### THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

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

Amendment of Rule 1.15 of the Rules of Professional Conduct; No. 158 Disciplinary Rules Doc.

#### Order

Per Curiam

And Now, this 30th day of April, 2018, upon the recommendation of the Pennsylvania Interest on Lawyers Trust Account Board; the proposal having been submitted for public comment in the *Pennsylvania Bulletin*, 47 Pa.B. 1122 (February 25, 2017) and 47 Pa.B. 2181 (April 15, 2017).

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 1.15 of the Pennsylvania Rules of Professional Conduct is amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and the amendments herein shall be effective in 60 days.

### Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT Subpart A. PROFESSIONAL RESPONSIBILITY CHAPTER 81. RULES OF PROFESSIONAL CONDUCT

Subchapter A. RULES OF PROFESSIONAL CONDUCT

§ 81.4. Rules of Professional Conduct.

The following are the Rules of Professional Conduct:

### **CLIENT-LAWYER RELATIONSHIP**

Rule 1.15. Safekeeping Property.

\* \* \* \* \*

- (u) Every attorney who is required to pay an active annual assessment under Rule 219 of the Pennsylvania Rules of Disciplinary Enforcement (relating to annual registration of attorneys) shall pay an additional annual fee of \$30.00 for use by the IOLTA Board. Such additional assessment shall be added to, and collected with and in the same manner as, the basic annual assessment. All amounts received pursuant to this subdivision shall be credited to the IOLTA Board.
  - (v) Unclaimed or Unidentifiable IOLTA Funds.
- (1) When a lawyer or law firm cannot, using reasonable efforts for a minimum of two (2) years, identify or locate the owner of funds in either its Pennsylvania IOLTA account or the Pennsylvania IOLTA account of a deceased lawyer whose estate is represented by the lawyer or law firm, it shall pay the funds to the Pennsylvania IOLTA Board. At the time such funds are remitted, the lawyer or law firm shall submit to the IOLTA Board the name and last known address of each person appearing from

the lawyer's or law firm's records to be entitled to the funds, and the amount of unclaimed funds to which each owner is entitled, if known; the amount of any unidentifiable funds; and a description of the efforts undertaken to identify and locate the owner(s).

- (2) If, after making a payment of unclaimed or unidentifiable funds to the Pennsylvania IOLTA Board, the lawyer or law firm identifies and locates the owner of funds paid, the IOLTA Board shall refund the sum to the lawyer or law firm. The lawyer or law firm shall submit to the IOLTA Board a verification attesting that the funds have been returned to the owner. The IOLTA Board shall review claims submitted by purported owners of funds when the lawyer or law firm that originally remitted the funds to the IOLTA Board is no longer available. The IOLTA Board shall maintain a sufficient reserve to pay all claims for such funds.
- (3) Should the Pennsylvania Lawyers Fund for Client Security pay an award to a former client of a lawyer, law firm, or deceased lawyer who has remitted funds under this Rule to the IOLTA Board, the Pennsylvania Lawyers Fund for Client Security may pursue a reimbursement of such award from unclaimed funds remitted by the lawyer, law firm, or deceased lawyer to the IOLTA Board in which the former client held an ownership interest. In no event would a reimbursement to the Pennsylvania Lawyers Fund for Client Security exceed the amount of funds remitted to the IOLTA Board by the subject lawyer, law firm, or deceased lawyer.
- (4) A lawyer shall not be liable in damages or held to have breached any fiduciary duty or responsibility as a result of his or her good faith adherence to the unclaimed or unidentifiable IOLTA fund requirements in this subsection.

### **Comment:**

\* \* \* \* \*

- (11) Paragraphs (q) through (t) provide for the Interest on Lawyer Trust Account (IOLTA) program. There are further instructions relating to the IOLTA program in Rules 219 and 221 of the Pennsylvania Rules of Disciplinary Enforcement and in the Regulations of the Interest On Lawyers Trust Account Board, 204 Pa. Code, § 81.1 et seq., which are referred to as the IOLTA Regulations.
- (12) For purposes of subsection (v), unidentifiable funds refers to funds accumulated in an IOLTA account that cannot be reasonably documented as belonging to a client, former client, third party, or the lawyer or law firm. Unclaimed funds refers to funds for which a client, former client, or third party appear to have an interest, but have not responded to the lawyer or law firm's reasonable efforts to encourage the client, former client, or third party to claim their rightful funds. A lawyer or law firm's reasonable efforts to identify the owner of funds include a review of transaction records, client ledgers, case files, and any other relevant fee records. Reasonable efforts to locate the owner of funds include periodic correspondence of the type contemplated by the lawyer or law firm's relationship with the client, former client, or third party. Should such correspondence

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prove unsuccessful, a lawyer or law firm's reasonable efforts include efforts similar to those that would be undertaken when attempting to locate a person for service of process, such as examinations of local telephone directories, courthouse records, voter registration records, local tax records, motor vehicle records, or the use of consolidated online search services that access such records. Lawyers must maintain records of the disposition of unclaimed or unidentifiable funds and make such records available for production to the Pennsylva-nia Lawyers Fund for Client Security or the Office of Disciplinary Counsel in accordance with Pa.R.P.C. 1.15(c). The IOLTA Board shall make a standardized form with instructions available on the IOLTA Board's website or by request for use by lawyers submitting unclaimed or unidentifiable funds to the IOLTA Board. Conservators appointed pursuant to Pa.R.D.E. 321 should follow the procedure in Pa.R.D.E. 324(c)(1) for distributing unclaimed and unidentifiable funds.

[Pa.B. Doc. No. 18-721. Filed for public inspection May 11, 2018, 9:00 a.m.]

### Title 207—JUDICIAL CONDUCT

## PART II. CONDUCT STANDARDS [ 207 PA. CODE CH. 33 ]

Amendment of Rules 3.1 and 3.6 of the Code of Judicial Conduct; No. 497 Judicial Administration Doc.

### Order

Per Curiam

And Now, this 25th day of April, 2018, it is Ordered, pursuant to Article V, Section 10 of the Constitution of Pennsylvania, that Rules 3.1 and 3.6 of the Code of Judicial Conduct are amended in the following form.

