In The Court of Common Pleas
Butler County, Pennsylvania

2012

LOCAL RULES OF COURT

FAMILY COURT

Adopted by the Court – February 1, 2007
Amended by the Court – September 9, 2009
Amended by the Court – May 25, 2012
Amended by the Court – June 25, 2012

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LOCAL RULES OF COURT
FAMILY DIVISION

Introductory Comment – 2006

The Court of Common Pleas of Butler County has traditionally utilized the services of masters in a variety of family law cases, most prominently in juvenile and divorce matters. These rules continue the evolution of that tradition.

Historically, in divorce cases, Butler County has tried two, almost conceptually opposite, methods for the selection of masters. For many years, any locally based attorney licensed to practice law was eligible for inclusion on the divorce master list maintained by the prothonotary. The system worked reasonably well when the local bar consisted of fewer than 60 attorneys, and the substantive law of divorce had not been materially reformed in 200 years.

Following the adoption of the Pennsylvania Divorce Code in 1980, with the introduction of new and complex concepts related to equitable distribution of marital property and alimony, and the virtual elimination of fault divorce which had been the exclusive focus of master's proceedings prior to that time, the court quickly realized that the all-inclusive master system could not continue. With a new and unfamiliar Divorce Code, and little or no appellate guidance at the time, family law was being reinvented constantly on a local level by countless masters with differing experience levels and personal viewpoints as to how the new Code should be interpreted. Long delays in the completion of master's proceedings and inconsistent legal interpretations were typical. Practitioners had little ability to forecast the outcome of a master's proceeding and consequent inability to advise clients appropriately. Reform of the system for appointing masters was generally conceded to be necessary.

Responding to the outcry for consistency and predictability which were paramount considerations at the time, the court adopted a very restricted standing master system. Individual attorneys applied for the post of standing master and, if selected, were required to relinquish their family law practice within the county. The Local Rules provided for compensation of standing masters at an hourly rate far below what the same individuals could command in their private practices. In general, the standing master system in divorce cases did achieve the continuity and consistency of decision making which was its *raison d'être*.

Nevertheless, the local legal landscape continues to evolve. Butler County continues to grow and the demand for judicial time allocated to family law, civil, criminal, Orphans' Court and miscellaneous types of cases grows along with the population. The number of cases assigned to each judge has increased, while pressure to dispose of cases expeditiously has intensified. At the same time, on a statewide level, we now have a full generation of appellate case law to guide us to reasonably nuanced interpretations of the Divorce Code.

The court believes that now is an appropriate time to experiment with changes to the existing standing master system. Based on the relative stability of the Divorce Code, and the abundance of appellate case law, the court is less concerned than previously with the probability

of inconsistent legal interpretations of similar factual matrices, provided that the court is careful to limit the masters it appoints to practitioners with whom the court is familiar, and who possess both substantial family law experience and appropriate judicial temperament. Specifically, the court envisions appointing masters which the court is aware have particular expertise in the type(s) of issue(s) presented by the case requiring a master's appointment. The court also wants to permit the parties attorneys to mutually nominate a master to hear a particular issue, whom the court will appoint if the parties nominee meets the court's masters criteria.

Under these rules, the standing master system for divorces is replaced by a special master system. The court will still utilize standing masters in Juvenile cases. Standing masters and custody conciliators will still be prohibited from practicing family law in Butler County. However, other practitioners will be permitted to practice family law, in spite of their appointments from time to time as special masters.

Practitioners will also notice some changes to the custody rules. An additional Order is required at the time of filing directing registration and attendance at the divided families seminar. The issue of undue delay is addressed in several ways. In an effort to emphasize the importance of keeping cases from languishing in the evaluation phase of the process, a pre-trial conference will be scheduled as part of the original conciliation order, if evaluations are ordered. This emphasizes to all parties the need to comply with the schedule for arranging and completing any evaluations. Prior to the pre-trial conference, a type of pre-trail statement, with prescribed disclosures, will now be required. As of the pre-trial conference, such additional pre-trial disclosure as is mandated by the assigned judge will be discussed and ordered.

As an aid to understanding the new rules, and the court's perspective concerning the subject matter of the rules, footnotes have been inserted and comments have been appended at the end of the complete statement of a rule, when appropriate. This is consistent with Pa.R.C.P. No. 129(e). An asterisk (*) has been employed to direct the reader's attention to the inclusion of a comment related to a particular rule or a particular subsection of a rule.

Explanatory Comment – 2009 Amendments – Rules: L1915.4-1; L1915.7; L1915.10

Children's Fast Track Appeals

On January 13, 2009 the Supreme Court amended the appellate court rules, designating special procedures and compressed deadlines in appeals from any order involving dependency, termination of parental rights, adoptions, custody or paternity. Such appeals are now known as "children's fast track appeals."

As the term implies, children's fast track appeals are to be processed more quickly than other appeals. A comprehensive recitation of all of the shortened deadlines associated with children's fast track appeals is beyond the scope of this comment. However, one of the rule changes invites a local rule response, specifically, that the Certified Record is to be transmitted to the appellate court within 30 days after the appeal is filed, instead of the normal 60 days.

This change places a premium on rapid transcription of the trial testimony. Pa.R.A.P. 904(c) already requires that an Order for Transcript accompany the filing of the Appeal, and that the Order for Transcript be served on the court reporter by the appellant. Rule of Judicial Administration 5006 authorizes court reporters to require deposits towards the estimated cost of transcription, and specifically authorizes the adoption of local rules specifying the recipients of those deposits. Court reporters are authorized to retain completed transcripts until payment is fully made or adequate security for payment posted.

At this time, the court chooses to exercise its local rule making authority in an effort to abet the intention of the children's fast track appeal rule changes, to insure timely payment of transcription expenses in such cases, and to clarify for the bar the appropriate procedure to be followed when ordering transcripts for children's fast track appeals in Butler County.

The new appellate rules relating to children's fast track appeals apply to a variety of cases outside the context of existing local rules, such as dependency and termination of parental rights. Rather than set up additional rule sets for each type of matter affected, and separately amending each set of existing rules affected, the decision was made to add a single Local Rule 1930.2 which would have global effect in all matters affecting children, including those encompassed within the definition of children's fast track appeals.

