

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [ 204 PA. CODE CH. 93 ]

#### Amendments to Rules of Organization and Procedure of the Disciplinary Board of the Supreme Court of Pennsylvania; Order No. 79

By this Order, the Disciplinary Board of the Supreme Court of Pennsylvania is amending its Rules of Organization and Procedure to modify Rules §§ 93.141 et. seq. to permit the annual registration of attorneys by electronic means.

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

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

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

The Board, acting pursuant to Pa.R.D.E. 205(c)(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) The amendments adopted hereby shall take effect 30 days after publication in the *Pennsylvania Bulletin*.

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

JULIA FRANKSTON-MORRIS,  
*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 93. ORGANIZATION AND ADMINISTRATION

#### Subchapter G. FINANCIAL MATTERS

#### ANNUAL REGISTRATION OF ATTORNEYS

#### § 93.141. Annual registration.

(a) *General rule.* Enforcement Rule 219(a) provides that every attorney admitted to practice law in this

Commonwealth shall pay an annual fee of [ \$130.00 ] **\$125.00** and **electronically** file the annual fee form provided for under such rule by **July 1**; that the fee shall be collected under the supervision of the Attorney Registration Office, which shall [ **send or cause to be sent to every attorney, except an attorney who has elected to file the form electronically, the annual fee form; that the Attorney Registration Office shall transmit to those attorneys who have elected to file the form electronically a notice by e-mail to register by July 1; that failure to receive the annual fee form by mail or electronically shall not excuse payment of the fee; and that the** ] **make the annual fee form available for filing through a link on the Board's website (<http://www.padisiplinaryboard.org>) or directly at <https://ujportal.pacourts.us>. The fee shall be used to defray the costs of disciplinary administration and enforcement under the Enforcement Rules, and for such other purposes as the Board shall, with the approval of the Supreme Court, from time to time determine. Upon an attorney's written request submitted to the Attorney Registration Office and for good cause shown, the Attorney Registration Office shall grant an exemption from the electronic filing requirement and permit the attorney to file the annual fee form in paper form.**

**Official Note: Pa.R.P.C. 1.15(u) imposes an additional annual fee for use by the IOLTA Board, and Pa.R.D.E. 502(b) imposes an additional annual fee for use by the Pennsylvania Lawyers Fund for Client Security.**

(b) *Inapplicable to justices and judges.* Enforcement Rule 219(b) provides that the following shall be exempt from the annual fee:

\* \* \* \* \*

#### § 93.142. Filing of annual fee form by attorneys.

(a) *Transmission of form.* Enforcement Rule 219(c) provides that on or before May 15 of each year the Attorney Registration Office shall transmit to all attorneys required by the rule to pay an annual fee [ , **except those attorneys who have elected electronic filing, a form required by subsection (b) of this section; and that on or before May 15 of each year subsequent to the year in which an attorney elects electronic filing, the Attorney Registration Office shall transmit to such attorney** ] a notice by e-mail to register **electronically** by July 1. **Failure to receive notice shall not excuse the filing of the annual fee form or payment of the annual fee.**

(b) *Filing of annual fee form.* Enforcement Rule 219(d) provides that on or before July 1 of each year all attorneys required by the rule to pay an annual fee shall **electronically** file with the Attorney Registration Office [ **a signed or** ] an electronically endorsed form prescribed by the Attorney Registration Office in accordance with the following procedures:

(1) The form shall set forth:

(i) The date on which the attorney was admitted to practice, licensed as foreign legal consultant, granted limited admission as an attorney participant in defender and legal services programs pursuant to Pa.B.A.R. 311, or issued a Limited In-House Corporate Counsel License,

and a list of all courts (except courts of this Commonwealth) and jurisdictions in which the person has ever been license' to practice law, with the current status thereof.

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

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

(iii) The name of each Financial Institution, as defined in § 91.171 (Definitions), within or outside this Commonwealth in which the attorney **[ on May 1 of the current year or at any time during the preceding 12 months ], from May 1 of the previous year to the date of the filing of the annual fee form**, held funds of a client or a third person subject to Rule 1.15 of the Pennsylvania Rules of Professional Conduct. The form shall include the name and account number for each account in which the attorney held such funds, and each IOLTA Account shall be identified as such. The form provided to a person holding a Limited In-House Corporate Counsel License or a Foreign Legal Consultant License need not request the information required by this subparagraph.

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

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

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

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

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

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

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

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

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

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

**Official Note:** Regarding "funds of a third person," see Note to § 93.142(b)(1)(iii).

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

(vi) A certification reading as follows: "I certify that all Trust Accounts that I maintain are in financial institutions approved by the Supreme Court of Pennsylvania for the maintenance of such accounts pursuant to Pennsylvania Rule of Disciplinary Enforcement 221 (relating to mandatory overdraft notification) and that each Trust Account has been identified as such to the financial institution in which it is maintained."

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

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

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

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

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

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

(4) Upon original admission to the bar of this Commonwealth, licensure as a Foreign Legal Consultant, issuance of a Limited In-House Corporate Counsel License, or limited admission as an attorney participant in defender and legal services programs pursuant to Pa.B.A.R. 311, a person shall concurrently file a form under this section for the current registration year, but no annual fee shall be payable for the registration year in which originally admitted or licensed.

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

#### § 93.145. Reinstatement of administratively suspended attorneys.

(a) *General rule.* **An attorney who has been administratively suspended pursuant to § 93.144(b) of these rules for three years or less is not eligible to file the annual fee form electronically.** Enforcement

Rule 219(h) provides that the procedure for reinstatement [ **of an attorney who has been administratively suspended pursuant to § 93.144(b) of these rules for three years or less** ] is as follows:

\* \* \* \* \*

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

\* \* \* \* \*

#### § 93.146. Selection of retired or inactive status and resumption of active status.

(a) *Retired Status* [ : ]. Enforcement Rule 219(i) provides that:

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

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

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

(4) Chapter 91 Subchapter E (relating to formerly admitted attorneys) shall not be applicable to the formerly admitted attorney unless ordered by the Supreme Court in connection with the entry of an order of suspension or disbarment under another provision of the Enforcement Rules.

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

(6) The Chief Justice may delegate the processing and entry of orders under this subsection to the Prothonotary.

(b) *Inactive Status.* Enforcement Rule 219(j) provides that:

(1) An attorney who is not engaged in practice in Pennsylvania, has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct, or is not required by virtue of his or her practice elsewhere to maintain active licensure in the Commonwealth may request inactive status or continue that status once assumed. The attorney shall file either the annual form required by § 93.142(b) and request inactive status or file Form DB-28 (Notice of Voluntary Assump-

tion of Inactive Status). The attorney shall be removed from the roll of those classified as active until and unless such inactive attorney makes a request under paragraph (3) of this section for an administrative return to active status and satisfies all conditions precedent to the grant of such request; or files a petition for reinstatement under § 89.273(b) (relating to procedure for reinstatement of an attorney who has been on inactive status for more than three years, or who is on inactive status and had not been on active status at any time within the prior three years) and is granted reinstatement pursuant to the provisions of § 89.273(b) of these rules.

