

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Proposed Amendment of Pa.R.Civ.P. 230.2

The Supreme Court of Pennsylvania is considering the amendment of Pa.R.Civ.P. 230.2 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.

Any report accompanying this proposal was prepared by the Civil Procedural Rules Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be adopted by the Supreme Court.

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

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

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

All communications in reference to the proposal should be received by April 18, 2023. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

(Editor's Note: Pa.R.Civ.P. 230.2 as printed in 231 Pa. Code reads "Official Note" rather than "Note.")

Rule 230.2. Termination of Inactive Cases.

(a) At least once a year, the court shall initiate proceedings to terminate cases in which there has been no activity of record for two years or more, and shall report such information to the Court Administrator of Pennsylvania on a form supplied by the Administrative Office of Pennsylvania Courts or in such format as requested from time to time by the Administrative Office of Pennsylvania Courts.

Note: This rule provides an administrative method for the termination of inactive cases.

(b)(1) For each case identified pursuant to subdivision (a), the court shall serve a notice of proposed termination on counsel of record, and on the parties if not represented, thirty days prior to the date of the proposed

termination. The notice shall contain the date of the proposed termination and the procedure to avoid termination.

(2) The notice shall be served electronically pursuant to Rule 205.4(g)(1), or pursuant to Rule 440 on counsel of record and on the parties, if not represented, at the last address of record.

Note: If the notice mailed to an attorney is returned by the postal service, the prothonotary should check the website of the Disciplinary Board of the Supreme Court of Pennsylvania, www.padisiplinaryboard.org, for a current address.

See subdivision (f) for the form of notice.

(c) If no statement of intention to proceed has been filed on or before the date of the proposed termination, the prothonotary shall enter an order as of course terminating the matter for failure to prosecute.

Note: The prothonotary may not enter an order terminating the action until more than thirty days after service of the notice of proposed termination.

A court officer may certify to the prothonotary those matters which have been inactive and in which no statement of intention to proceed has been filed.

(d)(1) If an action has been terminated pursuant to this rule, an aggrieved party may petition the court to reinstate the action.

(2) If the petition is filed within sixty days after the entry of the order of termination on the docket, the court shall grant the petition and reinstate the action.

Note: The provision under subdivision (d)(2) for filing a petition within sixty days is not intended to set a standard for timeliness in proceedings outside this rule.

(3) If the petition is filed more than sixty days after the entry of the order of termination on the docket, the court shall grant the petition and reinstate the action upon a showing that

(i) the petition was timely filed following the entry of the order for termination and

(ii) there is a reasonable explanation or a legitimate excuse for the failure to file both

(A) the statement of intention to proceed prior to the entry of the order of termination on the docket and,

(B) the petition to reinstate the action within sixty days after the entry of the order of termination on the docket.

Note: The provision under subdivision (d)(2) for filing a petition within sixty days of the entry of the order of termination on the docket is not a standard of timeliness. Rather, the filing of the petition during that time period eliminates the need to make the showing otherwise required by subdivision (d)(3).

(e) Any case which is reinstated pursuant to subdivision (d) shall be subject to termination with prejudice upon a subsequent termination pursuant to subdivision (a). No subsequent reinstatements shall be granted.

(f) The notice required by subdivision (b) shall be in the following form:

* * * * *

(g) The statement of intention to proceed shall be in the following form:

* * * * *

(h) Upon receipt of a statement of intention to proceed, the court [**may**] **shall** schedule a status conference and establish appropriate timelines to ensure a timely and efficient disposition of the case.

**SUPREME COURT OF PENNSYLVANIA
PUBLICATION REPORT**

Proposed Amendment of Pa.R.Civ.P. 230.2

The Supreme Court is considering the amendment of Pennsylvania Rule of Civil Procedure 230.2 governing the termination of inactive cases to make mandatory the scheduling of a status conference for all cases and establish a timeline for timely disposition when a statement of intention to proceed is returned following the issuance of a notice of proposed termination.

Pa.R.Civ.P. 230.2(a) provides that “[a]t least once a year, the court shall initiate proceedings to terminate cases in which there has been no activity of record for two years or more.” Parties receiving a notice of termination may file a notice of intention to proceed, which serves to preclude termination. The current version of Pa.R.Civ.P. 230.2(h) provides for *discretionary* court involvement following receipt of such notice: “Upon receipt of a statement of intention to proceed, the court *may* schedule a status conference and establish appropriate timelines to ensure a timely and efficient disposition of the case.” (emphasis added).

This discretionary provision has resulted in a practice, in some counties, in which the parties file sequential notices to proceed without engaging in any other case-related activity and without triggering further court involvement. Consequently, inactive civil cases appear to continue to languish on a court’s docket. To encourage timely and efficient disposition, the proposed amendment of subdivision (h) would require the court to schedule a status conference and establish appropriate timelines to ensure a timely and efficient disposition of the case when a statement of intention to proceed is returned to the court for an inactive case.

* * *

Any comments, concerns, and suggestions regarding this rulemaking proposal are invited.

[Pa.B. Doc. No. 23-281. Filed for public inspection March 3, 2023, 9:00 a.m.]

**Title 231—RULES OF
CIVIL PROCEDURE**

PART I. GENERAL

[231 PA. CODE CH. 1920]

**Order Amending Rule 1920.76 of the Pennsylvania
Rules of Civil Procedure; No. 738 Civil Proce-
dural Rules Docket**

Order

Per Curiam

And Now, this 21st day of February, 2023, upon the recommendation of the Domestic Relations 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 Rule 1920.76 of the Pennsylvania Rules of Civil Procedure is amended in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective May 2, 2023.

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

Deletions from the rule are shown in bold and brackets.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

**CHAPTER 1920. ACTIONS OF DIVORCE OR FOR
ANNULMENT OF MARRIAGE**

(Editor’s Note: Pa.R.Civ.P. 1920.76 as printed in 231 Pa. Code reads “Official Note” rather than “Note” and the Explanatory Comments are not codified.)

Rule 1920.76. Form of Divorce Decree.

A decree in divorce shall be substantially in the following form:

(Caption)

DECREE

AND NOW, _____, [19] 20____, it is ordered and decreed that _____, plaintiff, and _____, defendant, are divorced from the bonds of matrimony.

The parties shall reaffirm or change the beneficiary status on any life insurance policies, annuity contracts, pensions, profit sharing plans, or other contractual arrangements providing for payment to a spouse if it is the intention of one of the parties to keep or change the other party as a beneficiary. Failure to do so may result in revocation of the beneficiary designation pursuant to 20 Pa.C.S. § 6111.2 (Effect of Divorce or Pending Divorce on Designation of Beneficiaries).

The court retains jurisdiction of any claims raised by the parties to this action for which a final order has not yet been entered.

Any existing spousal support order shall hereafter be deemed an order for alimony pendente lite if any economic claims remain pending.

BY THE COURT:

[*Note:*] **Comment:**

Act 106 of 2022 amended 23 Pa.C.S. § 3323(b.1) to require the additional statement and warning to the form decree.

The court may add any other provisions which it deems necessary.

[EXPLANATORY COMMENT—1983

See Explanatory Comment following Rule 1920.73.

EXPLANATORY COMMENT—1988

The amendment to Rule 1920.76 revises the form of divorce decree so that the court will no longer be required to list the claims as to which a final order has not been entered at the time of entry of the final divorce decree. Rather, the decree will simply state that the court retains jurisdiction over unresolved issues.]

**SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL
RULES COMMITTEE
ADOPTION REPORT**

On February 21, 2023, the Supreme Court of Pennsylvania amended Pa.R.Civ.P. 1920.76, which outlines the form of a divorce decree. Specifically, the amendment incorporates language required in Act 106 of 2022. The 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 in this Adoption Report are those of the Committee, not the Court.

