

THE COURTS

Title 207—JUDICIAL CONDUCT

PART IV. COURT OF JUDICIAL DISCIPLINE

[207 PA. CODE CH. 7]

Amendment to the Rules of Procedure; Doc. No. 1
JD 94

Per Curiam

Order

And Now, this 3rd day of June, 1998, the Court, pursuant to Article 5, Section 18(b)(4) of the Constitution of Pennsylvania and in accordance with this Court's Order dated March 23, 1998, having: (1) Adopted proposed new Rules of Procedure 704 and 705, and (2) Re-numbered former Rules of Procedure 704, 705 and 706, *It Is Hereby Ordered*:

That Rules of Procedure 704 through 708 shall become effective immediately.

Annex A

TITLE 207. JUDICIAL CONDUCT

PART IV. COURT OF JUDICIAL DISCIPLINE

ARTICLE III. OTHER PROCEEDINGS

CHAPTER 7. OTHER RELIEF

Rule 704. Motion to Dismiss.

Any party may file a motion to dismiss the petition on any legal ground within 14 days after the service of the petition unless the Court shortens or lengthens the time for filing such motion.

The motion shall state with particularity the grounds for the motion and the facts and legal principles which support each ground. The motion shall be divided into consecutively numbered paragraphs, each containing only one material allegation as far as practicable.

Rule 705. Reply to Motion to Dismiss.

(A) Any party may file a reply to the motion to dismiss within 10 days of the filing of the motion unless the Court shortens or lengthens the time for filing such reply.

(B) The reply shall be divided into consecutively numbered paragraphs corresponding to the numbered paragraphs of the motion. The reply shall meet the allegations of the motion.

Rule 706. Preliminary Motions.

(A) Preliminary motions in a matter other than one commenced by the filing of formal charges may be decided by a Conference Judge appointed by the President Judge for that purpose. The Conference Judge may schedule a hearing or argument on the motion, as is appropriate, or may defer any ruling to be decided by the Court. No ruling on a preliminary motion shall constitute a final order for the purpose of appeal.

(B) A decision by the Conference Judge which has the effect of terminating a proceeding based on a Petition for Relief shall be reviewed by the full Court. A majority vote shall be required to sustain such a decision.

Rule 707. Verification.

A petition, answer, motion or reply which sets forth facts which do not already appear of record, shall be verified by the party filing it or by counsel for the Board, subject to penalties for unsworn falsification to authorities under the Crimes Code, 18 Pa.C.S. § 4904.

Rule 708. Hearing or Argument.

The Court may schedule argument or an evidentiary hearing on the petition.

[Pa.B. Doc. No. 98-956. Filed for public inspection June 19, 1998, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CARBON COUNTY

Rescission of Local Rules L1930, L1931 and L1932
Relating to Protection From Abuse Actions; No.
98-1125

Administrative Order No. 10-1998

And Now, this 9th day of June, 1998, upon Amendment of the Pennsylvania Rules of Civil Procedure relating to Protection From Abuse Actions by the Pennsylvania Supreme Court which supersede Carbon County's Local Rules relating to Protection From Abuse Actions, it is hereby

Ordered and Decreed that this Court's Local Rules L1930, L1931, and L1932 be and are hereby *Rescinded*, effective June 30, 1998.

By the Court

JOHN P. LAVELLE,
President Judge

[Pa.B. Doc. No. 98-957. Filed for public inspection June 19, 1998, 9:00 a.m.]

WASHINGTON COUNTY

Local Civil Rule L-211 Mini Trials; No. 9800001

Order

And Now, this 28th day of May, 1998, *It Is Hereby Ordered* that Local Civil Rule L-211 be adopted as follows:

This amendment shall become effective thirty days after publication in the *Pennsylvania Bulletin*.

THOMAS D. GLADDEN,
President Judge

Local Rule 211. Rules for Mini-Jury Trials.

a) *Purposes*. The purpose of mini-jury trials is to establish a less formal procedure for the resolution of civil actions for money damages while preserving the right to

a jury trial in a trial de novo. As a part of the Court's pretrial procedures, the Court may refer cases for a mini-jury trial either on motion of a party or sua sponte.

b) *Preliminary Considerations.* The following shall be considered, but shall not be controlling, in determining if civil cases are amenable for mini-jury trial.

1. *Time necessary for regular trial.* The Court will determine if the regular trial time would be three (3) days or more.

2. *Consent of attorneys.* While the Court will attempt to obtain the consent of the attorneys to a mini-jury trial, the Court shall have the authority to direct a mini-jury trial as an extension of the settlement conference.

