

# THE COURTS

## Title 210—APPELLATE PROCEDURE

### PART II. INTERNAL OPERATING PROCEDURES

[210 PA. CODE CH. 67]

#### Internal Operating Procedures

The Commonwealth Court recently amended its internal operating procedures.

G. RONALD DARLINGTON,  
*Executive Administrator*

#### Annex A

### TITLE 210. APPELLATE PROCEDURE

#### PART II. INTERNAL OPERATING PROCEDURES

#### CHAPTER 67. INTERNAL OPERATING PROCEDURES OF THE COMMONWEALTH COURT APPELLATE JURISDICTION

#### § 67.35. Rearguments; Petitions for Reargument.

The president judge shall distribute petitions for reargument and answers to them, **involving cases decided by a panel of the court or the court en banc**, to all judges of the court. After consideration pursuant to such circulation, the vote of the majority of the active judges of the court to grant or deny the petition for reargument shall govern, although comments from the court's senior judges shall be solicited. **Where a party files a petition for reargument of an order issued by a single judge, the executive administrator or the prothonotary shall submit the petition, together with any answer, to that judge for disposition.**

[Pa.B. Doc. No. 99-396. Filed for public inspection March 12, 1999, 9:00 a.m.]

## Title 234—RULES OF CRIMINAL PROCEDURE

### PART I. GENERAL

[234 PA. CODE CHS. 1—11, 20, 30, 50, 100,  
200, 300, 1100, 1400—1700, 2000, 4000,  
6000 AND 9000]

#### Proposal to Reorganize and Renumber the Rules of Criminal Procedure

#### Introduction

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania reorganize and renumber the Rules of Criminal Procedure, and make a number of correlative changes to the rules. The proposed reorganization will present the rules in a more orderly fashion that more accurately reflects the movement of a criminal case through the criminal justice system, thereby making the rules more "user friendly" and easier to follow.<sup>1</sup> This proposal has not been

<sup>1</sup> For purposes of this Report, the Committee has included only the text of the rules that would be amended, not all the rules as renumbered.

submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

The proposed reorganization and text of the amendments precedes the Report. Deletions appear in bold and brackets, and additions appear in bold.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Anne T. Panfil, Chief Staff Counsel, Supreme Court of Pennsylvania, Criminal Procedural Rules Committee, P. O. Box 1325, Doylestown, PA 18901 no later than Wednesday, April 28, 1999.

*By the Criminal Procedural Rules Committee*

FRANCIS BARRY MCCARTHY,  
*Chair*

#### Proposed Reorganization of Rules<sup>2</sup>

#### Rule

#### CHAPTER 1. GENERAL PROVISIONS

- 100. Scope of Rules.
- 101. Purpose and Construction.
- 102. Citing the Criminal Procedural Rules.

#### Part A. Business of the Courts

- 103. Definitions.
- 104. Design of Forms.
- 105. Local Rules.
- 106. Continuances in Summary and Court Cases.
- 107. Contents of Subpoena.
- 108. Habeas Corpus Venue.
- 109. Defects in Form, Content, or Procedure.
- 110. Special Orders Governing Widely-Publicized or Sensational Cases.
- 111. Public Discussion of Pending or Imminent Criminal Litigation by Court Personnel.
- 112. Publicity, Broadcasting, and Recording of Proceedings.
- 113. Notice of Court Proceeding(s) Requiring Defendant's Presence.
- 114. Notice and Docketing of Orders.
- 115. Recording and Transcribing Court Proceedings.

#### Part B. Counsel

- 120. Attorneys—Appearances and Withdrawals.
- 121. Waiver of Counsel.
- 122. Assignment of Counsel.
- 123. Application for the Assignment of Counsel.
- 124. In Forma Pauperis. (Reserved)

<sup>2</sup> As an aid in following the reorganization, the Committee has prepared (1) a Derivation Table, which indicates the new rule numbers and titles with the "former" rule numbers listed next to them, and (2) a Disposition Table, which indicates the current rule numbers and titles with the "new" rule numbers listed next to them. See the Appendix that follows the Report.

**Part C. Venue, Location, and Recording of Proceedings Before Issuing Authority**

- 130. Venue.
- 131. Location of Proceedings Before Issuing Authority.
- 132. Continuous Availability and Temporary Assignment of Issuing Authorities.
- 133. Powers of Temporarily Assigned Issuing Authorities.
- 134. Objections to Venue.
- 135. Transcript of Proceedings Before Issuing Authority.

**Part D. Procedures Implementing 42 Pa.C.S. §§ 4137, 4138, and 4139: Criminal Contempt Powers of District Justices, Judges of the Pittsburgh Magistrates Court and Judges of the Traffic Court of Philadelphia**

- 140. Contempt Proceedings Before District Justices, Pittsburgh Magistrates Court Judges, and Philadelphia Traffic Court Judges.
- 141. Appeals from Contempt Adjudications by District Justices, Pittsburgh Magistrates Court Judges, or Philadelphia Traffic Court Judges.
- 142. Procedures Governing Defaults in Payment of Fine Imposed As Punishment for Contempt.

**CHAPTER 2. INVESTIGATIONS****Part A. Search Warrants**

- 200. Who May Issue.
- 201. Purpose of Warrant.
- 202. Approval of Search Warrant Applications by Attorney for the Commonwealth—Local Option.
- 203. Requirements for Issuance.
- 204. Person to Serve Warrant.
- 205. Contents of Search Warrant.
- 206. Contents of Application for Search Warrant.
- 207. Manner of Entry Into Premises.
- 208. Copy of Warrant; Receipt for Seized Property.
- 209. Return With Inventory.
- 210. Return of Papers to Clerk.
- 211. Sealing Search Warrant Affidavits.

**Part B(1). Investigating Grand Juries**

- 220. Motion and Order for Investigating Grand Jury.
- 221. Summoning Investigating Grand Jurors.
- 222. Composition and Organization of the Investigating Grand Jury.
- 223. Administering Oath to Stenographer.
- 224. Administering Oath to Court Personnel.
- 225. Administering Oath to Grand Jury and Foreman.
- 226. Charge to Investigating Grand Jury.
- 227. Administering Oath to Witness.
- 228. Recording of Proceedings Before Investigating Grand Jury.
- 229. Control of Investigating Grand Jury Transcript/Evidence.
- 230. Disclosure of Testimony Before Investigating Grand Jury.
- 231. Who May Be Present During Session of an Investigating Grand Jury.

**B(2). Statewide or Regional Investigating Grand Juries**

- 240. Applicability of Investigating Grand Jury Rules.
- 241. Summoning Jurors for Statewide or Regional Investigating Grand Juries.
- 242. Providing Prospective Jurors for Statewide or Regional Investigating Grand Juries.
- 243. Location of Statewide or Regional Investigating Grand Juries.
- 244. Venue.

**CHAPTER 3. ACCELERATED REHABILITATIVE DISPOSITION**

Committee Introduction to Chapter 3.

**Part A. Summary Cases**

- 300. Accelerated Rehabilitative Disposition in Summary Cases.
- 301. Procedures for Accelerated Rehabilitative Disposition in Summary Cases Before the Minor Judiciary.
- 302. Procedures for Accelerated Rehabilitative Disposition in Summary Cases in the Court of Common Pleas—Local Option.

**Part B. Court Cases**

- 310. Motion for Accelerated Rehabilitative Disposition.
- 311. Application Process and Notice of Motion by Attorney for the Commonwealth.
- 312. Hearing, Explanation of Program.
- 313. Hearing, Manner of Proceeding.
- 314. Deferring Action Upon Admission to Program Before Information.
- 315. Deferring Adjudication of the Charges Upon Admission to Program After Information.
- 316. Conditions of the Program.
- 317. Procedure Upon Refusal to Accept the Conditions.
- 318. Procedure on Charge of Violation of Conditions.
- 319. Procedure for Obtaining Order for Dismissal Upon Successful Completion of the Program.
- 320. Expungement Upon Successful Completion of ARD Program.

**CHAPTER 4. PROCEDURES IN SUMMARY CASES**

Committee Introduction to Chapter 4.

**Part A. Instituting Proceedings**

- 400. Means of Instituting Proceedings in Summary Cases.
- 401. Means of Instituting Proceedings in Summary Cases Charging Parking Violations.

**Part B. Citation Procedures**

- 402. Persons Who Shall Use Citations.
- 403. Contents of Citation.

**Part B(1). Procedures When Citation Is Issued to Defendant**

- 405. Issuance of Citation.
- 406. Procedure Following Issuance of Citation.
- 407. Pleas in Response to Citation.
- 408. Not Guilty Pleas—Notice of Trial.
- 409. Guilty Pleas.

**Part B(2). Procedures When Citation Filed**

- 410. Filing of Citation.
- 411. Procedures Following Filing of Citation—Issuance of Summons.
- 412. Pleas in Response to Summons.
- 413. Not Guilty Pleas—Notice of Trial.
- 414. Guilty Pleas.

**Part C. Procedures in Summary Cases When Complaint Filed**

- 420. Filing of Complaint.
- 421. Procedure Following Filing of Complaint—Issuance of Summons.
- 422. Pleas in Response to Summons.
- 423. Not Guilty Pleas—Notice of Trial.
- 424. Guilty Pleas.

**Part D. Arrest Procedures in Summary Cases****Part D(1). Arrests With a Warrant**

- 430. Issuance of Arrest Warrant.
- 431. Procedure When Defendant Arrested With Warrant.

**Part D(2). Arrests Without a Warrant**

- 440. Arrest Without Warrant.
- 441. Procedure Following Arrest Without Warrant.

**Part E. General Procedures in Summary Cases**

- 450. Motions. (Reserved)
- 451. Service.
- 452. Collateral.
- 453. Joinder of Offenses and Defendants.
- 454. Trial in Summary Cases.
- 455. Trial in Defendant's Absence.
- 456. Default Procedures: Restitution, Fines, and Costs.
- 457. Withdrawal of Charges in Summary Cases.
- 458. Dismissal in Summary Cases Upon Satisfaction or Agreement.

**Part F. Procedures in Summary Cases for Appealing to Court of Common Pleas for a Trial De Novo**

- 460. Notice of Appeal.
- 461. Stays.
- 462. Trial De Novo.

**Part G. Special Procedures in Summary Cases Under the Vehicle Code**

- 470. Procedures Related to License Suspension After Failure to Respond to Citation or Summons.

- 471. Disposition Report.

**CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES****Part A. Preservation of Testimony**

- 500. Preservation of Testimony After Institution of Criminal Proceedings.
- 501. Preservation of Testimony by Videotape Recording.

**Part B. Instituting Proceedings**

- 502. Instituting Proceedings in Court Cases.

