

THE COURTS

Title 210—APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES

[210 PA. CODE CH. 65]

Amendment of Operating Procedures

Annex A

TITLE 210. APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES

CHAPTER 65. INTERNAL OPERATING PROCEDURES OF THE SUPERIOR COURT MOTIONS PRACTICE

§ 65.22. Motions Review Subject to Motions Panel Disposition.

A. Motions to Quash or Dismiss Appeals, Petitions for Permission to Appeal pursuant to Pa.R.A.P. 312, 1301—1323 and 42 Pa.C.S. § 702(b), and Petitions for Review pursuant to Pa.R.A.P. 1501 et seq. shall be subject to review and disposition by a panel of three commissioned judges.

B. The President Judge shall set the motions panel. Each motions panel shall consist of three commissioned judges and shall serve for a period of two months.

As amended, effective January 10, 1997.

[Pa.B. Doc. No. 97-178. Filed for public inspection February 7, 1997, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1900]

Proposed Amendments to the Rules Relating to Protection From Abuse; Recommendation 45

The Domestic Relations Committee proposes the following amendments to the Rules of Civil Procedure relating to Protection From Abuse. The committee solicits comments and suggestions from all interested persons prior to submission of the proposed rule to the Supreme Court.

Written comments relating to the proposed amendments must be received no later than March 28, 1997 and must be directed to: Sophia P. Paul, Esquire, Counsel, Domestic Relations Committee, 429 Forbes Avenue, Suite 300, Pittsburgh, PA 15219, FAX (412) 565-2336, or E-Mail to spaul@supreme.court.state.pa.us.

The explanatory notes which appear in connection with the proposed amendments have been inserted by the Committee for the convenience of those using the rules. They will not constitute part of the rules nor will they be officially adopted or promulgated by the Court.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1900. ACTIONS PURSUANT TO PROTECTION FROM ABUSE ACT

Rule 1901. Definitions.

As used in this chapter

Act—Protection From Abuse Act No. 206 approved December 19, 1990, 23 Pa.C.S. § 6101 et seq.;

Action—A proceeding for protection from abuses defined in [**Section 2**] § 6102 of the Act;

Court—The court of common pleas.

Emergency Order—An order entered by a hearing officer, who is a person meeting the definition set forth at 23 Pa.C.S. § 6102.

Temporary Order—An order entered by the court pursuant to 23 Pa.C.S. § 6107.

Rule 1901.1. Venue.

(a) Except as provided in subdivision (b), an action for protection from abuse may be brought in a county in which

(1) the plaintiff resides, either temporarily or permanently, or is employed, or

(2) the defendant may be served, or

(3) the abuse occurred.

(b) If the relief sought includes possession of the residence or household to the exclusion of the defendant, the action shall be brought only in the county in which the residence or household is located.

Rule 1901.2. Scheduling.

Each judicial district shall establish and publish a schedule of times when the court will be available to hear temporary Protection From Abuse matters.

Official Note: When the court is unavailable, emergency relief may be sought from the minor judiciary pursuant to 23 Pa.C.S. § 6110.

[Rule 1902. Commencement of Action.

(a) Except as provided in subdivision (b), an action shall be commenced by filing with the prothonotary a petition setting forth the alleged abuses by the defendant.

(b) Filing in the office of the prothonotary of a certified order of a district justice entered pursuant to 23 Pa.C.S. § 6110 shall constitute the commencement of an action in the court of common pleas.

Official Note: See 23 Pa.C.S. § 6110 conferring emergency jurisdiction on district justices and requiring immediate certification of its order to the court.]

Rule 1901.3. Commencement of Action.

(a) An action shall be commenced by filing with the prothonotary or presenting to the court a petition setting forth the alleged abuses by the defendant. The petition shall be substantially in the

form set forth in Rule 1905(b) and shall have as its first page the Notice of Hearing and Order set forth in Rule 1905(a).

(b) An action may be commenced by filing a certified copy of the emergency order entered pursuant to 23 Pa.C.S. § 6110.

[Rule 1903. Service of Order. Enforcement.

(a) Rescinded

Official Note: For service of the petition or certified order of the district justice, see Rule 1930.4.

(b) An order entered under 23 Pa.C.S. §§ 6107 and 6108 shall be served and enforced by such persons and in such manner as the court shall direct in the order.]

Rule 1901.4. Service and Registration of Order.

(a) Service of the petition and temporary order shall be in accordance with Rule 1930.4.

(b) An Affidavit of Service substantially in the form set forth in Rule 1905(d) shall be filed with the prothonotary.

(c) A certified copy of every protection order shall be submitted for registration to

(1) the prothonotary of the county in which the order was entered, as well as any other county in which plaintiff believes protection may be necessary; or

(2) the statewide registry. Orders submitted to the statewide registry shall be accompanied by the supplemental information form set forth in Rule 1905(f).

Official Note: Counties will not be required to maintain registries after the statewide registry is established and is fully operational, pursuant to 23 Pa.C.S. § 6104(b).

Rule 1901.5. Enforcement.

(a) A police officer shall arrest a defendant for violating an order issued by or registered in any

court within this Commonwealth pursuant to the Act where the order is

(1) registered in accordance with the Act; or

(2) can be verified by radio, telephone or similar means of communication.

(b) A complaint for indirect criminal contempt shall be completed and signed by either the police officer or the plaintiff. Neither plaintiff's presence nor signature shall be required for such filing.

Rule [1904] 1901.6. No responsive pleading required.

No pleading need be filed in response to the petition or the certified order and all averments not admitted shall be deemed denied.

Official Note: For procedures as to the time and manner of hearings and issuance of orders [**ex parte or after hearing**], see 23 Pa.C.S. § 6107. For provisions as to the scope of relief **available**, see 23 Pa.C.S. § 6108. For provisions as to contempt for violation **of an order or consent agreement**, see 23 Pa.C.S. § 6114.

Rule [1905] 1901.7. Decision. No Post-Trial Relief.

(a) The decision of the court [**shall be governed by Rule 1038(b) and (c)**] may consist only of general findings but shall dispose of all claims for relief. The court's order shall be rendered substantially in the form set forth in Rule 1905(e).

(b) No motions for post-trial relief may be filed to the final order.

Official Note: The procedure relating to Motions for Reconsideration is set forth in Rule 1930.2.

Rule 1905. Standard Forms for Use in Protection from Abuse Matters.

(a) The Notice of Hearing and Order required by Rule 1901.3 shall be substantially in the following form:

(Caption)

NOTICE OF HEARING AND ORDER

YOU HAVE BEEN ORDERED TO APPEAR IN COURT. If you fail to do so, the court may enter an Order in your absence which may evict you from your residence, and cause you to lose other important rights.

