

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

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

#### Amendment of Rules 219(a) and 502(b) of the Pennsylvania Rules of Disciplinary Enforcement No. 66; Disciplinary Rules Doc. No. 1

##### Order

*And Now*, this 1st day of April, 2008, it is hereby *Ordered* that:

(1) Rules 219(a) and 502(b) of the Pennsylvania Rules of Disciplinary Enforcement are amended in the following form;

(2) These amendments shall be effective for the 2008-2009 assessment and shall continue until further Order of this Court; and

(3) Pursuant to Rule 103 of the Pennsylvania Rules of Judicial Administration, the immediate amendment of Rules 219(a) and 502(b) of the Pennsylvania Rules of Disciplinary Enforcement is required in the interest of efficient administration.

This Order shall be processed in accordance with Rule 103(b) of the Pennsylvania Rules of Judicial Administration and shall be effective immediately.

RONALD D. CASTILLE,  
*Chief Justice*

##### 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 B. MISCONDUCT

#### Rule 219. Periodic assessment of attorneys; voluntary inactive status.

(a) Every attorney admitted to practice law in this Commonwealth, other than a military attorney holding a limited certificate of admission issued under Pennsylvania Bar Admission Rule 303 (relating to limited admission of military attorneys), shall pay an annual fee of [ **\$130.00** ] **\$140.00** under this rule. The annual fee shall be collected under the supervision of the Administrative Office, which shall send and receive, or cause to be sent and received, the notices and statements provided for in this rule. The said fee shall be used to defray the costs of disciplinary administration and enforcement under these rules, and for such other purposes as the Board shall, with the approval of the Supreme Court, from time to time determine.

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### Subchapter E. PENNSYLVANIA LAWYERS FUND FOR CLIENT SECURITY GENERAL PROVISIONS

#### Rule 502. Pennsylvania Lawyers Fund for Client Security.

\* \* \* \* \*

(b) *Additional assessment.* Every attorney who is required to pay an annual assessment under Rule 219 (relating to periodic assessment of attorneys; voluntary inactive status) shall pay an additional annual fee of [ **\$45.00** ] **\$35.00** for use by 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 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. 08-662. Filed for public inspection April 11, 2008, 9:00 a.m.]

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### [ 231 PA. CODE CH. 1000 ]

#### New Rule 1036.1 Governing Reinstatement of a Claim Dismissed upon an Affidavit of Noninvolvement; Proposed Recommendation No. 231

The Civil Procedural Rules Committee proposes that new Rule of Civil Procedure 1036.1 governing reinstatement of a claim dismissed upon an affidavit of noninvolvement be promulgated as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than May 23, 2008 to:

Karla M. Shultz  
Counsel  
Civil Procedural Rules Committee  
5035 Ritter Road, Suite 700  
Mechanicsburg, Pennsylvania 17055

or E-Mail to  
civil.rules@pacourts.us

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

## Annex A

## TITEL 231. RULES OF CIVIL PROCEDURE

## PART I. GENERAL

## CHAPTER 1000. ACTIONS

## PLEADINGS

**Rule 1036.1. Reinstatement of Claim Dismissed upon Affidavit of Noninvolvement.**

(a) As used in this rule, "action" shall have the meaning as provided in Rule 1036(a).

(b) If a party has been dismissed from an action upon an affidavit of noninvolvement pursuant to Rule 1036, any other party may file a motion to reinstate the dismissed party setting forth facts showing that statements made in the affidavit of noninvolvement were false or inaccurate.

(c) Any party opposing the motion may file a response.

(d) Upon reviewing the motion and any response thereto and determining the existence of a prima facie case of involvement of the dismissed party, the court shall enter an order.

(1) allowing any party opposing the motion.

(i) to conduct limited discovery directed solely to the issue of the involvement of the party which was dismissed.

(ii) prior to the disposition of the motion, to file affidavits, depositions and such other evidentiary materials as would permit a jury to find that any party which was dismissed was involved in any activities upon which the claim is based, and

(2) scheduling an argument to decide the motion.

(e) The argument shall be limited to the sole issue of whether the moving party has produced evidence which, when considered in a light most favorable to that party, would require the issue of the involvement of any party which was dismissed to be submitted to the jury.

**Explanatory Comment**

Reinstatement of a claim dismissed upon an affidavit of noninvolvement is required by two statutes: Section 7502 of the Judicial Code, 42 Pa.C.S. § 7502, relating to construction design professionals and Section 506 of the MCARE Act, 40 P.S. § 1303.506, relating to healthcare providers. Currently, the rules of civil procedure are silent as to reinstatement. Proposed new Rule 1036.1 is intended to supply this need.