The Act amends 23 Pa.C.S. § 3323(b.1) to require an order accompanying a divorce decree to include a provision informing the parties to reaffirm or change the beneficiary status on a life insurance policy, annuity contract, pension, profit sharing plan, or other contractual arrangement providing for payment to a spouse if it is the intention of one of the parties to keep or change the other party as beneficiary. The amended statute will also require warning the parties that failure to do so may result in revocation of the beneficiary designation pursuant to 20 Pa.C.S. § 6111.2, which relates to the effect of divorce or pending divorce on the designation of beneficiaries. The statute provides that this requirement shall be a form as may be prescribed by general rule. The Act becomes effective May 2, 2023.

The amendment to Pa.R.Civ.P. 1920.76 includes the operative language of the Act. Additionally, the “note” was moved to a comment at the end of the rule and the explanatory comments were removed as they are historical in nature, and they do not provide assistance to the reader in the execution of the rule.

Given the effective date of the Act and its clear language, the amendment was not published pursuant to Pa.R.J.A. 103(a)(3). The additional language added to the form decree in divorce replicated the wording of the Act, for which no wording changes are necessary.

The following text in the Explanatory Comments was removed:

EXPLANATORY COMMENT—1983

See Explanatory Comment following Rule 1920.73.

EXPLANATORY COMMENT—1988

The amendment to Rule 1920.76 revises the form of divorce decree so that the court will no longer be required to list the claims as to which a final order has not been entered at the time of entry of the final divorce decree. Rather, the decree will simply state that the court retains jurisdiction over unresolved issues.

The amendment becomes effective May 2, 2023.

[Pa.B. Doc. No. 23-282. Filed for public inspection March 3, 2023, 9:00 a.m.]

Title 249—PHILADELPHIA RULES**PHILADELPHIA COUNTY**

**Adoption of Philadelphia Court of Common Pleas
Civil Rules *1001 et. seq., *1008, and *1302;
President Judge General Court Regulation; No. 4
of 2023**

Order

And Now, this 17th day of February, 2023, the Board of Judges of Philadelphia County having voted at the Board of Judges’ meeting held on February 16, 2023, to adopt Philadelphia Court of Common Pleas Civil Rules *1001 et. seq., *1008, and *1302, as follows this Order, and, as required by Pa.R.J.A. 103, the Supreme Court Civil Procedural Rules Committee has reviewed the following local rules, has determined that Rules *1001 et. seq., *1008, and *1302 are not inconsistent with applicable statewide rules, and has authorized their promulgation.

Now, therefore, it is hereby *Ordered* and *Decreed* that Philadelphia Court of Common Pleas Civil Rules *1001 et. seq., *1008, and *1302 are adopted, as follows, effective thirty days after publication in the *Pennsylvania Bulletin*.

As required by Pa.R.J.A. 103(d), the local rule which follows this Order was submitted to the Supreme Court of Pennsylvania Civil Procedural Rules Committee for review, and written notification has been received from the Rules Committee certifying that the local rule is not inconsistent with any general rule of the Supreme Court. This Order and the following local rule shall be filed with the Office of Judicial Records (formerly the Prothonotary, Clerk of Courts and Clerk of Quarter Sessions) in a docket maintained for Administrative Orders issued by the First Judicial District of Pennsylvania. As required by Pa.R.J.A. 103(d)(5)(ii), two certified copies of this Administrative Order and the following local rule, as well as one copy of the Administrative Order and local rule shall be distributed to the Legislative Reference Bureau on a computer diskette for publication in the *Pennsylvania Bulletin*. As required by Pa.R.J.A. 103(d)(6) one certified copy of this Administrative Order and local rule shall be filed with the Administrative Office of Pennsylvania Courts, shall be published on the website of the First Judicial District at <http://www.courts.phila.gov>, and shall be incorporated in the compiled set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*. Copies of the Administrative Order and local rules shall also be published in *The Legal Intelligencer* and will be submitted to American Lawyer Media, Jenkins Memorial Law Library, and the Law Library for the First Judicial District.

By the Court

HONORABLE IDEE C. FOX,
*President Judge
Court of Common Pleas*

**Proposed Philadelphia Civil Rule *1001. General
Provisions Applicable to Municipal Court Appeals.**

The following categories of Municipal Court Orders are directly appealable to the Court of Common Pleas:

(a) *Small Claim Money Judgments*. Final orders issued by the Municipal Court in connection with (i) civil actions

pursuant to 42 Pa.C.S. § 1123(a)(4) (where the sum demanded does not exceed \$12,000); (ii) civil actions pursuant to 42 Pa.C.S. § 1123(a)(6) (where the sum demanded does not exceed \$15,000 in matters involving judgments of real estate taxes and school taxes); and (iii) code enforcement actions. The procedure for these appeals is set forth in Rule *1001.1.

(b) *Landlord-Tenant Matters.* Orders in Landlord-Tenant matters pursuant to 42 Pa.C.S. § 1123(a)(3). The procedure for these appeals is set forth in Rule *1001.2.

(c) *Supplementary Orders.* Orders granting or denying a petition to open a default judgment and any other post-judgment orders. The procedure for these appeals is set forth in Rule *1001.3.

(d) *Nuisance.* Final orders issued by the Municipal Court in connection with actions to enjoin a nuisance pursuant to 42 Pa.C.S. § 1123(a)(7) and (8). The procedure for these appeals is set forth in Rule *1001.4.

Explanatory Comment: A default judgment in Municipal Court is not directly appealable to the Court of Common Pleas.

The following words as used in these Rules shall have the meanings as set forth below:

“Appellant” is the party appealing from Municipal Court, regardless of whether the party was the Plaintiff or Defendant in the Municipal Court.

“Appellee” is the non-appealing (or opposing party) in Municipal Court, regardless of whether the party was the Plaintiff or Defendant in the Municipal Court.

“Complaint” is the pleading to be filed in the Court of Common Pleas as defined by Pa.R.Civ.P. 1017 through 1034.

“Statement of Claim” is the Municipal Court complaint, as defined in Phila.Mun.Ct. Rule 109.

Proposed Philadelphia Civil Rule *1001.1. Municipal Court Appeals—Small Claim Money Judgments (Non-Landlord-Tenant).

(a) *Small Claim Money Judgments.* Final orders issued by the Municipal Court in connection with money judgments are appealable to the Court of Common Pleas. The proceeding on appeal shall be conducted de novo—meaning that the case starts over and may proceed to a new trial—in accordance with the applicable Rules of Civil Procedures as if the action was initially commenced in the Court of Common Pleas.

(b) *Notice of Appeal.* A Notice of Appeal, substantially in the form set forth below as Attachment 1, shall be filed with the Court of Common Pleas Office of Judicial Records, within 30 days after the date of the entry of a judgment for money on the dockets of the Municipal Court.

(c) *Filing Fee.* Appellant must pay the filing fee as set forth in the Court of Common Pleas Office of Judicial Records Fee Schedule.

(d) *Supersedeas (Stay).* Notice of the filing of the Notice of Appeal will be served on the Philadelphia Municipal Court electronically by the Court of Common Pleas. Service of a copy of the Notice of Appeal on the Municipal Court operates as a supersedeas (that is, a stay of the judgment so that judgment cannot be executed) pursuant to Rule *1008.

(e) *Service.* The Notice of Appeal shall be served on the Appellee (opposing party) as provided by the rules applicable to service of original process in Philadelphia County, as set forth in Pa.R.Civ.P. 400.1.

(f) *Return of Service.* The Appellant must file a return of service (proof of service) as required by Pa.R.Civ.P. 405, and substantially in the form set forth in Attachment 2.

(g) *Pleadings and Legal Papers.*

(1) If the Appellant was the Plaintiff in the action before the Municipal Court, they shall file a Complaint within twenty (20) days after filing the Notice of Appeal.