Custody Rule Changes

For some years there has been a trend toward requiring courts to dispose of custody matters efficiently, albeit with due regard for the need to conduct a searching inquiry into the facts. One aspect of that inquiry which the court invariably finds helpful is the input of court appointed evaluators. The local rules adopted in 2006 attempted to insure that evaluator's reports would be available to the parties in time for the pretrial conference. This has not always occurred because the evaluators have not always been informed of the pretrial conference date in a timely fashion. A simple rule change requiring notice by the prothonotary, to the evaluator, of the date

of the pre-trial conference addresses this problem. The prothonotary is also charged with sending the evaluator any order scheduling a custody trial.

Another "housekeeping" change involves requests for refunds of conciliator fees, when the parties settle prior to conciliation. Although refunds are not required by rule or law, they have been customarily granted as a matter of course; however, there comes a point in time when too long delayed refunds adversely affect budgeting considerations within the judicial system and related considerations within the county budget office. Therefore, the court elects to impose a time limit within which a party seeking a refund of the conciliator's fees must apply for that refund.

A new rule provides that if the moving party to a custody action fails to appear at a conciliation conference, the conciliator will so report, and the action will be dismissed of record.

Another new rule clarifies the court's ability to require deposits from time to time to insure that guardian's *ad litem* are paid in a timely fashion and without the necessity for collection procedures.

The conciliator's office and the court have received questions from custody evaluators concerning fee arrangements for in-court testimony, refunds or partial refunds when the case settles before the testimony is given, and the availability of the evaluators to counsel for the parties, both during the evaluations and between the release of the evaluator's report and trial. The court is somewhat reluctant to address such matters by hard and fast rules, as the circumstances often vary significantly from case to case, and different evaluators have different preferences. However, certain principles do apply.

Counsel should not initiate contact with an evaluator after the evaluation is ordered for any purpose which could be construed as attempting to influence the course or outcome of the evaluation. Any such contact should be reported to the conciliator's office, and by the conciliator to the court.

Evaluators should provide the conciliator's office with a schedule of fees for the evaluation and for trial testimony. Such fees should provide a daily rate and a half day rate and the time, prior to trial, by which payment will be required to secure the evaluator's availability in court. Both the daily rate and half day rate should include time for a 1 hour telephone or in-person preparation session with counsel who will be a proponent of the evaluator's report at trial. The cost of additional preparation time, if needed, is a contractual matter between the evaluator and counsel. Advance preparation of the evaluator's direct testimony does assist the court by insuring a well thought out presentation. The evaluator's cancellation and refund policies should also be stated in the fee schedule provided to the conciliator's office.

Although the amended rules insure that the evaluator will be notified by the prothonotary of the scheduling of a trial, it remains the responsibility of the party advocating on behalf of the report to arrange for the evaluator's testimony at trial at the earliest possible date. The evaluator

is not expected to assume, merely because he/she is notified of a trial date that his/her expert testimony will be required.

The evaluator is not obligated to discuss the case with the party or counsel who will not be advocating on behalf of the report at trial; however, the evaluator may elect do so at least 10 days before trial, for a fee to be agreed between the evaluator and the non-advocating party. In such event, the evaluator should promptly provide an oral summary of said conference to counsel for the party (or the party, if unrepresented) advocating on behalf of the report, at no additional charge to that party. If the evaluator does not agree to speak with the party or attorney opposing the evaluator's report, or refuses to read correspondence from either of them, such refusal will not support an inference that the evaluator is biased against such party or is uncertain of his/her conclusions and opinions.

Finally, while it is legal to secure the attendance of any witness, including an evaluator, through the compulsion of a subpoena, to do so is essentially fruitless in terms of compelling the witness to testify to the conclusions and opinions set forth in the report. The witness can only be required to state legally admissible facts – his/her expert opinions cannot be compelled. Accordingly, potential payment problems should be addressed frankly and in advance with the evaluator so that, if possible, arrangements can be made to secure his/her expert testimony at trial. Counsel is encouraged to extend the professional courtesy of granting as much time as possible to the evaluator to ensure that the evaluator's schedule can be set to allow for testimony before the court. It remains within the discretion of the trial court to determine if sufficient notice has been provided to the evaluator to permit appearance at trial.

PROTECTION FROM ABUSE

L1905 Orders

At any time that the Court of Common Pleas of Butler County is participating in any program to develop a data base for protection from abuse orders, only orders produced by that system shall be presented to the court for review and signature, if the system is operational. If the system used to produce orders is temporarily non-operational, orders created outside the system shall be integrated therein as soon as possible.

SUPPORT

L1910.4 Domestic Relations Fee Schedule

(a) A fee schedule for Domestic Relations administrative costs, the filing of support complaints, petitions to modify support orders, issuance of bench warrants, petitions for contempt, and other related fees shall be as established by order of court from time to time.

(b) Except for the filing of an initial support complaint, the fee shall be required to be paid in advance. All fees shall be collected and administered by Domestic Relations personnel.

L1910.11 Motions to Continue Support Conferences and Hearings; Use of Masters

(a) & (i) Support matters scheduled before the court or in the Domestic Relations section shall be continued only by leave of court, with good cause shown, presented at least 15 days before the actual support conference or hearing.[1]

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[1] The court will ordinarily consider the mutual written consent of the parties to be "good cause" for a continuance, regardless of the proximity to the scheduled conference or hearing date. However, motions for non-consensual postponements shall be filed at least 15 days before the scheduled Domestic Relations conference or court hearing. Butler County motions practice is described in Rule L208.3(a).

CUSTODY AND VISITATION

L1915.1 Scope. Definitions.

(a) These rules govern all actions for custody, partial custody and visitation, including original actions, petitions for relocation, petitions to modify orders and petitions for contempt.

(b) These rules supplement the Pennsylvania Rules of Civil Procedure governing custody actions, Pa.R.C.P. No. 1915.1 et seq.

(c) These rules modify Rules L1915.1 - L1915.13 of the Butler County Local Rules of Court

L1915.3 Commencement of Action. Complaint. Order. Service.

(a)All custody complaints shall be filed with the prothonotary.[2] In addition to the scheduling Order required by Pa.R.C.P. No. 1915.3, there shall be attached by the Conciliator's office, an additional Order with the following text:

"All adult parties to this action, who have not yet attended the seminar for divided families endorsed by the Butler County Family Court, shall within 5 days of receipt of this Order register to attend the next available seminar. Contact 724 XXX-XXXX to register.[3] Attendance at this seminar is mandatory, unless, within 5 days of receipt of the Order, a party seeks permission to attend a comparable program in another county, and within 10 days, permission is granted by the custody conciliator."

