

# THE COURTS

## Title 225—RULES OF EVIDENCE

[ 225 PA. CODE ART. V ]

### Proposed Amendment of Pa.R.E. 501 and Proposed New Pa.R.E. 502

The Committee on Rules of Evidence is soliciting comments concerning a proposed recommendation to the Supreme Court of Pennsylvania to amend Pennsylvania Rule of Evidence 501 and to adopt new Pennsylvania Rule of Evidence 502, as more fully discussed in the accompanying Publication Report.

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

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no later than February 13, 2015.

*By the Committee on  
Rules of Evidence*

SAMUEL G. ENCARNACION, Esq.,  
*Chair*

#### Annex A

### TITLE 225. RULES OF EVIDENCE

#### ARTICLE V. PRIVILEGES

##### Rule 501. Privileges.

Privileges [ as they now exist or may be modified by law shall be ] not codified in these rules shall remain unaffected by the adoption of these rules.

##### Comment

Pa.R.E. 501 is similar to F.R.E. 501 in that [ **this rule does** ] these rules do not modify existing law with regard to a claim of privilege, except as provided by Pa.R.E. 502.

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*(Editor's Note: The following rule is new and printed in regular type to enhance readability.)*

##### Rule 502. Attorney-Client Privilege; Exceptions; Waiver.

(a) *Definitions Applicable to This Rule.*

(1) "Attorney" means a person authorized, or reasonably believed by the client to be authorized, to engage in the practice of law in any State or country.

(2) "Representative of the attorney" means a person engaged, or reasonably believed by the client to be engaged, by the attorney to assist the attorney in rendering professional legal services.

(3) "Client" means a person, public agency, corporation, association, or other organization or entity, either public

or private for whom an attorney renders professional legal services, or that consults an attorney with a view to obtaining professional legal services.

(4) "Representative of the client" means one:

(A) having recognized authority to:

i. obtain professional legal services on behalf of the client; or

ii. act on legal advice rendered on behalf of the client; or

(B) who makes or receives a confidential communication for the purpose of effectuating legal representation for the client while acting in the scope of employment for the client.

(5) "Confidential communication" means a communication made to obtain or effectuate professional legal services for the client and that a client would reasonably intend to be disclosed only to persons engaged in obtaining, providing, or effectuating those services.

(b) *Privilege.* A client has a privilege to refuse to disclose and to prevent any other person from disclosing a confidential communication or other information that would disclose a confidential communication:

(1) between the client or a representative of the client and the client's attorney or a representative of the attorney;

(2) between the attorney and a representative of the attorney;

(3) between representatives of the client or between the client and a representative of the client; or

(4) by the client or a representative of the client or the client's attorney or a representative of the attorney to an attorney or a representative of an attorney representing another party in a pending action and concerning a matter of common interest therein.

(5) Reserved.

(c) *Who May Claim the Privilege.* The privilege under this rule may be claimed by the client, the client's guardian or conservator, the personal representative of a deceased client, or the successor, trustee, or similar representative of a corporation, association, or other organization whether or not in existence. The person who was the attorney or the representative of the attorney at the time of the communication may claim the privilege but only on behalf of the client.

(d) *Exceptions.* There is no privilege under this rule:

(1) if the services or advice of the attorney were sought or obtained to enable or aid anyone to commit or plan to commit what the client knew or reasonably should have known was a crime or fraud;

(2) as to a communication relevant to an issue between parties who claim through the same deceased client, regardless of whether the claims are by testate or intestate succession or by transaction inter vivos;

(3) as to a communication relevant to an issue of breach of duty by an attorney to the client or by the client to the attorney;

(4) as to a communication necessary for an attorney to defend in a legal proceeding an accusation that the attorney assisted the client in criminal or fraudulent conduct;

(5) as to a communication relevant to an issue concerning an attested document to which the attorney is an attesting witness; or

(6) as to a communication relevant to a matter of common interest between or among two or more clients if the communication was made by or to any of them by or to an attorney retained or consulted in common, when offered in an action between or among any of the clients.

(7) Reserved.

(e) *Waiver*

(1) *Intentional Disclosure*. The privilege is waived if the client intentionally discloses or consents to the disclosure of the subject matter of the confidential communication. The waiver extends to undisclosed confidential communications concerning the same subject matter if the communications ought in fairness to be considered together.

(2) *Inadvertent Disclosure*. The privilege is not waived if the disclosure of the confidential communication is inadvertent and the client and attorney took reasonable steps to prevent disclosure and to rectify the inadvertent disclosure.

(3) *Failure to Assert Privilege*. The privilege is waived if the client or attorney fails to object to the disclosure of the confidential communication in a legal proceeding.

#### Comment

Pa.R.E. 502 differs from F.R.E. 502 in that the federal attorney-client privilege is governed by the common law as interpreted by the United States' courts. The Attorney-Client Privilege in Pennsylvania is governed by 42 Pa.C.S. §§ 5916 and 5928, as interpreted by the Pennsylvania courts. The application of the privilege may also be governed by other statutes. See, e.g., 65 P.S. § 67.102 (express exclusion for privileged documents in Right To Know Law).

Pa.R.E. 502 consolidates these statutes and interpretations in a form consistent with the Pennsylvania Rules of Evidence. This codification is intended to assist the attorney and client in predicting with some degree of certainty whether particular discussions will be protected because an uncertain privilege is little better than no privilege at all. *Levy v. Senate of Pennsylvania*, 65 A.3d 361, 371 (Pa. 2013) (quoting *Upjohn Co. v. United States*, 449 U.S. 383, 393 (1981)).

The guiding principle in the drafting of this Rule was to preserve the Pennsylvania law with regard to the attorney-client privilege. The structure and language of the Rule is based on Uniform Rules of Evidence 502 (2005) and 510 (2005) and F.R.E. 502.

This Rule is not intended to modify the work-product doctrine. Codification of the work-product doctrine can be found in the rules of procedure. See, e.g., Pa.R.Crim.P. 573(G) (work product in criminal proceedings); *Commonwealth v. Kennedy*, 876 A.2d 939, 946 (Pa. 2005) (in the context of pre-trial discovery in criminal matters, the substance of work product doctrine contained in Pa.R.Crim.P. 573(G)); see also *Gillard v. AIG Insurance Co.*, 15 A.3d 44, 59 n. 16 (Pa. 2011) (attorney-client privilege and work-product doctrine are not coterminous).

Pa.R.E. 502(a)(1) is consistent with prior Pennsylvania law. See e.g., *Triffin v. Desalvo*, 643 A.2d 118 (Pa. Super. 1994) (a person's reasonable belief that layperson was an attorney sufficient to provide privilege); *Joyner v. SEPTA*, 736 A.2d 35 (Pa. Cmwlth. 1999) (holding that person failed to establish reasonableness of belief that he was

communicating with his attorney sufficient to raise privilege when voicemail was inadvertently left with opposing attorney).

Pa.R.E. 502(a)(2) is consistent with prior Pennsylvania law. See *Commonwealth v. Hutchinson*, 434 A.2d 740, 744 (Pa. Super. 1981) (investigator is agent of attorney for purposes of privilege); *Commonwealth v. Mrozek*, 657 A.2d 997, 999-1000 (Pa. Super. 1995) (attorney's secretary was agent of attorney for purposes of privilege).

Pa.R.E. 502(a)(3) is consistent with prior Pennsylvania law. See *Gillard v. AIG Ins. Co.*, 15 A.3d 44 (Pa. 2011) (client was an insurance corporation); *Maleski v. Corporate Life Insurance Co.*, 641 A.2d 1, 3 (Pa. Cmwlth. 1994) (privilege attaches to communications made by corporate as well as individual clients); *Commonwealth v. Mrozek*, 657 A.2d 997, 998-99 (Pa. Super. 1995) (client for purposes of privilege include a person seeking legal services); *Heavens v. Pennsylvania Department of Environmental Protection*, 65 A.3d 1069, 1076 (Pa. Cmwlth. 2013) (privilege extends to agency setting where attorneys are working in their professional capacity); *In re Thirty-Third Statewide Investigating Grand Jury*, 86 A.3d 204, 224 (Pa. 2014) (discussing the commonality of the citizenry and a Commonwealth agency as "client" in the context of a criminal investigation by the Office of Attorney General).

Pa.R.E. 502(a)(4) is consistent with prior Pennsylvania law. See *National Railroad Passenger Corp. v. Fowler*, 788 A.2d 1053, 1064-1065 (Pa. Cmwlth. 2001) (discussing agents or employees of client authorized to act on behalf of client); see also, e.g., 20 Pa.C.S. § 5521(a) (duty of guardian of person); § 5602(a)(20) (power of attorney to pursue litigation). Recognition of authority under this definition based solely on a familial, intimate, or other relationship with the client has yet to be addressed by statute or common law.

Pa.R.E. 502(a)(5) is consistent with prior Pennsylvania law. See *Trib Total Media, Inc. v. Highlands School Dist.*, 3 A.3d 695, 701 (Pa. Cmwlth. 2010) (requiring that communications be intended to be confidential); *Gillard v. AIG Insurance Co.*, 15 A.3d 44, 59 (Pa. 2011) (confidential communications for the purpose of obtaining or providing professional legal advice); see also *Okum v. Unemployment Compensation Review Board*, 465 A.2d 1324, 1325 (Pa. Cmwlth. 1983) (discussion of administrative matters between administrative head of agency's legal division and deputy general counsel not confidential communications).

Pa.R.E. 502(b) is consistent with Pennsylvania law. See 42 Pa.C.S. §§ 5916, 5928 ("[C]ounsel shall not be competent or permitted to testify to confidential communications made to him by his client, nor shall the client be compelled to disclose the same unless in either case this privilege is waived upon the trial by the client."); *Levy v. Senate of Pennsylvania*, 65 A.3d 361, 372 (Pa. 2013) ("[A]ttorney-client privilege may apply in cases where divulging the client's identity would disclose either the legal advice given or the confidential communications provided.").

Pa.R.E. 502(b)(1) is consistent with prior Pennsylvania law. See *Gillard v. AIG Insurance Co.*, 15 A.3d 44, 59 (Pa. 2011) ("[P]rivilege operates in a two-way fashion to protect confidential client-to-attorney or attorney to client communications made for the purpose of obtaining or providing professional legal advice."); *Commonwealth v. Hutchinson*, 434 A.2d 740, 744 (Pa. Super. 1981) (privilege attaches to statements made to an attorney or his

agents); *National Railroad Passenger Corp. v. Fowler*, 788 A.2d 1053, 1064-1065 (Pa. Cmwlth. 2001) (privilege extends to authorized agents or employees of client).

Pa.R.E. 502(b)(2) is consistent with prior Pennsylvania law. See *Commonwealth v. Noll*, 662 A.2d 1123, 1126 (Pa. Super. 1995) (privilege allows disclosure to an agent assisting attorney in giving legal advice to client; communications between attorney and retained expert subject to privilege); *Commonwealth v. DuPont*, 730 A.2d 970 (Pa. Super. 1999) (conversation between attorney and consultant requires confidential communications made in connection with providing legal service to be privileged). See also 221 Pa. Code § 103 (inadmissibility of confidential communication made to or by appointed interpreter).

When a representative of an attorney is intended to be called by the client as a witness and the witness's opinion is based on facts or data received from confidential communications, then those communications are no longer intended to remain confidential. Discovery of the witness's testimony is then limited by procedural rule(s) and work product protection. See, e.g., Pa.R.C.P. No. 4003.5(a)(4) (discovery of communications between attorney and expert witness not permitted).

Pa.R.E. 502(b)(3) is consistent with prior Pennsylvania law. See *Custom Designs & Manufacturing Co. v. Sherwin-Williams Co.*, 39 A.3d 372, 379 (Pa. Super. 2012) (communications between corporate counsel and employees subject to attorney-client privilege when the purpose is to secure either an opinion of law, legal services, or assistance in a legal matter).

Pa.R.E. 502(b)(4) is consistent with prior Pennsylvania law. When clients have shared interests, such as joint plaintiffs or defendants, it may be desirable for them to share information protected by the attorney-client privilege. Without this provision, the sharing of the information might be treated as a waiver of the privilege. See *In re Condemnation by City of Philadelphia*, 981 A.2d 391, 396-98 (Pa. Cmwlth. 2009) (examining "joint defense" or "common interest" as an extension of privilege); *McCormick on Evidence* § 91.1 (7th ed. 2013) ("When two or more persons, each having an interest in some problem, or situation, jointly consult an attorney, their confidential communications with the attorney, though known to each other, will of course be privileged in a controversy of either or both of the clients with the outside world, that is, with parties claiming adversely to both or either of those within the original charmed circle.").

Uniform Rule of Evidence 502(b)(5), which extended privilege "among lawyers and their representatives representing the same client," was not adopted. This precept was considered self-evident, for example, when a client obtains new counsel, and it is likely subsumed by the work-product doctrine.

Pa.R.E. 502(c) is consistent with prior Pennsylvania law. See *Law Office of Douglas T. Harris v. Philadelphia Waterfront Partners*, 957 A.2d 1223, 1230 (Pa. Super. 2008) ("At common law, it was generally recognized that the attorney-client privilege belongs to the client, not the attorney. Yet, also implicit in the common law is the irrefutable notion that an attorney acts as his client's authorized agent.") (citations omitted).

It is generally accepted that the privilege will survive the death of the client and may be claimed by the client's successors. See *Cohen v. Jenkintown Cab Co.*, 357 A.2d 689, 693 (Pa. Super. 1976); *McCormick on Evidence* § 94

(7th ed. 2013). Concerning corporations or other entities the privilege may be claimed by the directors or officers; this authority passes with the succession of management. See *Maleskie by Chronister v. Corporate Life Insurance Co.*, 641 A.2d 1, 3 (Pa. Cmwlth. 1994).

Pa.R.E. 502(d)(1) is consistent with prior Pennsylvania law. See *In re Investigating Grand Jury of Philadelphia County No. 88-00-3503*, 593 A.2d 402, 406 (Pa. 1991) ("The privilege does not protect communications made for the purpose or in the course of the commission of proposed crime or fraud."); *Nadler v. Warner Company*, 184 A. 3, 5 (Pa. 1936) (when advice of attorney is sought in aid of a crime or fraud, the communications are not "confidential").

Pa.R.E. 502(d)(2) is consistent with prior Pennsylvania law. "The accepted theory is that the protection afforded by the privilege will in general survive the death of the client." *McCormick on Evidence* § 94 (7th ed. 2013); see also *Commonwealth v. Hutchinson*, 434 A.2d 740, 744 (Pa. Super. 1981) (privilege survives termination of attorney-client relationship). A testamentary exception to the attorney-client privilege may be found within the holding of *Boyd v. Kilmer*, 132 A. 709, 711 (Pa. 1926) where two heirs challenged the propriety of decedent's conveyance of property to a third party prior to his death. In *Boyd*, the Court held that the decedent's attorney could disclose prior confidential communications with the decedent-client in support of the deed conveyed by the client. This approach is also consistent with federal case law. See *Glover v. Patten*, 165 U.S. 394, 406-408 (1897) (recognizing testamentary exception).

Pa.R.E. 502(d)(3) is consistent with prior Pennsylvania law. See *Commonwealth v. Chmiel*, 738 A.2d 406, 414 (Pa. 1999) ("[A] party who attacks the competence of his or her counsel cannot rely on the attorney-client privilege to prevent counsel from responding to such attack."); 42 Pa.C.S. § 9545(d)(3) ("When a claim for relief is based on an allegation of ineffective assistance of counsel as a ground for relief, any privilege concerning counsel's representation as to that issue shall be automatically terminated.").

Pa.R.E. 502(d)(4) is consistent with prior Pennsylvania law. In *Commonwealth v. Maguigan*, 511 A.2d 1327 (Pa. 1986), an attorney was found in civil contempt for refusing to disclose the whereabouts of an absconded client. The attorney contended that such disclosure was prohibited by the attorney-client privilege. The Court held that privilege did not exist when it aided and abetted defendant's criminal activity and would cause the attorney to be an accessory to defendant's continuing criminal conduct. This rule is also consistent with Rule of Professional Conduct 1.6(4), 42 Pa.C.S.

Pa.R.E. 502(d)(5) is self-evident where the attorney voluntarily acts as an attesting witness affirming the document to be true or genuine. In this role, the attorney holds himself out to third parties as having personal knowledge as to the truthfulness or genuineness of the document. See also Pa.R.E. 602 (witness must have personal knowledge of the matter). An attestation under such circumstances lacks any intention of remaining confidential and, therefore, is excepted from the attorney-client privilege. See also *Weiheler v. Werley*, 221 A.2d 133 (Pa. 1966) (discussing ethics of attorney acting as witness for client); Pennsylvania Rule of Professional Conduct 3.7 (same).

Pa.R.E. 502(d)(6) is consistent with prior Pennsylvania law. See *Tracy v. Tracy*, 105 A.2d 122, 125 (Pa. 1954) (privilege does not apply between parties if attorney represented both in relation to a common business interest; privilege does apply against a common adversary of the parties); *Doll v. Loesel*, 136 A. 796, 798 (Pa. 1927) (same).

Uniform Rule of Evidence 502(d)(7) has not been adopted. In Pennsylvania, confidential communications between a public officer or agency and its attorneys have been recognized as privileged without such an exception. See, e.g., *Ario v. Deloitte & Touche, LLP*, 934 A.2d 1290, 1294 (Pa. Cmwlth. 2007) (confidential communications between insurance commissioner and general counsel subject to attorney-client privilege). Non-confidential communications may be the subject of other forms of privilege. See *Van Hine v. Department of State*, 856 A.2d 204, 208 (Pa. Cmwlth. 2004) (discussing “deliberative process privilege”).

Pa.R.E. 502(e)(1) is adapted from Uniform Rule of Evidence 510 and F.R.E. 502(a). This rule is intended to prevent the attorney-client privilege from being used as both “a sword and a shield,” whereby a party attempts to use the privilege as a weapon by selectively disclosing favorable confidential communications to gain a tactical advantage while raising privilege to prevent access to damaging confidential communications. It is consistent with prior Pennsylvania law to the effect intentional waiver of the privilege may be treated as a waiver of other confidential communications on the same subject matter. See *Nationwide Mutual Insurance Co. v. Fleming*, 924 A.2d 1259 (Pa. Super. 2007), *aff’d by equally divided court*, 992 A.2d 65 (Pa. 2010). This extension is also consistent with Pa.R.E. 106, which states:

If a party introduces all or part of a writing or recorded statement, an adverse party may require the introduction, at that time, of any part—or any other writing or recorded statement—that in fairness ought to be considered at the same time.

Pa.R.E. 502(e)(2) is adapted from F.R.E. 502(b) and it is consistent with prior Pennsylvania law. In *Carbis Walker, LLP v. Hill, Barth and King, LLC*, 930 A.2d 573 (Pa. Super. 2007), five factors were used to determine whether an inadvertent disclosure of documents operated to waive the attorney-client privilege: (1) the reasonableness of the precautions taken to prevent inadvertent disclosure given the extent of the document production; (2) the number of inadvertent disclosures; (3) the extent of the disclosure; (4) any delay and measures taken to rectify the disclosure; and (5) whether the overriding interests of justice would or would not be served by relieving the party of its errors. *Id.* at 582 (quoting *Fidelity & Deposit Co. v. McCulloch*, 168 F.R.D. 516, 522 (E.D. Pa. 1996)); see also *Board of Supervisors of Milford Township v. McGogney*, 13 A.3d 569 (Pa. Cmwlth. 2011) (applying factors to conclude inadvertent disclosure of solicitor invoiced did not operate to waive privilege).

Pa.R.E. 502(e)(3) is consistent with more recent Pennsylvania law. Traditionally, the right to waive the attorney-client privilege belonged to the client and only in limited situations when the client’s rights or interests cannot possibly adversely affect could the attorney waive it. *Commonwealth v. Scott*, 470 A.2d 91, 94 (Pa. 1983); 42 Pa.C.S. §§ 5916 and 5928.

