

CHAPTER 19. MISCELLANEOUS ADMINISTRATIVE PROVISIONS**MISCELLANEOUS ADMINISTRATIVE PROVISIONS**

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MISCELLANEOUS ADMINISTRATIVE PROVISIONS**Rule 1901. Prompt disposition of matters; termination of inactive cases.**

(a) *General policy.*—It is the policy of the unified judicial system to bring each pending matter to a final conclusion as promptly as possible consistently with the character of the matter and the resources of the system. Where a matter has been inactive for an unreasonable period of time, the tribunal, on its own motion, shall enter an appropriate order terminating the matter.

(b) *Primary responsibility for implementation of policy.*—

(1) Except as provided by paragraph (3), each court of common pleas is primarily responsible for the implementation of the policy expressed in subdivision (a) of this rule and is directed to make local rules of court for such purposes applicable to the court and to the community court or district justices of the peace of the judicial district.

(2) The Philadelphia Municipal Court and the Traffic Court of Philadelphia are each directed to make rules of court for such purposes applicable to their respective courts.

(3) The policy set forth in subdivision (a) of this rule shall be implemented in actions governed by the Pennsylvania Rules of Civil Procedure pursuant to Rule of Civil Procedure 230.2.

(c) *Minimum Standards.*—Before any order terminating a matter on the ground of unreasonable inactivity is entered, the parties shall be given at least 30 days' written notice of opportunity for hearing on such proposed termination, which notice shall be given:

(1) In person or by mail to the last address of record of the parties or their counsel of record and setting forth a brief identification of the matter to be terminated; or

(2) By publication in the manner provided by rule of court in the legal newspaper designated by rule of court for the publication of legal notices in any case where notice by mail cannot be given or has been returned undelivered or where the docket of the matter shows no evidence of activity during the previous two years. Any matter terminated after notice by publication pursuant

to this paragraph may be reinstated by the court after dismissal upon written application for good cause shown.

(d) *Effect of disposition of records.* Notwithstanding any inconsistent provision of this rule or of any local rule of court made pursuant to this rule, a court shall not entertain any application for the reinstatement of a matter terminated pursuant to this rule if such application for reinstatement is filed after the documents relating to the matter have been disposed of pursuant to the applicable record retention schedule established by or pursuant to law.

Note:

The general policy set forth in Subdivision (a) is based on an administrative consideration, not substantive or procedural standards applicable to speedy trials in either civil or criminal cases. This rule is intended to supplement, not to modify or abrogate, procedural rules or substantive decisions involving the rights of defendants in criminal cases to a speedy disposition of charges. It is intended to foster elimination of stale cases from the judicial system where the parties have failed to proceed and which are carried as open matters because of the failure on the part of any party to seek dismissal or otherwise to bring the matter to a conclusion.

Where a party objects to the termination of an inactive matter, it is intended that the court exercise its judicial discretion. For example, the dormant matter may be a protective action related to a case pending in another jurisdiction between the parties on the same cause of action, or an action involving a controversy arising from a clash of personalities which will probably be terminated upon the death of one of the parties under circumstances where the public interest will not be served by forcing the parties to a judicial resolution of their dispute, etc.

The rule has no effect on the substantive law and thus a termination effected pursuant to the rule will not necessarily foreclose further proceedings in the matter, e.g., in custody, support and other proceedings of an equitable nature where the parties have the substantive right to apply for the modification of a final order or decree on the basis of changed circumstances.

The following is a suggested form of local rule:

Rule

(a) The prothonotary shall list for general call at the first civil argument court held after September 1 of each year all civil matters in which no steps or proceedings have been taken for two years or more prior thereto and shall give notice thereof to counsel of record, and to the parties for whom no appearance has been entered, as provided by Pa. R.J.A. No. 1901(c). If no action is taken or no written objection is docketed in such a matter prior to the commencement of the general call, the prothonotary shall strike the matter from the list and enter an order as of course dismissing the matter with prejudice for failure to prosecute, under the provisions of this rule. If no good cause for continuing a matter is shown at the general call, an order shall be entered forthwith by the court for dismissal.

