

THE COURTS

Title 225—RULES OF EVIDENCE

[225 PA. CODE ARTS. I AND VIII]

Proposed Amendment of Pa.R.E. 103 and 802

The Committee on Rules of Evidence is considering proposing to the Supreme Court of Pennsylvania the amendment of Pennsylvania Rule of Evidence 103 concerning the preservation of claims of error and Rule 802 concerning hearsay. Pursuant to Pa.R.J.A. 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 report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It 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:

Daniel A. Durst, Counsel
Committee on Rules of Evidence
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717.231.9536
evidencerules@pacourts.us

All communications in reference to the proposal should be received by January 23, 2023. 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 Committee on
Rules of Evidence*

SARA E. JACOBSON,
Chair

Annex A

TITLE 225. RULES OF EVIDENCE

ARTICLE I. GENERAL PROVISIONS

Rule 103. Rulings on Evidence.

(a) [**Preserving a**] *Claim of Error*. A party may claim error in a ruling to admit or exclude evidence only:

(1) if the ruling admits evidence, a party, on the record:

(A) makes a timely objection, motion to strike, or motion *in limine*; and

(B) states the specific ground, unless it was apparent from the context; or

(2) if the ruling excludes evidence, a party informs the court of its substance by an offer of proof **on the record**, unless the substance was apparent from the context.

(b) [**Not Needing to Renew an Objection or Offer of Proof**] *Preservation of Claim of Error*. [**Once the court rules definitively on the record—either before or at trial—a party need not renew an objection or**

offer of proof to preserve a claim of error for appeal.] **To preserve a claim of error for appeal, the court must rule definitively on the record either before or at trial. If the court does not, then the party must renew the objection or offer of proof pursuant to subdivision (a) and obtain a ruling to preserve a claim of error for appeal. Once the court rules definitively on the record, a party need not renew an objection or offer of proof.**

(c) *Court's Statement About the Ruling; Directing an Offer of Proof*. The court may make any statement about the character or form of the evidence, the objection made, and the ruling. The court may direct that an offer of proof be made in question-and-answer form.

(d) *Preventing the Jury from Hearing Inadmissible Evidence*. To the extent practicable, the court must conduct a jury trial so that inadmissible evidence is not suggested to the jury by any means.

Comment:

Pa.R.E. 103(a) differs from F.R.E. 103(a). The Federal Rule says, "A party may claim error in a ruling to admit or exclude evidence only if the error affects a substantial right of the party. . . ." In Pennsylvania criminal cases, the accused is entitled to relief for an erroneous ruling unless the court finds beyond a reasonable doubt that the error is harmless. *See Commonwealth v. Story*, [**476 Pa. 391**,] 383 A.2d 155 (Pa. 1978). Civil cases are governed by Pa.R.Civ.P. [**No.**] 126 which permits the court to disregard an erroneous ruling "which does not affect the substantial rights of the parties." Pa.R.E. 103(a) is consistent with Pennsylvania law.

Pa.R.E. 103(a)(1) specifically refers to motions *in limine*. These motions are not mentioned in the Federal rule. Motions *in limine* permit the trial court to make rulings on evidence prior to trial or at trial but before the evidence is offered. Such motions can expedite the trial and assist in producing just determinations. **Subdivision (a)(2) also differs from F.R.E. 103(a)(2) insofar as it clarifies that an offer of proof must be on the record.**

[**Pa.R.E. 103(b), (c) and (d) are identical to F.R.E. 103(b), (c) and (d).**]

Pa.R.E. 103(b) differs from F.R.E. 103(b) insofar as it unambiguously requires the court to rule definitively on the record to preserve a claim of error for appeal. When an objection comes in the form of a motion in limine before trial, a court's definitive ruling is final. If the court's ruling is tentative, deferred, or denied without prejudice, there is no definitive ruling on the objection. When an evidentiary ruling is tentative, deferred, or denied without prejudice, the objecting party must renew its objection at trial to preserve a claim of error for appeal. See, e.g., Blumer v. Ford Motor Co., 20 A.3d 1222, 1232 (Pa. Super. 2011).

Pa.R.E. 103(c) and (d) are identical to F.R.E. 103(c) and (d).

F.R.E. 103(e) permits a court to "take notice of a plain error affecting a substantial right, even if the claim of error was not properly preserved." This [**paragraph**] **subdivision** has not been adopted because it is inconsistent with Pa.R.E. 103(a) and Pennsylvania law. *See*

Commonwealth v. Clair, [458 Pa. 418,] 326 A.2d 272 (Pa. 1974); *Dilliaine v. Lehigh Valley Trust Co.*, [457 Pa. 255,] 322 A.2d 114 (Pa. 1974).

[**Official Note: Adopted May 8, 1998, effective October 1, 1998; amended November 2, 2001, effective January 1, 2002; rescinded and replaced January 17, 2013, effective March 18, 2013.**

Committee Explanatory Reports:

Final Report explaining the November 2, 2001 amendments to paragraph (a) published with the Court's Order at 31 Pa.B. 6384 (November 24, 2001).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).]

ARTICLE VIII. HEARSAY

Rule 802. The Rule Against Hearsay.

Hearsay is not admissible except as provided by these rules, by other rules prescribed by the Pennsylvania Supreme Court, or by statute.

Comment:

Pa.R.E. 802 differs from F.R.E. 802 in that it refers to other rules prescribed by the Pennsylvania Supreme Court, and to statutes in general, rather than federal statutes.

Often, hearsay will be admissible under an exception provided by these rules. **In addition, unobjected to hearsay is admissible as substantive evidence. See, e.g., Jones v. Spidle, 286 A.2d 366, 367 (Pa. 1971) ("It is well established that hearsay evidence, admitted without objection, is accorded the same weight as evidence legally admissible as long as it is relevant and material to the issues in question."); see also Pa.R.E. 103 (Rulings on Evidence).**

The organization of the Pennsylvania Rules of Evidence generally follows the organization of the Federal Rules of Evidence, but the Pennsylvania Rules' organization of the exceptions to the hearsay rule is somewhat different than the federal organization. There are three rules which contain the exceptions: **1) Pa.R.E. 803 Exceptions to the Rule Against Hearsay—Regardless of Whether the Declarant is Available as a Witness[,]; 2) Pa.R.E. 803.1 Exceptions to the Rule Against Hearsay—Testimony of Declarant Necessary[, and]; and 3) Pa.R.E. 804 Exceptions to the Rule Against Hearsay—When the Declarant is Unavailable as a Witness.**

On occasion, hearsay may be admitted pursuant to another rule promulgated by the Pennsylvania Supreme Court. For example, in civil cases, all or part of a deposition may be admitted pursuant to Pa.R.Civ.P. [No.] 4020, or a video deposition of an expert witness may be admitted pursuant to Pa.R.Civ.P. [No.] 4017.1(g). In preliminary hearings in criminal cases, the court may consider hearsay evidence pursuant to Pa.R.Crim.P. 542(E) and 1003(E). In criminal trials, Pa.R.Crim.P. 574 provides a procedure for the admission of forensic laboratory reports supported by a certification.

Also, hearsay may be admitted pursuant to a state statute. Examples include:

1. A public record may be admitted pursuant to 42 Pa.C.S. § 6104. *See* Comment to Pa.R.E. 803(8).

2. A record of vital statistics may be admitted pursuant to 35 P.S. § 450.810. *See* Comment to Pa.R.E. 803(9) (Not Adopted).

3. In a civil case, a deposition of a licensed physician may be admitted pursuant to 42 Pa.C.S. § 5936.

4. In a criminal case, a deposition of a witness may be admitted pursuant to 42 Pa.C.S. § 5919.

5. In a criminal or civil case, an out-of-court statement of a witness [12] 16 years of age or younger, describing certain kinds of sexual abuse, may be admitted pursuant to 42 Pa.C.S. § 5985.1.

6. In a dependency hearing, an out-of-court statement of a witness under [16] 18 years of age, describing certain types of sexual abuse, may be admitted pursuant to 42 Pa.C.S. § 5986.

7. In a criminal or civil case, an out-of-court statement of a witness with an intellectual disability or autism, describing certain kinds of criminal offenses, may be admitted pursuant to 42 Pa.C.S. § 5993.

[7.] 8. In a prosecution for speeding under the Pennsylvania Vehicle Code, a certificate of accuracy of an electronic speed timing device (radar) from a calibration and testing station appointed by the Pennsylvania Department of Motor Vehicles may be admitted pursuant to 75 Pa.C.S. § 3368(d).

On rare occasion, hearsay may be admitted pursuant to a federal statute. For example, when a person brings a civil action, in either federal or state court, against a common carrier to enforce an order of the Interstate Commerce Commission requiring the payment of damages, the findings and order of the Commission may be introduced as evidence of the facts stated in them. 49 U.S.C. § 11704(d)(1).

* * * * *

[**Official Note: Adopted May 8, 1998, effective October 1, 1998; Comment revised March 23, 1999, effective immediately; Comment revised March 10, 2000, effective immediately; Comment revised March 29, 2001, effective April 1, 2001; rescinded and replaced January 17, 2013, effective March 18, 2013; Comment revised February 19, 2014, effective April 1, 2014; Comment revised November 9, 2016, effective January 1, 2017.**

Committee Explanatory Reports:

Final Report explaining the March 23, 1999 technical revisions to the Comment published with the Court's Order at 29 Pa.B. 1714 (April 3, 1999).

Final Report explaining the March 10, 2000 changes updating the seventh paragraph of the Comment published with the Court's Order at 30 Pa.B. 1641 (March 25, 2000).

Final Report explaining the March 29, 2001 revision of the Comment published with the Court's Order at 31 Pa.B. 1995 (April 14, 2001).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Final Report explaining the February 19, 2014 revision of the Comment published with the Court's Order at 44 Pa.B. 1309 (March 8, 2014).

Final Report explaining the November 9, 2016 revision of the Comment published with the Court's Order at 46 Pa.B. 7438 (November 26, 2016).]

**SUPREME COURT OF PENNSYLVANIA
COMMITTEE ON RULES OF EVIDENCE**

Publication Report

Proposed Amendment of Pa.R.E. 103 and 802

The Committee on Rules of Evidence has studied the interplay between the procedural steps set forth in subdivisions (a) and (b) of Pa.R.E. 103 and the judicial practice of deferring an evidentiary ruling. Often, rulings are contemporaneous with the offering of evidence and resulting objection. In those circumstances, subdivisions (a) and (b) set forth the procedure to claim and preserve an allegedly erroneous evidentiary ruling.

However, there are occasions where a party may seek an evidentiary ruling prior to trial or at trial before evidence is offered using a motion *in limine*. See Pa.R.E. 103, Comment at ¶ 2. A motion *in limine* can be beneficial because it allows the parties to better prepare for trial, informs the judge, and avoids delays during trial. Further, a ruling prior to the offering of evidence is consonant with the imperative that inadmissible evidence not be suggested to the jury through opening statements or witness examination. See Pa.R.E. 103(d).

Of course, there may be times when a party raises a claim in a motion *in limine* prior to trial but admissibility cannot be determined until other contextual evidence is heard at trial. See also Pa.R.E. 404, Comment at ¶ 8 (discussing purpose of pre-trial notice of evidence of other crimes, wrongs, or acts even though the ruling is postponed until trial). Yet, the application of Pa.R.E. 103(b) has required an eventual ruling on the claim contained in the motion *in limine* to preserve the claim for appellate review. See, e.g., *Blumer v. Ford Motor Co.*, 20 A.3d 1222 (Pa. Super. 2011). In other words, seeking a ruling without obtaining a ruling does not preserve an issue.

