

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Proposed Adoption of Pa.R.C.P. No. 242

The Civil Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the adoption of Rule 242 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 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:

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 April 23, 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 Civil Procedural
Rules Committee*

JOHN J. HARE,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

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

Rule 242. Citation of Authorities.

Citation of authorities in matters subject to these rules shall be in accordance with Pa.R.A.P. 126.

Official Note: See also 210 Pa. Code § 65.37 and *Wenk v. State Farm Fire and Casualty Co.*, 228 A.3d 540,

552 n.11 (Pa. Super. 2020) for citing to non-precedential decisions of the Superior Court; and Pa.R.A.P. 3716 and 210 Pa. Code § 69.414 for citing to non-precedential decisions of the Commonwealth Court.

PUBLICATION REPORT

The Civil Procedural Rules Committee received a request to consider a rule allowing the citation of non-precedential appellate court decisions for their persuasive value in the trial courts. Specifically, the Committee was asked to consider such a rule following the amendment of Pa.R.A.P. 126 (Citation of Authorities) permitting such citation in the appellate courts.

The Rules of Civil Procedure are silent as to the citation of authorities in the trial courts; there is likewise no prohibition to the citation of non-precedential appellate court decisions. In the absence of any prohibition, it is assumed these decisions may be cited.

The Committee observed that permitting citation to these decisions could have significant benefits to the bench and bar including:

- promoting consistency among the trial courts on routine issues, as well as a more informed analysis on controversial issues;
- providing the trial courts with more guidance about the current state of the law, which in turn should bring more predictability in resolving all civil matters as well as more efficiency and cost-effectiveness for parties and the courts;
- allowing the use of similar fact patterns or legal analyses to support or refute position;
- allowing the citation of opinions that may be more illustrative and more current than binding precedent; and
- retaining the trial court's discretion to give appropriate weight to these decisions as persuasive value.

Notwithstanding these benefits, the Committee recognized that the intermediate appellate courts have imposed limitations for citing to each court's respective non-precedential decisions for their persuasive value. See Superior Court O.P. § 65.37 regarding citation to Superior Court non-precedential decisions and Pa.R.A.P. 3716 and Commonwealth Court I.O.P. § 414 regarding citation to Commonwealth Court non-precedential decisions.

Accordingly, the Committee proposes new Rule 242 to make explicit the assumption that non-precedential appellate court decisions may be cited in the trial courts. However, respectful of the limitations the intermediate appellate courts have placed on the citation of their decisions, the Committee proposes within Rule 242 to cross-reference and incorporate Pa.R.A.P. 126 for the specific requirements when citing to non-precedential appellate court decisions for their persuasive value in the trial courts. A note to the proposed rule is intended to inform practitioners of the Superior Court and Commonwealth Court operating procedures.

All comments, concerns, and suggestions concerning this proposal are welcome.

[Pa.B. Doc. No. 21-273. Filed for public inspection February 26, 2021, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 200, 1000, 2950 AND 3000]

Proposed Adoption of Pa.R.C.P. No. 243 and Proposed Amendment of Pa.R.C.P. Nos. 237.1, 1037, 2955, 3031, 3103 and 3146

The Civil Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the adoption of Rule 243 and the amendment of Rules 237.1, 1037, 2955, 3031, 3103, and 3146 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.

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*By the Civil Procedural
Rules Committee*

JOHN J. HARE,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

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

Rule 243. Servicemembers Civil Relief Act. Affidavit.

(a) In any civil action in which a defendant does not make an appearance, the plaintiff shall comply with the requirements of the Servicemembers Civil Relief Act, 50 U.S.C. § 3901 *et seq.*

(b) For every individual defendant, the plaintiff shall file an affidavit indicating that

- (1) the defendant is in military service;
- (2) the defendant is not in military service; or

(3) the plaintiff is unable to determine whether the defendant is in military service.

(c) The Court Administrator of Pennsylvania, in conjunction with the Civil Procedural Rules Committee, shall design and publish the form affidavit required by subdivision (b). The latest version of the form shall be available on the website of the Administrative Office of Pennsylvania Courts at www.pacourts.us.

Rule 237.1. Notice of *Praecipe* for Entry of Judgment of *Non Pros* for Failure to File Complaint or by Default for Failure to Plead.

(a)(1) As used in this rule,

“judgment of *non pros*” means a judgment entered by *praecipe* pursuant to Rules 1037(a) and 1659;

Official Note: When a defendant appeals from a judgment entered in a magisterial district court, Pa.R.C.P.M.D.J. **No.** 1004(b) authorizes the appellant to file a *praecipe* for a rule as of course upon the appellee to file a complaint or suffer entry of a judgment of *non pros*. The entry of the judgment of *non pros* is governed by [Pa.R.C.P. No.] **Rule** 1037(a) and is subject to this rule.

“judgment by default” means a judgment entered by *praecipe* pursuant to Rules 1037(b), [**1511(a),**] 3031(a) and 3146(a).

(2) No judgment of *non pros* for failure to file a complaint or by default for failure to plead shall be entered by the prothonotary unless the *praecipe* for entry includes a certification that a written notice of intention to file the *praecipe* was mailed or delivered

(i) in the case of a judgment of *non pros*, after the failure to file a complaint and at least ten days prior to the date of the filing of the *praecipe* to the party's attorney of record or to the party if unrepresented, or

(ii) in the case of a judgment by default, after the failure to plead to a complaint and at least ten days prior to the date of the filing of the *praecipe* to the party against whom judgment is to be entered and to the party's attorney of record, if any.

The ten-day notice period in subdivision (a)(2)(i) and (ii) shall be calculated forward from the date of the mailing or delivery, in accordance with Rule 106.

Official Note: The final sentence of Rule 237.1(a)(2) alters the practice described in the decision of *Williams v. Wade*, 704 A.2d 132 (Pa. Super. 1997).

(3) A copy of the notice shall be attached to the *praecipe*.

(4) The notice and certification required by this rule may not be waived.

Official Note: A certification of notice is a prerequisite in all cases to the entry by *praecipe* of a judgment of *non pros* for failure to file a complaint or by default for failure to plead to a complaint. Once the ten-day notice has been given, no further notice is required by the rule even if the time to file the complaint or to plead to the complaint has been extended by agreement.

See Rule 237.4 for the form of the notice of intention to enter a judgment of *non pros* and Rule 237.5 for the form of the notice of intention to enter a judgment by default.

(b) This rule does not apply to a judgment entered

- (1) by an order of court,
- (2) upon *praecipe* pursuant to an order of court, or
- (3) pursuant to a rule to show cause.

Official Note: See Rule 3284 which requires that in proceedings to fix fair market value of real property sold, notice must be given pursuant to the requirements of Rule 237.1 *et seq.*

See Rule 243 for the affidavit required by the Servicemembers Civil Relief Act, 50 U.S.C. § 3901 *et seq.*, setting forth facts showing whether the defendant is in military service as a prerequisite to the entry of a default judgment.

CHAPTER 1000. ACTIONS

Subchapter A. CIVIL ACTION

JUDGMENT UPON DEFAULT OR ADMISSION

Rule 1037. Judgment Upon Default or Admission. Assessment of Damages.

(a) If an action is not commenced by a complaint, the prothonotary, upon *praecipe* of the defendant, shall enter a rule upon the plaintiff to file a complaint. If a complaint is not filed within [**twenty**] **20** days after service of the rule, the prothonotary, upon *praecipe* of the defendant, shall enter a judgment of *non pros*.

Official Note: See Rule 237.1(a)(2) which requires the *praecipe* for judgment of *non pros* to contain a certification of written notice of intent to file the *praecipe*.

