

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

Suspension of Certain Provisions of Act No. 1975-111 added by Act No. 1996-135; No. 269; Doc. No. 5

Corrected Order

Per Curiam:

And Now, this 17th day of January, 1997, the following sections of the Act of October 15, 1975, P. L. 390, No. 111, as amended, known as the Health Care Services Malpractice Act, added by the Act of November 26, 1996, P. L. —, No. 135, are suspended in accordance with Article V, Section 10(c) of the Constitution of 1968: Section 812-A(d), (e) and (f); Section 813-A; Section 821-A; Section 822-A; Section 823-A; Section 824-A; Section 825-A; and Section 826-A.

As the foregoing sections of the Act contain certain procedures that may be appropriate for all types of civil actions, the Civil Procedural Rules Committee is directed to recommend, if appropriate, the promulgation of rules governing discovery deadlines and the exchange of expert reports and other relevant information within a reasonable time prior to trial and rules governing discovery pertaining to punitive damage claims that bar discovery of a party's financial assets or wealth at the early stages of the litigation and impose other appropriate limitations on such discovery. The recommendations of the Civil Procedural Rules Committee may also include additional rules governing pretrial management of civil actions that will lead to the prompt and efficient adjudication of claims.

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

[Pa.B. Doc. No. 97-142. Filed for public inspection January 31, 1997, 9:00 a.m.]

Title 252—ALLEGHENY COUNTY RULES

ALLEGHENY COUNTY

Rule 249 of Court of Common Pleas: Authority of Individual Judge; Doc. No. 1 of 1997

Order of Court

And Now, this 9th day of January, 1997, pursuant to action of the Board of Judges, the following corrected local Rule 249 affecting the Civil Division of the Court of Common Pleas is adopted, effective upon publication in the *Pennsylvania Bulletin*. This publication is to correct minor technical and typographical errors contained in the rule as published December 7, 1996.

By the Court

ROBERT E. DAUER,
President Judge

Rule 249. Authority of Individual Judge.

*I. Motions Judge

A.1. Except as otherwise provided by this rule or special order, the following matters regarding General Docket cases, which are not listed for trial, shall be presented to the Motions Judge, unless the Motions Judge is unavailable and an emergency exists:

a. Preliminary objections;

Note: See Rule 1028.*1 regarding preliminary objections.

b. Petitions to open or strike default or confessed judgments;

c. Petitions for injunctive relief and subsequent hearings on the petitions; (excepting enforcement which shall be presented to the judge who issued the injunctive relief);

Note: See Rule 1531*(g) regarding injunctive relief.

d. Petitions for writs of seizure and subsequent hearings thereon;

Note: See Rule 1075 et seq. regarding writs of seizure.

2. Other motions, petitions and applications may be presented to the Motions Judge, unless they are matters that may be presented only to the Special Motions Judge.

B. Except in cases of emergency, uncontested motions and petitions shall be presented at 9:30 a.m. or at 1:30 p.m. In July and August, they shall be presented only at 9:30 a.m., on Monday, Tuesday and Thursday.

C.1. Any brief other than a brief in support of preliminary objections, which the moving party intends to submit to the Court for consideration, shall be filed with the Chief Motions Clerk and served upon all other parties at least seven (7) days before the date scheduled for argument. Briefs in support of preliminary objections shall be presented to the Chief Motions Clerk at the time of filing the preliminary objections.

2. Any brief which a party other than the moving party intends to submit to the Court for consideration shall be filed with the Chief Motions Clerk and served upon all other parties at least three (3) days before the date scheduled for argument.

3. The filing of preliminary objections to preliminary objections shall in no way alter or delay the argument from its originally scheduled date and shall be argued at the same time as the original preliminary objections.

D. The date and time for argument of any other contested matter shall be obtained in advance from the Chief Motions Clerk in the courtroom of the Motions Judge.

E. Written notice shall be served upon all other parties by the party obtaining the hearing date. Except in cases of emergency or waiver by consent of all parties, and except as to preliminary objections and final determinations of rules to show cause, at least ten (10) days written notice shall be required.

Note: See Rule 1028.*1 regarding preliminary objections. See Rule 206.7* regarding rules to show cause.

F. In the event that a matter specially scheduled for argument becomes moot, the moving party shall immedi-

ately notify the Chief Motions Clerk and shall clear the record of the pendency of the issue.

