

# LUZERNE COUNTY FAMILY COURT RULES

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## **PRACTICE AND PROCEDURAL GENERALLY**

### **Rule 205.2 (b). Filing of Legal Papers with the Clerk of Judicial Records**

All pleadings and other documents submitted for filing with the Clerk of Judicial Records shall contain the following:

- (1) The correct caption of the case, including the names of the parties, the docket number and the division of the court;
- (2) A title indicating the nature of the documents;
- (3) The name, address, telephone number, fax number, e-mail address and Supreme Court identification number of the attorney filing the document;
- (4) If the party filing the document is not an attorney, the name, address, telephone number and e-mail address of such party.

### **Rule 206.4 (d). Procedure for Issuance of Rule to Show Cause**

(1) A Petition for Special Relief and/or Contempt in a divorce action is to be presented with a Rule to Show Cause for a hearing either in Motion Court or via e-mail. Once a Rule to Show Cause has been issued and a return date has been assigned, the moving party shall file the executed Rule to Show Cause indicating the assigned return date, the underlying motion/petition, a comprehensive brief in support, a proposed order, and a certificate of service with the Clerk of Judicial Records. The moving party shall within three (3) days of filing the aforementioned, serve a time- stamped copy of the same upon all opposing parties and deliver a copy to the chambers of the assigned judge to the case.

(2) Within fifteen (15) days of service of the Rule to Show Cause, the underlying motion/petition, a comprehensive brief in support and a proposed order, the opposing party must file an answer, comprehensive brief and a certificate of service with the Clerk of Judicial Records. The opposing party shall within three (3) days of the filing of the answer, serve the same upon all parties and deliver a copy to the chamber of the assigned judge to the case.

(3) Where the moving party is seeking immediate relief in addition to the issuance of the rule to show cause and/or where the relief requested has the effect of a stay of proceedings pending the resolution of the matter subject to the rule to show cause, a party seeking the same shall present the rule to show cause along with the underlying motion/petition, a comprehensive brief in support, and a proposed order to Motions Court for consideration. When appropriate in the context of the proceedings, notice shall be given to the other party.

(4) If the moving party fails to file a comprehensive brief in support, as required by this Rule, the opposing party may present a motion to dismiss to Motions Court

for dismissal of the matter.

(5) Service shall be made immediately after filing by hand delivering, mailing, or emailing to all parties.

(6) Proof of service shall be filed and shall be by written acknowledgement of service by affidavit of the person making service, or by certification of counsel.

**Rule 208.3 (c). Motion to Compel Answers to Interrogatories and/or Responses to Requests for Production of Documents**

A Motion to Compel Answers to Interrogatories and/or Responses to Requests for Production of Documents, where no objections have been filed, shall be presented to the Motions Judge, either in person or by e-mail to [familycourtmotions@luzernecounty.org](mailto:familycourtmotions@luzernecounty.org), along with a proposed order requiring the opposing party to provide full and complete answers and/or responses within thirty (30) days or suffer such sanctions as the court deems necessary.

Notice of Intention to Present any such Motions to Compel must be provided to all parties of record not less than three (3) business days prior to the date of presentation and must be attached to the Motion. A brief in support of the Motion shall not be required.

**SUPPORT RULES**

**Rule 1910.1. Scope**

Except as otherwise stated, the practice and procedure to enforce a duty of support obligation to pay alimony pendente lite or alimony shall be governed by Pennsylvania Rules of Civil Procedure 1910.1 to 1910.50.

**Rule 1910.4-1. Domestic Relations Section**

(a) The Court of Common Pleas of Luzerne County hereby establishes the Domestic Relations Section.

(b) The Clerk of the Domestic Relations Section shall be appointed by the Court and known as the Recording Clerk.

(c) Powers

The Director, Deputy Director, Conference Officer, Domestic Relations Support Officer, Probation/Enforcement Officer and Domestic Relations Hearing Officer shall have the power and duty to administer oaths and affirmation in all actions and proceedings relating to support, alimony pendent lite or alimony and to exercise such other powers and perform such other duties relating thereto as may be necessary for the performance of the functions of the Section and/or as directed by Order or Rule of Court.

### **Rule 1910.6-1. Representation**

Representation in all matters relating to support, alimony pendente lite or an enforcement of an alimony obligation shall be governed by Pa. R.C.P. 1930.8 including, specifically, withdrawal of counsel.

### **Rule 1910.10. Hearing Procedures**

Pursuant to certification of the President Judge of this Judicial District, all support and alimony pendente lite proceedings shall be conducted in accordance with Pa. R.C.P. 1910.12.

