

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1915]

Proposed Amendments of Pa.R.C.P. No. 1915.7 and 1915.10

The Domestic Relations Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendments of Pa.R.C.P. No. 1915.7 and 1915.10 for the reasons set forth in the accompanying publication 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 and underlined; 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 June 8, 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*

WALTER J. McHUGH, Esq.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1915. ACTIONS FOR CUSTODY OF MINOR CHILDREN

Rule 1915.7. Consent Order.

[If an agreement for custody is reached and the parties desire a consent order to be entered, they shall note their agreement upon the record or shall submit to the court a proposed order bearing the written consent of the parties or their counsel.]

If the parties have an agreement regarding custody and request that the court enters a consent order incorporating the terms of the agreement:

(a) the parties shall submit to the court a proposed custody order bearing the written consent of the parties; or

(b) the parties may state the agreement on the record; but, within ten days of placing the agreement on the record, the parties shall comply with subdivision (a).

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*.

Rule 1915.10. Decision. Order.

(a) The court may make the decision before the testimony has been transcribed. The court shall state the reasons for its decision [**either**] on the record in open court[,] **or** in a written opinion[, **or in the**] **or** order.

Official Note: See 23 Pa.C.S. § 5323(d)

(b) The **court shall enter a custody order as a separate written order or in a separate section in a written opinion with the** terms of the order [**shall be**] sufficiently specific [**to enforce**] **for enforcement of** the order. The court's [**decision**] **order** shall include safety provisions designed to protect an endangered party or [**a**] child in any case in which the court has found that either is at risk of harm.

(c) [**Any custody order shall include notice of a party's obligations pursuant to 23 Pa.C.S. § 5337 dealing with**] **A custody order shall include a notice outlining the parties' obligations under 23 Pa.C.S. § 5337 regarding** a party's intention to relocate with a minor child.

Official Note: See 23 Pa.C.S. § 5323(c).

See Pa.R.C.P. No. 1915.17 regarding relocation.

(d) [**No**] **A party may not file a** motion for post-trial relief [**may be filed**] to an order of legal or physical custody.

Explanatory Comment—2013

[The custody statute, at 23 Pa.C.S. § 5323(d), requires the court to delineate the reasons for its decision on the record in open court or in a written opinion or order. Subdivision (b) further defines and reinforces the requirements found in 23 Pa.C.S. § 5323(e). Examples of safety provisions include, but are not limited to: supervised physical custody, supervised or neutral custody exchange location, neutral party presence at custody exchange, telephone or computer-facilitated contact with the child, no direct contact between the parties, third-party contact for cancellations, third-party transportation and designating secure, neutral location for a child's passport. The statute, at 23 Pa.C.S.

§ 5323, requires that any custody order must include notice of a party's obligations when there is a proposed relocation under 23 Pa.C.S. § 5337. Rule 1915.17 also addresses relocation.]

Subdivision (b) further defines and reinforces the requirements found in 23 Pa.C.S. § 5323(e). Examples of safety provisions include, but are not limited to, supervised physical custody, a supervised or neutral custody exchange location, neutral party presence at custody exchange, telephone or computer-facilitated contact with the child, no direct contact between the parties, third-party contact for cancellations, third-party transportation, and designating secure, neutral location for a child's passport.

PUBLICATION REPORT

Recommendation 169

The Domestic Relations Procedural Rules Committee (Committee) is proposing amendments to Pa.R.C.P. No. 1915.7 and 1915.10 as the rules relate to custody agreements and orders. Specifically, the proposed amendments further refine the requirements for parties requesting that the court incorporate an agreement into a custody order, and how courts enter custody orders into the record.

The impetus for the Committee's proposed amendment to Pa.R.C.P. No. 1915.10 is the holding in *R.L.P. v. R.F.M.*, 110 A.3d 201 (Pa. Super. 2015). In *R.L.P.*, the Superior Court held that "in order to be sufficiently specific to be enforced, an order of custody must be entered as a separate written order, or as a separate section of a written opinion." *Id.* at 206. The Committee received information that the practice of placing custody orders on the record without subsequently entering a written order continued.

The Committee agreed with the Superior Court that custody orders transcribed from the oral record typically do not adequately comport with the requirements of 23 Pa.C.S. § 5323 making enforcement by the courts difficult and understanding of the terms by the parties and other third parties, e.g., schools, law enforcement, difficult. To clarify the rule, the Committee proposes amending Pa.R.C.P. No. 1915.10 by incorporating the court's holding in *R.L.P.* into the rule.

