

# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[231 PA. CODE CH. 200]

#### Damages for Delay

##### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

##### CHAPTER 200. BUSINESS OF COURTS

#### Rule 238. Damages for Delay in an Action for Bodily Injury, Death or Property Damage.

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#### ADDENDUM

The prime rate as set forth in the first edition of the *Wall Street Journal* for a particular year is the basis for calculating damages for delay under Pa.R.C.P. 238 as revised November 7, 1988. The prime rate published in the first edition of the *Wall Street Journal* for each of the years specified is as follows:

<i>Date of Publication</i>	<i>Prime Rate</i>
January 2, 1980	15% to 15 1/2%
January 2, 1981	20 1/2% to 21 1/2%
January 4, 1982	15 3/4%
January 3, 1983	11% to 11 1/2%
January 3, 1984	11%
January 2, 1985	10 3/4%
January 2, 1986	9 1/2%
January 2, 1987	7 1/2%
January 4, 1988	8 3/4%
January 3, 1989	10 1/2%
January 2, 1990	10 1/2%
January 2, 1991	9 1/2% to 10%
January 2, 1992	6 1/2%
January 4, 1993	6%
January 3, 1994	6%
January 3, 1995	8 1/2%
<b>January 2, 1996</b>	<b>8 1/2%</b>

*By the Civil Procedural Rules Committee*

EDWIN L. KLETT,  
*Chairperson*

[Pa.B. Doc. No. 96-172. Filed for public inspection February 9, 1996, 9:00 a.m.]

## Title 249—PHILADELPHIA RULES

### PHILADELPHIA COUNTY

#### Procedure for Assignment of Motions for Disposition in Day Backward Cases; General Court Regulation No. 96-1

Philadelphia Civil Rules No. ★206.1 and ★206.2 govern the filing, assignment and disposition of all motions, petitions and preliminary objections filed in Philadelphia

County pursuant to Pennsylvania Rules of Civil Procedure. In order to better acquaint the bar with the Court's assignment practices in light of the various programs the Court has adopted to reduce its present inventory and manage its case load, the within regulation shall summarize and clarify the method of assignment and disposition of Motions, Petitions and Preliminary Objections in Day Backward cases.

This General Court Regulation does not apply to Day Forward cases (defined as all major civil jury trial cases filed on or after January 3, 1995). See General Court Regulation Nos. 95-1 and 95-2.

1. *Definitions.* For Purposes of this Order:

a. The term "Day Backward Cases" shall refer to all major civil jury trial cases filed prior to January 1995 (except for cases assigned to the Mass Tort Program);

b. The term "motions" shall also include petitions, and the term "petitions" shall also include motions; and

c. The term "Discovery Motions" shall refer to all discovery motions (including any motions for sanctions or otherwise seeking to enforce orders relating to discovery) as well as all other petitions and motions which, pursuant to Phila. Civ. R. ★206.2, are to be referred to the Discovery Judge (i.e. motions to amend captions or pleadings; motions to consolidate or sever; motions to enforce settlements; motions in limine regarding limited tort waiver and such additional matters as may be provided by the Administrative Judge of the Trial Division).

2. *General Policy*

a. Except as provided in subparagraph 2(d) hereof, all Discovery Motions shall be assigned to the Discovery Judge.

b. Except as provided in subparagraphs 2(c) and (d) and paragraph 3 of this Order, all motions in Day Backward Cases (other than Discovery Motions) shall be assigned to the Motion Court Judges.

c. Except as provided in subparagraph 2(d) and paragraph 3 of this Order, upon notification by the Administrative Judge of the Trial Division to the Manager of Motion Court that a particular group of Day Backward Cases (for example, all Day Backward Cases filed from January 1993 through June 1993) is ready for assignment to Settlement Masters as part of the Day Backward Program, all motions (except for Discovery Motions) in such group of cases filed after the date of such notification shall be assigned to the Day Backward Judicial Team Leader to whose team the case is assigned, for disposition either by the Judicial Team Leader or by a judge of his Day Backward Judicial Team designated by the Judicial Team Leader.

