

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 82]

Amendment of Rules 102 and 106 of the Pennsylvania Rules for Continuing Legal Education; No. 164; Doc. No. 1

Order

Per Curiam:

And Now, this 16th day of September, 1996, Rules 102 and 106 of the Pennsylvania Rules for Continuing Legal Education are amended as follows.

To the extent that notice of proposed rule making would be required by Pa.R.J.A. 103, the amendment of the rules is hereby found to be required in the interest of efficient administration.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective immediately.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart A. PROFESSIONAL RESPONSIBILITY

CHAPTER 82. CONTINUING LEGAL EDUCATION

Subchapter A. PROFESSIONAL RESPONSIBILITY

Rule 102. General.

- (a) ***
- (b) ***

Provider. A [**not for profit**] corporation or association which has been accredited by the Board to provide continuing legal education under these rules or a [**not for profit**] corporation or association which provides one (1) or more continuing legal education courses approved by the Board.

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Rule 106. Providers.

- (a) *Eligibility.*

1. *Accredited providers.* A [**not for profit**] corporation or association may apply to the Board for accreditation as a CLE provider. Such accreditation shall constitute prior approval of CLE courses offered by such provider, subject to amendment, suspension or revocation of such accreditation by the Board.

2. *Course providers.* A [**not for profit**] corporation or association may apply to the Board for approval of CLE courses under Rule 107 [**(h)**] and upon such approval, and while any course offered remains approved, such [**not for profit**] corporation or association shall be deemed a provider subject to these rules.

3. For Profit Providers:

a. A for profit corporation or association may apply to the Board for accreditation as a CLE provider or for approval of courses under Rule 107, and the Board may grant such accreditation or course approval to be effective on and after January 1, 1997.

b. Until authorized by these rules and the regulations of the Board, only CLE courses offered and conducted outside the territory of the Commonwealth of Pennsylvania by for profit corporations or associations may receive CLE credit from the Board.

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[Pa.B. Doc. No. 96-1667. Filed for public inspection October 4, 1996, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CHESTER COUNTY

Amendments to Rules of Civil Procedure

Order

And Now, this 17th day of September, 1996, the following amendments to the Chester County Rules of Civil Procedure are hereby adopted, effective thirty (30) days after publication in the *Pennsylvania Bulletin*, in accordance with Pa.R.C.P. No. 239(d).

THOMAS G. GAVIN,
President Judge

- I. Add the following comment following Rule 4007.1.B:

Comment: See Rule 206.1.A.(1) for certification required with discovery motions and petitions.

- II. Amend Rule 206.1.A.(1) as follows:

1. The present rule shall be renumbered to become subparagraph (a).

- 2. Add the following as Rule 206.1.(A)(1)(b):

(b) *Discovery motions and petitions.* Any motion or petition relating to discovery must be accompanied by a certificate of counsel for the moving party certifying that counsel has conferred with opposing counsel with respect to each matter set forth in the discovery motion or petition and has made a good faith effort to resolve each such matter but has been unable to resolve the differences which exist OR that counsel has made a good faith effort to confer but has been unable to do so. The certificate shall set forth the exact time, place and manner (which may be telephonic) of the conference or, in a case in which counsel for the moving party cannot furnish such certificate, counsel shall furnish an alternative certificate stating that opposing counsel has refused to so confer. The alternative certificate shall also set forth the efforts made by counsel for the moving party to obtain compliance by opposing counsel and such other facts and circumstances as exist to justify the absence of the required certificate. All counsel have an affirmative obligation to confer and discuss discovery matters and make

a good faith effort to resolve such differences as may exist. The court at its discretion may strike, dismiss or deny the petition or motion for failure of the moving party to comply with the certification requirements of this rule or may grant relief based solely upon the unreasonable refusal of opposing counsel to confer despite reasonable and good faith efforts of moving counsel to arrange such conference.