(b) The prothonotary, on *praecipe* of the plaintiff, shall enter judgment against the defendant for failure to file within the required time a pleading to a complaint which contains a notice to defend or, except as provided by subdivision (d), for any relief admitted to be due by the defendant's pleadings.

Official Note: See Rule 237.1 which requires the *praecipe* for default judgment to contain a certification of written notice of intent to file the *praecipe*.

While the prothonotary may enter a default judgment in an action legal or equitable, only the court may grant equitable relief. See subdivision (d).

(1) The prothonotary shall assess damages for the amount to which the plaintiff is entitled if it is a sum certain or which can be made certain by computation, but if it is not, the damages shall be assessed at a trial at which the issues shall be limited to the amount of the damages.

(2) In all actions in which the only damages to be assessed are the cost of repairs made to property

(i) the prothonotary on *praecipe* of the plaintiff, waiving any other damages under the judgment, and the filing of the affidavits provided by subparagraphs (ii) and (iii) shall assess damages for the cost of the repairs;

(ii) the *praecipe* shall be accompanied by an affidavit of the person making the repairs; the affidavit shall contain an itemized repair bill setting forth the charges for labor and material used in the repair of the property; it shall also state the qualifications of the person who made or supervised the repairs, that the repairs were necessary, and that the prices for labor and material were fair and reasonable and those customarily charged;

(iii) the plaintiff shall send a copy of the affidavit and repair bill to the defendant by registered mail directed to

the defendant's last known address, together with a notice setting forth the date of the intended assessment of damages, which shall be not less than [**ten**] **10** days from the mailing of the notice and a statement that damages will be assessed in the amount of the repair bill unless prior to the date of assessment the defendant by written *praecipe* files with the prothonotary a request for trial on the issue of such damages; an affidavit of mailing of notice shall be filed.

Official Note: By Definition Rule 76, registered mail includes certified mail.

(c) In all cases, the court, on motion of a party, may enter an appropriate judgment against a party upon default or admission.

Official Note: For the form of notice to defend, see Rule 1018.1.

(d) In all cases in which equitable relief is sought, the court shall enter an appropriate order upon the judgment of default or admission and may take testimony to assist in its decision and in framing the order.

See Rule 243 for the affidavit required by the Servicemembers Civil Relief Act, 50 U.S.C. § 3901 *et seq.*, setting forth facts showing whether the defendant is in military service as a prerequisite to the entry of a default judgment.

CHAPTER 2950. CONFESSION OF JUDGMENT FOR MONEY

Rule 2955. Confession of Judgment.

(a) The plaintiff shall file with the complaint a confession of judgment substantially in the form provided by Rule 2962.

(b) The attorney for the plaintiff may sign the confession as attorney for the defendant unless an Act of Assembly or the instrument provides otherwise.

Official Note: [**There are local rules in some counties requiring the filing of an affidavit of non-military service. See also the Servicemembers Civil Relief Act, 50 U.S.C.A. Appendix § 521.] See Rule 243 for the affidavit required by the Servicemembers Civil Relief Act, 50 U.S.C. § 3901 *et seq.*, setting forth facts showing whether the defendant is in military service as a prerequisite to the entry of a default judgment.**

CHAPTER 3000. JUDGMENTS

Subchapter B. REVIVAL OF JUDGMENT LIENS

Rule 3031. Judgment upon Default or Admission. Assessment of Damages.

(a) The prothonotary, on *praecipe* of the plaintiff, shall enter judgment against a defendant or terre tenant for failure within the required time to plead to the writ or for any relief admitted to be due by the defendant's or terre tenant's pleading. The prothonotary shall assess damages as directed in the *praecipe* for judgment.

Official Note: [**See the Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. § 520 requiring an affidavit setting forth facts showing that the defendant is not in military service as a prerequisite to the entry of a default judgment.]**

See Rule 243 for the affidavit required by the Servicemembers Civil Relief Act, 50 U.S.C. § 3901 et seq., setting forth facts showing whether the defendant is in military service as a prerequisite to the entry of a default judgment.

See Rule 237.1 *et seq.* which requires a ten-day notice as a prerequisite to the entry of a default judgment.

(b) In all cases the court, on motion of a party, may enter an appropriate judgment against a party upon default or admission.

Subchapter D. ENFORCEMENT OF MONEY JUDGMENTS FOR THE PAYMENT OF MONEY

Rule 3103. [Commencement; issuance] Commencement. Issuance.

(a) Execution shall be commenced by filing a *praecipe* for a writ of execution with the prothonotary of any county in which judgment has been entered. Except as otherwise prescribed by Rule 2963 governing a judgment entered by confession, the *praecipe* shall be in the form prescribed by Rule 3251.

Official Note: The following Acts of Assembly contain special procedures in connection with the issuance of the writ:

Section 428 of the Act approved June 2, 1915, P.L. 736, as amended, 77 P.S. § 951, providing for filing with the prothonotary an affidavit of default in payments before execution may issue on workmen's compensation judgments.

Section 712 of the Act approved May 15, 1933, P.L. 565, as amended, 71 P.S. § 733-712 requiring leave of court for execution against a financial institution of which the Secretary of Banking is in possession as receiver.

Section 3377 of the Probate, Estates and Fiduciaries Code, 20 Pa.C.S. § 3377, providing that execution may not issue on judgments against decedents other than on mortgages, ground rents or conditional sales of real or personal property without agreement in writing of the personal representative or approval of the Orphans' Court.

The [**Soldiers' and Sailors'] Servicemembers Civil Relief Act, [50 U.S.C.A. Appendix 520] 50 U.S.C. § 3901 et seq.**

(b) A writ issued by the prothonotary of the county in which judgment was entered originally or by transfer or certification from another court in the same county may be directed to the sheriff of any county within the Commonwealth.

Official Note: Rule 2959(a)(1) authorizes the defendant in a confessed judgment to move to open judgment either in the county of entry or of execution.

(c) When a judgment is transferred to another county, a writ issued by the prothonotary of the transferee county may be directed only to the sheriff of his county.

(d) Writs may be issued at the same or different times or to the sheriffs of different counties without a prior return of any outstanding writ.

(e) Upon issuance of the writ the prothonotary shall transmit it directly to the sheriff to whom it is directed or upon plaintiff's request deliver it to the plaintiff or the plaintiff's representative for transmittal.

Rule 3146. Judgment against [garnishee upon default or admission in answer to interrogatories] Garnishee upon Default or Admission in Answer to Interrogatories.

(a)(1) If the garnishee within the time allowed by these rules fails to file an answer to interrogatories containing a notice to answer, the prothonotary on *praecipe* of the plaintiff shall enter judgment unliquidated in amount, in favor of the plaintiff and against the garnishee. The amount of the judgment shall thereafter be assessed by the court on motion, notice to the garnishee with a copy to the defendant in the form provided by subdivision (a)(2), and hearing. At the hearing the garnishee may raise defenses against the judgment debtor available under Rule 3145, provided that written notice thereof has been given to all parties not less than [**ten**] **10** days prior to the hearing. If the garnishee appears, the court shall determine and enter judgment for the value of the property of the defendant in the hands of the garnishee but shall not enter judgment in excess of the judgment of the plaintiff against the defendant together with interest and costs. If the garnishee fails to appear, or if appearing offers no evidence, the amount of the judgment shall thereupon be entered in the amount of the plaintiff's judgment against the defendant together with interest and costs, and the court may also award to the plaintiff reasonable expenses including attorney's fees.

(2) The notice required by subdivision (a)(1) shall be in substantially the following form:

* * * * *

(b)(1) Subject to [**paragraph (2) of this**] subdivision **(b)(2)**, the prothonotary, on *praecipe* of the plaintiff, shall enter judgment against the garnishee for the property of the defendant admitted in the answer to interrogatories to be in the garnishee's possession, subject to any right therein claimed by the garnishee, but no money judgment entered against the garnishee shall exceed the amount of the judgment of the plaintiff against the defendant together with interest and costs. The entry of judgment shall not bar the right of the plaintiff to proceed against the garnishee as to any further property or to contest any right in the property claimed by the garnishee.

