

**PHILADELPHIA BAR ASSOCIATION  
FAMILY LAW SECTION MEETINGS – 2014**

All meetings will take place in the 11<sup>th</sup> Floor Boardroom

Monday, January 6

Monday, February 3

Monday, March 3

Monday, April 7

Monday, May 5

Monday, June 2

Monday, July 7

Monday, August 4

Monday, September 8

Monday, October 6

Monday, November 3

Monday, December 1

**PHILADELPHIA BAR ASSOCIATION  
EXECUTIVE COMMITTEE MEETINGS – 2014**

All meetings will take place in the 11<sup>th</sup> Floor Committee Room South

Thursday, January 16

Thursday, February 20

Thursday, March 20

Thursday, April 17

Thursday, May 15

Thursday, June 19

Thursday, July 17

Thursday, August 21

Thursday, September 18

Thursday, October 16

Thursday, November 20

Thursday, December 18

**PHILADELPHIA BAR ASSOCIATION  
FAMILY LAW SECTION COMMITTEE CHAIRS – 2014**

<b>Committee</b>	<b>Chairs</b>	<b>Meetings</b>
Adoption	Kata Tana, Esq. (215) 656-3653 <a href="mailto:ktana@wwdlaw.com">ktana@wwdlaw.com</a>	As needed
Bylaws	David Grunfeld, Esq. (215) 790-0100 <a href="mailto:dgrunfeld@astorweiss.com">dgrunfeld@astorweiss.com</a>  Leslie Engle, Esq. (215) 545-8880 <a href="mailto:lesliengle@aol.com">lesliengle@aol.com</a>	As needed
Consumer Education	Terry L. Fromson, Esq. (215) 981-9801 <a href="mailto:tfromson@womenslawproject.org">tfromson@womenslawproject.org</a>  Linda Peyton, Esq. (215) 587-3214 <a href="mailto:lpeyton@lcdphila.org">lpeyton@lcdphila.org</a>	As needed
Dependency/Juvenile	Janice Sulman, Esq. (215) 972-6000 <a href="mailto:jansulman@hotmail.com">jansulman@hotmail.com</a>  Maureen Pie, Esq. (215) 421-4155	Quarterly at Bar Association
Divorce/ED	Lisa Shapson, Esq. (215) 790-8800 <a href="mailto:lshapson@bernerklaw.com">lshapson@bernerklaw.com</a>  Randi Rubin, Esq. (215) 400-2827 <a href="mailto:rrubin@klehr.com">rrubin@klehr.com</a>	Every other month at various locations
Bench Bar	Julia Swain, Esq. (215) 299-2794 <a href="mailto:jswain@foxrothschild.com">jswain@foxrothschild.com</a>  Mark A. Momjian, Esq. (267) 546-3715 <a href="mailto:mmomjian@momjiananderer.com">mmomjian@momjiananderer.com</a>	As needed