*II. Special Motions Judge

Except as otherwise provided by this rule or special order, the following matters shall be presented to the Special Motions Judge: (1) all matters regarding Arbitration Docket cases, except for requests for continuances, and (2) pleading, (except preliminary objections) discovery and other pretrial matters for General Docket cases which are not listed for trial. Other motions, petitions and applications may be presented to the Special Motions Judge unless they are matters that may be presented only to the Motions Judge.

A. The procedure for Arbitration matters (including cases transferred from the General Docket) shall be as follows:

1. All uncontested matters except for requests for continuance, shall be presented on Fridays at 10:00 a.m., 12 noon or 2:00 p.m.;

2. All contested matters including: motions, petitions, preliminary objections and other pre-hearing matters, except for proposed orders for continuance, shall be filed with an Arbitration Clerk who shall at the time of filing schedule a Friday argument date and time.

B. The procedure for General Docket cases not listed for trial shall be as follows:

1. All uncontested motions shall be presented on Fridays at 10:00 a.m., 12:00 noon or 2:00 p.m.;

2. For contested motions, the moving party may obtain a Friday argument date and time, in person or by phone, from the Assignment Room between 1:30 p.m. and 4:30 p.m. or the moving party may, after giving appropriate notice to all other parties, place the matter on the 2:00 p.m. add-on list at anytime after 8:30 a.m. on the Friday on which it will be argued.

C. Except in cases of emergency or waiver by consent of all parties, at least ten (10) days written notice of the presentation of a contested matter shall be served by the moving party on all other parties.

D. If a matter scheduled for argument becomes moot, the moving party shall notify an Arbitration Clerk or an Assignment Room Clerk.

*III. Calendar Control Judge

A. Except as otherwise provided in this rule or by special order, all matters regarding cases on a published trial list, including the following, shall be presented to the Calendar Control Judge:

1. Petitions or motions relating to pleadings or discovery;

2. Proposed orders for continuance of cases on the Arbitration Docket, except that, as to cases which have not been continued previously, if all parties agree, an Adjournment of Hearing form ("green sheet") shall be presented instead to the Chief Arbitration Clerk in Room 516 Courthouse;

3. Proposed orders for continuance of cases on the General Docket;

4. Petitions for withdrawal and/or substitution of counsel;

5. Petitions for enforcement of subpoenas;

6. Matters relating to the selection and examination of prospective jurors;

7. Petitions to enforce settlement agreements entered into after a case appears on a published trial list, except those cases settled as a result of a conciliation by another judge, which petitions shall be presented to that judge;

8. Petitions for impartial medical examinations or for appointment of other impartial expert witnesses;

9. Petitions for approval of settlement of minors' and incompetents' claims and wrongful death and survival claims and,

Note: See Rule 2039*1 regarding settlement of minors' claims. See Rule 2064*1 regarding settlement of claims of incapacitated persons.

10. All matters not otherwise provided for regarding cases on a published trial list.

B. All motions and petitions in General Docket cases regarding venue shall be presented to the Calendar Control Judge, regardless of whether or not the case appears on a published trial list.

C. All matters shall be presented each morning at 9:00 a.m. prevailing time, following the call of the daily trial list and during non-trial term, at such times as the Calendar Control Judge may from time to time designate in the daily Pittsburgh Legal Journal.

D. Except in cases of emergency or waiver by consent of all parties, at least ten (10) days written notice of the presentation of a contested matter shall be served by the moving party on all other parties.

E. In the event that a matter specially scheduled for argument becomes moot, the moving party shall so notify the judge's secretary immediately.

*IV. Complex Case Judge

A. Applications for designation of cases as complex, other than class actions and toxic substance cases, shall be presented to the Complex Case Judge.

B. A case may be considered complex when the case cannot be tried within ten (10) days, when there are complex questions of law and fact, or when the orderly administration of justice requires that the case be assigned to a single judge.

C. If a complex case is also a toxic substance case, it shall be assigned to the Toxic Substance Case Judge. If a complex case is also a class action, it shall be assigned to the Class Action Judge.

*V. Toxic Substance Case Judge

A. Actions for personal injury or property damage caused by asbestos, or such other toxic substances as the court by administrative order may designate from time to time, unless designated as a class action, upon filing shall be assigned to the Toxic Substance Case Judge, prior to the case being assigned to a general trial list.

