

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [ 204 PA. CODE CH. 93 ]

#### Amendments to Rules of Organization and Procedure of the Disciplinary Board of the Supreme Court of Pennsylvania; Order No. 79; Correction

*(Editor's Note:* The effective date of the order published at 46 Pa.B. 6814 (October 29, 2016) is corrected as follows. The remainder of the order and annex are accurate as published.)

By this Order, the Disciplinary Board of the Supreme Court of Pennsylvania is amending its Rules of Organization and Procedure to modify Rules §§ 93.141 et. seq. to permit the annual registration of attorneys by electronic means.

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

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

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

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

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

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

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

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

JULIA FRANKSTON-MORRIS,  
*Secretary*

[Pa.B. Doc. No. 16-1976. Filed for public inspection November 18, 2016, 9:00 a.m.]

## Title 249—PHILADELPHIA RULES

### PHILADELPHIA COUNTY

#### Adoption of Phila. Crim. Rules \*556 and \*556.2 Governing Indicting Grand Jury Procedures and Protocols; President Judge Administrative Order No. 04 of 2016

#### Order

*And Now*, this 27th day of October, 2016, the Supreme Court Criminal Procedural Rules Committee having reviewed the following proposed rules as required by Pa.R.J.A. 103, and having determined that the said local rules are not inconsistent with the Statewide Rules of Criminal Procedures, it is hereby *Ordered* and *Decreed* that Philadelphia Criminal Rule \*556 and Philadelphia Criminal Rule \*556.2 are adopted as follows and shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

As required by Pa.R.J.A. 103(d), this Administrative Order and the proposed local rules were submitted to the Supreme Court of Pennsylvania Criminal Procedural Rules Committee for review and written notification has been received from the Rules Committee certifying that the proposed local rules are not inconsistent with any general rule of the Supreme Court. This Administrative Order and the following local rules shall be filed with the Office of Judicial Records (formerly the Prothonotary, Clerk of Courts and Clerk of Quarter Sessions) in a docket maintained for Administrative Orders issued by the First Judicial District of Pennsylvania. As required by Pa.R.J.A. 103(d)(5)(ii), two certified copies of this Administrative Order and the following local rules, as well as one copy of the Administrative Order and local rules shall be distributed to the Legislative Reference Bureau on a computer diskette for publication in the *Pennsylvania Bulletin*. As required by Pa.R.J.A. 103(d)(6) one certified copy of this Administrative Order and local rules shall be filed with the Administrative Office of Pennsylvania Courts, shall be published on the website of the First Judicial District at <http://courts.phila.gov>, and shall be incorporated in the compiled set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*. Copies of the Administrative Order and local rules shall also be published in *The Legal Intelligencer* and will be submitted to American Lawyer Media, Jenkins Memorial Law Library, and the Law Library for the First Judicial District.

*By the Court*

HONORABLE SHEILA WOODS-SKIPPER,  
*President Judge, Court of Common Pleas*

#### Philadelphia Criminal Rule \*556. Indicting Grand Jury.

The First Judicial District shall, from time to time, designate court of common pleas judges to serve as Supervising Judges of Philadelphia County Indicting Grand Jury(ies).

*Note:* By order dated September 27, 2012, the Pennsylvania Supreme Court granted the First Judicial District's "Petition for Empanelment of Indicting Grand Jury" and authorized the First Judicial District to empanel indictment grand juries, in accordance with Pa.R.Crim.P. 556 et seq., on or after December 18, 2012. See In re Petition for Empanelment of Indicting Grand Jury, No. 138 EM 2012.

**Philadelphia Criminal Rule \*556.2. Philadelphia County Indicting Grand Jury Procedures and Protocols.**

1. When the District Attorney, at the time of a defendant's preliminary arraignment in Municipal Court, requests that a case be sent to the Indicting Grand Jury (IGJ) rather than being scheduled for a preliminary hearing in Municipal Court (MC), the case will be listed in 30 days in Common Pleas Courtroom 1107 before the IGJ Preliminary Hearing Supervising Judge for status.

2. After preliminary arraignment, the District Attorney's Office will file an ex parte motion pursuant Pennsylvania Rule of Criminal Procedure (Pa.R.Crim.P.) 556.2 with one of the IGJ Supervising Judges requesting approval to have the case heard by the IGJ. The motion must allege that witness intimidation has occurred, is occurring, or is likely to occur in the case. The motion is reviewed by an IGJ Supervising Judge for approval. If the motion is granted, the IGJ must act on the case within 21 days of the date the order granting the motion was signed by an IGJ Supervising Judge. If the District Attorney's Office requests a preliminary hearing after the motion authorizing presentment to the IGJ is granted by an IGJ Supervising Judge, then the case will remain in Common Pleas Court and be listed for a preliminary hearing in front of the IGJ Preliminary Hearing Supervising Judge in Courtroom 1107. If no motion has been signed and the District Attorney's Office requests that a preliminary hearing be held instead of the case proceeding by way of the IGJ, then the case will be sent back to Municipal Court for a preliminary hearing in the appropriate MC courtroom.

3. If the District Attorney's Office requests that a case be sent from a preliminary hearing room to Common Pleas Courtroom 1107 before the IGJ Preliminary Hearing Supervising Judge for status, the procedures delineated in # 2 above will also apply.

4. All bail motions filed prior to the first status date in Courtroom 1107 will be heard by the IGJ Preliminary Hearing Supervising Judge on the first status listing, unless the IGJ Preliminary Hearing Supervising Judge agrees to list the bail motion earlier. The IGJ Preliminary Hearing Supervising Judge will continue to handle any bail motions filed after the first status date, until the case is assigned for trial.

a. Until otherwise provided, all bail motions filed on IGJ cases must be served on Assistant District Attorney Norman Millard or paralegal Alyssa Ecker by fax or e-mail at least one business day prior. An Assistant District Attorney (ADA) will not be present to argue bail motions unless prior notice is given.

Fax: 215-683-7608/09/10

Email: norman.millard@phila.gov  
alyssa.ecker@phila.gov

b. Bail motions will be heard on Fridays at 9:00 a.m. during the IGJ case status listings unless the defense attorney and the specially assigned ADA agree to list the motion on a different day consistent with the IGJ Preliminary Hearing Supervising Judge's calendar.

5. If the District Attorney's Office refiles a case that it intends to present to the Indicting Grand Jury, the District Attorney's Office must request the case be listed directly in Common Pleas Courtroom 1107 before the IGJ Preliminary Hearing Supervising Judge for status. The procedures delineated in # 2 above will also apply.

6. If a case is presented to the Indicting Grand Jury and the defendant is not indicted, the District Attorney's Office will immediately notify an IGJ Supervising Judge and the case will be dismissed. If the defendant is in custody on the matter, an order directing his/her release on that matter will be sent to the Philadelphia County Prison Record Room or the Pennsylvania Department of Corrections Record Room. If the defense attorney has made his/her e-mail address available to the District Attorney's Office, a copy of the order will be e-mailed. Otherwise, the defense attorney will be notified by telephone, fax or first class mail.

7. At the status listing in Courtroom 1107, if the grand jury has voted to indict the defendant, the IGJ Preliminary Hearing Supervising Judge will direct the clerk to hold the defendant for court on those charges listed in the indictment. If the case is held for court, defendants who are out of custody will be given notice about IGJ procedures and their rights in Courtroom 1107. (See Appendix C)

8. The case then will be sent to Courtroom 1104 for formal arraignment in Common Pleas Court. During formal arraignment, defense will be provided Bills of Information, a disclosure order (see Appendix A), and a copy of the Indictment (if not filed under seal).

9. Following formal arraignment in Common Pleas Court, the case will be sent directly for a scheduling conference to the trial judge designated for the zone where the alleged crime occurred. Family violence and sexual assault IGJ cases will be assigned to the designated trial judges, who handle family violence and sexual assault cases, on a random basis and not based on where the alleged crime happened. All homicide IGJ cases will be listed in front of the Homicide Calendar Judge in the Homicide Calendar Room—Courtroom 1105. The Homicide Calendar Judge will handle all motions to quash, bail motions and discovery motions for IGJ direct file cases while these cases are in the Homicide Calendar Room. The Homicide Calendar Judge will handle all bail motions and IGJ discovery motions on IGJ cases in the Homicide Program, assisted by an IGJ Supervising Judge as provided from time to time.