d. Except as provided in paragraph 3 of this order, once a Day Backward Judicial Team Leader has set a trial date for a particular Day Backward Case, all motions (including Discovery Motions) in such case thereafter shall be assigned, for disposition either by the Judicial Team Leader or by a judge of his Day Backward Judicial Team designated by the Judicial Team Leader. Discovery Motions to be assigned to the Day Backward Judicial Team Leader in accordance with this paragraph 2(d) and answers thereto shall be subject to the following requirements:

i. all such motions and answers shall be filed with the Prothonotary and Motion Court which shall thereupon assign them to the Day Backward Judicial Team Leader;

ii. the time for filing any answer shall be fifteen (15) days after the filing of the motion, unless such time is increased or decreased by the Day Backward Judicial Team Leader; and

iii. all such motions and answers shall be in writing and shall, except as provided hereinabove in this paragraph 2(d), comply with the requirements of Phila. Civ. R. No. ★206.1.

### 3. *Exceptions to General Policy*

a. All motions (including Discovery Motions) in a Day Backward Case that has been specially assigned by the Administrative Judge of the Trial Division to a particular individual judge (including, but not limited to, class actions), shall be assigned to that particular individual judge.

b. All petitions in Day Backward Cases filed pursuant to Joint General Court Regulation No. 93-2 (pertaining to approval of compromises involving minors or incompetent/incapacitated persons and wrongful death and/or survival actions) shall continue to be assigned in accordance with said Joint General Court Regulation.

c. All petitions for reconsideration of any order entered in a Day Backward Case shall be assigned to the judge who entered the order.

d. All motions for Day Backward Cases for delay damages pursuant to Pa.R.C.P. No. 238 and all motions for post-trial relief pursuant to Pa.R.C.P. No. 207.1 shall be assigned to the judge who presided at the trial of the case.

e. All motions in Day Backward Cases for service pursuant to special order of Court in accordance with Pa.R.C.P. No. 430, or for alternative service in accordance with Phila. Civ. R. 430.1, shall be assigned to the Motion Court Judges.

f. All Petitions for Extraordinary Relief in Day Backward cases shall be assigned to the Administrative Judge of the Trial Division.

g. All Motions relating to execution on a Judgment or for supplemental relief in aid of execution shall be assigned to the Motion Court Judges. All motions to open judgment, all motions to strike a judgment, and all other motions filed in a Day Backward Case after judgment has been entered (except for Discovery Motions, as defined in subparagraph 1(c) hereto) shall be assigned to the Judge who entered the underlying judgment, or if none, to the Motion Court Judges.

h. All petitions for medical examinations under the No-Fault Act shall be assigned to the Discovery Judge.

i. All petitions to name an arbitrator or arbitrators pursuant to an insurance policy or another form of contract shall be assigned to the Administrative Judge of the Trial Division.

j. All Petitions for an Advanced Trial Listing shall be assigned as provided in Trial Division General Court Regulation No. 94-2.

### 4. *Civil Motions Procedure*

a. *Filing.* In order to be accepted for filing, every motion in a Day Backward Case must comply with all rules of court, must be accompanied by a Motion Court Cover Sheet and service copies. In order to better advise the bar as to the assignment of their motions, concurrently with the filing of every motion in a Day Backward Case, Civil Motions staff will stamp all service copies of

the Motion Cover Sheet to designate the control number assigned to the motion and to designate that the motion has been assigned to:

i. Motion Court Judges (by name of judge),

ii. Discovery Judge,

iii. The Applicable Day Backward Judicial Team (by name of Judicial Team Leader), or

iv. Specially Assigned Judge (by name of Judge)

and such control number and judicial assignment shall be promptly entered by Civil Motions staff on the docket for the case.

In the event a case is assigned to a Judicial Team or Individual Judge after a Motion is filed, but before a Response is filed, the Motion shall be referred to the later assigned Judicial Team or Individual Judge.

b. *Service.* In accordance with Phila. Civ. R. No. ★206.1(C), the moving party shall serve on all attorneys of record and unrepresented parties within two (2) business days of its filing a conformed copy of the Petition and Motion Cover Sheet setting forth the Motion Control Number and judicial assignment.

### 5. *No Authorization for Filing*

The purpose of this order is to establish a procedure for assignment of motions for disposition in Day Backward Cases. Nothing in this order is intended or shall be construed to authorize the filing of any motions which have been precluded by any administrative order or other order of any judge of this Court.

