

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

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

Proposed Amendments to the Rules of Disciplinary Enforcement to Provide for Public Reprimand With or Without Probation and Conditions

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania is considering recommending to the Pennsylvania Supreme Court that the Court amend Pennsylvania Rules of Disciplinary Enforcement 203, 204, 205, 207, 208 and 215 as set forth in Annex A.

Under the current Enforcement Rules, only the Supreme Court can approve and impose public discipline. Proposed subdivision (a)(5) of Enforcement Rule 204 would create a new type of public discipline, namely "public reprimand," which the Disciplinary Board could approve and administer without review or approval by the Supreme Court. The Board would have the discretion to impose probation and conditions with the public reprimand.

Amendments to Enforcement Rules 205, 207, 208 and 215 would make public reprimand available as a disciplinary sanction after summary or formal disciplinary proceedings, or pursuant to a joint petition for discipline on consent. A summary determination for public reprimand would follow the same procedural path as a summary determination for informal admonition or private reprimand, commencing with a written recommendation by Disciplinary Counsel, followed by review by a reviewing member of a hearing committee, and ending with review by a three-Member Panel of the Disciplinary Board. Subdivision (a)(6) of Enforcement Rule 208 would be amended to provide that in those instances in which the respondent-attorney is unwilling to have the matter concluded by a summary determination for public reprimand, the respondent-attorney may demand as of right that Disciplinary Counsel institute a formal proceeding.

As a general proposition, a public reprimand would be appropriate where a sanction more stringent than private discipline is warranted and the primary purposes of discipline (protection of the public, maintenance of the integrity of the courts and the profession, and deterrence) do not require a suspension from practice or an appearance before the Supreme Court for public censure. Because the scope of misconduct that will be dealt with by public reprimand will be decided over time through decisional law, and discipline is always tempered by consideration of mitigating and aggravating factors, no attempt is made to provide any type of sanction-assessment guideline. Nonetheless, identifying some general categories of disciplinary matters could be beneficial in evaluating the efficacy of public reprimand as a disciplinary option. With those caveats in mind, the Board proffers that a public reprimand might be fitting where: the respondent-attorney's misconduct does not harm a client or prejudice a client's case but does cause significant prejudice to a court or the administration of

justice; the respondent-attorney is the recipient of public discipline short of suspension or disbarment in another jurisdiction; the respondent-attorney is criminally convicted of a relatively minor offense that receives public notoriety and demeans the legal profession; or an administrative body has found that the respondent-attorney violated a provision of an ethics act or code of conduct applicable to public officials and employees. The misconduct in any of these categories may have already been exposed to public scrutiny prior to the Board's exercise of disciplinary jurisdiction, and adding another type of discipline to the existing range of public sanctions would give more flexibility to the process of choosing a public sanction that will satisfy the primary purposes of professional discipline and allow the respondent-attorney to maintain his or her license to practice law.

The Board does not anticipate that public reprimand will be limited to situations where the misconduct has already taken on a public aura. Given that the disciplinary system is mindful of progressive discipline to deter repeated acts of misconduct, public reprimand could address the need for specific deterrence where the rule violation is relatively minor but the respondent-attorney has already received private discipline on one or more occasions for a violation of the same or similar rule.

Interested persons are invited to submit written comments by mail or facsimile regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, 601 Commonwealth Avenue, Suite 5600, P. O. Box 62625, Harrisburg, PA 17106-2625, Facsimile number (717-231-3382) on or before September 30, 2011.

*By The Disciplinary Board of the
Supreme Court of Pennsylvania*

ELAINE M. BIXLER,
Secretary

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter B. MISCONDUCT

Rule 203. Grounds for discipline.

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(b) The following shall also be grounds for discipline:

(1) Conviction of a crime.

(2) Wilful failure to appear before the Supreme Court, the Board or Disciplinary Counsel for censure, **public or** private reprimand, or informal admonition.

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Rule 204. Types of discipline.

(a) Misconduct shall be grounds for:

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(5) **Public reprimand by the Board with or without probation.**

(6) Private reprimand by the Board with or without probation.

[(6)] (7) Private informal admonition by Disciplinary Counsel.

(8) **Revocation of an attorney's admission or license to practice law in the circumstances provided in Rule 203(b)(6) (relating to grounds for discipline).**

(b) Conditions may be attached to an informal admonition [or], private reprimand, or public reprimand. Failure to comply with such conditions shall be grounds for reconsideration of the matter and prosecution of formal charges against the respondent-attorney.

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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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(8) To review, through a designated panel of three members, and approve or modify a determination by a reviewing hearing committee member that a matter should be concluded by dismissal, private informal admonition, private reprimand, public reprimand or the institution of formal charges before a hearing committee.

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(11) To administer, by the Board or through a designated panel of three members selected by the Board Chair, private reprimands or public reprimands to attorneys for misconduct.

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Rule 207. Disciplinary counsel.

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(b) Disciplinary Counsel shall have the power and duty:

(1) To investigate all matters involving alleged misconduct called to their attention whether by complaint or otherwise.

(2) To dispose of [all matters (subject to review by a member of a hearing committee)] any matter that is governed by Enforcement Rules 214 (Attorneys convicted of crimes), 215 (Discipline on Consent), and 216 (Reciprocal discipline) in accordance with the substantive and procedural provisions of those rules, and to dispose of all other matters involving alleged misconduct by dismissal [,] or (subject to review by a member of a hearing committee) by recommendation for informal admonition, [recommendation for] private or public reprimand, or the prosecution of formal charges before a hearing committee or special master. Except in matters requiring dismissal because the complaint is frivolous or falls outside the jurisdiction of the Board, no disposition shall be recommended or undertaken by Disciplinary Counsel until the [accused attorney] respondent-attorney has been notified of the allegations and the time for response under Enforcement Rule 208(b) (relating to formal hearing), if applicable, has expired.

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Rule 208. Procedure.

(a) *Informal proceedings.*

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(2) Upon the conclusion of an investigation, Disciplinary Counsel may dismiss the complaint as frivolous, as falling outside the jurisdiction of the Board, or on the basis of Board policy or prosecutorial discretion. Disciplinary Counsel may recommend:

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(iv) **A conditional or unconditional public reprimand by the Board of the attorney concerned.**

(v) The prosecution of formal charges before a hearing committee or special master.