10. After formal arraignment of a defendant indicted by the IGJ and the assignment of the case to a trial judge, any bail motions and pretrial discovery motions will be listed before an IGJ Supervising Judge according to the zones outlined below. Likewise, bail motions and pretrial discovery motions for family violence and sexual assault IGJ cases will also be listed before an IGJ Supervising Judge based on which zone the case is assigned for trial at the time of formal arraignment. All pretrial discovery for IGJ cases shall be conducted pursuant to Pa.R.Crim.P. 556.10(B)(5), relating to the disclosure of grand jury material.

*Indicting Grand Jury Zones and Case Types*

IGJ Preliminary Hearing Supervising Judge  
South & Southwest Zone Cases  
Northeast & Northwest Zone Cases  
Central & East Zone Cases  
Direct File Juvenile Cases  
Homicide Cases

11. All IGJ defendants in custody will have a video conference with a Trial Commissioner on the Thursday following their formal arraignment. During the conference defendants will be informed on how their case has been handled by the IGJ, how their case will proceed to trial, contact information for their attorney, and their rights under the IGJ Rules and Procedures in the FJD. (See Appendix D). IGJ cases will be listed for trial within six (6) to nine (9) months, if possible, unless a longer date is agreed upon by counsel. At the scheduling conference, the District Attorney's Office will provide to defense a notice of rights. (See Appendix B). The District Attorney's Office will provide pretrial discovery to defense, pursuant to Pa.R.Crim.P. 573; however, pursuant to Pa.R.Crim.P. 556.10(B)(5), the District Attorney's Office will withhold all testimony and evidence that would disclose the identity of any witness or victim who has been intimidated, is being intimidated, or is likely to be intimidated.

12. All IGJ cases listed for trial will also receive a status date, 60 days prior to trial, for a pretrial readiness conference. At this conference, the court will determine if the defense and the District Attorney's Office expect to be ready for trial. If both sides are ready for trial, IGJ material will be turned over to defense counsel, subject to the disclosure limitations listed below. A motion to quash and any other motions may be filed within 10 days of when the transcript from the IGJ and any other IGJ

discovery is turned over to defense counsel. If the case is not expected to be ready for trial, the case will get a new trial date and a new 60-day status date. The District Attorney's Office will not turn over IGJ material until the trial court has made a determination that the case is expected to go forward as scheduled. The 60-day date for disclosure of IGJ material may be modified by order of an IGJ Supervising Judge.

a. *Disclosure limitations:* pursuant to the standard disclosure order, defense counsel may not give copies of the grand jury material to the defendant to retain or copy in any way and may not disclose the grand jury material to any other parties without an additional disclosure order from an IGJ Supervising Judge. In connection with the standard disclosure order, grand jury material may be given to an investigator or mitigation specialist working for the defendant on a case where the defendant was indicted by the IGJ and is now awaiting trial.

b. After a determination that the case is ready for trial and disclosure of grand jury material to defense, the trial court will schedule a hearing for any filed motions to quash and other pretrial motions requested by defense counsel. Motions to quash and other pretrial motions will be heard by the trial court.

13. Defense motions to continue the trial for any IGJ defendant may not be granted without the approval of one of the designated IGJ Supervising Judges.

**APPENDIX A—Disclosure Order**

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
TRIAL DIVISION—CRIMINAL SECTION**

COMMONWEALTH OF PENNSYLVANIA :  
 :  
v. : —-51-CR-  
 :  
[DEFENDANT] :

**ORDER**

**DISCLOSURE OF INDICTING GRAND JURY MATERIALS**

AND NOW, this day of , 20 , pursuant to Pa.R.Crim.P. 556.10(B)(5) and Pa.R.Crim.P. 573(F), it is hereby ORDERED and DECREED that the Philadelphia District Attorney's Office shall disclose any Indicting Grand Jury materials, that were withheld from discovery pursuant to Pa.R.Crim.P. 556.10(B)(5) in connection with the above-captioned case, to defense counsel representing the above named defendant by sixty (60) days prior to the commencement of trial. Upon disclosure to defense counsel, such materials may be redacted as to not include the address, phone number, social security number, work information or closest relative information of any witnesses identified in the materials. Once these redacted materials are disclosed to the defense, no motion for a continuance based on said disclosure shall be granted unless granted by a Supervising Judge of the Indicting Grand Jury.

It is further ORDERED and DECREED that upon disclosure, counsel for the defendant shall not provide copies of the material disclosed and protected by this ORDER to the defendant. The defendant is not permitted to copy or retain these materials in any way. This ORDER does not prohibit counsel from showing these materials to the defendant, discussing these materials at meetings with the defendant or from reading from or discussing these materials in telephone conversations with the defendant.

IT IS SO ORDERED.

BY THE COURT:

\_\_\_\_\_  
IGJ SUPERVISING JUDGE

APPENDIX B—Notice of Rights



Commonwealth v. \_\_\_\_\_

CP-51-CR- \_\_\_\_\_

The Philadelphia County Indicting Grand Jury (IGJ) has indicted the defendant on the charge of \_\_\_\_\_ and related offenses, pursuant to Pa.R.Crim.P. 556. Bills of Information have been filed under the above-listed CP number. By order of an Indicting Grand Jury Supervising Judge, and in accordance with Pennsylvania Rules of Criminal Procedure (Pa.R.Crim.P.) 578 and 579, you have ten (10) days from the date when all Indicting Grand Jury material is disclosed to file a Motion to Quash the Bills of Information for your case before the trial judge. All Indicting Grand Jury material will be disclosed sixty (60) days prior to trial unless otherwise ordered by an Indicting Grand Jury Supervising Judge. (Note: the standard disclosure order authorizes IGJ discovery material to be disclosed sixty (60) days prior to trial, See Appendix A.)

Bail motions and any motions for disclosure of Indicting Grand Jury discovery (pursuant to Pa.R.Crim.P. 556.10(B)(5)) prior to the standard disclosure date of sixty (60) days before trial shall be filed before an Indicting Grand Jury Supervising Judge. See below for case type and zone designations.

Indicting Grand Jury Supervising Judges

IGJ Supervising Judge [Name]
IGJ Supervising Judge [Name]
IGJ Supervising Judge [Name]
IGJ Supervising Judge [Name]
IGJ Supervising Judge [Name]
IGJ Supervising Judge [Name]
Defense Attorney: \_\_\_\_\_

Zone Designations and Case Types

IGJ Preliminary Hearing Supervising Judge
South & Southwest Zone Cases
Northeast & Northwest Zone Cases
Central & East Zone Cases
Direct File Juvenile Cases
Homicide Cases
Date: \_\_\_\_\_

APPENDIX C

Defendants Out of Custody—Notice of IGJ Procedure and Rights



NOTICE OF INDICTMENT FOR DEFENDANTS OUT OF CUSTODY

Defendant: \_\_\_\_\_

CP-51-CR- \_\_\_\_\_ - \_\_\_\_\_

After you were arrested, your case was sent to a Philadelphia County Indicting Grand Jury instead of being listed for a preliminary hearing in Municipal Court. Evidence regarding the incident for which you are charged was presented to the Philadelphia County Indicting Grand Jury and the Grand Jury issued an indictment for the charge of \_\_\_\_\_ and related offenses. Following the indictment, an Indicting Grand Jury Supervising Judge ordered that you stand trial in Common Pleas Court. Your case is listed today for a Scheduling Conference before your assigned trial judge in Common Pleas Court. Today your case will be given a trial date.

Your attorney will be provided discovery today according to the Pennsylvania Rules of Criminal Procedure. However, Indicting Grand Jury material may not be disclosed to your attorney until 60 days prior to trial at the pretrial readiness conference before your assigned trial judge, unless otherwise ordered by the court. You will be subpoenaed to court for the pretrial readiness conference, which is generally scheduled sixty (60) days before your trial date. Upon disclosure of the Indicting Grand Jury material in your case, your attorney will have the right to file a motion to quash seeking to dismiss the case for insufficient evidence. The motion to quash will be heard by the assigned trial judge. Your attorney will also review the grand jury material with you prior to trial but you will not be permitted to retain a copy of the grand jury material.

At any time, your attorney may file a bail motion, as well as any other requests about the Indicting Grand Jury material, on your behalf with an Indicting Grand Jury Supervising Judge.