This General Court Regulation is promulgated in accordance with the April 11, 1986 Order of the Supreme Court of Pennsylvania, Eastern District, No. 55, Judicial Administration, Docket No. 1, Phila. Civ. R. ★51 and Pa.R.C.P. 239, and shall become effective immediately. As required by Pa.R.C.P. 239, the original regulation shall be filed with the Prothonotary in a docket maintained for General Court Regulations issued by the Administrative Judge of the Trial Division; and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Civil Procedural Rules Committee. Copies of the regulation shall also be submitted to Legal Communications, Ltd., *The Legal Intelligencer*, Jenkins Memorial Law Library and the Law Library for the First Judicial District.

ALEX BONAVIDACOLA,  
*Administrative Judge*

[Pa.B. Doc. No. 96-173. Filed for public inspection February 9, 1996, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### CLEARFIELD COUNTY

#### Local Rule of Civil Procedure 1920.3

#### Rule 1920.3. Children First Program.

1. The first page of every divorce complaint shall identify all the children of the parties and birth date and ages as of the date of filing. If the parties to the divorce action are parents of no children, the first page shall so state.

2. Upon the filing of a divorce action, the parties will be notified via the Children First Program brochure distributed by the Court that their attendance at this seminar is mandatory. The parties must fulfill this requirement within 60 days of the filing of a divorce action.

3. Attendance at the seminar is mandatory. Required attendance may only be waived for compelling reasons. All requests for waiver must be presented in a motion to the Court.

4. Within ten (10) days of said notification (see paragraph 1 above), the parties are required to register for the Program by using the preprinted registration form contained in the Education Program for Divorcing Program brochure.

5. A fee of \$40 will be assessed each individual attending the seminar. The fee must be paid in advance of the seminar and sent along with the completed registration form to the address listed on the brochure, unless other arrangements for payment are made with the provider. A request for waiver or reduction of the fee with proof of hardship must be presented to the Court of Common Pleas.

6. FAILURE TO REGISTER AND COMPLETE THE PROGRAM WILL BE BROUGHT TO THE ATTENTION OF THE COURT AND MAY RESULT IN A FINDING OF CONTEMPT AND THE IMPOSITION OF SANCTIONS.

7. Upon successful completion of the Program, parents will receive a certificate to present to the Court verifying participation.

JOSEPH S. AMMERMAN,  
*President Judge*

[Pa.B. Doc. No. 96-174. Filed for public inspection February 9, 1996, 9:00 a.m.]

## WASHINGTON COUNTY

### Amendment to Local Rules of Support L-216.1 et seq.; No. 9600001

#### Order

*And Now*, this 22 day of January, 1996; *It is Hereby Ordered* that the above-stated Local Rules be amended as follows. The prior listed rules are rescinded upon the effective date of these amendments.

These amendments shall be effective 30 days after publication in the *Pennsylvania Bulletin*.

THOMAS D. GLADDEN,  
*President Judge*

#### SUPPORT

##### L-216-1. Continuances.

A. Continuances of any matter scheduled before either a Conference Officer or a Hearing Officer may only be granted as follows:

1. A conference or hearing may be continued through the Domestic Relations Section without an order of court if a written request for continuance is made at least 15 (fifteen) days prior to the conference or hearing. This request for continuance must be accompanied by a written consent from both parties to the continuance. This written verification must be received by the Domestic Relations Section at least 15 (fifteen) days prior to the scheduled hearing or conference. The party requesting the continuance is responsible to notify all interested parties

of the request for continuance. The Domestic Relations Section shall only be responsible to notify the parties of the new date and time of the conference or hearing. All consents to continuances should be sent to the attention of the Continuance Department of the Domestic Relations Section for prompt processing of the parties request. All written requests for continuances under this section must be accompanied by the fee imposed by Rule L-1910.4 or the hearings shall not be rescheduled.

2. Requests for continuance of any conference or hearing made within fourteen (14) days of the scheduled conference or hearing may be granted only by order of court.

B. A fee shall be charged for all continuances as prescribed by Rule L-1910.4.

##### L-411-2. Non-Appearance by Parties.

A. If a moving party in a non-AFDC case, who has been properly served with notice, does not appear at a conference and/or a hearing, the relief requested shall be denied and in the case of an initial complaint for support, the complaint shall be dismissed.