(3) Except where Disciplinary Counsel dismisses the complaint as frivolous, as falling outside the jurisdiction of the Board, or on the basis of Board policy or prosecutorial discretion, the recommended disposition shall be reviewed by a member of a hearing committee in the appropriate disciplinary district who may approve or modify.

(4) Disciplinary Counsel may appeal the recommended disposition directed by a hearing committee member to a reviewing panel composed of three members of the Board which shall order that the matter be concluded by dismissal, conditional or unconditional informal admonition [or], conditional or unconditional private reprimand, or conditional or unconditional public reprimand, or direct that a formal proceeding be instituted before a hearing committee or special master in the appropriate disciplinary district.

(5) A recommendation by a reviewing hearing committee member for a conditional or unconditional private or public reprimand shall be reviewed by a panel composed of three members of the Board who may approve or modify.

(6) [A] In cases where no formal proceeding has been conducted, a respondent-attorney shall not be entitled to appeal an informal admonition, a private reprimand, a public reprimand, or any conditions attached thereto [in cases where no formal proceeding has been conducted], but may demand as of right that a formal proceeding be instituted against such attorney in the appropriate disciplinary district. In the event of such demand, the respondent-attorney need not appear for the administration of the informal admonition [or], private reprimand, or public reprimand, and the matter shall be disposed of in the same manner as any other formal proceeding, but any expenses of the proceeding taxed against the respondent-attorney shall be paid as required by paragraph [(q)(2)] (g)(2) of this rule.

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(d) *Review and action by Board.*

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(2) The Board shall either affirm or change in writing the recommendation of the hearing committee or special master by taking the following action, as appropriate, within 60 days after the adjudication of the matter at a meeting of the Board;

(i) *Dismissal.* In the event that the Board determines that a proceeding should be dismissed, it shall so notify the respondent-attorney.

(ii) *Informal admonition [or], private reprimand, or public reprimand.* In the event that the Board determines that the proceeding should be concluded by informal admonition [or], private reprimand, [it] or **public reprimand**, the Board shall arrange to have the respondent-attorney appear before Disciplinary Counsel for the purpose of receiving informal admonition or before a designated panel of three members selected by the Board Chair pursuant to Pa.R.D.E. 205(c)(9), for the purpose of receiving private reprimand or **public reprimand**.

(iii) *Other discipline.* In the event that the Board shall determine that the matter should be concluded by probation, censure, suspension, disbarment, or by informal admonition [or], private reprimand, or **public reprimand** in cases where the respondent-attorney is unwilling to have the matter concluded by informal admonition [or], private reprimand, [it] or **public reprimand**, the Board shall file its findings and recommendations, together with the briefs, if any, before the Board and the entire record, with the Supreme Court. A respondent-attorney who is unwilling to have the matter concluded by an informal admonition [or], private reprimand, or **public reprimand** must file within thirty (30) days after notice of the determination of the Board, a notice of appeal. Review by the Supreme Court shall be de novo and the Court may impose a sanction greater or less than that recommended by the Board.

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(g) *Costs.*

(1) The Supreme Court in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of a proceeding which results in the imposition of discipline shall be paid by the respondent-attorney. All expenses taxed under this paragraph shall be paid by the respondent-attorney within 30 days of entry of the order taxing the expenses against the respondent-attorney.

(2) In the event a proceeding is concluded by informal admonition [or], private reprimand or **public reprimand**, the Board in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of the proceeding shall be paid by the respondent-attorney. All expenses taxed by the Board under this paragraph shall be paid by the respondent-attorney on or before the date fixed for the appearance of the respondent-attorney before Disciplinary Counsel for **informal admonition** or the Board for [**informal admonition or**] private or **public** reprimand. The expenses which shall be taxable under this paragraph shall be prescribed by Board rules.

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Rule 215. Discipline on consent.

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(f) *Private discipline.*—If a panel approves a Petition consenting to an informal admonition or private reprimand, with or without probation, the Board shall enter an appropriate order, and [it] **the Board** shall arrange to have the attorney appear before Disciplinary Counsel for the purpose of receiving an informal admonition or before a designated panel of three members selected by the Board Chair for the purpose of receiving a private reprimand.

(g) *Public discipline.*—(1) **If a panel approves a Petition consenting to a public reprimand, the Board shall enter an appropriate order, and the Board shall arrange to have the attorney appear before the Board or a designated panel of three members selected by the Board Chair for the purpose of receiving a public reprimand.** (2) If a panel approves a Petition consenting to public censure or suspension, the Board shall file the recommendation of the panel and the Petition with the Supreme Court. If the Court grants the Petition, the Court shall enter an appropriate order disciplining the attorney on consent.

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[Pa.B. Doc. No. 11-1311. Filed for public inspection August 5, 2011, 9:00 a.m.]

PART V. PROFESSIONAL ETHICS AND CONDUCT
[204 PA. CODE CHS. 85, 87, 89, 91 AND 93]
Amendments to Rules of Organization and Procedure of the Disciplinary Board of the Supreme Court of Pennsylvania; Order No. 72

The Rules of Organization and Procedure of the Board have been drafted to restate in full the substance of the Pennsylvania Rules of Disciplinary Enforcement. By Orders dated July 24, 2009, July 29, 2009, March 25, 2010, September 1, 2010, January 3, 2011, March 16, 2011, April 8, 2011, May 26, 2011 and June 14, 2011, the Supreme Court of Pennsylvania amended Pa.R.D.E. 208(f)(1), 203, 214, 216, 219, 214, 301, 205, 219, 203 and 209, respectively. By this Order, the Board is making conforming changes to its Rules to reflect the adoption of those amendments.

The Disciplinary Board of the Supreme Court of Pennsylvania finds that:

(1) To the extent that 42 Pa.C.S. § 1702 (relating to rule making procedures) and Article II of the act of July 31, 1968 (P. L. 769, No. 240), known as the Commonwealth Documents Law, would otherwise require notice of proposed rulemaking with respect to the amendments adopted hereby, those proposed rulemaking procedures are inapplicable because the amendments adopted hereby relate to agency procedure and are perfunctory in nature.

(2) The amendments to the Rules of Organization and Procedure of the Board adopted hereby are not inconsistent with the Pennsylvania Rules of Disciplinary Enforcement and are necessary and appropriate for the administration of the affairs of the Board.

The Board, acting pursuant to Pa.R.D.E. 205(c)(12), orders:

(1) Title 204 of the *Pennsylvania Code* is hereby amended as set forth in Annex A hereto.