**Part B(1). Complaint Procedures**

- 503. Complaint Procedures Generally.
- 504. Contents of Complaint.
- 505. Complaints: Joinder of Offenses and Defendants.
- 506. Approval of Private Complaints.
- 507. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth—Local Option.
- 508. Procedure Following Submission of Complaint to Issuing Authority.
- 509. Use of Summons or Warrant of Arrest in Court Cases.

**Part B(2). Summons Procedures**

- 510. Contents of Summons; Time of Preliminary Hearing.
- 511. Service of Summons.
- 512. Procedure in Court Cases Following Issuance of Summons.

**Part B(3). Arrest Procedures in Court Cases****(a) Arrest Warrants**

- 513. Requirements for Issuance.
- 514. Duplicate and Alias Warrants of Arrest.
- 515. Execution of Arrest Warrant.
- 516. Procedure in Court Cases When Warrant of Arrest Is Executed Within Judicial District of Issuance.
- 517. Procedure in Court Cases When Warrant of Arrest Is Executed Outside Judicial District of Issuance.

**(b) Arrests Without Warrant**

- 518. Procedure in Court Cases Initiated by Arrest Without Warrant.

**Part C. Bail**

- 520. Bail Before Verdict.
- 521. Bail After Finding of Guilt.
- 522. Detention of Witnesses.

**Part C(1). Release Procedures**

- 523. Release Criteria.
- 524. Types of Release on Bail.
- 525. Bail Bond.
- 526. Conditions of Bail Bond.

527. Nonmonetary Conditions of Release on Bail.  
 528. Monetary Condition of Release on Bail.  
 529. Modification of Bail Order Prior to Verdict.

**Part C(2). General Procedures in all Bail Cases**

530. Duties and Powers of a Bail Agency.  
 531. Qualifications of Surety.  
 532. Substitution of Surety or Security.  
 533. Increased Amount of Monetary Condition of Bail.  
 534. Duration of Obligation.  
 535. Receipt for Deposit; Return of Deposit.  
 536. Procedures Upon Violation of Conditions: Revocation of Release and Forfeiture; Bail Pieces; Exoneration of Surety.

**Part D. Proceedings in Court Cases Before Issuing Authorities**

540. Preliminary Arraignment.  
 541. Waiver of Preliminary Hearing.  
 542. Preliminary Hearing.  
 543. Continuance of a Preliminary Hearing.  
 544. Disposition of Case at Preliminary Hearing.  
 545. Witnesses: Compulsory Process.  
 546. Dismissal Upon Satisfaction or Agreement.  
 547. Return of Transcript and Original Papers.  
 548. Amendment of Transcript in Court Cases.  
 549. Compelling Transmission of Papers by Issuing Authority.  
 550. Pleas of Guilty Before District Justice in Court Cases.  
 551. Withdrawal of Prosecution Before Issuing Authority.

**Part E. Informations**

560. Information: Filing, Contents, Function.  
 561. Withdrawal of Charges by Attorney for the Commonwealth.  
 562. Copy of Information to be Furnished Defendant.  
 563. Joinder of Offenses in Information.  
 564. Amendment of Information.  
 565. Presentation of Information Without Preliminary Hearing.  
 566. Application of Indictment Statutes to Information.

**Part F. Procedures Following Filing of Information**

570. Pretrial Conference.  
 571. Arraignment.  
 572. Bill of Particulars.  
 573. Pretrial Discovery and Inspection.

**Part F(1). Motion Procedures**

574. Motions.  
 575. Answers.  
 576. Filing.  
 577. Service.  
 578. Omnibus Pretrial Motion for Relief.  
 579. Time for Omnibus Pretrial Motion and Service.  
 580. Disposition of Pretrial Motions.  
 581. Suppression of Evidence.  
 582. Joinder—Trial of Separate Indictments or Informations.

583. Severance of Offenses or Defendants.  
 584. Motion for Change of Venue or Change of Venire.  
 585. Nolle Prosequi.  
 586. Court Dismissal Upon Satisfaction or Agreement.  
 587. Motion for Dismissal.  
 588. Motion for Return of Property.

**Part G. Plea Procedures**

590. Pleas and Plea Agreements.  
 591. Withdrawal of Plea of Guilty.

**CHAPTER 6. TRIAL PROCEDURES IN COURT CASES**

**Part A. General Provisions**

600. Prompt Trial.  
 601. Presence of Judge.  
 602. Presence of the Defendant.  
 603. Exceptions.  
 604. Opening Statements and Closing Arguments.  
 605. Mistrial.  
 606. Challenges to Sufficiency of Evidence.  
 607. Challenges to the Weight of the Evidence.  
 608. Motion for Judgment of Acquittal After Discharge of Jury.

**Part B. Non-Jury Procedures**

620. Waiver of Jury Trial.  
 621. Procedure When Jury Trial Is Waived.  
 622. Time for Court Action Following Non-Jury Trial.

**Part C. Jury Procedures**

630. Juror Qualification Form, Lists of Trial Jurors, and Challenge to the Array.

**Part C(1). Impaneling Jury**

631. Examination and Challenges of Trial Jurors.  
 632. Juror Information Questionnaire.  
 633. Examination and Challenges of Alternate Trial Jurors.  
 634. Number of Peremptory Challenges.  
 635. Exhaustion of the Jury Panel.

**Part C(2). Conduct of Jury Trial**

640. Swearing the Trial Jury to Hear the Cause.  
 641. Consent to Be Tried by Less Than Twelve Jurors.  
 642. Sequestration of Trial Jurors.  
 643. View by Jury.  
 644. Note Taking by Jurors.  
 645. Seating and Discharge of Alternate Jurors.  
 646. Material Permitted in Possession of the Jury.  
 647. Request for Instructions, Charge to the Jury, and Preliminary Instructions.  
 648. Verdicts.  
 649. Sealed Verdict.

## CHAPTER 7. POST-TRIAL PROCEDURES IN COURT CASES

### Part A. Sentencing Procedures

- 700. Sentencing Judge.
- 701. Pleas of Guilty to Multiple Offenses.
- 702. Aids in Imposing Sentence.
- 703. Disclosure of Pre-Sentence Reports.
- 704. Procedure at Time of Sentencing.
- 705. Imposition of Sentence.
- 706. Fines or Costs.
- 707. Documents Transmitted to Prison.
- 708. Violation of Probation, Intermediate Punishment, or Parole: Hearing and Disposition.

### Part B. Post-Sentence Procedures

- 720. Post-Sentence Procedures; Appeal.
- 721. Procedures for Commonwealth Challenges to Sentencing; Appeals.
- 722. Contents of Order for Expungement.

## CHAPTER 8. SPECIAL RULES FOR CASES IN WHICH DEATH SENTENCE IS AUTHORIZED

- 800. Applicability of Subchapter.
- 801. Notice of Aggravating Circumstances.
- 802. Guilty Plea Procedure.
- 803. Procedure When Jury Trial is Waived.
- 804. No Sealed Verdict.
- 805. Closing Arguments at Sentencing Hearing.
- 806. Sentencing Verdict Slip.
- 807. Form for Jury Sentencing Verdict Slip.
- 808. Form for Trial Judge Sentencing Verdict Slip.
- 809. Sentence.
- 810. Post-Sentence Motion.
- 811. First Degree Murder Review Form.

## CHAPTER 9. POST-CONVICTION COLLATERAL PROCEEDINGS

- 900. Scope.
- 901. Initiation of Post-Conviction Collateral Proceedings.
- 902. Content of Petition for Post-Conviction Collateral Relief; Request for Discovery.
- 903. Docketing and Assignment.
- 904. Appointment of Counsel; In Forma Pauperis.
- 905. Amendment and Withdrawal of Petition for Post-Conviction Collateral Relief.
- 906. Answer to Petition for Post-Conviction Collateral Relief.
- 907. Disposition Without Hearing.
- 908. Hearing.
- 909. Procedures for Petitions in Death Penalty Cases: Hearing; Disposition.
- 910. Appeal.

## CHAPTER 10. RULES OF CRIMINAL PROCEDURE FOR THE PHILADELPHIA MUNICIPAL COURT

- 1000. Scope of Rules.
- 1001. Disposition of Criminal Cases—Philadelphia Municipal Court.
- 1002. Procedure in Summary Cases.

- 1003. Procedure in Non-Summary Municipal Court Cases.
- 1004. Arraignment Prior to Trial.
- 1005. Pretrial Applications for Relief.
- 1006. Notice of Right to Appeal or to Petition for Certiorari; Guilty Plea Challenge Procedure.
- 1007. Challenge to Guilty Plea.
- 1008. Contents of Notice of Appeal or Petition for Certiorari.
- 1009. Notice to Municipal Court Judge and Attorney for the Commonwealth of Appeal or of Petition for Certiorari.
- 1010. Procedure on Appeal.
- 1011. Bail.
- 1012. Recording and Transcribing Municipal Court Proceedings; Admissibility of Testimony at Trial De Novo.
- 1013. Prompt Trial—Municipal Court.

## CHAPTER 11. ABOLITIONS AND SUSPENSIONS.

- 1100. Abolition of Practice and Procedure Under Repealed Statutes.
- 1101. Suspension of Acts of Assembly.

### Proposed Correlative Rule Changes

Rule [ 301 ] 106. Continuances in summary and court cases.

[ (a) ] (A) The court **or issuing authority** may, in the interests of justice, grant a continuance, [ of ] on its own motion, or on the motion of either party.

(B) **When the matter is before an issuing authority, the issuing authority shall record on the transcript the identity of the moving party and the reasons for granting or denying the continuance. When the matter is in the court of common pleas, [ The ] the [ court ] judge shall on the record identify the moving party and state of record the [ court's ] reasons [ justifying the ] for granting or [ denial of ] denying the continuance.**

[ (b) ] (C) A motion for continuance on behalf of the defendant shall be made not later than [ forty-eight ] 48 hours before the time set for the trial. A later motion shall be entertained only when the opportunity therefor did not previously exist, or the defendant was not aware of the grounds for the motion, or the interests of justice require it.

**Official Note: Formerly Rule 301, [ Adopted ] adopted June 30, 1964, effective January 1, 1965; amended June 8, 1973, effective July 1, 1973; amended June 29, 1977 and through November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; renumbered Rule 106 and amended \_\_\_\_\_, effective \_\_\_\_\_.**

### Committee Explanatory Reports:

#### Renumbered Rule 106:

**Report explaining the reorganization of the rules and the provisions of Rule 106 published at 29 Pa.B. 1369 (March 13, 1999).**

(This is an amalgamated rule, combining Rules 90 and 150.)

#### Rule 109. Defects in Form, Content, or Procedure.

A defendant shall not be discharged nor shall a case be dismissed because of a defect in the form or content of a

complaint, citation, summons, or warrant, or a defect in the procedures of these rules, unless the defendant raises the defect before the conclusion of the trial in a summary case or before the conclusion of the preliminary hearing in a court case, and the defect is prejudicial to the rights of the defendant.

