

THE COURTS

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Procedure for Sale of Motor Vehicles Impounded for Driving Without Operating Privileges or Reg- istration Pursuant to 75 Pa.C.S. § 6309.2; Joint General Court Regulation No. 98-2

On July 2, 1996, Governor Thomas Ridge signed Act No. 1996-93 which authorizes the impoundment and sale of motor vehicles under certain specified situations. The within Joint General Court Regulation sets forth the procedure to be followed in implementing Section 6309.2, which authorizes the impoundment and sale of motor vehicles for driving without operating privileges or registration.

1. *Motor Vehicles Eligible for Immobilization and Impoundment.* Motor vehicles are subject to immobilization and impoundment for two reasons:

a. Motor vehicles driven by an unlicensed person, or while the person's operating privilege is suspended, revoked, canceled, recalled or disqualified; or

b. Motor vehicle itself is not registered, or for which the registration is suspended for failure to secure or maintain financial responsibility.

2. *Prerequisite to Immobilization and Impoundment.* The bases identified in Section 1 above must be verified with the applicable Department of Motor Vehicles by the Philadelphia Police Department before the motor vehicle may be immobilized and impounded.

3. *Prerequisites to Impoundment.* A motor vehicle may not be impounded for a 24 hour period after it is immobilized so as to enable the owner or operator of the immobilized motor vehicle to appear in Traffic Court and furnish proof of registration and financial responsibility and compliance with Titles 42 and 75. During that 24 hour period, however, the motor vehicle shall be immobilized and may be transferred to a secure location for safe keeping.

4. *Designation of Enforcement Officer.* The Traffic Court may, from time to time, appoint such "appropriate towing and storage agents" as may be necessary to undertake the impoundment and notification required by Act No. 1996-93.

5. *Impoundment.* Upon expiration of the 24 hour period as set forth above, if a Certificate of Release has not been issued evidencing compliance with 75 Pa. C.S. § 6309.2(b) and Sections 2 and 3 above, the appointed towing and storage agents shall impound the vehicle and store same at an appropriate location.

6. *Notice of Impoundment.* When applicable, the appropriate law enforcement officer shall issue a citation or summons to the operator of the motor vehicle. The appropriate towing and storage agent shall notify the title owner of the vehicle or combination and any lienholder and, if applicable, the owner of the load, of the fact that the motor vehicle has been impounded pursuant to 75 Pa.C.S. § 6309.2 and of their right to recover the said motor vehicle by showing compliance with 75 Pa.C.S. § 6309.2(b). The notice shall further provide that if the vehicle is not recovered by a stated date, the vehicle will

be sold. The notice shall be substantially in the form set forth hereunder as Exhibit "A." Notice shall be sent to the addresses on file at the appropriate departments of motor vehicle by regular mail, which the Court finds to be the most expeditious means, and a Certificate of Mailing shall be obtained. Notice shall be deemed to have been provided upon the mailing of the notices as set forth herein.

7. *Obtaining Leave of Court to Sell Vehicle.* A Petition and Motion Court Cover Sheet shall be filed with the Prothonotary and Civil Administration setting forth, inter alia, that prior to impounding the motor vehicle, the operator and owner of the motor vehicle had 24 hours to obtain a certificate of release as provided in 75 Pa.C.S. § 6303.2(b), and further setting forth the efforts made to notify the owners, and lienholders of record, the fact that no Certificate of Release has been issued, or if issued, that the vehicle has not been recovered. Copies of the notices sent to the appropriate parties and the Certificates of Mailing shall be attached to the Petition. Upon review of the Petition, the President Judge of the Court of Common Pleas, or his designee, if satisfied that the required Notices were sent, that no Certificate of Release was issued, or that if issued, the vehicle has not been recovered, that the owner or operator of the impounded motor vehicle have not complied with 75 Pa.C.S. § 6309.2, and that the requisite fines and costs have not been paid, may enter an Order authorizing the Traffic Court, through its authorized agent, to sell at public auction the motor vehicles described in the said Petition. The Order shall be substantially in the form set forth hereunder as Exhibit "B."

8. *Notice of Auction Date and Rights of Owners of Record and Lienholders of Record Pending Auction.* Notice of the auction dates shall be provided as set forth in Section 6 above. Notice of the public auction shall also be provided by publication at least five (5) days before the auction in either *The Philadelphia Inquirer* or *The Philadelphia Daily News*, or as otherwise directed by the Court of Common Pleas. At any time prior to the auction date, any operator, owner, or lienholder, may obtain the release of the motor vehicle upon compliance with 75 Pa.C.S. § 6309.2(b) and upon payment of the fines, fees and costs as set forth in the Notice and as may be incurred thereafter. Upon issuance of the Certificate of Release by the Traffic Court, the motor vehicle must be picked up before the auction set forth in the Notice provided as required in Section 6 above. In the event a vehicle scheduled to be auctioned on a specific date established in accordance with the procedures set forth herein is not auctioned on that date, the said vehicle may be auctioned on a subsequent date provided, however, that the interested parties are provided new Notices setting forth the date of the rescheduled auction, substantially as set forth in Sections 6 and 8.

9. *List of Successful Bidders.* At the auction, the Traffic Court and/or its authorized agent, shall maintain a list of the successful bidders. The said list shall be submitted to the Court of Common Pleas within thirty (30) days after the auction so that an order may be entered, if necessary, directing the appropriate departments of transportation to extinguish title of the prior owners or lienholders of record and to issue certificates of ownership to the successful bidders. The order shall substantially be in the form set forth hereunder as Exhibit "C."

10. *Disposition of Proceeds of the Auction.* The proceeds from the auction shall be used to satisfy the various fines and costs in the following order: cost of sale (auctioneer, advertising); costs associated with towing and storage; administrative costs imposed by Traffic Court; fines imposed by the Traffic Court on the owner or lienholder of the impounded vehicle or load, including full payment of any sums which may be due pursuant to a payment plan approved by the Court; and City of Philadelphia parking fines. Any remaining proceeds shall be subject to the demands of the original owner and lienholders of record as their interest may appear. If not claimed within one year, any such remaining proceeds shall be forfeited to the City of Philadelphia or utilized as otherwise provided by the President Judge of the Court of Common Pleas.

11. *Post-Auction Petition or Relief.* Proceedings instituted after the sale or auction of any motor vehicle conducted as authorized by 75 Pa.C.S. § 6309.2 and the within Joint General Court Regulation disputing the underlying facts or offenses rendering the motor vehicle subject to sale or auction shall not invalidate the sale or auction. In the event relief is granted and the underlying offenses discharged, the only entitlement the owner and lienholder may have, if raised within the applicable

limitations period, shall be the return of any remaining proceeds from the sale or auction of the motor vehicle as provided in Section 10 above.

12. *Effective Date.* This Joint General Court Regulation shall become effective immediately.

This Joint General Court Regulation is promulgated in accordance with Act 1996-93, the May 8, 1996 Order of the Supreme Court of Pennsylvania, Eastern District, No. 168 Judicial Administration, Docket No. 1, Phila. Civ. R. ★51 and Pa.R.C.P. 239. As required by Pa.R.C.P. 239, the original Joint General Court Regulation shall be filed with the Prothonotary in a docket maintained for General Court Regulations issued by the President Judge of the Court of Common Pleas, and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Civil Procedural Rules Committee. Copies of the Regulation shall also be submitted to Legal Communications, Ltd., *The Legal Intelligencer*; Jenkins Memorial Law Library and the Law Library for the First Judicial District.

ALEX BONAVITACOLA,
President Judge

**PHILADELPHIA PARKING AUTHORITY
2501 WECCACOE AVENUE, PHILADELPHIA, PA
NOTICE OF IMMOBILIZATION AND IMPOUNDMENT OF VEHICLE SUBJECT TO SALE**

(Date)

(Last Known Registered Owner's Name)
(Address)
(City, state, zip)

Dear (Last Known Registered Owner):

The Philadelphia Parking Authority is informing you that on (Date of Tow), the following vehicle, registered in your name, was immobilized and/or impounded as authorized by the Traffic Court for violation(s) of the Motor Vehicle Code, 75 Pa.C.S. § 6309.2:

Vehicle Year:	State and Tag Displayed:
Vehicle Make:	Vehicle Identification Number:
Vehicle Color:	PPA Control Number:

You may recover the vehicle as provided by 75 Pa.C.S. § 6309.2.

Before you may recover the vehicle, you must appear in person at the Philadelphia Traffic Court, 800 Spring Garden Street, Philadelphia, PA to resolve any outstanding vehicle registration or operating privilege issues. You must bring with you the following: valid registration, proof of current insurance, and operator license, if applicable. You may call 686-XXXX for instructions on the procedure to be followed to recover your vehicle.

If the Philadelphia Traffic Court issues a Certificate of Release, you may recover this vehicle by bringing the Certificate of Release issued by the Philadelphia Traffic Court, valid registration, proof of current insurance, along with payment of the applicable towing and storage fees and other applicable fines or costs, to:

Philadelphia Parking Authority	Hours:	
Impoundment Lot #1	M - Th	8:00 a.m. - 9:00 p.m.
2501 Weccacoe Avenue	Fri - Sat	8:00 a.m. - 2:00 a.m.
Philadelphia, PA 19148	Sunday	7:00 p.m. - 2:00 a.m.
(215) 683-9550		

Pursuant to 75 Pa.C.S. § 6309.2 and Joint General Court Regulation No. 98-2, if this vehicle is not recovered within fifteen (15) days of the date of this notice, the Philadelphia Parking Authority will petition the Philadelphia Court of Common Pleas to sell this vehicle at public auction. A petition to sell this vehicle will be filed with the Court requesting leave to sell this vehicle at public auction on _____ at _____ a.m./p.m. at the following location: Philadelphia Parking Authority Lot #2, 2535 South Swanson Street, Philadelphia, PA 19148. If you do not recover your vehicle, you are responsible to remove any personal property from you vehicle 72 hours prior to sale from impoundment Lot #2, or we will dispose of the items.

THIS IS YOUR FINAL NOTICE, IF YOU DO NOT RECLAIM THIS VEHICLE IT WILL BE AUCTIONED AS SET FORTH ABOVE AND YOUR OWNERSHIP INTEREST WILL BE EXTINGUISHED AND OWNERSHIP WILL VEST TO THE SUCCESSFUL BIDDER.

Sincerely,

Frank Ragozzino, Manager
Towing and Impoundment

EXHIBIT "A"

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

In RE: : TERM, 19
Philadelphia Parking Authority :
: NO:
by _____ :
Director of Enforcement : Motion Control No. _____

ORDER

AND NOW, this _____ day of _____, 19____, upon Petition filed on behalf of the Traffic Court on _____, the Court being satisfied that appropriate notices were sent to the owners and lienholders of vehicles listed in Exhibit "A," as required by Joint General Court Regulation No. 98-2, copies of the notices and certificates of mailing being attached to the Petition, and the said owners or lienholders not having furnished proof of valid registration and financial responsibility, or paid, or made arrangements to resolve any outstanding vehicle registration or operating privilege issues as required by 75 Pa.C.S. § 6309.2, and having failed to recover the vehicle, IT IS HEREBY ORDERED and DECREED that the Traffic Court, through its authorized agent, the Philadelphia Parking Authority is authorized to sell at public auction the motor vehicles described in said Petition on _____, 19____, at _____ a.m./p.m., _____, Philadelphia, PA.

Notice of said public auction shall be published once at least five (5) days before the auction in either the *Philadelphia Inquirer* or the *Philadelphia Daily News*.

Petitioner shall, after the sale, submit to the Court proof of publication and a list setting forth the names of each successful bidder for the entry of an appropriate Order directing the appropriate departments of transportation to issue Certificates of Title to the successful bidders.

IT IS FURTHER ORDERED and DECREED that the net proceeds of said sale shall be distributed as provided in Section 10 of Joint General Court Regulation No. 98-2, and any remaining proceeds shall be held for one year subject to the demands of the current owners or lienholders of record of said vehicles, as their interest may appear. If not claimed within one year, any such remaining proceeds shall be forfeited to the City of Philadelphia or utilized as otherwise provided by the President Judge of the Court of Common Pleas.

BY THE COURT:

BONAVITACOLA, P.J.

EXHIBIT "B"

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

In RE: : TERM, 19
Philadelphia Parking Authority :
: NO:
by _____ :
Director of Enforcement : Motion Control No. _____

ORDER

AND NOW, this _____ day of _____, 19____, the Philadelphia Parking Authority having identified in Exhibit "A" the purchasers of the impounded motor vehicles offered for sale at public auction on _____ pursuant to this Court's Order of _____, 19____, IT IS HEREBY ORDERED and DECREED that the currently registered owners' and lienholders' legal and equitable interest in those vehicles is hereby extinguished, and the appropriate departments of transportation shall cancel any certificates of title which were issued prior to this Order to other person or entity and shall issue title to said vehicles in the names of those persons identified as purchasers in Exhibit "A," upon completion of the proper forms and payment of the required fees.

BY THE COURT:

BONAVITACOLA, P.J.

EXHIBIT "C"

[Pa.B. Doc. No. 98-1052. Filed for public inspection July 2, 1998, 9:00 a.m.]

Title 255—LOCAL COURT RULES

ADAMS COUNTY

Local Rules of Court; Administrative Order No. 17 of 1998

And Now, this 18th day of June, 1998, local rules of this court are repealed and replaced in their entirety by rules following to this order. This order and following rules shall become effective thirty days after publication in the *Pennsylvania Bulletin*. The following rules shall continuously be available for inspection in the offices of Prothonotary and Clerk of Courts of this court. Copies may be purchased at the Prothonotary's Office for \$10.00. If the Prothonotary mails the copy, the cost will be \$13.00. Certified copies in the numbers listed, together with a 3.5 computer disk shall be provided as follows:

1. Seven to the Administrative Office, Pennsylvania Courts. In addition, a 3.5 computer disc with rules therein shall be provided that office.

2. Two to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. One each to Civil Procedural Rules Committee, Domestic Relations Committee and Criminal Rules Committee. Complete sets of rules are provided those committees because of the interplay between civil, criminal and domestic relations rules.

By the Court

OSCAR F. SPICER,
President Judge

RULES OF CIVIL PROCEDURE

ADAMS COUNTY COURT OF COMMON PLEAS

CHAPTER ONE. BUSINESS OF COURTS

Rule 1.1. Applicability.

The rules adopted under this chapter shall apply to all offices in the Adams County Court system unless the context clearly indicates otherwise. Offices in the Court system shall include the offices of the District Justices, the Clerk of Courts, Orphans' Court Division, Criminal and Miscellaneous Sections, and the Prothonotary. In some instances, these rules will also apply to the Sheriff, Register of Wills and Recorder of Deeds.

Local rules are intended to supplement state rules and shall be read in context with those rules.

Local rules may be cited: Adams C. Civ. R. (number); Adams C. Crim. R. (number); Adams C. O.C. R. (number); Adams C. Juv. R. (number).

They also may be cited as Local (Civ., Crim., O.C., Juv.) Rule (number).

Rule 1.2. Court Calendar.

The Court shall promulgate a court calendar annually. The Prothonotary and Clerk shall prepare a list, and provide each judge with a copy thereof, of cases scheduled for hearing, trial, argument or other action at least five days prior to a specified calendar day. Other than summary appeals, the hearing list shall reflect matters listed for hearing at least ten (10) days prior to the hearing date. The list may be supplemented by order or with approval of a judge.

Rule 2. Papers Filed.

For purposes of this rule, papers include pleadings, motions, petitions and orders. Nothing in this rule shall be construed contrary to Pa.R.C.P. 205.2.

(a) Papers filed in the Court system should be eight and one half (8 1/2) inches by eleven (11) inches in size.

(b) Papers should be written in ink, printed, typewritten, photocopied, mimeographed or otherwise mechanically reproduced. The caption should include the name and division of the Court, identifying case number, the names of the parties, and the title of the proceeding.

(c) Papers requiring an order shall have a proposed order attached and be first filed in either the Office of the Clerk of Courts or the Office of the Prothonotary. Normally, papers should then be presented to the Court Administrator for proper routing. They may also be presented to the appropriate judge in chambers, or filed in open court.

Comment: The normal practice, especially when a party seeks to have a hearing scheduled or other relief, such as an order of continuance, or securing the appointment of a board or master, should be to file the paper in the appropriate office, then hand carry it and the proposed order to the Court Administrator

Rule 3. Bulletin Board.