(2) The Secretary of the Board shall duly certify this Order, and deposit the same with the Administrative Office of Pennsylvania Courts as required by Pa.R.J.A. 103(c).

(3) The amendments adopted hereby shall take effect upon publication in the *Pennsylvania Bulletin*.

(4) This Order shall take effect immediately.

By The Disciplinary Board of the Supreme Court of Pennsylvania

ELAINE M. BIXLER,
Secretary

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

CHAPTER 85. GENERAL PROVISIONS

§ 85.2. Definitions.

(a) Subject to additional definitions contained in subsequent provisions of this subpart which are applicable to specific chapters, subchapters or other provisions of this subpart, the following words and phrases, when used in this subpart shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

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Board [Chairman] Chair—The [Chairman of The] Chair of the Disciplinary Board of the Supreme Court of Pennsylvania.

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§ 85.7. Grounds for discipline.

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(b) Enforcement Rule 203(b) provides that the following shall also be grounds for discipline:

(1) Conviction of a crime [**which under Enforcement Rule 214 (relating to attorneys convicted of crimes) may result in suspension**].

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(7) **Failure by a respondent-attorney without good cause to respond to Disciplinary Counsel's request (Form DB-7) or supplemental request (Form DB-7A) under § 87.7(b) of these rules for a statement of the respondent-attorney's position.**

(c) Enforcement Rule 203(c) provides that the Board, its hearing committees, special masters and (when administering informal admonitions) Disciplinary Counsel are "tribunals" within the meaning of the Disciplinary Rules.

§ 85.9. Immunity.

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(b) *Other persons.* Enforcement Rule 209(a) further provides that all communications to the Board, a hearing committee, special master, or Disciplinary Counsel relating to misconduct by a respondent-attorney and all testimony given in a proceeding conducted pursuant to these rules shall be absolutely privileged and the person making the communication or giving the testimony shall be immune from civil suit based upon such communication or testimony[, **except that such immunity shall not extend to any action that violates Chapter 93 Subchapter F (relating to confidentiality)**].

Official Note: The Note to Enforcement Rule 209 provides that the provisions of this rule recognize that the submission and receipt of complaints against attorneys, and the investigation, hearing decision and disposition of such complaints, are all parts of a judicial proceeding conducted pursuant to the inherent power of the Supreme Court. The immunity from civil suit recognized to exist in this rule is that which exists for all participants in judicial proceedings under Pennsylvania law, so long as

their statements and actions are pertinent, material and during the regular course of a proceeding. [**Communications made or revealed in violation of the confidentiality requirement of Chapter 93 Subchapter F are not pertinent to the proceeding and, thus, do not entitle the person who publishes them to absolute immunity.**]

CHAPTER 87. INVESTIGATIONS AND INFORMAL PROCEEDINGS

Subchapter A. PRELIMINARY PROVISIONS COMPLAINTS

§ 87.7. Notification to respondent-attorney of complaint and duty to respond.

(a) *Condition precedent to recommendation for discipline.* Disciplinary Counsel shall not recommend or undertake a disposition of discipline under Enforcement Rule 204 (relating to types of discipline) until the accused attorney has been notified of the allegations and the time for response under § 89.54 (relating to answer), if applicable, has expired.

(b) *Transmission of notice.* Except as provided in subsection (a) of this section, the district office shall prepare and forward to the respondent-attorney Form DB-7 (Request for Statement of Respondent's Position), advising the respondent-attorney of:

(1) the nature of the grievance and if the investigation has not been initiated by the Office of Disciplinary Counsel pursuant to § 87.1(b) (relating to initiation of [**investigation**] investigations), the name and address of the complainant; and

(2) the [**right to state his position with respect**] requirement that the respondent-attorney respond to the allegations against the [**attorney**] respondent-attorney by filing with the district office a statement of position. Unless a shorter time is fixed by the Chief Disciplinary Counsel in such notice, the respondent-attorney shall have [**20**] 30 days from the date of such notice within which to file a statement of position in the district office.

The notice requirements of this subdivision (b) shall be applicable to any Form DB-7A (Supplemental Request for Statement of Respondent's Position), in which case the notice shall advise the respondent-attorney of the requirement that the respondent-attorney respond to the supplemental allegations by filing with the district office a statement of position with respect thereto.

(c) *Contents of statement of position.* All statements of position shall be in writing and sufficiently detailed as to advise Disciplinary Counsel and any reviewing hearing committee member that the Board Secretary may appoint under § 87.32 (relating to action by reviewing hearing committee member) of the nature of any defense. The respondent-attorney should include with the statement any corroborating documentation and may include in the statement mitigating factors and any relevant facts or circumstances that may assist Disciplinary Counsel in determining under § 87.8(b) the action to be taken or the disposition recommended.

(d) *Effect of failure to respond.* Enforcement Rule 203(b)(7) provides that failure by a respondent-attorney without good cause to respond to a re-

quest (Form DB-7) or supplemental request (Form DB-7A) by Disciplinary Counsel for a statement of the respondent-attorney's position shall be grounds for discipline. Failure to respond may also be a violation of Rule of Professional Conduct 8.1(b).

Official Note: If Disciplinary Counsel's request or supplemental request for a statement of position contains a separate request for production of records or documents, the respondent-attorney's nonproduction shall not be a basis for discipline under Enforcement Rule 203(b)(7) but may constitute evidence of non-cooperation with Disciplinary Counsel's inquiry. Disciplinary Counsel may obtain a subpoena to compel production of the records and documents requested in the Form DB-7 or DB-7A, and the respondent-attorney's wilful failure to comply with the subpoena would serve as a basis for discipline under RPC 8.4(d) and various provisions of the Enforcement Rules.

CHAPTER 89. FORMAL PROCEEDINGS

Subchapter D. ACTION BY BOARD AND SUPREME COURT

§ 89.205. Informal admonition or private reprimand following formal hearing.

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(c) *Notice to appear.*

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(3) The Office of the Secretary shall notify the respondent-attorney of the expenses of the proceeding which have been taxed [**under**] pursuant to subsection (b) by means of Form DB-41 (Notice of Taxation of Expenses), which shall state that if the respondent-attorney fails to pay the taxed expenses on or before the date fixed for the appearance of the respondent-attorney before the Board or Disciplinary Counsel for private reprimand or informal admonition, action will be taken by the Board [**under**] pursuant to § 93.112 (relating to failure to pay taxed expenses) which will result in the entry of an order [**transferring**] placing the respondent-attorney [**to inactive status**] on administrative suspension.

