

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1000]

Order Amending Rules 1063 and 1093 of the Rules of Civil Procedure; No. 668 Civil Procedural Rules Doc.

Order

Per Curiam

And Now, this 27th day of June, 2017, upon the recommendation of the Civil Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 1063 and 1093 of the Pennsylvania Rules of Civil Procedure are amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on October 1, 2017.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1000. ACTIONS

Subchapter D. ACTION TO QUIET TITLE

Rule 1063. Commencement of Action.

The action shall be commenced by filing a **complaint** with the prothonotary.

- [(1) a complaint, or
- (2) an agreement for an amicable action.]

Subchapter F. ACTION IN MANDAMUS

Rule 1093. Commencement of Action.

An action may be commenced by filing a **complaint** with the prothonotary.

- [(1) a complaint, or
- (2) an agreement for an amicable action.]

EXPLANATORY COMMENT

Rule 1063 governing the commencement of the action to quiet title and Rule 1093 governing the commencement of the action in mandamus have been amended to clarify and update both rules. Both rules currently allow for an action to be initiated by complaint or agreement for an amicable action. The amendment limits initiation of an action by complaint only. The agreement for an amicable action was deleted from Rule 1007 governing the commencement of general civil actions in 1991 because it was a device little used in modern practice, and could be achieved through alternative procedures. *See* Rule 1007,

Explanatory Comment—1991. The amendment of Rule 1063 and 1093 conforms both the action to quiet title and the action in mandamus to modern practice.

By the Civil Procedural Rules Committee

WILLIAM S. STICKMAN, IV,
Chair

[Pa.B. Doc. No. 17-1155. Filed for public inspection July 14, 2017, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 1650]

Order Amending Rules 1653 and 1656 of the Rules of Civil Procedure; No. 667 Civil Procedural Rules Doc.

Order

Per Curiam

And Now, this 27th day of June, 2017, upon the recommendation of the Civil Procedural Rules Committee; the proposal having been published for public comment at 46 Pa.B. 3635 (July 9, 2016):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 1653 and 1656 of the Pennsylvania Rules of Civil Procedure are amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on October 1, 2017.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1650. ACTIONS IN MECHANICS' LIENS

Rule 1653. Commencement of Action.

An action shall be commenced by filing a **complaint** with the prothonotary.

- [(a) a complaint, or
- (b) an agreement for an amicable action.]

The complaint shall be filed under the same docket number as the claim for the mechanics' lien.

Official Note: To file a claim for a mechanics' lien, see the Mechanics' Lien Law of 1963, 49 P.S. §§ 1101—1902, *as amended*.

Rule 1656. The Complaint.

- (a) The plaintiff shall set forth in the complaint

(1) the name and address of each party to the action and, if the action is commenced by a subcontractor, the name and address of the contractor;

(2) [**the court and number and**] the date of the filing of the claim [**and a copy thereof as an exhibit**]; **and**

(3) a demand for judgment.

(b) The plaintiff shall attach a copy of the claim to the complaint as an exhibit.

Official Note: A claim for a mechanics' lien and the complaint to obtain judgment on the mechanics' lien shall be filed under the same docket number. See Rule 1653.

EXPLANATORY COMMENT

Rules 1653 and 1656 governing actions to obtain judgment on mechanics' liens have been amended to clarify and update both rules. Rule 1653 governing commencement of the action, has been amended in two respects. First, the rule currently allows for an action to obtain judgment on a mechanics' lien to be initiated by complaint or agreement for an amicable action. The amendment limits initiation of an action by complaint only. The agreement for an amicable action was deleted from Rule 1007 governing the commencement of general civil actions in 1991 because it was a device little used in modern practice, and could be achieved through alternative procedures. See Rule 1007, Explanatory Comment—1991. The amendment of Rule 1653 conforms actions to obtain judgment on mechanics' liens to modern practice.

Second, the Rules of Civil Procedure are silent as to whether a claim for a mechanics' lien should be filed under the same or separate docket number as the complaint to obtain judgment on a mechanics' lien. The amendment requires that the claim and the complaint should be filed under the same docket number to clarify procedure. The requirement to use one docket number applies to all complaints filed after the effective date of the proposed amendment.

A note has been added to Rule 1656 governing the complaint to aid practitioners as to the requirements for filing a mechanics' lien and the subsequent complaint to obtain judgment.

