

THE COURTS

Title 255—LOCAL COURT RULES

WESTMORELAND COUNTY

Rescinding Rule W1920.42 and Adopting New Rule W1920.42; No. 3 of 2023

Order

And Now, this 6th day of March, 2023, *It Is Hereby Ordered* that Westmoreland County Rule of Civil Procedure W1920.42 is rescinded and new Rule W1920.42 is adopted. This change is effective 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

CHRISTOPHER A. FELICIANI,
President Judge

Rule W1920.42. Affidavit and Decree under Section 3301(c) or Section 3301(d) of the Divorce Code.

(a) The court may require a hearing before the entry of a decree in divorce under sections 3301(c) or 3301(d) of the Divorce Code.

(b) Where both parties have filed affidavits under section 3301(c) of the Divorce Code evidencing consent to the entry of a final decree, the plaintiff shall file at the prothonotary a Pennsylvania vital statistics form, an affidavit of non-military service of defendant, and a proposed decree in divorce. Upon receipt of a praecipe to transmit the record, the prothonotary shall deliver all of the papers filed at that number and term to the court for entry of the decree in divorce. The proposed decree in divorce shall include a clause retaining jurisdiction in the court of all other related claims that have been joined, and which have not been decided by the court as of the date of the presentation of the proposed decree in divorce.

(c) If a complaint has been filed requesting a divorce on the grounds of irretrievable breakdown and the plaintiff has filed an affidavit under section 3301(d) of the Divorce Code, the averments of which the defendant has either

admitted or not denied; the plaintiff shall send written notice to the court and to the defendant at his/her last known address. The notice shall be sent at least 10 days in advance of the time and date the plaintiff intends to file the praecipe to transmit the record required by Pa.R.C.P. 1920.42.

(1) The plaintiff shall also file the Pennsylvania vital statistics form, an affidavit of non-military service of defendant, a proposed decree in divorce, and an affidavit that notice was sent to the defendant as required above. The proposed decree in divorce shall include a clause retaining jurisdiction in the court of all other related claims which have been joined and which have not been decided by the court as of the date of the presentation of the proposed decree in divorce.

(2) If the defendant does not object within the time allotted, the court may either enter a decree in divorce, or schedule a hearing.

(d) If the defendant objects and raises new legal or factual issues, a hearing shall be held before the court or a master, as the court may direct.

(e) In the event that an agreement is reached in equitable distribution or in any case in which ancillary claims are raised, the parties shall submit a praecipe for an order approving grounds for divorce with the praecipe to transmit record.

(f) In the event that equitable distribution or ancillary claims are raised and resolved before the All-Counts Conference Officer or are resolved by the parties through mediation, the All-Counts Conference Officer or the mediator shall submit the praecipe for an order approving grounds for divorce with the praecipe to transmit record.

Note: A form praecipe for an order establishing grounds is provided in the Forms section of the Westmoreland County Rules of Court.

Adopted December 16, 1993, effective April 1, 1994. Rule W1920.42(a) rescinded October 28, 2015; new rule adopted October 28, 2015, effective December 21, 2015.

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY, PENNSYLVANIA

FAMILY DIVISION

Plaintiff
vs.

Case No. _____ of _____-D

Defendant

PRAECIPE FOR AN ORDER APPROVING GROUNDS FOR DIVORCE

To the Honorable Judge,

PLAINTIFF DEFENDANT requests the Court enter an Order approving grounds for divorce based on the information herein with the Court retaining jurisdiction over unresolved ancillary claims.

1. Check the applicable section of the Divorce Code.

Grounds for Divorce: Irretrievable breakdown under:

Section 3301(c)(1)

Section 3301(c)(2)

Section 3301(d)

2. Service of Complaint:

a) Date served: _____

b) Manner of Service: _____

3. Complete either paragraph (a) or (b).

a) Section 3301(c)(1) or (2) of the Divorce Code—Insert the date each party signed the Affidavit of Consent, and if the ground for divorce is under Section 3301(c)(2) of the Divorce Code, insert the date the spouse was convicted of the personal injury crime identified in 23 Pa.C.S. § 3103 next to the appropriate party and complete (1) and (2).

Plaintiff: _____;

Defendant: _____.

1) The date the party signed the Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code: _____;

2) The date of filing and manner of service of the Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code and a blank Counter-Affidavit under Section 3301(c)(2) upon the other party: _____.

b) Section 3301(d) of the Divorce Code:

1) The date the Affidavit under Section 3301(d) of the Divorce Code was signed: _____.

2) Date of filing and manner of service of the Affidavit under Section 3301(d) of the Divorce Code and blank Counter-Affidavit under Section 3301(d) of the Divorce Code upon the other party: _____.

4. Related ancillary claims pending: _____.

5. Complete either (a) or (b).

a) Notice of intention to File the Praecept for an Order Approving Grounds for a Divorce:

1) Date served: _____

2) Manner of Service: _____

b) The date of filing of the party’s Waiver of Notice of Intention to File the Praecept for an Order Approving Grounds for Divorce:

1) Plaintiff’s Waiver: _____

2) Defendant’s Waiver: _____

Respectfully Submitted,

Date: _____

Attorney for Plaintiff/Defendant

[Pa.B. Doc. No. 23-345. Filed for public inspection March 17, 2023, 9:00 a.m.]

**DISCIPLINARY BOARD
OF THE SUPREME COURT**

Notice of Disbarment

Notice is hereby given that Joseph Cicala, (# 73299), having been disbarred in the Supreme Court of New Jersey, the Supreme Court of Pennsylvania issued an Order March 8, 2023, disbaring Joseph Cicala, from the Bar of this Commonwealth, effective April 7, 2023.

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

MARCEE D. SLOAN,
Board Prothonotary

[Pa.B. Doc. No. 23-346. Filed for public inspection March 17, 2023, 9:00 a.m.]