

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA
FAMILY COURT DIVISION

MEMORANDUM TO RECORD:

*Failure to File Entry of Appearance
& Procedural Misconduct by Opposing Counsel*

MELISSA BEMER :
Plaintiff :

DOCKET NO. 2024-007234
CIVIL ACTION - DIVORCE

v.

STEPHEN BOERNER :
Pro Se Defendant

June 24, 2025

To the Clerk of the Family Court:

PROCEDURAL SUMMARY:

This matter was filed by Plaintiff Melissa Bemer on August 20, 2024, in the Delaware County Court of Common Pleas - Family Division (Docket No. CV-2024-007234). The Plaintiff was initially represented by Attorney Carolyn Mirabile, who entered her appearance on August 20, 2024. The Defendant's prior counsel, Maria Testa, submitted an Affidavit of Consent by Defendant on March 24, 2025.

On May 12, 2025, the pro se Defendant filed an Entry of Appearance for the Defendant, formalizing pro se self-representation. This was followed by a second filing, on May 27, 2025, to correct the Defendant's address with a Praecipe to Correct the Address of Defendant.

On June 5, 2025, Attorney Helen Haney Lafferty of Klehr Harrison Harvey Branzburg LLP initiated contact with the undersigned, stating unequivocally that her firm had "taken over representation" of Plaintiff and that an Entry of Appearance "would be entered" in the case. As of the date of this filing (June 24, 2025), no such Entry has been docketed.

Despite Attorney Lafferty's continued absence from the formal docket, her pattern of communication since June 5, 2025, reflects sustained informal representation of Plaintiff. While Pennsylvania Rule of Civil Procedure 1012 explicitly states that "entry of a written appearance is not mandatory," the rule governs procedural requirements for formal court appearances and notice obligations.

COMMUNICATION TIMELINE AND RECORD OF EVENTS:

On June 5, 2025, Attorney Lafferty initially emailed the pro se Defendant, writing: "Our firm has taken over representation of your wife, Melissa Bemer, with regard to your divorce matter. We will be entering our appearance in the matter..." Attorney Lafferty concluded by stating: "Melissa and I are hopeful that we can achieve a mutually agreeable resolution of your matter in the near future."

Later that same day, the pro se Defendant responded in good faith, providing copies of his prior correspondence with Plaintiff's former counsel, a filed Praecipe to Correct Address and Certificate of Service, and a stated willingness to provide a detailed position contingent upon a scheduled phone call.

The pro se Defendant issued a same-day response writing: "I'd like to schedule a time to speak, and I will not issue my details until we have that scheduled. Then I can release it while you are out of the office." This conditional phrasing was deliberate and consistent with the Defendant's documented difficulty in securing reciprocal cooperation or clarity from prior counsel.

The intent was to ensure that any written position would be accompanied by verbal clarification, particularly in light of the Defendant's disability, which was formally disclosed in a June 17, 2025, notice to Plaintiff's counsel. While this disclosure served as a necessary formality, it was reasonably presumed that Attorney Lafferty was already aware of the Defendant's condition, given her stated intent on June 5, 2025, to obtain Plaintiff's case file from prior counsel.

COMMUNICATION PATTERNS AND MISCHARACTERIZATIONS:

On June 12, 2025, Attorney Lafferty replied: "It was my understanding, based on your original email to me below, that upon scheduling a phone call with you, you would 'dispatch a detailed defendant's position' to me. It now appears that you want other conditions met before you will schedule a call with me or release your position to me."

This characterization selectively extracted language from the pro se Defendant's June 5 response, omitting the actual qualifying clause: "...contingent upon scheduling a phone call between the two of us..." This distortion presented the pro se Defendant as uncooperative and obstructive, when in fact, the pro se Defendant had demonstrated an open willingness to communicate, conditioned only on mutual respect and process clarity.

Pennsylvania Rule of Professional Conduct 3.3 requires lawyers to avoid making false statements of material fact to a tribunal and to correct false statements. Pennsylvania Rule 4.3 governs duties to unrepresented persons, requiring lawyers to make reasonable efforts to correct misunderstandings about their role when dealing with unrepresented persons.

Further, in her June 12, 2025 email, Attorney Lafferty made a substantive legal inquiry on behalf of her client by requesting clarification regarding the Defendant's financial responsibility for a jointly titled marital asset. While Pennsylvania law permits attorneys to communicate with opposing parties before formal appearance filing, particularly during counsel transitions, this pattern of sustained representation activities demonstrates ongoing advocacy on behalf of Plaintiff.

