

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CHS. 85, 87, 89, 91 AND 93]

Amendments to Rules of Organization and Procedure of The Disciplinary Board of The Supreme Court of Pennsylvania; Order No. 106

By Orders dated July 19, 2023 and July 25, 2023, the Supreme Court of Pennsylvania amended Rules 102, 201, 204, 205, 208, 212, 216, 217, 218, 219, 221, 301, 321, 401, 402, and 403 of the Pennsylvania Rules of Disciplinary Enforcement. By this Order, the Board amends its Board Rules and Procedures.

The Disciplinary Board of the Supreme Court of Pennsylvania finds that:

(1) To the extent that 42 Pa.C.S. § 1702 (relating to rule making procedures) and Article II of the act of July 31, 1968 (P.L. 769, No. 240), known as the Commonwealth Documents Law, would otherwise require notice of proposed rulemaking with respect to the amendments adopted hereby, those proposed rulemaking procedures are inapplicable because the amendments adopted hereby relate to agency procedure.

(2) The amendments to the Rules of Organization and Procedure of the Board adopted hereby are not inconsistent with the Pennsylvania Rules of Disciplinary Enforcement and are necessary and appropriate for the administration of the affairs of the Board.

The Board, acting pursuant to Pa.R.D.E. 205(c)(12), orders:

(1) Title 204 of the *Pennsylvania Code* is hereby amended as set forth in Annex A hereto.

(2) The Executive Director shall duly certify this Order, and deposit the same with the Administrative Office of Pennsylvania Courts as required by Pa.R.J.A. 103(c).

(3) The amendments adopted hereby shall take effect 30 days after publication in the *Pennsylvania Bulletin*.

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

JESSE G. HEREDA,
Executive Director

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

CHAPTER 85. GENERAL PROVISIONS

§ 85.2. Definitions.

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Active status—The license status of an attorney who is admitted in Pennsylvania and is registered as active under Enforcement Rule 219 (relating to annual registration and assessment). An attorney

on active status is eligible to practice law in Pennsylvania.

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Administrative suspension—The license [Status] status of an attorney, after Court order **under Enforcement Rule 219(g)**, who: failed to pay the annual [fee and/or file the form] assessment and file the form required by subdivisions [(a)] (b) and [(d)] (c) of Enforcement Rule 219; **failed to satisfy the requirements of the Pennsylvania Rules for Continuing Legal Education and** was reported to the Court by the Pennsylvania Continuing Legal Education Board under Rule 111(b), Pa.R.C.L.E. [, for having failed to satisfy the requirements of the Pennsylvania Rules for Continuing Legal Education] ; failed to pay any [expenses taxed] costs and fees pursuant to Enforcement Rule 208(g); or failed to meet the requirements for maintaining a limited law license as a Limited In-House Corporate Counsel, a foreign legal consultant, an attorney participant in defender or legal services programs, a military attorney, or attorney spouse of an active-duty service member. **An attorney on administrative suspension status is ineligible to practice law in Pennsylvania.**

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Attorney participant in defender or legal services programs—An attorney **or the license status of an attorney** holding a limited admission to practice under Pennsylvania Bar Admission Rule 311 (relating to limited admission of participants in defender or legal services programs).

Attorney Registration Office—The administrative division of the Disciplinary Board which governs the annual registration of every attorney admitted to, or engaging in, the practice of law in this Commonwealth, with the exception of attorneys admitted to practice pro hac vice under [Pa.B.A.R.] **Pennsylvania Bar Admission Rule 301.**

Attorney spouse of an active-duty service member—An attorney **or the license status of an attorney** holding a limited admission to practice under Pennsylvania Bar Admission Rule 304 (relating to limited admission of spouses of active-duty members of the United States Uniformed Services).

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Censure—Public censure by the Supreme Court **under Enforcement Rule 204(a)(3) (relating to types of discipline).**

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Disability inactive status—The license status of an attorney who: has been transferred to this status by order of the Court under Enforcement Rule 301(c) after having been judicially declared incapacitated by another court; has been declared incapacitated by order of the Court under Enforcement Rule 301(d) from continuing the practice of law; is transferred to disability inactive status by order of the Court under Enforcement Rule 301(e) after contending during a pending disciplinary proceeding that he or she is suffering from a disability by reason of physical or mental infirmity or illness that makes it impossible for the attorney to prepare an adequate defense; or has been placed on disabil-

ity inactive status in another jurisdiction and is transferred to disability inactive status by reciprocal order of the Court under Enforcement Rule 216. The term "disability inactive status" includes any transfer to inactive status based on disability under Rule 216 or 301. An attorney on disability inactive status is ineligible to practice law in Pennsylvania.

Disbarment—A type of discipline in which the Court withdraws the offending attorney's privilege to practice law for an unspecified period of at least five years with no basis for an expectation to resume the practice of law.

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Disciplinary [Rule] Rules—The provisions of the Code of Professional Responsibility, as adopted by the Supreme Court of Pennsylvania on May 20, 1970, 438 Pa. XXV, as amended from time to time by special order of the Court and governing lawyer conduct occurring or beginning on or before March 31, 1988, as well as the provisions of the Rules of Professional Conduct, as adopted by the Supreme Court of Pennsylvania on October 16, 1987, 515 Pa. LXIX, and effective on April 1, 1988, as amended from time to time by special order of the Court. See Chapter 81 (relating to Rules of Professional Conduct).

Emeritus status—The license status of an attorney admitted in Pennsylvania who has elected emeritus status, pursuant to Enforcement Rule 403, in order to provide the type of pro bono services authorized by Enforcement Rule 403 (relating to emeritus status) and is current on all registration requirements under that rule.

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Experienced hearing committee member—An attorney who at the time is a member of the panel of hearing committee members in a disciplinary district and who has served on at least one hearing committee that has conducted a hearing into formal charges of misconduct by a respondent-attorney or a hearing on a petition for reinstatement from discipline by a petitioner-attorney.

Foreign legal consultant—A person or the license status of a person who holds a current license as a foreign legal consultant issued under Pennsylvania Bar Admission Rule 341 (relating to the licensing of foreign legal consultants).

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Formerly admitted attorney—A disbarred, suspended, temporarily suspended, administratively suspended, permanently resigned, retired, [or] inactive, or disability inactive attorney.

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Inactive status—The license status of an attorney who is admitted in Pennsylvania and has either elected inactive status under Enforcement Rule 219 (relating to annual registration and assessment) or has sold his or her practice by reason of disability pursuant to Rule 1.17(f) of the Pennsylvania Rules of Professional Conduct. An attorney on inactive status is ineligible to practice law in Pennsylvania.

Informal admonition—[Private informal admonition] A type of private discipline administered by Disciplinary Counsel.

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Judge status—The license status of a justice or judge serving on the following Pennsylvania courts of record: Supreme, Superior, Commonwealth, Common Pleas, and Philadelphia Municipal; and a justice or judge serving on the following federal courts: Supreme, Court of Appeals, Bankruptcy, and District Court, including full-time and part-time magistrate judges not otherwise engaged in the practice of law. This status includes a justice or judge who served on one of these courts and is granted senior status. An attorney on judge status is exempt from annual registration under Enforcement Rule 219(a)(2).

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Limited In-House Corporate Counsel [License]—[A license issued] An attorney or the license status of an attorney holding a limited admission to practice under Pennsylvania Bar Admission Rule 302 (relating to limited admission of in-house corporate counsel [license]).

Military attorney—An attorney or the license status of an attorney holding a limited admission to practice under Pennsylvania Bar Admission Rule 303 (relating to limited admission of military attorneys).

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Permanent resignation—The license status of an attorney who has elected to permanently resign from the Pennsylvania bar under Enforcement Rule 404. An attorney on permanent resignation status is ineligible to practice law in Pennsylvania.

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Private reprimand—[Private reprimand] A type of private discipline imposed by the Board.

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Public [Reprimand] reprimand—[Public reprimand] A type of discipline imposed by the Board.

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Retired status—The license status of an attorney admitted in Pennsylvania who elects this status after having ceased the practice of law in Pennsylvania. An attorney on retired status is ineligible to practice law in Pennsylvania.

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Senior hearing committee member—An attorney who at the time is a member of the panel of hearing committee members in a disciplinary district and who has served (i) either as a member of the Board, or (ii) on at least two hearing committees that have conducted hearings into formal charges of misconduct by respondent-attorneys or hearings on petitions for reinstatement from discipline by petitioner-attorneys.

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Suspension—A type of discipline in which the Court withdraws the offending attorney's privilege to practice law for a period not exceeding five

years. A suspended attorney may resume the practice of law only upon the entry of an order of the Court reinstating the attorney to active status.

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§ 85.3. Jurisdiction.

(a) *General rule.* Enforcement Rule 201(a) provides that the exclusive disciplinary jurisdiction of the Supreme Court and the Board under the Enforcement Rules extends to:

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(3) Any formerly admitted attorney, with respect to acts prior to suspension, disbarment, **temporary suspension**, administrative suspension, permanent resignation, or transfer to or assumption of retired, [or] inactive **or disability inactive** status, or with respect to acts subsequent thereto which amount to the practice of law or constitute the violation of the Disciplinary Rules, the Enforcement Rules or these rules.

(4) Any attorney who is a justice, judge or **magisterial district [justice] judge**, with respect to acts prior to taking office as a justice, judge or **magisterial [justice] judge**, if the [**Judicial Inquiry and Review Board**] **Judicial Conduct Board** declines jurisdiction with respect to such acts.

(5) Any attorney who resumes the practice of law, with respect to nonjudicial acts while in office as a justice, judge or **magisterial** district [**justice**] **judge**.

§ 85.8. Types of discipline.

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(c) *Limited In-House Corporate Counsel License.* Enforcement Rule 204(c) provides that a reference in the Enforcement Rules and these rules to disbarment, suspension, temporary suspension, administrative suspension, permanent resignation, or transfer to or assumption of retired, [or] inactive **or disability inactive** status shall be deemed to mean, in the case of a respondent-attorney who holds a Limited In-House Corporate Counsel License, expiration of that license; and that a respondent-attorney whose Limited In-House Corporate Counsel License expires for any reason:

(1) shall be deemed to be a formerly admitted attorney for purposes of [**Subchapter 91E**] **Chapter 91 Subchapter E** (relating to formerly admitted attorneys); and

(2) shall not be entitled to seek reinstatement under [**Subchapter 89F**] **Chapter 89 Subchapter F** (relating to reinstatement and resumption of practice) or §§ 93.145 (relating to [**reinstatement**] **administrative change to active status**) or 93.112(c) (relating to reinstatement upon payment of taxed costs) and instead must reapply for a Limited In-House Corporate Counsel License under Pennsylvania Bar Admission Rule 302 (relating to limited in-house corporate counsel license).

§ 85.11. Recusal.

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(b) *Procedure for recusal.* Enforcement Rule 220(b) provides that a motion to disqualify a member of the Board or a hearing committee member or a special master shall be made in accordance with these rules, but the making of such a motion shall not stay the conduct of the proceedings or disqualify the challenged member or

special master pending disposition of the motion. The procedures applicable to a motion for recusal shall be as follows:

(1) The motion shall be filed and served in accordance with [**Subchapter 89A**] **Chapter 89 Subchapter A** (relating to preliminary provisions).

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CHAPTER 87. INVESTIGATIONS AND INFORMAL PROCEEDINGS

Subchapter A. PRELIMINARY PROVISIONS

COMPLAINTS

§ 87.7. Notification to respondent-attorney of complaint and duty to respond; duty to produce Pa.R.P.C. 1.15's required records and effect of failure to produce.

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(e) *Duty to produce Pa.R.P.C. 1.15's required records and time for production.* Notwithstanding any other provision in this section, if Disciplinary Counsel requests records required to be maintained under Pa.R.P.C. 1.15(c), Enforcement Rule 221(e), and § 91.177(a) (all of which relate to required records) in a Form DB-7 (Request for Statement of Respondent's Position) or Form DB-7A (Supplemental Request for Statement of Respondent's Position), the respondent-attorney shall provide the records to Disciplinary Counsel within ten business days of receipt of the Form DB-7 or Form DB-7A, as the case may be, whether or not the respondent-attorney files the statement of position required to be filed under subsection (b) of this section. The Form DB-7 or Form DB-7A will be considered received for purposes of this subsection if: 1) personal service of the Form DB-7 or Form DB-7A on the respondent-attorney is accomplished; 2) a copy of the Form DB-7 or Form DB-7A is delivered to an employee, agent or other responsible person at the office of the respondent-attorney as determined by the address furnished by the respondent-attorney in the last registration statement filed by the respondent-attorney pursuant to Enforcement Rule [**219(d)**] **219(c)** (relating to annual registration of attorneys); or 3) mailed by certified mail with return receipt requested to one or more of the addresses furnished by the respondent-attorney in the last registration statement and delivery is accepted as shown by electronic or paper return receipt containing the name or signature of the respondent-attorney or other person who accepted delivery. The time in which to produce the required records (ten business days) is separate from the time fixed for the filing of the respondent-attorney's statement of position under paragraph (b)(2).

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CHAPTER 89. FORMAL PROCEEDINGS

Subchapter C. HEARING PROCEDURES

ABBREVIATED PROCEDURE

§ 89.181. Abbreviated procedure.

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(c) *Procedures.*

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(9) Where the proceeding is disposed of as provided by [**Paragraph**] **paragraph** (8)(i), (ii), or (iii), the official reporter shall preserve the untranscribed notes or recording of testimony in the manner and for the duration specified by the Executive Office.

Subchapter D. ACTION BY BOARD AND SUPREME COURT

§ 89.205. Informal admonition, private reprimand or public reprimand following formal hearing.

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(c) *Notice to appear.*

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(2) In the event that the Board determines that the proceeding should be concluded by private reprimand, the Executive Office shall notify the respondent-attorney and staff counsel by means of Form DB-12(FP) (Notice to Appear for Private Reprimand Following Formal Proceedings) which shall state that Enforcement Rule 203(b)(2) and (c) expressly provides that willful failure to appear before the Board for private reprimand shall be an independent ground for discipline and that the Board is a “tribunal” within the meaning of the Disciplinary Rules (see, e.g., Rules 3.3, 3.4(c), and 3.5).

(3) In the event that the Board determines that the proceeding should be concluded by informal admonition, the Office of Disciplinary Counsel shall notify the respondent-attorney and staff counsel by means of Form DB-12.1(FP) (Notice to Appear for Informal Admonition Following Formal Proceedings), which shall state that Enforcement Rule 203(b)(2) and (c) expressly provides that willful failure to appear before Disciplinary Counsel for informal admonition shall be an independent ground for discipline and that Disciplinary Counsel, when administering informal admonitions, constitutes a “tribunal” within the meaning of the Disciplinary Rules (see, e.g., Rules 3.3, 3.4(c), and 3.5).

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(f) *Demand for Supreme Court review.*

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(2) A respondent-attorney who objects to an order taxing expenses in connection with a matter concluded by informal admonition, **[or]** private reprimand, **or public reprimand** may file a petition for review of such order in the Supreme Court under 42 Pa.C.S. §§ 725(5) and 5105(a)(2). See 210 Pa. Code Chapter 15 (relating to judicial review of governmental determinations) with respect to the time limits for seeking review and other applicable procedures.

§ 89.209. Expenses of formal proceedings.

Enforcement Rule 208(g)(1) provides that **unless otherwise directed by the Supreme Court, [in its discretion may direct that] the respondent-attorney shall pay** the necessary expenses incurred in the investigation and prosecution of a proceeding which results in the imposition of discipline **or transfer to disability inactive status [shall be paid by the respondent-attorney]**. All expenses so taxed pursuant to orders of suspension that are not stayed in their entirety or disbarment shall be paid by the respondent-attorney within 30 days after notice transmitted to the respondent-attorney of taxed expenses. In all other cases, expenses taxed under Rule 208(g)(1) shall be paid by the respondent-attorney within 30 days of entry of the order taxing the expenses against the respondent-attorney. Failure to pay such taxed expenses within 30 days after the date of the entry of the order will result in action taken by the Board pursuant to § 93.112 (relating to failure to pay taxed expenses) which will result in the entry of an order placing the respondent-attorney on administrative suspension.

Subchapter F. REINSTATEMENT AND RESUMPTION OF PRACTICE

REINSTATEMENT OF FORMERLY ADMITTED ATTORNEYS

(Editor’s Note: Section 89.271 as printed in 204 Pa. Code reads “Official Note” rather than “Note.”)

§ 89.271. Reinstatement only by Court order.

Enforcement Rule 218(a) provides that an attorney may not resume practice until reinstated by order of the Supreme Court after petition pursuant to Rule 218 if the attorney **[was]**:

(1) **[suspended for a period exceeding one year;**

(2) **is on** retired **status**, **[on]** inactive status or **[on]** administrative suspension **[if the formerly admitted attorney] and** has not been on active status at any time within the **[past] preceding** three years;

[(3)] (2) [transferred to] assumed inactive status **[as a result of] under Enforcement Rule 219(i)(1) in connection with** the sale of his or her practice pursuant to Rule 1.17(f) of the Pennsylvania Rules of Professional Conduct **(relating to the sale of a law practice by reason of disability); [or]**

(3) was transferred to disability inactive status, except that an attorney who is on disability inactive status under Enforcement Rule 301(c) shall be subject to the provisions of this rule only if the Court so directs;

(4) was suspended for a period exceeding one year; or

[(4)] (5) was disbarred.