*By the Civil Procedural
Rules Committee*

WILLIAM S. STICKMAN, IV,
Chair

[Pa.B. Doc. No. 17-1156. Filed for public inspection July 14, 2017, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

First Judicial District of Pennsylvania Court-Appointed Counsel, Investigative and Expert Witness Fee Schedule; No. 01 of 2017

Order

And Now, this 26th day of June, 2017, upon consideration of Act No. 438 of 1967 and Act No. 180 of 1970 which provided the legislative authority to the First Judicial District to adopt and award reasonable fees and expenses to be paid to court-appointed counsel; it appearing that Act No. 187 of 1984 provided for the repeal of said acts "effect[ive] upon the adoption of court rules accomplishing the purposes of the acts being repealed;" it

further appearing that court rules referenced by Act 187 were adopted by the Board of Judges of Philadelphia County at its February 27, 1986 meeting and the said court rules became effective on July 1, 1986, namely Phila.Crim.R. 424 and 425 (now known as Phila.Crim.R. *122-11 and *122-12); it further appearing that since July 1, 1986, counsel fee payments and processes have been revised by the Court in a piecemeal fashion, including by Directives No. 1 and 2 issued in 1997 by this Administrative Governing Board, resulting in an amalgam of rules, orders, general court regulations, memoranda and directives which are confusing in application and which, substantively, do not currently provide adequate or reasonable compensation for court-appointed conflict counsel and supporting investigative and expert witnesses;

Now, therefore, in order to ensure that court-appointed conflict counsel are reasonably compensated, and further to ensure the timely payment of court-appointed conflict counsel as provided in Administrative Governing Board Administrative Order No. 02 of 2012: *In Re: Payment of Court Appointed Counsel for Indigent Representation*, it is hereby *Ordered* and *Decreed* that attorneys appointed by the Court as conflict counsel on and after the dates identified as follows, shall be paid by the City of Philadelphia in accordance with the following procedures and comprehensive Fee Schedule.

(1) Procedures effective for Court of Common Pleas and Philadelphia Municipal Court—Criminal Division for court-appointed conflict counsel appointed on and after July 1, 2017.

(a) Court-appointed conflict counsel will receive a uniform trial preparation fee. There will be no distinction between preparation fees for cases that resolve by non-trial disposition and those that resolve by trial.

(b) Court-appointed conflict counsel will be paid the case appropriate per diem fee for pre-trial motions that are litigated and approved for payment by the court.

(c) Court-appointed conflict counsel will be paid the appropriate fee for all days spent on trial, including jury selection and deliberation, when required to be present in the Courthouse.

(d) Philadelphia Rule of Criminal Procedure *112-12(E), which provided for review of hourly Fee Petitions by the Deputy Court Administrator for Fiscal Affairs, is rescinded effective July 1, 2017. All hourly Fee Petitions for trial/appellate/PCRA work (regardless of the compensable hourly rate) will be reviewed, as applicable, by the trial judge, Supervising Judge, Administrative Judge or President Judge.

(e) Court-appointed conflict counsel will be paid a second preparation fee for retrials. Counsel may file a Payment Voucher following a mistrial, and a subsequent Payment Voucher following a retrial.

(f) Court-appointed conflict counsel will be paid a full felony first degree preparation fee for successful decertification motions. Time spent litigating the motion will be treated as compensable in-court time.

(g) The trial judge will have discretion to authorize payment of the entire preparation fee to the court-appointed conflict counsel upon entry of outside counsel.

(h) Until further order, Fee Petitions and Payment Vouchers will continue to be submitted directly to the appropriate judge for review and approval without first being filed with the Office of Judicial Records or other applicable filing office or officer. However, upon approval

by the appropriate judge, the original Fee Petition, Payment Voucher and any other order directing the payment of court-appointed counsel, being “legal papers” shall be filed as provided in Subsection (C) of this Order and Philadelphia Criminal Rule 576(d).

(2) Fee Schedule effective for Court of Common Pleas and Philadelphia Municipal Court—Criminal Division court-appointed counsel appointed on and after July 1, 2017.

(a) Felony Appellate/PCRA:

- (i) Maximum Fee \$2,400
- (ii) Per Hour (In-court and Out of Court) \$65

(b) Homicide Appellate/PCRA:

- (i) Maximum Fee \$6,000
- (ii) Per Hour (In-court and Out of Court) \$85

(c) Felony Trial Preparation:

- (i) First Degree \$1,200
- (ii) Other felonies \$750

(d) Homicide Trial Preparation:

- (i) Non-Capital \$3,500
- (ii) Capital \$10,000
(Lead Counsel) \$7,500
(Penalty Phase Counsel)

(iii) In order to provide homicide trial experience to attorneys, and at the request of defense counsel, the court may appoint a “second chair” defense lawyer in non-capital homicide cases. Second chair defense counsel shall receive a total fee of \$600.00 for their services through the conclusion of the trial court proceedings provided that second chair counsel has been present in the courtroom for the duration of the trial.

- (e) Municipal Court Trial \$450
- (f) Status Hearing
- (i) Mental Health Court \$100
- (ii) Treatment Court \$100
- (iii) Diversion \$100
- (iv) Early Bail Review Hearings \$100
- (v) Bench Warrant Hearing \$100
- (g) Investigators—Adult Criminal
- (i) Guaranteed Initial Fee
- (A) Homicide \$300
- (B) Felony \$100
- (ii) Hourly Fee \$40
- (iii) Maximum Billable without court order \$500

(iv) Amounts in excess of \$500 require approval by the trial judge and the Supervising Judge or Administrative Judge.