You **MUST** obey the order which is attached until the hearing. If you disobey this Order, the police may arrest you. Under federal law, this Order is enforceable anywhere in the United States, and any violation of this Order in another state will result in federal proceedings against you. In addition, if you are subject to a **FINAL PROTECTION ORDER**, federal law will prohibit you from possessing, transporting, or accepting a firearm.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. YOU HAVE THE RIGHT TO HAVE AN ATTORNEY REPRESENT YOU AT THE HEARING. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

_____ County Lawyer Referral Service
[insert Street Address]
[insert City, State, and ZIP]
[insert Phone Number]

(b) The Petition in an action filed pursuant to the Act shall be substantially in the following form:

(Caption)

PETITION FOR PROTECTION FROM ABUSE

1. My name is _____

I am filing this Petition on behalf of: Myself Another Person

If you checked "myself," please answer all questions referring to yourself as "plaintiff." If you checked "another person," please answer all questions referring to that person as the "plaintiff, and provide your address here:

If you checked "Another Person," also indicate your relationship with plaintiff:

- parent of minor plaintiff(s) guardian ad litem of minor plaintiff(s)
 adult household member with minor plaintiff(s) court appointed guardian of incompetent plaintiff(s)

2. Plaintiff's address is confidential

or

Plaintiff's address is: _____

3. Defendant is _____, who resides at _____. His/her date of birth is _____ and Social Security No. is _____.

Check here if defendant is 17 years old or younger.

4. Indicate the relationship between plaintiff and defendant:

- Spouse Current or former sexual/intimate partner Other relationship by blood or marriage: _____
 Ex-spouse Parent/Child _____
 Parents of the same child/ren Brother/Sister _____

5. I am asking the court to order the defendant to leave the following residence: _____, which is:

- owned by (list all owners): _____,
 rented by (list all names): _____.

6. Plaintiff and defendant are the parents of the following child/ren:

Table with 3 columns: Name(s), Age(s), who reside at (list address unless confidential). Includes three rows of blank lines for entry.

7. The following minor child/ren who are not related to the defendant presently live with plaintiff:

Table with 3 columns: Name(s), Age(s), plaintiff's relationship to child/ren. Includes three rows of blank lines for entry.

8. The facts of the most recent incident of abuse are as follows:

Date: _____ Time: _____ Place: _____

Describe in detail what happened, including any physical or sexual abuse, threat, injury, or incident of stalking:

Multiple horizontal lines provided for describing the incident of abuse.

9. The defendant has committed prior acts of abuse against me, my minor child/ren, or the plaintiff (if I am filing on behalf of someone else). List examples of such abuse, including any threats, injuries, or incidents of stalking, and state when such acts of abuse occurred:

10. Defendant has used or threatened to use the following weapon(s) against plaintiff or the minor child/ren listed above:

11. If plaintiff and defendant are parents of any minor child/ren, is there an existing court Order regarding their custody? _____. Who has primary custody under that Order? _____. If you are now seeking an Order of child custody as part of this petition, list the following information:

(a) Where has each child resided during the past five years?

Table with 4 columns: Child's name, Person(s) child lived with, Address, unless confidential, When. Includes three rows of blank lines for data entry.

(b) List any other persons who are known to have or claim a right to custody of each child listed above.

Table with 3 columns: Name, Address, Basis of Claim. Includes three rows of blank lines for data entry.

12. Have you and the defendant been involved in any of the following court actions? (If you are filing this Petition on behalf of another person, please answer this and all questions using that person as the plaintiff.)

- Divorce Custody Support Protection from Abuse

If you checked any of the above, briefly indicate when and where the case was filed and the court number, if known:

13. Defendant owes a duty of support to plaintiff and/or the minor child/ren.

14. As a result of the abuse described above, I have suffered financial losses.

15. There is an immediate and present danger of additional abuse from the defendant.

FOR THE REASONS SET FORTH ABOVE, I REQUEST THAT THE COURT ENTER A TEMPORARY ORDER, and AFTER HEARING, A FINAL ORDER THAT WOULD DO THE FOLLOWING (CHECK FORMS OF RELIEF REQUESTED):

- A. Restrain defendant from abusing, threatening, harassing, or stalking plaintiff and/or the minor child/ren in any place where they may be found.
B. Evict/exclude defendant from plaintiff's residence and prevent defendant from living at or attempting to enter such residence.
C. Require defendant to provide plaintiff with other suitable housing.
D. Award plaintiff temporary custody of the minor child/ren and place appropriate restrictions on contact between defendant and the child/ren.
E. Order defendant to pay temporary support for plaintiff and the minor child/ren, including medical support and payment of the rent or mortgage on plaintiff's residence.
F. Prohibit defendant from having any contact with plaintiff and/or the minor child/ren, either in person, by telephone, or in writing, including but not limited to any contact at plaintiff's school, business, or place of employment.
G. Prohibit defendant from harassing or having any contact with plaintiff's relatives and the child/ren listed in this Petition.

- H. Order defendant to temporarily relinquish weapons to the Sheriff of this county.
- I. Direct defendant to pay plaintiff for the reasonable financial losses suffered as the result of the abuse.
- J. Order defendant to pay plaintiff's reasonable attorney fees.
- K. Grant such other relief as the court deems appropriate.
- L. I also request that the Judge order the police or other law enforcement agency to serve defendant with a copy of this Petition, any Order issued, and the Order for hearing. I will inform the police of any addresses, other than defendant's residence, where he or she can be served.

Petitioner

VERIFICATION

I verify that I am the Petitioner in the present action and that the facts and statements contained in the above Petition are true and correct to the best of my knowledge, information, and/or belief.

I understand that any false statements are made subject to the penalties of 18 Pa.C.S. § 4094, relating to unsworn falsification to authorities.

(c) The Temporary Order of Court entered pursuant to the Act shall be substantially in the following form:
(Caption)

Defendant's date of birth: _____

Defendant's Social Security #: _____

TEMPORARY PROTECTION FROM ABUSE ORDER

AND NOW, this _____ day of _____, _____, upon consideration of the attached Petition for Protection from Abuse, the court hereby enters the following Temporary Order:

1. The defendant shall not abuse, threaten, stalk, or harass the plaintiff and/or the minor child/ren in any place where they might be found. The names of the persons protected under this Order are as follows:
2. Plaintiff is granted exclusive possession of the residence where she/he resides which is:
 - located at _____
 - a confidential location.

After notice to the plaintiff, defendant may enter the residence (other than a confidential location), on one occasion only, to retrieve his/her clothing and other personal effects, provided that defendant shall be in the company of a law enforcement officer when such retrieval is made. Until a final hearing in this matter, defendant shall otherwise have no right to enter or be present on these premises.

