

THE COURTS

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CHS. 500 AND 1000]

Proposed Changes to Rules of Civil Procedure Governing Actions and Proceedings Before District Justices

Introduction

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend the following Rules of Civil Procedure Governing Actions and Proceedings Before District Justices ("Pa.R.C.P.D.J."), to wit: Nos. 504, 514, 515, 517, 519, 520, 1002 and 1008. The proposed amendments are intended to establish a more streamlined procedure in the process and management of landlord complaints for the recovery of possession of real property, and to conform to existing Legislation the time for taking appeals from judgments. The recommendations for amendment were prompted by amendments to the Landlord and Tenant Act of 1951 promulgated by Acts 33 and 36 of 1995, both approved July 6, 1995. The proposed amendments would, it is believed, establish a sound basis upon which the Legislative amendments to the Landlord/Tenant Act of 1951 can be implemented, insofar as is procedurally consistent with existing Rules and standards of due process.

The text of the proposed amendment follows:

We request that interested persons submit suggestions, comments, or objections concerning these proposals to the Committee through its Chair.

Carl G. Wass, Esquire, CALDWELL & KEARNS, 3631 North Front Street, Harrisburg, PA 17110, no later than Wednesday, February 14, 1996.

By the Minor Court Rules Committee

CARL G. WASS,
Chair

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 500. ACTIONS FOR THE RECOVERY OF POSSESSION OF REAL PROPERTY

Rule 504. Setting the Date for Hearing; Delivery for Service.

The district justice, at the time the complaint is filed, shall:

- (1) Set a hearing date which shall be not less than seven (7) or more than [**twenty (20)**] **fifteen (15)** days from the date the complaint is filed.

* * * * *

Official Note: The hearing date in subdivision (1) of this rule was required to be set not less than seven days from the filing of the complaint because of the requirement of Rule 506C that service be made at least five days before the hearing. It was thought that the requirement that the complaint be served not more than [**twenty**] **fifteen** days from the filing of the complaint should

provide ample time to make the type of service required in these cases. However, the complaint may be reinstated upon written request of the plaintiff as in trespass and assumpsit cases. See Rule 314E and the note to Rule 314.

The notice for the defendant set forth in subdivision (4) of this rule varies somewhat from the notice required in trespass and assumpsit actions under Rule 305. There are a number of reasons for this. First, there can be no default judgment in these possessory actions and, secondly, it was thought that cross-complaints of defendants in these cases should be limited to those arising out of the occupancy of the premises.

Amended Oct. 17, 1975, effective in 90 days; June 30, 1982, effective 30 days after July 17, 1982; amended _____, effective _____.

Rule 514. Judgment.

* * * * *

C. Judgment shall be given at the conclusion of the hearing or within [**five (5)**] **three (3)** days thereafter and shall be entered on the original complaint form. The district justice shall promptly give written notice of the judgment to all parties, but if any party has an attorney of record named in the complaint form the written notice shall be given to the attorney instead of to the party. Notice of judgment shall contain advice as to the right of the parties to appeal, the time within which the appeal must be taken, and that the appeal is to the court of common pleas.

Official Note: Subdivision B of this rule makes provision for a money judgment for the defendant if he prevails in a greater amount on his cross-complaint.

Amended April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; amended effective Dec. 1, 1983; amended March 27, 1992, effective June 25, 1992; amended _____, effective _____.

Rule 515. Request for Order for Possession.

If the district justice has rendered a judgment that the real property be delivered up to the plaintiff, the plaintiff may, [**on or**] after the [**sixteenth (16th)**] **tenth (10th)** day following the date of the judgment, file with the district justice a request for an order for possession on a form which shall be prescribed by the State Court Administrator. The request form shall be attached to the order, including a statement of the judgment amount, return and other matters required by these rules.

Official Note: [**The fifteen days in this rule plus the fifteen days in Rule 519 will give the defendant time to obtain a supersedeas within the appeal period. See Rules 1002, 1008, 1009 and 1013.**] **The 1995 amendment to § 513 of the Landlord/Tenant Act (Act No. 1995-33) established a ten day period of time for an appeal from a judgment for possession of real estate; therefore, the filing of the request for order for possession is not permitted until after the period of time for appeal has expired.**

Amended June 1, 1971; amended April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; March 27, 1992, effective June 25, 1992; amended _____, effective _____.

Rule 517. Notation of Time of Receipt; Service of Order.

* * * * *

If you, and all occupants of this property not authorized by the owner to be present thereon, do not vacate this property within [**fifteen (15)**] **ten (10)** days after the date of this notice, the law authorizes me to use, and I must use, such force as may be necessary to enter upon the property, by the breaking in of any door or otherwise, and to eject you and all unauthorized occupants.

The date of the notice shall be the same as the date of the service.

Official Note: Under this rule, service must be made both by first class mail and delivery for service in the manner prescribed.

Amended Oct. 17, 1975, effective in 90 days; April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; March 27, 1992, effective June 25, 1992; amended _____, effective _____.

Rule 519. Forcible Entry and Ejectment.

A. If, on or after the [**sixteenth (16th)**] **eleventh (11th)** day following the service of the order for possession, the defendant or any unauthorized occupant remains on the real property, the officer executing the order for possession shall use such force as may be necessary to enter upon property, by the breaking in of any door or otherwise, and to eject the defendant and any unauthorized occupant and shall deliver possession of the real property to the plaintiff or his agent.

* * * * *

Official Note: Subdivision B of this Rule will permit the reinstatement, upon written request of the plaintiff of an order for possession which has not been executed on or after sixty (60) days following its issuance. The written request for reinstatement may be in any form and may consist of a notation on the permanent copy of the order for possession form "Reinstatement of order requested," subscribed by the plaintiff. The district justice shall mark all copies of the reinstated order for possession "Order Reinstated. Request for reinstatement filed on _____ (Date)." If it is necessary to use a new form or new form sets for the reinstated order for possession, the reinstated order for possession, except for service portions thereof, shall be an exact copy of the original order for possession, although signatures may be typed with the mark "/s/" indicating an actual signature. Since a reinstated order for possession is merely a continuation of the original action, there is no filing fee for reinstating an order for possession.

Amended April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; March 27, 1992, effective June 25, 1992; amended _____, effective _____.

Rule 520. Officer's Return.

[**The**] **Within five (5) business days following delivery of possession to the plaintiff or satisfaction by payment of rent in arrears and costs, the officer executing the order for possession shall make a return on the order for possession form. The return shall show:**

* * * * *

Official Note: Amended July 30, 1982, effective 30 days after July 17, 1982; amended _____, effective _____.

Rule 581. Acts of Assembly Suspended.

All Acts of Assembly or parts thereof inconsistent with the rules governing practice and procedure in actions before district justices for the recovery of possession of real property are suspended to the extent of such inconsistency.

THE FOLLOWING ACTS OF ASSEMBLY ARE SUSPENDED INSOFAR AS THEY ARE INCONSISTENT WITH THE FOREGOING RULES:

(1) **Act of July 6, 1995, amending the Act of April 6, 1951 (P. L. 69, No. 20), known as Act 33 of 1995;**

(2) **Act of July 6, 1995, amending the Act of April 6, 1951 (P. L. 69, No. 20), known as Act 36 of 1995.**

Official Note: Amended June 30, 1982, effective 30 days after July 17, 1982; _____, 1996, effective 30 days after _____, 1996.