(b) In addition to the filing fees assessed by the prothonotary, an administrative fee for conciliation services shall be assessed by administrative order of court, and shall be submitted to the prothonotary at the time of the filing of the custody complaint unless otherwise directed by the court.

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[2] The traditional alternative practice of *ex parte* presentation of custody complaints, custody modification or custody contempt petitions in motions court is discouraged. The practice originated because of the need to secure a judge's signature on the order scheduling a conciliation conference or hearing. However, experience indicates that the prothonotary and custody conciliator's offices can be relied upon to bring the proposed scheduling order to the court's attention promptly and efficiently, eliminating the waiting and presentation time of attorneys at motions court, and thereby reducing the parties expenses. The parties or attorneys may monitor the progress of their pleadings, within the system, by communications with the prothonotary and conciliator's offices.

[3] The phone number of the endorsed seminar (which could change from time to time) will be published by Administrative Order.

(c) After filing, all complaints or motions for conferences shall be immediately forwarded to the custody conciliator's office which shall set the time, date, and place for a custody conference. Said conference shall be held no less than 20, nor more than 40 days from the filing of the complaint/order or petition/order, unless the normal time interval is shortened or lengthened by the court, upon good cause shown.

(d) Within 5 days of service of any claim for custody, partial custody, or visitation, any party to an action who has not previously attended the education seminar for divided families shall register to attend said seminar. Information concerning the seminar shall be provided by the prothonotary of the Court of Common Pleas of Butler County, Pennsylvania, to the filing party. Said party shall be responsible for service of such information on the opposing party.

(1) Failure of either party to register for the seminar, prior to the conference, may subject the noncompliant party to such sanctions as may be appropriate, including an award of counsel fees.

(2) Unless otherwise requested by both parties, the parties will be scheduled for separate education seminar sessions.[4]

(e) Fees and policies pertaining to custody conciliation shall be adopted from time to time by administrative orders of court. A copy of said policies and fee schedule will be available at the Domestic Relations office/custody conciliator's office.

L1915.4

(a) The complaint/order or petition/order and the order to attend the divided families seminar, shall be served by the moving party in accordance with the Pennsylvania Rules of Civil Procedure.

(b) Proof of service of the complaint/order or the petition/order, and the Order to attend the divided parents seminar, shall be filed with the prothonotary prior to the custody conference.

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[4] This rule is renumbered and changed. The previous Rule limited a party's right to request a separate seminar to cases in which abuse had been found or was alleged. The committee felt that many family situations not rising to the level of abuse might warrant a party seeking separate seminar registration. The goal is to promote and facilitate seminar attendance. Separate registrations cannot justifiably deter attendance; simultaneous registration might, even in non-abuse cases. The Court is advised that the practice of the current seminar provider is to schedule attendance of opposing parties on different dates. The Court endorses that practice.

L1915.4-1 Continuances of Conciliation Conferences or Custody Hearings, Refunds, Unexcused Failure to Attend Conference

(a) Custody matters scheduled before the court, or in the custody conciliators office shall be continued only by leave of court, with good cause shown. General continuances will not be granted. A date certain for the rescheduled conference will be included in every order continuing a conciliation conference. For a request for a continuance to be considered, the motion shall be filed with the court in accordance with local civil motions practice/procedure.

(b) Except in the case of a documented medical emergency, or upon consent of both parties, motions to continue, cancel or withdraw a custody conciliation conference must be presented at least 10 days prior to the scheduled conciliation.

(c) If the case is withdrawn from the conciliators consideration prior to any conciliation conference occurring, and the party paying the initial conciliators fee seeks a refund thereof, he/she shall present a motion requesting a refund not later than 10 days after the last scheduled conciliation conference.*

(d) If the party seeking the imposition of an initial custody order, or the modification of a custody order already in existence, i.e. the moving party, fails to appear at a scheduled custody conference, the court will dismiss the case, and the conciliator's fee will not be refunded.

Comment: Requests for refund presented more than 10 days after the conciliation conference will not be granted. The intent of this rule is to process refunds in a timely manner consistent with budgeting and accounting needs of the judicial system and the county.

Comment: Butler County motions practice is described in Rule L208.3(a).

L1915.4-2 Procedure for Special Master in Partial Custody (This rule added May 25, 2012)

(a) The Court may appoint a Special Master in Partial Custody to receive evidence, make findings of fact and recommend to the court a disposition of partial custody issues referred to the Special Master. A Special Master may hear issues of partial custody and such other issues as may be permitted by general rule from time to time. The Special Master's hearing shall be scheduled by the Court. Except with leave of Court, there will be no pre-trial conference before the Special Master.

(b) The Court may appoint as a Special Master any attorney on the approved list to be kept by Court Administration. Said attorney shall have at least five (5) years experience practicing family law in Butler County. The Special Master will be appointed to serve on a case-by-case basis. In the event the parties and/or attorneys are unable to agree upon the appointment of the Special Master from the approved list, the Butler County Custody Conciliator shall appoint said Special Master on a rotating basis. A Special Master appointed by the Court pursuant to this Rule is not precluded from practicing family law in Butler County.

(c) Special Masters appointed pursuant to this Rule shall be compensated by the parties to the litigation based on a fee schedule published by the Court from time to time by general administrative Order. The parties shall be ordered to deposit a sum of money with the Prothonotary. The amount of the deposit shall be set from time to time by general administrative Order.

(d) Once a Special Master is appointed, any document subsequently filed with the Court shall be served upon the Special Master by the filing party. In addition, the Prothonotary shall serve the Special Master with copies of any orders issued.

(e) The Special Master, once appointed, shall ensure that the parties are compliant with the Court Order, specifically in regard to whether the litigants have complied with the requirement to deposit fees to the Prothonotary and with the requirement to file pre-trial statements in a timely manner. The Special Master may file Motions and Petitions, when and if appropriate to secure the parties' compliance.

(f) The Special Master's hearing shall be conducted on the record and a court reporter shall record the proceedings. The Special Master shall be responsible for hiring a Court Reporter for the Master's Hearing. Transcripts shall not be routinely made. When requested, the transcript shall be paid for by the requesting party.

(g) All Special Master proceedings shall be convened in the Butler County Courthouse and shall be scheduled for two hours unless the party notifies the Special Master that more time is needed.

(h) Special Masters shall submit their recommendations to the Court no later than ten (10) days after the conclusion of the Special Master's hearing.

