

THE COURTS

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CHS. 21 AND 25]

Order Amending Pa.R.A.P. 2140 and 2544; No. 174 Appellate Court Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 22nd day of September, 2006, upon the recommendation of the Appellate Court Procedural Rules Committee, this recommendation having been submitted without publication in the interest of justice, pursuant to Pa.R.J.A. 103(a)(3):

It Is Ordered, pursuant to Article V, Section 10 of the Constitution of Pennsylvania, that Pennsylvania Rules of Appellate Procedure 2140 and 2544 are amended in the following form.

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

Anne A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 21. BRIEFS AND REPRODUCED RECORD

CONTENT OF BRIEFS

Rule 2140. Brief on Remand or Following Grant of Reargument or Reconsideration.

* * * * *

(d) *Page limits.*—A substituted brief shall not exceed [50 pages of conventional typographical printing or 70 pages of reproduction by any other process of duplicating or copying] 70 pages when produced on a word processor/computer or typewriter. A supplemental brief shall not exceed [25 pages of conventional typographical printing or 40 pages of reproduction by any other process of duplicating or copying] 40 pages when produced on a word processor/computer or typewriter. A reply brief shall not exceed [15 pages of conventional typographical printing or 25 pages of reproduction by any other process of duplicating or copying] 25 pages when produced on a word processor/computer or typewriter.

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CHAPTER 25. POST-SUBMISSION PROCEEDINGS

APPLICATION FOR REARGUMENT

Rule 2544. Contents of Applications for Reargument

* * * * *

(c) *Length.*—Except by permission of the court, an application for reargument shall not exceed [ten pages of conventional typographical printing or 15 pages

of any other process of duplicating or copying] 15 pages when produced on a word processor/computer or typewriter, exclusive of pages containing table of contents, table of citations and any addendum containing opinions, etc., or any other similar supplementary matter provided for by this rule.

* * * * *

[Pa.B. Doc. No. 06-1958. Filed for public inspection October 6, 2006, 9:00 a.m.]

PART II. INTERNAL OPERATING PROCEDURES

[210 PA. CODE CH. 67]

Guidelines for the Photographing, Recording and Broadcasting of Commonwealth Court Proceedings

Annex A

TITLE 210. APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES

CHAPTER 67. [INTERNAL OPERATING PROCEDURES OF THE] COMMONWEALTH COURT

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- 67.2. Courts En Banc and Panels; Number of Judges Assigned.
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 BROADCASTING OF COMMONWEALTH COURT
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Sec.

- 67.101. Guidelines for the Photographing, Recording and Broadcasting of Commonwealth Court Proceedings by the Pennsylvania Cable Network (PCN).

§ 67.101. Guidelines for the Photographing, Recording and Broadcasting of Commonwealth Court Proceedings by the Pennsylvania Cable Network (PCN).

(a) *General Provisions.*

(1) From the date of these Guidelines until further order of this Court, the recording by PCN of en banc proceedings before Commonwealth Court for future broadcast on PCN is permissible only in accordance with these Guidelines.

(2) Three business days advance notice is required of a request to be present to record a scheduled en banc proceeding electronically for future broadcast on PCN electronically. Such requests must be submitted to the Executive Administrator for approval by the President Judge. The President Judge, or presiding judge of the en banc panel will retain the authority, in his or her sole discretion, to prohibit camera coverage of any proceeding.

(3) There shall be no coverage of an en banc proceeding involving any case that the Court has designated SEALED, or of any case involving the expungement or the refusal to expunge founded or indicated reports of child abuse.

(4) The President Judge, or presiding judge of an en banc proceeding may limit or terminate coverage, or direct the removal of camera coverage personnel when necessary to protect the rights of the parties or to assure the orderly conduct of the proceedings.

(5) No expense by Commonwealth Court is to be incurred for equipment, wiring or personnel needed to provide coverage by PCN.

(6) Introductory commentary, if any, shall be supplied by members of the Pennsylvania Bar approved by the Board of Judges of the Commonwealth Court.

(7) All coverage must be gavel-to-gavel, including re-broadcasts, with the exceptions covered in a(3) and (4) above.

(8) All copyrights to the broadcasts are the possession of the Commonwealth Court of Pennsylvania and may not be used without the approval of the Commonwealth Court of Pennsylvania. PCN shall provide to the court DVD or videotape recordings of all sessions covered by PCN, whether or not broadcasted.