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CHAPTER 91. MISCELLANEOUS MATTERS

Subchapter B. ATTORNEYS CONVICTED OF CRIMES

§ 91.31. Notification by attorneys convicted of crimes.

Enforcement Rule 214(a) provides that an attorney convicted of a serious crime shall report the fact of such conviction **within 20 days** to the Secretary of the Board [**within 20 days after the date of sentencing**]; and that the responsibility of the attorney to make such report shall not be abated because the conviction is under appeal or the clerk of the court has transmitted a certificate to Disciplinary Counsel pursuant to § 91.32 (relating to notification by clerks of conviction of attorneys).

§ 91.34. Temporary suspension upon conviction of serious crime.

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(e) *Dissolution or modification of temporary suspension.* Enforcement Rule 214(d)(4) provides that:

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(5) upon receipt of the recommendation of the designated Board member and the record relating thereto, the Court shall dissolve or modify its order, if appropriate.

(f) **At any time before a plea or verdict or after a guilty plea or verdict of guilt in the criminal proceeding, Disciplinary Counsel and the respondent-attorney may file with the Court a joint petition for temporary suspension of the respondent-attorney on the ground that the respondent-attorney's temporary suspension is in the best interest of the respondent and the legal system.**

§ 91.35. Institution of formal proceedings upon conviction of serious crime.

(a) *General rule.* Enforcement Rule 214(f)(1) provides that upon receipt of a certificate of conviction of an attorney for a serious crime, the Court shall, in addition to any order of suspension it may enter in accordance with the provisions of § 91.34 (relating to temporary suspension upon conviction of serious crime), also refer the matter to the Board for the institution of a formal proceeding before a hearing committee in the appropriate disciplinary district in which the sole issue to be determined shall be the extent of the final discipline to be imposed, except that a disciplinary proceeding so instituted shall not be brought to hearing until **sentencing and** all appeals from the conviction are concluded. The Office of the Secretary shall transmit the file to the Office of Disciplinary Counsel by means of Form DB-31 (Reference for Proceedings in Response to Conviction).

(b) *Accelerated disposition.* Enforcement Rule 214(f)(2) provides that:

(1) notwithstanding the provision of subsection (a) that a hearing shall not be held until **sentencing and** all appeals from a conviction have been concluded, a respondent-attorney who has been temporarily suspended pursuant to § 91.34 shall have the right to request an accelerated disposition of the charges which form the basis for the temporary suspension by filing a notice with the Secretary of the Board and Disciplinary Counsel requesting accelerated disposition;

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(c) *Evidence of conviction.* Enforcement Rule 214(e) provides that a certificate of [**a**] conviction of an attorney for a [**serious**] crime [**filed under § 91.32 (relating to notification by clerks of conviction of attorneys) or § 91.33 (relating to notification by Office of Disciplinary Counsel of conviction of attorneys)**] shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against the attorney based upon the conviction.

§ 91.39. Definition of "conviction."

As used in this Subsection 91B, Enforcement Rule 214(j) provides that the term "conviction" means any guilty verdict, whether after trial by judge or jury, or finding of guilt, and any plea of guilty or *nolo contendere* that has been accepted by the court, whether or not sentence has been imposed.

Subchapter C. RECIPROCAL DISCIPLINE

§ 91.51. Reciprocal discipline.

Enforcement Rule 216 provides as follows:

(1) Upon receipt of a certified copy of an order, **judgment or disciplinary directive of another court, a federal government agency or a military tribunal** demonstrating that an attorney admitted to practice in this Commonwealth has been disciplined by suspension [or], 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, the Supreme Court shall forthwith issue a notice (Form DB-19) (Notice of Reciprocal Discipline) directed to the respondent-attorney containing:

(i) A copy of said order, **judgment or directive** from the other [jurisdiction] court, **federal government agency or military tribunal**.

(ii) 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 in [this] the Commonwealth would be unwarranted, and the reasons therefor. The Office of the Secretary 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 § 93.142(b) (relating to filing of annual statement by 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) (relating to licensing of foreign legal consultants).

(2) In the event the discipline imposed in the other [jurisdiction] court, **federal government agency or military tribunal** has been stayed there, any reciprocal discipline imposed in the Commonwealth shall be deferred until such stay expires.

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(5) An attorney who has been disciplined in another court or by a federal government agency or a military tribunal by suspension [or], disbarment, or revocation of license or pro hac vice admission, or who has resigned from the bar or otherwise relinquished his or her license to practice while under disciplinary investigation in another jurisdiction shall report the fact of such suspension [or], disbarment, revocation or resignation to the Secretary of the Board within 20 days after the date of the order, **judgment or directive imposing or confirming the discipline**.

Subchapter D. DISABILITY

§ 91.75. Effect of raising defense of disability in formal proceedings.

(a) *General rule.* Enforcement Rule 301(e) provides that if, during the course of a disciplinary proceeding, the respondent contends that the respondent is suffering from a disability by reason of mental or physical infirmity or illness, or because of addiction to drugs or intoxicants, which make it impossible for the respondent to prepare an adequate defense, the **respondent shall complete and file with the Court a certificate of admission of disability. The certificate shall:**

(1) identify the precise nature of the disability and the specific or approximate date of the onset or initial diagnosis of the disabling condition;

(2) contain an explanation of the manner in which the disabling condition makes it impossible for the respondent to prepare an adequate defense;

(3) have appended thereto the opinion of at least one medical expert that the respondent is unable to prepare an adequate defense and a statement containing the basis for the medical expert's opinion; and

(4) contain a statement, signed by the respondent, that all averments of material fact contained in the certificate and attachments are true upon the respondent's knowledge or information and belief and made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

The respondent may attach to the certificate affidavits, medical records, additional medical expert reports, official records, or other documents in support of the existence of the disabling condition or the respondent's contention of lack of physical or mental capacity to prepare an adequate defense.