To the extent that notice of proposed rulemaking would otherwise be required by Pa.R.J.A. No. 103, the immediate promulgation of the amendments is found to be in the interests of justice and efficient administration.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and the amendments herein shall be effective July 1, 2018.

### Annex A

# TITLE 207. JUDICIAL CONDUCT PART II. CONDUCT STANDARDS CHAPTER 33. CODE OF JUDICIAL CONDUCT Subchapter A. CANONS

Canon 3. A judge shall conduct the judge's personal and extrajudicial activities to minimize the risk of conflict with the obligations of judicial office.

Rule 3.1. Extrajudicial Activities in General.

## Comment

(3) Discriminatory actions and expressions of bias or prejudice by a judge, even outside the judge's official or

judicial actions, are likely to appear to a reasonable person to call into question the judge's integrity and impartiality.

Examples include jokes or other remarks that demean individuals based upon their race, sex, gender **identity or expression**, religion, national origin, ethnicity, disability, age, sexual orientation, or socioeconomic status. For the same reason, a judge's extrajudicial activities must not be conducted in connection or affiliation with an organization that practices invidious discrimination. See Rule 3.6.

\* \* \* \* \*

### Rule 3.6. Affiliation with Discriminatory Organizations.

(A) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender **identity or expression**, religion, national origin, ethnicity, disability or sexual orientation.

Comment

\* \* \* \* \*

(2) An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender identity or expression, religion, national origin, ethnicity, disability or sexual orientation persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited.

 $[Pa.B.\ Doc.\ No.\ 18-722.\ Filed\ for\ public\ inspection\ May\ 11,\ 2018,\ 9:00\ a.m.]$ 

### Title 207—JUDICIAL CONDUCT

### PART II. CONDUCT STANDARDS [ 207 PA. CODE CH. 51 ]

Order Amending Rules 2.3 and 3.6 and the Comment to Rule 3.1 of the Rules Governing Standards of Conduct of Magisterial District Judges; No. 421 Magisterial Rules Doc.

### Order

Per Curiam

And Now, this 25th day of April, 2018, upon the recommendation of the Minor Court Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 2.3 and 3.6 and the Comment to Rule 3.1 of the Rules Governing Stan-

dards of Conduct of Magisterial District Judges are amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective July 1, 2018.

### Annex A

## TITLE 207. JUDICIAL CONDUCT PART II. CONDUCT STANDARDS

### CHAPTER 51. STANDARDS OF CONDUCT OF MAGISTERIAL DISTRICT JUDGES

## PENNSYLVANIA RULES FOR MAGISTERIAL DISTRICT JUDGES

Canon 2. A magisterial district judge shall perform the duties of judicial office impartially, competently, and diligently.

### Rule 2.3. Bias, Prejudice, and Harassment.

\* \* \* \* \*

- (B) A magisterial district judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender **identity or expression**, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit court staff, court officials, or others subject to the magisterial district judge's direction and control to do so.
- (C) A magisterial district judge shall require lawyers in proceedings before the court to refrain from manifesting bias or prejudice, or engaging in harassment, based upon attributes including but not limited to race, sex, gender **identity or expression**, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, against parties, witnesses, lawyers, or others.

\* \* \* \* \* \*

Comment:

\* \* \* \* \*

(3) Harassment, as referred to in paragraphs (B) and (C), is verbal or physical conduct that denigrates or shows hostility or aversion toward a person on bases such as race, sex, gender **identity or expression**, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation

\* \* \* \* \*

Canon 3. A magisterial district judge shall conduct the magisterial district judge's personal and extrajudicial activities to minimize the risk of conflict with the obligations of judicial office.

### Rule 3.1. Extrajudicial Activities in General.

Comment:

\* \* \* \* \*

(3) Discriminatory actions and expressions of bias or prejudice by a magisterial district judge, even outside the magisterial district judge's official or judicial actions, are likely to appear to a reasonable person to call into question the magisterial district judge's integrity and impartiality. Examples include jokes or other remarks that demean individuals based upon their race, sex, gender **identity or expression**, religion, national origin,

ethnicity, disability, age, sexual orientation, or socioeconomic status. For the same reason, a magisterial district judge's extrajudicial activities must not be conducted in connection or affiliation with an organization that practices invidious discrimination. *See* Rule 3.6.

\* \* \* \* \*

### Rule 3.6. Affiliation with Discriminatory Organizations.

(A) A magisterial district judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender **identity or expression**, religion, national origin, ethnicity, disability or sexual orientation.

\* \* \* \* \*
Comment:

(2) An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender identity or expression, religion, national origin, ethnicity, disability or sexual orientation persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which magisterial district judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited.

## FINAL REPORT<sup>1</sup> Recommendation 2-2017, Minor Court Rules Committee

Amendment of Rules 2.3 and 3.6, and of the Comment to Rule 3.1 of the Rules Governing Standards of Conduct of Magisterial District Judges

## Prohibiting Discrimination on the Basis of Gender Identity or Expression

### I. Introduction

The Minor Court Rules Committee ("Committee") recommended amendments to Rules 2.3 and 3.6, and to the Comment to Rule 3.1 of the Rules Governing Standards of Conduct of Magisterial District Judges ("MDJ Conduct Rules"). The amendments prohibit discrimination on the basis of gender identity or expression.

### II. Background and Discussion

In 2014, the Supreme Court approved new MDJ Conduct Rules. See Order of September 18, 2014, No. 376, Magisterial Rules Docket. MDJ Conduct Rules 2.3 and 3.6, and the Comment to MDJ Conduct Rule 3.1 address bias and discrimination based on enumerated categories, such as race or disability.

In July 2016, the Supreme Court approved amendments to the Unified Judicial System's Policy on Nondiscrimination and Equal Opportunity to prohibit discrimination on the basis of gender identity or expression.

<sup>&</sup>lt;sup>1</sup> The Committee's Final Report should not be confused with the Comments to the Rules. Also, the Supreme Court of Pennsylvania does not adopt the Committee's Comments or the contents of the explanatory Final Reports.