APPENDIX D

Defendants in Custody—Notice of IGJ Procedure and Rights



NOTICE OF INDICTMENT FOR CUSTODY DEFENDANTS

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

Defendant: \_\_\_\_\_

CP-51-CR- \_\_\_\_\_ - \_\_\_\_\_

After you were arrested, your case was sent to a Philadelphia County Indicting Grand Jury instead of being listed for a preliminary hearing in Municipal Court. Evidence regarding the incident for which you are charged was presented to the Philadelphia County Indicting Grand Jury and the Grand Jury issued an indictment for the charge of \_\_\_\_\_ and related offenses. Following the indictment, an Indicting Grand Jury Supervising Judge ordered that you stand trial in Common Pleas Court. The next listing for your case is on \_\_\_\_\_ in Courtroom \_\_\_\_\_ before Judge \_\_\_\_\_.

Your attorney will be provided discovery today according to the Pennsylvania Rules of Criminal Procedure. However, Indicting Grand Jury material may not be disclosed to your attorney until 60 days prior to trial at the pretrial readiness conference before your assigned trial judge, unless otherwise ordered by the court. You will be subpoenaed to court for the pretrial readiness conference, which is generally scheduled sixty (60) days before your trial date. Upon disclosure of the Indicting Grand Jury material in your case, your attorney will have the right to file a motion to quash seeking to dismiss the case for insufficient evidence. The motion to quash will be heard by the assigned trial judge. Your attorney will also review the grand jury material with you prior to trial but you will not be permitted to retain a copy of the grand jury material.

At any time, your attorney may file a bail motion, as well as any other requests about the Indicting Grand Jury material, on your behalf with an Indicting Grand Jury Supervising Judge.

Your attorney is \_\_\_\_\_ and can be reached at \_\_\_\_\_.

Defendant's Signature \_\_\_\_\_

By Trial Commissioner \_\_\_\_\_

[Pa.B. Doc. No. 16-1977. Filed for public inspection November 18, 2016, 9:00 a.m.]

## PHILADELPHIA COUNTY

## Designation of Indicting Grand Jury Judges; Administrative Order No. 05 of 2016

## Order

*And Now*, this 27th day of October, 2016, it is hereby *Ordered* and *Decreed* that:

(1) the following Judges are designated as Supervising Judges of Philadelphia County's Indicting Grand Jury(ies) pursuant to Phila.R.Crim.P. 556:

Honorable Leon W. Tucker, Chief Supervising Judge  
 Honorable Sierra Thomas Street  
 Honorable Glenn B. Bronson  
 Honorable Rose Marie DeFino-Nastasi  
 Honorable Kathryn Streeter-Lewis  
 Honorable Barbara A. McDermott  
 Honorable Jeffrey Minehart

(2) the following Judges are designated as Indicting Grand Jury Zone and Case Type Supervising Judges pursuant to Phila.R.Crim.P. 556.2:

*Supervising Judges*

Honorable Rose Marie DeFino-Nastasi  
 Honorable Barbara A. McDermott  
 Honorable Rose Marie DeFino-Nastasi  
 Honorable Sierra Thomas Street  
 Honorable Kathryn Streeter-Lewis  
 Honorable Glenn B. Bronson

*Indicting Grand Jury Zone and Case Type*

Preliminary Hearing IGJ Cases  
 South & Southwest Zone IGJ Cases  
 Northeast & Northwest Zone IGJ Case  
 Central & East Zone IGJ Cases  
 Direct File Juvenile IGJ Cases  
 Homicide IGJ Cases

This Administrative Order shall be filed with the Office of Judicial Records (formerly the Prothonotary, Clerk of Courts and Clerk of Quarter Sessions) in a docket maintained for Administrative Orders issued by the First Judicial District of Pennsylvania. Two certified copies of this Administrative Order shall be distributed to the Legislative Reference Bureau on a computer diskette for publication in the *Pennsylvania Bulletin*, and one certified copy shall be filed with the Administrative Office of Pennsylvania Courts, and shall be published on the website of the First Judicial District at <http://courts.phila.gov>. Copies of the Administrative Order shall also be published in *The Legal Intelligencer* and will be submitted to American Lawyer Media, Jenkins Memorial Law Library, and the Law Library for the First Judicial District.

*By the Court*

HONORABLE SHEILA WOODS-SKIPPER,  
*President Judge, Court of Common Pleas*

[Pa.B. Doc. No. 16-1978. Filed for public inspection November 18, 2016, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### COLUMBIA AND MONTOUR COUNTIES Business of the Courts; Case No. X of 2016

## Order

*And Now*, this 7th day of November, 2016, it is hereby *Ordered* and *Decreed* that revisions to the 26th Judicial District's Orphans' Court Local Rules are adopted for use in both Columbia, and Montour Counties, Court of Common Pleas of the 26th Judicial District, Commonwealth of Pennsylvania, and shall become effective 30 days after publication in the *Pennsylvania Bulletin*.

The 26th Judicial District Court Administrator is *Ordered* and *Directed* to do the following:

1) File one (1) copy to the Administrative Office of Pennsylvania Courts via e-mail to [adminrules@pacourts.us](mailto:adminrules@pacourts.us).

2) Forward two (2) paper copies and one (1) electronic copy in a Microsoft Word format to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3) Publish the local rules on the court's website to be incorporated into the set of local rules on the website within 30 days after the publication of the local rules in *Pennsylvania Bulletin*.

4) File one copy of the local rules in the appropriate filing offices for public inspection and copying.

*By the Court*

HONORABLE THOMAS A. JAMES, Jr.,  
*President Judge*

## Orphans' Court Actions

## L.R. No. 1.6.

All interested parties in a matter may use mediation to resolve issues pending before the Court, and upon either partial or complete resolution, may petition the Court to approve the agreement of all interested parties as an order or decree of the Court.

A. The interested parties may engage the services of a mediator, either prior to or after any party in interest has filed a Pleading before the Court, including an Account filed by a fiduciary.

B. Upon the filing of a Pleading before the Court, including an Account filed by a fiduciary, the Clerk shall provide the filing party with generic information regarding availability of mediation for the resolution of disputes prior to adjudication by the Court.

C. The filing party shall provide such information to other interested parties. The information, which does not bind the Court, and which may be in the form of a standard brochure, should include:

1. A brief description of the mediation process;
2. The anticipated benefits of mediation for litigants and associated professionals; and
3. Contact information to initiate mediation.

D. All interested parties in a matter docketed before the Court may request to engage in mediation at any time during the pendency of the matter.

E. In such request for mediation, all interested parties shall identify:

1. The proposed mediator and the proposed source of payment of fees and costs of the mediator;
2. Names and contact information of all interested parties and nay counsel who shall participate in the mediation;
3. Names and information regarding any interested parties having diminished capacity or a legal disability, whose interests must be adequately protected; and
4. The scheduled date for the initial mediation conference.

F. All interested parties shall execute an agreement for confidential mediation, which is not inconsistent with this local rule, and which shall remain confidential.

G. Mediation shall not delay the required filing of any Pleading or ordered return dates, or the scheduling of Court Hearings, unless specifically requested by joinder of the interested parties and so ordered by the Court.

H. The Court will respect the confidentiality of the mediation process and of the mediator's obligation of confidentiality.

I. Upon completion of mediation, all interested parties shall sign a memorandum of principal terms, which either shall acknowledge that no resolution was reached, or shall embody the resolutions attained. This memorandum of principal terms shall include a list of unresolved issues to be determined by the Court. Where appropriate, the principal terms could provide for future review in light of changed circumstances or a change in the operative facts. The memorandum of principal terms agreed upon, or the statement of no resolution, shall be filed with the Court.

J. In no event shall the terms agreed upon depart from or violate any provisions of applicable law, specifically including the Older Adults Protective Services Act, the Act of Dec. 18, 1996, P.L. 1125, No. 169 (35 P.S. §§ 10225.101—10225.5102), as may be amended.

K. The interested parties may request that the Court approve the final mediated agreement, which embodies the principal terms agreed upon in the memorandum referenced above. The Court may grant approval in an order or decree. Alternatively, the Court may recommend any changes that the Court deems appropriate for approval. The parties to the mediation may accept the Court's recommendations, in which event the terms agreed upon, as modified, shall be approved, or the parties may decline to accept the Court's recommendations, in which event the matter is deemed not to have resulted in an agreement.

## Auditors

### **L.R. No. 9.1. Auditors—Appointment and Notice of Hearing.**

All auditors shall be selected and appointed by the Court. They shall be members of the Bar, not in any case holding the Offices of the Register of Wills or Clerk of the Orphans' Court.