(i) A party disagreeing with any or all of the Special Master's recommendation shall file exceptions to the recommendation. Said exceptions shall be heard before the Court. Exceptions shall be filed within twenty (20) days of the Special Master's Report and Recommendation.

(j) The Scheduling Order for a Special Master Hearing shall be substantially in the following form:

(Caption)

SCHEDULING ORDER

AND NOW, this _____ day of _____, 20___, it is hereby ordered that _____ is hereby appointed in this matter to act as Special Master in Partial Custody. The Special Master shall be compensated at the rate of $120.00 per hour.

It is further ordered that the Special Master's fees and costs shall be split equally by the parties. Each party is hereby ordered to deposit the sum of $300.00 to the Prothonotary's Office within ten (10) days prior to the hearing scheduled in this matter.

The above named parties and counsel, if any, are hereby ordered to appear in person on the _____ **day of** _____**, 20___ at** _____ **o'clock __.m.** before _____, Special Master in the _____ _____ of the Butler County Government Center, for a Master's Partial Custody Hearing. Counsel or the parties, if unrepresented, shall file a Pretrial Statement in the office of the Butler County Prothonotary at least seven (7) days prior to the Special Master's Partial Custody Hearing. Copies of the Pretrial Statement should, to the extent possible, be limited to three pages or less and shall be served on all parties and onto the Special Master. **Two hours have been allotted.**

If said hearing is cancelled or continued less than ten days prior to the scheduled date, the Special Master shall receive a minimum of one hundred and twenty dollars ($120) and the Court Reporter a minimum of seventy five dollars ($75). Said fees shall be taken out of the deposit made by the parties prior to any refunds being issued.

Special Masters will be required to submit their recommendations to the Court no later than ten days after the conclusion of the Special Master's Hearing.

BY THE COURT,

_____

JUDGE

1915.4-2(a) Continuances of Special Master's Hearings, Refunds, Unexcused Failure to Attend Hearing (This rule added May 25, 2012)

(a) Partial Custody matters scheduled before the Special Master shall only be continued by leave of Court, with good cause shown. General continuances shall not be granted. A date certain for the rescheduled Master's Hearing will be included in every Order continuing a Special Master's Hearing. For a request to be considered, the motion shall be filed with the Court in accordance with local civil motions practice/procedure.

(b) Except in the case of a documented medical emergency, or upon consent of both parties, motions to continue, cancel or withdraw a request for a Master's Hearing must be presented at least ten (10) days prior to the scheduled conference.

(c) If the case is withdrawn from the Special Master's consideration prior to the Special Master's Hearing occurring and the parties seek a refund of the fees deposited with the Prothonotary's Office thereof, he/she shall file a motion requesting said refund, less the Special Master's fee and less the Court Reporter's fee, not later than ten (10) days after the last scheduled Hearing date.

(d) If the moving party fails to appear at the scheduled Special Master's Hearing, the Court will dismiss the case and the fees deposited by that party with the Prothonotary's Office shall not be refunded to the said moving party. The other party to the action may request a refund of the fees deposited with the Prothonotary's Office by filing a motion requesting said refund not later than ten (10) days after the last scheduled Hearing.

IN THE COURT OF COMMON PLEAS OF BUTLER COUNTY, PENNSYLVANIA

RE: FEE SCHEDULE FOR PARTIAL CUSTODY MASTERS	:	**MsD#**

ADMINISTRATIVE ORDER OF COURT

AND NOW, this _____ day of _____, 2012, pursuant to Local Rule L 1918.8, the Court hereby establishes the following fee schedule for the appointment of Partial Custody Masters:

- Deposit for Master's Hearing - $600.00
- Hourly rate for Special Masters in Partial Custody - $120.00
- Minimum Payment to Special Master, unless case is canceled at least 10 days prior to Special Master's Hearing - $120.00
- Hourly rate payable to Court Reporter - $75.00
- Minimum appearance fee for Court Reporter, unless hearing is canceled a least 10 days prior to Hearing - $50.00

L1915.5 Jurisdiction, Venue, Standing, and Relocation Issues.

(a) The court may direct that issues pertaining to jurisdiction, venue, standing, and relocation be referred to custody conciliation.

(b) Alternatively, the court may schedule a hearing before the court for disposition of the jurisdictional, venue, standing or relocation issue, or the court may take such other action as may be prescribed by statute, compact or treaty.

Comment: The court will always dispose of interstate or international jurisdictional issues, outside the conciliation process. In such cases the court may defer to a foreign court the right to conduct a fact-finding hearing related to the jurisdictional issue.

L1915.7 Custody Conciliation Conference Consents and Recommendations.

(a) All parties named in an action for custody shall be present at the custody conciliation conference unless excused by the custody conciliator. Failure of a party to appear at the conference may result in the entry of a custody or visitation order by the court on the recommendation of the conciliator in the absence of that party. Unless ordered by the court for good cause shown, children shall not be brought to the conciliation and shall not be heard on the issues by the conciliator.[5]

(b) To facilitate the conciliation process and to 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 hearing. The custody conciliator shall not be a witness for or against any party.

(c) The court-appointed custody conciliator shall encourage consent agreements on the custody issues pending between/among the parties. If agreements are reached, they shall be reduced to writing and submitted to the court for adoption as an order. The parties will also be encouraged to equitably divide the custody administrative fee.

(d) If no consent agreement is reached, the conciliator shall file a report with the court within five days of the conference which may contain the following:

(1) recommendations that custody investigations, such as physical or mental evaluations, home studies, drug and alcohol evaluations, counseling, education seminars to be undertaken, and appointment of a guardian at litem, as well as equitable division of the fees for same. In order to insure that all studies and evaluations ordered, expert testimony supplied, and

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[5] The previous Rule required children nine or older to attend the conference. The children were not usually part of the mainstream conciliation process. Participation was marginal and infrequent. School was missed. Only when both parties agreed to be bound by a child's stated preference did children's participation become meaningful. Bringing children to court, even the conciliator's office, invited parties to lobby the children for support at the expense of the other parent, often before the parents have attended the educational seminar which discourages such conduct. Lobbying also suggests to the children that their views may be more dispositive of the ultimate custody determination than is in fact the case, and does little to promote agreements or the orderly process of advancing those cases which are not resolved by agreement. On balance, under the new Rule, the court has chosen to excuse children from most conferences. If a party feels strongly that his/her child(ren) should attend, he/she may present a motion setting forth the basis of that belief and requesting an order for attendance.

seminar attendance occur without delay, the Order directing such activities shall provide that each parties share of the relevant fees be paid as allocated in the Order, subject to reallocation at a later stage of the case as provided in Rule L1915.4(c). Evaluations shall proceed without the participation of a party who fails to timely pay his/her share of the evaluator's fee. A non-paying or non-participating party shall also be subject to the contempt powers of the court;

(2) conciliator's review of jurisdiction, venue, standing and relocation issues;

(3) progress, if any, on issues before the conciliator, as well as any recommendations for temporary custody/visitation orders, including the need for an expedited hearing in emergency cases.