In those circumstance, a common practice has been to defer ruling on a motion *in limine* until trial. It was through this practice that the Committee evaluated subdivisions (a) and (b). The Committee observed that subdivision (a) is titled “preserving a claim of error,” but the subdivision does not state that the court must rule on the claim contained within an objection or motion *in limine*. It is only in subdivision (b) where there is mention of “the court rul[ing] definitively on the record.” To close this potential “waiver trap,” the Committee wishes to clarify what a party needs to do to raise a claim of error and what the court must do for the claim to be preserved for appellate review.

Accordingly, the Committee proposes removing “Preserving a” from the title of subdivision (a) and clarifying that the proffer in subdivision (a)(2) be “on the record” by adding that phrase to the rule text. Subdivision (b) would be re-titled to state “Preserving a Claim” to emphasize that the court must rule on the claim to preserve it for appellate review.

Additionally, the current rule text within subdivision (b) would be replaced. The first sentence of the proposed new rule text would state unambiguously that the court must definitively rule on the record to preserve a claim of error. The second sentence would indicate that, if the court does not definitively rule on the objection, then a

party must renew an objection or offer of proof to preserve a claim of error. This sentence is intended to address the situation in *Blumer v. Ford Motor Co.*; a reference to that case would also be contained in the Comment. While the requirement of this sentence may seem implicit, it is intended to provide a basis for counsel to renew an objection and prompt the court to rule. See, e.g., *Keffer v. Bob Nolan's Auto Serv., Inc.*, 59 A.3d 621, 657-58 (Pa. Super. 2012) (“When the trial court overlooks or fails to rule on an issue, the party seeking the court's ruling must remind the court that it has not ruled and obtain a definitive ruling on the issue.”). The final sentence regarding unnecessary renewed objections to definitive rulings was retained in essence from the current text.

Anecdotally, the Committee has learned of another practice when a motion *in limine* cannot be determined prior to trial. That practice is to deny the motion *in limine* without prejudice to raise the claim again at trial when the evidence is offered. While that practice might appear to permit the parties to claim and preserve any evidentiary errors at the time of offering, a denial without prejudice is not intended to be definitive as to the claim itself. *Accord Yates v. Pinellas Hematology & Oncology, P.A.*, 21 F.4th 1288, 1297 (11th Cir. 2021). To inform readers, the Committee proposes adding cautionary language within the Comment.

The Committee next considered the applicability of Pa.R.E. 103 and the operation of the Rules of Evidence, specifically Article VIII concerning hearsay. Pa.R.E. 802 states: “Hearsay is not admissible except as provided by these rules, by other rules prescribed by the Pennsylvania Supreme Court, or by statute.” Yet, the hearsay exceptions found in the rules, see Pa.R.E. 803, 803.1, and 804, apply only if there is a claim of error pursuant to Pa.R.E. 103(a). When no claim is asserted, then the unobjected to hearsay is admissible as substantive evidence regardless of any exception.

While the admissibility of unobjected to hearsay may be readily apparent to experienced practitioners, the language of Pa.R.E. 802 suggests all hearsay, even that unobjected to, must meet an exception. The Committee proposes adding a statement to the Comment to Pa.R.E. 802, together with a case citation, clarifying that unobjected to hearsay is admissible regardless of exception. The statement is intended to confirm that even rank hearsay may be admissible if the opponent does not object. Additionally, the statutory hearsay exceptions have been updated.

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

[Pa.B. Doc. No. 22-1851. Filed for public inspection December 2, 2022, 9:00 a.m.]

**Title 231—RULES OF
CIVIL PROCEDURE**

PART II. ORPHANS' COURT RULES

[231 PA. CODE PART II]

Proposed Adoption of Pa.R.O.C.P. 10.7

The Orphans' Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the adoption of Pa.R.O.C.P. 10.7 relating to a filing

made with the Register of Wills to facilitate disclosure of the digital assets or a catalog of electronic communications of a decedent, other than the content of such electronic communications, for the reasons set forth in the accompanying publication report. Pursuant to Pa.R.J.A. 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 report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be adopted by the Supreme Court.

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

Pamela S. Walker, Counsel
Orphans' Court Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717-231-9546
orphanscourtproceduralrules@pacourts.us

All communications in reference to the proposal should be received by February 17, 2023. 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 Orphans' Court
Procedural Rules Committee*

HONORABLE EMIL A. GIORDANO (RET.),
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

CHAPTER X. REGISTER OF WILLS

The following text is entirely new.

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

Rule 10.7. Disclosure of Certain Digital Assets or a Catalog of Electronic Communications of a Decedent.

(a) *At Time of Filing Petition for Grant of Letters.* If a personal representative intends to access the digital assets or a catalog of electronic communications of a decedent, other than the content of the decedent's electronic communications, the personal representative may file with the petition an affidavit containing the recitals set forth in 20 Pa.C.S. § 3908(b). The affidavit shall be taken before and administered by the Register pursuant to 20 Pa.C.S. § 3908(c).

(b) *After Filing Petition for Grant of Letters.* If a personal representative intends to access the digital assets or a catalog of electronic communications of a decedent, other than the content of the decedent's electronic communications, the personal representative may file an affidavit with the Register containing the recitals set forth in 20 Pa.C.S. § 3908(b). The affidavit shall be taken before and administered by the Register pursuant to 20 Pa.C.S. § 3908(c).

(c) *Upon Request of a Custodian.* If a custodian requests a finding of the court with respect to a catalog of

electronic communications of a decedent pursuant to 20 Pa.C.S. § 3908(a)(4)(iv) from a personal representative who has not already filed an affidavit as provided under subdivisions (a) or (b):

(1) the personal representative may file a verified statement with the Register pursuant to 20 Pa.C.S. § 3908(b)(1); and

(2) provide the custodian a copy of the verified statement bearing evidence of filing with the Register.

Comment:

This rule is intended to implement § 3908 of the Revised Uniform Fiduciary Access to Digital Assets Act relating to the disclosure of certain digital assets or a catalog of electronic communications of a decedent, other than the content of such electronic communications, to a personal representative. See 20 Pa.C.S. § 3908. Relevant terms, such as "catalog of electronic communications," "content of electronic communication," "custodian," and "digital asset" are defined by statute. See 20 Pa.C.S. § 3902. This rule does not apply to access to the contents of a decedent's electronic communications; such access is governed by 20 Pa.C.S. § 3907.

A filing made pursuant to subdivision (a) or (b) is independent of any filing made pursuant to subdivision (c).

A verified statement filed by the personal representative with the Register pursuant to subdivision (c) is not required to be taken before and administered by the Register. See 20 Pa.C.S. § 3908(b)(1).

While Registers are not subject to the *Case Records Public Access Policy of the Unified Judicial System*, they are encouraged to ensure the confidentiality of identifying information contained in affidavits filed pursuant to this rule. See *Case Records Public Access Policy of the Unified Judicial System*, § 1.0, Comment.

SUPREME COURT OF PENNSYLVANIA ORPHANS' COURT PROCEDURAL RULES COMMITTEE

RE-PUBLICATION REPORT

Proposed Adoption of Pa.R.O.C.P. 10.7

The Orphans' Court Procedural Rules ("Committee") is considering proposing to the Supreme Court of Pennsylvania the adoption of Pa.R.O.C.P. 10.7 in response to legislation providing for, among other things, the filing of an affidavit or verified statement with the Register of Wills for the disclosure of certain digital assets or a catalog of electronic communications of a decedent, other than the content of such electronic communications.

On July 23, 2020, Act 72 of 2020, the Pennsylvania Revised Uniform Fiduciary Access to Digital Assets Act ("Act"), was enacted. See 20 Pa.C.S. §§ 3901–3917. The Act provides generally "for user direction and agreements, for disclosure of digital assets and electronic communications, for functions of fiduciaries and for compliance and immunity for custodians of digital assets and electronic communications; and making conforming amendments." *7 West's Pa. Forms, Estate Planning* § 1.26.

Section 3908 of the Act provides for the disclosure of certain digital assets or a catalog of electronic communications of a decedent, other than the content of such electronic communications, by prescribing procedures to be followed by the personal representative of a decedent's estate. Requests for disclosure of or access to the "content of electronic communications" of a decedent are not included in § 3908 or proposed Rule 10.7, and are outside the scope of the proposed rule.

The Committee previously published for public comment a proposed new Rule 10.7 cross-referencing the procedures set forth at 20 Pa.C.S. § 3908. *See* 51 Pa.B. 1796 (April 3, 2021). The Committee had considered other approaches to incorporating the relevant provisions of § 3908 into the rules, such as drafting a detailed rule or developing amendments to the petition for grant of letters. Ultimately, the Committee believed the procedures established by statute were adequate and self-explanatory. The practice of incorporation by reference to statutory procedures in rulemaking exists elsewhere in the statewide rules. *See, e.g.*, Pa.R.O.C.P. 14.6(a) (procedure for determining incapacity and appointment of a guardian set forth at 20 Pa.C.S. §§ 5511, 5512, and 5512.1).

However, post-publication feedback made evident the proposal would benefit from clarification in two ways. First, it was recommended that the proposal distinguish between requests for access made at the time of filing the petition for grant of letters from those made after filing of the petition. In response, the Committee modified the proposal to distinguish these scenarios. Subdivision (a) now provides for an affidavit to be filed at the time of filing the petition for grant of letters to access certain digital assets or a catalog of electronic communications of the decedent, other than the content of electronic communications. Likewise, subdivision (b) provides for the affidavit to be filed after the filing of the petition for grant of letters.

It was further recommended that the proposal differentiate a filing made to satisfy the request of a custodian of a catalog of the decedent's electronic communications that the personal representative provide a finding of the court and no previous filings have been made. *See* 20 Pa.C.S. § 3908(b). In response, subdivision (c) now provides for a personal representative to file an affidavit with the Register of Wills, as set forth in § 3908, if the representative has been requested to provide a finding of the court with respect to a catalog of electronic communications of the decedent and no affidavit was previously filed pursuant to subdivision (a) or (b).

The Act prescribes differing methods of executing the affidavit for subdivisions (a) and (b) in contrast with subdivision (c). An affidavit filed by the personal representative pursuant to subdivision (a) or (b) is required to be sworn before the Register. *See* 20 Pa.C.S. § 3908(c)(2). In contrast, a verified statement filed pursuant to subdivision (c) does not require swearing before the Register. *See* 20 Pa.C.S. § 3908(b)(1); Pa.R.O.C.P. 1.3 (defining "verified").

Each subdivision of proposed Rule 10.7 requires the filing of an affidavit with the Register of Wills to satisfy the statutory requirements. However, § 3908 also permits the required averments to be made in the petition for grant of letters or a supplemental petition. Currently, there is a statewide form petition for grant of letters, Form RW-02. The Committee was not inclined to recommend the amendment of Form RW-02 for several reasons. First, the averments required by § 3908 are discrete and supplemental to the primary purpose of the petition for grant of letters. Additionally, access to certain digital assets or the catalog of electronic communications of the decedent, other than the content of the decedent's electronic communications, can be sought either concurrent with or subsequent to filing the petition. Revising Form RW-02 to incorporate the averments may suggest that the digital asset averments must be made at the time of filing the petition, even though the petitioner may not have

identified the relevant accounts at the time of filing the petition. Finally, not all forms or notices permitted or required by statute are addressed in unique, statewide forms. *See, e.g.*, 20 Pa.C.S. § 3102 (settlement of small estates by petition); Pa.R.O.C.P. 15.4(a) (contents of notice of hearing to relinquish or terminate parental rights set forth at 23 Pa.C.S. §§ 2503(b), 2504(b), and 2513(b)) (effective July 1, 2022).