(9) This shall become effective November 1, 2006.

(b) *Limitations.*

(1) Camera coverage of en banc proceedings must be conducted in conformity with applicable statutes, national rules, any guidelines that may be issued by the U.S. Judicial Conference or the Supreme Court of Pennsylvania.

(2) There shall be no audio pickup or broadcast of conferences between co-counsel or among the judges.

(c) *Equipment and Personnel.*

(1) Only two television cameras, with one operator per camera will be permitted in the courtroom. The Executive Administrator, or designee, shall identify the location in the courtroom for the camera equipment and operators.

(2) Equipment shall not produce distracting sound or light. Signal lights or devices to show when the equipment is operating shall not be visible. Motorized drives, moving lights, flash attachments or sudden light changes shall not be used.

(3) Except as otherwise approved by the Executive Administrator, or designee, existing courtroom sound and light systems shall be used without modification. Audio pickup for all media purposes shall be accomplished from existing audio systems present in the court facility, or from a television camera's built-in microphone. If no technically suitable audio system exists in the court facility, microphones and related wiring essential for media purposes shall be unobtrusive and shall be located in places designated in advance by the Executive Administrator or designee.

(4) All equipment must be set up prior to the opening of the court session and may not be removed until after the conclusion of the day's proceedings. Video tape recording equipment which is not a component part of a television camera shall be located in an area remote from the courtroom. Camera operators shall not exit or enter the courtroom once the proceedings are in session except during a recess or adjournment. Camera operators shall wear suitable attire in the courtroom.

(5) PCN personnel shall adhere to the direction of the Executive Administrator, or designee, in such matters as security, parking, noise avoidance, and other related issues.

(d) *Impermissible Use of Material.*

(1) None of the film, video tape, still photographs or audio reproductions developed during or by virtue of coverage of an en banc proceeding shall be admissible as evidence in the proceeding out of which it arose, any proceeding subsequent and collateral thereto, or upon any appeal of such proceedings.

[Pa.B. Doc. No. 06-1959. Filed for public inspection October 6, 2006, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1915]

Amendments to the Rules of Civil Procedure Relating to Domestic Relations Matters; Recommendation 84

The Domestic Relations Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend the Rules of Civil Procedure relating to domestic relations matters as set forth herein. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

Notes and explanatory comments which appear with proposed amendments have been inserted by the committee for the convenience of those using the rules. Reports, notes and comments will not constitute part of the rules and will not be officially adopted or promulgated by the Supreme Court.

The committee solicits and welcomes comments and suggestions from all interested persons prior to submission of this proposal to the Supreme Court of Pennsylvania. Please submit written comments no later than Friday, January 12, 2007 directed to:

Patricia A. Miles, Esquire
Counsel, Domestic Relations Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, Pennsylvania 17055
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By the Domestic Relations
Procedural Rules Committee

NANCY P. WALLITSCH, Esq.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1915. ACTIONS FOR CUSTODY, PARTIAL CUSTODY AND VISITATION OF MINOR CHILDREN

Rule 1915.13-1. Modification of Custody Order.

(a) A petition for modification of an existing custody order shall be substantially in the form set forth in Rule 1915.15(b) and shall specifically set forth the material and substantial change in circumstances which have occurred from the date of the last order upon which the petition is based.

(b) The petition shall also set forth whether it involves legal custody, sole custody, physical custody, partial custody, shared custody or visitation, the specific relief requested and explain fully how the requested modification will serve the best interests and permanent welfare of the child(ren).

(c) Unless the court is satisfied that there has been a material and substantial change in circumstances, it will not consider the merits of the petition.

(d) If the trier of fact finds a material and substantial change in circumstances, it may modify the existing

custody order in an appropriate manner consistent with the best interests and permanent welfare of the child(ren).

Explanatory Comment—2006

Custody litigation is difficult and stressful, particularly for the children who are the subjects of the proceedings. The commonwealth has a duty of paramount importance to protect a child's best interests and welfare which is not served by continued relitigation of matters decided by the court and/or agreed upon by the parties, without there being a material and substantial basis for the request for change. New Rule 1915.13-1 requires that petitions for modification of existing custody orders specifically state the material and substantial change in circumstances that have occurred from the date of the last order, and that a court find such change before considering the merits of a modification petition. This amendment supercedes *Karis v. Karis*, 518 Pa. 601, 544 A.2d 1328 (1988), to the extent that it held that a petition for modification of a custody order does not require a showing of a substantial change in circumstances.

