

ACTION OF DIVORCE OR ANNULMENT OF MARRIAGE

L-1920.1 DEFINITIONS

(a) Reserved.

(b) Reserved.

(c) A copy of these rules shall be maintained by the Court Administrator's Office, and a copy shall be provided to the Prothonotary and County Law Library and be made generally available pursuant to Pa R.C.P. 239(c)(5).

L-1920.2 RESERVED

L-1920.3 COMMENCEMENT OF ACTION

(a) A duplicate copy of the complaint shall be filed with the Prothonotary who shall forward it to the Civil Division of the Court Administrator's Office. Upon receipt of the complaint, the Court Administrator shall assign the case to a Judge based upon current administrative assignments.

(b) A duplicate copy of other pleadings and other documents shall be filed with the Prothonotary who shall forward it to the Civil Division of the Court Administrator's Office, specifically including petitions and orders to bifurcate proceedings.

(c) At the time of the filing of the complaint, the plaintiff will pay the non-refundable charge as set forth in Appendix G, Custody/Divorce Fee Schedule. Each item of relief requested in the original complaint or any future amended complaints shall be designated in a separate numbered count. The Prothonotary shall in the monthly report indicate the amount collected pursuant to this Rule. This amount is in addition to the Prothonotary's filing fees.

(d) When a request for appointment of a Master in Divorce or Child Custody Conference Officer is made, the request must be accompanied with proof of payment of the non-refundable Master/Stenographic fee as set forth in Appendix G, Custody/Divorce Fee Schedule.

L-1920.4 SERVICE

(a) When service is made by registered or certified mail, restricted delivery, return receipt requested, the return receipt card shall be attached to the affidavit of service.

(b) When a special order for service is sought, a motion, or petition, shall be presented to the Court, setting forth what attempts have been made to serve the defendant, as well as the nature and extent of the good faith search to locate the defendant.

(c) The affidavit of service required under section 3301(d) of the Divorce Code may be served with the complaint.

(d) The affidavit of service must set forth with particularity the pleadings, attachments and documents so served.

L-1920.5 – L-1920.30 RESERVED

L-1920.31 JOINDER OF RELATED CLAIMS. CHILD AND SPOUSAL SUPPORT. ALIMONY. ALIMONY PENDENTE LITE. COUNSEL FEES. EXPENSES.

(a) Reserved.

(b)(1) The Civil Division of the Court Administrator's Office shall route all applications for child support to the Domestic Relations Section. If there is an existing/pending action for child support in the Domestic Relations Section, it shall be incorporated by the Master in Divorce into his report. The Civil Division of the Court Administrator's Office shall route requests for APL and counsel fees, costs, and expenses to a Master in Divorce for consideration upon assignment of the Master to the case. A request for APL may be heard by a Support Hearing Officer pursuant to Local Rule 1910.10-2.

(b)(2) Reserved.

(c) Reserved.

(d) Reserved.

L- 1920.32 JOINDER OF RELATED CLAIMS. CUSTODY. HEARING BY COURT.

(a) All complaints containing a Custody Count and all Counts of Custody filed separately must be accompanied with a scheduling order found at Appendix E if the moving party is seeking to have the Custody Count immediately addressed by the Court. The order shall be processed in accordance with L-1915.3. If the moving party does not seek to have the Custody Count immediately addressed by the Court, the party may subsequently seek Court action on the Custody Count by presenting a scheduling order to the Civil Division of the Court Administrator's Office.

(b) The Custody Count shall follow the practice and procedures governing Custody by filing a custody complaint or petition and scheduling order at the divorce case number in the Prothonotary's Office.

L-1920.33. JOINDER OF RELATED CLAIMS. DISTRIBUTION OF PROPERTY. ENFORCEMENT.

(c)(1) During a proceeding before a Master in a Divorce Case, a party who fails to comply with the requirements of subdivision (a) and (b) of Pa.R.C.P. No. 1920.33 shall, except upon good cause shown, be barred from offering any testimony or introducing any evidence in support of or in opposition to claims for the matters not covered therein.