(2) An inactive attorney under this subsection (b) shall continue to file the annual form required by § 93.142(b), and shall file the form through the online system identified in § 93.141(a) and shall pay an annual fee of \$70.00 in the manner provided in § 93.142(b)(2). Noncompliance with this provision will result in the inactive attorney incurring late payment [ **penalites** ] **penalties**, incurring a collection fee for any check in payment that has been returned to the Board unpaid, and being placed on administrative suspension in accordance with the provisions of § 93.144.

(3) *Administrative Change in Status from Inactive Status to Active Status:* An attorney on inactive status may request a resumption of active status by filing Form DB-29 (Application for Resumption of Active Status) with the Attorney Registration Office. **The form must be filed by mail or delivered in person to the Attorney Registration Office.** Resumption of active status shall be granted unless the inactive attorney is subject to an outstanding order of suspension or disbarment, unless the inactive attorney has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct (see § 89.273(b)), unless the inactive status has been in effect for more than three years, or unless the inactive attorney had not been on active status at any time within the preceding three years (see § 89.273(b)), upon the payment of:

\* \* \* \* \*

**§ 93.148. Administrative change in status from administrative suspension to inactive status.**

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

\* \* \* \* \*

**§ 93.149. [ (Reserved). ] Former or retired justice or judge and resumption of active status.**

(a) Rule 219(n) provides that a former or retired justice or judge who is not the subject of an outstanding order of discipline affecting his or her right to practice law and who wishes to resume the practice of law shall file with the Attorney Registration Office a notice in writing. The notice shall:

(1) describe:

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

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

(2) include a waiver available through the Attorney Registration Office and signed by the justice or judge, if the notice discloses a proceeding described in subsection (1), of the confidentiality of the record in that proceeding for the limited purpose of making the record available to the Board in any subsequent proceeding under these rules.

An annual fee form will be provided by the Attorney Registration Office. The form must be filed by mail or delivered in person to said Office and be accompanied by payment of the full annual fee for the assessment year in which the notice is filed.

[Pa.B. Doc. No. 16-1849. Filed for public inspection October 28, 2016, 9:00 a.m.]

# Title 231—RULES OF CIVIL PROCEDURE

## PART I. GENERAL

[ 231 PA. CODE CH. 1910 ]

### Order Amending Rule 1910.16-4 of the Rules of Civil Procedure; No. 650 Civil Procedural Rules Doc.

#### Order

*Per Curiam*

And Now, this 14th day of October, 2016, upon the recommendation of the Domestic Relations Procedural Rules Committee; the proposal having been published for public comment in the *Pennsylvania Bulletin*, 45 Pa.B. 6972 (December 12, 2015):

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 1910.16-4 of the Pennsylvania Rules of Civil Procedure is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b) and shall be effective on January 1, 2017.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1910. ACTIONS FOR SUPPORT

#### Rule 1910.16-4. Support Guidelines. Calculation of Support Obligation, Formula.

\* \* \* \* \*

[ (d) *Divided or Split Physical Custody. When Each Party Has Primary Custody of One or More of the Children. Varied Custodial Schedules.*

(1) *Divided or Split Physical Custody. When Each Party Has Primary Custody of One or More of the Children.* When calculating a child support obligation, and one or more of the children reside primar-

ily with each party, the court shall offset the parties' respective child support obligations and award the net difference to the obligee as child support. For example, if the parties have three children, one of whom resides with Father and two of whom reside with Mother, and their net monthly incomes are \$2,500 and \$1,250 respectively, Father's child support obligation is calculated as follows. Using the schedule in Rule 1910.16-3 for two children at the parties' combined net monthly income of \$3,750, the amount of basic child support to be apportioned between the parties is \$1,200. As Father's income is 67% of the parties' combined net monthly income, Father's support obligation for the two children living with Mother is \$804. Using the schedule in Rule 1910.16-3 for one child, Mother's support obligation for the child living with Father is \$276. Subtracting \$276 from \$804 produces a net basic support amount of \$528 payable to Mother as child support.

When calculating a combined child support and spousal or alimony pendente lite obligation, and one or more children reside with each party, the court shall offset the obligor's spousal and child support obligation with the obligee's child support obligation and award the net difference to the obligee as spousal and child support. When one or more of the children resides with each party then, in calculating the spousal support or alimony pendente lite obligation, the court shall deduct from the obligor's income both the support owed for the child or children residing with the obligee, as well as the direct support the obligor provides to the child or children living with the obligor, calculated in accordance with the guidelines as if the child or children were not living with the obligor.

(2) *Varied Custodial Schedules.* When the parties have more than one child and each child spends different amounts of partial or shared custodial time with the obligor, the trier of fact shall add the percentage of time each child spends with the obligor and divide by the number of children to determine the obligor's percentage of custodial time. If the average percentage of time the children spend with the obligor is 40% or more, the provisions of subdivision (c) above apply.

*Example 1.* The parties have two children and one child spends 50% of the time with the obligor and another spends 20% of the time with the obligor. Add those percentages together and divide by the number of children (50% plus 20% = 70% divided by 2 children = 35% average of the time with the obligor). Pursuant to subdivision (c), the obligor does not receive a reduction in the support order for substantial parenting time.

*Example 2.* The parties have three children. Two children spend 50% of the time with the obligor and third child spends 30% of the time with the obligor. Add the percentages of custodial time for all three children together and divide by the number of children (50% plus 50% plus 30% = 130% divided by three children = 43.33% average percentage of time with the obligor). Pursuant to subdivision (c), the obligor receives a reduction in the support order for substantial parenting time.

*Official Note:* In cases with more than one child and varied partial or shared custodial schedules, it is not appropriate to perform a separate calculation for each child and offset support amounts as

that method does not consider the incremental increases in support for more than one child built into the schedule of basic child support. ]

(d) *Divided or Split Physical Custody. When Each Party Owes Child Support to the Other Party. Varied Partial or Shared Custodial Schedules.*

(1) *Divided or Split Physical Custody. When Each Party Owes Child Support to the Other Party.* When calculating a child support obligation and each party owes child support to the other party as a result of the custodial arrangement, the court shall offset the parties' respective child support obligations and award the net difference to the obligee as child support.