Both the Prothonotary and Clerk of Courts shall maintain in public view a bulletin board for the purpose of posting required notices.

Rule 4. Records.

The Prothonotary, Clerk of Court, Recorder of Deeds and Register of Wills shall be responsible for the safekeeping of records in their respective offices. No person other than an office employee, judge, attorney admitted to practice in Pennsylvania, or persons designated by a judge or attorney may have unsupervised access to records. Attorneys may authorize not more than two employees per law office to have unsupervised access. The designation must be written and filed in the appropriate office. Attorneys and designated employees must sign an acknowledgement that they understand this rule and will do nothing to damage or compromise the integrity of records.

Officers may authorize temporary removal of records for purposes of examination and study. Only persons qualifying for unsupervised access shall be accorded this privilege. Officers shall require receipts and must be informed precisely where the records may be located. Any person temporarily removing the records shall authorize the Officer to seize and regain possession of the records, without process or notice, wherever they may be held. Other than in cases involving masters, auditors or other court appointed persons, records may not be removed longer than fifteen (15) days. Failure to return any paper within fifteen (15) days may immediately result in the cancellation of the privilege of unsupervised access for the entire law office concerned, until such time as the Officer restores the privilege.

Rule 5. Corrections of Public Records.

Neither the Prothonotary, the Register of Wills, the Clerk of Courts, the Recorder of Deeds, nor the Sheriff shall erase any matter erroneously entered in any official or public record, such as an entry book, docket, mortgage or deed, or will book. Any erroneous entry shall be struck therefrom in red ink in such manner as to leave the stricken matter legible, and the correct entry inserted.

Upon the making of any such correction the Officer making the same shall note the date of such making. In the event that any such Officer shall inadvertently omit to make an entry and subsequently another entry shall be made, the omitted entry may be placed upon the record but it shall not be inserted between two other entries unless the Officer shall note on the record that it was so made, together with the date thereof.

Rule 6. Photographs and Broadcasting (Pa.R. Crim.P. 27 and 328).

No pictures or photographs shall be taken immediately preceding or during sessions of this Court or recesses between sessions, in any of the courtrooms or at any place in the Courthouse within forty (40) feet of the entrance of such courtroom unless specially allowed by the President Judge.

No Court proceedings shall be broadcast or televised, nor shall any Court proceeding be mechanically or electronically recorded, except by the official court reporter unless specifically allowed by the President Judge.

No pictures or photographs of any party to a civil or criminal action, juror, or witness shall be taken in the law library or in any office or other room of the Courthouse, except with the knowledge and consent of the person or persons photographed.

Rule 7. Guardian Ad Litem.

Any interested party may move, in the cases wherein facts are of record, or may petition, in cases wherein facts are not of record, for the appointment of a guardian ad litem for any party in interest, not sui juris by reason of infancy or otherwise. The fee for the guardian ad litem shall be set by the judge to whom the case is assigned, and shall be paid in the first instance by the moving or petitioning party. Thereafter, the judge may make such order as may be appropriate, including assessing the fees as costs in the case.

Rules 8—9. Reserved.

Rule 10. Termination of Inactive Cases (Pa.R.J.A. 1901).

(a) The Clerk, the Prothonotary, and each District Justice shall annually review cases pending in his/her respective office on or before the first day in July. The Officer shall compile a list of cases in which there has been no docket activity for a period of two (2) years or more. The Officer shall, at least thirty (30) days prior to the argument and civil business court day in September, give notice to the parties and counsel either (a) in person, (b) by regular mail, addressed to the last address of record, or, (c) by publication when notice by mail cannot be given or has been returned undelivered, that at 9:00 a.m. on that date the case will be considered by the Court for dismissal. The notice shall comply with the provisions of Rules of Judicial Administration 1901 and shall contain:

- (1) a brief identification of the matter;
- (2) that termination is proposed for the September court date;
- (3) that the party has a right to request continuation of the case on active status, and/or a hearing. Requests must be filed with the Officer giving the notice prior to the September court day;
- (4) that all requests will be considered by the Court for cases in the Clerk's and Prothonotary's office, and by a District Justice for cases in those offices;

(5) that the party has the right to appear at 9:00 a.m. on the September Business Court date and request continuation on active status. If this procedure is followed, there will be no right to a hearing unless a request for same is made prior to the September court date.

(b) If no requests are made, the Court will summarily dismiss the cases at the September Business Court date. If requests are made, the Court may either schedule a hearing or continue the case on active status for period of one year.

(c) District Justices shall have the same powers and duties as the Court. Either party shall have the right to appeal to the Court from any decision as in other cases in which judgment is entered by a District Justice.

(d) Officers involved in this rule shall certify to the Court that proper notice has been given prior to 9:00 a.m. on the September court date. The certification shall list all cases scheduled for dismissal.

(e) Notice by publication shall be occur at least thirty (30) days prior to the September court date. Notice shall be published once in a newspaper of general circulation in the Adams County area and once in the Adams County Legal Journal.

Rule 11. Money Paid Into Court.

(a) Any party wishing to pay money into Court shall request leave to do so.

(b) The Prothonotary and Clerk shall open and maintain accounts for the deposit of funds paid into Court, pursuant to court order. Accounts and depositories shall be approved by the Court. Disbursements or distributions shall be made pursuant to court order. An administrative fee of twenty-five dollars (\$25.00) shall be paid from the fund to the Officer for handling the funds.

Comment: Since authorities generally agree that payment into Court, and the effect of such an act, is discretionary with the Court, it is felt that the prior version of this rule is unnecessary.

Rule 12. Appeals to Court of Common Pleas.

(a) When tenants as a condition of supersedeas in appeals from judgments of possession, are required to deposit sums equal to rent installments with the Prothonotary, they shall state whether or not the Prothonotary is authorized to periodically release sums to the landlord without application by the landlord. If authority is granted, the tenant shall state the amount that may be periodically disbursed. Until authority is cancelled by the tenant, those sums may then be periodically released without order of court.

(b) All appeals from agency action suspending or revoking licenses, rights or privileges, shall have attached to it a copy of the suspension or revocation order.

Comment: Most provisions in the former rule have been rendered obsolete or inappropriate by rule and statutory changes that have occurred since adoption of the prior rule. Supersedeas is now available only if the tenant deposits the lesser of three months rent or the amount due, and makes monthly payments equal to rent.

Rule 13. Legal Journal.

The Adams County Legal Journal is designated for the publication of Court or other legal notices as required by the various statutes, laws, rules, orders, or decrees of Court in the Commonwealth of Pennsylvania.

Rule 14. Law Library.

The President Judge shall appoint a chairman and committee to operate and maintain the Adams County Law Library. Committee members shall be selected from members of the Adams County Bar Association and shall serve at the pleasure of the President Judge. The committee may deal directly with the Adams County Commissioners in budgetary matters. The Committee shall file annually a report and accounting with the court. Upon approval, the report shall be filed of record in the Prothonotary's office.

The Adams County Law Library shall be a facility open to the general public and used as a research facility by the Court, county officials, and county attorneys, in accordance with law, subject to rules promulgated by the committee and approved by the Court. Until changed, the following shall apply:

(1) The library is open to the public during the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday. The law library will remain closed during those times when the Courthouse is closed.

(2) The Adams County Law Library is intended primarily for a reference library. No books may be taken out by members of the general public. Limited borrowing privileges are as follows:

(A) All books must be returned within three (3) days from the date that they are signed out, in a register provided and located at the desk in the law library. Violation of this provision shall subject the violator to the following penalties:

(1) Books held beyond thirty (30) days, library privileges to be revoked and the offender to be reported to the Adams County Court.

(2) After thirty (30) days, the offender will be billed for the replacement cost of the volume or volumes held.

(B) The following books are for reference only and may not be taken out of the law library: Purdon's Statutes, Pennsylvania Law Encyclopedia, United States Code Annotated, U.S. Code Service, all Slip Opinions, Court Rules, Dictionaries, Directories, Shepard Citations, Pennsylvania Code, Pennsylvania Bulletin, and all other books maintained on shelves that are marked indicating that the contents may not be removed.

(3) For all materials which are in circulation and borrowed from the library, authorized individuals shall sign the register and indicate the volume number and title, the borrower's name (judge, attorney, or county official), address or department and the date that the volume was removed. Every item taken from the library must be signed out. When the item is returned to the library, the register must be signed to indicate the date that the item was returned. The item should be reshelfed when it is returned to the library.

(4) In furtherance of a desire to maintain the Adams County Law Library as a complete County Reference Law Library, the following publications are to be provided for the law library:

(A) All published slip Opinions authored by the Adams County Court shall be delivered to the Adams County Law Library which shall hereinafter act as a depository for said Opinions.

(B) All ordinances of municipalities and townships, including Zoning Ordinances, shall be made available to the Adams County Law Library.

(5) These rules shall be posted in a conspicuous place in the Adams County Law Library.

(6) The photocopier in the law library is for the convenience of all persons authorized to use the law library. Use is restricted to making reasonable numbers of copies of library material. The Committee may subject the copier's use to conditions and restrictions by posting same by or on the copier and may, revoke any person's use privileges. The copy machine should be turned off after use.

Rules 15—205. Reserved.**Rule 206. Petitions and Answers.**

Petitions and rules shall be governed by Pa.R.C.P. 206.6. Pursuant to Pa.R.C.P. 206.5(2), a party may seek any relief for which petition and rule procedure may be appropriate. If disputed facts can be determined by a brief hearing, the party shall request that a hearing, and not depositions, be scheduled to determine facts. The petition shall be accompanied by an order conforming to Pa.R.C.P. 206.6 as modified by this local rule, as follows:

IN THE COURT OF COMMON PLEAS OF ADAMS
COUNTY

(Caption)

ORDER

And Now, this ___ day of _____, 199_, upon consideration of the within petition, it is hereby ordered that:

(1) a rule is issued upon 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 twenty days of service upon the respondent;

(3) The petition shall be decided under Pa.R.C.P. 206.7 and Local Rule 206;

(4) The parties shall

appear _____ 19 ___, at _____ in Courtroom ___ of Adams County Courthouse, to determine appropriate procedure for determining disputed facts;

consult with the Court within ten days after an answer is filed to determine appropriate procedure for determining disputed facts;

An evidentiary hearing on disputed facts shall be held _____ 19 ___, at _____, in Courtroom ___, of Adams County Courthouse;

Depositions shall be completed within ___ days of this date;

Argument shall be held on _____, 19 ___, at _____, in Courtroom ___ of the Adams County Courthouse;

(5) notice of the entry of this order shall be provided to all parties by the petitioner.

BY THE COURT,

J.

Comment: This rule is intended to modify and closely mirror procedures in state rules. The rule contemplates that a petitioner will request the appropriate method to determine disputed facts. Since the rule has been expanded to include diverse subjects of relief, many petitions should be determined on Business Court day, with a short hearing followed by argument.

Rules 207—209. Reserved.**Rule 210. Arguments.**

(a) All motions and cases requiring arguments may be placed by either party upon the argument list for any regular Argument Court Day unless otherwise specifically ordered by the Court. At the time of placing the case upon the Argument List, counsel shall note thereon the name and address of known counsel for the opposing party and counsel shall that same day send notice to the opposing party or their counsel of record.

(b) An argument list shall be prepared by the Prothonotary previous to each argument court composed of cases arranged in the order of their seniority, which shall have been set down by the parties or their counsel at least forty (40) days before such Argument Court Day.

(c) An argument list containing all cases for argument in the several Courts shall, immediately upon the closing of the argument list, be furnished by the Prothonotary to all members of the Bar having cases listed for argument and to parties who have no counsel.

(d) In all arguments each party shall, before argument, furnish to the Court and opposite counsel or party a typewritten brief, containing a full and succinct statement of all facts conducive to a ready comprehension of the matter to be argued, and a reference to all authorities relied on. Where an authority is cited, the principle to be supported by it shall be stated. A mere reference to the book will not be sufficient. The party having the affirmative in the argument shall furnish such brief twenty-one (21) days before argument and the other party or parties shall furnish such brief seven (7) days before argument. When this rule is violated, the Court may, in its discretion:

(1) refuse to allow oral argument by the offending party: or

(2) consider the issues raised by such party to be waived: or

(3) order oral argument to be continued: or

(4) enter such other order as the interest of justice requires.

(e) The judge hearing argument may set time limits.

(f) Any party may request argument en banc. The judge to whom the case is assigned shall make the decision whether to grant or deny the request.

Rule 211. Preliminary Objections (see also Local Rule 1028).

Unless granted leave to proceed in accordance with Rule 210, any party filing preliminary objections shall file a brief within ten (10) days of such filing. The party against whom objections are filed shall have twenty (20) days thereafter to file a responsive brief. The Prothonotary shall then transmit the file and briefs to the Court and the case will be determined on brief. Requests for formal argument must be made at the time objections are filed, in the case of the filing party, or within ten (10) days after notice of the objections, by the party against whom objections are filed.

Any party failing to file a brief shall face the same sanctions prescribed in Rule 210.

Comment: This rule is intended to speed up procedure involving preliminary objections. Time requirements are intended to prevent parties from requesting oral argument at the last minute to gain a reprieve from filing requirements.

CHAPTER TWO. PRE-TRIAL PROCEDURE**Rule 212. Pre-Trial Procedure.**

(a) When an action is at issue and all pre-trial motions, petitions, and objections have been disposed of, any party thereto who desires to proceed to trial shall request, by praecipe, the Prothonotary to list and schedule the action for a pre-trial conference. A schedule shall be kept and maintained in that office. The party requesting the conference shall state the time and date preferred for the conference. Conferences will be scheduled to begin on the hour during Pre-Trial Conference Days listed in the Court Calendar. No conferences will be scheduled prior to 8:00 a.m., at noon, or after 4:00 p.m. except by special order of court. If the requested time is unavailable, the Prothonotary shall schedule at the next available time, or the next available time and date. The Prothonotary shall notify all counsel and pro se parties of the time and date of the conference. The notice shall state that parties are required to submit pre-conference memoranda at least five (5) days prior to the conference. The Prothonotary shall provide the Court Administrator and the judge designated by the President Judge with pre-trial conference schedules, no later than three (3) days prior to the conference(s).

(b) The Court on its own motion or on the motion of any party may order that a pre-trial conference is unnecessary. Any such order shall state what matters, if any, must be completed before trial and the time period for completing such matters and further specify the trial term at which the case shall be tried.

(c) Unless excused by the Court in advance, the attorney or party who intends to try the case shall attend the pre-trial conference. In the absence of an excuse, the Court, may require the attending attorney or party to try the case. If an attorney or party fails to appear for the pre-trial conference, the Court may proceed in his/her absence and enter binding rulings regarding any matter, including admissibility of evidence.

(d) At the pre-trial conference, every attorney or party shall submit a pre-trial memorandum which, where appropriate, will contain the following minimum information:

(1) Brief factual summary

(2) Names and addresses of all witnesses, identifying whether fact, expert or damage.

(3) List of all exhibits.

(4) Statement of issues involved.

(5) Statement of damages claimed

(6) Statement of proposed amendments to pleadings, if any.

(7) Statement of suggested stipulations of law or fact.

(8) Special requests. For example, a request for a view or requests relating to matters of discovery.

(9) Estimated duration of trial and whether it is jury or bench.

(10) The amount of settlement demands or offers.

(e) As soon as practicable after a pre-trial conference, the Court shall enter an order setting forth any admission of fact or documents, amendments or pleadings, agreements of attorneys, and other matters resolved or determined by the Court at the pre-trial conference. If a bench trial is ordered, it shall be scheduled for a specific time, if possible. If a jury trial is ordered, it shall be set

for a specific trial term. All orders shall set forth those matters which must be completed before trial and the time period for completing such matters.

(f) Actions ordered by the Court to be tried at a specific trial term shall be placed on a trial schedule by the Court Administrator before the beginning of such specific trial term.

(g) The trial schedule shall be made available by the Court Administrator to all parties or their attorneys of record. A copy shall also be made available to each member of the Bar who requests one.

(h) Priority on a trial schedule shall be determined by the date on which the Court Administrator places the case on a term list, or the date on which a case is continued to that particular term. However, priority will not necessarily govern which cases will be tried during any particular trial term.

Comment: The Court Administrator will normally list cases in the order received by the Prothonotary. If case "A" is listed, then case "B" is continued until that term and then later case "C" is listed, trial priority will be A, B, and C.