More recently, the concept of implied waiver through the failure of counsel raise privilege is discussed and applied in *Law Office of Douglas T. Harris, Esq. v.*

*Philadelphia Waterfront Partners, L.P.*, 957 A.2d 1223 (Pa. Super. 2008) where it was deemed to be implicit in the common law that an attorney acts as the client’s authorized agent and, therefore, was able to waive the attorney-client privilege on behalf of the client. Additionally, the implied waiver of privilege for failure to object is consistent with Pa.R.E. 103(a) (preserving a claim of error by timely objection).

Adopted \_\_\_\_, 2014, effective \_\_\_\_, 2014.

Final Report explaining the \_\_\_\_, 2014 adoption published with the Court’s Order at \_\_ Pa.B. \_\_ (\_\_\_\_, 2014).

## PUBLICATION REPORT

### Proposed Amendment of Pa.R.E. 501 and Proposed New Pa.R.E. 502

#### Attorney-Client Privilege & Waiver

The Committee on Rules of Evidence is publishing for public comment a proposed amendment to Pennsylvania Rule of Evidence 501 and a proposed new Pennsylvania Rule of Evidence 502. These rules represent an intention to codify the law concerning the attorney-client privilege, and waiver thereof, in Pennsylvania.

“The attorney-client privilege is deeply rooted in our common law and can be traced to the reign of Elizabeth I, where it was already unquestioned.” *Commonwealth v. Maguigan*, 511 A.2d 1327 (1986) (citing 8 J. Wigmore, *Evidence* § 2290 (McNaughton rev. 1961)). It has been described as “the most revered of our common law privileges,” the rationale for which:

The purposes and necessities of the relation between a client and his attorney require, in many cases, on the part of the client, the fullest and freest disclosure to the attorney of the client’s objects, motives and acts. This disclosure is made in the strictest confidence, relying upon the attorney’s honor and fidelity. To permit the attorney to reveal to others what is so disclosed, would be not only a gross violation of a sacred trust upon his part, but it would utterly destroy and prevent the usefulness and benefits to be derived from professional assistance. Based upon considerations of public policy, therefore, the law wisely declares that all confidential communications and disclosures, made by a client to his legal adviser for the purpose of obtaining his professional aid or advice, shall be strictly privileged; - that the attorney shall not be permitted, without the consent of his, - and much less will he be compelled—to reveal or disclose communications made to him under such circumstances. 2 Mechem on Agency, 2d Ed., § 2297.

*Slater v. Rimar, Inc.*, 462 Pa. 138, 148, 338 A.2d 584, 589 (1975).

Presently, the rules of testimonial privilege afforded to attorney-client communications in Pennsylvania are an amalgamation of statutory and common law. See, e.g., 42 Pa.C.S. §§ 5916 & 5928; *Commonwealth v. Chimel*, 738 A.2d 406, 414 (Pa. 1991) (attorney-client privilege rooted in common law and embodied in § 5916); *Gillard v. AIG*, 15 A.3d 44 (Pa. 2011) (interpreting § 5928 to include derivative protection); *Commonwealth v. Hutchinson*, 434 A.2d 740 (Pa. Super. 1981) (privilege extends to agent of attorney and survives the termination of the attorney-client relationship); *In re Condemnation by City of Philadelphia in 16.2626 Acre Area*, 981 A.2d 391 (Pa. Cmwlth. 2009) (privileged applicable to “joint defense”).

By no means exhaustive, these piecemeal laws concerning the attorney-client privilege have resulted in statutes hopelessly out-dated with no collective pronouncement on the topic. As observed in *Gillard v. AIG Insurance Company*, 15 A.3d 44, 56 (Pa. 2011), “Pennsylvania courts have been inconsistent in expressing the scope of the attorney-client privilege.” This codification is intended to assist the attorney and client in predicting with some degree of certainty whether particular discussions will be protected because an uncertain privilege is little better than no privilege at all. *Levy v. Senate of Pennsylvania*, 65 A.3d 361, 371 (Pa. 2013) (quoting *Upjohn Co. v. United States*, 449 U.S. 383, 393 (1981)). The Committee proposes to codify the existing law concerning attorney-client privilege into Article V of the Rules of Evidence to provide the bench and bar with authoritative, accessible, concise, and unified information on the subject matter in a single source.

The proposed Rule 502 is based, in part, on Uniform Rule of Evidence 502 (“Lawyer-Client Privilege”), drafted by the National Conference of Commissioners on Uniform State Laws. While the proposed Pennsylvania Rule of Evidence follows its contours, the rule also reflects Pennsylvania precedent. Informatively, approximately 23 states and territories have adopted some version of Uniform Rule of Evidence 502 or proposed (and rejected) Federal Rule of Evidence 503. David M. Greenwald, 1 Testimonial Privileges § 1:6 (3rd ed.)

Within this proposal, the Committee has endeavored to neither abridge, enlarge, nor modify the attorney-client privilege, as it now exists. See Pa. Const. Art. V, § 10(c). In its rulemaking activities, the Committee engaged in a two-step process. First, it examined each provision of the Uniform Rule and Pennsylvania law and practice to determine whether there was a basis in Pennsylvania law to include each provision in the proposed rule. Where no basis existed, the particular provision was excluded from the proposed rule, “reserved” in the rule text to maintain parallel construction with the Uniform Rule, and mentioned in the Comment.

Next, where such a basis did exist, the Committee re-examined the precise language of the Uniform Rule and made conforming changes, if necessary, to make the proposed rule consistent with Pennsylvania law. As is the practice for new Pennsylvania Rules of Evidence, the Comments to the rules include citations to precedential and persuasive authorities, as well as recognized commentators, to demonstrate *consistency* between the Rule text and the current law. The term, “consistent,” is used in the Comments to indicate an accord or compatibility between the rule and Pennsylvania law.

The Committee intends to recommend that Pa.R.E. 502 operate to codify the current body of law and be considered authoritative henceforth. This is necessary to unify the piecemeal body of law that comprises today’s attorney-client privilege, exceptions, and waiver thereof. To do so, the Committee proposes amending Pa.R.E. 501 to give force and effect to Pa.R.E. 502. In designing the scope of the amendment to Pa.R.E. 501, the Committee was cognizant to limit it only to the attorney-client privilege and not to all privileges in general. Nothing in the proposed language of Pa.R.E. 501 is intended to preempt future legislative enactments on this topic, although the statutory pronouncement on attorney-client privilege has remained relatively static since 1887.

The Committee has also reviewed Federal Rule of Evidence 502 concerning attorney-client privilege, especially the areas of intentional and inadvertent waiver.

The rule was intended to lessen the exhaustive and expensive reviews conducted to prevent inadvertent disclosures of privileged materials and “extravagant claims of privilege” brought on by a fear of waiver through disclosure.<sup>1</sup> Report of Senate Committee on the Judiciary. S. Rep. no. 264 at p. 2 (2008). The rule:

[L]imit[s] the consequences of inadvertent disclosure, thereby relieving litigants of the burden that a single mistake during the discovery process can cost them the protection of a privilege. It provides that if there is a waiver of privilege, it applies only to the specific information disclosed and not the broader subject matter unless the holder has intentionally used the privilege information in a misleading fashion. An inadvertent disclosure of privilege information does not constitute a waiver as long as the holder took reasonable steps to prevent disclosure and acted promptly to retrieve the mistakenly disclosed information.

*Id.* at 3. The Committee believes there is merit to crafting a similar waiver rule consonant with the case law of *Nationwide Mut. Ins. Co. v. Fleming*, 992 A.2d 65 (Pa. 2010) (evenly divided Court)<sup>2</sup>; *Carbis Walker, LLP v. Hill, Barth and King, LLC*, 930 A.2d 573 (Pa. Super. 2007).

All comments, concerns, and suggestions concerning this proposal are welcome.

[Pa.B. Doc. No. 14-2538. Filed for public inspection December 12, 2014, 9:00 a.m.]

## Title 237—JUVENILE RULES

### PART I. RULES

#### [ 237 PA. CODE CH. 3 ]

#### Order Amending Rule 394 of the Rules of Juvenile Court Procedure; No. 652 Supreme Court Rules Doc.

#### Order

#### *Per Curiam*

*And Now*, this 21st day of November, 2014, upon the recommendation of the Juvenile Court Procedural Rules Committee, the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3):

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the modifications to Rule 394 of the Rules of Juvenile Court Procedure are approved in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective immediately.

<sup>1</sup> Coupled with the increase in electronic discovery causing more waiver issues, “the costs of privilege review are often wholly disproportionate to the overall cost of the case.” *Id.*

<sup>2</sup> The Committee recognizes that *Fleming* was affirmed by an equally divided Court; however, it appears the Court agreed on the doctrine of subject matter waiver for intentionally disclosed document, but disagreed on the application of that doctrine to the facts.

## Annex A

## TITLE 237. JUVENILE RULES

## PART I. RULES

## Subpart A. DELINQUENCY MATTERS

## CHAPTER 3. PRE-ADJUDICATORY PROCEDURES

## PART G. TRANSFER FOR CRIMINAL PROSECUTION

## Rule 394. Transfer Hearing.

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## D. Findings.

1) *Transfer*. At the hearing, the court shall transfer the case to the division or a judge assigned to conduct criminal proceedings if the court finds:

a) the juvenile is fourteen years old or older at the time of the alleged delinquent act;

b) notice has been given pursuant to Rule 390;

c) the Commonwealth has met its burden of proof pursuant to paragraph [ (B) ] (C); and

d) there are reasonable grounds to believe that the juvenile is not committable to an institution for the mentally retarded or mentally ill.

2) *No Transfer*. If the required findings of paragraph [ (C)(1) ] (D)(1) have not been met, the court shall schedule an adjudicatory hearing pursuant to Rule 404.

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**Official Note:** Rule 394 adopted April 1, 2005, effective October 1, 2005. Amended April 21, 2011, effective July 1, 2011. Amended July 18, 2012, effective October 1, 2012. Amended November 21, 2014, effective immediately.

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[Pa.B. Doc. No. 14-2539. Filed for public inspection December 12, 2014, 9:00 a.m.]

## Title 246—MINOR COURT CIVIL RULES

## PART I. GENERAL

## [ 246 PA. CODE CH. 1200 ]

### Proposed Amendments to Rules 1201—1211 of the Rules of Civil Procedure Before Magisterial District Judges

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt amendments to Rules 1201, 1202, 1203, 1204, 1205, 1206, 1207 and 1208, and the Official Notes to Rules 1209, 1210 and 1211 of the Pennsylvania Rules of Civil Procedure before Magisterial District Judges (“Rules”). The Committee has not yet submitted this proposal for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee’s considerations in formulating this proposal. The Committee’s Report should not be confused with the Committee’s Official Notes to the rules. The Supreme

Court does not adopt the Committee’s Official Notes or the contents of the explanatory reports.

The text of the proposed changes precedes the Report. Additions are shown in bold; deletions are bold and bracketed.

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

Pamela S. Walker, Counsel  
Supreme Court of Pennsylvania  
Minor Court Rules Committee  
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no later than January 30, 2015.

By the Minor Court Rules Committee

BRADLEY K. MOSS,  
Chair

## Annex A

## TITLE 246. MINOR COURT CIVIL RULES

## PART I. GENERAL

### CHAPTER 1200. EMERGENCY RELIEF [ UNDER THE PROTECTION FROM ABUSE ACT ] FROM ABUSE, SEXUAL VIOLENCE OR INTIMIDATION

## Rule 1201. Applicability.

The rules in this chapter apply to the exercise by a hearing officer of jurisdiction under Section 6110 of the Protection From Abuse Act, 23 Pa.C.S. § 6110, to grant emergency relief from abuse, and Section 62A09 of Act 25 of 2014, P. L. 365, No. 25, 42 Pa.C.S. § 62A09 (providing for protection of victims of sexual violence or intimidation).

**Official Note:** See the Protection From Abuse Act set forth in the Domestic Relations Code, 23 Pa.C.S. §§ 6101—6118 and Act 25 of 2014, P. L. 365, No. 25, 42 Pa.C.S. §§ 62A01—62A20.

The court of common pleas of each judicial district is responsible to ensure that a judge or magisterial district judge “is available on a 24-hour-a-day, 365-day-a-year basis to accept and decide on petitions for an emergency court order under” the Older Adult Protective Services Act. 35 P. S. § 10225.307. Actions commenced under the Older Adult Protective Services Act are governed by statute and local procedures, not by these rules.

**This chapter was amended in 2015 to provide procedural rules for protective orders sought for victims of sexual violence or intimidation. See Act 25 of 2014, P. L. 365, No. 25, 42 Pa.C.S. §§ 62A01—62A20.**

## Rule 1202. Definitions.

As used in this chapter:

[ “abuse” “adult” and “family or household members” shall have the meanings given to those words in Section 6102 of the Protection From Abuse Act, 23 Pa.C.S. § 6102; ]

(1) “abuse” means the occurrence of one or more of the following acts between family or household members, sexual or intimate partners or persons who share biological parenthood:

(A) attempting to cause or intentionally, knowingly or recklessly causing bodily injury, serious bodily injury, rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest with or without a deadly weapon.

(B) placing another in reasonable fear of imminent serious bodily injury.

(C) the infliction of false imprisonment pursuant to 18 Pa.C.S. § 2903 (relating to false imprisonment).

(D) physically or sexually abusing minor children, including such terms as defined in Chapter 63 (relating to child protective services).

(E) knowingly engaging in a course of conduct or repeatedly committing acts toward another person, including following the person, without proper authority, under circumstances which place the person in reasonable fear of bodily injury. The definition of this paragraph applies only to proceedings commenced under this title and is inapplicable to any criminal prosecutions commenced under Title 18 (relating to crimes and offenses).

(2) “adult” means an individual who is 18 years of age or older.

(3) “court” means

(A) the court of common pleas of the judicial district in which the office of the hearing officer taking action under these rules is located[ ; ] in actions brought under the Protection from Abuse Act, 23 Pa.C.S. §§ 6101–6118, or

(B) the court or magisterial district judge having jurisdiction over the matter in actions brought pursuant to Section 62A09 of Act 25 of 2014, 42 Pa.C.S. § 62A09 (providing for protection of victims of sexual violence or intimidation).

(4) “family or household members” means spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

(5) “hearing officer” means a magisterial district judge, judge of the Philadelphia Municipal Court, bail commissioner appointed under 42 Pa.C.S. § 1123 (relating to jurisdiction and venue), master appointed under 42 Pa.C.S. § 1126 (relating to masters), and master for emergency relief appointed under 23 Pa.C.S. § 6110(e) or 42 Pa.C.S. § 62A09(e) (relating to master for emergency relief).

(6) “intimidation” means conduct constituting a crime under either of the following provisions between persons who are not family or household members:

(A) 18 Pa.C.S. § 2709(a)(4), (5), (6) or (7) (relating to harassment) where the conduct is committed by a person 18 years of age or older against a person under 18 years of age.

(B) 18 Pa.C.S. § 2709.1 (relating to stalking) where the conduct is committed by a person 18 years of age or older against a person under 18 years of age.

(7) “sexual violence” means conduct constituting a crime under any of the following provisions between persons who are not family or household members:

(A) 18 Pa.C.S. Ch. 31 (relating to sexual offenses), except 18 Pa.C.S. §§ 3129 (relating to sexual intercourse with animal) and 3130 (relating to conduct relating to sex offenders).

(B) 18 Pa.C.S. § 4304 (relating to endangering welfare of children) if the offense involved sexual contact with the victim.

(C) 18 Pa.C.S. § 6301(a)(1)(ii) (relating to corruption of minors).

(D) 18 Pa.C.S. § 6312(b) (relating to sexual abuse of children).

(E) 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

(F) 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

(8) “victim” means a person who is a victim of abuse, sexual violence or intimidation.

*Official Note:* These definitions are largely derived from 23 Pa.C.S. § 6102 and 42 Pa.C.S. § 62A03. **Rule 1203. Limitation on jurisdiction.**

The hearing officer may grant relief under these rules only when the court is unavailable to do so pursuant to the provisions of:

(1) Section 6110 of the Protection From Abuse Act, 23 Pa.C.S. § 6110,

(2) 42 Pa.C.S. § 62A09 (providing for protection of victims of sexual violence or intimidation), or

(3) local rule of court.

*Official Note:* The limitation in this rule is taken from Section 6110 of the Protection From Abuse Act, 23 Pa.C.S. § 6110, and 42 Pa.C.S. § 62A09.

This rule recognizes and reaffirms the existing practice in many counties. The availability of each court to grant necessary emergency relief [ **under the Act** ] will vary greatly, both during the business and non-business day; therefore, it was deemed desirable to permit each court to promulgate such rules as would best serve its specific needs in providing for efficient implementation of the emergency relief [ **provisions of the Act** ] measures.

**Rule 1204. Venue.**

A. Except as provided in subdivision B, a proceeding for emergency relief may be brought in a magisterial district within the county in which

(1) the plaintiff resides, either temporarily or permanently, or

(2) the abuse, **sexual violence, or intimidation** occurred.

B. If the relief sought includes possession of the residence or household to the exclusion of the defendant, the action may be brought only in a magisterial district within the county in which the residence or household is located.

*Official Note:* This rule is consistent with Pa.R.C.P. No. 1901.1 and provides the necessary flexibility to a plaintiff who may have to flee the county of permanent residence to escape further abuse. This rule is intended to provide maximum flexibility to a plaintiff to use a

convenient forum to seek an emergency protective order. However, where practicable, plaintiffs should give preference to filing in the magisterial district in which the plaintiff resides, either temporarily or permanently, or in the magisterial district in which the abuse occurred. A proceeding is considered to have been brought in a magisterial district even if it is before a hearing officer serving temporarily in that district, or before a hearing officer who has been invested by local rule with temporary county-wide jurisdiction.

**Subdivision B of this rule only applies to actions brought pursuant to Section 6110 of the Protection From Abuse Act, 23 Pa.C.S. § 6110.**

**Rule 1205. Persons who may seek emergency relief.**

An adult or an emancipated minor may seek emergency relief from abuse, **sexual violence or intimidation** for himself or herself. Also, any parent, adult household member or guardian ad litem may seek emergency relief from abuse, **sexual violence or intimidation** on behalf of minor children. In addition, a guardian of the person of an incapacitated person as defined in 20 Pa.C.S. § 5501 may seek emergency relief on behalf of the incapacitated person.

**Official Note:** This rule is derived from Section 6106 of the Protection From Abuse Act, 23 Pa.C.S. § 6106, as well as 42 Pa.C.S. § 62A05.

**Rule 1206. Commencement of proceedings.**

A. A proceeding for emergency relief from abuse, **sexual violence or intimidation** shall be commenced by the filing of a petition by the plaintiff with the hearing officer on a form which shall be prescribed by the State Court Administrator. The petition shall be signed by the plaintiff and shall set forth the names and addresses of the plaintiff and the defendant and the names, addresses and ages of any person on whose behalf the plaintiff is seeking relief. The plaintiff shall also allege in the petition, in general terms, the cause for seeking **emergency relief from abuse, sexual violence or intimidation**.

B. Upon issuance of an emergency order, the hearing officer shall provide the plaintiff with instructions regarding the commencement of proceedings in the court of common pleas and regarding the procedures for initiating a contempt charge should the defendant violate the emergency order. The hearing officer shall also advise the plaintiff of the existence of **rape crisis centers in the county, as well as** programs for victims of domestic or **sexual violence** in the county or in nearby counties and inform the plaintiff of the availability of legal assistance without cost if the plaintiff is unable to pay therefor.

