

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Proposed Amendment of Pa.R.C.P. No. 237.3

The Civil Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P. No. 237.3 governing relief from judgment of *non pros* for failure to file a complaint or by default for failure to plead, for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

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

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

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

Karla M. Shultz, Counsel
Civil Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717-231-9526
civilrules@pacourts.us

All communications in reference to the proposal should be received by March 22, 2019. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Civil Procedural
Rules Committee*

DAVID L. KWASS,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 237.3. Relief from Judgment of *Non Pros* or by Default.

(a) A petition for relief from a judgment of *non pros* or [of] by default entered pursuant to Rule 237.1 shall have attached thereto a copy of the complaint, preliminary objections, [or] and/or answer which the petitioner seeks leave to file. **All grounds for relief shall be raised in a single petition.**

(b)(1) If the petition is filed within ten days after the entry of a judgment of *non pros* on the docket, the court shall open the judgment if the proposed complaint states a meritorious cause of action.

(2) If the petition is filed within ten days after the entry of a default judgment on the docket, the court shall open the judgment if one or more of the proposed preliminary objections has merit or the proposed answer states a meritorious defense.

Official Note: Rule 236 requires the prothonotary to give notice of the entry of any judgment and to note in the docket the giving of the notice.

The petitioner must act with reasonable diligence to see that the petition is promptly presented to the court if required by local practice.

See *Schultz v. Erie Insurance Exchange*, 477 A.2d 471 (Pa. 1984) for the requirements for opening a judgment by default and Rule 3051 as to a judgment of *non pros*. Rule 237.3 does not change the law of opening judgments. Rather, the rule supplies two of the three requisites for opening such judgments by presupposing that a petition filed as provided by the rule is timely and with reasonable explanation or legitimate excuse for the inactivity or delay resulting in the entry of the judgment. The requirement of this rule for proceeding within ten days is not intended to set a standard for timeliness in circumstances outside this rule.

See Rules 206.1 through 206.7 governing petition practice.

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EXPLANATORY COMMENT

The Civil Procedural Rules Committee is proposing the amendment of Rule 237.3 governing relief from judgment of *non pros* for failure to file a complaint or by default for failure to plead. In 2016, Rule 237.3 was amended by adding preliminary objections as a type of pleading that may be attached to a petition for relief from default judgment. It has been reported to the Committee that litigants have interpreted this provision to permit the filing of a petition for relief with proposed preliminary objections attached, and then, when that petition is denied, to permit the filing of an additional petition for relief by attaching the proposed answer, notwithstanding the requirement for filing within 10 days of the entry of default judgment. To promote procedural efficiency, the proposed amendment would require a litigant to raise all grounds for relief in a single petition.

*By the Civil Procedural
Rules Committee*

DAVID L. KWASS,
Chair

[Pa.B. Doc. No. 19-61. Filed for public inspection January 18, 2019, 9:00 a.m.]

Title 255—LOCAL COURT RULES

ADAMS COUNTY

Rules of Civil Procedure; Administrative Order Number 15A of 2018

Order of Court

And Now, this 31st day of December, 2018, after review of Administrative Order 15 of 2018, dated November 27, 2018, by the Administrative Office of Pennsylvania

Courts, that Order is vacated. It is further Ordered that Adams County Rules of Civil Procedure 1915.1 and 1916 are vacated in their entirety, and the following Rules adopted:

Rule 1915.1. Actions in Child Custody. Scope. Definitions.

(a) *General.* These rules shall govern all actions for child custody, including custody complaints, petitions to modify custody, petitions for contempt and petitions to intervene in child custody matters filed in the Adams County Court of Common Pleas. The rules shall be interpreted as supplementing the Pennsylvania Rules of Civil Procedure governing custody actions. See Pa.R.C.P. No. 1915.1 et seq.

(b) *Definitions.* As used in this chapter, unless the context of a rule indicates otherwise, the following terms shall have the following meanings:

“conciliator” shall be an active-status attorney duly licensed to practice law in the Commonwealth of Pennsylvania and appointed by the court. In accordance with Pa.R.C.P. No. 1915.4-3(a), the conciliator shall not be engaged in the practice of family law before a conference officer, hearing officer, permanent or standing master, or judge of the same judicial district.