Note: Probation under § 89.291 (relating to probation) may be imposed in conjunction with a suspension which may be stayed in whole or in part. If probation is imposed in any particular case in conjunction with a suspension for more than one year that is not stayed and the probation runs for the full period of suspension unless violated, the probation will continue until the termination of any required reinstatement proceedings.

(Editor’s Note: Section 89.273 as printed in 204 Pa. Code reads “Official Note” rather than “Note.”)

§ 89.273. Procedures for reinstatement.

(a) Enforcement Rule 218(c) provides that the procedure for petitioning for reinstatement from **disability inactive status**, suspension for a period exceeding one year or disbarment is as follows:

(1) Petitions for reinstatement shall be filed with the Board.

Note: The Board will not treat a petition for reinstatement as properly filed for purposes of commencing the procedures set forth in this section unless and until the petition is accompanied by a completed reinstatement questionnaire as required by § 89.275 (relating to completion of questionnaire by petitioner-attorney).

(2) Within 60 days after the filing of a petition for reinstatement, Disciplinary Counsel shall file a response thereto with the Board and serve a copy on the formerly admitted attorney. Upon receipt of the response, the Board shall refer the petition and response to a hearing committee appointed by the Board Prothonotary pursuant to § 93.81(c) (relating to hearing committees) in the disciplinary district in which the formerly admitted attor-

ney maintained an office at the time of the **transfer to disability inactive status**, disbarment or suspension. If any other formal disciplinary proceedings are then pending [**or have been authorized**] against the formerly admitted attorney **at the time the Board refers the matter to a hearing committee or are authorized after the referral and at any time prior to the hearing**, the reinstatement and disciplinary matters may be heard by the same hearing committee. In such case the combined hearing shall be held not later than 45 days after receipt by the Board of the response to the petition for reinstatement.

Note: If Disciplinary Counsel objects to reinstatement of the formerly admitted attorney, the response to the petition for reinstatement should explain in reasonable detail the reasons for the objection.

(3) The hearing committee shall promptly schedule a hearing at which a disbarred or suspended attorney shall have the burden of demonstrating by clear and convincing evidence that such person has the moral qualifications, competency and learning in law required for admission to practice law in this Commonwealth and that the resumption of the practice of law within the Commonwealth by such person will be neither detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest. When the petitioner-attorney is seeking reinstatement from disbarment, the threshold inquiry articulated in *Office of Disciplinary Counsel v. Keller*, 509 Pa. 573, 579, 506 A.2d 872, 875 (1986) and its progeny applies. **See § 91.78 for burden of proof applicable to disability inactive attorney seeking reinstatement.**

Note: The requirement that a hearing be scheduled “promptly” means that a hearing should ordinarily be held within 60 days after the petition for reinstatement has been filed with the Board and the response from Disciplinary Counsel has been received, unless the chair of the hearing committee extends that time for good cause shown.

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(b) Enforcement Rule 218(d) provides that the procedure for petitioning for reinstatement from retired status for more than three years; inactive status for more than three years; administrative suspension for more than three years; retired status, inactive status or administrative suspension if the formerly admitted attorney has not been on active status at any time within the past three years; or after transfer to inactive status as a result of the sale of a law practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct, is as follows:

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(4) Upon receipt of a response under (b)(2)(i), the Board shall refer the petition and response to a single senior or experienced hearing committee member in the disciplinary district in which the formerly admitted attorney maintained an office at the time of transfer to or assumption of retired or inactive status, or transfer to administrative suspension; the single senior or experienced hearing committee member shall promptly schedule a hearing during which the hearing committee member shall perform the functions of a hearing committee under this subsection (b). If any other formal disciplinary proceedings are then pending [**or have been authorized**] against the formerly admitted attorney **at the time the Board refers the matter to a hearing committee or are authorized after the referral and at any time prior to the hearing**, the reinstatement and disciplinary

matters may be heard by the same hearing committee. In such case the combined hearing shall be held not later than 45 days after receipt by the Board of the response to the petition for reinstatement.

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(d) *Attorneys suspended for less than one year.* Enforcement Rule 218(g) provides that:

(1) Upon the expiration of any term of suspension not exceeding one year and upon the filing thereafter by the formerly admitted attorney with the Board of a verified statement showing compliance with all the terms and conditions of the order of suspension and of Chapter 91 Subchapter E (relating to formerly admitted attorneys), along with the payment of a non-refundable filing fee of \$250, the Board shall certify such fact to the Supreme Court, which shall immediately enter an order reinstating the formerly admitted attorney to active status, unless such person is subject to another outstanding order of **temporary suspension**, suspension or disbarment.

(2) Paragraph (1) of this subsection shall not be applicable and a formerly admitted attorney shall be subject instead to the other provisions of this rule requiring the filing of a petition for reinstatement, if:

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(iii) the formerly admitted attorney has not been on active status for more than three years due to a combination of retired status, inactive status, administrative suspension, **temporary suspension** and/or a term of suspension not exceeding one year and had not been on active status at any time within the three-year period preceding the entry of the order; or

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[(e) *Attorneys on inactive status, retired status or administrative suspension for three years or less.* Enforcement Rule 218(h) provides that attorneys who have been on inactive status, retired status or administrative suspension for three years or less may be reinstated to the roll of those classified as active pursuant to § 93.145 (relating to reinstatement of administratively suspended attorneys), § 93.146 (relating to resumption of active status by retired or inactive attorneys), and § 93.112(c) (relating to reinstatement upon payment of taxed costs), as appropriate. This subsection (e) does not apply to:

(1) a formerly admitted attorney who, on the date of the filing of the request for reinstatement, had not been on active status at any time within the preceding three years; or

(2) an attorney who has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct.]

§ 89.277. Abbreviated reinstatement procedure.

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(c) *Procedures.*

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(7) Where the proceeding is disposed of as provided by [Paragraph] paragraph (6)(i) of this subsection, the official reporter shall preserve the untranscribed notes or recording of testimony in the manner and for the duration specified by the Executive Office.

§ 89.278. Expenses of reinstatement proceedings.

Enforcement Rule 218(f)(1) provides that a non-refundable reinstatement filing fee shall be assessed against a petitioner-attorney. A filing fee schedule is set forth in the rule. Enforcement Rule 218(f)(2) provides that unless otherwise directed by the Supreme Court, [in its discretion may direct that] the petitioner-attorney shall pay the necessary expenses incurred in the investigation and processing of the petition for reinstatement [be paid by the petitioner-attorney] and in any proceeding that results in the grant, denial or withdrawal of the petition. [The annual fee required by Enforcement Rule 219(a) for the current year shall be paid to the Attorney Registration Office after the Supreme Court order is entered.] After a Supreme Court order granting reinstatement is entered, the petitioner-attorney shall pay the annual assessment required by Enforcement Rule 219(b).

§ 89.280. Notice of reinstatement.

(a) *Publication of notice.* Enforcement Rule [218(i)] 218(h) provides that the Board may cause a notice of a reinstatement to be published in one or more appropriate legal journals and newspapers of general circulation. The cost of publication shall be assessed against the petitioner-attorney.

(b) *Transmission of notice to local president judge.* Enforcement Rule [218(j)] 218(i) provides that the Board when appropriate shall promptly transmit to the president judge of the court of common pleas in the judicial district in which the formerly admitted attorney practiced a copy of:

(1) [the certification filed with the Court Prothonotary under § 93.145(a)(2) (relating to reinstatement of an attorney who has been administratively suspended for three years or less) or § 93.112(c) (relating to failure to pay taxed expenses)] a notice of any action by the Attorney Registration Office administratively reinstating an attorney to active status under Enforcement Rule 219(h); or

(2) Any other order of reinstatement entered under these rules.

RESUMPTION OF PRACTICE

§ 89.285. Resumption of practice by justices and judges on Judge Status.

(a) [*General rule.* Enforcement Rule 219(n) provides that a former or retired justice or judge who is not the subject of an outstanding order of discipline affecting his or her right to practice law and who wishes to resume the practice of law shall file with the Attorney Registration Office a notice in writing to that effect.] Conclusion of judicial service. Enforcement Rule 219(j)(2) provides that at the conclusion of judicial service, an attorney holding judge status as set forth in Enforcement Rule 219(j)(1) shall:

(1) within 20 days, notify the Attorney Registration Office in writing of the conclusion of judicial service; and

(2) within 60 days, elect either active status or retired status.

(b) [*Notice.* Enforcement Rule 219(n) further provides that the notice shall:

(i) describe:

(A) any discipline imposed within six years before the date of the notice upon the justice or judge by the Court of Judicial Discipline;

(B) any proceeding before the Judicial Conduct Board or the Court of Judicial Discipline settled within six years before the date of the notice on the condition that the justice or judge resign from judicial office or enter a rehabilitation program;

(ii) include a waiver by the justice or judge, if the notice discloses a proceeding described in paragraph (i), of the confidentiality of the record in that proceeding for the limited purpose of making the record available to the Board in any subsequent proceeding under these rules;

(iii) be accompanied by payment of the full annual fee for the registration year in which the notice is filed.] Administrative change to active status within 60 days of conclusion of judicial service. Enforcement Rule 219(j)(3) provides that within 60 days of conclusion of judicial service, a former justice or judge on judge status who seeks to resume active status shall submit to the Attorney Registration Office:

(1) a form available through the Attorney Registration Office;

(2) a notice in writing setting forth:

(i) any discipline imposed within six years before the date of the notice upon the justice or judge by the Court of Judicial Discipline; and

(ii) any proceeding before the Judicial Conduct Board or the Court of Judicial Discipline settled within six years before the date of the notice on the condition that the justice or judge resign from judicial office or enter a rehabilitation program;

(3) a waiver available through the Attorney Registration Office and signed by the former justice or judge of the confidentiality of the record in any proceeding disclosed in the notice provided under paragraph (2), for the limited purpose of making the record available to the Board in any subsequent proceeding under these rules; and

(4) payment of the active annual assessment for the year in which the request for active status is made.

(c) *Administrative Change to retired status within 60 days of conclusion of judicial service.* Enforcement Rule 219(j)(4) provides that within 60 days of conclusion of service, a former justice or judge on judge status shall submit to the Attorney Registration Office a form available through that office.

(d) *Failure to elect status.* Enforcement Rule 219(j)(6) provides that a former justice or judge on judge status who fails to elect a new registration status within 60 days of concluding judicial service shall be placed on retired status by the Attorney Registration Office.

CHAPTER 91. MISCELLANEOUS MATTERS

Subchapter A. SERVICE, SUBPOENAS, DEPOSITIONS AND RELATED MATTERS

IN GENERAL

§ 91.1. Substituted service.

Enforcement Rule 212 provides that in the event a respondent-attorney cannot be located and personally served with notices required under the Enforcement Rules and these rules, such notices may be served upon the respondent-attorney by addressing them to the address furnished in the last registration [statement] form filed by the respondent-attorney in accordance with § [93.142(b)] 93.142 (relating to filing of annual [fee] registration form by attorneys) or, in the case of foreign legal consultant, by serving them pursuant to the designation filed by the foreign legal consultant under Pennsylvania Bar Admission Rule [341(b)(8)] 341 (relating to licensing of foreign legal consultants).

Subchapter B. ATTORNEYS CONVICTED OF CRIMES

§ 91.35. Institution of formal proceedings upon conviction of a crime.

(a) General rule. Enforcement Rule 214(f)(1) provides that upon the filing of a certificate of conviction of an attorney for a crime, Disciplinary Counsel may commence either an informal proceeding under Chapter 87 (relating to investigations and informal proceedings) or a formal proceeding under [Subchapter 89B] Chapter 89 Subchapter B (relating to institution of formal proceedings), except that Disciplinary Counsel may institute a formal proceeding before a hearing committee or special master by filing a petition for discipline under § 89.52 (relating to petition for discipline) without seeking approval for the prosecution of formal charges under [Subchapter 87B] Chapter 87 Subchapter B (relating to review of recommended disposition by reviewing hearing committee member). If a petition for discipline is filed, a hearing on the petition shall be deferred until sentencing and all direct appeals from the conviction have been concluded. The sole issue at the hearing shall be the extent of the discipline or, where the Court has temporarily suspended the attorney under § 91.34(c), the final discipline to be imposed.

(b) Accelerated disposition. Enforcement Rule 214(f)(2) provides that:

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(5) if a petition for discipline is not timely filed or assigned to a hearing committee for accelerated disposition under this subsection (b), the order of temporary suspension shall be automatically dissolved, but without prejudice to any pending or further proceedings under this [Subchapter 91B] Subchapter B.

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§ 91.37. Definition of "crime."

As Enforcement Rule 214(h) provides and as used in this [Subchapter 91B] Subchapter B, the term "crime" means an offense that is punishable by imprisonment in the jurisdiction of conviction, whether or not a sentence of imprisonment is actually imposed; and, notwithstanding any other provision of subdivision (h) of Enforcement Rule 214 or this rule, the term "crime" shall include criminal contempt, whether direct or indirect, and without regard to the sentence that may be imposed or that is actually imposed. It does not include parking

violations or summary offenses, both traffic and non-traffic, unless a term of imprisonment is actually imposed.

§ 91.38. Definition of "conviction."

As Enforcement Rule 214(i) provides and as used in this [Subchapter 91B] Subchapter B, the term "conviction" means any guilty verdict, whether after trial by judge or jury, or finding of guilt, and any plea of guilty or nolo contendere that has been accepted by the court, whether or not sentence has been imposed.

Subchapter C. RECIPROCAL DISCIPLINE AND DISABILITY

§ 91.51. Reciprocal discipline.

Enforcement Rule 216 provides as follows:

(1) Upon receipt of a certified copy of a final adjudication of any court or any body authorized by law or by rule of court to conduct disciplinary proceedings against attorneys by any state or territory of the United States or of the District of Columbia, a United States court, or a federal administrative agency or a military tribunal demonstrating that an attorney admitted to practice in this Commonwealth has been disciplined by suspension, disbarment, revocation of license or pro hac vice admission, or has resigned from the bar or otherwise relinquished his or her license to practice while under disciplinary investigation in another jurisdiction or has been transferred to disability inactive status, the Supreme Court shall forthwith issue a notice (Form DB-19) (Notice of Reciprocal Discipline) directed to the respondent-attorney containing:

(i) A copy of the final adjudication described in subdivision (1).

(ii) An order directing that the respondent-attorney inform the Court within 30 days from service of the notice, of any claim by the respondent-attorney that the imposition of the identical or comparable discipline or disability inactive status in the Commonwealth would be unwarranted, and the reasons therefore. The Executive Office shall cause this notice to be served upon the respondent-attorney by mailing it to the address furnished by the respondent-attorney in the last registration [statement] form filed by such person in accordance with § [93.142(b)] 93.142 (relating to filing of annual [fee] registration form by attorneys) or, in the case of a foreign legal consultant, by serving it pursuant to the designation filed by the foreign legal consultant under Pennsylvania Bar Admission Rule [341(b)(8)] 341 (relating to licensing of foreign legal consultants).

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Subchapter D. DISABILITY

§ 91.70. Preliminary provisions.

(a) Definition. Enforcement Rule 301(k) provides that, as used in this subchapter, the term "disabled attorney" means an attorney transferred to disability inactive status under this subchapter.

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§ 91.73. Attorney subject to judicial determination of incapacity.

(a) Transfer to inactive status. Enforcement Rule 301(c) provides that where an attorney has been judicially declared incapacitated or involuntarily committed on the grounds of incapacity or severe mental disability, the Supreme Court, upon proper proof of the fact, shall enter

an order transferring such attorney to **disability** inactive status effective immediately and for an indefinite period until the further order of the Court; and that a copy of such order shall be served upon such formerly admitted attorney, the guardian of such person, and/or the director of the institution to which such person has been committed in such manner as the Court may direct.

(b) *Summary reinstatement.* Where an attorney has been transferred to **disability** inactive status by an order in accordance with the provisions of subdivision (a) and, thereafter, in proceedings duly taken, the person is judicially declared to be competent, the Supreme Court upon application may dispense with further evidence that the disability has been removed and may direct reinstatement to active status upon such terms as are deemed proper and advisable.

§ 91.74. Petition by Board for determination of professional competency.

Enforcement Rule 301(d) provides that whenever the Board shall petition the Supreme Court to determine whether an attorney is incapacitated from continuing the practice of law by reason of mental infirmity or illness or because of addiction to drugs or intoxicants, the Court may take or direct such action as it deems necessary or proper to determine whether the attorney is so incapacitated, including the examination of the attorney by such qualified medical experts as the Court shall designate; that if, upon due consideration of the matter, the Court concludes that the attorney is incapacitated from continuing to practice law, it shall enter an order transferring the attorney to **disability** inactive status on the ground of such disability for an indefinite period and until the further order of the Court; that if examination of a respondent-attorney by a qualified medical expert reveals that the respondent lacks the capacity to aid effectively in the preparation of a defense, the Court may order that any pending disciplinary proceeding against the respondent shall be held in abeyance except for the perpetuation of testimony and the preservation of documentary evidence; that the order of abatement may provide for reexaminations of the respondent-attorney at specified intervals or upon motion by Disciplinary Counsel; and that the Court shall provide for such notice to the respondent-attorney of proceedings in the matter as it deems proper and advisable and may appoint counsel to represent the respondent if the respondent is without adequate representation.

