

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 81]

Amendment of Rule 8.4 of the Pennsylvania Rules of Professional Conduct; No. 213 Disciplinary Rules Doc.

Amended Order

Per Curiam

And Now, this 26th day of July, 2021, upon the recommendation of the Disciplinary Board of the Supreme Court of Pennsylvania, the proposal having been submitted without publication in the interests of justice and efficient administration pursuant to Pa.R.J.A. No. 103(a)(3):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 8.4 of the Rules of Professional Conduct is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(a), and shall be effective in 30 days.

Justice Mundy files a dissenting statement.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart A. PROFESSIONAL RESPONSIBILITY

CHAPTER 81. RULES OF PROFESSIONAL CONDUCT

Subchapter A. RULES OF PROFESSIONAL CONDUCT

§ 81.4. Rules of Professional Conduct.

The following are the Rules of Professional Conduct:

* * * * *

MAINTAINING THE INTEGRITY OF THE PROFESSION

Rule 8.4. Misconduct.

It is professional misconduct for a lawyer to:

* * * * *

(g) in the practice of law, [**by words or conduct, knowingly manifest bias or prejudice, or engage in**] **knowingly engage in conduct constituting harassment or discrimination** [, as those terms are defined in applicable federal, state or local statutes or ordinances, including but not limited to bias, prejudice, harassment or discrimination] based upon race, sex, gender identity or expression, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, or socioeconomic status. This paragraph does not limit the ability of a lawyer to accept, decline or withdraw from a representation in accordance with Rule 1.16. This paragraph does not preclude advice or advocacy consistent with these Rules.

Comment:

* * * * *

(3) For the purposes of paragraph (g), conduct in the practice of law includes [**participation in activities that are required for a lawyer to practice law, including but not limited to continuing legal education seminars, bench bar conferences and bar association activities where legal education credits are offered.**]; (i) **interacting with witnesses, coworkers, court personnel, lawyers, or others, while appearing in proceedings before a tribunal or in connection with the representation of a client;** (ii) **operating or managing a law firm or law practice;** or (iii) **participation in judicial boards, conferences, or committees; continuing legal education seminars; bench bar conferences; and bar association activities where legal education credits are offered. The term “the practice of law” does not include speeches, communications, debates, presentations, or publications given or published outside the contexts described in (i)—(iii).**

(4) [**The substantive law of antidiscrimination and anti-harassment statutes and case law guide application of paragraph (g) and clarify the scope of the prohibited conduct.**] **“Harassment” means conduct that is intended to intimidate, denigrate or show hostility or aversion toward a person on any of the bases listed in paragraph (g). “Harassment” includes sexual harassment, which includes but is not limited to sexual advances, requests for sexual favors, and other conduct of a sexual nature that is unwelcome.**

(5) **“Discrimination” means conduct that a lawyer knows manifests an intention: to treat a person as inferior based on one or more of the characteristics listed in paragraph (g); to disregard relevant considerations of individual characteristics or merit because of one or more of the listed characteristics; or to cause or attempt to cause interference with the fair administration of justice based on one or more of the listed characteristics.**

[(5)] (6) A lawyer may refuse to comply with an obligation imposed by law upon a good faith belief that no valid obligation exists. The provisions of Rule 1.2(d) concerning a good faith challenge to the validity, scope, meaning or application of the law apply to challenges of legal regulation of the practice of law.

[(6)] (7) Lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer’s abuse of public office can suggest an inability to fulfill the professional role of lawyers. The same is true of abuse of positions of private trust such as trustee, executor, administrator, guardian, agent and officer, director or manager of a corporation or other organization.

Dissenting Statement

Justice Mundy

I dissent from the adoption of Rule of Professional Conduct 8.4(g) in its current form and scope. In my view, the proposed amendments fail to cure the Rule’s unconstitutional nature as articulated by Judge Kenney in *Greenberg v. Haggerty*, 491 F.Supp.3d 12 (E.D. Pa. 2020).

[Pa.B. Doc. No. 21-1306. Filed for public inspection August 20, 2021, 9:00 a.m.]

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

[204 PA. CODE CH. 83]

Amendment of Rules 208, 218 and 532 of the Pennsylvania Rules of Disciplinary Enforcement; No. 215 Disciplinary Rules Doc.

Order

Per Curiam

And Now, this 10th day of August, 2021, upon the recommendation of the Disciplinary Board of the Supreme Court of Pennsylvania; which followed the proposal to amend Pa.R.D.E. 208, 218, and 532 having been published for comment in the *Pennsylvania Bulletin*, 50 Pa.B. 5975 (October 31, 2020):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 208, 218, and 532 of the Rules of Disciplinary Enforcement 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 in 30 days.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter B. MISCONDUCT

Rule 208. Procedure.