(j) Counsel may be required to submit a trial brief to the Court prior to the commencement of the trial for the guidance and information of the Court. Unless a similar trial brief is submitted by opposing counsel, and a copy furnished, such counsel shall not be entitled to a copy of said trial brief as a matter of right.

(k) Trials will be called at the Civil and Orphans' Court Business Day for the month preceding trial. Parties may answer the call formally, by appearance, or informally by telephone or mail shortly before call. Failure to answer the call may result in the case being stricken from the trial list.

Rule 213. Extended Hearings.

An extended hearing is defined as one requiring two or more hours. Parties requesting hearings, whether by order or praecipe, shall certify whether the hearing can reasonably be expected to become an extended hearing. Whether the matter falls within the scope of Prothonotary's or Clerk's duties, extended hearings shall be scheduled for pre-trial conference by the Prothonotary. Thereafter, unless otherwise ordered, the pre-trial procedure established in Rule 212 shall be followed.

Rules 214—235. Reserved.

Rule 236. Notice of Order. Decree or Judgment.

Where the Prothonotary is required by the Pennsylvania Rules of Civil Procedure to give notice to any party of any hearing, matter, order, decree, or judgment, it shall be the duty of the moving party to furnish the Prothonotary with the notice required to be mailed, a copy of the notice for the Prothonotary's file, and a postage prepaid envelope with the name and correct current address of the party to be notified set forth thereon. The Prothonotary shall note the date the notice was sent on the file copy. If a file copy is not provided, the Prothonotary shall make a copy of the notice and shall be authorized to charge and collect \$1.00 from the moving party for costs in connection therewith.

Rule 237. Reserved.

Rule 238. Delay Damages.

A party seeking an award of delay damages shall request such damages by the filing of a petition, which shall include a rule returnable as provided in Rule 206

directing the respondent to show cause why such damages should not be awarded. Issues shall be determined by the petition and answer. The Court may then determine such damages, if any, or refer the matter to a board of arbitrators.

Rules 239—1011. Reserved.

Rule 1012. Withdrawal of Counsel.

(a) Counsel withdrawing an appearance pursuant to Pa.R.C.P. 1012(b) shall certify in the praecipe for withdrawal that no stage of the litigation shall be delayed by such withdrawal.

(b) Counsel seeking to withdraw from a case where such withdrawal is not pursuant to Pa.R.C.P. 1012(b) shall present a written motion seeking leave to withdraw. The motion shall contain: (1) the written consent of the client, or (2) a certification of counsel that no less than ten (10) days notice of the time and place of presentation of the motion has been received by the client, and (3) the reasons why counsel seeks to withdraw, and (4) a statement whether any stage of the matter will be delayed by the withdrawal. If the consent of all parties is not obtained, the Court may order that a minimum of ten days notice shall be given to such parties and that the matter be considered at a Business Court Day at least ten (10) days beyond the filing of the request.

Rules 1013—1018. Reserved.

Rule 1018.1. Notice to Defend.

(a) As provided by Pa.R.C.P. 1018.1, the following officer is designated to be named in the Notice to Defend in order to find out where legal help can be obtained: Court Administrator, Adams County Courthouse, 111 - 117 Baltimore Street, Gettysburg, PA 17325, telephone number (717) 337-9846 or 1-888-337-9846.

(b) The Court Administrator upon receiving oral or written inquiry as a result of the endorsement on any pleading, shall furnish the name and telephone number of an appropriate member of the Legal Aid Committee of the Adams County Bar Association or immediately forward to the inquiring party a prepared list of the names, addresses, and telephone numbers of all the resident members of the Bar of Adams County, or both. The Court Administrator shall include on such list Legal Services, Inc., 432 South Washington Street, Gettysburg, PA 17325; telephone number (717) 334-7623.

(c) Copies of a Spanish translation of the Notice to Defend shall be made available by the Court Administrator upon request.

Rules 1019—1027. Reserved.

Rule 1028. Preliminary Objections.

Procedure for preliminary objections shall be governed by Rule 211.

Rules 1029—1034. Reserved.

Rule 1035.3. Summary Judgment.

Procedure for briefs and argument in motions for summary judgment shall be governed by Rule 211.

Rules 1036—1300. Reserved.

Rule 1301(a). Compulsory Arbitration.

All civil cases subject to arbitration by statute or rule of court shall be submitted to compulsory if the amount of money in controversy is within statutory limits.

Rule 1301(b). Arbitration by Agreement.

Cases may also be referred to arbitration if the parties or their counsel agree. If the case is not at issue, or where no pleadings have been filed of record, the agreement to

refer shall state the issues to be considered by the board of arbitrators, and shall contain all stipulations of fact reached by the parties. The agreement shall be filed of record and a copy provided to each member of the board of arbitrators.

Rule 1302(a)(1). List of Eligible Arbitrators.

A list of eligible arbitrators shall be prepared and maintained by the Court Administrator pursuant to Pa.R.C.P. 1302, and directions of the President Judge. The list shall contain all names of attorneys actively engaged in the practice of law primarily in Adams County, as determined by the President Judge, and who have not been excused from serving. Attorneys may request excuse by the President Judge. Attorneys so excused shall be required to serve only in unusual, or emergency situations.

Rule 1302(a)(2). Motion for appointment of Board of Arbitrators.

Any party to a case, after the pleadings are closed, may request the appointment of a board of arbitrators by written motion. Included in the motion shall be the names of all attorneys who, to the movant's knowledge, may have a conflicting interest in the case.

Rule 1302(a)(3). Service of Motion.

The party moving for the appointment of a board of arbitrators shall serve a copy of the motion on all other parties, or their counsel to the action. Proof of service of the motion shall be by acceptance of service noted on the original of the motion, or by a certificate of service by counsel (which need not be verified), or by an affidavit of service.

Rule 1302(a)(4). Notification of Conflicts.

Any party or the parties' counsel shall, upon receipt of a motion for the appointment of a board of arbitrators, immediately notify the Court Administrator of the names of all Adams County attorneys who, to the recipient's knowledge, may have a conflicting interest in the case.

Rule 1302(b). Selection and Appointment of Board.

No less than five (5) days after service of the motion for appointment of a board of arbitrators has been made on all parties, the Court Administrator shall select three (3) names from the list of eligible arbitrators and present an order for appointment to the President Judge or the judge to whom the case is assigned. The Prothonotary shall administer the oath to the board members in accordance with Pa.R.C.P. 1312, promptly after appointment.

Rule 1302(c). Distribution of Pleadings.

The parties shall be responsible for providing the Prothonotary with two (2) copies of their respective pleadings. The moving party shall provide copies at the time arbitrators are requested. The nonmoving party shall provide copies within ten (10) days after being notified of the appointment of a board. The chairman shall receive the original file and the Prothonotary shall distribute copies of pleadings to each member of the board.

Rule 1302(d)(1).

Fees for services for members of the Board of Arbitrators shall be periodically set by administrative order. Until changed, the chairman shall be paid two hundred dollars (\$200.00) and two members one hundred fifty dollars (\$150.00), upon the filing of the award.

Rule 1302(d)(2).

In the event that a case is settled or withdrawn, or otherwise terminated by or between the parties after the board members have been sworn but before the filing of the Board's report and award, if any, the board shall not be required to file any report or award, but its members shall be entitled to one-half of the arbitration fee, and the Prothonotary shall so certify such settlement, withdrawal, or other termination of the case by the parties to the County Commissioners and to the County Treasurer for that purpose, and arbitrators shall be paid their fee.

Rule 1303(a). Time, Date, and Place of Hearing.

The location and time of the hearing shall be set by the chairman of the board of arbitrators for the next available arbitration day specifically set forth on the Adams County Court Calendar which will allow for timely written notice. Unless otherwise agreed, no less than thirty (30) days written notice of the time, date, and place of the hearing shall be given by the chairman of the board of arbitrators to all parties or their counsel, to members of the board, and to the Court Administrator.

Rule 1303(b). Continuances.

Continuances may be granted by the chairman of the board of arbitrators. A motion for continuance and four (4) copies of the new notice for hearing shall be submitted in writing by the parties seeking the continuance to the chairman of the board and shall include the consent or opposition of opposing counsel. Any continuance granted shall be to a time and date set by the chairman. Notice of the continuance shall be given by the chairman to the other arbitrators and to the counsel of record.

Nothing in this rule shall prevent a party from seeking a continuance from a judge.

Rules 1304—1900. Reserved.

PROTECTION FROM ABUSE

Rule 1901. Commencement and Referral.

The Prothonotary and District Justices shall provide written and oral referrals to any person desiring to file a pro se petition under the Protection From Abuse Act, 23 Pa.C.S. § 6101 et. seq. to Legal Services, Inc. and Survivors, Inc. at their Adams County offices, and the Adams County Bar Association referral service. They shall also maintain sample forms and written instructions, in both Spanish and English, and give clerical assistance in completing forms.

The Prothonotary shall accept petitions without requiring the prepayment of filing fees and transmit copies to the Court Administrator for presentment to a judge for the entry of an order. Upon request by plaintiff, the Court may direct that the petition be served upon defendant by the Sheriff.

Rule 1902. Hearing After Relief By District Justice.

Whenever relief is granted by a District Justice, the District Justice issuing the order shall contact the Court Administrator as soon as possible. The Court will, thereafter, schedule a preliminary hearing and continue the temporary order in effect pending a plenary hearing. Preliminary hearings before the Court will be conducted at 1:00 p.m. on the next Business Court Day following the granting of temporary relief by the District Justice. The District Justice issuing the order shall provide both parties a notice in the form set forth in Local Rule 1906.

The District Justice issuing the temporary order will forward all papers for filing in the Prothonotary's office so that the papers will be available to the Court at the hearing before the Court.

Rule 1903. Petition For Temporary Relief.

Petitions for temporary relief may be presented to the Court without the necessity of scheduling an ex parte hearing if the petition is accompanied by an affidavit verifying the averments in the petition and the relief temporarily sought does not include eviction, or transfer of custody of minor children from defendant to plaintiff. Where eviction or custody transfer is requested, an ex parte hearing shall be scheduled.

Rule 1904. Plenary Hearings.

Unless the parties agree otherwise, plenary hearings shall be scheduled within ten (10) days after the filing of the petition.

Rule 1905. Contempt Hearings.

(a) *Arrest:* When the Court is available, a defendant arrested for contempt shall be produced without unnecessary delay before a judge for arraignment. If arrest occurs when the Court is unavailable, the defendant shall be arraigned before a District Justice. Upon request, defendant shall be provided with an application form for the appointment of a lawyer. Unless scheduled by a court order for a different time, contempt hearings shall be scheduled for 1:00 p.m. on the first business day of the week, at least seven (7) and no more than ten (10) days after the defendant's arrest. Bail shall be set by the District Justice, and defendant given an opportunity to post bail. The bail may be subject to special conditions such as cessation of abuse. If the defendant is not released on bail, he or she shall be produced before a judge at the first available opportunity following arrest. The District Justice shall also, when applicable, follow the procedure outlined in Rule 1901. At arraignment, the District Justice shall advise the defendant of the following:

- (1) A description of the alleged contemptuous acts;
- (2) That those acts violate a specific Order of Court;
- (3) Defendant is subject because of the alleged contempt to a prison sentence of six (6) months and a fine of One Thousand Dollars (\$1,000.00);
- (4) A hearing will be held by a judge on a specified court business day at 1:00 p.m.
- (5) Defendant is entitled to be represented by a lawyer in the contempt proceeding and that, if defendant qualifies, a lawyer will be appointed to represent him or her free of charge. The defendant shall be notified that he or she must apply for the appointment of a free counsel, and the District Justice shall provide an application form upon request;

(b) *Petition and Rule:* Plaintiff will first enter the petition in the Prothonotary's office and then present it to the Court Administrator for the scheduling of a hearing. Except in unusual circumstances, hearings will be scheduled in the same manner as in arrest cases. If a specific time is requested, the Court Administrator will select a time, which will afford speedy relief and afford defendant time to prepare a defense. No answer shall be required by defendant.

(c) *Criminal Complaint:* Contempt proceedings may be commenced by the filing of a criminal complaint before a District Justice. Service shall be accomplished as in other criminal proceedings, by a constable, or police officer. If neither is available, the complaint shall be served by the Sheriff. Procedures will be the same as are followed in other protection from abuse proceedings begun before a District Justice.

Rule 1906. Form of Notice.

NOTICE

A Petition Under the Protection from Abuse Act has been filed against you as set forth in the attached Complaint. A temporary order has been entered against you. This order will remain in effect until 1:00 p.m. on _____, 19____, when it will be considered in a Courtroom that will be designated on that date, in the Adams County Courthouse, Gettysburg, Pennsylvania. At that time, the temporary order may be continued, modified, or terminated. If the order against you is continued or modified, a full hearing on the merits will be scheduled. You may appear and either object or consent to an order against you being continued in effect until a full hearing on the merits. You may, but are not required to, appear and consent to the entry of an order for a longer period of time. Any order entered after a full hearing may remain in force for one (1) year. The Court may proceed in your absence to take testimony and enter an order granting relief to the Petitioner. You are entitled to be represented by an attorney at these hearings. 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.

Adams County Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325
Telephone Number: (717)337-9846 or 1-888-337-9846

District Justice

SUPPORT RULES**Rule 1910.10. Procedure.**

All support proceedings shall be conducted in accordance with Pa.R.C.P. 1910.11.

Rule 1910.11. Notice.

The notice required by 23 Pa.C.S.A. § 4303 shall be as follows:

To: Obligor

The law requires the Domestic Relations Office to periodically provide approved consumer reporting agencies with your name and the amount of overdue arrearages that you owe. According to our records, you owe \$ _____, and this amount will be reported unless you contest the accuracy of the information within the next twenty days by filing a written objection with this office. Your objection should specifically state the amount of money that you dispute is owed.

Upon timely receipt of an objection, this office will schedule a conference to resolve the dispute.

Dated _____

Domestic Relations Officer

Rules 1912—1914. Reserved.

Comment: In light of comprehensive state rules, it is felt that local rules are unnecessary and might potentially become confusing. Following conference, procedures in Rule 1910.21-4 shall be followed, but no local rule is needed to indicate this.

Rule 1915.1. Custody.

In all custody cases, a preliminary conference will be held, at a time set by the Court, prior to the actual hearing on the custody matter. All parties and their counsel will be required to attend the preliminary confer-

ence. Children will not be required to attend unless either party requests their presence, and the court approves such request.

Counsel should appear at the conference prepared to schedule a hearing. Calendars, or familiarity therewith, will be required.

At the preliminary conference, the parties or their counsel shall provide the Court with a written memorandum, containing at least the following:

- (a) names of witnesses;
- (b) a statement of the potential issues;
- (c) information of the possibility of an amicable settlement without a hearing;
- (d) an estimate of the time a hearing would require;
- (e) any requests that either party might have; and
- (f) any other information which would help the Court and parties resolve the case.

Rule 1916. Home Studies and Investigations.

Adams County Children and Youth Services is designated as the agency authorized to conduct home studies within Adams County. Home studies may be ordered subject to the following:

Fees shall be periodically established by administrative order. Until changed, the fee will be seventy-five (\$75.00) dollars.

- (a) Requests for home studies, or the right to request a home study in the future, shall be submitted at the preliminary conference. The request may be included in the conference memorandum.
- (b) Payment of the home study fee shall be made, and a detailed written description of and directions to the house shall be provided to the agency:
 - (1) within two weeks of the court order authorizing the study, and
 - (2) at least 60 days prior to a scheduled hearing.

DIVORCE RULES

(The numbering of these rules does not coincide exactly with the Divorce Rules under the Pennsylvania Rules of Civil Procedure.)

Rule 1920(a). Uncontested Divorces.

A party may file a praecipe directing the Prothonotary to forward all papers to the Court for review and for entry of a final decree when all costs have been paid or excused and when all requirements of law and the Rules of Civil Procedure have been fulfilled. If any agreement is to be incorporated within the decree, the party shall state whether or not it is to be merged within the decree. If the defendant files the praecipe, he or she shall state by what authority he or she acts.

Rule 1920(b). Alimony.

Claims for alimony pendente lite raised in a divorce complaint or by a subsequent pleading in a divorce action shall be referred to the Domestic Relations Section for a conference upon the written motion of a party, or upon the request of a party at a conference for support. Unless otherwise directed by the Court, an award of alimony pendente lite shall be effective from the date of the motion, or of the request. The procedure for alimony pendente lite shall be in accordance with Pa.R.C.P. 1910.11.

