INSTRUCTIONS

MOTION FOR THE APPOINTMENT OF A MASTER

WITH RESPECT TO ALIMONY PENDENTE LITE (PURSUANT TO 23 Pa.C.S. 3702)

Purpose of Form

This form is to be used to obtain a DRS conference OR master's hearing with respect to any new claim for alimony pendente lite, any claim for modification or termination of alimony pendente lite dealing with the merits of the claim and statutory defenses, or the conversion of an existing spouse support order to alimony pendente lite. Please note that APL procedure is complex. You should read the examples at the end of this document before trying to fill in the form.

Petitions to terminate alimony pendente lite as a sanction (for failure to prosecute the underlying divorce action, for example) must be presented in Motions Court for assignment. See Example 10 at the end of this document. The court may or may not assign the case to a master.

Definitions

DMO – The Divorce Masters Office.

DRS – Domestic Relations Section of the Court of Common Pleas (the support office).

Moving Party – The party who is filing the motion to appoint a master.

Responding Party – The party who is not filing the motion.

Appointment Fee

You must pay a fee of $50 to the Prothonotary before you present this motion to the DMO. The Prothonotary will initial the payment certification on your original Motion and give you a receipt.

Extra Fees

In the event that a master hears the alimony pendente lite claim, then an additional fee of $250 will be imposed. This fee will cover the first six hours of time the master spends with the parties and/or counsel. DO NOT pay the additional fee when you first present your Motion to Appoint. The additional fee will be assessed later by a separate directive.

Presenting the Motion for APL

Present the original motion to the DMO with three additional copies. If the matter is to be referred to the Domestic Relations Section, then you must also present the following:

For new claims:

- One clocked-in copy of the Petition for Alimony Pendente Lite (the original should be filed with the Prothonotary when you file the Income and Expense statements in order to claim retroactivity);
- Original and two copies of the Background for APL;
- Original Social Security Disclosure Notice; and

- One copy of the initial pleading raising the APL claim (if different from the Petition for APL referenced above).

For modifications/terminations:

- One clocked-in copy of the Petition for Modification/Termination of Alimony Pendente Lite (the original should be filed with the Prothonotary when you file the Income and Expense statements in order to claim retroactivity); and
- One copy of the Order that you seek to modify or terminate.

Presenting the Motion for conversion of support to APL

Conversion of an existing active York County support order by order, stipulation or agreement will be handled administratively by DRS. Conversion is not possible if you don't have an active support order issued by the Court of Common Pleas of York County. Follow the steps below to convert an existing support order from another jurisdiction; skip the steps if the support order is from York County.

For Conversion of an existing support order to APL where the support order is from another jurisdiction:

- Have the support case transferred to York County.
- Follow one of the two conversion procedures below.

For Conversion of an existing York County support order to APL by a written stipulation or agreement:

- Two clocked-in copies of the Stipulation/Agreement for Conversion (original is filed with the Prothonotary when you pay your appointment fee);
- Two copies of the existing support order that you are seeking to convert;
- Original Social Security Disclosure Notice; and
- One copy of the initial pleading raising the APL claim.
- You do not need to file an Income Statement or an Expense Statement to convert an existing support order to APL by written stipulation or agreement.

For conversion of an existing York County support order to APL by petition:

- Two clocked-in copies of the Petition for Conversion (the original may be filed with the Prothonotary when you file the Income and Expense statements, or may be filed when you pay your appointment fee since retroactivity is not an issue);
- Two copies of the existing support order that you are seeking to convert;
- Original Social Security Disclosure Notice; and
- One copy of the initial pleading raising the APL claim.

This should be an extremely rare situation, where one party wants to convert the order and the other party believes that there is a legal impediment to the conversion or refuses to sign a stipulation or agreement. A master will hear the Petition for conversion. See the paragraph on

Extra Fees, above. You must also file your Income and Expense Statements with the Prothonotary prior to presenting your motion to convert by petition. Please see the instructions for Paragraph 7, below.

SPECIFIC INSTRUCTIONS

Cover sheet.

The names of the Plaintiff and Defendant should be the same as the names on the Divorce Complaint and should be listed in the same order.

