

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT

[ 204 PA. CODE CH. 83 ]

#### Proposed Amendments to the Pennsylvania Rules of Disciplinary Enforcement Relating to Conservators for Interests of Clients

##### Notice of Proposed Rulemaking

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania (the "Board") is considering recommending to the Supreme Court of Pennsylvania amendments to Pennsylvania Rules of Disciplinary Enforcement ("Pa.R.D.E.") 321 through 329.

##### EXPLANATORY REPORT

When an attorney has been temporarily suspended, abandons his or her practice, disappears, dies, or becomes disabled or incapacitated and there is no other partner or responsible successor to the attorney's law practice, a conservator is appointed by the court to protect the interests of clients. The conservator is often a member of the Pennsylvania bar, but may be the Office of Disciplinary Counsel when no member of the bar can be found to act as conservator. The process and procedure from the appointment of the conservator to discharge of the conservatorship are set forth in Pa.R.D.E. 321 through 329.

The Board proposes amending the conservatorship rules. The principal substantive change is to Pa.R.D.E. 322(d) governing prohibitions on a conservator's representation of the clients of an absent attorney. Current Rule 322(d)(2)(i) prohibits a conservator and by extension his or her partners and associates, from representing the absent attorney's clients on any matter identified during the conservatorship. Current Rule 322(d)(2)(ii) prohibits representation on any other matter for three years after the conservatorship's termination. The Board's concern lies with subparagraph (ii), in that the broad prohibition on the conservator representing a client identified during the conservatorship in any other unrelated matter for three years after the conclusion of the conservatorship may deter lawyers from serving as conservators. This deterrent may be particularly acute for attorneys practicing in less-populated areas, where the lawyer's inability to serve a portion of the population for three years following the conclusion of a conservatorship may well have adverse economic ramifications on that lawyer's practice.

Pennsylvania has a large population of lawyers who practice as sole practitioners and based on statistics gathered by the Board through its work handling conservatorships, the need for conservators is growing. The Board's review of other jurisdictions' conservatorship rules revealed that only Arizona has a similarly broad prohibition to Rule 322(d)(2)(ii). See A.R.S. Sup.Ct.Rules, Rule 67(f)(2)(B). While the prohibition on the conserva-

tor's representation of clients in matters growing out of the conservatorship is necessary for the protection of the absent attorney's clients, we find no public policy reason to support the additional three-year prohibition on representation in wholly unrelated matters post-conservatorship. The Board proposes that the rule be amended to eliminate that provision in an effort to encourage members of the bar to serve as conservators, rather than rely on Office of Disciplinary Counsel to fulfill that function.

Other proposed changes of note are as follows:

Rule 321(b) governing service of the application for appointment of a conservator is amended to provide that in the case of a deceased attorney where no personal representative has been appointed, service is permitted upon a spouse or adult relative by blood of the deceased.

Rule 321(c) governing hearings on the application for appointment of a conservator is amended to provide that a hearing is not necessary if the absent attorney or other interested person concurs with the appointment of the conservator or the averments in the application support the grant of the application without a hearing.

Rule 322(c)(2) governing notice to clients is amended to provide that at a minimum, the required notice by publication to clients of the appointment of a conservator and related information must appear on one day in each of a newspaper of general circulation and the legal journal in the county in which the absent attorney maintained a principal office.

Rule 322(c)(3) governing return and destruction of files is amended to require that a conservator maintain an electronic record of the receipts executed by clients or substitute counsel upon return of the files, and eliminates the requirement that the conservator deliver such receipts to the appointing court at the time of filing for discharge of the conservatorship.

Rule 325 governing duration of a conservatorship is amended to change the current appointment duration from six months to nine months, and to allow the appointing court the power to grant one or more extensions, each extension not to exceed six months.

Rule 327 governing liability of a conservator is amended to clarify that a conservator appointed under the Enforcement Rules is immune from civil suit brought by or on behalf of the absent attorney.

Lastly, the Board's proposal adds sub-headings to paragraphs for clarity.

Interested persons are invited to submit written comments, suggestions or objections by mail, email or facsimile to the Executive Office, The Disciplinary Board of the Supreme Court of Pennsylvania, 601 Commonwealth Avenue, Suite 5600, PO Box 62625, Harrisburg, PA 17106-2625, facsimile number (717-231-3381), email address [Dboard.comments@pacourts.us](mailto:Dboard.comments@pacourts.us) on or before January 2, 2024.

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

JESSE G. HEREDA,  
*Executive Director*

## 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 C. DISABILITY AND RELATED MATTERS

## CONSERVATORS FOR INTERESTS OF CLIENTS

(Editor's Note: Rule 321 as printed in 204 Pa. Code reads "Official Note" rather than "Note.")

**Rule 321. Appointment of conservator to protect interests of clients of absent attorney.**

(a) **Application.** Upon application of Disciplinary Counsel or any other interested person with the written concurrence of Disciplinary Counsel, the president judge of a court of common pleas shall have the power to appoint one or more eligible persons to act as conservators of the affairs of an attorney or formerly admitted attorney if:

(1) the attorney maintains or has maintained an office for the practice of law within the judicial district; and

(2) any of the following applies:

(i) the attorney is made the subject of an order under Enforcement Rule 208(f) (relating to emergency interim suspension orders and related matters); or

(ii) the president judge of the court of common pleas pursuant to Enforcement Rule 217(g) (relating to formerly admitted attorneys) by order directs Disciplinary Counsel to file an application under this rule; or

(iii) the attorney abandons his or her practice, disappears, dies or is transferred to inactive status because of incapacity or disability; and

(3) no partner or other responsible successor to the practice of the attorney is known to exist.

(b) **Service.** A copy of the application for appointment of a conservator under this rule shall be personally served upon the absent attorney or the personal representative or guardian of the estate of a deceased or incompetent absent attorney. **If the absent attorney died and no personal representative has been appointed, service upon a spouse or, if a spouse cannot be served, an adult relative by blood of the deceased, shall suffice.** If personal service cannot be obtained, then a copy of the application shall be served in the manner prescribed by Enforcement Rule 212 (relating to substituted service).

(c) **Hearing.** The president judge of the court of common pleas shall conduct a hearing on the application **unless the absent attorney or other interested person identified in subdivision (b) concurs with the appointment of a conservator or the averments support the grant of the application without a hearing. Any hearing shall be conducted no later than seven days after the filing of the application.** At the hearing the applicant shall have both the burden of production and the burden of persuading the court by the preponderance of the credible evidence that grounds exist for appointment of a conservator.

(d) **Order.** Within three days after the conclusion of the hearing on the application **or the filing of the applica-**

**tion where no hearing is held,** the president judge shall enter an order either granting or denying the application. **[ The order shall contain findings of fact and a statement of the grounds upon which the order is based. ]** If no appearance has been entered on behalf of the absent attorney, a copy of the order shall be served upon the absent attorney in the manner prescribed by [ S ] subdivision (b) of this rule.

(e) **Qualifications of conservator.** The conservator or conservators shall be appointed by the president judge, from among members of the bar of this Commonwealth, subject to the following:

(1) non-disciplinary counsel conservators:

(i) shall not represent any party who is adverse to any known client of the absent attorney; and

(ii) shall have no adverse interest or **adverse** relationship with the absent attorney or his or her estate.

**Note:** Nothing in the Rules of Professional Conduct relating to conflict of interest, confidentiality, or any other provision, shall prevent the Office of Disciplinary Counsel from serving as conservator, and from subsequently pursuing an investigation, and disciplinary prosecution of the absent attorney, based upon information gathered during the course of Disciplinary Counsel's service as conservator.

(f) **Statutes of limitations and appellate deadlines.** The filing by Disciplinary Counsel or any other interested person of an application for the appointment of a conservator under these rules shall be deemed for the purposes of any statute of limitations or limitation on time for appeal as the filing in the court of common pleas or other proper court or magisterial district court of this Commonwealth on behalf of every client of the absent attorney of a complaint or other proper process commencing any action, proceeding, appeal or other matter arguably suggested by any information appearing in the files of the absent attorney if:

(1) the application for appointment of a conservator is granted, and

(2) substitute counsel actually files an appropriate document in a court or magisterial district court within 30 days after executing a receipt for the file relating to the matter.

**Note:** Under 42 Pa.C.S. § 5503(b) (relating to implementing court rules) the Supreme Court may define by rule the document which when filed constitutes the commencement of a matter for purposes of Chapter 55 of the Judicial Code (relating to limitation of time). Thus the application by Disciplinary Counsel under this rule is an omnibus pleading which stays the running of all statutes of limitations and appeal times pending a 30-day review of the files of the absent attorney.

