

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION

[204 PA. CODE CH. 29]

Promulgation of Financial Regulations Pursuant to Acts 40 and 44 of 2017; No. 492 Judicial Administration Doc.

Order

Per Curiam:

And Now, this 22nd day of December, 2017, it is Ordered, pursuant to Article V, Section 10(c) of the Constitution of Pennsylvania and 42 Pa.C.S. § 3502(a), that the Court Administrator of Pennsylvania is authorized to promulgate the attached Financial Regulations. The Financial Regulations are effective immediately.

To the extent that notice of proposed rulemaking may be required by Pa.R.J.A. No. 103(a), the immediate promulgation of the regulations is hereby found to be in the interests of efficient administration. *See* Pa.R.J.A. No. 103(a)(3).

This Order is to be processed in accordance with Pa.R.J.A. No. 103(b) and is effective immediately.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION

CHAPTER 29. MISCELLANEOUS PROVISIONS

Subchapter I. BUDGET AND FINANCE

§ 29.351. Definitions.

(a) *Pennsylvania Supreme, Superior and Commonwealth Courts. Initial Filing.*

1. Except for the provisions of subsection (g)(1) below, for purposes of 42 Pa.C.S. §§ 3733(a.1) and 3733.1 and section 2802-E of The Administrative Code of 1929 (71 P.S. § 720.102) a statutory fee of seventeen dollars (\$17.00) shall be imposed on all items enumerated in the fee schedules of the Appellate Courts for which a filing and service fee is collected, excluding the following:

- i. Second and Subsequent Filings for Extension of Time;
- ii. Reargument/Reconsideration;
- iii. Services in Connection with Appeals to or Writs of Certiorari from the United States Supreme Court;
- iv. Miscellaneous Fees; and
- v. Subpoenas.

(b) *Court of Common Pleas. Prothonotary. Civil Actions and Legal Proceedings.*

1. Except for the provisions of subsection (g)(1) below, for purposes of 42 Pa.C.S. §§ 3733(a.1) and 3733.1 and section 2802-E of The Administrative Code of 1929 (71 P.S. § 720.102) a statutory fee of seventeen dollars (\$17.00) shall be imposed on a civil action or legal proceeding in a Court of Common Pleas whenever it is initiated upon the filing of the first legal paper therein of record with the prothonotary, which legal paper may be:

- i. Praecipe for a Writ of Summons;
- ii. Complaint;
- iii. Deleted;
- iv. Petition;
- v. Notice of Appeal from a court of limited jurisdiction; or,
- vi. Petition or grant of any other legal paper commencing an action or proceeding authorized by Act of Assembly or rule of court.

2. For purposes of these regulations, the initiation of a civil action or legal proceeding shall include, but is not limited to:

i. Actions governed by or authorized under the Pennsylvania Rules of Civil Procedure, such as Civil Action Ejectment, Equity, Ground Rent, Mandamus, Mortgage Foreclosure, Partition of Real Property, Quiet Title, Quo Warranto, Replevin, and the Prevention of Waste;

ii. Actions pertaining to Dependency, Annulments, Divorce, Custody, Partial Custody, Visitation of Minor Children, Support, and Paternity. With respect to Divorce actions, a separate statutory fee shall be imposed for each count in the complaint in addition to the count requesting divorce;

iii. Statutory actions such as Confirmation of Arbitration Awards, Conformation of Confessed Judgment, Declaratory Judgment, Opening or Striking Off a Judgment, Eminent Domain, Habeas Corpus, Proceedings on Liens (other than revival), Name Changes, Partition of Property Held by Husband and Wife as Tenants By the Entireties, Tax Sales of Real Property; or,

iv. Other actions not included in subsections (i), (ii) or (iii) such as: Appeals from Board of Elections, Appeals from Board of Viewers, Appeals from Zoning Boards, and Certiorari to Magisterial District Judges.

(c) *Court of Common Pleas. Orphans' Court Clerk, Register of Wills.*

1. Except for the provisions of subsection (g)(1) below, for purposes of 42 Pa.C.S. §§ 3733(a.1) and 3733.1 and section 2802-E of The Administrative Code of 1929 (71 P.S. § 720.102) a statutory fee of seventeen dollars (\$17.00) shall be imposed on all petitions for grant of letters, and first filings in petitions concerning adoptions, incapacitated persons' estates, minors' estates, and inter vivos trusts.

(d) *Court of Common Pleas. Clerk of Court.*

1. Except for the provisions of subsection (g)(1) below, for purposes of 42 Pa.C.S. §§ 3733(a.1) and 3733.1 and section 2802-E of The Administrative Code of 1929 (71 P.S. § 720.102) a statutory fee of seventeen dollars (\$17.00) shall be imposed upon conviction, guilty plea, or when a defendant is granted entry into an Accelerated Rehabilitative Disposition (ARD) or other pretrial diversionary program based upon the initiation of any criminal proceeding. The initiation of a criminal proceeding shall include:

i. Cases commenced at the magisterial district judge level resulting in the issuance of a numbered docket transcript form (OTN), and subsequently waived or held to court;

ii. the appeal of a summary conviction to the Court of Common Pleas;

iii. cases involving juvenile defendants where a petition alleging delinquency has been filed in the Court of Common Pleas;

iv. cases involving juvenile defendants certified to the Court of Common Pleas, resulting in the issuance of a numbered docket transcript form (OTN); and

v. cases involving the severance of charges into separate cases resulting in the issuance of one or more additional numbered docket transcripts (OTNs).

2. Except for the provisions of subsection (g)(1) below, for purposes of 42 Pa.C.S. §§ 3733(a.1) and 3733.1 and section 2802-E of The Administrative Code of 1929 (71 P.S. § 720.102) a statutory fee of seventeen dollars (\$17.00) shall be imposed for each filing of a deed, mortgage or property transfer for which a fee, charge or cost is now authorized. The documents identified as meeting the above conditions are listed below. The list is not exclusive; other filings for which a fee is imposed and that can be considered a property transfer are included, and the fee shall be imposed. Subject to later amendment, the following documents have been identified as meeting the statutory provisions:

- i. Deeds in any form;
- ii. Mortgages;
- iii. Mortgage assignments;
- iv. Mortgage releases;
- v. Mortgage satisfaction pieces;
- vi. Installment sales agreements;
- vii. Leases for a term of thirty (30) years or longer;
- viii. Easements; and
- ix. Rights of Way.

(e) *Minor Judiciary. Civil and Criminal Proceedings.*

1. For purposes of 42 Pa.C.S. §§ 3733(a.1) and 3733.1, and section 2802-E of The Administrative Code of 1929 (71 P.S. § 720.102) a statutory fee of seventeen dollars (\$17.00) shall be imposed on the initiation of a legal proceeding except as provided in subsection (iii). The initiation of a legal proceeding, in the following courts of the Minor Judiciary, shall include, but is not limited to, the following:

i. *Magisterial District Judge. Civil Actions.* Except for the provisions of subsection (g)(1) below, a statutory fee of seventeen dollars (\$17.00) shall be imposed in connection with the filing of a complaint in Trespass and Assumpsit or for the Recovery of Possession of Real Property (Landlord and Tenant Proceeding) or for any other Civil Action as provided in the Rules of Civil Procedure Governing Actions and Proceedings before Magisterial District Judges.

ii. *Magisterial District Judge. Criminal Actions.* Except for the provisions of subsection (g)(1) below, a statutory fee of seventeen dollars (\$17.00) shall be imposed upon a conviction, guilty plea or when a defendant is granted entry into an Accelerated Rehabilitative Disposition (ARD) or any other pretrial diversionary program based upon the filing of a criminal complaint or non-traffic citation charging an offense classified as misdemeanor or summary under a state statute or local ordinance as provided in the Pennsylvania Rules of Criminal Procedure.

iii. *Magisterial District Judge, Pittsburgh Municipal Court, and Philadelphia Municipal Court. Title 75 Summary Offenses Initiated by Traffic Citation.* Except for the provisions of subsection (g)(2) below, a statutory fee of ten dollars (\$10.00) shall be imposed upon a conviction or guilty plea based upon the filing of a traffic citation charging a violation of Title 75 (relating to vehicles) offense classified as summary under a state statute or local ordinance as provided in the Pennsylvania Rules of Criminal Procedure.

iv. *Pittsburgh Municipal Court. Civil Actions.* Except for the provisions of subsection (g)(1) below, a statutory fee of seventeen dollars (\$17.00) shall be imposed in connection with the filing of a civil complaint seeking recovery of fines and penalties imposed by an ordinance of the City of Pittsburgh or by any ordinance or regulation relating to housing and health administered and enforced by the county health department where the violation occurs within the City of Pittsburgh.

v. *Pittsburgh Municipal Court. Criminal Actions.* Except for the provisions of subsection (g)(1) below, a statutory fee of seventeen dollars (\$17.00) shall be imposed upon a conviction, guilty plea or when a defendant is granted entry into an Accelerated Rehabilitative Disposition (ARD) or any other pretrial diversionary program based upon the filing of a criminal complaint or non-traffic citation charging an offense classified as misdemeanor or summary under state statute or local ordinance as provided for in the Pennsylvania Rules of Criminal Procedure.

vi. *Philadelphia Municipal Court. Civil Actions.* Except for the provisions of subsection (g)(1) below, a statutory fee of seventeen dollars (\$17.00) shall be imposed in connection with the filing of a complaint for a Civil Action, as defined in the Philadelphia Municipal Court Rules of Civil Procedure.

vii. *Philadelphia Municipal Court. Criminal Actions.* Except for the provisions of subsection (g)(1) below, a statutory fee of seventeen dollars (\$17.00) shall be imposed upon conviction, guilty plea or when a defendant is granted entry into an Accelerated Rehabilitative Disposition (ARD) or any other pretrial diversionary program based upon the filing of a criminal complaint or non-traffic citation charging an offense classified as misdemeanor or summary under state statute or local ordinance as provided for in the Pennsylvania Rules of Criminal Procedure.

(f) *Recorders of Deeds.* Except for the provisions of subsection (g)(1) below, for purposes of 42 Pa.C.S. §§ 3733(a.1) and 3733.1, and section 2802-E of The Administrative Code of 1929 (71 P.S. § 720.102) a statutory fee of seventeen dollars (\$17.00) shall be imposed for each filing of a deed, mortgage or property transfer for which a fee, charge or cost is now authorized. The documents identified as meeting the above conditions are listed below. The list is not exclusive; other filings for which a fee is imposed and that can be considered a property transfer are included, and the fee shall be imposed. Subject to later amendment, the following documents have been identified as meeting the statutory provisions:

- i. Deeds in any form;
- ii. Mortgages;
- iii. Mortgage assignments;
- iv. Mortgage releases;
- v. Mortgage satisfaction pieces;

- vi. Installment sales agreements;
 - vii. Leases for a term of thirty (30) years or longer;
 - viii. Easements; and
 - ix. Rights of Way.
- (g) *Temporary Surcharge.*

1. Beginning October 30, 2017, and until December 31, 2020, for purposes of section 2802-E of The Administrative Code of 1929 (71 P.S. § 720.102) and section 1795.1-E of The Fiscal Code (72 P.S. § 1795.1-E) a temporary surcharge of twenty-three dollars and twenty-five cents (\$23.25) shall be collected by all collectors of the JCS/ATJ/CJEA fee to supplement the seventeen dollars (\$17.00) statutory fee described above. This temporary surcharge may not be imposed upon a conviction or guilty plea based upon the filing of a traffic citation charging a Title 75 (relating to vehicles) offense classified as summary under a state statute or local ordinance as provided in the Pennsylvania Rules of Criminal Procedure.

2. *Magisterial District Judge, Pittsburgh Municipal Court, and Philadelphia Municipal Court.* Title 75 Summary Offenses Initiated by Traffic Citation. Beginning October 30, 2017, and until December 31, 2020, for purposes of Section 1795.1-E of the Fiscal Code (72 P.S. § 1795.1-E) a temporary surcharge of twelve dollars (\$12.00) shall be collected to supplement the ten dollars (\$10.00) statutory fee imposed upon a conviction or guilty plea based upon the filing of a traffic citation charging a violation of Title 75 (relating to vehicles) offense classified as summary under a state statute or local ordinance as provided in the Pennsylvania Rules of Criminal Procedure.

[Pa.B. Doc. No. 18-47. Filed for public inspection January 12, 2018, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Damages for Delay

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 238. Damages for Delay in an Action for Bodily Injury, Death or Property Damage.