(2) If the Appellant was the Defendant in the action before the Municipal Court, they shall file with the Notice of Appeal a Praecipe requesting the Court of Common Pleas Office of Judicial Records to enter a rule as of course upon the Appellee to file a Complaint within twenty (20) days after service of the rule or suffer entry of a judgment of non-pros (that is, a dismissal for failure to prosecute).

(3) When the Municipal Court has entered judgments in favor of both the Plaintiff and Defendant:

(i) If the Appellant appeals on both judgments, the Appellee may assert their claim in the Court of Common Pleas by pleading it as a Counterclaim, if allowed under Pa.R.Civ.P. 1031 (pertaining to Counterclaims).

(ii) If the Appellant appeals only from the judgment on their Statement of Claim in Municipal Court, the Appellee may file their own appeal from the judgment on their Statement of Claim in Municipal Court at any time within thirty (30) days after the date on which the Appellant served a copy of their Notice of Appeal upon the Appellee.

Explanatory Note: Pa.R.C.P.M.D.J. 1004 is the source of section (g).

(4) All legal papers and proceedings that follow shall comply with the Rules of Civil Procedures that would be applicable if the action had been commenced in the Court of Common Pleas.

(h) *Hearing or Trial.* Appeals filed pursuant to Rule *1001.1 shall be scheduled for a hearing at the Arbitration Center, and the case shall proceed as an “Arbitration” Case Type (See also Pa.R.Civ.P. 1301, et seq.)

Proposed Philadelphia Civil Rule *1001.2. Municipal Court Appeals—Landlord-Tenant Cases.

(a) *Landlord-Tenant Matters.* Final orders issued by the Municipal Court in connection with Landlord-Tenant orders pursuant to 42 Pa.C.S. § 1123(a)(3), are appealable to the Court of Common Pleas. The proceeding on appeal shall be conducted de novo—meaning that the case starts over and may proceed to a new trial—in accordance with the applicable Rules of Civil Procedures as if the action was initially commenced in the Court of Common Pleas.

(b) *Notice of Appeal.* A Notice of Appeal, substantially in the form set forth below as Attachment 1, shall be filed with the Court of Common Pleas Office of Judicial Records, within the time periods set forth below:

(1) *Residential lease, possession:* Within ten (10) days after the date of the entry of a judgment of possession of

real property on the Municipal Court docket, if the appeal is for possession of real property only or for both possession and money judgment arising out of a residential lease.

(2) *Residential lease, money judgment*: Within thirty (30) days after the date of the entry of a judgment on Municipal Court dockets, if the appeal is money judgment only arising out of a residential lease. Notice of the filing of the Notice of Appeal will be served on the Philadelphia Municipal Court electronically by the Civil Electronic Filing System. Service of a copy of the Notice of Appeal on the Municipal Court operates as a supersedeas (stay of the judgment so that judgment cannot be executed) pursuant to Rule *1008.

(3) *Non-Residential/Commercial lease*: Within 30 days after the date of the entry on the dockets of the Municipal Court of judgment for money, or a judgment for possession of real property arising out of a Non-Residential or Commercial lease.

(c) *Filing Fee*. Appellant must pay the filing fee as established by the Court of Common Pleas Office of Judicial Records.

(d) *Supersedeas (Stay)*. If a judgment is for possession in an appeal involving a residential or nonresidential lease, discussed in (b)(1) and (b)(3) above, Appellant must continue to satisfy all supersedeas requirements (see Rule *1008) for possession while the case is pending in the Court of Common Pleas, unless otherwise directed by Court Order.

If a judgment is for money only, discussed in (b)(2) above, service of a copy of the Notice of Appeal on the Municipal Court operates as a supersedeas (stay of the judgment so that judgment cannot be executed) pursuant to Rule *1008.

(e) *Service*. The Notice of Appeal shall be served on the Appellee as provided by the rules applicable to service of original process in Philadelphia County, as set forth in Pa.R.Civ.P. 400.1. Notice of the filing of the Notice of Appeal will be served on the Philadelphia Municipal Court electronically.

(f) *Return of Service*. The Appellant must file a return of service (proof of service) as required by Pa.R.Civ.P. 405, and substantially in the form set forth in Attachment 2.

(g) *Pleadings and Legal Papers*.

(1) A Municipal Court Plaintiff who appeals a judgment shall file a Complaint within twenty (20) days after filing the Notice of Appeal.

(2) A Municipal Court Defendant who appeals a judgment shall file with the Notice of Appeal a Praecipe requesting the Court of Common Pleas Office of Judicial Records to enter a rule as of course upon the Appellee to file a Complaint within twenty (20) days after service of the rule or suffer entry of a judgment of non-pros.

(3) When the Municipal Court has entered judgments in favor of both the Plaintiff and Defendant:

(i) If the Appellant appeals on both judgments, the Appellee may assert their claim in the Court of Common Pleas by pleading it as a Counterclaim, if allowed under Pa.R.Civ.P. 1031 (pertaining to Counterclaims).

(ii) If the Appellant appeals only from the judgment on their Statement of Claim in Municipal Court, the Appellee may file their own appeal from the judgment on their Statement of Claim in Municipal Court at any time within thirty (30) days after the date on which the Appellant served a copy of their Notice of Appeal upon the Appellee.

Explanatory Note: Pa.R.C.P.M.D.J. 1004 is the source of section (g).

(4) All legal papers and proceedings that follow shall comply with the Rules of Civil Procedures that would be applicable if the action had been commenced in the Court of Common Pleas.

Proposed Philadelphia Civil Rule *1001.3. Municipal Court Appeals—Supplementary Orders.

(a) *Supplementary Orders*. Orders granting or denying a Petition to Open a Default Judgment, and any other post-judgment orders, are appealable to the Court of Common Pleas, but the appeal is limited to a review of the record related to the Petition, not the merits of the underlying case.

(b) *Notice of Appeal*. A Notice of Appeal shall be filed with the Court of Common Pleas Office of Judicial Records, within 30 days after the date of the entry of the order on the dockets of the Municipal Court. See Attachment 1.

(c) *Filing Fee*. Appellant must pay the filing fee as established by the Court of Common Pleas Office of Judicial Records.

(d) *Supersedeas*. Notice of the filing of the Notice of Appeal will be served on the Philadelphia Municipal Court electronically by the Court of Common Pleas. Service of a copy of the Notice of Appeal on the Municipal Court does not operate as a stay of the judgment (supersedeas).

(e) *Service*. The Notice of Appeal shall be served on the opposing party in Municipal Court (Appellee) as provided by the rules applicable to service of original process in Philadelphia County, as set forth in Pa.R.Civ.P. 400.1.

(f) *Return of Service*. The Appellant must file a return of service (proof of service) as required by Pa.R.Civ.P. 405, and substantially in the form set forth in Attachment 2.

(g) *Pleadings and Legal Papers*.

1. Within twenty (20) days of the filing of the Notice of Appeal, the Appellant must file a motion with the Court of Common Pleas Office of Judicial Records setting forth the relief requested, and shall attach:

(i) a copy of the Statement of Claim which initiated the case in the Municipal Court;

(ii) the stenographic record of the proceeding before the Municipal Court, if available, or proof that transcription of the stenographic record has been ordered; and

(iii) all other documents which may enable the Court to decide the issue presented.

2. All legal papers and proceedings that follow shall comply with the Rules of Civil Procedures that would be applicable if the action being appealed was initially commenced in the Court of Common Pleas.

(h) *Hearing or Trial.* Appeals from Supplementary Orders pursuant to Rule *1001.3 shall proceed as motions, pursuant to Pa.R.Civ.P. 208.1 et seq. and Phila.Civ.R. *208.2(c) et seq. The appeal shall be limited to a determination by the Court of Common Pleas whether the Municipal Court committed an error of law or abused its discretion in ruling upon the petition or motion which is the subject of the appeal. Upon issuance of a dispositive order by the Court of Common Pleas, the action may be remanded to the Municipal Court for further processing consistent with the order.