Upon receipt of the certificate, the Supreme Court thereupon shall enter an order immediately transferring the respondent to inactive status until a determination is made of the capacity of the respondent to aid effectively in the preparation of a defense or to continue to practice law in a proceeding instituted in accordance with the provisions of § 91.74 (relating to petition by Board for determination of professional competency)[; and that if], unless the Court finds that the certificate does not comply with the requirements of Enforcement Rule 301(e), in which case the Court may deny the request for transfer to disability inactive status or enter any other appropriate order. Before or after the entry of the order transferring the respondent to inactive status under Enforcement Rule 301(e), the Court may, upon application by disciplinary counsel and for good cause shown, take or direct such action as the Court deems necessary or proper to a determination of whether it is impossible for the respondent to prepare an adequate defense, including a direction for an examination of the respondent by such qualified medical experts as the Court shall designate. In its discretion, the Court may direct that the expense of such an examination shall be paid by the respondent.

The order transferring the attorney to disability inactive status under Enforcement Rule 301(e) shall be a matter of public record. The certificate of admission of disability and attachments to the certificate shall not be publicly disclosed or made available for use in any proceeding other than a subsequent reinstatement or disciplinary proceeding except:

(i) upon order of the Supreme Court;

(ii) pursuant to an express written waiver by the attorney; or

(iii) upon a request by the Pennsylvania Lawyers Fund for Client Security Board pursuant to Enforcement Rule 521(a) (relating to cooperation with Disciplinary Board).

If the Court shall determine at any time that the respondent is able to aid effectively in the preparation of

a defense or is not incapacitated from practicing law, it shall take such action as it deems proper and advisable including a direction for the resumption of the disciplinary proceeding against the respondent.

(b) *Procedure.* Whenever a respondent makes a contention within the scope of subsection (a) of this section, the [Office of Disciplinary Counsel shall forward] respondent shall complete and file a certificate thereof [to] with the Prothonotary of the Supreme Court by means of Form DB-21 (Certificate of Admission of Disability by Attorney). The certificate shall be available to the bar through the Office of the Secretary to the Board. The respondent shall serve a copy of the certificate on the Board and disciplinary counsel.

Subchapter G. EMERGENCY PROCEEDINGS

§ 91.151. Emergency temporary suspension orders and related relief.

(a) *General rule.* Enforcement Rule [208(f)(1)] 208(f) provides that:

(1) Disciplinary Counsel, with the concurrence of a reviewing member of the Board, whenever it appears by an affidavit demonstrating facts that the continued practice of law by a person subject to the Enforcement Rules is causing immediate and substantial public or private harm because of the misappropriation of funds by such person to his or her own use, or because of other egregious conduct, in manifest violation of the Disciplinary Rules or the Enforcement Rules, may petition the Supreme Court for injunctive or other appropriate relief;

(2) a copy of the petition shall be personally served upon the respondent-attorney by Disciplinary Counsel [;]. If Disciplinary Counsel cannot make personal service after reasonable efforts to locate and serve the respondent-attorney, Disciplinary Counsel may serve the petition by delivering a copy to a clerk or other responsible person at the office of the respondent-attorney, and if that method of service is unavailable, then by mailing a copy of the petition by regular and certified mail addressed to the addresses furnished by the respondent-attorney in the last registration statement filed by the respondent-attorney pursuant to Enforcement Rule 219(d). Service is complete upon delivery or mailing, as the case may be;

(3) the Court, or any justice thereof, may enter a rule directing the respondent-attorney to show cause why the respondent-attorney should not be placed on temporary suspension, which rule shall be returnable within ten days; and

(4) the Court, or any justice thereof, may, before or after issuance of the rule, issue such orders to the respondent-attorney, and to such financial institutions or other persons, as may be necessary to preserve funds, securities or other valuable property of clients or others which appear to have been misappropriated or mishandled in manifest violation of the Disciplinary Rules [.];

(5) an order directing the president judge of the court of common pleas in the judicial district where the respondent-attorney maintains his or her principal office for the practice of law or conducts his or her primary practice, to take such further action and to issue such further orders as may appear necessary to fully protect the rights and interests of the clients of the respondent-attorney when:

(i) the respondent-attorney does not respond to a rule to show cause issued after service of the petition pursuant to Enforcement Rule 208(f)(1); or

(ii) Disciplinary Counsel's petition demonstrates cause to believe that the respondent-attorney is unavailable to protect the interests of his or her clients for any reason, including the respondent-attorney's disappearance, abandonment of practice, incarceration, or incapacitation from continuing the practice of law by reason of mental infirmity or illness or because of addiction to drugs or intoxicants.

(b) *Order of temporary suspension.* Enforcement Rule 208(f)(2) provides that if a rule to show cause has been issued under subsection (a) of this section, and the period for response has passed without a response having been filed, or after consideration of any response, the Court may enter an order requiring temporary suspension of the practice of law by the respondent-attorney pending further definitive action under the Enforcement Rules.

(1) Where the Court enters an order under Enforcement Rule 208(f)(1)(ii), the Board shall promptly transmit a certified copy of the order to the president judge, whose jurisdiction and authority under this rule shall extend to all client matters of the respondent-attorney.

(2) Where the Court enters an order under Enforcement Rule 208(f)(1)(i) or (ii) before the issuance of a rule or before the entry of an order of temporary suspension under paragraph (f)(2), the Prothonotary shall serve a certified copy of the Court's order on the respondent-attorney by regular mail addressed to the address furnished by the respondent-attorney in the last registration statement filed by the respondent-attorney and to an address where the respondent-attorney is located if that address is known.

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CHAPTER 93. ORGANIZATION AND ADMINISTRATION

Subchapter B. THE DISCIPLINARY BOARD

§ 93.23. Powers and duties.

(a) *General rule.* Enforcement Rule 205(c) provides that the Board shall have the power and duty:

(1) To consider [and investigate] the conduct of any person subject to the Enforcement Rules [and may initiate any such investigation on its own motion or may undertake the same upon complaint by any person] after investigation by Disciplinary Counsel pursuant to Enforcement Rule 207(b)(1). Complaints filed directly with the Board shall be forwarded to the Office of Chief Disciplinary Counsel for assignment to a district office.

Official Note: In order to avoid the commingling of prosecutorial and adjudicative functions, which would be a violation of due process, see *Lyness v. Com. of Pa., State Board of Medicine*, 529 Pa. 535, 605 A.2d 1204 (1992), the Office of Disciplinary Counsel is charged with the duty of investigating and prosecuting all disciplinary matters subject to adjudication by the Board. See Enforcement Rule 208(a)(1), (a)(2)(iv). Under Enforcement Rule 208(d)(1), Board Members appointed in a matter to review Disciplinary Counsel's charging decisions or

recommended disposition are precluded from further participation in that matter.

