

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CHS. 81 AND 83]

Amendment of Rules 219(a) and 502(b) of the Pennsylvania Rules of Disciplinary Enforcement and Rule 1.15 of the Rules of Professional Conduct; No. 206 Disciplinary Rules Doc.

Order

Per Curiam

And Now, this 24th day of February, 2021, it is hereby *Ordered* that Rules 219(a) and 502(b) of the Pennsylvania Rules of Disciplinary Enforcement and Rule 1.15 of the Rules of Professional Conduct are amended in the following form. These amendments shall be effective for the 2021-22 annual attorney assessment and shall continue until further Order of this Court.

Pursuant to Rule 103 of the Pennsylvania Rules of Judicial Administration, the immediate amendment of Rules 219(a) and 502(b) of the Pennsylvania Rules of Disciplinary Enforcement and Rule 1.15 of the Rules of Professional Conduct is required in the interest of efficient administration.

This *Order* shall be processed in accordance with Rule 103(b) of the Pennsylvania Rules of Judicial Administration and shall be effective immediately.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart A. PROFESSIONAL RESPONSIBILITY

CHAPTER 81. RULES OF PROFESSIONAL CONDUCT

Subchapter A. RULES OF PROFESSIONAL CONDUCT

§ 81.4. Rules of Professional Conduct.

The following are the Rules of Professional Conduct:

CLIENT-LAWYER RELATIONSHIP

Rule 1.15. Safekeeping Property.

* * * * *

(u) Every attorney who is required to pay an active annual assessment under Rule 219 of the Pennsylvania Rules of Disciplinary Enforcement (relating to annual registration of attorneys) shall pay an additional annual fee of [~~\$25.00~~] ~~\$30.00~~ for use by the IOLTA Board. Such additional assessment shall be added to, and collected with and in the same manner as, the basic annual assessment. All amounts received pursuant to this subdivision shall be credited to the IOLTA Board.

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Subpart B. DISCIPLINARY ENFORCEMENT CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter B. MISCONDUCT

Rule 219. Annual Registration of Attorneys.

(a) Every attorney admitted to practice law in this Commonwealth shall pay an annual fee of [~~\$140.00~~] ~~\$145.00~~ and electronically file the annual fee form provided for in this rule by July 1. The fee shall be collected under the supervision of the Attorney Registration Office, which shall make the annual fee form available for filing through a link on the Board's website (<http://www.padisiplinaryboard.org>) or directly at <https://ujportal.pacourts.us>. The said fee shall be used to defray the costs of disciplinary administration and enforcement under these rules, and for such other purposes as the Board shall, with the approval of the Supreme Court, from time to time determine. Upon an attorney's written request submitted to the Attorney Registration Office and for good cause shown, the Attorney Registration Office shall grant an exemption from the electronic filing requirement and permit the attorney to file the annual fee form in paper form.

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Subchapter E. PENNSYLVANIA LAWYERS FUND FOR CLIENT SECURITY GENERAL PROVISIONS

Rule 502. Pennsylvania Lawyers Fund for Client Security.

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(b) *Additional fee.* Every attorney who is required to pay an active annual fee under Rule 219 (relating to annual registration of attorneys) shall pay an additional fee of [~~\$60.00~~] ~~\$50.00~~ for use by the Fund. Such additional fee shall be added to, and collected with and in the same manner as, the basic annual fee. All amounts received pursuant to this subdivision shall be credited to the Fund.

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[Pa.B. Doc. No. 21-321. Filed for public inspection March 5, 2021, 9:00 a.m.]

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 83]

Proposed Amendments to the Rules of Disciplinary Enforcement to Define Informal Proceedings and Formal Proceedings, Make Complaints Confidential, and Clarify Access to Disciplinary Information and Confidentiality

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania ("Board") is considering recommending to the Supreme Court of Pennsylvania that the Court amend Rules 102, 209 and 402 of the

Pennsylvania Rules of Disciplinary Enforcement (“Enforcement Rules” or “Pa.R.D.E.”), as set forth in Annex A.

Rule 102. Definitions.