SUBSTANTIVE PARTICIPATION BY DEFENDANT:

Despite these communication challenges, the pro se Defendant responded once more on June 12, 2025, outlining: a request that Plaintiff's counsel review historical correspondence before the proposed verbal discussion; a three-point request prioritizing information and the Plaintiff's stated goals; and several proposed time slots for a call the following week.

Attorney Lafferty dismissed these reasonable requests and wrote: "If you have a proposal for resolution of this case, please send it to me and we can schedule a call to discuss same. Otherwise, I am not sure that a call will be productive."

On June 17, 2025, the Defendant submitted a written position statement in a pdf attachment sent to Attorney Lafferty via email, titled "SB-Rep3-Pro-Se-6-17-25.pdf." This comprehensive response has gone entirely unacknowledged as of the date of this filing.

FORMAL REPRESENTATION STATUS:

At no point between June 5 and June 24, 2025, has Attorney Lafferty entered a formal appearance on the Delaware County docket. Nevertheless, she has directed procedural action on behalf of Plaintiff, asserted Plaintiff's intent regarding resolution, attempted to establish communication conditions, and made legal representations via email.

Pennsylvania Rule of Civil Procedure 1012 provides that entry of appearance is "not mandatory" and primarily establishes procedural requirements for formal court appearances, including address requirements for service and notice obligations. The rule does not require attorneys to file formal entries of appearance before providing legal services or making inquiries on behalf of clients.

However, some Pennsylvania counties have established local requirements. Montgomery County requires that "every initial pleading or legal paper filed with the Prothonotary or the Domestic Relations Office by an attorney should be accompanied by a written entry of appearance," though this applies specifically to filed court documents, not informal communications.

NOTICE OF DISABILITY AND PROFESSIONAL RESPONSIBILITIES

On June 17, 2025, Attorney Lafferty was placed on formal notice that the Defendant is disabled. The Defendant was medically diagnosed with Post-Traumatic Stress Disorder (PTSD) following a violent home invasion in March 2024. He has been unemployed, financially vulnerable, and substantiates this with documented medical records supporting his SSDI application.

The Defendant's structured communication and request for reciprocal clarity were made in good faith and intended to reduce confusion, not cause delay. Pennsylvania Rule of Professional Conduct 8.4(g) prohibits attorneys from "knowingly engag[ing] in conduct constituting harassment or discrimination based upon... disability." The rule applies to conduct "in the practice of law," including "interacting with... lawyers or others, while... in connection with the representation of a client."

Pennsylvania Rules of Professional Conduct govern attorney conduct regarding unrepresented persons under Rule 4.3, which requires lawyers to avoid giving advice to unrepresented persons whose interests conflict with their client's interests and to correct misunderstandings about the lawyer's role.

PROCEDURAL AND ETHICAL CONSIDERATIONS:

This pattern of communication raises several considerations regarding professional conduct and case management. Pennsylvania's unauthorized practice statute (42 Pa.C.S. § 2524) prohibits non-lawyers from practicing law, but does not restrict licensed attorneys from providing legal representation, advice, and advocacy without filing formal appearances in every case.

The documented timeline demonstrates ongoing legal advocacy activities by Attorney Lafferty on behalf of Plaintiff, including substantive legal inquiries, settlement discussions, and procedural demands. While such activities do not constitute unauthorized practice when performed by a licensed attorney, they do establish a pattern of representation that affects case dynamics.

Pennsylvania Rules of Professional Conduct emphasize the importance of clear communication with unrepresented persons and avoiding mischaracterizations that could prejudice proceedings. The selective quotation and mischaracterization of the Defendant's communications may implicate duties of candor and fairness in the proceeding

CONCLUSION:

This Memorandum is respectfully submitted to document the communication timeline and preserve the Defendant's pattern of cooperative participation for judicial review. The Defendant reserves all rights under Pennsylvania law to seek appropriate relief should procedural or communication issues require court intervention. The documented record establishes the factual basis for any future motions or remedies that may become necessary to ensure fair and efficient case resolution.

Respectfully Submitted,

Stephen J. Boerner

Pro-Se Defendant

21090 W. Sharp St., Unit #132

Rock Hall, Maryland 21661

215-530-0545

stephen.boerner@gmail.com

June 24, 2025