

THE COURTS

Title 255—LOCAL COURT RULES

MONTGOMERY COUNTY

Revision and Re-Promulgation of Local Rules of
Civil Procedure; No. 99-00001-2

Order

And Now, this 15th day of March, 1999, the Court approves and adopts the following proposed Rule revisions for the Montgomery County Local Rules of Civil Procedure. These Revisions shall become effective thirty (30) days from the date of publication in the *Pennsylvania Bulletin*.

The Court Administrator is directed to publish this Order once in the Montgomery County Law Reporter and in the Legal Intelligencer. In conformity with Pa.R.C.P. 239, seven (7) certified copies of the within Order shall be filed by the Court Administrator with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One (1) certified copy shall be filed with the Civil Procedural Rules Committee. One (1) certified copy shall be filed with the Domestic Relations Committee. One (1) copy shall be filed with the Prothonotary, one (1) copy with the Clerk of Courts, and (1) copy with the Court Administrator of Montgomery County, one (1) copy with the Law Library of Montgomery County and one (1) copy with each Judge of this Court.

By the Court

JOSEPH A. SMYTH,
President Judge

Rule 14. Zoning Appeals.

(a) Appeals from the decision of a Zoning Hearing Board shall be captioned

See Form

(b) Within ten (10) days [after the allowance by this Court] of the issuance of a Writ of Certiorari by this Court, [on petition to review a decision of a Zoning Hearing Board, the petitioner shall give notice in writing of the Court and number of such appeal, to all persons who shall have entered an appearance in writing in the proceedings before the Zoning Hearing Board, stating the name and address of the person or attorney to which it is wished the notice be sent. T] the appellant shall serve a copy of both the Notice of Appeal and Writ [the petition and order of allowance of the writ] upon the Solicitor for the Zoning Hearing Board [or, if none, to], the Solicitor for the municipality [for] within which the Zoning Hearing Board [was appointed to serve as such] is located and all persons and/or entities who shall have entered their written appearance in the proceedings before the Zoning Hearing Board and the matter appealed from.

(c) The record submitted to the Court in compliance with the writ of certiorari shall include a certified copy of the zoning ordinance in effect when the decision was rendered.

(d) Whenever an appeal is taken from a decision of a Zoning Hearing Board and the record is returned by this Court to the Zoning Hearing Board for further proceedings, and [another] a subsequent appeal from a decision of the Zoning Hearing Board is taken in the same case, the number of the original appeal shall [be set forth in the notice of] identify the subsequent appeal filed with the Prothonotary[, and the Prothonotary] who shall docket and file such subsequent appeal to the number of the original appeal.

[Rule 76*(a). Definitions.]

[Rescinded]

[Rule 205.2*. Filing of Pleadings, Papers, Etc.]

[Rescinded]

[Rule 206*(a). Petitions and Answers, Citation of Authority.]

[Rescinded]

[Rule 208*(a). Answer, Effect of Failure to Deny Averment in Petition.]

[Rescinded]

[Rule 209*(c). Effect of Petitioner's Failure to Testify or Furnish Depositions.]

[Rescinded]

[Rule 212*(g). Settlement Conference.]

[Rule 212*(h). Settlement Conference List.]

[Rule 212*(i). Rules Pertaining to Settlement Conference List.]

[Rule 212*(j). Conduct of Settlement Conferences.]

[Rule 212*(k). Certification Required for Trial List Without Settlement Conference.]

Rule 212.1*. Civil Actions to be tried by jury. Civil Actions to be tried non-jury. Equity Actions. Notice of earliest trial date. Time for filing pre-trial statements.

(a)* The Court hereby extends Pa.R.C.P. 212.1 and 212.2 to apply to civil actions to be tried non-jury, and to equity actions. The notice of first listing for trial, generated by the Court Administrator's Office at least 50 days prior to said trial date, shall serve as notice of the earliest trial date required by Pa.R.C.P. 212.1(a).

(b)* All pre-trial statements are to be filed in the Prothonotary's Office not later than fourteen (14) days prior to the earliest trial date.

COMMENT: Pursuant to Pa.R.C.P. 212.1(c)(2), Montgomery County has altered the times set for the filing of pre-trial statements as set forth in Pa.R.C.P. 212.1(b). This Rule applies to matters that are certified for trial pursuant to Local Rule of Civil Procedure 212.1*(d).

Rule 212.1*(d). Certification Required for Trial List.

(1) Certification shall be by all parties.

(2) Certification shall state that no motions are outstanding and that all discovery has been completed.

(3) No discovery shall be permitted after certification unless by agreement of counsel or permission of Court.

(4) If any attorney refuses to join in certification of the case, counsel who wishes the case listed shall request a conference with the designated Judge, and give five days' notice of that appointment to other counsel. Thereafter the Judge shall rule on whether the case is ready for listing and may order the case listed on motion of counsel if in the opinion of the Court the case is ready for certification.

President Judge's note: Local Rule 212.1*(d) Conferences—Members of the Bar are advised that the Board of Judges has agreed to discontinue the practice of ordering cases on the civil trial list where discovery has not been completed, and allowing for discovery to be ongoing. Delays in completing discovery may be addressed through traditional available mechanisms; court orders, with sanctions for failure to comply.—*President Judge Joseph A. Smyth, February 1998.*

Rule 212.2(a)(7)*. Pre-Trial Statement. Content.

Pursuant to Pa.R.C.P. 212.2(a)(7), the pre-trial statement shall include the following additional information:

- (i) the estimated length of trial;
- (ii) any scheduling problems;
- (iii) any special evidentiary issues;
- (iv) a realistic settlement offer or demand.

[Rule 216. Grounds for Continuance, Prior Commitment of Counsel, Failure to Complete Discovery.]

[Rescinded]

Rule 225*(a),(b). Summing Up, Sequence of Speeches.

* (a) The defendant's attorney may make an **[his]** opening speech either immediately following the opening speech of plaintiff's attorney or at the opening of the defendant's case.

* (b) The attorney for the party having the burden of proof shall first sum up. The attorney for each adverse party or group of parties may then address the jury and the attorney who commenced the final summations may conclude, restricting himself **or herself** to answering the arguments advanced.

Rule *229(a)*(1). Discontinuances, Divorce Cases.

(1) In divorce cases a discontinuance shall be entered only by leave of Court after notice to the defendant, and correspondent, if any be named.

[Rule 233*(d)*(e). Service, Notices in Writing, Publication.]

[Rescinded]

[Rule *251. Motions and Rules.]

[Rescinded]

[Rule *252. Post-Trial Relief.]

[Rescinded]

[Rule *261. Court Administrator.]

[Rescinded]

Rule *262. General Trial List.

[(a)] Cases shall be placed on the general civil trial list only upon receipt of a praecipe for civil trial list certifying readiness for trial or upon order of the Court.

[(b)] [Rescinded]

[Rule *263. Trial List.]

[Rescinded]

[Rule *264. Striking Cases from List.]

[Rescinded]

[Rule *271. Trial of Equity Cases and Other Civil Non-Jury Trials.]

[Rescinded]

[Rule *272. Asbestos Cases—Non-Jury Trials.]

Rule *301. Argument Court—Interlocutory Matters.

(a) *Filing.* Petitions, motions and preliminary objections raising interlocutory matters shall be faced with a cover sheet in the form set forth in Rule 303 and shall be accompanied by the moving party's proposed order. The Prothonotary shall time stamp cover sheets as filed.

(b) *Listing.* Upon the filing of a petition or motion, the Court Administrator shall fix promptly a return day which shall be not later than thirty (30) days from the date of filing of said petition or motion, and **[counsel] the moving party** shall forthwith mail to respondent(s) a copy of the petition or motion and the cover sheet **indicating the return day thereon. The moving party shall thereafter file a certification that the petition or motion and the rule return date were served upon all parties.** In the case of matters in respect to which a rule to show cause is not applicable **[or appropriate]**, the cover sheet shall contain a notice to plead or respond within twenty (20) days of service **[, and the moving party shall promptly serve the Court Administrator with a copy of said cover sheet]**.

(c) *Response.* At or before **the call of the list on the return day [indicated by the cover sheet]**, the respondent shall file an answer to **[a] the petition or motion.** The answer shall be faced with the respondent's cover sheet in the form set forth in Rule 303 and shall be accompanied by a **[respondent's]** proposed order. In the case of matters in respect to which a rule to show cause is not applicable **[or appropriate]**, the respondent, within twenty (20) days of service of the moving party's cover sheet, shall file an **[respondent's]** answer or other responsive document, if any; respondent's cover sheet; and a **[respondent's]** proposed order.

(d) *Return Day.* On the return day **[fixed by the Court Administrator]**, the Court Administrator shall call all matters listed on such day, at which time the Court Administrator shall refer to the Court all matters which are to be stricken or made absolute. Matters in which responses have been filed shall forthwith be referred to the Judge assigned to the case for disposition. **In the case of matters in respect to which a rule to show cause is not applicable, after the expiration of the twenty (20) day period, any party may file with the Prothonotary, in duplicate, a praecipe for argument, including a certification that a copy thereof**

has been served upon all parties. The Prothonotary shall forthwith deliver a copy of said praecipe to the Court Administrator. [The Court Administrator shall refer to the Judge assigned to the case for disposition matters in respect to which a rule to show cause is not applicable or appropriate promptly after twenty (20) days from the date that such matters were filed.] Attendance at the call of the list is optional.

(e) *Disposition.* The matters referred to the Judge assigned to the case for disposition shall be decided after oral argument, **if requested by either party. [which argument shall be scheduled by the judge assigned to the case.]** Each party shall limit argument to ten (10) minutes unless extended by the Court.

(f) *Briefs.* Where the Court orders briefs, the brief of the moving party shall be filed within thirty (30) days of the date of said order and the respondent's brief shall be filed within thirty (30) days of the filing of the brief of the moving party, unless otherwise directed by the Judge assigned to the case. **[In interlocutory matters,] A party may voluntarily file a brief even though not specifically directed by the Court.** The moving party and the respondent **[each]** shall file one copy of their respective briefs with **[the Judge assigned to the case] the Court Administrator's Office.** If the brief of either **[the moving]** party **[or the respondent]** is not timely filed as ordered by the Court, the Judge assigned to the case may:

(1) Dismiss the motion, petition or preliminary objection where the moving party has failed to comply;

(2) Grant the requested relief where the respondent has failed to comply;

(3) List the matter for argument at which time only the complying party shall be heard; or

(4) Impose such other sanctions upon the non-complying party as the Judge **[assigned to the case]** shall deem proper.

[No extension of time for the filing of briefs by agreement of the parties shall be permitted, unless approved by the Judge assigned to the case upon written request.]

[(g)] [Rescinded]

Comments

1. Interlocutory matters are those which are not before the Court for final judgment or adjudication **[and include, for example, matters relating to discovery and motions for more specific pleadings]. Please refer to the Pennsylvania Rules of Appellate Procedure for further guidance.** Where a single pleading or motion includes both appealable and interlocutory matters, Rule 302 shall govern.

2. A rule to show cause is an order directing the respondent to state why a prayer for relief or other request of the moving party should not be granted.

3. **[Rules to show cause are issued in respect to interlocutory matters raised by petition or motion.]** Matters in respect to which a rule to show cause is not applicable **[or appropriate]** include, for example, preliminary objections.

4. The terms "party" or "parties" shall be deemed to mean counsel for a party or parties to a legal proceeding and such party or parties as are unrepresented by counsel.

Rule *302. Argument Court—Appealable Matters.

(a) *Filing.* Petitions, motions and preliminary objections raising appealable matters shall be faced with a cover sheet in the form set forth in Rule 303 and shall be accompanied by the moving party's proposed order. The Prothonotary shall time stamp cover sheets as filed.

