

## Dauphin County Bar Association-Family Law Section Meeting

### Meeting Minutes

February 13, 2019

#### **Business Meeting:**

- President Teresa Marino began the business meeting at 11:55 pm.
- Minutes and Treasurer's report: were made available, with a balance in our account of \$8,731.17
- Election: The vote was held on selection of new Treasurer as Treasurer Lori Serratelli moved up to Secretary and Secretary Tillman Larson moved up to Vice President. Allison Hastings was nominated by motion of Sandy Krevsky with a second to the motion by Deb Cantor. Allison was elected with a unanimous voice vote favoring her election.
- President Marino thanked outgoing President Laurie Saltzgiver for her service last year.
- Donation: President Marino noted that the FLS has not made a charitable donation since 2016/2017. She mentioned that she and Lori Serratelli serve on the Dauphin County CASA Board of Directors which is in major fundraising status in order to hire an Executive Director and begin training volunteers. Lori Serratelli made a short presentation on the work of DC CASA and requested a donation of \$1500. Paul Helvy made a motion, seconded by Deb Mehaffie to donate \$1500 to DC CASA. The voice vote was unanimous to make the donation.

#### **Program**

- The program entitled Tax Consideration for Family Lawyers, presented by Sherry Zeisenheim, CPA of Boyer and Ritter and Adriann Reed, CPA of Brown Schultz Sheridan & Fritz began after the business meeting with an excellent presentation followed by questions.

The meeting adjourned at 12:50 pm.

Respectfully submitted,

Lori K. Serratelli, Esq.

Secretary, FLS/DCBA

Dauphin County Bar Association  
Family Law Section  
CLE  
September 20, 2019

New Statutes and Rules in Divorce

1. New Statutes (at least partially) precipitated new rules. Mixing criminal law and family law.
  - a. 23 Pa.C.S. § 3301(c)(2) – “The consent of a party shall be presumed where that party has been convicted of committing a personal injury crime against the other party.”
  - b. 23 Pa.C.S. § 3702(b) – “Except where the court finds that an order for alimony pendente lite or spousal support is necessary to prevent manifest injustice, a party who has been convicted of committing a personal injury crime against the other party shall not be entitled to spousal support or alimony pendente lite. Any amount paid by the injured party after the commission of the offense but before the conviction of the other party shall be recoverable by the injured party upon petition.”
  - c. 23 Pa.C.S. § 3103 – Divorce Code Definitions
    - i. Definition of “Personal Injury Crime”: An act that constitutes a misdemeanor or felony under any of the following, or criminal attempt, solicitation or conspiracy to commit any of the following:
      - 18 Pa.C.S. Ch. 25 (relating to criminal homicide).
      - 18 Pa.C.S. Ch. 27 (relating to assault).
      - 18 Pa.C.S. Ch. 29 (relating to kidnapping).
      - 18 Pa.C.S. Ch. 30 (relating to human trafficking).
      - 18 Pa.C.S. Ch. 31 (relating to sexual offenses).
      - [18 Pa.C.S. § 3301](#) (relating to arson and related offenses).
      - 18 Pa.C.S. Ch. 37 (relating to robbery).
      - 18 Pa.C.S. Ch. 49 Subch. B (relating to victim and witness intimidation).
      - [75 Pa.C.S. § 3732](#) (relating to homicide by vehicle).
      - [75 Pa.C.S. § 3742](#) (relating to accidents involving death or personal injury).
    - ii. Definition of “Convicted” Having been found guilty, having entered a plea of guilty or nolo contendere or having been accepted into Accelerated Rehabilitative Disposition.

## 2. New Pennsylvania Rules of Civil Procedure

- a. Pa.R.C.P. 1920.14 - Answer. Denial. Affidavit Under Section 3301(D) of the Divorce Code
  - i. What to answer and what is presumed denied
- b. Pa.R.C.P. 1920.42 – Obtaining a Divorce Decree
  - i. Step-by-step instructions to obtain divorce decree
- c. Pa.R.C.P. 1920.45 – Counseling and deadlines for counseling
- d. Pa.R.C.P. 1920.46- Affidavit of Military Service
- e. Pa.R.C.P. 1920.51 - Hearing by the Court. Appointment of Master. Notice of Hearing
  - i. What may the Divorce Master address?
- f. Pa.R.C.P. 1920.53 - Hearing by Master. Report
  - i. Contents of Master’s Report
- g. Pa.R.C.P. 1920.72 - Form of Complaint. Affidavits Under Section 3301(C) or Section 3301(D) of the Divorce Code. Counter-Affidavits
  - i. There are new forms. Tell your staff.
- h. Pa.R.C.P. 1920.73 - Notice of Intention to File Praecipe to Transmit Record. Waiver of Notice of Intention to File Praecipe to Transmit Record. Praecipe to Transmit Record
  - i. More new forms.
- i. Pa.R.C.P. 1920.74 - Form of Motion for Appointment of Master. Order
  - i. More new forms.

## 3. New Dauphin County Local Rules of Procedure

- a. Dauphin County Local Rule of Civil Procedure 1920.1
  - i. No Educational Seminar Required when Custody Count not raised in divorce complaint.
- b. Dauphin County Local Rule of Civil Procedure 1920.2
  - i. Divorce PO’s are immediately assigned to a Judge
- c. Dauphin County Local Rule of Civil Procedure 1920.51
  - i. Clarifies that the Divorce Master does not hear APL Claims

- d. Dauphin County Local Rule of Civil Procedure 1920.74
  - i. New Form – Motion and Order to Appoint Divorce Master
- 4. Discovery Case – Farrell v. Farrell – 2019 Binding Opinion
  - a. Appeal from order of contempt directing attorney to pay counsel fees related to discovery violations.
- 5. Checklist Used by Dauphin County Court Administration

## 23 Pa.C.S. § 3301

Pa.C.S. documents are current through 2019 Regular Session Act 72; P.S. documents are current through 2019 Regular Session Act 72.

*Pennsylvania Statutes, Annotated by LexisNexis® > Pennsylvania Consolidated Statutes > Title 23. Domestic Relations (Pts. I – IX) > Part IV. Divorce (Chs. 31 – 39) > Chapter 33. Dissolution of Marital Status (Subchs. A – C) > Subchapter A. General Provisions (§§ 3301 – 3309)*

### § 3301. Grounds for divorce.

**(a) *Fault.*** — The court may grant a divorce to the innocent and injured spouse whenever it is judged that the other spouse has:

- (1) Committed willful and malicious desertion, and absence from the habitation of the injured and innocent spouse, without a reasonable cause, for the period of one or more years.
- (2) Committed adultery.
- (3) By cruel and barbarous treatment, endangered the life or health of the injured and innocent spouse.
- (4) Knowingly entered into a bigamous marriage while a former marriage is still subsisting.
- (5) Been sentenced to imprisonment for a term of two or more years upon conviction of having committed a crime.
- (6) Offered such indignities to the innocent and injured spouse as to render that spouse's condition intolerable and life burdensome.

**(b) *Institutionalization.*** — The court may grant a divorce from a spouse upon the ground that insanity or serious mental disorder has resulted in confinement in a mental institution for at least 18 months immediately before the commencement of an action under this part and where there is no reasonable prospect that the spouse will be discharged from inpatient care during the 18 months subsequent to the commencement of the action. A presumption that no prospect of discharge exists shall be established by a certificate of the superintendent of the institution to that effect and which includes a supporting statement of a treating physician.

**(c) *Mutual consent.*** —

- (1) The court may grant a divorce where it is alleged that the marriage is irretrievably broken and 90 days have elapsed from the date of commencement of an action under this part and an affidavit has been filed by each of the parties evidencing that each of the parties consents to the divorce.
- (2) The consent of a party shall be presumed where that party has been convicted of committing a personal injury crime against the other party.

**(d) *Irretrievable breakdown.***

(1) The court may grant a divorce where a complaint has been filed alleging that the marriage is irretrievably broken and an affidavit has been filed alleging that the parties have lived separate and apart for a period of at least one year and that the marriage is irretrievably broken and the defendant either:

- (i) Does not deny the allegations set forth in the affidavit.

## 23 Pa.C.S. § 3301

(ii) Denies one or more of the allegations set forth in the affidavit but, after notice and hearing, the court determines that the parties have lived separate and apart for a period of at least one year and that the marriage is irretrievably broken.

(2) If a hearing has been held pursuant to paragraph (1)(ii) and the court determines that there is a reasonable prospect of reconciliation, then the court shall continue the matter for a period not less than 90 days nor more than 120 days unless the parties agree to a period in excess of 120 days. During this period, the court shall require counseling as provided in section 3302 (relating to counseling). If the parties have not reconciled at the expiration of the time period and one party states under oath that the marriage is irretrievably broken, the court shall determine whether the marriage is irretrievably broken. If the court determines that the marriage is irretrievably broken, the court shall grant the divorce. Otherwise, the court shall deny the divorce.

(e) **No hearing required in certain cases.** — If grounds for divorce alleged in the complaint or counterclaim are established under subsection (c) or (d), the court shall grant a divorce without requiring a hearing on any other grounds.

## History

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[Act 1990-206](#) (H.B. 1023), P.L. 1240, § 2, approved Dec. 19, 1990, eff. in 90 days; [Act 2016-21](#) (H.B. 12), § 2, approved April 21, 2016, eff. June 20, 2016; [Act 2016-102](#) (H.B. 380), § 1, approved October 4, 2016, eff. December 5, 2016.

Annotations

## LexisNexis® Notes

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## Notes

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### EDITOR'S NOTES.

Section 5 of [Act 1990-206](#) applies as follows: "Construction of Divorce Code.—The provisions of 23 Pa.C.S. Pt. IV (relating to divorce) shall apply to all cases, whether the cause for divorce or annulment arose prior or subsequent to the enactment of this act. The provisions of 23 Pa.C.S. Pt. IV shall not affect any suit or action pending on the effective date of the Divorce Code of 1980, but the suit or action may be proceeded with and concluded either under the laws in existence when the suit or action was instituted, notwithstanding the repeal of such laws, or, upon application granted, under the provisions of 23 Pa.C.S. Pt. IV. The provisions of 23 Pa.C.S. Pt. IV shall not apply to any case in which a decree has been rendered prior to the effective date of the Divorce Code of 1980. The provisions of 23 Pa. C.S. Pt. IV shall not affect any marital agreement executed prior to the effective date of the Divorce Code of 1980 or any amendment or modification thereto."

### Amendment Notes

The 2016 amendment added the (c)(1) designation and added (c)(2).

The 2016 amendment substituted "one year" for "two years" in the introductory language of (d)(1) and in (d)(1)(ii).



[< Previous](#)

[Next >](#)

## 23 Pa.C.S. § 3702

Copy Citation

Pa.C.S. documents are current through 2019 Regular Session Act 72; P.S. documents are current through 2019 Regular Session Act 72

[Pennsylvania Statutes, Annotated by LexisNexis®](#) > [Pennsylvania Consolidated Statutes](#) > [Title 23. Domestic Relations \(Pts. I — IX\)](#) > [Part IV. Divorce \(Chs. 31 — 39\)](#) > [Chapter 37. Alimony and Support \(§§ 3701 — 3707\)](#)

### § 3702. Alimony pendente lite, counsel fees and expenses.

(a) *General rule.* — In proper cases, upon petition, the court may allow a spouse reasonable alimony pendente lite, spousal support and reasonable counsel fees and expenses. Reasonable counsel fees and expenses may be allowed pendente lite, and the court shall also have authority to direct that adequate health and hospitalization insurance coverage be maintained for the dependent spouse pendente lite.

(b) *Exception.* — Except where the court finds that an order for alimony pendente lite or spousal support is necessary to prevent manifest injustice, a party who has been convicted of committing a personal injury crime against the other party shall not be entitled to spousal support or alimony pendente lite. Any amount paid by the injured party after the commission of the offense but before the conviction of the other party shall be recoverable by the injured party upon petition.

### History

[Act 1990-206](#) (H.B. 1023), P.L. 1240, § 2, approved Dec. 19, 1990, eff. in 90 days; [Act 1997-58](#) (H.B. 1412), P.L. 549, § 1, approved Dec. 16, 1997, eff. Jan. 1, 1998; [Act 1998-36](#) (S.B. 1087), P.L. 204, § 1, approved Mar. 24, 1998, eff. immediately; [Act 2018-102](#) (H.B. 983), § 1, approved October 24, 2018, eff. December 24, 2018.



### Notes

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#### Editor's Notes

Section 5 of [Act 1990-206](#) applies as follows: "Construction of Divorce Code.—The provisions of 23 Pa.C.S. Pt. IV (relating to divorce) shall apply to all cases, whether the cause for divorce or annulment arose prior or subsequent to the enactment of this act. The provisions of 23 Pa.C.S. Pt. IV shall not affect any suit or action pending on the effective date of the Divorce Code of 1980, but the suit or action may be proceeded with and concluded either under the laws in existence when the suit or action was instituted, notwithstanding the repeal of such laws, or, upon application granted, under the provisions of 23 Pa.C.S. Pt. IV. The provisions of 23 Pa.C.S. Pt. IV shall not apply to any case in which a decree has been rendered prior to the effective date of the Divorce Code of 1980. The provisions of 23 Pa. C.S. Pt. IV shall not affect any marital agreement executed prior to the effective date of the Divorce Code of 1980 or any amendment or modification thereto."

#### Amendment Notes

The 2018 amendment added the (a) designation; added the subsection heading of (a); and added (b).

### Case Notes

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- [↓ Civil Procedure: Judicial Officers: Masters: General Overview](#)
- [↓ Civil Procedure: Appeals: Appellate Jurisdiction: Final Judgment Rule](#)
- [↓ Civil Procedure: Appeals: Appellate Jurisdiction: Interlocutory Orders](#)
- [↓ Constitutional Law: Equal Protection: Scope of Protection](#)
- [↓ Family Law: Child Support: Obligations: General Overview](#)
- [↓ Family Law: Marital Termination & Spousal Support: Costs & Attorney Fees](#)
- [↓ Family Law: Marital Termination & Spousal Support: Dissolution & Divorce: Procedures](#)
- [↓ Family Law: Marital Termination & Spousal Support: Dissolution & Divorce: Property Distribution: General Overview](#)
- [↓ Family Law: Marital Termination & Spousal Support: Spousal Support: General Overview](#)
- [↓ Family Law: Marital Termination & Spousal Support: Spousal Support: Modification & Termination: General Overview](#)
- [↓ Family Law: Marital Termination & Spousal Support: Spousal Support: Obligations: Temporary Support](#)
- [↓ Family Law: Marital Termination & Spousal Support: Spousal Support: Procedures](#)
- [↑ Civil Procedure: Judicial Officers: Masters: General Overview](#)

Divorce master properly determined that the husband should contribute to the wife's reasonable counsel fees because the quantity of work and hourly rate were reasonable, the wife



## 23 Pa.C.S. § 3103

Pa.C.S. documents are current through 2019 Regular Session Act 72; P.S. documents are current through 2019 Regular Session Act 72

*Pennsylvania Statutes, Annotated by LexisNexis® > Pennsylvania Consolidated Statutes > Title 23. Domestic Relations (Pts. I – IX) > Part IV. Divorce (Chs. 31 – 39) > Chapter 31. Preliminary Provisions (§§ 3101 – 3106)*

### § 3103. Definitions.

The following words and phrases when used in this part shall have the meanings given to them in this section unless the context clearly indicates otherwise:

*"Alimony."* — An order for support granted by this Commonwealth or any other state to a spouse or former spouse in conjunction with a decree granting a divorce or annulment.

*"Alimony pendente lite."* — An order for temporary support granted to a spouse during the pendency of a divorce or annulment proceeding.

*"Convicted."* — Having been found guilty, having entered a plea of guilty or nolo contendere or having been accepted into Accelerated Rehabilitative Disposition.

*"Divorce."* — Divorce from the bonds of matrimony.

*"Grounds for divorce."* — The grounds enumerated in section 3301 (relating to grounds for divorce).

*"Irretrievable breakdown."* — Estrangement due to marital difficulties with no reasonable prospect of reconciliation.

*"Personal injury crime."* — An act that constitutes a misdemeanor or felony under any of the following; or criminal attempt, solicitation or conspiracy to commit any of the following:

18 Pa.C.S. Ch. 25 (relating to criminal homicide).

18 Pa.C.S. Ch. 27 (relating to assault).

18 Pa.C.S. Ch. 29 (relating to kidnapping).

18 Pa.C.S. Ch. 30 (relating to human trafficking).

18 Pa.C.S. Ch. 31 (relating to sexual offenses).

[18 Pa.C.S. § 3301](#) (relating to arson and related offenses).

18 Pa.C.S. Ch. 37 (relating to robbery).

18 Pa.C.S. Ch. 49 Subch. B (relating to victim and witness intimidation).

[75 Pa.C.S. § 3732](#) (relating to homicide by vehicle).