(2) If the garnishee is a bank or other financial institution, the prothonotary, in the absence of an order of court, shall not enter judgment pursuant to paragraph (1) of this subdivision as to funds of any account of the defendant that is identified in the garnishee's answer to interrogatory no. 7 or 8.

Official Note: See Rule 243 for the affidavit required by the Servicemembers Civil Relief Act, 50 U.S.C. § 3901 et seq., setting forth facts showing whether the defendant is in military service as a prerequisite to the entry of a default judgment.

PUBLICATION REPORT

The Civil Procedural Rules Committee received a request to determine whether certain requirements of the Servicemembers Civil Relief Act, 50 U.S.C. § 3901 *et seq.* should be added to the Rules of Civil Procedure to ensure that an eligible defendant receives the protections of the Act.

The Act provides, in pertinent part, "for the temporary suspension of judicial administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service." *Id.* §§ 3931(a), 3951. The Act applies to all civil actions in which the defendant does not appear and requires the

plaintiff to file an affidavit prior to the entry of default judgment stating (1) whether the defendant is in military service and showing necessary facts to support the affidavit; or (2) the plaintiff is unable to determine whether the defendant is in military service. *See id.* § 3931.

The Rules of Civil Procedure presently reference the Act or its predecessor, the Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. § 520, in Rule 2955 (Confession of Judgment), Rule 3031 (Judgment Upon Default or Admission), Rule 3103 (Commencement of Execution of Judgment for the Payment of Money), and Rule 1920.46 (Affidavit of Non-Military Service). The specific requirements of the affidavit are left for the practitioner or self-represented party to determine. The Committee observed that many judicial districts currently have local rules governing affidavits of non-military service with varying degrees of specificity as to when they are required and their content.

The Committee was asked to consider whether additional guidance on the requirements of the Act with regard to non-military service affidavits should be expanded in the present rules and incorporated into other Rules of Civil Procedure. Having reviewed the Act and local rules, the Committee believes there is merit in a uniform statewide rule setting forth the requirements in the Act for the affidavit. In doing so, the rules would provide certainty that eligible defendants receive the protections of the Act, inform practitioners and self-represented persons alike of the need to evaluate whether an affidavit is required, and set forth the specific requirements found in the Act for the content of the affidavit.

Accordingly, the Committee is considering proposing new Rule 243 to codify the requirements of Section 3931 of the Act into the Rules of Civil Procedure, as well as amendments to existing rules to cross reference the new rule and the Act.

New Rule 243 includes the following: Subdivision (a) provides that a party must comply with the requirements of the Act in any civil action in which the defendant does not make an appearance. Subdivision (b) requires the plaintiff to file the affidavit indicating the status of military service of the defendant. Subdivision (c) authorizes a form affidavit to be developed by the Administrative Office of Pennsylvania Courts, upon consultation with the Committee, and published on the UJS website (www.pacourts.us) for ease of use by both practitioners and self-represented parties.

In addition to the new rule, notes have been added to Rule 237.1 (Notice of *Praecipe* to Enter Judgment of *Non Pros* or Default), Rule 1037 (Judgment Upon Default or Admission), Rule 2955 (Confession of Judgment), Rule 3031 (Judgment Upon Default or Admission), Rule 3146 (Judgment Against Garnishee Upon Default or Admission in Answer to Interrogatories) to cross reference new Rule 243 and cite to the Act. The citation to the Act in the note to Rule 3103 has been updated and stylistic changes have been made throughout the rules.

It is anticipated the Domestic Relations Procedural Rules Committee will address any warranted amendment of Rule 1920.46.

All comments, concerns, and suggestions concerning this proposal are welcome.

[Pa.B. Doc. No. 21-274. Filed for public inspection February 26, 2021, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 1900, 1910, 1915, 1920 AND 1930]

Proposed Amendments of Pa.R.C.P. No. 1901, 1901.3, 1910.11, 1910.12, 1915.4-2, 1915.4-3, 1920.1, 1920.31, 1920.33, 1920.42, 1920.45, 1920.46, 1920.51, 1920.53, 1920.54, 1920.55-1—1920.55-3, 1920.61, 1920.74, 1920.91, 1930.7 and 1931

The Domestic Relations Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania amendments to Pa.R.C.P. No. 1901, 1901.3, 1910.11, 1910.12, 1915.4-2, 1915.4-3, 1920.1, 1920.31, 1920.33, 1920.42, 1920.45, 1920.46, 1920.51, 1920.53, 1920.54, 1920.55-1—1920.55-3, 1920.61, 1920.74, 1920.91, 1930.7, and 1931 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.

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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 I. GENERAL

CHAPTER 1900. ACTIONS PURSUANT TO THE PROTECTION FROM ABUSE ACT

Rule 1901. Definitions.

As used in this chapter:

* * * * *

Fees—means any costs associated with the filing, issuance, registration, service or appeal of a Protection From Abuse matter, including any foreign protection order.

[Master for Emergency Relief—means an attorney, admitted to the practice of law by the Supreme Court of Pennsylvania and appointed pursuant to 23 Pa.C.S.A. § 6110(e), to hear petitions for emergency protection from abuse.]

Temporary Order—An ex parte order entered by the court pursuant to 23 Pa.C.S.A. § 6107.

* * * * *

Rule 1901.3. Commencement of Action.

(a) Except as provided in subdivision (b), **[an action shall be commenced] a plaintiff shall commence an action** by presenting to the court or filing with the prothonotary a petition setting forth the alleged abuse by the defendant. The petition shall be substantially in the form set forth in **[Rule] Pa.R.C.P. No. 1905(b)** and shall have as its first page the Notice of Hearing and Order set forth in **[Rule] Pa.R.C.P. No. 1905(a)**.

(b) An action may be commenced by filing with the prothonotary a certified copy of an emergency order entered pursuant to 23 **[Pa.C.S.A.] Pa.C.S. § 6110**, including orders issued by **[masters for emergency relief] a hearing officer**.

(c) Any fees associated with this action shall not be charged to the plaintiff.

(d) The **[master for emergency relief] hearing officer** shall follow the procedures set forth in the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges for emergency relief under the Protection From Abuse Act.

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

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.11. Office Conference. Subsequent Proceedings. Order.

(a) *Office Conference.*

(1) A conference officer shall conduct the office conference.

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

Official Note: Conference officers preside at office conferences under Pa.R.C.P. No. 1910.11. Hearing officers preside at hearings under Pa.R.C.P. No. 1910.12. The appointment of **[masters] a hearing officer** to hear actions in divorce or for annulment of marriage is authorized by Pa.R.C.P. No. 1920.51.

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Rule 1910.12. Office Conference. Hearing. Record. Exceptions. Order.

(a) *Office Conference.* There shall be an office conference as provided by **[Rule] Pa.R.C.P. No. 1910.11(a)**

through (d). The provisions of **[Rule] Pa.R.C.P. No. 1910.11(d)(3)** and (4) regarding income information apply in cases proceeding pursuant to **[Rule] Pa.R.C.P. No. 1910.12**.

(b) *Conference Conclusion.*

(1) At the conclusion of a conference attended by both parties, if an agreement for support has not been reached, and the conference and hearing are not scheduled on the same day, the court, without hearing the parties, shall enter an interim order calculated in accordance with the guidelines and substantially in the form set forth in **[Rule] Pa.R.C.P. No. 1910.27(e)**, and the parties shall be given notice of the date, time and place of a hearing. A record hearing shall be conducted by a hearing officer who must be a lawyer.