CHAPTER 1000. APPEALS

Rule 1002. Time and Method of Appeal.

A. Except as provided in subdivision B of this Rule, [A] a party aggrieved by a judgment for money may appeal therefrom within thirty (30) days after the date of the judgment by filing with the prothonotary of the court of common pleas a notice of appeal on a form which shall be prescribed by the State Court Administrator. The prothonotary shall not accept an appeal from an aggrieved party which is presented for filing more than thirty (30) days after the date of judgment without leave of court and upon good cause shown.

B. A party aggrieved by a judgment affecting the delivery of possession of real property may appeal therefrom within ten (10) days after the date of the judgment by filing with the prothonotary of the court of common pleas a notice of appeal on a form which shall be prescribed by the State Court Administrator. The prothonotary shall not accept an appeal from an aggrieved party which is presented for filing more than ten (10) days after the date of judgment without leave of Court and upon good cause shown."

Official Note: The thirty day limitation in subdivision A of this rule is the same as that found in the Judicial Code, § 5571(b), 42 Pa.C.S. § 5571(b), as amended by § 10(67) of the Judiciary Act Repealer Act, Act of April 28, 1978, P.L. 202, No. 53. **The ten day limitation in subdivision B of this rule is designed to implement the time for appeal set forth in § 513 of the Landlord and Tenant Act of 1951 (Act No. 1995-33, approved July 6, 1995). The two subdivisions of this rule are intended to clarify that where the right of possession of real estate is at issue, the shorter, ten day period for appeal applies; where the judgment from which the appeal is taken is a judgment only for money under these rules, the thirty day period of time for appeal applies.**

The method of appeal is by filing with the prothonotary a "notice of appeal" on a form to be prescribed by the State Court Administrator. Copies of this same form will be used for service under Rule 1005. This permits use of the same form for filing and service. No useful purpose would be served by having two forms, one called an "appeal" for filing and another called a "notice of appeal" for service. No transcript of the record of the proceedings before the district justice is to be filed on appeal, for the proceedings on appeal are de novo.

The 1990 amendment is intended to encourage the complete utilization of the hearing process available before the district justice.

Adopted June 1, 1971. Amended April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; March 27, 1992, effective June 25, 1992; amended _____, effective _____.

Rule 1008. Appeal as Supersedeas.

* * * * *

B. When an appeal is from a judgment for the possession of real property, receipt by the district justice of the copy of the notice of appeal shall operate as a supersedeas only if the appellant **[files with the prothonotary a bond, with surety approved by the prothonotary, conditioned for the payment of any judgment for rent and for damages growing out of occupancy of or injury to the premises rendered against the appellant on appeal. In lieu of such a bond, the court of common pleas may, by local rule applicable to certain classes of cases, permit rental payments becoming due during the court of common pleas proceedings to be deposited in an escrow account in a bank or trust company approved by the court, such deposits to be applied to the payment of any judgment of the kind mentioned above rendered on appeal. If the appellant files such a bond or is permitted to deposit rental payments in escrow in lieu of a bond]**, at the time of filing the appeal, deposits with the prothonotary a sum of money (or a bond, with surety approved by the prothonotary) equal to the lesser of three (3) months' rent or the rent actually in arrears on the date of the filing of the appeal, and, thereafter deposits cash or bond with the prothonotary in a sum equal to the monthly rent which becomes due during the period of time the proceedings upon appeal are pending in the court of common pleas, such additional deposits to be made within thirty (30) days following the date of the appeal, and each successive thirty (30) day period thereafter. In the event the appellant fails to deposit the sums of money, or bond, required by this rule, within ten (10) days following the date when such deposits are due, the prothonotary, upon praecipe filed by the appellee, shall terminate the supersedeas. Where the deposit of money or bond is made at the time of filing the appeal, the prothonotary shall make upon the notice of appeal and its copies a notation that it will operate as a supersedeas when received by the district justice.

* * * * *

Official Note: Subdivision A provides for an automatic supersedeas in appeals from trespass and assumpsit actions upon receipt by the district justice of a copy of the notice of appeal. It did not seem worthwhile to require bond or other security for costs as a condition for supersedeas in trespass and assumpsit appeals.

[Subdivision B, however, does require a bond, or an escrow deposit of rent if permitted by local rule, as a condition for supersedeas with respect to appeals from judgments for the possession of real property. The provision for local rules permitting an escrow deposit of rent in certain cases is intended to authorize local machinery for the handling of special categories of landlord and tenant problems. See the statute cited in Rule 1082(1).] Subdivision B, however, does require the deposit of

money or approved bond as a condition for supersedeas where the appeal is from a judgment for the possession of real property. This provision substantially incorporates the purpose and intent of the Legislative provision contained in Act No. 1995-33, approved July 6, 1995. The 1996 amendment provides a uniform, statewide procedure (except Philadelphia County: See: Philadelphia Municipal Court Rules of Civil Procedure), and establishes a mechanism for the application of a supersedeas or the termination thereof without the need for any local court rule or order.

The money judgment portion of a landlord and tenant judgment (see Rules 514 and 521) would be governed by subdivision A.

Adopted June 1, 1971. Amended April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; amended _____, effective _____.

Rule 1081. Acts of Assembly Suspended.

All Acts of Assembly or parts thereof inconsistent with the rules governing appellate proceedings with respect to judgments and other decisions of district justices in civil actions are suspended to the extent of such inconsistency.

THE FOLLOWING ACTS OF ASSEMBLY ARE SUSPENDED INSOFAR AS THEY ARE INCONSISTENT WITH THE FOREGOING RULES:

(1) Act of July 6, 1995, amending the Act of April 6, 1951 (P. L. 69, No. 20), known as Act 33 of 1995;

(2) Act of July 6, 1995, amending the Act of April 6, 1951 (P. L. 69, No. 20), known as Act 36 of 1995.

Adopted June 1, 1971. Amended April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; _____, 1996, effective 30 days after _____, 1996.

[Pa.B. Doc. No. 96-92. Filed for public inspection January 26, 1996, 9:00 a.m.]

Title 252—ALLEGHENY COUNTY RULES

ALLEGHENY COUNTY

Rules of Court of Common Pleas; No. 1 of 1996 Rules Docket

Order of Court

And Now, this 5th day of January, 1996, pursuant to action of the Board of Judges, the following local rules affecting the Adult Section of the Family Division of the Court of Common Pleas are adopted, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

ROBERT E. DAUER,
President Judge

Note: * designates local rule.

ACTIONS FOR SUPPORT**Rule 1910.5. Complaint. Order of Court.**

(a)*(1) The complaint shall be on a pre-printed form provided by the Intake Office of the Domestic Relations Section of the Court, **substantially in the form provided by Rule 1910.26(a).**

Rule 1910.7. No Pleading By Defendant Required.

Question of Jurisdiction or Venue or Statute of Limitations in Paternity.