“conciliation conference” shall be a prehearing, non-record proceeding conducted under the auspices of the court by the conciliator and in accordance with Pa.R.C.P. 1915.4-3.

“custody presentation” shall be a brief appearance before the presiding judge to ascertain the status of the dispute and determine the status quo custody schedule, if any, enter an interim order as appropriate, and refer the matter to a conciliation conference as appropriate.

“presiding judge” shall be the judge to whom the case is assigned.

(c) *General flow of a custody case.* Upon the filing of a complaint or petition, the pleading shall be scheduled for a presentation before the court on a custody presentation day designated on the official court calendar.

If an agreement is not able to be reached at custody presentation, the presiding judge will enter an interim order and directive for the parties to participate in a custody conciliation conference to attempt to resolve the matter.

If the parties are not able to reach an agreement at the conciliation conference, the presiding judge will list the matter for a pre-trial conference upon receiving the report of the conciliator.

After the pre-trial conference is held, the presiding judge will schedule a trial and an in camera interview of the child, as appropriate.

Rule 1915.3. Commencement of Action. Complaint. Order.

(a) *Commencement of an Action. Filing.*

(1) All custody complaints, petitions for modification of custody, petitions to intervene and petitions for contempt for disobedience of a custody order shall be filed with the Prothonotary.

(2) All custody complaints, petitions for modification of custody, and petitions to intervene shall include a scheduling order for presentation, sub-

stantially in the same form as Sample Form “A” annexed to these rules. All petitions for contempt for disobedience of a custody order shall include a scheduling order for presentation which conforms to Pa.R.C.P. No. 1915.12.

(3) If a custody claim is asserted in a divorce complaint, the moving party shall file a praecipe with the Adams County Prothonotary to list the matter for custody presentation, along with a scheduling order, substantially in the same form as Sample Form “A” annexed to these rules.

(4) The presiding judge’s chambers will schedule all custody related matters pending before the court. The dates available for custody presentation shall be designated on the official court calendar.

(5) The moving party shall pay the requisite filing fee and the conciliator’s fee upon the filing of a custody complaint or petition for modification of a custody order. A conciliator’s fee shall not be paid with the filing of a petition to intervene or a petition for contempt for disobedience of a court order, unless said petition is filed contemporaneously with a custody complaint or petition for modification of custody.

(b) *Contents of Complaint or Petition.* The complaint or petition shall specifically state the relief sought by the moving party and shall have a proper verification attached, pursuant to Pa.R.C.P. No. 1024. This includes the relief sought for legal custody (sole or shared) and physical custody (sole, primary, partial, shared, or supervised). Further, the moving party shall also state the factual basis for the relief sought. Petitions to intervene shall state the statutory authority relied upon. All complaints and petitions shall conform to the requirements of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania.

In addition to those averments required by the Pennsylvania Rules of Civil Procedure governing actions relating to custody, the complaint or petition shall also contain:

(1) Moving party’s Criminal Record/Abuse History Verification as required by Pa.R.C.P. No. 1915.3-2 as an exhibit;

(2) An averment as to the form, time, and manner of serving a copy of the complaint, Order of Court for custody presentation, and moving party’s criminal record/abuse history verification to the non-moving party or to legal counsel;

(3) The proposed custody arrangement shall be stated as a paragraph in the pleading; and

(4) A proposed scheduling order for custody presentation, in a form similar to Sample Form “A”, shall be appended to the front of the pleading.

Rule 1915.4-3.1. Custody Presentation.

(a) *General.*

(1) A custody presentation is the first time the parties will appear before the court. The goal of the custody presentation is to ascertain the status quo schedule or affirm the agreement of the parties. If there is no agreement, the presiding judge may enter an interim order that will govern the parties until final disposition of the matter by agreement or a trial. No testimony will be adduced or evidence presented during this proceeding. If there is no

agreement regarding a petition to intervene in a custody case, the presiding judge shall schedule the matter for a hearing to address that issue.

(2) Custody presentations will be heard on a set day and time every week as designated on the official court calendar.