§ 91.75. Effect of raising defense of disability in formal and informal proceedings.

(a) *General rule.* Enforcement Rule 301(e) provides that if, during the course of a disciplinary proceeding, the respondent contends that the respondent is suffering from a disability by reason of mental or physical infirmity or illness, or because of addiction to drugs or intoxicants, which make it impossible for the respondent to prepare an adequate defense, the respondent shall complete and file with the Court a certificate of admission of disability. The certificate shall:

* * * * *

Upon receipt of the certificate, the Supreme Court thereupon shall enter an order immediately transferring the respondent to **disability** inactive status until a determination is made of the capacity of the respondent to aid effectively in the preparation of a defense or to continue to practice law in a proceeding instituted in accordance with the provisions of § 91.74 (relating to petition by Board for determination of professional compe-

tency), unless the Court finds that the certificate does not comply with the requirements of Enforcement Rule 301(e), in which case the Court may deny the request for transfer to disability inactive status or enter any other appropriate order. Before or after the entry of the order transferring the respondent to **disability** inactive status under Enforcement Rule 301(e), the Court may, upon application by Disciplinary Counsel and for good cause shown, take or direct such action as the Court deems necessary or proper to a determination of whether it is impossible for the respondent to prepare an adequate defense, including a direction for an examination of the respondent by such qualified medical experts as the Court shall designate. In its discretion, the Court may direct that the expense of such an examination shall be paid by the respondent.

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§ 91.76. Publication of notice of transfer to disability inactive status.

Enforcement Rule 301(f) provides that the Board shall cause a notice of transfer to **disability** inactive status (Form DB-22) (Notice of Transfer to Inactive Status upon Disability) to be published in the legal journal and a newspaper of general circulation in the county in which the disabled attorney practiced. If there is no such legal journal, the notice shall be published in the legal journal of an adjoining county. Such notice shall be published by the Executive Office within 20 days after the transfer to **disability** inactive status becomes effective and shall be furnished to such courts as may be appropriate.

§ 91.77. Action to protect clients of disabled attorney.

Enforcement Rule 301(g) provides that the Board shall promptly transmit a certified copy of the order of transfer to **disability** inactive status to the president judge of the court of common pleas of the judicial district in which the disabled attorney practiced and shall request such action under the provisions of Subchapter F (relating to protection of the interests of clients) as may be indicated in order to protect the interests of the disabled attorney and the clients of the disabled attorney.

§ 91.78. Procedure for reinstatement.

Enforcement Rule 301(h) provides as follows:

(1) Except as provided in § 91.73(b) (relating to summary reinstatement), a disabled attorney may not resume active status until reinstated by order of the Supreme Court upon petition for reinstatement pursuant to Chapter 89 Subchapter F (relating to reinstatement).

(2) A disabled attorney shall be entitled to apply for reinstatement to active status once a year or at such shorter intervals as the Court may direct in the order transferring the respondent to **disability** inactive status or any modification thereof.

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§ 91.79. Burden of proof.

Enforcement Rule 301(i) provides that in a proceeding seeking a transfer to **disability** inactive status under this subchapter, the burden of proof shall rest with the Board; and that in a proceeding seeking an order of reinstatement to active status under this subchapter, the burden of proof shall rest with the respondent-attorney.

§ 91.80. Waiver of privilege.

Enforcement Rule 301(j) provides that the filing of an application for reinstatement to active status by a for-

merly admitted attorney transferred to **disability** inactive status [**because of disability**] shall be deemed to constitute a waiver of any doctor-patient privilege with respect to any treatment of the formerly admitted attorney during the period of disability; that the formerly admitted attorney shall be required to disclose the name of every psychiatrist, psychologist, physician and hospital or other institution by whom or in which the formerly admitted attorney has been examined or treated since transfer to **disability** inactive status; and that the formerly admitted attorney shall furnish to the Court written consent to each to divulge such information and records as requested by court-appointed medical experts.

Subchapter E. FORMERLY ADMITTED ATTORNEYS

§ 91.91. Notification of clients in nonlitigation matters.

(a) *General rule.* Enforcement Rule 217(a) provides that a formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients being represented in pending matters, other than litigation or administrative proceedings, of the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** inactive status and shall advise said clients to seek legal advice elsewhere. Such notices shall be in substantially the language of Form DB-23 (Nonlitigation Notice of Disbarment, Suspension, [**Administrative**] **Temporary Suspension or Transfer to Disability Inactive Status**) or **Form DB-23(a) (Non-Litigation Notice of Administrative Suspension)**. The notice required by this subsection (a) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt.

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§ 91.92. Notification of clients in litigation matters.

(a) *General rule.* Enforcement Rule 217(b) provides that a formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients who are involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** inactive status. Such rule further provides that the notice to be given to the client shall advise the prompt substitution of another attorney or attorneys in place of the formerly admitted attorney; that in the event the client does not obtain substitute counsel before the effective date of the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** inactive status, it shall be the responsibility of the formerly admitted attorney to move in the court or agency in which the proceeding is pending for leave to withdraw; and that the notice to be given to the attorney or attorneys for an adverse party shall state the place of residence of the client of the formerly admitted attorney. Such notices shall be in substantially the language of Form DB-24 (Litigation Notice of Disbarment, Suspension, [**Administrative**] **Temporary Suspension or Transfer to Disability Inac-**

ative Status) or **Form DB-24(a) (Litigation Notice of Administrative Suspension)**. The notice required by this subsection (b) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. See Note after subsection (a) of § 91.91 (relating to notification of clients in nonlitigation matters).

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§ 91.93. Notification of other persons.

(a) *General rule.* Enforcement Rule 217(c) provides that a formerly admitted attorney shall promptly notify, or cause to be promptly notified, of the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** inactive status:

(1) all persons or their agents or guardians, including but not limited to wards, heirs and beneficiaries, to whom a fiduciary duty is or may be owed at any time after the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** inactive status;

* * * * *

(d) *Responsibility to provide notice.* Enforcement Rule 217(c) further provides that the responsibility of the formerly admitted attorney to provide the notice required by this section shall continue for as long as the formerly admitted attorney is disbarred, suspended, **temporarily suspended**, administratively suspended or on **disability** inactive status.

§ 91.94. Effective date of suspension, disbarment, temporary suspension, administrative suspension or transfer to disability inactive status.

(a) *Effective date.* Enforcement Rule 217(d)(1) provides that orders imposing suspension, disbarment, **temporary suspension**, administrative suspension or transfer to **disability** inactive status shall be effective 30 days after entry; that the formerly admitted attorney, after entry of the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** inactive status order, shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature; but that, during the period from the entry date of the order to its effective date the formerly admitted attorney may wind up and complete, on behalf of any client, all matters which were pending on the entry date.

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§ 91.96. Proof of compliance.

(a) *General rule.* Enforcement Rule 217(e)(1) provides that within ten days after the effective date of the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** inactive status order, the formerly admitted attorney shall file with the Board Prothonotary a verified statement (Form DB-25) (Statement of Compliance) and serve a copy on Disciplinary Counsel. In the verified statement, the formerly admitted attorney shall:

* * * * *

(4) in cases of disbarment or suspension for a period exceeding one year, aver that he or she has attached his or her attorney registration **license card or** certificate for the current year, certificate of admission, any certificate of good standing issued by the Court Prothonotary, and any other certificate required by subdivision (h) of Enforcement Rule 217 to be surrendered; or, in the alternative, aver that he or she has attached all such

documents within his or her possession, or that he or she is not in possession of any of the certificates required to be surrendered;

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§ 91.97. Publication of notice of suspension, disbarment, **temporary suspension**, administrative suspension or transfer to **disability** inactive status.

Enforcement Rule 217(f) provides that the Board shall cause a notice of the suspension, disbarment, **temporary suspension**, administrative suspension or transfer to **disability** inactive status to be published in the legal journal and a newspaper of general circulation in the county in which the formerly admitted attorney practiced. If there is no such legal journal, the notice shall be published in the legal journal of an adjoining county. Upon entry of an order imposing suspension, disbarment, **temporary suspension**, administrative suspension or transfer to **disability** inactive status, such notice shall be published forthwith and shall be transmitted to such courts as may be appropriate. The cost of publication shall be assessed against the formerly admitted attorney.

§ 91.98. Action to protect clients of formerly admitted attorney.

Enforcement Rule 217(g) provides that the Board shall promptly transmit a certified copy of the order of suspension, disbarment, **temporary suspension**, administrative suspension or transfer to **disability** inactive status to the president judge of the court of common pleas in the judicial district in which the formerly admitted attorney practiced; and that the president judge shall make such further order as may be necessary to fully protect the rights of the clients of the formerly admitted attorney.

§ 91.99. Maintenance of records.

(a) *General rule.* Enforcement Rule 217(i) provides that a formerly admitted attorney shall keep and maintain records of the various steps taken by such person under the Enforcement Rules so that, upon any subsequent proceeding instituted by or against such person, proof of compliance with the Enforcement Rules and with the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** inactive status order will be available; and that proof of compliance with the Enforcement Rules shall be a condition precedent to any petition for reinstatement.

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§ 91.100. Indicia of licensure.

Enforcement Rule 217(h) provides that within ten days after the effective date of an order of disbarment or suspension for a period longer than one year, the formerly admitted attorney shall surrender to the Board the **license card or** certificate issued by the Attorney Registration Office under § 93.143 (relating to issue of certificate as evidence of compliance) for the current year, along with any certificate of good standing issued under Pennsylvania Bar Admission Rule [201(d)] 201(c) (relating to certification of good standing), certificate of admission issued under Pennsylvania Bar Admission Rule 231(d)(3) (relating to action by Court Prothonotary), certificate of licensure issued under Pennsylvania Bar Admission Rule 341(e)(3) (relating to motion for licensure), Limited In-House Corporate Counsel License issued under Pennsylvania Bar Admission Rule 302 (relating to limited in-house corporate counsel license), limited certificate of

admission issued under Pennsylvania Bar Admission Rule 303 (relating to limited admission of military attorneys), limited certificate of admission issued under Pennsylvania Bar Admission Rule 304 (relating to limited admission of attorney spouses of active-duty service members), or limited certificate of admission issued under Pennsylvania Bar Admission Rule 311 (relating to attorney participants in defender or legal services programs). The Board may destroy the annual **license card or** certificate issued under § 93.143, but shall retain any other documents surrendered under this subdivision and shall return those documents to the formerly admitted attorney in the event that he or she is subsequently reinstated.

§ 91.101. Law-related activities of formerly admitted attorneys.

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(e) *Prohibited activities.* Enforcement Rule 217(j)(4) provides that, without limiting the other restrictions in this section, a formerly admitted attorney is specifically prohibited from engaging in any of the following activities:

(1) performing any law-related activity for a law firm, organization or lawyer if the formerly admitted attorney was associated with that law firm, organization or lawyer on or after the date on which the acts which resulted in the disbarment, [or] suspension **or temporary suspension** occurred, through and including the effective date of disbarment, [or] suspension **or temporary suspension**;

(2) performing any law-related services from an office that is not staffed by a supervising attorney on a [full time] **full-time** basis;

* * * * *

(9) negotiating or transacting any matter for or on behalf of a client with third parties or having any contact with third parties regarding such a negotiation or transaction; **and**

* * * * *

Subchapter F. PROTECTION OF THE INTERESTS OF CLIENTS

§ 91.121. Appointment of conservator to protect interests of clients of absent attorney.

(a) *General rule.* Enforcement Rule 321(a) provides that upon application of Disciplinary Counsel or any other interested person with the written concurrence of Disciplinary Counsel, the president judge of a court of common pleas shall have the power to appoint one or more eligible persons to act as conservators of the affairs of an attorney or formerly admitted attorney if:

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(2) any of the following applies:

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(iii) the attorney abandons his or her practice, disappears, dies or is transferred to **disability** inactive status [because of incapacity or disability]; and

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Subchapter G. EMERGENCY PROCEEDINGS

§ 91.151. Emergency temporary suspension orders and related relief.

(a) *General rule.* Enforcement Rule 208(f) provides that:

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(2) a copy of the petition shall be personally served upon the respondent-attorney by Disciplinary Counsel. If Disciplinary Counsel cannot make personal service after reasonable efforts to locate and serve the respondent-attorney, Disciplinary Counsel may serve the petition by delivering a copy to a clerk or other responsible person at the office of the respondent-attorney, and if that method of service is unavailable, then by mailing a copy of the petition by regular and certified mail addressed to the addresses furnished by the respondent-attorney in the last registration [**statement**] **form** filed by the respondent-attorney pursuant to Enforcement Rule [**219(d)**] **219(c)**. Service is complete upon delivery or mailing, as the case may be;

* * * * *

(b) *Order of temporary suspension.* Enforcement Rule 208(f)(2) provides that if a rule to show cause has been issued under subsection (a) of this section, and the period for response has passed without a response having been filed, or after consideration of any response, the Court may enter an order requiring temporary suspension of the practice of law by the respondent-attorney pending further definitive action under the Enforcement Rules.

* * * * *

(2) Where the Court enters an order under Enforcement Rule 208(f)(1)(i) or (ii) before the issuance of a rule or before the entry of an order of temporary suspension under paragraph (f)(2), the Court Prothonotary shall serve a certified copy of the Court's order on the respondent-attorney by regular mail addressed to the address furnished by the respondent-attorney in the last registration [**statement**] **form** filed by the respondent-attorney and to an address where the respondent-attorney is located if that address is known.

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§ 91.152. Injunctive or other relief.

(a) *General rule.* Enforcement Rule 218(j) provides that if Disciplinary Counsel shall have probable cause to believe that any formerly admitted attorney:

(1) Has failed to comply with such rule or [**Subchapter 91E**] **Chapter 91 Subchapter E** (relating to formerly admitted attorneys), or,

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Subchapter H. FUNDS OF CLIENTS AND THIRD PERSONS; MANDATORY OVERDRAFT NOTIFICATION

§ 91.171. Definitions.

The following terms when used in this subchapter shall have the meanings given to them in this section:

Eligible Institution. An Eligible Institution is a Financial Institution which has been approved as a depository of Trust Accounts pursuant to [**section (h), infra**] § 91.173(a) (relating to approval and termination of Eligible Institutions).

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§ 91.174. Reports of overdrafts.

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(f) *Service charge.* Enforcement Rule 221(m) provides that an Eligible Institution shall be free to impose a reasonable service charge upon the attorney in whose name the account is held for the filing of the report required by this section.

§ 91.175. [**Fiduciary accounts**] **Responsibility for Identification of Trust Accounts.**

[(a) *Identification.*] Enforcement Rule 221(d) provides that the responsibility for identifying an account as a Trust Account shall be that of the attorney in whose name the account is held.

[(b) *Service charge.* Enforcement Rule 221(m) provides that an Eligible Institution shall be free to impose a reasonable service charge upon the attorney in whose name the account is held for the filing of the report required by this subchapter.]

§ 91.178. Availability of required records and requirement to produce.

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(b) *Request for production by letter.* Enforcement Rule 221(g)(1) provides that upon a request by Disciplinary Counsel under subdivision (g) of that Enforcement Rule, which request may take the form of a letter to the respondent-attorney briefly stating the basis for the request and identifying the type and scope of the records sought to be produced, a respondent-attorney must produce the records within ten business days after personal service of the letter on the respondent-attorney or after the delivery of a copy of the letter to an employee, agent or other responsible person at the office of the respondent-attorney as determined by the address furnished by the respondent-attorney in the last registration [**statement**] **form** filed by the respondent-attorney pursuant to Enforcement Rule [**219(d)**] **219(c)** (relating to annual registration of attorneys), but if the latter method of service is unavailable, within ten business days after the date of mailing a copy of the letter to the last registered address or addresses set forth on the [**statement**] **form**.

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§ 91.180. Reporting of Fiduciary and Operating Accounts on Annual Registration Form.

(a) *Terminology.* Enforcement Rule 221(r) provides that for purposes of paragraph (b) of this section, the phrase:

(1) “funds of a client or a third person subject to Pa.R.P.C. 1.15” means funds that belong to a client or third person and that an attorney receives;

(i) in connection with a client-attorney relationship;

(ii) as an escrow agent, settlement agent, representative payee, personal representative, guardian, conservator, receiver, trustee, agent under a durable power of attorney, or other similar fiduciary position;

(iii) as an agent, having been designated as such by a client or having been so selected as a result of a client-attorney relationship or the attorney's status as such;

(iv) in connection with nonlegal services that are not distinct from legal services;

(v) in connection with nonlegal services that are distinct from legal services, and the attorney knows or reasonably should know that the recipient of the

service might believe that the recipient is receiving the protection of a client-attorney relationship; or

(vi) as an owner, controlling party, employee, agent, or as one who is otherwise affiliated with an entity providing nonlegal services and the attorney knows or reasonably should know that the recipient of the service might believe that the recipient is receiving the protection of a client-attorney relationship;

(2) "funds of a third person" shall not include funds held in:

(i) an attorney's personal account held jointly; or

(ii) a custodial account for a minor or dependent relative unless the source of any account funds is other than the attorney and his or her spouse or spousal equivalent.