*Example 1.* If the parties have three children, one child resides with Mother and two children reside with Father, and their net monthly incomes are \$2,500 and \$1,250 respectively, Mother's child support obligation is calculated using the schedule in Pa.R.C.P. No. 1910.16-3 for two children at the parties' combined net monthly income of \$3,750. The amount of basic child support to be apportioned between the parties is \$1,200. As Mother's income is 67% of the parties' combined net monthly income, Mother's support obligation for the two children living with Father is \$804. Father's child support obligation is calculated using the schedule in Pa.R.C.P. No. 1910.16-3 for one child at the parties' combined net monthly income of \$3,750. The amount of basic child support to be apportioned between the parties is \$836. Father's support obligation for the child living with Mother is \$276. Subtracting \$276 from \$804 produces a net basic support amount of \$528 payable to Father as child support.

*Example 2.* If the parties have two children, one child resides with Mother and the parties share custody (50%—50%) of the other child, and the parties' net monthly incomes are as set forth in Example 1. The child support obligation is calculated using the schedule in Pa.R.C.P. No. 1910.16-3 for the one child primarily residing with Mother at the parties' combined net monthly income of \$3,750, the amount of basic child support to be apportioned between the parties is \$836. Father's income is 33% of the parties' combined net monthly income, and the support obligation for the child living with Mother is \$276. For Mother's obligation for the child with the 50%—50% shared custody arrangement, using the schedule in Pa.R.C.P. No. 1910.16-3 for one child at the parties' combined net monthly income of \$3,750, the amount of basic child support to be apportioned between the parties is \$836. Mother's proportionate share of the combined net incomes is 67%, but it is reduced to 47% after applying the shared parenting time adjustment for 50% custody under subdivision (c). Mother's child support obligation for the shared custody child is \$393 ( $\$836 \times 47\%$ ). As Mother's obligation is greater than Father's obligation, Father is the obligee and receives the net of the two obligations by subtracting \$276 from \$393, or \$117.

(2) *Varied Partial or Shared Custodial Schedules.* When the parties have more than one child and each child spends either (a) different amounts of partial or shared custodial time with the party with the higher income or (b) different amounts of partial custodial time with the party with the lower income, the trier of fact shall add the percentage of

time each child spends with that party and divide by the number of children to determine the party's percentage of custodial time. If the average percentage of custodial time the children spend with the party is 40% or more, the provisions of subdivision (c) apply.

*Example 1.* The parties have two children and one child spends 50% of the time with Mother, who has the higher income, and the other child spends 20% of the time with Mother. Add those percentages together and divide by the number of children (50% plus 20% = 70% divided by 2 children = 35% average time with Mother). Pursuant to subdivision (c), Mother does not receive a reduction in the support order for substantial parenting time.

*Example 2.* The parties have three children. Two children spend 50% of the time with Mother, who has the higher income, and the third child spends 30% of the time with Mother. Add the percentages of custodial time for all three children together and divide by the number of children (50% plus 50% plus 30% = 130% divided by three children = 43.33% average percentage of time with Mother). Pursuant to subdivision (c), Mother receives a reduction in the support order for substantial parenting time.

*Example 3.* The parties have three children, Mother has primary custody (60%—40%) of one child, Father has primary custody (60%—40%) of one child, and the parties share custody (50%—50%) of the third child. The parties' net monthly incomes are \$2,500 (Mother) and \$1,250 (Father). As a result of the custodial arrangement, Father owes support for the child in the primary custody of Mother and Mother owes support for the child in the primary custody of Father and for the child shared equally between the parties. Father's child support obligation is calculated using the schedule in Pa.R.C.P. No. 1910.16-3 for one child at the parties' combined net monthly income of \$3,750. The amount of basic child support to be apportioned between the parties is \$836. Father's proportionate share of the combined net incomes is 33%, but is reduced to 23% after applying the shared parenting time adjustment for 40% custody under subdivision (c). Father's child support obligation for this child is \$192 ( $\$836 \times 23\%$ ). Mother's child support obligation is calculated using the schedule in Pa.R.C.P. No. 1910.16-3 for two children at the parties' combined net monthly income of \$3,750. The amount of basic child support to be apportioned between the parties is \$1,200. Mother has varying partial or shared custody of the two children (40% and 50%). Under subdivision (d)(2), the custodial time is averaged or in this case 45%. Mother's proportionate share of the combined net incomes is 67%, but it is reduced to 52% after applying the shared parenting time adjustment for 45% custody under subdivision (c). Mother's child support obligation for these children is \$624 ( $\$1,200 \times 52\%$ ). Offsetting the support amounts consistent with subdivision (d)(1), Mother's obligation is greater than Father's obligation, and Father is the obligee receiving the net of the two obligations by subtracting \$192 from \$624, or \$432.

*Official Note:* In cases with more than one child and varied partial or shared custodial schedules, it is not appropriate to perform a separate calculation for each child and offset support amounts as that method does not consider the incremental

increases in support for more than one child built into the schedule of basic child support.

(3) When calculating a combined child support and spousal or alimony *pendente lite* obligation and one or more children reside with each party, the court shall offset the obligor's spousal and child support obligation with the obligee's child support obligation and award the net difference to the obligee as spousal and child support. If one or more of the children resides with each party then, in calculating the spousal support or alimony *pendente lite* obligation, the court shall deduct from the obligor's income both the support owed for the child or children residing with the obligee, as well as the direct support the obligor provides to the child or children living with the obligor, calculated in accordance with the guidelines as if the child or children were not living with the obligor.

(e) *Support Obligations When Custodial Parent Owes Spousal Support.* Where children are residing with the spouse obligated to pay spousal support or alimony *pendente lite* (custodial parent) and the other spouse (non-custodial parent) has a legal obligation to support the children, the guideline amount of spousal support or alimony *pendente lite* shall be determined by offsetting the non-custodial parent's obligation for support of the children and the custodial parent's obligation of spousal support or alimony *pendente lite*, and awarding the net difference either to the non-custodial parent as spousal support/alimony *pendente lite* or to the custodial parent as child support as the circumstances warrant.

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[Pa.B. Doc. No. 16-1850. Filed for public inspection October 28, 2016, 9:00 a.m.]

## PART I. GENERAL

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

#### Order Amending Rules 1910.10, 1915.4-1 and 1920.55-1 of the Rules of Civil Procedure; No. 651 Civil Procedural Rules Doc.

#### Order

*Per Curiam*

*And Now*, this 14th day of October, 2016, upon the recommendation of the Domestic Relations Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3):

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 1910.10, 1915.4-1 and 1920.55-1 of the Pennsylvania Rules of Civil Procedure are amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on December 1, 2016.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1910. ACTIONS FOR SUPPORT

#### Rule 1910.10. Alternative Hearing Procedures.

(a) The action shall proceed as prescribed by Pa.R.C.P. No. 1910.11 unless the court by local rule adopts the alternative hearing procedure of Pa.R.C.P. No. 1910.12.