Additionally, the Committee concluded that a similar amendment to Pa.R.C.P. No. 1915.7 was necessary. The current rule permits parties to enter a verbal custody agreement into the record or present the court with a written consent order. Although the Committee recognizes the importance of memorializing the parties' agreement while the parties are before the court, a custody order transcribed in this circumstance creates similar problems for enforcement and understanding. As such, the Committee proposes amending Pa.R.C.P. No. 1915.7 by requiring the parties submit a written consent order within ten days of placing the verbal agreement on the record. In this manner, the court can preserve the parties' agreement on the record, and the parties will have a succinctly written custody order.

[Pa.B. Doc. No. 18-489. Filed for public inspection March 30, 2018, 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, 1920.53, 1920.72, 1920.73 and 1920.74

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, 1920.53, 1920.72, 1920.73, and 1920.74, 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 and underlined; 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
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All communications in reference to the proposal should be received by June 8, 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*

WALTER J. McHUGH, 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 may be joined under the Divorce Code and any petition**] **ancillary claims that may be joined under the Divorce Code, and petitions** 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 under Section 3301(d) of the Divorce Code shall be deemed admitted unless denied by counteraffidavit.

Official Note: See Rule 1920.72(d) for the form of counteraffidavit.

Explanatory Comment—1994

Subdivision (b) requires that the averments of the plaintiff's affidavit under Section 3301(d) of the Divorce Code be denied by counteraffidavit. If the defendant fails to file a counteraffidavit, all allegations 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.]

(b) The averments of the Affidavit under Section 3301(d) of the Divorce Code and the Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code shall be deemed admitted unless denied by counter-affidavit.

Official Note: 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 in an Affidavit under Section 3301(d) of the Divorce Code be denied by counter-affidavit. If the non-moving party fails to file a counter-affidavit, the averments 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 denied unless admitted by an answer.

Explanatory Comment—2018

Subdivision (b) has been amended by including divorces under Section 3301(c)(2). The process for obtaining a divorce under Sections 3301(c)(2) and 3301(d) are similar. As such, if the non-moving party fails to file a counter-affidavit or to deny the averments in the Affidavit to Establish Presumption of Consent, the affidavit's averments are deemed admitted.

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 Divorce 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 Praecepto to Transmit Record. Praecepto 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 Praecepto 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;

(ii) the parties have signed Affidavits of Consent 90 days or more after service of the complaint and have filed the affidavits 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 Praecepte to Transmit Record, which included a blank Counter-Affidavit under Section 3301(c)(1) and a copy of the proposed Praecepte to Transmit Record indicating the date and manner of service of the Notice of Intention to File the Praecepte to Transmit Record, or, alternatively, the parties have signed and filed Waivers of Notice of Intention to File the Praecepte to Transmit Record; and

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

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

(2) To the extent that grounds for divorce have been established under Section 3301(c)(1) of the Divorce Code as outlined in subdivision (a)(1)(ii) and the parties have been unable to resolve the ancillary claims, the court shall enter an order approving grounds for divorce after the moving party:

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

(ii) has completed and filed a Praecepte 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 Praecepte to Transmit Record, the moving party shall wait a minimum of 20 days after service of the

Notice of Intention to File the Praecepte to Transmit Record before filing the Praecepte 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 Praecepte to Transmit Record.

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

See Pa.R.C.P. No. 1920.73(c) for the Praecepte 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, that the court either hears the ancillary claims or appoints 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 enters an order disposing of the ancillary claims, the parties shall file a Praecepte to Transmit Record and request the entry of the appropriate divorce decree. To the extent the agreement does not address all of the parties' claims raised in the pleadings, the party raising the outstanding claims shall withdraw the claims before the court enters 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;

(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 affidavit, along with a blank Counter-Affidavit under Section 3301(c)(2) 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 to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code;

(A) If a party files a Counter-Affidavit under Section 3301(d) of the Divorce Code denying an averment in the Affidavit under Section 3301(d) of the Divorce Code, including the date of separation, either party may present a motion requesting the court resolve the issue.

(B) After presentation of the motion in subdivision (A), the court may hear the testimony or,

consistent with Pa.R.C.P. No 1920.51(a)(1)(ii)(D), appoint a master to hear the testimony and to issue a report and recommendation.

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 to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code are deemed admitted unless denied. See Pa.R.C.P. No. 1930.4 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 Praecepte to Transmit Record, which included a blank Counter-Affidavit under Section 3301(c)(2) and a copy of the proposed Praecepte to Transmit Record indicating the date and manner of service of the Notice of Intention to File the Praecepte to Transmit Record, or, alternatively, the parties have signed and filed Waivers of Notice of Intention to File the Praecepte to Transmit Record; and

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

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

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

(2) To the extent that grounds for divorce have been established under Section 3301(c)(2) of the Divorce Code as outlined in subdivision (b)(1)(ii)-(iii) and the parties have been unable to resolve the ancillary claims, the court shall enter an order approving grounds for divorce after the moving party:

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

(ii) has completed and filed a Praecepte 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 Praecepte to Transmit Record, the moving party shall wait a minimum of 20 days after service of the Notice of Intention to File the Praecepte to Transmit Record before filing the Praecepte 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 Praecepte to Transmit Record.