(2) If either party, having been properly served, fails to attend the conference, the court may enter an interim order calculated in accordance with the guidelines and substantially in the form set forth in **[Rule] Pa.R.C.P. No. 1910.27(e)**. Within **[twenty] 20** days after the date of receipt or the date of mailing of the interim order, whichever occurs first, either party may demand a hearing before a hearing officer. If no hearing is requested, the order shall become final.

(3) Any lawyer serving as a hearing officer employed by, or under contract with, a judicial district or appointed by the court shall not practice family law before a conference officer, hearing officer**[, permanent or standing master]**, or judge of the same judicial district.

Official Note: Conference officers preside at office conferences under **[Rule] Pa.R.C.P. No. 1910.11**. Hearing officers preside at hearings under **[Rule] Pa.R.C.P. No. 1910.12**. The appointment of **[masters] a hearing officer** to hear actions in divorce or for annulment of marriage is authorized by **[Rule] Pa.R.C.P. No. 1920.51**.

(c) *Separate Listing.*

(1) Except as provided in subdivision (c)(2), promptly after **the conference's conclusion [of the conference]**, a party may move the court for a separate listing of the hearing **[where] if:**

- (i) there are complex questions of law, fact or both; **[or]**
- (ii) the hearing will be protracted; or
- (iii) the orderly administration of justice requires that the hearing be listed separately.

(2) **[Where] When** the conference and hearing are scheduled on the same day, all requests for separate listing **[must] shall** be presented to the court at least seven days prior to the scheduled court date.

(3) If the motion for separate listing is granted, discovery shall be available in accordance with **[Rule] Pa.R.C.P. No. 4001 et seq.**

Official Note: The rule relating to discovery in domestic relations matters generally is **[Rule] Pa.R.C.P. No. 1930.5**.

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CHAPTER 1915. ACTIONS FOR CUSTODY OF MINOR CHILDREN

Rule 1915.4-2. Partial Custody. Office Conference. Hearing Record. Exceptions. Order.

* * * * *

(b) Hearing.

(1) The hearing shall be conducted by a hearing officer who must be a lawyer, and a record shall be made of the testimony. A hearing officer who is a lawyer employed by, or under contract with, a judicial district or appointed by the court shall not practice family law before a conference officer, hearing officer [, permanent or standing master], or judge of the same judicial district.

* * * * *

Rule 1915.4-3. Non-Record Proceedings. Trials.

(a) Non-Record Proceedings. In judicial districts utilizing an initial non-record proceeding, i.e., office conference, if an agreement is not finalized by the conclusion of the proceeding, the conference officer shall promptly notify the court that the matter should be listed for trial. A lawyer employed by, or under contract with, a judicial district or appointed by the court to serve as a conference officer to preside over a non-record proceeding shall not practice family law before a conference officer, hearing officer [, permanent or standing master], or judge of the same judicial district.

* * * * *

CHAPTER 1920. ACTIONS OF DIVORCE OR FOR ANNULMENT OF MARRIAGE

Rule 1920.1. Definitions. Conformity to Civil Action.

(a) As used in this chapter [,]:

* * * * *

“divorce,” divorce from the bonds of matrimony or dissolution of a civil union;

“hearing officer,” shall have the same meaning as “master” as that term is used in the Divorce Code, 23 Pa.C.S. §§ 3101, et seq.

“marital property rights” means those rights created solely by Section 3501 of the Divorce Code; and

* * * * *

Rule 1920.31. Joinder of Related Claims. Ancillary Claims. Alimony. Counsel Fees. Costs and Expenses.

(a) Ancillary Claims.

(1) If a party has raised a claim for alimony, counsel fees, or costs and expenses, the parties shall file a true copy of the most recent federal income tax return, pay stubs for the preceding six months, a completed Income Statement in the form required by Pa.R.C.P. No. 1910.27(c)(1), and a completed Expense Statement in the form required by Pa.R.C.P. No. 1910.27(c)(2)(B).

(i) A party may not file a motion for the appointment of a [master] hearing officer or a request for court action regarding alimony, counsel fees, or costs and expenses until at least 30 days following the filing of that party’s tax returns, Income Statement, and Expense Statement.

(ii) The other party shall file the tax returns, Income Statement, and Expense Statement within 20 days of service of the moving party’s documents.

* * * * *

(b) Alimony.

(1) Orders for alimony may be enforced as provided by the rules governing actions for support and divorce, and in the Divorce Code.

* * * * *

Rule 1920.33. Joinder of Related Claims. Equitable Division. Enforcement.

(a) If a pleading or petition raises a claim for equitable division of marital property under Section 3502 of the Divorce Code, the parties shall file and serve on the other party an inventory, which shall include the information in subdivisions [(1) through (3)] (a)(3)(i)—(iii), and shall be substantially in the form set forth in Pa.R.C.P. No. 1920.75.

(1) Within 20 days of service of the moving party’s inventory, the non-moving party shall file an inventory.

(2) A party may not file a motion for the appointment of a [master] hearing officer or a request for court action regarding equitable division until at least 30 days following the filing of that party’s inventory.

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

(3) The inventory shall set forth as of the date of separation:

[(1)] (i) a specific description of the marital assets, which either or both parties have a legal or equitable interest, individually or jointly with another person, the name of the co-owners, if applicable, and the marital liabilities, which either party incurred individually or jointly with another person, and the name of any co-debtors, if applicable;

[(2)] (ii) a specific description of the assets or liabilities claimed to be non-marital and the basis for such claim; and

[(3)] (iii) the estimated value of the marital and non-marital assets and the amount due for each marital and non-marital liability.

* * * * *

Rule 1920.42. Obtaining Divorce Decrees Under Section 3301(c) or Section 3301(d) of the Divorce Code. Affidavits and Counter-Affidavits. Requirements of the Affidavit of Consent. Ancillary Claims. Orders Approving Grounds for Divorce. Notice of Intention to File the Praecepto to Transmit Record. Praecepto to Transmit Record.

(a) Obtaining a divorce decree under Section 3301(c)(1) of the Divorce Code.

* * * * *

(3) After the court enters an order approving grounds for divorce, a party may request, consistent with the judicial district’s local rules and procedures, that the court either hears the ancillary claims or appoints a [master] hearing officer to hear the ancillary claims as outlined in Pa.R.C.P. No. 1920.51.

Official Note: See Pa.R.C.P. No. 1920.74 for the Motion for Appointment of [Master] Hearing Officer.

(4) If the parties resolve the ancillary claims by agreement after the court approves the grounds for the divorce

but before the court enters an order disposing of the ancillary claims, the parties shall file a Praeceptum to Transmit Record requesting the court enter the appropriate divorce decree. To the extent the agreement does not address all of the parties' claims raised in the pleadings, the party raising the outstanding claims shall withdraw the claims before the court enters a divorce decree.

(b) *Obtaining a divorce decree under Section 3301(c)(2) of the Divorce Code.*

(1) If a party has filed a complaint requesting a divorce on the ground of irretrievable breakdown and a party has been convicted of a personal injury crime against his or her spouse, the court shall enter a decree in divorce after:

* * * * *

(iii) the filed affidavits and a blank Counter-Affidavit under Section 3301(c)(2) of the Divorce Code have been served on the other party consistent with Pa.R.C.P. No. 1930.4, and the other party has admitted or failed to deny the averments in the Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code;

(A) If a party files a Counter-Affidavit under Section 3301(c)(2) of the Divorce Code denying an averment in the Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code, either party may present a motion requesting the court resolve the issue.

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

* * * * *

(3) After the court enters an order approving grounds for divorce, a party may request, consistent with the judicial district's local rules and procedures, that the court either hears the ancillary claims or appoints a [**master**] hearing officer to hear the ancillary claims as outlined in Pa.R.C.P. No. 1920.51.