(b) The president judge or the administrative judge of Family Division of each county shall certify that all support proceedings in that county are conducted in accordance with either Pa.R.C.P. No. 1910.11 or Pa.R.C.P. No. 1910.12. The certification shall be filed with the Domestic Relations Procedural Rules Committee, and shall be substantially in the following form:

I hereby certify that \_\_\_\_\_ County conducts its support proceedings in accordance with Pa.R.C.P. No. \_\_\_\_\_ .

\_\_\_\_\_  
(PRESIDENT JUDGE)                      (ADMINISTRATIVE JUDGE)

[ *Official Note:* Pursuant to Pa.R.C.P. No. 1910.10, the following counties have certified to the Domestic Relations Procedural Rules Committee that their support proceedings are conducted in accordance with the rule specified below.

Adams	1910.11
Allegheny	1910.12
Armstrong	1910.12
Beaver	1910.11
Bedford	1910.11
Berks	1910.12
Blair	1910.11
Bradford	1910.12
Bucks	1910.11
Butler	1910.11
Cambria	1910.12
Cameron	1910.11
Carbon	1910.12
Centre	1910.11
Chester	1910.12
Clarion	1910.12
Clearfield	1910.11
Clinton	1910.11
Columbia	1910.12
Crawford	1910.11
Cumberland	1910.12
Dauphin	1910.11
Delaware	1910.11
Elk	1910.12
Erie	1910.11
Fayette	1910.11
Forest	1910.12
Franklin	1910.12
Fulton	1910.11
Greene	1910.11
Huntingdon	1910.11
Indiana	1910.12
Jefferson	1910.11
Juniata	1910.11
Lackawanna	1910.12
Lancaster	1910.11

Lawrence	1910.11
Lebanon	1910.12
Lehigh	1910.12
Luzerne	1910.12
Lycoming	1910.12
McKean	1910.12
Mercer	1910.11
Mifflin	1910.11
Monroe	1910.12
Montgomery	1910.11
Montour	1910.12
Northampton	1910.11
Northumberland	1910.11
Perry	1910.11
Philadelphia	1910.12
Pike	1910.11
Potter	1910.11
Schuylkill	1910.12
Snyder	1910.11
Somerset	1910.11
Sullivan	1910.11
Susquehanna	1910.12
Tioga	1910.11
Union	1910.11
Venango	1910.12
Warren	1910.12
Washington	1910.12
Wayne	1910.11
Westmoreland	1910.12
Wyoming	1910.11
York	1910.11]

*Official Note:* For a complete list of the Alternative Hearing Procedures for each county: <http://www.pacourts.us/courts/supreme-court/committees/rules-committees/domestic-relations-procedural-rules-committee>.

#### Explanatory Comment

In accordance with Pa.R.C.P. No. 1910.10, a judicial district may opt for one of two procedures for support matters; the procedure selected is then certified by the president judge or administrative judge to the Domestic Relations Procedural Rules Committee as prescribed in subdivision (b). Subdivision (b) was added in response to requests from appellate court judges who find that it is often difficult to determine the rule with which the actual support procedure is intended to comply. Subsequently, a judicial district may, at any time, change its support procedure by filing a new certification with the staff of the Domestic Relations Procedural Rules Committee indicating the rule according to which support matters will proceed. However, a judicial district may, by local rule, permit interstate actions to proceed directly to a hearing officer or judge without a conference.

The procedure set forth in Pa.R.C.P. No. 1910.11 provides for a conference before a conference officer, a conference summary and entry of an interim order for support calculated in accordance with the guidelines, and a right to demand a hearing *de novo* before a judge. The hearing must be held and the final order entered within 60 days of the written demand for hearing.

The alternate procedure, as set forth in Pa.R.C.P. No. 1910.12, provides for a conference before a conference officer, a record hearing before a hearing officer, and issuance of a report and recommendation to which exceptions may be filed within ten days. The court must hear argument and enter a final order within 60 days of the filing of exceptions.

In lieu of continuing the practice of including in the Note a 67-county list identifying the hearing procedure selected by the local county court, the list can now be found on the Domestic Relations Procedural Rules Committee website.

**CHAPTER 1915. ACTIONS FOR CUSTODY OF MINOR CHILDREN**

**Rule 1915.4-1. Alternative Hearing Procedures for Partial Custody Actions.**

(a) A custody action shall proceed as prescribed by Pa.R.C.P. No. 1915.4-3 unless the court, by local rule, adopts the alternative hearing procedure authorized by Pa.R.C.P. No. 1915.4-2 pursuant to which an action for partial custody may be heard by a hearing officer, except as provided in subdivision (b).

(b) Promptly after the parties' initial contact with the court as set forth in Pa.R.C.P. No. 1915.4(a), a party may move the court for a hearing before a judge, rather than a hearing officer, in an action for partial custody where:

- (1) there are complex questions of law, fact or both; or
- (2) the parties certify to the court that there are serious allegations affecting the child's welfare.

(c) The president judge or the administrative judge of the family division of each county shall certify that custody proceedings generally are conducted in accordance with either Pa.R.C.P. No. 1915.4-2 or Pa.R.C.P. No. 1915.4-3. The certification shall be filed with the Domestic Relations Procedural Rules Committee of the Supreme Court of Pennsylvania and shall be substantially in the following form:

I hereby certify that \_\_\_\_\_ County conducts its custody proceedings in accordance with Pa.R.C.P. No. \_\_\_\_\_.

\_\_\_\_\_  
(President Judge)

\_\_\_\_\_  
(Administrative Judge)

[Note: Pursuant to Pa.R.C.P. No. 1915.4-1, the following counties have certified to the Domestic Relations Procedural Rules Committee that their custody proceedings generally are conducted in accordance with the rule specified below:

COUNTY	RULE
Adams	1915.4-3
Allegheny	1915.4-2
Armstrong	1915.4-3

COUNTY	RULE
Beaver	1915.4-3
Bedford	1915.4-3
Berks	1915.4-3
Blair	1915.4-3
Bradford	1915.4-2
Bucks	1915.4-3
Butler	1915.4-3
Cambria	1915.4-2
Cameron	1915.4-3
Carbon	1915.4-2
Centre	1915.4-3
Chester	1915.4-3
Clarion	1915.4-3
Clearfield	1915.4-3
Clinton	1915.4-3
Columbia	1915.4-3
Crawford	1915.4-3
Cumberland	1915.4-3
Dauphin	1915.4-3
Delaware	1915.4-2
Elk	1915.4-3
Erie	1915.4-3
Fayette	1915.4-2
Forest	1915.4-2
Franklin	1915.4-3
Fulton	1915.4-3
Greene	1915.4-2
Huntingdon	1915.4-3
Indiana	1915.4-3
Jefferson	1915.4-3
Juniata	1915.4-3
Lackawanna	1915.4-2
Lancaster	1915.4-3
Lawrence	1915.4-3
Lebanon	1915.4-3
Lehigh	1915.4-2
Luzerne	1915.4-2
Lycoming	1915.4-3
McKean	1915.4-3
Mercer	1915.4-3
Mifflin	1915.4-3
Monroe	1915.4-3
Montgomery	1915.4-3
Montour	1915.4-3
Northampton	1915.4-3
Northumberland	1915.4-3
Perry	1915.4-3
Philadelphia	1915.4-2

COUNTY	RULE
Pike	1915.4-2
Potter	1915.4-3
Schuylkill	1915.4-2
Snyder	1915.4-3
Somerset	1915.4-3
Sullivan	1915.4-3
Susquehanna	1915.4-3
Tioga	1915.4-2
Union	1915.4-3
Venango	1915.4-3
Warren	1915.4-2
Washington	1915.4-3
Wayne	1915.4-2
Westmoreland	1915.4-3
Wyoming	1915.4-3
York	1915.4-3

#### Explanatory Comment—1994

These rules provide an optional procedure for using hearing officers in partial custody cases. The procedure is similar to the one provided for support cases in Rule 1910.12: a conference, record hearing before a hearing officer and argument on exceptions before a judge. The terms “conference officer” and “hearing officer” have the same meaning here as in the support rules.

It is important to note that use of the procedure prescribed in Rules 1915.4-1 and 1915.4-2 is optional rather than mandatory. Counties which prefer to have all partial custody cases heard by a judge may continue to do so.

These procedures are not intended to replace or prohibit the use of any form of mediation or conciliation. On the contrary, they are intended to be used in cases which are not resolved through the use of less adversarial means.

#### Explanatory Comment—2007

The intent of the amendments to Rules 1915.4-1 and 1915.4-2, and new Rule 1915.4.3, is to clarify the procedures in record and non-record custody proceedings. When the first proceeding is non-record, no exceptions are required and a request for a de novo hearing may be made. ]

*Official Note:* For a complete list of the Alternative Hearing Procedures for each county: <http://www.pacourts.us/courts/supreme-court/committees/rules-committees/domestic-relations-procedural-rules-committee>.

#### Explanatory Comment

These rules provide an optional procedure for using hearing officers in partial custody cases. The procedure is similar to the one provided for support cases in Pa.R.C.P. No. 1910.12: a conference, record hearing before a hearing officer and argument on exceptions before a judge. The terms “conference officer” and “hearing officer” have the same meaning here as in the support rules.

It is important to note that use of the procedure prescribed in Pa.R.C.P. Nos. 1915.4-1 and 1915.4-2 is

optional rather than mandatory. Counties which prefer to have all partial custody cases heard by a judge may continue to do so.

These procedures are not intended to replace or prohibit the use of any form of mediation or conciliation. On the contrary, they are intended to be used in cases which are not resolved through the use of less adversarial means.

The intent of the 2007 amendments to Pa.R.C.P. Nos. 1915.4-1 and 1915.4-2, and Pa.R.C.P. No. 1915-4.3, was to clarify the procedures in record and non-record custody proceedings. When the first proceeding is non-record, no exceptions are required and a request for a de novo hearing may be made.

In lieu of continuing the practice of including in the Note a 67-county list identifying the hearing procedure selected by the local county court, the list can now be found on the Domestic Relations Procedural Rules Committee website.

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

##### Rule 1920.55-1. Alternative Hearing Procedures for Matters Referred to a Master.

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

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

I hereby certify that \_\_\_\_\_ County conducts its divorce proceedings that are referred to a master in accordance with [ Rule ] Pa.R.C.P. No. \_\_\_\_\_ .

\_\_\_\_\_  
(PRESIDENT JUDGE)

\_\_\_\_\_  
(ADMINISTRATIVE JUDGE)

[ *Official Note:* Pursuant to Rule 1920.55-1, the following counties have certified to the Domestic Relations Procedural Rules Committee that divorce proceedings referred to a master are conducted in accordance with the rule specified below.

Adams	1920.55-2
Allegheny	1920.55-2
Armstrong	1920.55-2
Beaver	1920.55-2
Bedford	1920.55-2
Berks	1920.55-2
Blair	1920.55-2
Bradford	1920.55-2
Bucks	Both
Butler	1920.55-2

Cambria	1920.55-2	Union	1920.55-2
Cameron	1920.55-2	Venango	1920.55-2
Carbon	1920.55-2	Warren	1920.55-2
Centre	1920.55-2	Washington	1920.55-2
Chester	1920.55-2	Wayne	1920.55-2
Clarion	1920.55-2	Westmoreland	1920.55-2
Clearfield	1920.55-2	Wyoming	1920.55-2
Clinton	no masters	York	1920.55-2
Columbia	1920.55-2		
Crawford	1920.55-2		
Cumberland	1920.55-2		
Dauphin	1920.55-2		
Delaware	1920.55-3		
Elk	1920.55-2		
Erie	1920.55-2		
Fayette	1920.55-2		
Forest	1920.55-2		
Franklin	1920.55-2		
Fulton	1920.55-2		
Greene	1920.55-2		
Huntingdon	no masters		
Indiana	1920.55-2		
Jefferson	1920.55-2		
Juniata	1920.55-2		
Lackawanna	1920.55-2		
Lancaster	1920.55-2		
Lawrence	1920.55-2		
Lebanon	1920.55-2		
Lehigh	1920.55-2		
Luzerne	1920.55-2		
Lycoming	1920.55-2		
McKean	1920.55-2		
Mercer	1920.55-2		
Mifflin	no masters		
Monroe	1920.55-2		
Montgomery	1920.55-3		
Montour	1920.55-2		
Northampton	1920.55-2		
Northumberland	1920.55-2		
Perry	1920.55-2		
Philadelphia	1920.55-3		
Pike	1920.55-2		
Potter	no masters		
Schuylkill	1920.55-2		
Snyder	1920.55-2		
Somerset	1920.55-2		
Sullivan	1920.55-2		
Susquehanna	1920.55-2		
Tioga	1920.55-2		

#### Explanatory Comment—1995

The proposed amendments create alternative procedures for appeal from the recommendation of a master in divorce. Rule 1920.55-1 states that, if the court chooses to appoint a master, the exceptions procedure set forth in proposed Rule 1920.55-2 will be used unless the court has, by local rule, adopted the alternative procedure of proposed Rule 1920.55-3. ]

*Official Note:* For a complete list of the Alternative Hearing Procedures for each county: <http://www.pacourts.us/courts/supreme-court/committees/rules-committees/domestic-relations-procedural-rules-committee>.