Custody	<p>Michael E. Bertin, Esq. (215) 665-3280 <a href="mailto:Michael.bertin@obermayer.com">Michael.bertin@obermayer.com</a></p> <p>Elaine Smith, Esq. (215) 545-2880 <a href="mailto:es@smithhorwitz.com">es@smithhorwitz.com</a></p> <p>Kristine L. Calalang, Esq. (215) 320-7512 <a href="mailto:Kristine@klc-legal.com">Kristine@klc-legal.com</a></p>	Monthly at Obermayer
Diversity	<p>Kristine L. Calalang, Esq. (215) 320-7512 <a href="mailto:Kristine@klc-legal.com">Kristine@klc-legal.com</a></p>	Monthly at Bar Association
E-Access	<p>Julia Swain, Esq. (215) 299-2794 <a href="mailto:jswain@foxrothschild.com">jswain@foxrothschild.com</a></p>	
Inter-county Liaisons	<p>Julia Swain, Esq. (215) 299-2794 <a href="mailto:jswain@foxrothschild.com">jswain@foxrothschild.com</a></p>	
Membership	<p>Meredith Brennan, Esq. (267) 546-3704 <a href="mailto:mbrennan@momjiananderer.com">mbrennan@momjiananderer.com</a></p>	
Support/Alimony	<p>Dina S. Ronsayro, Esq. (215) 790-0100 <a href="mailto:dronsayro@astorweiss.com">dronsayro@astorweiss.com</a></p> <p>Master Daniel Sulman <a href="mailto:dansulman@hotmail.com">dansulman@hotmail.com</a></p>	Every other month/as needed at Astor Weiss or Support Master's Unit
Legal Rights of Contemporary Families	<p>Richard Bost, Esq. (215) 510-3101 <a href="mailto:richard@richardbostlaw.com">richard@richardbostlaw.com</a></p> <p>Tiffany Palmer, Esq. (215) 843-6041 <a href="mailto:tpalmer@jplaw.com">tpalmer@jplaw.com</a></p>	Quarterly meetings at the Law Offices of Richard Bost
Mentoring	<p>Joni J. Berner, Esq. (215) 790-8800 <a href="mailto:jberner@bernerklaw.com">jberner@bernerklaw.com</a></p>	
Programs	<p>Scott Finger, Esq. (215) 561-1100 <a href="mailto:scott@4familylaw.com">scott@4familylaw.com</a></p> <p>Ann Funge, Esq. (215) 667-8011 <a href="mailto:ann@fungefamilylaw.com">ann@fungefamilylaw.com</a></p>	

YLD Liasison	Eileen G. Murphy, Esq. (215) 731-1300 <a href="mailto:emurphy@mfingerman.com">emurphy@mfingerman.com</a>	
Web Page Coordinator	Adam M. Horwitz, Esq. (215) 545-2880 <a href="mailto:amh@smithhorwitz.com">amh@smithhorwitz.com</a>	
Alternate Dispute Resolution	Cheryl Cutrona, Esq. (215) 843-5413 <a href="mailto:Cmed8r@aol.com">Cmed8r@aol.com</a>  Nanci Olivere Weber, Esq. (631) 742-1423 <a href="mailto:Nanci.weber@gmail.com">Nanci.weber@gmail.com</a>	First Wednesday of every month at Bar Association – 11 <sup>th</sup> floor conference center
Legislative Liaison	Leslie Engle, Esq. (215) 545-8880 <a href="mailto:lesliengle@aol.com">lesliengle@aol.com</a>	

## **RESOLUTION SUPPORTING MARRIAGE EQUALITY IN THE COMMONWEALTH OF PENNSYLVANIA**

**WHEREAS**, Section 1 of the Pennsylvania Constitution provides that all people have the right to pursue their own happiness; and

**WHEREAS**, Section 26 of the Pennsylvania Constitution provides that the neither the Commonwealth nor any political subdivision shall “deny to any person the enjoyment of any civil right, nor discriminate against any person in the exercise of any civil right”; and

**WHEREAS**, Section 28 of the Pennsylvania Constitution provides the “[e]quality of rights under the law shall not be denied or abridged in the Commonwealth of Pennsylvania because of the sex of the individual”; and

**WHEREAS**, denying same sex couples the ability to marry under civil law deprives individuals of equal protection and equal rights under the law; and

**WHEREAS**, such deprivations contravene the constitutions of the Commonwealth of Pennsylvania and the United States of America; and

**WHEREAS**, in 1996, the federal government passed the Defense of Marriage Act, 110 Stat. 2419, which provided, in relevant parts, that a marriage was defined as legitimate only if between a man and a woman (1 U.S.C. § 7), and that no state was obligated to recognize a same-sex relationship treated as a marriage in another jurisdiction (28 U.S.C. § 1738C); and

**WHEREAS**, the Pennsylvania government passed Act 124 of 1996, which amended state statutes to define a marriage as solely between a man and a woman (23 Pa.C.S. § 1102) and to provide that no marriage between members of the same sex would be recognized in Pennsylvania (23 Pa.C.S. § 1704); and