* * * * *

(g) *Costs.*—

* * * * *

(5) *Assessed Penalties on Unpaid Taxed Expenses and Administrative Fees.*

(i) Failure to pay taxed expenses within thirty days of the assessment becoming final in accordance with subdivisions (g)(1) and (g)(2) and/or failure to pay administrative fees assessed in accordance with subdivision (g)(4) within thirty days of notice transmitted to the respondent-attorney shall result in the assessment of a penalty, levied monthly at the rate of 0.8% of the unpaid principal balance, or such other rate as established by the Supreme Court of Pennsylvania, from time to time.

(ii) Monthly penalties shall not be retroactively assessed against unpaid balances existing prior to the enactment of the rule; monthly penalties shall be assessed against these unpaid balances prospectively, starting 30 days after the effective date of the rule.

(iii) The Disciplinary Board for good cause shown, may reduce the penalty or waive it in its entirety.

(6) An attorney who becomes a debtor in bankruptcy when the administrative fee, expenses or penalties taxed under this subdivision (g) or any other provision of these Rules have not been paid in full, shall notify the Executive Director of the

Board in writing of the case caption and docket number within 20 days after the attorney files for bankruptcy protection.

(h) *Violation of probation.* Where it appears that a respondent-attorney who has been placed on probation has violated the terms of the probation, Disciplinary Counsel may file a petition with the Board detailing the violation and suggesting appropriate modification of the order imposing the probation, including without limitation immediate suspension of the respondent-attorney. A hearing on the petition shall be held within ten business days before a member of the Board designated by the Board Chair. If the designated Board member finds that the order imposing probation should be modified, the following procedures shall apply:

* * * * *

Rule 218. Reinstatement.

* * * * *

(f)(1) At the time of the filing of a petition for reinstatement with the Board, a non-refundable reinstatement filing fee shall be assessed against a petitioner-attorney. The filing fee schedule is as follows:

Reinstatement from disbarment or suspension for more than one year:	\$1,000
Reinstatement from administrative suspension (more than three years):.....	\$500
Reinstatement from inactive/retired status (more than three years):.....	\$250
Reinstatement from inactive status pursuant to Enforcement Rule 301:.....	\$250

(2) The Supreme Court in its discretion may direct that the necessary expenses incurred in the investigation and processing of the petition for reinstatement be paid by the petitioner-attorney. After the Supreme Court Order is entered, the annual fee required by Rule 219(a) for the current year shall be paid to the Attorney Registration Office.

(3) Failure to pay expenses taxed under Enforcement Rule 218(f)(2) within thirty days of the entry of the Supreme Court Order shall result in the assessment of a penalty, levied monthly at the rate of 0.8% of the unpaid principal balance, or such other rate as established by the Supreme Court from time to time. The Board, for good cause shown, may reduce the penalty or waive it in its entirety.

(4) An attorney who becomes a debtor in bankruptcy when the expenses or penalties taxed in connection with a reinstatement proceeding have not been paid in full, shall notify the Executive Director of the Board in writing of the case caption and docket number within 20 days after the attorney files for bankruptcy protection.

(g)(1) Upon the expiration of any term of suspension not exceeding one year and upon the filing thereafter by the formerly admitted attorney with the Board of a verified statement showing compliance with all the terms and conditions of the order of suspension and of Enforcement Rule 217 (relating to formerly admitted attorneys), along with the payment of a non-refundable filing fee of \$250, the Board shall certify such fact to the Supreme Court, which shall immediately enter an order reinstating the formerly admitted attorney to active status, unless such person is subject to another outstanding order of suspension or disbarment.

* * * * *

**Subchapter E. PENNSYLVANIA LAWYERS FUND
FOR CLIENT SECURITY**

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

BANKRUPTCY FILING

Rule 532. Duty to Report Bankruptcy Filing.

If a Covered Attorney becomes a debtor in bankruptcy after having received notice either of a claim pending with the Fund against the Covered Attorney or of any disbursement by the Fund with respect to a claim against the Covered Attorney and the Covered Attorney has not repaid the Fund in full plus interest in accordance with Enforcement Rule 531, the Covered Attorney shall notify the Executive Director of the Fund in writing of the case caption and docket number within 20 days after the Covered Attorney files for bankruptcy protection. If the Covered Attorney receives notice of a pending claim or disbursement after the filing of the bankruptcy petition and before the conclusion of the bankruptcy case, the Covered Attorney shall give the written notice required by this rule within ten days after receipt of the notice of the pending claim or disbursement.

[Pa.B. Doc. No. 21-1307. Filed for public inspection August 20, 2021, 9:00 a.m.]

