

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION [204 PA. CODE CH. 29]

Promulgation of Financial Regulation Under 42 Pa.C.S. § 3502(a); No. 183; Doc. No. 1

Order

Per Curiam:

And now, this 19th day of May, 1997, it is *Ordered* pursuant to Article V, Section 10(c) of the Constitution of Pennsylvania and Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), that the Court Administrator of Pennsylvania is authorized to promulgate the following Financial Regulation.

To the extent that notice of proposed rulemaking may be required by Pa.R.J.A. 103, the immediate promulgation of the regulation is hereby found to be in the interests of efficient administration.

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

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION

CHAPTER 29. MISCELLANEOUS PROVISIONS

Subchapter K. COSTS, FINES AND FEES

§ 29.401. Scope.

(a) The Pennsylvania Supreme Court, pursuant to Art. 5, § 10 of the Pennsylvania Constitution, and 42 Pa.C.S. § 1721, has authorized the Court Administrator of Pennsylvania to promulgate regulations relating to the accounting methods to be utilized in connection with the collection of fees and costs charged and collected by prothonotaries, clerks of courts of all courts of common pleas and recorders of deeds, or by any officials designated to perform the functions thereof, as well as by the minor judiciary, including district justices, Philadelphia Municipal Court, Philadelphia Traffic Court and Pittsburgh Magistrates Court.

(b) Under authority of said Administrative Order and pursuant to the authority vested in the governing authority under Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), the following regulations are adopted to implement Act 167 of 1992, 15 Pa.C.S. § 153(a)(8)(vii), 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended).

§ 29.402. Costs under 42 Pa.C.S. § 1725.1.

(a) *Civil cases.*—In calendar year [1997] 1998, the costs to be charged by district justices in every civil case,

except as otherwise provided in this section, shall be as follows:

- (1) Actions involving \$500 or less . . . [\$33.50] \$35.00
- (2) Actions involving more than \$500 but not more than \$2,000 [\$45.00] \$46.00
- (3) Actions involving more than \$2,000 but not more than \$4,000. [\$56.00] \$57.50
- (4) Actions involving more than \$4,000 but not more than \$8,000. [\$83.50] \$86.50
- (5) Landlord-tenant actions involving less than \$2,000 [\$50.50] \$52.00
- (6) Landlord-tenant actions involving more than \$2,000 but not more than \$4,000 [\$61.50] \$63.50
- (7) Landlord-tenant actions involving more than \$4,000 but not more than \$8,000 [\$83.50] \$86.50
- (8) Order of execution. [\$25.50] \$26.00
- (9) Objection to levy \$11.50
- (10) Reinstatement of complaint. \$6.00
- (11) Entering Transcript on Appeal or Certiorari \$3.00

(b) *Criminal cases.*—In calendar year [1997] 1998, the costs to be charged by the minor judiciary or by the court of common pleas where appropriate in every criminal case, except as otherwise provided in this section, shall be as follows:

- (1) Summary conviction, except motor vehicle cases [\$32.00] \$33.00
- (2) Summary conviction, motor vehicle cases, other than paragraph (3). . . [\$25.50] \$26.00
- (3) Summary conviction, motor vehicle cases, hearing demanded. [\$30.50] \$31.00
- (4) Misdemeanor [\$36.50] \$37.50
- (5) Felony. [\$42.00] \$43.50
- (c) *Unclassified costs or charges.*—In calendar year

[1997] 1998, the costs to be charged by the minor judiciary in the following instances not readily classifiable shall be as follows:

- 1) Entering transcript of judgment from another member of the minor judiciary \$6.00
- (2) Marrying each couple, making record thereof, and certificate to the parties [\$28.00] \$29.00
- (3) Granting emergency relief pursuant to 23 Pa.C.S. Ch. 61 (relating to protection from abuse) \$11.50
- (4) Issuing a search warrant (except as provided in subsection (d)). \$11.50
- (5) Any other issuance not otherwise provided in this subsection. \$11.50

§ 29.403. Fines under 42 Pa.C.S. § 3571.

- (2) Amounts payable to the Commonwealth:
 - (i) Summary conviction, except motor vehicle cases [\$11.24] \$11.58
 - (ii) Summary conviction, motor vehicle cases other than subparagraph
 - (iii) [\$11.24] \$11.58

(iii) Summary conviction, motor vehicle cases, hearing demanded.....	[\$11.24]	\$11.58
(iv) Misdemeanor.....	[\$14.60]	\$15.00
(v) Felony.....	[\$22.40]	\$23.20
(vi) Assumpsit or trespass involving:		
(A) \$500 or less.....	[\$13.96]	\$14.58
(B) More than \$500 but not more than \$2,000.....	[\$22.50]	\$23.00
(C) More than \$2,000 but not more than \$4,000.....	[\$33.60]	\$34.50
(D) More than \$4,000 but not more than \$8,000.....	[\$55.66]	\$57.67
(vii) Landlord-tenant proceeding involving:		
(A) \$2,000 or less.....	[\$22.44]	\$23.12
(B) More than \$2,000 but not more than \$4,000.....	[\$27.96]	\$28.87
(C) More than \$4,000 but not more than \$8,000.....	[\$38.97]	\$40.37
(viii) Objection to levy.....		\$5.75
(ix) Order of execution.....	[\$17.00]	\$17.33
(x) Issuing a search warrant (except as provided in section 1725.1(d) (relating to costs)....		\$8.05

§ 29.404. Fee schedule under 15 Pa.C.S. § 153.