### **Rule 1910.12 (e). Brief on Exceptions**

Within ten (10) days of the filing of exceptions by either party, the proponent shall file with the Domestic Relations Recording Clerk a comprehensive brief in support of the exceptions, unless the time for filing the brief is extended upon court order for good cause. The opposing party's brief shall be filed within ten (10) days of the proponent's brief. Copies of briefs shall be served upon the opposing party or counsel. If the party filing the exceptions fails to file a brief, the Court may dismiss the exceptions.

### **Rule 1910.12.1. Continuances**

(a) Requests to continue a conference shall be made to the assigned conference officer no later than forty-eight (48) hours before the time set for the conference with notice to the opposing party or counsel. No hearing scheduled before the Hearing Officer shall be continued in the absence of a written Motion, signed by the party and his or her attorney of record, if any, containing a meritorious reason therefore.

(b) A motion for a hearing before the Hearing Officer on behalf of a party shall be made as soon as the reason for the continuance is known, but no later than forty-eight (48) hours before the time set for the hearing. A later Motion shall be entertained only when the opportunity therefore did not previously exist or the interest of justice requires it.

(c) Notice of the intention to file the Motion for Continuance must be served on the opposing party and his or her counsel of record, if any, not less than forty-eight (48) hours before the Motion will be presented, unless the opportunity to do so did not exist; and state whether the opposing party concurs or objects to the continuance. No continuance shall be granted ex parte.

### **Rule 1910.17. Orders for Payment of Support, Alimony and Alimony Pendente Lite**

Pursuant to Section 3704 of the Divorce Code, 23 Pa.C.S.A. § 3704, all payments of child and spousal support, alimony or alimony pendente lite shall be paid to the Domestic Relations Section. All marital settlement agreements whether incorporated or merged in a

divorce decree shall be required to specifically state the alimony shall be paid to and collected by the Luzerne County Domestic Relations Section and shall be filed immediately upon issuance.

**Rule 1910.19. Modification or Termination**

(a) No conference or hearing on a Petition for Modification may be scheduled within one hundred eighty (180) days of the date of the existing Order of Support or Alimony Pendente Lite unless waived by the existing order.

(b) Petitions for modification, termination, or enforcement of alimony shall be presented to and heard by the assigned Family Court Judge and not the Domestic Relations Section.

**CUSTODY PROCEDURES**

**Rule 1915.4-1. Alternative Hearing Procedures for Partial Custody Actions**

(d) All custody proceedings generally are conducted in accordance with Pa.R.C.P. No. 1915.4-2.

**Rule 1915.4-2. Partial Custody. Conciliation Conference. Record Hearing. Exceptions. Service of Pleading Filed Six Months from the date of Court Order. Procedure for Scheduling of Trial**

**(a) Conciliation Conference**

(1) The Court shall appoint one or more persons as Custody Hearing Officers to: (1) conciliate custody cases filed with the Court; (2) recommend to the Court Interim Orders relating to partial custody or supervised physical custody of the child or children following a record hearing. Hearing officers shall not make a recommendation to the Court on matters relating to the award of primary physical custody, shared physical custody or legal custody of the child or children.

(2) At the conclusion of the conference, if an agreement relating to primary physical custody, shared physical custody or legal custody has not been reached, and the Court's calendar does not permit the scheduling of a prompt custody trial, then a brief Evidentiary Hearing shall then be scheduled promptly before a judge addressing the issues of physical custody and/or legal custody of the children. The Court shall then enter an Interim Order pending further Order of Court or trial on the merits in accordance with Pa.R.C.P.1915.4 (b)(c) & (d).

All parties must file a Request for a Custody Trial within twenty (20) days of the date of the Interim Order issuing from the Evidentiary Hearing and serve a copy of same upon the judge's chambers and upon all parties. In the event no request is made for a

Custody Trial by either party within twenty (20) days, then the Interim Order shall become a Final Order. Any other issues not related to primary physical custody, shared physical custody and/or legal custody, shall be addressed by a Custody Hearing Officer, if necessary.

In the event the Court's calendar allows for the prompt scheduling of a trial on the merits following a Conciliation Conference, then the scheduling of an Evidentiary Hearing shall not be necessary.

(3) All custody matters not specifically reserved to the Court shall be scheduled for a Conciliation Conference before the Custody Hearing Officer. All parties shall attend such conference. Failure of a party to appear at the conference, following service of the pleading, may result in the entry of an Order as non-contested.

(4) To facilitate the conciliation process and encourage settlement exchange between the parties and their respective counsel, settlement proposals shall not be admissible as evidence in Court. The Custody Hearing Officer may not be a witness for any party.

(5) More than one Conciliation Conference or Record Hearing may be scheduled by the Custody Hearing Officer.

(6) In the event that the parties are able to reach an agreement during the Conciliation Conference, the Custody Hearing Officer shall prepare and transmit the agreed upon Order to the Court for adoption.