3. *Existing offer and demand.* The Court will attempt to obtain the agreement of counsel to keep any current offer and demand open for forty-eight hours after the mini-jury trial verdict.

4. *Credibility.* The Court will determine if the major issues will be resolved on the basis of credibility.

5. *Appeals from arbitration.* Cases appealed from arbitration will be presumptive candidates for mini-jury trials.

c) *Mini-jury trials.* The following procedures shall apply to all mini-jury trials.

1. *Attendance of parties.* Individual parties shall attend the mini-jury trial. An officer or other responsible lay representative of a corporate party or a claims adjuster for an insurance carrier shall attend the mini-jury trial.

2. *Non-binding effect.* Mini-jury trials are for settlement purposes only and are non-binding. Nothing done by counsel with reference to the mini-jury trial shall be binding on counsel or the parties or shall constitute a waiver, unless specifically stipulated to or agreed upon by the parties.

3. *Special verdict questions.* Cases will be submitted to the juries by way of special verdict questions. Counsel shall submit a joint statement of proposed special verdict questions for use at trial prior to the selection of the jury. If counsel cannot agree on a joint statement, the Court or special master will select the special verdict questions to be used. Special verdict questions for the mini-jury trial need not be the same as those for a regular jury trial. The jury will determine the amount of damages in all cases, regardless of whether a defendant is found to be liable or not liable. The Court or special master will determine the format to be used and make rulings on disputed questions.

4. *Size of Juries.* The number of jurors shall be six (6) and the agreement of five-sixths of the jury shall be necessary to reach a verdict. There shall be no peremptory challenges to jurors but jurors may be excused for cause.

5. *Presentation of the Case by Counsel.* Each side shall be entitled to one hour for presentation of its case unless counsel presents a compelling reason at a pretrial conference why more time for each side should be allocated. Presentation of the case by counsel may involve a combination of argument, summarization of evidence to be presented at the regular trial and a statement of the

applicable law but only to the extent it is needed to be known by the jury in answering the special verdict questions. Counsel may call witnesses but cross-examination shall only be done as part of a party's presentation of its case. Counsel may quote from depositions and/or reports to the extent that such evidence can reasonably be anticipated to be admissible at the time of trial. Counsel may use exhibits and video tapes. Counsel should not refer to evidence which would not be admissible at trial. The Plaintiff shall proceed first and shall have a five (5) minute rebuttal following the presentation of the defendant's case.

6. *Applicable law.* The judge or special master will charge the jury on the applicable law to the extent it is appropriate and needed to be known by the jury in answering the special verdict questions. The attorneys shall agree upon the points for charge. The points for charge shall be submitted to the Court or special master prior to the selection of the mini-jury. The Court or special master shall rule on any disputes on a point for charge.

7. *Jury verdict.* The jury will be asked to return a verdict if five-sixth of them agree to it. (The same five-sixth majority need not answer each special verdict question.)

8. *Length of Deliberations.* If the jury does not reach a five-sixths majority verdict within a reasonable time, the Court or special master will consider polling the jurors individually.

9. *Oral questions to mini-jury.* After the verdict, counsel may address questions in open court to the foreperson of the jury. Only questions that can be answered yes or no or by a dollar figure may be asked. The attorneys shall be limited to ten questions each unless a greater number is allowed by the Court or special master for cause shown. No questions shall be asked the answer to which will disclose the personal view of any particular member of the jury.

10. *Scheduling regular trial.* Should the mini-jury trial not result in a settlement, the regular trial shall not be held the same calendar week unless the jury is dismissed and will not come into contact with the balance of the venire.

11. *Release of verdict.* The mini-jury trial is an extension of the settlement conference and the verdict shall not be made public.

d) *Selection of Special Masters.* The Court Administrator shall maintain a roster of special masters who shall be designated from time to time by the Court from applications submitted by or on behalf of attorneys eligible to serve. To be eligible for selection by the Court, an attorney must have been admitted to practice for not less than ten (10) years, be recommended by the Committee on Alternate Dispute Resolution or be a member of the Academy of Trial Lawyers of Southwestern Pennsylvania and determined by the President Judge to be competent to perform the duties of a special master. The parties may agree upon a mediator from without the roster maintained by the Court Administrator, including a person who is not a lawyer, provided that the name of such person be submitted to, and approved by, the President Judge.

1. *Application Process.* Any lawyer possessing the qualifications set forth for a special master who desires to serve as a special master may submit an application on the form which is available in the Office of the Court Administrator. The Committee on Alternate Dispute Resolution shall submit a list of qualified persons to the Court Administrator. The President Judge shall certify as many special masters as determined to be necessary for the program.