- (h) Expert Witnesses
- (i) Decertification Mental Health Evaluation \$750

(ii) All other expert witnesses to be authorized by court order listing amount authorized with voucher submitted directly to trial judge with chronological list of services once case disposed.

(iii) Amounts in excess of \$7,500 in non-capital cases to be approved by the Supervising Judge or the Administrative Judge.

(3) The current adult homicide, felony and misdemeanor per diem rates shall remain in effect for court-appointed conflict counsel appointed until June 30, 2018.

(4) Effective for court-appointed conflict counsel appointed on and after July 1, 2018 in addition to the above-mentioned preparation fees, attorneys appointed by the Court as adult homicide, felony and misdemeanor court-appointed conflict counsel shall be paid the following:

(a) Felony Case Per Diem:

- (i) Full Day \$450
- (ii) Half Day (under 3 hours) \$225

(b) Homicide Case Per Diem:

- (i) Full Day (Non-capital) \$600
- (ii) Half Day (under 3 hours—Non-Capital) \$300
- (iii) Full Day (Capital) \$700
- (iv) Half Day (under 3 hours—Capital) \$400

(c) Preliminary Hearing \$225

(d) Violation of Probation Hearing:

- (i) Common Pleas \$150
- (ii) Municipal \$150
- (e) Fifth Amendment Witness \$150
- (f) Contempt \$150
- (g) Early Parole Petition \$250

(5) Fee Schedule effective for Philadelphia Municipal Court Traffic Division court-appointed counsel appointed on and after July 1, 2017.

- (a) On Call Counsel \$350
- (b) Traffic Division Appeal \$450

(6) Fee Schedule effective for Family Division Delinquent court-appointed counsel appointed on and after July 1, 2017.

- (a) Felony \$550
- (b) Misdemeanor \$450
- (c) Consent Decree \$225
- (d) Delinquent Review Per Hearing \$75
- (e) On Call Counsel—no appt. \$350
- (f) Investigator-Trial Preparation
- (i) Initial Fee \$100
- (ii) Per Hour \$40
- (g) Appointment with Prior Counsel
- (i) Prior to Adjudication = Felony/
Misdemeanor Rate \$550 or \$450
- (ii) Post Adjudication = Review Hearing \$75
- (h) Private Counsel Retained \$225
- (i) Fifth Amendment Witness \$225
- (ii) Bench Warrant \$225

- (i) Rape, IDSI & Juvenile Felony Sex Case \$750
 ***(requires 3 annual CLE credits & court certification) \$750
- (7) Fee Schedule effective for Family Division—Dependent court-appointed counsel appointed on and after July 1, 2017.
- (a) First Year: After
- (i) First Hearing \$200
- (ii) Second Hearing \$200
- (iii) Third Hearing \$175
- (iv) Fourth Hearing \$175
- (v) The total annual fee shall not exceed \$750. If dismissed during the first year, court-appointed conflict counsel shall be paid the outstanding balance of \$750.
- (b) Second Year: After
- (i) First Hearing \$125
- (ii) Second Hearing \$125
- (iii) Third Hearing \$100
- (iv) Fourth Hearing \$100
- (v) The total annual fee shall not exceed \$450. If dismissed during the second year, court-appointed conflict counsel shall be paid the outstanding balance of \$450.
- (c) Third Year and Subsequent Years: After
- (i) First Hearing \$75
- (ii) Second Hearing \$75
- (iii) Third Hearing \$75
- (iv) Fourth Hearing \$75
- (d) On Call Counsel (2)—no appt. \$350
- (e) Appeal:
- (i) Maximum \$2,400
- (ii) Out of Court per Hour \$65
- (iii) In Court per Hour \$75
- (f) Adoption = AP matter only
- (i) Maximum \$2,400
- (ii) Out of Court per Hour \$65
- (iii) In Court per Hour \$75
- (g) Investigator—per hour \$40
- (8) Fee Schedule effective for Family Division—Domestic Relations court-appointed counsel appointed on and after July 1, 2017.
- (a) Contempt On Call Counsel (2)
- (i) 10 am—2 pm \$250
- (ii) All Day Assignment \$350
- (9) Payment to Conflict Court-Appointed Counsel in Extraordinarily Complex Cases.

Notwithstanding any of the above fee provisions, the Court of Common Pleas judge before whom a case is being tried or was tried, shall have the discretion, in extraordinarily complex cases requiring court-appointed conflict counsel, to request that counsel be compensated at a rate to be determined by applicable Supervising Judge, Administrative Judge or President Judge.

It is further *Ordered* and *Decreed* that:

(A) Representatives of the City of Philadelphia and the First Judicial District of Pennsylvania shall draft Fee

Petitions and Payment Vouchers which will be utilized in each case type for all of the above listed matters and which will be utilized in each case by the court-appointed conflict counsel.

