

**IN THE
SUPREME COURT OF PENNSYLVANIA**

IN RE: : **No. 280**
AMENDMENT OF THE RULES :
OF CIVIL PROCEDURE RELATING : **CIVIL PROCEDURAL RULES**
TO DISCOVERY IN : **DOCKET**
DOMESTIC RELATIONS MATTERS : **No. 5**

ORDER

PER CURIAM:

AND NOW, this 5th day of May, 1997, Pennsylvania Rules of Civil Procedure 1910.9, 1910.11, 1910.12, 1915.5, 1920.22, 1920.91, and 4001 are amended, and new Rule 1930.5 is promulgated as attached hereto.

This order shall be processed in accordance with Pennsylvania Rule of Judicial Administration 103(b) and shall be effective July 1, 1997.

Note: New material is underlined and deleted material is ~~struck through~~.

RULE 1910.9 DISCOVERY

(a) There shall be no discovery in an action for support unless authorized by special order of court, except as provided in Rule 1910.11(j) and Rule 1910.12(c).

Note: The rule relating to discovery in domestic relations matters generally is Rule 1930.5

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RULE 1910.11 OFFICE CONFERENCE. SUBSEQUENT PROCEEDINGS. ORDER

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(j) (1) Promptly after receipt of the notice of the scheduled hearing, a party may move the court for a separate listing where

- (i) there are complex questions of law, fact or both, or
- (ii) the hearing will be protracted, or
- (iii) the orderly administration of justice requires that the hearing be listed separately.

(2) ~~The motion may include a request for discovery. If granted, the order may specify the scope of discovery.~~ If the motion for separate listing is granted, discovery shall be available in accordance with Rule 4001 et seq.

Note: The rule relating to discovery in domestic relations matters generally is Rule 1930.5

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RULE 1910.12 OFFICE CONFERENCE. HEARING. RECORD. EXCEPTIONS. ORDER

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(c) (1) Except as ~~set forth~~ provided in subdivision (c)(2), promptly after conclusion of the conference, a party may move the court for a separate listing of the hearing where

- (i) there are complex questions of law, fact or both, or
- (ii) the hearing will be protracted, or
- (iii) the orderly administration of justice requires that the hearing be listed separately.

(2) Where the conference and hearing are scheduled on the same day, all requests for separate listing must be presented to the court at least seven days prior to the scheduled court date.

(3) ~~The motion may include a request for discovery. If granted, the order may specify the scope of discovery. If the motion for separate listing is granted, discovery shall be available in accordance with Rule 4001 et seq.~~

Note: The rule relating to discovery in domestic relations matters generally is Rule 1930.5

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RULE 1915.5 QUESTION OF JURISDICTION OR VENUE. NO RESPONSIVE PLEADING BY DEFENDANT REQUIRED. COUNTERCLAIM. DISCOVERY.

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(c) There shall be no discovery unless authorized by special order of court.

Note: The rule relating to discovery in domestic relations matters generally is Rule 1930.5.

RULE 1920.22 DISCOVERY

~~(a) Except as provided by subdivision (b), there shall be no discovery in an action of divorce or for annulment or a claim which has been joined as permitted under the Divorce Code unless authorized by special order of court.~~

~~Note: Rule 1920.91 suspends §3505(c) of the Divorce Code which provides for discovery in actions of divorce or for annulment of marriage.~~

~~(b) When a claim is made for alimony or the determination and distribution of property rights, any party may serve upon any other party as of course within such time as not to delay the trial interrogatories limited to those claims. The practice and procedure shall be governed by the rules of civil procedure governing depositions and discovery.~~

Rescinded.

Note: The rule relating to discovery in domestic relations matters generally is Rule 1930.5.

RULE 1920.91 SUSPENSION OF ACTS OF ASSEMBLY

The following Acts of Assembly are suspended insofar as they apply to the practice and procedure in actions for divorce or annulment of marriage to the extent hereinafter set forth:

(1) Section 3104(e) of the Domestic Relations Code, 23 Pa.C.S. §3104(e), absolutely;

Note: Suspended Section 3104(e) of the Divorce Code prescribes venue in actions of divorce or for annulment of marriage. Venue in such actions is prescribed by Rule of Civil Procedure 1920.2.

~~(2) Section 3505(c) of the Domestic Relations Code, 23 Pa.C.S. §3505(c), absolutely;~~

~~—Note: Suspended Section 3505(c) of the Divorce Code provides for discovery in actions of divorce or for annulment of marriage. Discovery in such actions is prescribed by Rule of Civil Procedure 1920.22.~~

~~(3)~~(2) Section 3505(b) of the Domestic Relations Code, 23 Pa.C.S. §3505(b), absolutely;

Note: Suspended Section 3505(b) of the Divorce Code requires the submission to the court of an inventory and appraisal of property. Rule of Civil Procedure 1920.33(a) supplants this provision by requiring parties seeking the distribution of property to file an inventory while subdivision (b) of the rule requires the filing of a pre-trial statement.

~~(4)~~(3) Section 3321 of the Domestic Relations Code, 23 Pa.C.S. §3321, insofar as it prohibits the appointment of masters in partial custody or visitation matters.

Note: Suspended Section 3321 of the Divorce Code states that the court may appoint a master to hear testimony on all issues relating to a divorce except custody or paternity.

~~(5)~~(4) And all other Acts or parts of Acts of Assembly inconsistent with these rules to the extent of such inconsistency.

RULE 1930.5 DISCOVERY IN DOMESTIC RELATIONS MATTERS

1. There shall be no discovery in a simple support, custody or Protection from Abuse proceeding unless authorized by order of court.

(a) Discovery shall be available without leave of court in accordance with R.C.P. 4001 et seq. in complex support, alimony, equitable distribution, counsel fee and expense applications.

RULE 4001. SCOPE. DEFINITIONS

1. (a) The rules of this chapter apply to any civil action or proceeding at law or in equity brought in or appealed to any court which is subject to these rules including any action pursuant to the Eminent Domain Code of 1964 or the Municipal Claims Act of 1923.

...

~~(1) These rules shall not apply to an action of divorce or for annulment of marriage, an action for support, or an action for custody of minor children except to the extent prescribed by the rules governing those actions.~~

*ALL existing explanatory notes and comments pertaining
to the rules listed below
are replaced by the following:*

Explanatory Comment - Rule 1910.9

Subdivision (a) is amended to permit discovery in accordance with R.C.P. 4001 *et seq.* in any support matter which has been designated complex. In all other support matters discovery is permitted only by leave of court. Cases should not be designated complex in order to obtain discovery, nor should a support hearing be used to conduct discovery. Instead, the court should grant leave to engage in discovery in the few simple support cases in which it is warranted.

Subdivision (b) authorizes the court to obtain earnings and health insurance information from the employer of either party to a support action, using the forms provided in Rule 1910.27.

Explanatory Comment - Rule 1920.22

Rescinded.

Explanatory Comment - Rule 1930.5

Whether a support case is complex is to be determined by motion before the court pursuant to Rules 1910.11(j)(1) and 1910.12(c)(1). It is not necessary to have a case designated complex in order to engage in discovery. If discovery is needed in a case which does not require a complex designation, the court should grant leave to engage in it.