On March 28, 2017, the Court made a correlative amendment to Rule 2.3 of the Code of Judicial Conduct adding gender identity or expression as additional categories of persons protected from discrimination. See Order of March 28, 2017, No. 483 Judicial Administration Docket. In light of these changes, the Court requested that the Committee review the MDJ Conduct Rules and submit a recommendation as to the advisability of adding gender identity or expression as additional protected categories under MDJ Conduct Rule 2.3. Upon review of other MDJ Conduct Rules, the Committee identified Rule 3.6 and the Comment to Rule 3.1 as rules that provide protection from discrimination for enumerated categories of persons.

### III. Rule Changes

The Committee recommended the amendment of MDJ Conduct Rules 2.3(B) and 3.6(A) to add gender identity or expression as bases upon which persons cannot be subject to bias and discrimination. The Committee also recommended this change to Comment (3) of MDJ Conduct Rule 3.1.

[Pa.B. Doc. No. 18-723. Filed for public inspection May 11, 2018, 9:00 a.m.]

## Title 234—RULES OF CRIMINAL PROCEDURE

[ 234 PA. CODE CHS. 1 AND 5 ]

Amended Order Adopting New Rule 576.1 and Amending Rules 113, 114 and 576 of the Rules of Criminal Procedure; No. 502 Criminal Procedural Rules Doc.

### **Amended Order**

Per Curiam

And Now, this 25th day of January, 2018, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 46 Pa.B. 1643 (April 2, 2016), and a Final Report to be published with this Order:

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rule of Criminal Procedure 576.1 is adopted and Pennsylvania Rules of Criminal Procedure 113, 114, and 576 are amended, in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective May 1, 2018.

### Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

## CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

PART A. Business of the Courts

Rule 113. Criminal Case File and Docket Entries.

(C) The docket entries shall include at a minimum the following information:

\* \* \* \* \*

(8) all other information required by Rules 114 and 576.

(D) If a judicial district has provided for electronic filing pursuant to Rule 576.1, the criminal case file in which electronic filing has been utilized may be maintained solely in an electronic format as long as copies of the documents maintained in the criminal case file may be produced in a physical paper format.

#### Comment

This rule sets forth the mandatory contents of the list of docket entries and the criminal case files. This is not intended to be an exhaustive list of what is required to be recorded in the docket entries. The judicial districts may require additional information be recorded in a case or in all cases.

\* \* \* \* \*

Official Note: Former Rule 9024 adopted October 21, 1983, effective January 1, 1984; amended March 22, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994; renumbered Rule 9025 June 2, 1994, effective September 1, 1994. New Rule 9024 adopted June 2, 1994, effective September 1, 1994; renumbered Rule 113 and amended March 1, 2000, effective April 1, 2001; rescinded March 3, 2004 and replaced by Rule 114(C), effective July 1, 2004. New Rule 113 adopted March 3, 2004, effective July 1, 2004; amended July 31, 2012, effective November 1, 2012; Comment revised October 22, 2013; effective January 1, 2014; amended January 25, 2018, effective May 1, 2018.

Committee Explanatory Reports:

\* \* \* \* \*

Final Report explaining the October 22, 2013 revisions to the Comment regarding the unexecuted search warrants published with the Court's Order at 43 Pa.B. 6652 (November 9, 2013).

Final Report explaining January 25, 2018 amendment providing for maintenance of electronically filed documents published with the Court's Order at 48 Pa.B. 861 (February 10, 2018).

Rule 114. Orders and Court Notices: Filing; Service; and Docket Entries.

\* \* \* \* \*

- (B) Service
- (1) A copy of any order or court notice promptly shall be served on each party's attorney, or the party if unrepresented.
- (2) The clerk of courts shall serve the order or court notice, unless the president judge has promulgated a local rule designating service to be by the court or court administrator.
  - (3) Methods of Service

Except as otherwise provided in Chapter 5 concerning notice of the preliminary hearing, service shall be:

\* \* \* \* \*

- (c) A party's attorney, or the party if unrepresented, may request to receive service of court orders or notices pursuant to this rule by facsimile transmission or other electronic means by
- (i) filing a written request for this method of service in the case or including a facsimile number or an electronic address on a prior legal paper filed in the case; or

(ii) filing a written request for this method of service to be performed in all cases, specifying a facsimile number or an electronic address to which these orders and notices may be sent.

The request for electronic service in all cases filed pursuant to paragraph (ii) may be rescinded at any time by the party's attorney, or the party if unrepresented, by filing a written notice that service of orders and notices shall be accomplished as otherwise provided in this rule.

(d) In a judicial district that permits electronic filing pursuant to Rule 576.1, service of court orders or notices shall be made as provided in Rule 576.1(D)(2) and (H)(1).

(C) Docket Entries

\* \* \* \* \*

### Comment

This rule was amended in 2004 to provide in one rule the procedures for the filing and service of all orders and court notices, and for making docket entries of the date of receipt, date appearing on the order or notice, and the date of service. This rule incorporates the provisions of former Rule 113 (Notice of Court Proceedings Requiring Defendant's Presence). But see Rules 511, [540(F)(2)] 540(G)(2), and 542(G) for the procedures for service of notice of a preliminary hearing, which are different from the procedures in this rule.

Historically, some orders or court notices have been served by the court administrator or by the court. Paragraph (B)(2) permits the president judge to continue this practice by designating either the court or the court administrator to serve orders and court notices. When the president judge makes such a designation, the designation must be in the form of a local rule promulgated in compliance with Rule 105 (Local Rules) and Rule of Judicial Administration 103 (Procedures for Adoption, Filing, and Publishing Rules).

\* \* \* \* \*

Paragraph (D), titled "Unified Practice," emphasizes that local rules must not conflict with the statewide rules. Although this prohibition on local rules that are inconsistent with the statewide rules applies to all Criminal Rules through Rule 105 (Local Rules) and Rule of Judicial Administration 103 (Procedures for Adoption, Filing, and Publishing Rules), the reference to the specific prohibitions is included because these types of local rules have been identified by practitioners as creating significant impediments to the statewide practice of law within the unified judicial system. See the first paragraph of the [Rule 105 Comment] Note to Pa.R.J.A. No. 103. The term "local rule" includes every rule, regulation, directive, policy, custom, usage, form or order of general application. See [Rule 105(A)] Pa.R.J.A. No. 103(d)(1).