The Committee invites all comments, concerns, and suggestions regarding this rulemaking proposal.

[Pa.B. Doc. No. 22-1852. Filed for public inspection December 2, 2022, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BERKS COUNTY

Amendments to Local Rules; Clerk of Courts; CP-06-AD-26-2022

Order

And Now, this 16th day of November, 2022, pursuant to Pennsylvania Rules of Criminal Procedure 576 and 576.1, it is *Ordered* that Berks County Rule of Criminal Procedure 576 be amended and Berks County Rule of Criminal Procedure 576.1 be adopted as follows, and shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

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

1. Submit one (1) copy of this Order, including the amended rule, to the appropriate Rules Committee of the Supreme Court of Pennsylvania for review.
2. Distribute two (2) copies of this Order, including the amended rule, and one (1) disk copy to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. File one (1) copy of this Order, including the amended rules, with the Administrative Office of Pennsylvania Courts contemporaneously with publishing the local rules in the *Pennsylvania Bulletin*.
4. Compile the local rules within the complete set of local rules available on the Berks County Court website no later than 30 days following publication in the *Pennsylvania Bulletin*.
5. Distribute one (1) copy of this Order, including the amended rule to the Berks County Clerk of Court's Office so they can keep them continuously available for public inspection and copying.

THOMAS G. PARISI,
President Judge

Local Rule of Criminal Procedure 576.1

Rule 576.

(A) The Clerk of Courts is authorized to establish a formal e-filing system for the court for any filing that is not prohibited by Pa.R.Crim.P. 576.1(C) but for which PACFile does not have the technical capability to process.

Rule 576.1. Electronic Filing and Service of Legal Papers.*(A) General Scope and Purpose of the Rule.*

Pursuant to Pennsylvania Rule of Criminal Procedure 576.1, Electronic Filing and Service of Legal Papers, electronic filing of legal papers through the PACFile electronic filing system is permissive, but not mandatory, in Berks County, the 23rd Judicial District, Criminal Division effective January 9, 2023. The Administrative Office of Pennsylvania Courts (AOPC) and the Court of Common Pleas of Berks County have agreed upon an implementation plan for PACFile in Berks County.

Note: For the purposes of this rule, authorization for use of PACFile in the “Criminal Division” of the Court shall, subject to any requirements of the Clerk of Courts and the limitations set forth in section (B) hereof, include all legal papers that may be appropriately filed with the Clerk of Courts, including but not limited to those related to criminal, juvenile and dependency matters.

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

“electronic filing,” the electronic submission of legal papers by means other than facsimile transmission and the acceptance of the document by the Clerk of Courts;

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

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

- (1) applications for search warrants,
- (2) applications for arrest warrants,
- (3) any grand jury materials, except the indicting grand jury indictment or the investigating grand jury presentment,
- (4) submissions filed *ex parte* as authorized by law,
- (5) submissions filed or authorized to be filed under seal,
- (6) exhibits offered into evidence, whether or not admitted in a court proceeding, and
- (7) waivers of arraignment.

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

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

(C) Attorneys or self-represented parties who file legal papers electronically must establish a PACFile account using the Unified Judicial System of Pennsylvania Web Portal. Pursuant to Pennsylvania Rule of Criminal Procedure 576.1(D)(2) and Pennsylvania Rules of Juvenile Procedure 167(B); 345(B); 1167(B); and 1345(B), the establishment of a PACFile account constitutes consent to participate in electronic filing, including acceptance of service electronically of any document filed using PACFile.

(D) Applicable filing fees for the electronically filed legal papers shall be paid electronically to the Clerk of Courts simultaneously with the filing.

(E) A party who was granted *In Forma Pauperis* status shall not pay filing fees to the Clerk of Courts.

(F) All filings shall comply with the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania.

(G) Service of Legal Papers.

a. Attorneys or self-represented parties who are unable or unwilling to participate in electronic filing of documents are permitted to file and serve the legal papers in a physical paper format.

b. Service of legal papers on any attorney or party who has not established an account as provided in subsection (C) of this rule shall be made in accordance with Pa.R.Crim.P. 576. Specifically, the following offices must be served in accordance with Rule 576: Judge, Sheriff, Probation and Parole Department, Court Reporter, and Court Administration. This applies to the service of court orders and notices. Distribution to those parties not automatically served via PACFile with a court order or notice must be filed with the Clerk of Courts office with a complete distribution legend listing the names and addresses of all parties required to be served with a paper copy.

c. Service upon an attorney or defendant participating in the system shall be done electronically.

[Pa.B. Doc. No. 22-1853. Filed for public inspection December 2, 2022, 9:00 a.m.]

Title 255—LOCAL COURT RULES**CAMERON AND ELK COUNTIES****Consolidation of Domestic Relations Sections; No. 2022-886 (Elk County); No. 2022-1436 (Cameron County)**

Whereas the Court of Common Pleas of the 59th Judicial District of Pennsylvania consists of two counties, Cameron County and Elk County; and

Whereas the two counties have had separate Domestic Relations Sections; and

Whereas Elk County Domestic Relations Section has approximately 84% and Cameron County Domestic Relations Section has approximately 16% of the total caseload of the two counties combined; and

Whereas many Domestic Relations filings can be electronically filed from remote, offsite locations; and

Whereas the Court believes that there will be significant cost savings if the Domestic Relations Sections are consolidated as a result of having one staff serving two locations and allowing the Court to manage the offices more efficiently and simply, thus allowing the Court time to attend to other Court duties; and

Whereas the Court believes that there will be significant benefit if the Domestic Relations Sections are merged, allowing the Court to manage the office more efficiently and better serving the citizens of the 59th Judicial District by a Domestic Relations Section that provides improved stability, consistency, uniformity and customer service; and

Whereas it is necessary to act forthwith to consolidate the Domestic Relations Sections of the 59th Judicial District:

**Administrative Order of Court
Domestic Relations Section Consolidation**

And Now, October 28th, 2022, *It Is Hereby Ordered And Decreed* that:

1. Effective with the close of business on December 31, 2022, the Domestic Relations Sections of Elk County and Cameron County shall cease to exist.

2. Effective January 1, 2023, there is hereby established the “Domestic Relations Section of the 59th Judicial District for Elk and Cameron Counties.”

3. For the purposes of payroll, benefits, and personnel policy, all employees of the Domestic Relations Section of the 59th Judicial District for Elk and Cameron Counties shall be considered employees of Elk County effective January 1, 2023.

4. Each county (Elk and Cameron) shall contribute to the unreimbursed expenses of operating the Domestic Relations Section of the 59th Judicial District for Elk and Cameron Counties as directed and authorized by 42 Pa.C.S.A. 3544(b). Specifically, for 2023, Elk County shall be responsible for 80% of the unreimbursed expenses while Cameron County shall be responsible for 20% of the unreimbursed expenses. This apportionment shall be re-evaluated in September, 2023, for 2024 and shall thereafter be re-evaluated every three (3) years or at the direction of the President Judge upon request by either Boards of Commissioners.

5. The Treasurer of Cameron County in coordination with the Cameron County Director of Domestic Relations is directed to close the Cameron County IV-D Account and the Incentive Account as of December 31, 2022, and deliver the balances therein to the Director of the Domestic Relations Section of the 59th Judicial District for Elk and Cameron Counties for deposit in the account hereafter created.

6. The Treasurer of Elk County in coordination with the Elk County Director of Domestic Relations is directed to cause the Elk County IV-D Account, the Incentive Account and the Elk County Domestic Relations Investment CD held by PNC Bank to be titled in the name of the Domestic Relations Section of the 59th Judicial District for Elk and Cameron Counties.

7. The Domestic Relations Section of the 59th Judicial District for Elk and Cameron Counties shall present one Monthly Statement of Expenditures to the Pennsylvania Department of Human Services for reimbursement of Title IV-D Child Support Enforcement Program costs for providing Title IV-D services under the United States Social Security Act in the Domestic Relations Section of the 59th Judicial District for Elk and Cameron Counties.

8. The Title IV-D Cooperative Agreement between the Pennsylvania Department of Human Services and Elk and Cameron Counties and the Court of Common Pleas of the 59th Judicial District are hereby merged and incorporated into the provisions of the existing Title IV-D Cooperative Agreement between the Pennsylvania Department of Human Services and the County of Elk and the Court of Common Pleas of the 59th Judicial District.

9. The Domestic Relations Section of the 59th Judicial District for Elk and Cameron Counties shall receive from the Pennsylvania Department of Human Services a monthly reimbursement payment, quarterly incentive

payments and Federal Fiscal year-end reconciliation for Title IV-D services provided on behalf of the Pennsylvania Department of Human Services by the Domestic Relations Section of the 59th Judicial District for Elk and Cameron Counties.

10. Effective with the close of business on the December 31, 2022, the Maintenance of Effort (MOE) for Cameron County will cease to exist. The Domestic Relations Section of the 59th Judicial District for Elk and Cameron Counties will use the Elk County MOE of \$83,567.00.

The District Court Administrator is respectfully directed to cause a copy of this Administrative Order of Court to be provided to the members of the Cameron County Board of Commissioners, the Chief Clerk of Cameron County, the Cameron County Sheriff, members of the Elk County Board of Commissioners, the Chief Clerk of Elk County, the Elk County Sheriff and the Pennsylvania Department of Human Services, Bureau of Child Support and Enforcement. In addition, a copy of this Administrative Order of Court shall be provided to all staff members of the Elk County Domestic Relations Section and the Cameron County Domestic Relations Section.

By the Court

SHAWN T. McMAHON,
President Judge

[Pa.B. Doc. No. 22-1854. Filed for public inspection December 2, 2022, 9:00 a.m.]

Title 255—LOCAL COURT RULES

ERIE COUNTY

Order Adopting Orphans’ Court Rules; Doc. No. 360 of 2022

Order

And Now, this 16th day of November, 2022, it is hereby *Ordered* that the following Erie County Orphans’ Court Rules, having been approved by the Pennsylvania Orphans’ Court Procedural Rules Committee, are adopted effective 30 days after their publication in the *Pennsylvania Bulletin*. These rules shall supersede all previously adopted Erie County Orphans’ Court Rules. This Order shall be processed in accordance with Pennsylvania Rule of Judicial Administration 103(d).

By the Court

JOSEPH M. WALSH, III,
President Judge

ERIE COUNTY ORPHANS’ COURT DIVISION RULES

CHAPTER I. PRELIMINARY RULES

1.1. Short Title and Citation. These rules (“Local Rules”) shall be known as the Erie County Orphans’ Court Rules and may be cited as “Erie O.C.R. [].”

1.2. Construction and Application of Rules.

(a) The numbered chapters, paragraphs, and subparagraphs within these Local Rules are intended to correspond with Pennsylvania Rules of Orphans’ Court Procedure (“State Rules”) numbering. Not all State Rules have corresponding local rules. For additional court informa-

tion and individual judges' preferences see: www.eriecountypa.gov/courts and www.eriecountypa.gov/departments.