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Addendum to Explanatory Comment (2018)

The prime rate as set forth in the first edition of the *Wall Street Journal* for a particular year is the basis for calculating damages for delay under Pa.R.C.P. No. 238 as revised November 7, 1988. The prime rate published in the first edition of the *Wall Street Journal* for each of the years specified is as follows:

<i>Date of Publication</i>	<i>Prime Rate Percentage</i>
January 2, 2018	4 1/2
January 3, 2017	3 3/4

<i>Date of Publication</i>	<i>Prime Rate Percentage</i>
January 4, 2016	3 1/2
January 2, 2015	3 1/4
January 2, 2014	3 1/4
January 2, 2013	3 1/4
January 3, 2012	3 1/4
January 3, 2011	3 1/4
January 4, 2010	3 1/4
January 2, 2009	3 1/4
January 2, 2008	7 1/4
January 2, 2007	8 1/4
January 3, 2006	7 1/4
January 3, 2005	5 1/4
January 2, 2004	4
January 2, 2003	4 1/4
January 2, 2002	4 3/4
January 2, 2001	9 1/2
January 3, 2000	8 1/2
January 4, 1999	7 3/4
January 2, 1998	8 1/2

Official Note: The prime rate for the years 1980 through 1997 may be found in the Addendum to the Explanatory Comment published in the *Pennsylvania Bulletin*, volume 33, page 634 (2/1/03) and on the web site of the Civil Procedural Rules Committee at <http://www.pacourts.us>.

By the Civil Procedural Rules Committee

DAVID L. KWASS,
Chair

[Pa.B. Doc. No. 18-48. Filed for public inspection January 12, 2018, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 4]

Order Amending Rule 462 and Revising the Comment to Rule 460 of the Rules of Criminal Procedure; No. 498 Criminal Procedural Rules Doc.

Order

Per Curiam

And Now, this 29th day of December, 2017, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 47 Pa.B. 3959 (July 22, 2017), 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 462 is amended and the Comment to Pennsylvania Rule of Criminal Procedure 460 is revised, in the following form.

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

Annex A

**TITLE 234. RULES OF CRIMINAL PROCEDURE
CHAPTER 4. PROCEDURES IN SUMMARY CASES**

**PART F. Procedures in Summary Cases for
Appealing to Court of Common Pleas for Trial
*De Novo***

Rule 460. Notice of Appeal.

* * * *

Comment

This rule is derived from former Rule 86(A), (D), (E), (F), (H), and (I).

This rule applies to appeals in all summary proceedings, including appeals from prosecutions for violations of municipal ordinances [**which**] **that** provide for the possibility of imprisonment, and default hearings.

This rule was amended in 2000 to make it clear in a summary criminal case that the defendant may file an appeal for a trial *de novo* following the entry of a guilty plea.

Appeals from contempt adjudications are governed by Rule 141.

The narrow holding in *City of Easton v. Marra*, 326 A.2d 637 (Pa. Super. 1974), is not in conflict, since the record before the court did not indicate that imprisonment was possible under the ordinance there in question.

See Rule 461 for the procedures for executing a sentence of imprisonment when there is a stay.

“Entry,” as used in this rule, means the date on which the issuing authority enters or records the guilty plea, the conviction, or other order in the [**district justice**] **magisterial district judge** computer system.

When the only issues on appeal arise solely from an issuing authority’s determination after a default hearing pursuant to Rule 456, the matter must be heard *de novo* by the appropriate judge of the court of common pleas and only those issues arising from the default hearing are to be considered. It is not intended to reopen other issues not properly preserved for appeal. A determination after a default hearing would be a final order for purposes of these rules.

Paragraph (D) was amended in 2003 to align this rule with Rule 401(A), which permits the electronic transmission of parking violation information in lieu of filing a citation. Therefore, in electronically transmitted parking violation cases only, because there is no original citation, the issuing authority would file the summons with the clerk of courts pursuant to paragraph (D)(3).

Rule 462(D) provides for the dismissal of an appeal when the defendant fails to appear for the trial *de novo*.

See Rule 462(F) regarding the retention of a case at the court of common pleas when a petition to file an appeal *nunc pro tunc* has been denied.

Certiorari was abolished by the Criminal Rules in 1973 pursuant to Article V Schedule Section 26 of the Constitution of Pennsylvania, which specifically empowers the Supreme Court of Pennsylvania to do so by rule. This Schedule section is still viable, and the substance of this Schedule section has also been included in the Judicial Code, 42 Pa.C.S. § 934. The abolition of *certiorari* continues with this rule.

Official Note: Former Rule 86 adopted July 12, 1985, effective January 1, 1986; revised September 23, 1985, effective January 1, 1986; the January 1, 1986 effective dates extended to July 1, 1986; amended February 2, 1989, effective March 1, 1989; amended March 22, 1993, effective January 1, 1994; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; amended February 27, 1995, effective July 1, 1995; amended October 1, 1997, effective October 1, 1998; amended May 14, 1999, effective July 1, 1999; amended March 3, 2000, effective July 1, 2000; rescinded March 1, 2000, effective April 1, 2001, and paragraphs (A), (D), (E), (F), (H), and (I) replaced by Rule 460. New Rule 460 adopted March 1, 2000, effective April 1, 2001; amended February 6, 2003, effective July 1, 2003; Comment revised February 28, 2003, effective July 1, 2003; **Comment revised December 29, 2017, effective April 1, 2018.**

Committee Explanatory Reports:

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Final Report explaining the February 28, 2003 Comment revision cross-referencing Rule 461 published with the Court’s Order at 33 Pa.B. 1326 (March 15, 2003).

Final Report explaining the December 29, 2017 Comment revision cross-referencing Rule 462(F) published with the Court’s Order at 48 Pa.B. 226 (January 13, 2018).

Rule 462. Trial *De Novo*.

* * * *

(E) If the defendant withdraws the appeal, the trial judge shall enter judgment in the court of common pleas on the judgment of the issuing authority.

(F) If the defendant has petitioned the trial judge to permit the taking of an appeal *nunc pro tunc* and this petition is denied, the trial judge shall enter judgment in the court of common pleas on the judgment of the issuing authority.

[(F)] (G) The verdict and sentence, if any, shall be announced in open court immediately upon the conclusion of the trial, or, in cases in which the defendant may be sentenced to intermediate punishment, the trial judge may delay the proceedings pending confirmation of the defendant’s eligibility for intermediate punishment.

[(G)] (H) At the time of sentencing, the trial judge shall:

* * * *

(4) issue a written order imposing sentence, signed by the trial judge. The order shall include the information specified in paragraphs [(G)(1) through (G)(3)] (H)(1) through (H)(3), and a copy of the order shall be given to the defendant.

[(H)] (I) After sentence is imposed by the trial judge, the case shall remain in the court of common pleas for the execution of sentence, including the collection of any fine and restitution, and for the collection of any costs.

Comment

This rule is derived from former Rule 86(G) and former Rule 1117(c).

This rule was amended in 2000 to make it clear in a summary criminal case that the defendant may file an appeal for a trial *de novo* following the entry of a guilty plea.

“Entry,” as used in paragraph (A) of this rule, means the date on which the issuing authority enters or records the guilty plea, the conviction, or other order in the magisterial district judge computer system.

The procedures for conducting the trial *de novo* in the court of common pleas set forth in paragraphs (B), [(F), and] (G), and (H) are comparable to the summary case trial procedures in Rule 454 (Trial in Summary Cases).

Pursuant to paragraph (B), the decision whether to appear and assume control of the prosecution of the trial *de novo* is solely within the discretion of the attorney for the Commonwealth. When no attorney appears at the trial *de novo* on behalf of the Commonwealth or a municipality, the trial judge may ask questions of any witness who testifies, and the affiant may request the trial judge to ask specific questions. In the appropriate circumstances, the trial judge also may permit the affiant to question Commonwealth witnesses, cross-examine defense witnesses, and make recommendations about the case to the trial judge.

The provisions of paragraph (C) that permit the court to continue the case if there is good cause for the officer's unavailability were added in response to *Commonwealth v. Hightower*, 652 A.2d 873 (Pa. Super. 1995).

Paragraph (D) makes it clear that the trial judge may dismiss a summary case appeal when the judge determines that the defendant is absent without cause from the trial *de novo*. If the appeal is dismissed, the trial judge should enter judgment and order execution of any sentence imposed by the issuing authority.

New paragraph (F) was added in 2017 to clarify that in a case in which a defendant seeks to file an appeal *nunc pro tunc*, and the common pleas judge denies that petition, the case will remain at the court of common pleas. This is consistent with the long-standing policy under the rules that once a case has moved from the minor judiciary to the court of common pleas, the case remains at common pleas.

Paragraph [(F)] (G) was amended in 2008 to permit a trial judge to delay imposition of sentence in order to investigate a defendant's eligibility for intermediate punishment for certain offenses, including summary violations of 75 Pa.C.S. § 1543(b) (driving while license is under a DUI-related suspension), but only if he or she meets certain eligibility requirements, such as undergoing a drug and alcohol assessment. Potentially this information may not be available to the trial judge following a trial *de novo* at the time of sentencing.

Pursuant to paragraph [(G)] (H), if the defendant is convicted, the trial judge must impose sentence, and advise the defendant of the payment schedule, if any, and the defendant's appeal rights. See Rule 704(A)(3) and Rule 720(D). No defendant may be sentenced to imprisonment or probation if the right to counsel was not afforded at trial. See *Alabama v. Shelton*, 535 U.S. 654 (2002), *Scott v. Illinois*, 440 U.S. 367 (1979), and *Argersinger v. Hamlin*, 407 U.S. 25 (1972).

Certain costs are mandatory and must be imposed. See, e.g., Section 1101 of the Crime Victims Act, 18 P.S. § 11.1101.

Once sentence is imposed, paragraph [(H)] (I) makes it clear that the case is to remain in the court of common pleas for execution of the sentence and collection of any costs, and the case may not be returned to the magiste-

rial district judge. The execution of sentence includes the collection of any fines and restitution.

For the procedures concerning sentences that include restitution in court cases, see Rule 705.1.

For the procedures for appeals from the Philadelphia Municipal Court Traffic Division, see Rule 1037.

Official Note: Former Rule 86 adopted July 12, 1985, effective January 1, 1986; revised September 23, 1985, effective January 1, 1986; the January 1, 1986 effective dates extended to July 1, 1986; amended February 2, 1989, effective March 1, 1989; amended March 22, 1993, effective January 1, 1994; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; amended February 27, 1995, effective July 1, 1995; amended October 1, 1997, effective October 1, 1998; amended May 14, 1999, effective July 1, 1999; rescinded March 1, 2000, effective April 1, 2001, and paragraph (G) replaced by Rule 462. New Rule 462 adopted March 1, 2000, effective April 1, 2001; amended March 3, 2000, effective July 1, 2000; amended February 28, 2003, effective July 1, 2003; Comment revised March 26, 2004, effective July 1, 2004; amended January 18, 2007, effective August 1, 2007; amended December 16, 2008, effective February 1, 2009; Comment revised October 16, 2009, effective February 1, 2010; Comment revised May 7, 2014, effective immediately; amended March 9, 2016, effective July 1, 2016; **amended December 29, 2017, effective April 1, 2018.**

Committee Explanatory Reports:

* * * * *

Final Report explaining the March 9, 2016 amendments to paragraph (G) concerning required elements of the sentence published with the Court's Order at 46 Pa.B. 1540 (March 26, 2016).

Final Report explaining the December 29, 2017 amendments regarding appeals *nunc pro tunc* published with the Court's Order at 48 Pa.B. 226 (January 13, 2018).

FINAL REPORT¹

Amendment of Pa.R.Crim.P. 462 Revision of the Comment to Pa.R.Crim.P. 460

Summary Appeal Remand

On December 29, 2017, effective April 1, 2018, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Rule 462 (Trial *De Novo*) and revised the Comment to Rule 460 (Notice of Appeal) to clarify that when a petition to file a summary appeal *nunc pro tunc* is denied at the court of common pleas, the case remains at the common pleas level, in keeping with the Court's long-standing policy that once a case moves from a lower court to the court of common pleas, the case should remain at common pleas.

The Committee recently examined an issue that has come up regarding the “no-remand” policy in summary cases. A defendant is convicted of a summary offense before a magisterial district judge (MDJ) and then files a petition to be allowed to file a summary appeal *nunc pro tunc*. The common pleas court denies the petition and orders that the case be “remanded” to the MDJ office. The common pleas judge in these situations has taken the position that, because the common pleas court has never

¹ 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.

addressed the actual appeal, the case is not subject to the “no remand” provisions of Rule 462(H).

Under Rule 460(D), when an appeal is filed in a summary case, the case and associated documents are transferred from the MDJ to the clerk of courts and then adjudicated by a common pleas judge. Paragraph (H) of Rule 462 states:

(H) After sentence is imposed by the trial judge, the case shall remain in the court of common pleas for the execution of sentence, including the collection of any fine and restitution, and for the collection of any costs.