Rule 1920(c). Motion to Appoint Master.

When a case is at issue and all discovery relating to issues to be submitted has been completed, a party may move for the appointment of a master. The motion shall, under Pa.R.C.P. 1920.74, in item (7) list the names of local attorneys who may be interested in the case, or contain a statement that no local attorneys are known to be interested.

Rule 1920(d). Master's List and Compensation.

The Court Administrator shall maintain a list of all attorneys primarily practicing in Adams County and who have not been excused from serving as masters in divorce or annulment. Any attorney may request the President Judge to excuse him or her from such service. Upon motion, the Court will appoint a master from the list to hear the issues set forth in the motion. The master shall be compensated at an hourly rate that will be periodically set by administrative order. Until changed, the hourly rate shall be \$50.00 per hour. No motion shall be considered unless there has been deposited with the Prothonotary the sum of \$500.00 for the purpose of guaranteeing payment of the master's fee as well as stenographer's. The master may request that additional deposits be made, if the case becomes protracted.

Rule 1920(e). Withdrawal of Issues.

Upon motion of any party, the Court may withdraw issues from the master, whether or not the master has acted upon those issues.

Rule 1920(f). Payment.

(1) Upon notice to the parties, the master may request an order directing the Prothonotary to disburse fees, and when a master's report has not been filed within sixty (60) days of the hearing date, the stenographer may request payment by filing the bill with the Prothonotary. If no exceptions to the sums are filed within ten (10) days, the Prothonotary shall disburse funds as requested.

(2) The master's report shall state the total amount of master's and stenographic fees being charged, and any amount that remains unpaid. If no exceptions or objections to the amounts are filed within the period for filing exceptions, the Prothonotary shall expeditiously pay the balance of fees requested in the report.

(3) If any party excepts or objects to fees, the Prothonotary shall not disburse any money or refund until the Court rules on the exceptions.

Rule 1920(g). Fees.

Under appropriate circumstances, the Court may:

- (1) excuse a moving party from depositing all or part of fees, and/or
- (2) direct the non moving party to pay the all or part of the fees, and/or
- (3) direct that the County pay all or part of the fees

Rule 1920(h). Fees as Costs.

Master's fees and stenographer's fees shall be considered costs of the case. In the event the master or the Court assesses costs against a party to the action, the costs shall be paid in full or a sufficient amount to cover the costs and shall be deposited with the Prothonotary within thirty (30) days of the date of the court order. If the payment or the deposit is not made within the thirty (30) day period, in addition to other remedies, the Court may direct the master to liquidate sufficient marital property to pay all sums due and owing.

Rule 1920(i). Notice.

The master shall give at least ten (10) days written notice of the time and place for taking testimony to the attorneys of record, or to the parties, in the manner prescribed by Pa.R.C.P. 1920.51.

Rule 1920(j). Hearings and Amendments.

Subject to the directions of the Court, the master shall have the usual powers of the Court with regard to the detention of witnesses for examination and the general course of the proceedings before him/her. The master shall also have the authority and power to rule on objections to the admissibility of evidence and to permit amendments to the complaint in order to have the pleadings consistent with the testimony given. However, no amendment shall be permitted which changes the grounds of the divorce alleged. In cases where amendments to the complaint have been granted, the notice of the filing of the master's report shall contain a brief summary of the amendments allowed.

Rule 1920(k). Revocations.

The appointment of a master may be revoked by the Court sua sponte, or upon motion of either party for cause shown, or upon the motion of the master on the grounds that no hearing has been held within ninety (90) days after the date of his/her appointment.

Rule 1920(l). Exceptions.

Exceptions to the master's report, or any motions or reasons for a new trial in relation to the verdict of any jury, where applicable, which either party shall desire to make, shall be filed with the Prothonotary, and a copy thereof served at the same time upon the opposite party or his/her attorney of record. If no exceptions have been filed to the master's report within ten (10) days, and all costs have been paid, the Prothonotary shall submit such report and all the papers in the case, including his/her certificate stating that all costs have been paid to the Court for final decree.

Rule 1920(m). Delinquent Reports.

(a) If a master fails to file a report and recommendation within the period established by Pennsylvania Rules of Civil Procedure, the master shall report such failure to the Court, explain reasons for the failure and state when the report shall be filed.

(b) The Court may terminate a master's appointment, reduce or deny the master's compensation, or order such other relief as may be appropriate, where: a master has violated this rule, or has failed to comply with the time limits of the Pennsylvania Rules of Civil Procedure, without adequate explanation. Such relief may be ordered by the Court sua sponte, or upon application of any party.

Rule 1920(n). Counseling.

If either party requests counseling under § 202 of the Divorce Code, the party making such request shall deposit Fifteen Dollars (\$15.00), with the Prothonotary at the time of filing the request to cover the cost of the counselor's report, unless the Court shall order otherwise.

The party requesting counseling shall provide the appointed counselor with a copy of the court Order directing such counseling.

Rule 1921. Procedure Relating to Masters' Hearings.

Subject to the Court's power to withdraw issues from the master, procedures shall be as prescribed by Pa.R.C.P. 1920.55-2.

Rules 1922— 2204. Reserved.**WRONGFUL DEATH****Rule 2205. Notice.**

In addition to the form of notice authorized by Pa.R.C.P. 2205, a plaintiff in a wrongful death action may give notice to persons entitled to recover damages in the action by any means of service, other than ordinary mail, authorized by state rules.

Rules 2206—2951. Reserved.**Rule 2952. Confession of Judgment.**

(a) A plaintiff seeking leave to confess judgment pursuant to Pa.R.C.P. 2952(9), shall apply for a court order in substantially the following form:

Caption

And Now, this ___ day of _____, ___, plaintiff applies for leave of court to enter judgment by confession against defendant(s), pursuant to Pa.R.C.P. 2952(9) and alleges that the instrument upon which the judgment is to be entered is:

- more than twenty years old,
- not attached to the complaint, nor is a photostatic copy or like reproduction showing the defendant's signature so attached.

It is requested that the

- schedule a hearing, which _____ expected to be _____ is or is not two or more hours in length.
- determine the application on the basis of depositions and the pleading.

Respectfully submitted,

(b) When plaintiff alleges that neither the original, nor a photostatic copy, nor a like reproduction is attached to the complaint, there shall be attached to the application a verified explanation of the reasons.

(c) The Court may, after reviewing the application schedule a pre-hearing conference, a hearing, and/or order that the application be listed for argument.

(d) The court may, at any time, alter the proceedings established by the initial order.

Comment: Rules relating to distributions of sheriff's sale proceeds have been deleted.

RULES OF ORPHANS' COURT DIVISION**ADAMS COUNTY COURT OF COMMON PLEAS**

Rule 1. The local rules of the Orphans' Court Division of the Adams County Court of Common Pleas shall be known as Adams County Orphans' Court Rules and may be cited as either Adams C. O.C. R. (number), or Local O.C. Rule (number). These rules should be read in conformity with Supreme Court Orphans' Court Rules. Except as otherwise provided in these rules, or by Supreme Court Rules, local Rules of Civil Procedure shall apply to proceedings in the Orphans' Court Division of this Court.

Comment: These rules should be read in conformity with not only state, but also local, rules. For example, Local Civ. R. 213 governs procedure in cases involving extended hearings. In light of extensive rule changes in

the area of appearances and withdrawals of counsel, no need exists for special rules applicable to the Orphans' Court Division.

BUSINESS OF THE COURT

Rule 1.1. Judges.

The President Judge may periodically assign a judge or judges to the Orphans' Court Division. Until the President Judge determines otherwise, all judges of this Court shall act as judges of the Orphans' Court Division.

CONSTRUCTION AND APPLICATION OF RULES

Rule 2.3. Definitions.

The following words when used in these rules, unless the context clearly indicates otherwise, shall have the meaning ascribed to them in this section.

(A) "*Auditor*" and "*master*," are generally used interchangeably, without regard to technical distinctions, in these rules. The terms may be similarly used in orders, unless the scope of duties or context indicates otherwise. Notwithstanding technical differences between the two terms, an auditor shall have all the powers and duties of a master, and vice versa, unless the order of appointment or scope of duties make this inappropriate.

(B) "*Exception*" means a formal disagreement with an appraisal, with a report of an auditor or master, or with an adjudication, opinion, or decree of the Court. The term includes "objection," and the two terms may be used interchangeably.

(C) "*Judge*" means a judge assigned by the President Judge to the Orphans' Court Division.

(D) "*Objection*" is included in the definition of "exception."

(E) "*Code*" means the "Probate, Estates and Fiduciaries Code," 20 Pa.C.S.A. § 101 et seq.

(F) "*Master*" may be used interchangeably with "auditor," subject to the discussion relating to the definition of "auditor."

Comment: The distinction between objection and exception is too esoteric to be of significance and is potentially confusing, since many people use the terms interchangeably. The prior rule's requirement that objections and exceptions be in writing conflicts with other rules allowing oral objections in certain instances. The terms, "auditor" and "master", are used interchangeably to avoid disputes about the authority or scope of duties of a person designated as one or the other.

PLEADING AND PRACTICE

Rule 3.1.

Since there are no local rules specifically applying only to pleadings and practice in equity, Supreme Court Rule 3.1 shall govern pleadings and practice in the Orphans' Court Division, except as otherwise provided. Unless ordered by a judge, notices to defend in the form specified by Rules of Civil Procedure shall not be required.

Rule 3.4. Form of Petition.

(a) A proposed order or decree, bearing the caption of the case, shall be attached to the face of the petition.

(b) Copies of documents essential to proper relief shall be attached to the petition as exhibits.

Rule 3.6. Depositions etc.

Any party seeking a special order relating to depositions, discovery, production of documents and/or perpetua-

tion of testimony shall give all interested parties, or their counsel, at least ten days advance notice before presenting the request. Otherwise, the party shall proceed in accordance with Rules of Civil Procedure.

Rule 4. Reserved.

Rule 5.1. Legal Periodical and Advertisement.

The Adams County Legal Journal shall be the legal periodical for the publication of legal notices in Adams County, whenever publication in a legal periodical is required by Act of Assembly or by Rule or Order of Court.

When advertisement is directed in these rules, unless otherwise provided, it shall be in accordance with publication requirements of Supreme Court Rule 5.1(c).

Comment: Attention is invited to the requirement in Supreme Court Rule 5.1(c) that publications occur once a week for three consecutive weeks, as contrasted with once under Pa.R.C.P. 430. Attention is also invited to the provisions of 20 Pa.C.S.A. § 745(b), which establish specific requirements for advertising accounts.

Rule 5.2(a). Method—When No Fiduciary.

Whenever notice is to be given to a person who is not sui juris for whom there is no guardian, trustee, or committee, notice shall be given by serving it upon him/her, if he/she is over fourteen (14) years of age, and, in all cases, upon the following persons:

(1) his/her next of kin; and/or

(2) his/her spouse; and/or

(3) the person with whom he/she resides or by whom he/she is maintained; and/or

(4) the superintendent or other official of the institution having custody of him/her; and/or

(5) in such manner as the Court, by Special Order, may direct.

Rule 5.2(b). Method—Presumed Decedents and Unascertained Persons.

Whenever notice is to be given to an absentee, a presumed decedent, or to an unknown or unascertained person, it shall be given in the manner provided by Act of Assembly or, in absence thereof, in such manner as the Court, by Special Order, shall direct.

Rule 5.4. Return of Notice—Requirements.

(A) Return of service shall in all cases show the date and manner of service and be attached to a copy of the notice served.

(B) Return of service by registered or certified mail shall also have attached the return receipt, or a photocopy thereof, or an adequate explanation of the failure to so attach.

(C) Registered or Certified Mail. Return of notice by registered or certified mail shall state the date and place of mailing and shall include the return receipt, or photocopy thereof. When the person who gives notice by registered or certified mail has personal knowledge, or has cause to believe, that such notice was not received by the person to be notified, he/she shall so state in the return. When the address of the person to be served by registered or certified mail is in a country other than the United States of America, a statement that the notice was so mailed to that person at the designated address shall be sufficient unless otherwise ordered.

(D) Return of notice by publication shall consist of proofs of publication, together with affidavits of publication by the publisher or his/her agent.

Rule 5.5. Notice to Attorney General.

No notice shall be required to the Attorney General with respect to a pecuniary legacy to charity in the amount of \$25,000.00 or less, which has been or will be paid in full.

Comment: It should be noted that Supreme Court Rule 5.5 excuses notice only in the case of a "pecuniary legacy." No opinion is expressed as to whether this provision applies to a gift of property, e.g. stock.

ACCOUNTS AND DISTRIBUTION

Rule 6.1. Form—Local Requirements.

(A) Accounts will be typed on 8 1/2" by 11" paper fastened together at the top and numbered consecutively at the bottom.

(B) All accounts shall begin with a caption which shall set forth the nature of the account, the name and capacity of the fiduciary, and the name of the estate.

(C) The first account of a personal representative shall contain, immediately following the caption, the date of death of the decedent and the dates when letters of the estate were advertised in each of the publications for that purpose. A copy of each of the proofs of publication shall be attached to the account.

(D) Principal of personal estate and principal of converted real estate shall be stated separately.

(E) Every account filed with the Register or Clerk shall be signed by each accountant, unless special leave of Court is obtained, and shall be verified by at least one accountant.

(F) If the account incorporates by reference the contents of the inventory, a true and correct copy of the inventory shall be attached for review by the Court; said true and correct copy of the inventory need not be filed of record in the Office of the Clerk of Courts.

Comment: Present Supreme Court Rule 6.1 gives an accountant an option as to which form is followed. Thus, this rule should be properly captioned "local" rather than "additional" requirements, as was previously done.

Rule 6.2.

No account presented by the Register or by the Clerk of the Orphans' Court shall be confirmed, nor any decree of distribution made, unless it be made to appear by the certificate of the accountant or his/her attorney, that written notice of the time of presentation of the account and proposed statement of distribution and the character thereof has been given for at least twenty-eight (28) days prior to the date fixed to every unpaid creditor who has given written notice of his/her claim to the accountant and to every other person of whom the accountant has notice or knowledge who claims an interest in the estate as beneficiary or next of kin. Acceptance of such notice may be in writing by the party in interest or by his/her attorney.

Rule 6.3.

All accounts shall be presented for confirmation at a regular confirmation date and must be filed not later than forty (40) days prior thereto. Although written objections are not required, if objections are made in open court at the time of presentment, the Court may require that the objector file a written objection within ten days.

The Court may also require the objector to state, in writing, the specific grounds upon which objections are based. Failure to comply within ten (10) days, or such other time set by the Court, may be considered a withdrawal of any objection made only orally.

Rule 6.9.

Accounts and any accompanying statements of proposed distribution filed in the office of the Register of Wills shall be marked "filed," a notation of the date of said filing made on the decedent's index of the estate, and then transmitted to the Clerk of the Orphans' Court on the next succeeding business day for audit and confirmation by the Court after proper advertising. The Register of Wills and Clerk shall be entitled to such fees as are authorized by law, and/or by administrative order of this Court, for accounts filed in that office. Until changed, a filing fee of \$3.00, in addition to fees established by the legislature and/or Supreme Court, is imposed.

Rule 6.9(a).

The statement of proposed distribution shall be filed at the same time and in the same office with the account it accompanies.

Rule 6.9(b).

A statement of proposed distribution shall be on a paper separate from the account which it accompanies. It shall contain the names of the persons to whom it is proposed to award the balance for distribution, the amount or share awarded to each and a brief statement of the nature and reasons for the proposed awards, and a copy of the will, if any.

Rule 6.9(c).

All statements of proposed distribution shall be signed by each accountant unless special leave of Court is obtained, and all statements of fact therein shall be verified by at least one (1) accountant.

Rule 6.9(d).

A fiduciary who, upon the filing of an account which reveals a balance for distribution, is unable for any reason to file therewith a statement of proposed distribution in accordance with the requirements of the Pennsylvania Supreme Court Orphans' Court Rules, shall in lieu thereof, file with the account a statement of the reasons why distribution cannot be proposed which shall conclude with a request for the appointment of an auditor to make distribution.

Rule 6.9(e).

The Clerk shall give notice by advertisement of the time when statements of proposed distribution filed with him/her and with the Register will be presented to the Court for approval. The notice shall be given in conjunction with the notice of the account which it accompanies.

