

**SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE**

NOTICE OF PROPOSED RULEMAKING

Proposed amendment of Pa.R.C.P. Nos. 1915.10 and 1930.1

The Domestic Relations Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania amendments to Pa.R.C.P. Nos. 1915.10 and 1930.1 for the reasons set forth in the accompanying publication report. Pursuant to Pa.R.J.A. No 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

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All communications in reference to the proposal should be received by **August 30, 2019**. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Domestic Relations Procedural Rules
Committee

Walter J. McHugh, Esq.
Chair

**SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE
Rule Proposal 168**

Rule 1915.10. Decision. Order

* * *

(b) [The terms of the order shall be sufficiently specific to enforce the order. The court's decision shall include safety provisions designed to protect an endangered party or a child in any case in which the court has found that either is at risk of harm.]The court shall enter a custody order as a separate written order or in a separate section of a written opinion.

- (1) The court's order shall state sufficiently specific terms to enforce the order.
- (2) If the court has made a finding that a party or child is at risk of harm, the court's order shall include safety provisions for the endangered party's or child's protection.
- (3) The court may order that the case caption use the parties' initials rather than the parties' names based on the sensitive nature of the facts in the case record and the child's best interest.

Note: See Pa.R.C.P. No. 1930.1(a).

- (4) When drafting a written opinion or order in an action having the parties' initials in the case caption, the court shall:
 - (i) avoid using specific identifiers for people, places, or things that may indirectly reveal the child's identity; and
 - (ii) use generalized identifiers when describing a child's school, activities, affiliated organizations, or other similar terms.

* * *

Explanatory Comment — 2019

Subdivision (b)(3) allows the court discretion to initialize a custody action's case caption when the child's privacy may be compromised by the sensitive nature in the case record. When the court determines that the case caption should be initialized, additional privacy safeguards are required under subdivision (b)(4).

Subdivision (b)(4) recognizes that inadvertent disclosure of the child's identify and privacy may occur if the written custody order or opinion provides specific details of the child's life (i.e., school, extracurricular activities). Subdivision (b)(4) requires that the court refrain from using specific identifiers; and instead, the court should use general terms (i.e., high school not John F. Kennedy High School). In circumstances in which name specificity is required, such as school choice, the court should consider a separate order for that issue.

Rule 1930.1. Form of Caption. Confidential Information and Confidential Documents. Certification.

(a) **Form of Caption.**

(1) Except as set forth in subdivision (2), the caption in domestic relations matters shall include the parties’ full names. The form of the caption **[in all domestic relations matters]** shall be substantially as follows:

In the Court of Common Pleas of _____ County, Pennsylvania

[A. Litigant] <u>Party A’s full name,</u>))
))
Plaintiff))
vs.)	No.	(Docket number)
))
[B. Litigant] <u>Party B’s full name,</u>))
))
Defendant))

(Title of Pleading)

[Note: As domestic relations matters are no longer quasi-criminal, the phrase “Commonwealth ex rel.” shall not be used in the caption of any domestic relations matter.]

(2) In a custody action, the court may order that the case caption contain the parties’ initials rather than the parties’ names based on the sensitive nature of the facts in the case record and the child’s best interest.

Note: See Pa.R.C.P. No. 1915.10(b)(3).

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Explanatory Comment — 2019

Subdivision (a)(1) requires that the parties’ full names are used in domestic relations case captions unless the court in a custody action determines it necessary to protect the child’s identity by initializing the case caption based on sensitive facts in the case and the child’s best interest. Generally, a child custody case does not include sensitive information or egregious facts that

would cause embarrassment to a child and necessitate exceptional privacy measures; however, in the unusual circumstance that a custody action has egregious facts that may cause an issue for a child, the trial court would have the discretion to initialize the captions in order to maintain the child's privacy interests.

Subdivision (a)(2) provides the exception to the general rule in subdivision (a)(1) for those custody actions in which the court deems that the child could be adversely affected by the sensitive nature of the facts in the record. In custody cases in which the trial court determines the child's best interest requires an initialized caption, Pa.R.C.P. No. 1915-10(b)(4) requires that additional privacy safeguards are in the written custody order or opinion entered by the court.

The rule's requirement that case captions use the parties' full names does not alter a party's or an attorney's responsibilities under the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* and subdivision (b).

**SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE**

PUBLICATION REPORT

Rule Proposal 168

The Domestic Relations Procedural Rules Committee (Committee) is proposing amendments to Pa.R.C.P. Nos. 1915.10 and 1930.1 as those rules relate to the identification of parties and children in custody case captions and in written court opinions and orders. The Committee, the Appellate Court Procedural Rules Committee, and several Superior Court judges formed a joint subcommittee to evaluate whether the practice of initializing the parties' names in custody actions should continue.

Currently, the Pennsylvania Rules of Civil Procedure are silent on the use of parties' names or initials in case captions; however, custody cases on appeal have the case caption converted to the parties' initials by operation of the Superior Court's Internal Operating Procedures. This practice has been in place over a decade and has been an issue for many judges and attorneys. Often referenced by the nickname "alphabet soup," initialed case captions have made any discussion of custody case law precedent difficult. This alphabet soup has been a discussion topic at many continuing legal education courses and family-law bar association meetings.

In conjunction with a companion rule proposal from the Appellate Court Procedural Rules Committee, also published for public comment, the proposed amendment to Pa.R.C.P. No. 1930.1 would require the parties' full names in custody case captions, including appealed custody cases as provided in the Appellate Court Procedural Rules Committee's proposal, unless the trial court or appellate court determines it necessary to protect the child's identity by initializing the case caption based on sensitive facts in the case and the child's best interest. Generally, a child custody case does not include sensitive information or egregious facts that would cause embarrassment to a child and necessitate exceptional privacy measures; however, if in the unusual circumstance that a custody action has egregious facts that may cause an issue for a child, the trial court and appellate court would have the discretion to initialize the captions in order to maintain the child's privacy interests.

The Committee is also proposing an amendment to Pa.R.C.P. No. 1915.10. In addition to restructuring the rule text, the proposed amendment provides authority for the trial court to initialize the parties' names in a case caption based on the sensitive facts in the case and the child's best interest. Moreover, the amendment proposes that in an initialed case captions case, when writing its opinion or order, the court should avoid identification of the child's school or activities by use of specific references to the people, places, and things associated in the child's life. The rule proposal cautions the

court from using specific terms that could inadvertently contextually identify a child; instead, the rule proposal states that the court should use general terms when describing a child's school, organizations, or other similar activities to reduce the likelihood of contextual identification of the child.

Accordingly, the Committee invites all comments, objections, concerns, and suggestions regarding this proposed rulemaking.