(b) Accounts to be identified. Enforcement Rule 221(q) provides that an attorney who is required to file the registration form under Enforcement Rule 219(a) (relating to attorneys required to register), with the exception of a person holding a Limited In-House Corporate Counsel License under Pennsylvania Bar Admission Rule 302 or a Foreign Legal Consultant License under Pennsylvania Bar Admission Rule 341, shall identify the financial accounts enumerated in subparagraphs (1)—(3) of this paragraph (b) during the period from May 1 of the previous year to the date of the filing of the registration form. For each account, the attorney shall provide the name of the Financial Institution, as defined in Pa.R.P.C. 1.15(a)(4) or other bank or investment fund as allowed by Pa.R.P.C. 1.15(k) and (l), its location within or outside the Commonwealth, account number, type of account, and whether the account held funds subject to Pa.R.P.C. 1.15. The attorney shall identify:

(1) all accounts in which the attorney held funds of a client or a third person subject to Pa.R.P.C. 1.15;

Note: If an attorney employed by a law firm receives fiduciary funds from or on behalf of a client and deposits or causes the funds to be deposited into a law firm account, the attorney must report the account of deposit pursuant to this subparagraph (1).

(2) every account not reported under subparagraph (1) that held funds of a client or a third person (whether or not subject to Pa.R.P.C. 1.15) over which the attorney had sole or shared signature authority or authorization to transfer funds to or from the account; and

(3) every business operating account maintained or utilized by the attorney in the practice of law.

Note: The type of account shall be identified as an IOLTA Trust Account, see Pa.R.P.C. 1.15(a)(5); Non-IOLTA Trust Account (Interest for Clients), see Pa.R.P.C. 1.15(a)(7), (k), (l); IOLTA-exempt Trust Account (non-interest bearing), see Pa.R.P.C. 1.15(n); other authorized investments or accounts, see Pa.R.P.C. 1.15(k) and (l); or Business/Operating Account, see Pa.R.P.C. 1.15(j).

CHAPTER 93. ORGANIZATION AND ADMINISTRATION

Subchapter B. THE DISCIPLINARY BOARD

§ 93.23. Powers and duties.

(a) *General rule.* Enforcement Rule 205(c) provides that the Board shall have the power and duty:

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(12) To adopt rules of procedure not inconsistent with the Enforcement Rules. Such rules may provide for the delegation to the Board Chair or the [**Vice Chair**] **Vice-Chair** of the power to act for the Board on administrative and procedural matters.

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(17) To authorize the use of electronic means to conduct prehearing conferences and post-hearing proceedings before a hearing committee, special master or the Board, but all adjudicatory proceedings shall be conducted in person unless warranted by extraordinary circumstances. Witness testimony may be presented via **advanced communication technology** (ACT) upon motion for cause shown. All proceedings shall be conducted in accordance with Board Rules, Enforcement Rules and the decisional law of the Court and the Board.

(18) **To establish, assess and collect:**

(i) the necessary expenses incurred in the investigation and prosecution of a proceeding that results in the imposition of discipline, or the investigation and processing of a petition for reinstatement and in any proceeding resulting therefrom;

(ii) late payment penalties under Enforcement Rule 219(f)(1) for failure to timely complete annual registration; and

(iii) administrative fees for status changes where a petition for reinstatement is not required.

(19) To assess and collect reinstatement filing fees, administrative fees based on the imposition of a type of discipline or transfer to disability inactive status under Enforcement Rule 301(e), and penalties on unpaid taxed expenses and administrative fees.

(20) To establish, charge and collect a collection fee for any payment under paragraphs (18) and (19) that has been returned to the Board unpaid.

[18] (21) To exercise the powers and perform the duties vested in and imposed upon the Board by law.

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§ 93.24. Officers.

Chair and [Vice Chair] Vice-Chair. Enforcement Rule 205(a) provides that the Supreme Court shall designate the Board Chair and the Board [**Vice Chair**] **Vice-Chair**. In case of the vacancy in office, absence, disability or other unavailability of the Board Chair, the Board [**Vice Chair**] **Vice-Chair** shall exercise the powers and perform the duties of the Board Chair.

§ 93.26. Meetings of the Board.

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(b) *Organization.* The Chair shall preside at meetings of the Board. In the absence of the Chair one of the following persons in the order stated shall preside:

(1) The [**Vice Chair**] **Vice-Chair**;

* * * * *

Subchapter D. OFFICE OF DISCIPLINARY COUNSEL

§ 93.63. Powers and duties of Office of Disciplinary Counsel.

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(b) *Party status of Disciplinary Counsel.* Enforcement Rule 207(c) provides that Disciplinary Counsel:

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(4) May within the time and in the manner prescribed by Title 210 (**relating to the Pennsylvania Rules of Appellate Procedure**) petition the Supreme Court for allowance of an appeal from any final determination of the Board to conclude a matter by dismissal, informal admonition, private reprimand, or public reprimand.

Subchapter F. CONFIDENTIALITY

§ 93.102. Access to disciplinary information and confidentiality.

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(c) *Exceptions to initial confidentiality.* Enforcement Rule 402(c) provides that, until the proceedings are open under subsection (a) or (b), all proceedings involving allegations of misconduct by or disability of an attorney shall be kept confidential unless:

* * * * *

(4) in matters involving alleged disability, the Supreme Court enters its order transferring the respondent-attorney to **disability** inactive status pursuant to Chapter 91 Subchapter D (relating to disability), or

(5) there is a need to notify another person or organization, including the Lawyers['] Fund for Client Security, in order to protect the public, the administration of justice, or the legal profession.

(d) *Permitted uses of otherwise confidential information.* Enforcement Rules 402(d)(2), (3), (4), (5) and (6) provide that the provisions of subsections (a) and (b) of this section shall not be construed to:

* * * * *

(2) Prevent the Pennsylvania Lawyers['] Fund for Client Security from utilizing information obtained during an investigation to pursue subrogated claims.

* * * * *

(5) Prevent Disciplinary Counsel from making an informal referral of an attorney to Lawyers Concerned for Lawyers of Pennsylvania, Inc. (LCL-PA), if Disciplinary Counsel believes that the attorney may benefit from the services of LCL-PA. Disciplinary Counsel may share with LCL-PA information deemed confidential under these Enforcement Rules as part of the referral. LCL-PA shall not report information about the subject attorney to Disciplinary Counsel or to any staff of the Office of Disciplinary Counsel. The fact that a referral was made and its outcome shall not be relevant for any purpose and may not be considered or disclosed by Disciplinary Counsel in any proceeding under these Rules.

Note: Subsection [(d)(6)] **(d)(5) of this rule** is intended to facilitate mental health and substance use referrals to Pennsylvania's approved lawyers' assistance program while preserving the confidentiality that is essential to that program's success. See Pennsylvania Rules of Professional Conduct, Rule 8.3(c) and Comment (7).

* * * * *

(f) *National Lawyer Regulatory Data Bank.* Enforcement Rule 402(i) provides that the Board shall transmit

notice of all public discipline imposed by the Supreme Court, transfers to or from **disability** inactive status [**for disability**], and reinstatements to the National **Lawyer Regulatory** Data Bank maintained by the American Bar Association.

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§ 93.104. Access by judicial system agencies to confidential information.

(a) *General rule.* Enforcement Rule 402(d)(1) provides that the provisions of § 93.102(a) and (b) (relating to access to disciplinary information and confidentiality) shall not be construed to deny access to relevant information at any point during a proceeding under these rules to:

* * * * *

(6) the Pennsylvania Lawyers['] Fund for Client Security Board investigating a claim for reimbursement arising from conduct by the respondent-attorney.

* * * * *

(d) *Restrictions on available information.* The fact that:

* * * * *

(2) a complaint is pending but undisposed of shall not be deemed relevant for the purposes of this section unless otherwise determined in a specific case by the Office of Disciplinary Counsel with the concurrence of the Chair or [**Vice Chair**] **Vice-Chair** of the Board;

* * * * *

Subchapter G. FINANCIAL MATTERS

TAXATION OF COSTS

§ 93.111. Determination of reimbursable expenses.

* * * * *

(b) *Enumeration of expenses.* Taxable expenses under these rules shall include, but not be limited to, the following:

* * * * *

(7) the cost of publishing notices in the legal journal and a newspaper of general circulation as required by Enforcement Rule 217(f) (relating to publication of a notice of suspension, disbarment, **temporary suspension**, administrative suspension or transfer to **disability** inactive status) or § 89.274(b) (relating to publication of a notice of reinstatement hearing).

(c) *Administrative fee.* Enforcement Rule [**208(g)(4)**] **208(g)(3)** provides that in addition to the payment of any expenses under Enforcement Rule 208(g)(1) or (g)(2), a respondent-attorney shall pay upon the final order of discipline an administrative fee, pursuant to the schedule set forth in the rule.

(d) *Assessed Penalties on Unpaid Taxed Expenses and Administrative Fees.*

(1) Failure to pay taxed expenses within thirty days of the assessment becoming final in accordance with subdivisions (g)(1) and (g)(2) of Enforcement Rule 208 and subdivision (f)(3) of Enforcement Rule 218, and/or failure to pay administrative fees assessed in accordance with subdivision [(g)(4)] **(g)(3)** of Enforcement Rule 208 within thirty days of notice transmitted to the respondent-attorney shall result in the assessment of a penalty, levied monthly at the rate of 0.8% of the unpaid principal balance,

or such other rate as established by the Supreme Court of Pennsylvania, from time to time.

* * * * *

(4) The Board shall charge a collection fee for any payment that has been returned to the Board unpaid.

§ 93.112. Failure to pay taxed expenses.

(a) *Action by Board.* **[Enforcement Rule 219(g) and (1) provide that] Enforcement Rule 208(g)(4) provides that where the respondent-attorney fails to pay taxed expenses and administrative fees within 30 days after the date of the entry of the order taxing such expenses in cases other than a suspension that is not stayed in its entirety or disbarment, the Board shall:**

(1) Transmit by certified mail, return receipt requested, to **[every] the** attorney who fails to pay any taxed expenses under § 89.205(b) (relating to taxation of expenses), or § 89.209 (relating to expenses of formal proceedings), addressed to the last known address of the attorney, a notice stating:

* * * * *

(2) Certify to the Supreme Court the name of **[every] the** attorney who has failed to **[respond to a] comply with the** notice issued pursuant to paragraph (a)(1) of this section within the **[30 day] 30-day** period provided therein.

(b) *Action by Supreme Court.* Enforcement Rule 219(g) provides that upon certification to the Supreme Court of the name of any attorney pursuant to paragraph (a)(2) of this section, the Court shall enter an order administratively suspending the attorney**[; and that the Chief Justice may delegate the processing and entry of orders under this subsection to the Court Prothonotary]**.

[(c) Reinstatement upon payment of taxed costs. Enforcement Rule 219(m) provides that upon payment of all expenses taxed pursuant to § 89.205(b) and § 89.209 by a formerly admitted attorney on administrative suspension solely for failure to comply with paragraph (a)(1) of this section, the Board shall so certify to the Supreme Court; and that unless such person is subject to another outstanding order of suspension or disbarment or the order has been in effect for more than 3 years, the filing of the certification from the Board with the Court Prothonotary shall operate as an order reinstating the person to active status.]

EXPENSES GENERALLY

§ 93.121. Expenses.

General. Enforcement Rule 401 provides that the salaries of Disciplinary Board employees, their expenses, administrative costs, expenses of the members of the Board and of hearing committees, and expenses and compensation, if any, of special masters shall be paid by the Board out of the funds collected under the provisions of **[§§] § 93.141 [through 93.148] et seq.** (relating to annual registration **[of attorneys] and assessment, administrative suspension, administrative changes in status.**) and §§ 89.205(b), 89.209, and 89.278 (relating to costs and fees).

ANNUAL REGISTRATION [OF ATTORNEYS] AND ASSESSMENT, ADMINISTRATIVE SUSPENSION, ADMINISTRATIVE CHANGES IN STATUS.

(*Editor's Note:* Section 93.141 as printed in 204 Pa. Code reads "Official Note" rather than "Note.")

§ 93.141. Annual registration.

(a) **[General rule] Annual registration period.** Enforcement Rule 219(a) provides that **[every attorney admitted to practice law in this Commonwealth shall pay an annual fee of \$195.00 and electronically file the annual fee form provided for under such rule by July 1; that the fee shall be collected under the supervision of the Attorney Registration Office, which shall make, the annual fee form available for filing through a link on the Board's website (http://www.padisciplinaryboard.org) or directly at https://ujportal.pacourts.us. The fee shall be used to defray the costs of disciplinary administration and enforcement under the Enforcement Rules, and for such other purposes as the Board shall, with the approval of the Supreme Court, from time to time determine. Upon an attorney's written request submitted to the Attorney Registration Office and for good cause shown, the Attorney Registration Office shall grant an exemption from the electronic filing requirement and permit the attorney to file the annual fee form in paper form. An attorney may apply to the Board for a waiver of the annual fee on the basis of financial hardship by submitting a waiver application and required documentation to the Attorney Registration Office by July 1. Financial hardship shall be determined by reference to the federal poverty guidelines.] the annual registration period shall run from July 1 to June 30. On or before May 15 of each year, the Attorney Registration Office shall transmit an electronic notice to register and pay the annual assessment by July 1. Failure to receive notice shall not excuse the filing of the annual registration form and payment of the annual assessment.**

[Note: Pa.R.P.C. 1.15(u) imposes an additional annual fee for use by the IOLTA Board, and Enforcement Rule 502(b) imposes an additional annual fee for use by the Pennsylvania Lawyers Fund for Client Security. The grant of a waiver under this subdivision (a) shall include waiver of the additional annual fees.]

(b) Attorneys required to register. Enforcement Rule 219(a)(1) provides that attorneys on the following license statuses are required to register annually:

(1) Active status.

(2) Attorneys holding the following limited licenses:

(i) Foreign legal consultant;

(ii) Limited In-House Corporate Counsel;

(iii) Attorney participant in defender or legal services programs; and

(iv) Attorney spouse of an active-duty service member.

(3) Inactive status.

[(b)] (c) *Exemptions.* Enforcement Rule [219(b)] 219(a)(2) provides that attorneys on the following license statuses shall be exempt from [the] annual [fee] registration:

(1) [Justices or judges serving in the following Pennsylvania courts of record shall be exempt for such time as they serve in office: Supreme, Superior, Commonwealth, Common Pleas, and Philadelphia Municipal; and justices or judges serving an appointment for life on any federal court] Judge status;

(2) [retired attorneys] Retired status;

(3) [permanently resigned attorneys under Enforcement Rule 404] Emeritus status, except that such attorneys shall be governed by the renewal provisions of Enforcement Rule 403(g); and

(4) [military attorneys holding a limited certificate of admission issued under Pa.B.A.R. 303 (relating to admission of military attorneys)] Military attorney status.

[*Note:* The exemption created by subdivision (b)(1) does not include Pittsburgh Municipal Court judges, magisterial district judges, arraignment court magistrates or administrative law judges.]

(d) Annual assessment. Enforcement Rule 219(b) provides that all attorneys required to register shall pay an annual assessment as set forth in that rule. Payment of the annual assessment shall be made by credit or debit card or by check or money order drawn on a U.S. financial institution in U.S. dollars using a printable, mail-in voucher. Payment shall not be made using an IOLTA, trust, escrow, or other fiduciary account. The annual assessment is apportioned among the Board, the Pennsylvania Lawyers Fund for Client Security, and the Pennsylvania Interest on Lawyers Trust Accounts Board as directed by the Court.

(e) Financial hardship waiver. Enforcement Rule 219(b) provides that an attorney may apply to the Board for a waiver of the annual assessment on the basis of financial hardship by submitting a waiver application and required documentation to the Attorney Registration Office by July 1. Financial hardship shall be determined by reference to the federal poverty guidelines.

Note: The grant of a waiver under this subdivision (e) shall include waiver of the total annual assessment, which includes the amounts apportioned to the Pennsylvania Lawyers Fund for Client Security and the Pennsylvania Interest on Lawyers Trust Accounts Board.

(*Editor's Note:* Section 93.142 as printed in 204 Pa. Code reads "Official Note" rather than "Note.")

§ 93.142. Filing of annual [fee] registration form [by attorneys].

(a) [*Transmission of form.* Enforcement Rule 219(c) provides that on or before May 15 of each year the Attorney Registration Office shall transmit to all attorneys required by the rule to pay an annual fee a notice by e-mail to register electroni-

cally by July 1. Failure to receive notice shall not excuse the filing of the annual fee form or payment of the annual fee.

(b) [*Filing of annual [fee] registration form.* Enforcement Rule [219(d)] 219(c) provides that on or before July 1 of each year all attorneys required by the rule to [pay an annual fee] register shall [file] electronically file with the Attorney Registration Office [an electronically endorsed form prescribed by the Attorney Registration Office] a registration form. [in accordance with the following procedures:] Upon an attorney's written request and for good cause shown, the Attorney Registration Office shall grant an exemption from the electronic filing requirement and provide a paper registration form to the attorney for filing.