This provision is one part of the Court’s long-standing “no remands” policy that provides that once a case “goes up” from the minor judiciary to the court of common pleas, it should stay at common pleas. This policy has been articulated in rule changes that were adopted in 2003 (clarifying when an appeal for a trial *de novo* in a summary case or a contempt adjudication is taken, the case remains in the court of common pleas for the execution of any sentence and collection of any fines and restitution, and collection of any costs), in 2006 (clarifying the procedures for handling cases in which a summary offense is joined with misdemeanor, felony, or murder charges both when the case is before the issuing authority and after the case is held for court), and in 2010 (addressing three areas in which remands from the court of common pleas to the issuing authority still are occurring despite the Court’s policy that prohibits such remands: (1) the practice of remanding cases for a preliminary hearing where a defendant who was designated as “NEI” is apprehended; (2) use of remands as remedies for a waived preliminary hearing; and (3) the practice of remanding cases without court involvement when the district attorney withdraws felony/misdemeanor prior to the filing of the information).²

Additionally, Rule 462 contains paragraph (D), which provides that the case is retained at common pleas if a defendant fails to appear for the trial *de novo* and the MDJ sentence is entered at common pleas, and paragraph (E), which provides similarly when the defendant withdraws the appeal. As noted above, paragraph (H) provides that when a sentence has been entered by the common pleas judge, it remains at common pleas for execution of sentence. The rationale for this policy is to prevent cases from “bouncing back and forth” between the MDJ and common pleas courts. This could result in confusion and the potential repeated transfer of court records and case-associated money.

None of these amendments addressed the situation of the dismissal of a late-filed summary appeal. The Committee examined the above history of the no-remand policy and concluded that the underlying rationale of the policy would be applicable to the situation at issue. Since the common pleas court must make a decision on the petition, the case is transferred from the MDJ to the common pleas court. The same concerns about transferring the case record and money are present here as in other summary appeal situations. Additionally, the Committee noted the instances mentioned above where a case in which a full trial *de novo* has not been held, such as when a defendant fails to appear for the trial, still is retained at the common pleas court.

Therefore, a new paragraph (F) has been added to Rule 462 that would state specifically that a late-filed appeal

adjudicated at common pleas court would remain at common pleas court. Additionally, a cross-reference to this new provision has been added to the Comment to Rule 460 since that rule provides the procedures for filing appeals, including time limitations.

[Pa.B. Doc. No. 18-49. Filed for public inspection January 12, 2018, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

President Judge General Court Regulation No. 2006-04: Rescission of Phila.R.J.A. 5000.5

Order

And Now, this 22nd day of December, 2017, in light of the Pennsylvania Supreme Court’s adoption of Uniform Rules Governing Court Reporting and Transcripts, Pa.R.J.A. No. 4001 et seq., and the adoption of Phila.R.J.A. No. *4007 and *4008, governing requests for Transcripts and Transcript Costs by this Court by Order dated June 14, 2017, *It Is Hereby Ordered and Decreed* that Philadelphia Rule of Judicial Administration 5000.5 governing Requests for Transcripts, adopted by the Board of Judges on May 18, 2006 and promulgated by Order dated July 6, 2006 is rescinded.

By the Court

HONORABLE SHEILA WOODS-SKIPPER,
President Judge,
Court of Common Pleas of
Philadelphia County

[Pa.B. Doc. No. 18-50. Filed for public inspection January 12, 2018, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BERKS COUNTY

Amendments to Local Rules; No. 17-381 Prothonotary; No. CP-06-AD-27-2017 Clerk of Courts

Order

And Now, this 15th day of December, 2017, the following amendments to Berks County Rules of Civil Procedure 205.2(a); 205.4; 211; 211.6; 211.9; 212.1; 239; 1028(c); 1034(a); 1035.2(a); 1305; 1306; 1910.4; 1910.5; 1910.10; 1910.12; 1910.32; 1910.33; 1915.3; 1915.5; 1915.7; 1915.8; 1915.15; 1915.18; 1915.26; 1915.27; 1915.32; 1915.33; 1920.31(a)(1); 1920.31(b); 1920.32; 1920.42; 1920.51; 1920.51.4; 1920.51.5; 1920.53; 1920.74; and 1940.11; new Berks County Rule of Civil Procedure 1012; 1910.19(1); 1910.19(2); 1910.34; 1915.17; 1920.3; 1930.5; and 4014; and new Berks County Rule of Judicial Administration 510 are hereby adopted and shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*, in accordance with Pa.R.J.A. No. 103(c)(5)(iii) and No. 103(d)(5)(iii).

(New text appears in underscored bold face, and removed language is shown in bold within brackets.)

The District Court Administrator is *Ordered* and *Directed* to:

² See 33 Pa.B. 1324 (March 15, 2003), 36 Pa.B. 1385 (March 25, 2006), and 40 Pa.B. 1068 (February 27, 2010).

1. Submit one (1) copy of this Order, including the newly adopted rules, to the appropriate Rules Committees of the Supreme Court of Pennsylvania for review.

2. Distribute two (2) copies of this Order, including the newly adopted rules, and one (1) disk copy with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. File one (1) copy of this Order, including the newly adopted rules, with the Administrative Office of Pennsylvania Courts contemporaneously with publishing the local rule in the *Pennsylvania Bulletin*.

4. Compile the local rules within the complete set of local rules available on the Berks County Court website no later than 30 days following publication in the *Pennsylvania Bulletin*.

5. Distribute one (1) copy of this Order, including the newly adopted rules to each of the Berks County filing offices so they can keep them continuously available for public inspection and copying.

HONORABLE PAUL M. YATRON,
President Judge

RULES OF JUDICIAL ADMINISTRATION

Rule 510. Public Access Policy.

Pursuant to Sections 7 and 8 of the Public Access Policy of the Unified Judicial System of Pennsylvania; Case Records of the Appellate and Trial Courts, persons who file documents that contain personal information as defined by the Policy shall file a Confidential Information Form along with the redacted copy of the document and persons who file confidential documents as defined by the Policy shall file a Confidential Document Form along with the unredacted document. Parties are expressly prohibited from filing a redacted and an unredacted version of any document. The policy and forms are available on the Administrative Office of Pennsylvania Courts website www.pacourts.us as well as on the Berks County Court website www.co.berks.pa.us.

RULES OF CIVIL PROCEDURE

PETITIONS, MOTIONS AND ANSWERS

Rule 205.2(a). Physical Characteristics of Pleadings and Other Legal Papers.

(4) . . .

(5) All filings shall comply with the Public Access Policy of the Unified Judicial System of Pennsylvania; Case Records of the Appellate and Trial Courts which can be found at the Administrative Office of Pennsylvania Courts website www.pacourts.us as well as on the Berks County Court website www.co.berks.pa.us and with Berks County Rule of Judicial Administration 510.

The Prothonotary shall accept a party's pleadings, motions, affidavits and other legal papers for filing without regard to that party's failure to comply with any of the above requirements, as long as sufficient information is provided for the Prothonotary to identify the case to which the pleadings, motions, affidavits and other legal papers apply.

Rule 205.4. Electronic Filing and Service of Legal Papers.

(a)(1) Beginning on the date established by the President Judge by Administrative Order, parties shall file all

"legal papers" as defined by Pa.R.C.P. No. 205.4(a)(2), with the Prothonotary through the Berks County Electronic Filing System "EFS" as more specifically provided here and in Pa.R.C.P. No. 205.4.

Explanatory Note: The term "legal paper" as defined in Pa.R.C.P. No. 205.4(a)(2) encompasses all pleadings and other papers filed with the Prothonotary, including exhibits and attachments—even if the legal papers are not adversarial in nature and do not require the non-filing party or parties to respond.

(2) As used in this rule, the following words shall have the following meanings:

CMS (Case Management System): A Court case management system manages the receipt, processing, storage and retrieval of data associated with a case and performs actions on the data.

Electronic Filing (E-Filing): The electronic transmission, acceptance, and processing of a filing. A submission consists of data, one or more documents, and/or images. The definition of electronic filing does not apply to facsimile or e-mail.

[Electronic Service (E-Service): The electronic transmission of an original document to all other electronically-registered case participants via the electronic filing system. Upon the completion of any transmission to the electronic filing system, an electronic receipt shall be issued to the sender acknowledging receipt by the electronic filing system.]

(b)(1) *Authorized Electronic Format of Legal Papers Electronically Filed.* All legal papers shall be filed in a portable document format ("pdf") or other format as may from time to time be established for electronic filing. A paper presented for filing in hard copy or in a format other than [portable document] the required format shall be converted to [portable document] the required format and maintained by the Prothonotary in that format pursuant to Pa.R.C.P. No. 205.4(b)(1).

. . .

(c)(2) *Website. Access to the Website*

(i) *Website.* All legal papers shall be filed electronically through the Berks County Electronic Filing System "EFS" which shall be accessible through the County of Berks website, [www.countyofberks.com] www.co.berks.pa.us, or at such other website as may be designated from time to time.

. . .

(f)(4) *Electronic Filing Fees and Costs*

(i) The Prothonotary shall collect an electronic filing fee for each legal paper or exhibit filed as established by the Prothonotary with the approval of the President Judge of the Berks County Court of Common Pleas.

(ii) In addition to such electronic filing fee, the Prothonotary is authorized to charge a fee as set from time to time for each page of a legal paper or exhibit which is filed in hard copy format and which must be converted to [a portable document] the required format.

. . .

(f)(5) *Other Procedures Necessary to the Operation of a System of Electronic Filing*

(i) If a legal paper is accepted, it shall be deemed to have been filed as of the date and time it was received by

the Berks County Electronic Filing System; provided, however, that if a legal paper is submitted without the requisite fee, the legal paper shall be deemed to have been accepted for filing as of the date payment was received. The Prothonotary is authorized to refuse for filing a legal paper submitted without the requisite payment. If the pleading or legal paper other than original process is accepted for filing, it will be electronically served as authorized by Pa.R.C.P. No. 205.4(g)(1)(ii) and service shall be effectuated as provided in Pa.R.C.P. No. 205.4(g)(2)(ii).

(ii) *Termination Notice.* In addition to the procedures set forth in Pa.R.C.P. No. 230.2, in cases where a party is a registered user of the Berks County Electronic Filing System, notice of proposed termination may also be electronic.

(iii) An electronic filer is not required to file any paper copies unless specifically required by the court.

(iv) An electronic filer is not required to file multiple copies of documents or to file envelopes as specified elsewhere in these local rules. **[If documents are to be served electronically, the electronic filer is not required to provide envelopes as specified elsewhere in these local rules, except for those parties who are to receive the document by regular mail or other means of service as required by other rules.]**

(v) Electronic filing is permitted at all times when the EFS is available. If the EFS is unavailable at the time a registered user attempts to file a document, the registered user shall make reasonable efforts to file the document as soon as the unavailability ends.

(vi) If a registered user believes the unavailability of the EFS prevented a timely filing to the party's prejudice, the registered user may submit a motion to the court within ten (10) days of the registered user's unsuccessful attempt to file the document. The motion shall state the date and time of the first unsuccessful attempt to file the document electronically, the date(s) and time(s) of any subsequent attempts to file the document electronically, and why the delay was prejudicial.

(vii) The filing deadline for any document filed electronically is 11:59:59 p.m. EST/EDT.

(viii) *Documents with Attachments.* Attachments, including exhibits, that are part of any filing, shall be filed electronically at the same time as the document.

(ix) Pleadings seeking judicial action such as Proposed Orders or scheduling orders shall be filed as separate documents within the same electronic filing as the Motion or Petition they pertain to.

(x) An attachment or exhibit that exceeds the technical standards for the EFS or is unable to be electronically filed must be filed as ordered by the court. A Notice of Exhibit Attachment shall be filed in the EFS referencing such an exhibit with specificity and stating the reason why the exhibit was not filed electronically.

(xi) The Court may, on its own motion or for good cause shown, order a filing be made under seal. Filings requested to be made under seal shall be submitted to the Prothonotary's Office over the counter rather than through EFS.

(xii) Sealed or confidential documents may be submitted for electronic filing in a manner that maintains confidentiality under applicable law.

(xiii) All filings shall comply with the Public Access Policy of the Unified Judicial System of Penn-

sylvania; Case Records of the Appellate and Trial Courts which can be found at the Administrative Office of Pennsylvania Courts website www.pacourts.us as well as on the Berks County Court website www.co.berks.pa.us and with Berks County Rule of Judicial Administration 510. Confidential data may be collected on the EFS so that the data can be viewed by authorized personnel while being protected from public view.

(xiv) Family Court documents shall be confidential and shall not be viewable in CMS by the public without an Order of Court.

Note: Attorneys and litigants who file documents are required to comply with the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

...

(g)(2) *Service by Electronic Transmission*

[(iii) Service shall be made to registered users through the EFS and to all others as otherwise provided in the Pa.R.C.P. Service by the EFS is complete upon transmission except that, for purposes of calculating the time for filing a response, a transmission on a Saturday, a Sunday, a holiday recognized by Berks County, or after 5:00 p.m. EST/EDT, shall be considered complete on the next day that is not a Saturday, Sunday or recognized Berks County holiday.

(iv) **Other than original service, the electronic filer shall not be required to serve a paper copy of the electronic filing on the opposing part if the opposing party is a registered user on the EFS and the electronic filing has been served on them through the EFS.]**

(i) The electronic filing of a legal paper does not satisfy the filing party's obligation under the Pennsylvania Rules of Civil Procedure or the Berks County Rules of Civil Procedure to serve the legal paper on all parties to the litigation or on the Court.

(ii) Service of subsequent pleadings other than orders shall be made by the filing party to all other parties. Service of orders shall be made to registered EFS users by the Prothonotary's Office by e-mail notification or mail as elected by the EFS user and to all others by mail.