Official Note: See Pa. R.C.P. No. 1920.74 for the Motion for Appointment of [**Master**] Hearing Officer.

(4) If the parties resolve the ancillary claims by agreement after the court approves the grounds for the divorce but before the court enters an order disposing of the ancillary claims, the parties shall file a Praeceptum to Transmit Record requesting the court enter the appropriate divorce decree. To the extent the agreement does not address all of the parties' claims raised in the pleadings, the party raising the outstanding claims shall withdraw the claims before the court enters a divorce decree.

(c) *Obtaining a divorce decree under Section 3301(d) of the Divorce Code.*

(1) If a party has filed a complaint requesting a divorce on the ground of irretrievable breakdown and the requisite separation period has elapsed, the court shall enter a decree in divorce after:

* * * * *

(iii) the filed affidavit and a blank Counter-Affidavit under Section 3301(d) of the Divorce Code have been served on the other party consistent with Pa.R.C.P. No. 1930.4, and the other party has admitted or failed to deny the averments in the Affidavit under Section 3301(d) of the Divorce Code;

(A) If a party files a Counter-Affidavit under Section 3301(d) of the Divorce Code denying an averment in the

Affidavit under Section 3301(d) of the Divorce Code, including the date of separation, either party may present a motion requesting the court resolve the issue.

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

* * * * *

(3) After the court enters an order approving grounds for divorce, a party may request, consistent with the judicial district's local rules and procedures, that the court either hears the ancillary claims or appoints a [**master**] hearing officer to hear the ancillary claims as outlined in Pa.R.C.P. No. 1920.51.

Official Note: See Pa.R.C.P. No. 1920.74 for the Motion for Appointment of [**Master**] Hearing Officer.

* * * * *

Rule 1920.45. Counseling.

* * * * *

(d) If the court has referred a divorce action to a [**master**] hearing officer and a party requests counseling pursuant to the Divorce Code, without leave of court, the [**master**] hearing officer may require counseling and continue the hearing pending the counselor's report.

Rule 1920.46. Affidavit of Non-Military Service.

If the defendant fails to appear in the action, the plaintiff shall file an affidavit regarding military service with the motion for appointment of a [**master**] hearing officer, prior to a trial by the court, or with the plaintiff's affidavit required by Pa.R.C.P. No. 1920.42(b)(1)(ii) and (c)(1)(ii).

* * * * *

Rule 1920.51. Hearing by the Court. Appointment of [**Master] Hearing Officer. Notice of Hearing.**

(a) In an action of divorce or annulment:

(1) the court may:

(i) hear the testimony; or

(ii) upon motion of a party or of the court, appoint a [**master**] hearing officer;

* * * * *

(2) the court shall not appoint a [**master**] hearing officer;

* * * * *

Official Note: Section 3321 of the Divorce Code prohibits the appointment of a [**master**] hearing officer as to the claims of custody and paternity. However, as set forth in Pa.R.C.P. No. 1920.91(3), the Supreme Court of Pennsylvania suspended Section 3321 insofar as that section prohibits the appointment of [**masters**] a hearing officer in partial physical custody cases.

(3) The Motion for the Appointment of a [**Master**] Hearing Officer and the order shall be substantially in the form prescribed by Pa.R.C.P. No. 1920.74. The order appointing the [**master**] hearing officer shall specify the issues or ancillary claims that are referred to the [**master**] hearing officer.

(4) A permanent or standing [**master**] hearing officer employed by or under contract with a judicial district

or appointed by the court shall not practice family law before a conference officer, hearing officer, permanent or standing [master] hearing officer, or judge of the same judicial district.

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

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

(c) If no attorney has appeared of record for a party, notice of the hearing shall be given to the party by the [master] hearing officer or if a [master] hearing officer has not been appointed, by the prothonotary, clerk, or other officer designated by the court, as follows:

* * * * *

Rule 1920.53. Hearing by [Master] Hearing Officer. Report.

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

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

- (1) the method and date of service of process;
(2) the manner and date of service of the notice of the [master's] hearing officer's hearing or the [master's] hearing officer's efforts to notify the parties;

* * * * *

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

(c) If a divorce or an annulment is recommended, the [master] hearing officer shall attach a proposed decree to the report and recommendation.

Rule 1920.54. Hearing by [Master] Hearing Officer. Report. Related Claims.

(a) If claims for counsel fees and costs and expenses have been referred to a [master] hearing officer pursuant to Pa.R.C.P. No. 1920.51(a), the [master's] hearing officer's report shall contain a separate section captioned "Counsel Fees and Costs and Expenses". The report may be in a narrative form stating the reasons for the recommendation and shall include a proposed order stating:

* * * * *

(b) If a claim for alimony has been referred to a [master] hearing officer, the report shall contain a separate action captioned "Alimony." The report shall conform to the requirements of subdivision (a) and, in addition, shall set forth:

* * * * *

(c) If a claim for the determination and distribution of existing property rights and interests between the parties

has been referred to a [master] hearing officer, the report shall contain a separate section captioned "Division of Property." The section shall be divided into two parts[,]:

* * * * *

Rule 1920.55-1. Alternative Hearing Procedures for Matters Referred to a [Master] Hearing Officer.

(a) Matters referred to a [master] hearing officer for hearing shall proceed as prescribed by Pa.R.C.P. No. 1920.55-2 unless the court by local rule adopts the alternative procedure of Pa.R.C.P. No. 1920.55-3.

(b) The president judge or the administrative judge of Family Division of each county shall certify that all divorce proceedings which are referred to a [master] hearing officer in that county are conducted in accordance with either Pa.R.C.P. No. 1920.55-2 or Pa.R.C.P. No. 1920.55-3. The certification shall be filed with the Domestic Relations Procedural Rules Committee and shall be substantially in the following form:

I hereby certify that _____ County conducts its divorce proceedings that are referred to a [master] hearing officer in accordance with Pa.R.C.P. No. ____ .

(PRESIDENT JUDGE)
(ADMINISTRATIVE JUDGE)

* * * * *

Rule 1920.55-2. [Master's] Hearing Officer's Report. Notice. Exceptions. Final Decree.

(a) After conclusion of the hearing, the [master] hearing officer shall:

- (1) file the record and the report within:
(i) twenty days in uncontested actions; or [;]
(ii) thirty days from the last to occur of the receipt of the transcript by the [master] hearing officer or close of the record in contested actions; and

(2) immediately serve upon counsel for each party, or, if unrepresented, upon the party, a copy of the report and recommendation and written notice of the right to file exceptions.

(b) Within [twenty] 20 days of the date of receipt or the date of mailing of the [master's] hearing officer's report and recommendation, whichever occurs first, any party may file exceptions to the report or any part thereof, to rulings on objections to evidence, to statements or findings of fact, to conclusions of law, or to any other matters occurring during the hearing. Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed waived unless, prior to entry of the final decree, leave is granted to file exceptions raising those matters.

(c) If exceptions are filed, any other party may file exceptions within [twenty] 20 days of the date of service of the original exceptions. The court shall hear argument on the exceptions and enter a final decree.

* * * * *

Rule 1920.55-3. [Master's] Hearing Officer's Report. Notice. Hearing De Novo. Final Decree.

* * * * *

(b) After the conclusion of hearing, the [master] hearing officer shall:

(1) file the report within:

- (i) twenty days in uncontested actions; or [;]
(ii) thirty days in contested actions; and

(2) immediately serve upon counsel for each party, or, if unrepresented, upon the party, a copy of the report and recommendation, and written notice of the right to demand a hearing de novo.