(1) The [form shall set forth] attorney shall provide the following information on the form:

(i) The date on which the attorney was admitted to practice, licensed as a foreign legal consultant, granted limited admission as an attorney participant in defender or legal services programs, issued a Limited In-House Corporate Counsel License, or granted limited admission as an attorney spouse of an active-duty service member, and a list of all courts (except courts of this Commonwealth) and jurisdictions in which the person has ever been licensed to practice law, with the current status thereof.

(ii) The current email, residence and office addresses of the attorney, the latter two of which shall be an actual street address or rural route box number. The Attorney Registration Office shall refuse to accept a form that sets forth only a post office box number for either required address. A preferred mailing address different from those addresses may also be provided on the form and may be a post office box number. The attorney shall indicate which of the addresses, the residence, office or mailing address, as well as telephone and fax number will be accessible through the website of the Board (<http://www.padisiplinaryboard.org/>) and by written or oral request to the Board. Upon an attorney's written request submitted to the Attorney Registration Office and for good cause shown, the contact information provided by the attorney will be nonpublic information and will not be published on the Board's website or otherwise disclosed.

Note: The Note to Enforcement Rule 219(d)(1)(ii) explains that public web docket sheets will show the attorney's address as entered on the court docket.

(iii) The name of each Financial Institution as defined in § 91.171 (Definitions), within or outside this Commonwealth in which the attorney, from May 1 of the previous year to the date of the filing of the annual fee form, held funds of a client or a third person subject to Rule 1.15 of the Pennsylvania Rules of Professional Conduct. The form shall include the name and account number for each account in which the attorney held such funds, and each IOLTA Account shall be identified as such. The form provided to a person holding a Limited In-House Corporate Counsel License or a Foreign

Legal Consultant License need not request the information required by this subparagraph.

For purposes of this subparagraph, the phrase “funds of a client or a third person subject to Rule 1.15 of the Pennsylvania Rules of Professional Conduct” means funds that belong to a client or third person and that an attorney receives:

(A) in connection with a client-lawyer relationship;

(B) as an escrow agent, settlement agent, representative payee, personal representative, guardian, conservator, receiver, trustee, agent under a durable power of attorney, or other similar fiduciary position;

(C) as an agent, having been designated as such by a client or having been so selected as a result of a client-lawyer relationship or the lawyer’s status as such;

(D) in connection with nonlegal services that are not distinct from legal services;

(E) in connection with nonlegal services that are distinct from legal services, and the attorney knows or reasonably should know that the recipient of the service might believe that the recipient is receiving the protection of a client-lawyer relationship; or

(F) as an owner, controlling party, employee, agent, or as one who is otherwise affiliated with an entity providing nonlegal services and the attorney knows or reasonably should know that the recipient of the service might believe that the recipient is receiving the protection of a client-lawyer relationship.

Note: For purposes of subparagraph (iii), “funds of a third person” shall not include funds held in: 1) an attorney’s personal account held jointly; or 2) a custodial account for a minor or dependent relative unless the source of any account funds is other than the attorney and his or her spouse.

If an attorney employed by a law firm receives fiduciary funds from or on behalf of a client and deposits or causes the funds to be deposited into a law firm account, the attorney must report the account of deposit under this subparagraph.

(iv) Every account not reported under subparagraph (iii), that held funds of a client or a third person, and over which the attorney had sole or shared signature authority or authorization to transfer funds to or from the account, during the same time period specified in subparagraph (iii). For each account, the attorney shall provide the name of the financial institution (whether or not the entity qualifies as a “Financial Institution” under RPC 1.15(a)(4)), location, and account number.

Note: Regarding “funds of a third person,” see Note to § 93.142(b)(1)(iii).

(v) Every business operating account maintained or utilized by the attorney in the practice of law during the same time period specified in subparagraph (iii). For each account, the attorney shall provide the name of the financial institution, location and account number.

(vi) A certification reading as follows: “I certify that all Trust Accounts that I maintain are in financial institutions approved by the Supreme

Court of Pennsylvania for the maintenance of such accounts pursuant to Pennsylvania Rule of Disciplinary Enforcement 221 (relating to mandatory overdraft notification) and that each Trust Account has been identified as such to the financial institution in which it is maintained.”

(vii) A statement that any action brought against the attorney by the Pennsylvania Lawyers Fund for Client Security for the recovery of monies paid by the Fund as a result of claims against the attorney may be brought in the Court of Common Pleas of Allegheny, Dauphin or Philadelphia County.

(viii) Whether the attorney is covered by professional liability insurance on the date of registration in the minimum amounts required by Rule of Professional Conduct 1.4(c). Rule 1.4(c) does not apply to attorneys who do not have any private clients, such as attorneys in full-time government practice or employed as in-house corporate counsel.

Note: The Disciplinary Board will make the information regarding insurance available to the public upon written or oral request and on its website. The requirement of Rule 219(d)(3) that every attorney who has filed an annual fee form must give written notice to the Attorney Registration Office of any change in the information previously submitted within 30 days after such change will apply to the information regarding insurance.

(ix) Such other information as the Attorney Registration Office may from time to time direct.]

(i) The attorney’s current license status in this Commonwealth and all other state, federal, and foreign courts and jurisdictions in which the attorney is or has ever been licensed to practice law.

(ii) The attorney’s contact information, which shall specify information accessible to the public. Upon an attorney’s written request and for good cause shown, the contact information will not be accessible to the public.

(iii) The financial accounts and information identified in § 91.180(b) (relating to reporting of fiduciary and operating accounts on annual registration form).

(iv) A statement that:

(A) the attorney is familiar and in compliance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct regarding the handling of funds and other property of clients and others and the maintenance of IOLTA accounts;

(B) the attorney’s Trust Accounts comply with Enforcement Rule 221(h) regarding the mandatory reporting of overdrafts on fiduciary accounts; and

(C) the attorney has reported all of the financial accounts and information identified in Enforcement Rule 221(q).

(v) A statement that any action brought against the attorney by the Pennsylvania Lawyers Fund for Client Security for the recovery of monies paid by the Fund as a result of claims against the attorney may be brought in the Court of Common Pleas of Allegheny, Dauphin or Philadelphia County.

(vi) Whether the attorney is covered by professional liability insurance on the date of registration in the minimum amounts set forth in Rule of

Professional Conduct 1.4(c); a covered attorney shall identify the insurance carrier.

(vii) Such other information as the Board may from time to time direct.

(2) [Payment of the annual fee shall be made in one of two ways: a) electronically by credit or debit card at the time of electronic transmission of the form through the online system of the Attorney Registration Office, which payment shall include a nominal fee to process the electronic payment; or b) by check or money order drawn on a U.S. bank, in U.S. dollars using a printable, mail-in voucher. IOLTA, trust, escrow and other fiduciary account checks tendered in payment of the annual fee will not be accepted.] Enforcement Rule 219(e) provides that the annual registration requirement is not satisfied if the registration form is incomplete, if the payment is incomplete, or if payment of the annual assessment has been returned to the Board unpaid. If the annual [fee] registration form, voucher or payment is incomplete or if a payment of the annual [fee] assessment has been returned to the Board unpaid, the annual [fee] assessment shall not be deemed to have been paid until a collection fee of \$25 shall also have been paid. [The amount of the collection fee, and one or both of the late payment penalties prescribed in § 93.144(a)(1) and (2) of these rules if assessed, shall be established by the Board annually after giving due regard to the direct and indirect costs incurred by the Board during the preceding year for payment returned to the Board unpaid. On or before July 1 of each year the Executive Office shall publish in the *Pennsylvania Bulletin* a notice of the collection fee established by the Board for the coming registration year.] Registration is deemed complete upon receipt of the completed registration form, satisfactory payment of the annual assessment, and payment of any penalties or fees assessed under Enforcement Rule 219(f).

(3) Every attorney who has filed the form shall notify the Attorney Registration Office in writing of any change in the information previously submitted [, including e-mail address] relating to license status in other jurisdictions, contact information, and professional liability insurance, within 30 days after such change, which notice shall be sent by mail or facsimile transmission, provided, however, that any change in the information required by Enforcement Rule [219(d)(1)(iii), (iv) and (v)] 221(q) [collectively] relating to financial account information that occurs after the filing of the form [required by Enforcement Rule 219(a) and (d)(1)] need only be reported on the next regular annual [fee] registration form due July 1. Failure to timely register and file the next annual [fee] registration form shall not excuse the requirement of reporting changes in financial account information on an annual basis on or before July 1, and failure to make such a report shall constitute a violation of Enforcement Rule 219.

(4) [Upon original admission to the bar of this Commonwealth, licensure as a foreign legal consultant, issuance of a Limited In-House Corporate Counsel License, limited admission as an attorney participant in defender or legal services programs,

or limited admission as an attorney spouse of an active-duty service member, a person shall concurrently file a form under this section for the current registration year, but no annual fee shall be payable for the registration year in which originally admitted or licensed.

(5) Submission of the annual [fee] registration form through electronic means signifies the attorney's intent to sign the form. By submitting the form electronically, the attorney certifies that the electronic filing is true and correct.

§ 93.143. Issue of certificate as evidence of compliance.

[Enforcement Rule 219(e) provides that upon receipt of a form, or notice of change of information contained therein, filed by an attorney in accordance with the provisions of § 93.142 (relating to filing of annual form by attorneys), and of payment of any required annual fee to practice law in this Commonwealth, receipt thereof shall be acknowledged on a certificate or license.] Enforcement Rule 219(d) provides that the Attorney Registration Office shall issue a license card or certificate to attorneys on active status and to attorneys holding limited licenses under § 93.141(b)(2) as acknowledgement of an attorney's completion of registration and payment of the required annual assessment.

§ 93.144. Administrative suspension [for failure to comply].

(a) [Action by Attorney Registration Office] Failure to comply with annual registration. Subdivisions (f) and (g)(1) of Enforcement Rule 219 [(f) provides] provide that when any attorney fails to complete the registration required by §§ 93.141 and 93.142 by July 16, the Attorney Registration Office shall:

(1) automatically assess against the attorney a [non-waivable] \$200 late payment penalty established by the Board that cannot be waived;

(2) automatically add to the delinquent account of any attorney who has failed to complete registration by August 1, a second [, non-waivable] \$200 late payment penalty established by the Board that cannot be waived; and

(3) after August 1, certify to the Supreme Court the name of every attorney who has failed to comply with the registration and payment requirements of §§ 93.141 and 93.142 of these rules. [; and

(4) upon the Supreme Court's entry of an order of administrative suspension as provided in subsection (b) of this rule, transmit by certified mail, addressed to the last known mailing address of the attorney, or by electronic means, the order of administrative suspension and a notice that the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys), a copy of which shall be included with the notice.]

For purposes of assessing the late payment penalties prescribed by this section, registration shall not be deemed to be complete until the Attorney Registration Office receives a completed annual [fee] registration form and satisfactory payment of the annual [fee]

assessment and of all outstanding collection fees and late payment penalties. If payment of the delinquency has been returned to the Board unpaid, a collection fee, as established by the Board under § [**93.142(b)(2)**] **93.142(a)(2)** of these rules, shall be added to the attorney's delinquent account and registration shall not be deemed to be complete until the delinquent account has been paid in full.

[**The amount of the late payment penalties shall be established by the Board annually pursuant to the provisions of § 93.145(b) of these rules.**]

(b) **Failure to comply with Pennsylvania Rules of Continuing Legal Education requirements. Pursuant to Enforcement Rule 219(g)(2), and as set forth in Pa.R.C.L.E. 111(b), the Pennsylvania Continuing Legal Education Board shall report to the Court the name of every attorney who has failed to comply with the Pennsylvania Rules for Continuing Legal Education.**

(c) **Failure to comply with Enforcement Rule 208(g) (relating to costs and fees). Pursuant to Enforcement Rule 219(g)(3), the Board shall certify to the Court the name of every attorney who has failed to pay taxed expenses and administrative fees in cases other than a suspension that is not stayed in its entirety or disbarment.**

[**(b)**] **(d) Action by the Supreme Court. [Enforcement Rule 219(g) provides that upon] Upon** receipt of certification of the name of any attorney pursuant to paragraph [**(a)(3)**] **(a), (b), or (c)** of this section, the Supreme Court shall enter an order administratively suspending the attorney[; **and that the Chief Justice may delegate the processing and entry of orders under this subsection to the Court Prothonotary] and directing that the attorney comply with the provisions of Enforcement Rule 217 (relating to formerly admitted attorneys).**

(e) **Action by the Attorney Registration Office. Upon the Supreme Court's entry of an order of administrative suspension as provided in paragraph (d) of this section, the Attorney Registration Office shall transmit by certified mail, addressed to the last known mailing address of the attorney, or by electronic means, the order of administrative suspension and a notice that the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys).**

§ 93.145. [**Reinstatement of administratively suspended attorneys**] **Administrative change to active status.**

(a) [**General rule**] **Administrative suspension three years or less.** An attorney who has been administratively suspended pursuant to § **93.144(a)** (relating to failure to comply with annual registration), § **93.144(b)** [**of these rules**] (relating to failure to comply with Pennsylvania Rules of Continuing Legal Education requirements), or § **93.144(c)** (relating to failure to pay costs under Enforcement Rule **208(g)**) for three years or less is not eligible to file the annual [**fee**] **registration** form electronically. Enforcement Rule [**219(h)**] **219(h)(1)** provides that the procedure for reinstatement is as follows:

(1) The formerly admitted attorney shall submit to the Attorney Registration Office the form required by § [**93.142(b)**] **93.142(a)** along with payment **as applicable** of:

(i) the current annual [**fee**] **assessment for active status**;

(ii) the annual [**fee**] **assessment** that was due in the year in which the attorney was administratively suspended;

(iii) the late payment penalties required by [**subsection (b) of this section**] § **93.144(a)(1) and (2)**;

(iv) any unpaid collection fee; [**and**]

(v) **payment of any outstanding costs and fees under Enforcement Rule 208(g); and**

(vi) [**a reinstatement fee**] **an administrative fee** of \$300.00.

(2) Upon receipt of the annual [**fee**] **registration** form, a verified statement showing compliance with Enforcement Rule 217 (relating to formerly admitted attorneys) **and compliance during the term of administrative suspension, confirmation of compliance with rules and regulations of the Continuing Legal Education Board, if applicable**, and the payments required by paragraph (a)(1) of this section, the Attorney Registration Office shall so certify to the Board Prothonotary and to the Supreme Court; and that unless the formerly admitted attorney is subject to another outstanding order of suspension, **temporary suspension** or disbarment or the order has been in effect for more than three years, the filing of the certification from the Attorney Registration Office with the Court Prothonotary shall operate as an order reinstating the person to active status.

(3) Where payment of the fees and late payment penalties has been returned to the Board unpaid, the Attorney Registration Office shall immediately return the attorney to administrative suspension, and the arrears shall not be deemed to have been paid until a collection fee, as established by the Board under § **93.142**[**(b)(2)**] **(a)(2)** of these rules, shall also have been paid.

(b) [**Late payment penalties. Enforcement Rule 219(h)(3) provides that a formerly admitted attorney who is administratively suspended must pay the late payment penalties incurred in the year in which the formerly admitted attorney is transferred to administrative suspension. The amount of the late payment penalties shall be established by the Board annually after giving due regard to such factors as it considers relevant, including the direct and indirect costs incurred by the Board during the preceding year in processing the records of attorneys who fail to timely file the form required by § 93.142(b). On or before July 1 of each year the Executive Office shall publish in the Pennsylvania Bulletin a notice of the late payment penalty established by the Board for the coming registration year.**] **Inactive Status three years or less. Enforcement Rule 219(h)(2) provides that the procedure is as follows:**

(1) **The formerly admitted attorney shall submit to the Attorney Registration Office:**

(i) **a form available through that Office;**

(ii) payment of any of the following as applicable:

(A) the active annual assessment for the year in which the request for active status is made or the difference between the active annual assessment and the inactive annual assessment previously paid for that year;

(B) late payment penalties;

(C) any unpaid collection fee.

(c) Retired status three years or less. Enforcement Rule 219(h)(3) provides that the procedure is as follows:

(1) The formerly admitted attorney shall submit to the Attorney Registration Office:

(i) a form available through that Office;

(ii) the active annual assessment for the year in which the request for active status is made.

(d) The procedures under paragraph (a), (b) and (c) do not apply to:

(1) a formerly admitted attorney who, on the date of the request for active status, has not been on active status at any time within the preceding three years;

(2) a formerly admitted attorney who has sold his or her law practice by reason of disability and who has been transferred to inactive status pursuant to Enforcement Rule 301 or 219(i)(1), as required by Rule of Professional Conduct 1.17(f) (relating to the sale of a law practice by reason of disability);

(3) a formerly admitted attorney who is subject to an outstanding order of disability inactive status, suspension, temporary suspension, or disbarment;
or

(4) a formerly admitted attorney who, on the date of the request for active status, has an outstanding obligation to the Lawyers Fund for Client Security.

(*Editor's Note:* Section 93.146 as printed in 204 Pa. Code reads "Official Note" rather than "Note.")

§ 93.146. [Selection of retired or inactive status and resumption of active status] Administrative change to inactive or retired status.

(a) [Retired Status] Active status to inactive status. Enforcement Rule [219(i)] 219(i)(1) provides that[] :

(1) An attorney who has retired must file by mail or deliver in person to the Attorney Registration Office Form DB-27 (Application for Retirement) and payment of any applicable late fees or penalties pursuant to Enforcement Rule 219(f).