[75 Pa.C.S. § 3742](#) (relating to accidents involving death or personal injury).

*"Qualified professionals."* — Includes marriage counselors, psychologists, psychiatrists, social workers, ministers, priests, rabbis or other persons who, by virtue of their training and experience, are able to provide counseling.

*"Separate and apart."* — Cessation of cohabitation, whether living in the same residence or not. In the event a complaint in divorce is filed and served, it shall be presumed that the parties commenced to live separate and apart not later than the date that the complaint was served.

*"Spousal support."* — Care, maintenance and financial assistance.

## History

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[Act 1990-209](#) (H.B. 1023), P.L. 1240, § 2, approved Dec. 19, 1990, eff. in 90 days; [Act 2004-175](#) (S.B. 95), P.L. 1357, § 1.1, approved Nov. 29, 2004, eff. in 60 days; [Act 2016-24](#) (H.B. 12), § 1, approved April 21, 2016, eff. June 20, 2016.

Annotations

## Commentary

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### JOINT STATE GOVERNMENT COMMISSION COMMENTS.

Report of the Advisory Committee on Domestic Relations Law, Divorce Code — Recommended Amendments (April 1999).

The amendment to the definition of "separate and apart" establishes a rebuttable presumption designed to address the difficulty of proving a separation date, especially when the parties have not established different residences.

## LexisNexis® Notes

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## Notes

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### EDITOR'S NOTES.

Section 5 of [Act 2004-175](#) provides that "[t]he amendment of the definition of "separate and apart" in [23 Pa.C.S. § 3103](#) shall apply to complaints served before, on or after the effective date of this paragraph."

Section 5 of [Act 1990-209](#) applies as follows: "Construction of Divorce Code.—The provisions of 23 Pa.C.S. Pt. IV (relating to divorce) shall apply to all cases, whether the cause for divorce or annulment arose prior or subsequent to the enactment of this act. The provisions of 23 Pa.C.S. Pt. IV shall not affect any suit or action pending on the effective date of the Divorce Code of 1980, but the suit or action may be proceeded with and concluded either under the laws in existence when the suit or action was instituted, notwithstanding the repeal of such laws, or, upon application granted, under the provisions of 23 Pa.C.S. Pt. IV. The provisions of 23 Pa.C.S. Pt. IV shall not apply to any case in which a decree has been rendered prior to the effective date of the Divorce Code of 1980. The provisions of 23 Pa. C.S. Pt. IV shall not affect any marital agreement executed prior to the effective date of the Divorce Code of 1980 or any amendment or modification thereto."

### Amendment Notes

The 2016 amendment added the definitions of "Convicted" and "Personal injury crime."

## Case Notes

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## Pa. R.C.P. No. 1920.14

Pennsylvania State Court Rules reflect amendments received June 1, 2019.

### **PA - Pennsylvania Local, State & Federal Court Rules > PENNSYLVANIA RULES OF CIVIL PROCEDURE > ACTION OF DIVORCE OR ANNULMENT OF MARRIAGE**

## **Rule 1920.14. Answer. Denial. Affidavit Under Section 3301(D) of the Divorce Code**

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**(a)** The averments in the complaint as to the divorce or annulment, ancillary claims that may be joined under the Divorce Code, and petitions for special relief under these rules shall be deemed denied unless admitted by an answer. Notwithstanding the foregoing, the court may require a response to a petition for special relief.

**(b)** The averments of the Affidavit under Section 3301(d) of the Divorce Code and the Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code shall be deemed admitted unless denied by counter-affidavit.

*Note:* See Pa.R.C.P. No. 1920.72(e)(2) and (3) for the counter-affidavits.

#### **EXPLANATORY COMMENT**

**Subdivision (a)** has been amended to clarify that the averments in a petition for special relief in a divorce or annulment action are deemed to be denied unless admitted by an answer.

**Subdivision (b)** has been amended to include divorces under Section 3301(c)(2) of the Divorce Code. The process for obtaining a divorce under Sections 3301(c)(2) and 3301(d) are similar. Subdivision (b) requires that the averments in the affidavit be denied by counter-affidavit and, as such, if the non-moving party fails to file a counter-affidavit denying the averments in the Affidavit to Establish Presumption of Consent or the Affidavit under Section 3301(d) of the Divorce Code, the affidavit's averments are deemed admitted.

Annotations

## **Research References & Practice Aids**

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### **LexisNexis (R) Notes**

#### **TREATISES AND ANALYTICAL MATERIALS**

1. 9 Dunlap-Hanna Pennsylvania Forms P 98.15, CHAPTER 98 Dissolution of Marital Status, Answer to Complaint in Divorce.

2. 22 P.L.E. DIVORCE § 83, Pennsylvania Law Encyclopedia, Answer; Counterclaim, Copyright 2017, Matthew Bender & Company, Inc., a member of the LexisNexis Group.

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End of Document

[Pa. R.C.P. No. 1920.42](#)

Pennsylvania State Court Rules reflect amendments received June 1, 2019.

**PA - Pennsylvania Local, State & Federal Court Rules > PENNSYLVANIA RULES OF CIVIL PROCEDURE > ACTION OF DIVORCE OR ANNULMENT OF MARRIAGE**

**Rule 1920.42. Obtaining Divorce Decrees Under Section 3301(C) or Section 3301(D) of the Divorce Code. Affidavits and Counter-Affidavits. Requirements of the Affidavit of Consent. Ancillary Claims. Orders Approving Grounds for Divorce. Notice of Intention to File the Praeceptum to Transmit Record. Pr**

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**PRECEPTUM TO TRANSMIT RECORD** (a) Obtaining a divorce decree under Section 3301(c)(1) of the Divorce Code.

(1) If a party has filed a complaint requesting a divorce on the ground of irretrievable breakdown, the court shall enter a decree in divorce after:

- (i) proof of service of the complaint has been filed;
- (ii) the parties have signed Affidavits of Consent 90 days or more after service of the complaint and have filed the affidavits within 30 days of signing, which may only be withdrawn by an order of court;
- (iii) the ancillary claims under *Pa. R.C.P. Nos. 1920.31 and 1920.33* have been withdrawn by the party raising the claims, have been resolved by agreement of the parties or order of court, have not been raised in the pleadings, or in the case of a bifurcated divorce, the court has retained jurisdiction of the ancillary claims;
- (iv) the parties have signed and filed Waivers of Notice of Intention to File the Praeceptum to Transmit Record or, alternatively, the party requesting the divorce decree has served on the other party a Notice of Intention to File the Praeceptum to Transmit Record, which included a blank Counter-Affidavit under Section 3301(c)(1) and a copy of the proposed Praeceptum to Transmit Record that indicated the date and manner of service of the Notice of Intention to File the Praeceptum to Transmit Record; and
- (v) the party requesting the divorce decree has completed and filed a Praeceptum to Transmit Record. If the parties have not waived the Notice of Intention to File the Praeceptum to Transmit Record, the moving party shall wait a minimum of 20 days after service of the Notice of

## Pa. R.C.P. No. 1920.42

Intention to File the Praecepte to Transmit Record before filing the Praecepte to Transmit Record.

*Note: See Pa.R.C.P. No. 1920.72(b) for the Affidavit of Consent.*

*See Pa.R.C.P. No. 1920.73(a) for the Notice of Intention to File the Praecepte to Transmit Record.*

*See Pa.R.C.P. No. 1920.72(e)(1) for the Counter-Affidavit under Section 3301(c)(1) of the Divorce Code.*

*See Pa.R.C.P. No. 1920.73(b) for the Waiver of Notice of Intention to File the Praecepte to Transmit Record.*

*See Pa.R.C.P. No. 1920.73(c) for the Praecepte to Transmit Record.*

**(2)** To the extent that grounds for divorce have been established under Section 3301(c)(1) of the Divorce Code as outlined in subdivision (a)(1)(ii) and the parties have been unable to resolve the ancillary claims, the court shall enter an order approving grounds for divorce after:

- (i)** the parties have signed and filed Waivers of Notice of Intention to File the Praecepte to Transmit Record or, alternatively, the party requesting the order approving grounds has served on the other party a Notice of Intention to File the Praecepte to Transmit Record, which included a blank Counter-Affidavit under Section 3301(c)(1) and a copy of the proposed Praecepte to Transmit Record that indicated the date and manner of service of the Notice of Intention to File the Praecepte to Transmit Record; and
- (ii)** the party requesting the order approving grounds has completed and filed a Praecepte to Transmit Record requesting the court enter an order approving grounds for divorce. If the parties have not waived the Notice of Intention to File the Praecepte to Transmit Record, the moving party shall wait a minimum of 20 days after service of the Notice of Intention to File the Praecepte to Transmit Record before filing the Praecepte to Transmit Record. If the court enters an order approving grounds for divorce, entry of the divorce decree shall be deferred until the ancillary claims have been resolved.

*Note: See Pa.R.C.P. No. 1920.73(a) for the Notice of Intention to File the Praecepte to Transmit Record.*

*See Pa.R.C.P. No. 1920.73(b) for the Waiver of Notice of Intention to File the Praecepte to Transmit Record.*

*See Pa.R.C.P. No. 1920.73(c) for the Praecepte to Transmit Record.*

**(3)** After the court enters an order approving grounds for divorce, a party may request, consistent with the judicial district's local rules and procedures, that the court either hears the ancillary claims or appoints a master to hear the ancillary claims as outlined in *Pa.R.C.P. No. 1920.51*.



## Pa. R.C.P. No. 1920.42

*Note: See Pa.R.C.P. No. 1920.74 for the Motion for Appointment of Master.*

**(4)** If the parties resolve the ancillary claims by agreement after the court approves the grounds for the divorce but before the court enters an order disposing of the ancillary claims, the parties shall file a Praecipe to Transmit Record requesting the court enter the appropriate divorce decree. To the extent the agreement does not address all of the parties' claims raised in the pleadings, the party raising the outstanding claims shall withdraw the claims before the court enters a divorce decree.

**(b)** Obtaining a divorce decree under Section 3301(c)(2) of the Divorce Code.

**(1)** If a party has filed a complaint requesting a divorce on the ground of irretrievable breakdown and a party has been convicted of a personal injury crime against his or her spouse, the court shall enter a decree in divorce after:

**(i)** proof of service of the complaint has been filed;

**(ii)** the party who is the victim of the personal injury crime:

**(A)** has signed and filed an Affidavit of Consent consistent with subdivision (a)(1)(ii); and

**(B)** has signed and filed an Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code alleging his or her status as a victim of a personal injury crime and that his or her spouse has been convicted of that crime;

**(iii)** the filed affidavits and a blank Counter-Affidavit under Section 3301(c)(2) of the Divorce Code have been served on the other party consistent with *Pa.R.C.P. No. 1930.4*, and the other party has admitted or failed to deny the averments in the Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code;

**(A)** If a party files a Counter-Affidavit under Section 3301(c)(2) of the Divorce Code denying an averment in the Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code, either party may present a motion requesting the court resolve the issue.

**(B)** After presentation of the motion in subdivision (A), the court may hear the testimony or, consistent with *Pa.R.C.P. No. 1920.51(a)(1)(ii)(D)*, appoint a master to hear the testimony and to issue a report and recommendation.

*Note:* This subdivision requires service of the counter-affidavit on the non-moving party consistent with original process since the averments in the moving party's Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code are deemed admitted unless denied. See *Pa.R.C.P. No. 1930.4* for service of

Pa. R.C.P. No. 1920.42

original process and *Pa.R.C.P. No. 1920.14(b)* regarding failure to deny averments in the affidavit.

**(iv)**the ancillary claims under *Pa.R.C.P. Nos. 1920.31* and *1920.33* have been withdrawn by the party raising the claims, have been resolved by agreement of the parties or order of court, have not been raised in the pleadings, or in the case of a bifurcated divorce, the court has retained jurisdiction of the ancillary claims;

**(v)**a minimum of 20 days from the date of service of the affidavits and blank Counter-Affidavit under Section 3301(c)(2) as set forth in

**(b)**

**(1)**

**(iii)**, the party requesting the divorce decree has served on the other party a Notice of Intention to File the Praeceptum to Transmit Record, which included a copy of the proposed Praeceptum to Transmit Record that indicated the date and manner of service of the Notice of Intention to File the Praeceptum to Transmit Record, except that service of such Notice of Intention is not required if:

**(A)**the parties have signed and filed Waivers of Notice of Intention to File the Praeceptum to Transmit Record; or

**(B)**the court finds that an attorney has not entered an appearance on the defendant's behalf and that the defendant cannot be located after a diligent search; and

**(vi)**the party requesting the divorce decree has completed and filed a Praeceptum to Transmit Record. If the parties have not waived the Notice of Intention to File the Praeceptum to Transmit Record, the moving party shall wait a minimum of 20 days after service of the Notice of Intention to File the Praeceptum to Transmit Record before filing the Praeceptum to Transmit Record.

*Note: See Pa.R.C.P. No. 1920.72(b)* for the Affidavit of Consent.

*See Pa.R.C.P. No. 1920.72(c)* for the Affidavit to Establish

Presumption of Consent under Section 3301(c)(2) of the Divorce Code.

*See Pa.R.C.P. No. 1920.72(e)(2)* for the Counter-Affidavit under Section 3301(c)(2) of the Divorce Code.

*See Pa.R.C.P. No. 1920.73(a)* for the Notice of Intention to File the Praeceptum to Transmit Record.

*See Pa.R.C.P. No. 1920.73(b)* for the Waiver of Notice of Intention to



Pa. R.C.P. No. 1920.42

File the Praecept to Transmit Record.

See *Pa.R.C.P. No. 1920.73(c)* for the Praecept to Transmit Record.

**(2)**To the extent that grounds for divorce have been established under Section 3301(c)(2) of the Divorce Code as outlined in subdivision (b)(1)(ii)–(iii) and the parties have been unable to resolve the ancillary claims, the court shall enter an order approving grounds for divorce after:

**(i)**a minimum of 20 days from the date of service of the affidavits and blank Counter-Affidavit under Section 3301(c)(2) of the Divorce Code as set forth in (b)(1)(iii), the party requesting the order approving grounds has served on the other party a Notice of Intention to File the Praecept to Transmit Record, which included a copy of the proposed Praecept to Transmit Record that indicated the date and manner of service of the Notice of Intention to File the Praecept to Transmit Record, except that service of such Notice of Intention is not required if:

**(A)**the parties have signed and filed Waivers of Notice of Intention to File the Praecept to Transmit Record; or

**(B)**the court finds that an attorney has not entered an appearance on the defendant's behalf and that the defendant cannot be located after a diligent search; and

**(ii)**the party requesting the order approving grounds has completed and filed a Praecept to Transmit Record requesting the court enter an order approving grounds for divorce. If the parties have not waived the Notice of Intention to File the Praecept to Transmit Record, the moving party shall wait a minimum of 20 days after service of the Notice of Intention to File the Praecept to Transmit Record before filing the Praecept to Transmit Record. If the court enters an order approving grounds for divorce, entry of the divorce decree shall be deferred until the ancillary claims have been resolved.

*Note:* See *Pa.R.C.P. No. 1920.73(a)* for the Notice of Intention to File the Praecept to Transmit Record.

See *Pa.R.C.P. No. 1920.73(b)* for the Waiver of Notice of Intention to File the Praecept to Transmit Record.

See *Pa.R.C.P. No. 1920.73(c)* for the Praecept to Transmit Record.

**(3)**After the court enters an order approving grounds for divorce, a party may request, consistent with the judicial district's local rules and procedures, that the court either hears the ancillary claims or appoints a master to hear the ancillary claims as outlined in *Pa.R.C.P. No. 1920.51*.

Anthony Hoover

Page 6 of 12

Pa. R.C.P. No. 1920.42

Master.

**(4)** If the parties resolve the ancillary claims by agreement after the court approves the grounds for the divorce but before the court enters an order disposing of the ancillary claims, the parties shall file a Praecipe to Transmit Record requesting the court enter the appropriate divorce decree. To the extent the agreement does not address all of the parties' claims raised in the pleadings, the party raising the outstanding claims shall withdraw the claims before the court enters a divorce decree.

**(c)** Obtaining a divorce decree under Section 3301(d) of the Divorce Code.

**(1)** If a party has filed a complaint requesting a divorce on the ground of irretrievable breakdown and the requisite separation period has elapsed, the court shall enter a decree in divorce after:

**(i)** proof of service of the complaint has been filed;

**(ii)** a party has signed and filed an Affidavit under Section 3301(d) of the Divorce Code averring that the marriage is irretrievably broken and that the parties have been separate and apart for the required separation period;

**(iii)** the filed affidavit and a blank Counter-Affidavit under Section 3301(d) of the Divorce Code have been served on the other party consistent with Pa.R.C.P. No. 1930.4, and the other party has admitted or failed to deny the averments in the Affidavit under Section 3301(d) of the Divorce Code;

**(A)** If a party files a Counter-Affidavit under Section 3301(d) of the Divorce Code denying an averment in the Affidavit under Section 3301(d) of the Divorce Code, including the date of separation, either party may present a motion requesting the court resolve the issue.

