

861-2014

TITLE 255 – LOCAL COURT RULES

Venango County, S.S.
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to be a full and true copy

VENANGO COUNTY

JUL 29 2014

Promulgation of Local Rule 1915.4A

[Pa.B.]

Paula M. Palmer
PAULA M. PALMER
PROTHONOTARY/CLERK OF COURTS

Order of the Court

AND NOW, this 29th day of July, 2014, it is hereby **ORDERED** and **DECREED** that Venango County Local Rule 1915.4A is amended as set forth hereinafter. This rule shall be continuously available for public inspection and copying in the office of the Prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any local rule. The said local rule shall become effective thirty (30) days after the date of the publication in the *Pennsylvania Bulletin*.

OLIVER J. LOBAUGH
President Judge



Local Domestic Relations Rules-Venango County

RULE 1915.4A. PROCEDURE IN ALL CUSTODY CASES.

(a) Custody Conciliation Conferences

- (1) Upon commencement of an action for any form of legal or physical custody, or an action seeking to initiate or reinstate any proceeding to modify, terminate or otherwise affect contact between children and parties, a custody conciliation conference shall be scheduled. A conciliator will be appointed by the court from a list of qualified conciliators.
- (2) The conciliator shall make every effort to conduct a custody conciliation conference within forty-five (45) days after his or her appointment. All parties and their attorneys shall attend the custody conciliation conference. The conciliator shall review the court file before the custody conciliation conference in order to ensure that all pleadings and documents have been properly filed by all parties, including a verification regarding any criminal record or abuse history. If a party has not filed the verification, then the conciliator shall have that party complete the verification before commencing the custody conciliation conference, and the conciliator shall ensure that the verification is filed of record after the conference.
- (3) At the custody conciliation conference, the conciliator shall meet with the parties, their attorneys, or both to discuss the issues and use their best efforts to reach a settlement based on the best interests and welfare of the children. If any component of the case is settled, the conciliator shall file a written report with the

court setting forth the agreement and the proposed court order to be entered in the case. If any component of the case is not settled, the conciliator shall file a written report with the court that recites the following:

- (a) the parties and attorneys that attended the custody conciliation conference;
- (b) the results of the conference;
- (c) recommendations for an interim court order, if any, with a proposed court order to be entered in the case;
- (d) recommendations whether counsel for the child should be appointed;
- (e) and any other information that may help the court as the court addresses the matter in further proceedings under this rule.

The proposed court order submitted by the custody conciliator shall include terms for the court to designate a custody mediator to be appointed in the case.

- (4) No party shall be compelled to participate in custody mediation in cases where any party, or a child of any party, is or has been the subject of domestic violence or child abuse allegedly perpetrated by the opposing party at any time within the past twenty-four (24) months. Therefore, at the conclusion of the custody conciliation conference, the conciliator shall have each party complete an eligibility for mediation form, which shall be filed with the conciliator's written report. If custody mediation cannot be scheduled, the case shall be scheduled for a custody pre-trial conference, and the conciliator shall include terms in the proposed court order to schedule that conference.

(b) Custody Mediation

- (1) If the parties are unable to reach an agreement at the custody conciliation conference, then all of the parties shall thereafter attend a custody mediation conference. Custody mediation shall occur in accordance with Pa.R.C.P. No. 1940.1 et seq., as amended.
- (2) At the beginning of each custody mediation conference, the mediator shall conduct a brief orientation session in order to educate all of the parties relative to custody mediation, and the benefits of mediation in resolving custody disputes. An orientation session may also be included as part of the court-approved seminar "Venango County Co-Parenting Cooperative."
- (3) No party shall be compelled to participate in custody mediation in cases where any party, or a child of any party, is or has been the subject of domestic violence or child abuse allegedly perpetrated by the opposing party at any time within the past twenty-four (24) months.