(2) Upon the transmission of the application from the Attorney Registration Office to the Supreme Court, the Court shall enter an order transferring the attorney to retired status, and the attorney shall no longer be eligible to practice law.

(3) The retired attorney will be relieved from payment of the annual fee specified in § 93.141 (relating to annual registration).

(4) Chapter 91 Subchapter E (relating to formerly admitted attorneys) shall not be applicable to the

formerly admitted attorney unless ordered by the Supreme Court in connection with the entry of an order of suspension or disbarment under another provision of the Enforcement Rules.

(5) An attorney on retired status for three years or less may be reinstated in the same manner as an inactive attorney, by filing a Form DB-29 (Application for Resumption of Active Status), except that the retired attorney shall pay the annual active fee for the three most recent years or such shorter period in which the attorney was on retired status instead of the amounts required to be paid by an inactive attorney seeking reinstatement.

(6) The Chief Justice may delegate the processing and entry of orders under this subsection to the Court Prothonotary] an attorney on active status seeking to assume inactive status during a time outside the annual attorney registration period shall submit a request for inactive status form to the Attorney Registration Office.

(b) [Inactive Status] Active or inactive status to retired status. Enforcement Rule [219(j)] 219(i)(2) provides that[] :

(1) An attorney who is not engaged in practice in Pennsylvania, has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct, or is not required by virtue of his or her practice elsewhere to maintain active licensure in the Commonwealth may request voluntary inactive status or continue that status once assumed. The attorney shall file either the annual form required by § 93.142(b) and request inactive status or file Form DB-28 (Notice of Voluntary Assumption of Inactive Status). The attorney shall be removed from the roll of those classified as active until and unless such inactive attorney makes a request under paragraph (3) of this section for an administrative return to active status and satisfies all conditions precedent to the grant of such request; or files a petition for reinstatement under § 89.273(b) (relating to procedure for reinstatement of an attorney who has been on inactive status for more than three years, or who is on inactive status and had not been on active status at any time within the prior three years) and is granted reinstatement pursuant to the provisions of § 89.273(b) of these rules.

(2) An inactive attorney under this subsection (b) shall continue to file the annual form required by § 93.142(b), and shall file the form through the online system identified in § 93.141(a) and shall pay an annual fee of \$100.00 in the manner provided in § 93.142(b)(2). Noncompliance with this provision will result in the inactive attorney incurring late payment penalties, incurring a collection fee for any payment that has been returned to the Board unpaid, and being placed on administrative suspension in accordance with the provisions of § 93.144.

(3) Administrative Change in Status from Inactive Status to Active Status: An attorney on inactive status may request a resumption of active status by filing Form DB-29 (Application for Resumption of Active Status) with the Attorney Registration Office. The form must be filed by mail or delivered in

person to the Attorney Registration Office. Resumption of active status shall be granted unless the inactive attorney is subject to an outstanding order of suspension or disbarment, unless the inactive attorney has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct (see § 89.273(b)), unless the inactive status has been in effect for more than three years, or unless the inactive attorney had not been on active status at any time within the preceding three years (see § 89.273(b)), upon the payment of:

(i) the active fee for the registration year in which the application for resumption of active status is made or the difference between the active fee and the inactive fee that has been paid for that year; and

(ii) any collection fee or late payment penalty that may have been assessed pursuant to § 93.144 of these rules, prior to the inactive attorney's request for resumption of active status.

Where payment of the fees and penalties has been returned to the Board unpaid, the Attorney Registration Office shall immediately return the attorney to inactive status, and the arrears shall not be deemed to have been paid until a collection fee, as established by the Board under § 93.142(b)(2), shall also have been paid.

Note: The Note to Enforcement Rule 219(j) explains that § 93.145 (relating to reinstatement of administratively suspended attorneys) and § 93.146 (relating to resumption of active status by retired or inactive attorneys) do not apply if, on the date of the filing of the request for reinstatement, the formerly admitted attorney has not been on active status at any time within the preceding three years. See § 89.273(e)(1)] an attorney on active or inactive status seeking to assume retired status during a time outside the annual attorney registration period shall submit a request for retired status form to the Attorney Registration Office.

(c) Administrative suspension to inactive status. Enforcement Rule 219(i)(3) provides that a formerly admitted attorney seeking to resume inactive status after transfer to administrative suspension from inactive status shall submit to the Attorney Registration Office:

(1) a form available through the Attorney Registration Office;

(2) a verified statement that complies with Enforcement Rule 217(e)(1) and also demonstrates continued compliance with Enforcement Rule 217 during the term of administrative suspension; and

(3) payment of any of the following as applicable:

(i) the inactive annual assessment for the year in which the request for inactive status is made;

(ii) the inactive annual assessment that was due in the year in which the attorney was administratively suspended;

(iii) late payment penalties;

(iv) a collection fee;

(v) payment of any outstanding costs and fees under Enforcement Rule 208(g);

(vi) an administrative fee of \$100.

(d) Administrative suspension to retired status. Enforcement Rule 219(i)(4) provides that a formerly admitted attorney seeking retired status after transfer to administrative suspension shall submit to the Attorney Registration Office:

(1) a form available through the Attorney Registration Office;

(2) a verified statement that complies with Enforcement Rule 217(e)(1) and also demonstrates continued compliance with Enforcement Rule 217 during the term of administrative suspension;

(3) payment of any outstanding costs and fees under Enforcement Rule 208(g); and

(4) an administrative fee of \$100.

A formerly admitted attorney retired under this paragraph (d) who seeks to resume active status where a petition for reinstatement is not required shall pay all outstanding arrears assessed and satisfy all deficiencies in connection with the transfer to administrative suspension.

§ 93.147. [Notification] Public notice of administrative suspension [or inactivation].

[Where administrative suspension is ordered under this Subchapter, the attorney shall comply with the requirements of Chapter 91 Subchapter E (relating to formerly admitted attorneys).] Public notice of such administrative suspension shall clearly state that suspension was ordered for failure to file the required annual registration form and pay the required annual [fee] assessment, [or for failure] to comply with § 93.112 (relating to failure to pay taxed expenses), or to comply with the Rules and Regulations of the Continuing Legal Education Board.

§ 93.148. [Administrative change in status from administrative suspension to inactive status] [Reserved].

[(a) Enforcement Rule 219(k) provides that an inactive attorney who has been administratively suspended for failure to file the annual form and pay the annual fee required by § 93.146(b)(2) of these rules, may request an administrative change in status form from the Attorney Registration Office. The form must be filed by mail or delivered in person to the Attorney Registration Office and said Office shall change the status of an attorney eligible for inactive status under this subsection (a) upon receipt of:

(1) the annual form required by § 93.142 of these rules;

(2) payment of the annual fee required by § 93.141 of these rules;

(3) payment of the annual fee that was due in the year in which the attorney was administratively suspended;

(4) payment of all collection fees and late payment penalties assessed under § 93.142(b)(2) and § 93.144 of these rules; and

(5) payment of an administrative processing fee of \$100.00.

Where payment of the fees and penalties has been returned to the Board unpaid, the Attorney Registration Office shall immediately return the attorney

to administrative suspension, and the arrears shall not be deemed to have been paid until a collection fee, as established by the Board under § 93.142(b)(2), shall also have been paid.

(b) Enforcement Rule 219(k) provides that an active attorney who has been administratively suspended for failure to file the annual form required by § 93.142 and pay the annual fee required by § 93.141 must comply with § 93.145 (relating to reinstatement of administratively suspended attorneys) before becoming eligible to register as inactive or retired.]

§ 93.149. [Reserved].

[Pa.B. Doc. No. 23-1717. Filed for public inspection December 15, 2023, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 5 AND 10]

Order Amending Rules 540, 547, and 1003 of the Pennsylvania Rules of Criminal Procedure; No. 551 Criminal Procedural Rules Docket

Order

Per Curiam

And Now, this 30th day of November, 2023, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 540, 547, and 1003 of the Pennsylvania Rules of Criminal Procedure are amended in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective immediately.

Additions to the rule are shown in bold and are underlined.

Deletions from the rule are shown in bold and brackets.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART D. Proceedings in Court Cases Before Issuing Authorities

Rule 540. Preliminary Arraignment.

* * * * *
Comment:
* * * * *

See Chapter 5, Part H, Rules 595, 596, 597, and 598, for the procedures governing requests for transfer from criminal proceedings to juvenile proceedings pursuant to 42 Pa.C.S. § 6322 in cases in which the defendant was under the age of 18 at the time of the commission of the alleged offense and charged with one of the offenses excluded from the definition of “delinquent act” in paragraphs (2)(i), (2)(ii), and (2)(iii) of 42 Pa.C.S. § 6302.

For when an arresting officer is required to provide the name and contact information of the victim

to the magisterial district court conducting the preliminary arraignment, see 18 P.S. § 11.201(2)(iii)(A).

* * * * *

Rule 547. Return of Transcript and Original Papers.

* * * * *
Comment:
* * * * *

When arrest warrant information has been sealed pursuant to Rule 513.1, the arrest warrant information already will have been filed with the clerk of courts. When the case is transmitted to the court of common pleas, the clerk of courts should associate the transcript and other documents transmitted by the issuing authority with the original file created for the sealing procedure.

For when the magisterial district court or the Philadelphia Municipal Court is required to transmit the contact information of the victim to the court of common pleas, see 18 P.S. § 11.201(2)(iii)(B).

* * * * *

CHAPTER 10. RULES OF CRIMINAL PROCEDURE FOR THE PHILADELPHIA MUNICIPAL COURT AND THE PHILADELPHIA MUNICIPAL COURT TRAFFIC DIVISION

PART A. Philadelphia Municipal Court Procedures

Rule 1003. Procedure in Non-Summary Municipal Court Cases.

* * * * *
Comment:
* * * * *

Paragraphs (D)(3)(d)(iii) and (E) make it clear that, with some exceptions, the procedures in Municipal Court for both preliminary hearings and cases in which the defendant fails to appear for the preliminary hearing are the same as the procedures in the other judicial districts.

For when an arresting officer is required to provide the name and contact information of the victim to the Philadelphia Municipal Court conducting the preliminary arraignment, see 18 P.S. § 11.201(2)(iii)(A).

* * * * *

SUPREME COURT OF PENNSYLVANIA CRIMINAL PROCEDURAL RULES COMMITTEE ADOPTION REPORT

Amendment of Pa.R.Crim.P. 540, 547, and 1003

On November 30, 2023, the Supreme Court amended Pennsylvania Rules of Criminal Procedure 540, 547, and 1003. The Criminal Procedural Rules Committee has prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, cmt. The statements contained herein are those of the Committee, not the Court.

Background

The Act of July 11, 2022, P.L. 758, No. 71 amended the Crime Victims Act to require an arresting officer to “provide the name and contact information of the victim to the magisterial district court or the Philadelphia Municipal Court conducting the preliminary arraignment so that the victim may receive notice of any proceedings to modify bail conditions and exercise the opportunity to appear in accordance with paragraph (2.1)(iii).” 18 P.S. § 11.201(2)(iii)(A). As amended, paragraph (2)(iii) also requires that the magisterial district court or the Phila-

delphia Municipal Court transmit this information with the transcript of the proceedings to the court of common pleas at the conclusion of the preliminary hearing.

Amendments

As these statutory provisions are self-executing, only the Comments to Pa.R.Crim.P. 540, 547, and 1003 have been amended. The Comments to Pa.R.Crim.P. 540 and 1003 have been amended to include the following commentary: “For when an arresting officer is required to provide the name and contact information of the victim to the [court] conducting the preliminary arraignment, see 18 P.S. § 11.201(2)(iii)(A).” The Comment to Pa.R.Crim.P. 547 has been amended to advise: “For when the magisterial district court or the Philadelphia Municipal Court is required to transmit the contact information of the victim to the court of common pleas, see 18 P.S. § 11.201(2)(iii)(B).”

This proposal was not published for comment as the amended commentary only directs the reader to the relevant statute.

These amendments are effective immediately.

[Pa.B. Doc. No. 23-1718. Filed for public inspection December 15, 2023, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 300]

Proposed Amendment of Pa.R.Civ.P.M.D.J. 301, 302, 321, 350, 381 and Rescission of Pa.R.Civ.P.M.D.J. 351

The Minor Court Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.Civ.P.M.D.J. 301, 302, 321, 350, 381 and the rescission of Pa.R.Civ.P.M.D.J. 351. The proposal is intended to reflect amendments to 75 Pa.C.S. § 3345.1, pertaining to civil violations for passing a stopped school bus with flashing red signal lights and an activated side stop signal arm 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 include 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:

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

All communications in reference to the proposal should be received by January 16, 2024. 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 Minor Court Rules Committee

HONORABLE DANIEL E. BUTLER,
Chair

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 300. CIVIL ACTION

(Editor’s Note: The Explanatory Comment as follows is not currently codified in Rule 301.)

Rule 301. Definition; Scope.

* * * * *

Comment:

* * * * *

Except as otherwise provided in [**Rules 350 and 351**] **Pa.R.Civ.P.M.D.J. 350**, the rules in this chapter apply to [: (1)] *de novo* appeals filed pursuant to 75 Pa.C.S. § 3369(j)(4), relating to automated work zone speed enforcement violations [;], and [(2) **actions filed pursuant to**] 75 Pa.C.S. § 3345.1(i.1), relating to civil violations for passing a stopped school bus with flashing red signal lights and an activated side stop signal arm.

Statutes authorizing a civil fine or penalty include 53 P.S. §§ 10617.1 and 10817-A relating to violations of zoning and joint municipal zoning ordinances.

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

EXPLANATORY COMMENT—1992

As a result of the computerization of the District Justice offices throughout the Unified Judicial System, the Civil Action Hearing Notice form has been promulgated by Judicial Computer Services (Statewide Automation). Rule 301 recognizes the adoption of the Civil Action Hearing Notice form.

Rule 302. Venue.

* * * * *

Comment:

This rule combines, with some minor changes, the Pennsylvania Rules of Civil Procedure relating to venue. See:

- (1) Individuals: Pa.R.Civ.P. 1006(a).
- (2) Partnerships: Pa.R.Civ.P. 2130(a).
- (3) Corporations: Pa.R.Civ.P. 2179(a).
- (4) Insurance Policies: Pa.R.Civ.P. 2179(b).
- (5) Unincorporated Associations: Pa.R.Civ.P. 2156(a).
- (6) Political Subdivisions: Pa.R.Civ.P. 2103(b).

This rule is not intended to repeal special statutory venue provisions, such as the: (1) venue provisions for actions involving installment sales of goods and services, 12 Pa.C.S. § 6307; (2) venue provisions of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692i, pertaining to actions brought by debt collectors against consumers; **and**

(3) venue provisions for appeals from automated work zone speed enforcement violations, 75 Pa.C.S. § 3369(j)(4)[;] and [(4) venue provisions for actions filed pursuant to 75 Pa.C.S. § 3345.1(i.1), relating to] from civil violations for passing a stopped school bus with flashing red signal lights and an activated side stop signal arm, **75 Pa.C.S. § 3345.1(i.1)**. See Pa.R.Civ.P.M.D.J. 382(1) (pertaining to Acts of Assembly providing for special venue provisions that are not suspended).

* * * * *

Rule 321. Hearings and Evidence.

The magisterial district judge shall be bound by the rules of evidence, except that a bill, estimate, receipt, or statement of account that appears to have been made in the regular course of business may be introduced in evidence by any party without affidavit or other evidence of its truth, accuracy, or authenticity.

Comment:

The exception to the rules of evidence provided by this rule was inserted because the Pennsylvania statutes making certain business entries admissible in evidence apparently do not apply to bills, receipts, and the like that are made in the regular course of business but are not made as “records.” See 42 Pa.C.S. § 6108. The fact that this exception permits the introduction of these items of evidence without affidavit or other evidence of their truth, accuracy, or authenticity does not, of course, preclude the introduction of evidence contradicting them. The exception was deemed necessary because the items of evidence made admissible thereby are probably the proofs most commonly used in minor judiciary proceedings. See [**Rules 350D(2) and 351(d)**] **Pa.R.Civ.P.M.D.J. 350(d)(2)** for additional exceptions applicable to appeals from automated work zone speed enforcement violations and [**actions filed pursuant to 75 Pa.C.S. § 3345.1(i.1), relating to**] from civil violations for passing a stopped school bus with flashing red signal lights and an activated side stop signal arm.

SATISFACTION OF MONEY JUDGMENTS

Rule 350. [**Automated Work Zone Speed Enforcement Violation**] Appeals **from Civil Traffic Violations**.

[**A.**] (a) As used in this rule:

(1) “Appellant” means the owner of a vehicle who has requested the appeal of a determination by a hearing officer pursuant to 75 Pa.C.S. § 3369(j)(4), **pertaining to automated work zone speed enforcement violations, or 75 Pa.C.S. § 3345.1(i.4)(4), pertaining to civil violations for passing a stopped school bus with flashing red signal lights and an activated side stop signal arm.**

(2) “Appellee” means:

(i) **in matters brought pursuant to 75 Pa.C.S. § 3369(j)(4)**, the Pennsylvania Department of Transportation, the Pennsylvania Turnpike Commission, or the system administrator designated by those agencies pursuant to 75 Pa.C.S. § 3369(h)(3)(i)[.]; **or**

(ii) **in matters brought pursuant to 75 Pa.C.S. § 3345.1(i.4)(4), a school entity, as defined in 75 Pa.C.S. § 3345.1(m), or a system administrator that has entered into an agreement with the school entity pursuant to 75 Pa.C.S. § 3345.1(g).**

[**B.**] (b) *Venue*. An appeal filed pursuant to this rule shall only be filed in the magisterial district court in the magisterial district where the violation of 75 Pa.C.S. § 3369(c) **or 75 Pa.C.S. § 3345.1(a.1)(1)** occurred.