**Official Note:** Former Rule 90 adopted July 12, 1985, effective January 1, 1986; effective date extended to July 1, 1986. Former Rule 150, formed from former Rule 114 (Informal Defects), and former Rule 115 (Substantive Defects), both adopted June 30, 1964, effective January 1, 1965; suspended effective May 1, 1970; both revised January 31, 1970, effective May 1, 1970; combined, renumbered Rule 150 and amended September 18, 1973, effective January 1, 1974; amended April 8, 1982, effective July 1, 1982, Comment revised July 12, 1985, effective January 1, 1986; effective date extended to July 1, 1986. Rules 90 and 150 combined and renumbered Rule 109 \_\_\_\_\_, effective \_\_\_\_\_.

**Comment:**

This rule combines and replaces previous Rules 90 and 150.

This rule clarifies when a defendant should be discharged or a case dismissed because of a defect; it eliminates disputes as to what is an informal defect or a substantive defect. As a condition of relief regardless of whether the defect is in form, content, or procedure, the court or issuing authority must determine that there is actual prejudice to the rights of the defendant.

A complaint, citation, summons, or warrant may be amended at any time so as to remedy any defect in form or content that is not prejudicial to the rights of the defendant. Nothing in this rule shall prevent the filing of a new complaint or citation and the reissuance of process. Any new complaint or citation must be filed within the time permitted by the applicable statute of limitations.

Ordinarily, if a defendant does not raise a defect at the summary trial or before the conclusion of the preliminary hearing, the defendant cannot thereafter raise the defect as grounds for dismissal or discharge at a later stage in the proceedings. See *Commonwealth v. Krall*, 304 A.2d 488 (Pa. 1973). In a summary case, however, the provisions of this rule do not preclude a defendant from raising a defect for the first time after the summary trial when the interests of justice require it, as for example, when the defendant was not represented by counsel during the proceedings before the district justice or when the defendant could not reasonably have discovered the defect until after the conclusion of the summary trial.

Any defect properly raised under this rule shall be specifically described on the docket by the issuing authority. See Pa.R.Crim.P. 135.

If the issuing authority determines that a defect is prejudicial, it is intended that the decision recorded on the docket pursuant to Rule 135(b)(12) shall be "discharge of the defendant" or "dismissal of the case," rather than "not guilty."

*Committee Explanatory Reports:*

Renumbered Rule 109:

Report explaining the reorganization of the rules and the provisions of Rule 109 published at 29 Pa.B. 1369 (March 13, 1999).

(This is an amalgamated rule, combining Rules 27 and 328.)

**Rule 112. Publicity, Broadcasting, and Recording of Proceedings.**

(A) The court or issuing authority shall:

(1) prohibit the taking of photographs or motion pictures of any judicial proceedings or in the hearing room or courtroom or its environs during the judicial proceedings; and

(2) prohibit the transmission of communications by telegraph, telephone, radio, or television from the hearing room or the courtroom or its environs during the progress of or in connection with any judicial proceedings, whether or not the court is actually in session.

The environs of the hearing room or courtroom is defined as the area immediately surrounding the entrances and exits to the hearing room or courtroom.

(B) The court or issuing authority may permit the taking of photographs or radio or television broadcasting of judicial proceedings, such as naturalization ceremonies or the swearing in of public officials, which may be conducted in the hearing room or courtroom.

(C) Except as provided in paragraph (D), the mechanical or electronic recording of any judicial proceedings by anyone other than the official court stenographer in a court case, for any purpose, is prohibited.

(D) In a judicial proceeding before an issuing authority, the issuing authority, the attorney for the Commonwealth, or the defendant may cause a recording to be made of the judicial proceeding as an aid to the preparation of the written record for subsequent use in a case, but such recordings shall not be publicly played or disseminated in any manner unless in a court during a trial or hearing.

(E) If it appears to the court or issuing authority that a violation of this rule has resulted in substantial prejudice to the defendant, the court or issuing authority, upon application by the attorney for the Commonwealth or the defendant, may:

(1) Quash the proceedings at the preliminary hearing and order another preliminary hearing to be held before the same issuing authority at a subsequent time without additional costs being taxed.

(2) Discharge the defendant on nominal bail if in custody, or continue the bail if at liberty, pending further proceedings.

(3) Order all costs of the issuing authority forfeited in the original proceedings.

(4) Adopt any, all, or combination of these remedies as the nature of the case requires in the interests of justice.

**Official Note:** Former Rule 27, previously Rule 143, adopted January 31, 1970, effective May 1, 1970; renumbered Rule 27 September 18, 1973, effective January 1, 1974; amended February 15, 1974, effective immediately; Comment revised March 22, 1989, effective July 1, 1989; amended June 19, 1996, effective July 1, 1996. Former Rule 328 adopted January 25, 1971, effective February 1, 1971; amended June 29, 1977 and November 22, 1977; effective as to cases in which the indictment or information is filed on or after January 1, 1978; Comment revised March 22, 1989, effective July 1, 1989. Rules 27 and 328 combined, renumbered Rule 112, and amended \_\_\_\_\_, effective \_\_\_\_\_.

**Comment:**

This rule combines and replaces Rules 27 and 328.

"Recording" as used in this rule is not intended to preclude the use of recording devices for the preservation of testimony as permitted by Rules 500 and 501.

*Committee Explanatory Reports:*

Former Rule 27:

Final Report explaining the June 19, 1996 amendments to former Rule 27 published with the Court's Order at 26 Pa.B. 3128 (July 6, 1996).

Renumbered Rule 112:

Report explaining the reorganization of the rules and the provisions of Rule 112 published at 29 Pa.B. 1369 (March 13, 1999).

This rule is derived from former Rule 86(A),  
(D)—(F), (H), (I.)

**Rule 460. Notice of Appeal.**

(A) When an appeal is authorized by law in a summary proceeding, including a prosecution for violation of a municipal ordinance which provides for imprisonment upon conviction or upon failure to pay a fine, an appeal shall be perfected by filing a notice of appeal within 30 days after the conviction or other final order from which the appeal is taken. The notice of appeal shall be filed with the clerk of courts.

(B) The notice of appeal shall contain the following information:

- (1) the name and address of the appellant;
- (2) the name and address of the issuing authority who heard the case;
- (3) the magisterial district number in which the case was heard;
- (4) the name and mailing address of the affiant as shown on the complaint or citation;
- (5) the date of the conviction or other final order from which the appeal is taken;
- (6) the offense(s) of which convicted, if any;
- (7) the sentence imposed, and if the sentence includes a fine, costs, or restitution, whether the amount due has been paid;
- (8) the type or amount of bail or collateral furnished to the issuing authority, if any;
- (9) the name and address of the attorney, if any, filing the notice of appeal; and
- (10) except when the appeal is from a conviction, the grounds relied upon for appeal.

(C) Within 5 days after filing the notice of appeal, a copy shall be served either personally or by mail by the clerk of courts upon the issuing authority, the affiant, and the appellee or appellee's attorney, if any.

(D) The issuing authority shall, within 20 days after receipt of the notice of appeal, file with the clerk of courts:

- (1) the transcript of the proceedings;
- (2) the original complaint or citation;
- (3) the summons or warrant of arrest, if any; and
- (4) the bail bond, if any.

(E) This rule shall provide the exclusive means of appealing from a summary conviction. Courts of common pleas shall not issue writs of certiorari in such cases.

(F) This rule shall not apply to appeals from contempt adjudications.

**Official Note:** Formerly Rule 86, which replaced prior Rule 67 and was adopted July 12, 1985, effective January 1, 1986; revised September 23, 1985, effective January 1, 1986; the January 1, 1986 effective dates extended to July 1, 1986; amended February 2, 1989, effective March 1, 1989; amended March 22, 1993, effective January 1, 1994; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; amended February 27, 1995, effective July 1, 1995; amended October 1, 1997, effective October 1, 1998; paragraphs (A), (D), (E), (F), (H), and (I) renumbered Rule 460 and amended \_\_\_\_\_, effective \_\_\_\_\_.

**Comment:**

This rule is derived from former Rule 86(A), (D), (E), (F), (H), and (I).

This rule applies to appeals in all summary proceedings, including prosecutions for violations of municipal ordinances which provide for the possibility of imprisonment, and default hearings.

Appeals from contempt adjudications are governed by Rule 141.

The narrow holding in *City of Easton v. Marra*, 326 A.2d 637 (Pa. Super. 1974), is not in conflict, since the record before the court did not indicate that imprisonment was possible under the ordinance there in question.

When the only issues on appeal arise solely from an issuing authority's determination after a default hearing pursuant to Rule 456, the matter must be heard de novo by the appropriate judge of the court of common pleas and only those issues arising from the default hearing are to be considered. It is not intended to reopen other issues not properly preserved for appeal. A determination after a default hearing would be a final order for purposes of these rules.

Rule 462(D) provides for the dismissal of an appeal when the defendant fails to appear for the trial de novo.

Certiorari was abolished by the Criminal Rules in 1973 pursuant to Article V Schedule Section 26 of the Constitution of Pennsylvania, which specifically empowers the Supreme Court of Pennsylvania to do so by rule. This Schedule section is still viable, and the substance of this Schedule section has also been included in the Judicial Code, 42 Pa.C.S. § 934. The abolition of certiorari continues with this rule.

*Committee Explanatory Reports:*

Former Rule 86:

Final Report explaining the March 22, 1993 amendments to former Rule 86 published with the Court's Order at 23 Pa.B. 1699 (April 10, 1993).

Final Report explaining the October 28, 1994 amendments to former Rule 86 published with the Court's Order at 24 Pa.B. 5843 (November 26, 1994).

Final Report explaining the February 27, 1995 amendments to former Rule 86 published with the Court's Order at 25 Pa.B. 935 (March 18, 1995).

Final Report explaining the October 1, 1997 amendments to former Rule 86 published with the Court's Order at 27 Pa.B. 5408 (October 18, 1997).

Renumbered Rule 460:

Report explaining the reorganization of the rules and the provisions of Rule 460 published at 29 Pa.B. 1369 (March 13, 1999).

(This rule is derived from Rule 86(B) and (C).)

**Rule 461. Stays.**

(A) In all summary cases in which a sentence of imprisonment has been imposed, execution of sentence shall be stayed until the time for appeal expires.

(B) In any summary case in which a notice of appeal is filed, the execution of sentence shall be stayed.

(C) Whenever the execution of sentence is stayed pursuant to this rule, the issuing authority may set collateral.

(D) During the 30-day appeal period, failure to pay fines and costs, or restitution, shall not be grounds for imprisonment, and shall not be grounds to preclude the taking of an appeal.

**Official Note:** Formerly Rule 86(B) and (C), adopted October 1, 1997, effective October 1, 1998; paragraphs (B) and (C) renumbered Rule 461 and amended \_\_\_\_\_, effective \_\_\_\_\_.

**Comment:**

This rule is derived from Rule 86(B) and (C).