3. Pending the outcome of the final hearing in this matter, plaintiff is awarded temporary custody of the following minor child/ren:

Until the final hearing, contact, if any, between defendant and the child/ren shall be limited to the following: The local law enforcement agency in the jurisdiction where the child/ren are located shall ensure that the child/ren are placed in the care and control of the plaintiff in accordance with the terms of this Order.

4. Defendant shall immediately relinquish the following weapons to the local law enforcement agency for delivery to the Sheriff's office:

5. Defendant is prohibited from having any contact with plaintiff at any location, including but not limited to any contact at plaintiff's school, business, or place of employment. Defendant shall not contact plaintiff by telephone or by any other means, except as might be permitted under Paragraph 3 of this Order relating to child custody. Defendant shall not harass or have any contact with plaintiff's relatives, except for such contact with their minor child/ren as is permitted under Paragraph 3 hereof. Defendant is specifically ordered to stay away from the following locations during the duration of this Order:

6. The following additional relief is granted: _____

7. A copy of this Order shall be served on the police department where plaintiff resides, the police department where defendant resides, the Pennsylvania state police, and any other agency specified hereafter:

8. Defendant is hereby notified that if he attempts to return to the plaintiff's residence or violates this Order in any other way, he is subject to arrest for indirect criminal contempt, which is punishable by a fine of up to \$1,000.00 and/or up to six months in jail. Defendant is further notified that a violation of this Order may subject him/her to various federal charges and penalties. Consent of the plaintiff to defendant's return to the residence shall not invalidate this Order, which can only be changed or modified through the filing of appropriate court papers for that purpose.

9. THIS ORDER APPLIES IMMEDIATELY TO DEFENDANT AND SHALL REMAIN IN EFFECT UNTIL MODIFIED OR TERMINATED BY THIS COURT AFTER NOTICE AND HEARING.

10. THIS ORDER SUPERSEDES ANY PRIOR ORDER, INCLUDING ANY PRIOR ORDER RELATING TO CHILD CUSTODY.

NOTICE OF LAW ENFORCEMENT OFFICIALS

This Order shall be enforced by the police who have jurisdiction over the plaintiff's residence OR any location where a violation of this order occurs OR where the defendant may be located. If defendant violates any provisions of this Order, defendant SHALL be arrested on the charge of Indirect Criminal Contempt. An arrest for violation of this Order may be made without warrant, based solely on probable cause, whether or not the violation is committed in the presence of law enforcement.

Subsequent to an arrest, the law enforcement officer shall seize all weapons used or threatened to be used during the violation of this Order OR during prior incidents of abuse. Weapons must forthwith be delivered to the Sheriff's office of the county which issued this Order, which office shall maintain possession of the weapons until further Order of this court, unless the weapon/s are evidence of a crime, in which case, they shall remain with the law enforcement agency whose officer made the arrest.

BY THE COURT:

_____ J.

(d) The form of the Affidavit of Service in a Protection From Abuse matter shall be substantially in the following form:

(Caption)

AFFIDAVIT OF SERVICE

I, _____ the undersigned, hereby state that I served a copy of the Petition and Temporary Order in the above-captioned action upon the Defendant by handing the papers to _____ at the following address: _____ on the _____ day of _____, 19 __, at approximately _____ o'clock __ .m.

I verify that the statements made in this Affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date:

(Signature)
(Title)
(Address)

(e) The Final Order of Court entered pursuant to the Act shall be substantially in the following form:

(Caption)

FINAL ORDER OF COURT

NOTICE TO THE DEFENDANT: IF YOU VIOLATE PARAGRAPH 1, 2 OR 3 OF THIS COURT ORDER, YOU WILL BE ARRESTED ON THE CHARGE OF INDIRECT CRIMINAL CONTEMPT WHICH IS PUNISHABLE BY A FINE OF UP TO \$1,000 AND A JAIL SENTENCE OF UP TO SIX MONTHS.

AND NOW, this _____ day of _____, 19 __, upon consideration of the Petition in the above-captioned case, _____, it is ORDERED, ADJUDGED and DECREED as follows:

Note: Space is provided to allow inclusion of the information about the terms under which the order was entered, e.g. that the defendant, though properly served, failed to appear, or that the order was entered with the consent of the parties.

1. Except as otherwise provided in paragraph 3, Defendant, [DEFENDANT'S NAME], [DEFENDANT'S ADDRESS] is

(a) prohibited from having ANY CONTACT with Plaintiff, [PLAINTIFF'S NAME], or Plaintiff's minor child(ren) [NAMES OF PROTECTED CHILDREN].

(b) directed to refrain from abusing, harassing or stalking Plaintiff or the minor child(ren) named in (a); and

(c) prohibited from entering the place of employment, business or school of the Plaintiff or of the minor child(ren) named in (a).

2. Defendant is completely excluded from the residence at [ADDRESS FROM WHICH DEFENDANT IS EXCLUDED] or any other residence where Plaintiff may live. Exclusive possession of the residence is granted to Plaintiff; Defendant shall have no right or privilege to enter or be present on the premises.

3. Custody of the parties' minor children, [NAMES OF THE CHILDREN SUBJECT TO THE PROVISIONS OF THIS PARAGRAPH], shall be as follows: [STATE TO WHOM PRIMARY PHYSICAL CUSTODY AWARDED; STATE TERMS OF PARTIAL CUSTODY OR VISITATION, IF ANY.]

4. Defendant shall immediately turn over to the local law enforcement agency, or delivery to the Sheriff's Office, any and all weapons used or threatened to be used by defendant in an act of abuse against Plaintiff and/or the minor child/ren. Defendant is prohibited from acquiring or possessing any other weapons for the duration of this order.

5. If there is no existing support or alimony pendente lite order, the Defendant is directed to pay temporary support for: [INSERT THE NAMES OF THE PERSONS FOR WHOM SUPPORT IS TO BE PAID] as follows: [INSERT AMOUNT, FREQUENCY AND OTHER TERMS AND CONDITIONS OF THE SUPPORT ORDER]. This order for support shall remain in effect until a final support order is entered by this Court. However, this order shall lapse automatically if the Plaintiff does not file a complaint for support with the court within fifteen days of the date of this order. The amount of this temporary order does not necessarily reflect Defendant's correct support obligation, which shall be determined in accordance with the guidelines at the support hearing. Any adjustments in the final amount of support shall be credited, retroactive to this date, to the appropriate party.