(b)*(1) [None of the questions raised in subparagraph (b) above will delay the domestic relations conference without an order of court obtained from the motions' judge] **If preliminary objections challenging venue or jurisdiction are filed, the proceedings shall be stayed and listed for argument in conformity with Local Rule 1930(b).**

Rule 1910.10. Alternative Hearing Procedures.

*(a) The Family Division, Court of Common Pleas, Allegheny County, adopts the alternative hearing procedure of Rule 1910.12.

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

(b)(1)*(a) Unless a court order obtained from the motions judge directs to the contrary, the hearing will be held on the same day as the conference.

(c)*(3) Any motion by a party for a separate listing of the hearing and/or for a request for discovery shall be presented to the motions judge prior to the conference and hearing. Notice of the motion shall be served upon the opposing party or opposing counsel of record prior to presentation.

(e)*(1) Where a hearing officer has reserved decision on a case and the parties were not given a copy of the recommendation at the conclusion of the hearing, **three (3) days shall be added to the ten (10) day filing period for exceptions if notice of the recommendation is given by mail to the parties and/or counsel of record.**

*(h)(1) **Any party filing exceptions shall serve them upon all other parties and file a copy with the Exceptions Clerk in Room 616, City County Building by the end of the next business day following the filing of the exceptions with the prothonotary.**

(2) **Any party filing exceptions shall also order from the court reporter the transcript of testimony unless the parties stipulate to the contrary or unless the exceptions are not based on the testimony contained in the record.**

(3) **Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed to be waived.**

(4) **A legible copy of the Hearing Officer's Recommendations and a copy of the transcript order form or stipulation that the transcript is not necessary or a statement that the exceptions are not based on the testimony contained in the record shall be attached to the exceptions.**

*(i) **Exceptions shall be placed on the next available "Support Argument List" occurring more than thirteen (13) days after the transcript of testimony and exceptant's brief are filed with the Exceptions Clerk in Room 616, City County Building. The Court shall serve notice on all parties of the date**

and place of argument. If the respondent files a brief, it shall be filed at least seven (7) calendar days prior to argument, with the Hearing Officer's Secretary in Room 616, City County Building. If cross-exceptions are filed, the cross-exceptant's brief must be filed at least seven (7) calendar days prior to the argument and may respond to the first exceptant's brief. The party filing the first exceptant's brief may file a second brief, in response to the cross-exceptant's brief, at least four (4) calendar days prior to argument. No brief for either party shall exceed ten (10) pages.

*(j) **Exceptions must be scheduled for argument no more than forty-five (45) days after exceptions are filed. Failure to schedule will result in an automatic termination of the exceptions on grounds of unreasonable inactivity. The exceptant will not be permitted to reinstate the exceptions without written application to the Court for good cause shown.**

*(k) **If exceptions are filed to the Recommendation of a Hearing Officer recommending that the exceptant be held in contempt, the exceptions shall immediately be placed on the next "support argument list" occurring more than five (5) days after the filing of exceptions. The party filing the exceptions shall title them "Contempt Exceptions" and serve notice on all other parties, [the Administrator's Office, Room 633 City County Building,] and the court reporter, of the date and place of the argument. The court reporter's fees shall be posted and the transcript prepared immediately after exceptions are filed. For purposes of this subsection the exceptant shall file a brief at least three days prior to argument. If the respondent files a brief, it shall be filed at least one day prior to argument.**

*(l) **No exceptions may be filed to a recommendation of a Hearing Officer labeled "interim." The interim recommendation shall be entered as a temporary support order pending the entry of a final recommendation and order.**

Rule 1910.15. Paternity.

(b)*(1) Before terminating the conference, the domestic relations counselor may obtain an order of court directing the parties to submit to blood testing.

Rule 1910.19. Support Order. Modification. Termination.

(c)*(1) The following procedure shall be used to modify or terminate an existing support order.

(A) Where there is a material and substantial change of circumstances, any party may schedule before the domestic relations counselor a conference to request an increase, reduction, modification or suspension of an award. Both parties and their counsel shall attend this conference. If an agreement is not reached at the conference, the counselor may schedule the matter for a hearing before a hearing officer, which hearing shall be conducted in accordance with the procedures set forth in Rule 1910.12.

(B) [If the counselor chooses not to schedule a hearing, nothing contained herein shall limit the right of a party to petition the court to schedule a hearing on the request for an increase, reduction, modification or suspension of the award.] The Hearing Officer may recommend the modification

or termination of the existing order in any appropriate manner based on the evidence presented. Rule 1910.23-1. Judgment for Arrearages. Execution.

(a)*(1) Any party at any time may obtain from Suite 200, Allegheny Building, 429 Forbes Avenue, Pittsburgh, PA 15219, a statement of arrears according to the records of the Collection and Disbursement Division.

[(b) A plaintiff may obtain a judgment against a defendant who is thirty (30) days or more in arrears under order of court only through the following procedures:

(1) The Plaintiff shall serve on the defendant a written notice in the following form [See Next Page]

(2) On or after the thirtieth (30th) day following the service of the Notice of Intention to Enter Judgment, the plaintiff may file a praecipe for entry of judgment with the Prothonotary provided that it includes a certification that written Notice of Intention to Enter Judgment was mailed or delivered to the party against whom the judgment is to be entered and to his attorney of record, if any, at least thirty (30) days prior to the date of the filing of this praecipe and that the defendant has not filed with the Prothonotary any notice indicating that he or she disputes the claim. Upon the filing of this praecipe, the Prothonotary shall enter judgment in the amount set forth in the Notice of Intention to Enter Judgment.

(3) If the defendant disputes the claim, the plaintiff shall schedule a conference before a domestic relations counselor. If an agreement is not reached at the conference, a hearing on the plaintiff's claim for arrears shall be heard before a hearing officer pursuant to the procedures set forth in Rule 1910.12. The final order which is entered shall be a judgment in the amount of the arrears as determined by the court.

(4) The party scheduling a conference and hearing pursuant to subsection (c) may at the same time file a petition for civil contempt and/or a petition for attachment of wages and hearings on these petitions may be scheduled at the same time as the conference and hearing described in subsection (c).]

[Rule 1910.31. Pretrial Motions.

(a) Except as provided by subsection (b), all pretrial motions shall be presented to the motions judge of the Family Division.

Caption

NOTICE OF INTENTION TO ENTER JUDGMENT TO: _____
DATE OF NOTICE: _____

IMPORTANT NOTICE

The undersigned party claims that you are in arrears on your support obligations in the amount of \$ _____ as of _____ and is seeking a judgment against you in this amount.

If you dispute this claim, you must within twenty (20) days indicate on the bottom of this form that you dispute the claim and return the form (by mail or in person) to the Prothonotary of Allegheny County, Room 516, County Courthouse, Pittsburgh, Pennsylvania 15219. If you fail to act within twenty (20) days, a judgment may be entered against you.

(Name)

(Address)

(Telephone Number)

I dispute the claim that I am in arrears on my support obligation in the amount claimed in this notice, and I request a hearing to oppose the entry of a judgment against me.

(Date) (Signature)

(b)(1) Arguments on preliminary objections, motions for judgment on the pleadings, and motions for summary judgment shall be scheduled by the Family Division Docket Clerk (Room 611, City County Building).