If the case has already been assigned to a master, insert the master's name on the cover sheet in the blank provided. Otherwise, leave this space blank, to be filled in by the Divorce Masters Office.

Related Cases refer to the underlying divorce action (the "02" number) and custody, PFA, and/or support actions involving the same parties. Provide the docket number, DRS number and PACSES number for related support actions.

Plaintiff's Attorney refers to the attorney listed for the Plaintiff in the Prothonotary's docket. If the Plaintiff does not have an attorney, then list the name, address, and phone number of the Plaintiff as indicated in the Complaint or on his/her Entry of Appearance.

Defendant's Attorney refers to the attorney listed for the Defendant in the Prothonotary's docket. If the Defendant does not have an attorney, then list the name, address, and phone number of the Defendant as indicated in the Complaint or on his/her Entry of Appearance.

It's OK to fill in "n/a" for your fax number and/or e-mail address of you don't want to receive communications by fax or email. It's also OK to fill in "unknown" for the fax number and/or e-mail address of the opposing Attorney or Unrepresented Party if you don't know them.

Pages 2-3.

No separate caption is required. Fill in the name of the person for whom the Motion is being filed and check the appropriate box to indicate whether the person is the Plaintiff or the Defendant in the divorce action. Check **one** and **only one** of the three boxes under the first section to describe what you want the court to do.

In Paragraphs 1 & 2, please provide **current** mailing addresses for both parties in addition to the **address of record** for the non-moving party. This will help us obtain service and avoid delays in the initial conference.

Paragraphs 3 thru 6 are self-explanatory. They go to the underlying authority of the court to act on your request. Please provide the requested information accurately so that the appointment won't be delayed while the DMO staff retrieves and reviews the Prothonotary's file.

Paragraph 7 is intended to assure compliance with Pa.R.C.P. 1920.31, which requires that Income and Expense Statements MUST be filed by the moving party at least thirty days prior to filing the Motion to Appoint. Both statements must be **substantially complete** or the Motion may be summarily dismissed.

Fill in Paragraph 8 if there is **no** prior order for APL. This paragraph applies to first-time APL claims **and** cases in which you are asking that an existing spouse support order or claim be

converted to APL. If there is a prior APL order, leave this paragraph blank. You **cannot** appoint a master to hear a claim for APL **unless** there is a pleading that raises the issue and sets forth the basic factual claims that would support the action requested. The Petition for APL will satisfy this requirement if the claim was not previously raised, but all three blanks **must** be filled in. You can only check one of the four boxes in Paragraph 8, depending on the circumstances of your case. See the examples provided below.

Fill in Paragraph 9 if there **is** a prior APL order. This paragraph requires you to identify the date of the prior order. It also asks for the date on which the Petition to Modify or Terminate was filed. You **cannot** appoint a master to hear a claim for modification or termination **unless** there is a pleading that raises the issue and sets forth the basic factual claims that would support the action requested. You can only check one of the three boxes in Paragraph 9 (b), depending on the circumstances of your case. See the examples provided below.

Certification/Verification

While the form is titled as a Motion, it contains at least one averment of fact not of record in the underlying divorce action. Therefore, it must be certified (if filed by an attorney) or verified (if filed by a pro-se party). Use whichever signature block is applicable to your situation.

Retroactivity

Except for extraordinary circumstances, no APL order will be retroactive more than thirty days prior to the presentation of the Motion to Appoint. The Domestic Relations conference officers will not make a determination of extraordinary circumstances; this will normally require a de novo hearing before a judge. If the Petition for APL and the Income and Expense statements are all filed thirty days or more before the Motion to Appoint is presented, then the order will be retroactive for thirty days prior to the presentation of the motion. The best practice is to file the Petition for APL contemporaneously with the Income and Expense Statements. Retroactivity can't start until all three documents have been filed.