For the definition of "carrier service," see Rule 103.

See Rule 103 for the definitions of "clerk of courts" and "court administrator."

See Rule 113 (Criminal Case File and Docket Entries) for the requirements concerning the contents of the criminal case file and the minimum information to be included in the docket entries.

Official Note: Formerly Rule 9024, adopted October 21, 1983, effective January 1, 1984; amended March 22, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994; renumbered Rule

9025 and Comment revised June 2, 1994, effective September 1, 1994; renumbered Rule 114 and Comment revised March 1, 2000, effective April 1, 2001; amended March 3, 2004, effective July 1, 2004; amended August 24, 2004, effective August 1, 2005; amended July 20, 2006, effective September 1, 2006; Comment revised September 18, 2008, effective February 1, 2009; amended December 6, 2010, effective February 1, 2011; amended January 25, 2018, effective May 1, 2018.

Committee Explanatory Reports:

\* \* \* \* \*

Final Report explaining the December 6, 2010 amendment concerning consent to electronic service published with the Court's Order at 40 Pa.B. 7336 (December 25, 2010).

Final Report explaining January 25, 2018 amendments for service where a court has adopted electronic filing published with the Court's Order at 48 Pa.B. 861 (February 10, 2018).

### CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

### PART G(1). Motion Procedures

Rule 576. Filing and Service by Parties.

- (A) FILING
- (1) All written motions and any written answers, and any notices or documents for which filing is required, shall be filed with the clerk of courts.
  - (2) Filing shall be [ by ]:
  - (a) by personal delivery to the clerk of courts; [ or ]
- (b) **by** mail addressed to the clerk of courts. Except as provided by law, filing by mail shall be timely only when actually received by the clerk of courts within the time fixed for filing [.]; or,
- (c) in a judicial district that permits electronic filing pursuant to Rule 576.1, as provided in Rule 576.1(E).
- (3) The clerk of courts shall accept all written motions, answers, notices, or documents presented for filing. When a document, which is filed pursuant to paragraph (A)(1), is received by the clerk of courts, the clerk shall time stamp it with the date of receipt and make a docket entry reflecting the date of receipt, and promptly shall place the document in the criminal case file.

(B) SERVICE

- (4) Certificate of Service
- (a) All documents that are filed and served pursuant to this rule shall include a certificate of service.
- (b) The certificate of service shall be in substantially the form set forth in the Comment, signed by the party's attorney, or the party if unrepresented, and shall include the date and manner of service, and the names, addresses, and phone numbers of the persons served.
- (5) In a judicial district that permits electronic filing pursuant to Rule 576.1, service shall be made as provided in Rule 576.1(D)(2) and (H)(1).
- (C) Any non-party requesting relief from the court in a case shall file the motion with the clerk of courts as provided in paragraph (A), and serve the defendant's

attorney, or the defendant if unrepresented, the attorney for the Commonwealth, and the court administrator as provided in paragraph (B).

#### Comment

## For the procedures for electronic filing and service as a local option, see Rule 576.1.

Paragraph (A)(1) requires the filing of all written motions and answers. The provision also applies to notices and other documents only if filing is required by some other rule or provision of law. See, e.g., the notice of withdrawal of charges provisions in Rule 561 (Withdrawal of Charges by Attorney for the Commonwealth), the notice of alibi defense and notice of insanity defense or mental infirmity defense provisions in Rule 573 (Pretrial Discovery and Inspection), the notice that offenses or defendants will be tried together provisions in Rule 582 (Joinder—Trial of Separate Indictments or Informations), the notice of aggravating circumstances provisions in Rule 802 (Notice of Aggravating Circumstances), and the notice of challenge to a guilty plea provisions in Municipal Court cases in Rule 1007 (Challenge to Guilty Plea).

When a motion, notice, document, or answer is presented for filing pursuant to paragraph (A)(1), the clerk of courts must accept it for filing even if the motion, notice, document, or answer does not comply with a rule or statute or appears to be untimely filed. It is suggested that the judicial district implement procedures to inform the filing party when a document is not in compliance with these rules or a local rule so the party may correct the problem.

See Commonwealth v. Jones, [549 Pa. 58,] 700 A.2d 423 (Pa. 1997); and Commonwealth v. Little, 716 A.2d 1287 (Pa. Super. 1998) concerning the timeliness of filings by prisoners proceeding pro se (the "prisoner mailbox rule")

The 2004 amendments to paragraph (A)(4) modified the procedure by which the clerks of courts handle filings by represented defendants when the defendant's attorney has not signed the document being filed by the defendant. As amended, paragraph (A)(4) requires, in all cases in which a represented defendant files a document, that the clerk of courts make a docket entry of the defendant's filing and place the document in the criminal case file, and then forward a copy of the document to both the attorney of record and the attorney for the Commonwealth. See Commonwealth v. Castro, 766 A.2d 1283 (Pa. Super. 2001). Compare Pa.R.A.P. 3304 (Hybrid Representation). The requirement that the clerk time stamp and make docket entries of the filings in these cases only serves to provide a record of the filing, and does not trigger any deadline nor require any response. See Rules 120 (Attorneys—Appearance and Withdrawals) and 122 (Assignment of Counsel) concerning the duration of counsel's obligation under the rules.

Paragraph (A)(4) only applies to cases in which the defendant is represented by counsel, not cases in which the defendant is proceeding *pro se*.

The purpose of paragraph (A)(5) is to ensure documents raising cognizable legal issues submitted to the judge are transmitted to the clerk of courts, and does not relieve the defendant from complying with the other requirements of the rules. When a document is forwarded to the clerk from a judge, if the defendant is unrepresented, the clerk is to proceed as provided in paragraph (A)(3) and the defendant is to be treated like any other party. If the defendant is represented, the clerk is to proceed pursuant to paragraph (A)(4).