Under paragraph (B), the stay applies to all "sentences" imposed after conviction, including sentences of imprisonment, fines and costs, or restitution, and sentences of imprisonment for defaults in payment pursuant to Rule 456.

*Committee Explanatory Reports:*

Former Rule 86(B) and (C):

Final Report explaining the October 1, 1997 addition of paragraphs (B) and (C) to Rule 86 published with the Court's Order at 27 Pa.B. 5408 (October 18, 1997).

Renumbered Rule 461:

Report explaining the reorganization of the rules and the provisions of Rule 461 published at 29 Pa.B. 1369 (March 13, 1999).

(This rule is derived from Rules 86(G), and 1117(c).)

**Rule 462. Trial De Novo.**

(A) When a defendant appeals after conviction by an issuing authority in any summary proceeding, upon the filing of the transcript and other papers by the issuing authority, the case shall be heard de novo by the judge of the court of common pleas sitting without a jury.

(B) The attorney for the Commonwealth may appear and assume charge of the prosecution. When the violation of an ordinance of a municipality is charged, an attorney representing that municipality, with the consent of the attorney for the Commonwealth, may appear and assume charge of the prosecution. When no attorney appears on behalf of the Commonwealth, the affiant may be permitted to ask questions of any witness who testifies.

(C) In appeals from summary proceedings arising under the Vehicle Code or local traffic ordinances, other than parking offenses, the law enforcement officer who observed the alleged offense must appear and testify. Unless the presence of the law enforcement officer is waived in open court by the defendant, the failure of the officer to appear and testify shall result in a dismissal of the charges.

(D) If the defendant fails to appear, the trial judge may dismiss the appeal and enter judgment in the court of common pleas on the judgment of the issuing authority.

(E) If the defendant withdraws the appeal, the trial judge shall enter judgment in the court of common pleas on the judgment of the issuing authority.

(F) The verdict and sentence, if any, shall be announced in open court immediately upon the conclusion of the trial.

(G) At the time of sentencing, the trial judge shall:

(1) if the defendant's sentence includes restitution, a fine, or costs, state the date on which payment is due. If the defendant is without the financial means to pay the amount in a single remittance, the trial judge may provide for installment payments and shall state the date on which each installment is due;

(2) advise the defendant of the right to appeal to the Superior Court within 30 days, and that, if an appeal is filed, the execution of sentence will be stayed and the trial judge may set bail;

(3) if a sentence of imprisonment has been imposed, direct the defendant to appear for the execution of sentence on a date certain unless the defendant files a notice of appeal within the 30-day period; and

(4) issue a written order imposing sentence, signed by the trial judge. The order shall include the information specified in paragraphs (G)(1) through (G)(3), and a copy of the order shall be given to the defendant.

**Official Note:** Former Rule 86 adopted July 12, 1985, effective January 1, 1986; revised September 23, 1985, effective January 1, 1986; the January 1, 1986 effective dates extended to July 1, 1986; amended February 2, 1989, effective March 1, 1989; amended March 22, 1993, effective January 1, 1994; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; amended February 27, 1995, effective July 1, 1995; amended October 1, 1997, effective October 1, 1998. Former Rule 1117 adopted January 24, 1968, effective August 1, 1968; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995. Former Rules 86(G), and 1117(c) combined, renumbered Rule 462, and amended \_\_\_\_\_, effective \_\_\_\_\_.

**Comment:**

This rule is derived from former Rule 86(G), and former Rule 1117(c).

The procedures for conducting the trial de novo in the court of common pleas set forth in paragraphs (B), (F), and (G) are comparable to the summary case trial procedures in Rule 454 (Trial in Summary Cases).

Pursuant to paragraph (B), the decision whether to appear and assume control of the prosecution of the trial de novo is solely within the discretion of the attorney for the Commonwealth. When no attorney appears at the trial de novo on behalf of the Commonwealth or a municipality, the trial judge may ask questions of any witness who testifies, and the affiant may request the trial judge to ask specific questions. In the appropriate circumstances, the trial judge may also permit the affiant to question Commonwealth witnesses, cross-examine defense witnesses, and make recommendations about the case to the trial judge.

Paragraph (D) makes it clear that the trial judge may dismiss a summary case appeal when the judge determines that the defendant is absent without cause from the trial de novo. If the appeal is dismissed, the trial

judge should enter judgment and order execution of any sentence imposed by the issuing authority.

*Committee Explanatory Reports:*

Former Rule 86:

Final Report explaining the March 22, 1993 amendments to former Rule 86 published with the Court's Order at 23 Pa.B. 1699 (April 10, 1993).

Final Report explaining the October 28, 1994 amendments to former Rule 86 published with the Court's Order at 24 Pa.B. 5843 (November 26, 1994).

Final Report explaining the February 27, 1995 amendments to former Rule 86 published with the Court's Order at 25 Pa.B. 935 (March 18, 1995).

Final Report explaining the October 1, 1997 amendments to former Rule 86 concerning stays published with the Court's Order at 27 Pa.B. 5408 (October 18, 1997).

Former Rule 1117:

Final Report explaining the October 28, 1994 amendments to former Rule 1117 published with the Court's Order at 24 Pa.B. 5841 (November 26, 1994).

Renumbered Rule 462:

Report explaining the reorganization of the rules and the provisions of Rule 462 published at 29 Pa.B. 1369 (March 13, 1999).

**Rule [ 1117 ] 602.** Presence of the Defendant.

[ (a) ] (A) \* \* \*

[ (b) ] (B) \* \* \*

[ (c) In a summary case appealed for a trial de novo, if the defendant fails to appear as required by Rule 86, the trial judge may dismiss the appeal and enter judgment in the court of common pleas on the judgment of the issuing authority. ]

**Official Note: Formerly Rule 1117, [ Adopted ] adopted** January 24, 1968, effective August 1, 1968; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995[ . ] ; **renumbered Rule 602 and amended \_\_\_\_\_, effective \_\_\_\_\_.**

**Comment:**

[ Paragraph ] Former Rule 1117(c) was moved to Rule 462 (Trial de novo) in 1999 as part of the reorganization of the rules. [ added in 1994 to make it clear that the trial judge may dismiss a summary case appeal when the judge determines that the defendant is absent without cause from the trial de novo. If the appeal is dismissed, the trial judge should enter judgment and order execution of any sentence imposed by the issuing authority. ]

*Committee Explanatory Reports:*

Former Rule 1117:

Final Report explaining the October 28, 1994 amendments to former Rule 1117 published with the Court's Order at 24 Pa.B. 5841 (November 26, 1994).

Renumbered Rule 602:

Report explaining the reorganization of the rules and the provisions of Rule 602 published at 29 Pa.B. 1369 (March 13, 1999).

**Rule [ 1108 ] 633. Examination and Challenges of Alternate Trial Jurors.**

[ (a) ] (A) The trial judge may direct that a reasonable even number of jurors in addition to the principal jurors be called and impanelled to sit as alternate jurors.

[ Alternate jurors in the order in which they are called shall replace principal jurors who, prior to the time the jury retires to consider its verdict, become unable or disqualified to perform their duties. An alternate juror who does not replace a principal juror shall be discharged before the jury retires to consider its verdict. ]

[ (b) ] (B) \* \* \*

[ (c) ] (C) \* \* \*

**Official Note: Formerly Rule 1108, [ Adopted ] adopted** January 24, 1968, effective August 1, 1968; amended June 30, 1975, effective September 28, 1975; amended July 1, 1980, effective August 1, 1980[ . ] ; **renumbered Rule 633 and amended \_\_\_\_\_, effective \_\_\_\_\_.**

**Comment:**

Paragraph [ (b) ] (B) of this rule sets forth the number of peremptory challenges for the selection of alternate trial jurors and is intended to replace the Act of May 1, 1935, P. L. 127, No. 50, 51, insofar as it applied to criminal trials. That Act was repealed by the Judiciary Act Repealer Act, [ . Act of April 28, 1978, P. L. 202, No. 53, § 2(a); ] 42 P. S. § 20002(a) [ 1156 ] [ (1979) ].

The number of peremptory challenges for the selection of principal trial jurors is governed by Rule [ 1126 ] 634. [ The 1980 amendment to paragraph ] Paragraph (B) [ (b) is intended to reflect ] reflects the different treatment, under Rule [ 1126 ] 634, of trials involving only one defendant and trials involving joint defendants.

*Committee Explanatory Reports:*

Renumbered Rule 633:

Report explaining the reorganization of the rules and the provisions of Rule 633 published at 29 Pa.B. 1369 (March 13, 1999).

(This rule is derived from Rule 1108(a).)

**Rule 645. Seating and Discharge of Alternate Jurors.**

(A) Alternate jurors, in the order in which they are called, shall replace principal jurors who, prior to the time the jury retires to consider its verdict, become unable or disqualified to perform their duties.

(B) An alternate juror who does not replace a principal juror shall be discharged before the jury retires to consider its verdict.

**Official Note: Formerly Rule 1108, [ Adopted ] adopted** January 24, 1968, effective August 1, 1968; amended June 30, 1975, effective September 28, 1975; amended July 1, 1980, effective August 1, 1980[ . ] ; **renumbered Rule 645 and amended \_\_\_\_\_, effective \_\_\_\_\_.**

**Comment:**

This rule is derived from the last two sentences of former Rule 1108(a). See Rule 633 for the procedures for the examination and challenges of alternate trial jurors.

*Committee Explanatory Reports:*

Renumbered Rule 645:

Report explaining the reorganization of the rules and the provisions of Rule 645 published at 29 Pa.B. 1369 (March 13, 1999).

(This is an amalgamated rule, combining Rules 39, 159, 340, 1415, and 2020.)

**Rule 1101. Suspension of Acts of Assembly.**

This rule provides for the suspension of the following Acts of Assembly, as follows:

(A) The Act of June 15, 1994, P. L. 273, No. 45, § 1, 42 Pa.C.S. §§ 4137, 4138, and 4139, which provides, *inter alia*, that any punishment imposed for contempt will be "automatically stayed for a period of 10 days from the date of the imposition of the punishment during which time an appeal of the action" of a district justice, a Pittsburgh Magistrates Court judge, or a Philadelphia Traffic Court judge "may be filed with the court of common pleas of the judicial district," and which is implemented by Rules 140, 141, and 142, is suspended only insofar as the Act is inconsistent with the 30-day appeal period and 30-day automatic stay period set forth in Rule 141.

(B) The Act of April 29, 1959, P. L. 58, § 1209, 75 P. S. § 1209, repealed by Act of June 17, 1976, P. L. 162, No. 81, § 7 and replaced by Sections 6322, 6323, 6324, and 6325 of the Vehicle Code (75 Pa.C.S. §§ 6322—6325), are suspended insofar as these Sections are inconsistent with Rule 470.