#### Explanatory Comment

The 1995 amendments created alternative procedures for appeal from the recommendation of a master in divorce. Pa.R.C.P. No. 1920.55-1 states that, if the court chooses to appoint a master, the exceptions procedure set forth in proposed Pa.R.C.P. No. 1920.55-2 will be used unless the court has, by local rule, adopted the alternative procedure of proposed Pa.R.C.P. No. 1920.55-3.

In lieu of continuing the practice of including in the Note a 67-county list identifying the hearing procedure selected by the local county court, the list can now be found on the Domestic Relations Procedural Rules Committee website.

[Pa.B. Doc. No. 16-1851. Filed for public inspection October 28, 2016, 9:00 a.m.]

## Title 249—PHILADELPHIA RULES

### PHILADELPHIA COUNTY

#### Mass Tort Protocols; General Court Regulation No. 2013-01

#### Order

And Now, this 5th day of October, 2016, it is hereby Ordered, Adjudged and Decreed that Section 9 of General Court Regulation 2013-01, concerning Mass Torts protocols, is amended to read as follows:

9. The panel of former judges invited to participate in the special mediation of mass tort cases are the following:

1. Phyllis W. Beck, Retired Judge  
Independence Foundation  
Offices at the Bellevue  
200 South Broad Street, Suite 1101  
Philadelphia, PA 19102

2. Jane Cutler Greenspan, Retired Justice  
JAMS Arbitration, Mediation and ADR Services  
1717 Arch Street  
Suite 4010—Bell Atlantic Tower  
Philadelphia, PA 19103  
(215) 246-9494
3. G. Craig Lord, Retired Judge  
Blank Rome LLP  
One Logan Square  
130 North 18th Street  
Philadelphia, PA 19103-6998  
(215) 569-5496
4. James R. Melinson, Retired Judge  
JAMS Arbitration, Mediation and ADR Services  
1717 Arch Street  
Suite 4010—Bell Atlantic Tower  
Philadelphia, PA 19103  
(215) 246-9494
5. Russell Nigro, Retired Justice  
210 W. Washington Square  
Philadelphia, PA 19106  
(215) 287-5866
6. Diane M. Welsh, Retired Judge  
JAMS Arbitration, Mediation and ADR Services  
1717 Arch Street  
Suite 4010—Bell Atlantic Tower  
Philadelphia, PA 19103  
(215) 246-9494
7. Sandra Mazer Moss, Retired Judge  
The Dispute Resolution Institute  
Two Logan Square—6th Floor  
18th and Arch Streets  
Philadelphia, PA 19103  
(215) 656-4374
8. William J. Manfredi, Retired Judge  
1528 Walnut Street—4th Floor  
Philadelphia, PA 19102  
(215) 817-9825
9. Mark I. Bernstein, Retired Judge  
Ten Penn Center  
1801 Market Street  
Suite 1100  
Philadelphia, PA 19103

All other terms of General Court Regulation 2013-01 shall remain in full force and effect.

This General Court Regulation is promulgated in accordance with Pa.R.C.P. No. 239 and the April 11, 1986 Order of the Supreme Court of Pennsylvania, Eastern District, No. 55 Judicial Administration. The original General Court Regulation shall be filed with the Office of Judicial Records (formerly Prothonotary) in a Docket maintained for General Court Regulations issued by the Administrative Judge of the Trial Division, Court of Common Pleas of Philadelphia County, and shall be submitted to the *Pennsylvania Bulletin* for publication. Copies of the General Court Regulation shall be submitted to the Administrative Office of Pennsylvania Courts, the Civil Procedural Rules Committee, American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library, and the Law Library for the First Judicial

District of Pennsylvania, and shall be posted on the website of the First Judicial District of Pennsylvania: <http://courts.phila.gov/regs>.

*By the Court*

HONORABLE JACQUELINE F. ALLEN,  
*Administrative Judge, Trial Division*

[Pa.B. Doc. No. 16-1852. Filed for public inspection October 28, 2016, 9:00 a.m.]

## PHILADELPHIA COUNTY

### Petitions for Expungement—Young Lawyers Division of the Philadelphia Bar Association; Administrative Doc. No. 04 of 2016

#### Order

*And Now*, this 29th day of September, 2016, the Court having been informed that volunteer attorneys who are members of the Young Lawyers Division of the Philadelphia Bar Association, in partnership with Community Legal Services, the District Attorney's Office and the City of Philadelphia, will hold an "Expungement Clinic" in November, 2016 and will thereafter be filing petitions for expungement on behalf of eligible criminal defendants who meet the income guidelines for proceeding in forma pauperis, it is hereby *Ordered* and *Decreed* that, at the request of the Young Lawyers Division of the Philadelphia Bar Association, the Office of Judicial Records is authorized to accept Petitions for Expungement filed by attorneys who identify themselves as participating in the Expungement Clinic by filing a Praecipe in connection with each petition substantially as follows:

(Caption)

PRAECIPE TO PROCEED IN FORMA PAUPERIS

To the Office of Judicial Records:

Kindly allow Petitioner, \_\_\_\_\_, to proceed in forma pauperis in connection with the attached Petition for Expungement.

I, \_\_\_\_\_, attorney for the Petitioner, certify that I believe the Petitioner is unable to pay the costs and that I am providing free legal service to the Petitioner as part of the Expungement Clinic sponsored by the Young Lawyers Division of the Philadelphia Bar Association.

This Administrative Order is issued in accordance with the April 11, 1986 order of the Supreme Court of Pennsylvania, Eastern District, No. 55 Judicial Administration, Docket No. 1. This Administrative Order 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. Two certified copies of this Administrative Order, as well as one copy of the Administrative Order shall be distributed to the Legislative Reference Bureau on a computer diskette for publication in the *Pennsylvania Bulletin*. Pursuant to Pa.R.J.A. 103(d)(6) one certified copy of this Administrative Order shall be filed with the Administrative Office of Pennsylvania Courts, shall be published on the website of the First Judicial District at <http://courts.phila.gov>, and, if required, 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 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 JACQUELINE F. ALLEN,  
*Administrative Judge, Trial Division  
Court of Common Pleas, Philadelphia County*

[Pa.B. Doc. No. 16-1853. Filed for public inspection October 28, 2016, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### ADAMS COUNTY

#### Amendment of Rules of Criminal Procedure 202; Administrative Order No. 8 of 2016

##### Order of Court

*And Now*, this 8th day of July, 2016, the Court hereby Orders that Rule 202 of the Adams County Rules of Criminal Procedure shall be amended as follows:

#### **Rule 202. Approval of Search Warrant Applications by Attorney for the Commonwealth—Local Option.**

[ The District Attorney of Adams County having filed a certification pursuant to Pa.R.Crim.P. § 202(A), search warrants in all cases except those involving exigent circumstances shall not hereafter be issued by any judicial officer unless the search warrant application has the approval of an attorney for the Commonwealth prior to filing. ]

**A. Except as in Paragraph B, search warrants in all cases shall not be issued by any judicial officer unless the search warrant has approval of an attorney of the Commonwealth prior to filing.**

**B. Search warrant approval by an attorney for the Commonwealth is not required in the following circumstance:**

**1. Search warrants to obtain a blood sample to determine blood alcohol content and the presence of controlled substances based on violations of 75 Pa.C.S. § 3802(a)—(d), Driving Under the Influence of Alcohol/Controlled Substances, unless the investigation involves a fatality and/or serious bodily injury. In such instance, the affidavit of probable cause shall clearly set forth that the investigation does not involve a fatality and/or serious bodily injury. Absent such clear language or approval from an attorney for the Commonwealth, requests for search warrants for violations of 75 Pa.C.S. § 3802(a)—(d) will be denied.**

This rule amendment shall become effective after all the provisions of the Pennsylvania Rules of Judicial Administration 103 are met, to include the following:

a. A certified copy of this order shall be submitted to the Criminal Procedural Rules Committee for review;

b. Upon receipt of a statement from the Criminal Procedural Rules Committee that the local rule is not inconsistent with any general rule of the Supreme Court, two (2) certified copies of this Order together with a

computer diskette that complies with the requirement of 1 Pa. Code § 13.11(b), or other compliant format, containing the text of the local rule(s) adopted hereby shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

c. One (1) certified copy of this Order shall be forwarded to the Administrative Office of the Pennsylvania Courts;

d. A copy of the proposed local rule shall be published on the 51st Judicial District website;

e. This Order shall be filed in the Office of the Prothonotary of Adams County and a copy thereof shall be filed with the Adams County Clerk of Courts and the Adams County Law Library for inspection and copying;

f. The effective date of the local rule shall be 30 days after publication in the *Pennsylvania Bulletin*.

*By the Court*

MICHAEL A. GEORGE,  
*President Judge*

[Pa.B. Doc. No. 16-1854. Filed for public inspection October 28, 2016, 9:00 a.m.]

### NORTHAMPTON COUNTY

#### Additional Requirements for Adoption Petitions; Administrative Order 2016-02

##### Order of Court

*And Now*, this 21st day of July, 2016, it is hereby *Ordered* and *Decreed* that all Adoption Petitions in the County of Northampton shall contain the following, in addition to those requirements promulgated in the Pennsylvania Orphans' Court Rules, effective September 1, 2016:

1. Petitioner must provide a copy of his/her identification with the Adoption Petition, only Driver's Licenses or other government-issued identification will be accepted.

2. Any birth certificate provided must be originals, not copies, as to ensure the accuracy of the document.

3. Original Death Certificates, if applicable, must be provided to prove the death of a prospective adoptee's parent.

4. If parental rights have been terminated by a Court of this Commonwealth, certified copies of these proceedings must be filed along with the Adoption Petition.

5. Clearances must be filed along with the Adoption Petition where the Petitioner is not a relative of the adoptee.

6. The requisite Counseling Fee in the amount of Seventy-Five Dollars (\$75.00) must be paid at the time of filing of an Adoption Petition. Alternatively the Petition must contain a request to waive the fee.

*By the Court*

EMIL GIORDANO,  
*Judge*

[Pa.B. Doc. No. 16-1855. Filed for public inspection October 28, 2016, 9:00 a.m.]

**NORTHAMPTON COUNTY**

**Presentation of Expert Testimony by Written Deposition to Support a Finding of Incapacity in Guardianship Hearings; Administrative Order 2016-01**

**Order of Court**

And Now, this 21st day of July, 2016, it is hereby Ordered and Decreed that in order for this Court to accept expert testimony by written deposition pursuant to 20 Pa.C.S § 5518, the following conditions must be met:

1. The individual providing such expert testimony must be licensed to practice medicine, osteopathy, or psychiatry in Pennsylvania, or be otherwise qualified by training and experience in evaluating persons with the type of incapacity as alleged by the Petitioner.
2. The requested information must be provided on the following form and must be complete and clearly legible.
3. The answers must be signed and verified subject to the penalties of 18 Pa.C.S. § 4909 (relating to unsworn falsification to authorities) by the individuals providing such testimony.
4. At the hearing, the Petitioner shall present the Court either (1) the completed written deposition, with verification bearing the expert witness' original signature, or (2) a time-stamped copy of the written deposition and verification demonstrating that the original has been filed with the Clerk of Orphans' Court.
5. Expert testimony by written deposition will be accepted only when the issue of incapacity is uncontested. When the alleged incapacity is in dispute, expert testimony must be provided via live testimony or telephone testimony.

Counsel for Petitioners and pro se Petitioners are responsible for compliance with these instructions. The failure to comply with the foregoing may result in the rejection of proffered expert testimony by written deposition, at the Court's discretion.

By the Court

EMIL GIORDANO,  
*Judge*

**IN THE COURT OF COMMON PLEAS OF  
NORTHAMPTON COUNTY, PENNSYLVANIA  
ORPHANS' COURT DIVISION**

IN RE: \_\_\_\_\_ ) No.  
AN ALLEGED )  
INCAPACITATED PERSON )

WRITTEN DEPOSITION OF PHYSICIAN OR  
LICENSED PSYCHOLOGIST PURSUANT TO 20 Pa.C.S.  
§ 5518

Physician or Licensed Psychologist (Name): \_\_\_\_\_  
Office address: \_\_\_\_\_  
Current position: \_\_\_\_\_

PROFESSIONAL BACKGROUND (In lieu of providing responses to questions 1-6, you may attach your curriculum vitae. Please provide any requested information not addressed in the curriculum vitae.)

1. Provide the following information concerning your education:

	Name of Institution	Degree received	Date of Graduation
Undergraduate			
Graduate			
Post-Graduate			

2. List all of your active professional licenses, the state/name of the issuing agency, and any board certifications, along with the dates each was issued/awarded.

3. Do you have experience in evaluating individuals to determine their mental capacity?

Yes \_\_\_\_\_ No \_\_\_\_\_

4. If your answer to the above question is "Yes", please indicate the basis of your experience and describe your specialized qualifications and training with respect to evaluating persons to determine their mental capacity.