**(B)** After presentation of the motion in subdivision (A), the court may hear the testimony or, consistent with Pa.R.C.P. No. 1920.51(a)(1)(ii)(D), appoint a master to hear the testimony and to issue a report and recommendation.

*Note:* This subdivision requires service of the counter-affidavit on the nonmoving party consistent with original process since the averments in the moving party's Affidavit under § 3301(d) of the Divorce Code are deemed admitted unless denied. See Pa.R.C.P. No. 1930.4 for service of original process and Pa.R.C.P. No. 1920.14(b) regarding failure to deny averments in the affidavit.

**(iv)** the ancillary claims under Pa.R.C.P. Nos. 1920.31 and 1920.33 have been withdrawn by the party raising the claims, have been resolved by agreement of the parties or order of court, have not been raised in the

pleadings, or in the case of a bifurcated divorce, the court has

Anthony Hoover

Page 7 of 12

Pa. R.C.P. No. 1920.42

retained jurisdiction of the ancillary claims;

**(v)**a minimum of 20 days from the date of service of the affidavit and blank Counter-Affidavit under Section 3301(d) of the Divorce Code as set forth in (c)(1)(iii), the party requesting the divorce decree has served on the other party a Notice of Intention to File the Praeceptum to Transmit Record, which included a copy of the proposed Praeceptum to Transmit Record that indicated the date and manner of service of the Notice of Intention to File the Praeceptum to Transmit Record, except that service of such Notice of Intention is not required if:

**(A)**the parties have signed and filed Waivers of Notice of Intention to File the Praeceptum to Transmit Record; or

**(B)**the court finds that an attorney has not entered an appearance on the defendant's behalf and that the defendant cannot be located after a diligent search; and

**(vi)**the party requesting the divorce decree has completed and filed a Praeceptum to Transmit Record. If the parties have not waived the Notice of Intention to File the Praeceptum to Transmit Record, the moving party shall wait a minimum of 20 days after service of the Notice of Intention to File the Praeceptum to Transmit Record before filing the Praeceptum to Transmit Record.

*Note: See Pa.R.C.P. No. 1920.72(d) for the Affidavit under Section 3301(d) of the Divorce Code.*

*See Pa.R.C.P. No. 1920.72(e)(3) for the Counter-Affidavit under Section 3301(d) of the Divorce Code.*

*See Pa.R.C.P. No. 1920.73(a) for the Notice of Intention to File the Praeceptum to Transmit Record.*

*See Pa.R.C.P. No. 1920.73(b) for the Waiver of Notice of Intention to File the Praeceptum to Transmit Record.*

*See Pa.R.C.P. No. 1920.73(c) for the Praeceptum to Transmit Record.*

**(2)**To the extent that grounds for divorce have been established under Section 3301(d) of the Divorce Code as outlined in subdivision (c)(1)(ii)–(iii) and the parties have been unable to resolve the ancillary claims, the court shall enter an order approving grounds for divorce after:

**(i)**a minimum of 20 days from the date of service of the affidavit and blank Counter-Affidavit under Section 3301(d) of the Divorce Code as set forth in (c)(1)(iii), the party requesting the order approving

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grounds has served on the other party a Notice of Intention to File the Praeceptum to Transmit Record, which included a copy of the proposed

Anthony Hoover

Page 8 of 12

Pa. R.C.P. No. 1920.42

Praeceptum to Transmit Record that indicated the date and manner of service of the Notice of Intention to File the Praeceptum to Transmit Record, except that service of such Notice of Intention is not required if:

- (A)** the parties have signed and filed Waivers of Notice of Intention to File the Praeceptum to Transmit Record; or
- (B)** the court finds that an attorney has not entered an appearance on the defendant's behalf and that the defendant cannot be located after a diligent search; and

**(ii)** the party requesting the order approving grounds has completed and filed a Praeceptum to Transmit Record requesting the court enter an order approving grounds for divorce. If the parties have not waived the Notice of Intention to File the Praeceptum to Transmit Record, the moving party shall wait a minimum of 20 days after service of the Notice of Intention to File the Praeceptum to Transmit Record before filing the Praeceptum to Transmit Record. If the court enters an order approving grounds for divorce, entry of the divorce decree shall be deferred until the ancillary claims have been resolved.

*Note: See Pa.R.C.P. No. 1920.73(a) for the Notice of Intention to File the Praeceptum to Transmit Record.*

*See Pa.R.C.P. No. 1920.73(b) for the Waiver of Notice of Intention to File the Praeceptum to Transmit Record.*

*See Pa.R.C.P. No. 1920.73(c) for the Praeceptum to Transmit Record.*

**(3)** After the court enters an order approving grounds for divorce, a party may request, consistent with the judicial district's local rules and procedures, that the court either hears the ancillary claims or appoints a master to hear the ancillary claims as outlined in *Pa.R.C.P. No. 1920.51*.

*Note: See Pa.R.C.P. No. 1920.74 for the Motion for Appointment of Master.*

**(4)** If the parties resolve the ancillary claims by agreement after the court approves the grounds for the divorce but before the court enters an order disposing of the ancillary claims, the parties shall file a Praeceptum to Transmit Record requesting the court enter the appropriate divorce decree. To the extent the agreement does not address all of the parties' claims raised in the pleadings, the party raising the outstanding claims shall withdraw the claims before the court enters a divorce decree.



Rule 1920.42 was revised in 1988 to add new subdivision (c) which imposes a requirement that the plaintiff notify the defendant or defendant's attorney, if represented, of the intention to request entry of a divorce decree in an action under Section 3301(d)(1)(i) of the Divorce Code. In such an action the defendant has not actively participated in the proceedings and may be unaware that the court is about to

Anthony Hoover

Page 9 of 12

Pa. R.C.P. No. 1920.42

enter a decree which will cut off certain economic rights unless a claim is promptly asserted. The requirement of notice is not extended to actions in which the defendant has actively participated by filing an affidavit of consent under Section 3301(c) of the Divorce Code or by contesting the plaintiff's affidavit under Section 3301(d)(1)(ii).

In addition, subparagraph (2) of subsection (c) requires that an unrepresented defendant also be served with a form counteraffidavit contained in Rule 1920.72(d). The defendant can use this form to deny the allegations contained in the plaintiff's affidavit or to claim economic relief.

EXPLANATORY COMMENT--1995

The rule is amended to require the same notice prior to entry of the decree in a § 3301(c) divorce as was previously required in a proceeding under § 3301(d). This notice is already required by local rule in many counties, and is adopted in a general rule to further standardize practice.

The requirement in new subdivision (c) that a party obtain leave of court before withdrawing an affidavit of consent is included to ensure orderly process, including notice to the other party and the court. The committee notes that the law is unsettled as to whether a court has the authority to refuse leave to withdraw an affidavit of consent.

EXPLANATORY COMMENT--2019

On April 21, 2016, Act 24 of 2016 (Act of Apr. 21, 2016, P.L. 166, No. 24) amended the Divorce Code by adding 23 Pa.C.S. § 3301(c)(2). Section 3301(c)(2) creates a presumption of consent to a divorce if a party is the victim of a personal injury crime committed by his or her spouse, as outlined in 23 Pa.C.S. § 3103. The Act amended other correlative statutes in the Divorce Code, as well. To effectively incorporate procedures for the newly enacted Section 3301(c)(2) into the Rules of Civil Procedure, *Pa.R.C.P. No. 1920.42* was rescinded and replaced.

In implementing Section 3301(c)(2), the rule utilizes an affidavit/counter-affidavit procedure similar to a Section 3301(d) divorce, which served as a template for the new procedure. The process for establishing the presumption of consent in Section 3301(c)(2) requires the party to aver in an affidavit that he or she had been the victim of a personal injury crime and that his or her spouse had been convicted of that personal injury crime. In response, the allegedly convicted spouse may oppose the establishment of the presumption by completing and filing a counter-affidavit. If the allegedly convicted spouse opposes the establishment of the presumption, the court may either schedule a hearing on the establishment of the presumption or appoint a master to do so. As part of the revised divorce procedures, amended *Pa.R.C.P. No. 1920.51(a)(1)* permits the appointment of a master for a determination of the presumption under Section 3301(c)(2). To effectuate the new procedures for Section 3301(c)(2) divorces, several additional forms, including an Affidavit to Establish Presumption of Consent and a Counter-Affidavit under Section 3301(c)(2), have been added to the rules. See *Pa.R.C.P. No. 1920.72(c)* and *(e)(2)*.

In addition to the changes to the rule related to 23 Pa.C.S. § 3301(c)(2), the rule has been further revised to provide a uniform practice across the Commonwealth for establishing a definitive point when the parties can move the court for resolution of any ancillary claims. As the court cannot resolve the ancillary claims until grounds for divorce have been established, *Pa.R.C.P. No. 1920.42* includes procedures for obtaining approval of grounds for divorce in cases in which the parties have unresolved ancillary claims. This process requires that the parties obtain a court order approving grounds for divorce before seeking the appointment of a divorce master or requesting the court hear the ancillary claims raised in the pleadings. Forms have been correlatively amended or retitled to reflect this new procedure. The Waiver of Notice of Intention has been moved from *Pa.R.C.P. No. 1920.72* to *Pa.R.C.P. No. 1920.73*.

As a result of these changes, *Pa.R.C.P. No. 1920.42* specifically outlines the process for obtaining a decree for Section 3301(c)(1), Section 3301(c)(2), and Section 3301(d) divorces. Although the rule's length has expanded extensively, the detailed procedure alleviates confusion on when and how to obtain a divorce



Annotations

Anthony Hoover

Page 10 of 12

Pa. R.C.P. No. 1920.42

## Case Notes

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Family Law : Marital Termination & Spousal Support : General Overview  
Family Law : Marital Termination & Spousal Support : Dissolution & Divorce : General Overview  
Family Law : Marital Termination & Spousal Support : Dissolution & Divorce : Fault-Based Grounds : General Overview  
Family Law : Marital Termination & Spousal Support : Dissolution & Divorce : Jurisdiction : General Overview  
Family Law : Marital Termination & Spousal Support : Dissolution & Divorce : No-Fault Grounds  
Family Law : Marital Termination & Spousal Support : Dissolution & Divorce : Procedures  
Insurance Law : Life Insurance : Beneficiaries : Divorces

### LexisNexis (R) Notes

#### Family Law : Marital Termination & Spousal Support : General Overview

1. Following the filing of the husband's affidavit for divorce pursuant to *Pa. R. Civ. P. 1920.42*, the lower court erred in automatically bifurcating the husband's divorce action. [\*Lambert v. Lambert\*, 422 Pa. Super. 444, 619 A.2d 781, 1993 Pa. Super. LEXIS 395 \(1993\)](#).

#### Family Law : Marital Termination & Spousal Support : Dissolution & Divorce : General Overview

2. Trial court erred in entering a divorce decree after the husband agreed to a no-fault divorce because under *Pa. R. Civ. P. 1920.42* the trial court could not issue a decree under [\*23 Pa.C.S. § 3301\*](#) unless a notice of intention to request entry of a divorce decree was mailed or delivered to the attorney of record of the party against whom the decree was to be entered; the husband's attorney did not serve the wife or her attorney with such notice and it constituted such a procedural deficiency under *Pa. R. Civ. P. 1920.42* that the final decree of divorce could not stand. [\*Lazanic v. Lazanic\*, 2003 PA Super 66, 818 A.2d 523, 2003 Pa. Super. LEXIS 291 \(Pa. Super. Ct. 2003\)](#).

#### Family Law : Marital Termination & Spousal Support : Dissolution & Divorce : Fault-Based Grounds : General Overview

3. Trial court properly denied a wife's motion to vacate the divorce decree entered pursuant to [\*23 Pa.C.S. § 3301\(c\)\*](#) because no conflict existed between § 3301(c) and *Pa. R. Civ. P. No. 1920.42(b)(1)* and the requirements were followed that 90 days elapsed from the commencement of the action and each party filed an affidavit evidencing consent. [\*Reece v. Reece\*, 2013 PA Super 112, 68 A.3d 790, 2013 Pa. Super. LEXIS 720 \(Pa. Super. Ct. 2013\)](#).

#### Family Law : Marital Termination & Spousal Support : Dissolution & Divorce : Jurisdiction : General Overview

4. Where the wife sought a no-fault divorce, and the husband agreed, but the husband's attorney conceded that the wife and the wife's attorney were never served with a notice of intention to request a divorce decree pursuant to [\*23 Pa.C.S. § 3301\(c\)\*](#) was improper, so the necessary prerequisites of *Pa. R. Civ. P.*

## Pa. R.C.P. No. 1920.45

Pennsylvania State Court Rules reflect amendments received June 1, 2019.

### **PA - Pennsylvania Local, State & Federal Court Rules > PENNSYLVANIA RULES OF CIVIL PROCEDURE > ACTION OF DIVORCE OR ANNULMENT OF MARRIAGE**

#### **Rule 1920.45. Counseling**

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**(a)** If the Divorce Code provides for counseling, the parties shall be notified of the availability of counseling as prescribed in Pa.R.C.P. Nos. 1920.12(a)(8) and 1920.71.

*Note:* See Section 3302 of the Divorce Code for the divorce actions

in which the parties may request counseling, but note the counseling exceptions in Section 3302(g).

**(b)** The court shall maintain in the prothonotary's office a list of qualified professionals that provide counseling services, which shall be available to the parties upon request.

*Note:* Section 3103 of the Divorce Code defines the term "qualified professionals."

**(c)** If the ground for divorce is under:

**(1)** Section 3301(c) of the Divorce Code and the court orders counseling as requested by a party, the parties must complete counseling within 90 days of the divorce complaint's filing; or

**(2)** Section 3301(d) of the Divorce Code and a court orders counseling, the parties must complete counseling within 120 days, unless the parties agree to a longer period.

*Note:* See Section 3301(d)(2) of the Divorce Code providing for a period "not less than 90 days nor more than 120 days %y(3)4B"

**(d)** If the court has referred a divorce action to a master and a party requests counseling pursuant to the Divorce Code, without leave of court, the master may require counseling and continue the hearing pending the counselor's report.

#### **EXPLANATORY COMMENT--1983**

**Subdivision (a)** as originally promulgated provided for the court to notify the parties of the availability of counseling. However, the rule did not specify the method of notification and diverse local practices developed.

**Subdivision (a)** as revised specifies that parties shall be notified of the availability of counseling as provided by Rules 1920.12(a)(8) and 1920.71. The plaintiff acknowledges notification of the availability of counseling by an allegation in the complaint. See Rule 1920.12(a)(8), *supra*. The defendant is notified of the availability of counseling by a paragraph in the notice to defend and claim rights provided by Rule 1920.71, *infra*.

The revision to subdivision (b) provides for the court to maintain and make available to all parties a list of marriage counselors. The list is to be maintained in the prothonotary's office rather than the office of the domestic relations section.

Annotations



## **Research References & Practice Aids**

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### **LexisNexis (R) Notes**

#### **TREATISES AND ANALYTICAL MATERIALS**

1. 9 Dunlap-Hanna Pennsylvania Forms P 98.08, CHAPTER 98 Dissolution of Marital Status, Divorce.
2. 9 Dunlap-Hanna Pennsylvania Forms P 103.01, CHAPTER 103 Motion Practice in Divorce, Filing of Motions and Petitions.
3. 22 P.L.E. DIVORCE § 93, Pennsylvania Law Encyclopedia, Counseling, Copyright 2017, Matthew Bender & Company, Inc., a member of the LexisNexis Group.

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## Pa. R.C.P. No. 1920.46

Pennsylvania State Court Rules reflect amendments received June 1, 2019.

### **PA - Pennsylvania Local, State & Federal Court Rules > PENNSYLVANIA RULES OF CIVIL PROCEDURE > ACTION OF DIVORCE OR ANNULMENT OF MARRIAGE**

#### **Rule 1920.46. Affidavit of Non-Military Service**

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If the defendant fails to appear in the action, the plaintiff shall file an affidavit regarding military service with the motion for appointment of a master, prior to a trial by the court, or with the plaintiff's affidavit required by *Pa.R.C.P. No. 1920.42(b)(1)(ii)* and (c)(1)(ii).

*Note:* The Servicemembers Civil Relief Act, [50 U.S.C. 56.3901-4043](#),

requires that in cases in which the defendant does not make an appearance, the plaintiff must file an affidavit of nonmilitary service before the court may enter judgment. If the defendant is in the military service and an attorney has not entered an appearance on behalf of the defendant, a judgment shall not be entered until the court appoints an attorney to represent the defendant and protect his or her interest.

