

THE COURTS

Title 207—JUDICIAL CONDUCT

PART IV. COURT OF JUDICIAL DISCIPLINE [207 PA. CODE CH. 5] Amendment to the Rules of Procedure; Doc. No. 1 JD 94

Per Curiam

Order

And Now, this 6th day of October, 1998, the Court, pursuant to Article 5, Section 18(b)(4) of the Constitution of Pennsylvania, having adopted a proposed amendment to Rule of Procedure No. 502(F), as more specifically hereinafter set forth, *It Is Hereby Ordered*:

That Court Administrator Wanda W. Sweigart provide for the publication of the Amendment in the *Pennsylvania Bulletin*, and

That interested parties shall submit suggestions, comments, or objections no later than thirty days from the publication of this Order in that *Bulletin*

Annex A

TITLE 207. JUDICIAL CONDUCT PART IV. COURT OF JUDICIAL DISCIPLINE CHAPTER 5. TRIAL PROCEDURES

Rule 502. Trial. Stipulations of Fact. Conclusions of Law. Withdrawal of **Complaints or Withdrawal of Counts**.

* * * * *

(F) Withdrawal of **Complaints and Withdrawal of Counts**.

The Board may file a motion to withdraw [**counts**] a **Complaint or any of the Counts** in a Complaint, which, **in either case**, shall be supported by [**a change in circumstances such as the loss of evidence or the unavailability of a necessary witness, or other justifiable reason**] **good cause**.

[Pa.B. Doc. No. 98-1742. Filed for public inspection October 23, 1998, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

Search Warrant Forms


Introduction

Rule 5 of the Pennsylvania Rules of Criminal Procedure states that the Court Administrator, in consultation with the Criminal Procedure Rules Committee, shall design and publish forms necessary to implement the Rules of Criminal Procedure. One of the most important of such forms is that authorizing a search.

The new search warrant forms had to be both legally correct and ultimately designed with the user in mind. After an extended collaborative process involving distinguished judges, lawyers, and others with substantial experience in this area, the new search warrant forms are ready. I have approved the forms for use effective October 24, 1998.