(c)(2) During a proceeding before a Master in a Divorce Case, a party shall, except upon good cause shown, be barred from offering any testimony or introducing any evidence that is inconsistent with or which goes beyond the fair scope of the information set forth in the pre-trial statement. (*Revised 6/15/09*)

L- 1920.42 AFFIDAVIT AND DECREE UNDER §3301(c) OR §3301(d) OF THE DIVORCE CODE. NOTICE OF INTENTION TO REQUEST ENTRY OF DIVORCE DECREE IN §3301(c) AND §3301(d) DIVORCES. COUNTER-AFFIDAVIT.

(a) Reserved.

(b) Reserved.

(c) Where both parties have filed affidavits under §3301(c) of the Divorce Code evidencing consent to the entry of a final decree, the plaintiff shall file at the Prothonotary's Office a Praeceptum to Transmit Record indicating whether a marital settlement agreement should be incorporated or merged into the decree. See L-1920.73.

(d) If a complaint has been filed requesting a divorce on the grounds of irretrievable breakdown and the plaintiff has filed an affidavit under §3301(d) of the Divorce Code, the averments of which the defendant has either admitted or not denied, the plaintiff shall file at the Prothonotary's Office a Praeceptum to Transmit Record indicating whether a marital settlement agreement should be incorporated or merged into the decree. See L-1920.73.

L-1920.43 SPECIAL RELIEF

(a) Requests for injunctive relief shall be presented to the Family Court Judge to whom the case is assigned and not to the Master in Divorce. All motions must be presented to the Family Court Judge to whom the case is assigned including motions to continue Master's Hearings.

(b) Reserved.

L-1920.44 RESERVED

L-1920.45 COUNSELING

(a) Reserved.

(b) The Civil Division of the Court Administrator’s Office will maintain a list of counselors approved for use by the court. The parties may agree to use the services of a counselor or agency not on the list approved by the court.

(c) In the event the parties cannot agree on any or all of the following issues, the moving party shall petition the Court to determine:

- (1) Which party shall pay for counseling or how the payments for counseling shall be apportioned;
- (2) The counselor or agency to be utilized;
- (3) The number of counseling sessions – see Divorce Code §3302.

(d) Reserved.

L-1920.46 – L-1920.50 RESERVED

L-1920.51 HEARING BY THE COURT. APPOINTMENT OF MASTER. NOTICE OF HEARING.

(a) Any divorce case may be referred to a Master. Standing and Special Masters may be appointed by the Court. The Court may assign a case to a particular Standing Master rather than conduct assignments on a strictly rotational basis.

(1) The Standing Masters in Divorce shall be assigned by the Court. Before a Master is appointed by the Court, the moving party shall pay to the Prothonotary the non-refundable Master/Stenographic fee as set forth in Appendix G, Custody/Divorce Fee Schedule. Proof of this payment must accompany the Motion to Appoint a Master.

(i) The Motion to Appoint a Master shall be delivered to the Civil Division of the Court Administrator’s Office along with an Appointment Order. See PA R.C.P. 1920.74. The Civil Division of the Court Administrator’s Office will assign a Standing Master and will deliver the Motion to Appoint a Master and the Appointment Order to the Family Court Judge to whom the case is assigned. When the Motion to Appoint a Master is signed by the Family Court Judge to whom the case is assigned, the Civil Division of the Court Administrator’s Office will contact the moving party to pick up the Motion and Order. The moving party will then file the Motion and Order in the Prothonotary’s Office and will provide a copy of the Motion and Order to the Civil Division of the Court Administrator’s Office. The Civil Division of the Court Administrator’s Office will not file Motions, Petitions, Orders, or other documents on behalf of a party.

(ii) Upon the written agreement of counsel for the parties or the parties the Court may appoint a Special Master in appropriate cases. The parties shall present the written agreement by way of a Motion to the Family Court Judge to whom the case is assigned. The Motion shall specify the payment terms of the Special Master, including the apportionment of the payment and the terms and conditions of the payment. The Motion shall also address the provisions made by the parties for private, stenographic services and shall set forth the apportionment and terms and conditions of the payment for these services. The Special Master shall comply with all Rules of Civil Procedure and the Local Rules of Court. The moving party shall provide a copy of the Motion and Order to the Civil Division of the Court Administrator's Office.

(b) A Master in Divorce shall give counsel of record at least 10 days notice before conducting any conference or hearing.

(c) A Master in Divorce shall give a party who is not represented by counsel at least 10 days notice before conducting any hearing or conference.