C. The petition shall be filed and service shall be made without prepayment of costs.

**Official Note:** [ It was thought desirable to require the petition to be on a simple, prescribed form since this is an emergency proceeding and the plaintiff is apt to be in an excited state at the time of the filing. ] Subdivision B is added to assure compliance with the requirement of Section 6110(d) of the Protection From Abuse Act, 23 Pa.C.S. § 6110(d), as well as 42 Pa.C.S. § 62A09(d). Practice varies among the judicial districts as to what procedures the plaintiff must follow to continue in effect a protection order in the court of common pleas upon the certification of an emergency protection order to the court of common pleas. The hearing officer should provide clear instructions to the plaintiff as to what must be done to continue in effect the

protection order in the court of common pleas. See Rule 1210 and Note and Rule 1211 and Note. Subdivision C is derived from Section 6106(b) of the Act, 23 Pa.C.S. § 6106(b), as well as 42 Pa.C.S. § 62A05(b), and reflects the practice when a temporary order is issued at the common pleas level.

**Rule 1207. Hearing.**

As soon as possible after the filing of the petition, the hearing officer shall hold an ex parte hearing thereon. The plaintiff may present witnesses at the hearing [ , but need not be compelled to disclose the permanent or temporary residence of the plaintiff or minor children ]. Neither in the petition nor during a hearing shall the hearing officer require disclosure of the address of a domestic violence program, a rape crisis center, or the plaintiff or victim, as appropriate.

**Official Note:** [ Under Section 6110(a) of the Protection From Abuse Act, 23 Pa.C.S. § 6110(a), the ] The hearing is ex parte, and [ under Section 6110(b) of the Act, 23 Pa.C.S. § 6110(b) ] the emergency [ orders ] order issued by the hearing officer as a result of the hearing are of short duration. See 23 Pa.C.S. § 6110(a)—(b), 42 Pa.C.S. § 62A09(a)—(b). Accordingly, there are no provisions in these rules for notice to the defendant prior to the hearing. The hearing need not be held at the office of the hearing officer. The last phrase was added to [ insure ] ensure compliance with [ Section 6112 of the Act, ] 23 Pa.C.S. § 6112 and 42 Pa.C.S. § 62A11. Nothing in the last phrase is intended to preclude a magisterial district judge from determining that venue is proper pursuant to Rule 1204.

**Rule 1208. Findings and protection orders.**

A. If the hearing officer, upon good cause shown, finds it necessary to protect the plaintiff [ or ], minor children, or victim from abuse, [ he ] **sexual violence, or intimidation, the hearing officer** may grant relief in accordance with [ Section 6110(a) of the Protection From Abuse Act, ] 23 Pa.C.S. § 6110(a) or 42 Pa.C.S. § 62A09(a), and make any protection orders necessary to effectuate that relief. Immediate and present danger of abuse, **sexual violence, or intimidation** to the plaintiff [ or ], minor children, or victim shall constitute good cause.

B. The hearing officer shall enter on the petition form [ his ] the findings and any protection orders made or other action taken [ by him ].

**Official Note:** Subdivision A of this rule is derived from [ Section 6110(a) of the Protection From Abuse Act, ] 23 Pa.C.S. § 6110(a), which permits the hearing officer to grant limited relief in accordance with [ Section ] 23 Pa.C.S. §§ 6108(a)(1), (2) and (6) or (1) and (6) [ of the Act ] (relating to relief), as well as 42 Pa.C.S. § 62A07(b).

**Rule 1209. Service and execution of emergency protection orders.**

\* \* \* \* \*

**Official Note:** The hearing officer should provide the plaintiff with at least one copy of a protection order, but more than one copy may be needed. For example, the



plaintiff may wish to serve the order upon multiple police departments when the plaintiff lives and works in different police jurisdictions, etc. If it is necessary for the plaintiff to deliver the protection order to the executing officer, the hearing officer should make sure that the plaintiff fully understands the process and what must be done to have the order served upon the defendant. The hearing officer should make every effort to have the protection order served by a law enforcement officer in a timely fashion. The Rule requires that if the executing officer is unable to serve the protection order in a timely fashion, the executing officer shall leave a service copy of the order with the police department with jurisdiction over the area in which the plaintiff resides. This was thought advisable so that the local police would have a service copy in case they would be called to the plaintiff's residence should the defendant return there. Due to the emergency nature of these protection orders and the fact that to be meaningful they must be served and executed at night or on a weekend, the hearing officer should have the authority to use police officers as well as sheriffs and certified constables to serve and execute these orders. See [ **Section 6109(a) of the Protection From Abuse Act,** ] 23 Pa.C.S. § 6109(a) and 42 Pa.C.S. § 62A05(d). Service shall be made without prepayment of costs. See Rule 1206(C).

Service of protection orders upon the defendant at the time of execution may not be possible under some circumstances.

**Rule 1210. Duration of emergency protection orders.**

\* \* \* \* \*

**Official Note:** This rule is derived from [ **Section 6110(b) of the Protection From Abuse Act,** ] 23 Pa.C.S. § 6110(b) and 42 Pa.C.S. § 62A09(b). Practice varies among the judicial districts as to what procedures the plaintiff must follow to continue in effect a protection order in the court of common pleas upon the certification of an emergency protection order to the court of common pleas. The hearing officer should provide clear instructions to the plaintiff as to what must be done to continue in effect the protection order in the court of common pleas. See Rule 1206 and Note and Rule 1211 and Note.

**Rule 1211. Certification to court of common pleas.**

\* \* \* \* \*

**Official Note:** Certification under subdivision A of this rule is required by [ **Section 6110(c) of the Protection From Abuse Act,** ] 23 Pa.C.S. § 6110(c) and 42 Pa.C.S. § 62A09(c). This rule is also consistent with Pa.R.C.P. No. 1901.3(b) which permits commencement of an action by filing with the prothonotary a certified copy of an emergency protection order. However, practice varies among the judicial districts as to how the protection order is continued in effect after it is certified to the court of common pleas. For example, some judicial districts may require that the plaintiff appear in person to continue the action in the court of common pleas. Others may automatically commence an action in the court of common pleas upon receipt of a certified copy of the emergency order from the hearing officer. See Rule 1206 and Note and Rule 1210 and Note.

Depending on local practice, the plaintiff or the plaintiff's representative may act as a messenger under subdivision B of this rule.

**REPORT**

***Proposed Amendments to Rules 1201, 1202, 1203, 1204, 1205, 1206, 1207 and 1208, and the Official Notes to Rules 1209, 1210 and 1211 of the Pennsylvania Rules of Civil Procedure before Magisterial District Judges***

**Protective Orders for Victims of Sexual Violence or Intimidation**

*I. Introduction*

The Minor Court Rules Committee ("Committee") is proposing amendments to the rules of procedure governing actions for protective orders in magisterial district courts. The goal of these rule changes is to establish procedures for protective orders sought for victims of sexual violence or intimidation, as provided for in recent legislation.

The Committee became aware of recently adopted legislation that permits a victim of sexual violence or intimidation to petition a court for protection from a defendant, similar to a domestic abuse victim. Act 25 of 2014, P. L. 365, No. 25, 42 Pa.C.S. §§ 62A01—62A20, provides for emergency protective orders for victims of sexual violence and intimidation, in much the same manner as the existing emergency protection from abuse orders. The new law takes effect July 1, 2015.

After comparing the provisions of Act 25 of 2014 with the Protection from Abuse Act, 23 Pa.C.S. §§ 6101—6118, as well as current Rules 1201—1211, the Committee drafted proposed amendments to the rules to incorporate the new protective order provisions within the existing rules. In summary, the changes incorporate definitions pertinent to the new provisions, update statutory references, and use gender neutral language.

*II. Proposed Rule Changes*

- Proposed Rule 1201 establishes that the Chapter 1200 rules apply to actions for emergency relief under the Protection from Abuse Act, as well as the new protective orders for victims of sexual violence and intimidation.
- Proposed Rule 1202 sets forth relevant definitions for all actions under Chapter 1200.
- Proposed Rule 1203 permits hearing officers to grant relief in actions brought under 42 Pa.C.S. § 62A09.
- Proposed Rule 1204 adds the location where sexual violence or intimidation occurred for establishing venue, as well as clarifying in the Official Note that Rule 1204B, providing for exclusive possession of a residence, only applies in actions brought under the Protection from Abuse Act.
- Proposed Rule 1205 adds references to sexual violence or intimidation, and updates statutory references.
- Proposed Rule 1206 adds references to sexual violence or intimidation, and updates statutory references. It also adds a reference to advising victims of the existence of rape crisis centers in the county, as required by the new legislation. Finally, the Committee proposes deleting part of the Official Note regarding the petition form, as the Committee did not consider it to be helpful.
- In proposed Rule 1207, the Committee reworked the provision regarding nondisclosure of addresses to more closely mirror the statutory requirements. Proposed Rule 1207 also updates statutory references. The Committee also proposes adding a sentence to the Official Note to indicate that the nondisclosure of addresses is not in-

tended to preclude a magisterial district judge from determining that venue is proper pursuant to Rule 1204.

- Proposed Rule 1208 adds references to sexual violence or intimidation, and updates statutory references.
- The Committee proposes amending the Official Note to Rules 1209, 1210 and 1211 to update the statutory references.

[Pa.B. Doc. No. 14-2540. Filed for public inspection December 12, 2014, 9:00 a.m.]

## Title 252—ALLEGHENY COUNTY RULES

### ALLEGHENY COUNTY

#### Amended Local Rules of the Civil and Family Divisions of the Court of Common Pleas; Civil Division AD-14#346-PJ

##### Amended Order of Court

And Now, to-wit, this 20th day of November, 2014, it is hereby, *Ordered, Adjudged* and *Decreed* that the Court of Common Pleas of Allegheny County, Pennsylvania, adopted the following Amended Local Rules of the Civil and Family Divisions by unanimous proxy vote of the Board of Judges on October 9, 2014.

The following Rules included therein shall become effective 30 days after publication in the *Pennsylvania Bulletin*:

- Local Rule 1 Structure of the Court of Common Pleas of Allegheny County.
- Local Rule 3 Money Deposited in Court.
- Local Rule 105 Bonds.
- Local Rule 205.2(a) Requirements Governing the Physical Characteristics of Pleadings, Petitions, Motions, and Other Legal Papers. Cover Sheets.
- Local Rule 212.1 Pre-Trial Procedure for All Actions in the Civil Division of the Court Of Common Pleas of Allegheny County. Notice of Earliest Trial Date. Time for Completing Discovery and Filing Pre-Trial Statement.
- Local Rule 214 Issue Docket, Trial Lists and Trials.
- Local Rule 227.1 Post-Trial Motions. Filing of Appeals. Request for Transcript, Certification and Waiver Forms.
- Local Rule 234.1 Subpoena.
- Local Rule 240 In Forma Pauperis.
- Local Rule 252 Rule Authorizing and Providing for the Use of Videotape Records.
- Local Rule 253 Taxation of Costs.
- Local Rule 301 Formal Requirements.
- Local Rule 302 Contents of Petition.
- Local Rule 303 Procedure.
- Local Rule 503 Appeals from Real Estate Tax Assessment.
- Local Rule 504 Appeals from Real Estate Tax Exemption.
- Local Rule 505 Change of Name of a Natural Person.

- Local Rule 601 Definitions.
  - Local Rule 603 Preliminary Objections.
  - Local Rule 1018.1 Notice to Defend Form.
  - Local Rule 1042.26(b) Medical Professional Liability Actions. Expert Reports.
  - Local Rule 1303 Arbitration Hearing. Notice.
  - Local Rule 1303(a)(2) Failure to Appear for Hearing.
  - Local Rule 1308 Appeal. Arbitrators' Compensation. Notice.
  - Local Rule 1320 Small Claims Procedure.
  - Local Rule 1331 Consumer Credit Transaction.
  - Local Rule 2039 Compromise, Settlement, Discontinuance and Distribution.
  - Local Rule 2064 Compromise, Settlement, Discontinuance and Distribution.
  - Local Rule 3121 Stay of Execution. Setting Aside Execution.
  - Local Rule 3129.2 Notice of Sale. Real Property.
  - Local Rule 3146 Judgment Against Garnishee Upon Default or Admission in Answer to Interrogatories.
  - Local Rule 3190 Judgment. Execution.
  - Local Rule 3252 Writ of Execution. Money Judgments.
  - Local Rule 4002.1 Filing Discovery Material. Requests for Expert Reports in Professional Negligence and Product Liability Actions.
- Also included therein are the following Rules which shall become effective upon publication on the Pennsylvania Judiciary's Web Application Portal.
- Local Rule 205.2(b) Cover Sheet.
  - Local Rule 206.4(c) Procedures for the Disposition of Petitions.
  - Local Rule 208.3(a) Procedures for the Disposition of Motions.
  - Local Rule 1028(c) Procedures for the Disposition of Preliminary Objections.
  - Local Rule 1034(a) Procedures for the Disposition of a Motion for Judgment on the Pleadings.

*By the Court*

JEFFREY A. MANNING,  
*President Judge*

#### Local Rule 1. Structure of the Court of Common Pleas of Allegheny County.

(1) The Court of Common Pleas of Allegheny County (Fifth Judicial District) consists of the following divisions:

(a) Civil Division: which includes General Docket ("GD"), Arbitration ("AR"), Landlord-Tenant ("LT"), Property Assessment Appeals to the Board of Viewers ("BV"), Mortgage Foreclosure ("MG") and Statutory Appeal ("SA") cases.

(b) Family Division, which includes the Adult and Juvenile Court sections;

(c) Orphans' Court Division; and

(d) Criminal Division.

(2) Each Division of the Court is managed by an Administrative Judge, who is appointed by the Supreme Court of Pennsylvania.

(3) The Office of the Clerk of the Court of Common Pleas (as defined at 42 Pa.C.S. § 2701 et seq.) is the Department of Court Records, which has three divisions: (a) the Civil/Family Division; (b) the Wills/Orphans' Court Division; and (c) the Criminal Division. Documents filed with the court shall be filed in the appropriate division of the Department of Court Records.

**Local Rule 3. Money Deposited in Court.**

(2) Except as hereinafter provided, all money deposited with the Department of Court Records shall be deposited by the Department of Court Records in an institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. All deposits with the Department of Court Records in excess of Five Thousand Dollars shall be deposited by the Department of Court Records in interest-bearing accounts, or may be invested in United States Government obligations or United States Government guaranteed obligations.

(5) The Department of Court Records shall charge for the benefit of the county a commission equal to one-half of one percent on all deposits of less than One Thousand Dollars and one-fourth of one percent on all deposits and interest accrued on deposits of One Thousand Dollars or more.

(6) The Department of Court Records shall maintain a record of all moneys deposited, and paid out, setting forth the names of the parties from whom the money was received and to whom the money was paid, and the commissions charged pursuant to subdivision (5) of this rule.

**Local Rule 105. Bonds.**

(3) *Bonds—Prohibited Sureties.*

No attorney, sheriff, Department of Court Records, their deputies or Court personnel shall be admitted as surety in any action.

**Local Rule 205.2(a). Requirements Governing the Physical Characteristics of Pleadings, Petitions, Motions, and Other Legal Papers. Cover Sheets.**

(b) All attachments, supporting documents, and exhibits shall be on eight and one-half inches by eleven inches paper at the time of filing with the Department of Court Records.

(iii) If it is not possible to obtain a legible photocopy of the document or exhibit because of unique characteristics or inherent limitations, e.g., maps, surveys, computer printouts, data processing cards, drafter's plans, tracing paper, red pencil marks, colored paper, tape recordings, cassettes, movies, etc., the filing party shall present the document or material to the Department of Court Records to be stamped, docketed, and filed. Each such special filing shall be accompanied by one (1) cover sheet.

**Local Rule 205.2(b). Cover Sheet.**

(c) The cover sheet on the document commencing the action (Praecipe or Complaint), shall have a margin at the top of three (3) inches, for the Department of Court Records' stamp.

(ix) The completed statement: "Counsel of Record: \_\_\_\_\_ (attorney's name and Pennsylvania Identification Number, firm name, firm number per the list in the Allegheny County Department of Court Records, address and telephone number)"; and

(3) *FORM 205.2(b) Cover Sheet*

IN THE COURT OF COMMON PLEAS OF  
ALLEGHENY COUNTY, PENNSYLVANIA

**Local Rule 206.4(c). Procedures for the Disposition of Petitions.**

(2) *General Docket Cases—Opening a Default Judgment*

(d) Briefs are required. The brief of the moving party shall be filed with the Department of Court Records and served on all other parties at least fourteen (14) days prior to the argument. The brief of the party opposing the petition shall be filed at least seven (7) days prior to the argument.

(4) *Arbitration Cases—Opening Default Judgments and Judgments of Non Pros.*

(a) The original and a copy of the petition to open a default judgment or a judgment of non pros shall be taken to an Arbitration Department Clerk, Courtroom Two, Seventh Floor, City-County Building, 414 Grant Street, Pittsburgh, Pennsylvania 15219. The clerk will place on the original and the copy of the petition a date and time (usually on a Friday at 10:00 A.M.) for an argument before the Special Motions Judge. The clerk will file the original with the Department of Court Records and return the copy to the party filing the petition. This party shall promptly serve copies of the petition on all other parties with notice of the date and time of the argument.

**Local Rule 208.3(a). Procedures for the Disposition of Motions.**

(3) *Calendar Control Judge*

(a) Motions in any case that has been listed for trial on a published trial list shall be presented to the Calendar Control Judge. This includes all motions that would otherwise have been heard by the Motions Judge or the Special Motions Judge.

*Note:* The docket will show if a case has been listed for trial on a published trial list. For docket entries, go to <https://dcr.alleghenycounty.us/> and click on Civil/Family Division, then "Search" and enter the docket number.

(6) *Arbitration Cases*

(a)

(iii) Requests for the continuance of an arbitration case will be presented to the Calendar Control Judge. The party seeking a continuance will present to the Calendar Control Judge an Adjournment of Hearing Form which may be obtained from an Arbitration Clerk in the Arbitration Assembly Room, Courtroom Two, Seventh Floor, City-County Building, 414 Grant Street, Pittsburgh, Pennsylvania 15219.

**Local Rule 212.1. Pre-Trial Procedure for All Actions in the Civil Division of the Court of Common Pleas of Allegheny County. Notice of Earliest Trial Date. Time for Completing Discovery and Filing Pre-Trial Statement.**

(3) *Notice of Earliest Trial Date. Time for Completing Discovery and Filing Pre-Trial Statement.*

Notices required by Pa.R.C.P. 212.1 shall be given by publication in the *Pittsburgh Legal Journal*, and notice shall be provided to unrepresented parties and to those out-of-county counsel identified in paragraph 6 of the Praecipe to Place the Case at Issue (see FORM 214w).

*Note:* As soon as there is a published trial list, trial dates appear as docket entries in each individual case on the trial list. Docket entries are available online at: <https://dcr.alleghenycounty.us/> and click on Civil/Family Division, then “Case Search” (in upper right corner) and enter the docket number. Additionally, published trial lists are also available on the Civil Division’s website at: [www.alleghencourts.us](http://www.alleghencourts.us).

### Local Rule 214. Issue Docket, Trial Lists and Trials.

#### (1) *Issue Docket—General Docket (“GD”) Cases.*

(a) After the expiration of sixty days from the date of service of the original complaint upon each defendant, and after all of the pleadings in a case are closed, any of the parties may file a praecipe to place the case at issue, thereby signifying that the case is ready to be listed for trial. The praecipe to place the case at issue shall be in the same form as FORM 214 (see subsection (b) below). Cases placed at issue receive consecutive numbers (“issue numbers”) which are used to track the placement of cases on a trial list. After an issue number is assigned to a case, it shall be included on the caption and cover sheet of all subsequent filings. The Department of Court Records shall keep an issue docket of cases placed at issue. The Calendar Control office of the Court of Common Pleas shall create the civil trial lists from those cases which have been placed at issue.