By the Court Administrator

NANCY M. SOBOLEVITCH,
Court Administrator of Pennsylvania

Commonwealth of Pennsylvania		APPLICATION FOR SEARCH WARRANT AND AUTHORIZATION	
			
COUNTY OF _____			
Docket Number (Issuing Authority):	Police Incident Number:	Warrant Control Number:	
<small>AFFIANT NAME</small>	<small>AGENCY</small>	<small>PHONE NUMBER</small>	<small>DATE OF APPLICATION</small>
<small>IDENTIFY ITEMS TO BE SEARCHED FOR AND SEIZED (be as specific as possible):</small>			
<small>SPECIFIC DESCRIPTION OF PREMISES AND/OR PERSON TO BE SEARCHED (Street and No., Apt. No., Vehicle, Safe Deposit Box, etc.):</small>			
<small>NAME OF OWNER, OCCUPANT OR POSSESSOR OF SAID PREMISES TO BE SEARCHED: (If proper name is unknown, give alias and/or description):</small>			
<small>VIOLATION OF (Describe conduct or specify statute):</small>		<small>DATE(S) OF VIOLATION</small>	
<input type="checkbox"/> Warrant Application Approved by District Attorney – DA File No. _____ <small>(If DA approval required per Pa.R.Crim.P. 2002A with assigned File No. per Pa.R.Crim.P. 107)</small> <input type="checkbox"/> Additional Pages Attached (Other than Affidavit of Probable Cause) <input type="checkbox"/> Probable Cause Affidavit(s) MUST be attached (unless sealed below) Total number of pages: _____			
<small>TOTAL NUMBER OF PAGES IS SUM OF ALL APPLICATION, PROBABLE CAUSE AND CONTINUATION PAGES EVEN IF ANY OF THE PAGES ARE SEALED</small>			
<small>The below named Affiant, being duly sworn (or affirmed) before the Issuing Authority according to law, deposes and says that there is probable cause to believe that certain property is evidence of or the fruit of a crime or is contraband or is unlawfully possessed or is otherwise subject to seizure, and is located at the particular premises or in the possession of the particular person as described above.</small>			
<small>Signature of Affiant</small>	<small>Agency or Address if private affiant</small>	<small>Badge Number</small>	
Sworn to and subscribed before me this _____ day of _____ 19____. Mag. Dist. No. _____			
(SEAL)			
<small>Signature of Issuing Authority</small>	<small>Office Address</small>		
SEARCH WARRANT TO LAW ENFORCEMENT OFFICER:		<small>WHEREAS, facts have been sworn to or affirmed before me by written affidavit(s) attached hereto from which I have found probable cause, I do authorize you to search the premises or person described, and to seize, secure, inventory and make return according to the Pennsylvania Rules of Criminal Procedure.</small>	
<input type="checkbox"/> This Warrant shall be served as soon as practicable and shall be served only between the hours of 6AM to 10PM but in no event later than:* <input type="checkbox"/> This Warrant shall be served as soon as practicable and may be served any time during the day or night but in no event later than: ** _____ M, o'clock _____ 19____.			
<small>* The issuing authority should specify a date not later than two (2) days after issuance. Pa.R.Crim.P. 2005(d).</small>			
<small>** If the issuing authority finds reasonable cause for issuing a nighttime warrant on the basis of additional reasonable cause set forth in the accompanying affidavit(s) and wishes to issue a nighttime warrant, then this block shall be checked. Pa.R.Crim.P. 2006(g).</small>			
Issued under my hand this _____ day of _____ 19____ at _____ M, o'clock.			
(SEAL)			
<small>Signature of Issuing Authority</small>	<small>Mag. Dist. or Judicial Dist. No.</small>	<small>Date Commission Expires:</small>	
Title of Issuing Authority: <input type="checkbox"/> District Justice <input type="checkbox"/> Common Pleas Judge <input type="checkbox"/> _____			
<input type="checkbox"/> For good cause stated in the affidavits(s) the Search Warrant Affidavit(s) are sealed for _____ days by my certification and signature. (Pa.R.Crim.P. 2011)			
_____ (Date) (SEAL)			
Signature of Issuing Authority (Judge of the Court of Common Pleas or Appellate Court Justice or Judge).			

TO BE COMPLETED BY THE ISSUING AUTHORITY

Commonwealth of Pennsylvania



**AFFIDAVIT OF
PROBABLE CAUSE**

COUNTY OF

Docket Number
(Issuing Authority):

Police Incident
Number:

Warrant Control
Number:

PROBABLE CAUSE BELIEF IS BASED UPON THE FOLLOWING FACTS AND CIRCUMSTANCES:

[Empty space for facts and circumstances]

I, THE AFFIANT, BEING DULY SWORN ACCORDING TO LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

(SEAL)

Affiant Signature

Date

Issuing Authority Signature

Date

Page of Pages

Commonwealth of Pennsylvania



APPLICATION FOR
SEARCH WARRANT
CONTINUATION PAGES

COUNTY OF

Docket Number
(Issuing Authority):

Police Incident
Number:


Warrant Control
Number:

Continuation of:

___ Items to be searched for and seized ___ Description of premises/person(s) to be searched ___ Owner/ Occupant ___ Violations


[Large empty rectangular area for case details]