The Board proposes amending Pa.R.D.E. 102 by adding the definitions of “informal proceedings” and “formal proceedings” to the rule. Disciplinary proceedings are classified as “informal” or “formal.” Informal proceedings commence with the filing of a complaint to the Office of Disciplinary Counsel or an investigation initiated by the Office of Disciplinary Counsel. An informal proceeding includes all proceedings up to the filing of a petition for discipline. The record of an informal proceeding is not open to the public. Formal proceedings commence with the filing of a petition for discipline containing the allegations of misconduct. A formal proceeding does not include any of the submissions or documents generated during an informal proceeding unless such are made part of the record at the formal proceeding. Formal proceedings are open to the public, pursuant to Pa.R.D.E. 402.

Although the terms “informal” and “formal” proceedings are used frequently in the Enforcement Rules, the current rules do not define these terms. This leads to confusion regarding which proceedings, filings and documents are confidential and which are accessible to the public. The proposed definitions eliminate confusion and provide clarity.

Rule 209. Immunity.

Current Pa.R.D.E. 209(a) provides that “Complaints submitted to the Board or Disciplinary Counsel shall be confidential unless the matter results in the filing of formal charges.” Thus, the rule permits public access to complaints in any matter where formal proceedings have commenced. The Board proposes amending subdivision (a) of Pa.R.D.E. 209 to make complaints confidential even if formal proceedings have commenced, and to further specify the circumstances under which a respondent-attorney may be provided with the complaint.

A complaint filed against an attorney may contain any number of claims of misconduct, some of which upon investigation by Office of Disciplinary Counsel, may be found to be unsubstantiated and therefore do not appear in the petition for discipline. The petition for discipline is the operative charging document in a formal proceeding and contains only those allegations that have been reviewed by Disciplinary Counsel and approved by a reviewing hearing committee member or Board panel, or are based on other proceedings (for example, a criminal conviction).

Under current subdivision (a), a complaint may be disclosed to the public after the initiation of formal charges, despite the fact that the complaint may contain unfounded allegations of misconduct not included in the petition for discipline that commenced the formal proceedings. Such unfounded allegations generally should not be disclosed to the public.

For these reasons, the Board’s proposal makes all complaints confidential, except in the limited circumstances outlined in the proposed amendment that allow a complaint to be provided to the respondent-attorney.¹

Additionally, the proposal includes changing the title of Pa.R.D.E. 209 to “Complaints and Immunity” to better reflect the contents of the rule.

¹ During the investigative stage, the respondent-attorney has the opportunity to respond to Office of Disciplinary Counsel’s request for a statement of position that informs the respondent that a complaint was filed by a named complainant; however, the actual complaint is not provided to the respondent.

Rule 402. Access to Disciplinary Information and Confidentiality.

Pa.R.D.E. 402 governs access to disciplinary information and confidentiality. Subdivision (d) of Pa.R.D.E. 402 clarifies that the rule should not be construed to deny access to relevant information to certain agencies and boards or prevent information from being reported or utilized under specific circumstances. The Board proposes amending subdivision (d) by adding new subsections (4) and (5).

Disciplinary Board Rules §§ 87.9 and 87.51(a)(1) require that either the Office of Disciplinary Counsel or Executive Office notify a complainant of the disposition of a complaint. This requirement does not appear in the Enforcement Rules, nor do either set of rules provide guidance regarding the contents of such notice. Proposed new subsection 402(d)(4) states that Enforcement Rule 402 shall not be construed to prevent notifying a complainant of the disposition of a complaint and specifically authorizes the notice to include the type of discipline imposed and any condition attached to the disciplinary sanction. This proposed language ensures that a complainant is fully informed of the final outcome of their complaint.

Proposed new subsection 402(d)(5) states that Rule 402 shall not be construed to prevent the Board from exercising its discretion to disclose a complaint or portions thereof, in the interests of justice, and further states that the affected parties shall be notified in advance of the Board’s intent to disclose otherwise confidential material. The proposed language preserves the Board’s discretion to act in furtherance of its duty to protect the public.

Subdivision (e) of Pa.R.D.E. 402 provides that the public is not permitted access to certain types of information, such as work product and deliberations of the Board and Disciplinary Counsel, and information subject to a protective order. The Board proposes adding a new subsection (e)(4) to clarify that public access to complaints submitted to the Board or Disciplinary Counsel is prohibited. This new language reinforces the proposed amendment to Pa.R.D.E. 209(a) that makes complaints confidential.