**WHEREAS**, efforts have failed in the Pennsylvania General Assembly to propose an amendment to the Pennsylvania Constitution that would define marriage to exclude same sex couples; and

**WHEREAS**, the Philadelphia Bar Association, by Resolution dated March 30, 2006, made firm its opposition to any proposed constitutional amendment that would prohibit the Commonwealth or its subdivisions from creating or recognizing any legal status identical or substantially equivalent to that of marriage; and

**WHEREAS**, the American Bar Association passed a resolution in August 2010 urging all state, territorial, and tribal governments to eliminate all of their legal barriers to civil marriage between two persons of the same sex who are otherwise eligible to marry.

**WHEREAS**, on June 26, 2013, the United States Supreme Court, in *United States v. Windsor*, 133 S. Ct. 2675, 570 U.S. 12, 186 L. Ed. 2d 808 (2013), invalidated Section 3 of the federal

Defense of Marriage Act so that federal benefits could be afforded to same sex spouses who were lawfully married; and

**WHEREAS**, the *Windsor* opinion shows how any denial of equal marriage rights causes human beings in the Commonwealth real damage, including the loss of monetary and non-monetary benefits; and

**WHEREAS**, several agencies of the Federal Government, including the Internal Revenue Service, have begun recognizing same sex marriages that were valid in the place where celebrated; and

**WHEREAS**, same sex marriage is recognized in sixteen (16) states, the District of Columbia, and fifteen (15) other countries; and

**WHEREAS**, bills have been introduced in the Pennsylvania Legislature (Senate Bill 719, Printer's No. 740 and House Bill 1686, Printer's No. 2496) that would make it the policy of the Commonwealth to issue marriage licenses to same sex couples, to accept the resulting unions as lawful marriages, and to give legal recognition to those same sex marriages entered into in other jurisdictions; and

**WHEREAS**, such bills would not compel any religious sect to perform same sex marriages;

**THEREFORE, BE IT RESOLVED**, that the Philadelphia Bar Association endorses marriage equality in the Commonwealth of Pennsylvania; and

**RESOLVED**, that the Philadelphia Bar Association hereby supports Senate Bill 719, House Bill 1686, and similar legislation that would afford same sex couples the freedom to be married within the Commonwealth; and

**RESOLVED**, that the Philadelphia Bar Association authorizes its Chancellor or the Chancellor's designee to communicate the content of this resolution to state and local public officials, other bar associations, and the public at large, and to take such other action as may be appropriate.

**PHILADELPHIA BAR ASSOCIATION**

**BOARD OF GOVERNORS**

**ADOPTED:** \_\_\_\_\_

SUPREME COURT OF PENNSYLVANIA  
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE  
RECOMMENDATION 128

**Rule 1920.17. Discontinuance. Withdrawal of Complaint.**

**The plaintiff may withdraw the divorce complaint and discontinue the divorce action by praecipe that includes a certification that:**

- (a) no ancillary claims have been asserted by either party; and**
- (b) grounds for divorce have not been established.**

\* \* \*

**Rule 1920.33. Joinder of Related Claims. Distribution of Property. Enforcement.**

(a) **[Within ninety days after service of a pleading or petition containing a claim for determination and distribution of property under Section 3502 of the Divorce Code, e]Each party shall file an inventory specifically describing all property owned or possessed at the [time the action was commenced] date of separation. The party who files a motion for the appointment of a master or a request for court action regarding equitable distribution shall file the inventory not later than the time of filing. The other party shall file the inventory within 20 days of service of the moving party's inventory.** The inventory shall set forth as of the date of **[the filing of the complaint] separation :**

(1) a specific description of all marital property in which either or both have a legal or equitable interest individually or with any other person and the name of such other person **and all marital liabilities; [and]**