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

See Pa.R.C.P. No. 1920.73(c) for the Praecepte 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, that the court either hears the ancillary claims or appoints 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 enters an order disposing of the ancillary claims, the parties shall file a Praecepte to Transmit Record and request the entry of the appropriate divorce decree. To the extent the agreement does not address all of the parties' claims raised in the pleadings, the party raising the outstanding claims shall withdraw the claims before the court enters 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 after:

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

(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;

(A) If a party files a Counter-Affidavit under Section 3301(d) of the Divorce Code denying an averment in the Affidavit under Section 3301(d) of the Divorce Code, including the date of separation, either party may present a motion requesting the court resolve the issue.

(B) After presentation of the motion in subdivision (A), the court may hear the testimony or, consistent with Pa.R.C.P. No. 1920.51(a)(1)(ii)(D), appoint a master to hear the testimony and to issue a report and recommendation.

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. See Pa.R.C.P. No. 1930.4 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 Praeceptum to Transmit Record, which included a blank Counter-Affidavit under Section 3301(d) of the Divorce Code 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 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(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 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(d) of the Divorce Code as outlined in subdivision (c)(1)(ii)-(iii) and the parties have been unable to resolve the ancillary claims, the court shall enter an order approving grounds for divorce after 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 a Waiver of Notice of Intention to File the Praeceptum to Transmit Record; and

(ii) has completed and filed 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, that the court either hears the ancillary claims or appoints 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 enters an order disposing of the ancillary claims, the parties shall file a Praeceptum to Transmit Record and request the entry of the appropriate divorce decree. To the extent the agreement does not address all of the parties' claims raised in the pleadings, the party raising the outstanding claims shall withdraw the claims before the court enters 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.] 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, may appoint a master with respect to all or any of the matters specified in subdivision (a)(2)(i) to

consider same and issue a report and recommendation. The order of appointment shall specify the matters which are referred to the master.

(2)(i) The court may appoint a master in an action of divorce under Section 3301(a), (b) and (d)(1)(ii) of the Divorce Code, an action for annulment, and the 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.

(ii) If there are no claims other than divorce, no master may be appointed to determine grounds for divorce if either party has asserted grounds for divorce pursuant to § 3301(c) or § 3301(d)(1)(i) of the Divorce Code. 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.

(iii) No master may be appointed 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.

(3) The motion for the appointment of a master and the order shall be substantially in the form prescribed by Rule 1920.74.

(4) A permanent or standing master employed by, or under contract with, a judicial district or appointed by the court shall not practice family law before a conference officer, hearing officer, permanent or standing master, or judge of the same judicial district.

Official Note: Hearing conference officers preside at office conferences under Rule 1910.11. Hearing officers preside at hearings under Rule 1910.12. The appointment of masters to hear actions in divorce or for annulment of marriage is authorized by Rule 1920.51.]

(a) In an action of divorce or annulment:

(1) the court may:

(i) hear the testimony; or

(ii) appoint a master, upon motion of a party or of the court:

(A) before entry of the divorce decree to hear the testimony for the ancillary claims of alimony, equitable division of marital property, partial custody, counsel fees, and costs and expenses, which are raised in the pleadings, and to issue a report and recommendation, if grounds for divorce under Sections 3301(c) or 3301(d) of the Divorce Code have been established and approved by the court as outlined in Pa.R.C.P. No. 1920.42;

(B) before approving grounds for divorce under Sections 3301(c) or 3301(d) of the Divorce Code for the limited purpose of assisting the parties and the court on issues of discovery or settlement;

(C) to hear the testimony for establishing grounds for divorce under Sections 3301(a) or 3301(b) of the Divorce Code or annulment and the ancillary claims, which are raised in the pleadings, and to issue a report and recommendation; or

(D) after a party files a counter-affidavit denying the affidavit's averments, including the date of separation, in an action under Section 3301(c)(2) or 3301(d) of the Divorce Code and to hear the testimony and to issue a report and recommendation.

(2) the court shall not appoint a master:

(i) to approve grounds for divorce under Sections 3301(c) or 3301(d) of the Divorce Code; or

***Official Note:* See Pa.R.C.P. No. 1920.42 for approving grounds for divorce under Sections 3301(c) and 3301(d) of the Divorce Code.**

(ii) for the claims of legal, physical, or shared custody or paternity.

