

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CHS. 81 AND 83]

Amendment of Rules 204, 205, 212, 216, 217, 218, 219, 401, 502 and 531 of the Rules of Disciplinary Enforcement and Rule 1.15(u) of the Rules of Professional Conduct; No. 112 Disciplinary Rules Doc.

Order

Per Curiam

And Now, this 4th day of June, 2012, upon the recommendation of the Disciplinary Board of the Supreme Court of Pennsylvania; the proposal having been published for public comment at 41 Pa.B. 2517 (May 21, 2011):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 204, 205, 212, 216, 217, 218, 219, 401, 502 and 531 of the Pennsylvania Rules of Disciplinary Enforcement and Rule 1.15(u) of the Pennsylvania Rules of Professional Conduct 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 in 30 days. The amendments to Pa.R.D.E. 219(f) relating to automatic assessment of non-waivable late payment penalties shall be applicable beginning with the 2013-2014 assessment year.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart A. PROFESSIONAL RESPONSIBILITY

CHAPTER 81. RULES OF PROFESSIONAL CONDUCT

Subchapter A. RULES OF PROFESSIONAL CONDUCT

§ 81.4. Rules of Professional Conduct.

The following are the Rules of Professional Conduct:

CLIENT-LAWYER RELATIONSHIP

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Rule 1.15. Safekeeping Property.

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(u) Every attorney who is required to pay an active annual assessment under Rule 219 of the Pennsylvania Rules of Disciplinary Enforcement (relating to [**periodic assessment**] **annual registration** of attorneys[; **voluntary inactive status**]) shall pay an additional annual fee of \$35.00 for use by the IOLTA Board. Such additional assessment shall be added to, and collected with and in the same manner as, the basic annual assessment, but the statement mailed by the Attorney

Registration 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 IOLTA Board.

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Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter B. MISCONDUCT

Rule 204. Types of discipline.

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(c) A reference in these rules to disbarment, suspension, temporary suspension, administrative suspension, or transfer to or assumption of retired or inactive status shall be deemed to mean, in the case of a respondent-attorney who holds a Limited In-House Corporate Counsel License, expiration of that license. A respondent-attorney whose Limited In-House Corporate Counsel License expires for any reason:

(1) shall be deemed to be a formerly admitted attorney for purposes of Rule 217 (relating to formerly admitted attorneys); and

(2) shall not be entitled to seek reinstatement under Rule 218 (relating to reinstatement) or Rule 219 (relating to [**periodic assessment**] **annual registration** of attorneys[; **voluntary inactive status**]) and instead must reapply for a Limited In-House Corporate Counsel License under Pennsylvania Bar Admission Rule 302.

Rule 205. The Disciplinary Board of the Supreme Court of Pennsylvania.

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(c) The Board shall have the power and duty:

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(4) To assign as special masters three or more former members of the Board or former or retired justices or judges who are not in senior judge status. The expenses and compensation of the special masters shall be paid as a cost of disciplinary administration and enforcement. See Enforcement Rule 219(a) (relating to [**periodic assessment**] **annual registration** of attorneys).

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Rule 212. Substituted service.

In the event a respondent-attorney cannot be located and personally served with notices required under these rules, such notices may be served upon the respondent-attorney by addressing them to the address furnished by the respondent-attorney in the last registration statement filed by such person in accordance with Enforcement Rule 219(d) (relating to [**periodic assessment**] **annual registration** of attorneys) or, in the case of a foreign legal consultant, by serving them pursuant to the designation filed by the foreign legal consultant under Pennsylvania Bar Admission Rule 341(b)(8).

Rule 216. Reciprocal discipline and disability.

(a) Upon receipt of a certified copy of a final adjudication of any court or any body authorized by law or by rule of court to conduct disciplinary proceedings against attorneys by any state or territory of the United States or the

District of Columbia, a United States court, or a federal administrative agency or a military tribunal demonstrating that an attorney admitted to practice in this Commonwealth has been disciplined by suspension, disbarment, or revocation of license or pro hac vice admission, or has resigned from the bar or otherwise relinquished his or her license to practice while under disciplinary investigation in another jurisdiction or has been transferred to disability inactive status, the Supreme Court shall forthwith issue a notice directed to the respondent-attorney containing:

(1) a copy of the final adjudication described in paragraph (a); and

(2) an order directing that the respondent-attorney inform the Court within 30 days from service of the notice, of any claim by the respondent-attorney that the imposition of the identical or comparable discipline or disability inactive status in this Commonwealth would be unwarranted, and the reasons therefor.

The Board shall cause this notice to be served upon the respondent-attorney by mailing it to the address furnished by the respondent-attorney in the last registration statement filed by such person in accordance with Enforcement Rule 219(d) (relating to [**periodic assessment**] **annual registration** of attorneys) or, in the case of a foreign legal consultant, by serving it pursuant to the designation filed by the foreign legal consultant under Pennsylvania Bar Admission Rule 341(b)(8).

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Rule 217. Formerly admitted attorneys.

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(h) Within ten days after the effective date of an order of disbarment or suspension for a period longer than one year, the formerly admitted attorney shall surrender to the Board the certificate issued by the Attorney Registration Office under Rule 219(e) (relating to [**periodic assessment**] **annual registration** of attorneys[; **voluntary inactive status**]) for the current year, along with any certificate of good standing issued under Pennsylvania Bar Admission Rule 201(d) (relating to certification of good standing), certificate of admission issued under Pennsylvania Bar Admission Rule 231(d)(3) (relating to action by Prothonotary), certificate of licensure issued under Pennsylvania Bar Admission Rule 341(e)(3) (relating to motion for licensure), Limited In-House Corporate Counsel License issued under Pennsylvania Bar Admission Rule 302 (relating to limited in-house corporate counsel license) or limited certificate of admission issued under Pennsylvania Bar Admission Rule 303 (relating to limited admission of military attorneys). The Board may destroy the annual certificate issued under Rule 219(e), but shall retain any other documents surrendered under this subdivision and shall return those documents to the formerly admitted attorney in the event that he or she is subsequently reinstated.

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Rule 218. Reinstatement.

(a) An attorney may not resume practice until reinstated by order of the Supreme Court after petition pursuant to this rule if the attorney was:

- (1) suspended for a period exceeding one year;
- (2) retired, on inactive status or on administrative suspension [**for more than**] **if the formerly admitted**

attorney has not been on active status at any time within the past three years;

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(d) The procedure for petitioning for reinstatement from: retired status for more than three years[,]; inactive status for more than three years [**or**]; administrative suspension for more than three years[,]; **retired status, inactive status or administrative suspension if the formerly admitted attorney has not been on active status at any time within the past three years;** or after transfer to inactive status as a result of the sale of a law practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct, is as follows:

* * * * *

(g)(1) Upon the expiration of any term of suspension not exceeding one year and upon the filing thereafter by the formerly admitted attorney with the Board of a verified statement showing compliance with all the terms and conditions of the order of suspension and of Enforcement Rule 217 (relating to formerly admitted attorneys), the Board shall certify such fact to the Supreme Court, which shall immediately enter an order reinstating the formerly admitted attorney to active status, unless such person is subject to another outstanding order of suspension or disbarment.