(4) recommendations concerning an equitable division of the custody administrative fee among the parties.

(5) recommendations that a case be diverted to counseling.

(6) scheduling of pre-trial conferences, or requesting trial dates.

(e) As part of the order resulting from the initial conciliation conference, custody cases will ordinarily[6] be scheduled for a pre-trial within 120 days after service of the initial pleading, in those cases when evaluations are ordered by which time the evaluations are expected to be completed and available. The initial conciliation order shall also provide that the costs of any evaluations, home studies or tests, including the cost of in-court testimony needed to authenticate and explain expert reports of the results thereof, shall be shared by the parties, initially as allocated by the court in the post-conciliation order, but subject to reallocation as part of the pre-trial conference order and the final order in the case as the equities in the case may dictate. In cases where no agreement is reached, and no evaluations are ordered, and the case is not diverted to counseling on the Conciliator's recommendation, either party may request a Pretrial Conference within 30 days. See Rule L 1915.10, *infra.* **A copy of the order scheduling the pre-trial conference shall be mailed to the custody evaluator by the prothonotary, to insure that the evaluator's report is available to counsel for the parties at least 15 days prior to the pre-trial conference.***

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[6] Delays may occur for various reasons, most commonly the untimely submission of court ordered custody evaluations. Custody evaluation reports are delayed for many reasons, some of which include deliberate delay in scheduling or postponing meetings with the evaluator or delay in the payment needed to secure release of the report, by a party perceiving him/herself to benefit from the status quo. Other reasons for delay are wholly innocent and beyond the control of either party, such as the press of other duties upon the custody evaluator. The court firmly believes that delay in resolving custody cases perpetuates stress on the parties and children involved, is harmful, and is to be eliminated. Consequently, the parties are charged with the knowledge that a finding of deliberate and unexcused conduct by him or her, which significantly delays the trial of the case may adversely affect that party's position in the litigation, because dilatory conduct is itself harmful to the children.

(f) At the request of either party, the report under subsection (c) shall be filed with the court before the judge assigned to that case and presented at his/her motion court. The parties and/or the attorneys shall be informed at the conclusion of the conference of the date of the applicable motion court session.

(g) Upon receipt of evaluation reports, the conciliator's office will make the same available to counsel of record, or *pro se* litigants where applicable.[7]

*Comment: The 2006 rule is restated here in its entirety. The only change effected by the 2009 amendment is the addition of the language in bold print added to subsection (e).

L1915.10. Request for Custody Pretrial Conference. Pretrial Conference. Decision

(a) A party may request a Custody Pretrial Conference anytime within 30 days after service of a Custody Order issued as a result of a Conciliation Conference, in cases where a comprehensive agreement is not reached at the Conference. The moving party shall deliver the Request to the chambers of the assigned judge for the scheduling of a Pretrial Conference. Said request shall be served on the opposing party, or counsel, if represented.[8] The assigned Judge will transmit the completed Pretrial Scheduling Order to the Prothonotary for filing and service.[9]

(b) The Request for Custody Pretrial Conference and Scheduling Order shall be substantially as follows:

Caption

REQUEST FOR CUSTODY PRETRIAL CONFERENCE

I, , hereby request a pretrial conference before the Court of Common Pleas. This Request is being filed within 30 days of the date of Service of the Custody Order.

The issues to be considered are:

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[7] The mandatory second conciliation contemplated in the prior rules is abandoned in favor of more judicial involvement in the form of a pre-trial conference. The pre-trial judge will determine if a second conciliation is likely to be helpful in resolving the case, in which case he/she may direct one, or if the matter should proceed to trial.

[8] The requirement of service is a matter of courtesy. The "Request" contemplated by the rule is in the nature of a Praecipe, requesting a ministerial act. The Court will not entertain argument as to the propriety of a scheduling order. If an opposing party believes that a Pretrial Conference is not appropriate, that party may present a motion to vacate the scheduling order, at which time the issue may be argued.

[9] Pursuant to Rule 1915.7(e) when Custody Evaluations *have* been ordered, a Pretrial Conference is automatically scheduled and a Request need not be filed.

Relocation

Time/Length/Number of Visits

Primary Residence

Other:

VERIFICATION

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

Date

Signature of Petitioner or
Petitioner's Counsel
Printed Name
Address
Telephone Number

Caption

SCHEDULING ORDER*

The above named parties and trial counsel are hereby ordered to appear in person on , 20 at .m. before the Honorable , in Courtroom in the Butler County Government Center, for a Pretrial Conference. Counsel or the parties, if unrepresented, shall file a Pretrial Narrative at least seven days prior to the Pretrial Conference. The parties are required to attend the Pretrial Conference pursuant to Butler County L 1915.10 (d).

Seven days prior to the Pretrial Conference, each party or counsel shall file and submit a Pretrial Narrative to the chambers of the assigned judge. Copies shall be served on all parties. If no Pretrial Narrative is filed, the offending party may be fined or otherwise sanctioned by the Court. The Pretrial Narrative shall include:

(1) Names and addresses of all witnesses, including experts;
(2) Summary of each witness's anticipated testimony;
(3) Copies of all exhibits;
(4) Proposed custody arrangement;

(5) Requested stipulation of facts.

BY THE COURT:

Date: J.

(c) All parties and trial counsel shall be present at the Pretrial Conference unless otherwise provided by Order of Court. Failure of a party to appear at the Pretrial Conference may result in the entry of a custody/visitation order by the Court.

(d) Any agreement reached at the Pretrial Conference shall be reduced to writing and entered as an order of Court.

(e) The Court will enter an order scheduling a trial if the case is not resolved at the Pre-trial Conference. The prothonotary shall mail a copy of the trial scheduling order to the evaluator appointed in the case.*

Comment: The language of the Scheduling Order will also be found as part of the Order following conciliations which result in evaluations.