6. The costs of this action are waived as to the Plaintiff and imposed on Defendant.

7. Defendant shall pay \$ _____ to Plaintiff as compensation for Plaintiff's losses, which are as follows:

OR

Plaintiff is granted leave to present a petition, with appropriate notice to Defendant, to [INSERT THE NAME OF THE JUDGE OR COURT TO WHICH THE PETITION SHOULD BE PRESENTED] requesting recovery of out-of-pocket losses. The petition shall include an exhibit itemizing all claimed out-of-pocket losses, copies of all bills and estimates of repair, and an order scheduling a hearing. No fee shall be required by the Prothonotary's office for the filing of this petition.

8. The following additional relief is granted as authorized by § 6108 of the Act:

9. All provisions of this order shall expire in one year, on [INSERT EXPIRATION DATE].

NOTICE TO LAW ENFORCEMENT OFFICIALS

The police who have jurisdiction over the Plaintiff's residence OR any location where a violation of this order occurs OR where the Defendant may be located, shall enforce this order.

If Defendant violates any provision of paragraph 1, 2 or 3 above, Defendant SHALL be arrested on the charge of Indirect Criminal Contempt. An arrest for violation of this order may be without warrant, based solely on probable cause, whether or not the violation is committed in the presence of the police.

Subsequent to an arrest, the police officer shall seize all weapons used or threatened to be used during the violation of the protection order or during prior incidents of abuse. The [INSERT THE APPROPRIATE NAME OR TITLE] shall maintain possession of the weapons until further order of this Court.

When the Defendant is placed under arrest for violation of the order, the Defendant shall be taken to [INSERT THE APPROPRIATE AUTHORITY OR AUTHORITIES BEFORE WHOM DEFENDANT IS TO BE ARRAIGNED]. A "Complaint for Indirect Criminal Contempt" shall then be completed and signed by the police officer OR the Plaintiff. Plaintiff's presence and signature are not required to file the complaint.

If sufficient grounds for violation of this order are alleged, the Defendant shall be arraigned, bond set and both parties given notice of the date of the hearing.

BY THE COURT:

_____ J.

Consented:

(f) The supplemental information form required by Rule 1901.4 shall be substantially in the following form:

(Caption)

SUPPLEMENTAL INFORMATION

Order entered in the _____ Judicial District Expiration Date:

Contact/Person from whom copy of order can be obtained:

Contact's telephone number:

Plaintiff Information

Sex:

DOB:

Race/Ethnic Background:

Defendant Identifying Information:

Social Security #:

Sex:

DOB:

Height:

Weight:

Eyes:

Hair:

Race/Ethnic Background:

Complexion:

Distinguishing features (scars, tattoos, facial hair, disability, etc.)

Alias(es)

Cautionary Statement:

Note: The cautionary statement is intended to include information about defendant which may be of use to the police officers responsible for enforcing the order, e.g. black belt in karate.

Defendant's Telephone #:

Defendant's Driver's License #:

State:

Vehicle Make, Model and Year:

Explanatory Comment—Rule 1905 Forms

The forms are substantially based on the standard forms used by the Pennsylvania Coalition Against Domestic Violence.

[Pa.B. Doc. No. 97-179. Filed for public inspection February 7, 1997, 9:00 a.m.]

[231 PA. CODE CH. 1910]

Proposed Amendments to the Rules Relating to Venue in Support Actions; Recommendation 46

The Domestic Relations Committee proposes the following amendments to Rules of Civil Procedure 1910.2, 1910.8 and 1910.50. The committee solicits comments and suggestions from all interested persons prior to submission of the proposed amendments to the Supreme Court.

Written comments relating to the proposed amendments must be received no later than March 28, 1997, and must be directed to: Sophia P. Paul, Esquire, Counsel, Domestic Relations Committee, 429 Forbes Avenue, Suite 300, Pittsburgh, PA 15219, FAX (412) 565-2336, E-Mail: spaul@courts.state.pa.us.

The explanatory comments which appear in connection with the proposed amendments have been inserted by the Committee only for the convenience of those using the rules. They will not constitute part of the rules nor will they be officially adopted or promulgated by the Court.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule. 1910.2. Venue. **Transfer of Action.**

(a) An action may be brought in [any county in which]

- (1) the county in which the defendant resides, or
- (2) the county in which the defendant is regularly employed, or

(3) the county in which the plaintiff resides and that county is the county in which the last family domicile was located and in which the plaintiff has continued to reside, or

(4) if the relief sought includes child support, the county in which the child resides.

(b) Where jurisdiction is acquired over the defendant pursuant to the long arm statute, 23 Pa.C.S. [A.] § 4342(c) [and (d)], the action may be brought in the county where the plaintiff resides[, whether or not the parties maintained a family domicile in that county].

(c) If, at the time of the filing of the action, there is a divorce or custody action pending between the parties in an appropriate court in another county, the court upon good cause shown may transfer the support action to that county.

(d) For the convenience of the parties and witnesses the court may transfer an action to the appropriate court of any other county where the action could have been brought at the time of transfer.

Official Note: The standards for the transfer of an action for the convenience of parties and witnesses are the same as the standards under Rule 1006(d).

(e) If neither party to an action presently resides and the defendant-obligor is not employed in the county where the action is pending or a support order is in effect, the court may transfer the action or order or both to any county where either party resides or where the defendant-obligor is regularly employed.

(f) It shall be the duty of the domestic relations section of the court in which the action is pending to forward to the domestic relations section of the court to which the action is transferred all papers filed in the action and a certified copy of the docket entries.

(g) All support orders may be enforced in accordance with the Uniform Interstate Family Support Act, 23 Pa.C.S. § 7101 et seq., if the defendant resides outside the Commonwealth, or in accord-

ance with the Intrastate Family Support Act, 23 Pa.C.S. § 8101 et seq., if the defendant resides in another county within the Commonwealth.

Rule 1910.8. [Transfer of Action] Rescinded

[(a) For the convenience of the parties and witnesses the court may transfer an action to the appropriate court of any other county where the action could have been brought at the time of transfer.

(b) If neither party to an action presently resides and the defendant obligor is not employed in the county where the action is pending or a support order is in effect, the court may transfer the action or order or both to any county where either party resides or where the defendant obligor is regularly employed.

(c) It shall be the duty of the domestic relations section of the court in which the action is pending to forward to the domestic relations section of the court to which the action is transferred all papers filed in the action and a certified copy of the docket entries.]

Rule 1910.50. Suspension of Acts of Assembly.

The following Acts or parts of Acts of Assembly are suspended insofar as they apply to the practice and procedure in an action for support:

(1) Section 3 of the Support Law of June 24, 1937, P. L. 2045, 62 P. S. § 1973, insofar as it provides a procedure to enforce the liability of relatives for the support of an indigent person; **[and]**

(2) Section 4 of Act 1996-20, 23 Pa.C.S. § 4342, insofar as it provides that long arm jurisdiction shall be used in preference to proceedings under Part VIII-A relating to intrastate family support actions; and

(3) All Acts or parts of Acts of Assembly inconsistent with these rules to the extent of such inconsistency.