5. Have you ever testified in court or in an administrative proceeding, or have you provided testimony by deposition or by written interrogatories regarding an individual's mental capacity, prior to today?

Yes \_\_\_\_\_ No \_\_\_\_\_

6. If your answer to the above question is "Yes", please provide an estimate of the number of times you provided testimony by deposition or by written interrogatories regarding an individual's mental capacity, prior to today:

**INFORMATION CONCERNING THE ALLEGED INCAPACITATED PERSON**

7. In your professional capacity, have you had the opportunity to meet with, examine, evaluate or assess the alleged incapacitated person?

Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to the above question is "Yes", provide the dates within the past two (2) years that you have met with, examined, evaluated or assessed the alleged incapacitated person:

8. Identify any tests that were administered to evaluate/assess the alleged incapacitated person's mental capacity (e.g. mini mental status exam—MMSE), along with the date of each tests and the results/conclusions drawn from each test:

Date	Test	Results/Conclusions

9. Identify all medical and psychiatric diagnoses that you believe impact the alleged incapacitated person's mental capacity, along with the symptoms/manifestations of each diagnosis, and the prognosis for each:

Diagnosis	Symptoms/Manifestations	Prognosis

10. List all other current medical diagnoses/conditions of the alleged incapacitated person of which you are aware:

11. List all medications presently prescribed for the alleged incapacitated person, and the diagnosis for which each medication was prescribed:

Medication	Diagnosis

Medication	Diagnosis

12. Indicate the alleged incapacitated person’s abilities with respect to the following activities of daily living by placing an “X” in the appropriate space below:

	No Impairment	Needs Some Help	Totally Impaired	Insufficient Information
Eating				
Bathing				
Dressing				
Toileting				
Transferring				
Preparing meals				
Basic housework				
Personal hygiene				
Managing medication				
Complying with medical treatment				

13. Indicate the alleged incapacitated person’s abilities with respect to the following activities by placing an “X” in the appropriate space below. Additional information will be requested for all items/activities marked “needs some help”.

	No Impairment	Needs Some Help	Totally Impaired	Insufficient Information
Understanding medical conditions and any physical limitations				
Making appropriate living arrangements				
Managing finances/paying bills				
Applying for financial or medical benefits				
Avoiding financial exploitation				
Communicating decisions				
Receiving and evaluating information				
Short term memory				
Long term memory				
Responding to emergency situations				
Providing for his/her physical safety				

14. For all items/activities in the above chart (Interrogatory 13) in which you indicate that the alleged incapacitated person “needs some help”, provide details as to the type and extent of assistance needed.

15. List any services that, to your knowledge, are being provided to meet essential requirements for the health and safety of the alleged incapacitated person, or to assist the alleged incapacitated person with management of his/her finances.

16. What, if any, recommendations do you have concerning services necessary to meet essential requirements for the health and safety of the alleged incapacitated person?

17. What, if any, recommendations do you have concerning services necessary to assist the alleged incapacitated person with management of his/her finances?

18. Do you believe that the alleged incapacitated person is capable of making reasonable decisions regarding his/her personal care, medical care, and safety?

Yes \_\_\_\_\_ No \_\_\_\_\_

19. Do you believe that the alleged incapacitated person is capable of making reasonable decisions regarding his/her finances?

Yes \_\_\_\_\_ No \_\_\_\_\_

20. In your professional opinion, is the person who is the subject of this hearing incapacitated?

Yes—totally impaired \_\_\_\_ Yes—partially impaired \_\_\_\_  
No \_\_\_\_\_

21. Do you expect the alleged incapacitated person's mental condition to significantly change or improve?

Yes \_\_\_\_\_ No \_\_\_\_\_

Please provide a basis for your answer:

22. Would any less restrictive alternatives to the appointment of a plenary guardian be sufficient to protect the alleged incapacitated person from physical and financial harm?

Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to the above question is "No", explain why less restrictive alternatives would be insufficient to protect the alleged incapacitated person from physical and financial harm?

23. Do you believe that it would be harmful to the alleged incapacitated person's physical or mental condition if he/she was to be present in court for the hearing in this matter?

Yes \_\_\_\_\_ No \_\_\_\_\_

24. Are you able to provide any additional information that would assist the Court in determining the alleged incapacitated person's need for a guardian and/or person(s) who would/would not be appropriate guardians?

25. Are your answers to all of the above questions provided within a reasonable degree of medical certainty?

Yes \_\_\_\_\_ No \_\_\_\_\_

**VERIFICATION**

I verify that the foregoing information is true and correct to the best of my knowledge, information and belief. I am aware that this verification is subject to the penalties of 18 Pa.C.S. § 4904 relative to unsworn falsification to authorities.

Date	Signature
	Name (type or print)
	Address
	City, State, Zip Code
	Phone

[Pa.B. Doc. No. 16-1856. Filed for public inspection October 28, 2016, 9:00 a.m.]

**SOMERSET COUNTY**  
**Consolidated Rules of Court; Administrative Order**  
**No. 8 of 2016, No. 13 Misc. 2016**

**Adopting Order**

*Now*, this 28th day of *September*, 2016, it is hereby *Ordered*:

1. Somerset County Rules Of Civil Procedure 1920.51, 1920.53 and 1920.55 are *Rescinded*, effective thirty (30) days after publication in *The Pennsylvania Bulletin* and on the Unified Judicial System Portal.

2. The Somerset County Court Administrator is directed to:

A. File one (1) certified copy of this Order and the following local Rule with the Administrative Office of Pennsylvania Courts.

B. Distribute two (2) certified copies of this Order along with electronic copy to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

C. File one (1) certified copy of this Order with the Pennsylvania Civil Procedural Rule Committee.

D. File proof of compliance with this Order in the docket for this Order, which shall include a copy of each transmittal letter.

**Administrative Order**

*And Now*, this 28th day of *September*, 2016, it is ordered that Somerset County Rules of Civil Procedure 1920.51, 1920.53 and 1920.55 are *Rescinded*.

*By the Court*

D. GREGORY GEARY,  
*President Judge*

[Pa.B. Doc. No. 16-1857. Filed for public inspection October 28, 2016, 9:00 a.m.]

**DISCIPLINARY BOARD OF  
THE SUPREME COURT**

**Notice of Suspension**

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated October 11, 2016, Michael Thomas Reynolds (# 73708) has been Suspended from the practice of law in this Commonwealth for a period of two years, to take effect November 10, 2016. This reciprocal suspension is based on a two year suspension that was imposed in the State of Arizona. 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*.

JULIA FRANKSTON-MORRIS, Esq.,  
*Secretary*  
*The Disciplinary Board of the  
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 16-1858. Filed for public inspection October 28, 2016, 9:00 a.m.]