(3) If the parties are unable to reach an agreement at presentation, the presiding judge will issue an order with a date and time for the parties to participate in conciliation, similar to Sample Form "B" annexed to these rules.

(4) The presiding judge's chambers will schedule presentations at least ten days from the date the complaint, petition for modification, petition to intervene or petition for contempt was filed. This is to ensure that the moving party has ample time to serve the non-moving party with the order scheduling the presentation. It is the moving party's responsibility to serve all documents upon the opposing party in accordance with the Pennsylvania Rules of Civil Procedure and file an appropriate certificate of service with the Prothonotary.

(b) Formal Presentation to the Court Not Necessary. If the parties have a stipulated agreement for custody, then the parties may file the stipulated agreement and a proposed order of court with the Prothonotary. All stipulated agreements shall contain language requesting the presiding judge to enter the agreement as an order of court. If the judge enters the stipulated agreement as an order, then the parties do not need to appear for custody presentation. All proposed orders shall comply with the checklist and form contained in Sample Form "D" annexed to these rules. See also Adams C.Civ.R. No. 1915.7-1. Custody Agreement and Consent Orders.

Rule 1915.4-3.2. Custody Conciliation Conference.

(a) Non-Record Proceeding. The custody conciliation conference is an opportunity for the parties to reach agreement early in the litigation process. To facilitate the conciliation process and to encourage frank, open and meaningful exchanges between the parties and their respective counsel, statements made by everyone involved in the conference shall not be admissible as evidence in the custody proceedings. The custody conciliator shall not be a witness in any custody proceedings. The custody conciliation conference shall not be recorded. No evidence or testimony shall be presented. One-half (1/2) hour shall be set aside for all custody conciliation conferences.

(b) Scheduling of Custody Conciliation Conference. If the parties are unable to reach an agreement at presentation, the presiding judge will refer the case to the custody conciliator. Custody conciliation conferences shall be scheduled not more than forty-five (45) days from the date of assignment by the presiding judge.

(c) Appointment and Authority of the Conciliator. The court, in its discretion, shall refer all actions for custody of minor children to a conciliator who shall have the authority to conciliate custody cases in an effort to resolve the matter.

(d) Participation in Custody Conciliation Process. Conduct of the Conciliator; Parties and Attorneys.

(1) Only the parties to the action and their legal counsel shall be present for the conciliation conference. Unless ordered by the court for good cause shown, children should not be brought to the conciliation conference and shall not be heard on the issues by the conciliator.

(2) The parties, counsel and the conciliator shall make a good-faith effort to resolve the issues and reach a partial or full agreement regarding the issues. The conciliator shall conduct the conference as an informational and conciliatory proceeding rather than confrontational or adversarial. All parties and counsel must participate in conferences in a cooperative manner and shall adhere to the directives of the conciliator. The conciliator shall attempt to mediate the differences between the parties, encourage amicable resolution of those differences. The 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 court. Prior to agreeing to a custody order the conciliator shall permit the parties to consult with their counsel of record.

(3) Statements made by the parties or their attorneys at the conciliation conference shall not be admissible as evidence at a later custody proceeding. The custody conciliator shall not be a witness for or against any party.

(4) An attorney who attends a conciliation conference with a client shall participate in accordance with the following standards:

a. Attorneys shall fully cooperate with the efforts of the custody conciliator to facilitate the agreement of the parties;

b. Attorneys shall at all times behave in a manner consistent with the Rules of Professional Conduct and refrain from engaging in hostile or antagonistic conduct;

c. Attorneys shall advise their clients in a manner not disruptive of the conciliation process and shall be permitted to confer with the client privately outside of the conference room;

d. Attorneys shall not attempt to question the other party, present evidence or engage in conduct characteristic of any adversarial proceedings;

(5) At any time during the conciliation process the conciliator may terminate the proceedings and refer the case to the presiding judge for further action.