(b) *Listing.* Upon the filing of a petition or motion, the Court Administrator shall fix promptly a return day which shall be not later than thirty (30) days from the date of filing of said petition or motion, **and [Counsel] the moving party shall forthwith mail to respondent(s) a copy of the petition or motion and the cover sheet indicating the return day thereon. The moving party shall thereafter file a certification that the petition or motion and the rule return date were served upon all parties. In the case of matters in respect to which a rule to show cause is not applicable, the cover sheet shall contain a notice to plead or respond within twenty (20) days of service.**

(c) *Response.* At or before **the call of the list on the return day [indicated by the cover sheet],** the respondent shall file an answer to **[a]** the petition or motion. The answer shall be faced with the respondent's cover sheet in the form set forth in Rule 303 and shall be accompanied by a **[respondent's]** proposed order. In the case of matters in respect to which a rule to show cause is not applicable **[or appropriate],** the respondent, within twenty (20) days of service of the moving party's cover sheet, shall file **an [respondent's]** answer or other responsive document, if any; respondent's cover sheet; and a **[respondent's]** proposed order.

(d) *Return Day.* On the return day **[fixed by the Court Administrator],** the Court Administrator shall call all matters listed on such day, at which time the Court Administrator shall refer to the Court **[those]** all matters which **[parties have requested be continued] are to be** stricken **[, withdrawn]** or made absolute. After filing of respondent's answer **[and/or cover sheet],** and completion of discovery (if any), any party may file with the Prothonotary, in duplicate, a praecipe for argument, including a certification that a copy thereof has been served upon all other parties. The Prothonotary shall forthwith deliver a copy of said praecipe **[and certification]** to the Court Administrator. Attendance at the call of the list is optional. **[The date and time for argument shall be scheduled by the Judge assigned to the case.]**

(e) *Disposition.* Where any party demands discovery, the parties shall complete such discovery within sixty (60) days, unless otherwise directed by the Court. **The matters referred to the Judge assigned to the case for disposition shall be decided after oral argument, if requested by either party.** Each party shall limit argument to twenty (20) minutes unless extended by the Judge assigned to the case.

(f) *Briefs.* The brief of the moving party shall be filed within thirty (30) days of filing of the praecipe for argument, unless otherwise directed by the Judge assigned to the case. The brief of the respondent shall be

filed within thirty (30) days of the date of the filing of the moving party's brief. The moving party and the respondent [**each**] shall file with the Court Administrator one copy [**each**] of their respective briefs together with certifications of said briefs upon opposing parties. In matters subject to court en banc, two copies of the brief of each party shall be filed with the Court Administrator. If the brief of either [**the moving**] party [**or the respondent**] is not timely filed, the Judge assigned to the case may:

(1) Dismiss the motion, petition or preliminary objection where the moving party has failed to comply, **except no civil action or proceeding shall be dismissed for failure to comply;**

(2) Grant the requested relief where the respondent has failed to comply, except no civil action or proceeding shall be dismissed for failure to comply;

(3) List the matter for argument at which time only the complying party shall be heard; or

(4) Impose such other sanctions upon the non-complying party as the Judge [**assigned to the case**] shall deem proper.

[**No extension of time for the filing of briefs by agreement of the parties shall be permitted, unless approved by the Judge assigned to the case upon written request.**]

(g) *Court en banc.* In [**appealable**] matters involving zoning appeals, motions for new trial, motions for judgment n.o.v., and exceptions to adjudications, argument court may be comprised of two Judges, one of whom shall be the Judge who presided at the trial or hearing in question. In [**appealable**] matters involving zoning appeals, the original appellant shall for purposes of this rule be deemed to be the moving party.

[**(h)**] [**Rescinded**]

Comments

1. Appealable matters are those which are before the Court for final judgment or adjudication [**and include, for example, zoning appeals, motions for new trial, motion for judgment n.o.v., exceptions to adjudications, demurrers, motions for summary judgment, motions for judgment on the pleadings, and petitions to open and/or strike judgment**]. Please refer to the Pennsylvania Rules of Appellate Procedure for further guidance.

2. A rule to show cause is an order directing the respondent to state why a prayer for relief or other request of the moving party should not be granted.

3. Matters in respect to which a rule to show cause is not applicable [**or appropriate**] include, for example, preliminary objections, motions for judgment n.o.v., and motions for new trial.

4. The terms "party" or "parties" shall be deemed to mean counsel for a party or parties to a legal proceeding and such party or parties as are unrepresented by counsel.

Rule *303. Argument Court Forms. [of Cover Sheet]

The cover sheet required by Rules 301 and 302 shall be as the following forms:

(a) Cover Sheet of Moving Party

See Form

(b) Cover Sheet of Respondent

See Form

(c) Argument Praecipe

See Form

[**Rule 401. Court Calendar, Terms and Sessions.**]

[**Rescinded**]

[**Rule *403. Dockets**]

[**Rescinded**]

[**Rule *404. Legal Periodical - Notice.**]

[**Rescinded**]

[**Rule *405. Papers and Records.**]

[**Rescinded**]

Rule *406. Termination of Inactive Cases.

The Prothonotary shall annually prepare a list of all civil cases commenced in which no activity appears on the docket for two years or more immediately prior thereto. The Prothonotary [**He**] shall give notice thereof to counsel of record and to the parties for whom no appearance has been entered that said cases shall be marked terminated on the docket unless an Activity Status Certificate is filed with the Prothonotary within thirty (30) days after service of the said notice by mail, in person or by publication on counsel of record and to those parties for whom no appearance has been entered. Said cases shall be marked terminated on the docket unless an activity status certificate is filed with the Prothonotary within such time. All matters so terminated may not be reinstated except with leave of Court, for cause shown.

Rule 430(b)(1)*. Legal Periodical—Notice, Service, Publication.

(i) **The *Montgomery County Law Reporter* is and shall be the legal periodical for the publication of all notices.**

(ii) **One copy of each issue shall be deposited by the publication in the Office of the Prothonotary and one in the Law Library of Montgomery County for public reference.**

(iii) **Except as otherwise provided by acts of assembly, rule or special order of Court, service by publication shall be made by publication once in the *Montgomery County Law Reporter*, and in one daily or weekly newspaper of general circulation within the county, and in such manner that the person so served shall have at least five days after publication thereof to act thereon.**

Rule *902. [**Nonresidents—**] Security for Costs.

In [**cases where the plaintiff resides out of the state at the time of suit brought, or subsequently removes therefrom, and**] cases where proceedings in bankruptcy or insolvency are pending against the plaintiff, the defendant, on filing an answer in actions in which an answer is required, and in other actions on filing of an affidavit of a just defense to the whole of plaintiff's demand, may enter a rule for security of costs. A garnishee in attachment execution may, in like cases, enter a rule for security for garnishee's costs, after

interrogatories and before answers are filed. In default of security entered at the time fixed by the Court, judgment of non pros may be entered by the Prothonotary in favor of the defendant, or the attachment quashed in cases of attachment execution.

Rule*903. Bill of Costs.

(a) *Affidavit.* The affidavit of the party or other person to the correctness of the bill and the attendance and materiality of the witnesses shall be annexed, and shall be prima facie evidence to the taxing officer.

(b) *Taxation.* Bills of costs shall be taxed, in the first instance, by the Prothonotary upon application of the party entitled to execution, subject to exceptions, which exceptions shall be filed on or before the return day of the execution. A re-taxation shall then be had before the Prothonotary upon ten (10) days notice thereof to both parties, from which either party may appeal to the Court within five days thereafter, provided that the appellant shall, within three days after appeal is entered, file a specification of the items to which [**he**] **appellant** objects and the grounds of [**his**] **all** objections; otherwise, the appeal will be dismissed. No exceptions or appeal shall operate to stay execution or prevent the collection of the debt or costs; but when collected on execution or paid into Court, the costs excepted to will be retained until the question is decided.

[Rule *907. Judgment by Confession on Bonds or Notes Accompanying Mortgages.]

[Rescinded]

Rule *910. Satisfaction of Judgment.

Whenever the Prothonotary is requested to mark any judgment satisfied, whether by praecipe or otherwise, the person making or filing the request shall first satisfy the Prothonotary by affidavit, and, if required by the Prothonotary, by additional proof that [**he**] **said person** is the owner of the judgment to be marked satisfied or has fulfilled the requirements of Pa.R.C.P. 205.1. No judgment shall be satisfied by or on the order of any attorney-at-law unless such attorney shall have first entered [**his**] **an** appearance for the plaintiff.

[Rule *917. Capias]

[Rescinded]

Rule *920. Board of Assessment Appeals.

(a) The Pennsylvania Rules of Civil Procedure shall be applicable to all assessment appeals filed in Montgomery County before the Court of Common Pleas. Nothing in this rule shall be construed to limit discovery as permitted under the Pennsylvania Rules of Civil Procedure.

(b) In all cases where an appeal is taken from a real estate assessment fixed by the Board of Assessment Appeals, the petition for allowance of appeal shall have the parcel numbers of the property being appealed in the caption and shall have attached to it a photocopy of the appealed from order of the said Board and shall have attached to it a proposed preliminary decree which shall provide:

(1) that the appeal to Court is permitted and said case is to proceed in conformity with the Pennsylvania Rules of Civil Procedure;

(2) that within five days from the date of the preliminary decree, appellant shall serve a copy of the petition and preliminary decree upon the said Board, upon the

Board of County Commissioners of Montgomery County, the governing body of the municipality and the Board of School Directors of the school district in which the real estate is situate and their Solicitors, and upon the property owner, if the property owner is not the appellant;

(3) that the taxing authorities of the aforesaid and the property owner, if the property owner is not the appellant, be and are hereby entitled to intervene as parties appellee.

(c) Appellant, within 60 days of filing the appeal, shall provide to appellee and intervening parties a copy of their appraisal report (which need not be the trial report) with copies of income and expense statements and rent rolls (if applicable) for the last three years. In cases where a taxing authority is the appellant, the appraisal report must be provided to appellee and intervening parties within 60 days of appellant's receipt of discovery requested of the taxpayer, including but not limited to inspection of the subject property provided that the taxing authorities forwarded their discovery requests to the taxpayer within 30 days of filing their appeal. Where exemption is the sole issue, this paragraph is not applicable.

(d) The appeal shall be forwarded by the Court Administrator to the Court for a settlement conference upon the filing of a trial praecipe signed by all counsel of record.

(e) A settlement conference shall be convened by the Court upon the filing of a trial praecipe which shall be attended by the appellant and all intervening parties. All parties must have a preliminary evaluation of the subject property at the conference and be prepared to exchange information with opposing counsel. Expert witnesses may attend the conference but are not required to do so.

(f) If the assessment appeal is not settled, the Court shall place the matter in the trial pool. The parties shall exchange expert appraisal reports, to be used at trial, within 10 days of the receipt of notice of the first trial listing.

[Rule 922. Money Paid into Court.]

[Rescinded]

[Rule *951. Accounts of Fiduciaries - Notice.]

[Rescinded]

Rule *953. Eminent Domain.

[(a)] [Rescinded]

[(b)] (a) *Service of Copy of Petition and Order upon Adverse Parties.* A copy of any petition of viewers and of any order appointing a Board of View shall be served promptly upon the adverse party in the same manner as a complaint in assumpsit or by certified or registered mail. An affidavit of service of said copy shall be filed with the Prothonotary.

[(c)] (b) *Service of Copy of Petition and Order, etc., upon Board of View.* Upon appointment of a Board of View, the petitioner shall forthwith deliver to the chairman of the Board:

(1) A copy of the affidavit of service required by Rule *953 **[(b)] (a)**.

(2) A copy of the petition and order of appointment which petitioner shall certify is true and correct.

(3) Detailed directions to the condemned property.

[Rule 1008*(D). Landlord-Tenant Appeals.]**[Rescinded]****Rule 1012*. Entry and Withdrawal of Appearance.**

(a) Every initial pleading or legal paper filed with the Prothonotary or the Domestic Relations Office by an attorney shall be accompanied by a written entry of appearance. This written appearance will facilitate proper notification being given to all counsel of record of pending matters listed by the Court Administrator. In like manner, a written withdrawal of appearance shall be required when counsel is removing himself/herself from an action.

(b) No attorney shall represent the interest of a party to any civil action in the Court or before a Domestic Relations Hearing Officer, or special Master or Conciliator appointed by the Court unless or until **[he] the attorney** files a written entry of appearance.

(c) Whenever any attorney changes his or her address, it SHALL be the duty of said attorney to immediately notify the Court Administrator of Montgomery County in writing of such change.