(2) Paragraph (1) of this subdivision shall not be applicable and a formerly admitted attorney shall be subject instead to the other provisions of this rule requiring the filing of a petition for reinstatement, if:

(i) other formal disciplinary proceedings are then pending or have been authorized against the formerly admitted attorney;

(ii) the formerly admitted attorney has been on **retired status**, inactive status or administrative suspension for more than three years; [**or**]

(iii) **the formerly admitted attorney has not been on active status for more than three years due to a combination of retired status, inactive status, administrative suspension and/or a term of suspension not exceeding one year and had not been on active status at any time within the three-year period preceding the entry of the order; or**

(iv) the order of suspension has been in effect for more than three years.

(h) Attorneys who have been on inactive status, retired status or administrative suspension for three years or less may be reinstated **to the roll of those classified as active** pursuant to Enforcement Rule 219(h), (i), (j)[, (k)] or (m) (relating to [**periodic assessment**] **annual registration** of attorneys) as appropriate. This subdivision (h) does not apply to [**an attorney**]:

(1) **a formerly admitted attorney who, on the date of the filing of the request for reinstatement, had not been on active status at any time within the preceding three years; or**

(2) **an attorney who has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct.**

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Rule 219. [Periodic assessment] Annual registration of attorneys[; voluntary inactive status].

(a) Every attorney admitted to practice law in this Commonwealth shall pay an annual fee of \$130.00 [**un-**

der this rule] and file the annual fee form provided for in this rule. The [annual] fee shall be collected under the supervision of the Attorney Registration Office, which shall send [and receive,] or cause to be sent [and received, the notices and forms provided for in this rule] to every attorney, except an attorney who has elected to file the form electronically, the annual fee form. 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. Failure to receive the annual fee form by mail or electronically shall not excuse payment of the fee. 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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(c) On or before May 15 of each year the Attorney Registration Office shall transmit [by ordinary mail to all persons] to all attorneys required by this rule to pay an annual fee, except those attorneys who have elected electronic filing, a form required by subdivision (d) of this rule. 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 by July 1.

(d) On or before July 1 of each year all [persons] attorneys required by this rule to pay an annual fee shall file with the Attorney Registration Office a signed or 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 a 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 licensed to practice law, with the current status thereof.

(ii) The current residence and office addresses of the attorney, each of which shall be an actual street address or rural route box number, and 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.padisiplinaryboard.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.

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(vi) 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 web site. The requirement of Rule 219(d)(3) that every attorney who has filed an annual [registration form] fee form or elects to file the form electronically must notify the Attorney Registration Office [in writing] of any change in the information previously submitted within 30 days after such change will apply to the information regarding insurance.

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

(2) Payment of the annual fee shall accompany the form. IOLTA, trust, escrow and other fiduciary account checks tendered in payment of the annual fee will not be accepted. [Where] If the form and payment are 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 subdivision (f) of this rule 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.

(3) Every [person] attorney who has filed [such a] 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.

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(f) [The Attorney Registration Office shall transmit by ordinary mail to every attorney who fails to timely file the form and pay the annual fee required by this rule, addressed to the last known mailing address of the attorney, a notice stating:

(1) That unless the attorney shall comply with the requirements of subdivision (d) of this rule within 30 days after the date of the notice, such failure to comply will be deemed a request to be administratively suspended, and at the end of such period the name of the attorney will be certified to the Supreme Court, which will enter an order administratively suspending the attorney.

(2) That upon the entry of an order of administrative suspension, the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys), a copy of which shall be enclosed with the notice.]

Any attorney who fails to complete registration by July 31 shall be automatically assessed a non-waivable late payment penalty established by the Board. A second, non-waivable late payment penalty established by the Board shall be automatically added to the delinquent account of any attorney who has failed to complete registration by August 31, at which time the continued failure to comply

with this rule shall be deemed a request to be administratively suspended. Thereafter, the Attorney Registration Office shall certify to the Supreme Court the name of every attorney who has failed to comply with the registration and payment requirements of this rule, and the Supreme Court shall enter an order administratively suspending the attorney. The Chief Justice may delegate the processing and entry of orders under this subdivision to the Prothonotary. Upon entry of an order of administrative suspension, the Attorney Registration Office shall transmit by certified mail, addressed to the last known mailing address of the attorney, or by electronic means, the order of administrative suspension and a notice that the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys), a copy of which shall be included with the notice.

For purposes of assessing the late payment penalties prescribed by this subdivision (f), registration shall not be deemed to be complete until the Attorney Registration Office receives a completed annual fee form and satisfactory payment of the annual fee and of all outstanding collection fees and late payment penalties. If a check in payment of the delinquency has been returned to the Board unpaid, a collection fee, as established by the Board under subdivision (d)(2) of this rule, shall be added to the attorney's delinquent account and registration shall not be deemed to be complete until the delinquent account has been paid in full.

The amount of the late payment penalties shall be established by the Board annually pursuant to the provisions of subdivision (h)(3) of this rule.

(g) [The Attorney Registration Office shall certify to the Supreme Court the names of every attorney who has failed to respond to a notice issued pursuant to subdivisions (f) and (l) of this rule within the 30-day period provided therein and the Court shall enter an order administratively suspending the attorney. A] The Attorney Registration Office shall provide to the Board Secretary a copy of any [such] certification [from] filed by the Attorney Registration Office [to] with the Supreme Court [shall be given to the Board Secretary] pursuant to the provisions of this rule. [The Chief Justice may delegate the processing and entry of orders under this subdivision to the Prothonotary.]

(h) The procedure for reinstatement of an attorney who has been administratively suspended pursuant to subdivision (f) for three years or less [pursuant to subdivision (g)] is as follows:

(1) The formerly admitted attorney shall submit to the Attorney Registration Office the form required by subdivision (d)(1) along with payment of:

- (i) the current annual fee;
- (ii) the annual fee that was due in the year in which the attorney was administratively suspended;
- (iii) the late payment [penalty] penalties required by paragraph (3);
- (iv) any unpaid collection fee;
- (v) a reinstatement fee of \$300.00.

(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 (1), the Attorney Registration Office shall so certify to the Board Secretary and to the Supreme Court. 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.

Where a check in payment of the fees and late payment penalties has been returned to the Board unpaid, the Attorney Registration Office shall immediately return the attorney to administrative suspension, and the arrears shall not be deemed to have been paid until a collection fee, as established by the Board under subdivision (d)(2) of this rule, shall also have been paid.

(3) A formerly admitted attorney who is administratively suspended [pursuant to subdivision (g)] must pay [a] the late payment [penalty with respect to that year] penalties incurred in the year in which the formerly admitted attorney is transferred to administrative suspension. The amount of the late payment [penalty] penalties shall be established by the Board annually after giving due regard to such factors as it considers relevant, including the direct and indirect costs incurred by the Board during the preceding year in processing the records of attorneys who fail to timely file the [statement] form required by subdivision (d) of this rule.

(i) *Retired Status:* An attorney who has retired shall file with the Attorney Registration Office an application for retirement. Upon the transmission of such 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. The retired attorney will be relieved from the payment of the fee imposed by this rule upon active practitioners and Enforcement Rule 217 (relating to formerly admitted attorneys) shall not be applicable to the formerly admitted attorney unless ordered by the Court in connection with the entry of an order of suspension or disbarment under another provision of these rules. An attorney on retired status for three years or less may be reinstated in the same manner as an inactive attorney, 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. The Chief Justice may delegate the processing and entry of orders under this subdivision to the Prothonotary.