Rule 6.9(f).

If distribution is to be made to a minor for whom no guardian has been appointed, the accountant may request distribution in accordance with either subsection 5101 or 5103 of the Code. If distribution is requested in accordance with 5103, there shall be a statement that the distribution will not exceed the amount to which accounts are insured and the following wording:

"As to the interest of the minor(s) above named, it is proposed that his/her (their) share(s) be deposited in a separate savings account in the _____ Bank at _____, Pennsylvania, with the following notation: (Name of Minor) and _____ his/her mother-father-

person having custody—not to be withdrawn until the minor, _____, becomes of age or in compliance with an Order of the Orphans' Court Division of the Adams County Court of Common Pleas during his/her minority."

Rule 6.9(g).

Where real estate is distributed, the real estate in the statement of proposed distribution shall be described by metes and bounds when such description is available.

OBJECTIONS TO ACCOUNTS AND STATEMENTS OF PROPOSED DISTRIBUTION

Rule 6.10(a).

Objections to accounts and/or to statements of proposed distribution shall be governed by Rules 6.3 and 7.1 et seq. A copy of objections shall be served on the accountant or his/her attorney.

Rule 6.10(b).

(1) Objections by the Register of Wills to deductions in an account or in the statement of proposed distribution shall be considered solely to determine the clear taxable value of the estate. Objections to the amount of such deduction will be disposed of by the Court after hearing and/or argument, but the account may be confirmed and distribution awarded subject to sufficient funds being withheld to pay inheritance tax.

(2) Any party in interest or the accountant may seek adjudication of a dispute concerning deductions disallowed by the Register prior to filing an account. Issues may be resolved after hearing, argument and/or upon case stated.

Rule 6.10(c).

Objections filed by anyone other than the Register of Wills may be determined after determination of facts and/or argument. Any party may request that a judge conduct a hearing to determine disputed facts, or that the matter be referred to an auditor. Notwithstanding a request for a hearing by the Court, an auditor may be appointed, in the discretion of the judge assigned the case.

Rule 6.11.

If no objections are filed to either the account or the statement of proposed distribution, the Court may, on the day fixed for the presentation thereof, make a final decree confirming the account absolutely and directing distribution in accordance with the statement.

EXCEPTIONS OR OBJECTIONS OTHER THAN THOSE MADE IN OPEN COURT

Rule 7.1.

Exceptions or objections other than those made in open court, when the case is being considered by the court, shall be in writing and copies thereof shall be served on all interested parties or their attorneys.

Rule 7.2.

All exceptions shall be filed with the Clerk. The Clerk shall transmit exceptions to an auditor's decision for initial consideration and ruling.

Rule 7.3.

The grounds of each exception must be clearly set forth.

Rule 7.4.

Exceptions shall be heard by a judge who shall sustain or dismiss them in whole or in part or enter any appropriate order.

AUDITORS AND MASTERS

Rule 8.1.

The Clerk shall provide a certificate of appointment to auditors and masters expeditiously after appointment. Auditors and masters shall schedule hearings without undue delay, and give notice thereof in accordance with Supreme Court Rule 5.1.

Rule 8.2.

Reports of auditors and masters shall be filed with the Clerk.

Rule 8.3. Reports.

In addition to requirements in Supreme Court Rules 8.3. and 8.4, reports shall contain an appendix which shall:

1. Recite the person's commission,
2. Contain notices given, with a description of how delivered or given,
3. Contain written waivers of notice,
4. Contain exceptions to the report and requests for findings submitted by counsel,
5. Contain exhibits, unless they accompany the report. Accounts and documents filed independently with the Court or belonging to its archives, and original documents reserved by the owner or custodian thereof, shall not be incorporated in the appendix. Copies, however, may be,
6. Recite the chronological summary of proceedings before the auditor,
7. Contain a bill of costs as taxed by the auditor, in the manner in which bills of costs are taxed in the Prothonotary's office.

Rule 8.4. Reserved.

Rule 8.5(a).

Auditors and masters shall call for appearances at the beginning of each hearing. Persons failing to enter a formal appearance shall not be entitled to notice of any further proceedings, or the completion and filing of the report, unless such rights are specially granted by the auditor.

Rule 8.5(b). Procedure.

Procedure followed shall be in accordance with good order, but may be less formal than court proceedings. Auditors shall initially determine what claims have been presented for resolution. In addition to claims to which specific objection has previously been made, interested parties or counsel may orally object to claims to which prior general objection has been made. Claims to which no objection has been made shall be allowed without further proof. Any claimant surprised by objection may request and be given an opportunity to support the claim.

Rule 8.5(c). Conduct of Hearings.

Hearings, continuances and adjournments, shall generally be in accordance with practice and procedures governing proceedings by masters in divorce cases. After the closing of the evidence has been announced and noted, any party may submit requests for findings of fact and conclusions of law within time limits set by the auditor or master.

Rule 8.6.

Upon the completion of the report, the auditor shall lodge it in the Clerk's office for inspection purposes only. The report shall not be filed by the Clerk, but shall be made available for inspection. Auditors shall give notice in writing to all parties or attorneys entitled to notice that:

(a) the report is available for examination in the Clerk's office, and

(b) exceptions thereto must be filed with the Clerk within ten (10) days.

If exceptions are filed, the Clerk shall return the report and exceptions to the auditor or master. If no exceptions are filed, the Clerk shall mark the report as filed, and transmit it to the Court for entry of an order.

Service of notice shall be sufficient if mailed first class mail, addressed to the person entitled to receive it.

Rule 8.7(a).

Other than in unusual circumstances and by leave of court, no exceptions shall be permitted after the ten-day period established by Rule 8.6.

Rule 8.7(b).**Rule 8.7(c).**

The auditor or master shall expeditiously rule upon and dispose of exceptions. Rulings, modifications and amendments shall then be filed, and the Clerk will mark the report, with rulings, modifications and amendments as filed. The Clerk shall then transmit the report, rulings, amendments and modifications to the Court for entry of a decree nisi. The auditor or master shall provide notice of filing to interested parties or counsel, and advise them that objections or exceptions to the decree nisi, or request for resubmission to the auditor or master, must be made within ten (10) days.

Rule 8.7(d).

The decree nisi shall be confirmed absolute, unless prior exceptions are renewed, new exceptions are filed, or a request is made for resubmission to the auditor or master, within ten (10) days. Any party may at any time after the ten-day period list exceptions or requests for argument.

Rule 9. Reserved.**APPEALS FROM THE REGISTER OF WILLS****Rule 10.1. Petition and Rule.**

Appeals from judicial acts or proceedings of the Register of Wills, and the practice and procedure with respect thereto shall be governed by Local Civ. Rule 206. However, the order directing that a rule issue shall also direct the Register to certify the record to the Court. The petition shall include the following information:

(a) the nature of the proceedings before the Register;

(b) the basis for the certification, requested certification or appeal; and

(c) the names of all parties in interest, including those not a party to the record.

Comment: Uniformity is served by making appeals subject to the procedure utilized with petitions and rules. Since the new rule applies to all appeals, no need exists for references to special appeals, such as from imposition of inheritance tax. State Rule 11.1 and 11.2, regarding jury trials, do not require supplementing.

SPECIAL PETITIONS**FAMILY EXEMPTIONS****Rule 12.1(a). Contents of Petition.**

A petition for the family exemption also shall set forth in separate paragraphs and in substantially the following order:

(1) the name, residence and date of death of decedent;

(2) the name, address, and relationship of the petitioner to the decedent, and whether the petitioner was a member of the same household as the decedent at the date of his/her death;

(3) if petitioner is the surviving spouse, the date and place of the marriage; and, if a common law marriage is asserted, all averments of facts necessary to establish the validity of the marriage;

(4) whether the decedent died testate or intestate; whether, where, when, and to whom letters were granted; if decedent died intestate, the names, relationship, and addresses of those interested as next of kin;

(5) the location, description, and valuation of property claimed; and

(6) that ten (10) days prior notice of the filing of the petition has been given to the personal representative, or when no letters have been granted, to the parties adversely affected, with a copy of such notice attached as an exhibit.

Rule 12.1(b).

No appraisal shall be required when the exemption is claimed from cash, bank savings and loan deposits, listed securities and well-known local securities. When the exemption is claimed from other items of personalty, the petitioner shall attach a sworn appraisal of one qualified, disinterested person. The Court may accept the appraisal of the attorney filing the petition for frequently traded items having an established price such as automobiles.

Rule 12.1(c).

If the petition requests the exemption from real estate, the practice and procedure shall be as provided in Rule 12.2(b) unless all parties in interest agree in writing to a valuation at which it is to be awarded.

Rule 12.1(d).

Where the exemption is claimed in personalty, no notice or advertisement of the appraisal shall be required unless directed by the Court on special order.

Rule 12.1(e).

(1) *Voluntary Distribution.* When the personal representative, at his/her own risk, delivers assets of the estate in satisfaction or on account of exemption, he/she shall set forth the same as a credit in the account. The same may be the subject of objection by any claimant or party in interest.

(2) *When Petition Filed.* When the procedure is by petition, questions as to the appraisement or allowance, or both, may be raised only by objection made in open court at the time fixed for presentation of the petition.

(3) *Higher Bid.* Objections which relate only to the amount of the appraisement will be dismissed unless a definite and bona fide higher bid for the property is made, or facts appear warranting consideration by the Court.

ALLOWANCE TO SURVIVING SPOUSE OF INTESTATE

Rule 12.2(a). Contents of Petition.

A petition for the allowance to the surviving spouse of an intestate shall also set forth in separate paragraphs:

- (1) the information required in a petition for family exemption under Rule 12.1(a), as far as appropriate; and
- (2) the death of decedent, intestate, without issue or adopted children; the names, addresses, and the relationship of those interested as next of kin; and
- (3) that ten (10) days prior written notice of the intended presentation of the petition has been given to the personal representative or, if no personal representative has been appointed, to those interested as next of kin; and, if there be no next of kin, to the Attorney General, with a copy of such notice attached as an exhibit; and
- (4) shall have attached thereto a copy of the inventory and appraisement.

Rule 12.2(b). Appraisal—Notice—Confirmation.

(1) *Filing of Appraisal.* Appraisers appointed pursuant to Supreme Court Rule 12.2(3) shall, within thirty (30) days after their appointment, file with the Clerk an appraisal of the property claimed.

(2) *Notice of Appraisal.* Upon filing of the appraisal, the Clerk shall give notice thereof to the personal representative, and to the next of kin; and, if there is neither personal representative nor next of kin, to the Attorney General. Notice to the Attorney General shall contain a copy of the petition and the appraisal. All notices shall state that:

- (a) Confirmation of the appraisal and an award of the property to the surviving spouse will be considered by the Court at a stated open court date that is at least ten (10) days later than the date notice is given.
- (b) The person to whom notice is given shall have the right to appear at the stated time and object.
- (c) If no objections are made, the property shall be awarded to the surviving spouse at the appraised value.

If the address or whereabouts of any of the next of kin is unknown, notice of the filing of such appraisement shall be given in accordance with Supreme Court Rule 5.1.

Comment: No authority exists for reducing advertisement below that required in state rule 5.1, other than by special order of court.

SURVIVING SPOUSE'S ELECTION

Rule 12.3. Extension of Time For Filing of Surviving Spouse's Election.

The petitioner shall file the petition with the Clerk and thereafter give ten (10) days written notice of intention to request the extension in open Court to all persons adversely affected thereby who do not join in the prayer of the petition.

If no objection is made, the Court may enter an appropriate decree upon the filing of a verified return of notice.

APPOINTMENT AND DISCHARGE OF FIDUCIARIES

Rule 12.4.

In every case where a guardian ad litem or trustee ad litem is appointed, the estate shall be liable for the compensation of the guardian ad litem or trustee ad litem in an amount to be set by the Court upon receipt by the Court of a written report of said guardian ad litem or trustee ad litem prior to the final hearing in the particular case.

APPOINTMENT OF A GUARDIAN FOR THE ESTATE OR PERSON OF A MINOR

Rule 12.5(a). Minor Over the Age of Fourteen.

If the minor is over the age of fourteen (14) years, he/she shall appear in person at the presentation of the petition for the appointment of a guardian unless the petition contains his/her written joinder in the request for the designation of the given guardian.

Rule 12.5(b). Consent of Guardian.

The petition shall have attached thereto the consent of the guardian to act as such.

(1) The consent of an individual guardian shall also contain the following statements:

- a. his/her business and domicile;
- b. that he/she is a citizen of the United States, able to speak, read, and write the English language;
- c. that he/she is not the fiduciary or an officer or employee of the corporate fiduciary of an estate in which the minor has an interest nor the surety of such a fiduciary; that he/she has no interest adverse to the minor; and,
- d. if the minor and proposed guardian reside in the same household, that it is not the intention of the guardian to apply for an allowance for the support or education of the minor during minority.

(2) When the proposed guardian is a corporate fiduciary, its written consent to act as such shall contain a statement that it is not the fiduciary of an estate in which the minor has an interest nor the surety of such a fiduciary; and, that it has no interest adverse to the minor.

Rule 12.5(c). Small Estates to Minors.

(1) Any petition to have the estate of a minor awarded without the appointment of a guardian or the entry of security shall contain, inter alia, the following:

- a. a statement that the net value of the entire real and personal estate of the minor does not exceed the statutory limitations; and,
- b. the name of bank or insured savings and loan association in Adams County as a suggested depository.

(2) The Court may require that said fund be deposited in an interest bearing deposit in said bank or be invested in said insured savings and loan association in the name of the minor and in the name of the natural guardian of the minor, subject to the express restriction, to be noted on the records of the depository, that no withdrawals shall be made therefrom during minority without Order of Court, with a further requirement that evidence of the deposit or investment marked to indicate the restriction, be promptly exhibited to the Court.

(3) When the Court authorizes the parent or other person maintaining the minor to execute a receipt, deed,

mortgage, or other instrument affecting property, real or personal, of the minor it shall be conditioned on the deposit of the proceeds in an account restricted as in (2) above.

Rule 12.5(d). Allowances From Minor's Estate.

When a petition is necessary for an allowance from a minor's estate, the petition shall set forth:

- (1) the manner of the guardian's appointment and qualification and the dates thereof;
- (2) the age and residence of the minor, whether his/her parents are living, the name of the person with whom he/she resides, the name and age of his/her spouse and children, if any;
- (3) the value of the minor's estate, real and personal, and the net annual income;
- (4) the circumstances of the minor, whether employed or attending school; if the minor's parent(s), or other person(s) charged with the duty of supporting him/her is/are living, the financial condition and income of such person and why he/she is/are not discharging his/her duty to support the minor; and, whether there is adequate provision for the support and education of the minor;
- (5) the date and amount of any previous allowance by the Court; and,
- (6) the financial requirements of the minor and his/her family unit, in detail, and the circumstances making such allowance necessary.

APPOINTMENT OF A TRUSTEE

Rule 12.6. Exhibit.

The following exhibits shall be attached to the petition:

1. a copy of the trust instrument; and,
2. a written consent of the proposed trustee to act as such.

DISCHARGE OF A FIDUCIARY AND SURETY

Rule 12.7(a). Discharge of a Fiduciary—Additional Provisions.

(1) The petition shall contain the averment that all parties interested in the estate as distributees have signed releases or aver a satisfactory explanation of the failure to procure releases. If such releases are not obtained, notice of intended presentation of petition for discharge shall be advertised once in a newspaper of general circulation published in Adams County and in the Adams County Legal Journal at least ten (10) days prior to the time specified in the notice for asking the order of final discharge.

(2) In the case of minor's estate not exceeding \$10,000.00 where the account accompanies the petition, the petition shall aver that there are no unpaid creditors and the former minor has consented to the petition, or aver a satisfactory explanation of the failure of the minor to consent.

Rule 12.7(b).

A petition for discharge of a personal representative and/or his/her surety under § 3531 of the Code shall conform as far as practicable to the requirements of a petition under Rule 12.15 (Small Estate).

Rule 12.8. Reserved.

REAL PROPERTY—SALE

Rule 12.9(a). Public Sale—Contents of Petition—Additional Requirements.