### **L.R. No. 9.2(a). Auditors—Notice of Completed Report and Confirmation Nisi.**

Every Auditor shall give at least five (5) days written notice to the parties appearing of record or their counsel, that his Report has been completed, is in his/her office, and may be examined by the parties in interest or their counsel: said notice shall also contain the date the Auditor proposes to file his Report with the court. Upon filing, said Auditor's Report shall be confirmed nisi by the Court and marked filed by the Clerk, and unless Exceptions are filed within 20 (twenty) days after such confirmation nisi, the Clerk shall enter the same confirmed absolutely.

### **L.R. No. 9.2(c). Auditors—Exceptions.**

If Exceptions are filed to a report of an Auditor, simultaneously therewith, the party filing said Exceptions shall file a Praeceptum for Argument.

## Guardianships of Incapacitated Persons

### **L.R. No. 14.2(a). Contents of Petition.**

Each Petition for the appointment of a guardian shall conform to PA Orphans' Court Rules, Chapter III (Petitions, Practices, and Pleadings), shall be in plain language, and shall include the following information:

1. The name and address of the Petitioner, along with a statement of the Petitioner's relationship, if any, to the alleged incapacitated person.
2. The name, date of birth, age, and post office address of the alleged incapacitated person.
3. The names and addresses of the spouse, parents, and presumptive adult heirs of the alleged incapacitated person. (Presumptive adult heirs are those individuals having attained the age of majority who would inherit the alleged incapacitated person's estate as intestate heirs, had the alleged incapacitated person deceased on the date of the filing of the Petition.)
4. The name and address of the person or institution providing professional residential services to the alleged incapacitated person.
5. The names and addresses of all other professional service providers covering the six (6) month period preceding the filing of the petition.
6. Each location at which the alleged incapacitated person has resided for the preceding three (3) year period.
7. The names and addresses of each person who at any time during the preceding (3) years is known to have administered any of the financial affairs of the alleged incapacitated person. If a power of attorney exists and is in effect, a copy of the power of attorney is to be attached to the petition as an exhibit, if available to the Petitioner.
8. A statement of whether the alleged incapacitated person is known to have a will and whether a copy of any known will is available for production at the time of hearing.

9. The name and address of the person or entity whom Petitioner asks to be appointed guardian and the qualifications of the proposed guardian.

10. An averment that the proposed guardian has no interest adverse to the alleged incapacitated person.

11. Concise factual averments as to why the appointment of a guardian is requested, including:

a. A description of the functional limitations and physical and mental condition of the alleged incapacitated person.

b. The steps taken to find a less restrictive alternative.

c. The specific areas of incapacity over which it is requested that a guardian be assigned powers.

12. If a limited or plenary guardian of the estate of the alleged incapacitated person is sought, an inventory of the assets of the alleged incapacitated person, including estimated or known values thereof, and the net income from all sources to the extent known.

13. A proposed Order of Court, to be appended on top of the petition, is to specify the precise scope of authority requested for the guardian and the specific areas as to which the guardian will be assigned powers.

**14.2(b). Form of Petition for Adjudication of Incapacitated Person.**

Petitions for adjudications of incapacity shall be substantially in the following form:

PETITION FOR APPOINTMENT OF GUARDIAN OF THE (ESTATE) AND/OR (PERSON) OF \_\_\_\_\_

1. The Petitioner is \_\_\_\_\_, residing at \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ (Street) \_\_\_\_\_, \_\_\_\_\_ (City) \_\_\_\_\_, \_\_\_\_\_ (County) \_\_\_\_\_, \_\_\_\_\_ (State) \_\_\_\_\_, \_\_\_\_\_ (Zip) \_\_\_\_\_.

2. The Respondent, an alleged incapacitated person, is \_\_\_\_\_, who is \_\_\_\_\_ years of age (DOB \_\_\_\_\_) and who resides at \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ (Street) \_\_\_\_\_, \_\_\_\_\_ (City) \_\_\_\_\_, \_\_\_\_\_ (County) \_\_\_\_\_, \_\_\_\_\_ (State) \_\_\_\_\_, \_\_\_\_\_ (Zip) \_\_\_\_\_.

3. The names and addresses of the spouse, parents, and presumptive adult heirs of the alleged incapacitated person are as follows:

Name	Relationship	Address
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

4. The names and addresses of the persons or institution providing professional residential services for the alleged incapacitated person are as follows:

5. The names and addresses of all other professional service providers during the last six (6) months are as follows: \_\_\_\_\_

6. During the last three (3) years, the alleged incapacitated person has resided at the following addresses (list all addresses): \_\_\_\_\_

Addresses Date

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

7. During the past three (3) years, the following persons are known to have administered all or part of the financial affairs of the alleged incapacitated person:

Names Addresses

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

8. A Power of Attorney (is/is not) in effect. If available, a copy of the Power of Attorney in effect is attached hereto and incorporated herein by reference as Exhibit A. The name and address of the person or entity acting as attorney-in-fact for the alleged incapacitated person is: \_\_\_\_\_

9. The alleged incapacitated person (is/is not) known to have a will. A copy of which (will/will not) be available for product at the time of the hearing.

10. The Guardian proposed is \_\_\_\_\_ (residing at) \_\_\_\_\_ (with offices located at) \_\_\_\_\_ (Street) \_\_\_\_\_ (City) \_\_\_\_\_ (County) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip).

11. The proposed guardian has no interest adverse to the alleged incapacitated person.

12. Your Petitioner believes and avers that the following steps were taken in order to find a less restrictive alternative to Guardianship: \_\_\_\_\_

13. Your Petitioner requests that a Guardianship be assigned powers over the person (and/or) estate of the alleged incapacitated person.

14. An inventory of the known assets of the alleged incapacitated person including estimates as to values thereof and the net income of the incapacitated person from all sources in attached hereto and incorporated herein by reference as Exhibit B. (This paragraph is required for all petition seeking powers over the estate of the alleged incapacitated person.)

15. The alleged incapacitated person has the following functional limitations and physical and mental conditions which cause (him/her) to be an incapacitated person as defined by law: \_\_\_\_\_ (Add subparagraphs as necessary)

16. The best interest and welfare of the alleged incapacitated person will be served by granting the Guardianship requested because: (Set forth facts showing that the granting of the Guardianship will be in the best interest and welfare of the allegedly incapacitated person.)

WHEREFORE, your Petitioner requests that the Court appoint \_\_\_\_\_, Guardian of the person (and/or) estate of \_\_\_\_\_.

\_\_\_\_\_  
Attorney for Petitioner

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

\_\_\_\_\_  
Signature of Petitioner



**14.2(c). Service on Alleged Incapacitated Person.**

Each Petition seeking appointment of a guardian shall be served upon the alleged incapacitated person by personal service. The contents and terms of the Petition shall be explained to the maximum extent possible in language and terms the individual is most likely to understand. Form G-01, a citation and notice in the form approved by the Supreme Court, shall be attached to and served with the petition on the alleged incapacitated person. A copy of the Petition shall be left with the alleged incapacitated person. Service shall be no less than twenty (20) days in advance of the scheduled hearing and shall be made by a person trained and experienced in evaluating individuals with incapacities of the type alleged in the Petition.

**14.2(d). Notice to Others.**

In addition to service upon the alleged incapacitated person, notice of the scheduling of the hearing shall be given to the following by United States Postal Service, certified mail, return receipt requested, to the last known address of:

- i. All persons residing within the Commonwealth who are sui juris and would be entitled to share in the estate of the alleged incapacitated person if he or she died intestate at that time.
- ii. The person or institution providing professional residential services to the alleged incapacitated person.
- iii. To each person known to have a power of attorney who at the time of the filing of the petition was acting pursuant to the power of attorney on behalf of the alleged incapacitated person.
- iv. To such other persons as the Court shall direct.

**14.2(e). Affidavits.**

Affidavits of Service of a Petition filed pursuant to these Rules upon an alleged incapacitated person shall be substantially in the following form:

(Caption)

**AFFIDAVIT OF SERVICE**

I, \_\_\_\_\_, an adult individual residing at \_\_\_\_\_, hereby verify and state as follows:

- 1. I am a person trained and experienced in evaluating persons with incapacities of the type alleged in the petition filed to the above term and number.
- 2. On \_\_\_\_\_, 20 \_\_, at \_\_\_\_\_ m. I personally served a true and correct copy of the said petition and required citation and notice pursuant to O.C. Rules 1.8(a) and 14.5, upon the alleged incapacitated person at \_\_\_\_\_ (State place of service).
- 3. At the time of service of the petition, I left a true and correct copy of the petition and required citation and notice pursuant to O.C. Rules 1.8(a) and 14.5, with the alleged incapacitated person. In addition, I explained the contents and terms of the petition to the maximum extent possible in language and terms the alleged incapacitated person is most likely to understand.
- 4. I verify that the statements made in this Affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S § 4904 relating to unsworn falsifications to authorities.

