

THE COURTS

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Amendment of Rule 850 Municipal Court Arbitration; General Court Regulation 97-1-CR-MC

Order

And Now, this 16th day of May, 1997, Rules of Criminal Procedure Rule No. 850. Municipal Court Arbitration, was amended as follows at the Board of Judges meeting, as General Court Regulation 97-1-CR-MC.

1. Rule 850 is deleted in its entirety.
2. New Rule 850 follows and replaces the old rule.

This *Order*, becomes effective thirty (30) days after it is published in the *Pennsylvania Bulletin*.

ALAN K. SILBERSTEIN,
President Judge

Rule 850. Municipal Court Arbitration.

(A) Actions commenced by Private Criminal Complaint may be:

- (1) Withdrawn by agreement of the parties and approval of the Trial Commissioner; or
- (2) referred to the Municipal Court Arbitration Program. All parties must agree, in writing, on forms provided by the Arbitration Program Director, to submit the matter to the award of the Arbitration Program. All parties must agree to be bound by the applicable statutes, rules and regulations of the Arbitration Program; or
- (3) listed for trial before a Philadelphia Municipal Court Judge.

(B) Actions referred to the Municipal Court Arbitration Program shall be governed by the following rules:

(1) The Arbitration Program Director shall appoint and assign an Arbitrator, shall affix a time and place for a hearing and shall serve notice on all parties.

(2) The Arbitration Program Director may remand any matter to the Municipal Court for trial at any time prior to the entering of an award or upon a showing of good cause.

(3) At Arbitration hearings:

- (a) Parties may be represented by counsel;
- (b) Persons party to or having a direct interest in the dispute are entitled to attend hearings. The Arbitrator shall have the power to sequester witnesses during the testimony of other witnesses.
- (c) The hearing may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain a continuance. An award shall not be made solely on the default of a party. The Arbitrator shall require the party who is present to submit such evidence as he or she may require for the making of an award.

(d) Parties and witnesses shall testify under oath or affirmation, which shall be administered by the Arbitrator.

(e) The Arbitrator shall conduct the hearing in such manner as he or she deems best suited to discover the

facts and to determine the justice of the case in accordance with substantive law and shall not be bound by the formal rules of evidence, except those pertaining to privileged communications.

(f) The Arbitrator shall receive and consider evidence of witnesses by affidavit, but shall give it only such weight as he or she deems it entitled after considering objections made to its admission.

(g) A stenographer or court reporter shall not be present at the hearing nor shall any recording device be permitted unless authorization is obtained from the Arbitration Program Director.

(h) Upon good cause shown, the Arbitrator may continue the matter to a date certain.

(4)(a) The Arbitrator may grant any remedy or relief which he or she deems just, including monetary awards and equitable awards.

(b) Parties may enter into a consent agreement at any time prior to the making of an award.

The consent agreement shall state the obligations of the respective parties, shall be in writing and shall be signed by all parties. The consent agreement shall be filed with the Arbitration Program and shall have the same effect as an award.

(c) Copies of an award or consent agreement will be mailed or otherwise forwarded to all parties or their counsel by the Arbitration Program. Except as provided in subsection (B)(5), an award or consent agreement shall be final and binding on all parties.

(5)(a) A party may file exceptions to the award of the Arbitrator for the following reasons and for no other:

- (i) The Arbitrator committed a plain mistake in matter of fact or in matter of law; or
- (ii) The Arbitrator misbehaved in the conduct of the case; or
- (iii) The action of the Arbitrator was procured by corruption or other undue means.

(b) Exceptions may be filed with the Arbitration Program Director within fifteen (15) days of the entering of the award.

(c) Exceptions must be submitted in writing and shall set forth all allegations of fact in support of the exceptions.

(d) The Municipal Court Administrator shall assign a date and courtroom for a hearing on the exceptions on the Municipal Court Civil Trial List. Thereafter, copies of the exceptions shall be served on all parties by the Arbitration Program.

(e) If, upon exceptions filed to any award, it shall appear to the Court that the Arbitrator made a mistake in fact or law, the Court shall refer the case back to the Arbitration Program for such further proceedings as shall be necessary.

(f) Should the Court sustain exceptions as provided above in subsection (B)(5)(e), the award of the Arbitrator shall be vacated by the Court and the case referred back to the Arbitration Program with directions that a new Arbitrator be appointed to hear and decide the matter.

(6) Arbitration Program awards and consent agreements shall be enforceable upon issuance unless stayed by the Arbitration Program Director or by the Municipal Court.

(7) Any party neglecting or refusing to perform and execute an award or consent agreement shall be liable to all the penalties of contempt of court. Upon petition by an aggrieved party, the Arbitration Program Director shall schedule a hearing in the Municipal Court to determine the existence of contempt.

(C) Except for actions in which a government agency is a party, all actions listed for trial before a Philadelphia Municipal Court Judge must first be submitted to the Arbitration Program for compulsory mediation. In the event that the compulsory mediation hearing does not result in an agreement between the parties, the action shall either be:

(1) referred to the Arbitration Program upon agreement of all parties in accordance with section (B) above; or

(2) listed for trial in accordance with Chapter 6000 of the Pennsylvania Rules of Criminal Procedure.