(g) **Automatic stay.** The filing by Disciplinary Counsel or any other interested person of an application for the appointment of a conservator under these rules shall operate as an automatic stay of all pending legal or administrative proceedings in this Commonwealth where the absent attorney is counsel of record until the earliest of such time as:

(1) the application for appointment of a conservator is denied;

(2) the conservator is discharged;

(3) the court, tribunal, magisterial district court or other government unit in which a matter is pending orders that the stay be lifted; or

(4) 30 days after the court, tribunal, magisterial district court or other government unit in which a matter is pending is notified that substitute counsel has been retained.

(h) As used in this rule, the term "government unit" has the meaning set forth in 42 Pa.C.S. § 102 (relating to definitions).

**Note:** Under 42 Pa.C.S. § 5503(b) (relating to implementing court rules) the Supreme Court may define by rule the document which when filed constitutes the commencement of a matter for purposes of Chapter 55 of the Judicial Code (relating to limitation of time). Thus the application by Disciplinary Counsel under this rule is an omnibus pleading which stays the running of all statutes of limitations and appeal times pending a 30-day review of the files of the absent attorney.

### Rule 322. Duties of Conservator.

(a) **Possession of files; Warrants.** The conservator shall take immediate possession of all files of the absent attorney. If such possession cannot be obtained peaceably, the conservator shall apply to the appointing court for issuance of a warrant authorizing seizure of the files. Probable cause for issuance of such a warrant shall be an affidavit executed by the conservator reciting the existence of the conservatorship and the fact that the persons in control of the premises where the files are or may be located will not consent to a search for them or their removal or other facts showing that the files cannot be obtained without the use of the process of the court.

(b) **Inventory.** The conservator shall make a written inventory of all files taken into his or her possession.

(c)(1) **Identification of clients.** The conservator shall make a reasonable effort to identify all clients of the absent attorney whose files were opened within five (5) years of the appointment of the conservator, regardless of whether the case is active or not, and a reasonable effort to identify all clients whose cases are active, regardless of the age of the file. The conservator shall send all such clients, and former clients, written notice of the appointment of a conservator, the grounds which required such appointment, and the possible need of the clients to obtain substitute counsel. All such notices shall include the name, address and telephone number of any lawyer referral service or similar agency available to assist in the location of substitute counsel. The conservator shall, if necessary, send a second written notice to all clients of the absent attorney whose files appear to be active.

(2) **Notice to clients.** All clients whose files are identified by the conservator as both inactive and older than five (5) years shall be given notice by publication of the appointment of a conservator, the grounds which required such appointment, and the possible need of the clients to obtain substitute counsel. All such notices shall include the name, address and telephone number of any lawyer referral service or similar agency available to assist in the location of substitute counsel. The specific method of publication shall be approved by the appointing court, as to both the method, and duration, of publication, **although at minimum a notice shall appear on one day in each of a newspaper of general circulation and the legal journal in the county in which the absent attorney maintained a principal office.** The conservator shall deliver proofs of publication to the appointing court at the time of filing the application for discharge.

(3) **Return and destruction of files.** A file may be returned to a client upon the execution of a written

receipt, or released to substitute counsel upon the request of the client and execution of a written receipt by such counsel. The conservator shall **[ deliver all such receipts to the appointing court at the time of filing the application for discharge ] maintain an electronic record of all receipts.** On approval by the appointing court of the application for discharge, all files remaining in the possession of the conservator shall be destroyed by the conservator in a secure manner which protects the confidentiality of the files.

(d) **Representation prohibited during conservatorship.** **Until the conservatorship is terminated, [ N ]** neither the conservator nor any partner, associate or other lawyer practicing in association with the conservator shall **represent any of the absent attorney's clients[ :**

(1) **Make any recommendation of counsel to any client identified as a result of the conservatorship in connection with any matter identified during the conservatorship.**

(2) **Represent such a client ]** in connection with[ :

(i) ] any matter identified during the conservatorship[ ; ], [ or

(ii) **any other matter during or for a period of three years after the conclusion of the conservatorship. ]**

(e) **Reports.** The conservator shall file a written report with the appointing court and the Board no later than 30 days after the date of appointment covering the matters specified in [ S ] subdivisions (a) through (c) of this rule. If those duties have not been accomplished, then the conservator shall state what progress has been made in that regard. Thereafter, the conservator shall file a similar written report every 60 days until discharge.

(f) **Notification of estate about costs.** In the case of a deceased attorney, the conservator shall notify the executor of the estate of the Disciplinary Board's need to be reimbursed by the estate for the costs and expenses incurred in accordance with Rule 328(b) (relating to compensation and expenses of conservator).

### Rule 324. Bank and Other Accounts.

(a) **Notice of appointment and service of order.** A conservator shall notify all banks and financial institutions in which the absent attorney maintained either professional or trustee accounts of the appointment of a conservator under these rules. Service on a bank or financial institution of a certified copy of the order of appointment of the conservator shall operate as a modification of any agreement or deposit among such bank or financial institution, the absent attorney and any other party to the account so as to make the conservator a necessary signatory on any professional or trustee account maintained by the absent attorney with such bank or financial institution. The appointing court on application may by order direct that the conservator shall be sole signatory on any such account to the extent necessary for the purposes of these rules and may direct the disposition and distribution of client and other funds.

(b) **Prompt distribution of funds.** The conservator shall cause all funds of clients in the custody of the absent attorney to be returned to the clients as soon as possible, allowing for deduction of expenses or other proper charges owed by the clients to the absent attorney.

(c) **Retention of CPA.** The conservator may engage the services of a certified public accountant when considered necessary to assist in the bookkeeping and auditing of the financial accounts and records of the absent attorney.

(1) If the state of the financial accounts and records of the absent attorney, or other relevant circumstances, render a determination as to ownership of purported client funds unreasonable and impractical, the conservator shall petition the appointing court for permission to pay all funds held by the absent attorney in any trust, escrow, or IOLTA account, to the Pennsylvania Lawyers Fund [ **F** ] for Client Security. Any petition filed under this subsection shall be served by publication, the specific method and duration of which shall be approved by the appointing court.

(d) **Distribution of remaining funds.** Whenever it appears that sufficient funds are in the possession of the conservatorship to permit the return of all client funds in the custody of the absent attorney, and otherwise to complete the conservatorship and pay its expenses authorized under Enforcement Rule 328 (relating to compensation and expenses of conservator), the conservator shall permit the absent attorney or his or her estate to take full possession of any remaining funds.

**Rule 325. Duration of Conservatorship.**

Appointment of a conservator pursuant to these rules shall be for a period of no longer than [ **six** ] **nine** months. The appointing court shall have the power, upon application of the conservator and for good cause, [ **to extend the appointment for an additional three months** ] **to grant one or more extensions of the appointment, each extension not to exceed six months.** Any order granting [ **such** ] an extension shall include findings of fact in support of the extension. [ **No additional extensions shall be granted absent a showing of extraordinary circumstances.** ]

**Rule 327. Liability of Conservator.**

A conservator appointed under these rules shall:

(1) Not be regarded as having an attorney-client relationship with clients of the absent attorney, except that the conservator shall be bound by the obligation of confidentiality imposed by the Rules of Professional Conduct with respect to information acquired as conservator.

(2) Have no liability to the clients of the absent attorney except for injury to such clients caused by intentional, wilful, or grossly negligent breach of duties as a conservator.

(3) Be immune [ **to separate** ] **from civil** suit brought by or on behalf of the absent attorney. Any objections by or on behalf of the absent attorney or any other person to the conduct of the conservator shall be raised in the appointing court during the pendency of the conservatorship.

**Rule 328. Compensation and Expenses of Conservator.**

(a) **Compensation.** A conservator not associated with the Office of Disciplinary Counsel shall be compensated at an hourly rate identical to that received by court-appointed counsel at the non-court appearance rate in the judicial district where the conservator was appointed. When the conservator believes that extraordinary circumstances justify an enhanced hourly rate, the conservator may apply to the Board Chair for enhanced compensation. Such an application shall be granted only in those

situations in which extraordinary circumstances are shown to justify enhanced compensation.

(b) **Expenses.** The necessary expenses (including, but not limited to, the fees and expenses of certified public accountant engaged pursuant to Enforcement Rule 324(c)) and any compensation of a conservator or any attendant staff shall, if possible, be paid by the absent attorney or his or her estate. Any expenses and any compensation of the conservator that are not reimbursed to the Board shall be paid as a cost of disciplinary administration and enforcement. Payment of any costs incurred by the Board pursuant to this rule that have not been reimbursed to the Board may be made a condition of reinstatement of a formerly admitted attorney or may be ordered in a disciplinary proceeding brought against the absent attorney.

[Pa.B. Doc. No. 23-1645. Filed for public inspection December 1, 2023, 9:00 a.m.]

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

[ 204 PA. CODE CH. 211 ]

#### Judicial Salaries

#### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

#### CHAPTER 211. CONSUMER PRICE INDEX AND JUDICIAL SALARIES

##### § 211.1a. Consumer Price Index—judicial salaries.

The Court Administrator of Pennsylvania reports that the percentage change in the Philadelphia-Wilmington-Atlantic City, PA-DE-NJ-MD, Consumer Price Index for All Urban Consumers (CPI-U) for the 12-month period ending October 2023, was 3.5 percent (3.5%). (See U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index, Tuesday, November 14, 2023.)