(j) *Inactive Status:* 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 [voluntary] inactive status or continue that status once assumed. The attorney shall be removed from the roll of those classified as active until and unless such [person requests] inactive attorney makes a request under paragraph (2) of this subdivision (j) 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 subdivision (d) of Enforcement Rule 218 (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 [to the active rolls] pursuant to the provisions of that Enforcement Rule.

(1) An inactive attorney under this subdivision (j) shall continue to file the annual form required by subdivision (d) and shall pay an annual fee of \$70.00. Noncompliance with this provision will result in the inactive attorney incurring late payment penalties, incurring a collection fee for any check in payment that has been returned to the Board unpaid, and being placed on administrative suspension [after the Attorney Registration Office provides notice], pursuant to and in accordance with the provisions of [paragraph (f)] subdivision (f) of this rule. [An attorney who voluntarily assumed inactive status under former subdivision (j) of this rule shall continue to file the annual form required by subdivision (d) and pay an annual fee of \$70.00 commencing with the next regular assessment year. Noncompliance with this provision will result in the inactive attorney being placed on administrative suspension after notice in accordance with the provisions of paragraph (f).]

(2) *Administrative Change in Status from Inactive Status to Active Status:* An attorney on inactive status may request resumption of active status on a form provided by the Attorney Registration Office. [Reinstatement] Resumption of active status shall be granted unless the inactive attorney is subject to an outstanding order of suspension or disbarment [or], unless the inactive attorney has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct (see Enforcement Rule 218(h)), 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 Enforcement Rule 218(h)), upon the payment of:

(i) the active fee for the assessment year in which the application for resumption of active status is made or the difference between the active fee and the inactive fee that has been paid for that year [, and any arrears accumulated prior to the assumption of inactive status.]; and

(ii) any collection fee or late payment penalty that may have been assessed pursuant to subdivision (f), prior to the inactive attorney's request for resumption of active status.

Where a check in payment of fees and penalties has been returned to the Board unpaid, the Attorney Registration Office shall immediately return the attorney to inactive status, and the arrears shall not be deemed to have been paid until a collection fee, as established by the Board under subdivision (d)(2), shall also have been paid.

Official Note: Subdivisions (h), (i) and (j) of this rule do not apply if, on the date of the filing of the request for reinstatement, the formerly admitted attorney has not been on active status at any time within the preceding three years. See Enforcement Rule 218(h)(1).

[(3) In transmitting the annual fee form under subdivision (c) of this rule, the Attorney Registration Office shall include a notice of this subdivision (j).

Official Note: Under prior practice, an attorney who was neither retiring nor selling his or her law practice was given the option of assuming or continuing inactive status and ceasing the practice of law in Pennsylvania, and no annual fee was required. Under new subdivision (j), payment of an annual fee is required to assume and continue inactive status, and failure to pay the annual fee required by subdivision (j) and file the form required by subdivision (d) will result in an order administratively suspending the attorney.

(k) On the effective date of this subdivision (k), any attorney who is on inactive status:

(1) by order after having failed to pay the annual fee or file the form required by subdivisions (a) and (d) of this rule,

(2) by order pursuant to Rule 111(b), Pa.R.C.L.E., after having failed to satisfy the requirements of the Pennsylvania Rules for Continuing Legal Education,

(3) by order after having failed to pay any expenses taxed pursuant to Enforcement Rule 208(g), or

(4) by order after having failed to meet the requirements for maintaining a limited law license as a Limited In-House Corporate Counsel, a foreign legal consultant, an attorney participant in defender legal services programs pursuant to Pa.B.A.R. 311, or a military attorney, shall have a grace period of one year, commencing on July 1 of the year in which the next annual form under paragraph (d) is due, in which to request reinstatement to active status under an applicable provision of this rule, or to be reinstated to active status under Rule 218(a), as the case may be. Failure to achieve active status before the expiration of the grace period shall be deemed a request to be administratively suspended. An attorney who is on inactive status by court order will not be eligible to transfer to voluntary inactive status under subdivision (j) of this rule until the attorney first achieves active status. During the grace period, the inactive attorney shall remain ineligible to practice law. In transmitting the annual form under subdivision (c) of this rule, the Attorney Registration Office shall include a notice of this subdivision (k).

Official Note: Attorneys who voluntarily assumed inactive status under former paragraph (j) of Enforcement Rule 219 are governed by the provisions of paragraph (j). Attorneys who were transferred to inactive status by order after having failed to pay any expenses taxed pursuant to Enforcement Rule 208(g) are governed by the provisions of paragraph (m).]

(k) *Administrative Change in Status From Administrative Suspension to Inactive Status:* An inactive attorney who has been administratively suspended for failure to file the annual form and pay the annual fee required by subdivision (j)(1) of this rule, may request an administrative change in status to inactive status. The Attorney Registration

Office shall change the status of an attorney eligible for inactive status under this subdivision upon receipt of:

- (1) the annual form required by subdivision (d);
- (2) payment of the annual fee required by subdivision (j)(1);
- (3) payment of all collection fees and late payment penalties assessed under subdivisions (d)(2) and (f); and
- (4) payment of an administrative processing fee of \$100.00.

Where a check in payment of the fees and penalties has been returned to the Board unpaid, the Attorney Registration Office shall immediately return the attorney to administrative suspension, and the arrears shall not be deemed to have been paid until a collection fee, as established by the Board under subdivision (d)(2), shall also have been paid.

An active attorney who has been administratively suspended for failure to file the annual form and pay the annual fee required by this rule must comply with subdivision (h) before becoming eligible to register as inactive or retired.

Official Note: Former subdivision (k), which was adopted by Order dated April 16, 2009 (No. 75 Disciplinary Rules Docket No. 1, Supreme Court), effective May 2, 2009, established a grace period of one year commencing on July 1, 2009 in which any attorney who was on inactive status by order of the Supreme Court, could request and achieve reinstatement to active status under Enforcement Rule 218 or another applicable subdivision of Enforcement Rule 219 in order to avoid an automatic change in status to administrative suspension. The grace period was administratively extended to August 31, 2010, and any involuntarily inactive attorney who did not achieve active status by that date was transferred to administrative suspension on September 1, 2010.

(1) The Board shall transmit by certified mail, return receipt requested, to every attorney who fails to pay any expenses taxed pursuant to Enforcement Rule 208(g) (relating to costs), addressed to the last known address of the attorney, a notice stating:

(1) That unless the attorney shall pay all such expenses within 30 days after the date of the notice, such failure to pay will be deemed a request to be administratively suspended, and at the end of such period the name of the attorney will be certified to the Supreme Court, which will enter an order administratively suspending the attorney.

(2) That upon entry of the order of administrative suspension, the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys), a copy of which shall be enclosed with the notice.

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Subchapter D. MISCELLANEOUS PROVISIONS

Rule 401. Expenses.

The salaries of the Secretary of the Board, Disciplinary Counsel and staff, their expenses, administrative costs, and the expenses of the members of the Board and of hearing committees shall be paid by the Board out of the funds collected under the provisions of Enforcement Rule 219 (relating to [**periodic assessment**] **annual regis-**

tration of attorneys). The Board shall annually obtain an independent audit by a certified public accountant of the funds entrusted to it and their disposition and shall file a copy of such audit with the Court.