Actions for divorce under Section 3301(c)(2) and (d)(1)(i) of the Divorce Code are governed by *Pa.R.C.P. No. 1920.42(b)* and (c), respectively.

#### **EXPLANATORY COMMENT—2003**

**35 P.S. § 450.602** previously required a certificate of each divorce or annulment decreed in the Commonwealth to be transmitted to the Vital Statistics Division of the Commonwealth of Pennsylvania Department of Health. The statute was amended October 30, 2001, P.L. 826, No. 82, § 1, effective in 60 days, to require that the prothonotary submit a monthly statistical summary of divorces and annulments, rather than individual forms for each decree. Thus, subdivision (a) of Rule 1920.46, requiring the filing of the vital statistics form, is no longer necessary. Former subdivision (b) now comprises the entirety of the rule and the title has been amended to reflect that the rule applies only to the affidavit regarding military service.

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End of Document

[Pa. R.C.P. No. 1920.51](#)

Pennsylvania State Court Rules reflect amendments received June 1, 2019.

**PA - Pennsylvania Local, State & Federal Court Rules > PENNSYLVANIA RULES OF CIVIL PROCEDURE > ACTION OF DIVORCE OR ANNULMENT OF MARRIAGE**

## **Rule 1920.51. Hearing by the Court. Appointment of Master. Notice of Hearing**

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**(a)** In an action of divorce or annulment:

**(1)** the court may:

**(i)** hear the testimony; or

**(ii)** upon motion of a party or of the court, appoint a master:

**(A)** before entry of the divorce decree to hear the testimony for the ancillary claims of alimony, equitable division of marital property, partial physical custody, supervised physical custody, counsel fees, and costs and expenses, which are raised in the pleadings, and to issue a report and recommendation, provided that grounds for divorce under Sections 3301(c) or 3301(d) of the Divorce Code have been established and approved by the court as outlined in Pa.R.C.P. No. 1920.42;

**(B)** before approving grounds for divorce under Sections 3301(c) or 3301(d) of the Divorce Code for the limited purpose of assisting the parties and the court on issues of discovery or settlement;

**(C)** to hear the testimony for establishing grounds for divorce under Sections 3301(a) or 3301(b) of the Divorce Code or annulment and the ancillary claims, which are raised in the pleadings, and to issue a report and recommendation; or

**(D)** after a party files a counter-affidavit denying the averments in the affidavit in an action under Section 3301(c)(2) or 3301(d) of the Divorce Code, including the date of separation, to hear the testimony and to issue a report and recommendation.

**(2)** the court shall not appoint a master:

**(i)** to approve grounds for divorce under Sections 3301(c) or 3301(d) of the Divorce Code; or

*Note: See Pa.R.C.P. No. 1920.42 for approving grounds for divorce*

Pa. R.C.P. No. 1920.51

under Sections 3301(c) and 3301(d) of the Divorce Code.

- (ii) for the claims of legal custody, sole physical custody, primary physical custody, shared physical custody, or paternity.

*Note:* Section 3321 of the Divorce Code prohibits the appointment of a master as to the claims of custody and paternity. However, as set forth in *Pa.R.C.P. No. 1920.91(3)*, the Supreme Court of Pennsylvania suspended Section 3321 insofar as that section prohibits the appointment of masters in partial physical custody cases.

(3) The Motion for the Appointment of a Master and the order shall be substantially in the form prescribed by *Pa.R.C.P. No. 1920.74*. The order appointing the master shall specify the issues or ancillary claims that are referred to the master.

(4) A permanent or standing master employed by or under contract with a judicial district or appointed by the court shall not practice family law before a conference officer, hearing officer, permanent or standing master, or judge of the same judicial district.

*Note:* Conference officers preside at office conferences under

**Pa.R.C.P.No. 1910.11.** Hearing officers preside at hearings under

**Pa.R.C.P.No. 1910.12.** The appointment of master to hear actions in divorce or annulment is authorized by Section 3321 of the Divorce Code.

(b) Written notice of the hearing shall be given to each attorney of record by the master. If a master has not been appointed, the prothonotary, clerk or other officer designated by the court shall give the notice.

(c) If no attorney has appeared of record for a party, notice of the hearing shall be given to the party by the master, or if a master has not been appointed, by the prothonotary, clerk or other officer designated by the court, as follows:

(1) to the plaintiff, by ordinary mail to the address on the complaint;

(2) to the defendant,

(i) if service of the complaint was made other than pursuant to special order of court, by ordinary mail to the defendant's last known address;

or

(ii) if service of the complaint was made pursuant to special order of court, (a) by sending a copy of the notice by ordinary mail to the persons, if any, named in the investigation affidavit, likely to know the present whereabouts of the defendant; and (b) by sending a copy by registered mail to the defendant's last known address.

*Note:* Under Rule 76, registered mail includes certified mail.

(d) Advertising of notice of the hearing shall not be required.

(e) Proof of notice shall be filed of record.

*Note:* Consistent with Section 3301(e) of the Divorce Code as



## Pa. R.C.P. No. 1920.51

amended, these rules contemplate that if a divorce decree may be entered under the no fault provisions of §§ 3301(c) or (d), a divorce decree will be entered on these grounds and no hearing shall be required on any other grounds.

**EXPLANATORY COMMENT—1994**

While subdivision (a)(2)(ii) clearly prohibits appointment of a master to determine a divorce claim brought under §§ 3301(c) or 3301(d), the provision does permit a master to hear claims which are joined with the divorce action.

The rule is amended to conform with proposed new Rules 1915.4-1 and 1915.4-2, and to remove the implied prohibition against the use of hearing officers in partial custody or visitation cases.

**EXPLANATORY COMMENT—2010**

The rule is amended to clarify the role of the master in a divorce case when either party has asserted grounds for divorce pursuant to § 3301(c) or § 3301(d) of the Divorce Code. The rule had been interpreted in some jurisdictions as requiring the entry of a bifurcated decree before a master could be appointed to hear economic claims.

**EXPLANATORY COMMENT—2019****Subdivision (a)**

(1)

(ii)

**(A)** provides for the appointment of a master to hear, *inter alia*, partial physical custody cases. The authority for a master to hear partial physical custody cases is [23 Pa.C.S. § 3321](#), which the Supreme Court of Pennsylvania suspended in part to allow masters to hear partial physical custody cases. However, this rule should not be construed to require a court to appoint masters in partial physical custody or supervised physical custody cases. Nor should the rule be construed as inconsistent with *Pa.R.C.P. Nos. 1915.4-1, 1915.4-2, or 1915.4-3* that provide for conference officers and hearing officers in custody cases.

Annotations

**Case Notes**

Civil Procedure : Judicial Officers : Masters : General Overview  
 Family Law : Child Custody : Procedures  
 Family Law : Marital Termination & Spousal Support : General Overview

**LexisNexis (R) Notes****Civil Procedure : Judicial Officers : Masters : General Overview**

1. In divorce action where the master held a hearing at which the husband was not present, notice of the hearing was proper because, although the husband had four counsel of record, his present counsel received notice of that hearing and indicated his knowledge of the hearing and his intention not to attend, and the husband did not claim that he was without knowledge of the hearing, that counsel of record at the time of the hearing was unaware of it, that he was prejudiced by the failure to notify those attorneys who were no longer representing him. [Doloff v. Doloff, 1989 Pa. Super. LEXIS 4109 \(Pa. Super. Ct. Dec. 13 1989\)](#).

## Pa. R.C.P. No. 1920.51

2. Pursuant to *Pa. R. Civ. P. 1920.51(a)(1)*, the special master had authority to recommend a judgment imposing a resulting trust against the real estate of additional individuals not involved in the husband's and wife's divorce action because the rule permitted that all actions for divorce or claims which could be joined with the action for divorce or any aspect of the action or claims could be referred to a master. *Wolf v. Wolf*, 356 Pa. Super. 365, 514 A.2d 901, 1986 Pa. Super. LEXIS 12061 (1986), overruled by *Van Buskirk v. Van Buskirk*, 527 Pa. 218, 590 A.2d 4, 1991 Pa. LEXIS 97 (1991).

**Family Law : Child Custody : Procedures**

3. Both *23 Pa. C.S. 53321* and *Pa. R. C. P. 1920.51(a)(2)(iii)* barred a special master from permanently awarding primary physical custody of three children to their mother rather than to their father; because the father was unwilling to accept the special master's findings, the father was entitled to a de novo hearing by a trial judge *Var Dine v. Gyunska*, 552 Pa. 122, 713 A.2d 1104, 1998 Pa. LEXIS 837 (1998).

**Family Law : Marital Termination & Spousal Support : General Overview**

4. In divorce action where the master held a hearing at which the husband was not present, notice of the hearing was proper because, although the husband had four counsel of record, his present counsel received notice of that hearing and indicated his knowledge of the hearing and his intention not to attend, and the husband did not claim that he was without knowledge of the hearing, that counsel of record at the time of the hearing was unaware of it, that he was prejudiced by the failure to notify those attorneys who were no longer representing him. *Daloff v. Daloff*, 1989 Pa. Super. LEXIS 4109 (Pa. Super. Ct. Dec. 13 1989).

5. Pursuant to *Pa. R. Civ. P. 1920.51(a)(1)*, the special master had authority to recommend a judgment imposing a resulting trust against the real estate of additional individuals not involved in the husband's and wife's divorce action because the rule permitted that all actions for divorce or claims which could be joined with the action for divorce or any aspect of the action or claims could be referred to a master. *Wolf v. Wolf*, 356 Pa. Super. 365, 514 A.2d 901, 1986 Pa. Super. LEXIS 12061 (1986), overruled by *Van Buskirk v. Van Buskirk*, 527 Pa. 218, 590 A.2d 4, 1991 Pa. LEXIS 97 (1991).

**Research References & Practice Aids**

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**LexisNexis (R) Notes****PENNSYLVANIA ADMINISTRATIVE CODE REFERENCES.**

1. 231 Pa. Code Part I, Ch 1920, Rule 1920.54 (2019), PART GENERAL.

**LexisNexis (R) Notes****TREATISES AND ANALYTICAL MATERIALS**

1. 9 Duniap-Hanna Pennsylvania Forms P 100.01, CHAPTER 100 Master's Proceedings, Appointment of a Master.



## Pa. R.C.P. No. 1920.53

Pennsylvania State Court Rules reflect amendments received June 1, 2019.

### **PA - Pennsylvania Local, State & Federal Court Rules > PENNSYLVANIA RULES OF CIVIL PROCEDURE > ACTION OF DIVORCE OR ANNULMENT OF MARRIAGE**

#### **Rule 1920.53. Hearing by Master. Report**

---

In an action for divorce or annulment that has been referred to a master, the master's report and recommendation shall include findings of fact, conclusions of law, and a recommended disposition of the case or issue.

(a) The findings of fact shall include, as appropriate for the circumstances and issues before the master:

- (1) the method and date of service of process;
- (2) the manner and date of service of the notice of the master's hearing or the master's efforts to notify the parties;
- (3) the date and place of marriage;
- (4) information relating to any prior marriage of the parties and proof of dissolution of such prior marriage;
- (5) the residences of the parties at the time of the marriage and subsequent thereto, the actual length of time the parties have resided in the Commonwealth, and whether the residence requirement of Section 3104(b) of the Divorce Code has been met;
- (6) the age and occupation of the parties;
- (7) the initials and age of the children of the parties, if any, and with whom the children reside;
- (8) the grounds upon which the action is based;
- (9) defenses to the action, if any;
- (10) whether the court should grant or deny the divorce, annulment, or other relief on the basis of the complaint, the counterclaim, if filed, or a motion requesting relief; and
- (11) other relevant facts related to the appointment.

(b) The conclusions of law shall include a discussion of the law as it relates to the facts, as well as the legal conclusions reached by the master.

(c) If a divorce or an annulment is recommended, the master shall attach a proposed decree to the report and recommendation.

Annotations

#### **Case Notes**

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LexisNexis (R) Notes

Family Law : Marital Termination & Spousal Support : General Overview



1. Pa. R. Civ. P. 1920.53(a)(1) did not apply where the master's hearing pertained only to economic issues and not to the claim for divorce. [Deltrich v. Deltrich, 383 Pa. Super. 1, 556 A.2d 398, 1989 Pa. Super. LEXIS 689 \(1989\).](#)

## **Research References & Practice Aids**

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### **LexisNexis (R) Notes**

#### **TREATISES AND ANALYTICAL MATERIALS**

1. 9 Dunlap-Hanna Pennsylvania Forms P 100.01, CHAPTER 100 Master's Proceedings, Appointment of a Master.

2. 22 P.L.E. DIVORCE § 96, Pennsylvania Law Encyclopedia, -- Report and Recommendation, Copyright 2017, Matthew Bender & Company, Inc., a member of the LexisNexis Group.

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*End of Document.*

Pa. R.C.P. No. 1920.72

Pennsylvania State Court Rules reflect amendments received June 1, 2019.

**PA - Pennsylvania Local, State & Federal Court Rules > PENNSYLVANIA RULES OF CIVIL PROCEDURE > ACTION OF DIVORCE OR ANNULMENT OF MARRIAGE**

**Rule 1920.72. Form of Complaint. Affidavits Under Section 3301(C) or Section 3301(D) of the Divorce Code. Counter-Affidavits**

---

(a) The complaint in an action of divorce under Section 3301(c) or Section 3301(d) shall begin with the Notice to Defend and Claim Rights required by Pa.R.C.P. No 1920.71 and shall be substantially in the following form:

(CAPTION)

COMPLAINT UNDER SECTION 3301(C) OR 3301(D) OF THE DIVORCE CODE

1. Plaintiff is \_\_\_\_\_, (Name) who currently resides at \_\_\_\_\_, (Address) \_\_\_\_\_, (City) \_\_\_\_\_, (County) \_\_\_\_\_ (State) since \_\_\_\_\_, (Date)
2. Defendant is \_\_\_\_\_, (Name) who currently resides at \_\_\_\_\_, (Address) \_\_\_\_\_, (City) \_\_\_\_\_, (County) \_\_\_\_\_ (State) since \_\_\_\_\_, (Date)
3. \_\_\_\_\_ (Plaintiff and/or Defendant) has/have been a bona fide resident(s) in the Commonwealth for at least six months immediately previous to the filing of this Complaint.
4. The plaintiff and defendant were married on \_\_\_\_\_ (Date) at \_\_\_\_\_ (City) \_\_\_\_\_ (State/County)
5. There have been no prior actions of divorce or for annulment between the parties except \_\_\_\_\_

6. The marriage is irretrievably broken.

7. Plaintiff has been advised that counseling is available and that plaintiff may have the right to request that the court require the parties to participate in counseling.

8. Plaintiff requests the court to enter a decree of divorce.

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

\_\_\_\_\_  
Plaintiff

Date: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Attorney for Plaintiff

(b) The Affidavit of Consent required by Section 3301(c) of the Divorce Code and Pa.R.C.P. No. 1920.42(a)(1)(ii) or (b)(1)(ii) shall be substantially in the following form:

(CAPTION)

AFFIDAVIT OF CONSENT

1. A Complaint in divorce under Section 3301(c) of the Divorce Code was filed on \_\_\_\_\_ (Date) and served on the defendant on \_\_\_\_\_ (Date).

Anthony Hoover

DCBA CLE27

Pa. R.C.P. No. 1920.72

2.The marriage of plaintiff and defendant is irretrievably broken and 90 days have elapsed from the date of filing and service of the Complaint.

3.I consent to the entry of a final decree of divorce after service of the Notice of Intention to File Praecipe to Transmit Record.

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

Date: (PLAINTIFF) (DEFENDANT)

(c)The Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code and required by *Pa.R.C.P. No. 1920.42(b)(1)(ii)(B)* shall be substantially in the following form:

(CAPTION)

NOTICE

If you wish to deny any of the statements set forth in this affidavit, you must file a counter-affidavit within 20 days after this affidavit has been served on you or the statements will be admitted.

**AFFIDAVIT TO ESTABLISH PRESUMPTION OF CONSENT UNDER SECTION 3301(c)(2) OF THE DIVORCE CODE**

1.I am the victim of a personal injury crime as defined in 23 Pa.C.S. § 3103.

2.My spouse was convicted of the crime averred in Paragraph 1 on insert date in the Court of Common Pleas of insert county name County. The docket number(s) is/are insert docket number .