1.3. Definitions.

"Business Days." Mondays through Fridays, except for weekdays when the Erie County Courthouse is closed.

"Clerk." The office of the Clerk of the Orphans' Court Division of the Erie County Clerk of Records.

"Court Administration." The office of the Deputy Court Administrator for the Orphans' Court and Family Divisions of Erie County Court Administration.

"Interested Party." Also referred to in these Local Rules as "Party".

"Legal Periodical." The Erie County Legal Journal is the legal periodical for publication of legal notices in Erie County.

"Local Rule." The within Erie County Orphans' Court Rules, singular or plural, promulgated in accordance with P.A.R.J.A. No. 103(d).

"Motion Cover Sheet." The Family/Orphans' Division Motion Cover Sheet and Notice referenced in Local Rule 1.8(c) is appended to these Local Rules as "Form A".

"Orphans' Motion Court." Unless ordered otherwise, Orphans' Motion Court is held every Monday through Thursday at 9:00 a.m. concurrently with Family Division Motion Court. Also referred to herein as "Motion Court." The Motion Court schedule may be found online at: www.eriecountypa.gov/courts.

"PEF Code." The Pennsylvania Probate, Estates and Fiduciaries Code, 20 Pa.C.S.A. § 101 et seq.

"Proposed Order." An unsigned order granting the specific relief requested in a petition, motion, or other pleading.

"Register." The office of the Register of Wills Division of the Erie County Clerk of Records.

"Scheduling Order." As used in these Local Rules, any order used to schedule argument or hearing before the court, including, but not limited to, a rule to show cause, preliminary decree or other order of court.

1.4. Extension of Time Limitations.

(a) No agreement to vary time limitations set by law, procedural rule, or court order is enforceable unless made in writing or of record in open court.

(b) Notice of a written agreement to extend any time limitation shall be provided to the court if a judge is actively involved in the case.

(c) No agreement to continue or reschedule an argument or hearing date is enforceable unless a request for same is granted by the judge before whom the argument or hearing is scheduled, upon written Motion or request in open court.

1.5. Local Rules.

(e) The local rules applicable to practice in the Civil Trial Division of the Erie County Court of Common Pleas shall not be applicable to the Orphans' Court Division unless directed by State Rule or specifically indicated by Local Rule.

1.6. Mediation by Agreement, Local Rule, or Court Order.

The court may order mediation upon motion of any Interested Party or sua sponte. Mediation shall not delay

time limitations, or hearing or argument dates, unless ordered by the court upon written motion or request in open court.

1.7. Entry and Withdrawal of Counsel.

(a) An appearance by legal counsel shall include counsel's name, law firm, office address, email address, telephone number, and Pennsylvania Supreme Court attorney identification number.

(b) Requests for leave to withdraw filed by counsel shall aver that the client is on notice of the request, and state whether the client is in agreement with the withdrawal.

(i) If a matter is scheduled for argument or hearing at the time of entry or withdrawal of appearance, notice of same shall be provided to the judge before whom the argument or hearing is scheduled.

(ii) Requests for leave to withdraw shall proceed following the procedure for Motion practice under Erie O.C.R. 3.0.

(iii) Leave to withdraw appearance may not be granted if the court determines withdrawal would unduly prejudice a Party or unduly delay the litigation.

1.8. Forms.

(c) A Motion Cover Sheet in the form set appended to these Local Rules as Form A shall accompany all motions, petitions, and other requests for relief presented in Motion Court.

CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS

2.4. Petition for Adjudication/Statement of Proposed Distribution; Virtual Representation (Supplements/Additions).

(a) *Supplements/Additions.* Receipts received or disbursements made after filing an account and petition for adjudication/statement of proposed distribution may be accounted for in a supplemental account. The supplemental account shall be signed and verified by the accountant(s) and filed with the Clerk, with notice in the same manner as required by Pa.R.O.C.P. 2.5 with respect to an account.

2.6. Filing with the Clerk.

For accounts to appear on a particular audit list, they must be filed in accordance with the audit calendar published by the Clerk.

2.7. Objections to Accounts or Petitions for Adjudication/Statements of Proposed Distribution.

(a) Within twenty (20) days of filing an objection, the objecting party or their attorney shall schedule a hearing thereon following the procedure for petition practice under Erie O.C.R. 3.5. The objecting party scheduling the hearing shall notify all Parties receiving notice pursuant to Pa.R.O.C.P. 2.5 and the orphans' court auditor of the date and time of the hearing.

(i) The orphans' court auditor may periodically identify accounts for which objections have been filed and no hearing scheduled and notify the court. The court may direct that notice be sent to the objecting party directing the objecting party or their attorney to schedule a hearing thereon following the procedure for petition practice under Erie O.C.R. 3.5.

2.9. Confirmation of Accounts; Awards.

(a) *Schedule of Distribution.* Approval of a schedule of distribution of real estate shall be in the nature of a confirmation of title in the respective distributees.

(i) Each award of real property shall be set forth in a separate paragraph.

(ii) Real property shall be described in the manner appearing in the last deed of record and include information pertinent to the derivation of decedent's title.

2.10. Foreign Heirs and Unknown Distributees.

The report required by Pa.R.O.C.P. 2.10(b) shall be submitted at the audit to the court and auditor, and shall include substantially the following:

(a) If the fiduciary requests the court to withhold distribution to a foreign distributee, he or she shall submit the written report, verified by the fiduciary or the fiduciary's counsel, which shall set forth:

(i) The relationship of the distributee to the decedent, and any available information concerning his/her present whereabouts;

(ii) In cases of intestacy, a family tree, as complete as possible under the circumstances, supported by such documentary evidence as the fiduciary has been able to obtain; and

(iii) The reasons for the request that distribution be withheld, and the suggested manner of withholding.

(b) If it appears that the existence, identity or whereabouts of a distributee is unknown, or there are no known heirs, the fiduciary shall submit the written report, verified by the fiduciary or the fiduciary's counsel, which shall set forth:

(i) The nature of the investigation made to locate the heirs of the decedent, in complete detail. The term "investigation," as used in this Local Rule, shall include inquiry of or to as many of the following as may be pertinent and feasible: Residents of the household in which the decedent resided; friends and neighbors; beneficial organizations; insurance records; church membership; school records; social security, Veterans' Administration or military service records; naturalization records, if not native born; and such other sources of information as the circumstances may suggest; and

(ii) In cases of intestacy or where there are no known heirs, a family tree, as complete as possible under the circumstances, supported by such documentary evidence as the fiduciary has been able to obtain.

CHAPTER III. MOTION AND PETITION PRACTICE AND PLEADING

3.0. Mode of Proceeding on Motion.

(a) Orphans' Motion Court is held every Monday through Thursday at 9:00 a.m. concurrently with Family Division Motion Court.

(b) Prior to presentation of a contested motion in Orphans' Motion Court, all counsel and unrepresented Parties shall be given notice as follows:

(i) Two (2) full business days' written notice must be given by personal delivery or facsimile transmission to all counsel and unrepresented Parties, or

(ii) Five (5) full business days if notice is by regular mail.

(1) Motions shall be deemed contested unless all Parties have joined in the motion or written consents are attached to the motion.

(iii) The notice shall give the date and time when the motion will be presented at Motion Court and be accompanied by a copy of the motion and Proposed Order.

(iv) The motion must contain a certification signed by counsel or unrepresented moving Party verifying that proper notice was given under this Local Rule.

(v) If the motion is presented on an emergency basis without the above-required notice, it shall contain a certification that the requested relief is necessary to prevent immediate and irreparable harm.

(c) All motions shall be accompanied by a completed Motion Cover Sheet in the form appended as Form A to these Local Rules.

(d) A Proposed Order shall be attached to all motions.

(e) *Uncontested Motions.* Uncontested motions may be presented in Motion Court or delivered to the Motion Court judge's chambers. However, if a judge is actively involved in the case, uncontested motions not presented in Motion Court shall be delivered to that judge's chambers.

(i) Uncontested motions delivered to a judge's chambers must first be filed with the Clerk. A copy of the uncontested motion, accompanied by a completed Motion Cover Sheet, shall then be delivered to the judge's chambers.

(1) If an uncontested motion is filed by mail, a copy shall be simultaneously mailed to the judge accompanied by a completed Motion Cover Sheet and Proposed Order.

(f) *Contested Motions.* Contested motions may be presented in Motion Court or taken directly to Court Administration to obtain an argument date. Motion Court is intended for minor matters only. The Motion Court judge may issue a Scheduling Order if the matter is deemed unsuitable for disposition in Motion Court; if so, the movant shall take the original motion and Scheduling Order, along with a copy of each, to Court Administration to obtain an argument date.

(g) All motions scheduled through Court Administration shall proceed following the procedure for petition practice under Erie O.C.R. 3.5(d).

3.5. Mode of Proceeding on Petition.

(d) The original and one copy of all petitions requesting a hearing shall first be taken to Court Administration for assignment of a hearing date. If a judge is actively involved in the case, the petitioner shall notify Court Administration and the hearing shall be scheduled before that judge whenever practicable. Immediately after obtaining a hearing date, the petitioner shall file the original petition and signed Scheduling Order with the Clerk and serve copies of same in accordance with applicable State Rules. All orders shall be filed on the date the order is signed.

(i) Counsel should attempt to verify the availability of all Parties or their counsel before hearing dates are set, or if that is not feasible, immediately after such dates have been set, and promptly notify the court of any anticipated scheduling issues.

(ii) Except with regard to petitions requesting emergency relief, or preliminary or special injunction, hearings will not be scheduled earlier than thirty (30) days from the date of the Scheduling Order.

(iii) Uncontested petitions shall be presented in the same manner as uncontested motions under Erie O.C.R. 3.0(e).

3.9. Preliminary Objections.

(c) All preliminary objections shall be accompanied by a Proposed Order and supporting brief. If a judge is actively involved in the case, a time-stamped copy of the preliminary objections, Proposed Order and supporting brief shall be provided to that judge. If no judge is actively involved in the case, the filing party shall request a judicial assignment from Court Administration, then provide a copy of the preliminary objections, Proposed Order and supporting brief to the assigned judge.

(d) If an amended pleading is not filed in accordance with Pa.R.O.C.P. 3.9(d)(1), a brief in opposition to preliminary objections shall be filed within twenty (20) days of the date of service of the preliminary objections, and copies provided to the assigned judge.

(i) Failure to timely file a brief in opposition to preliminary objections may result in judgment in favor of the moving party if the requested relief is supported by law, or, if argument is ordered the court may preclude the noncomplying party from participating in oral argument.

(ii) Any Interested Party may request oral argument. However, the court may sustain or overrule preliminary objections without oral argument if the requested relief is supported by law.

CHAPTER IV. FORMAT AND SERVICE OF LEGAL PAPER BY PARTIES AND COURT; ELECTRONIC FILING

4.1. Format of All Legal Paper.

In addition to the requirements of Pa.R.O.C.P. 4.1, all legal paper filed with the Clerk shall be endorsed by the filing party. If the filing party is represented by counsel, the attorney shall provide their name, law firm, office address, email address, telephone number, and Pennsylvania Supreme Court identification number. If the filing party is unrepresented, their endorsement shall include their name, address and telephone number.