All existing explanatory notes and comments pertaining to the rule listed below are replaced by the following:

Explanatory Comment—Rule 1910.2

Venue in support matters under the existing rule has been in the county where the defendant lived or worked, or in the county where the plaintiff lived if that county was the last family domicile. This proposed amendment expands the circumstances under which venue lies in the county in which plaintiff resides. If the action is one for spousal and child support or child support only, plaintiff may bring the action in the county in which the child resides regardless of whether that county was the last family domicile. The defendant will be required to defend the action there unless he or she can establish sufficient grounds for transfer of the action pursuant to subdivisions (c) through (e) of the proposed rule. If, however, plaintiff seeks spousal support only, then venue continues to lie in plaintiff's county only if that county was also the last marital domicile. The proposed amendment is intended to implement the Uniform Interstate Family Support Act (UIFSA) and the Intrastate Family Support Act (IFSA) to facilitate the fair and prompt establishment of child support by means of encouraging the support litigation to take place as a local action in one forum only.

Subdivisions (c) through (e) identify the circumstances under which a support action may be transferred to another county. New subdivision (c) is designed to avoid

multiple claims from being litigated in different counties. Subdivisions (d) through (f) are adopted verbatim from former Rule 1910.8 and were moved to Rule 1910.2 only for the convenience of the practitioner in resolving questions of venue.

Explanatory Comment—Rule 1910.50

Insofar as long arm jurisdiction is an issue that arises only in the context of interstate cases in which the defendant resides outside of the Commonwealth, the language in 23 Pa.C.S. § 4342(c) implying that it has relevance to intrastate support cases is suspended.

MAX BAER,
Chairperson

[Pa.B. Doc. No. 97-180. Filed for public inspection February 7, 1997, 9:00 a.m.]

Title 25—LOCAL COURT RULES

ERIE COUNTY

Revision of Rules of Civil Procedure; No. 90502-1997

Order

And Now, this 10th day of January, 1997, the following revisions and additions to the Rules designated as the Rules of Civil Procedure for the Court of Common Pleas of Erie County, Pennsylvania, are hereby approved, adopted and promulgated as the Rules of Court. These Rule changes, revisions and deletions shall become effective thirty days after the publication of the same in the *Pennsylvania Bulletin*, and they shall apply to all actions pending at the time.

JOHN A. BOZZA,
President Judge

Rule 207. Petitions to be in Paragraph Form.

[Delete]

Rule 209. Duty of Petitioner to Proceed After Answer Filed.

[Delete]

Rule 302. Trial Division Judicial Assignment and Arguments-Civil.

(a) Judicial assignment to a case will be made 60 days after the filing of the complaint. Counsel and unrepresented parties will receive notice of the assignment on the returned copy of the civil cover sheet. If no cover sheet is filed, notice will be given based upon information available to the Prothonotary. All judicial assignments will be noted in the Prothonotary computer file.

(b) If judicial attention is required prior to 60 days after the filing of the complaint, counsel shall submit a request for judicial assignment with the Trial Court Administrator on a form substantially as contained herein.

(c) To obtain judicial attention in a case wherein a complaint was filed before April 1, 1996, counsel shall submit a request for judicial assignment with the Trial Court Administrator on a form substantially as contained herein.

(d) If a complaint has not been filed, any matter requiring judicial attention shall be taken to motion court. The motion court judge will resolve that particular matter. Permanent assignment of the case will not take place until the complaint has been filed.

(e) All motions and petitions requiring decisions and other matters not within the scope of Erie L. R. 212.1 shall be filed with the Prothonotary and, as set forth in Erie L. R. 302(f)—(g), a copy shall be delivered to the assigned judge for the scheduling of the matter for argument.

(f) Preliminary objections not raising an issue of fact, a motion for judgment on the pleadings, motions for summary judgment, discovery motions and any motion not within the scope of subsection (g) and (h) below shall be filed with the Prothonotary. Within 20 days of the filing of said motion, the moving party shall file a brief with the Prothonotary and deliver a copy of the motion and brief to the assigned judge. The motion shall state whether oral argument is requested. Within 20 days of receipt of the moving party's brief, the non moving party shall file a response and brief with the Prothonotary and shall deliver a copy to the assigned judge. The brief shall state whether oral argument is requested. Any depositions, answers to interrogatories or affidavits in support of or in opposition to the motion shall be filed with the Prothonotary not later than the due date of the respective party's brief. If the briefs of either the moving party or responding party are not timely filed within the period above stated, unless the time shall be extended by the Court or by stipulation, the Court may then, or any time subsequent thereto:

(1) Dismiss the motion, exceptions or other matter where the moving party has failed to comply, or

(2) Grant the requested relief where the responding party has failed to comply and where the requested relief is supported by law, or

(3) Prohibit the noncomplying party from participating in oral argument although all parties will be given notice of oral argument and shall be permitted to be present at oral argument and/or impose such other legally appropriate sanction upon a noncomplying party as the Court shall deem proper including the award of reasonable costs and attorney's fees incurred as a result of the noncompliance.

(g) All motions or petitions requiring transcription of a trial record or the production and transmittal of the record from a determination which is subject to judicial review by this Court shall be filed with the Prothonotary by the moving party within the applicable time frame. A copy of said motion and supporting brief shall be delivered to the assigned judge within twenty (20) days of the filing of the transcript or record with the Prothonotary. Any response to said motion shall be filed within 20 days of receipt of the moving party's brief and a copy shall be delivered to the assigned judge.

(h) All other motions or petitions including petitions to open a judgment shall be disposed of pursuant to Pa.R.C.P. 206 et seq., as appropriate.

(i) There shall be oral argument on any motion or petition unless all parties waive argument by failing to request such, as provided in subsection (f) above.

Notice of each argument for which a timely demand is made shall be given to each attorney of record or unrepresented party by United States mail, facsimile transmission, or personal delivery to a business address or courthouse box.

As Amended 1/10/97

ERIE COUNTY COURT OF COMMON PLEAS REQUEST FOR CIVIL JUDGE ASSIGNMENT

DATE COMPLAINT FILED	DOCKET NUMBER
PLAINTIFF(S)	PLAINTIFF'S ATTORNEYS (Address)
DEFENDANT(S)	DEFENDANT'S ATTORNEYS (Address)

HAS THIS CASE RECEIVED ANY PREVIOUS JUDICIAL ATTENTION?

NO _____ YES _____

If yes, name of Judge _____

ARE THERE ANY COMPANION CASES ALREADY ASSIGNED TO A JUDGE?