(e) Bypass Custody Conciliation Conference. A party may file a motion to bypass the custody conciliation conference. A motion to bypass the custody conciliation conference may be granted by the presiding judge in limited circumstances wherein:

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

(2) Where a Protection from Abuse Order is in effect between the parties pursuant to Pa.C.S.A. § 6101;

(3) There are serious allegations affecting the child's welfare; or

(4) In relocation cases filed pursuant to 23 Pa.C.S.A. § 5337 and Pa.R.C.P. No. 1915.17.

(f) Service Upon the Conciliator. Service of pleadings upon the conciliator is not required. The Prothonotary shall ensure that the conciliator has access to the official case file.

(g) Conciliator's Fees.

(1) At the time of filing the custody complaint or petition for modification of custody, the moving party shall deposit a conciliator's fee, which shall be established by administrative order of the court. If a petition to intervene is granted by the presiding judge and the matter referred to conciliation, the petitioner shall pay the conciliation fee at least five (5) days prior to the conciliation conference, otherwise the conference will be canceled and the petition dismissed. If a contempt/enforcement matter is referred to conciliation, the petitioner shall pay the conciliation fee at least five (5) days prior to the conciliation conference, otherwise the conference shall be canceled and the petition dismissed.

(2) There shall be allotted one-half hour for each conciliation conference. In the event that the conciliation conference exceeds one-half hour, the conciliator may petition the court for additional compensation at the rate established by the court. This additional fee shall be added to the cost of the action and shall be collected by the Prothonotary.

(3) In the event a party requests an additional conciliation conference, the requesting party shall pay an additional conciliator's fee, which shall be paid prior to the scheduling of an additional conciliation conference.

(4) In the event that the moving party is unable to pay the conciliator's fee, that party may apply file a Petition to Proceed In Forma Pauperis. If the Court grants the request, then the conciliator's fee shall be paid by the County of Adams.

(5) If the case is withdrawn from the conciliator's consideration prior to any conciliation conference occurring, and the party paying the initial conciliator's fee seeks a refund thereof, the party shall file a motion requesting a refund not later than ten (10) days after the last scheduled conciliation conference. Requests for refund filed more than ten days after the last scheduled conciliation conference will not be granted.

(h) Conciliation Conference Memorandum. At least three (3) business days prior to the scheduled conciliation conference, each party shall file a Conciliation Conference Memorandum with the Prothonotary and serve a copy upon opposing counsel or opposing party if self-represented. The conciliation conference memorandum shall be in a form substantially similar to Sample Form "C" annexed to these rules and shall contain the following information:

(1) Factual background, including a brief history of the case;

(2) Initials and ages of all children;

(3) Factual and legal issues for resolution;

(4) Whether a home study is requested;

(5) Whether a custody evaluation is requested and whether the parties will agree to a particular expert for evaluation;

(6) A proposed resolution of all matters, which may be in the form of a parenting plan attached to the memorandum; and

(7) If not previously filed, Defendant/Respondent must file a Criminal Record/Abuse History Verification with the Prothonotary pursuant to Pa.R.C.P. No. 1915.3-2. Additionally, if a party has already filed a Criminal Record/Abuse History Verification, any necessary updates shall be made at this time.

(i) Cancellation or Continuance of Custody Conciliation Conference. A scheduled custody conciliation conference shall not be cancelled or continued without the written consent of the parties or leave of court. If a responding party does not consent, a motion to continue may be filed and directed to the presiding judge for consideration, with proper notice to the opposing party. The party requesting the continuance shall include the opposing party's position on the request. If the parties agree to reschedule the conciliation conference, then the conciliator shall set a new date for the conciliation conference to be held and provide notice of same to the presiding judge.

(j) Failure of a party to appear at Custody Conciliation Conference.

(1) All parties named in an action for custody shall be present at the custody conciliation conference unless excused by the conciliator or by agreement of counsel. If a party fails to appear, the conciliator shall so inform the court.

(k) Report and Recommendation by Conciliator.

(1) Within seven (7) business days after the conclusion of the conciliation conference, the conciliator shall file the original Report of Conciliator with the Prothonotary, along with a copy for each party. The Prothonotary shall serve a copy of the Report of Conciliator upon counsel of record and unrepresented parties in accordance with Pa.R.C.P. No. 236.