Page of Pages

Commonwealth of Pennsylvania				RETURN of SERVICE AND INVENTORY
COUNTY OF				
Docket Number (Issuing Authority):		Police Incident Number:		Warrant Control Number:
Date of Search:		Time of Search:		Property Seized as result of Search (Y/N):
Date of Return:		Time of Return:		Officer making Return:
Signature of Person Seizing Property:				
Other Officers Participating in Search:				
Pa.R.Crim.P. Chapter 2000. SEARCH WARRANTS				
Rule 2002A. Approval of Search Warrant Applications by Attorney for the Commonwealth – Local Option.				
(a) The District Attorney of any county may require that search warrant applications filed in the county have the approval of an attorney for the Commonwealth prior to filing.				
Rule 2004. Person To Serve Warrant.				
A search warrant shall be served by a law enforcement officer.				
Rule 2005. Contents of Search Warrant.				
Each search warrant shall be signed by the issuing authority and shall:				
(a) specify the date and time of issuance;				
(b) identify specifically the property to be seized;				
(c) name or describe with particularity the person or place to be searched;				
(d) direct that the search be executed within a specified period of time, not to exceed 2 days from the time of issuance;				
(e) direct that the warrant be served in the daytime unless otherwise authorized on the warrant, PROVIDED THAT, for purposes of the Rules of Chapter 2000, the term "daytime" shall be used to mean the hours of 6 a.m. to 10 p.m.;				
(f) designate by title the judicial officer to whom the warrant shall be returned;				
(g) certify that the issuing authority has found probable cause based upon the facts sworn to or affirmed before the issuing authority by written affidavit(s) attached to the warrant; and				
(h) when applicable, certify on the face of the warrant that for good cause shown the affidavit(s) is sealed pursuant to Rule 2011 and state the length of time the affidavit(s) will be sealed.				
Rule 2006. Contents of Application for Search Warrant.				
Each application for a search warrant shall be supported by written affidavit(s) signed and sworn to or affirmed before an issuing authority, which affidavit(s) shall:				
(a) state the name and department, agency, or address of the affiant;				
(b) identify specifically the items or property to be searched for and seized;				
(c) name or describe with particularity the person or place to be searched;				
(d) identify the owner, occupant, or possessor of the place to be searched;				
(e) specify or describe the crime which has been or is being committed;				
(f) set forth specifically the facts and circumstances which form the basis for the affiant's conclusion that there is probable cause to believe the items or property identified are evidence or the fruit of a crime, or are contraband, or are otherwise unlawfully possessed or subject to seizure, and that these items or property are located on the particular person or at the particular place described;				
(g) if a "nighttime" search is requested (i.e., 10 p.m. to 6 a.m.), state additional reasonable cause for seeking permission to search in the nighttime; and				
(h) when the attorney for the Commonwealth is requesting that the affidavit(s) be sealed pursuant to Rule 2011, state the facts and circumstances which are alleged to establish good cause for the sealing of the affidavit(s).				
Rule 2008. Copy of Warrant; Receipt for Seized Property.				
(a) A law enforcement officer, upon taking property pursuant to a search warrant, shall leave with the person from whom or from whose premises the property was taken a copy of the warrant and affidavit(s) in support thereof, and a receipt for the property seized. A copy of the warrant and affidavit(s) must be left whether or not any property is seized.				
(b) If no one is present on the premises when the warrant is executed, the officer shall leave the documents specified in paragraph (a) at a conspicuous location in the said premises. A copy of the warrant and affidavit(s) must be left whether or not any property is seized.				
(c) Notwithstanding the requirements in paragraphs (a) and (b), the officer shall not leave a copy of an affidavit that has been sealed pursuant to Rule 2011.				
Rule 2009. Return with Inventory.				
(a) An inventory of items seized shall be made by the law enforcement officer serving a search warrant. The inventory shall be made in the presence of the person from whose possession or premises the property was taken, when feasible, or otherwise in the presence of at least one witness. The officer shall sign a statement on the inventory that it is a true and correct listing of all items seized, and that the signer is subject to the penalties and provisions of 18 Pa.C.S. Section 4904(b) - Unsworn Falsification To Authorities. The inventory shall be returned to and filed with the issuing authority.				
(b) The judicial officer to whom the return was made shall upon request cause a copy of the inventory to be delivered to the applicant for the warrant and to the person from whom, or from whose premises, the property was taken.				
(c) When the search warrant affidavit(s) is sealed pursuant to Rule 2011, the return shall be made to the justice or judge who issued the warrant.				
<u>THE LAW ENFORCEMENT OFFICER SHALL MAKE ALL RETURNS TO THE ISSUING AUTHORITY DESIGNATED ON THE SEARCH WARRANT.</u>				