**Title 231—RULES OF CIVIL
PROCEDURE**

PART I. GENERAL

[231 PA. CODE CH. 400]

**Order Approving the Adoption of Pennsylvania
Rule of Evidence 413; No. 878 Supreme Court
Rules Doc.**

Order

Per Curiam

And Now, this 11th day of August, 2021, upon the recommendation of the Committee on Rules of Evidence; the proposal having been published for public comment at 49 Pa.B. 2218 (May 4, 2019) and 50 Pa.B. 5222 (September 26, 2020):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rule of Evidence 413 is adopted in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective October 1, 2021.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 400. SERVICE OF ORIGINAL PROCESS

SERVICE IN PARTICULAR ACTIONS

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

Rule 413. Evidence of Immigration Status.

(a) *Criminal or Delinquency Matters; Evidence Generally Inadmissible.* In any criminal or delinquency matter, evidence of a party's or a witness's immigration status

shall not be admissible unless immigration status is an essential fact to prove an element of, or a defense to, the offense, to show motive, or to show bias or prejudice of a witness pursuant to Rule 607. This paragraph shall not be construed to exclude evidence that would result in the violation of a defendant's or a juvenile's constitutional rights.

(b) *Civil Matters; Evidence Generally Inadmissible.* In any civil matter, evidence of a party's or a witness's immigration status shall not be admissible unless immigration status is an essential fact to prove an element of, or a defense to, the action, or to show bias or prejudice of a witness pursuant to Rule 607.

(c) *Procedure.* Unless a party did not know, and with due diligence could not have known, that evidence of immigration status would be necessary, the following procedure shall apply prior to any such proposed use of immigration status evidence:

(1) The proponent shall file under seal and serve a written pretrial motion containing an offer of proof of the relevancy of the proposed evidence supported by an affidavit.

(2) If the court finds that the offer of proof is sufficient, the court shall order an *in camera* hearing.

(3) The court may admit evidence of immigration status pursuant to paragraph (a) or paragraph (b) if it finds the evidence is reliable and relevant, and that its probative value outweighs the prejudicial nature of evidence of immigration status.

(d) *Voluntary Revelation.* This rule shall not prohibit a person, or the person's attorney, from voluntarily revealing his or her immigration status to the court.

Comment

Pa.R.E. 413 has no counterpart in the Federal Rules. This rule is modeled, in part, after Washington Rule of Evidence 413.

In practice, the introduction of immigration status has received heightened consideration in terms of relevancy and prejudice. *See, e.g., Commonwealth v. Sanchez*, 595 A.2d 617 (Pa. Super. 1991) (reference to defendant as an "illegal alien" was irrelevant and prejudicial). This consideration is warranted to avoid potential intimidation of witnesses for fear of deportation. *See, e.g., 8 U.S.C. § 1227 (Deportable Aliens)*. This rule is intended to limit the admissibility of evidence of immigration status for purposes other than those stated in the rule. *See, e.g., Commonwealth v. Philistin*, 53 A.3d 1 (Pa. 2012) (discussing admissibility of immigration status for purpose of proving motive). Paragraphs (a) and (b) may serve as a basis for limiting discovery about immigration status.

This rule requires the proponent to seek pretrial approval prior to the introduction of evidence of immigration status. If evidence is admissible, the trial court may consider a cautionary jury instruction to ameliorate its prejudicial effect. *See, e.g., Commonwealth v. Hairston*, 84 A.3d 657 (Pa. 2014).

Nothing in this rule prohibits a court from unsealing a motion.

The procedure set forth in paragraph (c) is unnecessary for immigration status voluntarily revealed pursuant to paragraph (d). However, all other Rules of Evidence remain applicable. *See, e.g., Pa.R.E. 402, 403.*

Official Note: Adopted August 11, 2021, effective October 1, 2021.

Committee Explanatory Report:

Final Report explaining the August 11, 2021 adoption of Rule 413 published with the Court's Order at 51 Pa.B. 5193 (August 21, 2021).

FINAL REPORT¹**Adoption of Pa.R.E. 413**

On August 11, 2021, upon recommendation of the Committee on Rules of Evidence, the Court ordered the adoption of Pennsylvania Rule of Evidence 413 governing the admissibility of evidence of immigration status.

The Committee previously received a recommendation from the Pennsylvania Interbranch Commission for Gender, Racial and Ethnic Fairness for changes to the Pennsylvania Rules of Evidence to limit the admissibility of a party's or witness's immigration status. In response, the Committee proposed amendment of the Comment to Pa.R.E. 401, see 49 Pa.B. 2218 (May 4, 2019), which received several comments concerning the need for a rule addressing specifically immigration status given that evidence of immigration status may be used for the purpose of intimidation.