*Note:* The Court has provided a mandatory form of Praecipe to Place Case at Issue, FORM 214 (see subsection (b) below), which requires that counsel provide the Court with certain information regarding the case, to facilitate the orderly assembly of trial lists.

*Note:* See Local Rule 4003.5(7)(a) regarding priority on trial lists for professional liability and product liability cases which meet certain criteria. The form to be used to obtain priority placement on trial lists for such cases is found at FORM 4003.5. This form is filed, at the appropriate time, in addition to the Praecipe To Place Case At Issue.

#### (b) *FORM 214 Form of Praecipe to Place Case at Issue*

**[ CASE CAPTION, INCLUDING DOCKET  
NUMBER ]  
PRAECIPE TO PLACE CASE AT ISSUE**

The undersigned party hereby certifies the accuracy of the following information to the Court, and requests that the Department of Court Records assign an issue number to this case, list this case on the issue docket, and place it in order on the next available trial list:

1. At least sixty days have passed since the service of the original complaint on all defendants.
2. All pleadings have been filed.
3. All preliminary motions and objections have been disposed of.
4. There are \_\_\_\_\_ plaintiffs and \_\_\_\_\_ defendants remaining in the case. Plaintiffs remaining in the case, and their counsel, are: [list the parties and their counsel]. Defendants who have actually been served and who remain in the case, and their counsel, are: [list the parties and their counsel].
5. According to documents filed in the case, the following parties are not presently represented by counsel and should be provided with notice of earliest trial date

pursuant to Local Rule 212.1(3) at the following addresses: [list unrepresented parties and their mailing addresses].

Alternative 5. According to documents filed in the case, there are no unrepresented parties in this case at this time.

6. According to documents filed in the case, the following parties are presently represented only by out-of-county counsel. Such counsel should be provided with notice of earliest trial date pursuant to Local Rule 212.1(3): [list party, their out-of-county counsel, and counsel’s mailing address].

Alternative 6. According to documents filed in the case, there are no parties in this case who are represented only by out-of-county counsel.

7. I estimate that the following number of days will be required for the trial of this case, including the time required for jury selection, closing arguments and charge:

- No more than 1 trial day
- 2 to 3 trial days
- 4 to 6 trial days
- 7 to 10 trial days
- 11 to 15 trial days
- More than 15 trial days

8. A jury trial has/has not [circle one] been requested in this case.

9. This is/is not [circle one] an action involving claims in equity, quiet title, quo warranto and/or mandamus, which requires assignment to an individual judge after the case is placed at issue. If this a civil action that raises only claims for equitable relief, see Local Rule 1001 and FORM 1001.

Respectfully submitted,

Dated: \_\_\_\_ By: \_\_\_\_\_  
[Identification of pro se party or counsel]

[Address and telephone number of pro se party or counsel]

#### (5) *Trial Lists. Call of The List. Date of Trial.*

(a) *Initial Publication of Trial Lists.* The trial dates for each term and the cases scheduled to be tried during that term are published approximately one hundred and twenty days prior to the beginning of each of the trial terms in the *Pittsburgh Legal Journal*. It shall be the responsibility of in-county counsel to monitor the *Pittsburgh Legal Journal* for the initial listing of a case on a trial list. Publication of trial lists in the *Pittsburgh Legal Journal* is the only form of notice given to in-county counsel of the listing of a case for trial. Unrepresented parties and out-of-county counsel who submit notice of their address to the Calendar Control section of the Civil Division (see Local Rule 212.1(3)) are mailed a notice of earliest trial date.

*Note:* As soon as there is a published trial list, trial dates appear as docket entries in each individual case on the trial list. Docket entries are available online at: [Department of Court Records.county.allegheny.pa.us](http://Department of Court Records.county.allegheny.pa.us) (no www. and no .com or .org). Additionally, published trial lists are also available on the Civil Division’s website at: [www.alleghencourts.us](http://www.alleghencourts.us).

**Local Rule 227.1. Post-Trial Motions. Filing of Appeals. Request for Transcript, Certification and Waiver Forms.**

*(1) Post-Trial Motions.*

(a) Post-Trial Motions shall be filed in the Office of the Department of Court Records and a copy shall be delivered to the Trial Judge. Argument shall be scheduled by the Trial Judge without praecipe.

(b) On all Motions for Post-Trial Relief, only those portions of the testimony relating to the questions raised need be transcribed. If counsel cannot agree on the evidence to be transcribed, the matter may be submitted to the Trial Judge. The reporter shall arrange the transcript so that omitted portions may be inserted in the event this becomes necessary. A moving party desiring to rely wholly or in part on a transcript of the testimony or on the charge of the Court shall file in the Office of the Department of Court Records a certificate from the court reporter, stating that the testimony relied upon or the charge has been ordered and is being transcribed. Such certificate shall be filed within a period of ten days from the filing of the Motion for Post-Trial Relief. Upon failure to file such certificate within the time prescribed, it shall be conclusively presumed a transcript of said testimony is not necessary and is waived. When a Motion for Post-Trial Relief is abandoned at or before argument before the Court, or when it is found by the Court to have no merit or is denied, the cost of the transcript may be assessed against the party filing the Motion.

(c) Unless accompanied by an affidavit stating the names of all witnesses expected to testify, and the substance of the testimony they are expected to offer, no Motion for a New Trial will be entertained on the grounds of after-discovered evidence.

(d) Upon the filing of any Motion for Post-Trial Relief, the Court may, on its own motion or on the motion of any interested party, hold a post-trial hearing and/or conciliation.

*Note:* See Pa.R.C.P. 106 regarding computation of time and Local Rule 252 regarding videotape records.

(2) *Appeals.* When filing documents necessary to effectuate an appeal of a Civil Division matter in accordance with the Pennsylvania Rules of Appellate Procedure and specifically Pa.R.A.P. 905 and 906, filings with this Court are made in the appropriate division of the Department of Court Records identified in Rule 1(3) of these Rules.

(a) *Filing and Request for Transcript, Certification and Waiver Form.*

(i) At the time of filing a Notice of Appeal in the Court of Common Pleas, and pursuant to Pa.R.A.P. 906, whether or not a transcript or waiver has already been filed, the appellant shall attach to all copies of the Notice of Appeal a copy of the completed and acknowledged Request for Transcript, Certification and Waiver, FORM 227.1A (see subsection (d)(i) below) (which is available at the office of the Manager of Court Reporters).

(ii) The Request for Transcript, Certification and Waiver must be completed by the party placing the order, signed by a Judge, if required by Pa.R.A.P. 1922(b), and delivered to the Manager of the Court Reporters to place an order for a transcript for any purpose.

(iii) FORM 227.1A also shall be prepared and filed to demonstrate waiver of a transcript or portion thereof in connection with an appeal.

(iv) The Manager of Court Reporters shall insert the date the Request form is received and shall acknowledge said receipt by signature.

(v) A copy of the form, as acknowledged by the Manager of Court Reporters, shall be satisfactory proof of a transcript order or waiver.

(vi) When a transcript is ordered, the Manager of Court Reporters shall obtain the signature of the court reporter and insert the estimated number of pages and the estimated completion date in the appropriate place on the form.

(vii) The copies of the Request form then shall be distributed to the designated persons by the Manager of the Court Reporters.

*(b) Notice of Proof of Filing or Delivery of the Transcript.*

(i) The Notice of Proof of Filing or Delivery of the Transcript (FORM 227.1B) (see subsection (d)(ii) below) shall be filed with the Department of Court Records and distributed to the designated persons by the Manager of the Court Reporters.

(ii) If a requisite transcript or portion thereof has already been filed with the Department of Court Records, a photocopy of the Request for Transcript, Certification and Waiver (FORM 227.1A) and the Notice of Proof of Filing or Delivery of the Transcript (FORM 227.1B) may be attached to the Notice of Appeal.

(c) Transcripts of testimony may not be photocopied.

(d) *Forms*

(i) *FORM 227.1A Request for Transcript, Certification and Waiver:*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Plaintiff

v.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

Civil Division

Case No.:

Request for Transcript, Certification and Waiver

Nature of Proceeding: \_\_\_\_\_

Date: \_\_\_\_\_

Court Reporter: \_\_\_\_\_

Judge: \_\_\_\_\_

Order      Waive

Complete Proceeding      \_\_\_\_\_

Defendant

Plaintiff's Case	_____	_____
Defendant's Case	_____	_____
Charge	_____	_____
Closing Argument	_____	_____

Requested by:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

\_\_\_\_\_  
Signature of Judge if less than entire transcript is ordered  
Pa.R.A.P. 1922(b)

Copies: Judge/Department of Court Records/Manager of Court Reporters/Attorney/Other

DEPOSIT RECEIVED \_\_\_\_\_

CASH \_\_\_\_\_ CHECK # \_\_\_\_\_ AMOUNT \_\_\_\_\_

(ii) FORM 227.1B Notice of Proof of Filing or Delivery of the Transcript

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Civil Division

Case No.:

NOTICE OF PROOF OF FILING OR DELIVERY OF THE TRANSCRIPT

Proceeding: \_\_\_\_\_

Complete Case \_\_\_\_\_

Date: \_\_\_\_\_

Plaintiff's Case \_\_\_\_\_

Judge: \_\_\_\_\_

Defendant's Case \_\_\_\_\_

Charge \_\_\_\_\_

Closing Argument \_\_\_\_\_

Other \_\_\_\_\_

I hereby certify that I have filed and/or delivered the above-described transcript with/to the following:

Date \_\_\_\_\_

Signature \_\_\_\_\_

Department of Court Records \_\_\_\_\_

Attorney \_\_\_\_\_

\_\_\_\_\_  
Court Reporter

If no objections are made to the text of the transcript within five (5) days after such notice, the transcript will become part of the record.

Copies: Judge/Department of Court Records/Manager of Court Reporters/Attorney/Other

Note: See Local Rule 252 regarding videotape records.

Local Rule 234.1. Subpoena.

(1) The copy of any subpoena (the original of which issued from this Court) left with a witness who has been subpoenaed shall have endorsed on said copy the caption, the number and term of the case, and the name, office address and telephone number of the attorney causing the subpoena to be issued and served.

(2) The original subpoena shall be filed in the Department of Court Records's office with return of service.

(3) Subpoenas duces tecum for production of hospital records shall be served between the hours of 9:00 a.m. and 5:00 p.m. and at least two days before the time stated in the subpoena for appearance. A one-day witness fee and round-trip mileage shall be tendered at the time the subpoena is served.

(4) Subpoenas requiring production of hospital records shall not be deemed to apply to x-rays or other data not

strictly a part of a hospital record unless they are specifically requested in the subpoena.

Local Rule 240. In Forma Pauperis.

(1) A party seeking in forma pauperis status shall apply to the Court for such status. The application shall include as an attachment the party's affidavit demonstrating inability to pay the costs of litigation.

Note: See affidavit form in Pa.R.C.P. 240. Application forms for pro se litigants are available in the office of the Department of Court Records.

Note: For presentation to the Court, see Local Rule 208.3(a)(4).

Note: For indigent divorce cases, see Local Rule at 1920.62.

(2) Counsel employed by or affiliated with Neighborhood Legal Services are authorized to file a praecipe for in forma pauperis status.

(3) The Department of Court Records shall accept for filing by a party, a praecipe as provided by Pa.R.C.P. 240, or an application under this rule, without charge to the party.

**Local Rule 252. Rule Authorizing and Providing for the Use of Videotape Records.**

(1) *Use by Court.*

(a) *Authorization:* The Judges of the Court of Common Pleas shall be authorized to use a Videotape Recording System to provide for the preservation of the official proceedings.

(b) *Responsibilities:* Any Judge using a Videotape Recording System shall designate operational and functional responsibilities of the system to members of that Judge's staff. Policies and procedures for using the system shall be developed and adopted by the Court and shall provide for the integrity of the videotape record.

(c) *Parties:* Parties taking part in proceedings where a Videotape Recording System is being used shall adhere to the policies and procedures authorized in section (1)(b) of this local rule and adopted by the Court.

(2) *Videotape Records.*

(a) *Scope:* The provisions of this local rule shall apply to any proceedings presided over by a Court of Common Pleas Judge in which the official record is the videotape of the proceedings. The official videotape shall be produced, retained and distributed pursuant to the following sections:

(i) *Videotape Recordings:* Two videotape recordings shall be made of each Court proceedings unless otherwise directed by the Court. The records shall be made simultaneously, and the videotapes resulting from the records shall serve as the official record of the Court proceedings. These tapes shall be labeled and hereinafter referred to as the "A" and "B" recordings.

(ii) *Custody of Videotapes:* Both the "A" and "B" recordings shall be deemed the property of the Court and shall be retained in accordance with adopted storage guidelines. The "A" recording shall be filed with the Department of Court Records of the Court of Common Pleas and maintained as the official record. The "B" recording shall be retained by Court staff designated with such responsibility and shall be used in the production of transcripts as set forth in "Transcription of the Videotape Record" section below.

(iii) *Identification:* For identification purposes, personnel assigned videotape responsibilities within the courtroom shall designate on each of the two videotape recordings the Judicial District, Judge's name, the case file number and caption, the date of the recording, a number that uniquely identifies the recording and either the letter "A" if the videotape is recorded from the first video recording deck or the letter "B" if recorded from the second video deck.

In the event several short matters related to different cases are recorded on one videotape, Court personnel may modify this requirement according to procedures developed in consultation with the Department of Court Records. A label designed and printed by the Administrative Office of the Allegheny County Courts for use with videotapes shall be used for tape identification purposes.

The tape recorded in the "A" recording deck shall be the tape on file with the Department of Court Records. The tape recorded in the "B" recording deck shall be maintained by the Court.

(iv) *Additional Original Recordings:* Two additional videotapes, designated "C" and "D," shall be made at the time the official recordings of all evidentiary proceedings are made, labeled as copies and certified by the operator to be true and complete copies of the official record. These tapes shall be available for purchase by parties to the case. Requesting parties shall be charged a fee to be established by Court policy for each tape purchased, except in cases where the requesting party has been declared indigent. All payments for certified copies of videotaped records must be made prior to obtaining the videotapes.

If the "C" and "D" tapes have not been requested within thirty days of the recorded proceeding, the tapes shall be erased by the Court and subsequently used to make original "A" and "B" videotape records. In the event such occurs, parties may still obtain a reproduction of the original. Court personnel will reproduce the requested material using the "A" or "B" copies.

(v) *Official Log:* Court personnel assigned videotape responsibility in the courtroom shall keep a written trial log or assure the videotape system produces an automatic trial log for all proceedings where the videotape is the official record. A manual trial log form shall be developed and authorized by the Court. One copy of the log shall be retained by the Court and one copy shall accompany the videotape filed with the Department of Court Records. A copy of the trial log shall also be provided with each duplicated videotape made for requesting parties.

**Local Rule 253. Taxation of Costs.**

(1) *Costs After Judgment.*

Costs shall be taxed by the Department of Court Records. Objections shall be presented to the Motions Judge or, if the case was tried, to the Trial Judge.

**Habeas Corpus**

**Local Rule 301. Formal Requirements.**

Any request for issuance of a writ of habeas corpus shall be in writing by petition and in accordance with the following:

(1) The caption shall contain the name of the Commonwealth at the relation of the petitioner in whose behalf the relief is requested, and name as respondent the person who exercises the alleged unlawful restraint, as well as the capacity in which such restraint is asserted, if any.

(2) The petition shall contain allegations of fact and shall be signed and verified by petitioner. If petitioner is unable to sign and verify the petition, the reason shall be set forth.

(3) When the person restrained is an incapacitated person or a minor, the petition shall be brought on behalf of the person restrained by that person's next friend, parent or guardian.

(4) Where the restraint arises out of arrest and incarceration, for any summary or criminal offense, a notice of presentation and a copy of the petition for habeas corpus shall be given forthwith to the District Attorney of Allegheny County.

(5) A proposed preliminary order shall be attached to the petition.

(6) Petitions alleging restraint by law enforcement authorities shall be filed in the Criminal Division; petitions alleging restraint pursuant to an order of Court shall be filed in the Division of Court which issued the order; other petitions shall be filed in the appropriate division of the court.

#### **Local Rule 302. Contents of Petition.**

The petition for the issuance of the writ of habeas corpus shall contain allegations of fact as follows:

(1) The basis for the jurisdiction and venue of the Court shall be set forth, as well as the place of confinement or restraint. If the place of confinement or restraint is unknown, this shall be alleged.

(2) Facts must be alleged that show precisely the alleged illegal restraint and the identity of the person in whose custody the person is restrained.

(3)(a) Any prior or pending legal proceeding pertaining to the restraint shall be referred to specifically. Any basis or authority for the restraint shall be specifically set forth. If the basis or authority for the restraint is unknown, this shall be alleged.

(b) When the restraint is a result of a commitment by an issuing authority, a statement of the proceedings before the issuing authority shall be attached.

(4) The facts upon which the right to relief is based must be alleged and a succinct statement of the reasons why the restraint is unlawful shall be set forth without extended argument.

#### **Local Rule 303. Procedure.**

The procedure for issuance of a writ of habeas corpus shall be as follows:

(1) The petition shall be presented with an appropriate order. The order signed at the time application for relief is made may deny the requested relief, set a hearing date, grant a rule or grant any other appropriate relief.

(2) When the Court directs the release of a relator upon any conditions of bail pending hearing on the petition, the order shall contain the amount and type of bail and the office in which bail shall be posted.

(3) Upon the direction of the Court that a writ be issued, the order shall be filed with the Department of Court Records, and a proper writ of habeas corpus shall be procured from the Department of Court Records and served on the respondent as the Court may direct.

*Note:* It is expected that where the petitioner proceeds upon petition and rule that the order of Court granting the rule shall also provide a direction of notice to the appropriate parties.

#### **Local Rule 503. Appeals From Real Estate Tax Assessment.**

##### *(3) Time For and Content of Appeals*

(a) An appeal from the decision of the Board of Property Assessment, Appeals and Review must be verified pursuant to Pa.R.C.P. 206.3 and filed with the Department of Court Records within thirty days of the date of mailing of the notice by the Board.

#### **Local Rule 504. Appeals From Real Estate Tax Exemption.**

##### *(3) Time For and Content of Appeals*

(a) An appeal from the decision of the Board of Property Assessment, Appeals and Review must be verified

pursuant to Pa.R.C.P. 206.3 and filed as a General Docket case with the Department of Court Records within thirty days of the date of mailing of the notice by the Board.

(b) An appeal shall contain the following:

(i) names of the parties;

(ii) identification of the property by address, deed book volume and page, and lot and block numbers;

(iii) a concise statement of the reasons for the appeal; and

(iv) a copy of the decision of the Board of Property Assessment, Appeals and Review.

(c) No Order of Court is required to file a timely appeal.

##### *(4) Notice*

Appellant shall give notice of the appeal by first class mail, postage prepaid, to all parties and the Board of Property Assessment, Appeals and Review, within seven days of the filing of the appeal and shall file proof of service thereof.

##### *(5) Filing of Appeals*

The filing of an appeal by any party shall act as an appeal by all parties.

##### *(6) Withdrawal of Appeals*

No appeal may be withdrawn without the consent of all other parties or leave of court.

(7) In all other respects, tax exemption appeals from decisions of the Board of Property Assessment, Appeals and Review shall be governed by the Pennsylvania Rules of Civil Procedure and the Allegheny County Local Rules governing civil actions assigned to an individual judge.