The Board proposes adding a new note at the end of Pa.R.D.E. 402 to explain that under subdivision (a), related to the timing of when proceedings are open to the public, a petition for discipline is part of a formal proceeding and is open to the public and part of the public record, although the public is not permitted access until an answer has been filed or the time to file the answer has expired.

Interested persons are invited to submit written comments by mail or facsimile regarding the proposed amendments to the Executive Office, The Disciplinary Board of the Supreme Court of Pennsylvania, 601 Commonwealth Avenue, Suite 5600, PO Box 62625, Harrisburg, PA 17106-2625, Facsimile number (717-231-3381), Email address Dboard.comments@pacourts.us on or before April 5, 2021.

*By the Disciplinary Board of the
Supreme Court of Pennsylvania*

JESSE G. HEREDA,
Executive Director

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter A. PRELIMINARY PROVISIONS

Rule 102. Definitions.

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Foreign legal consultant—A person who holds a current license as a foreign legal consultant issued under Rule 341 of the Pennsylvania Bar Admission Rules.

“Formal proceedings.” Proceedings that commence with the filing of a petition for discipline. A formal proceeding does not include any of the submissions or documents generated during an informal proceeding unless they are made part of the record at the formal proceeding by motion, by stipulation, or by admission as an exhibit during a hearing. Pursuant to Enforcement Rule 402(a), formal proceedings are open to the public, except as provided in Enforcement Rules 402(b) and 402(k).

Formerly admitted attorney—A disbarred, suspended, administratively suspended, permanently resigned, retired or inactive attorney.

Hearing Committee—A hearing committee appointed under Enforcement Rule 206 (relating to hearing committees and special masters).

Informal admonition—Private informal admonition by Disciplinary Counsel.

“Informal proceedings.” Proceedings that commence with the submission of a complaint to the Office of Disciplinary Counsel or an investigation initiated by the Office of Disciplinary Counsel. An informal proceeding includes all proceedings up to the filing of a petition for discipline. Informal proceedings are not open to the public.

“Legal Counsel.” Counsel to the Board and Special Counsel.

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Subchapter B. MISCONDUCT

Rule 209. Complaints and Immunity.

(a) Complaints submitted to the Board or Disciplinary Counsel shall be confidential [unless the matter results in the filing of formal charges]. See [Rule 402(a)] Rule 402(e) (relating to access to disciplinary information and confidentiality). Unless and until formal charges are filed and the complainant is designated as a witness at the prehearing conference, or Disciplinary Counsel determines that the complaint contains exculpatory material, the complaint shall not be provided to the respondent-attorney. At or after the prehearing conference, the senior or experienced hearing committee member or the special master may enter a protective order on cause shown to prohibit disclosure of the complaint or parts of it to the public.

(b) Members of the Board, members of hearing committees, special masters, Disciplinary Counsel and staff shall be immune from civil suit for any conduct in the course of their official duties. All communications to the

Board, a hearing committee, special master, or Disciplinary Counsel relating to misconduct by a respondent-attorney and all testimony given in a proceeding conducted pursuant to these rules shall be absolutely privileged and the person making the communication or giving the testimony shall be immune from civil suit based upon such communication or testimony. For purposes of this subdivision [(a)] (b), the staff of the Board shall be deemed to include conservators and sobriety, financial or practice monitors appointed pursuant to these rules or the rules of the Board.

[(b)] (c) Complaints against members of the Board involving alleged violations of the Disciplinary Rules or these rules shall be handled in the same manner as other complaints, except that if action is required by the Board, the Board shall notify the Supreme Court which shall appoint an Ad Hoc Disciplinary Board comprised of five former members of the Board who shall discharge the functions of the Board and have all the powers of the Board with respect to that one matter only.

[(c)] (d) Complaints against Disciplinary Counsel involving alleged violations of the Disciplinary Rules or these rules shall be submitted directly to the Board and assigned to a reviewing member of the Board for disposition.

Official Note: The provisions of [subdivision (a) of the] this rule recognize that the submission and receipt of complaints against attorneys, and the investigation, hearing, decision and disposition of such complaints, are all parts of a judicial proceeding conducted pursuant to the inherent power of the Supreme Court of Pennsylvania. The immunity from civil suit recognized to exist in [subsection (a)] subdivision (b) is that which exists for all participants in judicial proceedings under Pennsylvania law, so long as their statements and actions are pertinent, material and during the regular course of a proceeding.