(2) a specific description of all property **[in which a spouse has a legal or equitable interest which is claimed to be excluded from marital property] or liabilities that are claimed to be non-marital** and the basis for such **[exclusion] claim[.]; and**

**(3) the estimated value of each item of marital and non-marital property and the amount of each marital and non-marital liability.**

*Note:* Subdivision (c) of this rule provides sanctions for failure to file an inventory as required by this subdivision. An inventory **[filed within the ninety day period]** may be incomplete where the party filing it does not know of all of the property involved in the claim for equitable



distribution. Consequently, the rule does not contemplate that a party be precluded from presenting testimony or offering evidence as to property omitted from the inventory. The omission may be supplied by the pre-trial statement required by subdivision (b).

(b) Within the time required by order of court or written directive of the master or, if none, at least sixty days before the scheduled hearing on the claim for the determination and distribution of property, each party shall file and serve upon the other party a pre-trial statement. The pre-trial statement shall include the following matters, together with any additional information required by special order of the court:

- (1) a list of assets, which may be in chart form, specifying
  - (i) the marital assets, their value, the date of the valuation, whether any portion of the value is non-marital, and any liens or encumbrances thereon; and
  - (ii) the non-marital assets, their value, the date of the valuation, and any liens or encumbrances thereon;
- (2) the name and address of each expert whom the party intends to call at trial as a witness. A report of each expert witness listed shall be attached to the pre-trial statement. The report shall describe the witness's qualifications and experience and state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion;
- (3) the name, address and a short summary of the testimony of each person, other than the party, whom the party intends to call at trial as a witness;
- (4) a list of all of the exhibits which the party expects to offer in evidence, each containing an identifying mark. Any exhibits that do not exceed three pages shall be attached to the pre-trial statement, and any exhibits which exceed three pages shall be described;
- (5) the party's gross income from all sources, each payroll deduction, and the party's net income, including the party's most recent state and federal income tax returns and pay stubs;
- (6) if the party intends to offer any testimony as to his or her expenses, an Expense Statement in the form required by Rule 1910.27(c)(2)(B);
- (7) the value of a pension or retirement benefits, the marital portion thereof, and the facts and documentation upon which the party relies to support the valuation;
- (8) if there is a claim for counsel fees, the amount of fees to be charged, the basis for the charge, and a detailed itemization of the services rendered;

(9) where there is a dispute, the description and value of any items of tangible personal property, the method of evaluating each item, and the evidence, including documentation, to be offered in support of the valuation;

(10) a list of marital debts including the amount of each debt as of the date of separation, the date on which the debt was initially incurred, the initial amount of the debt and its purpose, the amounts and dates of payments made since the date of separation, and the evidence that will be offered in support of the claim;

(11) a proposed resolution of the economic issues.

(c) If a party fails to file either an inventory as required by subdivision (a) or a pre-trial statement as required by subdivision (b), the court may make an appropriate order under Rule 4019(c) governing sanctions.

(d) (1) A party who fails to comply with a requirement of subdivision (b) of this rule shall, except upon good cause shown, be barred from offering any testimony or introducing any evidence in support of or in opposition to claims for the matters not covered therein.

(2) A party shall, except upon good cause shown, be barred from offering any testimony or introducing any evidence that is inconsistent with or which goes beyond the fair scope of the information set forth in the pre-trial statement.

(e) An order distributing property under Section 3502 of the Divorce Code may be enforced as provided by the rules governing actions for support and divorce, and in the Divorce Code.

\* \* \*

**Rule 1920.54. Hearing by Master. Report. Related Claims.**

(a) If claims for child support, alimony pendente lite, or counsel fees and expenses have been referred to a master pursuant to Rule 1920.51(a), the master's report shall contain separate sections captioned "Child Support," "Alimony Pendente Lite," or "Counsel Fees and Expenses" as appropriate. The report may be in narrative form stating the reasons for the recommendation and shall include a proposed order stating

- (1) the amount of support or alimony pendente lite;
- (2) by and for whom it shall be paid; and
- (3) the effective date of the order.