***Official Note:* Section 3321 of the Divorce Code 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), the Supreme Court of Pennsylvania suspended Section 3321 insofar as that section prohibits the appointment of masters in partial custody cases.**

(3) The motion for the appointment of a master and the order shall be substantially in the form prescribed by Pa.R.C.P. No. 1920.74. The order appointing the master shall specify the issues and ancillary claims that are referred to the master.

(4) A permanent or standing master employed by, or under contract with, a judicial district or appointed by the court shall not practice family law before a conference officer, hearing officer, permanent or standing master, or judge of the same judicial district.

***Official Note:* Conference officers preside at office conferences under Pa.R.C.P. No. 1910.11. Hearing officers preside at hearings under Pa.R.C.P. No. 1910.12. The appointment of master to hear actions in divorce or for annulment of marriage is authorized by Section 3321 of the Divorce Code.**

(b) Written notice of the hearing shall be given to each attorney of record by the master. If a master has not been appointed, the prothonotary, clerk or other officer designated by the court shall give the notice.

* * * * *

Explanatory Comment—2010

The rule is amended to clarify the role of the master in a divorce case when either party has asserted grounds for divorce pursuant to § 3301(c) or § 3301(d) of the Divorce Code. The rule had been interpreted in some jurisdictions as requiring the entry of a bifurcated decree before a master could be appointed to hear economic claims.

EXPLANATORY COMMENT—2018

Subdivision (a)(1)(ii) provides for the appointment of a master to hear, *inter alia*, partial custody cases. The authority for a master to hear partial custody cases is 23 Pa.C.S. § 3321, which the Supreme Court of Pennsylvania suspended in part to allow masters to hear partial custody. However, nothing in this rule should be construed to require a court to appoint masters in partial custody cases or that this rule is inconsistent with Pa.R.C.P. Nos. 1915.4-1, 1915.4-2, or 1915.4-3 that provide for conference officers and hearing officers in custody cases.

Rule 1920.53. Hearing by Master. Report.

In an action for divorce or annulment [which] that has been referred to a master, the master's report **and recommendation** shall include findings of fact, conclusions of law, and a recommended disposition of the case or issue.

(a) The findings of fact shall include, **as appropriate for the circumstances and issues before the master:**

- (1) the method and date of service of process[.];
- (2) the manner and date of service of the notice of the master's hearing or the master's efforts to notify the [defendant.] parties;
- (3) the date and place of marriage[.];
- (4) information relating to any prior marriage of [either party] the parties and proof of dissolution of such prior marriage[.];
- (5) the residences of the parties at the time of the marriage and subsequent thereto, the actual length of time the parties have resided in the Commonwealth, and whether the residence requirement of Section 3104(b) of the Divorce Code has been met[.];
- (6) the age and occupation of [each party.] the parties;
- (7) [the name and age of each child of the parties, if any, and with whom each resides.] the initials and age of the children of the parties, if any, and with whom the children reside.
- (8) the grounds upon which the action is based[.];
- (9) defenses to the action, if any[, and];
- (10) [whether the divorce should be granted on the basis of the complaint or the counterclaim, if filed.] whether the court should grant or deny the divorce, annulment, or other relief on the basis of the complaint, the counterclaim, if filed, or the motion requesting relief; and
- (11) other relevant facts related to the appointment.

(b) The conclusions of law shall include a discussion of the law as it relates to the facts, as well as the legal conclusions reached by the master.

(c) [The report shall include the master's recommendation that the divorce or annulment be granted or denied. If divorce or] If a divorce or an annulment is recommended, the master shall attach a proposed decree to the report and recommendation.

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

(a) The complaint in an action [of divorce under § 3301(c) or §] 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 _____ (Date) and served on the defendant on _____ (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. Section 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)

NOTICE

If you wish to deny any of the statements set forth 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 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 § 3301(d) of the Divorce Code and Pa.R.C.P. No. 1920.42(a)(2)] The Affidavit under Section 3301(d) of the Divorce Code required by Pa.R.C.P. No. 1920.42(c)(1)(ii) shall be substantially in the following form:

* * * * *

(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] 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 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 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 DIVORCE 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 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. Praecepto to Transmit Record. Forms.] Notice of Intention to File Praecepto to Transmit Record. Waiver of Notice of Intention to File Praecepto to Transmit Record. Praecepto to Transmit Record.

(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 Praecepto 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 Praecepto 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 Praecepto 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 Praecepto 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 UNDER 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 Praecepto 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.