(B) All Fee Petitions and Payment Vouchers must be filed within the following periods:

(1) For yearly payments, no later than ninety (90) days after the calendar year at issue.

(2) After verdict, plea, or mistrial, no later than ninety (90) days after the disposition.

(3) After sentencing, no later than ninety (90) days after sentencing, regardless of whether the case is appealed.

(4) For Appeals and PCRA's, no later than ninety (90) days after resolution of the appeal by the court with which the appeal or PCRA was filed.

(C) Following judicial review and approval of the Fee Petition and Payment Voucher, the signed order and approved Payment Voucher shall be filed of record with Criminal Listings, 2nd Floor, Justice Stout Center (for Adult Criminal Matters), and with the Liaison Unit, 11th Floor, Family Court Building (for Family Court Matters), or with any other filing office or officer as the Court may decide from time to time. Upon receipt, the applicable filing officer shall time-stamp, docket and convert the Order or Payment Voucher filed in a paper format to a pdf format. In criminal matters, service of the Order or Payment Voucher shall be accomplished on all parties as well as on the City of Philadelphia, Counsel Fee Unit, as provided in Philadelphia Civil Rule 576(g). All original hard-copy Fee Petitions and Payment Vouchers will be provided to the City of Philadelphia, Counsel Fee Unit, for processing and retention consistent with Philadelphia Criminal Rule 576(d).

(D) The City of Philadelphia shall issue payment to court-appointed conflict counsel within sixty (60) days of the date a Payment Order or Payment Voucher appropriately prepared as provided in this Order, and consistent with Phila. Code § 17-1702(1)(b), is received by the Counsel Fee Unit of the City of Philadelphia. If payment is delayed, the City of Philadelphia shall pay interest on the unpaid amount at the rate of one and one-half percent (1.5%) per month or part of a month until payment is made, unless such delay results from an existing tax lien in accordance with 53 P.S. §§ 16082, 16083.

(E) To the extent any local rule, administrative order or memoranda governing the payment of court-appointment counsel is in conflict with any provision of this order, the provisions contained in this order prevail and the conflicting local rule, order or memoranda are deemed to have been rescinded.

This Administrative Order is issued in accordance with the April 11, 1986 order of the Supreme Court of Pennsylvania, Eastern District, No. 55 Judicial Administration, Docket No. 1. As required by Pa.R.J.A. 103(d), this Administrative Order was reviewed by the Supreme Court of Pennsylvania Criminal Procedural Rules Committee, the Juvenile Court Procedural Rules Committee, and the Domestic Relations Procedural Rules Committee which have concluded that the Order is not inconsistent with the Pennsylvania Rules of Criminal Procedure, Pennsylvania Rules of Juvenile Court Procedure, and the Pennsylvania Rules of Domestic Relations Procedure.

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. As required by Pa.R.J.A. 103(d)(5)(ii), Two certified copies of this Administrative Order, as well as one copy of the Administrative Order 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 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 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,
*Chair, Administrative Governing Board of
the First Judicial District of Pennsylvania
President Judge, Court of Common Pleas of
Philadelphia County*

[Pa.B. Doc. No. 17-1157. Filed for public inspection July 14, 2017, 9:00 a.m.]

Title 252—ALLEGHENY COUNTY RULES

ALLEGHENY COUNTY

Judicial Administration Rule of the Court of Common Pleas; No. AD000-218 of 2017-PJ Rules Doc.

Order of Court

And Now, to-wit, this 29th day of June, 2017, It Is Hereby Ordered, Adjudged and Decreed, that the following Rule of the Court of Common Pleas of Allegheny County, Pennsylvania, Judicial Administration, adopted by the Board of Judges, shall be effective thirty (30) days after publication in the Pennsylvania Bulletin:

RULE OF JUDICIAL ADMINISTRATION 4007—
Requests for Transcripts

RULE OF JUDICIAL ADMINISTRATION 4008—
Transcript Costs Payable by a Requesting Party Other Than the Commonwealth or a Subdivision Thereof

By the Court

JEFFREY A. MANNING,
President Judge

ALLEGHENY COUNTY LOCAL RULES OF JUDICIAL ADMINISTRATION

Rule 4007. Requests for Transcripts.

(A) All requests for transcripts shall be submitted using a “Fifth Judicial District Transcript Request Form” available at the Allegheny County Office of Court Reporters, the Allegheny County Department of Court Records and on the Fifth Judicial District of Pennsylvania Website. Requests shall be submitted to the Allegheny County Office of Court Reporters, or in the event of emergency, the Court Reporter on a case.

(B) For an ordinary transcript, the requesting party shall serve copies of the request to:

- the judge presiding over the matter;
- the court reporter;
- the district court administrator or his or her designee. The Allegheny County Office of Court Reporters shall be the designee;
- opposing counsel, or if not represented, the opposing party;

(C) Requests for daily, expedited or same day transcripts shall be filed with the Office of Court Reporters at least 10 days prior to the proceeding. Copies of the written request shall be served as required by subsection (B). In the event of an emergency, a party may request a daily, expedited or same day transcript less than 10 days prior to the proceeding.