Court Administrator's Note: *Entry of Appearance—Computer Scheduling Program*—Montgomery County Local Rule 1012* requires counsel to file a written entry of appearance in order to represent the interest of any party to a civil action in the Court. The Rule was drafted in order to facilitate proper notification of all counsel of record of pending matters listed by the Court Administrator's Office. Effective immediately, the Court Administrator's Office will not enter any pending matter into the computer scheduling system unless or until counsel who filed the matter has entered his/her appearance.—*John D. Dunmire, Esq., Court Administrator, August 1996.*

Rule 1018.1*. Notice to Defend—Office to be Contacted.

As provided by Pennsylvania Rule of Civil Procedure 1018.1, the following office is designated to be named in the Notice to Defend prescribed by that rule as the office from which advice on where to get legal help can be obtained.

Lawyer Reference Service
409 Cherry Street
Norristown, Pennsylvania 19401
(610) 279-9660

[Rule 1025*. Endorsement, Particular Attorney.]**[Rescinded]****[Rule 1029*. Waiver of Production of Books at Trial.]****[Rescinded]****[Rule 1033*(a). Amendments at Trial.]****[Rescinded]****Rule 1041.1*. Asbestos Litigation—Special Provisions.**

Asbestos litigation in Montgomery County is governed by the Pennsylvania Rules of Civil Procedure and the Montgomery County Local Rules of Civil Procedure, except as follows:

(1) Local Rule **[s 212*(g), (h) and (i), 261*(1),] *262 [*263 and *264]** (relating to **[settlement conferences**

and] trial lists) shall not apply. Settlement conferences are scheduled and cases are listed for trial by Order of Court.

(2) In addition to the requirements of the Pennsylvania Rules of Civil Procedure and Local Rules 301* and 302*, copies of motions, petitions, responses thereto, and briefs, shall be served upon the law clerk for asbestos litigation. For matters subject to Local Rule 302*, the filing of a praecipe shall have the effect of commencing the briefing schedule but not of listing the case for argument, which shall be done by the Court with the assistance of the law clerk for asbestos litigation.

(3) Local Rule 4019* pertaining to discovery masters shall not apply. When a discovery motion is at issue as provided in Local Rule 4019*, counsel shall notify the law clerk for asbestos litigation, who shall arrange for disposition of the matter by the Court.

(4) Arguments, hearings, and trials are ordinarily listed only before the Judges assigned to the asbestos litigation.

(5) The following procedure shall be in effect with respect to cases subject, or alleged to be subject to *Simmon v. Pacor, Inc.*, 543 Pa. 664, 674 A.2d 232 (1996):

A. Within four months of the effective date of this subsection with respect to asbestos cases pending on the effective date, and within four months after the filing of each asbestos case filed after the effective date of this Rule, plaintiff in each such case shall either elect to pursue a claim for medical monitoring, or transfer the case to inactive status.

B. A plaintiff desiring to pursue a claim for medical monitoring shall, by letter, notify the law clerk for asbestos litigation, with copies to all other counsel. The law clerk for asbestos litigation shall consult with the Court, which will issue appropriate Orders scheduling a conference, and thereafter list the case for arbitration or trial, as appropriate.

C. With respect to cases in which plaintiff does not presently wish to pursue a claim for medical monitoring plaintiff shall file with the Prothonotary, and serve on all other counsel and on the law clerk for asbestos litigation, a praecipe to transfer to inactive status. The praecipe shall be in the following form:

See Form

D. Anytime after the expiration of four months from the effective date of this subsection with respect to asbestos cases pending on that date, and anytime after four months from the commencement of any action commenced after the effective date of this subsection, any defendant who asserts that any case should be transferred to inactive status because it falls within the rule of *Simmons v. Pacor, Inc., supra.*, shall file with the Prothonotary, a Petition to Transfer to Inactive Status. The Petition shall be in accordance with Pa.R.C.P. 206.1 and Montgomery County Local Rules of Civil Procedure *302 and 1041.1*(2). The argument court cover sheet shall request a rule return day in accordance with Montgomery County Local Rules of Civil Procedure 302(b). Copies of the petition shall be served on all other counsel in accordance with Montgomery County local rules and practice, and shall also be served on the law clerk for asbestos litigation. The moving party's proposed order shall be in the following form:

See Form

Responses shall be filed at or before the time the rule is returnable, and shall be served on all counsel and on the law clerk for asbestos litigation.

E. Upon receipt of any responses, the law clerk for asbestos litigation shall refer the petition to the Court, which will schedule the matter for argument or hearing as appropriate. If no responses are filed the Court Administrator will forward the Petition to the Signing Judge.

F. After a case has been transferred to inactive status, whether by praecipe or by petition and order, the Prothonotary will maintain the case as an inactive file, the law clerk for asbestos litigation will remove the case from the list of pending cases eligible for trial listing, and no party may take any action with respect to the case, except for the taking of depositions of an aged or infirm witness for purposes of preservation of testimony unless and until the Court, by Order shall direct that the case by retransferred to active status, upon petition and rule filed in accordance with the procedure set forth in subparagraph (D) above.

Comments

1. The Honorable Albert R. Subers and the Honorable William J. Furber, Jr., are the judges assigned to the asbestos litigation. Judge Subers is the Administrative Judge for asbestos litigation.

2. By Order dated April 12, 1982, the law clerk for asbestos litigation is: Donald J. Martin, Esq., 22 West Airy St., Norristown, PA 19401-4769, Telephone: (610) 277-6772, Fax: (610) 277-4993.

3. The Orders scheduling cases for trial and settlement conferences ordinarily contain deadlines, including deadlines for the completion of discovery and for filing certain motions. These are completion deadlines. It is not necessary for a scheduling order to issue for counsel to engage in earlier, appropriate, discovery and motion practice.

4. Except as stated in sub-paragraph D below, a discontinuance of an action as to less than all parties may not be entered without notice and an opportunity to respond to all other parties. This may be accomplished as follows:

A. If a stipulation is signed by counsel for all parties to the litigation, Pa.R.C.P. 229(b) does not require leave of court. The fully executed stipulation may be filed with the Prothonotary.

B. A petition for approval of discontinuance may be filed pursuant to Pa.R.C.P. 206.1 et seq., and Montgomery County Local Rule of Civil Procedure 301*. A rule to show cause shall be requested on the cover sheet. The cover sheet should be followed by a form of order approving the discontinuance, by a petition, and by the original stipulation executed by counsel for plaintiff and counsel for the party against whom proceedings are being discontinued. Upon receipt of the return day from the Court Administrator counsel should serve all parties, and file with the Prothonotary a separate certification of service indicating service of the petition and the rule to show cause, noting the return day. If no answer is filed at or before the time the rule is made returnable, the petition will be forwarded by the Court Administrator to the Civil Signing Judge in accordance with the practice pertaining to any petition requiring a return day.

C. Stipulations for discontinuance signed by counsel for plaintiff and counsel for the party against whom proceedings are being discontinued may be presented to the

Court at a scheduled settlement conference for the case in question. If no objection is raised at the conference, the Court normally approves the stipulation and returns it to counsel for filing and for service on all parties.

D. If a case has been settled by all parties from whom plaintiff seeks a recovery, a discontinuance may be entered as to any other parties by stipulation signed by counsel for plaintiff, the original of which shall be transmitted to the law clerk for asbestos litigation, with copies served on all other parties. The law clerk for asbestos litigation shall transmit the stipulation to the appropriate judge for approval. Since parties who may have claims for contribution or indemnification have not been given the opportunity to object, such a stipulation is subject to being stricken on the petition of an interested party. Counsel may wish to proceed in accordance with subparagraph B, above, to minimize this risk.

5. Certificates of service shall indicate the name and address of counsel or the parties on which service has been made. A certificate of service "on all parties", or "on all counsel of record" without stating who they are, does not establish service on anyone.

6. At the time of the adoption of the addition of subparagraph (5) the Court was aware that litigation was pending in other jurisdictions relating to the manner in which claims for medical monitoring can be pursued, and if such claims can be pursued. The provisions of this subsection (5) creating a procedure to pursue medical monitoring claims does not express the Court's opinion on this issue. This Rule does not preclude any appropriate motion in any case.

[Rule *1049. Itemized Statements Submitted Prior to Trial.]**[Rescinded]****Rule 1066(b)*. Form of Judgment, Writ of Possession.**

(5) Upon entry of judgment for a plaintiff in any action brought under Pa.R.C.P. 1061(b)(4), the Court will order the Prothonotary to issue a writ of possession.

Arbitration**Rule 1301*. Scope.**

(a) Pursuant to § 7361 of the Judicial Code, 42 Pa.C.S. § 7361 and Pa.R.C.P. 1301, et seq., all civil suits and actions in the Court of Common Pleas where the amount in controversy is fifty thousand dollars (\$50,000) or less, excepting those involving title to real estate and equity cases, shall first be tried and decided by a Board of Arbitrators consisting of three members of the Bar of this Court who are in the active practice of law maintaining their principal office within Montgomery County.

(b) Cases, other than those described in (a), may be referred to a Board of Arbitrators by agreement of reference signed by all parties or their counsel.

(c) The determination of the amount in controversy shall be made at the time of the filing of a praecipe for arbitration or a praecipe for civil trial.

[Court Administrator's Note: Rescinded]**Rule 1302*. List of Arbitrators. Appointment of Board. Oath.**

(a)(1) The Court shall appoint a person to act as Arbitration Administrator who shall serve at the discretion of the Court and under the supervision and jurisdiction of the Court.

(2) Each active member of the bar of this Court who maintains his/her principal office within Montgomery County, shall file with the Arbitration Administrator information indicating whether **[he] said member** is a sole practitioner, is a member of a firm or is associated with one or more lawyers. Upon any change in **[his] the member's** status of practicing with or being associated with any other lawyer, **[he] said member** shall immediately report such change to the Arbitration Administrator.

(3) The Arbitration Administrator shall keep on file all papers pertaining to proceedings in arbitration cases until the same are concluded, shall keep the arbitration list up to date, shall prepare and furnish to the Prothonotary and keep up to date a list of the members of the bar qualified to act, which list shall be confidential. **[Any member of the bar, on request to the Arbitration Administrator, shall be informed whether he is on the list. If such member is not on the list, he may make written application to the Court for inclusion on the list. The Arbitration Administrator shall prepare such forms as are necessary for the operation of these rules relating to arbitration, which forms the Arbitration Administrator shall cause to have printed at the expense of the county.]**

The Arbitration Administrator shall send a letter to all members of the Montgomery Bar Association within sixty (60) days after their admission to the bar of his or her right to accept an assignment of Arbitrator by sending, in writing, a statement of his or her intention to so act, which notice shall be directed to the Arbitration Administrator. The Arbitration Administrator shall advise the members of the bar that appointment as an Arbitrator shall have the same force and effect as a Court commitment.

(b)(1) **[Ten (10) days after a case is at issue or after filing of an agreement of reference, and u]** Upon the filing of a praecipe signed by all counsel **[and unrepresented parties]**, with notice to opposing counsel **[or party] and any unrepresented parties**, the Arbitration Administrator shall select the Board of Arbitrators, consisting of three (3) members of the Bar of this Court from the list of attorneys qualified to serve as follows:

(a) The Arbitration Administrator shall select three attorneys from **[the] said list [maintained by him, one], two** of whom shall have been admitted to the practice of law for at least eight years **[who shall serve as chairman of the panel]**. **The attorney with the lowest "attorney identification number" shall serve as chairperson of the panel.**

(b) Upon the request of any party in writing filed within ten (10) days of the filing of the praecipe for arbitration with notice to opposing counsel, the Arbitration Administrator shall nominate five attorneys from **[the] said list [maintained by him]**, three of whom shall have been admitted to the practice of law for at least eight years. For each additional party with an adverse interest, the Arbitration Administrator shall nominate an additional attorney who has been admitted to the practice of law for at least eight years. Each party shall then have the right to strike one attorney so nominated by notifying the Arbitration Administrator in writing within ten (10) days of the date of mailing of the list of nominations by the Arbitration Administrator. The

three remaining attorneys or the first three named on the list, if one or more strikes are not exercised, shall serve on the panel with the senior attorney to act as chairman.

