent, or if the ground for divorce is under Section 3301(c)(2) of the Divorce Code, next to the

appropriate party insert the date the spouse was convicted of the personal injury crime identified in 23 Pa.C.S. Section 3103 and complete (1) and (2).

Plaintiff: _____ ;

Defendant: _____ .

(1) The date the party signed the Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code: _____ ;

(2) The date of filing and service of the Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code upon the other party: _____ .

(b) *Section 3301(d) of the Divorce Code:*

(1) The date the Affidavit under Section 3301(d) of the Divorce Code was signed: _____ ;

(2) Date of filing and service of the affidavit upon the other party: _____ .

4. Related claims pending: _____ .

5. Complete either (a) or (b).

(a) Notice of Intention to File the Praecepto to Transmit Record:

(1) Date served: _____ .

(2) Manner of service: _____ .

(b) The date of filing of the party's Waiver of Notice of Intention to File the Praecepto to Transmit Record with the Prothonotary:

(1) Plaintiff's Waiver: _____ .

(2) Defendant's Waiver: _____ .

(Attorney for)(PLAINTIFF)(DEFENDANT)

REPUBLICATION REPORT

Recommendation 158

The Domestic Relations Procedural Rules Committee (Committee) is proposing amendments to Pa.R.C.P. Nos. 1920.14, 1920.42, 1920.46, 1920.51, 1920.72 and 1920.73. The impetus for the amendments was Act 24 of 2016 that amended the Divorce Code by adding 23 Pa.C.S. § 3301(c)(2), which provides for a presumption of consent to a divorce if there is an allegation that a party is the victim of a personal injury crime committed by his or her spouse, as outlined in 23 Pa.C.S. § 3103. The Act amended other correlative statutes in the Divorce Code, as well. The Committee previously published this Recommendation in the *Pennsylvania Bulletin*, 46 Pa.B. 6113 (October 1, 2016); however, after additional deliberations on the related divorce procedural issues, the Committee has comprehensively revised the Recommendation.

In implementing § 3301(c)(2), the Committee borrowed from the familiar process for obtaining a § 3301(d) divorce by incorporating an affidavit/counter-affidavit procedure. The process for establishing the presumption of consent in § 3301(c)(2) using an affidavit requires the party to aver that he or she had been the victim of a personal injury crime and that his or her spouse had been convicted of that personal injury crime. In response, the convicted spouse may oppose the establishment of the presumption by completing and filing a counter-affidavit. If the convicted spouse opposes the establishment of the presumption, the court may either schedule a hearing on the establishment of the presumption or appoint a master to do so. Currently, Pa.R.C.P. No. 1920.51 does not permit the appointment of a master to determine grounds for

divorce under § 3301(c); however, as part of the Recommendation, the Committee proposes an amendment to Pa.R.C.P. No. 1920.51(a)(2) permitting the appointment of a master for a determination of the presumption under § 3301(c)(2).

To effectuate the new procedures for § 3301(c)(2) divorces, the Committee proposes several additional forms, including an Affidavit to Establish Presumption of Consent and a Counter-Affidavit under § 3301(c)(2). The Committee also proposes additional amendments to several other forms, including the Notice of Intention to Request Entry of a Divorce Decree, Waiver of Notice of Intention to Request Entry of a Divorce Decree, and the Praecepto to Transmit Record.

Also, after researching the divorce procedures from various counties across the Commonwealth, the Committee concluded that in many counties, a party or counsel could simply request the court hear the economic claims or appoint a divorce master without definitively asserting or establishing that the case was ripe for resolution. Conversely, the Committee reviewed local rules and procedures from several counties that require the parties obtain an order approving grounds for divorce before seeking resolution of the economic claims. As the court cannot resolve the ancillary claims until grounds for divorce have been established, the Committee has incorporated procedures into Pa.R.C.P. No. 1920.42 for obtaining approval of grounds for divorce in cases in which the parties have unresolved ancillary claims. This process requires the parties obtain a court order approving grounds for divorce before seeking the appointment of a divorce master or requesting the court hear the ancillary economic claims raised in the pleadings. The process ensures a uniform practice across the Commonwealth by providing a definitive point when the parties can move the court for resolution of the ancillary claims.

In this Recommendation, the Committee has completely rewritten Pa.R.C.P. No. 1920.42. The current rule is difficult to follow and comprehend, and including additional procedures for § 3301(c)(2) divorces into the current rule would have furthered the problem. The proposed revision to Pa.R.C.P. No. 1920.42 outlines in detail the process for obtaining a decree for Section 3301(c)(1), Section 3301(c)(2), and Section 3301(d) divorces. Although the Committee has expanded the rule extensively, it believes the detailed procedure will alleviate confusion in obtaining a divorce decree and further assist unrepresented parties to maneuver through a complicated procedure.

[Pa.B. Doc. No. 17-2011. Filed for public inspection December 8, 2017, 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 1007-1008

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 1007-

1008, regarding requests for orders of possession 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 January 29, 2018. 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*

ANTHONY W. SAVEIKIS,
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 **an** 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 **an** 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.

In many judicial districts, an appeal of a magisterial district court judgment must be submitted to compulsory arbitration pursuant to Pa.R.C.P. Nos. 1301—1314. If the board of arbitrators enters an arbitration award for possession in favor of the plaintiff, and the defendant fails to maintain the *supersedeas* required by Rule 1008, then the plaintiff may terminate the *supersedeas* pursuant to Rule 1008 and request an order of possession from the magisterial district judge pursuant to Rule 515. If the board of arbitrators enters an arbitration award in favor of the defendant, and the plaintiff does not appeal within 30 days after the entry of the arbitration award, the plaintiff may not obtain an order of possession.

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**] **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**] **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**] **proceeding**, only within 120 days of the date the appeal, writ of *certiorari*, or *supersedeas* is stricken, dismissed, or otherwise termi-

nated, 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.

In many judicial districts, an appeal of a magisterial district court judgment must be submitted to compulsory arbitration pursuant to Pa.R.C.P. Nos. 1301—1314. If the board of arbitrators enters an arbitration award for possession in favor of the plaintiff, and the defendant fails to maintain the *supersedeas* required by Rule 1008, then the plaintiff may terminate the *supersedeas* pursuant to Rule 1008 and request an order of possession from the magisterial district judge pursuant to Rule 515. If the board of arbitrators enters an arbitration award in favor of the defendant, and the plaintiff does not appeal within 30 days after the entry of the arbitration award, the plaintiff may not obtain an order of possession.

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**] **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, counterclaims, added or changed averments 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.

In many judicial districts, an appeal of a magisterial district court judgment must be submitted to compulsory arbitration pursuant to Pa.R.C.P. Nos. 1301—1314. If the board of arbitrators enters an arbitration award for possession in favor of the plaintiff, and the defendant fails to maintain the *supersedeas* required by Rule 1008, then the plaintiff may terminate the *supersedeas* pursuant to Rule 1008 and request an order of possession from the magisterial district judge pursuant to Rule 515. If the board of arbitrators enters an arbitration award in favor of the defendant, and the plaintiff does not appeal within 30 days after the entry of the arbitration award, the plaintiff may not obtain an order of possession.

Rule 1008. Appeal as *Supersedeas*.

A. Receipt by the magisterial district judge of the copy of the notice of appeal from the judgment shall operate as a *supersedeas*, except as provided in [**subdivisions**] **paragraphs B and C** of this rule.

B. When an appeal is from a judgment for the possession of real property, receipt by the magisterial district judge of the copy of the notice of appeal shall operate as a *supersedeas* only if the appellant at the time of filing the notice of appeal, deposits with the prothonotary a sum of money (or a bond, with surety approved by the prothonotary) equal to the lesser of three [**(3)**] months' rent or the rent actually in arrears on the date of the filing of the notice of appeal, based upon the magisterial district judge's order of judgment, and, thereafter, deposits cash or bond with the prothonotary in a sum equal to the monthly rent which becomes due during the period of time the proceedings upon appeal are pending in the court of common pleas, such additional deposits to be made within [**thirty (30)**] **30** days following the date of the appeal, and each successive [**thirty (30) day**] **30-day** period thereafter.

Upon application by the landlord, the court shall release appropriate sums from the escrow account on a continuing basis while the appeal is pending to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the appeal.

In the event the appellant fails to deposit the sums of money, or bond, required by this rule when such deposits are due, the prothonotary, upon *praecipe* filed by the appellee, shall terminate the *supersedeas*. Notice of the termination of the *supersedeas* shall be forwarded by first class mail to attorneys of record, or, if a party is unrepresented, to the party's last known address of record.

When the deposit of money or bond is made pursuant to the rule at the time of filing the appeal, the prothonotary shall make upon the notice of appeal and its copies a notation that it will operate as a *supersedeas* when received by the magisterial district judge.

C. Indigent Tenants

(1) Residential tenants who seek to appeal from a magisterial district court judgment for possession and who do not have the ability to pay the lesser of three months' rent or the full amount of the magisterial district court judgment for rent shall file with the office of the prothonotary a tenant's affidavit, as set forth in [**subdivision (2)**] **subparagraph C(2)**.

