

THE COURTS

Title 207—JUDICIAL CONDUCT

PART IV. COURT OF JUDICIAL DISCIPLINE

[207 PA. CODE CH. 113]

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

Per Curiam

Order

And Now, this 28th day of January, 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. 113, 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

ARTICLE I. PRELIMINARY PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

IN GENERAL

Rule 113. Lodging of Transcripts.

When the Court or a party direct the court reporter to transcribe the notes of testimony taken at a hearing or trial, the Clerk, upon receiving the transcript, shall notify the parties that the transcript has been lodged with the Court. The parties shall have [**10**] **30** days from the date of notification to file objections to the transcript. The parties shall serve copies of objections upon the other party. The Court may conduct a hearing on the objections. If no objections or exceptions are filed, the transcript will be approved by the Court as of course.

[Pa.B. Doc. No. 98-245. Filed for public inspection February 13, 1998, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BRADFORD COUNTY

Rule of Civil Procedure No. 1301

Order

And Now, this 28th day of January, 1998, the Court hereby amends the following Bradford County Rule of Civil Procedure, to be effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin*.

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

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

By the Court

JEFFREY A. SMITH,
President Judge

Bradford County Rule of Civil Procedure 1301.

1301. Cases for Submission

A. Compulsory arbitration of matters as authorized by Section 7361 of the Judicial Code, 42 Pa.C.S.A. Section 101, *et seq.*, shall apply to all civil cases wherein the amount in controversy, exclusive of interest and costs, shall be [**sixteen thousand dollars (\$16,000.00)**] **twenty thousand dollars (\$20,000.00)** or less, including appeals from a civil judgment of a district justice, except those involving title to real estate or actions in equity. Such actions shall be submitted to and heard by a board of arbitration consisting of three attorneys.

B. The amount in controversy generally will be determined by the pleadings or by an agreement of the attorneys, however, the court, on its own motion or on the motion of any party, may, based upon affidavits, depositions, stipulations of counsel or after hearing, determine that the amount actually in controversy does not exceed twenty thousand dollars (\$20,000.00) and enter an order certifying the case to a board of arbitration. In the event that a case within the arbitration limits is consolidated with a case involving more than the arbitration limits after the former has been referred to a board of arbitrators, the order of consolidation will remove the same from the jurisdiction of the board of arbitrators.

C. A civil action will be referred to arbitration by order of court when either party or its counsel files a praecipe with the prothonotary.

D. Cases subject to compulsory arbitration will not be scheduled for a pre-trial conference. Such cases will, however, come under the caseload control of the court administrator.

1301.1 Agreement of Reference:

Cases, whether or not in litigation and regardless of the amount in controversy, may be heard by a board of arbitration upon agreement of counsel for all parties in the case. Such agreement shall be evidenced by a writing signed by counsel for all sides and shall be filed with the prothonotary, who will forward a copy to the court administrator. Said agreement shall define the issues involved for determination by the board of arbitrators and may contain stipulations with respect to facts.

[Pa.B. Doc. No. 98-246. Filed for public inspection February 13, 1998, 9:00 a.m.]

FAYETTE COUNTY

Rule 1018.1: Notice to Defend; No. 131 of 1998 G.D.**Amended Order**

And Now, this 21st day of January, 1998, the following Fayette County Rule of Civil Procedure 1018.1 is hereby promulgated and adopted for the conduct of business in the Court of Common Pleas of Fayette County, Pennsylvania. This Rule shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin* and shall apply to actions pending on that date:

"The organization and agency to be named in the notices accompanying complaints and in the notice of praecipe for entry of default judgment filed in the Court of Common Pleas of Fayette County, shall be:

Pennsylvania Lawyer Referral Service
 Pennsylvania Bar Association
 100 South Street
 P. O. Box 186
 Harrisburg, PA 17108
 Telephone: 1 (800) 692-7375."

The Prothonotary is directed to transmit copies of this Order in compliance with Pennsylvania Rule of Civil Procedure 239 forthwith.