(c) In the event of the disqualification or failure to act of an appointed attorney, the Arbitration Administrator, in all cases in which the panel was selected under (a) above, shall appoint a similarly qualified and available attorney in his/her place. In all cases in which the panel was selected under (b) above, the Arbitration Administrator shall nominate three similarly qualified and available attorneys with an additional attorney for each additional party with an adverse interest provided that there is sufficient time in which to do so. Each party shall strike as above one attorney so nominated and the remaining attorney shall be appointed to the panel.

(d) An adverse party may raise an objection as to whether the matter is arbitrable under these rules or as to the composition of the panel selected under (b) above by notifying the Arbitration Administrator in writing with notice to opposing counsel within ten (10) days of the filing of the praecipe or the mailing of notice of the composition of the panel. The Court shall decide such objections before the matter is heard by the Board on the merits.

(e) If any counsel **[or unrepresented party]** refuses to sign the praecipe for arbitration, any party may request **[the Court Administrator to schedule]** a conference before **[a] the designated Judge on the case** in order to determine whether the case should be placed on the arbitration list and scheduled for hearing.

(f)(1) Each member of a Board of Arbitrators who has signed a report or dissented shall receive as compensation for services in each case a fee of one hundred dollars (\$100). When more than one case arising out of the same transaction is heard at the same hearing or hearings, it shall be considered as one case insofar as compensation of the Arbitrators is concerned. In civil action, where no appearance has been entered for the defendant and there is no contest, the compensation of each of the Arbitrators shall be in the sum of twenty-five dollars (\$25) per case. However, the Administrator, in his discretion, may assign more than one such case to a particular Board. In cases requiring hearings of unusual duration or involving questions of unusual complexity, the Court, on petition of the members of the Board and for cause shown, may allow additional compensation. The Court may also, on petition of any party to a case, on cause shown and to prevent injustice, reduce the amount of such compensation or disallow compensation entirely. The members of a Board shall not be entitled to receive their fees until after filing a report with the Prothonotary. When the same is filed, the Prothonotary shall issue an order for payment of such fees which shall be immediately paid from county funds as in the case of all other county debts. In the event that a case shall be settled or withdrawn or otherwise terminated by or between the parties at least one full weekday before the date of the hearing, the Board members shall not be entitled to the aforesaid fee.

Rule 1303*. Hearing. Notice.

(a)*(1) The Arbitration Administrator **[shall fix the date, time and place of the hearing not less than thirty (30) days nor more than forty-five (45) days after the appointment of the Arbitrators and]** shall notify the Arbitrators and the parties or their counsel, in writing, at least thirty (30) days before the hearing of the date, time and place of the hearing.

(b)*(1) The Arbitration Administrator shall have the power to grant continuances and all applications for continuance shall be submitted to him/her at least two working days prior to the date of the hearing.

* (c) If any member of the Board dies or becomes incapable of acting, or shall fail or refuse to perform his duties, after hearing but before a report shall be made, the case shall be decided and the report signed by the remaining members of the Board. If they cannot agree, they shall so notify the Arbitration Administrator, who shall then appoint a third member from the list of attorneys in the same manner as the original panel was selected to rehear and decide the case.

Rule 1306*. Award.

(a)(1) The Board of Arbitrators shall not consider the subject of damages for delay until after a decision has been reached on the merits and has been entered on the award form.

(2) After the amount of the award has been so entered, the Board shall make a determination as to damages for delay by accepting a sealed envelope containing a stipulation setting forth whether an offer was made in writing and if so, the amount as well as the date of the offer. If no such stipulation is submitted by counsel, the Board shall, following announcement of the award, consider evidence from counsel relating to damages for delay.

[Rule 1308*. Appeals. Preference on Trial List.]

[Rescinded]

[Rule 1481*(a)(1). Nonsupport Contempt Proceedings.]

[Rescinded]

Rule 1533*(i). Notice of Assignees and Receivers.

(i) Assignees for the benefit of creditors and receivers shall, after they have entered security, give notice of their appointment to every creditor and party in interest of whom they have knowledge and shall also publish notice thereof once a week for three successive weeks.

Rule 1534*. Accounts of Fiduciaries—Notice.

(a) At least three weeks before the presentation of the account of any trustee, committee, guardian, assignee for the benefit of creditors, receiver or other fiduciary, notice of the filing thereof and of the petition for distribution shall be served upon all parties interested (including creditors and shareholders) whose whereabouts are known and except in the case of triennial accounts of trustees, committees and guardians, shall also be published in the *Montgomery County Law Reporter* and a newspaper of general circulation once a week for three successive weeks, unless publication is waived by the Court.

(b) Said notice shall set forth that the account and petition for distribution have been filed in the Office of Prothonotary, and will be presented to the Court at a certain time for such action as the Court may deem expedient, and that the account may then be confirmed and distribution made of the fund, unless exceptions thereto be previously filed or cause shown to the contrary.

(c) Proof of service of said notices and of said publication shall be submitted at the audit.

(d) If no exceptions have been filed, the account may be confirmed absolutely upon such proof of service.

(e) Similar notice must be given of petitions for the reconveyance of assigned estates.

(f) The accountant shall file with the account a petition for distribution of the fund in form similar to that of petitions for distribution required by the Orphans' Court to be presented at the audit of accounts in that Court.

(g) The petition for distribution shall contain also (1) a list of the names of creditors or claimants against the fund for distribution whose claims are believed by the accountant to be just; (2) a list of claims that are to be contested; (3) a list of claims that appear to the accountant to be justly entitled to a preference or lien upon the fund; (4) a list of claims for preference or lien that are disputed. In all cases, the amount of the claim shall be stated.

(h) *Schedule of Distribution.* A proposed schedule of distribution may be attached to or filed with the account and after final confirmation, the Court may, on motion, decree distribution in conformance therewith. If no proposed schedule of distribution has been submitted with the account, or if a material change therein is proposed, no decree of distribution will be made by the Court until such notice has been given to the parties interested as the Court may order.

(i) *Exceptions to Accounts of Schedule of Distribution.* Exceptions to an account or schedule of distribution shall be placed on the argument list.

Rule 1568*(a). Public Sale, Notice.

(a) Except as otherwise provided by act of assembly or special order of Court, notice of the time and place of the sale of a property at public auction by a Master in partition shall be given by publication once a week for three successive weeks immediately preceding such sale in the legal periodical designated by Rule [*404] 430(b)(1)* and in one daily newspaper of general circulation, in each county where any part of the property lies, such publications to appear in all editions of such newspapers published on the days the same appears; by posting the property to be sold, and by the circulation of at least 50 handbills among those who may be known to be interested in buying the property and in the neighborhood in which it is situate. Whenever a property or properties so sold lie in different counties the first publication shall be made at least 60 days before the date of the sale.

Family Court Procedures

[Rule *1851. Scope.]

[Rescinded]

[Rule *1852. Action for Support.]

[Rescinded]

[Rule *1853. Additional Family Court Matters.]

[Rescinded]

Rule *1854. Cover Sheet Required.

(a) Whenever any Family Court action or petition is filed with the Prothonotary [pursuant to Montgomery R.C.P. 1852 or Montgomery R.C.P. 1853], the attorney

shall attach a cover sheet to the documents with the file numbers of all previous Family Court cases filed in Montgomery County involving the same parties.

(b) The cover sheet shall be substantially in the following form:

See Form

[Rule *1855. Verification by Prothonotary. Transfer To Court Administrator.]

[Rescinded]

[Rule *1856. Order of Linkage . Transfer to Prothonotary.]

[Rescinded]

[Rule *1857. Notation of Linkage.]

[Rescinded]

[Rule *1858. Review of Files.]

[Rescinded]

[Rule *1859. Appeal.]

[Rescinded]

Actions For Support

[Rule *1910.9(c). Discovery]

[Rescinded]

Rule 1910.11*. Support Conciliation.

In order to encourage and effect settlement of differences over support, especially where children are involved, and to promote the prompt entry of support orders by agreement prior to the process as prescribed by Rule 1910.11 by which this court conducts all support proceedings, and to facilitate such proceedings, the court hereby **[rescinds Local Rule 1910.11*(f) and]** adopts Local Rule 1910.11*. Support Conciliation. as follows:

(a) A support conciliation shall be conducted by a support conciliator employed by the Domestic Relations Section.

(b) If the defendant fails to appear at the support conciliation before the support conciliator as directed by the court, the support conciliation may proceed without the defendant.

(c) At the support conciliation, the parties shall furnish to the support conciliator true copies of their most recent federal income tax returns, their pay stubs for the preceding six months, verification of child care expenses and proof of medical coverage which they may have or have available to them. In addition, they shall provide copies of their income and expense statements in the form required by Rule 1910.26(c), completed as set forth below.

(1) For cases which can be determined according to the guideline grids or formula, the income and expense statement need show only income and extraordinary expenses;

(2) For cases which are decided according to *Melzer v. Witsberger*, 480 A.2d 991 (1984), the entire income and expense statement must be completed.

(d) The support conciliator may make a recommendation to the parties of an amount of support which is calculated in accordance with the guidelines. If an agreement for support is reached at the support conciliation,

the support conciliator shall prepare a written order substantially in the form set forth in Rule 1910.26(e) and in conformity with the agreement for signature by the parties and submission to the court together with the support conciliator's recommendation for approval or disapproval. The court may enter the order in accordance with the agreement without hearing the parties.

(e) At the conclusion of the support conciliation or promptly thereafter, the support conciliator shall prepare a support conciliation summary and furnish copies to both parties. The support conciliation summary shall state:

(1) the facts upon which the parties agree;

(2) the contentions of the parties with respect to facts upon which they disagree; and

(3) the support conciliator's recommendation, if any, of:

(i) the amount of support and by and for whom the support shall be paid, and

(ii) the effective date of any order.

(f) If an agreement for support is not reached at the support conciliation, the parties shall be given notice of the date, time and place of an office conference. The office conference shall be conducted by a Conference Officer in accordance with Rule 1910.11.

(g) If an agreement for support is not reached at the support conciliation:

(1) the party seeking support may, pursuant to Rule 1910.25, immediately apply to the court for a temporary support order, prior to the office conference, to be effective only until the entry of a subsequent agreed order or an interim order following the office conference pursuant to Rule 1910.11(f). The agreed order or the interim order shall supersede the temporary order; or

(2) a temporary support order may be entered by an agreement of the parties at the support conciliation, to be effective only until the entry of a subsequent agreed order or an interim order following the office conference pursuant to Rule 1910.11(f). The agreed order or the interim order shall supersede the agreed temporary order.

[Rule 1910.11*(f). Order After Office Conference.]

[Rule 1910.15*. Paternity.]

[Rescinded]

[Rule 1910.23*. Judgment for Arrearages. Execution.]

[Rescinded]

[Rule 1910.23-1(b)(2)*. Judgment for Arrearages. Execution.]

[Rescinded]

Actions For Custody

Rule 1915.3*. Seminar for Separated and Divorced Parents.

(a) In an action custody, partial custody or visitation, if a case is not resolved by the custody conciliator and must therefore proceed to a hearing before a Judge, both parents shall attend an approved education seminar on the general responsibilities of separated and divorced parents.

(b) Seminars shall be conducted by seminar providers as approved by the President Judge. Seminars shall be

conducted in the Montgomery County Courthouse or at such other location as approved by the President Judge. Each parent will be responsible to register for a seminar and for payment of the seminar costs; however, the costs may be waived by the Court for any party qualifying to proceed in forma pauperis.

(c) Seminar attendance may also be required upon motion of either party, by agreement of the parties, upon recommendation by the Custody Conciliator or upon the Court's own motion, in connection with any petition to modify custody, any petition for contempt of a custody order or any other matter relating to child custody or visitation.

(d) A Certificate of Attendance shall be filed by the seminar provider with the Prothonotary's Office reflecting that attendance was fulfilled by the parent.

(e) For good cause shown, the Court may waive the requirement of seminar attendance in a particular case.

(f) Upon a party's failure to attend a required seminar, the Court may impose sanctions, including but not limited to a finding of contempt. A hearing on a custody petition shall not be delayed by a party's refusal or delay in completing the seminar.

