

ACTIONS FOR SUPPORT

Rule 1910.1.A. Definitions

As used in this chapter, unless the context of a rule indicates otherwise, the following term shall have the following meaning:

"private pay order" - An order for support payable directly to the obligee and not made payable through the Pennsylvania State Collection and Disbursement Unit (PA SCDU).

Rule 1910.4.A. Domestic Relations Section. Commencement of Action. No Filing Fees. Authorized Fees. Entry of Appearance.

(a) Any attorney who appears on behalf of a client at any stage of the proceedings shall be deemed to have entered his or her appearance.

(i) The attorney shall be required to continue such representation until a final order is entered or:

- (1) Counsel has been granted leave to withdraw;
- (2) A party has entered an appearance *pro se*;
- (3) A substitution of counsel has been filed.

Comment: See Pa.R.C.P. 1930.8 for the form for entry of appearance by a self-represented individual.

(b) This rule shall not preclude any attorney from filing, at any stage of the proceedings, a Petition to Withdraw as Counsel pursuant to Pa. R.C.P. 1012.

Rule 1910.5.A. Complaint

All complaints shall be accompanied by a completed Domestic Relations Office Standard Intake Form.

Comment: This form is available on the Domestic Relations Office's website @ www.chesco.org/215/domestic-relations.

Rule 1910.7.A. Question of Jurisdiction or Venue

All Preliminary Objections to jurisdiction or venue; in support, shall be accompanied by a Rule to Show Cause stating separate Rule Returnable and Hearing dates.

Rule 1910.10.A. Alternative Hearing Procedures

(a) This court chooses to use the procedures set forth in Pa.R.C.P 1910.12.

Comment: All matters involving complex issues of law or fact or any case requiring more than two hours for hearing shall be placed on the long-day list. Cases inappropriately placed on either the Hearing Officer's regular support list or the Court's long-day list will be rescheduled, in the normal course of business, on the proper list. Any request for continuance or settlements of matters properly scheduled on the long-day list shall be in writing and submitted no less than 72 hours prior to the scheduled date. Failure to do so within the appropriate time frame will necessitate an appearance of all parties at the hearing.

1910.11.A. Office Conference. Subsequent Proceedings. Order.

(a) If entitlement is challenged at the Office Conference, a Temporary Order of Support shall issue if the parties are subject to a pending Chester County Divorce proceeding in which a claim for Equitable Distribution has been raised.

Comment: The requirement that a Chester County Divorce proceeding be pending is to permit an adjustment from equitable distribution proceeds should it be determined the bar to entitlement claim is meritorious.

Rule 1910.12.A. Office Conference Hearing. Record. Exceptions. Order. Interpreter

(a) Whenever possible, all matters dealing with the same parties shall be scheduled for office conference/hearing at the same time.

(b) Continuances of office conferences and matters before Hearing Officers may be granted by agreement of all counsel or counsel and unrepresented parties. All other continuances shall be governed by Pa.R.C.P. 216 and C.C.R.C.P 216.1.

(c)(1) Should a petitioner fail to appear at the office conference or hearing, as scheduled, the petition may be dismissed.