(b)(1) Arguments on preliminary objections, motions for judgment on the pleadings, and motions for summary judgment shall be scheduled with the Family Division Docket Clerk (Room 610, City County Building).

(b)(2) At least seven (7) days before argument, the moving party shall serve any brief which it intends to submit on the judge hearing the argument and on all other parties, and at least three (3) days before the argument, the responding parties shall serve any brief which it intends to submit on the judge and on all other parties.]

[Rule 1910.32. Order of Court.

No case scheduled in the Family Division before a judge, hearing officer or domestic relations officer will be continued without an order of court. If a motion for continuance is granted by the court, counsel for the party requesting the continuance is responsible for immediately providing the appropriate judge, hearing officer, or domestic relations officer with a copy of the Order.]

ACTION FOR CUSTODY, PARTIAL CUSTODY AND VISITATION OF MINOR CHILDREN

Rule 1915.3(b). *1 [Scheduling of Hearing Date.

No order of court setting a conciliation or hearing shall be presented to the court for signature unless accompanied by a motion setting forth compelling circumstances requiring a court order. In the absence of compelling circumstances requiring a court order,] Claims for full custody, shared custody, partial custody or visitation shall initially be scheduled for a conciliation or conference by the Family Division Docket Clerk (Room [601] 611 of the City County Building). When a claim is raised for physical custody of the children for a majority of the time the scheduling request shall be accompanied by a certificate of counsel as set forth in the Court Manual of the Adult Section of the Family Division.

Rule 1915.9. *(a) Pre-Trial Procedures.

1. Conciliations and Conferences

(i) All claims for full physical custody will be conciliated by a judge on praecipe of any party filed with the Family Division Docket Clerk (Room [610] 611 of the City County Building). All parties residing in Allegheny County must be present for the conciliation unless excused by the court. All other parties and those excused from attending the conciliation must be within immediate telephone contact.

(ii) All claims for partial custody, including partial custody with shared legal custody, or visitation or modification of partial custody or visitation must proceed to a conference before a court counselor prior to any hearing thereon. All parties residing in Allegheny County must be present for the conference unless excused by the court. All other parties and those excused from attending the conference must be within immediate telephone contact.

(iii) **In the event that an agreement relating to partial custody or visitation is not reached before a conference officer, the matters in dispute shall be referred to a Hearing Officer appointed by the Court in conformity with Pa.R.C.P. 1915.4-1 and 4-2.**

2. Pre-Trial Motions; [Court En Banc] Matters for Argument

(i) All motions, petitions, and applications that have not been scheduled before a particular judge shall be presented to, argued before, and determined by the Motions Judge unless this judge transfers the motion, petition, or application to a judge to whom the case has been assigned.

(ii) Motions, petitions, and applications which have not been assigned to a judge shall be presented to the Motions Judge at 1:30 p.m. **in conformity with Local Rule 1930(a).**

(iii) Preliminary objections shall be argued [**before a court en banc unless the particular judge to whom the case has been assigned hears argument on the objections prior to the argument date before the court en banc.**] **in conformity with Local Rule 1930(b).**

[**(d) Unless specifically scheduled, all arguments before the court en banc shall be held on the first Friday of each month or such other date designated by the court.**

(e) For all arguments before the court en banc, the moving party must file a brief at least seven (7) days prior to the scheduled argument date. If the responding party desires to file a brief, it must be filed at least three (3) days prior to the scheduled argument date.]

3. Pre-Trial Statements

(i) In all actions for full custody the parties shall, no **fewer** than ten (10) days prior to the hearing, file with the court and serve upon all parties a written pre-trial statement.

(ii) Pre-Trial Statements shall contain the names and addresses of all persons who may be called as witnesses, and shall have attached thereto copies of records and reports that may be offered into evidence. If any expert witness is to testify, **other than one appointed by the**

Court, a written report setting forth the expert's findings and conclusions must be attached to the pre-trial statement.

Rule 1915.12. Civil Contempt for Disobedience of Custody Order, Petition, Service, Order.

(a)*(1) The agency to be named in the notice accompanying a petition for civil contempt shall be:

Lawyer Referral Service
920 City-County Building
Pittsburgh, PA 15219
(412) 261-0518

Rule 1915.15. Form of Complaint. Caption. Order.

(a)*(1) The agency to be named in the order of court accompanying the complaint shall be:

Lawyer Referral Service
920 City-County Building
Pittsburgh, PA 15219
(412) 261-0518

Rule 1915.16. Form of Order and Notice, Joinder, Intervention.

* (c) The agency to be named in the order of court and notice under this rule shall be:

Lawyer Referral Service
920 City-County Building
Pittsburgh, PA 15219
(412) 261-0518

ACTION OF DIVORCE OR FOR ANNULMENT OF MARRIAGE**[Rule 1920.4. Service. Notice.***** (f) Military Service**

Editor's note: Rescinded; effective upon publication in Pa. Bulletin (July 2, 1983).]

Rule 1920.12. **Complaint.**

Local Rules Governing Contents and Filing of the Complaint.

***I. The Complaint.**

(A) The plaintiff in the complaint and the defendant in the answer, counterclaim or other petition shall set forth each claim as a separate count.

(B) If a claim is made by either party to the action for custody, partial custody, or visitation, the relevant count in the pleading must comply with the requirements of the applicable rules.

(C) If a claim is made by either party to the action for alimony pendente lite, alimony, or support, the party shall attach to the pleading as an exhibit the Family Division Support/Alimony Pendente Lite/Alimony Information Sheet. These sheets may be obtained from Room 621 of the City-County Building.

***II. Filing the Complaint.**

(A) All divorce and annulment complaints shall be filed and the filing fee paid in the Prothonotary's Office (Suite 200, Allegheny Building) where they will be assigned a docket number. The number given to the divorce will also be assigned to any other claim contained in the divorce complaint or other pleadings subsequently filed in this action. **If there is a prior action between the parties, the case shall be docketed in conformity with Local Rule 1930(f).**

[(B) After the filing of the compliant, the moving party shall obtain from Room 603 of the City-County Building, a form indicating whether any prior support, partial custody, or visitation actions have been filed.

Note: If it is determined that there is a prior family action, the Court will, on its own motion, consolidate the prior action for docketing and filing purposes at the new divorce case number.

(C) The moving party shall next file in Room 633 of the City-County Building, this form and two (2) copies of the complaint.]

(B) A party filing any secondary pleading to the divorce action (answer, counterclaim, or other petition [shall comply with paragraph (C) after filing the original pleading with the Prothonotary (Room 516 of the Courthouse] shall file such pleadings at the Family Division Prothonotary on the second floor of the Allegheny Building, 429 Forbes Avenue.

[(E) A party filing any pleading pursuant to a court order granting permission to file an amended complaint or other pleading shall comply with paragraph (C) after filing the original amended pleading in the Prothonotary's Office (Room 516 of the Courthouse).]