##### § 211.2. Judicial salaries effective January 1, 2024.

The annual judicial salaries for calendar year beginning January 1, 2024 will be adjusted by a cost-of-living factor.

###### (a) *Supreme Court.*

(1) The annual salary of a justice of the Supreme Court shall be \$253,361.

(2) The annual salary of the Chief Justice of the Supreme Court shall be \$260,734.

###### (b) *Superior Court.*

(1) The annual salary of a judge of the Superior Court shall be \$239,059.

(2) The annual salary of the President Judge of the Superior Court shall be \$246,428.

###### (c) *Commonwealth Court.*

(1) The annual salary of a judge of the Commonwealth Court shall be \$239,059.

(2) The annual salary of the President Judge of the Commonwealth Court shall be \$246,428.

(d) *Courts of common pleas.*

(1) The annual salary of a judge of the court of common pleas shall be \$219,933.

(2) The annual salaries of the president judges of the courts of common pleas shall be in accordance with the following schedule:

(i) Allegheny County, \$223,618.

(ii) Philadelphia County, \$224,356.

(iii) Judicial districts having six or more judges, \$221,850.

(iv) Judicial districts having five or fewer judges, \$220,892.

(v) Administrative judges of the divisions of the Court of Common Pleas of Philadelphia County with six or more judges, \$221,850.

(vi) Administrative judges of the divisions of the Court of Common Pleas of Philadelphia County with five or fewer judges, \$220,892.

(vii) Administrative judges of the divisions of the Court of Common Pleas of Allegheny County with six or more judges, \$221,850.

(viii) Administrative judges of the divisions of the Court of Common Pleas of Allegheny County with five or fewer judges, \$220,892.

(e) *Philadelphia Municipal Court.*

(1) The annual salary of a judge of the Philadelphia Municipal Court shall be \$214,844.

(2) The annual salary of the President Judge of the Philadelphia Municipal Court shall be \$218,163.

(g) *Magisterial district judge.* The annual salary of a magisterial district judge shall be \$109,973.

(h) *Senior judges.* The compensation of the senior judges pursuant to 42 Pa.C.S. § 4121 (relating to assignment of judges) shall be \$683 per day. In any calendar year the amount of compensation which a senior judge shall be permitted to earn as a senior judge shall not when added to retirement income paid by the Commonwealth for such senior judge exceed the compensation payable by the Commonwealth to a judge then in regular active service on the court from which said senior judge retired. A senior judge who so elects may serve without being paid all or any portion of the compensation provided by this section.

[Pa.B. Doc. No. 23-1646. Filed for public inspection December 1, 2023, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### BERKS COUNTY

#### Amendments to Local Rules; Court of Common Pleas; No. 23-303

##### Order

*And Now*, this 9th day of November, 2023, it is hereby Ordered that amendments to Berks County Orphans' Court Local Rules 1.9C, 2.7A, 7.5A, and 14.8B and rescission of Berks County Orphans' Court Local Rule

2.12 shall become effective on thirty (30) days after publication in the *Pennsylvania Bulletin*.

The District Court Administrator is *Ordered and Directed* to:

1. Submit one (1) copy of this Order, including the amended rule, to the appropriate Rules Committee of the Supreme Court of Pennsylvania for review.

2. Distribute two (2) copies of this Order, including the amended rule, and one (1) disk copy to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. File one (1) copy of this Order, including the amended rules, with the Administrative Office of Pennsylvania Courts contemporaneously with publishing the local rules in the *Pennsylvania Bulletin*.

4. Compile the local rules within the complete set of local rules available on the Berks County Court website no later than 30 days following publication in the *Pennsylvania Bulletin*.

5. Distribute one (1) copy of this Order, including the amended rule to the Berks County Prothonotary's Office so they can keep them continuously available for public inspection and copying.

M. THERESA JOHNSON,  
*President Judge*

#### Rule 1.9C. Depository of the Court.

(a) All moneys and securities which shall be paid or delivered into court, shall, upon the receipt thereof by the Clerk, be immediately deposited by [ **him** ] **the Clerk** with the depository of the court, to the credit of the court in the particular estate or proceeding to which the same may belong; and said depository shall keep a separate account of each of said payments and deliveries, designating the same by the name of the particular estate or proceeding.

(b) No money shall be paid out of court by [ **said** ] depository, or securities delivered except on the checks or orders of the Clerk, countersigned by the Administrative Judge of this Division, **or the President Judge**, and accompanied by a certificate, endorsed on said checks, or orders, under the hand of the Clerk and the seal of the court, that the money was ordered to be paid or the securities delivered.

#### Rule 2.7A. Objections to Accounts or Petitions for Adjudication/Statements of Proposed Distribution—Order.

(a) Objections to accounts may be made at any time prior to the close of business on the first Tuesday of each month (or the first Monday of each month should the first Tuesday [ **of each month** ] be a holiday) to the Court by the Clerk by filing such objections in writing in the Clerk of the Orphans' Court Division.

(b) Objections **that are to be made:** (1) to an account not filed for submission to the Court **for audit but filed by order of the Court;** [ **of** ] **or** (2) an account filed without a Petition for Adjudication/Statement of Proposed Distribution shall be filed within twenty (20) days from service of a copy of the account filed with the Clerk.

(c) A proposed order for the scheduling of a reply date and a status conference or hearing date shall be attached to all objections to accounts or Petitions for Adjudication/Statements of Proposed Distribution. The proposed order shall be in the following form:

(CAPTION)

**ORDER**

AND NOW, (month) \_\_\_\_\_, 20 \_\_, upon consideration of the foregoing objections filed in the above-captioned matter, it is hereby ORDERED that:

- (1) Accountant shall file a Response to the Objections within \_\_\_\_ days of this Order; and
- (2) A status conference shall be held on \_\_\_\_\_, 20 \_\_ at \_\_ a.m./p.m. in the chambers of the undersigned.

OR

(3) A hearing is to occur on the \_\_\_\_\_ day of \_\_\_\_\_, 2018 at \_\_\_\_ o' clock \_\_.M. in a courtroom to be assigned in **the** Berks County Courthouse/Services Center located at [ **6th and** ] **633** Court [ **Streets** ] **Street**, Reading, Pennsylvania **19601**.

Counsel are directed to meet **prior to the hearing** to reduce fact questions and legal issues to a minimum; and, further shall be authorized to settle at [ **said** ] **the** meeting and/[ **later** ]**or** conference/hearing.

BY THE COURT:

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

**Rule 2.12. Rescinded.**

**Rule 7.5A. Motions Practice.**

Unless another procedure is prescribed by a specific rule **or a specific case management order entered by the court in a particular case**, a proposed order granting the relief requested and a rule to show cause why the requested relief should not be granted shall be attached to all motions. Upon consideration of the motion, the court may grant relief immediately or issue a rule to show cause. The rule to show cause shall be in substantially the following form:

(CAPTION)

**RULE TO SHOW CAUSE**

AND NOW, \_\_\_\_\_, \_\_\_\_\_, upon consideration of the foregoing motion, it is ordered that:

- (1) a Rule is issued upon the respondent to show cause why the movant is not entitled to the relief requested;
- (2) the respondent shall file an answer to the motion within \_\_\_\_ days of this date;
- ( ) (3) the movant shall file a brief in support of the motion within \_\_\_\_ days after service of the answer;
- ( ) (4) the respondent shall file a brief in opposition to the motion within \_\_\_\_ days after service of the movant's brief;
- ( ) (5) an evidentiary hearing on disputed issues of material fact shall be held on \_\_\_\_\_ at \_\_\_\_ a.m./p.m. before the undersigned Judge in the Berks County Courthouse/Services Center.
- ( ) (6) oral argument shall be held on \_\_\_\_\_ at \_\_\_\_ a.m./p.m. in the courtroom of the Berks County Courthouse/Services Center assigned to the undersigned.