* * * * *

(5) To assign formal charges or the conduct of an investigatory hearing to a hearing committee or special master, **and to assign a reinstatement petition to a hearing committee.** The assignment to a hearing committee of formal charges or the conduct of an investigatory hearing, **or a reinstatement petition** may be delegated by the Board to its Secretary.

(6) To review the conclusions of hearing committees and special masters with respect to formal charges **or petitions for reinstatement**, and to prepare and forward its own findings and recommendations, together with the record of the proceeding before the hearing committee or special master, to the Supreme Court.

(7) To assign periodically, through its Secretary, senior or experienced hearing committee members within each disciplinary district to:

(i) review and approve or modify recommendations by Disciplinary Counsel for dismissals, informal admonitions, private reprimands and institution of formal charges;

(ii) hear and determine attacks on the validity of subpoenas issued pursuant to § 91.2 (relating to subpoenas and investigations), as provided in § 91.3(2) (relating to determination of validity of subpoena); or

(iii) consider a petition for reinstatement to active status from **retired or inactive status, or administrative suspension**, under [§ 89.273(a)(7)] § 89.273(b) (relating to procedures for reinstatement).

(8) To review, through a designated panel of three members, and approve or modify a determination by a reviewing hearing committee member that a matter should be concluded by dismissal, private informal admonition, private reprimand or the institution of formal charges before a hearing committee.

(9) **To review, through a designated panel of three members, and approve or reject a joint petition in support of discipline on consent filed with the Board pursuant to Enforcement Rule 215(d).**

(10) **To review, through a single member designated by the Board Chair, and approve or reject a certification filed by Disciplinary Counsel under Enforcement Rule 218(d)(2)(ii) indicating that Disciplinary Counsel has determined that there is no impediment to reinstatement of the petitioner, and to issue the report and recommendation required by subdivision (d) of Enforcement Rule 218.**

(11) To administer private reprimands to attorneys for misconduct.

[(10)] (12) To adopt rules of procedure not inconsistent with the Enforcement Rules. Such rules may provide for the delegation to the [**Chairman**] **Board Chair** or the [**Vice-Chairman**] **Vice Chair** of the power to act for the Board on administrative and procedural matters.

[(11)] (13) To cause testimony relating to the conduct of formerly admitted attorneys to be perpetuated.

[(12)] (14) To petition the Court under § 91.74 (relating to petition by Board for determination of professional competency) to determine whether an attorney is incapacitated from continuing the practice of law by reason of mental infirmity or illness or because of addiction to

drugs or intoxicants, and to retain counsel other than Disciplinary Counsel to represent the Board in such proceedings when the Board considers such separate representation to be appropriate.

[(13)] (15) To recommend the temporary suspension of a respondent-attorney pursuant to **Enforcement Rule 208(f)(5)** (relating to emergency temporary suspension orders and related relief).

[(14)] (16) To exercise the powers and perform the duties vested in and imposed upon the Board by law.

(b) *Consultations with local bar associations.* Enforcement Rule 205(d) provides that the Board shall, to the extent it deems feasible, consult with officers of local bar associations in the counties affected concerning any appointment which it is authorized to make under the Enforcement Rules.

Subchapter G. FINANCIAL MATTERS

ANNUAL ASSESSMENT OF ATTORNEYS

§ 93.141. Annual assessment.

(a) *General rule.* Enforcement Rule 219(a) provides that every attorney admitted to practice law in this Commonwealth, shall pay an annual fee under such rule of [**\$140.00**] **\$135.00**; that 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 [**subchapter**] **Subchapter**, and that the fee shall be used to defray the costs of disciplinary administration and enforcement under the Enforcement Rules, and for such other purposes as the Board shall, with the approval of the Supreme Court, from time to time determine.

* * * * *

§ 93.142. Filing of annual form by attorneys.

(a) *Transmission of form.* Enforcement Rule 219(c) provides that on or before May 15 of each year the Attorney Registration Office shall transmit by ordinary mail to all persons required by the rule to pay an annual fee a form required by subsection (b) of this section.

(b) *Filing of annual form.* Enforcement Rule 219(d) provides that on or before July 1 of each year all persons required by the rule to pay an annual fee shall file with the Attorney Registration Office a signed 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 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 license' 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,

will be accessible through the website of the Board (<http://www.padisiplinaryboard.org/>) and by written or oral request to the Board.

Official Note: The Note to Enforcement Rule 219(d)(1)(ii) explains that public web docket sheets will show the attorney's address as entered on the court docket.

(iii) The name of each financial institution in Pennsylvania in which the attorney on May 1 of the current year or at any time during the preceding 12 months held funds of a client or a third person subject to Rule 1.15 of the Pennsylvania Rules of Professional Conduct. The form shall include the name and account number for each account in which the lawyer holds such funds, and each IOLTA Account shall be identified as such. The form provided to a person holding a Limited In-House Corporate Counsel License or a Foreign Legal Consultant License need not request the information required by this subparagraph.

(iv) A certification reading as follows: "I certify that all Trust Accounts that I maintain are in financial institutions approved by the Supreme Court of Pennsylvania for the maintenance of such accounts pursuant to Pennsylvania Rule of Disciplinary Enforcement 221 (relating to mandatory overdraft notification) and that each Trust Account has been identified as such to the financial institution in which it is maintained."

(v) A statement that any action brought against the attorney by the Pennsylvania Lawyers Fund for Client Security for the recovery of monies paid by the Fund as a result of claims against the attorney may be brought in the Court of Common Pleas of Allegheny, Dauphin or Philadelphia County.

(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 website. The requirement of Rule 219(d)(3) that every attorney who has filed an annual registration form 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. Where 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 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. On or before July 1 of each year the Office of the Secretary shall publish in the *Pennsylvania Bulletin* a notice of the collection fee established by the Board for the coming assessment year.

(3) Every person who has filed such a form shall notify the Attorney Registration Office in writing of any change in the information previously submitted within 30 days after such change.

(4) Upon original admission to the bar of this Commonwealth, licensure as a Foreign Legal Consultant, issuance of a Limited In-House Corporate Counsel License, or limited admission as an attorney participant in defender and legal services programs pursuant to Pa.B.A.R. 311, a person shall concurrently file a form under this subsection for the current assessment year, but no annual fee shall be payable for the assessment year in which originally admitted or licensed.

[Pa.B. Doc. No. 11-1312. Filed for public inspection August 5, 2011, 9:00 a.m.]