[Rule 1915.8*. Physical and Mental Examination of Persons.]

[Rescinded]

Rule 1915.8(e)*. Physical and Mental Examinations of Persons.

The court may assess and allocate the cost of the evaluation, the report, and the fee of the expert to appear in court to testify upon a party or parties, upon the county (in whole or in part) or as otherwise permitted by law.

Action for Divorce or for Annulment of Marriage

[Rule *1920.3*(b). Child Support and Alimony Pendente Lite.]

[Rescinded]

Rule 1920.13*(d). Duplicate Filing With Domestic Relations Office.

The filing of any complaint, counterclaim or petition for child support, spousal support, or alimony pendente lite with the Prothonotary does not commence proceedings for such relief until a duplicate is filed with the Domestic Relations Office.

[Rule 1920.22*(c). Discovery.]

[Rescinded]

Rule 1920.33*(f). Initial Hearing Statement—Pre-Trial Statement—Sanctions.

(1) No later than 10 days prior to the date of the first hearing before the **equitable distribution master [conciliator]**, an initial hearing statement shall be filed which shall include the following:

(a) A statement of all marital and non-marital assets with verification of values, indicating date of valuation used.

(b) Summary of all marital and non-marital liabilities indicating dates of valuation.

(c) Verification of any post-separation payment of marital debt.

(d) An expense statement in the form provided in subsection (4).

(e) Verification of current gross and net income in the following form:

See Form

(f) The last two filed federal and state income tax returns.

(g) All present or past spousal support, alimony, pendente lite or child support orders between the parties and any presently existing alimony or child support order involving either party separately and verification of any arrearages.

(h) The date of the parties' separation.

(i) Verification of counsel fees costs and expenses, if claimed.

(2) No later than 20 days prior to the date of any subsequent hearing before the equitable distribution **master [conciliator]**, each party shall file the pre-trial statement, in the form required by subdivision (b) of this rule **[, or a otherwise by the Court]**.

(3) The failure of any party to comply with any provision or subsection of local Rule 1920.33(f) may subject that party to sanctions under Rule 4019(c) and the barring of Rule 1920.33(d).

[A conciliator in] The equitable distribution **master** shall have the authority to implement the provisions of this subsection or may request that the Court enter and appropriate order to implement the provisions of this subsection.

(4) Form

See Form

[Rule 1920.42*(d). Service of Praecepto to Transmit Record.]

[Rescinded]

Rule 1920.51*(f). Dissolution of the Martial Status, Appointment of Master, Notice of Hearing.

(1) *Appointment of Master.* **[The Court, upon motion, will appoint a Master to hear evidence in respect to the dissolution of the marital status under 23 Pa.C.S. § 3301(a), (b), (c) and (d)(i)(ii).]** Any Master appointed pursuant to **Rule 1920.51(a)(2)(i)** shall be an active member of the Montgomery Bar Association.

(2) *Notice of Hearing.* Notice of the first hearing before the Master shall be sent by the Master at least 10 days prior to said hearing.

(3) *Notice of Filing Master's Report.* Upon the filing of a report by the Master in divorce with the Prothonotary, the Master shall forthwith send written notice to the attorneys of record, and if a party is not represented by counsel, to that party and to the guardian ad litem of a minor or incompetent party except where service has been by publication, and shall immediately file a certificate that such notices have been duly sent. The notice shall state the time and place of filing said report and that, if exceptions are not filed within 10 days after the report is filed, the report will be presented to the Court

for final action. In a contested action, the Master shall accompany the notice with a copy of the report and recommendation.

(4) *Fees and Costs.* In addition to the **filing** fee paid to the Prothonotary under the Prothonotary's fee bill at the institution of the action, an additional sum, as determined by the Prothonotary, shall be deposited with the Prothonotary **[action in divorce] on behalf of the Master. [The fee of a Master hearing the divorce action shall be fixed by the Court. For additional hearings the Master shall be allowed such further compensation as the Court may from time to time order on application of any party or the Master.] Fees in excess of the sum deposited with the Prothonotary on behalf of the Master shall be billed directly to the parties, as determined by the Master. Disputes regarding Masters' fees shall be resolved by the Court.**

(5) *All divorce papers under seal.* All records in divorce actions shall be placed under seal by the Prothonotary. Access shall be by order of the Court. With proper identification submitted to the Prothonotary, however, members of the Pennsylvania bar, the parties to the litigation and authorized governmental agencies (including the social security administration and the armed services) shall have access to the sealed file for inspection and duplication.

(6) *Certification when unable to file affidavit as to military service.* If the plaintiff is unable to file such affidavit in accordance with Pa.R.C.P. 1920.46(b), the plaintiff shall file certifications from the five branches of the armed services that the defendant is not a member.

(7) *Appointment of counsel for defendant in military service.* Whenever counsel is appointed by the Court for a defendant in the military service, the attorney shall file a brief report of his services with the record in the Prothonotary's Office and shall be paid for the services to be taxed as part of the costs.

[Rule 1920.52(d). Appointment of Conciliator in Equitable Distribution.]

Rule 1920.55-1*(c). Alternative Hearing Procedure for Matters Referred to a Master.

The court adopts the alternative procedure of Pa.R.C.P. 1920.55-3 with regard to all divorce proceedings which are referred to a Master for the resolution of economic claims.

[Rule 1920.55-3*(f). Appointment of Master in Equitable Distribution.]

[Rescinded]

[Rule 1920.56. Temporary Order.]

Rule 2039(a)*. Compromise, Settlement, Discontinuance and Distribution.

(1) No settlement of an action for a minor for personal injuries will be authorized or approved without the appearance of the minor in Court, medical evidence as to the extent of the minor's injuries, and such further information as the Court shall deem necessary; provided, however, that if the petition of the guardian for the compromise of the minor's action is accompanied by (a) a written report of the physician dated no more than 30 days before filing of the petition; (b) a statement under oath by the guardian certifying (i) the present physical or mental condition of the minor and (ii) approval of the

proposed settlement and distribution thereof; (c) a statement by counsel of his or her professional opinion of the probabilities of proof of defendant's negligence by plaintiff and the minor's negligence, if any, by defendant; and (d) in the event that the minor is 16 years of age or over, **[his or her] the minor's** written approval of the proposed settlement and distribution thereof, then the Judge to whom such petition has been presented may approve the petition without requiring the appearance of the minor's doctor, in the event that the Judge concludes that the information contained in the petition is sufficient to satisfy **[him] the Judge** that the proposed settlement adequately compensates the minor and **[his] the** guardian for the injuries sustained and expenses incurred.

(2) In the event that the Judge determines that sufficient evidence has not been produced to justify the approval of the petition, the Judge may require additional information, including the personal appearance of the minor, **[his or her] the** guardian and **[his or her] the** doctor, or any of them, and **[he] the Judge** may require the production of any other evidence **[he] the Judge** deems to be necessary for the purpose of determining whether the proposed settlement adequately compensates the minor and **[his or her] the** guardian for the injuries sustained and the expenses incurred.

(3) When a compromise of a minor's action has been tentatively approved by a Pretrial Conference Judge, that Judge shall retain jurisdiction of the case for the purpose of judicially determining whether the proposed compromise should be approved or rejected. Counsel for the guardian of a minor shall thereupon present to that Judge a formal petition of the guardian for the compromise of the action in the form set forth in Rule 2039(a)*(1) above.

(4) If the claim for counsel fees exceeds twenty-five (25) percent of the compromise settlement, evidence shall be presented as to the nature and extent of the services rendered.

(5) When a compromise settlement is approved by the court, an Affidavit of Deposit of Minor's Funds shall be filed with the Prothonotary of Montgomery County within 30 days of the date of the order approving the settlement. The Affidavit shall be substantially in the following form:

See Form

[Rule 2227(b)*. Compulsory Joinder, Form of Application.]

[Rescinded]

Rule 2232(a)*(1). Defective Joinder, Change of Parties, Notice.

(1) *Notice of Pendency of Action.* Notice required by this rule shall contain a statement of the pendency of the action, shall state the Prothonotary's number of the action, the parties thereto and its nature and that the person to whom it is addressed is required to join therein within twenty (20) days after receipt of such notice or his cause of action will be barred and the action will proceed without **[him] said person.** Proof of service shall be by affidavit accompanied with a copy of the notice and the return receipt, filed with the Prothonotary.

Rule 2232(c)*(1). Intervenors in Zoning and Real Estate Assessment Appeals.

(1) In every appeal from a real estate assessment filed by the Board for the assessment and revision of taxes, the

Board of Commissioners of Montgomery County, the governing body of the municipality and the Board of School Directors of the school district in which the real estate is situated, and the property owner, if [**he**] **the property owner** is not the appellant, may intervene as of course, by entering a written appearance. Prompt notice of such intervention shall be given to the appellant, appellee and affected municipal bodies.

[Rule 2252(b)*. Right to Join Additional Defendants, Complaints.]

[Rescinded]

Rule 2957*. Praecept for Writ of Execution, Affidavit.

Plaintiff is required to provide the Prothonotary with an affidavit, which shall be forwarded to the Sheriff along with the Writ of Execution, stating whether the notice required by Rule 2958.1 has been served, and stating how, if needed, the additional notices shall be served.

Rule 2974*. Writ of Possession.

(a) Where a writ of possession is issued pursuant to a judgment of possession based upon a residential lease containing a warrant of attorney or cognovit provision, the writ shall have attached to the face thereof a notice substantially in the following form:

See Form

(b) The writ and notice shall be served by the sheriff, but no further eviction proceedings shall be undertaken until the expiration of twenty (20) days after the service of the writ and notice.

(c) A stay of execution of the writ of possession may be obtained by the filing of a petition therefore in accordance with Pa.R.C.P. 3162, conditioned upon posting of a bond in an amount to be determined by the Court in a manner similar to that required by Pa.R.C.P.J.P. 1008B.

(d) Anyone presenting a petition for stay in accordance with subdivision (c) shall make a reasonable attempt to notify the plaintiff or his/her attorney of the date, place and time when the petition for stay will be presented to the Court.

[Rule 3103(a)*(1). Execution of Judgment Entered on Warrant of Attorney.]

[Rescinded]

Rule 3118(a)(6)*(A). Levy, Denial of Entry to Premises.

(A) The Court may, on motion of counsel, after writ of execution has been issued and after attempt by the sheriff to make a levy has been unsuccessful, upon affidavit executed by the sheriff, that the defendant or defendants have refused to allow the sheriff entry into the premises where the property is located, authorize the sheriff to enter by breaking in by force, to make a levy, upon **plaintiff** posting such security as the Court may order.

[Rule 3121(c)*(1)-(3). Stay of Execution, Costs, Security.]

[Rescinded]

[Rule 3123(a)*(1). Exemption, Sheriff's Appraisal.]

[Rescinded]

Rule 3135*. Sheriff's Deed to Real Property, Sale for Costs Only, Acknowledgment of Deed.

(a) When the Sheriff sells real property in execution to the plaintiff for costs only, the Sheriff at the expiration of 10 days thereafter, if no petition has been filed to set aside the sale, shall execute and acknowledge before the Prothonotary a deed to the property sold. The Sheriff shall forthwith deliver the deed to the appropriate officers for recording and for registration if required. Confirmation of the sale by the Court shall not be required.

**(b) Sheriff's Return; Precede Acknowledgment of Deed.* Writs of execution must be returned and filed before the acknowledgment of the Sheriff's deed for the real estate sold by virtue thereof.

Rule 3136(e)*(1). Determination of Exceptions to Schedule of Distribution.

(1) The Prothonotary shall deliver the exceptions to the Court, who shall set a return day and notify the exceptant and the execution creditor thereof. The exceptant shall immediately notify all other parties in interest of such return day.

Rule 3139(a)(2)*(i). Sheriff's Return, Time Limit.

(i) Sheriff's Return; Last Day to Make Return. The Sheriff shall make the return within one month after completion or abandonment of the execution proceedings.

Rule 3204*(a). Sheriff's Determination of Claimant's Title, Hearing.