(7) Counsel or self-represented parties may submit to the Court a signed stipulation and proposed Order within thirty (30) days of any scheduled Conciliation Conference. The executed stipulation must be witnessed by counsel or notarized for self-represented parties. Failure to submit a fully executed or notarized Stipulation and Order to the Court within thirty (30) days shall render the Stipulation null and void.

(8) At the conclusion of the Conciliation Conference, if an agreement relating to partial custody or supervised physical custody has not been reached, the parties shall be given notice of the date, time and place of a Record Hearing before a Custody Hearing Officer, which may be the same day, but in no event shall be more than forty-five (45) days from the date of the conference.

### **(b) Record Hearing**

(1) The hearing shall be conducted by a Custody Hearing Officer who must be a lawyer, and a record shall be made of the testimony. A Hearing Officer who is a lawyer employed by, or under contract with, a judicial district or appointed by the court shall not practice law before a conference officer, hearing officer or any judge of the 11<sup>th</sup> judicial district.

(2) The Custody Hearing Officer shall receive evidence and hear argument. The hearing officer may recommend to the court that the parties and/or subject child or

children submit to an examination and evaluation by experts pursuant to Rule 1915.8.

(3) Within ten (10) days of the conclusion of the hearing, the Custody Hearing Officer shall file with the court a report containing a recommendation with respect to the entry of an order of partial custody or supervised physical custody. The report may be in narrative form stating the reasons for the recommendation and shall include a proposed order, including a specific schedule for partial custody or supervised physical custody.

In the event the proposed Order is approved by the court, an Interim Order may be issued by the court adopting the Master's Report and Recommendation. The court shall serve the Interim Order together with Master's Report and Recommendation upon all parties.

(4) Within twenty (20) days after the date the Interim Order is mailed or received by the parties, whichever occurs first, any party may file exceptions to the Interim Order 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 the entry of the final order, leave is granted to file exceptions raising those matters. If exceptions are filed, any other party may file exceptions within twenty (20) days of the date of service of the original exceptions. A brief in support of the Exceptions shall not be required.

(5) Exceptions filed to an Interim Order shall be served upon all opposing counsel or parties, as well as to [familycourtmotions@luzernecounty.org](mailto:familycourtmotions@luzernecounty.org).

(6) If no exceptions are filed within the twenty-day (20) period, then the Interim Order shall become a final Order.

(7) If exceptions are filed, the court shall hear argument on the exceptions within forty-five (45) days of the date that the last party filed exceptions, and enter an appropriate final order within fifteen (15) days of argument.

**(c) Service of Pleading Filed Six Months from the date of Court Order**

Service of a Pleading other than original process shall be made upon counsel of record except, if no pleading has been filed within six (6) months of the date of the last Order, any subsequent pleading shall be served on both opposing party and counsel of record.

**(d) Procedure for Scheduling of Trial**

In the event there is a request for trial by a party seeking primary physical custody, shared physical custody and/or legal custody of a child and/or relocation with a child, the party shall advise the hearing officer at the conciliation conference of the same who will then schedule the case for a pre-trial conference and a trial before a judge.

The pre-trial conference may be waived by agreement of counsel or self-represented parties who must advise the court of the waiver in writing within seven (7) days of the pre-trial conference date.

**Rule 1915.13. Special Relief**

(a) Unless otherwise directed by the Court, a brief in support of the Petition for Special Relief shall not be required.

(b) A Petition for Special Relief is to be presented with a Rule to Show Cause for a hearing either in Motions Court or via e-mail to [familycourtmotions@luzernecounty.org](mailto:familycourtmotions@luzernecounty.org). Once a rule to show cause has been issued and a return date has been assigned, the moving party shall file the executed rule to show cause indicating the assigned return date, the underlying petition, a proposed order, and certificate of service with the Clerk of Judicial Records and shall, within three (3) days, serve a time- stamped copy of the aforementioned upon all opposing parties and deliver a copy to the chamber of the judge who is assigned to the case.

(c) Where the moving party is seeking immediate relief in addition to the issuance of the Rule to Show Cause and/or where the relief requested has the effect of a stay of proceedings pending the resolution of the matter subject to the Rule to Show Cause, a party seeking the same shall present the Rule to Show Cause along with the underlying petition and a proposed order to the Motions Court for consideration. When appropriate in the context of the proceedings, notice shall be given to all other parties.

(d) Service shall be made immediately after filing by hand delivering, mailing, or emailing to all parties.

(e) Proof of service shall be filed and shall be by written acknowledgement of service, by affidavit of the person making service, or by certification of counsel.