Subchapter D. MISCELLANEOUS PROVISIONS

Rule 402. Access to Disciplinary Information and Confidentiality.

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(d) This rule shall not be construed to:

* * * * *

(3) Prevent the Pennsylvania Lawyers Fund for Client Security from utilizing information obtained during any investigation to pursue subrogated claims.

(4) Prevent Disciplinary Counsel or the Board from notifying the complainant of the disposition of a complaint, including the type of discipline imposed and any condition attached to the discipline.

(5) Prevent the Board from exercising its discretion to provide public access to a complaint or portions thereof, as the interests of justice may require. The affected parties shall be notified in advance of the intent to disclose otherwise confidential material.

(e) Subdivision (a) shall not be construed to provide public access to:

(1) the work product of the Board, Disciplinary Counsel, hearing committee members, or special masters;

(2) deliberations of a hearing committee, special master, the Board or the Court; [or]

(3) information subject to a protective order issued by the Board under subdivision (f); **or**

(4) a complaint submitted to the Board or Disciplinary Counsel.

(f) The Board may, upon application of any person and for good cause shown, issue a protective order prohibiting the disclosure of specific information otherwise privileged or confidential, and the Board may direct that proceedings be conducted so as to implement the order, including requiring that a hearing be conducted in such a way as to preserve the confidentiality of the information that is the subject of a protective order.

* * * * *

Official Note: Under subdivision (a), a petition for discipline is part of a formal proceeding; therefore, the petition is open to the public and part of the public record. See Enforcement Rule 102(a) (definition of “Formal Proceedings”); Enforcement Rule 208(b)(1) (formal proceedings instituted by filing a petition for discipline). However, the proceeding and the petition do not become open to the public until an answer is filed or the time to file an answer expires without an answer being filed.

[Paragraph] Subsection (d)(2) is based on 18 Pa.C.S. § 5108 (relating to compounding). Otherwise Disciplinary Counsel may be in the anomalous position of violating Rule 8.4 of the Pennsylvania Rules of Professional Conduct.

Although subdivision (k) provides that a formal proceeding that becomes open to the public under subdivision (a) will subsequently be closed if it results in the imposition of private discipline or dismissal of all the charges, the closing of the proceeding cannot change the fact that the proceeding was open to the public for a period of time. Thus, subdivision (k) makes clear that the respondent-attorney may request that the record of the proceeding remain open to demonstrate that the charges were dismissed or only private discipline was imposed.

[Pa.B. Doc. No. 21-322. Filed for public inspection March 5, 2021, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1930]

Proposed Amendment of Pa.R.C.P. No. 1930.4

The Domestic Relations Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P. No. 1930.4 for the reasons set forth in the accompanying publication report. Pursuant to Pa.R.J.A. No 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

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

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

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

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

All communications in reference to the proposal should be received by May 14, 2021. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Domestic Relations
Procedural Rules Committee

THE HONORABLE DANIEL J. CLIFFORD,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART 1. GENERAL

CHAPTER 1930. RULES RELATING TO DOMESTIC RELATIONS MATTERS GENERALLY

(Editor’s Note: The following rule text is proposed to replace the current rule text which appears in 231 Pa. Code pages 1930-3—1930-6, serial pages (393969)—(393972) in its entirety.)

Rule 1930.4. Service of Original Process in Domestic Relations Matters.

(a) *Personal Service.*

(1) *Persons Who May Serve.* A sheriff or competent adult, as defined in Pa.R.C.P. No. 76, may effectuate personal service of original process in all domestic relations matters, including Protection of Victims of Sexual Violence or Intimidation matters.

(2) *Manner of Service.*

(i) A sheriff or competent adult may serve original process:

(A) by handing a copy of the original process to the defendant;

(B) at the defendant’s residence by handing a copy of the original process to:

(I) an adult member of the family with whom the defendant resides; but if an adult family member is unavailable, then to an adult in charge of the residence; or

(II) the clerk or manager of the hotel, inn, apartment house, boarding house, or other place of lodging; or

(C) at the defendant’s office or usual place of business by handing a copy of the original process to the defendant’s agent or the person for the time being in charge; or

(ii) pursuant to special order of court.