**[The Income and Expense Statements shall be attached to the report.]**

\* \* \*

**Rule 1920.55-2. Master's Report. Notice. Exceptions. Final Decree.**

- (a) After conclusion of the hearing, the master shall:
- (1) file the record and the report within
    - (i) twenty days in uncontested actions or;
    - (ii) thirty days **[after] from the last to occur of** the receipt of the transcript by the master **or last submission to the master** in contested actions; and
  - (2) immediately serve upon counsel for each party, or, if unrepresented, upon the party, a copy of the report and recommendation and written notice of the right to file exceptions.
- (b) Within twenty days of the date of receipt or the date of mailing of the master's report and recommendation, whichever occurs first, any party may file exceptions to the report or any part thereof, to rulings on objections to evidence, to statements or findings of fact, to conclusions of law, or to any other matters occurring during the hearing. Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed waived unless, prior to entry of the final decree, leave is granted to file exceptions raising those matters.
- (c) If exceptions are filed, any other party may file exceptions within twenty days of the date of service of the original exceptions. The court shall hear argument on the exceptions and enter a final decree.
- (d) If no exceptions are filed, the court shall review the report and, if approved, shall enter a final decree.
- (e) No Motion for Post-Trial Relief may be filed to the final decree.

**Explanatory Comment—1995**

The amendments created alternative procedures for appeal from the recommendation of a master in divorce. Rule 1920.55-1 states that, if the court chooses to appoint a master, the exceptions procedure set forth in Rule 1920.55-2 will be used unless the court has, by local rule, adopted the alternative procedure of Rule 1920.55-3.

**Explanatory Comment—2006**

The time for filing exceptions has been expanded from ten to twenty days. The purpose of this amendment is to provide ample opportunity for litigants and counsel to receive notice of

the report and recommendation, to assure commonwealth-wide consistency in calculation of time for filing and to conform to applicable general civil procedural rules.

\* \* \*

**Rule 1920.72. Form of Complaint. Affidavit under § 3301(c) or § 3301(d) of the Divorce Code. Counter-affidavit. Waiver of Notice of Intention to Request Decree under § 3301(c) and § 3301(d).**

\* \* \*

(e)(1) The counter-affidavit prescribed by Rule 1920.42(c)(2) shall be substantially in the following form in a § 3301(c) divorce:

(Caption)  
COUNTER-AFFIDAVIT UNDER § 3301(c) OF THE  
DIVORCE CODE

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

I understand that I must file my economic claims with the prothonotary 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 Request Divorce Decree, the divorce decree may be entered without further notice to me, and I shall 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 prescribed by Rule 1920.42(d)(2) shall be substantially in the following form in a §3301(d) divorce:

(Caption)  
COUNTER-AFFIDAVIT  
UNDER § 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 **[both] all**):

(i) The parties to this action have not lived separate and apart for a period of at least two years.

(ii) The marriage is not irretrievably broken.

(iii) There are economic claims pending.

(2) Check **[either] (a), (b) or [(b)] (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 or expenses 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 or expenses or other important rights.

**[I understand that in addition to checking (b) above, I must also file all of my economic claims with the prothonotary 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 Request Divorce Decree, the divorce decree may be entered without further notice to me, and I shall be unable thereafter to file any economic claims.]**

**I UNDERSTAND THAT IN ADDITION TO CHECKING (b) ABOVE, I MUST ALSO FILE ALL OF MY ECONOMIC CLAIMS WITH THE PROTHONOTARY 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 REQUEST DIVORCE DECREE, THE DIVORCE DECREE MAY BE ENTERED WITHOUT FURTHER NOTICE TO ME, AND I SHALL 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 AND YOU DO NOT WISH TO MAKE ANY CLAIM FOR ECONOMIC RELIEF, YOU SHOULD NOT FILE THIS COUNTER-AFFIDAVIT.