(D) Procedures for requesting parties, other than the Commonwealth or a subdivision thereof:

1) The requesting party shall make a deposit of 50% of the estimated cost of the transcript as determined by the Allegheny County Office of Court Reporters, unless the requesting party is in arrears regarding payment for transcripts previously ordered, in which case a deposit equal to the full amount of the estimated cost of the transcript may be required. The Office of Court Reporters, in its discretion, may require a flat deposit of \$50 rather than the percentage-based deposit ordinarily required. Payment shall be by check, money order, or cash. All checks and money orders made in payment for transcripts shall be payable to “Allegheny County”.

2) The court reporter will begin transcribing the requested proceeding when either a deposit or court order granting waiver of costs is received by the Office of Court Reporters.

3) The court reporter or Office of Court Reporters will notify the parties when the transcript is complete. Checks or money orders shall be delivered to the Office of Court Reporters. All checks and money orders issued in payment for transcripts shall be payable to “Allegheny County”.

4) Delivery of the transcript to the parties will be made after final payment is received.

(E) When a litigant requests a transcript, but cannot pay for the transcript because of alleged economic hardship, the court shall determine economic hardship pursuant to the procedure set forth in Pa.R.J.A. 4008(B). In cases of economic hardship, where the matter is under appeal or a transcript is necessary to advance the litigation, the costs of procuring the transcript shall be waived or otherwise adjusted by the court. In cases of economic hardship where there is no appeal pending or there exists no obvious need for the transcript to advance the litigation, the requesting party must demonstrate reasonable need before the court shall waive or adjust the cost of obtaining the transcript.

Rule 4008. Transcript Costs Payable by a Requesting Party Other Than the Commonwealth or a Subdivision Thereof.

(A) *Costs*

1) The costs payable by a requesting party, other than the Commonwealth or a subdivision thereof, for a transcript in paper or electronic format shall be:

- a) for an ordinary transcript, \$3.00 per page;

- b) for an expedited transcript, \$4.50 per page;
- c) for a daily transcript, \$6.00 per page; and
- d) for same day delivery, \$9.00 per page.

(B) *Economic hardship—minimum standards*

1) Transcript costs for ordinary transcripts in matters under appeal or where the transcript is necessary to advance the litigation shall be waived for a litigant who is represented by a court-appointed attorney or has been permitted by the court to proceed in forma pauperis or whose income is less than 125 percent of the poverty line as defined by the U.S. Department of Health and Human Services (HHS) poverty guidelines for the current year.

2) Transcript costs for ordinary transcripts in matters under appeal or where the transcript is necessary to advance the litigation shall be reduced by one-half for a litigant whose income is less than 200 percent of the poverty line as defined by the HHS poverty guidelines for the current year.

3) Transcript costs for ordinary transcripts in matters that are not subject to an appeal, where the transcript is not necessary to advance the litigation, or for expedited, daily or same day transcripts may be waived at the court's discretion for parties who qualify for economic hardship under subdivision (B)(1) or (B)(2) and upon good cause shown.

4) A litigant who is currently represented by a court-appointed attorney or who has a court order granting in forma pauperis status shall be entitled to a waiver of costs for ordinary transcripts after documentation of such is provided to the Office of Court Reporters.

5) Other litigants who are only requesting a waiver of all or a portion of costs for ordinary transcripts shall make such request by filing a "Petition for Waiver of Transcript Costs" with the appropriate Division of the Court. This petition is available at the Office of Court Reporters, the Department of Court Records and on the Fifth Judicial District Website. The Petition must be supported by an affidavit substantially in the form required by Rule 240(h) of the Pennsylvania Rules of Civil Procedure and the related "Fifth Judicial District Transcript Request Form" must be attached. An order granting such a waiver will be applicable to the specified transcript request only.

(C) *Copies of transcript*

A request for a copy, in paper or electronic form, of a transcript shall be provided according to the following schedule for requesters other than the Commonwealth or a subdivision thereof:

- 1) for an ordinary transcript, \$2.00 per page;
- 2) for an expedited transcript, \$3.00 per page;
- 3) for a daily transcript, \$4.00 per page; and
- 4) for a same day delivery transcript, \$6.00 per page.

[Pa.B. Doc. No. 17-1158. Filed for public inspection July 14, 2017, 9:00 a.m.]