4.5. Service of Legal Paper by Court and Clerk.

In addition to the methods set forth at Pa.R.O.C.P. 4.5, the Clerk, Register and court may serve orders and other legal paper via counsel's courthouse mailbox located on the ground floor of the Erie County Courthouse. This rule does not permit service via courthouse mailbox by anyone other than the Clerk, Register and court.

CHAPTER V. RULES GOVERNING SPECIFIC TYPES OF PETITIONS

5.0. Mode of Proceeding on Petition.

Unless stated otherwise by state or local rule, petitions under this Chapter shall proceed following the procedure for petition practice under Erie O.C.R. 3.5(d).

5.2. Family Exemption.

A family exemption petition under Pa.R.O.C.P. 5.2 may be included in a petition for settlement of small estate under Pa.R.O.C.P. 5.50.

5.6. Appointment of a Guardian for the Estate or Person of a Minor (Emergency Guardian).

(d) *Emergency Guardian.*

(i) A petition seeking appointment of emergency guardian for the estate or person of a minor may be presented in Motion Court following the procedure set forth at Erie

O.C.R. 3.0 only if the petition avers specific facts upon which the court may find that failure to make an immediate appointment of guardian will result in irreparable harm to the person or estate of the minor.

(ii) The Proposed Order accompanying petitions requesting appointment of emergency guardian shall state, or designate a blank space for stating, the specific date the order will expire. If the emergency petition is joined with a petition for appointment of a permanent guardian, the expiration date shall be no later than the date set for the permanent guardianship hearing.

(iii) If a petition for appointment of an emergency guardian is joined with a petition for a permanent guardian, the petitioner shall, immediately following Motion Court, take the petition to Court Administration for assignment of a hearing date following the procedure for petition practice under Erie O.C.R. 3.5(d).

5.10. Public Sale of Real Property.

(b) Notice of the public sale of real property (containing the date, time, and place of sale and any other information required by law) shall be given:

(i) By advertisement once a week for three (3) successive weeks, the first of which shall be at least twenty (20) days prior to the date set for the sale of the property, in the *Erie County Legal Journal* and in one newspaper of general circulation in Erie County, and by one of the following methods:

(1) By handbill, which shall be posted at a conspicuous place on the real property to be sold, at least twenty (20) days prior to the date set for the sale of the property, and proof of posting filed with the Clerk; or

(2) By personal notice, as required by Chapter III of the State Orphans' Court Rules, to all Interested Parties, of the time and place of the proposed sale, at least twenty (20) days prior to the date set for the sale of the property.

5.16. Determination of Title to Real Property (PEF Code Section 3546).

(a) *Contents of Petition.* A petition under PEF Code Section 3546 for the determination of title to real property shall, in addition to the requirements of Chapter III of the State Rules, set forth:

(i) The name of the petitioner and the relationship of the petitioner to the decedent;

(ii) The facts on which the claim of the petitioner is based;

(iii) Whether the decedent died testate or intestate, and where, when and to whom letters were granted;

(iv) A description of real property located within the Commonwealth, and instrument number or the place, book, and page of recording of the last deed thereto;

(v) The names and addresses of all known creditors and interested parties; and

(vi) The facts material to a determination of the title.

(b) *Exhibits.* The following documents shall be attached as exhibits to the petition:

(i) The notice which has been given to creditors, interested parties, and, if the heirs of the decedent are unknown, a copy of the notice given to the attorney general; and

(ii) A copy of the decedent's will.

(c) *Notice.* Notice shall be given in conformity with PEF Code Section 3546(f) and Pa.R.O.C.P. Chapter 3.

5.17. Filing of Dispositive Instruments Including Wills Without Issuance of Letters.

(a) In every proceeding involving a dispositive instrument requiring the filing of a Pennsylvania inheritance tax return other than a grant of letters, the fiduciary shall within six (6) months of the event giving rise to the disposition of any interest in any property, notify all individuals and entities (and the attorney general where required) named in said dispositive instrument, and all heirs named in a proof of death filed in conjunction therewith, of the happening of the event giving rise to the disposition of the interest. The notice shall be submitted by regular U.S. mail and shall include the following:

- (i) The name of the creator of the property interest;
- (ii) The nature of the property interest created;
- (iii) Notification that the addressee has been named as a beneficiary in said dispositive instrument and a copy of such instrument or a description of the beneficiary's interest under the terms of the instrument; and
- (iv) The address where a copy of the dispositive interest instrument can be acquired if desired.

COMMENT: 20 Pa.C.S.A. § 301(b) provides that the title to real estate is vested in beneficiaries and/or heirs, as applicable upon the death of the decedent subject to the right of the personal representative to administer the estate. 20 Pa.C.S.A. § 3357(a) provides that beneficiaries and/or heirs, as applicable, can convey good title to real estate if more than one year has elapsed after death and no letters have been issued or within such year if no letters have been issued in the Commonwealth. As a result there can be circumstances when the probate of a will or filing of a proof of death that identifies the beneficiaries and establishes the decedent died intestate may, along with an inheritance tax return and notice to medical assistance, etc., serve as a less expensive form of estate "administration" when the only asset(s) is/are real estate and there are no significant creditors. The purpose of Local Rule 5.17, which is to apply when a will is probated but letters not issued, is to provide for notice to parties named in the will that the will has been probated.

5.50. Settlement of Small Estates by Petition.

In addition to the requirements of the State Rules, the following documents shall be attached as exhibits to the petition:

- (a) If probate has not been opened, an original death certificate;
- (b) If probate has not been opened, the decedent's original will, or a copy thereof, if any, as set forth in Pa.R.O.C.P. 5.50(b)(1)(iii); and
- (c) If distributees are identified in accordance with Pa.R.O.C.P. 5.50(b)(4)(i) and/or (b)(4)(ii), a statement of distribution of the assets of the decedent's estate.

CHAPTER VII. RULES RELATING TO PRE-HEARING AND HEARING PROCEDURE

7.1. Depositions, Discovery, Production of Documents, Perpetuation of Testimony, and Subpoenas to Attend and Testify.

- (a) Absent agreement of the Parties, leave of court is required to engage in discovery, including depositions and written discovery. Requests to conduct discovery shall be presented by motion in accordance with Erie O.C.R. 3.0.
- (b) Perpetuation of testimony in a pending action shall be by deposition in accordance with subparagraph (a) above. Where no action is pending, a petition to perpetu-

ate testimony shall be filed and presented in accordance with Erie O.C.R. 3.5 and include the averments required by Pa.R.Civ.P. 1532.

7.2. Motion for Judgment on the Pleadings.

(a) All motions for judgment on the pleadings shall be accompanied by a Proposed Order and supporting brief. If a judge is actively involved in the case, a time-stamped copy of the motion for judgment on the pleadings, Proposed Order and supporting brief shall be provided to that judge. If no judge is actively involved in the case, the filing party shall obtain a judicial assignment from Court Administration, then provide a time-stamped copy of the motion, Proposed Order and supporting brief to that judge.

(b) An answer to motion for judgment on the pleadings and brief in opposition to the motion shall be filed within twenty (20) days of service of the motion for judgment on the pleadings.

(c) Failure to timely file an answer and brief in opposition may result in judgment in favor of the moving party where the requested relief is supported by law, or, if argument is ordered the court may preclude the noncomplying party from participating in oral argument.

(d) Any Interested Party may request oral argument, however, the court may grant or deny motions for judgment on the pleadings without oral argument if the requested relief is supported by law.

7.3. Motion for Summary Judgment.

(a) All motions for summary judgment shall be accompanied by a Proposed Order and supporting brief. If a judge is actively involved in the case, a time-stamped copy of the motion for summary judgment, Proposed Order and supporting brief shall be provided to that judge. If no judge is actively involved in the case, the filing party shall obtain a judicial assignment from court administration, then provide a copy of the motion, Proposed Order and supporting brief to that judge.

(c) Any interested party may request oral argument, however, the court may grant or deny motions for summary judgment without oral argument if the requested relief is supported by law.

7.4. Injunctions.

Petitions for injunctive relief shall proceed in accordance with Erie O.C.R. 3.5. If the petitioner is seeking preliminary injunctive relief, they shall alert Court Administration if an emergency hearing is requested.

CHAPTER IX. AUDITORS AND HEARING OFFICERS

9.1. Notice of Hearings.

(a) An auditor or hearing officer shall give at least twenty (20) days' notice of the time and place of their first hearing to all Interested Parties in the manner set forth in Chapter IV of the State Orphans' Court Rules.

(b) Notice of succeeding hearings given by an auditor or hearing officer at a hearing of which proper notice has been given shall constitute sufficient notice of such succeeding hearings.

9.6. Notice of Filing Report.

An auditor or hearing officer shall give notice of the filing of their report or of the intention to file their report to all interested parties in the manner set forth in State Rule 4.3.

9.7. Confirmation or Approval of Report.

Any Interested Party may request a hearing on the confirmation of an auditor's report or the approval of a hearing officer's report by petition following the procedure for petition practice under Erie O.C.R. 3.5.

9.8. Security for Expenses and Fees.

The auditor or hearing officer shall be compensated as directed by the court and from such sources as the court shall direct.

CHAPTER X. REGISTER OF WILLS

10.2. Petition Practice.

(a) A death certificate for the decedent shall be presented to the Register for inspection and verification of information at the time of presentation of a petition for grant of letters.

(b) The Register, upon their own motion, or upon the motion of any Interested Party, may extend any limitation of time prescribed by these Local Rules.

(c) Leave to engage in discovery may be granted upon application to the Register by an Interested Party and shall be limited to depositions, requests for production of documents, requests for admissions, and subpoenas.

(i) Motions for discovery beyond the scope of this Local Rule shall be presented to the court in accordance with Erie O.C.R. 3.0.

(ii) Objections to discovery shall be addressed to and decided by the Register.

10.4. Appeals from the Register of Wills.

Appeals to the court from an order or decree of the Register shall proceed following the procedure for petition practice under Erie O.C.R. 3.5(d) and PEF Code § 908.

CHAPTER XIV. INCAPACITATED PERSONS

Rule 14.2. Petition for Adjudication of Incapacity and Appointment of a Guardian of the Person or Estate of an Incapacitated Person.

(a) *Petition Contents.* In addition to requirements of Pa.R.O.C.P. 14.2(a), the petition shall state the following:

(i) The name, address and telephone number of a contact person or office for use by the Orphan's Court investigator to schedule an appointment with the alleged incapacitated person.

(ii) Whether a language interpreter service is required to communicate with the alleged incapacitated person, and what language the alleged incapacitated person understands.

(d) *Emergency Guardian.* A petition for emergency guardian may be filed separately or joined with a petition for permanent guardianship.

(i) If a petition for appointment of emergency guardian is joined with a petition for permanent guardian, the petition shall also be presented to Court Administration following the procedure for petition practice under Local Rule 3.5(d). The petitioner shall provide an additional copy of the petition and signed Scheduling Order to the Clerk for service upon the alleged incapacitated person by the Orphans' Court investigator.

(ii) The Proposed Order for emergency guardianship shall state, or designate blank space for stating, the specific date the order will expire.

(iii) If the need for emergency guardianship continues beyond the 72 hour time limitation set forth at PEF Code

Section 5513, the petitioner may present a motion to extend the emergency guardianship following the procedure for Motion Court under Erie O.C.R. 3.0. The proposed order extending emergency guardianship shall state the date it expires, which shall be no later than 20 days from the date of expiration of the initial emergency order for guardianship of the person, or 30 days from the date of expiration of the initial emergency order for guardianship of the estate, unless a permanent guardianship proceeding has been initiated pursuant to section PEF Code Section 5511.