* * * * *

(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 Praeceptum 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 PRAECEPTUM 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 Praeceptum 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 you may file with the prothonotary of the court] that you may file 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)

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)

PRAECEPTUM TO TRANSMIT RECORD

To the Prothonotary:

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

1. Grounds for divorce: irretrievable breakdown under Section (3301(c)) Section (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 Section 3301(c) of the Divorce Code: by plaintiff: _____; by defendant: _____.

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

(2) Date of filing and service of the Section 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 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 PRAECEPTUM 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, equitable division of property, lawyer's fees, or costs and 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 Praecepte 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:

- Date served:
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 Praecepte to Transmit Record:

- Date served:
Manner of service:

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

- Plaintiff's Waiver:
Defendant's Waiver:

(Attorney for)(PLAINTIFF)(DEFENDANT)

Rule 1920.74. Form of Motion for Appointment of Master. Order.

(a) The motion for appointment of a master shall be substantially in the following form:

(Caption)

MOTION FOR APPOINTMENT OF MASTER

(Plaintiff) (Defendant), moves the court to appoint a master with respect to the following claims:

- Divorce
Annulment
Alimony
Alimony Pendente Lite
Distribution of Equitable Division of Marital Property
Support
Counsel Fees
Costs and Expenses
Other:

and in support of the motion states:

- Discovery is (is not) complete as to the claim(s) for which the appointment of a master is requested.
The non-moving party (has) (has not) appeared in the action (personally) (by his or her attorney, Esquire).
The statutory ground(s) for divorce (is) (are)

(4) If the master's appointment is for resolution of divorce, annulment, or ancillary claims, the parties have complied with Pa.R.C.P. Nos. 1920.31, 1920.33, and 1920.46, if applicable.

(4) Delete the inapplicable paragraph(s):

- the action is not contested.
An agreement has been reached with respect to the following claims:
The action is contested with respect to the following claims:

[(5)] (6) The action (involves) (does not involve) complex issues of law or fact.

[(6)] (7) The hearing is expected to take ____ (hours) (days).

[(7)] (8) Additional information, if any, relevant to the motion: _____

Date: _____

Attorney for (Plaintiff) (Defendant)

Official Note: See Pa.R.C.P. No. 1920.51(a)(1)(ii) for the issues and claims for which the court may appoint a master.

(b) The order appointing a master shall be substantially in the following form:

* * * * *

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, 1920.53, 1920.72, 1920.73, and 1920.74. 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 twice in the *Pennsylvania Bulletin*, 46 Pa.B. 6113 (October 1, 2016) and 47 Pa.B. 7424. After the first publication, the Committee comprehensively revised the Recommendation and republished. After reviewing the comments and additional deliberations, the Committee has revised the Recommendation.

Several of the comments received by the Committee objected to the Recommendations perceived limitations for the appointment of masters. Specifically, commenters noted that many judicial districts utilize masters for purposes of discovery and assisting in settlement negotiations and restriction in the rules precluding those appointments would be detrimental to speedy and efficient case management. Although, the previously published Recommendation did not preclude such appointments, the Committee noted the confusion and in the revised Recommendation explicitly included master appointments for other purposes (e.g., discovery, settlement). The revision includes a complete rewriting of Pa.R.C.P. No. 1920.51(a). As a result of these changes, the Committee proposes amending the Motion for Appointment of Master form in Pa.R.C.P. No. 1920.74. The revision to the Motion for Appointment of Master includes an acknowledgement that the parties have complied with Pa.R.C.P. No. 1920.31, 1920.33, and 1920.46, if applicable.

Additionally, the Committee proposes amending Pa.R.C.P. No. 1920.14(b) by adding the Affidavit to Establish Presumption of Consent for a divorce under Section 3301(c)(2) of the Divorce Code. As the procedures for a Section 3301(c)(2) divorce have been modeled after a divorce under Section 3301(d), the Committee proposes that averments not denied in the Affidavit to Establish Presumption of Consent should have similar treatment as to those in an Affidavit under Section 3301(d) of the

Divorce Code. In conjunction with that change, the Committee proposes a revision to the form Affidavit to Establish Presumption of Consent in Pa.R.C.P. No. 1920.72(c) by including a notice informing the non-moving party of the ramifications of the failure to file a counter-affidavit or deny the affidavits averments.

Although the Committee has expanded Pa.R.C.P. Nos. 1920.42 and 1920.51 extensively, it believes the detailed procedures will alleviate confusion in obtaining a divorce decree and further assist unrepresented parties to maneuver through a complicated procedure.