(2) All agreements reached at a conciliation conference, whether a comprehensive, partial or interim agreement, shall be reduced to a written agreement and shall be signed by the parties immediately upon conclusion of the conciliation conference and submitted to the court for adoption as an order. The parties' consent to an interim order shall not constitute the waiver to a de novo trial for any issue.

(3) If the parties are unable to reach a comprehensive agreement at conciliation, the conciliator's report shall include the following, as may be applicable to the case:

a. Legal and physical custody status at the time of conciliation;

b. Summary of the parties' positions;

c. Summary of the parties' interim or partial agreement, if any;

d. The need for an expedited hearing;

e. Identification of legal and factual issues.

Rule 1915.4-3.3. Co-Parent Education Program. Reserved.

Rule 1915.4-4. Pre-trial Procedures.**(a) *Pre-trial conference.***

(1) If the parties are unable to come to a comprehensive agreement during the custody conciliation conference, the presiding judge's chambers will automatically schedule a pre-trial conference after the conciliator's report has been filed.

(2) Pre-trial conferences shall be held in accordance with Pa.R.C.P. No. 1915.4-4. Unless otherwise ordered by the court, counsel of record and the parties shall be present for the pre-trial conference.

(3) Any agreement reached at the pre-trial conference shall be reduced to writing and entered as an order of court.

(b) *Pre-trial Statement.*

(1) Each party shall file with the Prothonotary a pre-trial statement no later than five (5) days prior to the pre-trial conference. The pre-trial statement shall include a proposed parenting plan and an updated Criminal Record/Abuse History Affidavit for each party and all members of each party's household. All pre-trial statements shall be in the form required by Pa.R.C.P. No. 1915.4-4 and shall include any requests for telephonic testimony.

(2) Proposed exhibits and copies thereof shall not be appended to the pre-trial statement and shall not be filed with the Prothonotary until admitted into evidence by the court.

(3) The Court may require the parties to submit a parenting plan to aid in resolution of the dispute. The form of the parenting plan shall be in substantial compliance with 23 Pa.C.S.A. § 5331. This form is available at the Adams County Court of Common Pleas' self-help web page (<http://www.adamscounty.us>).

Rule 1915.4-5. Trial.

(a) *Scheduling.* The presiding judge's chambers shall schedule all custody trial dates.

(b) *Continuance of Trial.* A scheduled custody trial shall not be continued without leave of court. A motion for continuance shall be filed with the Prothonotary, who shall forward same to the presiding judge for consideration. The position of the opposing party must be noted in the motion.

(c) *Exhibits.* Exhibits shall be pre-marked. The party introducing the exhibit shall ensure that there is a reference copy for the presiding judge. Proposed exhibits shall not be filed with the Prothonotary until admitted into evidence by the court.

Rule 1915.4-6. Communication with the Court.

(a) *General.* Attorneys and self-represented parties must serve opposing counsel, self-represented parties and the guardian ad litem with a copy of all written communications made to the court. Ex parte communications are strictly prohibited.

(b) *Motion for Phone Conference with the Presiding Judge.* All requests for phone conferences shall be made by formal motion filed with the Prothonotary. All requests must include the reason why the telephone conference is being requested and each party's position regarding the motion. The moving party must properly serve the motion on all oppos-

ing counsel and self-represented parties in accordance with the Pennsylvania Rules of Civil Procedure.

Rule 1915.5. Preliminary Objections to Jurisdiction or Venue.

All preliminary objections to jurisdiction or venue shall be forwarded by the Prothonotary to the presiding judge for prompt disposition. In order to facilitate compliance with the Uniform Child Custody Jurisdiction Enforcement Act, a party shall provide the court with all known information concerning a custody proceeding in another state which involves the child, including but not limited to the following: (1) the name and address of the court in which the case is pending; (2) the caption of the case; (3) the name, address and telephone number of the judge to whom the case is assigned, and (4) true and attested copies of any orders entered in the case. Information provided under this rule shall be submitted in writing and attached as an exhibit to the preliminary objection.

Rule 1915.7-1. Custody Agreements and Consent Orders.