BY THE COURT:

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

Distribution: Clerk of the Orphans' Court (1); movant or counsel (1); respondent(s) by name (1 each) or counsel

**Rule 14.8B. Guardian Acknowledgment.**

Promptly upon appointment, a court-appointed guardian shall initial, sign and file a Guardian Acknowledgment of Duties and Liabilities form, as follows:

IN RE: \_\_\_\_\_ : IN THE COURT OF COMMON PLEAS  
 \_\_\_\_\_ : OF BERKS COUNTY, PENNSYLVANIA  
 \_\_\_\_\_ : ORPHANS' COURT DIVISION  
 \_\_\_\_\_ an incapacitated person : NO. \_\_\_\_\_

**GUARDIAN ACKNOWLEDGMENT OF DUTIES AND LIABILITIES**

I, the undersigned court-appointed guardian, acknowledge that as guardian I have broad, but not unlimited powers, duties, and liabilities as set forth generally in 20 Pa.C.S.A. § 5501 et seq. and more specifically acknowledge my duties and liabilities under 20 Pa.C.S.A. § 5521 and as follows:

**As Guardian of the Person**, I shall:

- Assert the rights and best interests of my ward. \_\_\_\_\_

- Respect to the greatest possible extent my ward's expressed wishes and preferences. \_\_\_\_\_
- Where appropriate, develop a plan of supportive services to meet my ward's needs. \_\_\_\_\_
- Encourage my ward to participate in all decisions which affect my ward, to act on his or her own behalf whenever he or she is able to do so, and to develop or regain, to the maximum extent possible, capacity to manage his or her personal affairs. \_\_\_\_\_

**As Guardian of the Estate, I shall:**

- Take possession of, maintain, and administer each asset of my ward, and make all reasonable expenditures and efforts to preserve the estate. \_\_\_\_\_
- Within **three months**, file an inventory of my ward's real and personal property and a statement of any property that I expect to acquire thereafter. **(Electronically through the Guardianship Tracking System, or in paper form through the Register of Wills office, along with the appropriate filing fee.)** \_\_\_\_\_

In **addition** to the above duties, as **Guardian (either of the person or the estate), I shall:**

- Exercise my powers for the benefit of my ward. \_\_\_\_\_
- Keep the ward's assets separate from my assets. \_\_\_\_\_
- Exercise reasonable caution and prudence. \_\_\_\_\_
- Keep a full and accurate record of all actions, receipts, and disbursements on behalf of the ward. \_\_\_\_\_
- File an **annual report** electronically through the Guardianship Tracking System or, on forms available in the Register of Wills/Clerk of the Orphans' Court office attesting to the information required by 20 Pa.C.S.A. § 5521(c). **(Filing fee will be charged for paper filings.)** I shall file a final report within 60 days of my ward's death or adjudication of capacity. \_\_\_\_\_
- **I have been made aware of the Guardianship Tracking System (GTS).** \_\_\_\_\_

As **Guardian of the person and/or the estate**, I understand and acknowledge that any breach of my duty to my ward, such as but not limited to asset misappropriation, may result in civil and even criminal liability. \_\_\_\_\_

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

Guardian's Signature: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email address: \_\_\_\_\_

Unified Judicial System of Pennsylvania Web Portal—<https://ujportal.pacourts.us>

[Pa.B. Doc. No. 23-1647. Filed for public inspection December 1, 2023, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### CARBON COUNTY

#### Amendment of Local Rule of Criminal Procedure CARB.R.Crim.P. 106 Continuances in Summary and Court Cases (Forms); No. CP-13-AD- 0000014-2023

##### Administrative Order No. 11-2023

And Now, this 17th day of November, 2023, in order to ensure that all necessary information to rule on a Motion for Continuance of a criminal matter is provided, it is hereby

*Ordered and Decreed*, that Carbon County Court of Common Pleas Local Rule of Criminal Procedure CARB.R.Crim.P. 106 governing criminal Continuances in Summary and Court Cases is *Amended*<sup>1</sup> as indicated, to be effective thirty (30) days after publication in the *Pennsylvania Bulletin*. A copy of the Continuance form and Rule 600 Waiver are as follows for easy reference.

The Carbon County District Court Administrator is *Ordered and Directed* to do the following with the Administrative Order and Rule:

<sup>1</sup> This Administrative Order replaces Administrative Order #9-2015.

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

2. Mail one (1) copy with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* to PA Code and Bulletin, Legislative Reference Bureau, 647 Main Capitol Building, Harrisburg, PA 17120 and e-mail one (1) copy in Microsoft Word format to [bulletin@palrb.us](mailto:bulletin@palrb.us).

3. Publish this local rule on the [www.carboncourts.com](http://www.carboncourts.com) website within 30 days after the publication in the *Pennsylvania Bulletin*.

4. File one (1) copy in the Carbon County Clerk of Court's Office.

5. E-mail one (1) copy for publication in the *Carbon County Law Journal*.

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

*By the Court*

ROGER N. NANOVIC,  
*President Judge*

#### Rule 106. Continuances in Summary and Court Cases.

(a) All Motions for Continuance shall be filed at least two (2) working days before the scheduled event. Motions

shall be filed pursuant to Pa.R.Crim.P. 575 or can be filed by utilizing the attached form titled Motion for Continuance—Criminal. All continuances must indicate the case number, defendant’s name, type of event being continued, date of the event being continued and number of previous continuances. A Rule 600 speedy trial waiver must be attached if the defendant consents to this motion for continuance. The moving party shall secure the signature or indicate the position of the opposing party.

(b) When a Motion for Continuance is requested because of counsel’s attachment in another Court, a copy of the attachment shall accompany the Motion for Continuance. If the reason for filing a continuance is that the defendant is ill, receiving medical treatment or in rehabilitation, the attorney/pro se party must provide documentation from the treating physician or other qualified person documenting the defendant’s illness or treatment, and, in the case of defendant’s rehabilitation, a written statement from the facility at which the defendant is receiving treatment, confirming admission and continued care at such facility.

(c) When a defendant has two or more cases scheduled for the same date and time, only one continuance motion/form listing all the case numbers is required to be filed. When a continuance is requested for events scheduled for different dates or at different times, a separate continuance motion/form must be filed for each event.

(d) Upon filing the motion/form in the Clerk of Courts Office, concurrent service of the Motion/Form for Continuance shall be pursuant to Pa.R.Crim.P. 576.

(e) Any motion filed that is not in compliance with this rule shall be entertained only if the opportunity to timely file it did not exist previously, the defendant was not aware of the grounds for the motion, or the interests of justice so require.

Failure of any motion/form for continuance to comply with this rule shall be grounds for denying the requested continuance.

**Rule 600. Speedy Trial Waiver.**

Initial the applicable answers:

1. Do you understand that Rule 600 of the Pennsylvania Rules of Criminal Procedure (Rule 600) requires that your trial begin no later than 180 and/or 365 days from the date on which the criminal complaint charging you with this/these offense(s) was filed with the Magisterial District Judge?

Yes \_\_\_\_\_ No \_\_\_\_\_

2. Do you understand that, with certain exceptions set forth later in this form, if your trial does not begin within the mandatory 180 and/or 365 days period, you may petition the Court to dismiss the charge(s) against you with prejudice and obtain a Court Order ending this prosecution against you for all time?

Yes \_\_\_\_\_ No \_\_\_\_\_

3. Do you understand that any periods of time at any stage of these proceedings in which you or your lawyer were unavailable, and the periods of any continuances in excess of 30 days requested by you or your lawyer at any stage of these proceedings are not counted as part of the time for beginning your trial—that these time periods are excluded from the calculation of the 180 and/or 365 days?

Yes \_\_\_\_\_ No \_\_\_\_\_

4. Do you understand that Rule 600 allows the Commonwealth of Pennsylvania at any time prior to the expiration of the period for commencement of trial to apply for and receive an extension of the period when, despite due diligence by the Commonwealth, your trial cannot begin within the 180 and/or 365 days or any previously extended time period?

Yes \_\_\_\_\_ No \_\_\_\_\_

5. Do you understand that by (requesting) (agreeing to) (not opposing)

this continuance you are giving up any right which you might otherwise have under Rule 600 to obtain a dismissal of the charges(s) against you for failure to comply with that Rule; that you will not be able to complain that you were denied a speedy trial because of the time consumed by this continuance; and that your trial will be considered timely even if the 180 and/or 365 days or any extension thereof would otherwise have run out before the end of the last day of the next trial session, so long as your trial begins either on or before the expiration of the actual or extended date set by Rule 600, whichever date is latest?

Yes \_\_\_\_\_ No \_\_\_\_\_

6. \_\_\_\_\_ I have reviewed this “Waiver”, the Continuance Form and my Rights to a Speedy Trial with my attorney.

\_\_\_\_\_ I do not have an attorney and I do not wish to consult with one concerning this “Waiver”, the Continuance Form or my Rights to a Speedy Trial.

\_\_\_\_\_  
Signature of Defendant Date

I hereby certify that I have reviewed this Waiver, the Continuance Form and the Defendant’s Rights to a Speedy Trial with the Defendant prior to our signing these forms. If I have executed the above on my client’s behalf, my client has authorized me to do so.