Paragraph (A)(6), titled "Unified Practice," was added in 2004 to emphasize that local rules must not conflict with the statewide rules. Although this prohibition on local rules that are inconsistent with the statewide rules applies to all Criminal Rules through Rule 105 (Local Rules) and Rule of Judicial Administration 103 (Procedures for Adoption, Filing, and Publishing Rules), the reference to the specific prohibitions is included because these types of local rules have been identified by practitioners as creating significant impediments to the statewide practice of law within the unified judicial system. See the first paragraph of the [Rule 105 Comment] Note to Pa.R.J.A. No. 103. The term "local rule" includes every rule, regulation, directive, policy, custom, usage, form or order of general application. See [Rule 105(A)] Pa.R.J.A. No. 103(d)(1).

\* \* \* \* \*

See Rule 103 (Definitions) for the definitions of court administrator, clerk of courts, and [motions] motion.

Official Note: Former Rule 9022 adopted October 21, 1983, effective January 1, 1984; amended March 22, 1993, effective January 1, 1994; amended July 9, 1996, effective September 1, 1996; renumbered Rule 576 and amended March 1, 2000, effective April 1, 2001. Former Rule 9023 adopted October 21, 1983, effective January 1, 1984; amended June 2, 1994, effective September 1, 1994; renumbered Rule 577 and amended March 1, 2000, effective April 1, 2001; rescinded March 3, 2004, effective July 1, 2004. Rules 576 and 577 combined and amended March 3, 2004, effective July 1, 2004, Comment revised June 4, 2004, effective November 1, 2004; Comment revised September 18, 2008, effective February 1, 2009; Comment revised September 21, 2012, effective November 1, 2012; amended January 25, 2018, effective

Committee Explanatory Reports:

\* \* \* \* \*

Final Report explaining the September 21, 2012 revision of the Comment correcting a typographical error in the thirteenth paragraph published with the Court's Order at 42 Pa.B. 6251 (October 6, 2012).

Final Report explaining the January 25, 2018 amendment regarding electronic filing and service pursuant to Rule 576.1 published with the Court's Order at 48 Pa.B. 861 (February 10, 2018).

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

## Rule 576.1. Electronic Filing and Service of Legal Papers.

(A) The president judge of a judicial district by local rule promulgated pursuant to Rule 105 and Rule of Judicial Administration 103 may authorize electronic filing of legal papers with the clerk of courts in cases in the courts of common pleas and in the Philadelphia Municipal Court through the statewide electronic filing system as provided in this rule.

### (B) Local Rule

- (1) The local rule required under this rule shall include the following provisions:
- (a) subject to the provisions in paragraph (B)(2), a statement that the electronic filing system is permissive and specify the legal papers subject to the rule, but in no

case shall legal papers prohibited from being filed electronically by this rule be permitted to be filed electronically;

- (b) a provision for the procedures to ensure that any party who declines to participate in the system, or who is unable to electronically file or accept service of legal papers which were filed electronically, or who is otherwise unable to access the system, at a minimum, shall be able to file legal papers in a physical paper format and be served legal papers in a physical format which were electronically filed;
- (c) any additional provisions as the court may deem necessary to provide a full and complete procedure for the use of the system within the judicial district; and
- (d) a notation that the Administrative Office of Pennsylvania Courts and the judicial district have agreed upon an implementation plan for PACFile in the judicial district.
- (2) Any judicial district that authorized electronic filing for a period of two years thereafter may amend their local rule, subject to the requirements of Rule 105 and Rule of Judicial Administration 103, to make participation in electronic filing mandatory.
- (C) As used in this rule, the following words shall have the following meanings:

"electronic filing," the electronic submission of legal papers by means other than facsimile transmission and the acceptance of the document by the clerk of courts;

"filing party," an attorney, defendant, or other person who files a legal paper by means of electronic filing;

"legal paper," a pleading or other submission to the court, including motions, answers, notices, or other documents, of which filing is required or permitted, including orders, exhibits, and attachments, but excluding

- (1) applications for search warrants,
- (2) applications for arrest warrants,
- (3) any grand jury materials, except the indicting grand jury indictment or the investigating grand jury presentment,
  - (4) submissions filed ex parte as authorized by law, and
- (5) submissions filed or authorized to be filed under seal;

"original document," a legal paper filed electronically shall be deemed the original document, but copies of exhibits electronically filed do not constitute the original of the exhibit for evidentiary purposes; and

"the system," the PACFile electronic filing system, developed and administered by the Administrative Office of Pennsylvania Courts, is the exclusive system for electronic filing.

- (D) Participation
- (1) The system shall permit attorneys and defendants proceeding without counsel to file electronically.
- (a) In order to participate in the system, an attorney shall establish an account in the system by procedures established by the Administrative Office of Pennsylvania Courts.
- (b) A defendant who is proceeding without counsel shall be permitted to utilize the system through an authorization process established by the Administrative Office of Pennsylvania Courts.

- (2) Establishment of an account by an attorney or authorization by a defendant proceeding without counsel in the system shall constitute consent to participate in electronic filing, including acceptance of service electronically of any document filed on the system in any judicial district that permits electronic filing.
- (3) An attorney or defendant participating in the system is permitted to file a legal paper either in an electronic format or in a physical paper format. Service upon an attorney or defendant participating in the system shall be done electronically.
  - (E) Filing
- (1) When a legal paper is to be electronically filed, it shall be submitted to the system at the Unified Judicial System web portal at http://ujsportal.pacourts.us, in accordance with this rule, any local rule adopted pursuant to this rule, and any filing instructions as may be otherwise provided at the web portal site.
- (2) Electronic filings may be submitted at any time, except during times of periodic maintenance. The electronic submission must be completed by 11:59:59 p.m. EST/EDT to be considered filed that day.
- (3) The time and date on which a legal paper is submitted to the system shall be recorded by the system. The system shall provide an acknowledgement to the filing party that the legal paper has been submitted.
- (4) The time and date on which the legal paper is accepted by the clerk of courts office also shall be recorded by the system. The system shall provide an acknowledgement to the filing party that the legal paper has been accepted.
- (5) A legal paper shall be considered filed upon submission of the legal paper to the system and acceptance of the filing by the clerk of courts. If the clerk of courts determines that the requirements for filing have been met, the time and date of filing shall be the time and date that the legal paper was submitted to the system. If the clerk of courts finds that the requirements for filing are not met, the clerk may reject the filing.
- (6) A filing party shall be responsible for any delay, disruption, and interruption of the electronic signals and legibility of the document electronically filed, except when caused by the failure of the system's website.
- (7) The system shall attribute the filing of an electronic legal paper to the party whose account is used to log onto the system and file the legal paper.
- (8) Legal papers shall be presented for filing in portable document format (".pdf").
- (9) All legal papers electronically filed shall be maintained and retained by the clerk of courts in an electronic format. Neither the clerk of courts nor the court is required to maintain in a physical paper format any legal paper filed electronically as provided in this rule.
- (10) Any legal paper submitted for filing to the clerk of courts in a physical paper format shall be accepted by the clerk of courts in that format and shall be retained by the clerk of courts as may be required by applicable rules of court and record retention policies. The clerk of courts shall convert such legal paper in a physical paper format to .pdf and add it to the system. However, those submissions that are excluded from the definition of "legal paper" under paragraph (C) shall not be converted and added to the system.
- (11) No legal paper that complies with the Pennsylvania Rules of Criminal Procedure shall be refused for filing