Subchapter E. PENNSYLVANIA LAWYERS FUND FOR CLIENT SECURITY
GENERAL PROVISIONS

Rule 502. Pennsylvania Lawyers Fund for Client Security.

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(b) *Additional [**assessment**] fee.* Every attorney who is required to pay an active annual [**assessment**] fee under Rule 219 (relating to [**periodic assessment**] **annual registration** of attorneys[; **voluntary inactive status**]) shall pay an additional annual fee of \$35.00 for use by the Fund. Such additional [**assessment**] fee shall be added to, and collected with and in the same manner as, the basic annual [**assessment**] fee, but the statement mailed by the Attorney Registration Office pursuant to Rule 219 shall separately identify the additional [**assessment**] fee imposed pursuant to this subdivision. All amounts received pursuant to this subdivision shall be credited to the Fund.

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REINSTATEMENT

Rule 531. Restitution a condition for reinstatement.

The Board shall file with the Supreme Court a list containing the names of all formerly admitted attorneys with respect to the Dishonest Conduct of which the Board has made unrecovered disbursements from the Fund. No person will be reinstated by the Supreme Court under Rule 218 (relating to reinstatement), Rule 219 (relating to [**periodic assessment**] **annual registration** of attorneys[; **voluntary inactive status**]), Rule 301(h) (relating to proceedings where an attorney is declared to be incompetent or is alleged to be incapacitated), Pennsylvania Rules of Continuing Legal Education, Rule 111(b) (relating to noncompliance with continuing legal education rules) or who has been suspended from the practice of law for any period of time, including, but not limited to suspensions under Rule 208(f) (relating to emergency temporary suspension) and 219(f) (relating to administrative suspension) until the Fund has been repaid in full, plus 10% per annum interest, for all disbursements made from the Fund with respect to the Dishonest Conduct of such person.

[Pa.B. Doc. No. 12-1075. Filed for public inspection June 15, 2012, 9:00 a.m.]

Title 252—ALLEGHENY COUNTY RULES

ALLEGHENY COUNTY

Adult Probation Department Electronic Monitoring Fees; No. AD-2012-119-CR

Order of Court

And Now, to-wit, this 11th day of May, 2012, the following Electronic Monitoring Fee Schedule is hereby

adopted by the Fifth Judicial District of Pennsylvania. Further, the Adult Probation Department is hereby authorized to promulgate policies and procedures consistent with the following fee schedule. Said increase is to be effective thirty days after publication in the *Pennsylvania Bulletin* and applied only to offenders sentenced or otherwise placed on pretrial electronic monitoring on or after the publication requirement has been satisfied.

By the Court

DONNA JO McDANIEL,
President Judge

Electronic Monitoring Fee Schedule

Allegheny County Adult Probation Electronic Monitoring fee schedule is based upon a sliding scale according to an individual's verifiable gross income. Any offender ordered to Electronic Monitoring by a Common Pleas Court Judge or Magisterial District Judge is subject to a \$100 initial installation fee. In addition, a \$25.00 fee is charged for any second & subsequent installation per case.

The following program fees shall be applicable to all individuals placed on Electronic Monitoring;

Financial level	Gross Income	Per Diem
Level 5	\$50,000 or Higher	\$25/day
Level 4	\$40,000 to \$49,999	\$20/day
Level 3	\$30,000 to \$39,999	\$15/day
Level 2	\$20,000 to \$29,999	\$10/day
Level 1	\$19,999 and under	\$5/day
Level 0	Supplemental Security Income (SSI) Social Security Disability (SSD) Social Security Retirement (SSR)	\$1.50/day

An additional \$2.00 per day fee will be assessed for the use of any specialty device, i.e. Transdermal Alcohol Detection (TAD), Global Positioning System (GPS)

Prior to installation, offenders must pay the \$100 installation fee. In addition, any previous balances from prior Electronic Monitoring cases must be paid in full or payment arrangements made with the Allegheny County Adult Probation Department. Probation officers' are responsible for verifying gross income and assigning a financial level for those offenders placed on Electronic Monitoring. Before installation, offenders are advised of the monthly cost of being on Electronic Monitoring and then sign the income verification form. The offenders also sign a payment agreement that describes the cost of the program. Payments must be made in the form of check or money order only, payable to Allegheny County. Payments may be mailed to Allegheny County Adult Probation Department or given in person to the assigned probation officer. Probation officers are not permitted to accept cash payments.

[Pa.B. Doc. No. 12-1076. Filed for public inspection June 15, 2012, 9:00 a.m.]

ALLEGHENY COUNTY

Adult Probation and Parole Services Administrative Fee; No. AD-2012-117-CR

Order of Court

And Now, to-wit, this 11th day of May 2012, pursuant to 42 Pa.C.S.A. § 9728(g), the court hereby orders the imposition of a monthly probation administrative fee of twenty dollars (\$20.00) per month assessed against all offenders placed on probation, parole, accelerated rehabilitative disposition (ARD), probation without verdict (PWV), or intermediate punishment (IP). Said increase is to be effective thirty days after publication in the *Pennsylvania Bulletin* and applied only to offenders sentenced or placed on ARD on or after the publication requirement has been satisfied.

In support of this order establishing a monthly probation administrative fee, the court finds as follows:

1. That pursuant to 42 Pa.C.S.A. § 9728(g), any costs of the Adult Probation Department, including but not limited to, any reasonable administrative costs associated with the collection of restitution, reparation fees, costs, and fines, shall be borne by the offender.
2. That, heretofore, the court never assessed a monthly probation administrative fee against offenders sentenced to probation, parole, ARD, PWV, or IP.
3. That the Adult Probation Department expends significant time and resources administering and collecting restitution, reparation fees, costs, and fines from offenders placed on probation, parole, ARD, PWV, and IP.
4. That the court, through the Adult Probation Department, can no longer solely bear all of the costs of collecting restitution from offenders placed on probation, parole, ARD, PWV, and IP, and that it is fair and reasonable to assess a monthly probation administrative fee against offenders for this purpose.

The following guidelines shall be implemented in the assessment and collection of the monthly probation administrative fee:

1. All offenders placed on probation, parole, ARD, PWV, and IP shall be assessed a monthly probation administrative fee of twenty dollars (\$20.00) for every month or fraction thereof that an offender is under supervision.
2. Said monthly probation administrative fee shall be considered a condition of probation, parole, ARD, PWV, and IP. Failure to pay monthly probation administrative fees shall be considered by the court to be a technical violation of an offender's conditions of supervision and may result in a revocation of a sentence of probation, parole, ARD, PWV, or IP.
3. The monthly probation administrative fee may be paid by the offender at one time or on a monthly basis.
4. When an offender's probation, parole, ARD, PWV, or IP is transferred to Adult Probation from another jurisdiction for supervision purposes, the monthly probation administrative fee shall be established from the date the case is accepted for supervision.
5. In those instances where an offender has multiple active cases, the monthly probation administrative fee shall be assessed on an offender only once, and the Department of Court Records shall apportion the monthly probation administrative fee accordingly.
6. Any offender committed to, remanded to, or detained in a jail or prison for a violation of their probation, parole,

ARD, PWV, or IP shall have their monthly probation administrative fee accrue until such time as the court revokes said probation, parole, ARD, PWV, or IP. Upon release, the monthly probation administrative fee shall be re-assessed by the Department of Court Records if the offender will be under the supervision of the Adult Probation Department.