(c) Within [twenty] 20 days of the date the [master's] hearing officer's report is mailed or received, whichever occurs first, any party may file a written demand for a hearing de novo. If a demand is filed, the court shall hold a hearing de novo and enter a final decree.

(d) If no demand for de novo hearing is filed within the [twenty-day] 20-day period, the court shall review the report and recommendation and, if approved, shall enter a final decree.

* * * * *

Rule 1920.61. Testimony Outside the County.

On motion of a party and upon such terms as it may order, the court may authorize and direct the [master] hearing officer to take testimony of witnesses within any other county of the Commonwealth or in any other state or territory subject to the jurisdiction of the United States, or in any foreign country.

Rule 1920.74. Form of Motion for Appointment of [Master] Hearing Officer. Order.

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

(Caption)

MOTION FOR APPOINTMENT OF [MASTER] HEARING OFFICER

_____ (Plaintiff) (Defendant) moves the court to appoint a [master] hearing officer with respect to the following claims:

- () Divorce
() Annulment
() Alimony
() Equitable Division of Marital Property
() Counsel Fees
() Costs and Expenses
() Other: _____

and in support of the motion states:

(1) Discovery (is) (is not) complete as to the claim(s) for which the appointment of a [master] hearing officer is requested.

(2) The non-moving party (has) (has not) appeared in the action (personally) (by his or her attorney, _____, Esquire).

(3) The statutory ground(s) for divorce (is) (are).

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

(5) Check and complete the applicable paragraph(s):

- [] (a) The action is not contested.
[] (b) An agreement has been reached with respect to the following claims:
[] (c) The action is contested with respect to the following claims:

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

(7) The hearing is expected to take _____ (hours) (days).

(8) Additional information, if any, relevant to the motion:

Date: _____ Attorney for (Plaintiff) (Defendant)

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

(Caption)

ORDER APPOINTING [MASTER] HEARING OFFICER

AND NOW, _____, 20____, _____, Esquire, is appointed [master] hearing officer with respect to the following claims: _____

BY THE COURT:

MOVING PARTY NON-MOVING PARTY

Name: Name:

Attorney's Name: Attorney's Name:

Attorney's Address: Attorney's Address:

Attorney's Telephone #: Attorney's Telephone #:

Attorney's E-Mail: Attorney's E-Mail

Party's Address and Telephone Party's Address and Telephone

if not represented by counsel: # if not represented by counsel:

Official Note: See Pa.R.C.P. No. 1920.51(a)(1)(ii) for the issues and claims for which the court may appoint a [master] hearing officer. It is within the discretion of the court to determine the point at which a [master] hearing officer should be appointed in a case.

Rule 1920.91 Suspension of Acts of Assembly.

The following Acts of Assembly are suspended insofar as they apply to the practice and procedure in actions for divorce or annulment of marriage to the extent hereinafter set forth:

* * * * *

(3) Section 3321 of the Domestic Relations Code, 23 Pa.C.S. § 3321, insofar as it prohibits the appointment of [masters] hearing officers in partial custody or visitation matters.

Official Note: Suspended Section 3321 of the Divorce Code states that the court may appoint a [master]

hearing officer to hear testimony on all issues relating to a divorce except custody or paternity.

(4) And all other Acts or parts of Acts of Assembly inconsistent with these rules to the extent of such inconsistency.

CHAPTER 1930. RULES RELATING TO DOMESTIC RELATIONS MATTERS GENERALLY

Rule 1930.7. Status Conference.

At any time in the proceedings, the court, the court's designee or the [**master**] **hearing officer**, *sua sponte* or upon application of any party, may hold a status conference, in person or by any other means permitted by these rules, with counsel or with counsel and the parties in order to review the case status and expedite the litigation.

Rule 1931. Family Court Rules.

(a) *Actions Governed by These Rules* [:].

* * * * *

(b) *Commencement of Action.*

(1) *Unified Family Court Docketing.* All actions under these Family Court Rules which involve identical parties shall be entered on the court's docket under the same primary case number. Additional letters or numbers may be added parenthetically to specify the type of action, judge assigned or other identifying information.

(2) *Custody Agreements.* If, at a support proceeding, it appears that resolution of custody issues will facilitate compliance with the child support order, the conference officer [,] **or** hearing officer [**or master**] may provide the parties with a form custody complaint and form custody agreement, along with information as to where to file the completed documents, the filing fee, and how to contact the lawyers referral service. The support conference officer [,] **or** hearing officer [**or master**] shall not participate in custody negotiations, preparation of the forms, or provide legal advice.

(c) *Consolidation of Family Court Matters.*

(1) *General Rule.* Two or more actions under these Family Court Rules involving the same parties and common questions of law and/or fact shall be consolidated for hearing or trial unless the court determines that it is inappropriate or impractical to do so.

(2) *Trial Continuity.* Trials before a judge or hearings before a [**master**] **hearing officer** shall be scheduled to be heard on consecutive days or within a ten [(10)]-day period. If not completed within the time allotted, the trial or hearing shall be concluded within [**ninety (90)**] 90 days of the date of the commencement of the trial or hearing, unless a shorter time frame is required by statute or another procedural rule.

(3) *Prompt Decisions.*

(i) Except as provided in subdivision [(ii) below] (c)(3)(ii), in any matter brought under these Family Court Rules, a decision by a conference officer, [**master**] **hearing officer**, or judge shall be entered, filed, and served upon counsel for the parties, or any party not represented by counsel, not later than [**thirty (30)**] 30 days after the conference, hearing, or trial concludes, unless a shorter time frame is required by statute or another procedural rule.

(ii) The time for entering and filing a decision may be extended if, within [**thirty (30)**] 30 days of the conclusion of the conference, hearing, or trial, the court extends the date for such decision by order entered of record showing good cause for the extension. In no event shall an extension delay entry of the decision more than [**sixty (60)**] 60 days after the conclusion of the conference, hearing, or trial.

(d) *Continuing Education for Family Court Personnel.*

* * * * *

(2) *Initial Training.* Within one [(1)] year of assignment to cases governed by these Family Court Rules, each [**master**,] hearing officer, conciliator, mediator, and other court personnel designated by the president or administrative judge of each judicial district shall successfully complete the coursework developed or approved by the AOPC.

(3) *Continuing Education.* Each [**master**,] hearing officer, conciliator, mediator, and other court personnel designated by the president or administrative judge who is assigned to cases governed by these Family Court Rules shall successfully complete six [(6)] hours of continuing education developed or approved by the AOPC each calendar year following the calendar year in which the initial training was completed.

(4) *Compliance.* The AOPC shall monitor compliance with the educational requirements of this rule.

**PUBLICATION REPORT
RULE PROPOSAL 183**

The Domestic Relations Procedural Rules Committee (Committee) is proposing an amendment to the Domestic Relations rules that eliminates the term "master" and, instead, replaces with the term "hearing officer." Historically, the legal term "master" has identified a quasi-judicial officer for centuries; however, the term has also become known as a racially divisive term, as well. Several judicial districts have replaced the term "master" with other nomenclature. The Committee is proposing numerous rule amendments eliminating the term across the domestic relations statewide rules.

Practically, the rule proposal substitutes the term hearing office for master throughout the domestic relations rules. However, the Protection from Abuse Act identifies two judicial officers that can hear emergency petitions: (1) a hearing officer; and (2) a master for emergency relief. The current PFA rules utilize these terms, as well. A master for emergency relief is an attorney appointed by a judicial district president judge. Also, statutorily, a master for emergency relief is a hearing officer. *See* Pa.R.C.P. No. 1901 and 23 Pa.C.S. § 6102(a). A hearing officer under the PFA Act is a Magisterial District Judge, a Philadelphia Municipal Judge, an arraignment judge, and a master for emergency relief. The proposed rule simply eliminates the term master for emergency relief from the rules, which obviously does not impact the statutorily defined position and its role in the PFA process.

