

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

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

Correction to Rule 502 of the Pennsylvania Rules of Disciplinary Enforcement Regarding the Client Security Fund

The Order of April 25, 1997, published at 27 Pa.B. 2413 (May 17, 1997), amended the annual fee in Rule 502(b) for the 1997-1998 assessment year. The order rescinded this amendment for the 1998-1999 assessment and thereafter. This notice corrects the annual fee currently published in the *Pennsylvania Code*, with ellipses referring to the existing text of Rule 502.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter E. CLIENT SECURITY FUND GENERAL PROVISIONS

Rule 502. Pennsylvania Lawyers Fund for Client Security.

* * * * *

(b) *Additional assessment.* Every attorney who is required to pay an annual assessment under Enforcement Rule 219 (relating to periodic assessment of attorneys; voluntary inactive status) shall pay an additional annual fee of \$45.00 for the use of the fund. Such additional annual assessment shall be added to, and collected with and in the same manner as, the basic annual assessment, but the statement mailed by the Administrative Office pursuant to Enforcement Rule 219 shall separately identify the additional assessment imposed pursuant to this subdivision. All amounts received pursuant to this subdivision shall be credited to the fund.

* * * * *

[Pa.B. Doc. No. 06-524. Filed for public inspection March 31, 2006, 9:00 a.m.]

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CHS. 91 AND 93]

Amendments to Rules of Organization and Procedure of The Disciplinary Board of the Supreme Court of Pennsylvania; Order No. 64

Section 91.3 of the rules of the Board designates the person who is to hear a challenge to a subpoena, but does not provide any time limits for the filing or service of

motions and answers, or the scheduling of a hearing. The Board has adopted the amendments to its rules set forth in Annex A to address those timing issues. A Notice of Proposed Rulemaking regarding the amendments was published at 35 Pa.B. 6494 and no comments were received in response.

The Disciplinary Board of the Supreme Court of Pennsylvania finds that 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)(10), orders:

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

(2) The Secretary of the Board 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 upon publication in the *Pennsylvania Bulletin*.

(4) This Order shall take effect immediately.

By The Disciplinary Board of the Supreme Court of Pennsylvania

ELAINE M. BIXLER,
Secretary

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 91. MISCELLANEOUS MATTERS

Subchapter A. SERVICE, SUBPOENAS, DEPOSITIONS AND RELATED MATTERS

IN GENERAL

§ 91.3. Determination of validity of subpoena.

(a) *In general.* Enforcement Rule 213(d) provides that any attack on the validity of a subpoena issued under these rules shall be handled as follows:

* * * * *

(b) *Procedure.*

(1) **A motion attacking a subpoena must be filed with the Office of the Secretary within ten days after service of the subpoena. A copy of the motion must be served on the other party to the investigation or proceeding.**

(2) **Any answer to the motion must be filed with the Office of the Secretary within five days after service of the motion on the other party under paragraph (1).**

(3) **The Office of the Secretary must transmit the motion and any answer to the person designated in subsection (a)(1) or (2) to hear the motion, who must schedule a hearing on the motion within ten days after the date by which an answer must be filed. A report with findings of fact and conclusions**

of law must be filed with the Office of the Secretary within ten days after the conclusion of the hearing.

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:

* * * * *

(7) To assign periodically, through its Secretary, senior or experienced hearing committee members within each disciplinary district to:

* * * * *

(ii) hear and determine attacks on the validity of subpoenas issued pursuant to § 91.2 (relating to subpoenas and investigations), as provided in § [91.3(2)] 91.3(a)(2) (relating to determination of validity of subpoena); or

* * * * *

[Pa.B. Doc. No. 06-525. Filed for public inspection March 31, 2006, 9:00 a.m.]

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

[204 PA. CODE CH. 207]

Adjustment of Fines, Costs, Fees and Other Remittances

By Order of the Supreme Court of Pennsylvania of October 14, 1988, Judicial Administration Docket No. 88, the Court Administrator has been delegated the authority under the Judicial Code, 42 Pa.C.S. § 3502(c)(3), to adjust, through regulation, the level of fines, costs, fees and other remittances as otherwise fixed by law so as to facilitate the transmission of remittances through or by a financial intermediary.

In accordance therewith, the following regulation is hereby promulgated for the Traffic Court of Philadelphia.

Filed in the Administrative Office of the Pennsylvania Courts on March 20, 2006.

ZYGMONT A. PINES,
Court Administrator of Pennsylvania

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

CHAPTER 207. TRANSMITTING REMITTANCES

§ 207.2. Philadelphia Traffic Court—Adjustment of Fines, Costs, Fees and Other Remittances.