7. The funds collected pursuant to this administrative order shall be deposited in a fund for the exclusive use by the Fifth Judicial District of Pennsylvania. This fund shall be used to support the operation of the court's Adult Probation Department, technology enhancement, and education and training for Adult Probation officers and staff. Expenditures from this account can be authorized only by the President Judge and/or the District Court Administrator of the Fifth Judicial District of Pennsylvania.

By the Court

DONNA JO McDANIEL,
President Judge

[Pa.B. Doc. No. 12-1077. Filed for public inspection June 15, 2012, 9:00 a.m.]

ALLEGHENY COUNTY
Drug Testing Fees; No. AD-2012-118-CR

Order of Court

And Now, to-wit, this 11th day of May, 2012, the court hereby assesses the following confirmation drug testing fees against offenders under the supervision of the Adult Probation Department or the Pretrial Services Department. Said fees are to be effective thirty days after publication in the *Pennsylvania Bulletin* and applied only to offenders sentenced, placed on ARD or otherwise under pretrial supervision on or after the publication requirement has been satisfied.

1. Confirmation testing for a urine sample—eleven dollars (\$11.00)
2. Confirmation testing for an oral swab—thirty dollars (\$30.00)

Upon notice by the Adult Probation Department or the Pretrial Services Department, the Department of Court Records shall tax the aforementioned confirmation drug testing fees as costs on an offender's case.

By the Court

DONNA JO McDANIEL,
President Judge

[Pa.B. Doc. No. 12-1078. Filed for public inspection June 15, 2012, 9:00 a.m.]

ALLEGHENY COUNTY
Increase of ARD Administration Fees; Administrative Doc. No. 123 of 2012

Order of Court

And Now, to-wit, this 11th day of May, 2012, it is hereby *Ordered, Adjudged* and *Decreed* that the following local rule is adopted by and for the Fifth Judicial District:

Rule 316.1. ARD Administration Fee.

(a) Every person placed into the Accelerated Rehabilitative Disposition ("ARD") program, shall, as a condition of placement into the program, pay an administrative fee of four hundred, fifty dollars (\$450.00) per case.

(b) This fee shall be imposed to defray the expense of the District Attorney in administering the program in the amount of two hundred dollars (\$200.00) per case, and to defray the expense of the Pretrial Services Department in administering the program in the amount of two hundred, fifty dollars (\$250.00) per case.

(c) This fee shall be in addition to the cost of prosecution, restitution, fees and other costs imposed as conditions of placement into the program.

(d) The funds collected pursuant to this rule shall be deposited into the General Fund of the County of Allegheny, but shall be separately identified in the County's records so that the amounts collected may be readily ascertained.

It is further *Directed* that the District Court Administrator for the Fifth Judicial District shall:

1. File the original of this Order of Court with the Department of Court Records;
2. Distribute two (2) certified paper copies of Rule 316.1 to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;
3. Distribute to the Legislative Reference Bureau a copy of Rule 316.1 on a computer diskette or on a CD-ROM, that complies with the requirements of 1 Pa. Code § 13.11(b);
4. File one (1) certified copy of Rule 316.1 with the Administrative Office of Pennsylvania Courts; and
5. Publish a copy of Rule 316.1 on the Unified Judicial System's web site.

It is further *Ordered, Adjudged* and *Decreed* that Rule 316.1 shall take effect thirty (30) days after publication in the *Pennsylvania Bulletin* and shall only apply to cases that are filed on or after the effective date of this local rule.

By the Court

DONNA JO McDANIEL,
President Judge

[Pa.B. Doc. No. 12-1079. Filed for public inspection June 15, 2012, 9:00 a.m.]

ALLEGHENY COUNTY
Offender Supervision Fees; No. AD-2012-120-CR

Order of Court

And Now, to-wit, this 11th day of May, 2012, pursuant to 18 P.S. § 11.1102, the court hereby increases the offender supervision fee from thirty-five dollars (\$35.00) per month to forty-five dollars (\$45.00) per month, assessed against all offenders placed on probation, parole, accelerated rehabilitative disposition (ARD), probation without verdict (PWV), or intermediate punishment (IP). Said increase is to be effective thirty (30) days after publication in the *Pennsylvania Bulletin* and applied only to offenders sentenced or placed on ARD on or after the date that the publication requirement has been satisfied.

In support of this order increasing Offender Supervision Fees, the court finds as follows:

1. That pursuant to Act 35 of 1991, supervision fees were created in Pennsylvania to support judicial districts in the administration of adult probation services and to support the Pennsylvania Board of Probation and Parole (PBPP). Moneys taxed and collected locally are divided evenly between the collecting county and the PBPP.

2. That the court originally assessed twenty-five dollar (\$25.00) per month for this fee. On September 19, 2001, this fee was increased to thirty-five dollars (\$35.00) per month to support escalating costs to the court.

3. That since September 2001, costs have continued to escalate for the court to provide effective supervision of offenders sentenced to probation, parole, ARD, PWV, or IP, and that the current fee of thirty-five dollars (\$35.00) per month has not kept pace with expenses.

The following guidelines shall be implemented in the assessment and collection of the Offender Supervision Fee:

1. All offenders placed on probation, parole, ARD, PWV, or IP shall be assessed an offender supervision fee of forty-five dollars (\$45.00) for every month or fraction thereof that an offender is under supervision.

2. Said offender supervision fees shall be considered a condition of probation, parole, ARD, PWV, or IP, and failure to pay offender supervision fees shall be considered by the court to be a technical violation of an offender's conditions of supervision and may result in a revocation of a sentence of probation, parole, ARD, PWV, or IP.

3. The offender may pay the offender supervision fees either at one time or on a monthly basis.

4. At the time of sentencing, the current legal residence of the offender shall be established and made a part of the sentencing order.

5. When an offender's probation, parole, ARD, PWV, or IP is transferred to Adult Probation from another jurisdiction for supervision purposes, offender supervision fees shall be established from the date the case is accepted for supervision.

6. In those instances where an offender has multiple active cases, the offender supervision fee shall be assessed on an offender only once, and the Department of Court Records shall apportion the offender supervision fee in accordance with its existing practices and procedures.

7. Any offender committed to, remanded to, or detained in a jail or prison for a violation of his/her probation, parole, ARD, PWV, or IP shall have his/her supervision fees accrue until such time as the court revokes said probation, parole, ARD, PWV, or IP. Upon release, supervision fees shall be re-assessed by the Department of Court Records if the offender will be under the supervision of the Adult Probation Department.

8. Upon an offender's submission of credible documentation demonstrating that one or more of the factors enumerated in 18 P. S. § 11.1102(e)(2) exist, Petitions of Hardship (inability to pay the assessed offender supervision fee) may be considered by the Director of Adult Probation or a designee.

9. If the Director of Adult Probation or a designee makes a finding of hardship pursuant to paragraph 8 above, it shall be the responsibility of the offender or his/her legal counsel to petition the court for an order waiving the offender supervision fee. The finding of

hardship made by the Director of Adult Probation or a designee shall be attached to the petition requesting an order waiving the offender supervision fee. A copy of the petition requesting an order waiving the offender supervision fee shall be served upon the Director of Adult Probation.

By the Court

DONNA JO McDANIEL,
President Judge

[Pa.B. Doc. No. 12-1080. Filed for public inspection June 15, 2012, 9:00 a.m.]