Rule 1915.15. Form of Complaint. Caption. Order. Petition to Modify a Partial Custody or Visitation Order.

* * * * *

(b) A petition to modify a [partial] custody [or visitation] order shall be in substantially the following form:

(Caption)

PETITION FOR MODIFICATION OF A [PARTIAL] CUSTODY [OR VISITATION] ORDER

1. The petition of _____ respectfully represents that on _____ (date) _____, [19__] _____ an Order of Court was entered for (LEGAL CUSTODY) (SOLE CUSTODY) (PHYSICAL CUSTODY) (PARTIAL CUSTODY) (SHARED CUSTODY) (VISITATION), a true and correct copy of which is attached.

2. This Order should be modified because there has been a material and substantial change in circumstances as follows (set forth the specific facts explaining fully the material and substantial change in circumstances necessitating a modification of custody which will serve the best interests and permanent welfare of the child(ren): _____

WHEREFORE, Petitioner requests that the Court modify the existing Order for (LEGAL CUSTODY) (SOLE CUSTODY) (PHYSICAL CUSTODY) (PARTIAL CUSTODY) (SHARED CUSTODY) (VISITATION) because it will be in the best interest of the child(ren).

(Attorney for Petitioner) (Petitioner)

I verify that the statements made in this complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date Petitioner

* * * * *

[Pa.B. Doc. No. 06-1960. Filed for public inspection October 6, 2006, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES [237 PA. CODE CH. 5]

Proposed Amendments to Rule 512 and Proposed Rule 518

The Juvenile Court Procedural Rules Committee is planning to recommend to the Supreme Court of Pennsylvania that the modification of Rule 512 and the new rule 518 be adopted and prescribed. The proposed modified Rule 512 sets forth that the trial court shall ensure the juvenile is advised of the right to file post-dispositional motions and the right to an appeal. Rule 518 sets forth the procedures of a post-dispositional motion. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the intent of the rules. Please note that the Committee's Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel,

A. Christine Riscili, Esq.
Staff Counsel
Supreme Court of Pennsylvania
Juvenile Court Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055

no later than Monday, November 6, 2006.

By the Juvenile Court Procedural Rules Committee

FRANCIS BARRY MCCARTHY,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

CHAPTER 5. DISPOSITIONAL HEARING

PART B. DISPOSITIONAL HEARING AND AIDS

Rule 512. Dispositional Hearing.

A. *Manner of hearing.* The court shall conduct the dispositional hearing in an informal but orderly manner.

1) *Evidence.* The court shall receive any oral or written evidence which is helpful in determining disposition, including evidence that was not admissible at the adjudicatory hearing.

2) *Opportunity to be heard.* Before deciding disposition, the court shall give the juvenile and the victim an opportunity to make a statement.

B. *Recording.* The dispositional hearing shall be recorded. The recording shall be transcribed:

- 1) at the request of a party;
- 2) pursuant to a court order; or
- 3) when there is an appeal.

C. *Duties of the court.* The court shall determine on the record that the juvenile has been advised of the following:

- 1) the right to file a post-dispositional motion;
- 2) the right to file an appeal;
- 3) the time limits for a post-dispositional motion and appeal;
- 4) the right to counsel to prepare the motion and appeal;
- 5) the time limits within which the post-dispositional motion must be decided; and
- 6) that issues raised before and during adjudication shall be deemed preserved for appeal whether or not the juvenile elects to file a post-dispositional motion.

Comment

Under paragraph (A)(2), for victim's right to be heard, see Victim's Bill of Rights, 18 P. S. § 11.201 et seq.

To the extent practicable, the judge or master that presided over the adjudicatory hearing for a juvenile should preside over the dispositional hearing for the same juvenile.

* * * * *

Rule 518. Post-Dispositional Motions.

A. *Optional Post-Dispositional Motion.*

1) The parties shall have the right to make a post-dispositional motion. All requests for relief from the court shall be stated with specificity and particularity, and shall be consolidated in the post-dispositional motion.

2) Issues raised before or during the adjudicatory hearing shall be deemed preserved for appeal whether or not the party elects to file a post-dispositional motion on those issues.

B. *Timing.*

1) If a post-dispositional motion is filed, it shall be filed no later than ten days after the imposition of disposition.