(3) *Service in Protection From Abuse and Protection of Victims of Sexual Violence or Intimidation Matters.*

(i) If the sheriff or competent adult cannot complete personal service within 48 hours after a Protection From Abuse or a Protection of Victims of Sexual Violence or

Intimidation petition is filed, the court may authorize alternative service by special order as set forth in subdivision (a)(2)(ii).

(ii) Alternative service may include, but is not limited to, service by mail pursuant to subdivision (b) or service by commercial carrier pursuant to subdivision (c).

(b) *Service by Mail.*

(1) In all domestic relations matters, except Protection from Abuse and Protection of Victims of Sexual Violence or Intimidation matters, a party may serve the original process, a notice or order to appear, if required, and other orders or documents, as necessary, by United States Postal Service's (USPS) first class regular and certified mail to the defendant's last known address.

(i) The party serving the original process by mail shall:

(A) restrict delivery of the certified mail to the addressee only; and

(B) request a return receipt.

(ii) *Completed Service by Mail.* Service of original process is complete when:

(A) the return receipt bears the defendant's purported signature indicating receipt of the certified mail;

(B) the return receipt acknowledges delivery of the certified mail to the defendant consistent with USPS policy and the regular mail is not returned within 15 days of mailing; or

(C) USPS returns the certified mail indicating the defendant refused delivery, but the regular mail is not returned within 15 days of mailing.

(iii) *Incomplete Service by Mail.*

(A) Service of original process is incomplete when:

(I) USPS returns the certified mail with a notation indicating that the mail was unclaimed by the defendant; or

(II) is otherwise inconsistent with subdivision (b)(1)(ii).

(B) If service by mail is incomplete, the party attempting service shall utilize another method pursuant to these rules to effectuate service.

(2) *Protection from Abuse and Protection of Victims of Sexual Violence or Intimidation Matters.* A party may serve original process by mail, if authorized by the court under subdivision (a)(2)(ii).

(c) *Service by Commercial Carrier.*

(1) In all domestic relations matters, except Protection from Abuse and Protection of Victims of Sexual Violence or Intimidation matters, a party may serve the original process, a notice or order to appear, if required, and other orders or documents, as necessary, by commercial carrier and USPS regular first class mail to the defendant's last known address.

(i) The party serving the original process by commercial carrier shall:

(A) restrict delivery of the commercial carrier's package to the defendant's address only; and

(B) request that the commercial carrier return a return receipt showing to whom delivered, the date of delivery, and the address where delivered.

(ii) *Completed Service by Commercial Carrier.* Service of original process is complete when:

(A) the return receipt bears the defendant's purported signature indicating receipt of the commercial carrier's package;

(B) the return receipt acknowledges delivery of the commercial carrier's package to the defendant's address consistent with the commercial carrier's policy and the regular mail is not returned within 15 days; or

(C) the commercial carrier returns the package indicating the defendant refused delivery, but the regular mail is not returned within 15 days of mailing.

(iii) *Incomplete Service by Commercial Carrier.*

(A) Service of original process is incomplete when:

(I) the commercial carrier returns the package indicating that the package was unclaimed by the defendant; or

(II) is otherwise inconsistent with subdivision (c)(1)(ii).

(B) If service by commercial carrier is incomplete, the party attempting service shall utilize another service method pursuant to these rules.

(2) *Protection from Abuse and Protection of Victims of Sexual Violence or Intimidation Matters.* A party may serve original process by commercial carrier, if authorized by the court under subdivision (a)(2)(ii).

Official Note: This rule does not preclude a party or judicial district from utilizing the United States Postal Service's (USPS) or a commercial carrier's electronic return receipt or any similar service that electronically provides a return receipt.

(d) *Acceptance of Service.* The defendant or the defendant's authorized agent may accept service of original process as set forth in Pa.R.C.P. No. 402(b).

(e) *Time for Service.*

(1) *Service Within the Commonwealth.* Within 30 days of filing the original process, a person or party shall serve the original process on a defendant located within the Commonwealth.

(2) *Service Outside of the Commonwealth.*

(i) Within 90 days of filing the original process, a person or party shall serve the original process on a defendant located outside the Commonwealth as:

(A) authorized by this rule;

(B) provided by the law of the jurisdiction in which defendant will be served;

(C) provided by treaty; or

(D) directed by the foreign authority in response to a letter rogatory or request.