[Pa.B. Doc. No. 97-930. Filed for public inspection June 13, 1997, 9:00 a.m.]

Title 255—LOCAL COURT RULES

NORTHAMPTON COUNTY

Administrative Order 1997-3—Custody of Exhibits; 1997-CM-3852

Order of Court

And Now, this 29th day of May, 1997, Northampton County Administrative Order 1997-3—Custody of Exhibits—is hereby adopted as follows, effective immediately.

Seven (7) certified copies of the within administrative order shall be filed with the Administrative Office of Pennsylvania Courts; two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; one (1) certified copy shall be filed with the Pennsylvania Civil Procedural Rules Committee; one (1) certified copy shall be filed with the Pennsylvania Criminal Procedural Rules Committee; one (1) certified copy shall be filed with the Pennsylvania Orphans' Court Rules Committee; and one (1) certified copy shall be filed with the Pennsylvania Domestic Relations Committee. One (1) copy of this administrative order shall be kept available in each of the following offices: Clerk of Courts—Civil, Clerk of Courts—Criminal, Clerk of the Orphans' Court, and the Domestic Relations Section. A copy is directed to be published in the *Northampton County Reporter*.

By the Court,

ROBERT A. FREEDBERG,
President Judge

Order of Court

And Now, this 29th day of May, 1997, it is hereby ordered:

A. All exhibits received in evidence upon the hearing of any cause or motion shall be retained during the hearing by the official court reporter, except as set forth in part C. The official court reporter shall be responsible for the custody and safekeeping of such exhibits.

B. All exhibits received in evidence upon the completion of the hearing of any cause or motion shall be delivered by the official court reporter to the clerk of court except as set forth in part C. The clerk of court shall keep the same in custody, unless otherwise ordered by the Court, except that the clerk may, without special order, permit an official court reporter to retain custody pending preparation of the transcript. The clerk shall be responsible for the custody and safekeeping of such exhibits.

C. In all criminal or juvenile delinquency cases where firearms, knives, weapons capable of inflicting serious bodily injury, narcotics, controlled substances, or any contraband is introduced into evidence, such evidence shall be delivered by the official court reporter to the member of the district attorney's staff prosecuting the case at the end of each court session and at the completion of the hearing. The district attorney's staff shall be responsible for the custody and safekeeping of such exhibits.

D. 1. In civil cases and orphans' division cases, trial exhibits shall be retained by the clerk of court until it is determined whether an appeal has been taken from a final judgment. If an appeal has been taken, the exhibits shall be retained until disposition of the appeal. Otherwise, the party who offered the exhibits may reclaim them for a period of thirty (30) days, after which the clerk of court may destroy or otherwise dispose of the exhibits.

2. In criminal cases or juvenile delinquency cases, exhibits shall be retained by the clerk of court or the district attorney until order of court allowing return of the item to its owner, destruction, or other disposition. The district attorney may place said exhibits in the physical custody of a law enforcement agency to be retained until further order of court.

3. In domestic relations cases, exhibits shall be retained by the clerk of court until return, destruction, or other disposition is authorized by order of court.

4. In juvenile dependency cases, exhibits shall be retained by the clerk of court until return, destruction, or other disposition is authorized by order of court.

E. At the conclusion of a hearing, upon delivery of an exhibit to a clerk of court or the district attorney, the official court reporter shall prepare a form listing the case name and number, the exhibit, in whose custody it was placed, and the date. A copy of the form shall be provided to each counsel and the court administrator.

F. As used in this administrative order, the term clerk of court includes the prothonotary (civil division cases), the clerk of criminal division (criminal cases and juvenile delinquency cases), the clerk of the orphans' court division (orphans' division cases and juvenile dependency cases), and the director of the domestic relations section (domestic relations cases).

[Pa.B. Doc. No. 97-931. Filed for public inspection June 13, 1997, 9:00 a.m.]

SUPREME COURT

Request for Proposal

The Supreme Court of Pennsylvania plans to release a Request for Proposal (RFP) June 16, 1997 for an Appellate Court Docketing/Case Management System based on Joint Application Development Materials which outline the docketing/case management procedures of the judicial chambers and administrative offices of the Supreme, Superior and Commonwealth Courts of Pennsylvania. This project includes the development of or tailoring of application software, the purchase and installation of multi-processor servers, the training of end users and the development of all system documentation beginning Sep-

tember 2, 1997 with final system installation scheduled by June, 1999. The project schedule, terms and conditions and scope of work are outlined in the RFP. Copies of the RFP may be requested by calling the Director of Special Projects at the Administrative Office of Pennsylvania Courts at (717) 795-2000. Letters of Intent to Bid must be submitted no later than 4 p.m. July 3, 1997. A resource library will be available. Project and proposal details are included in the Request for Proposal.

NANCY M. SOBOLEVITCH,
Court Administrator of Pennsylvania

[Pa.B. Doc. No. 97-932. Filed for public inspection June 13, 1997, 9:00 a.m.]