B. If a responding party, who has been properly served with notice, does not appear at a conference and/or a hearing, the matter shall be referred to the Hearing Officer who may proceed with the hearing and make a recommendation to the Court with respect to the entry of an order for support.

C. If a plaintiff in an AFDC case, who has been properly served with notice, does not appear at a conference and/or a hearing, the hearing shall be rescheduled by the Domestic Relations Section and the failure of the plaintiff to appear shall be reported to the Department of Public Welfare for intervention.

##### L-1012-1. Entry of Appearance.

All counsel shall file a Praecipe for Appearance with the Domestic Relations Section Docket Clerk which includes the attorney's name, business address, telephone number and Supreme Court identification number. All Praecipos for Appearance must either be typed or legibly printed on forms available from the Domestic Relations Section. Use of the Domestic Relations Section form shall not be mandatory. If counsel fails to enter their appearance as prescribed by this Rule, he or she shall not be entitled to receive copies of orders, notices or other record matters.

##### L-1910-4. Fees.

A. The Domestic Relations Section, in addition to any other fees imposed by these rules, shall impose and collect filing and service fees as prescribed by administrative order, *as amended*.

B. Any fee imposed by this Rule shall not be collected from a party otherwise obligated by these rules to pay such a fee in the following circumstances:

1. Where the party has been granted leave by the Court to proceed in forma pauperis;
2. Where the Hearing Officer or the Court finds that the party is financially unable to pay;
3. Where the party is a recipient of cash assistance from the Department of Public Welfare; or,
4. Where the Court otherwise directs.

##### L-1910.10-1. Hearing Procedure.

A. Alternative hearing procedure of Pa.R.C.P. 1910.12 is adopted in all civil actions or proceedings brought in

the Court of Common Pleas of Washington County to enforce a duty of support except:

1. Any action for support of a child born out of wedlock where there has not been an adjudication of paternity.

2. Contempt proceedings pursuant to Pa.R.C.P. 1910.21.

B. The office conference shall be conducted by a person known as a "Conference Officer". The hearing shall be conducted by a person known as a "Hearing Officer".

**L-1910.10-2. Hearing Procedure.**

A. If the parties to a support action have filed a complaint in divorce in which a claim is raised for alimony pendente lite, the Hearing Officer may hear the alimony pendente lite claim at the request of either party, provided, however, both that a Master in divorce has been appointed and the Master's fee has been paid to the Prothonotary. Counsel shall provide documentary evidence of this appointment and payment to the support Hearing Officer.

B. If the Hearing Officer proceeds under this Rule and hears a claim for alimony pendente lite, either the plaintiff or plaintiff's counsel shall file with the Domestic Relations Docket Clerk a copy of the complaint in divorce raising the issue of alimony pendente lite within three (3) days of the hearing before the Hearing Officer. If counsel fail to file a copy of the complaint in divorce as provided by this Rule the written recommendation of the Hearing Officer shall not be issued until a copy of the complaint is properly filed.

**L-1910.11(c). Exhibits.**

A. Prior to the conference before the Conference Officer, counsel for the parties to support actions shall exchange copies of all exhibits which will be used at the conference. In addition, copies of the exhibits shall be provided for the Conference Officer and appropriately marked.

B. If the issue of support cannot be resolved before the Conference Officer, copies of marked exhibits shall also be provided for the Hearing Officer at the time of the hearing. All exhibits which are admitted by the Hearing Officer shall become part of the Hearing Officer's Report to the Court, which report will be filed with the Domestic Relations Section Docket Clerk.

**L-1910.12-1. Office Conference.**

A. A filing fee as prescribed by Rule L-1910.4 shall be charged for all support actions entered and processed through the Washington County Domestic Relations Section. This fee shall be due and payable at the time of the hearing on the complaint or petition. If an agreement and order of support is entered prior to an initial hearing, this fee is due and payable at the time such agreement or order is filed with the Domestic Relations Section. This fee shall be paid as follows:

1. Shared equally by the plaintiff and defendant in all non-welfare actions for support;

2. Paid in full by the defendant in all welfare actions for support and non-welfare actions where the plaintiff is the County of Washington or a governmental or administrative agency; or,

3. Not assessed in matters where the party responsible for the payment of the fee has been found by the Hearing Officer or the Court to be indigent or has been permitted to proceed in forma pauperis.