\* \* \*

**Rule 1920.75. Form of Inventory.**

The inventory required by Rule 1920.33(a) shall be substantially in the following form:

(Caption)  
INVENTORY  
OF

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(Plaintiff) (Defendant) files the following inventory of all property owned or possessed by either party at the **[time this action was commenced]** date of separation and all property transferred within the preceding three years.

(Plaintiff) (Defendant) verifies that the statements made in this inventory are true and correct. (Plaintiff) (Defendant) understands that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

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(Plaintiff) (Defendant)

**ASSETS OF THE PARTIES**

(Plaintiff) (Defendant) marks on the list below those items applicable to the case at bar and itemizes the assets on the following pages.

- ( ) 1. Real Property
- ( ) 2. Motor vehicles
- ( ) 3. Stocks, bonds, securities and options
- ( ) 4. Certificates of deposit
- ( ) 5. Checking accounts, cash

### MARITAL PROPERTY

(Plaintiff) (Defendant) lists all marital property in which either or both spouses have a legal or equitable interest individually or with any other person as of the date **[this action was commenced] of separation:**

Item Number	Description of Property	Names of all Owners	<u>Estimated Value at Date of Separation</u>
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### NON-MARITAL PROPERTY

(Plaintiff) (Defendant) lists all property in which a spouse has a legal or equitable interest which is claimed to be excluded from marital property:

Item Number	Description of Property	Reason for Exclusion	<u>Estimated Value at Date of Separation</u>
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### PROPERTY TRANSFERRED

Item Number	Description of Property	Date of Transfer	Consider- ation	Person to Whom Transferred	<u>Estimated Value at Date of Separation</u>
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### LIABILITIES

Item Number	Description of Property	Names of all Creditors	Names of all Debtors	<u>Estimated Amount at Date of Separation</u>
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SUPREME COURT OF PENNSYLVANIA  
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE

RECOMMENDATION 129

**Rule 1910.11. Office Conference. Subsequent Proceedings. Order.**

\* \* \*

(e) At the conclusion of the conference or **[promptly thereafter] not later than 10 days after the conference**, the conference officer shall prepare a conference summary and furnish copies to the court and to both parties. The conference summary shall state:

- (1) the facts upon which the parties agree;
- (2) the contentions of the parties with respect to facts upon which they disagree; and
- (3) the conference officer's recommendation; if any, of
  - (i) the amount of support and by and for whom the support shall be paid; and
  - (ii) the effective date of any order.

\* \* \*

**Rule 1910.12. Office Conference. Hearing. Record. Exceptions. Order.**

\* \* \*

(d) The hearing officer shall receive evidence, hear argument and, **not later than 20 days after the close of the record**, file with the court a report containing a recommendation with respect to the entry of an order of support. The report may be in narrative form stating the reasons for the recommendation and shall include a proposed order substantially in the form set forth in Rule 1910.27(e) stating:

- (1) the amount of support calculated in accordance with the guidelines;
- (2) by and for whom it shall be paid; and
- (3) the effective date of the order.

A copy of the report shall be furnished to all parties at the conclusion of the hearing.



\* \* \*

**Rule 1910.16-4. Support Guidelines. Calculation of Support Obligation. Formula.**

\* \* \*

(d) *Divided or Split Physical Custody. When Each Party Has Primary Custody of One or More of the Children. Varied Custodial Schedules.*

(1) *Divided or Split Physical Custody. When Each Party Has Primary Custody of One or More of the Children.* When calculating a child support obligation, and one or more of the children reside primarily with each party, the court shall offset the parties' respective child support obligations and award the net difference to the obligee as child support. For example, if the parties have three children, one of whom resides with Father and two of whom reside with Mother, and their net monthly incomes are \$2,500 and \$1,250 respectively, Father's child support obligation is calculated as follows. Using the schedule in Rule 1910.16-3 for two children at the parties' combined net monthly income of \$3,750, the amount of basic child support to be apportioned between the parties is \$1,200. As Father's income is 67% of the parties' combined net monthly income, Father's support obligation for the two children living with Mother is \$804. Using the schedule in Rule 1910.16-3 for one child, Mother's support obligation for the child living with Father is \$276. Subtracting \$276 from \$804 produces a net basic support amount of \$528 payable to Mother as child support.