(a) Pursuant to 42 Pa.C.S. § 3502(c)(3), the Court Administrator of Pennsylvania hereby adjusts the level of fines, costs, fees and other remittances in all cases under the Motor Vehicle Code (Title 75, *Pennsylvania Consolidated Statutes*) and local ordinances prosecuted in the Philadelphia Traffic Court by increasing such costs, fees and remittances to the amount of twenty-five dollars (\$25.00) per citation or traffic violation report. Said amount shall be paid to a contracting financial intermedi-

ary and shall be added to the fines, costs, fees and other remittances at such time as the Philadelphia Traffic Court sends or causes to be served a written notice other than a summons to a defendant.

(b) This regulation shall become effective April 1, 2006, and shall apply to all citations and traffic violation reports filed with the Traffic Court prior to that date.

[Pa.B. Doc. No. 06-526. Filed for public inspection March 31, 2006, 9:00 a.m.]

Title 255—LOCAL COURT RULES

VENANGO COUNTY

Promulgation of Local Rules 1910.10, 1910.12, 1910.16-1, 1910.25-1, 1915.4, 1915.11, 1920.16, 1920.51 and 1920.74; Civ. No. 373-2006

Order of the Court

And Now, this 14th day of March, 2006, we hereby order that Venango County Local Rules 1910.10, 1910.12, 1910.16, 1910.25-1, 1915.4, 1915.11, 1920.16, 1920.51, and 1920.74 are adopted. These rules shall be continuously available for public inspection and copying in the office of the prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the prothonotary shall furnish to any person a copy of any local rule. The said local rules shall become effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin*.

By the Court

H. WILLIAM WHITE,
President Judge

Local Domestic Relations Rules—Venango County

SUPPORT RULES

Rule 1910.10. Alternative Hearing Procedures.

(c) Venango County shall conduct support proceedings in accordance with the alternate hearing procedure, Pa.R.C.P. No. 1910.12.

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

(a) There shall be an office conference in all cases. If possible, counsel will be present on behalf of the plaintiff, upon request of plaintiff and assignment by Domestic Relations. Defendant may also have counsel present.

(b) Before exceptions argument, counsel for either party or any pro se party, upon request to Domestic Relations, shall be afforded the opportunity to review the domestic relations file, particularly the domestic relations hearing notes of the domestic relations hearing officers, under procedures guided by Domestic Relations. The review of the file must be accomplished no later than 2 days before the scheduled exceptions argument.

Rule 1910.16-1. Amount of Support. Support Guidelines.

(c) If at any time motions or proceedings for alimony pendente lite or spousal support are pending or in any spousal support action where a divorce action is pending in which a claim for alimony pendente lite is asserted, the

proceedings shall be consolidated. Any party who files a petition for spousal support or alimony pendente lite when a claim for the other is pending will file a Motion to Consolidate and transfer that component of the proceeding to Domestic Relations if appropriate.

Rule 1910.25-1. Civil Contempt.

(c) The court will, in all cases, upon a petition for civil contempt, provide an immediate hearing.

CUSTODY RULES

Rule 1915.4. Prompt Disposition of Custody Cases

(f) Custody proceedings shall, once the complaint is filed, proceed on one of two tracks. All custody cases, including those that involve issues of partial custody or visitation, if not earlier resolved by mediation or conciliation, shall be heard by a judge and not a hearing officer. Custody proceedings shall progress as follows:

1. The parties may proceed through voluntary mediation as provided in Pa.R.C.P. No. 1940.1. If the mediation is unsuccessful, the matter will then be referred to the court for judicial conciliation as provided in paragraph 3 herein.

2. The parties may proceed by a conciliation process as follows:

a. Submit with the pleading, or at any time in the process, a request for the court to appoint a conciliator on an order similar to the order that follows:

_____ : IN THE COURT OF COMMON PLEAS OF
_____ : VENANGO COUNTY, PENNSYLVANIA
vs. :
: :
_____ : CIVIL _____ - _____

ORDER OF COURT

You, _____, have been sued in court to modify custody, partial custody and/or visitation to _____.

_____ is appointed conciliator, for the purpose of conducting a conference with respect to the issues raised in the petition. The conciliator shall conduct such a conference and shall report to the court as to whether or not the issues raised in the petition are capable of resolution by agreement between the parties. The conciliator shall confer with the parties and make every effort to achieve negotiated resolutions of the issues raised in the petition. No testimony will be taken at the conciliation conference. The parties should bring with them any relevant expert reports. If no such resolution can be achieved, the conciliator shall so report to the court. He/she shall also submit an interim proposed order, which shall include a date before a judge.