[**C.**] (c) *Notice of Appeal*.

(1) An appellant may appeal a determination of a hearing officer pursuant to 75 Pa.C.S. § 3369(j)(4) **or 75 Pa.C.S. 3345.1(i.4)(4)** by filing a notice of appeal on a form prescribed by the State Court Administrator together with a copy of the hearing officer’s determination **within 30 days after the date of its issuance.**

(2) The appellant shall pay all costs for filing and service of the notice of appeal at the time of filing or, if without the financial resources to pay the costs of litigation, the appellant shall file a petition to proceed *in forma pauperis* pursuant to [**Rule 206E**] **Pa.R.Civ.P.M.D.J. 206E.**

(3) After setting the hearing date pursuant to [**Rule 305**] **Pa.R.Civ.P.M.D.J. 305**, the magisterial district judge shall serve the notice of appeal on the appellee by mailing a copy to the appellee at the address listed on the hearing officer’s determination by certified mail or comparable delivery method resulting in a return receipt in paper or electronic form. The return receipt shall show that the notice of appeal was received by the appellee.

[**D.**] (d) *Hearing; Evidence*.

(1) The proceeding shall be conducted *de novo* in accordance with these rules as if the action was initially commenced in a magisterial district court with the appellee having the burden of proof.

(2) The hearing is subject to the standards of evidence set forth in [**Rule 321**] **Pa.R.Civ.P.M.D.J. 321**, except that photographs, videos, vehicle titles, police reports, and records of the Pennsylvania Department of Transportation may also be entered as evidence by any party without affidavit or other evidence of their truth, accuracy, or authenticity.

Comment:

75 Pa.C.S. § 3369 established a program to provide for automated speed enforcement systems in active work zones on certain highways under the jurisdiction of the Pennsylvania Department of Transportation and the Pennsylvania Turnpike Commission. **Similarly, 75 Pa.C.S. § 3345.1 established a program to provide for automated side stop signal arm enforcement systems for failing to stop for a school bus with flashing red lights and an activated side stop signal arm.** This rule [**was adopted**] **is intended** to address [**the**] **statutory** provisions [**of the statute that permits**] **permitting** a *de novo* appeal to a magisterial district court from a determination of a hearing officer following an administrative hearing to contest an alleged violation of 75 Pa.C.S. § 3369(c) **or 75 Pa.C.S. § 3345.1(a.1)(1)**. Because these actions are *de novo* appeals, they shall proceed as any other civil action commenced in a magisterial district court except as provided by this rule.

Insofar as other procedures under these rules may be applicable, the appellant shall be deemed the “defendant” and the appellee shall be deemed the “plaintiff.”

The initiating document in an appeal filed pursuant to [**Rule 350**] **this rule** is the notice of appeal, which shall be used in lieu of a complaint.

Photographs, videos, vehicle titles, police reports, and records of the Pennsylvania Department of Transportation were added to the existing business record exceptions in [**Rule 321**] **Pa.R.Civ.P.M.D.J. 321** because they are the proofs most likely to be used to support the permitted defenses to 75 Pa.C.S. § 3369(c) **and 75 Pa.C.S. § 3345.1(f)**.

The appellant shall pay civil fines incurred pursuant to 75 Pa.C.S. § 3369(e) **or 75 Pa.C.S. § 3345.1(c)** to the appellee and not to the magisterial district court. See Pa.R.Civ.P.M.D.J. 323, cmt. (clarifying that payments are made to the prevailing party and not the magisterial district court). If the magisterial district judge enters judgment in favor of the appellant, *i.e.*, the vehicle owner, the appellant is entitled to recover taxable costs from the appellee. See Pa.R.Civ.P.M.D.J. 206B (“[T]he prevailing party in magisterial district court proceedings shall be entitled to recover taxable costs from the unsuccessful party. Such costs shall consist of all filing, personal service, witness, and execution costs authorized by Act of Assembly or general rule and paid by the prevailing party.”) Procedures for enforcement of judgments, including judgments in favor of the appellant for taxable costs from the appellee, are set forth in [**Rules 401 et seq.**] **Pa.R.Civ.P.M.D.J. 401 et seq.** See **75 Pa.C.S. § 3345.1(i.4)(4) for limits on the judgment in school bus enforcement cases.**

See [**Rules 1001 et seq.**] **Pa.R.Civ.P.M.D.J. 1001 et seq.** for procedures to appeal a judgment rendered by a magisterial district judge or to file a *praecipe* for a writ of *certiorari* in civil actions, including actions brought pursuant to this rule.

The rule text and comment are deleted in their entirety and the comment is replaced with new text.

Rule 351. Action to Contest Civil Liability for Passing a School Bus with Flashing Red Lights and an Activated Side Stop Signal Arm; Failure to Respond to a Notice of Violation.

[(a) As used in this rule:

(1) “Vehicle owner” means the owner of a vehicle alleged to have violated 75 Pa.C.S. § 3345, relating to enforcement of failure to stop for a school bus with flashing red lights and an activated side stop signal arm, brought pursuant to 75 Pa.C.S. § 3345.1.

(2) “Police department” means the police department issuing the notice of violation of 75 Pa.C.S. § 3345, relating to enforcement of failure to stop for a school bus with flashing red lights and an activated side stop signal arm, brought pursuant to 75 Pa.C.S. § 3345.1.

(b) *Venue*. An action filed pursuant to this rule shall only be filed in the magisterial district court in the magisterial district where the alleged violation of 75 Pa.C.S. § 3345 occurred.

(c) *Proceedings*.

(1) *Vehicle Owner Request to Contest Liability*.

(i) A vehicle owner may contest the liability alleged in the notice of violation within 30 days of the mailing of the notice of violation by filing a hearing request form prescribed by the State Court Administrator together with a copy of the notice of violation.

(ii) The vehicle owner shall pay all costs for filing and service of the hearing request form at the time of filing or, if without the financial resources to pay the costs of litigation, the vehicle owner shall file a petition to proceed *in forma pauperis* pursuant to Rule 206E.

(iii) After setting the hearing date pursuant to Rule 305, the magisterial district judge shall serve the hearing request on the police department by mailing a copy to the police department at the address listed on the notice of violation by certified mail or comparable delivery method resulting in a return receipt in paper or electronic form. The return receipt shall show that the hearing request was received by the police department.

(2) *Vehicle Owner Fails to Respond to Notice of Violation*. If the vehicle owner fails to respond to the notice of violation within 30 days of the original notice by either paying the fine as indicated on the notice of violation or contesting liability as provided in subdivision (c)(1), the police department may file a civil complaint against the vehicle owner pursuant to Rule 303.

(d) *Evidence*. The hearing is subject to the standards of evidence set forth in Rule 321, except that photographs, videos, vehicle titles, police reports, and records of the Pennsylvania Department of Transportation may also be entered as evidence by any party without affidavit or other evidence of their truth, accuracy, or authenticity.

Comment:

75 Pa.C.S. § 3345.1 provides for automated side stop signal arm enforcement systems to identify and civilly fine the owners of vehicles failing to stop for a school bus with flashing red lights and an activated side stop signal arm. This rule was adopted to address the provisions of the statute that (1) allow a vehicle owner to contest liability for a notice of violation and (2) establishes a mechanism for a police department to file a complaint when a vehicle owner has failed to respond to a notice of violation.

Insofar as other procedures under these rules may be applicable, the vehicle owner shall be deemed the “defendant” and the police department shall be deemed the “plaintiff.”

A vehicle owner issued a notice of violation under 75 Pa.C.S. § 3345.1 may contest liability by requesting a hearing with the magisterial district judge in the magisterial district where the violation occurred. The initiating document in an action filed by a vehicle owner to contest liability is the hearing request form, which shall be used in lieu of a complaint.

If the magisterial district judge finds the vehicle owner liable for the violation, the vehicle owner shall pay civil fines incurred pursuant to 75 Pa.C.S. § 3345.1(c) to the police department and not to the magisterial district court. See Rule 3.10(A)(2) of the Rules Governing Standards of Conduct of Magisterial District Judges (prohibiting a magisterial district judge from engaging in any activity related to the collection of a claim or judgment for money); see also Pa.R.Civ.P.M.D.J. 323, Comment (“The payments are to be made to the plaintiff and not to the magisterial district judge”).

If the magisterial district judge enters judgment in favor of the vehicle owner, the vehicle owner is entitled to recover taxable costs from the police department. See Pa.R.Civ.P.M.D.J. 206B (“The prevailing party in magisterial district court proceedings shall be entitled to recover taxable costs from the unsuccessful party. Such costs shall consist of all filing, personal service, witness, and execution costs authorized by Act of Assembly or general rule and paid by the prevailing party.”). Procedures for enforcement of judgments, including judgments in favor of the plaintiff for taxable costs from the defendant, are set forth in Rules 401 *et seq.*

If the vehicle owner fails to respond to the notice of violation within 30 days of the original notice by either paying the fine as indicated on the notice of violation or contesting liability as provided in subdivision (c)(1), the police department may file a civil complaint against the vehicle owner in the magisterial district where the violation occurred pursuant to Rule 303. See 75 Pa.C.S. § 3345.1(i.1)(2)(iii). A complaint filed by a police department to enforce a notice of violation when the vehicle owner failed to respond will proceed as any other civil action filed pursuant to Rule 303 except as otherwise provided in this Rule. See also Pa.R.Civ.P.M.D.J. 206 (pertaining to costs).

Photographs, videos, vehicle titles, police reports, and records of the Pennsylvania Department of Transportation were added to the existing business record exceptions in Rule 321 because they are the proofs most likely to be used to support the permitted defenses to 75 Pa.C.S. § 3345.1(c).

See Rules 1001 *et seq.* for procedures to appeal a judgment rendered by a magisterial district judge or to file a *praecipe* for a writ of *certiorari* in civil actions, including actions brought pursuant to this rule.]

Comment:

Provisions of former Pa.R.Civ.P.M.D.J. 351 were incorporated in Pa.R.Civ.P.M.D.J. 350.

Rule 381. Acts of Assembly Suspended.

(a) **General Rule.** All Acts of Assembly or parts thereof inconsistent with the rules governing the civil action are suspended to the extent of such inconsistency.

(b) The Act of October 23, 2023, P.L. 134, No. 19, 75 Pa.C.S. § 3345.1(i.4)(4), which provides, *inter alia*, for a 45-day appeal period of a hearing officer’s determination following an administrative hearing to contest liability for the civil violation of passing a stopped school bus with flashing red signal lights and an activated side stop signal arm, is suspended only insofar as the Act is inconsistent with the 30-day appeal period set forth in Pa.R.Civ.P.M.D.J. 350(c)(1).

**SUPREME COURT OF PENNSYLVANIA
MINOR COURT RULES COMMITTEE**

PUBLICATION REPORT

Proposed Amendment of Pa.R.Civ.P.M.D.J. 301, 302, 321, 350, 381 and Rescission of Pa.R.Civ.P.M.D.J. 351

The Minor Court Rules Committee (“Committee”) is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.Civ.P.M.D.J. 301, 302, 321, 350, 381 and the rescission of Pa.R.Civ.P.M.D.J. 351 pertaining to civil enforcement of traffic violations.

Two legislative enactments created civil enforcement mechanisms for certain traffic violations. Act 86 of 2018 authorized the use of automated work zone speed enforcement systems in active work zones along the Pennsylvania Turnpike and “[f]ederal aid highways only under the jurisdiction of [PennDOT].” See 75 Pa.C.S. § 3369(a). Act 38 of 2020 authorized the use of automated enforcement systems on school buses to identify and issue violations to the owners of vehicles passing a stopped school bus when the red signal lights on the school bus are flashing and the side stop signal arms are activated. See 75 Pa.C.S. § 3345.1(a), (c). Both Acts included appeals of violations to magisterial district courts, which necessitated rule-making to accommodate these new civil appeals.

Variations in the Acts necessitated the promulgation of distinct procedural rules relating to appeal procedures. See Pa.R.Civ.P.M.D.J. 350-351 (rules pertaining to automated work zone violation appeals and school bus violation appeals, respectively). For example, challenges to work zone violations are initiated by a filing a request for an administrative hearing before a hearing officer with a subsequent *de novo* appeal available before a magisterial district judge. See 75 Pa.C.S. § 3369(j). In contrast, appeals from school bus violations could be filed directly with the magisterial district court. See 75 Pa.C.S. § 3345.1(i.1)(3)(i) (effective through December 21, 2023). Section 3345.1 also contained a unique provision permitting the “the police department [to] turn the matter over to the magisterial district judge where the violation occurred” when the vehicle owner did not pay the fine or contest liability. 75 Pa.C.S. § 3345.1(i.1)(2)(iii).

Act 19 of 2023, adopted on October 23, 2023, reconciled differences in the appeal processes of the two enforcement schemes. It amends § 3345.1 to require a vehicle owner appeal a school bus violation to an administrative hearing officer before filing a *de novo* appeal with the magisterial district court. See 75 Pa.C.S. § 3345.1(i.4). It also eliminated the action before the magisterial district judge to collect unpaid fines.

With § 3369 and § 3345.1 now nearly identical, the Committee proposes rescinding Rule 351 and incorporating provisions relating to school bus violation appeals into Rule 350. By doing so, the Committee intends to create a single rule to address appeal procedures in civil traffic enforcement matters that can accommodate new programs in the future.

However, one matter in which § 3369 and § 3345.1 do not align is the timeframe for appealing a hearing officer’s determination to a magisterial district judge. Section 3369 is silent on the appeal period, while § 3345.1(i.4)(4) provides for a 45-day appeal period. The Committee believes appeals from hearing officer determinations in both work zone and school bus violation cases should be uniform and proposes a 30-day appeal period for both actions. Establishing a uniform time frame would require the Court to suspend § 3345.1(i.4)(4) to the extent it is inconsistent with Pa.R.Civ.P.M.D.J. 350.

* * * * *

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

[Pa.B. Doc. No. 23-1719. Filed for public inspection December 15, 2023, 9:00 a.m.]

Title 255—LOCAL COURT RULES

MONTGOMERY COUNTY

Fees of Clerk of Orphans' Court

And Now, this 1st day of December, 2023, the following bill of costs is established effective January 1, 2024 to be chargeable to parties and to estates, before said Court for settlement, for the services of the Clerk of said Court and in the transaction of the business of said Court.