III. Amend Rule 249.3, Order of Trial Readiness, to read as follows:

(a) A category A matter shall be presumptively deemed ready for trial twelve (12) months from the date of the initiation of the suit and a category C matter (compulsory arbitrations) in which there has been an appeal from the award of arbitrators shall be presumptively deemed ready for trial two (2) months from the date of the filing of the appeal. Such matters shall immediately thereafter be placed on the trial list of the judge to whom the case is assigned, unless prior thereto an order has been entered deferring the placement on the trial list until a later date. Such order may be entered by the court on its own motion or pursuant to the procedures set forth in paragraph (b) below.

(b) To obtain relief from the initial automatic trial listing pursuant to paragraph (a) above and, thereafter, from any deferred trial listing, a party must file a request for an administrative conference to be held in accordance with Rule 249.1. The first request for administrative conference must be filed no later than eight (8) months after the date of initiation of suit, except in category C matters. In category C matters, the first request for an administrative conference must be filed no later than ten (10) days after the filing of the appeal from the award of arbitrators. All subsequent requests for administrative conferences must be filed not less than thirty (30) days prior to the trial listing date. The request for an administrative conference must specify that deferment of trial listing will be requested at the conference. The request for administrative conference shall be filed of record and a copy thereof served upon counsel of record for each other party to the action, each unrepresented party, if any, the Court Administrator, and the assigned judge.

(c) At any time prior to placement of a case on the trial list pursuant to the procedures set forth above, the court, either on its own motion or upon agreement of the parties or upon application of any party, may determine that any matter is ready for trial, in which event the court shall file a trial readiness order and the court administrator shall then notify all parties that the case has been placed on the trial list.

(d) Category C matters shall be governed by C.C.R.C.P. No. 1301.1 et seq., unless and until an appeal from the award of arbitrators has been filed. Following the filing of such appeal, the rules set forth above and below shall apply.

(e) *Interim Rule.* For the purposes of this rule only, the "date of the initiation of the suit" shall be deemed to be July 1, 1996, for all cases commenced prior to January 1, 1996, and the "date of the initiation of the suit" shall be deemed to be September 1, 1996, for all cases commenced on or after January 1, 1996, but prior to September 1, 1996. For all other cases, the "date of the initiation of the suit" shall be the actual date upon which the suit was or is commenced. For all Category C matters in which the award of arbitrators has been entered or is entered on or

before the effective date of these amendments, the "date of the filing of the appeal" from the award of arbitrators shall be deemed to be the twentieth (20th) day following the effective date of these rules. However, this rule shall not affect any case for which a trial readiness order has already been filed nor limit the application of paragraph (c) above.

IV. Amend Rule 249.1, Administration of Civil Cases, as follows:

Amend subparagraph A to read as follows:

A. The court shall conduct one or more administrative conferences in each case in which the judge is requested to do so by any party and may conduct administrative conferences in any matter at any time or times upon the judge's own motion.

No change to subparagraphs B or C.

V. Amend Rule 1303.2, Pre-Arbitration Memorandum, as follows:

Amend the introductory paragraph to Rule 1303.2(a) to read as follows:

(a) At least seven (7) days before the date of the arbitration hearing, all parties shall file with the Prothonotary, in triplicate, a memorandum in the form provided and shall immediately serve a copy on each party. This memorandum shall set forth the following:

(1) . . .

VI. Amend Rule 206.1.C.(4) as follows:

Amend the second sentence of Rule 206.1.C.(4) to read as follows:

All other parties shall file their responses, if any, to the motion and their briefs within fifteen (15) days of the filing of the motion, except with respect to motions for summary judgment, as to which responses and briefs must be filed within thirty (30) days after service of the motion.

VII. Add the following comment following Rule 206.1.C.:

Comment. See Rule 1035.1(A) and also Pa.R.C.P. Nos. 1035.1 et seq. with regard to motions for summary judgment.