(C) If the divorce proceeding includes a claim for support, alimony pendente lite or counsel fees, any party seeking a conference/hearing on said claim shall file a praecipe in Room [633] 603 of the City-County Building requesting that a conference/hearing date be scheduled and further stating that there is no existing order of support and/or alimony pendente lite providing for the support of a spouse. The party seeking the conference/hearing shall provide a copy of the pleading raising the claim for support, alimony pendente lite or counsel fees and the Family Division Support/Alimony Pendente Lite/Alimony Information Sheet to the clerk in Room 603 at the time the praecipe for conference/hearing is filed. Where there is an existing order for support and/or alimony pendente lite providing for the support of a spouse, a hearing will be scheduled only pursuant to an order of court obtained [from the Motions Judge obtained] by following the procedures required for filing motions at Family Division Motions Court as provided in Local Rule 1930(a) [or, in the case of child support only, by filing the appropriate form in Room 603 of the City-County Building and appearing before a Domestic Relations Officer for approval.]

[Editor's note: Adopted May 15, 1981, effective immediately.]

Rule 1920.33. Joinder of Related Claims; Distribution of Property.

Local Rules for the Resolution of Claims for Equitable Distribution of Marital Property and Alimony

*I. Scheduling Conciliations for Contested Claims Raised Under [401(d)] §§ 3301 and 3701 [501] of the Divorce Code.

(A) A conciliation before the court shall be scheduled where either party has raised the claim of alimony and/or equitable distribution of marital property that is contested by the opposing party and (1) the parties are

divorced, have both filed affidavits of consent pursuant to 23 Pa.C.S.A. § 3301(c) or have been living separate and apart for two years and (2) there is compliance with the requirements of subpart B of this local rule. If both alimony and equitable distribution are raised, they shall be conciliated together.

Note: If either party has an outstanding claim for counsel fees, that claim must also be raised at the conciliation. Any outstanding claim for counsel fees that is not included in a final court order covering the alimony and equitable distribution claims shall be deemed to be denied by the court in the absence of specific language to the contrary.

(B) No conciliation shall be scheduled until both parties have complied with Rules 1920.31(a) and 1920.33(a) of the Pennsylvania Rules of Civil Procedure relating to the filing of an inventory and appraisal and income and expense statements. If alimony is the only claim before the court, only Rule 1920.31(a) need be complied with.

(C) Once both parties have complied with [Rules 1920.31(a) and/or 1920.33(a)] subparts A and B of this local rule, either party may schedule the conciliation [by obtaining a conciliation date from the Family Division Docket Clerk in Room 611 of the City-County Building] pursuant to local rule 1930(c).

(D) The party scheduling the conciliation shall notify the opposing party of the conciliation date.

(E) In the absence of compelling circumstances, all parties shall be present for the conciliation; however, upon written agreement between counsel for the parties (where counsel believes appearance by the parties would not be fruitful or necessary) parties may be excused from attendance at the first conciliation.

*II. Action to be Taken Where a Party Fails to Comply With Rules 1920.31(a) or 1920.33(a).

(A) On praecipe of any party who has complied with Rules 1920.31(a) and 1920.33(a), a rule shall be entered upon a non-complying party to file the inventory and appraisal and/or a statement of income and expense within thirty (30) days of the service of the rule.

(1) The praecipe.

(a) The praecipe shall be prepared substantially in the following form: "The plaintiff/defendant has complied fully with Rules 1920.31(a) and/or 1920.33(a) and the opposing party has failed to do so. Plaintiff-Defendant, therefore, requests that a rule be entered directing compliance with Rules 1920.31(a) and/or 1920.33(a) within thirty (30) days of the date of the service of the rule."

(2) The praecipe shall be filed in Room 621, City-County Building from where the rule will automatically issue. The party filing the praecipe is responsible for serving a copy of the rule on the opposing party.

(B) If it is necessary for the court subsequently to issue an order directing compliance with Rules 1920.31(a) and/or 1920.33(a), such order shall, in the absence of compelling circumstances, contain, inter alia, a provision for payment of counsel fees and costs to the moving party.

III. Scheduling Hearings for Uncontested Claims Raised Under Sections [401(d)] 3501 and [501] 3701 of the Divorce Code.

(A) Where a party has raised claims for alimony and/or equitable distribution of marital property and has reasonable grounds to anticipate that the opposing party does not intend to appear at any conciliation or court hearing to contest these claims, the claims shall be scheduled for a hearing before the court.

(B) A hearing is scheduled by filing a praecipe with the Family Division Docket Clerk in Room [610] 611 of the City-County Building. The praecipe shall allege that the party filing the praecipe believes that the claims will not be contested by the opposing party.

(C) The party filing the praecipe is responsible for serving the opposing party with the notice of the hearings before the court. This hearing notice shall also contain a statement to the opposing party as to exactly what relief is sought as well as a copy of the proposed order required by paragraph (E) below.

(1) Service of this notice of hearing and proposed order shall be made in accordance with Rule 1920.51.

(D) Prior to filing the praecipe, a party must have complied with Rules 1920.31(a) and 1920.33(a) of the Pennsylvania Rules of Civil Procedure.

(E) [**The party filing the praecipe shall submit a proposed order to court at the time of the hearing. This proposed order shall set forth the specific alimony award and a list of the property which the moving party seeks.**]

(F) At the uncontested hearing, the court shall hear only the essential facts required to enter an order. If the opposing party appears to contest the claim, the hearing shall be discontinued and the case shall proceed under Part I of this Local Rule.

Note: The purpose of Part III of this rule is to deal with the claims of alimony and/or property distribution where no consent can be obtained but there also appears to be no contest. It is contemplated that the Court will be able to expeditiously deal with cases particularly where property is minimal or where only a nominal alimony order is sought.

[*IV. —Conciliation Generally.

Editor's note: Repealed May 9, 1983, effective upon publication in Pa. Bulletin (July 2, 1983).]

*IV. Court Approved Settlements.

(A) Where the parties have reached an agreement on the issues of alimony and/or equitable distribution of marital property, and where court approval of the agreement is desired, the agreement shall be included with the proposed divorce decree. [**or presented. to the Motions Judge after review in Room 633 of the City-County Building.**] The agreement shall be signed by all parties and/or their counsel [**and a proposed order shall be attached indicating that the agreement is approved by the court.**]

Editor's note: Adopted May 15, 1981, effective immediately; amended May 9, 1983, effective upon publication in Pa. Bulletin (July 2, 1983).

Rule 1920.42. Affidavit and Decree Under Section 3301(c) or 3301(d) of the Divorce Code.

Local Rules for Obtaining Decrees for Divorce Claims Under Section 3301(c) or 3301(d) of the Divorce Code

(a) ★3(A) If a complaint and the 3301(d) affidavit have been filed under Section 3301(d) of the Divorce Code and

Twenty (20) days from service of the § 3301(d) affidavit have elapsed¹ and the responding party has not filed a contested responsive pleading within twenty (20) days of service of the affidavit, the moving party shall mail to the responding party's current address or otherwise deliver to the responding party a Notice of Intention as required by Pa.R.C.P. 1920.42(c) giving the responding party twenty (20) additional days in which to deny these allegations. [Copies of the court Notice to be mailed or delivered to the defendant are available in Room 633 of the City-County Building and a sample of the notice which must be used is shown below in paragraph (C). Note:] The twenty additional days to be given the responding party in the **Notice of Intention** begins to run on the date on which the notice is mailed or delivered. Registered or certified mail is not required. The **moving party** shall insert in the [**final paragraph of the**] notice a date on which the court is in session that is at least twenty days from the date of mailing or delivery.

