

PROPOSED RULES

AMENDMENTS TO THE RULES OF CIVIL PROCEDURE RELATING TO DOMESTIC RELATIONS MATTERS

SUPREME COURT OF PENNSYLVANIA DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE

RECOMMENDATION 115 REPUBLICATION

The Domestic Relations Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend the Rules of Civil Procedure relating to domestic relations matters as set forth herein. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

Notes and explanatory comments which appear with proposed amendments have been inserted by the committee for the convenience of those using the rules. Reports, notes and comments will not constitute part of the rules and will not be officially adopted or promulgated by the Supreme Court.

The committee solicits and welcomes comments and suggestions from all interested persons prior to submission of this proposal to the Supreme Court of Pennsylvania. Please submit written comments no later than **Friday, February 1, 2013** directed to:

Patricia A. Miles, Esquire
Counsel, Domestic Relations Procedural Rules Committee
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 6200
P.O. Box 62635
Harrisburg, PA 17106-2635
Fax: 717 231-9531
E-mail: domesticrules@pacourts.us

Deleted material is **bold** and **[bracketed]**. New material is **bold** and underlined.

By the Domestic Relations Procedural Rules Committee

Carol S. Mills McCarthy, Esquire, Chair

SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE
RECOMMENDATION 115
REPUBLICATION

Rule 1915.4-4. Pre-Trial Procedures. A pre-trial conference in an initial custody or modification proceeding may be scheduled at the request of a party or sua sponte by the court. The pre-trial conference shall be scheduled and the procedure shall be as set forth in this rule. If a party wishes to request a pre-trial conference, the praecipe set forth in subdivision (g) below shall be filed. The scheduling of a pre-trial conference shall not stay any previously scheduled proceeding unless otherwise ordered by the court.

(a) The praecipe may be filed at any time after a custody conciliation or conference with a conference officer unless a pre-trial conference has already been scheduled or held. The pre-trial conference may be scheduled at any time, but in no event less than 60 days prior to trial.

(b) Not later than five days prior to the pre-trial conference, each party shall serve a pre-trial statement upon the court and the other party or counsel of record. The pre-trial statement shall include the following matters, together with any additional information required by special order of the court:

(1) the name and address of each expert whom the party intends to call at trial as a witness;

(2) the name and address of each witness the party intends to call at trial, the relationship of that witness to the party and a statement by the party or the party's counsel that he or she has communicated with each listed witness; and

(3) a proposed order setting forth the custody schedule requested by the party.

(c) If a party fails to file a pre-trial statement or otherwise comply with the requirements of subdivision (b), the court may make an appropriate order under Rule 4019(c)(2) and (4) governing sanctions.

(d) Unless otherwise ordered by the court, the parties may amend their pre-trial statements at any time, but not later than seven days before trial.

(e) At the pre-trial conference, the following shall be considered:

- (1) issues for resolution by the court;
- (2) unresolved discovery matters;
- (3) any agreements of the parties;
- (4) issues relating to expert witnesses;
- (5) settlement and/or mediation of the case;
- (6) such other matters as may aid in the disposition of the case.

(f) The court shall enter an order following the conference detailing the agreements made by the parties as to any of the matters considered, limiting the issues for trial to those not disposed of by agreement and setting forth the schedule for further action in the case. Such order shall control the subsequent course of the action unless modified at trial to prevent manifest injustice.

(g) The praecipe for pre-trial conference shall be substantially in the following form:

(Caption)

PRAECIPE FOR PRE-TRIAL CONFERENCE

To the Prothonotary:

Please schedule a pre-trial conference in the above-captioned custody matter pursuant to Pa.R.C.P. 1915-4.4.

The parties' initial in-person contact with the court (conference with a conference officer or judge, conciliation or mediation) occurred on

_____.

Plaintiff/Defendant/Attorney for Plaintiff/Defendant

Explanatory Comment--2013

The Domestic Relations Procedural Rules Committee has become aware that there is a wide disparity in pre-trial procedures in custody cases among the various jurisdictions. As the committee strives to recommend best practices, this new rule establishes uniform pre-trial procedures in custody cases when requested by either party. The goal is to reduce custody litigation by encouraging early preparation and court intervention for purposes of expedited resolutions. The rule is based upon the

pre-trial procedures in divorce cases as set forth in Rule 1920.33. Nothing in this rule shall affect the First Judicial District's practice of conducting a pre-trial conference upon the filing of a motion for a protracted or semi-protracted trial.