NO _____ YES _____

If yes, name of Judge _____ Docket Number _____

FOR COURT USE ONLY:

_____ has been assigned to this case. This matter, and all future matters, should be taken directly to assigned judge per local rules of court.

DATE: _____ ASSIGNED BY: _____

Rule 303. Trial Division Motion Court and Other Motions and Petitions-Civil.

(a) Civil Motion Court shall be held four (4) times per week (Monday, Tuesday, Wednesday and Thursday) at 9:00 a.m. The only motions presented shall pertain to cases where a complaint has not yet been filed. (See Erie L. R. 302 for procedure in matters where complaint has been filed.)

(b) Except in those cases where an appropriate initial order may otherwise be required, motions and/or petitions shall be accepted for filing without the necessity of a rule to show cause.

(c) All motions presented at civil motion court shall include a completed motion court cover sheet, in the form required by the court.

(d)(1) Motions and petitions that can be summarily heard by the Court and determined by brief orders shall be heard immediately following Motion Court on Thursday of each week.

(2) The moving counsel desiring to have such summary determination of a motion or petition must notify opposing counsel and any opposing unrepresented party of his intention to argue the motion or petitions before the Court at such time. The Court may refuse to hear argument on such motions or petitions unless counsel for each side is present.

(3) The moving party shall attach to the motion or petition the proposed order.

(e) No Motion for a preliminary injunction shall be filed unless a complaint in equity has already been docketed in the Prothonotary's Office. Upon the filing of said complaint, the moving party shall attach to the motion a copy of the complaint and an affidavit that a preliminary injunction is an appropriate relief. This motion shall then be presented to the duty Judge who shall sign same, but not insert any date or place where it will be held. The matter will then be referred by the duty Judge to the Court Administrator for assignment and date certain.

For any motion to be considered, a brief must be filed simultaneously with the motion. The brief shall address, with particularity, why irreparable harm will result if an injunction is not granted and why an adequate remedy at law is not available.

(f) If counsel and/or an unrepresented party notifies opposing counsel and/or parties that he is to present a motion or petition at Motion Court and then fails to appear, the Court, upon motion, will consider an appropriate sanction including, but not limited to, attorney's fees.

(g) After presenting any motion or petition to the court, the moving party shall file with the Prothonotary the motion or petition with attached order granting or denying the relief requested.

Cross reference: See Erie L. R. 440 re: notice to opposing counsel and unrepresented parties.

As Amended 1/10/97

Rule 305. Duties of the Prothonotary.

(a) The Prothonotary shall immediately endorse all papers filed with the date and time of such filings and shall enter all rules, pleadings and other papers filed in the proper docket.

(b) The Prothonotary shall, when directed by the Court, endorse the order of the Court upon all motions presented and shall transcribe the same in the record.

(c) The Prothonotary shall be responsible for the safekeeping of all records and papers belonging to that office. The Prothonotary shall permit no papers to be taken from the office, without written order of Court except for temporary removal by an attorney for the purpose of conducting an arbitration hearing or for copying within the Courthouse.

(d) All attorneys who take a paper from the files of the Court shall give their receipt in a book to be kept for that purpose and shall be responsible for the same and for damages arising from any loss.

(e) Only the Prothonotary, office clerks and attorneys shall be permitted access to the files. No entries shall be made in the dockets except at the direction of the Prothonotary.

(f) The Prothonotary shall not accept for filing any paper filed by person which shall not have endorsed thereon the address and telephone number of the person filing the paper.

(g) The Prothonotary shall keep a separate docket or dockets for the law and equity sides of the Court and shall consecutively number the cases each year.

(h) In litigation involving the validity of a municipal lien, upon motion of either party, the matter shall be transferred, from the municipal liens docket to the appearance docket and given a term and number by the Prothonotary.

(i) In all appeals to the Court from a municipal zoning board or municipalities, when said appeal has been returned to said board or municipality by the Court, should the matter than be returned to Court, it will retain the same docket number as the original appeal.

As Amended 1/10/97

Rule 306. Terms of Court.

(a) Regular terms of Court for the trial of civil jury cases will be held in February, April, June, August and October.

(b) The Court may schedule special sessions and/or special civil jury terms of Court at other times and dates than those set forth in sub-paragraph (a) above.

(c) Requests for trial outside the regular civil trial terms are discouraged. However, if there are compelling reasons to make such a request, the proper procedure to be followed is to file a motion with the assigned judge, giving due notice of the date and time of presentation to opposing counsel, in accordance with established motion practice.

As Amended 1/10/97

Rule 311. Procedure in Statutory Appeals.

(a) Unless a contrary procedure is provided for otherwise in Statute or general Rule of Court, this Rule shall apply to all statutory appeals where this Court has jurisdiction to review adjudications of School Districts, municipalities or State Administrative Agencies or offices. This Rule shall have no applicabilities on state Administrative Agencies or officers. This Rule shall have no applicability to proceedings under the Uniform Arbitration Act.

(b) In cases where the Court does not have the prerogative of receiving evidence in lieu of or in supplement

to the record made in the administrative proceedings, or in cases where no motion for additional evidence was filed or granted pursuant to paragraph (d) herein, the disposition of appeals shall be by requesting a judge assignment after twenty days of the docketing of the record from the administrative proceeding or after the denial of the motion for additional evidence, whichever is later. In such cases, all procedures otherwise applicable to the listing of cases for argument, assignment to a Judge, briefs, etc., shall apply to appeals governed by this Rule.

(c) In cases where a party is entitled, as a matter of right, to have either a de novo evidentiary hearing in this Court, or to supplement the record made in the administrative proceedings, any party so entitled shall submit an appropriate motion at regular Motion Court requesting that the appeal be assigned to a Judge for hearing. Such a motion shall set forth with particularity the basis on which the movant claims a right to submit further evidence and shall contain a certificate that the motion has been served on all other parties no later than thirty (30) days prior to its presentation.

(d) In cases where the Court may receive evidence for cause shown, or at the discretion of the Court, any party wishing to request that the Court receive evidence shall do so by motion presented at regular Motion Court within twenty days after the docketing of the record of the administrative proceeding being reviewed. The motion shall state with particularity the authority upon which movant relies and the particular factors which he believes indicate that the receipt of further evidence is justified. Where indicated by the circumstances, the following factors may be considered by the Court in acting upon such motions in addition to any otherwise applicable standard governing the exercise of the Court's discretion:

- (1) Whether movant was represented by counsel before the administrative tribunal.
- (2) Whether previously undisclosed or newly discovered evidence exists which was not made available to the administrative tribunal prior to its decision.
- (3) The overall adequacy for the purpose of appellate review of the record made before the administrative tribunal.
- (4) The apparent regularity and fundamental fairness of the administrative proceedings, as disclosed by the record.
- (5) Such other factors as may be considered in the interest of justice.

