

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS [204 PA. CODE CH. 215]

#### Special Independent Prosecutor's Panel; Appoint- ment of Independent Counsel

##### Order

*Per Curiam*

*And Now*, this 27th day of July, 2000, upon consideration of the Application for Appointment of Independent Counsel filed by Robert J. DeSousa, Esquire, Special Investigative Counsel for Preliminary Investigation No. 1 of 2000, the Application is granted and Carol A. Sweeney, Esquire is appointed as Independent Counsel pursuant to Section 9315(a)(2) of the Independent Counsel Authorization Act, Act of February 18, 1998, P. L. 24, No. 19.

[Pa.B. Doc. No. 00-1375. Filed for public inspection August 11, 2000, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### FAYETTE COUNTY

#### Local Rule 1915.15(d) Child Custody Conciliation Fee; and Local Rule 1915 Actions for Custody, Partial Custody and Visitation of Minor Children; No. 1499 of 2000

##### Order

*And Now*, this 18th day of July, 2000, it is hereby ordered that Fayette County Rule 1915.15(d) is hereby rescinded; and, pursuant to Rule 239 of the Pennsylvania Rules of Criminal Procedure, it is hereby ordered that the following Fayette County Rule 1915 be adopted as follows:

The Prothonotary is directed as follows:

- (1) Seven certified copies of the Local Rule shall be filed with the Administrative Office of Pennsylvania Courts.
- (2) Two certified copies of the Local Rule shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
- (3) One certified copy of the Local Rule shall be sent to the Domestic Relations Procedural Rules Committee.
- (4) One certified copy shall be sent to the Fayette County Law Library.
- (5) One certified copy shall be sent to the Editor of the *Fayette Legal Journal*.

This Local Rule shall be continuously available for public inspection and copying in the office of the prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the prothonotary shall furnish to any person a copy of any local rule.

This Local Rule shall be effective 30 days after the date of publication in the *Pennsylvania Bulletin*.

*By the Court*

WILLIAM J. FRANKS,  
*President Judge*

#### ACTIONS FOR CUSTODY, PARTIAL CUSTODY, AND VISITATION OF MINOR CHILDREN

##### Rule 1915.1. Scope.

(a) This rule shall apply to any action for custody, partial custody, or visitation, whether filed as an independent cause of action or as a count in a related proceeding.

(b) Upon the filing of any complaint, petition, or motion relating to child custody, partial custody or visitation, in which there is no agreed-upon Order disposing of the issues, the case shall proceed in accordance with Pa.R.C.P. No. 1915.4-1, et seq., and these Rules.

##### Rule 1915.2. Procedure.

(a) Upon motion requesting the same, the Court shall enter an Order referring the matter to a child custody mediator/hearing officer. The Prothonotary shall mail a copy of the Order to each party and counsel of record, if any. All parties must attend the conference, unless excused by the child custody mediator/hearing officer. Children need not attend, unless ordered by the Court.

(b) The child custody mediator/hearing officer shall conduct the conference as an informational and conciliatory proceeding. The child custody mediator/hearing officer may require any party to attend at least one session of a child custody education program, the cost of which may be assessed against a party or parties.

(c) The child custody mediator/hearing officer may request proposed findings of fact and conclusions of law, and shall set a schedule for their submission. Upon submission of findings of fact and conclusions of law, if any are required, or upon conclusion of the hearing where none are required, the child custody mediator/hearing officer shall make a report and recommendation to the Court, including, when necessary, a report and recommendation relating to interim or special relief including, when appropriate, the assessment of counsel fees and costs and other necessary expenses. The child custody mediator/hearing officer shall notify the parties of the filing with the Prothonotary of the report and recommendation. The notice of filing shall be made a part of the record.

(d) In actions for contempt, the Court shall refer the matter to the child custody mediator/hearing officer for a conference to determine whether an amicable resolution is possible. If the matter is resolved, than an order of amicable resolution of contempt shall be entered. If resolution cannot be accomplished, the mediator shall forthwith cause the parties and counsel to appear before the Court for the purpose of scheduling a hearing on the merits.

##### Rule 1915.3. Fees and Costs.

(a) Upon the filing of any complaint, petition, or motion relating to child custody, partial custody, visitation, or

contempt, where there is at the time of filing no agreed-upon Order disposing of the issues, the moving party shall pay to the Prothonotary (in addition to any other required fees), a non-refundable conciliation fee in the amount of Seventy-five (\$75.00) Dollars, or shall file to proceed in forma pauperis in accordance with Pa.R.C.P. No. 240.

**Rule 1915.4. Exceptions.**

(a) A party filing exceptions shall request and cause to be filed any transcript required and make any necessary payment or deposit therefore.

(b) When both parties file exceptions, the cost of the transcript shall be borne proportionately.

(c) Exceptions shall be presented to the Court as a routine motion in accordance with Fayette County Rule 211 and assigned for argument.

[Pa.B. Doc. No. 00-1376. Filed for public inspection August 11, 2000, 9:00 a.m.]