ALLEGHENY COUNTY

Pretrial Services Department Court Reporting Network (CRN) Fee; No. AD-2012-121-CR

Order of Court

And Now, to-wit, this 11th day of May, 2012, the court hereby orders an increase of the Court Network Reporting (CRN) fee from seventy-five dollars (\$75.00) per Driving Under the Influence (DUI) case to one hundred dollars (\$100.00) per DUI case assessed for offenders convicted of DUI or permitted to enter the court's Accelerated Rehabilitation Disposition (ARD) program for a DUI offense. Said increase in the CRN fee is to be effective thirty days after publication in the *Pennsylvania Bulletin* and applied only to offenders sentenced or placed on ARD on or after the publication requirement has been satisfied.

In support of this order increasing the CRN fee, the court finds the following:

1. That pursuant to 75 Pa.C.S.A. § 3816(a), every offender convicted of DUI or permitted to enter the court's ARD program for a DUI offense must receive a CRN evaluation.

2. That the Pretrial Services Department employs four full-time CRN evaluators and expends significant time and resources administering CRN evaluations each year.

3. That the court, through the Pretrial Services Department, can no longer sustain the costs of administering all of the required CRN evaluations at the current fee, and that it is fair and reasonable to assess offenders a CRN fee of one hundred dollars (\$100.00) for the purpose of defraying the costs of administering CRN evaluations

The following guidelines shall be implemented in the assessment and collection of the CRN fee:

1. All offenders shall be subject to a CRN evaluation fee of one hundred dollars (\$100.00) for every ARD case resulting from a DUI arrest or non-ARD case resulting in a DUI conviction.

2. Payment of said CRN evaluation fee shall be considered a condition of the offender's ARD or probation requirements, and failure to pay the CRN evaluation fee shall be considered by the court to be a technical violation of an offender's conditions of ARD or probation and may result in the revocation of an ARD or probation sentence.

By the Court

DONNA JO McDANIEL,
President Judge

[Pa.B. Doc. No. 12-1081. Filed for public inspection June 15, 2012, 9:00 a.m.]

ALLEGHENY COUNTY

Pretrial Services Department Ignition Interlock Fees; No. AD-2012-122-CR

Order of Court

And Now, to-wit, this 11th day of May, 2012, upon review of the request to increase Ignition Interlock fees, the court finds the following:

1. That the court established an ignition interlock program in 2001.

2. That the ignition interlock program has not amended its fees since the inception of the program in 2001.

3. That the Pretrial Services Department expends significant time and resources administering its ignition interlock program, and the costs associated with administering this service have increased significantly. Examples of rising costs include rent increases at the interlock office and the addition of a full-time interlock program coordinator.

4. That the ignition interlock program is a safe, cost-effective alternative to other transportation methods for offenders in Allegheny County, and said ignition interlock program provides a significant benefit to those who utilize the program.

5. That the court, through the Pretrial Services Department, can no longer continue to administer the ignition interlock program under the current fee structure, and that it is fair and reasonable to assess the amended ignition interlock fees against offenders for the purpose of more effectively defraying the costs of administering the ignition interlock program.

It is, therefore, *Ordered* that the following ignition interlock fee schedule be and is hereby adopted, and shall be effective thirty days after publication in the *Pennsylvania Bulletin* and applied only to offenders sentenced or placed on ARD on or after the publication requirement has been satisfied.

By the Court

DONNA JO McDANIEL,
President Judge

**Pretrial Services
Ignition Interlock Fee Schedule**
April 2012

Service	New Fee
Total Installation Charge w/one Month Service	\$165
Total Monthly Charge	\$110
Total Bi-Monthly Charge	\$190
Installation at Service Center	\$75
Monthly Lease Payment	\$80
Monthly Damage Protection	\$10
Office Charge Per Appointment	\$20
Lockout Reset at Service Center	\$50
Service Call	\$75
Unauthorized Bypass Activation	\$100
Early Termination of Program	\$75
De-Installation at Service Center	\$50

[Pa.B. Doc. No. 12-1082. Filed for public inspection June 15, 2012, 9:00 a.m.]

Title 255—LOCAL COURT RULES

ERIE COUNTY

Revision and Restatement of the Rules of Civil Procedure; No. 90014 Court Order 2012

Order

And Now, this 31st day of May, 2012, Rules 302, 303, 305, 311, 440, 1303 and 3136 of Local Rules of Civil Procedure for the Court of Common Pleas of Erie County, Pennsylvania are amended in the following form and they shall be effective 30 days after publication in the *Pennsylvania Bulletin*.

Rules 2951, 3304, 4009 and 4014 of the Local Rules of Civil Procedure for the Court of Common Pleas of Erie County, Pennsylvania are deleted and rescinded effective 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

ERNEST J. DiSANTIS, Jr.,
President Judge

ECBA Suggested Changes to Local Rules
May 22, 2012

Rule 302. Trial Division Judicial Assignment.

(a) Judicial assignment to a case will be made 60 days after the filing of the complaint if not made sooner at the request of a party. Counsel and unrepresented parties will be sent notice of the assignment. All judicial assignments will be noted in the electronic docketing system.

(b) If judicial attention is required prior to judicial assignment pursuant to section (a) above, counsel shall submit a request for judicial assignment with the Court Administrator on a form substantially as contained herein.

Rule 303. Motion Court and Other Motions and Petitions—Civil.

(a) Civil Motion Court shall be held two (2) times per week (Tuesday and Thursday) at 9:00 A.M. The only motions presented shall pertain to cases in which no judicial assignment has yet been made. (See Erie L.R. 208.2(c)—208.3(b), generally, for procedure in matters where complaint has been filed.)

(b) The Court Administrator shall publish a schedule of the judges assigned to hear motions in those civil cases where no judicial assignment has yet been made.

(c)(1) The moving counsel desiring to have such summary determination of a motion or petition must notify opposing counsel and any opposing unrepresented party of his intention to argue the motion or petitions before the Court at such time, in accordance with Erie LR 440. The Court may refuse to hear argument on such motions or petitions unless counsel for each side is present.

(2) The moving party shall attach to the motion or petition the proposed order.

Rule 305. Duties of the Prothonotary.

(a)(1) The Prothonotary shall immediately stamp all papers filed with the date and time of such filings and make an appropriate entry for each filing in the docket pursuant to applicable rules of procedure, statute or Court Order. No entries shall be made in the docket except at the direction of the Prothonotary.

(2) The Prothonotary, duly authorized court personnel, and under the supervision of the Prothonotary, attorneys, pro se litigants and members of the public shall be permitted access to the files.

(3) No entries shall be made in the docket except at the direction of the Prothonotary.

(b) The Prothonotary shall be responsible for the safe-keeping of all records and papers belonging to that office. The Prothonotary shall permit no papers to be taken from the office without order of Court except for temporary removal by an attorney for the purpose of conducting an arbitration, for copying within the Court House or other recognized Court purpose. Those removing papers from the files of the Court shall sign them out on a form used for that purpose and shall be responsible for damages arising from any loss.

(c) The Prothonotary shall not accept for filing any paper filed by a person which shall not have endorsed thereon the address and telephone number of the person filing the paper. The Prothonotary shall consecutively number the cases each year.

(d) In the litigation involving the validity of a municipal lien, upon motion of either party, the matter shall be transferred, from the municipal liens docket to the appearance docket and given a term and number by the Prothonotary.