(a) *General rule.*—The fees of the Corporation Bureau of the Department of State, including fees for the public acts and transactions of the Secretary of the Commonwealth administered through the bureau, and of county filing officers under Title 13 (relating to commercial code), shall be as follows:

(8) Uniform Commercial Code:		
(i) Financing statement—per debtor name:		
(A) Fee charged by Dept. of State.....		\$12.00
(B) Fee charged by County.....	[\$53.50]	\$55.50
Amount payable to Commonwealth .	[\$40.10]	\$41.60
Amount payable to county.....	[\$13.40]	\$13.90
(ii) Each ancillary transaction:		
(A) Fee charged by Dept. of State.....		\$12.00
(B) Fee charged by County.....	[\$53.50]	\$55.50
Amount payable to Commonwealth .	[\$40.10]	\$41.60
Amount payable to county.....	[\$13.40]	\$13.90
(iii) Search—per debtor name:		
(A) Fee charged by Dept. of State.....		\$12.00
(B) Fee charged by County.....	[\$53.50]	\$55.50
Amount payable to Commonwealth .	[\$40.10]	\$41.60
Amount payable to county.....	[\$13.40]	\$13.90
(iv) Additional fee for each financing statement found and for each statement of assignment reported therein:		
(A) Fee charged by Dept. of State.....		\$1.00
(B) Fee charged by County.....	[\$4.50]	\$5.00
Amount payable to Commonwealth .	[\$3.35]	\$3.75
Amount payable to county.....	[\$1.15]	\$1.25

(v) For each financing statement or ancillary transaction not filed on standard forms approved by the Department of State, in addition to the fee provided above, there shall be charged a per filing fee of:

(A) Fee charged by Dept. of State.....		\$28.00
(B) Fee charged by County.....	[\$125.00]	\$129.00
Amount payable to Commonwealth .	[\$93.75]	\$96.75
Amount payable to county.....	[\$31.25]	\$32.25

[Pa.B. Doc. No. 97-900. Filed for public inspection June 6, 1997, 9:00 a.m.]

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

[204 PA. CODE CH. 211]

Promulgation of Consumer Price Index under Act 167 of 1992; No. 184; Doc. No. 1

Order

Per Curiam:

And now, this 19th day of May, 1997, it is *Ordered* pursuant to Article V, Section 10(c) of the Constitution of Pennsylvania and Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), that the Court Administrator of Pennsylvania is authorized to obtain and publish in the *Pennsylvania Bulletin* on or before November 30 the percentage increase in the Consumer Price Index for the immediately preceding calendar year as required by Act 167 of 1992, 15 Pa.C.S. § 153(a)(8)(vii), 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended).

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

Part VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

CHAPTER 211. CONSUMER PRICE INDEX

§ 211.1. Consumer Price Index.

(a) Pursuant to Article V, Section 10 of the Pennsylvania Constitution and 42 Pa.C.S. § 1721, the Supreme Court has authorized the Court Administrator of Pennsylvania to obtain and publish in the *Pennsylvania Bulletin* on or before November 30 the percentage increase in the Consumer Price Index for the immediate preceding calendar year as required by Act 167 of 1992, 15 Pa.C.S. § 153(a)(8)(vii), 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended). See, No. ____ Judicial Administrative Docket No. ____.

(b) The Court Administrator of Pennsylvania reports that the percentage increase in the Consumer Price Index, All Urban Consumers, U. S. City Average, for calendar year 1996, was 3.3 percent. (*See*, U. S. Department of Labor, Bureau of Labor Statistics, Series CUUR0000SAO, February 19, 1997.)

[Pa.B. Doc. No. 97-901. Filed for public inspection June 6, 1997, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Rescission of existing Phila. Civ.R.Nos. 320, 325, 330, 206.1(F)(2)(b), and 7109 and Adoption of Phila. Civ.R.Nos. 320 and 7109; General Court Regulation No. 97-01

Order

And Now, this 23rd day of May, 1997, the Board of Judges of Philadelphia County having voted, at the Board of Judges' Meeting held May 21, 1997, to rescind existing Phila.Civ.R. No. 320, 325, 330, 206.1 (F)(2)(b) and 7109 and to adopt Phila.Civ.R.No. 320 and 7109, which follow. *It Is Hereby Ordered and Decreed* that the above referenced rules are rescinded and the following rules are adopted.

This General Court Regulation is issued in accordance with Phila. Civ.R.No. ★51 and Pa.R.C.P. 239 and shall become effective on July 1, 1997. As required by Pa.R.C.P. No. 239, the original General Court Regulation shall be filed with the Prothonotary in a Docket maintained for General Court Regulations issued by the President Judge of the Court of Common Pleas of Philadelphia County, 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 Order 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 BONAVITACOLA,
President Judge

Phila. Civ. R. No. 320. Appeals from State and Local Agencies.

(A) *Applicability.* The Prothonotary shall maintain a special docket for appeals from the determinations of state and local agencies ("statutory appeals"). Statutory appeals (and matters ancillary thereto) shall be presented to and determined by the Supervising Judge of Appeals ("Supervising Judge").