2) If a timely post-dispositional motion is filed, the notice of appeal shall be filed:

- a) within thirty days of the entry of the order deciding the motion;
- b) within thirty days of the entry of the order denying the motion by operation of law in cases which the judge fails to decide the motion; or
- c) within thirty days of the entry of the order memorializing the withdrawal in cases in which a party withdraws the motion.

3) If a post-dispositional motion is not timely filed, a notice of appeal shall be filed within thirty days of the imposition of disposition.

C. *Trial Court Action.*

1) *Briefing Schedule and Argument.* Within ten days of the filing of the post-dispositional motion, the court shall:

- a) determine if briefs, memoranda of law, or oral arguments are required;
- b) set a briefing schedule and dates for oral argument, if necessary.

2) *Failure to Set Schedule.* If the court fails to act according to paragraph (C)(1), briefs and oral arguments are deemed unnecessary.

3) *Transcript.* If the grounds asserted in the post-dispositional motion do not require a transcript, neither the briefs nor arguments on the post-dispositional motion shall be delayed for transcript preparation.

D. *Time Limits for Decision on Motion.* The judge shall not vacate disposition pending the decision on the post-dispositional motion, but shall decide the motion as provided in this paragraph.

1) Except as provided in paragraph (D)(2), the judge shall decide the post-dispositional motion as soon as possible but within 30 days of the filing of the motion. If the judge fails to decide the motion within 30 days, or to grant an extension as provided in paragraph (D)(2), the motion shall be deemed denied by operation of law.

2) Upon motion of a party within the 30-day disposition period, for good cause shown, the judge may grant one 30-day extension for decision on the motion. If the judge fails to decide the motion within the 30-day extension period, the motion shall be deemed denied by operation of law.

3) When a post-dispositional motion is denied by operation of law, the clerk of courts shall forthwith enter an order on behalf of the court, and, as provided pursuant to Rule 167, forthwith shall serve a copy of the order on each attorney and the juvenile, if unrepresented, that the post-dispositional motion is deemed denied. This order is not subject to reconsideration.

4) If the judge denies the post-dispositional motion, the judge promptly shall issue an order and the order shall be filed and served as provided in Rule 167.

5) If a party withdraws a post-dispositional motion, the judge promptly shall issue an order memorializing the withdrawal, and the order shall be filed and served as provided in Rule 167.

E. *Contents of order.* An order denying a post-dispositional motion, whether issued by the judge pursuant to paragraph (D)(4) or entered by the clerk of courts pursuant to paragraph (D)(3), or an order issued following a party's withdrawal of the post-dispositional motion pursuant to paragraph (D)(5), shall include notice to the party of the following:

- 1) the right to appeal;
- 2) the time limits within which the appeal must be filed; and
- 3) the right to counsel in the preparation of the appeal.

F. *After-discovered evidence.* A motion for a new adjudication on the grounds of after-discovered evidence shall be filed in writing promptly after such discovery. If an appeal is pending, the judge may grant the motion only upon remand of the case.

Comment

The purpose of this rule is to promote the fair and prompt disposition of all issues relating to admissions, adjudication, and disposition by consolidating all possible motions to be submitted for trial court review, and by setting reasonable but firm time limits within which the motion must be decided. Because the post-dispositional motion is optional, a party may choose to raise any or all properly preserved issues in the trial court, in the appellate court, or both.

Optional Post-Dispositional Motion

See *In re Brandon Smith*, 393 Pa. Super. 39, 573 A.2d 1077 (1990) for motions on ineffective assistance of counsel.

Under paragraph (A)(2), any issue raised before or during adjudication is deemed preserved for appeal whether or not a party chooses to raise the issue in a post-dispositional motion. It follows that the failure to

brief or argue an issue in the post-dispositional motion would not waive that issue on appeal as long as the issue was properly preserved, in the first instance, before or during adjudication. Nothing in this rule, however, is intended to address Pa.R.A.P. 1925(b) or the preservation of appellate issues once an appeal is filed. See *Commonwealth v. Lord*, 553 Pa. 415, 719 A.2d 306 (1998) (any issues not raised in a 1925(b) statement will be deemed waived).

Under paragraph (B)(1), if a party chooses to file a post-dispositional motion, the motion must be filed within 10 days of imposition of disposition. The filing of the written post-dispositional motion triggers the time limits for decision on the motion. See paragraph (D)(1).