(h) Civil and Family Court Cover Sheets will not be required in EFS cases because any required data will be collected through the EFS for transmission to the Administrative Office of Pennsylvania Courts as required by Pa.R.C.P. No. 205.5(e).

Rule 211. Schedule for Arguments. Matters for Panel. Matters for Single Judge.

Civil Argument Court shall be held on the days as scheduled in the Court calendar for that year, subject to change by court order fixing special argument dates. As used throughout these rules, including B.R.C.P. 211.1 through 211.7 inclusive, and B.R.C.P. 1028(c), 1034(a), and 1035.2(a), the term "argument court date" shall mean one of the scheduled Civil Argument Court dates listed on the Court calendar, which calendar can be found on-line at [www.countyofberks.com/courts] www.co.berks.pa.us.

...

Rule 211.6. Assignment of Cases for Argument.

...

(b) Court Administration shall prepare a schedule of assignment of cases designating courtrooms, judges and times that arguments will be heard at argument court, and shall post such schedule by noon of the Thursday (or Wednesday if Thursday is a holiday) preceding argument court in the prothonotary's office and online at [www.countyofberks.com/courts] www.co.berks.pa.us, and shall post such schedule on argument court day in the first floor lobby at the Courthouse and County Services Center.

...

Rule 211.9. Argument Court Procedures for Support Argument.

(a) Instead of a praecipe as stated in B.R.C.P. Nos. 211.1 through 211.6, a party requesting that Support Argument be scheduled shall:

(1) File exceptions to the finding of fact and recommendations of the Support Hearing [**Master**] **Officer** with the Domestic Relations Section together with a request for transcript and the required fee.

...

Rule 212.1. Filing of Certificate of Readiness and Scheduling of Pretrial Conferences.

(a) The parties shall indicate their readiness for trial by filing the prescribed form of certificate of readiness (available from the prothonotary) in duplicate with the prothonotary signed by all parties or their attorneys of record. The forms are available in the Prothonotary's Office and online at [www.countyofberks.com/courts] www.co.berks.pa.us.

...

[Rule 239. Notice of Adoption. Copies Thereof.

(a) Except for the adoption of a comprehensive set of new Berks County Rules of Court, whenever any Berks County Rule of Court shall be adopted, amended or abrogated, the prothonotary shall forthwith cause the same to be published one (1) time in the Berks County Law Journal in suitable form so that the same may be placed as an additional or replacement page in the current binder of the Berks County Rules of Court. The prothonotary shall maintain a separate file containing the original orders of the court adopting, amending or abrogating the Berks County Rules of Court and shall maintain a current binder of the Berks County Rules of Court containing such additional or replacement pages.

(b) Upon request, the prothonotary shall furnish copies of the Berks County Rules of Court to any person requesting the same upon payment of such charge as may be determined from time to time by the court. They are also available at www.countyofberks.com/courts.]

Rule 1012. Entry of Appearance.

Every initial pleading or legal paper filed with the Prothonotary or the Domestic Relations Office by an attorney should be accompanied by a written entry of appearance. The written appearance will facilitate proper notification being given to all counsel of record. In the event an initial pleading or legal paper, including an initial responsive

pleading or legal paper, filed by an attorney is not accompanied by a written entry of appearance, the Prothonotary or the Domestic Relations Office shall enter the name of the attorney as counsel of record provided that the attorney's full name, signature, Supreme Court ID number and address are contained on the pleading.

Rule 1028(c). Preliminary Objections.

(a) A party filing preliminary objections which are not endorsed with a notice to plead, as they involve issues raised under Pa.R.C.P. Nos. 1028(a)(2), (3) or (4), shall file simultaneously with the Prothonotary an original and one copy of the preliminary objections, a praecipe for argument, an argument brief and a proposed order granting the relief requested, accompanied by a proof of service of copies of those documents upon counsel for all other parties and any unrepresented parties by first class mail. The praecipe shall order that the preliminary objections be listed for argument on the next argument court date that is at least twenty-four (24) days from the date of filing, or any later date that the party filing the praecipe certifies is agreeable to all parties and the assigned judge. Said argument court date must be in accordance with the Civil Argument Court calendar, which can be found online at [www.countyofberks.com/courts] www.co.berks.pa.us.

...

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

(1) A party filing a motion for judgment on the pleadings shall file simultaneously with the Prothonotary a praecipe for argument and an argument brief, accompanied by a proof of service of copies of the motion, praecipe and brief of argument upon all other counsel and any unrepresented parties by first class mail, all in accordance with the Berks County Rules of Civil Procedure governing Civil Argument Court. The praecipe shall order that the motion be listed for argument on the next argument court date that is at least twenty-four (24) days from the date of filing, or any later date that the party filing the praecipe certifies is agreeable to all parties and the assigned judge. Said argument court date must be in accordance with the Civil Argument Court calendar, which can be found online at [www.countyofberks.com/courts] www.co.berks.pa.us.

...

Rule 1035.2(a). Motion for Summary Judgment.

...

(4) If the moving party files the praecipe for argument, an argument brief shall be filed therewith and the case shall be listed for the next argument court date that is at least twenty-four (24) days thereafter, or any later date that the party filing the praecipe certifies is agreeable to all parties and the assigned judge, accompanied by a proof of service of copies of the praecipe and argument brief upon counsel for all other parties and any unrepresented parties by first class mail. Said argument court date must be in accordance with the Civil Argument Court calendar, which can be found at [www.countyofberks.com/courts] www.co.berks.pa.us. The non-moving party shall thereafter file an argument brief on or before the Tuesday (or Monday, if Tuesday is a holiday) before the argument court date, accompanied by a proof of service of copies of the argument brief upon counsel for all other parties and any unrepresented parties by first class mail. When the argument date is by

agreement of the parties and the assigned judge, unless the assigned judge orders otherwise, the non-moving party shall file its argument brief no later than seven (7) days prior to the agreed upon argument date.

ARBITRATION

Rule 1305. Conduct of Hearing.

On the date fixed for the hearing, the chairperson and the members of the panel shall **[pick up the file and take their oaths of office before the Prothonotary] report to the designated location for the hearing** and shall organize for the hearing at least fifteen (15) minutes before the scheduled time. The panel shall conduct the hearing in accordance with Pa.R.C.P. 1302, 1304 and 1305 and in accordance with courtroom decorum **[including but not limited to, appearing in proper attire and refraining from smoking during hearings]**. The chairperson of the panel shall preside and see to the proper conduct of the hearing **[. He/she shall]**, announce all rulings of a majority of the panel pertaining to the law and/or the admissibility of evidence, and be responsible for the proper filing **[of the award]** with the Prothonotary of the completed oath and award.

Comment: It is the intention of these rules that the arbitration proceed in an expeditious fashion and that all parties will take full advantage of submitting documentation and tangible evidence pursuant to Pa.R.C.P. 1305 without the need for expert testimony unless extraordinary circumstances warrant.

Rule 1306. Award, Damages for Delay.

An award shall be **[entered] made** promptly upon termination of the hearing pursuant to Pa.R.C.P. 1306. If delay damages are an issue, the parties shall submit to the arbitrators in a sealed envelope a stipulation containing the following:

- (a) Whether an offer was made in writing;
- (b) The amount of the offer; and
- (c) The date of the offer.

It shall be the plaintiff's obligation to provide said stipulation to the arbitrators. If the parties are unable to stipulate to the above facts, a separate evidentiary hearing will be scheduled pursuant to B.R.C.P. 1305.1.

SUPPORT

[Rule 1910.4. Commencement of Action. Modification or Termination of Order.

All civil actions or proceedings brought in the Court of Common Pleas of Berks County to enforce a duty of support within the scope of Pa.R.C.P. 1910.1 shall be commenced by filing an original and three copies of a complaint with the Domestic Relations Section of the Court of Common Pleas. The form of the complaint shall be in strict compliance with the applicable Pa.R.C.P. Subsequent proceedings to modify or terminate a support order shall be initiated by filing a petition, together with three copies thereof with the Domestic Relations Section of the Court of Common Pleas. The form of the petition shall be in strict compliance with the applicable Pa.R.C.P.

Rule 1910.5. Order Directing Party to Appear at Conference. Service.

(a) An order shall be attached to the front of the complaint or petition directing the parties to ap-

pear before a conference officer at the time and place directed by the court.

(b) A certified copy of the complaint or petition with order shall be served upon the defendant or respondent as provided by Pa.R.C.P. 1930.4.]

Rule 1910.10. Office Conference and Hearing Procedure.

[The action shall proceed as prescribed by the alternative procedure of] Support proceedings shall be conducted in accordance with Pa.R.C.P. 1910.12.

Rule 1910.12. [Nonappearance Before Conference Officer or Support Master.] Office Conference. Hearing. Record. Exceptions. Transcripts. Failure to Appear.

(a) If either party fails to appear at the conference before the conference officer or at the hearing before the **[Support Master] hearing officer**, after notice **[thereof]** and without good cause shown, the conference or hearing may proceed without that party. If the plaintiff or moving party fails to appear at the support conference before the conference officer or at the support hearing before the **[Support Master] hearing officer**, after notice **[thereof]** and without good cause shown, the court may dismiss the action or petition and may place the costs on the party who failed to appear.

[(b) Either party may demand a hearing by filing a properly filed written demand for a hearing within ten (10) days from the date of the default order as set forth in Pa.R.C.P. 1910.12(b)(2).]

(b) If no agreement is reached at the time of the support conference, the case shall be scheduled for a hearing before a hearing officer without further request by a party. If a party who failed to appear at the conference and objects to the interim order recommended at the conference, the objecting party shall file a written demand for a hearing before a hearing officer within twenty (20) days from the date of mailing of the interim order, as set forth in Pa.R.C.P. 1910.12(b)(2). The filing deadline appears on the DRS notice which is sent with the interim order. If no hearing is requested by the filing deadline, the interim order shall become final.

(c) Parties choosing to file exceptions to the report and recommendation of the hearing officer shall comply with the written exceptions procedure (regarding filing, transcription of the record, and associated costs) and filing deadline, which is sent to each party and counsel of record with the report and recommendation. Upon filing of exceptions, the court shall issue an order scheduling the matter for argument, directing the party filing exceptions to obtain a hearing transcript, and setting a briefing schedule.

(d) The party filing exceptions is responsible for immediately requesting transcription of the record of the proceeding by filing a motion for transcription on the form which accompanies the written exceptions procedure. Failure to request or make payment for the transcript may result in the dismissal of the exceptions.

Comment: For requirement of physical presence of a non-resident party or intrastate petitioner in a

UIFSA (interstate) or IFSA (intrastate) case, see 23 Pa.C.S.A. § 7316(a) and 23 Pa.C.S.A. § 8311(a).

Rule 1910.19(1). Termination of Alimony Pendente Lite and Spousal Support Orders Upon Entry of Divorce Decree.

In any DRS case in which there is a current charging order of alimony pendent lite (APL) or spousal support, or an allocated order which includes APL or spousal support, the party filing to finalize the related divorce action shall promptly provide the DRS Docketing Division with a copy of the signed final divorce decree. The party filing to

finalize the divorce action shall include a proposed form of order to terminate APL or spousal support in substantially the form set forth below.

If APL or spousal support is included in an unallocated order of support, the party filing to finalize the divorce action shall also file a Petition to Modify the unallocated order of support to terminate the APL or spousal support obligation and recalculate the remaining child support obligation with the DRS Docketing Division along with the copy of the signed final divorce decree unless an agreed order is filed.

Plaintiff
Vs.

Defendant

: IN THE COURT OF COMMON PLEAS
: OF BERKS COUNTY, PENNSYLVANIA
: DOMESTIC RELATIONS SECTION
:
: DIVORCE DOCKET NO:
: SUPPORT DOCKET NO:
: PACSES CASE ID:
: ASSIGNED JUDGE

ORDER TO TERMINATE APL/SPOUSAL SUPPORT

AND NOW, this day of , 20 , it is hereby ORDERED that the alimony pendent lite or spousal support order is TERMINATED effective as of the entry of the decree of divorce in the parties' related divorce action. The party filing to finalize the divorce shall provide the Domestic Relations Section Docketing Division with a copy of the divorce decree in the related divorce action upon receipt of the signed decree. Arrears, if any, shall stand and remain payable at a rate of (\$ per month) or (at 25% of the amount of the monthly APL or spousal order to be terminated).

This order is entered without prejudice such that if an appeal is filed, the APL or spousal order may be reinstated. This order shall become final thirty (30) days from the entry of the divorce decree if no appeal has been filed or, if an appeal has been filed, when all appeals have been exhausted.

By the Court:

J.

Distribution:

Prothonotary
Domestic Relations Section
Plaintiff/Plaintiff's Attorney
Defendant/Defendant's Attorney

Rule 1910.19(2). Alimony-Only Orders Collected Through the Domestic Relations Section.