Contents of Custody Agreements and Consent Orders. At any time during the pendency of the proceedings, the parties may file with the Prothonotary an agreement and proposed consent order, with the written consents attached thereto, containing original signatures by the parties and their counsel. Consistent with the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania, all agreements shall contain the initials of each child and shall be filed with a Confidential Information Form. All proposed orders shall contain each child's full name and the month/year of each child's birth for identification purposes. Upon receipt of a consent order, the court may, in its discretion, enter an order without taking testimony thereon.

All proposed consent orders shall contain a separate numbered paragraph with language substantially in the following form:

"Relocation. A party proposing to change the residence of a child which significantly impairs the ability of a non-relocating party to exercise custodial rights shall follow the procedures required by 23 Pa.C.S.A. § 5337 and Pa.R.C.P. No. 1915.17". (See Sample Form "D" annexed to these rules for a checklist and sample order.)

Rule 1915.8. Physical and Mental Examination of Persons.

(a) *Requests for Evaluations.* All motions within the scope of this section shall be in conformity with Pa.R.C.P. No. 1915.8, and shall include a proposed order attached which substantially conforms to Pa.R.C.P. No. 1915.18.

(b) *Disclosure of Evaluations.* There shall be no disclosure of the contents of an expert evaluation or report to anyone except parties, the parties' attorneys of record, the guardian ad litem or attorney for the child, if any, and the court in accordance with Pa.R.C.P. No. 1915.8. Disclosure to an unauthorized person, including a child who is the subject of this action, may result in a finding of contempt and sanctions.

Rule 1915.11. Interview of Child. Attendance of Child at Hearing or Conference.

(a) *Attendance of Child at Hearing or Conference.* Children shall not be brought to court or a conciliation conference unless so ordered by the presiding judge or conciliator. The Court of Common Pleas of Adams County does not provide childcare services.

(b) *Interview of Child.* An interview of the child, also referred to as an “in camera” interview shall be conducted in chambers at the discretion of the presiding judge, pursuant to Pa.R.C.P. No. 1915.11. The court may provide a therapy dog to be present at the time of the in camera interview, in accordance with current court and county policies. If the parties, counsel or the child have any concerns regarding the presence of a therapy dog, they are directed to raise those concerns with the presiding judge at any stage of the proceedings.

Rule 1915.12. Enforcement. Contempt.

(a) Upon the filing of any motion or petition alleging violation of a custody order, and seeking enforcement of an order, whether or not sanctions are requested, the matter shall be scheduled for custody presentation to attempt to resolve the matter.

(b) If the request is not disposed of at the custody presentation, the court shall direct appropriate additional proceedings, which may include a custody conciliation conference, a directive to participate in counseling and/or mediation, temporary orders relative to interpretation of the existing order pending further conciliation or trial, scheduling of a trial date, or such additional matters as justice may require.

(c) Actions referred to the conciliator shall be subject to the administrative fees and conciliation procedures set forth in these Rules.

(d) If no agreement is reached at the conciliation conference, a conciliator’s report shall be filed and the matter shall be scheduled for a hearing before the court.

Rule 1915.13. Special Relief.

(a) *Emergency Petitions.* If an emergency complaint for custody, petition for modification of custody, and/or petition for contempt is filed, the moving party shall indicate on the petition that it is an emergency and shall aver the reason(s) for the emergency nature of the request. It is not necessary to hand-deliver, e-mail or fax these documents to the presiding judge’s chambers. Ex parte communications are strictly prohibited. The presiding judge’s staff will schedule the matter to be heard on the next available custody presentation date, at the discretion of the presiding judge. Counsel and parties shall make themselves readily available to attend all emergency proceedings.

(b) All petitions and motions for special relief may be referred to the custody conciliator, pursuant to these Rules, at the discretion of the court.

(c) Alternatively, the court may schedule a hearing to determine the appropriateness of such a request for special relief. If a hearing is granted, the court may continue a scheduled conciliation conference until the court has rendered a decision on the request for special relief.

(d) If, in an emergency, the court grants ex parte special relief, the court shall schedule a hearing, within ten (10) days, to address the merits of the petition for special relief. The court may continue the hearing, if requested to do so by the non-moving party, for reasonable time to allow that party to seek counsel and prepare a defense to the petition.