Title 25—LOCAL COURT RULES

MONROE COUNTY

Implementation of Local Orphans' Court Rules; 5 CV 2017 ADM # 49

Order Pursuant to Pa.R.J.A. 103(d)

Whereas, the Pennsylvania Supreme Court has adopted revised statewide Orphans' Court Rules; and

Whereas, the said Pennsylvania Orphans' Court Rules authorize local courts to adopt local Orphans' Court Rules; and

Whereas, the proposed local Orphans' Court Rules for Monroe County have been submitted to and approved by the Pennsylvania Orphans' Court Procedural Rules Committee;

Therefore, this 28th day of June, 2017, it is *Ordered* that the following Rules of the Court of Common Pleas of the 43rd Judicial District of Pennsylvania, Monroe County, are implemented, to be effective thirty (30) days after publication in the *Pennsylvania Bulletin*:

Local Orphans' Court Rules of Monroe County.

It Is Further Ordered that the District Court Administrator shall:

1. File one copy of this local rule with the Administrative Office of Pennsylvania Courts via email to adminrules@pacourts.us.

2. File two paper copies and one electronic copy of this local rule in a Microsoft Word format only on a CD-ROM to the Legislative Reference Bureau for publication in *Pennsylvania Bulletin*.

3. Provide one copy of this local rule to the Monroe County Law Library.

4. Keep such local rule changes, as well as all local rules of this Court, continuously available for public inspection and copying in the Office of the Prothonotary of Monroe County. Upon request and payment of reasonable cost of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any local rule.

5. Arrange to have the local rule changes published on the Monroe County Bar Association website at www.monroebar.org.

6. Arrange to have the local rule changes, as well as all local rules, published on the 43rd Judicial District website at www.monroepacourts.us.

By the Court

MARGHERITA PATTI-WORTHINGTON,
President Judge

CHAPTER I—PRELIMINARY RULES

Rule 1.1. Short Title and Citation.

These Rules shall be known as the Monroe County Orphans' Court Rules and shall be referred to individually herein as "Rule" and cited as "Monroe County O.C. Rule ____".

Rule 1.2. Construction and Application.

These Rules supplement the Pennsylvania Orphans' Court Rules which govern all other aspects of the Rules of the Orphans' Court.

Rule 1.6. Mediation.

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 for audit.

b) All interested parties in a matter docketed before the Court may motion to engage in mediation at any time during the pendency of the matter. Such mediation shall take place within ninety (90) days of the request being made to the Court, unless extended by order of Court upon motion of any interested party.

c) The motion for mediation 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 any 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, if known in advance.

d) All interested parties shall keep matters discussed in mediation confidential.

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

f) Within twenty (20) days of completion of mediation, all interested parties, or their counsel where appropriate, 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 clearly state partial resolutions or complete resolution attained. The 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, together with a petition to approve any agreement reached by the parties shall be filed with the Clerk of the Orphans' Court and a copy served on the presiding judge.

g) 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.

h) The parties may select a mediator of their own choosing and conduct the mediation in conformance with this Local Rule, or may participate in the Monroe County Mediation Program as set forth in the Monroe Co.R.C.P. 212.5 in conformance with this Local Rule and the requirements of Monroe Co.R.C.P. 212.5.

Rule 1.7. Entry and Withdrawal of Counsel.

a) *Appearance.* The written appearance required by Pa. Orphans' Court Rule 1.7 shall include the attorney's name, address, telephone number and attorney I.D. number.

b) *Withdrawal.* Counsel who has entered an appearance in a matter pending solely before the Register of Wills, shall be permitted to withdraw upon good cause provided to the Register of Wills by filing a written notice of the withdrawal with the Register of Wills and a copy to all interested parties, heirs, and any other counsel in the matter by first class United States mail postage pre-paid. Counsel who have entered an appearance before the Court may only withdraw as counsel as set forth in Pa. Orphans' Court Rule 1.7(b).

CHAPTER II—ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS**Rule 2.5. Notice of Account Filing.**

In addition to the requirements set forth in Pa. Orphans' Court Rule 2.5, notice of an account filing shall also be made by the Clerk of the Orphans' Court giving notice by advertisement of the date, time, and place of each monthly submission of accounts to the Court.

Such advertisement shall be published once per week for two (2) successive weeks immediately preceding the date of submission of the accounts to the Court in the *Monroe Legal Reporter* and a newspaper of general circulation in Monroe County.

Rule 2.9. Confirmation of Accounts/Schedules for Distribution.

a) *Accounts.* If no objections are filed, or if a written approval of all interested parties who may be affected thereby is attached to the Account, then the Account shall be forwarded by the Clerk of the Orphans' Court to the Court for approval.

b) *Schedules for Distribution.*

1. *Filing.*

The Court in the adjudication, when requested or found advisable, or in any case when real estate is to be awarded in kind, may direct the accountant to file a schedule of distribution in conformity with the awards of the adjudication. Attached to such schedule when filed shall be a certification by the accountant and counsel for the accountant:

a) That the schedule is correct and in accordance with the adjudication;

b) That the notice of the filing thereof has been duly given, or that the same is unnecessary by reason of a written approval of the schedule filed therewith by all interested parties affected thereby or by counsel of record.