(2) The tenant's affidavit shall be substantially in one of the following two forms:

[Caption]

TENANT'S *SUPERSEDEAS* AFFIDAVIT
(NON-SECTION 8)

I, _____ (print name and address here), have filed a notice of appeal from a magisterial district court judgment awarding to my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three [**(3)**] times my monthly rent or the judgment for rent awarded by the magisterial district court. My total household income does not exceed the income limits set forth in the supplemental instructions for obtaining a stay pending appeal and I have completed an *in forma pauperis* (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date _____

SIGNATURE OF TENANT

OR

[Caption]

SECTION 8 TENANT'S *SUPERSEDEAS* AFFIDAVIT

I, _____ (print name and address here), have filed a notice of appeal from a magisterial district court judgment awarding my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three [**(3)**] times my monthly rent or the actual rent in arrears. My total household income does not exceed the income limits set forth in the supplemental instructions for obtaining a stay pending appeal and I have completed an *in forma pauperis* (IFP) affidavit to verify this. I have/have not (cross out the one that does not apply) paid the rent this month.

The total amount of monthly rent that I personally pay to the landlord is \$_____. I hereby certify that I am a participant in the Section 8 program and I am not subject to a final (*i.e.*, non-appealable) decision of a court or government agency which terminates my right to receive Section 8 assistance based on my failure to comply with program rules.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date _____

SIGNATURE OF TENANT

(3)(a) If the rent has already been paid to the landlord in the month in which the notice of appeal is filed, the tenant shall pay into an escrow account with the prothonotary the monthly rent in [**thirty (30) day**] **30-day** intervals from the date the notice of appeal was filed; or

(b) If the rent has not been paid at the time of filing the notice of appeal, the tenant shall pay:

(i) at the time of filing the notice of appeal, a sum of money equal to one third (1/3) of the monthly rent;

(ii) an additional deposit of two thirds (2/3) of the monthly rent within [**twenty (20)**] **20** days of filing the notice of appeal; and

(iii) additional deposits of one month's rent in full each [**thirty (30)**] **30** days after filing the notice of appeal. The amount of the monthly rent is the sum of money found by the magisterial district judge to constitute the monthly rental for the leasehold premises pursuant to Rule 514A. However, when the tenant is a participant in the Section 8 program, the tenant shall pay the tenant share of the rent as set forth in the "Section 8 Tenant's *Supersedeas* Affidavit" filed by the tenant.

(4) The prothonotary's office of the [**Court of Common Pleas**] **court of common pleas** in which the appeal is taken shall provide residential tenants who have suffered a judgment for possession with a "Supplemental Instructions for Obtaining a Stay of Eviction" as it appears on the [**website of the Minor Court Rules Committee**] **Forms page of the website of the Unified Judicial System Of Pennsylvania at www.pacourts.us**.

Official Note: The [**website of the Minor Court Rules Committee is part of the home page of the Administrative Office of Pennsylvania Courts**] **Forms page is found on the home page of the Unified Judicial System of Pennsylvania at www.pacourts.us**. The Supplemental Instructions include both instructions and income limits.

The income limits are stated in monthly amounts and are based upon the most recent poverty income guidelines issued by the Federal Department of Health and Human Services.

(5) When the requirements of [**paragraphs (2) and (3)**] **subparagraphs C(2)-(3)** have been met, the prothonotary shall issue a *supersedeas*.

(6) Upon application by the landlord, the court shall release appropriate sums from the escrow account on a continuing basis while the appeal is pending to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the appeal.

(7) If the tenant fails to make monthly rent payments to the prothonotary as described in [**paragraph (3)**] **subparagraph C(3)**, the *supersedeas* may be terminated by the prothonotary upon *praecipe* by the landlord or other party to the action. Notice of the termination of the *supersedeas* shall be forwarded by first class mail to the attorneys of record, or, if a party is unrepresented, to the party's last known address of record.

(8) If the [**Court of Common Pleas**] **court of common pleas** determines, upon written motion or its own motion, that the averments within any of the tenant's affidavits do not establish that the tenant meets

the terms and conditions of [**paragraph (1)**] **subparagraph C(1)**, *supra*, the [**Court**] **court** may terminate the *supersedeas*. Notice of the termination of the *supersedeas* shall be forwarded by first class mail to the attorneys of record, or, if a party is unrepresented, to the party's last known address of record.

D. If an appeal is stricken or voluntarily terminated, any *supersedeas* based on it shall terminate. The prothonotary shall pay the deposits of rental to the party who sought possession of the real property.

Official Note: [**Subdivision**] **Paragraph A** provides for an automatic *supersedeas* in appeals from civil actions upon receipt by the magisterial district judge of a copy of the notice of appeal.

[**Subdivision**] **Paragraph B**, however, does require the deposit of money or approved bond as a condition for *supersedeas* when the appeal is from a judgment for the possession of real property. A new [**subdivision**] **paragraph (C)** was created in 2008 to provide for appeals by indigent residential tenants who are unable to meet the bond requirements of [**subdivision**] **paragraph (B)**.

The request for termination of the *supersedeas*, upon the *praecipe* filed with the prothonotary, may simply state: "Please terminate the *supersedeas* in the within action for failure of the appellant to pay monthly rental as required by Pa.R.C.P.M.D.J. No. 1008 when it became due" and will be signed by appellee. The prothonotary will then note upon the *praecipe*: "Upon confirmation of failure of the appellant to deposit the monthly rent when it became due, the *supersedeas* is terminated," and the prothonotary will sign and clock the *praecipe*. A copy of the *praecipe* 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.A.P.M.D.J.**] **Pa.R.C.P.M.D.J.** No. 515 may be made.

The deposit of rent required hereunder is intended to apply in all cases, irrespective of the reasons [**which**] **that** caused the filing of the complaint before the magisterial district judge in the first instance. Disposition of the monthly rental deposits will be made by the court of common pleas following its *de novo* hearing of the matter on appeal.

In many judicial districts, an appeal of a magisterial district court judgment must be submitted to compulsory arbitration pursuant to Pa.R.C.P. Nos. 1301—1314. If the board of arbitrators enters an arbitration award for possession in favor of the plaintiff, and the defendant fails to maintain the *supersedeas* required by Rule 1008, then the plaintiff may terminate the *supersedeas* pursuant to Rule 1008 and request an order of possession from the magisterial district judge pursuant to Rule 515. If the board of arbitrators enters an arbitration award in favor of the defendant, and the plaintiff does not appeal within 30 days after the entry of the arbitration award, the plaintiff may not obtain an order of possession.

The money judgment portion of a landlord and tenant judgment (*see* Pa.R.C.P.M.D.J. Nos. 514 and 521) would be governed by [**subdivision**] **paragraph A**.

REPORT

**Proposed Amendment of Pa.R.C.P.M.D.J.
Nos. 515-516 and 1007-1008****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 1007-1008. These amendments address a request for an order of possession following the entry of an award by an arbitration panel, and make stylistic changes.

II. *Discussion*

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. Rule 1007 sets forth the procedures for the appeal in the court of common pleas, while Rule 1008B—D provides the procedure for obtaining a *supersedeas* when an appeal is from a judgment for the possession of real property.

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 30-day period for entry of the award in the court of common pleas. In this scenario, it was suggested that there is ambiguity about if and where the plaintiff should file a request for an order for possession if the *supersedeas* is terminated prior to the entry of the award in the court of common pleas.

The Committee discussed the scenario described above, and the Committee twice published proposals for public comment that attempted to clarify the suggested ambiguity, as well as update a statutory reference to constable fees. *See* 46 Pa.B. 984 (February 27, 2016); 45 Pa.B. 1111 (March 7, 2015).

The Committee received comments in response to both publications that led it to modify the proposal. With this republication, the Committee again considers the impact of an arbitration award (prior to entry of judgment) on the requirement of the tenant to maintain the *supersedeas* and the ability of a landlord to request an order for possession. The Committee now proposes a two-pronged approach. If the board of arbitrators enters the arbitration award for possession in favor of the plaintiff and the defendant fails to maintain the *supersedeas* during the 30-day period for entry of the award in the court of common pleas, then the plaintiff may terminate the *supersedeas* pursuant to Rule 1008 and request an order for possession pursuant to Rule 515. Requiring the defendant in this scenario to maintain the *supersedeas* during the 30-day period for the entry of judgment preserves the status quo. In contrast, if the board of arbitrators enters an arbitration award in favor of the defendant, and the plaintiff does not appeal within

30 days after the entry of the arbitration award, the plaintiff shall not obtain an order of possession. The decision of the arbitration panel is not a legal nullity, and the plaintiff is required to file a timely appeal of the arbitration panel decision in order to move the matter forward.

III. *Proposed Changes*

The Committee plans to propose the amendment of the Official Notes to Rules 515-516 and 1007-1008 by adding the following language:

In many judicial districts, an appeal of a magisterial district court judgment must be submitted to compulsory arbitration pursuant to Pa.R.C.P. Nos. 1301—1314. If the board of arbitrators enters an arbitration award for possession in favor of the plaintiff, and the defendant fails to maintain the *supersedeas* required by Rule 1008, then the plaintiff may request termination of the *supersedeas* from the prothonotary pursuant to Rule 1008 and request an order of possession from the magisterial district court pursuant to Rule 515. If the board of arbitrators enters an arbitration award in favor of the defendant and the plaintiff does not appeal within 30 days after the entry of the arbitration award, the plaintiff shall not obtain an order of possession.