Timing

Paragraph (B) contains the timing requirements for filing the optional post-dispositional motion and taking an appeal. Under paragraph (B)(1), the post-dispositional motion must be filed within 10 days of imposition of disposition. Supplemental motions may be filed but the time requirements of paragraph (B)(1) must be followed.

When a party files a timely post-dispositional motion, the 30-day period for the juvenile's direct appeal on all matters in that case is triggered by the trial judge's decision on the post-dispositional motion, the denial of the motion by operation of law, or the withdrawal of the post-dispositional motion. The appeal period runs from the entry of the order. As to the date of entry of orders, see Pa.R.A.P. 108. No direct appeal may be taken by the party while the post-dispositional motion is pending. See paragraph (B)(2).

If no timely post-dispositional motion is filed, the party's appeal period runs from the date disposition is imposed. See paragraph (B)(3).

Briefs; Transcripts; Argument

Under paragraph (C)(1), the judge should determine, on a case-by-case basis, whether briefs, memoranda of law, or arguments are required for a fair resolution of the post-dispositional motion. If they are not needed, or if a concise summary of the relevant law and facts is sufficient, the judge should so order. Any local rules requiring briefs or oral argument are inconsistent with this rule. See Rule 121(C).

Under paragraph (C)(3), the judge, in consultation with the attorneys, should determine what, if any, portions of the notes of testimony must be transcribed so that the post-dispositional motion can be resolved. The judge should then set clear deadlines for the court reporter to insure timely disposition of the motion. Nothing in this rule precludes the judge from ordering the transcript or portions of it immediately after the conclusion of the adjudicatory hearing or the entry of an admission.

For the recording and transcribing of court proceedings generally, see Rule 127. The requirements for the record and the writing of an opinion on appeal are set forth in the Pennsylvania Rules of Appellate Procedure.

There is no requirement that oral argument be heard on every post-dispositional motion. When oral argument is heard on the post-dispositional motion, the juvenile need not be present.

Disposition

Under paragraph (D), once a party makes a timely written post-dispositional motion, the judge retains jurisdiction for the duration of the disposition period. The judge may not vacate the order imposing disposition pending decision on the post-dispositional motion.

Paragraph (D)(2) permits one 30-day extension of the 30-day time limit, for good cause shown, upon motion of a party. In most cases, an extension would be requested and granted when new counsel has entered the case. Only a party may request such an extension. The judge may not, *sua sponte*, extend the time for decision: a congested court calendar or other judicial delay does not constitute "good cause" under this rule.

The possibility of an extension is not intended to suggest that 30 days are required for decision in most cases. The time limits for disposition of the post-dispositional motion are the outer limits. Easily resolvable issues, such as a modification of disposition or an admission challenge, should ordinarily be decided in a much shorter period of time.

If the trial judge decides the motion within the time limits of this rule, the judge may grant reconsideration on the post-dispositional motion pursuant to 42 Pa.C.S. § 5505 or Pa.R.A.P. 1701(b)(3), but the judge may not vacate the disposition pending reconsideration. The reconsideration period may not be used to extend the timing requirements set forth in paragraph (D) for decision on the post-disposition motion: the time limits imposed by paragraphs (D)(1) and (D)(2) continue to run from the date the post-dispositional motion was originally filed. The trial judge's reconsideration must therefore be resolved within the 30-day decision period of paragraph (D)(1) or the 30-day extension period of paragraph (D)(2), whichever applies. If a decision on the reconsideration is not reached within the appropriate period, the post-dispositional motion, including any issues raised for reconsideration, will be denied pursuant to paragraph (D)(3).

Under paragraph (D)(1), on the date when the court disposes of the motion, or the date when the motion is denied by operation of law, the judgment becomes final for the purposes of appeal. See Judicial Code, 42 Pa.C.S. §§ 102, 722, 742, 5105(a) and *Commonwealth v. Bolden*, 472 Pa. 602, 373 A.2d 90 (1977). See Pa.R.A.P. Rule 341.

An order entered by the clerk of courts under paragraph (D)(3) constitutes a ministerial order and, as such, is not subject to reconsideration or modification pursuant to 42 Pa.C.S. § 5505 or Pa.R.A.P. 1701.