Comment: The 2006 rule is restated here in its entirety. The only change effected by the 2009 amendment is the addition of the language in bold print added as subsection (e).

L1915.11 Fees for Gaurdian *ad litem*

(This rule a 2009 addition to 2006 Rules)

(a) If the court imposes the cost of a guardian *ad litem* against one or both of the parties, the court shall specify an amount the responsible part(ies) shall pay to the prothonotary as a deposit to cover the anticipated cost of the guardian's initial investigation of the case. The court shall also specify the time within which such deposit is due. A guardian *ad litem* may from time to time request additional deposits by motion, presented in motions court.

L1915.12 Enforcement. Contempt.

(a) The custody conciliator may attempt to enforce existing custody/visitation orders upon receiving informal written objection from a party or attorney of record that said order is being misinterpreted or willfully disobeyed. Such objection shall be served upon the opposing party or attorney of record by the complaining party.

(b) Upon the filing of any motion or petition alleging violation of a custody, partial custody or visitation order, and seeking enforcement of the order, whether or not sanctions are

requested, the court shall direct the parties to appear before the court for a 15 minute conference to conciliate the disagreement.*

(c) If the enforcement request is not disposed of at the initial judicial conciliation, the court shall direct appropriate additional proceedings, which may include a full conciliation with the conciliator, a direction to participate in counseling, temporary orders relative to interpretation of the existing order pending further conciliation or trial, scheduling of a trial date, or such additional matters as justice may require.

(d) Actions referred to the conciliator shall be subject to the administrative fees and conciliation procedures set forth in these Rules.

(e) If no agreement is reached at the scheduled enforcement conciliation conference, a conciliator's report shall be filed and the matter shall be scheduled before the court for hearing.

Comment: Subsection (b) of this rule is new. Experience has shown that numerous disagreements concerning the interpretation of the language of custody orders are amenable to simple clarification by the trial court, at a brief conciliation conference, without subjecting the court system to the burden of a full conciliation or trial, and without subjecting the parties to the expense and delays which were inherent under the previous system which required each case to be initially heard at the conciliator's office, before judicial intervention of any kind would be considered.

Subsections (c), (d), and (e) of the former Rule have been re-lettered and altered where appropriate to conform to the changed approach of attempting to conciliate all enforcement matters at the trial court level. For example, language in former subsection (c) suggesting that the conciliator might recommend that the court dispose of the contempt petition at motions court, by oral argument, no longer makes sense, in light of the fact that the court will have already heard the parties positions at an initial judicial conciliation, and the conciliator's office will have failed to bring the parties together at a second, full conciliation. In such cases, in which the parties have already been given two opportunities to argue their positions, it is obvious that only a hearing will resolve the matter.

L1915.13 Special Relief

(a) All petitions and motions for special relief may be referred to the custody conciliator, pursuant to these Rules, at the discretion of the court.

(b) Alternatively, the court may schedule a hearing to determine the appropriateness of such request for special relief. If a hearing is granted, the court may continue a scheduled custody conference until the court has rendered a decision on the request for special relief.

(c) If, in an emergency, the court grants *ex parte* special relief, the court shall conduct a hearing within ten days, to address the merits of the petition for special relief. The court may continue the hearing, if requested by the non-moving party, for a reasonable time to allow that party to seek counsel and/or prepare a defense to the petition.

L1915.18 Custody Evaluator's Fee Schedules and Communication Restrictions

(This rule a 2009 addition to 2006 Rules)

Every court appointed custody evaluator shall maintain with the Butler County conciliator's office a fee schedule for in-court testimony, indicating at least ½ day and full day fees. The evaluator's advance deposit requirements and cancellation/refund policies shall also be clearly stated. Such fee schedule and policies may be amended from time to time at the discretion of the evaluator.

Both before and after the submission of the evaluator's written report, counsel for the parties shall not be permitted to communicate with the evaluator as to any substantive issues, without the consent or direct participation of counsel for the other party. This prohibition shall not prevent the evaluator from communicating with counsel for the purpose of preparing to present the evaluator's in-court testimony in support of the evaluator's report.

DIVORCE

Introductory Comment – 2006

The court, counsel and litigants have all expressed continuing concern with the expense and delay involved in finalizing divorce cases. These rules attempt to address both issues.

Expense. Often under prior practice, the trial court did not become involved with the substantive issues in a case until conducting a *de novo* review of a master's recommendation, after a full hearing had already occurred. Extensive master's fees and court reporting costs were incurred, sometimes unnecessarily. These rules address the problem by mandating a conciliation by the court, after discovery is closed and before a master is appointed. It is contemplated that some cases which would otherwise be tried will be resolved through the conciliation process. Other cases, which do not settle at the conciliation, will nevertheless be simplified by settlement of some issues, stipulations arrived at through the conciliation process, and clarification of the parties positions through full disclosure, which is the *sine qua non* of successful conciliation.

Delay. At the outset, it may be observed that delay is not always a bad thing. Reconciliations do occur. And even when they do not, the cooling of the parties emotions across time may permit a more focused and constructive approach to necessary litigation. It is also true that the divorce law as currently constituted provides incentives for (or at least permits) delay in fully consummating divorce cases under certain factual scenarios. To take one example, a dependent spouse might want to take full advantage of the two year waiting period under §3301(d) before allowing a divorce to be finalized. It must be assumed that these incentives and opportunities for delay are well understood and intended as policy by the legislature. This court does not make policy. Consequently, these rules do not address policy driven/permitted delays.

However, there are other types of delays which can be addressed by the court in a variety of ways. These include the enforcement of existing temporal mileposts, such as the requirement of Pa.R.C.P. No. 1920.33(a) that each party file an inventory within 90 days after the filing of a claim for distribution of property, or the requirements of Pa.R.C.P. No. 4006(a)(2) and Pa.R.C.P. No. 4009.12(a) that interrogatories be answered or documents produced within 30 days. It is the responsibility of the parties to observe the time frames established by the rules, or secure written reasonable extensions. The court recognizes that many deadlines imposed by rule may be viewed as arbitrary. What is the difference between providing answers to interrogatories in 35 days instead of 30? In most instances, none. **However, the processes of disclosure and discovery which the rules abet are central to the problem of delay**. Delay is reduced, and settlements occur, when all appropriate information and documents have been exchanged, and not before. The court's goal is to promote settlements and process cases with a minimum of delay. Therefore, it is the policy of the court, as well as its duty, to insure compliance with the intent of the rules, and when necessary, impose sanctions.