(B) *Manner of Taking Appeal.* An appeal may be commenced by filing a Notice of Appeal with the Prothonotary.¹ The Notice of Appeal shall be in substantially the following form:

IN THE COURT OF COMMON PLEAS OF
PHILADELPHIA COUNTY CIVIL DIVISION—SPECIAL
DOCKET PROGRAM

Appeal of [name] from a decision
of [name of agency] No. 96 ____ SD ____

NOTICE OF APPEAL

[Name] hereby appeals from the decision of [name of agency], dated _____ 19 __, a copy of which is attached hereto. The following persons entered an appear-

¹Statutes authorizing appeals from state agencies (and some local agencies) often require the appeal to be commenced by "petition." See, e.g., 47 P.S. § 4-464 (appeals involving the Liquor Control Board). Statutory requirements of this sort usually predate the constitutional remodeling of 1968 but, in any event, may be ignored. See, e.g., Appeal of Borough of Churchill, 575 A. 2d 550, 554 (Pa. 1990) (legislative bodies may not dictate civil procedure to Pennsylvania Courts). See also *Albrechta v. Borough of Shickshinny*, 565 A.2d 198, 201 (Pa. Commw. 1989) (improper appeal process may be transformed into valid process), appeal denied, 577 A.2d 891 (Pa. 1990).

ance in the proceedings below: [if "none", say so. Otherwise, list the name and address of each person using an extra page, if necessary].

Dated: _____
[Appellant or Attorney]

(C) *Procedure on Appeal.* The Supervising Judge shall publish a standing case management order for each agency whose determinations are appealed on a regular basis ("agency-specific orders"). For agencies whose determinations are seldom appealed, the Supervising Judge shall publish a standing order of a generic nature. The Prothonotary shall provide appellant(s) with an agency-specific (or generic) standing order whenever a notice of appeal is filed.

Every appeal (and matter ancillary thereto) shall be governed by the aforesaid standing order and any supplemental order, which may be issued by the Supervising Judge.

(D) *Manner of Service.* The persons to be served, and the manner of making service, shall be specified in the standing order.

(E) *Parties.*

(a) The following persons shall be deemed parties opposed to the appeal unless they opt out by filing a praecipe with the Prothonotary within 60 days of service of the Notice of Appeal:

(1) the person(s) who initiated the proceedings before the agency below;

(2) the City of Philadelphia, but only in appeals involving local agencies;

(3) the School District of Philadelphia, but only in appeals involving school taxes; and

(4) the Commonwealth of Pennsylvania, but only in appeals involving state agencies.

(b) Others may obtain party status by intervening in accordance with the procedures set forth in the standing order.

Phila. Civ. R. No. 7109. Mental Health Review Officer.

(a) *Appointment.* The President Judge may, from time to time, appoint such Mental Health Review Officers as may be needed to effectuate the purposes of the Mental Health Procedures Act of 1976, as amended.

(b) *Qualification of Mental Health Review Officer.* The Mental Health Review Officer shall be a member in good standing of the Bar of the Supreme Court of Pennsylvania and possess such other knowledge, expertise and experience as may be required by the President Judge.

(c) *Venue.* The Philadelphia Court of Common Pleas, or the Mental Health Review Officer appointed pursuant to this rule, shall exercise jurisdiction in proceedings pursuant to the Mental Health Procedures Act of 1976, as amended, only in the following situations:

(1) when the subject of the proceedings is or resides in Philadelphia County; or

(2) when the subject of the proceedings has been subjected to involuntary treatment by another county and that county has determined that Philadelphia County is the county of the person's usual residence, and has transferred the case to Philadelphia County for further proceedings. In that case, the Philadelphia Court of Common Pleas, or Mental Health Review Officer ap-

pointed pursuant to this rule, may conduct legal proceedings at such locations as may be directed by the Court, including the facility where the person is in treatment, even if the facility is not located in Philadelphia County.

(d) *Form of Applications, Petitions and Certifications.* All Applications, Petitions and Certifications filed pursuant to the Mental Health Procedures Act shall be on forms approved by the Department of Public Welfare.

(e) *Application for Extended Involuntary Treatment Pursuant to Section 303 of the Act.*

(1) *Applicant/Petitioner.* The County Mental Health Administrator, or the Director of the Facility in which the mentally ill person resides.

(2) *Contents of Application/Petition.*

(A) grounds on which extended emergency medical treatment is believed to be necessary;

(B) the name of any examining physician and substance of his/her opinion regarding the mental condition of the person; and

(C) any other appropriate information.

(3) *Filing and Service of Petition.* The Petition must be filed with the Prothonotary within 120 hours of commencement of involuntary emergency treatment rendered pursuant to Section 302, and served on the person by the Petitioner as soon as practicable.

(4) *Scheduling of Conference.* An informal conference shall be scheduled and held within 24 hours after the application is filed, and concluded within 120 hours of the commencement of involuntary emergency treatment rendered pursuant to Section 302.

(5) *Conference.* At the informal conference, the person shall be informed of the nature of the proceedings, and the following information shall be considered by the Mental Health Review Officer:

(A) Information relevant to whether the person is severely mentally disabled and in need of treatment, including the reasons that continued involuntary treatment is considered necessary;

(B) Testimony from a physician who examined the person explaining in terms understandable to a layperson whether the person is severely mentally disabled and in need of treatment;

(C) Information contained in, and appended to, the Application for Involuntary Emergency Examination and Treatment under Section 302; and

(D) Any other information relevant to the issue of whether the person is severely mentally disabled and in need of treatment, even if such information is normally excludable under the rules of evidence, provided the information is found to be reliable.