(a) If a party in interest files a request for a formal hearing with the Sheriff within ten (10) days after date of the mailing of the copy of the claim, as provided by Rule 3203, the Sheriff shall schedule a formal hearing prior to determining whether claimant is the prima facie owner of the property in whole or in part. Said hearing must be held by the Sheriff within 30 days after receipt of request for a hearing.

[Rule 3208(b)*(1). Claimant's Bond, Household Goods, Additional Security.]

[Rescinded]

Rule 3251*(a). Praecept for Writ of Execution; Money Judgments; Content.

(a) Praecept for Writ of Execution; Money Judgments; Content. The praecipe for writ of execution shall include:

(1) Statement whether writ is against real property or personal property, or both; certification whether exemption has been waived.

(2) Description of real estate to Prothonotary. If the execution is against real estate the Prothonotary shall be provided with a description of the real estate, which he shall attach to the writ of execution.

Rule 4007.1*(f). Deposition by Telephone.

(f) (1) The parties may stipulate in writing or the Court may, upon motion, order that a deposition by taken by telephone. For the purposes of these rules a deposition taken by telephone is taken at the place where the deponent is to answer the questions.

(2) The appropriate officer before whom the deponent is sworn shall be at the same place as the deponent during the taking of the deposition. After the deposition, the officer administering the oath

shall file a written certification that the deponent was identified, sworn and deposed in the officer's presence.

(3) The parties' agreement or the Court order shall prescribe the manner in which the deposition will be taken and recorded and may also include other provisions to assure that the transcript of the testimony will be accurate.

(4) If any examining party desires to present exhibits to the deponent during the deposition, copies shall be sent to the deponent and all parties or their counsel prior to the taking of the deposition.

(5) Nothing herein shall preclude any party from being represented in person or by counsel at the location of the deponent during the deposition.

[Rule 4009(b)*. Production of Documents or Tangible Things, Place.]

[Rescinded]

Rule 4012*(c). Protective Orders, Depositions, Place of Taking.

(c) Taking Depositions—Place. In the absence of an agreement between counsel for the parties, or unless otherwise allowed by special order of the Court, all depositions shall be taken in the Montgomery County Courthouse.

Rule 4015*(d). Letters Rogatory, Form of Application.

(d) Letters Rogatory in the following form may be issued on the application of either party.

See Form

[Rule 4016*. Deposition by Telephone.]

[Rescinded]

Rule 4019*. Discovery Master.

In order to facilitate the prompt disposition of discovery matters, the Court adopts Local Rule of Civil Procedure 4019* implementing what shall be known as the "Discovery Master Program" as follows:

(1) The Board of Judges shall appoint five members of the Bar who shall have practiced civil law in Montgomery County for a minimum of 15 years to serve as Discovery Masters, for an indeterminate term, without compensation, at the pleasure of the Court.

(2) All motions respecting discovery, other than a motion for sanctions, together with a rule to show cause why the relief sought should not be granted, shall be presented to the Court Administrator, after filing with the Prothonotary, for a return day on the rule. The moving party shall promptly serve the respondent with a copy of the motion and rule designating the return date. The cover sheet of moving party must state that counsel have [**met and**] conferred in a good faith effort to resolve the discovery dispute.

(3) If the motion is resolved amicably prior to the return day, the motion shall either be withdrawn or a stipulated order shall be submitted to the Court Adminis-

trator for submission to the signing Judge. If the motion is opposed, the parties shall appear in a courtroom or arbitration room designated by the Court Administrator on the Friday of the week in which the rule was made returnable, to argue the matter before the Discovery Master scheduled by the Court Administrator to hear the matter. In the event the Friday of the week in which the rule was made returnable is a legal holiday, the matter shall be argued before the Discovery Master on the Thursday following the return day. Briefs in support of and in opposition to the motion may be submitted to the Court Administrator's Office prior to the day on which the matter is to be argued before the Discovery Master.

(4) After hearing argument and considering the motion and answer, and any briefs filed, the Discovery Master shall submit a written recommendation and proposed order to the designated Judge for the case for entry of an appropriate order.

Rule 4019.1*. Family Discovery Master.

In order to facilitate the prompt disposition of discovery in domestic relations matters, the Court adopts the Family Discovery Master Program as follows:

(1) The Board of Judges appoints the Masters in Equitable Distribution and the Support Conference Officers to serve as Family Discovery Masters.

(2) All motions respecting discovery in domestic relations matters shall be filed with the Prothonotary. The moving party shall include a cover sheet and a proposed order. The cover sheet must state that counsel have [**met and**] conferred in a good faith effort to resolve the discovery dispute.

(3) The motions shall then be presented to the Family Discovery Master for a rule returnable and argument date. A certificate of service of the motion and rule returnable and argument date shall be filed in the Prothonotary's office by the moving party on or before the return date.

(4) The rule returnable and argument date shall be at 1 p.m. on the first Wednesday following the 30th day subsequent to the filing of the petition in a hearing room located at 321 Swede Street, Norristown, PA.

(5) If the motion is resolved amicably prior to the return day, the motion shall either be withdrawn or a stipulated order shall be submitted to the Family Discovery Master for submission to the signing Judge. If the motion is opposed, the parties shall appear, on the date and at the place specified in the Rule accompanying the motion, for argument before the Family Discovery Master. If no answer is filed on or before the return date, a rule absolute will be granted. Briefs in support of and in opposition to the motion may be submitted to the Family Discovery Master not less than two days prior to the day scheduled for argument before the Family Discovery Master.

(6) After hearing arguments and upon consideration of the motion and answer, and any briefs filed, the Family Discovery Master shall submit a written recommendation and proposed order to the Judge assigned to the case for entry of an appropriate order.

(7) This rule does not apply to motions for sanctions.

CIVIL COURT FORMS

See Rule 14

IN RE: APPEAL OF _____ FROM THE
DECISION, DATED _____, OF THE
ZONING HEARING BOARD OF THE TOWNSHIP/BOROUGH
OF _____

See Rule 303 (a)

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

:
:
: NO.
:
:

COVER SHEET OF MOVING PARTY

Date of Filing _____ Moving Party _____

Counsel for Moving Party _____ I. D. No. _____

Counsel for Other Parties _____ I. D. No. _____

_____ I. D. No. _____

Document Filed (Specify) _____

Matter is (Check One) _____ (Appealable) _____ (Interlocutory)

Oral Argument _____ (Yes) _____ (No)

Check ONE of the Choices Listed Below:

_____ Respondent is Directed to Show Cause Why the Attached Motion or Petition Should Not
be Granted. Rule Returnable the _____ day of _____, at 9:00 a.m.
in Arbitration Room 1.

_____ Respondent is Directed to Show Cause Why the Attached Family Court Discovery Motion
Should Not be Granted. Rule Returnable and Argument the _____ day of _____,
at 1:00 p.m. at 321 Swede Street, Norristown, Pa.

_____ Respondent is Directed to File a Response Within Twenty (20) Days in Conformity with
the Pennsylvania Rules of Civil Procedure.

NOTE: All Motions "respecting discovery" in CIVIL cases are subject to Local Rule 4019* - Discovery Master. All Motions
"respecting discovery" in FAMILY cases are subject to Local Rule 4019.1* - Family Discovery Master. By filing this
cover sheet, counsel certify that they have conferred in a good faith effort to resolve the subject discovery
dispute.

Cover Sheet is NOT to be Used for Matters Requiring Hearing.

THE COURTS

See Rule 303 (b)

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

:
:
: NO.
:
:

COVER SHEET OF RESPONDENT

Date of Filing _____ Respondent _____

Counsel for Respondent Party _____ I. D. No. _____

Counsel for Other Parties _____ I. D. No. _____

_____ I. D. No. _____

Document Filed (Specify) _____

Matter is (Check One) _____ (Appealable) _____ (Interlocutory)

Respondent Requires (Specify reason if Interlocutory)

_____ DISCOVERY _____

_____ ORAL ARGUMENT _____

If Interlocutory, is Memorandum of Law Attached?

Yes _____ No _____

See Rule 303 (c)

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA
CIVIL ACTION—LAW

: NO.
:
:

v.

ARGUMENT PRAECIPE

Please submit the following matter to the designated Judge for disposition:

INTERLOCUTORY matter subject to Montgomery County Local Rule *301:

(Specify) _____

(Name of Moving Party) _____

APPEALABLE matter subject to Montgomery County Local Rule *302:

(Specify) _____

(Name of Moving Party) _____

WAS BRIEF ATTACHED TO THE ABOVE MATTER?: Yes No

ORAL ARGUMENT: Requested Waived

Signature of Filing Party

Name Typed and Attorney I. D. #

**NOTE—PRAECIPE TO BE FILED IN DUPLICATE WITH THE PROTHONOTARY
—BRIEFS TO BE FILED IN COURT ADMINISTRATION ONLY**

See Rule 1041.1*.5C

“[Caption]

PRAECIPE TO TRANSFER INACTIVE STATUS

TO THE PROTHONOTARY:

Transfer the above-captioned matter to inactive status in accordance with Montgomery County Local Rule of Civil Procedure 1041.1*(5).

Attorney for Plaintiff

[Certificate of Service]*

See Rule 1041.1*5D

ORDER

AND NOW, this _____ day of _____, _____, IT IS ORDERED that the above-captioned matter is transferred to inactive status in accordance with Montgomery County Local Rule of Civil Procedure 1041.1*(5).

BY THE COURT:

J.

THE COURTS

See Rule 1854

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA
CIVIL ACTION—LAW

FAMILY COURT COVER SHEET

CASE NUMBERS

(CP) _____
(DR) _____
(D) _____

VS

Attorney for Plaintiff

I. D. #: _____

Phone #: _____

Attorney for Defendant

ID#: _____

Phone #: _____

AVERMENT OF CONSOLIDATION

On the spaces below, please identify all companion case numbers associated with this case that relate to:

- | | |
|---------------------------|-------------------------------------|
| 1. Divorce/Annulment | 5. Custody/Visitation/Habeas Corpus |
| 2. Support | 6. Special Relief |
| 3. Equitable Distribution | 7. Abuse |
| 4. Paternity | |

_____	_____	_____
_____	_____	_____
_____	_____	_____

I certify that the information provided above is comprehensive and complete to the best of my knowledge, and that I have formally entered my appearance for the case above.

By: _____
Esquire

Rule 1920.33(f)(1)(e)

Gross income (indicate how paid, weekly, bi-weekly, etc.)	\$ _____
Federal tax	\$ _____
FICA	\$ _____
Medicare tax	\$ _____
State tax	\$ _____
Local tax	\$ _____
Net income	\$ _____

See Rule 1920.33(f)(4)

STATEMENT OF MONTHLY EXPENSES

1. HOME EXPENSES	
A. Rent or home loan payment (including any assessment or maintenance fee)	\$ _____
B. Real estate taxes (if not included in A)	\$ _____
C. Utilities:	
Electricity	\$ _____
Gas	\$ _____
Water	\$ _____
Telephone	\$ _____
Oil	\$ _____
Other (specify)	\$ _____
D. Home maintenance (repairs and upkeep)	\$ _____
2. OTHER EXPENSES	
A. Alimony or spousal support	\$ _____
B. Child support	\$ _____
C. Insurance (not deducted from wages):	
Life	\$ _____
Health	\$ _____
Auto	\$ _____
Homeowners or renters	\$ _____
Other (specify)	\$ _____
D. Installment payments:	
Auto	\$ _____
Other (specify) _____	\$ _____
E. Education (tuition and books)	\$ _____
F. Medical, dental and medicine (not covered by insurance)	\$ _____
G. Other extraordinary expenses (specify)	\$ _____
TOTAL ESTIMATED CURRENT MONTHLY EXPENSES	\$ _____

I verify that the information contained in the foregoing statement of monthly expenses is true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

_____ Date

_____ Signature

THE COURTS

See Rule 2039(a)

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA
CIVIL ACTION

v. : NO:
:
: MINOR'S COMPROMISE

AFFIDAVIT OF DEPOSIT OF MINOR'S FUNDS

COMMONWEALTH OF PENNSYLVANIA:
COUNTY OF MONTGOMERY

I, _____, being duly sworn according to law depose and say:

1. I am employed by _____
name of bank or authorized depository

as _____
.