Proposed Philadelphia Civil Rule *1001.4. Municipal Court Appeals—Actions to Enjoin a Nuisance.

(a) *Nuisance.* Final orders issued by the Municipal Court in connection with actions to enjoin a nuisance pursuant to 42 Pa.C.S. § 1123(a)(7) and (8) are appealable to the Court of Common Pleas, but the appeal is limited to a review of the record.

Note: 42 Pa.C.S. § 1123(a.1) provides that contempt orders issued in connection with nuisance actions shall be heard by the Superior Court of Pennsylvania.

(b) *Notice of Appeal.* A Notice of Appeal, substantially in the form set forth below as Attachment 1, shall be filed with the Court of Common Pleas Office of Judicial Records, within 30 days after the date of the entry of the order on the dockets of the Municipal Court.

(c) *Filing Fee.* Appellant must pay the filing fee as established by the Court of Common Pleas Office of Judicial Records.

(d) *Supersedeas (Stay).* Notice of the filing of the Notice of Appeal will be served on the Philadelphia Municipal Court electronically by the Court of Common Pleas. Service of a copy of the Notice of Appeal on the Municipal Court operates as a supersedeas (stay of the judgment so that judgment cannot be executed) pursuant to Rule *1008.

(e) *Service.* The Notice of Appeal shall be served on the opposing party in Municipal Court (Appellee) as provided by the rules applicable to service of original process in Philadelphia County, as set forth in Pa.R.Civ.P. 400.1.

(f) *Return of Service.* The Appellant must file a return of service (proof of service) as required by Pa.R.Civ.P. 405, and substantially in the form set forth in Attachment 2.

(g) *Pleadings and Legal Papers.*

(1) Within twenty (20) days of the filing of the Notice of Appeal, the Appellant must file a motion with the Court of Common Pleas Office of Judicial Records setting forth the relief requested, and shall attach:

- i. a copy of the Statement of Claim which initiated the case in the Municipal Court;
- ii. the stenographic record of the proceeding before the Municipal Court, if available, or proof that transcription of the stenographic record has been ordered; and
- iii. all other documents which may enable the Court to decide the issue presented.

(2) All legal papers and proceedings that follow shall comply with the Rules of Civil Procedures that would be applicable if the action being appealed was initially commenced in the Court of Common Pleas.

(h) *Hearing or Trial.* Appeals filed pursuant to Rule *1001.4 to enjoin a nuisance shall proceed as motions, pursuant to Pa.R.Civ.P. 208.1 et seq. and Phila.Civ.R. *208.2(c) et seq. The appeal shall be limited to a determination by the Court of Common Pleas whether the Municipal Court committed an error of law or abused its discretion in ruling upon the petition or motion which is the subject of the appeal. Upon issuance of a dispositive order by the Court of Common Pleas, the action may be remanded to the Municipal Court for further processing consistent with the order.

Proposed Philadelphia Civil Rule *1001.5. Striking Appeals.

(a) The Court of Common Pleas Office of Judicial Records may, upon presentation of a Praecipe by the moving party, strike any appeal from Municipal Court in Rules 1001(1—4):

(1) Upon failure of the Appellant, who was the Plaintiff in the Municipal Court action, to file a Complaint within twenty (20) days of the filing of the appeal as required by Rule 1001.1(g)(1) or Rule 1001.2(g)(1).

(2) Upon the failure of the Appellant, who was the Defendant in the Municipal Court action, to file a Rule as required by Rule 1001.1(g)(2) or Rule 1001.2(g)(2).

(3) Upon the failure of an Appellant to file a motion as required by Rule 1001.3(g)(1) or Rule 1001.4(g)(1).

(b) Appellant may file a motion to reinstate the appeal. The Court of Common Pleas may grant the relief either with or without a hearing, upon good cause shown.

Attachment 1

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

	:	_____ TERM, 200 ____
Plaintiff,	:	
	:	NO. _____
v.	:	
	:	
Defendant.	:	_____
		<input type="checkbox"/> S.C. Number <input type="checkbox"/> CE Number <input type="checkbox"/> LT Number Check One

THE COURTS

NOTICE OF APPEAL

Municipal Court

_____, who was [] the plaintiff [] the defendant in the Municipal Court action referenced above, files this Notice of Appeal of the Municipal Court's order which was entered on the dockets of the Municipal Court on _____ as follows:

- [] Small Claim Money Judgment, *Rule 1001.1 only (30 days)
[] Landlord-Tenant, residential lease, money judgment only, *Rule 1001.2 (30 days)
[] Landlord-Tenant, residential lease: possession only or possession and money judgment, *Rule 1001.2 (10 days)
[] Supersedeas is requested [] Supersedeas is not requested
[] Landlord-Tenant, non-residential lease, possession or possession and money judgment, Rule *1001.2 (30 days)
[] Supplementary Order, *Rule 1001.3 only (30 days)
[] Action to Enjoin a Nuisance, *Rule 1001.4 only (30 days)

Date: _____

Signature
Address
City State Zip Code

Attachment 2

IN THE COURT OF COMMON PLEAS PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION - CIVIL

Plaintiff :
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v. :
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:
Defendant :

RETURN OF SERVICE/AFFIDAVIT

I, _____, hereby certify that I served a true and correct copy of the Complaint / Notice of Appeal / Rule on _____, (Insert Name of Party)

1) By handing a copy to the Defendant / Appellee, _____, on the _____ day of _____, 20____, at _____ AM/PM, at _____, Philadelphia, PA. /Or,

2) By handing a copy to _____, an adult member of the family/adult person in charge of Defendant's / Appellee's residence, on the _____ day of _____, 20____, at _____ AM/PM, at _____, Philadelphia, PA.

I verify that the statements in this Return of Service are true and correct. I further verify that I am an adult over the age of 18 and not related to any party in this action. I understand that this unsworn document contains statements that are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Sworn to and Affirmed
This day 20

Notary Public
(SEAL)

(Sign)
(Print Name)

Philadelphia Civil Rule *1008. Municipal Court Appeals as Supersedeas.

(A) General Rule. Except as provided in section (B), (C) and (D) below, service of a copy of the Notice of Appeal on the Municipal Court through the Court's electronic filing

system operates as a supersedeas. A supersedeas as used in this Rule is a stay of the judgment (so that judgment cannot be executed) in Municipal Court.

(B) Supersedeas in Appeals of Judgments of Possession of Real Property Pursuant to Commercial/Non-Residential Leases (Pursuant to Local Rule 1001.2(b)(3)). When the

appeal is from a judgment for possession of real property pursuant to a non-residential lease, receipt by the Municipal Court of a copy of the Notice of Appeal shall operate as a supersedeas only if the appellant/tenant:

(1) At the time of the filing of the Notice of Appeal, pays into an escrow account with the Office of Judicial Records a sum of money (or a bond, with surety approved by the Office of Judicial Records) equal to the lesser of (i) three months' rent or (ii) the rent actually owed on the date of the filing of the Notice of Appeal, based on the Municipal Court judgment; and

(2) The appellant/tenant makes monthly deposits with the Office of Judicial Records in an amount equal to the monthly rent which becomes due while the appeal is pending in the Court of Common Pleas. The additional deposits shall be made within thirty (30) days following the date of the filing of the Notice of Appeal, and every thirty (30) days thereafter.