- (4) Each custody mediator shall be appointed by the court from a list of qualified mediators, who have been specially trained in mediation. The fee for mediation shall be \$400.00, which shall be equally divided between the parties. The fee shall be paid within twenty (20) days after the mediation is scheduled, and shall be paid no later than the date of the mediation. In the event a party has not paid his or her share of the mediation fee by the date of the mediation, the mediator, in his or her sole discretion, may proceed with the mediation, and thereafter refer the issue of payment to the court for further proceedings in order to collect the fee.
- (5) Under exigent circumstances, the court will consider waiver, reduction or assessment of fees to the other party for those unable to pay. Any such request must be presented by appropriate motion filed with the court, and must be accompanied by a verified affidavit of indigence or other proof of economic hardship in accordance with Pa.R.C.P. No. 240 and 1920.62.
- (6) A custody mediation shall be scheduled for a time not to exceed three (3) hours. Prior to the custody mediation, each party shall submit to the mediator a proposed parenting plan substantially in the form set forth in Section 5331 of the Domestic Relations Code (23 Pa.C.S. § 5331), as amended. Each custody mediation shall be closed, and the contents of the custody mediation shall be confidential. No one except the parties shall be permitted to participate in the custody mediation. It is the intent of the court to conduct custody mediation in all cases without counsel for any party present, unless allowed or authorized by order of court. If all of the parties provide written consents, the mediator may, but shall not be required to, disclose the events and discussions that occurred at the custody mediation with counsel or others. Disclosure by the mediator of anything learned during the custody mediation process shall be controlled by Section 5949 of the Judicial Code (42 Pa.C.S. § 5949).

- (7) At the conclusion of the custody mediation, if an agreement is reached, the mediator shall write a memorandum of understanding ("the memorandum"). The memorandum shall not be legally binding upon the parties. Should any of the parties have counsel, they shall be referred to counsel to reduce the memorandum to a court order. Each party and counsel shall review the memorandum, and shall have the right to reject the terms with notice to the mediator and all parties and counsel about the rejection within twenty (20) days of the date of the custody mediation, and that party shall file a praecipe for a custody pre-trial conference. If the memorandum is reduced to a court order, the order shall be prepared by one of the parties and counsel, and reviewed and executed by all parties and counsel before it is submitted for entry as a court order. Should none of the parties have counsel, after the mediation, they shall be referred to the District Court Administrator, who shall provide each party with the name of an attorney, who shall reduce the memorandum to a mutually agreeable court order for a flat fee as determined by the court. An attorney appointed under this provision shall be responsible for no other action on behalf of the party and need not enter an appearance with the court.
- (8) In the event no resolution results from custody mediation, the parties may consent to continue to mediate with the same mediator. Up to an additional three (3) hours of mediation may be scheduled for a fee of \$100.00 per hour to be equally divided between the parties. Absent consent to an alternative arrangement or court order, each party shall be responsible for his or her own fee. If at any time during these additional three (3) hours of custody mediation the parties are able to reach a memorandum, which, in turn, is reduced to a court order, or should the mediator in his or her sole discretion declare that the custody mediation is at a permanent and irrevocable impasse and should be terminated, the mediator shall refund to each party a prorated amount for each full hour not used during the mediation.
- (9) In all cases where an agreement is reached, a memorandum shall be reduced to a court order and submitted to the court for entry as a court order within twenty (20) days of the date of the custody mediation.
- (10) In all cases, the mediator shall file a brief report that sets forth the date of the mediation and whether an agreement was reached by memorandum. No details of the mediation shall be included in the report.

(c) Custody Pre-Trial Conference

- (1) In the event that no resolution results from custody mediation, or a court order is not submitted to the court for entry as a court order within the designated time frame, the case shall proceed to a custody pre-trial conference with the court in accordance with Pa.R.C.P. No. 1915.4-4. The moving party shall file a praecipe for pre-trial conference. A pre-trial statement shall be filed with the court by each party at least five (5) days before the custody pre-trial conference. At the custody pre-trial conference, the court will confer with the parties and their attorneys in order to set a hearing date(s) and take such steps as are necessary to prepare the case for trial. Matters to be addressed at the conference shall include the number of days for the hearing, witness lists, expert reports, determination whether court-appointed experts are required, an interim custody arrangement pending final hearing, appointment of an attorney to represent the interests of the child, and any other matters deemed appropriate by the court.
- (2) With the pre-trial statement, all parties shall also file a proposed parenting plan substantially in the form set forth in Section 5331 of the Domestic Relations Code (23 Pa.C.S. § 5331).