by the clerk of courts or the electronic filing system based upon a requirement of a local rule or local administrative procedure or practice pertaining to the electronic filing of legal papers.

- (F) Signature
- (1) Except as provided in paragraph (F)(3), an electronic signature of the filer as provided for in the system is permitted on electronic filings in the following form: /s/ John L. Doe.
- (2) The electronic filing of a motion or answer that includes an electronic signature constitutes a certification pursuant to Pa.R.Crim.P. 575 that the filing party or attorney has read the legal paper, that to the best of the filing party's or attorney's knowledge, information and belief there is good ground to support the motion or answer, and that it is not interposed for delay.
- (3) Any motion that, pursuant to Rule 575(A)(2)(g), avers facts not of record and requiring a sworn affidavit must be created in a physical paper form, have a physical signature placed on it, and then be converted into a .pdf before it may be electronically filed.
- (4) The original of a sworn or verified legal paper that is an electronic filing or is contained within an electronic filing shall be maintained by the electronic filer in either electronic or paper format and made available upon direction of the court or reasonable request of the signatory or opposing party.
- (G) The court by local rule shall provide for the maintenance by the clerk of courts of an electronic file only, or of such electronic and physical paper format files as set forth in the local rule. Those legal papers that are not permitted to be electronically filed pursuant to paragraph (C) shall be maintained in a physical paper format only.

### (H) Service

- (1) Upon the submission of a legal paper for electronic filing, the system shall provide an electronic notification to other parties and attorneys to the case who are participating in electronic filing that the legal paper has been submitted. This notification upon submission shall satisfy the service requirements of Rules 114(B) and 576(B) on any attorney or party who has established a system account.
- (2) Upon the acceptance by the clerk of courts office of a legal paper for electronic filing, the system shall provide an electronic notification to other parties and attorneys to the case who are participating in electronic filing that the legal paper has been accepted.
- (3) Service of electronic filings on any attorney or party who has not established a UJS web portal account or who is unable to file or receive legal papers electronically or otherwise unable to access the system shall be made by the procedures provided under Rules 114(B) and 576(B).

### Comment

This rule, adopted in 2018, permits as a local practice the electronic filing of legal papers. This rule does not require the implementation of electronic filing by a local court. To provide a uniform system for electronic filing, the Administrative Office of Pennsylvania Courts has developed the PACFile electronic filing system. This is the only authorized system for electronic filing of legal documents in criminal court cases in the courts of common pleas and Philadelphia Municipal Court.

Paragraph (B) requires that a judicial district that desires to participate in the electronic filing system must

adopt a local rule to that effect. As part of the initial "opting into" electronic filing, this local rule must provide that participation is voluntary. Once a judicial district has allowed electronic filing for two years, participation may be made mandatory. Paragraph (B)(1)(b) requires that all judicial districts in which electronic filing is allowed must make accommodations for those parties who are unable to participate. In no event shall access to the court filing be precluded solely on the basis of participation in the electronic filing system.

This rule is applicable to cases in courts of record. See Rule 103 for the definition of a "court."

The UJS Portal contains other automated services beside PACFile. There may be circumstances when an attorney, who has registered as a user on another service of the UJS Portal, may have an established account that would be usable for PACFile. Any questions about the requirements of registration or accessibility to PACFile should be referred to the Administrative Office of Pennsylvania Courts.

The system permits a user to designate other users as proxies on individual cases. These proxies all receive notice of any filing in the case. It is anticipated that offices such as those of a district attorney or public defender would be able to establish general user accounts with particular attorneys assigned and their supervisors or back-ups listed as proxies in individual cases.

An attorney is responsible for the actions of other individuals whom the attorney authorizes to use the attorney's account.

The local rule required by this rule must conform to the requirements of Rule 105 (Local Rules) and Rule of Judicial Administration 103 (Procedures for Adoption, Filing, and Publishing Rules).

A file in physical paper format is not required by this rule. If the local rule requires a file in physical paper format, the requirement may extend to all cases or only to certain specified cases. For example, the court may require files in physical paper format for cases listed for trial or scheduled for argument while maintaining only electronic files for all other cases.

Upon submission of the electronic filing of a legal paper, the electronic filing system shall automatically send notice of the filing to all parties who have agreed to service by electronic transmission or whose e-mail address is included on an appearance or prior legal paper filed in connection with the case. If the electronic filing system sends notice of such filing, the party filing the legal paper only need serve those parties who are not served by the electronic filing system. An electronic mail address set forth on letterhead is not a sufficient basis under this rule to permit electronic service of legal papers.

Nothing in this rule is intended to prohibit the use of advanced communication technology to submit an application for search warrant as provided in Rule 203(A) or to submit an application for an arrest warrant using advanced communications technology as provided in Rule 513(B)(1).

In addition to the filing fees now applicable, an online payment convenience fee for use of the PACFile system may be imposed. *See* 204 Pa. Code § 207.3.

See Rule 114(B) providing for the clerk of courts to serve orders and court notices by facsimile transmission or other means.

Legal papers filed electronically should be consistent with the formatting requirements of Rule 575(C).