- (2) Should a respondent fail to appear at the office conference or hearing, as scheduled, an order may be entered in his/her absence or a bench warrant for his/her appearance may issue.**
- (d) Recommendations on the matters set forth in Pa.R.C.P. 1910. 11(d) and 1910.19 shall be made initially by the conference officer.**
- (e) At the domestic relations office conference, the plaintiff may request the entry of a temporary order in all cases in which there has been filed:**
- (1) A complaint for the support of minor children;**
 - (2) A complaint for the support of spouse and entitlement is not challenged;**
 - (3) A petition for alimony pendente lite; or**
 - (4) A complaint for the support of spouse and minor children and entitlement is not challenged as to spouse. If entitlement is challenged, a temporary order may be requested for the minor children and a spouse who is a party to a Chester County divorce proceeding pursuant to C.C.R.C.P. 1910.11.A.**
- (f) When a temporary order is requested at a domestic relations office conference, as above, the domestic relations office shall submit a recommendation to the court as to the amount of the requested order. The recommendation shall be based on the Pennsylvania Support Guidelines in accordance with Pa.R.C.P. 1910.16-2.**
- (g) If the dependent spouse is not employed, no earning capacity will be assigned to him/her for the purpose of entering the temporary order. The parties shall be informed by the domestic relations conference officer that earning capacity will be taken into consideration at the hearing before the Hearing Officer.**
- (h) When a complaint or petition is scheduled for hearing before a Domestic Relations Hearing Officer and the parties reach an agreement that resolves the outstanding issues prior to the scheduled hearing, the parties shall immediately notify the Domestic Relations Office in writing and within thirty (30) days after the date set for hearing:**
- (1) (i) File a stipulation and order outlining the terms of their agreement. The Court may, sua sponte, direct the parties to file a stipulation and order within a reasonable time or direct the Domestic Relations Office to schedule a new hearing date.**
 - (2) If the parties fail to comply with the terms set forth in part (1) of this rule, the Court may, sua sponte, dismiss the outstanding complaint or petition without prejudice.**

(i) Separate Listings

(1) The request for a long day listing shall be in the following form:

**Plaintiff : IN THE COURT OF COMMON PLEAS
: CHESTER COUNTY, PENNSYLVANIA
vs : NO.
: CIVIL ACTION - LAW
Defendant : IN SUPPORT**

MOTION FOR A SEPARATE LISTING

**AND NOW, this ____ day of _____, 20 _____,
Plaintiff/Defendant moves the Court for a separate listing and in support thereof avers the following:**

(1) The hearing will be protracted in nature and requires more than two (2) hours for hearing; or

(2) There are complex questions of law, fact, or both.

(3) Issues for resolution: (state if case entails a determination of income or if incomes exceed the guidelines, whether or not it is a self-employment case, whether or not valuations are at issue)

(4) Estimated duration of hearing:

(5) Number of witnesses: (state whether or not witnesses are experts).

Respectfully submitted,

Counsel for

cc: _____, Esquire - Attorney for _____

N.B. Failure to complete this form in its entirety will result in its rejection by the Family Court Administrator and the case will not be placed on the Long Day Hearing List.

(2) (i) Requests for separate listings shall be filed no later than five (5) business days prior to the scheduled hearing before the Support Hearing Officer.

(ii) Objections to requests for separate listings shall be filed within ten (10) business days of the filing of the request for separate listing.

(3) In all matters where a motion for a separate listing has been filed:

(i) *Preliminary Conference:*

(1) The Hearing Officer shall hold a preliminary conference within thirty (30) days after being appointed to determine the scope of the issues raised.

(2) At the time of the Preliminary Conference, the parties shall submit a brief statement of the facts and matters complained of.

(ii) *Discovery*

(1) Counsel may prepare and submit to the assigned Hearing Officer and opposing counsel a list of requested discovery at the preliminary conference.

(2) A Hearing Officer may recommend to the court the entry of orders for discovery. Including but not limited to, the filing of an income and expense statement. Said discovery orders may include discovery deadlines upon the request of either party or at the direction of the Hearing Officer.

(3) In any support matter in which a Hearing Officer has been appointed, all discovery motions, which do not involve a non-party, filed pursuant to Pa.R.C.P. 1930.5 and Pa.R.C.P. 4001 et seq. shall be heard by the Hearing Officer.

(4) An argument regarding discovery, if requested by either party, shall be scheduled before the Hearing Officer. At the conclusion of the argument or within a reasonable time, the Hearing Officer may make a recommendation and advise the parties they have ten (10) days in which to request an

argument before the Court. At the conclusion of the ten (10) days, if no objections have been filed, the recommendation shall become an order of the Court. In the event objections are filed, the matter shall be listed, in the normal course of business for argument before the Court. Argument shall be limited to the issues raised by the pleadings.

- (5) All Objections to the discovery order shall be in writing and filed within ten (10) business days of the recommendation. A copy shall be served upon the Family Court Administrator who shall schedule the case for argument before the Court and promptly notify all counsel and unrepresented parties in the case.