(b) The clerk of courts shall list at the first criminal argument court held after September 1 of each year all criminal proceedings in which no steps or proceedings have been taken for two years or more prior thereto and shall give notice thereof to the district attorney, any private prosecutor and the defendant, as provided by Pa. R.J.A. No. 1901(c). If no good cause for continuing a proceeding is shown at the general call, an order for dismissal shall be entered forthwith by the court.

Under Rule 1901(c)(2), in those cases where it is unduly burdensome to research the captions, parties and mailing addresses of cases which have been inactive for two years or more, the moribund matters may be terminated by the adoption and publication of a general refiling requirement, without service of individual notice. Under such a local rule matters in which no paper has been filed within the previous two years would be deemed terminated without any further entry in the docket, and all

such matters could be excluded from any computerized or other modern docket control system installed in the judicial district, subject to the right of the parties to reactivate the matter for good cause shown.

The County Records Committee, established by the act of August 14, 1963 (P.L. 839, No. 407) (16 P.S. § 13001 et seq.), promulgates record retention and disposition schedules applicable to, inter alia, the prothonotary, clerk of the courts, and clerk of the orphans' court division. Where a matter has been terminated without prejudice under the rule, i.e. subject to the right of the parties to reactivate the matter for good cause shown, and the records relating to the matter have been destroyed without microfilming under the applicable record retention and disposition schedule, this subdivision will eliminate the possibility that a party might attempt to reactivate the matter on the basis of copies of the pleadings and other documents retained by counsel (including the district attorney or public defender) or other noncourt records.

Source

The provisions of this Rule 1901 adopted May 10, 1973, 3 Pa.B. 921, amended through December 28, 1973, 3 Pa.B. 2949, amended and effective January 18, 1974; amended March 20, 2003, effective July 1, 2003, 33 Pa.B. 1711. Immediately preceding text appears at serial pages (276479) to (276481).

Rule 1902. Record of asbestos litigation. Prothonotary.

The prothonotary shall maintain a record of all asbestos actions filed by a separate docket, docketing code or other appropriate means to allow the administrative monitoring of such actions.

Source

The provisions of this Rule 1902 adopted April 24, 1990, effective July 1, 1990, 20 Pa.B. 2275.

Rule 1903. Interpreters for the Deaf.

(a) In any civil action or proceeding at law or in equity brought in or appealed to any court which is subject to these rules in which a participant is deaf, the court upon request shall appoint an interpreter to assist the participant. The cost of interpreter services shall not be imposed on any participant or assessed as an element of court costs.

Official Note: For the definition of the terms "deaf" and "interpreter", see Section 7103(c) of the Judicial Code, 42 Pa.C.S. § 7103(c).

(b) As used in this rule, the term "participant" includes a party, juror or witness.

Source

The provisions of this Rule 1903 adopted December 14, 1993, effective January 1, 1994, 24 Pa.B. 8.

Rule 1904. Medical Professional Liability Actions.

(a) The prothonotary of each judicial district shall maintain a docket of all medical professional liability actions by separate docketing code or other appro-

appropriate means. When the docket is established by docketing code, the code shall be “Civil Action—Medical Professional Liability Action.”

(b) The prothonotary shall record on the medical professional liability action docket:

- (1) the separate findings of the trier of fact, including, where applicable:
 - (i) past damages in lump sums for “medical and other related expenses,” “loss of earnings,” and “noneconomic loss,”
 - (ii) future damages in lump sums for “loss of earnings or earning capacity” and “noneconomic loss,” and
 - (iii) future damages by year for “medical and other related expenses,” and

Official Note: See Section 509(a) of the Mcare Act, 40 P. S. § 1303.509(a) and Pa.R.C.P. No. 1042.71.

(2) all orders of the court affecting the amount of damages determined by the trier of fact. The orders shall be set forth on the docket verbatim or with specificity sufficient to determine the effect of the orders upon the damages awarded to each plaintiff.