(6) *Decision.* At the conclusion of the conference, the Mental Health Review Officer shall either:

(A) Certify that the person is severely mentally disabled and in need of continued involuntary treatment. The certification shall be filed with the Prothonotary and served on the parties as required by Section 303(e) of the Act; or

(B) Direct that the facility director or his designee discharge the person.

(7) *Duration of Court-Ordered Involuntary Treatment.* A period not to exceed twenty (20) days.

(f) *Petition for Court-Ordered Involuntary Treatment Pursuant to Section 304 of the Act.*

(1) *Persons Already Subject to Involuntary Treatment*

(A) *Petitioner.* The County Mental Health Administrator, or the Director of the Facility in which the mentally ill person resides.

(B) *Contents of Petition.*

(i) facts constituting reasonable grounds to believe that the person is severely mentally disabled and in need of treatment;

(ii) name of the examining physician and substance of the physician's opinion regarding mental condition of the person;

(iii) allegation that the person has been provided with the information required by Section 304(b)(3); and

(iv) any other relevant information.

(C) *Filing and Service of the Petition.* The Petition must be filed with the Prothonotary and served as required by Section 304(b)(3).

(D) *Scheduling of Hearing.* A hearing must be scheduled for a date not more than five (5) days after the filing of the Petition.

(E) *Continuation of Treatment Pending Hearing.* Treatment shall continue pending determination of Petition.

(F) *Hearing.* The following information shall be considered by the Mental Health Review Officer:

(i) Evidence reestablishing that the conduct originally required by Section 301 in fact occurred and that the person's condition continues to evidence a clear and present danger to himself/herself or others. It is not necessary to show the recurrence of dangerous conduct within the past 30 days;

(ii) Information relevant to whether the person is severely mentally disabled and in need of treatment, including the reasons that continued involuntary treatment is considered necessary;

(iii) Information contained in, or appended to, the Application for Involuntary Emergency Examination and Treatment under Section 302 or 303;

(iv) Testimony by a physician who examined the person;

(v) Any other relevant information, even if normally excludable under the rules of evidence, provided the information is found to be reliable.

(G) *Decision.* The Mental Health Review Officer shall render a decision within 48 hours after the close of evidence, and shall either:

(i) find that the person is severely mentally disabled and in need of continued involuntary inpatient or outpatient treatment and issue an appropriate order as set forth in Section 304(f) of the Act; or

(ii) deny the Petition and direct that the facility director or his designee discharge the person.

(2) *Persons Not Already Subject to Involuntary Treatment*

(A) *Petitioner.* Any responsible party.

(B) *Contents of Petition.*

(i) facts constituting reasonable grounds to believe that the person is severely mentally disabled and in need of treatment;

(ii) name of the examining physician and substance of the physician's opinion regarding mental condition of the person; and

(iii) any other appropriate information.

(C) *Filing of Petition.* The Petition must be filed with the Prothonotary.

(D) *Scheduling of Hearing and Service of Petition.* Upon being satisfied that the Petition sets forth reasonable cause to believe that the person is within the criteria for court-ordered treatment as set forth in Section 304(a), the Court shall schedule a hearing, which may be conducted by a Mental Health Review Officer, and issue a summons or warrant to ensure the person's attendance at the hearing. The hearing shall be scheduled as soon as practicable, and the person must be served with a copy of the Petition and required notices at least three (3) days before the scheduled hearing.

(E) *Administration of Treatment Pending Hearing.* No treatment shall be authorized during the pendency of the Petition except in accordance with Sections 302 or 303 of the Act.

(F) *Hearing.* The following information shall be considered by the Court or Mental Health Review Officer:

(i) Information relevant to whether the person is severely mentally disabled and in need of treatment, including the reasons that involuntary treatment is considered necessary;

(ii) Testimony from a physician who examined the person explaining in terms understandable to a layperson whether the person is severely mentally disabled and in need of treatment; and

(iii) Any other information relevant to the issue of whether the person is severely mentally disabled and in need of treatment, even if such information is normally excludable under the rules of evidence, provided the information is found to be reliable.

(G) *Decision.* The Mental Health Review Officer, or Court, shall render a decision within 48 hours after the close of evidence, and shall either:

(i) find that the person is severely mentally disabled and in need of involuntary inpatient or outpatient treatment and issue an appropriate order as set forth in Section 304(f) of the Act; or

(ii) deny the Petition.

(3) *Duration of Court-Ordered Involuntary Treatment.*

(A) A period not to exceed ninety days under Section 304(g)(1) of the Act; or

(B) A period not to exceed one year under Section 304(g)(2) of the Act, subject to the provisions of Section 304(g)(4) as to termination or continuance of involuntary treatment.

(g) *Application for Additional Periods of Court-Ordered Involuntary Treatment Pursuant to Section 305 of the Act.*

(1) *Applicant.* The County Mental Health Administrator, or the Director of the Facility in which the mentally ill person resides.

(2) *Contents of Petition.*

(A) facts constituting reasonable grounds to believe that the person is severely mentally disabled and in need of treatment;

(B) name of the examining physician and substance of the physician's opinion regarding mental condition of the person;

(C) allegation that the person has been provided with the information required by Section 304(b)(3); and

(D) any other appropriate information.

(3) *Filing and Service of Petition.* The Petition must be filed with the Prothonotary and served as required by Section 304(b)(3).

(4) *Scheduling of Hearing.* A hearing must be scheduled and held no more than five (5) days after the filing of the Petition.