By the Court

WILLIAM J. FRANKS,
President Judge

[Pa.B. Doc. No. 98-247. Filed for public inspection February 13, 1998, 9:00 a.m.]

FAYETTE COUNTY

Rule 1901: Actions Pursuant to the Protection from Abuse Act; Civil Division; No. 123 of 1998, G. D.**Order**

And Now, this 20th day of January, 1998, it is hereby Ordered that Fayette County Rule of Civil Procedure 1901 is hereby adopted as follows. This amendment shall be effective 30 days after the publication in the *Pennsylvania Bulletin*.

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

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

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

(3) File one (1) certified copy of this Order and Amended Rule with the Pennsylvania Civil 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.

(6) Keep continuously available for public inspection copies of this Order and Rule.

By the Court

WILLIAM J. FRANKS,
President Judge

Rule 1901.1-1. Actions Pursuant to the Protection from Abuse Act.

Pursuant to the authority set forth in the Protection from Abuse Act of December 19, 1990, P.L. 1240, as amended, 23 Pa.C.S. Sec. 6101 et seq., the following practices, procedures, and rules are promulgated.

It is the purpose and policy of the Court of Common Pleas of Fayette County, Pennsylvania, to implement and effectuate the Protection From Abuse Act and its amendments to protect victims from abuse; to streamline and facilitate enforcement; to establish duties upon the Prothonotary, Sheriff, District Justices, Warden, Crime Victim/Witness Coordinator, and police departments; and to provide emergency relief.

Rule 1901.1-2. Commencement in Court.

(a) A petition for Protection From Abuse (PFA) shall be presented to the Court as a routine motion in accordance with Fayette County Rule 211 and assigned to the PFA Judge who will schedule a hearing on the petition.

(b) If the petition seeks temporary relief for protection from abuse and alleges immediate and present danger of abuse to the plaintiff and/or minor children, the same shall be presented directly to the PFA Judge on any business day from 8:30 a.m. through 4:00 p.m.; the PFA Judge will, at the earliest possible time consistent with his schedule, conduct an ex parte proceeding. Thereafter, the Court may enter such temporary order as it deems necessary to protect the plaintiff and/or minor children pending hearing on the petition.

(c) Assistance and advice to plaintiffs not represented by counsel.

(1) Petition forms and written information referring individuals to the local domestic violence program, Southwestern Pennsylvania Legal Aid Society, and Fayette County Bar Association Lawyer Referral Service shall be provided by the Prothonotary.

(2) Clerical assistance in the preparation and filing of the petition shall be provided by the Southwestern Pennsylvania Legal Aid Society.

Rule 1901.1-3. Emergency Relief by the Minor Judiciary.

(a) From the close of business at 4:30 p.m. each day to the resumption of business at 8:00 a.m. the next morning and from 4:30 p.m. of the last day of the business week to 8:00 a.m. of the first day of the next business week, a Petition for Protection from Abuse seeking ex parte emergency relief based upon an allegation of immediate and present danger of abuse to the plaintiff and/or minor children shall be filed with the District Justice in the district where the plaintiff lives or, when unavailable, with the court ordered Duty District Justice, who may grant relief in accordance with the Act.

(b) District Justice.

(1) The District Justice shall provide petition forms and assist in the preparation thereof.

(2) If, following an ex parte proceeding, the District Justice determines that emergency relief is warranted, he/she shall issue an emergency order.

(3) The District Justice shall certify the emergency order issued and the petition to the Court.

(4) The District Justice shall advise the plaintiff that the emergency order will expire at 4:30 p.m. on the next business day of Court.

(5) The District Justice shall advise the plaintiff that the plaintiff is responsible for obtaining the certified record from the District Justice and for filing the certified record with the Prothonotary on the next business day of Court.

(c) Prothonotary.

(1) The Prothonotary shall accept the certified record from the plaintiff for filing, without the payment of fees.

(2) The Prothonotary shall provide the plaintiff with a verified statement form which must be completed by the plaintiff setting forth the abuse by the defendant, if the abuse has not already been set forth in the Petition for Emergency Order.