Parties seeking to have an alimony-only order paid through the Domestic Relations Section shall file a DRS alimony order, copy of signed divorce decree in the parties' related divorce action, and post-nuptial or property settlement agreement containing terms of the alimony in the Domestic Relations Section Docketing Division. The form of order for alimony payments through the DRS may be obtained in the DRS Docketing Division

or on the Berks County DRS website at <http://www.co.berks.pa.us/dr/>. The order for alimony payments through the DRS shall be in substantially the same form as is available through the DRS. The DRS order for alimony shall include a provision for payment of any arrears which may accrue. The arrears payment will not be collected unless arrears have accrued on the order. Alimony-only orders are subject to limited enforcement measures (wage attachment) by the DRS. Parties seeking modification, termination, enforcement or other relief related to an alimony-only order shall file the appropriate motion before the assigned judge or court.

Rule 1910.32. Subpoena.

The parties to a hearing before the [Support Master] hearing officer shall have the right to subpoena necessary witnesses and records as provided by the law for presentation at the hearing before the [Support Master] hearing officer. Application to enforce any such subpoenas shall be made to the court.

Rule 1910.34. Continuances.

Applications for continuance of a support proceeding (conference before a DRS establishment or compliance officer, hearing before a support hearing officer, Section Application for Continuance form. The form searing before a judge) shall be made by the attorney of record or a self-represented party on the Domestic Relations Section Application for Continuance form. The form may be obtained in the DRS Docketing Division or on the Berks County DRS website at <http://www.co.berks.pa.us/dr/> under Forms/Filing Requirements. Applications for a continuance shall be submitted at least 25 days prior to a scheduled proceeding or at the earliest possible opportunity. The applicant shall follow the instructions on the continuance form.

(a) An application for continuance for a matter scheduled before an establishment or compliance

conference officer shall be submitted to the DRS Docketing Division, to be forwarded to the appropriate unit manager for review and decision. Any party objecting to the decision may seek relief before the emergency family court judge.

(b) An application for continuance for a hearing before a hearing officer shall be submitted to the DRS Docketing Division, to be forwarded to the assigned hearing officer for review and decision. Any party objecting to the decision may seek relief before the emergency family court judge.

(c) An application for continuance for a hearing scheduled before a judge shall be submitted to the DRS Docketing Division, to be forwarded to the assigned judge for review and decision.

CHILD CUSTODY

Rule 1915.3. Commencement of Action; Filing.

(a) An action shall be commenced by filing a verified complaint and a copy for each party substantially in the form provided by Pa.R.C.P. 1915.15(a). If the complaint is filed electronically pursuant to B.R.C.P. 205.4, only the original shall be filed.

(b) [Scheduling Order shall be attached to the complaint substantially in the form provided by B.R.C.P. No. 1915.15(b).] A Custody Scheduling Order substantially in the form provided on the Berks County Family Court website www.co.berks.pa.us shall be filed as a separate document along with the complaint in (a), unless a stipulated custody agreement signed by all parties is being submitted simultaneously with the complaint.

(c)(1) In the event a claim for custody [, **partial custody or visitation**] is joined with an action for divorce, a form entitled "Notice to the Prothonotary", substantially in the form provided by B.R.C.P. No. 1915.15(a) shall be included.

(c)(2) If a claim for custody, [**partial custody or visitation**] is asserted in a divorce complaint, it shall receive a separate term and number as the divorce action. Such pleading shall contain the information required by Pa.R.C.P. No. 1915.15. If a custody count is filed as part of a divorce complaint or counterclaim to a divorce complaint, the filer must attach a stipulated custody agreement or custody scheduling order simultaneously with the filing. If the filer does not want the custody matter to proceed forward at the time the divorce complaint or counterclaim is being filed, the custody count may not be included with the divorce complaint or counterclaim. If a stipulated custody agreement or custody scheduling order is not attached when a custody count is filed as part of a divorce complaint or counterclaim, the custody count may be dismissed.

(d) An Order shall be attached to the complaint directing both parties to attend the "Children in the Middle" program, or other suitable alternative program, and pay the costs thereof. The Order shall be substantially in the form provided by B.R.C.P. 1915.15(b).

[(e) No attorney shall be permitted to represent a party in custody proceedings unless a written appearance of that attorney is first filed of record.]

(e) All custody actions shall contain a notation in the caption to identify it as a CHILD CUSTODY filing.

Rule 1915.5. Question of Jurisdiction and Venue.

All references to a hearing in the proposed Order required by B.R.C.P. 1915.3(b) shall be construed as referring to a conference before the Custody [**Master**] **Conciliator**. If a question of jurisdiction or venue is raised by timely preliminary objections, the conference shall be continued until decision by the Court.

Rule 1915.7. Consent Order.

If an agreement for custody, [**partial custody or visitation**] is reached prior to commencement of an action and the parties desire a consent Order to be entered, they shall submit to the Court a proposed Order bearing the written consent of the parties or counsel and shall file of record and serve a custody complaint, but shall not be required to file the proposed order otherwise required by B.R.C.P. 1915.3(b).

Rule 1915.8. Physical and Mental Examination of Persons.

(a) [**The Prothonotary**] **Court Administration** shall maintain a list of experts acceptable to the Court for conducting [**psychological and home study**] evaluations. The list shall be [**filed with the Prothonotary**] **on the Berks County Family Court website www.co.berks.pa.us** and shall be updated from time to time as the Court directs.

(b) In the event it is determined that [**a psychological or home study**] **an** evaluation shall be conducted, either party or the Custody [**Master**] **Conciliator** shall prepare a proposed Order directing the evaluation to be conducted and setting forth how the costs of the evaluation shall be paid. The form shall be substantially in the form prescribed by B.R.C.P. 1915.18.

(c) The contents of an expert report prepared pursuant to Pa.R.C.P. 1915.8 shall be disclosed to the parties, the Court, attorneys in the case and other experts involved in the case. Disclosure to an unauthorized person, including the child who is the subject of the action, may result in sanctions.

Rule 1915.15. Forms.

(a) In a divorce complaint containing a count for custody, the Notice to the Prothonotary shall be substantially in the following form:

NOTICE TO PROTHONOTARY

A claim for custody, [**partial custody or visitation**] is asserted in this pleading. [There have been no prior proceedings between the parties, or there has been a prior proceeding between the parties which is as follows:

(Include the caption and term number and the nature of such prior proceedings)]

(b) The **Custody** Scheduling Order shall be substantially in the form provided on the Court's website [**www.countyofberks.com/courts**] **www.co.berks.pa.us**.

Rule 1915.17. Relocation.

(f)(4) In addition to the documents required by Pa.R.C.P. 1915.17(f), the party proposing relocation shall also file a scheduling order for the court to designate a date and time for an expedited hearing.

(g)(3) In addition to the documents required by Pa.R.C.P. 1915.17(g), the non-relocating party shall also file a scheduling order for the court to designate a date and time for an expedited hearing.

(h)(3) In addition to the documents required by Pa.R.C.P. 1915.17(h), the non-relocating party shall also file a scheduling order for the court to designate a date and time for an expedited hearing.

[Rule 1915.18. Form of Order Directing Expert Examination and Report.

An Order of Court directing psychological or home study evaluations in a custody matter pursuant to B.R.C.P. No. 1915.8 shall be substantially in the form provided on the Court's website www.countyofberks.com/courts.]

Rule 1915.26. Conciliation Conference.

(a) The court shall refer all actions for custody, [**partial custody and visitation**] of minor children to a Custody [**Master**] **Conciliator** for purposes of a conciliation conference. Applicable Pennsylvania and local Mediation Rules shall be followed.

(b) The Custody [**Master**] **Conciliator** shall be an attorney of law authorized to practice before the Supreme Court of Pennsylvania and shall be appointed to such position by the Board of Judges of the Court of Common Pleas of Berks County. The Custody [**Master**] **Conciliator** shall not practice family law before a Judge, conference officer, **or** hearing officer [**or permanent or standing master**] employed in the same Judicial District.

(c) The Custody [**Master**] **Conciliator** shall attempt to mediate the differences between the parties, encourage amicable resolution of those differences and may recommend mediation, counseling services or physical and mental examinations of persons under Pa.R.C.P. 1915.8. The Custody [**Master**] **Conciliator** shall attempt to negotiate a settlement by stipulation in writing, signed by the parties and counsel, for approval and entry as an Order of the Court.

(d) The Custody [**Master**] **Conciliator** may conduct an informal hearing, take testimony of the parties under oath, and hear the position of the parties relative to custody, [**partial custody, and visitation**]. The Custody [**Master**] **Conciliator** shall have the right to conduct oral examination of the child who is the subject matter of the proceeding. No other witnesses shall be permitted, except in extreme cases, and at the discretion of the Custody [**Master**] **Conciliator**. The testimony shall not be recorded or transcribed. The Custody [**Master**] **Conciliator** shall not be bound by technical rules of evidence and all evidence of reasonably probative value may be received. The Custody [**Master**] **Conciliator** shall consider the Court-Ordered written evaluations of experts. The hearing shall not be considered a hearing of the type permitted by Pa.R.C.P. 1915.4-1 but shall be considered an extension of the conciliation process.

(e) The hearing shall be concluded on the date fixed for the hearing, except that the Custody [**Master**] **Conciliator** may continue the hearing to a date certain for good cause shown, or to obtain investigative or evaluative reports from a social service agency or private providers.

(f) Any investigative or evaluative reports ordered and obtained shall be considered by the Custody [**Master**] **Conciliator**.

(g) If a written settlement is not reached, by stipulation, the Custody [**Master**] **Conciliator** shall file a recommended order. At the discretion of the Custody

[**Master**] **Conciliator** the **Conciliator** may also file findings of fact, conclusions of law and a written report.

(h) Notice of the Custody [**Master**] **Conciliator's** findings of fact, conclusions of law and/or recommended order shall be served on counsel of record, parties without counsel of record, and on any other persons without counsel of record who were given notice of the hearing before the Custody [**Master**] **Conciliator**. The notice shall state that each party has twenty (20) days from the date of notice to file written exceptions with the Prothonotary to the findings of fact, conclusions of law or recommended order, and that upon failure to file such exceptions within twenty (20) days, the recommended order of the Custody [**Master**] **Conciliator** will be submitted to the Court for entry as an Order of Court.

Rule 1915.27. Nonappearance at Hearing before Custody [**Master] **Conciliator**.**

(a) If a [**plaintiff**] **plaintiff/petitioner** fails to appear, without proper cause shown, at the conciliation conference before the Custody [**Master**] **Conciliator**, and the Custody [**Master**] **Conciliator** is satisfied that proper notice of the order giving the date and time for the conciliation conference has been given to [**plaintiff**] **plaintiff/petitioner**, the Custody [**Master**] **Conciliator** shall recommend to the Court that an order be entered dismissing the complaint **or petition to modify** with respect to that party.

(b) If a [**defendant**] **defendant/respondent** or party joined in the case fails to appear, without proper cause shown, at the conciliation conference before the Custody [**Master**] **Conciliator**, and the Custody [**Master**] **Conciliator** is satisfied that proper service of the order has been given to the [**defendant**] **defendant/respondent** or non-appearing party, it shall be presumed that said party has agreed to a [**hearing**] **conciliation conference** in that party's absence, and the Custody [**Master**] **Conciliator** shall proceed [**to conduct a hearing and make findings of fact, conclusions of law,**] and recommend an order to be entered by the Court.

(c) If all parties fail to appear at a [**hearing**] **conciliation conference** before the Custody [**Master**] **Conciliator**, and the Custody [**Master**] **Conciliator** is satisfied that proper service has been given to all parties, the Custody [**Master**] **Conciliator** shall recommend to the Court that an Order be entered dismissing the complaint **or petition to modify**.

Rule 1915.28. Exceptions. Hearing by Judge.

(a) If there are exceptions to the recommended order, a pre-trial conference followed by a hearing de novo shall be held before the Judge assigned to the case.

(b) Any exceptions shall be filed in accordance with B.R.C.P. 207.1(a), including therewith a copy for the Custody [**Master**] **Conciliator**.

(c) The proposed Order to be submitted by the party filing the exceptions shall be in the following form:

ORDER

AND NOW, _____, exceptions having been filed to the Order recommended by the Berks County Custody [**Master**] **Conciliator**, a pre-trial conference is hereby scheduled for _____ at _____ in _____ of the Berks County Courthouse/Services Center. A pre-trial conference memorandum shall be filed in accordance with B.R.C.P. 212.2(a). The memorandum shall contain the following: (1) Summary Statement of Facts; (2) Witnesses Expected to be Called; (3) Expert Witnesses Expected to be Called; (4) Exhibits Expected to be Offered into Evidence; (5) Legal Issues Anticipated; and (6) Special Problems.

BY THE COURT:

J.

Rule 1915.32. Appendix.

Any Order for custody entered by the Court, either by stipulation or after hearing held, shall have affixed to it one or more appendixes that shall be made a part of the Court Order. The appendixes shall be substantially in the form provided on the Court's website [www.countyofberks.com/courts] www.co.berks.pa.us.

Rule 1915.33. Continuance Requests.