(e) In all appeals to the Court from a municipal zoning board or municipalities, when said appeal has been returned to said board or municipality by the Court, should the matter then be returned to Court, it will retain the same docket number as it had on the original appeal.

Rule 311. Procedure in Statutory Appeals.

(a) Unless a contrary procedure is provided for otherwise in Statute or general Rule of Court, this Rule shall apply to all statutory appeals where this Court has jurisdiction to review adjudications of School Districts, municipalities or State Administrative Agencies or offices. This Rule shall have no applicability to state Administrative Agencies or officers or proceedings under the Uniform Arbitration Act.

(b) In cases where the Court does not have the prerogative of receiving evidence in lieu of or in supplement to the record made in the administrative proceedings, or in cases where no motion for additional evidence was filed or granted pursuant to paragraph (d) herein, the disposition of appeals shall be by requesting a judge assignment after twenty (20) days of the docketing of the record from the administrative proceeding or after the denial of the motion for additional evidence, whichever is later. In such cases, all procedures otherwise applicable to the listing of cases for argument, assignment to a Judge, briefs, etc., shall apply to appeals governed by this Rule.

(c) In cases where a party is entitled, as a matter of right, to have either a de novo evidentiary hearing in this Court, or to supplement the record made in the administrative proceedings, any party so entitled shall request, within twenty (20) days of the docketing of the appeal, judicial assignment and submit an appropriate motion to the assigned judge for hearing. Such a motion shall set forth with particularity the basis on which the movant claims a right to submit further evidence and shall contain a certificate that the motion has been served on all other parties.

(d) In cases where the Court may receive evidence for cause shown, or at the discretion of the Court, any party

wishing to request that the Court receive evidence, shall file a request for judicial assignment with the trial court administrator and present an appropriate motion to the assigned judge within twenty (20) days after the docketing of the record of the administrative proceeding being reviewed. The motion shall state with particularity the authority upon which movant relies and the particular factors which he believes indicate that the receipt of further evidence is justified. Where indicated by the circumstances, the following factors may be considered by the Court in acting upon such motions in addition to any otherwise applicable standard governing the exercise of the Court's discretion:

(1) Whether movant was represented by counsel before the administrative tribunal.

(2) Whether previously undisclosed or newly discovered evidence exists which was not made available to the administrative tribunal prior to its decision.

(3) The overall adequacy for the purpose of appellate review of the record made before the administrative tribunal.

(4) The apparent regularity and fundamental fairness of the administrative proceedings, as disclosed by the record.

(5) Such other factors as may be considered in the interest of justice.

No motion contemplated by this section shall be acted upon until all interested parties have been given an opportunity to respond to the motion through argument. If, after argument, the Court denies, in whole, a motion under this section, the case shall proceed as provided in section (b) above.

In granting the relief requested in motions contemplated by this section, the Court may, unless otherwise indicated by applicable statutes, limit the evidence it will receive to matters which are not cumulative of material already included in the record made before the administrative tribunal, or impose other reasonable restrictions upon the scope or nature of the evidence to be received. The Court may, in its discretion, at the request of any party or on its own motion, require that any party intending to offer evidence pursuant to this Rule file a pre-hearing narrative statement fairly setting forth the nature of the evidence to be offered such that all parties may have adequate notice of the facts at issue prior to hearing and the scope and nature of the evidentiary proceeding.

(e) In cases in which evidence is received by the Court pursuant to this Rule, all parties shall submit proposed findings of fact to the Court, after the close of the evidentiary proceedings, along with their respective briefs on the merits of the appeal in accordance with a schedule fixed by the hearing Judge. The hearing Judge shall retain the case and make the final disposition of the appeal, including the adoption of findings of fact, where appropriate.

(f) No case shall be listed for argument and no motion shall be filed requesting that a hearing be set until the record of the administrative tribunal is docketed with the Prothonotary. It shall be the duty of the administrative agency involved to promptly notify all parties of the filing of the record.

(g) Unless a different time is specified by statute, or Rule of Court, it shall be the duty of the administrative agency involved to docket the record of the proceedings before it with the Prothonotary no later than thirty (30)

days from service of the notice of appeal upon the tribunal or agency. The record shall, in all cases, contain at least a brief adjudication setting forth the findings and conclusions of the administrative tribunal.

(h) In the event that any administrative tribunal fails to comply with the provisions of this Rule, or of any statute, relating to the time within which to transmit its record to this Court, any party may, by motion, apply for an order compelling the transmittal of a complete record.

(i) Unless otherwise required by statute, the order of a single Judge of this Court which is dispositive of the merits of the appeal shall constitute a final order of this Court in all matters subject to this Rule. Neither the filing of exceptions nor en banc proceedings shall be required or permitted.

Rule 440. Service of Legal Papers Other Than Original Process.

(a) Prior to the presentation to the Court of any motion or petition requesting an immediate Order of Court, (except for a motion or petition filed under Pa.R.C.P. 1531(a) or a Rule To Show Cause which grants no relief), opposing counsel and unrepresented parties must be given two (2) full business days' notice by personal delivery or facsimile transmission to each party or their counsel's office, or five (5) full business days' notice if by mail. The notice must give the date and time when the motion or petition will be presented to the Court and must accompany a copy of the proposed motion and order. The motion or petition must contain a certificate signed by counsel verifying that proper notice was given under this Rule. Service by email is allowed if, pursuant to Pa.R.C.P. 205.4(g), the parties have agreed to service by electronic transmission or have provided an email address in an appearance or other legal paper that has been filed in that civil action.

(b) The Certificate of Notice shall be in the following form:

CERTIFICATE OF NOTICE

I certify that on (Date of Notice) I gave notice to all counsel of record and unrepresented parties, of my intention to present the within Petition/Motion to the Court on (Date of Presentation) by

- (a) first class mail
- (b) facsimile transmission
- (c) email
- (d) hand delivery,

(Name of Counsel)

(b) The Court will not enter an order on a petition or motion without the Certificate of Notice being attached unless special cause be shown to the Court.

Official Rules Committee Comment:

The intention of this Rule is to provide opposing counsel or parties with two (2) full business days' notice from the date of fax, email or personal delivery, and five (5) full business days' notice from the date of deposit in the U.S. mail. For example, if a motion is to be presented on Thursday at 9:00 a.m., the notice of intent to present the motion must be delivered or faxed before 9:00 a.m. on the preceding Tuesday. If notice is given by mail, it must be postmarked no later than the Wednesday of the preceding week.

Rule 1301. Scope.

(a) Compulsory arbitration of matters as authorized by the Judicial Code, 42 Pa. C.S. Section 7361 as amended, shall apply to all cases at issue where the aggregate amount in controversy shall be Fifty Thousand Dollars (\$50,000.00), or less, regardless of the number of parties, except those cases involving title to real estate or which seek equitable or declaratory relief.

(b) In all cases where a party has obtained a judgment by default under Pa. R.C.P. No. 1037, the party obtaining said judgment by default may elect to have unliquidated damages assessed at a trial by arbitration with the issues limited to the amount of damages which shall not exceed \$50,000.00. The election to assess damages by arbitration shall constitute a waiver by the party making such election of any damages in excess of \$50,000.00.

(c) Discovery shall be allowed in all cases.

Rule 1303. Hearing. Notice.