(5) *Continuation of Treatment Pending Hearing.* Treatment shall continue pending determination of the Petition.

(6) *Hearing.* The following information shall be considered by the Mental Health Review Officer:

(A) Information contained in, or appended to, the Application for Involuntary Emergency Examination and Treatment under Section 302, 303 or 304;

(B) Testimony by a physician who examined the person;

(C) Information relevant to the reasons that continued involuntary treatment is considered necessary, as shown by conduct during the person's most recent period of court-ordered treatment; and

(D) Any other relevant information, even if normally excludable under the rules of evidence, provided the information is found to be reliable.

(7) *Decision.* The Mental Health Review Officer shall render a decision within 48 hours after the close of evidence, and shall either:

(A) find that the person is severely mentally disabled and in need of continued involuntary inpatient or outpatient treatment, as shown by conduct during the person's most recent period of court-ordered treatment; and issue an appropriate order as set forth in Section 305 of the Act; or

(B) deny the Petition and direct that the facility director or his designee discharge the person.

(8) *Duration of Court-Ordered Involuntary Treatment.*

(A) A period not to exceed one-hundred eighty (180) days; or

(B) A period not to exceed one year if the person meets the criteria of Section 304(g)(2) of the Act.

(h) *Transfer of Persons in Involuntary Treatment.*

(1) Except as provided hereunder, any person in involuntary treatment may be transferred to any approved facility.

(2) *Exceptions:*

(A) persons committed pursuant to Section 304(g)(2) of the Act may not be transferred, in the absence of an emergency, unless written notice is given to the committing Judge or Mental Health Review Officer, and district attorney in the committing county and neither has objected to the transfer within twenty (20) days of receipt of said notice. In the event an objection is received, the Mental Health Review Officer shall hold a hearing within twenty days to review the commitment transfer and shall render a decision within 48 hours of the close of evidence; and

(B) transfers which constitute a greater restraint cannot be accomplished unless the Mental Health Review Officer holds a hearing and finds the transfer to be necessary and appropriate.

(i) *Review of Mental Health Review Officer Certifications or Decisions.*

(1) *Judicial Review and Assignment.* Certifications of the Mental Health Review Officers, pursuant to Section 303 of the Act, and decisions of the Mental Health Review Officers pursuant to Sections 304, 305 and 306 of the Act are subject to Judicial review through the filing, by any party, of a Petition for Review with the Prothonotary of the Court of Common Pleas. Said Petitions shall be assigned to such Court of Common Pleas Judges ("Review Judge"), assigned to any Division of the Court, as may be determined by the President Judge from time to time.

(2) *Scheduling of Hearing and Service.* A hearing must be scheduled and held within 72 hours after the Petition is filed unless a continuance is requested by the person's counsel. The party filing the Petition for Review must forthwith serve a copy of the Petition and Notice of Hearing on the Mental Health Review Officer and all other interested parties. Service may be effectuated by hand-delivery or via facsimile.

(3) *Preparation of Record for the Court.* The Mental Health Review Officer shall cause the transcription of the underlying proceedings for presentation to the Review Judge no later than the hearing date, and shall ensure that the evidence relied upon by the Mental Health Review Officer is available to the Review Judge.

(4) *Hearing.* The Review Judge shall review the certification of the Mental Health Review Officer and shall consider such other evidence as the Review Judge may receive or require.

(5) *Decision.* The Review Judge shall render a decision as soon as practicable, and, unless all parties agree to a remand to the Mental Health Review Officer, shall either:

(A) determine that the person is in need of involuntary treatment and that the procedures prescribed by the Mental Health Procedures Act have been followed; or

(B) determine that the procedures prescribed by the Mental Health Procedures Act have not been followed, or that the person is not in need of involuntary treatment, and, if appropriate, shall direct that the facility director or his designee discharge the person. The decision of the Review Judge as set forth above is subject to appellate review as provided by rules of court.

(j) *Record of Proceedings.* A record of the proceedings (which need not be in a stenographic format) held pursuant to the Mental Health Procedures Act shall be made, impounded by the Court as provided in the Act, and kept by the Prothonotary for at least one year.

(k) *Appointment of Counsel.* The Public Defender is appointed to represent all persons who may be subject to involuntary medical examination and treatment, unless it appears that any such person can afford, and desires to have, private representation. In the event a conflict prevents the Public Defender from representing any eligible person, conflict counsel shall be appointed as directed by the President Judge.

Explanatory Note. The Mental Health Procedures Act, as enacted on July 9, 1976, authorized the local

courts to decide whether a judge of the Court of Common Pleas or a "Mental Health Review Officer" would conduct legal proceedings under the Act. Section 109 specifically provided that a Mental Health Review Officer could, if authorized by the Court, conduct proceedings under Section 303(c), which dealt with extended involuntary emergency treatment, and under Section 304, which dealt with court-ordered involuntary treatment. However, the Act did not specifically address the issue of whether the Mental Health Review Officer could issue orders for treatment or whether such orders were deemed to be final orders which were subject to appellate review.