The Committee also plans to propose an amendment of the Official Note to Rule 515 to reflect that constable fees are governed by 44 Pa.C.S. § 7161(d). Stylistic changes are also proposed throughout Rules 515-516 and 1007-1008 to achieve formatting consistency in areas of use of numbers, Latin terms, and internal references.

[Pa.B. Doc. No. 17-2012. Filed for public inspection December 8, 2017, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Philadelphia Rule of Judicial Administration No. *1900; Administrative Doc. No. 04 of 2017

Order

And Now, this 22nd day of November, 2017, it is hereby *Ordered* that Philadelphia Rule of Judicial Administration No. *1900. Protocols to Mark, Inventory, Store and Retain Exhibits, Physical Evidence and Electronic Evidence Offered During Trials and Evidentiary Hearings in the Philadelphia Court of Common Pleas, Trial Division is adopted effective January 6, 2018.

This Administrative Order is issued in accordance with the April 11, 1986 order of the Supreme Court of Pennsylvania, Eastern District, No. 55 Judicial Administration, Docket No. 1. In light of the subject matter of the rule, consistent with Pa.R.J.A. 103(d), the proposed local rule was submitted to the Supreme Court of Pennsylvania Civil and Criminal Rules Committees for review. Written notification has been received from the Rules Committees certifying that the proposed local rule of judicial administration is not inconsistent with any general rule of the Supreme Court. This Administrative Order and the following local rule shall be filed with the Office of Judicial Records (formerly the Prothonotary, Clerk of Courts and Clerk of Quarter Sessions) in a docket maintained for

Administrative Orders issued by the First Judicial District of Pennsylvania. As required by Pa.R.J.A. 103(d)(5)(ii), two certified copies of this Administrative Order and the following local rule, as well as one copy of the Administrative Order and local rule shall be distributed to the Legislative Reference Bureau on a computer diskette for publication in the *Pennsylvania Bulletin*. One certified copy of this Administrative Order and local rule shall be filed with the Administrative Office of Pennsylvania Courts, shall be published on the website of the First Judicial District at <http://www.courts.phila.gov>, and shall be incorporated in the compiled set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*. Copies of the Administrative Order and local rule shall also be published in *The Legal Intelligencer* and will be submitted to American Lawyer Media, Jenkins Memorial Law Library, and the Law Library for the First Judicial District.

By the Court

HONORABLE JACQUELINE F. ALLEN,
Administrative Judge, Trial Division
Court of Common Pleas
Philadelphia County

Rule *1900. Protocols to Mark, Inventory, Store and Retain Exhibits, Physical Evidence and Electronic Evidence Offered During Trials and Evidentiary Hearings in the Philadelphia Court of Common Pleas, Trial Division.

(a) *General Rule.* Counsel and unrepresented parties shall pre-mark all exhibits, physical evidence and electronic evidence used and offered during trials or evidentiary hearings, which shall be inventoried, filed and retained as provided in this rule.

(b) *Physical evidence.* Physical evidence and oversized exhibits must be photographed by the proponent, converted to letter sized pdf and appropriately marked and produced during the trial or evidentiary hearing. Unless otherwise provided by the presiding judge, at the conclusion of the trial or evidentiary hearing, physical evidence shall be returned to the police in criminal cases and to counsel in civil cases for safekeeping as required by any applicable retention schedule, statute, rule, regulation or policy, or until further order of court.

(c) *Electronic Evidence.* Electronic evidence, including audio or video exhibits, must be produced by the proponent on a USB drive, or other medium specified by the Office of Judicial Records from time to time, together with any associated player.

(d) *Confidential Documents.* Confidential documents offered as Exhibits shall be produced with a Confidential Document form as provided by the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts (UJS Case Records Policy) as provided in Phila.R.J.A. No. *401. Confidential Documents are not accessible by the public.

(e) *Confidential Information.* Documents offered as Exhibits which contain confidential information listed in the UJS Case Records Policy shall be produced in a Redacted Format and Unredacted Format as provided in Phila.R.J.A. No. *401. Unredacted Documents which contain confidential information are not accessible by the public.

(f) *Sealed Documents.* Any documents the presiding judge deems necessary to seal will not be accessible by the public.

(g) *Exhibit List.* At the conclusion of the trial or evidentiary hearing, designated court staff shall inventory

all exhibits and evidence, whether documentary, physical, electronic, audio, video or otherwise, and whether admitted or marked for identification. Any oversize exhibit, physical evidence or visual evidence not previously converted to letter size pdf format as provided in subsection (b) shall be photographed and/or converted to pdf letter size and marked. Each Exhibit and piece of evidence shall be clearly marked and placed on the Exhibit List which shall be reviewed and approved by the presiding judge, filed of record and copies provided to all parties.

(h) *Uploading Exhibits and Evidence.* Exhibits and evidence shall be made part of the record as follows:

(1) *Trial Division, Civil:* within five (5) days of the conclusion of the trial or evidentiary hearing, counsel for each proponent of the exhibits and evidence shall upload their documentary exhibits through the Electronic Filing System and, if not already done, provide to the Office of Judicial Records any USB drive with audio or video evidence, as provided in this rule. The Office of Judicial Records shall either upload the contents of any USB drive to a documentary-evidentiary program, or retain any USB drive as required by any applicable retention schedule, statute, rule, regulation or policy, or until further order of court.

(2) *Trial Division, Criminal:* at the conclusion of the trial or evidentiary hearing, the Office of Judicial Records shall take possession of all exhibits and any USB drive, shall upload all documentary exhibits through the Electronic Filing System and shall either upload the contents of any USB drive to a documentary-evidentiary program, or retain any USB drive as required by any applicable retention schedule, statute, rule, regulation or policy, or until further order of court.

(3) *Self-represented Parties:* at the conclusion of the trial or evidentiary hearing, designated court staff shall take possession of all exhibits and USB drive proffered by self-represented Parties and shall deliver them to the Office of Judicial Records which shall either upload the contents of any USB drive to a documentary-evidentiary program, or retain any USB drive as required by any applicable retention schedule, statute, rule, regulation or policy, or until further order of court.

[Pa.B. Doc. No. 17-2013. Filed for public inspection December 8, 2017, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CLARION COUNTY

Adoption of Local Rules Regarding Public Access Policy Case Records of the Trial Court; No. 1194 CD 2017

Order of Court

And Now, November 15, 2017 the following rule is hereby *Adopted* as Local Rule of Judicial Administration 101 for the 18th Judicial District of Pennsylvania to be effective on January 6, 2018. The Clarion County District Court Administrator is Ordered and Directed to do the following:

(1) File one (1) copy of the local rules with the Administrative Office of Pennsylvania Courts via email to adminrules@pacourts.us

(2) Forward two (2) paper copies and one (1) electronic copy in a Microsoft Word format only to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) Publish the local rules on the Clarion County website at <http://www.co.clarion.pa.us/government/courts.html>

(4) File one copy of the local rule in the appropriate filing offices for public inspection and copying.

By the Court

JAMES G. ARNER,
President Judge

LOCAL RULE OF JUDICIAL ADMINISTRATION

Rule 101. Public Access Policy: Case Records of the Trial Courts.

Pursuant to Section 7 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts, persons who file documents that contain confidential information as defined by the Policy shall use and file a Confidential Information Form in order to comply with the Policy. The form shall be available in each filing office as well as on the Court section of the Clarion County website at <http://www.co.clarion.pa.us/government/courts.html>.

[Pa.B. Doc. No. 17-2014. Filed for public inspection December 8, 2017, 9:00 a.m.]

ERIE COUNTY

Custody Hearing Officer Pilot Program, Suspension of 1915.4-4, Amendment of 1915.4-1(a), 1915.4-3, and 1915.27 and Adoption of 1915.4-2 of the Rules of Civil Procedure; Doc. No. 90051-17

Order

And Now, to wit, this 20th day of November, 2017, it is hereby *Ordered* that Erie County Local Rule of Civil Procedure 1915.4-4 is suspended while the Court operates a pilot program to determine if utilization of a hearing officer is an effective process for custody actions filed in Erie County. For the duration of the pilot program, Local Rule 1915.4-1(a), 1915.4-3, and 1915.27 shall be amended as follows. To further effectuate the pilot program, Local Rule 1915.4-2 shall be adopted.

This Order shall be processed in accordance with Pa.R.J.A. 103(d) and shall be effective January 1, 2018 or 30 days after the date of publication in the *Pennsylvania Bulletin*, whichever occurs later.

JOHN J. TRUCILLA,
President Judge

Rule 1915.4-1. Hearing Procedure. Bypass Custody Conciliation Conference.

(a) [Erie County shall utilize a custody conciliation conference as an initial non-record proceeding as set forth at Local Rule 1915.4-3.] Complaints for custody or petitions for modification shall initially proceed through the Office of Custody Conciliation of Erie County, Pennsylvania. Except in relocation cases subject to Local Rule 1915.17, partial custody and supervised physical custody cases subject to

Local Rule 1915.4-2, and Section (b) of this rule, custody actions shall proceed in accordance with Pa.R.C.P. 1915.4-3.