The proposed new rule sets forth a procedure that requires the party seeking reinstatement to file a motion setting forth facts which show that statements made in the affidavit of noninvolvement were false or inaccurate. Upon initially reviewing the motion, if the court determines that the party seeking reinstatement has established a prima facie case, that party may conduct discovery limited to the issue of the involvement of the dismissed party. At final argument on the matter, the court makes a determination as to whether the party

seeking reinstatement has produced enough evidence to require submission of the issue of the involvement of the dismissed party to the jury.

*By the Civil Procedural Rules Committee*

R. STANTON WETTICK, Jr.,  
*Chair*

[Pa.B. Doc. No. 08-663. Filed for public inspection April 11, 2008, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

## PIKE COUNTY

**Promulgation of Local Rule 117; No. 42-2008-Civil****Order**

*And Now*, this 20th day of March, 2008, the Court *Orders* the following Rules of this Court are Rescinded and Reconfirmed as follows:

1. Amended Local Rule 117, which was published in the *Pennsylvania Bulletin* Volume 38 Number 4, dated January 26, 2008 is hereby rescinded.

2. Local Rule 117, which was published in the *Pennsylvania Bulletin* Volume 36 Number 51, dated December 23, 2006 is hereby reconfirmed.

3. The Court Administrator of the 60th Judicial District is hereby *Ordered* to do the following:

a. File seven (7) certified copies of this *Order* and the pertinent Rules with the Administrative Office of Pennsylvania Courts;

b. File two (2) certified copies and a computer diskette containing this *Order* and the pertinent Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

c. File one (1) certified copy of this *Order* and the pertinent Rule with the Civil Procedural Committee;

d. Provide one (1) copy of this *Order* and the Local Rule to each member of the Pike County Bar Association who maintain an active practice in Pike County; and

e. Keep continuously available for public inspection, copies of this *Order* and the Local Rules.

*By the Court*

HON. JOSEPH F. KAMEEN,  
*President Judge*

**Local Rule 117—Coverage: Issuing Warrants; Preliminary Arraignments; and Setting and Accepting Bail.**

(a) Magisterial District Judge Offices shall be open for regular business Monday through Friday, excluding holidays, during such hours as established by the President Judge, and as may be modified with the approval of the President Judge to meet the needs of the public and the Court.

(b) Magisterial District Judges shall be available twenty-four hours a day, every day of the calendar year to provide continuous coverage for the issuance of warrants, the holding of preliminary arraignments, the setting and accepting of bail, and the issuance of emergency orders under the Protection from Abuse Act.

This rule shall be satisfied by the Magisterial District Judge remaining on-call during non-business hours on a rotating basis, pursuant to an annual schedule prepared by the District Court Administrator

(c) An on-call Magisterial District Judge, while on-call, and the Clerk of Courts, during business hours, are authorized to accept bail in accordance with the provisions and subject to the limitations of the Pennsylvania Rules of Criminal Procedure.

**Amended Local Rule 117—Coverage: Issuing Warrants; Preliminary Arraignments; and Setting and Accepting Bail. (RESCINDED)**

(A) Each Magisterial District Court shall be open for regular business Monday through Friday, excluding holidays, during such hours as established by the President Judge, and as may be modified with the approval of the President Judge to meet the needs of the public and the Court.

(B) Magisterial District Judges shall be available twenty-four hours a day, every day of the calendar year to provide continuous coverage for issuance of warrants, setting and acceptance of bail and the issuance of emergency orders under the Protection from Abuse Act.

This rule shall be satisfied by the Magisterial District Justice remaining on-call during non-business hours on a rotating basis, pursuant to an annual schedule prepared by the District Court Administrator.

(C) Each Magisterial District Court during regular business hours, an on-call Magisterial District Justice while on-call, and the Clerk of Courts during business hours, are authorized to accept bail in accordance with the provisions and subject to the limitations of the Pennsylvania Rules of Criminal Procedure.

(D) A Magisterial District Justice assigned to on-call duty shall be available for preliminary arraignments in accordance with the following schedule:

(1) For arrests occurring after the close of regular business hours but before 8:00 p.m., and for arrests occurring on weekends or holidays between 8:00 a.m. and 8:00 p.m. the Magisterial District Judge shall respond to the call and conduct a preliminary arraignment prior to detention at the Pike County Correctional Facility.