\_\_\_\_\_  
Signature of Defendant’s Attorney Date



CARBON COUNTY COURTS

MOTION FOR CONTINUANCE—CRIMINAL

I. Motion is hereby made to continue the (circle one): Trial Hearing JSC Argument Pre-Trial Conference ARD Plea Sentencing in the following case:

COMMONWEALTH OF PENNSYLVANIA

NO. \_\_\_\_\_

VS

DATE SCHEDULED \_\_\_\_\_ TIME: \_\_\_\_\_  
NO. OF PREVIOUS CONTINUANCES:

\_\_\_\_\_

by Commonwealth \_\_\_\_\_ by Defendant \_\_\_\_\_

Any Outstanding Bench Warrants (circle) Y N

II. The Motion is made for the following reasons (include reason for late filing—less than 2 full working days before scheduled event, if applicable\*):

- \_\_\_\_\_ Vacation
- \_\_\_\_\_ Illness of Atty.
- \_\_\_\_\_ Negotiating Settlement\*
- \_\_\_\_\_ Expert Unavailable
- \_\_\_\_\_ Record Incomplete\*
- \_\_\_\_\_ Illness of Party/Material Witness\*
- \_\_\_\_\_ Late Sub of Atty.
- \_\_\_\_\_ Conflict—Atty.
- \_\_\_\_\_ Party/Material Witness Unavailable\*
- \_\_\_\_\_ Atty. Unavailable\*
- \_\_\_\_\_ Other \_\_\_\_\_

\*Please Explain: \_\_\_\_\_  
(Attach copy of order of attachment elsewhere, if applicable; Attach documentation required by Carb.R.Crim.P. 106(b)).

III. Certificate of Service:

I certify that as the moving party, I am serving a copy of this continuance this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ to the following:

\_\_\_\_\_ District Attorney Office via \_\_\_\_\_ Defense Counsel via \_\_\_\_\_  
Carbon County Courthouse  
Jim Thorpe, PA 18229

\_\_\_\_\_ Court Administration via \_\_\_\_\_  
Carbon County Courthouse  
Jim Thorpe, PA 18229

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

\_\_\_\_\_  
Name (PRINTED) of Moving Counsel/Pro se Party

\_\_\_\_\_  
Signature of Moving Counsel/Pro se Party      Date      Representing

IV. Defendant \_\_\_\_\_ consents \_\_\_\_\_ does not consent to the continuance request. If consented to, attached hereto and made a part hereof is a duly executed waiver of defendant's right to a speedy trial under Pa.R.Crim.P. No. 600.

V. Motion is not opposed \_\_\_\_\_ ; opposed \_\_\_\_\_ for the following reason: \_\_\_\_\_

\_\_\_\_\_  
Name (PRINTED) of Other Counsel/Pro se Party

\_\_\_\_\_  
Signature of Other Counsel/Pro se Party      Date      Representing

[Pa.B. Doc. No. 23-1648. Filed for public inspection December 1, 2023, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### CENTRE COUNTY

#### Local Rule 1915.4-3 Custody Conciliation Conference; No. 2023-CM-30

##### Order

And Now this 16th day of November 2023 it is hereby Ordered that, effective January 2, 2024, a Centre County Local Rule is hereby established to implement Local Rule 1915.4-3 regarding Custody Conciliation Conferences.

Pursuant to Pennsylvania Rules of Judicial Administration 103(d) and after review and subsequent approval from the Supreme Court Rules Committee,

The Centre County District Court Administrator is Directed as follows:

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

(2) File one (1) copy with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) One (1) copy shall be sent to the Centre County Law Library and the editor of the *Centre County Legal Journal*.

(4) Publish a copy of the Administrative Order on the website of Centre County.

(5) Thereafter, compile the Administrative Order within the complete set of local rules no later than thirty (30) days following the publication in the *Pennsylvania Bulletin*.

It is further Ordered that a copy shall be kept continuously available for public inspection and copying in the Office of the Prothonotary of Centre County.

By the Court

JONATHAN D. GRINE,  
President Judge

#### Local Rule 1915.4-3. Custody Conciliation Conference.

A. Upon commencement of an action for any form of legal or physical custody, or an action seeking to initiate or reinstate any proceeding to modify, terminate or otherwise affect contact between children and parties, a custody conciliation conference shall be scheduled. A conciliator shall preside at the conciliation conference.

B. The conciliator shall make every effort to conduct the custody conciliation conference within forty-five (45) days after the commencement of the action. All parties and their attorneys shall attend the custody conciliation conference. Unless ordered by the Court for good cause shown, children should not be brought to the custody conciliation conference and shall not be heard on the issues of custody by the conciliator.

C. The conciliator shall review the court file before the custody conciliation conference to ensure that all pleadings and documents have been properly filed by all parties, including a verification regarding any criminal record or abuse history. If a party has not filed the verification, then the conciliator shall have that party complete the verification before commencing the custody conciliation conference, and the conciliator shall ensure that the verification is filed of record after the conference.

D. The conciliator shall have the ability to request that any party submit to a urine drug analysis at the custody conciliation conference, which shall be performed with

that party's consent. If a party requests that another party submit to a drug analysis, the drug analysis shall be performed at the discretion of the conciliator and with the consent of that party.

E. To facilitate the conference process and encourage frank, open and meaningful exchanges between the parties and their respective counsel, statements made by the parties or their attorneys at the conference shall not be admissible as evidence at a later custody proceeding. The conciliator shall not be a witness in any custody proceedings.

F. At the custody conciliation conference, the parties, counsel, and the conciliator shall make a good-faith effort to resolve the issues and reach a partial or full agreement regarding the issues. The conciliator shall conduct the conference as an informational and conciliatory proceeding rather than a confrontational or adversarial proceeding. All parties and counsel must participate in the conference in a cooperative manner and shall adhere to the directives of the conciliator. The conciliator shall attempt to mediate the differences between the parties and encourage an amicable resolution of those differences. The conciliator shall attempt to negotiate an agreement between the parties.

G. If the parties reach an agreement resolving all the issues raised, the conciliator shall forward an agreed upon Order and Parenting Plan to the Court for approval. The Court may enter the agreed upon Order and Parenting Plan as a final order without hearing the parties.

H. If the parties do not reach a final agreement resolving all issues raised but have reached a temporary custody agreement and do not want to proceed to a custody trial, by mutual consent of the parties, they may request the conciliator forward an agreed upon interim Order and Parenting Plan to the Court for review and entry. The case shall then be listed for subsequent custody conciliation conference at a date to be agreed upon by the parties and the conciliator. Any subsequent custody conciliation conference shall be listed as a status conference. Any agreed upon status conferences by the parties as they work towards a final resolution of the custody action shall toll timelines set forth in Pa.R.C.P. 1915.4.

I. If the parties do not reach an agreement resolving all issues raised, the conciliator shall file a written report with the Court that recites the following:

(1) the parties and attorneys that attended the custody conciliation conference;

(2) the results of the custody conciliation conference;

(3) a recommended interim custody order as to legal and physical custody matters which will govern, pending further proceedings with the Court;

(4) an initial determination, subject to ultimate approval by the Court, as to the use of psychological evaluations, home study evaluations, drug and alcohol evaluations and/or treatments, co-parenting counseling, reunification counseling, the appointment of a guardian ad litem, and/or the appointment of counsel for the child(ren);

(5) any recommendations regarding the need for an expedited hearing in emergency and relocation cases;

(6) whether a party should not be compelled to attend a mediation orientation session because a party, or a child of a party, is or has been the subject of domestic violence

or child abuse allegedly perpetrated by an opposing party at any time within the preceding twenty-four (24) months; and

(7) a recommendation that the case be scheduled for a pre-trial conference and the estimated number of trial days needed.

**Local Rule 1915.4-3.1. Approval of Interim Custody Orders; Exceptions and Reconsideration of Interim Custody Orders.**

A. The recommended interim custody order of the conciliator prepared in accordance with Rule 1915.4-3(I)(3) shall be submitted to the court for approval, signature, and entry of record.

B. No exceptions may be filed to an interim custody order. Any matter not stipulated to at the custody conciliation conference may be reviewed at the pre-trial conference or resolved at the custody trial.

C. Should a significant change in circumstances arise after entry of an interim custody order and before the pre-trial conference necessitating a modification of the interim custody order, which modification cannot be amicably agreed upon pending the pre-trial conference, either party may file a motion for reconsideration of the interim order, setting forth all pertinent facts in support thereof and verified by the filing party. The Court Administrator shall refer such motion to the conciliator. Based on the allegations of the motion, the conciliator may take any one or more of the following actions deemed appropriate under the circumstances: (1) recommend an order by the Court summarily denying the motion; (2) hold a telephone or other conference with both parties; (3) after providing the opposing party an opportunity to respond, recommend a modified interim custody order to the Court; or (4) direct that the matter be resolved at the pre-trial conference.

**Local Rule 1915.4-3.2. Failure to Appear for Custody Conciliation Conference.**

A. A custody conciliation conference may not be cancelled without the written consent of the parties or leave of court.

B. If none of the parties appear for a scheduled custody conciliation conference, the conciliator may:

(1) reschedule the custody conciliation conference; or

(2) prepare and send a proposed Order to the assigned judge indicating that the custody conciliation conference is cancelled and that the pleading is dismissed without prejudice.