\_\_\_\_\_  
(Signature)

**14.2(f). Proof of Notice.**

Proof of notice as required under these Rules shall be substantially in the following form:

(Caption)

**PROOF OF NOTICE**

I, \_\_\_\_\_, attorney for Petitioner in the above incapacity proceeding, certify that on \_\_\_\_\_, 20 \_\_, I served notice of the hearing scheduled in the above captioned matter seeking an adjudication of incapacity by mailing a true and correct copy of the petition with order for hearing appended thereto by certified mail, return receipt requested, postage prepaid, to the following persons and/or institutions at the addresses indicated below:

Name	Adresse
_____	_____
_____	_____
_____	_____

Attached to this Proof of Notice are return receipt cards evidencing said service of notice.

\_\_\_\_\_  
Attorney for Petitioner

**14.2(g).** No responsive pleading shall be required to a Petition filed seeking an adjudication of incapacity. All averments in such a Petition shall be deemed denied.

**14.2(h).** Upon the filing of a petition seeking an adjudication of incapacity, the Court shall appoint interim counsel to represent the interests of the alleged incapacitated person in the incapacity proceeding. Such counsel shall act as legal counsel for the alleged incapacitated person in the proceeding until such time as other legal counsel shall have entered a written appearance on behalf of the alleged incapacitated person in accordance with these Rules.

**14.2(i).** Proceedings for appointment of an emergency guardian shall be conducted in accordance with 20 Pa.C.S.A. § 5513. A petition for the appointment of an emergency guardian is expected to be in substantially the form provided under these Rules. To the extent that compliance is not possible, the Petitioner shall aver the reason for the noncompliance, such as the lack of opportunity to ascertain the required information. In addition, the Petitioner shall aver in concise and summary form those factual averments upon which Petitioner relies in requesting the appointment of an emergency guardian.

**14.2(j). Service of Petition and Citation.** The Petition and Citation seeking the appointment of an emergency guardian shall be served upon the alleged incapacitated person promptly and so as to facilitate the opportunity for the incapacitated person to appear at the hearing on the petition. In addition, notice of the proceeding to be given to such other persons as required under these Rules or in such other manner as the Court shall direct, unless the Court shall determine such notice is not feasible in the circumstances.

**14.2(k). Conduct of Hearing/Trial.**

(k)(1) *Timing of Depositions.* Any Petitioner intending to present testimony by deposition of individuals qualified by training and experience in evaluating individuals with incapacities of the type alleged shall not schedule any such deposition at a date sooner than twenty (20) days following the service of the Petition upon the alleged incapacitated person.

(k)(2) *Presence of Alleged incapacitated Person.* The alleged incapacitated person shall be present at the hearing unless:

(k)(2)(a) The Court is satisfied, upon deposition or testimony of, or sworn statement by a physician or licensed psychologist, that the physical or mental condition of the alleged incapacitated person would be harmed by his presence and further that such person is unable to appreciate the subject matter of the petition and nature of the proceeding seeking an adjudication of incapacity; or

(k)(2)(b) It is impossible for the alleged incapacitated person to be present because of his earlier absence from the Commonwealth.

(k)(3) *Request for Hearing at Residence.* A request for the hearing to be held at the residence of the alleged incapacitated person shall be presented to the Court by Motion no later than ten (10) days prior to the scheduled date of the hearing. Such Motion shall set forth the basis upon which the location of the hearing shall be changed. Included in the motion shall be the consent of all persons or entities to whom notice of hearing shall have been given. If a consent cannot be obtained because a person or entity objects to the change of location or for some other valid reason such as lack of capacity, the Moving Party shall note in the Motion that such consent could not be obtained and specify the reason therefore. Notice of the filing of the Motion shall be given to the alleged incapacitated person and to all persons and entities who received notice of the scheduling of the hearing.

(k)(4) *Notification Regarding Counsel.* The Court shall appoint counsel to represent the alleged incapacitated person in any matter for which counsel has not been retained by or on behalf of that individual. If counsel has been retained for the alleged incapacitated person, counsel shall enter a written appearance prior to the scheduled hearing. At the time of hearing the Court shall determine the alleged incapacitated person's ability to pay for counsel. If the Court finds such person is unable to make such payment, the costs of appointment of counsel shall be paid by the County.

(k)(5) *Closure of Hearing; Non-Jury Nature.* The hearing shall be closed to the public unless the alleged incapacitated person or his counsel objects. The hearing shall be without a jury unless written request for a jury trial is filed by the alleged incapacitated or their counsel, no later than twenty (20) days following service of the Petition upon the alleged incapacitated person.

(k)(6) *Evidentiary Standard.* No person shall be found to be incapacitated in the absence of the presentation of clear and convincing evidence.

(k)(7) *Grounds for Dismissal.* If the Court determines that the proceeding has not been instituted to aid or benefit the alleged incapacitated person, or that the Petition is incomplete or fails to provide sufficient facts to proceed, the proceeding may be dismissed.

(k)(8) *Production of Will.* The alleged incapacitated person's last known will shall be produced by the Petitioner at the time of hearing, if the same is available. In the event that Court makes a determination of incapacity, the Court shall receive a copy of said will and direct that the same be made part of the record under seal of the Court, unless the Court finds in its discretion that the nature of the incapacity does not warrant incorporation of a copy of the will into the record. The Court may further order a guardian to present a copy of any will of a person

adjudicated incapacitated if located subsequent to the hearing, regardless of whether such will predates or postdates a will previously made part of the record.

#### **14.2(l). Submission of Proposed Findings of Fact.**

On the date of the scheduled guardianship hearing, counsel for each party participating therein shall present to the Court proposed specific findings of fact concerning:

1. The nature of any condition or disability which impairs the individual's capacity to make and communicate decisions.

2. The extent of the individual's capacity to make and communicate decisions.

3. The need for guardianship services, if any, in light of such facts as the availability of family, friends, and other supports to assist the individual in making decisions, and in light of the existence, if any, of advance directives such as durable powers of attorney or trusts.

4. The type of guardian, limited or plenary, of the person or estate, needed based on the nature of any condition or disability and the capacity to make and communicate decisions.

5. The proposed duration of the guardianship.

#### **14.2(m). Proposed Final Order.**

The proposed final order, which has been appended to the petition under Local Rule 14.2(A)(13) shall specify the precise scope of authority requested for the guardian and the specific areas to which the guardian shall be assigned powers.

#### **14.2(n). Notice of Post-Trial Rights.**

At the conclusion of a proceeding in which the person has been adjudicated incapacitated, the Court shall inform the person of his right to appeal and to petition to modify or terminate the guardianship. A review hearing may be set at such time in the discretion of the Court.

#### **14.2(o). Production of Will Following Hearing.**

Following an adjudication of incapacity in which the Court shall have ordered the production of any will of the incapacitated person, upon locating any will of the incapacitated person, the guardian shall present a Motion directly to the Court requesting that copies of such will or wills be made a part of the record under seal. Such Motion shall contain an Order directing the filing of the copy or copies of the incapacitated person's will as part of the record under seal of the Court.

### **Adoptions**

#### **L.R. No. 15.1. Adoptions—Notice of Intent to Adopt.**

(a) Whenever a Notice of Intent to Adopt is filed within the 26th Judicial District, a copy thereof shall promptly be filed with the Clerk of Columbia or Montour County, as applicable, who shall in turn transmit said copy to the Director of Columbia or Montour County Office of Children's Services, as applicable. Said agency shall forthwith conduct a home investigation for each proposed adoption and shall present a report thereof to the Court prior to the scheduled date of the adoption proceeding.

(b) No such additional filing fee will be required when the proposed adopting parent or parents are among the persons exempt from filing a Report of Intention to Adopt under 23 Pa.C.S.A. § 2531(c).

(c) No such additional filing fee will be required when the intermediary is a public or voluntary child care agency other than Columbia County or Montour County Office of Children and Youth Services in which case the investigative report will be prepared by the child care agency as intermediary.

[Pa.B. Doc. No. 16-1979. Filed for public inspection November 18, 2016, 9:00 a.m.]

## WASHINGTON COUNTY

### Community Service Program and Furlough Into Service Program; No. 2016-1

#### Order

*And Now*, this 27th day of October, 2016, *It Is Hereby Ordered* that Community Service Program and Furlough Into Service Program (“FITS Program”) are court-approved programs administered jointly under the Clerk of Courts, Community Services Department, Domestic Relations Office, and the Adult Probation Office.