Thereafter, the Committee proposed a standalone rule in the form of Pa.R.E. 413 to address the admissibility of evidence of immigration status. Similar to Washington Rule of Evidence 413, the standalone rule would have limited the admission of such evidence to prove an essential fact of, an element of, or a defense to, an action, or a party's or witness's motive. See 50 Pa.B. 5222 (September 26, 2020). Another function of the proposed rule would put the opponent on notice that a proponent intends to introduce evidence of immigration status. The opponent can then seek a pretrial ruling as to the admissibility of the evidence. This process would be similar to that employed by Pa.R.E. 404(b)(3) for notice in criminal cases for prior bad acts, but the notice would require the specific, rather than general, nature of any evidence of immigration status. Thereafter, the opponent could weigh whether to challenge the relevancy and potential prejudice of the evidence.

The Committee again received several responses to the proposal. A majority of respondents suggested a bifurcated rule similar to Washington Rule of Evidence 413, with differing provisions applicable to criminal proceedings and civil proceedings to permit admission only when immigration status is an essential fact of a party's cause of action. Further, the waiver of advance notice should be restricted to when the moving party did not know or, with due diligence, could not have known that immigration status would be an essential fact. Finally, the court should be required to conduct an *in camera* review, similar to Washington Rule of Evidence 413, and the review, together with the evidence or motion, should be sealed.

Based on these responses, the Committee revised proposed Pa.R.E. 413 to bifurcate the general exclusion of such evidence, together with exceptions, into paragraph (a) for criminal and juvenile matters and paragraph (b) for civil matters. Both paragraphs were revised to include exceptions "to show bias or prejudice of a witness pursuant to Rule 607." Further, paragraph (a) included an additional exception so application of the rule in criminal or juvenile proceedings would not result in the violation of a defendant's or a juvenile's constitutional rights.

¹ The Committee's Final Report should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

The Committee agreed with the respondents' suggestion for a specific procedure for determining the admissibility of evidence of immigration status. Under Pa.R.E. 103, admissibility may be determined either by a pretrial motion *in limine* or contemporaneous objection in open court. However, experience informs that relying upon contemporaneous objections often cannot "unring the bell" of the issue being raised through the question posed. Moreover, offers of proof in open court, notwithstanding being outside the hearing of the jury, remain on the record and do little to assuage witness intimidation.

Therefore, largely structured after Washington Rule of Evidence 413(a)(1)–(4), paragraph (c) was added as a means for determining the admissibility of immigration status. The process would require a pretrial motion *in limine* filed under seal. Thereafter, the trial court could allow the evidence to be admitted if it was relevant and its probative value outweighed its prejudicial nature. The paragraph also contains an exception for when a party does not know, and with due diligence could not have known, that evidence of immigration status would be necessary at trial.

The Committee observed that two other jurisdictions, in their analogous evidentiary provisions, have included a provision allowing a party to waive the rule's protection and reveal evidence of immigration status. See 735 I.L.C.S. 5/8-2901(b)(3) (pertinently stating that evidence is admissible if "a person or his or her attorney voluntarily reveals his or her immigration status to the court"); Cal. Evid. Code § 351.3(b)(3), § 351.4(b)(3) (providing that, in civil actions other than for personal injury or wrongful death and in criminal actions, the statute does not "[p]rohibit a person or his or her attorney from voluntarily revealing his or her immigration status to the court").

Although evidence of immigration status has the potential for intimidation and prejudice, if such evidence is probative and the person whose immigration status is revealed does so voluntarily, then the proposed evidentiary and procedural safeguards appear unnecessary. Further, an exception for voluntary disclosure may lessen the procedural burden on parties when immigration status is admissible pursuant to paragraph (a) or (b).

Therefore, the Committee revised the rule to add paragraph (d), which is modeled after California Evidence Code § 351.3(b)(3). Paragraph (d) contains several noteworthy aspects. First, it pertains to a personal revelation of one's own immigration status, not another person's immigration status. Second, the status must be revealed in court, not to sources outside of court. Cf. Pa.R.E. 803(25) (An Opposing Party's Statement). Third, the procedure set forth in paragraph (c) is rendered unnecessary under the circumstances of paragraph (d), *i.e.*, "this rule shall not prohibit." A statement to that effect was added to the Comment with an observation that the other Rules of Evidence nonetheless remain applicable even if the procedure of paragraph (c) is not followed.

The Committee received a concern that a Rule of Evidence permitting the use of evidence of immigration status for impeachment purposes may open the door to additional discovery on that topic. Similarly, the respondent expressed concern that permitting evidence of immigration status to be admissible in court as an element of a defense in civil matters pursuant to paragraph (b) may have similar effect. The Committee is not insensitive to such concerns, but the Rules of Evidence are intended to regulate the admissibility of evidence in court proceedings, see Pa.R.E. 101, not the scope of discovery. Notwith-

standing, a sentence was added to the Comment indicating that paragraphs (a) and (b) may serve as a basis for limiting discovery about immigration status; however, the procedural mechanism for doing so, *i.e.*, a protective order, is not governed by the Rules of Evidence.