Title 255—LOCAL COURT RULES

WASHINGTON COUNTY

Local Rules 1901.1-1 Through 1901.1-10 Actions Pursuant to the Protection From Abuse Act; 1901.2 Through 1901.2-4 Actions Pursuant to the Older Adults Protective Services Act; No. 2011-1

Order

And Now, this 13th day of July, 2011; *It Is Hereby Ordered* that the previously-stated Washington County Local Civil Rules be restated 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-1901.1-1. Actions Pursuant to the Protection From Abuse Act.

Pursuant to the authority set forth in the Protection from Abuse Act of December 19, 1009, P.J. 1240, as amended, 23 Pa.C.S. § 6101 et seq., the following practices, procedures, and rules are promulgated.

It is the purpose and policy of the Court of Common Pleas of Washington County, Pennsylvania, to implement and effectuate the Protection from Abuse Act and its amendments to protect victims from abuse, to streamline and facilitate enforcement; to establish duties upon the Prothonotary, the Sheriff, Magisterial District Judges, and police departments; and to provide for emergency relief.

L-1901.1-2. Commencement in Court.

a. Petitions for Protection from Abuse shall be presented to the appropriate Family Court Judge, who will schedule a hearing on the petition. If the plaintiff petitions from a temporary order and alleges immediate and present danger of abuse, the Court may conduct an ex-parte proceeding and may enter a temporary order as it deems necessary.

b. Assistance and advice to individuals not represented by counsel

1. Forms sufficient for this purpose shall be provided by the Washington County Prothonotary, or by Domestic Violence Services of Southwestern Pennsylvania.

2. Clerical assistance to help with writing and filing the petition shall be provided by the Prothonotary, or by Domestic Violence Services of Southwestern Pennsylvania.

3. Written instructions, in English and in Spanish, to the local domestic violence program, to the Southwestern Pennsylvania Legal Aid Society, and to the Washington County Bar Association Lawyer Referral Service shall be provided by the Prothonotary.

4. Petitions will be accepted between 9:00AM and 3:15PM, Monday through Friday except court holidays.

L-1901.1-3. Emergency Relief by the Minor Judiciary.

a. From 3:15 p.m. each day to the resumption of business at 9:15 a.m. the next morning and from 3:15 p.m. of the last day of the business week to 9:15 a.m. of the first day of the next business week, a petition for protection from abuse may be filed before the Magisterial District Judges in the district where the plaintiff lives or the on-call Magisterial District Judge who may grant relief in accordance with the Act.

b. An order issued under subsection (a) will expire at 3:15 p.m. on the next business day.

c. Magisterial District Judge.

1. The Magisterial District Judge shall certify the emergency order issued under subsection (a) and the petition to the Court.

2. The Magisterial District Judge shall advise the plaintiff that the plaintiff is responsible for picking up the certified record at the Magisterial District Judge's office on the next business day of court and filing it with the Prothonotary of Washington County.

3. The Magisterial District Judge shall advise the plaintiff regarding the procedure for initiating a contempt charge.

4. The Magisterial District Judge shall advise the plaintiff of the existence of programs for victims of domestic violence and the availability of legal assistance.

d. Prothonotary.

1. The Prothonotary shall accept the certified record from the Magisterial District Judge for filing and assign a case number.

2. The Prothonotary shall provide the plaintiff with a copy of the petition and emergency order and advise the plaintiff to take the documents to the Domestic Violence Services of Southwestern Pennsylvania.

e. Family Court Judge.

1. The Family Court Judge will schedule hearings on protection orders issued under subsection (a) and will review and continue in effect protection orders that are necessary to protect the plaintiff until the hearing.

2. The Family Court Judge may order service of the petition, emergency and temporary order by the Sheriff pursuant to L-1901.1-4(b).

L-1901.1-4. Service of Petition and Order.

a. The plaintiff shall ensure that the petition and order are promptly served upon the defendant and that the order is served upon police departments with appropriate jurisdiction to enforce the order.

b. Where the plaintiff avers that service cannot be safely effectuated by an adult individual other than a law enforcement officer and the Court so orders, the Sheriff of Washington County shall serve the petition and order on the defendant. The Sheriff shall advise the Court that service has been effectuated, as well as the cost of service.

c. If the Court orders service by the Sheriff upon the defendant, the plaintiff shall promptly serve the order upon the appropriate police departments.

L-1901.1-5. Arrest for Violation of Order.

a. If the defendant is arrested for violation of a Protection from Abuse order, the defendant shall be taken before the Magisterial District Judge in the district where the alleged violation occurred or the on-call Magisterial District Judge.

b. The defendant shall be arraigned forthwith pursuant to the Pennsylvania Rules of Criminal Procedure and Washington County Local Court Rules.

c. Bail shall be set to insure the defendant's presence at the contempt hearing in accordance with Pa.R.Crim.P. 520 et seq.

d. Procedure for scheduling hearing before the Court:

1. Violation of an order issued by the Washington County Court of Common Pleas.

i. The Magisterial District Judge shall schedule the hearing before the appropriate Family Court Judge at 9:30 AM on the next date that the judge will hear Protection from Abuse related matters.

2. Violation of an order issued by a Magisterial District Judge or court in another judicial district within the Commonwealth or an order issued by a court of another state.

i. The Magisterial District Judge shall schedule the hearing before the appropriate Family Court Judge at 9:30 AM on the next date that the judge will hear Protection from Abuse related matters.

e. The Magisterial District Judge shall inform the arresting officer, the plaintiff, and the defendant of the hearing date and time. Written notice of the hearing shall be delivered to the plaintiff and defendant and each shall sign a receipt.

f. The Magisterial District Judge shall cause the following completed forms to be delivered to the Clerk of Courts: (1) criminal complaint; (2) probable cause affidavit; (3) certificate of bail, if required, and discharge of commitment; and (4) receipts for notice of hearing. The documents shall be delivered by 9:00 a.m. on the morning of the hearing. Delivery may be made by the arresting officer.