If the motion is denied by operation of law, paragraph (D)(3) requires that the clerk of courts enters an order denying the motion on behalf of the court and immediately notifies the attorneys, or the juvenile, if unrepresented, that the motion has been denied. This notice is intended to protect the party's right to appeal. The clerk of courts also must comply with the filing, service, and docket entry requirements of Rule 167.

Contents of Order

Paragraph (E) protects a party's right to appeal by requiring that the judge's order denying the motion, the clerk of courts' order denying the motion by operation of law, or the order entered memorializing a party's withdrawal of a post-dispositional motion, contain written notice of the party's appeal rights. This requirement ensures adequate notice to the party, which is important given the potential time lapse between the notice pro-

vided at disposition and the resolution of the post-dispositional motion. See also *Commonwealth v. Miller*, 715 A.2d 1203 (Pa. Super. Ct. 1998), concerning the contents of the order memorializing the withdrawal of a post-sentence motion.

When a party withdraws a post-dispositional motion in open court and on the record, the judge should orally enter an order memorializing the withdrawal for the record, and give the party notice of the information required by paragraph (E). See *Commonwealth v. Miller*, *supra*.

Miscellaneous

Under paragraph (A)(1), the grounds for the post-dispositional motion should be stated with particularity. Motions alleging insufficient evidence, for example, must specify in what way the evidence was insufficient, and motions alleging that the court's findings were against the weight of the evidence must specify why the findings were against the weight of the evidence.

Because the post-dispositional motion is optional, the failure to raise an issue with sufficient particularity in the post-dispositional motion will not constitute a waiver of the issue on appeal as long as the issue was preserved before or during adjudication. See paragraph (A)(2).

Issues properly preserved at the dispositional hearing need not, but may be raised again in a motion to modify disposition in order to preserve them for appeal. In deciding whether to move to modify disposition, counsel must carefully consider whether the record created at the dispositional hearing is adequate for appellate review of the issues, or the issues may be waived. See *Commonwealth v. Jarvis*, 444 Pa. Super. 295, 663 A.2d 790 (1995). As a general rule, the motion to modify disposition under paragraph (A)(1) gives the dispositional judge the earliest opportunity to modify the disposition. This procedure does not affect the court's inherent powers to correct an illegal disposition or obvious and patent mistakes in its orders at any time before appeal or upon remand by the appellate court. See, e.g., *Commonwealth v. Jones*, 520 Pa. 385, 554 A.2d 50 (1989) (trial court can, *sua sponte*, correct an illegal sentence even after the defendant has begun probation or placement) and *Commonwealth v. Cole*, 437 Pa. 288, 263 A.2d 339 (1970) (inherent power of the court to correct obvious and patent mistakes).

Once a disposition has been modified or reimposed pursuant to a motion to modify disposition under paragraph (A)(1), a party wishing to challenge the decision on the motion does not have to file an additional motion to modify disposition in order to preserve an issue for appeal, as long as the issue was properly preserved at the time disposition was modified or reimposed.

Explanatory Report

Rule 512—Dispositional Hearing

The Committee is proposing that paragraph (C) be added to Rule 512. At the dispositional hearing, the court is to determine on the record if the juvenile has been advised of the right to file a post-dispositional motion, the right to file an appeal, the time limits for a post-dispositional motion and appeal, the right to counsel to prepare the post-dispositional motion and appeal, the time limits within which the post-dispositional motion must be decided, and that issues raised before and during adjudication shall be deemed preserved for appeal whether the juvenile elects to file a post-dispositional motion.

In some counties, the District Attorney advises the juvenile of these rights on the record. In other counties, the juvenile's attorney advises the juvenile of these rights. Under the proposed rule change, any person can advise the juvenile of these rights. It is the court's duty to ensure that someone has spoken to the juvenile about these rights.

Rule 518—Post-Dispositional Motions

This proposed rule gives the parties the option to file a post-dispositional motion. A motion may include, but is not limited to, a motion challenging the validity of an admission pursuant to Rule 407 or a motion to withdraw the admission, a motion for reconsideration of findings, a motion for a new adjudication, a motion to modify disposition, or a motion of ineffective assistance of counsel.

See *In re Brandon Smith*, 573 A.2d 1077 (Pa. Super. Ct. 1990), for a matter of first impression when the Superior Court sitting en banc held that a post-dispositional motion is the appropriate means for alleging ineffective assistance of counsel.