ACCOUNTS—Filing, advertising, recording, setting up printed copies of advertising of accounts of trustees and guardians of minors and incapacitated, including adjudication and certificate of the Clerk in estate not exceeding in value of

not exceeding in value of \$1,000	47.00
Over 1,001 and not exceeding 5,000	102.00
Over 5,001 and not exceeding 10,000	131.00
Over 10,001 and not exceeding 25,000	146.00
Over 25,001 and not exceeding 50,000	183.00
Over 50,001 and not exceeding 100,000	219.00
Over 100,001 and not exceeding 250,000	291.00
Over 250,001 and not exceeding 500,000	396.00
Over 500,001 and not exceeding 1,000,000	476.00
Each succeeding \$500,000 or fraction thereof	232.00

In addition to the above fees for filing there will be a fee for recording, per page 1.00
 Supplemental or Amended Accounts (fee per page) 1.00

TECHNOLOGY FEE—For Accounts 10.00

DECREE and CERTIFICATE of ADOPTION 110.00
 Report of intent to adopt (Fee of \$33.00 plus Counseling Fund Fee Act 34—75.00) 108.00
 Abandonment, petition for finding and Transcript 44.00
 Foreign Decree Registration Filing 44.00
 Petition for release of Identifying Information 255.00
 Petition for release of Non Identifying Information 74.00

AMENDED PETITIONS 38.00
ANSWER 24.00
APPEAL to Supreme or Superior Court, certificate of record and bond and transmission costs 110.00
APPEAL, INHERITANCE TAX 110.00
AWARD OF REAL ESTATE Petition 1 description 30.00
AWARD OF REAL ESTATE, certification of excerpt from
 Schedule of Distribution, 1 description 24.00
 Each Additional description 5.00
BIRTH RECORD, certified copy of 34.00
BOND, filing, approval of, and recording 9.00
CERTIFICATE and seal 34.00
CITATION, Petition for, and order (one name) 77.00
 (Includes issuance and proof of service)
 Each Additional Name 5.00
 Riders (Over 10 Names) Additional Fee 5.00
CLAIM, filing of 24.00

COPIES OF DECREES, adjudication, etc., per page 1.00

DEED, execution of by clerk 30.00
DEED OF TRUST, filing of, per page 1.00
DISCLAIMER 24.00

ELECTION , to take under or against will filing of	24.00
EXCEPTIONS , to adjudication, schedule of distribution, etc. filing	39.00
JUDICIAL COMPUTER FEE , all first time filings	40.25
CHILD CARE FUND , all first time filings	5.00
EXEMPLIFICATION of record, per page Certificate	1.00 47.00
FAMILY EXEMPTION , filing claim for and recording; Personal Estate	24.00
Real Estate, on description	24.00
Each additional description	5.00
SETTLEMENT AGREEMENT	39.00
Additional Name	5.00
GUARDIAN'S REPORT Person and/or Estate (each)	24.00
PETITION FOR APPOINTMENT OF GUARDIAN	47.00
PETITION FOR MINOR'S COMPROMISE Each Additional Minor (One Petition)	77.00 5.00
PETITION for ADJUDICATION of INCAPACITY	77.00
PETITION for EMERGENCY & PERMANENT GUARDIAN	77.00
EXPERT REPORT , Incapacity	20.00
INVENTORY, GUARDIAN of ESTATE	24.00
NON-JUDICIAL SETTLEMENT AGREEMENTS Each Additional Name(s)	39.00 5.00
NON-PETITION FILING	16.00
OBJECTIONS & PRELIMINARY OBJECTIONS	47.00
PETITIONS (W/Existing Estate Number)	77.00
PETITIONS (No Existing Estate Number)	132.25
POWER OF ATTORNEY	24.00
RECEIPT and RELEASE Filing and Recording (one name)	39.00
EACH ADDITIONAL NAME	5.00
RENUNCIATION	5.00
SALE —Receive Proceeds, Petition to, Amount of Additional Bond and Certificate Order of Public Sale and Return (one description)	77.00 62.00
Each Additional Description	5.00
SATISFACTION OF AWARDS —Each Name	5.00
SCHEDULE OF DISTRIBUTION , first ten pages Or Fraction thereof—Double Space	47.00 24.00
SHORT CERTIFICATE , guardian and trustee	14.00
STIPULATION	39.00
SUBPOENA	14.00
MARRIAGE LICENSE	39.50
STATE tax	.50
CHILDREN'S FUND/DOMESTIC VIOLENCE	20.00
TOTAL ML FEE	\$60.00
Appointment of Guardian—Issuance of ML Petition for and ORDER (under 16 Years of Age)	29.00
CONSENT FORM (16 to 18 Years of Age)	17.00
WAIVER (3 Day Waiting Period) (MILITARY WAIVER N/C)	22.00
CERTIFIED DUPLICATE CERTIFICATE or APPLICATION	17.00

COMBINATION—APPLICATION/CERTIFICATE RE: Immigration, Apostille, Adoptions etc.	34.00
UNCERTIFIED COPY MARRIAGE RECORD	1.00
RE-ISSUE MARRIAGE LICENSE	64.00
LICENSE ISSUE	36.00
NEW APPLICATION	36.00
SINGLE STATUS LETTER	74.00
NO RECORD LETTER	17.00
MARRIAGE LICENSE CLEARANCE (MARYLAND & other STATE Requirements)	17.00
OUTSIDE MARRIAGE APPLICATION Travel Fee	100.00
(Plus Marriage License Fee \$60.00 plus \$17.00 Electronic Certified Document) TOTAL	\$177.00

RETURNED CHECK FEE 39.00

1. The word “page” means a single page of brief or typewriter (sized 8 1/2 by 11 inches) or printed paper, including each page stored electronically and printed on 8 1/2 by 11-inch paper.

2. If a fee is not specifically provided for in this schedule, it shall be the same fee as for a similar service.

3. All prior Orders made establishing bills of costs for the services of the Clerk of the Orphans’ Court of this County are hereby revoked.

By the Court

CAROLYN TORNETTA CARLUCCIO,
President Judge

[Pa.B. Doc. No. 23-1720. Filed for public inspection December 15, 2023, 9:00 a.m.]

Title 255—LOCAL COURT RULES**MONTGOMERY COUNTY
Fees of Register of Wills**

And Now, this 1st day of December, 2023 the following bill of costs is established effective January 1, 2024 to be chargeable to parties and to estates for the probate of Wills and Testaments, and granting of Letters Testamentary and of Administration, and for all services of the Register of Wills of this County, in the transaction of the business of said office.

**ACCOUNTS—ACCOUNTS are ACCEPTED by the
CLERK OF THE ORPHANS’ COURT**

ADMINISTRATION , Letters of, including filing and entering Bond and tax due commonwealth in estates. . .	
Not exceeding in value of \$250.00	14.00
Over 251 and not exceeding 1,000	38.00
Over 1,001 and not exceeding 5,000	58.00
Over 5,001 and not exceeding 10,000	88.00
Over 10,001 and not exceeding 25,000	110.00
Over 25,001 and not exceeding 50,000	146.00
Over 50,001 and not exceeding 100,000	183.00
Over 100,001 and not exceeding 200,000	219.00
Over 200,001 and not exceeding 300,000	255.00
Over 300,001 and not exceeding 400,000	317.00
Over 400,001 and not exceeding 500,000	357.00
Over 500,001 and not exceeding 600,000	396.00
Over 600,001 and not exceeding 700,000	436.00
Over 700,001 and not exceeding 800,000	476.00
Over 800,001 and not exceeding 900,000	516.00

Over 900,001 and not exceeding One Million	555.00
First Million	555.00
Each Million above	396.00
Each succeeding \$100,000 or fraction thereof	38.00
Judicial Computer Fee	40.25
Child Care Fund	5.00
Technology Fee	10.00

LETTERS TESTAMENTARY , including probate, filing and entering bond and tax due Commonwealth in estates	
Not exceeding in value of \$250.00	14.00
Over 251 and not exceeding 1,000	38.00
Over 1,001 and not exceeding 5,000	58.00
Over 5,001 and not exceeding 10,000	88.00
Over 10,001 and not exceeding 25,000	110.00
Over 25,001 and not exceeding 50,000	146.00
Over 50,001 and not exceeding 100,000	183.00
Over 100,001 and not exceeding 200,000	219.00
Over 200,001 and not exceeding 300,000	255.00
Over 300,001 and not exceeding 400,000	317.00
Over 400,001 and not exceeding 500,000	357.00
Over 500,001 and not exceeding 600,000	396.00
Over 600,001 and not exceeding 700,000	436.00
Over 700,001 and not exceeding 800,000	476.00
Over 800,001 and not exceeding 900,000	516.00
Over 900,001 and not exceeding One Million	555.00
First Million	555.00
Each Million above	396.00
Each succeeding \$100,000 or fraction thereof	38.00
Judicial Computer Fee	40.25
Child Care Fund	5.00
Technology Fee	10.00
For each page of Will, per page	1.00

ADDING CODICIL TO PROBATE	24.00
AFFIDAVIT —filing of	9.00
APPEAL —filing and certifying to Orphans’ Court	110.00
ANSWER	24.00
SECOND , copy of, including seal and certificate Filing and entering where additional security/bond is required	9.00
BRIEFS , filing relating to hearing, etc.	39.00
CAVEAT , filing informal	39.00
CAVEAT , filing formal with bond	116.00
Cancellation & Rescheduling of hearing	39.00
CERTIFICATE and seal	17.00
CERTIFICATE and seal of real estate (Tax Clearance)	17.00
CHILD CARE FUND —all first time filings	5.00
CITATION or attachment. Petition for (one name) Each additional name (Over ten names an add. fee)	77.00
COMMISSIONS to Register of PA to take testimony	54.00
COMMISSIONS from Register of PA, execution of	24.00
COPIES of account, will, inventory, etc. per page	1.00
EXEMPLIFICATION of: Will, (including first page)	47.00
Additional pages (per page)	1.00
Miscellaneous Records (including first page)	17.00
Miscellaneous Filings	17.00
OBJECTIONS	39.00
RECORDING —exemplified copies of administration from other States where letters are not required to be issued	39.00

Exemplified copies of wills from other states where letters are not required to be issued.	
One page and affidavits	39.00
Each additional page	1.00
RENUNCIATION , filing each	6.00
RETURNED CHECK Fee	39.00
SHORT CERTIFICATE	14.00
Up-dating (One time only)	7.00
SUBPOENA	14.00
SUCCEEDING APPOINTMENT	24.00
SUGGESTION OF DEATH	17.00
SPECIAL SERVICE	
Probate of Will outside of Office	116.00
Affidavit of Witness	116.00
TECHNOLOGY FEE	10.00
INVENTORY & APPRAISEMENT—TAX PAPERS—(Double Space)	24.00
SEARCH FEE (ANY SEARCH)	40.00
Non Probate—Inheritance Tax Fees	72.25
Tax Forms	17.00
Judicial Computer Fee	40.25
Child Care Fund	5.00
Technology Fee	10.00

1. The word “page” means a single page of brief or typewriter (sized 8 1/2 by 11 inches) or printed paper, including each page stored electronically and printed on 8 1/2 by 11-inch paper.

2. If a fee is not specifically provided for in this schedule, it shall be the same fee as for a similar service.

3. All prior Orders made establishing bills of costs for the services of the Register of Wills of this County in the transaction of the business of said office are hereby revoked.

By the Court

CAROLYN TORNETTA CARLUCCIO,
President Judge

[Pa.B. Doc. No. 23-1721. Filed for public inspection December 15, 2023, 9:00 a.m.]

Title 255—LOCAL COURT RULES

YORK COUNTY

Increasing the Schedule of Fees for the Prothonotary, a Third Class County; 2023-MI-000386 Misc. Civil

Administrative Order and Approval

And Now, To Wit, This 30th day of November 2023, *The Court* pursuant to Act # 98-164 of the Pennsylvania Legislature, hereby approves the increase of fees effective January 1, 2024.

The Prothonotary of York County shall provide a certified copy of this order to the York County District Court Administrator, all Common Pleas Judges, and the York County Bar Association for distribution to the members of the Bar. They shall also keep a copy constantly available for public inspection and copying. Upon request and payment of reasonable fees for production and mailing, the Prothonotary shall furnish a copy to any person requesting one.

The York County District Administrator shall publish this order as may be required.

By the Court

MARIA MUSTI COOK,
President Judge

ACKNOWLEDGMENT OF SHERIFF DEED	\$14.00
ADD OR SUBSTITUTE A PARTY*	\$21.00

APPEALS

Commonwealth and Superior Court Appeals

If filed to FC #: 2 separate checks required

Prothonotary Fee	\$103.00
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Appellate Court Fee	\$90.25
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If filed to SU #*	\$198.25
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District Justice	\$238.00
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ARBITRATION*

Appointment of Arbitrator*	\$55.00
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Arbitration Appeal*

Less than \$10,000 in controversy*	\$445.00
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\$10,000 to/including \$25,000 in controversy* . . .	\$545.00
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Greater than \$25,000 in controversy*	\$745.00
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ASSIGNMENTS*	\$21.00
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BENCH WARRANTS	\$27.00
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CERTIFICATION	\$8.00
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CHECKS RETURNED AS NON-NEGOTIABLE/ NSF	\$35.00
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COMMENCEMENT OF NEW CIVIL ACTION* . . .	\$258.00
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COMPLAINT—CIVIL*	\$258.00
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COMPLAINT—CUSTODY	\$235.50
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When filed with a divorce action	\$10.00
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COMPLAINT—DIVORCE	\$317.00
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(ADD \$40.25 MORE FOR EACH ADDITIONAL COUNT AND \$50.25 FOR CUSTODY COUNT)

CONCILIATOR APPOINTMENT	\$155.00
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COPIES

Public printer, per page	\$0.25
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Staff printer, per page	\$1.00
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CUSTODY

Discontinuance or withdrawal	\$16.00
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Reactivation of Custody Case made inactive per Rule 230.3	\$27.00
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Register out-of-state custody order	\$25.00
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DIVORCE DECREE CERTIFIED COPY	\$15.00
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DIVORCE

Appointment of Hearing Officer

For Fault divorce, Equitable Distribution or Alimony (first 12 hours)	\$350.00
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Modification of Alimony (first 8 hours)	\$250.00
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Interim Relief (first 4 hours)	\$150.00
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Additional proceedings (each block up to 6 hours)	\$250.00
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Discontinuance or withdrawal	\$16.00
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EXECUTIONS

Attachment proceedings (each garnishee)*	\$1.00
Reissuance or Amendments*	\$20.00
Interrogatories and Answers*	\$15.00
Attachment Dissolution*	\$21.00
Sheriff's Determination of Ownership	\$13.00

EXEMPLIFIED RECORDS

Incoming Exemplified Records*	\$65.00
Outgoing Exemplified Records	\$34.00
(Specify in-state or out-of-state)	

EXHIBITS—oversize (documents larger than 11" x 17") Per page	\$3.75
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INTENTION TO PROCEED

If filed to an FC #	\$16.00
If filed to an SU #*	\$21.00

JUDGMENTS*

Amended*	\$23.00
Broker's Lien*	\$65.00
Bond Forfeiture*	\$65.00
By Transcript (District Justice)*	\$65.00
Complaint with Confession*	\$75.00
Default*	\$37.00
Deficiency*	\$37.00
Marked to the use of*	\$21.00

LICENSE SUSPENSION APPEAL	\$238.00
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LIENS*

Commonwealth*, Federal*, Municipal*	\$63.00
Mechanics*	
Claim (commencement of new action)*	\$258.00
Stipulation or Waiver*	\$49.00

MISCELLANEOUS FILING	\$25.00
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MORTGAGE FORECLOSURE*	\$258.00
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MOTION TO STAY EXECUTION*	\$15.00
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NAME CHANGE

Resume maiden name after divorce	\$20.00
Not divorce related	\$104.00

NOTARY PUBLIC

Acknowledgment/Registration of Signature	\$5.50
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PATERNITY ACTION	\$238.00
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PETITION TO ENFORCE DIVORCE AFTER 2 YRS	\$238.00
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PETITION TO OPEN OR STRIKE JUDGMENTS

If filed to an NO #*	\$15.00
If filed to an SU #*	NO FEE

PETITION TO REASSESS DAMAGES*	\$21.00
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PLEADINGS FILED TO AN NO OR MT CASE*	\$15.00
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POWERS OF ATTORNEY

Registration of first name	\$6.00
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PRAECIPE TO OPEN TERMINATED CIVIL CASE*	\$258.00
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PRAECIPE TO SATISFY, DISCONTINUE, WITHDRAW CASE

If case filed prior to 1/2/97*	\$21.00
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If case filed on or after 1/2/97*	NO FEE
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Satisfy less than all parties or judgment only*	\$21.00
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Commonwealth Satisfaction (filed prior to 1997)*	\$16.00
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PROTECTION FROM ABUSE	\$252.00
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Crossfiling	\$207.00
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Refiling of expired PFA over 2 years	\$252.00
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Refiling of expired PFA under 2 years	\$207.00
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Full hearing held (state surcharge)	\$100.00
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Issuance of a Bench Warrant	\$27.00
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Modification of PFA	\$30.00
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RELEASE, POSTPONEMENT, SUBORDINATION*	\$21.00
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REPORTS	\$10.00
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REVIVALS*

Adverse Proceedings*	\$83.00
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Amicable Proceedings*	\$63.00
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Commonwealth Tax Lien*	\$63.00
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SUBPOENAS*—must be completed before submitted for signature and seal

If filed to an FC #	\$5.50
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If filed to an SU, NO, MT, ML #*	\$10.50
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TAX UPSET/JUDICIAL SALE

Objections/exception	\$25.00
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TRANSFER OR REMOVAL OF RECORD TO ANOTHER COURT	\$43.00
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WRIT OF ATTACHMENT*	\$60.00
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Notice of intent to attach wages*	\$15.00
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WRIT OF EXECUTION*	\$54.00
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WRIT OF EXECUTION—REISSUE*	\$20.00
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WRIT OF SCIRE FACIAS*	\$83.00
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WRIT OF SUMMONS (New case)*	\$258.00
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Anything with an ASTERISK must be filed electronically

For more information about electronic filing and for forms visit: www.yorkcountypa.gov/prothonotary

"The Prothonotary shall not be required to enter on the docket any suit or action nor order of court or enter any judgment thereon or perform any services whatsoever for any person or political subdivision of the Commonwealth until the requisite fee is paid." Prothonotary Fee Law, Section 3.(b)

Payment should be made by cash, money order, credit and debit card, certified bank check or business check. Personal checks are not accepted.

Failure to provide all required paperwork may result in returned filings.

All filings should be one-sided.

Judgments must be accompanied by the Rule 236 notice. Envelopes do not need to be included. The Prothonotary assumes the expense for envelopes and postage for service of judgments.

A self-addressed, stamped envelope must be included with any documents to be returned.

The York County Court Self-Help and Law Resource Center is located at
45 N George Street
4th Floor
York, PA 17401
Courtselfhelp@yorkcountypa.gov

Looking for an attorney?
Contact York Attorney Connection
www.yorkbar.com
717-854-8755

THE OFFICE OF THE PROTHONOTARY
YORK COUNTY

FEE SCHEDULE

FEES EFFECTIVE JANUARY 1, 2024

OFFICE OF THE PROTHONOTARY
YORK COUNTY JUDICIAL CENTER

45 N. GEORGE STREET
YORK, PA 17401

717-771-9611

www.yorkcountypa.gov/prothonotary

[Pa.B. Doc. No. 23-1722. Filed for public inspection December 15, 2023, 9:00 a.m.]