Examples (These examples are written for attorneys. If you are an Unrepresented Party, substitute the word "you" for the words "your client."):

1. Your client is not receiving spouse support or child support. A divorce action is filed and your client has requested APL. You want to have the claim handled by DRS (the most common situation). This is a **new claim**. Check the box in **¶8 (e) of the motion**. You pay the fee at the Prothonotary's Office and present your Motion to Appoint to the DMO, along with the Background for APL, the Social Security Disclosure Notice, and a copy of the Petition for APL. The DMO will forward the documents to DRS, which will schedule a conference. You will have the opportunity for a de novo hearing if you disagree with the conference officer's recommended order.

2. Your client is not receiving spouse support, but has previously filed a child support claim. A divorce action is filed and your client has requested APL. You want to have the claim handled by DRS (the most common situation) and nothing is currently scheduled in the child support action. This is a **new APL claim. Check ¶8 (c) of the motion**. You pay the fee at the Prothonotary's Office and present your Motion to Appoint to the DMO, along with the Background for APL, the Social Security Disclosure Notice, and a copy of the Petition for APL. The DMO will forward the documents to DRS. DRS will schedule an office conference. The conference officer may or may not review the child support

claim at the same conference, depending on the specific circumstances of your case. You will have the opportunity for a de novo hearing if you disagree with the conference officer's recommended order.

3. Your client is not receiving spouse support, but has previously filed a child support claim. A divorce action is filed and your client has requested APL. You want to have the claim handled by DRS (the most common situation) and an office conference is already scheduled on the child support claim. This is a **new APL claim**. **Check ¶8 (d) of the motion and fill in the DRS docket number, PACSES number, name of the conference officer, and date of the scheduled conference**. You pay the fee at the Prothonotary's Office and present your Motion to Appoint to the DMO, along with the Background for APL, the Social Security Disclosure Notice, and a copy of the Petition for APL. The DMO will forward the documents to DRS. You will have the opportunity for a de novo hearing if you disagree with the conference officer's recommended order.

4. Your client is not receiving spouse support. A divorce action is filed and your client has requested APL. You want to have the claim handled by the DMO (rare). This is a **new APL claim**. **Check ¶8 (f) of the motion to show that you want the DMO to hear it**. You pay the fee at the Prothonotary's Office and present your Motion to Appoint to the DMO, along with the Background for APL, the Social Security Disclosure Notice, and copies of the Petition for APL, Income Statement, and Rule 1910.27(c)(2)(B) Expense Statement. The DMO will schedule a preliminary conference, take testimony, and make a recommendation. You will **not** have an opportunity for a de novo hearing, but must file exceptions if you don't like the master's recommendation.

5. Your client previously applied for spouse support, and an order was entered setting the amount of support. At some later time, your client files for divorce. You wish to have the payments treated as APL rather than support, and the opposing party has agreed to the entry of an APL Order by stipulation. This is a **new APL claim**. **Check ¶8 (a) of the motion and fill in the DRS docket number and PACSES number**. You pay the fee at the Prothonotary's Office, present your Motion to the DMO, and the matter will be resolved administratively. This presumes that you filed a pleading in the divorce action asking for APL. In addition to the Motion, you must file and present the Petition for APL and the stipulation. You do not need to present a Background for APL or Social Security Disclosure Notice.

6. Your client previously applied for spouse support, and an order was entered setting the amount of support. At some later time, your client files for divorce. You wish to have the payments considered APL rather than support, and you need to have amount recalculated. This is a **new APL claim**. File and present the motion to DMO. **Check ¶8 (b) of the motion and fill in the DRS docket number and PACSES number**. You pay the fee at the Prothonotary's Office, present your Motion to the DMO, and the matter will be forwarded to DRS for a conference. This presumes that you filed a pleading in the divorce action asking for APL. In addition to the Motion, you must file and present the Petition for APL. You do not need to present a Background for APL or Social Security Disclosure Notice, but you do need to present a copy of the Petition for APL.

7. Your client has applied for spouse support and has filed an action for divorce. You show up at the DRS conference and the other party raises defenses to support. Rather than

litigate the defenses, you tell the conference officer that you want this to be treated as an application for APL. The conference officer will not enter a support order at that time, but will give you an opportunity to file your Motion to Appoint and Petition for APL. This is a **new APL claim**. **Check ¶8 (a) and fill in the DRS docket number and PACSES number**. You pay the fee at the Prothonotary's Office and present your Motion to the DMO. You do not need to present the Background for APL or Social Security Disclosure Notice, but you do need to present a copy of the Petition for APL. The DMO will forward the documents to DRS and the Conference Officer will then enter an APL order that will be returned to the DMO and filed with the Prothonotary.