C. If any one party fails to appear for a scheduled custody conciliation conference and all parties have been served, the conciliator may:

(1) hold the custody conciliation conference;

(2) reschedule the custody conciliation conference;

(3) make an immediate referral for pre-trial conference; or

(4) prepare and send a proposed Order to the assigned judge indicating that the pleading is dismissed without prejudice.

D. If any one party fails to appear for a scheduled custody conciliation conference and the complaint or petition has not been served on all parties, the custody conciliation conference shall be rescheduled.

**Local Rule 1915.4-4.1. Settlement.**

A custody case will be removed from the custody conciliation conference, pre-trial schedule and/or the custody trial list only upon written agreement of the parties or Court order.

**Local Rule 1915.4-4.2. Case Management and Custody Trial.**

A. If the parties do not reach an agreement resolving all issues raised at the custody conciliation conference, the assigned Judge shall issue a Custody Scheduling Order listing the matter for a pre-trial conference and custody trial.

B. At the time set for the pre-trial conference, both parties shall submit documents and information required by the Court's Custody Scheduling Order. Both parties and their respective counsel shall appear before the Court for presentation of the issues and discussion of possible settlement and disposition of any matters referred to the Court.

**Local Rule 1915.11-3. Appointment of a Guardian Ad Litem; Physical and Mental Examination of Persons; Psychological Examinations and Home Studies.**

A. Upon agreement of the parties at the custody conciliation conference, the conciliator may include in the recommended interim custody order that the Court appoint a guardian ad litem or counsel for the child(ren) and/or a directive that the parties obtain physical evaluations, psychological evaluations, custody evaluations, home study evaluations, drug and alcohol evaluations and/or treatments, co-parenting counseling or reunification counseling prior to the date of the pre-trial conference or trial and may recommend a date by which the parties must make the initial arrangements.

B. Any request by the parties for evaluations made after the initial conference and not made at the pre-trial conference or entered by stipulation must be made by Petition for Special Relief alleging specific facts and reasons for the request.

C. The cost of the guardian ad litem shall be apportioned to the parties as directed by the Court or agreed upon by the parties.

D. Unless otherwise directed by the Court or agreed upon by the parties, the expense of any evaluation shall be borne initially by the party requesting the evaluation and shall be paid in accordance with Pa.R.C.P. 1915.8. A final allocation of the expense may be made by the Court upon entry of an order or decision rendered on any issues raised in the proceeding.

E. Any evaluation filed with the Court shall be filed as a confidential document under the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania.

**Local Rule 1915.13-1. Petition for Special Relief.**

A. Where a party believes there is an immediate clear and present danger to the child(ren), that party may file a petition for special relief. The petition for special relief must be presented as a separate document headed "Petition for Special Relief." The petition shall conform to the requirements of Pa.R.C.P. 1915.15, as may be applicable, and must allege facts which clearly specify the clear and present danger to the welfare of the child(ren).

B. Upon filing and presentation of the petition for special relief to the court for consideration of the allegations, the court shall either:

(1)(a) direct that an initial custody conciliation conference be scheduled before the conciliator; or

(b) if it is ascertained that an initial custody conciliation conference has already been held and an interim order already issued, then:

(i) direct that the conciliator considers the petition for special relief as a reconsideration request under Rule 1915.4-3.1; or

(ii) direct that the issues raised be disposed of at the pre-trial conference or trial;

(2) grant emergency relief and schedule an initial conference or hearing to occur within ten days; or

(3) schedule a conference or hearing before the Court.

C. If a conference or hearing before the Court is scheduled, the party seeking special relief and the respondent(s) must appear before the Court at the time scheduled for the hearing to present testimony. The Court shall determine if probable cause exists to believe there is an immediate clear and present danger to the welfare of the child(ren) involved.

D. As immediately as possible and in any event prior to the conference or hearing before the Court, the petition for special relief and any temporary emergency order shall be served on the opposing party by the petitioning party in the same manner as original process. In addition to service on the opposing party, the petitioner shall make reasonable efforts to provide a copy of the documents to any attorney whom the petitioning party reasonably believes may represent the interests of the other party.

**Local Rule 1940.3. Order for Orientation Session and Mediation.**

A. If the parties are unable to reach an agreement at the custody conciliation conference, the parties may be ordered by the Court to attend a custody mediation orientation session. Custody mediation shall occur in accordance with Pa.R.C.P. 1940.1 et seq. The mediation may address any issues agreed to by the parties unless limited by court order.

B. Should the parties consent to mediation and successfully reach an agreement, the mediator shall prepare a Memorandum of Understanding. The Memorandum of Understanding shall be forwarded to the Court. The Court may enter the agreed upon Memorandum of Understanding as a final order without hearing the parties. If the Court is satisfied that all pending issues are resolved in the Memorandum of Understanding, the Court shall cancel the pre-trial conference and custody trial based upon the parties' resolution. If it appears that there are remaining issues, the Court may schedule a conference, or refer the case back to the conciliator for further conference.

C. Should parties fail to consent to mediation, or should the parties engage in mediation but fail to reach an agreement, the mediator shall notify the Court.

D. No party shall be compelled to participate in a custody mediation orientation session in cases where any party, or a child of any party, is or has been the subject of domestic violence or child abuse allegedly perpetrated by an opposing party at any time within the preceding twenty-four (24) months.

[Pa.B. Doc. No. 23-1649. Filed for public inspection December 1, 2023, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### FRANKLIN AND FULTON COUNTIES

#### Adoption of 39th Jud.Dis. Rules Jud.Adm. 4001, 4007 and 4009 and Rescission of Other Rules; Administrative Order re: AD 114-2023

##### Order

And Now, this 20th day of November, 2023, pursuant to Pennsylvania Rule of Judicial Administration 103(c), the 39th Judicial District hereby adopts 39th Jud.Dis. Rules Jud.Adm. 4001, 4007 and 4009, effective thirty (30) days after the publication of same in the *Pennsylvania Bulletin*. Additionally, the Court rescinds the following local rules within the 39th Judicial District:

39-4002  
39-4007  
39-4008  
39-5000.1  
39-5000.14  
39-5000.15  
39-5000.16  
39-5000.17  
39-5000.18  
39-5000.5  
39-5000.6  
39-507

Accordingly, Mr. Mark Singer, District Court Administrator for the 39th Judicial District, is ordered and directed to do the following:

1. Email one (1) copy of this Order and the following rules to the Administrative Office of Pennsylvania Courts (AOPC) at [adminrules@pacourts.us](mailto:adminrules@pacourts.us).

2. Mail one (1) paper copy of this Order and the following rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* to the following address: Pa. Code and Bulletin, Legislative Reference Bureau, 647 Main Capitol Building, Harrisburg PA 17120.

3. Email one (1) copy of this Order and the following rules in Microsoft Word format only to the Legislative Bureau at [bulletin@palrb.us](mailto:bulletin@palrb.us) for publication in *The Pennsylvania Bulletin*.

4. File one (1) copy of this Order and the following rules with both the Clerk of Courts and Prothonotary in Franklin County and Fulton County, and mail one (1) copy to the Franklin County Law Library for public inspection and copying.

5. Publish a copy of this Order and the following rules on the Franklin County Court website and the Fulton County Court website.

6. Incorporate and publish the following rules into the 39th Judicial District's set of local rules on the Franklin County Court website and the Fulton County website not later than Monday, January 1, 2024.

*By the Court*

SHAWN D. MEYERS,  
*President Judge*

#### 39th Jud.Dis.R.Jud.Adm. 4001. Scope of Rules and Policy.

These Local Rules of Judicial Administration governing court reporting and transcripts shall be read and construed with the Pennsylvania Rules of Judicial Administration 4001—4016, pertaining to the same subject matter.

**39th Jud.Dis.R.Jud.Adm. 4007. Requests for Transcripts.**

(a) All requests for transcripts shall be set forth on a standardized Request for Transcript form provided by the Court Administrator of Pennsylvania. The Request for Transcript form can be downloaded from the Franklin County website at [www.franklincountypa.gov](http://www.franklincountypa.gov) or the Fulton County website at [www.co.fulton.pa.us](http://www.co.fulton.pa.us) or a copy can be obtained at the district court administrator's office.

(b) For an ordinary transcript, the party requesting a full or partial transcript of a trial or other proceeding shall file the original request with the district court administrator. The requesting party shall also serve copies of their request to:

- (1) the presiding judge,
- (2) the court reporter or courtroom technician assigned to the proceeding, and
- (3) opposing counsel, but if not represented, the opposing party.

(c) Non-ordinary transcripts in the form of expedited, daily, and/or same day transcripts are generally not available. If a party wishes to request a non-ordinary transcript, the party shall file a motion with the appropriate records filing office and serve a copy of the motion upon the presiding judge and the district court administrator at least 10 days prior to the proceeding or a scheduled pre-trial/scheduling conference, whichever occurs first. The time limit for filing may be waived by the presiding judge. The presiding judge shall rule upon the motion, in the absence of the presiding judge, the President Judge shall rule upon the motion.