See Rule 576(B) governing service of motions and any written answers, and any notices or documents for which filing is required by facsimile transmission or other means.

See Rule 1002, for the applicability of this rule to summary cases filed in the Philadelphia Municipal Court.

Official Note: New Rule 576.1 adopted January 25, 2018, effective May 1, 2018.

Committee Explanatory Reports:

Final Report explaining new Rule 576.1 providing for electronic filing published with the Court's Order at 48 Pa.B. 861 (February 10, 2018).

### FINAL REPORT<sup>1</sup>

### Adoption of New Pa.R.Crim.P. 576.1; Amendment of Pa.Rs.Crim.P. 113, 114, and 576

### **Electronic Filing**

On January 25, 2018, effective May 1, 2018, upon the recommendation of the Criminal Procedural Rules Committee, the Court adopted new Rule 576.1 (Electronic Filing and Service of Legal Papers) and the amendment of Rules 113 (Criminal Case File and Docket Entries), 114 (Orders and Court Notices; Service; and Docket Entries), and 576 (Filing and Service by Parties) to provide procedures for the use of the statewide electronic filing system as a local option.

The Committee has been working on procedures for electronic filing for several years. This began in 2012 when representatives of the First Judicial District (FJD) approached the Committee requesting rule changes that would require the electronic filing of pleadings in criminal cases as a local option. This was part of an initiative to implement an electronic filing system in criminal cases similar to the electronic filing system already in place in Philadelphia for civil and orphans' court cases.

While the Committee believed that the goal of implementing electronic filing was a good one, the Committee had a number of concerns with the specifics of such a proposal that would have made a statewide rule change problematic. The Committee concluded that the best approach was to seek the Court's permission for the FJD to conduct a pilot project during which the electronic filing system could be implemented on a trial basis. The parameters of this experimental electronic filing system would be spelled out in a local rule. In February 2013, upon the Committee's recommendation, the Court issue an Order permitting the Criminal Section of the Trial Division of the First Judicial District to implement a pilot project for the electronic filing of documents by the parties.

One of the Committee's goals for the pilot project was to obtain information as to whether statewide rule changes should be made to accommodate those judicial districts that may wish to implement electronic filing programs. In late 2014, after reviewing data indicating the success of the FJD pilot project and the interest in electronic filing in other judicial districts throughout the Commonwealth, the Committee concluded that it was appropriate to develop statewide rule changes to accommodate this practice.

While working to develop these statewide procedures in cooperation with the Administrative Office of the Pennsylvania Courts Information Technology Department ("AOPC IT"), it was learned that AOPC was working on a statewide electronic filing system for criminal and juvenile cases based on the electronic filing system used in the Appellate Courts, the PACFile system. It was therefore decided that the electronic filing rules should be based on this statewide system rather than on any locally developed systems.

New Rule 576.1

The main provisions for electronic filing are contained in new Criminal Rule 576.1. The basic statement of authority for establishing local e-filing is contained in paragraph (A). Paragraph (B) lists the contents of the local rule required to establish electronic filing locally. Paragraph (C) is a definitional section. Paragraph (D) provides the procedures for establishing participation in the system. Paragraph (E) discusses the filing and receipt of documents. Paragraph (F) contains provisions regarding electronic signatures. Paragraph (G) permits, with some exceptions, paperless files. Paragraph (H) contains service provisions.

Paragraph (A) of new Rule 576.1 provides the general scope of the procedures. The Committee agreed that electronic filing should not be required in every judicial district but rather available as a local option. Therefore, the rule provides that a judicial district's use of electronic filing is voluntary. The Committee also concluded that those judicial districts that wish to participate in electronic filing should be required to create a local rule permitting electronic filing within the judicial district as was done in the Philadelphia pilot project. This latter provision will permit the Committee to retain some oversight of the process by the local rule review process contained in Rule of Judicial Administration 103 and Criminal Rule 105. The rule also mandates the PACFile system as the only system that is permitted to be used for electronic filing. This is consistent with uniformity of practice and judicial economy.<sup>2</sup> Additionally, any judicial district desiring to "opt-into" electronic filing must consult with AOPC and agree upon an implementation plan to ensure that AOPC resources are not overtaxed should a large number of judicial districts decide to opt-in at one

One of the issues debated at length by the Committee was the question of whether the statewide rules should provide that use of the system was strictly voluntary or should permit a local court to make it mandatory if desired. Ultimately, the Committee agreed to a provision that would provide that a judicial district that opts into electronic filing must initially allow it on a voluntary basis only. After two years from the date of opting into electronic filing, the judicial district would have the option to make it mandatory. Allowing a time period during which it was voluntary with a judicial districtbased sunset provision when it could become mandatory would put all practitioners on notice that the change would be upcoming. This coupled with provisions that allow filing by those who were unable to be part of the system, such as pro se defendants without computer access, provides sufficient protection in those counties that opted to make it mandatory. This provision is contained in paragraph (B)(2) and language expanding on

<sup>&</sup>lt;sup>1</sup> The Committee's Final Reports should not be confused with the official Committee Comments to the rules. Also, note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

<sup>&</sup>lt;sup>2</sup> The PACFile system will include Philadelphia Municipal Court non-summary and summary cases. Therefore, cases in the Municipal Court are included under paragraph (A). Electronic filing capabilities for magisterial district judge offices currently are not intended to be part of the extension of the PACFile system but may be incorporated into the Magisterial District Judge System at a later date.

this concept has been added to the Comment, including a statement that electronic filing should not deny access to court filing.

### Legal Papers

Paragraph (C) of Rule 576.1 contains definitions of various terms used in the rule. One of these is a definition of "original document" that includes the electronically filed version of the document as the original. However, the definition makes it clear that electronic copies of exhibits would not be considered originals. This is consistent with Rule of Evidence 1002 (Requirement of the Original).

Also included in paragraph (C) is a definition of "legal paper" that broadly defines the types of documents that may be filed electronically. The Committee discussed how to handle those documents that are physically filed because the party does not have the ability or willingness to file electronically even though the documents are permitted to be filed electronically and other parties to the case may have agreed to electronic filing. Using a practice similar to that used in the Philadelphia pilot project, the rule provides that such physical documents must be accepted and then scanned into the system by the Clerk of Courts Office staff. Even after uploading these converted documents into the system, the physical documents would be retained. These provisions are contained in paragraph (E)(10).