(ii) *Protection from Abuse and Protection of Victims of Sexual Violence or Intimidation Matters.*

(A) A person shall serve original process on a defendant located outside of the Commonwealth by personal service as provided:

(I) in subdivision (a); or

(II) by the law in the jurisdiction where the defendant resides or is located.

(B) If personal service is not completed within 48 hours after the filing of the original process, a person or party may serve a defendant located outside of the Commonwealth by other means authorized by this rule.

(f) *Service of Original Process on an Incarcerated Party.*

(1) A party serving original process on an incarcerated party in a domestic relations action shall include:

- (i) a notice of any proceeding; and
- (ii) a specific notice of the incarcerated party's right to petition the court to participate in the proceeding.

(2) A party may petition the court requesting the incarcerated party to participate in a proceeding when:

- (i) the incarcerated party seeks to participate as provided by statute or rule; or
- (ii) another party requires the incarcerated party's participation or testimony.

Official Note: See 23 Pa.C.S. § 4342(j) and Pa.R.C.P. No. 1930.3.

(g) *Reinstatement of Original Process.*

(1) If a person or party cannot complete service within the time required by subdivision (e), the prothonotary shall reinstate the original process upon the party's praecipe:

- (i) accompanied by the original process; or
- (ii) indicating that the original process has been lost or destroyed and accompanied by a substituted original process.

(2) A person or party shall serve the reinstated original process within the time periods set forth in subdivision (e).

(3) A party may:

- (i) request the prothonotary reinstate the original process at any time or any number of times; or
- (ii) name a new party defendant in a reinstated original process.

(h) *Proof of Service.*(1) *Original Process Served.*

(i) A party or person serving the original process shall complete a proof of service, which shall be by an affidavit if an individual other than a sheriff serves the original process.

(ii) The proof of service shall state:

- (A) the date and time of service;
- (B) the place of service;
- (C) the manner in which service was made;
- (D) the identity of the person served;
- (E) other facts necessary for the court to determine whether proper service has been made; and
- (F) the additional documents required in subdivision (h)(3), as necessary.

(2) *Personal Service Pursuant to Subdivision (a).* The proof of service shall be filed in the appropriate filing office within ten days of the date of service.

(3) *Service by Mail or Commercial Carrier Pursuant to Subdivisions (b) or (c).*

(i) *Service Complete under Subdivision (b)(1)(ii)(A) or (c)(1)(ii)(A).*

(A) The proof of service shall include the return receipt bearing the defendant's purported signature; and

(B) The proof of service shall be filed within ten days of the date the defendant signed the return receipt.

(ii) *Service Complete under Subdivision (b)(1)(ii)(B) or (c)(1)(ii)(B).*

(A) The proof of service shall include:

(I) the return receipt or envelope acknowledging delivery to the defendant's residence consistent with USPS or the commercial carrier's policy; and

(II) an affidavit indicating the regular US mail was not returned within 15 days of mailing.

(B) The proof of service shall be filed within ten days of the date:

(I) the return receipt acknowledges delivery to the defendant's address consistent with USPS or the commercial carrier's policy; and

(II) after the passage of time set forth in subdivisions (b)(1)(ii)(B) or (c)(1)(ii)(B).

(iii) *Service Complete under Subdivision (b)(1)(ii)(C) or (c)(1)(ii)(C).*

(A) The proof of service shall include:

(I) the return receipt or envelope acknowledging the attempted delivery to the defendant's residence and that delivery had been refused; and

(II) an affidavit stating the regular mail was not returned within 15 days after mailing.

(B) The proof of service shall be filed within ten days of the date:

(I) the return receipt acknowledges the attempted delivery to the defendant's address consistent with USPS or the commercial carrier's policy; and

(II) after the passage of time set forth in subdivisions (b)(1)(ii)(C) or (c)(1)(ii)(C).

(4) *Acceptance of Service Pursuant to Subdivision (d).*

(i) If the defendant or the defendant's authorized agent accepts service of the original process as authorized in subdivision (d), the defendant or the defendant's authorized agent shall sign an Acceptance of Service on the form set forth in Pa.R.C.P. No. 402(b).

(ii) The Acceptance of Service shall be filed in the appropriate filing office within ten days of accepting service.