2. I am authorized to make this affidavit on behalf of _____
name of bank or authorized depository

3. On _____ the sum of \$ _____
date
was deposited by _____ in an insured, interest-bearing
Savings Account/Certificate of Deposit No. _____
pursuant to Order of Court dated _____ to File No. _____.

4. Account/Certificate No. _____ is entitled,
_____, a Minor.

5. The express prohibition of withdrawals of income or principal prior to _____ without FURTHER ORDER
OF COURT has been noted on the depository's records and on the passbook/certificate.

Name

Signature

Titles

Sworn to and subscribed before
me this _____ day of _____, _____.

Notary Public

**THIS AFFIDAVIT SHALL BE FILED IN THE OFFICE OF THE MONTGOMERY COUNTY PROTHONOTARY,
MONTGOMERY COUNTY COURTHOUSE, SWEDE AND AIRY STREETS, NORRISTOWN, PENNSYLVANIA
WITHIN THIRTY (30) DAYS OF THE DATE OF THE ORDER OF COURT.**

See Rule 4015

IN THE COURT OF COMMON PLEAS OF
MONTGOMERY COUNTY, PENNSYLVANIA

To the Appropriate Judicial Authority in

Whereas a certain suit is pending before us in which A. B. is plaintiff and C.D. as defendant, and it has been suggested to us that there are witnesses residing within your jurisdiction, without whose testimony justice cannot completely be done between the said parties; we, therefore, request that, in furtherance of justice, you will, by the proper and usual process of your court, cause such witness or witnesses as shall be named or pointed out to you by the said parties, or either of them, to appear before you or some competent person by you for that purpose to be appointed and authorized at a time and place by you to be fixed, and there to answer on their oaths or affirmations, to the several interrogatories hereunto annexed; and that you will cause their testimony to be committed to writing, and returned to us under cover duly closed and sealed, together with these presents; and we shall be ready and willing do the same for you in a similar case when required.

Witness, etc.

[Pa.B. Doc. No. 99-579. Filed for public inspection April 9, 1999, 9:00 a.m.]

MONTGOMERY COUNTY

Revision and Re-Promulgation of Local Rules of
Criminal Procedure; No. Misc. 229 Jan 99

Order

And Now, this 9th day of March, 1999, the Court approves and adopts the following proposed Rule revisions for the Montgomery County Local Rules of Criminal Procedure. These Revisions shall become effective thirty (30) days from the date of publication in the *Pennsylvania Bulletin*.

The Court Administrator is directed to publish this Order once in the Montgomery County Law Reporter and in the Legal Intelligencer. In conformity with Pa.R.Crim.P. 6, seven (7) certified copies of the within Order shall be filed by the Court Administrator with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One (1) certified copy shall be filed with the Criminal Procedural Rules Committee. One (1) copy shall be filed with the Prothonotary, one (1) copy with the Clerk of Courts, and (1) copy with the Court Administrator of Montgomery County, one (1) copy with the Law Library of Montgomery County and one (1) copy with each Judge of this Court.

By the Court

JOSEPH A. SMYTH,
President Judge

[Rule *67(c)(1). Appeal from Summary Convictions,
Notice, Bail.]

[Rescinded]

[Rule *67(f)(1). Hearing de novo. Listing cases.]

[Rescinded]

Rule *76(e)-(r). Procedure when Defendant Arrested with Warrant.

(e) Warrants of arrest shall be issued for execution only to police officers as defined in Rule 3 who have on file

with the issuing authority signed and dated verifications that all facts set forth in any return of service being made by the police officer are being set forth in each such return of service as true and correct to the best of the police officer's knowledge, information and belief under the understanding that false statements therein are subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

(f) When an arrest warrant is returned where the defendant has been found, the issuing authority shall ensure that the return of service by the police officer confirms:

(1) that the defendant has signed a guilty plea and has paid the amount of fine and cost stated on the warrant; or

(2) that the defendant has signed a not guilty plea and has paid the full amount of collateral stated on the warrant; or

(3) that the defendant has paid fine and cost due as specified in the warrant if the warrant is for collection of fine and cost after guilty plea or conviction.

(g) Issuing authorities shall require all police officers as defined in Rule 3 executing warrants of arrest as specified above to:

(1) accept payments directly from defendants in cash, check or money order made payable only to the issuing authority's magisterial district; and

(2) forthwith submit to the magisterial district from which the warrant of arrest issued all such payments made payable to issuing authority's magisterial district and so much of the cash payments collected as are due to the Court for security or fine and Court costs. (Authorized fees for service of warrants by police officers paid in cash may be withheld by the police officer so long as the required return of service has been made.)

(h) The issuing authority at the time of issuance of an arrest warrant shall direct that a defendant arrested on a warrant who is unable or unwilling to enter a written plea of guilty or not guilty, or who is unable or unwilling

to pay the full amount of fine and cost, or is unable to post the amount of collateral stated be:

(1) held by the police officer pending the police officer's contacting the issuing authority either by telephone or in person to determine whether the defendant shall be given an immediate trial or provided a postponement; and

(2) given the opportunity to deposit sufficient collateral with the police officer when applicable for appearance on the new date. (If the issuing authority determines that a question of the defendant's financial ability to post sufficient collateral exists, then the issuing authority may release the defendant from custody pending a Pa.R.Crim.P. 85 hearing on the next available hearing day in the issuing authority's magisterial district and direct the police officer to make a notation on the warrant return released for a Rule 85 hearing by District Justice together with the date and time the order was entered.)

(i) No issuing authority serving on special assignment duty shall be required to respond to any request by a police officer to process a defendant arrested under Pa.R.Crim.P. Rule 76 unless the issuing authority on special assignment duty issued the arrest warrant being executed by the police officer.

(j) The issuing authority's warrant of arrest shall be the exclusive form for use by a police officer to issue a receipt for fines and costs or collateral accepted by the police officer where the defendant has been found.

(k) The issuing authority shall forthwith, upon receipt of a plea and payment, recall its issued warrant(s). The issuing authority shall thereafter confirm the timely return of the recalled warrant(s).

(l) The issuing authority shall not authorize payment or accept a return of service of an arrest warrant where the defendant has been found when the return of service is:

(1) not a carbon copy of the receipt issued to the defendant setting forth the amount of fine and costs or collateral received from the defendant; and

(2) is not signed by the defendant and the police officer; or

(3) which is not otherwise designated "released for a Rule 85 hearing by District Justice _____" as provided for herein;

(4) however, the issuing authority shall accept in lieu of the defendant's signature the police officer's certification, "defendant refused to sign" as full compliance with the procedures set forth herein for return of a warrant of arrest where the defendant has been found.

(m) The issuing authority shall authorize and make payment of a warrant fee for the execution of an arrest warrant when the defendant has not been found at the time the arrest warrant is executed and:

(1) the police officer has provided a notice to respond to the defendant as addressed on the warrant that includes therein:

(a) a place for the defendant's signature; and

(b) a place for entry of a plea of guilty or not guilty; and

(c) a notice that all payments shall be made payable to the Magisterial Court of the issuing authority that issued the arrest warrant; and

(d) a notice of the total amount due including all costs for service of the warrant of arrest; and

(e) the police officer has verified on return of the warrant that the police officer attempted service on the defendant as addressed and that the police officer left a notice to respond described herein;

(2) the issuing authority has received payment from the defendant together with a signed plea;

(3) the issuing authority shall then authorize and make payment for service of the warrant in the same manner as the return of service where the defendant is found.

(n) The issuing authority shall authorize and make payment of a nulla bono fee for the execution of an arrest warrant where the defendant has not been found when the arrest warrant was executed and:

(1) the police officer has made an actual attempt at service; and

(2) has properly completed an affidavit that the defendant was not found as addressed on the warrant; and

(3) the police officer leaves a notice to the defendant as addressed on the warrant in the same manner as prescribed in section (m) above.

(o) Issuing authorities shall require police officers to complete requests for payment due to police officers for all warrants of arrest where the defendant has been found and a proper return of service has been completed.

(p) The issuing authority shall complete payment forms for payments due to police officers for execution of warrants where the defendant was not found but has responded by written plea and payment as a result of the police officer having left notice at the defendant's residence.

(q) During normal business operation of magisterial office, all requests for payments for properly executed warrants and returns of service which have been submitted by approved police officers or completed by the issuing authority's staff by noontime on Wednesday of any work week will be paid by 4 p.m. Friday of the same work week.

(r) All arrest warrants issued pursuant to Pa.R.Crim.P. 76 by an issuing authority shall be required to be returned by the police officer to whom they were issued within ninety (90) days after the date issued. An issuing authority shall have the discretion to reissue any warrants so returned for an additional sixty (60) days upon good cause shown.

See Form

[Rule 101A. Approval of Police Complaints and Arrest Warrant Affidavits By Attorney for the Commonwealth.]

Rule 107*. Approval of Police Complaints and Arrest Warrant Affidavits By Attorney for the Commonwealth.

The District Attorney of Montgomery County, having filed a certificate pursuant to Pennsylvania Rule of Criminal Procedure 107(b), Criminal Complaints and Arrest Warrant Affidavits by police officers, as defined in the Rules of Criminal Procedure, charging criminal homicide offenses (including homicide by vehicle) shall not hereafter be accepted by any judicial officer unless the Complaint and Affidavit have the approval of an attorney for the Commonwealth prior to filing.

[Rule 130(c). Release Prior to Preliminary Arraignment.]

[Rescinded]

Rule 141*(e)*(f). Preliminary Hearing.

(e) In all cases where there is a transcript taken by a court reporter of a Preliminary Hearing in a criminal case, the entire cost of the notes of testimony which shall include an original for the Court, and a copy each to the Commonwealth and the defendant, shall be borne equally between the Commonwealth and defense counsel. If any extra copies are ordered, the party requesting the extra copy shall be responsible for same.

(f) If a stenographic or other record of any preliminary hearing is made, and is subsequently transcribed, the original thereof shall, upon its preparation, be forthwith filed with the Clerk of Courts of Montgomery County. Where notes have been transcribed by an official or other reporter, it shall be the primary responsibility of the reporter to cause the original to be filed. In the event the reporter shall fail to do so, and where a party has transcribed a record using mechanical or electronic devices, the party responsible for ordering or preparing such transcription shall be responsible for filing the original of the notes. Where a mechanical or electronic device has been the primary source of a transcribed record, it shall be preserved and available for reference at trial. If a transcript of a record of the proceedings has not been filed with the Clerk of Courts prior to trial, or hearing on pretrial motions heard immediately before trial, such record shall be unavailable for use to either party at trial or at such pretrial hearings.

[Rule 301*(c). Continuances.]**[Rescinded]****Rule 302*(c)[and*(d)]. Entry of Appearance—Withdrawal of Appearance.**

[(c)] Where counsel has entered an appearance, **[his]** counsel's representation of the defendant shall be effective until sentencing has been imposed or until granted permission to withdraw by the Court.

[(d)] [Rescinded]**Rule 303*. Arraignment.**

(c) At the conclusion of a preliminary hearing in which a defendant is bound over for action by the Court of Common Pleas, or upon waiver of the preliminary hearing by a defendant, the issuing authority shall provide written notice of the date, place and time of arraignment in the Court of Common Pleas.

(d) Arraignment may be conducted by the Court Administrator or designated Deputy.

(e) A defendant shall be present at the arraignment unless all of the following requirements are met:

(1) the defendant is represented by counsel of record; and

(2) prior to the date of arraignment, the defendant files a written waiver of arraignment with the Clerk of Courts and the attorney for the Commonwealth, signed by both defendant and defendant's counsel.