All other instances of the term master have been replaced by the term hearing officer across the domestic relations rules.

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

[Pa.B. Doc. No. 21-275. Filed for public inspection February 26, 2021, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1915]

Proposed amendment of Pa.R.C.P. No. 1915.11

The Domestic Relations Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania an amendment to Pa.R.C.P. No. 1915.11 for the reasons set forth in the accompanying publication report. Pursuant to Pa.R.J.A. No 103(a)(1), the proposal is being republished in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

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

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

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

Bruce J. Ferguson, Counsel
Domestic Relations Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
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 I. GENERAL

CHAPTER 1915. ACTIONS FOR CUSTODY OF MINOR CHILDREN

[**Rule 1915.11. Appointment of Attorney for Child. Interview of Child. Attendance of Child at Hearing or Conference.**

(a) The court may on its own motion, or the motion of a party, appoint an attorney to represent the child in the action. Counsel for the child shall represent the child's legal interests and zealously represent the child as any other client in an attorney-client relationship. Counsel for the child shall not perform the role of a guardian *ad litem* or best interests attorney. The court may assess the cost of the child's attorney upon the parties in such proportions as the court deems appropriate or as otherwise provided by law. The order appointing an

attorney to represent the child shall be in substantially the form set forth in Pa.R.C.P. No. 1915.19.

(b) The court may interview a child, whether or not the child is the subject of the action, in open court or in chambers. The interview shall be conducted in the presence of the attorneys and, if permitted by the court, the parties. The attorneys shall have the right to interview the child under the supervision of the court. The interview shall be part of the record.

(c) Unless otherwise directed by the court, the child who is the subject of the action shall not be required to attend a hearing before the court or a conference.

Official Note: A party may bring a child to a conference or hearing but, in the absence of an order of court, is not required to do so.]

Rule 1915.11. Attorney Appointment for Child. Child Interview. Child Attending Proceedings.

(a) Attorney Appointment for Child.

(1) Upon its own motion or a motion of a party, the court may appoint an attorney to represent a child, who is the subject of the action.

(2) The court's order appointing the child's attorney, as set forth in Pa.R.C.P. No. 1915.19, may apportion to the parties the reasonable cost of the child's attorney.

(3) The child's attorney:

(i) shall represent the child's legal interest;

(ii) shall zealously represent the child as any other client in an attorney-client relationship; and

(iii) shall not act as the child's guardian *ad litem* or best interest attorney.

Official Note: See Pa.R.C.P. No. 1915.11-2 for the appointment of a guardian *ad litem*.

(b) Child Interview.

(1) The court may interview a child in open court or in chambers.

(2) The court shall conduct the child's interview on the record.

(3) A party's attorney or, if permitted by the court, a party may observe the interview.

(4) As part of the interview process, the court shall permit either:

(i) a party's attorney to question the child under the court's supervision; or

(ii) a party's attorney or a self-represented party to submit to the court written questions, which the court may include in its interview.

(c) Child Attending Proceedings. Unless ordered by the court or otherwise compelled to testify on the record, a child's attendance at a conference, hearing, or trial is not required.

[Explanatory] Comment—1991

[Rule 1915.15(b)] Pa.R.C.P. No. 1915.15(c) provides a form of order to appear at a conference or hearing in [an action for custody, partial custody or visitation of minor children. Prior to its recent amendment, the form required that one or more children who

are the subject of the action attend the hearing or conference] a custody action.

However, the presence of a child in court is not always necessary or desirable. The experience may be traumatic and disruptive. Consequently, the child should not be required to attend a hearing or conference in every case. When the presence of a child is required and the custodial party does not voluntarily bring the child, the court may issue an order for the child's attendance.

Subdivision (c) has been added to [**Rule 1915.11**] **Pa.R.C.P. No. 1915.11** to provide that, in the absence of an order of court, a child who is the subject of the action need not be brought to a conference or a hearing before the court. The form of order to appear provided by [**Rule 1915.15(b)**] **Pa.R.C.P. No. 1915.15(c)** has been revised to implement this policy.

Comment—2021

Although the rule states that a child is not required to attend a conference, hearing, or trial, the terminology used by a judicial district may vary for these court proceedings. The rule's intent is to limit the child's participation to only those proceedings in which the child will actively participate as a witness or the court's interview.

PUBLICATION REPORT—REPUBLICATION

Rule Proposal 178

The Domestic Relations Procedural Rules Committee (Committee) is proposing an amendment to Pa.R.C.P. No. 1915.11. This rule addresses the appointment of an attorney for a child in a custody case, the child interview by the court, and a child attending various court proceedings. The Committee previously published the Rule Proposal at 50 Pa.B. 3834 (August 1, 2020). After receiving comments, the Committee revised the proposal and is republishing the Rule Proposal for additional comments.

The republished Rule Proposal address the comments, including those suggesting that permitting a parent into the court's interview could be problematic, and that many judges incorporate a party into the process by allowing the self-represented parent to provide written questions to the judge for inclusion into the child's interview in lieu of directly questioning the child. The Committee has adopted this practice into the Rule Proposal.

Other changes from the first publication include clarifying that the court may interview a child, which includes the subject child or any other child testifying in the action, in open court or in chambers. The court's interview is on the record. Subdivision (c) is rewritten to clarify that a child should only participate in proceedings in which the child will actually testify or participate in the court's interview. The intent is to eliminate a parent needlessly bringing the child to every proceeding.

Finally, the rule is rewritten in its entirety and is in an outline format. As part of the rewrite, the Committee proposes deleting the Note following the rule text as it is confusing and could be interpreted to conflict with subdivision (c).

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

[Pa.B. Doc. No. 21-276. Filed for public inspection February 26, 2021, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 1920 AND 1932]

Proposed Rescission of Pa.R.C.P. No. 1920.46 and Adoption of Pa.R.C.P. No. 1932

The Domestic Relations Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the rescission of Pa.R.C.P. No. 1920.46 and adopted of Pa.R.C.P. No. 1932 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 I. GENERAL

CHAPTER 1920. ACTIONS OF DIVORCE OR FOR ANNULMENT OF MARRIAGE

Rule 1920.46. [Affidavit of Non-military Service] Rescinded.

[If the defendant fails to appear in the action, the plaintiff shall file an affidavit regarding military service with the motion for appointment of a master, prior to a trial by the court, or with the plaintiff's affidavit required by Pa.R.C.P. No. 1920.42(b)(1)(ii) and (c)(1)(ii).

Official Note: The Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901—4043, requires that in cases in which the defendant does not make an appearance, the plaintiff must file an affidavit of nonmilitary service before the court may enter judgment.

If the defendant is in the military service and an attorney has not entered an appearance on behalf of the defendant, a judgment shall not be entered until the court appoints an attorney to represent the defendant and protect his or her interest.

Actions for divorce under Section 3301(c)(2) and (d)(1)(i) of the Divorce Code are governed by Pa.R.C.P. No. 1920.42(b) and (c), respectively.

EXPLANATORY COMMENT—2003

35 P.S. § 450.602 previously required a certificate of each divorce or annulment decreed in the Commonwealth to be transmitted to the Vital Statistics Division of the Commonwealth of Pennsylvania Department of Health. The statute was amended October 30, 2001, P.L. 826, No. 82, § 1, effective in 60 days, to require that the prothonotary submit a monthly statistical summary of divorces and annulments, rather than individual forms for each decree. Thus, subdivision (a) of Rule 1920.46, requiring the filing of the vital statistics form, is no longer necessary. Former subdivision (b) now comprise the entirety of the rule and the title has been amended to reflect that the rule applies only to the affidavit regarding military service.]