(5) *Original Process Not Served.*

(i) If a party or person cannot serve the defendant within the time allowed in subdivision (e), the party or person attempting service:

(A) shall complete a proof of no service promptly; and

(B) file the proof of no service in the appropriate filing office within ten days of the expiration of time allowed for service in subdivision (e).

(ii) If a party or a person other than a sheriff attempts service of the original process, the proof of no service shall be by an affidavit stating with particularity the efforts made to effect service.

Official Note: See Pa.R.C.P. No. 1910.4(a). The Domestic Relations Section is the filing office for child support, spousal support, and alimony *pendente lite* cases.

See Pennsylvania Rule of Professional Conduct 7.3(b)(4). The timing of an attorney's solicitation of a prospective client in actions governed by the Family Court Rules, see Pa.R.C.P. No. 1931(a), and actions pursuant to the Protection of Victims of Sexual Violence or Intimidation Act, see

42 Pa.C.S. §§ 62A03—62A20, is restricted until proof of service appears on the docket.

(i) *Appearance at Hearing or Conference.* A party appearing for a hearing or conference will be deemed to have been served.

Comment—2021

Sections 5323 and 5329(2) of the Judicial Code, 42 Pa.C.S. §§ 5323 and 5329(2), provide additional alternative procedures for service outside the Commonwealth. For Protection from Abuse and Protection of Victims of Sexual Violence or Intimidation matters, personal service outside of the Commonwealth must be attempted first before service can be made by certified and regular mail or by other means prescribed in subdivision (e)(2).

Subdivision (f) addresses service of original process on an incarcerated party, and the incarcerated party's right to appear and testify. See *Vanaman v. Cowgill*, 526 A.2d 1226 (Pa. Super. 1987) and *Salemo v. Salemo*, 554 A.2d 563 (Pa. Super. 1989).

PUBLICATION REPORT RULE PROPOSAL 184

The Domestic Relations Procedural Rules Committee (Committee) is proposing an amendment to Pa.R.C.P. No. 1930.4. The rule addresses service of original process in domestic relations actions. Due to changes in the United States Postal Service (USPS) policy resulting from COVID-19, several individuals requested that the Committee review the service rule as the USPS policy change adversely affected postal employees from obtaining the defendant's signature on return receipts. After reviewing the issues, the Committee determined that several changes were necessary to address the USPS policy change and to implement an updated service method.

In March 2020, the USPS implemented changes to its policy for delivery of registered or certified restricted mail. According to its website, the USPS modified the "customer signature capture procedures. While maintaining a safe, appropriate distance, [postal] employees will request the customer's first initial and last name so that the employee can enter the information on the electronic screen or hard copy items such as return receipts." Unfortunately, the revised procedure as written does not comply with Pa.R.C.P. No. 1930.4; however, despite the written policy referenced, many return receipts were not consistent with the stated policy, and the recipient's first initial and last name were omitted entirely. Instead, the Committee reviewed documentation illustrating that the postal employee often used other nomenclature on the return receipts, which clearly did not identify the recipient.

Moreover, as was widely reported in the media, the increased burden on the postal service resulted in significant delays in delivery of the mail in general, but also, especially during the holiday season. Additionally, the return of the "signed" receipts to the party serving the original process were similarly adversely affected.

In Rule Proposal 184, the Committee is proposing a complete rewriting of Pa.R.C.P. No. 1930.4; however, most of the rule text remains unchanged, but is written into an outline format with some current subdivisions combined and renumbered. Also, official notes were incorporated into rule text or moved into the Comment. The Committee is proposing several substantive changes to address the issues reported to the Committee.

First, the Committee proposes addressing the USPS policy change by allowing return receipts that are consis-

tent with USPS policy to acknowledge delivery to the addressee provided that the first class mail is not returned within 15 days. The current rule allows for similar service when the addressee refuses delivery and the first class mail is not returned.

Finally, the Committee proposes authorizing a party to utilize commercial carriers, such as UPS and FedEx, to effectuate original process service. Commercial carriers utilize tracking services, including return receipts, illustrating delivery to an address and the recipient's signature. Unfortunately, unlike USPS, commercial carriers do not restrict delivery to an addressee, just to an address. Perfecting service on a particular defendant in this manner alone may not be possible. In order to resolve the issue, the proposed rule requires service of the original process by USPS first class mail, also. If that mail is not returned within 15 days and the commercial carrier's return receipt indicates delivery to the defendant's last known address, service is completed.