#### **Local Rule 505. Change of Name of a Natural Person.**

##### *(3) Requirements for Filing a Petition.*

(a) The Petition shall contain two proposed Orders designated as follows:

(i) Either

(A) Order Scheduling Hearing on Name Change (used if Petition is brought by a person(s) of full legal age) (FORM 505B(i)) (see subsection (3)(b)(i) below), or

(B) Order Scheduling Hearing on Name Change (used if Petition is brought on behalf of a minor) (FORM 505B(ii)) (see subsection (3)(b)(ii) below); and

(ii) Decree for Change of Name (FORM 505C) (see subsection (3)(c) below).

(b) The following is required by the Department of Court Records:

(i) Petition and one (1) extra copy;

(ii) A completed fingerprint card, if applicable (obtained from either a state or local police department). "Name Change" should be written in red across the top of the completed card.

(iii) A stamped 8-1/2" x 11" envelope addressed to:

PA State Police  
Central Repository  
1800 Elmerton Avenue  
Harrisburg, PA 17110



(iv) A stamped letter size envelope addressed to:
Department of Court Records of Allegheny County
First Floor City-County Building
414 Grant Street
Pittsburgh, PA 15219
ATTENTION: Supervisors

(v) A stamped letter size envelope to the attorney for the filing party, or the pro se party.

(vi) The filing fee applicable to a Petition for a name change.

Note: A current listing of the fees charged by the Department of Court Records can be found on the Department of Court Records's web site: dcr.county.allegheny.pa.us (no www and no com. or gov.).

(c) After Petitioner has been notified that the fingerprinting process has been completed, the petitioner shall take the Petition in the Department of Court Records's file to the Chief Motions Clerk.

Note: The Chief Motions Clerk will be in the Courtroom of the Motions Judge. See "Civil Division" on the Website of the Common Pleas Court of Allegheny County (www.alleghencycourts.us) for the name and Courtroom of the judge who is sitting as the Motions Judge.

(d) The Motions Judge shall schedule the time and date for a hearing.

(e) Where the Petitioner has a prior conviction of a felony but is not barred by 54 Pa.C.S. § 702(c) from obtaining a judicial change of name, the Petitioner shall provide the Court with an envelopes affixed with sufficient postage and pre-addressed to the following so that copies of the Order Scheduling Hearing on Name Change may be sent:

(i) The District Attorney of Allegheny County
Allegheny County Courthouse
436 Grant Street
Pittsburgh, PA 15219

(ii) to any other District Attorney of any county in which Petitioner was convicted of a felony.

(iii) Office of the Attorney General
Commonwealth of Pennsylvania
1600 Strawberry Square
Harrisburg, PA 17120

(f) In those cases where the Petitioner is seeking to change the name of a minor and a parent files an objection to the Petition or appears to oppose the Petition, the case shall immediately be transferred to the Family Division using FORM 505D (see subsection (3)(d) below) for all further proceedings with respect to the minor's Petition.

(3) FORMS:

(a) FORM 505A Petition for a Name Change

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA CIVIL DIVISION

In Re the Petition of: DOCKET GD No. \_\_\_\_\_

\_\_\_\_\_(Print Your Current Name)

For a Name Change to:

\_\_\_\_\_(Print Your New Name)

VERIFIED PETITION FOR A NAME CHANGE

And now comes Petitioner(s), \_\_\_\_\_

by this Petition, and upon being duly sworn, respectfully represents and shows this Court:

1. That the Petitioner(s) is of full legal age and is a bona fide resident of the County of Allegheny, Commonwealth of Pennsylvania, whose residence address is \_\_\_\_\_

Petitioner(s) has been a bona fide resident of Allegheny County, Commonwealth of Pennsylvania for \_\_\_\_\_ year(s) immediately prior to filing this Petition. Petitioner(s) was born on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ in the County of \_\_\_\_\_, State of \_\_\_\_\_, and Country of \_\_\_\_\_.

2. Petitioner's(s') present name is \_\_\_\_\_.

3. Petitioner(s) [ ] is not married or [ ] is married to \_\_\_\_\_.

4. Petitioner(s) is the [ ] Father and/or [ ] Mother of the following minor children:

[ ] None

Table with 3 columns: Name, Date of Birth, Age. Multiple rows for listing children.

5. Petitioner(s) has resided at the following address(es) over the last five (5) years:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Petitioner(s) requests the change of name for the following reasons (describe in detail):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. The proposed change in the Petitioner(s) name, if granted, will not be detrimental to the interests of any other person and is not against the public interest.

8. This Petition is not filed to defraud creditors.

Wherefore, the Petitioner(s), intending to change his/her name, requests that by an Order of this Court, made and entered herein, the Petitioner's(s') name be changed to and decreed to be:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Respectfully submitted,

\_\_\_\_\_  
(Sign Your Current Name)

Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

VERIFICATION

I, (\_\_\_\_\_), verify that  
(Print Your Current Name)  
the statements made in the foregoing Petition are true and correct to the best of my knowledge or information and belief.

I understand that this verification is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn fabrication to authorities, which provides that if I knowingly make false averments, I may be subject to criminal penalties.

Date: \_\_\_\_\_  
(Sign Your Current Name)

(b)(i) *FORM 505B(i) Order Scheduling Hearing on Name Change (used if Petition is brought by a person(s) of full legal age)*

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

In Re: Petition of \_\_\_\_\_ CIVIL DIVISION  
\_\_\_\_\_ GD No. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Petitioner(s).

ORDER SCHEDULING HEARING ON NAME CHANGE

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon hearing of the within motion of \_\_\_\_\_ Esquire/pro se, attorney for the Petitioner(s) above named, it is ORDERED and DECREED that the within Petition be heard on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ before the Motions Judge. Petitioner(s) shall obtain a judgment search from all counties in which he/she has resided during the last five (5) years. It is further Ordered, that the Petitioner(s) shall advertise once in the Pittsburgh Legal Journal, and once in a newspaper of general circulation in Allegheny County.

BY THE COURT,  
\_\_\_\_\_, J.

(b)(ii) *FORM 505B(ii) Order Scheduling Hearing on Name Change (used if Petition is brought on behalf of a Minor(s)):*

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

In Re: Petition of \_\_\_\_\_ CIVIL DIVISION  
\_\_\_\_\_ GD No. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Petitioner(s).

ORDER SCHEDULING HEARING ON NAME CHANGE

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon hearing of the within motion of \_\_\_\_\_ Esquire/pro se, attorney for the Petitioner(s) above named, it is ORDERED and DECREED that the within Petition be heard on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ before the Motions Judge. Petitioner(s) shall obtain a judgment search from all counties in which he/she has resided during the last five (5) years.

IT IS FURTHER ORDERED, that Petitioner(s) shall obtain an affidavit of consent from the non-petitioning parent and/or serve a copy of this scheduling order by certified and regular mail forthwith.

IT IS FURTHER ORDERED, that the Petitioner(s) shall advertise once in the Pittsburgh Legal Journal, and once in a newspaper of general circulation in Allegheny County.

BY THE COURT,  
\_\_\_\_\_, J.

(c) *FORM 505C Decree for Change of Name*

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

In Re: Petition of \_\_\_\_\_ CIVIL DIVISION  
\_\_\_\_\_ GD No. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Petitioner(s).

DECREE FOR CHANGE OF NAME

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon hearing on the within Petition and upon motion of \_\_\_\_\_ Esquire/pro se, attorney for Petitioner(s), with proof of publication and proof that there are no judgments or decrees of record or any other matter of like effect against Petitioner(s), and it appearing that there are no legal objections to the granting of the prayer of the Petition, it is ORDERED and DECREED that the name(s) of the Petitioner(s) be and are, from and after this date changed to

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
BY THE COURT,  
\_\_\_\_\_, J.

(d) *FORM 505D Case Transfer Order*

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

CIVIL DIVISION  
In Re: Petition of \_\_\_\_\_ GD No. \_\_\_\_\_  
\_\_\_\_\_ FD No. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(a) monor(s)

Petitioner(s): \_\_\_\_\_

CASE TRANSFER ORDER

AND NOW, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the Court makes the following findings:

1. The subject of the Petition for a Change of Name is

\_\_\_\_\_ who (is a) (are) minors.

2. The non-petitioning parent has filed an objection to the proposed Petition for Change of Name or has appeared before the Court and opposes the Petition.

It is therefore ORDERED, ADJUDGED and DECREED as follows:

1. Pursuant to Local Rule 505(3)(f) this matter is hereby transferred to the Family Division for all further proceedings with respect to the Petition for Change of Name.

2. The Department of Court Records shall conduct a search of its records to determine if the family involved in this contested name change has an existing Family Division docket number. If there is an existing Family Division docket number, this Petition shall be matched to the existing file and transferred to the Family Division. If there is no existing Family Division docket number, the Department of Court Records shall assign a Family Division docket number and open a case file. In either event, the above-referenced General Division docket number shall be cross-referenced with the Family Division docket number.

3. The party who filed the Petition for Change in Name shall be responsible for serving the Family Division scheduling order on the opposing party in a manner consistent with the Rules of Civil Procedure.

4. The party who filed the Petition for Change of Name shall provide the following information:

A. Name(s), Address(es) and Date(s) of Birth of the minor(s) involved:

Table with 3 columns: Name, Address, Date of Birth. Multiple rows for listing information.

B. Name of the father of the minor child(ren)\_\_\_\_\_

Address and telephone number of the father \_\_\_\_\_

\_\_\_\_\_

Date of Birth of the father \_\_\_\_\_

C. Name of the mother of the minor child(ren)\_\_\_\_\_

Address and telephone number of the mother \_\_\_\_\_

\_\_\_\_\_

Date of Birth of the mother \_\_\_\_\_

D. List any prior Family Court involvement and case numbers: (Examples of these cases include: Protection from Abuse, Child Support, Child Custody, and Divorce.)\_

\_\_\_\_\_

BY THE COURT,

\_\_\_\_\_, J.

Eminent Domain

Local Rule 601. Definitions.

(1) Appeal—an action contesting the decision, report or recommendation of the Viewers, which is filed with the Department of Court Records.

Local Rule 603. Preliminary Objections.

Preliminary objections to a declaration of taking or to a petition for the appointment of viewers shall not be subject to any other local rules and shall be governed by the following procedures:

(1) No brief shall be required upon the filing of the preliminary objections.

(2) The filing of preliminary objections shall stay all other proceedings as to only the parcel or parcels that are the subject of the preliminary objections.

(3) Preliminary objections shall be filed with the Department of Court Records upon which the Department of Court Records shall stamp the date and time on which the preliminary objections were filed. The party filing the preliminary objections immediately shall take the stamped preliminary objections and the Department of Court Records file to the Administrative Judge.

(4) Upon receiving the stamped preliminary objections and the Department of Court Records file for the captioned matter, the Administrative Judge shall either hear the preliminary objections or designate another judge to hear the preliminary objections.

Actions at Law/Civil Action/Pleadings

Local Rule 1018.1. Notice to Defend Form.

(1) The agency to be named in the notice to defend accompanying complaints filed in the Court of Common Pleas of Allegheny County, Pennsylvania shall be:

Lawyer Referral Service
Allegheny County Bar Association
3rd Floor Koppers Building 436 Seventh Avenue
Pittsburgh, PA 15219
Telephone: (412) 261-5555

www.acbalrs.org

(2) The agency to be named in the notices required by Pa.R.C.P. 237.1, 237.4, 237.5, 430, 1910.25, 1910.27, 1915.12, 1915.15, 1915.16, 1920.71, 1920.73, 3146 and 3252 shall be:

Lawyer Referral Service
33rd Floor Koppers Building 436 Seventh Avenue
Pittsburgh, PA 15219
Telephone: (412) 261-5555

www.acbalrs.org

**Local Rule 1028(c). Procedures for the Disposition of Preliminary Objections.**

(1) *General Docket Cases*

(a)(i) Preliminary objections shall be taken to the Chief Motions Clerk.

*Note:* The Chief Motions Clerk (telephone number 412-350-5644) will be in the Courtroom of the Motions Judge. See “Civil Division” on the Website of the Common Pleas Court of Allegheny County ([www.alleghenycountycourts.us](http://www.alleghenycountycourts.us)) for the name and Courtroom of the Judge who is sitting as the Motions Judge.

(ii) Except for preliminary objections raising a question of venue, which is governed by subdivision (d) of this Local Rule, the Chief Motions Clerk shall schedule the time and date for an argument before the Motions Judge.

*Note:* If preliminary objections are filed to preliminary objections, these preliminary objections will be scheduled for argument at the same time as the argument for the preliminary objections which are the subject of the preliminary objections.

In cases of multiple defendants, if any other defendants have not filed responsive pleadings at the time another defendant files preliminary objections, the Chief Motions Clerk will not schedule an argument on these preliminary objections sooner than sixty (60) days after filing.

(iii) The Chief Motions Clerk will file the preliminary objections with the Department of Court Records.

(iv) The party filing the preliminary objections shall promptly serve copies of these preliminary objections on all other parties with notice of the date and time of the argument, if such has been set.

(b)(i) Except for preliminary objections raising issues of fact, which are governed by subdivision (c), and preliminary objections raising a question of venue, which are governed by subdivision (d), a brief and proposed order of court, each separately tabbed under the same cover sheet, shall be attached to all preliminary objections. No preliminary objections will be accepted by the Chief Motions Clerk until a brief is attached. Failure to attach a brief shall be cause for denial of the preliminary objections.

(ii) Any party opposing preliminary objections shall file a brief in opposition to the preliminary objections at least seven (7) days prior to the argument.

(iii) A brief shall not exceed ten (10) double-spaced pages except in cases designated complex or where permitted by order of court entered pursuant to a motion presented to the Motions Judge.

(c)(i) Where preliminary objections contain grounds raising issues of fact under Pa.R.C.P. 1028(a)(1), (5), or (6), they: shall be titled on the cover sheet “Preliminary Objections Raising Questions of Fact”; shall be endorsed with a notice to plead; shall not have a brief attached; and will be scheduled for argument not sooner than ninety (90) days after filing.

(ii) All evidence that the parties wish the court to consider shall be filed with the Department of Court Records at least twenty (20) days prior to the argument.

(iii) The party which filed the preliminary objections shall file its brief at least fourteen (14) days prior to the argument; the parties opposing the preliminary objections shall file their briefs at least seven (7) days prior to argument.

(d)(i) If the preliminary objections include the ground of improper venue, they: shall be titled on the cover sheet

“Preliminary Objections Raising Questions of Venue”; shall be endorsed with a notice to plead; shall be accompanied by a brief and proposed order of court, as provided for in paragraph (1)(b) of this Local Rule; and shall include all preliminary objections as required under Pa.R.C.P. 1028(b).

*Note:* If the preliminary objections raise only improper venue, a brief is not required.

(ii) Preliminary objections raising questions of venue will be decided by the Calendar Control Judge. The Chief Motions Clerk shall notify the Calendar Control Judge of the filing of the preliminary objections raising a question of venue and the Calendar Control Judge shall instruct the parties as to how these preliminary objections will be resolved.

(iii) The Calendar Control Judge will rule only on the venue preliminary objections. If they are overruled, the Calendar Control Judge will issue a court order which directs the parties to obtain an argument date before the Motions Judge on the remaining preliminary objections.

(2) *Arbitration Proceedings*

(a) The original and a copy of the preliminary objections shall be taken to an Arbitration Department Clerk, Courtroom Two, Seventh Floor, City-County Building, 414 Grant Street, Pittsburgh, Pennsylvania 15219. The clerk will place on the original and the copy of the preliminary objections a time and date (usually a Friday at 10:00 A.M.) for an argument before the Special Motions Judge. The clerk will file the original with the Department of Court Records and return the copy to the party filing the preliminary objections. This party shall promptly serve copies of the preliminary objections on all other parties with notice of the date and time of the argument.

*Note:* The filing of preliminary objections or the Arbitration Office’s scheduling the preliminary objections for an argument on a date after the date of the arbitration hearing does not continue the arbitration hearing unless the moving party obtains a continuance pursuant to Local Rule 208.3(a)(6)(a)(iii).

(b) If the preliminary objections raise issues of fact, at the initial argument the Special Motions Judge shall issue an order describing the manner in which any factual disputes will be resolved.

(c) There are no requirements for the filing of briefs.

(d)(i) The moving party, after contacting all other parties, shall notify an Arbitration Clerk prior to the argument (412-350-5625) if the matters raised in the preliminary objections are resolved. Otherwise, if the moving party does not appear on the date of the argument, the court will enter an order dismissing the preliminary objections for failure of the moving party to appear.

(ii) The moving party, after a discussion with other parties, shall notify an Arbitration Clerk if the preliminary objections are moot because of the filing of an amended pleading.

**Local Rule 1034(a). Procedures for the Disposition of a Motion for Judgment on the Pleadings.**

(1) *General Docket Cases*

(a)(i) The original and a copy of the motion for a judgment on the pleadings shall be taken to the Calendar Control Office (Room 734 of the City-County Building). A member of the staff shall place on the original and a copy of the motion the date of the argument list on which the motion will be argued.

*Note:* Motions for judgment on the pleadings filed before 2:00 P.M. on the fortieth (40th) day before the next argument list will be placed on that list. Motions filed less than forty (40) days before the date of the next argument list will be placed on the following argument list. No motion for judgment on the pleadings shall be placed on an argument list or otherwise scheduled for argument if the case has appeared on a published trial list prior to the filing of the motion without an order of court entered by the Calendar Control Judge.

(ii) The original copy of the motion shall be returned to the moving party who shall immediately file the motion with the Department of Court Records.

(iii) After the motion has been filed with the Department of Court Records, the moving party shall promptly serve copies of the motion for judgment on the pleadings on all other parties with notice of the date of the argument list on which the motion will be argued.

*Note:* Argument lists are placed under “Civil Division” on the Website of the Common Pleas Court ([www.allegheny.courts.us](http://www.allegheny.courts.us)) at least thirty (30) days before the date scheduled for argument. The list will identify the judge who will hear the argument.

(iv) If the motion has been resolved, the moving party shall promptly notify the court. Prior to the publication of the argument list, notice shall be given to the Calendar Control Clerk (412-350-5417). After publication of the argument list, notice shall be given to the secretary of the judge to whom the argument has been assigned.

(v) The brief of the moving party and proposed order of court shall be attached to the motion under the same cover and separately tabbed. Any party opposing the motion must file a brief at least seven (7) days prior to the argument and furnish a copy of the brief to the judge to whom the argument is assigned.

(b) This rule does not govern motions for judgment on the pleadings filed in asbestos litigation and cases otherwise designated by the court for special management (Pa.R.C.P. 1041.1 and 1041.2), class actions, cases designated as complex, and other cases specially assigned by an order of court to a single judge.

*(2) Arbitration Proceedings*

(a) The original and a copy of the motion for judgment on the pleadings shall be taken to an Arbitration Clerk Courtroom Two, Seventh Floor, City-County Building, 414 Grant Street, Pittsburgh, Pennsylvania 15219. The clerk will place on the original and the copy of the motion a time and date (usually on a Friday at 10:00 A.M.) for an argument before the Special Motions Judge. The clerk will file the original with the Department of Court Records and return the copy to the party filing the motion. This party shall promptly serve copies of the motion on all other parties with notice of the date and time of the argument.

*Note:* The Arbitration Office’s scheduling a motion for judgment on the pleadings for an argument on a date after the date of the arbitration hearing does not delay the arbitration hearing unless the moving party obtains a continuance pursuant to Local Rule 208.3(a)(6)(a)(iii).

(b) There are no requirements for the filing of briefs. Frequently, the motion refers to the controlling legislation and case law.

(c) The moving party, after contacting the other parties, shall notify an Arbitration Department Clerk (412-350-5625) if the motion is withdrawn. Otherwise, if the

moving party does not appear on the date of the argument, the court will enter an order dismissing the motion for failure of the moving party to appear.

**Local Rule 1042.26(b). Medical Professional Liability Actions. Expert Reports.**

In this county, unless there is a case-specific Order to the contrary or a published trial list with contrary deadlines, the provisions of Pa.R.C.P. 1042.26 through 1042.38 apply to medical professional liability actions.