(c) Where a jury has made the separate findings that are recorded pursuant to subdivision (b), the jury’s verdict sheet and interrogatories shall be made part of the official record and shall be maintained in the custody of the prothonotary.

(d) On or before January 20 of each calendar year, the President Judge of each judicial district shall forward to the Court Administrator of Pennsylvania a report of medical professional liability cases. The report shall be prepared in a format prescribed by the Administrative Office of Pennsylvania Courts. Among items to be included are:

- (1) a list of all medical professional liability actions filed in the preceding calendar year showing the present caption of
 - (i) those actions initially filed in the judicial district, and
 - (ii) those actions transferred into the judicial district. The list of actions transferred shall also show the former caption and the county of origin, and
- (2) the separate findings required by subdivision (b) to be set forth on the docket for each action in which a verdict or decision has been entered.

Source

The provisions of this Rule 1904 adopted November 22, 2004, effective immediately, 34 Pa.B. 6504.

Rule 1905. Investment Advisory Board.

(a) *General.* There is hereby established the Investment Advisory Board (“Board”), which shall consist of eight members. The Supreme Court shall appoint four (4) members. The Disciplinary Board of the Supreme Court, the Pennsylvania Lawyers Fund for Client Security Board, the Pennsylvania Continu-

ing Legal Education Board and the Pennsylvania Board of Law Examiners (“the program boards”) shall each appoint one (1) member to serve on the Board. The Court Administrator shall serve as an ex officio member to the Board. All members of the Board shall serve at the pleasure of the Supreme Court. The Board shall annually designate its chair.

(b) *Qualifications.* All appointees to the Board shall possess knowledge and expertise in investments and knowledge of public sector investment funds. If no current program board member is professionally qualified or able to serve on the Board, the program board will appoint a prior Board member or a non-program board member with the requisite expertise.

(c) *Responsibilities.* The Board shall provide recommendations to the Supreme Court with regard to the development and implementation of an investment policy for the program boards that will maximize investment yields while minimizing risk. In addition, the Board shall provide oversight and monitoring of the activity of the investment portfolios. On a fiscal year basis, the Board shall provide the Supreme Court with a review of its activities and appropriate recommendations for further action. The Board’s fiscal year shall begin on July 1 and end on June 30.

(d) *Procedure.* All actions of the Board shall be determined by majority vote. The Court Administrator of Pennsylvania will have no voting power except in the case of a tie.

(e) *Administrative.* The Administrative Office of Pennsylvania Courts shall provide necessary administrative assistance to the Board and shall pay the cost thereof as well as the necessary travel and other expenses of the members of the Board, all staff and any representative of the Supreme Court. The AOPC shall be reimbursed by the program boards for their pro rata share of necessary travel and other expenses.

(f) *Immunity.* Members of the Board, its staff and any other representative of the Supreme Court to the Board shall be immune from civil suit for any conduct in the course of their official duties. Legal costs incurred by Board members in defense of such matters will be borne by the Board but passed through to the program boards in accordance with Rule 1905 (e). Such costs must be approved by the Board prior to being obligated for payment or reimbursement.

Comment

In 2001, the Supreme Court asked the Administrative Office of Pennsylvania Courts to review the investment activities of the Court’s three affiliated boards (the Disciplinary Board, Pennsylvania Lawyers Fund for Client Security and the Pennsylvania Continuing Legal Education Board) and to make recommendations for the improved investment stability, performance, operation and cost efficiencies of the boards’ investments. Following collection of information and consultation with investment advisors, the AOPC recommended the formation of an Investment Advisory Board to assist the Supreme Court in its oversight and consolidation of investment portfolios that would enhance returns and reduce investment fees. In 2007 the Pennsylvania Board of Law Examiners became a program board member.

Source

The provisions of this Rule 1905 adopted September 20, 2005, effective immediately, 35 Pa.B. 5518; amended February 7, 2007, effective immediately, 37 Pa.B. 929. Immediately preceding text appears at (314364) to (314365).

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