(iii) *Settlement Conference*

(1) The Hearing Officer shall conduct a settlement conference at which both parties shall submit a statement, which:

- (a) Gives biographical information of each party, including but not limited to, age, education, occupation, income, health and children;
- (b) Identifies any and all legal or factual disputes or issue.

(iv) *Hearing:*

(1) Each party shall submit to the Court and opposing counsel at least 5 days before the scheduled hearing date a Pre-Trial Statement not exceeding 3 pages setting forth:

- (i) a brief statement of the claim(s) being made by the moving party or the defense(s) being made by the responding party;
- (ii) a concise statement of the facts;
- (iii) a concise statement of the factual or legal issues involved including citations to the applicable statutes or case law, if any;
- (iv) a list showing the names and addresses of all witnesses each party intends to call at trial;
- (v) copies of all exhibits to be offered at trial intended to be admitted during your case in chief.

Any and all reports of any experts intended to be called and a form of proposed Order setting forth the requested disposition and supporting calculations shall be attached to the Pre-Trial statement.

(j) Exceptions

(1) Dismissal-Exceptions shall be dismissed in any case in which the notes or tape recording of testimony have not been ordered, and paid for if required, within five (5) days of the filing of exceptions.

(2) Briefs:

(i) No less than thirty (30) days before the date set for oral argument, the excepting party or parties shall file a brief with the Domestic Relations Office, shall serve copies of the Brief upon all counsel, unrepresented parties and the Judge assigned to hear the exceptions, and shall file a Certification that service has been made.

(ii) No less than fourteen (14) days before the date set for oral argument, the responding party shall file a Brief and Certification of Service in the manner prescribed above.

(iii) In the event both parties file exceptions, each party shall be treated as an excepting party for the purposes of the briefing schedule as set forth above.

(iv) *Argument* – If either party fails to file a brief within the time prescribed by these rules, or within the time as extended, the non-filing party will not be heard at oral argument except by permission of the court.

(3) A time-stamped copy of any exceptions filed shall be served upon the assigned Hearing Officer.

(4) Oral Argument

Argument before the court shall be made only on the basis of the record made before the Hearing Officer. The parties may, by agreement, supplement the record by depositions or stipulations prior to argument, but no live testimony will be heard by the court, unless the court shall permit same for cause shown.

(k)(1)(a) Requests for interpreters in accordance with C.C.R.C.P. 233.3 shall be made no less than twenty-four (24) hours in advance of the proceeding when an interpreter will be needed.

(b) Requests for interpreters shall be made by going to <http://www.chesco.org/formcenter/courts-39/interpreter-request-form-166>, completing the template and submitting the request.

(2) Requests for cancellation of an interpreter services shall be e-mailed to intrpcalcta@chesco.org. If the cancellation is less than 48 hours before the scheduled hearing, the party shall call the court in addition to e-mail.

Comment. Any motion to dismiss may be made at any time prior to commencement of oral argument and is not subject to the requirements of C.C.R.C.R 206.1.

**Rule 1910.13-1.A. Failure or Refusal to Appear Pursuant to Order of Court.
Failure to Produce**

(a) If a party is properly served with a subpoena duces tecum for production of records and documents or a notice to attend and produce before a Hearing Officer and does not have good reason for failure to produce, such failure may be deemed disobedience of a court order, and may, in addition, permit the drawing of adverse inferences by the Hearing Officer and the court.

(b) If either party has failed to comply with the initial Order of Court requiring the production of certain documents and information at the Domestic Relations Office Conference, a per curiam order shall issue requiring that party to produce a copy of said documents and information to both the Domestic Relations Office and to counsel for the other party (or to an unrepresented party) within ten (10) days of the conclusion of the Domestic Relations Office Conference. Failure to comply with said per curiam order may result in the imposition of sanctions recommended by the Hearing Officer or court and will, in addition, permit the drawing of adverse inferences by the Hearing Officer and the court.

Rule 1910.17.A. Support Order. Private Pay Orders. Arrears. Property Settlement Agreements. Registration. Effective Date.