(C) *Supersedeas in Appeals of Judgments of Possession of Real Property Pursuant to Residential Leases.* (Pursuant to Local Rule 1001.2(b)(1)). When the appeal is from a judgment for possession of real property pursuant to a residential lease, and there is no allegation that the Appellant (tenant) qualifies for low income supersedeas pursuant to Section (d) of this Rule, receipt by the Municipal Court of a copy of the Notice of Appeal shall operate as a supersedeas only if the appellant/tenant:

(1) At the time the filing of the Notice of Appeal pays into an escrow account with the Office of Judicial Records a sum of money (or a bond, with surety approved by the Office of Judicial Records) equal to the lesser of (i) three months' rent or (ii) the rent actually owed on the date of the filing of the Notice of Appeal, based on the Municipal Court judgment; and

(2) The appellant/tenant makes monthly deposits with the Office of Judicial Records in an amount equal to the monthly rent which becomes due while the appeal is pending in the Court of Common Pleas. The additional deposits shall be made within thirty (30) days following the date of the filing of the Notice of Appeal, and every thirty (30) days thereafter.

(D) *Supersedeas for Qualifying Low Income Tenants in Appeals of Judgments of Possession of Real Property Pursuant to Residential Leases.* When the appeal is from a judgment for possession of real property pursuant to a residential lease, and the Appellant (tenant) is a qualifying low income tenant and does not have the ability to pay the lesser of three months' rent or the full amount of the Municipal Court judgment for rent, receipt by the Municipal Court of a copy of the Notice of Appeal shall operate as a supersedeas only if the Appellant (tenant):

(1) Files with the Office of Judicial Records an In Forma Pauperis Petition requesting to waive the filing fees.

(2) Files with the Office of Judicial Records, as applicable, either a Tenant's Supersedeas Affidavit (Non-Section 8), substantially in the form set forth below as Attachment 1, or Section 8 Tenant's Supersedeas Affidavit, substantially in the form set forth below as Attachment 2.

(3) *Payment Amounts*

(a) If the rent has already been paid to the landlord in the month in which the Notice of Appeal is filed, the Appellant (tenant) shall pay into an escrow account with the Office of Judicial Records the monthly rent in thirty

(30) day intervals from the date the notice of appeal was filed, and each successive thirty (30) day period thereafter; or

(b) If the rent has not been paid at the time of filing the Notice of Appeal, the tenant shall pay:

(i) at the time of filing the Notice of Appeal, a sum of money equal to one third (1/3) of the monthly rent;

(ii) an additional deposit of two thirds (2/3) of the monthly rent within twenty (20) days of filing the Notice of Appeal; and

(iii) an additional deposit of one month's rent within thirty (30) days after filing the Notice of Appeal, and each successive thirty (30) day period thereafter. The amount of the monthly rent is the sum of money found by the Municipal Court to constitute the monthly rental for the leasehold premises. When the tenant is a participant in the Section 8 program, however, the tenant shall only pay the tenant share of the rent as set forth in the "Section 8 Tenant's Supersedeas Affidavit" filed by the tenant.

(c) The Office of Judicial Records shall provide residential tenants who have suffered a judgment for possession with "Supplemental Instructions for Obtaining a Stay of Eviction" as it appears on the website of the Philadelphia Court of Common Pleas at www.courts.phila.gov.

Note: The Supplemental Instructions include both Instructions and Income Limits. The Income Limits are stated in monthly amounts.

(E) *Issuance of Supersedeas by Office of Judicial Records.* When the requirements of Sections (e)(1) and (e)(2) of this Rule have been met, the Office of Judicial Records shall issue a supersedeas.

(F) *Release of Escrow During Pendency of Appeal.* Upon application by the landlord, the Court of Common Pleas shall release appropriate sums from the escrow account on a continuing basis while the appeal is pending to compensate the landlord for the tenant's actual possession and use of the premises during the pendency of the appeal.

(G) *Termination of Supersedeas.*

(1) If the tenant fails to make regular rent payments to the Office of Judicial Records as described in paragraphs (B), (C) or (D), the supersedeas may be terminated by the Office of Judicial Records upon praecept by the landlord or other party to the action. A copy of the court order terminating the supersedeas shall be forwarded (i) by first class mail to attorneys of record and the Civil Electronic Filing System, or, if a party is unrepresented, mailed to the party's last known address of record; (ii) served on the Philadelphia Municipal Court electronically by the Civil Electronic Filing System. The landlord may not obtain a writ of possession from the Municipal Court until ten (10) days after the supersedeas is terminated.

(2) If the Court of Common Pleas determines, upon written motion or its own motion, that the averments within any of the tenant's affidavits do not establish that the tenant meets the terms and conditions for issuance of a supersedeas pursuant to paragraph (D)(2) of this Rule, the Court may terminate the supersedeas. A copy of the court order terminating the supersedeas shall be forwarded (i) by first class mail to attorneys of record, or, if a party is unrepresented, mailed to the party's last known address of record; (ii) served on the Philadelphia Municipal Court electronically. The landlord may not obtain a writ of possession from the Municipal Court until ten (10) days after the supersedeas is terminated.

(H) Release of Escrow at Conclusion of Appeal. If an appeal is stricken or voluntarily terminated, any supersedeas based on the appeal shall terminate. Upon

application by the landlord, the Court of Common Pleas shall release appropriate sums from the escrow account after Judicial approval.

Attachment 1

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

Plaintiff, : _____ TERM, 200 ___
:
: NO. _____
v. :
:
Defendant. : _____
Landlord-Tenant Number

TENANT'S SUPERSEDEAS AFFIDAVIT (NON-SECTION 8)

I, _____
PRINT NAME AND ADDRESS HERE

have filed a Notice of Appeal from a Municipal Court judgment awarding to my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the judgment for rent awarded by the Municipal Court. My total household income does not exceed the income guidelines set forth in the supplemental instructions for obtaining a stay pending appeal and I have completed an In Forma Pauperis (IFP) petition to verify this.

Check one: [] I have paid the rent this month. [] I have not paid the rent this month.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties in 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

DATE: _____ SIGNATURE OF APPELLANT

Attachment 2

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

Plaintiff, : _____ TERM, 200 ___
:
: NO. _____
v. :
:
Defendant. : _____
Landlord-Tenant Number

SECTION 8 TENANT'S SUPERSEDEAS AFFIDAVIT

I, _____
PRINT NAME AND ADDRESS HERE

have filed a Notice of Appeal from a Municipal Court judgment awarding to my landlord possession of real property that I occupy, and I do not have the financial ability to pay the lesser of three (3) times my monthly rent or the actual rent in arrears. My total household income does not exceed the income guidelines set forth in the supplemental instruction for obtaining a stay pending appeal and I have completed an In Forma Pauperis (IFP) petition to verify this.

Check one: [] I have paid the rent this month. [] I have not paid the rent this month.

The total amount of monthly rent that I personally pay to the landlord is \$ _____. I hereby certify that I am a participant in the Section 8 program and I am not subject to a final (i.e. non-appealable) decision of a court or government agency which terminates my right to receive Section 8 assistance based on my failure to comply with program rules.

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

DATE: _____

SIGNATURE OF APPELLANT

Rule *1302. Appointment of Arbitrators. Qualifications. Disqualification.

(a) The Director of the Arbitration Center shall maintain an Arbitrator List of attorneys who have been deemed to be qualified to sit as Arbitrators in the Compulsory Arbitration Program of the Court of Common Pleas of Philadelphia County.

(b) Minimum criteria for qualification includes membership of the Bar of the Supreme Court of Pennsylvania, active practice of law for a minimum of one year subsequent to admission to the Bar of the Supreme Court of Pennsylvania for panelists and five years for Chairpersons, maintenance of an office in Philadelphia County, attendance of a court-approved arbitration seminar and trial of a civil case in any forum in the Commonwealth of Pennsylvania. The Director of the Arbitration Program shall make available an Application for Initial Certification as Arbitration Panelist form, substantially in the form set forth hereunder, requiring the necessary information for determination of qualifications.

See www.courts.phila.gov/forms for the current version of the Application for Initial Certification as Arbitration Panelist.