This rule becomes effective October 1, 2021.

[Pa.B. Doc. No. 21-1308. Filed for public inspection August 20, 2021, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

[231 PA. CODE PART II]

Proposed Amendment of Rules 1.3, 2.11, 9.1, 9.2, 9.4, 9.5, 9.6, 9.7 and 9.8 of the Pennsylvania Orphans' Court Rules

The Orphans' Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Rules 1.3, 2.11, 9.1, 9.2, 9.4, 9.5, 9.6, 9.7, and 9.8 of the Pennsylvania Orphans' Court Rules, replacing the term "master" with "hearing officer," for the reasons set forth in the accompanying Publication Report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor be officially adopted by the Supreme Court.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Pamela S. Walker, Counsel
Orphans' Court Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717-231-9546
orphanscourtproceduralrules@pacourts.us

All communications in reference to the proposal should be received by September 24, 2021. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Orphans' Court
Procedural Rules Committee*

KENNETH G. POTTER,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

CHAPTER I. PRELIMINARY RULES

Rule 1.3. Definitions.

The following words and phrases when used in these Rules shall have the following meanings, respectively,

unless the context clearly indicates otherwise or the particular word or phrase is expressly defined in the Chapter in which the particular Rule is included:

* * * * *

"Guardian"—a fiduciary who has the care and management of the estate, the person, or both, of a minor or an incapacitated person;

"Guardian *ad litem* or Trustee *ad litem*"—a fiduciary who is appointed by a court in a legal proceeding to represent an individual or class of individuals under a legal disability;

"Hearing Officer"—a person who is appointed by the court to investigate any issue of fact and to report findings of fact, conclusions of law, and recommendations to the court.

"Incapacitated Person"—a person determined to be incapacitated under the provisions of Chapter 55 of Title 20 (relating to incapacitated persons);

"Interested Party"—one or more individuals or entities having or claiming an interest in the estate, trust, person or other entity that is the subject of the legal proceeding;

* * * * *

Note: This definitional section is new; but, some of the definitions are substantively identical to the definitions in former Rule 2.3 and other definitions are taken from and are similar to Pa.R.C.P. No. 76. **The term "hearing officer" is used in these Rules in the same manner as "master" in the Probate, Estates and Fiduciaries Code, 20 Pa.C.S. §§ 101 et seq. See, e.g., 20 Pa.C.S. § 751(1).**

CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS

Rule 2.11. Appointment of Official Examiners.

The court, by local rule or order in a particular matter, may appoint an official examiner who shall examine the assets held by or the transactions of any fiduciary.

Note: Rule 2.11 is substantively identical to former Rule 9.1. The appointment and conduct of Auditors and [**Masters**] **Hearing Officers** is provided for in Chapter IX.

CHAPTER IX. AUDITORS AND [**MASTERS**] **HEARING OFFICERS**

Rule 9.1. Notice of Hearings.

An auditor or [**master**] **hearing officer** appointed pursuant to 20 Pa.C.S. § 751 shall give notice of scheduled hearings in such manner and to such parties as local rules shall prescribe.

Note: Rule 9.1 is substantively identical to former Rule 8.1.

Rule 9.2. Filing of Report.

An auditor or [**master**] **hearing officer** shall file his or her report within 90 days after his or her appointment, unless the court extends the time upon request.

Note: Rule 9.2 is based upon former Rule 8.2.

Rule 9.4. Form of [**Master's**] **Hearing Officer's** Report.

A [**master's**] **hearing officer's** report shall state the number, times, dates, and duration of the hearings held, the number, extent, and causes of any delays or continuances, and the basis of the court's jurisdiction, and shall

include a statement and discussion of the questions involved, findings of fact and conclusions of law, and specific recommendations.

Note: Rule 9.4 is substantively identical to former Rule 8.4.

Rule 9.5. Transcript of Testimony.

The transcript of testimony taken before an auditor or [**master**] hearing officer shall be filed with the report.

Note: Rule 9.5 is substantively identical to former Rule 8.5.

Rule 9.6. Notice of Filing Report.

An auditor or [**master**] hearing officer shall give notice of the filing of the report or of the intention to file the report in such manner and to such parties as local rules shall prescribe.

Note: Rule 9.6 is substantively identical to former Rule 8.6.

Rule 9.7. Confirmation of Report.

(a) The report of an auditor shall be confirmed in such manner as local rules shall prescribe.

(b) The report of a [**master**] hearing officer shall not be approved until a decree is entered adopting its recommendations.

Note: Rule 9.7 is substantively identical to former Rule 8.7.

Rule 9.8. Security for Expenses and Fees.