In the case of *In re Chambers*, 282 Pa. Super. 327, 422 A.2d 1140 (1980), the Superior Court addressed the difference between "certifications" issued pursuant to Section 303 and "orders" issued pursuant to Section 304. The Superior Court found that Section 303 specifically authorized the Mental Health Review Officer to certify, without judicial approval, a person for extended involuntary emergency treatment for a period not to exceed 20 days, noting that under Section 303 the person made subject to such involuntary emergency treatment had the right to petition the Court of Common Pleas for review of the certification. However, the Superior Court found that the procedure for Section 304 proceedings was different, in that Section 304 required the entry of an "order" involuntarily committing a person, and since the Mental Health Review Officer is not a judge, the Mental Health Review Officer cannot enter a "final order" which is appealable to the Superior Court. Thus, the Superior Court concluded that a commitment "order" issued pursuant to Section 304 by a Mental Health Review Officer on August 28, 1978 was not a "final order" and accordingly, not ripe for appellate review, and remanded to the Court of Common Pleas with directions to enter a final appealable order. See also *In re Bishop*, 282 Pa. Super. 67, 422 A.2d 831 (1980).

The Mental Health Procedures Act was amended by Act of November 26, 1978, P. L. No. 1362, No. 324, effective in 60 days. This amendment, inter alia, expanded the scope of the Mental Health Review Officer's authority by authorizing the Mental Health Review Officer to conduct hearings concerning extended involuntary emergency treatment under Section 303(c), court-ordered involuntary treatment under Sections 304 and 305, or transfer hearings under Section 306. More importantly, a new section was added, Section 109(b), which specifically provides, as did Section 303(g), that persons made subject to treatment by Mental Health Review Officers have a right to petition the Court of Common Pleas for review of such ordered treatment. Thus, under the 1978 amendments, providing that the Court of Common Pleas authorizes Mental Health Review Officers to conduct proceedings under Sections 303(c), 304, 305 and 306, they may require involuntary treatment, further provided that the persons subject to such treatment may file a petition for review with the Court of Common Pleas which will enter a final appealable order. The instant Rule constitutes authorization to Mental Health Review Officers to conduct proceedings under the Mental Health Procedures Act, as amended, and sets forth the procedure to be followed so as to clarify the rights of the persons affected.

[Pa.B. Doc. No. 97-902. Filed for public inspection June 6, 1997, 9:00 a.m.]

Title 255—LOCAL COURT RULES

JEFFERSON COUNTY

Revision and Restatement of the Local Rules of Procedure for Civil Actions; No. 12-1997

Order of Court

And Now, May 20, 1997, the following revision and restatement of the Local Rules of Civil Procedure of Jefferson County, Pennsylvania, Rules L1301 through L1311 and Rule L1920.51, are hereby promulgated and adopted for use effective July 1, 1997.

The previously adopted local rules on the subjects covered by the following rules are hereby rescinded, effective July 1, 1997.

By the Court,

WILLIAM L. HENRY,
President Judge

ARBITRATION

(Rules L1301-L1311 Revised 5/15/97)

Rule L1301. Compulsory Arbitration.

BY THE PROTHONOTARY

1.(a) All cases wherein the amount in controversy (exclusive of interests and costs) shall be Twenty-Five Thousand (\$25,000.00) Dollars or less, including all appeals from a civil judgment of a District Justice, except those involving title to real estate or actions in equity, shall be submitted to and be heard and decided by a Board of Arbitrators consisting of three (3) members of the Bar of Jefferson County to be selected as hereinafter provided.

(b) Either party in such civil suit or action, his agent or attorney, may place a case on the list of cases for trial by arbitration by filing a Certificate of Readiness in the form provided by local rule L308(b), which form is available at the prothonotary's office.

(c) Any such case which has been placed upon the Prothonotary's Trial List shall be removed from such list by the prothonotary and placed on the Arbitration List.

BY THE PARTIES

2. Cases, whether or not at issue and whether or not suit has been filed, may be placed on the Arbitration List by agreement of reference signed by counsel for both sides in the case. Said agreement of reference shall define the issues involved for determination by the board and, when agreeable, shall also contain stipulations with respect to facts submitted or agreed or defenses waived. In such cases, the agreement of reference shall take the place of pleadings in the case and be filed of record.

BY THE COURT

3. The Court on its own motion, or on motion of either party may, by deposition, pre-trial conference, hearing or otherwise, determine that the amount actually in controversy does not exceed Twenty-Five Thousand (\$25,000.00) Dollars exclusive of interest and costs and enter an order of reference to a Board of Arbitration in conformity with Pa.R.C.P. 1021(d).

Rule L1302. Selection of Arbitrators Appointment of Board, Oath, and Compensation.

1. The Arbitration List herein referred to shall be kept and maintained by the prothonotary.

2.(a) The prothonotary shall keep Three (3) separate lists of attorneys qualified to serve as arbitrators in Jefferson County as follows:

Class A—Attorneys with over 15 years membership in the Jefferson County Bar Association

Class B—Attorneys with 7 to 15 years membership in the Jefferson County Bar Association

Class C—Attorneys with 1 to 7 years membership in the Jefferson County Bar Association

(b) Within ten (10) days after a case is placed on the Arbitration List, the prothonotary shall forthwith nominate five names as follows; two (2) names from the Class A List, two (2) names from the Class B List, and one (1) name from the Class C List. The prothonotary shall, if necessary, nominate an additional name for each additional party with an adverse interest in the case.

(c) The prothonotary shall thereupon notify counsel for said parties of said nominations. Each party shall thereupon appear at the office of the prothonotary within five (5) days and strike off one name from the listed nominated, and if any party fails to exercise his right to strike off a name within the time stated, the prothonotary shall strike off any excess names after the first three nominated. The remaining three shall comprise the Board of Arbitration and they shall be so appointed.