You are ordered to appear for the custody conciliation conference, which has been scheduled for _____.

If you fail to appear as provided by this order, an order for custody, partial custody or visitation may be entered against you or the court may initiate contempt proceedings for your failure to appear.

Plaintiff and defendant are directed to attend the court-sponsored seminar "Helping Families Cope with Divorce and Custody" coordinated by Venango County O.E.O. Brochures concerning the seminar are available in the Prothonotary's Office and Judge's Chambers, or you may call (814) 432-9768. The court will not finalize this proceeding until both parties have attended the seminar.

A video tape which explains the mediation process is available for viewing at every public library within

Venango County, the County Law Library (by appointment only) and Northwestern Legal Services.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Northwestern Legal Services
1001 State Street
1200 Renaissance Center
Erie, PA 16501-1833
Phone: (814) 452-6949

The Court of Common Pleas of Venango County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

BY THE COURT,

Judge

Date: _____

cc:

b. A conciliator will be appointed by the court from a qualified list of conciliators who have been specially trained in mediation.

c. The conciliation before the conciliator shall be conducted within fifteen (15) days of the appointment.

d. At the conciliation the conciliator will meet with the parties and their attorneys and work toward settlement of the custody issues. If any component of the case is settled, the conciliator will file a report setting forth the agreement and any recommendation of the conciliator and the proposed order to be signed by the court. If any component is not settled or if the entire case is not settled, the conciliator will file a report with the court reciting who attended the conciliation, the results of the conciliation, recommendations for an interim order, recommendations concerning whether an attorney for the child should be appointed pursuant to Pa.R.C.P. No. 1915.11, and such other recommendations which may help the parties in the interim in resolving the matter or may help the court as the court addresses the matter in judicial conciliation and trial. A proposed order of court will be submitted. The order should address whether the children are required to attend the judicial conciliation. The conciliator shall then also, if any component of the case is not settled, either schedule further conciliation before the conciliator, as the parties agree, or refer the matter to the court and obtain a date and time for a conciliation before a judge, which shall occur within thirty (30) days from the date of the report. The conciliator should be prepared, as the matter is scheduled through the District Court Administrator, to estimate the time required for the court to conduct a conciliation.

3. Court conciliation following unsuccessful mediation or referred by conciliator. Judicial conciliation shall take the form of a pre-trial conference. At that conference, the court will confer with the parties and counsel and will

attempt to settle the matter by conciliation. If the matter cannot be settled, the judge will set a trial date and take such steps as are necessary to get the case ready for trial. At the conference, the court will address: number of days to try the matter; whether any witness is to appear by deposition, video conference or telephone; witness lists; expert reports; determine whether court appointed experts are required; custody arrangement pending final hearing; and determine whether an attorney should be appointed for the child. The court may talk with the child at the conciliation; however, if the court talks to the child, counsel for the parties shall be present. If either party or the parties are not represented at the conciliation, the court will exercise its discretion whether to talk with the child and may do so out of the presence of both parents but only with the consent of both parents or counsel. If an attorney for the child is participating, the court may talk to the child over the objection of the parents so long as the attorney for the child recommends. In such event, the conversation with the child will be recorded and counsel for the child will initially interrogate the child.

Rule 1915.11. Appointment of Attorney for Child.

(d) If in the conciliator's judgment the child needs counsel in the proceedings, the conciliator will recommend appointment of an attorney for the child. An attorney, or a party, may move the court to appoint counsel for a child. Attorneys representing parents in custody litigation are encouraged not to speak directly with a child who is the subject of custody proceedings except under any of the following conditions:

1. Both parents are present;
2. Opposing counsel is present;
3. An attorney for the child has been appointed by the court and consents to the interview; or
4. The attorney for a party is specially authorized by the court beforehand to speak with the child.

EQUITABLE DISTRIBUTION RULES

Rule 1920.16. Severance of Actions and Claims.

(b) The court will, in all cases where bifurcation is requested by a party, conduct a hearing at which both parties should be present.

(c) The court will colloquy the parties on the impact of a divorce at the time of hearing.

(d) The court will enter findings consistent with the evidence as required by 23 Pa.C.S.A. § 3323(c.1).

(e) The court will, unless otherwise dictated by the circumstances, enter a decree at the hearing.

Rule 1920.51. Hearing by the Court. Appointment of Conciliator. Notice of Hearing.