*Note:* If deadlines set forth in a published trial list appear to contradict deadlines otherwise calculated in these rules, the earlier deadline will prevail.

*Note:* See Local Rule 4003.5 regarding expert reports in professional liability and product liability actions.

**Compulsory Arbitration**

**Local Rule 1303. Arbitration Hearing. Notice.**

(1) The Department of Court Records shall affix the date, time and place of hearing before a Board of Arbitrators by placing said information on the Complaint which is filed and on the copies of the Complaint which are to be served upon all other parties.

(2) Every Complaint (except for Small Claims - see Local Rule 1320(2)) filed in Compulsory Arbitration, whether filed by a plaintiff against a defendant or by a defendant against an additional defendant, shall contain a Notice of Hearing Date, Notice to Defend and Notice of Duty to Appear at Arbitration Hearing (FORM 1303) (see subsection (4) below). The Notice of Hearing Date and Notice of Duty to Appear shall immediately follow the Notice (to Defend) which is required by Pa.R.C.P. 1018.1(b).

(3) Immediately before the time set for hearing, an Arbitration Clerk shall assign cases to each Board of Arbitrators and shall designate the room in which the cases are to be heard. An Arbitration Clerk shall designate the order in which cases shall be heard from those listed in the published daily Arbitration List, in addition to cases listed specially by a Judge.

(4) *FORM 1303 Notice of Hearing Date, Notice to Defend and Notice of Duty to Appear at Arbitration Hearing*

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA  
CIVIL DIVISION

_____	ARBITRATION DOCKET
_____	NO. _____ - _____ - _____
PLAINTIFF	
VS.	HEARING DATE _____
_____	

**NOTICE TO DEFEND**

**YOU HAVE BEEN SUED IN COURT.** If you wish to defend against the claims set forth in the attached copy of the suit papers, **YOU MUST** complete and detach two of the copies of the attached “Notice of Intention To Appear.” One completed copy of the “Notice of Intention to Appear” must be filed or mailed to the Department of Court Records, First Floor, City-County Building, 414 Grant Street, Pittsburgh, PA 15219 and the other completed copy must be mailed to: \_\_\_\_\_ within TWENTY (20) days from the date these papers were mailed. You are warned that if you fail to do so, the case may proceed without you and a judgment maybe entered against you by the court without further notice for any

money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lost money or property or other rights important to you. **YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

LAWYER REFERRAL SERVICE,  
The Allegheny County Bar Association  
3rd Floor Koppers Building, 436 Seventh Avenue  
Pittsburgh, Pennsylvania 15219  
Telephone: (412) 261-5555

www.acbalrs.org

#### HEARING NOTICE

**YOU HAVE BEEN SUED IN COURT.** The above Notice to Defend explains what you must do to dispute the claims made against you. If you file the written response referred to in the Notice to Defend, a hearing before a board of arbitrators will take place in Courtroom Two, Seventh Floor, City-County Building, 414 Grant Street Pittsburgh, Pennsylvania, on \_\_\_\_\_, \_\_\_\_\_ at 9:00 A.M. **IF YOU FAIL TO FILE THE RESPONSE DESCRIBED IN THE NOTICE TO DEFEND, A JUDGMENT FOR THE AMOUNT CLAIMED IN THE COMPLAINT MAY BE ENTERED AGAINST YOU BEFORE THE HEARING.**

**DUTY TO APPEAR AT ARBITRATION HEARING** If one or more of the parties is not present at the hearing, **THE MATTER MAY BE HEARD AT THE SAME TIME AND DATE BEFORE A JUDGE OF THE COURT WITHOUT THE ABSENT PARTY OR PARTIES. THERE IS NO RIGHT TO A TRIAL DE NOVO ON APPEAL FROM A DECISION ENTERED BY A JUDGE.**

**NOTICE: YOU MUST RESPOND TO THIS COMPLAINT WITHIN TWENTY (20) DAYS OR A JUDGMENT FOR THE AMOUNT CLAIMED MAY BE ENTERED AGAINST YOU BEFORE THE HEARING. IF ONE OR MORE OF THE PARTIES IS NOT PRESENT AT THE HEARING, THE MATTER MAY BE HEARD IMMEDIATELY BEFORE A JUDGE WITHOUT THE ABSENT PARTY OR PARTIES. THERE IS NO RIGHT TO A TRIAL DE NOVO ON APPEAL FROM A DECISION ENTERED BY A JUDGE.**

#### **Local Rule 1303(a)(2). Failure to Appear for Hearing.**

(1) If a party fails to appear for a scheduled arbitration hearing, the matter may, if all present parties agree, be transferred immediately to a Judge of the Court of Common Pleas for an ex parte hearing on the merits and entry of a non-jury verdict, from which there shall be no right to a trial de novo on appeal.

*Note:* This local rule results in the loss of the right to a trial de novo on appeal, as described in the local rule. A dismissal or judgment which results from this local rule will be treated as any other final judgment in a civil action, subject to Pa.R.C.P. 227.1.

(2) A non-jury verdict entered at a hearing held pursuant to Local Rule 1303(a)(2)(1) shall not exceed \$25,000 (exclusive of interest and costs) to any party.

#### **Local Rule 1308. Appeal. Arbitrators' Compensation. Notice.**

(1) In addition to satisfying the requirements of Pa.R.C.P. 1308(a), a party appealing an award shall also pay to the Department of Court Records any fee required for filing the appeal.

#### **Local Rule 1320. Small Claims Procedure.**

(8) The Department of Court Records, on praecipe of the plaintiff accompanied by a certificate as required by Pa.R.C.P. 237.1(a)(2), shall enter judgment against the defendant for failure to file either a responsive pleading or a copy of the Notice of Intention to Appear within twenty (20) days from service thereof, with damages to be assessed in the manner provided by the rules.

(9)(a) *FORM 1320A Notice of Hearing Date, Notice to Defend and Notice of Duty to Appear at Arbitration Hearing*

IN THE COURT OF COMMON PLEAS OF  
ALLEGHENY COUNTY, PENNSYLVANIA  
CIVIL DIVISION

_____	ARBITRATION DOCKET
_____	NO. _____ - _____ - _____
PLAINTIFF	
vs.	HEARING DATE _____
_____	

#### **NOTICE TO DEFEND**

**YOU HAVE BEEN SUED IN COURT.** If you wish to defend against the claims set forth in the attached copy of the suit papers, **YOU MUST** complete and detach two of the copies of the attached "Notice of Intention To Appear." One completed copy of the "Notice of Intention to Appear" must be filed or mailed to the Department of Court Records, First Floor, City-County Building, 414 Grant Street, Pittsburgh, PA 15219 and the other completed copy must be mailed to: \_\_\_\_\_ within TWENTY (20) days from the date these papers were mailed. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lost money or property or other rights important to you. **YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

LAWYER REFERRAL SERVICE,  
The Allegheny County Bar Association  
3rd Floor Koppers Building, 436 Seventh Avenue  
Pittsburgh, Pennsylvania 15219  
Telephone: (412) 261-5555

www.acbalrs.com

#### HEARING NOTICE

**YOU HAVE BEEN SUED IN COURT.** The above Notice to Defend explains what you must do to dispute the claims made against you. If you file the written response referred to in the Notice to Defend, a hearing before a board of arbitrators will take place in Courtroom Two, Seventh Floor, City-County Building, 414 Grant Street, Pittsburgh, Pennsylvania, on \_\_\_\_\_, \_\_\_\_\_ [Insert date and year] at 9:00 A.M. **IF YOU FAIL TO FILE THE RESPONSE DESCRIBED IN THE NOTICE TO DEFEND, A JUDGMENT FOR THE AMOUNT CLAIMED IN THE COMPLAINT MAY BE ENTERED AGAINST YOU BEFORE THE HEARING.**

#### **DUTY TO APPEAR AT ARBITRATION HEARING**

If one or more of the parties is not present at the hearing, **THE MATTER MAY BE HEARD AT THE SAME**

TIME AND DATE BEFORE A JUDGE OF THE COURT WITHOUT THE ABSENT PARTY OR PARTIES. THERE IS NO RIGHT TO A TRIAL DE NOVO ON APPEAL FROM A DECISION ENTERED BY A JUDGE.

NOTICE: YOU MUST RESPOND TO THIS COMPLAINT WITHIN TWENTY (20) DAYS OR A JUDGMENT FOR THE AMOUNT CLAIMED MAY BE ENTERED AGAINST YOU BEFORE THE HEARING. IF ONE OR MORE OF THE PARTIES IS NOT PRESENT AT THE HEARING, THE MATTER MAY BE HEARD IMMEDIATELY BEFORE A JUDGE WITHOUT THE ABSENT PARTY OR PARTIES. THERE IS NO RIGHT TO A TRIAL DE NOVO ON APPEAL FROM A DECISION ENTERED BY A JUDGE.

(b) FORM 1320B Notice of Intention to Appear

**NOTICE OF INTENTION TO APPEAR**

(Three copies required)

To the Plaintiff or the Case Caption \_\_\_\_\_  
Plaintiff's Attorney Hearing Date \_\_\_\_\_

I intend to appear at the hearing scheduled for the above date and defend against the claim made against me.

I do not owe this claim for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I certify that I have mailed a copy of this Notice to the Plaintiff or the Plaintiff's attorney.

Date: \_\_\_\_\_ Sign here: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Local Rule 1331. Consumer Credit Transaction.**

The agency to be named in any notice required by Pa.R.C.P. 1328(b) and 1329(3)(2) shall be:

Lawyer Referral Service  
Allegheny County Bar Association  
3rd Floor Koppers Building 436 Seventh Avenue  
Pittsburgh, PA 15219  
Telephone: (412) 261-5555

www.acbalrs.com

**Minors as Parties**

**Local Rule 2039. Compromise, Settlement, Discontinuance and Distribution.**

(2) Deposit of Funds by Order of Court.

All petitions under Pa.R.Civ.P. 2039, where the proceeds of settlement are to be deposited in a savings account or in a certificate of deposit, shall have attached to the petition an order including the following:

It is hereby ordered and decreed that the amount of \$ \_\_\_\_\_ shall be deposited in the name of \_\_\_\_\_, a minor, by counsel of record in a savings account or certificate of deposit in a federally insured bank, savings and loan association or credit union. The savings account or certificate of deposit shall be marked "NOT TO BE WITHDRAWN UNTIL THE MINOR REACHES THE AGE OF MAJORITY OR BY FURTHER ORDER OF COURT."

Proof of deposit is to be filed with the Department of Court Records, Wills/Orphans' Court Division within thirty days by counsel of record.

(3) Presentation of Petition.

All petitions under Pa.R.C.P. 2039 shall be first delivered for signature to the Administrative Judge of the Orphans' Court Division and thereafter presented to the Calendar Control Judge.

(4) Annuity Contracts.

(a) Where the terms of settlement of a minor's claim include an annuity contract, the annuity contract shall provide that the policy will not be transferred or assigned to another company without the prior approval of the Orphans' Court Division of this Court.

(b) A copy of this local rule shall be served upon the company issuing the annuity contract and proof of service thereof shall be filed with the Department of Court Records, Wills/Orphans' Court Division.

Note: For approval of a settlement of a minor's claim where no action has been instituted, see Orphans' Court Local Rule 12.16G.

**Incapacitated Persons as Parties**

**Local Rule 2064. Compromise, Settlement, Discontinuance and Distribution.**

(1) Presentation of Petition.

All petitions under Pa.R.C.P. 2064 shall be first delivered for signature to the Administrative Judge of the Orphans' Court Division and thereafter presented to the Calendar Control Judge.

(2) Annuity Contracts.

(a) Where the terms of settlement of an incapacitated person's claim include an annuity contract, the annuity contract shall provide that the policy will not be transferred or assigned to another company without the prior approval of the Orphans' Court Division of this Court.

(b) A copy of this Local Rule shall be served upon the company issuing the annuity contract and proof of service thereof shall be filed with the Department of Court Records, Wills/Orphans' Court Division.

**Enforcement of Judgments for the Payment of Money**

**Local Rule 3121. Stay of Execution. Setting Aside Execution.**

(1) Notice.

Notice shall be given to the party executing the judgment when application will be made for a stay of execution.

(2) Delivery of Copy of Order Staying Execution to Sheriff.

Orders staying execution, certified to be true and correct by the Department of Court Records, an attorney or a party litigant, shall be provided to the Sheriff.

Note: When a writ of execution is stayed after the Sheriff has served or has attempted to serve the writ, poundage will be calculated based on the face amount of the writ unless the plaintiff files an affidavit within three business days the actual amount paid or to be paid to the plaintiff in cash or in kind as consideration for staying the writ or satisfying the judgment. If an affidavit is filed, the Sheriff's poundage will be calculated based on the consideration set forth in the affidavit.

**Local Rule 3129.2. Notice of Sale. Real Property.**

(2) *Filings With the Sheriff Prior to Sale:*

All writs and copies of orders certified from the record by the Department of Court Records directing judicial sales of real estate must be filed with the Sheriff in accordance with the policies of the Sheriff's office.

(4) *Notice to Internal Revenue Service.*

In any case where notice is required to be given to the Internal Revenue Service, in accordance with the provisions of the Federal Tax Lien Act of 1966, 26 U.S.C. § 7425(b) and (c), a copy of such notice, certified by counsel to be a correct copy and indicating the date of service upon or delivery to the Internal Revenue Service, shall be filed with the Department of Court Records prior to the date fixed for the sale.

**Local Rule 3146. Judgment Against Garnishee Upon Default or Admission in Answer to Interrogatories.**

(2) The agency to be named in the notice provided by Pa.R.C.P. 3146 shall be:

Lawyer Referral Service  
Allegheny County Bar Association  
3rd Floor Koppers Building 436 Seventh Avenue  
Pittsburgh, PA 15219  
Telephone: (412) 261-5555

www.acbalrs.com

**Actions Upon Mechanics Liens, Municipal and Tax Claims and Charges on Land****Local Rule 3190. Judgment. Execution.**

(1) *Tax Sales.*

Before objection to the adequacy of the price offered for real estate pursuant to Section 14 of Act of July 5, 1947, P. L. 1258, 53 P. S. § 26114, is filed, the objector shall deposit a certified or cashier's check with the solicitor for petitioner for ten percent of the original offer, or a minimum of one hundred dollars, subject to forfeiture to all interested taxing authorities in the event the original offer is not raised in said amount in open Court.

The objection filed in the office of the Department of Court Records shall have endorsed thereon acceptance of service and receipt for deposit by counsel for petitioner. After bidding in open Court and acceptance of successful bid by the Court, deposits shall be returned to unsuccessful bidders, provided the accepted bid exceeds by ten percent, or a minimum of one hundred dollars, the price offered.

(c) Counsel shall also serve certified copies of orders of Court changing ownership or description of property on the Allegheny County Department of Real Estate.

**Local Rule 3252. Writ of Execution. Money Judgments.**

The agency to be named in the notice on writs of executions issued pursuant to Pa.R.C.P. 3252(a) shall be:

Lawyer Referral Service  
Allegheny County Bar Association  
3rd Floor Koppers Building 436 Seventh Avenue  
Pittsburgh, PA 15219  
Telephone: (412) 261-5555

www.acbalrs.com

**Discovery—Expert Reports****Local Rule 4002.1. Filing Discovery Material. Requests for Expert Reports in Professional Negligence and Product Liability Actions.**

All requests for production of expert reports made in professional negligence and product liability actions in accordance with Local Rule 4003.5 shall be filed with the Department of Court Records. Expert reports furnished pursuant to Local Rule 4003.5 are discovery material that shall not be filed, except as provided by Pa.R.C.P. 4002.1. *Note:* See also Local Rule 4003.5, relating to expert reports in professional negligence and product liability actions.

[Pa.B. Doc. No. 14-2541. Filed for public inspection December 12, 2014, 9:00 a.m.]

## Title 25—LOCAL COURT RULES

**ADAMS COUNTY****Amendment of Rules of Civil Procedure 236 and 1916; Administrative Order No. 54 of 2014****Order of Court**

*And Now*, this 21st day of November, 2014, the Court hereby Orders that Rules 236 and 1916 of the Adams County Rules of Civil Procedure shall be amended as follows:

**Rule 236. Notice of Order or Judgment.**

When the Prothonotary is required by general or local rule to give notice to any party of any hearing, order, judgment or other matter, it shall be the duty of the moving party to furnish the Prothonotary with sufficient copies of such documents. If the document is to be mailed, the moving party shall also furnish the postage, pre-paid envelope with the name and address of the recipient set forth thereon. The Prothonotary shall note the date that the notice was sent on the file copy. If sufficient copies are not provided, the Prothonotary shall make sufficient copies and charge the moving party a fee [ **of \$1.00 per copy for the cost thereof** ] established by administrative order. **The current fee schedule shall be posted by the Prothonotary and available for review at <http://www.adamscounty.us/Dept/Prothonotary/Pages/default.aspx>.** Additionally, the Prothonotary may assess postage fees against any moving party who fails to furnish a pre-paid envelope as required by this rule.

**Rule 1916. Home Studies and Investigations.**

Adams County Children and Youth Services is designated as the agency authorized to conduct home studies within Adams County. Home studies may be ordered subject to the following:

1. Fees shall be periodically established by administrative order. [ **Until changed, the fee will be seventy-five (\$75.00) dollars.** ] **The current fee schedule shall be posted by the Prothonotary and available for review at <http://www.adamscounty.us/Dept/Prothonotary/Pages/default.aspx>.**

These rule amendments shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*. It is further directed that:



a. This Order shall be filed in the Office of the Prothonotary of Adams County and a copy thereof shall be filed with the Adams County Clerk of Courts and the Adams County Law Library for inspection and copying;

b. One (1) certified copy of this Order shall be forwarded to the Administrative Office of the Pennsylvania Courts for distribution in accordance with the provisions of Pa.R.C.P. No. 239(c)(2); and

c. Two (2) certified copies of this Order together with a computer diskette that complies with the requirement of 1 Pa. Code § 13.11(b), or other compliant format, containing the text of the local rule(s) adopted hereby shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

d. One (1) certified copy of this Order shall be filed with the Civil Procedural Rules Committee.

*By the Court*

MICHAEL A. GEORGE,  
*President Judge*

[Pa.B. Doc. No. 14-2542. Filed for public inspection December 12, 2014, 9:00 a.m.]

**ARMSTRONG COUNTY**

**Adoption of New Local Rules of Court—2002; No. CP-03-AD-0000189-2002**

**Order of Court**

*And Now*, this 21st day of November, 2014, it is hereby *Ordered* as follows:

1. A new Local Rule of Civil Procedure numbered 1061.1 is hereby promulgated to read as follows:

**Rule 1061.1. Adverse Party Compelled to Commence Action in Ejectment.**

When an adverse party in a quiet title action is compelled to commence an action in ejectment, such an action shall be commenced by the filing of a complaint at a new case number. The new action shall be governed by the rules pertaining to an action in ejectment.

2. A new Local Rule of Judicial Administration numbered 1901.1 is hereby promulgated to read as follows:

**Rule 1901.1. Status Conference in Certain Cases.**

(a) The Court Administrator shall cause a status conference to be held before a judge approximately 180 days after a complaint in civil action, as defined below in subsection (c), has been filed, unless the case has already been placed on the Pre-Trial Conference List pursuant to L.R.C.P. No. 212.1.

(b) At the status conference, the Court may do any or all of the following:

- i) establish deadlines for discovery;
- ii) establish deadlines for the filing of amended pleadings or the joinder of additional parties;
- iii) order a severance or consolidation pursuant to Pa.R.C.P. No. 213;
- iv) schedule a pre-trial conference;
- v) schedule a trial;
- vi) take any other action to expedite the resolution of the issues.