(b) A party may present a motion to bypass the [custody conciliation] office conference to the duty judge during motion court pursuant to Local Rule 1915.13. A motion to bypass the [custody conciliation] office conference may be granted in cases wherein:

(1) there are complex questions of law, fact or both; or

(2) there are serious allegations affecting the child's welfare.

Rule 1915.4-2. Office Conference. Proceedings.

(a) Except as provided for at Local Rule 1915.4-1, all custody complaints and petitions for modification shall initially be conciliated by a conference officer at an office conference.

(b) The office conference is not a hearing but an opportunity for parties to reach agreement early in the custody process. No evidence or testimony is presented. Ordinarily, conferences shall not last more than one hour. The objectives of the office conference are:

(1) To facilitate immediate agreement and the entry of consent orders where the nature of the parties' dispute is minor and can be resolved quickly without the need for trial;

(2) To identify those cases not appropriate for resolution within the context of the conciliation process; and

(3) To identify the need for referral to outside professionals or agencies and to provide the parties with information and other assistance needed to accomplish such referral.

(c) Participation in the office conference:

(1) *Children and Third Parties:* Children and third parties, other than attorneys, shall not be present for or participate in conferences. Exceptions may be made at the discretion of the Court.

(2) Parties must participate in conferences in a cooperative manner and at all times adhere to the directives of the person conducting the conference.

(3) Prior to agreeing to a custody order, a party may consult with her or his attorney, and a reasonable opportunity to do so will be provided by the conference officer.

(d) An attorney who attends an office conference with a client will participate consistent with the following standards:

(1) The manner and scope of participation in conferences shall be determined by the conference officer;

(2) Attorneys shall fully cooperate with the efforts of the conference officer to facilitate the agreement of the parties;

(3) Counsel shall at all times behave in a professional manner and refrain from engaging in hostile or antagonistic conduct directed toward any conference participant;

(4) Attorneys shall advise their clients in a manner not disruptive of the conciliation process which

may require consulting with the client outside the conference room;

(5) Attorneys shall not engage in legal argument, except that counsel may advise of legal issues relevant to the formation of an interim or consent order;

(6) Counsel shall not attempt to question the other party, present evidence or engage in conduct characteristic of any adversarial proceedings;

(e) All agreements reached at an office conference, whether a full or partial agreement, shall be reduced to a Consent Agreement and shall be signed by the parties immediately upon conclusion of the proceeding. If the parties partially agree or agree to reschedule the office conference, an interim order containing the agreed upon terms of the parties may be submitted to the duty judge for approval of the court.

(f) If no agreement is reached at the office conference, the case shall be promptly referred by the Custody Conciliation Office to Family Court Administration for trial; except that actions for partial custody or supervised physical custody shall be assigned to a hearing officer and shall proceed in accordance with Pa.R.C.P. 1915.4-2(b) and Local Rule 1915.4-2(g) below. The conference officer shall prepare a summary report detailing the parties' respective positions, which shall be filed and submitted to the hearing officer and the parties.

(g) Hearing before the Hearing Officer.

(1) In accordance with Pa.R.C.P. 1915.4-2, parties, after an unsuccessful office conference, will be scheduled for a custody hearing before a hearing officer.

(2) A pretrial order will be issued which directs parties to submit a pretrial narrative statement and parenting plan. The pretrial narrative statement and parenting plan is due ten (10) days prior to the scheduled hearing date and may be dropped off or mailed to the Custody Conciliation Office at the Erie County Courthouse.

(3) Continuance requests for custody hearings will be considered only if made in writing and containing the written consent of all parties. Such requests shall be presented to the Custody Office for consideration by the hearing officer.

(4) The hearing shall be conducted in accordance with Pa.R.C.P. 1915.4-2.

(5) The Court may issue an interim order consistent with the hearing officer's proposed order. If exceptions are filed, the interim order shall continue in effect.

(6) Exceptions may be filed to the custody hearing officer's report and proposed order pursuant to Pa.R.C.P. 1915.4-2. If filing exceptions, in addition to those requirements contained in Pa.R.C.P. 1915.4-2, Erie County requires the following:

i. A copy of the hearing officer's report and proposed order from which the exceptions are filed must be attached to the exceptions.

ii. When filing exceptions, a transcript must be ordered from the Court Reporter's Office in accordance with Erie County Rules of Judicial Adminis-

tration 4001—4008. A copy of the completed Transcript Request Form, along with a transcript deposit receipt or proof of transcript fee waiver, shall be attached to the original exceptions. The only time a transcript is not necessary is if the exceptions are not based on the testimony contained in the record. If both parties file exceptions to the report and proposed order of the hearing officer, they shall equally bear the cost of the transcript of testimony. If a party fails to pay for the transcript or obtain a waiver of the cost of the transcript, the court reporter shall notify the court, after which the exceptions of the non-paying party may be dismissed by the judge if the transcript was needed for determining the exceptions.

iii. The original exceptions shall be timely filed with the Prothonotary's office at the Erie County Courthouse. Within twenty (20) days of filing the exceptions, a time stamped copy must be delivered to Court Administration.

iv. The party filing exceptions must also serve a time stamped copy on the opposing party or that party's counsel of record.

v. Once exceptions and all related documents are filed with the Prothonotary and a copy is provided to Court Administration, argument on the exceptions will be placed on the next available argument list for an assigned judge. The Court will issue an order and serve notice on all parties of the date and place of argument.

Rule 1915.4-3. [Custody Conciliation Conference.]
Non-Record Proceedings. Trial.

[(a) Except as provided for at Local Rule 1915.17, all custody complaints and petitions for modification shall be initially referred to the Office of Custody Conciliation of Erie County, Pennsylvania for a custody conciliation conference before a custody conciliation officer.

(b) The Conciliation Conference is not a hearing but an opportunity for parents to reach agreement early in the custody process. No evidence or testimony is presented. Ordinarily, conferences shall not last more than one hour. The objectives of the Conciliation Conference are:

(1) To facilitate immediate agreement and the entry of consent orders where the nature of the parties' dispute is minor and can be resolved quickly without the need for trial;

(2) To identify those cases not appropriate for resolution within the context of the conciliation process; and

(3) To identify the need for referral to outside professionals or agencies and to provide the parties with information and other assistance needed to accomplish such referral.

(c) All agreements reached at a Conciliation Conference, whether a full or partial agreement, shall be reduced to a Consent Agreement and shall be signed by the parties immediately upon conclusion of the proceeding. If the parties partially agree or agree to reschedule the custody conciliation conference, an interim order containing the agreed upon terms of the parties may be submitted to the duty

judge for approval of the court. The parties' consent to an interim order shall not constitute the waiver to a de novo trial for any issue.

(d) If no agreement is reached at the conciliation conference, the case shall be promptly referred by the Custody Conciliation Office to Family Court Administration for trial. The conciliation officer shall prepare a summary report detailing the parties' respective positions, which shall be filed and submitted to the court and the parties.

(e) The Custody Conciliation Officer may refer custody matters directly to the Court if appropriate.

(f) Participation in Conciliation Process:

(1) **Children and Third Parties:** Children and third parties, other than attorneys, shall not be present for or participate in custody conferences. Exceptions may be made at the discretion of the Court.

(2) Parties must participate in conferences in a cooperative manner and at all times adhere to the directives of the person conducting the conference.

(3) Prior to agreeing to a custody order, a party may consult with her or his attorney, and a reasonable opportunity to do so will be provided by the conciliator.

(g) An attorney who attends a Conciliation Conference with a client will participate consistent with the following standards:

(1) The manner and scope of participation in conferences shall be determined by the conciliator;

(2) Attorneys shall fully cooperate with the efforts of the custody conciliator to facilitate the agreement of the parties;

(3) Counsel shall at all times behave in a professional manner and refrain from engaging in hostile or antagonistic conduct directed toward any conference participant;

(4) Attorneys shall advise their clients in a manner not disruptive of the conciliation process which may require consulting with the client outside the conference room;

(5) Attorneys shall not engage in legal argument, except that counsel may advise of legal issues relevant to the formation of an interim or consent order;

(6) Counsel shall not attempt to question the other party, present evidence or engage in conduct characteristic of any adversarial proceedings;

(h) At any time during the conciliation process the conciliator may terminate the proceedings and refer the case to court.]

Non-Record Proceedings governed by Pa.R.C.P. 1915.4-3 shall follow the office conference process detailed in Local Rule 1915.4-2, paragraphs (a)—(f).

Rule 1915.27. Cancellation of Custody Proceedings.

(a) A scheduled [custody conciliation] office conference and/or hearing before a hearing officer may not be cancelled without the written consent of the parties, or leave of court. If a responding party does not

consent to cancel [a conciliation] an office conference or hearing, a motion to cancel may be presented in motion court by the requesting party with proper notice pursuant to Local Rule 440.

(b) If none of the parties appear for a scheduled [custody conciliation] office conference, the [conciliation] conference officer will prepare and send a proposed Order to the duty judge that indicates the [custody conciliation] office conference is cancelled, and that the pleading is dismissed without prejudice.