(f) *Citation with Notice.*

(i) Erie County employs the services of an Orphans' Court investigator to investigate and explain petition content to alleged incapacitated persons. The Orphans' Court investigator will serve the citation with notice, petition, and signed Scheduling Order on alleged incapacitated persons located within Erie County in satisfaction of the requirements of Pa.R.O.C.P. 14.2(f)(1).

(1) The Orphans' Court investigator shall promptly notify the court if their investigation reveals facts or circumstances that may necessitate appointment of counsel for the alleged incapacitated person under Pa.R.O.C.P. 14.4(c).

(2) If, in the discretion of the Orphans' Court investigator, a disinterested language interpreter is required to facilitate service on an alleged incapacitated person, they may utilize InterpretTalk, or other court-designated language assistance services, or notify the court if such service is unavailable or inadequate under the circumstances.

(ii) Proof of service under Pa.R.O.C.P. 14.2(f)(2) shall state with specificity the names and addresses of all persons and entities served and the manner in which each was served.

Rule 14.4. Counsel.

(c) *Appointed Counsel.* The Orphans' Court investigator shall maintain a list of counsel available to serve as court appointed counsel for alleged incapacitated persons. Attorney fee rates and responsibility for payment shall be set by court order.

Rule 14.6. Determination of Incapacity and Selection of Guardian.

(a) Petitions for adjudication of incapacity and appointment of a guardian shall be submitted to Court Administration for assignment of a hearing date following the procedures for petition practice under Erie O.C.R. 3.5(d).

(b) A petition for appointment of emergency guardian shall be presented following the procedures for Motion Court under Erie O.C.R. 3.0.

COMMENT: Under PEF Code Section 5513, emergency guardianship of the person may be extended no longer than 20 days from the date of expiration of initial emergency order if no petition for permanent guardianship is filed, or the date of the hearing on the petition for permanent guardianship if such petition is filed; and guardianship of the estate, no more than 30 days from the date of expiration of the initial emergency order if no petition for permanent guardianship is filed, or the date of the hearing on the petition for permanent guardianship if such petition is filed.

CHAPTER XV. ADOPTIONS

Rule 15.1. Local Adoption Rules.

(a) Petitions requiring a hearing, including those pertaining to adoptions, involuntary termination of parental rights, voluntary relinquishment of parental rights, and confirmation of consent to adoption, shall be presented following the procedure for petition practice under Erie O.C.R. 3.5(d).

(b) Court Administration may delay scheduling an adoption hearing until after parental rights are terminated in cases where termination of parental rights is likely to be contested.

(c) Absent leave of court, all State Orphans' Court Rule requirements for content of petitions, exhibits, notice, filing and service shall be strictly enforced.

COMMENT: Under State Rule. 15.6 (Filing of Termination Petitions when an Agency is Not Involved), "Except in cases involving an agency or as otherwise provided by law, a petition to terminate parental rights shall not be granted unless a Report of Intention to Adopt under 23 Pa.C.S.A. § 2531 or an adoption petition under Rule 15.13 has been filed." Further, under State Rule 15.13 (Adoption), unless the petition for adoption contains averments explaining why they are not attached, criminal history and child abuse clearance reports for each prospective adoptive parent must be attached to the petition for adoption. Accordingly, absent good cause stated in the adoption petition and substantiated at the termination of parental rights hearing, the requisite adoption petition and clearances must be filed before termination of parental rights.

APPENDIX OF FORMS

Form A. Motion Cover Sheet.

- Additional forms are available for reference on the Erie County website:
www.eriecountypa.gov/departments/clerk-of-records/register-of-wills-estate-records/
www.eriecountypa.gov/departments/clerk-of-records/clerk-of-orphans-court/
www.eriecountypa.gov/courts/court-information/general-forms/
www.eriecountypa.gov/courts/court-and-trial-schedules/motion-court-procedures/

FAMILY/ORPHANS' DIVISION
MOTION COVER SHEET AND NOTICE

DATE: _____, _____
MOTIONS JUDGE: _____
CAPTION: _____
vs.
DOCKET NO: _____

NOTICE

You are hereby notified that the attached motion/petition will be presented by me in Motion Court on: _____, at 9:00 a.m.
(Date)

CERTIFICATION OF SERVICE

A. CONTESTED MOTION

The undersigned represents that a copy of this motion and proposed order have been served upon all parties or their counsel of record on _____, _____, in accordance with Local Rule No. 440 (Civil Procedure) or Orphans' Court Local Rule No. 3.0 (Orphans' Court Procedure), hereby providing:

- Two full business days' prior notice by hand delivery, fax; or
Five full business days' prior notice by mail.

By: _____ Attorney for: [] Plaintiff [] Defendant
(Signature of counsel or unrepresented party)

Print Name: _____
(OR)

B. UNCONTESTED MOTION

The undersigned represents that all counsel and unrepresented parties have consented to the motion and consents are attached to the motion.

By: _____ Attorney for: [] Plaintiff [] Defendant
(Signature of counsel or unrepresented party)

Print Name: _____

C. INDICATE MOTION TYPE ON BACK OF THIS PAGE (OVER)

MOTION TYPE

FAMILY COURT MOTIONS

CUSTODY: Petition/Motion relating to:

- Temporary custody
- Approval of custody agreement
- Waive attendance at seminar
- Custody Other: _____

- In Forma Pauperis
- Special relief (Cust)
- Cust Contempt
- Continuance (Cust)
- Counsel fees & expenses (Cust)

DIVORCE: Petition/Motion relating to:

- Exclusive possession of property
- Bifurcation
- Filing Inven/Pre-Trial Stmt
- Waive Attendance at seminar
- Alimony Pende Lite
- Divorce Other: _____

- In Forma Pauperis
- Approve QDRO
- Divorce Contempt
- Divorce, Special Relief
- Amend pleadings divorce
- Counsel fees & expenses (Div)

SUPPORT: Petition/Motion relating to:

- Cont conf/de novo hrg (support)
- Support Other: _____

- In Forma Pauperis
- Paternity/Blood tests
- Support Contempt

ORPHANS' COURT MOTIONS

DECEDENTS' ESTATES: Petition/Motion relating to:

- Inheritance Tax Return
- Family Exemption
- Settlement of Small Estate
- Approval of sale of property
- App settlement/Wrongful Death, et
- Decedents' Estates Other: _____

ADOPTIONS: Petition for:

- Adoption
- Voluntary Relinquishment
- Involuntary Termination
- Confirm Consent Adoption
- Adoption Other: _____

MINOR'S ESTATES: Petition for:

- Appr Set of Minor's Claim
- Auth to Release Funds from Minor's Account
- Minor's Estates Other: _____

GUARDIANSHIPS: Petition for:

- Minor guardianship
- Alleged Incapacitated
- Emergency Intervention
- Discharge/Sub/Guardian
- Guardianship Other: _____

ORPHANS' COURT OTHER: _____

[Pa.B. Doc. No. 22-1855. Filed for public inspection December 2, 2022, 9:00 a.m.]

Title 255—LOCAL COURT RULES

WESTMORELAND COUNTY

Increase in Clerk of Court's Fees; 842 MD2022

Approval

And Now, to wit, this 18th day of November, 2022, the Westmoreland County Clerk of Courts' request to increase fees and charges effective January 1st, 2023, is approved at a level not to exceed 5.7%. The amount of this approval is the calculated percentage difference in the consumer

price index for Urban Wage Earners and Clerical Workers for the U.S. city average, all items, not seasonally adjusted, for the benchmarks of 2017 through 2019, the immediate three years preceding the last increase.

By the Court

RITA DONOVAN HATHAWAY,
President Judge

Fee Increase Notice

In accordance with Act 36 of 2000 that amends Title 42, Section 1725.4, the Westmoreland County Clerk of Courts Fee Schedule will increase 5.7% effective January 1, 2023.

The 5.7% increase is based upon the U.S. Department of Labor—Bureau of Labor Statistics—the calculated percent difference in the Consumer Price Index for Urban Workers (not seasonally adjusted), for the time period of 2017—2019, the immediate three years preceding the last increase.

The following Clerk of Courts Fees will be adjusted on January 1, 2023:

1. A fee of \$238.35 will be collected for all proceedings in all misdemeanor and felony cases disposed of at any time during or after trial.

2. A fee of \$178.69 will be collected for all proceedings in all misdemeanor and felony cases disposed of before trial.

3. A fee of \$35.65 for all proceedings in summary matters.

4. A fee of \$11.85 for all certifications.

5. A fee of \$23.70 for all other matters filed in the office and for all reports prepared, by the clerk except that no fee shall be charged for filing township and borough audit reports or transcripts received which indicate a final disposition by the district justice.

6. A fee of \$59.46 for the filing of an appeal from a summary conviction before a district justice.

7. A fee of \$71.41 for an appeal from the Court of Common Pleas to an appellate court.

8. A fee of \$0.066 per dollar for the first \$1,000 and \$0.025 per dollar for each additional \$1,000 or fraction thereof for the handling of money paid into court.

These fees are subject to change every three years based on Act 36 of 2000.

[Pa.B. Doc. No. 22-1856. Filed for public inspection December 2, 2022, 9:00 a.m.]

Title 255—LOCAL COURT RULES

WESTMORELAND COUNTY

Rescinding Rule W1920.42 and Adopting New Rule W1920.42; No. 3 of 2022

Order

And Now, this 7th day of November, 2022, *It Is Hereby Ordered* that Westmoreland County Rule of Civil Procedure W1920.42 is rescinded and new Rule W1920.42 is adopted. This change is effective 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

RITA DONOVAN HATHAWAY,
President Judge

Adopted December 16, 1993, effective April 1, 1994. Rule W1920.42(a) rescinded October 28, 2015; new rule adopted October 28, 2015, effective December 21, 2015. Rule W1920.42(a) rescinded _____; new rule adopted _____, effective _____.

Rule W1920.42. Affidavit and Decree under Section 3301(c) or Section 3301(d) of the Divorce Code.

(a) The court may require a hearing before the entry of a decree in divorce under sections 3301(c) or 3301(d) of the Divorce Code.

(b) Where both parties have filed affidavits under section 3301(c) of the Divorce Code evidencing consent to the entry of a final decree, the plaintiff shall file at the prothonotary a Pennsylvania vital statistics form, an affidavit of non-military service of defendant, and a proposed decree in divorce. Upon receipt of a praecipe to transmit the record, the prothonotary shall deliver all of the papers filed at that number and term to the court for entry of the decree in divorce. The proposed decree in divorce shall include a clause retaining jurisdiction in the court of all other related claims that have been joined, and which have not been decided by the court as of the date of the presentation of the proposed decree in divorce.

(c) If a complaint has been filed requesting a divorce on the grounds of irretrievable breakdown and the plaintiff has filed and served an affidavit and blank counter-affidavit under section 3301(d) of the Divorce Code, the averments of which the defendant has either admitted or not denied; the plaintiff shall file a written Notice of Intention to File the Praecipe to Transmit Record with the court and serve the defendant at his/her last known address. The notice which shall include a proposed praecipe to transmit the record, shall be served at least 20 days in advance of the time and date the plaintiff intends to file the praecipe to transmit the record required by Pa.R.C.P. 1920.42.