(c) Attorneys not currently enrolled on the Arbitration List may request to be included thereon by completing the Court supplied Application Form.

(d) The Director of the Arbitration Center from the Court-approved Arbitration List panelists and chairperson for assignment.

(e) Arbitrators no longer maintaining an office in Philadelphia County are required to promptly advise the Director of the Arbitration Center in writing.

(f) The Director of the Arbitration Center may, from time to time, strike the name of an attorney from the Arbitrator List in accordance with this rule.

(g) An issue concerning disqualification of an Arbitrator from a particular case shall first be raised with the Arbitration Panel and, if appropriate, with the Director of the Arbitration Center.

Note: Amended May 18, 1995, effective July 17, 1995. Amended May 15, 2014, effective July 6, 2014, Amended February 17, 2023.

[Pa.B. Doc. No. 23-283. Filed for public inspection March 3, 2023, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Adoption of Philadelphia Court of Common Pleas Orphans' Court Rules 3.5A, 5.50A and 14.2A; President Judge General Court Regulation; No. 3 of 2023

Order

And Now, this 17th day of February, 2023, the Board of Judges of Philadelphia County having voted at the Board of Judges' meeting held on February 16, 2023, to adopt Phila.O.C. Rule 3.5A, 5.50A and Phila.O.C. Rule 14.2A, as follows this Order, and as required by Pa.R.J.A. 103, the Supreme Court Procedural Rules Committee has reviewed the following local rules, has determined that Phila.O.C. Rule 3.5A, Phila.O.C. Rule 5.50A and Phila.O.C. Rule 14.2A are not inconsistent with applicable statewide rules, and has authorized their promulgation.

Now, therefore, it is hereby *Ordered* and *Decreed* that Philadelphia Court of Common Pleas Orphans' Court Rules are adopted, as follows, effective thirty days after publication in the *Pennsylvania Bulletin*.

As required by Pa.R.J.A. 103(d), the local rule which follows this Order was submitted to the Supreme Court of Pennsylvania Orphans' Court Procedural Rules Committee for review, and written notification has been received from the Rules Committee certifying that the local rule is not inconsistent with any general rule of the Supreme

Court. This Order and the following local rule shall be filed with the Office of Judicial Records (formerly the Prothonotary, Clerk of Courts and Clerk of Quarter Sessions) in a docket maintained for Administrative Orders issued by the First Judicial District of Pennsylvania. As required by Pa.R.J.A. 103(d)(5)(ii), two certified copies of this Administrative Order and the following local rule, as well as one copy of the Administrative Order and local rule shall be distributed to the Legislative Reference Bureau on a computer diskette for publication in the *Pennsylvania Bulletin*. As required by Pa.R.J.A. 103(d)(6) one certified copy of this Administrative Order and local rule shall be filed with the Administrative Office of Pennsylvania Courts, shall be published on the website of the First Judicial District at <http://www.courts.phila.gov>, and shall be incorporated in the compiled set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*. Copies of the Administrative Order and local rules shall also be published in *The Legal Intelligencer* and will be submitted to American Lawyer Media, Jenkins Memorial Law Library, and the Law Library for the First Judicial District.

HONORABLE IDEE C. FOX,
President Judge
Court of Common Pleas

Rule 3.5A. Procedure for Determination when No Response is Filed to a Petition under Pa.R.O.C.P. 3.5(a) or 3.5(b).

(1) When a party to whom a citation issued under Pa.R.O.C.P. 3.5(a), or to whom a petition with notice

under 3.5(b) is directed, has not filed an answer or preliminary objection within the response time provided by law, the petitioner may file a praecipe for an order or decree, which shall include:

- (a) A proposed form of order or decree;
- (b) A concise explanation of the procedural posture of the matter identifying the pleading to be disposed of; and
- (c) Specific averments as to the exact nature of service of the underlying petition, and a copy of the appropriate certification or proof of service.

(2) The party filing a praecipe for an order or decree must serve all interested parties with the praecipe according to the provisions of Pa.R.O.C.P. 4.3 no later than the date that the praecipe is filed, and shall attach a certificate of service listing the names and addresses of those individuals and entities who were served with the praecipe, and by what means they were served.

(3) Upon receipt of a praecipe for an order or decree, the Court may issue an order or decree granting any of the following relief:

- (a) A hearing;
- (b) An off-the-record or on-the-record conference;
- (c) Disposition on the pleadings already of record; or
- (d) Such other relief as is appropriate.

(4) Upon issuance of an order or decree described hereunder, the party requesting the order or decree shall serve the order or decree on the party to whom the citation or petition with notice was directed according to the provisions of Pa.R.O.C.P. 4.3, and shall file of record a certification of service within 10 days of the date of the order or decree, listing the names and addresses of those individuals and entities who were served, and by what means they were served.

(5) A party to whom an order or decree described hereunder is directed may, within 20 days of the entry of such an order or decree, file a petition to vacate the order or decree. This petition shall include:

- (a) A concise explanation of why no timely answer, preliminary objection, or other response was filed; and
- (b) The answer, preliminary objection, or other response which the party seeks leave to file.

Upon review of such a petition and for cause shown, the Court may vacate the order or decree, and permit an appropriate responsive pleading to be filed within such time as it shall determine.

Probate Section Comment: The period for filing an appeal is not tolled by the filing of a petition to vacate an order or decree unless the Court grants the petition to vacate before the expiration of the appeal period. Nothing herein precludes the Court from entering appropriate relief after the response time provided by law has expired if no praecipe for an order or decree is filed. This Rule does not apply to Petitions for Adjudication of Incapacity and Appointment of a Guardian of the Person or Estate of an Incapacitated Person.

Rule 5.50A. Settlement of Small Estates by Petition.

(1) In addition to the requirements set forth under Pa.R.O.C.P. 5.50(b), a petition for the settlement of a small estate filed pursuant to 20 Pa.C.S. § 3102 shall also set forth:

(a) If Letters of Administration or Letters Testamentary were granted, where, to whom, and when they were granted, and the amount of bond, if any, given by the personal representative;

(b) A prayer for the discharge of the personal representative and the release of any bond or surety given.

(2) In addition to the exhibits required under Pa.R.O.C.P. 5.50(c), the following exhibits shall also be attached to the petition:

(a) A copy of the Letters of Administration or Letters Testamentary, if any, that were granted; and

(b) A proposed decree setting forth a list of all disbursements and distributions of the assets of the estate and, in appropriate cases, for the discharge of the personal representative and the release of any bond or surety.

(3) No appraisal of the decedent's personal property is required, unless ordered by the Court.

Probate Section Comment: This rule replaces Phila.O.C. Rule 5.16A.

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

(1) *Petition Contents.* When the petitioner avers, as required by Pa.R.O.C.P. 14.2(a)(6), (7) and (8), the existence of an executed health care power of attorney or advance health care directive, or an executed power of attorney, or any other writing by the alleged incapacitated person pursuant to Title 20, Chapters 54, 56 or 58, the petition shall state the position of the Petitioner as to the continuation of the duties of the agent identified under such document(s).

(2) *Exhibits.*

(a) A Preliminary Decree and a Final Decree, as set forth in the Appendix maintained pursuant to Phila.O.C. Rule 1.8(c), shall be attached to the face of a petition for adjudication of incapacity.

(b) *Consent of Proposed Guardian.* The signed written consent of the proposed guardian to act as guardian, as set forth in the Appendix maintained pursuant to Phila.O.C. Rule 1.8(c), shall be attached to the petition.

(3) *Emergency Guardians.*

(a) *Appointment.* The Court, upon petition and hearing at which clear and convincing evidence is shown, may appoint an emergency guardian or guardians of the person and the estate of an alleged incapacitated person when it appears that the person lacks capacity, is in need of a guardian and a failure to make such appointment would result in irreparable harm to the person or estate of the alleged incapacitated person. The Court may also appoint an emergency guardian of the person pursuant to 20 Pa.C.S. § 5513, for an alleged incapacitated person who is present in this Commonwealth but is domiciled outside the Commonwealth, regardless of whether he or she has property in this Commonwealth.