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

CHAPTER 1930. RULES RELATING TO DOMESTIC RELATIONS MATTERS GENERALLY

Rule 1932. Servicemembers Civil Relief Act.

(a) In a domestic relations action in which a party fails to appear after proper service and notice to appear, the party initiating the action shall conduct an investigation into the nonappearing party's military service status as set forth in subdivision (d).

Official Note: See Servicemembers Civil Relief Act, 50 U.S.C. § 3911, for the definition of military service.

(b) For purposes of this rule, the term "fails to appear" shall have the following meanings in the indicated actions.

(1) *Support.* When a party or an attorney on the party's behalf does not attend an office conference as set forth in Pa.R.C.P. No. 1910.11 or 1910.12.

(2) *Custody.*

(i) *Initial Proceeding or Modification.* When a party or an attorney on the party's behalf does not attend an office conference as set forth in Pa.R.C.P. No. 1915.4-2 or non-record proceeding as set forth in Pa.R.C.P. No. 1915.4-3; or

(ii) *Relocation.* When a party proposes a relocation as set forth in Pa.R.C.P. No. 1915.17 and after service of the Notice of Proposed Relocation, the non-relocating party does not return or file the counter-affidavit within the specified time.

(3) *Divorce or Annulment.*

(i) *Sections 3301(a) or (b) or Section 3303.* When a party or an attorney on the party's behalf does not attend a judicial or divorce hearing officer's conference or conciliation; or

(ii) *Sections 3301(c)(2) or (d).* When a party does not file a counter-affidavit within the specified time after service of the affidavit required by Pa.R.C.P. No. 1920.42(b)(1)(ii) or (c)(1)(ii).

(4) *Paternity.*

(1) *Civil Action.* When a putative father initiates a civil action to establish paternity and requests genetic testing pursuant to Pa.R.C.P. No. 1930.6, the mother or an attorney on the mother's behalf does not attend the hearing as provided in Pa.R.C.P. No. 1930.6(d).

(2) *Support or Custody Action.* When a paternity issue is raised in a support or custody action, a party or an attorney on the party's behalf does not attend the proceeding as provided in subdivision (b)(1) or (b)(2)(i), respectively.

(c) *Pending Actions.*

(1) In an action pending before the court, a party shall complete and file the affidavit when:

(i) a party knows or is uncertain whether a nonappearing party is on active duty military service; and

(ii) the party is requesting relief from the court, including but not limited to contempt proceedings and requests for special or emergency relief, which will adversely affect another party's civil rights who may be on active duty military service; or

(iii) directed by the court.

(2) Due to the ongoing nature of domestic relations actions, a party may have to conduct more than one investigation into another party's military service status during the action.

(d) *Investigating and Determining Military Service Status.* When a party is required to file an affidavit regarding another party's military status, the party shall:

(1) obtain the non-appearing party's Status Report Pursuant to Servicemembers Civil Relief Act from the U.S. Department of Defense Servicemembers Civil Relief Act website at <https://scra.dmdc.osd.mil/>;

(2) attach the Status Report Pursuant to Servicemembers Civil Relief Act to the affidavit; and

(3) complete the affidavit and include additional facts that may assist the court in determining the other party's military service status.

Official Note: The Servicemembers Civil Relief Act Affidavit is available at <http://www.pacourts.us>.

Comment—2021

The Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq.*, requires that in cases in which a party does not make an appearance, the moving party is required to file an affidavit of the nonappearing party's military service status before the court may enter judgment or an order that may adversely affect the putative Servicemember's civil rights during military service. If the party is in the military service and an attorney has not entered an appearance on behalf of the party or the party has not otherwise appeared in the action, the court shall not enter a judgment or an order against a nonappearing party until the court appoints an attorney to represent the party to protect the putative servicemember's interest.

Unlike other civil actions, domestic relations actions do not require a party to answer pleadings in most circumstances so knowing when a party has failed to appear in the action, which would trigger the affidavit filing requirement for the nonappearing party's military service status, is not as clear as in other civil actions and also

varies based on the type of domestic relations action. The rule provides a clear triggering event in each action for the party to prepare and file the affidavit.

**PUBLICATION REPORT
RULE PROPOSAL 179**

The Domestic Relations Procedural Rules Committee (Committee) is proposing rescinding Pa.R.C.P. No. 1920.46 and adopting Pa.R.C.P. No. 1932. The proposed new rule addresses the Servicemembers' Civil Relief Act (SCRA), 50 USC §§ 3901, *et seq.* Also, the Civil Procedural Rules Committee is publishing a companion rule proposal to address the SCRA in other civil actions. In addition to SCRA procedures, an affidavit indicating the nonappearing party's military status applicable to all procedural rules is proposed for use in all bodies of rules and will be included on the Unified Judicial Systems (UJS) forms webpage at <http://www.pacourts.us>.

Currently, the domestic relations rules address the SCRA in divorce actions only under Pa.R.C.P. No. 1920.46—Affidavit of Non-Military Service. However, the SCRA applies to all civil actions, which would include divorce, custody, and support. The SCRA requires that in cases in which a party does not make an appearance, the plaintiff is required to investigate the nonappearing party's military service status and file an affidavit of that party's military status before the court may enter judgment or an order that may adversely affect the putative Servicemember's civil rights during military service. If the party is in the military service and an attorney has not entered an appearance on behalf of the party or the party has not otherwise appeared in the action, the court cannot enter a judgment or an order against the nonappearing party until the court appoints an attorney to represent the party to protect the putative Servicemember's interest.

Inherently and unlike most civil actions (*e.g.*, landlord/tenant, contract actions), domestic relations actions, such as child custody and support, are ongoing with future modification proceedings that may span years. Generally, the SCRA requires that the plaintiff must file an affidavit when the defendant fails to appear and the plaintiff is requesting relief from the court (often a default judgment); however, the domestic relation rules do not require a party to answer pleadings in most circumstances and do not permit default judgments so knowing when a party has failed to appear in the action, which would trigger the nonappearing party's military service affidavit filing requirement, is not as clear as in other civil actions. Moreover, the type of domestic relations action could impact the timing of when a party has failed to appear. The proposed rule provides a clear triggering event in each domestic relations action for the moving party to prepare and file the affidavit.

Similarly, in domestic relations actions, the plaintiff may be the servicemember, who is on active duty or gets called to active duty during the course of an action, and is the nonappearing party in a modification proceeding. As such, the Rule Proposal recognizes that either party can be the moving party and does not use the same nomenclature as the SCRA that refers to the moving party exclusively as the plaintiff. The proposed rule refers to the parties as the moving party or nonappearing party rather than plaintiff and defendant. As such, either party in a domestic relations action may be required to file multiple affidavits and conduct multiple investigations into another party's military service status over the course of the action.

As the SCRA is applicable to divorce, custody, and support actions, the Committee is proposing adding the proposed rule to the 1930s series of rules rather than a separate rule in each of the rules. As such, the Committee is proposing that the current divorce rule, Pa.R.C.P. No. 1920.46, addressing the SCRA would be rescinded. For uniformity in the practice, an affidavit that is required in all rules' bodies will be added to the UJS website.

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

[Pa.B. Doc. No. 21-277. Filed for public inspection February 26, 2021, 9:00 a.m.]

**DISCIPLINARY BOARD OF
THE SUPREME COURT**

Notice of Suspension

Notice is hereby given that Adam Luke Brent having been suspended from the practice of law in the State of New Jersey; the Supreme Court of Pennsylvania issued an Order dated February 10, 2021 suspending Adam Luke Brent from the practice of law in this Commonwealth for a period of three years, effective March 12, 2021. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

MARCEE D. SLOAN,
Board Prothonotary

[Pa.B. Doc. No. 21-278. Filed for public inspection February 26, 2021, 9:00 a.m.]