3.The personal injury crime(s) for which my spouse was convicted:

Check all that apply:

18 Pa.C.S. Ch. 25 (relating to criminal homicide)

18 Pa.C.S. Ch. 27 (relating to assault)

18 Pa.C.S. Ch. 29 (relating to kidnapping)

18 Pa.C.S. Ch. 30 (relating to human trafficking)

18 Pa.C.S. Ch. 31 (relating to sexual offenses)

18 Pa.C.S. § 3301 (relating to arson and related offenses)

18 Pa.C.S. Ch. 37 (relating to robbery)

18 Pa.C.S. Ch. 49 Subch. B (relating to victim and witness intimidation)

75 Pa.C.S. § 3732 (relating to homicide by vehicle)

75 Pa.C.S. § 3742 (relating to accidents involving death or personal injury)

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

Date (PLAINTIFF) (DEFENDANT)

(d)The Affidavit under Section 3301(d) of the Divorce Code required by *Pa.R.C.P. No. 1920.42(c)(1)(ii)* shall be substantially in the following form:

(CAPTION)

NOTICE

If you wish to deny any of the statements set forth in this affidavit, you must file a counter-affidavit within 20 days after this affidavit has been served on you or the statements will be admitted.

**AFFIDAVIT UNDER SECTION 3301(D) OF THE DIVORCE CODE**

1.The parties to this action separated on insert date .

2.Check (a) or (b):



Pa. R.C.P. No. 1920.72

(a) The date of separation was prior to December 5, 2016, and the parties have continued to live separate and apart for a period of at least two years.

(b) The date of separation was on or after December 5, 2016, and the parties have continued to live separate and apart for a period of at least one year.

3. The marriage is irretrievably broken.

4. I understand that I may lose rights concerning alimony, division of property, lawyer's fees, costs and expenses, or other important rights if I do not claim them before a divorce is granted.

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

Date: (PLAINTIFF) (DEFENDANT)

(e) Counter-Affidavits.

(1) The Counter-Affidavit under Section 3301(c)(1) of the Divorce Code required by Pa. R.C.P. No. 1920.42(a)(1)(iv) and (a)(2)(i) shall be substantially in the following form:

(CAPTION)

COUNTER-AFFIDAVIT UNDER SECTION 3301(C)(1) OF THE DIVORCE CODE

I wish to claim economic relief, which may include alimony, division of property, lawyer's fees, costs and expenses, or other important rights.

I UNDERSTAND THAT I MUST ALSO FILE ALL OF MY ECONOMIC CLAIMS IN WRITING AND SERVE THEM ON THE OTHER PARTY. IF I FAIL TO DO SO BEFORE THE DATE SET FORTH ON THE NOTICE OF INTENTION TO FILE THE PRAECIPE TO TRANSMIT RECORD, THE DIVORCE DECREE OR ORDER APPROVING GROUNDS FOR DIVORCE MAY BE ENTERED WITHOUT FURTHER NOTICE TO ME, AND I MAY BE UNABLE THEREAFTER TO FILE ANY ECONOMIC CLAIMS.

I verify that the statements made in this counter-affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: (PLAINTIFF) (DEFENDANT)

NOTICE: IF YOU DO NOT WISH TO CLAIM ECONOMIC RELIEF, YOU SHOULD NOT FILE THIS COUNTER-AFFIDAVIT.

(2) The Counter-Affidavit under Section 3301(c)(2) of the Divorce Code required by Pa. R.C.P. No. 1920.42(b)(1)(iii) and (b)(2)(i) shall be substantially in the following form:

(Caption)

COUNTER-AFFIDAVIT UNDER SECTION 3301(c)(2) OF THE DIVORCE CODE

1. Check either (a) or (b):

(a) I do not oppose the entry of a divorce decree.

(b) I oppose the entry of a divorce decree because:

(Check (i), (ii), or both)

(i) I have not been convicted of a personal injury crime as defined in 23 Pa.C.S. § 3103.

(ii) My spouse was not the victim of a personal injury crime for which I have been convicted.

Pa. R.C.P. No. 1920.72

**2. Check (a), (b), or (c):**

(a) I do not wish to make any claims for economic relief. I understand that I may lose rights concerning alimony, division of property, lawyer's fees, costs and expenses, or other important rights if I do not claim them before a divorce is granted.

(b) I wish to claim economic relief, which may include alimony, division of property, lawyer's fees, costs and expenses, or other important rights.

I UNDERSTAND THAT IN ADDITION TO CHECKING 2(b), I MUST ALSO FILE ALL OF MY ECONOMIC CLAIMS IN WRITING AND SERVE THEM ON THE OTHER PARTY. IF I FAIL TO DO SO BEFORE THE DATE SET FORTH ON THE NOTICE OF INTENTION TO FILE THE PRAECIPE TO TRANSMIT RECORD, THE DIVORCE DECREE OR ORDER APPROVING GROUNDS FOR DIVORCE MAY BE ENTERED WITHOUT FURTHER NOTICE TO ME, AND I MAY BE UNABLE THEREAFTER TO FILE ANY ECONOMIC CLAIMS.

(c) Economic claims have been raised and are not resolved.

I verify that the statements made in this counter-affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

Date: \_\_\_\_\_ (PLAINTIFF) (DEFENDANT)

NOTICE: IF YOU DO NOT WISH TO OPPOSE THE ENTRY OF A DIVORCE DECREE OR ORDER APPROVING GROUNDS FOR DIVORCE AND YOU DO NOT WISH TO MAKE ANY CLAIM FOR ECONOMIC RELIEF, YOU SHOULD NOT FILE THIS COUNTER-AFFIDAVIT.

**(3)** The Counter-Affidavit under Section 3301(d) of the Divorce Code required by Pa. R.C.P. No. 1920.42(c)(1)(iii) and (c)(2)(i) shall be substantially in the following form:

(CAPTION)

COUNTER-AFFIDAVIT UNDER SECTION 3301(D) OF THE DIVORCE CODE

**1. Check either (a) or (b):**

(a) I do not oppose the entry of a divorce decree.

(b) I oppose the entry of a divorce decree because:

Check (i), (ii), (iii) or all:

(i) The parties to this action have not lived separate and apart for the required separation period: two years for parties that separated prior to December 5, 2016, and one year for parties that separated on or after December 5, 2016

(ii) The marriage is not irretrievably broken.

(iii) There are economic claims pending.

**2. Check (a), (b) or (c):**

(a) I do not wish to make any claims for economic relief. I understand that I may lose rights concerning alimony, division of property, lawyer's fees, costs and expenses, or other important rights if I do not claim them before a divorce is granted.

(b) I wish to claim economic relief, which may include alimony, division of property, lawyer's fees, costs and expenses, or other important rights.

I UNDERSTAND THAT IN ADDITION TO CHECKING (2)(b), I MUST ALSO FILE ALL OF MY ECONOMIC CLAIMS IN WRITING AND SERVE THEM ON THE OTHER PARTY. IF I FAIL TO DO SO BEFORE THE DATE SET FORTH ON THE NOTICE OF INTENTION TO FILE THE PRAECIPE TO TRANSMIT RECORD, THE DIVORCE DECREE OR ORDER APPROVING GROUNDS FOR DIVORCE MAY BE ENTERED WITHOUT FURTHER NOTICE TO ME, AND I MAY BE UNABLE THEREAFTER TO FILE ANY ECONOMIC CLAIMS.



Pa. R.C.P. No. 1920.72

(c) Economic claims have been raised and are not resolved.

I verify that the statements made in this counter-affidavit are true and correct. I understand that false statements herein are made subject to the penalties of [18 Pa.C.S. § 4904](#), relating to unsworn falsification to authorities.

Date: (PLAINTIFF) (DEFENDANT)

NOTICE: IF YOU DO NOT WISH TO OPPOSE THE ENTRY OF A DIVORCE DECREE OR ORDER APPROVING GROUNDS FOR DIVORCE AND YOU DO NOT WISH TO MAKE ANY CLAIM FOR ECONOMIC RELIEF, YOU SHOULD NOT FILE THIS COUNTER-AFFIDAVIT.

#### **EXPLANATORY COMMENT--1994**

The forms set forth in Rule 1920.72 are intended to promote uniform practice throughout the Commonwealth. Additional forms are set forth at 1920.73 through 1920.76.

The reference in subdivision (d) to the parties living separate and apart for three years is corrected to reflect the current statutory requirement of two years.

#### **EXPLANATORY COMMENT--2016**

Act 102 of 2016 (the Act) amended the Divorce Code by reducing the separation period required by § 3301(d) from two years to one year for parties separating after the Act's effective date: December 5, 2016. The Act provides that the one-year separation period is only applicable to married persons separating after the effective date of the Act. However, the current two-year separation period remains applicable to married persons that separated prior to the effective date of the Act. As such, the current forms could not be amended merely by substituting one-year for two-year on the affidavit and counter-affidavit in *Pa. R.C.P. No. 1920.72(d)* and *(e)(2)*, respectively. Instead, the current forms have been amended to delineate when the parties separated *vis-à-vis* the Act's effective date. Therefore, a party alleging a date of separation prior to December 5, 2016, should proceed under a two-year separation period. A party alleging a date of separation on or after December 5, 2016 should proceed under a one-year separation period.

Annotations

## **Research References & Practice Aids**

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### **LexisNexis (R) Notes**

#### **TREATISES AND ANALYTICAL MATERIALS**

1. 22 P.L.E. DIVORCE § 82, Pennsylvania Law Encyclopedia, Complaint; Affidavit, Copyright 2017, Matthew Bender & Company, Inc., a member of the LexisNexis Group.

2. 22 P.L.E. DIVORCE § 83, Pennsylvania Law Encyclopedia, Answer; Counterclaim, Copyright 2017, Matthew Bender & Company, Inc., a member of the LexisNexis Group.

3. 15 Pennsylvania Transaction Guide--Legal Forms § 260.21, Division 2 Marriage Settlement Agreements, Divorce Based on Irretrievable Breakdown of Marriage.

4. 15 Pennsylvania Transaction Guide--Legal Forms § 260.121, Division 2 Marriage Settlement Agreements, Divorce Based on Irretrievable Breakdown of Marriage.

Pa. R.C.P. No. 1920.72

5. 15 Pennsylvania Transaction Guide--Legal Forms § 260.240, Division 2 Marriage Settlement Agreements, Complaint: Irretrievable Breakdown of Marriage.

6. 15 Pennsylvania Transaction Guide--Legal Forms § 260.241, Division 2 Marriage Settlement Agreements, Affidavit Required When Divorce Based on Mutual Consent.

7. 15 Pennsylvania Transaction Guide--Legal Forms § 260.242, Division 2 Marriage Settlement Agreements, Affidavit Required When One Spouse Unilaterally Files for Divorce.

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End of Document



Pa. R.C.P. No. 1920.73

Pennsylvania State Court Rules reflect amendments received June 1, 2019.

**PA - Pennsylvania Local, State & Federal Court Rules > PENNSYLVANIA RULES OF CIVIL PROCEDURE > ACTION OF DIVORCE OR ANNULMENT OF MARRIAGE**

**Rule 1920.73. Notice of Intention to File Praecept to Transmit Record. Waiver of Notice of Intention to File Praecept to Transmit Record. Praecept to Transmit Record**

---

**(a) Notice of Intention to File the Praecept to Transmit Record.**

**(1)** If there is an attorney of record, the Notice of Intention to File the Praecept to Transmit Record required by *Pa.R.C.P. No. 1920.42(a)(1)(iv)*, *(a)(2)(i)*, *(b)(1)(v)*, *(b)(2)(i)*, *(c)(1)(v)*, and *(c)(2)(i)*, shall be substantially in the following form:

(Caption)

NOTICE OF INTENTION TO FILE THE PRAECEPT TO TRANSMIT RECORD

TO: \_\_\_\_\_ (PLAINTIFF/DEFENDANT)

\_\_\_\_\_ (PLAINTIFF/DEFENDANT) intends to file with the court the attached Praecept to Transmit Record on or after \_\_\_\_\_, 20\_\_ requesting that the court enter a final decree in divorce or an order approving grounds for divorce as indicated on the proposed Praecept to Transmit Record.

\_\_\_\_\_  
Attorney for (PLAINTIFF/DEFENDANT)

**(2)** If there is no attorney of record:

**(i)** The Notice of Intention to File the Praecept to Transmit Record required by *Pa.R.C.P. No. 1920.42(a)(1)(iv)* and *(a)(2)(i)* shall be substantially in the following form:

(Caption)

NOTICE OF INTENTION TO FILE THE PRAECEPT TO TRANSMIT RECORD UNDER SECTION 3301(c)(1) OF THE DIVORCE CODE

TO: \_\_\_\_\_ (PLAINTIFF/DEFENDANT)

You have signed an Affidavit of Consent under Section 3301(c) of the Divorce Code consenting to the entry of a divorce decree. Therefore, on or after \_\_\_\_\_, 20\_\_, the other party can request the court to enter a final decree in divorce or, if there are unresolved ancillary claims, an order approving grounds for divorce as indicated on the proposed Praecept to Transmit Record, which is attached.

Unless you have already filed with the court a written claim for economic relief, you must do so by the date in the paragraph above, or the court may grant the divorce or, if there are unresolved ancillary claims, an order approving grounds for divorce and you may lose forever the right to ask for economic relief. The filing of the form counter-affidavit alone does not protect your economic claims.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

-----  
 -----  
 (Name)  
 -----  
 -----  
 (Address)  
 -----  
 -----  
 (Telephone Number)

Note: The above lines are to be completed with the name, address, and telephone number of the officer, organization, agency, or person designated by the court in accordance with *Pa.R.C.P. No. 1018.1(c)*.

The date to be inserted in the first paragraph of the notice must be at least 20 days after the date on which the notice was mailed or delivered.

(ii) The Notice of Intention to File the Praecipe to Transmit Record required by *Pa.R.C.P. No. 1920.42(b)(1)(v)*, (b)(2)(i), (c)(1)(v), and

(c)

(2)

(i) shall be substantially in the following form:

(Caption)

NOTICE OF INTENTION TO FILE THE PRAECIPE TO TRANSMIT RECORD UNDER SECTION 3301(c)(2) OR SECTION 3301(d) OF THE DIVORCE CODE

TO: ----- (PLAINTIFF/DEFENDANT)

You have been sued in an action for divorce. You have failed to answer the complaint or file a counter-affidavit to the Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code or the Affidavit under Section 3301(d) of the Divorce Code. Therefore, on or after -----, 20 ---, the other party can request the court to enter a final decree in divorce or, if there are unresolved ancillary claims, an order approving grounds for divorce as indicated on the proposed Praecipe to Transmit Record, which is attached.

If you do not file an answer with your signature notarized or verified by the above date, the court can enter a final decree in divorce or, if there are unresolved ancillary claims, an order approving grounds for divorce.

Unless you have already filed with the court a written claim for economic relief, you must do so by the above date, or the court may grant the divorce or an order approving grounds for divorce and you may lose forever the right to ask for economic relief. The filing of the form counter-affidavit alone does not protect your economic claims.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD

Pa. R.C.P. No. 1920.73

TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

\_\_\_\_\_

\_\_\_\_\_

(Name)

\_\_\_\_\_

\_\_\_\_\_

(Address)

\_\_\_\_\_

\_\_\_\_\_

(Telephone Number)

Note: The above lines are to be completed with the name, address,

and telephone number of the officer, organization, agency, or person designated by the court in accordance with Pa.R.C.P. No. 1018.1(c).

The date to be inserted in the first paragraph of the notice must be at least 20 days after the date on which the notice was mailed or delivered.

(b) The Waiver of Notice of Intention to File the Praeceptum to Transmit Record permitted by Pa.R.C.P. No. 1920.42(a)(1)(iv), (a)(2)(i), (b)(1)(v), (b)(2)(i), (c)(1)(v), and (c)(2)(i) shall be substantially in the following form:

(Caption)

WAIVER OF NOTICE OF INTENTION TO FILE THE PRAECIPE TO TRANSMIT RECORD

1. Without further notice, I consent to the entry of:

- a final decree of divorce; or
- an order approving grounds for divorce.

2. I understand that I may lose rights concerning alimony, equitable division of property, lawyer's fees, costs and expenses, or other important rights if I do not claim them before a divorce is granted.

3. I understand that I will not be divorced until a divorce decree is entered by the Court and that a copy of the decree will be sent to me immediately after it is filed.

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

Date: (PLAINTIFF) (DEFENDANT)

(c) The Praeceptum to Transmit Record required by Pa.R.C.P. No. 1920.42(a)(1)(v), (a)(2)(ii), (b)(1)(vi), (b)(2)(ii), (c)(1)(vi), and (c)(2)(ii) shall be substantially in the following form:

(Caption)

PRAECIPE TO TRANSMIT RECORD

To the Prothonotary:

Transmit the record, together with the following information, to the court for entry of (check one of the following):

- a divorce decree;
- a divorce decree with marital settlement agreement attached;

Pa. R.C.P. No. 1920.73

a bifurcated divorce decree with the Court retaining jurisdiction over unresolved ancillary claims; or

an order approving grounds for divorce with the Court retaining jurisdiction over unresolved ancillary claims.