AOPC 413A-10-24-98

A COPY OF THIS FORM, WHEN COMPLETED, IS TO BE ATTACHED TO EACH COPY OF THE SEARCH WARRANTS/AFFIDAVIT

Commonwealth of Pennsylvania				RECEIPT / INVENTORY OF SEIZED PROPERTY	
COUNTY OF					
Docket Number <small>(Issuing Authority):</small>		Police Incident Number:		Warrant Control Number:	
Date of Search:		Time of Search:		Inventory Page Number: of Pages	
<small>Affiant</small>		<small>Agency or Address if private affiant</small>		<small>Badge No.</small>	
The following property was taken / seized and a copy of this Receipt / Inventory with a copy of the Search Warrant and affidavit(s) (if not sealed) was <input type="checkbox"/> personally served on (name of person) _____ <input type="checkbox"/> was left at (describe the location) _____					
Item Number	Quantity	Item Description	Make, Model, Serial No. Color, etc.		
I/we do hereby state that this inventory is to the best of my/our knowledge and belief a true and correct listing of all items seized, and that I /we sign this Receipt / Inventory subject to the penalties and provisions of Title 18 Pa.C.S. 4904 (b). Unsworn Falsification to Authorities.					
<i>Signature of person Issuing Receipt / Inventory</i>		<i>Printed Name</i>		<i>Affiliation</i>	<i>Badge or Title</i>
<i>Signature of Witness</i>		<i>Printed Name</i>		<i>Affiliation</i>	<i>Badge or Title</i>
<i>Signature of person making Search</i>		<i>Printed Name</i>		<i>Affiliation</i>	<i>Badge or Title</i>

AOPC 413B-10-24-98

[Pa.B. Doc. No. 98-1743. Filed for public inspection October 23, 1998, 9:00 a.m.]

Title 249— PHILADELPHIA RULES

PHILADELPHIA COUNTY

President Judge General Court Regulation No. 98-03

*Amendment to Philadelphia
Orphans' Court Rules ★1.2, ★32.1, ★32.2 and ★77.1*

Order

And Now, this 2nd day of October, 1998, the Board of Judges of Philadelphia County having voted at the Board of Judges' Meeting held September 17, 1998 to amend existing Philadelphia Orphans' Court Rules ★1.2, ★32.1, ★32.2 and ★77.1, *It Is Hereby Ordered and Decreed* that the above referenced rules are amended as follows.

This General Court Regulation is promulgated in accordance with Phila. Civ.R. ★51 and Pa.R.C.P. 239 and shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*. As required by Pa.R.C.P. No. 239, the original 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 of Philadelphia County, and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Orphans' Court 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 BONAVIDACOLA,
President Judge

Rule *1.2. Argument List.

(a) *When Heard*. The argument list will be heard at 10 a.m. on the third Wednesday of each month except July, August and September.

(b) *Matters Heard*. [**Issues of law raised by petition and answers (when the pleadings are closed); preliminary objections; exceptions**] **Exceptions** to adjudications, [**to**] supplemental adjudications, [**to**] opinions, [**to**] reports of Auditors or Masters appointed by other than an Auditing Judge or Hearing Judge, [**to**] **or** orders and decrees of a Judge hearing a certification of the record [**or an appeal from judicial acts or proceedings of the Register**]; and motions for new trial or for judgment n.o.v. in [**issues tried by a**] **jury trials** shall be heard on the argument list. [**Issues of fact**] **Preliminary objections** will not be heard on the argument list.

(c) *Listing*. All matters shall be placed on an argument list at the time filed, in the manner set forth in Rule *1.2(c)(1)[,] **and** (2) [**and** (3)]. Counsel for the petitioner [,] **or** exceptant [**or party filing preliminary objections**] shall forthwith send notice of the date of the argument list on which the matters has been placed to the counsel of record.

(1) Counsel for the petitioner or exceptant may select a particular argument list at the time of filing by informing

the Clerk of the monthly list desired. An argument list may be selected no later than 3 p.m. on the third Wednesday preceding the call of that list. Counsel may not select a list which is later than the third argument list scheduled after the filing date.