(b) If the **responding party** has not responded to the additional **notice of intention**, the court, on praecipe in the form prescribed by Rule 1920.73, will review the complaint and the 3301(d) affidavit and, if appropriate, enter a final decree.

[**Note:**] An affidavit of service [**is necessary**] shall be filed for both the 3301(d) complaint and the 3301(d) affidavit. However, only one affidavit of service is necessary if the complaint and the 3301(d) affidavit were served at the same time.

(c)*3 In all cases the moving party is responsible for submitting a proposed decree **in a form required by Pa.R.C.P. 1920.76** prior to court review of the divorce claim.

[**(B) All divorce decrees shall contain the following statement: "The court hereby retains jurisdiction of any claims raised by the parties to this action for which a final order has not yet been entered."**]

(d) Scheduling a Conciliation Before the Court Under Section 3301(d)(1)(ii).

(A) Where the responding party has denied one or more of the allegations set forth in the moving party's affidavit under Section 3301(d) of the Code, either party may obtain a date for conciliation of the divorce claim **from the docket clerk, Room 611, City-County Building, and then filing a "Praecipe for Conciliation Date" listing such date with the Prothonotary, Suite 200, Allegheny Bldg., 429 Forbes Avenue, Pittsburgh, PA, 15219 and serving copies of same on all parties of record.**

(B) [**The party filing the praecipe with the Prothonotary shall deliver a copy of the praecipe to the docket clerk in Room 611 of the City-County Building in order to obtain a conciliation date. Unless there is compliance with this requirement, no conciliation of the divorce claim will be scheduled.**]

[**(C) The party filing the praecipe shall give notice to the opposing party of the conciliation date.**

Editor's Note: amended 5/9/83, effective upon publication in Pa. Bulletin (7/2/83).]

¹ Conforms to amended State Rule 1920.42(d)(1) effective January 1, 1996.

Rule 1920.46. [Representation of Defendant in Military Service.]

★(c) In all actions in divorce, except **3301(c)** claims, where the defendant is in the military service, the plaintiff shall, at the time of the filing of the complaint, petition the court to appoint an attorney to represent the defendant, setting forth in said petition the address of the defendant. A copy of the complaint must be furnished to the attorney thus appointed, who shall then send a copy to the defendant, together with a form of power of attorney authorizing the appointed counsel to appear for the defendant and to accept service of all papers.

Rule 1920.51. Hearing by the Court. Appointment of Master. Notice of Hearing.

Local Rule Regarding Contested and Uncontested Divorce Claims Under Sections **3301(a)** and **3301(b)** of the Divorce Code.

★(f) **Contested Actions.**

(1) All contested actions for divorce or annulment shall be first conciliated by the court. A conciliation date may be obtained from the Family Division Docket Clerk in Room **611** of the City-County Building. If the case cannot be settled at the conciliation, the following rules will apply.

(2) In all contested actions for divorce or annulment the case shall be heard by a master in the absence of a court order to the contrary. Unless the court directs otherwise, the moving party shall be preliminarily responsible for paying the master's fee for trial and preparation of the master's report, the reporter's fees and any costs or poundage due the Prothonotary; all of said sums shall be paid to the Prothonotary prior to the hearing before the master.

(3) Within ten (10) days after the fees are paid into court the master shall give written notice to the parties of a hearing to be held not more than thirty (30) days thereafter. At the time and place set forth in the notice, the master shall begin the hearing and, unless the court directs otherwise, shall continue the same from day to day until completed.

(4) All testimony shall be taken stenographically by one of the reporters of this court or a judge's secretary, and a transcript thereof shall be filed of record within thirty (30) days. Any additional costs of the transcript over the amount deposited shall be paid by the moving party. Any delay in this payment shall be grounds for dismissal of the proceedings unless adequate cause is shown for the delay.

(5) Within thirty (30) days of receipt of the transcript, the master shall file a report making findings of fact and conclusions of law and suggesting a form of decree; the master shall serve copies of the report on the parties and shall file an affidavit of service.

(6) Exceptions to the master's report may be filed by the parties within ten (10) days after receiving notice of the filing of the master's report. Copies of the exceptions shall be served on the opposing party. The acceptant shall, on the date of filing of the exceptions, give a copy of the exceptions to the docket clerk in Room **611** of the City-County Building in order to obtain an argument date.

(7) The master's fee and transcript costs shall be taxed as part of the costs and paid as directed in the final decree.

(8) The master appointed by the court to hear a contested divorce case shall, after prior notice to both parties, petition the Motions Judge to award the master's fees. The petition shall state that the master has filed a report with the Prothonotary and given notice to counsel of the filing thereof and that the master has no further duties to perform and the master shall include a detailed list of the services provided and the amount which the master considers to be reasonable compensation.

***(g) Uncontested Actions Under 3301(a) and (b) of the Code.**

(1) Actions for divorce or annulment which are uncontested shall be listed for hearing upon filing a praecipe for hearing and, except as otherwise provided by Rule 1920.62, depositing the Prothonotary the sum of \$3.00 to be applied as follows: Master's Fee—\$25.00; Court Reporter's fee—\$15.00; poundage and mailing expense—\$3.00 The amount deposited shall be taxed as costs.

(2) The praecipe for hearing shall be in the following form:

Praecipe for Hearing Date

(Caption _____ No. _____)

1. Kindly list the above captioned action for hearing.

2. Defendant was served under Rule [**1920.4(a)(1)(i), (a)(1)(ii) or 1920.4(2).**] **412 or 403.** Serve notice of hearing upon Defendant by ordinary mail addressed as follows:

(address)

or

2. Defendant was served under Rule [**1920.4(1)(1)(iii)**] **430.** Serve notice of hearing upon defendant by registered mail at defendant's last known address:

(address)

with a copy by ordinary mail to each of the following:

(list names and addresses of persons named in the investigation affidavit under [**1920.4(3)**] **430** as likely to know the present whereabouts of the defendant.)

or

2. An appearance has been entered for Defendant. Serve notice of hearing upon Defendant's attorney of record.

Attorney for Plaintiff

(3) All notices of hearing shall be mailed by the Prothonotary at least twenty (20) days before the hearing date, and proof of notice shall be filed of record in the form of a statement of the names and addresses of the persons notified.

(4) Notice of hearing shall be in the following form:

Notice of Hearing

To _____

You are notified that the case of _____ vs _____ No _____ Term _____ will be heard on _____ at _____ o'clock _____ M. (prevailing time) at [**5th Floor Courthouse Building, Grant Street,**] Room No. _____, _____, Pittsburgh, PA, when and where you may appear and be heard if you desire.

Prothonotary

Note: If a party is confined in prison and desires to appear, application may be made to the court for a writ of habeas corpus and testificandum.

(5) The daily list of uncontested actions shall be heard by one or more masters appointed by the administrative judge of the Family Division.

(6) The attorney of record for plaintiff must be available and ready to proceed at the time for which the hearing is scheduled or arrange to have a substitute appear for him, unless (1) the action has become contested or (2) upon cause shown by written motion, the hearing has been continued by court order.