**[(A)]** When calculating a combined child support and spousal or alimony pendente lite obligation, and one or more children reside with each party, the court shall **[, except as set forth in subdivision (B) below,]** offset the obligor's spousal and child support obligation with the obligee's child support obligation and award the net difference to the obligee as spousal and child support. **[(B)]** When one or more of the children resides with each party **[and the obligee's net income is 10% or less of the parties' combined net monthly income,]** then, in calculating the spousal support or alimony pendente lite obligation, the court shall deduct from the obligor's income both the support owed for the child or children residing with the obligee, as well as the direct support the obligor provides to the child or children living with the obligor, calculated in accordance with the guidelines as if the child or children were not living with the obligor.

(2) *Varied Custodial Schedules.* When the parties have more than one child and each child spends different amounts of partial or shared custodial time with the obligor, the trier of fact shall add the percentage of time each child spends with the obligor and divide by the number of children to determine the obligor's percentage of custodial time. If the average percentage of time the children spend with the obligor is 40% or more, the provisions of subdivision (c) above apply.

*Example 1.* The parties have two children and one child spends 50% of the time with the obligor and another spends 20% of the time with the obligor. Add those percentages together and divide by the number of children (50% plus 20% = 70% divided by 2

children = 35% average of the time with the obligor). Pursuant to subdivision (c), the obligor does not receive a reduction in the support order for substantial parenting time.

*Example 2.* The parties have three children. Two children spend 50% of the time with the obligor and third child spends 30% of the time with the obligor. Add the percentages of custodial time for all three children together and divide by the number of children (50% plus 50% plus 30% = 130% divided by three children = 43.33% average percentage of time with the obligor). Pursuant to subdivision (c), the obligor receives a reduction in the support order for substantial parenting time.

*Note:* In cases with more than one child and varied partial or shared custodial schedules, it is not appropriate to perform a separate calculation for each child and offset support amounts as that method does not consider the incremental increases in support for more than one child built into the schedule of basic child support.

\* \* \*

SUPREME COURT OF PENNSYLVANIA  
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE  
RECOMMENDATION 130

**Rule 1915.5. Question of Jurisdiction, [or] Venue or Standing. No Responsive Pleading by Defendant Required. Counterclaim. Discovery.**

(a) A party must raise any question of jurisdiction of the person or venue, **and may raise any question of standing**, by preliminary objection filed within twenty days of service of the pleading to which objection is made or at the time of hearing, whichever first occurs. No other pleading shall be required, but if one is filed it shall not delay the hearing.

*Note:* The court may raise at any time a question of (1) jurisdiction over the subject matter of the action (2) the exercise of its jurisdiction pursuant to § 5426 of the Uniform Child Custody Jurisdiction and Enforcement Act, relating to simultaneous proceedings in other courts, § 5427, relating to inconvenient forum, and § 5428, relating to jurisdiction declined by reason of conduct. The Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S.[A]. § 5407, provides that, upon request of a party, an action in which a question of the existence or exercise of jurisdiction is raised shall be given calendar priority and handled expeditiously. **The court also may raise at any time a question of standing. See, e.g., Grom v. Burgoon, 448 Pa.Super. 616, 672 A.2d 823 (1996).**

(b) A party may file a counterclaim asserting the right of physical or legal custody within twenty days of service of the complaint upon that party or at the time of hearing, whichever first occurs. The claim shall be in the same form as a complaint as required by Rule 1915.3.

(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.

**Explanatory Comment—1994**

Under subdivision (a), the defendant may but is not required to plead to the complaint. All averments may be disputed by the defendant at the custody hearing. An attorney who wished to file another pleading may do so. However, the action is not to be delayed to permit its filing.