

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Amendment of Rule 223 and Promulgation of New Rule 223.1; No. 325; Civil Procedural Rules Doc. No. 5

Order

Per Curiam:

And Now, this 3rd day of November, 1999, the Pennsylvania Rules of Civil Procedure are amended as follows:

1. Rule 223 is amended to read as follows.
2. New Rule 223.1 is promulgated to read as follows.

This order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective January 1, 2000.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 223. Conduct of the [Jury] Trial. **Generally.**

[(a)] Subject to the requirements of due process of law and of the constitutional rights of the parties, the court may make and enforce rules and orders covering any of the following matters, inter alia:

* * * * *

Official Note: [Berks Rules 308 and 314 limit the number of witnesses. The rules of several counties limit the number of trial counsel who may address the jury. Time limits are placed upon addresses to the jury in the rules of about ten counties.]

Trial courts in Pennsylvania customarily exercise discretion as to the exclusion of persons from the courtroom in the interest of good order and morals.

The [subject matter of former Rule 223(b) regulating the] exclusion of the taking of photographs or radio or television broadcasting is [now] governed by Canon 3A(7) of the Code of Judicial Conduct[, adopted November 21, 1973 and effective January 1, 1974].

[(b) Rescinded.]

(Editor's Note: Rule 223.1 is a new rule. It is printed in regular type to enhance readability.)

Rule 223.1. Conduct of the Trial. Trial by Jury.

(a) In conducting a trial by jury, the court may use one or more of the procedures provided in subdivisions (b) and (c) as may be appropriate in the particular case:

Official Note: This rule catalogs certain procedures which may be utilized in the conduct of a jury trial. Since the court has broad power and discretion in the manner in which it conducts a jury trial, it is not intended that this rule be construed as enlarging, restricting or in any way affecting that power and discretion.

(b) The court may permit jurors to view a premises or a thing in or on a premises.

Official Note: See Rule 219 governing view of premises.

(c) The court may

(1) permit specified testimony to be read back to the jury upon the jury's request,

(2) charge the jury at any time during the trial, and

Official Note: The court is not limited to charging the jury after the closing argument by the attorneys,

(3) make exhibits available to the jury during its deliberations.

Explanatory Comment

The jury trial has been the subject of recent national attention with the adoption of standards and rules and the publication of proposals and studies. Review of procedures governing the jury trial in Pennsylvania has resulted in the recommendation and promulgation of new Rule of Civil Procedure 223.1 and the amendment of Rule 223.

New Rule 223.1 governs the conduct of a jury trial and is designed to be a catalog of the specified options which the court may utilize to facilitate the jurors' understanding of the case. The note to subdivision (a) states that the new rule is not meant to be construed "as enlarging, restricting or in any way affecting" the power and discretion of the court in conducting a jury trial.

The use of the procedures set forth in the new rule is subject to the discretion of the court. Subdivision (a) provides: "The court may use one or more of the procedures provided in subdivisions (b) and (c) as may be appropriate in the particular case."

New Rule 223.1 lists two categories of procedures. Subdivision (b) contains a procedure through which the court may allow the jurors to actively participate in the trial by viewing a premises or a thing in or on a premises. Subdivision (c) contains procedures which the court may employ for the benefit of the jurors: permitting specified testimony to be read back to the jury upon the jury's request, charging the jury at any time during the trial, and making exhibits available to the jury during its deliberations.

Rule 223 has been amended in three respects, none of which affect practice or procedure. First, since the rule is equally applicable to both jury and non-jury trials, the caption of Rule 223 has been amended to read: "Conduct of the Trial. Generally". Second, obsolete references in the note to Rule 223 have been deleted. Finally, since the rule contains but one subdivision, the designation of the subdivision as "(a)" has been deleted.

By the Civil Procedural Rules Committee

REA BOYLAN THOMAS,

Chair

[Pa.B. Doc. No. 99-1953. Filed for public inspection November 19, 1999, 9:00 a.m.]

Title 255—LOCAL COURT RULES

ADAMS COUNTY

Local Rules of Court; Administrative Order No. 31 of 1999

And Now, this 8th day of November, 1999, local rule 206 is amended. This order and the following Local Rule 206 and 206.1 shall become effective thirty days after publication in the *Pennsylvania Bulletin*. The following rule shall continuously be available for inspection in the offices of Prothonotary and Clerk of Courts of this court. Copies may be purchased at the Prothonotary's Office for \$3.00. If the Prothonotary mails the copy, the cost will be \$6.00. Certified copies in the numbers listed shall be provided as follows:

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

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

3. One each to Civil Procedural Rules Committee, Criminal Procedural Rules Committee, and Domestic Relations Committee.

By the Court

OSCAR F. SPICER,
President Judge

Rule 206. Petitions and Answers.