(3) The Prothonotary shall provide the plaintiff with a copy of the petition, verified statement and emergency order and advise the plaintiff to present same to the PFA Judge for ex parte proceedings as provided for in 1901.1-2(b).

Rule 1901.1-4. Service of Petition and Order.

(a) The plaintiff shall ensure that the petition and order are promptly served upon the defendant and that the order is served upon the police department with appropriate jurisdiction to enforce the order.

(b) Where the plaintiff avers that service cannot be safely effectuated by an adult individual other than a law enforcement officer, the Sheriff of Fayette County shall serve the petition and order on the defendant. The Sheriff shall advise the Court that service has been effectuated as well as the cost therefor.

(c) Where the plaintiff avers that service of an emergency order cannot be safely effectuated by an adult individual other than a law enforcement officer, the District Justice issuing the order shall have the same served by a constable at the initial expense of the county. The constable shall file a return of service as well as the cost therefor.

Rule 1901.1-5. Arrest for Violation of Order.

(a) Upon arrest for violation of a PFA order or court approved consent agreement, the defendant shall be taken, without unnecessary delay, to the District Justice in the district where the alleged violation occurred, or if unavailable, to the court ordered Duty District Justice for preliminary arraignment and bail pursuant to the Pennsylvania Rules of Criminal Procedure.

At the preliminary arraignment the defendant shall be notified:

(1) that he is charged with indirect criminal contempt for violation of a PFA order or court approved consent order; and

(2) that he is entitled to be represented by counsel and, if unable to afford counsel and otherwise qualifies, a Public Defender will be appointed.

(b) Immediately following the preliminary arraignment, the District Justice shall provide the arresting officer and the defendant with written notice of the time and date for hearing on the charge. The written notice shall be signed by each.

(c) It shall be the duty of the arresting officer to notify the plaintiff of the time and date for hearing.

(d) The District Justice shall cause the following completed forms to be delivered to the Clerk of Courts prior to the scheduled hearing:

(1) criminal complaint;

(2) probable cause affidavit, if any;

(3) warrant of arrest, if any;

(4) certificate of bail, if required, and discharge of commitment; and

(5) receipts for notice of hearing.

(e) When the defendant has been arrested without a warrant for a PFA violation, a criminal complaint shall be filed against the defendant prior to the preliminary arraignment.

(f) Where the police officer has been unsuccessful in his attempts to locate the defendant, the officer shall file a criminal complaint and affidavit of probable cause with the District Justice where the alleged violation occurred, or if unavailable, with the court ordered Duty District Justice who shall issue a warrant of arrest for the defendant.

Rule 1901.1-6. Private Criminal Complaint for Violation of Order or Agreement.

(a) A private criminal complaint shall be filed with the District Justice in the district where the alleged abuse occurred, or if unavailable, with the court ordered Duty District Justice.

(b) The approval of the District Attorney is not required prior to the filing of a criminal complaint under this section.

(c) The procedure for filing a private criminal complaint for indirect criminal contempt for violation of a non-economic provision of an order or court approved consent agreement pursuant to Section 6113.1 of the Act is as follows:

Rule 1901.1-7. Out of County Orders.

(a) A PFA order issued by a District Justice or Court in another judicial district within the Commonwealth or PFA order issued by a comparable court in another state shall be enforced in the same manner as a PFA order entered by a Fayette County Court, provided however, that such order has been properly recorded in the Registry of the Pennsylvania State Police, or until a Pennsylvania State Police Registry has been established, has been properly registered with the Prothonotary of Fayette County.

(b) Until the Pennsylvania State Police Registry is established and fully operational, the Prothonotary shall maintain a Registry in which shall be entered certified copies of protection from abuse orders issued by a court in another judicial district within the Commonwealth or a comparable court in another state.

(1) A valid PFA order may be registered by the plaintiff by obtaining a certified copy of the order of the issuing court endorsed by the Prothonotary of that court and by presenting that certified order to the Prothonotary or Clerk of Fayette County for filing.