(1) *Personal Representative.*

A petition by a personal representative to sell real property at public sale under § 3353 of the Code shall also set forth in separate paragraphs;

- a. the name, residence, and date of death of the decedent; whether he/she died testate or intestate; and, the date of the grant of letters;
- b. that the personal representative is not otherwise authorized to sell by the Act; or, is not authorized or is denied the power to do so by the will; or, that it is desirable that the sale have the effect of a judicial sale, stating the reasons;
- c. whether an inventory and appraisal have been filed; the total value of the property shown therein; and, the value at which the real property to be sold was included therein;
- d. if the personal representative entered bond with the Register, the name of the surety and the amount of such bond;
- e. the names and relationships of all parties in interest; a brief description of their respective interest; whether any of them are minors, incompetents or deceased, and, if so, the names and the record of the appointment of their fiduciaries;

f. a full description of the real property to be sold, the improvements thereon, by whom it is occupied, its rental value and current tax assessment; and,

g. sufficient facts to enable the Court to determine that the sale is desirable for the proper administration and distribution of the estate.

(2) *Payment of Debts.*

A petition by a personal representative to sell real property at public sale for payment of debts, under § 3353 of the Code, shall also set forth in separate paragraphs;

- a. the information required to be set forth under sub-paragraph 1, as far as appropriate;
- b. a statement that the personal estate and the rents of real property are insufficient for payment of debts;
- c. a statement of all real property owned by decedent, wherever situated, which has come to petitioner's knowledge;
- d. a full description of the real property to be sold, the improvements thereon, by whom it is occupied, its rental value and current tax assessment;

e. that the trustee is not otherwise authorized to sell by the Act, or is denied the power by the trust instrument; or, that it is advisable that the sale have the effect of a judicial sale, stating the reasons; and,

f. sufficient facts to enable the Court to determine that the proposed sale is for the best interests of the trust.

(3) *Guardian.*

A petition by a guardian to sell real property at public sale, under § 3353 of the Code, shall also set forth in separate paragraphs:

- a. the age of minor;
- b. the names of his/her next of kin and the notice given them of the presentation of the petition;
- c. how title was acquired, stating the date and place of probate of the will or recording of the deed;

d. a recital of the provisions of the will or deed relating to the real property to be sold;

e. that the guardian is not otherwise authorized to sell by the Act, or is denied the power by the trust instrument; or, that it is advisable that the sale have the effect of a judicial sale, stating the reasons;

f. a full description of the real property to be sold, the improvements thereon, by whom it is occupied, its rental value, and current tax assessment; and,

g. sufficient facts to enable the Court to determine that the proposed sale will be for the best interests of the minor.

Rule 12.9(b). Method—Public Sale of Real Property Pursuant to Court Order.

(1) Notice of the public sale of real property shall be given:

(a) by advertisement in approved form;

(b) by handbills, one of which shall be posted at a conspicuous place on the real property to be sold and at least three (3) of which shall be posted in three (3) public places in the vicinity of such real property; and

(c) by personal notice or registered or certified mail to all known parties in interest, of the time and place of the proposed sale, at least ten (10) days prior thereto.

(2) Personal Representative. Trustee. Guardian.

A copy of the will, deed, or decree by which the fiduciary was appointed shall be attached to a petition by a personal representative, trustee, or guardian, to sell real property at public sale.

(3) Payment of Debts.

If the sale is for payment of debts, a copy of the inventory and appraisal of decedent's personal estate filed with the Register shall also be attached to the petition.

Rule 12.9(c). Public Sale—Notice—Confirmation.

(1) *Notice.* After the allowance of a petition for public sale, notice in approved form shall be given in the manner provided by Rule 12.9(b) above.

(2) *Return of Public Sale.* Return of public sale of real property for the purpose of approval or confirmation by the Court shall be in the form of an affidavit, which shall set forth:

a. the notice given as provided by Rule 12.9(b) above;

b. the price obtained; and,

c. the name and address of the purchaser and an averment that he/she was the highest bidder.

(3) *Confirmation.* If no objection is filed, the Court may enter a decree confirming the sale upon submission of the return of sale.

Rule 12.9(d). Public Sale—Security.

On the return day of the sale, the Court, in the decree approving or confirming the sale, will fix the amount of security or additional security which the personal representative, trustee, or guardian shall be required to enter, or will excuse the fiduciary from entering additional security.

PRIVATE SALE OF REAL PROPERTY

Rule 12.10(a). Private Sale—Contents of Petition—Additional Requirements.

A petition by a personal representative, trustee, or guardian to sell real property at private sale shall also conform as closely as practicable to the requirements of those rules with regard to a petition to sell real property at public sale by the same fiduciary.

Rule 12.10(b). Private Sale—Exhibits.

(1) Personal Representative. Trustee. Guardian.

The following exhibits shall be attached to the petition by a personal representative, trustee, or guardian, to sell real property at private sale:

a. a copy of the will, deed, or decree by which the fiduciary was appointed;

b. consents to the sale signed by those parties in interest who do not join in the petition, and the names and a copy of the notice which has been given to those parties who do not join or consent, except in a petition to sell at private sale for the payment of debts;

c. a copy of the agreement of sale;

d. affidavits, in approved form, of two estate appraisers; and,

e. if the sale is for payment of debts, a copy of the inventory and appraisal of decedent's personal estate filed with the Register shall also be attached to the petition.

Rule 12.10(c). Private Sale—Payment of Debts —Notice—Confirmation.

(1) *Notice.* A petition for private sale of real property to pay the debts of a decedent shall be presented in open court and a date fixed for hearing. Notice of such hearing shall be given in the manner provided by Rule 5.6.

(2) *Confirmation.* If no exception is filed the Court may enter a decree confirming the sale at the hearing. If a substantially higher offer is received at the hearing, the Court will make such order as it deems advisable under the circumstances.

Rule 12.10(d). Private Sale—Higher Offer.

Any person desiring to make a substantially higher offer for real property offered at private sale may do so at the time the petition of the fiduciary for leave to make such private sale is presented to the Court, or at any hearing fixed thereon, whereupon the Court will make such order as it deems advisable under the circumstances.

Rule 12.10(e). Private Sale—Security.

The Court, in the decree approving or confirming the sale, will fix the amount of security or additional security which the personal representative, trustee, or guardian shall be required to enter, or will excuse the fiduciary from entering additional security.

Rule 12.10(f). Petition to Fix or Waive Additional Security—Personal Representative.

(1) *Form of Petition.* In a sale, whether public or private, of real estate by a personal representative without benefit of an order directing or authorizing such sale, where he/she was required to give bond as such personal representative, he/she shall present his/her petition to the Court before the proceeds of the sale are paid to him/her by the purchaser, setting forth:

a. the date of death of the decedent;

b. the date of the grant of letters to the petitioner;

c. the amount of bond or bonds filed by him/her and the date of such filing and the name or names of his/her surety;

d. the total valuation of the personal estate as shown in the inventory and appraisal, if any; the total proceeds of any real estate sold previously;

e. a short description of the real property sold, the name of the purchaser, and the amount of the consideration to be paid; and,

f. a prayer for an order fixing the amount of additional security or for an order excusing him/her from filing additional security as the case may be.

(2) *Surety on Additional Bond.* The surety on any additional bond except for cause shown shall be the same as on the original bond.

Rule 12.10(g). Purchase by Personal Representative.

Petitions for approval of private sales of real estate to personal representatives shall be accompanied by an appropriate order. If all parties in interest join in the petition, the order may be in final form. Otherwise, it shall set a time for consideration, which will be a Business and Orphans' Court day at least thirty (30) days later than dates on which notice is given. The petitioner shall promptly serve a copy of the petition and order on parties who have not joined. The order shall recite that leave will be granted unless objections are made on or prior to the time set for consideration.

The petition shall identify any party in interest who is not sui juris and request the appointment of a guardian ad litem.

REAL PROPERTY MORTGAGE OR LEASE

Rule 12.11(a). Mortgage of Real Property—Additional Requirements.

(1) *Contents of Petition.* A petition to mortgage real property by a personal representative, trustee, or guardian shall conform as closely as practicable to the requirements of these rules with regard to a petition to sell real property at public sale by the same fiduciary; shall set forth the amount and terms of the proposed mortgage loan; and, shall set forth sufficient facts to enable the Court to determine whether the proposed mortgage should be approved.

(2) *Exhibits.* The following exhibits shall be attached to the petition:

a. a copy of the will, deed, or decree by which the fiduciary was appointed;

b. consents to the mortgage signed by those parties in interest who do not join in the petition, and the names and a copy of the notice which has been given to those parties who do not consent.

(3) *Security.* The amount of the security or additional security required to be entered, or the waiver thereof, will be determined by the Court in its decree approving the proposed mortgage.

Rule 12.11(b). Pledge, Lease or Exchange.

The practice and procedure governing petitions by a personal representative, trustee, or guardian to pledge, lease, or exchange or to grant an option for the pledge, lease, or exchange of property, under the Code, shall be governed by the appropriate provisions of these Rules governing the private sale or mortgage by such fiduciary.

Rule 12.12. Reserved.

Rule 12.13. Reserved.

Rule 12.14. Reserved.

SETTLEMENT OF SMALL ESTATES

(§ 3102 OF THE CODE)

Rule 12.15(a). Contents of Petition.

A petition under § 3102 of the Code for the settlement of a small estate shall be set forth in substantially the following order:

(1) name, date of death, and residence of the decedent at time of death;

(2) the name and address of the petitioner, his/her relationship to the decedent and whether or not he/she formed a part of decedent's household at the date of his/her death;

(3) if petitioner is the surviving spouse, the date and place of the marriage;

(4) whether decedent died testate or intestate; whether, where, when and to whom letters were granted, and the amount of bond given by the personal representative;

(5) the names, relationships, and a brief description of the interest of all persons entitled to share in the decedent's estate under the will or intestate laws, stating which are minors, incompetents, or deceased, with the names of their fiduciaries, and whether any of them has received or retained any property of the decedent by payment of wages or pension under § 3103 of the Code, or otherwise;

(6) the person entitled to the family exemption, and the facts on which the claim is based;

(7) an itemized statement of the property of the decedent and its value together with a sworn appraisal of one qualified, disinterested person appraising items other than cash, bank and savings and loan deposits, listed securities, and well-known local securities. The Court will accept the appraisal of the attorney filing the petition for frequently traded items having an established price such as automobiles;

(8) the disbursements made prior to the filing of the petition; the date and name of the person to whom paid; and, the nature and amount of each payment;

(9) the names of all unpaid claimants of whom the petitioner has notice or knowledge, the nature and amount of each claim, and whether such claims are admitted;

(10) that a schedule of assets and deductions for inheritance tax purposes has been filed with the Register; the amount of any inheritance tax assessed; and, the date of payment thereof;

(11) that ten (10) days written notice of intention to present the petition has been given to every unpaid beneficiary, heir, or claimant who has not joined in the petition, or to the Attorney General, if the decedent's heirs are unknown; and,

(12) a prayer for distribution of the property, setting forth the persons entitled and their distributive shares and requesting the discharge of the personal representative and the release of his/her surety, if letters have been granted and advertised.

Rule 13.1. Reserved.

ESTATES OF INCAPACITATED PERSONS**Rule 14.1(a). Guardians.**

Preference in appointments shall normally be given to banking institutions and suitable persons who do not reside with the alleged incapacitated person, are not related to the person and who reside or have a regular place of business in Adams County.

Rule 14.1(b). Incapacitated Person's Estate—Consent of Proposed Guardian.

The written consent of the proposed guardian to act as guardian, shall be attached to the petition.

Rule 14.1(c). Incapacitated Person's Estate—Proof of Service.

Proof of service of notice shall be presented at the hearing. The affidavit of service shall, in all cases, recite that the petition and citation were read to the alleged incapacitated person. When that person is in a hospital, service shall be made by a physician in charge.

Rule 14.1(d). Sales of Personal Property.

Court approval for sale of personal property shall not be required.

Rule 14.2(a). Adjudication of Competency.

A petition to adjudicate a person competent shall, unless for reasons explained in the petition, conclude with a prayer that the guardian be directed to file an account.

If the person's guardian is not the petitioner, the petitioner shall give at least ten (10) days notice of any scheduled hearing to the guardian and the next of kin of the incapacitated person. Proof of service shall be presented at the hearing.

Rule 14.3. Reserved.**ADOPTIONS****Rule 15.1. Investigations.**

(a) Adams County Children and Youth Services is designated as the agency to perform investigations required by the Court in accordance with the Adoption Act.

(b) Fees for investigations by the agency shall be periodically set by administrative order. Until changed, the fee shall be \$75.00. Fees for obtaining child abuse clearances and criminal histories shall be in addition to the investigation fee.

(c) Petitioners and/or persons filing notices of intention to adopt shall, unless excused from an investigation, pay the investigation fee within two (2) weeks of filing a petition or notice of intention to adopt, whichever is filed first.

(d) Petitioners shall, within the two (2) week period, provide the agency with a description of petitioners' home and detailed directions to it.

(e) Persons who are otherwise subject to investigation and who request a waiver thereof shall include, with the application for waiver, either:

(1) an affidavit setting forth in detail that person's criminal history and all indicated reports of child abuse that are known to the person, or

(2) original or certified copies of the person's criminal history and child abuse clearance forms.

(f) Upon receipt of the material described in (e), the Clerk shall promptly provide the agency with copies thereof.

Rule 15.2. Voluntary Relinquishment to Agency.

The caption for all pleadings and the docket entry shall carry the given name of the child.

Rule 15.3. Voluntary Relinquishment to Adult Intending to Adopt Child.

(a) The caption for all pleadings and docket entry shall carry the given name of the child.

(b) In addition to other information required by Supreme Court Rule 15.3, the petition shall describe any agreement between petitioner and natural parents regarding fees, costs, payments, or future rights of visitation and/or custody.

Rule 15.4. Involuntary Termination of Parental Rights.

(a) The caption for all pleadings and the docket entry shall carry the given name of the child.

(b) Information required by rule 15.3 (1)(b) shall be provided.

Rule 15.5. Adoption.

(1) *Petition.*

(a) The caption for all pleadings and the docket entry regarding an adoption shall be in the name to be taken by the proposed adoptee. Where there was a prior relinquishment or termination proceeding known to the adopting parents, there shall be a reference thereto by number and year in the petition for adoption.

(b) The petition shall contain the information required by Rule 15.3(b).

(2) *Notice or Consent—Parents of Child.* Notice of hearings affecting parental rights shall be given to each parent by personal service, registered mail, or as specified in Rule 15.6, unless:

(a) He or she has consented in writing, duly acknowledged, to the adoption and waived notice of hearing.

(b) He or she has voluntarily relinquished his or her parental rights in a court proceeding.

(c) His or her parental rights have been involuntarily terminated in a court proceeding.

(3) *Intermediary.* When a report is filed by an intermediary and the prior relinquishment or termination proceeding is not known to the adopting parents, the report of the intermediary shall refer to the prior relinquishment or termination proceeding by number and year. Where the prior relinquishment or termination proceeding is not referred to in the Adoption Petition or in the report of the intermediary, but is known to the Clerk, the Clerk shall place a memorandum in the adoption packet showing the reference to the prior relinquishment or termination proceeding.

(4) *Adult—Change of Name.* An adult to be adopted who desires to assume the surname of adopting parent or parents shall advertise such desire in accordance with Pa.R.C.P. 430(b)(1).

Rule 15.6. Notice—Method and Time.

(1) If personal service is not obtainable and the registered or certified mail is returned undelivered, then:

(a) Notice shall be sent by regular mail to the last known address of the parent and an affidavit of mailing shall be filed of record.

(b) Further notice by publication shall be given in accordance with Supreme Court Rule 5.1(c).

(c) The notice by publication shall appear in substantially the following form:

IN THE COURT OF COMMON PLEAS, ADAMS
COUNTY, PENNSYLVANIA COMMONWEALTH OF
PENNSYLVANIA ORPHANS' COURT DIVISION

NOTICE

TO: (Party to Whom Notice is Given)

You are hereby notified that a Petition for (Adoption/Involuntary Termination of Parental Rights to Child) has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for _____ at ____ o'clock, __.M., prevailing time, at the Courthouse at Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the (Adoption/Involuntary Termination of Your Parental Rights) with respect to your child.

You should contact your lawyer at once. 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 help.

Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, Pennsylvania 17325

Telephone Number: 717-337-9846, or 1-888-337-9846

(d) Proof of notice by publication shall be presented to the Court at the time of the hearing.

Rule 15.7. Impounding—Docket Entries—Reports—Privacy.