(c) If any one party fails to appear for a scheduled [custody conciliation] office conference and all parties have been served, the appearing party or parties may:

(1) reschedule the [custody conciliation] office conference; [or]

(2) in the case of an initial complaint or petition for modification of an existing order seeking sole custody or primary physical custody, request an immediate referral for trial;

(3) in the case of an initial complaint or petition for modification of an existing order seeking partial custody and/or supervised physical custody, request an immediate referral for a hearing before a hearing officer; or

(4) request dismissal of the pleading without prejudice.

If the appearing party or parties request to reschedule the [custody conciliation] office conference, the appearing party or parties are responsible for serving notice of the rescheduled conference. If the appearing party requests an immediate referral for a trial, the case shall be promptly referred by the Custody Conciliation Office to Family Court Administration for scheduling of a trial. **If the appearing party requests an immediate referral for a hearing before a hearing officer, the case shall be promptly referred by the Custody Conciliation Office to the hearing officer for scheduling of a hearing.**

(d) If the complaint or petition has not been served, the [conciliation] office conference may be rescheduled at the request of the appearing party or parties. The [custody conciliation office] Custody Conciliation Office will prepare a new notice and order to be filed and served by the appearing party or parties, along with the petition and complaint and other documents required to be filed with the complaint.

(e) A scheduled [de novo] trial shall not be cancelled without leave of court. A motion to cancel the [de novo] trial shall be presented to the judge assigned to the custody trial. **A scheduled hearing before a hearing officer shall not be cancelled without leave of court. A motion to cancel the hearing before a hearing officer shall be presented to the family motion court judge.** If all parties agree to the [trial's] cancellation, signed consent of the parties shall be attached to the motion.

[Pa.B. Doc. No. 17-2015. Filed for public inspection December 8, 2017, 9:00 a.m.]

FRANKLIN COUNTY

**Adoption of Local Rule of Judicial Administration
200; Misc. Doc. No. 2017-4415**

And Now This 21st day of November, 2017,

It Is Hereby Ordered that 39th Judicial District Local Rule of Judicial Administration 200 is adopted, effective January 6, 2018.

The Franklin County Court Administration Office is directed as follows:

(1) A copy of the order and rule shall be filed with the Administrative Office of Pennsylvania Courts via email to adminrules@pacourts.us.

(2) Two copies and CD-ROM of the order and rule shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) One copy of the order and rule shall be sent to the Franklin County Law Library and the Editor of the *Franklin County Legal Journal*.

(4) Publish a copy of this rule on the website of the Franklin County Court Administration Office at www.co.fulton.pa.us and www.franklincountypa.gov.

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

By the Court

CAROL L. VAN HORN,
President Judge

Rule 200. Confidential Information and Documents.

Pursuant to Section 7 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts, persons who file documents that contain confidential information as defined by the Policy shall use and file a Confidential Information Form (CIF) or a Confidential Document Form (CDF), as applicable, in order to comply with the Policy. Parties are expressly prohibited from filing two versions of any document, i.e., a redacted version and an unredacted version.

The forms shall be available in each filing office as well as on the Public Records page of the UJS website at <http://www.pacourts.us/public-records/public-records-policies>.

Litigants and counsel can consult the following sources for guidance on how to complete these forms:

(a) Public Records page of the UJS website at <http://www.pacourts.us/public-records/public-records-policies>.

(b) Franklin County website: http://www.franklincounty.pa.gov/index.php?section=departments_local-rules-court.

(c) Fulton County website: <https://www.co.fulton.pa.us/court-common-pleas.php> (select link to "Local Rules of Court for the 39th Judicial District, Franklin and Fulton County Branches")

[Pa.B. Doc. No. 17-2016. Filed for public inspection December 8, 2017, 9:00 a.m.]

FULTON COUNTY

**Adoption of Local Rule of Judicial Administration
200; Misc. Doc. No. 27-2017**

And Now This 21st day of November, 2017,

It Is Hereby Ordered that 39th Judicial District Local Rule of Judicial Administration 200 is adopted, effective January 6, 2018.

The Franklin County Court Administration Office is directed as follows:

(1) A copy of the order and rule shall be filed with the Administrative Office of Pennsylvania Courts via email to adminrules@pacourts.us.

(2) Two copies and CD-ROM of the order and rule shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) One copy of the order and rule shall be sent to the Franklin County Law Library and the Editor of the *Franklin County Legal Journal*.

(4) Publish a copy of this rule on the website of the Franklin County Court Administration Office at www.co.fulton.pa.us and www.franklincountypa.gov.

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

By the Court

CAROL L. VAN HORN,
President Judge

Rule 200. Confidential Information and Documents.

Pursuant to Section 7 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts, persons who file documents that contain confidential information as defined by the Policy shall use and file a Confidential Information Form (CIF) or a Confidential Document Form (CDF), as applicable, in order to comply with the Policy. Parties are expressly prohibited from filing two versions of any document, i.e., a redacted version and an unredacted version.

The forms shall be available in each filing office as well as on the Public Records page of the UJS website at <http://www.pacourts.us/public-records/public-records-policies>.

Litigants and counsel can consult the following sources for guidance on how to complete these forms:

(a) Public Records page of the UJS website at <http://www.pacourts.us/public-records/public-records-policies>.

(b) Franklin County website: http://www.franklincounty.pa.gov/index.php?section=departments_local-rules-court.

(c) Fulton County website: <https://www.co.fulton.pa.us/court-common-pleas.php> (select link to "Local Rules of Court for the 39th Judicial District, Franklin and Fulton County Branches")

[Pa.B. Doc. No. 17-2017. Filed for public inspection December 8, 2017, 9:00 a.m.]

LAWRENCE COUNTY
Register of Wills; O.C. No. 90193/17 ADM

Administrative Order

And Now, this 16th day of November, 2017, pursuant to Acts 40 and 47 of 2017, the fee bill of the Register of Wills of Lawrence County, Pennsylvania is amended as indicated on the fee bill of the following Petition.

The JCS/ATJ/CJEA fees will become effective as of November 30, 2017 at 4:00 PM.

It Is Further Ordered that the Court shall:

- (a) File seven (7) certified copies of this Administrative Order with the AOPC;
- (b) File two (2) certified copies of this Administrative Order and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;
- (c) File one (1) certified copy of this Administrative Order with the PA Supreme Court Orphans' Court Rules Committee;
- (d) Forward one (1) copy of this Administrative Order to be published in the *Lawrence County Law Journal*;
- (e) Forward one (1) copy of this Administrative Order to the Lawrence County Law Library; and
- (f) Keep continuously available for public inspection copies of this Administrative Order in the Lawrence County Register of Wills Office and the office of the Court Administrator.

By the Court

HONORABLE DOMINICK MOTTO,
President Judge

Petition

to Increase Fees for Register of Wills Office
(Pursuant to Acts 40 and 44 of 2017)

To the Honorable Dominick Motto, President Judge of the Said Court:

The petition of Janet L. Kalajainen, Register of Wills of Lawrence County respectfully represents that:

- 1. Governor Tom Wolf recently signed into law Acts 40 and 44 of 2017 that will make immediate changes to the Judicial Computer Project/Access to Justice/Criminal Justice Enhancement Account (JCS/ATJ/CJEA).
- 2. The JCS/ATJ/CJEA surcharge is increased from \$35.50 to \$40.25. The surcharge will remain at \$40.25 through December 2020.
- 3. These changes took effect immediately on October 30, 2017, but pursuant to the authority under 42 Pa.C.S. § 3502(a) to promulgate regulations specifying the time and manner of remittance of this fee by the county staff, all collectors of the fee must be in compliance with these regulations on or before November 30, 2017. This implementation period is necessary to allow all collectors of the fee sufficient time to make the necessary adjustments to existing automated systems and protocols.
- 4. Effective November 30, 2017 at 4:00 PM, Acts 40 and 44 will increase the JCS/ATJ/CJEA fee by an additional \$4.75 bringing the total to \$40.25.
- 5. Therefore, the fee of \$40.25 will be implemented as of November 30, 2017 at 4:00 PM on all Petitions for Probate in the Register of Wills Office.

Wherefore, your Petitioner, Janet L. Kalajainen, Register of Wills of Lawrence County, Pennsylvania, respectfully requests the Court to authorize the following schedules of fees with mandated fee increases for the office of Register of Wills of Lawrence County for adoption by this Court.

JANET L. KALAJAINEN,
Register of Wills

Lawrence County Register of Wills
Fee Schedule
Effective November 30, 2017 at 4:00 PM

Note: All Probate and first filings must be accompanied by a Death Certificate

PROBATE OF WILL (Without Letters)	
Judicial Computer System/Access to Justice/Criminal Justice Enhancement Account fee	\$40.25
Automation Fee	\$10.00
Last Will and Testament	\$40.00
GRANTING LETTERS TESTAMENTARY and LETTERS OF ADMINISTRATION	
Judicial Computer System/Access to Justice/Criminal Justice Enhancement Account fee	\$40.25
Automation Fee	\$10.00
Will/Codicil	\$20.00
FOR ESTATE VALUES:	
NOT EXCEEDING \$5,000.00	\$40.00
From \$5,001.00 to \$10,000.00	\$60.00
From \$10,001.00 to \$20,000.00	\$70.00
From \$20,001.00 to \$30,000.00	\$80.00
From \$30,001.00 to \$40,000.00	\$90.00
From \$40,001.00 to \$50,000.00	\$100.00
From \$50,001.00 to \$75,000.00	\$120.00
From \$75,001.00 to \$100,000.00	\$150.00
Each additional \$100,000.00 or fraction thereof	\$100.00
First \$1 million	\$1000.00
Each additional \$100,000.00 or fraction thereof	\$100.00

- Where the gross value of an estate has been underestimated on the Petition for Letters, a bill for Addition Probate Fees will be rendered for the balance due.
- Additional Probate Fees will be due and payable within thirty (30) days from the date of the billing statement. Any balances more than thirty (30) days in arrears will be charged interest at the rate of 1% per month.
- All fees must be paid in full before any finalization/estate settlement will be accepted for filing.