[(f)] [Rescinded]**[Rule 306*(f). Omnibus Pretrial Motion for Relief.]****[Rescinded]****[Rule 309*(a). Notice of Order.]****[Rescinded]****[Rule 311*(d). Pre-Trial Conference.]****[Rescinded]****Rule 315*(c). Motion for Dismissal.****[*(c) Termination of Inactive Cases under Pa.R.J.A. No. 1901.]****[(i)] [Rescinded]****[(ii)] [Rescinded]**

[(iii)] [Effective June 30, 1975,] The Clerk of Courts shall annually prepare a list of all pending criminal actions **[commenced after January 1, 1970]** in which no activity appears upon the docket for two years or more immediately prior thereto. The Clerk of Courts shall give notice thereof to the District Attorney, counsel of record, and to the parties for whom no appearance of counsel has been entered, that said cases shall be marked terminated upon the docket unless an Activity Status Certificate is filed with the Clerk of Courts within thirty (30) days after service of the notice by mail, in person or by publication on the District Attorney, counsel of record and to those parties for whom no appearance has been entered. Such cases shall be marked terminated on the docket unless an Activity Status Certificate is filed with the Clerk of Court within such time.

All matters so terminated may not be reinstated except with leave of Court.

The Clerk of Courts shall notify the Sheriff, District Attorney, and counsel for the defendant each time a case is marked terminated on the docket.

Rule *329. Expungement of Record.

(1) A person desiring to expunge the record involving any criminal arrest or other criminal matter, **except a Section 17 Disposition under the Drug Act**, shall:

[1] (a) File a petition which shall contain the following:

[a] (i) the name, **date of birth and social security number** of the petitioner, and any names or aliases which **[he] the petitioner** has used.

[b] (ii) the address of the petitioner.

[c] (iii) the crime or crimes upon which **[he] the petitioner** was arrested or the matter which **[he] the petitioner** desires to have expunged, and a summary of all proceedings which took place after the arrest, including the names of all police departments involved, the name of the district justice involved in the case, and the official tracking number (OTN).

[d] (iv) the reasons why the record or matter should be expunged.

[e] (v) any previous criminal convictions of a felony or a misdemeanor in any jurisdiction in which the petitioner has been convicted. The petition should be under oath.

[2] (b) The petition shall be captioned to the name and term and number of the original court case. If there is no such term and number in the proceedings, it shall be captioned, "In the Matter of _____, Petition to Expunge," and given a miscellaneous number by the Clerk of Courts.

[3] (c) After the filing of said petition with the Clerk of Courts, the petitioner, by [his] petitioner's counsel, shall obtain a rule returnable from the Court Administrator's Office.

[4] (d) A copy of said petition with the date of the rule returnable shall be served either on the District Attorney or the First Assistant District Attorney by the petitioner. Said petition is to be served at least twenty-five (25) days prior to the date of the rule returnable.

[5] (e) If no answer is filed by the District Attorney's Office on the return date and petitioner files an affidavit of service that said petition was served as required by the rule, said rule is to be made absolute.

[6] (f) If an answer is filed by the District Attorney's Office, the Court Administrator is to immediately set a hearing date, at which time the Commonwealth may produce evidence, if necessary, and give arguments to the Court in opposition to the expungement, after which the petitioner has the right to produce evidence and arguments in favor of expungement.

(g) If the Court grants the order of expungement, the petitioner or petitioner's counsel shall obtain all necessary certified copies of the order from the Clerk of Courts office and mail the certified copies of the expungement order to all criminal justice agencies enumerated in the proposed order of expungement with a self-addressed stamped envelope so that the criminal justice agencies can notify the petitioner or petitioner's counsel that their records have been expunged.

(h) Upon notification by the criminal justice agencies that the petitioner's records have been expunged, the petitioner and/or petitioner's counsel will notify the Clerk of Courts and they will expunge their records, notifying the petitioner and/or petitioner's counsel of the same.

(2) Section 17 Disposition

(a) When a defendant has successfully completed a Section 17 Disposition under the Drug Act, the Adult Probation Office of Montgomery County shall certify that fact to the Clerk of Courts of Montgomery County within fourteen (14) days.

(b) The Clerk of Courts of Montgomery County shall prepare an expungement order for the Court to sign in accordance with Pennsylvania Rule of Criminal Procedure 9017 within fourteen (14) days.

(c) After the Court has signed the expungement order, the Clerk of Courts shall send the Order to the defendant and/or defendant's attorney within fourteen (14) days for service on all appropriate criminal justice agencies.

(d) Upon notification by the defendant and/or defendant's attorney that the defendant's record has been expunged by the appropriate criminal justice agencies, the Clerk of Courts will expunge its record and notify the defendant and/or defendant's attorney.

Rule *401. Court Calendar.

The disposition of criminal cases and any arguments on motion therein shall be in accordance with the annual calendar as promulgated by the Court.

Writs of Venire shall issue for all weeks in which criminal cases are scheduled for trial.

Rule *402. Argument Court.

(a) **Interlocutory Motion**—Interlocutory motions or petitions shall be placed on the Short Argument List by order of the Court unless otherwise specifically ordered by the Court.

(b) **Notice of Short Argument List**—Notices of Short Argument List shall be mailed by the Court Administrator to all counsel of record and to unrepresented parties at least two weeks before the day scheduled for argument [and the Court Administrator shall cause the said notice to be published in the *Montgomery County Law Reporter* at least two weeks before the day scheduled for argument.]

[(c)] [Rescinded]

[(d)] [Rescinded]

[Rule 1123(g). Post Verdict Motions.]

[Rescinded]

[Rule 1129. Character Witnesses.]

[Rescinded]

[Rule 1405*(e). Sentencing Proceeding.]

[Rescinded]

[Rule 1408*(c)*(1). Documents Transmitted to Prison.]

[Rescinded]

Rule *1416. Paroles and Changing of Sentence.

All petitions for parole or change of sentence shall contain the following:

(1) The sentence of the Court verbatim;

(2) The name of the Sentencing Judge;

(3) A detailed history of the case;

(4) The prior criminal record of the defendant, in detail;

(5) Succinct statement of the reasons for making the application;

(6) Employment open to defendant, accompanied by a letter from [his] the defendant's proposed employer stating the wages [he] the defendant will receive, if the application should be granted;

(7) Where defendant proposes to reside; and

(8) A signed statement by the warden of the defendant's department.

Rule *1417. Termination of Probation.

After the request of a defendant, or [his] defendant's counsel, for termination of probation to the Chief Adult Probation Officer has been refused by such officer, a Petition for Termination of Probation may be filed in form substantially similar to that set forth in Rule *1416. A copy shall be served on the District Attorney, the Chief Adult Probation Officer, and the sentencing Judge. Thereafter, unless the sentencing Judge summarily grants the prayer for relief upon the averments of the Petition, a hearing shall be set thereon at the earliest possible date.

[Rule 4006(c)*. Procedure for Bail Bond.]

[Rescinded]

[Rule 4006(e). Valuation of Bail Bonds.]

[Rescinded]

Rule 4007(c)*. Procedure for Bail Bond.

When a defendant or his/her private third-party surety has deposited a sum of money equal to ten (10) percent of the bail (but in no event less than fifty (\$50) dollars), then upon full and final disposition of the case, the deposit (less the retention) and any amount applied to the payment of fine, costs and attorney's fee shall be returned to the person who originally posted the deposit. Notice of the full and final disposition shall be sent by the Court to the person who originally posted the money at his/her address of record. Any money not claimed within sixty (60) days from the time of full and final disposition of the case shall be deemed as unclaimed and abandoned property subject to escheat pursuant to the applicable Pennsylvania Escheat Statute.

Rule 4007(d)(3)*. Valuation of Bail Bonds.

The actual net value shall be the assessed value deducting therefrom all liens and encumbrances or meet the requirements of Montgomery County Rule of Criminal Procedure 4007(d)*(6).

Rule 4007 [(a)(ii)] (d)*(6),*(7),*(8). Qualification of Surety.

[*(A)] (6) Residents or owners of realty in order to be qualified to act as sureties must own realty within the Commonwealth of Pennsylvania. In all cases of realty owned outside Montgomery County, the surety must provide the following:

- [(1)] (i) Affidavit of Justification of such surety;
- [(2)] (ii) Written appraisal by a reputable licensed real estate broker in the county in which the property is situate;
- [(3)] (iii) Proof of entry of the bond in favor of the Commonwealth in the Prothonotary's Office of the county in which the property is situate;

[(4)] (iv) Letter from the mortgage company indicating the unpaid balance due on the mortgage covering the said property, if any;

[(5)] (v) A lien and judgment search by a reputable title insurance company.

[*(B)] (7) *Justification of Personal Surety.* In justification of bail, personal surety shall be required to give the following information under oath:

- [(1)] (i) [His] Name, address, age and occupation;
- [(2)] (ii) A general description of real estate in Montgomery County of which [he] the surety is a freeholder;
- [(3)] (iii) A statement of the manner in which [he] the surety obtained title, and upon [his] failure to produce the evidence of [his] title, the Deed Book or Will Book reference of the recording of the instrument by which [he] the surety obtained title;
- [(4)] (iv) A statement of all encumbrances, including taxes, upon said real estate;

[(5)] (v) A statement of all other surety undertakings;

[(6)] (vi) A statement of the assessed, market, and rental value of the real estate;

[(7)] (vii) A statement that [he] the surety is not contemplating or negotiating the sale of the real estate.

[*(C)] (8) *Corporate Surety.* Every surety company duly authorized to do business in Pennsylvania may become surety on any bond or obligation required to be filed in this Court; provided that a currently effective certificate issued to it by the Insurance Department of the Commonwealth of Pennsylvania, evidencing such right, shall be on file with the Clerk and that no bond shall be executed by any surety company after May 1 of any year until such a certificate issued after March 31 of the same year shall have been filed with the Clerk, and further provided that, with the exception of bonds filed by insurance companies in motor vehicle misdemeanors, any surety company shall be required to post the sum of twenty-five thousand dollars (\$25,000) as security with the Clerk of Court.

CRIMINAL COURT FORMS

See Rule 76(e)-(r)

VERIFICATION

I, _____, state that I am a police officer as defined in Rule 3 of the Pennsylvania Rules of Criminal Procedure; and that the facts that I shall from time to time set forth in any Return of Service required to be filed with the issuing authority for each warrant of arrest issued to me pursuant to Pa.R.Crim.P. 76 shall be true and correct to the best of my knowledge, information and belief, and that this statement is made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: _____

[Pa.B. Doc. No. 99-580. Filed for public inspection April 9, 1999, 9:00 a.m.]

SUPREME COURT

Schedule of Holidays for Year 2000 for Staffs of the Appellate Courts and the Administrative Office of Pennsylvania Courts; No. 205 Judicial Administration Doc. No. 1

Order

Per Curiam:

And Now, this 26th day of March, 1999, it is hereby ordered that the following paid holidays for calendar year 2000 will be observed on the dates specified below by all employees of the appellate courts and the Administrative Office of Pennsylvania Courts:

December 31, 1999	New Year's Day (Observed)
January 17, 2000	Martin Luther King, Jr. Day (Observed)
February 21, 2000	Presidents' Day
April 21, 2000	Good Friday
May 29, 2000	Memorial Day (Observed)
July 4, 2000	Independence Day
September 4, 2000	Labor Day

December 31, 1999 New Year's Day (Observed)
 October 9, 2000 Columbus Day (Observed)
 November 7, 2000 Election Day
 November 11, 2000 Veterans Day
 November 23, 2000 Thanksgiving Day
 November 24, 2000 Day After Thanksgiving
 December 25, 2000 Christmas Day

[Pa.B. Doc. No. 99-581. Filed for public inspection April 9, 1999, 9:00 a.m.]

**Sessions of the Supreme Court of Pennsylvania
 for the Year 2000; No. 119 Appellate Court Rules
 Doc. No. 1**

Order

Per Curiam:

And Now, this 26th day of March, 1999, it is ordered that the argument/administrative sessions of the Supreme Court of Pennsylvania shall be held in the year 2000 as follows:

Philadelphia
 Pittsburgh
 Harrisburg
 Philadelphia
 (Administrative
 Session)
 Pittsburgh
 Philadelphia
 Harrisburg
 Pittsburgh
 (Administrative
 Session)

January 31 through February 4
 March 6 through March 10
 May 1 through May 5
 June 2

September 11 through September 15
 October 16 through October 20
 November 13 through November 17
 December 4

Additional argument/administrative sessions may be scheduled as the Court deems necessary.

[Pa.B. Doc. No. 99-582. Filed for public inspection April 9, 1999, 9:00 a.m.]