(c) For purposes of this Rule, “civil action” includes only tort, mass tort, professional liability, contract, and equity actions.

3. The Court Administrator shall take all steps required by Pa.R.C.P. No. 239 for the publication, distribution and dissemination of the amendments and supplements provided for herein.

4. This Order shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

*By the Court*

KENNETH G. VALASEK,  
*President Judge*

[Pa.B. Doc. No. 14-2543. Filed for public inspection December 12, 2014, 9:00 a.m.]

**CARBON COUNTY**

**Amendment of Local Rule of Civil Procedure CARB.R.C.P. 1303 Hearing Notice; No. 14-2632**

**Administrative Order No. 17-2014**

*And Now*, this 17th day of November, 2014, it is hereby

*Ordered* and *Decreed* that, effective January 1, 2015, the Carbon County Court of Common Pleas *Amends* Carbon County Rule of Civil Procedure CARB.R.C.P. 1303 governing the Hearing and Notice in Arbitration matters.

The Carbon County District Court Administrator is *Ordered* and *Directed* to

1. File one (1) certified copy of this Administrative Order with the Administrative Office of Pennsylvania Courts.

2. File two (2) certified copies and one (1) computer diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. File one (1) certified copy with the Civil Procedural Rules Committee.

4. Forward one (1) copy for publication in the *Carbon County Law Journal*.

5. Forward one (1) copy to the Carbon County Law Library.

6. Keep continuously available for public inspection copies of the Administrative Order in the Prothonotary’s Office.

*By the Court*

ROGER N. NANOVIC,  
*President Judge*

**Rule 1303. Hearing. Notice.**

Notice of the appointment of arbitrators and the date, time and place of arbitration in accordance with Pa.R.C.P. 1303 shall be made by the Prothonotary’s Office. The Notice shall include the following language: “The matter will be heard by a board of arbitrators at the time, date, and place specified but, if one or more of the parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties. There is no right to a trial de novo on appeal from a decision entered by a judge.”

All continuance requests must be filed no later than seven (7) days before the scheduled Arbitration hearing.

The attorney/self-represented party must notify all other attorneys/self-represented parties and members of the panel of the granting of the continuance motion. In the event such notice is not provided and a panel member appears, the defaulting party shall be responsible for payment of that panel member's current arbitration fee, which is currently set at \$150.00, said payment to be made by the defaulting party to the Prothonotary of Carbon County. Any continuances requested within the seven (7) days of the scheduled Arbitration hearing shall require the personal appearance of the attorney/self-represented party before the Judge to explain the extenuating circumstances necessitating the late filing.

Except as qualified by the next sentence, any appointed arbitrator must notify Court Administration of their inability to serve within ten (10) days of the scheduled event so that a suitable replacement can be secured by Court Administration. An arbitrator who is unable to attend but for whom another member of the arbitrator's firm is able to attend should notify Court Administration no less than three (3) days before the arbitration hearing if an attorney within the same firm is going to appear for the Arbitration in place of the appointed arbitrator.

If a case is settled less than three (3) days before the Arbitration hearing, one of the attorneys/self-represented parties must appear before the Board of Arbitrators and have an Award entered by agreement. If the case is discontinued less than three (3) days before the arbitration hearing, one of the attorneys/self-represented parties must appear before the Board of Arbitrators and provide a copy of the filed Praeceptum to Discontinue. If the case is settled three (3) days or more before the Arbitration hearing, Plaintiff's attorney/Plaintiff must file at least three (3) days prior to the scheduled Arbitration, a praecipe to strike the case from the arbitration list because the case is settled and must notify all other attorneys/self-represented parties and the panel members. If the case is discontinued three (3) or more days before the Arbitration hearing, Plaintiff's attorney/Plaintiff must file at least three (3) days prior to the scheduled Arbitration a Praeceptum to Discontinue and provide a copy of the filed Praeceptum to Discontinue to all other attorneys/self-represented parties and the panel members. In the event counsel/self-represented party fails to appear and advise the Board of the settlement award or discontinuance, or to provide such notice or copy, and a panel member appears, the defaulting party shall be responsible for payment of that panel member's current arbitration fee, which is currently set at \$150.00, said payment to be made by the defaulting party to the Prothonotary of Carbon County.

[Pa.B. Doc. No. 14-2544. Filed for public inspection December 12, 2014, 9:00 a.m.]

## FAYETTE COUNTY

### Local Rule 1915.2; No. 2415 of 2014 GD

#### Order

And Now, this 19th day of November, 2014, pursuant to Rule 239 of the Pennsylvania Rules of Civil Procedure, it is hereby ordered that Local Rule 1915.2 is amended as set forth as follows.

The Prothonotary is directed as follows:

(1) One certified copy of the Local Rule shall be filed with the Administrative Office of Pennsylvania Courts.

(2) Two certified copies and diskette 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 State 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

JOHN F. WAGNER, Jr.,  
President Judge

### Rule 1915.2.

A party who is requesting a child custody mediation conference must file with the Prothonotary a "Request to Schedule Child Custody Mediation" form, along with the \$100.00 filing fee, in accordance with F.C.R. 1915.3. The requesting party must also serve on the Administrative Office of Fayette County Courts a copy of the Request to Schedule Child Custody Mediation, along with a copy of the receipt for the filing fee. The Administrative Office of Fayette County Courts shall refer the Request form to Child Custody Services, and a mediation conference shall be scheduled. All parties must attend this child custody mediation conference unless excused by the child custody mediator/hearing officer. Children shall not attend the conference, unless ordered by the Court.

[Pa.B. Doc. No. 14-2545. Filed for public inspection December 12, 2014, 9:00 a.m.]

## FAYETTE COUNTY

### Local Rules 1901.1-2 and 1901.1-3; No. 2414 of 2014 GD

#### Order

And Now, this 19th day of November, 2014, pursuant to Rule 239 of the Pennsylvania Rules of Civil Procedure, it is hereby ordered that Local Rule 1901.1-2 and Local Rule 1901.1-3 are amended as set forth as follows.

The Prothonotary is directed as follows:

(1) One certified copy of the Local Rule shall be filed with the Administrative Office of Pennsylvania Courts.

(2) Two certified copies and diskette 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 State 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*

JOHN F. WAGNER, Jr.,  
*President Judge*

#### **Rule 1901.1-2. Commencement in Court.**

(a) A petition for Protection From Abuse (PFA) shall be presented to the Court as a routine motion in accordance with Fayette County Rule 208.3 and assigned to the PFA Judge who will schedule a hearing on the petition.

(b) If the petition seeks temporary relief for protection from abuse and alleges immediate and present danger of abuse to the plaintiff and/or minor children, the same shall be presented directly to the assigned PFA Judge on any business day from 8:30 A.M. through 3:00 P.M.; the PFA Judge will, at the earliest possible time consistent with his/her schedule, conduct an ex parte proceeding. Thereafter, the Court may enter such temporary order, as it deems necessary to protect the plaintiff and/or minor children pending hearing on the petition.

(c) *Assistance and advice to plaintiffs not represented by counsel.*

(1) Petition forms and written information referring individuals to the local domestic violence program, Southwestern Pennsylvania Legal Aid Society, and Fayette County Bar Association Lawyer Referral Service shall be provided by the Prothonotary.

(2) Clerical assistance in the preparation and filing of the petition shall be provided by the local domestic violence agency, if available.

(3) PFA petition forms and instructions are available in the Fayette County Law Library or on the website of the Administrative Office of Fayette County Courts at [www.co.fayette.pa.us](http://www.co.fayette.pa.us).

#### **Rule 1901.1-3. Emergency Relief by the Minor Judiciary.**

(a) From 3:00 P.M. each day to the resumption of business at 8:30 A.M. the next morning; from 3:00 P.M. of the last day of the business week to 8:30 A.M. of the first day of the next business week; during any holiday; and at any other time that the assigned PFA Judge is declared to be unavailable, a Petition for Protection from Abuse seeking ex parte emergency relief based upon an allegation of immediate and present danger of abuse to the plaintiff and/or minor children shall be filed with the Magisterial District Judge in the district where the plaintiff lives or, when unavailable, with the court ordered Duty Magisterial District Judge, who may grant relief in accordance with the Act.

(b) *Magisterial District Judge.*

(1) The Magisterial District Judge shall provide petition forms and assist in the preparation thereof.

(2) If, following an ex parte proceeding, the Magisterial District Judge determines that emergency relief is warranted; he/she shall issue an emergency order.

(3) The Magisterial District Judge shall certify the emergency order issued and the petition to the Court.

(4) The Magisterial District Judge shall advise the plaintiff that the emergency order will expire at 3:00 P.M. on the next business day of Court.

(5) The Magisterial District Judge shall advise the plaintiff that the plaintiff is responsible for obtaining the certified record from the Magisterial District Judge and for filing the certified record with the Prothonotary on the next business day of Court.

(c) *Prothonotary.*

(1) The Prothonotary shall accept the certified record from the plaintiff for filing without the payment of fees.

(2) The Prothonotary shall provide the plaintiff with a verified statement form which must be completed by the plaintiff setting forth the abuse by the defendant, if the abuse has not already been set forth in the Petition for Emergency Order.

(3) The Prothonotary shall provide the plaintiff with a copy of the petition, verified statement and emergency order and advise the plaintiff to present same to the assigned PFA Judge for ex parte proceedings as provided for in 1901.1-2(b).

[Pa.B. Doc. No. 14-2546. Filed for public inspection December 12, 2014, 9:00 a.m.]

### **LEHIGH COUNTY**

#### **Adoption of Criminal Rules 101.1, 103.1, 531.2 and 536.1 Relating to Bail; AD-7-2014**

##### **Order**

*And Now*, this 19th day of November, 2014, *It Is Ordered* that the Bail Rules promulgated on May 30, 2014 by this Court are hereby *Vacated*;

*It Is Further Ordered* that the following Rules of Criminal Procedure, in and for the 31st Judicial District of Pennsylvania composed of Lehigh County, be, and the same are, promulgated herewith, to become effective thirty (30) days after their publication in the *Pennsylvania Bulletin*.

*It Is Further Ordered* that two (2) certified copies and one (1) electronic copy shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that one (1) certified copy shall be filed with the Criminal Rules Committee of the Supreme Court of Pennsylvania; that one (1) certified copy shall be filed with the Administrative Offices of Pennsylvania Courts; that one (1) copy shall be filed with the Clerk of Judicial Records of Lehigh County; and that one (1) copy shall be published in *The Lehigh County Bar Journal*.

*By the Court*

KELLY L. BANACH,  
*Administrative Judge*

#### **Lehigh County Bail Rules**

##### **Rule 101.1. Construction of Rules; Consistency with Statewide Rules.**

(a) All rules of construction adopted by the Supreme Court of Pennsylvania shall apply to local rules adopted by the Court of Common Pleas of Lehigh County that govern the practice and procedure in criminal matters.

(b) Any requirement imposed by these rules is in addition to, and not in lieu of, the requirements under the Pennsylvania Rules of Criminal Procedure.

(c) No pleading or other legal paper shall be refused for filing by the clerk of courts based upon a failure to comply with a requirement imposed by these rules. No case shall be dismissed nor request for relief granted or denied because of a failure to comply with such a requirement. If a party fails to comply with such a requirement, the court shall notify the party of the failure and provide a reasonable time for the party to comply with the requirement.

**Rule 103.1. Definitions.**

(a) Definitions contained in Pa.R.Crim.P. 103 shall apply to all local rules heretofore and hereafter adopted which govern practice and procedure in criminal matters.

(b) The following words and phrases, when used in any Lehigh County Rule of Criminal Procedure, shall have the following meanings:

*Bail Enforcement Agent* is an individual who performs services or takes action for the purpose of enforcing the terms and conditions of a defendant's release from custody on bail, including locating, apprehending and surrendering a defendant released from custody on bail who has failed to appear at a specified time and place pursuant to Order of Court. The term does not include police officers, sheriffs, court officers or law enforcement personnel who execute warrants of arrest for bail forfeitures pursuant to their official duties.

*Clerk of Judicial Records, Criminal Division* is the Chief Deputy of the Lehigh County Clerk of Judicial Records, Criminal Division.

*Corporate Surety* is any corporation, limited liability corporation, fidelity company or other legal entity which issues bail bonds as an insurer and is licensed by the Pennsylvania Department of Insurance to do so in the Commonwealth of Pennsylvania.

*Surety Agent* is any individual appointed by a Corporate Surety as an agent and engages in the business of providing bail, providing or soliciting bail undertakings and/or providing or soliciting indemnity or counter-indemnity to others on bail undertakings and is licensed by the Pennsylvania Department of Insurance to do so in the Commonwealth of Pennsylvania.

*Surety Agency* is a corporation, partnership, limited liability company or other legal entity directly appointed by a Corporate Surety which engages in the business of providing bail, providing or soliciting bail undertakings and/or providing or soliciting indemnity or counter-indemnity to others on bail undertakings and is licensed by the Pennsylvania Department of Insurance to do so in the Commonwealth of Pennsylvania; or a corporation, partnership, limited liability company or other legal entity which is owned by, employs or contracts with one or more individual Surety Agents as defined herein.

*Department of Law* is the Lehigh County Department of Law.

*Pretrial Services* is Lehigh Valley Pretrial Services, Inc.

*President Judge* is the President Judge of the Court of Common Pleas of Lehigh County.

*Professional Bail Bondsman* is an individual who, in strict compliance with the Pennsylvania Professional Bondsman Act, 42 Pa.C.S. § 5741—5749: (1) engages in the business of giving bail, giving or soliciting undertakings, or giving or soliciting indemnity or counter-indemnity to securities on undertakings; or (2) within a period of 30 days has become a surety, or has indemnified a surety, for the release on bail of a person, with or

without a fee or compensation, or promise thereof; in three or more matters not arising out of the same transaction and is licensed by the Pennsylvania Department of Insurance to do business in the Commonwealth of Pennsylvania.

**Rule 531.2. Regulation of Corporate Sureties, Surety Agents, Surety Agencies and Professional Bail Bondsmen.**

(a) *Seeking Approval as a Surety Agent, Surety Agency or Professional Bail Bondsman.* A Surety Agency, on behalf of itself and its Surety Agents, or Professional Bail Bondsman may seek approval to post bail in the Thirty-first Judicial District by filing a petition with the Clerk of Judicial Records, Criminal Division. The petition must provide the information and have attached as exhibits any documents and certifications required of the petitioner in subsection (b) herein. Upon filing, the petition will be assigned to a Judge for determination.

(b) *Requirements to Become Qualified.* To become qualified to post bond in Lehigh County:

(1) Each Corporate Surety, Surety Agent, Surety Agency and Professional Bail Bondsman must be in compliance with all laws, statutes, local and state rules of court as may be established from time to time;

(2) Each Corporate Surety must file with the Clerk of Judicial Records, Criminal Division satisfactory proof that the Corporate Surety is authorized by the Pennsylvania Department of Insurance to do business in the Commonwealth of Pennsylvania. A current and valid Certificate of Authority issued by the Pennsylvania Insurance Department showing that the Corporate Surety is authorized to transact the business of Fidelity and Surety under 40 P. S. § 382(1) shall be deemed satisfactory proof under this subsection;

(3) Each Corporate Surety must file with the Clerk of Judicial Records, Criminal Division satisfactory proof of the agency relationship between the Corporate Surety and the Surety Agents and Surety Agencies authorized to act on its behalf. A current and valid Appointment Form filed with the Pennsylvania Insurance Department shall be deemed satisfactory proof under this subsection. The execution of any bail bond by such Surety Agent or Surety Agency shall create a valid and binding obligation of the Corporate Surety;

(4) Each Surety Agency must file with the Clerk of Judicial Records, Criminal Division, satisfactory proof that each of its Surety Agents is licensed by the Pennsylvania Department of Insurance;

(5) Each Surety Agency must file with the Clerk of Judicial Records, Criminal Division, a list of all Surety Agents who are authorized to act on its behalf;

(6) Each Professional Bail Bondsman must file with the Clerk of Judicial Records, Criminal Division a list of any currently employed licensed Professional Bail Bondsmen who are authorized to act on its behalf;

(7) Each Corporate Surety and each Surety Agency must file with the Clerk of Judicial Records, Criminal Division a Statement of Official Address which shall provide an address to which service of correspondence, notices, orders and other legal communications shall be made. The mailing by any Lehigh County governmental entity, including but not limited to the Lehigh County Court of Common Pleas, the Lehigh County Clerk of Courts and the Lehigh County Department of Law, of correspondence, notices, orders and other communications by first class mail to said address shall be deemed

presumptive proof of service of same and no objection shall be made by any party that the mailing was sent to an improper or incorrect address;

(8) Each Professional Bail Bondsman must file with the Clerk of Judicial Records, Criminal Division, a certification that the Professional Bail Bondsman maintains an office in Lehigh County from which its business is conducted. Each Professional Bail Bondsman must file with the Clerk of Judicial Records, Criminal Division a Statement of Official Address which shall provide the street address of said office located in Lehigh County to which service of correspondence, notices, orders and other legal communications may be made. The mailing by any Lehigh County governmental entity, including but not limited to the Lehigh County Court of Common Pleas, the Lehigh County Clerk of Courts and the Lehigh County Department of Law, of correspondence, notices, orders and other communications by first class mail to said address shall be deemed presumptive proof of service of same and no objection shall be made by any party that the mailing was sent to an improper or incorrect address;

(9) Every Professional Bail Bondsman shall keep at its office in Lehigh County the usual and customary records pertaining to bail bonds posted in Lehigh County, including, but not limited to, such records of bail bonds executed or countersigned by the Professional Bail Bondsman, to enable the court to obtain all relevant information concerning such bail bonds for at least three (3) years after the liability of the Professional Bail Bondsman has been terminated. Such records of bail bonds posted shall be subject to immediate examination, inspection or copying by the Court or its representative at the Professional Bail Bondsman's place of business or, upon request, a copy will be made available to the Court at its place of business or as otherwise directed. Any and all information shall be furnished in such manner or form as the Court requires;

(10) Every Surety Agent and Surety Agency which conducts any business in Lehigh County shall keep at its office the usual and customary records pertaining to bail bonds posted in Lehigh County, including, but not limited to, such records of bail bonds executed or countersigned by the Corporate Surety, Surety Agency or Surety Agent, to enable the court to obtain all relevant information concerning such bail bonds for at least three (3) years after the liability of the Corporate Surety has been terminated. Such records of bail bonds posted shall be subject to immediate examination, inspection or copying by the Court or its representative at the Surety Agency or Surety Agent's place of business or, upon request, a copy will be made available to the Court at its place of business or as otherwise directed. Any and all information shall be furnished in such manner or form as the Court requires;

(11) Each Surety Agency and Professional Bail Bondsman shall file an Affidavit with the Clerk of Judicial Records, Criminal Division, disclosing any convictions for non-summary criminal offenses, with the exception of misdemeanors under the Pennsylvania Vehicle Code, by any owner, officer, director or Surety Agent of the Surety Agency or the Professional Bail Bondsman. The Affidavit must attach a copy of a criminal history records check conducted by the Pennsylvania State Police or, for persons residing in another state, the comparable document for that state, for each such person. A conviction may render the owner, officer, director or Surety Agent of the Surety Agency or the Professional Bail Bondsman ineligible to conduct business in the Thirty-first Judicial

District as determined by the Lehigh County Court of Common Pleas in its sole discretion;

(12) Each Corporate Surety must post with the Clerk of Judicial Records, Criminal Division as security \$50,000 in United States currency or unencumbered securities of the United States Government per each Surety Agency approved under subsection (a) which posting will entitle the Corporate Surety, the Surety Agency and its Surety Agents to post bonds in Lehigh County;

(13) Each Professional Bail Bondsman which has obtained approval of its petition filed under section (a) hereunder must post with the Clerk of Judicial Records, Criminal Division as security, in increments of \$50,000 and no less than \$50,000 in United States currency or unencumbered securities of the United States Government, which will entitle the Professional Bail Bondsman, to post bond in an aggregate sum equivalent to the amount posted hereunder;

(14) Each Professional Bail Bondsman must provide to the Clerk of Judicial Records, Criminal Division a financial statement certified by a Certified Public Accountant which verifies that the Professional Bail Bondsman has sufficient assets to satisfy all bail obligations undertaken by or on behalf of the Professional Bail Bondsman in the Thirty-first Judicial District and in other jurisdictions in which the Professional Bail Bondsman conducts business;

(15) Each Surety Agent may post bail only in the name of the Corporate Surety for which it serves as a duly appointed agent or agency and must post bail exactly in the name as appears on that Corporate Surety's Certificate of Authority, and not in the name of any other person or business entity;

(16) Each Corporate Surety must file with the Clerk of Judicial Records, Criminal Division, a copy of the rates approved by the Pennsylvania Department of Insurance for said Corporate Surety;

(17) Each Surety Agency must file with the Clerk of Judicial Records, Criminal Division a schedule of the fees to be charged Criminal Division defendants for issuing the bail bond;

(18) Each Professional Bail Bondsman must certify to the Clerk of Judicial Records, Criminal Division a schedule of the fees to be charged Criminal Division defendants for issuing the bail bond. Such fees may not change unless notice is given to the President Judge at least thirty (30) days prior to the effective date of the proposed revised fees (see 42 Pa.C.S.A. § 5748);

(19) Upon approval of the petition required in subsection (a) of this rule, each Surety Agency and Professional Bail Bondsman shall register with the Clerk of Judicial Records, Criminal Division and pay to the Clerk of Judicial Records, Criminal Division an initial registration fee of \$500.00, or such amount as may be established from time to time by the Clerk of Judicial Records, Criminal Division with the approval of the President Judge or his or her designee; and

(20) At the time of filing the Certificate of Authority required in subsection (b)(2) of this rule, each Corporate Surety shall pay to the Clerk of Judicial Records, Criminal Division an initial registration fee of \$100.00, or such amount as may be established from time to time by the Clerk of Judicial Records, Criminal Division with the approval of the President Judge or his or her designee.