1. Check the applicable section of the Divorce Code.

Grounds for divorce: irretrievable breakdown under:

Section 3301(c)(1)

Section 3301(c)(2)

Section 3301(d)

2. Service of the Complaint:

(a) Date served: -----.

(b) Manner of service: -----.

3. Complete either paragraph (a) or (b).

**(a)** Section 3301(c)(1) or (2) of the Divorce Code--Insert the date each party signed the Affidavit of Consent, and if the ground for divorce is under Section 3301(c)(2) of the Divorce Code, insert the date the spouse was convicted of the personal injury crime identified in 23

**Pa.C.S. § 3103** next to the appropriate party and complete (1) and (2).

Plaintiff: -----;

Defendant: -----.

**(1)** The date the party signed the Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code: -----;

**(2)** The date of filing and manner of service of the Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code and a blank Counter-Affidavit under Section 3301(c)(2) upon the other party: -----.

**(b)** Section 3301(d) of the Divorce Code:

**(1)** The date the Affidavit under Section 3301(d) of the Divorce Code was signed: -----;

**(2)** Date of filing and manner of service of the Affidavit under Section 3301(d) of the Divorce Code and blank Counter-Affidavit under Section 3301(d) of the Divorce Code upon the other party: -----.

4. Related ancillary claims pending: -----.

5. Complete either (a) or (b).

**(a)** Notice of Intention to File the Praecipe to Transmit Record:

(1) Date served: -----.

(2) Manner of service: -----.

**(b)** The date of filing of the party's Waiver of Notice of Intention to



Pa. R.C.P. No. 1920.73

File the Praecept to Transmit Record:

(1) Plaintiff's Waiver: \_\_\_\_\_,

(2) Defendant's Waiver: \_\_\_\_\_,

\_\_\_\_\_  
(Attorney for)(PLAINTIFF)(DEFENDANT)

#### **EXPLANATORY COMMENT--1983**

Four new forms have been added to the rules to promote uniformity of practice. The praecipe to transmit record prescribed by Rule 1920.73 and the motion for appointment of master prescribed by Rule 1920.74 require specified information to facilitate the court's disposition of the matter.

Rule 1920.75 prescribes a form of inventory and appraisal. The form contains the information required by Rule 1920.33(a). In addition, the form contains a list of assets which are commonly found in cases involving distribution of property as well as a list of liabilities. Assets and liabilities involved in a particular case must be checked on the lists. The lists will serve as a convenient guide for the attorney preparing the inventory and appraisal.

The final form is a decree prescribed by Rule 1920.76. The language of the decree has been shortened, simplified and modernized. The second paragraph of the decree preserves the rights of the parties with respect to claims made but not disposed of prior to the entry of the final decree. The claims so preserved must be specifically set forth in the decree.

#### **EXPLANATORY COMMENT--1988**

Rule 1920.73 is amended by adding new subdivision (a) which prescribes two form notices of intention to request entry of divorce decree. The first form of notice, contained in paragraph (a)(1), is directed to the defendant's attorney of record. If an attorney has entered an appearance on behalf of the defendant, this shorter form of notice is given only to the attorney. Paragraph (a)(2) provides a more detailed notice directed to the defendant himself when there is no attorney of record. In this instance, the notice advises the unrepresented defendant of the possible consequences of his failure to act promptly with respect to contesting the divorce or asserting economic claims. In addition, attached to the notice to an unrepresented defendant will be the form counteraffidavit required by Rule 1920.42(c)(2) and contained in Rule 1920.72(d) so that a defendant who wishes to oppose the divorce or to assert economic claims at this time readily may do so.

Annotations

## **Case Notes**

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Civil Procedure : Judgments : Relief From Judgment : Motions to Vacate  
Family Law : Marital Termination & Spousal Support : Dissolution & Divorce : Procedures

**LexisNexis (R) Notes**

Civil Procedure : Judgments : Relief From Judgment : Motions to Vacate

DCBA CLE37

Pa. R.C.P. No. 1920.73

1. It was an abuse of discretion for a trial court to deny a former wife's motion to re-open and vacate a portion of the parties' divorce decree under [23 Pa.C.S. § 3332](#), indicating that the trial court did not retain jurisdiction over her alimony claim, as the trial court had stated an intent to retain jurisdiction on that unresolved issue; there was a fatal defect on the face of the record because the praecipe to transmit the record failed to substantially comply with Pa. R. Civ. P. 1920.73 and 1920.76 where it indicated that there were no claims pending. [Bingaman v. Bingaman, 2009 PA Super 172, 980 A.2d 155, 2009 Pa. Super. LEXIS 3265 \(Pa. Super. Ct. 2009\)](#).

**Family Law : Marital Termination & Spousal Support : Dissolution & Divorce : Procedures**

2. It was an abuse of discretion for a trial court to deny a former wife's motion to re-open and vacate a portion of the parties' divorce decree under [23 Pa.C.S. § 3332](#), indicating that the trial court did not retain jurisdiction over her alimony claim, as the trial court had stated an intent to retain jurisdiction on that unresolved issue; there was a fatal defect on the face of the record because the praecipe to transmit the record failed to substantially comply with Pa. R. Civ. P. 1920.73 and 1920.76 where it indicated that there were no claims pending. [Bingaman v. Bingaman, 2009 PA Super 172, 980 A.2d 155, 2009 Pa. Super. LEXIS 3265 \(Pa. Super. Ct. 2009\)](#).

**Research References & Practice Aids**

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**LexisNexis (R) Notes**

**TREATISES AND ANALYTICAL MATERIALS**

1. 15 Pennsylvania Transaction Guide—Legal Forms § 260.21, Division 2 Marriage Settlement Agreements, Divorce Based on Irretrievable Breakdown of Marriage.
2. 15 Pennsylvania Transaction Guide—Legal Forms § 260.121, Division 2 Marriage Settlement Agreements, Divorce Based on Irretrievable Breakdown of Marriage.
3. 15 Pennsylvania Transaction Guide—Legal Forms § 260.243, Division 2 Marriage Settlement Agreements, Notice of Intention Required Prior to Entry of Divorce Decree—Other Spouse Represented by Attorney.
4. 15 Pennsylvania Transaction Guide—Legal Forms § 260.244, Division 2 Marriage Settlement Agreements, Notice of Intention Required When Divorce is Based on Mutual Consent—No Attorney of Record.
5. 15 Pennsylvania Transaction Guide—Legal Forms § 260.245, Division 2 Marriage Settlement Agreements, Notice of Intention Required When Divorce is Not Based on Mutual Consent—No Attorney of Record.
6. 15 Pennsylvania Transaction Guide—Legal Forms § 260.247, Division 2 Marriage Settlement Agreements, Waiver of Notice of Intention.

Pa. R.C.P. No. 1920.74

Pennsylvania State Court Rules reflect amendments received June 1, 2019.

**PA - Pennsylvania Local, State & Federal Court Rules > PENNSYLVANIA RULES OF CIVIL PROCEDURE > ACTION OF DIVORCE OR ANNULMENT OF MARRIAGE**

**Rule 1920.74. Form of Motion for Appointment of Master. Order**

(a) The motion for appointment of a master shall be substantially in the following form:

(CAPTION)

MOTION FOR APPOINTMENT OF MASTER

\_\_\_\_\_ (Plaintiff) (Defendant) moves the court to appoint a master with respect to the following claims:

- Divorce
- Annulment
- Alimony
- Equitable Division of Marital Property
- Counsel Fees
- Costs and Expenses
- Other: \_\_\_\_\_

and in support of the motion states:

(1) Discovery (is) (is not) complete as to the claim(s) for which the appointment of a master is requested.

(2) The non-moving party (has) (has not) appeared in the action (personally) (by his or her attorney, \_\_\_\_\_, Esquire).

(3) The statutory ground(s) for divorce (is) (are) \_\_\_\_\_

(4) If the master's appointment is for resolution of a divorce, an annulment, or ancillary claims, the parties have complied with *Pa.R.C.P. Nos. 1920.31, 1920.33, and 1920.46*, as applicable.

(5) Check and complete the applicable paragraph(s):

(a) The action is not contested.

(b) An agreement has been reached with respect to the following claims: \_\_\_\_\_

(c) The action is contested with respect to the following claims: \_\_\_\_\_

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

(7) The hearing is expected to take \_\_\_\_\_ (hours) (days).

(8) Additional information, if any, relevant to the motion: \_\_\_\_\_



Pa. R.C.P. No. 1920.74

Date: \_\_\_\_\_

\_\_\_\_\_  
Attorney for (Plaintiff) (Defendant)?

(b) The order appointing a master shall be substantially in the following form:

(CAPTION)

## ORDER APPOINTING MASTER

AND NOW, \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_, Esquire, is appointed master with respect to the following claims: \_\_\_\_\_

? BY THE COURT:

MOVING PARTY    NON-MOVING PARTY

Name:    Name:

Attorneys Name:    Attorneys Name:

Attorneys Address:    Attorneys Address:

Attorneys Telephone #:    Attorneys Telephone #:

Attorneys E-Mail:    Attorneys E-Mail

Partys Address and Telephone # if not represented by counsel:    Partys Address and Telephone # if not represented by counsel:

*Note: See Pa.R.C.P. No. 1920.51(a)(1)(ii) for the issues and claims*

for which the court may appoint a master. It is within the discretion of the court to determine the point at which a master should be appointed in a case.

**EXPLANATORY COMMENT—1983**

See Explanatory Comment following Rule 1920.73.

Annotations

**Research References & Practice Aids**

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**LexisNexis (R) Notes****TREATISES AND ANALYTICAL MATERIALS**

1. 22 P.L.E. DIVORCE § 96, Pennsylvania Law Encyclopedia, Reference to Master in General, Copyright 2017, Matthew Bender &amp; Company, Inc., a member of the LexisNexis Group.

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End of Document



IN RE: PROMULGATION OF  
LOCAL RULES

: IN THE COURT OF COMMON PLEAS  
: DAUPHIN COUNTY, PENNSYLVANIA  
:  
: NO. 1793 S 1989

ORDER

AND NOW, this 27<sup>th</sup> day of August, 2019, Dauphin County Local Rules of Civil Procedure 1920.1, 1920.2, 1920.51, 1920.74(a) and 1920.74(b) are amended and Dauphin County Local Rule of Civil Procedure 1920.53(a)(1) is rescinded as follows:

**1920.1 FORM OF DIVORCE OR ANNULMENT COMPLAINT**

~~[(1) In addition to the information required by Pa.R.C.P. 1920.12, each Divorce or Annulment Complaint shall contain one of the following averments:~~

~~— A. Plaintiff avers that there are no children of the parties under the age of 18.~~

~~— B. Plaintiff avers that there are children of the parties under the age of 18.]~~

~~[(2) A Divorce or Annulment Complaint or Counterclaim which includes a count for custody shall contain the attachments set forth in Local Rule 1915.3 and follow all other Custody action procedures.~~

~~[(3) A Divorce or Annulment Complaint which does not include a count for custody, where the parties are parents of children under the age of eighteen (18), shall include the Educational Seminar Scheduling Order.~~

\_\_\_\_\_: IN THE COURT OF COMMON PLEAS

\_\_\_\_\_: DAUPHIN COUNTY, PENNSYLVANIA

\_\_\_\_\_  
Plaintiff \_\_\_\_\_:

\_\_\_\_\_: CIVIL ACTION

\_\_\_\_\_  
Defendant \_\_\_\_\_: NO.

**EDUCATIONAL SEMINAR SCHEDULING ORDER**

DAUPHIN COUNTY  
JUL 27 AM 9:05  
1793 S 1989

All parties are ~~ORDERED to attend a four-hour educational seminar (Seminar for Families in Change and Conflict) and file your Certificate of Attendance you receive at the Seminar with the Prothonotary. The Plaintiff is scheduled to attend on \_\_\_\_\_ at \_\_\_\_\_ M and the Defendant is scheduled to attend on \_\_\_\_\_ at \_\_\_\_\_ M. Any requests for rescheduling must be directed to the provider of the Seminar and you should attend the next available Seminar. (See attached information sheet for additional information).~~

~~FAILURE TO ATTEND AND COMPLETE THE SEMINAR WILL BE BROUGHT TO THE ATTENTION OF THE COURT AND MAY RESULT IN A FINDING OF CONTEMPT OF COURT PUNISHABLE BY FINE AND OTHER APPROPRIATE SANCTIONS.~~

~~If you fail to attend this seminar, no divorce decree will be granted where there are children under the age of 18 until both parties attend the Seminar, unless this requirement is waived by the Court for good cause shown.~~

~~BY THE COURT:~~

~~Date: \_\_\_\_\_~~

## **RULE 1920.2 QUESTION OF JURISDICTION OR VENUE**

Preliminary objections to the existence or exercise of jurisdiction or venue in any divorce action shall be **immediately** assigned to a judge for disposition.

**Note: In accordance with Pa.R.C.P. 239.5(b), Local Rule 1035.2(a) shall not apply to family law actions governed by Pa.R.C.P. 1901 through 1940.9.**

### **1920.51      EQUITABLE DISTRIBUTION, DIVORCE, ANNULMENT, [ALIMONY PENDENTE LITE,] ALIMONY, COUNSEL FEES, COSTS AND EXPENSES**

- (1) The Divorce Master shall hear annulment, **divorce**, economic claims in divorce including [~~alimony pendente lite,~~] alimony, equitable distribution, counsel fees, costs and expenses or any aspect thereof

- (2) Any party shall file an original and a copy of the Motion for Appointment of Master with the Prothonotary if proceeding under Dauphin County Local Rule 1920.51. If a Master was previously appointed because of pretrial or discovery matters, the administrative fee of \$75.00 plus any filing fee required by the Prothonotary shall be paid to the Prothonotary. If a Master has not been previously appointed, an administrative fee of \$150.00 plus any filing fee required by the Prothonotary shall be paid to the Prothonotary. The Motion for Appointment of Master shall be in form prescribed by Dauphin County Local Rule 1920.74(a).
- (3) The Motion shall include the following attachments:
  - (a) An updated Income and Expense Statement in the form required by Pa.R.C.P. 1910.27(c)(1).
  - (b) An updated Inventory and Appraisal in the form required by Pa.R.C.P. 1920.75.
  - (c) A proposed Order appointing the Master and scheduling a Preliminary Conference in the form prescribed by Dauphin County Local Rule 1920.74(b).
  - (d) A Certificate of Service.
  - (e) A Self-Represented Entry of Appearance if the filing party is unrepresented by legal counsel.
- (4) The Prothonotary shall forward the Motion for Appointment of Master to the Court Administrator's Office. A Family Court Judge shall appoint the Divorce Master and the Divorce Master shall schedule a Preliminary Conference with the parties and their legal counsel.
- (5) At the Preliminary Conference, the Divorce Master shall address all outstanding pre-trial matters with counsel and the parties.
- (6) Following the Preliminary Conference, the Divorce Master shall schedule a Settlement Conference with the parties and their legal counsel.
- (7) Following both the Preliminary Conference and the Settlement Conference, the Divorce Master shall prepare a Memorandum memorializing any agreements and schedule the matter for a hearing on all remaining contested issues.
- (8) The Divorce Master shall file the Memorandum with the Prothonotary and mail a copy of the Memorandum to all legal counsel and self-represented parties in accordance with Pa.R.C.P. 1920.51.
- (9) The Court shall pay a stenographer's appearance fee if a court reporter not employed by Dauphin County transcribes the hearing testimony; however the cost of any transcripts requested by the parties shall be borne by the parties.
- (10) The Divorce Master shall file a Report and Recommendation and Proposed Order with the Prothonotary in accordance with the Pennsylvania Rules of Civil Procedure.

- (11) A copy of the Report and Recommendation and Proposed Order shall be mailed to counsel and self-represented parties with written notice of the right to file Exceptions.
- (12) If the parties request a transcript, the Divorce Master may delay the filing of the Report and Recommendation and Proposed Order or file a Supplemental Report and Recommendation and Proposed Order in accordance with the Pennsylvania Rules of Civil Procedure.
- (13) If no timely Exceptions are filed, the Prothonotary shall promptly forward the Report and Recommendation and Proposed Order to the Court Administrator's Office for assignment to a Family Court Judge. If a Family Court Judge has handled a contested family law case for that family, the matter will be assigned to that Judge.
- (14) An original and a copy of Exceptions to the Divorce Master's Report and Recommendation shall be filed with the Prothonotary's Office along with a Prior Court Involvement Statement in accordance with Dauphin County Local Rule 1931. This form is available at [www.dauphincounty.org/government/Court/Self-HelpCenter/Pages/default.aspx](http://www.dauphincounty.org/government/Court/Self-HelpCenter/Pages/default.aspx).
- (15) The Prothonotary shall forward the Exceptions to the Report and Recommendation to the Court Administrator's Office for assignment to a Family Court Judge. If a Family Court Judge has handled a contested family law case for that family, the matter will be assigned to that Judge.
- (16) The Court shall promptly issue an Order scheduling a conference, the filing of briefs and/or oral argument.