B. A toxic substance case, that is also filed as a class action, shall be assigned instead to the Class Action Judge.

Note: To determine whether a toxic substance other than asbestos has been made subject to this rule by administrative order, parties may contact the secretary of the Administrative Judge. See Rule *198.6, Appendix B, regarding General Docket Code.

*VI. Class Action Judge

Class Action cases, upon filing, shall be assigned to the Class Action Judge in accordance with Pa.R.C.P. 1701 et seq.

Note: See Rule *198.6, Appendix B, regarding General Docket Code.

*VII. General Argument List for General Docket Cases

A. Except as otherwise ordered in accordance with Pa.R.C.P. 227.2 or by special order, motions for judgment on the pleadings and motions for summary judgment shall be placed on the General Argument List and heard by a single judge.

B. All motions for judgment on the pleadings and motions for summary judgment shall be presented to a Calendar Control Clerk and clocked before being filed in the Office of the Prothonotary. Those motions which have been filed by 2:00 p.m. on the fortieth day before a scheduled argument date shall be placed on the argument list for that date.

Note: See Rule *198.6(A)(10) regarding additional information required on Identification sheet.

C. No case which currently appears on a published trial list may be scheduled for argument without leave from the Calendar Control Judge.

D. Argument lists shall be printed in the daily edition of the Pittsburgh Legal Journal at least thirty days before the date scheduled for argument.

E. In the event that a matter scheduled for argument becomes moot, the moving party shall so notify the court immediately and shall clear the record of the pendency of the matter. Prior to the publication of the argument list, notice shall be given to the Chief Calendar Control Clerk; subsequent to publication of the argument list, notice shall be given to the secretary of the judge to whom the argument has been assigned. Notification regarding Arbitration matters shall be given to an Arbitration Clerk.

F. Briefs on behalf of the moving party shall be attached to the motion, separately tabbed. Response briefs shall be presented to the Argument Clerk and filed at least seven (7) days prior to argument.

Note: This Rule was not intended to list every conceivable type of motion/petition filed, and to which Court each type of motion/petition should be presented. Accordingly, some overlap in function among the Judges mentioned herein may occur. When in doubt, counsel are advised to consult with the Chief Motions Clerk to determine the proper Court for presentation of the motion/petition.

[Pa.B. Doc. No. 97-143. Filed for public inspection January 31, 1997, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BERKS COUNTY

Rules of Court Nos. 206.5(d) and 206.7(d): Petitions, Motions and Answers; No. 30 August 1988, AD

Order

And Now, this 9th day of January, 1997, the following new Berks County Rules of Civil Procedure, numbered 206.5(d) and 206.7(d), relating to Motions, Petitions and Answers, are approved, adopted and promulgated for use in the Court of Common Pleas of Berks County, Pennsyl-

vania (23rd Judicial District of Pennsylvania), and shall apply to all cases now pending, or which may hereafter be commenced.

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

(1) Keep continually available to public inspection and copying copies of this Order and of Berks County Rules of Civil Procedure, numbered 206.5(d) and 206.7(d), as hereby approved, adopted and promulgated;

(2) File with the Administrative Office of Pennsylvania Courts seven (7) certified copies of said Rules 206.5(d) and 206.7(d), as herein approved, adopted and promulgated;

(3) File with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* two (2) certified copies of said new Rules;

(4) File with the Civil Procedural Rules Committee one (1) certified copy of said new Rules;

(5) File with the Domestic Relations Committee one (1) certified copy of said new Rules; and

(6) Within three (3) weeks after the publication of said new Rules in the *Pennsylvania Bulletin*, cause a copy of this Order and said new Rules to be published one (1) time in the *Berks County Law Journal* in suitable form so that the same may be placed as an additional or replacement page in the current binder of the Berks County Rules of Court. Each such additional or replacement page shall show in the lower right hand corner thereof, the effective date of said Rules as herein approved, adopted and promulgated.

These Rules shall become effective thirty (30) days after the date of their publication in the *Pennsylvania Bulletin*.

At the time new Rules 206.5(d) and 206.7(d) become effective, Berks Rules of Civil Procedure 206 and 208 are rescinded, but no rights gained under said rescinded rules shall be adversely affected.