[Pa.B. Doc. No. 18-490. Filed for public inspection March 30, 2018, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

**Healthcare Providers Insurance Exchange (HPIX);
Administrative Doc. No. 03 of 2018**

Order

And Now, this 14th day of March, 2018, upon consideration of the following Order of Liquidation involving Healthcare Providers Insurance Exchange (HPIX) issued by the Commonwealth Court of Pennsylvania on January 12, 2018, it is hereby Ordered and Decreed that all cases in which Healthcare Providers Insurance Exchange (HPIX) is a named party shall be placed in deferred status until further notice.

It is further Ordered and Decreed that all actions currently pending against any insured of Healthcare Providers Insurance Exchange (HPIX) shall be placed in deferred status until further notice.

By the Court

JACQUELINE F. ALLEN,
*Administrative Judge
Trial Division*
IDEE C. FOX,
*Supervising Judge
Trial Division—Civil Section*

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; and with the March 26, 1996 order of the Supreme Court of Pennsylvania, Eastern District, No. 164 Judicial Administration, Docket No. 1, as amended. This Order shall be filed with the Office of Judicial Records in a docket maintained for Orders issued by the First Judicial District of Pennsylvania, and one certified copy of this Order shall be filed with the Administrative Office of Pennsylvania Courts. Two certified copies of this Order, and a copy on a computer diskette, shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, shall be published in *The Legal Intelligencer*, and will be posted on the First Judicial District's website at <http://www.courts.phila.gov>. Copies shall be submitted to American Lawyer Media, the Jenkins Memorial Law Library, and the Law Library for the First Judicial District of Pennsylvania.

**IN THE COMMONWEALTH COURT OF
PENNSYLVANIA**

*Jessica K. Altman, Acting Insurance Commissioner of the
Commonwealth of Pennsylvania, Plaintiff v. Healthcare
Providers Insurance Exchange, Defendant;
No. 1 HPI 2017*

MEMORANDUM and LIQUIDATION ORDER

AND NOW, this 12th day of January, 2018, upon consideration of the “Petition for Review in the Nature of a Complaint for Order of Liquidation” (Petition for Liquidation) filed by Jessica K. Altman, Acting Insurance Commissioner of the Commonwealth of Pennsylvania, for the liquidation of Healthcare Providers Insurance Exchange (HPIX) pursuant to Article V of The Insurance Department Act of 1921 (Act),¹ on the grounds of HPIX’s consent to liquidation and its insolvency, it is hereby ORDERED that:

1. The Petition for Liquidation is GRANTED, and HPIX is ordered to be liquidated pursuant to Article V of the Act (Article V).

2. Acting Insurance Commissioner, Jessica K. Altman, and her successor in office, if any, is hereby appointed Statutory Liquidator of HPIX and directed to take possession of HPIX’s property, business and affairs in accordance with Article V and to administer them pursuant to the orders of this Court.

3. The Liquidator is hereby vested with all the powers, rights and duties authorized under Article V and other applicable statutes and regulations.

Assets of the Estate

4. The Liquidator is vested with title to all property, assets, contracts and rights of action (assets) of HPIX of whatever nature and wherever located, as of the date of filing the Petition for Liquidation. All assets of HPIX are hereby found to be in custodia legis of this Court, and this Court asserts jurisdiction as follows: (a) in rem jurisdiction over all assets wherever they may be located and regardless of whether they are held in the name of HPIX or in any other name; (b) exclusive jurisdiction over all determinations as to whether assets belong to HPIX or to another party; (c) exclusive jurisdiction over all determinations of the validity and amounts of claims against HPIX; and (d) exclusive jurisdiction over the determination of the priority of all claims against HPIX.

5. To protect the assets of the HPIX Estate and facilitate this liquidation, the Liquidator is directed to:

a) Inform all banks, investment bankers, companies, other entities or other persons having in their possession the property of HPIX, that they must deliver these assets immediately to the Liquidator, and not disburse, convey, transfer, pledge, assign, hypothecate, encumber or in any manner dispose of the same without the prior written consent of the Liquidator.

b) Inform all attorneys employed by or retained by HPIX or performing legal services for HPIX as of the date of this Order that, within 30 days of notification, they must report to the Liquidator the name, company, claim number (if applicable) and status of each matter they are handling on behalf of HPIX; the full caption, docket

number and name and address of opposing counsel in each case; an accounting of any funds received from or on behalf of HPIX for any purpose and in any capacity; and, further, that the Liquidator need not make payment for any unsolicited report.

c) Inform any entity that has custody or control of any data processing equipment and records, including all types of electronically stored information, belonging to HPIX, to transfer custody and control of this equipment and information to the Liquidator, upon her request.

d) Inform any entity furnishing claims processing or data processing services to HPIX to maintain such services and transfer any such accounts to the Liquidator, upon her request.