No motion contemplated by this section shall be acted upon until all interested parties have been given an opportunity to respond to the motion through argument. If, after argument, the Court denies, in whole, a motion under this section, the case shall proceed as provided in section (a) above.

In granting the relief requested in motions contemplated by this section, the Court may, unless otherwise indicated by applicable statutes, limit the evidence it will receive to matters which are not cumulative of material already included in the record made before the administrative tribunal, or impose other reasonable restrictions upon the scope or nature of the evidence to be received. The Court may, in its discretion, at the request of any party or on its own motion, require that any party intending to offer evidence pursuant to this Rule file a pre-hearing narrative statement fairly setting forth the nature of the evidence to be offered such that all parties

may have adequate notice of the facts at issue prior to hearing and the scope and nature of the evidentiary proceeding.

(e) In cases in which evidence is received by the Court pursuant to this Rule, after the close of the evidentiary proceedings, all parties shall submit proposed findings of fact to the Court along with their respective briefs on the merits of the appeal in accordance with a schedule fixed by the hearing Judge. The hearing Judge shall retain the case and make the final disposition of the appeal, including the adoption of findings of fact, where appropriate.

(f) No case shall be listed for argument and no motion shall be filed requesting that a hearing be set until the record of the administrative tribunal is docketed with the Prothonotary. It shall be the duty of the administrative agency involved to promptly notify all parties of the filing of the record.

(g) Unless otherwise required by statute, the order of a single Judge of this Court which is dispositive of the merits of the appeal shall constitute a final order of this Court in all matters subject to this Rule. Neither the filing of exceptions nor en banc proceedings shall be required or permitted.

(h) Unless a different time is specified by statute, it shall be the duty of the administrative agency involved to docket the record of the proceedings before it with the Prothonotary no later than thirty (30) days from service of the notice of appeal upon the tribunal or agency. The record shall, in all cases, contain at least a brief adjudication setting forth the findings and conclusions of the administrative tribunal.

(i) In the event that any administrative tribunal fails to comply with the provisions of this Rule, or of any statute, relating to the time within which to transmit its record to this Court, any party may, by motion, apply for an order compelling the transmittal of a complete record.

As Amended 1/10/97

Rule 313. Motions to Impose Sanctions—Summary Proceedings.

[Deleted]

Rule 2951. Methods of Proceeding.

(a) Where a judgment is confessed in accordance with Pa.R.C.P. 2951(a), the party confessing the judgment shall file the following documents with the Prothonotary:

- (1) One copy of the original Note for each defendant against whom judgment is to be confessed;
- (2) A Notification of the Entry of Judgment form, with the caption completed and a stamped envelope which is addressed to each defendant against whom judgment is to be confessed. The Prothonotary's office will complete the Notification form and send out the Notification to each defendant after the entry of judgment;
- (3) A certified or other acceptable check in the amount required for the entry of judgment in accordance with the fee schedule for the Prothonotary's office; and
- (4) A self-addressed stamped envelope addressed to the party confessing judgment for the return of the original Note, receipt and transcript.

As Amended 1/10/97

[Pa.B. Doc. No. 97-181. Filed for public inspection February 7, 1997, 9:00 a.m.]

LYCOMING COUNTY

Amendments to Rules of Civil Procedure: Minors;
97 00100

Order

And Now, this 13th day of January, 1997, it is hereby Ordered and Directed as follows:

1. Lycoming County Rule of Civil Procedure L2039 is hereby amended as follows.
2. The Prothonotary is directed to:
 - a. File seven (7) certified copies of this order with the Administrative Office of the Pennsylvania Courts.
 - b. Distribute two (2) certified copies of this order to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
 - c. File one (1) certified copy of this order with the Civil Procedural Rules Committee.
 - d. Forward one (1) copy of this order to the Lycoming Reporter for publication therein.
 - e. Keep continuously available for public inspection copies of this order.

By the Court

CLINTON W. SMITH,
President Judge

MINORS

L2039. Minor's Action—Compromise, Settlement, etc. No settlement of an action of a minor for personal injuries will be authorized or approved without the appearance of the minor in court, medical evidence as to the extent of the minor's injuries, and such further information as the court will deem necessary; provided, however, that if the petition of the guardian for the compromise of a minor's action is accompanied by:

- (1) [a] written [of a physician dated no more than thirty (30) days before filing of the petition] medical evidence as to the minor's medical condition and his or her prognosis,
- (2) a statement under oath by the guardian certifying,
 - (a) the present physical or mental condition of the minor, and
 - (b) approval of the proposed settlement and distribution thereof;
- (3) a statement by counsel of his professional opinion of the probabilities of proof of defendant's negligence by plaintiff and the minor's negligence, if any, by defendant; and,
- (4) in the event that the minor is sixteen (16) years of age or over, his or her written approval of the proposed settlement and distribution thereof;

the judge to whom said petition has been presented may approve the petition without requiring the appearance of the minor, his guardian or his doctor, in the event that he concludes that the information contained in the petition is sufficient to satisfy him that the proposed settlement adequately compensates the minor and his guardian for the injuries sustained and expenses incurred.

[Pa.B. Doc. No. 97-182. Filed for public inspection February 7, 1997, 9:00 a.m.]

LYCOMING COUNTY

Amendments to Rules of Civil Procedure: Mo-
tions; 97 00100

Order

And Now, this 13th day of January, 1997, it is hereby Ordered and Directed as follows:

1. The following changes to the Lycoming County Rules of Civil Procedure are hereby promulgated and will become effective thirty (30) days after publication in the *Pennsylvania Bulletin*:
 - a. Lycoming County Rules of Civil Procedure L206, L210, L210.1, L210.2, L210.3, L211, L211.1 and L211.2 are rescinded.
 - b. New rules L206, L206.5, L206.7, L210, L219 and L4019 are hereby promulgated.
2. The Prothonotary is directed to:
 - a. File seven (7) certified copies of this order with the Administrative Office of the Pennsylvania Courts.
 - b. Distribute two (2) certified copies of this order to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
 - c. File one (1) certified copy of this order with the Civil Procedural Rules Committee.
 - d. Forward one (1) copy of this order to the Lycoming Reporter for publication therein.
 - e. Keep continuously available for public inspection copies of this order.

By the Court

CLINTON W. SMITH,
President Judge

L206. Motion Procedure.

A. Application. The procedure set forth in this rule shall apply to every request for relief, whether by petition, motion, preliminary objection, exception, statutory appeal or stipulation, that the filing party desires to bring before the court.