(c) *Requirements to Remain Qualified.* To remain qualified to post bond in Lehigh County:

(1) Each Corporate Surety, Surety Agency, Surety Agent and Professional Bail Bondsman must fully comply with all laws, statutes, local rules, rules of court and procedures as may be established from time to time;

(2) Each Corporate Surety, Surety Agency, Surety Agent and Professional Bail Bondsman must maintain compliance with the requirements specified in subsection (b) of this rule to the extent applicable to each;

(3) Each Corporate Surety, Surety Agency and Professional Bail Bondsman must annually update and refile the filings required in subsections (b)(2)—(8) and (11) of this rule to the extent applicable to each;

(4) Each Professional Bail Bondsman must provide quarterly statements certified by the Professional Bail Bondsman that it is in compliance with the security posting requirements specified in subsection (b)(14) of this rule to the Clerk of Judicial Records, Criminal Division;

(5) Each Professional Bail Bondsman must provide to the Clerk of Judicial Records, Criminal Division, on a quarterly basis, or as often as requested by the President Judge, a financial statement certified by a Certified Public Accountant which verifies that the Professional Bail Bondsman has sufficient assets to satisfy all bail obligations undertaken by the Professional Bail Bondsman in the Thirty-first Judicial District and in other jurisdictions in which the Professional Bail Bondsman conducts business;

(6) Each Corporate Surety and Professional Bail Bondsman must satisfy in full any forfeiture order entered against a defendant, the Corporate Surety and/or Professional Bail Bondsman for a defendant's violation of a bail bond within ninety (90) days of the issuance of the order and notice as provided under subsections (b)(7) or (b)(8) herein unless said order has been set aside or stayed by order of the Court of Common Pleas of Lehigh County or pursuant to Pa.R.A.P. 1701 et seq. In the event the Corporate Surety or Professional Bail Bondsman fails to satisfy such forfeiture order, the order will be satisfied from the funds posted with the Clerk of Judicial Records, Criminal Division pursuant to subsections (b)(12) or (b)(13) of this rule. In that event, the Corporate Surety and the Surety Agent on the bond or the Professional Bail Bondsman on the bond will be prohibited from posting additional bail until such time as the forfeiture order is satisfied in full and the amount required under subsections (b)(12) or (b)(13) has been replenished and restored in full;

(7) Each Surety Agency and Professional Bail Bondsman must within 30 days notify, in writing, the President Judge and the Department of Law if an owner, officer, director or Surety Agent of the Surety Agency or Professional Bail Bondsman has been charged with any non-summary criminal offense with the exception of misdemeanors under the Pennsylvania Vehicle Code, or if any license necessary for the provision of bail services has been revoked, suspended or not renewed in the Commonwealth of Pennsylvania or any other jurisdiction;

(8) If the aggregate maximum amount of unpaid, unsettled and outstanding bail forfeitures, excluding those where payment is not yet due under subsection (c)(6) herein or that have been set aside or stayed by order of the Court of Common Pleas of Lehigh County or under Pa.R.A.P. 1701 et seq., of a Corporate Surety, as determined by the Clerk of Judicial Records, Criminal Division, equals or exceeds \$250,000.00, that Corporate

Surety must immediately cease posting bonds and the Clerk of Judicial Records, Criminal Division shall immediately cease accepting bonds by that Corporate Surety as no further bonds by that Corporate Surety are authorized or acceptable for posting in Lehigh County. The Clerk of Judicial Records, Criminal Division shall promptly notify the Department of Law of the occurrence of a Corporate Surety having reached its maximum limit and the Department of Law shall immediately send written notice of that Corporate Surety having reached this maximum limit to that Corporate Surety, the President Judge, the District Attorney and the Magisterial District Judges of Lehigh County and provide a copy of the notification to the Clerk of Judicial Records, Criminal Division. Upon receipt of the notification from the Department of Law, the Magisterial District Judges of Lehigh County shall also immediately cease accepting bonds by that Corporate Surety. When full financial settlement has been made of the outstanding bail forfeitures, the Clerk of Judicial Records, Criminal Division shall promptly notify the Department of Law and the Department of Law shall notify that Corporate Surety, the President Judge, the District Attorney, the Magisterial District Judges of Lehigh County and the Clerk of Judicial Records, Criminal Division that the posting of bonds by that Corporate Surety, Surety Agent may resume;

(9) If the aggregate maximum amount of unpaid, unsettled and outstanding bail forfeitures, excluding those where payment is not yet due under subsection (c)(6) herein or that have been set aside or stayed by order of the Court of Common Pleas of Lehigh County or under Pa.R.A.P. 1701 et seq., of a Surety Agent or Professional Bail Bondsman, as determined by the Clerk of Judicial Records, Criminal Division, equals or exceeds \$100,000, the Surety Agent or Professional Bail Bondsman must immediately cease posting bonds and the Clerk of Judicial Records, Criminal Division shall immediately cease accepting bonds by the Surety Agent or Professional Bail Bondsman as no further bonds by the Surety Agent or Professional Bail Bondsman are authorized or acceptable for posting in Lehigh County. The Clerk of Judicial Records, Criminal Division shall promptly notify the Department of Law of the occurrence of a Surety Agent or Professional Bail Bondsman having reached its maximum limit of \$100,000 and the Department of Law shall immediately send written notice of the Surety Agent or Professional Bail Bondsman having reached this maximum limit to the Surety Agent, the Professional Bail Bondsman, President Judge, the District Attorney and the Magisterial District Judges of Lehigh County and provide a copy of the notification to the Clerk of Judicial Records, Criminal Division. Upon receipt of the notification from the Department of Law, the Magisterial District Judges of Lehigh County shall also immediately cease accepting bonds by the Surety Agent or Professional Bail Bondsman. When full financial settlement has been made of the outstanding bail forfeitures, the Clerk of Judicial Records, Criminal Division shall promptly notify the Department of Law and the Department of Law shall notify Surety Agent or the Professional Bail Bondsman, the President Judge, the District Attorney, the Magisterial District Judges of Lehigh County and the Clerk of Judicial Records, Criminal Division that the posting of bonds by the Surety Agent or Professional Bail Bondsman may resume;

(10) No Surety Agency, Surety Agent or Professional Bail Bondsman, its employees and agents may represent or identify itself, directly or indirectly, as employees or

agents of the Commonwealth of Pennsylvania or Thirty-first Judicial District or the County of Lehigh. The agents and employees of a Surety Agent, Surety Agency or Professional Bail Bondsman must not wear clothing or present badges or any other form of law enforcement credentials that create the impression of employment by the Commonwealth of Pennsylvania, the Thirty-first Judicial District or any of its units, including Pre-trial Services or the Lehigh County Sheriff's Department or the County of Lehigh;

(11) Each Surety Agency and Professional Bail Bondsman must renew its registration with the Thirty-first Judicial District, provide all certifications required by this rule and pay to the Clerk of Judicial Records, Criminal Division an annual renewal registration fee of \$100.00, or such amount as may be established from time to time by the Clerk of Judicial Records, Criminal Division with the approval of the President Judge; and

(12) No Surety Agency, Surety Agent or Professional Bail Bondsman, and their owners, officers, agents and employees, may engage in Prohibited Conduct as set forth in § 531.2(e) hereunder.

(d) *Opportunity to be Heard.* A Surety Agency or Professional Bail Bondsman whose petition seeking approval to post bail in the Thirty-first Judicial District is denied will be provided an opportunity to be heard and to contest the denial. Any Surety Agency or Professional Bail Bondsman seeking to contest the denial of its petition for approval to post bail in the the Thirty-first Judicial District must file a petition with the Clerk of Judicial Records, Criminal Division and serve the Department of Law within thirty (30) days of the date of denial of its initial petition, and set forth the relief requested and the factual basis therefor. Similarly, a Surety Agency or Professional Bail Bondsman which has received approval to post bail in the Thirty-first Judicial District as provided in this rule but which has been subsequently prohibited from posting additional bail, whose right to post bail has been revoked under 531.2(f), or is otherwise ineligible to post bail in the Thirty-first Judicial District, will be provided an opportunity to be heard. Any Surety Agency or Professional Bail Bondsman seeking to contest that it has been prohibited from posting additional bail, that its right to post bail has been revoked under 531.2(f), or that it is otherwise ineligible to post bail in the Thirty-first Judicial District must file a petition with the Clerk of Judicial Records, Criminal Division and serve the Department of Law within thirty (30) days of the date of the prohibition, revocation or determination of ineligibility, and set forth the relief requested and the factual basis therefor.

(e) *Prohibited Conduct.* Each Surety Agency, Surety Agent or Professional Bail Bondsman, its owners, officers, directors and agents, may not engage in prohibited conduct as set forth below. If a subsection expressly identifies the defined entities to which the subsection applies that subsection shall only be applicable to the identified defined entities and their owners, officers, directors and agents. If no such mention is made, the subsection applies to all Surety Agencies, Surety Agents and Professional Bail Bondmen and their owners, officers, directors and agents. The following constitutes prohibited conduct:

(1) violating any laws, statutes, local rules or rules of court related to the bail business;

(2) violating 531.2(b) or (c) herein;

(3) having a license as a Surety Agency, Surety Agent or Professional Bail Bondsman revoked in the Commonwealth;

(4) being involved in any transaction which shows unfitness to act in a fiduciary capacity or a failure to maintain the standards of fairness and honesty required of a fiduciary;

(5) as to Professional Bail Bondsman, having any judgment entered which would reduce the Professional Bail Bondsman's net worth below the minimum required for licensure;

(6) being convicted of any non-summary criminal offense with the exception of misdemeanors under the Pennsylvania Vehicle Code;

(7) failing to advise the Clerk of Judicial Records, Criminal Division within fourteen (14) days (or such other time period as may be specifically set forth) of any change in circumstances which would materially affect any of the statements, information or certifications required by 531.2(b) or (c) herein;

(8) using an unregistered or unlicensed agent on behalf of any Corporate Surety, Surety Agency, Surety Agent or Professional Bail Bondsman;

(9) using an individual or entity not appointed by the Corporate Surety, Surety Agency, Surety Agent or Professional Bail Bondsman to post bail or provide bail on behalf of the Corporate Surety, Surety Agent or Professional Bail Bondsman;

(10) signing, executing or issuing bonds by a person or entity who or which is not registered as an agent of the Corporate Surety, Surety Agency, Surety Agent or Professional Bail Bondsman on the bond or for whom or which there is no satisfactory proof of an agency relationship with the Corporate Surety, Surety Agency, Surety Agent or Professional Bail Bondsman;

(11) executing a bond without the appropriate counter signature by a licensed and/or authorized agent at time of issue;

(12) failing to account for or pay any premiums held as a Surety Agency or Surety Agent on behalf of a Corporate Surety;

(13) misstating or misrepresenting any material fact in the initial petition or any subsequent filings, including but not limited to certifications, required by these rules, or in any of the statements, information or certifications required by these rules;

(14) failing to preserve, and to retain separately, any movable tangible collateral, including cash and cash equivalent, obtained as security on any bond;

(15) failing to return collateral taken as security on any bond to the depositor of such collateral, or the depositor's designee, within ten (10) business days of mailing of notice in accordance with the bond and upon payment of all fees owed to the Corporate Surety, Surety Agent or Professional Bail Bondsman, whichever is later;

(16) offering or providing any consideration or gratuity to any person employed by, or incarcerated in, a jail facility, any person who has the power to arrest or to hold any person in custody, or to any court officers and attorneys to obtain or secure business;

(17) failing to deliver to the defendant, and any person providing collateral on the defendant's behalf, prior to the time the defendant is released from jail, a one-page disclosure form which, at a minimum, must include:

- (A) the amount of the bail;
  - (B) the defendant's bail obligations;
  - (C) the conditions upon which the bond may be revoked; and
  - (D) the conditions under which the bond may be exonerated.
- (18) failing to provide to the Clerk of Judicial Records, Criminal Division the fully completed one-page disclosure form required by subsection (e)(17) of this rule at the time bond is posted;
- (19) charging excessive fees not authorized by law or rule of court;
- (20) as to a Professional Bail Bondsman, requiring collateral in excess of two (2) times the face value of the bond as security;
- (21) failing to provide an itemized statement of any and all expenses deducted from collateral to the owner thereof, if any;
- (22) requiring that, as a condition of posting a bail bond by a Corporate Surety, Surety Agency, Surety Agent or Professional Bail Bondsman, a defendant engage the services of a particular law firm or attorney;
- (23) preparing or issuing a fraudulent or forged bail bond, power of attorney or other document;
- (24) knowingly violating, advising, encouraging, aiding, abetting or assisting the violation of any applicable law, statute, local rule or rule of court;
- (25) soliciting, procuring or demanding sexual favors as a condition of or compensation for obtaining, maintaining or exonerating a bail bond, regardless of the identity of the person who performs such favors;
- (26) providing legal advice or a legal opinion in any form;
- (27) failing to notify and inform law enforcement and the Court, or its express designee, if it knows or should have known that the defendant subject to release is or has engaged in acts or non-acts that violate the conditions of his or her release. The Surety Agency, Surety Agent or Professional Bail Bondsman shall have the burden of proof to show that efforts were made to notify and inform law enforcement and the Court, or its express designee, that bail conditions were or are being violated;
- (28) holding oneself out by manner of dress as being a public official including wearing clothing or presenting badges or any other form of law enforcement credentials that might create the impression of employment of the Commonwealth of Pennsylvania, the County of Lehigh, the Thirty-first Judicial District or any of its units, including Pre-trial Services or the Lehigh County Sheriff's Department of the Thirty-first Judicial District or the County of Lehigh; and
- (29) engaging in verbal or other abusive behavior and/or unprofessional conduct, including but not limited to the use of profanity, directed toward a County employee.
- (f) Any violation of or failure to comply with the rules set forth herein may, upon petition by the Department of Law and after hearing thereon, result in the revocation by the Court of Common Pleas of Lehigh County of the bail posting privileges of a Corporate Surety, Surety Agency, Surety Agent or Professional Bail Bondsman including but not limited to revocation of approval granted under 531.2(c) herein.

### Rule 536.1. Forfeitures and Bail Pieces.

#### (a) *Forfeitures.*

(1) If a bail bond is ordered to be forfeited pursuant to Pa.R.Crim.P. 536, execution of the order shall be delayed until ninety (90) days from the date of the filing of the initial forfeiture order.

(2) If a defendant whose bail has been ordered forfeited surrenders within ninety (90) days of the date of the entry of the initial forfeiture order, the Judge or a designee, may set aside the forfeiture order and either reinstate bail or set a new bail without the necessity of the filing of a petition as hereinafter provided. A defendant's surrender within 90 days of the initial forfeiture order shall be presumed to support the setting aside of the forfeiture, absent a motion to bar set aside filed by the Department of Law.

(3) Unless the initial forfeiture order has been set aside as provided for in subsection (2), in order for a surety to seek to have the forfeiture order set aside or remitted in whole or in part, the party seeking remission, set aside or exoneration shall present a petition to the Judge, file the petition with the Clerk of Judicial Records, Criminal Division, and serve a copy thereof upon the Department of Law. The petition shall set forth in detail the reasons for seeking the set aside, remission or exoneration. In order to facilitate the assessment and investigation of petitions requesting remittance, the surety is required to delineate within the petition the following insofar as applicable:

(A) a recitation of the history of the case including the charges, the date the bond was set, the amount of the bond, and the name and district of the issuing authority;

(B) the date of forfeiture and nature of the proceeding at which forfeiture occurred;

(C) a statement establishing the fact that the defendant was apprehended including the date of apprehension and the agency responsible for the apprehension;

(D) a detailed summary of all efforts by the petitioner to apprehend the defendant including the name, phone number and address of all agents hired or assigned to effectuate the apprehension, and all times, dates, and locations searched;

(E) a declaration that the apprehension or return of the defendant was effected by the efforts of the surety or that those efforts at least had a substantial impact on the defendant's apprehension; and

(F) clear and specific factual recitation in support of the above declaration.

(4) A Corporate Surety, Surety Agency, Surety Agent or Professional Bail Bondsman which files with the Court of Common Pleas of Lehigh County a petition for bail relief, including but not limited to a petition to vacate bail forfeiture or a petition to exonerate surety, shall be responsible for the payment of court costs and/or filing fees as determined by the Clerk of Judicial Records, Criminal Division and may be amended from time to time.

(b) *Bail Pieces.* After a bail piece is issued pursuant to Pa.R.Crim.P. 536 and the defendant is apprehended by or on behalf of the surety, the defendant must be brought before the Judge or a designee in accordance with Pa.R.Crim.P. 150. Bail pieces shall not be utilized to exonerate the surety.

[Pa.B. Doc. No. 14-2547. Filed for public inspection December 12, 2014, 9:00 a.m.]



# DISCIPLINARY BOARD OF THE SUPREME COURT

## Notice of Suspension

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated November 20, 2014, LaJuan Frederick Martin (#58619), who resides in the State of Maryland, is Suspended on Consent from the Bar of this Commonwealth for a period of one year and one day, to be effective December 20, 2014. 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. 14-2548. Filed for public inspection December 12, 2014, 9:00 a.m.]

## Notice of Suspension

Notice is hereby given that Jin-Ho Cynn having been suspended from the practice of law in the Commonwealth of Virginia for a period of six months by Memorandum Order of the Circuit Court of the County of Fairfax, Virginia, dated August 26, 2013, the Supreme Court of Pennsylvania issued an Order on November 25, 2014 suspending Jin-Ho Cynn (#41534) from the practice of law in this Commonwealth for a period of six months, to take effect on December 25, 2014. 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. 14-2549. Filed for public inspection December 12, 2014, 9:00 a.m.]