(d) When a party requests a transcript,

(1) the party ordering the transcript shall make a non-refundable, partial payment of 90% of the estimated total cost of the transcript. The payment deposit shall be paid by cash, money order, certified check, or law firm check made payable to Franklin County, and shall be delivered to the district court administrator.

(2) Upon receipt of the 90% deposit, the court reporter(s) or courtroom technician assigned to the proceeding shall be directed by the district court administrator to prepare the transcript.

(3) The court reporter or courtroom technician shall notify the ordering party and the district court administrator upon completion of the transcript and shall indicate the balance due.

(4) Final payment shall be paid by cash, money order, certified check, or law firm check made payable to Franklin County, and shall be delivered to the district court administrator. Upon payment of any balance owed, the court reporter(s) or courtroom technician shall deliver the original transcript to the appropriate records filing office and copies to the parties.

**39th Jud.Dis.R.Jud.Adm. 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 parties referenced in subdivision (a)(3), for an original transcript in electronic format shall not exceed:

- (i) for a transcript for which an accelerated delivery is not requested, \$2.50 per page,
- (ii) for an expedited transcript, \$3.50 per page,

(iii) for a daily transcript, \$4.50 per page, and

(iv) for same day delivery, \$6.50 per page.

(2) When the transcript is prepared in bound paper format, the costs shall be in accordance with paragraph (1) plus a surcharge of \$0.25 per page.

(3) The Commonwealth or a subdivision thereof shall include Franklin and Fulton Counties, the district attorneys for Franklin and Fulton Counties, the public defenders for Franklin and Fulton Counties, and conflict counsel or court appointed criminal counsel who are paid by Franklin and Fulton Counties. The costs payable by a requesting party under this paragraph for an original transcript in electronic format shall not exceed:

(i) \$1.00 per page.

(ii) Where a party under this paragraph requests an expedited transcript, daily transcript, or same day delivery, such a request shall be approved by the President Judge, and the fee per page shall not exceed \$2.50.

(4) *Court Orders and Court requests for transcripts.* There shall be no fee paid for transcribing or preparing dictated court orders, or transcripts requested solely by the Court.

*Comment:* The first requestor of a transcript is obligated to pay for the original transcript, which is filed with the court, plus the copy rate of the records filing office if the requestor desires a personal copy (subject to any cost sharing with additional parties). Many attorneys/parties prefer to read paper transcripts, including condensed transcripts, and these rules do not inhibit the practice. However, when a condensed paper transcript is ordered by a party, the surcharge of \$0.25 per page in Pa.R.J.A. 4008(A)(2) shall refer to \$0.25 per sheet of paper, regardless of the number of pages of transcript on the sheet. However, the parties shall pay the per page copy rate as established by the applicable records filing office. There is no entitlement to expedited, daily, or same day delivery of transcripts. Those services are only available where provided by the judicial district and when the court reporter or courtroom technician has that capability.

(b) *Economic hardship, fee waiver.* A party requesting a fee waiver for the costs of transcripts shall follow the guidelines and utilize the procedure set forth in Pa.R.J.A. 4008(B).

(c) *Assignment and allocation of transcript costs.* Allocation of costs for transcripts shall be in accordance with Pa.R.J.A. 4008(C).

*Comment:* It is the intent of this provision that all parties who receive a transcript should share equitably in the costs. If two parties receive the transcript, they would each pay their share of the cost of the original transcript that is filed with the court, with each party paying for their copy. In cases where a party qualifies for a free or reduced price transcript, any other party paying full price pays only their proportionate share of the full price, with the judicial district absorbing the cost of the free or reduced price transcript. In the event parties cannot informally agree to equitably share in the costs of the preparation of a transcript and copies, the court shall determine the equitable share of costs each party shall pay.

(d) *Copies of transcript.*

(1) A party requesting a copy of any transcript previously ordered, transcribed and filed of record shall file a request with the applicable records filing office. The copy

fees shall be paid to the applicable records filing office. Costs for a copy shall not exceed:

- (i) \$0.75 per page bound, paper format, and,
- (ii) \$0.50 per page electronic copy.

(2) Although not generally available, if a request for a copy of an expedited transcript is made which copy cannot be provided by the applicable records filing office, the costs for preparation by a court reporter or courtroom technician with the approval of the presiding judge shall not exceed:

- (i) \$1.00 per page bound, paper format, and,
- (ii) \$0.75 per page electronic copy.

(3) Although not generally available, if a request for a copy of a daily transcript is made which copy cannot be provided by the applicable records filing office, the costs for preparation by a court reporter or courtroom technician with the approval of the presiding judge shall not exceed:

- (i) \$1.25 per page bound, paper format, and,
- (ii) \$1.00 per page electronic copy.

(4) Although not generally available, if a request for a copy of a same day transcript is made which copy cannot be provided by the applicable records filing office, the costs for preparation by a court reporter or courtroom technician with the approval of the presiding judge shall not exceed:

- (i) \$1.50 per page bound, paper format, and,
- (ii) \$1.25 per page electronic copy.

(5) All copy fees imposed under subdivisions (d)(2)—(4) shall be paid to the District Court Administrator or their designee.

*Comment:* With respect to a non-party (i.e., general public) request for a copy of a transcript, Pa.R.J.A. 4007(D)(4) anticipates that the records filing offices of the judicial district are the proper custodians of court case records and transcripts. Pa.R.J.A. 4008(D)(1) provides that the cost charged to the public for a transcript copy that has been filed of record shall not exceed \$0.75 per page, regardless of the form or location in which the transcript is filed or stored. The copy rates in Pa.R.J.A. 4008(D)(2), (3), and (4) reflect the additional work necessary to deliver a transcript on an expedited schedule, but once the original transcript is filed with the appropriate records filing office, the copy rate in (D)(1) is to apply.

(e) *Additional Costs.*

(1) No transcript or related costs may be charged to the parties or the public other than those listed in subdivisions (a), (c) and (d).

(2) Pursuant to Pa.R.J.A. 4008(E), the presiding judge may impose a reasonable surcharge in cases such as mass

tort, medical malpractice or other unusually complex litigation, where there is a need for a court reporter or courtroom technician to significantly expand his/her dictionary.

(3) To the extent it is available, a reasonable fee may be charged for a secure electronic feed which instantaneously delivers the translated notes from the court reporter or courtroom technician to a laptop, tablet, phone, or other portable electronic device via cable, wifi, router, or Bluetooth to parties, the media, or other interested individuals. There shall be no fee charged to the Court for such a connection.

(4) All fees imposed under subdivisions (e)(2)-(3) shall be paid to the District Court Administrator or their designee.

[Pa.B. Doc. No. 23-1650. Filed for public inspection December 1, 2023, 9:00 a.m.]

**Title 255—LOCAL COURT RULES**

**LUZERNE COUNTY**

**Request to Increase Fees of that Section of the Division of Judicial Services and Records, Formerly Referred to as the Office of the Clerk of Courts; No. 1165 MD 23**

**Order**

*And Now*, this 9th day of November, 2023, upon consideration of the within Petition, and pursuant to 42 P.a.C.S.A § 1725.4, which authorizes the Clerk of Courts to increase fees consistent with the percentage of increase in the Consumer Price Index for Urban Workers for the immediate three-year period preceding the last increase, the Court takes judicial notice that the proposed increase in fees is within the allowed percentage increase (4.9% max).

*It is hereby Ordered and Decreed* that the Court approves the increases in the fee schedule for that section of the Division of Judicial Services and Records, formerly referred to as the Office of the Clerk of Courts, effective January 1, 2024, as per the Clerk of Court Fee Schedule following hereto and marked as Exhibit “A”. The Director of Judicial Services and Records of Luzerne County is hereby directed to file this Order and this Order shall be published on the Luzerne County website and in the *Luzerne County Legal Register* and *Pennsylvania Bulletin*.