(2) If counsel for the petitioner or exceptant does not select a particular argument list at the time of filing, the Clerk shall place the matter on the third argument list therefrom. The Clerk shall forthwith send notice of said placement to said counsel, who shall notify all counsel of record as provided above.

[(3) Preliminary objections which shall be accompanied by a brief conforming to paragraphs (d)(1)(i), (ii), (v), (vi), (viii) and (viii) of this rule shall be placed on the next argument list which is at least three weeks following the filing of the Preliminary Objections.]

[(4)](3) Counsel for any party in interest may [**order**] **request** a matter [**other than preliminary objections**] on an earlier argument list by filing a praecipe with the Clerk which designates the particular monthly list desired. Such praecipe may be filed not later than 3 p.m. on the seventh Wednesday preceding the call of the designated list, except that in the case of a praecipe filed by counsel for the petitioner or exceptant, such praecipe may not be filed later than 3 p.m. on the third Wednesday preceding the call of the designated list. If more than one such praecipe is filed, the matter shall be heard on the earliest argument list designated which complies with the time limitations state above. Counsel for the party [**ordering**] **requesting** a matter **to be placed** on an earlier argument list shall forthwith send notice to all counsel of record which specifies the date of the earlier list.

(d) *Briefs*.

(1) [**Six**] **Four** copies of the brief for the petitioner or exceptant shall be filed with the Clerk not later than 3 p.m. on the third Wednesday preceding the call of the list. The briefs shall be typewritten or printed, with pages numbered consecutively, and shall contain, in the following order:

(i) an index;

(ii) a statement of the questions involved, as required by the rules of the Supreme Court, including the manner in which the question was disposed of by the Judge, Auditor or Master;

(iii) a copy of the adjudication or opinion of the Hearing Judge, or of the report of the Auditor or Master to which exceptions have been filed;

(iv) a copy of the exceptions;

(v) in cases begun by petition, copies of the pertinent docket entries and of the pleadings;

(vi) a copy of the will and codicils or trust instrument and any other relevant documents;

(vii) a history of the case; and

(viii) the argument.

(2) Other parties in interest shall file [**six**] **four** copies of their briefs, with the Clerk no later than 3 p.m. on the Wednesday preceding the call of the list. The brief

shall be typewritten or printed with pages numbered consecutively and shall contain an argument, preceded, if desired, by a counter-statement of the questions involved and a counter-history of the case.

(3) Copies of the briefs, filed with the Clerk shall be delivered forthwith to counsel of record for opposing parties.

(4) Typewriting—Typewriting shall be legible, and, except for quotations, shall be double spaced.

(5) Reproduction of Documents—Reproduction of documents and exhibits will not be accepted by the Court unless clearly legible.

(e) *Absence of Counsel.* The argument list will be called three times. On the third call, whether or not counsel be present, a case may, in the discretion of the Court, be disposed of finally or stricken from the list. A case which [hits] has been stricken from the list will not be placed on a subsequent list, except with the express permission of the Administrative Judge.

(f) *Oral Argument.* Oral argument shall not exceed 30 minutes per party except by special leave obtained from the Administrative Judge prior to the argument date.

Rule *32.1. Pleadings.

The pleadings in the Orphans' Court shall be limited to a petition, an answer, **new matter**, reply, preliminary objections, and an answer to preliminary objections.

(a) *New Matter[s]*. Any defense which is not a denial of the averments of fact in the petition shall be set forth under the heading "New Matter["]."

(b) *Reply.* A reply shall be required when new matter is set forth in the answer.

(c) *Preliminary Objections. [Answer:]*

(1) Preliminary objections shall be [**available to any party, but shall be**] limited to questions of (i) law [;], (ii) form [;], or (iii) jurisdiction[.], **may be filed by any party, and shall be accompanied by one original brief prepared in conformity with Rule *1.2(d)(1)(i)—(ii), (v)—(viii), (d)(3) and (d)(4).**

(2) An answer to preliminary objections shall be [**limited to the averments of fact concerning jurisdiction set forth in the preliminary objections.**] accompanied by one original brief, prepared in conformity with Rule *1.2(d)(2), (d)(3), and (d)(4), and shall be filed within twenty (20) days after service of the preliminary objections and accompanying brief.