B. Cover sheet. A cover sheet substantially in the form set forth in subsection G below shall be attached to the front of every request for relief to which this rule applies. The cover sheet shall be so attached whether or not a rule to show cause is required by Lyc.Co.R.C.P. L206.5. If a cover sheet is not attached as required by this rule, the court will not act upon the request for relief until an appropriate cover sheet is filed. If the filing party does not attach a cover sheet as required by this rule, a cover sheet, along with a copy of the original motion may be filed by any party.

C. Filing. Every request for relief to which this rule applies shall be in writing and shall set forth the statute or rule of court relied upon to justify the relief requested. Any such request for relief shall be filed in duplicate with the prothonotary and shall include a certificate of service which shall state the date and manner of service upon the parties or their counsel.

D. Proposed order. An order granting the relief requested shall be attached to the cover sheet.

E. Expedited Consideration. If expedited consideration by the court is requested or required by statute or rule of procedure, the reason for such consideration shall be set forth on the cover sheet. Such consideration may be

requested if the date of the pre-trial conference has been set or if the case has already been pre-tried. The statute or rule under which expedited consideration is required shall be cited.

F. *Scheduling.* The court shall schedule argument, hearing or briefing as required, note the scheduling information on the cover sheet, and issue the scheduling order appearing on the cover sheet. The due dates of briefs, if ordered, shall also be noted on the cover sheet. the prothonotary shall forward the completed cover sheet

to the filing party or counsel. The filing party or counsel shall be responsible for identifying all parties or their counsel on the cover sheet and for serving the completed cover sheet upon all parties or their counsel. If a party was not served with a copy of the executed cover sheet as a result of an omission of the filing party, the argument or hearing may be rescheduled or, in the discretion of the court, the request for relief may be denied.

G. *Form.* The form of the cover sheet shall be substantially as follows:

LYCOMING COUNTY COURT OF COMMON PLEAS
LOCAL RULE L206 COVER SHEET

(CAPTION)

Docket No. _____

Case Assigned to Judge _____
None

1. Name of Filing party _____

2. Filing party's attorney:

3. Type of filing: _____

<p>4. The following is/are required:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Issuance of a rule to show cause <input type="checkbox"/> Argument <input type="checkbox"/> Factual Hearing <input type="checkbox"/> Court conference <input type="checkbox"/> Entry of an order in an uncontested matter or upon agreement of the parties (attach all supporting documentation) <input type="checkbox"/> Expedited consideration. State the basis: _____ _____ _____ _____ <p>5. Time required: _____</p>	<p>6. Name and addresses of all counsel of record and unrepresented parties. (Continue on separate sheet.)</p>
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ORDER

An (argument) (factual hearing) (court conference) is scheduled for _____ at ____ m. in court-room no. ____ .

Briefs (are)(are not) required. Filing party's brief is due _____. Responding brief[s] is [are] due _____ .

THE FILING PARTY SHALL SERVE A COPY OF THIS EXECUTED SCHEDULING ORDER ON ALL COUNSEL OR UNREPRESENTED PARTIES.

Judge

L206.5. Rules to Show Cause.

The rule to show cause procedure of Pa.R.C.P. No. 206.5 is adopted. A rule to show cause shall be filed only under the circumstances set forth in Pa.R.C.P. No. 206.5(a) and in the case where discovery is required for the court to decide the petition or where a stay is requested. These rules recognize no other use of a rule to show cause. If a rule to show cause is improperly filed, the court shall ignore the rule to show cause and proceed under Rule L206, unless the court determines that the issuance of a rule to show cause will serve the interests of justice in the particular case.

L206.7. Procedure After Issuance of Rule to Show Cause.

A. Briefs, if required, will be ordered by the court.

B. The court will consider the petition and answer, and discovery and briefs, if any, at the time set for argument or hearing.

L.210. Briefs.

A. The court may order briefs. If briefs are ordered, the completed cover sheet shall indicate the due dates of the briefs.

B. Three copies of all briefs shall be filed with the prothonotary. All parties shall be served with a copy of the brief contemporaneously with the filing of the brief.

C. Where briefs are required and are not timely filed, the court may treat the request for relief as having been submitted by the defaulting party and proceed ex parte, or impose such other sanction as it shall deem appropriate.

L4019. Discovery Motions.

A. All motions to compel or for a protective order shall include a certification by moving counsel that concurrence in the motion was sought from opposing counsel. The certification shall be contained on a separate page and attached to the end of the motion. The certification shall state the following information:

1. the manner in which concurrence was sought; and,
2. whether or not concurrence was given, and if given in part and denied in part, the extent to which concurrence was given.

If contact with opposing counsel can not be made prior to the filing of the motion, the moving party shall so state in the certification. The moving party has a continuing obligation to contact opposing counsel to secure the concurrence or nonconcurrence of counsel.

B. Concurrence need not be sought from pro se parties. The certification required in A above shall state that concurrence was not sought for this reason.

C. Concurrence may not be unreasonably refused by opposing counsel. If the court finds that concurrence was properly sought, and unreasonably refused, the court may award attorneys fees and expenses to the moving party, and may impose such other sanctions as are permitted by the Pennsylvania Rules of Civil Procedure.

D. If a motion to compel discovery is accompanied by an affidavit or verified statement documenting compliance with the Pennsylvania Rules of Civil Procedure by the moving party in making the discovery requests to the opposing party and stating that the opposing party has failed to timely object or respond to the discovery request, the court in its discretion, may, without hearing or

argument, issue an order compelling service of the discovery response. If the discovery response is not served as directed by the court order, the moving party may file a Rule L206 cover sheet requesting a hearing or argument on the original motion. If, after hearing or argument, the court finds that the responding party has not complied with the court order, the responding party shall be subject to sanctions under Pa.R.C.P. No. 4019, whether or not such sanctions are demanded in the original motion.

[Pa.B. Doc. No. 97-183. Filed for public inspection February 7, 1997, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that Leon G. Maquera has been suspended from the practice of law in the Territory of Guam by Judgement of the Superior Court of Guam filed on June 12, 1996. The Supreme Court of Pennsylvania issued an Order dated January 22, 1997, suspending Leon G. Maquera from the Bar of this Commonwealth consistent with the Judgement of the Superior Court of Guam.

ELAINE M. BIXLER,
Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 97-184. Filed for public inspection February 7, 1997, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that on January 22, 1997, pursuant to Rule 214(d)(1) of the Pa.R.D.E., Raymond S. Wittig has been placed on Temporary Suspension by the Supreme Court of Pennsylvania until further Order of the Court.

ELAINE M. BIXLER,
Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 97-185. Filed for public inspection February 7, 1997, 9:00 a.m.]