(2) Upon receiving a certified order for registration and upon completion of filing and registration, the Prothonotary shall provide the plaintiff with a copy bearing proof of registration, which copy shall then be filed by the plaintiff with the appropriate law enforcement agency.

(3) No costs shall be assessed for registration of an order.

(4) Registration of PFA orders shall not be required upon the establishment and operation of the Pennsylvania State Police Registry.

Rule 1901.1-8. Civil Contempt.

(a) A plaintiff may file a petition for civil contempt alleging that a defendant has violated any provision of an order or a court-approved consent agreement.

(b) A petition for civil contempt shall be presented to the court as a routine motion in accordance with Fayette County Rule 211 and assigned to the issuing judge who will schedule a hearing on the petition.

Rule 1901.1-9. Notification upon Release.

(a) The Warden of the Fayette County Prison shall use all reasonable means to notify the plaintiff sufficiently in advance of the release of the defendant from any incarceration imposed as a result of a finding of contempt.

(b) Notification shall be required for work release, furlough, medical leave, community service, discharge, escape and recapture. Notification shall include terms and conditions imposed on any temporary release from custody. The plaintiff shall keep the Warden of the Fayette County Prison and Crime Victim/Witness Coordinator advised of contact information; failure to do so will constitute a waiver of any rights to notification under these provisions.

[Pa.B. Doc. No. 98-248. Filed for public inspection February 13, 1998, 9:00 a.m.]

GREENE COUNTY

Consolidated Rules of Court; Amendments to Rules of Procedure G2 and G211; C.A. No. 5 of 1992

Order

And Now, this 28th day of January, 1998, it is *Ordered* that Greene County, Pennsylvania, Local Rule G2: "Sessions of Court" is rescinded and Rule G211: "Argument Court," "subparagraph a" is amended as follows; to be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

H. TERRY GRIMES,
President Judge

Rule G211: Argument Court.

a. Argument Court shall be held monthly for all divisions at a time and date set by the Court Administrator.

[Pa.B. Doc. No. 98-249. Filed for public inspection February 13, 1998, 9:00 a.m.]

POTTER COUNTY

No. 7 of 1998; Miscellaneous Division

Order

And Now, this 26th day of January 1998, the Court adopts the following Local Rules 100 A and 100 B, and direct that they will be processed in accordance with Pennsylvania Rule of Criminal Procedure No. 6. Both Rules will be effective 30 days after publication in the *Pennsylvania Bulletin*. In the meantime, however, the content of said Rules will be enforceable as a general Order of this Court.

By the Court

JOHN B. LEETE,
President Judge

Rule 100A. Approval of Search Warrant Applications by Attorney for the Commonwealth.

The District Attorney of Potter County, having filed a certification pursuant to Rule 2002-A of the Pennsylvania Rules of Criminal Procedure, search warrants requested by officers of the Coudersport Borough Police Department and the Galeton Borough Police Department shall not hereafter be issued by a judicial officer unless the search warrant has the approval of an attorney for the Commonwealth prior to filing.

Rule 100B. Approval of Police Complaints and Arrest Warrant Affidavits by that Attorney for the Commonwealth.

The District Attorney of Potter County having filed a Certificate pursuant to Pennsylvania Rule of Criminal Procedure 107, criminal complaints and arrest warrant affidavits by police officers of the Borough of Coudersport Police Department and the Borough of Galeton charging crimes of Criminal Homicide; Homicide by Motor Vehicles; Homicide by Motor Vehicle While Driving Under the Influence of Alcohol; Armed Robbery; Rape; Statutory Sexual Assault; Involuntary Deviate Sexual Intercourse; Sexual Assault; Aggravated Indecent Assault; Aggravated Assault; Felony Offenses Under the Controlled Substance Drug Devises & Cosmetic Act; or an Attempt Conspiracy or Solicitation to commit any of these crimes shall not hereafter by any judicial officer unless the complaint and affidavit has the approval of the attorney for the Commonwealth prior to filing.

[Pa.B. Doc. No. 98-250. Filed for public inspection February 13, 1998, 9:00 a.m.]