These programs have been in effective collectively since 1994 (Community Services Program), 1997 (FITS Program), and 2014 (Domestic Relations Office). Supervision of participants in the program shall be by the Director of Community Services until further order of court.

Defendants in all summary and criminal cases in which fines and costs are assessed as part of their sentence shall be eligible for participation in the Community Services Program unless the judge at the time of sentencing states the contrary. The determination for inclusion in the program shall be by the Clerk of Courts or the Adult Probation Office upon establishment that the defendant is unable to pay the fines, fees, and/or costs ordered by the court. Defendants shall submit sufficient documentation regarding their inability to pay, and the determination of the Clerk of Courts or Adult Probation Office shall be filed of record. Defendants admitted to the program shall be eligible to work off fines, fees, and/or costs per hour through approved community service based on the prevailing minimum wage of the Commonwealth of Pennsylvania.

Defendants in criminal cases where work-release or weekend status is approved as part of their sentence, or defendants found in contempt of court for failure to pay support in a domestic relations case shall be eligible for participation in the FITS Program, unless the judge at the time of sentencing, or finding of contempt, states the contrary. Selection and removal of defendants from the FITS Program shall be at the discretion of the Warden of the Washington County Correctional Facility or their designee. Defendants admitted to the program shall be eligible to work off fines, fees, and/or costs per hour through approved community service based on the prevailing minimum wage of the Commonwealth of Pennsylvania.

Defendants in magisterial district judge cases (traffic, summary, and juvenile) in which fines, fees, and/or costs are assessed as part of their sentence shall be eligible for participation in the Community Services Program, unless the magisterial district judge at the time of sentencing states the contrary. Determination for inclusion in the program shall be by the magisterial district judge after a payment determination hearing is held, and the magisterial district judge concludes that the defendant is unable

to pay the ordered fines, fees, and/or costs. Defendants admitted to the program shall be eligible to work off fines, fees, and/or costs per hour through approved community service based on the prevailing minimum wage of the Commonwealth of Pennsylvania.

The hours worked shall be applied to fines, fees, and/or costs in order of priority as provided by 42 Pa.Con.Stat. § 1721. Participants in the Community Service Program and the FITS Program shall not be permitted to apply credit from either program to court-ordered restitution, reparations, penalties, or support payments.

This Order shall apply to all cases in which there are outstanding fines, fees and/or costs, any pending case awaiting sentencing or a finding of contempt, and any case otherwise eligible as set forth above until further order of court.

It is *Ordered* that this Administrative Order shall be effective thirty (30) days after the publication thereof in the *Pennsylvania Bulletin*.

It is further *Ordered* that, in accordance with Pa.R.Crim.P. 105, the District Court Administrator shall:

(a) File one (1) certified copy hereof with the Administrative Office of the Pennsylvania Courts;

(b) Distribute two (2) certified copies hereof to and one (1) CD-ROM copy that complies with the requirement of PA. Code § 13.11(b), to the Legislative Reference Bureau for publication in *Pennsylvania Bulletin*;

(c) File one (1) certified copy hereof with the Criminal Procedural Rules Committee;

(d) File one (1) certified copy with the Clerk of Courts;

(e) Cause a copy hereof to be published in the *Washington County Bar Journal* once a week for two successive weeks at the expense of the County of Washington; and

(f) Supervise the distribution hereof to all Judges of this Court and the Magisterial District Judges of the County of Washington.

*By the Court*

KATHERINE B. EMERY,  
*President Judge*

[Pa.B. Doc. No. 16-1980. Filed for public inspection November 18, 2016, 9:00 a.m.]

## YORK COUNTY

### Amendment of Local Rules of Civil Procedure; 2016-MI-000552

#### Administrative Order Amending York County Local Rules of Civil Procedure

*And Now*, this 2nd day of November, 2016, it is *Ordered* that York County Local Rules of Civil Procedure are hereby amended as follows, effective January 1, 2017:

New rules 1915.3, 1915.4, 1915.4-3, 1915.4-4, 1915.7, 1915.11, 1915.11-2, 1920.33, 1920.51, and 1920.55-2 are adopted.

Existing rule 1940.4 is amended as indicated.

Existing rules 1915.3(a), 1915.3(b), 1915.3(c), 1915.3(d), 1920.33, 1920.51, and 1920.55-2 are rescinded and replaced by new rules.

Existing rules 1915.5, 1920.31, 1920.55-1, 1970, 1972, 1973, 1974, and 1975 are rescinded and not replaced.

The District Court Administrator shall publish this order as may be required.

*By the Court*

JOSEPH C. ADAMS,  
*President Judge*

**[ York R.C.P. 1915.3(a). Commencement of Action.**

(1) All complaints relating to custody. . .

...

(2) If any minor child subject...until further order of court. ]

- this rule is rescinded in its entirety and is replaced by new rule 1915.3

**[ York R.C.P. 1915.3(b). Reference to Conciliator.**

(1) *Assignment.* The district court administrator shall. . .

...

(10) *Record.* No record shall be made at the conciliation conference. ]

- this rule is rescinded in its entirety and is replaced by new rule 1915.3

**[ York R.C.P. 1915.3(c). Entry of Court Order.**

Upon review of the conciliator's. . .the parties by the court. ]

- this rule is rescinded in its entirety and is replaced by new rule 1915.3

**[ York R.C.P. 1915.3(d). Scheduling of Trial.**

(1) If the parties are unable. . .

...

(2) The failure of a party...imposition of other appropriate sanctions. ]

- this rule is rescinded in its entirety and is replaced by new rule 1915.3

**York R.C.P. 1915.3. Commencement of Action. Complaint. Order.**

(A) The moving party shall file complaints and petitions with the prothonotary. The moving party shall then present to the district court administrator a copy of the filing bearing the prothonotary's time-stamp, along with proof of payment to the prothonotary of any required fee.

(B) Custody complaints, petitions for modification of a custody order and first petitions for contempt of a custody order shall be heard by a conciliator.

(1) When presented by the moving party, the district court administrator will assign a conciliator and provide the moving party with an order scheduling a conciliation conference.

(2) The district court administrator shall immediately file the order with the prothonotary.

(3) The prothonotary shall provide to the moving party a sufficient number of time-stamped copies of the order for the moving party to serve with the complaint or petition on all other parties.

(4) The moving party shall serve copies of the pleading and scheduling order on all other parties pursuant to Pa.R.C.P. No. 1930.4. All copies shall bear the time-stamp of the prothonotary.

(C) Petition for second or subsequent adjudication of alleged contempt of a custody order and petitions for special relief shall be heard in motions court.

(1) Pursuant to York R.C.P. 208.3(A), the moving party shall complete a notice of presentment at least five (5) days in advance of the intended motions court date.

(2) The moving party shall file an original and one (1) copy of the motion and an original and one (1) copy of the notice of presentment with the prothonotary. The prothonotary shall time-stamp all documents, retain the original of the motion and the original of the notice of presentment for docketing, and provide the copy of the motion and the copy of the notice of presentment to the motions court judge.

(3) The moving party shall also obtain the prothonotary's time-stamp on a sufficient number of additional copies of the motion and notice of presentment, which the moving party shall serve on all parties pursuant to Pa.R.C.P. No. 1930.4.

**York R.C.P. 1915.4. Prompt Disposition of Custody Cases.**

(A) If the parties are unable to agree to a resolution, the court may issue an interim order and shall issue an order scheduling a pre-trial conference, at which time counsel and all parties shall be present.

(B) The failure of a party to comply with any pre-trial order shall not be sufficient basis to prevent the scheduling of the pre-trial conference with the court. Rather, the court may take such dilatory actions into account when assessing costs and counsel fees, imposition of other appropriate sanctions, and entry of a final order.

**York R.C.P. 1915.4-3. Non-Record Proceedings.**

(A) *Conference.* In the event the conciliation lasts more than one (1) hour or a subsequent conciliation is held, the conciliator may address the issue of the assessment of an additional fee, which shall be added to the costs.

(B) *Attendance.* All parties are mandated to be present and available at the conciliation conference. Failure of a party to appear at the conference may provide grounds for the entry of a temporary or final order. Conciliation shall commence at the designated time with or without counsel for the parties being present.

(C) *Continuance.* Should a party request a continuance of the established date, the party requesting the continuance shall be responsible for arranging such continuance, which shall include the preparation of an application for continuance in the standard form approved by the court, which includes a proposed order for the change of conference date. The application shall be presented to the conciliator not less than two (2) business days prior to the conference. Absent consent by all parties, the rescheduled conference shall be held within twenty (20) days of the originally scheduled date.