**L-1910.12-1-1. Exceptions.**

A. Where the parties to a support matter were not given a copy of the recommendation of the Hearing Officer at the conclusion of the hearing, and notice of the recommendation is given by mail to the parties and/or counsel of record, 3 days shall be added to the date appearing on the written recommendation of the Hearing Officer to the 10 day filing period for exceptions.

B. All exceptions must be in writing and shall be filed with the Domestic Relations Docket Clerk. Any party filing exceptions must provide an original and two (2) copies to the Docket Clerk.

C. The excepting party shall serve opposing counsel or the opposing party who is unrepresented with copies of the exceptions by the end of the next business day following the filing of the exceptions.

D. Any party filing exceptions shall 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. Any party ordering the transcript shall pay a deposit of \$50.00 with the court reporter before such transcript is typed. The deposit will be applied toward the total cost of the transcript. The Domestic Relations Judge will not be provided with a copy of such transcript unless the same has been ordered and paid for by a party or counsel.

E. Exceptions will be assigned to the Domestic Relations Judge who will notify the parties of the date and time for argument.

F. The party filing exceptions must file a brief no later than thirteen (13) days prior to the date set for argument and serve a copy on opposing counsel or the opposing unrepresented party. The opposing party must file a response brief no later than five (5) days prior to the date set for argument. The original and one (1) copy of the brief must be filed with the Domestic Relations Docketing Division.

G. Each exception shall set forth a separate objection precisely and without discussion. Issues not raised by a party in exceptions are deemed to be waived.

**L-1910.17-1. Administrative Service Fee.**

An administrative service fee of \$25.00 annually shall be charged to the defendant in a support action processed through the Washington County Domestic Relations Section. This fee shall be required on any case in which the defendant is under an order of support of at least \$50.00 per month, in either a single or multiple action. This fee shall be paid by the defendant only once yearly regardless of the number of cases involved. Only those defendants who have an active case as of April 15 of that year will be charged this fee. Payment shall be due within 45 days of the date of the mailing of the fee notice. This fee shall be in addition to the amount of support which the defendant is ordered to pay.

**L-1910.17-2. Consent Support Orders.**

A. All consent support orders shall be prepared on the Agreement and Order form provided by the Domestic Relations Section. Consent support orders prepared on forms other than the current form shall not be accepted for filing by the Domestic Relations Section.

B. The order must be clear and concise and must adhere to both procedural and substantive statutory and case law requirements.

C. If the case in question has not been initiated through the Domestic Relations Section, the Agreement

and Order form must be accompanied by a completed intake information form provided by the Domestic Relations Section.

D. In existing support cases in which support is being paid through the Domestic Relations Section and a Marriage Settlement Agreement is signed subsequent to the Domestic Relations Section order which modifies the support obligation, counsel for either party must file a motion with the Court to incorporate the Marriage Settlement Agreement into a Domestic Relations Order. The motion must stipulate that the parties agree to have all payments made through the Domestic Relations Section.

E. In existing support cases in which support is being paid through the Domestic Relations Section and a subsequent stipulation is entered into between the parties before the Divorce Master which modifies the support obligation, counsel for either party must file said stipulation with the Domestic Relations Section. Upon the filing of this stipulation with the Domestic Relations Section, an Order will be drafted by the Domestic Relations Section and forwarded to the Court for incorporation. The stipulation must provide that the parties agree to have all payments made through the Domestic Relations Section.

**L-1910.19-1. Support Order Modification.**

A filing fee as set forth in Rule L-1910.4 shall be charged for all petitions to modify an order of support. This fee shall be assessed against the party filing the petition to modify, except as provided in Rule L-1910.4. The petitioner shall file the original and three (3) copies of the petition with the Domestic Relations Section Docket Clerk. A petition for modification shall not be accepted without the filing fee and required copies.

**L-1920.4. Service.**

Service of all Complaints and petitions filed in the Domestic Relations Section shall be in accordance with the Pennsylvania Rules of Civil Procedure, *as amended*.

**L-1910.22. Attachment of Income.**

Wage attachments shall be issued by the Domestic Relations Section pursuant to the prevailing Pennsylvania law and procedure as specified in the Pennsylvania Rules of Civil Procedure, *as amended*.

[Pa.B. Doc. No. 96-175. Filed for public inspection February 9, 1996, 9:00 a.m.]

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