Rule *32.2. Disposition of Pleadings.

(a) *Failure to Answer a Petition.* If the respondent fails to file an answer to a petition, the Court may enter a decree granting the prayer of the petition.¹

(b) *Failure to Reply.* If the petitioner fails to file a reply to an answer which contains new matter, the averments of fact set forth under new matter shall be deemed admitted and the case will be [**at issue**] ripe for disposition.

¹ If an answer is filed which raises issues of fact, either petitioner's counsel or respondent's counsel should write to the Administrative Judge and request that the pleadings be assigned to a Hearing Judge for disposition.

[(c) **Failure to File an Answer to Preliminary Objections.** If the petitioner fails to file an answer to preliminary objections raising questions of jurisdiction, the averments of fact set forth in the preliminary objections shall be deemed admitted and the case will be at issue on the preliminary objections.]

(c) *Disposition of Preliminary Objections.*

(1) **The Assigned Judge shall rule on the preliminary objections. If no judge has been assigned, the Administrative Judge, at the request of any party in interest, shall assign a judge, on a rotation basis, to rule on the preliminary objections.**

(2) *Preliminary Objections raising questions of fact.* Averments of fact raised in preliminary objections shall be deemed admitted if no answer is filed. If an answer is filed which denies averments of fact raised in preliminary objections, the Assigned Judge may schedule an evidentiary hearing.

(3) *Preliminary Objections which may be disposed of as a matter of law.* If no issues of fact are raised by the preliminary objections and answer, the Assigned Judge shall dispose of the preliminary objections as a matter of law, and shall deem all averments of fact in the pleading to which the preliminary objections have been filed to be admitted for the purpose of ruling on the preliminary objections.

(4) **Oral argument on preliminary objections may be scheduled at the discretion of the Assigned Judge.**

(d) *Joinder of Issue.* No formal joinder of issue is required.

(1) *Issues of Fact.* Issues of fact will not be heard on the argument list. Except as otherwise provided by Rules *77.1 and *104, when an issue of fact is raised by the pleadings, the Administrative Judge, upon the written request of any party, may refer the matter to a Master, to the Auditing Judge if an account is to be filed, or to a Hearing Judge.

(2) *Issues of Law.* [**When the pleadings are closed, any party in interest may order the matter on the argument list. Averments of fact in the pleading to which preliminary objections raising questions of law have been filed shall be deemed admitted for the purpose of the argument.**] Pleadings that are closed shall be disposed of in conformity with Rule *32.2(c)(1), (3) and (4), dealing with disposition of preliminary objections.

Rule *77.1. Exceptions. Rules Governing.

[(a) **Exceptions may be filed to any adjudication, opinion, order or decree not later than twenty (20) days after the date thereof; and in the absence of exceptions filed within that time, the adjudication, opinion, order or decree shall be final unless otherwise provided in the adjudication, opinion, order or decree.**]

(a) **All challenges to an order, decree, opinion, or adjudication of an account shall be raised by written exceptions. An order, decree, or opinion shall become final, and an adjudication of an account**

shall be confirmed absolutely as of course, after the expiration of twenty (20) days after the date of such order, decree, opinion, or adjudication, unless written exceptions thereto are filed within said twenty (20) days.

(b) Notwithstanding the provisions of subparagraph (a) hereof, the [The] Court will not entertain exceptions to the decree of a Hearing Judge awarding a jury trial or to any other interlocutory order or decree.

(c) Notwithstanding the provisions of provisions of subparagraph (a) hereof, exceptions to the disposition of schedules of distribution by the Auditing Judge shall only be filed in accordance with Rule *72(e)(3).

(d) Exceptions shall be filed with the Clerk, served in accordance with Rule *35.1(b), and listed for argument as provided in Rule *1.2(c).

(e) Exceptions shall be in writing, numbered consecutively, and signed by the exceptant or the exceptant's attorney. Each exception shall:

- (1) be specific as to description and amount;
- (2) in no event raise questions which could have been raised previously by claim or objection;
- (3) raise but one issue of law or fact, but if there are several exceptions relating to the same issue of law or fact, all such exceptions shall be included in one exception; and
- (4) set forth briefly the reason or reasons in support of the exception.