By the Court

FORREST G. SCHAEFFER,
President Judge

PETITIONS, MOTIONS AND ANSWERS

Berks Rule of Civil Procedure 206.5(d)

(d) The form of order required by subdivision (b) of the Pa.R.C.P. 206.5 shall be in substantially the following form:

CAPTION

AND NOW, this ____ day of _____, 199 __, upon consideration of the foregoing petition, it is hereby ORDERED that:

(1) a rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;

(2) the respondent shall file an answer to the petition within ____ days of this date;

(3) the petition shall be decided under Pa.R.C.P. 206.7;

* () (4) depositions shall be completed within ____ days of this date.

* () (4) an evidentiary hearing on disputed issues of material fact shall be held on _____, 199 __, at ____ o'clock, __.m., in Courtroom ____ of the Berks County Courthouse.

* () (5) argument on questions of law shall be held on _____, 199____, at _____ o'clock, ____ .m., in Courtroom _____ of the Berks County Courthouse.

* () (5) the questions of law presented shall be resolved by the Court on briefs, without oral argument.

(6) notice of the entry of this Order shall be provided to all parties by the petitioner.
By the Court:

J.

*The Court shall determine which procedure shall be followed in a particular case by checking the appropriate box.

Berks Rule of Civil Procedure 206.7(d)

Rule 206.7(d)

The Berks County Court may order an evidentiary hearing for the purposes of determining disputed issues of material fact, in addition to, or in substitution for, the taking of depositions, and/or other discovery, pursuant to Pa.R.C.P. 206.7(d).

Note: The petitioner need not appear before the assigned judge on the day a rule is returnable.

When a party files an answer to the petition, such party need not thereafter appear before the assigned judge on the day a rule is returnable.

[Pa.B. Doc. No. 97-144. Filed for public inspection January 31, 1997, 9:00 a.m.]

BRADFORD COUNTY

Rules of Criminal Procedure No. 301: Continuances; No. 96IR000066

Order

And Now, this 9th day of January, 1997, the Court hereby adopts the following Bradford County Rule of Criminal Procedure, to be effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin*.

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

It is further ordered that this local rule shall be kept continuously available for public inspection and copying in the Prothonotary's Office.

By the Court

JEFFREY A. SMITH,
President Judge

Rule 301. Continuances.

(1) A motion for a continuance shall be made in writing unless exceptional circumstances prevent a written motion.

(2) Before making a motion for continuance, every reasonable effort shall be made to notify and seek the agreement of the opposing party.

(3) The written motion shall be in substantially the following form:

: IN THE COURT OF COMMON PLEAS
VS. : OF BRADFORD COUNTY, PENNSYLVANIA
: NO.

MOTION FOR CONTINUANCE

NOW COMES _____, (by and through (his) (her)(its) attorney, _____, (name of party) (name of attorney) and moves for a continuance as follows:

1. The above-captioned matter is scheduled for _____ (nature of proceeding, i.e., arraignment, omnibus pre-trial, trial, etc.)

on the _____ day of _____, 19____, at ____ m., before _____ (name of judge).

2. The opposing party is: _____ represented by _____
3. The proceeding was scheduled by _____ (notice of order) dated _____.

4. The proceeding (has) (has not) been previously continued (_____ time(s)).

5. A continuance is requested because _____

(If a continuance is requested because of a conflicting court matter, state: the name of the case; the court; the nature of the scheduled proceeding; the date, time and expected duration of the conflicting proceeding; the date of the order or notice scheduling the conflicting proceeding.)

6. The opposing party has been notified of this request and has no objection. _____
 The opposing party has not been notified of this request. _____.

Efforts to notify the opposing party include: _____

The opposing party objected to the continuance for the reasons stated herein: _____

7. I hereby certify that if a continuance is granted, I will notify all witnesses who would be appearing at my request.

8. I specifically request a continuance
 of not less than _____
 of not more than _____ (or)
 to the next available date.

Respectfully submitted,

(4) A motion for continuance shall have attached to the front a proposed order in substantially the following form:

Order

AND NOW, this _____ day of _____, 19 ____, upon consideration of the attached motion of _____ (moving party) requesting a continuance:

the motion is denied.

the motion is granted and the _____ (matter being continued) schedules for (date) at _____ m. (time) before (name of judge) is hereby continued until _____ (date) at _____ m. (time)

The moving party shall promptly notify all interested parties of this order.

BY THE COURT:

(5) A motion for a continuance shall be made as soon as possible after the circumstances necessitating the request becomes known.

[Pa.B. Doc. No. 97-145. Filed for public inspection January 31, 1997, 9:00 a.m.]
