

IN THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA

IN RE:

AMENDMENT OF
YORK COUNTY LOCAL RULES
OF CIVIL PROCEDURE

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2016-MF-000552

OFFICE OF PROthonary
2016 NOV -2 PM 9:12
JUDICIAL DISTRICT
YORK, PA

**ADMINISTRATIVE ORDER AMENDING
YORK COUNTY LOCAL RULES OF CIVIL PROCEDURE**

AND NOW, this 2nd day of November, 2016, it is ORDERED that York County Local Rules of Civil Procedure are hereby amended as follows, effective January 1, 2017:

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

Existing rule 1940.4 is *amended* as indicated.

Existing rules 1915.3(a), 1915.3(b), 1915.3(c), 1915.3(d), 1920.33, 1920.51, and 1920.55-2 are *rescinded and replaced by new rules*.

Existing rules 1915.5, 1920.31, 1920.55-1, 1970, 1972, 1973, 1974, and 1975 are *rescinded and not replaced*.

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

BY THE COURT,



Joseph C. Adams, President Judge
19th Judicial District of Pennsylvania

Material to be added is bolded and underlined.
Material to be deleted is bolded and bracketed.

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

(1) All complaints relating to custody ...

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

- this rule is rescinded in its entirety and is replaced by new rule 1915.3

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

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

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

- this rule is rescinded in its entirety and is replaced by new rule 1915.3

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

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

- this rule is rescinded in its entirety and is replaced by new rule 1915.3

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

(1) If the parties are unable ...

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

- this rule is rescinded in its entirety and is replaced by new rule 1915.3

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) The failure of a party to comply with any pre-trial order shall not be sufficient basis to prevent the scheduling of the pre-trial conference with the court. Rather, the court

may take such dilatory actions into account when assessing costs and counsel fees, imposition of other appropriate sanctions, and entry of a final order.

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

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

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

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

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

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

(2) names and addresses of factual witnesses;

(3) names and addresses of expert witnesses;

(4) issues for resolution;

(5) estimated length of trial;

(6) whether a home study is requested; and

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

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

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

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

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

- this rule is rescinded in its entirety

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

...

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

- this rule is rescinded in its entirety

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

(a) Filing of Inventories.

...

(b) Pretrial Statements.

...

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

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

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

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

(B) Pretrial Statements.

(1) The parties shall file pre-trial statements with the prothonotary. The pre-trial statement shall be in chart form with assets listed by category in the same order as found on the master's memorandum. Failure to comply with these requirements may lead to the imposition of sanctions against the non-complying party. The pre-trial statement shall list all exhibits that will be proffered at trial. Each exhibit shall be described concisely so that it can be easily identified.

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

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

(a) Appointment of Masters.

...

(b) Scheduling of Preliminary Proceedings and ...

...

(2) Preliminary proceedings.

...

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

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

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

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

(B) Procedure to Appoint a Master.

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

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

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

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

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

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

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

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

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

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

(C) Request for Return of Appointment Fees. In any action where the appointment of a master is withdrawn after the appointment has been made by the court, the party who

paid the fees specified in this subsection may petition the court for the return of the fees less fifty dollars (\$50.00), provided that no initial conference has been held and written notice of discontinuance or revocation of the appointment of a master has been delivered to the master no less than fifteen (15) days in advance of the first scheduled proceeding.

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

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

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

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

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

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

(b) the aggrieved party may elect to file, pursuant to York R.C.P. 208.3(A), a motion in motions court for a protective order, or to compel discovery in accordance with the master's directive or otherwise. The court may, either on the recommendation of the master, request of a party or sua sponte, impose counsel fees against the non-complying party if the court sustains the master's discovery directive and

the requested information was not provided prior to the presentation of the motion to compel.

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

(a) All matters referred to a ...

...

(b) Motions directly pertaining to matters ...

...

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

- this rule is rescinded in its entirety

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

(a) Stenographic record. Contents of Report.

...

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

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

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

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

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

(C) Final decree.

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

and provide to the judge the master's report and recommendation, and all exceptions, responses and proposed orders filed by the parties. The judge shall dispose of the exceptions and issue a final decree.

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

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

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

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

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

- (1) previously or currently represents one or more parties;
- (2) is personally acquainted with or related to one or more of the parties;
- (3) has personal knowledge or familiarity with the case;
- (4) has been or may be called as a witness in the case; or
- (5) has participated as a conciliator or master in the case.

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

(a) Family law cases which shall ...

...

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

- this rule is rescinded in its entirety

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

(a) An attorney for any party ...

...

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

- this rule is rescinded in its entirety

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

(a) All mediation conferences shall be ...

...

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

- this rule is rescinded in its entirety

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

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

...

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

- this rule is rescinded in its entirety

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

(a) In the event that any ...

...

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

- this rule is rescinded in its entirety