(C) The Act of July 1, 1987, P. L. 180, No. 21, § 2, 42 Pa.C.S. § 1520, is suspended insofar as the Act is inconsistent with Rules 300, 301, 302, and Rules 310 through 320.

(D) The Public Defender Act, Act of December 2, 1968, P. L. 1144, No. 358, § 1 *et seq.* as amended through Act of December 10, 1974, P. L. 830, No. 277, § 1, 16 P. S. § 9960.1 *et seq.*, is suspended only insofar as the Act is inconsistent with Rule 122.

(E) Section 5720 of the Wiretapping and Electronic Surveillance Control Act, Act of October 4, 1978, P. L. 831, No. 164, 18 Pa.C.S. § 5720, is suspended as inconsistent with Rule 573 only insofar as the Section may delay disclosure to a defendant seeking discovery under Rule 573B(1)(g); and Section 5721(b) of the Act, 18 Pa.C.S. § 5721(b), is suspended only insofar as the time frame for making a motion to suppress is concerned, as inconsistent with Rules 579 and 581.

(F) Sections 9731, 9732, 9733, 9734, 9735, 9736, 9751, 9752, and 9759 of the Sentencing Code, 42 Pa.C.S. §§ 9731, 9732, 9733, 9734, 9735, 9736, 9751, 9752, and 9759 are suspended as being inconsistent with the rules of Chapter 7.

(G) The Act of November 21, 1990, P. L. 588, No. 138, § 1, 42 Pa.C.S. § 8934, which authorizes the sealing of search warrant affidavits, and which is implemented by Rule 212, is suspended only insofar as the Act is inconsistent with Rules 205, 206, and 211.

**Official Note:** Former Rule 39 adopted October 1, 1997, effective October 1, 1998. Former Rule 159 adopted September 18, 1973, effective January 1, 1974; amended January 28, 1983, effective July 1, 1983; amended February 1, 1989, effective July 1, 1989; amended April 10, 1989, effective July 1, 1989; amended January 31, 1991, effective July 1, 1991. Former Rule 340 combined previous Rules 321 and 322, which were the prior suspension

rules, and was adopted June 29, 1977, effective September 1, 1977; amended April 24, 1981, effective June 1, 1981; amended January 28, 1983, effective July 1, 1983. Former Rule 1415 adopted July 23, 1973, effective 90 days hence; paragraph (g) added March 21, 1975, effective March 31, 1975; amended August 14, 1995, effective January 1, 1996. Former Rule 2020 adopted September 3, 1993, effective January 1, 1994. Former Rules 39, 159, 340, 1415, and 2020 combined, renumbered Rule 1101, and amended \_\_\_\_\_, effective \_\_\_\_\_.

**Comment:**

This rule is derived from former Rules 39, 159, 340, 1415, and 2020, the rules previously providing for the suspension of legislation.

*Committee Explanatory Reports:*

Former Rule 39:

Final Report explaining the provisions of new Rule 39 published with the Court's Order at 27 Pa.B. 5401 (October 18, 1997).

Former Rule 159:

Report explaining the January 31, 1991 amendments to former Rule 159 published at 20 Pa.B. 4788 (September 15, 1990); Supplemental Report published at 21 Pa.B. 621 (February 16, 1991).

Former Rule 1415:

Final Report explaining the August 14, 1995 amendments to former Rule 1415 published with the Court's Order at 25 Pa.B. 3472 (August 26, 1995).

Former Rule 2020:

Report explaining the provisions of former Rule 2020 published at 21 Pa.B. 3681 (August 17, 1991).

Renumbered Rule 1101:

Report explaining the reorganization of the rules and the provisions of Rule 1101 published at 29 Pa.B. 1369 (March 13, 1999).

**Report***Proposed Reorganization of the Rules of Criminal Procedure, and Correlative Amendments*

The Committee is proposing that the Rules of Criminal Procedure be reorganized and renumbered so the rules are presented in a more logical order, which will make the rules easier to follow to the conclusion of a criminal proceeding.

*Introduction*

The impetus for this proposal stems from the Committee's history of the development of the Criminal Rules. From the Committee's inception, as it was developing statewide uniform procedures for criminal cases, in an effort to get rules in place in a timely fashion, the Committee was recommending blocks of new rules related to similar topics, rather than all the rules as a total package. As new segments were recommended, the new rules were not always integrated into the existing rules in an orderly manner, but rather were "fitted in" where there was room, so that, for example, the search warrant rules follow the sentencing rules, although they more logically belong at the beginning of the process. Over the years, the Committee has been frequently reminded of the illogic in the organization of some of the rules as it worked on rule projects. To address this organizational problem, when the opportunity has presented itself, albeit

in a piecemeal fashion, the Committee has undertaken the reorganization of groups of rules within specific Chapters.<sup>3</sup>

In our ongoing monitoring of all aspects of the criminal justice system, the Committee has been aware that, while the people who are presently involved with the criminal justice system on a regular basis are, for the most part, familiar with organization of the rules and are comfortable working with the current organization, there are numerous other individuals who are not regularly involved in the criminal justice system, and therefore are unfamiliar with the present organization of the rules, as well as new people who regularly become involved with the criminal justice system,<sup>4</sup> and all these people encounter difficulties in working with the rules and moving cases through the system. The Committee also noted that, even for people who are regularly involved with criminal procedures, there are occasions when unfamiliar issues arise, and, because of the illogical order of the rules, a familiarity with the present organization does not always eliminate the difficulty they have in finding the relevant rules that address these unfamiliar issues.

No longer satisfied with the piecemeal approach to reorganization that has been the process in the past, the Committee agreed that the criminal justice system as a whole would be benefitted by the reorganization of all the rules in a logical progression that more closely mirrors the progression of a case through the system. We believe that the recommended changes will not significantly affect those who work with the rules on a daily basis, and will simplify the procedures for new people and others who less frequently come in contact with the criminal justice system.<sup>5</sup>

#### Discussion

Using the "Table of Rules" as a starting point, the Committee initially considered reorganizing the rules into four chapters: General Provisions, Summary Case Rules, Court Case Rules, and Municipal Court Rules, with the rules in each chapter preceded by the number of the chapter and a hyphen. However, after working with this format, the Committee thought it was too limiting and less informative than the present chapter system, and concluded that the organization would be clearer and the rules easier to use if they continued to be separated into multiple chapters, each covering a separate category of procedures.

The reorganization the members settled on has eleven chapters, starting with Chapter 1. The rules are numbered starting with 100, leaving some "gaps" in the numbers to allow for future growth. Within some chapters are subdivisions or Parts, similar to the subdivisions in the current rules, and, whenever possible, the rule numbering within each Part of a chapter starts with a different series of numbers, except in those cases in which the Parts are interrelated.

<sup>3</sup> For example, in the early 1970s, the chapters dealing with preliminary proceedings and summary proceedings were reorganized by moving the summary case rules into a separate chapter. In 1985, after monitoring the application of Chapter 50 (Procedures in Summary Cases) and recognizing that there was confusion about the procedures, the Committee recommended the reorganization of the chapter. In 1994, the Committee recommended the reorganization of Chapter 100 (Procedures in Court Cases). Finally, in 1995, to address continuing problems with the application of the bail rules in practice, the Committee recommended the reorganization of Chapter 4000 (Bail).

<sup>4</sup> The newcomers to the system include, by way of example, not only lawyers, judges, and members of the minor judiciary, but also, law enforcement officials, court personnel, probation and parole officers, bail agencies, and private citizens.

<sup>5</sup> Experience has demonstrated that, although each of the "piecemeal" chapter reorganizations and renumberings initially met with some resistance, the early concerns were unfounded, and that, by making the rules in the chapter easier to follow, these limited reorganizations have been beneficial for the individuals using the rules.

In addition to the overall reorganization, there are a number of organizational rule changes that are described below in Part II. These rule changes include the proposed "new" rules that the Committee has developed by combining or separating existing rules. These rules are "new" only in the sense that they have not been previously combined or separated. There are no substantive changes. See, e.g., "new" Rule 109, combining former Rules 90 and 150, and "new" Rules 633 and 645, separating former Rule 1108. There are also a few rules marked (Reserved). These "reserved" rules cover substantive areas that have no counterpart in the current rules. These are procedural areas that the Committee may consider at a future time.

#### I. Reorganization<sup>6</sup>

(1) New Chapter 1 (General Provisions) covers all the procedures that apply generally to all cases, or at all stages of the proceedings, and includes the following current rules:

- (a) Rules 1 through 6;
- (b) Rule 301 (Continuances) made applicable to both summary and court cases;
- (c) Rule 9016 (Contents of Subpoena);
- (d) Rule 1701 (Habeas Corpus Venue);
- (e) Rules 302, 316, 317, and 318 governing the procedures relating to counsel, and a possible new rule governing in forma pauperis proceedings;<sup>7</sup>
- (f) Rules 27, 326, 327, and 328 that address the procedures related to public comment, publicity, and broadcasting, with Rules 27 and 328 combined into one rule applicable to all cases;
- (g) the rules in Chapters 20 and 30;
- (h) Rules 90 and 150 governing defects in form, content, or procedure in summary and court cases, combined into one rule applicable to all cases;
- (i) Rules 9024 and 9025 concerning notices; and
- (j) Rule 9030 concerning recording and transcribing court proceedings.

(2) New Chapter 2 (Investigations) is divided into two Parts consisting of (1) the search warrant rules, current Chapter 2000, and (2) the investigating grand jury rules, current Chapter 200, Parts II and III. These rules have been moved up in the organization because these procedures could occur at anytime, including before a case is instituted.

(3) The ARD rules, Rules 160—186, continue to be separate, and have been moved into new Chapter 3 (Accelerated Rehabilitative Disposition).

(4) New Chapter 4 (Procedures in Summary Cases) incorporates former Chapter 50 governing all the proceedings in summary cases, and is broken into Parts comparable to the Parts in current Chapter 50. The following changes have been made:<sup>8</sup>

(a) Rule 95 concerning the institution of proceedings involving parking violations has been moved to the beginning of the chapter because this rule also covers the institution of proceedings.

<sup>6</sup> The rule numbers listed in this part of the discussion, unless otherwise indicated, refer to the current rules.

<sup>7</sup> The Committee at a future meeting may consider developing a rule setting forth procedures for proceeding in forma pauperis.

<sup>8</sup> The Committee at a future meeting may consider developing a new summary case motions rule. If one is developed, it would be added to the general procedures section, Part E of Chapter 4.

(b) The summary arrest procedures have been joined together in Part D (Arrest Procedures in Summary Cases), with the order of the arrest with warrant and arrest without warrant rules switched, so the summary case rules are in the same order as the court case rules, see part (5)(b)(i) below.

(c) A separate new part, Part F, has been created to more clearly set forth the procedures for appeals for trial de novo. "New" rules have been created from Rules 83, 86, and 1117 that cover the notice of appeal, stays pending and during the appeal, and the trial de novo. The new trial de novo rule provides that the trial will continue to be conducted in the court of common pleas, and sets forth procedures for conducting the trial de novo that are comparable to the trial provisions of Rule 83, including a provision to make it clear that the attorney for the Commonwealth has the discretion of whether to appear for the trial de novo.