An auditor or [**master**] hearing officer, the accountant, or any interested party may apply to the court at any time for leave to require security for the payment of the auditor's or [**master's**] hearing officer's expenses and fees, and, when such leave is granted, the auditor or [**master**] hearing officer may decline to proceed until security is entered.

Note: Rule 9.8 is substantively identical to former Rule 8.8.

NOTICE OF PROPOSED RULEMAKING

Proposed Amendment of Rules 1.3, 2.11, 9.1, 9.2, 9.4, 9.5, 9.6, 9.7, and 9.8 of the Pennsylvania Orphans' Court Rules

The Orphans' Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Rules 1.3, 2.11, 9.1, 9.2, 9.4, 9.5, 9.6, 9.7, and 9.8 of the Pennsylvania Orphans' Court Rules, replacing the term "master" with "hearing officer."

The purpose of the proposed amendments is two-fold. First, while the term "master" has traditionally identified a quasi-judicial officer and is considered neutral in legal proceedings, a pejorative connotation has been ascribed to the term in modern parlance outside of court. Second, the term has been either already replaced or proposed to be replaced in other bodies of rules. *See* 47 Pa.B. 2313 (April, 22, 2017) (amendments to the Rules of Juvenile Court Procedure), 51 Pa.B. 1006 (February 27, 2021) (proposed amendments to the Rules of Civil Procedure Governing Domestic Relations proceedings), and 51 Pa.B. 4262 (August 7, 2021) (proposed amendments to the Rules of Civil Procedure). In addition, the Committee observes that a number of judicial districts have also changed this terminology in their local rules.

The Committee acknowledges the term "master" continues to be used in relevant statutes. *See, e.g.,* 20 Pa.C.S.

§ 751(1) ("a master to investigate any issue of fact and to report his findings of fact, conclusions of law and recommendations to the court"). The Committee proposes adding a new definition of "hearing officer" and amending the Note to Rule 1.3 to clarify that the new term, "hearing officer," is used in the Rules in the same manner as "master" in the Probate, Estates and Fiduciaries Code, 20 Pa.C.S. §§ 101 *et seq.*

The Committee invites all comments, objections, concerns, and suggestions regarding this proposed rule-making.

[Pa.B. Doc. No. 21-1309. Filed for public inspection August 20, 2021, 9:00 a.m.]

Title 255—LOCAL COURT RULES

WESTMORELAND COUNTY

Rule of Criminal Procedure 576.1, Electronic Filing and Service of Legal Papers; No. 3 of 2021

Order of Court

And Now, this 4th day of August, 2021, *It Is Hereby Ordered* that Westmoreland County Rule of Criminal Procedure WC576.1 is hereby adopted and shall become effective 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

RITA DONOVAN HATHAWAY,
President Judge

Rule WC576.1. Electronic Filing and Service of Legal Papers.

(A) Pursuant to Pennsylvania Rule of Criminal Procedure 576.1, Electronic Filing and Service of Legal Papers, electronic filing of legal papers through the PACFile electronic filing system is permissive in Westmoreland County, the Tenth Judicial District. The Administrative Office of Pennsylvania Courts has agreed upon an implementation plan for the use of PACFile in the Tenth Judicial District as of September 13, 2021.

(B) *Legal Papers Defined.* The legal papers which shall be filed electronically shall encompass all written motions, written answers and any notices or documents for which filing is required or permitted, including orders, exhibits and attachments, except for the following:

1. Applications for a search warrant;
2. Applications for an arrest warrant;
3. Any grand jury materials; except the indicting grand jury indictment or the investigating grand jury presentment;
4. Submissions filed ex parte as authorized by law;
5. Submissions filed or authorized to be filed under seal;
6. Exhibits offered into evidence, whether or not admitted, in a court proceeding; and
7. Wiretap Act, cell phone, tracker and Internet petitions.

General rules of court and court policies that implement the rules shall continue to apply to all filings regardless of the method of filing.

(C) Any party who declines to electronically file, or who is unable to electronically file or accept service of electronically filed legal papers, or who is otherwise unable to access the system, shall be entitled to file legal papers in a physical paper format and be served electronically filed legal papers in a physical format.

(D) *Filing fees.* Applicable filing fees shall be paid through procedures established by the Clerk of Courts and at the same time and in the same amount required by statute, court rule or order, or published fee schedule.

(E) *Confidential information.* Counsel and unrepresented parties shall adhere to the Public Access Policy of the Unified Judicial System and refrain from including confidential information in legal papers filed with the Clerk of Courts, whether filed electronically or as a paper document.

[Pa.B. Doc. No. 21-1310. Filed for public inspection August 20, 2021, 9:00 a.m.]

SUPREME COURT

Financial Institutions Approved as Depositories for Fiduciary Accounts; No. 214 Disciplinary Rules Doc.