3. The prothonotary shall make the nominations of arbitrators from each list of the members of the Bar of Jefferson County, and such nominations shall be made from such lists as set forth above, except where a particular attorney is excused by the court on account of incapacity or illness. Not more than one (1) member of a firm or association of attorneys shall be appointed to the same board, nor shall any attorney be appointed who is associated with, or who maintains a common office, in whole or in part, with any counsel of record. The first member appointed shall be the chairman of the board. Immediately after appointment of the Board of Arbitrators the prothonotary shall notify them in writing of their appointment and shall notify counsel of record. In case any attorney is disqualified, or fails to act, the prothonotary, on praecipe of counsel, shall appoint the next attorney on the same class list to fill such vacancy. Any attorney disqualified or stricken off in a case shall be put at the head of the list of attorneys available for the next case.

4. The arbitrators shall be sworn or affirmed to justly and equitably try all matters submitted to them. The oath may be administered by any person authorized to administer oaths.

5.(a) Each member of a Board of Arbitrators, who has signed a report or files a minority report, shall receive as compensation for services a fee of Two Hundred (\$200.00) Dollars for cases involving three (3) hours or less, plus Fifty (\$50.00) Dollars for each hour over three (3) hours of hearing time. (Companion cases heard together count as one for purposes of this rule.)

(b) The chairman shall receive as compensation for the duties as chairman an additional sum of Fifty (\$50.00) Dollars, notwithstanding that a case be settled or discontinued after a time for hearing has been fixed, but before the hearing is held.

(c) In cases involving unusual complexity, the court, on petition of the members of the board and for cause shown, may allow additional compensation.

(d) Compensation shall be paid by the County of Jefferson upon a voucher, approved for payment by the prothonotary; provided, however, that in making payment of such compensation, the county shall pay to the treasurer of the Jefferson County Bar Association Fifteen (\$15.00) Dollars of the compensation otherwise due an arbitrator for services rendered in a particular case.

Rule L1303. Hearing. Notice.

1.(a) The chairman of the board of arbitrators shall within ten (10) days after the board has been appointed, set a date and time for the arbitrators' hearing and shall notify the parties, or their counsel, in writing, not less than thirty (30) days before the hearing, of the time and place of hearing. Hearings shall be held in the Jefferson County Courthouse, unless the parties by agreement shall designate another place and the arbitrators concur in such designation.

(b) The arbitrators, for cause shown, may continue a hearing to a definite date fixed by them.

(c) The Arbitration Court List will set forth all of those cases for which boards of arbitrators have been appointed but no hearings have yet been held. Cases listed on said Arbitration Court List shall be heard and disposed of within sixty (60) days from the date of appointment of the board, except by leave of court upon good cause shown.

Rule L1304. Conduct of Hearing. Generally.

1.(a) The arbitrators shall not be required to make a record of the proceedings before them. If any party shall, by writing filed with the chairman five (5) days before the hearing, request a record, the arbitrators shall provide a reporter and cause a record to be made. The party requesting the same shall pay the cost thereof and shall deposit with the arbitrators the sum of One Hundred (\$100.00) Dollars to secure payment. The arbitrators may at any time that they deem the circumstances demand it require an additional deposit. Any surplus shall be returned by the arbitrators to the party depositing it. The deposit shall not be considered costs in the case.

(b) When a panel of arbitrators shall be assembled, they shall be sworn or affirmed to justly and equitably try all matters properly at issue and submitted to them by any person having authority to administer oaths, or in the absence of such person by one of their number.

(c) The Board of Arbitration, or a majority of the members thereof, shall conduct the hearing before them with due regard to the law and according to the established rules of evidence and they shall have the general powers of a Court, including, but not limited to the following powers:

(1) To issue subpoenas to witnesses to appear before the Board and to secure an attachment according to the practice of the Courts for failure to comply therewith;

(2) To compel the production of all books, papers and documents which they shall deem material to the case;

(3) To administer oaths or affirmations to witnesses, to determine the admissibility of evidence, to permit testimony to be offered by depositions and to decide the law and the facts of the case submitted to them.

Rule L1305. Bills and Reports as Evidence in Arbitration Hearings.

1. In actions before arbitrators involving personal injury, the following bills and reports may be offered and received in evidence, without further proof, for the purpose of proving the value and reasonableness of the charges for services, labor and materials, items contained therein, or opinions contained therein, and where applicable, the necessity for furnishing the same, on condition that thirty (30) days written notice prior to the day set for arbitration has been given to the adverse party or parties, or their attorneys, accompanied by a copy of the bills or reports to be offered in evidence, unless counsel for the adverse party shall notify counsel of the claimant in writing no later than two (2) weeks prior to the day set for hearing that the value and reasonableness of the charges are disputed or the opinions given in any reports are disputed:

(a) Hospital bills on the official letterhead or billhead of the hospital when dated and itemized;

(b) Bills of doctors and dentists, when dated and containing a statement showing the date of each visit and the charge therefor, and accompanied by a statement of the correctness and reasonableness of the charges, and that the service rendered was, in his opinion, necessary and casually connected with the incident involved.

(c) Medical and psychological reports documenting the treatment and prognosis of a patient as well as any opinions as to the condition of a patient.

(d) Bills of registered nurses, licensed practical nurses or physical therapists, when dated and containing an itemized statement of the days and hours of service and the charges therefor, and accompanied by a statement of the nurse or physical therapist of the correctness and reasonableness of the charges and that the services rendered were in his or her opinion necessary.