(a) All orders for Support and *alimony pendente lite* shall be paid through the Domestic Relations Office. No orders providing for direct payment of moneys shall be accepted for filing at the Domestic Relations Office, except as follows:

(1) In those cases where a Chester County Divorce action is pending, private pay support orders may be filed with the Office of the Prothonotary under the Divorce Docket number.

(b) In no instance will a miscellaneous docket number be issued either by the Domestic Relations Office or the Office of the Prothonotary.

Comment: In lieu of utilizing private pay orders the parties may request no wage attachment issue on matters payable through PA SCDU.

(c) Requests for modification shall be brought under the Divorce Docket number and heard before the Court. The Court may in its discretion order the matter be registered at the Domestic Relations Office for the purposes of the instant modification hearing and subsequent payment.

(d) Every order filed under a Domestic Relations Office docket number and PACSES identification number shall include a provision for payment toward outstanding arrears. Domestic Relations shall not accept for filing any order that fails to include such a provision.

Comment: This provision applies to all support orders filed with the Domestic Relations Office. If there are no arrears due on a case, the arrears provision in the order will not be enforced via wage attachment or any other enforcement remedy. If arrears become due at a later date, the Domestic Relations Office will enforce the arrears provision via wage attachment and any other applicable enforcement remedy.

(e) The Domestic Relations Office shall enforce the support terms and provisions of any property settlement agreement effective the date such agreement is registered with that office.

(1) Any party seeking registration of an incorporated Property Settlement Agreement for enforcement purposes shall:

(i) provide to the Domestic Relations Office a certified copy of the divorce decree including a complete, executed copy of the property settlement agreement; and

(ii) completed copies of the Domestic Relations Office information sheets.

(iii) The registering party shall within five (5) days serve the responding party with notice of registration and file a certificate of service, thereto.

Comment: For the time period prior to registration with the Domestic Relations Office, the parties may seek to enforce the provisions of a property settlement agreement by filing the appropriate petition with the Family Court.

Rule 1910.19.A. Support Modification. Termination.

(a) *Modification of Property Settlement Agreement.* Any party seeking modification of any child support provision included in a property settlement agreement of such agreement may petition to court for modification. Such petition must be filed with the Prothonotary's Office under the divorce caption and will be heard by a family court judge. In the event that a judge determines that the child support provision of the agreement is modifiable, the matter may be remanded to a Hearing Officer for consideration of the merits of the alleged grounds for modification.

(b) The effective date of any modification shall be retroactive to the date of the filing of the modification petition unless otherwise directed by the Court.

(c) *Termination.* Absent agreement of the parties, no sooner than thirty (30) days following the entry of a Final Decree in Divorce, either party may present to the Domestic Relations Office a time-stamped copy of the decree with the request for termination of any spousal and/or *alimony pendente lite* order.

(d) Notice shall be provided to the opposing party consistent with C.C.R.C.P. 1917.A.(e)(iii) above.

Rule 1910.20.A. Credit Bureau Notice.

Notice shall be in the following form in all instances wherein any consumer credit bureau has requested information regarding arrearages:

	: IN THE COURT OF COMMON PLEAS
Plaintiff	: CHESTER COUNTY, PENNSYLVANIA
vs	: NO.
	: CIVIL ACTION - LAW
Defendant	: IN SUPPORT

Pursuant to §4303 of Act 1985-66, a Consumer Credit Bureau Organization has requested the amount of arrearages owed by you under your existing support order. Domestic Relations must provide this information to the Consumer Credit Bureau Organization on any arrearage in excess of \$1,000.00

Our records show an arrearage of \$ _____ on the above order.

You may contest the accuracy of this information by contacting the Domestic Relations Office at 201 West Market Street – Suite 3400, West Chester, PA, 19381-0991 (610) 344-6215 no later than _____. If you fail to contact Domestic Relations by said date, the figure stated above will be reported to the Consumer Credit Bureau Organization.

Rule 1910.25-5.A. Civil Contempt. Order. Incarceration.

Any individual incarcerated pursuant to a bench warrant issued for failure to comply with an order of support shall be brought before the Court consistent with the procedures outlined in the Court of Common Pleas of Chester County, Pennsylvania Administrative Regulation No. 3 - 2004 and/or its successors.