Order

Per Curiam

And Now, this 9th day of August, 2021, it is hereby Ordered that the financial institutions named on the following list are approved as depositories for fiduciary accounts in accordance with Pa.R.D.E. 221.

FINANCIAL INSTITUTIONS APPROVED AS DEPOSITORIES OF TRUST ACCOUNTS OF ATTORNEYS

Bank Code A.

595 Abacus Federal Savings Bank
2 ACNB Bank
613 Allegent Community Federal Credit Union
375 Altoona First Savings Bank
376 Ambler Savings Bank
532 AMERICAN BANK (PA)
615 Americhoice Federal Credit Union
116 AMERISERV FINANCIAL
648 Andover Bank (The)
377 Apollo Trust Company

Bank Code B.

558 Bancorp Bank (The)
485 Bank of America, NA
662 Bank of Bird in Hand
415 Bank of Landisburg (The)
664 BankUnited, NA
642 BB & T Company
501 BELCO Community Credit Union
652 Berkshire Bank
663 BHCU
5 BNY Mellon, NA
392 Brentwood Bank
495 Brown Brothers Harriman Trust Co., NA
161 Bryn Mawr Trust Company (The)

Bank Code C.

654 CACL Federal Credit Union
618 Capital Bank, NA

16 CBT Bank, a division of Riverview Bank
136 Centric Bank
394 CFS BANK
623 Chemung Canal Trust Company
599 Citibank, NA
238 Citizens & Northern Bank
561 Citizens Bank, NA
206 Citizens Savings Bank
576 Clarion County Community Bank
660 Clarion FCU
591 Clearview Federal Credit Union
23 CNB Bank
223 Commercial Bank & Trust of PA
21 Community Bank (PA)
371 Community Bank, NA (NY)
132 Community State Bank of Orbisonia
647 CONGRESSIONAL BANK
380 County Savings Bank
536 Customers Bank

Bank Code D.

339 Dime Bank (The)
27 Dollar Bank, FSB

Bank Code E.

500 Elderton State Bank
567 Embassy Bank for the Lehigh Valley
541 Enterprise Bank
28 Ephrata National Bank
601 Esquire Bank, NA
340 ESSA Bank & Trust

Bank Code F.

629 1st Colonial Community Bank
158 1st Summit Bank
31 F & M Trust Company—Chambersburg
658 Farmers National Bank of Canfield
205 Farmers National Bank of Emlenton (The)
34 Fidelity Deposit & Discount Bank (The)
343 FIDELITY SAVINGS & LOAN ASSOCIATION OF BUCKS COUNTY
583 Fifth Third Bank
661 First American Trust, FSB
643 First Bank
174 First Citizens Community Bank
191 First Columbia Bank & Trust Company
539 First Commonwealth Bank
504 First Federal S & L Association of Greene County
525 First Heritage Federal Credit Union
42 First Keystone Community Bank
51 First National Bank & Trust Company of Newtown (The)
48 First National Bank of Pennsylvania
426 First Northern Bank & Trust Company
604 First Priority Bank, a division of Mid Penn Bank
592 FIRST RESOURCE BANK
657 First United Bank & Trust
408 First United National Bank
151 Firsttrust Savings Bank
416 Fleetwood Bank
175 FNCB Bank
291 Fox Chase Bank
241 Franklin Mint Federal Credit Union
639 Freedom Credit Union
58 Fulton Bank, NA

Bank Code G.

499 Gratz Bank (The)
498 Greenville Savings Bank

Bank Code H.

402 Halifax Branch, of Riverview Bank
244 Hamlin Bank & Trust Company
362 Harleysville Savings Bank
363 Hatboro Federal Savings
463 Haverford Trust Company (The)
606 Hometown Bank of Pennsylvania
68 Honesdale National Bank (The)
350 HSBC Bank USA, NA
364 HUNTINGDON VALLEY BANK
605 Huntington National Bank (The)
608 Hyperion Bank

Bank Code I.

669 Industrial Bank
365 InFirst Bank
557 Investment Savings Bank
526 Iron Workers Savings Bank
668 Inspire FCU
670 Investors Bank

Bank Code J.

70 Jersey Shore State Bank
127 Jim Thorpe Neighborhood Bank
488 Jonestown Bank & Trust Company
659 JPMorgan Chase Bank, NA
72 JUNIATA VALLEY BANK (THE)

Bank Code K.

651 KeyBank NA
414 Kish Bank

Bank Code L.

554 Landmark Community Bank
542 Linkbank
78 Luzerne Bank

Bank Code M.