VIII. Add Rule 1035.1(A) as follows:

Procedural requirements with respect to arguments and briefs are generally set forth in Rules 206.1.A.(1) et seq., and in particular in Rules 206.1.C, 206.2, 210.1 and 211.1. These rules apply to motions for summary judgment as well as to all other motions. Pursuant to Rule 206.1.C.(4) and Pa.R.C.P. No. 1035.3(a), a response to a motion for summary judgment must be filed within thirty (30) days after service of the motion. Accordingly, pursuant to these Rules and to Pa.R.C.P. No. 1035.3(d), if no response is timely filed, the court may consider such a motion as uncontested and unopposed and may enter summary judgment against a party who does not respond.

IX. To the extent that Rules 2956.1 and 2971.1 conflict with the Pennsylvania Rules of Civil Procedure, and in particular with Pa.R.C.P. Nos. 2973.1 et seq., adopted April 1, 1996, effective July 1, 1996, and to that extent only, Rules 2956.1 and 2971.1 are repealed.

[Pa.B. Doc. No. 96-1668. Filed for public inspection October 4, 1996, 9:00 a.m.]

DELAWARE COUNTY

Judge Pro Tempore Program; Misc. Doc. No. 82-7677

Order

And Now, to wit, this 17th day of September, 1996, due to the dire conditions which have resulted from the current overwhelming caseload of both civil and criminal cases that face the judges of this Court,

It is Hereby Ordered and Decreed that a Judge Pro Tempore Program is established in this judicial district utilizing the volunteer services of experienced trial lawyers, from both the plaintiff and defense bars, who have been or will be designated by the Court to preside as "Judges Pro Tempore."

It Is Further Ordered that the following procedures and qualifications will be followed with regard to this Program:

1. *Duties and Responsibilities of Judges Pro Tempore.* The Delaware County Bar Association, with the approval of the Court, will determine the names and number of Judges Pro Tem and the number of cases to be assigned to each Judge Pro Tem once the group of cases is identified by the Court Administrator.

Said designated judges may hear evidence, conduct conferences, hearings and trials and may, thereafter, make appropriate recommendations to this Court for the entry of necessary orders.

2. *Implementation of Program.* The Program is initially intended to exist from September of 1996 through December of 1997. It will be implemented in two phases: Phase I will begin in the fall of 1996, while Phase II is anticipated to begin in 1997.

Phase I is a mandatory settlement program aimed at reducing the initial backlog of trial-ready cases which will be returned to the unassigned pool by those judges assigned to the newly-created Criminal Division.

Phase II will allow the parties, by agreement, to take advantage of a priority trial listing before a Judge Pro Tem, with or without a jury. The Court will assign the Judge Pro Tempore upon stipulation by the parties.

3. *Categorization of cases.* Those cases which are returned for reassignment by the judges in the criminal division will be separated into the following categories, of which only those categorized as "simple" will be included in the program:

a. *Simple Personal Injury/Property:*

1. less than \$150,000 in damages;
2. less than four days for trial;
3. less than four parties involved;
4. assault, battery, premises liability, auto negligence bodily injury, auto negligence property, defamation, libel, slander, false imprisonment, other negligence bodily injury or property.

b. *Simple Commercial:*

1. less than \$150,000 in damages;
2. less than four days for trial;
3. less than five parties involved;
4. breach of contract, landlord/tenant, breach of warranty, declaratory judgment.

c. *Complex:*

1. class action
2. asbestos
3. medical malpractice
4. product liability
5. professional negligence
6. construction contract
7. toxic tort

d. *Standard:* all other cases

e. An option will be available for parties who may want to take advantage of Phase I but whose cases do not meet the standard for "simple" cases. The following criteria will apply to any such cases:

1. The case must have been returned to the Court Administrator for reassignment by a Judge in the Criminal Division.

2. An affidavit must be signed by all attorneys or unrepresented parties stating that there is agreement to participate in the settlement phase of the program and that there is a reasonable likelihood of settlement.

3. The attorneys/unrepresented parties must complete a settlement memorandum form, available in the Office of the Court Administrator, on or before October 31, 1996.