(d) Reserved.

(e) Reserved.

(f) Payment of the Master/Stenographic fee shall entitle the parties to a maximum of two Preliminary Conferences, a one-hour Hearing on Preliminary Issues, if necessary, and a maximum of a one-day hearing or two half-day hearings. If the Master determines that additional testimony is required, then the Master shall assign payment of costs at the current rate to either the plaintiff or the defendant or shall apportion the costs between the parties as deemed appropriate. Upon the recommendation of the Master the assignment of costs will be made in an Interim Interlocutory Order signed by the Family Court Judge to whom the case is assigned. The issue shall be addressed in the final Master's Report. A Master shall conduct no more than three full-day hearings or five half-day hearings in any case, except upon specific approval of the Family Court Judge to whom the case is assigned. The party or parties seeking an additional hearing(s) must, within seven days of the last scheduled hearing in the case, present a Motion to the Family Court Judge to whom the case is assigned specifying the need for the additional hearing(s). The moving party will file the Motion and resulting Order at the Prothonotary's Office and will provide a copy of the order and proof of payment of the costs to the Civil Division of the Court Administrator's Office. If the Motion is granted, the costs will be apportioned at the same rate established by the Master for previous hearings in the same matter. The costs will be payable to the Prothonotary's Office at the time the Motion and resulting Order are filed. If the Motion is granted, the Civil Division of the Court Administrator's Office will schedule the hearing.

(g) Motions for continuances of proceedings before a Master will be presented by the moving party to the Family Court Judge to whom the case is assigned in Motions Court prior to the scheduled proceeding. The order granting or denying the continuance will be filed in the Prothonotary's Office. A copy of an order granting a continuance will be delivered by the moving party to the Civil Division of the Court Administrator's Office.

(1) A \$25.00 fee will be charged for continuances. Except in the case of an emergency, when a party seeks and receives a continuance on the day of a scheduled conference or hearing the party will be charged a \$75.00 fee. The fee will be paid by the moving party to the Prothonotary's Office when the Motion and Continuance Order are filed. The fee shall be paid in the form of a check or money order payable to the Washington County Prothonotary.

(2) Motions for continuances shall be set forth in writing containing the following information:

(i) A clear, concise, and certain reason for the request.

(ii) A statement that opposing counsel or the opposing party, if unrepresented, has no objection to the request for continuance, if applicable.

(iii) A statement of the number of prior continuances, if any.

(iv) If another court appearance is the reason for the request, a copy of the notice or Order of the conflicting hearing shall be attached.

(3) The Notice of Presentation of the Continuance Motion shall include the date of service of the motion upon the opposing counsel or the opposing party, if unrepresented.

L-1920.52 RESERVED

L-1920.53 HEARING BY MASTER. REPORT.

Subject to the direction and control of the Court, the court-appointed Master shall have procedural and administrative control of the proceedings in regard to the detention of witnesses for examination and the general course of the proceedings. The Master shall rule on objections to the competency or relevance of testimony, as well as the admissibility of evidence. If the Master sustains the objection, the testimony shall not be heard or reported. Parties may file exceptions to the Master's rulings in accordance with L-1920.55.

L-1920.54 HEARING BY MASTER. REPORT. RELATED CLAIMS.

(a) The Master shall subdivide the report into separate sections, one for each claim for relief raised in the proceedings.

(b) Reserved.

(c) Reserved.

(d) The Master may afford the parties the opportunity to submit suggested findings of fact and/or conclusions of law within 30 days of the close of testimony.

(e) The Master shall file the original and two copies of the report and recommendations with the Prothonotary who shall mail notice of the filing and a copy of the report and recommendations to counsel of record or to a party, if unrepresented.

(f) The Master may file a preliminary report and recommendations concerning matters such as the basis for the divorce or the payment of counsel fees and expenses.

L-1920.55 – L-1920.55-1 RESERVED

L-1920.55-2 MASTER’S REPORT. NOTICE. EXCEPTIONS. FINAL DECREE.

(a) Reserved.

(b) Reserved.