(1) If the action is contested, the procedure for contested actions shall apply.

(2) If the hearing is continued, it will not be relisted for hearing until another praecipe for hearing is filed together with payment to the Prothonotary of the additional sum of \$1.00 to be applied toward the expenses of new service of notice of hearing.

(7) If the action has not become contested or the hearing has not been continued by court order and the plaintiff does not appear at the hearing, the master will be paid from the funds deposited and the action will not be relisted for hearing until another praecipe for hearing is filed and an additional sum of \$27.25 is deposited with the Prothonotary.

(8) The testimony shall be transcribed and filed within ten (10) days of the hearing. Within five (5) days after the testimony has been transcribed and filed, the master shall file a report and recommendations and serve notice thereof on all interested parties. The record, including the master's report and recommendations, shall be submitted to the court for disposition.

(9) In the event the moving party does not wish to file exceptions to the master's report and recommendations, the moving party shall submit a proposed decree in divorce to the court. In the event a party wishes to file exceptions to the master's report and recommendations, the party shall do so within ten (10) days from the filing thereof. The exceptions shall be filed in the office of the Prothonotary with notice to the court and opposing party. Also the acceptant shall provide a copy of the exceptions to the docket clerk in Room 611 of the City-County Building in order to obtain an argument date.

Editor's Note: Adopted May 15, 1981, effective immediately.

Rule 1920.55. Master's Report. Notice. Exceptions. Final Decree.

Local Rule Governing Exceptions

(c)*1. Any party filing exceptions shall immediately serve them upon all other parties and the court reporter and shall, **unless otherwise provided by order of court**, order the transcript of testimony, unless the transcript has previously been filed.

[2. Exceptions shall automatically be placed on the next "Argument List" occurring more than five (5) days after the filing of exceptions.

★3.] (2.) Briefs shall be filed and argument scheduled as provided by order of court after the period for filing exceptions has expired.

[Editor's note: Adopted May 15, 1981, effective immediately.]

Rule 1920.62. Proceedings by Indigent Parties.

(c)*(1.) Any person claiming to be an indigent party and who either desires to commence an action in divorce or is a party to a pending action in divorce in Allegheny County shall be referred to the Allegheny County Bar Association to make application under oath.

* (2.) The Allegheny County Bar Association is hereby authorized to assign an attorney from among its members to represent each applicant determined by it to be an indigent person.

* (3.) An order permitting a party to proceed without payment of costs may provide:

That the Prothonotary shall accept, file, docket and process all pleadings, orders, and decrees without prepayment of costs;

That the Sheriff shall make service and return of service without prepayment of costs;

That the master shall hear the testimony and make and file a report without prepayment of costs.

* (4.) In the event that it is determined that the applicant or any other person who is legally responsible to the applicants is or has become financially able to pay the costs, an order may be entered against that person for the payment of all or any part of costs including reasonable counsel fees.

Editor's note: Adopted May 15, 1981, effective immediately.

Rule 1920.71. Form of Notice.

* (a) The list of marriage counselors is available at **Suite 200, Allegheny Building, 429 Forbes Avenue, Pittsburgh, Pennsylvania 15219.**

* (b) The agency to be named in the notice to defend and claim rights shall be:

Lawyer Referral Service
920 City-County Building
Pittsburgh, PA 15219
Telephone: (412) 261-0518

[Editor's note: Adopted May 15, 1981, effective immediately; amended May 9, 1983, effective upon publication in Pa. Bulletin (July 2, 1983).]

Rule 1920.73.

(a)*3 Date of Service of **[Additional Twenty (20) Day Notice.] Notice of Intention to Request Entry of Divorce Decree**

Additionally, an affidavit of service must be filed in the Prothonotary's office setting forth facts which establish that the **notice of intention to obtain divorce decree** was mailed to the **responding party's** current address or otherwise delivered to responding party. The inclusion in the affidavit of an averment that the notice was mailed by ordinary mail to the **responding party** at his or her current address, with the return address of the sender appearing on the envelope of the mailing, and that such notice was not returned will meet this requirement.²

[(C) Additional Twenty (20) Day Notice.]

Rule 1920.76. Form of Decree.

[*(a) All divorce decrees shall contain the following statement:

² The provisions of this paragraph are superceded and rendered obsolete by amendments to state rule 1920.73 effective January 1, 1996, requiring proof of service within the form of the Notice of Intention to Request Entry of Decree.

(1) Any existing spousal support order shall hereafter be deemed an order for alimony pendente lite.]

Rule 1930.

***(a) Family Division Motions**

1. Family Division motions may be presented to the motions judge at 1:30 p.m. on each court day. Motions will not be heard at any other time.

2. The party who presents a motion shall include a notice of presentation and certificate of service in the absence of written consent thereto. The notice of presentation and certificate of service shall be contained on a separate page of the motion or petition following the identification sheet. This notice is required even if the opposing party is not represented by counsel. Seven (7) days notice of presentation of any motion is required absent an emergency or consent by the opposing party to a shorter notice of presentation.

3. On the same date that the motion is presented, the party who presents a motion to the motions' judge shall obtain any required hearing or conciliation date from the Family Division docket clerk and file with the Prothonotary the motion and the court order entered by the court. If a party fails to present the motion to the Docket Clerk **as required by this Rule [on the date signed]** the Docket Clerk shall refuse to give a hearing or conciliation date. If the signed order schedules a conference or hearing before a domestic relations officer, a copy of the pleading and order must be left with the docket clerk.

4. The *Pittsburgh Legal Journal* publishes a monthly list setting forth the dates that a judge assigned to the Adult Section of the Family Division will hear motions. Unless there are unusual circumstances, where a judge has been actively involved in the matter that is the subject of the motion, counsel should present the motion to the assigned judge.

5. Any motion which involves support payments that are assigned to the Pennsylvania Department of Public Welfare shall include Notice of Presentation to counsel for the Department of Public Welfare, 1403 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

6. Any motion involving a matter under RURESA shall include Notice of Presentation to the County Solicitors Office, Fort Pitt Commons, 3rd Floor, 445 Fort Pitt Blvd., Pittsburgh, PA 15219 or other counsel of record.

***(b) Procedure for Preliminary Objections and Motions for Judgment on the Pleadings or Summary Judgment**

1. Preliminary Objections

Preliminary Objections shall be scheduled on the next available Friday Support Exception Argument List occurring more than thirteen (13) days after the Preliminary Objections are filed with the Prothonotary and the Hearing Officer's Secretary in Room 616, City-County Building. Objector shall serve notice on all parties of the time and place of argument. No preliminary objections shall be accepted for filing by the Hearing Officer's Secretary unless accompanied by a brief. Failure to file a brief with the Preliminary Objections shall be cause for dismissal of the Preliminary Objections. If Respondent files a brief it shall be filed with the Hearing Officer's Secretary at least seven (7) days prior to argument. The scheduling of Preliminary Objections shall stay all proceedings.

2. Motions for Judgment on the Pleadings or Summary Judgment

Motions for Judgment on the Pleadings or Summary Judgment shall be scheduled on the next available Friday Support Exception Argument List occurring more than forty-one (41) days after the motion is filed. Movant shall serve notice on all parties of the time and place of argument. Respondent's Answer, if any, together with any opposing affidavits shall be filed at least twenty-one (21) days prior to the argument date. Movant shall file a brief at least fourteen (14) days prior to argument. Respondent's brief, if any, shall be filed at least seven (7) days prior to argument.