(D) *Memorandum by Parties.* Each party shall file a conciliation memorandum with the prothonotary at least three (3) business days prior to the date of the conciliation conference. The memorandum shall be substantially in the form published on the York County website and available at the court self-help center. The memorandum filed by each party shall address the following:

(1) proposed order (this should be the same relief that is set forth in the complaint filed by the moving party);

(2) names and addresses of factual witnesses;

(3) names and addresses of expert witnesses;

(4) issues for resolution;

(5) estimated length of trial;

(6) whether a home study is requested; and

(7) whether the party will agree to a joint psychologist for evaluation or requests psychological evaluations.

York R.C.P. 1915.4-4. Pre-Trial Procedures.

All parties or counsel shall meet at least two (2) weeks prior to trial for the purpose of drafting a comprehensive joint statement of stipulated facts and issues. The parties shall file the joint statement of stipulated facts and issues with the prothonotary at least one (1) week prior to trial, unless otherwise directed by the court. The stipulation shall consider the factors enumerated in 23 Pa.C.S. § 5328.

[ York R.C.P. 1915.5. Question of Jurisdiction or Venue.

If a party raises a . . . pursuant to YCCiv.208.2 and 208.3(a). ]

- this rule is rescinded in its entirety

York R.C.P. 1915.7. Consent Order.

(A) Parties do not have to be present before the court to enter a stipulation/agreement. Parties shall file with the prothonotary an original and one (1) copy of the stipulation/agreement and an original and one (1) copy of a motion requesting the court to adopt the stipulation/agreement. The moving party shall also provide to the prothonotary an original proposed order.

(B) The prothonotary shall time-stamp all documents except the proposed order, retain the original stipulation/agreement and the original motion for docketing, and provide the copy of the stipulation/agreement, the copy of the motion, and the proposed order to the court.

(1) If the stipulation/agreement pertains to an existing docketed case with an open action already assigned to a judge, the prothonotary shall provide the documents to the assigned judge.

(2) If the stipulation/agreement initiates a new custody action, or it pertains to an existing docketed case that does not have an open action already assigned to a judge:

(a) the filing party shall pay any required filing fee to the prothonotary;

(b) the filing party shall also file a criminal record/abuse history verification form for each party to the action, as well as for any other required individuals;

(c) pursuant to Pa.R.C.P. No. 1930.8, the filing party shall also file an entry of appearance form executed by each self-represented party; and

(d) the prothonotary shall provide the documents to the administrative judge of the family division.

(C) The filing party shall obtain the prothonotary's time-stamp on a sufficient number of additional copies of the stipulation/agreement and motion, which the filing party shall serve upon all parties pursuant to Pa.R.C.P. No. 1930.4.

(D) The prothonotary shall serve a time-stamped copy of the court's signed order upon all parties.

York R.C.P. 1915.11. Appointment of Attorney for Child.

Any motion of a party to appoint an attorney for the child shall be presented to the district court administrator pursuant to York R.C.P. 208.3(A). A list of approved attorneys is available through the prothonotary's office.

York R.C.P. 1915.11-2. Appointment of Guardian Ad Litem.

Any motion of a party to appoint a guardian ad litem (GAL) for the child shall be presented to the district court administrator pursuant to York R.C.P. 208.3(A). A list of approved custody GALs is available through the prothonotary's office.

[ York R.C.P. 1920.31. Joinder of Related Claims. Child and Spousal Support. Alimony. Alimony Pendente Lite. Counsel Fees. Expenses.

(a) Joinder of Related Claims—Child. . .

. . .

(3) Sanctions for failure to file. . . her expenses. See Pa.R.C.P. 1920.33(b)(6) ]

- this rule is rescinded in its entirety

[ York R.C.P. 1920.33. Joinder of Related Claims. Distribution of Property. Enforcement.

(a) *Filing of Inventories.*

. . .

(b) *Pretrial Statements.*

. . .

(4) *Filing date.* The pretrial statement shall be. . . concerning conferences with the master. ]

- this rule is rescinded in its entirety and is replaced by new rule 1920.33

York R.C.P. 1920.33. Joinder of Related Claims. Equitable Division. Enforcement.

(A) *Filing of Inventories.* The name of the account holder and the last four (4) digits of the account number shall be used to identify assets such as investment accounts, bank accounts, insurance policies, retirement accounts, and the like.

(B) *Pretrial Statements.*

(1) The parties shall file pre-trial statements with the prothonotary. The pre-trial statement shall be in chart form with assets listed by category in the same order as found on the master's memorandum. Failure to comply with these requirements may lead to the imposition of sanctions against the non-complying party. The pre-trial statement shall

list all exhibits that will be proffered at trial. Each exhibit shall be described concisely so that it can be easily identified.

(2) *Filing Date.* The pre-trial statement shall be filed no less than fifteen (15) days prior to the settlement conference.

[ York R.C.P. 1920.51. Appointment of Master. Notice of Hearing.

(a) *Appointment of Masters.*

...

(b) *Scheduling of Preliminary Proceedings and...*

...

(2) *Preliminary proceedings.*

...

(xi) *Notice of Master's Hearing.* When...master's memorandum of that proceeding. ]

- this rule is rescinded in its entirety and is replaced by new rule 1920.51

York R.C.P. 1920.51. Appointment of Master. Notice of Hearing.

(A) *Cases in Which a Master May Be Appointed.* A hearing master may be appointed to hear all matters authorized by Pa.R.C.P. No. 1920.51, including discovery disputes, except child support, partial custody or visitation.

(B) *Procedure to Appoint a Master.*

(1) The moving party shall present to the prothonotary the original and one (1) copy of a motion to appoint a master.

(a) If the moving party seeks appointment of a master solely to address an issue of alimony pendente lite, the filing party must include the following documents as attachments to the motion to appoint a master:

(i) a copy of the initial pleading the party previously filed raising a claim for alimony pendente lite, bearing the prothonotary's time-stamp of initial filing; and

(ii) a fully executed background for APL form as prescribed by the master.

(b) If the moving party seeks appointment of a master solely to address a discovery issue, the filing party must include as an attachment to the motion to appoint a master a fully executed discovery status conference information sheet as prescribed by the master.

(2) The moving party shall pay any required filing fee. The court may limit the number of hours of the master's time that will be provided, and may impose additional fees if the parties exceed the time allotted. Fees shall be regarded as costs of the case, and the master may recommend that either party bear those costs or reimburse the other party in full or in part for fees previously paid.

(3) The moving party shall also obtain the prothonotary's time-stamp on a sufficient number of additional copies of the motion, which the moving party shall serve on all parties pursuant to Pa.R.C.P. No. 1930.4.

(4) The prothonotary shall serve the copy of the motion upon the master.

(5) The court shall issue an order appointing a master and an order to schedule such further proceedings as may be necessary. The master shall file both orders with the prothonotary.

(6) The prothonotary shall serve copies of the appointment and scheduling orders upon all parties.

(C) *Request for Return of Appointment Fees.* In any action where the appointment of a master is withdrawn after the appointment has been made by the court, the party who paid the fees specified in this subsection may petition the court for the return of the fees less fifty dollars (\$50.00), provided that no initial conference has been held and written notice of discontinuance or revocation of the appointment of a master has been delivered to the master no less than fifteen (15) days in advance of the first scheduled proceeding.

(D) *Certification that discovery is substantially complete.* In all cases except for discovery appointments, the moving party shall certify in the motion to appoint that discovery is substantially complete with respect to the claims being presented to the master. Failure to comply with this requirement may result in the denial of the motion or rescission of the appointment. "Substantially complete" means that both parties have all documents and other information necessary to proceed to trial, except for recent pay statements, updated account statements, and proof of change of circumstances that may be provided before the hearing.

(E) *Scheduling of Preliminary Proceedings and Hearings Before the Master.*

(1) *Attendance at Conferences.* Both parties and their counsel shall attend all conferences unless excused in advance by the master. A request for a party to be excused or for a party to participate by electronic means must be made in writing and delivered to opposing counsel and to the master no less five (5) business days in advance of the scheduled conference. Failure of any party or counsel to attend a scheduled proceeding before the master may subject the offending party or attorney to appropriate sanctions, which may include a monetary penalty. Furthermore, the master may proceed with the conference or hearing without the participation of that party provided written notice of the conference or hearing had been given.