From the standpoint of local rule making the court believes that the three keys to promoting settlements by minimizing delay are: (1) terminating discovery in a reasonable and orderly fashion, (2) insisting on full compliance with the intent of Pa.R.C.P. No. 1920.33 (b)

which requires the filing and prescribes the content of pre-trial statements, and (3) timely judicial conciliation.

Too often, cases languish for years before discovery is undertaken because it is apparent that one party will not consent to the divorce within the two-year period afforded by the legislature. It does seem reasonable, however, to afford the moving party an opportunity to complete the case within a reasonable time after the two-year period has elapsed, especially in view of the current legislative emphasis on non-bifurcated divorce. Therefore, these rules provide for the establishment of a cut off date for discovery, on application of a party, when both parties have conceded that the marriage is irretrievably broken, or when an affidavit has been filed that the parties have lived separate and apart within the meaning of the divorce code for at least 18 months. This does not imply that the parties will be unable to update asset values reasonably proximate to trial.

Too often, cases fail to settle because the parties pre-trial statements are incomplete or misleading. The court believes that the primary function of the pre-trial statement is to reduce surprise at trial, both as to the claims and contentions of the parties, the witnesses, and the documentary evidence each will present. The court expressly disapproves such practices as: (1) referring to but failing to attach expert reports; (2) attaching previously filed inventories already of record; (3) failing to expressly assert all claims a party intends to pursue at trial, some of which, such as real estate rental claims, or reduction of equity claims in consideration of projected sales expenses or taxes, may not be directly referred to in the Inventory or discovery materials; (4) making general references to "other witnesses identified" or "other documents furnished during discovery." Some attorneys set forth in the pre-trial statement a summary of their client's perspective relative to salient equitable distribution or alimony factors. While not contemplated by Pa.R.C.P. No. 1920.33 (b) such statements may be helpful to the master or court as a trial outline and are therefore acceptable. In its review of evidentiary objections, the court will be vigilant to protect the parties from unfair surprise created by noncompliant pre-trial statements.

Too often, cases fail to settle because the parties are unaware of (or labor in disbelief about) how certain factors are likely to influence the overall outcome of the trial, from the trial court's perspective. Examples might include the impact of marital misconduct, future prospects for inheritance by a party, directly or in trust, how to quantify goodwill in connection with business valuations of sole proprietorships or other entities, and so on. The court believes that disclosure of these issues through the discovery process and the filing of pre-trial statements, followed by frank discussion of the issues at a judicial conciliation attended by the parties, may result in many cases being settled which in the past would have been tried before the master, simply because the parties did not have access to the court's perspective on the most complex issues.

After consideration of the procedure followed in several other counties, some of which prescribe the use of additional forms not contemplated by the statewide rules, the court has elected, at this time, not to prescribe special forms. For example, some counties provide a form checklist of documents to be introduced at trial, requiring the opposing party to either consent or oppose to both authenticity and admissibility of each document. However, if the same

documents are disclosed as part of a parties pre-trial statement, and the authenticity or admissibility of any document is questioned, those issues will be addressed at the pre-trial judicial conciliation and, as appropriate, ruled upon or preserved for trial. All that is needed is a sentence in the pre-trial order indicating that it is the responsibility of each party to identify all documents in the opposing parties pre-trial statement to which there will be some objection at trial. Alternatively, a party may obtain admissions as to authenticity during discovery.

Finally, the court recognizes that not all cases are susceptible of successful conciliation, in terms of a total settlement. Even so, many issues may be capable of resolution, permitting the master's proceedings to be less expensive and time-consuming. For those cases requiring the services of a master, every effort has been made to streamline the process and reduce costs, particularly court reporting expenses.

L1920.33(b) Pre-trial Procedures (This rule amended June 25 2012)

(1) Either party may file an affidavit with the court alleging that the parties have lived separate and apart within the meaning of the Domestic Relations Code for a continuous period of 18 months prior to the filing of the affidavit. Upon either the filing of said affidavit, or the expiration of 18 months since the filing of a divorce complaint being acted upon in this County, or upon the filing by both parties of affidavits conceding that the marriage is irretrievably broken, either party may a present a motion to establish a deadline for the initiation and/or completion of pre-trial discovery. Upon consideration of the motion, and the arguments of counsel, the court shall establish a pre-trial discovery order, with appropriate deadlines.*

(2) After discovery is closed, the court shall conduct a pre-trial conciliation conference, which may be scheduled as part of the discovery order described in subparagraph (a). Ten (10) business days before the pre-trial conference, each party shall file with the Prothonotary, and serve upon opposing counsel, a pre-trial statement which complies in all material respects with the requirements of Pa.R.C.P. No. 1920.33(b).** At the pre-trial conference, each party shall notify the other party and the court of any exhibits attached to the opposing parties pre-trial statement to which there is an objection as to admissibility. The court may rule on the objections presented, or may allow the issue to be addressed by the master. The court shall enter an order following the pre-trial conference setting forth any rulings by the court, stipulations or agreements of the parties, or other directions or information which will be helpful to the master, if the case is not settled.

(3) If a party fails to comply with any requirement of this rule, the court, upon motion of a party or on its own motion, may make an appropriate order under any available rule or statute governing sanctions.

(4) If a party fails to literally comply with Pa.R.C.P. 1920.33(b)(4) by failing to attach to his Pretrial Statement filed with the Prothonotary*** or adequately describe therein exhibits to be offered at trial, he shall be subject to sanctions unless:

(i) he has provided a complete copy of all the exhibits identified in his Pretrial Statement with the copy of the Pretrial Statement served on opposing counsel; and

(ii) he has provided a complete copy of all of the exhibits identified in his Pretrial Statement to the Special Master, if any, within 10 days after docketing of the Order appointing the Special Master; and

(iii) the original omission of the Exhibits is excusable in the opinion of the court.

***Comment:** In general, the court's objective in setting the discovery schedule will be to have the case ready for trial (including the completion of the pre-trial conference) at the end of a two-year separation.

****Comment:** Practitioners must read the Introductory Comment, above, for the court's views on the purpose and acceptable content of pre-trial statements.

*****Comment:** The Rule recognizes the vital importance early access to a complete copy of the Pretrial Statement exhibits by trial counsel and the Master, both for settlement analysis and trial. The rule also attempts to discourage the filing of lengthy exhibits with the Prothonotary whose physical storage space is limited, and because of the increased likelihood that personal information such as account numbers or social security numbers may be inadvertently disclosed into the public domain.