***(c) Scheduling Conciliations**

Matters that are tried by a judge will not be listed for trial until they have been conciliated by a judge.

[A party filing an inventory may deliver a praecipe to the "Minute Clerk" in Suite 200, Allegheny Building, 429 Forbes Avenue requesting a Rule to be issued compelling the opposing party to comply with Pa.R.C.P. 1920.31 and/or 1920.33 to file his or her inventory.]

The following matters may be scheduled for a conciliation by filing a praecipe with the Docket Clerk in Room 611 of the City-County Building: conciliation on 3301(d) divorce claims; custody claims with order of court attached, see Pa.R.C.P. 1915.15(a) and (c); partition and equity claims and equitable distribution and alimony claims (provided that both parties have filed an inventory, appraisal, income and expense statement and that either (a) the parties are divorced, (b) both parties have filed an affidavit under Section 3301(c) of the Divorce Code or (c) both parties agree that they have lived separate and apart for at least two years and that the marriage is irretrievably broken). Form 1930*C1 is to accompany the praecipe for equitable distribution conciliation. In all cases where a party requests a conciliation on a claim for custody the party or counsel must sign a certification that a genuine issue involving physical custody for more than 50% of the time is involved. (Form 1930*C2) All parties involved in custody proceedings are directed by the court to view a film on custody prior to the first scheduled conference or hearing.

For other matters a party may present a petition to the motions judge which contains the factual background, the relief sought, and a request for conciliation.

***(d) CONTINUANCES**

Effective April 29, 1991, in accordance with the Prothonotary Fee Bill, no Order of Court continuing a conference hearing in the Adult Section of the Family Division, at the request of an attorney or party, will be accepted by the Prothonotary for docketing and filing without payment of the required \$15 filing fee.

1. Continuances of Conciliation, Arguments or Hearings Before a Judge, Hearing Officer or Domestic Relations Officer.

No conciliation, argument or hearing before a judge, hearing officer or domestic relations officer will be continued without an order of court. Notice of the presentation of the request must be given to the opposing party, including an opposing party who is not represented by counsel **in conformity with Local Rule 1930*(a).**

A scheduled DRO conference or hearing before a Hearing Officer may be "continued generally" by order of court or a stipulation signed by both parties or their counsel (Court Manual, Form 14). Any matter which is continued generally will not be relisted without a court order signed by the motions judge.

A copy of any court order or stipulation continuing a Family Division matter must be immediately given to the Family Division Docket Clerk in Room 611, City-County Building to prevent dismissal of the scheduled action.

Whenever a new date is obtained through a court order, counsel for the party obtaining the court order is responsible for notifying all parties of the time and date of the rescheduled conference or hearing. In a RURESAs case, the County Solicitor's Office must be given notice at Fort Pitt Commons, 3rd Floor, 445 Fort Pitt Boulevard, Pittsburgh, PA 15219.

A party unrepresented by counsel may obtain a continuance of a DRO conference and hearing before a Hearing Officer in the manner outlined above.

In addition, an unrepresented party seeking to continue or reschedule a DRO conference or hearing before a Hearing Officer may report to Room 603 of the City-County Building to meet with a screening DRO. The unrepresented party shall present information explaining why the conference or hearing should be continued. In the event that the screening DRO determines that a continuance is necessary, the DRO will obtain a court order continuing and/or rescheduling the conference or hearing. **ONLY NON-WELFARE CASES CAN BE CONTINUED AS EXPLAINED ABOVE.** Any request by an unrepresented party must be made at least five (5) days prior to the date set for the hearing so that the other side may receive sufficient notice of the continuance.

***(e) Enforcement of an Equitable Distribution Award**

A party seeking to enforce an equitable distribution award shall present to the motions judge a petition for enforcement with a proposed order requesting the court to schedule a conciliation or a contempt hearing before a hearing officer. No petition shall be presented unless notice of its presentation is given to the respondent. If the court enters an order permitting the petitioner to proceed, the petitioner shall obtain immediately from the Docket Clerk a date for the conciliation or contempt hearing, file the original copy of the petition with the Prothonotary, serve the respondent with the court order and file proof of service.

***(f) Use of Case Numbers in the Adult Section of the Family Division**

All pleadings filed with the Adult Section of the Family Division [**should**] **shall** be filed under the originally assigned case number for the involved family. After an original case number has been assigned all pleadings, regardless of the caption or nature of the case, [**should**] **shall** be filed under the originally assigned number. The caption [**should**] **shall** reflect the appropriate party initiating each original action as the plaintiff regardless of previous filings [**and**] each [**the**] caption [**should**] **shall** remain the same during the pendency of each action.

If counsel or a party believes that there may be a previously assigned case number, but the number is not known, the information may be obtained from the Prothonotary's Name Index located on the mezzanine level of the Prothonotary's Office in the City-County Building.

***(g) Court Manual**

Except as otherwise provided by the Pennsylvania Rules of Civil Procedure (Pa.R.C.P.) or by general rule adopted by the Court of Common Pleas of Allegheny County (Local Rules), practice in the Adult Section of the Family Division shall be gov-

erned by the Court Manual for the Adult Section of Family Division of the Court of Common Pleas of Allegheny County. Current copies of the Court Manual shall be available at the office of the Administrator, Adult Section of the Family Division.

[Pa.B. Doc. No. 96-93. Filed for public inspection January 26, 1996, 9:00 a.m.]

Title 25—LOCAL COURT RULES

BRADFORD COUNTY

Rule of Civil Procedure 1910.10; No. 95IR000066

Order

And Now, this 3rd day of January, 1996, the court hereby adopts the following Bradford County Rule of Civil Procedure, to be effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin*.

It is further ordered that the District Court Administrator shall file seven (7) certified copies of this Rule with the Administrative Office of the Pennsylvania Courts, two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, one (1) certified copy to the Domestic Relations Committee and one (1) copy to the *Bradford County Law Journal* for publication in the next issue of the *Bradford County Law Journal*.

It is further ordered that this local rule shall be kept continuously available for public inspection and copying in the Clerk of Courts Office.

By the Court

JEFFREY A. SMITH,
President Judge

Rule of Court 1910.10.

All support proceedings shall be conducted under the Alternative Hearing Procedure of Rule 1910.12 of the Pennsylvania Rules of Civil Procedure.

[Pa.B. Doc. No. 96-94. Filed for public inspection January 26, 1996, 9:00 a.m.]

NORTHAMPTON COUNTY

Orphans' Court Rule 14—Estates of Incapacitated Persons

Order of Court

And Now, this 30th day of December, 1995, the title of Northampton County Orphans' Court Rule N14.5.1 is amended to read "PAYMENTS DURING INCAPACITY". There is no change in the text of said rule, which was adopted December 7, 1995, and becomes effective January 22, 1996.

By the Court

ROBERT A. FREEDBERG,
President Judge

[Pa.B. Doc. No. 96-95. Filed for public inspection January 26, 1996, 9:00 a.m.]