The docket maintained by the Clerk shall carry only the name and date of each paper filed and shall also carry the date in reference to final action, which entry shall consist of a notation either that the decree was entered or that the petition was dismissed. Adoptions shall be indexed on an annual basis rather than to a term and number. An alphabetical index will be maintained for the convenience of the Clerk.

Rule 16. Reserved.

NOTICES REQUIRED BY THE CLERK

Rule 17.1.

The Clerk of the Orphans' Court shall give the Register of Wills written notice of the appointment of masters and auditors, the filing of their reports, the filing of the surviving spouses' elections to take against or under the will of any decedent and of any other Orders of the Court awarding the family exemption, awarding the allowance to the surviving spouse of an intestate or settling a small estate.

RULES OF CRIMINAL PROCEDURE

ADAMS COUNTY COURT OF COMMON PLEAS

Rule 1. Citation and Applicability.

These Rules may be cited as Adams C.R.Crim.P. (number), or Local Crim. Rule (number). Unless the context indicates otherwise, or it would be manifestly inappropriate to do so, Local Civil Rules that pertain to business of the Court shall apply to Local Criminal Rules. As used in these rules, "Clerk" shall mean the Clerk of Courts.

Rule 2. Appeals.

a. Appeals from District Justice decisions shall be listed for hearing by the Clerk for a Criminal Business Court Day at least twenty-one (21) days later than the time of filing of the docket transcript.

b. Appeals from summary convictions by persons under the age of eighteen (18) years shall be treated the same as appeals by adults, except that either the Commonwealth or the appellant may request that the case be transferred to Juvenile Court. The Court may, upon such request, order that the case be transferred and thereafter be treated as a juvenile proceeding and appellant subject to all provisions of the Juvenile Act, 42 Pa.C.S.A. § 6301 et. seq.

Rule 5. Requests for Closed Hearings.

Other than is otherwise provided by law, a party to a criminal action intending to request that a proceeding be closed to the public, must give notice as follows:

(Caption)

Take notice that the undersigned intends to present a request to the Court on _____, 19 __, at _____ in *Courtroom No./Chambers* that proceedings concerning be closed to the public.

The notice shall be posted in the Clerk of Courts' office and shall be mailed to every newspaper in general circulation in Adams County at least ten (10) days prior to presentment.

The moving party will be required to file proof of service at the time the request is made.

Comment: It is not intended that this Rule apply when a statute or general rule requires a private, or in camera hearing. It is intended to apply in situations where a judge has discretionary authority to bar the public from a proceeding.

Rules 6—10. Reserved.

Rule 11. Local Fees.

In addition to fees and charges imposed by statute or by the Supreme Court, the Court may impose fees as a condition of sentence or the Accelerated Rehabilitative Disposition Program (ARD). Until changed by administrative order, the following shall be assessed a defendant by general wording in an order, to the effect, "the defendant shall pay fees established by Local Rule of court,"

a), all cases:

Public service fee: \$25.00

Drug and alcohol test fee: \$10.00

Law enforcement fund fee: \$10.00

b), all cases except where the charges relate to public welfare fraud:

Local offenders' supervision fee: \$25.00 per month

The sentencing judge may give a defendant the right to request an evaluation by the Probation Office of defendant's financial condition, and a recommendation by that office of suspension or waiver of the supervision fee.

c), driving under the influence cases:

CRN fee: \$35.00

d), driving under the influence cases, when the Probation Office assumes responsibility for conducting the alcohol safe driving program, (all first offenders and ARD participants):

Educational fee: \$150.00

e), ARD:

Court cases: Administrative fee: \$300.00 per year, or portion thereof, of the program's duration.

Summary cases: Administrative fee: \$25.00 per month, or portion thereof, of the program's duration.

An order may state, "the defendant shall pay fees established by Local Rule of Court except (listed exceptions)", in which instance all fees shall be included except those fees or that fee excepted.

Rules 12—106. Reserved.

Rule 107. Approval of Certain Police Complaints by Attorney for the Commonwealth.

The District Attorney of Adams County having filed a certification pursuant to Pa.R.Crim.P. 107, criminal complaints and arrest warrant affidavits by police officers charging any of the following felony crimes:

- a. 18 Pa.C.S. Section 3121 - Rape (graded as a felony of the first degree)
- b. 18 Pa.C.S. Section 3122.1 - Statutory Sexual Assault (graded as a felony of the second degree)
- c. 18 Pa.C.S. Section 3123 - Involuntary Deviate Sexual Intercourse (graded as a felony of the first degree)
- d. 18 Pa.C.S. Section 3124.1 - Sexual Assault (graded as a felony of the second degree)
- e. 18 Pa.C.S. Section 3125 - Aggravated Indecent Assault (graded as a felony of the second degree)

shall not hereafter be accepted by a judicial officer unless the complaint and affidavit has the approval of an attorney for the Commonwealth prior to filing.

Rules 110—159. Reserved.

Rule 160. Participation in the Accelerated Rehabilitative Disposition Program (ARD) in Summary Proceedings.

Unless and until the District Attorney elects to certify that ARD cases proceed in Court, applications for admission into the ARD program shall be submitted to a District Justice on the same Application, Waiver and Agreement form as is used in court cases. The following procedure shall be followed and the following conditions apply:

- a. In order to be considered eligible, a defendant must specifically waive all statutes of limitations and speedy trial rights, and agree to abide by all terms, conditions and monetary obligations imposed by the District Justice.
- b. The District Justice shall establish the duration and conditions of defendant's probation, and transmit the original application, together with three copies, to the District Attorney for approval. If the District Attorney approves the application, he shall retain one copy, transmit one copy each to the Clerk and to the Probation Office and return the original to the District Justice.
- c. The District Justice may require that the defendant's probation be supervised by either the prosecuting police officer, in which case the District Justice shall set and defendant shall pay a lump sum supervision fee to the municipality employing the officer; or by the Probation office, in which case, defendant shall pay a \$25.00 per month local offender's supervision fee.
- d. If the District Justice requires probation to be supervised by the Probation Office, he shall notify defendant to report to that office at a designated time on a day when the office is open to the public. The ARD program shall commence when defendant reports.
- e. If the District Attorney disapproves the application, prosecution will proceed in the normal manner.
- f. If the Probation Office provides supervision, it shall report any infractions, or successful completion, to the

District Justice. A copy of the notification shall be provided the Clerk and District Attorney.

g. If defendant violates the conditions of the program, the District Justice may, after giving defendant notice and an opportunity to be heard, revoke defendant's admission, in which case prosecution shall proceed in normal fashion.

h. If defendant successfully completes the program, the District Justice shall dismiss the prosecution and send certified copies of the dismissal to the District Attorney, Clerk, and Probation Office. The Clerk shall report dismissals in the same manner and to the appropriate authorities as is now done in Court ordered ARD cases.

i. A defendant shall be required to pay costs, supervision and administrative fees established in these Adams County Rules of Criminal Procedure. The District Justice shall disburse costs as provided by law, and fees to the Clerk, who shall keep a record of them, and in turn disburse the same as if ARD had been ordered by the Court.

j. The Chief Probation Officer shall be responsible for monitoring ARD programs conducted by District Justices and shall report irregularities both to the District Attorney and President Judge.

k. The District Justice shall collect and disburse an administrative fee, the amount of which may be set by administrative order. Until changed, the fee shall be \$55.00.

Rules 161—300. Reserved.

Rule 301. Notice of Arraignment.

In all cases where defendants are held for court, the District Justice shall provide notice of the date of arraignment to the defendant, and counsel of record. Notices shall be given at the conclusion of the preliminary hearing, or at the time the hearing is waived. The notice shall be in the form set forth in Rule 301.1 and shall be acknowledged by the defendant and counsel, if any. The defendant, and defense counsel of record, shall be given a copy of the notice at the time of acknowledgement. No further notice of arraignment shall be required.

- (1) The date of arraignment will be set in accordance with Local Rule 302.
- (2) The issuing authority shall transmit the original notice of arraignment, along with the transcript, to the Clerk of Court's Office within five (5) days of the defendant being held for court.

Rule 301.1. Form of Notice.

The notice shall substantially be in the Following form:

IN THE COURT OF COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA
CRIMINAL

COMMONWEALTH OF
PENNSYLVANIA

VS.

: CR-
:
: CHARGES:
:
:

NOTICE OF ARRAIGNMENT

You must appear for formal arraignment at 8:30 a.m. _____, 19__, in Courtroom #1, 4th floor, Adams County Courthouse, 111-117 Baltimore Street, Gettysburg, Pennsylvania, UNLESS you file an informal arraignment as described below.

1. You and your attorney **MUST** appear on the date and time above OR you and your attorney **MUST** file a written waiver of arraignment by appearing at the District Attorney's Office **BEFORE** the above specified date and time.

2. If you do not appear or do not file a written waiver of arraignment as directed, a bench warrant will be issued for your arrest and bail will be forfeited.

FOR YOUR ASSISTANCE, IF YOU DO NOT HAVE AN ATTORNEY OR CANNOT AFFORD ONE, TELEPHONE THE COURT ADMINISTRATOR'S OFFICE AT 337-9846, OR 1-888-337-9846.

I, the undersigned Defendant, acknowledge that I have received a copy of the above Notice of Arraignment.

_____	_____
Defendant's Name (please type)	Defendant's Signature
_____	_____
Date	District Justice

THIS WILL BE YOUR ONLY NOTICE!

Rule 302. Time of Arraignment.

(1) The date on which defendant shall be directed to appear for arraignment shall be the first arraignment date, as established by the Court Calendar, which follows the date on which the defendant is held to court by at least twenty-one (21) days.

(2) The Clerk of Courts shall annually prepare a schedule from the Court Calendar, which shall list dates of arraignment, and the cut-off date for each arraignment date. On or before December 1 of the preceding year, the Clerk shall post the schedule, and provide copies to the Court Administrator, each District Justice, the District Attorney, and the Public Defender.

(3) The District Justice shall enter the date of arraignment in the notice required by this rule, in accordance with the schedule established by the Clerk.

Rule 303. Arraignment.

(1) *Appearance*: All defendants must appear at formal arraignment unless formal arraignment is waived pursuant to paragraph (2) below.

(2) *Waiver of Formal Arraignment*: Defendants who are represented by counsel, are charged with committing crimes less serious than felonies of the first degree, and who intend to plead not guilty and request a jury trial, may waive formal arraignment by appearing with counsel:

(a) in the jury assembly room, fourth floor of the Courthouse, one half hour prior to the time and on the date of scheduled arraignment, or

(b) in the Office of the District Attorney pursuant to a scheduled appointment, prior to the date of arraignment, and

(c) acknowledge receipt of copies of the Information and written instruction sheet, acknowledge an understanding of the material described therein, and waive, in writing, formal arraignment;

(3) *Instruction Sheet and Information*: Defendant shall be provided a copy of the Information and a copy of written instructions at arraignment, whether formal or informal.

(4) *Minimum Requirements*: Written instructions shall be on a form approved by the Court. Whether defendant is formally or informally arraigned, he/she shall be informed of the following:

(a) the nature and seriousness of the charges and possible consequences of conviction;

(b) the contents of written instructions;

(c) if he/she is required to appear at an informal pre-trial conference, the time and date thereof, and that failure to appear may result in forfeiture of bail and the issuance of an arrest warrant;

(d) if the case is listed for trial, the dates and times defendant must appear, and that failure to appear may result in a forfeiture of bail, the issuance of an arrest warrant and trial occurring in the absence of defendant.

(5) *Formal arraignment*: Defendants charged with a crime graded as a felony of the first degree, or who appear without counsel, must appear for formal arraignment.

(6) *Procedure*: At formal arraignment, defendants shall be individually called before a judge, at which time the attorney for the Commonwealth shall read and explain the Information. Formal explanation may, however, be waived by a defendant who specifically acknowledges an understanding of charges and possible consequences of a conviction;

(7) Defendants who are not represented by counsel shall be informed that failure to obtain counsel shall not necessarily be grounds for a continuance of any part of the proceedings, including trial.

Rules 304—310. Reserved.

Rule 311. Informal Pre-Trial Conference.

(1) The Attorney for the Commonwealth may require defendants and/or counsel to appear at an informal pre-trial conference. A defendant, who has been notified to appear, may request that a judge excuse his/her appearance. An attorney may make a similar request. The Attorney for the Commonwealth may seek sanctions against any attorney, who is notified to appear and fails to do so without an excuse. Absent written stipulation to the contrary, no conference shall be conducted in the absence of an attorney who has entered an appearance in a case. The Attorney for the Commonwealth shall advise unrepresented defendants that they may decline to discuss the case without an attorney being present. At the time of arraignment, whether formal or informal, the Attorney for the Commonwealth may direct defense counsel, or a pro se defendant, to appear for a pre-trial conference at the time, date and place set forth in the notice. The conference shall be scheduled at least thirty-five (35) days after arraignment. The purpose of the conference held pursuant to this Rule is to consider:

(a) Disclosure of information pursuant to informal pre-trial discovery;

(b) The simplification of stipulation of factual issues, including the admissibility of evidence;

(c) The scheduling of a trial date or date for other disposition of the proceedings;

(d) Such other matters as may aid in the disposition of the proceedings.

(2) A defendant who is represented by counsel may waive his or her right to be present with the consent of the Commonwealth. Waiver shall be assumed if counsel appears without his/her client.

(3) Upon request by either party and arrangement with the Court, informal conferences may be stenographically recorded.

(4) The parties shall reduce to writing and file with the Clerk of Courts all agreements or stipulations reached during the pre-trial conference. Such agreements or stipulations shall bind the parties unless modified at trial to prevent injustice.

(5) Bail for defendants who are required to appear, but fail to do so either personally or through counsel, may be revoked and forfeited and a bench warrant may issue for the defendant's arrest

(6) Beginning in 1999, one day per month will be designated on the Court Calendar for pre-trial conferences.

(7) Informal conferences shall be held outside the presence of the Court. However, either party may request within thirty (30) days after arraignment, that the pre-trial conference proceed pursuant to Pa.R.Crim.P 311.

Rule 1401(b).

A judge, other than the judge of the Court who received the defendant's plea of guilty or of nolo contendere, may impose sentence upon that defendant if the defendant was notified of that possibility at the time the plea was entered.

Rules 1402—1407. Reserved.

Rule 1408. Conditions of Probation and Parole.

Conditions of probation and/or parole shall be established by administrative order and filed in the Clerk's office, and with each District Justice. Until changed, the conditions shall be as follows (asterisks indicate standard conditions):

COUNSELING

and

ALCOHOL AND CONTROLLED SUBSTANCES

1. YOU MUST NOT:

- *a. Use non-prescribed controlled substances.
- *b. Become drunk or publicly intoxicated.
- ___ c. Consume alcoholic beverages.
- *d. Enter or remain in any bar, tavern, or other drinking establishment without consent from the Probation Office including State Liquor Stores.
- *e. Consume alcoholic beverages until this condition (e) has been waived in writing by the Probation Office.

2. YOU MUST:

- *a. Agree to have your blood, breath, or urine tested as directed by the Probation Office or Prison Officials to determine if you are alcohol and/or drug free.
- ___ b. Attend counseling or therapy sessions related to drug and alcohol abuse as directed by the Probation Office.
- ___ c. Complete the alcohol safe driving school.
- ___ d. Attend mental health counseling and therapy programs as the Probation Office directs.

PERSONAL CONDUCT

3. YOU MUST:

- *a. Avoid any violation of the law.
- *b. Report any arrest to your Probation Officer.
- *c. Avoid association with persons having serious criminal records and reputations for criminal conduct.
- *d. Report to the Probation Office when directed.

- *e. Obey all directions given by any Probation/Parole Officer.
- *f. Avoid any contact which might cause fear, annoyance, or alarm to the victim of any case where charges have been filed against you.
- *g. Be in your home and obey any curfew established by the Probation Office.
- *h. Obey all Prison rules, including those imposed while participating in the work release program.

<u>Witness</u>	<u>Defendant</u>	<u>Date</u>
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4. YOU MUST:

- *a. If directed by your Probation Officer as soon as possible get and then keep a steady job.
- *b. Avoid causing the loss of any job you get.
- *c. Notify the Probation Office of any change in your present employment status.

FINANCIAL OBLIGATIONS

5. YOU MUST:

- *a. Pay your debts, especially court ordered for the support of any other person.
- *b. Pay court costs, fines and restitution on such payment plan as may be established by the Probation Office.