(a)(1) The Chairman of the Board of Arbitrators shall designate the time for hearing with written notice to each of the members of the Arbitration panel and to each party or their counsel in compliance with Pa. R.C.P. 1303.

(2) All hearings of the Board of Arbitrators shall be held in the Erie County Court House in a hearing room designated for that purpose or in a courtroom by leave of Court.

(3) All hearings shall promptly commence at 9:30 a.m. or 1:30 p.m., unless a different time shall specifically be established by the Board of Arbitrators. In the event an Arbitrator shall not be present at the time for the swearing-in, then counsel for represented parties and any unrepresented party who does in fact appear at the scheduled hearing time, may, only if they agree unanimously

(A) have the remaining Arbitrators immediately select a replacement from the list of Arbitrators; or

(B) themselves appoint any other eligible person to act as a replacement Arbitrator; or

(C) use any other method of selection of an eligible person to act as a replacement Arbitrator.

In the event that counsel for represented parties and any unrepresented party, who does in fact appear at the scheduled hearing time, are unable to unanimously agree upon any of the foregoing options, then the replacement Arbitrator shall be selected in accordance with Erie R.C.P. 1302(a)(1)(iii), governing selection of a sole Arbitrator.

(b) In no event, shall a scheduled arbitration be canceled or rescheduled without written authorization of the Chairman or order of court obtained upon a showing of good cause. If such authorization or order is not obtained, the arbitration shall be held as scheduled.

(c) In the event that a party or an arbitrator requests that the hearing be rescheduled and if that request is granted as provided herein, then that party or arbitrator shall undertake the work needed to reschedule the hearing, including contacting the Court Administrator to obtain available dates and coordinating those dates with all counsel, parties and arbitrators, as well as preparing and dispatching all required written notices of the rescheduled hearing.

**ENFORCEMENT OF MONEY JUDGMENTS FOR
THE PAYMENT OF MONEY**

Rule 3136. Distribution of Proceeds of Sale of Real Property.

(a) Upon filing the proposed schedule of distribution, the Sheriff shall immediately mail a copy of the proposed schedule of distribution including a copy of the list of liens, clearly indicating thereon the date on which the proposed schedule of distribution was filed, to all parties and lien creditors, as well as to any other persons in interest as set forth in the Pa. R.C.P. No. 3129.1(b) Affidavit.

(b) The Sheriff shall include with the copy of the proposed schedule of distribution transmitted to the Prothonotary a copy of the list of liens and a copy of the certificate or guaranty required by Pa.R.C.P. 3136(c).

[Pa.B. Doc. No. 12-1083. Filed for public inspection June 15, 2012, 9:00 a.m.]

LACKAWANNA COUNTY

Rules of Civil Procedure and Rules of Civil Procedure Governing District Justice Proceedings; 2012-CV-1

Order

And Now, this 18th day of May, 2012, it is hereby *Ordered* and *Decreed* that the following Lackawanna County Rule of Civil Procedure is amended as follows:

1. Lacka.Co.R.C.P. 1920.51(d)(i) and (d)(ii) are amended as reflected in the following Rule.

2. Pursuant to Pa.R.C.P. 239(c)(2)—(6), the following Local Rule shall be disseminated and published in the following manner:

a. Seven (7) certified copies of the following Local Rule shall be filed with the Administrative Office of the Pennsylvania Courts;

b. Two (2) certified copies of the following Local Rule and a computer diskette containing the text of the following Local Rule in Microsoft Word format and labeled with the court's name and address and computer file name shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

c. One (1) certified copy of the following Local Rule shall be filed with the Civil Procedural Rules Committee;

d. The following Local Rule shall be kept continuously available for public inspection and copying in the Office of the Clerk of Judicial Records, Civil Division, and upon request and payment of reasonable costs of reproduction and/or mailing, the Clerk of Judicial Records shall furnish to any requesting person a copy of the requested Local Rule(s);

e. A computer diskette containing the text of the following Local Rule in Microsoft Word format and labeled with the court's name and address and computer file name shall be distributed to the Lackawanna Bar Association for publication on the website of the Lackawanna Bar Association.

f. The amendment of Lacka.Co.R.C.P. 1920.51(d)(i) and (d)(ii) shall become effective thirty (30) days after the date of its publication in the *Pennsylvania Bulletin* pursuant to Pa.R.C.P. 239 (d).

By the Court

THOMAS J. MUNLEY,
President Judge

Rule 1920.51 Pre-Trial Conference. Appointment of Master.

(d) *Appointment of Master/Master's Fee*

(i) For Appointment of a Master, counsel shall present the Order and Motion for Appointment of Master in Motion Court. Counsel shall then present the executed Order to the Family Court Administrator who shall thereafter assign a Master from a list of Permanent Masters designated, approved and provided by the President Judge. Such assignment of a Permanent Master to a case by the Family Court Administrator shall be on a rotating basis.

(ii) In all actions for which appointment of a Master is sought, the party seeking appointment shall pay the sum of Seven Hundred and Seventy (\$770.00) Dollars at the time of the appointment directly to the appointed Master and serve the Master with a copy of the Order and Motion for Appointment of Master. The Master shall not commence action on the case until payment is received. The Master shall be required to deposit the fee into his or her escrow account until earned and billed. Master's fees shall be billed at a rate of One Hundred and Ten Dollars (\$110.00) per hour. The Master may require additional deposits of funds from either or both parties, if necessary. The Master may enter such order concerning the allocation of Master's fees and related costs as may appear just and reasonable. Whenever the amount required to be deposited is exhausted before the filing of the Master's Report and Recommendations, proceedings may be stayed until the amount so directed shall be deposited.

[Pa.B. Doc. No. 12-1084. Filed for public inspection June 15, 2012, 9:00 a.m.]

WASHINGTON COUNTY

Local Rules 1910.10-2—Alimony Pendente Lite (Amended); L-1910.25.2—Civil Contempt. Office Conference. Agreement. Alternative Procedures upon Failure to Agree; No. 2012-1

Order

And Now, this 21st day of May, 2012; *It Is Hereby Ordered* that the previously stated Washington County Local Civil Rules for Support be adopted/amended as follows.

These rules will become effective thirty days after publication in the *Pennsylvania Bulletin*.

By the Court

DEBBIE O'DELL SENECA,
President Judge

L-1910.10-2. Alimony Pendente Lite.

(a) If the parties to a support action have filed a Complaint in Divorce in which a claim is raised for alimony pendente lite, the Hearing Officer may hear the alimony pendente lite claim at the request of either party.

(b) If the Hearing Officer proceeds under this Rule and hears a claim for alimony pendente lite, the party moving for hearing of this claim by the Hearing Officer shall file with the Domestic Relations Section Docket Clerk a copy

of the Complaint in Divorce raising the issue of alimony pendente lite within three (3) days of the hearing before the Hearing Officer. If the Complaint in Divorce is not filed within this time, the Recommendation of the Hearing Officer shall not be issued until a copy of the Complaint is properly filed.

L-1910.25-2. Civil Contempt. Office Conference. Agreement. Alternative Procedures Upon Failure to Agree.

(d) The alternate hearing procedure of Pa.R.C.P. 1910.25-4 is adopted in all civil contempt actions for support through the Domestic Relations Section.

[Pa.B. Doc. No. 12-1085. Filed for public inspection June 15, 2012, 9:00 a.m.]