6. HPIX’s directors, officers and employees shall: (a) surrender peaceably to the Liquidator the premises where HPIX conducts its business; (b) deliver all keys or access codes thereto and to any safe deposit boxes; (c) advise the Liquidator of the combinations and access codes of any safe or safekeeping devices of HPIX or any password or authorization code or access code required for access to data processing equipment and to access the files and data stored or saved thereon; (d) identify and deliver to the Liquidator all the assets, books, records, files, credit cards, and other property of HPIX in their possession or control, wherever located; (e) cease transacting business on behalf of HPIX; and (f) advise and cooperate with the Liquidator in winding up the affairs of HPIX.

Notice of Liquidation

7. In addition to the notice requirements of Section 524 of Article V, 40 P.S. § 221.24, regarding the expediency and manner of the Liquidator’s notice, as well as the requirement that claimants be notified that they are required to file their claims with the Liquidator along with proper proofs thereof as mandated by Section 538 of Article V, 40 P.S. § 221.38, and keep the Liquidator informed of any change in address, the Liquidator shall publish notice in newspapers of general circulation where HPIX has its principal places of business that: (a) explains the procedure by which claims against the estate of HPIX may be submitted to the Liquidator; (b) provides the address of the Liquidator’s office for the submission of claims; and (c) notifies the public of the right to present a claim, or claims, to the Liquidator. The Liquidator’s notice shall not establish a deadline for the filing of proofs of claim.

8. Within thirty (30) days of giving notice of the Order of Liquidation, as set forth in Section 524 of Article V, 40 P.S. § 221.24, and of the procedures for filing claims against the Estate of HPIX, the Liquidator shall file a report with the Court demonstrating, in reasonable detail, the date and manner notice was given.

Distribution of Estate Assets

9. Any and all distribution of assets pursuant to Sections 544 and 546 of Article V, 40 P.S. §§ 221.44, 221.46, including those in payment for costs and expenses of Estate administration, shall be made under the direction and approval of the Court.

P. KEVIN BROBSON,
Judge

[Pa.B. Doc. No. 18-491. Filed for public inspection March 30, 2018, 9:00 a.m.]

¹ Act of May 17, 1921, P.L. 789, as amended. Article V was added by the Act of December 14, 1977, P.L. 280, as amended, 40 P.S. §§ 221.1–221.63.

Title 255—LOCAL COURT RULES

WASHINGTON COUNTY

Adoption of Constable Review Board; 2018-3

Order

And Now This 9th day of March, 2018, the following local rule establishing a Constable Review Board in Washington County is hereby adopted.

This Order shall be processed in accordance with Pa.R.J.A. 103(c). The District Court Administrator is directed to do the following:

1. Publish the local rule on the Court's website to be incorporated into the set of local rules on the website within 30 days after the publication of the local rules in *Pennsylvania Bulletin*.

2. File one (1) copy of the local rule in the appropriate filing offices for public inspection and copying.

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

This rule shall become effective thirty days after publication in the *Pennsylvania Bulletin*.

By the Court

KATHERINE B. EMERY,
President Judge

Rule 1907.1. Constable Review Board.

(A) *Purpose*. A Constable Review Board ("CRB") is hereby created to assist in resolving any disputes related to a constable's performance of judicial duties in accordance with the following standards and procedures:

(B) *Definitions*.

(1) "Constable" is defined as any elected or appointed constable or deputy constable performing judicial duties for any Magisterial District Court within the Twenty Seventh Judicial District.

(2) "Judicial Duties" are defined as services performed pursuant to 44 Pa. Con. Stat. §§ 7161-7161.1 and further defined by the Pennsylvania Unified Judicial System's Constable Policies, Procedures and Standards of Conduct published by the Administrative Office of Pennsylvania Courts.

(C) *Scope*.

(1) The CRB's jurisdiction extends only to constables in the performance of judicial duties.

(2) The CRB may receive complaints by or against constables regarding:

- (a) the performance of a constable's judicial duties;
- (b) financial or payment disputes; or

(c) other matters relevant to a constable's judicial duties including, but not limited to, the Unified Judicial System's Constable Policies, Procedures and Standards of Conduct published by the Administrative Office of PA Courts.

(3) The CRB does not have the authority to revise the Constable Policies, Procedures and Standards of Conduct issued by the Administrative Office of Pennsylvania Courts.

(4) Nothing contained herein shall preclude any person or surety of a constable from filing a verified petition in accordance with 44 Pa. Con. Stat. § 7172 alleging that a constable is incompetent to discharge official duties.

(D) *Authority*.

(1) The CRB may make recommendations to the President Judge with respect to practices and procedures as related to constables generally and make recommendations regarding the continued use of the services of a constable by the Court.