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

IN THE COURT OF COMMON PLEAS
OF ADAMS COUNTY

(Caption)

ORDER

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

(1) a rule is issued upon respondent to show cause why the petitioner is not entitled to the relief requested;

(2) the respondent shall file an answer to the petition within twenty days of service upon the respondent;

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

(4) The parties shall

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

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

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

(6) Depositions shall be completed within ____ days of this date;

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

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

BY THE COURT,

J.

Comment: This rule is intended to modify and closely mirror procedures in state rules. The rule contemplates that a petitioner will request the appropriate method to determine disputed facts. Since the rule has been expanded to include diverse subjects of relief, many petitions should be determined on Business Court day, with a short hearing followed by argument. Regardless of the procedure that is proposed, petitioners or counsel should first file the petition in the appropriate office and then present it and a proposed order in accordance with Local Civ. Rule 2. Pursuant to that rule, the petition and order may be presented in open court, to the Court Administrator, or to a judge in chambers. When presented to the Court Administrator, that officer shall, before the petition and order is submitted to a judge, ensure that appropriate boxes are checked and if a hearing is requested, that a proper date has been added. The judge may modify the order or attempt to resolve the matter without the issuance of a rule. If counsel requests that facts be determined by depositions, both ¶ 6 and ¶ 7 shall be checked. Normally, depositions should be completed within two months and the case scheduled for argument no sooner than forty days after the completion of depositions, in accordance with Local Civ. Rule 210(b).

Paragraphs (1), (2), (3) and (8) shall apply to all petitions. Paragraphs (4), (5), (6), and (7) are alternative procedures. Paragraphs (6) and (7) shall be employed together.

If a petitioner desires to waive oral argument, he or she shall add at the end of (7), words to the effect that all issues shall be decided on brief and that oral argument is waived.

Rule 206.1. Motions to Change or Modify Procedure.

Either the petitioner or respondent may, after notice to opposing counsel or parties, move to change or modify the procedure ordered when a petition is filed under Local Civ. Rule 206. The motion may be filed at any time either before or after an answer is filed to the petition, but may be refused if it will substantially delay resolution of the rule to show cause.

[Pa.B. Doc. No. 99-1954. Filed for public inspection November 19, 1999, 9:00 a.m.]

SCHUYLKILL COUNTY
Amendments to Orphans' Court Rules

Order of Court

And Now, this 4th day of November, 1999, at 2:00 p.m., the Court hereby amends Schuylkill County Orphans' Court Rules 2.4B and 6.4A. The rules are amended for use in the Court of Common Pleas of Schuylkill County, Pennsylvania (21st Judicial District) and shall be effective for all accounts filed for audit on or after January 15, 2000.

It is further *Ordered* that said rules as they existed prior to the amendment are hereby repealed and annulled on the effective date of said rules as amended, but no right acquired thereunder shall be disturbed.

The Clerk of the Orphans' Court of Schuylkill County is Ordered and Directed to do the following:

1. File ten (10) certified copies of this Order and Rules with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies of this Order and Rules with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, together with a diskette reflecting the text in the hard copy version.
3. File one (1) certified copy of this Order and Rules with the Pennsylvania Orphans' Court Rules Committee.
4. Forward one (1) copy to the Schuylkill County Bar Association for publication in the *Schuylkill Legal Record*.

5. Keep continuously available for public inspection copies of this Order and Rules.

By the Court

WILLIAM E. BALDWIN,
President Judge

Rule 2.4B. Submission for Audit.

(a) New accounts shall be submitted for audit on the first Wednesday of each month, as advertised pursuant to Sch. Co. O.C. Rule 6.6A.

Rule 6.4A. Accounts. Time for Filing. Confirmation.

(a) Accounts to appear on a particular confirmation list must be filed not later than 4 p.m. of the fifth Wednesday immediately preceding the Wednesday on which it is desired the account shall be submitted to the Court for adjudication and confirmation.

(b) All accounts on the advertised confirmation list will be transmitted to the Court for adjudication and confirmation on the day set forth on the confirmation list; but, in cases requiring the taking of considerable testimony or the hearing of argument on legal questions or in which objections have been filed, a special day for conference or hearing may be fixed.

[Pa.B. Doc. No. 99-1955. Filed for public inspection November 19, 1999, 9:00 a.m.]