Rule 1930.4. Time for Serving a Copy of the Complaint and Scheduling Order to the Non-Moving Party; Record Proof.

(a) A true, attested copy of the complaint, petition for modification, petition for contempt and/or petition for intervention, and proposed scheduling order shall be furnished to the non-moving party’s counsel, or to the non-moving party if unrepresented, not less than five (5) business days prior to its anticipated presentation to the presiding judge, with a certificate of service filed with the Prothonotary.

(Sample Form “A”—Scheduling Order for Custody Presentation)

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

Plaintiff, _____ : No.
 v. _____ :
 : ACTION IN CUSTODY
 Defendant, _____ :

ORDER OF COURT

You, _____ (name of Defendant/Respondent) have been sued in court to (obtain/modify) custody of the child/ren: _____ . (Insert INITIALS of child/ren)

You are ordered to appear in person in Courtroom #3 located on the 2nd floor of the Adams County Courthouse, 117 Baltimore Street, Gettysburg, Pennsylvania on _____ at 1:00 PM for a presentation of the pleading. If you fail to appear as provided by this order, an order for custody may be entered against you or the court may issue a warrant for your arrest.

You must file with the court a written verification regarding any criminal record or abuse history regarding you and anyone living in your household on or before the initial in-person contact with the court but not later than thirty days after service of the complaint or petition.

No party may make a change in the residence of any child which significantly impairs the ability of the other party to exercise custodial rights without first complying with all of the provisions of 23 Pa.C.S. § 5337 and Pa.R.C.P. No. 1915.17 regarding relocation.

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

Adams County Court Administrator
Adams County Courthouse
117 Baltimore Street, 4th Floor
Gettysburg, PA 17325
717-337-9846

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Adams County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact the Court Administrator's Office at 717-337-9846. All arrangements must be made at least 72 hours prior to any proceeding.

BY THE COURT:

DATE: _____

JUDGE

(Sample Form "B"—Directive for Custody Conciliation Conference)

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

Plaintiff, _____ : No. _____
 _____ : _____
 v. _____ : _____
 _____ : ACTION IN CUSTODY
 Defendant, _____ :

DIRECTIVE FOR CUSTODY CONCILIATION CONFERENCE

And now, upon consideration of the attached Complaint/Petition for Modification/Petition for Intervention/or Petition for Contempt, it is hereby ORDERED that the parties and their respective counsel appear before a Custody Conciliation Officer in Conference Room 307 located on the third floor of the Adams County Courthouse, 117 Baltimore Street, Gettysburg, Pennsylvania, on _____, 20____ at ____m.

At the conference, an effort will be made to conciliate and resolve the issues in dispute; or if this cannot be accomplished, to define and narrow the issues to be heard by the Court. Children should not attend the conference unless specifically requested by the Custody Conciliation Officer.

IF YOU FAIL TO APPEAR AT THE CUSTODY CONCILIATION CONFERENCE AS PROVIDED BY THIS ORDER, WITHOUT PROPER CAUSE SHOWN, THE CUSTODY CONCILIATOR SHALL REFER THE MATTER TO THE COURT FOR FURTHER PROCEEDINGS, WHICH MAY INCLUDE A CONTEMPT HEARING WHICH CAN RESULT IN THE IMPOSITION OF SANCTIONS, INCLUDING FINES, ATTORNEYS FEES AND COSTS.

If you have not already done so, you must complete and file with the Prothonotary a Criminal/Abuse History Verification regarding you and all persons living in your household on or before the time of the custody conciliation conference. The form is available on the Court's self-help page at www.adamscounty.us under the "Courts" link and

at the Adams County Law Library. You must serve a copy of the completed form on all other parties.

No party may make a change in the residence of a child which significantly impairs the ability of the other party to exercise custodial rights without first complying with all of the applicable provisions of 23 Pa.C.S. § 5337 and Pa.R.C.P. No. 1915.17 regarding relocation.