361 M & T Bank
386 Malvern Bank, NA
510 Marion Center Bank
387 Marquette Savings Bank
81 Mars Bank
43 Marysville Branch, of Riverview Bank
367 Mauch Chunk Trust Company
511 MCS (Mifflin County Savings) Bank
641 Members 1st Federal Credit Union
555 Mercer County State Bank
192 Merchants Bank of Bangor
671 Merchants Bank of Indiana
610 Meridian Bank
420 Meyersdale Branch, of Riverview Bank
294 Mid Penn Bank
276 MIFFLINBURG BANK & TRUST COMPANY
457 Milton Savings Bank
596 MOREBANK, A DIVISION OF BANK OF PRINCETON (THE)
484 **MUNCY BANK & TRUST COMPANY (THE)**

Bank Code N.

433 National Bank of Malvern
168 NBT Bank, NA
347 Neffs National Bank (The)
434 NEW TRIPOLI BANK
15 NextTier Bank, NA

636 Noah Bank
638 Norristown Bell Credit Union
666 Northern Trust Co.
439 Northumberland National Bank (The)
93 Northwest Bank

Bank Code O.

653 OceanFirst Bank
489 OMEGA Federal Credit Union
94 Orrstown Bank

Bank Code P.

598 PARKE BANK
584 Parkview Community Federal Credit Union
40 Penn Community Bank
540 PennCrest Bank
419 Pennian Bank
447 Peoples Security Bank & Trust Company
99 PeoplesBank, a Codorus Valley Company
556 Philadelphia Federal Credit Union
448 Phoenixville Federal Bank & Trust
665 Pinnacle Bank
79 PNC Bank, NA
449 Port Richmond Savings
667 Premier Bank
451 Progressive-Home Federal Savings & Loan Association
354 Prosper Bank
637 Provident Bank
456 Prudential Savings Bank
491 PS Bank

Bank Code Q.

107 QNB Bank
560 Quaint Oak Bank

Bank Code R.

452 Reliance Savings Bank
220 Republic First Bank d/b/a Republic Bank
628 Riverview Bank

Bank Code S.

153 S & T Bank
316 Santander Bank, NA
460 Second Federal S & L Association of Philadelphia
646 Service 1st Federal Credit Union
458 Sharon Bank
462 Slovenian Savings & Loan Association of Franklin-Conemaugh
486 SOMERSET TRUST COMPANY
633 SSB Bank
518 STANDARD BANK, PASB
440 SunTrust Bank
122 Susquehanna Community Bank

Bank Code T.

143 TD Bank, NA
656 TIOGA FRANKLIN SAVINGS BANK
182 TOMPKINS VIST BANK
577 Traditions Bank
609 Tristate Capital Bank
640 TruMark Financial Credit Union
467 Turbotville National Bank (The)

Bank Code U.

483 UNB Bank
481 Union Building and Loan Savings Bank
634 United Bank, Inc.
472 United Bank of Philadelphia

475 United Savings Bank
 600 Unity Bank
 232 Uninvest Bank & Trust Co.

Bank Code V.

611 Victory Bank (The)

Bank Code W.

119 WASHINGTON FINANCIAL BANK
 121 Wayne Bank
 631 Wells Fargo Bank, NA
 553 WesBanco Bank, Inc.
 494 West View Savings Bank
 473 Westmoreland Federal S & L Association
 476 William Penn Bank
 272 Woodlands Bank
573 WOORI AMERICA BANK
 630 WSFS (Wilmington Savings Fund Society), FSB

Bank Code X.**Bank Code Y.****Bank Code Z.****PLATINUM LEADER BANKS**

The **HIGHLIGHTED ELIGIBLE INSTITUTIONS** are Platinum Leader Banks—Institutions that go above and beyond eligibility requirements to foster the IOLTA Program. These Institutions pay a net yield at the higher of 1% or 75 percent of the Federal Funds Target Rate on

all PA IOLTA accounts. They are committed to ensuring the success of the IOLTA Program and increased funding for legal aid.

IOLTA EXEMPTION

Exemptions are not automatic. If you believe you qualify, you must apply by sending a written request to the IOLTA Board's executive director: 601 Commonwealth Avenue, Suite 2400, P.O. Box 62445, Harrisburg, PA 17106-2445. If you have questions concerning IOLTA or exemptions from IOLTA, please visit their website at www.paiolta.org or call the IOLTA Board at (717) 238-2001 or (888) PAIOLTA.

**FINANCIAL INSTITUTIONS WHO HAVE FILED
 AGREEMENTS TO BE APPROVED AS A
 DEPOSITORY OF TRUST ACCOUNTS AND TO
 PROVIDE DISHONORED CHECK REPORTS IN
 ACCORDANCE WITH RULE 221, Pa.R.D.E.**

*New**Name Change*

577—York Traditions Bank—Change to 577 Traditions Bank

*Platinum Leader Change**Correction**Removal*

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