(b) *Applicability of Other Provisions.* The provisions of 20 Pa.C.S. § 5511, including those relating to counsel, shall be applicable to such proceedings, except when the Court has found such provisions to be impractical.

(c) *Duration of Emergency Guardianship.*

(i) *Person.* An emergency order appointing an emergency guardian of the person may be in effect for up to seventy-two (72) hours. If the emergency continues, the emergency order may be extended for no more than twenty (20) days from the expiration of the initial emergency order, upon application to the Court.

(ii) *Estate.* The duration of an emergency order appointing an emergency guardian of the estate shall not exceed thirty (30) days.

(iii) If continuing guardianship of person or estate is necessary, a full guardianship proceeding must be instituted pursuant to 20 Pa.C.S. § 5511 during or after the expiration of the period of the emergency order or any extension.

(iv) The use of an expert report or deposition testimony in lieu of live in-person testimony in emergency guardianship proceedings must be specifically authorized by the court. The use of telephonic live testimony is left to the discretion of the court.

(4) *Citation with Notice.*

(a) *Issuance of Citation.* Upon the issuance of a citation following the granting of a preliminary decree to a petition for adjudication of incapacity, Petitioner or their designee shall pick up the original citation from the Clerk in person, or contact the Clerk to request another arrangement. Such requests may or may not be honored, at the discretion of the Clerk.

(b) *Alias Citation.* If the original citation was not personally served on the alleged incapacitated person at least twenty (20) days prior to the scheduled hearing date, the Court upon request may issue an alias citation. The Alias Citation must be served on the alleged incapacitated person at least twenty (20) days prior to the newly scheduled hearing date, in the same manner as the original citation.

Note: An Alias Citation is not required if the original citation has been timely served on the alleged incapacitated person and a continuance is requested from the originally scheduled hearing date.

Probate Section Comment: 20 Pa.C.S. § 5512.1 elaborates the basis upon which the Court shall make a finding of incapacity. The description and the steps taken to find less restrictive alternatives must include sufficient information to satisfy the requirements of 20 Pa.C.S. § 5518. 20 Pa.C.S. § 5511 establishes that the Court may adjudicate an individual incapacitated and appoint a guardian only upon petition and hearing and upon the presentation of clear and convincing evidence. If the alleged incapacitated person is in a hospital, nursing home or other institution, service must be made upon an attorney or authorized personnel of the institution and notice of the hearing should be given to the director or other authorized official of such facility. If the alleged incapacitated person is a veteran, notice of the hearing must be given to the Veterans' Administration. A shorter time period for service may be permitted in connection with petitions for the appointment of an emergency guardian.

[Pa.B. Doc. No. 23-284. Filed for public inspection March 3, 2023, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Objections to Nomination Petitions—Primary Election, May 16, 2023; Administrative Order No. 2 of 2023

Order

And Now, this 16th day of February, 2023, *It Is Hereby Ordered, Adjudged and Decreed* that as required by 25 P.S. § 2937, any petition raising objections to Nomination Petitions of candidates for the May 16, 2023 Primary Election shall be filed, scheduled and disposed as follows:

(1) the Petition to Set Aside Nomination Petition (hereinafter "Petition"), substantially in the form set forth as follows, and Exhibits must be filed with the Office of Judicial Records (formerly the "Prothonotary") no later than 5:00 PM on March 14, 2023. The Order to Show Cause and the Proposed Order will be generated by the Court's case management system and the Petitioner need not file either document with the Petition.

(2) The Petition shall specify objections to individual signature lines in nomination petitions and these shall be set forth in an Excel or other similar spreadsheet format. Objector may use the downloadable spreadsheet provided on the Court's website at: www.courts.phila.gov/forms. Spreadsheet columns shall include, for each challenged signature line: page number, line number, county, and the reason or reasons for each challenge. The spreadsheet shall designate the grounds for challenge by codes, as follows:

NR = Not Registered
 NRA = Not Registered at Address
 NRDS = Not Registered on Date Signed
 NRD = Not Registered Division
 Ill = Illegible
 LIO = Line Information Omitted
 DUP = Duplicate
 IHA = Line Information in Hand of Another
 N/I = Nickname/Initial
 PRI = Printed Signature
 DCA = Defective Circulator Statement
 Other = Any ground for objection not previously listed

(3) The Petition shall clearly state the number of signature lines challenged as well as the total number of completed signature lines on the face of the nomination petitions or papers. Any other challenges, e.g., to circulator affidavits, candidate affidavits, etc., must be clearly and separately stated in the Petition.

(4) The Office of Judicial Records will be open on March 14, 2023 from 8:30 AM to 5:00 PM. Petitions raising Objections to Nomination Petitions must be filed no later than 5:00 PM. The Petitions must be electronically filed at: <https://fjdefile.phila.gov/>. However, Petitioners who are unable to file their Petitions electronically may file in-person in Room 262 City Hall. The Office of Judicial Records shall close at precisely 5:00 P.M. on March 14, 2023. The Petition of any party of counsel who was in line at the Office of Judicial Records before 5:00 P.M. will be time-stamped as having been received at 5:00 PM and the Office of Judicial Records shall continue to process their Petitions which, consistent with prior practice, shall be deemed to have been timely filed even if processed after 5:00 P.M.

(5) Once the Petition has been filed with the Office of Judicial Records, an Order to Show Cause shall be issued scheduling a hearing date for March 17, 2023. The Order to Show Cause shall be in the format as follows.

(6) A copy of the Petition and Order to Show Cause must be served by the Petitioner on the Philadelphia County Board of Elections, Room 142 City Hall, Philadelphia, PA or on a representative of the Board of Elections stationed in 262, no later than March 14, 2023 by 5:00 PM.

(7) A copy of the Petition and Order to Show Cause must be served by the Petitioner on the Candidate no later than March 16, 2023 at 4:00 PM. Service may be accomplished by any of the following methods:

- (i) personal service on the Candidate;
- (ii) personal service on any adult person at the Candidate's residence address as shown on the Candidate's affidavit; or
- (iii) by delivery by nationally recognized overnight service to the Candidate's residence address shown as the Candidate's affidavit provided that:

(A) delivery is attempted before March 16, 2023, at 4 P.M., and

(B) the package be sent with instructions to leave the Service Packet at said address if no one answers the door.

(8) The petitioner shall file before the hearing or bring to the hearing an Affidavit of Service indicating the date and time of service of the Petition and of the Order to Show Cause. The Affidavit of Service shall be in the format as follows;

(9) The Court may reschedule the hearing for good cause, including inability to serve the petition or Order to

Show Cause. The hearing must be concluded and a final order issued no later than March 21, 2023. The final order shall be in the format as follows;

(10) The following judge is assigned to preside over Challenges to Nominating Petitions on Friday, March 17, and continue if necessary on Monday, March 20, and Tuesday, March 21.

Honorable Joshua Roberts

An additional judge will be available if necessary. Hearings on Friday March 17 will take place in Courtroom 446 City Hall, Pennsylvania with court reporter assigned to transcribe the proceedings. Sheriffs are to be provided during these sessions; and

(11) Copies of the forms referenced in this Order shall be available on the Court's website at www.courts.phila.gov/forms.

This Administrative Order shall become effective immediately. The original Administrative Order shall be filed with the Office of Judicial Records in a docket maintained for Administrative Orders issued by the President Judge of the Court of Common Pleas, and copies shall be submitted to the Administrative Office of Pennsylvania Courts, and to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. Copies of the Administrative Order will be provided to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Library and the Law Library for the First Judicial District, and shall be posted on the website of the First Judicial District of Pennsylvania: <http://courts.phila.gov>.