Continuance requests for custody conferences before the Custody [**Master**] **Conciliator** shall be faxed, mailed, e-mailed or personally delivered to the Custody Office in the form of a letter. The request shall include the docket number, the names of the parties, the date of the conference, the reason for the requested continuance, and an indication of whether or not the opposing party is in agreement with the request. The Custody Office shall notify the requesting party whether or not the request has been granted.

DIVORCE

Rule 1920.3. Caption.

All divorce actions shall contain a notation in the caption to identify it as a DIVORCE filing.

Rule 1920.31(a)(1). Filing Claims for Alimony Pendente Lite, Child Custody, [**Partial Custody or Visitation**,] Child Support or Paternity.

(A) A Confidential Family Court Cover Sheet shall be attached to any pleading under the Divorce Code, wherein a party asserts a claim for alimony pendente lite, child custody, [**partial custody or visitation**,] child support or paternity. The filing party shall certify the existence or non-existence of any former proceeding between the parties including the caption and term number thereof, and the nature of such prior proceeding on the Confidential Family Court Cover Sheet.

(B) If a claim for alimony pendente lite, child support or paternity, or pleadings responding to such claim, are filed in a divorce action, the party filing such pleading shall file such additional copies with the Domestic Relations Section as shall be required by the Berks County Rules pertaining to Support.

(C) If a claim for custody [**, partial custody or visitation**,] is asserted in a divorce complaint, it shall receive a separate term and number as the divorce action. Such pleading shall contain the information required by Pa.R.C.P. No. 1915.15. If a custody count is filed as part

of a divorce complaint or counterclaim to a divorce complaint, the filer must attach a stipulated custody agreement or custody scheduling order simultaneously with the filing. If the filer does not want the custody matter to proceed forward at the time the divorce complaint or counterclaim is being filed, the custody count may not be included with the divorce complaint or counterclaim. If a stipulated custody agreement or custody scheduling order is not attached when a custody count is filed as part of a divorce complaint or counterclaim, the custody count may be dismissed.

(D) Where pleadings under the Divorce Code asserting a claim for custody, [**partial custody or visitation**,] or pleadings responding to such claims, are filed, the party filing the same shall file such additional copies as shall be required by the Berks County [**Rules pertaining to child custody**] **Prothonotary Office**.

Rule 1920.31(b). Disposition of Alimony Pendente Lite, Child Support and Paternity Claims.

...

(2) Upon filing with the Domestic Relations Section as provided in subsection (1), the alimony pendente lite and/or child support claim shall proceed in accordance with the rules pertaining to Support **including B.R.C.P. 1910.19(1)**.

Rule 1920.32. Disposition of Child Custody Claim.

(a) All pleadings under the Divorce Code asserting or responding to a claim for child custody, [**partial custody or visitation**,] shall comply with and be governed by the rules pertaining to child custody, including, but not limited to, the filing of an Order pursuant to Pa.R.C.P. 1915.3(b) at the time of the divorce filing so that the custody matter can be promptly scheduled.

(b) Upon filing of a pleading under the Divorce Code containing a claim for child custody, [**partial custody or visitation**,] the prothonotary shall deliver a copy of said pleading to the Custody [**Master**] **Office**.

(c) [**Upon referral to the Custody Master as provided in subsection (b), the child custody, partial custody or visitation claim**] The child custody claim shall proceed in accordance with the rules pertaining to child custody.

Rule 1920.42. Filing of Praecepto to Transmit Record.

...

(d) [**The party filing the praecipe to transmit the record shall file therewith an original and two copies of the proposed decree and stamped envelopes addressed to each attorney of record and to any unrepresented party. The envelopes shall have the return address of the Prothonotary, Berks County Courthouse, Sixth and Court Streets, Reading, PA 19601, and shall be of adequate size and bear sufficient postage for any attachments to the proposed decree.**] **The party filing the praecipe to transmit the record shall also file a proposed divorce decree and a certificate of addresses.**

...

Rule 1920.51. Divorce Masters to be Appointed.

A Divorce Master shall be appointed by the court to hear testimony and make a report and recommendation as to divorce and annulment actions under the Divorce

Code (except claims for divorce under Section 3301(c) or Section 3301(d)(1)(i) of the Divorce Code), and as to related claims except claims for child custody [or visitation], child support or paternity.

Rule 1920.51.4. Motion and Order for Appointment of Divorce Master.

(a) When the action is at issue any party may file a motion for the appointment of a Divorce Master substantially in the form provided by Pa.R.C.P. No. 1920.74.

(b) In addition to the requirement for grounds for divorce to be established by the filing of the proper 3301(c) or 3301(d) documents prior to the appointment of a Divorce Master, the court may delay the appointment of a Divorce Master if:

(1) The filing party did not file their inventory pursuant to Pa.R.C.P. 1920.33(a) or the motion for appointment was filed less than thirty (30) days following the filing of their inventory.

(2) The defendant has failed to appear in the action and the affidavit of non-military service pursuant to Pa.R.C.P. 1920.46 was not filed.

(3) A copy of the notice pursuant to B.R.C.P. 1920.51.4(c) is not attached to the motion to appoint or the motion was filed less than twenty (20) days after the date of the notice.

(4) The motion does not indicate that discovery is complete for the claims for which the Divorce Master is requested.

(5) Either party has raised a claim for alimony, counsel fees, or costs and expenses and the filing party failed to file their Income and Expense Statements as required by Pa.R.C.P. 1910.27(c)(2)(B), copies of their pay stubs for the preceding six months and copies of their most recent federal income tax return as required by Pa.R.C.P. 1920.31.

[(b)] (c) The court shall appoint a Divorce Master, in accordance with the claims to be determined as set forth in the motion.

[(c)] (d) At least twenty days prior to filing the motion for the appointment of a Divorce Master, the moving party shall serve all counsel of record and any unrepresented party with a copy of said motion and written notice of intention to file the motion. Written objections, if any, shall be filed and served on all counsel of record and any unrepresented party prior to the filing date. A copy of the notice shall be attached to the motion for appointment when it is filed.

Rule 1920.51.5. Deposit of Costs to Accompany Motion for Appointment of Divorce Master.

Upon filing a motion for the appointment of a Divorce Master, the moving party shall pay an amount set by the President Judge through an Administrative Order. **The Divorce Master has the discretion to apportion the fee paid by the filing party in their report as appropriate by law.**

Rule 1920.53. Hearing by Divorce Master.

(a) The Divorce Master shall have the same powers, in reference to hearing witnesses and admitting testimony, as a judge sitting without a jury, subject to the direction of the court from time to time, upon motion of either party. When objection is made to the competency or relevancy of testimony, the Divorce Master shall rule upon its admissibility. The testimony before a Divorce

Master shall be recorded in the manner as from time to time approved by the court. The testimony shall be transcribed in the event a party files timely exceptions to the report of the Divorce Master, as set forth in B.R.C.P. [1920.55] 1920.55-2.

...

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

The form of Motion for Appointment of Divorce Master shall be substantially as set forth in Pa.R.C.P. 1920.74 provided that the following shall be added:

I certify that the notice required by B.R.C.P. [1920.51.8(b)] 1920.51.4(c) was mailed on _____ and a copy is attached hereto.

Rule 1930.5. Designating a Support Case as Complex.

A party or parties seeking to have a support case designated as complex shall first proceed to a hearing before the assigned support hearing officer and request that the case be so designated. If appropriate, the hearing officer shall prepare a recommended order for the court which designates the case as complex and sets forth a discovery schedule which identifies with specificity the discovery to be conducted (other than the documents identified in the regular order to appear at the hearing), and dates by which the discovery shall be completed. If the parties agree to such designation, they shall appear at the first scheduled hearing and present a proposed order containing the above information. Thereafter, the DRS shall schedule a hearing before the hearing officer after the date on which all discovery is to be completed.

VOLUNTARY MEDIATION IN CUSTODY ACTIONS

[Rule 1940.11. Certificate of Compliance.

A certificate of compliance shall be filed by the mediator with the Prothonotary's Office, confirming compliance. Such certificate shall reflect only that such party or parties have complied with these Rules without further detail (see 42 Pa.C.S.A. § 5949).]

Rule 4014. Redaction of Confidential Information.

Unless otherwise ordered by the Court, court reporters and transcriptionists shall redact confidential information as defined by the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of Appellate and Trial Courts from transcripts and orders.

[Pa.B. Doc. No. 18-51. Filed for public inspection January 12, 2018, 9:00 a.m.]

Title 255—LOCAL COURT RULES

DELAWARE COUNTY

Local Rule of Judicial Administration; Public Access Policy; Civil Doc. No. 17-5120; Criminal Doc. No. MD-1545-17

Whereas, the Pennsylvania Supreme Court has adopted a new Public Access Policy (the "Policy") of the Unified Judicial System of Pennsylvania: Case Records of Appel-

late and Trial Courts, which applies to all court records, including civil, family, criminal and orphans' court matters; and

Whereas, the Policy establishes uniform standards for all appellate and trial courts in responding to requests from the public for case records; and

Whereas, the Policy is built upon the principle that court records are open for inspection by the public while maintaining appropriate boundaries for the protection of individuals who come into the court system; and

Whereas, the Policy provides access protocols for sensitive information which might be found in case files, including the following:

1. Certain types of information set forth in Section 7.00 Confidential Information, such as Social Security Numbers, cannot be included in court filings, but instead must be identified to the court on a separate form, called a Confidential Information Form (the "CIF") and attached to the filing. The CIF is not available to the public. Alternatively, a court may require a party to file two versions of every document—a redacted and unredacted version. The unredacted version is not available to the public. Following hereto as Exhibit "A" is the "CIF".

2. Certain documents set forth in Section 8.00 must be filed with a Confidential Document Form (the "CDF"), such as Financial Documents. While the CDF which describes the document is available to the public, the underlying document is not. The "CDF" form follows as Exhibit "B".

3. The forms shall be available in each filing office as well as on the Court and OJS websites at <http://www.co.delaware.pa.us/>.

4. Certain cases are not accessible to the public because there is no method to ensure that all of the sensitive information contained in the case file can be redacted before permitting public access.

5. Certain Information is only accessible at the courthouse and not online.

And Now, this 7th day of December, 2017, the following policy regarding access to case records, is hereby adopted effective January 6, 2018:

1. *Relationship to the Policy.*

This Local Rule of Judicial Administration shall be known as the Delaware County Public Access Policy Local Rule, and is intended to conform procedure and practice in the Courts operating within the 32nd Judicial District to the Public Access Policy adopted by the Unified Judicial System of Pennsylvania concerning case records in the Appellate and Trial Courts ("the Policy").

2. *Definitions.*

"Confidential Information" is all information identified in Section 7 of the Public Access Policy of the Unified Judicial System of Pennsylvania, and to conform with the schedule following hereto as Exhibit "C", which identifies Limits of Public Access to the Unified Judicial System Case Record of the Appellate and Trial Courts ("Limits of Public Access Matrix").

"Confidential Document" is all documents identified in Section 8 of the Public Access Policy of the Unified Judicial System of Pennsylvania.

3. *Compliance/Appropriate Sanctions.*

Compliance with the Delaware County Public Access Policy Local Rule including the Limits of Public Access Schedule is the responsibility of litigants and attorneys, each of whom shall be responsible for safeguarding Confidential Information and Confidential Documents. Those litigants and attorneys who are found to have failed to comply with this local rule shall be subject to the imposition of appropriate sanction.

4. *Orphans' Court Division.*

For all Orphans' Court matters, all "Confidential Information" as defined in Section 7.0 of the Policy which is to be filed with any Case Record, shall be set forth on the Confidential Information Form. Such policy is subject to change upon Order of Court, which could direct (among other things) that a redacted version of any document be produced.

5. *Civil Division and Family Division.*

For all Civil and Family matters, any filing containing Confidential Information shall be redacted and accompanied by a Confidential Information Form (CIF), and only the redacted version will be accessible by the public. Any filing of a Confidential Document shall be accompanied by a Confidential Document Form (CDF) and only the CDF will be accessible by the public. As to all Family matters, on-line remote access is limited to the Docket. The presiding judge, upon application of a litigant or attorney or acting sua sponte, retains the right to require filing in a redacted/unredacted form.

6. *Criminal Division.*

For all Criminal matters, any filing containing Confidential Information shall be redacted and accompanied by a Confidential Information Form (CIF), and only the redacted version will be accessible by the public. Any filing of a Confidential Document shall be accompanied by a Confidential Document Form (CDF), and only the CDF will be accessible by the public. Additionally, all confidentiality provisions regarding Juvenile Court proceedings shall continue to comply with the Juvenile Act. The presiding judge, upon application of a litigant or attorney or acting sua sponte, retains the right to require filing in a redacted/unredacted form.

7. *Motions to Seal Court Records.*

This Public Access Policy Local Rule in no way alters the ability and authority of the Court, upon application of a litigant or attorney or acting sua sponte, to seal a record or any portion of a record for reasons not inconsistent with the Policy of the Unified Judicial System of Pennsylvania.