(c)(1) Exceptions to the Master’s Report and Recommendations shall be filed with the Prothonotary and a copy shall be delivered to the Civil Division of the Court Administrator’s Office. The Family Court Judge to whom the case is assigned will then schedule argument on the exceptions or order that the matter will be decided on the briefs. The Civil Division of the Court Administrator’s Office will mail notices of the date and time of the argument on the exceptions, if one is scheduled, by first class mail to the counsel for the parties or to the parties if unrepresented.

(c)(2) Exceptions may be filed to a Preliminary Master’s Report and Recommendations only if the Preliminary Report and Recommendations addresses the underlying basis for the divorce and must be limited to that issue only. In such a case, exceptions must be filed within twenty (20) days after the Preliminary Report and Recommendations are mailed or received by the parties, whichever occurs first. The parties must then comply with paragraphs (c)(3) and (c)(4) below. No exceptions may be taken to any other issues included in the Preliminary Master’s Report and Recommendations. Such issues will be included in the Final Master’s Report and Recommendations, and parties may take exceptions thereto at that time.

(c)(3) The excepting party must file its brief with the Family Court Judge to whom the case is assigned no later than 20 days before the scheduled argument, and the non-excepting party must file its brief with the Family Court Judge to whom the case is assigned no later than 10 days before the scheduled argument. If both parties file exceptions, the first party to file the exceptions must file its brief no later than 20 days before the scheduled argument, and the opposing party must file its brief no later than 10 days before the scheduled argument. The Court may order submission on the briefs or the parties may agree to submit to the Court on the briefs without argument.

(c)(4) Oral arguments shall be restricted to issues addressed in the written briefs.

(c)(5) The Family Court Judge to whom the case is assigned may remand the case to the Master for further review, may hear argument, or may conduct an evidentiary hearing.

L-1920.56 – 1920.61 RESERVED

L-1920.62 PROCEEDINGS BY INDIGENT PARTIES

Petitions regarding indigency and requesting relief from payment of costs shall be addressed to the Family Court Judge to whom the case has been assigned and must contain a request that the Court require the other party to pay the costs of the action. The Court may order the other party to pay all or part of such costs.

L-1920.63 – 1970-72 RESERVED

**L-1920.73 NOTICE OF INTENTION TO REQUEST ENTRY OF DIVORCE DECREE.
PRAECIPE TO TRANSMIT RECORD. FORMS.**

(a) Reserved.

(b) When the grounds for divorce are based on §3301(c) or §3301(d) of the Divorce Code, the Praecipe to Transmit Record shall include the follow:

6. Check applicable box:

(a) Section 3301(c) with incorporation of property/marital settlement Yes () No ()

(b) Section 3301(d) with incorporation of property/marital settlement Yes () No ()

L-1920.74 SETTLEMENT AGREEMENTS AND STIPULATIONS.

Property/Marriage Settlement Agreements or Stipulations which include a provision or provisions concerning child support shall be subject to Local Rules 1910.17-3 and 1910.17-4.

L-1930.5 DISCOVERY IN DOMESTIC RELATIONS MATTERS

(a) Applications for discovery contemplated by Pa R.C.P. 1930.5 (a) shall be presented to the Family Court Judge to whom the case is assigned and shall not be presented to the Master in Divorce or Child Custody Conference Officer.

L-1930.8. SANCTIONS

The Master in a Divorce Case, the Hearing Officer in an Action for Support, or a Child Custody Conference Officer in a Child Custody Case may invoke appropriate sanctions for failure to comply with Pennsylvania Rules of Civil Procedure or Local Rules or for conduct which is vexatious or which unreasonably serves to delay proceedings or make them more complicated. Appropriate sanctions

include, but are not limited to, one or more of the following: a negative inference may be drawn against the party; the meeting, conference or hearing may be rescheduled with the assessment of a continuance fee; the party who fails to comply with the rules may be barred from offering any testimony or introducing any evidence on the issue at bar; or other sanctions reasonably designed to ensure compliance with these rules and respect for the proceedings may be imposed. *(Revised 6/15/09)*

(5) The action (involves) (does not involve) complex issues of law or fact.

(6) The hearing is expected to take _____ (hours) (days)

(7) Additional information, if any, relevant to the motion: _____

(8) Attached to this motion is proof of payment of the Master/Stenographer fee or request to proceed in forma pauperis.

Date: _____

Attorney for (Plaintiff) (Defendant)

Appendix J