**1920.53(a)(1). HEARING BY MASTER.**

~~If the moving party is seeking a divorce under section 3301 (c) of the Divorce Code, the moving party shall file the executed affidavits of consent and waiver of notice of intention to secure entry of the divorce decree prior to the Master taking testimony. If the moving party is seeking a divorce under section 3301 (d) of the Divorce Code, the moving party shall serve the 3301 (d) affidavit and the relevant notices prior to the Master taking testimony.~~



**1920.74(a) FORM-Motion for Appointment of Master**

\_\_\_\_\_  
Plaintiff

v

\_\_\_\_\_  
Defendant

: IN THE COURT OF COMMON PLEAS  
: DAUPHIN COUNTY, PENNSYLVANIA  
:  
: NO.            CV  
:  
: CIVIL ACTION  
: IN DIVORCE

(ATTORNEY FOR MOVING PARTY)(SELF-REPRESENTED MOVING PARTY)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ FAX: \_\_\_\_\_ E-Mail: \_\_\_\_\_

(ATTORNEY FOR NON-MOVING PARTY) (SELF-REPRESENTED NON-MOVING PARTY)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ FAX: \_\_\_\_\_ E-Mail: \_\_\_\_\_

MOTION FOR APPOINTMENT OF MASTER

1. Check one of the following boxes:

- I file this motion in accordance with Dauphin County Local Rule 1920.51. I request that all issues raised be decided by the Divorce Master. I paid the \$150.00 administrative fee plus any filing fees required by the Prothonotary. The Divorce Master was not previously appointed for pre-trial or discovery matters.

I file this motion in accordance with Dauphin County Local Rule 1920.51. I request that all remaining issues raised be decided by the Divorce Master. I paid the \$75.00 administrative fee plus any filing fees required by the Prothonotary. The Divorce Master was previously appointed for pre-trial or discovery matters.

I file this motion in accordance with Dauphin County Local Rule 1920.43 and request that discovery, special relief matters, or other pre-trial or post-divorce issues excluding Exceptions to Master's Report be decided by the Divorce Master. I paid the \$75.00 administrative fee plus any filing fees required by the Prothonotary.

2. \_\_\_\_\_, (circle one) PLAINTIFF/DEFENDANT, moves the Court to appoint a Divorce Master **with respect to the following claims:**

**Divorce**             **Annulment**             **Alimony**

**Equitable Division of Marital Property**  **Counsel Fees**

**Costs and Expenses**             **Other:** \_\_\_\_\_

3. The plaintiff's current mailing address is

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The defendant's current mailing address is

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. The [respondent] **non-moving party** (circle one) (has)(has not) appeared in the action (circle one) (personally) (by his/her attorney)  
\_\_\_\_\_ Esquire

6. The statutory ground(s) for divorce (is)(are):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Discovery (circle one) (is)(is not) complete,

8. **If the master's appointment is for resolution of a divorce, an annulment, or ancillary claims, the parties have complied with Pa.R.C.P. Nos. 1920.31, 1920.33, and 1920.46, as applicable.**

9. **Check and complete the applicable paragraph(s):**

(a) **The action is not contested.**

(b) An agreement has been reached with respect to the following claims: \_\_\_\_\_

(c) The action is contested with respect to the following claims: \_\_\_\_\_

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

11. The hearing is expected to take \_\_\_\_\_ (hours) (days).

12. Additional information, if any, relevant to the motion: \_\_\_\_\_

[8] 13. I mailed a copy of this motion to all parties and/or their legal counsel at the addresses listed above on \_\_\_\_\_, 20\_\_\_\_\_.

Respectfully submitted:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

**1920.74(b) FORM-Order Appointing Master and Scheduling Preliminary Conference.**

[CAPTION]

ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ the Motion of Appointment of Master is GRANTED and \_\_\_\_\_ is appointed as Master **with respect to the following claims: [.]**

Divorce       Annulment       Alimony

Equitable Division of Marital Property       Counsel Fees

Costs and Expenses       Other: \_\_\_\_\_

A Preliminary Conference is scheduled for both parties and their attorneys on \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ M. in Conference Room 2 on the 7<sup>th</sup> Floor of the Juvenile Justice Center, 25 S. Front Street, Harrisburg, Pennsylvania 17101.

If economic claims have been raised of record in this case, to the extent not already filed, the non-moving party shall have ten (10) days from the date of this Order

to file the documents required by Pa.R.C.P. 1920.31(a) and Pa.R.C.P. 1920.33(a). Failure to file the required documents may subject the offending party to sanctions as provided in those rules.

BY THE COURT;


PER CURIAM.

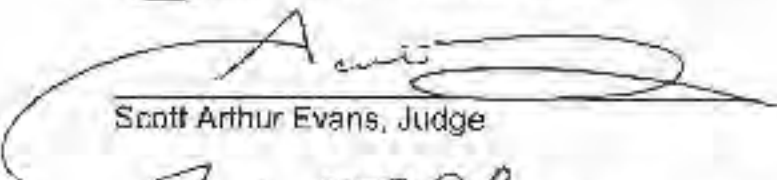
DISTRIBUTION:




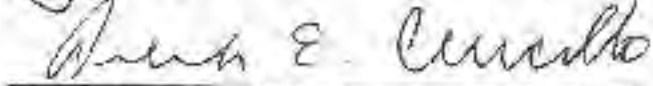
The above rule changes shall be published in the Pennsylvania Bulletin and are effective on October 1, 2019.

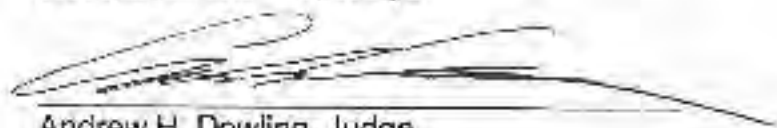
BY THE COURT:

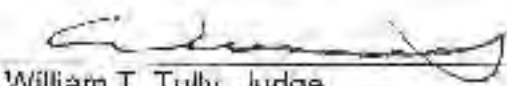
  
Richard A. Lewis, President Judge


  
Scott Arthur Evans, Judge

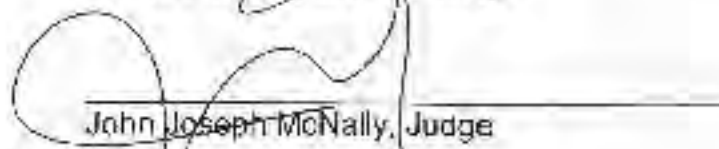
  
John F. Cherry, Judge


  
Deborah E. Curcillo, Judge

  
Andrew H. Dowling, Judge

  
William T. Tully, Judge

  
Edward M. Marsier, Jr., Judge

  
John Joseph McNally, Judge

  
Royce L. Morris, Judge

**AUG 27 2019**

Electronic communication being filed  
has not been reviewed by the original  
filer.

  
Christopher R. Frang  
Prothonotary

DCBA CLE49

2019 PA Super 267

THOMAS P. FARRELL, JR.	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
AMY FARRELL	:	
	:	
Appellant	:	No. 1424 WDA 2018

Appeal from the Order Entered September 13, 2018  
 In the Court of Common Pleas of Clearfield County Civil Division at  
 No(s): No. 2015-1381-CD

BEFORE: BENDER, P.J.E., NICHOLS, J., and COLINS, J.\*

OPINION BY NICHOLS, J.: FILED SEPTEMBER 3, 2019

Appellant LaVieta Lerch, Esq., counsel for Amy Farrell (Ms. Farrell), appeals from the order of contempt directing Attorney Lerch to pay counsel fees to Lea Ann Heltzel, Esq., counsel for Thomas P. Farrell, Jr. (Mr. Farrell). Attorney Lerch claims that she was not in contempt of an order compelling discovery because the order was directed to Ms. Farrell and not Attorney Lerch. We affirm.

We adopt the facts and procedural history set forth in the trial court's opinion.

This case was initiated by the filing of a divorce complaint on behalf of [Mr. Farrell] on September 9, 2015. [Mr. Farrell] is represented by [Attorney Heltzel. Ms. Farrell] proceeded pro se until October 30, 2017[,] when Attorney . . . Lerch entered her appearance on behalf of [Ms. Farrell. Ms. Farrell] filed a praecipe for appointment of master on April 13 of 2018; thereafter, by order of April 16, 2018, Curtis Irwin, Esquire, was appointed

---

\* Retired Senior Judge assigned to the Superior Court.

master in divorce. Pre-trial conference with the master was set for May 14, 2018. The parties were to file the required pre-master's hearing documents within no more than 20 days from April 16, 2018. Master's hearing was scheduled for Friday, September 14, 2018[,] by the Honorable Paul E. Cherry.

On August 2, 2018[,] Attorney Heltzel filed a motion to compel. This motion indicates that on May 21, 2018[,] she had made an informal request for production of documents from Attorney Lerch. Having heard and received nothing, follow-up correspondence was mailed on July 9, 2018. Still no response was made.

Trial Ct. Op., 1/18/19, at 1 (some capitalization omitted).

On August 3, 2018, the trial court issued the below order:

And now, this 3rd day of August, 2018 . . . it is ordered and decreed that the Defendant shall within twenty (20) days . . . produce all documents sought by way of Plaintiff's request for production of documents.

Order, 8/3/18 (some capitalization omitted).

The parties do not dispute that Ms. Farrell, acting pro se, typed her answers to Mr. Farrell's requests for production of documents, attached a few documents, and sent them to Attorney Heltzel around August 13, 2018. Ex. D to Mr. Farrell's Mot. to Compel, 9/10/18; see N.T., 9/13/18, at 9. Ms. Farrell's pro se responses included multiple answers in which she expressed an unwillingness to disclose the requested information or documents. Ex. D to Mr. Farrell's Mot. to Compel, 9/10/18, at ¶ 1 ("forgive me on my reluctance to share complete information on such documentation"), ¶ 15 ("Sorry but I will not disclose this information it [sic] does not have any bearing on the court proceedings and is absolutely no one's business"). Several of her

responses were "N/A" and others included personal attacks and other allegations against Mr. Farrell. See, e.g., *id.* at ¶ 13 (claiming Mr. Farrell had "attacked me in my home multiple times"), ¶ 15 (alleging Mr. Farrell committed insurance fraud), ¶ 16 (asserting Mr. Farrell had "public drunken rants").

Following receipt of Ms. Farrell's pro se discovery responses, the following occurred:

On Monday, September 10, 2018[, Attorney Heltzel] filed a motion to compel, sanctions and attorney's fees<sup>[1]</sup> as well as a second pleading, being a motion for continuance. As Judge Paul E. Cherry was on vacation that week, [Mr. Farrell's] motions were given to [President Judge Fredric J. Ammerman] for disposition.

Trial Ct. Op. at 2 (some capitalization omitted).

The trial court denied the motion for continuance and scheduled a hearing on Mr. Farrell's motion to compel, sanctions, and attorney's fees for September 13, 2018. Ms. Farrell filed an answer and also filed a motion to compel and for attorney's fees of \$1,500, each prepared by Attorney Lerch. The trial court also scheduled the hearing on Ms. Farrell's counseled motion for September 13, 2018. As noted above, the master's hearing was scheduled for the next day, September 14, 2018.

---

<sup>1</sup> Attached to Mr. Farrell's motion to compel as an exhibit was the above-referenced Ms. Farrell's pro se typewritten responses to Mr. Farrell's requests for production of documents. Ex. D to Mr. Farrell's Mot. to Compel, 9/10/18. Neither Ms. Farrell nor Attorney Lerch signed the pro se responses.



At the September 13, 2018 hearing, the trial court addressed Mr. Farrell's motion to compel first. Attorney Heltzel indicated that she received additional documents that morning but that Ms. Farrell's response was still inadequate. N.T., 9/13/18, at 3. Attorney Heltzel identified the documents she still needed. *Id.*

The trial court then inquired about Exhibit D that was attached to Mr. Farrell's motion to compel. *Id.* at 4. The following exchange occurred:

THE COURT: [E]xhibit D . . . is one page, and it has numbered paragraphs, and it appears to me that this was written specifically by [Ms. Farrell] and not by [Attorney Lerch]; is that correct?

ATTORNEY LERCH: That's correct. Those were the answers to the list of—24 [requests for production of documents] that [Attorney Heltzel] was requesting, which were provided—

THE COURT: So you just gave it to your client and asked her to write a response?

ATTORNEY LERCH: She wanted to write a response.

THE COURT: I consider this response to be extremely unprofessional, and I really can't believe that this is how you would respond to [Attorney Heltzel's] request. Is this how you practice law? This is unacceptable.

Now, the next thing we have is we have [Ms. Farrell's counseled] motion to compel and for attorney's fees.

\* \* \*

THE COURT: . . . [The above motion] was filed yesterday.

ATTORNEY HELTZEL: And [Ms. Farrell's counseled motion to compel] was the first request that I had gotten [from Attorney Lerch] for any documentation, was yesterday . . . with regard to that.

THE COURT: Did you make prior requests for discovery?

ATTORNEY LERCH: Not formal requests, no, nothing other than what was provided . . . in [Attorney Heltzel's] pre-trial statement, but the documentation that was to back that up was not provided to me.

So these weren't surprise requests. All these requests were things that were noted in either [Attorney Heltzel's] pre-trial [statement] or the documentation that had been provided before.

THE COURT: What did you receive from Attorney Lerch requesting information previously? Anything?

ATTORNEY HELTZEL: No, Your Honor.

THE COURT: No letters?

ATTORNEY HELTZEL: I don't think so, no.

\* \* \*

THE COURT: Well, clearly, the record reflects that there were no formal legal documents filed for requesting any type of discovery by Attorney Lerch to [Mr. Farrell].

ATTORNEY LERCH: That's correct.

*Id.* at 4-5. Attorney Lerch and Attorney Heltzel reiterated that they did not receive any informal discovery requests memorialized in writing. *Id.* at 6.

The trial court then questioned why Ms. Farrell and Attorney Lerch waited until September 12, 2018—one day before the hearing scheduled for Mr. Farrell's motion and two days before the master's hearing—to file a motion to compel. *Id.* at 8.

THE COURT: . . . It escapes me how [Ms. Farrell's counseled] motion [to compel] could be filed September the 12th, which was yesterday, for a master's hearing, which is scheduled tomorrow, on a case that's three years old and you don't have all this

information that apparently you never bothered to ask for before you filed this motion two days before the master's hearing.

If you don't have this information, how can you possibly intelligently discuss these issues with your client? How can you possibly intelligently determine where this case is headed, what she might be entitled to and try to have any meaningful settlement discussions with Ms. Heltzel escapes me, it's beyond me, in a case that's almost three years old.

So as far as I'm concerned, the only reason that [Attorney Lerch] filed this counseled motion is because [she] was worried about the motion that Ms. Heltzel filed for the half-rear response that she got on her request for production of documents, so this was filed basically to try to equalize the one that she filed. So I'm a real unhappy guy—

\* \* \*

ATTORNEY LERCH:—if I can explain, first of all, the answers that were provided, maybe they are unconventional to the [trial c]ourt, but they were the answers and they were provided to counsel and they were also provided in a timely manner in accordance with Judge Cherry's [August 3, 2018] order. Actually, I think it was before the 20 days was up, but I can't recall that exactly, so I don't know that for sure.

But, substantially, everything was given. And if there wasn't, there was an explanation for that. I never received any indication that it wasn't acceptable. I had no communication from counsel.

Id. at 8-9.

After a further exchange between the trial court and Attorney Lerch, the trial court issued the following order:

AND NOW, this 13th day of September, 2018, this being the date set for argument on [Ms. Farrell's] motion to compel and for attorney's fees, it is the ORDER of this court that for the reasons as discussed during the hearing, as are a matter of record, it is the ORDER of this court that [Ms. Farrell's] motion to compel and for attorney's fees be and are hereby DISMISSED.

This also being the date for presentation of the [Mr. Farrell's] motion to compel, sanctions and attorney's fees. It is the ORDER of this court that the said motion be GRANTED to the extent that the court believing that [Ms. Farrell's] counsel, Lavita Lerch, Esquire, is in contempt of the order of the Honorable Judge Paul Cherry of August 3, 201[8], and shall pay attorney's fees to [Mr. Farrell's] attorney, Lea Ann Heltzel, in the amount of fifteen hundred (\$1500.00) dollars within no more than thirty (30) days from this date.

In addition, [Ms. Farrell] shall not be permitted by the master to present any documentation in this case that hasn't been previously provided to [Mr. Farrell's] counsel.