The definition of "legal paper" also lists the types of documents that are excluded from electronic filing. If a document is excluded from being filed electronically, it has to be physically filed and the physical document maintained in the case file. While the new rule does contemplate that most legal papers that are filed in a physical paper format may be scanned into the system for the convenience of the user, those documents excluded from the definition of legal papers may not be scanned into the system.

### Participation

Paragraph (D) describes how individual participation in electronic filing is initiated. Participation requires that a user establish an account in the PACFile system. The establishment of an account constitutes consent to participate in electronic filing including receipt of service of filed documents. This is a blanket consent for all cases in which that party was participating, including cases in any jurisdiction in which electronic filing is permitted. For pro se defendants, there is a requirement for an authorization process based on a similar provision contained in the Court Order for electronic filing in the appellate courts.

There was a question of whether the rules should allow participation that can be initiated for an office, such as the district attorney's office or public defender, as a whole. The concern was that there may be turn-over or reassignment and, if only the individual attorney was listed on the case, it could fall through the cracks. It was noted that the PACFile system currently permits in appellate cases filing by a named office with specific individuals associated with the office listed as the main filer as well as others being able to be listed as proxies. The Committee concluded that this capability should be utilized in trial court cases, especially since it permits an office to have multiple proxies listed who all would receive notice of a filing and could serve as back-up. However, the Committee concluded that this was more of an administrative matter rather than a rule provision so a reference to this capability is included in the Comment to Rule 576.1.

While the rules generally provide that participation in electronic filing is voluntary (expect in those counties that choose to make it mandatory), the Committee discussed whether a party who has agreed to participate in electronic filing should be permitted to file legal papers in a physical paper format. The Committee concluded that this should be permitted since this is a new practice and a filing should not be refused solely because it is not done electronically. However, any party that agrees to participate in electronic filing must accept service electronically. Paragraph (D)(3) therefore includes a statement regarding participation that permits a participating party to file either in a physical paper format or electronically.

### Filing and Receipt

Paragraph (E) contains the provisions related to the filing and receipt of legal papers. The Committee struggled with the question of what constitutes the actual "filing" of a document submitted electronically. This arose in the context of how a filing that is incorrect for some reason, such as improper docket number, would be handled. The main problem arises from the way documents are placed into the PACFile system. A user will submit a document by uploading it onto the system website. The filing office will receive notice that this has occurred. The filing office must then affirmatively accept the document to be considered filed on the PACFile system. Depending on how busy the filing office is, there may be some delay between having the document uploaded onto the system and then accepted as filed. In addition, there may be occasions when a filing might be rejected or sent back to the filer for correction, for example, when it is uploaded to an incorrect docket or the required filing fees have not been paid by a non-indigent defendant.

The Committee noted that even in traditional paper filings, there may be occasions when a document is not accepted immediately for filing for similar reasons. In current practice, this is not a large problem because the document is date-stamped upon presentation at the clerk of courts' office, problems can be corrected quickly or, if not, the time and date of presentation can be used as the time of filing once any dispute regarding the document has been resolved.

The Committee concluded that a similar process could be applied to electronic filing. The electronic filing system will record the time that a document is submitted as well as the time when the document is accepted by the filing office. Notice may be sent to parties selected by the filer when the document is submitted. Notice also may be served on selected parties when the document has been accepted. Therefore, the definition for "filing," contained in paragraph (E)(5), states that filing occurs when the acceptance is made but that once accepted, the time and date of filing shall relate back to the time of submission. However, if the legal paper does not meet the requirements for filing, such as not having the correct docket number or not having paid the applicable filing fee, the filing may be rejected in the same manner in which a physical paper filing may be rejected. In this situation, the time and date of original submission still would be recorded in case there is a dispute regarding whether the document should have been accepted upon submission.

### Signatures

The Committee generally agreed with the allowance of electronic signatures as being sufficient for the filing of most legal papers. Included in paragraph (F)(2) is a

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provision for motions and answers that specifically states that an electronic filing containing an electronic signature constitutes the certification required under Rule 576 that the filer "has read the document and to the best of their knowledge, information and belief, there is good ground to support the motion or answer, and that it is not interposed for delay."

A concern was raised regarding motions filed pursuant to Rule 575(A)(2)(g) that aver facts not of record. These motions must be supported by a sworn affidavit averring the facts presented. Given potential consequences for the fraudulent filing of such documents, the Committee concluded that the best way for them to be handled would be by requiring the physical document to be prepared and signed and then scanned into the system for filing. The provision was included in paragraph (F)(3) and is intended to apply only to the motions filed pursuant to Rule 575(A)(2)(g).

### Service

Paragraph (H) describes how service of electronically filed documents is achieved. The PACFile system provides notice to other parties to a case both when a document is submitted to the system and when the document is accepted. The document will be visible to the other parties to the case upon submission. Since the time of filing of a document, once accepted, will be from the time and date of submission, the notice that the document has been submitted will constitute service as required under Rules 114(B) and 576(B). Those parties or attorneys who are not participating in the system would be served in the traditional manner pursuant to Rules 114 and 576.

Other Rule Changes

Finally, several correlative changes have been made to other criminal rules. Rule 113 (Criminal Case File and Docket Entries) has been amended to permit a "paperless" case file in those counties that permit electronic filing. Additionally, Rule 114 (Orders and Court Notices: Filing; Service; and Docket Entries) has been amended to recognize electronic service of court orders and notices for those parties who are participating in the electronic filing system. Rule 576 (Filing and Service by Parties) recognizes electronic filing pursuant to Rule 576.1.

[Pa.B. Doc. No. 18-724. Filed for public inspection May 11, 2018, 9:00 a.m.]

### DISCIPLINARY BOARD OF THE SUPREME COURT

### **Notice of Suspension**

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated April 24, 2018, Franchot A. S. Golub (# 14245) who resides in Haddonfield, NJ, is Suspended from the Bar of this Commonwealth for a period of one year and one day. 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. 18-725. Filed for public inspection May 11, 2018, 9:00 a.m.]