RENUNCIATIONS—per signature	\$5.00
SHORT CERTIFICATES—each	\$5.00
CODICIL	\$20.00
LETTERS (Administration DBN & DBN CTA)	\$40.00
PETITIONS (ie. Petition to Compel Administration)	\$25.00
Citations—each	\$20.00
Certified Mail—each	\$10.00
ANCILLARY LETTERS (Follow regular estate fee schedule based on PA assets only.)	
AFFIDAVIT OF DEATH	\$10.00
AMENDMENT TO PROBATE	
Within 3 months from date of probate (Petition to the Register of Wills)	\$30.00
After 3 months from date of probate (Petition to Orphans' Court)	
APPEAL FROM REGISTER (Filed in Orphans' Court)	
AUTOMATION FEE	\$10.00
To be charged on all first filings requiring JCS/ATJ fee	
BOND	\$20.00
CAVEAT (filing and entering) + Bond	\$25.00
CERTIFICATION OF RECORD (w/cover sheet & gold seal)	\$10.00
+ per page certified	\$3.00
CERTIFICATION OF INHERITANCE TAX PAID	
Issuing Certificate to another county	\$20.00
Filing from another county	\$10.00
CITATIONS—each	\$20.00
Certified Mail—each	\$10.00
CLAIMS AGAINST ESTATE (filed in Orphans' Court)	
Copy filed with Register of Wills	\$10.00
COMMISSION TO ADMINISTER OATH	\$25.00
COPIES (per page)	\$.50
By mail ~ postage and handling	\$2.00
DISCLAIMER OF BENEFICIAL INTEREST (filed in Orphans' Court)	
ELECTION TO TAKE AGAINST WILL (filed in Orphans' Court)	
EXEMPLIFICATION—ISSUING & FILING	\$30.00
+ per page	\$3.00
FAMILY SETTLEMENT AGREEMENT	\$50.00
FINAL ACCOUNT (filed in Orphans' Court)	
INVENTORY	\$20.00
INHERITANCE TAX RETURN	\$20.00
MISCELLANEOUS FILINGS	\$10.00
PRAECIPE OF APPEARANCE	\$10.00
PRAECIPE OF WITHDRAWAL	\$10.00
RECEIPT AND RELEASE per legatee	\$10.00
REGISTER'S HEARINGS	\$50.00
(If Court Reporter is requested, it's at Attorney's expense.)	
Citations—each	\$20.00
Certified Mail—each	\$10.00
RESEARCH FEE	
Per name—per record searched	\$5.00
+ per page copied	\$.50
Screen shots & docket entries—per page	\$1.00
By mail—postage & handling	\$2.00

RETURNED CHECKS	
Re-processing fee	\$30.00
+ original amount (Cashier's checks only)	
SMALL ESTATES AFFIDAVIT	\$25.00
STIPULATION	\$25.00
SUPOENA	\$10.00
WAIVER	\$10.00

Note: If a fee is not specifically listed, the Register of Wills shall make the same charge as that imposed for other services of a similar nature.

Fee Schedule History

Act 57 of 1981	Register of Wills Fees set by General Assembly of PA
Act 82 of 1990	Allows Register of Wills to establish fees with approval of President Judge—60 day window—thereafter increased only by Act of General Assembly Approved by President Judge Glenn McCracken—September 1990
Act 69 of 1993	Amended to allow increase of Register of Wills fees as determined by Register of Wills and the President Judge
Act 122 of 2002	Imposed by Supreme Court—Judicial Computer Program \$10.00
Act 49 of 2009	Imposed by Supreme Court—Judicial Computer System/Access to Justice/Criminal Justice Enhancement Account ~ additional \$13.50
Jan. 2, 2010	Fee Schedule increase approved by President Judge Dominick Motto December 4, 2009
Act 113 of 2014	Imposed by Supreme Court—Judicial Computer System/Access to Justice/Criminal Justice Enhancement Account ~ additional \$2.00
Act 126 of 2014	Imposed by Supreme Court—Judicial Computer System/Access to Justice/Criminal Justice Enhancement Account ~ additional \$10.00
Acts 40 & 44 of 2017	Imposed by Supreme Court—Judicial Computer System/Access to Justice/Criminal Justice Enhancement Account ~ additional \$4.75

[Pa.B. Doc. No. 17-2018. Filed for public inspection December 8, 2017, 9:00 a.m.]

MIFFLIN COUNTY

Local Rule 101 of Judicial Administration; CP-44-CV-2-2017

Order of Court

And Now, this day of November 22nd, 2017, the Court hereby adopts the following new Local Rule of Judicial Administration:

Pursuant to Section 7 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts, any party filing documents that contain confidential information, as defined by the Policy, shall use and file a Confidential Information Form in order to comply with the Policy. The form shall be available in each filing office as well as on the court administration website at <http://www.co.mifflin.pa.us/dept/courts>.

Said Local Rules of Judicial Administration shall be effective in the 58th Judicial District of the Commonwealth of Pennsylvania thirty (30) days after publication in the *Pennsylvania Bulletin* and upon publication on the Mifflin County website.

By the Court

DAVID W. BARRON,
President Judge

[Pa.B. Doc. No. 17-2019. Filed for public inspection December 8, 2017, 9:00 a.m.]

MONROE COUNTY

**Pennsylvania Supreme Court Public Access Policy
Local Procedure; 5 AD 2017; 51 ADM**

Order

And Now, this 15th day of November, 2017, pursuant to Pennsylvania Supreme Court Administrative Order 477 dated January 6, 2017 effectuating the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts, it is Ordered that Monroe County Rule of Judicial Administration 477, Mon.R.J.A. 477 is adopted, effective January 6, 2018 after a minimum of 30 days publication in the *Pennsylvania Bulletin*.

It Is Further Ordered that the District Court Administrator shall:

1. File one copy of this Rule with the Administrative Office of Pennsylvania Courts via email to adminrules@pacourts.us.
2. File two paper copies and one electronic copy of this Rule in a Microsoft Word format only on a CD-ROM to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. Provide one copy of this Rule to the Monroe County Law Library.
4. Keep such Administrative Local Rules, as well as all local rules of this Court, continuously available for public inspection and copying in the Monroe County Offices of:

- a. the Prothonotary
 - b. the Clerk of Courts
 - c. the Clerk of Orphans' Court
 - d. Upon request and payment of reasonable cost of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any local rule.
5. Arrange to have this Administrative Rule published on the Monroe County Bar Association website at www.monroebar.org.
 6. Arrange to have this Administrative Rule, as well as all local rules, published on the 43rd Judicial District website at www.monroepacourts.us.

By the Court

MARGHERITA PATTI-WORTHINGTON,
President Judge

Local Rule of Judicial Administration 477. Confidential Information Form.

Pursuant to Section 7 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts, 204 Pa. Code § 213.7, persons who file documents that contain confidential information as defined by the Policy shall use and file a Confidential Information Form (CIF) or a Confidential Document Form (CDF), as applicable, in order to comply with the Policy. Parties are expressly prohibited from filing two versions of any document, i.e., a redacted version and an unredacted version. A copy of the Policy and forms shall be available in each filing office, on this Court's website at www.monroepacourts.us and on the Public Records page of the UJS website at <http://www.pacourts.us/public-records>.

[Pa.B. Doc. No. 17-2020. Filed for public inspection December 8, 2017, 9:00 a.m.]

MONTGOMERY COUNTY

Adoption of Local Rule of Criminal Procedure 113.1*—Confidential Information and Confidential Documents. Certification; No. AD-388-17

Order

And Now, this 21st day of November, 2017, the Court hereby Adopts Montgomery County Local Rule of Criminal Procedure 113.1*. Confidential Information and Confidential Documents. Certification. This Rule shall become effective on January 6, 2018.

The Court Administrator is directed to publish this Order once in the *Montgomery County Law Reporter* and in *The Legal Intelligencer*. In conformity with Pa.R.J.A. 103, one (1) certified copy of this Order shall be filed with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One (1) copy shall be filed with the Law Library of Montgomery County, and one (1) copy with each Judge of this Court. This Order shall also be published on the Court's website and incorporated into the complete set of the Court's Local Rules.

By the Court

THOMAS M. DELRICCI,
President Judge

Rule 113.1*. Confidential Information and Confidential Documents. Certification.