8. Your client has applied for spouse support and has filed an action for divorce. You show up at the DRS conference and the conference officer enters an order. One of the parties asks for a de novo review. The "paying" party raises defenses to support at the de novo hearing. Rather than litigate the defenses, you tell the Judge that you want this to be treated as an application for APL. The Judge will enter an APL order and direct you to pay a $50 fee. DRS will forward a copy of the APL order to the DMO, which will file the order with the Prothonotary. You do not need to file a Motion to Appoint in this case, but you still need to pay the fee.

9. There is an existing APL order in your client's case. One of the parties wants to modify or terminate the order for some reason **other than as a sanction**. You want the case to be handled by DRS (the usual situation) and there isn't a conference presently scheduled in this or any related case. This is a **modification**. **Check the box in ¶9.a that says you want the matter referred to DRS for a conference to be scheduled**. You pay the fee at the Prothonotary's Office, present your Motion to the DMO, and the matter will be forwarded to DRS. In addition to the Motion, you must file and present the Petition for Modification of APL and a copy of the Order currently in effect. You do not need to present a Background for APL or Social Security Disclosure Notice. You will have the opportunity for a de novo hearing if you disagree with the conference officer's recommended order.

10. There is an existing APL order in your client's case. One of the parties wants to modify or terminate the order for some reason **other than as a sanction**. You want the case to be handled by DRS (the usual situation) and a conference is already scheduled in a related child support claim. This is a **modification**. **Check the box in ¶9.b□□ and fill in the DRS docket number, PACSES number, name of the conference officer, and date of the scheduled conference**. You pay the fee at the Prothonotary's Office, present your Motion to the DMO, and the matter will be forwarded to DRS. In addition to the Motion, you must file and present the Petition for Modification of APL and a copy of the Order currently in effect. You do not need to present a Background for APL or Social Security Disclosure Notice. You will have the opportunity for a de novo hearing if you disagree with the conference officer's recommended order.

11. There is an existing APL order in your client's case. One of the parties wants to modify or terminate the order for some reason **other than as a sanction**. You want the case to be handled by DMO (a rare situation). This is a **modification**. **Check the box in ¶9.c that says you want the matter handled by DMO**. You pay the fee at the Prothonotary's Office and present your Motion to the DMO along with a copy of the Petition for Modification of APL, the Order currently in effect, the Income Statement,

and the Rule 1910.27(c)(2)(B) Expense Statement. You do not need to present a Background for APL or Social Security Disclosure Notice. The DMO will schedule a preliminary conference, take testimony, and make a recommendation. You will **not** have an opportunity for a de novo hearing, but must file exceptions if you don't like the master's recommendation.

12. There is an existing APL order in your client's case. You represent the "paying" party, who wants to terminate the order **as a sanction** (typically for failure to move forward with the divorce action in a timely manner). You file a **Petition to Terminate** and present it in **Motions Court** as outlined in the Court Calendar. The Court Calendar is available at the official York County website (http://yorkcountypa.gov/courts-criminal-justice/court-administration.html) under "Court Administration." (Do not confuse this link with the "Weekly Court Schedule.") You do not file a Motion to Appoint a master and you do not pay a fee.

13. Your client is collecting spouse support and a divorce action is pending. The Court bifurcates the economic claims and you ask for the divorce decree to be entered. Make sure the decree contains the language "Any existing spousal support order shall hereafter be deemed an order for alimony pendente lite if any economic claims remain pending." Pa.R.C.P. 1920.76. Forward a copy of the decree to DRS along with the copy of the support order. Write the Divorce docket number (ending with "15") on a copy of the support order and file it with the Prothonotary. You do not need to pay a fee or appoint a master in this case. Note that DRS will stop collection of spouse support upon entry of a Divorce Decree absent a specific court order to the contrary.