(2) Arrests occurring after 8:00 p.m. but before 8:00 a.m. shall be subject to the following rules:

a. For all cases requiring District Attorney approval for filing of the Complaint as provided for in Local Criminal Rule 507, the Magisterial District Justice shall respond to the call by conducting a preliminary arraignment prior to detention at the Pike County Correctional Facility;

b. For arrests requiring preliminary arraignment but not set forth in paragraph D(2)(a), the arresting agency, including the state police, municipal police, sheriff or constable is authorized to detain the prisoner at the Pike County Correctional Facility until 8:00 a.m. the following

morning. For Defendants so detained, the on duty Magisterial District Justice shall appear in person or by video conferencing at the Pike County Correctional Facility at 8:00 a.m. to preside at the Preliminary Arraignment;

c. Prior to detaining a prisoner at the Pike County Correctional Facility under this Rule, the arresting agency shall contact the facility to ascertain that adequate detention facilities are available for temporary detention in accordance with this Rule. If no detention facilities are available at the facility, then the arresting agency shall notify the Magisterial District Judge of that fact and a preliminary arraignment shall be required prior to detention or commitment to the facility.

d. The arresting agency detaining the Defendant shall provide to the Magisterial District Justice the original and copies of the Criminal Complaint with Probable Cause Affidavit attached, a copy of the Defendant's criminal record, and any recommendation regarding bail for the Defendant, by depositing the same at the Pike County Correctional Facility and faxing copies to the Magisterial District Court Office.

e. The arresting officer or officers need not appear at the Preliminary Arraignment provided the documents identified in paragraph 4(d) are provided. In the alternative, the arresting officer may appear at the Preliminary Arraignment in lieu of prior submission of the criminal record or bail recommendation forms. However, no person shall be detained under this rule without the completion and submission of a completed criminal Complaint and Affidavit of Probable Cause which shall be delivered to the Pike County Correctional Facility for use by the Magisterial District Justice.

f. The provisions of this Rule allowing for temporary detention of prisoners shall not apply to the performance of any other duties on the on-duty Magisterial District Justice during the hours of 8:00 p.m. to 8:00 a.m.

(3) The Pike County Correctional Facility is directed to identify a detention area for prisoners so detained in accordance with the Standard Operating Procedures of the Pike County Correctional Facility for temporary detention of individuals at the Facility.

(4) The Pike County Correctional Facility is directed to make available to the on-duty Magisterial District Justice appropriate space or video conferencing availability between the hours of 8:00 a.m. and 9:00 a.m. to perform the Preliminary Arraignment at the Facility.

(5) Upon completion of the Preliminary Arraignment, the detention authorized by this Rule shall terminate and the person detained shall be processed in accordance with the Orders of the Magisterial District Justice at the Preliminary Arraignment.

(6) If the Preliminary Arraignment is done by video conferencing, upon completion of the Preliminary Arraignment, copies of all commitment orders, bail orders, etc. shall be faxed from the Magisterial District Justice to the Facility, and the originals mailed to the facility on the next regular business day. If the Preliminary Arraignment is done at the Correctional Facility, original documents shall be provided to the Facility at the time of the Preliminary Arraignment.

[Pa.B. Doc. No. 08-664. Filed for public inspection April 11, 2008, 9:00 a.m.]

## YORK COUNTY

CallTrack Implementation Fee; No. CP-67-AD-0000002-2008

## Administrative Order

*And Now, To Wit*, this 26th day of March, 2008, it is hereby ordered that a monthly fee be imposed on any probation or parole offender placed on CallTrack in lieu of direct officer contact in administrative cases. This fee will be \$6 per month in six month increments.

The York County Treasurer shall establish and administer a separate York County Adult Probation CallTrack Fund, consisting of those funds received from the CallTrack program.

*It Is Further Ordered* that, in accordance with Pa.R.C.P. 239, the District Court Administrator of York County, Pennsylvania, shall:

- (a) File seven (7) certified copies hereof with the Administrative Office of Pennsylvania Courts;
- (b) Distribute two (2) certified copies hereof to the Legislative Reference Bureau for Publication in the *Pennsylvania Bulletin*;
- (c) File one (1) certified copy hereof with the Criminal Rules Committee;
- (d) Cause a copy hereof to be published one (1) time in the York Legal Record at the expense of the County of York; and
- (e) Supervise and distribute hereof to all Judges and all members of the Bar of this Court.

*It Is Further Ordered* that copies of this Order are directed to: the Court of Common Pleas; J. Robert Chuk, the District Court Administrator; the York County Dis-

trict Attorney's Office; the York County Public Defender's Office; the York County Adult Probation Department; and the York County Treasurer's Office.

*By the Court*

RICHARD K. RENN,  
*President Judge*

[Pa.B. Doc. No. 08-665. Filed for public inspection April 11, 2008, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Transfer of Attorney to Inactive Status

Notice is hereby given that Andrew Michael Carroll of Voorhees, NJ, has been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated February 19, 2008, under Pennsylvania Rules of Disciplinary Enforcement 219, which requires that every attorney admitted to practice in any court of this Commonwealth must pay an annual assessment of \$175. The Order became effective March 20, 2008.

Notice with respect to attorneys having Pennsylvania registration addresses, which have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

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

[Pa.B. Doc. No. 08-666. Filed for public inspection April 11, 2008, 9:00 a.m.]