**DIVORCE PROCEDURES**

**Rule 1920.1 (b). Conformity to Civil Action**

Except as otherwise stated, the procedure in a divorce action shall be in accordance with the PA Rules of Civil Procedure.

**Rule 1920.42 (d). Certification of Hearing Officer's Fees**

When a Hearing Officer in Divorce has been appointed, prior to filing the Praecipe to Transmit Record, a Certification must be filed verifying that the Hearing Officer's fees have been paid or an eligibility for Waiver of fees and costs petition was granted by the Court.



**Rule 1920.51 (f). Motion to Continue Divorce Hearing before a Hearing Officer. Form of Motion**

(1) A Motion to Continue the Divorce Hearing must be in the form prescribed by Luz. Co. R.C.P. 1920.51(b)(3) and filed with the Office of Judicial Services and Records (Prothonotary) five (5) days prior to the scheduled date of the Divorce Hearing.

Simultaneously, the moving party shall serve a copy of the filed motion and proposed order upon opposing party or counsel and the [familycourtmotions@luzernecounty.org](mailto:familycourtmotions@luzernecounty.org).

After the Court issues an order on the motion for continuance, the moving party shall serve a copy of the filed order upon opposing party or counsel and the Hearing Officer in Divorce.

(2) The Court may entertain a Motion filed later than five (5) days before the scheduled date of the Divorce Hearing when an exigent or emergency circumstance arises within said five (5) day period or in the interest of justice.

(3) Form of Motion to Continue Divorce Hearing before a Hearing Officer:

**(Caption)**

- 1. The Divorce hearing is scheduled on \_\_\_\_\_.**
- 2. The party requesting the continuance of the Divorce Hearing is \_\_\_\_\_ whose address is \_\_\_\_\_ and represented by \_\_\_\_\_.**
- 3. Opposing party is \_\_\_\_\_ whose address is \_\_\_\_\_ and represented by \_\_\_\_\_.**
- 4. The Divorce Hearing has been continued \_\_\_\_\_ times by Plaintiff and \_\_\_\_\_ times by Defendant.**
- 5. For any and all previous continuances, state the date of each continuance and the reason for each continuance:**
- 6. State the reason for this request to continue the Divorce Hearing:**
- 7. Before this Motion for Continuance was filed, on \_\_\_\_\_ (date), I served a copy of this Motion and the proposed Order upon opposing party or their counsel. If service was not made, state the reason:**
- 8. This Motion to Continue the Divorce hearing is \_\_\_\_\_ OPPOSED or**

\_\_\_\_\_ **UNOPPOSED by opposing party or their counsel. If Opposed, state the reason:**

**9. By signing this Motion, Attorney \_\_\_\_\_ represents that their client consents to this request to continue the Divorce Hearing.**

**Date:** \_\_\_\_\_  
**Moving Party or Attorney for Moving Party**

**Rule 1920.55-2. Exceptions to Hearing Officer's Report and Recommendation**

(b) Within twenty (20) days of the date of receipt or the date of mailing of the Hearing Officer'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.

(1) If a party files exceptions, that party shall simultaneously serve a filed copy of the exceptions upon the opposing party and to [familycourtmotions@luzernecounty.org](mailto:familycourtmotions@luzernecounty.org).

(2) If the party filing exceptions has presented a Motion for Transcript of the divorce hearing on or before the date of the filing of the exceptions and received an Order granting the transcription of the divorce hearing, then said party shall file their brief in support of their exceptions within twenty (20) days of the receipt of said transcript. Said brief shall cite cases, statutes and rules that support their exceptions. Upon filing said brief, a copy of said brief shall be simultaneously served upon the opposing party.

(3) If the party filing exceptions has not requested a transcription of the divorce hearing, then said party shall file the brief in support of the exceptions simultaneously with the filing of the exceptions. Said brief shall cite cases, statutes and rules that support the exceptions. Upon filing said brief, a copy of said brief shall be simultaneously served upon the opposing party.

(c) If exceptions are filed, any other party may file exceptions within twenty (20) days of the date of service of the original exceptions. The court shall hear argument on the exceptions and enter a final decree.

(1) If the other party filing exceptions has presented a Motion for Transcript of the divorce hearing on or before the date of the filing of the exceptions and received an Order granting the transcription of the divorce hearing, then said party shall file the brief in support of the exceptions within twenty (20)

days of the receipt of said transcript. Said brief shall cite cases, statutes and rules that support their exceptions. Upon filing said brief, a copy of said brief shall be simultaneously served upon the opposing party.

(2) If the other party filing exceptions has not requested a transcription of the divorce hearing, then said party shall file the brief in support of the exceptions simultaneously with the filing of the exceptions. Said brief shall cite cases, statutes and rules that support the exceptions. Upon filing said brief, a copy of said brief shall be simultaneously served upon the opposing party.