*By the Court*

MICHAEL T. VOUGH,  
*President Judge*

**Luzerne County—Clerk of Courts Fees**

EFFECTIVE January 1, 2024

Appeal Processing for Clerk of Courts (\$62.75 + \$5.00 automation fee) .....	\$67.75
Appeal Processing for Superior Court .....	\$90.25
Superior Court Raised Fee as of 11-1-17 (Per AOPC)	
Appointment to Fill Vacancy of Office .....	\$18.50
ARD Dismissal Rule 319 (\$19.00 + \$5.00 automation fee) .....	\$24.00
Bail Bondsmen renewal .....	\$10.75

Certifications .....	\$9.00
Civil Judgment Satisfaction (\$19.00 + \$5.00 automation fee) .....	\$24.00
Constable Deputy and Constable Bonds .....	\$18.50
Copies .....	¢0.50
Detective License Applications (Incorporated) .....	\$453.50
Detective License Applications (Individual) .....	\$340.75
Expungements Rule 320 (\$19.00 + \$5.00 automation fee) .....	\$24.00
Expungement Fee Under Pa.C.S. Section 1725.7 (Act 5) .....	\$132.00
Filing Petition & Order (\$19.00 + \$5.00 automation fee) .....	\$24.00
Filing of Orders/Motions (2nd Filing) .....	\$9.00
Filings of Resolutions/Ordinances .....	\$19.00
Filing of Tax Collector’s Bonds .....	\$12.25
Limited Access (\$19.00 + \$5.00 automation fee).....	\$24.00
Liquor License Appeals .....	\$25.00
Microfilm Copies .....	\$1.50
Motion and Order (All Nolle Prose) .....	\$24.50
Poundage on Bail.....	3% on the first thousand, 1% on the balance.....
Processing all Misc. or Felony Cases During or After Trial .....	\$155.25
Processing all Misc. of Felony Cases During or Before Trial .....	\$87.00
Record Checks (Per Individual) .....	\$18.50
Short Certificate .....	\$8.50
Subpoenas .....	\$3.50
Summary Appeal (\$50.25 + \$5.00 automation fee) .....	\$55.25
Writ of Habeas Corpus Petitions (\$62.50 + \$5.00 automation fee) .....	\$67.50
<i>Case Assessments: (Applied by Probation)</i>	
Administrative Fee on MD Numbers (\$42.75 + \$5.00 automation fee) .....	\$47.75
Clerk of Courts Filing Fee (\$128.00 + \$5.00 automation fee) .....	\$133.00
Luzerne County cost each additional count .....	\$27.75

[Pa.B. Doc. No. 23-1651. Filed for public inspection December 1, 2023, 9:00 a.m.]

**Title 255—LOCAL COURT RULES**

**LUZERNE COUNTY**

**Request to Increase Fees of that Section of the Division of Judicial Services and Records, Formerly Referred to as the Office of the Prothonotary; No. 2023-11567**

**Order**

*And Now*, this 9th day of November, 2023, upon consideration of the within Petition, and pursuant to 42 P.S. § 21071.1, which authorizes the Prothonotary to increase fees consistent with the percentage of increase in the Consumer Price Index for Urban Workers for the immediate three-year period preceding the last increase,

the Court takes judicial notice that the proposed increase in fees of 4% or less is within the stated percentage increase.

*It is hereby Ordered and Decreed* that the Court approves the increases in the fee schedule for that section of the Division of Judicial Services and Records, formerly referred to as the Office of the Prothonotary, effective January 1, 2024, as per the Prothonotary Fee Schedule following hereto and marked as Exhibit “A”. The Director of Judicial Services and Records of Luzerne County is hereby directed to file this Order and this Order shall be published on the Luzerne County website and in the *Luzerne County Legal Register* and *Pennsylvania Bulletin*.

*By the Court*

MICHAEL T. VOUGH,  
*President Judge*

**PROTHONOTARY’S FEE BILL**

**LUZERNE COUNTY**

Pursuant to ACT 98-164 of January 21, 1999, the following fees are fixed by the Prothonotary and effective:

EFFECTIVE: January 1, 2024

APPEALS: From the Court of Common Pleas to any Appellate Court ..... \$71.00

**THE COURTS**

**7371**

Plus Appellate Court Fee (separate check) .....	\$90.25
ARBITRATIONS: Where arbitration proceedings are processed by the Prothonotary's Office (\$50,000.00 Limit) .....	\$64.00
APPEAL OF ARBITRATOR'S DECISION .....	\$473.50
ASSIGNMENTS .....	\$12.50
AUDITOR'S REPORT: (School, etc.) .....	\$69.00
BUILDING AGREEMENTS: Stipulations .....	\$32.00
Waivers .....	\$32.00
CERTIFICATIONS:	
Certifying copy of any paper—First Page .....	\$9.00
Additional pages .....	\$4.75
Certification of Notary Public, Justice of Peace, Motor Vehicle or similar paper .....	\$6.75
CERTIFICATION OF TRIAL READINESS .....	\$11.50
COMMENCEMENT OF ACTIONS (by Summons, Petition or Complaint):	
Civil Actions, Declaration of Taking, Equity, Lis Pendens, Name Change, Mortgage Foreclosure, Quiet Title, Minors Compromise Settlement, Petition to Open/Strike Judgment, Suspension of Motor Vehicle, Tax Assessment Appeal, Transfers from Other Jurisdictions, Notice of Appeal from Magistrate, Appeal from Zoning Hearing Board, Miscellaneous .....	\$178.50
Statement of Objection: (Magistrate) .....	\$69.50
PFA .....	\$141.50
PFA State surcharge .....	\$100.00
COPIES: (Made by customer) .....	¢0.50
COPIES: (Made by employees) .....	\$2.25
DECLARATORY JUDGMENT .....	\$192.00
DECREES: (Entry of any decree which is final) .....	\$14.50
DISCONTINUANCE: (On any case filed before January 3, 2005) .....	\$12.50
DIVORCE ACTION: (basic no-fault) .....	\$190.00
(Add \$45.50 for each count after the first)	
DIVORCE COUNTER CLAIM: (Additional Count) .....	\$45.50
DIVORCE: (Additional Count of Custody) .....	\$47.00
Special Note:	
\$9.50 is to be collected on all custody case filings. The fee is the result of Act 119 of 1996 (commonly referred to as the Jen and Dave fee). The purpose of the fee is to fund a new automated system to make criminal charge information available to parties involved in custody cases.	
CUSTODY ACTION .....	\$189.00
EXECUTIONS: Money Judgment, Mortgage Foreclosure & Municipal .....	\$36.25
Possession, Writ of .....	\$36.25
Attachment .....	\$36.25
Seizure, Writ of .....	\$36.25
Judgment (Out of County Execution) .....	\$17.25
EXEMPLIFICATION OF RECORDS .....	\$24.50
FAX: Long Distance .....	(per page) \$3.00
Local .....	(per page) \$3.00
FINANCIAL STATEMENT .....	\$29.50
JUDGMENTS: Complaint in Confession of Judgment .....	\$150.00
New Filing: Entry of any Judgment or Decree, which is final whether by Agreement, Demurrer, Non Pros, or Preliminary Objection or Motion on Verdict of Award, by Court Order, Finding Opinion, Default, Etc. ....	\$23.25
Notes (DSB) .....	\$41.00
Transfer of Judgment from other Counties .....	\$41.00
Transcripts J.P. or Magistrates .....	\$33.00



## LIENS:

Municipal .....	\$40.50
Mechanics .....	\$40.50
Federal .....	\$40.50
Flood Protection Authority Lien .....	\$41.00
Commonwealth .....	\$41.00

## MASTERS FEE:

Moving Party .....	\$400.00
Responding Party .....	\$400.00

NOTARY PUBLIC: Registration of Signature of Notary Public ..... \$5.00

NOTICE TO RETAKE MAIDEN NAME ..... \$11.50

NOTICE TO RESUME PRIOR SURNAME ..... \$22.75

POUNDAGE: For handling of money put into Court:

For each dollar of the first \$1,000.00 ..... ¢0.45

For each additional dollar over \$1,000.00 ..... ¢0.15

PRAECIPE TO DISSOLVE ATTACHMENT ..... \$13.50

PRAECIPE FOR LIS PENDENS: (Subsequent filing) ..... \$28.50

PRAECIPE TO REISSUE WRIT OR REINSTATE COMPLAINT ..... \$6.75

PRAECIPE TO TRANSMIT RECORD ..... \$49.25

RECORDING: Filing any paper, account of document required by law  
to be recorded, not otherwise provided for or included herein ..... \$12.50

REVIVALS: Reviving the lien of any Judgment by Amicable Proceedings ..... \$23.25

Reviving the lien of any Judgment by Adverse Proceedings ..... \$36.25

RELEASE OF JUDGMENT ..... \$8.25

RETURN CHECK CHARGE ..... \$35.00

SUBPOENA (under seal) Each ..... \$5.75

## SATISFACTION:

On any case filed before January 3, 2005 ..... \$12.50

Commonwealth Satisfaction on any case filed before January 3, 2005 ..... \$12.50

Federal Lien Release ..... \$12.50

Clerk of Courts Satisfaction ..... \$41.00

SEARCH: Five Years ..... \$28.50

Each Additional Year ..... \$5.75

Naturalization Search (Per Person) ..... \$28.50

WRIT OF CERTIORARI ..... \$140.75

[Pa.B. Doc. No. 23-1652. Filed for public inspection December 1, 2023, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Suspension

By Order of the Supreme Court of Pennsylvania dated November 13, 2023, Kenneth L. Blackwell (# 62830), whose registered address is in Capitol Heights, MD, is suspended from the practice of law in this Commonwealth for a period of 6 months, with all but 60 days stayed in

favor of 3 years of probation, with conditions, effective December 13, 2023. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

MARCEE D. SLOAN,  
*Board Prothonotary*

[Pa.B. Doc. No. 23-1653. Filed for public inspection December 1, 2023, 9:00 a.m.]