4. Upon completion and receipt by the Court Administrator, the case will be screened by the President Judge's chambers and, if approved, assigned to the Program.

5. The assigned Judge Pro Tem may thereafter, at the conclusion of Phase I, either include the case with the program or return the case to the unassigned pool. This decision will largely be based upon the parties' efforts at settlement during Phase I.

6. Should counsel/unrepresented parties not receive notice from the Court by September 30, 1996 advising of the case's inclusion in the program, the aforementioned steps must be followed by October 31, 1996 in order to be considered for inclusion in the program.

7. From time to time, the President Judge may supplement the program with additional case assignments.

4. *Settlement Memoranda.* Notices and Settlement Memoranda forms will be forwarded to attorneys/unrepresented parties beginning September 15, 1996 for those cases which have been selected initially by the Court for inclusion in the Program. All attorneys/unrepresented parties whose cases have been initially selected by the Court for inclusion in the Program must fully complete and return the Settlement Memorandum, along with copies, to the Court Administrator who will then file the original memorandum with the Office of Judicial Support on or before October 31, 1996.

5. *Settlement Conference.* Cases will be assigned to Judges Pro Tem by the Office of the Court Administrator, after which the Judges Pro Tem will schedule their cases for conference in the time period from December 1, 1996 through February 28, 1997. The conferences will be held at the time and place of choosing of the individual Judge Pro Tem.

The parties will be required to attend the settlement conference. *In the event that a defendant is insured, then an authorized claims manager or supervisor of defendant's insurer, with complete settlement authority and control of the claims file, is required to attend the conference.* The conference must also be attended by trial counsel.

The Judge Pro Tem will settle, continue or reschedule the matter or determine that it cannot be settled. In the latter case, the Judge Pro Tem shall determine whether the parties will stipulate to a trial before a Judge Pro Tem or whether the case will need to be reassigned to the unassigned trial pool in the civil division. The parties must notify the Judge Pro Tem at the conference or within one week after the settlement conference of their decision of whether or not to proceed to Phase II. The outcome of the settlement conference will be reported by the Judge Pro Tem to the Court.

6. Trial.

a. *Judge Pro Tem.* If the parties agree to proceed non-jury with a Judge Pro Tem, the Judge Pro Tem will be assigned by the Court. The Judge Pro Tem assigned will not be the same judge as at the settlement conference, unless the parties so agree. The parties will be considered attached for trial for the date provided to them by the Judge Pro Tem and will be on one hour call.

If the parties agree to proceed with a Judge Pro Tem with a jury, the settlement conference judge will also be the trial judge. The Judge Pro Tem will schedule a pretrial conference and proceed accordingly. The Judge Pro Tem, in conjunction with the Office of the Court Administrator, will determine courtroom and jury availability.

The Judge Pro Tem will have the authority to resolve disputes regarding continuances and may attach attorneys for trial.

b. *Trial by the Court.* If the case is returned after the settlement conference, and the parties have not stipulated to a trial under the Program, the Court Administrator will return the case to the unassigned pool by complaint date order prior to "new" cases which are defined as filed as of June 28, 1996. The filing date for purposes of arbitration appeals will be the date of appeal.

7. *Motions.* The filing of motions will not delay the scheduling of a settlement conference. To the extent possible, all non-dispositive motions will be decided prior to the time of the Settlement Conference. Decisions on dispositive motions will be deferred until after the settlement conference.

If the case does not settle, and the parties do not proceed to Phase II, the Judge Pro Tem is to advise the Court of any outstanding motions. The motion will then be forwarded to the Civil Pre-trial Unit. All motions filed in cases assigned to judges in the Civil Trial Division are to be referred to and decided by the assigned trial judge.

If the parties do proceed to Phase II, the assigned Judge Pro Tem is authorized to decide all non-dispositive motions. Any issue which is final and appealable, and therefore dispositive, will be decided by the Trial Judge Pro Tem under the supervision of the President Judge for purposes of decision and written opinion.