Under paragraph (B)(1), a supplemental motion may be filed but it must be filed within the ten-day limit. Because of the urgency of moving the juvenile case through the system and the judge has only thirty days to respond to the motion pursuant to paragraph (D)(1), no supplemental motions can be filed after the original ten-day time frame. Pursuant to paragraph (A)(2), issues raised before or during the adjudicatory hearing are deemed preserved regardless of whether the party elects to file a post-dispositional motion. See also Rule 512 (C)(6).

Paragraph (B)(2) sets forth the time clock for when an appeal must be taken. If a post-dispositional motion is not filed, a notice of appeal must be filed within thirty days of the imposition of disposition. See paragraph (B)(3).

Under paragraph (C), the judge shall determine within ten days of the filing of a post-dispositional motion, if briefs, memoranda of law, or arguments are necessary. If they are deemed necessary, the judge is set a briefing and argument schedule.

Paragraph (D) sets forth the time limits for the decision on the post-dispositional motion. If the court fails to respond to the motion, the motion is denied by operation of law pursuant to paragraph (D)(3). The clerk of courts shall forthwith enter an order denying the motion on behalf of the judge.

[Pa.B. Doc. No. 06-1961. Filed for public inspection October 6, 2006, 9:00 a.m.]

Administrative Order
No. 34

Discontinuances in Asbestos
Cases—Notice to Other
Parties Under Pa.R.C.P. 229

In all asbestos cases where more than one party has been named as an original defendant or joined as an additional defendant, the case against any party may be discontinued as to less than all defendants under the procedures set forth in Pa.R.C.P. 229.

Under Rule 229, a discontinuance may not be entered without leave of Court.

Notice requirements:

The party requesting discontinuance shall notify all other parties by ordinary mail: (1) that a discontinuance approval will be requested from the Court; (2) the reason for the proposed discontinuance; and (3) that a discontinuance motion will be filed after the expiration of 20 days from the date of mailing said notice if no objections are received by counsel for the discontinuing party within that time.

Uncontested discontinuances:

If no objections have been received by discontinuing counsel, he or she may file a motion and proposed order with the Court certifying that the discontinuance is unopposed and setting forth compliance with the notice requirements.

The Prothonotary is directed to forward said motion to the asbestos judge forthwith.

Bucks County Rule 208.3(B) memoranda are not required in uncontested discontinuance cases.

Contested discontinuances:

If an objection has been received, discontinuance will be allowed only after motion and rule to show cause upon the objecting party. If an issue of fact is raised by the answer to the motion, the Court may fix a hearing upon the request of any party.

Multiple Actions:

Leave is hereby granted to file a single uncontested discontinuance motion involving more than one party. In such event, the caption shall list all cases to which the motion applies.

By the Court

DAVID W. HECKLER,
President Judge

[Pa.B. Doc. No. 06-1962. Filed for public inspection October 6, 2006, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BUCKS COUNTY

Order Amending Administrative Order No. 34 Regarding Discontinuances in Asbestos Cases; No. 89-90000

Order

And Now, this 15th day of September, 2006, Bucks County Administrative Order No. 34 is hereby amended as follows:

MIFFLIN COUNTY

Proposed Rule of Criminal Procedure

Local Rule 117. Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail.

(1) All Magisterial District Judge Offices shall be open for regular business on Mondays through Fridays, excluding holidays, from 8:30 a.m. to 4:30 p.m., prevailing time.

(2) Continuous coverage for the issuance of search warrants and arrest warrants, for warrants issued pursuant to Pa.R.Crim.P. 430 in a summary case, for the

issuance of emergency orders under the Protection from Abuse Act, and for those services set forth in Pa.R.Crim.P. 117(A)(2)(a), (b), (c) and (d) (e.g., for the holding of preliminary arraignments and summary trials, and for the setting and accepting of bail and collateral) shall be in accordance with the traditional on-call system as presently established. The President Judge shall establish the schedule of assignment of Magisterial District Judges to on-call duty.

(3) Magisterial District Judges, the Clerk of Courts and the Warden, or in his absence his designee in charge of the Mifflin County Correctional Facility, shall be authorized to accept bail in accordance with the provisions, and subject to the limitations, of the Pennsylvania Rules of Criminal Procedure.

TIMOTHY S. SEARER,
President Judge

[Pa.B. Doc. No. 06-1963. Filed for public inspection October 6, 2006, 9:00 a.m.]