(e) Bills for medicine, eye glasses, prosthetic devices or similar items, when accompanied by a letter from the supplier stating that the charge is correct, reasonable, and represents the market value of the item or items referred to therein.

(f) In actions involving damage to property, repair bills and estimates, when identified and itemized setting forth the charges for labor and material may be offered and received in evidence without further proof, for the purpose of proving the value and reasonableness of the charges, on condition that thirty (30) days written notice prior to the day set for arbitration has been given to the adverse party or parties or their attorney.

2. The President Judge shall have full supervisory powers with regard to any questions that arise in all arbitration proceedings and in application of these rules.

3. Witness fees in any case referred to said Board of Arbitration shall be in the same amount as now or hereafter provided for witnesses in trials in the Court of Common Pleas of Jefferson County and the costs in any cases shall be paid by the same party or parties by whom they would have been paid had the case been tried in the Court of Common Pleas of Jefferson County.

Rule L1306. Report and Award.

1. The board of arbitrators shall make its report and render its award promptly upon conclusion of the hearing unless a question of law arises which requires briefing in which case an extra 45 days can be taken. The report shall state where the hearing was held, what counsel

were present, the names of witnesses heard, shall contain an award, either for the plaintiff or for the defendant, in a form similar to the verdict of a jury, shall be signed by the board of arbitrators, or majority of them, and shall be transmitted to the prothonotary. The decision of the majority shall be the decision of the board of arbitrators.

Rule L1307. Docketing and Notice of Report and Award.

1. The prothonotary shall mail or otherwise forward copies thereof to all parties or their counsel. The Prothonotary shall make a note of the report and award on the docket and file the original report with the papers of the case.

2. The report and award, unless appealed from as herein provided, shall be final and shall have all the attributes and legal effect of a verdict. If no appeal is taken within the time allotted therefore, the successful party or his counsel may enter judgment on the award upon praecipe after which execution process may be issued such judgment as in the case of other judgments.

Rule L1308. Appeals.

1. Any party may appeal from the award of the Board of Arbitration to the Court of Common Pleas of Jefferson County. The right to appeal shall be subject to the following conditions, all of which shall be complied with within thirty (30) days after the award to the Board if filed with the prothonotary:

The appellant shall pay all record costs accrued to the time of taking the appeal, including the arbitrator's fees and shall file with the prothonotary a notice of appeal, and serve a copy thereof upon the adverse party or his counsel; the appellant also shall file an affidavit that the appeal is not taken for delay, but because he believes an injustice has been done.

Rule L1311. Procedure After Appeal.

1. All appeals shall be de novo.

2. In the event of an appeal from the award or decision of the Board of Arbitrators, the Arbitrators shall not be called as witnesses as to what took place before them in their official capacity as Arbitrators upon any hearing de novo.

Rule L1920.51. (Revised 5/15/97)

APPOINTMENT OF FAMILY LAW MASTER IN DIVORCE AND ANNULMENT OF MARRIAGE AND ANCILLARY PROCEEDINGS

(a) In all divorce and annulment of marriage proceedings where a responsive pleading has been filed raising an issue which Pa.R.C.P. 1920.51 authorizes to be heard by a master, the prothonotary shall forthwith refer the case to the Jefferson County Family Law Master. Within thirty (30) days thereafter, the master shall schedule a preliminary conference with the parties and their counsel

to explore the possibility of resolving the issues in dispute without further litigation. As to those issues that cannot be resolved at preliminary conference, the master shall establish a timetable for the progress of the litigation and shall proceed to promptly hold such hearings as are necessary to determine the unresolved issues. Upon concluding a hearing on a particular issue or issues, the master shall report to the Court as provided in Pa.R.C.P. 1920.53.

(b) Before setting the time and place of taking testimony, the master shall examine the pleadings and determine the formal sufficiency and regularity of the proceedings and the question of jurisdiction. If defective in any fatal particular, he shall so report to the Court and at the same time notify counsel. If defective in a particular curable by amendment, he shall notify counsel and suspend further action for a reasonable period of time to enable the necessary correction to be made. Upon the expiration of said period without such correction having been made, he shall make a report to the Court, applying for instructions as to further action on his part. When satisfied of the formal sufficiency and regularity of the proceedings and the existence of jurisdiction, or when directed by the Court to proceed, he shall appoint the time and place of taking testimony and proceed with action.

(c) Before proceeding to take testimony with respect to a contested claim for divorce and/or a question of distribution of marital property, the master shall verify that the fees specified in subsection (d) of this Rule have been paid into the Court, unless the master determines that the payment of said fees is not necessary before holding the hearing.

(d) Except as provided in subsection (c), whenever a party in a divorce case requests that an evidentiary hearing be held to hear a claim for divorce and/or distribution of marital property, said moving party shall deposit the sum of \$1000.00 with the prothonotary to be applied to payment of the master's fees and stenographic costs. Said deposit shall be applied first to the stenographic costs and thereafter to the master's fees at the rate to be established annually by the Court.

(e) In all cases in which the master shall be of the opinion that the amount of money on deposit for the master's fees and stenographic costs is not sufficient, the master shall make a request in writing to the Court for the allowance of additional compensation and/or stenographic costs. Upon the presentation of such request, the Court will issue a rule upon the parties to show cause why the requested additional allowance should not be granted.

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