In the event that a motion is filed after assignment to a Judge Pro Tem in Phase II, the moving party is required to file the original with the Office of Judicial Support and to provide a courtesy copy directly to the assigned Judge Pro Tem.

8. *Noncompliance.* Failure to comply with the Court's Order regarding the mandatory settlement conference in the Pro Tem Program, including the personnel required to attend with settlement authority, and/or failure to comply with all requirements stated herein, will result in a recommendation by the Judge Pro Tem for a hearing

before the President Judge. The President Judge will review the case and determine whether or not a hearing should be scheduled and/or sanctions need be imposed.

9. *Changes in Procedure.* The procedure set forth herein may be changed from time to time by notice appearing in the *Delaware County Legal Journal*.

10. *Effective Date.* The within procedure will become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

As required by Pa.R.C.P. No. 239, the original Order shall be filed with the Office of Judicial Support and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Civil Procedure Rules Committee. Copies of the Order will also be submitted to Legal Communications, Ltd., *The Legal Intelligencer*, and the *Delaware County Legal Journal*.

By the Court

A. LEO SERENI,
President Judge

[Pa.B. Doc. No. 96-1669. Filed for public inspection October 4, 1996, 9:00 a.m.]

FAYETTE COUNTY

Local Rule 1920.51(a)—Divorce and Annulment: Master's Fee, Power of Master, Stenographer's Fee and Filing Costs; No. 1685 of 1996, G.D.

Order

And Now, this 13th day of September, 1996, it is hereby ordered that the above-stated Local Rule be as hereafter set forth. This amendment shall be effective 30 days after the publication in the *Pennsylvania Bulletin*.

The Prothonotary of Fayette County is *Ordered and Directed* to do the following:

(1) File seven (7) certified copies of this Order and Amended Rule with the Administrative Office of Pennsylvania Courts.

(2) File two (2) certified copies of this Order and Amended Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) File one (1) certified copy of this Order and Amended Rule with the Pennsylvania Civil Rules Committee.

(4) Forward one (1) copy for publication in the *Fayette Legal Journal*.

(5) Forward one (1) to the Fayette County Law Library.

(6) Keep continuously available for public inspection copies of this Order and Amended Rule.

It is further *Ordered* that said rule as it existed prior to the amendment is hereby repealed and annulled on the effective date of said rule as amended, but no right acquired thereunder shall be disturbed.

By the Court

WILLIAM J. FRANKS,
President Judge

Rule 1920.51(a). Divorce and Annulment: Master's Fee, Power of Master, Stenographer's Fee and Filing Costs.

(1) Costs, including the master's fee, shall be paid prior to the time that a master is appointed. When a master is appointed, the master shall control the conduct of the hearing as in a trial by judge without a jury.

(2) The special master shall receive Fifty Dollars (\$50.00) per hour for hearings, research and reports not to exceed Five Hundred Dollars (\$500.00). The Court may upon petition by the special master increase the fee to compensate the special master for additional necessary services.

(3) The master in a divorce under Section 3301(a) or (b) of the Act shall receive One Hundred Fifty Dollars (\$150.00) per case. However, in a case requiring lengthy hearings or involving unusual questions of law or fact, the Court may, upon petition of the master, increase the master's fee to compensate the master for additional necessary services.

(4) The stenographer shall be paid at the rate of Two Dollars and Twenty-five Cents (\$2.25) per original page, and Thirty Cents (.30) per copy page for notes of testimony taken and transcribed by the stenographer in hearings held by the master in a divorce.

(5) In the event that a hearing is canceled, other than by the stenographer, the stenographer shall be paid an appearance fee of Seventy-five Dollars (\$75.00).

(6) The filing costs for a case involving a special master shall be Seven Hundred Fifty Dollars (\$750.00).

(7) The filing costs for cases involving a divorce under Section 3301(a) or (b) of the Act shall be Two Hundred Twenty-five Dollars (\$225.00).

[Pa.B. Doc. No. 96-1670. Filed for public inspection October 4, 1996, 9:00 a.m.]