(5) New Chapter 5 (Pretrial Procedures in Court Cases) incorporates the following current rules:

(a) Rules 9015 and 9015A concerning preservation of testimony have been moved into this Chapter as Part A (Preservation of Testimony), because the procedures in these rules only apply to court cases, but are generally applicable to all stages of the proceedings in a court case.

(b) Rules 101—124 of current Chapter 100 (Procedure in Court Cases) have been moved into Part B (Instituting Proceedings), with the following changes:

(i) Rule 101 has been renamed "Instituting Proceedings in Court Cases"; and

(ii) Rule 102 concerning warrantless arrests has been moved to Part B(3) (Arrest Procedures in Court Cases), and follows the arrest warrant rules.

(c) Current Chapter 4000 (Bail) has been moved to new Part C, with Rule 4009 concerning bail after the finding of guilt moved to follow Rule 4001 concerning bail before verdict. Rule 4017 concerning the detention of witnesses has been moved to follow Rule 4009, because the detention of witness rule goes to the issue of setting bail, albeit for witnesses. The divisions in current Chapter 4000 are retained in new Part C.

(d) Rules 140—151, the rules governing court case proceedings before issuing authorities, follow the bail section as Part D (Proceedings in Court Cases Before Issuing Authorities).

(e) Rules 224—229, 231, and 232 concerning the procedures related to informations have been moved to be Part E (Informations). Chronologically, an information is prepared after the case is held for court.

(f) Most of the rules in Chapter 300, except where noted otherwise, have been moved into Part F (Procedures Following Filing of Information), Part F(1) (Motion Procedures), and Part G (Plea Procedures). The rules from Chapter 300 and other rules have been reorganized in Part F as follows:

(i) Part F includes Rule 311 (Pretrial Conference), Rule 303 (Arraignment), Rule 304 (Bill of Particulars), and Rule 305 (Pretrial Discovery and Inspection).

(ii) Part F(1) includes Rules 305—310 concerning pretrial motions, Rules 9020, 9021, 9022, and 9023, which cover motions procedures generally, Rules 312—315 and 323—324, which deal with specific pretrial motions, and Rules 1127 (Joinder—Trial of Separate Indictments or Informations) and 1128 (Severance of Offenses or Defendants), which usually are implemented by a pretrial

motion. In addition, Rule 323 (Suppression of Evidence) has been moved to follow Rule 310 (Disposition of Pretrial Motions) to make it more chronologically organized.

(iii) Part G includes Rules 319 (Pleas and Plea Agreements) and 320 (Withdrawal of Plea of Guilty).

(6) New Chapter 6 (Trial Procedures in Court Cases) includes the rules in Chapter 1100, which have been reorganized and modified as follows:

(a) Part A (General Provisions) includes those rules from Chapter 1100 that apply generally to all trials: Rule 1100 (Prompt Trial), Rules 1105 (Presence of Judge) and 1117 (Presence of the Defendant), 1115 (Exceptions), 1116 (Opening Statements and Closing Arguments), 1118 (Mistrial), 1124 (Challenges to Sufficiency of Evidence), 1124A (Challenges to Weight of Evidence), and 1125 (Motion for Judgment of Acquittal After Discharge of Jury);

(b) Part B (Non-Jury Procedures) sets forth the rules that govern non-jury trials, including Rule 1101 (Waiver of Jury Trial), Rule 1102 (Procedure When Jury Trial is Waived) and 1122 (Time for Court Action Following Non-Jury Trial); and

(c) Part C (Jury Procedures) sets forth the rules that govern jury trials, and is divided into two subparts: (1) impaneling the jury, Part C(1), which includes Rules 1106 (Examination and Challenges to Trial Jurors), 1107 (Juror Information Questionnaire), 1108 (Alternate Trial Jurors), 1128 (Number of Peremptory Challenges) and 1109 (Exhaustion of the Jury Panel); and (2) the conduct of the jury trial, Part C(2), which includes Rule 1103 (Consent to be Tried by Less Than Twelve Jurors), Rules 1110—1114, and Rules 1119—1121.

(i) Rule 1108 (Alternate Trial Jurors) has been broken into two rules. The provisions of Rule 1108 that govern the examination and selection of alternate trial jurors, "new" Rule 633, follow the juror information questionnaire rule. The second two sentences of Rule 1108(A) have been separated to form "new" Rule 645 (Seating and Discharge of Alternate Jurors). Rule 645 follows Rule 1113 (Note Taking by Jurors) to be chronologically more accurate.

(ii) Rule 1103 (Consent to be Tried by Less Than Twelve Jurors), which applies at anytime after the jury is sworn and before verdict, has been moved to follow present Rule 1110 (Swearing The Trial Jury to Hear the Case).

(7) New Chapter 7 (Post-Trial Procedures in Court Cases) incorporates current Chapter 1400. The Chapter is divided into two parts: (1) sentencing procedures, which includes Rules 1401—1409, and (2) post-sentence procedures, which includes Rules 1410—1411 and Rule 9017 (Contents of Order of Expungement). Rule 9017 was included here because an expungement request ordinarily would not occur until after sentencing.

(8) New Chapter 8 incorporates, without change, current Chapter 350 (Special Rules for Cases in Which the Death Sentence is Authorized). These rules have been moved to immediately precede the post-conviction collateral proceedings because they apply before post-conviction proceedings and are self-contained and impact on a narrow set of cases.

(9) New Chapter 9 incorporates, without change, current Chapter 1500 (Post-conviction Collateral Proceedings).

(10) New Chapter 10 incorporates, without change, current Chapter 6000 (Philadelphia Municipal Court).

(11) New Chapter 11 has no counterpart in the present rules, and includes all the suspension rules joined in one "new" rule, Rule 1101 (Suspension of Acts of Assembly), and Rule 9998 (Abolition of Practice and Procedure Under Repealed Statutes).

## II. Rule Changes

In order to further the purpose of the reorganization, the Committee agreed that, in addition to renumbering all the rules within the scheme of the reorganization, some of the current rules would have to be amended, a few other rules would have to be combined into "new" rules, and still other rules would have to be divided into two or more separate rules. As noted previously, there are no substantive changes to these rules; the changes merely accommodate the overall reorganization of the rules.

The rule changes that are needed to accomplish the reorganization are described below.

(1) Rule 301 (Continuances) is renumbered Rule 106, and amended to make it applicable to both summary and court cases.

(2) "New" Rule 109 (Defects in Form, Content, or Procedure), combines Rules 90 and 150 into one rule, applicable to both summary and court cases.

(3) "New" Rule 112 (Publicity, Broadcasting, and Recording of Proceedings) combines Rules 27 and 328 into one rule, applicable to both summary and court cases. The Committee used Rule 27 as the basis for the "new" rule, and incorporated the provisions of Rule 328 governing ceremonial proceedings.

(4) There are three "new" rules governing summary appeals for a trial de novo that were developed from Rules 83 (Trial in Summary Cases), 86 (Appeals), and 1117 (Presence of the Defendant), as follows:

(a) "new" Rule 460 (Notice of Appeal) incorporates the

provisions of Rule 86(A), (D), (E), (F), (H), and (I), and the Comment;

(b) "new" Rule 461 (Stays) incorporates the provisions of Rule 86(B) and the Comment; and

(c) "new" Rule 462 (Trial De Novo) incorporates provisions from Rules 86 and 1117, and implements trial procedures comparable to the procedures in Rule 83, as follows: paragraph (A) incorporates Rule 86(G); paragraph (B) follows the procedures set forth in Rule 83(B); paragraph (C) follows the procedures set forth in Rule 86(G); paragraph (D) is derived from Rule 1117(c); paragraph (E) is new to the rules, and addresses the situation when a defendant withdraws a summary appeal; and paragraphs (F) and (G) follow the procedures set forth in Rule 83(D) and (E). In addition, the first paragraph of the Comment has been added to emphasize that the attorney for the Commonwealth has the discretion whether to appear for the trial de novo. The last paragraph of the Comment is taken from the Rule 1117 Comment.

(5) Rule 1117 (Presence of the Defendant) is renumbered Rule 602, and amended by the deletion of paragraph (c) and the correlative paragraph from the Comment, which were moved to "new" Rule 462.

(6) Rule 1108 (Alternate Trial Jurors) is renumbered Rule 633 (Examination and Challenges of Alternate Trial Jurors), and amended by the deletion of the last two sentences of paragraph (A). These provisions, which address procedures at a later stage in the proceedings—the seating of alternate jurors during the trial and the discharge of alternate jurors when the jury retires to deliberate—have been moved to form "new" Rule 645 (Seating and Discharge of Alternate Jurors).

(7) "New" Rule 1101 (Suspension of Acts of Assembly) combines all the suspension rules, Rules 39, 159, 340, 1415, and 2020, into one rule.

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[Pa.B. Doc. No. 99-397. Filed for public inspection March 12, 1999, 9:00 a.m.]

**PART I. GENERAL**  
**[234 PA. CODE CH. 50]**  
**Proposal to Revise Comment to Rule 60**

**Introduction**

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania approve the revision of the Comment to Rule of Criminal Procedure 60. This Comment revision adds a cross-reference to Section 902 of the Game and Wildlife Code, 34 Pa.C.S. § 902, to make it clear that under the statute, it is not feasible for Deputy Wildlife Conservation Officers to issue citations, and that in cases instituted by a Deputy, the citation must be filed pursuant to Rule 60. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

The text of the proposed Comment revision precedes the Report. Deletions appear in bold and brackets, and additions appear in bold.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Anne T. Panfil, Chief Staff Counsel, Supreme Court of Pennsylvania, Criminal Procedural Rules Committee, P. O. Box 1325, Doylestown, PA 18901 no later than April 12, 1999.