(2) If a matter involves a financial dispute, the CRB may make recommendations to the office of the Washington County Controller regarding payment for services.

(3) The CRB shall forward any findings of suspected criminal activity to the Washington County District Attorney.

(4) The President Judge has the ultimate authority with regard to performance of judicial duties by a constable within Washington County. The President Judge may, at any time, temporarily place a moratorium on the use of a particular constable pending the review and recommendation of the CRB on any pending complaint. The total length of the moratorium shall not exceed thirty (30) days or the length of the CRB review, whichever is shorter.

(E) *Membership of the Constable Review Board*. The CRB shall be comprised of the following members:

- (1) A common pleas judge;
- (2) The District Court Administrator;
- (3) A magisterial district judge;
- (4) A certified constable and an alternate constable to be used in the case of a conflict; and
- (5) The County Controller.

The Common Pleas Judge shall act as Chairperson. The Chairperson shall be responsible for conducting, coordinating and overseeing the business of the CRB.

(F) *Filing Procedures*. Constables shall make every attempt to resolve their disputes with the party or agency involved prior to filing a complaint with the CRB.

(1) A complaint by or against a constable shall be in writing on the form set forth below and shall be signed by the complainant and shall specify in detail the alleged misconduct, financial dispute, or other matter related to the performance of judicial duties.

(2) The complaint may be submitted in person or by mail, to the following contact:

Special Courts Administrator
Washington County Courthouse
1 South Main Street, Suite 2004
Washington, PA 15301

(3) The Special Courts Administrator shall:

- (a) note the date of receipt on the complaint;
- (b) create a file to contain the complaint and all subsequent communications regarding the complaint;

(c) upon receipt of a moratorium decision from the President Judge, forward the same to all members of the CRB;

(d) within three (3) business days, forward a copy of the complaint to the respondent constable if the complaint is against a constable or to any other respondent if

the complaint is by a constable, by certified mail, return receipt requested, restricted delivery; and

(e) provide written notice to the constable/respondent that he or she must provide to the Special Courts Administrator a written response to the complaint within twenty (20) days from the date of such notice. The notice shall also provide that if the constable/respondent fails to respond, such failure may result in a decision by the President Judge based on the information available for review.

WASHINGTON COUNTY CONSTABLE REVIEW BOARD COMPLAINT

Filing Date: _____
Complainant's Name: _____ (your name)
Address: _____
Telephone Number: _____ Email: _____
Constable's Name: _____

Type of Issue:
 Performance of Judicial Duties
 Financial/Payment Issues
 Other issues relevant to a constable's judicial duties

Was an attempt made to resolve this issue before filing the request for review?

YES NO

If yes, briefly explain:

Please describe in full detail the issue and attach all relevant documents. Attach additional pages if necessary.

Date: _____ Signature: _____

This complaint may be mailed to the following:

Special Courts Administrator
Washington County Courthouse
1 South Main Street, Suite 2004
Washington, PA 15301

(G) *Constable Review Board Action.*

(1) Upon receipt of the respondent's written response or the expiration of the response period, the Special Courts Administrator shall forward a copy of the complaint,

response, and all corresponding documentation to each Constable Review Board member for review.

(2) Within thirty (30) days from receipt of the file information, the CRB shall:

(a) forward the complaint file to the President Judge if the matters fall outside the CRB's authority, with written notification to the President Judge and the complainant that the complaint falls outside the scope of the Board's authority, and list the reason(s) for that finding; or

(b) in matters falling within the scope of the CRB, the CRB shall interview the complainant, the constable and all other relevant witnesses. Unless the President Judge grants an extension of time, the interviews shall be completed and a recommendation as to disposition of the complaint shall be made to the President Judge within this thirty-day period.

(H) *Notice by President Judge.*

(1) Within thirty (30) days from receipt of the CRB's recommendation, the President Judge shall issue a written notice to the complainant and any constable of the Court's decision.

(2) The District Court Administrator shall provide notice of any action taken by the President Judge in accordance with applicable authority.

[Pa.B. Doc. No. 18-492. Filed for public inspection March 30, 2018, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that Deborah Yetta Luxenberg having been suspended from the practice of law in the District of Columbia by Order dated December 7, 2017; the Supreme Court of Pennsylvania issued an Order dated March 16, 2018 suspending Deborah Yetta Luxenberg from the practice of law in this Commonwealth for a period of six months, effective April 15, 2018. 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*.

JULIA M. FRANKSTON-MORRIS, Esq.,
Secretary

[Pa.B. Doc. No. 18-493. Filed for public inspection March 30, 2018, 9:00 a.m.]