L1920.51(a) Masters Proceedings (This rule amended June 25, 2012)

(1) The court may appoint a master to receive evidence, make findings of fact, and recommend to the court a disposition of all issues referred to the master. Masters may be appointed, in the court's discretion, in cases of divorce, equitable distribution, alimony, claims for counsel fees, expert fees, other litigation expenses, special relief for exclusive possession, and in any other type of matter authorized by law or rule of court. The issues to be determined by the master will be framed by the court's pre-trial order; accordingly, except with leave of court, there will not be a pre-trial conference before the master.

(2) The court may appoint as a master any attorney licensed to practice law in the Commonwealth of Pennsylvania, having 10 years experience as a lawyer, including significant trial experience, or who has 10 years combined experience as a lawyer with trial experience and as a judge, district justice, master or as a comparable judicial officer, and who possesses, in the court's opinion, appropriate knowledge of the legal subjects at issue, and an appropriate judicial temperament. A master appointed by the Court pursuant to this rule is not precluded from practicing family law in Butler County.

(3) Masters shall be compensated by the parties to the litigation based on a fee schedule published by the court from time to time by general administrative order. If, pursuant

to Pa..R.C.P. No. 1920.51(a) (3), a party moves for appointment of a master, the moving party shall deposit a sum with the prothonotary to cover the master's initial fee. The amount of deposit shall be set from time to time by general administrative order. Pursuant to Pa.R.C.P. No. 1920.51(a)(2)(I), the master may direct the parties to deposit further amounts with the Prothonotary. A Special Divorce Master appointed by the Court shall receive a minimum fee of $600, unless all matters referred to the Master are settled by written agreement of the parties filed within 10 days of the date the Order appointing the Master is docketed.

(4) A party filing a motion to compel discovery, a motion for sanctions, a motion to limit discovery or for a protective order, a motion *in limine*, or a motion to stay the master's hearing **must** address such application to the court. Other applications, by mutual consent, may be presented to the master; however, absent mutual consent all other applications shall be presented to the court.

(5) Once a master is appointed, any document subsequently filed with the court shall be served upon the master by the filing party. In addition, the prothonotary shall serve the master with copies of any orders issued.[10]

Comment: Cases are referred to the Master because it is assumed they will not settle, and because the Court deems them ready for trial. Masters promptly review the file, schedule hearings, note concerns with the adequacy of the pretrial statements, discuss stipulations and deal with other issues. Cases often settle after these preliminary steps are taken. The rule recognizes the value of such contributions to the process of resolving cases, even if the parties do not. Masters should wait 10 days after appointment to expend significant time on the file, to allow for a quick settlement, for less than the "minimum" fee.

L1920.55-1

Unless the court orders otherwise, all divorce proceeding shall be referred to a master in accordance with Pa.R.C.P. No. 1920.55-2 except that the stenographic record which is (still) to be filed along with the master's report shall not be transcribed, unless exceptions to the Master's Report and Recommendation are filed. In such event, the party filing the exceptions shall simultaneously direct the court reporter to transcribe all those portions of the record which the excepting party in good faith believes are required for the proper disposition of the exceptions. Such direction shall be in writing, with a copy filed with the exceptions and served on the opposing party . The non-excepting party shall within 10 days make designation to the court reporter of any additional parts of the record which he/she in good faith believes are necessary to the proper disposition of the issue, in writing, with copies to the Court and the opposing party. Each party shall make timely arrangements for payment of the court reporter's transcription fees

[10] "Any document" is an all-inclusive term.

for those portions of the record designated for transcription by him/her, subject to reallocation of transcription fees by the court.*

In appropriate circumstances, either party or the master may request that the court order the case to proceed under Pa.R.C.P. No. 1920.55-3.[11]

Comment: The manifest purpose of the rule is to reduce the cost of master's proceeding by avoiding costly transcription fees when it is possible to do so. When cross-exceptions are filed, each party will be deemed to be the excepting party with respect to his/her exceptions, for purposes of this rule. The court will only consider the exhibits introduced at the master's hearing and the transcribed portions of the testimony in disposing of the exceptions. Therefore, it is incumbent on the parties to correctly specify those portions of the record which are pertinent to the disposition of the issues on exceptions. Parties contemplating an appeal to Superior Court may want to have the entire record transcribed, particularly when the exceptions involve general issues such as failure to properly assess or weigh the various equitable distribution criteria. However, even in those cases, arguments not asserted in the trial court are waived on appeal. Indeed, the Rules of Appellate Procedure only require the parties to reproduce those parts of the record applicable to the issues on appeal. We therefore conclude that the new procedure described in this rule, for partial transcription of the record, within the control of the parties, will adequately provide for proper appellate review. The possibility of reallocation of transcription fees, along with other available remedies, will enable the court to enforce the requirement that "good faith" accompany the designation of which portions of the record need to be transcribed for "the proper disposition of the issue."

L 1930.2 Procedure for Fast Track Appeals

Each party filing a children's fast track appeal as defined in Pa.R.A.P. 102 shall:

(A) Attach an Order for Transcript to the Notice of Appeal; and

(B) Serve a copy of the Order for Transcript on the court reporter(s) involved; and

(C) Within 3 days after written notice from the court reporter of the estimated cost of transcript preparation, post with the court reporter one half of the estimated cost, unless proceeding *in forma pauperis*; and

(D) Within 3 days after written notice from the court reporter that the transcript has been completed, pay to the court reporter the full amount due for the costs of preparation, or post security for payment in a form and amount approved by the court, unless proceeding *in forma pauperis*.

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[11] The intent of this portion of the rule is to permit, by court approval, Pa.R.C.P. No. 1920.55-3 proceeding in cases with limited assets, *in forma pauperis* litigants, or other circumstances which merit consideration for streamlined proceedings without a record. In addition, the language of the rule does permit the court to hear those rare, novel or inordinately complex cases which the court should hear itself, in the interest of judicial economy.

Upon payment of all costs for preparation of the transcript (except in *in forma pauperis* cases), the court reporter shall immediately file the transcript of testimony. In *in forma pauperis* cases the transcript shall be filed immediately upon its completion.

When cross-appeals are filed in children's fast track appeal cases, the court may allocate the transcript preparation costs between the parties, upon Motion of the first appellant; however, the first appellant shall remain fully responsible to timely pay all transcription costs unless and until a ruling by the court allocates (or retroactively reallocates) such costs between the parties.