(1) The plaintiff shall also file the Pennsylvania vital statistics form, an affidavit of non-military service of defendant, a proposed decree in divorce, and an affidavit that notice was sent to the defendant as required above. The proposed decree in divorce shall include a clause retaining jurisdiction in the court of all other related claims which have been joined and which have not been decided by the court as of the date of the presentation of the proposed decree in divorce.

(2) If the defendant does not object within the time allotted, the court may either enter a decree in divorce, or schedule a hearing.

(d) If the defendant objects and raises new legal or factual issues, a hearing shall be held before the court or a master, as the court may direct.

(e) Subsequent to the hearing before the All-Counts Hearing Officer pursuant to Westmoreland County Rule of Civil Procedure 1920.50, in order to establish grounds for divorce in appropriate cases, the parties shall complete a praecipe for an order approving grounds for divorce.

NOTE: A form praecipe for an order establishing grounds is provided in the Forms section of the Westmoreland County Rules of Court.

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY, PENNSYLVANIA
 FAMILY DIVISION

 Plaintiff

vs.

Case No. _____ of _____ -D

 Defendant

PRAECIPE FOR AN ORDER APPROVING GROUNDS FOR DIVORCE

To the Honorable Judge,

PLAINTIFF DEFENDANT requests the Court enter an Order approving grounds for divorce based on the information herein with the Court retaining jurisdiction over unresolved ancillary claims.

1. Check the applicable section of the Divorce Code.

Grounds for Divorce: Irretrievable breakdown under:

- Section 3301(c)(1)
- Section 3301(c)(2)
- Section 3301(d)

2. Service of Complaint:

- a) Date served: _____
- b) Manner of Service: _____

3. Complete either paragraph (a) or (b).

- a) Section 3301(c)(1) or (2) of the Divorce Code—Insert the date each party signed the Affidavit of Consent, and if the ground for divorce is under Section 2201(c)(2) of the Divorce code, insert the date the spouse was convicted of the personal injury crime identified in 23 Pa.C.S. § 3103 next to the appropriate party and complete (1) and (2).

Plaintiff: _____ ;

Defendant: _____ .

- 1) The date the party signed the Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code: _____ ;
- 2) The date of filing and manner of service of the Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code and a blank Counter-Affidavit under Section 3301(c)(2) upon the other party: _____ .

b) Section 3301(d) of the Divorce code:

- 1) The date the Affidavit under Section 3301(d) of the Divorce Code was signed: _____ .
- 2) Date of filing and manner of service of the Affidavit under Section 3301(d) of the Divorce Code and blank Counter-Affidavit under Section 3301(d) of the Divorce Code upon the other party: _____ .

4. Related ancillary claims pending: _____ .

5. Complete either (a) or (b).

a) Notice of intention to File the Praecipe for an Order Approving Grounds for a Divorce:

- 1) Date served: _____
- 2) Manner of Service: _____

b) The date of filing of the party's Waiver of Notice of Intention to File the Praecipe for and Order Approving Grounds for Divorce:

- 1) Plaintiff's Waiver: _____
 2) Defendant's Waiver: _____

Respectfully Submitted,

Date: _____

 Attorney for Plaintiff/Defendant

[Pa.B. Doc. No. 22-1857. Filed for public inspection December 2, 2022, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

List of Financial Institutions

Notice is hereby given that pursuant to Rule 221(b), Pa.R.D.E., the following List of Financial Institutions have been approved by the Supreme Court of Pennsylvania for the maintenance of fiduciary accounts of attorneys. Each financial institution has agreed to comply with the requirements of Rule 221, Pa.R.D.E, which provides for trust account overdraft notification.

SUZANNE E. PRICE,
Attorney Registrar

FINANCIAL INSTITUTIONS APPROVED AS DEPOSITORY OF TRUST ACCOUNTS OF ATTORNEYS

Bank Code A.

595 Abacus Federal Savings Bank
 2 ACNB Bank
 613 Allegent Community Federal Credit Union
 375 Altoona First Savings Bank
 376 Ambler Savings Bank
532 AMERICAN BANK (PA)
 615 Americhoice Federal Credit Union
116 AMERISERV FINANCIAL
 648 Andover Bank (The)
 377 Apollo Trust Company

Bank Code B.

558 Bancorp Bank (The)
 485 Bank of America, NA
662 BANK OF BIRD-IN-HAND
 415 Bank of Landisburg (The)
 664 BankUnited, NA
 501 BELCO Community Credit Union
673 BENCHMARK FEDERAL CREDIT UNION
 652 Berkshire Bank
 663 BFCU
 5 BNY Mellon, NA
 392 Brentwood Bank
 495 Brown Brothers Harriman Trust Co., NA

Bank Code C.

654 CACL Federal Credit Union
 618 Capital Bank, NA
**675 CENTRE 1ST BANK, A DIVISION OF OLD
DOMINION BANK**
 136 Centric Bank
394 CFS BANK

623 Chemung Canal Trust Company
 599 Citibank, NA
 238 Citizens & Northern Bank
 561 Citizens Bank, NA
 206 Citizens Savings Bank
 576 Clarion County Community Bank
 591 Clearview Federal Credit Union
 23 CNB Bank
 223 Commercial Bank & Trust of PA
 21 Community Bank (PA)
 371 Community Bank, NA (NY)
 132 Community State Bank of Orbisonia
 380 County Savings Bank
 536 Customers Bank

Bank Code D.

339 Dime Bank (The)
 27 Dollar Bank, FSB

Bank Code E.

500 Elderton State Bank
 567 Embassy Bank for the Lehigh Valley
 541 Enterprise Bank
 28 Ephrata National Bank
 601 Esquire Bank, NA
 340 ESSA Bank & Trust

Bank Code F.

629 1st Colonial Community Bank
 158 1st Summit Bank
 31 F & M Trust Company—Chambersburg
 658 Farmers National Bank of Canfield
 205 Farmers National Bank of Emlenton (The)
 34 Fidelity Deposit & Discount Bank (The)
 583 Fifth Third Bank
 661 First American Trust, FSB
 643 First Bank
 174 First Citizens Community Bank
 191 First Columbia Bank & Trust Company
 539 First Commonwealth Bank
 674 First Commonwealth Federal Credit Union
 504 First Federal S & L Association of Greene
 County
 525 First Heritage Federal Credit Union
 42 First Keystone Community Bank
 51 First National Bank & Trust Company of
 Newtown (The)
 48 First National Bank of Pennsylvania
 426 First Northern Bank & Trust Company
 604 First Priority Bank, a division of Mid Penn
 Bank
592 FIRST RESOURCE BANK

657 First United Bank & Trust
 408 First United National Bank
 151 Firsttrust Savings Bank
 416 Fleetwood Bank
 175 FNCB Bank
647 FORBRIGHT BANK
 291 Fox Chase Bank
 241 Franklin Mint Federal Credit Union
 639 Freedom Credit Union
 58 Fulton Bank, NA

Bank Code G.

499 Gratz Bank (The)
 498 Greenville Savings Bank

Bank Code H.

244 Hamlin Bank & Trust Company
 362 Harleystown Savings Bank
 363 Hatboro Federal Savings
 463 Haverford Trust Company (The)
 606 Hometown Bank of Pennsylvania
 68 Honesdale National Bank (The)
 350 HSBC Bank USA, NA
364 HUNTINGDON VALLEY BANK
 605 Huntington National Bank (The)
 608 Hyperion Bank

Bank Code I.

669 Industrial Bank
 365 InFirst Bank
 668 Inspire FCU
 557 Investment Savings Bank
 526 Iron Workers Savings Bank

Bank Code J.

70 Jersey Shore State Bank
 127 Jim Thorpe Neighborhood Bank
 488 Jonestown Bank & Trust Company
 659 JPMorgan Chase Bank, NA
72 JUNIATA VALLEY BANK (THE)

Bank Code K.

651 KeyBank NA
 414 Kish Bank

Bank Code L.

78 Luzerne Bank

Bank Code M.

361 M & T Bank
 386 Malvern Bank, NA
 510 Marion Center Bank
 387 Marquette Savings Bank
 81 Mars Bank
 367 Mauch Chunk Trust Company
 511 MCS (Mifflin County Savings) Bank
 641 Members 1st Federal Credit Union
 555 Mercer County State Bank
 192 Merchants Bank of Bangor
 671 Merchants Bank of Indiana
 610 Meridian Bank
 294 Mid Penn Bank
276 MIFFLINBURG BANK & TRUST COMPANY
 457 Milton Savings Bank
596 MOREBANK, A DIVISION OF BANK OF PRINCETON (THE)
484 MUNCY BANK & TRUST COMPANY (THE)

Bank Code N.

433 National Bank of Malvern
 168 NBT Bank, NA
 347 Neffs National Bank (The)
434 NEW TRIPOLI BANK
 15 NexTier Bank, NA
 636 Noah Bank
 638 Norristown Bell Credit Union
 666 Northern Trust Co.
 439 Northumberland National Bank (The)
 93 Northwest Bank

Bank Code O.

653 OceanFirst Bank
 489 OMEGA Federal Credit Union
 94 Orrstown Bank

Bank Code P.

598 PARKE BANK
 584 Parkview Community Federal Credit Union
 40 Penn Community Bank
 540 PennCrest Bank
 419 Pennian Bank
 447 Peoples Security Bank & Trust Company
 99 PeoplesBank, a Codorus Valley Company
 556 Philadelphia Federal Credit Union
 448 Phoenixville Federal Bank & Trust
 665 Pinnacle Bank
 79 PNC Bank, NA
 449 Port Richmond Savings
 667 Premier Bank
 354 Presence Bank
 451 Progressive-Home Federal Savings & Loan Association
 637 Provident Bank
 456 Prudential Savings Bank
 491 PS Bank

Bank Code Q.

107 QNB Bank
 560 Quaint Oak Bank

Bank Code R.

452 Reliance Savings Bank
 220 Republic First Bank d/b/a Republic Bank

Bank Code S.

153 S & T Bank
 316 Santander Bank, NA
 460 Second Federal S & L Association of Philadelphia
 646 Service 1st Federal Credit Union
 458 Sharon Bank
 462 Slovenian Savings & Loan Association of Franklin-Conemaugh
486 SOMERSET TRUST COMPANY
 633 SSB Bank
 122 Susquehanna Community Bank

Bank Code T.

143 TD Bank, NA
656 TIOGA FRANKLIN SAVINGS BANK
 182 Tompkins Vist Bank
 660 Top Tier FCU
 577 Traditions Bank
 609 Tristate Capital Bank
 672 Truist Bank
 640 TruMark Financial Credit Union
 467 Turbotville National Bank (The)

Bank Code U.

483 UNB Bank
 481 Union Building and Loan Savings Bank
 634 United Bank, Inc.
 472 United Bank of Philadelphia
 475 United Savings Bank
 600 Unity Bank
 232 Univest Bank & Trust Co.

Bank Code V.

611 Victory Bank (The)

Bank Code W.

119 WASHINGTON FINANCIAL BANK
 121 Wayne Bank
 631 WELLS FARGO BANK, NA
 553 WesBanco Bank, Inc.
 494 West View Savings Bank
 473 Westmoreland Federal S & L Association
 476 William Penn Bank
 272 Woodlands Bank
 573 Woori American Bank
 630 WSFS (Wilmington Savings Fund Society), FSB

Bank Code X.**Bank Code Y.****Bank Code Z.****PLATINUM LEADER BANKS**

The **HIGHLIGHTED ELIGIBLE INSTITUTIONS** are Platinum Leader Banks—Institutions that go above and beyond eligibility requirements to foster the IOLTA Program. These Institutions pay a net yield at the higher of 1% or 75 percent of the Federal Funds Target Rate on all PA IOLTA accounts. They are committed to ensuring the success of the IOLTA Program and increased funding for legal aid.