Accordingly, the Committee invites all comments, objections, concerns, and suggestions regarding this proposed rulemaking.

[Pa.B. Doc. No. 21-323. Filed for public inspection March 5, 2021, 9:00 a.m.]

Title 255—LOCAL COURT RULES

SULLIVAN COUNTY

Local Rules of Court; No. 2016-238

Order of Court

And Now, this 23rd day of February, 2021,

It Is Ordered that the following amendments to the Sullivan County Rules of Civil Procedure 4008(A) and (D) regarding transcript costs be and are hereby adopted effective April 6, 2021.

It Is Further Ordered that the adopted amendments to the Local Rules shall be disseminated and published in the following manner:

1. File one (1) copy of the local rules with the Administrative Office of Pennsylvania Courts via email to adminrules@pacourts.us;
2. Forward two (2) paper copies and one (1) electronic copy in a Microsoft Word format to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. Publish local rules on the court's website after publication in the *Pennsylvania Bulletin*.
4. File one copy of the local rules in the appropriate filing offices for public inspection and copying.

It Is Further Ordered in all other respects, the Sullivan County Local Rules shall remain in full force and effect.

By the Court

RUSSELL D. SHURTLEFF,
President Judge

Rule 4008. Transcript Costs.

(A) *Costs Payable:*

Transcript Costs Payable by a Requesting Party Other Than the Commonwealth or a Subdivision Thereof.

The costs payable by a requesting party, other than the Commonwealth or a subdivision thereof, for a transcript shall not exceed:

- For an ordinary transcript, \$2.50 per page, plus \$0.25 per page for paper format.

The costs payable by the Commonwealth, or a subdivision thereof, for a transcript shall not exceed:

- For an ordinary paper transcript, \$1.75 a page.
- * At this time, Sullivan County does not have the capability to produce expedited, daily, or same day transcripts.
- * The first requestor of a transcript is obligated to pay for the original transcript, which is filed with the Court, plus the copy rate if the requestor desires a personal copy. Sullivan County does not currently have electronic transcript filing.

(D) *Copies of Transcript*

A request for a copy of any transcript previously ordered, transcribed, and filed of record shall be provided according to the following schedule:

- For copies of an ordinary transcript in paper format, \$0.75 per page or \$0.50 for an electronic format.

[Pa.B. Doc. No. 21-324. Filed for public inspection March 5, 2021, 9:00 a.m.]

Title 255—LOCAL COURT RULES

WYOMING COUNTY

Local Rules of Court; No. 2016-1373

Order of Court

And Now, this 23rd day of February, 2021,

It Is Ordered that the following amendments to the Wyoming County Rules of Civil Procedure 4008(A) and (D) regarding transcript costs be and are hereby adopted effective April 6, 2021.

It Is Further Ordered that the adopted amendments to the Local Rules shall be disseminated and published in the following manner:

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

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

3. Publish local rules on the court's website after publication in the *Pennsylvania Bulletin*.

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

It Is Further Ordered in all other respects, the Wyoming County Local Rules shall remain in full force and effect.

By the Court

RUSSELL D. SHURTLEFF,
President Judge

Rule 4008. Transcript Costs.

(A) *Costs Payable:*

Transcript Costs Payable by a Requesting Party Other Than the Commonwealth or a Subdivision Thereof.

The costs payable by a requesting party, other than the Commonwealth or a subdivision thereof, for a transcript shall not exceed:

- For an ordinary transcript, \$2.50 per page, plus \$0.25 per page for paper format.

The costs payable by the Commonwealth, or a subdivision thereof, for a transcript shall not exceed:

- For an ordinary paper transcript, \$1.75 a page.

* At this time, Wyoming County does not have the capability to produce expedited, daily, or same day transcripts.

* The first requestor of a transcript is obligated to pay for the original transcript, which is filed with the Court, plus the copy rate if the requestor desires a personal copy. Wyoming County does not currently have electronic transcript filing.

(D) *Copies of Transcript*

A request for a copy of any transcript previously ordered, transcribed, and filed of record shall be provided according to the following schedule:

- For copies of an ordinary transcript in paper format, \$0.75 per page or \$0.50 for an electronic format.

[Pa.B. Doc. No. 21-325. Filed for public inspection March 5, 2021, 9:00 a.m.]