2. *Withdrawal by Special Master.* Any person whose name appears on the roster maintained by the Court Administrator may ask at any time to have his/her name removed or, if selected to serve, decline to serve but remain on the roster.

3. *Disqualification.* Persons selected to be special masters shall be disqualified for bias or prejudice and shall disqualify themselves in any action in which they would be required to disqualify themselves if they were a judge. Each person serving as a special master shall take the prescribed oath or affirmation.

[Pa.B. Doc. No. 98-958. Filed for public inspection June 19, 1998, 9:00 a.m.]

WESTMORELAND COUNTY

Administrative Order: In Re Civil Rules; No. 3 of 1998

Order of Court

And Now, to wit, this 20th day of May, 1998, it is *Ordered* that Westmoreland County Rules of Civil Procedure W200.3, W200.4(a), W212.3(a), W1301(d) be repealed, and that new Westmoreland County Rules of Civil Procedure W200.3, W200.4(a), W212.3(a), and W1301(d) are hereby adopted.

By the Court

CHARLES H. LOUGHRAN,
President Judge

BUSINESS OF COURTS

Rule W200.3. Placing Civil Litigation at Issue.

(a) All civil actions which are to be tried by jury, non-jury or by compulsory arbitration shall be placed at issue by the Court Administrator, either upon

(1) the filing of a praecipe in accordance with Rules W200.4 and W1301, or

(2) by court order.

(b) Upon receipt of a praecipe or a court order, the Court Administrator shall place the case at issue as follows:

(1) in civil actions in which the damages sought exceed the jurisdictional limit for compulsory arbitration and which are to be tried by a jury, the Court Administrator shall notify counsel of record or unrepresented parties of the following:

A. the earliest trial date, which shall be the first day of the trial term which commences after the ninetieth (90th) day following the date the case was placed at issue.

B. that pre-trial statements of the parties shall be filed in accordance with Pa.R.C.P. 212.1(b).

(2) in civil actions in which the damages sought do not exceed the jurisdictional limit for compulsory arbitration, the Court Administrator shall list the case for an arbitration hearing on the next available date.

(3) in civil actions in which the damages sought exceed the jurisdictional limit for compulsory arbitration and which are to be tried non-jury, the Court Administrator shall forward the case to the assigned Judge for scheduling.

Rule W200.4. Praecipe for Trial.

(a) Any unrepresented party or counsel of record may file a praecipe for trial to place the case at issue. At least twenty (20) days written notice of the intention to file a praecipe for trial shall be served on all unrepresented parties and counsel of record, and a copy of the proposed praecipe shall be included.

Rule W212.3. Settlement Conference.

(a) After a case has been placed at issue pursuant to Rule W200.3(b)1, the court administrator will schedule a settlement conference and notify counsel of record of the date and time of such conference.

Rule W1301. Cases for Submission to Arbitration.

(d) Arbitration Praecipe

A party or counsel of record may file with the prothonotary an arbitration praecipe in order to place the case at issue. A copy of the arbitration praecipe shall immediately be delivered to the court administrator and all other counsel of record or pro se parties.

Note: A copy of the Praecipe for Arbitration form is provided in the Forms section of the Westmoreland County Rules of Court.

[Pa.B. Doc. No. 98-959. Filed for public inspection June 19, 1998, 9:00 a.m.]

COMMONWEALTH COURT

Regular Sessions of Commonwealth Court for the Year 1999; No. 126 M. D. No. 3

Order

And Now, this 29th day of May, 1998, pursuant to Pa.R.A.P. 3703, the following calendar is fixed for the year 1999:

<i>Session</i>	<i>Situs</i>
February 8-12	Pittsburgh
March 8-12	Philadelphia
April 12-16	Harrisburg
May 17-21	Philadelphia
June 14-18	Pittsburgh
September 13-17	Harrisburg
October 4-8	Philadelphia
November 1-5	Pittsburgh
December 6-10	Harrisburg

JAMES GARDNER COLINS,
President Judge

[Pa.B. Doc. No. 98-960. Filed for public inspection June 19, 1998, 9:00 a.m.]

SUPREME COURT

Appointment to Orphans' Court Procedural Rules Committee; No. 197 Supreme Court Rules Doc. No. 1

Order

Per Curiam:

And Now, this 5th day of June, 1998, Lawrence Barth, Esquire, Philadelphia, is hereby appointed as a member of the Orphans' Court Procedural Rules Committee to complete the remaining term of The Honorable Judith J. Jamison expiring on December 31, 1998.

[Pa.B. Doc. No. 98-961. Filed for public inspection June 19, 1998, 9:00 a.m.]