2. *Notice.*

Notice of the filing of a schedule of distribution shall be given in writing, together with a copy of the schedule, prior to the filing thereof, to all interested parties who may be affected thereby, or their counsel of record, who do not attach or file their written approval with the schedule. Proof of notice shall be filed with the Court as set forth in Pennsylvania Orphans' Court Rule 4.3.

3. *Confirmation.*

Confirmation of a schedule of distribution shall be in the same manner as Monroe County O.C. Rule 2.9(a) pertaining to Accounts.

4. *Objections.*

Written objections, if any, to a schedule of distribution shall be filed within twenty (20) days after the filing of the schedule and shall indicate in what respect the schedule is incorrect or fails to conform with the adjudication.

Rule 2.10. Filing Report of Unknown Distributees.

The report required by Pa. Orphans' Court Rule 2.10 regarding Unknown Distributees shall be submitted in writing and acknowledged by a notary public. The report shall be filed with the Clerk of the Orphans' Court no later than the time of filing the account and statement of distribution.

CHAPTER III—PETITION PRACTICE AND PLEADING

(Intentionally left blank—Local Rule Rescinded on 9/1/16)

CHAPTER IV—FORMAT AND SERVICE OF LEGAL PAPER BY PARTIES AND COURT; ELECTRONIC FILING

(Intentionally left blank—Local Rule Rescinded on 9/1/16)

CHAPTER V—RULES GOVERNING SPECIFIC TYPES OF PETITIONS

(Intentionally left blank—Local Rule Rescinded on 9/1/16)

CHAPTER VI—RESERVED

(Local Rule Rescinded on 9/1/16)

CHAPTER VII—RULES RELATING TO PRE-HEARING AND HEARING PROCEDURE

(Intentionally left blank—Local Rule Rescinded on 9/1/16)

CHAPTER VIII—RECONSIDERATION

(Intentionally left blank—Local Rule Rescinded on 9/1/16)

CHAPTER IX—AUDITORS AND MASTERS

(Intentionally left blank—Local Rule Rescinded on 9/1/16)

CHAPTER X—REGISTER OF WILLS

Rule 10.4. Appeals From Register of Wills.

a) *Contents of Petition.*

A petition appealing the decision of the Register of Wills shall be filed with the Clerk of the Orphans' Court and shall set forth:

1. an outline of the proceedings before the Register of Wills;
2. the nature of the dispute which has arisen;
3. the names and addresses of all interested parties, including those who have not been made parties to the record;
4. a request for certification of the record;
5. a request that any testimony taken before the Register of Wills be transcribed;
6. a request that a citation be issued to show cause why the relief should not be granted;

b) *Petition Where Record Certified on Register of Wills' Own Motion.*

When the certification of the Register of Wills' record has been prepared and filed on the Register of Wills' own motion, a petition requesting a citation with rule to show cause to be issued, shall be filed by any interested party.

c) *Service of Petition and Citation.*

The citation and a copy of the petition for appeal shall be served by the moving party on all other interested parties and a certificate of service shall then be filed within five (5) days with the Clerk of the Orphans' Court.

d) *Order to place on Hearing List or Request for Argument.*

Subsequent to the return date of the citation, and after the proof of service has been filed with the Clerk of the Orphans' Court, any interested party may file a motion requesting the Court schedule a hearing, or if appropriate, file a Request for Argument in the manner proscribed by Monroe Co.R.C.P. 208.3(a)(3).

CHAPTER XI—RESERVED

(Local Rule Rescinded on 9/1/16)

CHAPTER XII—RESERVED

(Local Rule Rescinded on 9/1/16)

CHAPTER XIII—RESERVED

(Local Rule Rescinded on 9/1/16)

CHAPTER XIV—GUARDIANSHIP OF INCAPACITATED PERSONS

(Intentionally left blank—Local Rule Rescinded)

CHAPTER XV—ADOPTIONS

Rule 15.1. Caption and Docket Entry.

The caption for all pleadings and docket entry for voluntary relinquishment to an agency, voluntary relinquishment to an adult intending to adopt child, involuntary termination of parental rights, and adoption shall carry the given name of the child.

Rule 15.2. Investigation of Adoption.

The investigation of adoption performed as required by 23 Pa.C.S.A. § 2535 shall be completed and filed no later than six (6) months after the filing of the notice of intention to adopt filed under 23 Pa.C.S.A. § 2531. The investigation of adoption shall be sealed by Court order with the adoption file.

Rule 15.3. Informational Statement—Investigation of Financial Arrangements.

In all adoption proceedings, in which a voluntary relinquishment is contemplated, at the time of the agreement for voluntary placement of the child, the intermediary shall provide the Court with a written informational statement setting forth the name of the birth parents, their addresses and telephone numbers, and the names of the proposed adoptive parents, their address and telephone number. Any written agreements between the parties regarding financial arrangements shall be attached to the informational statement. Thereafter, the Court may have an adoption investigator investigate all financial arrangements made between the birth parents, intermediary, and the adoptive parents, and provide a report to the Court. No payments of any type may be made to either of the birth parents or the intermediary, unless they are disclosed to the Court or the Court investigator, and specifically approved by the Court prior to payment.