Pursuant to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts (herein referred to as "Policy"), the following rules shall apply to all filings made in the Criminal Division of this Court:

(A) *Confidential Information*

(1) Any filing that includes any Confidential Information, as defined in Section 7.0(A) of the Policy, shall be filed with two (2) versions of the document. One shall be a "Redacted Version" in which any Confidential Information is redacted in a manner that is visibly evident to the reader. The other "Unredacted Version" may include the Confidential Information and shall be sealed, accessible only to the parties, their attorneys, and the Court except as Ordered by the Court. Any filing that includes no Confidential Information may be filed as only one document that shall not be sealed. Confidential information is defined in Section 7.0(A) of the Policy as:

1. Social Security Numbers;
2. Financial Account Numbers, except an active financial account number may be identified by the last four digits when the financial account is the subject of the case and cannot otherwise be identified;
3. Driver License Numbers;
4. State Identification Numbers;
5. Minors' names and dates of birth except when a minor is charged as a defendant in a criminal matter (see 42 Pa.C.S. § 6355); and
6. Abuse victim's address and other contact information, including employer's name address and work schedule, in family court actions as defined by Pa.R.C.P. No. 1931(a), except for victim's name.

(2) Any filer is responsible for compliance with the Policy and this Rule. A certificate of compliance shall be attached as a separate page attached at the end of the filing and signed by the filer, or as a required check box in an e-filing system, in the following form:

"I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents."

(B) *Confidential Documents*

(1) Any Confidential Document pursuant to Section 8.0(A) of the Policy shall be sealed from public view. Any exhibit, document or attachment filed or offered in any proceeding before the Criminal Division that is a Confidential Document as defined under the Policy shall be filed separately from the pleading, motion, memorandum or other filing to which it relates, and shall be filed with a "Confidential Document Form." The Confidential Document Form, but not the document, shall be accessible to the public, except as ordered by the Court. Confidential Documents, as defined by Section 8.0(A) of the Policy (and as further defined in Section 1.0 of the Policy, provided that certain documents that are typically filed within the Family Division are not listed here, but must nevertheless be treated as confidential pursuant to the Policy) are:

1. Financial source documents;
2. Minors' educational records;

3. Medical/Psychological records; and
4. Children and Youth Services' records.

(2) Any filer is responsible for compliance with the Policy and this Rule. A certificate of compliance shall be attached as a separate page at the end of every filing, and signed by the filer, or as a required check box in e-filing, in the following form:

"I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents."

(C) *Sanctions*

If, after notice and a reasonable opportunity to respond, the Court determines that this Rule has been violated, the Court may impose a sanction on any filer who has violated this Rule or is responsible for a violation.

Comment: Filers are encouraged to omit confidential information and confidential documents not essential to the matters to be decided to minimize the need for redaction, and where possible to file documents that contain no confidential information.

[Pa.B. Doc. No. 17-2021. Filed for public inspection December 8, 2017, 9:00 a.m.]

MONTGOMERY COUNTY

Adoption of Local Rule of Judicial Administration 520*—Public Access Policy; No. 2017-00001

Order

And Now, this 21st day of November, 2017, the Court hereby adopts Montgomery County Local Rule of Judicial Administration 520*—Public Access Policy. This Local Rule shall become effective on January 6, 2018.

The Court Administrator is directed to publish this Order once in the *Montgomery County Law Reporter* and in *The Legal Intelligencer*. In conformity with Pa.R.J.A. 103, one (1) certified copy of this Order shall be filed with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One (1) copy shall be filed with the Law Library of Montgomery County, and one (1) copy with each Judge of this Court. This Order shall also be published on the Court's website and incorporated into the complete set of the Court's Local Rules.

By the Court

THOMAS M. DELRICCI,
President Judge

Local Rule of Judicial Administration 520*. Public Access Policy.

Pursuant to Section 7 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts, any filer who files a document that contains confidential information as defined by the Policy shall file in all filing offices two versions of said document, a "Redacted Version" and an "Unredacted Version."

[Pa.B. Doc. No. 17-2022. Filed for public inspection December 8, 2017, 9:00 a.m.]

MONTGOMERY COUNTY

Adoption of Local Rule of Orphans' Court 1.99A—Confidential Information and Confidential Documents. Certification; Rescission of Local Rule of Orphans' Court 4.7A(g)—Electronic Filing of Legal Papers

Order

And Now, this 21st day of November, 2017, the Court hereby Rescinds Montgomery County Local Rules of Orphans' Court 4.7A(g) and Adopts Montgomery County Local Rule of Orphans' Court 1.99A. Confidential Information and Confidential Documents. Certification. These Rule changes shall become effective on January 6, 2018.

The Court Administrator is directed to publish this Order once in the *Montgomery County Law Reporter* and in *The Legal Intelligencer*. In conformity with Pa.R.J.A. 103, one (1) certified copy of this Order shall be filed with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One (1) copy shall be filed with the Law Library of Montgomery County, and one (1) copy with each Judge of this Court. This Order shall also be published on the Court's website and incorporated into the complete set of the Court's Local Rules.

By the Court

THOMAS M. DELRICCI,
President Judge

Rule 1.99A. Confidential Information and Confidential Documents. Certification.

Pursuant to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts (herein referred to as "Policy"), the following rules shall apply to all filings made in the Orphans' Court Division of this Court:

(A) *Confidential Information*

(1) Any filing that includes any Confidential Information, as defined in Section 7.0(A) of the Policy, shall be filed with two (2) versions of the document. One shall be a "Redacted Version" in which any Confidential Information is redacted in a manner that is visibly evident to the reader. The other "Unredacted Version" may include the Confidential Information and shall be sealed, accessible only to the parties, their attorneys, and the Court except as Ordered by the Court. Any filing that includes no Confidential Information may be filed as only one document that shall not be sealed. Confidential information is defined in Section 7.0(A) of the Policy as:

1. Social Security Numbers;
2. Financial Account Numbers, except an active financial account number may be identified by the last four digits when the financial account is the subject of the case and cannot otherwise be identified;
3. Driver License Numbers;
4. State Identification Numbers;
5. Minors' names and dates of birth except when a minor is charged as a defendant in a criminal matter (see 42 Pa.C.S. § 6355); and
6. Abuse victim's address and other contact information, including employer's name address and work schedule, in family court actions as defined by Pa.R.C.P. No. 1931(a), except for victim's name.

(2) Any filer is responsible for compliance with the Policy and this Rule. A certificate of compliance shall be attached as a separate page attached at the end of the filing and signed by the filer, or as a required check box in an e-filing system, in the following form:

“I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.”

(B) *Confidential Documents*

(1) Any Confidential Document pursuant to Section 8.0(A) of the Policy shall be sealed from public view. Any exhibit, document or attachment filed or offered in any proceeding before the Orphans’ Court Division that is a Confidential Document as defined under the Policy shall be filed separately from the pleading, motion, memorandum or other filing to which it relates, and shall be filed with a “Confidential Document Form.” The Confidential Document Form, but not the document, shall be accessible to the public, except as ordered by the Court. Confidential Documents, as defined by Section 8.0(A) of the Policy (and as further defined in Section 1.0 of the Policy, provided that certain documents that are typically filed within the Family Division are not listed here, but must nevertheless be treated as confidential pursuant to the Policy) are:

1. Financial source documents;
2. Minors’ educational records;
3. Medical/Psychological records; and
4. Children and Youth Services’ records.

(2) Any filer is responsible for compliance with the Policy and this Rule. A certificate of compliance shall be attached as a separate page at the end of every filing, and signed by the filer, or as a required check box in e-filing, in the following form:

“I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.”

(C) *Sanctions*

If, after notice and a reasonable opportunity to respond, the Court determines that this Rule has been violated, the Court may impose a sanction on any filer who has violated this Rule or is responsible for a violation.

Comment: Filers are encouraged to omit confidential information and confidential documents not essential to the matters to be decided to minimize the need for redaction, and where possible to file documents that contain no confidential information.

Rule 4.7A. Electronic Filing of Legal Papers.

- (a) * * *
- (b) * * *
- (c) * * *
- (d) * * *
- (e) * * *

(f) * * *

(g) (Rescinded.)

[Pa.B. Doc. No. 17-2023. Filed for public inspection December 8, 2017, 9:00 a.m.]

MONTGOMERY COUNTY

Rescission of Local Rule of Civil Procedure *205.2(a)—Required Redaction of Pleadings and Other Papers Filed with the Court; Adoption of Local Rule of Civil Procedure 205.6*—Confidential Information and Confidential Documents. Certification; Rescission of Local Rule of Civil Procedure 1920.51*(f)(5)—All Divorce Papers under Seal; No. 2017-00001

Order

And Now, this 27th day of November, 2017, the Court hereby Rescinds Montgomery County Local Rules of Civil Procedure *205.2(a) and 1920.51*(f)(5) and Adopts Montgomery County Local Rule of Civil Procedure 205.6*. Confidential Information and Confidential Documents. Certification. These Rule changes shall become effective on January 6, 2018.

The Court Administrator is directed to publish this Order once in the *Montgomery County Law Reporter* and in *The Legal Intelligencer*. In conformity with Pa.R.J.A. 103, one (1) certified copy of this Order shall be filed with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One (1) copy shall be filed with the Law Library of Montgomery County, and one (1) copy with each Judge of this Court. This Order shall also be published on the Court’s website and incorporated into the complete set of the Court’s Local Rules.