Note: Under this rule, the filing of timely exceptions is necessary to preserve an issue for appellate review. See *Estate of Volkhardt*, 484 Pa. 52, 398 A.2d 656 (1979). This rule does not, however, address the issue of whether an order, decree, or opinion is otherwise appealable or final under the appellate rules. See generally Hunter, Pennsylvania Orphans' Court Commonplace Book, Appeals § 6; Pa.R.App.P. §§ 301—342.

[Comment: Generally, the Court will not entertain exceptions to matters which could have been but were not raised at the audit of the account or at the hearing on any petition or other application to the Court.]

[Pa.B. Doc. No. 98-1744. Filed for public inspection October 23, 1998, 9:00 a.m.]

Title 255—LOCAL COURT RULES

SCHUYLKILL COUNTY Rules of Civil Procedure

And Now, this 2nd day of October, 1998, at 2:30 p.m., the Court hereby amends Schuylkill County Civil Rules of Procedure 1303(a) and Rule 1305(a) and (b) for use in the

Court of Common Pleas of Schuylkill County, Pennsylvania (21st Judicial District). These rules shall be effective thirty days after publication in the *Pennsylvania Bulletin*.

The Prothonotary of Schuylkill County is Ordered and Directed to do the following:

- 1) File ten (10) certified copies of this Order and Rule with the Administrative Office of Pennsylvania Courts.
- 2) File two (2) certified copies of this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
- 3) File one (1) certified copy of this Order and Rule with the Pennsylvania Civil Procedural Rules Committee.
- 4) Forward one (1) copy to the Schuylkill County Law Library for publication in the *Schuylkill Legal Record*.
- 5) Keep continuously available for public inspection copies of this Order and Rule.

By the Court

WILLIAM E. BALDWIN,
President Judge

Rule 1303. Hearing, Notice and Continuances.

(a) The scheduled dates for arbitration, which will generally consist of two consecutive days, shall be set forth on the annual court calendar as compiled by the Court Administrator, as well as such other dates as may be ordered by the President Judge as caseloads warrant. The Court Administrator shall designate the place, time, and specific date for hearings, and give at least 30 days written notice thereof to the arbitrators, the parties, or their attorneys of record. The Notice shall include the following language:

"The matter will be heard by a board of arbitrators at the time, date and place specified but, if one or more of the parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties. There is no right to a trial de novo on appeal from a decision entered by a judge."

Rule 1305. Conduct of Hearing/Evidence.

(a) The matter will be heard by a board of arbitrators at the time, date and place specified but, if one or more of the parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties. There is no right to a trial de novo on appeal from a decision entered by a judge. A party is present if the party or an attorney who has entered an appearance on behalf of the party attends the hearing.

(b) Where all parties are present, the chairman of the board of arbitration shall be responsible for the conduct of the hearing. The chairman shall make preliminary rulings on objections and evidentiary matters, which shall be binding unless overridden by a majority of the board of arbitration.

[Pa.B. Doc. No. 98-1745. Filed for public inspection October 23, 1998, 9:00 a.m.]

WESTMORELAND COUNTY
Civil Rule W1301; No. 3 of 1998

Order

And Now This 1st day of October, 1998, it is *Hereby Ordered Adjudged and Decreed* that Westmoreland County Rule of Civil Procedure W1301 is amended by the adoption of the following Note.

By the Court

CHARLES H. LOUGHRAN,
President Judge

Note: For purposes of this Rule, the term "amount in controversy" shall be applied to each individual claimant in any given lawsuit, rather than to the total amount of all claims asserted in the lawsuit. Derivative action claimants shall be accorded the same status as any other claimant. The total of multiple claims by any given claimant in the same lawsuit shall not exceed the limit provided herein, unless submitted pursuant to subsection (b).

[Pa.B. Doc. No. 98-1746. Filed for public inspection October 23, 1998, 9:00 a.m.]