Rule 15.4. Voluntary Agreement for Continuing Contact.

Any voluntary agreement for continuing contact between the parties pursuant to 23 Pa.C.S.A. 2731 et. seq. shall be filed with the Petition for Adoption or at the time of the Termination of Parental Rights and/or Adoption Hearing.

Rule 15.5. Request for Adoption Information.

a) A “Request for Adoption Information About or Contact With Specified Persons” pursuant to Act 101 of 2010, set forth at 23 Pa.C.S.A. § 2911, et seq. shall be filed with the Clerk of Courts who shall treat it as a motion to the Court.

b) An Authorized Representative of the Court, as appointed by Administrative Order of the President Judge, shall have limited special authority to supply nonidentifying information from the Court’s record to the Requestor and to investigate identifying information pursuant to Act 101 of 2010.

c) Nonidentifying Information Requests:

Pursuant to 23 Pa.C.S.A. § 2932(b), Nonidentifying Information shall be provided by the Authorized Representative to the Requestor, at Requestor’s expense. Such information shall be provided within 120 days of the Requestor making payment of reasonable fees to the Authorized Representative.

d) Identifying Information Requests.

If identifying information is sought by the Requestor, the following shall apply:

1. Authorized Representative and Requestor shall each review Sections 2932, 2933, and 2934 (relating to medical and social history information if such a statement was filed in the adoption proceeding) of the Adoption Act “Nonidentifying Information”, “Identifying Information.”, and “Medical and Social History Information”.

2. Prior to the Authorized Representative beginning any investigative work, Requestor and Authorized Representative should discuss and agree upon all aspects of reasonable compensation related to Authorized Representative’s investigation, including costs and expenses, how Requestor will be billed for time expended, and when payment is due. If Requestor and Authorized Representative cannot agree as to all aspects of compensation, Requestor may withdraw his/her Request for Adoption Information by filing a letter stating such with the Clerk of the Orphans’ Court.

3. In conducting its investigation and attempting to contact Requestor’s natural parents, Authorized Representative shall “ensure that no individual, other than a birth parent is informed of the adoptee’s existence and relationship to the birth parent.”

4. Authorized Representative is authorized to take “reasonable efforts to locate the subject of the search” and “obtain written authorization from the subject before identifying information is released or contact between the parties is made.” If Authorized Representative has concerns or needs additional court authority to exercise its duties, Authorized Representative may state such in a letter to the Court and file it with the Clerk of Orphans’ Court.

5. If Requestor’s natural parent(s) consent to the release of his/her/their identity and present a place of residence to the Requestor-adoptee, Authorized Representative should obtain written consent from the natural parent(s) and file that consent with the Clerk of the Orphans’ Court.

6. If the natural parent(s) have consented to the release of their identity and present place of residence, Authorized Representative is authorized to contact Requestor directly and disclose this information, unless Authorized Representative recommends by letter to the Court that Requestor be notified in a different manner.

7. Authorized Representative shall file a final report with the Clerk of Orphans’ Court summarizing what investigative actions were taken, what information was learned, and what information, if any, was disclosed to Requestor and when it was disclosed, even if only “non-identifying” information was requested.

8. Until the Authorized Representative files a final report, the Authorized Representative shall file with the Clerk of Orphans’ Court, a status report within one year of the original Request and on each annual anniversary of the filing of the Request.

9. Any documents or letters received by the Clerk of Orphans’ Court and related to this matter shall contain a caption referencing the adoptee’s name and the docket number so they remain confidential and properly filed.

10. If Authorized Representative wishes to cease being involved in this or other cases, it shall inform the Court immediately in writing by filing a motion with the Orphans’ Court.

11. The Authorized Representative shall commence search for “identifying information” if requested, within 120 days of payment of reasonable fees to the Authorized Representative for services to be rendered.

CHAPTER XVI—PROCEEDINGS PURSUANT TO SECTION 3206 OF THE ABORTION CONTROL ACT**Rule 16.5. Assistance in Preparation of Filings/ Right to Legal Representation.**

a) The Clerk of the Orphans’ Court shall have appropriate personnel, familiar with Pa.O.C. Rule 16.1 et seq. and Section 3206 of the Abortion Control Act, available to assist parties in preparing the application.

b) The applicant shall be entitled to legal representation. In the event the applicant does not have private legal counsel, the Court shall appoint legal counsel/guardian ad litem upon its own motion to represent the applicant in proceedings under Section 3206 of the Abortion Control Act.

Rule 16.10. Forms for Filing.

Parties filing an application with the Court pursuant to 18 Pa.C.S.A. § 3206 shall use forms prepared and filed in substantial conformity with the requirements of Pa.O.C. Rule 16.10 and as may be provided on the AOPC website. The Clerk of Courts shall, when necessary, direct parties to use the forms available on the AOPC website.

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