By the Court

THOMAS M. DELRICCI,
President Judge

Rule *205.2(a). Required Redaction of Pleadings and Other Papers Filed with the Court.

(Rescinded.)

Rule 205.6*. Confidential Information and Confidential Documents. Certification.

Pursuant to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts (herein referred to as “Policy”), the following rules shall apply to all filings made in the Civil and Family Divisions of this Court:

(A) *Confidential Information*

(1) Any filing that includes any Confidential Information, as defined in Section 7.0(A) of the Policy, shall be filed with two (2) versions of the document. One shall be a “Redacted Version” in which any Confidential Information is redacted in a manner that is visibly evident to the reader. The other “Unredacted Version” may include the Confidential Information and shall be sealed, accessible only to the parties, their attorneys, and the Court except as Ordered by the Court. Any filing that includes no Confidential Information may be filed as only one docu-

ment that shall not be sealed. Confidential information is defined in Section 7.0(A) of the Policy as:

1. Social Security Numbers;
2. Financial Account Numbers, except an active financial account number may be identified by the last four digits when the financial account is the subject of the case and cannot otherwise be identified;
3. Driver License Numbers;
4. State Identification Numbers;
5. Minors' names and dates of birth except when a minor is charged as a defendant in a criminal matter (see 42 Pa.C.S. § 6355); and
6. Abuse victim's address and other contact information, including employer's name address and work schedule, in family court actions as defined by Pa.R.C.P. No. 1931(a), except for victim's name.

(2) Any filer is responsible for compliance with the Policy and this Rule. A certificate of compliance shall be attached as a separate page attached at the end of the filing and signed by the filer, or as a required check box in an e-filing system, in the following form:

"I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents."

(B) *Confidential Documents*

(1) Any Confidential Document pursuant to Section 8.0(A) of the Policy shall be sealed from public view. Any exhibit, document or attachment filed or offered in any proceeding before the Civil Division or Family Division that is a Confidential Document as defined under the Policy shall be filed separately from the pleading, motion, memorandum or other filing to which it relates, and shall be filed with a "Confidential Document Form." The Confidential Document Form, but not the document, shall be accessible to the public, except as ordered by the Court. Confidential Documents, as defined by Section 8.0(A) of the Policy (and as further defined in Section 1.0 of the Policy) are:

1. Financial source documents;
2. Minors' educational records;
3. Medical/Psychological records;
4. Children and Youth Services' records;
5. Marital Property Inventory and Pre-Trial Statement as provided in Pa.R.C.P. 1930.33;
6. Income and Expense Statement as provided in Pa.R.C.P. 1910.27(c); and
7. Agreements between the parties as used in 23 Pa.C.S. § 3105.

(2) Any filer is responsible for compliance with the Policy and this Rule. A certificate of compliance shall be attached as a separate page at the end of every filing, and signed by the filer, or as a required check box in e-filing, in the following form:

"I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents."

(C) *Sanctions*

If, after notice and a reasonable opportunity to respond, the Court determines that this Rule has been violated, the Court may impose a sanction on any filer who has violated this Rule or is responsible for a violation.

Comment: Filers are encouraged to omit confidential information and confidential documents not essential to the matters to be decided to minimize the need for redaction, and where possible to file documents that contain no confidential information.

Rule 1920.51*(f). Dissolution of Marital Status, Appointment of Master, Notice of Hearing. All Divorce Papers Under Seal.

- (1) * * *
- (2) * * *
- (3) * * *
- (4) * * *
- (5) (Rescinded.)
- (6) * * *
- (7) * * *

[Pa.B. Doc. No. 17-2024. Filed for public inspection December 8, 2017, 9:00 a.m.]

TIOGA COUNTY

Judicial Administration Public Access Policy Local Rule 102; No. 213 MS 2017

Final Order

And Now, this 21st day of November, 2017, it is hereby Ordered that a Public Access Policy, Case Records of the Trial Courts, is adopted as a local rule of judicial administration for use in the Court of Common Pleas of the 4th Judicial District, Tioga County, Pennsylvania.

This Order shall become effective on January 6, 2018.

By the Court

GEORGE W. WHEELER,
President Judge

Local Rule No. 102. Public Access Policy: Case Records of the Trial Courts.

Pursuant to Section 7 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts, any person who files documents that contain certain confidential information as defined by the Policy shall use and file a Confidential Information Form in order to comply with the Policy. All filings in the Court of Common Pleas of Tioga County shall comply with the Public Access Policy of the Unified Judicial System of Pennsylvania. Information that is confidential as defined by the Public Access Policy shall not be included in any document filed in the Court of Common Pleas of Tioga County, except on a Confidential Information Form filed contemporaneously with the document.

Confidential information filed in accordance with the Public Access Policy shall be on a standardized Confidential Information Form provided by the Administrative Office of the Pennsylvania Courts. The form shall be available in each filing office as well as on the Court's website at: www.tiogacounty.pa.us.

A. Unless required by applicable authority or as provided in Subsection C of this rule, the following information is confidential and shall NOT be included in any document filed with a court or custodian, except on a Confidential Information Form filed contemporaneously with the document.

- a. Social Security Numbers;
- b. Financial Account Numbers, except an active financial account number may be identified by the last four digits when the financial account is the subject of the case and cannot otherwise be identified;
- c. Driver's License Numbers;
- d. State Identification (SID) Numbers;
- e. Minors' names and dates of birth except when a minor is charged as a defendant in a criminal matter (see 42 Pa.C.S. 6355); and
- f. Abuse victim's address and other contact information, including employer's names, address and work schedule, in family court actions as defined by Pa.R.C.P. No 1931(a), except for victim's name.

B. Attorney's and self-represented parties shall file the Confidential Information Form in the appropriate office (Prothonotary/Clerk of Courts, or Clerk of Orphans' Court).

C. This section is not applicable to cases that are sealed or exempted from public access pursuant to applicable authority. Examples of such cases are juvenile cases, child support cases, and adoptions.

D. Attorney's and self-represented parties shall be solely responsible for complying with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellant and Trial Courts and the applicable state and local rules and shall certify their compliance to the Court. This certification shall accompany each filing and shall be substantially in the following form: "I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellant and Trial Courts that require filing confidential information differently than non-confidential information and documents."

E. The Court or the appropriate filing office (Prothonotary/Clerk of Courts or Clerk of the Orphans' Court), is not required and will not review or redact any filed documents for compliance with the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellant and Trial Courts.

[Pa.B. Doc. No. 17-2025. Filed for public inspection December 8, 2017, 9:00 a.m.]

VENANGO COUNTY

Adoption of Local Rules Re Public Access; CIV
No. 1259-2017

Order of Court

And Now, November 14, 2017, the following rule is hereby *Adopted* as Local Rule of Judicial Administration LRJA 101, governing access to official paper case records and images of scanned or e-filed documents, of all case records filed and maintained in the filing offices of the Venango County Court of Common Pleas, 28th Judicial

District, to include criminal, civil and family matters, to be effective January 6, 2018. The Venango County District Court Administrator is Ordered and Directed to do the following:

(1) File one (1) copy of the local rule with the Administrative Office of Pennsylvania Courts via email to adminrules@pacourts.us.

(2) Forward two (2) paper copies and one (1) electronic copy in a Microsoft Word format only on a CD-ROM to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) Publish the local rules on the Venango County website at www.co.venango.pa.us.

(4) File one copy of the local rule in the appropriate filing offices for public inspection and copying.

By the Court

OLIVER J. LOBAUGH,
President Judge

LOCAL RULE OF JUDICIAL ADMINISTRATION RE: PUBLIC ACCESS POLICY FOR THE COURT OF COMMON PLEAS

Rule 101.

Pursuant to Section 7 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts, persons who file documents that contain confidential information as defined by the Policy shall use and file a Confidential Information Form in order to comply with the Policy. The form shall be available in each filing office as well as on the Venango County website at: www.co.venango.pa.us or on the website of the Unified Judicial System at: <http://www.pacourts.us/public-records>.

Parties and their attorneys shall be solely responsible for complying with the provisions of this section and shall certify their compliance to the court. The certification that shall accompany each filing shall be substantially in the following form: "I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that requires filing confidential information and documents differently than non-confidential information and documents."

Fee Schedule:

Photocopying/printing of scanned document: \$0.25 per page
[Pa.B. Doc. No. 17-2026. Filed for public inspection December 8, 2017, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that Gregg Douglas Trautmann having been suspended from the practice of law in the State of New Jersey by Order dated July 13, 2017; the Supreme Court of Pennsylvania issued an Order dated November 16, 2017 suspending Gregg Douglas Trautmann from the practice of law in this Commonwealth for

a period of six months, effective December 16, 2017. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 17-2027. Filed for public inspection December 8, 2017, 9:00 a.m.]

SUPREME COURT

Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts; No. 490 Judicial Administration Doc.

Order

Per Curiam

And Now, this 28th day of November, 2017, in accordance with Section 7(C) of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*, it is Ordered that all documents filed with the Supreme Court of Pennsylvania that contain confidential information shall be filed in two versions, a redacted version and an unredacted version.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective January 6, 2018.

[Pa.B. Doc. No. 17-2028. Filed for public inspection December 8, 2017, 9:00 a.m.]