8. *Public Accessibility to Case Records.*

Accessibility of all case record information by the public shall be governed by the attached Limits of Public Access Matrix. (Following hereto as Exhibit 'C'). Please note that certain case record information is inaccessible, while other case record information may be publicly accessible at the courthouse but not accessible online.

By the Court

KEVIN F. KELLY,
President Judge

THE COURTS

Exhibit A

**CONFIDENTIAL
INFORMATION
FORM**



**APPELLATE/TRIAL COURT
CASE RECORDS**

*Public Access Policy of the Unified Judicial System of Pennsylvania:
Case Records of the Appellate and Trial Courts
204 Pa. Code § 213.81
www.pacourts.us/public-records*

(Party name as displayed in case caption)

Docket/Case No.

Vs.

(Party name as displayed in case caption)

Court

This form is associated with the pleading titled _____, dated _____.

Pursuant to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*, the Confidential Information Form shall accompany a filing where confidential information is **required by law, ordered by the court, or otherwise necessary to effect the disposition of a matter**. This form, and any additional pages, shall remain confidential, except that it shall be available to the parties, counsel of record, the court, and the custodian. This form, and any additional pages, must be served on all unrepresented parties and counsel of record.

This Information Pertains to:	Confidential Information:	References in Filing:
_____ (full name of adult) OR This information pertains to a minor with the initials of _____ and the full name of _____ _____ (full name of minor) and date of birth: _____	Social Security Number (SSN): _____ Financial Account Number (FAN): _____ Driver's License Number (DLN): _____ State of Issuance: _____ State Identification Number (SID): _____	Alternative Reference: SSN 1 Alternative Reference: FAN 1 Alternative Reference: DLN 1 Alternative Reference: SID 1
_____ (full name of adult) OR This information pertains to a minor with the initials of _____ and the full name of _____ _____ (full name of minor) and date of birth: _____	Social Security Number (SSN): _____ Financial Account Number (FAN): _____ Driver's License Number (DLN): _____ State of Issuance: _____ State Identification Number (SID): _____	Alternative Reference: SSN 2 Alternative Reference: FAN 2 Alternative Reference: DLN 2 Alternative Reference: SID 2

Rev. 11/2017

THIS FORM IS CONFIDENTIAL

**CONFIDENTIAL
INFORMATION
FORM**



**APPELLATE/TRIAL COURT
CASE RECORDS**

Additional page(s) attached. _____ total pages are attached to this filing.

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

Signature of Attorney or Unrepresented Party

Date

Name: _____

Attorney Number: (if applicable) _____

Address: _____

Telephone: _____

Email: _____

NOTE: Parties and attorney of record in a case will have access to this Confidential Information Form. Confidentiality of this information must be maintained.

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**CONFIDENTIAL
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FORM**



**APPELLATE/TRIAL COURT
CASE RECORDS**

Additional page (if necessary)

This Information Pertains to:	Confidential Information:	References in Filing:
<p>_____</p> <p>(full name of adult)</p> <p>OR</p> <p>This information pertains to a minor with the initials of _____ and the full name of _____</p> <p>(full name of minor)</p> <p>and date of birth: _____</p>	<p>Social Security Number (SSN): _____</p> <p>Financial Account Number (FAN): _____</p> <p>Driver's License Number (DLN): _____</p> <p>State of Issuance: _____</p> <p>State Identification Number (SID): _____</p>	<p>Alternative Reference: SSN _____</p> <p>Alternative Reference: FAN _____</p> <p>Alternative Reference: DLN _____</p> <p>Alternative Reference: SID _____</p>
<p>_____</p> <p>(full name of adult)</p> <p>OR</p> <p>This information pertains to a minor with the initials of _____ and the full name of _____</p> <p>(full name of minor)</p> <p>and date of birth: _____</p>	<p>Social Security Number (SSN): _____</p> <p>Financial Account Number (FAN): _____</p> <p>Driver's License Number (DLN): _____</p> <p>State of Issuance: _____</p> <p>State Identification Number (SID): _____</p>	<p>Alternative Reference: SSN _____</p> <p>Alternative Reference: FAN _____</p> <p>Alternative Reference: DLN _____</p> <p>Alternative Reference: SID _____</p>

**CONFIDENTIAL
INFORMATION
FORM**



**APPELLATE/TRIAL COURT
CASE RECORDS**

Instructions for Completing the Confidential Information Form

The following information is confidential and shall not be included in any document filed with a court or custodian, except on a Confidential Information Form filed contemporaneously with the document:

1. Social Security Numbers
2. Financial Account Numbers, except an active financial account number may be identified by the last four digits when the financial account is the subject of the case and cannot otherwise be identified. "Financial Account Numbers" include financial institution account numbers, debit and credit card numbers, and methods of authentication used to secure accounts such as personal identification numbers, user names and passwords.
3. Driver License Numbers
4. State Identification (SID) Numbers
5. Minors' names and dates of birth except when a minor is charged as a defendant in a criminal matter (see 42 Pa.C.S. § 6355). "Minor" is a person under the age of eighteen.
6. Abuse victim's address and other contact information, including employer's name, address and work schedule, in family court actions as defined by Pa.R.C.P. No. 1931(a), except for victim's name. "Abuse Victim" is a person for whom a protection order has been granted by a court pursuant to Pa.R.C.P. No. 1901 et seq. and 23 Pa.C.S. § 6101 et seq. or Pa.R.C.P. No. 1951 et seq. and 42 Pa.C.S. § 62A01 et seq. **If necessary, this information must be provided on the separate Abuse Victim Addendum. Please note there are separate instructions for the completion of the Addendum located on the form.**

Please note this form does not need to be filed in types of cases that are sealed or exempted from public access pursuant to applicable authority (e.g. juvenile, adoption, etc.).

- **The best way to protect confidential information is not to provide it to the court. Therefore, only provide confidential information to the court when it is required by law, ordered by the court or is otherwise necessary to effect the disposition of a matter.**
- Do not include confidential information in any other document filed with the court under this docket.
- If you need to refer to a piece of confidential information in a document, use the alternate references. If you need to attach additional pages, sequentially number each alternate reference – i.e. SSN 3, SSN 4, etc.
- This form, and any additional pages, must be served on all unrepresented parties and counsel of record.

A court or custodian is not required to review or redact any filed document for compliance with *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. A party's or attorney's failure to comply with this section shall not affect access to case records that are otherwise accessible.

If a filed document fails to comply with the requirements of the above referenced policy, a court may, upon motion or its own initiative, with or without a hearing, order the filed document sealed, redacted, amended or any combination thereof. A court may impose sanctions, including costs necessary to prepare a compliant document for filing in accordance with applicable authority.

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**CONFIDENTIAL
INFORMATION
FORM**



**APPELLATE/TRIAL COURT
CASE RECORDS**

Abuse Victim Addendum

Instructions for Completing the Abuse Victim Addendum: The Abuse Victim Addendum shall accompany a filing where confidential information is being provided by an abuse victim, as defined in this policy, in family court actions (see Pa.R.C.P. No. 1931(a)), as required by law, ordered by the court, or otherwise necessary to effect the disposition of a matter. This addendum, and any additional pages, shall only be provided to the court and shall remain confidential. The best way to protect confidential information is not to provide it to the court. Therefore, only provide confidential information to the court when it is required by law, ordered by the court or is otherwise necessary to effect the disposition of a matter.

Type of Family Court Action		
<input type="checkbox"/> Divorce, Annulment, Dissolution of Marriage	<input type="checkbox"/> Child Custody	
<input type="checkbox"/> Support	<input type="checkbox"/> Paternity	<input type="checkbox"/> Protection from Abuse
This Information Pertains to:	Confidential Information:	References in Filing:
_____	AV Address:	Alternative Reference: AV 1 Address
(full name of abuse victim)	_____	
	AV Employer's Name & Address:	Alternative Reference: AV 1 Employer's Name & Address
_____	_____	
Docket/Case No. of Protection Order	AV Work Schedule:	Alternative Reference: AV 1 Work Schedule

_____	AV Other contact information:	Alternative Reference: AV 1 Other contact information
Court/County	_____	

Attach additional page(s) if necessary.

**CONFIDENTIAL
INFORMATION
FORM**



**APPELLATE/TRIAL COURT
CASE RECORDS**

Abuse Victim Addendum
Additional page (if necessary)

Type of Family Court Action		
<input type="checkbox"/> Divorce, Annulment, Dissolution of Marriage	<input type="checkbox"/> Paternity	<input type="checkbox"/> Child Custody
<input type="checkbox"/> Support		<input type="checkbox"/> Protection from Abuse
This Information Pertains to:	Confidential Information:	References in Filing:
_____ (full name of abuse victim)	AV Address: _____	Alternative Reference: AV __ Address
_____ Docket/Case No. of Protection Order	AV Employer's Name & Address: _____	Alternative Reference: AV __ Employer's Name & Address
_____ Court/County	AV Work Schedule: _____	Alternative Reference: AV __ Work Schedule
	AV Other contact information: _____	Alternative Reference: AV __ Other contact information

Type of Family Court Action		
<input type="checkbox"/> Divorce, Annulment, Dissolution of Marriage	<input type="checkbox"/> Paternity	<input type="checkbox"/> Child Custody
<input type="checkbox"/> Support		<input type="checkbox"/> Protection from Abuse
This Information Pertains to:	Confidential Information:	References in Filing:
_____ (full name of abuse victim)	AV Address: _____	Alternative Reference: AV __ Address
_____ Docket/Case No. of Protection Order	AV Employer's Name & Address: _____	Alternative Reference: AV __ Employer's Name & Address
_____ Court/County	AV Work Schedule: _____	Alternative Reference: AV __ Work Schedule
	AV Other contact information: _____	Alternative Reference: AV __ Other contact information

Rev. 11/2017

THIS FORM IS CONFIDENTIAL

THE COURTS

Exhibit B

**CONFIDENTIAL
DOCUMENT FORM**



**APPELLATE/TRIAL COURT
CASE RECORDS**

*Public Access Policy of the Unified Judicial System of Pennsylvania:
Case Records of the Appellate and Trial Courts
204 Pa. Code § 213.81
www.pacourts.us/public-records*

(Party name as displayed in case caption)

Docket/Case No.

Vs.

(Party name as displayed in case caption)

Court

This form is associated with the pleading titled _____, dated _____.

Pursuant to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*, the Confidential Document Form shall accompany a filing where a confidential document is required by law, ordered by the court, or is otherwise necessary to effect the disposition of a matter. This form shall be accessible to the public, however the documents attached will not be publicly accessible, except as ordered by a court. The documents attached will be available to the parties, counsel of record, the court, and the custodian. **Please only attach documents necessary for the purposes of this case.** Complete the entire form and check all that apply. This form and any additional pages must be served on all unrepresented parties and counsel of record.

Type of Confidential Document	Paragraph, page, etc. where the confidential document is referenced in the filing:
<input type="checkbox"/> Financial Source Documents	
<input type="checkbox"/> Tax Returns and schedules	
<input type="checkbox"/> W-2 forms and schedules including 1099 forms or similar documents	
<input type="checkbox"/> Wage stubs, earning statements, or other similar documents	
<input type="checkbox"/> Credit card statements	
<input type="checkbox"/> Financial institution statements (e.g., investment/bank statements)	
<input type="checkbox"/> Check registers	
<input type="checkbox"/> Checks or equivalent	
<input type="checkbox"/> Loan application documents	
<input type="checkbox"/> Minors' educational records	
<input type="checkbox"/> Medical/Psychological records	
<input type="checkbox"/> Children and Youth Services' records	
<input type="checkbox"/> Marital Property Inventory and Pre-Trial Statement as provided in Pa.R.C.P. No. 1920.33	
<input type="checkbox"/> Income and Expense Statement as provided in Pa.R.C.P. No. 1910.27(c)	
<input type="checkbox"/> Agreements between the parties as used in 23 Pa.C.S. §3105	

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

Signature of Attorney or Unrepresented Party

Date

Name: _____

Attorney Number: (if applicable) _____

Address: _____

Telephone: _____

Email: _____

Rev. 09/2017

**CONFIDENTIAL
DOCUMENT FORM**



**APPELLATE/TRIAL COURT
CASE RECORDS**

Instructions for Completing the Confidential Document Form

The following documents are confidential and shall be filed with a court or custodian with the “Confidential Document Form”:

1. Financial Source Documents as listed on the form
2. Minors’ educational records
3. Medical/Psychological records are defined as “records relating to the past, present, or future physical or mental health or condition of an individual”
4. Children and Youth Services’ records
5. Marital Property Inventory and Pre-Trial Statement as provided in Pa.R.C.P. No. 1920.33
6. Income and Expense Statement as provided in Pa.R.C.P. No. 1910.27(c)
7. Agreements between the parties as used in 23 Pa.C.S. §3105

For each confidential document, list the paragraph, page, etc. where the document is referenced in the filing. Please note, this form does not need to be filed in types of cases that are sealed or exempted from public access pursuant to applicable authority (e.g. juvenile, adoption, etc.)

- **Please only attach documents necessary for the purposes of this case.**
- Complete the entire form and check all that apply.
- This form, and any additional pages, must be served on all unrepresented parties and counsel of record.