(a)(1) In addition to the statewide procedure of a court appointing a master, which the parties may use at their election, the parties also have the option of using a conciliator to attempt to resolve equitable distribution issues. The conciliator will meet with the parties and their counsel and attempt to resolve the issues. The court will hear and determine issues that have not been resolved at conciliation rather than refer the matter to a master. Any issues not identified for resolution by the conciliator and not addressed by the conciliator will not be heard by the court. The parties are required to attend the conciliation unless they are excused by the conciliator. The court will assess and may allocate between the parties the costs for referral to the conciliator, which the parties will pay before the conciliation. The parties will

not have any further costs in having the matter heard by the judge, other than expenses that are routine court costs such as paying for transcripts if ordered by the parties.

(2) The motion for the appointment of a conciliator and the appointment order to be submitted with the motion shall be substantially in the form prescribed by Local Rule 1920.74.

(3) The court will appoint a conciliator who is a trained mediator unless both parties request a specific attorney to act as conciliator.

(4) The parties, if they consent to a divorce, will file the necessary consents and waivers immediately after the conciliation.

(5) The conciliator will file a report within 20 days of the conclusion of the session, which will include at least the following topics:

(a) Identify issues resolved and what, if any, work needs to be done to complete resolution of the matter such as who is preparing the settlement agreement, powers of attorney, the qualified domestic relations orders, deeds, bills of sale, praecipe to transmit and other documents.

(b) Identify unresolved issues and provide an analysis of the positions of the parties.

(c) Make a recommendation as to whether experts should be appointed by the court or engaged by the parties.

(d) Make such further recommendations to the court as the conciliator determines will assist the court in getting the case trial ready and in otherwise resolving the matter.

(e) Confer with counsel regarding any issues not resolved and determine the amount of time the parties need to try the case. The conciliator will then schedule a trial date with the court administrator and include that date in the report.

(f) Submit a proposed order of court to implement his recommendations.

(b) When the trial is conducted, the parties will file an updated inventory and pretrial statement not later than 20 days before the trial is scheduled before a judge.

Rule 1920.74. Form of Motion for Appointment of Conciliator. Order.

(a) The motion for appointment of a conciliator shall be substantially in the following form:

_____, : IN THE COURT OF COMMON PLEAS OF
 Plaintiff : VENANGO COUNTY, PENNSYLVANIA
 :
 vs. :
 :
 _____, :
 Defendant : Civ. No. _____ - _____

*MOTION FOR APPOINTMENT OF
 DIVORCE CONCILIATOR*

_____, Attorney for plaintiff
 _____, Attorney for defendant

- 1) Complaint filed: _____
- 2) Complaint served: _____
- 3) Grounds asserted: Section(s) _____ of the Divorce Code

4) Matters at issue:

- ___ Dissolution of marriage
- ___ Equitable distribution of marital property
- ___ Allocation of marital indebtedness
- ___ Alimony
- ___ Alimony pendente lite
- ___ Counsel fees and/or expenses of litigation
- ___ Court costs

Respectfully Submitted,

By _____

Date: _____

(b) The order appointing a conciliator shall be substantially in the following form:

_____, : IN THE COURT OF COMMON PLEAS OF
 Plaintiff : VENANGO COUNTY, PENNSYLVANIA
 :
 vs. :
 :
 _____, :
 Defendant : Civ. No. _____ - _____

ORDER OF COURT

AND NOW, this ____ day of _____, 20____, the court has received the Motion for Appointment of Divorce Conciliator filed by _____ in the above-captioned matter.

_____ is hereby appointed divorce conciliator in this matter. The parties are directed to deposit \$_____ each to pay the conciliator's fee with the Prothonotary within two (2) weeks from the date of this order. The conciliation conference will not be scheduled until the required fees are deposited.

(1) Both parties are expected to file inventories in accordance with Pa.R.C.P. 1920.33(a).

(2) Conciliator will schedule conciliation only after at least one of the parties has filed both the inventory and a pre-trial statement as contemplated in Pa.R.C.P. 1920.33(b) and delivered a copy to the conciliator if filed

after the conciliator is appointed. Conciliator will schedule the conciliation not sooner than 20 days from the date of filing the pre-trial statement.

(3) The other party shall then file the inventory and pre-trial statement not later than 7 days before the scheduled conciliation. Conciliation will proceed whether or not one of the parties has made the required filings.

BY THE COURT,

Judge

[Pa.B. Doc. No. 06-527. Filed for public inspection March 31, 2006, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that Ross M. Cellino, Jr., having been suspended from the practice of law in the State of New York for a period of six months by Order of the Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department, entered June 10, 2005, the Supreme Court of Pennsylvania issued an Order dated March 15, 2006, suspending Ross M. Cellino, Jr., from the practice of law in this Commonwealth for a period of six months. 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*.

ELAINE M. BIXLER,
Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 06-528. Filed for public inspection March 31, 2006, 9:00 a.m.]