IOLTA EXEMPTION

Exemptions are not automatic. If you believe you qualify, you must apply by sending a written request to the IOLTA Board's executive director: 601 Commonwealth Avenue, Suite 2400, P.O. Box 62445, Harrisburg, PA 17106-2445. If you have questions concerning IOLTA or exemptions from IOLTA, please visit their website at www.paiolta.org or call the IOLTA Board at (717) 238-2001 or (888) PAIOLTA.

FINANCIAL INSTITUTIONS WHO HAVE FILED AGREEMENTS TO BE APPROVED AS A DEPOSITORY OF TRUST ACCOUNTS AND TO PROVIDE DISHONORED CHECK REPORTS IN ACCORDANCE WITH RULE 221, Pa.R.D.E.

New

675 Centre 1st Bank, a Division of Old Dominion Bank

Name Change

660 Clarion FCU—Change to 660 Top Tier FCU
 518 Standard Bank, PASB—Change to 27 Dollar Bank, FSB
 670 Investors Bank—Change to 561 Citizens Bank

Platinum Leader Change

631 Wells Fargo Bank, NA—Add
 675 Centre 1st Bank, a Division of Old Dominion Bank—Add

*Correction**Removal*

[Pa.B. Doc. No. 22-1858. Filed for public inspection December 2, 2022, 9:00 a.m.]

SUPREME COURT

Financial Institutions Approved as Depositories for Fiduciary Accounts; No. 230 Disciplinary Rules Docket

Order*Per Curiam*

And Now, this 16th day of November, 2022, it is hereby Ordered that the financial institutions named on the attached list are approved as depositories for fiduciary accounts in accordance with Pa.R.D.E. 221.

Bank Code A.

595 Abacus Federal Savings Bank
 2 ACNB Bank
 613 Allegent Community Federal Credit Union
 375 Altoona First Savings Bank
 376 Ambler Savings Bank
 532 AMERICAN BANK (PA)
 615 Americhoice Federal Credit Union
 116 AMERISERV FINANCIAL
 648 Andover Bank (The)
 377 Apollo Trust Company

Bank Code B.

558 Bancorp Bank (The)
 485 Bank of America, NA
 662 BANK OF BIRD-IN-HAND
 415 Bank of Landisburg (The)
 664 BankUnited, NA
 501 BELCO Community Credit Union
 673 BENCHMARK FEDERAL CREDIT UNION
 652 Berkshire Bank
 663 BHCU
 5 BNY Mellon, NA
 392 Brentwood Bank
 495 Brown Brothers Harriman Trust Co., NA

Bank Code C.

654 CACL Federal Credit Union
 618 Capital Bank, NA
 675 CENTRE 1ST BANK, A DIVISION OF OLD DOMINION BANK
 136 Centric Bank
 394 CFS BANK
 623 Chemung Canal Trust Company
 599 Citibank, NA
 238 Citizens & Northern Bank
 561 Citizens Bank, NA
 206 Citizens Savings Bank
 576 Clarion County Community Bank
 591 Clearview Federal Credit Union
 23 CNB Bank

223 Commercial Bank & Trust of PA
 21 Community Bank (PA)
 371 Community Bank, NA (NY)
 132 Community State Bank of Orbisonia
 380 County Savings Bank
 536 Customers Bank

Bank Code D.

339 Dime Bank (The)
 27 Dollar Bank, FSB

Bank Code E.

500 Elderton State Bank
 567 Embassy Bank for the Lehigh Valley
 541 Enterprise Bank
 28 Ephrata National Bank
 601 Esquire Bank, NA
 340 ESSA Bank & Trust

Bank Code F.

629 1st Colonial Community Bank
 158 1st Summit Bank
 31 F & M Trust Company—Chambersburg
 658 Farmers National Bank of Canfield
 205 Farmers National Bank of Emlenton (The)
 34 Fidelity Deposit & Discount Bank (The)
 583 Fifth Third Bank
 661 First American Trust, FSB
 643 First Bank
 174 First Citizens Community Bank
 191 First Columbia Bank & Trust Company
 539 First Commonwealth Bank
 674 First Commonwealth Federal Credit Union
 504 First Federal S & L Association of Greene
 County
 525 First Heritage Federal Credit Union
 42 First Keystone Community Bank
 51 First National Bank & Trust Company of
 Newtown (The)
 48 First National Bank of Pennsylvania
 426 First Northern Bank & Trust Company
 604 First Priority Bank, a division of Mid Penn
 Bank
592 FIRST RESOURCE BANK
 657 First United Bank & Trust
 408 First United National Bank
 151 Firstrust Savings Bank
 416 Fleetwood Bank
 175 FNCB Bank
647 FORBRIGHT BANK
 291 Fox Chase Bank
 241 Franklin Mint Federal Credit Union
 639 Freedom Credit Union
 58 Fulton Bank, NA

Bank Code G.

499 Gratz Bank (The)
 498 Greenville Savings Bank

Bank Code H.

244 Hamlin Bank & Trust Company
 362 Harleysville Savings Bank
 363 Hatboro Federal Savings
 463 Haverford Trust Company (The)
 606 Hometown Bank of Pennsylvania
 68 Honesdale National Bank (The)
 350 HSBC Bank USA, NA
364 HUNTINGDON VALLEY BANK
 605 Huntington National Bank (The)
 608 Hyperion Bank

Bank Code I.

669 Industrial Bank
 365 InFirst Bank
 668 Inspire FCU
 557 Investment Savings Bank
 526 Iron Workers Savings Bank

Bank Code J.

70 Jersey Shore State Bank
 127 Jim Thorpe Neighborhood Bank
 488 Jonestown Bank & Trust Company
 659 JPMorgan Chase Bank, NA
72 JUNIATA VALLEY BANK (THE)

Bank Code K.

651 KeyBank NA
 414 Kish Bank

Bank Code L.

78 Luzerne Bank

Bank Code M.

361 M & T Bank
 386 Malvern Bank, NA
 510 Marion Center Bank
 387 Marquette Savings Bank
 81 Mars Bank
 367 Mauch Chunk Trust Company
 511 MCS (Mifflin County Savings) Bank
 641 Members 1st Federal Credit Union
 555 Mercer County State Bank
 192 Merchants Bank of Bangor
 671 Merchants Bank of Indiana
 610 Meridian Bank
 294 Mid Penn Bank
276 MIFFLINBURG BANK & TRUST COMPANY
 457 Milton Savings Bank
**596 MOREBANK, A DIVISION OF BANK OF
 PRINCETON (THE)**
484 MUNCY BANK & TRUST COMPANY (THE)

Bank Code N.

433 National Bank of Malvern
 168 NBT Bank, NA
 347 Neffs National Bank (The)
434 NEW TRIPOLI BANK
 15 NexTier Bank, NA
 636 Noah Bank
 638 Norristown Bell Credit Union
 666 Northern Trust Co.
 439 Northumberland National Bank (The)
 93 Northwest Bank

Bank Code O.

653 OceanFirst Bank
 489 OMEGA Federal Credit Union
 94 Orrstown Bank

Bank Code P.

598 PARKE BANK
 584 Parkview Community Federal Credit Union
 40 Penn Community Bank
 540 PennCrest Bank
 419 Pennian Bank
 447 Peoples Security Bank & Trust Company
 99 PeoplesBank, a Codorus Valley Company
 556 Philadelphia Federal Credit Union
 448 Phoenixville Federal Bank & Trust

665 Pinnacle Bank
 79 PNC Bank, NA
 449 Port Richmond Savings
 667 Premier Bank
 354 Presence Bank
 451 Progressive-Home Federal Savings & Loan
 Association
 637 Provident Bank
 456 Prudential Savings Bank
 491 PS Bank

Bank Code Q.

107 QNB Bank
 560 Quaint Oak Bank

Bank Code R.

452 Reliance Savings Bank
 220 Republic First Bank d/b/a Republic Bank

Bank Code S.

153 S & T Bank
 316 Santander Bank, NA
 460 Second Federal S & L Association of
 Philadelphia
 646 Service 1st Federal Credit Union
 458 Sharon Bank
 462 Slovenian Savings & Loan Association of
 Franklin-Conemaugh
 486 **SOMERSET TRUST COMPANY**
 633 SSB Bank
 122 Susquehanna Community Bank

Bank Code T.

143 TD Bank, NA
 656 **TIOGA FRANKLIN SAVINGS BANK**
 182 Tompkins Vist Bank
 660 Top Tier FCU
 577 Traditions Bank
 609 Tristate Capital Bank
 672 Truist Bank
 640 TruMark Financial Credit Union
 467 Turbotville National Bank (The)

Bank Code U.

483 UNB Bank
 481 Union Building and Loan Savings Bank
 634 United Bank, Inc.
 472 United Bank of Philadelphia
 475 United Savings Bank
 600 Unity Bank
 232 Uninvest Bank & Trust Co.

Bank Code V.

611 Victory Bank (The)

Bank Code W.

119 **WASHINGTON FINANCIAL BANK**
 121 Wayne Bank
 631 **WELLS FARGO BANK, NA**

553 WesBanco Bank, Inc.
 494 West View Savings Bank
 473 Westmoreland Federal S & L Association
 476 William Penn Bank
 272 Woodlands Bank
 573 Woori American Bank
 630 WSFS (Wilmington Savings Fund Society), FSB

Bank Code X.**Bank Code Y.****Bank Code Z.****PLATINUM LEADER BANKS**

The **HIGHLIGHTED ELIGIBLE INSTITUTIONS** are Platinum Leader Banks—Institutions that go above and beyond eligibility requirements to foster the IOLTA Program. These Institutions pay a net yield at the higher of 1% or 75 percent of the Federal Funds Target Rate on all PA IOLTA accounts. They are committed to ensuring the success of the IOLTA Program and increased funding for legal aid.

IOLTA EXEMPTION

Exemptions are not automatic. If you believe you qualify, you must apply by sending a written request to the IOLTA Board's executive director: 601 Commonwealth Avenue, Suite 2400, P.O. Box 62445, Harrisburg, PA 17106-2445. If you have questions concerning IOLTA or exemptions from IOLTA, please visit their website at www.paiolta.org or call the IOLTA Board at (717) 238-2001 or (888) PAIOLTA.

**FINANCIAL INSTITUTIONS WHO HAVE FILED
 AGREEMENTS TO BE APPROVED AS A
 DEPOSITORY OF TRUST ACCOUNTS AND TO
 PROVIDE DISHONORED CHECK REPORTS IN
 ACCORDANCE WITH RULE 221, Pa.R.D.E.**

New

675 Centre 1st Bank, a Division of Old Dominion
 Bank

Name Change

660 Clarion FCU—Change to 660 Top Tier FCU
 518 Standard Bank, PASB—Change to 27 Dollar
 Bank, FSB
 670 Investors Bank—Change to 561 Citizens Bank

Platinum Leader Change

631 Wells Fargo Bank, NA—Add
 675 Centre 1st Bank, a Division of Old Dominion
 Bank—Add

*Correction**Removal*

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