A court or custodian is not required to review or redact any filed document for compliance with the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. A party’s or attorney’s failure to comply shall not affect access to case records that are otherwise accessible.

If a filed document fails to comply with the above referenced policy, a court may, upon motion or its own initiative, with or without a hearing, order the filed document sealed, redacted, amended or any combination thereof. A court may impose sanctions, including costs necessary to prepare a compliant document for filing in accordance with applicable authority.

Rev. 09/2017

Exhibit C

LIMITS ON PUBLIC ACCESS TO UNIFIED JUDICIAL SYSTEM CASE RECORD OF THE APPELLATE AND TRIAL COURTS

<i>Subject Area</i>	<i>Record Description</i>	<i>Accessibility</i>	<i>Authority</i>
Civil	Jurors Notes.	No Public Access. Collected and destroyed post-trial.	Pa.R.C.P. No. 223.2.
Commonwealth Court	Child Line Registry Cases.	No Public Access to documents in the case except Orders and Opinions wherein the court shall use initials of the minor child involved rather than full name.	Admin. Order No. 126 Misc. Docket No. 3 (February 8, 2013).
Criminal	Juror's Address.	No Public Access.	<i>Commonwealth v. Long</i> , 922 A.2d 892 (Pa. 2007).
Criminal	Sealed affidavit of probable cause for a search warrant.	No Public Access while sealed. The affidavit may not be sealed for more than 60 days unless an extension is received. Extensions may not be longer than 30 days, but an unlimited number of extensions are available. Public may access the affidavit after it has been unsealed.	Pa.R.Crim.P. 211.
Criminal	Unexecuted Search Warrant.	No Public Access until warrant is executed.	Pa.R.Crim.P. 212(A).
Criminal	Arrest Warrant Information.	A court may delay public access for good cause for up to 72 hours. In addition, a court may seal arrest warrant information for a longer period of time.	Pa.R.Crim.P. 513(C), Pa.R.Crim.P. 513.1.
Criminal	Motion filed by attorney for the Commonwealth to present the matter to an indicting grand jury and subsequent order.	No Public Access—the motion and order are sealed.	Pa.R.Crim.P. 556.2.
Criminal	Sealed indictments.	No Public Access.	Pa.R.Crim.P. 556.11(E).
Criminal	Sealed records concerning mental health experts.	No Public Access.	Pa.R.Crim.P. 569.
Criminal	Sealed written statements pertaining to protective orders.	No Public Access. The entire text of the statement shall be sealed and preserved in the records of the court to be made available to the appellate court(s) in the event of an appeal.	Pa.R.Crim.P. 573(F).
Criminal	Sealed plea agreement.	No Public Access.	Pa.R.Crim.P. 590.
Criminal	Juror qualification forms.	No Public Access.	Pa.R.Crim.P. 625(A)(3).
Criminal	Juror information questionnaires.	No Public Access. Questionnaires are retained in a sealed file and shall be destroyed upon completion of the jurors' service, unless otherwise ordered by the trial judge.	Pa.R.Crim.P. 632.
Criminal	Sealed verdict.	No Public Access.	Pa.R.Crim.P. 649.
Criminal	Notes taken by jurors.	No Public Access.	Pa.R.Crim.P. 644(B)(7).

<i>Subject Area</i>	<i>Record Description</i>	<i>Accessibility</i>	<i>Authority</i>
Criminal	Pre-sentence reports and related psychiatric psychological reports.	No Public Access.	Pa.R.Crim.P. 703(A).
Criminal	Records revealing the names of human trafficking victims.	No Public Access, unless otherwise ordered by a court in a prosecution involving a victim of human trafficking.	18 Pa.C.S. § 3019(a).
Criminal	Wiretap applications, final reports and orders.	No Public Access except upon showing of good cause before a court of competent jurisdiction.	18 Pa.C.S. § 5715.
Criminal	Names of minor victims of sexual or physical abuse.	No Public Access. Records revealing a victim's name are sealed. A minor victim who is 18 years of age or older at the time of the commencement of the prosecution may waive this protection and allow the court to release the name of the minor victim.	42 Pa.C.S. § 5988.
Domestic Relations	Information regarding the registration, filing of a petition for, or issuance of a protection from abuse in either the issuing or enforcing State.	No Public Access via internet publication, if such publication would be likely to publically reveal the identity or location of the protected party.	18 U.S.C. § 2265(d)(3).
Domestic Relations	Social security number of any individual subject to a divorce decree, support order, paternity determination, or acknowledgement of paternity, which is required in all records of those matters.	No Public Access.	23 Pa.C.S. § 4304.1(a)(3).
Domestic Relations	Child Support Records	No Public Access, except for PACSES dockets, court orders and opinions.	42 U.S.C. §§ 654(26)(A), 654a(d)(1)(A); 45 CFR §§ 303.21(c)-(d), 307.13(a)(1); 23 Pa.C.S. § 4304.1(d); Sections 2.4 and 3.4 of the Cooperative Agreement.
Domestic Relations	(a) Subject to any inconsistent general rules and to the supervision and direction of the court, the domestic relations section shall have the power and duty to: . . . (10) Implement safeguards applicable to all confidential information received by the domestic relations section in order to protect the privacy rights of the parties, including: . . . (ii) prohibitions against the release of information on the whereabouts of one party or the child to another party against whom a protective order with respect to the former party or the child has been entered; and (iii) prohibitions against the release of information on the whereabouts of one party or the child to another person if the domestic relations section has reason to believe that the release of the information on the whereabouts of one party or the child to another person if the domestic relations section has reason to believe that the release of the information may result in physical or emotional harm to the party or the child.	No Public Access.	23 Pa.C.S. § 4305(a)(10)(ii)-(iii).

<i>Subject Area</i>	<i>Record Description</i>	<i>Accessibility</i>	<i>Authority</i>
Domestic Relations	List of weapons ordered to be relinquished by the defendant in an action for protection from abuse.	No Public Access, except (A) upon an order of the court granted upon cause shown; (B) as necessary, by law enforcement and court personnel; or (C) after redaction of information listing any firearm, other weapon or ammunition.	23 Pa.C.S. § 6108(a)(7)(v).
Domestic Relations	All records pertaining to a confidential address for individuals participating in the Office of Victim Advocate's Address Confidentiality Program.	No Public Access, except for the substitute address provided by the Office of Victim Advocates.	23 Pa.C.S. § 6703(d); see also 23 Pa.C.S. § 5336(b)(1).
Juvenile Court	Juvenile Dependency and Delinquency records.	No Public Access; except as set forth in 42 Pa.C.S. § 6307, Pa.Rs.J.C.P. 160 and/or 1160, including with leave of court.	42 Pa.C.S. § 6307; Pa.Rs.J.C.P. 160, 1160.
Orphans' Court	Proceedings related to appointment of guardianship for incapacitated persons.	Shall be closed to the public upon request of the alleged incapacitated person or his counsel. After the individual's death his/her estate may access the record of the guardianship proceedings.	20 Pa.C.S. § 5511(a); <i>In re Estate of duPont</i> , 2 A.3d 516 (Pa. 2010).
Orphans' Court	Records required for foreign adoption decrees.	No Public Access unless a court order is granted upon good cause.	23 Pa.C.S. § 2908(F); Pa.O.C.R. 15.7.
Orphans' Court	Adoption records.	No Public Access unless otherwise ordered.	23 Pa.C.S. § 2915; see also 23 Pa.C.S. § 2906; Pa.O.C.R. 15.7.
Orphans' Court (Family Court in Philadelphia County or Juvenile Court Section of Family Division in Allegheny County Pa.R.J.A. 2157)	Applications of a minor for judicial approval of decision to have an abortion, under the Abortion Control Act, as well as proceedings and the name of the minor.	No Public Access; sealed dockets, and documents shall be maintained in a closed file marked "confidential" and identified by case number only.	18 Pa.C.S. § 3206(f); Pa.O.C.R. 16.2 and 16.6. Note also Pa.R.J.A. No. 2157 and Pa.R.A.P. 3801.
General	For certain offenses graded as a misdemeanor of the second or third degree, any information relating to the conviction, arrest, indictment or other information leading to the conviction, arrest, indictment or other information.	No public access. The court shall not release the information to an individual, noncriminal justice agency or an internet website.	*Act 5 of 2016 effective November 14, 2016 which in part creates 18 Pa.C.S. § 9122.1 and amends 18 Pa.C.S. § 9121.
General	Records concerning persons in treatment under the Mental Health Procedures Act.	Limited Public Access in compliance with the Mental Health Procedures Act and controlling case law.	50 P.S. § 7111.
General	Court documents, rules, or orders in Gaming Law proceedings.	Any party may request proceeding and record to be sealed if in best interest of any person or Commonwealth.	4 Pa.C.S. § 1518.2(b).
General	Proceedings and records involving juveniles charged with a summary offense before the minor judiciary, the Philadelphia Municipal Court or a Court of Common Pleas.	No Public Access.	42 Pa.C.S. §§ 6303(c), 6307(c) and 6336(g).

*Note this may not be a complete listing; the public and court staff are directed to consult federal and state statutes, court rules or case law.

[Pa.B. Doc. No. 18-52. Filed for public inspection January 12, 2018, 9:00 a.m.]

Title 255—LOCAL COURT RULES

LUZERNE COUNTY

Order Adopting Local Rule of Judicial Procedure 510; No. 14316 of 2017

Order

And Now, this 18th day of December, 2017, it is hereby Ordered and Decreed as follows:

1. The Court of Common Pleas of Luzerne County, constitutionally the Eleventh Judicial District of the Commonwealth of Pennsylvania, hereby rescinds former Luzerne County Rule of Civil Procedure 205.2(a).

2. The Court of Common Pleas of Luzerne County promulgates and adopts Luzerne County Local Rule of Judicial Procedure (L.R.Jud.P.) 510 which follows hereto and incorporated herein by reference.

3. It is further Ordered and Decreed that the Court Administrator shall file via U.S. Mail one (1) certified copy of this Rule with the Administrative Office of Pennsylvania Courts, two (2) certified copies and an electronic document via e-mail saved in Microsoft Word format to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, one (1) certified copy to the Civil Procedural Rules Committee, one (1) certified copy to the Judicial Council of Pennsylvania Statewide Rules Committee, and one (1) copy to the *Luzerne Legal Register* for publication in the next issue.

4. It is further Ordered that the effective date of this order shall be thirty (30) days after the date of publication in the *Pennsylvania Bulletin*.

5. It is further Ordered that this local rule shall be kept continuously available for public inspection and copying in the Office of Judicial Services and Records of Luzerne County.

By the Court

RICHARD M. HUGHES, III,
President Judge

L.R.Jud.P. 510. Public Access Policy.

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

This rule may be cited as L.R.Jud.P. 510.

[Pa.B. Doc. No. 18-53. Filed for public inspection January 12, 2018, 9:00 a.m.]

Title 255—LOCAL COURT RULES

POTTER COUNTY

Local Rules; No. 136 of 2017 Misc. Division

Order

And Now, this 14th day of December, 2017, the Court adopts the following Potter County Local Rule R.J.A. 40, which shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

STEPHEN P.B. MINOR,
President Judge

Rule R.J.A. 40. Filing of Documents Containing Confidential Information.

Pursuant to Section 7 of the Public Access Policy of the Unified Justice System of Pennsylvania: Case Records of the Appellate and Trial Courts, persons who file documents that contain confidential information as defined by the Policy shall use and file a Confidential Information Form in order to comply with the Policy. The form shall be available in each filing office as well as the Potter County Prothonotary/Clerk of Courts/Orphan's Court website at: <http://www.pottercountypa.net/post.php?pid=12>.

[Pa.B. Doc. No. 18-54. Filed for public inspection January 12, 2018, 9:00 a.m.]

Title 255—LOCAL COURT RULES

SUSQUEHANNA COUNTY

New Rules of Judicial Administration of the Court of Common Pleas; 2017-1304

Order

Now, this 4th day of December, 2017, it is ordered that Susquehanna County Rule of Judicial Administration Rule 510. Confidential Information Form., is adopted, effective January 6, 2018, as follows:

Rule 510. Confidential Information Form.

Pursuant to Section 7 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts, persons who file documents that contain confidential information as defined by the Policy shall use and file a Confidential Information Form in order to comply with the Policy. The form shall be available in filing office as well as on the Susquehanna County website: susqco.com.

A full copy of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts and all related forms are

also available at: <http://www.pacourts.us/public-records/public-records-forms>.

By the Court

JASON J. LEGG,
President Judge

Rule 510. Confidential Information Form.

Pursuant to Section 7 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts, persons who file documents that contain confidential information as defined by

the Policy shall use and file a Confidential Information Form in order to comply with the Policy. The form shall be available in filing office as well as on the Susquehanna County website: susqco.com.

A full copy of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts and all related forms are also available at: <http://www.pacourts.us/public-records/public-records-forms>.

[Pa.B. Doc. No. 18-55. Filed for public inspection January 12, 2018, 9:00 a.m.]