Order, 9/13/18, at 1.<sup>2</sup>

On September 19, 2018, Attorney Lerch filed a motion for reconsideration, challenging the trial court's order finding her in contempt of the trial court's August 3, 2018 order directing that Ms. Farrell produce all responsive documents within twenty days. Attorney Lerch's Mot. for Recons., 9/19/18, at 1. Attorney Lerch contended that there was no factual basis that she was in contempt but did not challenge the amount of counsel fees awarded.

Attorney Lerch filed a timely notice of appeal on October 2, 2018, and timely filed a court-ordered Pa.R.A.P. 1925(b) statement.

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<sup>2</sup> We acknowledge that at the hearing, the court orally ordered that "Defendant is in contempt." N.T., 9/13/18, at 11. Because no party has raised that discrepancy, and because the court and the parties have relied on the written order as set forth above, we decline to address the discrepancy.



On October 9, 2018, the trial court held a hearing on Attorney Lerch's motion for reconsideration. At the hearing, Attorney Lerch argued that she could not be held in contempt because she was not subject to any court order. N.T. Recons., 10/9/18, at 2-3. Attorney Lerch reasoned that Judge Cherry's August 3, 2018 order to compel was directed to "the parties and not on counsel."<sup>3</sup> Id. at 2. On October 10, 2018, the trial court denied Attorney Lerch's motion for reconsideration and sua sponte reduced the counsel fees awarded to Attorney Hetzel from \$1,500 to \$900. Order, 10/10/18; see also N.T. Recons. at 8. Attorney Lerch also filed a motion to stay the order pending the appeal, which the trial court granted.

Attorney Lerch raises the following issues:

1. Did the [trial court] abuse its discretion and err as a matter of law in finding that [Attorney Lerch] is personally in contempt when there are no facts supporting such a finding.
2. Did the [trial court] abuse its discretion and err as a matter of law in finding that [Attorney Lerch] is personally in contempt when no order existed requiring counsel to comply with any such order.

Attorney Lerch's Brief at 4 (some capitalization omitted).

We summarize Attorney Lerch's arguments in support of both of her issues together. She contends that she cannot be held personally in contempt because the trial court's August 3, 2018 order did not require her to comply. Id. at 11. Attorney Lerch maintains there was no evidence that the order also

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<sup>3</sup> At the hearing, Attorney Lerch did not contest the amount of counsel fees.

applied to counsel. *Id.* at 12. It follows, Attorney Lerch reasons, that there could be no evidence that she disregarded the court's order. *Id.*

Regardless, Attorney Lerch argues that the record did not establish any such violation because Attorney Hetzel did not identify the documents she did not receive. *Id.* at 13. Attorney Lerch asserts that it is "common sense" that the requested documents were in the possession and control of Ms. Farrell and there was no evidence that Attorney Lerch had any such documents requested by Attorney Hetzel's motion to compel. *Id.* Attorney Lerch claims it "is hard to conceive how a party's counsel can be personally responsible for obtaining documents from his or her client." *Id.* at 14.

We review an order imposing sanctions for a violation of a discovery rule for an abuse of discretion. *Rohm & Has Co. v. Lin*, 992 A.2d 132, 141-42 (Pa. Super. 2010); *Luszczynski v. Bradley*, 729 A.2d 83, 87 (Pa. Super. 1999). Pennsylvania Rule of Civil Procedure 4019 addresses sanctions for discovery violations:

(a)(1) The court may, on motion, make an appropriate order if

\* \* \*

(viii) a party or person otherwise fails to make discovery or to obey an order of court respecting discovery.

\* \* \*

(c) The court, when acting under subdivision (a) of this rule, may make

\* \* \*

(4) an order imposing punishment for contempt . . .

(5) such order with regard to the failure to make discovery as is just.

Pa.R.C.P. 4019(a)(1)(viii), (c)(4)-(5). Rule 4019(g)(1) states “the court on a subsequent motion for sanctions may, if the motion is granted, require the party or deponent whose conduct necessitated the motions or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses, including attorney’s fees . . . .” Pa.R.C.P. 4019(g)(1) & note.

Initially, with respect to Attorney Lerch’s argument that she cannot be held in contempt because the trial court’s August 3, 2018 order did not specifically name her, she did not cite any pertinent authorities. Therefore, Attorney Lerch has waived that argument on appeal. See *In re Whitley*, 50 A.3d 203, 209-10 (Pa. Super. 2012) (holding, “[f]ailure to cite relevant legal authority constitutes waiver of the claim on appeal” (citation omitted)).

Regardless, on the merits, the trial court acted within its authority to sanction counsel under Rule 4019 for engaging in conduct that required the moving party to file a motion for sanctions. See Pa.R.C.P. 4019(g)(1). Here, the conduct would include permitting Ms. Farrell’s discovery responses that Ms. Farrell prepared herself to be served on opposing counsel—responses that

did not comply with the trial court's August 3, 2018 order.<sup>4</sup> See *id.*<sup>5</sup> As noted above, Ms. Farrell refused to provide some of the requested information and responded "N/A" to others requests with no explanation. See Ex. D to Mr. Farrell's Mot. to Compel, 9/10/18, at ¶¶ 1, 15.

With respect to Attorney Lerch's argument that counsel can never be personally responsible for obtaining documents from her client, we disagree. Attorney Lerch's decision to serve Ms. Farrell's pro se, unresponsive discovery responses that attacked Mr. Farrell and refused to provide documents is a basis upon which the trial court may sanction counsel. See generally Pa.R.C.P. 4019(g)(1). Accordingly, Attorney Lerch has not established the trial court abused its discretion in sanctioning her. See *Lin*, 992 A.2d at 141-42.

Order affirmed.

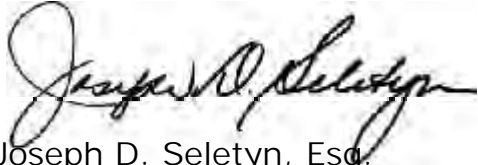
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<sup>4</sup> We note the Rules of Professional Conduct include an obligation to provide competent representation to a client. 204 Pa. Code Rule 1.1. Given Ms. Farrell's non-responsiveness, personal attacks, and refusal to provide documents, see Ex. D to Mr. Farrell's Mot. to Compel, 9/10/18, at ¶¶ 1, 13, 15, 16, Attorney Lerch's rationale for serving Ms. Farrell's pro se responses is unclear.

<sup>5</sup> Cf. *Gliwa v. U.S. Steel Corp.*, 3 A.2d 778, 779 (Pa. 1938) (holding that "[w]hen a lawyer has appeared in court for a client . . . , he alone can act in the matter, the client, until he discharges his attorney and notifies the other side of his having done so, can take no action whatever. Any other rule would be subversive of all orderliness in the conduct of litigation . . . . Apparently no Pennsylvania case lays down this salutary rule, the reason doubtless being that in the customs among lawyers it has been recognized time out of mind").



Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn". The signature is written in a cursive style with a large initial "J".

Joseph D. Seletyn, Esq.  
Prothonotary

Date: 9/3/2019

**3301(C)(1) DIVORCE CHECKLIST**  
*(for internal use only and should not be attached to any filing)*

PLAINTIFF: \_\_\_\_\_ ATTORNEY: \_\_\_\_\_  
S.S. #: \_\_\_\_\_

DEFENDANT: \_\_\_\_\_ ATTORNEY: \_\_\_\_\_  
S.S. #: \_\_\_\_\_

DIVORCE INFO. SHEET: \_\_\_\_\_ DOCKET NO.: \_\_\_\_\_  
VENUE: PL: \_\_\_\_\_ DEF: \_\_\_\_\_ AGREED IN WRITING/PARTICIPATION: \_\_\_\_\_

**COMPLAINT** Date complaint reinstated, if applicable: \_\_\_\_\_

DATE FILED: \_\_\_\_\_ NOTICE OF COUNSELING: \_\_\_\_\_

DIVORCE ONLY: \_\_\_\_\_ CLAIMS: \_\_\_\_\_

**SERVICE** Within 30 days of filing inside Commonwealth/within 90 days of filing outside Commonwealth

DATE OF SERVICE: \_\_\_\_\_ TYPE OF PROOF: \_\_\_\_\_

**3301(C)(1)**

**PLAINTIFF'S AFF:** DATE SIGNED: \_\_\_\_\_ DATE FILED: \_\_\_\_\_  
# DAYS FROM SERVICE OF COMPLAINT: \_\_\_\_\_ # DAYS FROM SIGNING: \_\_\_\_\_  
(>90) (<30)

**DEFENDANT'S AFF:** DATE SIGNED: \_\_\_\_\_ DATE FILED: \_\_\_\_\_  
# DAYS FROM SERVICE OF COMPLAINT: \_\_\_\_\_ # DAYS FROM SIGNING: \_\_\_\_\_  
(>90) (<30)

DATE NOTICE OF INTENT WAIVED: PL: \_\_\_\_\_ DEF: \_\_\_\_\_ OR  
DATE NOTICE OF INTENT SERVED: \_\_\_\_\_

DATE COUNTER-AFFIDAVIT UNDER 3301(C)(1) FILED, IF APPLICABLE: \_\_\_\_\_

Includes blank counter-affidavit and copy of proposed Praeceptum to Transmit Record indicating a date and manner of service of the Notice of Intent \_\_\_\_\_

**IF MASTER APPOINTED:** DATE APPOINTED: \_\_\_\_\_

DATE REVOKED: \_\_\_\_\_

**PRAECEPTUM TO TRANSMIT THE RECORD**

HAVE 20 DAYS ELAPSED SINCE SERVICE OF NOTICE OF INTENT, IF APPLICABLE? \_\_\_\_\_

\_\_\_\_\_ Divorce Decree

\_\_\_\_\_ Divorce decree with marital settlement agreement attached

\_\_\_\_\_ Bifurcated divorce decree with the Court retaining jurisdiction over unresolved ancillary claims

\_\_\_\_\_ Order approving grounds for divorce with the Court retaining jurisdiction over unresolved ancillary claims

DATE FILED: \_\_\_\_\_ DECREES/NAMES ON DECREES: \_\_\_\_\_

IF SEPARATION AGREEMENT MENTIONED, IS IT ATTACHED? \_\_\_\_\_

**3301(C)(2) DIVORCE CHECKLIST**  
(for internal use only and should not be attached to any filing)

PLAINTIFF: \_\_\_\_\_ ATTORNEY: \_\_\_\_\_  
S.S. #: \_\_\_\_\_

DEFENDANT: \_\_\_\_\_ ATTORNEY: \_\_\_\_\_  
S.S. #: \_\_\_\_\_

DIVORCE INFO. SHEET: \_\_\_\_\_ DOCKET NO.: \_\_\_\_\_  
VENUE: PL: \_\_\_\_\_ DEF: \_\_\_\_\_ AGREED IN WRITING/PARTICIPATION: \_\_\_\_\_

**COMPLAINT** Date complaint reinstated, if applicable: \_\_\_\_\_

DATE FILED: \_\_\_\_\_ NOTICE OF COUNSELING: \_\_\_\_\_

DIVORCE ONLY: \_\_\_\_\_ CLAIMS: \_\_\_\_\_

**SERVICE** Within 30 days of filing inside Commonwealth/within 90 days of filing outside Commonwealth

DATE OF SERVICE: \_\_\_\_\_ TYPE OF PROOF: \_\_\_\_\_

**3301(C)(2)**

PLAINTIFF'S AFFIDAVIT OF CONSENT:

DATE SIGNED: \_\_\_\_\_ DATE FILED: \_\_\_\_\_  
# DAYS FROM SERVICE OF COMPLAINT: \_\_\_\_\_ # DAYS FROM SIGNING: \_\_\_\_\_  
(>90) (<30)

DATE SERVED: \_\_\_\_\_

AFFIDAVIT TO ESTABLISH PRESUMPTION OF CONSENT:

DATED SIGNED: \_\_\_\_\_ DATE FILED: \_\_\_\_\_ DATE SERVED: \_\_\_\_\_

DATE COUNTER-AFFIDAVIT UNDER 3301(C)(2) FILED, IF APPLICABLE: \_\_\_\_\_

DATE NOTICE OF INTENT WAIVED: PL: \_\_\_\_\_ DEF: \_\_\_\_\_ OR

DATE NOTICE OF INTENT SERVED: \_\_\_\_\_

Includes blank counter-affidavit and copy of proposed Praecepte to Transmit Record indicating a date and manner of service of the Notice of Intent \_\_\_\_\_

DATE COUNTER-AFFIDAVIT UNDER 3301(C)(2) FILED, IF APPLICABLE: \_\_\_\_\_

**IF MASTER APPOINTED:** DATE APPOINTED: \_\_\_\_\_

DATE REVOKED: \_\_\_\_\_

**PRAEPCIPE TO TRANSMIT THE RECORD**

HAVE 20 DAYS ELAPSED SINCE SERVICE OF NOTICE OF INTENT, IF APPLICABLE? \_\_\_\_\_

\_\_\_\_\_ Divorce Decree

\_\_\_\_\_ Divorce decree with marital settlement agreement attached

\_\_\_\_\_ Bifurcated divorce decree with the Court retaining jurisdiction over unresolved ancillary claims

\_\_\_\_\_ Order approving grounds for divorce with the Court retaining jurisdiction over unresolved ancillary claims

DATE FILED: \_\_\_\_\_ DECREES/NAMES ON DECREES: \_\_\_\_\_

IF SEPARATION AGREEMENT MENTIONED, IS IT ATTACHED? \_\_\_\_\_

**3301(D) DIVORCE CHECKLIST**  
(for internal use only and should not be attached to any filing)

PLAINTIFF: \_\_\_\_\_ ATTORNEY: \_\_\_\_\_  
S.S. #: \_\_\_\_\_

DEFENDANT: \_\_\_\_\_ ATTORNEY: \_\_\_\_\_  
S.S. #: \_\_\_\_\_

DIVORCE INFO. SHEET: \_\_\_\_\_ DOCKET NO.: \_\_\_\_\_

VENUE: PL: \_\_\_\_\_ DEF: \_\_\_\_\_ AGREED IN WRITING/PARTICIPATION: \_\_\_\_\_

**COMPLAINT** Date complaint reinstated, if applicable: \_\_\_\_\_

DATE FILED: \_\_\_\_\_ NOTICE OF COUNSELING: \_\_\_\_\_

DIVORCE ONLY: \_\_\_\_\_ CLAIMS: \_\_\_\_\_

**SERVICE** Within 30 days of filing inside Commonwealth/within 90 days of filing outside Commonwealth

DATE OF SERVICE: \_\_\_\_\_ TYPE OF PROOF: \_\_\_\_\_

**3301(D)**

DATE AFFIDAVIT OF SEPARATION SIGNED: \_\_\_\_\_

DATE FILED: \_\_\_\_\_ DATE SERVED: \_\_\_\_\_

IS COUNTER-AFFIDAVIT ATTACHED TO AFFIDAVIT OF SEPARATION? \_\_\_\_\_

DATE OF SEPARATION: \_\_\_\_\_

\_\_\_\_\_ PRIOR TO DECEMBER 5, 2016: HAVE PARTIES BEEN SEPARATED FOR TWO YEARS?

\_\_\_\_\_ ON OR AFTER DECEMBER 5, 2016: HAVE PARTIES BEEN SEPARATED FOR ONE YEAR?

**NOTICE OF INTENTION TO REQUEST ENTRY OF DIVORCE DECREE**

DATE NOTICE SENT: \_\_\_\_\_

Includes blank counter-affidavit and copy of proposed Praeceptum to Transmit Record indicating a date and manner of service of the Notice of Intent \_\_\_\_\_

HAVE 20 DAYS ELAPSED FROM THAT DATE? \_\_\_\_\_

DATE COUNTER-AFFIDAVIT UNDER 3301(D) FILED, IF APPLICABLE: \_\_\_\_\_

**IF MASTER APPOINTED:** DATE APPOINTED: \_\_\_\_\_

DATE REVOKED: \_\_\_\_\_

**PRAECEPTUM TO TRANSMIT THE RECORD:**

HAVE 20 DAYS ELAPSED SINCE SERVICE OF NOTICE OF INTENT, IF APPLICABLE? \_\_\_\_\_

\_\_\_\_\_ Divorce Decree

\_\_\_\_\_ Divorce decree with marital settlement agreement attached

\_\_\_\_\_ Bifurcated divorce decree with the Court retaining jurisdiction over unresolved ancillary claims

\_\_\_\_\_ Order approving grounds for divorce with the Court retaining jurisdiction over unresolved ancillary claims

DATE FILED: \_\_\_\_\_ DECREES/NAMES ON DECREES: \_\_\_\_\_

IF SEPARATION AGREEMENT MENTIONED, IS IT ATTACHED? \_\_\_\_\_