(2) *Continuance Requests.* Any request for continuance shall be submitted by the moving party to the master for consideration. All continuance requests shall be made on the application for continuance form promulgated by the court. The response and signature of opposing counsel should be included on the form. Once the master rules on the request, the master shall file the form with the prothonotary, who shall serve all parties.

(3) *Sanctions by Masters.* If either party fails to comply with the discovery deadlines established by the master in the preliminary conference memorandum or otherwise:

(a) the master, on motion of the adverse party or sua sponte, may continue the matter until discovery is complete and/or recommend any sanction outlined in Pa.R.C.P. No. 1920.33(d) or Pa.R.C.P. No. 4019(c)(1), (2), (3), or (5); and

(b) the aggrieved party may elect to file, pursuant to York R.C.P. 208.3(A), a motion in motions court for a protective order, or to compel discovery in accordance with the master's directive or otherwise. The court may, either on the recommendation of the master, request of a party or sua sponte, impose counsel fees against the non-complying party if the court sustains the master's discovery directive and the requested information was not provided prior to the presentation of the motion to compel.

[ York R.C.P. 1920.55-1. Alternative Hearing Procedures for Matters Referred to a Master.

(a) All matters referred to a . . .

...

(b) Motions directly pertaining to matters. . .

...

(3) The master may refer the motion. . . such motions without any recommendation. ]

- this rule is rescinded in its entirety

[ York R.C.P. 1920.55-2. Master's Report. Notice. Exceptions. Final Decree.

(a) *Stenographic record. Contents of Report.*

...

(g) *Transmitting the record. If no. . . preparing or filing this praecipe. ]*

- this rule is rescinded in its entirety and is replaced by new rule 1920.55-2

York R.C.P. 1920.55-2. Master's Report. Notice. Exceptions. Final Decree.

(A) At the conclusion of any master's hearing in which it appears the action remains contested, the master shall direct the court reporter to prepare and file with the prothonotary a transcript of the proceedings within thirty (30) days.

(B) After conclusion of any hearing, the master shall file the record and a written report and recommendation in accordance with Pa.R.C.P. No. 1920.55-2(a). The master shall file the original with the prothonotary for docketing and shall provide copies to the district court administrator and all parties.

(C) *Final decree.*

(1) If any party timely files exceptions to the master's report pursuant to York R.C.P. 208.3(B), the moving parties and respondents shall cite to the page numbers of the transcript that support their respective positions on all issues raised by the exceptions and responses, and shall include any proposed order. Upon expiration of the time for filing exceptions and responses, the district court administrator shall assign the matter to a judge and provide to the judge the master's report and recommendation, and all exceptions, responses and proposed orders filed by the parties. The judge shall dispose of the exceptions and issue a final decree.

(2) If no party timely files exceptions to the master's report, the district court administrator shall assign the matter to a judge and provide to the judge the master's report and recommendation. The judge shall issue a final decree.

[ YCCiv. ] York R.C.P. 1940.4. Minimum Qualifications of the Mediator. Selection of Mediators. Training.

[ (A) Prior to the last day of each calendar year, the York County Bar Association Family Law Section shall present to the President Judge a list of attorneys authorized to practice before the York County Court of Common Pleas, or other qualified professionals, who have agreed to serve as mediators for cases eligible for mediation under YCCiv. 1970. The President Judge, in consultation with the Supervising Judge of the Family Court may strike names from the list and shall promptly appoint the mediators and set their fees by administrative order. A copy of the administrative order shall promptly be forwarded to the York County Bar Association.

(B) ] (A) *Mediation Training Requirements:* [ Persons ] In addition to any requirements in Pa.R.C.P. No. 1940.4, persons selected as mediators [ for cases submitted under YCCiv. 1970 ] must have fulfilled the requirements of a recognized organization of family mediators (which shall include at least forty (40) hours of approved training in family law mediation), or have received thirty (30) hours of custody mediation training approved by the [ York County Family Court Division ] court.

[ (C) ] (B) No person shall serve as a mediator in case where the mediator or any member of his or her firm:

(1) previously or currently represents one or more parties;

(2) is personally acquainted with or related to one or more of the parties;

(3) has personal knowledge or familiarity with the case;

(4) has been or may be called as a witness in the case; or

(5) has participated as a conciliator or master in the case.

[ York R.C.P. 1970. Cases Eligible Family Law Mediation.

(a) Family law cases which shall. . .

...

(b) Pursuant to these rule, no. . . for mediation under this section. ]

- this rule is rescinded in its entirety

[ York R.C.P. 1972. Motion for Mediation.

(a) An attorney for any party. . .

...

(e) The motion and order of. . . served on the assigned mediator. ]

- this rule is rescinded in its entirety

[ York R.C.P. 1973. Conduct of Mediation Conferences.

(a) All mediation conferences shall be. . .

...

**(g) All discussions during the mediation...addressed in the mediation conference. ]**

- this rule is rescinded in its entirety

**[ York R.C.P. 1974. Duties and Compensation of Mediator.**

**(a) Within ten (10) days of service...**

...

**(d) At the conclusion of the...implement such documents and agreements. ]**

- this rule is rescinded in its entirety

**[ York R.C.P. 1975. Sanctions for Failing to Participate in Mediation.**

**(a) In the event that any...**

...

**(b) The sanctions permitted by this...law or rule of court. ]**

- this rule is rescinded in its entirety

[Pa.B. Doc. No. 16-1981. Filed for public inspection November 18, 2016, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Administrative Suspension

Notice is hereby given that the following attorneys have been Administratively Suspended by Order of the Supreme Court of Pennsylvania dated October 5, 2016, pursuant to Pennsylvania Rules of Disciplinary Enforcement 219 which requires that all attorneys admitted to practice in any court of this Commonwealth must pay an annual assessment of \$200.00. The Order became effective November 4, 2016.

Notice with respect to attorneys having Pennsylvania registration addresses, which have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

ALICE LYNN BROWN  
JOHANNESBURG, SOUTH AFRICA

TOM Y. CHAN  
SHANGHAI, CHINA

SUNG YONG PARK  
TOKYO, JAPAN

SHIOU-PING SHYU  
TONGXIAO, CHINA

KATHARINE REED ALLEN  
CHARLOTTESVILLE, VA

ANTHONY ARTURI  
ROCHELLE PARK, NJ

ABIGAIL SUSAN BAIRD  
BOSTON, MA

SYLVIA IRIS BARRETT  
CAMBRIDGE, MA

KIM BERNARD BATTAGLINI  
HOUSTON, TX

PETER S. BEJSIUK  
MOORESTOWN, NJ

WILLIAM STEVEN BERMAN  
MARLTON, NJ

BRIAN ANDREW BIGGS  
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NEWARK, DE

TRAN B. CHE  
STAMFORD, CT

GEORGE A. CIERVO  
COLLINGSWOOD, NJ

MEREDITH SIEGEL COHEN  
CHERRY HILL, NJ

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NEW YORK, NY

KACEE COPUS  
NEW BRAUNFELS, TX

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WESTON, WV

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HARVEY CEDARS, NJ

CLAUDIA ALEJANDRA COSTA  
RIDGEFIELD, NJ

CHARLES WESLEY COTTRELL  
MARSHALL, TX

AMY COVERT  
NEW YORK, NY



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NEW YORK, NY

ENANTE DAROUT  
ROSELLE, NJ

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PRINCETON, NJ

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FRISCO, TX

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NEW YORK, NY

ANDREW WILLIAM ZABROSKE  
WASHINGTON, DC

SUZANNE E. PRICE,  
*Attorney Registrar*  
*The Disciplinary Board of the*  
*Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 16-1982. Filed for public inspection November 18, 2016, 9:00 a.m.]

# SUPREME COURT

**Relocation of Magisterial District 51-3-01 within the  
Fifty-First Judicial District; No. 404 Magisterial  
Rules Doc.**

## Order

*Per Curiam*

*And Now*, this 3rd day of November 2016, upon consideration of the Petition for Relocation of Magisterial District 51-3-01 of the Fifty-first Judicial District (Adams County) of the Commonwealth of Pennsylvania, it is hereby *Ordered and Decreed* that the Petition, which provides for the relocation of Magisterial District 51-3-01 within Adams County, outside of the boundaries of the magisterial district from which the judge is elected, to be effective immediately, is granted.

Said Magisterial District shall be located within the boundaries of Magisterial District 51-3-04 within Adams County.

[Pa.B. Doc. No. 16-1983. Filed for public inspection November 18, 2016, 9:00 a.m.]

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