L-1901.1-6. Private Criminal Complaint for Violation of Order or Agreement.

a. The private criminal complaint shall be filed with the Magisterial District Judge in the jurisdiction in Washington County where the abuse occurred or with the on-call Magisterial District Judge.

b. The approval of the District Attorney of Washington County is not required prior to the filing of a private criminal complaint under this section.

c. The procedure for filing a private criminal complaint for indirect criminal contempt for violation of a non-economic provision of an order or court-approved consent agreement pursuant to Section 6113.1 of the Act is as follows:

1. Magisterial District Judge.

i. The Magisterial District Judge shall prepare the private criminal complaint and notices of hearing.

ii. The Magisterial District Judge shall schedule the hearing before the appropriate Family Court Judge at

9:30 AM on the next date that the judge will hear Protection from Abuse related matters.

iii. The Magisterial District Judge shall give the plaintiff a copy of the private criminal complaint and notice of hearing, receipt of which shall be acknowledged in writing by the plaintiff.

iv. The Magisterial District Judge shall forward the original documents to the Clerk of Courts of Washington County.

2. Clerk of Courts.

i. The Clerk of Courts shall process the documents received from the Magisterial District Judge and forward them to the Family Court Judge before whom the hearing is scheduled.

d. The procedure for service of the private criminal complaint is as follows:

1. The Magisterial District Judge shall serve a copy of the private criminal complaint and notice of hearing on the defendant by certified mail, return receipt requested.

2. The Magisterial District Judge shall notify the Family Court Judge, before whom the hearing is scheduled, that the return receipt has been received or that the private criminal complaint has been returned undelivered.

L-1901.1-7. Civil Contempt for Violation of Order or Agreement.

a. A plaintiff may file a petition for civil contempt or modification, alleging that a defendant has violated any provision of an order or court-approved consent agreement.

b. Plaintiff shall obtain a hearing date from the issuing Judge at that Judge's regularly scheduled motions court.

c. Plaintiff shall cause the petition and order scheduling a hearing to be served upon the defendant.

L-1901.1-8. Notification Upon Release.

a. Criminal Victim/Witness Assistance Program shall use all reasonable means to notify the plaintiff sufficiently in advance of the release of the defendant from any incarceration imposed as a result of a finding of contempt.

b. Notification shall be required for work release, furlough, medical leave, community service, discharge, escape, and recapture. Notification shall include the terms and condition imposed on any temporary release from custody. The plaintiff shall keep the Crime Victim/Witness Assistant Program advised of contact information; failure to do so will constitute a waiver of any rights to notification under these provisions.

L-1901.1-9. Modification, Extension or Withdrawal of Order or Agreement.

a. A plaintiff or defendant may file a petition for modification, extension or withdrawal of an order or consent agreement any time during the pendency of the order.

b. The party seeking modification shall file a petition through the Domestic Violence Services of Southwestern Pennsylvania and a hearing shall be scheduled for the next available hearing date for modifications or extension.

c. The hearings for modification, extension or withdrawal of an order or consent agreement will be held once per month and will be scheduled for 1:00 PM.

d. The party seeking modification shall cause the petition and order scheduling the hearing to be promptly served upon the opposing party.

e. No orders for withdrawal will be permitted unless the costs for both the Prothonotary and Sheriff's service are paid.

L-1901.1-10. Registry: Out of State Orders.

a. The Prothonotary shall maintain a registry in which shall be entered certified copies of protection from abuse orders issued by a comparable court in another state.

b. A valid order may be registered by the plaintiff by obtaining a certified copy of the order of the issuing court endorsed by the Prothonotary of that court and filing and presenting that certified order to the Prothonotary of Washington County.

c. Upon receiving a certified order for registration, the Prothonotary shall provide the plaintiff with a copy bearing proof of registration to be filed with the appropriate law enforcement agency.

d. No costs shall be assessed for registration of an order.

L-1901.2. Actions Pursuant to Older Adults Protective Services Act.

L-1901.2-1. Definitions.

"Act" means "older Adults Protective Services Act" No. 79, effective July 1, 1988, 35 P. S. § 10211 et seq.

"Action" means a petition to enjoin interference with services, or to require access to persons or to records as set forth in Section 7 of the Act, or an emergency petition as set forth in Section 10 of the Act.

L-1901.2-2. Commencement of Action.

a. Except as provided in subsection (b), an action shall be commenced by filing with the Prothonotary a petition, setting forth a concise statement of the facts relied upon to justify the relief requested, and a prayer for the relief desired.

b. Filing in the office of the Prothonotary a certified order of a Magisterial District Judge entered pursuant to L-1901.2-4.

L-1901.2-3. Service.

a. Service of the petition or certified order of the Magisterial District Judge shall be made pursuant to Pa. Rules of Civil Procedure 400 et seq.

b. An order entered under Sections 7 and 10 of the Act shall be served and enforced by such persons and in such manner as the Court shall direct in the order.

L-1901.2-4. Hearings.

a. Within ten (10) days after the filing of a petition under Section 7 of the Act, the Motions Judge of the Court of Common Pleas shall schedule a hearing at which the petitioner must prove the facts justifying the relief requested by a preponderance of the evidence. The Court shall advise the respondent of his right to be represented by counsel. No pleading need be filed in response to the petition.

b. Emergency petitions pursuant to section 10 of the Act shall be presented to the Motions Judge of the Court of Common Pleas during normal Courthouse hours; otherwise to the on-call Magisterial District Judge. The Motions Judge or Magisterial District Judge shall accept and decide such emergency petitions promptly pursuant to Section 10 of the Act.

c. Certified orders of the Magisterial District Judge shall be filed in the Prothonotary's office by 9:15 a.m. on the following business day, at which time they shall expire.

d. The Magisterial District Judge shall advise the petitioners of the need to appear before the Motions Judge at 9:15 a.m. on the Court's next business day for continuing relief.

[Pa.B. Doc. No. 11-1313. Filed for public inspection August 5, 2011, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that Martin Bernard Brown having been suspended from the practice of law in the State of Maryland for a period of 90 days by Opinion and Order of the Court of Appeals of Maryland filed July 27, 2010, the Supreme Court of Pennsylvania issued an Order dated July 20, 2011, suspending Martin Bernard Brown from the practice of law in this Commonwealth for

a period of 90 days. 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. 11-1314. Filed for public inspection August 5, 2011, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that Neal Sharma having been suspended from the practice of law in the State of New Jersey for a period of 6 months by Order of the Supreme Court of New Jersey dated October 5, 2010; the Supreme Court of Pennsylvania issued an Order dated July 20, 2011, suspending Neal Sharma from the practice of law in this Commonwealth for a period of 6 months. 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. 11-1315. Filed for public inspection August 5, 2011, 9:00 a.m.]