*By the Criminal Procedural Rules Committee:*

FRANCIS BARRY MCCARTHY,  
*Chair*

**Annex A**  
**TITLE 234. RULES OF CRIMINAL PROCEDURE**  
**PART I. GENERAL**  
**CHAPTER 50. PROCEDURE IN SUMMARY CASES**  
**PART IIB. PROCEDURES WHEN CITATION FILED**  
**Rule 60. Filing of Citation.**

\* \* \* \* \*

**Official Note:** Previous rule, originally adopted as Rule 116 June 30, 1964, effective January 1, 1965; suspended effective May 1, 1970; readopted January 31, 1970, effective May 1, 1970; renumbered as Rule 60 and amended to apply only to summary cases September 18, 1973, effective January 1, 1974; amended April 26, 1979, effective July 1, 1979; amended January 28, 1983, effective July 1, 1983; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rule 76. Present Rule 60, adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates are all extended to July 1, 1986; Comment revised February 1, 1989, effective July 1, 1989; **Comment revised \_\_\_\_\_, 1999, effective \_\_\_\_\_.**

**Comment:**

**[ This rule is derived from previous Rule 51A, subparagraphs (1)(b) and (3)(b). ]**

A law enforcement officer should file a citation with the issuing authority when, due to the circumstances of the case, the law enforcement officer is unable to issue the citation directly to the defendant at the time of the offense. Examples of situations when the law enforcement officer would be unable to issue a citation include, but are not limited to, when the officer receives information that the defendant has committed a summary violation from a witness but the defendant is not then present [ , ]; when a witness is not present at the scene and the officer wants to question the witness before completing the investigation [ , ]; or when the officer is summoned to

another case that requires prompt action. **See Section 902 of the Game and Wildlife Code, 34 Pa.C.S. § 902, which provides, inter alia, that "Deputy Wildlife Conservation Officers shall not be authorized to issue citations . . . and shall provide the information to the Wildlife Conservation Officer." Under this statute, it would not be feasible for the Deputy Wildlife Conservation Officer to issue the citation, and, therefore, pursuant to this rule, the citation would be filed.**

When a defendant acknowledges guilt pursuant to Section 926 of the Game and Wildlife Code, [( ) 34 Pa.C.S. § 926, (Supp. 1988)] or Section 925 of the Fish and Boat Code, [( ) 30 Pa.C.S. § 925, (Supp. 1988)] but does not pay the fine and costs or the check issued for the fine and costs cannot be cashed, the officer of the commission should file a citation with the issuing authority to institute a summary criminal proceeding.

When determining whether the filing of a citation was the correct procedure under the rules, the courts have considered whether there was a reasonable basis for filing, whether there were compelling reasons to prevent issuing the citation, and whether the defendant was prejudiced by the filing. See, e.g., *Commonwealth v. Odle*, 16 D. & C.3d 750 (Cambria County 1980); *Commonwealth v. Lombardo*, 4 D. & C.3d 106 (Clearfield County 1977). **[Also see] See also Rule 90, which would permit discharge or dismissal when the institution or proceedings by incorrect means or prejudicial to the rights of the defendant.**

When evidence is discovered after the issuance of a citation [which] that gives rise to additional charges against the defendant resulting from the same incident, the [police] law enforcement officer must file with the issuing authority an additional citation alleging such additional summary offenses, or a complaint when the additional charges include a misdemeanor or felony. For proceedings on such charges when a complaint is filed, see Chapter 100 of these Rules.

With regard to the "proper" issuing authority as used in these rules, see Rule 21.

#### ***Committee Explanatory Reports:***

**Report explaining the proposed revision of the Comment concerning 34 Pa.C.S. § 902 published at 29 Pa.B. 1386 (March 13, 1999).**

#### **Report**

*Proposed Revision of the Comment to Pa.R.Crim.P. 60*

*Filing Citations in Summary Cases*

The Committee is proposing the revision of the Comment to Rule 60 (Filing of Citation) that would add a

cross-reference to Section 902 of the Game and Wildlife Code, 34 Pa.C.S. § 902. This cross-reference makes it clear that, under the statute, it is not feasible for Deputy Wildlife Conservation Officers to issue citations, and that in cases instituted by a Deputy, the citation must be filed pursuant to Rule 60.

On December 21, 1998, the Governor signed Act 166 of 1998, effective July 1, 1999. The Act amends, inter alia, Section 902 of the Game and Wildlife Code, 34 Pa.C.S. § 902, by adding a provision that:

Deputy Wildlife Conservation Officers shall not be authorized to issue citations . . . and shall provide the information to the Wildlife Conservation Officer.

Communications with the Committee questioned the effect of this legislation on the Criminal Rules, and expressed concerns about how Deputy Wildlife Conservation Officers should proceed under the rules.

The Committee reviewed Act 166 and the Criminal Rules. From this review, the members, relying on the principles of statutory construction that the Legislature does not intend an effect that is unreasonable or unconstitutional, 1 Pa.C.S. § 1922, reasoned that the intent of the legislation must be to provide a layer of review by a full-time Wildlife Conservation Officer. Thus, the Wildlife Conservation Officer would be acting in the capacity of a reviewing officer to ensure that the information on the citation prepared by a Deputy constitutes an offense that should be pursued by the filing of the citation. This reviewing function is comparable to the reviewing function performed by a district attorney in a court case pursuant to Pa.R.Crim.P. 107 (Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth—Local Option). We reasoned further that, to give effect to both this statutorily created review process and the Criminal Rules, under Section 902 and Pa.R.Crim.P. 60 (Filing of Citation), when a Deputy Wildlife Conservation Officer is instituting a summary criminal proceeding, it is not feasible for the Deputy to issue the citation to the defendant. Therefore, Rule 60 requires that the citation be filed.

Although agreeing that Rule 60 adequately provides for the situation in which there is a statutorily mandated review process, given the apparent confusion the Act 166 amendments to Section 902 are causing, the Committee concluded that it would be helpful to include in the Rule 60 Comment a citation to 34 Pa.C.S. § 902, with a clarifying explanation.

[Pa.B. Doc. No. 99-398. Filed for public inspection March 12, 1999, 9:00 a.m.]

# Title 252—ALLEGHENY COUNTY RULES

## ALLEGHENY COUNTY

### Rules of Court of Common Pleas; No. 1 of 1999 Rules Docket

#### Order Amending Local Rules of Court

*And Now*, to wit, this 12th day of February, 1999, pursuant to action of the Board of Judges and effective thirty days after publication in the *Pennsylvania Bulletin*, the following Allegheny County Rules of Civil Procedure are hereby amended:

Arbitration: Forms for Local Rule 1303\*(a)(2) and Local Rule 1303\*(a)(3).

*By the Court*

ROBERT A. KELLY,  
*President Judge*

Form for Local Rule 1303\*(a)(2)

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA  
CIVIL DIVISION

_____		ARBITRATION DOCKET
_____		No. _____ - _____ - _____
VS.	PLAINTIFF	HEARING DATE _____
_____		

#### NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within TWENTY (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you. YOU SHOULD TAKE THIS PAPER TO 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 LEGAL HELP.

LAWYER REFERRAL SERVICE, The Allegheny County Bar Association  
920 City-County Building, 414 Grant Street,  
Pittsburgh, Pennsylvania 15219  
Telephone: (412) 261-5555

#### HEARING NOTICE

YOU HAVE BEEN SUED IN COURT. The above Notice to Defend explains what you must do to dispute the claims made against you. If you file the written response referred to in the Notice to Defend, a hearing before a board of arbitrators will take place in Room 523 of the Allegheny County Courthouse, 436 Grant Street, Pittsburgh, Pennsylvania, on \_\_\_\_\_, 1999 at 9:00 A.M. IF YOU FAIL TO FILE THE RESPONSE DESCRIBED IN THE NOTICE TO DEFEND, A JUDGMENT FOR THE AMOUNT CLAIMED IN THE COMPLAINT MAY BE ENTERED AGAINST YOU *BEFORE* THE HEARING.

#### DUTY TO APPEAR AT ARBITRATION HEARING

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.*

NOTICE: YOU MUST RESPOND TO THIS COMPLAINT WITHIN TWENTY (20) DAYS OR A JUDGMENT FOR THE AMOUNT CLAIMED MAY BE ENTERED AGAINST YOU BEFORE THE HEARING. IF ONE OR MORE OF THE PARTIES IS NOT PRESENT AT THE HEARING, THE MATTER MAY BE HEARD IMMEDIATELY BEFORE A JUDGE WITHOUT THE ABSENT PARTY OR PARTIES. *THERE IS NO RIGHT TO A TRIAL DE NOVO ON APPEAL FROM A DECISION ENTERED BY A JUDGE.*

Form for Local Rule 1303\*(a)(3):

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA  
CIVIL DIVISION

_____		ARBITRATION DOCKET
_____		NO. _____ - _____ - _____
VS.	PLAINTIFF	HEARING DATE _____
_____		

*NOTICE TO DEFEND*

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the attached copy of the suit papers, YOU MUST complete and detach two of the copies of the attached "Notice of Intention To Appear". One completed copy of the "Notice of Intention to Appear" must be filed or mailed to the Prothonotary's Office, First Floor, City-County Building, 414 Grant Street, Pittsburgh, PA 15219 and the other completed copy must be mailed to: \_\_\_\_\_ within TWENTY (20) days from the date these papers were mailed. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you. YOU SHOULD TAKE THIS PAPER TO 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 LEGAL HELP.

LAWYER REFERRAL SERVICE, The Allegheny County Bar Association  
920 City-County Building, 414 Grant Street,  
Pittsburgh, Pennsylvania 15219  
Telephone: (412) 261-5555

*HEARING NOTICE*

YOU HAVE BEEN SUED IN COURT. The above Notice to Defend explains what you must do to dispute the claims made against you. If you file the written response referred to in the Notice to Defend, a hearing before a board of arbitrators will take place in Room 523 of the Allegheny County Courthouse, 436 Grant Street, Pittsburgh, Pennsylvania, on \_\_\_\_\_, 1999 at 9:00 A.M. IF YOU FAIL TO FILE THE RESPONSE DESCRIBED IN THE NOTICE TO DEFEND, A JUDGMENT FOR THE AMOUNT CLAIMED IN THE COMPLAINT MAY BE ENTERED AGAINST YOU BEFORE THE HEARING.

*DUTY TO APPEAR AT ARBITRATION HEARING*

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.

NOTICE: YOU MUST RESPOND TO THIS COMPLAINT WITHIN TWENTY (20) DAYS OR A JUDGMENT FOR THE AMOUNT CLAIMED MAY BE ENTERED AGAINST YOU BEFORE THE HEARING. IF ONE OR MORE OF THE PARTIES IS NOT PRESENT AT THE HEARING, THE MATTER MAY BE HEARD IMMEDIATELY BEFORE A JUDGE WITHOUT THE ABSENT PARTY OR PARTIES. THERE IS NO RIGHT TO A TRIAL DE NOVO ON APPEAL FROM A DECISION ENTERED BY A JUDGE.

[Pa.B. Doc. No. 99-399. Filed for public inspection March 12, 1999, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### CARBON COUNTY

Amendments to Local Rules of Civil Procedure;  
No. 99-0349

#### Administrative Order No. 6-1999

And Now, this 26th day of February, 1999, it is hereby

Ordered and Decreed that, effective thirty (30) days after publication of this Order in the *Pennsylvania Bulletin*, all Carbon County Local Rules of Civil Procedure are

Amended as follows: In all Rules where the area code appears as "717", the new area code of "570" shall be substituted therefor.

The Carbon County District Court Administrator is Ordered and Directed to do the following:

1. File seven (7) certified copies of this Administrative Order with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. File one (1) certified copy with the Pennsylvania Civil Procedural Rules Committee.

