

Szeles v. Szeles, 2011-CV-4138-DV	02-19-2016	The parties appeared before the master on Husband's petition for bifurcation. Using the case of <i>Bonawits v. Bonawits</i> , 907 A.2d 611(Pa.Super. 2006) as a guide, the master in the interim report determined that the parties' four year separation, the fact that the marriage is irretrievably broken, Husband's committed relationship, Husband's desire to be married and Husband's desire to move forward with his life combined were compelling reasons to grant the bifurcation. However, the master also determined that sufficient economic protections did not currently exist but that sufficient economic protections for Wife that would permit a seamless effectuation of the final equitable distribution award through a bifurcation order were possible. Accordingly, the master recommended that bifurcation be permitted in this case if the bifurcation order contains certain terms.	Cindy S. Conley
Sinkler v. Truesdale, 2014-CV-9730-DV	02-19-2016	The master was appointed to address Wife's request for a §3301(d) divorce. Although Husband had filed a Counter-Affidavit alleging that the parties had not been separated for two years and that the marriage was not irretrievably broken. Husband failed to appear at the master's hearing. Wife testified credibly at the hearing that the parties separated in February of 2011 and continued to live separate and apart since that time. Husband did not offer any testimony or evidence to the contrary. Accordingly, Wife established that the parties have been living separate and apart for in excess of two years. Wife also conclusively established that the marriage is irretrievably broken. The Pennsylvania Divorce Code defines "irretrievable breakdown" as follows, "[e]strangement due to marital difficulties with no reasonable prospect of reconciliation." 23 Pa.C.S.A. §3103. Wife testified credibly that the parties' marriage was "o.k." until Husband began to use drugs. The parties engaged in marriage counseling at one point. However, because of Husband's drug usage, Wife ultimately and finally separated from Husband. Wife testified credibly that she no longer wants to be married to Husband and that additional counseling would not change her mind in that regard. Wife's desire to terminate this marriage is not based on a whim but rather on mature, well thought out reasoning. Based on these circumstances the master recommended that a divorce decree be entered.	Cindy S. Conley
Sheehe v. Sheehe, 2011-CV-4138-DC	02-29-2016	The master was appointed to address the all economic issues. Husband argued that funds he removed after separation from retirement accounts should not be considered as advanced to him in equitable distribution because he used the funds to support the family after separation but while the parties and their children continued to reside in the same residence. The master rejected this argument for the following reasons. Husband did not obtain Wife's consent before he withdrew the	Cindy S. Conley

		<p>retirement funds and he did not discuss with Wife or obtain Wife’s consent when he spent these funds. Husband testified that he spent funds on his children because of his perception that they were suffering because of Wife’s actions and he was rewarding them. In simple terms, Husband wanted to garner favor with his children and so he alone decided to do that by spending marital funds on them without first consulting Wife. There was no testimony that when he made these expenditures on his children, he told them they were from both Husband and Wife, just as when Husband informed the children that Wife was engaged in a relationship with another man after separation, he apparently did not tell them he himself was registered on Match.Com. Perhaps most importantly, as the primary wage earner, Husband was primarily responsible for the support of his children and Wife regardless of whether or not the parties continued to reside together. 23 Pa.C.S.A. §4321. By remaining in the marital residence and paying the necessities of Wife and the children, Husband precluded Wife from obtaining a spousal support and child support order. Husband was paying all of the expenses prior to the parties’ separation from his income and did not present any evidence that changed circumstances warranted the use of marital assets to pay for living expenses. In fact, in 2012, the year he withdrew these funds, Husband had Medicare earnings of \$162,059, the most he had every made in a year to that date. Husband deposited these funds into his separate account not the joint account from which the expenses of the parties and their children were being paid. The master finds support for Wife’s position that Husband should be assessed with receipt of the marital retirement funds in equitable distribution in the case of <i>Grandovic v. Grandovic</i>, 564 A.2d 960 (Pa.Super. 1989).</p>	
<p>Henderson v. Henderson, 2014-CV-8256-DV</p>	<p>03-14-2016</p>	<p>The master was appointed to address all economic issues. Husband failed to participate in the proceeding and failed to appear at the hearing. Since Husband did not appear, Wife testified without contradiction. Moreover, Wife’s attorney represented that as directed by the Hearing Notice, she served Husband with Wife’s final exhibits on February 17, 2016. These exhibits form the basis of many of the factual determinations. Husband did not object to any of the exhibits as also directed in the Hearing Notice. In addition, Wife’s position concerning many of the factual determinations are contained in the PLC Memorandum, a copy of which was served on Husband. The PLC Memorandum contained discovery directives that may have affected the master’s factual determinations. However, Husband apparently did not comply with the directives. Accordingly, the master accepted Wife’s testimony, exhibits and representations incorporated onto the record through the</p>	<p>Cindy S. Conley</p>

		PLC Memorandum as factual.	
Bitting v. Bitting, 2009-CV-11267-DV	03- 29- 2016	<p>The master was appointed to address all economic issues. Wife failed to participate in the proceeding and failed to appear at the hearing. Neither party raised a claim for counsel fees, costs, and expenses under Section 3702 of the Divorce Code, which authorizes an award of reasonable counsel fees and expenses in appropriate cases. However, 42 Pa.C.S.A. §2503(6) also authorizes an award of counsel fees for dilatory, obdurate, or vexatious conduct during the pendency of the case. Wife’s conduct in failing to appear at the Settlement Conference and in failing to provide Husband with the Court Ordered discovery was obdurate, vexatious and caused Husband to incur unnecessary attorney’s fees and costs. Because Wife did not respond to the discovery directives contained in the master’s Preliminary Conference Memorandum that was issued with a <i>Per Curiam</i> Order, Husband had to subpoena documentation from the plan administrator concerning Wife’s TYCO Retirement Savings/401(k) plan, review the documentation and prepare the calculations necessary to determine the marital and non-marital portions of the Plan. These were clearly tasks that Wife should have undertaken. Moreover, Husband had to pay for his attorney to prepare for and attend a Settlement Conference that Wife did not attend. In the Preliminary Conference Memorandum filed by the master, the master noted the following:</p> <p><u>IN THE EVENT EITHER PARTY FAILS TO ATTEND THE SETTLEMENT CONFERENCE, ABSENT GOOD CAUSE SHOWN, THE MASTER WILL IN HER REPORT AND RECOMMENDATION, RECOMMEND THAT THE NON-APPEARING PARTY REIMBURSE THE APPEARING PARTY FOR THE ATTORNEY’S FEES AND COSTS INCURRED BY THE APPEARING PARTY FOR PREPARING FOR AND ATTENDING THE SETTLEMENT CONFERENCE.</u></p> <p>Husband’s attorney’s hourly rate is \$225 and is reasonable and customary based on the attorney’s fees charged in this area. Husband incurred \$1,498 in reasonable attorney’s fees and costs in obtaining the information Wife should have provided at no cost and for his attorney to prepare for, travel to and attend the Settlement Conference that was not productive given Wife’s failure to appear. The master recommended that Wife reimburse Husband for these fees and costs.</p>	Cindy S. Conley