By the Court

HONORABLE IDEE C. FOX,
President Judge
Court of Common Pleas

IN RE: NOMINATION PETITION OF _____ : COURT OF COMMON PLEAS
 : PHILADELPHIA COUNTY
 : ELECTION MATTER
 : MARCH TERM, 2023
 CANDIDATE FOR OFFICE OF _____ : No.

PETITION TO SET ASIDE NOMINATION PETITION

The Petitioner, by and through counsel, respectfully avers that:

1. The Petitioner, _____, is a duly qualified elector, lives at _____, Philadelphia, PA, and is registered in the above Ward and Division.
2. The respondent is the above referenced Candidate for the stated position.
3. On _____, 20____, the above captioned Candidate filed a Nomination Petition for the Office _____ for the _____ Party.

A copy of the Nominating Petition is attached as Exhibit "A".

4. For the reasons set forth in greater detail in the attached Exhibit "B", in the Candidate's Nomination Petition or other required filing is improperly drawn, fails to contain the required number of properly ascribed signatures, and/or was improperly filed.

5. The Nomination Petition or other required filing is defective as a matter of law and fails to conform to the requirements of the Election Code because

6. Petitioner respectfully reserves the right to add such additional objections as are appropriate at the time of hearing.

WHEREFORE, Petitioner prays this Honorable Court to issue a Rule upon the Candidate and upon the Philadelphia County Board of Elections to show cause why the Nomination Petition should not be set aside and the Candidate's name not be placed on the ballot.

Petitioner/Attorney for Petitioner

VERIFICATION

I, _____, hereby verify that the facts contained in the within Petition are true and correct to the best of my knowledge or information and belief.

I understand that the statements made herein are made subject to the provisions of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

PETITIONER/COUNSEL

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
Court of Common Pleas of Philadelphia County**

In Re : Election Matter
Nomination Petition of :
 :
 : MARCH TERM, 2023
 :
 :
As _____ Candidate for Office of :
 :
 : NO. _____

ORDER TO SHOW CAUSE

AND NOW, this _____ day of _____, 2023, upon consideration of the Petition to Set Aside Nomination Petition filed on _____, it is hereby ordered that:

(1) A rule is issued upon the Philadelphia County Board of Elections and the Candidate-Respondent, _____, to show cause why the above-referenced Nomination Petition should not be set aside and/or why the name of the Candidate-Respondent should not be removed from the ballot as a candidate in the City of Philadelphia for the _____ Party Nomination for _____; (Democratic/Republican/Other) (Office sought by Nominee)

(2) A hearing shall be held the 17th day of March, 2023, at 9:30 AM in Courtroom 443, City Hall, Philadelphia, Pennsylvania;

(3) A copy of this Order to Show Cause, Petition and attachments must be served by the Petitioner on the Philadelphia County Board of Elections, Room 142 City Hall, Philadelphia, PA or representative stationed in 262 City Hall no later than March 14, 2023 by 5:00 PM.

(4) A copy of this Order to Show Cause, Petition and attachments must be served by the Petitioner on the Candidate no later than March 16, 2023 at 4:00 PM. In addition, Petitioner must provide a digital version of the objections in spreadsheet format together with a key to the codes used in the spreadsheet, either by electronic mail or by on a digital media device (USB Flash drive or Memory stick). Service shall be accomplished as provided in Section 7 of President Judge Administrative Order No. 2 of 2023, issued February 3, 2023 and an Affidavit of Service must be filed on or before the hearing date.

(5) If signature line challenges are at issue:
(a) the Objector shall immediately arrange to meet with Candidate or Candidate's representative to review before the hearing each and every challenged signature line. Objector and Candidate shall file a stipulation of the parties that identifies:

- (i) the total number of completed signature lines submitted;
- (ii) the total number of uncontested signature lines submitted;
- (iii) the total number of signature lines challenged;
- (iv) each and every signature line to which there is an objection, identified by page number and line number, and the basis for the objection;
- (v) each and every signature line to be stricken as invalid or for which an objection is to be withdrawn, identified by page number and line number, if the parties can reach such a stipulation.

(b) The Candidate shall file a list of all signature lines, identified by page number and line number, that are facially defective and that Candidate intends to rehabilitate. Candidate shall also state the manner in which Candidate intends to rehabilitate the signature lines.

(6) The Objector and Candidate shall each file a list of all witnesses to be called at the hearing and the curriculum vitae and expert reports of all expert witnesses. Any witness not identified shall be precluded from testifying except for good cause shown.

(7) Objector and Candidate must each file a memorandum of law in support of their respective positions no later than the day before the scheduled hearing, unless otherwise approved by the hearing judge.

BY THE COURT:

HONORABLE IDEE C. FOX,
President Judge, Court of Common Pleas

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
Court of Common Pleas of Philadelphia County

In Re : Election Matter
Nomination Petition of :
 : MARCH TERM, 2023
 :
As Candidate for Office of :
 : NO. _____

AFFIDAVIT OF SERVICE

I, _____, hereby certify that I have served a copy of the pleadings as follows:

(1) Petition to Set Aside Nomination Petition and Order to Show Cause on _____, an employee of the County Board of Elections on March _____, at _____ AM/PM electronically at: _____ or at the following location:

(2) Petition to Set Aside Nomination Petition and Order to Show Cause on Respondent _____, on March _____, 2023 at _____ AM/PM electronically at: _____ or at the following location:

I verify that the facts contained herein are true and correct to the best of my knowledge or information and belief.

I understand that the statements made herein are made subject to the provisions of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
Court of Common Pleas of Philadelphia County

In Re : Election Matter
Nomination Petition of :
 : MARCH TERM, 2023
 :
As Candidate for Office of :
 : NO. _____

FINAL ORDER

AND NOW, this _____ day of _____, 2023, upon consideration of the Petition to Set Aside Nomination Petition filed on _____, 2023, after a hearing held thereon, and upon consideration of the evidence and/or legal arguments presented, IT IS HEREBY ORDERED, ADJUDGED and DECREED that:

- Upon consideration of the objections and testimony, the Court finds that:
 - the Nomination Petition is defective. The Candidate's name shall be removed from the Ballot.
 - the Nomination Petition does not contain a sufficient number of genuine signatures of electors entitled to sign. The Candidate's name shall be removed from the Ballot.
 - the Nomination Petition was not filed by persons entitled to file the same. The Candidate's name shall be removed from the Ballot.
 - _____
- The objections to the Nominating Petition are withdrawn by the Petitioner. The Candidate's name shall remain on the Ballot.

Upon consideration of the objections and testimony, the Court denies the objections and directs the County Board of Elections to accept the Nomination Petition. The Candidate's name shall remain on the Ballot.

BY THE COURT:

[Pa.B. Doc. No. 23-285. Filed for public inspection March 3, 2023, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Cecilio Young, a/k/a Celio Warren Young, a/k/a Celio Young, (# 53763), having been disbarred in the Court of Appeals of Maryland, the Supreme Court of Pennsylvania issued an Order February 17, 2023, disbarring Cecilio Young, a/k/a Celio Warren Young, a/k/a Celio Young, from the Bar of this Commonwealth, effective March 19, 2023.

In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

MARCEE D. SLOAN,
Board Prothonotary

[Pa.B. Doc. No. 23-286. Filed for public inspection March 3, 2023, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

By Order of the Supreme Court of Pennsylvania dated February 17, 2023, Bryan A. Chapman (# 66451), whose registered address is in Washington, DC, is suspended from the practice of law in this Commonwealth for a period of ninety days, effective March 19, 2023.

In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

MARCEE D. SLOAN,
Board Prothonotary

[Pa.B. Doc. No. 23-287. Filed for public inspection March 3, 2023, 9:00 a.m.]