**FRANKLIN AND FULTON COUNTIES**

**Adoption of Local Criminal Rule 39-311; Misc. Vol. 5 Page 250**

**Order of Court**

July 27, 2000, the following Criminal Action Rules are adopted for the Court of Common Pleas of the 39th Judicial District of Pennsylvania, Franklin County Branch: 39-311, to be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

*By the Court*

JOHN R. WALKER,  
*President Judge*

**Rule 39-311. Criminal Pretrial Conferences.**

1. In the Franklin County Branch, one full court day each criminal trial term shall be scheduled for the purpose of holding pretrial conferences in cases scheduled for jury trial during that term which have a significant potential for trial. The pretrial conferences will be conducted by the assigned judge in accordance with Pa.R.Crim.P. 311 and the following procedures:

A. At the time of the call of the list for both incarcerated defendants and defendants on bail, the District Attorney and counsel for the defendant will make an effort of determine which cases have a significant potential for trial by jury. Subsequent to the completion of the call of the list for both incarcerated defendants and defendants on bail, a written notice of the pretrial conference will be given to defendants who have requested a jury trial and whose cases have a significant potential for trial. The District Attorney will prepare a list of these cases and submit it to the Court Administrator for distribution to the assigned judge, the Franklin County Sheriff's Department, the office of the Public Defender, the Franklin County Probation Department and any other appropriate court agency.

B. The Court Administrator will schedule the dates for the call of the list in sufficient time prior to the conferences to allow the District Attorney and defense counsel to evaluate the cases with potential for trial.

C. The conferences will be scheduled for the Thursday prior to the date for jury selection and will begin promptly at 9:00 a.m.

D. The Court Administrator will divide the list of cases for conference and half will be assigned to the morning session which will begin at 9:00 a.m. and half will be assigned to an afternoon session which will begin at 1:30 p.m.

E. The District Attorney will prepare transportation Orders for all those incarcerated defendants whose cases are scheduled for conference.

F. At the time of the conference the Commonwealth and counsel for the defendant will be prepared to discuss plea negotiations and/or preparation of the case for trial. All counsel must be thoroughly prepared to discuss witness testimony, time for trial, voir dire issues, evidentiary issues and any other matters related to trial preparation. The court will not require written pretrial memorandum. In the event the matter is not settled, the conference judge will proceed in accordance with Pa.R.Crim.P. 311 and issue any Orders necessary to prepare the matter for trial. The Court Administrator will schedule a date certain for trial in all cases not settled. Once the matter has been scheduled for trial no plea agreements will be accepted by the court, except for extraordinary circumstances.

G. This Order is not intended to preclude any timely request to the Court Administrator for separate listing of a pretrial conference in accordance with Pa.R.Crim.P. 311.

[Pa.B. Doc. No. 00-1377. Filed for public inspection August 11, 2000, 9:00 a.m.]

**FRANKLIN AND FULTON COUNTIES**

**Amendment of Local Criminal Rule 39-300; Misc. Vol. 5 Page 250**

**Order of Court**

July 27, 2000, local Criminal Action Rule 39-300 is hereby amended as follows.

In all other respects the rule shall remain unchanged. These amendments shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

*By the Court*

JOHN R. WALKER,  
*President Judge*

**Rule 39-300. Business of the Court.**

(A) On the Monday [of the week preceding] at least two weeks prior to each criminal trial term, each defendant who is free on bond and whose case is listed for that term of court, . . .

(B) On the [Tuesday of the week preceding] Friday at least two weeks prior to each criminal term, all incarcerated defendants shall be transported to and appear in court for purposes of conducting the preliminary call of the list as outlined in paragraph (A).

[Pa.B. Doc. No. 00-1378. Filed for public inspection August 11, 2000, 9:00 a.m.]

**SCHUYLKILL COUNTY**  
**Rules of Civil Procedure—S 1414-2000**

*And Now*, this 26th day of July, 2000, at 2:05 p.m., the Order of Court dated the 14th day of July, 2000 is amended to read as follows:

The Court hereby adopts Schuylkill County Civil Rule of Procedure No. 206A(i), amends Schuylkill County Civil Rule of Procedure No. 212.1(c), (d) and (e) and adopts Schuylkill County Civil Rule of Procedure No. 212.1(f) for use in the Court of Common Pleas of Schuylkill County, Pennsylvania (21st Judicial District). This rule 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.

*By the Court*

WILLIAM E. BALDWIN,  
*President Judge*

**Rule 206A. Motions.**

(i) A party may, with respect to discovery-related issues, file a motion for scheduling conference with the Court when the party is unable to coordinate the scheduling of depositions or other discovery despite reasonable and good faith efforts to do so. The motion for scheduling

conference should state in specific detail the efforts which counsel has made to schedule discovery and otherwise complete discovery. Upon addressing a motion for scheduling conference and any responses thereto, the Court may hold a hearing or scheduling conference at its discretion.

**Rule 212.1. Pre-Trial Listing and Objections Thereto.**

(c) The filing of a Certificate of Readiness and the failure to object thereto constitute an assertion that counsel will be available to try the case within the next two civil trial terms established by the official Court calendar.

(d) In the event a party or parties object to the filing of a Certificate of Readiness on the grounds that counsel is not available to try the case within the next two civil trial terms established by the official Court calendar, counsel must state in specific detail the reasons why substitute counsel cannot be present within the next two civil terms established by the official Court calendar to try the case in the place of lead counsel. Furthermore, if objections to a Certificate of Readiness are filed on the basis that counsel and substitute counsel are not available to try the case within the next two civil trial terms established by the official Court calendar, counsel must specifically identify all conflicts or other trial attachments within the next two civil terms established by the official Court calendar, and must further attach all attachment orders to the Objections to the Certificate of Readiness.

(e) Each case on the pre-trial list shall be assigned by the President Judge to one of the Judges for pre-trial and trial proceedings. Thereupon, the Judge to whom a case is assigned shall summon the parties to a pre-trial conference.

(f) This rule shall be applicable to paternity cases where trial is demanded on the issue of paternity.

[Pa.B. Doc. No. 00-1379. Filed for public inspection August 11, 2000, 9:00 a.m.]