4. Forward one (1) copy for publication in the *Carbon County Law Journal*.

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

6. Keep continuously available for public inspection copies of the Order in the Prothonotary's Office.

*By the Court*

JOHN P. LAVELLE,  
*President Judge*

[Pa.B. Doc. No. 99-400. Filed for public inspection March 12, 1999, 9:00 a.m.]

### CARBON COUNTY

#### Temporary Detention of Prisoners; No. 134 MI 98

##### Administrative Order No. 5-1999

*And Now*, this 22nd day of February, 1999, it is hereby

*Ordered and Decreed* that, effective immediately, this Court's Administrative Order No. 15-1998 providing for the temporary detention of any individual arrested between the hours of 12 a.m. and 8 a.m. at the Carbon County Prison be and is hereby *Rescinded*.

The Carbon County District Court Administrator is *Ordered and Directed* to do the following:

1. File seven (7) certified copies of this Administrative Order with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. File one (1) certified copy with the Pennsylvania Criminal Procedural Rules Committee.
4. Forward one (1) copy for publication in the *Carbon County Law Journal*.
5. Forward one (1) copy to the Carbon County Law Library.
6. Keep continuously available for public inspection copies of the Order in the Clerk of Courts Office.

*By the Court*

JOHN P. LAVELLE,  
*President Judge*

[Pa.B. Doc. No. 99-401. Filed for public inspection March 12, 1999, 9:00 a.m.]

### DELAWARE COUNTY

#### Adoption of Civil Rule 1303; Misc. No. 90-18200

##### Order

*And Now*, this 9th day of February, 1999, it is hereby *Ordered and Decreed* that Local Rule 1303 be adopted as follows:

##### Rule 1303: Hearing. Notice.

(A)(1) (i) All arbitration cases will be assigned a date and time for hearing at the time of the initial filing by the plaintiff or appellant from a judgment by a District Justice. The hearing date shall be the first available date no less than two hundred seventy (270) days from the date of initial filing.

(ii) A notice prepared and attached by the Office of Judicial Support shall indicate the hearing time and date, which notice shall be attached at the time of initial filing. The aforementioned notice shall be affixed both to the original and all service copies of the complaint or praecipe for writ of summons or, in the case of appeal from District Justice judgments, the notice of appeal.

(iii) The notice attached by the Office of Judicial Support to the original filing shall also include the following statement:

"This 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."

(iv) In the case of a joinder complaint, the moving party shall provide to the parties being joined a copy of the original notice setting forth the time, place and location of the arbitration hearing, as well as a copy of the notice referred to in (a)(1)(iii).

(v) In no event shall less than thirty (30) days' written notice of the date, time and place of hearing be given to the parties or their attorneys of record.

(b)(2) Should the court decide to hear the matter pursuant to Pa.R.C.P. 1303(b)(2), the trial court may choose to

(i) enter a judgment of nonsuit if the plaintiff is not ready or fails to appear; or

(ii) enter a judgment of non pros if neither party is ready or appears; or

(iii) hear the matter and make a decision, if the defendant is not ready or fails to appear.

(b)(3) Should a nonsuit be entered under this Rule, it is subject to the filing of a motion under Rule 227.1(a)(3) for post-trial relief to remove the nonsuit.

(b)(4) Should a judgment of non pros be entered under this Rule, it is subject to the filing of a petition under Rule 3051 for relief from a judgment of non pros.

(b)(5) Should an adverse judgment be entered under this Rule against a defendant who failed to appear, that defendant may file a motion for post-trial relief which may include a request for a new trial on the ground of a satisfactory excuse for the defendant's failure to appear.

*By the Court*

A. LEO SERENI,  
*President Judge*

[Pa.B. Doc. No. 99-402. Filed for public inspection March 12, 1999, 9:00 a.m.]

## YORK COUNTY

FEE

**Establishing the Schedule of Fees for the Prothonotary of York County, A Third Class County; Misc. Civil 99 MI 00026**

**Administrative Order and Approval**

*And Now, To Wit,* This 17th Day of February 1999, *The Court* pursuant to Act # 98-164 of the Pennsylvania Legislature, hereby approves the implementation of the Act and for the provision of the automation fee effective with the following fees effective, April 15, 1999:

PROTHONOTARY FEE BILL—  
EFFECTIVE APRIL 15, 1999

PROTHONOTARY AUTOMATION FEE AS  
INDICATED IN ACT # 98-164 IS INCLUDED IN  
ALL NEW FILING FEES

		Appointment of Master:	135.00
		Fault Divorce	200.00
		Equitable Distribution	200.00
		Alimony	200.00
		Alimony Pendente Lite, Counsel Fees, Costs & Expenses	50.00
		EXECUTIONS	
		Præcipe for Writ	23.00
		Attachment Proceeding Each Garnishee	.50
		Reissuance	7.00
		Interrogatories & Answers	5.00
		EXEMPLIFIED RECORDS	
		Incoming Exemplified Records	27.50
		Outgoing Exemplified Records (Specify In-State or Out of State)	15.75
		FAXING	
		Faxing of a record (long distance)	10.00
		FICTITIOUS NAME	
		(No registration after 3/17/83)	
		Individuals	
		Amend, Cancel or Withdraw	5.25
		Change of Address	1.00
		Corporate	
		Amendment	3.00
		Change of Address	1.50
		Cancellation	1.00
		JUDGMENTS	
		By Confession	27.50
		By Praecipe, Stipulation, or Order	14.25
		By Transcript	27.25
		Incoming Exemplified Record	27.50
		Outgoing Exemplified Record (Specify In-State or Out of State)	15.75
		LIENS	
		Municipal or Federal	27.00
		Commonwealth	27.50
		MECHANICS LIENS	
		Claim (same as Commencement of new Action)	95.00
		Stipulation or Waiver	20.75
		MISCELLANEOUS	
		Petition for Change of Name	28.50
		All other filings	12.00
		NOTARY PUBLIC	
		Registration of Signature	3.00
		PETITIONS TO OPEN OR STRIKE JUDGMENTS	
		Shall be considered as commencing a new action	
		If filed to NO #	95.00
		If filed to SU #	free
		POWERS OF ATTORNEY	
		Registration—first name	3.50
		Each additional name	1.00
		Revocation—first name	2.50
		Each additional name	1.00
		PROTECTION FROM ABUSE	95.00
		Copying charge (If copies are not provided)	20.00
		State Surcharge	25.00
		Issuance of a Bench Warrant	13.00
		REVIVALS	
		Adverse Proceedings	36.75
		Amicable Proceedings	27.25
		RESPONSIVE PLEADINGS	
		Answer/Petition/P. O./Etc.	5.00
ACKNOWLEDGEMENTS			
Sheriff or Treasurer Deeds	\$ 7.75		
APPEALS			
Appellate Court	47.50		
Appellate Court Fee	55.00		
(Two separate checks for Appeal)			
District Justice	95.00		
ARBITRATIONS			
Appointment of Arbitrator	23.50		
Arbitration Appeal	25.00		
(County must be reimbursed for arbitrators fees)	240.00		
ASSIGNMENTS	7.75		
CERTIFICATES			
Notary Public or Magistrate	3.00		
Duplicate Divorce Decree	7.00		
Resumption of Prior Name Subsequent to Divorce	4.75		
CERTIFICATIONS			
First Page	4.50		
Additional Pages, Each	1.50		
CHECKS RETURNED AS NON NEGOTIABLE	20.00		
COMMENCEMENT OF CIVIL ACTION			
Commencement of Action	95.00		
Conciliator Appointment	100.00		
Custody (except when filed with a divorce action)	87.00		
Reactivation of case made inactive per Local Rule 6036	15.00		
COPIES			
Docket entries made at public printer (per page)	.25		
Docket entries made by Prothonotary staff (per page)	1.00		
Documents made by public (per page)	.25		
Documents made by Prothonotary staff (per page)	1.00		
DIVORCE			
Commencement of Action (+ \$5.00 each count other than divorce & \$10.00 when a custody count is included)	97.00		
Administrative fee payable at commencement of suit	50.00		
Discontinuance or withdrawal	5.00		

(Only if commencement of Action fee is less than \$50.00)	
REMOVAL OR TRANSFER OF RECORD TO ANOTHER COURT SATISFACTIONS	20.00
Cases filed prior to 1/2/97	
Release, Postponement, subordination by	
Praecipe or power of attorney (Filed prior to '97)	5.00
(Additional fees may accumulate on civil litigation prior to '97)	
Commonwealth Satisfactions (Filed prior to '97)	5.50
SECURED TRANSACTIONS	
Financing Statement (per debtor)	56.50
Oversize extra attachments & non Standard	
Forms add on an additional	131.00
Termination Statement	56.50
Continuation	56.50
Assignment	56.50
Release	56.50
Amendment	56.50
SUBPOENAS	3.00
Must be completed before submitted for signature and seal	

**\*\*NOTE\*\***

Counterclaims, Additional Defendants and Garnishment proceedings are not considered commencement of a new action.

Sci Fa proceedings of any lien, other than revival, shall be considered as commencing a new action.

Petition to Open and/or Strike Judgments shall be considered as a commencement of a new action.

The Prothonotary shall not be required to enter on the docket any suit or action nor order of court or enter any judgment thereon or perform any services whatsoever for

any person, political subdivision of the Commonwealth until the requisite fee is paid.

**\*\*\*\*\*SPECIAL NOTE\*\*\*\*\***

ONLY CASH OR BUSINESS CHECKS, CERTIFIED CHECKS, MONEY ORDERS, OR TRAVELERS CHECKS PAYABLE TO THE "PROTHONOTARY OF YORK COUNTY" ARE ACCEPTABLE FOR PAYMENT OF FEES. A FEE OF \$20.00 WILL BE CHARGED FOR RETURNED CHECKS.

*It Is Further Ordered* that in accordance with Pa.R.C.P. 239 the District Court Administrator shall;

(a) File 7 certified copies hereof with the Administrative Office of Pennsylvania Courts.

(b) Distribute 2 certified copies hereof to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(c) File 1 certified copy hereof with the Civil Procedural Rules Committee, and 1 certified copy hereof with the Criminal Procedural Rules Committee.

(d) Cause a copy hereof to be published in the York Legal Record once a week for 2 successive weeks at the expense of the County of York.

(e) Cause to be printed an adequate supply of the Rules hereby amended and promulgated for distribution to the Judges and the members of the Bar of this Court, and for sale at cost to any other interested parties, such printing to be done at the expense of the County of York in accordance with the provisions of the Act of July 9, 1976, P. L. 586, Sec. 2, 42 Pa.C.S.A. Section 3722.

(f) Supervise the distribution thereof to all Judges and all members of the Bar of this Court.

*By the Court*

JOHN C. UHLER,  
*President Judge*

[Pa.B. Doc. No. 99-403. Filed for public inspection March 12, 1999, 9:00 a.m.]