If any party to this custody action is incarcerated at any stage of the proceedings, the custody conciliation officer or the judge will make reasonable efforts to arrange for the incarcerated party to participate by telephone or video conference. Incarcerated persons may make a request to appear in this manner through the Court Administrator's Office at 717-337-9846, 117 Baltimore Street, 4th floor, Gettysburg, PA 17325.

If you or any other party needs an interpreter, please contact the Court Administrator's Office at 717-337-9846 as soon as possible. Failure to make a timely request may delay the proceedings.

BY THE COURT:

JUDGE

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Adams County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact the Court Administrator's Office at 717-337-9846. All arrangements must be made at least 72 hours prior to any proceeding.

(Sample Form "C"—Conciliation Conference Memorandum)

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

Plaintiff, _____ : No. _____
 _____ : _____
 v. _____ : _____
 _____ : ACTION IN CUSTODY
 Defendant, _____ :

CONCILIATION CONFERENCE MEMORANDUM

And now, comes the undersigned party who submits the following custody conference memorandum pursuant to Adams C.Civ.R. No. 1915.4-3.2(h):

1. Brief factual background, including current custody schedule for the child/ren:

2. Initials and current age of each child:

Child #1: _____ Child #3: _____
 Child #2: _____ Child #4: _____

3. Factual and Legal Issues for Resolution:

_____.

4. Are you requesting a home study of your house? (circle one) YES NO

5. Are you requesting a home study of the other party's house? (circle one) YES NO

6. Are you requesting a custody evaluation? (circle one) YES NO

7. A proposed resolution of all matters, which may be in the form of a Parenting Plan:

_____.

CERTIFICATE OF COMPLIANCE

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

DATE: _____
Respectfully Submitted,

Signature

Printed Name

Street Address/P.O. Box

City, State, Zip

Telephone number

(Sample Form "D"—CHECKLIST FOR CUSTODY ORDER BY AGREEMENT AND SAMPLE COURT ORDER ADOPTING THE AGREEMENT OF THE PARTIES)

The Court may incorporate the Agreement of the parties into a Custody Order if the following steps are followed:

The Agreement of the parties should list the child/ren by initials and month/year of birth. If the Agreement lists full names and month/year of birth, you must file a Confidential Information Form with the Agreement.

The Agreement of the parties must contain language requesting the Court to enter the Agreement as an Order of Court.

The Agreement should include the following standard paragraphs regarding Relocation of a Party:

RELOCATION OF A PARTY:

Relocation. A parent proposing to change the residence of the child(ren) which significantly impairs the ability of a non-relocating parent to exercise custodial rights shall follow the procedures required by 23 Pa.C.S. § 5337 and Pa.R.C.P. No. 1915.17.

Complete the Proposed Order of Court which lists the child(ren)'s full name and month/year of birth. The proposed order must list parties' names and addresses on the distribution under the Judge's signature.

All parties must sign in the presence of a witness. Notarized agreements are preferred, but not required.

In addition to the original, make three (3) copies of the Agreement with proposed order. The order is placed on top of the Agreement for filing.

Take the original and three (3) copies with proposed order to file at the Prothonotary's Office on the 1st floor of the Adams County Courthouse.

If you are initiating a custody action and the parties have reached an agreement without the need of a custody conference, you must file a custody complaint with criminal affidavits of the parties and pay the appropriate filing fee at the Prothonotary's Office at the same time as submitting the proposed order.

If the order is granted, the order will be filed in the Prothonotary's Office and copies of the orders will be mailed to the parties, if self-represented, or counsel for the parties. If self-represented you must provide self-addressed, postage pre-paid envelopes for both parties. If counsel does not have a mailbox in the Prothonotary's Office a self-addressed, postage pre-paid envelope to counsel's office must be provided.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

CIVIL

Case No. _____

Plaintiff

v.

Defendant

ORDER OF COURT

AND NOW, this _____ day of _____, 20____, it is hereby ordered and directed that the within Stipulated Agreement for Custody attached hereto and entered into by the parties on _____, 20____, in regard to the child(ren), _____ (names of child/ren), born in _____ (month/year of birth for each child) is entered as an Order of Court.

BY THE COURT:

JUDGE