PUBLIC SERVICE

6. YOU MUST:

- *a. Work in public service for forty (40) hours as arranged by Public Service Director for Adams County unless waived by the Court.

RESIDENCE

7. YOU MUST:

- *a. Notify the Probation Office of any change of mailing address or physical residence.
- *b. Obtain prior written permission from the Probation Office to leave Adams County or county of legal residence for any period of time in excess of twenty-four (24) hours unless prior permission is obtained by the Probation Office.
- *c. Consent, as a condition of Probation/Parole, to warrantless searches of your residence by any Probation/ Parole Officer based upon any suspicion that the residence contains contraband or other evidence of probation or parole violations.
- *d. Waive extradition procedures and rights, including the right to be taken before a judge in another state, with respect to violations of probation or parole conditions.

WEAPONS

8. YOU MUST NOT:

- *a. Possess a firearm or any other deadly weapon if:
 - i. You have been convicted of a felony and/or are prohibited by Federal and State Law.
 - ii. Your current offense is for a firearms or deadly weapon violation.
 - iii. Possession is prohibited by a court order.

<u>Witness</u>	<u>Defendant</u>	<u>Date</u>
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Rule 1409. Violation of Probation, Intermediate Punishment, or Parole.

Unless otherwise specifically noted, procedures established by this Rule shall apply to violations of probation,

intermediate punishment, and/or parole, regardless of which particular form of supervision is involved.

a. *Gagnon I Hearing Master.* The President Judge shall appoint an attorney authorized to practice before the Court to conduct Gagnon I hearings.

b. *Gagnon I Hearings.* The master shall conduct monthly hearings at a date and time set by Court order at least three (3) weeks prior to the hearing. The master shall promptly file with the Court preliminary findings and recommendations.

c. *Gagnon II Hearings.* Gagnon II hearings shall be scheduled by Court order at least three (3) weeks in advance and shall be conducted in the afternoon of DUI Arraignment day.

d. *Failure to appear.* A judge may order that a bench warrant issue for the arrest of any defendant who fails to appear at a hearing. Any person who is not released on bail and who is not produced before a judge within 72 hours after being placed in Adams County prison shall be released on \$500.00 ROR bail. Bail set in those or any other circumstances shall be conditioned on the defendant appearing at the next regularly scheduled Gagnon I or Gagnon II hearing date, that follows arrest by at least twenty-one (21) days.

e. *Commencement of proceedings.* Revocation proceedings may be commenced by petition and rule to show cause or by arrest. When commenced by arrest, defendant shall be produced before a judge without unnecessary delay. Bail shall be automatically set at \$500.00 ROR, in accordance with this Rule d. when defendants are not produced within 72 hours after being placed in Adams County prison.

Rule 1409.1. Intermediate Punishment.

Because of considerations that are unique to intermediate punishment sentences, usually arising out of restrictive phases of the program, special or "fast-track" procedures may be employed at the request of the Probation Office. To describe these and place them in perspective, the following provisions are adopted:

a. Conditions of the program shall be established by the appropriate Intermediate Punishment Board and by the Court. Until changed, the program shall consist of six (6) phases, with Phase III divided into two (2) aspects, as follows:

1. Phase I, partial confinement-work release.
2. Phase II, house arrest-electronic monitoring.
3. Phase III, intensively supervised probation.
4. Phase III, temporary, intense supervision awaiting entry into Phase I.
5. Phase IV, modified intensive supervision.
6. Phase V, general supervision.

b. Generally, conditions of probation and parole, Rule 1408, shall apply to Phases III, IV and V.

c. Procedures established in Rule 1409 shall be followed when a defendant is not incarcerated.

d. When a defendant is incarcerated, the following procedure shall be followed:

i. As soon after incarceration occurs, the Probation Office shall transmit a request for an IPP review hearing to the District Attorney.

ii. As part of the request, the Probation Office shall recommend that bail be set in a specified amount and be subject to any special conditions requested by the Probation Office.

iii. The District Attorney shall promptly submit a petition to the court requesting that defendant's entry into the intermediate punishment program be revoked, that bail be set in a specified sum, subject to any requested conditions, and that a hearing be scheduled.

iv. The judge assigned by the President Judge to handle intermediate punishment violations shall set bail and schedule a hearing within fifteen (15) days of the alleged violation, whenever possible.

Rule 1409.2. Intermediate Punishment Revocation Forms.

Standard forms shall be used in IPP revocation proceedings, whenever possible. The District Attorney shall be responsible for drafting and utilizing petition forms. The Court may, by administrative order, change and adopt forms.

a. Until changed, the initial order shall be substantially in the following form:

(CAPTION)

ORDER

AND NOW, this ____ day of _____, _____, at the recommendation of the Probation Office, bail is set at \$ _____, with cash percentage bail _____ available. Defendant is notified that he/she has the right to petition the court for a modification of the bail but, until modified, the bail herein set shall apply.

A revocation hearing is hereby set for _____ on the ____ day of _____, 1998 in Courtroom No. 2.

Judge

b. Until changed, defendants shall be given notice in substantially the following form:

NOTICE

DEFENDANT:

CASE NUMBER:

FILE NUMBER:

You are advised that you have the absolute right to a hearing as a Probation/Parole violator. You are further advised that you have the absolute right to be represented by counsel and that if you cannot afford to retain counsel of your own choice, you should file an application with the Public Defender's Office for the appointment of counsel to represent you. If you desire to have counsel appointed, your application *must be filed promptly*. Your failure to have counsel will *not* be cause to continue or postpone the hearing. You are also advised that you have the absolute right to have bail set in this matter. In accordance with Adams County Probation Guidelines, bail is hereby recommended to be set at \$ _____ with cash percentage bail _____ available. *It is your responsibility* to petition the court for a bail reduction hearing. A hearing on this matter will be scheduled promptly and you will be notified by your Probation/Parole Officer as to the time and date.

Specific Rules Violated:

I have read or have had read to me the above rights of a person charged with a violation of IPP Probation and have had the specific rules violated explained by a Probation/Parole Officer.

Witness _____ Defendant: _____
 Date: _____ Date: _____

(CAPTION)

ORDER

And Now, this ____ day of _____, _____, it is ordered that judgment in the amount of \$ _____ be entered in favor of the Commonwealth of Pennsylvania, to the use of the County of Adams, and jointly against _____ and _____.

No execution shall proceed against the judgment defendants without leave of court. No interest shall accrue on the judgment unless and until an order forfeiting bail is entered against judgment defendants in the criminal case. When the bail obligation is satisfied, the Clerk of Courts shall promptly direct the appropriate officer to satisfy the judgment.

BY THE COURT,

J.

Rules 4007—4014. Reserved.**Rule 4015. Fees Upon Return of Deposits.**

The costs of administering cash bail, including costs of the percentage-cash bail program, shall be set by administrative order. Until changed, the Clerk or District Justice shall retain \$25.00 as costs, when returning cash deposits to the persons entitled thereto. The amount retained shall then be paid to the County of Adams.

Comment: A review of present Pa. Rules of Criminal Procedure indicates that many former Local Rules are inappropriate and unneeded. Local Rule Crim. 4015 applies to all cash bail deposits held by the Clerk or District Justices, including deposits in Accelerated Rehabilitative Disposition cases and returned in accordance with Pa.R.Crim.P. 179(e). That rule requires that deposits be returned when a defendant is admitted into the ARD program.

RULES OF JUVENILE COURT PROCEEDINGS**ADAMS COUNTY COURT OF COMMON PLEAS****Rule 1. Allegations.**

Delinquency allegations and petitions shall be initially filed in the Juvenile Probation Office and shall be reviewed by that office to ensure that allegations and the petition conform to requirements of law. Petitions must be accompanied by a form setting forth in concise detail the acts that bring the child within the jurisdiction of the Juvenile Court.

Rule 2. Filing and Approval.

(A) The Juvenile Probation Office shall review the petition and allegations and, if need be, investigate the allegations, in accordance with intake procedures established, from time to time, by the office and Juvenile Court. Thereafter, the office may:

(1) Disapprove the form and return it to the deponent with a brief explanation why the form has been disapproved; or

(2) Approve it by marking it "approved informally," in which case, the matter shall be informally adjusted by the Probation office; or

(3) Approve it.

(B) Approved petitions shall be docketed and filed in the office of the Clerk of Courts in a docket and filing system reserved exclusively for Juvenile Court matters.

Rule 1505. Reserved.**Rules 1506—2001. Reserved.****Rule 2002(a).**

The District Attorney of Adams County having filed a certification pursuant to Pa.R.Crim.P. § 2002(a), search warrants in all cases except those involving exigent circumstances shall not hereafter be issued by any judicial officer unless the search warrant application has the approval of an attorney for the Commonwealth prior to filing.

Rules 2003—4005. Reserved.**Rule 4006. Realty Bail.**

(A) In cases where realty is posted as bail, the following procedures shall be applied to determine the value of the realty and the equity in it:

(1) The fair market value of the realty shall be established by a written appraisal report prepared by a real estate broker duly licensed in Pennsylvania, within three (3) months of the date of presentation of the report; or by multiplying the assessed value of the realty (land and improvements) by the common level ratio factor prescribed by the Pennsylvania Department of Revenue from time to time for transfer tax purposes.

(2) The equity in realty shall be determined by considering the appraisal and a lien certificate signed by any attorney at law authorized to practice in this Commonwealth, including the solicitor of the Recorder of Deeds, Prothonotary, Tax Claim Bureau, or a duly authorized agent of a title insurance company licensed to do business in Pennsylvania. The certificate must identify all liens against the property and the face amounts thereof. Statements from lienholders about current balances may also be considered.

(B) Certificates and appraisals shall be presented to the District Justice or to the Clerk for determination of the acceptability of the realty for bail purposes. A defendant may appeal any adverse ruling to the Court.

(C) The official with whom bail is posted shall collect a fee to enter and satisfy judgment in an appropriate office in the county in which the realty is situated. Until changed, the fee for judgments in Adams County shall be \$14.50. Defendant must produce proof of the fee for any county other than Adams.

(D) If a District Justice accepts such bail, he/she shall transmit the judgment and satisfaction fee and a certified copy of the bail bond to the Clerk's office. In all instances when realty is accepted, the Clerk shall transmit to the Court a certified copy of the bail bond, together with a proposed order directing that judgment be entered against both the defendant and surety in favor of the Commonwealth of Pennsylvania, to the use of the County of Adams.

(E) Upon receipt of an order signed by a judge, the Clerk shall transmit a certified copy of the order, the judgment and satisfaction fee, and a certified copy of the bail bond to the appropriate office for entry of judgment.

(F) In Adams County, the appropriate office for entry of judgment shall be the Prothonotary's office.

(G) The order shall be substantially in the following form:

Rule 3. Amendment.

(A) Petitions and allegations that are the basis for informal adjustment may be amended, as of course, at any time.

(B) Petitions and allegations in formal proceedings may be amended as of course prior to the mailing or service of notice to the juvenile and interested persons. Subsequent to the mailing or service of notice, amendments shall require permission of the Court.

(C) Amendments shall be filed with the Clerk of Courts and shall become part of the official file in the case.

Rule 4. Dependency Proceedings.

The procedures for dependency proceedings shall be the same as for delinquency proceedings except that allegations and petitions shall be initially filed with Adams County Children and Youth Services.

Rule 5. Confidentiality; Inspection and Disclosure.

(A) All records pertaining to juvenile matters shall be kept separate from those affecting adults.

(B) Juvenile files, wherever maintained, shall not be disclosed to or inspected by all persons not authorized by law to inspect juvenile records. Police Departments, Adams County Children and Youth, the Juvenile Probation Office and the Clerk of Courts shall adopt and follow procedures and safeguards to guarantee the integrity and confidentiality of records and files.

(C) Juvenile Probation Officers shall be authorized to inspect files relating to dependency proceedings, and Adams County Children and Youth caseworkers shall be authorized to inspect delinquency files. However, access to statutorily privileged material in Adams County Children and Youth files shall be limited to those persons authorized by the director of the agency, or as ordered by the Court.

(D) Judicial staff, including secretaries and the Court Administrator, shall have access to juvenile records maintained by the Clerk of Courts and material released by any office to a judge.

(E) Copies of petitions will be provided only to the following persons prior to a hearing in the matter:

1. The child, and his or her attorney,
2. The child's parents, and his, her or their attorney,
3. Juvenile Probation Office and/or Adams County Children and Youth Services,
4. District Attorney and/or counsel for Adams County Children and Youth Services,
5. Judicial staff, including the Court Administrator and judicial secretaries.

(F) Offices, agencies and persons shall provide information to offices and governmental agencies, such as the Department of Transportation or Child Abuse Hotline, as required or authorized by law.

(G) No person obtaining or acquiring information shall publicly disclose it except as authorized by law. This provision applies to law enforcement agencies, offices, and all other persons, including parents and counsel, involved with a child subject to Juvenile Court jurisdiction.

Comment: Public officials, police and other persons in authority should thoroughly familiarize themselves with statutory provisions affecting confidentiality. Attention is invited to various provisions of the Juvenile Act, specifically 42 Pa.C.S.A. §§ 6307, 6308 and 6336. Further

attention is invited to the interplay between § 6336(e)(1) (open hearing is required for any alleged delinquent 14 years or older, when act is a felony) and § 6308(b) (disclosure of police records limited to alleged delinquents 14 or older, when act is rape, kidnapping, murder, robbery, arson, burglary, or possession of a controlled substance with intent to deliver AND involves use of or threat of serious bodily harm). Subsection (1)(i) requires disclosure if the child is adjudicated delinquent; subsection (b)(ii) requires disclosure if a delinquency petition has been filed, the child is accused of committing a described crime and has previously been adjudicated delinquent for such crime or crimes. Disclosure is authorized for certain firearms violations under § 6308(d).

[Pa.B. Doc. No. 98-1053. Filed for public inspection July 2, 1998, 9:00 a.m.]

FAYETTE COUNTY**Child Custody Conciliation Fee; Rule 1915.15(d);
Civil Division No. 1175-1998, G. D.****Order**

And Now, this 16th day of June, 1998, pursuant to Rule 239 of the Rules of Civil Procedure, it is hereby ordered that the above-stated Local Rule be adopted as attached.

The Prothonotary of Fayette County is Ordered and Directed as follows:

(1) File seven (7) certified copies of this Order and Local Rule with the Administrative Office of Pennsylvania Courts.

(2) Forward two (2) certified copies of this Order and Amended Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) Forward one (1) certified copy of this Order and Amended Rule with the Domestic Relations Procedural Rules Committee.

(4) Forward one (1) copy for publication in the *Fayette Legal Journal*.

(5) Forward one (1) copy to the Fayette County Law Library.

This Local Rule shall be continuously available for public inspection and copying on the Office of the Prothonotary. Upon payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person any local rule.

This Local Rule shall be effective 30 days after the date of publication in the *Pennsylvania Bulletin*.

By the Court:

WILLIAM J. FRANKS,
President Judge

Rule 1915.15(d). Child Custody Conciliation Fee.

Upon the filing of a Complaint, Petition or Motion relating to child custody, the moving party shall pay to the Prothonotary (in addition to any other required fees) a conciliation fee in the amount of Seventy-five Dollars (\$75.00) or file a petition to proceed in forma pauperis in

accordance with Pa.R.C.P. No. 240. However, if the Complaint, Petition or Motion seeks only the entry of an agreed-upon Order of Custody, no conciliation fee shall be required.

[Pa.B. Doc. No. 98-1054. Filed for public inspection July 2, 1998, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Theodore J. Segal, having been disbarred from the practice of law in the State of Arizona, the Supreme Court of Pennsylvania issued an Order dated June 18, 1998 disbaring Theodore J. Segal from the practice of law in this Commonwealth. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 98-1055. Filed for public inspection July 2, 1998, 9:00 a.m.]

SUPREME COURT

**Recognition of the Pennsylvania Bar Association
as the Association Representing Members of the
Bar of this Commonwealth; No. 198 Supreme
Court Rules Doc. No. 1**

Order

Per Curiam:

And Now, this 19th day of June, 1998, pursuant to the authority set forth in 42 Pa.C.S.A. § 1728, the Pennsylvania Bar Association is hereby designated as the association which is most broadly representative of the members of the bar of this Commonwealth.

[Pa.B. Doc. No. 98-1056. Filed for public inspection July 2, 1998, 9:00 a.m.]