NORTHAMPTON COUNTY

Implementation of Recommendations of Pennsylvania State Police Risk and Vulnerability Assessment Team (Building Access and Weapon Screening); AD-310-2006

Administrative Order 2006-11

And Now, this 18th day of September, 2006, based upon the recommendations of the Pennsylvania State Police, Domestic Security Office, Risk and Vulnerability Assessment Team, it is hereby ordered that the Sheriff of Northampton County shall implement the following building access and weapon screening procedures at the Northampton County Courthouse complex:

1. The Sheriff shall issue identification cards to public officials and county employees, who shall enter the Courthouse complex through either the Employee Entrance on the east side of the courthouse complex or the Rotunda Entrance. The Sheriff shall design and implement a random weapon screening procedure for public officials and county employees.

2. All other persons, including attorneys not employed by the county and title searchers, shall enter the courthouse complex through the Rotunda Entrance where they shall pass through a weapon screening procedure designed and implemented by the Sheriff.

3. Entrance and departure through all doors other than the Rotunda Entrance and the Employee Entrance shall be prohibited.

4. Persons with physical disabilities may enter the courthouse complex through either the Employee Entrance or the Rotunda Entrance as they choose. They shall be subject to the same weapon screening procedure as other members of the public.

5. The Sheriff shall design and implement a procedure whereby persons making deliveries through the loading dock communicate with the Sheriff's control center to gain access. The Sheriff shall design and implement a weapon screening procedure for delivery persons and for the items which they deliver.

6. Appropriate security personnel shall be present from 7:00 A.M. to 11:00 P.M. daily to control access to the courthouse complex and to screen for weapons for visitors during other than regular business hours. Monitoring of the complex after 11:00 P.M. shall be performed at the Northampton County Prison control center or by on-duty security personnel as the County Executive shall determine. Only public officials, county employees, and members of the public attending governmental meetings shall be permitted in the Courthouse complex at times other than regular business hours.

7. The County Executive or the President of County Council may direct that members of the public attending governmental meetings in the courthouse complex after regular business hours shall enter through the Employee Entrance.

8. This Order is effective immediately.

By The Court

ROBERT A. FREEDBERG,
President Judge

[Pa.B. Doc. No. 06-1964. Filed for public inspection October 6, 2006, 9:00 a.m.]

SCHUYLKILL COUNTY

Amended Civil Rules of Procedure; S2025-2006

Order of Court

And Now, this 20th day of September, 2006, at 11:45 a.m., the Court hereby amends Schuylkill County Rules of Civil Procedure No. 1302(f) and No. 1308(a). The rules are amended for use in the Court of Common Pleas of Schuylkill County, Pennsylvania (21st Judicial District) and shall be effective thirty days after publication in the *Pennsylvania Bulletin*.

The Prothonotary of Schuylkill County is Ordered and Directed to do the following:

1) File ten (10) certified copies of this Order and Rule with the Administrative Office of Pennsylvania Courts.

2) File two (2) certified copies of this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* together with a diskette reflecting the text in the hard copy version.

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

4) Forward one (1) copy to the Schuylkill County Law Library for publication in the *Schuylkill Legal Record*.

5) Keep continuously available for public inspection copies of this Order and Rule.

It is further *Ordered* that said rules as they existed prior to the amendment is hereby repealed and annulled on the effective date of said rule as amended, but no right acquired thereunder shall be disturbed.

By the Court

WILLIAM E. BALDWIN,
President Judge

Rule 1302(f)

Members of the Board of Arbitration will generally be assigned to a panel for a period of one day. The chairperson and each associate member of the panel shall receive the payment rate established by the President Judge. Fees paid to arbitrators shall not be taxed as costs nor follow the award as other costs.

Rule 1308(a)

In filing an appeal, the appellant shall make payment to the Prothonotary for compensation of the arbitrators. The compensation assessed by the Prothonotary of Schuylkill County shall be the arbitration daily compensation rate established by the President Judge. The parties thereafter shall proceed as set forth in Sch.R.C.P. No. 212.1

[Pa.B. Doc. No. 06-1965. Filed for public inspection October 6, 2006, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Continued Suspension

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated September 19, 2006, the Court ordered that Jose Matos Quinones remain under suspension pursuant to Rule 301(e) (relating to disabled attorneys) until further Order of the Supreme Court. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 06-1966. Filed for public inspection October 6, 2006, 9:00 a.m.]
